Repeal The Bradley Amendment

by Phyllis Schlafly Mar. 1, 2006

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When our supposedly compassionate federal government pokes its nose into areas that, under our principle of federalism, should be none of its business, the result is often unintended consequences, gross injustices, and of course massive costs. A prime example is the 1986 federal Bradley Amendment, which mandates that a child-support debt cannot be retroactively reduced or forgiven even if the debtor is unemployed, hospitalized, in prison, sent to war, dead, proved to not be the father, never allowed to see his children, or loses his job or suffers a pay cut.

The result of this incredibly rigid law is to impose a punishment that makes it impossible for any but the very rich to get out from under a Bradley debt. Thousands of fathers are sentenced to debtor's prison (a medieval practice we thought America abolished centuries ago), and thousands more have their driver's license confiscated (making it extraordinarily difficult to get a job).

There is no requirement that, if and when the Bradley debt is paid, the money be spent on the children, or that the debt be based on an estimate of the child's needs, or even that the so-called children actually be children (some states require the father to pay for college tuition). The Bradley debt is misnamed "child support"; it

is a court-imposed judgment to punish men and extract money from them to support some mothers and a $3 billion federal-state bureaucracy.

Take the case of Larry Souter as reported recently in the Grand Rapids Press. He was released after spending 13 years in prison after being wrongly convicted of second-degree murder.

He was then summoned to court to explain why he should not be convicted of contempt for non-payment of his Bradley debt that kept rising during his years in prison: $23,000 in back support plus interest and penalties that raised the total to $38,082.25. The ex-wife's attorney argues that Larry should pay because she "has endured the substantial burden of raising her two children without defendant's contribution of child support."

Since the children are now adults, this case proves that the Bradley debt has nothing to do with child support. It has to do with court-ordered transfer payments from which the state gets a cut.

This case is not an anomaly. Clarence Brandley spent ten years in prison before he was exonerated and released in 1990, whereupon the state hit him with a bill for nearly $50,000 in child support debt that accumulated while in prison.

Many other cases prove that men cannot escape the Bradley debt even if DNA proves that they are not the father. The law even forbids bankruptcy to alleviate the Bradley debt.

Three years ago, a Maine court ruled that Geoffrey Fisher no longer had to pay child support for a child that wasn't his. But Maine nevertheless demands that Fisher pay $11,450 in back child support and Maine took away his driver's license for failure to pay up.

The Bradley debt makes no allowance for the growing problem of paternity fraud committed by mothers, estimated by some to be up to 30 percent of DNA-tested cases. Our compassionate government demands that a mother seeking welfare identify the father of her child and, like greedy lawyers, greedy women often target the man with the deep pockets.

A few states have passed a recent law to end so-called child support if DNA proves a man is not the father, but that doesn't get rid of the Bradley debt accrued before DNA results came in. We haven't heard of any women being prosecuted for paternity fraud, and of course the man who was cheated doesn't get any refund.

There is no excuse for Congress and state legislatures allowing these injustices to continue. Court-ordered child support should not be final until DNA proves paternity.

Feminist defenders of the Bradley Amendment claim that the Bradley debtor could have reduced his debt by going into court and challenging the amount of support when his income decreased. That argument is legalistic cynicism taken to the extreme.

Most Bradley debtors cannot possibly afford a lawyer to advise them about and to defend their rights, yet they are up against government or government-paid lawyers; the system has built-in incentives to set the support as high as possible because collections bring bonuses to the state bureaucracy; and, according to the Los Angeles Times, roughly 70 percent of fathers in L.A. County are not present when the court (not biology) rules on paternity and irreducible monthly obligations are set in concrete.

President Bush's initiative to promote marriage is a non-starter so long as the Bradley Amendment exists. Who would marry a man with a Bradley debt hanging over his future?

Shakespeare famously wrote, "The evil that men do lives after them; the good is oft interred with their bones." Since the author of the Bradley Amendment, former Senator Bill Bradley (D-NJ), is still alive, he should tell his pals in the Senate to terminate his evil law before any more injustices take place.