



**Preserve the Child Support System:
Don't Let the New Hire Database be Hijacked for
Immigrant Employment Verification**

By Vicki Turetsky
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Congress should **not** authorize the use of a child support data base, called the National Directory of New Hires, to establish mandatory electronic employment verification system (EEVS) as is proposed in the "New Employee Verification Act of 2008" (HR 5515). HR 5515 has been framed as an alternative to the EEVS in the Shuler-Tancredo SAVE Act (HR 4088), because it addresses some of the inadequacies of the Basic Pilot/E-Verify employment eligibility verification program.

However, its use of the National Directory of New Hires will seriously undermine the goals and effectiveness of the child support system. The National Directory is not set up for employment eligibility verification purposes and could not be easily adapted. Moreover, refocusing the program on employment eligibility verification would place the child support system in significant jeopardy.

The 1996 welfare law required the Federal Office of Child Support Enforcement (OCSE) to establish the National Directory of New Hires.¹ The primary purpose of the National Directory of New Hires is to assist state child support agencies in locating parents and enforcing child support orders. Because one-third of all child support cases involve a parent living in other state, the National Directory of New Hires contains information from all state child support agencies across the country. Under the program, employers must report information about newly-hired employees to a State Directory of New Hires.² States then match new hire reports against their child support records to locate parents and enforce child support orders.

The National Directory of New Hires Does Not Collect Information about Employment Authorization.

- Under the current EEVS, the E-Verify program, the system requires the employer to report if the worker is a U.S. citizen or immigrant authorized to work. If the worker is not a U.S. citizen, the employer must provide the worker's Alien Number or I-94 number. The employer must also report what type of document the worker presented to prove his or her employment authorization and identity and the expiration date of that document, if applicable.
- The National Directory of New Hires does not collect information about a worker's employment authorization, immigration or citizenship status, or documents presented in

¹ 42 U.S.C. §653(i).

² 42 U.S.C. §653A.

the employment verification process. Employers are required only to report the following information: the name, address, social security number, and medical insurance coverage of the worker, and the name, address, and federal employer identification number of the employer.³ The Social Security numbers used by the child support system are only as accurate as those obtained directly through Social Security Administration's NUMIDENT database. States pay to obtain NUMIDENT matching information.

- Adding these three new data fields to the National Directory of New Hires would require statutory authority and would be extremely expensive. It isn't just the OCSE database that would need to be reprogrammed. In order to add these fields, every state child support agency and every employer using automated payroll systems would also have to reprogram their computers. If state child support programs have to divert resources to enforce immigration laws, there will be fewer resources available to establish and enforce child support orders—leading to fewer children receiving support from their noncustodial parents and more children receiving public assistance. As it is, federal child support program funding was cut by 20 percent in the Deficit Reduction Act of 2005. Many states and county child support programs are laying off as many as a third of their enforcement workers and cutting back services.

Using the National Directory of New Hires for Employment Authorization Will Undermine the Effectiveness of the Child Support System.

- The National Directory of New Hires specifically only collects information that is necessary for enforcing child support orders, which does not include the immigration or citizenship status of workers. Enforcement applies to all parents, regardless of their immigration status. Child support is enforced on an international basis, through negotiated treaties and agreements.
- Employers may be less likely to comply with requirements to furnish this information if they believe it will be shared with the Department of Homeland Security (DHS) and could make them liable for violating immigration laws. States report that employer compliance with the National Directory of New Hires requirements has been a challenge, particularly for small employers. Moreover, if the parents who benefit from the child support system believe that it is linked to immigration enforcement, they may be less likely to apply for enforcement services.

The Statutory Requirement for Employer Compliance with the National Directory of New Hires is Not Consistent with Federal Employment Verification Requirements.

- Employers are required to report to state child support agencies when they hire new employees. The information in the child support databases are only available to authorized entities for authorized purposes specified in the child support statute.
- Under current law, an employer is required to verify an employee's work eligibility, within three business days of the date employment begins. The process of transmitting and entering new hire information into the National Directory of New Hires can take up to 30 days. Employers have up to 20 business days to transmit information to the state.

³ 42 U.S.C. §653A(b).

The state then has 5 business days to enter information into its database, and 3 more business days to report the information to the National Directory of New Hires. The federal government then has 2 days to enter the state data into the National Directory of New Hires.⁴ Not all states use an automated process to enter this data, requiring staff-intensive data entry. Any shorter timeline would substantially increase the burden on both employers and the states. States, not OCSE, are responsible for communicating directly with employers when a problem arises.

Using the National Directory of New Hires for Employment Authorization Raises Privacy Concerns

- When the National Directory of New Hires was established, Congress was very concerned that child support agencies maintain new hire data in a secure and confidential manner. As a result, the child support program has had an unblemished track record of managing this data securely and in strict confidentiality. Federal law requires that OCSE implement safeguards to restrict access to the confidential information in the National Directory of New Hires to authorized persons and restrict the use of the information to authorized purposes. Any agency authorized by statute to access information in the National Directory of New Hires must meet data security and confidentiality requirements governing the data exchange. It is not clear at this time if DHS currently meets such security standards.
- Additionally, information in the National Directory of New Hires is currently purged from the database within 24 months. Wage and unemployment compensation data is purged within 12 months if it does not result in a child support match.⁵⁶ This is done to protect the privacy of the large number of citizens who do not have child support obligations and to eliminate old employment data from the system. By contrast, data in the E-Verify system or any mandatory EEVS would not have to be destroyed until five years after the completed verification information is archived. DHS is currently requesting that this time be extended to 10 years to facilitate the agency's ability to conduct trend analysis on fraud or other illegal activity.

⁴ 42 U.S.C. §§654A(b)(2) and (f)(2); 653(i)(2).

⁵ 42 U.S.C. 653(i)(2)(A) and (B).

⁶ U.S. Department of Homeland Security, *Privacy Impact Statement for Verification Information Systems*,

4. Available at http://www.dhs.gov/xlibrary/assets/privacy/privacy_pia_cis_vis_update_ver.pdf.