IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA

TROY CHILDERS, Pro Se Litigant,
on behalf of all similarly situated individuals,

Plaintiff,

V.

COMMONWEALTH OF VIRGINIA,

RALPH NORTHAM, Governor of The Commonwealth of Virginia, In his personal and official capacities,

MARK HERRING, Attorney General of The Commonwealth of Virginia, In his personal and official capacities,

CRAIG M. BURSHEM, Deputy Commissioner, Director, Division of Child Support Enforcement, Commonwealth of Virginia, In his personal and official capacities,

CITY OF CHESAPEAKE, VIRGINIA,

JUDGE LARRY WILLIS SR., Chief Judge at The Chesapeake Juvenile and, Domestic Relations District Court, In his personal and official capacities,

ALFREDA TALTON-HARRIS, Judge at The Chesapeake Juvenile and, Domestic Relations District Court, In her personal and official capacities,

DAVID J. WHITTED, Judge at The Chesapeake Juvenile and, Domestic Relations District Court, In his personal and official capacities,

Defendants.

Case Number: **2:19cv9**

QUESTIONS THE CONSTITUTIONALITY OF STATE STATUTES

CLASS CERTIFICATION

INJUNCTIVE RELIEF

DECLARATORY RELIEF

WRIT OF MANDAMUS

DAMAGES

DEMAND FOR A JURY TRIAL

ORAL ARGUMENT REQUESTED

AMENDMENT

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1. Russell S. Fryske

Russell S. Fryske has made statements that depict the wrongs committed against him by Judge Larry D. Willis, Sr. Russell has expressed some of the facts about his situation on a national talk radio show. The radio station is AJC radio in Atlanta, Georgia. Here is a link to the radio station. https://www.ajc.com/life/radiotvtalk-blog……...**130**

2. Adrien Mewhinney

Adrien Mewhinney is a former U.S. Army soldier. He claims that Judge Larry D. Willis, Sr. discriminated against him because of his status in the military with regard to visiting his children ……...**130**

3. James Smith

A person who goes by the name of James Smith has posted multiple articles online about the Chesapeake Juvenile and Domestic Relations District Court. James Smith's (AKA Michael Sinclair's) blog there are a number of people who have left comments specifically addressing Judge Larry D. Willis, Sr. Most of the comments are old. Mr. Childers has attempted to locate these individual……...**134**

4. makeapositivechange (AKA Darryl Poteat)
darryl_poteat@yahoo.com

This person made a very large post about Judge Larry D. Willis, Sr. The identity of this person was unknown however, the person posted their phone number 757-237-0258..……..**138**

5. Tracy Jennings

From this comment, she claims that Judge Larry D. Willis, Sr. is unfair and that she is seeking help in the matter. There are only two listings for Tracy Jennings in Chesapeake, VA…….**139**

6. baptised salvation 4 years ago

Judge Larry willis is friends with sylvias mother who was a deputy for CHESAPEAKE JDR court Sherri McCoy. Sylvia was later indicted for committing perjury that day.
You can look it up on the courts website. courts.state.va.us chesapeake circuit court. case number CR14002303-00 I also have the supporting documents of both cases……...**141**

7. Email from usmcgunnerg@gmail.com

I've observed firsthand over the last 18 months this evil judge come after my dirt-poor son with a vengeance! I felt so bad that I paid for a good lawyer for him seeing the court appointed ones seemed afraid to represent my son in front of this evil bastard. It seems his entire court and the prosecutors are out for men! The lawyer I paid a lot of money for couldn't believe the judge in picking what he wanted to hear and see during one of his hearings. The evidence for my son was overwhelming, yet he would have nothing to do with it, resulting in a loss for my son. Our lawyer was in total disbelief and took on the appeal for free which she won handily… thank god! That's just the tip of the iceberg!
He's in his court several times a month as his wife is trying all she can to lock him up and take away his

visitation for revenge. I'm hoping Judge Willis will wake up and see thru her lies that have been brought to his attention, but he ignores all of it! I can go on and on!! So my question, do you know if anyone has gone to the local news outlets to have them look into this evil man? Also, do you know of any advocacy that will help my son's legal battles with this dishonorable and corrupt Judge? Thanks! From: usmcgunnerg@gmail.com……..**142**

8. Janice Wolk Grenadier

Janice Wolk Grenadier has already been described enough in this brief. Janice will be called as a witness, in this case, to testify under oath about the statement made by Donald R. Curry. Janice can also testify to the fact that she has filed complaints with the Judicial Inquiry And Review Commission Of Virginia and those complaints were denied an investigative process of review……..**143**

O. The Plaintiff's Affiliation With Anonymous……...……145

P. Uncanny Hearing – On June 21, 2016 9:00AM……..……148

Mr. Childers made the statement to Judge Willis that he can look the case up on Google. See Troy Childers v. Larry Willis,Sr., No. 15-2515 (4th Cir. 2016). At this time, Judge Larry D. Willis, Sr., stated that he was unaware that Mr. Childers had filed a lawsuit against him in federal court. Judge Larry D.Willis, Sr. then asked Mr. Childers "Do you want a different judge?". Mr. Childers responded with the answer of "yes".

Elements Of Proof…….159

1.) The first element is the show cause document labeled exhibit A36. Exhibit A36 affirms that Mr. Childers was to have his hearing conducted in courtroom 1 which is where Judge Larry D. Willis, Sr. presides.

2.) The second element is also located on exhibit A36. The "2" that is circled on the front indicates that Mr. Childers's show cause hearing was transferred to courtroom "2". Also on the second page of this document it only has signatures from Judge Rufus A. Banks. This provides factual evidence that after June 21, 2016, Mr…..

3.) The third element is witness testimony provided by Johnathan Morris. Johnathan Morris was near Mr. Childers the entire time of his hearing on June 21, 2016.

2.) The way that Paul Hedges was allowed to just stroll in during trial on June 21, 2016 shows that Paul has a close relationship with Judge Larry D. Willis, Sr. Even though Paul Hedges has told Mr. Childers about their friendship in the past, he never realized the truth of the situation until this day.

END

The Parties To This Complaint

This document does not contain any private information. All information is publicly available online. This information can be published.

A. The plaintiff:

Name: Troy J. Childers
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Phone: 757-266-9111
Email: jeffchilders4@gmail.com

B. The defendants:

Defendant No. 1

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Defendant No. 2

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Defendant No. 3

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Defendant No. 4

Name: Craig M. Burshem
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Defendant No. 5	Name:	City of Chesapeake, Virginia; A Municipal Corporation.
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	Phone:	(757) 382-6153
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Defendant No. 6	Name:	Judge Larry Willis Sr.
	Job or Title:	Chief Judge at The Chesapeake Juvenile and, Domestic Relations District Court.
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Defendant No. 7	Name:	Alfreda Talton-Harris
	Job or Title:	Substitute Judge at The Chesapeake Juvenile and, Domestic Relations District Court.
	Work Address:	301 Albemarle Drive, Second Floor, Chesapeake, VA 23322-5501
	Phone:	(757) 382-8100
	Home Address:	1100 N High St Franklin, VA 23851-1317
Defendant No. 8	Name:	David J. Whitted
	Job or Title:	Judge at The Chesapeake Juvenile and, Domestic Relations District Court.
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	Phone:	(757) 382-8100
	Home Address:	1301 Woodview Lair, Chesapeake, VA 23322

I. Jurisdiction And Venue

1. The plaintiff, Troy J. Childers is a citizen of the United States and a resident of Virginia. There is no adequate remedy by appeal or other action that will ensure that the plaintiff's constitutional rights are protected in this matter. There is NO state remedy.

2. The defendants have acted under the color of the law while annihilating the plaintiff's right to due process defined by the Fifth and Fourteenth Amendments of the United States Constitution. This complaint will affirm acts of encroachment under 42 U.S. Code § 1983.

3. This action arises under U.S. Code § 1985 which protects citizens from the deprivation of rights or privileges by constituted authorities of any state or territory from giving or securing to all persons within such state or territory equal protection under the law.

4. The plaintiff seeks redress from the deprivation of his rights under 28 U.S. Code § 1343. This civil rights statute provides citizens with the ability to seek redress for the deprivation, under color of any state law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States. This civil action authorized by law may be commenced to recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

5. This action arises under a *federal preemption* conflict between state and federal law. When state law and federal law conflict, federal law displaces, or preempts, state law, due to the Supremacy Clause of the Constitution. U.S. Const. art. VI., § 2. Preemption applies regardless of whether the conflicting laws come

from legislatures, courts, administrative agencies, or constitutions. The federal preemption conflict in this matter becomes clear with the provided underlying facts included in this brief. Section 1983 expressly gives individuals the right to sue a state for its noncompliance with a federal statute. *Maine v. Thiboutot*, 448 U.S. 1, 8, 100 S. Ct. 2502, 2506, 65 L. Ed. 2d 555 (1980).

6. This action rises under the public function doctrine which is a legal principle that states that in a suit filed under 42 USCS § 1983 (Civil action for deprivation of rights), a private person's actions constitute state action if the private person performs functions that are traditionally reserved to the state.

7. This action rises under the Entanglement Exception. The Entanglement Exception says that if the government affirmatively authorizes, encourages, or facilitates private conduct, then that conduct is subject to constitutional guarantees as an exception to the State

Action Doctrine. Below is the two-step analysis for the Entanglement Exception:

Step One: Deprivation of federal right must be caused by the exercise of some right/privilege created by the state or by state law;

Step Two: The party charged with the deprivation must be a state actor of official.

State law + state officials = state action

Lugar v. Edmondson Oil Co., Inc., 457 U.S. 922 (1982)

8. This action invokes the "stripping doctrine" which permits a state official who used his or her position to act illegally to be sued in his or her individual capacity. The remaining factors governing a request for a preliminary injunction—irreparable harm, the balance of equities, and the public interest—weigh in favor of Plaintiffs. First, where Plaintiffs' constitutional rights are being violated, there is a presumption of irreparable harm. *Davis v. District of Columbia*, 158 F.3d 1342,

1343 (4th Cir.1998 (citing *Ross v. Meese*, 818 F.2d 1132, 1135 (4th Cir. 1987)).

9. In *Edmondson Oil*, the Court found that both prongs of the "fairly attributable" test were satisfied. The state, as in *Flagg Bros., Inc. v. Brooks*, 436 U.S. 149 (1978), was responsible for the "procedural scheme" of the statute." This relevant to paragraph 7 and the deposition of this complaint. Unlike *Flagg*, however, there was a state actor involved because the sheriff was a joint participant in exercising the writ. Therefore, the "under color of law" requirement of 42 U.S.C. § 1983 was satisfied. The infraction is equivalent to paragraph 7 as well as the nature of this complaint. *Lugar v. Edmondson Oil Co., Inc.*, 457 U.S. 922 (1982)

10. Although a nostalgic ruling, in *Shelley v. Kraemer*, 334 U.S. 1 (1948), the action of state courts and judicial officers in their official capacities is to be regarded as action of the state within the meaning of the 14th Amendment. The Fourteenth Amendment also

argued, for example, that a state's failure to act constituted a denial of equal protection, or a violation of the citizen's constitutional right of protection. The action of state courts in imposing penalties or depriving parties of substantive rights (*life*, *liberty*, *happiness*) without providing adequate notice and opportunity to defend themselves was a denial of due process. This pertains to the "Equal Protection Clause", the Fourteenth Amendment (*Amendment XIV*) and the framework of this complaint.

11. The decision in *Monroe v. Pape* was that state government officials can be sued under Section 1983. This was later expanded by a case called *Monell v. New York City Dep't of Social Services*, 436 U.S. 658 (1978). In that case, the Supreme Court allowed for 1983 claims against municipal and city governments.

12. To plead a Section 1983 action, one must show on the face of the complaint that a "policy or custom" of the entity is implicated in the violation of federal law. See

Monell v. Dep't of Soc. Servs. of City of N.Y., 436 U.S. 658, 694 (1978). This complaint concerns a matter in which a state "policy or custom" contravenes with multiple federal statutes.

13. "But as to persons that Congress subjected to liability, individual States may not exempt such persons from federal liability by relying on their own common-law heritage. If we were to uphold the immunity claim, in this case, every State would have the same opportunity to extend the mantle of sovereign immunity to persons who would otherwise be subject to 1983 liability. States would then be free to nullify for their own people the legislative decisions that Congress has made on behalf of all the People." See *Howlett v. Rose*, 496 U.S. 356 (1990).

14. As the Supreme Court has emphasized, officials can still be on notice that their conduct violates established law even in novel factual circumstances. *Meyers v. Baltimore Cty., Md.*, 713 F.3d 723, 734 (4th

Cir.2013) (internal citations and quotations omitted); e.g., *Tobey v. Jones*, 706 F.3d 379, 392-93 & n. 6 (4th Cir. 2013). Accordingly, qualified immunity on this *Due Process* claim is lacking.

15. In *Fitzpatrick v. Bitzer*, 427 U.S. 445 (1976), a Title VII action against a state for money damages, the Court permitted recovery, ruling that "the Eleventh Amendment, and the principle of state sovereignty which it embodies... are necessarily limited by the enforcement provisions of § 5 of the Fourteenth Amendment." Id. at 456. The Court held that when Congress enacts legislation to enforce the fourteenth amendment, it "may provide for private suits against States or State officials which are constitutionally impermissible in other contexts." Id.

16. A state agency that accepts federal funds waives its Eleventh Amendment immunity to a private plaintiff's claims under Section 504 of the Rehabilitation Act (Section 504), 29 U.S.C. 794. To qualify for ADA

protections, individuals must belong to a class of individuals protected by the ADA. Most individuals who seek protection under the ADA are individuals with an ADA-qualifying disability. The ADA defines persons with disabilities. as individuals who have:

> (1) a physical or mental impairment that substantially limits one or more of the major life activities;
>
> (2) a record of such an impairment; or
>
> (3) been regarded as having such an impairment. These three definitions are known as the "actual disability," "record of," and "regarded as" prongs respectively.

17. Individuals have a private right of action for damages against entities that receive federal funds and violate that prohibition. See 29 U.S.C. 794(a); *Barnes v. Gorman*, 536 U.S. 181 (2002); *Olmstead v. L.C.*, 527 U.S. 581, 590 n.4 (1999).

18. This district court should have jurisdiction and authority over the defendants under civil rights U.S. Code § 1343 and U.S. Code § 1985.

(a) The district courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the

Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) To recover damages or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote.

19. In *United States v. Price*, 383 U.S. 787, 794, n. 7 (1966), we explicitly stated that the requirements were identical:

> In cases under § 1983, "under color" of law has consistently been treated as the same thing as the "state action" required under the Fourteenth Amendment."

20. This action rises under the Abrogation Doctrine which is a constitutional law doctrine expounding when and how the Congress may waive a state's sovereign immunity and subject it to lawsuits to which the state has not consented (i.e., to "abrogate" their immunity to such suits)....

(A) Spending Clause statutes can create state liability, but that is because states consent to federal funds and the conditions on them and, for reasons internal to all major theories of sovereign immunity, liability can be waived. See *Atascadero State Hosp. v. Scanlon*, 473 U.S. 234, 238, 246–47 (1985).

(B) In *Adickes v. S.H. Kress & Company*, for example, this Court held that where "the... act by the private party is compelled by a statutory provision... it is the State that has commanded the result by its law." 398 U.S. 144, 171 (1970). In *Adickes*, the Court held that "a state-enforced custom" dictating a particular result was enough to create state action. Thus, where the alleged deprivation occurred through the acts of a state agency or official or involved a state law, regulation or rule, the state action requirement was met." See, e.g., *Adickes S.H. Kress & Co*., 398 U.S. 144 (1970).

(C) The issue of whether government is entitled to the protections of qualified immunity arises under 42 U.S.C. § 1983 because that statute, unlike Bivens, authorizes local governmental liability for actions taken pursuant to an official policy or custom. See *Monell v. Department of Soc. Servs.*, 436 U.S. 658, 707-08 (1978); *City of Canton v. Harris*, 489 U.S. 378 (1989); *City of St. Louis v. Praprotnik*, 485 U.S. 112 (1988). "Hence, the act of filing suit against a governmental entity represents an exercise of the right of petition and thus invokes constitutional protection." *City of Long Beach v Bozek*, 31 Ca1.3d 527, at 533-534 (1982).

21. Furthermore, this district court cannot abstain under the *Younger* Doctrine. *Younger v. Harris*, 401 U.S. 37 (1971).

> "[w]e exercise plenary review over the legal determinations of whether the requirements for Younger abstention have been met." FOCUS v. Allegheny County Court of Common Pleas, 75 F.3d 834, 843 (3d Cir.1996).

As formulated by the Supreme Court, standing requires the satisfaction of three elements:

(A) First, the plaintiff must have suffered an injury in fact — an invasion of a legally protected interest which is (a) concrete and particularized, and (b) actual or imminent, not conjectural or hypothetical. Second, there must be a causal connection between the injury and the conduct complained of.... Third, it must be likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision. 11 *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61, 112 S.Ct. 2130, 119 L.Ed.2d 351 (1992) (quotations, citations and footnote omitted). This complaint meets all three prongs of the standing test.

(B) We have framed a test to determine when Younger abstention is appropriate. In order for a federal court to abstain under the Younger doctrine:

(1) there [must be] ongoing state proceedings that are judicial in nature;

(2) the state proceedings [must] implicate important state interests; and

(3) the state proceedings [must] afford an adequate opportunity to raise federal claims.

(C) Even if the necessary three predicates exist, however, *Younger* abstention is not appropriate if the federal plaintiff can establish that:

(1) the state proceedings are being undertaken in bad faith or for purposes of harassment or

(2) some other extraordinary circumstances exist... such that deference to the state proceeding will present a significant and immediate potential for irreparable harm to the federal interests asserted. *Schall v. Joyce*, 885 F.2d 101, 106 (3d Cir.1989) (citing *Middlesex County Ethics Comm*., 457 U.S. at 432, 435, 102 S.Ct. 2515).

This District Court Cannot Abstain Under The *Younger* Doctrine Due To The Following Reasons:

1.) There are currently no ongoing state proceedings that would effect this complaint.

2.) Mr. Childers has raised his constitutional claims in all of his state contempt hearings. Mr. Childers has experienced unlawful prejudice when these claims were raised. There has been a complete disregard of his constitutional claims and federal law.

3.) There are extraordinary circumstances of an extreme nature in this matter.

4.) Proceedings in the Commonwealth of Virginia are being undertaken in bad faith. The bad faith exception exists in this legal matter. These actions of bad faith have caused injury to the plaintiff.

5.) For purposes of harassment, a judge who has recused himself from the plaintiff's cases in 2016 took it upon himself to rule over the plaintiff's matter in 2019. The plaintiff experienced prejudice from this judge due to him exercising his rights by filing federal lawsuits. This judge actually made prejudicial statements regarding these lawsuits at a hearing on Oct. 22, 2019. This judge has shown that he is above the arm of accountability. His personal/official relationships with members of the Judicial Inquiry And Review Commission Of Virginia has afforded this judge the ability to be immune from investigation. The facts in this complaint will establish this.

6.) There are no state remedies for Mr. Childers and even if a state remedy did exist there are exceptions in this case that are specified in *Younger*. The "party... must exhaust his state

appellate remedies before seeking relief in the District Court, **unless** he can bring himself within one of the exceptions specified in Younger." *Huffman v. Pursue, Ltd.*, 420 U.S. at 608, 95 S.Ct. 1200. Mr. Childers is aware that "the burden on this point rests on the federal plaintiff to show that state procedural law barred presentation of [its] claims." *Pennzoil Company, Appellant V. Texaco, Inc*., 481 U.S. at 14, 107 S.Ct. 1519. This complaint provides proof that state procedural law barricaded Mr. Childers's claims. "Generally, exhaustion of state judicial or state administrative remedies is not a prerequisite to bringing an action under § 1983." *Patsy v. Bd. of Regents*, 457 U.S. 496, 500 (1982)

22. This district court cannot refrain from any judgment under the *The Rooker-Feldman Doctrine*. *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 482 (1983); *Rooker v. Fidelity Trust Co*., 263 U.S. 413, 415-16 (1923), Federal courts have no subject matter jurisdiction to review state court decisions. However, there are exceptions to the *Rooker-Feldman* Doctrine, when the state court judgment was procured through fraud, deception, accident, or mistake. When there are actions of fraudulent nature or a judgment based on fraudulent statements the state court judgment itself is an act of fraud.

23. There are state court proceedings summarized in this complaint in which actions of a fraudulent nature took place. For this reason, the plaintiff brings this state action to the attention and jurisdiction of this United States District Court. The state defendants are in violation of *Brogan v. United States*, 118 S. Ct. 805 (1998) for making false statements within the

jurisdiction of this Court, in violation of 18 U.S.C. § 1001. Title 18 U.S.C. §1001 states:

> "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined under this title or imprisoned not more than five years, or both."

24. The *Rooker-Feldman Doctrine* has been discredited for some time now as an excuse and abdication of their responsibility by some federal Courts to allow violations of the U.S. Constitution by the state courts, is not applicable here due to the following:

25. Fraudulent statements were given in all of the plaintiff's hearings at the Chesapeake Juvenile and Domestic Courts thereby producing an adverse state court decision. These fraudulent statements had no

supporting evidence. The adverse state court decision was caused by these fraudulent statements. Thus, fraudulent statements made in court by a state officer injured the plaintiff and stripped him of due process.

> "The [Rooker–Feldman doctrine] does not bar a federal suit that seeks damages for a fraud that resulted in a judgment adverse to the plaintiff. Such a suit does not seek to disturb the judgment of the state court, but to obtain damages for the unlawful conduct that misled the court into issuing the judgment. It's true that the plaintiff is also asking that the default judgments be vacated, and that is relief that would violate the Rooker–Feldman rule; but that claim can be rejected without affecting the damages claim." See *Johnson V. Pushpin Holdings, LLC*, 748 F.3d at 773

26. Nor does the doctrine stop this district court from exercising subject-matter jurisdiction simply because a party attempts to litigate in federal court a matter previously litigated in state court. If a federal plaintiff "present[s] some independent claim, albeit one that denies a legal conclusion that a state court has reached in

a case to which he was a party **.**, then there is jurisdiction and state law determines whether the defendant prevails under principles of preclusion." *GASH Assocs. v. Rosemont*, 995 F.2d 726, 728 (7th Cir.1993); accord *Noel v. Hall*, 341 F.3d 1148, 1163–1164 (9th Cir.2003). (applying the *Rooker-Feldman* doctrine because when false statements to a state court produce an adverse decision, "the state court's judgment is the source of the injury of which plaintiffs complain in federal court") *Harold v. Steel,* 773 F.3d 884, 885 (7th Cir. 2014)

27. This district court must "accept all factual allegations in the complaints and all reasonable inferences to be drawn therefrom in the light most favorable to the plaintiffs." *Lorenz v. CSX Corp*., 1 F.3d 1406, 1411 (3d Cir. 1993).

28. I hereby give notice that if the question of immunity is raised, this plaintiff is prepared to launch an onslaught of defense measures that will irrupt any claim

of immunity. Qualified immunity cannot be invoked by officials who knew that they were violating the Constitution (subjective bad faith), or who should have known that they were transgressing a clearly established constitutional rule (objective bad faith). *Wood v. Strickland*, 420 U.S. at 322. See also *Butz v. Economou*, 438 U.S. at 506-07 This plaintiff will not rest until he receives fair justice.

29. Federal Courts have an unflagging obligation to exercise the jurisdiction given to them pursuant to Article III, §2, cl. 1 of the Constitution for the United States. *Colorado River Water Conservation District v. United States*, 424 U.S. 800, 817, 96 S.Ct. 1236, 1246, 47 L.Ed.2d 483 (1976). The Supremacy Clause forbids state courts to dissociate themselves from federal law because of disagreement with its content or a refusal to recognize the superior authority of its source. See, e. g., *Mondou v. New York*, *N. H. & H. R. Co*., 223 U.S. 1, 57.

II. Nature of Suit

30. This complaint is not just about the needs of one individual plaintiff. This suit concerns the need for equal justice and fairness that is demanded by the United States Constitution. All non-custodial parents within the Commonwealth of Virginia are guaranteed constitutional protections under federal law. The Commonwealth of Virginia is violating federal laws daily with impunity.

31. The plaintiff’s brief will prove that the defendants are extremely lacking in accountability. This suit was brought forth to establish true facts on the record that demonstrate the defendant’s actions are absent from the rule of law which hinders fair justice. The defendant's scandal of broad malfeasance has been detrimental to the private interest of the plaintiff as well as an infringement on the public interest.

32. It is the rule that a State must deviate from gross human rights violations or serious violations of international humanitarian law, the right to truth, the right to equality and fair justice. When a state officer comes into conflict with Constitutional guarantees, "he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct." *Ex Parte Young*, 209 U.S. 124,160 (1908)

33. Mr. Childers has described his treatment by the defendants as discriminatory, indifferent and prejudicial in nature. Mr. Childers feels that he has been "singled out" by the defendants. Mr. Childers has been denied his constitutional rights that are offered to indigent parents facing incarceration under 45 CFR 303.6. Indigent discrimination law strictly forbids this type of injustice. See, e.g., *McNeil v. Dir., Patuxent Inst*., 407 U.S. 245, 251 (1972) ("[T]here is no justification for confining on a civil contempt theory a person who lacks the present

ability to comply."). Activities under the Code of Virginia are executed systematically causing constitutional atrocities under the color of the law. "A claim may be brought against a supervisor where his own indifference or authorization causes a constitutional injury." *Slaken v. Porter*, 737 F.2d 368, 372–73 (4th Cir. 1984), cert. denied, 470 U.S. 1035 (1985).

34. The defendants are violating federal law and trespassing on the plaintiff's constitutional rights under the "color of the law".

> "No person shall… be deprived of life, liberty, or property, without due process of law." This applies to all states under the 14th Amendment.

35. These facts highlight Mr. Childers's repeated pleas of indigence, and the lower courts' summary disregard of Mr. Childers's inability to pay along with the defendant's noncompliance of federal laws. The facts in this complaint raise multiple federal questions that relate to the United States Constitution. This district court must "take as true all well-pleaded facts in the complaint and any documents attached and integral to it." *Sec'y of State for Defence v. Trimble Navigation Ltd*., 484 F.3d 700, 705 (4th Cir. 2007)

36. This complaint will prove that the Commonwealth of Virginia has failed to implement the proper procedural safeguards that are enforced by federal law. This has caused the plaintiff severe mental, emotional and physical distress. The Commonwealth of Virginia has violated the plaintiff's constitutional rights which lead Mr. Childers to fall into a harmful state of depression. Due to the actions of the defendants, the depression that Mr. Childers suffers from has been

ongoing for some years now. Due to violations of federal law, Mr. Childers is poor with no quality of life and is overwhelmed by an alarming amount of debt. This legal action will prove that Mr. Childers has had thoughts of suicide after being terrorized and attacked by officers of the Commonwealth of Virginia. (finding pleading sufficient when alleging "financial harm, harm to her professional reputation, stress, clinical anxiety and depression, mood swings, and insomnia"); *Williams v. Agency*, Inc., 997 F. Supp. 2d 409, 415 (E.D. Va. 2014).

37. Mr. Childers was imprisoned without due process, his only crime was being poor and mentally ill. While Mr. Childers was imprisoned he was placed on suicide watch two separate times and also suffered a serious physical injury. Mr. Childers has suffered extensively from the ongoing illegal actions exercised by officers of the Commonwealth of Virginia.

38. This matter would have been avoided if the defendants had implemented the proper procedural safeguards that are demanded by federal law and the Constitution of the United States.“injury inherent in the nature of the wrong” attendant upon a violation of procedural due process. *Carey v. Piphus*, 435 U.S. 247 (1978), 545 F.2d at 31.

39. One of the defendants, who is a judge, recused himself from all the plaintiff’s judicial matters in 2016 but then ruled on a matter in 2019. This was a final farewell ruling where Mr. Childers experienced prejudice due to filing lawsuits in federal court. Because of lawsuits that Mr. Childers has filed along with articles that have been posted online, this judge has a personal vendetta against Mr. Childers.

40. This complaint will describe personal relationships between attorneys, judges and the plaintiff's ex-wife. The facts in this complaint will also outline personal relationships between a judge and state officers who are in charge of the complaint process at the Judicial Inquiry And Review Commission Of Virginia.

> "The court must accept the complaint's factual allegations as true, as well as all its reasonable inferences." *Nami v. Fauver*, 82 F.3d 63, 65 (3d Cir. 1996).

III. Statement of Facts

41. *Turner v. Rogers*, 564 U.S. 431 (2011), is a case decided by the United States Supreme Court on June 20, 2011, that held that a state must provide safeguards to reduce the risk of erroneous deprivation of liberty in civil contempt cases that are related to child support. The U.S. Supreme Court has explained that a careful assessment of an individual's ability to pay must be made before incarceration, and the Court outlined some procedural safeguards to be followed. See *Turner v. Rogers*, 564 U.S. 431, 454, 131 5 S. Ct. 2507, 2523 (2011).

42. A court acts in contravention of the Constitution if it does not make a finding that the contemnor is able to pay prior to incarceration.

43. The Supreme Court has explained that a careful ability-to-pay hearing is the key to ensuring that civil contempt is not unconstitutionally transformed into criminal contempt:

> "The fact that ability to comply marks a dividing line between civil and criminal contempt, reinforces the need for accuracy. That is because an incorrect decision (wrongly classifying the contempt proceeding as civil) can increase the risk of wrongful incarceration by depriving the defendant of the procedural protections (including counsel) that the Constitution would demand in a criminal proceeding." *Turner v. Rogers*, 564 U.S. at 445 (internal citations omitted).

44. A state court thus violates the non-custodial parent's right to due process under the Fourteenth Amendment to the US Constitution when it imposes a civil contempt sentence of incarceration if the alleged contemnor has no present ability to pay. See *Rodriguez v. Eighth Judicial Dist. Court*, 120 Nev. 798, 811, 102 P.3d 41, 50 (2004) ("In the setting of a contempt hearing for the nonpayment of child support, a party loses his

personal freedom *only after the court determines that he has the ability to comply* with the child support order but failed to make an effort to do so.") (emphasis added); *Rodriguez v. Robbins*, 804 F.3d 1060, 1075–76 (9th Cir. 2015) ("If compliance is impossible—for instance, if the individual lacks the financial resources to pay court-ordered child support—then contempt sanctions do not serve their purpose of coercing compliance and therefore violate the Due Process Clause."); *Shillitani v. United States*, 384 U.S. 364, 371, 86 S. Ct. 1531, 1536 (1966) ("... the justification for coercive imprisonment as applied to civil contempt depends upon the ability of the contemnor to comply with the court's order."); *Elzey v. Elzey*, 435 A.2d 445, 448 (Md. 1981) "[W]ith regard to civil contempt proceedings based upon the defendant's failure to comply with a decree ordering support payments..., the issue is not the ability to pay at the time the payments were originally ordered; instead, the issue is his *present* ability to pay.").

45. Helpful comparisons can be drawn from jurisprudence regarding legal financial obligations as failure to pay these types of court imposed debts, like contempt based on failure to pay child support, carries the possibility of unconstitutional confinement. The U.S. Supreme Court established in *Bearden v. Georgia* that it is a violation of the Fourteenth Amendment's Equal Protection and Due Process clauses to jail a person for nonpayment if the court does not first provide a hearing on that person's ability to pay. *Bearden v. Georgia* 461 U.S. 660, 672, 103 S. Ct. 2064, 2073 (1983) ("... a sentencing court must inquire into the reasons for the failure to pay."). In *Gilbert v. State*, where it determined that ability to pay hearings are required before imprisonment for nonpayment of a fine. "Before a defendant may be imprisoned for nonpayment of a fine, a hearing must be held to determine the present financial ability of the convict." *Gilbert v. State*, 99 Nev. 702, 708, 669 P.2d 699, 703 (1983). Incarceration for failure

to pay child-support carries the same fundamental fairness concerns as depriving an individual of liberty due to inability to pay court imposed costs, fines, and fees. See *Bearden*, 461 U.S. at 672.

46. *Turner* outlined several procedural safeguards that it hoped would help ensure that the ability-to-pay determination is made correctly. These included:

> "(1) notice to the defendant that his 'ability to pay' is a critical issue in the contempt proceeding;
>
> (2) the use of a form (or the equivalent) to elicit relevant financial information;
>
> (3) an opportunity at the hearing for the defendant to respond to statements and questions about his financial status (e.g., those triggered by his responses on the form); and
>
> (4) an express finding by the court that the defendant has the ability to pay." *Turner v. Rogers*, 564 U.S. at 447-48.

47. On June 18, 2012, The Federal Office of Child Support Enforcement published Action Transmittal 12-01 (*Turner v. Rogers Guidance*: for State Governments

and Title IV-D Agencies). The Action Transmittal was published by Commissioner Vicky Turetsky of the Office of Child Support Enforcement. Action Transmittal 12-01 is attached and labeled **exhibit A**.

48. Action Transmittal 12-01 provides clarity to state courts regarding their legal duty to inquire about a parent's ability to pay before incarceration for nonpayment, which specifically refers to the *Turner v. Rogers* ruling. The Action Transmittal 12-01 document contains extensive guidance on how civil contempt should be used in child support cases.

49. "Civil contempt that leads to incarceration is not, nor should it be, standard or routine child support practice. By implementing procedures to individually screen cases prior to initiating a civil contempt case and providing appropriate notice to alleged contemnors concerning the nature and purpose of the proceeding, child support programs will help ensure that

inappropriate civil contempt cases will not be brought." (See **exhibit A**: Action Transmittal 12-01)

50. "Title IV-D agencies are bound to ensure that noncustodial parents receive due process protections. The federal government has an interest in ensuring that the constitutional principles articulated in Turner are carried out in the child support program, that child support case outcomes are just and comport with due process, and that enforcement proceedings are cost-effective and in the best interest of children. Accordingly, this guidance is directed to state and local IV-D agencies and prosecuting attorneys funded with IV-D matching funds." See **exhibit A**: Action Transmittal 12-01

51. On March 14, 2016, The Department of Justice (DOJ) issued a "Dear Colleague" letter informing local state governments and state agencies that their failure to follow the procedures outlined in *Turner v. Rogers* can subject them to civil liability under federal civil rights

statute, 42 U.S.C. §1983. This letter from The Department of Justice affirms that a citizen can file a lawsuit against local state governments, state officials, state officers, and state agencies in the United States District Court for not implementing the proper procedures outlined in *Turner v. Rogers*, 564 U.S. The letter also affirms that local state governments, state officials, state officers, and state agencies are subject to civil liability under 42 U.S.C. §1983. This Dear Colleague letter issued on March 14, 2016, by The Department of Justice is attached and labeled as **exhibit B**.

52. In due course, on March 21, 2016, Commissioner Vicky Turetsky of the federal Office of Child Support Enforcement (OCSE) published another Dear Colleague letter. See **Exhibit C** (Justice Department Announces Resources to Reform Practices DCL-16-05)

53. The Dear Colleague letter published on March 21, 2016, informed state officers of their responsibility to find a willful refusal to pay before a noncustodial parent can be sent to jail.

> "One purpose of the DOJ letter is to address "some of the most common practices that run afoul of the United States Constitution and other federal laws and to assist court leadership in ensuring that courts at every level of the justice system operate fairly and lawfully."… (Justice Department Announces Resources to Reform Practices DCL-16-05) See **exhibit C**

54. The letter states that courts may not incarcerate a person for nonpayment of fees and fines without first conducting an indigency determination and establishing that the failure to pay was willful. Also, courts must consider alternatives to incarceration for indigent defendants who are unable to pay. The letter provides that courts also must provide meaningful notice and, in appropriate cases, counsel, when enforcing fines and

fees, and must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections…

55. Federal regulations further recognize the constitutional obligation to properly assess a child support debtor's ability to pay before imposing incarceration. 45 C.F.R. § 303.6 Code of Federal Regulations, was revised in 2016 to protect indigent parents.

56. This new rule, adopted in December 2016, establishes procedural standards surrounding the use of civil contempt in the enforcement of child support obligations. Specifically, the rule requires child support agencies to:

(i) screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order;

(ii) provide the court with such information regarding the noncustodial parent's ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions; and

(iii) provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

45 CFR 303.6 (4)

57. Part of the new rule was also a revision of 45 CFR § 302.56 Code of Federal Regulations. The rule adopted in December 2016, requires child support agencies to:

"Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders;"
45 CFR § 302.56 (c)(3)

58. The rule specifically addresses incarcerated noncustodial parents and incarceration for failure to pay child support, as well as modification procedures for incarcerated noncustodial parents. The major provisions of the rule regarding incarcerated noncustodial parents are:

59. **Incarceration for Failure to Pay Child Support:** the rule requires states to implement due process safeguards from the Supreme Court case *Turner v. Rogers.* The rule addresses the use of civil contempt in child support cases and seeks to reflect the ruling of the U.S. Supreme Court in the 2011 case, *Turner v. Rogers*, which provided guidance on the factors to be considered when determining which cases should be referred to the court for civil contempt, including a determination of the noncustodial parent's ability to pay. This section of the revision applies to 45 CFR 303.6 (c)(4).

60. **Incarcerated with a Child Support Order:** the rule ensures the right of all parents to seek a review of their order when their circumstances change. While these provisions apply to all parties involved, they specifically address incarcerated noncustodial parents and their ability to have the child support order reviewed and potentially modified while they are incarcerated. The rule prohibits states from treating incarceration as voluntary unemployment for purposes of modifying a child support order. Currently, 36 states and D.C. treat incarceration as involuntary unemployment. This section of the revision applies to 45 CFR § 302.56 (c)(3)

61. The final rule made significant changes to the child support program to improve efficiency and flexibility in states. For more about the final rule, See **exhibit D** (Source: The NCSL's Office of Child Support Enforcement OCSE 2019 report) Final Rules Governing

Child Support Enforcement Programs page for a rule summary.)

62. These regulatory requirements, the Department of Health and Human Services explained,

> "are designed to reduce the risk of erroneous deprivation of the noncustodial parent's liberty [], without imposing significant fiscal or administrative burden on the State."
>
> Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, 81 Fed. Reg. 93492, 93532 (Dec. 20, 2016) See **exhibit E** .

63. These procedural protections are essential because the majority of individuals in arrearages on child support are indigent. "70% of child support arrears nationwide are owed by parents with either no reported income or income of $10,000 per year or less." *Turner v. Rogers,* 64 U.S. 431, 445–46, 131 S. Ct. 2507, 2518, 180 L. Ed. 2d 452 (2011) (citing E. *Sorensen, L. Sousa, & S. Schaner*, Assessing Child Support Arrears in Nine Large States and the Nation 22 (2007) (prepared by The Urban Institute located at https://aspe.hhs.gov/system/files/pdf/75136/report.pdf. See **Exhibit F**.

64. Child support orders demand impossible sums from impoverished individuals, resulting in serial incarcerations for inability to pay, significant racial disparities in the numbers of people sent to jail for their inability to pay child support and the creation of debtors' prisons.

65. The Department of Health and Human Services, in adopting its final rule in 2016 recognized the significant policy concerns with incarcerating indigent parents, explaining:

> "While the State has a strong interest in enforcing child support orders, it secures no benefit from jailing a noncustodial parent who cannot discharge his obligation.
> The period of incarceration makes it less, rather than more, likely that such parent will be able to pay child support. Meanwhile, the State incurs the substantial expense of confinement. While child-support recovery efforts once ''followed a business model predicated on enforcement'' that ''intervened only after debt, at times substantial, accumulated and often too late for collection to be successful, let alone of real value to the child,'' experience has shown that alternative methods —such as order modifications, increased contact with noncustodial parents, and use of ''automation to detect noncompliance as early as possible''—are more effective than routine enforcement through civil contempt."

Please see **exhibit E**.

> Flexibility, Efficiency, And Modernization In Child Support Enforcement Programs 81 Fed. Reg. 93492, 93532 (Dec. 20, 2016)
> Effective January 19, 2017

66. Section §303.6(c)(4) of the final rule requires the state child support agency to establish procedures for the use of civil contempt petitions.

67. Before filing a civil contempt action that could result in the noncustodial parent being sent to jail, states must ensure that the child support agency has screened the case to determine whether the facts support a finding that the noncustodial parent has the "actual and present" ability to pay or to comply with the support order. The Constitution prohibits courts from using their civil contempt power to jail defendants for failure to pay. Please see **exhibit G** for an overview of the final rule that addresses civil contempt cases.

68. In June 2016, Lisa Foster, Director, Office for Access to Justice, U.S. Department of Justice published a child support report fact sheet titled:

(A) Turner V. Rogers Due Process At Child Support Hearings

> "the concept of due process of law includes the procedural requirements that the government must provide — such as notice and opportunity to be heard — before depriving individuals of their property or liberty. The Fifth Amendment to the U.S. Constitution guarantees," "No person shall… be deprived of life, liberty, or property, without due process of law." This applies to all states under the 14th Amendment."
>
> "Procedural justice builds on due process. It's not only concerned with respecting and meeting a person's legal rights, but also with how those rights are met and an individual's perception of the process."

By Lisa Foster, Director, Office for Access to Justice.

Please see **exhibit H.**

69. Another informational resource looks at arrests of low-income fathers for child support nonpayment enforcement, court and program practices. The Center for Family Policy and Practice produced these facts. See **exhibit I.** This resource is very informative. This series of papers is an investigation of practices related to the arrest of parents for nonpayment of child support. The

informational resource has included interviews and focus groups held with parents and caseworkers, reviews of literature on the topic, monitoring court systems, seeking out programs addressing the issues for noncustodial parents, and for this report, the collection and review of any available data and articles that described incidents of arrests for nonpayment. It includes data on the strain that enforcement places on parental relationships with their children as well as their mental state.

70. After the revision of 45 CFR 303.6, along with 45 CFR § 302.56, in 2016, a state compliance document was published by The Federal Office of Child Support Enforcement. This document is labeled as **exhibit J.** The document provides local state governments with information about the effective date (when the final rule goes into effect) and the compliance date (when states must comply with the final rule revisions) of the final rule. On this document it states:

> "If state law revisions are not needed, the compliance date is 60 days after December 20, 2016, or February 21, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation." (See exhibit C) (Enforcement of support obligations – Civil contempt section 45 CFR 303.6(c)(4))

> "1 year after completion of the first quadrennial review of the state's guidelines that commences more than 1 year after December 20, 2016" (Guidelines for setting child support orders – Incarceration may not be treated as voluntary unemployment sections 45 CFR 302.56(a) – (g))

71. For more than a year now states are ordered to be in compliance with the revision of both federal statutes, 45 CFR § 303.6 and 45 CFR § 302.56. The document labeled as **exhibit J** addresses the fact that states may need to change their laws to abide by 45 CFR 303.6 and 45 CFR § 302.56. This complaint will prove that the

Commonwealth of Virginia is not complying with this revision. The Commonwealth of Virginia is violating both statutes on a daily basis with impunity.

72. In the wake of *Turner v. Rogers*, state courts and child support agencies throughout the United States modified their child support contempt procedures, and judges became more sensitized to the constitutional implications of their handling of these cases. One example of these modified changes is in the state of North Carolina where the burden of proof has shifted.

(B) North Carolina's Response To The New Regulation

73. When a Show Cause can be Ordered in North Carolina:

"No show cause should be issued unless there are facts in the verified motion or affidavit that will support the conclusions required for contempt. This is because the show cause is issued only upon a finding of probable cause to believe obligor is in contempt. GS 5A-23(a). This means that in addition to alleging respondent has failed to comply with an order, the motion/affidavit also must contain credible allegations that provide a

reasonable ground for believing the respondent is willfully failing to comply with the order." *Young v. Mastrom*, *Inc*., 149 NC App 483 (2002).

74. In North Carolina the burden of proof has shifted in civil contempt cases. When contempt is initiated pursuant to GS 5A-23(a1) by motion and notice of hearing, the moving party has the burden of going forward with evidence at the contempt hearing to establish the factual basis for contempt. GS 5A-23(a1).

75. When contempt is initiated by a verified motion or affidavit and the issuance of a show cause order, either pursuant to GS 5A-23(a) or GS 50-13.9(d), the burden of going forward with evidence at the hearing is upon respondent. *Shumaker v. Shumaker*, 137 NC App 72 (2000). However, this is only because a judge or clerk previously determined – based on specific factual allegations in the verified motion or affidavit – there is probable cause to believe respondent is in contempt.

76. Despite this shifting of the burden of proof, no contempt order can be entered without sufficient evidence to support the conclusion that respondent acted willfully and has the present ability to comply with the purge ordered by the court. *Henderson v. Henderson*, 307 NC 401 (1983); *Lamm v. Lamm*, 229 NC 248 (1948). While appellate courts have stated that a respondent who fails to make an effort to show a lack of ability to comply "does so at his own peril", *Hartsell v. Hartsell*, 90 NC App 380 (199), it is clear there can be no default contempt order

(C) Criminal Contempt In North Carolina

77. There is only one way to initiate an indirect criminal contempt proceeding. GS 5A-15(a) provides that a judicial official – either a clerk or a judge – initiates the proceeding by issuing a show cause order. The statute does not require a verified motion or affidavit, but the show cause order must contain adequate information to put respondent on notice of the

allegations forming the basis for the charge. *O'Briant v. O'Briant*, 313 NC 432 (1985).

78. The purpose of criminal contempt is to punish, so the focus is on the past behavior of respondent. So for example, if contempt is based on the failure to pay child support, criminal contempt must be based on the conclusion – adequately supported by factual findings that are adequately supported by evidence – respondent willfully failed to pay at some point in the past. In criminal proceedings, despite the fact that the action is initiated by a show cause order, the burden of presenting evidence at trial always remains with the moving party and the court must find willful disobedience beyond a reasonable doubt. GS 5A-15(f).

(Source: https://civil.sog.unc.edu/no-default-judgment-in-contempt/) (By Cheryl Howell, a Professor of Public Law and Government at the School of Government specializing in family law.) See **exhibit K**.

79. In the state of North Carolina no contempt order can be entered without sufficient evidence to support the conclusion that respondent acted willfully and has the present ability to comply with the purge ordered by the court.

80. There have been NO statutory revisions to Virginia statutes § 20-115, § 16.1-278.16, § 16.1-292, § 16.1-278.15 or Chapter 5 (§ 20-61 et seq.) of Title 20. Under these statutes, noncustodial parents who are indigent can still be incarcerated unconstitutionally. There are no exceptions to protect indigent parents under Virginia state law.

81. There have been NO changes to Virginia law to provide that incarceration will not be treated as voluntary unemployment. Incarcerated child support obligors can still be treated as being voluntary unemployed. This causes large sums of impute income that creates a mountain of debt for indigent parents.

82. Currently, laws in the Commonwealth of Virginia conflict with 45 CFR 303.6 as well as 45 CFR § 302.56. This is a federal preemption conflict between state and federal law. The United States Constitution strictly forbids the Commonwealth of Virginia from enforcing these current laws.

> "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. Const., Amend. XIV, §1. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article. Id. at §5.

83. The federal law is law in the State as much as laws passed by the state legislature. A "state court cannot refuse to enforce the right arising from the law of the United States because of conceptions of impolicy or want of wisdom on the part of Congress in having called into play its lawful

powers.'" *Testa*, 330 U.S., at 393 (quoting *Minneapolis & St. Louis R. Co. v. Bombolis*, 241 U.S., at 222

> "It is beyond dispute that federal courts have jurisdiction over suits to enjoin state officials from interfering with federal rights…. A plaintiff who seeks injunctive relief from state regulation, on the ground that such regulation is pre-empted by a federal statute which, by virtue of the Supremacy Clause of the Constitution, must prevail, thus presents a federal question which the federal courts have jurisdiction under 28 U.S.C.§ 1331 to resolve". See *Shaw v. Delta Air Lines*, 463 U.S. 85 (1983) at 96 n.14 (citations omitted)

84. Procedural due process, based on principles of "fundamental fairness," addresses which legal procedures are required to be followed in state proceedings.

85. North Carolina and other states have changed laws, procedures, and guidelines to protect non-custodial parents who are indigent from unconstitutional incarceration. The Commonwealth of Virginia has not

made any changes to ensure that these constitutional protections are implemented. Indigent parents are incarcerated for contempt without the proper procedural safeguards in place in the Commonwealth of Virginia.

86. The new revisions of 45 CFR 303.6 along with 45 CFR § 302.56 are being ignored by state officials, judges, as well as state agencies that operated in the Commonwealth of Virginia. This is the very core nature of this federal complaint and these facts will be proven beyond any doubt.

87. In *Association of Data Processing Service Organizations, Inc. v. Camp*, 397 U.S. 150, 153, 90 S.Ct. 827, 830, 25 L.Ed.2d 184, 188 (1970) the court held the *Administrative Procedure Act* "grants standing to a person `aggrieved by agency action within the meaning of a relevant statute.'" under the Administrative Procedure Act, 5 U.S.C. § 701 et seq.

88. With Federal laws such as 42 U.S. Code § 658a, (The federal child support enforcement reimbursement incentive to the states.) Judges are too tempted to artificially inflate child support orders through such things as "imputing income".

(D) Factors and Outcomes Associated with Patterns of Child Support Arrears

89. A brand new scientific study by Hyunjoon Um at Columbia University researches factors and outcomes associated with patterns of child support arrears. See **exhibit L**. This research paper is from 2019 and includes extensive facts on the effects of child support arrearages.

90. This research paper has a great deal of relevant facts that will support many of the plaintiff's claims. One of the topics of research is the association between arrears and fathers' later health/mental health outcomes. There are many details that have been researched such

as how child support arrears effect child parent relationships, state policies and the detrimental consequences of child support arrears: fathers' health and mental health problems. This research will be referenced occasionally in this brief. This research paper provides strong supporting evidence that proves many of the plaintiff's claims of mental agony and depression which was caused by an overwhelming amount of child support arrearages. The child support arrears were impossible for Mr. Childers to prevent as he never had the ability to pay such large child support amounts that are a deviation from the state guidelines.

(E) Procedural Justice Informed Alternatives to Contempt Project

91. In 2016, the Commonwealth of Virginia was awarded a $200,000 federal grant for the Procedural Justice Informed Alternatives to Contempt Project. According to a newly released document with the date of June 2019, it shows that the Commonwealth of

Virginia is still enrolled in this grant program. See **exhibit M**. The Commonwealth of Virginia receives federal funding for projects like this but has not provided the plaintiff with an alternative to contempt in his child support case. The Commonwealth of Virginia has not taken any action to prevent noncustodial parents who are poor from going to jail. The Commonwealth of Virginia enjoys federal grant awards but does not abide by federal statutes 45 C.F.R. § 303.6, 45 CFR § 302.56 or the United States Constitution. The Commonwealth of Virginia fails to implement a procedural due process that is guaranteed by federal law.

92. The Commonwealth of Virginia participates in a federal program in which it receives Title IV-D federal funds under the Social Security Act. As a condition of receiving such funds, it must comply with federal requirements and federal statutes.

(F) Hearing on March 14, 2012

93. On March 14, 2012, Mr. Childers received a phone call from a deputy sheriff at the Chesapeake Juvenile and, Domestic Relations District Court. The sheriff explained to Mr. Childers that he was supposed to show at court on this day. Mr. Childers told the deputy that he had not received a subpoena and was unaware of the court date. The deputy then threatens Mr. Childers with jail if he did not make it to court in the next fifteen minutes. Mr. Childers was under duress so he showed up to court poorly dressed and he did not have time to brush his hair. This can only be proven by **exhibit N**, a notation was written on this document that indicates that Mr. Childers was called. The phone number on the document belongs to Mr. Childers. Other than the notation located on **exhibit N,** there is no other proof that Mr. Childers was under duress by the threat with jail on this day.

94. On March 14, 2012 Mr. Childers was ordered to pay six hundred forty-four dollars and ten cents ($644.10) per month with weekly payments intervals of one hundred forty-eight dollars per month ($148.00). At this time Mr. Childers was working at a job earning nine dollars and fifty cents ($9.50) per hour. Prior to March 14, 2012 Mr. Childers had been paying four hundred twenty-nine dollars ($429.00) each month to the Department of Child Support Enforcement on time with no arrears owed. Please see **exhibit O**, this document is a full record of child support payments. This document affirms that between March and April of 2012 Mr. Childers owed no arrears.

95. See **exhibit P**, this exhibit is the child support order from March 14, 2012. On this child support order it affirms that the increased child support amount of six hundred forty-four dollars and ten cents ($644.10) was to take effect on April 1, 2012. Due to an error the child

support order did NOT go into effect until seven months later.

96. On the document labeled as **exhibit O**, it shows that the monthly child support amount of six hundred forty-four dollars and ten cents ($644.10), did not start being owed until November 1, 2012. From November 1, 2012 – November 2, 2012, the child support arrearages that Mr. Childers owed, increased by two thousand seventy-one dollars and thirty cents ($2571.30). The child support arrearages suddenly increase within twenty-four hours for no apparent reason. Mr. Childers did receive a letter at some point that confirmed there was an error and that he now owed over three thousand two hundred dollars ($3200.00) in child support arrears. Mr. Childers does not have this letter currently in his possession, nevertheless, this is clearly proven by the child support case summary document labeled as **exhibit O**. Mr. Childers did not disagree with the child support order as he wanted to work and provide for his children.

Mr. Childers disagreed with a mistake that was made that caused him to suddenly owe $3200.00 in child support arrears. Mr. Childers worked and paid his child support diligently to ensure that he owed no arrears. The mistake that was made caused Mr. Childers bad anxiety.

97. On this same day of March 14, 2012, Mr. Childers was also ordered to pay the amount of one thousand seven hundred eight dollars and seventy cents ($1708.70). This amount was impute income that was ordered even though Mr. Childers was not voluntarily unemployed at the time. The impute income amount of one thousand seven hundred eight dollars and seventy cents ($1708.70) created instant child support arrearages on November 2, 2012. This was part of the reason that his child support arrears increased to three thousand two hundred dollars ($3200.00) virtually overnight. Another reason for this instant increase in arrears is that even though this hearing was on March 14, 2012, Judge Larry D. Willis, Sr. wrote on **exhibit N** that the increased

amount of child support ($644.10) was to be effective on 8-18-2011. This was seven months prior to this hearing. Somehow these two reasons caused Mr. Childers's child support arrearages to suddenly increase to a total amount of $3200.00, on the far off future date of November 2, 2012. This was the first extraordinary situation that plagued Mr. Childers in his child support matters. There were more extraordinary situations of an extreme nature in Mr. Childers's child support case.

98. Under Code of Virginia, Title 20, Chapter 6, Sections 20-108.1 – 20-108.2, a judge in the Commonwealth of Virginia has the authority to impute income by charging the parent virtually any amount they choose even if the parent is an indigent party. If the judge feels that a parent isn't earning their true potential, the judge will impute income on to that parent to manipulate the child support calculations and final amounts owed. A judge in the Commonwealth of Virginia has the authority to create thousands of dollars

of impute income within minutes and force a parent who is indigent to owe every dollar. This creates instant child support arrearages that are owed by poor non-custodial parents who are lacking the ability to pay such large sums of money. A judge in the Commonwealth of Virginia factors this amount based on what he or she believes is the obligor true earning capacity or ability to earn not actual present income. Impute income amounts are determined by fiction not facts and can be virtually any sum of money that the judge adjudicates. Family courts in the Commonwealth of Virginia have the authority to impute income based on fiction without any limitations, oversight or reason.

99. "A child support or alimony order should never contain the word" "capacity" or the words "ability to earn" unless it also contains the words "bad faith." See **exhibit Q**.

100. “Alimony and child support obligations must be determined based on actual present income. Earning capacity rather than actual income can be used only when a party is intentionally depressing actual income in deliberate disregard of a support obligation. In other words, it is not appropriate for an order to be based on what a person should be earning- or on minimum wage – rather than on what that person actually is earning unless evidence shows the party is acting in bad faith and the court actually includes that conclusion of law in the order.”

101. “Despite the fact that the law has been well-settled for a long time, the Court of Appeals frequently must remand cases to the trial courts because income is imputed without a determination of bad faith.” (See **exhibit Q**. https://civil.sog.unc.edu/imputing-income-voluntary-unemployment-is-not-enough/) (By Cheryl Howell, a Professor of Public Law and Government at the School of Government specializing in family law.)

102. U. S. Department of Health and Human Services, 2000). The Office of Inspection General (2000) found that a large percentage of IV-D cases with order amounts established using imputed income exhibited lower compliance than cases with orders using non-imputed income. See **exhibit R**. Exhibit R is a fact sheet from the Office Of Inspector General (2000) which contains informative studies and graphs related to child support calculations for non-custodial parents. See Page 3 under "INCOME IMPUTATION:", also see page 16, "Imputed cases exhibit lower payment compliance than non-imputed cases". The information in this fact sheet supports the claims made by the plaintiff in this matter.

103. On this same day of March 14, 2012, Judge Larry D. Willis, Sr. acted on Mr. Childers's wife's behalf as an attorney and even stated that "I do not want to act as your attorney but do you want to ask for anything else such as alimony". Mr. Childers's wife did not ask for spousal support or file for spousal support prior to this

statement from Judge Larry D. Willis, Sr. After Judge Larry D. Willis, Sr. made this statement, Jessica Childers then asked for spousal support. Spousal support was then ordered on March 14, 2012, in the amount of $87.54. Please see **exhibit N**.

104. The spousal support order was later forfeit in the Virginia Court of Appeals based on a mutual agreement between Mr. Childers and his wife Jessica Childers. On October 17. 2019, Mr. Childers went to the office of the clerk at The Chesapeake Juvenile and Domestic Relations District Court and to the clerk's office at The Chesapeake Circuit Court to obtain a record for proof that the spousal support order was in fact forfeit. There was no record of this found in either court. The only proof of this is **exhibit S** where Mr. Childers was found not guilty on a spousal support show cause document from a later date.

105. Mr. Childers learned from his ex-wife, Jessica Childers, that he had another hearing scheduled for September 10, 2013. His ex-wife stated that she wanted more money. Mr. Childers then explained to her that the child support is calculated based on his income. His ex-wife, Jessica Childers seemed to act strange about this court date, she was smiling and appeared to be blissful when she discussed the upcoming court date.

(G) Hearing on September 10, 2013

106. Paul Hedges is a local family attorney in Chesapeake, VA whom Mr. Childers has known for many years. Mr. Childers introduced his wife to Paul Hedges while they were married. This was a few years before Mr. Childers and his wife were separated. Before Mr. Childers's hearing on September 10, 2013, his ex-wife, Jessica Childers, who is the mother of his children, was employed by attorney Paul Hedges. Paul Hedges has explicitly stated on multiple occasions that he is close friends with Judge Larry D. Willis, Sr. Paul

Hedges has stated that he and Judge Larry D. Willis, Sr. have worked together for a number of years and expressed the fact that they both used to be in some type of “ride-share program”. Mr. Childers did not clearly understand what exactly Paul Hedges was talking about but this is his understanding of the given statement. Paul Hedges and Mr. Childers have discussed Judge Larry D. Willis, Sr. on multiple occasions. Mr. Childers discussed with Paul the events that have occurred in the courtroom of Judge Larry D. Willis, Sr. Mr. Childers has emphasized the unfair treatment that he has received in the courtroom of Judge Larry D. Willis, Sr. In fact the last time that Mr. Childers spoke with Paul Hedges about his situation with Judge Larry D. Willis, Sr., along with the events that took place at the Chesapeake Juvenile and, Domestic Relations District Courts, was in 2018. This discussion took place at the residence of Paul Hedges which was off of Battlefield Blvd in Chesapeake, Virginia. In 2018, Mr. Childers asked Paul

Hedges to help his older daughter, Nirvana Childers, with a criminal matter. His daughter, Nirvana Childers was accused of shoplifting and her photo was broadcast on Wavy TV 10 news. Paul Hedges talked with the Chesapeake detective that was assigned to the criminal matter. Thanks to Paul no charges were filed. Up until this specific meeting between Paul Hedges and Mr. Childers in 2018, Paul Hedges believed that Mr. Childers was wealthy and financially well as he was in 2006 -2007.

107. Exact dates, addresses, or evidence of these events are irrelevant to this complaint as this section is only for the purpose of describing the personal relationships between Paul Hedges, Mr. Childers, Jessica Childers, and Judge Larry D. Willis, Sr. This section is necessary for the district court to understand these personal relations between the parties involved in this matter.

108. On September 10, 2013, Mr. Childers's estranged wife, Jessica Childers, was still employed by attorney Paul Hedges. Paul Hedges has always had a weakness for women and was once reported to the Virginia DPOR for sexual misconduct by a former secretary's husband, according to Jessica Childers. Paul Hedges has also been hired by Mr. Childers's sister Helen Amanda Marsh. He also has done Pro Bono cases for Mr. Childers's niece Ashlee Marsh, which according to Paul, he has been investigated because Mr. Childers's niece Ashlee Marsh, was at his home helping Paul Hedges with home gardening projects. Paul has discussed this investigation on multiple occasions. By exposing these facts Mr. Childers does not wish Paul Hedges any harm or problems but these facts are important to understand the full aspect of the this case. At this time Mr. Childers did not suspect any foul play in his court hearings due to the fact that his ex-wife was working as a secretary for Paul Hedges. Mr. Childers was suspicious that Paul was

coaching Jessica Childers in legal matters but never at this point in time did Mr. Childers have suspicions of collusion between Paul Hedges, Jessica Childers, and Judge Larry D. Willis, Sr.

109. On September 10, 2013, Mr. Childers went to the office of the clerk at the Chesapeake Juvenile and Domestic Relations District Court. The clerk called a deputy to serve Mr. Childers with a show cause for not paying spousal support. The show cause document that he was served with indicated that he could be imprisoned. Mr. Childers could not understand how he could be facing the threat of jail if the spousal support was forfeit by his ex-wife. This was the beginning of the plaintiff's turmoil where the threat and fear of incarceration started taking a toll on Mr. Childers causing him severe mental distress and anxiety.

110. On September 10, 2013 Mr. Childers went to a show cause hearing for spousal support at the Chesapeake Juvenile and Domestic Relations District

Court. There was also a motion for a child support modification filed before this hearing. Mr. Childers was found not guilty at the show cause hearing on September 10, 2013. Proof of this is the document labeled as **exhibit S.**

111. On September 10, 2013, Mr. Childers was ordered by Judge Larry D. Willis, Sr. of the Chesapeake Juvenile and Domestic Relations District Court to pay $1100.00 a month in Child support for two children. The amount of $1000.00 was for child support for two children and $100.00 was to be applied to arrearages. This is proven with the child support order which is labeled as **exhibit T**.

Personal Statement From Mr. Childers:

112. After Judge Larry D. Willis, Sr made his ruling on September 10, 2013, he looked at me with a slight smile, a smirk, that seemed like he was mocking me, looking for a reaction from me. A reaction of shock. A witness in

this case, a firefighter named Russell S. Fryske makes the statement that he received the same type of treatment from Judge Larry D. Willis, Sr. Russell S. Fryske has specifically made statements about being mocked by this judge. Russell S. Fryske was on a national radio station out of Atlanta, Georgia expression the fact that he was mocked by this judge. His statement was broadcasted on this radio station and it was recorded. The YouTube link to the video sound recording is below:

"https://www.youtube.com/watch?v=pSIfBemNSZg"

113. I realize that a Pro SE litigant must submit paper only and thus hyperlinks will not be clickable. However, I am hoping that the link can be typed in some way so that the court can listen to his statement that was made on this radio station. Russell S. Fryske also has made the statement to me that he was detained by Judge Larry D. Willis, Sr. for 10 days for speaking constitutional law in the courtroom.

114. I understand that there is no actual proof of this accusation and the fact that litigants in court will commonly make up malicious, vindictive statements about the judge. However, I make these statements on this complaint knowing that if I falsify information on this complaint I may be subject to incarceration. This must give my statement some merit as I very much dislike jail. I will take a polygraph if this will help to prove these allegations. I Troy J. Childers, under the penalty of perjury (under the laws of the United States of America), swear that these statements are true. **End**

115. The ruling on September 10, 2013 was a massive increase in child support that was almost double the amount of what Mr. Childers was currently paying at the time. Before September 10, 2013, Mr. Childers was ordered to pay $644.10 per month. The child support amount was increased drastically on this day even though there was no significant change of circumstances

which is required by Title 45 Code of Federal Regulations § 303.8 (6), and Code of Virginia § 20-108.

116. On September 10, 2013 the attorney for The Division of Child Support enforcement, Mr. Clark, admitted in court that the child support amount of $1100.00 a month was extreme and well above the Commonwealth of Virginia statutory child support guidelines. On September 10, 2013 there was an extreme deviation from the Commonwealth of Virginia child support guidelines without any findings or reason.

Federal Regulatory Code U.S. Title 45 Section 302.56 (g) and Title 42 U.S.C. Section § 667(b)(2)

> "Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines."

Code of Virginia § 20-108.1

"the court shall make written findings in the order, which findings may be incorporated by reference, that the application of such guidelines would be unjust or inappropriate"

Code of Virginia § 20-108.2

"findings may be incorporated by reference, that the application of the guidelines would be unjust or inappropriate"

117. There was NO evidence to support such a drastic deviation from the guidelines. There is no legal reason for this deviation from the guidelines and there has been no explanation. No reason or findings have ever been documented in writing which is required by 42 U.S.C. section 667(b) (2). No reason has ever been expressed orally or in writing in pursuant to Code of Virginia § 20-108.1, § 20-108.2, 42 U.S.C. section 667(b) (2) and Federal Regulatory Code U.S. Title 45 Section 302.56(g). Clearly, state and federal laws were violated on this day without any dispute.

118. There is no reason given in writing on the child support order document. The area on the child support order document intended for this was blank. See **exhibit T**.

119. This is a clear violation of Federal Regulatory Code U.S. Title 45 Section 302.56 (g). This is also a violation of Title 42 U.S. Code Section 667, and Code of Virginia § 20-108.1. These intentional violations of law are impossible to dispute, disprove, debunk, contest, challenge or deny.

Case Law Proves That This Is An Abuse Of Discretion

> "We hold that the trial court erred in failing to calculate the presumptive amount of child support and in failing to provide a written explanation for a deviation from the child support guidelines, and we reverse and remand with directions to comply with Code 20-108.1 and 20-108.2.." See - *HYLTON VS HYLTON* Record No. 2307-96-3 VA 1999

"Any deviation from the presumptive amount must be supported by written findings of the trial Judge specifying why the application of the guideline amount would be unjust or inappropriate." See – *Richardson v. Richardson*, 12 Va. App. 18, 21, 401 S.E.2d 894, 896 (1991).

"a conclusory written statement of [the circuit court's] findings" is not sufficient to justify deviating from the presumptive guideline amount. Id. If the circuit court fails to provide sufficient explanation for any deviation it decides to make, its actions will be deemed error." See – *Pharo v. Pharo*, 19 Va. App. 236, 450 S.E.2d 183 (1994)

"Only by having specific written findings will... judges in subsequent proceedings be able to make informed decisions on how a change in circumstances may justify modification or may justify continued deviation from the guidelines." See - *Hiner v. Hadeed*, 15 Va. App. 575, 581-82, 425 S.E.2d 811, 815 (1993) (internal citations omitted).

120. On September 10, 2013, Mr. Childers was only making $10.00 per hour and he only made $6,623 for the entire year of 2013. To prove this Mr. Childers has two paycheck stubs. One paycheck stub is from the week of November 29, 2013, to December 5, 2013. The other paycheck stub is from the week of December 6, 2013, to December 12, 2013. These paycheck stubs are labeled as **exhibit U**. After this drastic increase of child support on September 10, 2013, Mr. Childers only had $52.90 - $145.38 a week to live off of. This is proven by his paycheck stubs that are labeled as **exhibit U**. As of September 10, 2013, Mr. Childers was now ordered to pay $13,200.00 per year in child support even though he only made $6,623 for the entire year of 2013. This is proven with his tax return documentation for the year of 2013, which is labeled as **exhibit V.** Mr. Childers lived in his sister's empty home that was going into foreclosure at the time. If not for this, Mr. Childers

would have been homeless. His sister, Helen Amanda Marsh and her husband Johnathan Morris has been financially supporting Mr. Childers for many years.

121. By having such a large amount of child support to pay this began to cause Mr. Childers severe mental distress. No matter how hard Mr. Childers tried to pay the $1100.00 a month it became a heavy burden to pay on a steady basis. He wanted to pay this amount but did not make enough income to do so. Mr. Childers had very little money to live off of and found himself struggling just to pay for basic needs like food, clothes, and gas to drive to work. This incredible amount of money was a heavy burden that kept Mr. Childers in a state of mental anguish for years. He was constantly in fear of incarceration due to the inability to pay such a large sum of money each month. As the arrearages stacked each month, Mr. Childers became overwhelmed and depressed. He had thoughts of suicide and saw no way

out but death. The research paper labeled as **exhibit L** supports these claims of mental despair.

122. Due to the fact of Mr. Childers's indigency and impoverished lifestyle, he struggles to pay the amount of child support ordered. The court has never used the state guidelines in his child support determination. Mr. Childers donates plasma regularly just to pay for basic life essentials. The plaintiff's records of plasma donations are listed in **exhibit X**.

123. On the same day of September 10, 2013, after the court hearing was finished, Mr. Childers went to the office of the clerk at the Chesapeake Juvenile and Domestic Relations District Court to file an appeal. At this time the trial was over and done with and Mr. Childers was free to leave the building. The juvenile court clerk stated to Mr. Childers that she did not have the final documents from the trial as of yet because it had only been a few minutes since the trial was finished. The clerk then left the office and proceeded into the

courtroom to obtain the documents so that Mr. Childers could file an appeal. After about 15-20 minutes the clerk was back in her office and informed Mr. Childers that if he desired to file an appeal he would then be required to pay a large sum of money. Mr. Childers was advised by the clerk that two different types of appeal bonds were required to be paid. One appeal bond in the amount of $3589.00 which was a statuary legal requirement for the amount of the current child support arrearages. The other appeal bond was an accrual bond for $2000.00. Both appeal bonds together equaled $5589.00. The amount of $5589.00 was required to be paid in order to have the ability to appeal. Mr. Childers was shocked to learn this information because none of this information was provided to him at trial. This unjust action must have been ordered when the clerk went into the courtroom after the trial was complete. There was no mention of these two appeal bonds at trial and there were no documents provided at the trial that displayed this

information. This action was undertaken after the trial was done and over with. While it was a statutory requirement that the amount of $3589.00 be paid, the accrual bond set for the amount of $2000.00 was unjustified and unwarranted. This amount is impossible for an indigent party to pay. See the document labeled **exhibit S**, a note of the appeal bond amounts are located on the bottom right side. Mr. Childers assumes that this was written by the judge.

124. In the Commonwealth of Virginia, an obligor must pay the entire amount of child support arrearages or part of the arrearages owed, to have the ability to appeal. The amount of the bond that an indigent parent has to pay in order to appeal is decided by the same lower court judge. This same lower court judge has the authority to add fictional amounts of impute income thereby creating an excessively high amount of instant arrearages. This makes it impossible for an indigent party to appeal a child support order that is increased

excessively by the judge. There is no state remedy for indigent parties to receive fair justice. This legal process makes impossible for an indigent parent to dispute a child support order that deviates from the state guidelines and is far beyond what the indigent parent can actually pay. Whether there is an abuse of discretion or not by the judge, a poor parent cannot pay appeal bonds that require hefty sums of money. This is an unfair legal practice that places an indigent party at the mercy of the same lower court judge for many years. Mr. Childers has been tremendously impacted by this unfair legal practice and is assured that he would have received fair justice if granted the ability to file an appeal to a higher court.

125. After the court date on September 10, 2013, Mr. Childers called Paul Hedges. Mr. Childers expressed to Paul what happened on this day in court. Paul seemed to divert from the topic and made the statement that he "has never heard of that happening to anyone". Mr.

Childers also called Paul Hedges months after, at a point when Mr. Childers was sleeping in his van, in a parking lot in North Carolina. Mr. Childers was crying about what happened to him and upset about losing his family. In this phone call, Paul Hedges was insensitive to his situation. At this time, Mr. Childers had no reason to suspect any foul play between Paul Hedges and Judge Larry D. Willis, Sr.

126. Between 2013-2014, David Byler, brother of Gary C. Byler (who worked with the Reagan administration in the Whitehouse), knew of the situation with Mr. Childers's ex-wife working for Paul R. Hedges. Mr. Childers, along with Jessica Childers, knew David Byler and both parties carried a friendship with him for a few years. David Byler was close with Mr. Childers after his divorce and both of them would meet on occasion to have lunch together sometimes. David Byler is familiar with legal matters as some of his family members are lawyers. His sister Kathryn Byler has worked as a

substitute judge in Virginia Beach. David Byler also knows Paul Hedges. Mr. Childers has expressed to David Byler the fact that his ex-wife was working Paul Hedges during his court hearings. At some point, David Byler ran into Paul Hedges somewhere and told Paul that Mr. Childers's ex-wife, Jessica Childers, should not be working for him. Both Paul Hedges and David Byler called Mr. Childers to discuss their conversation. Soon after this, Paul fired her. These facts were added to this complaint for the reason that David Byler can testify that Jessica Childers did work for Paul during Mr. Childers's court hearings. Even after Jessica Childers was supposedly fired by Paul, Mr. Childers would sometimes receive calls from her with Paul's office number showing up on the caller id.

127. Mr. Childers has attempted to modify his child support payment amount multiple times, without an attorney, over a period of years. Mr. Childers was lacking in knowledge of legal affairs and failed each time. Either the modification order was not written correctly or he did not bring the proper income documentation. Mr. Childers has attempted to get a record of each time that he filed a child support modification, but he has been unsuccessful. Mr. Childers is requesting the discovery of these documents in his prayer for relief.

128. Non-custodial parents accused of contempt face a heavy burden to excuse themselves from their child support obligations. In the face of this heavy burden, a Pro SE parent's chance of prevailing on an inability-to-pay defense is vanishingly small. See *Turner v. Rogers*, 564 U.S. 431 (2011).

(H) Hearing on April 21, 2015

129. At one point Mr. Childers was fortunate to obtain enough money to hire an attorney. He hired an attorney for his court date on April 21, 2015. Mr. Childers hated giving money to an attorney as he would rather have sent the money to his children.

130. On April 21, 2015, Mr. Childers had a child support modification hearing at The Chesapeake Juvenile and Domestic Relations District Court in courtroom 1. Judge Larry D. Willis, Sr., was once again the judge. Mr. Childers's attorney never showed up, however, she sent another attorney to represent Mr. Childers. This time Mr. Childers had his income documentation from the IRS. His income documentation states that he made less than $5000.00 for the year of 2014. See **exhibit Y**. Mr. Childers was living very poor at this time. Judge Larry D. Willis, Sr. would not even review his income documentation. Judge Larry D. Willis, Sr. ordered Mr. Childers to pay $1085.00 per

month on April 21, 2015. $835.75 was his child support and $250.00 went towards the arrears. $1085.00 was only 15 dollars lower than the previous child support order amount and the child support order was just reworked differently. This amount was far beyond Mr. Childers's ability to pay. Once again this amount was a deviation from the state guidelines with no documented findings or reason. This was another violation of Federal Regulatory Code U.S. Title 45 Section 302.56 (g). This is also a violation of Title 42 U.S. Code Section 667, and Code of Virginia § 20-108.1. Mr. Childers now knew that no attorney would be able to help him. Judge Larry D. Willis, Sr., did not even take into consideration his income documentation. Mr. Childers was poor and he couldn't pay a high appeal bond. There was no remedy for Mr. Childers. His child support was never based on his actual income.

(I) Mental Illness, Depression and Suicidal Thoughts

131. Mr. Childers wanted to take care of his kids but the debt started affecting his ability to work. Mr. Childers was overwhelmed with child support arrears and suffering great mental distress. Mr. Childers isolated himself from people. He stopped taking showers on a regular basis and often had bad hygiene. Mr. Childers was depressed and suicidal over the growing debt. Starting in 2014 his mental problems destroyed the relationship with his children combined with the actions of his ex-wife. Mr. Childers visited Chesapeake Integrated Behavioral Healthcare for help with his depression but lacked the will to get out of bed, just to follow the mandatory process of appointments. Mr. Childers does not currently have his first set of intake records from Chesapeake Integrated Behavioral Healthcare but he is assured that he can obtain them if relevant to provide proof. On August 3, 2017, he tried to get help again from Chesapeake Integrated Behavioral

Healthcare after his depression was becoming worse each year. See **exhibit Z**.

132. The intake record states on page 6 that Mr. Childers is:

> "obese", "unkempt and has very poor odor." "He admits to not bathing or brushing his teeth for some time." "he at times thought about committing suicide".

On **page 4** of the intake record it states that:

> "He describes his depressive symptoms as not wanted to be around others, lack of energy, feelings of hopelessness and worthlessness, sleeping daily, not bathing or brushing his teeth, as well as isolates himself in a dark room all day."

On **Page 5** of the intake record it states that:

> "He endorses the symptoms have increased in intensity and frequency within the last several months and identifies (going from owning his own roofing and construction company of which he states was very profitable to donating plasma as a form of income".

133. On the intake record labeled as **exhibit Z**, Mr. Childers also made comments about suicide. On page 7 of the document labeled exhibit Z, under the Diagnostic Impressions section, it states: "Major depressive disorder, Recurrent episode".

(J) Main Facts To Bring To Attention

1.) State court judges have the authority to deviate from the state guidelines even if the obligor is an indigent party.

2.) State court judges have the authority to create child support amounts based on fictional income, not actual income. The child support amount is determined by what the judge *believes* the parent can pay.

3.) State court judges have the authority to impute or assign additional income even if the parent is indigent. When a judge imputes income, the judge will calculate child support based on a

higher income amount than what the parent is actually earning. This fictional income amount creates instant debt which increases with added annual interest. The judge then has the authority to order an indigent parent to pay all or some this growing instant debt just to have the ability to appeal.

4.) State court judges are insensitive to poor non-custodial parents and they do not make a correct determination between non-custodial parents who are trying to pay and non-custodial parents that willfully do not pay. The term “deadbeat dad” or “deadbeat parents” has been used to refer to nonresident parents who intentionally avoid meeting child support obligations. This stereotypical image is embedded in the minds of citizens of the United States. This has caused state officials, state judges, and society, in general, to become desensitized to all child support obligors.

This is the main reason that there are very few accurate determinations from refusal to pay or not having the ability to pay.

5.) Society, in general, is insensitive to non-custodial parents who are indigent. When a judge abuses his discretion and creates a massive amount of debt he is seen as a hero by society because it is in the best interest of the children.

6.) The accruing debt becomes overwhelming and causes psychological damage, high-stress levels, mental anguish, depression, mental agony, suicidal thoughts, health problems, and other psychological symptoms.

134. These facts are supported by **exhibit L (**Factors And Outcomes Associated With Patterns Of Child Support Arrears). This is a fact sheet from 2019 that contains many scientific studies on "*Factors And Outcomes Associated With Patterns Of Child Support*

Arrears" by Columbia University. Another study, by the author, titled "*The Effects of State-level Child Support Enforcement on Long-term Patterns of Arrears Accumulations among Noncustodial Fathers"* is also attached and is labeled as **exhibit L1.**

135. "Recent studies have also demonstrated the negative impact of child support debt on nonresident fathers' labor force participation (Miller & Mincy, 2012) and their involvement with children (Turner & Waller, 2017). However, previous studies have neglected to explore other significant consequences of the debt, particularly the impact on fathers' mental health outcomes, such as depression and anxiety."

136. Depression is an important cause of work absenteeism, loss of productivity, and even mortality (Henderson, Harvey, Øverland, Mykletun, & Hotopf, 2011; Mykletun et al., 2007). Approximately one in five clinically depressed and treated patients in the U.S. committed suicide (Bostwick & Pankratz, 2000), which

is expected to be higher among untreated persons. Anxiety, as is usually comorbid with depression, is responsible for a marked impairment in quality of life, reduction in social and occupational functioning (Greenberg et al., 1999; Kessler & Greenberg, 2002; Sherbourne, Wells, Meredith, Jackson, & Camp, 1996). Both depression and anxiety are typically recurrent and chronic, causing a significant financial burden associated with the use of medical resources (Fostick, Silberman, Beckman, Spivak, & Amital, 2010; Greenberg et al., 1999). The inability to repay debts would cause falling further behind in paying off child support debt, resulting in more severe depressive symptoms among impacted fathers. Indeed, the last victim of this vicious cycle would be the children who have not received any support from their nonresident fathers.

137. Despite some qualitative studies showing that the accumulation of large child support debt may be adversely affecting the mental health of nonresident fathers (Lin, 2000; Waller & Plotnick, 2001), there have been few quantitative studies on this relationship. Using previously unavailable data of fathers' mental health outcomes from the Fragile Families and Child Wellbeing Study (FFCWS), the current study estimates whether the nonresident fathers with child support debts are at risk for the development of mental health problems. Since the data does not provide enough information about whether the father meets anxiety disorder criteria after 3-year follow-up survey, the study uses an alcohol abuse problem as an alternative outcome, given the evidence that both anxiety and alcohol problems have a shared comorbid condition with common underlying risk factors (Brady Lydiard, 1993; Kushner, 1996; Kushner, Abrams, & Borchardt, 2000).

138. A large body of research indicates that accumulation of arrears is, in part, the result of state-level enforcement policies (Office of Child Support Enforcement, 2014; Sorensen, 2004; Sorensen, Koball, Pomper, & Zibman, 2003; Sorensen et al., 2007). Sorensen and colleagues (2007) found that states that assessed interest on a routine basis had higher arrears growth rate than other states between the 1990s and 2000s. A report from the Institute for Research on Poverty (Bartfeld, 2003) yielded consistent results indicating that nearly 50 percent of total debts were attributable to the state-level policies. See **exhibit L**.

139. People who struggle with debt are more than twice as likely to suffer from depression, according to a *study* by *John Gathergood of the University of Nottingham*. See **exhibit A12**. To further prove the effects of long term child support debt, there are two more qualified studies attached to this brief. A Final Report to the National Institute of Justice, titled "*Child*

Support, Debt, and Prisoner Reentry:" by Caterina G. Roman, Ph.D. on February 26, 2015, labeled as **exhibit A13**. A study labeled as **exhibit A14**, from the Institute for Research on Poverty University of Wisconsin–Madison, titled "*Does Debt Discourage Employment and Payment of Child Support? Evidence from a Natural Experiment*", from July of 2009.

140. Child support obligors are experiencing physical symptoms from their stress. Some isolate themselves because of their debt. But all that does is lead to more debt, which leads to more depression and despair. At that point, people don't care whether their pain is caused by debt or debt is causing their pain. Hopelessness sets in, as does low self-esteem. It can lead to even more debt since sufferers sometimes try to relieve their depression with drug abuse, alcohol abuse, or some other mental getaway.

141. Mr. Childers has become extremely depressed and suffers from mental agony and depression. This has destroyed his relationship with his children and caused him to become suicidal with no quality of life. This is proven by his mental health records from the Chesapeake City Jail. See **exhibit A15**. Mr. Childers was also placed on suicide watch at the Chesapeake City Jail on two separate occasions. According to Mr. Childers during 2017 – 2019 he wanted to die and that "death seems to be the only way out." Proof of the suicide watch is included in **exhibit A15**. A doctor also treated Mr. Childers for depression while he was in jail. Mr. Childers states that he had to start being dishonest at times when asked questions because he was afraid of being stripped naked again and being put on suicide watch.

(K) The Plaintiff's Exhaustion of Remedies

142. These facts will prove there are diminutive actions of legal recourse that offer a remedy for indigent parties in child support cases. When a lower court judge creates unrealistic child support obligations that are impossible for an indigent parent to pay there is no remedy. Remedy by appeal was not possible for Mr. Childers as he was already living on a poverty level and could not pay a large appeal bond. The appeal bond amount was under the control of the same judge. When a state court judge violates the law by deviating from the guidelines without findings or reason there is no remedy. No form of justice is available. A state court judge is free to violate state and federal laws.

143. Mr. Childers is lacking in legal knowledge and experience in court matters. The only option in his mind was to contact multiple high level federal and state officials. While suffering from mental distress, in an act of desperation, Mr. Childers exercised the following actions in an attempt to acquire relief or remedy.

1.) Reply Letter From President Obama and Vicky Turetsky

144. In 2015, Mr. Childers sought out relief or a remedy by writing a letter to the United States President, Barack Obama and Commissioner Vicky Turetsky, of the federal Office of Child Support Enforcement (OCSE). Mr. Childers also sent both of them a large packet of information about his child support case. President Barack Obama forwarded Mr. Childers's letter to the federal Office of Child Support Enforcement (OCSE). Mr. Childers then received a reply letter with the date of July 27, 2015. See **exhibit A16**.

The reply letter states:

> "I am responding to your letters dated June 1, 2015 to President Barack Obama and Commissioner Vicky Turetsky"

There was no remedy of relief by undertaking this action.

2.) Reply Letters From Federal Senators Tim Kaine and Mark Warner

145. Mr. Childers wrote letters to both Tim Kaine and Mark Warner. See **exhibit A17**. The reply letter from Tim Kaine was dated on July 2, 2015, and the response letter from Mark Warner was dated May 22, 2015. Both letters state that "their jurisdiction is primarily over federal matters."

There was no remedy in this action.

3.) Governor Of Virginia, Terry McAuliffe, Director Of The Division Of, Child Support Enforcement, Craig M. Burshem, Attorney General Mark Herring

146. Part of Mr. Childers's grievance is that for years he had to fight to keep his driver's license. His driver's license was in constant jeopardy. The Division of Child Support Enforcement attempted to suspend Mr. Childers's driver's license through the years on multiple occasions. Mr. Childers has disputed this action multiple times. This action has already been frowned upon by the federal courts because poor people lack the ability to pay court fines and fees that have their driving privileges taken. This is an unconstitutional practice.

> "The Constitution prohibits punishing a person for their poverty," said **Director Lisa Foster** of the Office for Access to Justice at the DOJ. "Yet suspending a person's driver's license when they are unable to pay court debt does just that. And it's also counterproductive. How can a person pay their fines and fees if they lose their job because they can't drive to work?"

147. This has caused Mr. Childers great mental distress, mental agony, depression, and other psychological problems each time that his driving privilege was in peril.

148. In February 2015, Mr. Childers's driver's license was taken from him illegally by The Division of Child Support Enforcement. The Division of Child Support Enforcement violated the Code of Virginia § 46.2-320.1.

Under Virginia code § 46.2-320.1 (section A)

> "The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within 10 days from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew."

149. On February 7, 2015, Mr. Childers received a notice by mail of the intent to suspend his driver's license. The letter was from The Department of Child Support Enforcement. This letter was written and dated on February 3, 2015.

150. On February 13, 2015, Mr. Childers had personally hand-delivered a response letter to his local child support enforcement office. This letter was stamped as being received by The Child Support Enforcement District Office located at 814 Greenbrier Circle, in Chesapeake, Virginia on February 13, 2015. See **exhibit A18**.

151. The Child Support Enforcement District Office disregarded his request for a hearing. His request for a hearing was completely ignored. No petition was filed as described under Code of Virginia § 46.2-320.1. Mr. Childers's driver's license was then suspended which impaired his ability to work.

152. Mr. Childers visited The Child Support Enforcement District Office located at 814 Greenbrier Circle, in Chesapeake, Virginia to speak with his caseworker. His caseworker stated that he would have to put down a payment amount that was over four thousand dollars in order to initiate a payment plan. The caseworker also stated that this would be his only means of gaining back his driving privilege. Mr. Childers was highly upset and in distress as he was only living off of very little money after trying to pay what he could towards his obligation of $1100.00 per month.

153. Mr. Childers then sent a complaint letter to Governor Terry McAuliffe, Craig M. Burshem and Attorney General Mark Herring. The letter was dated April 30, 2015, and is labeled as **exhibit A19**. Mr. Childers was suffering great mental distress over his driving privileges being taken away and by his situation with The Chesapeake Juvenile and Domestic Relations

District Court. In his letter, he addressed both problems. See **exhibit A19**.

154. Mr. Childers received a partial remedy from the Commonwealth of Virginia Governor Terry McAuliffe. His driver's license was returned by the Virginia Department of Motor Vehicles. Mr. Childers received a letter from the Virginia Department of Motor Vehicles with the date of May 12, 2015. See **exhibit A20**. The letter states that "DMV has canceled the suspension of your driving privilege". The letter labeled as exhibit A20, also states "This suspension was in error by The Department of Social Services."

155. This further proves that state officials in the Commonwealth of Virginia can be lawless with no regard for the rule of law. State officials in the Commonwealth of Virginia are insensitive to child support obligators. This is part of the problem and also the reason why child support obligators are treated so unfairly in the Commonwealth of Virginia. State officers

in Virginia lack empathy towards the psychological stress that is caused by their actions. There is a stereotypical image that is placed on child support obligors by state officials in the Commonwealth of Virginia. The image that they are deadbeat parents.

156. Since Mr. Childers did receive a remedy by undertaking this action, he then sent a large packet of information about his child support case along with another letter that expressed his concerns to Virginia Governor Terry McAuliffe. The primary supervisor at the local Division of Child Support Enforcement in the City of Chesapeake then called Mr. Childers. She stated that a representative at the Virginia Governors' Office had contacted her. She did not specify who the person was. She stated that the representative at the Virginia Governors' Office wanted to know why Mr. Childers was paying so much. For this reason, Mr. Childers assumes that the Virginia Governors' Office was responsible for reinstating his driver's license. Once she

found out that the core problem was a judge, she then relayed this information to the representative at The Governors' Office. It would seem that The Virginia Governors' Office wanted no more involvement after the representative was informed that a judge was responsible for the excessive amount of child support.

4.) Ralph Northam

157. In 2015, Mr. Childers wrote a letter about his ordeal to Ralph Northam before he was Governor of Virginia. Mr. Childers did not receive a reply.

158. Under severe mental distress, Mr. Childers executed a desperate action by sending another letter to Governor Ralph Northam in early 2019. In this letter, it states that he has suicidal thoughts over the acts by some of the defendants. Mr. Childers was then contacted by:

Lamar P. Noel
Support Enforcement Supervisor
Virginia Department of Social Services
3535 Franklin Road SW, Suite H

Roanoke, VA 24014
lamar.noel@dss.virginia.gov
See **exhibit A21**.

159. **Exhibit A21** is a screenshot of an email on March 26, 2019. The email was from Lamar P. Noel, Support Enforcement Supervisor, at the Virginia Department of Social Services. Lamar P. Noel was very polite and helpful. He helped Mr. Childers with his driver's license suspension problem, however, once Lamar realized that a judge was the cause of Mr. Childers's grievance he was free from any liability and proceeded to evade from the issue. This is understandable as Lamar P. Noel has no authority over judicial matters. There was no remedy by executing this action.

5.) The Department of Justice and The FBI

160. Mr. Childers also sent a letter to the Department of Justice in 2015. Mr. Childers does not have the reply letter from 2015 which states that the Department of Justice would not investigate. When Mr. Childers was

facing incarceration before April 4, 2019, he mailed complaint letters to the Department of Justice and the FBI. Mr. Childers did receive a reply letter from the Department of Justice. See **exhibit A22**. The interpretation of the letter from the Department of Justice implies that this matter may be investigated. The problem is that Mr. Childers was in a state of desperation and hast as he was trying to prevent himself from being incarcerated unconstitutionally. Mr. Childers has never put all the facts in writing. If the Department of Justice was made aware of all of the facts Mr. Childers is confident that these matters would be under investigation.

L. Never Did The Plaintiff Include All of The Facts

161. Mr. Childers states that he wrote a complaint to the ACLU. Mr. Childers also states that he wrote Donald Trump before he was president. Mr. Childers states that he wrote a letter to Judicial Watch in Washington DC.

162. Mr. Childers has written multiple high-level government officials and multiple departments of government over this matter. He does not remember every letter that he sent nor does he have proof of every letter he mailed. The problem with the complaints that Mr. Childers sent out is that the complaints never distinctly layout all of the facts of his dilemma. Without all of the facts, the respondents who review complaints will not fully understand the matter and may perceive the complaint as just someone unhappy about his child support amount. Mr. Childers believes that this may be why his complaints have not provided any solution to his situation. A complaint about a child support order amount is not unusual, it is common in our society and a noncustodial parent who files a complaint of this nature without disclosing the full set of facts may be subject to society's view. The stereotyped view of a deadbeat parent. Here in this legal brief, the plaintiff is making a diligent effort to include all of the facts in a manner that

is clear and concise. Nonetheless, the main reason that these details have been provided in this brief is to prove that Mr. Childers has exhausted all remedies that were possible given his lack of legal knowledge and financial ability. Remedy by appeal was impossible due to his inability to pay extremely high appeal bonds.

M. Proof of No Accountability In Virginia

1.) The Center for Public Integrity

163. In 2015, the Center for Public Integrity gave the Commonwealth of Virginia a D grade after a state integrity investigation. The State Integrity Investigation is a comprehensive assessment of state government accountability and transparency done in partnership with Global Integrity. See **exhibit A23**.

2.) The Judicial Inquiry and Review Commission of Virginia

164. In 2013**,** Mr. Childers submitted a complaint regarding Judge Larry D. Willis, Sr. to the Judicial Inquiry And Review Commission Of Virginia. See **exhibit A24**. **Exhibit A24** is a response letter from Donald R. Curry, counsel for the Judicial Inquiry And Review Commission Of Virginia. The letter has the date of September 13, 2013. Donald R. Curry states in the letter that he will not investigate Mr. Childers's complaint.

165. Donald R. Curry and Judge Larry D. Willis, Sr. worked together for an unknown number of years. Judge Larry D. Willis, Sr., was once the Chairman of the Virginia Judicial Inquiry And Review Commission. See the article by Virginia Lawyers Weekly, dated March 13, 2000. The article is labeled as **exhibit A25**.

Chairman Definition

> "The person holding the office, who is typically elected or appointed by members of the group, presides over meetings of the group, and conducts the group's business in an orderly fashion. In some organizations, the chairperson is also known as president (or other title)."

166. **Exhibit A26** is a document that has Donald R. Curry and Judge Larry D. Willis, Sr. both named. The document was dated December 1, 2003. The document labeled exhibit A26 has Judge Larry D. Willis, Sr. named as the Chairman of the Judicial Inquiry And Review Commission and Donald R. Curry named as the counsel for the Judicial Inquiry And Review Commission.

167. Since Judge Larry D. Willis, Sr. and Donald R. Curry worked together and knew each other than impartiality should be reasonably questioned. A citizen cannot receive fair justice when the person designated to investigate a complaint has an official or personal relationship with the complainee.

168. Janice Wolk Grenadier is an online activist who has been attempting to expose corruption in the Commonwealth of Virginia for years. She has compiled a great deal of evidence that includes letters, testimony, videos, and detailed budget Information from the Judicial Inquiry And Review Commission. According to Janice Wolk Grenadier, this information shows that they do not investigate complaints from Virginia citizens. Janice Wolk Grenadier has posted a lot of facts online in an effort to expose judicial corruption. The corruption involves judges of the Commonwealth of Virginia. Janice Wolk Grenadier is a lone warrior who has fallen

on deaf ears. Her evidence warrants federal investigating. Janice Wolk Grenadier will be called as a witness in this case.

169. On January 11, 2016, Janice Wolk Grenadier wrote a letter to Katherine B. Burnett at the Judicial Inquiry & Review Commission. This letter is posted online. See **exhibit A27**. In her post titled "The $602,000 Judicial Scam of the Virginia Citizens since 1999 – The JIRC", she has compiled and posted documented evidence to support her claims of judicial corruption. This post was made on Saturday, February 13, 2016. In her letter dated January 11, 2016, it states:

> January 11, 2016
> Katherine B. Burnett
> Judicial Inquiry & Review Commission
> 100 North 9th Street #661
> Richmond, Virginia 23219

Dear Ms. Burnett,

"This commission was created to protect the Virginia Citizens – American Citizens from an enterprise that polices itself. That the appearance is this commission is it is" "Cherry Picked" "to protect the Judges and not the American Citizens. That the acts and actions of this commission since September of 2008 when I called Mr. Donald Curry with my first complaint was" "*Don't bother with a complaint he is my friend it will go nowhere*" is exactly what this commission is – a group of Friends of the Old Boys Network and Judges to pretend and give the appearance of compliance."

(https://proseamerica.blogspot.com/2016/02/the-602000-judicial-scam-of-virginia.html)

170. In the first article posted on her blog, it states that she called Mr. Donald R. Curry. During her phone call with Mr. Curry, he allegedly made a highly unethical statement.

> I called Mr. Donald Curry with my first complaint was "Don't bother with a complaint he is my friend it will go nowhere"

171. If Donald R. Curry did make this statement:

> “Don’t bother with a complaint he is my friend it will go nowhere”

172. This would mean that a complaint sent to the Judicial Inquiry And Review Commission against Judge Larry D. Willis, Sr., in 2013 may receive the same treatment by going “nowhere” which was allegedly started by Donald R. Curry. Donald R. Curry is the state official who responded to Mr. Childers's first complaint with a letter dated September 13, 2013. See **exhibit A24.**

173. Another fact is that a judge has question the impartiality of Judge Larry Willis, Sr. in the past.

> Judge Taylor argues that the Commission’s chairman, Judge Willis of the Chesapeake Juvenile and Domestic Relations District Court, should have recused himself due to his status as complainant in a prior contact with the Commission. According to Judge Taylor, Canon 3E requires disqualification of the judge from any proceeding in which his or her “impartiality might reasonably be questioned,” including instances in which the judge has

"personal knowledge of disputed evidentiary facts concerning the proceeding," is a "party to the proceeding," or is likely "to be a material witness."

Judge Taylor contends that the proceedings before the Commission were tainted by Judge Willis' involvement and therefore seeks dismissal of the complaint. See: *Judicial Inquiry And Review Commission Of Virginia V. Ramona D. Taylor,* Record No. 090845

174. It would seem that Judge Larry D. Willis, Sr. may have not recused himself from a case that warranted recusal according to the statement by Judge Ramona D. Taylor. Judicial Inquiry And Review Commission Of Virginia V. Ramona D. Taylor, Record No. 090845. This was also noted in the opinion by Justice Leroy F. Millette, Jr. See **exhibit A28**, page 12.

175. Mr. Childers would also like to bring attention to a Virginian Pilot article from the digital library of Virginia Tech See **exhibit A29**.

The Virginian Pilot Copyright (C) 1996, Landmark Communications, Inc. Date: Sunday, September 22, 1996 Tag: 9609230248

Section: Local Page: B1 Edition: Final

Source: By Mark Davis

Length: 217 Lines

176. The article is titled as "**State's Best Kept Secret Is Agency That Judge The Judges**". This article also supports Janice Wolk Grenadier's claim about the Judicial Inquiry And Review Commission.

177. One purpose of the Judicial Inquiry And Review Commission Of Virginia is to protect citizens from the malicious acts of a judge. When an individual makes posts online about a judge and the individual files a federal complaint that causes a judge to have a personal vendetta against him no agency or person can protect him. The Judicial

Inquiry And Review Commission exists to protect the public interest.

Another Complaint Blocked Due To Donald R. Curry

178. On May 17, 2015, Mr. Childers mailed another complaint regarding Judge Larry D. Willis, Sr., to the Judicial Inquiry And Review Commission Of Virginia. This time the situation was different. Mr. Childers sent a large packet of information that proved ongoing violations of Federal Regulatory Code U.S. Title 45 Section 302.56 (g) and Title 42 U.S.C. Section § 667(b)(2) and Codes of Virginia § 20-108.1, § 20-108.2. There is no way to dispute or challenge these violations as Mr. Childers has the documentation to prove that these violations occurred. It is impossible to disprove otherwise. See **exhibit A30**. This is a reply letter from the Judicial Inquiry And

Review Commission Of Virginia with the date of May 22, 2015. This response letter states:

> "You raise the same complaints that you previously presented to the Commission in 2013. I direct your attention to the Commission's September 17, 2013, letter to you explaining that the Commission has no authority to review a judge's decision. A copy of that letter is enclosed."
>
> By Robert Q. Harris
> Assistant Counsel

179. It would seem that the Judicial Inquiry And Review Commission Of Virginia decided not to investigate Mr. Childers's 2015 complaint due to the decision made by Donald R. Curry in 2013. Again, if Donald R. Curry knew Judge Larry D. Willis, Sr. and it is also a proven fact that they worked together, a citizen cannot have a fair review of a complaint when impartiality may be reasonably questioned.

N. Other Parties Who Have Exercised Accountability Methods

180. Mr. Childers has met multiple individuals online who claim that they have also experienced the act of having their civil rights violated in the same court or by the same judge. Due to the fear of retaliation, only a few of these individuals have undertaken a course of action in an attempt to gather attention to the deprivation they have suffered. Mr. Childers himself has communicated with others online who claim they have been victimized by judges in the Chesapeake Juvenile and Domestic Relations District Court. However, most people are afraid to come forward. The main problem that Mr. Childers has found with people coming forward is that most of them just want help with their individual cases rather than looking at the big picture so to speak. Many of these people

lack the courage to come forward and make a stand for the common good instead of just worrying about their individual cases.

1. Russell S. Fryske

181. Russell S. Fryske is a firefighter who claims that he was victimized by Judge Larry D. Willis, Sr. Russell S. Fryske has exercised a course of action by writing the ACLU, writing a letter to the FBI, posting on social media and he has been interviewed on a radio station that broadcasts nationwide. His view is that Judge Larry D. Willis, Sr. is untouchable. That, Judge Larry D. Willis, Sr. has a judicial status that makes him fully immune to civil rights violations. Mr. Childers and Russell S. Fryske have spoke on the phone many times. Mr. Childers has felt the pain Russell S. Fryske's voice. Mr. Childers has no doubt that this judge has caused great harm to Russell S. Fryske. This is the

YouTube link to the recording of the talk radio show broadcast in which Russell S. Fryske describes his experience in Judge Larry D. Willis, Sr.'s courtroom.

https://www.youtube.com/watch?v=pSIfBemNSZg

182. Russell S. Fryske has made statements that depict the wrongs committed against him by Judge Larry D. Willis, Sr. Russell has expressed some of the facts about his situation on a national talk radio show. The radio station is AJC radio in Atlanta, Georgia. Here is a link to the radio station. https://www.ajc.com/life/radiotvtalk-blog/

183. Russell S. Fryske also knows other individuals in a father's rights group who claim they have been victimized by this same court and other Virginia state judges. Due to the threat of retaliation from these judges in their cases, most of

them are afraid to come forward. Russell S. Fryske sent Mr. Childers a letter about his experience with Judge Larry D. Willis, Sr. The letter is electronically signed by Russell S. Fryske. The letter is labeled **exhibit A31**. Russell S. Fryske will be summoned as a witness in this case. His contact information is also located in **exhibit W**. Public information:

Russell S. Fryske

5621 Pine AIre dr

Grawn, Mi 49637

Phone: 734-834-90331

2. Adrien Mewhinney

184. Adrien Mewhinney is a former U.S. Army soldier. He claims that Judge Larry D. Willis, Sr. discriminated against him because of his status in the military with regard to visiting his children. He

could not visit his children unless he was able to get leave from the military. Adrien Mewhinney claims that he suffers from depression due to the actions of Judge Larry D. Willis, Sr. and that those actions have destroyed the relationship between him and his children. He will be summoned as a witness in this case. His information will also be located in **exhibit W**. Adrien Mewhinney states that the best way to contact him is to leave a message on his phone as he travels for work and is often unavailable. Public information:

Adrien Mewhinney

832 Hart Rd, Fortson GA 31808

Phone Number: 757-359-9251

3. James Smith

185. A person who goes by the name of James Smith has posted multiple articles online about the Chesapeake Juvenile and Domestic Relations District Court. Mr. Childers has communicated with James Smith on Facebook but it seems that he may be afraid of retaliation. He will no longer reply to Mr. Childers's messages. **Exhibit A32**, is a screenshot of James Smith's blog. The photo is an image of the Chesapeake Juvenile and Domestic Relations District Court, located on the blog, managed by James Smith. Directly underneath this photo, it states "You have no Rights in this Court." The blog can be found at this link: http://myjdrcourtcase.blogspot.com/

186. James Smith has made multiple posts online about the Chesapeake Juvenile and Domestic Relations District Court. **Exhibit A33** is a snapshot

of James Smith's Twitter account located at this link: https://twitter.com/sinkiss2000

On his Twitter account it states:

"Just another father in the world, Who was deny a chance to be a #father to his only son via a JDR Judge #rm3 in Chesapeake, VA. #eraseddad"

187. James Smith has posted heartbreaking videos on YouTube about his son and about the Chesapeake Juvenile and Domestic Relations District Court.

https://www.youtube.com/watch?v=s-OfmMvX5Uo

188. Mr. Childers has found the true Identity of James Smith to be Michael Sinclair. Public information:

> Michael Sinclair Registered As A Independent Voter In Nc Location: 994 Snug Harbor Rd, Hertford, Nc 27944 Phone Number: (252) 239-0849 Email Address: Sinkiss2000@Yahoo.Com

189. It would seem that Michael Sinclair created an anonymous account in fear of retaliation. Michael Sinclair will be summoned by the plaintiff in this matter. Michael Sinclair's information is also located in **exhibit W**.

190. On James Smith's (AKA Michael Sinclair's) blog there are a number of people who have left comments specifically addressing Judge Larry D. Willis, Sr. Most of the comments are old. Mr. Childers has attempted to locate these individuals.

191. There are multiple comments about Judge Larry D. Willis, Sr. located at the link below:

http://myjdrcourtcase.blogspot.com/2008/08/kevins-story-va-judges-olds-and-willis.html

192. First, the article on this page is titled: "Kevins Story VA (Judges Olds and Willis)". This is a large article that addresses Judge Larry D. Willis, Sr., along with Judge Olds. In the article, the writer makes claims of the need to sue in Federal Court. A portion of this article states:

"I hope someone in J4F can help me. I want to sue the Chesapeake court and the DCSE for violating my rights in the Federal Courts. I've investigated it, and it can be done. The jurisdiction for this matter would be in Norfolk, VA. With some support and encouragement and a little coaxing and perhaps hand-holding, I could file the papers myself as a pro-se litigant. I'd love to see the looks on Judge Willis's and Judge Old's faces as they stand in front of a Federal Court Judge and have to explain what the hell they were doin."

193. There is no information on the person who posted the article. Only Michael Sinclair will know the identity of this person as Michael Sinclair posted the article to his blog.

4. makeapositivechange (AKA Darryl Poteat)

194. This person made a very large post about Judge Larry D. Willis, Sr. The identity of this person is unknown however, the person posted their phone number 757-237-0258. The comment was posted on December 16, 2010, and so it is very old. Mr. Childers has called the phone number 757-237-0258. The person at first stated to Mr. Childers that he called the wrong number. On November 12, 2019, a person who identified himself as Darryl Poteat called Mr. Childers from the phone number 757-237-0258. He left a voicemail with comments about Judge Larry D. Willis, Sr., in the voicemail. Mr. Childers called and talked with Darryl Poteat. Darryl Poteat said that he would email a statement to Mr. Childers that described his experience with Judge Larry D. Willis, Sr. Mr. Childers has not yet received this statement. His email address is darryl_poteat@yahoo.com.

5. Tracy Jennings

195. This post has the date of August 20, 2013. Mr. Childers has not been able to locate this person by phone. This person specifically addresses Judge Larry D. Willis, Sr.

> “am researching the history of this judge thus far nothing but extremely negative rulings. I have filed with the state bar a complaint on the guardian ad litem. She has more interest in my ex-husband than providing an unbiased investigation for my children. She has threatened me, frightened my children and has said that she is going to do everything possible to assure that I do not gain custody of my 3 children. Little did I know she is having an affair with my ex-husband! She also reminded me that Judge Willis is the presiding judge and that he will always rule in her favor regardless of my rights to visitation. Thus far she is correct Judge Wills was a complete bully and gave no acknowledgement to me. As if I wasn’t even there. Everything the guardian recommended he ruled in her favor with out question. He dismissed my own attorney when we attempted to provide evidence that would result in my favor. I know I have rights! I can not breath with out my children. They are my life! I am making it my life’s cause to fight with everything I have against this judge and prove that the recommendations that this guardian ad litem has given are biased and unlawful. I am reaching out to anyone that can possibly help my

cause! Please. I hope someone is out there hearing me."

"Thank you for allowing me to speak."

196. From this comment, she claims that Judge Larry D. Willis, Sr. is unfair and that she is seeking help in the matter. There are only two listings for Tracy Jennings in Chesapeake, VA.

1. Tracy L Jennings
1605 Widgeon Ct, Chesapeake VA

2. Tracy Jennings
Goes By Tracy Pereira
729 Albemarle Ct
Chesapeake, VA 23322-8645

197. Mr. Childers has attempted to call only a couple of the numbers that are listed for this person. Mr. Childers has been unable to contact this person by phone.

198. Another comment that specifically addresses Judge Larry D. Willis, Sr., is located on YouTube. See **exhibit A34**.

> **6. baptised salvation** 4 years ago
>
> "had a protective order hearing case that was falsely secured with a false statement sworn under oath. The plaintiff in the case sylvia antoinette ruffin, was caught lying on the stand. At the time sylvia was a circuit court clerk for chesapeake. Judge still went through with through with the protective order. Judge Larry willis is friends with sylvias mother who was a deputy for CHESAPEAKE JDR court Sherri McCoy. Sylvia was later indicted for committing perjury that day.You can look it up on the courts website. courts.state.va.us chesapeake circuit court. case number CR14002303-00 i also have the supporting documents of both cases."

199. **Exhibit A34** is a screenshot of this comment that is located on YouTube. This is another person who seems to want to keep their identity hidden. This comment has a case number and information about false statements. This comment is located at this link:

https://www.youtube.com/watch?v=iRnK-xcRqwQ

7. Email from usmcgunnerg@gmail.com

200. On Dec 2, 2014, at 12:31 PM, Mr. Childers received an email. Mr. Childers has made the attempt to contact this person but this person has not replied back or made any further contact with Mr. Childers. This email was sent to peoplevslarrywillis@gmail.com which is an email contact address that was posted on an article for the Rip-Off report website. See the print out of the email labeled **exhibit A35**.

I've observed firsthand over the last 18 months this evil judge come after my dirt-poor son with a vengeance! I felt so bad that I paid for a good lawyer for him seeing the court appointed ones seemed afraid to represent my son in front of this evil bastard. It seems his entire court and the prosecutors are out for men! The lawyer I paid a lot of money for couldn't believe the judge in picking what he wanted to hear and see during one of his hearings. The evidence for my son was overwhelming, yet he would have nothing to do with it, resulting in a loss for my son. Our lawyer was in total disbelief and took on the appeal for free which she won handily...thank god! That's just the tip of the iceberg! He's in his court several times a month as his wife is

trying all she can to lock him up and take away his visitation for revenge. I'm hoping Judge Willis will wake up and see thru her lies that have been brought to his attention, but he ignores all of it! I can go on and on!! So my question, do you know if anyone has gone to the local news outlets to have them look into this evil man? Also, do you know of any advocacy that will help my son's legal battles with this dishonorable and corrupt Judge? Thanks! From: usmcgunnerg@gmail.com

Also, two citizens opposed the reelection of Judge Larry D. Willis, Sr. This was at the Senate Committee for Courts of Justice, on Friday, December 2, 2016. The names of the two citizens are Donna Parker and Rhonda Kirschmann. See **exhibit A35B** on page 3.

8. Janice Wolk Grenadier

201. Janice Wolk Grenadier has already been described enough in this brief. Janice will be called as a witness, in this case, to testify under oath about the statement made by Donald R. Curry. Janice can also testify to the fact

that she has filed complaints with the Judicial Inquiry And Review Commission Of Virginia and those complaints were denied an investigative process of review. This would further prove that there is no effective system of accountability in place for judges in the Commonwealth of Virginia. Janice has already posted her information publicly online. Mr. Childers has added a few more phone numbers that are registered to Janice Wolk Grenadier. This contact info for Janice is also located on **exhibit W**. Public information:

Janice Wolk Grenadier
15 West Spring Street
Alexandria, VA 22301
Phone: 202-368-7178, (703) 362-2123, (703) 623-9655, (703) 362-2023, (703) 623-2396
jwgrenadier@gmail.com

O. The Plaintiff's Affiliation With Anonymous

202. The following facts are being revealed so that this court can understand why Mr. Childers was singled out by some of the defendants.

203. In 2014 – 2015, Mr. Childers began working with the online group known as Anonymous. Although Anonymous is known for illegal hacking operations, Mr. Childers has never been involved in any illegal hacking activities. Mr. Childers only worked with Anonymous by posting news stories about government corruption. Mr. Childers became well known to numerous people around the world online.

204. In 2015, Mr. Childers was in desperation due to his situation. He reached out for help online. Mr. Childers explained the injustice that he suffered to members of Anonymous. Members of

Anonymous launched a search engine optimization campaign to attract attention to the acts of injustice that he has sufferer. Members of Anonymous and Mr. Childers began creating content such as articles, press releases, ebooks, videos, etc... The content described the unjust actions of Judge Larry D. Willis, Sr. and was posted online through various media outlets. Mr. Childers's intent was to expose the unfair treatment that he had experienced and the acts of transgression against him. The content that was posted about Judge Larry D. Willis, Sr., represented only true facts and none of the content was malicious in any way. The content only portrayed Judge Larry D. Willis, Sr. in a manner that reflects his unlawful actions while serving in his official capacity. The content was in no way meant to harass, intimidate, slander or otherwise cause harm to Judge Larry D. Willis, Sr. The

content described how Judge Larry D. Willis, Sr. would order fathers to pay child support amounts that are beyond their ability to pay. Members of Anonymous enacted a search engine marketing campaign so that these links would rank well in Google. Mr. Childers was heavily influenced by James Smith's (AKA Michael Sinclair's) blog. For Mr. Childers, there was no accountability in Virginia as he attempted to file complaints with the judicial committee, the only oversight over judges in Virginia. His complaints were blocked by Donald R. Curry who had an official and possibly a personal relationship with Judge Larry D. Willis, Sr. Mr. Childers wanted only one thing, justice. For Mr. Childers, justice was absent.

P. Uncanny Hearing – On June 21, 2016 9:00AM

205. As stated prior in this brief, Paul Hedges is a family attorney in Chesapeake, VA whom Mr. Childers has known for many years. Attorney Paul Hedges has stated multiple times that he has a close relationship with Judge Larry D. Willis, Sr.

206. On June 21, 2016, Mr. Childers had a preliminary show cause hearing in courtroom 1 at the Chesapeake Juvenile and, Domestic Relations District Court. Courtroom 1 is the court in which Judge Larry D. Willis, Sr. presides. See **exhibit A36**. **Exhibit A36** is the show cause summons document. This document is very important as it helps to prove a judicial recusal. If you look at this document on the top right-hand side it shows the date of the hearing, the time of the hearing, and there is a number 1 which indicates the courtroom for the hearing. Beside the number 1, there is a 2 circled next to the 1. This was done

later and will be explained in detail. The 2 stands for courtroom 2 which is the courtroom of Judge Rufus A. Banks. The written details on exhibit A36 are important as they will support the following facts.

207. On June 21, 2016, Mr. Childers was very upset and had bad anxiety about having his show cause hearing in the courtroom of Judge Larry D. Willis, Sr. This was because Mr. Childers had filed a complaint against Judge Larry D. Willis, Sr. in federal court prior to June 21, 2016. See *Troy Childers v. Larry Willis, Sr.*, No. 15-2515 (4th Cir. 2016). Mr. Childers felt that his child support matters should no longer be in front of Judge Larry D. Willis, Sr. since he filed a lawsuit against him. On June 21, 2016, Mr. Childers was with his brother-in-law, Johnathan Morris. Johnathan Morris had provided transportation for Mr. Childers on his court date. Johnathan Morris

also attended this hearing. On June 21, 2016, both Mr. Childers and Johnathan Morris were in the lobby area, on the 2nd floor, at the Chesapeake Juvenile and, Domestic Relations District Court. Attorney Paul Hedges was also in the lobby on this day when we arrived. Johnathan Morris also knew of Paul Hedges since Paul was previously hired by Mr. Childers's sister Helen Amanda Marsh and his niece Ashlee Marsh.

208. Mr. Childers attempted to say hello to Paul Hedges on this day but Paul seemed angry and was texting someone vigorously on his phone. Mr. Childers kept trying to talk to Paul but he continued to ignore Mr. Childers. Mr. Childers states that Paul would just respond by looking at him with a mean face that gave the impression of anger. Mr. Childers was called into the courtroom and Johnathan Morris also went into the

courtroom with Mr. Childers. Mr. Childers's ex-wife, Jessica Childers, did not show up on this day. She later claimed that she did not get a notice. This was the only court date that Jessica Childers has ever missed. After Mr. Childers went into the courtroom on June 21, 2016, he noticed that the assistant attorney general, Alvin Whitley was in the courtroom. Mr. Childers started to become upset and was very emotional. Mr. Childers started crying and shedding tears. With anger in his voice, Mr. Childers made a statement to Judge Larry D. Willis, Sr., that he had ruined his life. Mr. Childers also expressed the fact that he had filed a lawsuit against Judge Larry D. Willis, Sr. in federal court. Mr. Childers made the statement to Judge Willis that he can look the case up on Google. See *Troy Childers v. Larry Willis, Sr.*, No. 15-2515 (4th Cir. 2016). At this time, Judge Larry D. Willis, Sr., stated that he was

unaware that Mr. Childers had filed a lawsuit against him in federal court. Judge Larry D. Willis, Sr. then asked Mr. Childers "Do you want a different judge?". Mr. Childers responded with the answer of "yes". Judge Larry D. Willis, Sr. began writing. Paul Hedges then walked into the courtroom behind Mr. Childers and asked "Jeff, how long has it been since we talked or seen each other.?" (Mr. Childers goes by his middle name, Jeff.) Paul then walked up and stood in front of Judge Larry D. Willis, Sr. Mr. Childers was speechless and shocked at first by this as attorney Paul Hedges had no reason to be there. Mr. Childers's child support matters had nothing to do with Paul Hedges. Mr. Childers was not even allowed to hire Paul Hedges in his child support matters because there was a conflict of interest. Both Mr. Childers and Jessica Childers personally know Paul Hedges. Both parties also have hired

Paul in the past. Paul Hedges had no reason to be at this hearing. Mr. Childers was shocked and surprised by this. Mr. Childers's brother-in-law, Johnathan Morris, was also very surprised by this and took out a pen and paper. Johnathan Morris began writing down some of the statements that were made. Johnathan Morris no longer has the paper that he wrote on however, Johnathan Morris will support these facts with witness testimony. Paul Hedges then asked again "Jeff, how long has it been since we have seen each other.? Four or five years?". Mr. Childers then stated, "Well, my wife was just working for you." Judge Larry D. Willis, Sr. looked at Paul as he admitted that she did work for him. Paul Hedges seemed to try and divert from the fact that Mr. Childers's ex-wife worked for him. Paul Hedges focused back on the time frame that has past since Mr. Childers and him have seen each other. Judge Larry D. Willis,

Sr. seemed to be a little upset by the fact that Mr. Childers's ex-wife worked for Paul. Judge Larry D. Willis, Sr. looked at Paul with a very stern facial expression. Judge Larry D. Willis, Sr. asked Mr. Childers if he could afford an attorney. Mr. Childers replied with "no". Judge Larry D. Willis, Sr. stated to Mr. Childers that since he could not afford an attorney he was appointing Shelly F. Wood. Mr. Childers knew that this would not work for him as he knows Shelly F. Wood. Mr. Childers did not dispute having Shelly Wood representing at this time. Mr. Childers was emotional, distressed and just wanted to leave. Mr. Childers was not presented with any documentation that indicated Shelly Wood was appointed to his case. Since Judge Larry D. Willis, Sr. remove himself from Mr. Childers's preliminary show cause hearing on June 21, 2016, his hearing was transferred to courtroom 2, where

Judge Rufus A. Banks presides. After Mr. Childers received his new court date of October 6, 2016, he proceeded to walk out of the courtroom. Mr. Childers was followed by Johnathan Morris and Paul Hedges. Paul Hedges stopped Mr. Childers and Johnathan Morris right outside the courtroom door. Paul Hedges stated that someone was posting content online about Judge Larry D. Willis, Sr. Mr. Childers asked Paul "Where is the content posted?". Paul Hedges replied, saying the content is being posted everywhere and that it was all over the internet. Paul Hedges also stated that one of the articles posted online about Judge Larry D. Willis, Sr. had Paul's business address. Paul Hedges stated that he just wanted his address removed from the article. Paul Hedges also stated that the content online was being investigated and that he was removed from the docket in regard to cases in courtroom 1. This is the same courtroom

that Judge Larry D. Willis, Sr. presides over. Paul Hedges also stated that it better not be you. When Paul made this statement, it was made in a manner that implied that the person posting the content online would be subject to arrest. Mr. Childers denied posting anything about Judge Larry D. Willis, Sr. Paul Hedges continued to drill Mr. Childers by asking him if he knew who was responsible for the content posted online. Mr. Childers stated that he knew some of the parties that were responsible and Mr. Childers gave him the names Russell S. Fryske and Ronnie Davis. Russell S. Fryske is a firefighter who was described earlier in this brief. He also is a witness in this case. Ronnie Lee Davis is an online constitutional activist in Florida. Ronnie Lee Davis was a participate during the radio show when Russell S. Fryske was interviewed about his experience with Judge Larry D. Willis, Sr. Mr.

Childers also knew Ronnie Lee Davis. Mr. Childers just blurted out those names so that Paul Hedges would stop drilling him with questions. Paul Hedges stated that he had never heard of anyone with those names and judging by his demeanor he suspected that Mr. Childers was lying. Mr. Childers states that both him and Paul know each other very well. Paul knew for a fact that Mr. Childers was responsible for some of the content that was posted online. The reason for this is that Mr. Childers wrote an article that was posted to the Ripoff Report website. In this article it describes the unjust actions of Judge Larry D. Willis, Sr. and there are provided details in the article that showed that the writer was also victimized by a former family court Judge in Virginia Beach named Judge Woodrow Lewis, Jr.. Mr. Childers feels that he experienced unjust actions by Judge Woodrow Lewis, Jr. many years

ago. Judge Woodrow Lewis, Jr. was removed on September 13, 2002 for being unorthodox. See: *Judicial Inquiry And Review Commission V. Lewis* Record No. 020696

209. Paul had known about the situation between Mr. Childers and the former Judge Woodrow Lewis, Jr.. Paul Hedges was there and witness some of these events many years ago. Mr. Childers believes that this is the main reason that Paul showed up at his hearing on June 21, 2016. This is why Paul Hedges suspected that Mr. Childers was the person responsible for posting the content online. Keep in mind that if Paul knows this information then Judge Larry D. Willis, Sr. has received this information from Paul Hedges**.**

Elements Of Proof

210. There are only three elements that can prove the events that transpired at the hearing on June 21, 2016.

1.) The first element is the show cause document labeled **exhibit A36**. Exhibit A36 affirms that Mr. Childers was to have his hearing conducted in courtroom 1 which is where Judge Larry D. Willis, Sr. presides.

2.) The second element is also located on **exhibit A36.** The "2" that is circled on the front indicates that Mr. Childers's show cause hearing was transferred to courtroom "2". Also on the second page of this document it only has signatures from Judge Rufus A. Banks. This provides factual evidence that after June 21, 2016, Mr.

Childers's show cause hearing was transferred to Judge Rufus A. Banks which presides over courtroom 2. Judge Larry D. Willis, Sr. removed himself from all cases that involved Mr. Childers on June 21, 2016.

3.) The third element is witness testimony provided by Johnathan Morris. Johnathan Morris was near Mr. Childers the entire time of his hearing on June 21, 2016.

More Facts To Bring To Attention

1.) When Judge Larry D. Willis, Sr. asked Mr. Childers if he wanted a different judge, Mr. Childers viewed this as a judicial recusal even though the word recusal was never mentioned. Judge Larry D. Willis, Sr. continue to oversee Mr.

Childers's child support matters after June 21, 2016 due to the fact that Judge Larry D. Willis, Sr. is the chief justice at the Chesapeake Juvenile and, Domestic Relations District Court. According to The Virginia Juvenile & Domestic Relations District Court Manual, Chapter 2, Page 10, Section C, a DC-91 was supposed to be filled out and sent to the Supreme Court of Virginia. The Supreme Court of Virginia was supposed to designate another judge in Mr. Childers child support matter. See **exhibit A37**.

2.) The way that Paul Hedges was allowed to just stroll in during trial on June 21, 2016 shows that Paul has a close relationship with Judge Larry D. Willis, Sr. Even though Paul Hedges has told Mr. Childers about their friendship in the past, he never realized the truth of the situation until this day. Given their close relationship combined with Paul's known weakness for women and the fact

that Paul thinks that Mr. Childers is wealthy, Mr. Childers started to suspect that some type of collusion may have occurred in his hearing on September 10, 2013. While this is purely speculative and lacking evidence, Mr. Childers believes that it was not normal for a Judge to act so brutal. Mr. Childers had just lost everything including his family before his trial date of September 10, 2013. Mr. Childers was struggling financially and suffering mental agony from loosing his business and his family. His entire world was destroyed then he was attacked by Judge Larry D. Willis, Sr. on date of September 10, 2013.

3.) Judge Larry D. Willis, Sr. was no longer the judge in Mr. Childers's child support matters or contempt hearings until October 22, 2019. On October 22, 2019 Judge Larry D. Willis, Sr., ruled over his child support matter and Mr. Childers

experienced unjust prejudice from Judge Larry D. Willis, Sr. This is due to the federal lawsuits that Mr. Childers has filed. The details of the hearing on October 22, 2019 will be provided in another section of this brief.

Q. Hearing on October 6, 2016

211. On October 6, 2016, Mr. Childers was summoned to appear at The Chesapeake Juvenile and, Domestic Relations District Court for a preliminary show cause hearing. Mr. Childers suffered great mental distress and so he wanted Judge Rufus A. Banks to know what he had been going through in his child support matters before trial. Mr. Childers submitted a copy of his complaint (*Troy Childers v. Larry Willis, Sr.*, No. 15-2515) (4th Cir. 2016) to the clerk and asked her to give it to Judge Rufus A. Banks. His intention was not to persuade the judge but only inform him of the unjust actions of Judge Larry D.

Wills, Sr. Mr. Childers showed up at his trial date on October 6, 2016. Mr. Childers asked Judge Rufus A. Banks if he read the complaint and Judge Rufus A. Banks answered no. Judge Rufus A. Banks did however vaguely state that he felt that the prior actions of Judge Larry D. Wills, Sr., were unjust. This was after Mr. Childers described facts in his child support matters, specifically, the amount of $5589.00 that was required to be paid in order to have the ability to appeal on September 10, 2013. Mr. Childers explained to Judge Rufus A. Banks how there was nothing about these bonds stated in the court hearing. Mr. Childers also explained how he felt that these appeal bonds were created after trial was over. Judge Rufus A. Banks stated that "the law does not allow a way to fix what has been done." Judge Rufus A. Banks stated that Mr. Childers would be on a probationary period up until his next court date of

July 6, 2017 at 10:00pm. On **exhibit A36**, page 2 it shows the court date of October 6, 2016 and a pending disposition court date of July 6, 2017, at 10:00pm.

R. Hearing on July 6, 2017 10:00pm

212. On July 6, 2017, at 10:00pm, Mr. Childers was summoned to appear at The Chesapeake Juvenile and, Domestic Relations District Court for a show cause hearing. At this hearing, Mr. Childers was faced the threat of being charged with civil contempt and, if he was found guilty, he would also faced the threat of incarceration. Mr. Childers was very distressed prior to this hearing.

213. Before this date of July 6, 2017, Mr. Childers had learned about the newly revised law 45 CFR 303.6. When Mr. Childers provided testimony on July 6, 2017, Mr. Childers

explained the final rule revision of 45 CFR 303.6(c)(4) and the procedures that are not being implemented to Judge Rufus A. Banks. Judge Rufus A. Banks then made the statement that federal law is irrelevant because state statutes are created to comply with all federal laws. This statement was false because there is no wording in Virginia code 16.1-292 or 16.1-278.16 that provides an exception or implies that the ability to pay is a critical issue in a civil contempt proceeding. Mr. Childers also stated that he does not have the ability to pay the full amount of one thousand eighty-five dollars and seventy-five cents ($1085.75) each month. Mr. Childers verbalized that he remained diligent by making as many payments as possible. Even though Judge Rufus A. Banks did not acknowledge federal law on this day, he has always been fair and has listened to Mr. Childers's testimony. On this day

of July 6, 2017, Judge Rufus A. Banks stated that as long as Mr. Childers made an effort to pay his child support that he would not put him in jail. Judge Rufus A. Banks found Mr. Childers guilty of civil contempt. Judge Rufus A. Banks sentenced Mr. Childers to six months of incarceration but suspended all six months so that Mr. Childers would serve NO jail-time. The evidence of this court date is labeled **exhibit A36**.

214. Also on July 6, 2017, the Attorney General's Office appointed an assistant attorney to represent the Division of Child Support Enforcement. The same assistant attorney general has been involved in Mr. Childers's child support matters for some time. The assistant attorney general was later identified to Mr. Childers as Alvin Whitley. During Mr. Childers's show cause hearing on July 6, 2017, after pleading his case,

Mr. Childers had his opportunity to defend himself and was no longer allowed to speak. This, of course, is the normal process of litigation. The assistant attorney general surprisingly made a statement to the Judge that there is evidence proving that Mr. Childers has the ability to pay. When this statement was made, Mr. Childers had finished his pleading. Mr. Childers couldn't defend himself against this statement. Within seconds after Alvin Whitley made this statement, the Judge made his ruling. A litigant does not even have much time to react to such a statement or to provide a defense to this false statement, as a litigant has already had his opportunity to plead his case. A litigant is not allowed to ask the questions “what evidence?” or “can you please show me?”. Alvin Whitley has also done this same thing in previous child support modification hearings. The Civil Rights Division has

responsibility under 18 U.S.C. § 1001 with respect to false official statements made in connection with alleged violations of federal civil rights statutes. The assistant attorney general, Alvin Whitley, has now recused himself, or was dismissed by Judge Larry D. Wills, Sr., from all of Mr. Childers's child support cases due to the facts in this section. This will be explained in further detail.

S. Hearing on March 6, 2018

215. On March 6, 2018, Mr. Childers went to a preliminary show cause hearing, where he was being charged with civil contempt, at the Chesapeake Juvenile and, Domestic Relations District Court. On this day in court, Mr. Childers was asked if he could afford an attorney. Mr. Childers answered no to this question and an indigency determination in pursuant to § 19.2-159, was made on March 6, 2018. Mr. Childers

signed the statement of indigency form, dc-334, on March 6, 2018. A copy of this form is labeled **exhibit A38**. On the bottom right section of this form it has the date of Mr. Childers's next court hearing. Mr. Childers's next court hearing was set for trial on July 10, 2018.

216. On March 6, 2018, the court-appointed Mr. Childers an attorney, named Brian A. Thomasson. Brian A. Thomasson also signed the statement of indigency form dc-334. On this form, it states that a financial statement accompanies this request. Mr. Childers has no memory of ever filling out any type of financial statement. On this form, it is marked that Mr. Childers is an adult who is indigent. At this time Mr. Childers did not even know what the form dc-334 was or what purpose it served. The documentation of the March 6, 2018, court date is labeled as **exhibit A39**.

217. Proof that Mr. Childers faced the threat of incarceration is located on form DC-635. The DC-635 form has the date of January 25, 2018, and on this DC-635 form, the option is marked which states that the defendant should be imprisoned, fined or otherwise dealt with according to law. This form was attached to Mr. Childers's court documents, which have the date of March 6, 2018. The DC-635 form is labeled as **exhibit A40**.

T. Hearing on July 10, 2018

218. On July 10, 2018, Mr. Childers went to a show cause hearing at the Chesapeake Juvenile and, Domestic Relations District Court. The hearing was to determine if Mr. Childers should be charged and convicted of civil contempt, for the reason being that Mr. Childers did not have the financial ability to comply with his child

support order. The child support amount of one thousand eighty-five dollars and seventy-five cents ($1085.75). Eight hundred thirty-five dollars and seventy-five cents ($835.75) was the child support amount and two hundred and fifty dollars ($250.00) was set to go towards the child support arrearages.

219. On July 10, 2018, Mr. Childers learned that Judge Rufus A. Banks Jr. had been promoted and now Mr. Childers had Judge David J. Whitted assigned to his case. Mr. Childers was already determined to be an indigent at this time under the Virginia statute § 19.2-159, because of this fact, Mr. Childers had a court-appointed attorney to represent him at this hearing.

220. Before Mr. Childers's hearing had commenced on July 10, 2018, he discussed the final rule revision of 45 CFR 303.6(c)(4) and the procedures that are not being implemented in the

Chesapeake Juvenile and, Domestic Relations District Court with his court-appointed attorney, Brian A. Thomasson. Mr. Childers wanted to know why these procedures were not being implemented. According to 45 CFR 303.6, a current income determination was to be made before a contempt hearing could be set in motion. According to 45 CFR 303.6, the party's ability to pay must be determined before a hearing that could lead to incarceration, could begin to commence. Mr. Childers's court-appointed attorney, Brian A. Thomasson, stated that he was unfamiliar with federal law and implied that he could not use this information in Mr. Childers's defense due to this fact. On July 10, 2018, Mr. Childers's court-appointed attorney, Brian A. Thomasson, states that he was only familiar with state law but he knew other attorneys that were more educated in federal matters.

221. When Mr. Childers gave testimony on July 10, 2018, he again explained the final rule revision of 45 CFR 303.6(c)(4) and the procedures that are not being correctly implemented to Judge David J. Whitted. Mr. Childers's testimony was completely ignored by the judge. It was as if the Judges, and the Attorneys that practice law in The Chesapeake Juvenile and, Domestic Relations District Court believe that federal law has no place in state family court.

222. When Mr. Childers testified to these facts, Judge David J. Whitted became very hostile and threaten to have Mr. Childers arrested by stating that there are consequences for your actions. This was because Judge David J. Whitted felt that Mr. Childers spoke out of turn. Mr. Childers was simply trying to plead his defense because his court-appointed attorney, Brian A. Thomasson,

refused to use federal law in Mr. Childers's defense due to his limited knowledge of 45 CFR 303.6(c)(4), and as of a result of his unfamiliarity with federal law in general. When the Judge made this statement a deputy also moved closer to Mr. Childers. This was an unnecessary intimidation tactic.

223. On this day the same assistant attorney general, Alvin Whitley made the statement to the judge that he does not request for Mr. Childers to be incarcerated at this time. Mr. Childers feels that this statement is the only thing that saved him from being unconstitutionally incarcerated on July 10, 2018.

224. On this day of July 10, 2018, Judge David J. Whitted, made the statement that if Mr. Childers does not pay the full amount of the child support order in the next six months, he will incarcerate Mr. Childers for civil contempt on the next

hearing date of January 15, 2019. On this day of July 10, 2018, Mr. Childers testified under oath that the amount of the child support order is way too high and to the fact that he lacks the ability to pay the full amount, therefore, Mr. Childers can not comply with the order.

225. Judge David J. Whitted ignored factual testimony about the final rule revision of 45 CFR 303.6(c)(4) along with the procedures that are not being implemented correctly in his courtroom.

226. To incarcerate an indigent person on a charge of contempt simply for not paying the full amount each month is unlawful and unconstitutional. At this time, Mr. Childers had been making as many payments as possible.

227. The only thing that Judge David J. Whitted responded to was the high amount of the arrears owed and he seemed anxious to incarcerate Mr.

Childers while also stating that there is no excuse. Judge David J. Whitted wrote on the bottom of this document, labeled as **exhibit A41**, to "strongly consider Jailtime" even though there was no finding of the ability to pay. Mr. Childers was making a strong effort to pay his child support but this did not matter in this court.

228. State Judges, as well as federal, have the responsibility to respect and protect persons from violations of federal constitutional rights. *Gross v. State of Illinois*, 312 F 2d 257; (1963). Debtor's Prisons are still very much alive in the Commonwealth of Virginia.

229. On July 10, 2018, near the end of Mr. Childers's hearing, the assistant attorney general, Alvin Whitley, once again states there is evidence that Mr. Childers has the ability to pay. This statement was impossible to defend against because Judge David J. Whitted had threatened to

have Mr. Childers arrested if he were to speak again. This statement by Alvin Whitley was a baseless statement of NO fact.

230. Mr. Childers has never been asked to provide any financial information in matters of civil contempt which federal law requires. There has been no screening of Mr. Childers's current financial situation or any type of investigation, before this hearing on July 10, 2018. This is a clear violation of 45 CFR 303.6.

231. On the day of July 10, 2018, after trial, Mr. Childers's court-appointed attorney, Brian A. Thomasson, states that Mr. Childers must comply with the order. Mr. Childers told him that it was not financially possible for him to comply. Brian A. Thomasson, said that Mr. Childers must comply with the child support order if he wanted to remain free from jail.

232. The show cause hearing was continued for a review date of January 15, 2019, where Mr. Childers would again face the threat of unconstitutional incarceration in a courtroom where federal law has no precedence. The procedural safeguards that are outlined by The U.S. Supreme Court in Turner v. Rogers, 564 U.S. 431, 454, 131 5 S. Ct. 2507, 2523 (2011) are not being implemented in Mr. Childers's child support cases at the Chesapeake Juvenile and, Domestic Relations District Court. This is a clear fact.

233. **Exhibit A41** is proof of this court hearing on July 10, 2018. For further proof of this hearing, the statement of indigence form dc-334, from March 6, 2018, is labeled as **exhibit A38**. On this form, it has the date of July 10, 2018, listed as Mr. Childers's next hearing date, located on the bottom right section. Mr. Childers also had a witness with him on this day. Nirvana Childers

is the witness and she was with Mr. Childers during the entire ordeal. Nirvana Childers will testify, under oath, to prove the facts in this complaint. Nirvana Childers will testify, to prove that these statements were in fact made by the assistant attorney general, Alvin Whitley, Judge David J. Whitted and Mr. Childers's court-appointed attorney, Brian A. Thomasson, on July 10, 2018. The witness information for Nirvana Childers is located on **exhibit W**.

U. Hearing on January 15, 2019

234. Prior to Mr. Childers's court date on January 15, 2019, Mr. Childers was under severe mental distress due to the fear of incarceration. Mr. Childers was severely depressed and suicidal. Mr. Childers states that he felt as he was losing his mind. Mr. Childers could not understand how he was about to go to jail for being poor. He felt that this was a great wrong.

235. On January 4, 2019, Mr. Childers filed this federal complaint. This federal complaint was not filed and approved by this district court until March 18, 2019. Mr. Childers was under duress as he was facing the threat of jail on January 15, 2019. A few days before trial, Mr. Childers gave a copy of his federal complaint to a clerk at the Chesapeake Juvenile and, Domestic Relations District Court. He asked the clerk to hand it to Judge Larry D. Willis, Sr., as he was the Chief Judge. At this time, Judge Larry D. Willis, Sr. was not a defendant on this complaint. Mr. Childers was not trying to harass or intimidate anyone by doing this. His intention was to make Judge Larry D. Willis, Sr. aware that Judge David J. Whitted was violating federal law. Mr. Childers was trying to prevent himself from going to jail unconstitutionally.

236. On January 15, 2019, the day of trial, Mr. Childers was in the lobby of the Chesapeake Juvenile and, Domestic Relations District Court, located on the 2nd floor. Mr. Childers was sitting next to his daughter with a copy of his federal complaint in his lap. Mr. Childers saw Alvin Whitley walking by him. He called out to Alvin Whitley to confirm his name. Alvin Whitley walked to Mr. Childers while he was sitting down. Mr. Childers stated to Alvin Whitley that he wanted to confirm his name. Alvin Whitley stated to Mr. Childers "May I ask why?". Alvin Whitley stared down at Mr. Childers's federal complaint. He could only see the front cover as the complaint was in a 3 ring binder. Mr. Childers explained to Alvin Whitley that he filed a federal complaint. Alvin Whitley then proceeded to walk into courtroom 1, this is the courtroom that Judge Larry D. Willis, Sr. presides over.

237. On January 15, 2019, Mr. Childers's court-appointed attorney, Brian A. Thomasson, did not make an appearance. Mr. Childers waited for Brian A. Thomasson but he never showed up. Mr. Childers was later called into courtroom 2. Mr. Childers stood in front of Judge David J. Whitted. Judge David J. Whitted stated that he was recusing himself due to a conflict. The contempt hearing was rescheduled to February 19, 2019.

238. Even though Mr. Childers faced the threat of unconstitutional incarceration on February 19, 2019, he felt confident that a current income assessment would be made as this is required by law in civil contempt proceedings, under 45 CFR 303.6. On this day of February 19, 2019, a current income assessment had not been made and Mr. Childers had not been given the opportunity to prove the current ability to pay. At this time, there

was no factual determination of Mr. Childers's current ability to pay.

239. On February 19, 2019, Mr. Childers was informed by his attorney that a substitute judge named Alfreda Talton-Harris, was appointed to rule over his child support matter. According to The Virginia Juvenile & Domestic Relations District Court Manual, Chapter 2, Page 10, Section C, a substitute judge is Not allowed to preside over Mr. Childers's child support matter. A DC-91 form should have been sent to the Virginia Supreme Court and a judge was to be designated only by the Virginia Supreme Court. See **exhibit A37**. Mr. Childers was also informed that the assistant attorney general, Alvin Whitley, had been removed from this matter. Scott Darnell was now the assistant attorney general appointed to represent the Division of Child Support Enforcement.

240. Prior to the court hearing on this day, Mr. Childers's court-appointed attorney, Brian A. Thomasson, informed Mr. Childers that he could no longer represent him due to a conflict. For this reason, Mr. Childers was not incarcerated on February 19, 2019.

241. At the court hearing on February 19, 2019, Judge Alfreda Talton-Harris, stated that the prior judge, David Whitted wrote a note on the paperwork that read "strongly consider Jailtime". See **exhibit A41**. This notation was made even though there had been no current income assessment, which is required by federal law. She also stated that all available judges in the Chesapeake Juvenile and, Domestic Relations District Court have recused themselves.

242. Mr. Childers's ex-wife, Jessica Childers, then stated to the judge that she wanted to get this case over with as she was fearful that Mr. Childers

would file a complaint against Judge Alfreda Talton-Harris in federal court. Judge Alfreda Talton-Harris then made the statement “who cares, I’m retired!”. This statement caught Mr. Childers by surprise. It was as if she was saying that she didn’t have to follow the law because she is retired. This judge also stated that “if Troy is going to go to jail, he’s going to go to jail. It is what it is”.

243. When Brian A. Thomasson informed the court that he wanted to remove himself from this matter, Scott Darnell and Judge Alfreda Talton-Harris expressed that they did not want to continue the hearing. The judge and the assistant attorney general seemed overzealous about sending Mr. Childers to jail even though there had been no factual determination of his current ability to pay. There was no mention of any income assessment. They did eventually agree to

continue the matter to April 4th, 2019, because Mr. Childers no longer had an attorney to represent him on this day.

244. In pursuant to Virginia statute 19.2-159, Mr. Childers received another statement of indigency form (form dc-334) on February 19, 2019. This form is proof of the hearing and it also shows that his next court date was on April 4, 2019. The indigency form is attached to this complaint and labeled as **exhibit A42**. Mr. Childers also had a witness with him on February 19, 2019. This witness will testify to the statements that were made on this day, her name is Nirvana Childers.

245. Judge Alfreda Talton-Harris, retired in 2016 from the City of Suffolk, Virginia. Judge Alfreda Talton-Harris, may be totally unaware of the new revision to 45 CFR 303.6 because the law was revised in 2016 which is the same year that she retired.

246. As of February 19, 2019, Judge Larry Willis Sr., Judge David J. Whitted, and the assistant commonwealth attorney general, Alvin Whitley, all have been recused from Mr. Childers's child support matters. Mr. Childers's court-appointed attorney, Brian A. Thomasson, has removed himself due to some type of conflict. Due to Mr. Childers's proven indigency, another attorney named Lisa Henderson was appointed to represent Mr. Childers.

V-1. Phone Call – $10,000 Offer on April 2, 2019

247. On April 2, 2019, at 11:24 am, Mr. Childers's court-appointed attorney, Lisa Henderson, called him and said that she talked with the attorney that represented the Division of Child Support Enforcement. Mr. Childers assumes that this was Geoffrey Scott Darnell Sr., Assistant Attorney General II, at the Commonwealth of Virginia Office of the Attorney General. For the reason being that Scott Darnell was now the attorney representing the Division of Child Support Enforcement in Mr. Childers's child support matter. Lisa Henderson said that the attorney general made an offer and she stated that if Mr. Childers paid ten thousand dollars ($10,000) he would then be allowed to remain free and out of jail. This is impossible for Mr. Childers to do. Mr. Childers states that he wanted to pay his child support from the very beginning.

It is the actions of state officers that are destroying Mr. Childers and hurting his children. When Mr. Childers tried to pay what he could Mr. Childers was then treated like a criminal. Mr. Childers is treated like a criminal because he is poor. This is unconstitutional. A poor person is sent to jail but if Mr. Childers had $10,000 he was allowed to stay out of jail. This can not be legal in the United States of America. The Fourteenth Amendment prohibits "punishing a person for his poverty." *Bearden v. Georgia*, 461 U.S. 660, 671 (1983).

V-2. Thoughts of Suicide - FBI Phone Call

248. Approximately two weeks prior to Mr. Childers's upcoming hearing on April 4, 2019, Mr. Childers was in a state of panic and suffered from mental distress. Mr. Childers called the FBI hot-line and stressed his concerns. Mr. Childers was very emotional and told the person on the

other end of the phone call that he had thoughts of suicide. The FBI then ordered a wellness check and the Chesapeake Police showed up at Mr. Childers's place of residence. The police officers asked Mr. Childers if he wanted to go to the hospital. Mr. Childers answered the officers with no. Mr. Childers became emotional and explained his situation to the officers as tears began rolling down from his face.

W. Contempt Hearing – On April 4, 2019

249. On April 4, 2019, Mr. Childers was summoned to appear in courtroom 3, at the Chesapeake Juvenile and, Domestic Relations District Court. This hearing was for a show cause that would determine if Mr. Childers should be charged with civil contempt. Geoffrey Scott Darnell Sr. was the assistant attorney general representing the Division of Child Support

Enforcement. Alfreda Talton-Harris was the presiding judge.

250. At this trial, Mr. Childers's court-appointed attorney, Lisa Henderson, argued his defense by explaining that Mr. Childers does not have the ability to pay along with the actuality that Mr. Childers suffers from a mental illness. When Mr. Childers talked with Lisa Henderson prior to his trial, at no time did he ever discuss or mentioned anything about having a mental illness or impairment. Mr. Childers was actually surprised when Lisa Henderson stated that he suffered from a mental illness. Mr. Childers believes that she had learned this by communicating with his previous attorney, Brian A. Thomasson. Mr. Childers had previously discussed the details of his depression and his childhood trauma with Brian A. Thomasson. At this trial on April 4, 2019, Lisa Henderson stated repeatedly that Mr.

Childers does not have the ability to pay. The only evidence that Scott Darnell presented was a statement. Scott Darnell stated that Mr. Childers has a family that owns a business in Virginia Beach. This was the only proof that Scott Darnell presented. The ability to pay was based on Mr. Childers having a stepfather that owned a roofing business. His stepfather is Bob Burton. Bob Burton raised Mr. Childers for a few years in the 80s and 90s. Since then Bob Burton has become distant and has a new family of his own. Over a period of years, Mr. Childers had worked for Bob Burton but never on a steady, long term basis.

251. In pursuant to 45 C.F.R. § 303.6, the assistant attorney general, Scott Darnell, must present evidence to the court that proves that Mr. Childers has the current ability to pay before a jail sentence can be imposed. Scott Darnell only provided a statement to the court which explained

that Mr. Childers had a family member that owned a business. With no solid proof of the current ability to pay, Mr. Childers was convicted of civil contempt. Mr. Childers was sentenced to six months in the Chesapeake City Jail. Judge Alfreda Talton-Harris ordered an appeal bond for the amount of $48,711.72 on this day. This made it impossible for Mr. Childers to appeal his jail sentenced. It was financially impossible for Mr. Childers to pay forty-eight thousand seven hundred eleven dollars and seventy-two cents ($48,711.72) to appeal his conviction. Judge Alfreda Talton-Harris also ordered a secured appearance bond amount of twenty-five thousand dollars ($25,000.00) and an accrual bond amount of three thousand two hundred fifty-five dollars ($3,255.00). Mr. Childers was also ordered to have a purge bond amount of five thousand six hundred ninety-five dollars and forty cents

($5,695.40). This is unfair justice and an abuse of discretion carried out under the color of the law. Mr. Childers did not have the ability to pay $5,695.40 in order to be free from jail. See **exhibit A43**. "For civil contempt to apply, contemnor must have the ability to comply, with a meaningful opportunity to purge the contempt." See *Kessler v. Commonwealth*, 18 Va. App. 14, 441 S.E.2d 223 (1994). See *Crowley v. McKinney*, 400 F.3d 965, 975 (7th Cir. 2005) (Wood, J., dissenting in part) ("[A] noncustodial parent's interests are no less significant than those of other parents. . . . Even if there were some tension between the rights of the two parents, it does not follow that the Constitution affords lesser protection to a noncustodial parent.").

252. This incarceration was unconstitutional without any doubt. There was absolutely no proof of the ability to pay. Mr. Childers's court-appointed attorney, Lisa Henderson, stated multiple times that Mr. Childers did not have the ability to pay and that Mr. Childers suffers from a mental illness. Mr. Childers was incarcerated for being poor and mentally ill. In *Thompson v. City of Louisville*, 362 U.S. 199, a decision was made by the United States Supreme Court in which the Court unanimously held that it is a violation of due process to convict a person of an offense when there is no evidence of his guilt. The Fourth Circuit has ruled that civil contempt must be proven by clear and convincing evidence. In re *General Motors Corp.*, 61 F. 3d 256 (4th Cir. 1995). In the case of *Jackson v. Virginia*, 443 U.S. 307 (1979), "as an essential of the due process guaranteed by the Fourteenth Amendment, that no

person shall be made to suffer the onus of a criminal conviction except upon sufficient proof – defined as evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense." Pp. 443 U. S. 313-316

253. The trial court instituted none of these safeguards for Mr. Childers. There was no attempt made to make an express fact-finding of Mr. Childers's current ability to pay before imposing incarceration. Mr. Childers was incarcerated even after he repeatedly notified the court that they were violating a federal statute (45 C.F.R. § 303.6). In fact, the judge completely ignored testimony from his defense attorney Lisa Henderson, which clearly explained that he did not, in fact, have the means to cure the contempt order.

254. Even If Mr. Childers was able to somehow pay the appeal bond, he would still be subject to unfair legal practices as the procedural safeguards are not being implemented in the Commonwealth of Virginia. The Commonwealth of Virginia has not changed state law so it would be impossible for Mr. Childers to seek out any kind of state remedy. For this reason, only the federal courts have jurisdiction over this matter.

255. The Commonwealth of Virginia is still under the old notion that a child support obligor “holds the keys" to his own jail cell” See *United States v. Tankersley*, 277 F. Supp. 2d 908 (N.D. Ind. 2003). Indigent parents are being incarcerated unconstitutionally despite revisions to federal law. They also keep indigent noncustodial parents in fear of incarceration which destroys their mental state. This destroys their ability to pay.

X. Suicide Watch - Chesapeake City Jail

256. When Mr. Childers was booked into the Chesapeake City Jail on April 4, 2019, he was asked if he had thoughts of suicide. He then explains the phone call to the FBI that happened approximately two weeks prior. Multiple deputies then grabbed him, stripped him naked, and put him on a 10-minute suicide watch for approximately four to five days.

257. While Mr. Childers was incarcerated at the Chesapeake City Jail, he went to see a psychologist on April 26, 2019. Mr. Childers was again stripped naked by multiple deputies and put on suicide watch for approximately 4-5 days. Mr. Childers is unsure of how many days he was on suicide watch because there is no way to track the time. Proof of the suicide watch is labeled as **exhibit A15**. Mr. Childers then was treated for depression and given medication. The

psychologist prescribed 20 mg of Celexa to take every 24 hours and 50 mg of Hydroxyzine to be taken three times daily. See **exhibit A44**. Before Mr. Childers was released from jail he was switched from the Celexa medication to taking Zoloft every 24 hours. The nurses also seemed overly concerned about his condition.

X-1. Broken Foot - Chesapeake City Jail

258. On June 18, 2019, while Mr. Childers was incarcerated at the Chesapeake City Jail, he suffered a serious physical injury. When Mr. Childers woke up from his top bunk bed there were other inmates playing cards all around the bottom bunk bed. There are also no ladders on the bunk beds at the Chesapeake City Jail. Mr. Childers had to climb over to the next bunk bed next to him and as he was trying to get down his toes caught between the ledge. He was falling face first and wiggled his foot free from the ledge then

slammed his foot down on the concrete floor to catch himself. Mr. Childers suffered from multiple avulsion fractures in his right foot. See **exhibit A45.** An avulsion fracture occurs when a small chunk of bone attached to a tendon or ligament gets pulled away from the main part of the bone.... In rare cases, if the bone fragment and main bone are too far apart to fuse naturally, surgery may be necessary to reunite them.

259. Mr. Childers sat in the medical section of the jail for one week before his foot got an x-ray. Mr. Childers was told that the person that does the x-rays only comes in once a week. Mr. Childers did not receive any treatment for his foot even after the x-ray was done. Mr. Childers's foot was not bandaged or put in a cast. Mr. Childers was only was given some medication for pain. Mr. Childers was laying in bed for approximately three weeks in the medical section of the jail until

his foot healed, so that he could walk. Mr. Childers's foot did not heal properly as his foot causes pain if he stands on it or walks for a long period. Mr. Childers will suffer the rest of his life over this injury.

X-2. Released From The Chesapeake City Jail

260. On October 4, 2019, Mr. Childers was released from the Chesapeake City Jail. Upon his release, Mr. Childers was given a 30 day supply of depression medication. See **exhibit A44**. Mr. Childers had to walk from the jail to his sister's house which is eight miles away. Mr. Childers was in great pain from walking on his injured foot for 8 miles. Mr. Childers now owes the Chesapeake City Jail over $300.00 for rent. See **exhibit A46**. Mr. Childers and his family are struggling financially. For this reason, Mr. Childers had no jail commissary the entire time that he was incarcerated.

Y. Unfair Court Hearing - October 22, 2019

261. While Mr. Childers was incarcerated in the Chesapeake City Jail, he filed a child support modification. Mr. Childers's court date for the modification was on October 22, 2019, at 1:00 pm in courtroom 1. The same courtroom where Judge Larry D. Willis, Sr. presides. See **exhibit A47**. Mr. Childers thought that this was some kind of mistake as Judge Larry D. Willis, Sr. recused himself from Mr. Childers's court cases in 2016. This has happened in the past. Judge Larry D. Willis, Sr. has been appointed to Mr. Childers's court hearings after 2016. When this happened, the hearings were always rescheduled with a different judge without Mr. Childers having to enter a courtroom and see Judge Larry D. Willis, Sr.

262. Even though Judge Larry D. Willis, Sr. recused himself in 2016, Judge Larry D. Willis, Sr. ruled over Mr. Childers's child support matter on October 22, 2019. Mr. Childers experienced prejudice from Judge Larry D. Willis, Sr. due to his previous federal lawsuit. This will now be explained in further detail.

263. On October 22, 2019, Mr. Childers was in the lobby on the second floor at the Chesapeake Juvenile and, Domestic Relations District Court, waiting for his child support modification hearing. A woman representing the Division of Child Support Enforcement called Mr. Childers for him to come into her office. For the purpose of this brief, she will be named Jane Doe as Mr. Childers did not get her name. Jane Doe asked Mr. Childers a few brief questions. Jane Doe then stated that she was going to request that the court add impute

income for the amount of $1000.00 because Mr. Childers was incarcerated and being treated as voluntarily unemployed. This means that the Commonwealth of Virginia is also violating 45 CFR § 302.56 (c)(3) on an ongoing basis.

> "Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders;"
>
> 45 CFR § 302.56 (c)(3)

264. When Mr. Childers stated to Jane Doe that she was violating a federal statute by treating incarceration as voluntary unemployment she then instructed Mr. Childers to "take it up with the judge." Jane Doe also stated on October 22, 2019, that she was going to suggest that the court lower Mr. Childers's child support amount to $300.00 a month. Jane Doe put this in writing on a document along with the impute income amount.

She wrote this information right in front of Mr. Childers but did not provide a copy of this document to Mr. Childers. Mr. Childers assumes that this document was for court-use only. Mr. Childers was fearful about going into courtroom 1, Mr. Childers knew that he would be in front of Judge Larry D. Willis, Sr. once again. This same situation has occurred previously, thus Mr. Childers assumed that it was just a clerical error and that Judge Larry D. Willis, Sr. would just reschedule the case matter to be heard in front of a different judge, at a later time. Other previous hearings in courtroom 1 have always been rescheduled since Judge Larry D. Willis, Sr. recused himself from Mr. Childers's child support matters in 2016.

265. On October 22, 2019, Mr. Childers was told that his child support was about to be lowered to $300.00 per month. Even if Judge Larry D. Willis, Sr decided to proceed with Mr. Childers's child support modification hearing after recusing himself in 2016, Mr. Childers felt that he would not object or say anything because he was tempted by the resolve of his situation. Mr. Childers desperately wanted his child support lowered so that his own personal hell would be over.

266. On October 22, 2019, Mr. Childers proceeded into courtroom 1 for his hearing. Mr. Childers walked in and stood in front of Judge Larry D. Willis, Sr. Judge Larry D. Willis, Sr. stated that Mr. Childers's ex-wife Jessica Childers was unable to attend the hearing and he expressed that she had filed for a telephonic hearing. Jessica Childers was on a speakerphone during the

hearing. Larry D. Willis stated that Jessica Childers filed a motion to transfer all of Mr. Childers's child support matters to the JDR court in Wytheville, Virginia. Mr. Childers stated that he objects to the transfer because he does not have the financial ability to travel to Wytheville, Virginia. Judge Larry D. Willis, Sr., then stated to Mr. Childers:

> "I remember you. I try to be fair but you keep suing us. I know that you want this lowered but you have sued a few people that work here. What do you think Mr. Clark?"

267. Mr. Clark said absolutely nothing. He was silent and Mr. Childers did not look at him at all. Mr. Childers is not even sure if Mr. Clark was there. Judge Larry D. Willis, Sr. also stated that he would rather stay on the safe side and transfer the case. Mr. Childers then stated "now my child support will never be lowered because I lack the

financial ability to travel to Wytheville, Virginia". Larry D. Willis ordered all of Mr. Childers's court matters, that involve child support, to be heard in the Wythe Juvenile and Domestic Relations District Court located in Wytheville, Virginia. Jessica Childers stated through the speaker "Thank you very much." Up until this point, Mr. Childers was very respectful to Judge Larry D. Willis, Sr. Mr. Childers was now upset and attempted to make another statement to Larry D. Willis, Sr but the deputy looked at him and said: "You may now leave." Mr. Childers tried again to make a statement and once again the deputy said: "You may now leave." Mr. Childers then left the courtroom.

Mr. Childers feels that this was totally unfair for the following reasons:

1.) This hearing was a violation of the federal and state cannon rules of justice.

Judge Larry D. Willis, Sr. had recused himself from Mr. Childers's court hearings in 2016. There will be witness testimony provided by Johnathan Morris to prove this. Johnathan Morris was near Mr. Childers the entire time of his hearing on June 21, 2016. Also, the document labeled as **exhibit A36** affirms that on June 21, 2016, Mr. Childers was to have his hearing conducted in courtroom 1 which is where Judge Larry D. Willis, Sr. presides. There are also notes on **exhibit A36** that indicate Mr. Childers's hearing was transferred to another judge. This was explained previously in this brief in paragraph 208. This was a violation of multiple canons under the Canons Of Judicial Conduct For The Commonwealth Of Virginia. It was unethical for Judge Larry D. Willis, Sr. to rule on this matter.

Even though the Division of Child Support wanted to reduce the child support to $300.00 a month, the judge blocked this action and prevented the child support from being lowered on this day. This proves that Judge Larry D. Willis, Sr. has a personal vendetta against Mr. Childers. The judge knowingly ruled on a matter in which he has recused himself from in the past and he blocked the child support from being lowered even with the knowledge that Mr. Childers is in desperate need of having his child support lowered. The judge even expressed this with his statement.

"Any judge who does not comply with his oath to the Constitution of the United States, wars against that Constitution and engages in violation of the Supreme Law of the Land. If a judge does not fully comply with the Constitution, then his orders are void, In re Sawyer, 124 U.S. 200 (1888), he is without jurisdiction, and he/she has engaged in an act or acts of treason."

See *U.S. v. Will*, 449 U.S. 200, 216, 101 S. Ct. 471, 66 Ed.2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821)"

2.) Judge Larry D. Willis, Sr. expressed prejudice towards Mr. Childers because he has filed lawsuits against him in federal court. This prejudice caused Mr. Childers to have an unfavorable ruling on October 22, 2019.

3.) Judge Larry D. Willis, Sr. has been made aware that Mr. Childers was involved in posting information on the internet that detailed unjust actions in the Chesapeake Juvenile and, Domestic Relations District Court. The information that was posted online also described the unfair treatment by this judge. Mr. Childers was not alone in his pursuit as others have posted similar content describing the unfair treatment that they have received by this same judge. Mr. Childers is positive that Paul Hedges provided this information to Larry D.

Willis, Sr. in 2016. Mr. Childers has no way to prove this. As stated prior in this brief, Mr. Childers has known Paul Hedges for many years. Paul Hedges knew that Mr. Childers was involved due to some of the facts written in one of the articles. Paul Hedges showed up at Mr. Childers's hearing on June 21, 2016. After this hearing, Paul drilled Mr. Childers heavily with questions in relation to online articles posted about Judge Larry D. Willis, Sr. Paul Hedges has made detailed statements about his close relationship with Judge Larry D. Willis, Sr. directly in front of Mr. Childers. See paragraph 208.

268. Mr. Childers did not appeal the ruling on October 22, 2019. Mr. Childers feels that there is no form of judicial fairness in any of the courts located in the City of Chesapeake. Judge Larry D.

Willis, Sr. has already ordered a transfer of jurisdiction and Mr. Childers feels that he does not have much of a reason for a Circuit Court Judge to step on the toes of another judge so to speak. State court judges do not care if you are poor. The facts in this brief support this. Mr. Childers feels that if he made an attempt to explained the facts to the court of appeals he then may be perceived as being vindictive due to an unfavorable ruling. Mr. Childers feels that the circumstances and facts in his child support matter are extraordinary and uncommon. On the positive side, Mr. Childers is comfortable now that his child support matters will no longer be under the authority of the Chesapeake Juvenile and, Domestic Relations District Court. Mr. Childers has accumulated a massive amount of debt which is unjustified. Since 2013, Mr. Childers has attempted to modify his child support order on numerous occasions.

He lacked the ability to pay an attorney and just filed the motions himself. Mr. Childers was told that he did not fill out the motion properly or he did not bring the proper documentation due to his ignorance of the process. Mr. Childers is now flat broke and riddled with depression. All Mr. Childers wanted from the beginning was to be able to pay his child support and have enough money to survive.

269. Mr. Childers is now on public assistance via the snap program. Mr. Childers receives approximately $195.00 per month to buy food with an EBT card. Aside from donating plasma, Mr. Childers has made no money in the year of 2019, and yet, he is being charged thousands in child support for the year of 2019. Mr. Childers has attempted to lower his child support multiple times. Mr. Childers is in poor psychical shape, overweight and smokes regularly. Mr. Childers

has lost three teeth in the front of his mouth which has contributed to his depression. Mr. Childers suffers from severe depression and is often suicidal. He wants to seek help and maybe apply for Medicaid but at this time he lacks the motivation to do small tasks like taking a shower or brushing his teeth. His quality of life has been destroyed by a massive amount of ongoing debt.

270. Mr. Childers's child support modification hearing has been transferred to the Wythe Juvenile and Domestic Relations District Court at 225 South 4th Street, Suite 204, Wytheville, VA 24382-2595. His court date is on January 16, 2020. See **exhibit A48**. This is over a 5-hour drive from his hometown of Chesapeake, VA. Unfortunately, Mr. Childers does not have the current means to travel to Wytheville, VA. Mr. Childers will not be able to make it to this hearing

even though he desperately needs his child support amount lowered. Mr. Childers is also in fear of incarceration yet again. If Mr. Childers is summoned by the Wythe Juvenile and Domestic Relations District Court, he lacks the ability and financial means to travel to Wytheville, VA. Thus, he would be facing a potential charge for failure to appear which can cause Mr. Childers to serve more jail time. The Virginia Code under §19.2-128 requires that you appear for court when issued a summons or arrest warrant unless the document specifically waives the requirement. Mr. Childers could be facing the threat of incarceration for being poor yet again in the near future.

Z. Mr. Childers Has Lived Through Extreme Tragedy and Suffers From Past Trauma.

271. Mr. Childers has had a volatile mental state since his early childhood which stems from being traumatized by a horrible tragedy. This traumatic event has deeply affected Mr. Childers. Mr. Childers suffers from painful memories and horrific flashbacks from this devastating tragedy. To fully understand the plaintiff's mental state and past trauma, detailed facts about this tragedy must be presented to this district court. These facts are relevant in this matter due to the lack of past mental health records. These facts also explain why Mr. Childers has virtually no medical history. This is attributed to powerful feelings of discomfort combined with a strong hatred for hospitals, doctors, and courtrooms. Mr. Childers

associates hospitals, doctors, and courtrooms with severe past trauma.

272. On February 25, 1991, Mr. Childers had three baby sisters that died in a trailer fire in Virginia Beach. Mr. Childers was only fifteen years old when he saw two of his sisters sprawled out in the front yard wrapped in white sheets. Occasionally, the detectives would pull back the sheets to take photos of their bodies. Mr. Childers saw this when he and his stepfather, Bob Burton arrived at the neighbor's trailer on a street that was parallel to their own. Mr. Childers and his stepfather had been working on a roof all day at the oceanfront. Mr. Childers learned that his baby sisters had passed away by seeing men dressed in suits taking photos of his deceased sisters. Mr. Childers went inside the neighbor's trailer to speak to his mother, Brenda Burton. Brenda was drunk and still drinking beer even though the

bodies of Bridgette and Barbie Burton were laying on the ground just a few feet away. Brenda Burton was slurring her words as she commanded Mr. Childers, who was only 15 years old, to take the blame by providing a false statement to the police. Brenda Burton ordered Mr. Childers to say that he had been babysitting his sisters but then decided to run off somewhere. She stated to Mr. Childers that he would only get a slap on the wrist. At this time Mr. Childers was unaware that his mother had already spoken to a reporter for the Virginia Pilot Newspaper. A newspaper article was then published the next day blaming Mr. Childers for the deaths of his sisters. Fifteen-year-old Mr. Childers was emotionally devastated. Mr. Childers watched the TV news while his family stayed in a hotel. The news stated that Mr. Childers was responsible for the death of his sisters. This mistake was later corrected by the media and the

Virginia Pilot Newspaper corrected this by publishing another article. See **exhibit A49**. His sister's bodies were severely burned and only one of them survived but only for a short time. She was instantly declared brain dead and on life support at Norfolk General Hospital. He saw her badly burned body connected to life support machines in the Norfolk General Burn Trauma Unit. Her diaper was melted to her skin with blood seeping out of her body. This has traumatized him and affects him in his everyday life. This event, at the time, was widely publicized all over the United States. Mr. Childers's first experience in a courtroom was when he was sixteen years old. He had to testify against his mother in a high profile case in Virginia Beach, VA. He was forced to lie on the stand about his being an alcoholic. Robert J. Humphreys was the prosecutor and Mr. Childers felt like he was

being attacked by him. Mr. Childers was scared and suffered extreme anxiety while being questioned in a room full of news media personal. The news stations would constantly follow him to get him on camera each time that he went to his mother's trial. This is just one of the traumatizing events in the plaintiff ‘s existence that proves that his life has been far from the norm. Mr. Childers has never been treated by a doctor or counseled by a professional. Mr. Childers has lost his family, his business and has been through many tragic events. There are times that he will get motivated and make money but this has diminished.

Z-1. Federal Questions

The Constitutionality of A State Statute

273. **Rule 5.1.** of the Federal Rules of Civil Procedure affirms that:

A party that files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute must promptly:

(1) file a notice of constitutional question stating the question and identifying the paper that raises it, if:

(A) a federal statute is questioned and the parties do not include the United States, one of its agencies, or one of its officers or employees in an official capacity; or

(B) a state statute is questioned and the parties do not include the state, one of its agencies, or one of its officers or employees in an official capacity

274. I hereby provide notice that this plaintiff questions the constitutionality of state statutes § 16.1-278.16, § 16.1-292 and § 16.1-278.15 under rule 5.1. These state statutes deeply conflict with the 14th Amendment and 45 CFR 303.6. When laws of the state deprive an individual of a constitutional right it violates the very core of the 14th Amendment Section 1. "Where a state law impinges upon a fundamental right secured by the U.S. Constitution it is presumptively unconstitutional." See *Harris v. Mcrae*, 448 U.S. "where a statutory classification significantly interferes with the exercise of a fundamental right, constitutional scrutiny of state procedures is required." (1980); *Zablocki v. Redhail*, 434 U.S. 374 (1978) "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty,

or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." See *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875).

Questions of Law

275.) Should Virginia laws should be changed to protect indigent defendants from unconstitutional incarceration and to comply with 45 CFR 303.6?

276.) How can a person like Mr. Childers, receive fair justice or any state remedy when a state officer of the Judicial Inquiry and Review Commission handles a complaint that involves a judge who he or she has a personal or official relationship with? As explained in paragraphs 164-181, Judge Larry D. Willis, Sr. and Donald R. Curry worked with each other for a number of years. Because of Donald R. Curry, Mr. Childers'

complaints were blocked on two occasions even when one of the complaints had strong facts that proved judicial misconduct. Another judge also questioned the impartiality of Judge Larry D. Willis, Sr. during a judicial misconduct hearing by the commission.

277.) How can a state judge recuse himself from a defendant's child support matters and then 3 years later rule on the defendant's same child support matters? How is this fair?

278.) How can a chief judge recuse himself from a defendant's child support matters but still oversee the same child support matter?

279.) According to The Virginia Juvenile & Domestic Relations District Court Manual, Chapter 2, Page 10, Section C, it states:

"If the chief judge is the judge who is disqualified or if all the judges in a district are disqualified because of a conflict of interest, the chief judge or the clerk of court shall forward a DC-91, ORDER OF DISQUALIFICATION along with the JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT COVER SHEET REQUEST FOR DESIGNATION-RECUSAL CASE to the Chief Justice of the Supreme Court of Virginia, who will designate a judge to preside over the case. Notwithstanding the foregoing, no substitute judge appointed pursuant to Va. Code § 16.1-69.9:1 shall be designated to preside over any case where the regular judge is disqualified unless either the chief judge or the Chief Justice has determined that no active judge, or retired judge subject to recall, is reasonably available to serve." See **exhibit A37**.

280.) According to this manual, Mr. Childers was supposed to have a judge designated by the Supreme Court of Virginia. Mr. Childers also was NOT supposed to have a substitute judge rule on his case. Judge Alfreda Talton-Harris was a retired substitute judge who sentenced Mr. Childers to jail. According to this manual, this was not allowed in the state of Virginia. Why is Mr. Childers being singled out? Why are laws and

mandatory judicial procedures not being applied in Mr. Childers's cases?

Why was a DC-91 form not filled out and sent to the Supreme Court of Virginia?

According to the Virginia JDR manual, this should have been done.

281.) Should state judges be allowed to order such high amounts for an indigent parent to pay before he can appeal his case? In paragraph 123 of this brief, On September 10, 2013, Mr. Childers was ordered to pay $5589.00 just to have the ability to appeal his case. In paragraph 251, on April 4, 2019, Mr. Childers was ordered to pay a secured appearance bond amount of twenty-five thousand dollars ($25,000.00) and an accrual bond amount of three thousand two hundred fifty-five dollars ($3,255.00). Mr. Childers had to pay

a total amount of $28,255.00 just to have the ability to appeal his case. This amount was extreme. Everyone should have the right to appeal.

282.) Should state judges be allowed to deviate from the state guidelines based on belief and NOT fact, even when the parent is indigent and poor?

283.) Should the Federal Government do more to regulate child support as States seemed to want to create as much debt as possible due to the massive amount of funding that the state receives by collecting child support? As of April 2017, 5.5 million delinquent noncustodial parents, or debtors, owed over $114 billion in past-due child support. Approximately 20% of the total arrears are owed to the government. See **exhibit A50.** (source:https://www.acf.hhs.gov/css/ocsedatablog/

2017/09/who-owes-the-child-support-debt). Not all of these noncustodial parents are deadbeat parents, some of us are actually trying to pay but the amounts ordered are so high that the child support becomes an impossible debt to pay.

VIOLATIONS

284.) **COUNT ONE –** Title 18, U.S.C., Section 241 - Conspiracy Against Rights and Title 18, U.S.C., Section 242 - Deprivation of Rights Under Color of Law. Judge Larry D. Willis, Sr., Alvin Whitley, Judge David J. Whitted, Geoffrey Scott Darnell Sr., and Judge Alfreda Talton-Harris all met each other behind closed doors in secret to discuss Mr. Childers's federal lawsuit and his case. Each one of them knew the details of his complaint, this is why Alvin Whitley was removed and Geoffrey Scott Darnell Sr also mentioned details of Mr. Childers's federal

complaint in court. Judge David J. Whitted was removed and Judge Alfreda Talton-Harris mentioned the federal complaint not long after Mr. Childers entered the courtroom. They were all made aware by Mr. Childers, that they were violating federal statute 45 CFR 303.6 and that they were engaging in unconstitutional actions. They all knew that they were depriving a person of his constitutional rights. Judge Alfreda Talton-Harris and Judge Larry D. Willis, Sr., feel that they are untouchable as they are shielded by immunity. Their actions have expressed this fact.

285.) **COUNT TWO –** Title 42, U.S.C., Section 14141 - Pattern and Practice. This civil statute was a provision within the Crime Control Act of 1994 and makes it unlawful for any governmental authority, or agent thereof, or any person acting on

behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. The defendants all had knowledge that they were violating 45 CFR 303.6 and depriving a person of his constitutional rights by false arrest and imprisonment. Judge Larry D. Willis, Sr. engaged in discriminatory harassment when he disqualified himself from Mr. Childers's child support matters but then ruled on the same child support matters 3 years later where he expressed prejudice in open court and he also blocked the Division of Child Support from lowering his child support order. He also steered

away from a standard judicial procedure when he did not fill out a DC-91 form and sent to the Supreme Court of Virginia. If this is a common procedure, then why is Mr. Childers subject to indifference? Mr. Childers did not get to enjoy a standard legal practice that would have helped him receive equal fairness.

286.) **COUNT THREE –** 42 U.S. Code § 1985. Conspiracy to interfere with civil rights, section (3)Depriving persons of rights or privileges. Some of the defendants were all made aware by Mr. Childers, that they were violating federal statute 45 CFR 303.6 and that they were engaging in unconstitutional actions. The defendants knew that they were depriving a person of his constitutional rights. They are guilty of this crime.

287.) **COUNT FOUR –** Violating 45 CFR 303.6. This has already been proven in this brief without any doubt. Mr. Childers was incarcerated unconstitutionally, without a current income assessment. In pursuant to the code of Virginia § 19.2-159, the plaintiff, Troy J. Childers, has already been determined to be indigent under state law. When Alvin Whitley acts on behalf of the Virginia Attorney General's Office in a civil contempt action but does not implement the procedural safeguards outlined in Turner v. Rogers, 564 U.S. 431, 454, 131 5 S. Ct. 2507, 2523 (2011) he knowingly violates a federal statute. The trial court has yet to institute any of these safeguards enforced by 45 CFR 303.6.

288.) **COUNT FIVE –** Violating 45 CFR § 302.56 (c)(3). In paragraph 263 of this brief, on October 22, 2019, Jane Doe states that she was going to request that the court add impute income

for the amount of $1000.00 because Mr. Childers was incarcerated and being treated as voluntarily unemployed. This is an ongoing violation of 45 CFR § 302.56 (c)(3). There is a high probability that this is happening in all child support cases in the Commonwealth of Virginia. The Obama Administration has left the building and somewhere along the line, these revisions of federal law somehow became forgotten in a legal system of public welfare.

289.) **COUNT SIX –** Violations of Judicial Canons Under The Code of Conduct for United States Judges "which are equated to" The Canons Of Judicial Conduct For The Commonwealth Of Virginia. The actions described in this brief include violations of:

Canon 1: A Judge Should Uphold the Integrity and Independence of the Judiciary;

Canon 3: A Judge Should Perform the Duties of the Office Fairly, Impartially and Diligently;

(a) the judge has a personal bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceeding.

290.) **COUNT SEVEN –** Violation of constitutional rights under the Fourteenth Amendment. False imprisonment - In order to prove false imprisonment, a plaintiff must show that his or her liberty was restrained without any sufficient legal excuse." *Lewis v. Kei*, 708 S.E.2d 884, 890 (Va. 2011). "Undoubtedly it (the-Fourteenth Amendment) forbids-any arbitrary - deprivation of life, liberty or property, and secures

equal protection to all under like circumstances in the enjoyment of their rights... It is enough that there is no discrimination in favor of one as against another of the same class. ...And due process of law within the meaning of the [Fifth and Fourteenth] amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government." *Giozza v. Tiernan*, 148 U.S. 657, 662 (1893), Citations Omitted.

291.) **COUNT EIGHT –** Violation of a standard judicial process that promotes fundamental fairness. According to The Virginia Juvenile & Domestic Relations District Court Manual, Chapter 2, Page 10, Section C, a form labeled DC-91 (Order Of Disqualification/Waiver Of

Disqualification) was supposed to be filled out and sent to the Supreme Court of Virginia and The Supreme Court of Virginia was to designate a presiding judge for Mr. Childers. Judge Larry D. Willis, Sr. was the chief judge who recused himself in 2016 from Mr. Childers's child support matters. The DC-91 form was never filled out or sent The Supreme Court of Virginia, otherwise, Mr. Childers would not have had a substitute judge preside over his case as this action is also forbidden according to The Virginia Juvenile & Domestic Relations District Court Manual, Chapter 2, Page 10, Section C. "Aside from all else, `due process' means fundamental fairness and substantial justice. *Vaughn v. State*, 3 *Tenn.Crim.App*. 54, 456 S.W.2d 879, 883." *Black's Law Dictionary, 6th Edition, page 500*.

292.) **COUNT NINE –** §1983 Conspiracy to Violate Constitutional Rights. A §1983 conspiracy claim requires proof that the conspirators acted "in concert and that some overt act was done in furtherance of the conspiracy which resulted in [the] deprivation of a constitutional right," *Hinkle v. City of Clarksburg, W.Va.*, 81 F.3d 416, 421 (4th Cir. 1996) (emphasis added).

293.) **COUNT TEN –** Malicious Prosecution. In *Albright v. Oliver*, 510 U.S. 266 (1994), the Supreme Court suggested that the Fourth Amendment was the proper vehicle for analyzing malicious prosecution claims in Section 1983 actions. "The Court of Appeals affirmed, holding that prosecution without probable cause is a constitutional tort actionable under §

1983 only if accompanied by incarceration, loss of employment, or some other "palpable consequenc[e]." In *Harrington v. City of Council Bluffs*, 678 F.3d 676, 680-81 (8th Cir. 2012), the Eighth Circuit declared: Assuming a Fourth Amendment right against malicious prosecution exists, such a right was not clearly established when the [plaintiffs] were prosecuted in 1977 and 1978. In 1978, the Supreme Court described in *Albright v. Oliver* the "'embarrassing diversity of judicial opinion' [on] the extent to which a claim of malicious prosecution is actionable under § 1983."

294.) **COUNT ELEVEN –** Gross Negligence. Whether a plaintiff has established gross negligence is a factual question to be decided by a

jury. *Chapman v. City of Virginia Beach*, 475 S.E.2d 798, 801 (Va. 1996).

DAMAGES

295.) While it may be extraordinary to request for damages, in this case, there are circumstances that are extremely extraordinary. Mr. Childers now faces an overwhelming amount of debt due to the unconstitutional actions undertaken by the defendants. Mr. Childers now owes the Commonwealth of Virginia $58,225.96 as of 12-16-2019. See **exhibit O**. This amount accrues interest every year. Mr. Childers owes The City of Chesapeake $304.50 for his unconstitutional confinement in the Chesapeake City Jail. See **exhibit A46**. This money is for rent while being incarcerated. Mr. Childers is also billed each time that he is appointed a lawyer for being indigent.

Mr. Childers does not have the money to pay these attorney bills so the amount of each attorney bill is added to his child support arrearages. This creates even more debt. According to memory, Mr. Childers states that the attorney fees have been anywhere from $120.00 - $200.00 each time. See **exhibit A51**. The actions by the defendants drove Mr. Childers to be suicidal, which caused him to be stripped naked and placed on suicide watch on two separate occasions in the Chesapeake City Jail. Mr. Childers suffered a serious injury to his foot which still causes him pain while being incarcerated. There was no safety ladder on the bunk-bed for him to climb down. In *Herbert v. Hawaii*, First Circuit Court of Hawaii, Civil Case No. 060818, $154,000 was awarded to a Hawaii prisoner that was injured by jumping from bunk bed without a ladder. This shows that seeking damages for this type of injury

is not out of scope. The unconstitutional actions undertaken by the defendants have destroyed Mr. Childers's quality of life and have taken away his motivation to strive. Mr. Childers has suffered severe emotional distress and mental agony. Where is justice for Mr. Childers?

296.) Individuals have a private right of action for damages against entities that receive federal funds and violate that prohibition. See 29 U.S.C. 794(a); *Barnes v. Gorman*, 536 U.S. 181 (2002); *Olmstead v. L.C.*, 527 U.S. 581, 590 n.4 (1999).

293.)

297.) The fourth circuit has on occasion held that section 1983 does not impose any culpability requirement. Once the plaintiff proves his prima facie case, he need not prove any further culpability to prove damages. *Withers v. Levine*,

615 F.2d 158, 162 (4th Cir.), cert. denied, 449 U.S. 849 (1980); *Pritchard v. Perry*, 508 F.2d 423, 425 (4th Cir. 1975); *Jenkins v. Averett*, 424 F.2d 1228, 1232-33 (4th Cir. 1970); *Street v. Surdyka*, 492 F.2d 368, 373 (4th Cir. 1974); cf. *McCray v. Maryland*, 456 F.2d 1, 5-6 (4th Cir. 1972).

Monell Claim

298.) Generally, "every Monell claim requires 'an underlying constitutional violation.'" *Kitchen v. Dallas Cnty., Tex.,* 759 F.3d 468, 483 (5th Cir. 2014). Further, "'municipal liability under section 1983 requires proof of three elements: (1) a policymaker; (2) an official policy; and (3) violation of constitutional rights whose moving force is the policy or custom.'" *Hampton Co. Nat. Sur., LLC v. Tunica Cnty., Miss.*, 543 F.3d 221, 227 (5th Cir. 2008) (quoting *Piotrowski v. City of*

Houston, 237 F.3d 567, 578 (5th Cir.2001). "'To hold a municipality liable under [42 U.S.C.] § 1983 for the misconduct of an employee, a plaintiff must show, in addition to a constitutional violation, that an official policy promulgated by the municipality's policymaker was the moving force behind, or actual cause of, the constitutional injury.'" *Harris v. Serpas*, 745 F.3d 767, 774 (5th Cir.) cert. denied, 135 S. Ct. 137, 190 L. Ed. 2d 45 (2014) (quoting *James v. Harris Cnty.*, 577 F.3d 612, 617 (5th Cir.2009)). Additionally, "[a] government entity may be held liable under § 1983 only when the injury results from the 'execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts and acts may fairly be said to represent official policy.'" *Keenan v. Tejeda*, 290 F.3d 252, 262 (5th Cir. 2002) (quoting *Monell v. Department of Social Services*, 436 U.S. 658, 694

(1978)). Federal law makes governmental defendants that are not arms of the State, such as municipalities, liable for their constitutional violations. See *St. Louis v. Praprotnik*, 485 U.S. 112, 121 -122 (1988); *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978).

299.) This case meets the criteria of a Monell claim and the detailed circumstances, in this case, will pass the test. The three requirements of *Hampton Co. Nat. Sur.*, for municipal liability, are satisfied in this case. Therefore, The City of Chesapeake can be held liable under §1983, because the requirements stated in *Hampton Co. Nat. Sur.* are satisfied here. See *Hampton Co. Nat. Sur., LLC v. Tunica Cnty., Miss.*, 543 F.3d 221, 227 (5th Cir. 2008).

300.) Additionally, Codes § 1343 and U.S. Code § 1985, both allow for Mr. Childers to recover damages in this matter. These sections of the law apply:

(1) To recover damages for injury to his person or property, or because of the deprivation of any right or privilege of a citizen of the United States, by any act done in furtherance of any conspiracy mentioned in section 1985 of Title 42;

(2) To recover damages from any person who fails to prevent or to aid in preventing any wrongs mentioned in section 1985 of Title 42 which he had knowledge were about to occur and power to prevent;

(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usage, of any right, privilege or immunity secured by the Constitution of the United States or by any

Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States.

REQUEST FOR RELIEF

WHEREFORE, this plaintiff respectfully requests relief as follows:

1.) Request an investigation to be carried out by the FBI or the Department of Justice. Investigate the detailed acts of conspiracy that are outlined in this legal brief as NO one is above the law. Some of the defendants met behind closed doors to discuss Mr. Childers's court matters. Some of the defendants were clearly aware that they were violating the plaintiff's constitutional rights.

2.) Investigate why a DC-91 form was not filled out and sent to the Supreme Court of Virginia as this was required in the Commonwealth of Virginia. Also, investigate why a substitute judge was designated to preside over Mr. Childers's child support matter. According to The Virginia Juvenile & Domestic Relations District Court Manual, Chapter 2, Page 10, Section C, this was forbidden when a chief judge has recused himself. This is only allowed under certain conditions and if a regular judge has recused himself.

3.) Investigate why State Officers at The Virginia Judicial Inquiry Review Commission are allowed to process complaints made about their close friends who they have a personal or official relationship with. This destroys the ability to receive fair justice and a remedy from the state.

4.) Issue a subpoena for the discovery of any income documentation collected by the assistant attorney generals in regard to Mr. Childers. This will prove without a doubt that the procedural safeguards outlined under 45 C.F.R.§ 303.6 are not implemented in Mr. Childers's civil contempt proceeding.

5.) Issue a subpoena for the discovery of document records to the clerk at The Chesapeake Juvenile and, Domestic Relations District Court. Records that prove that Mr. Childers has filed for a child support modification on multiple occasions since 2013. Mr. Childers has attempted to get copies of the modifications that he has filed several times. The clerk stated to Mr. Childers that each time he filed and failed the modification was void and overruled by the current order.

Nevertheless, Mr. Childers has been unable to obtain these documents.

6.) Provide notice to the Attorney General of The Commonwealth of Virginia that the plaintiff questions the constitutionality of Virginia statutes 16.1-278.16, 16.1-292 and 16.1-278.15 under rule 5.1.

7.) Issue a Declaratory Judgment. Declare Virginia law codes 16.1-278.16, 16.1-292 and 16.1-278.15 to be unconstitutional. Declare the actions undertaken by the defendants to be unconstitutional. Declare Mr. Childers's 6-month incarceration to be unconstitutional.

8.) Issue a writ of mandamus or injunction. The plaintiff requests this district court to compel, force, command or provide a firm notification to the defendants that they must comply with federal law either by writ of mandamus or injunctive relief. Relatedly, no harm to the public interest would result from issuing an injunction. Instead, "[u]pholding constitutional rights surely serves the public interest." *Cento Tepeyac v. Montgomery Cty.*, 722 F.3d 184, 191 (4th Cir. 2013) (citation omitted); *Giovani Carandola, Ltd.*, 303 F.3d at 521 (same).

9.) Rule 23, Class Certification. The plaintiff seeks certification of a class comprised of:

All indigent parents who face incarceration for nonpayment or underpayment of child support in child support contempt proceedings, that are without constitutionally mandated procedural protections to ensure fundamentally fair proceedings.

10.) Award general damages or special damages of any type. Award compensatory damages or punitive damages. Award aggravated damages or if anything, award nominal damages.

11.) Award such further and additional relief as the Court deems just and proper, enforce any other applicable statutes, or invoke the Court's inherent powers.

Respectfully submitted,

BY THE PLAINTIFF TROY J. CHILDERS

_____ December 22, 2019

Troy J. Childers

EXHIBIT A

Turner v. Rogers Guidance AT-12-01

Published: June 18, 2012

Last reviewed on 3/3/2019

Office of Child Support Enforcement | ACF

Source:
https://www.acf.hhs.gov/css/resource/turner-v-rogers-guidance

Additional Resource:

https://nationalparentsorganization.org/blog/22934-department-of-justice-warns-state-child-support-enforcement-agencies-of-illegal-practices

Turner v. Rogers Guidance

AT-12-01

Published: June 18, 2012

ACTION TRANSMITTAL

AT-12-01

DATE: June 18, 2012

TO: State Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Individuals

SUBJECT: Turner v. Rogers Guidance

CONTENT:

I. *Turner v. Rogers* Overview

In June 2011, the United States Supreme Court decided the case of *Turner v. Rogers*.[1] The question in *Turner* was whether the due process clause of the 14th Amendment of the U.S. Constitution requires states to provide legal counsel to an indigent person at a child support civil contempt hearing that could lead to incarceration in circumstances where the custodial parent or opposing party was not represented by legal counsel.[2] The United States Supreme Court held that under those circumstances, the state does not necessarily need to provide counsel to an unrepresented noncustodial parent if the state has "in place alternative procedures that assure a fundamentally fair determination of the critical incarceration-related question, whether the supporting parent is able to comply with the court order." [3]

The Supreme Court in *Turner* specifically left unresolved the question of what due process protections may be required where: (1) the other parent or the state is represented by an attorney; (2) the unpaid arrears are owed to the state under an assignment of child support rights; or, (3) the case is unusually complex. Accordingly, this guidance, directed to state child support agencies (and prosecuting attorneys funded with title IV-D funds), is based upon the due process considerations expressed in *Turner*. This AT is not designed to define for IV-D agencies what is constitutionally required when there is a IV-D attorney or representative participating in the civil contempt hearing that may lead to incarceration. However, using *Turner* as a guidepost, this AT urges state IV-D agencies to implement procedural safeguards when utilizing contempt procedures to enforce payment of child support and encourages IV-D agencies to individually screen cases prior to initiating or referring any case for civil contempt.

In 2003, Mr. Turner, the noncustodial parent, was ordered to pay $51.73 per week in child support. Over the course of several years, he was held in civil contempt for nonpayment on five occasions and was incarcerated on several occasions. In South Carolina, each month the family court clerk identifies child support cases in which the obligor has fallen more than five days behind and automatically initiates a civil contempt hearing.[4] In 2008, under the facts giving rise to this lawsuit, Mr. Turner was held in civil contempt and served a 12-month jail term. At the hearing, Mr. Turner was not represented by counsel, nor

was a IV-D attorney involved. In ordering that Mr. Turner be jailed, the lower court did not make any findings on the record regarding Mr. Turner's ability to pay the entire arrears amount, which the court set as the purge amount. Mr. Turner subsequently appealed alleging that his rights were violated because the due process clause of the 14th Amendment required the state to provide him with appointed counsel in a civil contempt hearing that could lead to incarceration.

In *Turner*, the United States Supreme Court held that a state does not need to automatically provide counsel to a defendant in a child support civil contempt proceeding, under the specific facts of the case, as long as the state provides adequate procedural safeguards. In *Turner*, neither the state nor the custodial parent were represented by legal counsel. The *Turner* Court indicated that adequate substitute procedural safeguards might include:

- Providing notice to the noncustodial parent that "ability to pay" is a critical issue in the contempt proceeding;
- Providing a form (or the equivalent) that can be used to elicit relevant financial information;
- Providing an opportunity at the contempt hearing for the noncustodial parent to respond to statements and questions about his/her financial status (e.g., those triggered by his/her responses on the form declaring financial assets); and
- Requiring an express finding by the court that the noncustodial parent has the ability to pay based upon the individual facts of the case.

The *Turner* Court concluded that, used together, these four procedures would have been sufficient to meet minimum due process requirements under the circumstances of the case where neither the custodial party nor the state was represented by counsel. The Court emphasized that these four procedures are not an exclusive list, and there may be other pathways to satisfying minimum due process requirements in similar proceedings. This remains an evolving and uncertain area of constitutional law, and states are encouraged to carefully review their own civil contempt procedures and consult with their attorneys to determine appropriate minimum due process protections warranted where incarceration is a possible outcome.

II. State Contempt Practices

Title IV-D agencies are bound to ensure that noncustodial parents receive due process protections.[5] The federal government has an interest in ensuring that the constitutional principles articulated in *Turner* are carried out in the child support program, that child support case outcomes are just and comport with due process, and that enforcement proceedings are cost-effective and in the best interest of children. Accordingly, this guidance is directed to state and local IV-D agencies and prosecuting attorneys funded with IV-D matching funds.

Child support civil contempt practices, including the right to appointed counsel in certain proceedings, vary considerably from state to state.[6] For example, some state child support agencies rarely, if ever, bring civil contempt actions, and many states provide for legal counsel in a civil contempt action when it can lead to incarceration. In light of *Turner*, states continue to have latitude in determining the precise manner in which the state implements due process safeguards in the conduct of contempt proceedings, including the respective roles of the IV-agency, prosecuting attorneys, and court. It should be noted,

however, that when there is a IV-D attorney or state representative participating in the civil contempt proceeding, even the procedural safeguards identified in the *Turner* case may not be sufficient to satisfy due process requirements in all cases.

Using *Turner* as a guidepost may be useful, however, as states review their civil contempt procedures. OCSE strongly recommends that IV-D agencies consult their attorneys concerning their existing practices, including notices, in light of the *Turner* decision. States should consider whether the procedures employed in the state's contempt practice are fundamentally fair, and whether additional procedural safeguards should be implemented to reduce the risk of erroneous decision making with respect to the key question in the contempt proceeding, the noncustodial parent's ability to pay.

This guidance identifies minimum procedures that IV-D programs should consider in bringing child support civil contempt actions that can lead to incarceration. At the same time, this guidance is not intended to prohibit the *appropriate* use of contempt. The issue is not the use of contempt procedures *per se*, but contempt orders that do not reflect the true circumstances of the noncustodial parent, and if not satisfied, can lead to jail time. Some states routinely use show cause or contempt proceedings to elicit information from the noncustodial parent, and jail is not a typical outcome. Other states have redirected their enforcement resources away from civil contempt to practices that encourage voluntary compliance with child support orders, such as setting realistic orders through early intervention programs when the noncustodial parent falls behind.[7] Civil contempt proceedings may also be used to direct certain actions by the obligor, such as obtaining or maintaining employment or participating in job search or other work activities. Due process protections, where incarceration is not a possibility, may be quite different depending upon individual case circumstances.

III. Distinguishing Between Civil and Criminal Contempt

Contempt is commonly understood as conduct that intentionally defies a court order, and which may be punishable by a fine or incarceration. The Supreme Court recognized a distinction between civil contempt and criminal contempt, which have different purposes and require different constitutional protections. Criminal contempt is punitive in nature, designed to punish a party for disobeying a court order. Defendants in criminal contempt cases are entitled to the protections of the Sixth and Fourteenth Amendments, including the right to counsel.

A civil contempt proceeding, on the other hand, is remedial and is designed to bring about compliance with the court order – "'to coerc[e] the defendant to do' what a court had previously ordered him to do."[8] Incarceration for civil contempt is conditional, and thus any sentence must include a purge clause under which the contemnor would be released upon compliance. As noted in *Turner*, under established Supreme Court principles, "[a] court may not impose punishment in a civil contempt proceeding when it is clearly established that the alleged contemnor is unable to comply with the terms of the order."[9] Because once the civil contempt is purged the contemnor is free to go, it is often said that the contemnor "carr[ies] the keys of [his] prison in [his] own pockets."[10]

In the child support context, it is conceivable that either proceeding may be warranted, but ability to pay commonly "marks a dividing line between civil and criminal contempt."[11] A finding of civil contempt for failure to pay support typically requires that an obligor has been subject to a support order, was able to comply with the order, and failed to do so. Although state statutes vary in setting forth the elements of civil contempt, many civil contempt statutes require that the underlying order was willfully, or

intentionally, violated. The *Turner* Court also suggested that an express finding that the obligor has the actual and present ability to comply with the court's purge order may be required prior to sentencing the contemnor. In other words, the obligor "must hold the key to the jailhouse door," whether it is satisfying a purge payment, participating in an employment or substance abuse treatment program, or other required actions.

IV. Using Civil Contempt in Child Support Cases in Which Ability to Pay is at Issue

A. Screening Cases Before Referring or Initiating Civil Contempt Proceedings that Can Lead to Incarceration

Turner highlights the importance of carefully screening cases prior to initiating contempt proceedings. Child support agencies should re-examine state and local policies and practices regarding civil contempt to ensure that obligors are afforded sufficient due process protections and that initiation of civil contempt proceedings is appropriate. This includes an assessment of the screening mechanism used by child support agencies before referring a case for prosecution or initiating or filing a request for an order to show cause or other contempt action that can lead to incarceration. Whether or not the state provides appointed counsel in civil contempt proceedings, effective screening to identify appropriate contempt actions will save child support program costs, preserve scarce judicial resources, avoid unnecessary court hearings, and avoid the risk of constitutional violations.

All IV-D programs are urged to screen cases before referring, initiating, or litigating any civil contempt action for non-payment of support that could lead to incarceration, regardless of the role of the IV-D program in the court action. Generally, a "show cause" or other contempt action should only be initiated in these cases where there is evidence of the noncustodial parent's ability to comply with the underlying child support order and evidence that there is actual and present ability to pay the purge amount ordered.

Agency screening procedures should include the following elements:

(1) cases should be individually reviewed;

(2) the individual review should include an assessment as to whether there is sufficient evidence of the obligor's ability to pay the underlying child support order at the time a payment was due and the obligor's actual and present ability to comply with the requested remedy in a civil contempt proceeding, i.e., pay the purge order amount, or participate in an employment program, or other required activities.

1. Cases Should Be Individually Reviewed

IV-D agencies are encouraged to consider the obligor's individual circumstances. Therefore, a screening process, whether automated or manual, that identifies a case for contempt proceedings based solely upon the obligor's failure to pay (e.g. a threshold amount or period of arrears) may often result in the state's inability to show willfulness. State laws may vary as to whether it is the obligor's primary burden to "show cause" why he or she should not be held in contempt, or whether the state must first present a *prima facie* ("on its face) case sufficient to warrant a finding of contempt. While states may use automation to identify such obligors who are *potentially* eligible for a civil contempt case, wherever possible the IV-D agency should also make an inquiry into the actual and present circumstances of the individual obligor before initiating contempt.

2. The Individual Review Should Examine Actual and Present Ability to Comply

The child support agencies should only pursue a civil contempt action leading to incarceration when there is: 1) *prima facie* evidence, or a good-faith basis to believe, that the obligor willfully violated the underlying child support order, *i.e.* the obligor had the ability to pay the order, but did not do so; and 2) the obligor has an actual and present ability to comply with the purge order. The purge amount may be the full amount of child support arrears, or a lesser amount, or a schedule of payments the noncustodial parent is required to make in order to pay the full amount of arrears. The fact that there are overdue payments on an existing support order should not, standing alone, usually be considered sufficient to result in an order of incarceration. Screening for actual and present ability to pay is especially important when the underlying support order amount is based on imputed income.

To the extent possible, the screening should be based upon current data or information. For example, IV-D programs could use data from the National Directory of New Hires or the State Directory of New Hires to ascertain whether the individual has any record of employment and income and Financial Institution Data Match (FIDM) information to ascertain whether the individual has available funds in any accounts in a financial institution (other than SSI or other needs-based income). Additionally, custodial parents may provide information on income or assets or circumstantial evidence of the obligor's income and assets may be available from other sources.

If the screening process reveals that the obligor does not have an appropriate support order based upon the obligor's ability to pay, the IV-D agency should conduct a review and adjustment of the order or provide information to the obligor about requesting review and adjustment upon proper notice to the parties.

B. Notice Should Be Provided to the Obligor that "Ability to Pay" is a Critical Issue in the Contempt Proceeding

The four criteria identified in the *Turner* case, though not necessarily sufficient to satisfy due process requirements where the custodial parent is represented or the state IV-D agency is involved in the case, provide insight into minimal due process protections that should be observed. The four criteria, taken together, may be sufficient in most circumstances, but states may also have additional or other protections that guarantee due process. States may use the *Turner* decision as a guide in determining the appropriate procedural safeguards necessary in IV-D civil contempt hearings. At a minimum, states should provide the noncustodial parent with specific notice about the hearing.

Notice that is sufficient to inform the obligor of the critical nature of the proceedings is the essential first criterion to assure due process. In *Turner*, the Supreme Court indicated that noncustodial parents charged with civil contempt must be given written notice that ability to pay will be a critical issue in the contempt proceeding. A IV-D agency should include this notice provision in its contempt process, for example, a statement that the court will consider evidence of inability to pay. Such a notice typically also includes an order to appear at a specific date, the amount of the claimed arrears, the dates during which the arrears accrued, and notice that a finding that the obligor willfully failed to pay support may lead to incarceration. The exact language should be clear, simple, and concise. Because this notice should be designed for obligors without legal representation, the notice should be written plainly and not use complicated legal language.

When providing the required notice, IV-D agencies may want to use this opportunity to provide information to, or elicit additional information from, the person charged with contempt. For example,

they may enclose forms designed to obtain current financial information, and to inform the obligor that he should bring specific information to the civil contempt hearing or that he may have an opportunity to submit financial information in advance of the hearing. IV-D agencies may want to consider implementing a face-to-face meeting or conference with the obligor in advance of scheduling a contempt hearing. Additionally, IV-D agencies may wish to provide information about legal resources available to the noncustodial parent, such as self-help centers, legal services programs or pro bono attorneys, or legal representation projects that provide assistance to noncustodial parents in child support matters.

Some child support agencies may be required to use a contempt notice approved by the court, including a standardized Order to Show Cause notice applicable to all types of cases, not just child support cases or matters where ability to pay is at issue. In these situations, the IV-D agency could lend its expertise in developing new forms specifically for child support civil contempt cases or assist in developing an addendum with specific notice provisions applicable to child support contempt proceedings that can be attached to the notice. For example, following the *Turner* decision, a number of child support agencies have worked closely with their judiciary or with their state or local Access to Justice Commissions to develop new notice materials and other appropriate procedural safeguards for unrepresented litigants.[12]

Turner did not address the questions of whether notice of the proceedings should be provided to custodial parents or whether they should have an opportunity to participate in such proceedings. State practices vary on the level and type of notice provided to custodial parents (who are frequently not a party to the proceeding). Nevertheless, states may wish to inform custodial parents of the civil contempt proceeding. For example, the custodial parent may have information on the noncustodial parent's ability to pay. Some local IV-D offices have had success in routinely involving both parents in an informal conference early in the case and thereafter.

C. Judicial Procedures Should Provide an Opportunity to Be Heard on the Issue of Ability to Pay and Result in Express Court Findings

The remaining three procedural safeguards — eliciting financial information on ability to pay, providing the noncustodial parent an opportunity to be heard, and requiring express court findings about the noncustodial parent's ability to pay the purge amount — fall within the responsibility of the court in conducting a hearing in a child support civil contempt case. (States with administrative hearings may not have the capability to order incarceration, and do not routinely rely on civil contempt proceedings to enforce child support.) Additional or alternative procedures may be constitutionally required where one side is represented, where the case involves state debt, or where the case is unusually complex in order to ensure a fundamentally fair process.

To expedite these proceedings, it may be useful for the state agency to provide the obligor with a form, or the equivalent, that can be used to elicit relevant financial information. The purpose of this form is to assist the judicial officer in obtaining necessary information to make a determination about the noncustodial parent's actual and present ability to pay a purge amount, or possibly order other measures, such as participation in a work or substance abuse program, to avoid incarceration.

Providing a form is a relatively easy and efficient method of collecting information that can complement automated data available to the child support program. Although *Turner* did not state what might be required in the form, child support agencies are in a unique position to assist the judiciary in identifying the type of information that is most useful, readily obtained and relevant in the child support context.

Courts are accustomed to eliciting information on financial status for purposes of determining whether a party is eligible for court fees to be waived or for appointed counsel, but this inquiry may not be as extensive, or appropriately tailored to assist the court in determining whether the obligor willfully failed to pay the underlying support order and the obligor's ability to pay the purge amount. A form may include, for example, questions about the noncustodial parent's expenses, employment information and specific questions about current income and assets. If the IV-D program uses forms in the civil contempt screening process, this information may be admissible at the contempt hearing. The form should be clear and easy for unrepresented obligors to understand and respond to.

In addition, basic due process requires that the alleged contemnor be provided an opportunity at the contempt hearing to respond to statements and questions about his or her financial status (e.g., those triggered by his/her responses on the form declaring financial assets). Having an opportunity to be heard is a foundation of due process. The civil contempt hearing should present an opportunity to fully develop a record. Research finds that noncustodial parents are more likely to comply with child support obligations when they perceive that the proceedings have been fair, they have been able to explain their circumstances and to be heard, and they have been treated respectfully.[13] In light of *Turner*, at the conclusion of the hearing, the court should make an express finding that the noncustodial parent has the ability to pay the purge amount ordered. To best serve families, courts should consider requiring that this finding be written and tailored to the facts of the individual case before the court. A determination that the noncustodial parent has the actual and present ability to pay or otherwise comply with the purge order should be based upon the individual circumstances of the obligor. Thus, in calculating a purge amount, states are discouraged from setting standardized purge amounts — such as a fixed dollar amount, a fixed percentage of arrears, or a fixed number of monthly payments — unrelated to actual, individual ability to pay. A purge amount that the noncustodial parent is ordered to pay in order to avoid incarceration should take into consideration the actual earnings and income as well as the subsistence needs of the noncustodial parent. In addition, purge amounts should be based upon a written evidentiary finding that the noncustodial parent has the actual means to pay the amount from his or her current income or assets.

In some cases, the result of the contempt review may be a determination by the IV-D agency that the underlying order was inappropriately established or is no longer justifiable. If the noncustodial parent fails to respond to a support petition, some states have a practice of imputing income, which may not result in a support order based upon ability to pay and, ultimately, may not be effective in collecting child support. Research shows that support orders based on imputed income often go unpaid because they are set beyond the ability of parents to pay them. For example, research consistently shows that orders set above 15 to 20 percent of a noncustodial parent's income results in lower compliance than more accurate orders that are based upon actual ability to pay.[14] There also is evidence that when orders are set too high, even partial compliance drops off.[15] The result is high uncollectible arrears balances that can provide a disincentive for obligors to maintain employment in the regular economy. Inaccurate support orders also can help fuel resentment toward the child support system and a sense of injustice that can decrease willingness to comply with the law.[16] The research supports the conclusion that accurate support orders that reflect a noncustodial parent's actual income are more likely to result in compliance with the order, make child support a more reliable source of income for children, and reduce uncollectible child support arrearages.[17]

V. Using Civil Contempt in Child Support Cases in Which Ability to Comply is at Issue

Some states or localities use the threat of contempt sanctions to direct noncustodial parents to participate in programs or activities that will improve their ability to reliably support their children, such as requiring participation in workforce programs, fatherhood programs, or substance abuse treatment programs. Research indicates that these kinds of programs and services can be successful in increasing child support payment and sustaining those increases for years.[18] In this context, the use of contempt proceedings may be a procedural mechanism to order a noncustodial parent to participate in programs or take advantage of other services as an alternative to incarceration.

These are also considered to be civil contempt actions because the obligor has the ability to comply with the contempt order (e.g. the ability to participate in a "jobs not jail" program or services offered by a problem-solving court), and thus "holds the key to the jailhouse door." In this context, ability to comply with the order may depend upon access to services (e.g. transportation, scheduling) or screening for any relevant disabilities.

More information on programs and services as an alternative to incarceration in civil contempt proceedings is provided in separate policy guidance.[19] These practices also include setting accurate orders based upon the noncustodial parent's actual ability to pay support, improving review and adjustment processes, developing debt management programs, and encouraging mediation and case conferencing to resolve child support issues. For example, establishing child support orders based on parents' ability to comply results in higher compliance and increased parental contact and communication with the child support agency. When parents are involved in setting orders and those orders are based on accurate information, they are more likely to avoid default orders and arrears, and thus less likely to be involved in civil contempt cases. Effective review and adjustment or modification of orders is also an important step in ensuring that noncustodial parents continue to comply with accurate orders based on actual ability to pay them.[20] Alternative dispute resolution, debt management, employment programs, and self-help resources[21] may also avoid the unnecessary build up of arrears and civil contempt actions.

Civil contempt that leads to incarceration is not, nor should it be, standard or routine child support practice. By implementing procedures to individually screen cases prior to initiating a civil contempt case and providing appropriate notice to alleged contemnors concerning the nature and purpose of the proceeding, child support programs will help ensure that inappropriate civil contempt cases will not be brought. By using *Turner* as a guidepost and urging the adoption of, at least, minimum safeguards in all such proceedings, this AT builds upon the innovations already incorporated into many child support programs over the past decade to limit the need for and use of civil contempt.

EFFECTIVE DATE: This action transmittal is effective immediately.

INQUIRIES: Please contact your ACF/OCSE Regional Program Manager if you have any questions.

Sincerely,

Vicki Turetsky
Commissioner
Office of Child Support Enforcement

Endnotes

[1] *Turner v. Rogers*, 564 U.S. ___, 131 S. Ct. 2507 (2011).

[2] Due process refers to the conduct of legal proceedings and the rules established to protect the rights of individuals, including notice and the right to a fair hearing.

[3] *Turner*, 131 S. Ct. at 2512.

[4] *Turner*, 131 S. Ct. at 2512. See S.C. Rule Family Ct. 24 (2011). This method of automatic judicial procedure appears to be unique among states.

[5] See 42 USC 466(a)(a)A) – state tax refund; 42 USC 466(a)(6) – requirement for noncustodial parent to post bond/security for payment; 42 USC 466(a)(7) – credit bureau reporting; 42 USC 466(a)(8)(B)(iv) – IWO; 42 USC 466(a)(14)(A)(ii)(II)(bb) – AEI; 42 USC 466(c) – Expedited Procedures; 45 CFR 303.5(g)(2)(iii) – Paternity establishment; 45 CFR 303.100(a)(6) – IWO; 45 CFR 303.101(c)(2) – Expedited Processes under 466(a)(2) and (c); 45 CFR 303.104(b) –Procedures for noncustodial parent posting bond/security.

[6] Karen Gardiner, *Administrative and Judicial Processes for Establishing Child Support Orders*, Lewin Group, 2002.

[7] See "**Establishing Realistic Child Support Orders: Engaging Noncustodial Parents (https://www.acf.hhs.gov/programs/css/resource/establishing-realistic-child-support-orders)**" OCSE fact sheet.

[8] *Turner*, 131 S. Ct. at 2516 (citing Gompers v. Bucks Stove and Range Co., 221 US 418, 442 (1911)).

[9] *Turner*, 131 S. Ct. at 2516 (quoting Hicks v. Feiock, 485 U. S. 624, 638, n. 9)

[10] *Turner*, 131 S. Ct. at 2516 (quoting Hicks v. Feiock, 485 U. S. 624 at 633).

[11] *Turner*, 131 S. Ct. at 2518, (quoting Hicks v. Feoick, 485 US 624, 635, n.7 (1988)).

[12] See **https://www.americanbar.org/groups/legal_aid_indigent_defendants/reso... (https://www.americanbar.org/groups/legal_aid_indigent_defendants/resource_center_for_access_to_justice/atj-commissions/).**

[13] Maureen Waller and Robert Plotnick, *Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research Journal of Policy Analysis and Management*, Vol. 20, No. 1, Winter, 2001; I-Fen Lin, *Perceived Fairness and Compliance with Child Support Obligations*, Institute for Research on Poverty, Discussion Paper no. 1150-97, 1997 (based on a sample of divorced parents in 1986 and 1988).

[14] Carl Formoso, *Determining the Composition and Collectability of Child Support Arrearages*. WA: Washington Department of Social and Health Services, Division of Child Support (2003); Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* CA, Orange County Child Support Services (2011); U.S. Department of Health and Human Services. Office of Inspector General. *The Establishment of Child Support Orders for Low Income Non-custodial Parents*, Washington, D.C.: U.S. Department of Health and Human Services. OEI-05-99-00390 (2000).

[15] Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* CA, Orange County Child Support Services (2011).

[16] Christy Visher and Shannon Courtney, *Cleveland Prisoners' Experience Returning Home*, Urban Institute, 2006, available at **http://www.urban.org/UploadedPDF/311359_cleveland_prisoners.pdf (http://www.urban.org/UploadedPDF/311359_cleveland_prisoners.pdf).**; Maureen Waller and Robert Plotnick, Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research Journal of Policy Analysis and Management, Vol. 20, No. 1, Winter, 2001.

[17] For further information, see the report, ***The Story Behind the Numbers: Understanding and Managing Child Support Debt*** **(https://www.acf.hhs.gov/programs/css/resource/story-behind-the-numbers-understanding-managing-child-support-debt)**, OCSE Study (2008).

[18] See, for example, Irma Perez-Johnson, Jacqueline Kauff, and Alan Hershey. 2003. *Giving Noncustodial Parents Options: Employment and Child Support Outcomes of the SHARE program*. NJ: Mathematica Policy Research (October). Irene Luckey and Lisa Potts. "Alternative to Incarceration for Low-Income Non-custodial Parents." *Child and Family Social Work*. (March) 2010: 1-11. Susan Gunsch. *PRIDE: Parental Responsibility Initiative for the Development of Employment.* Presented at Client Success Through Partnership: 2010 State TANF and Workforce Meeting. Dallas, Texas. July 2010. Pearson, Jessica, Lanae Davis, and Jane Venohr. 2011. *Parents to Work!* CO: Center for Policy Research (February). Daniel Richard and John Clark. "NEON program marks $10 million Milestone." *Child Support Report* 33:5 (May) 2011.

[19] These innovations are discussed further in Information Memorandum ***IM-12-01, Alternatives to Incarceration*** **(https://www.acf.hhs.gov/programs/css/resource/alternatives-to-incarceration).**

[20] See "**Providing Expedited Review and Modification Assistance (https://www.acf.hhs.gov/programs/css/resource/providing-expedited-review-and-modification-assistance)**" OCSE fact sheet.

[21] See "**Access to Justice Innovations (https://www.acf.hhs.gov/programs/css/resource/access-to-justice-innovations)**" OCSE fact sheet.

Last Reviewed: November 29, 2018

EXHIBIT B

Source:
U.S. Department of Justice
Civil Rights Division
Office for Access to Justice

Published: March 14, 2016

U.S. Department of Justice

Civil Rights Division

Office for Access to Justice

Washington, D.C. 20530

March 14, 2016

Dear Colleague:

The Department of Justice ("the Department") is committed to assisting state and local courts in their efforts to ensure equal justice and due process for all those who come before them. In December 2015, the Department convened a diverse group of stakeholders—judges, court administrators, lawmakers, prosecutors, defense attorneys, advocates, and impacted individuals—to discuss the assessment and enforcement of fines and fees in state and local courts. While the convening made plain that unlawful and harmful practices exist in certain jurisdictions throughout the country, it also highlighted a number of reform efforts underway by state leaders, judicial officers, and advocates, and underscored the commitment of all the participants to continue addressing these critical issues. At the meeting, participants and Department officials also discussed ways in which the Department could assist courts in their efforts to make needed changes. Among other recommendations, participants called on the Department to provide greater clarity to state and local courts regarding their legal obligations with respect to fines and fees and to share best practices. Accordingly, this letter is intended to address some of the most common practices that run afoul of the United States Constitution and/or other federal laws and to assist court leadership in ensuring that courts at every level of the justice system operate fairly and lawfully, as well as to suggest alternative practices that can address legitimate public safety needs while also protecting the rights of participants in the justice system.

Recent years have seen increased attention on the illegal enforcement of fines and fees in certain jurisdictions around the country—often with respect to individuals accused of misdemeanors, quasi-criminal ordinance violations, or civil infractions.[1] Typically, courts do not sentence defendants to incarceration in these cases; monetary fines are the norm. Yet the harm

[1] *See, e.g.*, Civil Rights Division, U.S. Department of Justice, *Investigation of the Ferguson Police Department* (Mar. 4, 2015), http://www.justice.gov/crt/about/spl/documents/ferguson_findings_3-4-15.pdf (finding that the Ferguson, Missouri, municipal court routinely deprived people of their constitutional rights to due process and equal protection and other federal protections); Brennan Center for Justice, *Criminal Justice Debt: A Barrier to Reentry* (2010), *available at* http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf (reporting on fine and fee practices in fifteen states); American Civil Liberties Union, *In for a Penny: The Rise of America's New Debtors' Prisons* (2010), *available at* https://www.aclu.org/files/assets/InForAPenny_web.pdf (discussing practices in Louisiana, Michigan, Ohio, Georgia, and Washington state).

caused by unlawful practices in these jurisdictions can be profound. Individuals may confront escalating debt; face repeated, unnecessary incarceration for nonpayment despite posing no danger to the community[2]; lose their jobs; and become trapped in cycles of poverty that can be nearly impossible to escape.[3] Furthermore, in addition to being unlawful, to the extent that these practices are geared not toward addressing public safety, but rather toward raising revenue, they can cast doubt on the impartiality of the tribunal and erode trust between local governments and their constituents.[4]

To help judicial actors protect individuals' rights and avoid unnecessary harm, we discuss below a set of basic constitutional principles relevant to the enforcement of fines and fees. These principles, grounded in the rights to due process and equal protection, require the following:

(1) Courts must not incarcerate a person for nonpayment of fines or fees without first conducting an indigency determination and establishing that the failure to pay was willful;

(2) Courts must consider alternatives to incarceration for indigent defendants unable to pay fines and fees;

(3) Courts must not condition access to a judicial hearing on the prepayment of fines or fees;

(4) Courts must provide meaningful notice and, in appropriate cases, counsel, when enforcing fines and fees;

(5) Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections;

(6) Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release; and

(7) Courts must safeguard against unconstitutional practices by court staff and private contractors.

In court systems receiving federal funds, these practices may also violate Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, when they unnecessarily impose disparate harm on the basis of race or national origin.

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[2] Nothing in this letter is intended to suggest that courts may not preventively detain a defendant pretrial in order to secure the safety of the public or appearance of the defendant.

[3] *See* Council of Economic Advisers, Issue Brief, *Fines, Fees, and Bail: Payments in the Criminal Justice System that Disproportionately Impact the Poor*, at 1 (Dec. 2015), *available at* https://www.whitehouse.gov/sites/default/files/page/files/1215_cea_fine_fee_bail_issue_brief.pdf (describing the disproportionate impact on the poor of fixed monetary penalties, which "can lead to high levels of debt and even incarceration for failure to fulfil a payment" and create "barriers to successful re-entry after an offense").

[4] *See* Conference of State Court Administrators, 2011-2012 Policy Paper, *Courts Are Not Revenue Centers* (2012), *available at* https://csgjusticecenter.org/wp-content/uploads/2013/07/2011-12-COSCA-report.pdf.

As court leaders, your guidance on these issues is critical. We urge you to review court rules and procedures within your jurisdiction to ensure that they comply with due process, equal protection, and sound public policy. We also encourage you to forward a copy of this letter to every judge in your jurisdiction; to provide appropriate training for judges in the areas discussed below; and to develop resources, such as bench books, to assist judges in performing their duties lawfully and effectively. We also hope that you will work with the Justice Department, going forward, to continue to develop and share solutions for implementing and adhering to these principles.

1. Courts must not incarcerate a person for nonpayment of fines or fees without first conducting an indigency determination and establishing that the failure to pay was willful.

The due process and equal protection principles of the Fourteenth Amendment prohibit "punishing a person for his poverty." *Bearden v. Georgia*, 461 U.S. 660, 671 (1983). Accordingly, the Supreme Court has repeatedly held that the government may not incarcerate an individual solely because of inability to pay a fine or fee. In *Bearden*, the Court prohibited the incarceration of indigent probationers for failing to pay a fine because "[t]o do otherwise would deprive the probationer of his conditional freedom simply because, through no fault of his own, he cannot pay the fine. Such a deprivation would be contrary to the fundamental fairness required by the Fourteenth Amendment." *Id.* at 672-73; *see also Tate v. Short*, 401 U.S. 395, 398 (1971) (holding that state could not convert defendant's unpaid fine for a fine-only offense to incarceration because that would subject him "to imprisonment solely because of his indigency"); *Williams v. Illinois*, 399 U.S. 235, 241-42 (1970) (holding that an indigent defendant could not be imprisoned longer than the statutory maximum for failing to pay his fine). The Supreme Court recently reaffirmed this principle in *Turner v. Rogers*, 131 S. Ct. 2507 (2011), holding that a court violates due process when it finds a parent in civil contempt and jails the parent for failure to pay child support, without first inquiring into the parent's ability to pay. *Id.* at 2518-19.

To comply with this constitutional guarantee, state and local courts must inquire as to a person's ability to pay prior to imposing incarceration for nonpayment. Courts have an affirmative duty to conduct these inquiries and should do so sua sponte. *Bearden*, 461 U.S. at 671. Further, a court's obligation to conduct indigency inquiries endures throughout the life of a case. *See id.* at 662-63. A probationer may lose her job or suddenly require expensive medical care, leaving her in precarious financial circumstances. For that reason, a missed payment cannot itself be sufficient to trigger a person's arrest or detention unless the court first inquires anew into the reasons for the person's non-payment and determines that it was willful. In addition, to minimize these problems, courts should inquire into ability to pay at sentencing, when contemplating the assessment of fines and fees, rather than waiting until a person fails to pay.

Under *Bearden*, standards for indigency inquiries must ensure fair and accurate assessments of defendants' ability to pay. Due process requires that such standards include both notice to the defendant that ability to pay is a critical issue, and a meaningful opportunity for the defendant to be heard on the question of his or her financial circumstances. *See Turner*, 131 S. Ct. at 2519-20 (requiring courts to follow these specific procedures, and others, to prevent unrepresented parties from being jailed because of financial incapacity). Jurisdictions may benefit from creating statutory presumptions of indigency for certain classes of defendants—for example, those eligible for public benefits, living below a certain income level, or serving a term of confinement. *See, e.g.*, R.I. Gen. Laws § 12-20-10 (listing conditions considered "prima facie evidence of the defendant's indigency and limited ability to pay," including but not limited to "[q]ualification for and/or receipt of" public assistance, disability insurance, and food stamps).

2. Courts must consider alternatives to incarceration for indigent defendants unable to pay fines and fees.

When individuals of limited means cannot satisfy their financial obligations, *Bearden* requires consideration of "alternatives to imprisonment." 461 U.S. at 672. These alternatives may include extending the time for payment, reducing the debt, requiring the defendant to attend traffic or public safety classes, or imposing community service. *See id.* Recognizing this constitutional imperative, some jurisdictions have codified alternatives to incarceration in state law. *See, e.g.*, Ga. Code Ann. § 42-8-102(f)(4)(A) (2015) (providing that for "failure to report to probation or failure to pay fines, statutory surcharges, or probation supervision fees, the court shall consider the use of alternatives to confinement, including community service"); *see also Tate*, 401 U.S. at 400 n.5 (discussing effectiveness of fine payment plans and citing examples from several states). In some cases, it will be immediately apparent that a person is not and will not likely become able to pay a monetary fine. Therefore, courts should consider providing alternatives to indigent defendants not only after a failure to pay, but also in lieu of imposing financial obligations in the first place.

Neither community service programs nor payment plans, however, should become a means to impose greater penalties on the poor by, for example, imposing onerous user fees or interest. With respect to community service programs, court officials should consider delineating clear and consistent standards that allow individuals adequate time to complete the service and avoid creating unreasonable conflicts with individuals' work and family obligations. In imposing payment plans, courts should consider assessing the defendant's financial resources to determine a reasonable periodic payment, and should consider including a mechanism for defendants to seek a reduction in their monthly obligation if their financial circumstances change.

3. Courts must not condition access to a judicial hearing on prepayment of fines or fees.

State and local courts deprive indigent defendants of due process and equal protection if they condition access to the courts on payment of fines or fees. *See Boddie v. Connecticut*, 401 U.S. 371, 374 (1971) (holding that due process bars states from conditioning access to

compulsory judicial process on the payment of court fees by those unable to pay); *see also Tucker v. City of Montgomery Bd. of Comm'rs*, 410 F. Supp. 494, 502 (M.D. Ala. 1976) (holding that the conditioning of an appeal on payment of a bond violates indigent prisoners' equal protection rights and "'has no place in our heritage of Equal Justice Under Law'" (citing *Burns v. Ohio*, 360 U.S. 252, 258 (1959)).[5]

This unconstitutional practice is often framed as a routine administrative matter. For example, a motorist who is arrested for driving with a suspended license may be told that the penalty for the citation is $300 and that a court date will be scheduled only upon the completion of a $300 payment (sometimes referred to as a prehearing "bond" or "bail" payment). Courts most commonly impose these prepayment requirements on defendants who have failed to appear, depriving those defendants of the opportunity to establish good cause for missing court. Regardless of the charge, these requirements can have the effect of denying access to justice to the poor.

4. Courts must provide meaningful notice and, in appropriate cases, counsel, when enforcing fines and fees.

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314-15 (1950); *see also Turner*, 131 S. Ct. at 2519 (discussing the importance of notice in proceedings to enforce a child support order). Thus, constitutionally adequate notice must be provided for even the most minor cases. Courts should ensure that citations and summonses adequately inform individuals of the precise charges against them, the amount owed or other possible penalties, the date of their court hearing, the availability of alternate means of payment, the rules and procedures of court, their rights as a litigant, or whether in-person appearance is required at all. Gaps in this vital information can make it difficult, if not impossible, for defendants to fairly and expeditiously resolve their cases. And inadequate notice can have a cascading effect, resulting in the defendant's failure to appear and leading to the imposition of significant penalties in violation of the defendant's due process rights.

Further, courts must ensure defendants' right to counsel in appropriate cases when enforcing fines and fees. Failing to appear or to pay outstanding fines or fees can result in incarceration, whether through the pursuit of criminal charges or criminal contempt, the imposition of a sentence that had been suspended, or the pursuit of civil contempt proceedings. The Sixth Amendment requires that a defendant be provided the right to counsel in any criminal proceeding resulting in incarceration, *see Scott v. Illinois*, 440 U.S. 367, 373 (1979); *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972), and indeed forbids imposition of a suspended jail sentence on a probationer who was not afforded a right to counsel when originally convicted and sentenced,

[5] The Supreme Court reaffirmed this principle in *Little v. Streater*, 452 U.S. 1, 16-17 (1981), when it prohibited conditioning indigent persons' access to blood tests in adversarial paternity actions on payment of a fee, and in *M.L.B. v. S.L.J.*, 519 U.S. 102, 107 (1996), when it prohibited charging filing fees to indigent persons seeking to appeal from proceedings terminating their parental rights.

see Alabama v. Shelton, 535 U.S. 654, 662 (2002). Under the Fourteenth Amendment, defendants likewise may be entitled to counsel in civil contempt proceedings for failure to pay fines or fees. *See Turner*, 131 S. Ct. at 2518-19 (holding that, although there is no automatic right to counsel in civil contempt proceedings for nonpayment of child support, due process is violated when neither counsel nor adequate alternative procedural safeguards are provided to prevent incarceration for inability to pay).[6]

5. Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections.

The use of arrest warrants as a means of debt collection, rather than in response to public safety needs, creates unnecessary risk that individuals' constitutional rights will be violated. Warrants must not be issued for failure to pay without providing adequate notice to a defendant, a hearing where the defendant's ability to pay is assessed, and other basic procedural protections. *See Turner*, 131 S. Ct. at 2519; *Bearden*, 461 U.S. at 671-72; *Mullane*, 339 U.S. at 314-15. When people are arrested and detained on these warrants, the result is an unconstitutional deprivation of liberty. Rather than arrest and incarceration, courts should consider less harmful and less costly means of collecting justifiable debts, including civil debt collection.[7]

In many jurisdictions, courts are also authorized—and in some cases required—to initiate the suspension of a defendant's driver's license to compel the payment of outstanding court debts. If a defendant's driver's license is suspended because of failure to pay a fine, such a suspension may be unlawful if the defendant was deprived of his due process right to establish inability to pay. *See Bell v. Burson*, 402 U.S. 535, 539 (1971) (holding that driver's licenses "may become essential in the pursuit of a livelihood" and thus "are not to be taken away without that procedural due process required by the Fourteenth Amendment"); *cf. Dixon v. Love*, 431 U.S. 105, 113-14 (1977) (upholding revocation of driver's license after conviction based in part on the due process provided in the underlying criminal proceedings); *Mackey v. Montrym*, 443 U.S. 1, 13-17 (1979) (upholding suspension of driver's license after arrest for driving under the influence and refusal to take a breath-analysis test, because suspension "substantially served" the government's interest in public safety and was based on "objective facts either within the personal knowledge of an impartial government official or readily ascertainable by him," making the risk of erroneous deprivation low). Accordingly, automatic license suspensions premised on determinations that fail to comport with *Bearden* and its progeny may violate due process.

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[6] *Turner*'s ruling that the right to counsel is not automatic was limited to contempt proceedings arising from failure to pay child support to a custodial parent who is unrepresented by counsel. *See* 131 S. Ct. at 2512, 2519. The Court explained that recognizing such an automatic right in that context "could create an asymmetry of representation." *Id.* at 2519. The Court distinguished those circumstances from civil contempt proceedings to recover funds due to the government, which "more closely resemble debt-collection proceedings" in which "[t]he government is likely to have counsel or some other competent representative." *Id.* at 2520.

[7] Researchers have questioned whether the use of police and jail resources to coerce the payment of court debts is cost-effective. *See, e.g.*, Katherine Beckett & Alexes Harris, *On Cash and Conviction: Monetary Sanctions as Misguided Policy*, 10 CRIMINOLOGY & PUB. POL'Y 505, 527-28 (2011). This strategy may also undermine public safety by diverting police resources and stimulating public distrust of law enforcement.

Even where such suspensions are lawful, they nonetheless raise significant public policy concerns. Research has consistently found that having a valid driver's license can be crucial to individuals' ability to maintain a job, pursue educational opportunities, and care for families.[8] At the same time, suspending defendants' licenses decreases the likelihood that defendants will resolve pending cases and outstanding court debts, both by jeopardizing their employment and by making it more difficult to travel to court, and results in more unlicensed driving. For these reasons, where they have discretion to do so, state and local courts are encouraged to avoid suspending driver's licenses as a debt collection tool, reserving suspension for cases in which it would increase public safety.[9]

6. Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release.

When indigent defendants are arrested for failure to make payments they cannot afford, they can be subjected to another independent violation of their rights: prolonged detention due to unlawful bail or bond practices. Bail that is set without regard to defendants' financial capacity can result in the incarceration of individuals not because they pose a threat to public safety or a flight risk, but rather because they cannot afford the assigned bail amount.

As the Department of Justice set forth in detail in a federal court brief last year, and as courts have long recognized, any bail practices that result in incarceration based on poverty violate the Fourteenth Amendment. *See* Statement of Interest of the United States, *Varden v. City of Clanton*, No. 2:15-cv-34-MHT-WC, at 8 (M.D. Ala., Feb. 13, 2015) (citing *Bearden*, 461 U.S. at 671; *Tate*, 401 U.S. at 398; *Williams*, 399 U.S. at 240-41).[10] Systems that rely primarily on secured monetary bonds without adequate consideration of defendants' financial means tend to result in the incarceration of poor defendants who pose no threat to public safety solely because they cannot afford to pay.[11] To better protect constitutional rights while ensuring defendants' appearance in court and the safety of the community, courts should consider transitioning from a system based on secured monetary bail alone to one grounded in objective risk assessments by pretrial experts. *See*, *e.g.*, D.C. Code § 23-1321 (2014); Colo. Rev. Stat. 16-

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[8] *See*, *e.g.*, Robert Cervero, et al., *Transportation as a Stimulus of Welfare-to-Work: Private versus Public Mobility*, 22 J. PLAN. EDUC. & RES. 50 (2002); Alan M. Voorhees, et al., *Motor Vehicles Affordability and Fairness Task Force: Final Report*, at xii (2006), *available at* http://www.state.nj.us/mvc/pdf/About/AFTF_final_02.pdf (a study of suspended drivers in New Jersey, which found that 42% of people lost their jobs as a result of the driver's license suspension, that 45% of those could not find another job, and that this had the greatest impact on seniors and low-income individuals).

[9] *See* Am. Ass'n of Motor Veh. Adm'rs, *Best Practices Guide to Reducing Suspended Drivers*, at 3 (2013), *available at* http://www.aamva.org/WorkArea/linkit.aspx?LinkIdentifier=id&ItemID=3723&libID=3709 (recommending that "legislatures repeal state laws requiring the suspension of driving privileges for non-highway safety related violations" and citing research supporting view that fewer driver suspensions for non-compliance with court requirements would increase public safety).

[10] The United States' Statement of Interest in *Varden* is available at http://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/02/13/varden statement_ of_interest.pdf.

[11] *See supra* Statement of the United States, *Varden*, at 11 (citing Timothy R. Schnacke, U.S. Department of Justice, National Institute of Corrections, FUNDAMENTALS OF BAIL: A RESOURCE GUIDE FOR PRETRIAL PRACTITIONERS AND A FRAMEWORK FOR AMERICAN PRETRIAL REFORM, at 2 (2014), *available at* http://nicic.gov/library/028360).

4-104 (2014); Ky. Rev. Stat. Ann. § 431.066 (2015); N.J. S. 946/A1910 (enacted 2015); *see also* 18 U.S.C. § 3142 (permitting pretrial detention in the federal system when no conditions will reasonably assure the appearance of the defendant and safety of the community, but cautioning that "[t]he judicial officer may not impose a financial condition that results in the pretrial detention of the person").

7. Courts must safeguard against unconstitutional practices by court staff and private contractors.

In many courts, especially those adjudicating strictly minor or local offenses, the judge or magistrate may preside for only a few hours or days per week, while most of the business of the court is conducted by clerks or probation officers outside of court sessions. As a result, clerks and other court staff are sometimes tasked with conducting indigency inquiries, determining bond amounts, issuing arrest warrants, and other critical functions—often with only perfunctory review by a judicial officer, or no review at all. Without adequate judicial oversight, there is no reliable means of ensuring that these tasks are performed consistent with due process and equal protection. Regardless of the size of the docket or the limited hours of the court, judges must ensure that the law is followed and preserve "both the appearance and reality of fairness, generating the feeling, so important to a popular government, that justice has been done." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980) (internal quotation marks omitted); *see also* American Bar Association, MODEL CODE OF JUDICIAL CONDUCT, Canon 2, Rules 2.2, 2.5, 2.12.

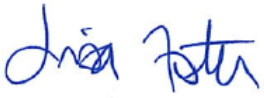
Additional due process concerns arise when these designees have a direct pecuniary interest in the management or outcome of a case—for example, when a jurisdiction employs private, for-profit companies to supervise probationers. In many such jurisdictions, probation companies are authorized not only to collect court fines, but also to impose an array of discretionary surcharges (such as supervision fees, late fees, drug testing fees, etc.) to be paid to the company itself rather than to the court. Thus, the probation company that decides what services or sanctions to impose stands to profit from those very decisions. The Supreme Court has "always been sensitive to the possibility that important actors in the criminal justice system may be influenced by factors that threaten to compromise the performance of their duty." *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 810 (1987). It has expressly prohibited arrangements in which the judge might have a pecuniary interest, direct or indirect, in the outcome of a case. *See Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (invalidating conviction on the basis of $12 fee paid to the mayor only upon conviction in mayor's court); *Ward v. Village of Monroeville, Ohio*, 409 U.S. 57, 61-62 (1972) (extending reasoning of *Tumey* to cases in which the judge has a clear but not direct interest). It has applied the same reasoning to prosecutors, holding that the appointment of a private prosecutor with a pecuniary interest in the outcome of a case constitutes fundamental error because it "undermines confidence in the integrity of the criminal proceeding." *Young*, 481 U.S. at 811-14. The appointment of a private probation company with a pecuniary interest in the outcome of its cases raises similarly fundamental concerns about fairness and due process.

* * * * *

The Department of Justice has a strong interest in ensuring that state and local courts provide every individual with the basic protections guaranteed by the Constitution and other federal laws, regardless of his or her financial means. We are eager to build on the December 2015 convening about these issues by supporting your efforts at the state and local levels, and we look forward to working collaboratively with all stakeholders to ensure that every part of our justice system provides equal justice and due process.

Sincerely,

Vanita Gupta
Principal Deputy Assistant Attorney General
Civil Rights Division



Lisa Foster
Director
Office for Access to Justice

EXHIBIT C

Source:

Office of Child Support Enforcement | ACF

Justice Department Announces Resources to Reform Practices

DCL-16-05

Published: March 21, 2016

Justice Department Announces Resources to Reform Practices

DCL-16-05

Published: March 21, 2016

DEAR COLLEAGUE LETTER

DCL-16-05

DATE: March 21, 2016

TO: ALL STATE AND TRIBAL IV-D DIRECTORS

RE: Justice Department Announces Resources to Reform Practices

Dear Colleague:

On March 14, 2016, the U.S. Department of Justice (DOJ) issued a Dear Colleague letter to state and local courts that announced a package of resources to assist state and local efforts to reform practices for assessment of ability to pay as part of enforcement efforts to collect fees and fines, as well as child support. See **https://www.justice.gov/opa/pr/justice-department-announces-resources-assist-state-and-local-reform-fine-and-fee-practices (https://www.justice.gov/opa/pr/justice-department-announces-resources-assist-state-and-local-reform-fine-and-fee-practices).** The resources are meant to support ongoing work of judges, courts, policymakers, program administrators, and advocates in ensuring justice for all people, regardless of financial circumstances.

One purpose of the DOJ letter is to address "some of the most common practices that run afoul of the United States Constitution and other federal laws and to assist court leadership in ensuring that courts at every level of the justice system operate fairly and lawfully." These laws include title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, for court systems receiving federal funds. The letter also suggests alternative practices that courts can use.

Of particular interest to the child support community is DOJ's discussion in the letter related to incarceration for nonpayment when ability to pay is at issue. Citing *Turner v. Rogers*, 131 S. Ct. 2507 (2011), and other case law, the letter states that courts may not incarcerate a person for nonpayment of fees and fines without first conducting an indigency determination and establishing that the failure to pay was willful. In addition, courts must consider alternatives to incarceration for indigent defendants who are unable to pay.

The letter provides that courts also must provide meaningful notice and, in appropriate cases, counsel, when enforcing fines and fees, and must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate

procedural protections. "Under the Fourteenth Amendment, defendants likewise may be entitled to counsel in civil contempt proceedings for failure to pay fines or fees. See *Turner*, 131 S. Ct. at 2518-19 (holding that, although there is no automatic right to counsel in civil contempt proceedings for nonpayment of child support, due process is violated when neither counsel nor adequate alternative procedural safeguards are provided to prevent incarceration for inability to pay)."

OCSE's **Action Transmittal 12-01** **(https://www.acf.hhs.gov/programs/css/resource/turner-v-rogers-guidance)** provides clarity to courts regarding their legal duty to inquire about a parent's ability to pay prior to incarceration for nonpayment, which specifically refers to the *Turner v. Rogers* ruling. "Civil contempt that leads to incarceration is not, nor should it be, standard or routine child support practice. By implementing procedures to individually screen cases prior to initiating a civil contempt case and providing appropriate notice to alleged contemnors concerning the nature and purpose of the proceeding, child support programs will help ensure that inappropriate civil contempt cases will not be brought. By using *Turner* as a guidepost and urging the adoption of, at least, minimum safeguards in all such proceedings, this [AT-12-01] builds upon the innovations already incorporated into many child support programs over the past decade to limit the need for and use of civil contempt." In addition, OCSE **Information Memorandum 12-01** **(https://www.acf.hhs.gov/programs/css/resource/alternatives-to-incarceration)** suggests that states incorporate alternatives to incarceration in their program.

I hope that this information is helpful to you and your judicial partners in ensuring due process and equal protection to litigants in your caseload.

Sincerely,

Vicki Turetsky
Commissioner
Office of Child Support Enforcement

Last Reviewed: May 13, 2019

EXHIBIT D

The Final Rule

Source:

National Conference Of State Legislatures

and

Office of Child Support Enforcement | ACF

Multiple Publications

Full Overview Information on The Final Rule

NCSL

Child Support and Incarceration

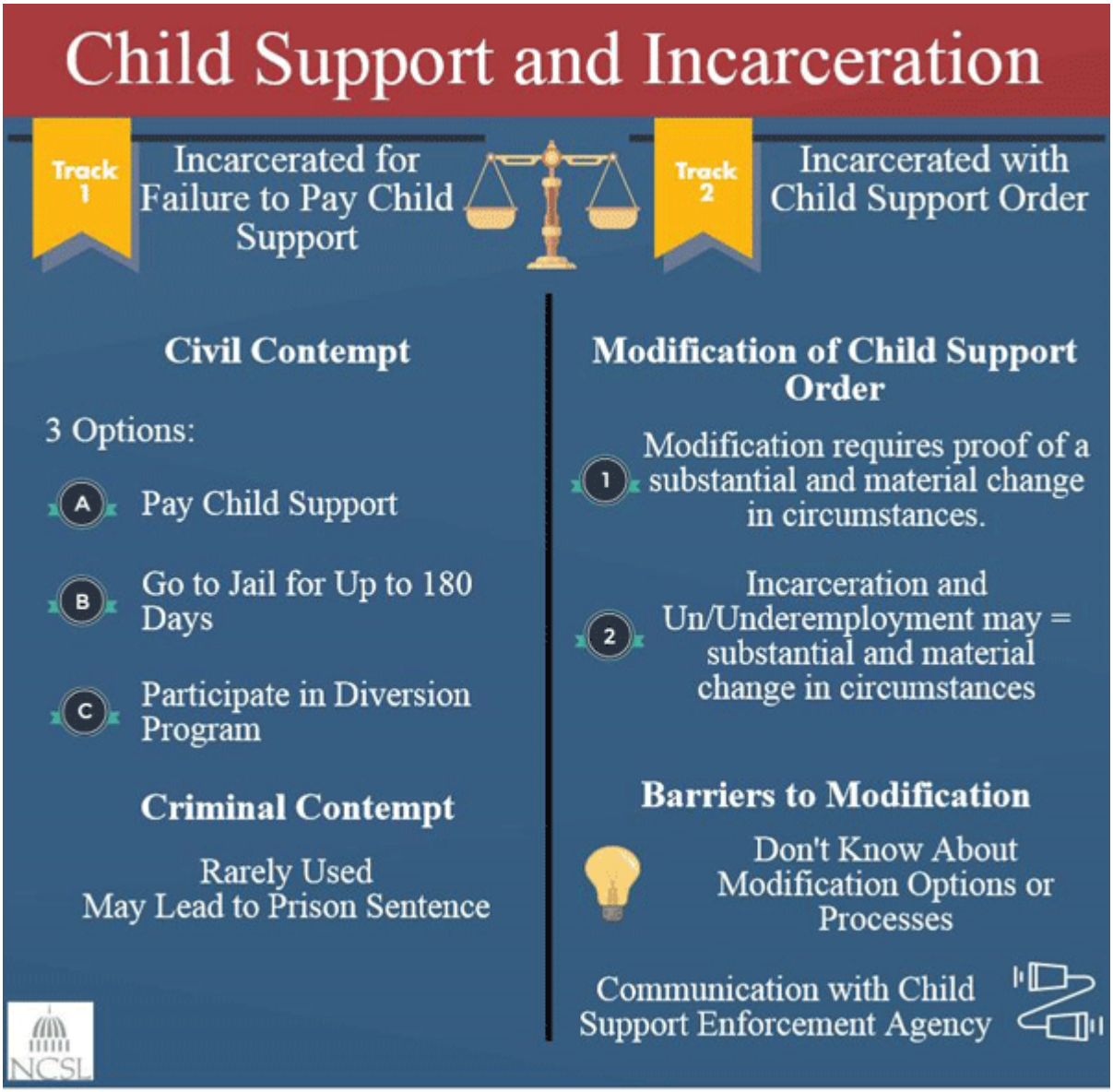
3/4/2019

There are two primary ways by which noncustodial parents with child support orders may intersect with the criminal justice system.

On one path, the noncustodial parent is not in compliance with a child support obligation and that noncompliance may lead to incarceration (short-term, primarily in local jails) as a result of either a civil contempt or criminal non-support action taken by the state.

The other way is for noncustodial parents who are incarcerated for a criminal offense and have a current or delinquent child support obligation. The incarceration is not related to child support and they may be incarcerated for longer periods of time in a state or federal prison. While child support isn't the reason for incarceration for these parents, the ongoing child support obligation has repercussions for their confinement, release and re-entry.

As of Dec. 31, 2017 there were approximately 1.49 million people in federal and state prison. More than 50 percent of those inmates have one or more child under the age of 18, leaving an estimated 2.7 million children with a parent incarcerated. In addition, a 2003 study estimated that one quarter of inmates in prisons had a child support case. Based on current prison populations, this suggests that approximately 400,000 inmates have a child support case.



What the federal and state prison numbers do not capture are the numbers of noncustodial parents who are incarcerated in local jails for failure to pay child support. The Bureau of Justice Statistics estimated that more than 730,000 individuals were incarcerated in local jails in 2013, but what's unknown is how many of those inmates were incarcerated due to child support noncompliance. A 2009 study in South Carolina found that 13.2 percent of county jail inmates were behind bars for civil contempt related to nonpayment of child support.

There is a great deal that state child support programs are currently doing to reduce the use of incarceration for child support noncompliance. The most widely developed efforts are focused on removing barriers to employment that are faced by low income and/or formerly incarcerated parents. The potential financial benefits of diverting nonpaying parents from jail into employment programs, to the family and the community at large, are significant.

The distinction between those noncustodial parents who are incarcerated for failure to pay child support and those who are incarcerated for a separate criminal offense who also have child support orders is an important one. The available approaches to improving child support compliance and

encouraging ongoing, consistent child support payments within these populations are very different, particularly considering the reasons for and potential length of the incarceration. Below is a further discussion of this distinction as well as the varying policy options to address the needs of both populations.

New Federal Rule on Child Support

In addition, on Dec. 20, 2016, the Office of Child Support Enforcement (OCSE) published final rules updating the rules regarding child support enforcement. The rule is intended to increase the effectiveness of the child support program for all families, and provide for more flexibility in state child support programs. In an effort to accommodate the ever-changing world of technology, the rule also helps remove barriers to outdated systems to improve efficiency and simplify the process of collecting and distributing child support. While the new rule provisions are, for the most part, optional and will not require state legislation in most states, they do provide an opportunity for state legislators to clarify and shore up various child support enforcement laws.

The rule specifically addresses incarcerated noncustodial parents and incarceration for failure to pay child support, as well as modification procedures for incarcerated noncustodial parents. The major provisions of the rule regarding incarcerated noncustodial parents are:

- **Incarceration for Failure to Pay Child Support**: the rule requires states to implement due process safeguards from the Supreme Court case *Turner v. Rogers*. The rule addresses the use of civil contempt in child support cases and seeks to reflect the ruling of the U.S. Supreme Court in the 2011 case, *Turner v. Rogers*, which provided guidance on the factors to be considered when determining which cases should be referred to the court for civil contempt, including a determination of the noncustodial parent's ability to pay.
- **Incarcerated with a Child Support Order:** the rule ensures the right of all parents to seek a review of their order when their circumstances change. While these provisions apply to all parties involved, they specifically address incarcerated noncustodial parents and their ability to have the child support order reviewed and potentially modified while they are incarcerated. The rule prohibits states from treating incarceration as voluntary unemployment for purposes of modifying a child support order. Currently 36 states and D.C. treat incarceration as involuntary unemployment.

The final rule made significant changes to the child support program to improve efficiency and flexibility in states. For more about the final rule, visit the Federal Office of Child Support Enforcement's Final Rule Resources webpage and NCSL's Office of Child Support Enforcement (OCSE) Final Rules Governing Child Support Enforcement Programs page for a rule summary.

Incarceration for Failure to Pay Child Support

Noncustodial parents may face incarceration for failure to pay child support through civil contempt or criminal nonsupport. Civil contempt is used more commonly than criminal contempt and the sentence is typically less severe and for a shorter length of time. Many states, recognizing that no support can be paid when a noncustodial parent is incarcerated, have established programs to

encourage full compliance with child support orders, both before and as a part of the civil contempt process. These programs include examining child support orders to reflect realistic amounts given the individual's circumstances and diversion programs to reduce incarceration rates and increase child support payments.

Criminal Nonsupport

All 50 states have processes for criminal prosecution for failure to pay child support, however, this more severe punishment is very rarely meted out. These laws generally make criminal nonsupport a felony or misdemeanor. The fines and potential prison sentences, as well as the delinquent threshold amount in order for criminal prosecution to be triggered, vary state by state.

See NCSL's Criminal Nonsupport and Child Support page for details on each states' statute.

Civil Contempt

Every state has a procedure for civil contempt that may be used for violations of various court orders. Civil contempt is designed to incentivize the defendant, or obligor in the case of child support, to comply with the court order. While incarceration is certainly an option when a child support obligor is noncompliant, civil contempt is not intended to punish the defendant, rather, it is intended to prompt compliance with the court's order.

Federal law, according to U.S. Supreme Court case *Turner v. Rogers*, requires that civil contempt only be used when the noncustodial parent has the ability to pay and is willfully avoiding paying. State policies and practices vary in regards to how this limitation is implemented by the state child support agency. With noncustodial parents who are simply unable to pay their child support obligation, diversion or employment programs could have a significant impact in improving the likelihood of payment. The new federal rule, discussed above, seeks to shore up the due process requirements from *Turner v. Rogers*, by providing guidance on the factors to be considered when determining which cases should be referred to the court for civil contempt, including a determination of the noncustodial parent's ability to pay.

Some may see diversion or employment programs as letting the delinquent obligor off the hook, however, parents are generally ordered into these programs by the courts and may still face a period of incarceration for failing to follow the rules of the diversion program. For example, Georgia enacted house bill 310 during the 2015 legislative session to allow for a county diversion program for delinquent obligors who are in contempt of court. There are rules of the diversion program and "If the respondent fails to comply with any of the requirements…nothing shall prevent the sentencing judge from revoking such assignment to a diversion program and providing for alternative methods of incarceration."

Diversion programs may reduce the number of non-custodial parents in jail, as well as increase the receipt of child support, reduce reliance on public assistance and save money from the reduced jail population. (See below for a discussion of state diversion programs). The federal Office of Child Support Enforcement also has an infographic comparing job services to jail.

The majority of states use civil contempt to enforce child support orders, though limited data is available on how often it is used and the costs associated with subsequent incarceration.

State Programs

State Diversion Programs

In addition to the legislation described above, Georgia has a series of problem solving courts, also called Parental Accountability Courts, which seek to remove barriers to non-payment of child support, such as unemployment, substance abuse, low level education. The overarching goal of these courts is to keep people out of jail for failing to pay child support, and to obtain support payments.

2015 Georgia HB 310: Creates a diversion center for child support obligors who have been sentenced for contempt of court for failure to pay child support. Allows people in the diversion program to travel to and from his or her place of employment and to continue his or her occupation. Details the requirements of traveling while in the diversion program. Requires the obligor to remain in the diversion center for the duration of the sentence, with the exception of traveling to and from work. Requires the obligor to pay alimony or child support as previously ordered, including arrears. Allows the obligor to participate in educational or counseling programs offered at the diversion center. Any additional funds that are available will go towards reimbursing the center for the cost (not to exceed $30 per day) of maintaining the obligor. Allows for alternative methods of incarceration if the obligor does not comply with the detailed requirements.

2015 Louisiana HCR 175: Urges and requests that the Department of Public Safety and Corrections make recommendations for the development of a work release program which would be suited for individuals convicted of offenses involving the failure to pay child support in order to facilitate employment and the fulfillment of child support obligations, and make recommendations to the Louisiana Legislature prior to the convening of the 2016 Regular Session.

Texas NCP Choices Program is a court diversion program that assists unemployed or underemployed noncustodial parents find and maintain employment. Program participants must spend 30 hours a week looking for a job, meet with the Workforce Counselor every week until employment is found, attend all court hearings and program appointments, comply with the child support order and stay in communication with their Workforce Counselor monthly following employment.

A 2011 report on the impact of the NCP Choices Program showed the following results:

- Participants paid $57 more child support 47 percent more often, showing a 51 percent increase in total collections. These results continued for 2-4 years after programs participation.
- Participants paid their child support 50 percent more consistently over time
- Participants were employed at 21 percent higher rates than non-participants, an effect that also persisted at least two to four years after the program
- Participants were about one third less likely to file an unemployment claim in any given month in the first year after the program

- The custodial parents associated with NCP Choices participants were 21 percent less likely to receive TANF benefits in the first year after the program, and 29 percent less likely two to four years after the program.

Virginia's Intensive Case Monitoring Program (ICMP) was established by the Virginia General Assembly in 2008 (HB 1257). ICMP is a diversion/referral program for noncustodial parents following an administrative determination or order of the court. If a parent is in court for failure to pay child support, they may be referred to ICMP for case monitoring and referral services. The program then refers participants to "(i) employment services, to include employment assessment, employment search, and employment training; (ii) family services, including parenting skills, co-parenting skills, and relationship-building activities for parents and children; (iii) educational services, including GED preparation and GED testing; (iv) housing services, including referrals to organizations that operate shelters and provide subsidies; (v) document assistance, including referrals to organizations and assistance in securing vital records, driver's licenses, commercial driver's licenses, or other documents; and (vi) social services, health and mental health services, substance abuse services, or other services that may be necessary to enable the person to pay child support owed in the future." Of the 979 program participants since ICMP was first enacted, 326 have graduated, 277 are still active and 376 were dropped for noncompliance with program requirements. Further, through December 2011, the program had collected over $3 million dollars, showing significant increases in average monthly child support payments among all three groups.

In Seattle, Wash., the King County Prosecutor's Office operates a Navigator Program consisting of two full-time paralegals who are there to assist parents "navigate" the child support system. The navigator program is voluntary and open to parents who are involved in the Family Support Division's Contempt of Court Unit or those who have been referred by the Division of Child Support because they are in search of employment or educational and training opportunities. The navigators connect parents with community partners who can assist the parents with obtaining housing, food and utilities.

Similar to the King County Prosecutor's Office's Navigator Program, the Washington State Division Child Support operates a program called Alternative Solutions. Alternative Solutions is a statewide program that seeks to connect parents with over 3,500 community resources across the state. These community resources are available to help parents with finding a job, training, housing, food, medical care or legal resources. In addition, the program can assist parents with lowering child support payments, reducing state-owed debt, and other case management actions, such as getting a suspended driver's license back.

Order Establishment

In addition to diversion and work release programs, states have also looked at the ways in which child support orders are established to ensure child support obligations are being calculated, as federal law requires, on the noncustodial parent's ability to pay. State efforts to establish orders that reflect a parent's current earnings are designed to promote regular payment of support and reduce the likelihood a parent will fall behind on child support and accrue debt.

The federal Office of Child Support Enforcement (OCSE) has a Project to Avoid Increasing Delinquencies (PAID) resource with various fact sheets addressing this issue.

Incarcerated with Child Support Order

The other population of incarcerated noncustodial parents are those who are in prison for criminal offenses not involving child support and who have current and/or delinquent child support orders. On average, an incarcerated parent with a child support order has the potential to leave prison with nearly $20,000 in child support debt, having entered the system with around half that amount owed.

According to 2013 data from the Bureau of Justice:

- 46 percent of incarcerated parents have HS diploma or equivalent, as compared to 82% of men ages 18-34
- Nearly 60 percent of black men who are high school dropouts have done time by their mid-30s
- About two-thirds of people in prison or jail were employed at least part time before arrest with a median income of less than $1000 per month.

In addition, in Illinois in 2013:

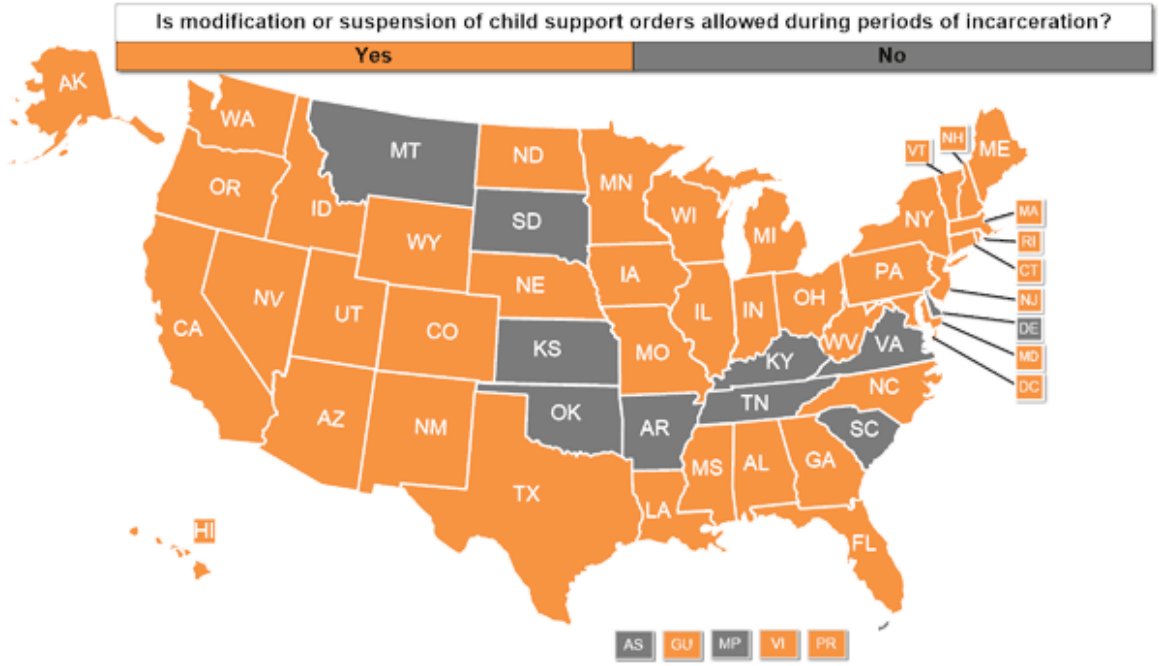
- There was 5,589 active orders for currently incarcerated noncustodial parents involved in the IV-D child support program with 6,646 cases
- There was $986,000 in new current support debt per month with more than $97.4 million in accumulated debt.
- There was 15,387 current or formerly incarcerated parents in the Illinois IV-D caseload
- 41 percent of those incarcerated parents had an average income of $10,136 per year prior to incarceration
- The remaining 59 percent had no reported income prior to incarceration.

Modification during Incarceration

Whether a parent is incarcerated or not, a material and substantial change in circumstances is required to modify child support orders in the majority of jurisdictions. Two situations that may be treated as a material and substantial change in circumstances are incarceration and unemployment.

Some states allow incarceration to be considered a substantial change in circumstances allowing for modification while others do not allow incarceration alone to be a sufficient reason for modification and would require other circumstances to be shown in order to modify. State policies regarding modification of child support during incarceration vary and depend on a number of factors.

A significant reduction in income due to a job loss or job change is generally considered a material and substantial change for purposes of modifying child support, as long as the job loss or reduction in earnings was involuntary. Conversely, voluntary un- or underemployment in order to avoid payment of child support is not considered to be a material and substantial change of circumstances



and therefore does not warrant consideration for modifying child support.

Approximately 40 states and D.C. currently treat imprisonment as involuntary unemployment which means the obligor could request a modification. Certain exceptions to this determination exist if the reason for the incarceration is related to the failure to pay child support or avoidance of child support. A small number of states treat incarceration as voluntary unemployment because the crime, which led to the inability to work or pay child support, is considered a voluntary act. As such, modification of child support during incarceration is not allowed in those states. The new federal rule, discussed above, prohibits state child support programs from treating incarceration as voluntary unemployment, allowing for modification of child support orders during incarceration.

The states that allow for modification during incarceration generally require the noncustodial parent to be proactive in making that request. This process requires the incarcerated parent to know of the modification procedure and access the necessary resources in order to obtain timely modification. Most recently, however, California passed legislation which requires the suspension of a child support order to occur automatically when an obligor is incarcerated or involuntarily institutionalized. In addition. Vermont and Wisconsin allow the child support agency to file a motion to modify the child support orders of incarcerated obligors.

The federal Office of Child Support Enforcement has a State-by-State-How to Change a Child Support Order page to inform child support obligors and state policymakers on the available resources and processes involved.

State Programs

Modification of Child Support Orders during Incarceration

At least 20 states have statutory provisions addressing the modification or suspension of child support during periods of incarceration, or the treatment of incarceration as voluntary or involuntary unemployment. California and Texas enacted legislation in 2015, while the federal rule was being considered:

- 2015 California AB 610: Requires the suspension of a child support order to occur by operation of law when an obligor is incarcerated or involuntarily institutionalized. Creates an exception to the automatic suspension of child support orders to include obligors who are incarcerated or involuntarily institutionalized for domestic violence or failure to pay child support. Authorizes the local child support agency to administratively adjust account balances for child support cases managed by the agency if the agency verifies that arrears and interest were accrued in violation of these provisions, that specified conditions relating to the obligor's inability to pay while incarcerated and the underlying offense for which he or she was incarcerated do not exist, and neither the obligor nor the obligee object to the adjustment. Details the procedures for notifying the obligor and obligee about the suspension or adjustment of the child support order. Clarifies that the child support obligation will resume following the obligor's release from incarceration.
- 2015 Texas HB 943: Current law presumes that a child support obligors earnings are equal to the federal minimum wage for a 40-hour week, absent evidence to the contrary, for purposes of calculating child support. This bill makes the presumption inapplicable in cases where the child support obligor is subject to an order of confinement that exceeds 90 days and is incarcerated in a local, state, or federal jail or prison at the time the court makes the determination regarding the party's income.

Since adoption of the federal rule in December 2016, 20 states have introduced 34 bills addressing the modification or suspension of child support orders during periods of incarceration. Nine of those states enacted legislation. For more about how states address modification of child support orders during periods of incarceration, see OCSE's Modification Laws and Policies for Incarcerated Noncustodial Parents facts sheet, part of the PAID project discussed above.

Enacted Legislation 2017-2019

Connecticut 2017 HB 7131	Conn. Gen. Stat. § 46b-215e (a) Notwithstanding any provision of the general statutes, whenever a child support obligor is institutionalized or incarcerated, the Superior Court or a family support magistrate shall establish an initial order for current support, or modify an existing order for current support, upon proper motion, based upon the obligor's present income and substantial assets, if any, in accordance with the child support guidelines established pursuant to section 46b-215a. Downward modification of an existing support order based solely on a loss of income due to incarceration or institutionalization shall not be granted in the case of a child support obligor who is incarcerated or institutionalized for an offense against the custodial party or the child subject to such support order. (b) In IV-D support cases, as defined in section 46b-231, when the child support obligor is institutionalized or incarcerated for more than ninety days, any existing support order, as defined in section 46b-231, shall be modified to zero dollars effective upon the date that a support enforcement officer files an affidavit in the Family Support Magistrate Division. The affidavit shall include: (1) The beginning and expected end dates of such obligor's institutionalization or incarceration; and (2) a statement by such officer that (A) a diligent search failed to identify any income or assets that could be used to satisfy the child support order while the obligor is incarcerated or institutionalized, (B) the offense for which the obligor is institutionalized or incarcerated was not an offense against the custodial party or the child subject to such support order, and (C) a notice in accordance with subsection (c) of this section was provided to the custodial party and an objection form was not received from such party.

Georgia 2018 SB 427	Ga. Code § 19-6-15 (4) Reliable evidence of income. (D) **Willful or voluntary unemployment or underemployment.** In determining whether a parent is willfully or voluntarily unemployed or underemployed, the court or the jury shall ascertain the reasons for the parent's occupational choices and assess the reasonableness of these choices in light of the parent's responsibility to support his or her child and whether such choices benefit the child. A determination of willful or voluntary unemployment or underemployment shall not be limited to occupational choices motivated only by an intent to avoid or reduce the payment of child support but can be based on any intentional choice or act that affects a parent's income. A determination of willful or voluntary unemployment or underemployment shall not be made when an individual's incarceration prevents employment. In determining willful or voluntary unemployment or underemployment, the court may examine whether there is a substantial likelihood that the parent could, with reasonable effort, apply his or her education, skills, or training to produce income. Specific factors for the court to consider when determining willful or voluntary unemployment or underemployment include, but are not limited to:
Indiana 2018 SB 179	Ind. Code § 31-9-2-54.7 Sec. 54.7. "Incarceration", for purposes of IC 31-16 and IC 31-25-4, means confinement of an individual on a full-time basis in a place of detention that prohibits the individual from gainful employment, including home detention or a municipal, county, state, or federal prison or jail. The term does not include an individual on parole, probation, work release, community corrections, or any other detention alternative program that allows the individual to be gainfully employed. Ind. Code § 31-16-6-1 (f) In determining the amount to be ordered for support of a child, incarceration of a parent may not be considered to be voluntary unemployment. Ind. Code § 31-16-8-1 (d) Incarceration may constitute a change in circumstances so substantial and continuing as to make terms of an order unreasonable.

	Ind. Code § 31-16-8-4 Sec. 4. If: (1) a petition to modify a child support order based on incarceration of a party is filed; and (2) no party files an objection or request for a hearing within thirty (30) days after receiving notice; the court may modify the child support order, or approve a proposed modification, without holding a hearing. Ind. Code § 31-25-4-17 (a) The bureau shall do the following: (8) Beginning July 1, 2019, not later than fifteen (15) days after learning that an obligor in a Title IV-D case is or may be incarcerated for a period of at least one hundred eighty (180) calendar days, notify both parties of each party's right to request a modification of the child support order.
Louisiana 2017 HB 680	La. Rev. Stat. § 9:311 (effective Jan. 1, 2019) D. A material change in circumstance need not be shown for either of the following purposes: (1) To modify a child support award to include a court-ordered award for medical support. (2) To suspend or modify a child support award in accordance with R.S. 9:311.1. E. If the court does not find good cause sufficient to justify an order to modify child support or the motion is dismissed prior to a hearing, it may order the mover to pay all court costs and reasonable attorney fees of the other party if the court determines the motion was frivolous. F. The provisions of Subsection E of this Section shall not apply when the recipient of the support payments is a public entity acting on behalf of another party to whom support is due. La. Rev. Stat. § 9:311.1 (effective Jan. 1, 2019)

	A. In accordance with the provisions of this Section, every order of child support shall be suspended when the obligor will be or is incarcerated for any period of one hundred eighty consecutive days or more, unless any of the following conditions exist: (1) The obligor has the means to pay support while incarcerated. (2) The obligor is incarcerated for an offense against the custodial party or the child subject to the support order. (3) The incarceration resulted from the obligor's failure to comply with a court order to pay child support. La. Rev. Stat. § 9:315.11 C. A party shall not be deemed voluntarily unemployed or underemployed if either: (1) He has been temporarily unable to find work or has been temporarily forced to take a lower paying lower-paying job as a direct result of Hurricane Katrina or Rita. (2) He is or was incarcerated for one hundred eighty consecutive days or longer. La. Children's Code, Art. 1353: G. It is a defense as provided by R.S. 9:311.1 to a charge of contempt of court for failure to comply with a court order of child support if an obligor can prove that he was incarcerated during the period of noncompliance. This defense applies only to the time period of actual incarceration.
Nebraska 2018 LB 702	Neb. Rev. Stat. § 43-512.12 (3) Notwithstanding the time periods set forth in subdivision (1)(a) of this section, within fifteen business days of learning that a noncustodial parent will be incarcerated for more than one hundred eighty calendar days, the department shall send notice by first-class mail to both parents informing them of the right to request the state to review and, if appropriate, adjust the order. Such notice shall be sent to the incarcerated parent at the address of the facility at which the parent is incarcerated. Neb. Rev. Stat. § 43-512.15

	(1) The county attorney or authorized attorney, upon referral from the Department of Health and Human Services, shall file a complaint to modify a child support order unless the attorney determines in the exercise of independent professional judgment that: (a) The variation from the Supreme Court child support guidelines pursuant to section 42-364.16 is based on material misrepresentation of fact concerning any financial information submitted to the attorney; (b) The variation from the guidelines is due to a voluntary reduction in net monthly income. For purposes of this section, a person who has been incarcerated for a period of one year or more in a county or city jail or a federal or state correctional facility shall be considered to have an involuntary reduction of income unless (i) the incarceration is a result of a conviction for criminal nonsupport pursuant to section 28-706 or a conviction for a violation of any federal law or law of another state substantially similar to section 28-706, (ii) the incarcerated individual has a documented record of willfully failing or neglecting to provide proper support which he or she knew or reasonably should have known he or she was legally obligated to provide when he or she had sufficient resources to provide such support, or (iii) the incarceration is a result of a conviction for a crime in which the child who is the subject of the child support order was victimized; or (c) When the amount of the order is considered with all the other undisputed facts in the case, no variation from the criteria set forth in subdivisions (1)(a) and (b) of section 43-512.12 exists. (2) The department, a county attorney, or an authorized attorney shall not in any case be responsible for reviewing or filing an application to modify child support for individuals incarcerated as described in subdivision (1)(b) of this section. (3) The proceedings to modify a child support order shall comply with section 42-364, and the county attorney or authorized attorney shall represent the state in the proceedings. (4) After a complaint to modify a child support order is filed, any party may choose to be represented personally by private counsel. Any party who retains private counsel shall so notify the county attorney or authorized attorney in writing.

North Dakota 2017 SB 2277	N.D. Cent. Code § 14-09-09.38 1. A monthly support obligation established under any provision of this code and in effect after December 31, 2017, expires by operation of law upon incarceration of the obligor under a sentence of one hundred eighty days or longer, excluding credit for time served before sentencing. 2. Notwithstanding subsection 1, a monthly support obligation may be established for an obligor who is incarcerated under a sentence of one hundred eighty days or longer if the obligation is based on actual income of the obligor and the moving party makes a prima facie showing that the obligor's income exceeds the minimum amount provided in the guidelines established under section 14-09-09.7. 3. As used in this section, “incarceration” means placement of an obligor in a custodial setting in which the obligor is not permitted to earn wages from employment outside the correctional facility, and does not include probation or work release. 4. The expiration of a monthly support obligation under subsection 1 does not affect any past-due support that is owed before the expiration of the obligation.
Oregon 2017 SB 682	Or. Rev. Stat. § 25.247 (1) An obligor who is incarcerated for a period of 180 or more consecutive days shall be rebuttably presumed unable to pay child support and a child support obligation does not accrue for the duration of the incarceration unless the presumption is rebutted as provided in this section. (2) The Department of Justice and the Department of Corrections shall enter into an agreement to conduct data matches to identify the obligors described in subsection (1) of this section or as determined by the court. (3) Within 30 days following identification of an obligor described in subsection (1) of this section whose child support obligation has not already been modified due to incarceration, the entity responsible for support enforcement services under ORS 25.080 shall provide notice of the presumption to the obligee and obligor and shall inform all parties to the support order that, unless a party objects as provided in subsection (4) of this section, child support shall cease accruing beginning with the first day of the first month that follows the obligor becoming incarcerated for a period of at least 180 consecutive days and continuing through the support payment due in the last month prior to the reinstatement of the support order as provided in subsection (6) of this section. The entity shall serve the notice on the obligee in the manner provided for the service of summons in a civil

	action, by certified mail, return receipt requested, or by any other mail service with delivery confirmation and shall serve the notice on the obligor by first class mail to the obligor's last-known address. The notice shall specify the month in which the obligor became incarcerated and shall contain a statement that the administrator represents the state and that low-cost legal counsel may be available. (9) An obligor's incarceration for at least 180 consecutive days or an obligor's release from incarceration is considered a substantial change of circumstances for purposes of child support modification proceedings. (10) Proof of incarceration for at least 180 consecutive days is sufficient cause for the administrator, court or administrative law judge to allow a credit and satisfaction against child support arrearages for each month that the obligor was incarcerated or that is within 120 days following the obligor's release from incarceration unless the presumption of inability to pay has been rebutted. Or. Rev. Stat. § 416.425 (11) An obligor’s incarceration for a period of at least 180 consecutive days or an obligor’s release from incarceration is considered a substantial change of circumstances for purposes of proceedings brought under this section.

Rhode Island 2017 HB 5553 2017 SB 406	R.I. Gen. Laws § 15-5-16.2 (c) (3) When the department of human services, office of child support services, becomes aware of the fact, through an electronic data exchange of information with the department of corrections, or by any other means, that the noncustodial parent is or will be incarcerated for one hundred eighty (180) days or more, the department may automatically file a motion to modify or a motion for relief, to be heard before the court via a video conference hearing or other type of hearing. A specific request for the filing of this motion need not be made in writing or otherwise by the incarcerated, noncustodial parent, but the parent shall be notified of the hearing and provided a meaningful opportunity to respond. The court shall schedule a hearing to determine the noncustodial parent's ability to pay, taking into consideration the assets and financial resources and any benefits the noncustodial parent may be receiving, the length of the sentence, and shall modify or suspend all child-support orders, after setting forth in its decision specific findings of fact that show circumstances upon which the court has decided to modify or suspend all child-support orders during the period of incarceration. Upon the obligor's release, the department of human services, office of child support services, shall file a motion for support, and a hearing shall be scheduled to determine the obligor's ability to begin paying child support pursuant to the child support guidelines in effect. This section does not apply to those individuals who are serving a sentence for criminal nonsupport in state or federal prison, or who are found to be in civil contempt for failure to pay child support and incarcerated for that reason.
Utah 2017 SB 153	Utah Code § 78B-12-203 (6) Incarceration of at least six months may not be treated as voluntary unemployment by the office in establishing or modifying a support order.

State Prison Outreach and Data Collection

2015 Hawaii SB 913: Requires the Department of Public Safety to collect data relating to the number of incoming offenders into the state correctional system who are parents, and the number of children they have that are under the age of eighteen, in order to provide services to incarcerated parents and their children. Requires a plan for the management of the data collected and public disclosure of the data.

Illinois has several programs that are working with incarcerated parent who have child support orders. The Paternity Establishment Prison Project (PEPP) enables noncustodial parents to establish paternity while incarcerated through genetic testing or voluntary acknowledgements of paternity and

then establish an administrative child support order based on that determination of paternity. From this program came Project CHILD (Collaboration Helps Inmates Lessen Debt), which has been in place for more than 10 years and assists incarcerated noncustodial parents with review and modification of support orders. Project CHILD includes dedicated, specially trained staff, who go into prisons to talk to incarcerated parents, provide the required forms and answer any questions they may have.

Minnesota's "Child Support Liaison" program allows newly incarcerated noncustodial parents to speak with a child support enforcement representative upon intake into prison. That liaison then educates and informs the offenders about the child support system during inmate orientation, facilitates communication between the offender and the county child support enforcement agencies, and helps families support their children while the noncustodial parent is incarcerated. The liaison is also available to assist incarcerated noncustodial parents with the typical child support enforcement services, such as requesting a modification, obtaining genetic testing and other child support issues the parent may be facing.

Texas recently performed a demonstration project called Behavioral Interventions to Advance Self-Sufficiency (BIAS). This project used behavioral economics to help incarcerated parents apply for child support modification by changing the way child support enforcement staff contacted and interacted with incarcerated parents. The project increased the application for modification response rate from 28 percent to 39 percent.

Legislative Considerations

While there is a great deal that we do know, there is also a lot that we do not know, including how many incarcerated parents have child support orders and how many people are incarcerated for nonpayment of child support. Having this information could greatly inform both child support and criminal justice policy in the states.

Questions to Consider:

- How many noncustodial parents are incarcerated in county jails for failure to pay child support?
- Do these parents have the ability to pay the amount of support that is court-ordered, or the amount required to get out, or stay out, of jail?
- What is the cost of incarceration in county jails?
- How much child support has been collected by using civil contempt?
- How much child support has been collected by using diversion programs?
- What administrative or judicial process exists to adjust child support once a noncustodial parent is incarcerated?

Policy Considerations:

- Is incarceration treated as voluntary or involuntary unemployment?
- Can incarcerated noncustodial parents modify their child support orders?

- Can the agency or judicial entity automatically modify a child support order?
- Will debt and interest accrue while the parent is incarcerated?

About This NCSL Project

NCSL staff in D.C. and Denver can provide comprehensive, thorough, and timely information on critical child support policy issues. We provide services to legislators and staff working to improve state policies affecting children and their families. NCSL's online clearinghouse for state legislators includes resources on child support policy, financing, laws, research and promising practices. **Technical assistance visits to states are available to any state legislature that would like training or assistance related to this topic.**

The Denver-based child support project staff focuses on state policy, tracking legislation and providing research and policy analysis, consultation, and technical assistance specifically geared to the legislative audience. Denver staff can be reached at (303) 364-7700 or cyf-info@ncsl.org.

NCSL staff in Washington, D.C. track and analyze federal legislation and policy and represent state legislatures on child support issues before Congress and the Administration. Staff in D.C. can be reached at (202) 624-5400 or cyf-info@ncsl.org.

The child support project and D.C. human services staff receive guidance and support from NCSL's Standing Committee on Health & Human Services.

Additional Resources

- National Institute of Justice, Hidden Consequences: The Impact of Incarceration on Dependent Children
- Federal Office of Child Support Enforcement, State-by-State-How to Change a Child Support Order
- New York Times Series on Collecting Child Support Without Making Matters Worse
- Federal Interagency Reentry Council
- White House Council of Economic Advisors, Economic Perspectives on Incarceration and the Criminal Justice System
- NCSL's Child Support and Family Law Legislation Database
- NCSL's State Sentencing and Corrections Legislation Database
- NCSL's Trends in Sentencing and Corrections Report
- NCSL's Child Support Homepage
- NCSL's Principles of Effective State Sentencing and Corrections Policy report
- NCSL's Ex-Offender Employment Opportunities 2011 report and January 2014 update, see *Issue in Focus* section.
- NCSL's Pretrial Diversion resources

NCSL

Title: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

Agency: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF)
42 CFR Parts 301, 302, 303, 304, 305, 307, 308, and 309, RIN 0970–AC50

The Centers for Medicare & Medicaid Services (CMS)
42 CFR Part 433, [CMS–2343–F]

Department of Health and Human Services (HHS)

Action: Final Rule

Summary: This rule is intended to carry out the President's directives in Executive Order 13563: Improving Regulation and Regulatory Review. The final rule required State child support agencies to increase their case investigative efforts to ensure that child support orders—the amount noncustodial parents are required to pay each month—reflect the parent's ability to pay. In doing do it requires States to consider a low-income noncustodial parent's specific circumstances when the order is set, rather than taking a one-size fits all approach. The rule also requires States to take the investigative steps necessary to ensure that all relevant information about the noncustodial parent's circumstances are collected and verified.

The final rule tries to recognize and incorporate policies and practices that reflect the progress and positive results from successful program implementation by States and Tribes. There were a number of adjustment to the final rule in response to comments made in response on the proposed rule. OCSE presents the revisions in three categories for ease of understanding the major concepts and the rationale for the changes: (1) Topic 1–Procedures to Promote Program Flexibility, Efficiency, and Modernization; (2) Topic 2–Updates to Account for Advances in Technology; and (3) Technical Corrections.

Publication Date: Dec. 20, 2016

Effective Date: Jan. 19, 2017

Although the compliance date will generally be within 60 days after publication, if a state law revision is required the compliance date will be the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the final rule.

Topic 1: Procedures to Promote Program Flexibility, Efficiency, and Modernization (§§ 302.32; 302.33; 302.38; 302.56; 302.70; 303.3; 303.4; 303.6; 303.8; 303.11 (including revisions to 42 CFR 433.152); 303.31; 303.72; 303.100; 304.20; 304.23; and 307.11)		
Issue	**Requirement**	**Comments**
§ 302.32: Collections and Disbursement of Support Payments by the IV-D Agency	▪ Clarifies the types of child support cases for which payments may be collected and distributed through the state disbursement unit (SDUs). ▪ The final rule only allows the states the option to provide paternity-only limited services, and does not include an option in the rule for limited payment processing-only services at this time due to the administrative complexity. ▪ These provisions apply to all IV-D cases and in non-IV-D cases in which the support order is initially issued in the state on or after Jan. 1, 1994. ▪ It is the state responsibility to secure the information needed to disburse support payments in non-IV-D cases. ▪ Identifies when FFP is available for the submission and maintenance of data. ▪ Changes language to accommodate tribal and foreign support orders.	– Enforcement of collection through SDU services for spousal support-only cases beyond collection and disbursement of payments is not eligible for Federal Financial Participation (FFP) under IV-D. – FFP will be limited to services and activities under the approved title IV-D State plan. – FFP is available for the courts to provide information to the SDU.
§ 302.33: Services to Individuals Not Receiving Title IV-A Assistance	▪ Adds language that provides states the option of providing limited services for paternity-only services in intrastate cases to any applicant who requests such services. Limits the scope of limited services to paternity-only services. ▪ Requires states to include domestic violence safeguards when establishing and using paternity-only limited services procedures. ▪ Provides direction on collections related to federally funded foster care cases and case closures.	– States have discretion to establish criteria for determining when continued services and notices are not appropriate once a child is no longer eligible for foster care.
§ 302.38: Payments to the Family	▪ Clarifies that child support payments should be made directly to the custodial family and shall not be diverted to another entity. ▪ Adds a "judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child" and "alternate caretaker designated in a record by the custodial parent" to the list of individuals to whom payment can be made. ▪ Clarifies the definition of "alternate caretaker."	– Revises language to expand the list of entities to whom child support payments can be made. – The rule does not authorize payments to be made directly to a private attorney or a private collection agency.
§ 302.56: Guidelines for Setting Child Support Orders	▪ Requires the state to have procedures for making guidelines available to all person in the state, not just those whose duty it is to set child support award amounts as existing rule requires. ▪ Currently sets out the minimum requirements for child support guidelines. The rule requires that the guidelines direct that the child support order is based on the noncustodial parent's earnings, income, and other evidence of the ability to pay. ▪ The rule also adds new language to specify the considerations for determining the noncustodial parent's earnings, income and ability to pay including all earnings of the noncustodial parent, the basic subsistence needs of the noncustodial parent and various employment factors and barriers that may impact the imputation of income to the noncustodial parent.	– OCSE encourages states to streamline their procedures in order to promptly modify child support orders upward or downward when there are significant changes of circumstances.

	▪ Domestic violence is one of the specific circumstances of the noncustodial parent that the state should consider when developing and investigating the case prior to establishing a support obligation. If the state is not able to obtain any income information for the noncustodial parent, and the parent has been uncooperative, then the courts or administrative authority should attempt to analyze all the specific circumstances on which to base a child support obligation amount. If this information is not available, the courts or administrative authority may impute income taking into consideration certain factors such as economic data related to the noncustodial parent's residence. ▪ Requires that state child support guidelines address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support. ▪ Prohibits states from treating incarceration as voluntary unemployment when establishing or modifying support orders. ▪ Requires that the guidelines be based on specific descriptive and numeric criteria and result in a computation of the support obligation. ▪ Added language that requires each state to published on the internet and to make accessible to the public all reports of the child support guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennials review. ▪ Adds new language detailing further requirements of the state child support guideline review. ▪ Provides further detail on the data that must be used in the state's child support guideline review to ensure that deviations from the guidelines are limited. ▪ Adds a requirement that the state provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The state must obtain the views and advice of the state child support agency as well. ▪ Required that within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a state must conduct a review of the child support order and adjust the order upward or downward, upon a showing that there has been a substantial change of circumstances, in accordance with this section. ▪ 54 Section 303 of Pub. L. 113–183, ''Preventing Sex Trafficking and Strengthening Families Act.'' indicated that it is the sense of the Congress that ''(1) establishing parenting time arrangements when obtaining child support orders is an important goal which should be accompanied by strong family violence safeguards; and (2) states should use existing funding sources to support the establishment of parenting time arrangements, including child support incentives, Access and Visitation Grants, and Healthy Marriage Promotion and Responsible Fatherhood Grants.''	

	Any new costs related to parenting time provisions would require the state to identify and dedicate funds separate and apart from IV–D allowable expenditures consistent with HHS cost principles[i]. These longstanding practices have not changed the fact that parenting time is a legally distinct and separate right from the child support obligation. Including both the calculation of support and the amount of parenting time in the support order at the same time increases efficiency, and reduces the burden on parents of being involved in multiple administrative or judicial processes with no cost to the child support program. OCSE encourages states to continue to take steps to recognize parenting time provisions in child support orders when both parents have agreed to the parenting time provision or in accordance with the state guidelines when the costs are incidental to the child support proceeding and there is no cost to the child support program.	
§ 302.70: Required State Laws	▪ Extends the exemption period from state law requirements from three to five years before a state must request and justify an exemption again. ▪ States may also request an extension of an exemption 90 days prior to the end of the exemption period.	– OCSE maintains the authority to review and to revoke a state's exemption at any time.
§ 303.3: Location of Noncustodial Parents in IV-D Cases	▪ Made technical changes to the list of sources that may be used to locate noncustodial parents.	– The rule comments that states should apply their child support guidelines, based on the noncustodial parent's ability to pay, and determine whether the parent has income or assets available that could be levied or attached for support, whether or not a parent is incarcerated.
§ 303.4: Establishment of Support Obligations	▪ Revises the section to address requirements for the state IV-D agencies when establishing support orders in IV-D cases that would not be applicable to non-IV-D cases. ▪ Adds new language to require: (1) states to take steps to develop a factual basis for the support obligation, through investigations, case conferencing, interviews with both parties, appear and disclose procedures, parent questionnaires, testimony, and electronic data sources. (2) states to gather information regarding the earnings and income of the noncustodial parent and, when earning and income information is unavailable in a case, gather available information about the specific circumstances of the noncustodial parent (3) basing the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available (4) documenting the factual basis for the support obligation or the recommended support obligation in the case record.	– States are required to use appropriate state statutes, procedures, and legal processes in establishing and modifying support obligation in accordance with the child support order requirements under §302.56[ii]

§ 303.6: Enforcement of Support Obligations	▪ Requires states to establish guidelines for the use of civil contempt citations in IV-D cases which must include requirements that the IV-D agency screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order. ▪ Requires the agency to provide the court with information regarding the noncustodial parent's ability to pay, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions. ▪ Requires the agency to provide clear notice to the noncustodial parent that ability to pay constitutes the critical question in the civil contempt action. ▪ State guidelines must include requirements that IV-D agencies: (1) Screen the case for the noncustodial parents' ability to pay and comply with the order; (2) provide the court sufficient information to assist the court in making a factual decision; and, (3) provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action. ▪ OSCE directs states need to ensure that the tools or mechanisms they use to enforce cases are cost-effective, productive, and in the best interest of the children.	– OCSE references the Supreme Court *Turner*[iii] opinion as providing OCSE and state child support programs with an opportunity to evaluate the proper use of civil contempt. The opinion provides the child support program with a guide for conducting fair and constitutionally acceptable proceedings. – Even though the reference to subsistence needs has been removed, in the preamble OSCE states that consideration of subsistence needs is an inherent factor in determining a noncustodial parent's ability to pay. – OCSE encourages state child support agencies to consider some of the alternatives to incarceration discussed in OCSE IM-12-01[iv]. – The rule encourages states to maximize their use of automated data sources. – The final rule does not address burden of proof. – The final rule references OCSE Guidance on the Turner opinion AT-12-01[v] in ensuring the constitutional principles are carried out.
§ 303.8: Review and Adjustment of Child Support Orders	▪ Adds language that allows the IV-D agency to elect in its state plan the option to initiate the review of a child support order, after learning that a noncustodial parent will be incarcerated for more than 180 calendar days, without the need for a specific request, and upon notice to both parents, review and, if appropriate, adjust the order. ▪ Adds the 15-day notice and 180 incarceration timeframes. ▪ Adds language that requires a state, if it has not elected to initiate a review of the existing child support order within 15 business days of learning that the noncustodial parent will be incarcerated for more than 180 days. Requires this notice to provide certain review procedural options to the parent. ▪ Requires states to treat incarceration as a significant change in circumstances when determining the standard for adequate grounds for petitioning review and adjustment of a child support order. ▪ The compliance date for these provisions will be within one year after completion of the state's next quadrennial review of its guidelines that commences one year after the publication of the final rule. ▪ **Medical Support**–The final regulations allow states more flexibility to coordinate medical support practices with requirements of the Affordable Care Act (ACA).	▪ Permits states to include in their plans, the option to initiate review and adjustment, without the need for specific request, after learning that the noncustodial parent is incarcerated for more than 180 days[vi]. ▪ Clarifies that the definition of "incarcerated" as being confined to a jail or penitentiary. The review and adjustment notification requirements do not include noncustodial parents who are on parole or in a supervised release program. ▪ If a state learns of the noncustodial parent's incarceration after the sentence has reached a period less than the 180-day timeframe, the requirement for state notification of parents' right to review their order no longer applies. ▪ States are strongly encouraged to review orders after the noncustodial parent is released from incarceration to determine whether the parent

		has been able to gain employment and to set the orders based on their ability to pay. ▪ The rule encourages states to form a partnership with federal, state, local, and private prisons to educate inmates on the child support program.
§ 303.11: Case Closure Criteria	▪ Allows a state to direct resources to cases where collections are possible and to ensure that families have more control over whether to receive child support services. ▪ Provides states the flexibility and discretion to define the terms subsistence level, home health care, and residential facility. ▪ Directs states to use basic audit standards to determine how to document that a case meets the criteria for closure. ▪ If a state finds that the noncustodial parent has income and assets that may be levied or attached for support, then the case must remain open. ▪ The rule provides that there is nothing prohibiting a state from establishing criteria that makes it harder to close a case than those minimum requirements outlined in the rule. ▪ States also have the flexibility to use longer periods for locating noncustodial parents than the times specified. ▪ States have the discretion to determine what circumstances can result in a "medically verified total and permanent disability', and have the ability to determine appropriate methods of medically verifying that a disability is permanent (Refer to PIQ-04-03[vii]), and ▪ A state may request the noncustodial parent to obtain his or her medical records (CFR 164.524(b)[viii]). ▪ The final rule requires that for cases closed the IV-D agency must send a written notice to the recipient of the services 60 days prior to closure of the case of the state's intent to close the case.	▪ States have the discretion to develop a process for examining its cases to determine whether case closure is warranted. ▪ A state has the authority to determine when and whether to close its cases, both intrastate and intergovernmental cases. ▪ Clarifies in the comment responses the process for transferring cases from a state IV-D agency to a tribal IV-D agency as follows: – When there are arrears owed to the state agency may refer to the tribal agency for assistance in securing current support and arrears owed. – When the recipient of services requests a transfer of the case to the tribal agency and there are state-owed arrears, the state should inform the recipient of the states' discretion to transfer or assign the case and the states' decision. – If no arrears exist and a request is made for a transfer to the tribal agency the case must be transferred.
§ 303.31: Securing and Enforcing Medical Support	▪ The final rule indicates that the need to provide for the child's health care needs in an order, through health insurance or other means, must be an adequate basis under state law to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary. ▪ The OCSE amends existing rule language to provide a state with flexibility to permit parents to meet their medical support obligations by providing health care coverage or payments for medical expenses that are reasonable in cost and best meet the health care needs of the child.	▪ OCSE has recommended that states implement broadly-defined medical support language in child support orders to maximize the health care options available to parents, children, and families. ▪ OCSE is encouraging states to include a provision in child support orders that medical support for the child(ren) be provided by either or both parents, without specifying the source of the coverage.

		▪ Nothing in the rule precludes states from petitioning for employer related insurance to be included in the order.
§ 303.72: Requests for Collection of Past-Due Support by Federal Tax Refund Offset	▪ To be consistent with the Department of Treasury regulations, requires an initiating state requesting a federal tax refund offset to notify other states only when it receives an offset amount, rather than when it submits an interstate case for offset.	
§ 303.100: Procedures for Income Withholding	▪ Adds a new language to requiring states to have laws to ensure compliance with the mandated use of the Office of Management and Budget (OMB)-approved *Income Withholding for Support* (IWO) form for both IV-D and non-IV-D orders[ixx]. to implement withholding for all child support orders regardless of whether the case is IV-D or non-IV-D. ▪ In addition, income withholding payments on non-IV-D cases must be directed through the State Disbursement Unit.	▪ OCSE is encouraging state to collaborate with their judicial branch, state bar associations, chambers of commerce, and Tribal Child Support programs to ensure that all users and employer recipients of the form are aware of the requirements. ▪ ACF Income Withholding for Support Instruction Documents[xi] [xii]
§ 304.20: Availability and Rate of Federal Financial Participation	▪ Clarifies that federal financial participation (FFP) is available for expenditures for child support services and activities that are necessary and reasonable to carry out the state title IV-D plan. ▪ Clarifies that FFP is available for, but not limited to, the activities listed in the regulation. ▪ Creates more flexibility for states to refer cases to and from the IV-D agency when working with other federal programs as specified in the regulation. ▪ Allows FFP to be used for educational and outreach activities to educate the public and to develop and disseminate information on voluntary paternity establishment. ▪ Adds allowable services and activities relate to the establishment and enforcement of support obligations, including bus fare or other minor transportation expenses to allow participation by parents in child support proceedings and related activities such as genetic testing to the expenses for which FFC can be applied. ▪ New language recognizes that FFP is available to increase pro se access to adjudicative and alternative dispute resolution processes in IV-D cases related to the provision of child support services. This only applies when the expenses are related to the provision of child support services. ▪ Adds language to allow FFP for the educational and outreach activities intended to inform the public, parents and family members, and young people who are not yet parents about the Child Support Enforcement program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other.	▪ A reasonable cost in its nature and amount, does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. ▪ States are encouraged to consider alternatives to the need to travel to the child support office court, such as the use of technology, including Web applications, video conferences, or telephonic hearings.

§304.23: Expenditures for Which Federal Financial Participation Is Not Available	▪ Makes a technical clarification that FFP is not available for the education and training of personnel except direct costs of short-term training provided to IV-D agency staff in accordance with other regulations. ▪ Clarifies other expenditures for which FFP is not available. ▪ FFP is prohibited for any expenditures for the jailing of parents in child support enforcement cases.	– Costs considered as part of general costs of government are unallowable for federal funding.
§ 307.11: Functional Requirements for Computerized Support Enforcement Systems in Operation by October 1, 2000	▪ Includes provision requiring states to build automatic processes designed to preclude garnishing financial accounts of noncustodial parents who are recipients of Supplemental Security Income (SSI) payments or individuals concurrently receiving both SSI and Social Security Disability Insurance (SSDI) benefits. ▪ Provides that funds must be returned to a noncustodial parent's financial account, within five business days after the agency determines that SSI payments or concurrent SSI payments and SSDI benefits, have been inappropriately garnished. ▪ Requires states to develop safeguards for the states to prevent garnishment of exempt benefits.	– Regulatory changes by the Department of the Treasury require all federal benefits to be deposited electronically in a bank account. This means SSI recipients no longer have the option to receive their benefits through a check and increasing their risk of benefits being improperly withheld by child support agencies. – States may choose to match with the State Verification and Exchange System (SVES), which supplies both title II and title XVI data to the states.
Topic 2: Updates to Account for Advances in Technology		
Issue	**Requirement**	**Comments**
§ 302.34: Cooperative Arrangements	▪ Clarifies that cooperative arrangements are required for corrections officials at any government level, such as federal, state, tribal, and local levels.	
§ 302.65: Withholding of Unemployment Compensation	▪ Establishes that the agreements states develop with state workforce agencies (SWAs) and the criteria for selecting cases in which to pursue withholding of unemployment compensation are not limited to written agreements or written criteria.	
§ 302.70: Required State Laws	▪ Amends language to provide greater flexibility and efficiency in admitting evidence of paternity.	
§ 302.85: Mandatory Computerized Support Enforcement System	▪ Provides states the option of communicating with OCSE electronically, rather than only in writing, when providing the required assurances under this provision.	
§ 303.2: Establishment of Cases and Maintenance of Case Records	▪ The rule changes the requirements for applications for IV–D services, to define an application as a record provided by the state which is signed, electronically or otherwise, by the individual applying for IV–D services. ▪ Lifts the restriction that applications only be in a written or paper format, as well as allowing for electronic signature, by inserting the phrase ''electronically or otherwise'' after the word ''signature.'' The acceptance of electronic signature is in accordance with PIQ 09–02,4[xiii] which allows states to use electronic signatures on applications, as long as it is allowable under state law.	▪ In making this determination, states should consider the reliability of electronic signature technology and the risk of fraud and abuse, among other factors.

§ 303.5: Establishment of Paternity	▪ The rule requires the state to provide training, guidance, and instructions, which are reflected in a record, regarding voluntary acknowledgment of paternity to hospitals, birth record agencies, and other entities that participate in the state's voluntary acknowledgment program. ▪ It also changes the phrase ''written instructions'' to ''instructions, which are reflected in a record'' to allow a state the flexibility to provide program instructions in electronic formats, in addition to, or in place of, written instructions.	
§ 303.11: Case Closure Criteria	▪ Describes the requirements for case closure notification and case reopening.	
§ 304.21: Federal Financial Participation in the Costs of Cooperative (FFP) Arrangements with Courts and Law Enforcement Officials	▪ Costs associated with sheriff's costs for a child support warrant task force, since these would relate to reviewing the warrant process to evaluate the quality, efficiency, effectiveness, and scope of support enforcement services and securing compliance with the requirements of the state plan would be allowable to receive FFP.	
Topic 3: Technical Corrections		
Issue	**Requirement**	**Comments**
§ 304.21: Federal Financial Participation in the Costs of Cooperative Arrangements with Courts and Law Enforcement Officials	▪ Clarifies that the term law enforcement officials include ''corrections officials'' to be consistent with § 302.34. Lists activities for which FFP at the applicable matching rate is available in the costs of cooperative agreements with appropriate courts and law enforcement officials. ▪ Modified language regarding medical support activities.	
§ 304.26: Determination of Federal Share of Collections	▪ Clarifies that the federal medical assistance percentage rate is 75 percent for the distribution of retained IV–A collection. ▪ Adds that the federal medical assistance percentage rate is 55 percent for the distribution of retained IV–E Foster Care Program collections for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa and 70 percent of retained IV–E collections for the District of Columbia. ▪ Delete language related to incentive and hold harmless payments to be made from the Federal share of collections that was outdated.	
§ 305.35: Reinvestment	▪ Requires state IV–D agencies to reinvest the amount of federal incentive payments received into their child support programs. ▪ Clarifies the potential consequences of a state not maintaining the baseline expenditure level, amends the part of the language to read: ''Noncompliance will result in disallowances of incentive amounts equal to the amount of funds supplanted.'' ▪ Adds new language to clarify how the State Current Spending Level should be calculated.	

	– Using the Form OCSE–396[xiv], ''Child Support Enforcement Program Financial Report,'' the State Current Spending Level will be calculated by determining the State Share of Total Expenditures Claimed for all four quarters of the fiscal year minus State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for all four quarters of the fiscal year, plus the Federal Parent Locator Service (FPLS) fees for all four quarters of the fiscal year. – The equation for calculating the State Share of Total Expenditures Claimed is: Total Expenditures Claimed for the Current Quarter and the Prior Quarter Adjustments minus the Federal Share of Total Expenditures Claimed for the Current Quarter and Prior Quarter Adjustments. – The equation for calculating the State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments is: IV– D Administrative Expenditures Made Using Funds Received as Incentive Payments for the Current Quarter and the Prior Quarter Adjustments minus the Federal Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for the Current Quarter and Prior Quarter Adjustments.	

[i] https://www.gpo.gov/fdsys/pkg/CFR-2015-title45-vol1/pdf/CFR-2015-title45-vol1-part75-subpartE.pdf
[ii] https://www.gpo.gov/fdsys/pkg/CFR-2010-title45-vol2/pdf/CFR-2010-title45-vol2-sec302-56.pdf.
[iii] *Turner v. Rogers*, https://www.supremecourt.gov/opinions/10pdf/10-10.pdf.
[iv] OCSE IM-12-01, https://www.acf.hhs.gov/sites/default/files/cb/im1201.pdf.
[v] OCSE AT-12-01, https://www.acf.hhs.gov/css/resource/turner-v-rogers-guidance.
[vi] A number of states including—Arizona, California, Michigan, Vermont, and the District of Columbia—have enacted state laws that permit their child support agency to initiate review and adjustment upon notification that the noncustodial parent has been incarcerated.
[vii] https://www.acf.hhs.gov/css/resource/medical-support-enforcement-under-iv-d-program-phi-hipaa
[viii] https://www.gpo.gov/fdsys/pkg/CFR-2003-title45-vol1/pdf/CFR-2003-title45-vol1-sec164-524.pdf
[ix] Administration for Children and Families (ACF)—Processing an Income Withholding Order or Notice, https://www.acf.hhs.gov/css/resource/processing-an-income-withholding-order-or-notice.
[x]ACF document, Federal and State Legislative Requirements: Income Withholding and the State Disbursement Unit, https://www.acf.hhs.gov/sites/default/files/ocse/at_11_05c.pdf.
[xi] Income Withholding for Support—Instructions document, available at http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf.
[xii] Income Withholding for Support form, available at http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf.
[xiii] https://www.acf.hhs.gov/css/resource/use-of-electronic-signatures-on-applications-for-iv-d-services.
[xiv] https://www.acf.hhs.gov/css/resource/form-ocse-396-quarterly-financial-report.

Civil Contempt - Ensuring Noncustodial Parents Have the Ability to Pay

Overview

As the federal agency responsible for funding and oversight of state child support programs, OCSE has an interest in ensuring that:

- constitutional principles articulated in the U.S. Supreme Court Decision in *Turner v. Rogers, 564 U.S.____, 131 S Ct. 2507 (2011)* are carried out in the child support program,
- child support case outcomes are just and comply with due process, and
- enforcement proceedings are cost-effective and in the best interest of the child.

The *Turner* case provides OCSE and state child support agencies with an opportunity to evaluate the appropriate use of civil contempt and to improve program effectiveness, including adequate case investigation. As the U.S. Supreme Court stated in *Turner v. Rogers,* a noncustodial parent's ability to pay constitutes the "critical question" in a civil contempt case, whether the state provides legal counsel or alternative procedures designed to protect the indigent obligor's constitutional rights.

The final rule revises 45 CFR 303.6(c)(4), by establishing criteria that child support agencies must use to determine which cases to refer and how they prepare cases for a civil contempt proceeding. The main goal is to increase consistent child support payments for children by ensuring that low-income parents are not incarcerated unconstitutionally because they are poor and unable to comply with orders that do not reflect their ability to pay. In addition, the final rule is intended to reduce the routine use of costly and often ineffective contempt proceedings and increase case investigation and more cost-effective collection efforts.

What is new

Section §303.6(c)(4) of the final rule requires the state child support agency to establish procedures for the use of civil contempt petitions. Before filing a civil contempt action that could result in the noncustodial parent being sent to jail, states must ensure that the child support agency has screened the case to determine whether the facts support a finding that the noncustodial parent has the "actual and present" ability to pay or to comply with the support order.

The child support agency must also provide the court with information regarding the noncustodial parent's ability to pay or otherwise comply with the order to help the court make a factual determination regarding the parent's ability to pay the purge amount or comply with the purge conditions.

Finally, prior to going to court, the state must give clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

How this affects states

The new rule provides state child support agencies with a guide for conducting constitutionally acceptable proceedings. The final rule will reduce the risk of erroneous deprivation of the noncustodial parent's liberty, without imposing significant fiscal or administrative burden on the state. States that have reduced their over-reliance on contempt proceedings have found that they increased collections and reduced costs at the same time. There is no evidence that the routine use of contempt proceedings improves collection rates or consistent support payments to families.

States have considerable flexibility in implementing these provisions. The provisions are based upon successful case practice in a number of states that conduct case-specific investigations and data analyses. Child support agencies will need to take steps to determine how to implement these changes in their states, which may include educating and collaborating with the judiciary.

How this affects families

Research shows that routine use of civil contempt is costly and counterproductive to the goals of the child support program.[1] All too often it results in the incarceration of noncustodial parents who are unable to pay to meet their purge requirements.[2] Modernizing practices in this area will encourage parents to comply with child support orders, maintain legitimate employment, and minimize the accumulation of unpaid child support debt. These guideline provisions help ensure that child support case outcomes are just and comply with due process, and that enforcement proceedings are cost-effective and in the best interest of the child.

1. See Elizabeth G. Patterson, *Civil Contempt & the Indigent Child Support Obligor: The Silent Return of Debtor's Prison*, 18 Cornell Journal of Law & Public Policy 95, 126 (2008) (*Civil Contempt*), available at: http://www.lawschool.cornell.edu/research/jlpp/upload/patterson.pdf.

2. See Rebecca May & Marguerite Roulet, Ctr. for Family Policy & Practice, A Look at Arrests of Low-Income *Fathers for Child Support Nonpayment: Enforcement, Court and Program Practices*, 40 (2005), available at: http://www.cffpp.org/publications/LookAtArrests.pdf.

Guidelines

Overview

The Final Rule: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs updates guidelines for setting child support orders at 45 CFR 302.56 and the establishment of child support orders at 45 CFR 303.4. This fact sheet discusses specific revisions made to §§ 302.56(a), 302.56(c)(1), and 303.4(b).

The goal of these revisions is to increase reliable child support for children by setting child support orders based on the noncustodial parent's earnings, income, or other evidence of ability to pay. Orders set beyond a parent's ability to pay can lead to unintended consequences, such as unmanageable debt, reduced employment, participation in the underground economy, and increased criminal activities.[1] It is counterproductive and not in children's best interests to have their parents engage in a cycle of nonpayment, illegal income generation, and incarceration. Support orders based on the noncustodial parent's ability to pay should result in less conflict between parents, fewer requests for hearings, and less time and resources spent on enforcement.

What is new

This rule makes the following changes to child support guidelines (§ 302.56(c)(1)). First, state child support guidelines must provide that a child support order be "based on the noncustodial parent's earnings, income, and other evidence of ability to pay". This change codifies OCSE's longstanding interpretation of statutory guideline requirements[2] and reflects the basic principle underlying the federal child support guidelines statute – that application of state guidelines should result in income-based orders. The existing federal regulation that guidelines must consider all earnings and income of the noncustodial parent is unchanged. Child support guidelines must take into consideration the basic subsistence needs of the noncustodial parent who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve, or some other method determined by the state. This means states have flexibility to determine the best approach to meeting this requirement. Nearly all states already incorporate a self-support reserve or low-income adjustment into their child support guidelines.[3] If income imputation is authorized under a state's child support guidelines, then child support guidelines must take into consideration the specific circumstances of the noncustodial parent to the extent known when determining the amount of imputed income, and may not use a standard amount in lieu of fact-gathering in a specific case.

The rule also revises the "establishing support obligations" regulations at § 303.4(b) by requiring child support agencies funded under title IV-D of the Social Security Act to base support obligations or recommended support obligation amounts on the earnings and income of the noncustodial parent whenever available. If evidence of earnings and income are unavailable or insufficient to use as the measure of the parent's ability to pay, then the recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent. The rule addresses a divergence in the way public and private child support cases are currently handled. It requires cases handled by the state child support agency to meet similar evidentiary standards for establishing an order and imputing income as are applied in private cases. Without an evidentiary basis, imputed income is fictitious income and does not generally result in orders based on the noncustodial parent's ability to pay.

How this affects states

Child support agencies will need to take steps to determine the factual basis for the support obligation through case conferencing, interviews, questionnaires, and other strategies. They will need to gather information regarding the earnings and income of the noncustodial parents, and when this information is unavailable, obtain information on the specific circumstances of the noncustodial parent. Imputing income will need to be done on a case-by-case basis, when there is an evidentiary gap. Child support

agencies will no longer be able to impute standard amounts in default cases based on a state minimum wage or statewide occupational wage rates because these practices are not based on evidence of the noncustodial parent's ability to pay and therefore are unlikely to result in an order that reflects the specific facts of the case.

States must revise their child support guidelines to meet the requirements of the rule changes within one year after completion of the state's first quadrennial review of its child support guidelines that commences more than one year after publication of the final rule.

How this affects families

With this rule change, noncustodial parents will be more likely to meet their child support obligations, benefiting their children by improving child support compliance and payment consistency, and reducing uncollectable debt. The research indicates that orders set too high result in less, not more, payments to families. Other negative effects associated with orders set beyond a noncustodial parent's ability to pay may also decline, such as reduced contact with their children, lower employment, and increased underground activities.[4]

1. Mincy, Ronald et al, *Failing Our Fathers: Confronting the Crisis of Economically Vulnerable Nonresident Fathers*, Oxford University Press, 2014; Kotloff, Lauren, J., *Leaving the Street: Young Fathers Move From Hustling to Legitimate Work*, Public/Private Ventures, 2005; and Rich, Lauren, M., *Regular and Irregular Earnings of Unwed Fathers: Implications for Child Support Practices*, Children and Youth Services Review, April–May 2001, 23(4/5): 353-376, available at: https://www.sciencedirect.com/science/article/pii/S0190740901001396.

2. See AT-93-04 and PIQ-00-03.

3. Venohr, Jane, *Child Support Guidelines and Guidelines Reviews: State Differences and Common Issues*, Family Law Quarterly, Fall 2013, 47(3): 327–352, available at: http://static1.squarespace.com/static/5154a075e4b08f050dc20996/t/54e34dd2e4b04c0eab578456/1424182738603/3fall13_venohr.pdf.

4. Pamela Holcomb, Kathryn Edin, Jeffrey Max, Alford Young, Jr., Angela Valdovinos D'Angelo, Daniel Friend, Elizabeth Clary, Waldo E. Johnson, Jr., 2015, *In Their Own Voices: The Hopes and Struggles of Responsible Fatherhood Program Participants in the Parents and Children Together Evaluation*. Report submitted to the Office of Planning, Research, and Evaluation. OPRE Report #2015-67 available at: http://www.acf.hhs.gov/programs/opre/resource/in-their-voices-hopes-struggles-responsible-fatherhood-parents-children-evaluation; and Maureen Waller and Robert Plotnick, *Effective child support policy for low-income families: evidence from street level research,* Journal of Policy Analysis and Management, 2001, 20(1): 89–110.

Modification for Incarcerated Parents

Overview

The majority of federal and state prisoners are parents, and many have child support orders that were established before incarceration.[1] Incarceration can result in the accumulation of high levels of child support debt because parents have little to no ability to earn income while they are incarcerated and reduced ability to pay off the debt when released.[2] Studies find that incarcerated parents leave prison with an average of $20,000 or more in unpaid child support, with no means to pay upon release.[3] This accumulated child support debt is rarely paid. Research finds that uncollectible debt substantially reduces noncustodial parent earnings, which in turn reduces child support payments to their families. One study found that people released from jail are unemployed 9 weeks more per year and annual earnings are reduced by 40%.[4] On the other hand, reducing uncollectible debt can increase payments.[5]

The goal of the final rule revisions is to increase consistent child support payments for children by setting child support orders based on the noncustodial parent's earnings, income, or other evidence of ability to pay, including for incarcerated parents. Children do not benefit when their parents engage in a cycle of nonpayment, underground income generation, and re-incarceration. Support orders modified for incarcerated parents, based on their current ability to pay, result in less debt accrual, more formal employment, more child support payments, and less need for enforcement after they are released.

Despite the significant research on the consequences of continuing the accrual of support when it is clear there is no ability to pay, about one quarter of states treat incarceration as "voluntary unemployment". These "voluntary unemployment" rules typically pre-date the federal review and adjustment statute that requires states to modify support orders when parents experience a substantial change in circumstances, and block the federal rule's application.

What is new

The final rule provides that state guidelines under 45 CFR 302.56(c)(3) may not treat incarceration as "voluntary unemployment" in establishing or modifying child support orders. The new rule prohibits states from legally barring modification of support obligations during incarceration. We have also revised § 303.8(c) to indicate that the reasonable quantitative standards that the state develops for review and adjustment must not treat incarceration as a legal bar for petitioning for and receiving an adjustment of an order.

Existing review and adjustment regulations specify the requirements that a state must meet for adjusting to child support orders in IV-D cases. The rule adds a requirement that state child support agencies may elect in its state plan to initiate review of an order after learning that a noncustodial parent will be incarcerated more than 180 calendar days. If the state has not elected this new option, then within 15 business days of learning that the noncustodial parent will be incarcerated more than 180 calendar days, the state must notify both parents of their right to request a review.

How this affects states

States should determine whether they have "voluntary unemployment" policies or standards that legally prevent incarcerated parents from obtaining a review and adjustment of their orders upon a showing of a substantial change in circumstances. If so, they must conform their policies within one year after completion of the first quadrennial review of the state's guidelines that commences more than one year after publication of the final rule. Since states may elect to initiate the review upon learning of the noncustodial parent's incarceration for over 180 calendar days, we encourage states to implement this proactive approach to ensure that orders are based on the noncustodial parent's ability to pay during his or her incarceration. When modifying orders, states may consider an incarcerated parent's income and assets in setting the order amount. In electing this state plan option, the state may also need to consider whether further changes to state laws are required to implement this procedure.

A number of states conduct data matches with correctional facilities in the state to determine whether a parent is incarcerated. We encourage, but are not requiring states to actively establish partnerships with federal, state, local, and private prisons to conduct data matches to locate, as well as to educate incarcerated parents about the child support program. We encourage states to develop electronic interfaces with corrections institutions to maximize the identification of incarcerated parents and to implement outreach strategies designed to educate incarcerated parents of their rights to request reviews of their support orders, which will help to increase program efficiency.

How this affects families

Setting and modifying realistic child support obligations for incarcerated parents can improve their ability to provide consistent support for their children upon release from prison.[6] With this rule change, formerly incarcerated noncustodial parents will be more likely to meet their child support obligations, benefiting their children by improving child support compliance and reliability, and reducing uncollectable debt. Other collateral consequences associated with orders set beyond a noncustodial parent's ability to pay may also decline, such as increased underground employment activity and reduced contact with their children. We also expect that more incarcerated parents learn about their right to request a review of their child support orders early in their prison terms in an effort to manage their debt.

1. Christopher Mumola, *Incarcerated Parents and Their Children*, Bureau of Justice Statistics Special Report, August 2000, NCJ 182335.

2. Council of State Governments, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*, Justice Center, 2005, available at: http://www.csgjusticecenter.org/wp-content/uploads/2013/04/1694-11.pdf. For further background, see Jessica Pearson's article, Pearson, Jessica, "Building Debt While Doing Time: Child Support and Incarceration," Judges' Journal 43:1, Winter 2004, available at: https://csdaca.org/wp-content/uploads/2014/11/BuildingDebt-2.pdf.

3. U.S. Department of Health and Human Services, Office of Child Support Enforcement, Incarceration, Reentry, and Child Support Issues: National and State Research Overview, 2006; Pamela Ovwigho, et al., *The Intersection of Incarceration and Child Support: A Snapshot of Maryland's Caseload,* School of Social Work, University of Maryland, 2005; Esther Griswold and Jessica Pearson, *Twelve Reasons for Collaboration Between Departments of Correction and Child Support Enforcement Agencies*, Corrections Today, June 2003.

4. See our, "Jobs not Jail Infographic", published October 2015 on OCSE website at: http://www.acf.hhs.gov/sites/default/files/programs/css/jobs_not_jail_final_10_02.pdf and Collateral Costs: Incarceration's Effect on Economic Mobility. The Pew Charitable Trusts. (2010, September), available at: http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf.

5. For further information, see Carolyn J. Heinrich, Brett C. Burkhardt, and Hilary M. Shager, *Reducing Child Support Debt and Its Consequences: Can Forgiveness Benefit All?* (2010), available at: http://www.irp.wisc.edu/research/childsup/cspolicy/pdfs/2007-09/FamiliesForward_3_19_10.pdf; Maria Cancian, Carolyn Heinrich, and Yiyoon Chung, *Does Debt Discourage Employment and Payment of Child Support?* (2009), available at: http://www.irp.wisc.edu/publications/dps/pdfs/dp136609.pdf; and Harry Holzer, Paul Offner, and Elaine Sorensen, *Declining Employment Among Young Black Less-Educated Men: The Role Of Incarceration and Child Support (2004)*, available at: http://www.urban.org/uploadedpdf/411035_declining_employment.pdf.

6. Alicia Bannon, Mitali Nagrecha and Rebekah Diller, *Criminal Justice Debt a Barrier to Reentry*, Brennan Center for Justice, 2010; *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community*, Council of State Governments, 2005; Esther Griswold and Jessica Pearson, *Twelve Reasons for Collaboration between Departments of Correction and Child Support Enforcement Agencies*, Corrections Today, June 2003.

Final Rule Summary

Overview

This final rule strengthens and updates the child support program by amending existing rules, some of which are 35 years old, to:

- set accurate child support obligations based on the noncustodial parents' ability to pay;
- increase consistent, on-time payments to families;
- move nonpaying cases to paying status;
- increase the number of noncustodial parents supporting their children;
- improve child support collection rates;
- reduce the accumulation of unpaid and uncollectible child support arrearages; and
- incorporate technological advances and evidence-based standards that support good customer service and cost-effective management practices.

What is new

Research finds that setting an accurate order based on the noncustodial parent's ability to pay improves the chances that the parent will comply with the support order and continue to pay over time. The final rule incorporates the longstanding federal requirement that child support orders reflect the noncustodial parents' ability to pay established under income-based guidelines adopted by each state. The rule increases public participation and transparency in state guidelines review processes. The rule also requires child support agencies to increase their case investigative efforts to improve the accuracy of child support orders. The rule includes language for states to consider the noncustodial parent's specific circumstances in imputing income when evidence of income is limited. Because three-fourths of child support payments are collected through payroll withholding, the rule standardizes and streamlines payment processing to ensure that this highly effective support enforcement tool does not unduly burden employers. The regulations clarify that health care coverage includes public and private insurance to increase state flexibility in ensuring that parents meet their medical support obligations by providing health care coverage or payments for medical expenses that are reasonable in cost and best meet the health care needs of the child.

The rule incorporates civil contempt due process requirements to implement the 2011 Supreme Court decision in Turner v. Rogers. The final rule establishes criteria that child support agencies must use to determine which cases to refer to court for a civil contempt action and how they prepare cases for a civil contempt proceeding. Under the rule, state child support agencies must maintain and use an effective system for enforcing the support obligation by establishing criteria for filing civil contempt petitions in child support cases funded under title IV-D. The criteria must include requirements that the child support agency: (i) screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order; (ii) provide the court with such information regarding the noncustodial parent's ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions; and (iii) provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

Federal law requires states to review, and if appropriate, adjust support orders when either parent has experienced a substantial change in circumstances. The rule provides that a state may not exclude incarceration from consideration as a "substantial change in circumstances." In addition, after learning that a parent who owes support will be incarcerated for more than 180 calendar days, the state must either send a notice to both parents of their right to request a review and adjustment or automatically initiate a review and adjustment with notice to the parents. When modifying orders, states may consider an incarcerated parent's income and assets in setting the order amount.

To better meet the needs of unmarried parents, this rule also gives states the flexibility to allow applicants for child support services to request help with establishing paternity only in cases in which both parents reside in the state. In an effort to direct resources for cases where collections are possible and ensure that families have more control over whether to receive child support services, the rule expands the circumstances in which a state may close cases. The revised regulation also strengthens notice provisions to ensure that safeguards are in place to keep recipients informed about case closure actions.

The rule also removes outdated barriers to electronic communication and document management, updating existing child support regulations, which frequently limit methods of storing or communicating information to a written or paper format. Finally, the rule incorporates several technical changes to update, clarify, revise, or delete former regulations to ensure that the child support regulations are accurate, aligned with current state practice, and up-to-date.

How this affects states

This final rule draws on research and successful state practices to recognize and incorporate standards designed to improve the effectiveness and efficiency of the child support program. The final rule will make child support program operations and enforcement procedures more effective for families and more flexible and efficient for states and employers. The rule also recognizes advancements in technology that can enable improved collection rates and the move toward electronic communication and document management. This final rule will improve and simplify program operations and remove outmoded limitations to program innovations to serve families better. The rule makes significant changes to the regulations on case closure, child support guidelines, civil contempt, and medical support enforcement. The rule is intended to increase child support collection rates.

How this affects families

The rule is evidence-based and is expected to result in families receiving more consistent payment of child support. The rule is intended to improve the accuracy of and compliance with child support orders by requiring state child support agencies to increase case investigation efforts and develop a sufficient evidentiary basis for child support orders. The final rule also ensures that the quadrennial state guidelines review process is more transparent by making the review results available to the public and allowing citizens an opportunity to provide meaningful input into the review process. States may not preclude incarcerated parents from seeking a review and adjustment of their orders, helping to reduce uncollectible debt, participation in illegal income-generating activities, and recidivism. Electing to offer paternity-only limited services will allow parents who are living together to legally establish paternity of their children, will better meet the needs of the modern family, and will result in a more flexible and family-friendly child support program.

EXHIBIT E

Source:

Department Of Health
And
Human Services

Rules and Regulations

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

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Published: Tuesday, December 20, 2016

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 433

[CMS–2343–F]

RIN 0938–AR92

Administration for Children and Families

45 CFR Parts 301, 302, 303, 304, 305, 307, 308, and 309

RIN 0970–AC50

Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs

AGENCY: Office of Child Support Enforcement (OCSE), Administration for Children and Families (ACF) and the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This rule is intended to carry out the President's directives in *Executive Order 13563: Improving Regulation and Regulatory Review.* The final rule will make Child Support Enforcement program operations and enforcement procedures more flexible, more effective, and more efficient by recognizing the strength of existing State enforcement programs, advancements in technology that can enable improved collection rates, and the move toward electronic communication and document management. This final rule will improve and simplify program operations, and remove outmoded limitations to program innovations to better serve families. In addition, the final rule clarifies and corrects technical provisions in existing regulations. The rule makes significant changes to the regulations on case closure, child support guidelines, and medical support enforcement. It will improve child support collection rates because support orders will reflect the noncustodial parent's ability to pay support, and more noncustodial parents will support their children.

DATES: This final rule is effective on January 19, 2017. States may comply any time after the effective date, but before the final compliance date, **except for the amendment to § 433.152, which is effective on January 20, 2017.** The compliance dates, or the dates that States must comply with the final rule, vary for the various sections of the Federal regulations. The reasons for delaying compliance dates include State legislative changes, system modifications, avoiding the need for a special guidelines commission review, etc.

The compliance date, or the date by which the States must follow the rule, will be February 21, 2017 except, as noted below:

- *Guidelines for setting child support orders* [§ 302.56(a)–(g)], *Establishment of support obligations* [§ 303.4], and *Review and adjustment of child support orders* [§ 303.8(c) and (d)]: The compliance date is 1 year after completion of the first quadrennial review of the State's guidelines that commences more than 1 year after publication of the final rule.
- The requirements for reviewing guidelines for setting child support awards [§ 302.56(h)]: The compliance date is for the first quadrennial review of the guidelines commencing after the State's guidelines have initially been revised under this final rule.
- Continuation of service for IV–E cases [§ 302.33(a)(4)], Location of noncustodial parents in IV–D cases [§ 303.3], Mandatory notice under Review and adjustment of child support orders [§ 303.8(b)(7)(ii)], Mandatory provisions of *Case closure criteria* [§ 303.11(c) and (d)], and *Functional requirements for computerized support enforcement systems in operation by October 1, 2000* [§ 307.11(c)(3)(i) and (ii)]: The compliance date is 1 year from date of publication of the final rule, or December 20, 2017. However, if State law changes are needed, then the compliance date will be the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the final rule.
- Optional provisions (such as Paternity-only Limited Service [§ 302.33(a)(6)], *Case closure criteria* [§ 303.11(b)], *Review and adjustment of child support orders* [§ *303.8*(b)(2)], *Availability and rate of Federal financial participation* [§ 304.20], and Topic 2 Revisions): There is no specific compliance date for optional provisions.
- *Payments to the family* [§ 302.38], *Enforcement of support obligations* [§ *303.6(c)(*4)], and *Securing and enforcing medical support obligations* [§ 303.31]: If State law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the regulation. If State law revisions are not needed, the compliance date is 60 days after publication of the final rule.
- *Collection and disbursement of support payments by the IV–D agency* [§ 302.32], *Required State laws* [§ 302.70], *Procedures for income withholding* [§ 303.100], *Expenditures for which Federal financial participation is not available* [§ 304.23], and Topic 3 revisions: The compliance date is the same as the effective date for the regulation since these revisions reflect existing requirements.

FOR FURTHER INFORMATION CONTACT: The OCSE Division of Policy and Training at *OCSE.DPT@acf.hhs.gov.* Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. eastern time.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

This final rule is published under the authority granted to the Secretary of the Department of Health and Human Services by section 1102 of the Social Security Act (Act), 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, which may be necessary for the efficient administration of the functions for which the Secretary is responsible under the Act. Additionally, the Secretary has authority under section 452(a)(1) of the Act to ''establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support . . . as he[she] determines to be necessary to assure that such programs will be effective.'' Rules promulgated under section 452(a)(1) must meet two conditions. First, the Secretary's designee must find that the rule meets one of the statutory objectives of ''locating noncustodial parents, establishing paternity, and obtaining child support.'' Second, the Secretary's designee must determine that the rule is necessary to ''assure that such programs will be effective.''

Section 454(13) requires a State plan to ''provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan.''

This final rule is published in accordance with the following sections of the Act: Section 451—Appropriation;

section 452—Duties of the Secretary; section 453—Federal parent locator service; section 454—State plan for child and spousal support; section 454A—Automated data processing; section 454B—Collection and disbursement of support payments; section 455—Payments to States; section 456—Support obligations; section 457—Distribution of collected support; section 458—Incentive payments to States; section 459—Consent by the United States to income withholding, garnishment, and similar proceedings for enforcement of child support and alimony obligations; section 459A—International support enforcement; section 460—Civil actions to enforce support obligations; section 464—Collection of past-due support from Federal tax refunds; section 466—Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement; and section 467—State guidelines for child support awards.

II. Background

The Child Support Enforcement program was established to hold noncustodial parents accountable for providing financial support for their children. Child support payments play an important role in reducing child poverty, lifting approximately one million people out of poverty each year. In 2014, the Child Support Enforcement program collected $28.2 billion in child support payments for the families in State and Tribal caseloads. During this same period, 85 percent of the cases had child support orders, and nearly 71 percent of cases with support orders had at least some payments during the year. For current support, 64 percent of current collections are collected on time every month.

This final rule makes changes to strengthen the Child Support Enforcement program and update current practices in order to increase regular, on-time payments to all families, increase the number of noncustodial parents working and supporting their children, and reduce the accumulation of unpaid child support arrears. These changes remove regulatory barriers to cost-effective approaches for improving enforcement consistent with the current knowledge and practices in the field, and informed by many successful state-led innovations. In addition, given that almost three-fourths of child support payments are collected by employers through income withholding, this rule standardizes and streamlines payment processing so that employers are not unduly burdened by this otherwise highly effective support enforcement tool. The rule also removes outdated barriers to electronic communication and document management, updating existing child support regulations, which frequently limit methods of storing or communicating information to a written or paper format. Finally, the rule updates the program to reflect the recent Supreme Court decision in *Turner* v. *Rogers,* 564 U.S. ____, 131 S Ct. 2507 (2011).

Executive Order 13563 directs agencies to increase retrospective analysis of existing rules to determine whether they should be modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving regulatory objectives.[1] In response to *Executive Order 13563,* OCSE conducted a comprehensive review of existing regulations to identify ways to improve program flexibility, efficiency, and responsiveness; promote technological and programmatic innovation; and update outmoded ways of doing business. Some of these regulations had not been updated in a generation. Regulatory improvements include: (1) Procedures to promote program flexibility, efficiency, and modernization; (2) updates to account for advances in technology; and (3) technical corrections.

This final rule recognizes and incorporates policies and practices that reflect the progress and positive results from successful program implementation by States and Tribes.

The section-by-section discussion below provides greater detail on the provisions of the rule. All references to regulations are related to 45 CFR Chapter III, except as specified in sections relating to the CMS regulations (42 CFR part 433). In general, this final rule only affects regulations governing State IV–D programs, and does not impact Tribal IV–D program rules under 45 CFR part 309, except for some minor technical changes.

III. Summary Descriptions of the Regulatory Provisions

The following is a summary of the regulatory provisions included in the final rule and how these provisions differ from what was initially included in the Notice of Proposed Rulemaking (NPRM). The NPRM was published in the **Federal Register** on November 17, 2014 (79 FR 68548 through 68587). The comment period ended January 16, 2015. We received more than 2,000 sets of public comments. Although the NPRM was strongly supported, we received numerous comments on specific provisions. We made a number of adjustments to the final rule in response to those comments.

This final rule includes (1) procedures to promote program flexibility, efficiency, and modernization; (2) updates to account for advances in technology; and (3) technical corrections. The following is a discussion of all the regulatory provisions included in this rule. Please note the provisions are discussed in order by category. We present the revisions in these three categories to assist the reader in understanding the major concepts and rationale for the changes.

Topic 1: Procedures To Promote Program Flexibility, Efficiency, and Modernization (§§ 302.32; 302.33; 302.38; 302.56; 302.70; 303.3; 303.4; 303.6; 303.8; 303.11 (Including revisions to 42 CFR 433.152); 303.31; 303.72; 303.100; 304.20; 304.23; and 307.11)

Section 302.32—Collection and Disbursement of Support Payments by the IV–D Agency

Section 302.32 mirrors Federal law which requires State Disbursement Units (SDUs) to collect and disburse child support payments in accordance with support orders in IV–D cases. Additionally, SDUs must collect and disburse child support payments in non-IV–D cases in which the support order was initially issued on or after January 1, 1994, and the income of the noncustodial parent is subject to withholding in accordance with section 466(a)(8)(B) of the Act. The provision also specifies timeframes for the disbursement of support payments.

Paragraph (a) describes the basic IV–D State plan requirement that each State must establish and operate an SDU for the collection and disbursement of child support payments.

Paragraphs (a)(1) and (2) identify the types of child support cases for which support payments must be collected and disbursed through the SDU. Paragraph (a)(1) specifies that support payments under support orders in all cases under the State IV–D plan must be collected and disbursed through the SDU. Paragraph (a)(2) requires that support payments under support orders in all cases not being enforced under the State IV–D plan (non-IV–D cases) in which the support order is initially issued in the State on or after January 1, 1994, and

[1] Available at: *http://www.whitehouse.gov/the-press-office/2011/01/18/improving-regulation-and-regulatory-review-executive-order.* Also, the OMB Memorandum related to Executive Order 13563 is available at: *http://www.whitehouse.gov/sites/default/files/omb/memoranda/2011/m11-10.pdf.*

in which the income of the noncustodial parent is subject to withholding in accordance with section 466(a)(8)(B) of the Act must be collected and disbursed through the SDU.

Paragraph (b) is introductory language preceding timeframes for disbursement of various types of child support collections. Paragraph (b)(1) requires that in intergovernmental IV–D cases, child support collected on behalf of the initiating agency must be forwarded to the initiating agency within 2 business days of the date of receipt by the SDU in the responding State. The provision also includes an updated reference to the intergovernmental child support regulations at § 303.7(d)(6)(v) of this chapter. In response to comments regarding paragraph (b)(1), in the final rule we changed the term interstate to intergovernmental. We also used the term initiating agency instead of initiating State, recognizing that intergovernmental IV–D cases may be initiated by Tribal or foreign child support programs and not only States.

Section 302.33—Services to Individuals Not Receiving Title IV–A Assistance

Section 302.33(a)(4) requires that whenever a family is no longer eligible for State's Title IV–A and Medicaid assistance, the IV–D agency must notify the family, within 5 working days of the notification of ineligibility, that IV–D services will be continued unless the family notifies the IV–D agency that it no longer wants services but instead wants to close the case. This notice must inform the family of the benefits and consequences of continuing to receive IV–D services, including the available services and the State's fees, cost recovery, and distribution policies. This notification requirement also applies when a child is no longer eligible for IV–E foster care, but only in those cases that the IV–D agency determines that such services and notice would be appropriate.

Under § 302.33(a)(6), the State has the option of providing limited services for paternity-only services in intrastate cases to any applicant who requests such services. In response to comments, we narrowed the scope of limited services to paternity-only intrastate cases, instead of allowing a wide range of limited services. Although several commenters expressed support for increasing the flexibility of services offered to applicants, the revisions are based on other comments expressing concerns about the difficulty and cost for States to implement a menu of limited services in the context of intergovernmental enforcement. Some commenters also expressed concerns about how limited enforcement services options might impact Federal reporting and the performance measures used for incentive payments.

In the preamble to the NPRM, OCSE specifically requested feedback from commenters regarding whether there are additional domestic violence safeguards that should be put in place with respect to limited services. Some commenters emphasized the need for domestic violence safeguards in this area. In response to these commenters, we added language to the final rule requiring States to include domestic violence safeguards when establishing and using paternity-only limited services procedures.

Section 302.38—Payments to the Family

Section 302.38 reinforces the requirements found in section 454(11)(B) of the Act. The provision in the rule requires that a State's IV–D plan ''shall provide that any payment required to be made under §§ 302.32 and 302.51 to a family will be made directly to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, conservator representing the custodial parent and child directly with a legal and fiduciary duty, or alternate caretaker designated in a record by the custodial parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period. Based on comments received, we added ''judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child'' and ''alternate caretaker designated in a record by the custodial parent'' to the list of individuals to whom payments can be made. We also clarified what is meant by an alternate caretaker.

Section 302.56—Guidelines for Setting Child Support Orders

Section 302.56(a) requires each State to establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within 1 year after completion of the State's next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan. Considering public comments requesting additional time to implement revised guidelines, we added ''that commences more than 1 year after publication of the final rule'' to provide more time to do research and prepare for those States that have a quadrennial review that would initiate shortly after the issuance of this final rule.

Section 302.56(b) requires the State to have procedures for making guidelines available to all persons in the State. Based on comments, we removed the phrase ''whose duty it is to set child support award amounts'' at the end of the sentence.

The introductory paragraph for section 302.56(c) indicates the minimum requirements for child support guidelines. Paragraph (c)(1) indicates that child support guidelines must provide the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay that: (i) Takes into consideration all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent); (ii) takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State; and (iii) if imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

Responding to comments, we made major revisions in paragraph (c)(1). We moved the phrase ''and other evidence of ability to pay'' from paragraph (c)(4) to paragraph (c)(1) based on comments to require child support guidelines to provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay. This provision codifies the basic guidelines standard for setting order amounts, reflecting OCSE's longstanding interpretation of statutory guidelines requirements (See AT–93–04 and PIQ–00–03).[2]

[2] AT–93–04, available at *http://www.acf.hhs.gov/programs/css/resource/presumptive-guidelines-establishment-support-unreimbursed-assistance* and PIQ–00–03, available at: *http://www.acf.hhs.gov/programs/css/resource/state-iv-d-program-flexibility-low-income-obligors.*

In paragraph (c)(1)(i), based on comments, we retained ''all income and earnings'' and did not change ''all'' to ''actual'' income and earnings as we had proposed in the NPRM. Based on comments, we also added ''(and at the State's discretion, the custodial parent).''

Based on comments, we made the following revisions in paragraph (c)(1). We revised proposed paragraph (c)(4) and redesignated it as (c)(1)(ii). We added ''basic'' before subsistence needs to clarify scope. We also added ''(and at the State's discretion, the custodial parent and children),'' giving States the option of considering the custodial parent's and children's basic subsistence needs in addition to the subsistence needs of the noncustodial parent. We also granted more flexibility to States in how they will consider basic subsistence needs by adding ''who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State.'' We also removed language from the NPRM that the guidelines ''provide that any amount ordered for support be based upon available data related to the parent's actual earnings, income, assets, or other evidence of ability to pay, such as testimony that income or assets are not consistent with a noncustodial parent's current standard of living.'' We also added paragraph (c)(1)(iii) related to imputed income.

We redesignated proposed paragraph (c)(3) as (c)(2). This provision requires that State child support guidelines address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support. To conform to other medical support revisions in this final rule, we replaced ''health insurance coverage'' in the NPRM with ''private or public health care coverage.'' Based on comments, we also removed ''in accordance with § 303.31 of this chapter'' that was in the NPRM because § 303.31 only pertains to IV–D cases and this provision of the rule applies to both IV–D and non-IV–D cases.

OCSE redesignated proposed paragraph (c)(5) as paragraph (c)(3) in the final rule. This paragraph prohibits the treatment of incarceration as ''voluntary unemployment'' when establishing or modifying support orders because State policies that treat incarceration as voluntary unemployment effectively block application of the Federal review and adjustment law in section 466(a)(10) of the Act. This section of the Act requires review, and if appropriate, adjustment of an order upward or downward upon a showing of a substantial change in circumstances.

This rule redesignated proposed paragraph (c)(2) as (c)(4), which requires that the guidelines be based on specific descriptive and numeric criteria and result in a computation of the support obligation. Paragraph (d) requires States to include a copy of the guidelines in the State plan. Paragraph (e) requires that each State review, and revise its guidelines, if appropriate, at least once every 4 years to ensure that their application results in the determination of appropriate child support order amounts. Responding to comments, we added a sentence that requires each State to publish on the Internet and make accessible to the public all reports of the child support guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.

Paragraph (f) requires States to provide for a rebuttable presumption, in any judicial or administrative proceeding for the establishment and modification of a child support order, that the amount of the order which would result from the application of the child support guidelines established under paragraph (a) is the correct amount of child support to be ordered. We made a minor technical revision to both paragraphs (f) and (g) to specify that these paragraphs apply to the establishment and modification of a child support order.

Under paragraph (g) in this rule, a written or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the child support guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the child support order varies from the guidelines.

In response to comments, we deleted proposed paragraph (h), which would have allowed States to recognize parenting time provisions in child support orders pursuant to State guidelines or when both parents have agreed to the parenting time provisions.

In the final rule, we redesignated proposed paragraph (i) as paragraph (h) and subdivided this paragraph into paragraphs (h)(1) through (h)(3) to make it easier to read. Paragraph (h)(1) requires, as part of the review of a State's child support guidelines required under paragraph (e) of this section, that a State must consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with current support orders. Based on comments, we added all of the factors to the existing requirement to consider the economic data on the cost of raising children.

Paragraph (h)(2) requires the State to analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g). Based on comments, we added ''as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section.'' We also added ''and guideline amounts are appropriate based on criteria established by the State under paragraph (g).''

Considering public comments, we added the provisions in paragraph (h)(3) that the State's review of the child support guidelines must provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV–D.

Finally, OCSE made a technical change in the title and throughout this

section to replace ''award'' with ''order.''

Section 302.70—Required State Laws

Section 302.70(d)(2) provides the basis for granting an exemption from any of the State law requirements discussed in paragraph (a) of this section and extends the exemption period from 3 to 5 years.

In this section, OCSE maintains the authority to review and to revoke a State's exemption at any time [paragraphs (d)(2) and (3)]. States may also request an extension of an exemption 90 days prior to the end of the exemption period [paragraph (d)(4)].

Section 302.76—Job Services

This proposed provision received overwhelming support from states, Members of Congress, and the public, but it also was opposed by some Members of Congress who did not think the provision should be included in the final rule. While we appreciate the support the commenters expressed, we think allowing for federal IV–D reimbursement for job services needs further study and would be ripe for implementation at a later time. Therefore, we are not proceeding with finalizing the proposed provisions at §§ 302.76, 303.6(c)(5), and 304.20(b)(viii).

Section 303.3—Location of Noncustodial Parents in IV–D Cases

Section 303.3 requires IV–D agencies to attempt to locate all noncustodial parents or sources of income and/or assets where that information is necessary. Paragraph (b)(1) requires States to use appropriate location sources such as the Federal PLS; interstate location networks; local officials and employees administering public assistance, general assistance, medical assistance, Supplemental Nutrition Assistance Program (SNAP), and social services (whether such individuals are employed by the State or a political subdivision); relatives and friends of the noncustodial parent; current or past employers; electronic communications and Internet service providers; utility companies; the U.S. Postal Service; financial institutions; unions; corrections institutions; fraternal organizations; police, parole, and probation records if appropriate; and State agencies and departments, as authorized by State law, including those departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records and other sources.

In response to comments, we made the following technical revisions to the list of locate sources in paragraph (b)(1): Changing ''food stamps'' to Supplemental Nutrition Assistance Program (SNAP); adding ''utility companies;'' changing ''the local telephone company'' to ''electronic communications and Internet service providers ;'' and changing ''financial references'' to ''financial institutions.''

Section 303.4—Establishment of Support Obligations

The NPRM did not include any revisions to § 303.4; however, because we had numerous comments related to the general applicability of State guidelines, we moved the requirements specifically related to State IV–D agencies to § 303.4. We also had many comments related to the IV–D agency responsibilities in determining the noncustodial parent's income and imputation of income when establishing child support orders. Following this line of comments, we made revisions to § 303.4 that require State IV–D agencies to implement and use procedures in IV–D cases related to applying the guidelines regulation. To address several comments received in response to proposed changes to § 302.56 regarding establishment of support orders and imputation of income, we revised this section to address requirements for the State IV–D agencies when establishing support orders in IV–D cases that would not be applicable to non-IV–D cases.

In § 303.4(b), States are required to use appropriate State statutes, procedures, and legal processes in establishing and modifying support obligation in accordance with § 302.56 of this chapter. We added ''procedures,'' as well as ''and modifying,'' to the former paragraph. We also replaced ''pursuant to'' with ''in accordance with'' in this same paragraph.

We also added paragraphs (b)(1) through (b)(4) to provide additional requirements that State IV–D agencies must meet in establishing and modifying support obligations. Paragraph (b)(1) requires States to take reasonable steps to develop a sufficient factual basis for the support obligation, through such means as investigations, case conferencing, interviews with both parties, appear and disclose procedures, parent questionnaires, testimony, and electronic data sources. Paragraph (b)(2) requires States to gather information regarding the earnings and income of the noncustodial parent and, when earning and income information is unavailable in a case, gather available information about the specific circumstances of the noncustodial parent, including such factors as listed under § 302.56(c)(iii).

Additionally, paragraph (b)(3) requires basing the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available. If evidence of earnings and income is not available or insufficient to use as the measure of the noncustodial parent's ability to pay, then the support obligation or recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed under § 302.56(c)(iii).

Finally, paragraph (b)(4) requires documenting the factual basis for the support obligation or the recommended support obligation in the case record.

§ 303.6—Enforcement of Support Obligations

In the final rule, we amended § 303.6(c)(4) to require States to establish guidelines for the use of civil contempt citations in IV–D cases. The guidelines must include requirements that the IV–D agency must screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order. The IV–D agency must also provide the court with such information regarding the noncustodial parent's ability to pay, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions. Finally, the IV–D agency must provide clear notice to the noncustodial parent that ability to pay constitutes the critical question in the civil contempt action.

We amended § 303.6 to remove ''and'' at the end of paragraph (c)(3) and redesignated paragraph (c)(4) as paragraph (c)(5). We made significant revisions to the NPRM for the final rule based on comments. As a result of comments, we revised the proposed new paragraph (c)(4) to require that State IV–D agencies must establish guidelines for the use of civil contempt citations in IV–D cases.

Based on these comments, we deleted the entire proposed paragraph (c)(4) that would have required procedures that would ensure that enforcement activity in civil contempt proceedings takes into consideration the subsistence needs of the noncustodial parent, and ensure that a purge amount the noncustodial parent must pay in order to avoid incarceration takes into consideration actual earnings and income and the subsistence needs of the noncustodial parent. We also

deleted that a purge amount must be based upon a written evidentiary finding that the noncustodial parent has the actual means to pay the amount from his or her current income or assets.

Instead we added that IV–D agency must provide the court with such information regarding the noncustodial parent's ability to pay, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions. Finally, the IV–D agency must provide clear notice to the noncustodial parent that ability to pay constitutes the critical question in the civil contempt action. The Response to Comments section for *Civil Contempt Proceedings [§ 303.6(c)(4)]* provides further details on the reasons for these revisions.

Section 303.8—Review and Adjustment of Child Support Orders

We redesignated former § 303.8(b)(2) through (5) as (b)(3) through (6). A new paragraph (b)(2) allows the IV–D agency to elect in its State plan the option to initiate the review of a child support order, after learning that a noncustodial parent will be incarcerated for more than 180 calendar days, without the need for a specific request, and upon notice to both parents, review and, if appropriate, adjust the order, in accordance with paragraph (b)(1)(i) of this section. Based on comments, we revised the proposed regulatory language ''after being notified'' to ''after learning'' and increased the number of days from 90 to 180 days. We also added the word ''calendar'' after ''180'' to distinguish between calendar and business days.

In addition, we redesignated former paragraph (b)(6) which requires notice ''not less than once every three years,'' to paragraphs (b)(7) and (b)(7)(i). We added a new paragraph (b)(7)(ii) that indicates if a State has not elected to initiate review without the need for a specific request under paragraph (b)(2) of this section, within 15 business days of when the IV–D agency learns that the noncustodial parent will be incarcerated for more than 180 calendar days, the IV–D agency must send a notice to both parents informing them of the right to request a review and, if appropriate, adjust the order. The notice must specify, at minimum, the place and manner in which the parents must make the request for review.

Based on comments, we revised the proposed language in paragraph (b)(2) to: Add that the IV–D agency must send the notice within 15 business days of learning that the noncustodial parent will be incarcerated, add an incarceration timeframe of more than 180 calendar days to be consistent with paragraph (b)(2); and replace the phrase ''upon request'' with ''if appropriate.'' We also revised the proposed provision to use the phrase ''both parents'' instead of ''incarcerated noncustodial parent and the custodial parent'' for consistency with paragraphs (b)(7)(i) and (ii). In response to comments, we added a sentence at the end of paragraph (b)(7)(ii), based on comments, that recognizes existing comparable State law or rule that modifies child support obligations upon incarceration of the noncustodial parent.

Based on comments, we added a sentence to paragraph (c) to address incarceration as a significant change in circumstance when determining the standard for adequate grounds for petitioning review and adjustment of a child support order.

Finally, OCSE amends § 303.8(d) to make conforming changes with our revisions in § 303.31 to remove a previous requirement that, for purposes of review or adjustment of a child support order, a child's eligibility for Medicaid could not be considered sufficient to meet the child's health care needs. The final rule indicates that the need to provide for the child's health care needs in an order, through health insurance or other means, must be an adequate basis under State law to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary.

Section 303.11—Case Closure Criteria

Section 303.11(b) adds language to clarify that a IV–D agency is not required to close a case that is otherwise eligible to be closed under that section. Case closure regulations in paragraph (b) are designed to give a State the option to close cases, if certain conditions are met, and to provide a State flexibility to manage its caseload. If a State elects to close a case under one of these criteria, the State must maintain supporting documentation for its decision in the case record.

Paragraph (b)(1) indicates that a case may be closed when there is no longer a current support order and arrearages are under $500 or unenforceable under State law. New paragraph (b)(2) adds a case closure criterion to permit a State to close a case where there is no current support order and all arrearages are owed to the State.

Paragraph (b)(3) adds a criterion to allow the IV–D agency to close an arrearages-only case against a noncustodial parent who is entering or has entered long-term care placement, and whose children have reached the age of majority if the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support.

Paragraph (b)(4) permits closure of a case when the noncustodial parent or alleged father is deceased and no further action, including a levy against the estate, can be taken. Paragraph (b)(5) adds a criterion to allow a State to close a case when the noncustodial parent is either living with the minor children as the primary caregiver or is a part of an intact two-parent household, and the IV–D agency has determined that services either are not appropriate or are no longer appropriate. We added ''or no longer appropriate'' to the proposed language as a technical revision.

Paragraph (b)(6) indicates that a case may be closed when paternity cannot be established because: (i) The child is at least 18 years old and an action to establish paternity is barred by a statute of limitations that meets the requirements of § 302.70(a)(5) of this chapter; (ii) a genetic test or a court or an administrative process has excluded the alleged father and no other alleged father can be identified; (iii) in accordance with § 303.5(b), the IV–D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or rape, or in any case where legal proceedings for adoption are pending; or (iv) the identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV–D agency with the recipient of services. Minor technical changes were made to this paragraph.

Paragraph (b)(7) allows case closure when the noncustodial parent's location is unknown, and the State has made diligent efforts using multiple sources, in accordance with § 303.3, all of which have been unsuccessful, to locate the noncustodial parent: Over a 2-year period when there is sufficient information to initiate an automated locate effort; over a 6-month period when there is not sufficient information to initiate an automated locate effort; or after a 1-year period when there is sufficient information to initiate an automated locate effort, but locate interfaces are unable to verify a Social Security Number.

Paragraph (b)(8) states that case closure is permitted when a IV–D agency has determined that throughout the duration of the child's minority (or after the child has reached the age of majority), the noncustodial parent cannot pay support and shows no

evidence of support potential because the parent has been institutionalized in a psychiatric facility, is incarcerated, or has a medically-verified total and permanent disability. The State must also determine that the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support. Based on comments, we deleted from the NPRM ''or has had multiple referrals for services by the State over a 5-year period which have been unsuccessful.''

Section 303.11(b)(9) adds a new case closure criterion to permit a State to close a case when a noncustodial parent's sole income is (i) from Supplemental Security Income (SSI) payments, or (ii) from both SSI payments and Social Security Disability Insurance (SSDI) benefits under title II of the Act. In paragraph (b)(9)(ii), we added ''payments'' after ''SSI'' and, in response to comments, clarified that SSDI is the Title II benefit. Also, in paragraph (b)(9)(iii), we deleted the phrase ''or other needs-based benefits'' because these benefits may have limited duration and do not reflect a determination of an inability to work. In the absence of a disability that impairs the ability to work, the ability of the noncustodial parent to work and earn income may also fluctuate with time. Thus, it is important for the child support agencies to take efforts on these cases to remove the barriers to nonpayment and build the capacity of the noncustodial parents to pay by using tools such as referring noncustodial parents for employment services provided by another State program or community-based organization.

Paragraph (b)(10) allows case closure when the noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and there is no Federal or State reciprocity with the country. The final rule makes a technical change in this paragraph to clarify that reciprocity with a country could be through either a Federal or State treaty or reciprocal agreement. We added ''treaty or'' to the proposed language as a technical change.

Paragraph (b)(11) permits case closure if the IV–D agency has provided location-only services as requested under § 302.35(c)(3) of this chapter.

Paragraph (b)(12) indicates that a case may be closed where the non-IV–A recipient of services requests closure and there is no assignment to the State of medical support under 42 CFR 433.146 or of arrearages which accrued under a support order. Paragraph (b)(13) adds a criterion to allow the State to close a non-IV–A case after completion of a paternity-only limited service under § 302.33(a)(6) without providing the notice in accordance with § 303.11(d)(4).

Paragraph (b)(14) states that case closure is allowed if there has been a finding by the IV–D agency, or at the option of the State, by the responsible State agency of good cause or other exceptions to cooperation with the IV–D agency and the State or local assistance program, such as IV–A, IV–E, SNAP, and Medicaid, which has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative. We added ''IV–D agency, or at the option of the State, by the'' as a technical change because this tracks the language of the statute. In response to comments, we also added SNAP to the list of assistance programs referenced in this paragraph.

Paragraph (b)(15) allows case closure in a non-IV–A case receiving services under § 302.33(a)(1)(i) or (iii) of this chapter, or under § 302.33(a)(1)(ii) when cooperation with the IV–D agency is not required of the recipient of services, when the IV–D agency is unable to contact the recipient of services despite a good faith effort to contact the recipient through at least two different methods.

Paragraph (b)(16) also permits closure when the IV–D agency documents the circumstances of the recipient's noncooperation and an action by the recipient is essential for the next step in providing IV–D services in a non-IV–A case receiving services under § 302.33(a)(1)(i) or (iii) of this chapter, or under § 302.33(a)(1)(ii) when cooperation with the IV–D agency is not required of the recipient of services.

Paragraphs (b)(17) through (b)(19) identify the case closure criteria when the responding State IV–D agency may close a case. Paragraph (b)(17) allows the responding agency to close a case when it documents failure by the initiating agency to take an action that is essential for the next step in providing services. We revised ''IV–D'' agency from the NPRM to ''responding'' agency to make the language more consistent with paragraphs (b)(18) and (b)(19). We also made a small editorial change for plain English to this paragraph.

Paragraph (b)(18) also allows the responding IV–D agency to close a case when the initiating agency has notified the responding State that the initiating State has closed its case under § 303.7(c)(11).

Paragraph (b)(19) indicates that the responding State may close a case if the initiating agency has notified the responding State that its intergovernmental services are no longer needed.

Paragraph (b)(20) adds a new criterion to provide a State with flexibility to close a case referred inappropriately by the IV–A, IV–E, SNAP, and Medicaid programs. In response to comments, SNAP is added to the list of referring agencies.

Paragraph (b)(21) adds a criterion to permit a State flexibility to close a case if the State has transferred it to a Tribal IV–D agency, regardless of whether there is a State assignment of arrears, based on the following procedures. First, before transferring the case to a Tribal IV–D agency and closing the State's case, either the recipient of services requested the State to transfer its case and close the State's case or the IV–D agency notified the recipient of its intent to transfer the case to the Tribal IV–D agency and the recipient did not respond to the notice within 60 calendar days of the date of the notice. Next, the State IV–D agency completely and fully transferred and closed the case. Third, the State IV–D agency notified the recipient that the case has been transferred to the Tribal IV–D agency and closed. Finally, paragraph (b)(21)(iv) indicates that if the Tribal IV–D agency has a State-Tribal agreement approved by OCSE to transfer and close case, this agreement must include a provision for obtaining the consent from the recipient of services to transfer and close the case.

Responding to comments, we added ''including a case with arrears assigned to the State'' to the introductory sentence of paragraph (b)(21). We also clarified that the case transfer process includes transfer and closure. As a technical change, we added ''State'' before IV–D agency throughout this paragraph to clarify which IV–D agency had the responsibility. In response to comments, the rule added paragraph (b)(21)(iv) related to allowing a permissible case transfer in accordance with an OCSE-approved State-Tribal agreement that includes consent from the recipient of services.

Paragraph (c) adds a criterion to require a State IV–D agency to close a Medicaid reimbursement referral based solely upon health care services provided through an Indian Health Service Program, including through the Purchased/Referred Care program. Unlike the case closure criteria under paragraph (b), which are permissive, the case closure criterion under paragraph (c) is mandatory. In the final rule, we

replaced ''contract health services'' with ''the Purchased/Referred Care program'' because the Indian Health Service (IHS) program was formally renamed.

In this joint rule, we also amend 42 CFR 433.152(b)(1), consistent with IHS policy, to require that State Medicaid agencies not refer cases for medical support enforcement services when the Medicaid referral is based solely upon health care services, including the Purchased/Referred Care program, provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12) to a child who is eligible for health care services from the IHS. This policy remedies the current inequity of holding noncustodial parents personally liable for services provided through the Indian Health Programs to IHS-eligible families that qualify for Medicaid. The revision to 42 CFR 433.152(b)(1) also eliminates reference to 45 CFR part 306, which was repealed in 1996.

In the final rule, paragraphs (d)(1) through (3) had minor stylistic edits from the NPRM. Paragraph (d)(1) requires that a State must notify the recipient of services in writing 60 calendar days prior to closing a case of the State's intent to close the case meeting the criteria in paragraphs (b)(1) through (10) and (b)(15) through (16) of this section. Paragraph (d)(2) adds provisions that in an intergovernmental case meeting the criteria for closure under paragraph (b)(17), the responding State must notify the initiating agency 60 calendar days prior to closing the case of the State's intent to close the case.

Paragraph (d)(3) states that the case must be kept open if the recipient of services or the initiating agency supplies information, in response to the notice provided under paragraph (d)(1) or (2), which could lead to paternity or support being established or an order being enforced, or, in the instance of paragraph (b)(15) of this section, if contact is reestablished with the recipient of services.

Based on comments, we removed proposed paragraphs (d)(4) and (5) regarding the notice requirements for inappropriate referrals under paragraphs (b)(20) and (c).

Section 303.11(d)(4), which was proposed as (d)(6) in the NPRM, requires that for a case to be closed in accordance with paragraph (b)(13), the State must notify the recipient of services, in writing, 60 calendar days prior to closure of the case of the State's intent to close the case. This paragraph also specifies the notice content and lists steps the recipient must take if the recipient reapplies for child support services. Responding to comments, we revised the proposed language to require the notice prior to closure rather than after the limited services case has been closed. We also removed references to proposed paragraph (d)(5) and changed the number of days to 60 calendar days from 30 calendar days.

Section 303.11(d)(5) permits a former recipient of services to re-open a closed IV–D case by reapplying for IV–D services.

Finally, paragraph (e) requires a IV–D agency to retain all records for cases closed for a minimum of 3 years.

Section 303.31—Securing and Enforcing Medical Support Obligations

In this final rule OCSE amends § 303.31 to provide a State with flexibility to permit parents to meet their medical support obligations by providing health care coverage or payments for medical expenses that are reasonable in cost and best meet the health care needs of the child. In paragraph (a)(2), we clarify that health care coverage includes public and private insurance.

In paragraph (a)(3), we delete the requirement that the cost of health insurance be measured based on the marginal cost of adding the child to the policy. Therefore, this change gives a State additional flexibility to define reasonable medical support obligations.

Next, § 303.31(b) requires the State IV–D agency to petition the court or administrative authority to include health care coverage that is accessible to the parent and can be obtained for the child at a reasonable cost. OCSE removes the limitation in paragraphs (b)(1) and (2), (3)(i), and (4) restricting this to private health insurance to allow a State to take advantage of both private and public health care coverage options to meet children's health care needs, and emphasize the role of State child support guidelines in setting child support orders that address how parents will share the costs associated with covering their child. We also made an editorial change in paragraph (b)(1)(ii).

Section 303.72—Requests for Collection of Past-Due Support by Federal Tax Refund Offset

To be consistent with Department of Treasury regulations at 31 CFR 285.3(c)(6), the rule amends § 303.72(d)(1) to require the initiating State to notify other States only if it receives an offset amount. This change amends the former § 303.72(d)(1) by eliminating the phrase, ''when it submits an interstate case for offset.''

Section 303.100—Procedures for Income Withholding

We are adding a new paragraph (h) in section 303.100(e) to require use of the Office of Management and Budget (OMB) approved form to implement withholding for all child support orders regardless of whether the case is IV–D or non-IV–D. Section 303.100(e) clarifies that ''the required OMB-approved Income Withholding for Support form'' must be used when sending notice to employers to initiate income withholding for child support. Finally, the rule adds a new paragraph (i), which explicitly states that income withholding payments on non-IV–D cases must be directed through the State Disbursement Unit.

Section 304.20—Availability and Rate of Federal Financial Participation

In the final rule, we are amending § 304.20 to increase the flexibility of State IV–D agencies to receive Federal reimbursement for cost-effective practices that increase the effectiveness of standard enforcement activities. We amend § 304.20(a)(1) to clarify that Federal financial participation (FFP) is available for expenditures for child support services and activities that are necessary and reasonable to carry out the State title IV–D plan. This change reflects 45 CFR part 75, ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards,'' subpart E—Cost Principles, which all State child support agencies must use in determining the allowable costs of work performed under Federal grants.

In paragraph (b), we added the phrase ''including but not limited to'' to make clear that FFP is available for, but not limited to, the activities listed in the regulation, consistent with OMB cost principles that allow for expenditures that are necessary and reasonable and can be attributed to the child support enforcement program.

Paragraphs (b)(1)(viii) and (ix) address the establishment of agreements with other agencies administering the titles IV–D, IV–E, XIX (Medicaid), and XXI (Children's Health Insurance Program (CHIP)) programs, to recognize activities related to cross-program coordination, client referrals, and data sharing when authorized by law. The provisions also include minor technical changes and specify the criteria States may include in these agreements. In paragraphs (b)(1)(viii)(A) and (b)(1)(ix)(A), we are adding ''and from'' before IV–D agency to provide States more flexibility to refer a case to and from the IV–D agency

when working with these Federal programs.

For agreements with IV–A and IV–E agencies under paragraph (b)(1)(viii), we added paragraphs (b)(1)(viii)(D) and (E) to the list of criteria to include procedures to coordinate services and agreements to exchange data as authorized by law, respectively. The rule also adds these two new criteria under paragraph (b)(1)(ix) for agreements with State agencies administering Medicaid or CHIP programs as paragraphs (b)(1)(ix)(B) and (C).

In response to comments, under paragraph (b)(1)(ix), we added ''appropriate'' before criteria to provide States greater flexibility in which criteria or activities to include in their agreements with Medicaid or CHIP agencies. Also based on comments, we retained the provision regarding the transfer of assigned medical support collections to the Medicaid agency now at paragraph (b)(1)(ix)(D), and formerly at paragraph (b)(1)(ix)(C).

Section 304.20(b)(2) clarifies that FFP is available for services and activities for the establishment of paternity including, but not limited to the specific activities listed in paragraph (b)(2). The rule adds educational and outreach activities to § 304.20(b)(2)(vii) to explain that FFP is available for IV–D agencies to educate the public and to develop and disseminate information on voluntary paternity establishment.

In accordance with the requirement in section 454(23) of the Act to regularly and frequently publicize the availability of child support enforcement services, including voluntary paternity services, paragraph (b)(3) clarifies that FFP is available for services and activities for the establishment and enforcement of support obligations including, but not limited to the specific activities listed in paragraph (b)(3). The rule adds allowable services and activities under paragraph (b)(3) related to the establishment and enforcement of support obligations. A new paragraph (b)(3)(v) allows FFP for bus fare or other minor transportation expenses to allow participation by parents in child support proceedings and related activities such as genetic testing appointments. We redesignated the former § 304.20(b)(3)(v) as § 304.20(b)(3)(vii).

In addition, new paragraph (b)(3)(vi) recognizes that FFP is available to increase *pro se* access to adjudicative and alternative dispute resolution processes in IV–D cases related to the provision of child support services. We added a clarification in the final rule that this paragraph only applies when the expenses are related to the provision of child support services.

In response to comments, we deleted the proposed paragraph (b)(3)(vii), which would have specifically allowed States to claim FFP for ''*de minimis*'' costs for including parenting time provisions in child support orders. (For further details, see Comment/Response 9 in § 304.20.)

We also made minor editorial changes in paragraph (b)(5)(v) by deleting '';'' and adding ''.'' at the end of the paragraph, and in paragraphs (b)(9) and proposed (b)(11) by deleting ''; and'' and adding ''.'' at the end of the sentence.

Finally, we added a new paragraph (b)(12) to allow FFP for the educational and outreach activities intended to inform the public, parents and family members, and young people who are not yet parents about the Child Support Enforcement program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other.

Section 304.23—Expenditures for Which Federal Financial Participation Is Not Available

Section 304.23(a) through (c) of the rule indicates that Federal financial participation at the applicable matching rate is not available for: (a) Activities related to administering titles I, IV–A, IV–B, IV–E, X, XIV, XVI, XIX, XX, or XXI of the Act or 7 U.S.C. Chapter 51; (b) purchased support enforcement services which are not secured in accordance with § 304.22; and (c) construction and major renovations.

For § 304.23(d), we added ''State and county employees and court personnel'' as a technical clarification that Federal financial participation is not available for the education and training of personnel except direct costs of short-term training provided to IV–D agency staff in accordance with § 304.20(b)(2)(vii) and § 304.21. This provision does not apply to other types of education and training activities (such as those provided to parents that are addressed in other rules) in this part. We also made a minor editorial change from the proposed language.

The final rule also clarifies that FFP is not available for any expenditures which have been reimbursed by fees collected as required by this chapter (§ 304.23(e)); any costs of those caseworkers described in § 303.20(e) of this chapter (§ 304.23(f)); any expenditures made to carry out an agreement under § 303.15 of this chapter (§ 304.23(g)); and the costs of counsel for indigent defendants in IV–D actions (§ 304.23(h)).

Paragraph (i) indicates that FFP is prohibited for any expenditures for the jailing of parents in child support enforcement cases. In the NPRM, OCSE inadvertently removed this restriction; however, we are correcting this error in the final rule. As a result, proposed paragraph (i), which addresses that costs of *guardians ad litem* are prohibited in IV–D actions, was redesignated as paragraph (j).

Section 307.11—Functional Requirements for Computerized Support Enforcement Systems in Operation by October 1, 2000

In the final rule, we amend § 307.11(c)(3)(i) to include provisions requiring States to build automatic processes designed to preclude garnishing financial accounts of noncustodial parents who are recipients of Supplemental Security Income (SSI) payments or individuals concurrently receiving both SSI and Social Security Disability Insurance (SSDI) benefits under title II of the Act. We also amended § 307.11(c)(3)(ii) to provide that funds must be returned to a noncustodial parent's financial account, within 5 business days after the agency determines that SSI payments or concurrent SSI payments and SSDI benefits under title II of the Act, have been inappropriately garnished. Responding to comments, we increased the timeframe from 2 days in the NPRM to 5 business days.

Topic 2: Updates To Account for Advances in Technology (§§ 301.1, 301.13, 302.33, 302.34, 302.50, 302.65, 302.70, 302.85, 303.2, 303.5, 303.11, 303.31, 304.21, 304.40, 305.64, 305.66, and 307.5)

In this final rule, the revisions remove barriers to using electronic communication and document management. Throughout the regulation, where appropriate, we removed the words ''written'' and ''in writing'' and insert ''record'' or ''in a record.'' These simple changes will allow OCSE, States, and others the flexibility to use cost-saving and efficient technologies, such as email or electronic document storage, wherever possible. The revisions to the regulation do not require a State to use electronic records for the specified purpose, but instead provide a State with the option to use electronic records, in accordance with State laws and procedures.

The definition of ''record'' used in this final regulation is taken from the Uniform Interstate Family Support Act (UIFSA) 2008, section 102(20). The

UIFSA drafters adopted the definition from another uniform law, the Uniform Electronic Transactions Act (1999). '''Record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.'' The Uniform Electronic Transactions Act describes this definition further:

> This is a standard definition designed to embrace all means of communicating or storing information except human memory. It includes any method for storing or communicating information, including ''writings.'' A record need not be indestructible or permanent, but the term does not include oral or other communications which are not stored or preserved by some means. Information that has not been retained other than through human memory does not qualify as a record. As in the case of the terms ''writing'' or ''written,'' the term ''record'' does not establish the purposes, permitted uses or legal effect which a record may have under any particular provision of substantive law.[3]

Substituting the phrase ''in a record'' for ''in writing'' allows more flexibility for electronic options by preventing a record from being automatically denied legal effect or enforceability just because it is in an electronic format. In addition, the use of the word ''record'' is designed to be technologically neutral; the word equates an electronic signature with a hand signature and an electronic document (whether scanned or created electronically) with a paper document. It neither means that electronic documents or electronic signatures will be required, nor will it affect any Federal requirements for what documents must contain to be valid or enforceable, such as a signature.

We are aware that not everyone has access to the latest technology. For that reason, wherever individual members of the public are involved, we generally are not removing requirements that the information is provided in a written, paper format [*i.e.,* pre-offset notices to obligors for Federal tax refund offset (§ 303.72(e)(1)]. In addition, we are not changing regulatory language where written formats are required by statute.

Section 301.1—General Definitions

This final rule amends the definition of ''Procedures'' in § 301.1 by changing the phrase ''written set of instructions'' to ''instructions in a record.'' This will allow instructions set forth under the State's child support plan to be made in an electronic form that is retrievable and perceivable within the meaning of the Uniform Electronic Transactions Act, and is not limited to a written format.

In addition, we are inserting the definition for the term ''record'' in this section. The use of the term ''record'' is broader than the term ''written'' and encompasses different ways of storing information, including, for example, in a written or an electronic document.

Section 301.13—Approval of State Plans and Amendments

In the first sentence of the introductory paragraph of § 301.13, we replace the words ''written documents'' with the word ''records.'' The intent of this change is to allow for electronic submission, transmission, and storage of the State child support plan. When a State submits a new State child support plan or plan amendment(s) electronically, it must ensure electronic signature(s) accompany the document(s).

In paragraphs (e) and (f) of this section, ''Prompt approval of the State plan'' and ''Prompt approval of plan amendments,'' respectively, we change the words ''a written agreement'' in both provisions to ''an agreement, which is reflected in a record.'' These changes will enable OCSE regional program offices to secure from IV–D agencies agreements to extend an approval deadline for either a State plan or State plan amendment(s) in an electronic record format. In addition, we are making a technical change to paragraph (f) to change ''Regional Commissioner'' to ''Regional Office'' for consistency with other references to the ''Regional Office'' in this section.

Section 302.33—Services to Individuals Not Receiving Title IV–A Assistance

In § 302.33(d)(2), we change the phrase ''written methodology'' to ''methodology, which is reflected in a record.'' This change will afford a State record-keeping flexibility in maintaining the methodology developed for recovering standardized costs.

Section 302.34—Cooperative Arrangements

The first sentence under § 302.34 requires a State to enter into written agreements for cooperative arrangements under § 303.107 with appropriate courts, law enforcement officials, Indian tribes, or tribal organizations. The rule edits the phrase ''written agreements'' to read ''agreements, which are reflected in a record.'' This will ensure that any cooperative arrangements entered into by the IV–D agency can be maintained in a manner that is not limited to a written format. This amendment does not change any of the requirements for the document to be legally effective or enforceable, such as a signature.

Section 302.50—Assignment of Rights to Support

In this final rule, we replace the word ''writing'' with the term ''a record'' in § 302.50(b)(2) so the State has greater flexibility in determining the format of the obligation amount, when there is no court or administrative order, and such amount is based on other legal process established under State law in accordance with State guidelines procedures.

Section 302.65—Withholding of Unemployment Compensation

This rule amends § 302.65(b) by changing the phrase ''a written agreement'' to ''an agreement, which is reflected in a record.'' Additionally, in paragraph (c)(3), we replaced the words ''written criteria'' with ''criteria, which are reflected in a record.'' These changes will establish that the agreements States develop with State workforce agencies (SWAs) and the criteria for selecting cases in which to pursue withholding of unemployment compensation are not limited to written agreements or written criteria. Again, these amendments do not impact any of the requirements for the documents to be legally effective or enforceable, such as a signature.

Section 302.70—Required State Laws

Section 302.70(a)(5) describes the procedures for paternity establishment. In the final rule, paragraph (a)(5)(v) discusses requirements for objecting to genetic testing results and states that if no objection is made, a report of the test results, which is reflected in a record, is admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy. We are changing the phrase ''a written report of the test results'' to ''a report of the test results, which is reflected in a record'' to provide greater flexibility and efficiency in admitting evidence of paternity. Please note that in this same paragraph, we are not eliminating the phrase ''in writing'' in the requirement regarding the notice to parents about the consequences of acknowledging paternity, paragraph (a)(5)(iii), and the requirement that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence, paragraph (a)(5)(v). In these instances, the phrase ''in writing'' is statutorily prescribed, according to

[3] See comments to the Uniform Electronic Transactions Act (1999), section 2, Definitions, available at: *http://www.uniformlaws.org/Act.aspx?title=Electronic%20Transactions%20Act* (quoting ABA Report on Use of the Term ''Record,'' October 1, 1996).

sections 466(a)(5)(C)(i) and 466(a)(5)(F)(ii) of the Act, respectively.

Section 302.85—Mandatory Computerized Support Enforcement System

This section describes the basis for OCSE to grant State waivers in regard to the mandatory computerized support enforcement system. Section 302.85(b)(2)(ii) requires the State to provide assurances, which are reflected in a record, that steps will be taken to otherwise improve the State's IV–D program. This change provides a State the option of communicating with OCSE electronically, rather than only in writing, when providing the required assurances under this provision.

Section 303.2—Establishment of Cases and Maintenance of Case Records

In this rule, § 303.2(a)(2), requires the State IV–D agency to send an application to an individual within no more than 5 working days of a request received by telephone or in a record. We are replacing the phrase ''a written or telephone request'' with ''a request received by telephone or in a record,'' in order to allow for any requests for applications that are received by telephone or transmitted electronically, for example, by email or text message. In response to comments, we also changed the word ''made'' to ''received'' to clarify when the 5 working day timeframe begins.

Under paragraph (a)(3), the rule changes the requirements for applications for IV–D services, to define an application as a record provided by the State which is signed, electronically or otherwise, by the individual applying for IV–D services. We are lifting the restriction that applications only be in a written or paper format, as well as allowing for electronic signature, by inserting the phrase ''electronically or otherwise'' after the word ''signature.'' The acceptance of electronic signature is in accordance with PIQ 09–02,[4] which allows States to use electronic signatures on applications, as long as it is allowable under State law. As noted in PIQ 09–02, the appropriateness of the use of electronic signatures must be carefully determined by States. In making this determination, States should consider the reliability of electronic signature technology and the risk of fraud and abuse, among other factors.

[4] PIQ–09–02 is available at: *http://www.acf.hhs.gov/programs/css/resource/use-of-electronic-signatures-on-applications-for-iv-d-services.*

Section 303.5—Establishment of Paternity

Section 303.5(g)(6) requires the State to provide training, guidance, and instructions, which are reflected in a record, regarding voluntary acknowledgment of paternity to hospitals, birth record agencies, and other entities that participate in the State's voluntary acknowledgment program. The rule changes the phrase ''written instructions'' to ''instructions, which are reflected in a record'' to allow a State the flexibility to provide program instructions in electronic formats, in addition to, or in place of, written instructions.

Section 303.11—Case Closure Criteria

Paragraph (d) describes the requirements for case closure notification and case reopening. Paragraph (d)(1) indicates that for cases meeting the case closure requirements in paragraphs (b)(1) through (10) and (b)(15) and (16) of this section, the State must notify service recipients in writing 60 calendar days prior to closure of the cases of the State's intent to close a case.

In order to allow for greater efficiency and flexibility, paragraph (d)(2) allows electronic notification in the instance of intergovernmental IV–D case closure when the responding agency is communicating with the initiating agency.

Paragraph (b)(4) states that for cases to be closed in accordance with paragraph (b)(13), the State must notify the recipient of services, in writing, 60 calendar days prior to closure of the case of the State's intent to close the case. In response to comments, we added the phrase ''in writing'' to clarify how the notices should be sent to the recipient.

We are not changing the State's ''written'' notification requirements to the recipients of services because of our general approach not to remove requirements to provide formal notices for all applicants and recipients of services in writing. However, as discussed in response to comments under § 303.11, *Case Closure Criteria* section in Topic I of this rule, we added paragraph (d)(6) for notices required under paragraphs (d)(1) and (4), if the recipient of services specifically authorizes consent for electronic notifications, the IV–D agency may elect to notify the recipient of services electronically of the State's intent to close the case. The IV–D agency is required to maintain documentation of the recipient's consent in the case record.

Section 303.31—Securing and Enforcing Medical Support Obligations

We amend the introductory language in § 303.31(b)(3) by changing the phrase ''written criteria'' to ''criteria, which are reflected in a record,'' so that criteria established to identify cases where there is a high potential for obtaining medical support can be either in an electronic or written format.

Section 304.21—Federal Financial Participation in the Costs of Cooperative Arrangements With Courts and Law Enforcement Officials

This rule amends paragraph (a) of § 304.21 by changing the words ''written agreement'' to ''agreement, which is reflected in a record,'' to provide flexibility in the format of the agreements between a State and courts or law enforcement officials.

Section 304.40—Repayment of Federal Funds by Installments

Section 304.40(a)(2) requires a State to notify the OCSE Regional Office in a record of its intent to make installment repayments. We are changing the phrase ''in writing'' to ''in a record'' to give a State the option of notifying the Regional Office electronically of its intent to repay Federal funds in installments.

Section 305.64—Audit Procedures and State Comments

In § 305.64(c), we removed the phrase ''by certified mail'' from the second sentence of this paragraph since OCSE currently sends these reports electronically and by overnight mail. In this same paragraph, we change ''written comments'' to ''comments, which are reflected in a record,'' allowing IV–D agencies to submit comments on an interim audit report in an electronic format, if appropriate.

Section 305.66—Notice, Corrective Action Year, and Imposition of Penalty

Paragraph § 305.66(a) replaces ''in writing'' with ''in a record'' so that OCSE can notify the State that it is subject to a penalty in an electronic format, not just in a written format.

Section 307.5—Mandatory Computerized Support Enforcement Systems

The rule amends paragraph (c)(3) of § 307.5 by changing ''written assurance'' to ''assurance, which is reflected in a record,'' so that a State can provide assurance in an electronic format, if it so chooses.

Topic 3: Technical Corrections (§§ 301.15; 302.14; 302.15; 302.32; 302.34; 302.65; 302.70; 302.85; 303.3; 303.7; 303.11; 304.10; 304.12; 304.20; 304.21; 304.23; 304.25; 304.26; 305.35; 305.36; 305.63; 308.2; 309.85; 309.115; 309.130; 309.145; and 309.160)

We made a number of technical corrections that update, clarify, revise, or delete former regulations to ensure that the child support enforcement regulations are accurate, aligned, and up-to-date. In the NPRM, we proposed to update or replace obsolete references to administrative regulations by replacing 45 CFR part 74 with 45 CFR part 92 throughout the child support regulations. However, an Interim Final Rule effective December 26, 2014 (79 FR 75871),[5] issued jointly by OMB, HHS, and a number of Federal agencies, implements for all Federal award-making agencies the final guidance ''Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards'' (Uniform Guidance) published by the Office of Management and Budget (OMB) on December 26, 2013. The Interim Final Rule is necessary in order to incorporate the Uniform Guidance into regulation at 45 CFR 75 and thus bring into effect the Uniform Guidance as required by OMB. The Uniform Guidance in part 75 supersedes and streamlines requirements from several OMB circulars, including OMB Circulars A–87 and A–133 and applies to all HHS grantees, including State and Tribal child support programs funded under title IV–D of the Act.

Additionally, HHS issued an Interim Final Rule, effective January 20, 2016 (81 FR 3004),[6] that contains technical amendments to HHS regulations regarding the Uniform Guidance. The regulatory content updates cross-references within HHS regulations to replace part 74 with part 75.

Therefore, it is no longer necessary to make the proposed revisions and we will delete these proposed revisions in the final rule, except as otherwise noted.

Section 301.15—Grants

This rule renames paragraph (a) as *Financial reporting forms* and deletes paragraph (a)(3). We are replacing paragraph (a)(1) *Time and place* and paragraph (a)(2) *Description of forms* with the title and description of Form OCSE–396 and Form OCSE–34, respectively. In response to comments, we eliminated the ''A'' from the forms OCSE–396A and Form OCSE–34A to reflect the current title of these forms.

We are also renaming paragraph (b) *Review* as *Submission, review, and approval* and adding under paragraph (b) the following paragraphs: (b)(1) *Manner of submission;* (b)(2) *Schedule of submission;* and (b)(3) *Review and approval.* To provide a State more time to submit its financial reports, we are modifying the *Schedule of submission* paragraph to require the financial forms be submitted no later than 45 days following the end of each fiscal quarter. Further revisions in this paragraph reflect the current operating procedures and processes that are currently in place.

Additionally, we are revising paragraph (c) *Grant award* by deleting its former language and replacing it with three paragraphs (c)(1) *Award documents;* (c)(2) *Award calculatio*n; and (c)(3) *Access to funds.*

Finally, we are also deleting paragraphs (d) *Letter of credit payment system* and redesignating paragraph (e) *General administrative requirements* as paragraph (d) and revising this paragraph to add a reference to part 95 of this title, establishing general administrative requirements for grant programs, moving ''with the following exceptions'' to the end of the paragraph, and adding paragraph levels: (1) 45 CFR 75.306, *Cost sharing or matching;* and (2) 45 CFR 75.341, *Financial reporting.*

In the NPRM, we had incorrectly added reference to parts 74 and 95 as exceptions. In this rule, we are correcting this paragraph by adding the reference to part 95 in paragraph (d) and indicating that this part establishes general administrative requirements for grants. We also moved the phrase ''with the following exceptions'' to the end of the paragraph to make it easier to understand.

In paragraph (d), as discussed in the introductory paragraph of Topic 3 in this section, the rule deletes the proposed revision in the NPRM to reference part 92. However, we are updating the Interim Final Rule technical corrections discussed in the introductory paragraph of Topic 3 to add paragraph levels for the regulatory cites that are excluded. Specifically, we added ''(1)'' before 45 CFR 75.306, and added '','' before the title, *Cost sharing or matching* and added ''(2)'' before 45 CFR 75.341 and added '','' before the title, *Financial reporting.*

Section 302.14—Fiscal Policies and Accountability

As discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected. However, we are updating the reference in § 302.14 from 45 CFR 75 to 45 CFR 75.361 through 75.370 to specifically address the retention and custodial requirements for the fiscal records.

Section 302.15—Reports and Maintenance of Records

For clarity, we are redesignating the undesignated concluding paragraph of this section as § 302.15(a)(8). In paragraph (a)(8), as discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected. However, we are updating the reference in paragraph (8) from 45 CFR 75 to 45 CFR 75.361 through 45 CFR 75.370 to specifically address the retention and custodial requirements of the records.

Section 302.32—Collection and Disbursement of Support Payments by the IV–D Agency

In this final rule, we remove the outdated timeframes in the introductory paragraph. We also revise paragraph (b) to replace ''State Disbursement Unit (SDU)'' with ''SDU'' because the term was defined in paragraph (a). In response to comments, we replaced ''interstate'' with ''intergovernmental'' and ''initiating State'' with ''initiating agency.'' Finally, we replace an incorrect cross-reference in paragraph (b)(1) from § 303.7(c)(7)(iv) to § 303.7(d)(6)(v).

Section 302.34—Cooperative Arrangements

In the final rule we are clarifying that the term law enforcement officials includes ''district attorneys, attorneys general, and similar public attorneys and prosecutors,'' and adding ''corrections officials'' to the list of entities with which a State may enter into agreements for cooperative arrangements.

Section 302.65— Withholding of Unemployment Compensation

We replace the term ''State employment security agency'' with ''State workforce agency,'' and the term ''SESA'' with ''SWA'' throughout this regulation for consistency with the terminology used by the Department of Labor.

[5] The Uniform Guidance interim final rule is available at: *http://www.gpo.gov/fdsys/pkg/FR-2014-12-19/pdf/2014-28697.pdf.*

[6] The Uniform Guidance HHS technical corrections are available at: *https://www.gpo.gov/fdsys/pkg/FR-2016-01-20/pdf/2015-32101.pdf.*

Section 302.70—Required State Laws

We are making a technical correction in paragraph (a)(8) by revising the cross-reference to § 303.100(g).

Section 302.85—Mandatory Computerized Support Enforcement System

We are making a technical correction in paragraph (a)(1) by removing an out-of-date address. To be more user-friendly, we are indicating that the guide is available on the OCSE Web site.

Section 303.3—Location of Noncustodial Parents in IV–D Cases

In paragraph (b)(5), we are replacing the term ''State employment security'' with ''State workforce'' for consistency with revisions made elsewhere in the final rule.

Section 303.7—Provision of Services in Intergovernmental IV–D Cases

Under this rule, as discussed under Topic 1, we renumber paragraphs in § 303.11 and update the cross references in paragraph (d)(10).

Additionally, we add paragraph (f), ''Imposition and reporting of annual $25 fee in interstate cases,'' to provide that the title IV–D agency in the initiating State must impose and report the annual $25 fee in accordance with § 302.33(e). This provision was added in the final rule related to the Deficit Reduction Act of 2005 (73 FR 74898, dated December 9, 2008), but it had been inadvertently omitted in the final intergovernmental child support regulation, published in the **Federal Register** on July 2, 2010 and effective on January 3, 2011.

Finally, we are making a conforming technical change to add § 302.38 to the list of regulatory sections cited related to the initiating State IV–D responsibilities to distribute and disburse any support collections received. This technical change was not proposed in the NPRM, but was recommended by a commenter.

Section 303.11—Case Closure

We are making several technical changes to § 303.11, in addition to the numerous changes discussed under topics 1 and 2 of the final rule. In redesignated paragraphs (b)(4) and (b)(6)(ii), formerly paragraphs (b)(2) and (b)(3)(ii), respectively, we replace the outdated term ''putative father'' with the term ''alleged father.'' We also remove the word ''or'' at the end of the sentence in paragraph (b)(6)(ii) and add the word ''or'' to the end of the new paragraph (b)(6)(iii). Finally, in paragraph (e) we are updating our reference to 45 CFR 75.361.

As discussed earlier in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected. However, we are updating the reference in paragraph (e) from 45 CFR 75 to 45 CFR 75.361 to specifically address the 3-year retention requirements for records.

Section 304.10—General Administrative Requirements

We are adding after 45 CFR 75.306 '', Cost sharing or matching'' and after 45 CFR 75.341 '', Financial reporting''.

As discussed earlier in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected. However, we are adding the titles for clarity for 45 CFR 75.306 through 75.341.

Section 304.12—Incentive Payments

In the final rule, we delete outdated paragraphs 304.12(c)(4) and (5) as they applied to fiscal years 1985, 1986, and 1987.

Section 304.20—Availability and Rate of Federal Financial Participation

In § 304.20(b)(1)(iii), we revised the language to allow FFP for the establishment of all necessary agreements with other Federal, State, and local agencies or private providers to carry out Child Support Enforcement program activities in accordance with Procurement Standards. Additionally, we deleted paragraphs (c) and (d), which apply to fiscal years 1997 and 1998.

As discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected.

Section 304.21—Federal Financial Participation in the Costs of Cooperative Arrangements With Courts and Law Enforcement Officials

We are clarifying in paragraph (a) that the term law enforcement officials includes ''corrections officials'' to be consistent with § 302.34.

Section 304.21(a)(1) lists activities for which FFP at the applicable matching rate is available in the costs of cooperative agreements with appropriate courts and law enforcement officials. We modified this section to include a reference to § 304.20(b)(11), regarding medical support activities.

In response to comments, we further revised § 304.21(a)(1) to cross reference § 304.20(b)(12) which allows FFP for education and outreach activities provided by the courts and law enforcement officials through cooperative agreements.

Section 304.23—Expenditures for Which Federal Financial Participation Is Not Available

Section 304.23(a) lists various programs for which FFP is not available for administering these programs. We add the following Social Security Act programs to the list: Title IV–B, the Child Welfare Program; Title IV–E, the Foster Care Program; and Title XXI, the Children's Health Insurance Program (CHIP). We also add SNAP, which is administered under 7 U.S.C. Chapter 51.

In addition, we delete § 304.23(g) of the former rule because it is outdated. Paragraph (h) is redesignated as (g).

Section 304.25—Treatment of Expenditures; Due Date

In § 304.25(b), we lengthen the timeframe from 30 to 45 days after the end of the quarter for States to submit quarterly statements of expenditures under § 301.15.

As discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected.

Section 304.26—Determination of Federal Share of Collections

In this rule, § 304.26(a)(1) clarifies that the Federal medical assistance percentage rate is 75 percent for the distribution of retained IV–A collection. This paragraph also adds that the Federal medical assistance percentage rate is 55 percent for the distribution of retained IV–E Foster Care Program collections for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa and 70 percent of retained IV–E collections for the District of Columbia. We also delete paragraphs (b) and (c) of the former rule related to incentive and hold harmless payments to be made from the Federal share of collections because this requirement is outdated.

Section 305.35—Reinvestment

Section 305.35 requires State IV–D agencies to reinvest the amount of Federal incentive payments received into their child support programs. We are making several technical changes to this section.

To clarify the potential consequences of a State not maintaining the baseline expenditure level, we are amending paragraph (d) by adding a sentence to

the end of the paragraph to read: ''Non-compliance will result in disallowances of incentive amounts equal to the amount of funds supplanted.''

We redesignated paragraph (e) as paragraph (f) and added a new paragraph (e) to clarify how the State Current Spending Level should be calculated. Using the Form OCSE–396, ''Child Support Enforcement Program Financial Report,'' the State Current Spending Level will be calculated by determining the State Share of Total Expenditures Claimed for all four quarters of the fiscal year minus State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for all four quarters of the fiscal year, plus the Federal Parent Locator Service (FPLS) fees for all four quarters of the fiscal year.

The equation for calculating the State Share of Total Expenditures Claimed is: Total Expenditures Claimed for the Current Quarter and the Prior Quarter Adjustments minus the Federal Share of Total Expenditures Claimed for the Current Quarter and Prior Quarter Adjustments. Using the Form OCSE–396, this equation can also be translated as: State Share of Expenditure = Line 7 (Columns A + C) − Line 7 (Columns B + D) for all four quarters of the fiscal year.

The equation for calculating the State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments is: IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for the Current Quarter and the Prior Quarter Adjustments minus the Federal Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for the Current Quarter and Prior Quarter Adjustments. Using the Form OCSE–396, this equation can also be translated as: State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments = Line 1a (Columns A + C) − Line 1a (Columns B + D) for all four quarters of the fiscal year.

The Fees for the Use of the FPLS can be computed by adding the FPLS fees claimed on the Form OCSE–396 for all four quarters of the fiscal year. Using the Form OCSE–396, this equation can also be translated as: Fees for the Use of the FPLS = Line 10 (Columns B) for all four quarters of the fiscal year.

Section 305.36—Incentive Phase-In

While we did not propose changes to this section in the NPRM, in response to comments, we deleted this section in the final rule since it is outdated.

Section 305.63—Standards for Determining Substantial Compliance with IV–D Requirements

Section 305.63(d) erroneously cross references paragraph (b). We replace that cross reference with a reference to paragraph (c).

Section 308.2—Required Program Compliance Criteria

The term ''State employment security agency'' is removed wherever it appeared and is replaced by ''State workforce agency.'' In addition, in subparagraph (c)(3)(i), we capitalize Department of Motor Vehicles and use the section symbol for consistency.

Section 309.85—What records must a Tribe or Tribal organization agree to maintain in a Tribal IV–D Plan?

As discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected.

Section 309.115—What procedures governing the distribution of child support must a Tribe or Tribal organization include in a Tribal IV–D Plan?

We are making two technical changes, not originally proposed in the NPRM, by fixing the reference in paragraph (b)(2) from ''§ 9.120'' to ''§ 309.120'' and in paragraph (c)(2) from ''303.52'' to ''302.52.''

Section 309.130—How will Tribal IV–D programs be funded and what forms are required?

We update § 309.130(b)(3) to reference Standard Form (SF) 425, ''Federal Financial Report,'' which is the new OMB approved form. In response to comments, in paragraph (b)(4), we eliminated the ''A'' from Form OCSE–34A to reflect the current title of the form. Additionally, in paragraph (b)(4), to be consistent with revision to § 301.15(b)(2), we revise the submission requirements for the OCSE–34, ''Quarterly Report of Collections,'' including extending the due date from 30 to 45 days from the end of the fiscal quarter.

In paragraphs (d)(3) and (h), as discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected.

Section 309.145—What costs are allowable for Tribal IV–D programs carried out under 309.65(a) of this part?

As discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected. However, because this paragraph addresses the Procurement Standards, for clarity we are updating our reference from 45 CFR 75 to specify 45 CFR 75.326 through 75.340.

Section 309.160—How will OCSE determine if Tribal IV–D program funds are appropriately expended?

As discussed in the introductory paragraph of Topic 3 in this section, we are deleting our proposed revision in the NPRM related to updating the reference to part 74 since this has been corrected. However, we are updating the reference to the audit requirements by adding '', *Subpart F—Audit Requirements* under'' after 45 CFR part 75.

IV. Response to Comments

We received 2,077 sets of comments from States, Tribes, and other interested individuals. We posted 2,017 sets of comments on *www.regulations.gov;* 60 sets of comments were not posted because they were either not related to the NPRM or contained personally identifiable information.

Using a text analytic software technology, we were able to detect duplicate and near duplicate documents. Of the 2,077 set of comments, we identified 1,679 sets of comments that were received from either mass-mail campaigns (when commenters provided the same or similar responses from the members of the same organization) or were duplicate responses (when the same commenter submitted the same response more than once).

The comments we received were from the following groups:

- 34 State child support agencies;
- 10 Tribes or Tribal organizations
- 9 National or State child support organizations;
- 6 judicial district offices;
- 5 counties/local child support offices;
- 2 judicial organizations;
- 2 prosecuting attorney office or organization;
- 50 organizations such as community-based, fatherhood, research, domestic violence, access to justice, parent, re-entry, court reform, and employment services organizations; and
- Remaining comments from private citizens representing custodial and

noncustodial parents, former child support workers, attorneys, a retired judge, etc.

Although we had a range of comments on specific provisions, the NPRM was strongly supported by State agencies, court associations, advocacy groups, parent groups, and researchers, and reflected broad consensus in the field. In drafting the final rule, we closely reviewed the comments and made a number of adjustments to the final rule in response to comments.

DATES:

1. Comment: While many commenters appreciated OCSE's suggestion that the proposed effective date for *Guidelines for setting child support awards* (§ 302.56) coincides with the next quadrennial review, States whose quadrennial review will commence shortly after the rule is finalized will need time to conduct further analysis and research on implementation issues and potential system changes. They recommended an additional extension of one year. In other words, the guideline changes would be required to be in effect within one year after completion of the first quadrennial review of its guidelines that commences more than one year after the adoption of the final rule.

Response: We agree with this suggestion and have made this change in the compliance date for § 302.56.

2. Comment: Some commenters expressed concerns regarding the length of time needed to implement the revisions in the final rule. A few commenters thought that one year would be adequate, while others believed that a 2-year effective date would be more reasonable period because of the significant changes in State law and policy, as well as numerous system changes will be needed. A few commenters believed that more than 2 years would be necessary to implement some of the revisions.

Response: While we understand the complexity of implementing several of the revisions in the final rule, there are some revisions that can be implemented immediately upon issuance of this final rule. Also, many of the revisions are optional requirements, so the compliance dates can vary State by State as the child support agencies elects to implement the optional rules, or allow Federal financial participation (FFP) for additional allowable expenditures. As a result, we are varying the compliance dates for the various Federal requirements. Generally, the compliance date for the final rule will be within 60 days after publication. However, if State law revisions are needed, the compliance date will be the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the final rule.

In response to comments, the final rule also revises the effective date for *Establishment of support obligations* (§ 303.4) and *Review and adjustment of support order* (§ 303.8) to allow States adequate time to incorporate the new rule requirements into the State's guidelines and order enforcement and modification procedures. For implementing the revisions under § 302.56(a) through (g), § 303.4, and § 303.8, the compliance date will be one year after completion of the first quadrennial review of its guidelines that commences more than one year after the adoption of the final rule.

3. Comment: A few commenters thought they would need more than one year to implement the *Case Closure* (§ 303.11) because they need time to make legislative changes, substantial programming enhancements, and policy changes.

Response: Because many of the changes for Case Closure are optional requirements, we have made the compliance date 60 days after enactment of the final rule. For the mandatory changes required under § 303.11(c) and (d), we have extended the compliance date for these provisions to be one year from date of issuance of the final rule. However, if State law changes are needed, then the compliance date will be the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the final rule.

4. Comment: Several commenters requested that if States will no longer be held harmless from complying with the 2008 medical support final rules upon issuance of the final rule, the effective date for § 303.31 should take this into consideration.

Response: For the medical support provisions under § 303.31, the compliance date for the new § 303.31 provisions will be 60 days from the date of the final rule unless statutory changes are required. If State law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the State legislature that begins after the effective date of the regulation. We believe that this is sufficient time for the States to implement the new revisions in § 303.31. Upon issuance of this rule, OCSE will work with States in developing guidance related to the new rule requirements and AT–10–02.

Topic 1: Procedures To Promote Program Flexibility, Efficiency, and Modernization (§§ 302.32; 302.33; 302.38; 302.56; 302.70; 303.3; 303.4; 303.6; 303.8; 303.11 (Including Revisions to 42 CFR 433.152); 303.31; 303.72; 303.100; 304.20; 304.23; and 307.11)

Section 302.32—Collection and Disbursement of Support Payments by the IV–D Agency

1. Comment: A few commenters suggested that the ongoing issues and concerns raised by employers should be addressed through guidance and outreach to specific States rather than a proposed regulation, given that only a few States are noncompliant. Another commenter suggested that States and OCSE make additional efforts to educate parents, family law lawyers, and judges about the State Disbursement Unit (SDU) law.

Response: Although this requirement has been a Federal law for almost two decades, issues persist. OCSE's Employer Services team has provided extensive technical assistance related to persistent noncompliance issues. Additionally, OCSE regularly holds employer symposia to bring together child support professionals and employers to identify issues of mutual concerns and work on ways to resolve these issues. In addition to providing continued outreach, technical assistance, and policy guidance to all stakeholders, we find it is necessary to regulate this requirement.

2. Comment: One commenter suggested that SDUs be required to continue processing spousal support payments after their associated child support payments are released. The commenter indicated that under current practice, spousal payments are paid through the SDU when they are included with child support payments. Once the child support payment ends, the SDU ceases processing the spousal support payments. Having the SDU continue to process such spousal payments will ensure that there is no disruption in payments to the custodial parent. Another commenter requested that the final rule clarify that an Income Withholding Order (IWO) and/or payment through the SDU for maintenance-only cases is not allowed.

Response: In accordance with PIQ–11–01,[7] if the child support portion of a support order that includes spousal

[7] PIQ–11–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/spousal-support-only-cases.*

support ends, the IV–D case may continue to qualify for collection services at State option. If a State chooses to continue IV–D collection services for the spousal support portion of the support order, it may continue to collect spousal support through the income withholding process with receipt and disbursement of support collections through the SDU. However, we want to clarify that FFP for enforcement of spousal support-only cases beyond collection and disbursement of payments is not eligible for FFP under title IV–D.

Additionally, in accordance with § 303.72(a)(3)(i), past-due spousal support is only eligible for Federal tax refund offset in cases where the parent is living with the child and the spousal support and child support obligations are included in the same support order. OCSE Action Transmittal (AT) 10–04 [8] also indicates that past-due spousal support-only cases certified for any of the Federal collection and enforcement programs (*i.e.,* Federal tax refund and administrative offset, passport denial, multistate financial institution data match, and insurance match) are only eligible when the parent is living with the child.

For reporting purposes on the OCSE–157, *Child Support Enforcement Annual Data Report,* once the child is emancipated or otherwise no longer involved, the State has the option of whether or not to continue to collect spousal support through the income withholding process with receipt and disbursement of support collections for these spousal support only cases. States that opt to continue to collect spousal support through income withholding must report the income withholding collections received and disbursed on these spousal support-only cases for all lines that apply.

3. Comment: One commenter suggested that OCSE mandate that non-IV–D families that seek to have child support payments processed through the SDU must sign up for limited payment processing-only services. This would enable States to assist these families and provide authorization for States to work the cases. In addition, this would strengthen the IV–D program overall by offering a broader service, collecting more support, and assisting more families in the way they request.

Response: The final rule only allows the States the option to provide paternity-only limited services, and we decided not to include an option in this rule for families to sign up for limited payment processing-only services at this time due to complex administrative issues related to interstate cases.

4. Comment: One commenter indicated that while IV–D programs, SDUs, and employers should not pass off their responsibilities for having order and location information by relying on parents for the information, they should be able to ask parents for information as a last resort.

Response: There is no prohibition against a IV–D program asking parents for information to ensure the prompt disbursement of support payments.

5. Comment: One commenter requested that OCSE revisit OCSE–PIQ–10–01 [9] to allow Federal financial participation (FFP) for non-employer-processed payments on non-IV–D orders. The commenter believed that expanding the IV–D program to process other non-IV–D payments, not just income withholding cases, would be more efficient because the IV–D program would not have to obtain payment records from counties when a case moves from non-IV–D to IV–D status. In addition, directing the obligor to make payments to one location would likely lead to greater compliance with the order.

Response: OCSE appreciates this comment; however, under 45 CFR 304.20(b), FFP is limited to services and activities under the approved title IV–D State plan which are determined by the Secretary to be necessary expenditures properly attributable to the IV–D program.

6. *Comment:* One commenter suggested that § 302.32(b)(1) be changed to replace ''interstate'' with ''intergovernmental'' and ''State'' with ''agency.''

Response: OCSE agrees, with the first suggested change, and revised § 302.32(b)(1) by replacing the word ''interstate'' with the word ''intergovernmental.'' Additionally, we have revised the term initiating State to initiating agency, since intergovernmental IV–D cases may be initiated by Tribal or foreign child support programs. However, we retained the phrase ''responding State,'' since only States are required to meet the 2 day timeframe for forwarding collections under paragraph (b)(1).

7. *Comment:* One commenter asked about the IV–D procedure when the support payment has insufficient identifying information resulting in an undistributed and often unidentified collection until the case information is provided. Another commenter's State does not have a working interface with the court system, and wanted to know how the State can process payments if they do not have a copy of the order. An additional commenter indicated that direct referrals of non-IV–D child support orders to the IV–D agency would result in a large number of orders that cannot be registered until further identifying information is received from the parties or their attorneys.

Response: We acknowledge that States sometimes need to hold support payments until they receive the needed case information. We encourage States to work with courts and attorneys to develop processes that ensure that complete case information is received expeditiously and support payments can be disbursed within statutory timeframes.

In addition, sometimes it may be necessary to perform routine location services if the non-IV–D custodial parent has an invalid address and undistributable payments. As indicated in PIQ–10–01,[10] Question and response 9, FFP is available for location services in non-IV–D cases only if location services are used to locate the custodial parent for disbursement of a collection. FFP is not available for non-IV–D cases if location services are used to establish and/or enforce a support order.

Section 454B(b) of the Act requires that the ''State disbursement unit shall use automated procedures, electronic processes, and computer-driven technology . . . for the collection and disbursement of support payments. . . .'' This includes the use of automated location services to locate the custodial parent for prompt disbursement of support payments. IV–D agencies are not responsible for providing other services or taking enforcement actions in non-IV–D cases. In some instances, the State may have to go back to the party and request the information the State needs to disburse the support payments.

8. *Comment:* One commenter asked if one-time costs incurred by the courts to permit the electronic exchange of non-IV–D information with the State case registry (*e.g.,* through portal or interface) would be eligible for FFP.

Response: Yes, FFP is available for the courts to provide information to the

[8] AT–10–04 is available at: *http://www.acf.hhs.gov/programs/css/resource/collection-and-enforcement-of-past-due-child-support-obligations.*

[9] PIQ–10–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/federal-financial-participation-and-non-iv-d-activities.*

[10] PIQ–10–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/federal-financial-participation-and-non-iv-d-activities.*

SDU. OCSE-Action Transmittal (AT) 97–13 [11] indicates that:

> FFP . . . is available for the cost of establishing an automated interface with the non-IV–D systems to transmit data to the State CSE automated system. . . . The costs associated with establishing and maintaining the State Case Registry and the SDU, including the costs of maintaining non-IV–D support order records in the State case registry and necessary identification and [support] payment information in the State Disbursement Unit, are eligible for reimbursement at the applicable rate of FFP. FFP is available for the cost of converting non-IV–D case information (not payment records) necessary to process collections required to be paid through the SDU.

9. *Comment:* Two commenters asked if this provision will apply to all child support payments.

Response: This provision applies to child support payments in all IV–D cases and in non-IV–D cases in which the support order is initially issued in the State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to withholding in accordance with sections 454B, 454(27), and 466(a)(8)(B) of the Act.

10. *Comment:* One commenter asked who is responsible for obtaining information on non-IV–D cases in a purely private matter.

Response: It is the State's responsibility to secure the information needed to disburse support payments in non-IV–D cases.

11. *Comment:* One commenter requested clarification about the term ''maintenance.'' The commenter suggested that it should be very broad to include all actions and information gathering to ensure compliance.

Response: The NPRM indicates that FFP is generally available for the submission and maintenance of data in the State Case Registry (SCR) with respect to non-IV–D support orders established or modified on or after October 1, 1998. Maintenance in this context refers to updating the support order information in the SCR as needed.

PIQ–10–01 states that FFP is available for the costs of entering into the SCR the data elements listed in the regulations under § 307.11(e)(3) and (f)(1). Specifically, § 307.11(e)(3) specifies the following data elements for each participant in the case: Name, social security number, date of birth, case identification number, other uniform identification number, data elements required under paragraph (f)(1) of this section necessary for the operation of the Federal case registry, issuing State of an order, and any other information that the Secretary may require. Section 307.11(f)(1) indicates the additional elements required for the Federal Case Registry, which include the following data elements: State Federal Information Processing Standard (FIPS) code and optionally county code; State case identification number; State member identification number; case type (IV–D, non-IV–D); social security number and any necessary alternative social security number; name including first, middle, and last name and any alternative name; sex (optional); date of birth; participant type (custodial party, noncustodial parent, putative father, child); family violence indicator (domestic violence or child abuse); indication of an order; locate request type (optional); locate source (optional); and any other information that the Secretary may require.

FFP is available for the State child support agency to update address changes as reported by the non-IV–D custodial parent and noncustodial parent to ensure prompt disbursement of support payments.

12. *Comment:* One commenter stated that this provision does not address Tribal use of their own income withholding form, as Tribal entities without a IV–D program do not currently use the OMB-approved *Income Withholding for Support* form, and Tribal employers do not consistently honor the Federal form.

Response: While the Uniform Interstate Family Support Act (UIFSA) compels an employer subject to State jurisdiction to honor an income withholding order sent directly from another State or an Indian Tribe, Tribes are not subject to UIFSA. However, the Full Faith and Credit for Child Support Orders Act (FFCCSOA), 28 U.S.C. 1738B, requires Tribes to enforce child support orders made by a court or administrative agency that had appropriate jurisdiction and afforded the parties a reasonable opportunity to be heard. This would include enforcement of orders providing for income withholding.

The regulation at § 309.110(d) of this chapter states that the income withholding must be carried out in compliance with the procedural due process requirements established by the Tribe or Tribal organization. Accordingly, Tribes may conduct preliminary reviews of foreign orders to ensure that the court or administrative authority properly entered the order, but such processing of orders must be done expeditiously to ensure that orders are promptly served on employers within the Tribe's jurisdiction in accordance with the regulations at § 309.110(n). In accordance with § 309.110(j), the only basis for contesting a withholding order is a mistake of fact, which means an error in the amount of current or overdue support or in the identity of the alleged noncustodial parent.

While the regulations do not require Tribes to have laws and procedures which mandate that employers subject to the Tribe's jurisdiction must honor direct income withholding orders from another State or Tribe, a Tribe may choose to permit direct withholding as a matter of administrative efficiency or comity between the Tribe and other Tribes and States.

As indicated in PIQT–05–04,[12] Tribes that do not receive funding to operate IV–D programs are not required to use or recognize the OMB-approved *Income Withholding for Support* form. However, the Tribal child support regulation at § 309.110(l) requires Tribes that receive Federal funding to operate IV–D programs to use and recognize the OMB-approved form.

13. Comment: One commenter was concerned that the proposed provision does not sufficiently incorporate Tribal IV–D programs into the calculus. While a case and its corresponding child support order that was entered in the State courts may be a non-IV–D case for the State, this same case may be a IV–D case in the Tribal IV–D caseload. The Tribal IV–D agency may have served the employer with an income withholding for support order and directed the employer to send payments to the Tribe. The commenter suggested that the rule be broadened to acknowledge the appropriateness of employers sending payments to Tribal IV–D agencies or Tribal SDUs; otherwise State IV–D agencies may resist transferring such cases and/or support orders to Tribal IV–D agencies.

Response: This issue arises when a Tribe is enforcing an underlying State child support order. In those instances, the IWO issued by the Tribe often incorrectly indicates that remittance should be made to the Tribe instead of to the SDU of the order-issuing State, in accordance with § 309.115(d). The instructions for the OMB-approved IWO form, however, may cause confusion by referring generically to the ''order.'' The instructions read: ''Payments are forwarded to the SDU in each State, unless the order was issued by a Tribal CSE agency. If the order was issued by a Tribal CSE agency, the employer/income withholder must follow the

[11] AT–97–13 is available at: *http://www.acf.hhs.gov/programs/css/resource/collection-and-disbursement-of-support-payments.*

[12] PIQT–05–04 is available at: *http://www.acf.hhs.gov/programs/css/resource/state-iv-d-agencies-use-of-federal-income-withholding-form.*

remittance instructions on the form.'' The term ''order'' in these instructions refers to the underlying State support order and not the tribal IWO. Tribes have interpreted these instructions, however, as meaning that payment is to be remitted to the Tribe.

Because the IWO is an OMB-approved form, OCSE will consider reviewing these issues further and clarifying the form and instructions to the form in future revisions. In addition, we will continue to provide technical assistance to Tribes so that the remittance section of the IWO form is completed correctly and in accordance with existing regulations.

14. Comment: One commenter stated that the proposal to require States to distribute non-IV–D payments the same as IV–D payments fails to address the impact of this policy on the Federal performance measures by which the States derive incentive payments. The commenter noted that this requirement diverts State resources to process and collect non-IV–D payments that do not affect the State's overall performance, and detracts from work on IV–D cases.

Response: The requirement for SDUs to process non-IV–D income withholding collections is required by title IV–D of the Act as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In addition, the performance incentive measures were mandated by the Child Support Performance and Incentive Act of 1998. Since the definition of the performance measures are a statutory requirement, OCSE does not have authority to revise how these measures are calculated.

15. Comment: One commenter noted that in his State, the county clerks are allowed to implement and manage their own case management and e-filing systems. There is neither statewide authority nor any law that creates a centralized authority that could mandate that a particular system or system requirements are put in place for implementing this requirement. Because of this, there is no standard process to digitally and automatically transmit case information on non-IV–D domestic cases to the IV–D agency. Another commenter asserted that, in her State, local child support agencies are not privy to information on the establishment of non-IV–D court orders and such information is not entered into the State's automated child support enforcement system.

Response: The requirement that support payments made through income withholding on non-IV–D cases be processed through the SDU has been in place for over 20 years. It is important that States work with courts to set up processes that are efficient and that States follow Federal income withholding and SDU requirements. Over the years OCSE has provided technical assistance to States and will continue to do so upon request.

Section 302.33—Services to Individuals Not Receiving Title IV–A Assistance Former Child Welfare Recipients: § 302.33(a)(4)

1. Comment: One commenter urged OCSE to clarify that, when a State has opted to implement the limited services option authorized in § 302.33(a)(6), the notice to former recipients of State assistance under § 302.33(a)(4) shall include information about the family's option of seeking limited services rather than the binary option of continuing full services or closing the case.

Response: In the final rule, paternity establishment is the only limited service available to individuals receiving child support services. States may include this option in their notice, but it is not required.

2. Comment: One commenter stated that further language may be needed to determine if this flexibility applies to both Federal and State foster care scenarios. In addition, the commenter noted that closing foster care cases with arrears owed to the State may result in unintended negative consequences if the cases are later reopened with arrears balances and interest still owing (if applicable).

Response: The Federal government does not have authority to regulate the State-funded foster care program (other than to define child support family distribution requirements under section 457 of the Act.) Therefore, this regulation applies to federally-funded foster care cases. However, States have discretion to apply this language to State-funded foster care cases as well. If there is no longer a current support order and arrearages are under $500 or unenforceable under State law, the State may close the case pursuant to 45 CFR 303.11(b)(1). If there is no longer a current support order and all arrearages in the case are assigned to the State, the case may be closed pursuant to 45 CFR 303.11(b)(2). Additionally, for arrears assigned to the State, the State has the authority to compromise the arrearages. It is the State, and not the Federal government, that has the authority to compromise the arrearages since the State has the financial interest in the money.

3. Comment: One commenter asked if the State is still required to collect assigned child support when a child is no longer eligible for IV–E foster care services and the IV–D agency determines closure is appropriate. The commenter indicated that it would reduce strain on a newly reunified family if the State could stop collecting the assigned arrears.

Response: In this situation, the case has been referred by the IV–E agency and can be closed in accordance with § 303.11(b)(20) if the IV–D agency determines that it is inappropriate to continue to enforce the order.

4. Comment: According to one commenter, the wording of the provision suggests that if both the custodial parent and the noncustodial parent owe arrears to the State foster care agency pursuant to a valid support order, and then the child is returned to the custodial parent's home, enforcement would discontinue against the custodial parent, but not the noncustodial parent.

Response: In this scenario, there are two orders, one for the custodial parent, who was referred to the IV–D agency when the child was removed from the home, and one for the noncustodial parent. For the custodial parent that was referred and to whom the child is being returned, the IV–D agency can close the case pursuant to § 303.11(b)(20) of this chapter once the parent resumes custody of the child. For the noncustodial parent, the case should remain open if there is an order for current support and arrearages.

5. Comment: One commenter asked that consideration also be given to allowing States to close cases instead of continuing services to former Medicaid-only cases in which the IV–D agency determines that continued services would be inappropriate.

Response: OCSE appreciates this comment; however, we need to gather additional information before proposing this change.

6. Comment: One commenter recommended that OCSE clarify how States determine whether child support services continue to be appropriate for the family once the child is no longer eligible for foster care. Specifically, the commenter suggested additional language that would permit States to establish in regulation, rule, or procedure a category of cases that, based on criteria chosen by the IV–D agency, would not be appropriate for continued services.

Response: States have discretion to establish criteria for determining when continued services and notice are not appropriate.

Limited Services: § 302.33(a)(6)

1. Comment: We received a substantial amount of feedback

regarding the concept of limited services. Most of the commenters expressed support for offering limited services to applicants. A number of commenters indicated that allowing parents to have more ability to select the services they need would make the child support program more family-friendly and increase program efficiency. In particular, commenters identified the need to offer paternity establishment as a limited service. However, commenters also raised various implementation concerns about limited services, including challenges in the context of intergovernmental cases, the range and types of limited services options offered, the need for domestic violence safeguards, system programming needs, and reporting and performance issues. With regard to offering limited services in interstate cases, commenters raised issues such as difficulty in tracking which limited services are offered by each State and the ability of a responding State to accommodate an intergovernmental limited services request. Some commenters were also confused regarding which types of limited enforcement services would be offered and how competing limited enforcement services requests between parties would be handled.

Response: We are persuaded that the potential intergovernmental challenges involved with implementing a menu of limited enforcement services warrants rolling back the scope of the option proposed in the NPRM. We decided to move forward by only giving States the option to offer paternity establishment as a limited service in an intrastate case. In response to these and other concerns addressed above by commenters, we amended § 302.33(a)(6). This paragraph indicates that the State may elect in its State plan to allow an individual under paragraph (a)(1)(i) of this section who files an application to request paternity-only limited services in an intrastate case. If the State chooses this option, the State must define how this process will be implemented and must establish and use procedures, including domestic violence safeguards, which are reflected in a record, that specify when paternity-only limited services will be available. An application will be considered full-service unless the parent specifically applies for paternity-only limited services in accordance with the State's procedures. If one parent specifically requests paternity-only limited services and the other parent in the State requests full services, the case will automatically receive full services. The State will be required to charge the application and service fees required under paragraphs (c) and (e) of this section for paternity-only limited services cases, and may recover costs in accordance with paragraph (d) of this section if the State has chosen this option in its State plan. The State must provide the applicant an application form with information on the availability of paternity-only limited services, consequences of selecting this limited service, and an explanation that the case will be closed when the limited service is completed.

2. Comment: Commenters raised concerns regarding what would happen if an applicant in an intrastate case applied for and was receiving limited services and one of the parties later moved out of state and that State did not include the option to provide limited services in its State plan.

Response: As noted above, in response to comments we narrowed the scope of limited services to paternity establishment services only and only in intrastate cases. Therefore, if, during the course of providing paternity-only limited services, one of the parties moves out of state, the State may pursue paternity establishment using long-arm [13] procedures. If this is not appropriate, then the State should contact the applicant to determine whether to pursue a full-services intergovernmental case.

3. Comment: One commenter noted that the language in paragraph (a)(6) reads as if the option of limited services is available only to nonpublic assistance recipients, *i.e.,* those eligible under paragraph (a)(1)(i). The commenter asked for clarification regarding whether the intent of this language is to disallow the option of limited services to former Medicaid, former TANF, and/or former IV–E foster care recipients.

Response: After reviewing the regulatory text, we think that it is clear that the intent of this provision to allow those individuals under § 302.33(a)(1)(i) who file an application for IV–D services to request and receive paternity-only limited services. Further, paternity-only limited services are restricted to intrastate cases only. An individual who has been receiving IV–D services and is no longer eligible for assistance under title IV–A, IV–E foster care, or Medicaid programs and has not had paternity established while his/her case was open under paragraphs (a)(1)(ii) or (iii), may choose to close his/her existing case once he/she is no longer receiving public assistance and may submit a new application under paragraph (a)(1)(i) for paternity-only limited services, along with any applicable fees.

4. Comment: A few commenters opposed the inclusion of paternity-only limited services in the provision because applicants may simply request closure of their case with the State child support agency after genetic testing results are provided. Another commenter felt that paternity-only services should not be offered because, if a support order is not obtained, we are neglecting one of the key tenants of our mission statement to obtain meaningful support for the child. This commenter also noted that establishing the support order at the time paternity is determined will likely result in more accurate income information and less default orders, as initial cooperation has already been gained from the noncustodial parent.

Response: We disagree with the comments that paternity-only services should not be offered because of the possibility of case closure. While some State child support agencies may currently have policies that allow applicants to request closure of their case after obtaining genetic testing results, other State child support agencies' policies do not allow the applicants to request closure of their cases until after an order for paternity and support has been legally established or determination made that paternity cannot be established. The addition of this rule provides all States with the authority to allow either the custodial or the noncustodial parent to request paternity-only services without also requiring the establishment of an order for support, thus giving States increased flexibility to be responsive to a family's specific circumstances.

We also disagree with the notion that paternity-only services should not be offered in cases where there is to be no support order established. While we acknowledge that establishing a child support order at the time paternity is determined may result in more accurate income information and less default orders, provided that there is continued cooperation from the noncustodial parent, there are benefits to paternity determination even if a support order is not established. A key component of encouraging responsible parenting is accomplished through the establishment of paternity for a child. Whether or not an unwed biological father is currently living with the biological mother and children in an intact household, he has no legal standing as the children's father unless paternity is legally established.

[13] Long-arm'' refers to State laws that allow the State to exercise personal jurisdiction over an out-of-state defendant in situations when the defendant has had sufficient minimum contacts with the State.

Establishing paternity also serves to clarify the birth record of the child and establishes possible eligibility for dependents' benefits—all without subjecting the intact family unit to an unwanted and unnecessary order for child support.

5. Comment: In regard to the requirement under paragraph (a)(6) that a case will automatically receive full services in the event that one parent specifically requests paternity-only limited services and the other parent requests full services, one commenter asked who, in this instance, would be the applicant and who could close the case or request a change in services. Another commenter asked whether a new case would be opened when a request is made to change from limited services to full services, or if the existing case would instead be modified.

Response: If a State chooses to offer a paternity-only limited services option, the State must define how this process will be implemented. The State must establish and follow policy and procedures regarding appropriate case management protocol when applications from both parties are received with differing requests for services or when a case is moving from paternity-only limited services to a full services case.

6. Comment: Several commenters requested clarification regarding how an application for full services should be handled when received after a case was previously opened for limited services only. Questions were posed such as: Would a new application be required? Would an additional full application fee be required or would it be a reduced fee for the subsequent application? Does this decision change if it is the same parent now requesting full services versus if it is the other parent making the subsequent request?

Response: As we indicated above in the discussion of how States should handle competing applications received from both parties in a case, it is up to each State child support agency to determine specific paternity-only limited services policy and procedures. Although a full new application may not be necessary, States are encouraged to require some type of written documentation (for example, an addendum to the original application) when a subsequent request is made to change a case previously opened for paternity-only limited services to a full-services case.

7. Comment: One commenter voiced concern that the changing of an applicant's limited services selection may cause disruption in the streamlined delivery of services, causing delays and increased staff time. For example, if paternity-only limited services were requested and the applicant later requests full services before the paternity establishment process has been completed, the State child support agency would be required to amend, re-serve, and refile the summons and complaint to include the establishment of child support. Several commenters expressed concern over potential system programming difficulty and costs associated with offering limited services, stating that system changes may be problematic for State child support agencies with older systems and may require longer than one year to complete. Finally, one commenter noted that, as current statutes and procedures are designed around a full-service approach to establishment and enforcement, it will be necessary for States to review their current laws to determine if a limited services option can be provided within existing judicial framework or whether statutory changes may be required to accommodate a limited services option.

Response: If a State chooses to offer paternity-only limited services as an option, that State has the ability to make provisions in its policies and procedures regarding how to address changes that applicants make in service selections. Additionally, if a State chooses to offer this option, the State has flexibility in how and when to implement the changes. In this rule, OCSE has not mandated if, how, or when States should upgrade the functionality of their automated child support enforcement systems to accommodate a paternity-only limited services option. As indicated in the preamble to the NPRM, as States modernize their statewide automated systems, it will be easier to implement and manage paternity-only limited services in their caseloads, and at the same time will provide States additional flexibility to offer child support services that meet the needs of modern families. Finally, as State child support programs continue to evolve to provide services that are tailored to meet the needs of modern families, OCSE will continue to provide outreach and technical assistance on an individual basis to States needing support with the passage and implementation of necessary statutory changes.

8. *Comment:* One commenter was concerned that if a father applies for paternity-only limited services and the mother does not want to cooperate, there would be nothing further a State could do to compel her to comply and thus the State could never close the case since the paternity-only limited service will not have been completed.

Response: We disagree. It is common practice for State child support agencies to file a judicial motion requesting the court's assistance when a custodial parent refuses to cooperate with the paternity establishment process. A court order requiring the custodial parent to cooperate with genetic testing may then be issued, and contempt of court sanctions are possible if the custodial parent continues to be noncompliant. However, prior to taking the above actions, we encourage State child support agencies to work with custodial parents to explain the benefits of having paternity established for their children, unless there is good cause for refusal to cooperate, such as domestic violence, as discussed later in this section (see Comment/Response 12).

9. Comment: One commenter suggested that a pamphlet or some other document accompany child support applications to provide information on the paternity-only limited services option. The commenter felt that providing this information on a separate but accompanying document would be more effective than if it were to appear in the application itself.

Response: States electing to provide paternity-only services are required under § 302.33(a)(6) to provide applicants with information on the availability of paternity-only limited services, the consequences of selecting this limited service, and an explanation that the case will be closed when the limited service is completed. Providing information on the application about paternity-only limited services is necessary to document that the applicant has obtained this information and requested this service. However, a State may supplement the information on the application with a brochure, pamphlet, or any other type of document that the applicant could maintain if the State believes that this is a better way to convey the information.

10. Comment: One State inquired whether Federal financial participation (FFP) will be available for States to make the necessary system changes to support the implementation of limited services.

Response: Yes. As outlined in 45 CFR 307.35, FFP at the applicable matching rate is available for computerized support enforcement system expenditures related to, among other things, system enhancements related to the establishment of paternity. Section 304.20 of this final rule also clarifies that FFP is available for necessary and reasonable expenditures properly

attributed to the Child Support Enforcement program for services and activities to carry out the title IV–D State plan, including obtaining child support, locating noncustodial parents, and establishing paternity.

11. Comment: There were a number of comments from States expressing concern over how limited services would affect reporting requirements and performance measures. More specifically, questions were raised regarding how paternity-only cases may impact the order establishment performance measure and whether paternity-only cases will be excluded from the case count for the total number of ''Cases Open at the End of the Fiscal Year'' denominator for that measure.

Response: We recognize that reporting changes on the OCSE–157 report may be necessary to accommodate the addition of a paternity-only limited services option so that these cases do not negatively impact the support order establishment performance measure. OCSE will work to implement the necessary changes to the form after this rule is published as final.

12. Comment: Several commenters expressed the need for sound domestic violence safeguards when offering limited services. One commenter specifically suggested that language be added to the regulation requiring the inclusion of domestic violence safeguards when States establish procedures for paternity-only limited services. One commenter raised the possibility that a parent could be pressured or coerced by the other parent into pursuing paternity-only limited services but no support order so that there would be no responsibility for supporting the child. Another commenter felt that offering paternity-only limited services may be a barrier that keeps a custodial parent and child in an abusive relationship, requiring the custodial parent to take some later affirmative step in requesting and obtaining a support order and thus potentially provoking his or her abuser. Other commenters recommended that OCSE work with domestic violence experts to develop procedures and training resources, and that State child support agencies be required to assess domestic violence status multiple times throughout the life of a case versus the current practice, which typically occurs only at the beginning of a case. A few commenters recommended practices that child support workers could take to mitigate potential domestic violence issues. One commenter asked whether there are good cause procedures that would be applicable in nonpublic assistance cases. For example, if a noncustodial parent requests paternity-only services but the custodial parent does not wish to comply due to domestic violence concerns, and it is a nonpublic assistance case, would the State child support agency then be responsible for determining if the paternity-only limited service should be denied?

Response: OCSE appreciates commenters' concern for the safety of domestic violence victims. We encourage States to consider developing domestic violence safeguards throughout every step in case processing. In response to these specific comments, we amended the final regulation at § 302.33(a)(6) to require that States include domestic violence safeguards when establishing and using limited services processes and procedures. As discussed in the preamble to the NPRM, OCSE is acutely aware of the risk of domestic violence in the general operation of the child support program and, in particular, as it relates to this limited services provision. Supporting families who have experienced domestic violence is essential to a successful child support program. All State child support agencies are required, under § 303.21(e), to establish domestic violence safeguards pertaining to the disclosure of information and these procedures must be followed for paternity-only limited services cases, as well. In addition, IM–14–03 [14] provides an array of resources and tools child support programs can use to help victims safely and confidentially obtain child support services. It includes training tools for child support professionals, emphasizes the critical role of confidentiality, and describes existing domestic violence resources for parents, child support professionals, and the courts. The IM also outlines the importance of, and opportunities for, collaboration with domestic violence programs and coalitions as a means to improve the safe, efficient delivery of child support services. Child support establishment and enforcement can heighten the risk of domestic violence.[15] OCSE coordinates closely with ACF's Family and Youth Services Bureau (FYSB) to support implementation of recognized domestic violence protocols in child support programs and to conduct training and technical assistance. OCSE is committed to continuing to work with FYSB, States, and advocates to ensure that best practices are in place to safeguard the families we serve.

By identifying and responding effectively to domestic violence, providing safe opportunities to disclose domestic violence, and developing safe and confidential responses to domestic violence, child support programs can put the safety of families and program staff at the forefront of child support work. There are a number of points of heightened domestic violence risks during the establishment and enforcement process, and States should be providing domestic violence safeguards throughout the process. We encourage States to work with their local domestic violence programs and coalitions to establish appropriate safeguards. It is the responsibility of each State to ensure that their domestic violence provisions are adequate for both paternity-only limited services and full services application requests.

Historically, the custodial parent has typically been the applicant for State child support services. However, in providing an avenue for fathers to establish paternity for their child, we recognize that the potential exists for a noncustodial father to apply for paternity-only limited services without the cooperation or consent of the custodial parent mother due to domestic violence concerns. Clearly, it is never OCSE's intent to create a dangerous situation for a parent who is a victim of domestic violence. Although Federal law is silent on this specific scenario, there is nothing in Federal statute or regulation that would preclude States from developing additional policies and procedures to address the safety needs of custodial parents in non-public assistance cases who are found to have good cause for refusing to cooperate with the State child support agency in establishing paternity, or for whom the State child support agency determines it is against the best interest of the child to pursue paternity issues. Under section 454(29) of the Act, it is up to each State to define the criteria for ''good cause'' and to choose which

[14] Available at: *http://www.acf.hhs.gov/programs/css/resource/ocse-domestic-violence-awareness-month.*

[15] Pearson, Jessica and Esther Ann Griswold, ''Child Support Policies and Domestic Violence,'' *Public Welfare,* (Winter 1997), preview available at: *https://www.questia.com/magazine/1G1-19354300/child-support-policies-and-domestic-violence;* and Pearson, Jessica and Esther Ann Griswold, *Child Support Policies And Domestic Violence: A Preliminary Look at Client Experiences with Good Cause Exemptions to Child Support Cooperation Requirements,* prepared under a grant from the Federal Office of Child Support Enforcement (Grant No. 90–FF–0027) to the Colorado Department of Human Services for the Model Office Project, Center for Policy Research, January 1997, available at: *https://childsupport.state.co.us/siteuser/do/vfs/Read?file=/cm:Publications/cm:Reports/cm:Model_x0020_Office_x0020_Project_x0020_Grant/cm:Child_x0020_support_x0020_policies_x0020_and_x0020_dv.pdf.*

agency will determine if the good cause exception is warranted. Section 303.11(b)(14) provides that a good cause determination can be made by either the IV–A, IV–D, IV–E, Medicaid or SNAP agency. Section 305.2(a)(1) reiterates this, declaring that the count of children in establishing paternity performance levels shall not include ''. . . any child whose parent is found to have good cause for refusing to cooperate with the State agency in establishing paternity, or for whom the State agency determines it is against the best interest of the child to pursue paternity issues.'' Lastly, § 302.31(b) and (c) mandate that the State child support agency suspend all activities to establish paternity or secure support until notified of a final determination by the appropriate agency, and will not undertake to establish paternity or secure support in any case for which it receives notice that there has been a finding of good cause unless there has been a determination that support enforcement may safely proceed without the participation of the caretaker or other relative.

Section 302.38—Payments to the Family

1. Comment: One commenter stated that by preventing assignments to attorneys, we could limit custodial parents' ability to find legal representation. Another commenter stated that the NPRM as written appears to prohibit the disbursement of payments to anyone other than the payee. Several commenters suggested that the provision be changed so that disbursements to a third party, such as a private attorney or conservator representing custodial parents in child support collection actions or relatives or guardians, are authorized at the request of the custodial parent. Another commenter stated that States should retain the right to send payments to a conservator or private attorney representing the custodial parent and child with a legal fiduciary duty to act in the child's best interest.

Response: OCSE agrees that States should retain the right to send payments to a judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child; however, we do not view private attorneys in this same category, particularly when collecting fees. Based on the American Bar Association Model Code of Professional Responsibility, many States disfavor contingency fees in child support cases because they would reduce support to the child and could adversely affect family relationship.

We have revised § 302.38 to expand the list of entities to whom child support payments under §§ 302.32 and 302.51 can be made. The provision now requires that a State's IV–D plan ''shall provide that any payment required to be made under §§ 302.32 and 302.51 to a family will be made directly to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

2. Comment: One commenter believed that private attorneys should be in the same category as a collection agency.

Response: We agree. Therefore, this rule does not authorize payments to be made directly to a private attorney or a private collection agency.

3. Comment: Several commenters recommended that we modernize the rule to refer to caretaker rather than relative caretaker to accommodate nonrelative caretakers and guardians. In addition, the commenters recommended expanding the definition of ''to a family'' because custodial parents may need the ability to designate an alternate recipient in situations where doing so may benefit the family, which is common. Another commenter asked if OCSE meant to disallow situations in which the mother requests payments be directed to caretakers who are not relatives and not legal guardians.

Response: OCSE agrees and updated the language in § 302.38 to include an alternate caretaker designated in a record by the custodial parent in those circumstances when the parent does not obtain a formal court order to change custody, for example, before going into the hospital or jail, or being deployed. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

4. Comment: One commenter asked that we clarify that payments must be made to the resident parent, legal guardian, or caretaker relative who is the petitioner or named custodial parent obligee in the petition for support and the support order. According to the commenters, this would ensure that the proposed revision to § 302.38 is not read as authority for State IV–D agencies to unilaterally amend the obligee in a child support case when custody changes.

Response: This provision only addresses a IV–D agency's requirements when disbursing child support payments. Section 302.38 does not authorize child support agencies to unilaterally change a child support order when custody changes. State laws govern such changes.

5. Comment: Two commenters suggested changing the language to specifically prohibit disbursements to private collection agencies if that is the sole intent.

Response: Section 454(11)(A) and (B) of the Act clearly provides that a State plan for child support must provide that amounts collected as support shall be distributed as provided in section 457; and provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children. The intent of this rule is to disburse child support payments directly to families.

Our intent is not to regulate private collection agencies, but rather to ensure that child support programs are not facilitating, and the taxpayer is not subsidizing, potentially inappropriate business practices of some private collection agencies not under contract to States. In addition, the ethics codes of most state bar associations prohibit private attorneys from taking fees from current child support, and several prohibit fees from arrears on public policy grounds. In order to provide protections for families and fulfill the intent of the original child support legislation and subsequent amendments, § 302.38 requires that child support payments owed and payable to families be disbursed directly to families.

6. Comment: One commenter suggested changing case closure provisions to authorize case closure if the IV–D applicant contracts with a private collection agency or there is no longer a resident parent, legal guardian, or caretaker to whom the IV–D agency can disburse payments.

Response: We do not agree that the case closure provisions should be changed to authorize case closure if the IV–D applicant contracts with a private collection agency because there is no prohibition against a custodial parent contracting with a private collection agency. If there is no longer a resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial parent to whom the IV–D agency can disburse payments, the State

may close the case if it meets any of the case closure criteria in § 303.11(b).

7. Comment: Two commenters suggested that OCSE encourage States to help custodial parents obtain bank accounts so they can avoid predatory fees from check-cashing businesses and not lose considerable shares of their payments to fees.

Response: We support States' issuance of debit cards, which will help custodial parents avoid predatory fees from check-cashing businesses. We encourage States to provide training or technical assistance to custodial and noncustodial parents to improve financial literacy, financial management, and financial responsibility.

8. Comment: One commenter suggested OCSE should clarify that IV–D agencies are not responsible to confirm that payments deposited directly to bank accounts are bank accounts under the control of the parent or caretaker. If the parent enrolls in direct deposit, the IV–D agency permits it without further confirmation.

Response: Child support agencies are not required to confirm that the bank accounts, to which the State sends payments, are under the control of the parent or caretaker. We are not making this a new requirement. However, States are required to establish a mechanism to identify payments through the SDU that are going to private collection agencies. See Comments/Responses 15 and 16.

9. Comment: One commenter suggested that the rule requires States to presume that the TANF recipient is the legal guardian in such instances.

Response: We disagree. The State determines whether the TANF recipient is the legal guardian.

10. Comment: Several commenters were concerned with the use of the term ''directly'' and felt it may cause issues with the arrangements that families have in order to care for their children. Some commenters feel that the proposed regulation omits other, less formal, requests from custodial parents to disburse funds to a relative or family friend with whom the child may be living on a temporary basis. Several commenters recommended that OCSE not use the term ''directly.''

Response: We have expanded the list of entities to whom child support payments under §§ 302.32 and 302.51 can be made to allow for alternate caretakers designated in writing or in a record by custodial parents.

11. Comment: One commenter suggested that a clear definition of the term ''private collection agency'' should be provided by OCSE for purposes of uniformity.

Response: OCSE notes that the Department of Treasury defines a private collection agency as a private sector company specializing in the collection of delinquent debt. A private collection agency will attempt to find and contact a debtor by searching various databases, making telephone calls, and sending collection letters. Once the debtor is located and contacted, the private collection agency will encourage the debtor to satisfy the debt.[16]

12. Comment: One commenter asked that OCSE address the treatment of interstate/Uniform Interstate Family Support Act (UIFSA) cases where money is sent to the initiating State's SDU and international cases, which may order support payment directly to the child and/or to other caretaker situations.

Response: In interstate cases, § 303.7(d)(6)(v) requires the responding State IV–D agency to collect and forward child support payments to the location specified by the initiating agency. The initiating State IV–D agency must specify its SDU as the location for receiving payments in intergovernmental cases in accordance with section 454B of the Act and § 303.7(d)(6)(v) and is responsible for distributing and disbursing child support payments in accordance with § 303.7(c)(10) and as directed in § 302.38 in the same manner it handles intrastate cases.

Similarly, in an international case where the State is enforcing and collecting child support payments (in accordance with section 454(32) and 459A of the Act) as the responding State IV–D agency, the payment processing requirements in § 303.7(d)(6)(v) apply. State IV–D agencies, as responding agencies in international child support cases, are required to forward child support payments ''to the location specified by the initiating agency.'' The term ''initiating agency'' is defined in § 301.1 to include an agency of a country that is either a foreign reciprocating country or a country with which the State has entered into a reciprocal arrangement and in which an individual has applied for or is receiving child support enforcement services. In international cases, the Central Authority or its designee in the foreign country will identify where payments should be sent, for example, to the Central Authority, court, custodial parent, caretaker, emancipated child, etc. In these cases, the responding State IV–D agency satisfies title IV–D requirements by collecting and forwarding collections as directed by the Central Authority in the foreign country in accordance with § 303.7(d)(6)(v).

13. Comment: The commenter asked that OCSE clarify if this provision only applies to IV–D agencies and if it applies to child support payments that are subject to income withholding, not subject to income withholding, or both.

Response: This provision applies to all payments that flow through the SDU.

14. Comment: One commenter asked how States should handle existing cases that have been set up to send payments to the private collection agencies. For example, should States now ignore the contracts and alternate payee forms submitted by the collection agencies and send any collections directly to the custodial parent? Another commenter asked if States will be obligated to notify obligees that the IV–D agency will no longer disburse his/her payments to a private collection agency as the obligee previously. One commenter indicated that requiring disbursement directly to a family is contrary to existing contracts that custodial parents have signed with private collection agencies.

Response: It is not the responsibility of the child support agency to enforce private contracts. Private contracts are between the parent and the private entity. State child support agencies should notify obligees that the agency will no longer disburse child support collections to private collection agencies. However, the custodial parent can negotiate with private collection agencies, as this provision only deals with the child support agency's disbursement of child support collections. Once the SDU disburses the child support collections to the obligee, the obligee still has the ability to pay the private collection agency's fees for contractual services.

15. Comment: One commenter asked for detail on how local child support agencies might identify cases in which the payment is being disbursed to a private collection agency and how they would identify the collection agency.

Response: Each State will be required to set up its own mechanisms to identify cases in which the payment is being disbursed to a private collection agency and to identify the collection agency.

16. Comment: One commenter expressed concern that it will be difficult for States to ensure that payments are made directly to the family for non-IV–D SDU cases.

Response: States are required to ensure that payments are made directly to the family for all non-IV–D

[16] Further information is available at: *https://www.fiscal.treasury.gov/fsservices/gov/debtColl/dms/xservg/pca/debt_pca.htm.*

collections being disbursed by the SDU. States should put the necessary policies and procedures in place to ensure that this provision is followed in all applicable cases. States need to develop procedures to obtain information from the custodial parents to ensure that payments for non-IV–D cases are sent directly to the family.

17. Comment: A few commenters opposed the provision, indicating that they had personal experience working with private collection agencies, and proposed that custodial parents should be able to choose where their child support payments are disbursed. One commenter indicated that some States have laws that allow a private collection agency to contract directly with a custodial parent.

Response: This provision does not prohibit custodial parents from entering into agreements with private collection agencies. As noted above, the rule does not prevent companies from charging and collecting fees for services rendered. Parents may pay private collection agencies directly for provided services once they receive disbursement of their child support payments.

Section 302.56—Guidelines for Setting Child Support Orders

General Comments

1. Comment: Several commenters requested public hearings around the country on the proposed changes to the child support guidelines so noncustodial parents could get their chance to tell OCSE what they think.

Response: While the Administrative Procedures Act provides agencies with discretion on whether to hold public hearings, OCSE determined that the opportunity to submit written comments during the comment period provided effective opportunity for public input. Therefore, OCSE did not hold hearings on the NPRM. We received over 2,000 sets of comments from State and county agencies, child support organizations, court associations, advocacy groups, parent groups, researchers, noncustodial parents, and custodial parents, which we carefully considered in developing this final rule.

2. Comment: Several commenters suggested that at high incomes, there should be a fixed dollar cap on child support orders. Their rationale for the dollar cap is that it would reduce conflict, reduce the need to hire lawyers and other professionals, and ultimately increase resources available for the children. Also, they indicated that many studies show that reasonable amounts of child support are more likely to be paid regularly and the amount of unpaid arrearages will be substantially reduced. Another commenter suggested that the maximum amount of the support obligation should be no more than 20 percent of the obligor's income.

Response: We do not agree that the Federal government should set a cap (either a fixed dollar amount or a maximum percentage rate) on child support payments. States determine the numeric criteria included in their guidelines.

3. Comment: A few commenters proposed that guidelines should call for prompt modification of existing child support orders upon filing of a complaint for modification, if there has been a significant change of circumstances. They thought that ''significant change of circumstances'' should be defined to include a change in the income and earnings of either parent of 5 percent or more.

Response: The commenters are correct that Federal statute, section 466(a)(10) of the Act, requires review and, if appropriate, adjustment of a child support order upon request of either parent if there is a substantial change of circumstances. However, the NPRM did not propose a change to the existing provision in § 303.8(c) that the ''State may establish a reasonable quantitative standard based upon either a fixed dollar amount or percentage, or both. . . .'' OCSE already has established timeframes for review and adjustment in § 303.8(e), which indicates that within 180 calendar days of receiving a request for a review or locating the non-requesting parent, whichever occurs later, a State must conduct a review of the child support order and adjust the order upward or downward, upon a showing that there has been a substantial change of circumstances, in accordance with this section. We encourage States to streamline their procedures in order to promptly modify child support orders upward or downward when there are significant changes of circumstances.

4. Comment: Several commenters proposed that guidelines should terminate child support at age 19 or upon graduation from secondary school, whichever occurs earlier. One commenter added that one exception should be if the child who is the subject of the order has special medical or educational needs. The commenter also thought that State statutes providing for the support of older children of intact marriages should be applied identically to parents who are not married. One commenter further explained that married parents are under no legal obligation in most States to support their children beyond age 19, except in extraordinary circumstances. This commenter questioned why any State has an interest in mandating support for children of divorced and separated parents up to age 23, but not for those of married parents; the commenter found such requirements discriminatory on their face. The commenter also stated that when he last checked, 33 States terminate the child support obligation upon the child's attaining age 19.

Response: While we understand the commenters' point, States have discretion and flexibility in defining the age of emancipation for child support orders. In accordance with the Child Support Enforcement Amendments of 1984, Congress has mandated that States must have procedures that permit the establishment of the paternity of any child at any time prior to such child's 18th birthday. However, it is a matter to be determined by the State in accordance with State law.

Compliance Date [§ 302.56(a)]

1. Comment: While many commenters appreciated that OCSE's proposed revision in § 302.56(a) coincided with the next quadrennial review, for States whose quadrennial reviews commence shortly after the rule is finalized, the commenters indicated that they needed additional time to conduct further analysis and research on implementation issues and potential system changes. They recommended an additional extension of 1 year. In other words, the guideline changes would be required to be in effect within 1 year after completion of the first quadrennial review of its guidelines that commences more than 1 year after the publication of the final rule.

Response: We agree with this suggestion and have made this change in § 302.56(a). We understand that States will need additional time to do research and prepare for the quadrennial review based on the revisions in the final rule. Therefore, we are revising the language in paragraph (a) to indicate that within 1 year after completion of the State's next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan, the State must establish one set of guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within the State that meet the requirements in this section.

2. Comment: A few commenters recommended a faster implementation date than what was proposed in the

NPRM. They recommended that the new revisions be effective ''within 1 year after publication of the final rule.''

Response: As a result of the final rule, States must review, and if necessary, revise their guidelines. A 1-year implementation date would be unrealistic since it would be a time-consuming and costly process for States to review their guidelines outside of the required 4-year review cycle. We believe that the revisions will require the States to do extensive research and analysis of case data, economic factors, and other factors in developing guidelines that meet the revised Federal requirements.

3. Comment: A few other commenters recommended that States would need two quadrennial reviews to implement the final rule. They thought that one quadrennial review period was not sufficient time to obtain new data, complete new economic studies based on that data, build new guidelines tables, and enact the required legislation to approve the new tables.

Response: A two-quadrennial review period, or 8 years, is an unreasonable length of time to delay implementation of these new revisions. States should implement the guidelines, review and adjustment, and civil contempt provisions within a reasonable period of time to ensure that child support orders do not exceed a noncustodial parent's ability to pay. Most commenters either agreed that conforming guidelines during the next quadrennial review was sufficient time, or commented that the implementation period should be shorter.

Availability of the Guidelines [§ 302.56(b)]

1. Comment: We had many commenters suggest that the guidelines be made available to all persons in the State who request them, rather than only to the persons in the State whose duty it is to set child support award amounts. They thought that the guidelines are a matter of enormous public and individual import and therefore must be freely available to all who request them.

Response: We agree that child support guidelines should be readily available to all persons in the State through such means as posting on their Web sites, child support brochures, or some other method for disseminating educational materials. In fact, most States already make their guidelines available on their Web sites. We also agree that principles of government transparency would indicate that the guidelines should be available to the general public since the guidelines impact citizen rights and responsibilities. As a result, we have removed the phrase ''whose duty it is to set child support award amounts'' from the end of the sentence in § 302.56(b).

Ability To Pay [§ 302.56(c)(1)]

1. Comment: Many commenters agreed that guidelines should result in child support orders based on the noncustodial parent's ability to pay. One commenter indicated that setting right-sized orders is as much an art as it is a science. Each State has its own set of constituencies and circumstances that influence how guidelines are set. The commenters also thought that the court should have the ability to look at all factors, including the lifestyle of the noncustodial parent, testimony provided in court, previous work history, education and training, and any information provided by the custodial parent. They thought the proposed regulation limited the discretion of the court, and could have a negative impact on the program.

Response: The ''ability to pay'' standard for setting orders has been Federal policy for almost 25 years,[17] and many existing State guidelines explicitly incorporate the ''ability to pay'' standard. Consistent with comments, we have redrafted the rule to codify this standard. We also added language that States consider the noncustodial parent's specific circumstances in making an ability to pay determination when evidence of income is limited, and added language more clearly articulating the basis upon which States may use imputed income to calculate an order. These revisions are discussed in more detail below.

Over time, we have observed a trend among some States to reduce their case investigation efforts and to impose high standard minimum orders without developing any evidence or factual basis for the child support ordered amount. Our rule is designed to address the concern that in some jurisdictions, orders for the lowest income noncustodial parents are not set based upon a factual inquiry into the noncustodial parent's income and ability to pay, but instead are routinely set based upon a standardized amount well above the means of those parents to pay it. The Federal child support guidelines statute requires guidelines that result in ''appropriate child support award'' and is based on the fundamental principle that each child support order should take into consideration the noncustodial parent's ability to pay.[18] Therefore, we have codified this longstanding policy guidance as the leading guidelines principle in § 302.56(c)(1).

Research suggests that setting an accurate child support order based upon the noncustodial parent's ability to pay improves the chances that the noncustodial parent will continue to pay over time.[19] Compliance with support orders is strongly linked to actual income and ability to pay.[20] Many low-income noncustodial parents do not meet their child support obligations because they do not earn enough to pay what is ordered.[21] Orders set beyond a noncustodial parents' ability to pay can result in a number of deleterious effects, including unmanageable debt, reduced low-wage employment, increased underground activities, crime, incarceration, recidivism, and reduced contact with their children.[22] Research consistently finds that orders set too high are associated with less consistent payments, lower compliance, and increased child support debt.[23] In fact,

[17] AT–93–04, available at: *http://www.acf.hhs.gov/programs/css/resource/presumptive-guidelines-establishment-support-unreimbursed-assistance* and PIQ–00–03, available at: *http://www.acf.hhs.gov/programs/css/resource/state-iv-d-program-flexibility-low-income-obligors.*

[18] Section 467(a) of the Social Security Act, 42 U.S.C. 667(a).

[19] HHS Office of Inspector General, *The Establishment of Child Support Orders for Low-Income Non-custodial Parents,* OEI–05–99–00390, (2000), available at: *http://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf.*

[20] Meyer, Daniel, R. Yoonsook Ha, and Mei-Chen Hu, ''Do High Child Support Orders Discourage Child Support Payments?'' *Social Service Review,* (2008), 82(1): 93–118; Huang, Chien-Chung, Ronald B. Mincy, and Irwin Garfinkel, ''Child Support Obligations and Low-Income Fathers'' *Journal of Marriage and Family,* (2005), 67(5): 1213–1225.

[21] Kathryn Edin and Timothy J. Nelson, *Doing the Best I Can: Fatherhood in the Inner City,* University of California Press, (2013); Pearson, Jessica, Nancy Thoennes, Lanae Davis, Jane C. Venohr, David A. Price, and Tracy Griffith, 2003, *OCSE responsible fatherhood programs: Client characteristics and program outcomes,* available at: *http://www.frpn.org/file/61/download?token=CNMvAIQn.*

[22] Pamela Holcomb, Kathryn Edin, Jeffrey Max, Alford Young, Jr., Angela Valdovinos D'Angelo, Daniel Friend, Elizabeth Clary, Waldo E. Johnson, Jr. (2015), *In Their Own Voices: The Hopes and Struggles of Responsible Fatherhood Program Participants in the Parents and Children Together Evaluation.* Report submitted to the Office of Planning, Research, and Evaluation. OPRE Report #2015–67 available at: *http://www.acf.hhs.gov/programs/opre/resource/in-their-voices-hopes-struggles-responsible-fatherhood-parents-children-evaluation;* and Maureen Waller and Robert Plotnick. (2001). ''Effective child support policy for low-income families: Evidence from street level research'' *Journal of Policy Analysis and Management* 20(1): 89–110.

[23] Meyer, Daniel, R. Yoonsook Ha, and Mei-Chen Hu (2008) ''Do High Child Support Orders Discourage Child Support Payments?'' *Social Service Review,* 82(1): 93–118; Huang, Chien-Chung, Ronald B. Mincy, and Irwin Garfinkel. (2005) ''Child Support Obligations and Low-Income Fathers'' *Journal of Marriage and Family,* 67(5): 1213–1225; Carl Formoso, *Determining the Composition and Collectibility of Child Support*

studies find that orders set above 15 to 20 percent of a noncustodial parent's income increases the likelihood that the noncustodial parent will pay less support and pay less consistently, resulting in increased arrears.[24] The conclusion from this research is that families do not benefit from orders that noncustodial parents cannot comply with because of their limited income. High orders do not translate to higher payments when the noncustodial parent has limited income.[25]

The final rule added paragraph (c)(1) to provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay. Paragraph (c)(1)(iii) requires consideration of the specific circumstances of the noncustodial parent when imputing income. This will be discussed in further detail later in this section.

2. Comment: One commenter recommended that a sentence be added to the regulation stating that the receipt of Supplemental Security Income (SSI) or combined SSI and Social Security Disability Income (SSDI) benefits establishes a *prima facie* case that the individual does not have the ability to pay child support unless the presumption of insufficient means and inability to work is successfully rebutted by submission of opposing evidence.

Response: When the noncustodial parent is receiving SSI or concurrent SSI and SSDI benefits, the State has flexibility on whether and how to address the receipt of such benefits in its guidelines. We encourage States to consider receipt of SSI and concurrent SSDI benefits as a part of the circumstances in the case that they will consider in ensuring that support orders are based on ''ability to pay.'' In order to receive these benefits, an individual must have a significant disability that prevents or limits work, and in the case of SSI (including concurrent receipt), eligibility is also based on an individual's basic needs. Regardless of whether the State considers SSI and concurrent SSDI benefits as income for purposes of order establishment, it may not garnish these benefits in accordance with § 307.11.

All Income [§ 302.56(c)(1)(i)]

1. Comment: Several commenters were opposed to our proposed revisions in § 302.56(c)(1), which has been redesignated as paragraph (c)(1)(i) because they questioned the difference between ''actual'' earnings and income and ''all'' earnings and income. They thought that ''actual'' income was too restrictive. They were concerned that the NPRM would introduce uncertainty into State guidelines definitions of ''income'' if the provision requiring ''all income'' to be considered were eliminated. One commenter asked whether replacing the term ''all'' with the term ''actual'' prevented States from considering depreciation as an adjustment to a parent's income. The commenter thought that the revision would make it difficult to determine the income of contractors and the self-employed. Other commenters thought that our proposed revision only allowed consideration of the use of the noncustodial parent's ''actual'' income in calculating child support obligations, in other words, the State could never use imputed income, but would be limited to actual income in every factual situation, despite evidence of ability to pay.

Response: Based on the comments that we received on proposed paragraph (c)(1), redesignated as paragraph (c)(1)(i), we did not make the proposed revision, but instead codified the longstanding guidelines standard that orders be based upon ''earnings, income, and other evidence of ability to pay.'' We also retained the provision in the former rule to require consideration of ''all earnings and income'' in paragraph (c)(1). To be clear, the guidelines must provide that orders must be based upon evidence of the noncustodial parent's earnings and income and other evidence of ability to pay in the specific case. In addition, the guidelines must provide that if income is imputed, the amount must reflect the specific circumstances of the noncustodial parent to the extent known, and may not order a standard amount imposed in lieu of fact-gathering in the specific case. The expectation is that in IV–D cases, the IV–D agency will investigate each case sufficiently to base orders on evidence of the noncustodial parent's ability to pay. Orders issued in IV–D cases should not reflect a lower threshold of evidence than applied in private cases represented by legal counsel.

2. Comment: One commenter requested clarification regarding what constitutes ''actual'' earnings and income in the proposed paragraph (c)(1). For example, would it be permissible under the proposed regulatory revisions for a noncustodial parent to allocate a greater percentage of his/her earnings as voluntary contributions to a deferred compensation plan and thereby minimize ''actual'' earnings? Many commenters suggested that the Federal government define income as the Federal Adjusted Gross Income, while others suggested that we consider the household income of the custodial parent. Other commenters suggested that Smith-Ostler orders [26] be eliminated or better reflect the tax consequences of the payor. One commenter also suggested that the noncustodial parent's ability to pay be calculated after mandatory deductions, such as taxes. Another commenter was concerned about how actual earnings and income would be determined and what benefits, resources, and sources of income would be considered for the purpose of this provision.

Response: In response to comments, the final rule requires States to consider all earnings and income for the noncustodial parent under paragraph (c)(1)(i), subject to the requirement that orders be based on earnings, income, and other evidence of ability to pay. We are establishing only minimum components for child support guidelines. States have the discretion and responsibility to define earnings and income, for example in the manner proposed by commenters, since they are in a better position to evaluate the economic factors within their States and

Arrearages: Final Report, Volume 1: The Longitudinal Analysis, Washington State Division of Child Support (2003), available at: *https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/cvol1prn.pdf;* Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* Orange County, CA Department of Child Support Services, (2011), available at: *http://ywcss.com/sites/default/files/pdf-resource/how_do_child_support_orders_affect_payments_and_compliance.pdf.*

[24] HHS Office of Inspector General, *The Establishment of Child Support Orders for Low-Income Non-custodial Parents,* OEI–05–99–00390, (2000), available at: *http://oig.hhs.gov/oei/reports/oei-05–99–00390.pdf;* Carl Formoso, *Determining the Composition and Collectibility of Child Support Arrearages: Final Report, Volume 1: The Longitudinal Analysis,* Washington State Division of Child Support (2003), available at: *https://www.dshs.wa.gov/sites/default/files/ESA/dcs/documents/cvol1prn.pdf;* and Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* Orange County, CA Department of Child Support Services, (2011), available at: *http://ywcss.com/sites/default/files/pdf-resource/how_do_child_support_orders_affect_payments_and_compliance.pdf.*

[25] National Women's Law Center and the Center on Fathers, Families, and Public Policy, *Dollars and Sense: Improving the Determination of Child Support Obligations for Low-Income Mothers, Fathers, and Children* (2002), available at: *http://www.nwlc.org/sites/default/files/pdfs/CommonGroundDollarsandSense.pdf.*

[26] Sometimes one or both parents have income that varies, fluctuates, or is otherwise unpredictable. When calculating child support, the court often uses a ''Smith-Ostler order'' to account for commissions, bonuses, or overtime income. In these cases, the court will set an amount for child support and issue a Smith-Ostler order to account for overtime and bonus income. The Smith-Ostler order will set a fixed percentage of all bonus income to be paid as additional child support.

have broad discretion to set guidelines policies.

3. *Comment:* One commenter suggested that guidelines be required to take into consideration the assets of the noncustodial parent, in addition to earnings and income.

Response: We have decided to retain the former language in the rule that ''all'' earnings and income be taken into consideration in § 302.56(c)(1)(i). This language has been extensively interpreted and applied in every State for over two decades. Retaining the term ''all income'' allows States to consider depreciation, deferred income, or other financial mechanisms used by self-employed noncustodial parents to adjust their actual income. In addition, we added ''assets'' to the list of specific circumstances in paragraph (c)(1)(iii) that the State must consider when the State guidelines authorize imputation of income. States have discretion to determine whether to add assets or define which assets should be considered in their child support guidelines as a basis for determining child support amounts.

4. *Comment:* Many commenters proposed that actual income and earnings should be considered for both parents. In support, they pointed out that the 1988 Advisory Panel on Child Support Guidelines (on which the original § 302.56 language was based) recommended that: ''Both parents should share legal responsibility for support of their children, with the economic responsibility divided between the parents in proportion to their income.'' This recommendation was never incorporated into the Federal regulations at § 302.56. The commenters believed that now was the time to include a requirement to consider the income and earnings of both parents.

Response: We agree that both noncustodial and custodial parents have a responsibility to support their children. However, the NPRM did not propose that States revise this aspect of their child support guidelines, which impacts the particular guidelines model a State has adopted. Some States do not explicitly take the custodial parent's income into account in the guidelines model they have adopted. The NPRM did not address State guidelines models. Therefore, the adoption of a guidelines model continues to be a matter of State determination.

However, in § 302.56(c)(1)(i) through (iii), we have added a parenthetical to indicate that at the State's discretion, the State may consider the circumstances of the custodial parent if it is required or applicable in their guidelines computation. We encourage States that use the income shares model for guidelines, which considers the custodial parent's earnings and income, to also consider it for applying § 302.56(c)(1)(i) through (iii).

5. Comment: One commenter indicated that we should require States to have laws that require the parties (who have the best access to their own income information) to provide financial data so as to ensure accurate and appropriate orders.

Response: We have revised § 303.4, *Establishment of support obligations,* to require State IV–D agencies to investigate earnings and income information through a variety of sources, for example, by expanding data sources and implementing the use of parent questionnaires, ''appear and disclose'' procedures, and case conferencing. Often, better investigations would enable States to obtain more accurate information needed in establishing and modifying child support orders. We know that many States already have procedures in place to obtain financial information from the parents. In fact, in cases where the noncustodial parent does not receive a salary or wages, income, assets, and standard of living information can often be obtained directly through contact with both parents. State law may require the parties to provide this information to the child support agency.

6. *Comment:* One commenter stated that instead of changing the laws on how courts establish child support, the National Directory of New Hires (NDNH) should provide more timely and accurate information. The commenter recommended its expansion to include data on Form 1099 payments as well as assets and income sources. The commenter also stressed the need for States to enforce laws requiring the timely and complete reporting of information to the State Directory of New Hires (SDNH). The commenter noted that consistent receipt of this information would assist IV–D agencies in establishing support based on ''actual'' income.

Response: We appreciate the suggested improvements; however, expanding the NDNH to include Form 1099 payments requires statutory changes by Congress. Regarding the SDNH, section 453A of the Social Security Act authorizes States to impose civil money penalties on noncomplying employers. Specifically, a State has the option to set a State civil money penalty which shall not exceed (1) $25 per failure to meet the requirements of this section with respect to a newly hired employee; or (2) $500 if, under State law, the failure is the result of a conspiracy between the employer and the employee to not supply the required report or to supply a false or incomplete report.

Subsistence Needs of the Noncustodial Parents [§ 302.56(c)(1)(ii)]

1. Comment: There were many suggestions related to the requirement that State guidelines ''[t]ake into consideration the noncustodial parent's subsistence needs'' in proposed § 302.56(c)(4), which was redesignated as (c)(1)(ii) in the final rule. Many commenters requested more guidance on subsistence needs or wanted OCSE to develop an operational definition. Others asked what the State should do when the noncustodial parent is making less than the subsistence needs. Many commenters thought that the States need discretion to carefully weigh and balance the considerations of low-income obligors and the needs of the children and the custodial parents' households. Other commenters requested that OCSE also consider the subsistence needs of the custodial parent. Some were opposed to the proposed revision because they did not think that Federal regulations were necessary since many States already have low-income formulas. However, many more commenters indicated that we need stronger protections to recognize the subsistence needs of very poor noncustodial parents.

Response: We considered these comments in revising the NPRM. In the final rule in paragraph (c)(1)(ii), we require that child support guidelines must ''[t]ake into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and the children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State.'' A low-income adjustment is the amount of money a parent owing support needs to support him or herself at a minimum level. It is intended to ensure that a low-income parent can meet his or her own basic needs as well as permit continued employment. A low-income adjustment is a generic term. A self-support reserve is an example of a low-income adjustment that is commonly used by the States.

The revision allows States' flexibility to determine the best approach to adjusting their guidelines to take into consideration the basic subsistence needs of low-income noncustodial parents. All but five States have already incorporated such low-income adjustments such as self-support reserves into their child support

guidelines.[27] We encourage States to continue to review their policies affecting low-income parents during each quadrennial review to assure that the policies are working as intended.

Our goal is to establish and enforce orders that actually produce payments for children. Both parents are expected to put their children first and to take the necessary steps to support them. However, if the noncustodial parent cannot support his or her own basic subsistence needs, it is highly unlikely that an order that ignores the need for basic self-support will actually result in sustainable payments. One of the unintended, but pernicious, consequences of orders that are not based on ability to pay is that some noncustodial parents will exit low wage employment and either avoid the system entirely or turn to the drug trade or other illegal activities to pay support obligations and contempt purge payments.[28] It is not in children's best interests and counterproductive to have their parents engage in a cycle of nonpayment, illegal income generation, and incarceration.

2. Comment: A few commenters indicated that they thought State laws must be flexible enough to address both low-income situations and those situations where noncustodial parents use creative means to avoid their responsibility.

Response: We agree with these comments and have revised the child support guidelines requirements to more clearly reflect some of the commenters' concerns. The order establishment process must be able to hold noncustodial parents accountable when they have the means to pay support but attempt to withhold their resources from their children. The challenge is distinguishing between cases in which the noncustodial parent has the means to pay and those in which the noncustodial parent is unable to pay much. More contact with both parents and investigation into the facts will help the child support agency learn more about the noncustodial parent's specific circumstances. Custodial parents can be a particularly good source of information. Imputation should not serve as a substitute for fact-gathering.

3. Comment: Several commenters suggested that we define subsistence needs or low-income in this rule.

Response: OCSE does not agree with this suggestion. States should use their discretion and flexibility to define these terms based on the economic and demographic factors in their State.

Imputing Income [§ 302.56(c)(1)(iii)]

1. Comment: Many commenters agreed that child support guidelines should reflect the basic statutory principle that child support orders are based on the noncustodial parent's ability to pay. However, many commenters opposed this aspect of the NPRM because they believed we were eliminating the practice of imputing income to the noncustodial parent to establish orders. Although our NPRM preamble indicated otherwise, several commenters thought that imputed income would only be allowed when a noncustodial parent's standard of living was inconsistent with reported income. Commenters articulated three types of circumstances where they believed imputation is appropriate and grounded in case law: (1) When a parent is voluntarily unemployed, (2) when there is a discrepancy between reported earnings and standard of living, and (3) when the noncustodial parent defaults, refusing to show up or provide financial information to the child support agency. Some commenters thought that the courts should be able to evaluate the circumstances of the case when imputing income for the noncustodial parent.

One commenter referenced the National Child Support Enforcement Association policy statement, issued on January 30, 2013, that indicated: ''As a general rule, child support guidelines and orders should reflect actual income of parents and be changed proactively to ensure current support orders reflect current circumstances of the parents and to encourage regular child support payments.''

Response: There was considerable misunderstanding about the scope and intent on this aspect of the NPRM. Our intent was to require a stronger focus on fact-gathering and setting orders based on evidence of the noncustodial parent's actual income and ability to pay, rather than based on standard imputed (presumed)[29] amounts applied across the board. However, we also intended to recognize certain established grounds for imputation when evidentiary gaps exist, including voluntary unemployment and discrepancies between reported income and standard of living.

Considering commenters' concerns and suggested revisions, we made significant revisions in paragraph (c) to clearly articulate the longstanding requirement that State guidelines must provide that child support orders are based on the noncustodial parent's earnings, income, and other evidence of ability to pay. We have also added in paragraph (c)(1)(iii) providing that when imputation of income is authorized, the guidelines must take into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known.

Presently, some State guidelines allow income to be imputed without evidence that the noncustodial parent has or can earn a standard amount of income. Although the original use of imputation was to fill specific evidentiary gaps in a particular case, over time we have observed a trend among some States of reducing their case investigation efforts and imposing high standard minimum child support orders across-the-board in low-income IV–D cases, setting orders without any evidence of ability to pay.[30]

Many States do take steps to determine the factual circumstances in a particular case and build an

[27] Venohr, Jane, ''Child Support Guidelines and Guidelines Reviews: State Differences and Common Issues,'' *Family Law Quarterly,* 47(3), Fall 2013, pages 327–352, available at: *http://static1.squarespace.com/static/5154a075e4b08f050dc20996/t/54e34dd2e4b04c0eab578456/1424182738603/3fall13_venohr.pdf.*

[28] Mincy, Ronald et al, *Failing Our Fathers: Confronting the Crisis of Economically Vulnerable Nonresident Fathers,* Oxford University Press, 2014; Kotloff, Lauren, J., *Leaving the Street: Young Fathers Move From Hustling to Legitimate Work,* Public/Private Ventures (2005), available at *https://hmrf.acf.hhs.gov/resources/fathers-at-work-initiative-reports/leaving-the-street-young-fathers-move-from-hustling-to-legitimate-work/;* and Rich, Lauren, M., ''Regular and Irregular Earnings of Unwed Fathers: Implications for Child Support Practices.'' *Children and Youth Services Review,* April–May 2001, 23(4⁄5): 353–376, which is available at: *https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwiq2fW_i8nKAhXEtIMKHabpD5gQFggmMAE&url=http%3A%2F%2Fwww.sciencedirect.com%2Fscience%2Farticle%2Fpii%2FS0190740901001396%2Fpdf%3Fmd5%3D7f4e344844155112ff3e1b55528fbde6%26pid%3D1-s2.0-S0190740901001396-main.pdf&usg=AFQjCNHlcgoC8Zj_abOHen6w2LXDgEtMYA&sig2=LOBYbUWWp2UgHBqV5BD-Og&bvm=bv.112766941,d.dmo.*

[29] OCSE views presumed income and imputed income similarly since they are both based on fictional income. Therefore, we use these terms interchangeably.

[30] According to a report recently released by the National Center for State Courts on civil litigation generally (and not specifically child support litigation), recent studies have found widespread instances of judgments entered in high-volume, civil cases in which the defendant did not receive notice of the complaint or the plaintiff failed to demonstrate an adequate basis for relief sought. The report ''strongly endorsed'' by State chief justices, in July 2016, recommends that courts must implement systems to ensure that the entry of final judgments complies with basic procedural requirements for. . .sufficiency of documentation supporting the relief sought. For further information, see *Call to Action: Achieving Civil Justice for All,* Recommendations to the Conference of Chief Justices by the Civil Justice Improvements Committee, pp. 33–34, available at: *https://www.ncsc.org/~/media/Microsites/Files/Civil-Justice/NCSC–CJI-Report-Web.ashx.*

evidentiary basis for the order, imputing income on a case-by-case basis when there is an evidentiary gap. However, some jurisdictions set high minimum orders across the board in low-income cases, regardless of available evidence of the noncustodial parent's specific circumstances. Others do so, except under a very narrow set of circumstances, for example, a demonstrated disability. In fact, some States impute standard amounts of income even when there is evidence of involuntary unemployment, part-time employment, and low earnings.

Overuse of imputed income frequently results in IV–D orders that are not based on a realistic or fair determination of ability to pay, leading to unpaid support, uncollectible debt, reduced work effort, and underground employment. Because such orders are not based on the noncustodial parent's ability to pay, as required by Federal guidelines law, they typically do not yield consistent payments to children.

While States have discretion to determine when imputation of income is appropriate and allowed, section 467 of the Act indicates that ''a written finding or specific finding that the application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case.'' Thus, we encourage States to establish deviation criteria when to impute income and document the deviation in a finding on the record that is rebuttable. Many, but not all, States currently use deviation criteria and make a rebuttable finding on the record when they impute income as the basis for an order in a particular case. Fictional income should not be imputed simply because the noncustodial parent is low-income, but instead only used in limited circumstances when the facts of the case justify it.

We revised § 302.56(c)(1) to clarify that the child support guidelines established under paragraph (a) must provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay. The guidelines must take into consideration all earnings and income, the basic subsistence needs of the noncustodial parent who has a limited ability to pay, and if income is being imputed, the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

This approach emphasizes the expectation that support orders will be based upon evidence to the extent available, while recognizing that in limited circumstances, income imputation allows the decision-maker to address evidentiary gaps and move forward to set an order. While we recognize that most State IV–D agencies have limited resources, case investigation to develop case-specific evidence is a basic program responsibility. The revised final rule is closely aligned with many of the comments we received. Imputed or default orders should occur only in limited circumstances.[31] We also revised paragraph (c)(1)(iii) to address concerns about the need for State guidelines to consider the specific circumstances of the noncustodial parent when imputing income.

2. Comment: Most commenters were concerned that the proposed revisions in § 302.56(c)(4), which has been redesignated and revised as paragraph (c)(1), related to exceptions to the ''actual'' income provisions were too vague, restrictive, and did not sufficiently provide for a broad range of circumstances where it may be appropriate to impute income, such as when the noncustodial parent is working in the underground economy or failing to provide sufficient evidence to the court. Many commenters were concerned that the NPRM curtailed the ability of States to impute income to ensure support for children. One commenter supported reducing the use of default orders; however, the commenter stated that default orders continue to be necessary when the noncustodial parent refuses to appear and participate, despite multiple opportunities provided by the court and the IV–D agency. Many commenters further indicated that while the NPRM did not expressly prohibit default orders, there appeared to be no ability within the framework of the rule to impute income based on other types of evidence—such as the noncustodial parent's past income, employment history, and/or employment available in the local community. They also read the NPRM to mean that if the IV–D agency could not obtain current income information or evidence of current lifestyle, then the NPRM would prohibit an entry of a support order altogether. These commenters stated that such a result could give parents with reported income an incentive to intentionally end employment after being notified of the support proceedings and refuse to appear in court in order to force a zero dollar order. They considered this a perverse incentive to avoid support that was not in the best interest of the child and the family. While many commenters were in favor of right-sized orders, they believed the proposed language was too limiting to allow setting a fair order in many circumstances.

Response: As we have previously discussed in response to comments, it was not OCSE's intention in the NPRM to limit imputation of income only to situations where there is evidence that the noncustodial parent's standard of living is inconsistent with reported income. The State has the discretion to determine when it is appropriate to impute income consistent with guidelines requirements. Therefore, we revised the proposed language in § 302.56(c)(1) to clearly indicate that a child support order must be based on the noncustodial parent's ability to pay using evidence of the parent's earnings, income, and other evidence of ability to pay whenever available. We have also added § 302.56(c)(1)(iii) to indicate that if imputation is authorized in the State's guidelines, the State's guidelines must require the State to consider evidence of the noncustodial parent's specific circumstances in determining the amount of income that may be imputed, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors.

If the State IV–D agency has no evidence of earnings and income or insufficient evidence to use as the measure of the noncustodial parent's ability to pay, then we have added in § 303.4(b)(3) that the State's IV–D agency's recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed in § 302.56(c)(1)(iii). It is the IV–

[31] The National Child Support Enforcement Association policy statement, *Setting Current Support Based on Ability to Pay,* dated January 30, 2013, is available at: *http://www.ncsea.org/documents/Ability_to_Pay-final.pdf.*

D agency's responsibility to conduct an investigation, including contact with the custodial parent to seek information. At a minimum, child support agencies generally will know the noncustodial parent's address.

Imputed or default orders based on income imputation are disfavored and should only occur on a limited basis. Imputation does not by any means ensure support payments for children. In fact, an order based upon imputed income that is beyond the noncustodial parent's ability to pay typically results in more unpaid support and other unintended consequences that do not benefit children.[32] It is critical for the integrity of the order-setting process that IV–D agencies put resources into case-specific investigations and contacting both parents in order to gather information regarding earnings, income, or other specific circumstances of the noncustodial parent when evidence of earnings and income is nonexistent or insufficient.

3. Comment: One commenter supported imputing income, when appropriate in an individual case, if there was evidence showing that either parent was employed voluntarily less than 30 hours of week. Moreover, if the noncustodial parent was gainfully employed for at least 30 hours per week, this commenter believed that no income should be imputed to the noncustodial parent if the custodial parent was working voluntarily less than 30 hours per week. Finally, the commenter believed that exceptions should be allowable if the custodial parent had children with special medical or educational needs or children less than 2 years of age.

Response: We do not agree that these specific suggestions should be incorporated into Federal rules. The commenter suggests a generic ''30 hour'' rule imposed without a case-by-case review of the specific circumstances of the noncustodial parent, evidence of the voluntariness of unemployment or underemployment, and a case-specific determination of the noncustodial parent's ability to pay. Also, as discussed previously, States may determine when imputation of income is allowed, so long as the resulting order considers the factors listed in § 302.56(c)(iii) and reflects a noncustodial parent's ability to pay it.

4. Comment: One commenter was opposed to the proposed § 302.56(c)(4), which has been redesignated and revised as paragraph (c)(1), because the language would apply to both IV–D and non-IV–D cases, resulting in imposing substantial revisions on the private bar and judiciary without justification. Another commenter, noting that guidelines are used not only by the IV–D agency, but also by the entire private bar and *pro se* litigants, was concerned that most private attorneys would not have access to income reports for the parents. Another commenter indicated that many of the proposed requirements contained in the NPRM would not receive full support by non-IV–D representatives, particularly where the new requirements would have the effect of reducing and/or limiting the flexibility of attorneys, parties, and the judicial authority in non-IV–D matters. As an example, the commenter stated that imposing limitations on imputing income would affect all family cases and could be seen as a restriction on judicial authority. Finally, another commenter believed that child support guidelines have historically been a State issue with much flexibility, as the guidelines impact both IV–D and non-IV–D cases.

Response: The final rule amends existing OCSE regulations implementing Federal statutory requirements. State child support guidelines were adopted pursuant to a title IV–D State plan requirement and a condition of Federal funding, and specific guidelines requirements derive from Federal law. Our rule is modeled on the best practices currently implemented in a number of States to improve order accuracy and basic fairness, and is based on OCSE's authority to set standards to establish requirements for effective program operation under section 452(a)(1) and State plan provision that the State will comply with such requirements and standards under section 454(13) of the Act. In promulgating these rules, our primary concern is that in some jurisdictions, orders are not based on a factual determination of a particular noncustodial parent's ability to pay, but instead are based upon on standardized amounts that are routinely imputed to indigent, typically unrepresented, noncustodial parents.[33] Imputed income is fictional income, and without an evidentiary foundation of ability to pay, orders cannot be considered fair and accurate.

Compared to IV–D cases, private cases are more likely to involve legal counsel, and result in child support orders based on actual income. When imputed income is used in private cases, it typically is used in the way originally intended—to fill evidentiary gaps in specific cases to support a reasonable inference of the noncustodial parent's ability to pay in situations of voluntary unemployment or discrepancies in reported income and standard of living. We point out that private litigants are expected to support their position with evidence. The majority of the NPRM comments, including comments from courts and attorneys, support the direction of our rules.

To address the concerns related to the general applicability of State guidelines, we moved the requirements specifically related to State IV–D agencies under § 303.4, *Establishment of support obligations,* and those requirements related to all cases in the State under § 302.56, *Guidelines for setting child support orders.* Although the NPRM did not include any revisions to § 303.4, we received numerous comments on IV–D agency responsibilities in determining the noncustodial parent's income and imputation of income when establishing child support orders pursuant to § 303.4. Based on these comments, we made revisions to § 303.4 that result in a more narrow application of the regulation. We revised § 303.4(b) to require IV–D agencies to use appropriate State statutes, procedures, and legal processes in establishing the child support obligation and assist the decision-maker in accordance with § 302.56 of this chapter, which must include, at a minimum:

(1) Taking reasonable steps to develop a sufficient factual basis for the support obligation, through such means as investigations, case conferencing, interviews with both parties, appear and

[32] Cammet, Ann, ''Deadbeats, Deadbrokes, and Prisoners,'' *Georgetown Journal on Poverty Law & Policy,* 18(2): 127–168, Spring, 2011, which is available at: *http://ywcss.com/sites/default/files/u258/deadbeats_deadbrokers_and_prisoners_university_of_las_vegas.pdf;* Brito, Tonya, ''Fathers Behind Bars: Rethinking Child Support Policy Toward Low-Income Noncustodial Fathers and Their Families, *The Journal of Gender, Race & Justice,* 15:617–673, Spring 2012, which is available at: *http://racism.org/index.php?option=com_content&view=article&id=1514:fathersbehind bars&catid=53&Itemid=176&showall=1&limitstart=;* and HHS Office of Inspector General, *The Establishment of Child Support Orders for Low-Income Non-custodial Parents,* OEI–05–99–00390, (2000), available at: *http://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf.*

[33] Elaine Sorensen, Liliana Sousa, and Simon Schaner, *Assessing Child Support Arrears in Nine Large States and the Nation* (2007), available at: *https://aspe.hhs.gov/basic-report/assessing-child-support-arrears-nine-large-states-and-nation;* Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?* Orange County, CA Department of Child Support Services, (2011), available at: *http://ywcss.com/sites/default/files/pdf-resource/how_do_child_support_orders_affect_payments_and_compliance.pdf;* and Passarella, Letitia Logan and Catherine E. Born, *Imputed Income Among Noncustodial Parents: Characteristics and Payment Outcomes,* University of Maryland School of Social Work (2014), available at: *http://www.familywelfare.umaryland.edu/cscaseloadspecialreports.htm.*

disclose procedures, parent questionnaires, testimony, and electronic data sources;

(2) Gathering information regarding the earnings and income of the noncustodial parent and, when earnings and income information is unavailable or insufficient in a case, gathering available information about the specific circumstances of the noncustodial parent, including such factors as those listed under § 302.56(c)(iii);

(3) Basing the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available. If earnings and income are unavailable or insufficient to use as the measure of the noncustodial parent's ability to pay, then the recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed in § 302.56(c)(iii); and

(4) Documenting the factual basis for the support obligation or recommended support obligation in the case record.

IV–D agencies have a basic responsibility to take all necessary steps to investigate the case and provide the court or administrative authority information relating to the income, earnings, and other specific circumstances of the noncustodial parent so that the decision-maker has an evidentiary foundation for establishing an order amount based on the noncustodial parent's ability to pay. These required steps merely specify the standard case review procedures that many States currently use to investigate and obtain income information for the parties.

Since the beginning of the program, we have provided FFP to IV–D agencies undertaking investigation activities involving the development of evidence, and, when appropriate, bringing court actions for the establishment and enforcement of support obligations (§ 304.20(b)(3)(i)), and determining the amount of the child support obligation including developing the information needed for a financial assessment (§ 304.20(b)(3)(ii)). However, over time, and as resources have become more constrained, we have found that some jurisdictions no longer put resources into case investigation, and instead rely on standard presumptions and fictional income to set orders.

It is critical that a IV–D agency conducts investigative work prior to sending a case to the court since child support agencies have many tools available to gather the information. There are many procedural techniques and practices that help facilitate establishing an appropriate child support order.[34] Many States have implemented early intervention, parental engagement, and information-gathering techniques, and we encourage all States to implement these successful practices.

The final rule revises regulations governing the State's guidelines to focus on the fundamental principle that child support obligations are based on the noncustodial parent's ability to pay. This principle should be applied to both IV–D and non-IV–D cases in accordance with the Federal guidelines statute. The revisions have been addressed throughout this section.

5. Comment: One commenter supported requiring States to consult and use all data sources available to determine income, such as quarterly wage and new hire data before imputing income (such as imputing a full-time minimum wage salary). Commenters also suggested that States be required to have a methodology for imputing income and to record how and why imputation was done, similar to the requirement that there be a finding when an order deviates from the guideline amount. In this way, imputation would not be prohibited, but would further OCSE's goal to discourage routine use of imputation without sufficient investigation or consideration of the facts in a particular case.

Response: As discussed previously, the final rule at § 302.56(g) reflects these comments by providing a framework for determining the amount of imputed income. A written or specific finding on the record that application of the guidelines would result in an inappropriate or unjust order is required to rebut the presumption that the application of the guidelines results in the correct child support amount. Findings that rebut the guidelines shall state the amount of support that would have been required under the guidelines and include a justification as to why the order varies from the guidelines. Therefore, support obligations can deviate from guidelines, but the decision-maker must state the reasons, on the record, that justify the deviation and consider the factors listed in § 302.56(c)(1)(iii). Several States treat income imputation as a deviation from the guidelines, with a finding on the record.

6. Comment: One commenter thought that there was conflict between the proposed § 302.56(c)(1) requiring that orders be based on actual income and proposed paragraph (c)(4) requiring that any support ordered amounts be based on available data related to earnings, income, assets, or such testimony that income or assets are not consistent with the noncustodial parent's current standard of living. This commenter interpreted proposed paragraph (c)(1) as based on ''actual'' income only, while proposed paragraph (c)(4) appeared to provide for income imputation if evidence of ability to pay existed. The commenter noted that the actual income requirement could be used to argue against income imputation in cases where the parent was capable of earning income but was voluntarily unemployed or underemployed or where there was no evidence of income because the parent worked in the underground economy. The commenter explained that economists estimate that the underground economy amounts to $2 trillion. This volume and type of income should not be overlooked in the guidelines calculation. The commenter further indicated that evidence from a study conducted by Mincy and Sorensen (1998) found that 34 to 41 percent of young noncustodial fathers are not paying child support, but are actually able to pay.[35]

Response: As we discussed under Comment/Response 1 in this subsection, States have discretion to determine the criteria on when to deviate from guidelines. Therefore, we have revised proposed paragraph § 302.56(c)(4), which is redesignated as paragraphs § 302.56(c)(1)(ii) and (iii).

It is important to note that the referenced study examined all young noncustodial fathers, not those with a child support order, and is based on data that are over 25 years old and reflect very different economic conditions than exist today. Studies that examine noncustodial parents with an obligation to pay find much lower percentages of obligors who do not pay and have an ability to pay.[36]

7. Comment: One commenter indicated that about half of the States have guidelines that provide for a floor when imputing income (*e.g.,* income realized from full-time employment at

[34] *Setting Appropriate Child Support Orders: Practical Techniques Used in Child Support Agencies and Judicial Systems in 14 States,* Subcommittee Report, National Judicial-Child Support Task Force, Avoiding Inappropriate Orders Subcommittee, August 2007.

[35] Mincy, Ronald and Elaine J. Sorensen, ''Deadbeat and Turnips in Child Support Reform,'' *Journal of Policy Analysis and Management,* Vol. 17, No. 1 (Winter 1998), pp. 44–51.

[36] Elaine Sorensen, Liliana Sousa, and Simon Schaner, *Assessing Child Support Arrears in Nine Large States and the Nation* (2007), available at: *http://aspe.hhs.gov/basic-report/assessing-child-support-arrears-nine-large-states-and-nation.*

minimum wage). This commenter was concerned about the presumption that a parent, at a minimum, is capable of working full-time (or nearly full-time in some States) at the minimum wage while many low-income parents cannot get a job or retain steady employment to realize full-time employment. Therefore, the commenter recommended that we ''prohibit the presumption of a minimum amount of income to a parent in excess of the parent's actual or potential income as verified or ascertained using state-determined evidence of income that must include income data from automated sources available to the IV–D agency in a IV–D case unless evidence is presented that the parent is voluntarily unemployed or underemployed and has the capacity to earn the minimum amount of income presumed or more.''

Response: We considered this suggestion and revised the final rule to clarify that child support orders must be based on the noncustodial parent's earnings, income, and other evidence of ability to pay in § 302.56(c)(1). We revised the rule to indicate that if income is imputed, the guidelines must provide that the order must be set based on a consideration of the specific circumstances of the noncustodial parent.

Section 303.4(b)(3) requires that if information about earnings and income are not available, the amount of income imputed to the noncustodial parent must be based on factors listed in 302.56(c)(1)(iii).

8. Comment: One commenter indicated that OCSE should avoid using the term ''data'' when referring to ''income data'' since this is not a term common to private family law attorneys. The Merriam-Webster dictionary defines data as ''that is produced or stored by a computer.'' However, the most common sources of income verification in non-IV–D cases are tax returns and paystubs. According to the commenter, it is arguable whether these sources are stored in a computer.

Response: In the final rule, we avoided using the term ''data'' when referring to income and earnings.

9. Comment: One commenter stated that in most family law cases, courts are requiring evidence beyond the testimony of the custodial parent before it will impute income to a noncustodial parent and are demanding documentary evidence of the noncustodial parent's income or assets. The commenter believed that these requirements disadvantage low-income litigants who do not have the means to prove that a noncustodial parent has unreported employment (*i.e.,* ''working under the table'') or is voluntarily participating in an underground economy. In these instances, the commenter noted, it is the child who is deprived of his or her basic subsistence because the noncustodial parent refuses to seek or obtain employment where his or her actual income and resources can be ascertained.

Response: Taking this comment into consideration, we have revised the § 303.4 regulatory text, as discussed in Comment/Response 5 in this subsection, to require the IV–D agency to take appropriate steps in building the documentary evidence related to the case so that this evidence can be used by the courts or administrative authorities in establishing or modifying child support obligations based on the noncustodial parent's ability to pay.

10. Comment: Several commenters had concerns about the proposed language in § 302.56(c)(4) related to ''testimony that income or assets are not consistent with a noncustodial parent's current standard of living.'' One commenter asked us to define ''testimony'' for those agencies that use an administrative process rather than a judicial process to establish and modify orders. This commenter thought that the proposal would create a substantial burden of proof for child support agencies. A few commenters thought using the term ''testimony'' implied that if States wanted to impute income, they would have to take cases to court if they could not locate any financial history for the noncustodial parent. The commenters thought this would place an additional burden on the court system and cause delays in getting cases processed. For States that use an administrative process, commenters stated that the requirement would cause delays in case processing as well as place additional burdens on attorneys and judges. One commenter asked how agencies would set child support orders in default cases when there is neither evidence nor testimony from any source with regard to parents' subsistence needs or actual income. The commenter noted that a significant number of child support orders for very low-income families are set by default, and felt that Federal regulations should provide guidance to States for those situations. Several commenters suggested using the term ''documentary evidence'' rather than ''testimony.''

Response: The use of ''testimony'' in the NPRM was intended to illustrate one form of evidence, not to limit evidence to testimony. We agree that most evidence will be documentary. In setting orders, States always have at least one piece of information about a noncustodial parent—they know where the noncustodial parent lives. Residence can provide some insight about the noncustodial parent's standard of living. In revising our proposed language for § 302.56 and § 303.4(b), we have used terms that are appropriate for both judicial and administrative processes.

11. Comment: Several commenters expressed concerns that substantially limiting the use of imputed income in guideline calculations would cause delays in the establishment and modification of child support orders.

Response: In redrafting the guidelines provision, we looked to comments, existing State guidelines, and State best practices related to investigation and order-setting. We agree that the final rule may result in increased time to establish and modify a child support order, but it will also result in more orders that are legitimately based on a noncustodial parent's ability to pay, as required by Federal child support guidelines law and policy. Support orders based on ability to pay should result in better compliance rates and higher collections rates, saving time and resources required to enforce orders and resulting in actual payments to more children. One State told OCSE that by doing more investigative work to develop the evidence, it has experienced less conflict between the parents, fewer requests for hearings, and less time spent on enforcement. As a result, staff has more time to develop the documentary evidence needed to establish a child support order based on the noncustodial parent's ability to pay.

12. Comment: Some commenters maintained that imputed income should only be used as a last resort, when evidence suggests that the noncustodial parent is voluntarily unemployed or underemployed, or when the noncustodial parent's reported income or assets is inconsistent with the parent's standard of living. One commenter specifically noted that imputing income to a low-income, noncustodial parent who is acting in good faith often leads to a child support order that is based on unrealistic expectations and exceeds the noncustodial parent's ability to pay. This commenter further requested that the State guidelines give courts and administrative agencies the flexibility to use reliable, circumstantial evidence to establish and modify child support orders when traditional income information is not available and the noncustodial parent is acting in bad faith. The commenter stated this type of evidence does not lead to orders based on assumptions, but rather to orders grounded on reasonable inference given

the evidence presented. This commenter believed that there should be no automatic use of minimum wage or any other standardized metric to impute income.

Response: We agree that imputed income should only be used as a last resort, and that States need to exercise discretion on a case-by-case basis in determining a low-income noncustodial parent's ability to pay when evidence of earnings and income is not available. We encourage States to take this into consideration in developing the criteria for determining when to impute income.

13. Comment: One commenter indicated that overuse of imputing income may be avoided by implementing other measures such as: Requiring that the support obligation not reduce the noncustodial parent's income below a subsistence level; requiring that all findings related to the calculation and imputation of income be based on the facts in the court record; requiring that all findings regarding the calculation or imputation of income be written and subject to appellate review; requiring that the court first consider all available direct evidence of income, earnings, assets or state what steps have been made to obtain such information before using direct or circumstantial proof of income or ability to earn; expanding the admissibility of income information from regular, reliable data sources (such as new hire and quarterly wage reports); and requiring mandatory financial disclosure in all cases with appropriate penalties for noncompliance.

Response: We have evaluated research and practice in this area and have incorporated measures into our regulations to increase investigation and establish evidence-based orders, rather than routinely applying presumptions and imputing income. While State laws establish the admissibility of evidence, this does not lessen the IV–D agency's responsibility to conduct further investigation when evidence of earnings and income is not available. We are also aware of several States that mandate financial disclosure by parents with appropriate penalties for noncompliance, a practice that is intended to increase accurate order-setting and decrease overuse of imputation.

14. Comment: One commenter suggested that in cases where the noncustodial parent has committed acts of domestic violence against the custodial parent or the children resulting in incarceration or the issuance of a protected order, the abuser should be subject to a support order that reflects income imputed to an abuser.

Response: Under the rule, the court or administrative authority has the discretion to consider the specific circumstances of the case. However, in doing so, it is important to be clear that establishing, modifying, or enforcing a child support order is not a form of punishment for incarcerated noncustodial parents. ''The child support system is not meant to serve a punitive purpose. Rather, the system is an economic one, designed to measure the relative contribution each parent should make—and is capable of making—to share fairly the economic burdens of child rearing.'' [37] Incarcerated parents have been sentenced for the crime they committed and are repaying their debt to society. Imputing income based upon the nature of the crime is considered an adverse collateral consequence of incarceration that imposes additional civil sanctions beyond the criminal sentence. Other examples of collateral consequences include denial of employment, housing, public benefits, student loans, and the right to vote. Such collateral consequences undermine successful reentry and rehabilitation. In 2011, the U.S. Attorney General wrote to every State Attorney General asking them to assess their State statutes and policies imposing collateral consequences to determine if any should be eliminated.[38]

15. Comment: One commenter thought that our proposed provision in § 302.56(c)(4) would restrict a State's ability to establish child support orders when the noncustodial parent chose to avoid the legal process. The commenter further explained that, based on his experience in local child support operations, this provision would seriously disadvantage a custodial parent in a case where the noncustodial parent, despite being afforded due process, refused to participate in the administrative or judicial process, including fully disclosing income.

Response: The final rule does not indicate when States are allowed to impute income; however, the final rule at § 302.56(c)(1)(iii) indicates that if imputation of income is allowed, the child support order should be based on the specific circumstances of the noncustodial parent.

16. Comment: One commenter stated that in one State, they assume that a noncustodial parent has an ability to pay unless there is information indicating otherwise, such as receipt of public assistance benefits, receipt of SSI payments, or a physician's statement indicating inability to work. The commenter stated that the proposed regulation would reverse this assumption and instead would presume that the noncustodial parent has no ability to pay unless data was available related to the parent's actual earnings, income, or assets, or if there was testimony that the noncustodial parent's income or assets were not consistent with the noncustodial parent's standard of living.

Response: The amount of child support ordered should be based on facts, not assumptions. However, when support orders are based on broad (or general) assumptions and do not have a factual basis, they often do not result in payments and the children do not benefit. Such assumptions can be rooted in a lack of awareness about the availability of jobs in low-income communities that are open to parents with limited education and job history. The rule explicitly requires States to consider these factors in determining the circumstances in which imputing income is appropriate. In particular, an incarceration record is an important consideration in determining whether it is reasonable to impute earnings from a full-time job, as incarceration often serves as a barrier to employment. One study showed that after release from jail, formerly incarcerated men were unemployed nine more weeks per year, their annual earnings were reduced by 40 percent, and hourly wages were 11 percent less than if they had never been incarcerated.[39]

Many States work diligently to develop a factual basis for orders. However, in some jurisdictions, a two-tiered system exists with better-off noncustodial parents receiving support orders based upon evidence and a determination of their individual income. Poor, low-skilled noncustodial parents, usually unrepresented by counsel, receive standard-issue support orders. Such orders lack a factual basis and are instead based upon fictional income, assumptions not grounded in reality, and beliefs that a full-time job is available to anyone who seeks it. Orders that routinely lack a factual basis and are based upon standard presumptions erode the sense of procedural fairness and the legitimacy of the orders, resulting in lower compliance. Thus, it is critically important that States take

[37] *Lambert* v. *Lambert,* Ind. Sup. Ct. (2007).

[38] White House Fact Sheet, *Enhancing the Fairness and Effectiveness of the Criminal Justice System* (July 14, 2015), available at: *https://www.whitehouse.gov/the-press-office/2015/07/14/fact-sheet-enhancing-fairness-and-effectiveness-criminal-justice-system.*

[39] The Pew Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility,* September 2010, available at: *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf.*

reasonable efforts to develop a sufficient factual basis for all cases by fully investigating their cases.

17. Comment: One commenter recommended that the NPRM be revised to allow States to use imputed income, such as State median wage, occupational wage rates, or other methods of imputation as defined by State law, as a last resort when the parent has not provided financial information and the agency cannot match to automated sources.

Response: Imputing standard amounts in default cases based upon State median wage or statewide occupational wage rates does not comply with this rule because it is unlikely to result in an order that a particular noncustodial parent has the ability to pay. When other information about the noncustodial parent's ability to pay is not available, information about residence will often provide the decision-maker with some basis for making this calculation. In addition, information provided by the custodial parent can provide the basis for a reasonable calculation, particularly in situations when the noncustodial parent fails to participate in the process. OCSE revised the final rule so that if there is no evidence or insufficient evidence of earnings and income, or it is inappropriate to use earnings and income as defined in § 302.56(c)(1), then the State's guidelines must provide that the State take into consideration the specific circumstances of the noncustodial parent as delineated in § 302.56(c)(iii) and impute income under criteria developed by the State based upon the noncustodial parent's ability to pay the amount.

18. Comment: One commenter asked if a person should be ordered to pay a minimum amount of support regardless of his or her circumstances to recognize the responsibility for the child's support, with less regard for the income capacity. The cases that the commenter noted included incarcerated individuals, minor parents, parents in drug or alcohol treatment programs, and others. The commenter further explained that while a strong argument can be made in these cases to set a minimum amount of support, setting a minimum order could be problematic. At one end is a token order ($1.00 per month); on the other hand is a true minimum order (such as $250 per month). This commenter suggested that these situations not be included in the ''imputation of income'' arguments as they are different. The commenter was hopeful that the final regulation would leave setting the amount of a minimum order to State or local discretion and policy.

Response: The foundation of Federal guidelines law and policy is the establishment of income-based orders. The rule is evidence-based and codifies longstanding Federal policy that orders must be based upon a determination of the noncustodial parent's ability to pay. High minimum orders that are issued across-the-board without regard to the noncustodial parent's ability to pay the amount do not comply with these regulations.

19. Comment: One commenter was concerned that the NPRM would unduly favor those obligors who attempt to avoid their obligations to their children by failing to respond or hiding assets, as well as favor incarcerated obligors simply because they are incarcerated.

Response: We do not agree. The final rule requires States to investigate, not make assumptions. The rule removes a collateral consequence of incarceration by requiring that orders for incarcerated parents be set based on the same standard as every other parent: Ability to pay. We believe our rule will bolster a sense of fair play and compliance, and increase the likelihood that formerly incarcerated parents will engage in legitimate work and support their children upon release.

20. Comment: One commenter indicated that the number of existing child support orders that are based on imputed income are evidence of child support agencies' and courts' difficulties with acknowledging the reality of chronic unemployment and adults with no or very low actual income.

Response: OCSE also has these concerns and therefore is regulating to ensure that child support guidelines are based on the noncustodial parent's ability to pay. Some States need to do a better job in gathering information about the noncustodial parent's actual income or income history and developing the circumstantial evidence that can be used by the courts or the administrative authority in setting the child support orders.

21. Comment: One commenter indicated that in IV–D cases when the noncustodial parent's income is unknown and the parent fails to provide information, one State's law currently requires child support to be based on ''presumed'' income. This is not ''actual income,'' but the State's law also requires that the order be set aside as soon as the noncustodial parent's actual income is determined. The commenter said that the NPRM references ''presumed'' income as a problem, but it is never a problem when the law is properly applied. Rather, according to the commenter, it is an efficient ''locate'' tool that encourages cooperation while not shifting unnecessary burden to the custodial parent.

Response: We understand there will be situations where income must be imputed, but this should only occur after investigative efforts by the IV–D agency staff. The problem is that some States do not impute income based on the specific circumstances of the noncustodial parent to fill evidentiary gaps—instead, imputation has become the standard practice of first resort in lieu of fact-gathering. While this State's law sets aside an order when the actual income is determined, we are concerned that unrealistic and high arrearages will accumulate, particularly in cases involving indigent, unrepresented noncustodial parents prior to the order being set aside. When an arrearage accumulates, it often results in a low compliance rate over the life of the child support order, which does not benefit the children and families. For this reason, States should impute income to set child support order amounts only in limited situations.

22. Comment: Some commenters indicated that in cases where there is domestic violence, it is particularly important that victims have access to the full range of tools courts use to argue for imputed earnings because in these cases, abusers often fail to comply with discovery, do not provide full disclosure to the courts, and otherwise engage in bad faith tactics designed to further harass the custodial parent. The commenters indicated they have found that in domestic violence cases, the courts routinely impute earnings in cases where the noncustodial parent is uncooperative for these reasons. Another commenter also discussed that the NPRM needs to provide judges more guidance on imputing income, especially in a case involving domestic violence when one parent refuses to comply with discovery, does not disclose income, or engages in bad faith tactics.

Response: Domestic violence is one of the specific circumstances of the noncustodial parent that the State should consider when developing and investigating the case prior to establishing a support obligation. In accordance with § 302.56(c), if the State is not able to obtain any income information for the noncustodial parent, and the parent has been uncooperative in the State's efforts, then the courts or administrative authority should attempt to analyze all the specific circumstances on which to base a child support obligation amount. If this information is

not available, the courts or administrative authority may impute income taking into consideration factors listed in § 302.56(c)(1)(iii) such as economic data related to the noncustodial parent's residence.

23. Comment: One commenter addressed the statewide standard that his State had used when imputing income. He commented that his State used to apply the Federal Minimum Basic Standard Adequate Care (MBSAC) to impute income. In 2003, that amount was an annual income of $26,400, yielding an order of $423. In today's dollars that would yield a presumptive order of $602 per month for one child. The State thought a responsible low-earnings noncustodial parent, upon learning of such a high ordered amount, would come forward for a modification. However, experience showed that the low-earnings noncustodial parents did not respond that way. Based on a recommendation of the Urban Institute in 2003, the State abandoned the MBSAC standard in favor of a full-time minimum wage imputation. However, according to the commenter, economic events since 2003 (a significant decrease in true full-time jobs) would argue in favor of further reduction of that recommendation.

Response: We agree that States need to evaluate the economic factors such as unemployment rates, prevalence of full-time job opportunities available to parents of similar skills and history, growth of part-time and contingent work. The job market for low-skilled men and women has changed since the 1990's, and incarceration policies have impacted the ability of many parents to find work. This is why we added a requirement that the guidelines committee must review these types of factors when reviewing their child support guidelines under § 302.56(h). Based on comments, we revised the final rule at § 302.56(c)(iii) to require that if a State imputes income to a noncustodial parent, the guidelines must take into consideration the specific circumstances of the noncustodial parent including factors listed in § 302.56(c)(1)(iii) even if only one source of information such as residence is available.

Health Care Needs [§ 302.56(c)(2)]

1. Comment: Several commenters recommended that in proposed § 302.56(c)(3), which has been redesignated as § 302.56(c)(2) in the final rule, we remove the phrase ''in accordance with § 303.31 of this chapter.'' They indicated that § 303.31 applies only to IV–D cases while the guidelines must apply to all child support cases, so the reference is inappropriate. Commenters also indicated that § 303.31 has not yet been revised to align with the provisions of the Affordable Care Act (ACA). Until this happens, and the related statutory provisions are revised, the current reference creates conflicts with ACA provisions.

Response: We agree that because the child support guidelines apply to all cases, the reference to § 303.31 should be removed since this section only applies to IV–D cases. Therefore, we made this revision in the final rule. Additionally, to conform to the changes we made in the final rule to align § 303.31 with the ACA, we made conforming changes in § 302.56(c)(2) to reference the health care needs through ''private or public health care coverage and/or cash medical support.''

Incarceration as Voluntary Unemployment [§ 302.56(c)(3)]

1. Comment: Over 600 commenters supported the proposed § 302.56(c)(5), which has been redesignated as § 302.56(c)(3), to prohibit the treatment of incarceration as ''voluntary unemployment.'' However, four commenters believed that such a limitation should not apply where the parent is incarcerated for a crime against the supported child or custodial parent. Some commenters also thought that this limitation should not apply where the parent has been incarcerated for intentional failure to pay child support. These commenters thought that strong public policy dictates against affording relief to an obligor who commits a violent crime against the custodial parent or child, or an obligor who has the means to pay child support but refuses to do so. The commenters urged OCSE to include these important exceptions in the final rule. One additional commenter indicated that support for a policy change in this area was based on the overwhelming consensus that this is the best practice for families and IV–D agencies, regardless of where they are located.

Response: We agree with the overwhelming majority of commenters, and do not make changes in response to the four commenters' suggestion for an exception based on the nature of the crime. Three-quarters of States have eliminated treatment of incarceration as voluntary unemployment in recent years.

As discussed in Comment/Response 13 in the *Imputing Income [§ 302.56(c)(1)(iii)]* subsection, establishing, modifying, or enforcing a child support order is not a form of punishment for incarcerated noncustodial parents,[40] and the collateral consequences of the treatment of incarceration as voluntary unemployment include uncollectible debt, reduced employment, and increased recidivism.

Per section 466(a)(10) of the Social Security Act, all parents facing a substantial change of circumstances such as a substantial drop in income, through a loss of employment or otherwise, are entitled to request a review, and if appropriate, adjustment of their support orders. Incarceration surely qualifies as a substantial change in circumstances, yet State laws and policies—rooted in 19th century jurisprudence—that treat incarceration as ''voluntary unemployment'' in effect block the application of the statutory review and adjustment provision. In most cases, this practice results in child support orders that are unrealistically high, which research indicates undermine stable employment and family relationships, encourage participation in the underground economy, and increase recidivism.[41]

Despite the significant research on the consequences of continuing the accrual of support when it is clear there is no ability to pay, one-quarter of States continue treating incarceration as ''voluntary unemployment.'' Failing to provide an opportunity for review and possible adjustment of a child support order when a parent is incarcerated does not mean that most noncustodial parents will have the ability to make payments to their children while in prison or after release.[42] Studies find that incarcerated parents leave prison with an average of $15,000 to $30,000 or more in unpaid child support, with no means to pay upon release.[43] Not

[40] *Lambert* v. *Lambert,* 861 NE. 2nd 1176 (Ind. 2007), available at: *http://www.ai.org/judiciary/opinions/pdf/02220701rts.pdf.*

[41] U.S. Department of Health and Human Services, Office of Child Support Enforcement, *Incarceration, reentry and Child Support Issues: National and State Research Overview* (2006), available at: *http://www.acf.hhs.gov/programs/cse/pubs/2006/reports/incarceration_report.pdf.*

[42] Hager, Eli, ''For men in prison, child support debt becomes a crushing debt,'' *The Washington Post* and the Marshall Project, October 19, 2015, available at: *https://www.themarshallproject.org/2015/10/18/for-men-in-prison-child-support-becomes-a-crushing-debt.*

[43] See Esther Griswold and Jessica Pearson, ''Twelve Reasons for Collaboration Between Departments of Correction and Child Support Enforcement Agencies,'' *Corrections Today* (2003 which is available at: *http://www.thefreelibrary.com/Twelve+reasons+for+collaboration+between+departments+of+correction...-a0123688074;* Jessica Pearson, ''Building Debt While Doing Time: Child Support and Incarceration,'' *Judges' Journal* (2004), which is available at: *https://csgjusticecenter.org/courts/publications/building-debt-while-doing-time-child-support-and-incarceration-2/;* Nancy Thoennes,

considering incarceration as a substantial change of circumstances makes it less likely that noncustodial parents will work and pay support upon release and more likely that they will recidivate.[44] As a result, we have also revised § 303.8(c) to indicate that the reasonable quantitative standards that the State develops for review and adjustment must not treat incarceration as a legal bar for petitioning for and receiving an adjustment of an order.

2. Comment: Several commenters believed that the manner by which the child support system treats incarcerated obligors should be a State matter, not subject to any mandate. They stated that this is a significant public policy issue with considerable state-specific case law that is not appropriate for Federal regulation. Some commenters believed that reducing obligations was rewarding bad behavior, and it was not appropriate for the NPRM to attempt to override that State policy decision. In addition, they noted that the proposal would ultimately lead to a reduced child support obligation even if the reason for incarceration was willful failure to pay child support or some other heinous crime against the child. Other commenters believed that discretion in how to treat incarceration was at the core of judicial decision making, as reflected in the State's case law that almost uniformly affirms lower court rulings denying relief to the incarcerated obligor.

Response: All but 14 States have eliminated this policy.[45] In *Lambert* v. *Lambert,* the Indiana Supreme Court found that ''incarceration does not relieve parents of their child support obligations. On the other hand, in determining support orders, courts should not impute potential income to an imprisoned parent based on pre-incarceration wages or other employment related income, but should rather calculate support based on the actual income and assets available to the parent.'' [46] While some States have prior case law finding that incarceration should be considered voluntary unemployment, most States have updated case law, guidelines and court rules to allow for review of the specific facts of the case, and, if appropriate, adjustment of the order.

The rule does not provide special treatment for incarcerated parents. Rather, it requires application of Federal review and adjustment requirements, including that orders be reviewed and adjusted upward or downward in *all* cases upon a showing of any substantial change in circumstances, including a substantial change in circumstances due to unemployment or incarceration. Implementation of § 302.56(c)(3) will ensure that States consider incarceration as a substantial change of circumstances that warrants the child support order to be reviewed and, if appropriate, adjusted based on the noncustodial parent's ability to pay. If an incarcerated parent has income or assets, these can be taken into consideration in reviewing the order. However, States should not assume an ability to earn based on pre-imprisonment wages, particularly since incarceration typically results in a dramatic drop in income and ability to get a job upon release.

Moreover, once released, noncustodial parents tend to view the methods employed to collect support and arrearages as a disincentive to seek legitimate gainful employment. Research suggests that using maximum-level income withholding rates and other enforcement mechanisms tend to discourage employment, particularly among individuals in low socioeconomic communities.[47] When combined with the difficulty faced by formerly incarcerated parents in obtaining employment, there is a strong incentive to seek work in the ''underground economy'' where it is difficult for authorities and custodial parents to track earnings and collect payments.[48] Research demonstrates that when high support orders continue through a period of incarceration and thus build arrearages, the response by the released obligor is to find more methods of avoiding payment, including a return to crime. It is unrealistic to expect that most formerly incarcerated parents will be able to repay high arrearages upon release. To the extent that an order fails to take into account the real financial capacity of a jailed parent, the system fails the child by making it more likely that the child will be deprived of adequate support over the long term.

The child support system is not meant to serve a punitive purpose. Rather, the system is an economic one, designed to measure the relative contribution each parent should make—and is capable of making—to share fairly in the economic burdens of child rearing.[49] Considering the existing evidence, imposing high support payments on incarcerated parents serves as a punitive measure, becomes an additional collateral consequence of incarceration, and does not serve the best interests of the child by damaging the parent-child relationship and the prospect for consistent child support payments in the future.[50]

In 2005, the Council of State Governments, a nonpartisan association of all three branches of State government, issued the *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community,* which provided consensus-based recommendations to improve successful reentry of formerly incarcerated people into society. Many of these recommendations were subsequently incorporated into the

Child Support Profile: Massachusetts Incarcerated and Paroled Parents (2002), which is available at: *http://cntrpolres.qwestoffice.net/reports/profile%20of%20CS%20among%20incarcerated%20&%20paroled%20parents.pdf;* and Pamela Ovwigho, Correne Saunders, and Catherine Born. *The Intersection of Incarceration & Child support: A snapshot of Maryland's Caseload* (2005), which is available at: *http://www.familywelfare.umaryland.edu/reports1/incarceration.pdf.* See also Federal Interagency Reentry Council, *Reentry Myth Buster on Child Support* (2011), available at: *https://csgjusticecenter.org/documents/0000/1063/Reentry_Council_Mythbuster_Child_Support.pdf.*

[44] Pearson, Jessica, ''Building Debt While Doing Time: Child Support and Incarceration,'' *Judges' Journal* 43:1, Winter 2004, which is available at: *https://csdaca.org/wp-content/uploads/resources/1/Research/Arrears/BuildingDebt%20(2).pdf;* and Harris, Alexes, Heather Evans, and Katherine Beckett, ''Drawing Blood from Stones: Legal Debt and Social Inequality in the Contemporary United States,'' *American Journal of Sociology,* 115:6, 1753–1799, May 2010, which is available at: *http://faculty.washington.edu/kbeckett/articles/AJS.pdf.*

[45] ''*Voluntary Unemployment,*'' *Imputed Income, and Modification Laws and Policies for Incarcerated Noncustodial Parents,* PAID—Child Support Fact Sheet #4 (companion piece), June 20, 2012, available at: *http://www.acf.hhs.gov/programs/css/resource/voluntary-unemployment-imputed-income-and-modification-laws-and-policies.*

[46] *Lambert* v. *Lambert,* 861 NE. 2nd 1176 (Ind. 2007), available at: *http://www.ai.org/judiciary/opinions/pdf/02220701rts.pdf.*

[47] Harry J. Holzer and Paul Offner, ''The Puzzle of Black Male Unemployment,'' *The Public Interest* (2004) Spring, 74–84, which is available at: *http://www.nationalaffairs.com/doclib/20080710_20041546thepuzzleofblackmaleunemploymentharryjholzer.pdf;* Harry J. Holzer, Paul Offner, and Elaine Sorensen, ''Declining Employment among Young Black Less-Educated Men: The Role of Incarceration and Child Support,'' *Journal of Policy Analysis and Management,* (2005) 24(2): 329–35, which is available at: *http://www.urban.org/research/publication/declining-employment-among-young-black-less-educated-men/view/full_report.*

[48] Council of State Governments, Report of the Re-Entry Policy Council: *Charting the Safe and Successful Return of Prisoners to the Community* (2005), Justice Center, available at: *https://csgjusticecenter.org/reentry/publications/the-report-of-the-re-entry-policy-council-charting-the-safe-and-successful-return-of-prisoners-to-the-community/.*

[49] *Lambert* v. *Lambert,* 861 NE. 2nd 1176 (Ind. 2007), available at: *http://www.ai.org/judiciary/opinions/pdf/02220701rts.pdf.*

[50] Cammett, Ann, ''Expanding Collateral Sanctions: The Hidden Costs of Aggressive Child Support Enforcement Against Incarcerated Parents,'' *Georgetown Journal on Poverty Law & Policy,* 13:2, 312–339, Summer 2006, which is available at: *http://www.academia.edu/2582076/Expanding_Collateral_Sanctions_The_Hidden_Costs_of_Aggressive_Child_Support_Enforcement_Against_Incarcerated_Parents.*

Second Chance Act of 2007 (Pub. L. 110–199).[51] The report specifically identified child support obligations, especially arrearages, as a barrier to successful re-entry into society because they have a tendency to disrupt family reunification, parent-child contact, and the employment patterns of formerly incarcerated parents.[52]

Marginal Cost To Raise a Child/Adjustment for Parenting Time [§ 302.56(c)(4)]

1. Comment: Several commenters suggested that proposed § 302.56(c)(2), which was redesignated in the final rule as § 302.56(c)(4), should be revised to indicate that the guidelines should be ''based on the statewide median marginal cost for the average family to raise a first, second, or subsequent child, and result in a computation of a the support obligation that does not exceed such median marginal cost by more than 20%.'' One commenter specifically indicated that they recommended that child support orders be based on the marginal cost to raise a child rather than parental income. Many other commenters suggested more detailed revisions related to the marginal cost to raise children. Some commenters suggested that, as part of the review of a State's guidelines, a State must consider economic data on the marginal cost of raising children, and the child support orders resulting from the guidelines must approximate the obligor's specified share of such marginal costs. These commenters believed that the objective is to establish child support orders that approximate the true cost of supporting children, over and above what it costs the parents to support themselves. They noted that if the amount of support ordered is too low, the child suffers. However, they noted, child support orders that constitute a windfall to the receiving parent are a potent cause of bitter custody battles, resentment, and hostility that can last throughout the years of childhood. Moreover, according to the commenters, if the child support order is too high, there is a built-in incentive for the parent who expects to win custody to resist shared parenting.

Response: We do not agree with this suggestion. State child support guidelines are required to be based on the noncustodial parent's income, earnings, and other evidence of ability to pay. However, States have discretion and flexibility in defining the specific descriptive and numeric criteria used to compute the amount of the child support obligation. Once a parent's income is ascertained, the rule does not limit States' flexibility in defining the percentage or amount of income ordered to be paid as child support, so long as the resulting order takes into consideration the noncustodial parent's ability to pay it. State guidelines should not be based on the marginal cost of raising the child without taking into consideration the noncustodial parent's ability to pay. This rule only establishes minimum components for State child support guidelines consistent with Federal law, and does not impose more specific requirements, that are not inconsistent with Federal law and regulations.

2. Comment: Many commenters recommended that proposed § 302.56(c)(2), which has been redesignated in the final rule as § 302.56(c)(4), include adjustments for the amount of parenting time each parent is willing and able to provide.

Response: Currently, child support guidelines in 36 States provide for adjustments in the child support order for the amount of parenting time each parent has with the children. While we support this concept and recognize that in most State guidelines the consideration of parenting time is part of the support order establishment process, States are in the best position to determine how to consider parenting time in calculating the amount of the child support obligation since the child support guideline formula is at the discretion of the State.

Quadrennial Review [§ 302.56(e)]

1. Comment: While most commenters generally supported the requirement in § 302.56(e), that ''[t]he State must review, and revise, if appropriate, the guidelines established under paragraph (a) of this section at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts,'' a few commenters thought that the reports from the quadrennial review, the effective date of the guidelines, and the date of the next review should be published on the internet and made accessible to the public. They also made recommendations regarding who should be on the reviewing body. They specifically recommended that the following language be added to this provision indicating that the State shall publish on the internet and make accessible to the public all reports of the reviewing body, the membership of the reviewing body, when the guidelines became effective, and the date of the next quadrennial review.

These commenters argued that child support guidelines are not a matter to be developed by a closed group. They viewed guidelines as a matter of immense public import with huge individual impact on millions of people. They recommended that the guideline committee include at least two members of the general public—one advocating for payors and one advocating for recipients. They believed that this was a first step towards bringing transparency to the creation of child support guidelines.

They further commented that no reasonable objection could be raised to this provision. Commenters also indicated that possible objections to including members of the general public might be that such people could lack knowledge of the intricacies of child support or the law, could advocate for narrow interests, or could be disruptive. Given that the two members of the public would undoubtedly be outnumbered by those who traditionally are called upon to write child support guidelines, fear that these members could control the outcome is unreasonable.

Response: OCSE agrees and we added at the end of § 302.56(e) the following: ''The State shall publish on the internet and make accessible to the public all reports of the reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.'' We also agree that the quadrennial review process/report should be public information that is shared.

Regarding the composition of the committee or body conducting the quadrennial review, we further agree that the quadrennial review should provide for a meaningful opportunity for participation by citizens and particularly low-income citizens, representing both custodial and noncustodial parents. The child support guidelines review body should also include participation by the child support agency. While we are not mandating the specific composition of the review body, we are requiring in § 302.56(h)(3) meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives, and the views and advice of the State IV–D agency.

[51] The text of the Pub. L. 110–199 is available at: *https://www.congress.gov/110/plaws/publ199/PLAW-110publ199.pdf.*

[52] Council of State Governments, *Report of the Re-Entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community,* Justice Center, 2005, available at: *http://www.csgjusticecenter.org/wp-content/uploads/2013/04/1694-11.pdf.*

Rebuttable Presumption [§ 302.56(f)]

1. Comment: Over 500 commenters from private citizens, most of them identical comments from mass mailings, proposed that we add language at the end of § 302.56(f) that indicates that the presumption can be rebutted successfully with genetic evidence that the obligor is not the biological parent of the child, and by the lack of written adoption records, in which case there will be no support obligation.

They commented that this addition is meant to update our support laws to reflect the power of modern genetics. They cited the directives in Executive Order 13563 as controlling. Section 5 of that Executive Order states:

> Sec. 5. *Science.* Consistent with the President's Memorandum for the Heads of Executive Departments and Agencies, ''Scientific Integrity'' (March 9, 2009), and its implementing guidance, each agency shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions.

The President's 2009 Memorandum referenced therein, states:

> To the extent permitted by law, there should be transparency in the preparation, identification, and use of scientific and technological information in policymaking.[53]

The commenters further explained that DNA evidence is indisputable. They argued that it is time to update Federal regulations so that support obligations are not imposed on the wrong individuals.

Response: Many States have legal provisions related to parentage in addition to genetic evidence and evidence of adoption records. Given how rapidly the fields of genetic testing and assisted reproduction are changing, OCSE agrees that this area is an appropriate area to review. However, a full discussion of the issues is required and beyond the scope of this rule. It is our view that changes to existing Federal regulations to address this important area would call for a specific notice in the **Federal Register**, to allow for a public comment period.

Written Findings [§ 302.56(g)]

1. Comment: Some commenters recommended that we qualify in proposed § 302.56(g) that a written finding or specific finding on the record of a judicial or administrative proceeding for the award of child support that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State ''; but in no event shall the award exceed the limit specified in proposed paragraph (c)(2) unless the child has special needs as certified and quantified by a licensed medical doctor.''

Response: We did not make this specific revision to § 302.56(g) because the paragraph already requires that the criteria must take into consideration the best interest of the child. States have the flexibility and discretion to establish such criteria. Therefore, States may take into consideration a child with special needs as certified and quantified by a licensed medical doctor.

Parenting Time [Proposed § 302.56(h)]

1. Comment: The majority of commenters supported the proposed § 302.56(h), allowing States to recognize parenting time provisions when both parents have agreed to the parenting time provision or pursuant to State guidelines. Many commenters expressed support for improved coordination between child support and parenting time procedures, and were supportive of the proposed language. However, some commenters indicated confusion about the intended scope of the provision and raised a number of implementation questions. Some comments reflected a misunderstanding about the extent to which FFP would become available for parenting time activities and raised questions about cost allocation. Other commenters questioned the role of the child support program in creating, monitoring, and enforcing a parenting time order, and the legal relationship between child support payments and parenting time. Still other comments expressed concerns regarding the child support agency's lack of experience in handling complex family issues, such as domestic violence and encouraged us to take advantage of our parenting time pilot grant program to develop additional technical assistance resources. Commenters also sought clarity regarding the combination of child support and custody or visitation processes and monitoring compliance with parenting time orders. A number of State commenters suggested that a new rule was not necessary to affirm the general principle that States are not required to implement costly and complex cost allocation plans if such expenditures are *de minimis* and incidental to reimbursable child support program activities.

Response: While expressing support for the rule, the commenters sought clarification about the intent, scope, and implementation of the proposed provision. Our intention in proposing § 302.56(h) was not to open up child support funding for a new set of parenting time activities, which Congress must authorize, or to collapse separate child support and parenting time legal rights. Our intention was to acknowledge existing policies and practices in many States, and to provide a technical clarification that addressed audit and cost allocation questions arising from current practices in a number of States.

IV–D program costs related to parenting time arrangements must continue to be minimal and incidental to IV–D child support order establishment activities and not have any impact on the Federal budget. In light of the comments received on the proposed parenting time provisions and the unintended confusion regarding these proposals, OCSE determined that new rules are not necessary. Therefore, we deleted the proposed paragraph (h).

OCSE recognizes that the inclusion of an uncontested and agreed upon parenting time provision incidental to the establishment of a child support order aligns with Pub. L. 113–183, ''*Preventing Sex Trafficking and Strengthening Families Act.*'' [54] Section 303 of this recent law indicated that it is the sense of the Congress that ''(1) establishing parenting time arrangements when obtaining child support orders is an important goal which should be accompanied by strong family violence safeguards; and (2) States should use existing funding sources to support the establishment of parenting time arrangements, including child support incentives, Access and Visitation Grants, and Healthy Marriage Promotion and Responsible Fatherhood Grants.'' Any new costs related to parenting time provisions would require the State to identify and dedicate funds separate and apart from IV–D allowable expenditures consistent with HHS cost principles codified in 45 CFR part 75, subpart E.

Thirty-six States have adopted guidelines that recognize parenting time arrangements in establishing child support orders. In practical terms, parenting time is an important corollary to child support establishment because the child support agency, or finder of fact, needs information about the parenting time arrangements in order for the guideline amount to be effectively calculated. Other States have parenting time guidelines or have other procedures in place to coordinate child

[53] The President's 2009 Memorandum is available at: *https://www.whitehouse.gov/the-press-office/memorandum-heads-executive-departments-and-agencies-3-9-09.*

[54] Available at: *http://www.gpo.gov/fdsys/pkg/PLAW-113publ183/pdf/PLAW-113publ183.pdf.*

support and parenting time processes. These longstanding practices have not changed the fact that parenting time is a legally distinct and separate right from the child support obligation.

Including both the calculation of support and the amount of parenting time in the support order at the same time increases efficiency, and reduces the burden on parents of being involved in multiple administrative or judicial processes with no cost to the child support program.

We encourage States to continue to take steps to recognize parenting time provisions in child support orders when both parents have agreed to the parenting time provision or in accordance with the State guidelines when the costs are incidental to the child support proceeding and there is no cost to the child support program.

Child Support Guidelines Review/ Deviation Factors [§ 302.56(h)]

1. Comment: While most commenters supported that States should maintain flexibility in defining deviation factors, one commenter recommended that proposed § 302.56(i), which has been redesignated as § 302.56(h), further specify that deviation factors established by the State must be ''in the best interest of the child.''

Response: We do not agree. This section establishes steps a State must take when reviewing its child support guidelines. Section 302.56(h)(2) provides that deviation from the presumptive child support amount may be based on factors established by the State. It is appropriate for the State to have discretion to establish such factors.

Section 302.56(g) requires that a written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. The requirement in § 302.56(g) relates to how the deviation may be applied on a case-by-case basis, including having a written finding or finding on the record justifying the deviation from the child support guidelines.

2. Comment: Many commenters suggested additional factors that the State must consider during its guideline review such as economic data on the marginal cost of raising children and an analysis of case data, by gender, gathered through sampling or other methods, on the application of, and deviations from, the guidelines. The commenters thought that an analysis of case data by gender must be used in the State's review of the guidelines to ensure that gender bias is declining steadily, and that deviations from the guidelines are limited. Although not specifically related to this paragraph, throughout the comments to the proposed guideline regulation, commenters expressed concerns that: Guidelines needed to consider economic data on local job markets, guidelines did not take into consideration low-income noncustodial parents, and the rate of default orders were increasing inappropriately.

Response: Considering all of the various concerns about how States were developing criteria for guidelines, we have revised proposed § 302.56(i), which has been redesignated as § 302.56(h), to add factors that the States must consider when reviewing their guidelines for the required quadrennial review. We added paragraph (h)(1) to require that the States consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guideline policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with current child support orders.

We also added paragraph (h)(2) to require the States to analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the guidelines to ensure that deviations from the child support guidelines are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g).

3. Comment: Several commenters questioned whether § 302.56(i), redesignated as § 302.56(h), was necessary. They thought that the proposed new sentence regarding deviations from child support guidelines appeared redundant with the reference to rebuttal criteria in paragraph (f). They suggested that the new language be deleted or clarified in the final rule.

Response: We carefully reviewed the language to ensure it was not redundant. Section 302.56(h) lists steps a State must take as part of its review of the State's guidelines. The analysis of the data must be used to ensure that deviations are limited and guideline amounts are appropriate based on criteria established by the State under paragraph (g). The compliance date is for the first quadrennial review of the guidelines commencing after the State's guidelines have initially been revised under this final rule. However, proposed § 302.56(g) requires a written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the guidelines would be unjust or inappropriate in a particular case in order to rebut the presumption that the guideline amount is the correct amount of child support to be awarded.

Section 302.70—Required State Laws

1. Comment: Commenters overwhelmingly supported increasing the exemption period allowed under section 466(d) of the Act from 3 years to 5 years; however, one commenter suggested that consideration also be given to the development of an abridged submission process for renewals.

Response: OCSE appreciates the suggestion; however, submission of the required information is statutory. Section 466(d) states that if a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State, subject to the Secretary's continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.

Section 302.76—Job Services

1. Comment: This proposed provision received overwhelming support from states, Members of Congress, and the public, but it also was opposed by some Members of Congress who did not think the provision should be included in the final rule. Many supportive commenters focused on ways to incorporate employment services for noncustodial parents within a broader workforce agenda. One commenter suggested that States that offer job services as part of their child support enforcement strategy should leverage funds to provide different, but complementary services while coordinating training costs with other Federal programs. Several commenters had questions about how States would coordinate with other Federal job services programs to ensure efficiency, reduce duplication, cover costs appropriately, and reduce administrative burden. One commenter suggested allowing braided funding for providing complementary services under different funding streams.

Response: While we appreciate the support that the commenters expressed, we think allowing for federal IV–D reimbursement for job services needs further study and would be ripe for implementation at a later time. Therefore, we are not proceeding with finalizing the proposed provisions at §§ 302.76, 303.6(c)(5), and 304.20(b)(viii). We encourage State IV–D agencies to leverage other resources —*e.g.,* job services provided under WIOA, TANF, and SNAP E&T—when developing strategies to improve consistent on-time payments of child support. In addition, states interested in providing job services not eligible for FFP continue to have the ability to submit a request for a waiver under section 1115 of the Act, or section 458A(f)(2) of the Act with respect to use of incentive funds.

Section 303.3—Location of Noncustodial Parents in IV–D Cases

1. Comment: While many commenters supported the proposed change to add ''corrections institutions'' to the list of locate sources, one commenter requested that OCSE specify ''Federal, State, and local'' correctional institutions and that automation be recommended where possible.

Response: We would like to clarify that that the term ''corrections officials'' refers to Federal, State, tribal, and local corrections officials. However, this clarification was not added to the regulatory text since this is dependent upon what sources are available to the State for locate purposes. Section 303.3(b)(1) does not address whether or not the sources should be automated; this is based on availability of databases in the State and whether the IV–D agency has access to them.

2. Comment: Another commenter suggested that we add ''utility companies'' to the list of locate sources. In addition, commenters recommended the following change in terminologies: ''food stamps'' to ''Supplemental Nutrition Assistance Program (SNAP)''; ''the local telephone company'' to ''electronic communications and internet service providers''; and change ''financial references'' to ''financial institutions.''

Response: We agree with the commenters' suggestions for technical revisions. Supplemental Nutrition Assistance Program (SNAP) is the official name of the food stamps program, and the two other revisions update classifications for communications and financial companies. In addition, we added utility companies to the list of locate sources since these companies have been valuable locate sources that many States use.

3. Comment: One commenter requested OCSE assist IV–D agencies in working with correctional institutions to identify incarcerated parents. Incarcerated parents may be hesitant to acknowledge that they have children or child support orders, possibly due to misinformation about child support shared among prisoners. Also, people are convicted and imprisoned under alias names. Because of these challenges, the commenter stated that State IV–D programs and correctional institutions need to understand and share each other's data if IV–D programs are to be successful in locating noncustodial parents in jails or prisons. Another commenter discussed the challenges in trying to obtain timely information from county jails.

Response: As a result of their efforts to collaborate, IV–D programs and correctional institutions often agree that they need to know more about the parents in each other's caseloads if both programs are to be successful in accomplishing their missions.[55] Section 453(e)(2) of the Act authorizes the Secretary of the Department of Health and Human Services to obtain information from Federal agencies including the Bureau of Prisons (BOP). OCSE currently has a match with BOP which covers 99 percent of the prison population. It includes 5,407 correctional facilities, including Federal, State, county, and other local prisons. The information is provided to States in the Social Security Administration (SSA) State Verification and Exchange System (SVES) match—they can receive the information on request and proactively. Our match, however, does not have all the data a direct interface could offer States. For example, we do not receive updates on the release date. The release date is very important to States—and updates are even more important because they monitor when the noncustodial parent is released. Release typically triggers order modifications and enforcement actions. We are going to explore the option to interface directly with the BOP and/or State facilities in order to obtain additional or updated information.

It is a system certification requirement to have automated interfaces with State sources, when appropriate, feasible, and cost effective, to obtain locate information, and this includes the Department of Corrections. We also encourage States to develop electronic interfaces with child support data being shared with Federal, State, Tribal, and local corrections institutions to maximize identification of incarcerated parents and program efficiency, and to establish practices for serving parents in correctional facilities. Identifying the fact of incarceration is important to set and keep support orders consistent with the parent's current ability to pay, avoid the accumulation of arrears, and increase the likelihood that support will be consistently paid after release.

4. Comment: Another commenter was concerned that the addition of corrections institutions to the list of required locate sources will require an agreement with the corrections institutions in addition to enhancements to the locate interfaces to match corrections information with State child support information within the statewide automated child support enforcement system. If implemented, an understanding of any local agreements local child support agencies may have with their local law enforcement

[55] Jessica Pearson and Esther Ann Griswold, ''Lessons from Four Projects Dealing with Incarceration and Child Support,'' *Corrections Today,* July 1, 2005, 67(4): 92–95, which is available at: *http://www.thefreelibrary.com/Lessons+from+four+projects+dealing+with+incarceration+and+child...-a0134293586;* U.S. Department of Health and Human Services, *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs,* 2006, available at *www.acf.hhs.gov/programs/css/resource/working_with_incarcerated_resource_guide.pdf;* and Council of State Governments, *Report of the Re-entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community.* Justice Center, 2005, available at *https://csgjusticecenter.org/wp-content/uploads/2013/03/Report-of-the-Reentry-Council.pdf.*

partners would be appreciated. Also, a few commenters indicated that this was a list of required locate sources.

Response: In this final rule, as we discussed above, we are encouraging States to include corrections institutions as a locate source, but we are not requiring it. This change is intended to encourage child support agencies to use available locate tools to identify incarcerated noncustodial parents and ensure that their orders are appropriate. Additionally, in § 302.34 in this final rule, we have also added ''corrections officials'' to the list of entities with which a State may enter into agreements for cooperative arrangements. This addition encourages child support agencies to collaborate with corrections institutions and community corrections officials (probation and parole agencies).

We do not consider the list of appropriate locate sources in § 303.3(b)(1) to be required locate sources, but rather an extensive nonexclusive list of sources that the State should consider using to locate noncustodial parents or their sources of income and/or assets when location is needed to take a necessary action. Additionally, after the State has determined what locate sources they have access to, the State will need to determine what locate sources should be used on a particular case. For example, some locate sources may not be able to be used if the noncustodial parent's social security number is unknown.

Section 303.6—Enforcement of Support Obligations

Civil Contempt Proceedings [§ 303.6(c)(4)]

1. Comment: Many commenters expressed concerns about our proposed revisions related to civil contempt. These commenters believed that the proposed requirements went beyond the *Turner* v. *Rogers* decision.[56] One commenter thought a regulation requiring that States must have procedures requiring that the courts take into consideration the subsistence needs of the noncustodial parent went beyond the *Turner* v. *Rogers* decision. Several commenters thought that the *Turner* decision merely requires a State either to provide legal counsel or alternative procedural safeguards. These commenters did not believe that any additional due process safeguards were required if counsel was being provided to the defendant.

Response: After careful consideration of the comments, we have decided to refocus the regulation on the criteria that IV–D agencies use to determine which cases to refer and how they prepare cases for a civil contempt proceeding. As the Federal agency responsible for funding and oversight of State IV–D programs, OCSE has an interest in ensuring the constitutional principles articulated in *Turner* are carried out in the child support program, that child support case outcomes are just and comport with due process, and that enforcement proceedings are cost-effective and in the best interest of the child. The *Turner* case provides OCSE and State child support programs with an opportunity to evaluate the appropriate use of civil contempt in today's IV–D child support program. As the U.S. Supreme Court stated in *Turner,* a noncustodial parent's ability to pay constitutes ''the critical question'' in a civil contempt case, whether the State provides legal counsel or alternative procedures designed to protect the indigent obligor's constitutional rights.[57] Contempt is an important tool for collection of child support when used in appropriate cases where evidence exists that the noncustodial parent has the income and assets to pay the ordered monthly support obligation, but willfully fails to do so, and the purge amount or conditions are within the noncustodial parent's ability to pay or meet. The *Turner* opinion provides the child support program with a guide for conducting fundamentally fair and constitutionally acceptable proceedings. The revisions to § 303.6(c)(4) are designed to reduce the risk of erroneous deprivation of the noncustodial parent's liberty in IV–D cases, without imposing significant fiscal or administrative burden on the State. Accordingly, in response to comments, the final rule requires that State IV–D agency must maintain and use an effective system for enforcing the support obligation by establishing guidelines for the use of civil contempt citations in IV–D cases. The guidelines must include requirements that the IV–D agency: (i) Screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order; (ii) provide the court with such information regarding the noncustodial parent's ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions; and (iii) provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

2. Comment: Some commenters felt that our proposed requirement related to civil contempt infringed on the inherent powers of the judiciary and would be unenforceable by the IV–D agency. Others commented that it was a violation of separation of powers. One commenter thought that the court should be the body to determine the requirements of *Turner* decision. Another commenter questioned our authority to regulate in this area.

Response: As discussed above, we have revised the proposed § 303.6(c)(4) to focus on IV–D agency decisions made at an earlier point in civil contempt proceedings. The revised § 303.6(c)(4) requires IV–D agencies to establish guidelines for the appropriate use of contempt in IV–D cases.

OCSE, IV–D agencies, and courts under cooperative agreements to carry out the IV–D program are required to ensure that noncustodial parents receive the due process protections required by the Constitution. The Federal government has a substantial interest in the effective and equitable operation of the child support program, including the use of contempt proceedings in the enforcement of IV–D cases. In addition, the Secretary of Health and Human Services has authority under section 452(a)(1) of the Act to ''establish such standards for locating noncustodial parents, establishing paternity, and obtaining child support . . . as he determines to be necessary to assure that such programs will be effective.'' Section 454(13) provides that ''the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity,

[56] 564 U.S._, 131 S Ct. 2507 (2011). The question in *Turner* was whether the due process clause of the Fourteenth Amendment of the U.S. Constitution requires States to provide legal counsel to an unrepresented indigent defendant person at a child support civil contempt hearing that could lead to incarceration in circumstances where neither the custodial parent nor the State was represented by legal counsel. The U.S. Supreme Court decision held that under those circumstances, the Fourteenth Amendment does not *automatically* require the States to provide counsel if the State has ''in place alternative procedures that assure a fundamentally fair determination of the critical incarceration-related question, whether the supporting parent is able to comply with the court order.'' The Court found that the Petitioner's incarceration violated due process because he received neither counsel in the proceedings nor the benefit of adequate alternative procedures.

[57] See U.S. Department of Justice, Civil Rights Division, Office for Access to Justice, Dear Colleague Letter, March 14, 2016, *https://www.justice.gov/crt/file/832461/download,* cited in OCSE Dear Colleague Letter, DCL–16–05, March 21, 2016, *http://www.acf.hhs.gov/programs/css/resource/justice-department-annnounces-resources-to-reform-practices.*

obtaining support orders, and collecting support payments.''

Research shows that routine use of civil contempt is counterproductive to the goals of the child support program.[58] All too often it results in the incarceration of noncustodial parents who are unable to pay to meet their purge requirements.[59] A study that examined the Milwaukee County Jail system found that 58 percent of the individuals incarcerated between 2005 and 2010 for criminal nonsupport of child support had no reported earnings in the unemployment insurance system and 75 percent were African-American.[60] This same study found that for those noncustodial parents with formal earnings, the average annual earnings were $4,396, and the average annual child support owed for all incarcerated noncustodial parents was $4,356.

Incarceration, in turn, means that the noncustodial parent loses whatever work he or she may have had, further reducing their ability to pay their child support. Once out, their ability to find work is negatively affected, resulting in some turning to the underground economy, which makes it even more difficult to collect child support.[61] One study found that incarceration results in 40 percent lower earnings upon release.[62] Moreover, contact between the parent and child is severed, which, generally, is detrimental to the child.[63] And the custodial family loses any other form of support that this parent provided.[64]

Most States use civil contempt as a last resort option, recognizing that routine use of this enforcement tool is not cost effective and can be counterproductive when the noncustodial parent is indigent.[65] Since the U.S. Supreme Court's decision in *Turner* v. *Rogers,* some States have gone further and implemented significant changes to their contempt process to further ensure that indigent noncustodial parents are not wrongly incarcerated for child support debt.[66] These changes include implementing case screening, new referral procedures, developing new information and forms, and requiring specific findings by the court on the present ability to pay the ordered purge amount to ensure accurate and defensible orders.[67]

Finally, the government's interests also favor additional procedural safeguards to ensure that only those parents with a present ability to pay are confined for civil contempt. While the State has a strong interest in enforcing child support orders, it secures no benefit from jailing a noncustodial parent who cannot discharge his obligation. The period of incarceration makes it less, rather than more, likely that such parent will be able to pay child support.[68] Meanwhile, the State incurs the substantial expense of confinement. While child-support recovery efforts once ''followed a business model predicated on enforcement'' that ''intervened only after debt, at times substantial, accumulated and often too late for collection to be successful, let alone of real value to the child,'' experience has shown that alternative methods—such as order modifications, increased contact with noncustodial parents, and use of ''automation to detect non-compliance as early as possible''—are more effective than routine enforcement through civil contempt.[69]

3. Comment: Several commenters expressed concerns that the proposed requirements related to civil contempt proceedings would reduce the efficiency and flexibility of the enforcement process through the courts. One commenter thought that the NPRM would weaken the enforcement remedy of contempt when used to enforce the obligation of contemnors who have an ability to arrange payments from assets held by others, even though the IV–D agency had been unable to affirmatively show the existence of income and assets. One commenter thought that the proposed requirements would be overly burdensome in civil contempt proceedings involving chronic nonpayers. Another commenter thought that the NPRM would result in increases in court and attorney time necessary to comply with all of the new requirements or would translate into less court resources available for other child support actions, such as establishment and modification actions.

Response: We do not agree with these comments. Based on comments, the revisions to § 303.6(c)(4) are designed to reduce the risk of an erroneous deprivation of liberty without imposing significant fiscal or administrative burden on the State.

Research shows that implementing constitutional due process safeguards, such as those delineated in the *Turner* decision, increases compliance with court orders by increasing litigants' perception of fair treatment.[70] Procedural fairness matters to litigants and influences their behavior. The safeguards included in *Turner* are designed to provide procedural fairness.

[58] See Elizabeth G. Patterson, *Civil Contempt & the Indigent Child Support Obligor: The Silent Return of Debtor's Prison,* 18 Cornell Journal of Law & Public Policy 95, 126 (2008) (*Civil Contempt*), available at: *http://www.lawschool.cornell.edu/research/jlpp/upload/patterson.pdf.*

[59] See Rebecca May & Marguerite Roulet, Ctr. for Family Policy & Practice, *A Look at Arrests of Low-Income Fathers for Child Support Nonpayment: Enforcement, Court and Program Practices,* 40 (2005), which is available at: *http://www.cffpp.org/publications/LookAtArrests.pdf.*

[60] Cook, Steven, *Child Support Enforcement Use of Contempt and Criminal Nonsupport Charges in Wisconsin,* University of Wisconsin, Institute for Research on Poverty, 2015.

[61] The Pew Charitable trusts. *Collateral Costs: Incarceration's Effect on Economic Mobility,* September 2010, available at: *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf;* and Judi Bartfeld & Daniel R. Meyer, *Child Support Compliance Among Discretionary and Nondiscretionary Obligors,* 77 Soc. Serv. Rev. 347, 364–65 (2003).

[62] The Pew Charitable trusts. *Collateral Costs: Incarceration's Effect on Economic Mobility,* September 2010, available at: *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf.*

[63] See Amanda Geller, Carey E. Cooper, Irwin Garfinkel, Ofira Schwartz-Soicher, and Ronald B. Mincy. ''Beyond Absenteeism: Father Incarceration and Child Development,'' *Demography* (2012) 49(1): 49–76.

[64] Jeremy Travis and Bruce Western, Eds, *The Growth of Incarceration in the United States: Exploring Causes and Consequences,* National Academy of Sciences, 2014.

[65] Carmen Solomon-Fears, Alison M. Smith, and Carla Berry, *Child Support Enforcement: Incarceration, As the Last Resort Penalty For Nonpayment of Support,* Congressional Research Service R42389, 2012, which is available at: *http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2012/documents/R42389_gb.pdf.*

[66] Mary Pat Gallagher, ''Court Takes Steps To Protect Rights of Poor Child-Support Delinquents'' *New Jersey Law Journal,* 2014; Ethan C. McKinney, ''Contempt After Turner'' Presentation at 2014 Annual Conference, Eastern Regional Interstate Child Support Association, 2014, which is available at: *http://www.ericsa.org/2014-conference-agenda-handouts;* Pam Lowry, ''Rebalancing the Program Through Conversation with All Staff'' *Child Support Report* 34(10): 1 (October-November 2012), which is available at: *http://www.acf.hhs.gov/sites/default/files/programs/css/csr1211.pdf.*

[67] Pamela Lowry and Diane Potts, *Illinois Update on Using Civil Contempt to Collect Child Support;* Ethan C. McKinney (2014) ''Contempt After Turner'' Presentation at 2014 Annual Conference, Eastern Regional Interstate Child Support Association, which is available at: *http://www.ericsa.org/2014-conference-agenda-handouts.*

[68] See Elizabeth G. Patterson, *Civil Contempt & the Indigent Child Support Obligor: The Silent Return of Debtor's Prison,* 18 Cornell Journal of Law & Public Policy 95, 126 (2008) (*Civil Contempt*), available at: *http://www.lawschool.cornell.edu/research/jlpp/upload/patterson.pdf.*

[69] See National Child Support Enforcement, U.S. Dep't of Health & Human Services, *Strategic Plan: FY 2005–2009,* at 2, 10 (*Strategic Plan*), *http://www.acf.hhs.gov/programs/css/resource/national-child-support-enforcement-strategic-plan-fy2005-2009.*

[70] See Kevin Burke & Steve Leben's report ''Procedural Fairness: A Key Ingredient in Public Satisfaction,'' A White Paper of the American Judges Association, *Court Review* 44:1/2, available at: *http://www.proceduralfairness.org/~/media/Microsites/Files/procedural-fairness/Burke_Leben.ashx.*

In *Turner,* the Court noted ''the routine use of contempt for non-payment of child support is likely to be an ineffective strategy'' over the long-term.[71] Contempt actions are expensive and time consuming for courts, agencies, and parents, and do not typically result in ongoing support for children. One State finds that contempt is its least cost-effective enforcement tool, estimating that collections in contempt actions barely break even with the costs—for every dollar spent on contempt proceedings, the State collects $1.26.[72] Another State found that when it cut back on its routine use of contempt hearings and increased use of administrative locate and enforcement remedies, total collections increased.[73] Resources put into investigations, ''appear and disclose'' procedures, parent interviews, case conferencing, and expanded data sources are generally a more cost-effective use of Federal and State dollars than using contempt hearings in order to discover information.

States must provide adequate safeguards to ensure that the noncustodial parent has the ability to comply with the order. The revised language in paragraph (c)(4) sets out minimum requirements that IV–D agencies must meet when bringing a civil contempt action involving parties in a IV–D case and ensures that contempt is used in appropriate cases where evidence exists that the noncustodial parent has the income and assets to pay the ordered monthly support obligation, but willfully fails to do so, and the purge amount or conditions are within the noncustodial parent's ability to pay or meet.

It is the responsibility of the IV–D agency to ensure that prior to filing for civil contempt that could result in incarceration, the IV–D agency has carefully reviewed each case to ascertain whether the facts would support a finding that the noncustodial parent has the ''actual and present'' ability to comply with the support order, and the requested purge amount or condition, and to bring those facts to the court's attention.[74] States must also provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the contempt action.

OCSE strongly encourages State child support agencies to consider some of the innovative alternatives to incarceration put into practice by a number of States and discussed in OCSE IM–12–01.[75] In addition, it is the noncustodial parent, not other relatives, friends, or the custodial parent, who is responsible for child support based upon his or her ability to pay it. A procedure that pressures family members and friends to pay in order to keep the noncustodial parent out of jail is inconsistent with constitutional principles, damaging to family relationships, and ultimately ineffective and counterproductive in obtaining ongoing support for children. As a practical matter, reliance on relatives and friends likely will not result in regular support payments for the families.

4. Comment: One commenter indicated that any reference in § 303.6 to the noncustodial parent's subsistence needs or actual earnings/income should be replaced with a reference to the noncustodial parent's ability to pay.

Response: In § 303.6(c)(4), we have revised the proposed language to delete reference to the noncustodial parent's subsistence needs as a separate determination, and instead reference to the noncustodial parent's ability to pay the child support order or ability to comply with the order. However, subsistence needs are an inherent factor in determining a noncustodial parent's ability to pay. Everyone, even noncustodial parents, have basic self-support needs, including food and shelter that cannot be ignored when determining ability to pay.

5. Comment: One commenter indicated that States do not file contempt proceedings as fishing expeditions, but rather file them solely to use the jail power to coerce compliance with a support order after the agency has exhausted administrative enforcement remedies and has screened the case for contempt. States often file contempt proceedings against noncustodial parents who hide income, are willing to lie in court, work at cash jobs, and have other ways to make themselves look unable to pay support. The commenter believed that our proposed requirements would actually serve to limit child support collections on the tough to collect cases.

Response: State practice related to contempt proceedings varies widely. We are encouraged that some States are already using administrative enforcement remedies and case screening prior to initiating civil contempt proceedings. Contempt actions should be used selectively in those cases when the facts warrant its use, not routinely, especially in nonpaying cases where the reason for nonpayment is low income. Contempt is an important tool for collection of child support when used in appropriate cases where evidence exists that the noncustodial parent has the income and assets to pay the ordered monthly support obligation, but willfully fails to do so, and the purge amount or conditions are within the noncustodial parent's ability to pay or meet. However, routine contempt actions and the threat of jail are not a cost-effective way to conduct discovery. The *Turner* opinion provides the child support program with a guide for conducting fundamentally fair and constitutionally acceptable proceedings. The revisions to § 303.6(c)(4) are designed to reduce the risk of erroneous deprivation of the noncustodial parent's liberty in IV–D cases consistent with the *Turner* decision, without imposing significant fiscal or administrative burden on the State.

We agree that filing for contempt may be the right remedy in some difficult to collect cases—those where there is evidence that the noncustodial parent has the ability to pay, but chooses to ignore child support obligations. However, if a case is difficult to collect because the noncustodial parent lacks the ability to pay support, there are more effective and less costly tools that meet due process requirements. Sometimes, the IV–D agency does not have sufficient facts to determine the difference. We recognize that it is difficult to build a case. It is our position, however, that State IV–D agencies have the responsibility to investigate and screen the case for ability to pay before bringing a civil contempt action that can lead to jail. States need to develop and implement procedures and protocols for determining when it is effective to use contempt proceedings in IV–D cases. States need to ensure that the tools or mechanisms they use to enforce cases are cost-effective, productive, and in the best interest of the children.

6. Comment: Several commenters expressed concerns that the proposed provision related to civil contempt

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[71] *Turner,* 131 S. Ct. at 2516 (quoting Brief for United States as Amicus Curiae at 21–22, and n. 8), available at: *http://www.justice.gov/sites/default/files/osg/briefs/2010/01/01/2010-0010.mer.ami.pdf.*

[72] Ann Coffin, *Florida's Data Analytics: Compliance of Support Orders,* Presentation to the OCSE Strategic Planning Workgroup on Measuring Child Support Performance, 2014.

[73] Lowry, Pamela and Diane Potts, ''Illinois Update On Using Civil Contempt To Collect Child Support.''

[74] See U.S. Department of Justice, Civil Rights Division, Office for Access to Justice, Dear Colleague Letter, March 14, 2016, *https://www.justice.gov/crt/file/832461/download,* cited in OCSE Dear Colleague Letter, DCL–16–05, March 21, 2016, *http://www.acf.hhs.gov/programs/css/resource/justice-department-annnounces-resources-to-reform-practices.*

[75] IM–12–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/alternatives-to-incarceration.*

proceedings inappropriately shifts the burden of proof. They believed that the noncustodial parent would no longer have to prove his or her inability to pay; rather, the IV–D agency would have to prove the noncustodial parent's ability to pay. Another commenter thought that a rule shifting the burden to the IV–D agency to show evidence of ability to pay would necessitate more discovery that would increase the expense of and slow down the completion of IV–D enforcement judicial actions. This same commenter indicated that even if the noncustodial parent is an employee paid in a documented form, the State staff cannot use records of wages as documentary evidence due to limitations on the use of workforce wage records by State law.

Response: We appreciate the difficulty of discovering information regarding ability to pay in some cases. However, State practices related to the use of contempt actions vary widely. We point out that many States build cases by using sound investigative practices and making efforts to talk with both parents before scheduling court hearings. All States should maximize their use of automated data sources. Additionally, many States use clear, easy to read forms seeking financial information from the parents. Other States routinely interview the parents, either through phone contacts, case conferencing, or compelled ''appear and disclosure'' administrative procedures, all of which impose little expense on the State or burden on the proceedings, but would help increase the accuracy of the court's determination. These simple, minimally burdensome procedures would enable the IV–D agency to evaluate whether the noncustodial parent has the ability to comply with the support obligation.

The final rule does not address burden of proof. Rather, when the State considers bringing a civil contempt action in a IV–D case that can result in incarceration, often against an unrepresented, indigent noncustodial parent, the rule requires the IV–D agency to screen the case for ability to pay and, if proceeding with the contempt action, provide such evidence for the court to consider, in conjunction with any other evidence, in making a factual determination about the noncustodial parent's ability to pay child support.[76]

7. Comment: One commenter thought that the proposed amendment related to civil contempt was irreconcilable with the intent and other terms of § 303.6, which provides State agencies with authority to take certain enforcement actions. The commenter believed that the proposed amendment unduly restricts judicial enforcement actions in civil contempt cases and requested OCSE to strike the proposed provision.

Response: As we indicated in AT–12–01,[77] the Federal government has ''an interest in ensuring the constitutional principles articulated in *Turner* are carried out in the child support program, that child support case outcomes are just and comport with due process, and that enforcement proceedings are cost-effective and in the best interest of the children.'' Civil contempt is different from other enforcement actions. It can lead to a loss of liberty through incarceration. Due process safeguards related to contempt actions are particularly important when the noncustodial parent is unrepresented, and has limited income and education. Too often, civil contempt proceedings are brought in some jurisdictions to enforce an underlying support order based on fictitious income that has been imputed to the noncustodial parent. Additionally, since the noncustodial parents often face attorneys in court, it is especially important that the State ensures that appropriate procedural safeguards are provided in IV–D cases enforced through contempt proceedings. Our objective is to prevent a cascade of legal consequences that begins with an order based on imputed income and ends in nonpayment and incarceration. For some defendants, what is missing at critical points in the process is evidence of ability to pay. Given the importance of the interest at stake in civil contempt proceedings, it is especially important that IV–D case procedures promote a fair hearing and accurate determination supported by the facts with respect to the key question in the case, ability to pay, such that any confinement imposed on a noncustodial parent is remedial rather than punitive.

8. Comment: One commenter suggested the following revision to our NPRM: ''Have procedures ensuring that civil contempt proceedings are initiated after considering the noncustodial parent's ability to earn income and that parent's subsistence needs, if known. IV–D agencies shall provide the court with information regarding the noncustodial parent's ability to comply when requesting a finding of contempt and a purge amount.''

Response: We agree. The revision to proposed § 303.6(c)(4) reflects this suggestion but we deleted the reference to the noncustodial parent's subsistence needs as a separate determination from ability to pay.

9. Comment: One commenter questioned how to proceed in a case where there is no evidence that the defendant has the ability to pay either the ordered amount or the purge amount. Another commenter asked how the State IV–D agency will initiate a civil contempt if it has no earnings information on the noncustodial parent.

Response: If the noncustodial parent has no earnings or there is no evidence that the noncustodial parent has the ability to pay, the IV–D agency should not initiate civil contempt proceedings, but should investigate further, consider whether the support obligation should be modified, and refer the parent to employment or other services when available. See also the response to Comment 6 above regarding State strategies and practices for the appropriate use of contempt in IV–D cases.

10. Comment: What is the process by which a noncustodial parent would be ordered to participate in an ''alternative to incarceration'' program if his lack of actual income precludes the possibility of incarceration for contempt?

Response: The language of the rule includes the clause ''ability to pay or otherwise comply with the order.'' If the order requires the noncustodial parent to participate in services, and the court finds based on the evidence, after notice and other safeguards, that the noncustodial parent is able to comply with the order, the requirements of the rule have been met. Several child support agency programs have implemented proactive and early intervention practices to address the underlying reasons for unpaid child support and avoid the need for civil contempt proceedings leading to jail time. In OCSE IM–12–01,[78] we describe promising and evidence-based practices to help States increase reliable child support payments, improve access to justice to parents without attorneys, and reduce the need for jail time. Incarceration may be appropriate in those cases where noncustodial parents have the means to support their

[76] See U.S. Department of Justice, Civil Rights Division, Office for Access to Justice, Dear Colleague Letter, March 14, 2016, *https://www.justice.gov/crt/file/832461/download,* cited in OCSE Dear Colleague Letter, DCL–16–05, March 21, 2016, *http://www.acf.hhs.gov/programs/css/resource/justice-department-annnounces-resources-to-reform-practices.*

[77] AT–12–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/turner-v-rogers-guidance.*

[78] OCSE–IM–12–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/alternatives-to-incarceration.*

children but willfully evade their parental responsibilities by hiding income and assets. However, several innovative strategies can reduce the need for routine civil contempt proceedings in cases involving low-income noncustodial parents, increase ongoing collections, and reduce costs to the public. Research suggests that such practices can actually improve compliance with child support orders, increasing both the amount of child support collected and the consistency of payment.[79] These practices include early engagement and efforts to contact and talk with both parents, increasing investigative and locate efforts, and setting accurate orders based upon the noncustodial parent's actual income,[80] improving review and adjustment processes,[81] developing debt management programs,[82] implementing work-oriented programs for unemployed noncustodial parents who are behind in their child support,[83] working with fatherhood and other community based programs as intermediaries, and encouraging mediation and case conferencing to resolve issues that interfere with consistent child support payments.[84]

[79] See Jessica Pearson, Nancy Thoennes, and Lanae Davis, *Early Intervention in Child Support.* Center for Policy Research, 2007, which is available at: *http://www.centerforpolicyresearch.org/Publications/tabid/233/Default.aspx.*

[80] Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?,* Orange County Child Support Services, 2011, which is available at: *http://www.wuss.org/proceedings12/37.pdf..*

[81] U.S. Department of Health and Human Services, *Using Automated Data Systems To Establish and Modify Child Support Orders,* November 2006, which is available at: *http://www.acf.hhs.gov/sites/default/files/ocse/dcl_07_32a.pdf.*

[82] Carolyn Heinrich, Brett Burkhardt, and Hilary Shager, *Reducing Child Support Debt and Its Consequences: Can Forgiveness Benefit All?,* Journal of Policy Analysis and Management, 30(4); 755–774, 2011, which is available at: *https://www.lafollette.wisc.edu/images/publications/workingpapers/heinrich2010–018.pdf.*

[83] Daniel Schroeder and Nicholas Doughty, *Texas Non-Custodial Parent Choices: Program Impact Analysis,* Ray Marshall Center for the Study of Human Resources, Lyndon B. Johnson School of Public Affairs, The University of Texas at Austin, 2009, which is available at: *https://www.utexas.edu/research/cshr/pubs/pdf/NCP_Choices_Final_Sep_03_2009.pdf.* Also see Kye Lippold and Elaine Sorensen's report, *Strengthening Families Through Stronger Fathers: Final Impact Report for the Pilot Employment Programs,* Urban Institute, 2011, which is available at: *http://www.urban.org/research/publication/strengthening-families-through-stronger-fathers-final-impact-report-pilot-employment-programs/view/full_report.*

[84] Elaine Sorensen and Tess Tannehil, *Preventing Child Support Arrears in Texas by Improving Front-end Processes,* Urban Institute, 2006, which is available at: *http://www.urban.org/research/publication/preventing-child-support-arrears-texas-improving-front-end-processes/view/full_report.*

Purge Amounts: [§ 303.6(c)(4)]

1. Comment: One commenter thought that requiring purges be based on an evidentiary finding is unnecessary, beyond the scope of *Turner,* and has an unintended effect of delaying the efficiency of an expedited child support proceeding. Two other commenters thought that the proposed purge language was too restrictive and added unnecessary complexity to a fairly simple process.

Response: Although we have revised § 303.6(c)(4) significantly based on our consideration of the comments related to civil contempt, we do not necessarily agree with the interpretation of *Turner* presented in some of these comments. At issue are safeguards of obligors' constitutionally-protected liberty and property interests. We are requiring that State IV–D agencies provide the court with available information, which may assist the court in making a factual determination regarding the obligor's ability to pay the purge amount or comply with the purge conditions. As noted in *Turner,* under established Supreme Court principles, ''[a] court may not impose punishment in a civil contempt proceeding when it is clearly established that the alleged contemnor is unable to comply with the terms of the order.'' [85] The Court found that the noncustodial parent's ability to pay constitutes ''the critical question in the case.'' The revisions to § 303.6(c)(4) require the IV–D agency to assist the court by providing such information, thereby reducing the risk of erroneous deprivation of the noncustodial parent's liberty in IV–D cases, without imposing significant fiscal or administrative burden on the State.

2. Comment: Several commenters stated that the court makes the determination of what amount a noncustodial parent must pay to avoid incarceration. They indicated that the IV–D agency cannot control what the court ultimately sets as the amount. Two commenters believed that the proposed requirement related to a purge amount usurped the court's authority and discretion.

Response: We expect that State courts will adhere with the constitutional due process principles. However, in most States, it is the IV–D agency or the court, through cooperative agreement with the IV–D agency that initiates contempt actions in IV–D cases. Before filing a contempt action, the IV–D agency has a responsibility to the parties and to the court to screen the IV–D case for ability to pay, and if proceeding with the contempt action, provide the court with such evidence. In addition, the IV–D agency may be able to contribute to judicial educational efforts to foster awareness of the need to set purge amounts based on ability to pay and enter an express finding that the noncustodial parent has the ability to pay the purge amount or comply with the purge conditions, consistent with the *Turner* decision.

3. Comment: Several commenters stated that they thought purge amounts should not be based on actual income. One commenter thought that the proposed language related to purge amounts disregarded the many cases in which the noncustodial parent is voluntarily unemployed and is being provided living expenses by another person; the commenter thought the language should focus on ''all available income'' instead of ''actual income.'' Another commenter indicated that the proposed provision could consistently hamper a judge's ability to enforce child support orders intended to benefit children. One commenter thought that requiring IV–D agencies to consider actual earnings prior to filing a contempt motion or recommending a purge amount limited agencies' options, especially in regards to parents who work in the underground economy or refuse to work. This commenter also thought that although a nonmonetary purge condition requiring participation in a job search or other similar activity was certainly appropriate in a situation when there is significant question as to a noncustodial parent's ability to comply with a financial purge, but the availability of a monetary purge remained essential for individuals who will only take support obligations seriously when a monetary purge is set and their freedom is at risk.

Response: We have revised the proposed language. The revised rule focuses on ensuring that the State IV–D agency establishes guidelines for the appropriate use of contempt in IV–D cases to ensure that constitutional procedural safeguards are provided in all IV–D cases by requiring that such guidelines include that the State screens the case for information regarding the obligor's ability to pay or otherwise comply with the order. The State must also provide the court with such information regarding the noncustodial parent's ability to pay, or otherwise comply with the order, to assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with any other purge conditions that may be set by the court. The State child support agency could provide the

[85] *Turner,* 131 S. Ct. at 2516 (quoting *Hicks* v. *Feiock,* 485 U. S. 624, 638, n. 9).

court with financial information received from financial forms sent to both parents, automated quarterly wage information from the National Directory of New Hires, as well as other relevant information that the State has ascertained through testimony, case conferencing, and investigations. Alternatively, the State could recommend to the court alternative purge conditions, such as conducting a job search, obtaining counseling for substance abuse, or obtaining job training.[86] The State must also ensure that the noncustodial parent is provided clear notice that his or her ability to pay constitutes the critical question in the contempt action.

4. Comment: A few commenters suggested alternative language proposals to what we had in the NPRM. One commenter suggested that: ''A purge amount must be based upon a court finding that the noncustodial parent has the actual means to pay the amount.'' Another suggested revision included: ''A purge amount must be based upon a written evidentiary finding that the noncustodial parent has the actual means to pay the amount from his or her current income or assets, including but not limited to any hidden income or assets of the noncustodial parent, or upon a written evidentiary finding that the noncustodial parent has failed to make reasonable and diligent efforts to seek employment.''

Response: OCSE has considered all of the suggested revisions. We have incorporated into the revised language a requirement that the purge amount be based upon the defendant's ''ability to pay,'' consistent with the principles articulated in the *Turner* decision. We have also incorporated that information about the circumstances of the cases be provided to the courts based on the State IV–D efforts related to screening the case. For specifics related to the revised language, please see Comment/Response 3 in this section.

Section 303.8—Review and Adjustment of Child Support Orders

1. Comment: A few commenters stated that if incarceration is recognized as a change in circumstance, then the changes to § 303.8 are not necessary because current Federal law and regulation allow States to conduct accelerated reviews in circumstances that are identified by States as the most beneficial.

Response: The revisions in this section are necessary to require all States to either implement § 303.8(b)(2) or (b)(7)(ii) and provide more specificity regarding review and adjustment and incarceration. Section 303.8(b)(2) allows States to elect in their State plan, the option to initiate review and adjustment, without the need for a specific request, after learning that the noncustodial parent is incarcerated for more than 180 calendar days. We encourage States to implement this proactive approach to ensure that orders are based on the noncustodial parent's ability to pay during his or her incarceration. A number of States, including Arizona, California, Michigan, Vermont, and the District of Columbia have enacted State laws that permit their child support agency to initiate review and adjustment upon notification that the noncustodial parent has been incarcerated.[87] Additionally, if a State does not elect in its State plan to implement paragraph (b)(2) of this section, then we are requiring the State, under paragraph (b)(7)(ii), within 15 business days of when the IV–D agency learns that a noncustodial parent will be incarcerated for more than 180 calendar days, to send a notice to both parents informing them of the right to request the State to review and, if appropriate, adjust the order, consistent with this section.

Further, we agree that incarceration is a factor in determining a substantial change in circumstance. As such, we have revised § 303.8(c) to indicate that: (c) . . . [s]uch reasonable quantitative standard must not exclude incarceration as a basis for determining whether an inconsistency between the existing child support order amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order.

2. Comment: A few commenters noted that section 466(10) of the Social Security Act (the Act) refers to periodic reviews and establishes a minimum 3-year review cycle ''or such shorter cycles as the State may determine'' which empowers the States, not OCSE, to create exceptions to the 3-year review process.

Response: The Secretary of Health and Human Services has authority under section 452(a)(1) of the Act to ''establish such standards for locating noncustodial parents, establishing paternity, and obtaining child support . . . as he determines to be necessary to assure that such programs will be effective.'' Section 454(13) provides that ''the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments.''

3. Comment: A few commenters asked that we clarify the term ''incarceration'' and specify if it includes individuals who are sentenced, pending trial, on parole, or in a supervised release program (*e.g.,* half-way house).

Response: Black's Law Dictionary defines ''incarcerated'' as confined in a jail or penitentiary. Therefore, the review and adjustment notification requirements do not include noncustodial parents who are on parole or in a supervised release program. If the individual has been sentenced, the State may take steps to implement the notification requirement if the noncustodial parent will be incarcerated for more than 180 calendar days.

4. Comment: Many commenters had concerns that the proposed 90-day timeframe was too short and did not allow enough time to review and modify an order. Commenters requested the timeframe be increased to at least 6 months.

Response: Consistent with comments, we have extended the timeframe to 6 months. The current timeframe for review and adjustment, in § 303.8(e), allows 180 calendar days to conduct the review and, if appropriate, adjust the support order; therefore, in the final rule, we have increased the incarceration timeframe to 180 calendar days in § 303.8(b)(2) and added it to paragraph (b)(7)(ii) to align with the current review and adjustment timeframe.

5. Comment: A few commenters requested that the provision specify a timeframe when the child support agency has to initiate the review and adjustment process after learning of the incarceration.

Response: We agree that a timeframe may advance the review and modification of the child support order process. Therefore, we revised proposed § 303.8(b)(7)(ii) to include a timeframe of 15 business days to initiate the review and adjustment process after

[86] In *Bearden* v. *Georgia,* 461 U.S. 660 (1983), the U.S. Supreme Court held that a State determines a fine or restitution to be an appropriate penalty, it may not thereafter imprison a person solely because he lacked the resources to pay for it, but should instead consider alternative measures.

[87] In 2012, Vermont enacted Senate Bill 203 that allows the child support program to file a motion to modify child support if a party is incarcerated from more than 90 days. For information about the other jurisdictions, see Department of Health and Human Services, Office of Child Support Enforcement, ''*Voluntary Unemployment,*'' *Imputed Income, and Modification Laws and Policies for Incarcerated Noncustodial Parents* (2012), Project to Avoid Increasing Delinquencies—Child Support Fact Sheet, available at: *http://www.acf.hhs.gov/sites/default/files/ocse/paid_no4_companion.pdf.*

learning that the noncustodial parent is incarcerated.

6. Comment: One commenter indicated that the proposed § 303.8(b)(7)(ii) requires the State to send notice of the parents' right to review their order when the IV–D agency learns of the noncustodial parent's incarceration without any minimum time period. For instance, the State could learn of the noncustodial parent's incarceration on day 88 of a 90-day sentence and, under the NPRM, the IV–D agency would need to send notice to both parties even though the potential reason for the modification ends 2 days later. According to the commenter, the provision should include a minimum time period before the IV–D agency is required to give notice of the right to review and any timeframe should begin only after the State learns of the incarceration. Regardless of the length of incarceration, it only matters how much time remains once the State learns of the incarceration, since the modification can only apply going forward.

Response: The timeframe ''more than 180 calendar days'' in both § 303.8(b)(2) and (b)(7)(ii) is applicable based on the date the IV–D agency learns the noncustodial parent is incarcerated. For instance, if the State learns of the noncustodial parent's incarceration on day 8 of a 200-day sentence, then this provision would apply since the noncustodial parent still has 192 days remaining in his or her sentence. However, if the State learns of the noncustodial parent's incarceration on day 178 of an 180-day sentence, then this provision would not apply because the State could not reasonably complete a review and adjustment process before the parent's release.

7. Comment: A few commenters suggested the requirement to automatically review and adjust orders, or automatically notify noncustodial parents of their right to request a review, be expanded to apply to disabled noncustodial parents receiving SSI, military service members, and disabled veterans, in addition to incarcerated noncustodial parents.

Response: The review and adjustment statute at section 466(a)(10)(B) of the Act requires States to review and, if appropriate, adjust orders following a request by either parent based upon a substantial change in circumstances—whether due to unemployment, disability, military service, or incarceration. However, provisions in § 303.8(b)(2) and (b)(7)(ii) that specifically address automatic review and adjustment, or automatic notification of the right to a review and adjustment specifically for incarcerated parents because few incarcerated parents currently request for their child support orders to be reviewed and modified. Because incarcerated parents are involuntarily confined, unlike the other groups of parents mentioned in the comments, their access to the internet or cell phones often is restricted due to security concerns. They may not have access to legal counsel or other community-based resources that could provide timely information.[88] In many prisons, incarcerated parents do not know their rights to request review and adjustment of their orders and cannot easily contact the child support office. Consequently, their opportunity to seek information and request a review in time to prevent the accumulation of unmanageable debts often is limited or non-existent.[89]

Research finds that many incarcerated parents do not understand the child support system and do not know their rights.[90] Most incarcerated people prior to incarceration lack a high-school diploma and are functionally illiterate.[91] It is important that noncustodial parents know about their right to request a review and adjustment early in their prison term because of the direct relationship among unmanageable child support debt, unemployment, nonpayment, and recidivism. Because of this, many State child support programs have implemented outreach strategies designed to educate incarcerated parents of their rights to request reviews of their support orders.

At the same time, the rule does not preclude States from using automatic review and adjustment, or automatic notices regarding the right to request a review and adjustment, in other situations, such as for disabled noncustodial parents receiving SSI, military service members, and disabled veterans who experience a substantial change in circumstances.

8. Comment: Several commenters indicated that changes to State statutes, administrative rules, and court rules will be required to be in compliance with this provision. Specifically, one commenter suggested OCSE align § 302.56, *Guidelines for setting child support orders* and this section.

Response: We agree that §§ 302.56 and 303.8 are closely related and both sections may require State statutes, administrative rules, and court rules changes; therefore, we are delaying the date by which the States must be in compliance with changes to these sections. The compliance date for these provisions will be within 1 year after completion of the State's next quadrennial review of its guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan.

9. Comment: Multiple commenters believed the provision should exclude persons incarcerated as a result of nonpayment of child support, a crime committed against any child, or a crime committed against a party in the child support case.

Response: We do not agree. As discussed in Comment/Response 14 in § 302.56(d)—*Imputing Income* subsection, the child support program is not an extension of the criminal justice system. Establishing, modifying, or enforcing a child support order is not a form of punishment for incarcerated noncustodial parents. Parents have a statutory right to request a review and adjustment of their orders based on a substantial change of circumstances.

10. Comment: Several commenters noted there is no corresponding requirement in § 303.8 to notify the parties of the right to request a review when the obligor has been released from incarceration.

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[88] ''Computer use for/by inmates,'' *Corrections Compendium 34 (2): 24–31,* Summer 2009 *http://www.thefreelibrary.com/Computer+use+for%2fby+inmates.-a0208273651.*

[89] Gorgol, Laura E., and Brian A. Sponsler, Ed.D., *Unlocking Potential: Results of a National Survey of Postsecondary Education in State Prisons,* Institute for Higher Education Policy, May 2011, available at: *http://www.ihep.org/research/publications/unlocking-potential-results-national-survey-postsecondary-education-state;* U.S. Department of Health and Human Services, *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs,* 2006, available at: *www.acf.hhs.gov/programs/css/resource/working_with_incarcerated_resource_guide.pdf;* and Council of State Governments, *Report of the Re-entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community,* Justice Center, 2005, available at *https://csgjusticecenter.org/wp-content/uploads/2013/03/Report-of-the-Reentry-Council.pdf.*

[90] Jessica Pearson and Esther Ann Griswold, ''Lessons from Four Projects Dealing with Incarceration and Child Support,'' *Corrections Today,* July 1, 2005, 67(4): 92–95, which is available at: *http://www.thefreelibrary.com/Lessons+from+four+projects+dealing+with+incarceration+and+child...-a0134293586* and Council of State Governments, *Report of the Re-entry Policy Council: Charting the Safe and Successful Return of Prisoners to the Community,* Justice Center, 2005, available at *https://csgjusticecenter.org/wp-content/uploads/2013/03/Report-of-the-Reentry-Council.pdf.*

[91] Harlow, Caroline Wolf Ph.D., *Bureau of Justice Statistics Special Report: Education and Correctional Populations,* U.S. Department of Justice (September 2003), available at: *https://www.bjs.gov/content/pub/pdf/ecp.pdf;* and *Literacy Behind Prisoner Walls,* National Center for Education Statistics, U.S. Department of Education, Office of Educational Research and Improvement (1994), available at: *http://nces.ed.gov/pubs94/94102.pdf.*

Response: States have the flexibility to develop procedures for shorter cycles to review and adjust, if appropriate, the child support order, including notice to the parties upon release from incarceration. We strongly encourage States to review child support orders after the noncustodial parent is released to determine whether the parent has been able to obtain employment and to set the orders based on the noncustodial parent's ability to pay. States should not automatically reinstate the order established prior to incarceration because it may no longer be based on the noncustodial parent's ability to pay, especially if the noncustodial parent is not able to find a job or find a job similar to pre-incarceration employment. A recent study found that incarceration results in 40 percent lower earnings upon release.[92] Instead, the order should be reviewed and adjusted according to the State's guidelines under § 302.56.

11. Comment: A few commenters expressed concern that learning of noncustodial parents' incarceration or locating noncustodial parents in correctional facilities would require some sort of interface with Federal, State, local, and private prisons.[93] According to the commenters, the new requirements also presume that there would be some sort of Federal match with Federal prisons. A few commenters also asked whether they had to actively seek out incarcerated noncustodial parents for review and adjustment and send notifications as required in paragraph (b)(7)(ii), as this may be difficult since inmates move to different facilities throughout their incarceration.

Response: We encourage, but are not requiring, States to actively establish and maintain partnerships with Federal, State, local, and private prisons to conduct matches to locate, as well as to educate incarcerated parents about the child support program. As discussed in more detail in Comment/Response 3 in § 303.3—*Location of Noncustodial Parents in IV–D Cases,* currently, section 453(e)(2) of the Act authorizes the Secretary of the Department of Health and Human Services to obtain information from Federal agencies including the Bureau of Prisons (BOP). However, this match does not provide States with needed information regarding release dates. We are going to explore the option to interface directly with the BOP and/or State facilities in order to obtain additional or updated information. We encourage States to develop electronic interfaces with corrections institutions to maximize identification of incarcerated parents and program efficiency.

12. Comment: A commenter stated that ''upon request'' in proposed § 303.8(b)(7)(ii) is unnecessary because it implies that a party must request an adjustment following completion of the review.

Response: We agree and have replaced ''upon request'' with ''if appropriate.'' This revision aligns paragraph (b)(7)(ii) with the language in paragraph (b)(2).

13. Comment: One commenter indicated that, under one State's law, arrears that accrued during incarceration are modified as needed after the parent is released.

Response: Section 466(a)(9)(c) of the Act prohibits retroactive modification of child support orders except that such procedures may permit modification with respect to any period when there is a petition pending for modification, but only from the date that notice of such petition has been given to the parties. In situations where a parent requests a review and adjustment of the order, States may modify, if appropriate, the order back to the date the request is made to avoid the accumulation of arrearages. States need to ensure that their State laws are consistent with the provisions of the Act.

14. Comment: A commenter requested that OCSE provide guidance on whether a State that is taking steps under § 303.11(b)(8) to close a case due to the incarceration status of the noncustodial parent should first modify the child support obligation.

Response: Closing a case does not affect the legality of the underlying child support order and the order, including any payment or installment of support such as payment on arrearages due under the order, remains in effect and legally binding. Therefore, based on the reasons that a case is being closed, it may be appropriate in a specific case for the IV–D agency to take steps to review and adjust an order, if appropriate, prior to closing the child support case. See Comment/Response 5 in § 303.11, *Case Closure Criteria.*

15. Comment: A couple of commenters stated that it is too time consuming and costly to close a case under § 303.11(b)(8) and then initiate a new case once a parent is released.

Response: The review and adjustment revisions under § 303.8 are not intended to encourage States to close cases when the noncustodial parent is incarcerated and reopen them when parents are out of prison. Rather, the provisions pertain to child support order review and adjustment when the noncustodial parent is incarcerated and based on the parent's ability to pay. Cases should not be closed under § 303.11(b)(8) when the noncustodial parent is incarcerated and then reopened when the noncustodial parent is released. A case can only be closed under § 303.11(b)(8) if the noncustodial parent is incarcerated throughout the duration of the child's minority (or after the child has reached the age of majority) and there is no income or assets available above the subsistence level that could be levied or attached. If the noncustodial parent is incarcerated for only a limited period of time, the case should not be closed. States can only close cases in accordance with the criteria under § 303.11(b) and (c).

16. Comment: Multiple commenters feel there should still be a burden of proof and believe that just because the noncustodial parent is incarcerated does not mean that the noncustodial parent has no resources. The parent's ability to pay may change multiple times while incarcerated, for example, when the parent is on work release.

Response: Some States automatically reduce a support order when a parent is incarcerated, while other States consider incarceration as one factor in determining whether to adjust a support order.[94] States should apply their child support guidelines, based on the noncustodial parent's ability to pay, and determine whether the parent has income or assets available that could be levied or attached for support, whether or not a parent is incarcerated.

17. Comment: A few commenters noted that if the notification in § 303.8(b)(7)(ii) is separate and distinct from the 3-year review, this will require a system change and incur costs.

Response: We agree this will require a State to make a minor system change; these costs were considered in the development of this rule.

18. Comment: Several commenters indicated that the requirement in § 303.8(b)(7)(ii) is redundant since their existing State statute, administrative rules, and court rules allow for the

[92] The Pew Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility,* September 2010, available at: *http://www.pewtrusts.org/~/media/legacy/uploadedfiles/pcs_assets/2010/collateralcosts1pdf.pdf.*

[93] Private prison or for-profit prison is a place in which individuals are physically confined or incarcerated by a third party that is contracted by a government agency.

[94] Jennifer L. Noyes, Maria Cancian, and Laura Cuesta, Holding Child Support Orders of Incarcerated Payers in Abeyance: Final Evaluation Report, *2012, available at: http://www.irp.wisc.edu/research/childsup/cspolicy/pdfs/2009-11/Task1_CS2009-11-MPP-Report.pdf;* in addition, see related PowerPoint presentation available at *http://www.irp.wisc.edu/research/childsup/cspolicy/pdfs/2009-11/Task1-CS2009-11-MPP-PPT.pdf*

modification of a child support obligation upon incarceration by operation of law.

Response: We agree. Therefore, we added a sentence to the end of § 303.8(b)(7)(ii) to acknowledge that neither the notice nor a review is required under this paragraph if the State has a comparable State law or rule that modifies a child support obligation upon incarceration by operation of State law.

19. Comment: One commenter expressed concern with the NPRM at § 303.8(d) indicating a need for a threshold for when to review and adjust an order for health care needs similar to those used by States to require a review and adjustment for the child support awards. Without these thresholds, the commenter suggests that State child support agencies will face heavy workloads to modify these orders.

Response: OCSE has historically left the particular criteria for support order modifications up to States and their child support guidelines. However, when an order lacks a medical support provision, the situation warrants immediate attention for modification to remedy the medical support issue. By removing the sentence in § 303.8(d) which previously required States to review and adjust support orders to address health care coverage for child(ren) eligible for or receiving Medicaid benefits, we are making the requirement for review and adjustment less restrictive.

20. Comment: Several commenters indicated that the proposed revision in § 303.8(d) will require significant legislative, guidelines, and policy changes which will impact on its ability to implement this revision.

Response: We understand the commenters concerns that this will require changes. Therefore, we have made the effective dates for this section the same as the dates for *Guidelines for setting child support awards.* For further details see Comment/Response 2 in the *Dates* section.

21. Comment: Some commenters expressed their dissatisfaction with the deletion of the last sentence in § 303.8(d) feeling that it was an inadequate approach to aligning child support regulations fully with the Affordable Care Act.

Response: OCSE recognizes the tensions between the Social Security Act and provisions in the ACA when it comes to medical support. We aligned our regulatory requirements as closely as possible with the ACA within existing authority. In this particular section, we simply removed the last sentence in paragraph (d), which conflicted with the ACA notion of what constitutes medical coverage and to conform to our revisions in § 303.31. The final regulations allow States more flexibility to coordinate medical support practices with the requirements of the ACA.

22. Comment: One State expressed the need for clarification on whether the proposed changes require the State to modify the language in an order to indicate that Medicaid coverage was sufficient for meeting the child's medical needs.

Response: Eliminating the provision that indicates that Medicaid cannot be considered sufficient does not necessarily mean that Medicaid must be considered sufficient in every case. There are circumstances in which Medicaid coverage may not be sufficient to meet a child's full needs. Therefore, OCSE has chosen not to prescribe how State child support agencies address medical support provisions in their orders. However, OCSE encourages States to consider adopting a broad medical support provision that encompasses all of the medical coverage options available to families under the ACA.

23. Comment: One State concluded their comment by requesting OCSE wait to modify medical support regulations until the time that the Social Security Act is consistent with the ACA.

Response: While we understand the frustration in the child support community regarding the inconsistencies between the ACA and the Social Security Act regarding medical enforcement, we have tried to align our regulations as much as possible with the new policy environment under the ACA, consistent with title IV–D. However, sections 452(f) and 466(a)(19) of the Social Security Act require specific medical support activities to be performed by State child support agencies.

24. Comment: One commenter opposed the proposed changes to the regulations in § 303.8(d) citing that private insurance should be enforced when it becomes available to an obligated parent and the child(ren) is(are) receiving public forms of coverage like Medicaid.

Response: See Comment/Response 2 in § 303.31, *Securing and Enforcing Medical Support Obligations* of this final rule.

Section 303.11—Case Closure Criteria (Including 45 CFR 433.152(b)(1))

1. Comment: Several commenters indicated their preference for keeping case closure optional, especially for a State that recoups assigned arrears. Some commenters expressed concerns about how the greater flexibility to close cases would impact intergovernmental consistency and program performance. A few commenters recommended making case closure mandatory or requiring States to have a process for examining their cases to determine if they meet one of the case closure criteria and then consider closing them.

Response: The goal of the case closure regulation is not to mandate that cases be closed, but rather to clarify conditions under which States may close cases. The changes to the case closure regulation allows a State to direct resources to cases where collections are possible and to ensure that families have more control over whether to receive child support services. A decision to close a case is linked with notice to the recipient of services of the intent to close the case and an opportunity to respond with information or a request that the case be kept open.

OCSE has determined that this final rule strikes the appropriate balance between providing States with additional flexibility in closing cases that are unlikely to result in successful child support actions and ensuring families receive effective child support enforcement services. We do not agree with the commenters' concerns that the expanded case closure criteria will put some States at a competitive disadvantage. States make many decisions that affect their performance rates. For example, one State might charge interest and another might not or one State might adopt family-first distributions and another might not. The decision to close or not close cases with assigned arrears is at the State's discretion. As we indicated in the NPRM, the National Council of Child Support Directors provided OCSE with recommendations for improving the effectiveness and efficiency of the case closure criteria, ensuring that resources are directed to working cases and that children receive services whenever there is any reasonable likelihood for collections in the future. Since case closure is permissive, a State has the discretion to develop a process for examining its cases to determine whether case closure is warranted.

2. Comment: One commenter recommended that OCSE limit case closure to intrastate cases and a decision by the UIFSA initiating State. Another commenter indicated that the responding State should not enforce an intergovernmental case that the initiating State would close if it were an intrastate case.

Response: A State has the authority to determine when and whether to close its cases, both intrastate and intergovernmental cases, under § 303.11. The responding State may not unilaterally or automatically close its responding case. Rather, the initiating State makes the case management decisions on its own cases, including its initiating intergovernmental cases. A responding State may only close a case under the following circumstances: If it can document noncooperation by the initiating agency, and provides proper notice to the initiating agency per paragraph (b)(17); if it is notified that the initiating State has closed its case per paragraph (b)(18); or if it is notified that the initiating agency no longer needs its services per paragraph (b)(19).

3. Comment: A few commenters recommended adding a closure criterion for when a State no longer has legal jurisdiction in a case.

Response: We disagree with this suggestion because the State must keep the case open to provide IV–D services, such as to disburse child support payments when the custodial parent resides in the State.

4. Comment: One commenter recommended deleting the proposed requirement to maintain supporting documentation in the case record per § 303.11(b) and allowing a State the flexibility to maintain information as it determines appropriate.

Response: OCSE disagrees with this recommendation. The requirement to keep supporting documentation on the case closure decision in a case record is necessary because it documents whether the case has been closed appropriately and is evaluated as part of the State's annual self-assessment reviews.

5. Comment: A commenter requested clarification on whether § 303.11(b)(2) applies to a case in which the recipient of services does not want the State to collect recipient-owed arrears and there are state-owed arrearages. Another commenter requested clarification on using this provision when it conflicts with State law on collecting state-owed arrears. Another commenter requested guidance on how to address custodial parent-owed arrears (*i.e.,* unassigned debt) and noncooperation with the State IV–D agency. Another commenter disagreed that the State IV–D agency needs approval from TANF or IV–E to close the case that has an assignment owed to them.

Response: The State cannot use § 303.11(b)(2) to close a case that has arrearages owed to the State and the recipient of services (*i.e.,* assigned and unassigned debt). If the arrearages are under $500 and there is no longer a current support order, the State may close the case in accordance with paragraph (b)(1). Unassigned debt is settled only at the discretion of the custodial parent by a specific agreement of the parties. Without this agreement, the State cannot compromise or remove unassigned debt owed to the custodial parent. When the recipient of services no longer wants IV–D services, the State may close the case if it meets one of the case closure criteria under § 303.11. Case closure does not affect the legality of the underlying order. The child support order, including any payment or installment of support such as arrearages due under the order, remains in effect and legally binding after a case is closed. Since the case closure criterion is optional, States always have the discretion to keep cases open when there is an assignment or arrears owed to the State. The decision of whether to close a case belongs to the State IV–D agency.

6. Comment: Several commenters recommended that OCSE describe the difference between case closure and order modification, and encourage States to modify orders to zero before closure pursuant to §§ 303.11(b)(5), (8), and (9) to avoid the accrual of arrearages if the case is reopened.

Response: These case closure provisions provide States with the flexibility to close uncollectible cases and to direct resources for cases where collections are possible. When appropriate and after determining whether the custodial parent wants to continue the case, the State should consider reviewing and, if appropriate under §§ 303.8 and 302.56, adjusting the order to stop the accrual of uncollectible debt before closing the case under the appropriate case closure criterion. Although the IV–D case is closed and no longer receiving IV–D services, the custodial parent may still pursue enforcement of the support obligation separately.

7. Comment: Several commenters requested that OCSE define certain terms used in §§ 303.11(b)(3) and (b)(8) and describe the required documentation to justify closure. One commenter requested clarification on how States should determine the cost of the care facility and whether to factor that cost and the receipt of SSA into the subsistence level under § 303.11(b)(3). The same commenter also questioned whether the State should investigate or consider the possibility of retirement plans or financial institution assets and how to treat combined income (*e.g.,* partial disability, VA disability). Another commenter questioned whether § 303.11(b)(3) included aging noncustodial parents requiring minimal services such as meal preparation or housekeeping. Another commenter questioned whether the provision for senior citizens might create a special right for a specific group of noncustodial parents.

Response: OCSE does not plan to define subsistence level, home health care, or residential facility in the rule. States have the flexibility and discretion to define these terms. However, please note that we reference ''subsistence level'' in § 303.11 in a consistent manner. As we indicated in PIQ–08–02,[95] States have the discretion to determine the appropriate methods for verifying whether a case meets the conditions for case closure. States should use basic audit standards to determine how to document that a case meets the criteria for closure. If a State finds that the noncustodial parent has income or assets which may be levied or attached for support, then the case must remain open. We disagree with the comment that a case closure provision that targets low-income residents of long-term care provides them with a special right. There have been reported instances of old child support debt, carried well after the children have become adults and sometimes parents themselves, posing a barrier for aging parents to obtain assisted housing, basic income, and health care. We believe enforcement efforts against these noncustodial parents, who have no income or assets available above the subsistence level that could be levied or attached for support, are not only ineffective, but are also an inefficient way to expend child support resources. Case closure is permissive and the decision should be done on a case-by-case basis.

8. Comment: One commenter suggested § 303.11(b)(3) be expanded to include additional programs that serve individuals with significant and long-term disabilities and limited income or employment prospects, such as noncustodial parents who are receiving Adult Protective Services.

Response: We are not expanding § 303.11(b)(3) to include additional programs because there are other case closure criteria, such as paragraph (b)(8) that allows cases to be closed when the noncustodial parent has a medically-verified total and permanent disability that will occur throughout the duration of the child's minority (or after the child has reached the age of majority) if there

[95] PIQ–08–02 is available at: *http://www.acf.hhs.gov/programs/css/resource/noncustodial-receiving-ssi-benefits-and-unable-to-pay-child-support.*

is no income or assets available that could be levied or attached for support, or paragraph (a)(9) relating to when the noncustodial parent's income is from SSI payments or from concurrent SSI payments and SSDI benefits.

9. Comment: One commenter questioned whether an intact two-parent family referred in § 303.11(b)(5) includes a family that receives TANF or that has one parent in prison. Another commenter recommended deleting the phrase ''intact two-parent'' since ''primary caregiver'' was sufficient.

Response: There is no child support eligibility when the family is intact, whether or not the parent is temporarily physically away from the family, for example, when one of the parents has found work in another State. When the State IV–D agency receives a referral involving an intact two-parent family, the State may close the case based on the criterion under § 303.11(b)(20). We do not agree with the recommendation to delete ''intact two-parent'' household because we believe that it addresses the situation when the custodial and noncustodial parent continue to function as an intact family or reconciles, whereas the primary caregiver addresses the situation when the noncustodial parent becomes the custodial parent.

10. Comment: One commenter questioned whether a State could close a case in accordance with § 303.11(b)(5) when there is a current support obligation or arrearage due. Another commenter requested clarification on how a State should address a case where the custodial parent in an intact two-parent family wants to keep the case open.

Response: A State may close a case under § 303.11(b)(5) when there is current support and/or an arrearage due. However, when the recipient of services wants to continue receiving IV–D services, the case must remain open.

11. Comment: One commenter questioned whether legal or physical custody was sufficient to determine that the noncustodial parent is the primary caregiver, particularly for audit purposes.

Response: A State has the discretion to determine the circumstances in which a case meets the conditions for closure in accordance with § 303.11.

12. Comment: Many commenters questioned whether States had the discretion to add more restrictive language to the case closure criteria, such as no payments received in the previous six months. A few commenters requested clarification on whether States have the flexibility to use longer periods for locating noncustodial parents than the times specified in § 303.11(b)(7).

Response: Yes, States have such flexibility. As we stated in OCSE AT–99–04 [96] and AT–89–15,[97] there is nothing to prohibit a State from establishing criteria that make it harder to close a case than those established under § 303.11. For example, a State may specify a timeframe in which no payments are received before closing a case to ensure that all viable cases remain open. The State also has flexibility to use longer periods for locating noncustodial parents than the times specified in § 303.11(b)(7). The case closure provision sets the minimum criteria for determining when a case is eligible for closure.

13. Comment: One commenter requested clarification about verifying the Social Security Number (SSN) per § 303.11(b)(7)(iii) and handling new leads that do not result in locating the noncustodial parent.

Response: Although the State has sufficient information to initiate an automated locate effort, locate interfaces (*e.g.,* Federal Parent Locator Service (FPLS) and Enumeration and Verification System (EVS)) may not be able to confirm or correct the SSN-name combination for the person sent. As we stated in the Case Closure Criteria Final Rule, 64 FR 11814, March 10, 1999, Comment/Response 5,[98] States are required to comply with Federal locate requirements in § 303.3 and make a serious and meaningful attempt to identify the biological father (or any individual sought by the IV–D agency). If the State has made a diligent effort using multiple sources in accordance with § 303.3, all of which have been unsuccessful to locate the noncustodial parent, then the State may close the case in accordance with § 303.11(b)(7).

14. Comment: Because the case closure provision § 303.11(b)(7) shortens the length of time for locate attempts, one commenter recommended expanding locate resources to include verification of Individual Tax Identification Numbers (ITINs), driver's licenses, or other unique identifiers.

Response: An analysis is currently underway to assess whether private sources can identify locate information and/or individuals with ITINs and locate information associated with ITINs. Additionally, OCSE is evaluating the possibility of using ITINs to obtain locate information from current FPLS locate sources, such as Multistate Financial Institution Data Match (MSFIDM).

15. Comment: One commenter recommended removing the language ''child has reached the age of majority'' in § 303.11(b)(8) and replacing it with ''after support is no longer due.'' Many commenters requested clarification regarding what OCSE meant by multiple referrals for services. One commenter thought that this criterion was too ambiguous. One commenter opposed adding multiple referrals for service as a case closure criterion and another commenter recommended removing the requirement for multiple referrals for services.

Response: OCSE disagrees with the first suggestion regarding the child reaching the age of majority since the language as written conveys the intent of the provision under § 303.11(b)(8). However, because of the confusion and opposition regarding the multiple referral case closure criterion, we have removed this from the proposed criterion in paragraph (b)(8).

16. Comment: Several commenters requested clarification regarding the documentation needed to justify case closure based on disability in accordance with § 303.11(b)(8).

Response: In OCSE PIQ–08–02,[99] we indicate that States have the discretion to determine what circumstances can result in a ''medically verified total and permanent disability'' in accordance with § 303.11(b)(8). States also have the discretion to determine appropriate methods of medically verifying that a disability is total and permanent. Refer to PIQ–04–03 [100] for information regarding how States may access Health Insurance Portability and Accountability Act (HIPAA) privacy-protected information when the agency has issued a National Medical Support Notice. The State can also request the noncustodial parent to obtain his or her medical records in accordance with 45 CFR 164.524(b).

17. Comment: One commenter recommended that OCSE create a separate case closure criterion for incarceration and requested clarification about how to treat partial disability.

[96] AT–99–04 is available at: *http://www.acf.hhs.gov/programs/css/resource/final-rule-case-closure-criteria-45-cfr-part-303.*

[97] AT–89–15 is available at: *http://www.acf.hhs.gov/programs/css/resource/standards-for-program-operations.*

[98] This is available at: *http://www.acf.hhs.gov/programs/css/resource/final-rule-case-closure-criteria-45-cfr-part-303.*

[99] PIQ–08–02 is available at: *http://www.acf.hhs.gov/programs/css/resource/noncustodial-receiving-ssi-benefits-and-unable-to-pay-child-support.*

[100] PIQ–04–03 is available at: *http://www.acf.hhs.gov/programs/css/resource/medical-support-enforcement-under-iv-d-program-phi-hipaa.*

Response: We disagree with creating a separate case closure criterion for incarceration. We note that incarceration has been included as a criterion with psychiatric institutionalization and medically-verified total and permanent disability since the promulgation of the Federal case closure regulation on August 4, 1989. A State may not close a case under § 303.11(b)(8) based on the noncustodial parent's partial disability. The State should determine whether such a case meets another case closure criteria under § 303.11.

18. Comment: One commenter recommended removing the language ''needs-based'' and replacing it with ''means-tested'' in § 303.11(b)(9)(iii). Another commenter requested clarification on using the receipt of needs-based benefits as the basis for case closure, asking whether such benefits pertain to federally-funded programs, TANF, or time-limited benefits.

Response: Both ''needs-based benefits'' and ''means-tested benefits'' are the same. However, upon further consideration, we deleted ''needs-based benefits'' because these benefits are often time-limited and are not permanent. In the absence of a disability that impairs the ability to work, the ability of a parent to work and earn income may also fluctuate with time. Therefore, it is important for the child support agencies to take efforts on these cases to remove the barriers to nonpayment and build the capacity of the noncustodial parents to pay by using tools such as referring noncustodial parents to employment services provided by another State program or community-based organization.

19. Comment: Several commenters indicated that title II benefits are subject to income withholding and recommend that receipt of such benefits not be the basis for closing cases.

Response: There is a misunderstanding regarding how we are addressing title II benefits in this criterion. Title II benefits, such as Social Security Disability Insurance (SSDI) benefits, are considered remuneration from employment (based on how many work credits the person has earned during his or her time in the workforce), and therefore, the benefits may be garnished for child support directly from the Federal payor as authorized under section 459(h)(1)(A)(ii)(I) of the Social Security Act (see DCL–13–06; PIQ–09–01; DCL–00–103).[101] However, the case closure criterion at § 303.11(b)(9)(ii) only addresses a noncustodial parent who is receiving concurrent Supplemental Security Income (SSI) and SSDI benefits under title II of the Act, which means the disabled noncustodial parent qualifies for means-tested SSI benefits on the basis of his or her income and assets, but also qualifies for SSDI benefits. In that case, the Social Security Administration pays a combination of benefits up to the SSI benefit level. Concurrent benefits are means-tested on the same basis as SSI benefits. In other words, a concurrent SSI and SSDI beneficiary has no more income, and is no better off, than a beneficiary receiving SSI alone. A beneficiary of concurrent benefits has equally low income and an equal inability to pay support as an SSI recipient. Given that a noncustodial parent who is eligible for concurrent benefits meets SSI means-tested criteria and receives the same benefit amount as an SSI beneficiary, it is appropriate to close these cases on the same basis as an SSI case. Under § 303.11(b)(9)(ii), States have the flexibility to close such cases. As a result of comments, we added in paragraph (b)(9)(ii) the phrase ''Social Security Disability Insurance (SSDI)'' before benefits under title II. For further explanation regarding these concurrent benefits, please see Comment/Response 3 in § 307.11, *Functional Requirements for Computerized Support Enforcement Systems in Operation by October 1, 2000.*

20. Comment: One commenter suggested that OCSE instruct the Social Security Administration (SSA) not to honor Income Withholding Orders (IWOs) against SSI benefits, similar to how the VA will not honor IWOs against service-connected disability benefits.

Response: SSA does not implement IWOs for individuals who are receiving SSI benefits.

21. Comment: One commenter questioned whether a State is permitted to close a case under § 303.11(b)(9) without establishing a child support order when the noncustodial parent is receiving SSI.

Response: Yes, the case may be closed. If the noncustodial parent's only income is SSI, the State may close the case under paragraph (b)(9) without establishing a support order because SSI is not subject to garnishment. Additionally, the State can close a case at any time that it meets a case closure criterion regardless of where the case is in the child support process.

However, this does not preclude a State from establishing a $0 support order (based on inability to pay), which could be modified later if the noncustodial parent went off SSI and began work or inherited assets. If States choose to establish an order prior to closing a case under § 303.4, States should use caution about establishing an order based on imputed income or a minimum ordered amount (other than $0) because the child support order, including any payment or installment of support such as arrearages due under the order, remains in effect and legally binding after a case is closed. In these cases, we are allowing States to close cases when the noncustodial parent's income is SSI because SSI is not subject to garnishment.

22. Comment: Many commenters recommended sending closure notices under § 303.11(d)(6) in a limited services case to the recipient before the limited service case closes, not after. They stated that the earlier notice would be more effective and less burdensome on both the recipient and the IV–D agency, would allow the recipient to contact the IV–D agency should he/she have any questions or disagree with case closure, and would make it easier to address any issues prior to case closure.

Response: We are persuaded that giving advance notice of case closure when a limited service under § 302.33(a)(6) has been completed will eliminate potential confusion or case closure issues and will maintain uniformity with existing case closure processes that require a 60 calendar day advance notice. Therefore, the final rule at § 303.11(d)(4) requires that for cases closed under paragraph (b)(13) of this section, the IV–D agency must send a written notice to the recipient of services 60 days prior to closure of the case of the State's intent to close the case.

23. Comment: Some commenters asked for clarification regarding when a paternity-only limited services case is considered completed and can be closed under § 303.11(b)(13). They asked whether the case would be considered completed after an Acknowledgment of Paternity has been signed, after genetic testing has been completed and results obtained, after a court order establishing paternity has been entered, or after a birth certificate has been amended to reflect the new legal father.

Response: We acknowledge that there may be varying opinions on when paternity-only services should be

[101] DCL–13–06 is available at: *http://www.acf.hhs.gov/programs/css/resource/garnishment-of-supplemental-security-income-benefits;* PIQ–09–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/garnishment-of-federal-payments-for-child-support-obligations;* DCL–00–103 is available at: *http://www.acf.hhs.gov/programs/css/resource/attachment-of-social-security-benefits.*

considered completed and the limited services case closed. We therefore recommend that States make this determination individually according to when paternity is legally determined under applicable State law.

24. Comment: One commenter was concerned that if a parent refuses to cooperate with genetic testing in a paternity-only limited services case, States will not have the ability to close that case under § 303.11(b)(13) because the limited service will never be completed.

Response: IV–D agencies typically have methods of recourse when a parent refuses to cooperate with genetic testing. This usually involves a court's ordering the parent to submit to genetic testing; if the parent remains uncooperative, the parent may be found in contempt of that court order. Additionally, we encourage States to screen for domestic violence before initiating a paternity testing enforcement action. OCSE defers to States' existing legal process and operating procedures to address this situation.

25. Comment: One State commented that system changes to implement a new limited services closure code per § 303.11(b)(13) would be cost prohibitive.

Response: As discussed in this final rule, paternity-only limited service is optional.

26. Comment: Two commenters questioned the removal of SNAP from the list of assistance programs described in § 303.11(b)(14) and recommended OCSE include it in the provision.

Response: We concur with these comments and have added SNAP to the list of assistance programs referenced in both paragraphs (b)(14) and (20).

27. Comment: One commenter questioned whether § 303.11(b)(15) applies to cases when payments are being disbursed on an unpinned debit card and the funds have not been spent.

Response: Yes. Although many State child support programs distribute payments through debit cards, it remains extremely important for the recipient of services to keep the State informed of his or her current mailing address to ensure that the case can be processed effectively. When the State disburses payments on an unpinned debit card and is unable to contact the custodial parent, the State should make a good faith effort to contact the recipient of services through at least two different methods to ensure that the child support payments are properly disbursed and received by the family. If the criteria under § 303.11(b)(15) are met, the State may close the case.

28. Comment: A few commenters expressed concerns about the requirement for two different methods of communication and recommended that OCSE require only one method of communication under § 303.11(b)(15).

Response: We disagree with this recommendation. With today's technology, there are many different options to notify clients, such as first-class mail, electronic mail, text messaging, and telephone calls. The best notice to recipients of IV–D services is information provided through multiple methods. For example, a voice message and a text message count as two different methods of communication. However, we understand the difficulty in meeting the requirement to use two different methods of communication when the State child support agency has incomplete, inaccurate, or outdated contact information for the recipient of services. When the State only has an outdated or inaccurate address, the State IV–D agency should send the case closure notice to the last known address (see OCSE AT–93–03 and AT–99–04).[102] Additionally, under § 303.6(d)(6) with the specific consent of the recipient of services, States are permitted to use electronic means to send case closure notices.

29. Comment: One commenter questioned whether § 303.11(b)(20) only applied to the assistance programs described in the provision. Two commenters requested guidance for determining an inappropriate referral and additional examples.

Response: Section 303.11(b)(20) is not limited to the assistance programs listed as examples. In addition to IV–A, IV–E, SNAP, and Medicaid, the State has the flexibility to close a case referred from other means-tested assistance programs if the IV–D agency deems it inappropriate to establish, enforce, or continue to enforce a child support order in the case and the custodial parent has not applied for IV–D services. Section 454(4)(A) of the Act requires State IV–D agencies to provide services as appropriate. A State should determine whether child support enforcement services are appropriate in a referred case, as it would with any other case. This provision provides States with the flexibility to close inappropriate referrals on a case-by-case basis. Case closure is permissive. Our understanding is that inappropriate referrals are limited in number. An example of an inappropriate TANF, Medicaid, etc. referral is one involving an intact family where there is no parent living apart or a widowed custodial parent.

30. Comment: One commenter suggested OCSE include language to indicate that a IV–A agency should not consider case closure under § 303.11(b)(20) as noncooperation by the recipient of services.

Response: As indicated in the NPRM, the State IV–D agency should communicate with the IV–A agency to ensure that the decision to close the IV–D case will not be viewed by the IV–A agency as noncooperation by the recipient of services.

31. Comment: Several commenters indicated that the proposed § 303.11(b)(21) was too restrictive, based on outdated guidance (*e.g.,* PIQT–05–01), and hindered the case transfer processes established through existing State-Tribal agreements. One commenter suggested expanding the provision to including case transfer processes developed under OCSE approved State-Tribal agreements.

Response: OCSE acknowledges the concerns expressed in these comments. We developed the guidance in PIQT–05–01[103] in the early stages of the Tribal IV–D program. The final rule builds upon and revises this guidance to increase the flexibility for the transfer and closure of cases between State and Tribal IV–D programs. However, we retain the consent requirement of the recipient of services. The recipient of services must provide his or her consent to transfer and close the case because, as both a member of the Tribe and a resident of the State, the recipient has the right to determine the agency that provides the IV–D services. However, based on comments, we have added § 303.11(b)(21)(iv) to address State-Tribal agreements regarding the transfer and closure of cases. OCSE must review and approve these State-Tribal agreements and they must include consent from the recipient of services to transfer the case. The agreements should also address enforcement of state-owed arrears, repayment agreements, and arrears adjustment and compromise when applicable. Any State debt owed under the preexisting order remains in effect and legally binding. Once the case is transferred and closed, Tribal IV–D programs must extend the full range of services under their IV–D plan as required by § 309.120(a). As such, a Tribe must enforce any state-owed debt

[102] AT–93–03 is available at: *http://www.acf.hhs.gov/programs/css/resource/clarification-of-case-closure-criteria;* AT–99–04 is available at: *http://www.acf.hhs.gov/programs/css/resource/final-rule-case-closure-criteria-45-cfr-part-303.*

[103] PIQT–05–01 is available at: *http://www.acf.hhs.gov/programs/css/resource/transfer-of-cases-to-tribal-iv-d-agencies-case-closure-criteria.*

when there is not an agreement to permit the Tribe to compromise any state-assigned arrearages.

32. Comment: Several commenters described the problems with or importance of requiring consent from the recipient of service to transfer of the case to the Tribe. Other commenters questioned the exclusion of consent from the other party involved in the IV–D case and suggested removing the consent requirement under § 303.11(b)(21).

Response: Under section 454(4) of the Act, the IV–D agency is required to provide services related to the establishment of paternity or the establishment, modification, or enforcement of child support obligations when (1) an individual applies for, and receives, certain forms of public assistance (TANF, IV–E foster care, medical assistance under Title XIX, and when cooperation with IV–D is required of a SNAP recipient), unless good cause or another exception to cooperation with IV–D exists; or (2) an individual files an application for IV–D services. Once a IV–D case is established, the recipient of services is the individual who either received the aforementioned form of public assistance or applied for IV–D services. As a tribal member and State resident, the recipient of services has the right to decide whether to continue receiving services from the State or to begin receiving services from the Tribal IV–D agency. Therefore, the State IV–D agency must obtain the recipient of services' consent before transferring the recipient's case to a Tribal IV–D agency and then closing the State case. There is no requirement that the other party or parent also consent to the transfer and closure of the case when requested by the recipient of services.

33. Comment: One commenter questioned whether § 303.11(b)(21) would resolve all of the issues regarding when a State IV–D agency should transfer versus refer a case to a Tribal IV–D agency. Another commenter requested OCSE to define the process for transferring cases from a State IV–D agency to a Tribal IV–D agency.

Response: OCSE encourages State and Tribal IV–D agencies to work together to resolve the various issues around transferring or referring cases that involve Tribal members, particularly when there are arrears owed to the State, and to develop specific procedures for transferring cases based on the case closure requirements found in the regulations at § 303.11. When there are arrears owed to the State, a State IV–D agency may decide to only refer the case to a Tribal IV–D agency for assistance in securing current support and arrears owed to the family and/or arrears owed to the State. In this circumstance, the State and Tribe would each have an intergovernmental case involving the same participants. When the recipient of services requests that his or her case be transferred to a Tribal IV–D agency and there are State-owed arrears, the State should inform the recipient of the State's discretion to transfer or refer the case when there is a State assignment and of the State's decision. However, if the recipient of services requests that the case be transferred to a Tribal IV–D agency and there are no State arrears, then the State must transfer the case to the Tribe.

34. Comment: Several commenters described the problems regarding the notice requirements of § 303.11(b)(21). Some recommended a shorter timeframe for the recipient of services to respond and elimination of the second notice that indicates closure under § 303.11(b)(21)(B).

Response: Notices act as important safeguards that keep the recipient of services informed of case closure actions. They provide the opportunity for the recipient to respond with information and to request that the case be kept open or, after the case is closed, to reopen the case. The 60-calendar day timeframe is consistent with the notice response timeframe that has been required under Federal case closure regulations since the original final rule was promulgated on August 4, 1989. The 60-calendar day timeframe has worked well for over 26 years and it would not be appropriate to change it at this time. However, a State IV–D agency may send the final notice of transfer and closure when, or immediately before, it closes the case, as long as the 60-day timeframe for a response has been met. The final notice should provide the contact information of the Tribal IV–D agency receiving the case.

35. Comment: A few commenters described issues related to Public Law 280 and the transfer of legal jurisdiction between State and Tribal courts. They requested the case closure regulation address these jurisdictional issues.

Response: It is inappropriate to address in the Federal case closure regulation the complex issues around jurisdiction and Public Law 280. State and Tribal IV–D programs are in the best position to address and resolve these issues in their State-Tribal agreements.

36. Comment: One commenter questioned whether a State IV–D agency could still provide Federal Tax Refund Offset services on a case that has been transferred to a Tribal IV–D agency and closed by the State IV–D agency.

Response: It is OCSE's position that transfer of a case to a Tribal IV–D agency and closure of that case by the State does not preclude the State from submitting that case for Federal Tax Refund Offset when a Tribal IV–D agency submits the case under a State-Tribal agreement for Federal Tax Refund Offset in accordance with OCSE PIQT–07–02.[104]

37. Comment: One commenter indicated that § 303.11(b)(21) does not specify that a State IV–D agency may transfer a case to a Tribal IV–D agency regardless of whether there are arrears owed to the State.

Response: Section 303.11(b)(21) has been revised to explicitly allow the State IV–D agency to transfer cases that have arrears owed to the State. The State has the discretion to transfer the case to the Tribal IV–D agency when there are state-owed arrears. When such cases are transferred, the Tribe must extend the full range of services under its IV–D plan as required by § 309.120(a) and enforce the state-assigned arrearages.

38. Comment: One commenter urged OCSE not to use the word ''transfer'' since a case cannot be considered transferred until the original State no longer has an open case.

Response: This suggestion was not incorporated into the regulation. However, § 303.11(b)(21) has been revised to include, where appropriate, the word ''close'' to explicitly indicate the closure of the case with the State. This revision makes it clear that case transfer involves transferring the case to the Tribal IV–D agency and then closing the case with the State.

39. Comment: One commenter asked whether § 303.11(c) prohibits a State IV–D agency from providing full services, including medical support, to an Indian Health Service (IHS) Medicaid recipient who requests a full service IV–D case.

Response: Based on the revisions to the Centers for Medicare and Medicaid Services (CMS) regulations, which are also in this final rule, State IV–D agencies should no longer be sent referrals for these cases. Indians may receive health care services without charge from the IHS. To receive State IV–D services, an IHS eligible recipient would need to apply for IV–D services. However, no medical support enforcement services need to be provided to the extent that the individual is receiving all needed care through the IHS. At the time of application, if the State is aware that the applicant is a Medicaid recipient, then

[104] PIQT–07–02 is available at: *http://www.acf.hhs.gov/programs/css/resource/state-automated-systems-costs-service-agreements.*

the State should not charge an application fee per § 302.33(a)(2). The provision of § 303.11(c) would not apply for the custodial parent with IHS-eligible children who applies directly with the State child support agency to receive all child support services.

40. Comment: One commenter suggested that OCSE revise the language in § 303.11(c)(2) to read, ''The IV–D case was opened as a non-IV–A Medicaid referral. . . .'' This would ensure consistency with the case-type language in § 302.33(a)(1)(ii). Additionally, the same commenter questioned the value added by the following language in the same paragraph and suggested removing it, ''. . . health care services, including the Purchased/Referred Care program, provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12))''.

Response: OCSE does not agree with these suggestions to revise the regulatory text. The regulatory text makes it clear that this case closure provision is related to Medicaid referrals based solely upon health care services provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12), including through the Purchased/Referred Care program. However, we would like to clarify that this case type is consistent with the case type language in § 302.33(a)(1)(ii). OCSE retained the language in this paragraph to ensure consistency between the language in § 303.11(c)(2) and the revised Medicaid regulations at 42 CFR 433.152(b)(1)(i).

41. Comment: One commenter suggested that OCSE change the mandatory closure criterion in § 303.11(c) to an optional closure criterion.

Response: We disagree with this suggestion. Section 303.11(c) describes the circumstances under which a State IV–D agency must close a case. This provision makes it clear that State IV–D agencies should not seek medical support when the child is eligible for health care services from IHS and the case is a Medicaid referral based solely upon such health services. In order to better serve Indian families, § 303.11(c) requires a State IV–D agency to close a Medicaid reimbursement referral based solely upon health care services provided through an Indian Health Program, including through the Purchased/Referred Care program.

The IHS is responsible for providing health care to American Indians and Alaska Natives under the Snyder Act. See 25 U.S.C. Section 13 (providing that the Bureau of Indian Affairs (BIA) will expend funds as appropriated for, among other things, the ''conservation of health'' of Indians); and 42 U.S.C. Section 2001(a) (transferring the responsibility for Indian health care from BIA to IHS). The IHS provides such care directly through Federal facilities and clinics, and also contracts and compacts with Indian tribes and tribal organizations to provide care pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), Public Law 93–638 (25 U.S.C. 450 *et seq.*). In addition, the Snyder Act authorizes IHS to pay for medical care provided to IHS beneficiaries by other public and private providers as the Purchased/Referred Care program. The term ''Indian Health Program,'' defined at 25 U.S.C. 1603(12), encompasses the different ways health care is provided to American Indians and Alaska Natives.

In light of the IHS's policy, OCSE and CMS require that State Medicaid agencies not refer such cases and that IV–D agencies that receive Medicaid reimbursement referrals based solely on health care services, including the Purchased/Referred Care program, provided to IHS-eligible children through an Indian Health Program, be required to close such cases, as these cases will have been inappropriately referred. Pursuant to IHS' policy and CMS' policy, there would be no medical child support reimbursement obligation to pursue against any custodial or noncustodial parents, and any recovery from insurance policies would be outside the scope of the State IV–D agencies' authority. It is our understanding that such Medicaid referrals are common. This child support case closure rule makes it clear that State IV–D agencies should not seek medical child support based on such Medicaid referrals.

42. Comment: One commenter asked whether the proposed revision to 42 CFR 433.152(b)(2) requires the Medicaid agency to reimburse 100 percent of State- or county-funded title IV–D expenditures that are not reimbursable by OCSE and are not necessary for the collection of amounts for the Medicaid program.

Response: The proposed changes to 42 CFR 433.152(b)(2) do not change current regulatory requirements for the Medicaid agency regarding reimbursement of the IV–D agency.

43. Comment: One commenter indicated that it was unclear what the following language in 42 CFR 433.152(b)(1)(i) (and repeated in § 303.11) means: Medicaid referral is based solely upon health care services, including contract health services, provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12).

Response: CMS regulation 42 CFR 433(b)(1)(i) refers to Medicaid referrals from an Indian Health Program, such as programs operated by the Indian Health Service (IHS) or Tribes and Tribal organizations under Public Law 93–638 (Indian Self-Determination and Education Assistance Act). In that instance, the child would need to be eligible for Medicaid and services from IHS. Medicaid referrals would include referrals made under the IHS/Tribal Purchased/Referred Care program, formerly known as Contract Health Services.[105]

44. Comment: One commenter asked whether there are any issues that need to be addressed in the current Medicaid assignment language at 42 CFR 433.145 since there is a prohibition of referral of certain cases.

Response: At this time, the assignment of rights to benefits requirements in 42 CFR 433.145 is not impacted by the language in § 433.152(b)(1)(i). A State plan must still meet all the requirements outlined in § 433.145.

45. Comment: One commenter asked whether the placement of the prohibition of Medicaid referrals in IHS cases in the ''requirements for cooperative agreements for third party collections'' section (45 CFR 433.152) is appropriate.

Response: Yes, the prohibition against referring a medical support enforcement case when the Medicaid referral is based on services received from an Indian Health Program (§ 433.152(b)(1)(i)) is appropriately placed in § 433.152 because the prohibition directly relates to agreements with title IV–D agencies and third-party collections, such as Indian Health Programs.

46. Comment: All of the comments received on the notification requirements under the proposed §§ 303.11(d)(4) through (d)(6) were either opposed to or expressed concerns regarding the pre- and post-closure notices to the referring agency and the closure notice to the recipient of services. The commenters indicated that they were unnecessary and an inefficient use of limited State resources.

Response: We concur with these recommendations and have removed notification requirements in the proposed §§ 303.11(d)(4) and (d)(5). Additionally, the case closure

[105] For more information about the relationship between IHS and Medicaid, please visit *go.cms.gov/AIAN* or *https://www.cms.gov/Outreach-and-Education/American-Indian-Alaska-Native/AIAN/index.html.*

requirement in proposed paragraph (d)(6), redesignated as paragraph (d)(4) was retained, but the notice requirement of proposed paragraph (d)(5) was removed. However, if the number of inappropriate referrals begins to increase, the State IV–D agency should work with the referring agency, discuss referral policies, and revise such policies as needed to avoid inappropriate referrals.

47. Comment: One commenter suggested that the notice requirement under proposed § 303.11(d)(6), redesignated as § 303.11(d)(4), include location-only cases closed under § 303.11(b)(11) because such cases could be considered a limited service.

Response: We disagree with this recommendation and have determined that such a change is not warranted. Location-only cases are often used when the initiating State is attempting to verify whether or not the noncustodial parent is living in another State. Often States receiving these requests do not actually open a case, but only use their automated locate sources to determine whether the noncustodial parent lives, works, or has assets in their State.

48. Comment: One commenter indicated that it was unclear what ''recipient'' is referenced in the proposed § 303.11(d)(6).

Response: The rule revised the language in § 303.11(d)(6), redesignated as § 303.11(d)(4), to clarify the reference to the recipient of services.

49. Comment: One commenter suggested that the closure notice for the proposed § 303.11(d)(6), redesignated as § 303.11(d)(4), be simple, indicating the case has been closed and the recipient of services should go online or contact the State agency for an application or additional information.

Response: We disagree with this suggestion because it does not provide the recipient of services with information regarding reapplication for services and the consequences of receiving IV–D services, such as any State fees for services, cost recovery, and distribution policies. One of the basic responsibilities of a child support agency is to provide timely, accurate, and understandable notice to parents about their child support cases.

50. Comment: One commenter suggested that OCSE consider adding language to the proposed § 303.11(d)(7), redesignated as § 303.11(d)(5), to allow the other parent, as well as the former recipient of services, to request reopening the IV–D case.

Response: We disagree with this suggestion. In this circumstance, the other parent has the option to submit an application to receive IV–D services at any time.

51. Comment: In response to our request for comments in the NPRM regarding whether a recipient of services should be provided the option to request case closure notices in a record, such as emails, text messaging, or voice mail, some commenters requested the ability to notify the recipient of services by mail or electronic means if the recipient of services has authorized electronic notifications. We received no comments in opposition.

Response: In the final rule, for notices under § 303.11(d)(1) and (4), the State must notify the recipient of services, in writing, 60 calendar days prior to closure of the case of the State's intent to close the case. However, as discussed under § 303.11 in Topic 2 of the preamble, we considered the commenters' request and added paragraph (d)(6), which will permit States to issue case closure notifications electronically for the above-mentioned notices if the recipient of services specifically authorizes consent to electronic notifications. The State must keep documentation of the recipient's consent in the case record.

While an electronic case closure notice may be an appropriate, and even the preferred, method of notification for many custodial parents, it may not be an effective means to notify some parents. Many parents in the child support caseload have limited incomes. They may not have convenient access to a computer, the internet, or mobile communication. We revised § 303.11(d)(6) to reflect this flexibility in issuing electronic notifications.

Section 303.31—Securing and Enforcing Medical Support Obligations

1. Comment: One commenter expressed their understanding that the proposed revisions in § 303.31 eliminate the need for Medicaid referrals to the IV–D program.

Response: We disagree. OCSE's policy surrounding Medicaid referrals has remained consistent over the years: there is no requirement for State Medicaid agencies to refer all Medicaid cases to the State IV–D agency.[106] State child support and Medicaid agencies will need to continue to work together to refer appropriate cases from Medicaid to the child support agency for child support services.

2. Comment: While the majority of comments supported our revisions, many commenters noted an apparent discrepancy between language used in the preamble about State flexibility and options concerning the proposed definition of health insurance in § 303.31(a)(2) and the definition language in the regulation. Many of these comments concluded that their reading of both the preamble language and the NPRM suggested that including public health options, such as Medicaid, was optional for States in their efforts to meet the health care needs of children. One commenter specifically recommended that the regulatory text be revised to indicate that it was a State option to consider public coverage as health insurance.

Response: We want to clarify that States do not have an option in distinguishing between private and public forms of health care coverage. Instead of defining ''health insurance'' as we did in the NPRM, we are defining ''health care coverage'' since this is the terminology used in the Social Security Act at sections 452(f) and 466(a)(19). The language in the final rule at § 303.31(a)(2) includes in the definition of ''health care coverage'' both public and private forms of health care coverage either of which is sufficient for meeting health care standards. This approach is consistent with national health care policies as outlined in the ACA. By including public coverage such as Medicaid, CHIP, and other State health programs as part of medical support, this will provide States greater flexibility to ensure that medical support is being provided for all children.

3. Comment: Several States commented about their perceived inconsistency between the five percent reasonable cost standard traditionally used in child support compared to the eight percent affordable standard in the ACA. Most of these commenters suggested that § 303.31(a)(3) be consistent by amending the five percent standard to eight percent.

Response: We disagree that the regulation needs to be changed. The existing language in the regulation at § 303.31(a)(3) allows States to adopt the five percent standard or ''a reasonable alternative income-based numeric standard'' defined by the State. We encourage States to examine the difference between the reasonable cost standard used in the child support regulations and the affordability measure used in the ACA. Both the percentage and the base are different.

[106] See OCSE–IM–14–01, available at: *http://www.acf.hhs.gov/programs/css/resource/medicaid-referrals-to-the-iv-d-agency;* OCSE–IM–08–03, available at: *http://www.acf.hhs.gov/programs/css/resource/guidance-on-referral-of-medicaid-cases-to-title-iv-d-child-support;* and OCSE–AT–10–10, available at: *http://www.acf.hhs.gov/programs/css/resource/cse-flexibility-to-improve-interoperability-with-medicaid-chip.*

States are encouraged to consider ways to align these two standards to avoid confusion among families. For example, a State could choose to define reasonable cost as 8 percent of a parent's modified adjusted gross income (MAGI) under paragraph(a)(3) to align the two standards. The existing language in the regulation allows States to make these conforming changes to their medical support policies.

4. Comment: One State asked us to clarify how to proceed in situations where private insurance is available at a reasonable cost, but is not accessible to the child.

Response: The final regulations at 303.31(b) stipulate that health care coverage must be both reasonable in cost and accessible to the child. This paragraph further requires the petition to address both the reasonable cost and accessibility standards. If these standards are not met, the ordered parent will not likely meet the requirements of the order. The child support agency should encourage the parent to seek affordable health care coverage options through the Health Insurance Marketplace in the child's State of residence. States are also encouraged to consider how their cash medical support policies might address the health care needs of children in these types of situations.

5. Comment: Several commenters expressed the need for OCSE to further regulate medical provisions in § 303.31(b)(1)(ii) regarding how to allocate medical costs between the parents.

Response: We do not agree that additional regulations are needed regarding the allocation of medical costs. While the commenters' suggestion may work for some States, OCSE has always allowed for States to have flexibility in how they address the allocation of medical support since this is often related to the State's guidelines. However, we have made an editorial revision in § 303.31(b)(1)(ii) to remove ''Determine how to'' from the regulatory language so that the regulatory provision better reflects OCSE policy.

6. *Comment:* We received several comments regarding the applicability of cash medical support in § 303.31(b)(2) given the passage of the ACA.

Response: Section 466(a)(19)(A) of the Act establishes medical support requirements including that ''all support orders enforced pursuant to this part shall include a provision for medical support for the child to be provided by either or both parents . . .'' This section of the child support rule implements IV–D agency responsibility when health care coverage, including both public health care coverage and private health insurance as defined in § 303.31(a)(2) and described in § 303.31(b)(1) is not available. However, States have flexibility in defining when cash medical support or the cost of health care coverage is considered reasonable in cost under paragraph (a)(3). Some States may choose not to use the five percent of the noncustodial parent's gross income. States may elect to develop a reasonable alternative income-based numeric standard defined in its State law, regulations, or court rule having the force of law or State child support guidelines adopted under § 302.56(c). If they elect this option, they may be able to better align its standard with the ACA.

7. Comment: One comment suggested that proposed § 303.31(b)(3) should be eliminated because paragraph (b)(1) requires these provisions in all new and modified orders.

Response: While we agree that § 303.31(b)(1) requires the health care provision be included in all orders, we recognize the reality that it may not happen in all situations. When those situations arise, paragraph (b)(3) provides the foundation to require States to modify those orders to include the appropriate health care provision.

8. Comment: Some commenters suggested that the proposed definition for health insurance to include public options poses some questions on how courts order health insurance coverage. These comments asked for clarification if courts would be required to compel parents to enroll children in public forms of health care or enter a finding that the children are covered by public form of coverage.

Response: How States choose to address health care provisions in orders will vary from State to State. OCSE has recommended that States implement broadly-defined medical support language in child support orders to maximize the health care options available to parents, children, and families.

9. Comment: Several commenters discussed the issue of data sharing. Some of these commenters requested the promotion of data sharing between IV–D and Medicaid, CHIP, Indian Health Service, and the Federal/State marketplaces. Some noted the need for the exchanges to modify the application process to gather more information regarding the absent parent.

Response: OCSE is aware of the need for improved data sharing between and among the aforementioned programs. We are working to improve data sharing between State child support agencies, CMS, State Medicaid agencies, CHIP, and other stakeholder partners. While currently States have the authority to share information with State Medicaid and CHIP agencies to assist them in carrying out their responsibilities and for determining eligibility for program benefits, we currently do not have authority for data sharing with the Federal/State marketplaces and the Indian Health Service. This will require some legislative revisions.

10. Comment: We received numerous inquiries regarding whether the final passage of this rule affects OCSE's decision to hold States harmless as outlined in OCSE AT–10–02.

Response: Upon issuance of this rule, OCSE will work with States in developing guidance related to AT–10–02.[107]

11. Comment: Several States expressed clarification on whether IV–D agencies would be responsible for issuing a National Medical Support Notice (NMSN) in situations where a child was receiving Medicaid, and the obligated parent has private insurance available to them. Some commenters expressed a workload concern if States were required to issue the NMSN every time private insurance may become available—sometimes for short periods of time—to either of the parents.

Response: The NMSN is an enforcement tool. The child support agency is only required to serve an NMSN on an employer where it is clear that there is no health coverage being provided for the child(ren) and employer-offered health insurance has been ordered. Under § 303.32(b), States are not required to use the NMSN when the child(ren) is covered by a public health care option and there is a court or administrative order that stipulates alternate health care coverage to employer-based coverage. Through our revised definition of health care coverage, if the child is covered through Medicaid, CHIP, or other State coverage plan, then public forms of coverage are an allowable form of health care coverage. Additionally, since the implementation of the ACA, health coverage includes health insurance policies offered through the Federal or State marketplaces that meet the standards for providing essential health benefits. We encourage States to include a provision in child support orders that medical support for the child(ren) be provided by either or both parents, without specifying the source of the coverage. In these situations, the child

[107] AT–10–02 is available at: *http://www.acf.hhs.gov/programs/css/resource/holding-states-harmless-for-failure-to-comply-medical-support-final-rule.*

support agency would have to assess if it is appropriate to send a NMSN notice if employer-based health insurance becomes available.

Although this is not a requirement, nothing within the final rule precludes a State from petitioning for employer-related insurance to be included in the order in accordance with the State's guidelines if it is in the best interest of the child, in cases where the child is receiving public coverage and the employer-related insurance becomes available at a reasonable cost, is accessible to the family, and the parent has the ability to pay. We encourage States to develop medical support policies that fully consider the wide array of health care options that most benefit children and families.

12. Comment: Some comments suggested that the ACA eliminates the need for medical enforcement in the child support program. These commenters requested that child support no longer carry out these functions.

Response: The ACA neither mandates coverage nor requires that the IRS enforce mandatory coverage even for families that have coverage available to them at a reasonable cost. Individuals and families that have health care coverage available at a reasonable cost may choose not to obtain coverage and instead pay the applicable tax penalty. Title IV–D, on the other hand, requires that all child support orders include a provision for medical support for the child(ren), whether through public or private health care coverage available at a reasonable cost, or cash medical support.

13. Comment: Many commenters expressed frustration that the proposed regulations in the NPRM do not align with the requirements of the ACA.

Response: Again, OCSE recognizes tensions between the Social Security Act and provisions in the ACA when it comes to medical support. We have aligned our regulatory requirements as closely as possible with the ACA; however, we acknowledge the need for further statutory and regulatory work to bring these policies together. Until this occurs, this final rule allows States more flexibility to coordinate medical support practices with the requirements of the ACA. In addition, the Administration's FY 2017 Budget proposes a set of changes to help improve coordination between the ACA and medical support.

14. Comment: The NPRM requested specific comments regarding the State child support program's role in carrying out its medical support statutory responsibilities, including the roles of cost allocation between parents and enrolling children in coverage.

Response: We received numerous comments regarding the issue of child support involvement in medical support activities—many of which were discussed in previous comments in the preamble (for example, see Comment/Response 12 above). In addition, we received four specific comments opposing the idea that child support becomes involved with referring children and families for health care coverage. OCSE encourages States to review their medical support activities to find ways to improve health care coverage among children and families. OCSE–PIQ–12–02 provides information on how child support agencies can collaborate with other programs to achieve these goals.[108]

Section 303.72—Requests for Collection of Past-Due Support by Federal Tax Refund Offset

1. Comment: One commenter stated the proposed change did not go far enough because this regulation should specify which State in an interstate case should submit the case for Federal tax refund offset.

Response: Section 303.7(c)(8) establishes requirements for Federal tax refund offset, including identification of the State that must submit a case for such offset. Specifically, ''[t]he initiating State IV–D agency must: . . . Submit all past-due support owed in IV–D cases that meet the certification requirements under § 303.72 of this part for Federal tax refund offset.''

Section 303.100—Procedures for Income Withholding

1. Comment: Nearly all State commenters supported the proposed regulatory changes regarding mandatory use of the OMB-approved *Income Withholding for Support* (IWO) form. While these commenters favored changes addressing the inconsistent use of the OMB-approved IWO form and the transmission of payments on non-IV–D orders to the appropriate State Disbursement Unit (SDU), they pointed out that Federal law already requires use of the OMB-approved form.

Response: While we acknowledge that the use of the OMB-approved form is already required by Federal law and previously issued policy and guidance, continued concerns expressed to OCSE by employers necessitated further clarification in the regulations. States are required to have laws to ensure compliance with the mandated use of the OMB-approved IWO form for both IV–D and non-IV–D orders. Some States work with their State courts' administrative offices, and state bar associations to provide the approved IWO form for use by the judiciary and private attorneys. These States also request that other versions of withholding orders be removed from Web sites and other distribution methods. We encourage all States to collaborate with their judicial branch, state bar associations, chambers of commerce, and Tribal Child Support programs to ensure that all users and employer recipients of the form are aware of the requirements regarding use of the OMB-approved IWO form in all income withholding orders issued to employers.

2. Comment: Several commenters questioned what method of enforcement could be used when private attorneys or courts do not comply with the regulation, and whether employers should be allowed to reject an incorrect IWO.

Response: We direct the commenters to the *Income Withholding for Support—Instructions* document, available at *http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf,* as well as the *Income Withholding for Support* form, available at *http://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf.* Both of these documents contain language stating that the IWO must be regular on its face, meaning that any reasonable person would think the IWO is valid.

The instructions for the IWO form clarify this term by saying that an IWO is regular on its face when:

- It is payable to the State disbursement unit;
- A copy of the underlying child support order containing an income withholding clause is included, if the IWO is sent by anyone other than a State/Tribal IV–D agency or a court;
- The amount to withhold is a dollar amount;
- The text of the form has not been changed and invalid information has not been entered;
- The order of the text on the OMB-approved IWO form has not been changed, and
- OMB 0970–0154 is listed on the form; and
- It contains all of the necessary information to process the IWO.

The instructions further provide that the employer must reject the IWO and return it to the sender if, among other things, the sender has not used the OMB-approved form, the IWO is altered

[108] PIQ–12–02 is available at: *http://www.acf.hhs.gov/programs/css/resource/partnering-with-other-programs-and-activities.*

or incomplete, or the IWO instructs the employer to send a payment to an entity other than the State's SDU (for example, to the custodial party, the court, or an attorney). Employers are valuable and essential partners to the child support program. OCSE appreciates the challenges employers face when receiving IWOs that do not comply with the regulation or IWO instructions and will continue to provide assistance to States and employers in ensuring compliance with this rule.

3. Comment: One commenter asked that we clarify to States and employers that using the IWO form in a nontraditional manner in order to accommodate a State's own process that requires withholding beyond the monthly child support amount in the underlying order from obligors with bi-weekly payroll schedules may result in the IWO being rejected by employers.

Response: We understand the commenter's concern regarding this practice. However, we disagree that using the IWO form in this manner is a basis for rejection of the IWO. OCSE is working with States to ensure income withholding and distribution practices comply with Federal requirements.

4. Comment: A few commenters requested the inclusion of language in § 303.100(e) and (h) to clarify that the requirements listed apply to all income withholding situations and that the use of the OMB-approved form applies only to withholding to enforce IV–D and non-IV–D child support orders but does not apply to any other type of withholding.

Response: We agree with these commenters and affirm that the requirements listed apply to all IV–D and non-IV–D income withholding orders, and that the use of the OMB-approved form applies only to IV–D and non-IV–D child support orders and does not apply to any other type of withholding, including spousal-only support orders. We are adding § 303.100(h) to expressly state that the OMB-approved form must be used for income withholding in all child support orders.

5. Comment: One commenter requested that requirements listed in § 303.100(e) clarify that income withholding orders are not to include instructions for an employer to implement in the future (for example, step-down or step-up payments).

Response: We agree with this commenter that income withholding orders are not to include instructions for an employer to implement in the future. Changes in the amount of income withholding require an amended IWO be sent to the employer reflecting the new terms for income withholding in the case. However, the rule does not amend the requirements listed in § 303.100(e).

6. Comment: One commenter suggested the regulation reference more generic title such as ''the standard OMB-approved form,'' rather the current form title ''Income Withholding for Support'' because of the possibility of a change to the form's title in the future.

Response: We disagree. The language in the regulation regarding the IWO form is sufficiently clear.

7. Comment: One commenter recommended the regulation state that the notice may be electronic and that the e-IWO form is an OMB-approved form.

Response: In accordance with Section 306 of Public Law 113–183, *Preventing Sex Trafficking and Strengthening Families* Act, States must use the OCSE e-IWO process when an employer elects to receive IWOs electronically. Further guidance can be found in OCSE AT–14–12.[109] At this time, we do not think it is necessary to revise the regulations since the statute is clear.

8. Comment: One commenter requested the creation of a standard return document to accompany the IWO, which the employer could return to the sender to indicate any noncompliance with Federal income withholding requirements. The commenter noted that the most recent version of the IWO includes language requiring such action, but that courts, private attorneys, or others may be using prior IWO versions without such language.

Response: We understand the commenter's desire to provide information to those issuing income withholding orders regarding the reason an employer has returned the IWO, especially when an outdated version of the IWO form is being used that may not include the ''Return to Sender'' language. While we decline to create an additional form for this purpose, we note that some employers have addressed this need by creating a coversheet to accompany any IWO they return, clarifying the reason(s) for their rejection of the IWO. OCSE has previously distributed a template of this coversheet to the American Payroll Association members and to others upon request.

9. Comment: One commenter noted that since Tribal IV–D agencies enforce child support orders for States and are required to use the OMB-approved IWO form, employers or States may assume that withheld payments must go through a State's SDU instead of through the Tribal IV–D agency.

Response: In accordance with 45 CFR 309.115(d), if there is no TANF assignment of support rights to the Tribe and the Tribal IV–D agency has received a request for assistance in collecting support on behalf of the family from a State or another Tribal IV–D agency under § 309.120, the Tribal IV–D agency must send all support collected to either the State IV–D agency or the other Tribal IV–D agency for distribution, as appropriate, except as provided in paragraph (f) of this section. Paragraph (f) indicates that rather than send collections to a State or another IV–D agency for distribution, the Tribal IV–D agency may contact the requesting State or Tribal IV–D agency to determine appropriate distribution and distribute collections as directed by the other agency.

10. Comment: One commenter suggested that language be included on the IWO stating that: ''The order/notice applies to all employers except Indian Tribes, tribally-owned businesses, or Indian-owned businesses on a reservation. If you are a Tribe, tribally-owned business, or Indian-owned business located on a reservation and you choose to honor the support order and withhold as directed in the enclosed order/notice, we appreciate your voluntary compliance.'' The commenter believes that this would serve as a reminder to States and employers of tribal sovereignty.

Response: We disagree with this comment. Per § 309.90(a)(3) and § 309.110, Tribal employers under the jurisdiction of a Tribe with a IV–D program are required to honor income withholding orders and will be held liable for the accumulated amount the employer should have withheld from the noncustodial parent's income if they fail to comply with these provisions.

11. Comment: One commenter requested that the Child Support Portal process employment terminations for both IV–D and non-IV–D cases. They explained that currently, employers must first determine whether the employee termination is in a IV–D case or a non-IV–D case. If it is a IV–D case, the employer may report the termination electronically. If it is a non-IV–D case, the employer must report the termination manually.

Response: The e-IWO process is currently only available for IV–D cases.

[109] AT–14–12 is available at: *http://www.acf.hhs.gov/programs/css/resource/e-iwo-implementation-and-amendment-of-title-iv-d-State-plan-preprint-page-38–3.*

Section 304.20—Availability and Rate of Federal Financial Participation

1. Comment: A few commenters asked that we define ''reasonable'' as used in § 304.20(a)(1).

Response: The term ''reasonable'' is addressed in *Subpart E—Cost Principles* found at 45 CFR *Part 75—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards,* and is applicable to grants made to States under this part. Specifically, § 75.404 indicates that a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to: (a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award; (b) the restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, State, local, tribal, and other laws and regulations; and terms and conditions of the Federal award; (c) market prices for comparable goods or services for the geographic area; (d) whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal Government; (e) whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

2. Comment: Several commenters asked that OCSE provide specific services and activities included in § 304.20(a)(1) and (b) for which FFP is available.

Response: This regulation provides for general categories of allowable expenditures consistent with HHS cost principles in 45 CFR part 75, subpart E that allow for matching of expenditures that are necessary and reasonable and can be attributed to the child support enforcement program. More specific examples are found in policy guidance.

3. *Comment:* A few commenters are concerned that the cost principles in 2 CFR part 225 will stymie State's flexibility in providing the services and activities allowed in § 304.20.

Response: The OMB *Cost Principles for State, Local, and Indian Tribal Governments* (formerly OMB Circular A–87) are published at 2 CFR part 200. However, HHS has codified the OMB cost principles in subpart E of 45 CFR part 75, which apply to all State and local expenditures in HHS-funded programs. When a State is considering if an expense is reasonable or allowable, the State should cross-reference the child support regulations at 45 CFR part 300 and 45 CFR part 75. Part 75 allows the cognizant agency to restrict or broaden funding for allowable activities or services; therefore, child support regulations take precedence over 45 CFR part 75. Section 75.420 indicates that failure to mention a particular item or cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in §§ 75.402 through 75.411. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the Federal award governs. Criteria outlined in § 75.403 must be applied in determining allowability of costs.

4. Comment: One commenter requested OCSE to consider 90 percent reimbursement for automation projects finalized in the rule.

Response: We appreciate the comment. However, OCSE has no authority to increase the FFP rate through the regulatory process. This would require a statutory change by Congress.

5. Comment: A few commenters asked for clarification regarding the intent of the proposed change to § 304.20(b)(1)(viii)(A) and if it suggests the IV–D agency should be helping families determine the need for public assistance.

Response: This change was not intended to suggest that IV–D agencies determine a family's need for public assistance. However, there may be situations where the State IV–D agency determines that it needs to refer cases to the IV–A or IV–E agency, such as for TANF assistance, emergency assistance, child welfare services, etc. This provision provides flexibility to collaborate with other programs in case the need for a referral arises.

6. Comment: One commenter asked that we explain the differences between what is allowed for reimbursement for the Medicaid agreements in § 304.20 and what is not allowed based on § 304.23.

Response: Section 304.20(b)(1)(viii)-(ix) addresses the availability of FFP for the establishment of agreements with other agencies administering the title IV–D, IV–E, XIX, and XXI programs for activities related to cross-program coordination, client referrals, and data sharing when authorized by law. In this final rule, we removed § 304.23(g) that prohibited FFP for the costs of cooperative agreements between IV–D and Medicaid agencies under 45 CFR part 306, which was removed from the regulations years ago. Section 304.23(g) is no longer necessary as a result of the enactment of Personal Responsibility and Work Opportunity Reconciliation Act of 1996, which required States to include a provision for health care coverage in all child support orders established or enforced by the IV–D agency. FFP continues to be available for these medical support activities under § 304.20(b)(11).

7. Comment: One commenter was concerned that the elimination of paragraph 304.20(b)(1)(ix)(C) regarding transferring collections from the IV–D agency to the Medicaid agency prohibits the State from requiring this activity in the IV–D interagency agreement. However, because § 302.51 explaining the distribution process was not amended, States will still have to transfer the support, but will no longer be able to get FFP for including how to perform this task in an agreement.

Response: We agree and have retained the former provision regarding the availability of FFP under an agreement for the transfer of collections from the IV–D agency to Medicaid in the final regulatory text at § 304.20(b)(1)(ix)(D).

8. Comment: A few commenters asked for clarification on what child support proceedings would qualify for bus fare or other minor transportation expenses as provided in § 304.20(b)(3)(v).

Response: Providing bus passes and gas vouchers are considered allowable as local transportation assistance in support of providing child support services. Providing local transportation vouchers can be a highly cost-effective means to increase participation in child support interviews, genetic testing, and hearings, and decrease no-shows and defaults, which increase staff costs and court time, and reduce compliance.

We also encourage States to consider alternatives to the need to travel to the child support office or court, such as the use of technology, including Web applications, video conferences, or telephonic hearings.

9. Comment: OCSE received several comments related to proposed § 304.20(b)(3)(vii), which would have allowed ''*de minimis*'' costs associated

with the inclusion of parenting time provisions entered as part of a child support order and incidental to a child support enforcement proceeding. The commenters were uncertain about the definition of the term ''*de minimis.*''

Response: Black's Law Dictionary defines *de minimis* as ''insignificant'' or ''not enough to be considered,'' and the Oxford dictionary defines *de minimis* as ''too trivial or minor to merit consideration.'' The *de minimis* parenting time rule provision was not intended to open up Federal matching funds for new parenting time activities. Instead, the rule recognizes current State practice and was intended as a no-cost technical fix to clarify cost allocation and audit issues consistent with generally accepted accounting principles.

Currently, 36 States calculate parenting time credits as part of their child support guidelines, or otherwise provide for standard parenting time at the time the support order is set. In addition, many courts recognize voluntary parenting time agreements during child support hearings when the agreements have been worked out between the parents ahead of time and the parents simply ask the court to add the agreements to the support orders.

Congress has not authorized FFP for parenting time activities. Thus, the proposed provisions regarding parenting time under this provision and under § 302.56(h), *Guidelines for Setting Child Support Orders,* were intended to clarify that States may not charge parenting time activities to title IV–D but may coordinate parenting time and child support activities so long as the IV–D program is not charged additional costs and the State adheres to generally accepted accounting principles.

In light of the comments received on the proposed parenting time provisions and the unintended confusion regarding the proposal, OCSE has deleted the proposed FFP provision in paragraph (b)(3)(vii). See Comment/Response 2 under § 302.56—*Guidelines for Setting Child Support Orders, Parenting Time:* [Proposed § 302.56(h)].

10. Comment: Multiple commenters asked if courts are eligible for FFP for education and outreach activities intended to inform the public about the child support enforcement program as referenced in § 304.20(b)(12).

Response: States may enter into cooperative agreements with courts to provide educational and outreach activities intended to inform the public, parents and family members, and young people who are not yet parents about the Child Support Enforcement program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other. As such, we have added paragraph (b)(12) to allow these as FFP eligible activities in cooperative arrangements with courts and law enforcement officials as cited in § 304.21(a)(1).

11. Comment: One commenter asked that we consider changing the phrase in § 304.20(b)(12) from ''when the parents are not married'' to ''when the parents do not reside together and share expenses as a married or unmarried couple.''

Response: We believe the language as originally drafted is more flexible; therefore, we did not change the regulatory language.

12. Comment: In the NPRM, OCSE specifically asked for feedback regarding the allowability of FFP for electronic monitoring systems for child support purposes. We received feedback from several States, child support organizations, and community based organizations mostly in support of using electronic monitoring systems as an alternative to incarceration for child support purposes.

Response: At this time, we are not planning to regulate in this area since these costs are incurred as part of the general costs of government, similarly to the costs of incarceration.

Section 304.23—Expenditures for Which Federal Financial Participation Is Not Available

1. Comment: Related to § 304.23(d), one commenter asked if the annual firearms qualifications for deputy sheriffs assigned to county IV–D agencies are considered reasonable and essential short-term training.

Response: No, firearms qualifications are necessary for all deputy sheriffs and are therefore considered a general cost of government. In accordance with 45 CFR 75.444, *General costs of government,* these costs for States, local governments, and Indian Tribes are unallowable for Federal funding.

2. Comment: One commenter asked if reasonable and essential short-term training includes preapproved college courses that would directly improve an individual's ability to perform his or her current job or another IV–D-related job, even if those college courses are also counted towards credit hours needed to complete the individual's degree or certificate.

Response: Yes, funding this training has been long-standing OCSE policy. OCSE Action Transmittal (AT) 81–18[110] defines the term short-term training as:

> . . . any training that would directly improve any individual's ability to perform his or her current job or another IV–D related job, does not provide merely a general education for an individual and is not taken for the sole purpose of earning credit hours toward a degree or certificate. FFP is available under the above definition regardless of the source of the training. For example, FFP is available for short term training provided by State and local IV–D agencies, or an agency or individual who provides IV–D services under a cooperative or purchase of service agreement. In addition, FFP is available for short term training conducted by the multi-function agency in which the State IV–D agency is located, or by another State or local agency. Short term training provided by a contractor (*e.g.,* college, university, professional association, etc.) is also eligible for FFP.

3. Comment: Many commenters asked for clarification regarding the deletion of § 304.23(i). They questioned if the jailing of parents in child support cases was no longer considered to be ineligible for FFP.

Response: In the NPRM, existing § 304.23(i) regarding the prohibition of FFP for ''any expenditures for jailing of parents in child support enforcement cases'' was inadvertently removed. Expenditures for jailing of parents in child support enforcement cases continue to be ineligible for FFP. Therefore, in the final rule, we did not remove former § 304.23(i), and redesignated proposed paragraph (i) as paragraph (j).

Section 307.11—Functional Requirements for Computerized Support Enforcement Systems in Operation by October 1, 2000

1. Comment: We received numerous comments supporting the proposed regulatory changes placing limitations on garnishing accounts of SSI recipients. These comments focused on the limited income SSI recipients have and the detrimental impact inappropriate garnishment poses for these individuals. However, some commenters questioned the need for the regulatory change given that in the preamble to the NPRM, we indicated that these inappropriate garnishments are rare.

Response: While we recognize the rarity of these situations, when inappropriate garnishments occur, they must be remedied quickly. The final regulation helps ensure that States will resolve these situations in a timely manner by promptly refunding

[110] AT–81–18 is available at: *http://www.acf.hhs.gov/programs/css/resource/definition-of-short-term-training.*

improperly garnished amounts to noncustodial parents.

2. Comment: Several commenters expressed concern that the NPRM would require States to invest resources to upgrade their statewide child support enforcement systems for a small number of cases.

Response: We agree the automated procedures required by the rule will require States to enhance their State systems' ability to identify cases where the noncustodial parent is the recipient of protected Federal benefits. However, system enhancements will help to ensure that low-income noncustodial parents retain the Federal benefits that are exempt from child support enforcement and essential to their livelihood. Regulatory changes by the Department of Treasury require all Federal benefits to be deposited electronically in a bank account. This means that SSI recipients no longer have the option to receive their benefits through a check. This change has increased the risk that SSI benefits will be improperly withheld by child support agencies. OCSE has facilitated efforts by the Social Security Administration (SSA) to share data on recipients of protected Federal benefits with States through the Federal Parent Locator Service (FPLS). In 2013, OCSE enhanced its interface with SSA to allow States to match participants in their caseloads who begin or stop receiving SSI benefits. States were notified of these additions to the FPLS as part of the FPLS 13–02 release. States may elect to match with the State Verification and Exchange System (SVES), which supplies both title II and title XVI data to the States. To date, eighteen States have opted in to receive this information. States that wish to receive this additional data as part of their FPLS data matches should contact the OCSE's Division of Federal Systems for more information.

3. Comment: Several commenters expressed opposition to including title II benefits in the regulation.

Response: Many of these commenters misinterpreted the NPRM to apply to noncustodial parent receiving only title II benefits (such as SSDI). The NPRM only applied to noncustodial parents who were either recipient[s] of SSI or recipients receiving concurrent SSI and benefits under title II of the Act. Noncustodial parents meeting these conditions are experiencing extreme financial difficulties and warrant further protection from inappropriate garnishments.

In drafting the NPRM, the Department was urged by several stakeholders to exclude garnishment for ''dual eligibility,'' or concurrent benefits, such as when the individual is eligible for both SSI and SSDI, meets the income test for SSI benefits, and would have received the same amount in SSI-only funds, but for the fact that the individual qualifies for SSDI benefits as well as SSI benefits. SSDI provides benefits to disabled or blind persons based on the person's previous earnings record and Social Security contributions. The SSI program makes cash assistance payments to aged, blind, and disabled persons who have limited income and resources regardless of work history or contributions to Social Security. SSI is a means-tested program with strict financial limits. SSA uses the term ''concurrent'' when a person is eligible for benefits from both programs. A person can receive both SSDI and SSI payments, but must meet the requirements of both programs. In order to receive concurrent SSI and SSDI benefits, a person must meet the SSI income and assets limits and is limited to the SSI benefit amount. For example, an individual begins receiving $733 in SSI monthly benefits. Five months later, he becomes eligible to receive $550 in SSDI monthly benefits, reducing his SSI payments to $183. His concurrent benefits are limited to $733 ($550 in SSDI and $183 in SSI, none of which may be garnished due to the concurrent receipt). If he had not qualified for SSDI, his SSI benefits would have remained at $733.[111] The rule requires States to develop safeguards for the States to prevent garnishment of exempt benefits. These provisions only relate to excluding SSI benefits, as well as concurrent SSI and SSDI benefits under title II.

In light of the comments, we want to emphasize that the final rule makes no changes to our policy regarding recipients of title II benefits being subject to garnishment as outlined in Section 459(h)(1)(A)(ii)(I) of the Act. OCSE has long held that title II benefits are subject to garnishment (See DCL 13–06; PIQ–09–01; DCL–00–103). Title II benefits, such as SSDI benefits, are considered remuneration from employment, and therefore, State or tribal child support agencies are allowed to continue to garnish the benefits of child support directly from the Federal payor as authorized under 459(h).

This final rule only places limitations on garnishments from financial accounts of concurrent SSI and SSDI beneficiaries. As a result of comments, we added in § 307.11(c)(3)(i) the phrase ''Social Security Disability Insurance (SSDI)'' before ''benefits under title II of the Act'' to clarify that we are only addressing when a noncustodial parent is receiving both SSI and SSDI benefits at the same time. Similarly, in paragraph (c)(3)(ii), we added the word ''SSDI'' before ''benefits under title II of the Act.''

4. Comment: One commenter asked why OCSE did not rule out any garnishments for SSI recipients and eliminate the complexity of the rule.

Response: Section 459(h) of the Act and OCSE policy guidance does prohibit garnishing financial accounts of SSI beneficiaries. However, we recognize that in rare instances, these accounts may be inappropriately garnished by local IV–D agencies if they have not previously identified that the noncustodial parent is receiving SSI benefits. The final rule mandates that the State resolve these errors by requiring that funds are refunded within 5 business days after determining that the funds were incorrectly garnished.

5. Comment: One commenter supported the rule, but questioned whether the proposed case closure provisions [(303.11(b)(9)] allow States to close these types of cases and prevent the need for the proposed garnishment regulation.

Response: We agree that the case closure provisions allow States the option to close these types of cases under § 303.11(b)(9). However, because the closure of these cases using this case closure criterion is optional, the regulatory changes are necessary to ensure that disadvantaged noncustodial parents retain protected Federal benefits.

6. Comment: One commenter requested clarification of the term ''previously identified'' used in § 307.11(c)(3)(i). The commenter also asked whether this determination could only come from a match with SSA.

Response: We disagree that the term warrants further definition. The final rule provides that States proactively identify cases where the noncustodial parent is a recipient of SSI benefits. A State may choose to make this determination based on a match with SSA or through other means determined by the State.

7. Comment: One commenter felt that the NPRM imposed strict liability on the IV–D agency, but ignores the responsibility of the financial institution in the garnishment process. Many of the comments suggested that financial institutions are required to determine whether an account meets eligibility standards for garnishment based upon

[111] Further information is available at: *http://www.ssa.gov/redbook/eng/supportsexample.htm.*

the sources of deposits into those accounts.

Response: We disagree. DCL 13–06 indicated that the Department of the Treasury, in conjunction with other Federal agencies, issued an Interim Final Rule regarding the garnishment of accounts containing Federal benefit payments. Since issuing that guidance, the Department of Treasury has finalized the rule. In both the interim and final versions of the rule, financial institutions are instructed to honor garnishment orders issued by State child support enforcement agencies by following standardized procedures ''as if no Federal benefit payment were present'' [112] since many Federal benefit payments are not protected from garnishment for child support under section 459 of the Act. So long as the IV–D agency uses the proper garnishment form (as outlined in the regulation), financial institutions are not required to conduct a ''look back'' review to determine if any funds deposited in the account consisted of restricted Federal benefits. Under the regulations, financial institutions do not have any responsibility in determining the source of funds and responding to the requirements as outlined in the child support garnishment order. In the event that funds are garnished inappropriately, the IV–D agency is solely responsible for resolving an inappropriate garnishment under the regulation.

8. Comment: Several commenters expressed their desire for the Federal government to share in the costs associated with refunding any previously disbursed funds.

Response: The Federal regulations at 45 CFR 75.426 expressly prohibits the Federal government from sharing in costs associated with bad debts and losses.

9. Comment: Several commenters expressed concern that the proposed regulation places States in the difficult position of trying to recoup funds disbursed to the custodial parent.

Response: A State is prohibited from garnishing SSI benefits and must make a SSI recipient whole if it inappropriately garnishes the benefits. The final rule will reduce the likelihood that the State will need to recover from the custodial parent support collections distributed to the family resulting from improper garnishment.

10. Comment: Many States expressed concern with the proposed 2-day timeframe. Suggestions ranged from changing the timeframe anywhere from 7 days to 30 days. In addition, some commenters requested clarification whether the timeframe refers to business or calendar days.

Response: We agree that the proposed 2-day timeframe is too short and that clarification is needed. Based on comments, the final rule extended the timeframe in § 307.11(c)(3)(ii) from 2 days to 5 business days, which begins when the agency determines that SSI or concurrent SSI and title II benefits were incorrectly garnished.

Request for Comments on Undistributed and Abandoned Collections

In the NPRM, we asked for specific comments, including information about States policies and procedures related to undistributed and abandoned child support collections and the efforts that States take, both through their child support agencies and the State treasury offices, to maximize the probability that families receive the collections, or if that result cannot be achieved that the payments are returned to the noncustodial parents.

We received several comments on how States deal with undistributed and abandoned child support payments that indicated that many States have aggressive procedures and processes in place to try to minimize undistributed collections. One commenter suggested the creation of a national work group to study and determine collaboratively policies and procedures related to undistributed and abandoned child support collections. One commenter was hopeful that if OCSE shared information about State practices, States could identify promising practices and ultimately reduce the amount of undistributed and abandoned support payments.

At this time, we are not planning to regulate in this area. We will continue to work with States in providing technical assistance to ensure that States are making diligent efforts to distribute child support collections to the family, whenever locate is an issue.

Topic 2: Updates to Account for Advances in Technology (§§ 301.1, 301.13, 302.33, 302.34, 302.50, 302.65, 302.70, 302.85, 303.2, 303.5, 303.11, 303.31, 304.21, 304.40, 305.64, 305.66, and 307.5)

We received numerous comments supporting the revisions to update the regulations for electronic communications technology under Topic 2 of the rule. We also received a few comments about specific provisions. We did not receive any comments related to Topic 2 that we needed to address for the following sections:

- § 301.13—Approval of State Plans and Amendments.
- § 302.33—Services to Individuals Not Receiving Title IV–A Assistance
- § 302.34—Cooperative Arrangements
- § 302.50—Assignment of Rights to Support
- § 302.65—Withholding of Unemployment Compensation
- § 302.70—Required State Laws
- § 302.85—Mandatory Computerized Support Enforcement System
- § 303.5—Establishment of Paternity
- § 303.31—Securing and Enforcing Medical Support Obligations
- § 304.21—Federal Financial Participation in the Costs of Cooperative Arrangements with Courts and Law Enforcement Officials
- § 304.40—Repayment of Federal Funds by Installments
- § 305.64—Audit Procedures and State Comments
- § 305.66—Notice, Corrective Action Year, and Imposition of Penalty
- § 307.5—Mandatory Computerized Support Enforcement Systems

Section 301.1—General Definitions

1. Comment: One commenter thought it would be clearer to include ''in writing'' or ''written information if requested'' to the definition of ''record.''

Response: We do not agree that this clarification is needed. The regulation defines ''record'' as ''information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.'' This includes documents that are ''in writing.'' As noted in the preamble under Topic 2, the Uniform Electronic Transactions Act explains that this definition ''includes any method for storing or communicating information, including 'writings.' ''

2. Comment: Besides adding definitions for procedures and records, one commenter suggested we added definitions for low income or subsistence level.

Response: We do not agree that additional definitions are needed. Each State should have the flexibility and discretion to define these terms.

Section 303.2—Establishment of Cases and Maintenance of Case Records

1. Comment: One commenter recommended for consistency with

[112] The Final Rule entitled ''Garnishment of Accounts Containing Federal Benefit Payments: Final Rule,'' **Federal Register**, Volume 78, No 103 (29 May 2013), pp. 32099–3211 is available at: *http://www.gpo.gov/fdsys/pkg/FR-2013-05-29/pdf/2013-12683.pdf* and the Interim Final rule entitled ''Garnishment of Accounts Containing Federal Benefit Payments: Interim Final Rule'' **Federal Register**, Volume 76, No 36 (23 February 2011), pp. 9939–9962 is available at: *http://www.gpo.gov/fdsys/granule/FR-2011-02-23/2011-3782.*

§ 303.2(a)(3) and for clarity for when the 5 working day timeframe begins, please consider replacing the newly added words ''made by'' with the word ''received'' in § 303.2(a)(2).

Response: We agree and have made the requested change.

Section 303.11—Case Closure Criteria

1. Comment: We invited comments on whether a recipient of services should be provided the option to request the case closure notice ''in writing'' or ''in a record,'' such as emails, text messaging, voice mails. Three commenters requested the ability to notify the recipient of services by mail or electronic means if the recipient of services has authorized electronic notifications.

Response: At this time, we have decided not to provide the State the flexibility to send case closure notices in a record, such as emails, text messaging and voice mail to all parents since there was not overwhelming support to do so. While an electronic case closure notice may be an appropriate, and even the preferred, method of notification on a case-by-case basis for some custodial parents, it may not be an effective means to notify other parents. Many parents in the child support caseload have limited incomes, and may not have convenient access to a computer, the internet, or mobile communication.

However, we have added a new § 303.11(d)(6) to allow States to issue case closure notices under paragraphs (d)(1) and (4) electronically, on a case-by-case basis, when the recipient of services consents to electronic notifications. The State must keep documentation of the recipient's authorization of the consent in the case record.

2. Comment: One commenter inquired why the notice in the proposed § 303.11(d)(6) is not required to be in writing.

Response: The notice is required to be in writing and we made this correction in this final rule to § 303.11(d)(4) since the numbering scheme changed as a result of deleting some notice requirements.

Topic 3: Technical Corrections (§§ 301.15; 302.14; 302.15; 302.32; 302.34; 302.35; 302.65; 302.70; 302.85; 303.3; 303.7; 303.11; 304.10; 304.12; 304.20; 304.21; 304.23; 304.25; 304.26; 305.35; 305.36; 305.63; 308.2; 309.85; 309.115; 309.130; 309.145; and 309.160)

In the response to comments below, we only discuss sections for which we received applicable comments. Overall, 32 commenters mainly supported our technical revisions, but they had some suggested revisions or needed clarification on some of the issues. We did not receive any comments related to the technical corrections that we needed to address for the following sections:

- § 302.14—Fiscal policies and accountability;
- § 302.15—Reports and maintenance of records;
- § 302.35—State parent locator service;
- § 302.65—Withholding of unemployment compensation;
- § 302.70—Required State laws;
- § 302.85—Mandatory computerized support enforcement system;
- § 303.3—Location of noncustodial parents in IV–D cases;
- § 303.7—Provision of services in intergovernmental IV–D cases;
- § 303.11—Case closure criteria;
- § 304.10—General administrative requirements;
- § 304.12—Incentive payments;
- § 304.20—Availability and rate of Federal financial participation;
- § 304.23—Expenditures for which Federal financial participation is not available;
- § 304.25—Treatment of expenditures; due date;
- § 304.26—Determination of Federal share of collections;
- § 305.63—Standards of determining substantial compliance with IV–D requirements;
- § 309.85—What records must a Tribe or Tribal organization include in a Tribal IV–D plan;
- § 309.130—How will Tribal IV–D programs be funded and what forms are required?;
- § 309.145—What costs are allowable for Tribal IV–D programs carried out under § 309.65(b) of this part?;
- § 309.160—How will OCSE determine whether Tribal IV–D program funds are appropriately expended?

Section 301.15—Grants

1. Comment: Two commenters suggested that the suffix ''A'' be eliminated from all references to Form OCSE–396A and OCSE–34A to reflect the changes made in the ACF Office of Grants Management (OGM) AT–14–01 and OCSE AT–14–14, *Revised Quarterly Financial Reporting Forms—2014.*[113]

Response: We agree. The suffix ''A'' was deleted to reflect the recent redesignation of these financial forms in accordance with OGM AT–14–01 and OCSE–AT–14–14.

2. Comment: One commenter requested clarification on section 301.15(b). When financial reports are submitted through the On-Line Data Collection system (OLDC), the ''signature of the authorized State program official'' is an electronic signature. The commenter suggested that the reference to the signature in paragraph (2) be revised so that it is clear that the signature is electronic.

Response: We have clarified in both paragraphs (a)(1) and (2) that the signature of the authorized State program official is a digital signature since both the OCSE–396 and the OCSE–34 will be submitted electronically, as indicated in paragraph (b)(1).

3. Comment: One commenter suggested the last sentence of revised paragraph (a)(2) regarding the data used in the computation of the quarterly grant awards issued to the States appears to be misplaced and believes a more appropriate placement is in paragraph (c) *Grant Award.*

Response: We do not believe this revision is necessary. This sentence summarizes the purposes of the OCSE–34. Paragraph (c) indicates that the quarterly grant award is based on the information submitted by the State on the financial reporting forms and consists of an advance of funds for the next quarter, reconciliation of the advance provided for the current quarter, and access to funds.

4. Comment: One commenter requested clarification that technical correction in 301.15(d)(1) does not reflect 45 CFR part 75 Interim Final Rule for the Uniform Guidance effective December 26, 2014 since 45 CFR parts 74 and 92 were superseded when HHS adopted promulgated 45 CFR part 75 as indicated in 45 CFR 75.104.

Response: We agree. However, the recent HHS Interim Final Rule, effective January 20, 2016 (81 FR 3004),[114] contains technical amendments to HHS regulations regarding the Uniform Guidance. The regulatory content updates cross-references within HHS regulations to replace part 74 with part 75. Therefore, it is no longer necessary to make the proposed revisions and we will delete these proposed revisions in the final rule, except as otherwise noted.

Section 302.32—Collection and Disbursement of Support Payments by the IV–D Agency

1. Comment: To be consistent with the definitions in § 303.7 *Provision of Services in Interstate IV–D Cases,* one commenter suggested that § 302.32(b)(1)

[113] Available at: *http://www.acf.hhs.gov/programs/css/resource/revised-quarterly-financial-reporting-forms-2014.*

[114] The Uniform Guidance HHS technical corrections are available at: *https://www.gpo.gov/fdsys/pkg/FR-2016-01-20/pdf/2015-32101.pdf.*

be changed to replace ''interstate'' with ''intergovernmental'' and ''initiating State'' with ''initiating agency.''

Response: We agree and have made the proposed revisions in the final rule.

Section 302.34—Cooperative Arrangements

1. Comment: While many commenters supported our proposed changes, one commenter requested OCSE develop a definition for corrections officials. For instance, the commenter asked if the term ''corrections officials'' includes sheriff departments. One commenter encouraged us to include community corrections officials.

Response: OCSE is not specifically defining corrections officials to allow flexibility for the State to define it based on how the State is organized. However, we would like to clarify that cooperative arrangements are required for corrections officials at any governmental level, such as Federal, State, Tribal, and local levels. OCSE encourages child support agencies to collaborate with Federal, State, Tribal, and local corrections officials, including community corrections officials (probation and parole agencies), to provide case management services, review and adjust support orders, provide employment services to previously incarcerated noncustodial parents, etc. The National Institutes of Justice notes that community corrections programs ''. . . oversee offenders outside of jail or prison and . . . include probation—correctional supervision within the community rather than jail or prison—and parole—a period of conditional, supervised release from prison.'' [115]

Section 304.21—Federal Financial Participation in the Costs of Cooperative Arrangements With Courts and Law Enforcement Officials

1. Comment: Commenters requested clarification as to whether the inclusion of corrections officials in the definition of law enforcement officials allows the State to sign a cooperative arrangement with a sheriff to operate a child support warrant task force or to operate a county jail and receive FFP.

Response: OCSE encourages Child Support Enforcement agencies to collaborate with corrections institutions and community corrections officials, such as probation and parole agencies. As noted in our response to comments under § 302.34, OCSE is not specifically defining corrections officials to allow flexibility for the State to define it based on how the State is organized.

Regarding sheriff's costs for a child support warrant task force, since these costs would relate to reviewing the warrant process to evaluate the quality, efficiency, effectiveness, and scope of support enforcement services and securing compliance with the requirements of the State plan, these costs would be allowable under 45 CFR 304.20(b)(1). However, the State should execute a purchase of service agreement under § 304.22, rather than a cooperative agreement.

Regarding sheriff's costs for operating a county jail, since we do not provide FFP related to jailing costs under § 304.23(i), these costs would not qualify for FFP reimbursement. Section 304.23(i) was inadvertently left out of the NPRM and is corrected in this final rule. This is discussed in more detail in Comment/Response 3 in § 304.23, *Expenditures for which Federal Financial Participation Is Not Available.*

2. Comment: Another commenter asked if the costs of forming cooperative arrangements with courts and corrections officials to receive notice of incarceration of noncustodial parents triggering state-initiated review under § 303.8 are included as allowable expenditures eligible for Federal financial participation.

Response: Yes, these costs would be allowable expenditures related to improving the State's establishment and enforcement of support obligations under § 304.20(b)(3).

3. Comment: Another commenter indicated that by adding corrections officials, they believed that a State could enter into a cooperative agreement with a community corrections provider, which would enable electronic monitoring to be funded directly through the local agency doing the electronic monitoring.

Response: We do not agree with this interpretation. We do not allow for FFP to be used for electronic monitoring costs since these costs are a general cost of government and are related to the judicial branch under 45 CFR 75.444(a)(3).

4. Comment: Multiple commenters asked if courts are eligible for FFP for education and outreach activities intended to inform the public about the child support enforcement program.

Response: States may enter into cooperative agreements with courts to provide educational and outreach activities intended to inform the public, parents and family members, and young people who are not yet parents about the Child Support Enforcement program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other. As such, we have added to § 304.21(a)(1) a cross-reference to § 304.20(b)(12).

5. Comment: One commenter asked for clarification on the inclusion of ''corrections officials'' in § 304.21 and § 302.34.

Response: Please see our response to this comment under Comment/Response 1 for § 302.34, *Cooperative Arrangements* under Topic 3.

Section 305.35—Reinvestment

1. Comment: One commenter thought that the proposed formula for determining State Current Spending Level may not accurately measure a State's compliance with § 305.35 due to the significant differences in the timing of expenditures reported on the OCSE–396 for each Federal fiscal year because approximately 50 percent of total expenditures reported to OCSE are county-related prior quarter adjustments.

Response: We do not agree that a State's compliance would not accurately be measured due to expenditure timing differences. As discussed in ''Instructions for Completion of Form OCSE–396,'' there is no deadline for spending incentive payments. Incentive payments remain available to the State until completely expended. Once expended, however, those expenditures must be reported on Line 1a or 1d, as applicable, within 2 years, in accordance with section 1132 of the Act. Expenditures are considered made on the date the payment occurs, regardless of the date of receipt of the good or performance of the service. For State-administered expenditures, the date of this transaction by the State agency governs; for locally-administered programs, the date of the transaction by the county, city, or other local agency governs.[116]

2. Comment: A few commenters requested clarification regarding the applicability of this section to political subdivisions to which the incentives are provided by the States.

Response: As discussed in both AT–01–01 and AT–01–04,[117] OCSE indicated that any payments made to political subdivisions must be used in

[115] National Institutes of Justice, Office of Justice Programs, DOJ—*http://www.nij.gov/topics/corrections/community/pages/welcome.aspx.*

[116] The Instructions for the OCSE–396 are available at: *http://www.acf.hhs.gov/programs/css/resource/instructions-for-ocse-396-quarterly-financial-report.*

[117] Available at: *http://www.acf.hhs.gov/programs/css/resource/final-rule-on-incentives-penalties-and-audit* and *http://www.acf.hhs.gov/programs/css/resource/reinvestment-of-child-support-incentive-payments,* respectively.

accordance with the provisions in § 305.35. States are responsible for ensuring that all components of their child support program must comply with the reinvestment requirements, including local or county programs, other State agencies, vendors or other entities that perform child support services under contract or cooperative agreement with the State.

3. Comment: One commenter believed that our regulation should go further into requiring that these funds actually be spent. The commenter thought that localities should not be allowed to ''stock-pile incentive dollars,'' and should require localities to spend incentives within 2 years of being earned or submit a long-term spending plan for our approval. The commenter added that if a local agency receiving incentive funds does not spend the funds, then these funds should be forfeited to another local agency in the same community that provides an approved spending plan. This would foster intra-county cooperation in the use of funds. It would also allow the agency more directly involved in the daily enforcement of child support services the opportunity for a larger share of incentives.

Response: As discussed in the response to Comment/Response 2, States are responsible for ensuring that all components of their child support program must comply with the reinvestment requirements, including local or county programs, other State agencies, vendors, or other entities that perform child support services under contract or cooperative agreement with the State. Additionally, as discussed in our response to Comment/Response 1, there is no deadline for spending incentive payments. Incentive payments remain available to the State until completely expended. Once expended, however, those expenditures must be reported on Line 1a or 1d of the OCSE–396, as applicable, within 2 years, in accordance with section 1132 of the Act.

4. Comment: One commenter asked if § 305.35 allowed the use of State IV–D agency and/or other county component current spending level surpluses to offset State IV–D agency and/or county components with current spending level deficits in Federal fiscal years where the total of all components making up the State current spending levels exceeds the State baseline expenditure level to avoid disallowance of incentive amounts.

Response: No, a State must expend the full amount of incentive payments received to supplement, and not supplant, other funds used by the State to carry out its IV–D program activities or funds for other activities approved by the Secretary, which may contribute to improving the effectiveness or efficiency of the State's child support program, including cost-effective contracts with local agencies.

5. Comment: Several commenters asked questions regarding clarification on the base year amount and whether the base year amount needs to be recalculated annually for States and, if applicable, political subdivisions. One commenter wanted to provide an option to recalculate the base year amount for the few States that had incentives included in their base year amount. Another commenter indicated that the rule needed to be updated to calculate a new base level of funding since the base level had not been updated for over two decades.

Response: As specified in § 305.35(d), a base amount of spending was determined by subtracting the amount of incentive funds received by the State child support program for Fiscal Year 1998 from the total amount expended by the State in the program for the same period. Alternatively, States had an option of using the average amount of the previous three fiscal years (1996, 1997, and 1998) for determining the base amount. The base amount of State spending must be maintained in future years.

OCSE calculated the base amount of spending for each State using 1998 expenditure data unless the State notified OCSE that the State preferred the base amount as an average of the 1996, 1997, and 1998 expenditures. Only five States (Georgia, Mississippi, New Jersey, New York, and South Dakota) requested the use of the three-year average.[118] At this time, we have no plans for updating the base level.

On June 23, 2011, OCSE sent letters to all IV–D Directors reminding them of the actual amount of their base level expenditures for incentive reinvestment purposes.

6. Comment: One commenter suggested the following as an alternative to our proposed changes in § 305.35(d) in the NPRM: ''State expenditures may not be reduced as a result of the receipt and reinvestment of incentive payments, but can be reduced under the baseline as a result of cost savings.''

Response: We do not agree with this proposed change because the baseline spending level cannot be reduced as a result of cost savings. As discussed in the final rule on incentive payments to States, 65 FR 82178 (December 27, 2000),[119] OCSE recognized that ''a fixed base year could potentially penalize States that reduce costs as a result of program improvements or cuts in government spending. On the other hand, we also recognized that a fixed base year would not reflect inflation or other increases in the costs of personnel or services. Thus, any negative effects would be lessened over time.''

7. Comment: Several commenters suggested that the suffix ''A'' be eliminated from all references to Form OCSE–396A and OCSE–34A to reflect the changes made in OGM AT–14–01 and OCSE AT–14–14.[120]

Response: We agree. The suffix ''A'' was deleted in all references to OCSE–396A in paragraph (e) to reflect the recent redesignation of these financial forms in accordance with OGM AT–14–01 and OCSE AT–14–14.

8. Comment: One commenter thought that the term ''disallowances of incentive amounts'' was unclear, and suggested that we replace it with ''a reduction in incentives awarded.''

Response: We do not agree with this suggested revision. OCSE has used the disallowance terminology since Federal fiscal year 2001. It is technically correct in terms of grants management. OCSE would be making a disallowance, which may be collected by reducing the State's incentive payments or State's child support grant payments.

9. Comment: Another commenter believed that a disallowance for a State not reinvesting the full amount of the incentive payment to supplement, not supplant, other funds used by the State to carry out the child support program or to use the funds for other activities, approved by the Secretary for improving the efficiency and effectiveness of the program, seems like a harsh penalty. The commenter suggested that in cases of non-compliance, OCSE should follow the progressive steps outlined in § 305.66 by providing the State with a corrective action year.

Response: We do not agree with the suggestion. Section 305.66 outlines the steps taken when a State is found by the Secretary to be subject to a penalty as described in § 305.61. This section does not identify incentive funds not being reinvested as a reason that a State would be subject to a financial penalty. Additionally, we do not support this change since the financial penalty would be much harsher. A disallowance

[118] See Dear Colleague Letter (DCL) 01–50, available at: *http://www.acf.hhs.gov/programs/css/resource/base-level-program-expenditures-for-incentive-reinvestment-revised.*

[119] Available at: *https://www.gpo.gov/fdsys/pkg/FR-2000-12-27/xml/FR-2000-12-27.xml.*

[120] Available at: *http://www.acf.hhs.gov/programs/css/resource/revised-quarterly-financial-reporting-forms-2014.*

as proposed would result in penalty amounts from one to five percent of the State's title IV–A payments.

10. Comment: One commenter believed that our calculation related to the State Share of Expenditure in paragraph (e)(1) was incorrect. The commenter thought that the correct calculation should be ''Total Expenditures less expenditures funded with incentives = the base for determining the State share. The base for determining the State share is multiplied by 34% and that result is compared to the required base level spending.''

Response: We do not agree with this change in our formula. The formula in the final rule is the formula that we have been using since 2001. The State Share of Expenditures must deduct the Federal Share of total expenditures claimed for the current quarter and prior quarter adjustments claimed on the OCSE–396 for all four quarters of the fiscal year.

Section 305.36—Incentive Phase-In

1. Comment: One commenter requested an additional conforming revision to delete 45 CFR 305.36 since it was an outdated requirement from 2002.

Response: We agree with the commenter and have deleted the outdated provision.

V. Impact Analysis

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (Pub. L. 104–13), all Departments are required to submit to OMB for review and approval any reporting or recordkeeping requirements inherent in a proposed or final rule. There are seven new requirements as a result of these regulations. These new regulatory requirements are one-time system enhancements to the statewide child support system. The description and total estimated burden for the changes are described in the chart below.

Section and purpose	Instrument	Number of respondents: 54	Average burden hours per response	Total cost	National federal share	National state share
Added requirement under § 302.33 to generate notices.	Systems Modification.	One-time system enhancement.	300 hours × $100 per 54 States to modify statewide child support system.	$1,620,000	$1,069,200	$550,800
Added optional requirement under § 302.33 for revised applications for limited services.	Systems Modification.	One-time system enhancement.	5,000 hours × $100 per 27 States to modify statewide child support system.	13,500,000	8,910,000	4,590,000
Added requirement under § 303.8 for notice of the right to request review and adjustment when parent is incarcerated.	Systems Modification.	One-time system enhancement.	200 hours × $100 × 54 States	1,080,000	712,800	367,200
Added optional requirement under § 303.11 for notice to recipient when case closed because limited service has been completed.	Systems Modification.	One-time system enhancement.	1,000 hours × $100 × 27 States.	2,700,000	1,782,000	918,000
Added requirement under § 303.11 for notice because the referring agency does not respond to a notice or does not provide information demonstrating that services are needed.	System Modification.	One-time system enhancement.	500 hours × $100 × 54 States	2,700,000	1,782,000	918,000
Under § 303.72 discontinued notice requirement for interstate tax refund offset.	Systems Modification.	One-time system enhancement.	500 hours × $100 × 54 States	2,700,000	1,782,000	918,000
Added requirement under § 307.11 develop automated procedures to identify the recipient of Supplemental Security Income (SSI).	Systems Modification.	One-time system enhancement.	400 hours × $100 × 54 States	2,160,000	1,425,600	734,400
Added requirement for State plan page amendment under 42 CFR 433.152.	State plan amendment.	One time for 54 State Medicaid programs, (which includes DC and 3 territories).	2 hours × $54.08 × 54 States	5,840.64	2,920.32	2,920.32
Added requirement for cooperative agreements with IV-D agencies under 42 CFR 433.152.	Cooperative agreement.	One time for 54 State Medicaid programs.	10 hours × $54.08 × 54 States.	29,203.20	14,601.60	14,601.60
Totals			265,248 hrs	26,495,043.84	17,481,121.92	9,013,921.92

Part 302 contains information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Although States will have to submit revised Child Support State plan pages for §§ 302.33, 302.56, and 302.70, we do not estimate any additional burden on the ''State Plan for Child Support Collection and Establishment of Paternity Under Title IV–D of the Social Security Act,'' and the State Plan Transmittal Form (OMB 0970–0017), which were reauthorized until June 30, 2017. When these forms were submitted for reauthorization, we had estimated that each State would be submitting eight State plan preprint pages annually as a result of changes in regulations, policies, and/or procedures.

None of the forms are new burdens on States. For example § 303.100 clarifies the regulation that States are required to use the Income Withholding Order (IWO) form. Use of the OMB-approved form is already required. The OMB Control number is 0970–0154, which expires on July 31, 2017. Section 303.35 clarifies that the OCSE–396 is used to calculate the State current spending level. This form is an OMB-approved form, Control number 0970–0181, which expires on May 31, 2017. Finally, there has been an update from use of form SF 269A to SF 425. This is a technical update with no addition burden. SF 425 is an OMB-approved

form, Control number 0348–0061, which expired on February 28, 2015.

With regard to the requirements for cooperative agreements for third party collections under 42 CFR 433.152, Medicaid State plan amendments will be required as well as amendments to State cooperative agreements. The one-time burden associated with the requirements under § 433.152 is the time and effort it will take each of the 54 State Medicaid Programs, which includes the District of Columbia and 3 territories, to submit State plan amendments and amend their cooperative agreements.

Specifically, we estimate that it will take each State 2 hours to amend their State plans and 10 hours to amend their cooperative agreements. We estimate 12 total annual hours at a total estimated cost of $35,043.84 with a State share of $17,521.92. The Centers for Medicare and Medicaid Services reimburses States for 50 percent of the administrative costs incurred to administer the Medicaid State plan.

In deriving these figures, we used the hourly rate of $54.08/hour, which is the mean hourly wage of management officials according to 2014 data from the Bureau of Labor Statistics.[121]

Other than what is addressed above, no additional information collection burdens, as described in the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), are imposed by this regulation.

Regulatory Flexibility Analysis

The Secretary certifies, under 5 U.S.C. 605(b), and enacted by the Regulatory Flexibility Act (Pub. L. 96–354), that this regulation will not result in a significant impact on a substantial number of small entities. The primary impact is on State Governments. State Governments are not considered small entities under the Act.

Regulatory Impact Analysis

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. While there are some costs associated with these regulations, they are not economically significant as defined under E.O. 12866. However, the regulation is significant and has been reviewed by OMB.

An area with associated Federal costs is modifying the child support statewide automated system for one-time system enhancements to accommodate new requirements such as notices, applications, and identifying noncustodial parents receiving SSI, and CMS State plan changes. This rule has a total cost of approximate $26,495,044. This includes a total cost of $26,460,000 to modify statewide IV–D systems for the 54 States or Territories at a cost of $100 an hour (with an assumption that 27 States will implement the optional requirements), with $17,463,600 as the Federal share. In addition, there is a cost of $35,044 is designated to CMS' costs for State plan amendments and cooperative agreements, which includes the Federal share of $17,522.

These regulations will improve the delivery of child support services, support the efforts of noncustodial parents to provide for their children, and improve the efficiency of operations.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, Tribal and local Governments, in the aggregate, or by the private sector, of $100 million or more in any one year. This $100 million threshold was based on 1995 dollars. The current threshold, adjusted for inflation is $146 million. This rule would not impose a mandate that will result in the expenditure by State, local, and Tribal Governments, in the aggregate, or by the private sector, of more than $146 million in any one year.

Congressional Review

This final rule is not a major rule as defined in 5 U.S.C. Chapter 8.

Assessment of Federal Regulations and Policies on Families

Section 654 of the Treasury and General Government Appropriations Act of 1999 requires Federal agencies to determine whether a policy or regulation may negatively affect family well-being. If the agency's determination is affirmative, then the agency must prepare an impact assessment addressing seven criteria specified in the law. The required review of the regulations and policies to determine their effect on family well-being has been completed, and this rule will have a positive impact on family well-being as defined in the legislation by helping to ensure that parents support their children, even when they reside in separate jurisdictions, and will strengthen personal responsibility and increase disposable family income.

Executive Order 13132

Executive Order 13132 prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments or is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism impact as defined in the Executive Order.

List of Subjects

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

45 CFR Part 301

Child support, State plan approval and grant procedures.

45 CFR Part 302

Child support, State plan requirements.

45 CFR Part 303

Child support, Standards for program operations.

45 CFR Part 304

Child support, Federal financial participation.

45 CFR Part 305

Child support, Program performance measures, Standards, Financial incentives, Penalties.

45 CFR Part 307

Child support, Computerized support enforcement systems.

45 CFR Part 308

Child support, Annual State self-assessment review and report.

45 CFR Part 309

Child support, Grant programs—social programs, Indians, Reporting and recordkeeping requirements.

[121] The BLS Occupational Employment Statistics 2014 wage data for management occupations is available at: *www.bls.gov/oes/current/oes110000.htm.*

(Catalog of Federal Domestic Assistance Programs No. 93.563, Child Support Enforcement Program.)

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

Andy Slavitt,

Acting Administrator for the Centers for Medicare & Medicaid Services.

Sylvia M. Burwell,

Secretary.

■ For the reasons discussed above, the Department of Health and Human Services amends 42 CFR part 433 and 45 CFR chapter III as set forth below:

Centers for Medicare and Medicaid Services

42 CFR Chapter IV

PART 433—STATE FISCAL ADMINISTRATION

■ 1. The authority citation for part 433 is revised to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

■ 2. Section 433.152 is amended, effective January 20, 2017 by revising paragraph (b) to read as follows:

§ 433.152 Requirements for cooperative agreements for third party collections.

* * * * *

(b) Agreements with title IV–D agencies must specify that:

(1) The Medicaid agency may not refer a case for medical support enforcement when the following criteria have been met:

(i) The Medicaid referral is based solely upon health care services provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12)), including through the Purchased/Referred Care program, to a child who is eligible for health care services from the Indian Health Service (IHS).

(ii) [Reserved]

(2) The Medicaid agency will provide reimbursement to the IV–D agency only for those child support services performed that are not reimbursable by the Office of Child Support Enforcement under title IV–D of the Act and that are necessary for the collection of amounts for the Medicaid program.

Administration for Children and Families

45 CFR Chapter III

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

■ 3. The authority citation for part 301 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1301, and 1302.

■ 4. Amend § 301.1 by revising the first sentence of the definition of ''Procedures'' and adding the definition of ''Record'' in alphabetical order to read as follows:

§ 301.1 General definitions.

* * * * *

Procedures means a set of instructions in a record which describe in detail the step by step actions to be taken by child support enforcement personnel in the performance of a specific function under the State's IV–D plan. * * *

* * * * *

Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

* * * * *

■ 5. Amend § 301.13 by revising the first sentence of the introductory text and paragraphs (e) and (f) to read as follows:

§ 301.13 Approval of State plans and amendments.

The State plan consists of records furnished by the State to cover its Child Support Enforcement program under title IV–D of the Act. * * *

* * * * *

(e) *Prompt approval of the State plan.* The determination as to whether the State plan submitted for approval conforms to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and not later than the 90th day following the date on which the plan submittal is received in OCSE Regional Program Office, unless the Regional Office has secured from the IV–D agency an agreement, which is reflected in a record, to extend that period.

(f) *Prompt approval of plan amendments.* Any amendment of an approved State plan may, at the option of the State, be considered as a submission of a new State plan. If the State requests that such amendments be so considered, the determination as to its conformity with the requirements for approval shall be made promptly and not later than the 90th day following the date on which such a request is received in the Regional Office with respect to an amendment that has been received in such office, unless the Regional Office has secured from the State agency an agreement, which is reflected in a record, to extend that period.

* * * * *

■ 6. Amend § 301.15 by revising paragraphs (a), (b), (c), and (d), and by removing paragraph (e) to read as follows:

§ 301.15 Grants.

* * * * *

(a) *Financial reporting forms*—(1) *Form OCSE–396: Child Support Enforcement Program Quarterly Financial Report.* States submit this form quarterly to report the actual amount of State and Federal share of title IV–D program expenditures and program income of the current quarter and to report the estimated amount of the State and Federal share of title IV–D program expenditures for the next quarter. This form is completed in accordance with published instructions. The digital signature of the authorized State program official on this document certifies that the reported expenditures and estimates are accurate and that the State has or will have the necessary State share of estimated program expenditures available when needed.

(2) *Form OCSE–34: Child Support Enforcement Program Quarterly Collection Report.* States submit this form quarterly to report the State and Federal share of child support collections received, distributed, disbursed, and remaining undistributed under the title IV–D program. This form is completed in accordance with published instructions. The digital signature of the authorized State program official on this document certifies that the reported amounts are accurate. The Federal share of actual program expenditures and collections and the Federal share of estimated program expenditures reported on Form OCSE–396 and the Federal share of child support collections reported on Form OCSE–34 are used in the computation of quarterly grant awards issued to the State.

(b) *Submission, review, and approval*—(1) *Manner of submission.* The Administration for Children and Families (ACF) maintains an On-line Data Collection (OLDC) system available to every State. States must use OLDC to submit reporting information electronically. To use OLDC, a State must request access from the ACF Office of Grants Management and use an approved digital signature.

(2) *Schedule of submission.* Forms OCSE–396 and OCSE–34 must be electronically submitted no later than 45 days following the end of the each fiscal quarter. No submission, revisions, or adjustments of the financial reports submitted for any quarter of a fiscal year will be accepted by OCSE later than December 31, which is 3 months after the end of the fiscal year.

(3) *Review and approval.* The data submitted on Forms OCSE–396 and OCSE–34 are subject to analysis and review by the Regional Grants Officer in the appropriate ACF Regional Office and approval by the Director, Office of Grants Management, in the ACF central office. In the course of this analysis, review, and approval process, any reported program expenditures that cannot be determined to be allowable are subject to the deferral procedures found at 45 CFR 201.15 or the disallowance process found at 45 CFR 304.29 and 201.14 and 45 CFR part 16.

(c) *Grant award*—(1) *Award documents.* The grant award consists of a signed award letter and an accompanying ''Computation of Grant Award'' to detail the award calculation.

(2) *Award calculation.* The quarterly grant award is based on the information submitted by the State on the financial reporting forms and consists of:

(i) An advance of funds for the next quarter, based on the State's approved estimate; and

(ii) The reconciliation of the advance provided for the current quarter, based on the State's approved expenditures.

(3) *Access to funds.* A copy of the grant documents are provided to the HHS Program Support Center's Division of Payment Management, which maintains the Payment Management System (PMS). The State is able to request a drawdown of funds from PMS through a commercial bank and the Federal Reserve System against a continuing letter of credit. The letter of credit system for payment of advances of Federal funds was established pursuant to Treasury Department regulations. (Circular No. 1075).

(d) *General administrative requirements.* The provisions of part 95 of this title, establishing general administrative requirements for grant programs and part 75 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made to the States under this part, with the following exceptions:

(1) 45 CFR 75.306, *Cost sharing or matching* and

(2) 45 CFR 75.341, *Financial reporting.*

* * * * *

PART 302—STATE PLAN REQUIREMENTS

■ 7. The authority citation for part 302 continues to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

■ 8. Revise § 302.14 to read as follows:

§ 302.14 Fiscal policies and accountability.

The State plan shall provide that the IV–D agency, in discharging its fiscal accountability, will maintain an accounting system and supporting fiscal records adequate to assure that claims for Federal funds are in accord with applicable Federal requirements. The retention and custodial requirements for these records are prescribed in 45 CFR 75.361 through 75.370.

■ 9. Amend § 302.15 by removing ''and'' at the end of paragraph (a)(6), revising paragraph (a)(7), and adding paragraph (a)(8) to read as follows:

§ 302.15 Reports and Maintenance of Records.

* * * * *

(a) * * *

(7) Statistical, fiscal, and other records necessary for reporting and accountability required by the Secretary; and

(8) The retention and custodial requirements for the records in this section are prescribed in 45 CFR 75.361 through 75.370

* * * * *

■ 10. Amend § 302.32 by revising the section heading, introductory text, and paragraphs (a), (b) introductory text, and (b)(1) to read as follows:

§ 302.32 Collection and disbursement of support payments by the IV–D agency.

The State plan shall provide that:

(a) The IV–D agency must establish and operate a State Disbursement Unit (SDU) for the collection and disbursement of payments under support orders—

(1) In all cases being enforced under the State IV–D plan; and

(2) In all cases not being enforced under the State IV–D plan in which the support order is initially issued in the State on or after January 1, 1994, and in which the income of the noncustodial parent is subject to withholding in accordance with section 466(a)(8)(B) of the Act.

(b) Timeframes for disbursement of support payments by SDUs under section 454B of the Act.

(1) In intergovernmental IV–D cases, amounts collected by the responding State on behalf of the initiating agency must be forwarded to the initiating agency within 2 business days of the date of receipt by the SDU in the responding State, in accordance with § 303.7(d)(6)(v) of this chapter.

* * * * *

■ 11. Amend § 302.33 by revising paragraph (a)(4), adding paragraph (a)(6), and revising the first sentence of paragraph (d)(2) to read as follows:

§ 302.33 Services to individuals not receiving title IV–A assistance.

(a) * * *

(4) Whenever a family is no longer eligible for assistance under the State's title IV–A and Medicaid programs, the IV–D agency must notify the family, within 5 working days of the notification of ineligibility, that IV–D services will be continued unless the family notifies the IV–D agency that it no longer wants services but instead wants to close the case. This notice must inform the family of the benefits and consequences of continuing to receive IV–D services, including the available services and the State's fees, cost recovery, and distribution policies. This requirement to notify the family that services will be continued, unless the family notifies the IV–D agency to the contrary, also applies when a child is no longer eligible for IV–E foster care, but only in those cases that the IV–D agency determines that such services and notice would be appropriate.

* * * * *

(6) The State may elect in its State plan to allow an individual under paragraph (a)(1)(i) of this section who files an application to request paternity-only limited services in an intrastate case. If the State chooses this option, the State must define how this process will be implemented and must establish and use procedures, including domestic violence safeguards, which are reflected in a record, that specify when paternity-only limited services will be available. An application will be considered full-service unless the parent specifically applies for paternity-only limited services in accordance with the State's procedures. If one parent specifically requests paternity-only limited services and the other parent requests full services, the case will automatically receive full services. The State will be required to charge the application and service fees required under paragraphs (c) and (e) of this section for paternity-only limited services, and may recover costs in accordance with paragraph (d) of this section if the State has chosen this option in its State plan. The State must provide the applicant an application form with information on the availability of paternity-only limited services, consequences of selecting this limited service, and an explanation that the case will be closed when the limited service is completed.

* * * * *

(d) * * *

(2) A State that recovers standardized costs under paragraph (d)(1) of this section shall develop a methodology, which is reflected in a record, to

determine standardized costs which are as close to actual costs as is possible.
* * *

* * * * *

■ 12. Amend § 302.34 by revising the first sentence to read as follows:

§ 302.34 Cooperative arrangements.

The State plan shall provide that the State will enter into agreements, which are reflected in a record, for cooperative arrangements under § 303.107 of this chapter with appropriate courts; law enforcement officials, such as district attorneys, attorneys general, and similar public attorneys and prosecutors; corrections officials; and Indian Tribes or Tribal organizations. * * *

■ 13. Revise § 302.38 to read as follows:

§ 302.38 Payments to the family.

The State plan shall provide that any payment required to be made under §§ 302.32 and 302.51 to a family will be made directly to the resident parent, legal guardian, caretaker relative having custody of or responsibility for the child or children, judicially-appointed conservator with a legal and fiduciary duty to the custodial parent and the child, or alternate caretaker designated in a record by the custodial parent. An alternate caretaker is a nonrelative caretaker who is designated in a record by the custodial parent to take care of the children for a temporary time period.

■ 14. Amend § 302.50 by revising paragraph (b)(2) to read as follows:

§ 302.50 Assignment of rights to support.

* * * * *

(b) * * *

(2) If there is no court or administrative order, an amount determined in a record by the IV–D agency as part of the legal process referred to in paragraph (a)(2) of this section in accordance with the requirements of § 302.56.

* * * * *

■ 15. Revise § 302.56 to read as follows:

§ 302.56 Guidelines for setting child support orders.

(a) Within 1 year after completion of the State's next quadrennial review of its child support guidelines, that commences more than 1 year after publication of the final rule, in accordance with § 302.56(e), as a condition of approval of its State plan, the State must establish one set of child support guidelines by law or by judicial or administrative action for setting and modifying child support order amounts within the State that meet the requirements in this section.

(b) The State must have procedures for making the guidelines available to all persons in the State.

(c) The child support guidelines established under paragraph (a) of this section must at a minimum:

(1) Provide that the child support order is based on the noncustodial parent's earnings, income, and other evidence of ability to pay that:

(i) Takes into consideration all earnings and income of the noncustodial parent (and at the State's discretion, the custodial parent);

(ii) Takes into consideration the basic subsistence needs of the noncustodial parent (and at the State's discretion, the custodial parent and children) who has a limited ability to pay by incorporating a low-income adjustment, such as a self-support reserve or some other method determined by the State; and

(iii) If imputation of income is authorized, takes into consideration the specific circumstances of the noncustodial parent (and at the State's discretion, the custodial parent) to the extent known, including such factors as the noncustodial parent's assets, residence, employment and earnings history, job skills, educational attainment, literacy, age, health, criminal record and other employment barriers, and record of seeking work, as well as the local job market, the availability of employers willing to hire the noncustodial parent, prevailing earnings level in the local community, and other relevant background factors in the case.

(2) Address how the parents will provide for the child's health care needs through private or public health care coverage and/or through cash medical support;

(3) Provide that incarceration may not be treated as voluntary unemployment in establishing or modifying support orders; and

(4) Be based on specific descriptive and numeric criteria and result in a computation of the child support obligation.

(d) The State must include a copy of the child support guidelines in its State plan.

(e) The State must review, and revise, if appropriate, the child support guidelines established under paragraph (a) of this section at least once every four years to ensure that their application results in the determination of appropriate child support order amounts. The State shall publish on the internet and make accessible to the public all reports of the guidelines reviewing body, the membership of the reviewing body, the effective date of the guidelines, and the date of the next quadrennial review.

(f) The State must provide that there will be a rebuttable presumption, in any judicial or administrative proceeding for the establishment and modification of a child support order, that the amount of the order which would result from the application of the child support guidelines established under paragraph (a) of this section is the correct amount of child support to be ordered.

(g) A written finding or specific finding on the record of a judicial or administrative proceeding for the establishment or modification of a child support order that the application of the child support guidelines established under paragraph (a) of this section would be unjust or inappropriate in a particular case will be sufficient to rebut the presumption in that case, as determined under criteria established by the State. Such criteria must take into consideration the best interests of the child. Findings that rebut the child support guidelines shall state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(h) As part of the review of a State's child support guidelines required under paragraph (e) of this section, a State must:

(1) Consider economic data on the cost of raising children, labor market data (such as unemployment rates, employment rates, hours worked, and earnings) by occupation and skill-level for the State and local job markets, the impact of guidelines policies and amounts on custodial and noncustodial parents who have family incomes below 200 percent of the Federal poverty level, and factors that influence employment rates among noncustodial parents and compliance with child support orders;

(2) Analyze case data, gathered through sampling or other methods, on the application of and deviations from the child support guidelines, as well as the rates of default and imputed child support orders and orders determined using the low-income adjustment required under paragraph (c)(1)(ii) of this section. The analysis must also include a comparison of payments on child support orders by case characteristics, including whether the order was entered by default, based on imputed income, or determined using the low-income adjustment required under paragraph (c)(1)(ii). The analysis of the data must be used in the State's review of the child support guidelines to ensure that deviations from the guidelines are limited and guideline amounts are appropriate based on

criteria established by the State under paragraph (g); and

(3) Provide a meaningful opportunity for public input, including input from low-income custodial and noncustodial parents and their representatives. The State must also obtain the views and advice of the State child support agency funded under title IV–D of the Act.

■ 16. Amend § 302.65 by:

■ a. In paragraph (a), removing the definition of ''State employment security agency'';

■ b. In paragraph (a), adding the definition of ''State workforce agency'' in alphabetical order;

■ c. Revising paragraph (b);

■ d. Removing the term ''SESA'' wherever it appears and adding in its place the term ''SWA'' in paragraphs (c)(1), (2), and (5) through (7); and

■ e. Revising paragraph (c)(3).

The revisions and addition read as follows.

§ 302.65 Withholding of unemployment compensation.

* * * * *

(a) * * *

State workforce agency or *SWA* means the State agency charged with the administration of the State unemployment compensation laws in accordance with title III of the Act.

* * * * *

(b) *Agreement.* The State IV–D agency shall enter into an agreement, which is reflected in a record, with the SWA in its State for the purpose of withholding unemployment compensation from individuals with unmet support obligations being enforced by the IV–D agency. The IV–D agency shall agree only to a withholding program that it expects to be cost effective and to reimbursement for the SWA's actual, incremental costs of providing services to the IV–D agency.

(c) * * *

(3) Establish and use criteria, which are reflected in a record, for selecting cases to pursue via the withholding of unemployment compensation for support purposes. These criteria must be designed to ensure maximum case selection and minimal discretion in the selection process.

* * * * *

■ 17. Amend § 302.70, by revising paragraphs (a)(5)(v), (a)(8), and the first sentence of paragraph (d)(2) to read as follows:

§ 302.70 Required State laws.

(a) * * *

(5) * * *

(v) Procedures which provide that any objection to genetic testing results must be made in writing within a specified number of days before any hearing at which such results may be introduced into evidence; and if no objection is made, a report of the test results, which is reflected in a record, is admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy;

* * * * *

(8) Procedures under which all child support orders which are issued or modified in the State will include provision for withholding from income, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing an application for services under § 302.33, in accordance with § 303.100(g) of this chapter.

* * * * *

(d) * * *

(2) *Basis for granting exemption.* The Secretary will grant a State, or political subdivision in the case of section 466(a)(2) of the Act, an exemption from any of the requirements of paragraph (a) of this section for a period not to exceed 5 years if the State demonstrates that compliance would not increase the effectiveness and efficiency of its Child Support Enforcement program. * * *

* * * * *

■ 18. Amend § 302.85 by revising paragraphs (a)(1) and (b)(2)(ii) to read as follows:

§ 302.85 Mandatory computerized support enforcement system.

(a) * * *

(1) * * * This guide is available on the OCSE Web site; and

(b) * * *

(2) * * *

(ii) The State provides assurances, which are reflected in a record, that steps will be taken to otherwise improve the State's Child Support Enforcement program.

PART 303—STANDARDS FOR PROGRAM OPERATIONS

■ 19. The authority citation for part 303 is revised to read as follows:

Authority: 42 U.S.C. 651 through 658, 659a, 660, 663, 664, 666, 667, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), 1396(k), and 25 U.S.C. 1603(12) and 1621e.

■ 20. Amend § 303.2 by revising the first sentence of paragraph (a)(2) and revising paragraph (a)(3) to read as follows:

§ 303.2 Establishment of cases and maintenance of case records.

(a) * * *

(2) When an individual requests an application for IV–D services, provide an application to the individual on the day the individual makes a request in person, or send an application to the individual within no more than 5 working days of a request received by telephone or in a record. * * *

(3) Accept an application as filed on the day it and the application fee are received. An application is a record that is provided or used by the State which indicates that the individual is applying for child support enforcement services under the State's title IV–D program and is signed, electronically or otherwise, by the individual applying for IV–D services.

* * * * *

■ 21. Amend § 303.3 by:

■ a. Revising paragraph (b)(1); and

■ b. In paragraph (b)(5), removing the term ''State employment security'' and adding the term ''State workforce'' in its place.

The revision reads as follows:

§ 303.3 Location of noncustodial parents in IV–D cases.

* * * * *

(b) * * *

(1) Use appropriate location sources such as the Federal PLS; interstate location networks; local officials and employees administering public assistance, general assistance, medical assistance, Supplemental Nutrition Assistance Program (SNAP) and social services (whether such individuals are employed by the State or a political subdivision); relatives and friends of the noncustodial parent; current or past employers; electronic communications and internet service providers; utility companies; the U.S. Postal Service; financial institutions; unions; corrections institutions; fraternal organizations; police, parole, and probation records if appropriate; and State agencies and departments, as authorized by State law, including those departments which maintain records of public assistance, wages and employment, unemployment insurance, income taxation, driver's licenses, vehicle registration, and criminal records and other sources;

* * * * *

■ 22. Amend § 303.4 by revising paragraph (b) to read as follows:

§ 303.4 Establishment of support obligations.

* * * * *

(b) Use appropriate State statutes, procedures, and legal processes in establishing and modifying support obligations in accordance with § 302.56 of this chapter, which must include, at a minimum:

(1) Taking reasonable steps to develop a sufficient factual basis for the support obligation, through such means as

investigations, case conferencing, interviews with both parties, appear and disclose procedures, parent questionnaires, testimony, and electronic data sources;

(2) Gathering information regarding the earnings and income of the noncustodial parent and, when earnings and income information is unavailable or insufficient in a case gathering available information about the specific circumstances of the noncustodial parent, including such factors as those listed under § 302.56(c)(1)(iii) of this chapter;

(3) Basing the support obligation or recommended support obligation amount on the earnings and income of the noncustodial parent whenever available. If evidence of earnings and income is unavailable or insufficient to use as the measure of the noncustodial parent's ability to pay, then the support obligation or recommended support obligation amount should be based on available information about the specific circumstances of the noncustodial parent, including such factors as those listed in § 302.56(c)(1)(iii) of this chapter.

(4) Documenting the factual basis for the support obligation or the recommended support obligation in the case record.

* * * * *

■ 23. Amend § 303.5 by revising paragraph (g)(6) to read as follows:

§ 303.5 Establishment of paternity.

* * * * *

(g) * * *

(6) The State must provide training, guidance, and instructions, which are reflected in a record, regarding voluntary acknowledgment of paternity, as necessary to operate the voluntary paternity establishment services in the hospitals, State birth record agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program.

* * * * *

■ 24. Amend § 303.6 by:

■ a. Removing ''and'' at the end of paragraph (c)(3);

■ b. Redesignating paragraph (c)(4) as paragraph (c)(5); and

■ c. Adding new paragraph (c)(4).

The addition reads as follows:

§ 303.6 Enforcement of support obligations.

* * * * *

(c) * * *

(4) Establishing guidelines for the use of civil contempt citations in IV–D cases. The guidelines must include requirements that the IV–D agency:

(i) Screen the case for information regarding the noncustodial parent's ability to pay or otherwise comply with the order;

(ii) Provide the court with such information regarding the noncustodial parent's ability to pay, or otherwise comply with the order, which may assist the court in making a factual determination regarding the noncustodial parent's ability to pay the purge amount or comply with the purge conditions; and

(iii) Provide clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action; and

* * * * *

■ 25. Amend § 303.7 by revising paragraphs (c)(10) and (d)(10) and adding paragraph (f) to read as follows:

§ 303.7 Provision of services in intergovernmental IV–D cases.

* * * * *

(c) * * *

(10) Distribute and disburse any support collections received in accordance with this section and §§ 302.32, 302.38, 302.51, and 302.52 of this chapter, sections 454(5), 454B, 457, and 1912 of the Act, and instructions issued by the Office;

(d) * * *

(10) Notify the initiating agency when a case is closed pursuant to §§ 303.11(b)(17) through (19) and 303.7(d)(9).

* * * * *

(f) *Imposition and reporting of annual $25 fee in interstate cases.* The title IV–D agency in the initiating State must impose and report the annual $25 fee in accordance with § 302.33(e) of this chapter.

■ 26. Amend § 303.8 by:

■ a. Redesignating paragraphs (b)(2) through (6) as paragraphs (b)(3) through (7), respectively;

■ b. Adding new paragraph (b)(2);

■ c. Revising newly redesignated paragraph (b)(7);

■ d. Adding a sentence at the end of paragraph (c); and

■ e. Revising paragraph (d).

The additions and revisions read as follows:

§ 303.8 Review and adjustment of child support orders.

* * * * *

(b) * * *

(2) The State may elect in its State plan to initiate review of an order, after learning that a noncustodial parent will be incarcerated for more than 180 calendar days, without the need for a specific request and, upon notice to both parents, review and, if appropriate, adjust the order, in accordance with paragraph (b)(1)(i) of this section.

* * * * *

(7) The State must provide notice—

(i) Not less than once every 3 years to both parents subject to an order informing the parents of their right to request the State to review and, if appropriate, adjust the order consistent with this section. The notice must specify the place and manner in which the request should be made. The initial notice may be included in the order.

(ii) If the State has not elected paragraph (b)(2) of this section, within 15 business days of when the IV–D agency learns that a noncustodial parent will be incarcerated for more than 180 calendar days, to both parents informing them of the right to request the State to review and, if appropriate, adjust the order, consistent with this section. The notice must specify, at a minimum, the place and manner in which the request should be made. Neither the notice nor a review is required under this paragraph if the State has a comparable law or rule that modifies a child support obligation upon incarceration by operation of State law.

(c) * * * Such reasonable quantitative standard must not exclude incarceration as a basis for determining whether an inconsistency between the existing child support order amount and the amount of support determined as a result of a review is adequate grounds for petitioning for adjustment of the order.

(d) *Health care needs must be an adequate basis.* The need to provide for the child's health care needs in the order, through health insurance or other means, must be an adequate basis under State law to initiate an adjustment of an order, regardless of whether an adjustment in the amount of child support is necessary.

* * * * *

■ 27. Revise § 303.11 to read as follows:

§ 303.11 Case closure criteria.

(a) The IV–D agency shall establish a system for case closure.

(b) The IV–D agency may elect to close a case if the case meets at least one of the following criteria and supporting documentation for the case closure decision is maintained in the case record:

(1) There is no longer a current support order and arrearages are under $500 or unenforceable under State law;

(2) There is no longer a current support order and all arrearages in the case are assigned to the State;

(3) There is no longer a current support order, the children have

reached the age of majority, the noncustodial parent is entering or has entered long-term care arrangements (such as a residential care facility or home health care), and the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support;

(4) The noncustodial parent or alleged father is deceased and no further action, including a levy against the estate, can be taken;

(5) The noncustodial parent is living with the minor child (as the primary caregiver or in an intact two parent household), and the IV–D agency has determined that services are not appropriate or are no longer appropriate;

(6) Paternity cannot be established because:

(i) The child is at least 18 years old and an action to establish paternity is barred by a statute of limitations that meets the requirements of § 302.70(a)(5) of this chapter;

(ii) A genetic test or a court or an administrative process has excluded the alleged father and no other alleged father can be identified;

(iii) In accordance with § 303.5(b), the IV–D agency has determined that it would not be in the best interests of the child to establish paternity in a case involving incest or rape, or in any case where legal proceedings for adoption are pending; or

(iv) The identity of the biological father is unknown and cannot be identified after diligent efforts, including at least one interview by the IV–D agency with the recipient of services;

(7) The noncustodial parent's location is unknown, and the State has made diligent efforts using multiple sources, in accordance with § 303.3, all of which have been unsuccessful, to locate the noncustodial parent:

(i) Over a 2-year period when there is sufficient information to initiate an automated locate effort; or

(ii) Over a 6-month period when there is not sufficient information to initiate an automated locate effort; or

(iii) After a 1-year period when there is sufficient information to initiate an automated locate effort, but locate interfaces are unable to verify a Social Security Number;

(8) The IV–D agency has determined that throughout the duration of the child's minority (or after the child has reached the age of majority), the noncustodial parent cannot pay support and shows no evidence of support potential because the parent has been institutionalized in a psychiatric facility, is incarcerated, or has a medically-verified total and permanent disability. The State must also determine that the noncustodial parent has no income or assets available above the subsistence level that could be levied or attached for support;

(9) The noncustodial parent's sole income is from:

(i) Supplemental Security Income (SSI) payments made in accordance with sections 1601 *et seq.,* of title XVI of the Act, 42 U.S.C. 1381 *et seq.;* or

(ii) Both SSI payments and Social Security Disability Insurance (SSDI) benefits under title II of the Act.

(10) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and there is no Federal or State treaty or reciprocity with the country;

(11) The IV–D agency has provided location-only services as requested under § 302.35(c)(3) of this chapter;

(12) The non-IV–A recipient of services requests closure of a case and there is no assignment to the State of medical support under 42 CFR 433.146 or of arrearages which accrued under a support order;

(13) The IV–D agency has completed a limited service under § 302.33(a)(6) of this chapter;

(14) There has been a finding by the IV–D agency, or at the option of the State, by the responsible State agency of good cause or other exceptions to cooperation with the IV–D agency and the State or local assistance program, such as IV–A, IV–E, Supplemental Nutrition Assistance Program (SNAP), and Medicaid, has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

(15) In a non-IV–A case receiving services under § 302.33(a)(1)(i) or (iii) of this chapter, or under § 302.33(a)(1)(ii) when cooperation with the IV–D agency is not required of the recipient of services, the IV–D agency is unable to contact the recipient of services despite a good faith effort to contact the recipient through at least two different methods;

(16) In a non-IV–A case receiving services under § 302.33(a)(1)(i) or (iii) of this chapter, or under § 302.33(a)(1)(ii) when cooperation with the IV–D agency is not required of the recipient of services, the IV–D agency documents the circumstances of the recipient's noncooperation and an action by the recipient of services is essential for the next step in providing IV–D services;

(17) The responding agency documents failure by the initiating agency to take an action that is essential for the next step in providing services;

(18) The initiating agency has notified the responding State that the initiating State has closed its case under § 303.7(c)(11);

(19) The initiating agency has notified the responding State that its intergovernmental services are no longer needed;

(20) Another assistance program, including IV–A, IV–E, SNAP, and Medicaid, has referred a case to the IV–D agency that is inappropriate to establish, enforce, or continue to enforce a child support order and the custodial or noncustodial parent has not applied for services; or

(21) The IV–D case, including a case with arrears assigned to the State, has been transferred to a Tribal IV–D agency and the State IV–D agency has complied with the following procedures:

(i) Before transferring the State IV–D case to a Tribal IV–D agency and closing the IV–D case with the State:

(A) The recipient of services requested the State to transfer the case to the Tribal IV–D agency and close the case with the State; or

(B) The State IV–D agency notified the recipient of services of its intent to transfer the case to the Tribal IV–D agency and close the case with the State and the recipient did not respond to the notice to transfer the case within 60 calendar days from the date notice was provided;

(ii) The State IV–D agency completely and fully transferred and closed the case; and

(iii) The State IV–D agency notified the recipient of services that the case has been transferred to the Tribal IV–D agency and closed; or

(iv) The Tribal IV–D agency has a State-Tribal agreement approved by OCSE to transfer and close cases. The State-Tribal agreement must include a provision for obtaining the consent from the recipient of services to transfer and close the case.

(c) The IV–D agency must close a case and maintain supporting documentation for the case closure decision when the following criteria have been met:

(1) The child is eligible for health care services from the Indian Health Service (IHS); and

(2) The IV–D case was opened because of a Medicaid referral based solely upon health care services, including the Purchased/Referred Care program, provided through an Indian Health Program (as defined at 25 U.S.C. 1603(12)).

(d) The IV–D agency must have the following requirements for case closure notification and case reopening:

(1) In cases meeting the criteria in paragraphs (b)(1) through (10) and (b)(15) and (16) of this section, the State must notify the recipient of services in writing 60 calendar days prior to closure of the case of the State's intent to close the case.

(2) In an intergovernmental case meeting the criteria for closure under paragraph (b)(17) of this section, the responding State must notify the initiating agency, in a record, 60 calendar days prior to closure of the case of the State's intent to close the case.

(3) The case must be kept open if the recipient of services or the initiating agency supplies information in response to the notice provided under paragraph (d)(1) or (2) of this section that could lead to the establishment of paternity or a support order or enforcement of an order, or, in the instance of paragraph (b)(15) of this section, if contact is reestablished with the recipient of services.

(4) For cases to be closed in accordance with paragraph (b)(13) of this section, the State must notify the recipient of services, in writing, 60 calendar days prior to closure of the case of the State's intent to close the case. This notice must also provide information regarding reapplying for child support services and the consequences of receiving services, including any State fees, cost recovery, and distribution policies. If the recipient reapplies for child support services in a case that was closed in accordance with paragraph (b)(13) of this section, the recipient must complete a new application for IV–D services and pay any applicable fee.

(5) If the case is closed, the former recipient of services may request at a later date that the case be reopened if there is a change in circumstances that could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application for IV–D services and paying any applicable fee.

(6) For notices under paragraphs (d)(1) and (4) of this section, if the recipient of services specifically authorizes consent for electronic notifications, the IV–D agency may elect to notify the recipient of services electronically of the State's intent to close the case. The IV–D agency must maintain documentation of the recipient's consent in the case record.

(e) The IV–D agency must retain all records for cases closed in accordance with this section for a minimum of 3 years, in accordance with 45 CFR 75.361.

■ 28. Amend § 303.31 by revising paragraphs (a)(2) and (3), (b)(1) and (2), (b)(3) introductory text, (b)(3)(i), and (b)(4) to read as follows:

§ 303.31 Securing and enforcing medical support obligations.

(a) * * *

(2) Health care coverage includes fee for service, health maintenance organization, preferred provider organization, and other types of private health insurance and public health care coverage under which medical services could be provided to the dependent child(ren).

(3) Cash medical support or the cost of health insurance is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of his or her gross income or, at State option, a reasonable alternative income-based numeric standard defined in State law, regulations, or court rule having the force of law or State child support guidelines adopted in accordance with § 302.56(c) of this chapter.

(b) * * *

(1) Petition the court or administrative authority to—

(i) Include health care coverage that is accessible to the child(ren), as defined by the State, and is available to the parent responsible for providing medical support and can be obtained for the child at reasonable cost, as defined under paragraph (a)(3) of this section, in new or modified court or administrative orders for support; and

(ii) Allocate the cost of coverage between the parents.

(2) If health care coverage described in paragraph (b)(1) of this section is not available at the time the order is entered or modified, petition to include cash medical support in new or modified orders until such time as health care coverage, that is accessible and reasonable in cost as defined under paragraph (a)(3) of this section, becomes available. In appropriate cases, as defined by the State, cash medical support may be sought in addition to health care coverage.

(3) Establish criteria, which are reflected in a record, to identify orders that do not address the health care needs of children based on—

(i) Evidence that health care coverage may be available to either parent at reasonable cost, as defined under paragraph (a)(3) of this section; and

* * * * *

(4) Petition the court or administrative authority to modify support orders, in accordance with State child support guidelines, for cases identified in paragraph (b)(3) of this section to include health care coverage and/or cash medical support in accordance with paragraphs (b)(1) and (2) of this section.

* * * * *

■ 29. Amend § 303.72 by revising paragraph (d)(1) to read as follows:

§ 303.72 Requests for collection of past-due support by Federal tax refund offset.

* * * * *

(d) * * *

(1) The State referring past-due support for offset must, in interstate situations, notify any other State involved in enforcing the support order when it receives the offset amount from the Secretary of the U.S. Treasury.

* * * * *

■ 30. Amend § 303.100 by revising paragraph (e)(1) introductory text and adding paragraphs (h) and (i) to read as follows:

§ 303.100 Procedures for income withholding.

* * * * *

(e) * * *

(1) To initiate withholding, the State must send the noncustodial parent's employer a notice using the required OMB-approved *Income Withholding for Support* form that includes the following:

* * * * *

(h) *Notice to employer in all child support orders.* The notice to employers in all child support orders must be on an OMB-approved *Income Withholding for Support* form.

(i) *Payments sent to the SDU in child support order not enforced under the State IV–D plan.* Income withholding payments made under child support orders initially issued in the State on or after January 1, 1994 that are not being enforced under the State IV–D plan must be sent to the State Disbursement Unit for disbursement to the family in accordance with sections 454B and 466(a)(8) and (b)(5) of the Act and § 302.32(a) of this chapter.

PART 304—FEDERAL FINANCIAL PARTICIPATION

■ 31. The authority for part 304 continues to read as follows:

Authority: 42 U.S.C. 651 through 655, 657, 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

■ 32. Revise § 304.10 to read as follows:

§ 304.10 General administrative requirements.

As a condition for Federal financial participation, the provisions of 45 CFR

part 75 (with the exception of 45 CFR 75.306, *Cost sharing or matching* and 45 CFR 75.341, *Financial reporting*) establishing uniform administrative requirements and cost principles shall apply to all grants made to States under this part.

§ 304.12 [Amended]

■ 33. Amend § 304.12 by removing paragraphs (c)(4) and (5).

■ 34. Amend § 304.20 by:

■ a. Revising paragraphs (a)(1), (b) introductory text, (b)(1)(iii) introductory text, (b)(1)(viii) introductory text, and (b)(1)(viii)(A);

■ b. Removing the ''.'' at the end of paragraph (b)(1)(viii)(C) and adding a ''; '' in its place;

■ c. Adding paragraphs (b)(1)(viii)(D) and (E);

■ d. Revising paragraphs (b)(1)(ix), (b)(2) introductory text, (b)(2)(vii), and (b)(3) introductory text;

■ e. Redesignating paragraph (b)(3)(v) as paragraph (b)(3)(vii);

■ f. Adding paragraphs (b)(3)(v) and (vi);

■ g. Removing the semicolon at the end of the paragraph (b)(5)(v) and adding a period in its place;

■ h. Removing ''; and'' at the end of paragraph (b)(9) and adding a period in its place;

■ i. Revising paragraph (b)(11);

■ j. Adding paragraph (b)(12); and

■ k. Removing paragraphs (c) and (d).

The additions and revisions read as follows:

§ 304.20 Availability and rate of Federal financial participation.

(a) * * *

(1) Necessary and reasonable expenditures for child support services and activities to carry out the State title IV–D plan;

* * * * *

(b) Services and activities for which Federal financial participation will be available will be those made to carry out the State title IV–D plan, including obtaining child support, locating noncustodial parents, and establishing paternity, that are determined by the Secretary to be necessary and reasonable expenditures properly attributed to the Child Support Enforcement program including, but not limited to the following:

(1) * * *

(iii) The establishment of all necessary agreements with other Federal, State, and local agencies or private providers to carry out Child Support Enforcement program activities in accordance with Procurement Standards, 45 CFR 75.326 through 75.340. These agreements may include:

* * * * *

(viii) The establishment of agreements with agencies administering the State's title IV–A and IV–E plans including criteria for:

(A) Referring cases to and from the IV–D agency;

* * * * *

(D) The procedures to be used to coordinate services; and

(E) Agreements to exchange data as authorized by law.

(ix) The establishment of agreements with State agencies administering Medicaid or CHIP, including appropriate criteria for:

(A) Referring cases to and from the IV–D agency;

(B) The procedures to be used to coordinate services;

(C) Agreements to exchange data as authorized by law; and

(D) Transferring collections from the IV–D agency to the Medicaid agency in accordance with § 302.51(c) of this chapter.

(2) The establishment of paternity including, but not limited to:

* * * * *

(vii) Developing and providing to parents and family members, hospitals, State birth records agencies, and other entities designated by the State and participating in the State's voluntary paternity establishment program, under § 303.5(g) of this chapter, educational and outreach activities, written and audiovisual materials about paternity establishment and forms necessary to voluntarily acknowledge paternity; and

* * * * *

(3) The establishment and enforcement of support obligations including, but not limited to:

* * * * *

(v) Bus fare or other minor transportation expenses to enable custodial or noncustodial parties to participate in child support proceedings and related activities;

(vi) Services to increase *pro se* access to adjudicative and alternative dispute resolution processes in IV–D cases related to providing child support services; and

* * * * *

(11) Medical support activities as specified in §§ 303.30, 303.31, and 303.32 of this chapter.

(12) Educational and outreach activities intended to inform the public, parents and family members, and young people who are not yet parents about the Child Support Enforcement program, responsible parenting and co-parenting, family budgeting, and other financial consequences of raising children when the parents are not married to each other.

■ 35. Amend § 304.21 by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 304.21 Federal financial participation in the costs of cooperative arrangements with courts and law enforcement officials.

(a) *General.* Subject to the conditions and limitations specified in this part, Federal financial participation (FFP) at the applicable matching rate is available in the costs of cooperative agreements with appropriate courts and law enforcement officials in accordance with the requirements of § 302.34 of this chapter. *Law enforcement officials* mean district attorneys, attorneys general, similar public attorneys and prosecutors and their staff, and corrections officials. When performed under agreement, which is reflected in a record, costs of the following activities are subject to reimbursement:

(1) The activities, including administration of such activities, specified in § 304.20(b)(2) through (8), (11), and (12);

* * * * *

■ 36. Revise § 304.23 to read as follows:

§ 304.23 Expenditures for which Federal financial participation is not available.

Federal financial participation at the applicable matching rate is not available for:

(a) Activities related to administering titles I, IV–A, IV–B, IV–E, X, XIV, XVI, XIX, XX, or XXI of the Act or 7 U.S.C. Chapter 51.

(b) Purchased support enforcement services which are not secured in accordance with § 304.22.

(c) Construction and major renovations.

(d) Education and training programs and educational services for State and county employees and court personnel except direct cost of short-term training provided to IV–D agency staff in accordance with §§ 304.20(b)(2)(viii) and 304.21.

(e) Any expenditures which have been reimbursed by fees collected as required by this chapter.

(f) Any costs of those caseworkers described in § 303.20(e) of this chapter.

(g) Any expenditures made to carry out an agreement under § 303.15 of this chapter.

(h) The costs of counsel for indigent defendants in IV–D actions.

(i) Any expenditures for jailing of parents in child support enforcement cases.

(j) The costs of *guardians ad litem* in IV–D actions.

§ 304.25 [Amended]

■ 37. Amend § 304.25(b) by removing ''30 days'' and adding ''45 days'' in its place.

■ 38. Amend § 304.26 by revising paragraph (a)(1), removing and reserving paragraph (b), and removing paragraph (c).

The revision reads as follows:

§ 304.26 Determination of Federal share of collections.

(a) * * *

(1) 75 percent for Puerto Rico, the Virgin Islands, Guam, and American Samoa for the distribution of retained IV–A collections; 55 percent for Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa for the distribution of retained IV–E collections; 70 percent for the District of Columbia for the distribution of retained IV–E collections; and

* * * * *

■ 39. Amend § 304.40 by revising paragraph (a)(2) to read as follows:

§ 304.40 Repayment of Federal funds by installments.

(a) * * *

(2) The State has notified the OCSE Regional Office in a record of its intent to make installment repayments. Such notice must be given prior to the time repayment of the total was otherwise due.

* * * * *

PART 305—PROGRAM PERFORMANCE MEASURES, STANDARDS, FINANCIAL INCENTIVES, AND PENALTIES

■ 40. The authority for part 305 is revised to read as follows:

Authority: 42 U.S.C. 609(a)(8), 652(a)(4) and (g), 658a, and 1302.

■ 41. Amend § 305.35 by:

■ a. Adding a sentence to the end of paragraph (d);

■ b. Redesignating paragraph (e) as paragraph (f); and

■ c. Adding new paragraph (e).

The additions read as follows:

§ 305.35 Reinvestment.

* * * * *

(d) * * * Non-compliance will result in disallowances of incentive amounts equal to the amount of funds supplanted.

(e) Using the Form OCSE–396, ''Child Support Enforcement Program Quarterly Financial Report,'' the State Current Spending Level will be calculated by determining the State Share of Total Expenditures Claimed for all four quarters of the fiscal year minus State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for all four quarters of the fiscal year, plus the Federal Parent Locator Service (FPLS) fees for all four quarters of the fiscal year.

(1) The State Share of Expenditures Claimed is: Total Expenditures Claimed for the Current Quarter and the Prior Quarter Adjustments minus the Federal Share of Total Expenditures Claimed for the Current Quarter and Prior Quarter Adjustments claimed on the Form OCSE–396 for all four quarters of the fiscal year.

(2) The State Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments is: IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for the Current Quarter and the Prior Quarter Adjustments minus the Federal Share of IV–D Administrative Expenditures Made Using Funds Received as Incentive Payments for the Current Quarter and Prior Quarter Adjustments claimed on the Form OCSE–396 for all four quarters of the fiscal year.

(3) The Fees for the Use of the Federal Parent Locator Service (FPLS) can be computed by adding the FPLS fees claimed on the Form OCSE–396 for all four quarters of the fiscal year.

* * * * *

§ 305.36 [Removed]

■ 42. Remove § 305.36.

■ 43. Amend § 305.63 by revising paragraph (d) introductory text to read as follows:

§ 305.63 Standards for determining substantial compliance with IV–D requirements.

* * * * *

(d) With respect to the 75 percent standard in paragraph (c) of this section:

* * * * *

■ 44. Amend § 305.64 by revising the second sentence of paragraph (c) to read as follows:

§ 305.64 Audit procedures and State comments.

* * * * *

(c) * * * Within a specified timeframe from the date the report was sent, the IV–D agency may submit comments, which are reflected in a record, on any part of the report which the IV–D agency believes is in error.

* * *

■ 45. Amend § 305.66 by revising paragraph (a) to read as follows:

§ 305.66 Notice, corrective action year, and imposition of penalty.

(a) If a State is found by the Secretary to be subject to a penalty as described in § 305.61, the OCSE will notify the State, in a record, of such finding.

* * * * *

PART 307—COMPUTERIZED SUPPORT ENFORCEMENT SYSTEMS

■ 46. The authority for part 307 continues to read as follows:

Authority: 42 U.S.C. 652 through 658, 664, 666 through 669A, and 1302.

■ 47. Amend § 307.5 by revising paragraph (c)(3) to read as follows:

§ 307.5 Mandatory computerized support enforcement systems.

* * * * *

(c) * * *

(3) The State provides assurance, which is reflected in a record, that steps will be taken to otherwise improve the State's Child Support Enforcement program.

* * * * *

■ 48. Amend § 307.11 by revising paragraph (c)(3) to read as follows:

§ 307.11 Functional requirements for computerized support enforcement systems in operation by October 1, 2000.

* * * * *

(c) * * *

(3) Automatic use of enforcement procedures, including those under section 466(c) of the Act if payments are not timely, and the following procedures:

(i) Identify cases which have been previously identified as involving a noncustodial parent who is a recipient of SSI payments or concurrent SSI payments and Social Security Disability Insurance (SSDI) benefits under title II of the Act, to prevent garnishment of these funds from the noncustodial parent's financial account; and

(ii) Return funds to a noncustodial parent, within 5 business days after the agency determines that SSI payments or concurrent SSI payments and SSDI benefits under title II of the Act, in the noncustodial parent's financial account have been incorrectly garnished.

* * * * *

PART 308—ANNUAL STATE SELF–ASSESSMENT REVIEW AND REPORT

■ 49. The authority for part 308 continues to read as follows:

Authority: 42 U.S.C. 654(15)(A) and 1302.

■ 50. Amend § 308.2 by revising paragraphs (b)(2)(ii), (c)(3)(i), and (f)(2)(i) to read as follows:

§ 308.2 Required program compliance criteria.

* * * * *

(b) * * *

(2) * * *

(ii) If location activities are necessary, using all appropriate sources within 75 days according to § 303.3(b)(3) of this chapter. This includes all the following locate sources as appropriate: custodial parent, Federal and State Parent Locator Services, U.S. Postal Service, State workforce agency, employment data, Department of Motor Vehicles, and credit bureaus;

* * * * *

(c) * * *

(3) * * *

(i) If location activities are necessary, using all appropriate location sources within 75 days according to § 303.3(b)(3) of this chapter. Location sources include: custodial parent, Federal and State Parent Locator Services, U.S. Postal Service, State workforce agency, Department of Motor Vehicles, and credit bureaus;

* * * * *

(f) * * *

(2) * * *

(i) If location is necessary to conduct a review, using all appropriate location sources within 75 days of opening the case pursuant to § 303.3(b)(3) of this chapter. Location sources include: custodial parent, Federal and State Parent Locator Services, U.S. Postal Service, State workforce agency, unemployment data, Department of Motor Vehicles, and credit bureaus;

* * * * *

PART 309—TRIBAL CHILD SUPPORT ENFORCEMENT (IV–D) PROGRAM

■ 51. The authority for part 309 is revised to read as follows:

Authority: 42 U.S.C. 655(f) and 1302.

§ 309.115 [Amended]

■ 52. Amend § 309.115 by:

■ a. Removing reference to ''§ 9.120 of this part'' and adding in its place ''§ 309.120'' in paragraph (b)(2); and

■ b. Removing the reference to ''303.52'' and adding in its place ''302.52'' in paragraph (c)(2).

■ 53. Amend § 309.130 by revising paragraphs (b)(3) and (4) to read as follows:

§ 309.130 How will Tribal IV–D programs be funded and what forms are required?

* * * * *

(b) * * *

(3) SF 425, ''Federal Financial Report,'' to be submitted quarterly within 30 days after the end of each of the first three quarters of the funding period and within 30 days after the end of each of the first three quarters of the liquidation period. The final report for each period is due within 90 days after the end of the fourth quarter of both the funding and the liquidation period; and

(4) Form OCSE–34, ''Child Support Enforcement Program Quarterly Collection Report'' must be submitted no later than 45 days following the end of each fiscal quarter. No revisions or adjustments of the financial reports submitted for any quarter of the fiscal year will be accepted by OCSE later than December 31, which is 3 months after the end of the fiscal year.

* * * * *

■ 54. Amend § 309.145 by revising paragraph (a)(3) introductory text to read as follows:

§ 309.145 What costs are allowable for Tribal IV–D programs carried out under § 309.65(a) of this part?

* * *

(a) * * *

(3) Establishment of all necessary agreements with other Tribal, State, and local agencies or private providers for the provision of child support enforcement services in accordance with Procurement Standards found in 45 CFR 75.326 through 75.340. These agreements may include:

* * * * *

■ 55. Amend § 309.160 by revising the first sentence to read as follows:

§ 309.160 How will OCSE determine if Tribal IV–D program funds are appropriately expended?

OCSE will rely on audits conducted under 45 CFR part 75, *Subpart F—Audit Requirements.* * * *

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EXHIBIT F

Assessing Child Support Arrears
in Nine Large States and the Nation

Source:

The Urban Institute

Prepared For:

Department Of Health And Human Services
Office Of The Assistant Secretary For Planning And Evaluation
Office Of Human Services Policy
And
Office Of Child Support Enforcement
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By
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Simon Schaner

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July 11, 2007

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This report is available online at:
http://aspe.hhs.gov/hsp/07/assessing-CS-debt/

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EXECUTIVE SUMMARY

Despite record child support collections by state child support programs, considerable sums of child support go unpaid every year. These past due payments of child support, referred to as child support arrears, accumulate each year and have reached unprecedented levels in recent years. In September 2006, the federal Office of Child Support Enforcement (OCSE) reported that the total amount of child support arrears that had accumulated nationwide since the program began in 1975 had reached $105.4 billion.

These large amounts of arrears are disturbing for many reasons. First and foremost, most of these arrears are owed to custodial families who would benefit if they were collected. Second, some of these arrears are owed to the government. If these arrears were collected, it would improve the cost effectiveness of the child support program. Finally, high arrears are often interpreted by the public as a sign of agency incompetence and a failure to serve custodial families, when, in fact, the picture is more complicated than that.

The purpose of this report is to provide information about the underlying characteristics of child support arrears in the nation and in nine large states to help OCSE and state child support programs (also known as IV-D programs) improve their ability to manage arrears. The nine study states are: Arizona, Florida, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas. They were selected because of their relative size. Collectively, they held 39 percent of the nation's arrears in FY 2006. Each of the study states volunteered to participate in the study and provided detailed administrative data about their obligors and the arrears they owed. These data were matched by OCSE to six quarters of national quarterly wage and unemployment insurance data. Based on these data, each study state was provided with a detailed analysis of their arrears. This report draws from those analyses.

The analysis is organized around three basic questions:

1) Who owes the arrears?
2) How collectible are the arrears?
3) Why have arrears grown so rapidly?

Below, we summarize our findings for each of these questions. The report concludes with a discussion of actions taken by the study states to manage their arrears. This discussion is also summarized below.

Who Owes the Arrears?

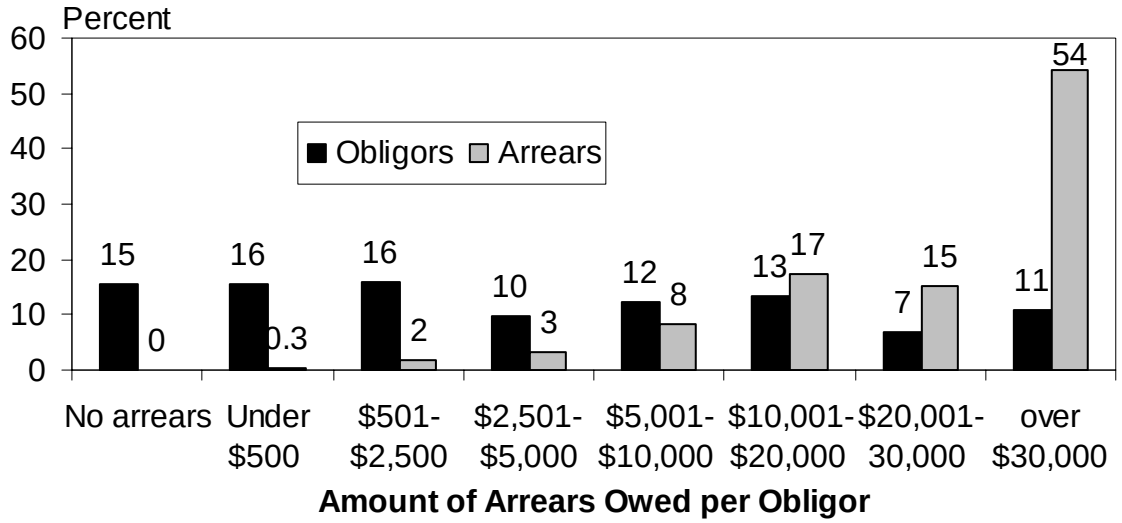
Child support arrears have a very distinct distribution.[1] Most of the arrears are owed by a relatively small number of non-custodial parents, each of whom owes a large amount of arrears. In the nine study states, 11 percent of the non-custodial parents with an

[1] Throughout this report, child support arrears include principal and interest unless otherwise noted.

obligation to pay child support, or obligors, owed 54 percent of the total arrears held by these states.[2] Each of these obligors owed over $30,000 in arrears.

The arrears distribution found in the nine study states is similar to that found in other states and for the nation as a whole. In California, 11 percent of the non-custodial parents who owed arrears owed a total of 45 percent of the state's arrears in March 2000 and each of those debtors owed over $40,000 in arrears.[3] Using data from the federal tax refund offset program in April 2006, researchers found that 43 percent of the nation's certified arrears were owed by just 10 percent of the debtors, each of whom owed over $40,000 in certified arrears.[4]

Chart 1. Percent of Obligors and Arrears in Nine States, by Amount of Arrears Owed: 2003/04



Source: Data are from Arizona, Florida, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas.

On the other hand, most of the obligors in the nine study states owed relatively small amounts of arrears. In fact, 15 percent of the obligors did not owe arrears at the time of the study. Another 16 percent of obligors owed less than $500 in arrears. Adding obligors across the first four categories of arrears in the chart above shows that 57 percent of the obligors in the nine study states owed $5,000 in arrears or less. These findings are also corroborated by other research on national certified arrears.[5]

Given that most obligors owe relatively modest amounts of arrears, one can easily understand why a casual observer might conclude that arrears should be easy to collect. Unfortunately, as we discuss below, this is not correct. While most obligors

[2] The data from the nine study states reflects either FY 2003 or CY 2004.
[3] Sorensen, Elaine, Heather Koball, Kate Pomper, and Chava Zibman. "Examining Child Support Arrears in California: The Collectibility Study." March 2003.
[4] Dennis Putze, "Who Owes the Child Support Debt?" Presented at the Peer to Peer Training Conference sponsored by the federal Office of Child Support Enforcement (San Diego, CA) May 16, 2006.
[5] Ibid.

owe modest amounts of arrears, they owe a small percentage of the total arrears held by state child support programs. In the nine study states, the 57 percent of obligors who owed up to $5,000 in arrears owed less than 6 percent of the total arrears held by these states.

In the nine study states, the obligors who owed over $30,000 in arrears, whom we refer to as high debtors, were quite different from other obligors. A major difference was the amount of reported income that high debtors had compared to other obligors.[6] Nearly three quarters of the high debtors had no reported income or reported incomes of $10,000 a year or less. In contrast, one fifth of obligors with no arrears had reported incomes this low. High debtors were also more likely than other obligors to have multiple current support orders, interstate orders, and orders that had been in effect for at least 10 years. In addition, they were less likely than others to have paid support in the last year and to have a ZIP code on record.

Just as high debtors tended to have no or low reported income, arrears tended to be concentrated among obligors with these characteristics. In the nine study states, 70 percent of the arrears were owed by obligors who had either no reported income or reported income of $10,000 a year or less. It is probably not surprising to many readers that arrears tend to accumulate among individuals with no or low reported income because the most effective means of collecting support, wage withholding, is not effective among this population. Although some of these individuals may have unreported income (or assets), it tends to be very difficult to collect support from these individuals, which is evident when you compare payment rates among obligors by the amount of reported income that they have. In eight study states, 93 percent of obligors with reported incomes over $10,000 a year paid child support in the past year, but only 57 percent of obligors with no or low reported income paid child support in the past year.[7]

Some child support professionals have suggested that states should examine obligors by their ability and willingness to pay child support.[8] We attempted to stratify obligors in this manner, but found it difficult to do so given the data that we had available. In an effort to shed light on this idea, we divided obligors by the amount of reported income that they had and whether or not they paid child support. However, having no or low reported income does not necessarily mean individuals have no or a limited ability to pay child support. These individuals may have other sources of income beyond that which we had access to or they may have assets, which we had no information about. Nonetheless, it is instructive to see how arrears are distributed by reported income and payment behavior.

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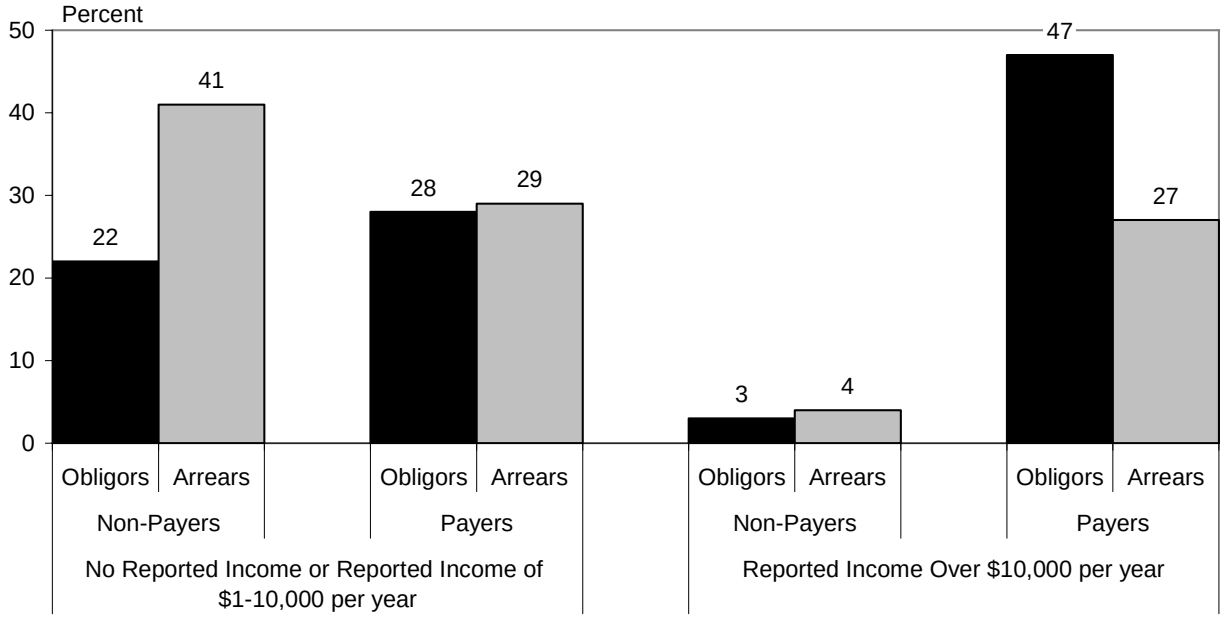
[6] As noted in the text, six quarters of quarterly wage and unemployment insurance data were matched by OCSE to each of the study state data files. The Urban Institute used these matched data to create an annualized income variable for each obligor. The annualized income variable includes quarterly wages and unemployment compensation. We refer to this annualized income variable as "reported income" throughout this report.

[7] New York is not included here because it did not provide 12 months of payment data.

[8] For example, see Center for the Support of Families, "Child Support Delivery Study: Final Report and Recommendations." Prepared for the Minnesota Division of Child Support Enforcement. January 1999.

We find that, when obligors were divided by their payment behavior and reported income amounts, the only group of obligors who owed significantly more arrears than it represented in the obligor population was those who had no reported income or reported income of $10,000 a year or less and did not pay child support in the past year. In eight study states, 22 percent of the obligors fell in this category, but they owed 41 percent of the arrears in these states.[9] These findings suggest that this group of obligors – those with no or low reported incomes who do not pay child support -- are the most difficult to collect from. Another large group of obligors (28 percent) had no or low reported incomes and paid child support in the past year. These obligors owed roughly a proportional share of the arrears (i.e. 29 percent). Thus, this group of obligors – those with no or low reported incomes who paid child support – were not contributing disproportionately to arrears in these states. This suggests that these study states did not have as difficult a time collecting from these obligors as they did from those with no or low reported income who did not pay child support for a year.

Chart 2. Percent of Obligors and Arrears in Eight States, by Annual Reported Income and Payment Status in the Last Year: 2003/04



Source: Child support data are from Arizona, Illinois, Florida, Michigan, New Jersey, Ohio, Pennsylvania, and Texas. Reported income is based on six quarters of national quarterly wage and unemployment insurance data from OCSE.

Due to insufficient data, we cannot conclude that all obligors with no reported income or reported income of $10,000 a year or less and did not pay child support for a year are "unable to pay child support". Some of these obligors may be self-employed or working in industries that are not covered by quarterly wage data. Others may be working in covered industries, but are working under the table. Still, some may be engaged in

[9] New York is not included in chart 2 because we did not receive 12 months of payment data.

illegal activities. It may be that individual obligors within this group have large amounts of unreported income and sizable assets, but the group as a whole appear less able to pay child support than other groups of obligors. This conclusion is based on the median order amounts that these obligors were expected to pay, which were considerably lower than the median order amounts of other obligors, including those who had no or low reported income and paid support. Specifically, in seven study states, the median order for obligors with no or low reported income who did not pay child support for a year was $180 per month, which was $59 per month lower than the median order for obligors with no or low reported income who paid support.[10] In addition, we should note that other research has found that 10 percent of debtors who did not match to four quarters of quarterly wages were institutionalized, 9 percent were receiving Social Security Administration benefits, and 6 percent were receiving Supplemental Security Income benefits, suggesting that about a quarter of the obligors without reported quarterly wages are either disabled or incarcerated.[11] Another study of debtors with no reported wages for four quarters looked at their income in the following year.[12] Less than half of these obligors had any income in the following year. And of those that did have income, the amounts were low (median $7,500). Because this group of obligors – those with no or low reported income who did not pay child support for a year -- is contributing disproportionately to arrears, it is important that child support enforcement agencies focus on these obligors and learn more about them.

Chart 2 also shows that a very small percent of obligors in eight study states had an ability to pay child support (i.e. their reported incomes were over $10,000 a year), but they did not pay child support for a year. Only 3 percent of the obligors fell in this category in the eight states and they owed 4 percent of the arrears in these states. In contrast, nearly half of the obligors (47 percent) had an ability to pay child support (i.e. their reported income was over $10,000 a year) and they paid child support in the last year. They owed 27 percent of the arrears in these states, a much smaller proportion of the arrears than their relative share of the obligor population.

State Variation in Arrears

We find that the study states varied by the characteristics of their obligors and this variation helped explain differences in the amount of arrears held by states. The extent to which obligors matched to quarterly wage and unemployment insurance data varied by state, with New York having the lowest match rate at 68 percent and Pennsylvania having the highest match rate at 80 percent. Of course, the more obligors who match to quarterly wage data the easier it is to collect support and keep arrears under control. Thus, based on this measure, Pennsylvania had an easier time managing its arrears than New York.

[10] Florida was not included here because we did not receive order amounts from this state.
[11] U.S. DHHS, OCSE, "Story Behind the Numbers: Who Owes the Child Support Debt?" July 2004.
[12] Karen Gardiner, Mike Fishman, Sam Elkin, and Asaph Glosser. *Enhancing Child Support Enforcement Efforts Through Improved Use of Information on Debtor Income*. Final Report prepared for the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. October 2006. http://aspe.hhs.gov/hsp/07/CSE-enhancement/debtor

States also varied by the extent to which their obligors had arrears-only cases. In Illinois, Michigan and New York about a quarter of the obligors had arrears-only cases, but in other states, such as Ohio, considerably fewer obligors had arrears-only cases. While obligors with arrears-only cases are no longer accumulating new arrears, they tended to owe large amounts of arrears. Thus, states that have larger percentages of arrears-only cases tended to have higher arrears than states that did not.

Another characteristic that varied among the states was the proportion of obligors with a current support order who had more than one current support order, meaning that they had more than one family for whom they owed current support. In Arizona, 8 percent of the current support obligors had two or more current support orders, the lowest percentage among the study states. The highest percentage figures were in Illinois, New Jersey, and Ohio. Each of these states had 15 percent of their current support obligors with two or more current support orders. These obligors tended to owe about twice as much of the arrears owed by current support obligors than they represented in the population. Thus, in Illinois, New Jersey, and Ohio, current support obligors with two or more current support orders owed over 30 percent of the arrears owed by current support obligors.

Differences in state policies also influenced the amount of arrears each state held. Study states that assessed interest on a routine basis had considerably higher arrears per obligor than states that did not. States that assessed retroactive support on a routine basis tended to have higher arrears per obligor than states that did not. States that appeared to impute income when establishing orders in a large percentage of their cases tended to have higher arrears per obligor than states that did not.

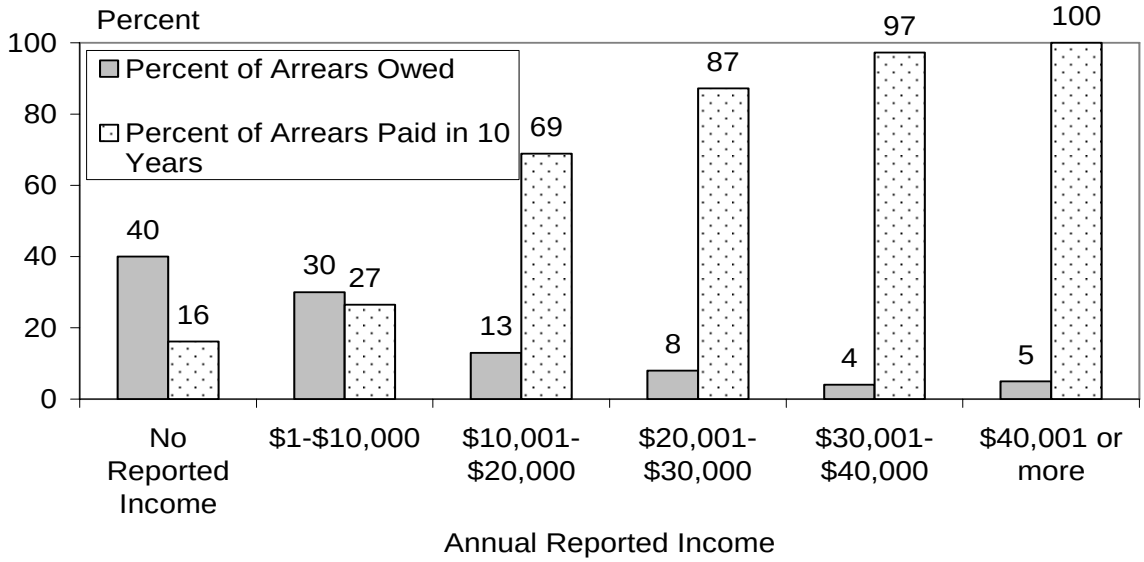
Furthermore, state policies can influence the characteristics of obligors. For example, in Pennsylvania, nearly all orders established in the state are in the IV-D program. The Domestic Relations Court in Pennsylvania provides IV-D services under a cooperative agreement and it includes IV-D applications as part of the court intake process. Individuals are not required to complete the IV-D application, but because it is part of the intake process, most people do. This practice may explain why 70 percent of the obligors in Pennsylvania had their IV-D case opened within a year of their order established. Other study states had considerably fewer obligors who had their orders established and their IV-D cases opened within a year of each other. This is an important distinction because obligors who had their IV-D cases opened around the same time as their order was established tended to owe considerably less arrears than other obligors. In Pennsylvania, for example, the median amount of arrears owed by obligors who opened their IV-D case around the same time as their order was $800, while the median amount of arrears owed by obligors who had their order established at least a year *after* their IV-D case was opened owed twice that amount.

How Collectible are the Arrears?

To answer this question, we developed a microsimulation model that estimates how much arrears are likely to be collected over a 10-year period and how much arrears are likely to grow during this time frame. Combining results across seven study states, we estimate that 40 percent of the arrears owed at the time the data were extracted will be collected over 10 years.[13] At the time the data were extracted, these states held $30 billion in arrears; we estimate that $12 billion of that will be collected in 10 years. In addition, we predict that arrears will grow in these seven states by 60 percent over 10 years, reaching $48 billion in 2014.

The reason we estimate that less than half of the arrears will be collected over 10 years is because so much of the arrears are owed by obligors with no or low reported income. It is very difficult to collect from obligors who have no or low reported income. Further, the amounts that tend to be collected from these obligors are relatively small compared to the amounts of arrears that are owed. Thus, this combination of traits – no or low reported income and high arrears – result in very low arrears payment rates.

Chart 3. Percent of Arrears Owed and Percent of Arrears Paid in 10 Years for Seven States, by Reported Income Categories: 2003/04



Source: Child support data from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas. These data were matched by OCSE to national quarterly wage and unemployment insurance data, which were used to generate reported income.

Chart 3 shows that obligors with no reported income owed 40 percent of the arrears in these seven states, respectively, but they are estimated to pay only 16 percent of their arrears over a 10-year period. Similarly, obligors with reported incomes between $1 and $10,000 a year owed 30 percent of the arrears and they are estimated to pay 27

[13] The seven states are: Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas.

percent of their arrears over a 10-year period. Thus, relatively little of these arrears are likely to be collected.

In contrast, once reported incomes exceeded $10,000 a year, obligors tended to owe relatively small amounts of arrears. Further, these obligors are relatively easy to collect from since they have reported incomes that exceed $10,000 a year. Because, in general, these obligors have relatively high reported incomes and lower arrears, they are predicted to pay considerably more of their arrears in 10 years. In fact, we predict that obligors with reported incomes over $40,000 a year will pay 100 percent of their arrears in 10 years. These obligors, however, owed only 5 percent of the arrears in these states.

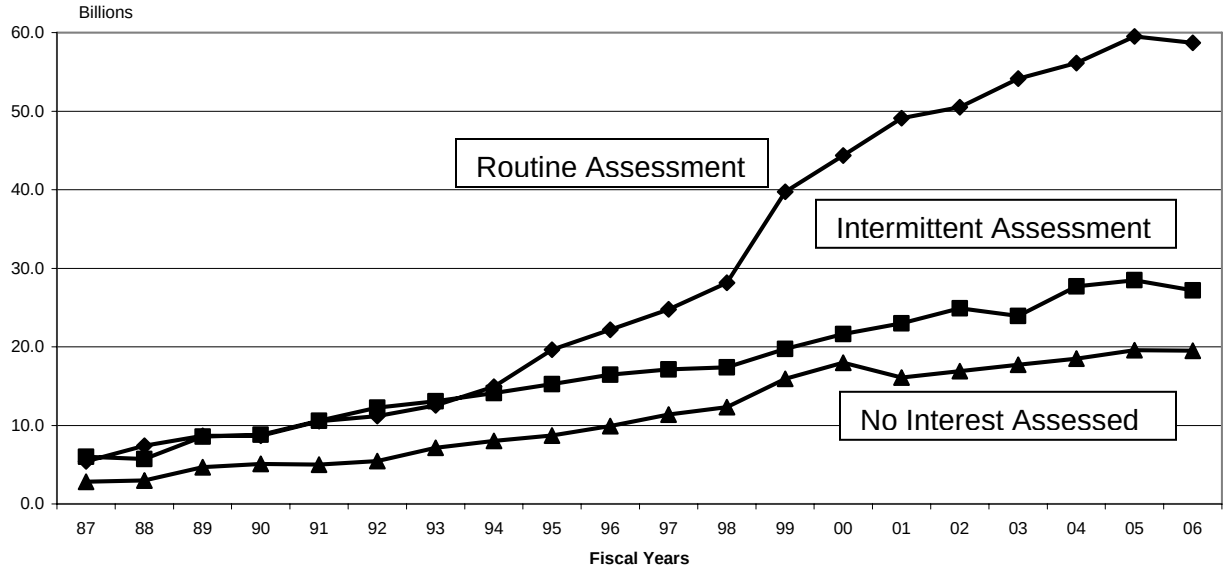
Why have Arrears Grown So Rapidly?

The primary factor that has caused arrears to grow so dramatically has been the assessment of interest on a routine basis. Many states began to assess interest on a routine basis in the 1990s, as their computer systems could manage to calculate and track interest. In addition, in 1986, Congress enacted legislation, referred to as the Bradley Amendment, which mandated that child support arrears be considered a judgment by operation of law. Since most states require that interest be charged on judgments, many states began to charge interest on child support arrears after this legislation was enacted. Today, 18 states charge interest on a routine basis, 18 states and Guam may charge interest but do so intermittently, and 14 states, Puerto Rico, the Virgin Islands, and the District of Columbia do not charge interest.[14] The chart below divides states, territories, and the District of Columbia into these three groups and tracks their arrears since fiscal year 1987.

All states have experienced an increase in arrears between FY 1987 and FY 2006, but the chart below shows that states that charge interest on a routine basis have experienced a much larger increase in arrears than other states. Between FY 1987 and FY 2006, states that charged interest routinely experienced more than a ten-fold increase in arrears, going from $5.4 billion in FY 1987 to $58.7 billion in FY 2006. In contrast, other states saw their arrears grow about half as fast. States that charged interest intermittently experienced a 353 percent increase in arrears over this period (arrears went from $6.0 billion in FY 1987 to $27.2 billion in FY 2006), while states that do not charge interest experienced a 592 percent increase in arrears (arrears went from $2.7 billion in FY 1987 to $19.5 billion in FY 2006).

[14] State interest policies are based on information from the OCSE Intergovernmental Referral Guide and telephone interviews with state child support administrators. The states that charge interest routinely are: Alabama, Alaska, Arizona, California, Georgia, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin. The states that charge interest intermittently are: Arkansas, Colorado, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Mississippi, Missouri, New York, Ohio, Oregon, Utah, Vermont, Washington, and Wyoming. The remaining states do not charge interest.

Chart 4. Child Support Arrears Held by State IV-D Programs from FY 1987 to FY 2006, Grouped by States' Interest Policies



Source: Arrears data are from OCSE, Annual Statistical Reports and Preliminary Reports.
Note: Data in FY 2006 are not strictly comparable to earlier years. In FY 2006, OCSE instructed states to not report arrears for responding interstate cases to eliminate the double counting of these arrears. Prior to that time, these arrears had been reported to OCSE by both responding and initiating states. Data are also not strictly comparable before and after FY 1999. In FY 1999, OCSE changed the reporting instructions to states regarding the inclusion of interest and penalties when reporting arrears.

We examined three other factors thought to contribute to arrears growth – the assessment of retroactive support, the lack of compliance with current support orders, and the low payment rate on arrears. Retroactive support did not appear to be a major factor contributing to arrears in the study states. This is not surprising since only three of the nine study states assessed retroactive support on a routine basis (i.e. Arizona, New Jersey, and Texas). Furthermore, these three states do not assess retroactive support back to the date of birth in paternity cases, which limits the amount of retroactive support that can be assessed. In Texas, retroactive support represented about 10 percent of the arrears (we do not have comparable information for Arizona and New Jersey).

On the other hand, we find that non-compliance with current support orders was a major factor contributing to arrears, especially among obligors with no or low reported income. In the study states, 40 percent of the current support obligors had no or low reported income, but they generated 60 percent of the unpaid current support during the year. The majority of current support obligors with no or low reported income paid something toward current support, but the median amount that they paid was very low, especially compared to their order. Among current support obligors with reported incomes of $10,000 a year or less, their median order represented 83 percent of their reported income and their median payments represented 7 percent. This gap between the

amount due and amount paid among obligors with low reported income is a major factor contributing to arrears.

Another factor that we find that contributes to arrears is the low payment rate on arrears. Nationally, during the past several years, about 6 percent of arrears have been collected. If states could have doubled their collection rate on arrears to 12 percent since FY 2002, we predict that arrears would have stopped growing and would have totaled $86 billion in FY 2006. Unfortunately, most debtors do not pay 12 percent of their arrears each year. Those who do, tend to owe less than $1,000 in arrears. We examined debtors by their characteristics and found that debtors with no reported income were the least likely to pay arrears.

Actions taken by Study States to Manage Arrears

The study states have taken numerous actions to manage their arrears, which are presented in this report to provide ideas for other states to consider as they manage their arrears. These strategies cover the entire range of arrears management techniques, from order establishment to arrears compromise programs.

One strategy that study states have used to prevent arrears from accruing in the first place is to set realistic orders. Having access to verifiable earnings data helps child support workers set realistic orders. It reduces the need to impute income at levels that often exceed actual income. In the past, study states did not have access to state and national quarterly earnings records to assist in the order determination process, but today many of the study states have this information readily available for case workers to use as they seek new orders. Some of the study states request state income tax records to assist in this process as well.

Nearly all of the study states have a low-income provision in their state child support guidelines, which aims to reduce the child support order amount for low-income obligors. Most of the low-income provisions utilize a self-support reserve for the obligor, although the guidelines do not always use that term. Not surprisingly, given that the states have different costs of living, the size of the self-support reserve varies, from a low of $550 per month in Ohio to a high of $1,047 per month in New York.

Many of the study states have taken steps to increase parental participation in the order establishment process. Making documents more readable, using welcoming letters, and holding pre-hearing conferences are some of the strategies that study states have used. Study states have also taken steps to improve their service of process to ensure that parents are notified of their pending order.

Study states have reduced the length and use of retroactive support. Two study states - Michigan and Texas - passed laws that eliminate the policy of setting retroactive support back to the date of the birth of the child in paternity cases. Now Texas may go back up to 4 years prior to the date of filing to set retroactive support; Michigan may go back to the date of filing to set an order unless there is willful avoidance.

A variety of early intervention strategies have been adopted by the study states. The primary aim of these strategies is to intervene early enough after the order is established to prevent delinquency from occurring in the first place. These strategies rely on increased contact with the non-custodial parent, mainly through reminder calls or letters. In some study states, new positions have been created to conduct this outreach. Efforts have also been made to make employment services and other services available to non-custodial parents at the time the order is established if these services are needed to prevent arrears accumulation.

Improving the wage withholding process is also key to preventing arrears from accumulating in the first place since so much of child support is collected using this process. Texas has focused considerable attention on improving this process in recent years, culminating in a fully revised employer repository, updated interfaces, and a single website that employers can use to meet all of their child support-related responsibilities.

Increasing review and modification of orders is another strategy for preventing arrears accumulation. The Deficit Reduction Act of 2005 will result in greater utilization of this strategy since it reinstated the requirement that all TANF cases must be reviewed and modified every three years, effective October 1, 2007.

Possibly the toughest task for states is to manage their existing arrears. Chapter 5 describes several strategies that the study states have undertaken to tackle this problem. Revising a state's interest policy is an important step in this process. Two of the study states – Michigan and Texas -- have lowered their interest rate in recent years.[15]

Another strategy that study states have used to manage their existing arrears is to conduct amnesty programs. Pennsylvania and other study states have conducted arrears amnesty programs. These programs allow obligors to come forward and take steps to correct their delinquencies without being arrested.

Two other study states -- Michigan and Illinois – have passed legislation that authorizes arrears compromise programs. These programs allow the child support program (or the court) to reduce the amount of arrears owed to the state if the obligor meets certain criteria. Since 2005, judges in Michigan may approve payment plans that discharge some of the state-owed arrears if the plans are in the best interest of the children, the arrears were not the result of willfully avoiding the obligation, and the obligor does not have the ability to pay all of the arrears in the future. In Illinois, the legislation allows the child support program to reduce state-assigned arrears in exchange for regular payments of support to the family if the obligor was unable to pay the arrears during the time it was accumulated.

[15] In Michigan, interest is called a surcharge.

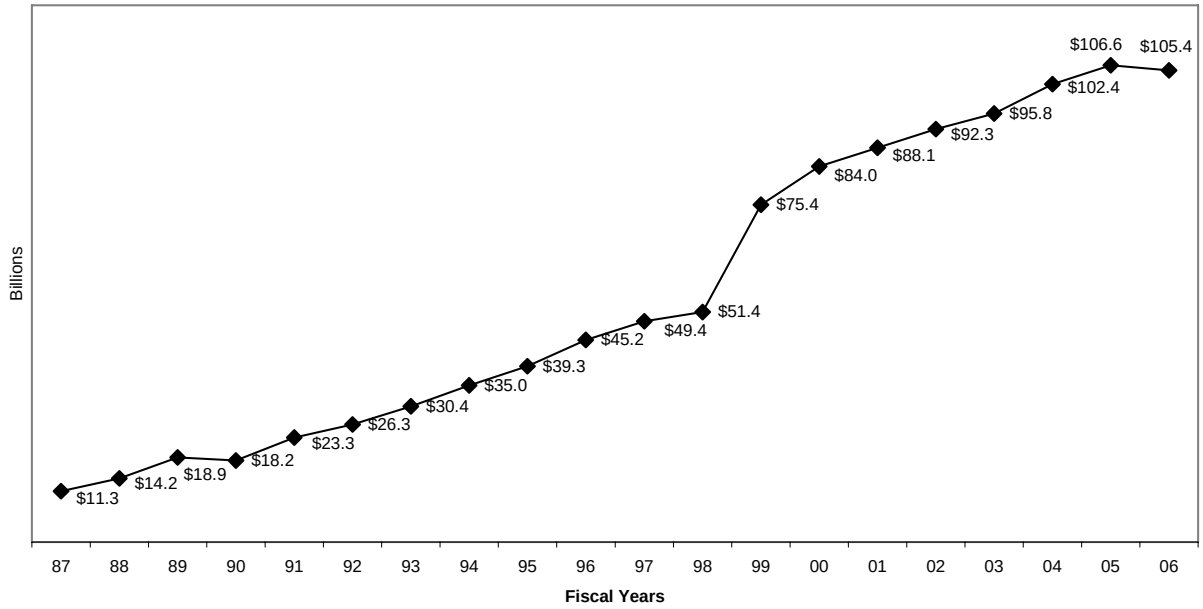
Another strategy that study states have used to manage their existing arrears is to conduct a special review of their non-paying arrears cases. Typically, states start with their highest arrears cases. Workers are asked to contact the parties involved and make every effort to move the case, either to payment or closure.

The Deficit Reduction Act of 2005 should also increase arrears collections. Three provisions are particularly noteworthy in this regard. First, the amount of arrears that triggers passport denial was reduced from $5,000 to $2,500, effective October 1, 2006. Second, the Act authorizes the federal tax offset program to collect child support arrears owed to adult children in non-TANF cases, effective October 1, 2007. Third, it authorizes OCSE to match cases with arrears to information maintained by insurance companies effective October 1, 2005.

CHAPTER 1. INTRODUCTION

Despite record child support collections by state child support programs, considerable sums of child support go unpaid every year. These past due payments of child support, referred to as child support arrears, have reached unprecedented levels in recent years. In September 2006, the federal Office of Child Support Enforcement (OCSE) reported that $105.4 billion of child support arrears had accumulated nationwide since the program began in 1975. This represented nearly a ten-fold increase in 19 years.

Chart 1.1 National Child Support Arrears: FY 1987 to FY 2006



Source: Office of Child Support Enforcement, Annual Statistical Reports and Preliminary Reports.
Note: Data in FY 2006 are not strictly comparable to earlier years. In FY 2006, OCSE instructed states to not report arrears for responding interstate cases to eliminate the double counting of these arrears. Prior to that time, these arrears had been reported to OCSE by both responding and initiating states. Data are also not strictly comparable before and after FY 1999. In FY 1999, OCSE changed the reporting instructions to states regarding the inclusion of interest and penalties when reporting arrears.

Data presented in Chart 1.1 are not strictly comparable from FY 1987 to FY 2006. First, it shows a dramatic one-time increase in arrears in FY 1999, when national child support arrears went from $51 billion to $75 billion in one year. This one time increase was largely due to a change in the OCSE reporting form, which told states that they may include interest and penalties on arrears as part of their total arrears. Previously, the reporting form had been silent regarding interest and penalties. Second, it shows a reduction in arrears from FY 2005 to FY 2006. This decline also reflects a change in the OCSE reporting form. Beginning in FY 2006, OCSE instructed states to stop reporting arrears on "responding" interstate cases to eliminate the double counting of these arrears. Prior to that time, states that initiated interstate cases as well as states that responded to these requests had been reporting the same arrears to OCSE.

The large accumulation of child support arrears is of serious concern to child support policy makers for a number of reasons. To the extent that these arrears could be collected, the additional child support would clearly benefit the children and families owed the support. Many of these families live in poverty. Receiving this financial support would help them escape this plight. Arrears collection is also a federal performance measure for state child support programs. Federal incentive funding for these programs is based, in part, on the number of cases paying arrears. Finally, large arrears balances give the impression that state child support programs are not doing their job, a perception that is not always accurate. High arrears are often interpreted by the public as a sign of agency incompetence and a failure to serve custodial parents and children, when, in fact, the picture is much more complicated than that.

Many child support policy makers have begun to think critically about how to better manage arrears. State child support policy makers from 15 Northeast Hub jurisdictions, along with their federal and private partners, produced an instructive document called "Managing Child Support Arrears, a Discussion Framework," which identifies the key areas of child support policy that may be contributing to the growth of child support arrears.[16] Several states have also produced detailed analyses of their child support arrears.[17]

In an effort to build upon this knowledge, OCSE and the Assistant Secretary for Planning and Evaluation (ASPE), both of which are part of the Department of Health and Human Services (HHS), contracted with the Urban Institute to conduct a comprehensive analysis of the composition of child support arrears and the causes of their dramatic growth. As part of this study, the Urban Institute has provided nine large states with detailed data analyses of their arrears.[18]

A. An Overview of the Nine Study States

This report focuses its analysis on the following nine states: Arizona, Florida, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania and Texas. These states were selected for this study because of their relative size. Collectively, these states held a total of $38.5 billion in arrears at the time the data were extracted for this study, which represented about 40 percent of the nation's total arrears at that time.[19] All of these states agreed to provide administrative data on all of their obligors. These data were

[16] For a copy of this report, go to: http://www.acf.dhhs.gov/programs/cse/pubs/2002/reports/arrears/index.html

[17] For example, for California, see Elaine Sorensen, Heather Koball, Kate Pomper, and Chava Zibman, "Examining Child Support Arrears in California: The Collectibility Study." (March 2003). For Washington, see Carol Formoso, "Determining the Composition and Collectibility of Child Support Arrearages." Volume I. (May 2003) http://www1.dshs.wa.gov/pdf/esa/dcs/reports/cvol1prn.pdf. For Virginia, see Donald Myers. "Child Support Arrearages: A Legal, Policy, Procedural, Demographic and Caseload Analysis." (August 2004).

[18] Figures in this report will not always be the same as in the state reports. To improve the consistency of definitions across the states, we had to change some of the definitions used in the state reports.

[19] Extraction dates ranged from September 2003 to December 2004.

sent to OCSE, where they were matched to six quarters of national quarterly earnings records, six quarters of unemployment insurance records, and national New Hire data. These matched data were then sent to the Urban Institute for analysis. These data represent the primary source of information used throughout this report.

Given the size of these states, it is not surprising to find that each state held over $2 billion in arrears. Texas and Michigan held the largest amounts of arrears; each accounted for over $8 billion. New Jersey and Pennsylvania held the smallest amount of arrears; each accounted for over $2 billion. Of course, part of the reason arrears vary among these states is because they serve different numbers of obligors. Texas, Ohio and New York each served over 500,000 obligors. Arizona, with less than 115,000 obligors, served the fewest obligors.[20]

Table 1.1 Overview of Arrears in Nine Study States

State	Total Arrears (in billions)	Number of Obligors	Median Arrears per Obligor	Average Arrears per Obligor
Arizona	$2.55	114,675	$11,581	$22,199
Florida	$3.83	385,009	$5,207	$9,949
Illinois	$2.80	245,974	$4,467	$11,365
Michigan	$8.61	490,899	$4,872	$17,537
New Jersey	$2.08	229,054	$2,422	$9,098
New York	$3.99	512,048	$1,000	$7,801
Ohio	$3.75	533,436	$1,651	$7,036
Pennsylvania	$2.09	384,468	$1,075	$5,439
Texas	$8.82	583,008	$6,771	$15,122
Total	**$38.52**	**3,478,571**	**$3,157**	**$11,073**

Source: Data are from the state child support programs listed above.

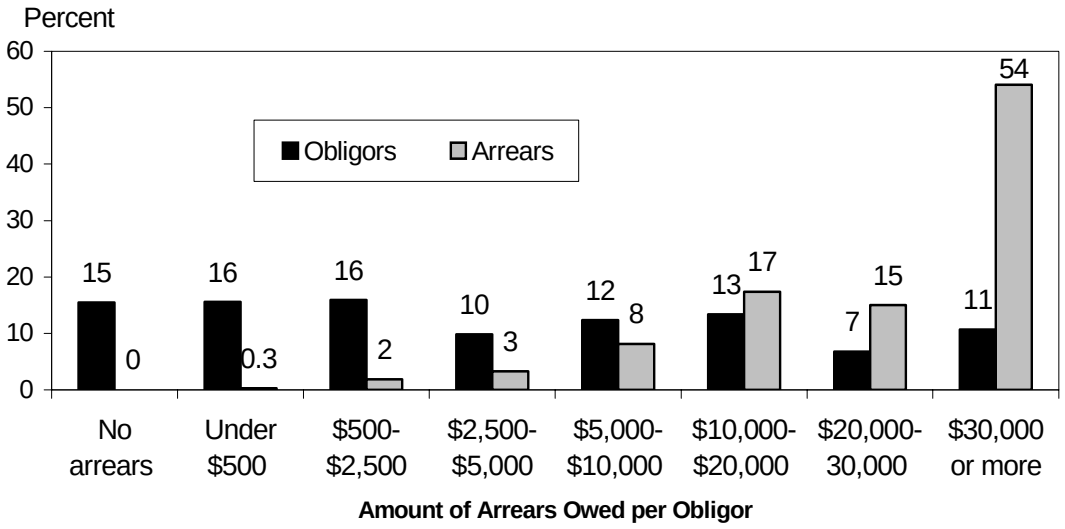
Table 1.1 presents two measures of the amount of arrears that a typical obligor owed. First, the median amount of arrears owed among these obligors was $3,157. This means that half of the obligors in the study states owed less than $3,157, half owed more than that amount. The second measure is the average amount of arrears owed per obligor. The average is determined by taking the sum of all arrears owed in a state and dividing it by the number of obligors in the state. The average amount of arrears owed per obligor across all of the study states was $11,073. Pennsylvania had the lowest median and average figures, while Arizona had the highest median and average figures. In most states, the average amount of arrears owed per obligor was about twice as large as the median amount of arrears owed per obligor. Other states had even larger differences. These differences reflect the skewed distribution of arrears, which we discuss next.

[20] Note that Arizona's figures do not include obligors with interstate responding cases. We did not receive complete arrears information for interstate responding cases.

B. High Debtors Owed Most of the Arrears

A defining characteristic of arrears in these nine study states was how skewed their distributions were. While most obligors in each of these states owed relatively small amounts of arrears, most of the arrears were owed by a small minority of obligors, each of whom owed considerable sums of arrears. In other words, arrears have the same type of distribution as wealth in the United States. Just as most people in the U.S. have relatively modest amounts of wealth, most obligors owed relatively modest amounts of arrears. On the other hand, most of the wealth in the U.S. is held by a relatively small number of people. Similarly, most of the arrears in these nine study states were owed by a relatively small number of obligors. When all of the states were combined, 11 percent of the obligors in these states owed over half (54 percent) of the $38.5 billion of arrears. Each of these obligors owed at least $30,000 in arrears.

Chart 1.2 Percent of Obligors and Arrears in Nine States, by Amount of Arrears Owed: 2003/04



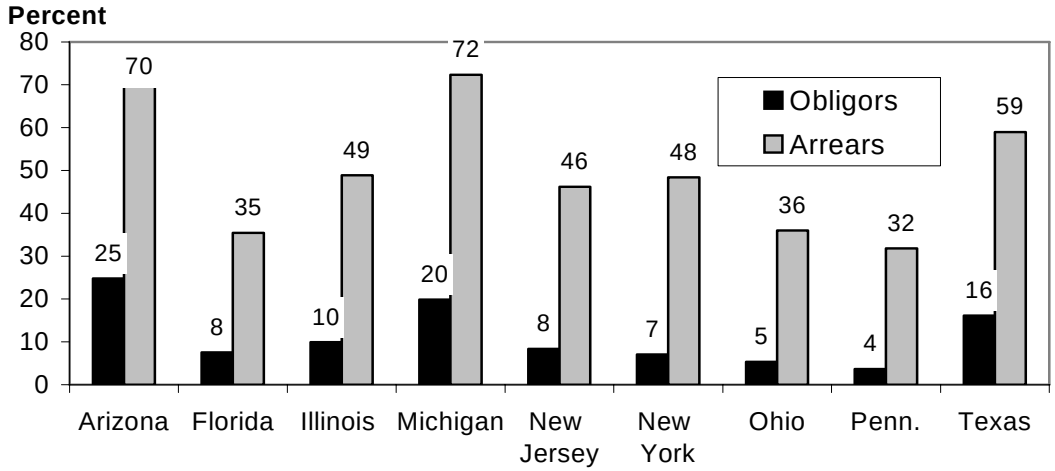
Source: Data are from Arizona, Florida, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas.

Research using certified arrears (i.e. arrears that have been certified for the federal tax refund offset program) found a similar distribution for certified arrears.[21] The data on certified arrears are limited to debtors, while the data provided by the study states included all obligors, regardless of whether or not they owed arrears. Thus, the distribution of certified arrears is slightly different than that presented above. Nonetheless, 43 percent of the certified arrears were owed by 10 percent of the debtors, each of whom owed more than $40,000 in certified arrears. Sixty nine percent of the certified arrears were owed by debtors who owed more than $20,000 in certified arrears, the same percentage that we found in the nine study states.

[21] See footnote 4.

While every state's arrears were highly concentrated, some state's arrears were more concentrated than others. To see this variation, the next chart shows the percent of obligors in each state who owed at least $30,000 in arrears and the percent of the state's arrears that these obligors owed. Pennsylvania had the lowest percent of obligors who owed $30,000 or more in arrears; Arizona had the largest percent. In Pennsylvania, 4 percent of the obligors owed $30,000 or more in arrears and they owed 32 percent of the state's arrears. In contrast, 25 percent of Arizona's obligors held arrears this high; they owed 70 percent of the state's arrears.

Chart 1.3 Percent of Obligors with $30,000 or more in Arrears and the Percent of Total Arrears that they Owed, by State: 2003/04



Source: State child support programs for states listed above.

Three study states - Arizona, Michigan, and Texas - had the highest percent of their arrears owed by obligors who owed at least $30,000 in arrears; 59 to 72 percent of the arrears in these three states were owed by obligors who owed at least $30,000 in arrears. The other six study states had less than half of their arrears owed by these obligors. Part of the reason that arrears were more concentrated in Arizona, Michigan, and Texas is because Arizona and Texas assess interest on arrears on a routine basis and Michigan assesses a surcharge twice a year on arrears, which is similar to assessing interest. The other study states do not assess interest on a routine basis. Assessing interest tends to concentrate arrears among high debtors.

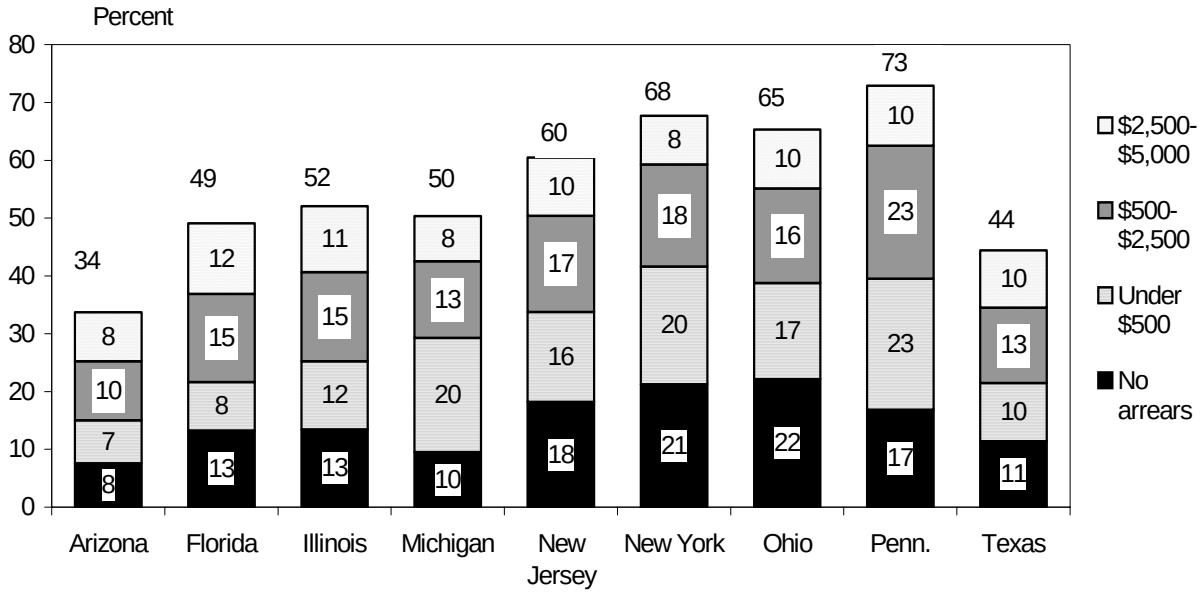
C. Nearly All Obligors owed Arrears but the Amount the Typical Obligor Owed was less than $5,000

Although chart 1.2 shows that arrears in the nine study states were highly concentrated among a relatively small number of obligors, it also shows that most obligors owed at most $5,000 in arrears. The first four categories on the left of chart 1.2 consist of

obligors who owed either no arrears or at most $5,000 in arrears. These four groups of obligors accounted for over half (57 percent) of the obligors in these states.

Just as states varied with regard to the percent of obligors who owed large amounts of arrears, they also varied with regard to the percent who owed small amounts of arrears. Chart 1.4 shows that the percent of obligors who owed at most $5,000 in arrears varied from a low of 34 percent (Arizona) to a high of 73 percent (Pennsylvania). In four of the states -- New Jersey, New York, Pennsylvania, Ohio -- at least 60 percent of the obligors owed at most $5,000 in arrears. In three of the states – Florida, Illinois, and Michigan – about half of the obligors owed at most $5,000 in arrears. In two states – Arizona and Texas – less than half of the obligors owed this little in arrears.

Chart 1.4 Percent of Obligors with No Arrears or with Low Arrears, by State: 2003/04



Source: State child support programs for states listed above.

The percent of obligors who did not owe arrears varied among the states. Ohio had the highest percent of obligors with no arrears (22 percent), but New York, New Jersey, and Pennsylvania were close behind, with 21, 18, and 17 percent, respectively.[22] In the other five states, at most 14 percent of their obligors were debt free. Arizona had the fewest obligors without arrears -- 8 percent of Arizona's obligors were debt free.

Looking at the percent of obligors who had $500 or less in arrears, we find that New York, Pennsylvania and Ohio had the highest percentage of obligors with arrears this low. All three of these states had two-fifths of their obligors with arrears not exceeding $500.

[22] We should note that a small number of obligors in New York (less than 2 percent) did not have a child support order, but had a medical support order or some other non-child support order. Including these obligors slightly inflates the rate of non-debtors in this state.

CHAPTER 2. WHO OWES CHILD SUPPORT ARREARS?

In this chapter we explore who owes the arrears in the nine study states. We start by examining the characteristics of debtors who owed over $30,000 in arrears, whom we refer to as "high debtors". We compare these debtors to obligors who did not owe any arrears and obligors who owed $30,000 or less in arrears. As noted in chapter 1, high debtors owed 54 percent of the total amount of arrears owed in the nine study states, representing nearly $21 billion. The median amount of arrears owed among these debtors was $45,833.

The differences in reported incomes between high debtors and non-debtors were quite stark, as seen in table 2.1.[23] Nearly three quarters of the high debtors had either no reported income (44 percent) or reported income of $10,000 a year or less (30 percent).[24] The median amount of reported income among high debtors was $685 per year. In contrast, one fifth of the non-debtors had no reported income (11 percent) or reported income of $10,000 a year or less (9 percent). Their median reported income was $29,625 per year.

Another major difference between high debtors and non-debtors was the degree to which each group had a current support order. Seventy one percent of the high debtors had a current support order; 29 percent had arrears-only cases. In contrast, 98 percent of non-debtors had a current support order.[25]

Interestingly, high debtors had the highest median current support order when compared to non-debtors and debtors with less than $30,000 in arrears. The median monthly current support order for high debtors was $348; it was $335 for non-debtors and $263 for debtors with less than $30,000 in arrears.

High debtors were expected to pay considerably more of their reported income in current support than other obligors. The median percent of reported income that high debtors were expected to pay in current support was 55 percent. Among non-debtors, the median percent of reported income that was supposed to go to current support was 13 percent.

High debtors with a current support order tended to have older orders than other obligors. Half of the high debtors with a current support order had their order established at least 9 years ago, while over half of the other obligors with a current support order had their orders established within the past five years.

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[23] Throughout this report, figures in tables and charts may not sum to 100 because of rounding.

[24] As noted earlier, six quarters of quarterly wage and unemployment insurance (UI) data were matched by OCSE to each of the study state data files. The Urban Institute used these matched data to create an annualized income variable for each obligor who had quarterly wage or UI data. We refer to this annualized income variable as "reported income" throughout this report.

[25] Nearly all of the obligors from the study states either owed child support arrears or had a current support order. The 2 percent figure reflects the few thousand who did not meet these criteria. Nearly all of these obligors were in New York and they had a medical support order.

Table 2.1 Characteristics of Obligors in Nine States, by Amount of Arrears Owed: 2003/04

	Does Not Owe Arrears	Arrears are up to $30,000	Arrears are over $30,000
Number of Obligors	538,720	2,568,767	371,084
% of Obligors	15	74	11
Total Arrears Owed (in billions)	$0	$17.7	$20.8
% of Total Arrears Owed	0	46	54
Median Arrears Owed	$0	$3,750	$45,833
Overall Median Annual Reported Income	$29,625	$8,191	$685
Percent of Obligors with:			
No reported income	11	26	44
Reported income between $1 and $10,000	9	28	30
Reported income over $10,000	80	47	27
Percent of Obligors with a Current Support Order	98	80	71
Percent of Obligors with a Current Support Order who have Multiple Current Support Orders	4	12	30
Median Age of Oldest Current Support Order	5	4	9
Median Monthly Current Support Order Amount	$335	$263	$348
As a % of Reported Income	13	22	55
Percent of Obligors who Opened their IV-D Case Within 12 Months of Order Establishment	55	45	22
Percent of Obligors who Paid Support in last Year	95	75	50
Percent of Obligors with:			
Instate zip code	81	73	65
Out of state zip code	13	16	19
No zip code	5	10	15
At least one interstate case	9	15	19

Source: Data are from state child support programs in nine study states matched to national quarterly wage and unemployment insurance data.

Note: Table 2.1 reports figures for all states when possible. However, not all states sent enough information to be included in each of the calculations. Arizona is excluded from the percent of obligors with a receiving case. Florida is excluded from all values calculated for obligors with current support obligations. New York is excluded from the percent of obligors who made a payment as well as from all ZIP code calculations. Michigan is excluded from multiple current orders.

High debtors were also more likely to have multiple current support orders than non-debtors. Thirty percent of the high debtors with a current support order had more than one current support order. In contrast, 4 percent of the non-debtors with a current support order had more than one order.

We also examined the extent to which obligors had their IV-D case opened within 12 months of their order establishment date. Staff members from some of the study states told us that IV-D cases that were opened in the same year as their orders were established were "easier" cases. In contrast, IV-D cases that were opened after their orders had been in place for at least a year were viewed as "difficult" cases. Typically, these cases came to the IV-D program because the custodial parent was having difficulty collecting child support and considerable arrears had already accrued. Furthermore, cases that had their orders established at least a year after their IV-D cases were opened were also considered "difficult". Obligors associated with these cases were viewed as more reluctant to pay support than obligors who had their orders established and IV-D cases opened with 12 months of each other. In other words, child support enforcement workers suggested that people who had their IV-D cases opened before or after their order was established are fundamentally different than those who have their IV-D cases opened and their orders established at the same time. We find evidence to support these arguments. The majority of non-debtors had their orders established within 12 months of opening their IV-D cases, while 22 percent of high debtors were in this category.

Not surprisingly, payment behavior differed markedly between high debtors and non-debtors. Only half of the high debtors made payments toward child support in the last 12 months, while 95 percent of non-debtors had paid current support or arrears in the last year.

Another difference between high debtors and non-debtors was the frequency with which they had a zip code on record with the state's child support agency. Eighty percent of high debtors, but 95 percent of non-debtors, had a zip code on record. High debtors were somewhat more likely to have an out-of-state zip code than non-debtors.

Finally, high debtors were twice as likely to have an interstate case than non-debtors. Nineteen percent of high debtors had an interstate case, while 9 percent of non-debtors had an interstate case.

In sum, we find that obligors who owed large amounts of arrears were more likely than other obligors to have the following characteristics:

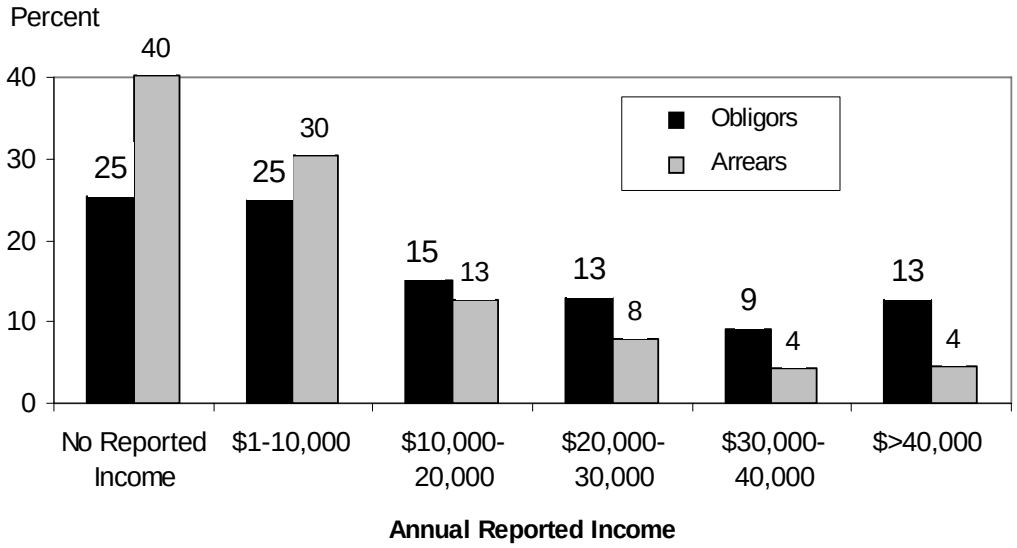
1) no or low reported income;
2) arrears-only cases;
3) current support orders that were high relative to their reported income;
4) older current support orders;
5) multiple current support orders;
6) opened their IV-D case at least a year before or after their order was established;
7) did not pay support in the last year;
8) no ZIP code or an out-of-state ZIP code; and
9) an interstate case.

We discuss each of these characteristics in greater detail below.

A. Obligors with No or Low Reported Income Held Most of the Arrears

Chart 2.1 shows that, in the nine study states, a quarter of all obligors had no quarterly wages or unemployment insurance (UI) during the six quarters examined, which we refer to as reported income throughout this report. Collectively, these obligors owed 40 percent of the arrears held in these states. Additionally, obligors who had at most $10,000 per year in reported income accounted for another quarter of obligors. We refer to these obligors throughout this report as low-income obligors. They owed 30 percent of the arrears in these states. Combined, obligors with no reported income or reported income below $10,001 per year accounted for half of the obligors and they owed 70 percent of the arrears in the study states.

Chart 2.1 Distribution of Obligors and Arrears in Nine States, by Annual Reported Income: 2003/04



Source: Child support data from nine study states matched to national quarterly wage and unemployment insurance data.

This pattern is not limited to the nine study states. Other research on arrears that have been certified for the federal tax refund offset program also found that 70 percent of those arrears were owed by debtors with no reported income or reported incomes of $10,000 a year or less.[26]

Although obligors may not have reported quarterly wages or unemployment insurance, it does not mean they do not have the ability to pay any child support. Some of these obligors may be employed in areas that are not covered by quarterly wage data, such as those who are self-employed or independent contractors. Others may be working in covered industries, but they are working under the table to avoid paying taxes or child

[26] See footnote 4.

support. Still others may be engaged in illegal activities. Nonetheless, prior research suggests that many obligors who do not have reported quarterly wages have relatively limited resources. Research shows that this group is significantly more likely to be disabled, in prison, and without a bank account, than obligors with income.[27] Analysis by OCSE found that 10 percent of debtors who did not match to four quarters of quarterly wages were institutionalized, 9 percent were receiving Social Security Administration benefits, and 6 percent were receiving Supplemental Security Income benefits.[28] This suggests that about 25 percent of the obligors without reported quarterly wages are either disabled or incarcerated.

Obligors with higher reported income owed lower amounts of arrears. Obligors with reported income over $40,000 a year accounted for 13 percent of the obligors in these nine states, but they owed 4 percent of the arrears. Obligors with reported income between $20,000 and $40,000 made up 22 percent of the obligors, but they owed 12 percent of the arrears. The final group, those with reported income between $10,000 and $20,000 a year represented 15 percent of the obligors and they owed 13 percent of the arrears. In other words, the 50 percent of obligors with reported incomes over $10,000 a year owed 30 percent of the arrears.

Although obligors with no and low reported incomes owed disproportionate shares of arrears in each state, there was considerable variation in the size of these groups and the amount of arrears they owed among the study states. Chart 2.2 reports the percent of obligors with no and low reported incomes and the percent of arrears that they owed in each of the study states.

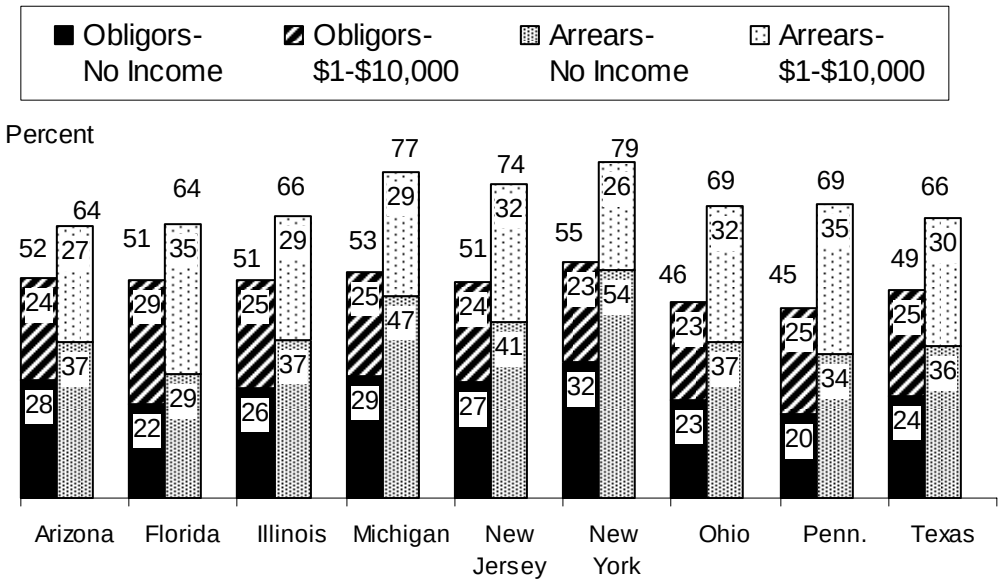
Focusing first on the percent of obligors with no reported income, chart 2.2 shows that New York had the highest percent of obligors with no reported income among the study states. Nearly one third of the obligors in New York did not match to the federal quarterly wage or UI data; these obligors owed 54 percent of the arrears in New York. The state with the next highest percentage of obligors who did not match to the federal quarterly wage or UI data was Michigan; 29 percent of its obligors did not match to these data and they owed 47 percent of the state's arrears. In contrast, Pennsylvania had the highest match rate among the study states. Twenty percent of its obligors did not match to the federal wage and UI data; these obligors owed 34 percent of the state's arrears. The other states fell in between these extremes.

New York's relatively low match rate of obligors to quarterly wage and UI data is due to the low match rate in New York City. Thirty six percent of the obligors in New York City did not match to the quarterly wage and UI data. In contrast, in Philadelphia, one quarter of the obligors did not match to the federal wage and UI data, a much higher match rate than in New York City. We do not know why the match rate in New York City was so low. Low match rates affect the ability to collect child support and may be contributing to lower collections in New York than in other states.

[27] U.S. DHHS, OCSE. "Story Behind the Numbers: Who Owes the Child Support Debt?" July 2004.
[28] Ibid.

Chart 2.2 also shows that most of the arrears in every study state were owed by obligors with no or low reported income. Obligors with no or low reported income represented between 45 and 55 percent of the obligors in these states, but they owed 64 to 79 percent of the arrears in these states. Given our discussion above about the low match rates in New York and Michigan, it is not surprising to find that New York and Michigan had the highest percentages of obligors with no or low reported incomes and the highest percentages of arrears owed by these obligors. In New York, 55 percent of the obligors had no or low reported incomes and they owed 79 percent of the state's arrears. Michigan was not far behind; 53 percent of its obligors had no or low reported incomes and they owed 77 percent of the state's arrears.

Chart 2.2 Percent of Obligors with No or Low Reported Income and the Percent of Total Arrears that they Owed, by State: 2003/04



Source: State child support programs for states listed above.

It is also worth noting that the percent of obligors with no and low reported incomes did not vary as much among the study states as the percent of obligors with no reported income. This also held for the percent of arrears owed by these obligors. These variations were lower because there was less variation among the states in the percent of obligors who had low reported incomes and the percent of arrears that they owed. In addition, states that had high percentages of obligors with no reported income tended to have lower percentages of obligors with low reported incomes and vice versa. New York is a good example – it had the highest percentage of obligors with no reported income (and the highest percentage of arrears owed by these obligors), but one of the lowest percentage of obligors with low reported incomes (and the lowest percentage of arrears owed by these obligors). Florida has just the opposite pattern – it had one of the lowest percent of obligors with no reported income (and the lowest percent of

arrears owed by these obligors), but the highest percent of obligors with low reported income (and one of the highest percentage of arrears owed by these obligors).

B. Obligors Who Did Not Pay Support in the Last Year Owed a Disproportionate Share of Arrears

Not only did differences in reported income contribute to differences in the share of arrears owed by obligors, but differences in payments contributed as well. Twenty four percent of the obligors in eight of the study states had not paid support in the last 12 months.[29] These obligors owed 45 percent of the arrears held by these states.

Some child support professionals have suggested that states should examine obligors by their ability and willingness to pay child support.[30] We attempted to stratify obligors in this manner, but found it difficult to do so given the data that we had available. In an effort to shed light on this idea, we divided obligors by the amount of reported income that they had and whether or not they paid child support. However, having no or low reported income does not necessarily mean individuals have no or a limited ability to pay. These individuals may have other sources of income beyond that which we had available or assets which we had no information about. Nonetheless, it is instructive to see how arrears are distributed by reported income and payment behavior.

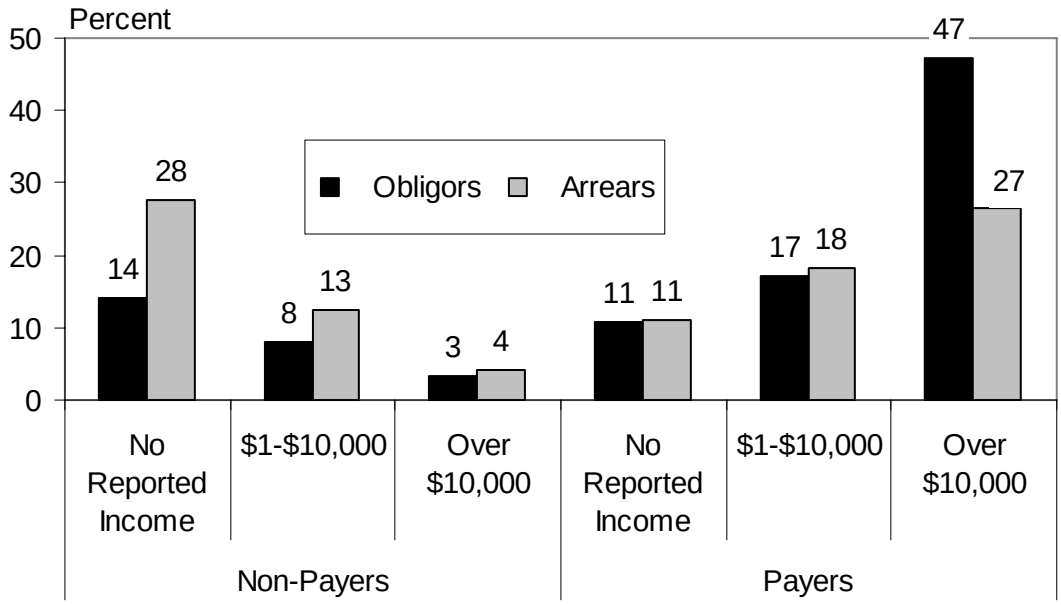
We find that, when obligors were divided by their payment behavior and reported income amounts, the group of obligors who owed significantly more arrears than it represented in the obligor population was those who had no reported income and did not pay child support in the past year. In eight study states, 14 percent of the obligors fell in this category, but they owed 28 percent of the arrears in these states. In other words, these obligors owed twice as much of these states' arrears than they represented in the obligor population. In contrast, obligors with no reported income but who paid support in the last 12 months held a proportionate share of arrears – they represented 11 percent of the obligors and they owed 11 percent of the arrears.

The next group of obligors with the largest share of arrears relative to their population size was obligors with reported incomes of at most $10,000 a year who did not pay support in the last 12 months. They represented 8 percent of the obligors and owed 13 percent of the arrears. In other words, their share of arrears was about 50 percent higher than their share of the population.

[29] New York did not send payment information for the 12 months prior to the date of extraction, hence this state is excluded from chart 2.3 and table 2.2.

[30] For example, see Center for the Support of Families, "Child Support Delivery Study: Final Report and Recommendations." Prepared for the Minnesota Division of Child Support Enforcement. January 1999.

Chart 2.3 Distribution of Obligors and Arrears in Eight States, by Annual Reported Income and Payment Status in the Last Year: 2003/04



Source: Arizona, Florida, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas child support data matched to national quarterly wage and unemployment insurance data.

The group of obligors who owed the least amount of arrears relative to their population size was those with reported incomes over $10,000 a year who paid support. They represented 47 percent of the obligors in these states but they owed 27 percent of the arrears. Very few obligors in the study states had reported incomes over $10,000 a year and did not pay support for 12 months (3 percent) and they owed very little of the arrears (4 percent).

Table 2.2 compares obligors who had no reported income and did not pay support in the last year to all other obligors in the study states (except New York). Nearly 400,000 obligors in the eight states fell into this group. They owed nearly $9.5 of the $25 billion in arrears. Their median arrears were $14,680, significantly higher than the median arrears of $2,585 for obligors who either paid in the past year or who had reported income. By definition, the obligors of interest had no reported income. In contrast, among obligors who paid or had reported income, the median annual reported income was $14,581. Eighty-seven percent of these obligors had some reported income.

A major difference between obligors with no reported income and no payments for 12 months and other obligors was the extent to which each group had arrears-only cases. Obligors with no reported income and no payments for 12 months were over twice as likely to have arrears-only cases as other obligors. Thirty six percent of obligors with no reported income and no payments for 12 months had arrears-only cases, while just 15 percent of other obligors had arrears-only cases.

Table 2.2 Characteristics of Obligors in Eight States, by Whether They Had no Reported Income in the Past Six Quarters and Made no Payments in the Last 12 Months versus All Other Obligors: 2003/04

	All Other Obligors	Obligors with No Reported Income and No Payments for 12 months
Number of Obligors	2,569,227	397,296
% of obligors	87	13
Total Arrears Owed (in billions)	$25.0	$9.5
% of total arrears	72	28
Median amount of arrears owed	$2,585	$14,680
Overall Median Annual Reported Income	$14,581	$0
% of Obligors with Reported Income	87	0
Percent of Obligors with a Current Support Order	85	64
% with multiple orders	12	13
Median Age of Oldest Current Support Order	5	6
Median Monthly Current Support Order	$277	$175
Percent of Obligors with:		
Instate ZIP code	74	65
Out of state ZIP code	16	14
No ZIP code	9	20
At least one interstate case	14	15

Source: Arizona, Florida, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas child support data matched to national quarterly wage and unemployment insurance data

Among obligors with a current support order, the median current support order for obligors with no reported income and no payments for 12 months was $175 per month, which was about $100 lower than the median current support order for other obligors. The median number of years with a current support order was 6 years among current support obligors who did not have reported income and did not pay for 12 months, but it was 5 years among other obligors. Both groups were about equally likely to have multiple current support orders, given that the obligor had at least one order for current support.

Another difference between obligors with no reported income and no payments for 12 months and other obligors was the extent to which each group did not have a ZIP code on record with the child support program. Twenty percent of the obligors with no reported income and no payments for 12 months did not have a ZIP code on record, while 9 percent of other obligors did not have a ZIP code on record. In contrast to the large differences in ZIP codes, obligors with no reported income and no payments for 12 months were only slightly more likely as other obligors to have an interstate case.

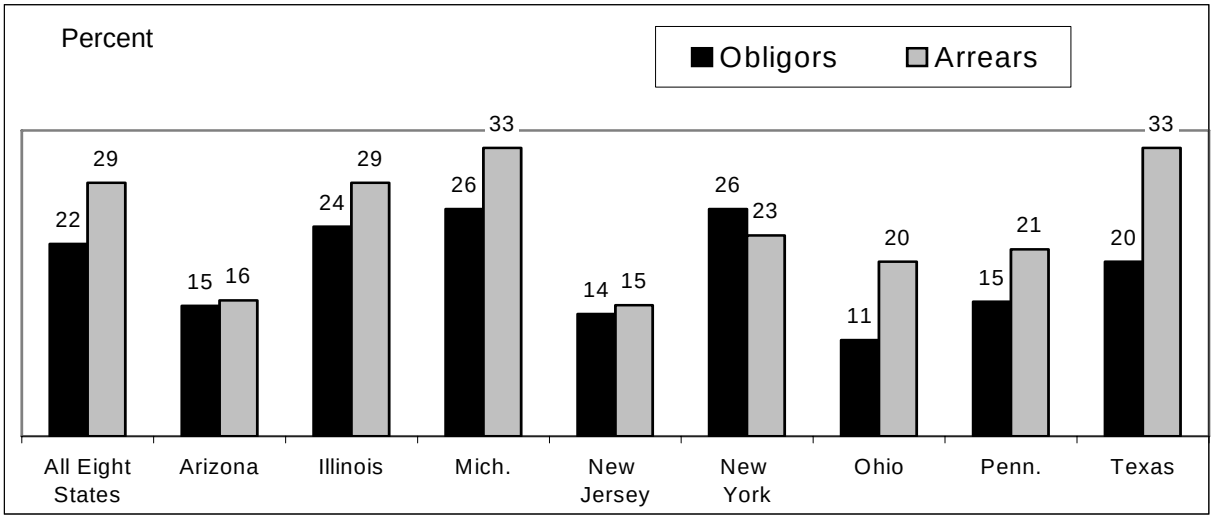
C. Obligors with Arrears-Only Cases Owed a Disproportionate Share of Arrears

Obligors with arrears-only cases tended to owe a disproportionate share of arrears. When we examined obligors collectively for eight of the study states, we find that 22 percent of the obligors had arrears-only cases and they owed 29 percent of the states' arrears.[31] However, as chart 2.4 shows, the percent of obligors with arrears-only cases varied among the eight study states and this group did not always owe a disproportionate share of arrears.

Two states – Michigan and New York – had the highest percent of obligors with arrears-only cases. Twenty six percent of the obligors in each of these states had arrears-only cases. In Michigan, these obligors owed a disproportionate share of arrears, while in New York they did not. Illinois was not far behind these two states; 24 percent of their obligors had arrears-only cases and they owed 29 percent of the state's arrears.

Ohio had the lowest percentage of obligors who had arrears-only cases; 11 percent of their obligors had arrears-only cases and they owed 20 percent of Ohio's arrears. Three other states – Arizona, New Jersey, and Pennsylvania -- had relatively low percentages of obligors with arrears-only cases (14-15 percent). In Arizona and New Jersey, arrears-only obligors owed slightly more arrears than their share of the obligor population. In contrast, arrears-only obligors in Pennsylvania represented 15 percent of the obligor population, but they owed 21 percent of the arrears in this state.

Chart 2.4 Percent of Obligors with Arrears-Only Cases and the Percent of Total Arrears they Owed, Overall and by State: 2003/04



Source: Data from child support programs from states listed above.

One factor that may influence the percent of obligors who have arrears-only cases in a state is a state's law regarding the age of emancipation. All of the study states, except New Jersey, have state laws that indicate a specific age upon which current support

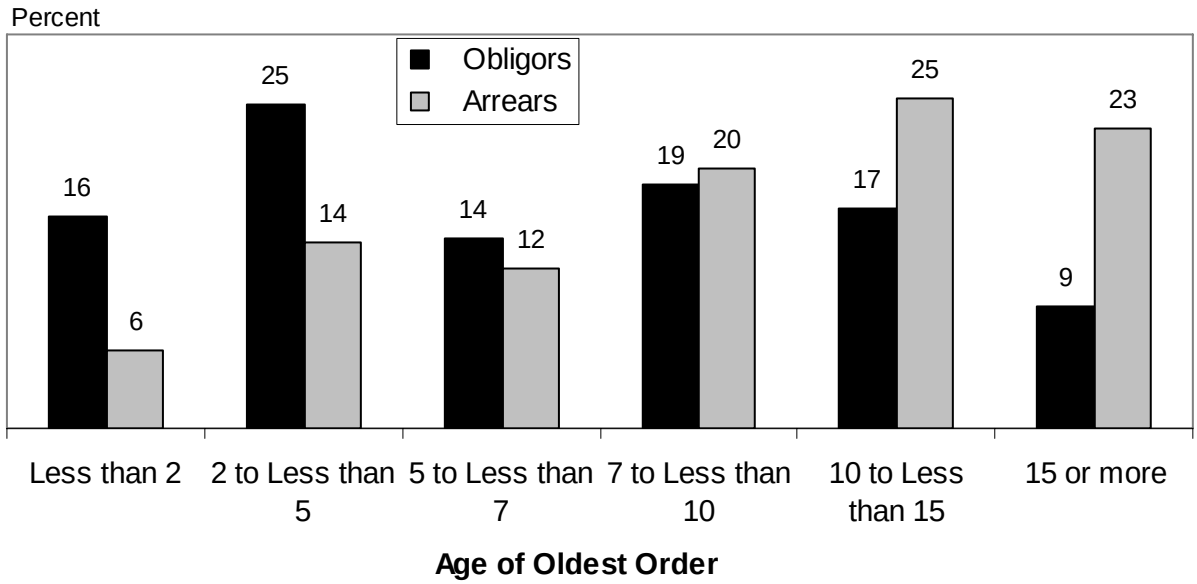
[31] Florida is not examined here because the data the Urban Institute received from Florida did not indicate which obligors had current support orders.

orders terminate unless otherwise stated in the order.[32] Several of the study states have laws that terminate orders once the youngest child turns 18 (Illinois, Michigan, and Texas). Ohio terminates current support orders when the youngest child turns 19. Arizona terminates orders once the youngest child turns 19 or finishes high school, whichever comes first. New York is the only study state that terminates orders when the youngest child turns 21. New Jersey does not have a legal age of emancipation. In this state, emancipation is determined by the court on a case-by-base basis. A termination order is required to end an obligation; otherwise, arrears will continue to accrue regardless of the child's age.

D. Obligors with Older Orders Owed a Disproportionate Share of Arrears

Obligors who have orders that were established at least 10 years ago owe a disproportionate share of arrears. In the nine study states, obligors who had their order established at least 10 years ago owed 48 percent of the states' arrears, yet they represented 26 percent of the obligors in these states. The opposite was true, however, among obligors whose orders were established less than 5 years ago. These obligors owed 20 percent of the arrears in these states, but they represented 41 percent of the obligors in these states.

Chart 2.5 Distribution of Obligors and their Arrears in Nine States, By the Age of their Oldest Order: 2003/04



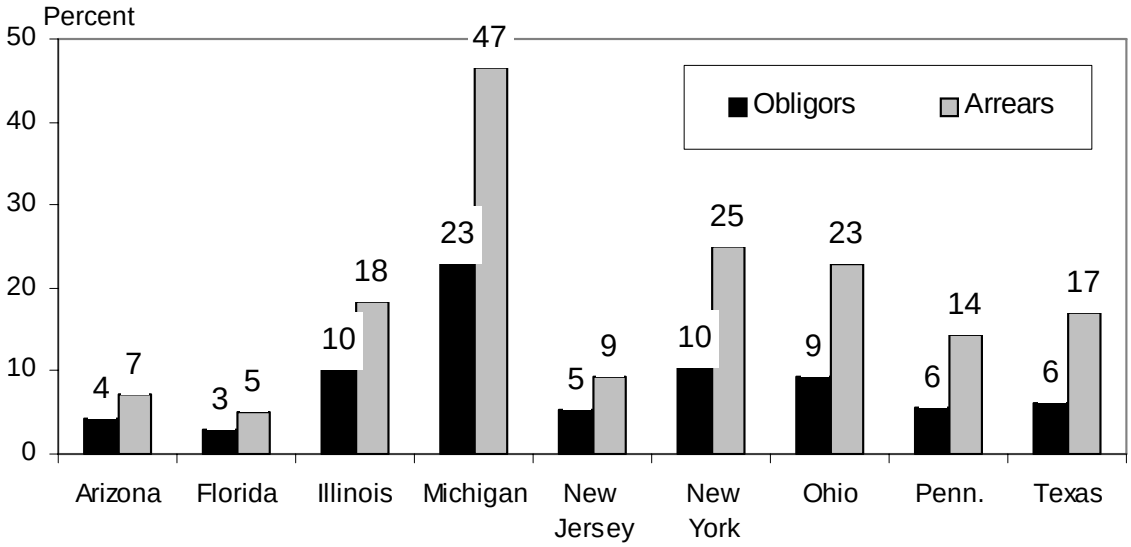
Source: Data are from the nine study states.

Chart 2.6 shows that the percent of obligors who had an order for at least 15 years and the percent of arrears they owed varied among the nine study states. Michigan had the largest share of obligors with older orders; 23 percent of Michigan's obligors had orders

[32] State laws regarding the age of emancipation are from the Federal Office of Child Support Enforcement, Intergovernmental Referral Guide.

established at least 15 years ago. These obligors owed nearly half (47 percent) of all arrears in Michigan. Illinois, New York, and Ohio each had about one-tenth of their obligors with orders established at least 15 years ago. In each of these states, obligors with orders over 15 years old owed between 18 and 25 percent of the arrears in these states. Arizona and Florida reported few obligors (3-4 percent) who had orders established over 15 years ago.[33] These obligors owed between 5 and 7 percent of the arrears in these states.

Chart 2.6 Percent of Obligors with Orders Established at least Fifteen Years Ago and their Share of Arrears, by State: 2003/04



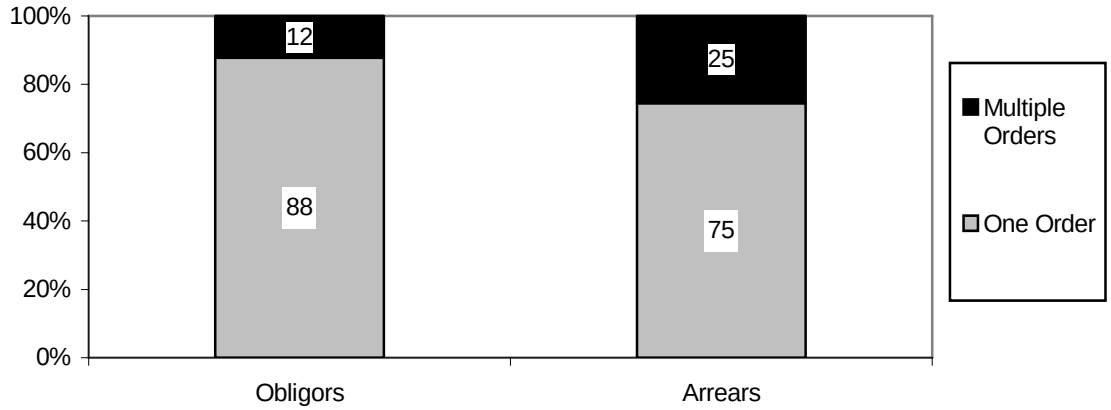
Source: State child support programs for states listed above.

[33] Obligors with no order establishment date were excluded when determining the distribution of obligors and arrears by the age of their order. Both Arizona and Florida had higher rates of obligors who had no order establishment dates in the data sent to the Urban Institute. Since it is likely that older orders are more likely than younger orders to be missing, our figures may under-represent the proportion of orders that are older in these states.

E. Obligors with Multiple Current Support Orders Owed a Disproportionate Share of Arrears

A relatively small percent of obligors with a current support order had multiple current support orders in the seven study states examined, but they owed a disproportionate share of arrears held by current support obligors.[34] Specifically, chart 2.7 shows that 12 percent of the obligors with a current support order in the seven states examined had multiple current support orders, but they owed a quarter of all arrears held by current support obligors in these states.

Chart 2.7 Distribution of Current Support Obligors and Their Arrears in Seven States, by Whether or Not They Had Multiple Current Support Orders: 2003/04

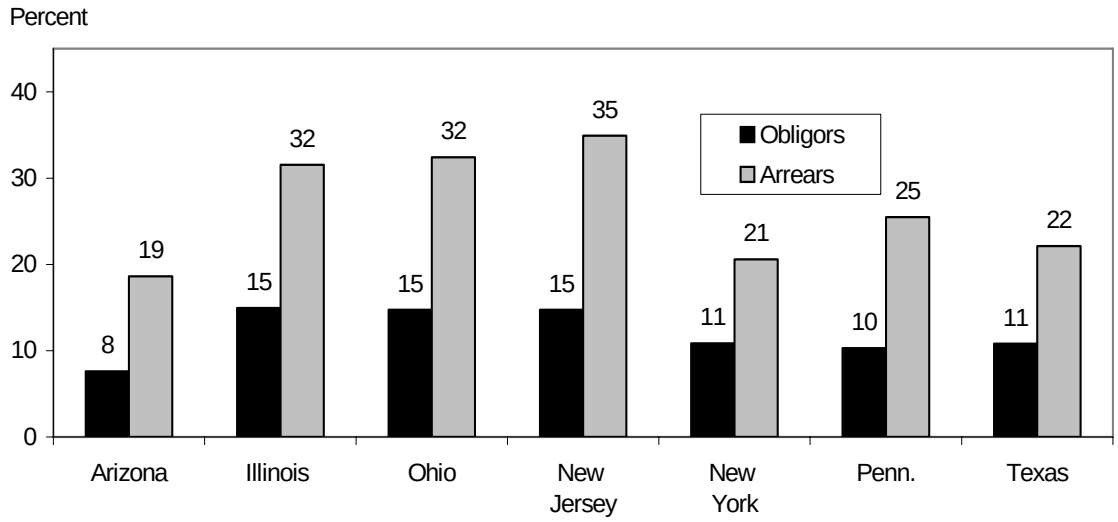


Source: Data are from Arizona, Illinois, New Jersey, New York, Ohio, Pennsylvania, and Texas.

Chart 2.8 shows the percent of obligors who had multiple orders for current support and the percent of arrears they owed, among obligors with a current support obligation, for each state. Three states – Illinois, New Jersey, and Ohio – had the highest percent of current support obligors with multiple current support orders; 15 percent of the current support obligors in these states had multiple current support orders. Furthermore, they owed about a third (32 to 35 percent) of the arrears owed by obligors with a current support order. In other words, they owed more than twice as much arrears as they represented in these states. Arizona had the lowest percent of current support obligors with multiple orders; just 8 percent of their current support obligors had multiple current support orders. Nonetheless, they owed 19 percent of the arrears owed by current support obligors, or double their share of the obligor population.

[34] Florida and Michigan are excluded from the multiple order analysis because they didn't provide information on the number of current support orders that obligors had.

Chart 2.8 Percent of Obligors with Multiple Current Support Orders and the Percent of Arrears they Owed Among All Current Support Obligors, by State: 2003/04



Source: Child support programs from states listed above.

Another approach to examining the differences in arrears owed by obligors with multiple current support orders compared to obligors with one current support order is to consider the median amount of arrears owed by these obligors. Table 2.3 shows the median amount of arrears owed in each state by these two groups of obligors. In Arizona, the median amount of arrears for obligors with multiple current support orders was $41,365, four times the median arrears owed by obligors with one current support order. Similarly, in Illinois, the median amount of arrears owed by obligors with multiple current support orders was 4.6 times the amount owed by obligors with one order. In Ohio and New Jersey, the median amount of arrears owed by obligors with multiple support orders exceeded ten times the amount owed by obligors with one current support order. In New York and Pennsylvania, the two states with the lowest median arrears for obligors with one order, obligors with multiple orders owed over 9 times the median arrears owed by obligors with one order.

Table 2.3 Median Arrears Owed by Obligors with One Current Support Order and Multiple Current Support Orders, by State: 2003/04

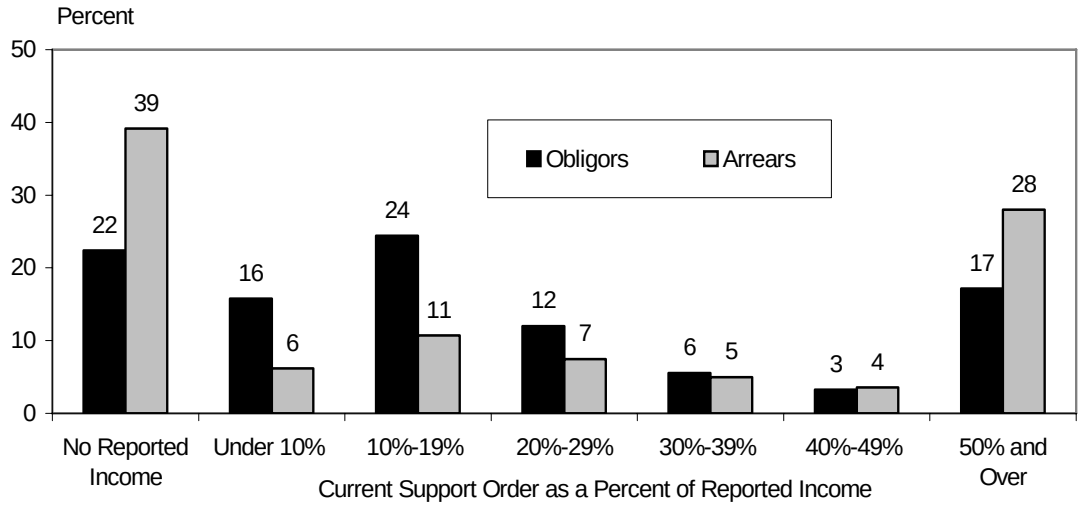
Obligors with:	Arizona	Illinois	Ohio	New Jersey	New York	Penn.	Texas
One Current Support Order	$10,106	$2,666	$672	$1,110	$506	$624	$6,659
Multiple Current Support Orders	$41,365	$12,257	$7,810	$14,233	$4,805	$6,116	$19,387

Source: Child support programs for states listed above.

F. Obligors who had Orders that Represented Fifty Percent or More of their Reported Income Owed a Disproportionate Share of Arrears

Two groups of current support obligors tend to owe a much larger share of arrears than they represent in the obligor population – those with no reported income and those with reported income but their current support orders represent more than 50 percent of their reported income. Chart 2.9 shows that 22 percent of current support obligors did not have reported income and they owed 39 percent of the arrears owed by current support

Chart 2.9 Distribution of Current Support Obligors and their Arrears in Eight States, by the Percent of Reported Income that they are Expected to Pay toward Current Support: 2003/04



Source: Arizona, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas child support data matched to national quarterly wage and unemployment insurance data.

obligors.[35] Seventeen percent of current support obligors in eight study states had reported income, but their current support orders represented 50 percent or more of their reported income.[36] These obligors owed 28 percent of the arrears owed by current support obligors.

Chart 2.9 also shows, however, that most obligors with a current support order have reported income and their orders represent less than half of their reported income. Sixty one percent of the obligors with current support orders in eight of the study states had reported income and their current support order represented less than 50 percent of their reported income. These obligors owed a much smaller share of the arrears owed

[35] These percentage figures are slightly lower than we saw in chart 2.1, which examined all obligors and all arrears by reported income. This chart examines current support obligors and the arrears that they owed.

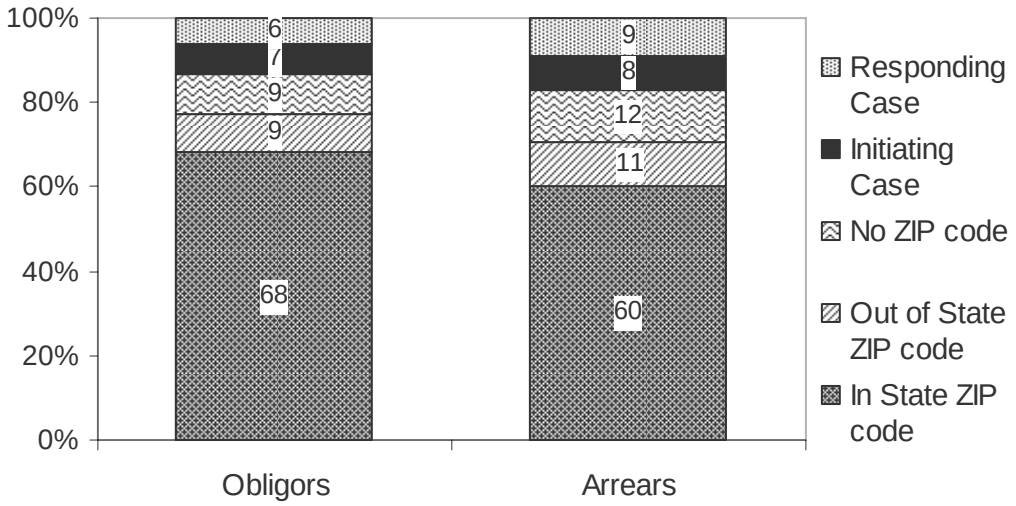
[36] Florida is not included in this analysis because they did not include order amounts in their data file.

by current support obligors (33 percent) than they represented in the current support obligor population.

G. Interstate Cases, Out-of-State Cases, and Obligors Without a ZIP Code Owed a Disproportionate Share of Arrears

Most of the study states included an interstate case identifier that indicated whether a case was a responding interstate case, an initiating interstate case, or a non-interstate case. Additionally, most of the states included the obligor's ZIP code. We used these ZIP codes to identify whether an obligor lived in-state or out-of-state. A number of obligors in each state had no valid ZIP code on record. Chart 2.10 shows the overall percent of obligors and arrears in six of the study states, by whether the obligors had a responding case[37], an initiating case, an out-of-state ZIP code (no interstate case), an in-state ZIP code (no interstate case), or no ZIP code (no interstate case).[38] These five categories were created so that they would be mutually exclusive and thus sum to 100 percent.

Chart 2.10 Percent of Obligors and Arrears in Six States, by Interstate and ZIP Code Status: 2003/04



Source: Child support data from Florida, Michigan, New Jersey, Ohio, Pennsylvania, and Texas.

In the six study states examined, 68 percent of the obligors had a valid in-state ZIP code and did not have an interstate case (see Chart 2.10). These obligors owed 60 percent of the arrears. This is the only group of obligors in Chart 2.10 that owed a

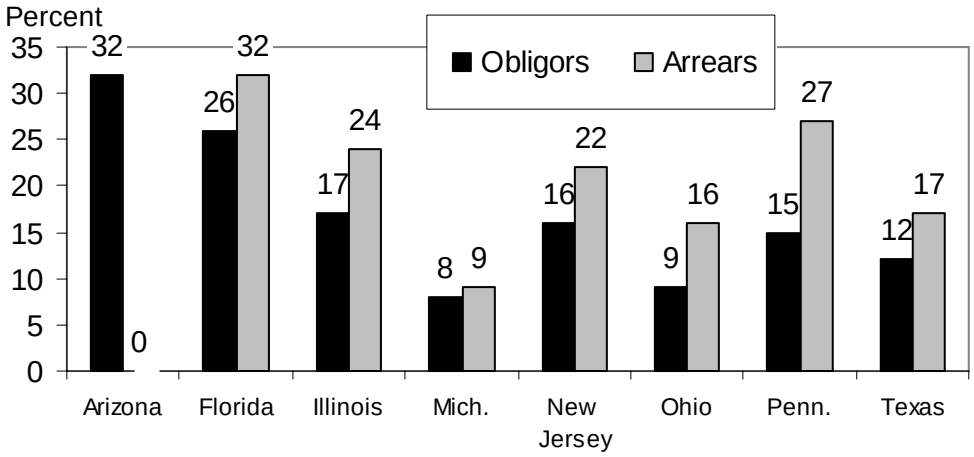
[37] A small number of obligors held both a receiving case and an initiating case. These obligors and their total arrears are included in both of these two groups.

[38] Arizona, Illinois, and New York are excluded from this chart. As noted elsewhere, Arizona's arrears for responding cases were not complete. Illinois did not send data on obligors without ZIP codes. New York did not send an interstate variable.

smaller share of arrears than they represented in the obligor population. The other 32 percent of obligors, who owed 40 percent of the arrears, were fairly equally distributed among responding interstate cases (6 percent), initiating interstate cases (7 percent), obligors with out-of-state ZIP codes but no interstate case (9 percent), and obligors with no interstate case and no valid ZIP code on record (9 percent). Each of these latter groups of obligors owed a larger share of the arrears than their share of the obligor population.

The percent of obligors with an interstate case varied among the study states.[39] Arizona had the highest percent of obligors with an interstate case; 32 percent of their obligors had an interstate case. Arizona did not include arrears owed on responding cases in the data provided for this study and thus the arrears column in chart 2.11 for Arizona is blank. The other state with a large percent of obligors with an interstate case was Florida; 26 percent of their obligors had an interstate case and they owed 32 percent of Florida's arrears. In contrast to these two states, another state with a high degree of migration – Texas -- had a much smaller percent of obligors with an interstate case. Just 12 percent of Texas' obligors had an interstate case and they owed 17 percent of the arrears in Texas. Illinois, New Jersey and Pennsylvania all had higher percentages of obligors with an interstate case than Texas. In Pennsylvania, 15 percent of the obligors had an interstate case, but they owed 27 percent of the arrears. Michigan and Ohio had the lowest percentages of obligors with interstate cases; 8 and 9 percent of their obligors had an interstate case in these states, respectively. Michigan and Ohio differed, however, in the percent of arrears owed by obligors with an interstate case. In Michigan, these obligors owed 9 percent of the arrears, while, in Ohio, they owed 16 percent of the arrears.

Chart 2.11 Percent of Obligors with at Least One Interstate Case and the Percent of Total Arrears that they Owed, by State: 2003/04

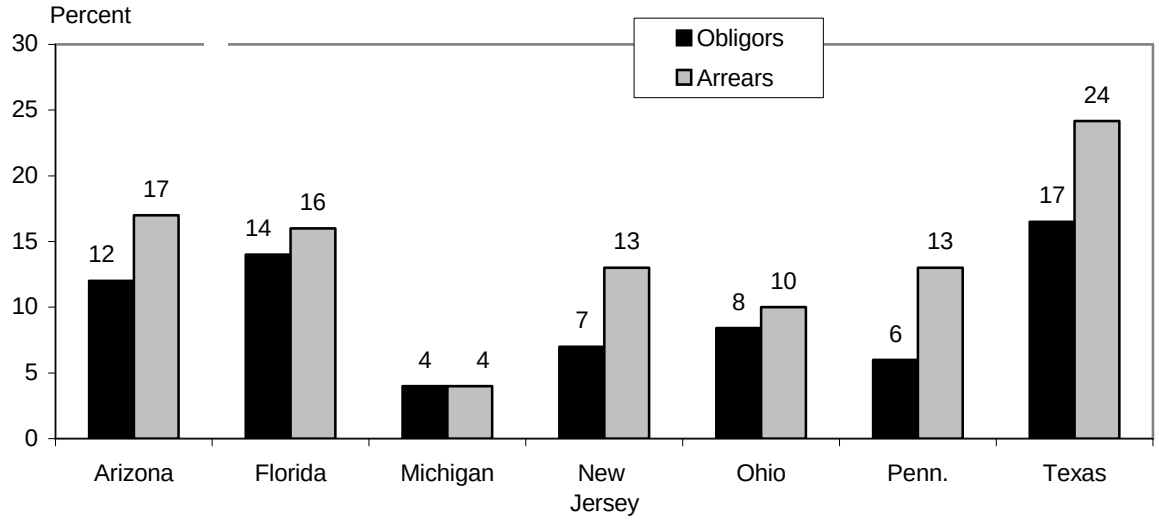


Source: Child support programs from states listed above.

[39] As noted elsewhere, New York did not send an interstate variable and thus is not included in Chart 2.11.

The percent of obligors with no ZIP code on record also varied among the states.[40] Chart 2.12 shows that Arizona, Florida and Texas had the highest percentages of obligors with no ZIP code on record. These figures ranged from 12 percent to 17 percent. Michigan had the smallest percent of obligors without a ZIP code, with 4 percent of its obligors without a ZIP code. New Jersey, Ohio, and Pennsylvania had

Chart 2.12 Percent of Obligors with No ZIP Code (and no Interstate Case) and the Percent of Total Arrears that they Owed, by State: 2003/04



Source: Child support programs from states listed above.

between 6 and 8 percent of obligors without a ZIP code. Pennsylvania had a relatively small percentage of obligors without a ZIP code, but these obligors owed twice as much arrears as their share of the obligor population. New Jersey had a similar situation – 7 percent of their obligors did not have a ZIP code and they owed 13 percent of the state's arrears.

Table 2.4 shows that, in every state except Florida, the group of obligors with the lowest median arrears was those with no interstate case and an in-state ZIP code. This reinforces the common perception among child support professionals that non-interstate cases that have an in-state ZIP code are easier to collect from than out-of-state cases or interstate cases.

In most of the study states, the median arrears owed among obligors with no ZIP code (and no interstate case) were just as high if not higher than the median arrears owed among obligors with an interstate case. In contrast, the median arrears owed among obligors with an out-of-state ZIP code (and no interstate case) tended to be lower than the median arrears owed among obligors with an interstate case.

[40] Illinois's data did not include obligors with no ZIP code on record. Thus, Illinois is excluded from this part of the analysis.

Table 2.4 Median Arrears for Obligors with an Interstate Case and by Type of ZIP Code on Record, by State: 2003/04

Obligor has:	Arizona	Florida	Illinois	Mich.	New Jersey	Ohio	Penn.	Texas
An Interstate Case								
Initiating	$12,973	$4,200	$8,815	$9,704	$5,944	$7,023	$4,106	$12,400
Responding	NA	$7,357	$8,683	$12,109	$4,452	$7,350	$5,006	$12,973
No Interstate Case, but has an:								
In State ZIP Code	$10,237	$4,551	$3,338	$3,810	$1,214	$1,026	$663	$4,791
Out of State ZIP Code	$11,551	$5,480	$6,857	$9,012	$3,855	$2,861	$1,106	$7,539
No ZIP code	$19,917	$7,127	NA	$4,369	$10,609	$3,399	$6,093	$12,956

Source: Child support programs from states listed above.
Note: NA means not available.

H. Orders Established at Least One Year Before or After the IV-D Case was Opened Owed a Disproportionate Share of Arrears

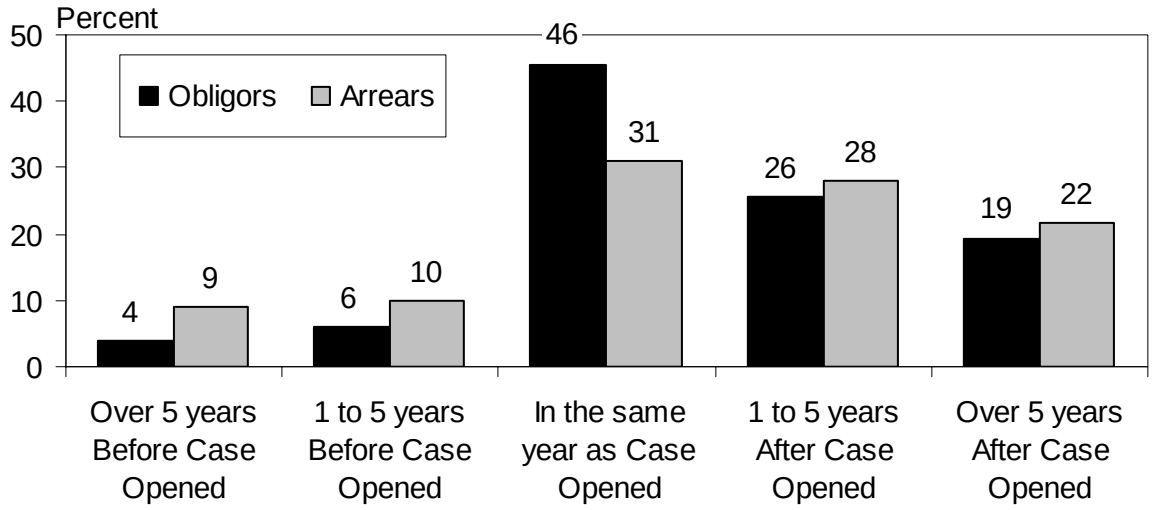
Obligors who had their IV-D case opened at least a year before or after their order was established owed a disproportionate share of arrears. In the five study states with sufficient information to examine this issue, 10 percent of the obligors had an order for at least a year prior to the opening of their IV-D case, but they owed 19 percent of the arrears in these states.[41] In other words, these obligors owed nearly twice as much arrears as they represented in the obligor population. As noted above, these obligors are thought to generally represent the cases where the custodial parent came to the IV-D program because they were unable to collect child support on their own.

Obligors who had their order established at least a year after their IV-D case was opened represented 45 percent of the obligors in these states and they owed half of the arrears in these states. Thus, these obligors owed more arrears than they represented in the obligor population, but the difference was not nearly as severe as those who had their orders established at least a year prior to the opening of their IV-D case.

The final group of obligors – those who had their IV-D case opened within 12 months of the order establishment date – represented 46 percent of the obligors in the five study states, but they owed 31 percent of the arrears in these states. Thus, this group of obligors had the lowest share of arrears relative to their share of the obligor population.

[41] Only Arizona, New Jersey, New York, Pennsylvania and Texas provided data on case opening date and order establishment date. In these calculations, obligors without both of these figures were excluded.

Chart 2.13 Percent of Overall Arrears and Obligors in Five States, by When the Obligor's First Order Was Established Relative to the IV-D Case Being Opened: 2003/04

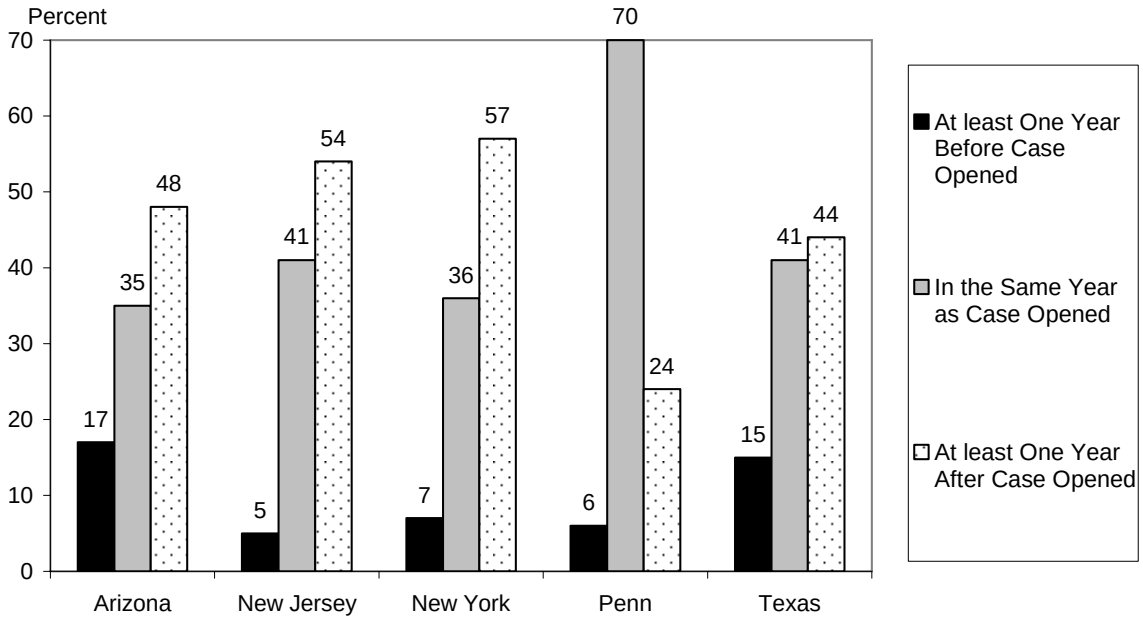


Source: Arizona, New Jersey, New York, Pennsylvania, and Texas child support programs.

We find considerable variation among the five states in the percent of obligors who had their first order established within one year of opening their IV-D case. In Pennsylvania, 70 percent of the obligors had their first order established within a year of opening their IV-D case. Thus, according to this criterion, Pennsylvania had the "easiest" caseload among the five states. The other four states had between 35 and 41 percent of their obligors in this category.

We also find considerable variation in the percent of obligors who had their order established at least a year before their IV-D case was opened. Arizona and Texas had about twice as many obligors in this category than New Jersey, New York, or Pennsylvania. Seventeen and fifteen percent of the obligors in Arizona and Texas, respectively, had their orders established at least one year before their IV-D case was opened, while in New Jersey, New York, and Pennsylvania, 5 to 7 percent of obligors had their orders established at least one year before their IV-D case was opened.

Chart 2.14 Distribution of Obligors by When their First Order was Established Relative to their IV-D Case Being Opened, by State: 2003/04



Source: Child support programs from states listed above.

Table 2.5 shows that, in all five states, obligors who had their order established and their IV-D case opened in the same year had considerably smaller median arrears than other groups examined. These figures ranged from $772 in Pennsylvania to $7,281 in Arizona. In contrast, obligors who had their orders established at least five years before their IV-D case was opened had the highest median arrears among the groups examined, except in Pennsylvania. These figures ranged from $2,170 in Pennsylvania to $25,565 in Texas. In Pennsylvania, obligors with orders that were established at least five years *after* their IV-D case was opened had the highest median arrears among the groups examined.

Table 2.5 Median Arrears by When the Order was Established Relative to the Opening of the IV-D Case, by State: 2003/04

Order was Established:	Arizona	New Jersey	New York	Penn.	Texas
Over 5 years Before IV-D Case Opened	$25,121	$8,016	$12,105	$2,170	$25,565
Within 1 to 5 years Before IV-D Case Opened	$16,317	$6,928	$8,087	$2,842	$13,949
In the same year as IV-D Case Opened	$7,281	$875	$784	$772	$5,197
Within 1 to 5 years After IV-D Case Opened	$13,142	$2,476	$1,705	$1,857	$9,318
Over 5 years After IV-D Case Opened	$20,581	$7,009	$537	$4,834	$13,193

Source: Child support programs from states listed above.

CHAPTER 3: HOW COLLECTIBLE ARE ARREARS?

We wanted to estimate the extent to which study states were likely to collect their existing arrears. We developed a simulation model to make these estimates. We ran the simulations for Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas.[42] Below we describe the assumptions used in the simulation and the simulation results.

We find that only 40 percent of the arrears that were owed at the time of data extraction are likely to be collected over 10 years. The seven study states examined held $30 billion in arrears at the time the data were extracted. We estimate that $12 billion of that will be collected in 10 years. Furthermore, we predict that arrears will grow in these seven states by 60 percent over 10 years, reaching $48 billion in 2014. The reason we estimate that less than half of the arrears will be collected over 10 years is because so much of the arrears are owed by obligors with no or low reported income. It is very difficult to collect from obligors who have no or low reported income. Further, the amounts that tend to be collected from these obligors are relatively small compared to the amounts of arrears that are owed. Thus, this combination of traits – no or low reported income and high arrears – result in very low arrears payment rates.

We also find that assessing interest contributes to arrears growth. Study states that assess interest at 6 percent per year (i.e. Texas) will find that, 10 years later, their arrears will be about 40 percent higher than they would be if interest were not assessed. Similarly, if study states that do not assess interest begin to assess interest at 6 percent a year, their arrears will be about 40 percent higher in 10 years than they otherwise would.

A. Assumptions Used in the Simulation Models

For Arizona, New Jersey and Pennsylvania, the first year of the simulation was 2004. For all other states, the first year of the simulation was FY 2003. We used actual data for the first year of the simulation. Results in years 2 through 10 were based on the actual data used in the first year and a set of assumptions about payment rates, payment growth, and order amounts described below. The simulation model classified obligors by reported income and whether or not they had a current support order in the first year. We used ten income groups[43]; each was divided by whether the obligor had a current support order or was arrears-only. This classification scheme created 20 income-order groups.

Increase the Number of Obligors who Pay Support in Future Years

We wanted the simulation model to incorporate improvements in collections over the 10-year period of the simulation. Thus, we assumed that 3 percent of the obligors who

[42] We were unable to run the simulation for Florida and New York because of insufficient data on current support orders and payment behavior, respectively.
[43] See table 3.1 for the ten income groups.

did not pay support in the first year would become payers in each subsequent year. We selected non-payers randomly each year to become new payers. If a new payer had reported income over $3,000 a year, we assumed that he would pay a percent of his reported income that was equivalent to the median percent paid among payers in his income-order group. If a new payer had reported income less than or equal to $3,000 a year, we assumed that he would pay the median dollar amount paid by payers in his income-order group, even if this amount was greater than his reported income.

Increase the Amount Paid in Future Years

We also wanted payment amounts to grow over time to reflect improvements in collections. As new and expanded enforcement tools become available, we anticipate that state IV-D programs will increase their current support and arrears collections per obligor. We incorporated collection increases into the simulation model in the following manner. If a payer's reported income was greater than $3,000 a year, the amount that he would pay to child support as a percent of his reported income would increase by 2 percentage points per year until it hit the lowest of the following thresholds:

- 50 percent of reported income;
- 100 percent of the child support order (if the obligor does not have any arrears);
- 125 percent of the child support order (if the obligor has a current order and arrears).

Two exceptions to these guidelines were developed for obligors who had very high orders relative to their reported income or who paid more than would be expected given their reported income:

- If the current support order was greater than 50 percent of reported income, payments were capped at 100 percent of the current support order.
- If the obligor paid more than any one of the above thresholds in the first year, he continued to pay that amount throughout the simulation with no increases.

As an illustrative example, consider an obligor who had $10,000 in reported income. He paid 20 percent of his reported income (or $2,000) in current support in the first year of the simulation and paid nothing toward his arrears. Suppose also that his current support order was $3,000 per year, which represented 30 percent of his reported income. If we assume that his reported income remained constant throughout the simulation period (this is the basic income assumption explained below), the simulation model would increase the amount of current support paid by this obligor from 20 percent of reported income to 22 percent of reported income during the first year of the simulation. Thus, in the first simulated year, the obligor would pay 22 percent of his reported income ($2,200) towards current support; in the second simulated year he would pay 24 percent of his reported income ($2,400), etc. In the fifth year of the simulation, this obligor would be paying 30 percent of his income ($3,000), which is equal to his current support order. In the remaining years of the simulation, the

simulation model assumes that support payments continue to increase by 2 percentage points per year. This annual increase of $200 would go towards his arrears since the order for current support would be fully paid. The simulation would cap his payments at 125 percent of his current support order, which would translate into 37.5 percent of his reported income ($3,750). This hypothetical obligor will reach this amount in year 10 of the simulation.

If an obligor who paid in year 1, on the other hand, had reported income less than or equal to $3,000 a year, we assumed that he continued to pay that same amount throughout the simulation. If he did not pay in the first year but was randomly selected to become a payer, he would be simulated to pay the median payment among payers in his income-order group. Obligors with reported income less than or equal to $3,000 were not subject to the cap of 125 percent of their order if they had arrears. Arrears-free obligors, however, could pay no more than 100 percent of their order.

In order to better understand what happened to a low-income obligor who was randomly assigned to become a payer, consider another hypothetical obligor with reported income of $1,001 in year 1. Suppose his order was $1,500 per year and he did not pay in the first year. In year 3, suppose he was randomly selected to begin paying. Further suppose that this hypothetical obligor had his case in Michigan, where the median payment for obligors with current support orders who had reported income of $1,000 - $3,000 per year was $1,048. Thus, beginning in year 3, this obligor paid $1,048 towards his current support obligation. Since these payments represented more than 50 percent of his reported income, current support payments were kept at $1,048 for each remaining year of the simulation in which a current support amount was due.

Allocate Payments to Current Support and Arrears

After total payments were calculated according to the above assumptions, we assigned the proportion of the payment amount allocated to current support and to arrears based on how the obligor paid in the first year. If, for example, 80 percent of the obligor's total annual payment in year 1 was distributed to current support and 20 percent to arrears, this same proportion would be used in subsequent years.[44] New payers were assigned the median proportion paid among payers in their income-order group. If an obligor only made payments toward arrears in year 1 *yet* had a current support order in year 1, then their payments were allocated to current support in subsequent years.[45] If, however, these obligors paid more towards arrears in year 1 than was due for current support, the excess payments were then allocated to arrears. If an obligor paid off all arrears during the simulation, 100 percent of subsequent payments were allocated to current support. If an obligor's support order aged out over the simulation, 100 percent of subsequent payments were allocated to arrears.

[44] Remember that payment behavior is examined for an entire year so that obligors can and do make payments toward arrears even though their current support order is not fully paid for the entire year.
[45] This can occur if the only payment made was through the federal intercept program.

It is important to note that this allocation between current support and arrears does not affect the net arrears amounts in the simulation. This is because the amount of current support that is not paid becomes new arrears, thus resulting in the same amount of arrears as if all payments were allocated to the current support obligation. This allocation process is only used to model the fact that many obligors make payments to arrears even if they do not pay 100 percent of their current support obligation.[46]

Let Orders Expire

We assumed that some current support orders would expire over the ten-year period of the simulation because the children covered by the order would emancipate. We used 18 as the age of emancipation in the simulation states. The data that we received from the study states did not include the age of the youngest child associated with current support orders.[47] Thus, we estimated the age of the obligor's youngest child based on the obligor's age, using data from the National Survey of America's Families (NSAF). If the estimated age of the youngest child reached 18 during the simulation, the annual child support obligation was reset to zero.

Have Some Obligors Die

We assumed that some obligors would die during the 10-year period. We used data from National Vital Statistics Report 53(6) to randomly designate which obligors died, based on their age and the 2002 life tables for American males. If an obligor died, his case was closed and his arrears were dropped from the simulation.

Treatment of Interest

In the base simulations discussed below, we assumed that Arizona, Texas, and Michigan assessed interest on arrears on a simple basis. This assumption reflects these states' current interest policy. We applied the following interest rates: 10 percent for Arizona, 4.4 percent for Michigan, and 6 percent for Texas. In Michigan, the surcharge is waived if obligors pay at least 90 percent of their current support order during the assessment period. The simulation for Michigan incorporates this policy. Furthermore, in Arizona and Michigan, arrears payments are applied to principal first, whereas in Texas, arrears payments are applied to interest first. Each state's policy in this regard was incorporated into the simulation.

We did not assess interest in the simulations for Illinois, New Jersey, Ohio, and Pennsylvania. New Jersey and Pennsylvania do not assess interest and Illinois and Ohio do not assess interest routinely. In section D below, we present simulation results for these four states that include the assessment of interest. We assumed a 6 percent simple interest in New Jersey, Ohio, and Pennsylvania and a 9 percent simple interest

[46] See footnote 43.

[47] Ohio was the only study state that provided the age of the youngest child on a case. We used this information in the Ohio simulations. If the youngest child on a case reached 18 years of age during the simulation, then the annual child support obligation was reset to zero.

in Illinois. We used a 9 percent simple interest in Illinois because that is the interest rate that Illinois has begun to assess on arrears. Arrears payments were applied to principal before interest in these four simulations.

B. Payment Rates Generated by the Simulations

The simulation model increased the percent of obligors who made a payment every year, while decreasing the number of obligors with an obligation, as explained above. As a result, all obligors with a current support obligation and incomes exceeding $10,000 per year made payments in the tenth year of the simulation. This was true for all states. For low-income obligors, however, there was considerable variation among states. Charts 3.1 and 3.2 show the payment rates among low-income obligors in the first year of the simulation (2003/04) and in the tenth year of the simulation, by state.
Chart 3.1 shows the payment rates for each state among obligors with reported incomes up to $10,000 in 2003/04. Pennsylvania had the highest payment rates for each of the income categories. For example, 61 percent of obligors with no reported income and an order for current support in Pennsylvania made a payment in the first year of the simulation. Illinois, on the other hand, had the lowest payment rates for each of the income groups; just 27 percent of obligors with no reported income and an order for current support made a payment in the first year of the simulation.[48]

Arizona's payment rate for obligors with no reported income and for those with incomes between $5,001 and $10,000 was very similar to Illinois's. The other four states, Michigan, New Jersey, Ohio and Texas, each had similar payment rates for low-income obligors. As incomes increased, each state showed an increase in the percent of obligors who made a payment in year 1.

Chart 3.2 shows the payment rates for the same groups of obligors in the tenth year of the simulation. By year 10, payment rates were simulated to increase noticeably for each state and each income group. Eighty-six percent of obligors with no reported income in Pennsylvania were making payments towards their current support obligations. All obligors with a current support order and reported income exceeding $1,000 made payments in Pennsylvania. In Michigan, New Jersey, Ohio and Texas, all obligors with reported income exceeding $3,000 made payments by year 10. The two other states, Arizona and Illinois, reached 100 percent payment rates among current support obligors with reported income exceeding $5,000 by year 10.

The payment rates for arrears-only obligors at the beginning and end of the simulation are shown in Table 3.1. At the beginning of the simulation, Pennsylvania has the highest payment rates for arrears-only obligors in all reported income categories. Illinois has the lowest payment rates for arrears-only obligors when reported incomes are $10,000 a year or less. Michigan has the lowest payment rates for arrears-only obligors once reported income exceeds $10,000 a year. The lowest payment rate is in

[48] We should note, however, that the current support payments that we received from Illinois appeared incomplete. Thus, we may be under-reporting payment rates in Illinois.

Illinois – 17 percent of arrears-only obligors with no reported income paid child support during the first year of the simulation.

Chart 3.1 Percent of Current Support Obligors with No or Low Reported Income who Made Payments in 2003/04, by Annual Reported Income

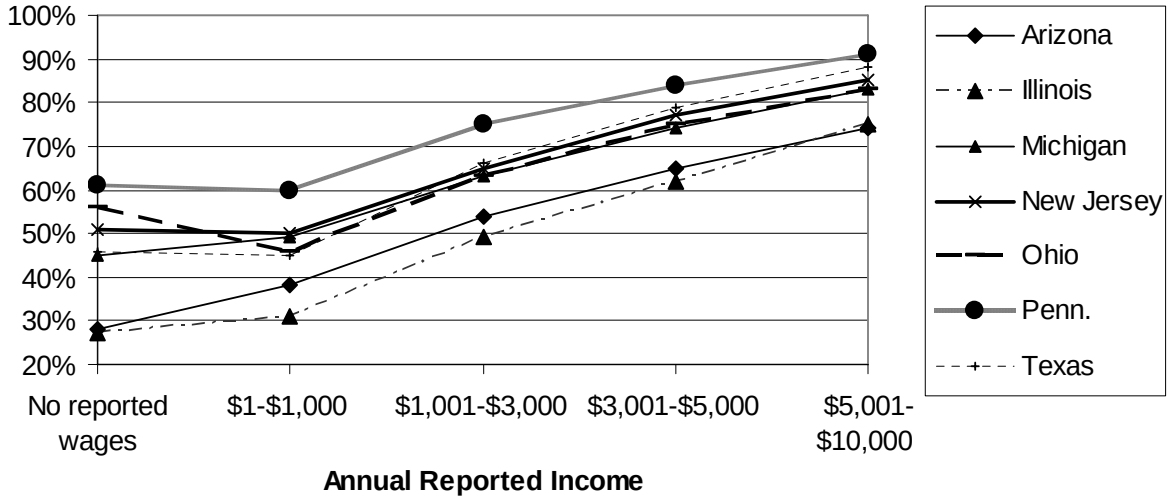
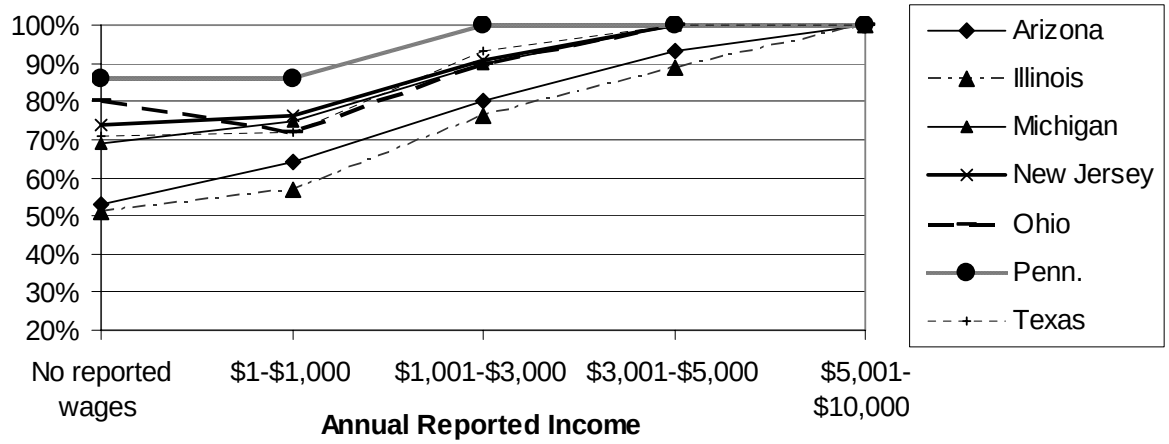


Chart 3.2 Percent of Current Support Obligors with No or Low Reported Income who Make Payments Ten Years Later, by Annual Reported Income



Source: Data are from child support programs from states listed above that are matched to national quarterly wage and unemployment insurance data.

By the end of the simulation, payment rates for arrears-only obligors are considerably higher as expected. The lowest payment rate occurs in Illinois for obligors with no reported income. At the end of the simulation, 35 percent of these obligors pay child support. Payment rates reach 100 percent for arrears-only obligors with reported incomes of more than $10,000 a year in all of the states, except Illinois and Michigan and Ohio.

Table 3.1 Percent of Arrears-Only Obligors who Make Payments, by State and Reported Income

First Year of the Simulation: 2003/04

Reported Income	Arizona	Illinois	Michigan	New Jersey	Ohio	Penn.	Texas
None	28	17	29	39	38	49	31
$1-$1,000	37	21	37	42	34	52	34
$1,001-$3,000	49	35	47	54	48	66	52
$3,001-$5,000	59	47	55	62	58	74	64
$5,001-$10,000	69	59	62	74	66	82	75
$10,001-$15,000	74	69	67	79	73	86	83
$15,001-$20,000	81	73	70	82	77	88	85
$20,001-$30,000	85	76	71	84	79	89	86
$30,001-$40,000	85	76	70	84	82	90	87
Over $40,000	82	73	63	79	72	87	84

Tenth Year of the Simulation

Reported Income	Arizona	Illinois	Michigan	New Jersey	Ohio	Penn.	Texas
None	46	35	44	53	54	62	50
$1-$1,000	60	42	54	60	54	67	56
$1,001-$3,000	70	57	63	72	67	88	74
$3,001-$5,000	79	64	69	77	76	100	88
$5,001-$10,000	92	77	77	100	84	100	100
$10,001-$15,000	100	88	83	100	100	100	100
$15,001-$20,000	100	99	90	100	100	100	100
$20,001-$30,000	100	100	89	100	100	100	100
$30,001-$40,000	100	100	74	100	100	100	100
Over $40,000	100	94	29	100	93	100	100

Source: Child support data are from the states listed above, which were matched to national quarterly wage and unemployment insurance data.

Michigan's simulated progress between year 1 and year 10 is the most lackluster of the seven states. By year 10, only arrears-only obligors with incomes between $10,001 and $30,000 were paying at rates exceeding 80 percent. Just 29 percent of obligors with incomes exceeding $40,000 were making payments in year 10. This was significantly worse than in year 1, when this same group was paying at a rate of 63 percent. This is because arrears-only obligors who made payments in year 1 paid all of their arrears and thus, are no longer part of the state's caseload by year 10. Thus, this leaves non-payers in the majority, causing the percentage of obligors who are paying to fall significantly.

According to the simulation, Illinois and Ohio reached full compliance with some of their middle-income obligors. In Illinois, all arrears-only obligors earning between $20,001

and $40,000 paid. In Ohio, all obligors with incomes between $10,001 and $40,000 paid in year 10. However, for obligors with incomes over $40,000 per year, payment rates were just over 90 percent in Illinois and Ohio. Again, this is because those relatively high-income obligors who are paying arrears in year 1 tend to finish paying off their arrears by year 10, leaving non-payers in the simulation.

It should be noted that over the course of the simulation, the amount paid among payers increased for some reported income groups and decreased for others. While we assumed that payers increased or kept payments constant from year to year, some payers decreased payments once their arrears were completely paid off (in which case payment was capped at 100 percent of the current support order). In general, the percent of income paid increased among lower reported income groups and decreased among higher reported income groups. This is because the obligors with high reported incomes were most likely to pay off all of their arrears over the course of 10 years.

C. Arrears Growth Under Two Simulation Models

Table 3.2 shows the overall growth rate of arrears over the course of the simulation for all seven states using what we call the base simulation. The base simulation assumes that income does not change over the 10-year period. In both simulations presented in table 3.2, we applied a 10 percent simple interest in Arizona, a 4.4 percent simple interest in Michigan, and a 6 percent simple interest in Texas as discussed above. Interest was not assessed in the other states.

At the beginning of the simulation, the seven states held a total of $30.2 billion in arrears, which is the actual amount of arrears that these states held. During the first year of the simulation, the simulation estimates that $2.3 billion dollars will be paid toward arrears, representing 8 percent of total arrears. Over the 10-year period, the simulation estimates that $12.1 billion will be paid toward the arrears that were owed at the beginning of the simulation. Thus, the simulation model predicts that 40 percent of the arrears held by these seven states at the time of data extraction will be paid in 10 years. Subtracting this amount from the original arrears yields $18.1 billion in arrears that we estimate will not be collected over the ten-year period.

Study states are not predicted to collect $2.3 billion of the original arrears owed at the beginning of the simulation every year for 10 years because the arrears that remain uncollected each year are increasingly difficult to collect. During the first year, the simulation predicts that the study states will collect arrears from those who are relatively easy to collect from -- those who owe relatively small amounts of arrears and have relatively high reported incomes. With each passing year, these individuals pay off their arrears and the arrears that are left to collect are owed by people who, on average, have less income and owe large amounts of arrears. These individuals tend to be more difficult to collect from. Thus, with each passing year, the amount of arrears collected of the original $30.2 billion declines.

Table 3.2. Simulated Arrears Growth and Payments in Seven States Using two Different Assumptions about Income Growth (dollars are in billions)

	No Income Growth (Base Model)	Includes Income Growth
Arrears in Year 1	$30.2	$30.2
Amount Paid in First Year	$2.3	$2.3
As a % of Year 1 Arrears	8%	8%
Could Pay Over 10 Years	$12.1	$12.2
As a % of Year 1 Arrears	40%	40%
Year 1 Arrears Remaining After 10 Years	$18.1	$18.0
New Arrears Remaining After 10 Years	$32.1	$31.3
Arrears Eliminated by Death	$1.7	$1.7
Total Arrears in Year 10	$48.3	$47.6
Percentage Increase in Arrears	60%	57%

Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas. These data were matched to national quarterly wage and unemployment insurance data.

During the 10-year period, the simulation model estimates that $32 billion of new arrears will remain unpaid by the tenth year of the simulation. Since we assume that some obligors die over the course of the 10-year period and their cases are closed, we estimate that $1.7 billion of the original arrears owed are eliminated as a result. Thus, at the end of year 10, obligors in these seven states are estimated to owe $48 billion in arrears (i.e. $30.2 - $12.1 - $1.7 + $32.1). This represents a 60 percent increase in arrears.

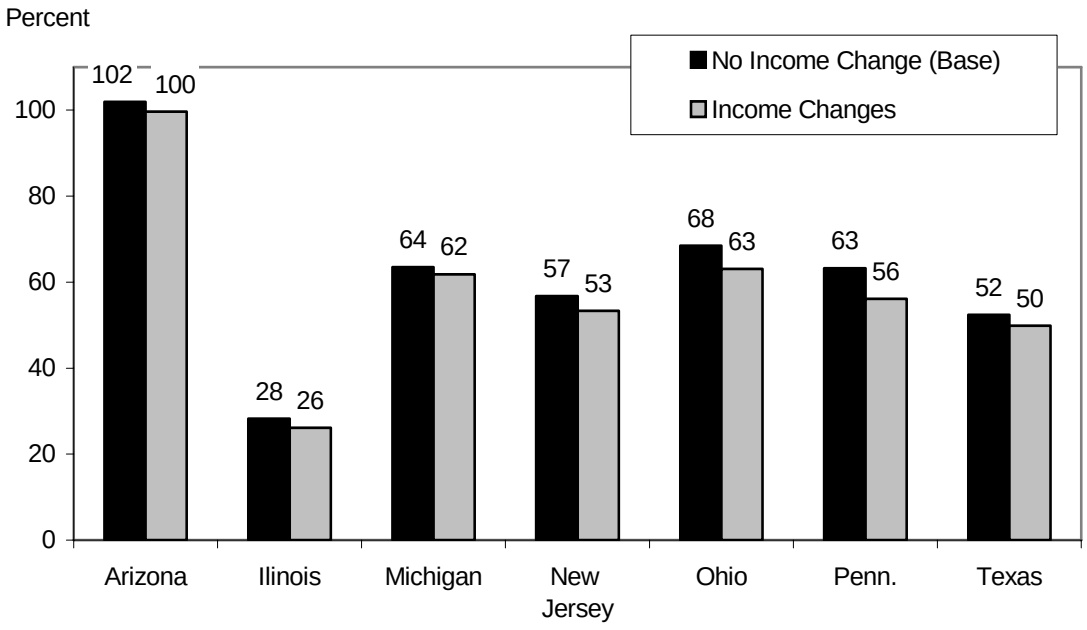
The second simulation reported in table 3.2 assumes that obligors' incomes tend to change as they age. We used data from the 2002 National Survey of America's Families (NSAF) to estimate the percentage change in earnings as a function of age among non-custodial parents. The regression included age and age squared to allow for a nonlinear relationship between age and income. As a result, income increased to a certain point and then decreased as obligors approached retirement age.

Table 3.2 shows that, even after we allow income to change as obligors age, only 40 percent of the original arrears are simulated to be paid over the 10 years, the same percentage as reported in the first column of numbers in table 3.2. On the other hand, new arrears are estimated to grow more slowly under these assumptions and thus total arrears at year 10 are estimated to be 57 percent higher than year 1 rather than 60 percent higher. Nonetheless, these simulation results suggest that arrears are likely to increase substantially in the next ten years.

Arrears are predicted to grow at surprisingly different rates in the seven study states. The percentage increase in each state, under both assumptions discussed above, is graphed in the chart 3.3. Assuming no income change, Arizona's arrears more than double in the 10-year simulation. All of the other states, except Illinois, experienced increases between 52 and 68 percent over the 10-year simulation.[49]

Only Illinois showed arrears growth of less than 50 percent; their arrears grew by 28 percent, assuming no income change. The reason Illinois does not experience dramatic arrearage-growth is because a large proportion of its caseload consists of obligors with arrears-only cases and we assumed it does not assess interest. As shown above in chapter 2, 25 percent of obligors in Illinois did not have a current support order in 2003. Since we assume that Illinois does not assess interest on arrears in this simulation, the arrearage for a quarter of obligors in Illinois does not increase during the 10-year simulation. This curbed new arrearage growth.

Chart 3.3 Simulated Arrearage Growth by Year 10 Under Different Income Assumptions, by State



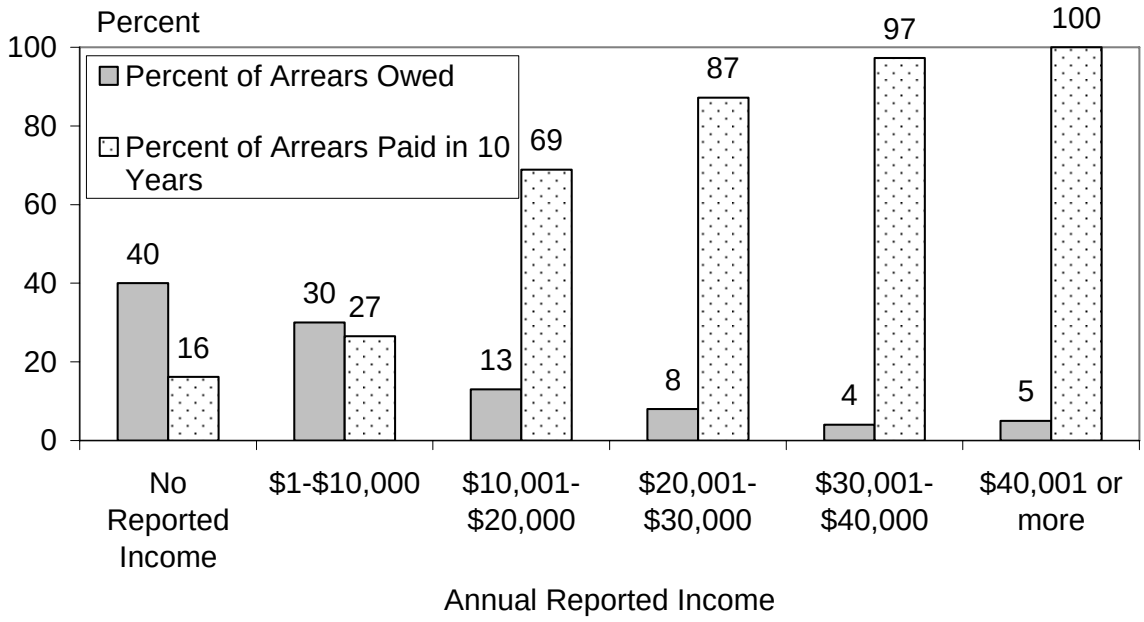
Source: Child support data are from states listed above, which were matched to national quarterly wage and unemployment insurance data.

The reason that only about 40 percent of the arrears are likely to be collected over a 10 year period is because so much of the arrears are owed by obligors with no or low reported income. This combination of traits – no or low reported income and high

[49] Our estimates of arrears growth are likely to underestimate arrears growth in New Jersey because we assume that current support orders automatically stop when children turn 18, which is not the case in New Jersey. In New Jersey, a termination order is required to end a current support order.

arrears – result in very low payment rates. Chart 3.4 shows that obligors with no and low reported income owed 40 and 30 percent of the arrears in these seven study states, respectively, but they are estimated to pay only 16 and 27 percent of their arrears over a 10-year period. Thus, relatively little of these arrears are likely to be collected. In contrast, once reported incomes exceeded $10,000 a year, obligors tended to owe relatively small amounts of arrears. Furthermore, their higher levels of reported income suggest that they are better able to pay their arrears. Because, in general, these obligors have higher reported incomes and lower arrears, they are predicted to pay considerably more of their arrears in 10 years.

Chart 3.4 Percent of Arrears Owed and Percent of Arrears Paid in 10 Years in Seven States, by Reported Income Categories: 2003/04



Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

D. The Impact of Assessing Interest on Arrears

Table 3.3 reports the results of the simulation with and without assessing interest in Arizona, Michigan and Texas. In these three states, our simulation predicts that new arrears will be about twice as large in 10 years if interest is assessed than if interest is not assessed. With interest, we estimate these three states will experience an additional $20 billion of new arrears over 10 years; without interest that figure would be $10 billion. On the other hand, if interest is assessed, our simulation predicts that the amount of original arrears collected will be slightly higher and the amount eliminated due to death will be higher. Thus, the total amount of arrears remaining after 10 years will be about 40 percent higher as a result of assessing interest in these states.

In Michigan, we estimate that arrears will be 32 percent higher in 2013 than they would be if Michigan did not assess interest at a 4.4 percent simple rate. Our simulation predicts that Michigan would accrue $4.9 billion of new arrears in 10 years if interest was not assessed instead of $8.7 billion that would accrue if interest was assessed at a 4.4 percent simple rate. Thus, we estimate that new arrears will be 78 percent higher because interest is assessed at a 4.4 percent simple rate. In addition, we estimate that the amount of arrears collected over the 10-year period would be slightly lower if interest was not assessed. Instead of collecting $2.8 billion in arrears in 10 years, we estimate that Michigan would collect $2.6 billion in arrears in 10 years. Adding newly accrued arrears to the amount of arrears owed in 2003 and subtracting out the amount collected and the amount eliminated due to death shows that arrears in Michigan is estimated to reach $10.4 billion in 10 years if interest was not assessed compared to $13.8 billion if interest is assessed.

If Texas discontinued assessing interest at a 6 percent simple rate (and applying arrears payments to interest before principal), we estimate that $4.3 billion of new arrears would accrue in 10 years instead of $8.7 billion. Thus, new arrears will be about twice as large in Texas because interest is assessed. To estimate total arrears in 10 years, we added these new arrears to the amount of arrears owed in 2003 and subtracted out the estimated amount collected and eliminated due to death. We estimate that arrears would be $9.4 billion in 10 years instead of $13.4 billion if interest was not assessed. In other words, arrears are estimated to be 43 percent higher in Texas in 2013 as a result of assessing interest.

Table 3.3 Simulation Results for Arizona, Michigan and Texas, with Current Interest Rates and No Interest (dollars are in millions)

	Arizona			Michigan			Texas		
	No Interest (A)	10% Interest (B)	% Difference (B-A)/A	No Interest (A)	4.4% Interest (B)	% Difference (B-A)/A	No Interest	6% Interest	% Difference (B-A)/A
Year 1 Arrears	$2,078	$2,078	0	$8,609	$8,609		$8,816	$8,816	0
Paid the First Year	$53	$53	0	$738	$738		$500	$500	0
As a % of Year 1 Arrears	3%	3%		9%	9%		6%	6%	
Could Pay Over 10 Years	$472	$487	3%	$2,629	$2,761	5%	$3,357	$3,603	7%
As a % of Year 1 Arrears	23%	23%		31%	32%		38%	41%	
Remaining Arrears in Yr 10	$1,606	$1,591	-1%	$5,980	$5,848	-2%	$5,459	$5,213	-5%
New Arrears Accrued	$1,184	$2,742	132%	$4,910	$8,754	78%	$4,319	$8,693	101%
Arrears Eliminated by Death	$107	$137	29%	$445	$526	18%	$391	$474	21%
Total Arrears in Year 10	$2,684	$4,195	56%	$10,444	$13,778	32%	$9,386	$13,432	43%

Source: Child support data are from states listed above, which were matched to national quarterly wage and unemployment insurance data.

We estimate that $1.2 billion of new arrears would accrue in Arizona in 10 years, instead of $2.9 billion, if Arizona did not assess interest at a 10 percent simple rate. In other words, we estimate that new arrears will be about 150 percent larger than if Arizona did not assess interest at a 10 percent simple rate. Adding in the remaining arrears not collected during the 10-year period, we estimate that arrears in Arizona in 10

years would be $2.7 billion if interest was not assessed and $4.2 billion if interest is assessed. In other words, we estimate that arrears will be 56 percent higher ten years later because interest was assessed.

Table 3.4 reports what we estimate would happen to arrears if interest were assessed in the four states that did not assess interest routinely at the time of data extraction. In these simulations, we assumed that the states charge 6 percent simple interest, except in Illinois. In Illinois, we assumed that interest would be assessed at 9 percent on a simple basis, since this is the interest rate in Illinois that is currently assessed on an intermittent basis. We assumed in all four states that arrears payments would be applied to principal first.

Table 3.4 Simulation Results for Illinois, New Jersey, Ohio and Pennsylvania, with No Interest and with Proposed Interest Rates

(dollars are in millions)

	Illinois			New Jersey		
	No Interest (A)	9% Interest (B)	% Difference (B-A)/A	No Interest	6% Interest	% Difference (B-A)/A
Year 1 Arrears	$2,796	$2,796	0	$2,084	$2,084	0
Paid the First Year	$230	$230	0	$146	$146	0
As a % of Year 1 Arrears	8%	8%	0	7%	7%	0
Could Pay Over 10 Years	$1,090	$1,235	13%	$889	$968	9%
As a % of Year 1 Arrears	8%	8%		43%	46%	
Remaining Arrears in Year 10	$1,706	$1,561	-9%	$1,195	$1,116	-7%
New Arrears Accrued	$2,024	$4,670	131%	$2,180	$3,688	69%
Arrears Eliminated by Death	$143	$198	38%	$109	$136	24%
Total Arrears in Year 10	$3,586	$6,033	68%	$3,266	$4,668	43%
	Ohio			**Pennsylvania**		
	No Interest (A)	6% Interest (B)	% Difference (B-A)/A	No Interest (A)	6% Interest (B)	% Difference (B-A)/A
Year 1 Arrears	$3,753	$3,753	0	$2,091	$2,091	0
Paid the First Year	$369	$369	0	$237	$237	0
As a % of Year 1 Arrears	10%	10%	0	11%	11%	0
Could Pay Over 10 Years	$1,954	$2,131	9%	$1,339	$1,468	10%
As a % of Year 1 Arrears	52%	57%		64%	71%	
Remaining Arrears in Year 10	$1,799	$1,622	-10%	$753	$624	-17%
New Arrears Accrued	$4,733	$7,619	61%	$2,764	$4,350	57%
Arrears Eliminated by Death	$211	$262	24%	$103	$128	24%
Total Arrears in Year 10	$6,322	$8,980	42%	$3,413	$4,845	42%

Source: Child support data are from states listed above, which were matched to national quarterly wage and unemployment insurance data.

We find that assessing interest in these four states is likely to have a similar impact on arrears growth as estimated for the three states examined above that already assess interest. Similar to Texas, table 3.4 shows that if New Jersey, Ohio, or Pennsylvania began assessing interest at a 6 percent simple rate, then total arrears would be approximately 42 percent higher 10 years later than it would be without assessing

interest. In Illinois, total arrears are estimated to be 68 percent higher in 10 years if interest is assessed at 9 percent a year. Just as we found above, new arrears will accrue much more rapidly if interest is assessed than if interest is not assessed, but the amount of arrears collected will also be slightly higher and the amount eliminated by death will be higher. Thus, total arrears growth will not be as large as new arrears growth.

CHAPTER 4. WHY HAVE ARREARS GROWN?

In this chapter, we examine four factors that appear to be the primary drivers behind arrears growth. The first issue we examine is charging interest on arrears. We then discuss the role of retroactive support in generating arrears. We follow this discussion with an examination of compliance rates on current support and arrears collections.

We find that assessing interest on a routine basis has been the single most important factor contributing to arrears growth during the past fifteen years. Among the study states, two states assess interest on a routine basis (I.e. Arizona and Texas) and one state assesses a surcharge twice a year (i.e. Michigan). We find that retroactive support is not a major factor contributing to arrears in the study states. Only three of the nine study states assess retroactive support on a routine basis (i.e. Arizona, New Jersey, and Texas). Furthermore, these three states do not assess retroactive support back to the date of birth in paternity cases, which limits the amount of retroactive support that can be assessed.

Non-compliance with current support orders was another major factor contributing to arrears. Non-compliance was particularly large among obligors with no or low reported income. In the study states, 40 percent of the current support obligors had no or low reported income, yet they contributed 60 percent of the unpaid current support accrued during the year. Seventy five percent of those with no reported income and 78 percent of those with reported incomes below $10,000 a year paid less than 50 percent of their current support order during the year. Once reported incomes exceeded $10,000 a year, compliance with current support orders improved. Forty two percent of current support obligors with reported incomes between $10,001 and $20,000 a year paid less than 50 percent of their current support order. Once reported income exceeded $20,000 a year, only 17 percent of the current support obligors in the study states paid less than 50 percent of their current support order. These results show how difficult it is to collect from obligors with no or low reported incomes.

We also find that current support orders tend to be rather high for obligors with low reported income. For obligors with reported income of $10,000 a year or less, the median percent of reported income that was due as current support was 83 percent and the median percent of reported income that was paid was 7 percent. In contrast, among all current support obligors with reported income, the median percent of reported income due as current support was 19 percent and the median percent paid was 10 percent.

Another factor that contributed to arrears is the low payment rate on arrears. Nationally, during the past several years, about 6 percent of arrears have been collected. If states could have doubled their collection rate on arrears to 12 percent since FY 2002, we predict that arrears would have stopped growing and would total $86 billion today. Unfortunately, most debtors do not pay 12 percent of their arrears each year. Those who do, tend to owe less than $1,000 in arrears. We examined debtors by their characteristics and found that debtors with no reported income were the least likely to

pay arrears. Again, we find that collecting support, whether it be current support or arrears, is very difficult to collect from those with no reported income.

A. Charging Interest Routinely Resulted in Significantly Higher Arrears

The primary factor that has caused arrears to grow dramatically during the 15 years has been the assessment of interest on a routine basis. Many states began to assess interest on a routine basis in the 1990s, as their computer systems could manage to calculate and track interest. In addition, in 1986, Congress enacted legislation, referred to as the Bradley Amendment, which mandated that child support arrears be considered a judgment by operation of law. Since most states require that interest be charged on judgments, many states began to charge interest on child support arrears after this legislation was enacted. Today, 18 states charge interest on a routine basis.[50] Most of these states charge interest every month on any unpaid child support.[51] Eighteen states and Guam charge interest intermittently.[52] In these states, interest is typically assessed when the IV-D program requests that the court convert arrears to a final judgment because the on-going support order is ending. However, exact interest policies vary among these states. Finally, in the remaining fourteen states, Puerto Rico, the Virgin Islands, and the District of Columbia, the IV-D programs do not charge interest.

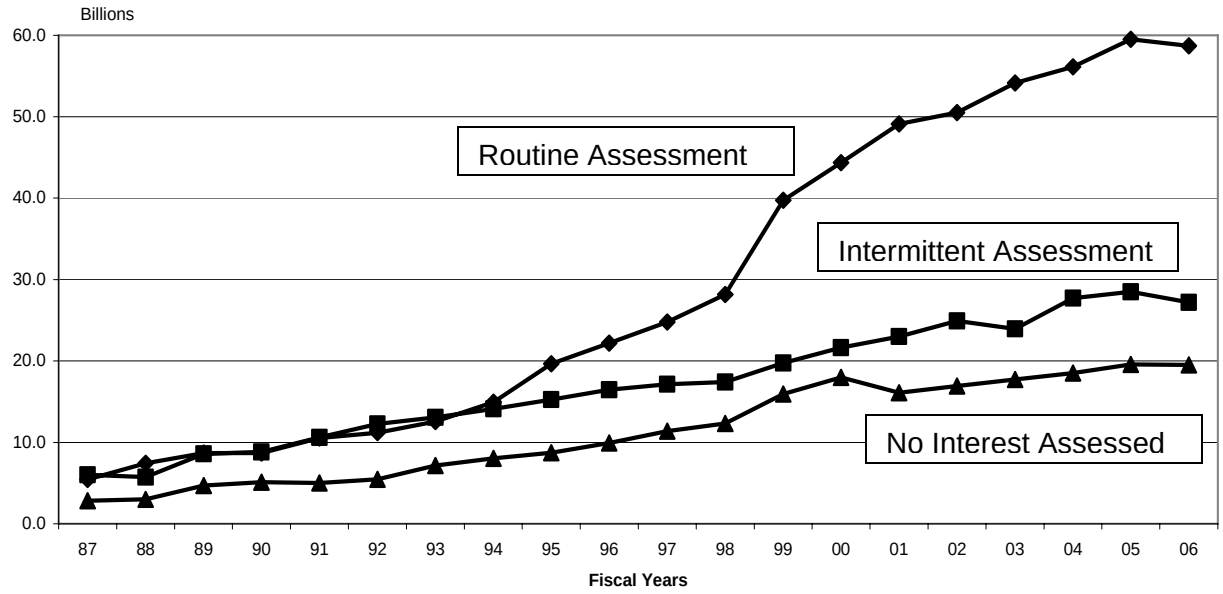
All states have experienced an increase in arrears between FY 1987 and FY 2006, but chart 4.1 shows that states that charge interest on a routine basis have experienced a much larger increase in arrears than other states. Between FY 1987 and FY 2006, states that charge interest routinely experienced more than a ten-fold increase in arrears, going from $5.4 billion in FY 1987 to $58.7 billion in FY 2006. In contrast, other states saw their arrears grow about half as fast as this. States that charge interest intermittently experienced a 353 percent increase in arrears over this period (arrears went from $6.0 billion in FY 1987 to $27.2 billion in FY 2006), while states that do not charge interest experienced a 592 percent increase in arrears (arrears went from $2.8 billion in FY 1987 to $19.5 billion in FY 2006). Assessing interest on arrears on a routine basis was probably the single biggest factor that contributed to arrears growth during the 1990s and the first half of the 2000s.

[50] The states that charge interest routinely are: Alabama, Alaska, Arizona, California, Georgia, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin. Michigan doesn't actually charge interest; it charges a surcharge twice a year. Since the surcharge is like interest, we include Michigan with other states that charge interest.

[51] Michigan, Massachusetts, and North Dakota do not assess interest on arrears if obligors pay their current support order in full. In addition, Massachusetts does not assess interest on arrears if the obligor meets certain hardship criteria.

[52] The states that charge interest intermittently are: Arkansas, Colorado, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Mississippi, Missouri, New York, Ohio, Oregon, Utah, Vermont, Washington, and Wyoming.

Chart 4.1 Child Support Arrears Held by State IV-D Programs from FY 1987 to FY 2006, Grouped by States' Interest Policies



Source: Arrears data are from OCSE, Annual Statistical Reports and Preliminary Reports.
Note: See chart 4.

Only two of the nine study states, Arizona and Texas, charge interest on a routine basis (see table 4.1). These two states assess interest every month on all unpaid support, but they do not assess interest on interest (i.e. they use a simple rate). At the time of the study, Michigan assessed a surcharge twice a year on all unpaid support, including interest (i.e. they used a compounded rate). At that time, the surcharge was 8 percent a year. Michigan has since changed their surcharge to a simple variable rate, which is assessed twice a year. In addition, Michigan no longer assesses a surcharge on obligors who pay at least 90 percent of their current support due over the six-month assessment period.

Only Arizona and Texas distinguished between interest and principal in the arrears data that were provided to the Urban Institute. Interest represented 27 percent of total arrears in Arizona as of December 2004, and it represented 22 percent of total arrears in Texas as of September 2003.

Texas held less interest than Arizona, in part, because Texas applies arrears payments to interest before principal, while Arizona does the opposite. Applying arrears payments to interest before principal not only reduces the amount of interest that a state holds, but it also causes arrears to grow faster because there is more principal upon which to assess interest. That is one of the reasons that Michigan decided to apply arrears payments to principal before interest when it converted its surcharge to a simple variable interest rate.

Table 4.1 Interest Policies in the Nine Study States

State	Interest Policy (frequency and type)	Annual Interest Rate
Arizona	Assessed monthly on a simple basis.	10%
Florida	Does not assess interest.	
Illinois	Interest accrues under state law and is assessed when arrears are adjudicated. Interest is assessed on a simple basis at a 9 percent annual rate.	9%
Michigan	Prior to 2004, surcharge assessed twice a year on a compounded basis. Now surcharge is assessed twice a year on a simple basis, using a variable rate.	8% prior to 7/2004; variable rate since then
New Jersey	Does not assess interest.	
New York	Assesses interest monthly on a simple basis when arrears are reduced to a money judgment.	9%
Ohio	Courts may assess interest if obligor is willfully avoiding payments. Interest is assessed monthly on a simple basis.	10%
Penn.	Does not assess interest.	
Texas	Assesses interest monthly on a simple basis.	12% prior to 1/2003; 6% since then

Source: OCSE Intergovernmental Referral Guide and telephone interviews with state child support administrators.

B. Assessing Retroactive Support Contributes to Arrears

We know from other research that ordering arrears for periods prior to the date of filing for an order, referred to as retroactive support, contributes to arrears.[53] In Colorado, for example, 19 percent of their arrears consisted of retroactive support. The Colorado Child Support Program estimated that the average amount paid toward retroactive support was $180 per year and that obligors who owed retroactive support would take an average of 39 years to pay off their retroactive support.[54]

Three of the nine study states included information about their retroactive support – Illinois, New York, and Texas. In New York, 22 percent of the obligors owed retroactive support at the time the data were extracted. Illinois and Texas had slightly higher figures at 29 and 27 percent, respectively.

Retroactive support was a smaller percent of total arrears in these three states than in Colorado as shown in table 4.2. In New York, retroactive support represented 5 percent of the state's arrears. In Illinois and Texas, these figures were 12 and 11 percent,

[53] See, for example, Thoennes, Nancy and Jessica Pearson, "Understanding Child Support Arrears in Colorado." Center for Policy Research. March 2001.

[54] Larry Desbian, "Arrears Management: Colorado's Approach" Presented at the 2004 Annual Training Conference of the Eastern Regional Interstate Child Support Enforcement Association.

respectively.[55] The median amount of retroactive support due was the highest in Texas, at $2,700, followed by Illinois, where the median amount was $2,037. The median figure in New York was considerably lower at $817.

Table 4.2 Retroactive Support in Illinois, New York and Texas: 2003/04

	Illinois	New York	Texas
Number of obligors assessed retroactive support	71,983	90,483	158,727
As a percent of all obligors	29	22	27
Total Amount of retroactive support due (in millions)	$338	$189	$749
As a percent of total arrears	12	5	11
Median amount of retroactive support due	$2,037	$817	$2,700

Source: Child support programs from states listed above.

These three study states had different policies toward retroactive support than Colorado, which probably explains why retroactive support represented a larger share of arrears in Colorado than in these three states. Table 4.3 lists the retroactive support policy in Colorado and the nine study states. Colorado permits retroactive support back to the date of birth in paternity cases, but Illinois, New York, and Texas do not. In Illinois, retroactive support may be ordered for up to 2 years prior to the date of filing. In Texas, current law allows retroactive support for up to 4 years prior to the date of filing. New York may assess retroactive support on IV-A cases back to the date of the IV-A application.

Table 4.3 Policies on Retroactive Support in Colorado and Nine Study States

State	Policy
Colorado	Back to the date of birth in paternity cases; back to the date of separation in divorce cases
Arizona	Up to 3 years of retroactive support
Florida	Up to 2 years of retroactive support
Illinois	Up to 2 years of retroactive support
Michigan	Back to the date of filing, unless willful avoidance
New Jersey	Back to the date of application for IV-D services
New York	Back to the date of application for IV-A
Ohio	Back to the date of birth in paternity cases; back to the date of separation in divorce cases
Pennsylvania	Back to the date of filing
Texas	Up to 4 years of retroactive support

Source: OCSE Intergovernmental Referral Guide and telephone interviews with state child support administrators.

[55] Illinois and Texas sent us retroactive support figures that were often higher than the amount of arrears currently owed. To determine the amount of retroactive support that was currently due in these states, we used the minimum value of retroactive support and arrears due.

We were interested in examining retroactive support in the other study states that did not provide direct information on retroactive support. Thus, we examined the amount of arrears owed by obligors who had their first order established in the last 12 months.[56] All study states, except Florida, were examined. In eight study states, nearly 300,000 obligors had their first order established within 12 months of the date the data were extracted from each state. The median number of months that these obligors had their order in place was 6 months. We expected that most of these obligors would owe arrears since half of them had their orders in place for 6 months and all of the study states indicated that support was routinely ordered back to the date of filing, if not earlier.

We find that the median amount of arrears owed among obligors who had their first order established in the last year varied among the study states. Median arrears were below $900 in five of the study states, but above $1,500 in three study states (table 4.4). Arizona had the highest figure for median arrears at $3,413, followed by Texas at $2,200. The only other state with a figure above $1,500 was New Jersey, where median arrears were $1,590.

Table 4.4 Median Arrears and Other Characteristics of Obligors who Had their First Current Support Order Established in the Last Year, by State: 2003/04

	Arizona	Illinois	Mich.	New Jersey	New York	Ohio	Penn.	Texas
Number of Obligors	10,250	22,504	13,123	37,082	77,761	41,051	29,193	66,649
Median Arrears	$3,413	$845	$856	$1,590	$246	$450	$684	$2,200
Median Monthly Order	$290	$269	$328	$373	$303	$292	$325	$265

Source: Child support programs from states listed above.

The five study states with median arrears for new obligors below $900 do not appear to be ordering retroactive support on a routine basis. The median amounts of arrears are simply too low for retroactive support to be a common practice in these states. Thus, for example, even though Illinois may assess retroactive support for up to 2 years prior to the date of filing, these data suggest that Illinois is not doing this on a routine basis.

In addition to reporting median arrears, table 4.4 reports the median monthly current support order in each of the study states for obligors with their first order established in the last year. Median current support orders varied from $265 (Texas) to $373 (New Jersey) a month. We included this information to help determine whether states were assessing retroactive support and how much retroactive support was being assessed.

[56] For Arizona and Texas, we examined the amount of principal owed rather than arrears (i.e. principal and interest) in an effort to isolate that portion of arrears that may reflect retroactive support.

In four of the study states, we examined whether median arrears among new obligors varied by the age of their IV-D case. As noted in table 4.3, New Jersey law permits retroactive support back to the date of application for IV-D services, thus we expected to find that median arrears for new obligors in New Jersey varied by the amount of time their IV-D case had been open. Table 4.5 shows that median arrears in New Jersey among new obligors who had their IV-D cases opened in the last 12 months was just $743. In contrast, median arrears among new obligors who had their IV-D cases opened more than 12 months ago were five times that amount, or $3,778. These findings suggest that New Jersey is assessing retroactive support back to the date of IV-D application in most cases.

Table 4.5 Median Arrears among Obligors with their First Current Support Order Established in the Last Year, by Age of IV-D Case and State: 2003/04

	Arizona	New Jersey	Ohio	Penn.
IV-D Case was Opened within 12 Months of Order Establishment				
Median Arrears	$2,516	$743	$407	$645
IV-D Case was Opened at least 12 Months Before Order Establishment				
Median Arrears	$4,600	$3,778	$647	$726

Note: In this table, arrears in Arizona only include principal.
Source: Child support programs from states listed above.

Table 4.5 shows that the median amount of arrears in the other states did not vary nearly as much as in New Jersey by the age of the IV-D case. In Arizona, Ohio, and Pennsylvania, obligors who had a IV-D case opened at least 12 months prior to their order establishment date had higher median arrears than obligors who had their IV-D case and order established within the same year, but the differences were not nearly as large as in New Jersey.

Thus, these findings suggest that only three of the study states – Arizona, New Jersey, and Texas -- are routinely assessing retroactive support. The other five study states – Illinois, Michigan, New York, Ohio, and Pennsylvania – do not appear to be assessing retroactive support on a routine basis even though some of these states have laws that allow them to do so.

C. Low Compliance Rates on Current Support Orders Contribute to Arrears

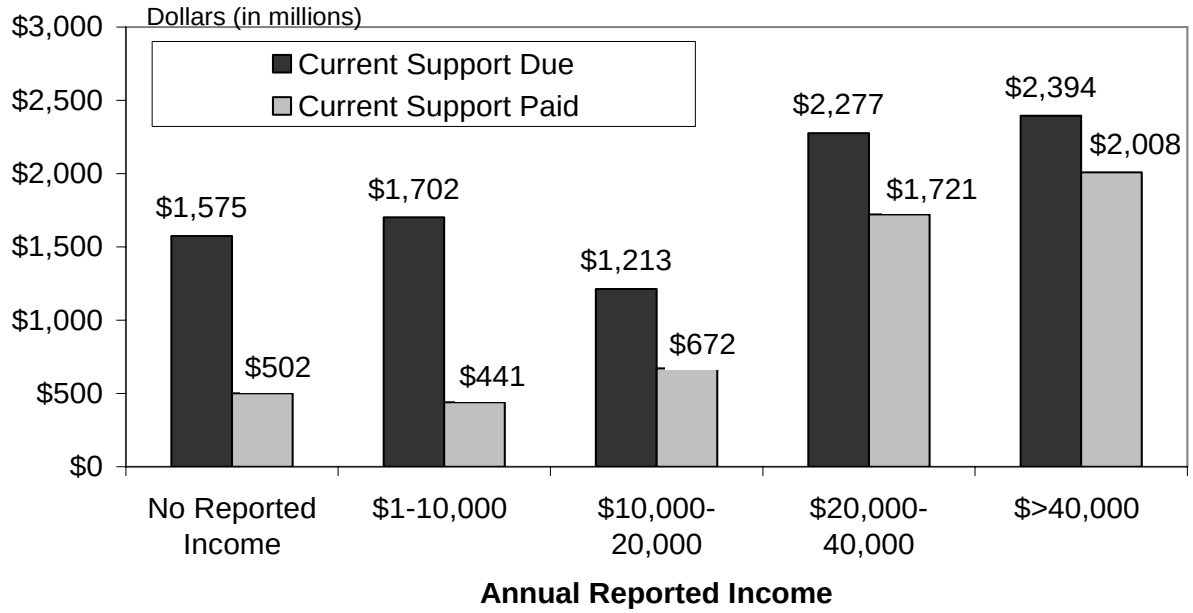
Another factor that has contributed to arrears is the lack of compliance with current support orders. Although the nation has seen a steady improvement in the percent of current support collected in recent years, about 40 percent of current support still goes unpaid each year. In this section of the report, we discuss the gap between current support due and paid.

The Difference Between Current Support Due and Current Support Paid is a Primary Driver Behind Arrears Growth, especially Among Obligors with No or Low Reported Income

The difference between current support due and paid in the 12 months of data that we received from seven of the study states was $3.8 billion, which represents the new arrears generated in these seven states during the year of this study.[57] These new arrears were added to the stock of existing arrears in these states, which totaled $28.7 billion in September 2002. This represents about a 13 percent increase in arrears before taking into account arrears collected that year.

Chart 4.2 shows that while every income group of obligors paid less current support than they owed, most of the unpaid current support (61 percent) was generated by obligors with no or low reported incomes. Specifically, in these seven states, obligors with no or low reported incomes were supposed to pay over $3 billion in current support, but they actually paid less than $1 billion. In other words, they paid 29 percent of their current support. As reported income increased, the percent of current support paid increased, reaching 84 percent among obligors with reported incomes of $40,000 or more. We stratified the difference between current support due and paid by reported income because reported income is the strongest predictor of payment behavior that we had available. Reported income and current support payments were highly correlated in all of the study states.

Chart 4.2 Total Amount of Current Support Due and Paid in the Last Year in Seven States, by Reported Income: 2003/04



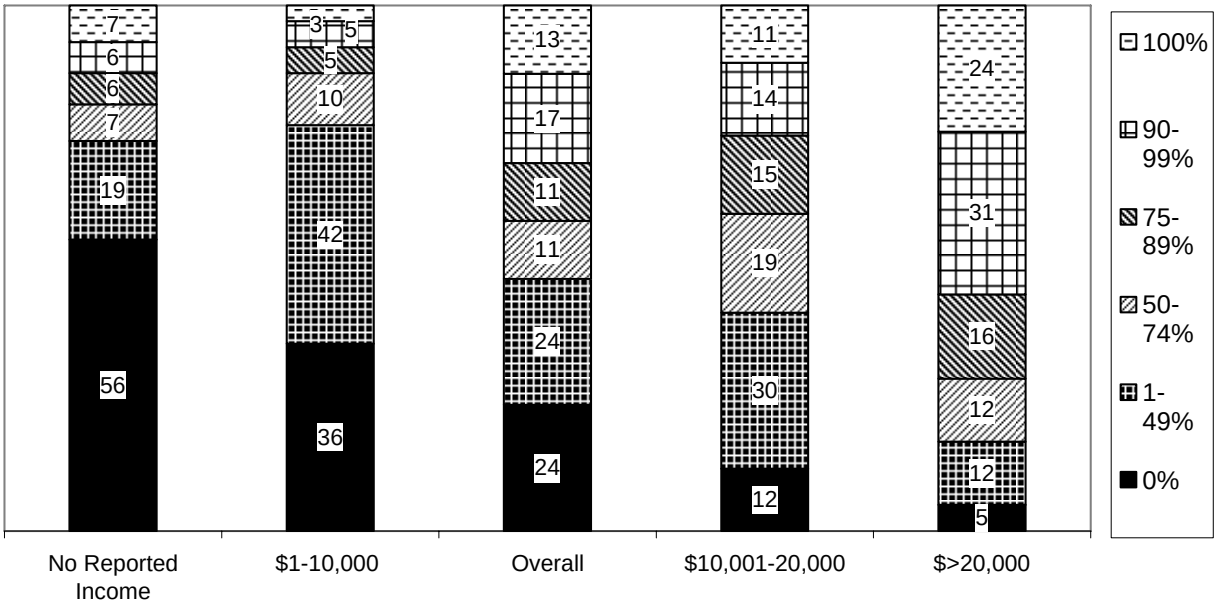
Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

[57] Florida was excluded because it did not indicate which of their obligors had a current support order. New York was excluded because it did not have 12 months of payment information like the other states.

Another way to examine this issue is to report the percent of obligors who paid different percentages of their current support order. The National Child Support Enforcement Strategic Plan for 2005 to 2009 asked states to report this type of information. The chart below shows the percentage of obligors who paid: no current support for 12 months; some current support but less than 50 percent of their order; 50 to74 percent of their order; 75 to 89 percent of their order; 90 to 99 percent of their order; and 100 percent or more in seven of the study states.

Chart 4.3 shows that 24 percent of the current support obligors in seven of the study states paid no current support during the past year. Another 24 percent paid less than 50 percent of their current support order. Another 22 percent paid between 50 percent and 89 percent of their order. Seventeen percent paid 90 to 99 percent of their order. Finally, 13 percent of the obligors in these states paid their entire current support order in the past year.

Chart 4.3 Percent of Current Support Obligors Who Paid Various Percentages of their Order in Seven States, by Reported Income: 2003/04



Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

As we have already seen above, non-compliance was greatest among obligors with no or low reported incomes. Seventy five percent of obligors with no reported income and 78 percent of obligors with reported incomes of $10,000 a year or less paid less than 50 percent of their current support order. Only 7 percent of obligors with no reported income and 3 percent of obligors with low reported incomes paid their entire current support order for the whole year.

Chart 4.3 shows that, as reported income increases, compliance clearly improves. Seventeen percent of obligors with reported incomes over $20,000 a year in seven study states paid less than 50 percent of their current support order. On the other hand, 24 percent paid their entire current support order for 12 months. Another 31 percent paid between 90 and 99 percent of their current support order.

Characteristics of Obligors by their Compliance Rate

In this section, we divide current support obligors into three groups according to their payment behavior in the past 12 months. The first group consists of those who paid none of their current support order during this period, the second group consists of those who paid some of their order, and the final group are those who paid their entire current support order in the past 12 months. We examined seven study states for this analysis.[58]

As noted above, 13 percent of the current support obligors paid their entire current support order in the last year in these seven study states. Those who paid their entire current support order owed very little arrears. In fact, the median amount of arrears owed by this group was zero, meaning that at least half of the current support obligors who paid their entire order did not owe arrears. In contrast, current support obligors who did not pay any support in the last year had median arrears of $12,000. Current support obligors who paid some of their current support in the past year had median arrears of $1,549.

The main characteristic that differentiates obligors who paid their entire current support order from those who paid none or some of their current support order is the amount of reported income that they had. Obligors who paid their current support order in full had median annual reported income of $30,579, while obligors who paid some of their current support order in the past year had median annual reported income of $16,800, and obligors who paid none of their current support order in the past year had median annual reported income of $66. Nearly half of the obligors (48 percent) who paid none of their current support in the last year had no reported income; another 36 percent had reported incomes of $10,000 a year or less. Only 16 percent of current support obligors who paid nothing toward their current support in the past year had reported incomes over $10,000 a year. In contrast, 83 percent of the current support obligors who paid their entire current support orders had reported annual incomes this high.

Obligors who paid their entire current support order in the past year had orders that represented relatively little of their reported income. Nearly all of the obligors who paid their entire support orders had orders that were less than 50 percent of their reported income. The median amount of reported income that was supposed to go toward current support among these obligors was 12 percent. Only 6 percent of these obligors had multiple orders. In contrast, the majority of obligors who had reported incomes but

[58] Florida and New York are excluded because we did not receive order amounts from Florida and we did not receive 12 months of payment data from New York.

Table 4.6 Characteristics of Current Support Obligors in Seven States, by the Amount of their Order they Paid in the Last Year: 2003/04

	Did Not Pay Support in the Last Year	Paid Some of Their Order in the Last Year	Paid Entire Order for One Year
Number of Obligors	512,704	1,323,682	276,959
Percent of obligors	24	63	13
Total Amount of Arrears Owed (in billions)	$10.7	$10.5	$1.0
Percent of arrears owed	48	47	5
Median amount of arrears owed	$12,000	$1,549	$0
Overall Median Annual Reported Income	$66	$16,800	$30,579
Percent of Obligors with:			
No Reported Income	48	13	11
Annual Reported Income between $1 and $10,000	36	24	6
Annual Reported Income Over $10,000	16	63	83
Median Monthly Current Support Order	$206	$322	$300
As a % of Reported Income	64	20	12
% of Obligors with Order > 50% of Reported Income	55	20	4
Percent of Obligors with Multiple Orders	12	13	6
Percent of Obligors with:			
Instate zip code	66	79	81
Out of state zip code	16	14	14
No zip code	16	6	4
At least one interstate case	15	10	10

Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

paid nothing toward current support in the past year had orders that exceeded 50 percent of their reported income. Twelve percent of these obligors had multiple orders.

Obligors who paid their entire current support order in the past year were more likely to have an in-state ZIP code than other obligors and less likely to be missing a ZIP code. In fact, only 4 percent of the obligors who paid their current support in full in the last year did not have a ZIP code; 16 percent of obligors who paid none of their current support in the last year did not have a ZIP code. Finally, obligors who paid their entire current support order in the past year were less likely to have an interstate case than obligors who did not pay any of their current support in the last year.

Obligors with No or Low Reported Incomes Paid little of their Current Support Order

Another way to examine this issue is to look at the payment behavior of current support obligors by each of their characteristics. Table 4.7 presents these results.[59]

Table 4.7 shows that the payment behavior of current support obligors varied by each of the characteristics that we examined, however the largest difference in payment behavior occurred among current support obligors who had no reported income and those who had reported incomes over $10,000 a year. Ninety five percent of the obligors with reported incomes over $10,000 a year paid current support, while less than half (47 percent) of the obligors with no reported income paid current support in the prior year. No other group of obligors that we examined had payment rates this low.

The payment characteristics of current support obligors with reported incomes of $10,000 a year or less were not much better than those with no reported income. Seventy percent of these current support obligors paid current support in the last year, but the median monthly amount that they paid during the last year was $22 and the median percent of their order paid for this period was just 10 percent. In contrast, half of the current support obligors with reported incomes over $10,000 per year paid 87 percent or more of their current support order over the same period.

Two other groups of current support obligors had exceedingly low payment rates: those who had reported incomes, but their current order(s) represented 50 percent or more of their reported income; and those who did not have a ZIP code, which meant they did not have a valid address on record. Sixty eight percent of the current support obligors in the first group paid current support in the last year, but half of these obligors paid less than 8 percent of their current support order. Fifty seven percent of those without a ZIP code paid current support in the past year and half of them paid less than 5 percent of their current support order. These two groups were relatively small in these states; 18 percent of the current support obligors in these seven states had current support orders that exceeded fifty percent of their reported income and 9 percent of the current support obligors did not have a ZIP code. Furthermore, most of the obligors in these groups had no or low reported income. In fact, 91 percent of the current support obligors who had orders that were 50 percent or more of their reported incomes had reported incomes of at most $10,000 a year; 67 percent of those with missing ZIP codes had no or low reported incomes.

[59] Florida is excluded from this analysis because we could not distinguish between current support payments and arrears payments from the data we received. New York is excluded from this analysis because we did not receive 12 months of payment information.

Table 4.7 Payment Characteristics of Current Support Obligors in Seven States, by Various Characteristics: 2003/04

Current Support Obligors have:	Number of Current Support Obligors	Percent who Paid any Current Support in Last Year	Median Monthly Amount of Current Support Paid in Last Year	Median Percent of Current Support Order Paid in Last Year
Overall	2,114,732	79	$137	53
Reported Income				
No Reported Income	444,667	47	$0	0
At most $10,000 a year	518,966	70	$22	10
$10,001 or more a year	1,151,099	95	$263	87
Order Characteristics				
Order is at least 50% of Reported Income	389,887	68	$23	8
Order < 50% of Reported Income	1,280,178	94	$226	83
Has Multiple Current Support Orders	210,503	78	$148	36
Has One Current Support Order	1,538,748	80	$148	62
Oldest Order More than 10 years old	398,359	76	$102	49
Oldest Order 10 years or less	1,694,963	80	$145	55
Zip Code Status				
Has in-state Zip Code	1,607,559	82	$158	61
Has Out-of-state Zip Code	308,762	78	$110	46
Has No Zip Code	181,813	57	$11	5
Interstate Status				
Has Interstate Case	236,417	73	$81	34
Has No Interstate Case	1,878,315	80	$145	56

Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

These four groups of current support obligors who had exceedingly low payment rates – those with no or low reported income, those with orders that exceeded 50 percent of their reported income, and those without a ZIP code -- represented 50 percent of the current support obligors in these seven states. The median amount paid by these obligors during the past year was less than $23 per month and the median percent of their order paid was less than 10 percent.

Payment behavior also varied by other characteristics of current support obligors. For example, the payment rates among current support obligors with and without an interstate case varied. Half of the obligors with an interstate case paid 34 percent or more of their current support order in the last year, while half of the obligors without an interstate case paid 56 percent or more of their current support order in the last year. Similarly, the median percent of current support paid in the last year by obligors with

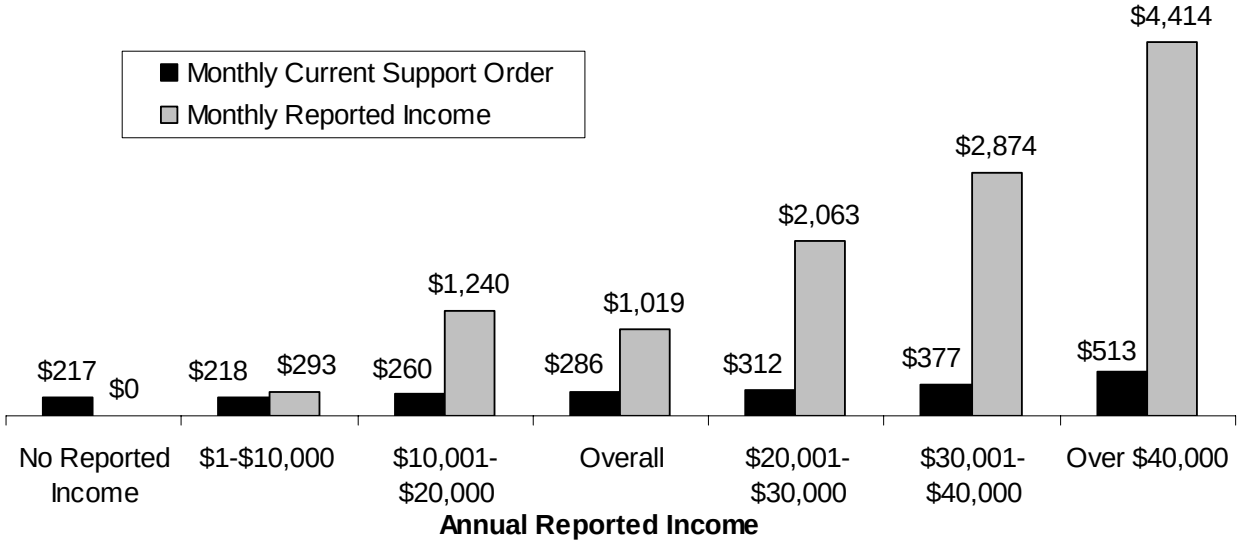
multiple current support orders was 36 percent, while it was 62 percent among obligors with one current support order.

Current Support Orders Appear too High for Some Obligors with Low Reported Incomes

Current support orders tend to be very high relative to reported incomes for obligors with reported incomes of $10,000 a year or less. In contrast, once obligors have annual reported incomes of more than $10,000 a year, current support orders do not tend to be that high relative to reported income. Chart 4.4 reports the median monthly current support order and median monthly reported income for obligors with a current support order in seven states.[60] At the time the data were extracted from the study states, the median current support order among all obligors with a current support order was $286 per month and their median monthly income was $1,019.

Chart 4.4 shows that, in these seven states, median monthly incomes rose much more rapidly than median monthly orders. Among obligors with no reported income, the median current support order was $217 per month. Obligors with reported incomes of $10,000 a year or less had a very similar median order of $218 per month. The median monthly reported income for these obligors was $293 per month. This means that most low-income obligors were expected to devote more than half of their monthly reported

Chart 4.4 Median Monthly Current Support Order and Median Monthly Reported Income for Current Support Obligors in Seven States, by Annual Reported Income: 2003/04



Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

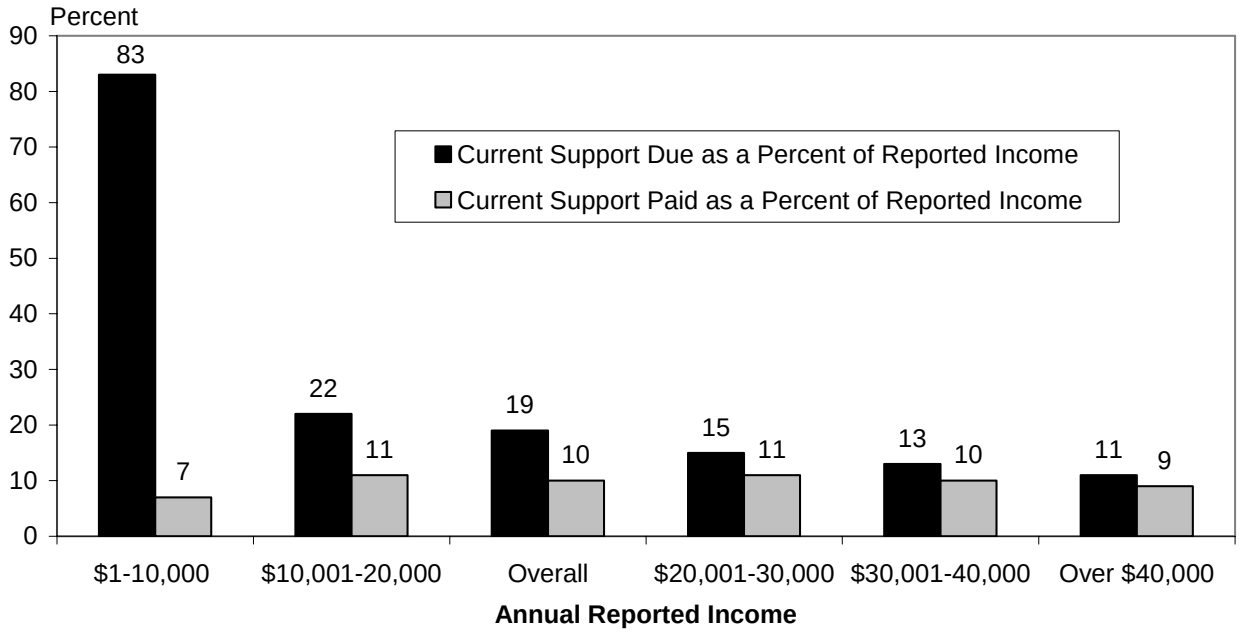
[60] Florida is not included in this analysis because we did not receive current support order amounts from this state. New York is not included because we did not receive 12 months of payment information.

income on child support. No other income category of obligors was expected to pay that much of their reported income on child support. For example, obligors with reported income between $10,001 and $20,000 a year had a median current support order of $260 per month, while their median monthly reported income was $1,240 per month. In other words, as reported income increased from $10,000 a year or less to $10,001 to $20,000 a year, representing about a four-fold increase in reported income, the median order increased by 19 percent, or $42 per month.

Another way to examine the same issue is to report the median percent of reported income that obligors are expected to pay toward child support and the median amount actually paid. Chart 4.5 shows that overall, in the seven states examined, the median percent of reported income that was due as current support was 19 percent and the median percent of reported income that was paid was 10 percent.

Once obligors are divided into reported-income categories, we find that the median percent of reported income that is expected to go to child support declines as reported income rises. For obligors with reported income of $10,000 a year or less, the median percent of reported income that was supposed to go to child support was 83 percent. The median percent among obligors with reported income between $10,001 and $20,000 a year was 22 percent. Among obligors with reported income above $40,000 a year, the median percent of income that was expected to go to child support was 11 percent.

Chart 4.5 Median Percent of Reported Income Due and Paid as Current Support in Seven States, by Reported Income: 2003/04

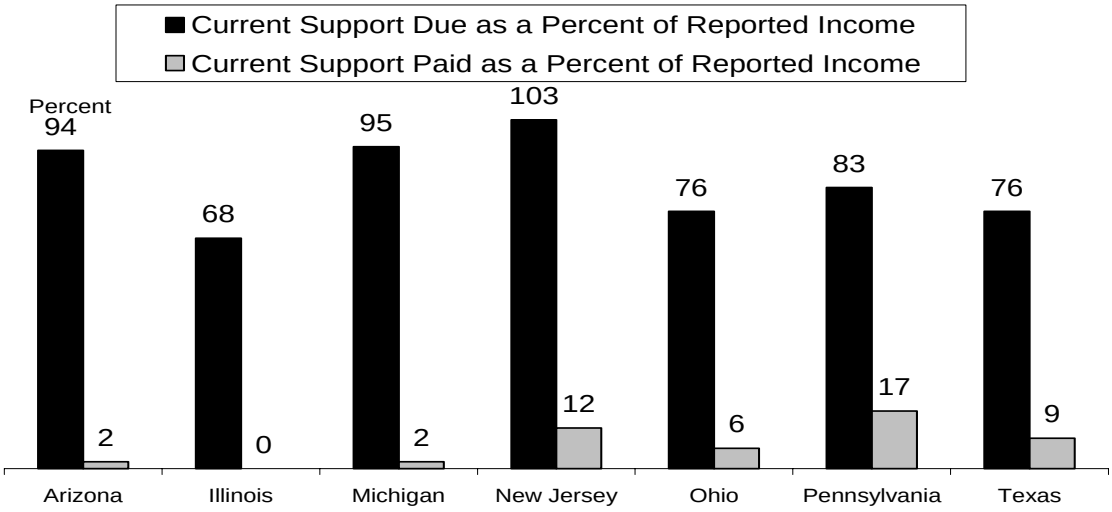


Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

Chart 4.5 also shows that the median percent of reported income that went to current support was not that different among obligors once they were divided into reported-income categories. Among obligors with reported incomes of $10,000 a year or less, the median percent of reported income that went to current support was 7 percent, which was the lowest percentage figure across the reported-income groups. The highest figure was among obligors with reported incomes between $10,001 and $30,000 a year. The median percent of reported income that went to current support among these obligors was 11 percent.

We examined the variation in the median percent of income due and paid as current support among low-income obligors in our study states (chart 4.6). We find a wide range of median amounts due and paid among the study states. Illinois had the lowest medians for due and paid among these obligors -- the median order in this state as a percent of reported income was 68 percent and the median paid as a percent of reported income was zero. Less than half of this group of obligors paid current support in Illinois and that is why the median amount paid is zero.[61] Arizona and Michigan, on the other hand, had high median amounts due and low median amounts paid. In these two states, the median percent of reported income due as current support was 94 and 95 percent, respectively; the median percent paid was 2 percent of reported income in both states. New Jersey had the highest median percent due. The median percent due in this state for these obligors was 103 percent of reported income. The median percent paid in New Jersey was 12 percent. Pennsylvania had the highest median percent of reported income paid toward current support at 17 percent. Their median support due for these obligors was 83 percent of reported income.

Chart 4.6 Median Percent of Reported Income Due and Paid as Current Support Among Obligors with Reported Incomes Between $1 and $10,000 a year, by State: 2003/04

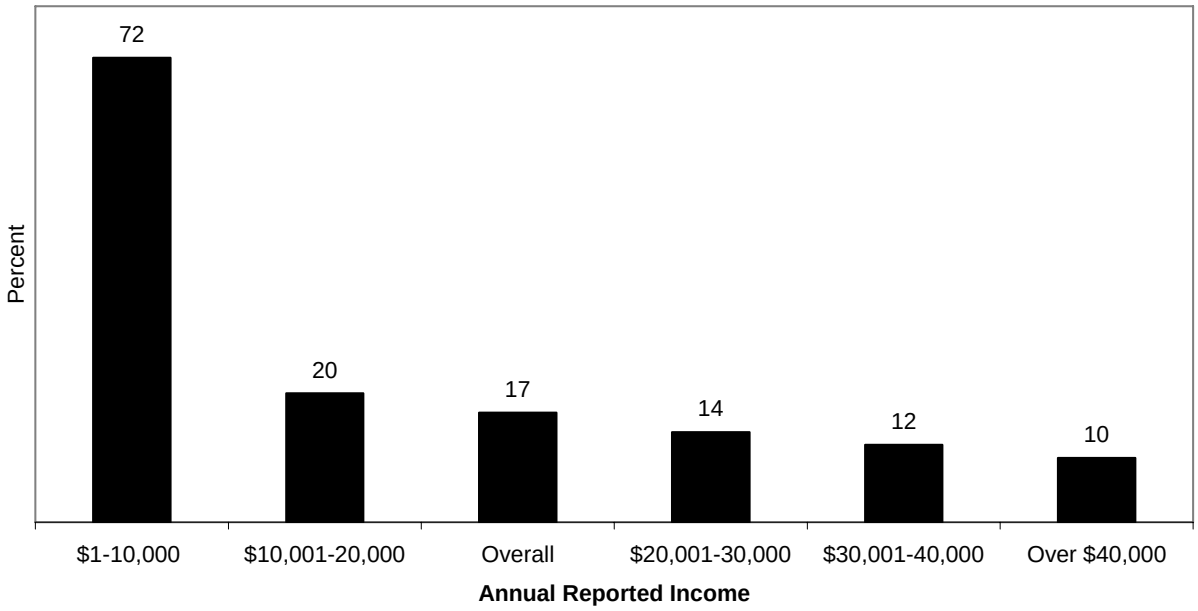


Source: Child support programs from states listed above. These data were matched to national quarterly wage and unemployment insurance data.

[61] We should note that the current support payment data from Illinois appeared incomplete. So we may be understating actual current support payment amounts for Illinois.

There are several possible reasons why some obligors had orders that appeared to exceed their ability to pay. One reason is that obligors have multiple current support orders. To examine whether orders appeared high because of multiple current support orders, we limited chart 4.5 to those obligors who had just one current support order. As expected, chart 4.7 shows that, overall and for every reported-income group, the median percent of reported income that is due as current support declines. In particular, for obligors who had one current support order and reported income between $1 and $10,000 a year, the median percent of reported income that was expected to go to current support was 72 percent, down from 83 percent among low-income obligors regardless of the number of orders that they had.

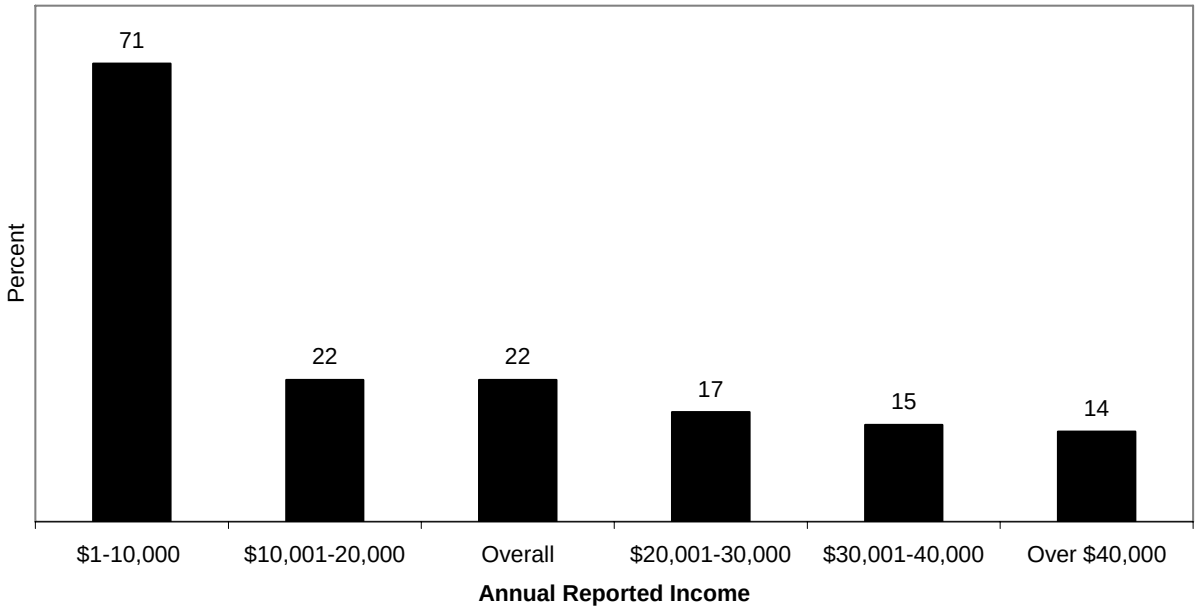
Chart 4.7 Median Percent of Reported Income Due as Current Support Among Obligors with One Current Support Order in Seven States: 2003/04



Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

Another reason that orders may appear too high relative to obligors' ability to pay is that circumstances for these obligors may have changed, which reduced their ability to pay but their orders were not modified to reflect these changes. To avoid this issue, we examined obligors who had their first current support order established in the last 12 months. We refer to these obligors as new obligors. These obligors had just one current support order and their orders were new enough that it was unlikely that their circumstances had changed since their order was established. Chart 4.8 shows these results. We find that, overall, the median percent of income due as current support for new obligors was 22 percent, or 5 percentage points higher than the median amount for all obligors with one current support order.

Chart 4.8 Median Percent of Reported Income Due as Current Support Among Obligors with One Order Established in the Last Year in Seven States: 2003/04



Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

For new obligors with reported income of $10,000 a year or less, chart 4.8 shows that they were expected to pay a median amount of 71 percent of their reported income toward child support, or one percentage point lower than the median amount found for all obligors with reported incomes this low. Hence, many current support orders appear to be set too high from the very beginning for obligors with low reported income.

Another reason orders may appear high for low-income obligors is that income may be imputed for some obligors. We did not have direct information on whether orders were imputed, thus we tried to infer from the data whether orders were imputed. We did this by examining the frequency of order amounts as they appeared in the data. To reduce the noise in the distribution of orders, we focused on obligors who had their first order established in the last 12 months and had two children to support.[62] We examined obligors who had no reported income, reported incomes of $10,000 a year or less, and reported incomes over $10,000 a year.

We find that all of the states had specific order amounts that were frequently used for obligors, regardless of their income category, but the extent to which they relied upon them and their magnitude varied among the states. Starting with obligors with reported

[62] Michigan did not include a variable indicating the number of orders that an obligor had, so obligors in this state were not limited to those with one order. Arizona did not include a variable indicating the number of children that an order covered, so obligors in this state were not limited to those with two children.

Table 4.8 Two Most Frequently Used Order Amounts for Obligors who had their First Order Established in the Last 12 Months and had 2 Children to Support[63]

	Monthly Order Amount	% of Orders	Monthly Order Amount	% of Orders
OBLIGORS WITH NO REPORTED INCOME				
Arizona	182	15	173	10
Illinois	10	5	20	3
Michigan	435	2	200	2
New Jersey	282	5	433	3
New York	25	10	50	6
Ohio	50	10	100	4
Pennsylvania	50	12	200	3
Texas	200	17	195	5
OBLIGORS WITH REPORTED INCOMES OF $10,000 A YEAR OR LESS				
Arizona	182	14	173	10
Illinois	217	6	10	5
Michigan	435	2	87	1
New Jersey	282	5	217	3
New York	25	11	50	10
Ohio	50	9	100	5
Pennsylvania	50	7	300	3
Texas	200	20	195	5
OBLIGORS WITH REPORTED INCOMES OVER $10,000 A YEAR				
Arizona	182	2	173	2
Illinois	433	4	325	2
Michigan	435	1	500	1
New Jersey	433	3	650	2
New York	363	3	210	2
Ohio	300	2	400	2
Pennsylvania	500	3	400	2
Texas	200	5	400	3

Source: Child support programs from the states listed above. These data were matched to national quarterly wage and unemployment insurance data.

income over $10,000 a year, we find that the two most frequently used monthly order amounts were used about 2 percent of the time. States varied regarding the extent to which they relied upon specific order amounts, ranging from 5 percent in Texas to 1

[63] Florida is excluded because we did not receive current support order amounts.

percent in Michigan. Arizona had the lowest monthly order amount that was used 2 percent of the time at $173/month; New Jersey had the highest at $650/month, which was used 2 percent of the time. We present frequencies for higher income obligors for comparison purposes. We wanted to know whether states were more likely to use specific order amounts for obligors with low or no reported income than higher income obligors.

Turning to obligors with low and no reported income, we find considerably more variation in the extent to which states relied upon specific order amounts. About 25 percent of the orders in Arizona that were set in the last 12 months for obligors with no or low reported income, were set at $182 or $173 per month. Texas set slightly less than 25 percent of their orders for new obligors with no or low reported income and two children to support at $200 and $195 per month. Michigan and New Jersey were the least likely to rely upon specific order amounts for new obligors with no or low reported incomes and two children to support. In Michigan, the most common monthly order amount for these obligors was $435/month; in New Jersey, it was $282/ month.

The other four states – Illinois, New York, Ohio, and Pennsylvania – did not rely upon specific order amounts for new obligors with no or low reported incomes as much as Arizona and Texas, but when they did, the amounts that they used were considerably lower than those used in Arizona and Texas. In New York, 16 percent of new obligors with no reported income and two children to support were given an order of $25/month or $50/month. Among new obligors with low reported incomes, the figure was 21 percent. The most common order amount for new obligors with low and no reported incomes in Ohio and Pennsylvania was $50/month. Illinois tended to use $10/month for new obligors with no or low reported incomes.

Arizona, New Jersey, and Texas have state laws that require courts to presume a full-time minimum wage job for non-custodial parents if no income information is available. The other five study states do not appear to have this law. Since Texas uses a percentage of net income guidelines approach, it is straightforward to determine the order amount for an obligor with two children and a full-time minimum wage job. A full-time minimum wage job yields $893/month. After federal income taxes, Social Security taxes, and Medicare taxes, net income would be $800/month. The guidelines indicate that orders should be 25 percent of net income, or $200/month, which was the most common order amount given to new obligors with no or low reported incomes and two children to support during the study year.

New Jersey and Arizona use an income shares model for their child support guidelines, which makes the order amount dependent upon the custodial parent's income. In New Jersey, a full-time minimum wage job and two children to support would yield an order of $282/month if the custodial parent had no income. As table 4.8 shows, 5 percent of the new obligors in New Jersey with no or low reported incomes and two children to support received this order amount during the study year. Arizona did not include information on the number of children on the child support order, so the order amounts in table 4.8 for Arizona were not limited to new obligors with two children to support, as

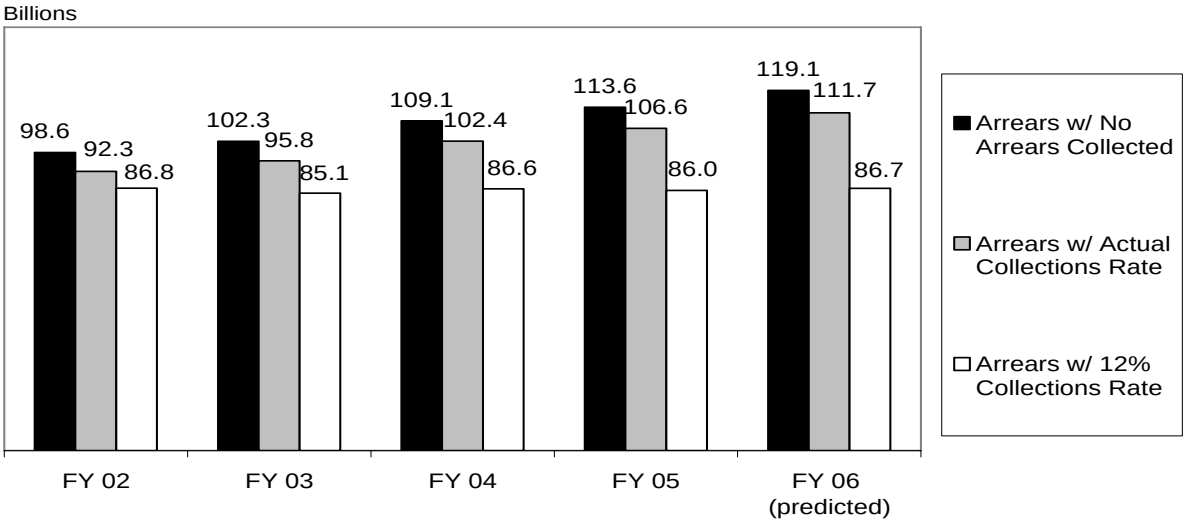
they were for the other study states. The Arizona child support schedule for 2004 indicates that a non-custodial parent with adjusted gross income of $900/month and a custodial parent with no income should receive an order of $188/month for one child. The order amounts that we find to be commonly used in Arizona in 2004 were not exactly this amount, but they were close.

Table 4.8 suggests that Texas and Arizona impute a full-time minimum wage salary to obligors on a fairly regular basis, while New Jersey does not appear to impute as frequently. It also suggests that Illinois, New York, Ohio, and Pennsylvania tend to use a presumed minimum order for obligors with no or low reported income rather than impute a full-time minimum wage job. These minimum orders ranged from $10/month to $50/month.

D. Arrears Payments are Low

Another key reason why arrears have been growing is because the percent of arrears collected each year is relatively low. In the past few years, arrears across all IV-D programs have been growing at about 5 percent a year. The national collections rate on arrears during this period has been about 6 percent. If the nation's IV-D programs had been able to collect 12 percent of the nation's arrears each year, instead of 6 percent, we estimate that arrears would have stopped growing.

Chart 4.9 National Arrears Assuming Different Rates of Arrears Collections



Source: OCSE, Annual Statistical Reports.

The chart above shows national arrears under three different scenarios. The middle scenario shows the actual trend in arrears from FY 2002 to FY 2005.[64] The scenario to the left of the actual trend is an estimate of the amount of arrears if there had been no arrears collected during this period. To generate this estimate, we simply added arrears

[64] We do not examine arrears in FY 2006 because they are not comparable to arrears in FY 2002 to FY 2005. See note to Chart 4.

collected each year to the amount of arrears remaining at the end of the fiscal year. The scenario to the right of the actual trend is an estimate of the amount of arrears if 12 percent of arrears were collected each year.

As chart 4.9 shows, we estimate that arrears would not have increased if the IV-D programs had been able to collect 12 percent of the arrears since FY 2002, remaining at about $87 billion throughout this period. To arrive at this estimate, we assumed that arrears grew at the rate it actually did but instead of subtracting the actual amount of arrears collected, we subtracted 12 percent of the arrears. Of course, if arrears continue to grow at their current rate and arrears collections remain at 6 percent, arrears will continue to grow. Based on these assumptions, we estimate that arrears will be $111.7 billion in FY 2006. Arrears in FY 2006 were actually lower than we predict here, but that was, in part, because OCSE instructed states to stop reporting arrears for responding interstate cases to eliminate the double counting of these arrears.

Although it is unlikely that the national arrears collection rate will reach 12 percent in the near future, it is worth examining who pays arrears and who does not pay arrears to better understand why the national arrears collection rate is at 6 percent. Below we first describe the characteristics of debtors by how much arrears that they paid and then we examine which groups of debtors are more likely to pay arrears.

Description of Debtors by How Much Arrears they Paid

To better understand who does not pay arrears, we divided debtors into three groups depending upon the percent of arrears that they paid in the last year. Those who did not pay arrears in the last year are in the first group; those who paid less than 12 percent of their arrears in the last year are in the second group; and those who paid 12 percent or more of their arrears in the last year are in the third group. We selected a 12 percent arrears payment rate to divide debtors who paid arrears because if the IV-D program had collected 12 percent of the arrears accrued in the past few years, we estimate that national arrears would not have increased. Table 4.9 presents the characteristics of these three groups for seven study states.[65]

Most debtors, in these seven states, paid less than 12 percent of their arrears in the last year. Thirty five percent of the debtors paid no arrears in the last year. Another 26 percent paid some arrears in the last year, but less than 12 percent of what they owed. That left 39 percent of the debtors who paid 12 percent or more of their arrears.

Debtors who paid 12 percent or more of their arrears in the last year owed relatively little arrears. The median amount of arrears owed among these debtors was $960. Among debtors who paid some of their arrears in the last year, but less than 12 percent,

[65] Florida is not included in this analysis because the payments data that Florida sent could not be divided into arrears and current support payments. New York is not included because it did not send 12 months of payment information.

their median amount of arrears owed was $13,441. Debtors who did not pay any arrears in the last year owed a median amount of $11,461 in arrears.

Table 4.9 Characteristics of Debtors in Seven States, by Arrears Payments in the Last Year: 2003/04

	Did Not Pay Arrears in the Last Year	Paid Less than 12% of their Arrears in Last Year	Paid 12% or More of their Arrears in Last Year
Number of Debtors	774,676	562,016	865,543
% of debtors	35	26	39
Total Arrears Held (in billions)	$16.0	$11.9	$2.8
% of arrears owed	52	39	9
Median amount of arrears owed	$11,461	$13,441	$960
Overall Median Annual Reported Income	$5	$8,573	$20,468
Percent of Debtors with:			
No Reported Income	50	18	12
Reported Income of $10,000 a year or less	33	35	17
Reported Income over $10,000 a year	17	46	71
Percent of Debtors with a Current Support Order	72	78	85
Percent of debtors with a current support order who has multiple current support orders	13	20	11
Median Monthly Current Support Order	$218	$275	$325
As a Percent of Reported income	67	29	18
Percent of Debtors with Orders > 50% of Reported Income	56	32	12
Percent of Current Support Obligors who Paid Current Support	24	100	100
Percent of Obligors with:			
Instate zip code	66	71	80
Out of state zip code	17	19	14
No zip code	15	9	5
At least one interstate case	15	17	9

Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

Table 4.9 shows that most debtors who paid 12 percent or more of their arrears in the last year had reported incomes of over $10,000 a year. Only 12 percent of these debtors had no reported income; another 17 percent had reported incomes of $10,000 a year or less. In contrast, over 80 percent of the debtors who did not pay arrears in the last year had reported incomes of $10,000 a year or less; 53 percent of debtors who paid less than 12 percent of their arrears had reported incomes this low. The median annual reported incomes among these groups of debtors were also very different. The median annual reported income among debtors who did not pay arrears in the last year

was just $5, while the median annual reported income among debtors who paid less than 12 percent of their arrears was $8,573. In contrast, debtors who paid 12 percent or more of their arrears had a median income of $20,468 a year.

Debtors who paid 12 percent or more of their arrears were more likely to have a current support order than other debtors. Eighty five percent of these debtors had a current support order, while 72 percent of debtors who did not pay any arrears in the last year had a current support order. Among those who had a current support order, debtors who paid 12 percent or more of their arrears tended to have current support orders that did not represent a large share of their reported income. Twelve percent of these debtors had orders that exceeded half of their reported income. In contrast, debtors with a current support order who did not pay any of their arrears were expected to pay a considerable share of their reported income on current support. Over half of these debtors had orders that exceeded 50 percent of their reported income.

Although most of the debtors who paid less than 12 percent of their arrears in the past year had in-state ZIP codes, debtors who paid 12 percent or more of their arrears were even more likely to have in-state ZIP codes. Eighty percent of this latter group had an in-state ZIP code; only 5 percent did not have a ZIP code. Sixty six percent of debtors who did not pay arrears had an in-state ZIP code; 15 percent did not have a ZIP code. Debtors who paid less than 12 percent of their arrears in the last year were also more likely to have an interstate case than debtors who paid at least 12 percent of their arrears. Seventeen percent of debtors who paid less than 12 percent of their arrears had an interstate case, while 9 percent of debtors who paid 12 percent or more of their arrears had an interstate case.

Debtors with No Reported Income were the Least Likely Debtors to Pay Arrears

In the next table, we examine arrears payment behavior of subgroups of debtors in seven of the study states.[66] The subgroups are based on the characteristics of debtors. The top row of the table gives the arrears payment behavior of all debtors in the seven study states. It shows that 65 percent of the debtors in these states paid arrears in the past year and the median amount that they paid in arrears was $21 per month. The median percent of arrears paid was 5 percent.

Table 4.10 shows that the subgroup of debtors who were the least likely to pay arrears were those with no reported income. Thirty five percent of these debtors paid arrears in the past year. Because less than 50 percent paid arrears, the median amount paid and the median percent of arrears paid are both zero for this group of debtors. As we expected, debtors with reported incomes at most $10,000 a year were not far behind in their arrears payment behavior. Fifty eight percent of these debtors paid arrears in the past year and the median amount paid was $7 per month. The median percent of arrears paid in the last year by these debtors was one percent of their arrears.

[66] Florida and New York are excluded. Florida's data did not indicate whether payments were going to arrears or current support. New York did not include 12 months of payment data.

In contrast to debtors with no or low reported incomes, debtors with reported incomes of over $10,000 a year were the most likely subgroup of debtors to pay arrears and they paid more arrears than any other subgroup. Eighty seven percent of these debtors paid arrears in the last year and they paid $54 per month in arrears. The median percent of arrears paid was 21 percent, which is considerably higher than any other subgroup.

Debtors without a ZIP code were another group who had very poor arrears payment rates. Only 44 percent of debtors without a ZIP code paid arrears in the last year. In contrast, 68 percent of debtors with an in-state ZIP code paid arrears in the last year.

Table 4.10 Arrears Payment Characteristics of Debtors in Seven States, by Various Characteristics: 2003/04

Debtor Characteristics	Number of Debtors	Percent who Paid Arrears in Last Year	Median Monthly Amount of Arrears Paid in Last Year	Median Percent of Arrears Paid in Last Year
Overall	2,202,553	65	$21	5
Reported Income				
No Reported Income	596,171	35	$0	0
Between $1 and $10,000 a year	606,712	58	$7	1
Over $10,000 a year	999,670	87	$54	21
Age of Case				
10 Years or Less	778,158	68	$24	7
More than 10 Years	328,262	63	$23	3
Zip Code Status				
Has in-state Zip Code	1,603,966	68	$25	7
Has Out-of-state Zip Code	363,636	63	$21	3
Has No Zip Code	212,106	44	$0	0
Interstate Status				
Has Interstate Case	283,471	60	$15	2
Has No Interstate Case	1,919,082	66	$22	5
Current Support Order				
Has a Current Support Order	1,736,641	68	$24	6
Has No Current Support Order	465,912	53	$8	1

Source: Child support data are from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas, which were matched to national quarterly wage and unemployment insurance data.

Arrears-only Debtors Paid Very Little Arrears

Debtors with arrears-only cases were less likely to pay arrears than debtors with a current support order. Even though this group no longer had a current support obligation, only 53 percent of them paid any arrears in the last year. In contrast, 68 percent of debtors with a current support order paid arrears in the last year. Furthermore, the median amount of arrears paid among debtors with arrears-only cases was just $8 month. The median amount paid among debtors with a current support order was three times that amount.

CHAPTER 5. ARREARS MANAGEMENT STRATEGIES IN STUDY STATES

The nine study states have undertaken numerous actions to manage their arrears. These actions have spanned the entire range of possibilities, from order establishment to case closure. Below we summarize some of these actions. We divide the actions into two broad categories – preventing arrears in the first place and managing existing arrears.

A. Prevent Arrears from Accruing in the First Place

Below, we discuss six strategies to prevent arrears from accruing in the first place.

1. Set Realistic Orders

Utilizing quarterly earnings data to help determine order amounts. All of the study states have moved to varying degrees toward utilizing quarterly earnings data to determine orders. All of the study states have given their caseworkers easy access to state quarterly earnings data. Some states have several years of state quarterly earnings data available to caseworkers. Other states have made national quarterly earnings data from the NDNH readily accessible to caseworkers. For example, case workers in Ohio have access to state and national quarterly earnings records, SSI/SSDI/VA benefits, state data on workers compensation and unemployment compensation, data from financial institutions, and other state data bases.

Our analysis finds that giving caseworkers access to national quarterly earnings data as opposed to state quarterly earnings data dramatically increased the percent of obligors who matched to quarterly earnings data. In the study states, about 50 percent of the obligors matched to state quarterly earnings data, but 75 percent matched to the national quarterly earnings data. Thus, making NDNH data available to caseworkers in these states would have increased the match rate to quarterly earnings data by 50 percent.

Quarterly earnings data are often considered “out of date” for enforcement purposes, but these data are an important source of information for determining orders. Federal law states that orders are supposed to reflect the ability to pay of obligors and quarterly earnings are one of the few verifiable sources of actual earnings information. In the past, when the child support program did not have access to quarterly earnings information, courts often based orders, in part, on the obligors’ last pay stub. While this information is certainly worthwhile because it is the most recent earnings information available, it may not reflect the obligors’ annual earnings. With quarterly earnings data, an obligor’s last pay stub can be placed in context of an entire year’s worth of earnings.

Although quarterly earnings data are not a complete record of all earnings, they are estimated to cover over 90 percent of the nation’s earnings. It is likely that quarterly earnings cover less than 90 percent of non-custodial parents’ earnings because non-custodial parents have a greater incentive than the average worker to avoid

employment that is covered by quarterly earnings data. But, even if quarterly earnings covers less than 90 percent of non-custodial parents' earnings, it is still quite comprehensive.

Utilizing state income tax data to help determine orders. Some obligors are self-employed or have substantial earnings that are not covered by quarterly earnings data. In these cases, other earnings information is critical. One such source is income tax returns. The New York Division of Child Support Enforcement has an agreement with the New York State Department of Taxation and Finance that allows the Division to access state income tax records when establishing child support orders.

Utilizing SVES data to help determine order amounts. Some of the study states have taken advantage of the State Verification and Exchange System (SVES) data available from the federal Office of Child Support Enforcement when setting orders. These data indicate whether an obligor is institutionalized, on SSI, or receiving SSA benefits. These data can help determine orders, especially in cases where there are no or little quarterly earnings data.

When no income information is available, presuming income at the minimum wage rather than the standard of need. In the past, some states presumed a level of income to obligors that generated their state's standard of need as defined by their welfare program when obligors had no reported income. Generally speaking, a state's standard of need was equal to the state's welfare grant, which could be substantial. Until recently, Illinois had this practice.[67] It has since shifted to presuming a minimum wage salary rather than the state's need standard when no income is available.

When no income information is available, setting orders at $50/month or less. Other states are setting orders at $50 per month or less if income information is not available. In Pennsylvania, orders are often set at $50 per month in these cases. In New York, temporary orders are often set at $25 per month until income information is available.

Include a low-income provision in state guidelines. Nearly all of the study states have a low-income provision in their state child support guidelines, which aim to reduce the child support order amount for low-income obligors. The two exceptions are Texas and Illinois, both of which have a percentage of income guidelines (see table 5.1).

Most of the low-income provisions utilize a self-support reserve for the obligor, although the guidelines do not always use that term. Not surprisingly, given that the states have different costs of living, the size of the self-support reserve varies, from a low of $550 per month in Ohio to a high of $1,047 per month in New York.

Only some of the states require the courts to utilize the low-income provision when an obligor's income falls below a certain amount (e.g. New York and Pennsylvania). Other

[67] Pamela Compton Lowry. "Illinois Arrears Management." Presentation to the National Child Support Enforcement Association Mid-year Policy Conference. February 2007.

states give the courts discretion when an obligor's income falls below a certain amount (e.g. Florida and Ohio).

Table 5.1 Type of Child Support Guidelines in the Study States and a Description of the Low-Income Provisions included in the Guidelines

State	Guideline Type	Low-income Provision
AZ	Income Shares	Deduct $775 (the self support reserve) from the obligor's monthly adjusted gross income. If the resulting amount is less than the child support order, the court may reduce the order after considering the financial impact of the reduction on the custodial parent's household.
FL	Income Shares	If combined net monthly income is less than $650, support obligation is to be determined by the court on a case-by-case basis.
IL	Percentage of Income	None.
NJ	Income Shares	If combined net weekly income is less than $170, the court shall establish a child support award based on the obligor's net income and living expenses and the needs of the child. The support award should be between $5/week and $42/week (i.e. the amount at $170 combined weekly net income). If calculated obligation pushes obligor below 105% of poverty level for one person, the award is generally net income minus 105% of poverty level.
NY	Percentage of Income	If annual income minus the total child support obligation is less than the poverty level for a single person, then the obligation is the greater of $300 or the difference between annual income and the self-support reserve ($12,569). If annual income minus the total child support obligation is less than the self-support reserve but greater than the poverty level for a single person, then obligation is the greater of $600 or the difference between annual income and the self-support reserve.
MI	Income Shares	If monthly net income is $200 or more but less than $800, then payment is the minimum of $25/month or 10% of NCP monthly net income. If monthly net income is below $200, then orders should be determined on a case-by-case basis.
OH	Income Shares	If combined adjusted gross annual income is less than $6,600, support obligation is to be determined by court on a case-by-case basis, using the support guidelines table as a guide.
PA	Income Shares	The self-support reserve is built into the child support schedule and adjusts the basic support obligation to prevent the obligor's net income from falling below $748 per month, the poverty threshold for a single person in 2003. If an obligor's net income is $748/month or less, the court may award support only after consideration of the obligor's living expenses.
TX	Percentage of Income	None

Source: State child support guidelines.

2. Increase Parental Participation in the Order Establishment Process

Make documents readable. Some of the study states have tried to make their summons and orders more readable. One strategy is to add a cover letter to the summons that explains in simple language what is enclosed. Several study states have utilized this approach. Another strategy is to add language to the envelope that clearly states that "Legal Notices Enclosed" so that parties do not inadvertently throw out important documents. Still another strategy is to add language to the summons that

says “You Must Appear” so that parties understand that they are expected to appear at their hearing.

Improve service of process. New York City started utilizing priority mail with delivery confirmation to serve parents and found a much higher appearance rate in court as a result.[68] Other jurisdictions have provided photos of the non-custodial parent to the process server.

Move to an administrative process that emphasizes parental participation. One of the study states, Texas, has fundamentally altered its order establishment process, going from a highly judicial process of establishing orders to a process that establishes most orders administratively. The administrative process emphasizes parental participation by utilizing easy-to-read letters, conferences, and follow-up. The transformation has resulted in orders being established more quickly and with greater parental involvement.

Using video- and teleconferencing to increase parental participation in order establishment. To increase the participation of non-custodial parents who do not live in Allegheny County, Pennsylvania, the child support program in Allegheny County developed procedures that allow non-custodial parents to “appear” at court hearings through video- and teleconferencing.

3. Reduce Retroactive Support

Two of the study states – Texas and Michigan -- have revised their retroactive support statutes in the past few years. Prior to these legislative changes, both Texas and Michigan had statutes that allowed them to seek retroactive support back to the date of birth of the child in paternity cases. Now, Texas may go back up to 4 years prior to the date of filing. Michigan may go back to the date of filing unless there is willful avoidance.

4. Implement Early Intervention Strategies

A variety of early intervention strategies have been adopted by the study states. The primary aim of these strategies is to intervene early enough after the order is established to prevent delinquency from occurring in the first place through direct contact with the customer.

Utilize Reminder Calls and Letters. The most common early interventions that the study states have undertaken are reminder calls and reminder letters, which remind clients of their appointments, conferences, hearings, and payments due. In Pennsylvania, for example, most county offices have implemented a series of reminder calls and/or letters, typically starting with a reminder call before the order establishment conference or hearing. Calls not only remind the parties to appear at their hearing, but

[68] Peter Passidomo. “New York State Courts and Division of Child Support Enforcement: A Partnership for Success.” Child Support Report. June 2002.

they also remind the parties what documents to bring to the hearing. After the conference or hearing is completed, a follow-up letter is sent to the non-custodial parent within 48 hours that reviews what occurred at the conference and reminds the non-custodial parent of his/her responsibility to pay support in a timely manner and the consequences of nonpayment. Then, if payments are not received within 15 days, a phone call is made reminding the non-custodial parent to make his/her payments. If payments are not made within 30 days, then an enforcement conference is scheduled.[69]

Florida contacts the non-custodial parent at the time the court order data is entered in the child support system. Contact is made via a written educational notice (and in some cases, a phone call) that provides information regarding their child support obligation, how to remit payments and how to contact the child support agency. Non-custodial parent orientation appointments are conducted in some areas for all newly obligated cases. The orientation appointments are intended to discuss the terms of the court order, provide an overview of the enforcement process and to advise the obligor of enforcement activities that could occur if the non-custodial parent became non-compliant.[70]

Pennsylvania has begun sending reminders via email, letting customers know of scheduled events related to their case, advising customers of account status issues, communicating electronic fund transfers, and providing disbursement information. Pennsylvania has issued more than 3 million e-mail reminders to child support customers. E-mail reminders have improved efficiencies at varying stages of the automated IV-D process, providing immediate communication to clients and increasing payment responsiveness.

Work with non-payers early. With a federal grant, Fairfield County in Ohio was able to create two new positions, called Child Support Navigators, to help obligors comply with their child support orders. The Navigators established regular contact with non-custodial parents to identify barriers to payment, to make appropriate referrals to community resources, and to educate non-custodial parents about the child support process. The Navigators intercepted existing accounts that showed no payments within that past 20 days and offered assistance in preventing further delinquency.[71]

Work with unemployed and underemployed parents at order establishment. New York City has a program called STEP (Step through Employment Program) for non-custodial parents who are unable to pay child support because they are unemployed or underemployed. At a hearing for a new case, if the non-custodial parent agrees to participate in STEP a temporary order is set at $25 per month. Child support case workers interview participants to determine appropriate referrals and monitor case

[69] Domestic Relations Association of Pennsylvania. "Pennsylvania IV-D Child Support Enforcement Best Practices." Various volumes.
[70] State Information Technology Consortium. "Arrears Management: Best and Promising Practices."
[71] Jeff Ball. "Child Support Navigator Services" Presentation at the 16th National Child Support Enforcement Training Conference. Sponsored by the Office of Child Support Enforcement. September 2006.

progress. Community-based organizations provide the employment and training services and report to the child support program regarding progress.[72]

Work with unemployed and underemployed non-custodial parents who are behind in their child support. Most of the study states have programs that serve unemployed or underemployed non-custodial parents who are unable to pay their child support. These are typically court-ordered programs that provide employment services and case management. Florida has a program, called the Non-custodial Parent Employment Program, which operates in several counties. It is run by a non-profit community organization that has served over 8,600 non-custodial parents since its inception in 1996. This program has been evaluated for its cost-effectiveness, which found that program participants paid nearly $5.00 in child support for every $1.00 spent on the program.[73]

5. Improve Wage Withholding

Improving the process of establishing wage withholding orders is critical for child support programs since most collections are made through wage withholding. Delays in getting wage withholding orders in place often result in missed payments and arrears accumulation. Thus states, such as Texas, have focused on improving this process. Texas began the process of re-engineering its issuance of income withholding orders in 2002. This effort involved developing a new employer repository that contains all of the information about employers that is needed to conduct child support business. It has also meant updating all of the employer/wage interfaces, increased monitoring and following up on wage withholding orders, and implementing a single website that employers could use to meet all of their child support-related responsibilities. These improvements have successfully reduced the time between order establishment and first payment via wage withholding. They have also resulted in increased payments.[74]

Pennsylvania initiated an Employer Compliance Group that consists of representatives from the Pennsylvania Department of Labor and Industry, the Bureau of Child Support Enforcement, Pennsylvania child support systems staff, county staff from across the state, ACF Region III representatives, and OCSE staff. This group has met to discuss ways to improve employer reporting compliance and to establish procedures and processes that allow the State Directory of New Hire staff (housed in the Department of Labor and Industry) to communicate with child support staff at the local level and allow child support workers to report employers who are suspected of non-compliance to SDNH. This targets SDNH outreach more effectively and hopefully will increase the compliance rate.

[72] U.S. Department of Health and Human Services, Office of Child Support Enforcement. "New York City Helps Parents Help their Children." Child Support Report. Vol. 24. No. 12. (December 2002).
[73] WorkNet Pinellas. "WorkNet Pinellas Chairman's Report" November 2005.
[74] Elaine Sorensen and Tess Tannehill. "Final Evaluation Report for the Texas Arrears Prevention Project: Preventing Arrears by Improving Front-end Processes." December 2006.

6. Increase Review and Modification

Order modification has not received as much attention as a strategy for managing arrears as other strategies discussed above. This may change as arrears continue to grow and the success of other measures begins to wane.

One recent federal legislative change that may increase the number of order modifications is the reinstatement of the requirement in the Deficit Reduction Act of 2005 that TANF orders must be reviewed and (if appropriate) adjusted every three years. This provision will become effective October 1, 2007. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 eliminated this requirement and allowed states to review TANF orders every three years upon the request of one of the parents or the state TANF agency. States that discontinued the 3-year reviews for TANF cases will be affected by this change.

Nearly all states have a quantitative threshold that must be met before an order modification will be approved. Among the study states, the quantitative thresholds require a 10 to 20 percent change or a $10 to $100 change in the monthly order amount. Texas has the highest threshold among the study states. It requires that orders change by at least 20 percent or $100 per month. Some states have reduced their quantitative thresholds. For example, California reduced its quantitative threshold from 30 percent or $50 per month, whichever was higher to 20 percent or $50 per month, whichever is lower.

Over the years, child support professionals have taken different positions regarding whether or not State IV-D programs should initiate downward modifications. Some child support professionals argue that downward modifications are not in the best interest of the child and thus child support programs should not initiate them. Others argue that child support programs should initiate modifications, whether they cause the order to go up or down, in order to maintain the trust and cooperation of both parents. According to this view, allowing orders to outstrip a non-custodial parent's ability to pay is not in the best interest of the child. Instead, this practice renders the orders unenforceable and uncollectible and may discourage non-custodial parents from cooperating with the child support program in the future. In line with the latter point of view, the Pennsylvania Supreme Court ruled in 2006 that the child support program may initiate an order modification when an obligor has no verifiable income or assets and is institutionalized, incarcerated or is receiving SSI or cash assistance.[75]

[75] Pennsylvania Bulletin. Amended 231 PA Code CH. 1910.19. Vol. 36 (June 3, 2006).

B. Manage Existing Arrears

We discuss six strategies for managing existing arrears below.

1. Provide Accurate Information about Arrears Owed

The Arizona Division of Child Support Enforcement is developing a web-based arrears calculation tool that will allow courts, customers and IV-D staff to better manage child support arrears. The tool will allow custodial and non-custodial parents to easily obtain timely and accurate information about the amount of arrears owed without having to contact the IV-D agency or a Clerk of the Court. All customers with an Arizona court order, including those with an Arizona case who no longer reside in the State, will have self-service access to this web-based, portable tool 24 hours a day/7 days a week. This tool will also eliminate the need for members of the judiciary to reschedule hearings in order to obtain a current arrears amount and allow for immediate recalculation of arrears based on testimony presented in court.

2. Increase Arrears Collections

Three provisions of the Deficit Reduction Act of 2005 should help states collect child support arrears. First, the threshold for denying passports was reduced from $5,000 in arrears to $2,500 in arrears, effective October 1, 2006. Thus, more debtors will be affected by this policy, which should increase arrears collections. Second, the Act authorizes the federal tax offset program to collect child support arrears owed to adult children in non-TANF cases, effective October 1, 2007. Previously, this program had been limited to collecting child support arrears owed to minor children in non-TANF cases. Third, the Act authorizes HHS to use the Federal Parent Locator Service (FPLS) to match cases with arrears to information maintained by insurers, effective October 1, 2005.

3. Revise Interest Policy

States that charge interest on a routine basis may want to review their interest policy to ensure that it is consistent with the goals of the program. Among the study states, Michigan substantially altered its surcharge policy and Texas lowered its interest rate. Michigan reduced its surcharge from 8 percent to a variable rate, which is tied to the interest rate paid on 5-year United States Treasury Notes. This change became effective January 15, 2004 (MCL 552.603a). Texas reduced its interest rate from 12 percent to 6 percent, effective January 1, 2002.

Michigan also changed its surcharge from a compounded rate (i.e. the surcharge is assessed on both arrears and any surcharge previously assessed) to a simple rate (i.e. the surcharge is assessed on arrears only). Michigan also started applying arrears payments to principal before the surcharge. Previously, Michigan had not distinguished between the surcharge and principal when applying arrears payments. Both of these changes will reduce the rate of arrears growth that results from applying the surcharge.

Michigan also introduced ways to waive the surcharge. In particular, the surcharge is waived if the obligor pays at least 90 percent of his/her current support order during the assessment period (MCL 552.603a, effective June 30, 2005). In addition, the courts may waive the surcharge if an obligor demonstrates that he/she does not have the ability to pay it and enters into a repayment plan.

4. Implement Arrears Amnesty Programs

Some of the study states have conducted arrears amnesty programs, which means that during the amnesty period obligors can come forward and start correcting delinquencies without being arrested. Several of the counties in Pennsylvania have conducted amnesty programs. Lehigh County operated an amnesty for one week in June 2006. Obligors who had failed to appear for scheduled hearings or had failed to comply with contempt orders were sent a letter indicating that a bench warrant had been issued for their arrest and that they had the opportunity to dispose of the warrant by reporting to the child support program and agreeing to a repayment plan. Philadelphia County operated a similar program for one week in June 2005. This program focused on giving non-custodial parents an opportunity to resolve their paternity establishment, support order establishment, and delinquency matters in good faith without judicial intervention. Parents alleging no earning capacity and or being unemployable were referred to a Support Master who held an earning capacity hearing. Michigan held a 90-day amnesty in 2005. During that time, if an obligor paid 50 percent upon application for amnesty and 50 percent by the end of the 90-day period, all civil and criminal penalties were waived.

5. Implement Arrears Compromise Programs

Michigan and Illinois passed legislation that created ways to compromise arrears permanently assigned to the government. Beginning in 2005, judges in Michigan can approve payment plans that discharge some of the state-owed arrears if the plans are in the best interest of the parties and children, the arrears were not the result of willfully avoiding the obligation, and the obligor does not have the ability to pay all of the arrears in the future (MCL 552.605e).

Michigan also conducted a special initiative called the Michigan Arrears Collection Special Project during the first 4 ½ months of 2006. This project was limited to obligors with arrears-only cases who had made at least one payment in the last two years. The Office of Child Support offered to dismiss 75 percent of past due child support owed to the State of Michigan if the obligor paid 100 percent of the arrears owed to the custodial parent and 25 percent of the arrears owed to the State of Michigan.

Illinois enacted a law, effective January 1, 2007, that allows the Child Support Agency to provide, by rule, that state-assigned arrears may be reduced in exchange for regular payments of support to the family. It requires that obligors considered for debt reduction demonstrate an inability to pay arrears during the time it was accumulated. The Child

Support Agency plans to conduct a pilot project in Cook County, called Project Clean Slate, which offers to reduce state-owed arrears in exchange for compliance with a payment plan to obligors who were unable to pay their full support during the time the arrears accrued.

6. Review Non-Paying Arrears Cases for Possible Case Closure

One tactic that Texas used to manage its arrears cases was to review all arrears cases that owed over $100,000 in arrears. These cases were given individualized attention to see what, if anything, could be done to reduce these arrears. Some of these cases made payments toward their arrears, while others were found to be eligible for case closure.

Many of the study states have automated their case closure criteria, which is probably helping them manage their non-paying arrears cases. The Federal Office of Child Support Enforcement has a guide for states on how to automate their case closure system.[76] Federal case closure criteria can be applied to obligated cases and some non-paying arrears cases may meet one of the following federal criteria for case closure:

- There is no longer a current support order and arrearages are under $500 or unenforceable under state law;
- The non-custodial parent or putative father is deceased and no further action, including a levy against the estate, can be taken;
- The non-custodial parent's location is unknown, and the state has made diligent efforts using multiple sources, all of which have been unsuccessful, to locate the non-custodial parent:
  - (i) Over a three-year period when there is sufficient information to initiate an automated locate effort, or
  - (ii) Over a one-year period when there is not sufficient information to initiate an automated locate effort;
- The non-custodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically verified total and permanent disability with no evidence of support potential. The state must determine that no income or assets are available to the non-custodial parent which could be levied or attached for support;
- In a non-IV-A case receiving services, the IV-D agency is unable to contact the recipient of services within a 60 calendar day period despite an attempt of at least one letter sent by first class mail to the last known address.

[76] U.S. Department of Health and Human Services. Office of Child Support Enforcement. *Automated Systems for Child Support Enforcement: A Guide for Automating Case Closure.* June 2004.

C. Final Comments Regarding Arrears Management

An effective arrears management plan will focus on interventions that address the factors that contribute to arrears growth the most. Thus, it behooves states to understand what drives arrears growth in their state. Although we found common factors contributing to arrears growth in the nine study states, the relative importance of these factors varied in the study states. Thus, we expect each state's arrears management plan to vary depending upon the relative importance of factors contributing to arrears in that state. For example, in some study states a relatively large proportion of obligors had arrears-only cases and they owed a disproportionate share of arrears. It behooves these states to examine these cases for possible case closure. In other study states, however, obligors with arrears-only cases represented a relatively small percent of the caseload and they did not owe a disproportionate share of arrears. In these states, other strategies are needed to manage arrears.

It is also important to recognize that many factors contribute to arrears and thus multiple strategies are needed to contain them. No single strategy is sufficient to manage arrears. Although the assessment of interest on a routine basis is probably the single most important factor contributing to arrears, clearly other factors contribute to arrears since many states do not assess interest on a routine basis. Another important factor that contributes to arrears, which we found in all of the nine study states, was a tendency for orders to be quite high relative to reported income for obligors with reported incomes below $10,000 a year. While addressing this issue will moderate arrears growth, other strategies will be needed to manage arrears that are generated by obligors who have orders that are not that high relative to their reported income.

Given that many factors contribute to arrears and that states vary regarding the relative importance of these factors suggests that arrears management is not going to be simple, easy, or quick. On the contrary, it is likely to require considerable effort over an extended period of time to eliminate the growth in arrears nationwide much less reduce the amount of arrears that currently exists.

Finally, it is worth noting that some arrears are always likely to be generated. It is essentially inevitable that payments are going to vary more than orders and thus arrears will be generated. The aim of arrears management is to contain arrears, not eliminate them.

EXHIBIT G

Final Rule

Civil Contempt - Ensuring Noncustodial Parents Have the Ability to Pay

Source:

Office of Child Support Enforcement | ACF

Published: December 20, 2016

Civil Contempt - Ensuring Noncustodial Parents Have the Ability to Pay

Overview

As the federal agency responsible for funding and oversight of state child support programs, OCSE has an interest in ensuring that:

- constitutional principles articulated in the U.S. Supreme Court Decision in *Turner v. Rogers, 564 U.S.____, 131 S Ct. 2507 (2011)* are carried out in the child support program,
- child support case outcomes are just and comply with due process, and
- enforcement proceedings are cost-effective and in the best interest of the child.

The *Turner* case provides OCSE and state child support agencies with an opportunity to evaluate the appropriate use of civil contempt and to improve program effectiveness, including adequate case investigation. As the U.S. Supreme Court stated in *Turner v. Rogers,* a noncustodial parent's ability to pay constitutes the "critical question" in a civil contempt case, whether the state provides legal counsel or alternative procedures designed to protect the indigent obligor's constitutional rights.

The final rule revises 45 CFR 303.6(c)(4), by establishing criteria that child support agencies must use to determine which cases to refer and how they prepare cases for a civil contempt proceeding. The main goal is to increase consistent child support payments for children by ensuring that low-income parents are not incarcerated unconstitutionally because they are poor and unable to comply with orders that do not reflect their ability to pay. In addition, the final rule is intended to reduce the routine use of costly and often ineffective contempt proceedings and increase case investigation and more cost-effective collection efforts.

What is new

Section §303.6(c)(4) of the final rule requires the state child support agency to establish procedures for the use of civil contempt petitions. Before filing a civil contempt action that could result in the noncustodial parent being sent to jail, states must ensure that the child support agency has screened the case to determine whether the facts support a finding that the noncustodial parent has the "actual and present" ability to pay or to comply with the support order.

The child support agency must also provide the court with information regarding the noncustodial parent's ability to pay or otherwise comply with the order to help the court make a factual determination regarding the parent's ability to pay the purge amount or comply with the purge conditions.

Finally, prior to going to court, the state must give clear notice to the noncustodial parent that his or her ability to pay constitutes the critical question in the civil contempt action.

How this affects states

The new rule provides state child support agencies with a guide for conducting constitutionally acceptable proceedings. The final rule will reduce the risk of erroneous deprivation of the noncustodial parent's liberty, without imposing significant fiscal or administrative burden on the state. States that have reduced their over-reliance on contempt proceedings have found that they increased collections and reduced costs at the same time. There is no evidence that the routine use of contempt proceedings improves collection rates or consistent support payments to families.

States have considerable flexibility in implementing these provisions. The provisions are based upon successful case practice in a number of states that conduct case-specific investigations and data analyses. Child support agencies will need to take steps to determine how to implement these changes in their states, which may include educating and collaborating with the judiciary.

How this affects families

Research shows that routine use of civil contempt is costly and counterproductive to the goals of the child support program.[1] All too often it results in the incarceration of noncustodial parents who are unable to pay to meet their purge requirements.[2] Modernizing practices in this area will encourage parents to comply with child support orders, maintain legitimate employment, and minimize the accumulation of unpaid child support debt. These guideline provisions help ensure that child support case outcomes are just and comply with due process, and that enforcement proceedings are cost-effective and in the best interest of the child.

1. See Elizabeth G. Patterson, *Civil Contempt & the Indigent Child Support Obligor: The Silent Return of Debtor's Prison*, 18 Cornell Journal of Law & Public Policy 95, 126 (2008) (*Civil Contempt*), available at: http://www.lawschool.cornell.edu/research/jlpp/upload/patterson.pdf.

2. See Rebecca May & Marguerite Roulet, Ctr. for Family Policy & Practice, A Look at Arrests of Low-Income *Fathers for Child Support Nonpayment: Enforcement, Court and Program Practices*, 40 (2005), available at: http://www.cffpp.org/publications/LookAtArrests.pdf.

EXHIBIT H

Spotlight — Turner V. Rogers 5th Anniversary

Vol. 38 No. 5

Source:
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Turner v. Rogers — due process at child support hearings

Article By

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SPOTLIGHT — TURNER V. ROGERS 5TH ANNIVERSARY

Turner v. Rogers — due process at child support hearings

Lisa Foster, Director, Office for Access to Justice, *U.S. Department of Justice*

In the child support community, Turner v. Rogers stands for the proposition that a parent does not have the right to a court-appointed attorney at a civil contempt hearing for failure to pay support, even if the consequence is incarceration. But that is most emphatically not all the U.S. Supreme Court said. Yet too often, the rest of the Turner decision is forgotten or ignored.

First, the court reiterated the well-established constitutional principle that parents cannot be incarcerated for failure to pay child support simply because they are poor. Before a judge can incarcerate a parent for nonpayment of support, the judge must find that the parent has the ability to pay the amount due. Indeed, the court called ability to pay the "critical question" at the hearing.

Second, the Supreme Court was careful to limit its decision to the facts of Mr. Turner's case: the money was owed to the custodial parent and she was also self-represented; no government attorney was present at the hearing; the issues were not complex; and, Mr. Turner did not suffer from a disability that would make it difficult for him to represent himself. If any of those factors are present, the court may need to appoint counsel.

Third, and most significantly, the court found that the South Carolina proceeding was unconstitutional because Mr. Turner did not have a lawyer and South Carolina did not have "procedural safeguards" in place to ensure that the process was fair.

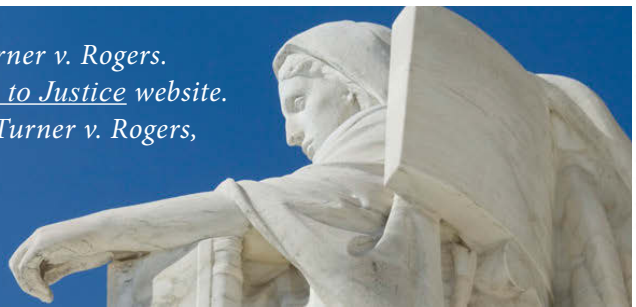
The court specified the types of safeguards that must be in place:

- Notice to the parent in advance of the hearing that ability to pay will be an issue;
- Use of a form to elicit financial information;
- The opportunity at the hearing for the parent to demonstrate that they do not have the ability to pay because, for example, the original order was set too high or because circumstances have changed such as the loss of a job, a rent increase, a medical emergency, or any of the myriad other events that can cause financial stress; and
- The judge has to make an express finding — on the record — that the parent has the ability to pay.

To satisfy the due process clause of the Constitution, procedural safeguards must be in place. Without them, no parent can be jailed for nonpayment of support.

The court recognized in Turner that 70 percent of child support arrears are owed by parents with either no reported income or income of $10,000 a year or less. Thus, ability to pay will be a question at most enforcement hearings – and procedural safeguards are necessary to ensure that those hearings are constitutional.

June marks the fifth anniversary of Turner v. Rogers. For more information, visit the Access to Justice website. For federal child support guidance on Turner v. Rogers, read OCSE Action Transmittal 12-01.



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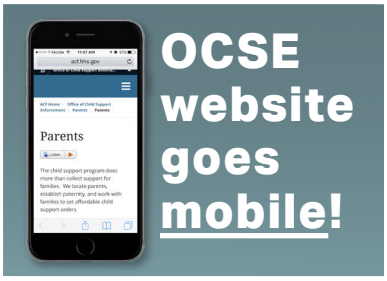

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VOICE BLOG

Fatherhood

How did your father influence your life's path? My father taught me that I could think for myself and solve problems if I tried. He expected me to achieve.

Fathers matter to their children. In fact, research says that father-child relationships influence children as much as mother-child relationships. Fathers influence their children in different ways than mothers. Babies who interact with their fathers tend to acquire language skills more readily. Children whose fathers spend time with them do better in school, have more self-control, and are more ambitious and willing to embrace risk. Teens who feel close to their fathers start having sex later.

Fathers are more involved with their children than ever before. The roles of mothers and fathers are converging. Most families with children have two incomes and share in the care of their children. And more fathers provide the primary care of their children. The research says that African-American fathers are more likely to physically care for their children and prepare meals for them than other fathers. Most nonresident fathers maintain contact with their children, and many are involved with their children's daily activities. Nonresident fathers who have jobs are more likely to be involved with their children. An equal number of moms and dads say that parenting is rewarding and central to their identity.

So what happens when a father is incarcerated? Emerging research finds that when fathers are sent to jail or prison, their children pay the price. And this is particularly true of sons. Sons of incarcerated fathers tend to show more aggressive behavior and attention problems. Children of incarcerated fathers have more contact with the child welfare system.

The negative impact of incarceration on child well-being goes beyond parental separation of other kinds. Incarceration adds a barrier to employment and diminishes earnings potential. Incarceration can reduce a father's ability to work, earn and pay child support after release. Incarceration also negatively impacts the relationship between the parents. It can break up families. When a father or mother goes to prison, a child's path is changed forever.

We work in child support to help kids. Let's put the needs of children first in our daily case decisions.

Vicki Turetsky

Research

The following articles have more information on fathers and fatherhood:

- The Pew Research Center: 6 facts about American Fathers
- Live Science: The Science of Dad: Engaged Fathers Help Kids Flourish
- American Psychological Association: The Changing Role of the Modern Day Father
- The Annie E. Casey Foundation: A Shared Sentence: The Devastating Toll of Parental Incarceration on Kids, Families and Communities
- Demography: Beyond Absenteeism: Father Incarceration and Child Development

Helping young fathers

The Office of Adolescent Health (OAH) also has new releases that will help professionals who serve young fathers and their families. OAH designed these resources to help programs reach and engage more young fathers; influence research, practice, and policy to better address their needs; and improve the lives of young fathers and their families. They include:

- Recruiting Young Fathers: Five Things to Know
- Retaining Young Fathers: Five Things to Know
- Serving Young Fathers: Important Things to Know and How They Make a Difference
- Serving Young Fathers: An Assessment and Checklist for Organizations
- Serving Young Fathers: A Workbook of Program Activities

Procedural justice in child support

Michelle Jadczak, *OCSE*

Procedural justice — sometimes referred to as procedural fairness — is a term you have probably heard once or twice, but did you know that the concept has the potential to increase parents' participation in the child support process? It could even improve payment rates. According to an article by Emily Gold of the Center for Court Innovation, procedural justice is "the idea that how individuals regard the justice system is tied more to the perceived fairness of the process and how they were treated rather than to the perceived fairness of the outcome."

Dozens of studies conducted in criminal and civil legal proceedings, including family law, show that when individuals believe the process and outcome are fair, they are more likely to accept decisions made by courts and other public authorities, and they are more willing to comply in the future.

If your child support program focuses on procedural justice strategies, you may see more reliable payments because the parent will feel that your office arrived at the outcome fairly. Reliable payments can lead to other favorable outcomes for the parent, including reduction in potential arrears, avoidance of contempt proceedings, and improved relationships with custodial parents and their children.

Not every decision goes the way a parent wants, but researchers find that people's trust and confidence in legal authorities increased when they experienced procedural justice, even if they received less than desired outcomes.

There are five widely recognized key elements of procedural justice from the litigants' perspectives:

- **Voice and Participation** — they have the opportunity to tell their side of the story and that the decision-maker takes the stories into account when making decisions;
- **Neutrality of the Process** — the decision-making process is unbiased and trustworthy;
- **Respect** — the system treats the litigant with dignity;
- **Understanding** — they understand the process and how decisions are made; and
- **Helpfulness** — they believe officials are interested in the litigants' personal situations to the extent the law allows.

By incorporating procedural justice elements into the deliberative process, courts can increase the litigants' perspective that the legal process is just and fair, no matter the outcome. When child support offices incorporate procedural justice elements into their business practices, they may see increases in parental compliance with program rules or decisions.

Procedural justice practices may even help improve the perception of the child support program in low-income communities of color, where distrust of the child support program is high.

Many child support agencies are just beginning to examine the potential impact procedural justice innovations can have on parental engagement with the child support program, accurate order setting, payment reliability, enforcement options, contempt proceedings, and even the relationship between the noncustodial parent, custodial parent, and children.

For more information, contact Michelle Jadczak at michelle.jadczak@acf.hhs.gov.

The author used the following studies to develop this article:

- The Case for Procedural Justice: Fairness as a Crime Prevention Tool
- Measuring Perceptions of Fairness: An Evaluation Toolkit
- The Social Psychology of Procedural Justice
- Procedural Justice and the Courts
- Legitimacy and Cooperation: Why Do People Help the Police Fight Crime in Their Communities?

"How is procedural justice different than due process?"

The two concepts are very closely related, but the concept of due process of law includes the procedural requirements that the government must provide — such as notice and opportunity to be heard — before depriving individuals of their property or liberty. The Fifth Amendment to the U.S. Constitution guarantees, "No person shall… be deprived of life, liberty, or property, without due process of law." This applies to all states under the 14th Amendment.

Procedural justice builds on due process. It's not only concerned with respecting and meeting a person's legal rights, but also with *how* those rights are met and an individual's *perception* of the process. Incorporating procedural fairness principles is particularly important when litigants are self-represented and are unable to afford an attorney.

Importance of procedural justice protections

Barbara Addison and Barbara Lacina, *OCSE*

On March 14, 2016, the Justice Department issued a Dear Colleague Letter (DCL) announcing resources that could be helpful to child support professionals addressing the legal obligations state and local courts must use when determining a person's or parent's ability to pay fees and fines, bail or bond, and child support. It also highlighted the most common practices that run counter to the U.S. Constitution and other federal laws, such as incarcerating individuals for nonpayment without determining their ability to pay. The DCL went on to discuss the importance of due process protections such as notice and, in appropriate cases, the right to counsel; the need to avoid unconstitutional bail practices; and concerns raised by certain private probation arrangements.

The reform conversation

In December 2015 the Justice Department and the White House convened a group of academics and federal- and state-level legislative and judiciary officials to tackle these tough issues. Panel members discussed and planned reforms that would ensure that government-imposed financial obligations would not create or worsen poverty, or force parents into the justice system. The DCL outlined the meeting's key issues and solutions, including: indigency and ability to pay, using court processes as revenue generators, alternatives to incarceration, judicial training, amnesty programs, bench cards, access to counsel, and overcriminalization.

Protection of individuals' rights and avoiding unnecessary harm

The DCL discussed the following set of basic constitutional principles relevant to the enforcement of fines and fees, and specifically stated that these constitutional principles also apply when enforcing child support nonpayment and assessing purge amounts when taking civil contempt actions against parents. See the handout on page 10 for details on each principle listed below.

- Courts must not incarcerate a person for nonpayment of fines or fees without first conducting an indigency determination and establishing that the failure to pay was willful.
- Courts must consider alternatives to incarceration for indigent defendants unable to pay fines and fees.
- Courts must not condition access to a judicial hearing on the prepayment of fines or fees.
- Courts must provide meaningful notice and, in appropriate cases, counsel, when enforcing fines and fees.
- Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections.
- Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release.
- Courts must safeguard against unconstitutional practices by court staff and private contractors.

Justice Department officials have a strong interest in ensuring that state and local courts provide every individual with the basic protections guaranteed by the Constitution and other federal laws, including Title VI of the Civil Rights Act, regardless of the person's financial means. They are eager to build on the December 2015 convening about these issues by supporting efforts at the state and local levels, and they are looking forward to working collaboratively with all stakeholders to ensure that every part of our justice system provides equal justice and due process.

OCSE encourages child support agencies to work closely with your court officials and judges by discussing the Justice Department's DCL and OCSE DCL-16-05, especially as it applies to enforcing child support delinquencies in civil contempt proceedings.

For more information, read Justice Department Announces Resources to Reform Practices (OCSE DCL 16-05), and review both the Department of Justice Resource Guide and the Basic Constitutional Principles Relevant to the Enforcement of Fines and Fees handout on page 10.

Grant opportunity closing July 8!

OCSE posted two grant opportunities for the Procedural Justice Informed Alternatives to Contempt Demonstration: one for up to nine demonstration project grants and the other for a single evaluation award to manage the evaluation of the project grants. State and tribal child support agencies can apply by July 8. Section 1115 grants are eligible for Federal Financial Participation matching funds.

SPOTLIGHT—RECOGNITION MONTH

Supporting fathers — not just in June

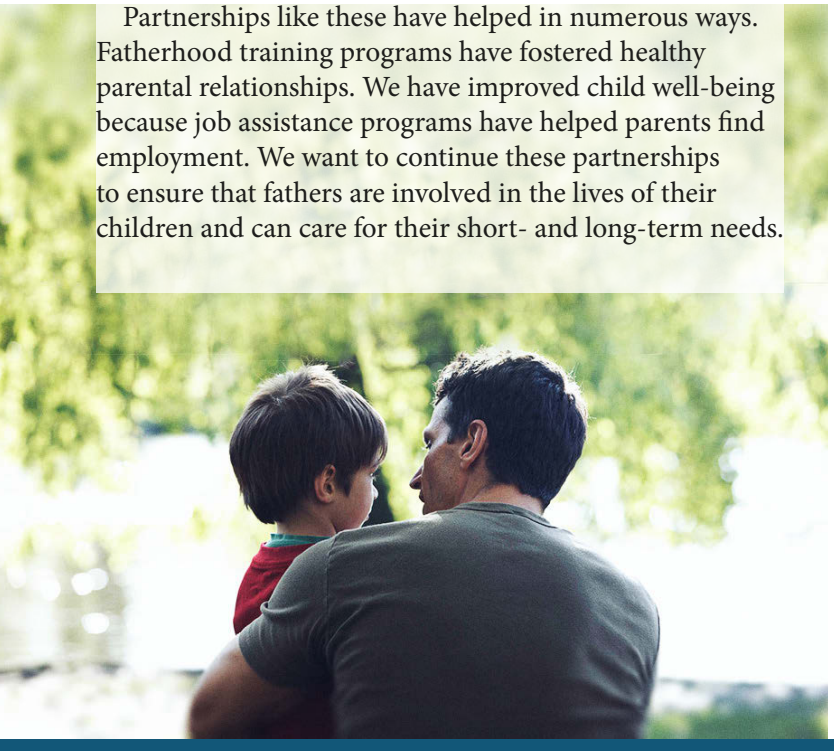
James Murray, *OCSE*

The Office of Child Support Enforcement recognizes the indispensable role that fathers play in their children's lives. We actively partner with various programs to identify and implement ways to collaborate, expand knowledge, and leverage resources to serve fathers and their families better.

For example, we have an ongoing partnership with ACF's Office of Family Assistance to connect responsible fatherhood grantees to their local child support offices. By strengthening these connections, we aim to increase positive outcomes for parents and their children. Such partnerships help fathers learn to be better parents, successfully navigate the child support system, and stay engaged with child support offices to maintain appropriately sized payments as consistently as possible. The Fathers Building Futures program in New Mexico helps justice-involved fathers learn to be better dads, and provides job training services. When the men reenter their communities, the noncustodial fathers have productive work to help them take care of their children.

We partner with the U.S. Department of Veterans Affairs and the American Bar Association so we can address the unique challenges that military and veteran parents face. These can include frequent deployments, veteran homelessness, health issues, unemployment, debt, and more. Our goal is for the child support program to be flexible and responsive to the needs of veteran and military families.

Partnerships like these have helped in numerous ways. Fatherhood training programs have fostered healthy parental relationships. We have improved child well-being because job assistance programs have helped parents find employment. We want to continue these partnerships to ensure that fathers are involved in the lives of their children and can care for their short- and long-term needs.



Annual fathering conference features mental illness discussions

Rochelle Phillips, *OCSE*

The 2016 New England Fathering Conference, titled "Journey to Excellence — Strengthening A Father's Legacy," included 400 fathers, caseworkers, clinicians, court magistrates, and program providers and managers who shared information and tools to promote better parenting and help build supportive social services programs.

This year was special for me because I was a member of the planning committee. I helped choose the conference theme, workshop offerings, and panelists from among state representatives. I also arranged to have a keynote speaker address the topic of mental illness. We wanted to highlight mental illness because it touches the lives of many fathers in the child support system.

Through the years, I have heard many courageous fathers tell stories about relationship drama, confrontations they had with child support offices, and problems they encountered during court proceedings or with probation officers. During the conference, some let down their guard to share secrets about homelessness, hopelessness and the bouts of depression they suffered.

The keynote speaker, Boston attorney Joe Feaster, Jr., shared his own experience with a family member's mental illness. His personal account of his son's struggles and subsequent suicide brought the issue to light in a powerful way. The audience was visibly moved by his journey; I saw heads nodding in agreement and tears filling the eyes of many.

Later, during Feaster's workshop, participants listened intently as he answered questions about his son's passing. One person after another shared painful, yet passionate, stories of their loved ones' experiences battling with and surviving mental illness.

I was pleased with the responses to the keynote address and workshop; the topic of mental health had resonated with many attendees. Being a member of the child support community, I know that not all fathers are unwilling to meet their financial obligation. Some are willing but unable, perhaps due to post-traumatic stress, depression, bipolar disorders, or other barriers related to mental illness. People often overlook mental illness, but child support staff can change that. Help shed light on mental illness as we work to improve the lives of the children and fathers we serve.

For information on the New England Fathering Conference, contact Rochelle Phillips at rochelle.phillips@acf.hhs.gov.

Ohio county coordinator for dads

Mike Newsom, Social Program (Fatherhood) Coordinator, ***Dept. of Job & Family Services, Montgomery County***

In 2010, Ohio noncustodial parents said that the Montgomery County Department of Job and Family Services did not meet their needs well. The office responded by creating a fatherhood coordinator position and chose me to fill the role because of my experience as a child support supervisor and outreach coordinator.

As the fatherhood coordinator, I generally help fathers with issues that are often unique to them. Men do not usually discuss legal assistance, parenting time (visitation), or their employment issues with the Job and Family Services agency. The discussions often start and end with, "Pay your child support." I try to offer a more holistic approach, one that will let dads know that rights come along with their responsibilities.

I engage with parents in various ways. The three most prominent are through phone calls and meetings with agency walk-ins, during community outreach events at partner agencies and schools, and when I attend court proceedings.

Direct contact

Ohio considers Montgomery County a metro county. With the fourth-highest population and fifth-highest child support caseload, I get about 100 direct calls or walk-ins each month. My services generally focus on clients' inquiries, along with helping them modify their child support obligations and removing the block that the Child Support Enforcement Agency imposed on their license. I find it helpful to have my Fatherhood Coordinator office in the agency because I have immediate access to our tracking database so I can do tasks quickly, like reinstating an obligor's driver's license or finding the name of the father's caseworker.

Community outreach

Not only can I speak to fathers one-on-one at partner agencies, but I can also educate the agencies on fatherhood concerns and give them tips about how they can be more father-friendly. For example, when I speak at child development centers and public schools, I remind the staff that they need to mention to their students that their fathers are welcome at their facilities. Teachers are predominantly female and in a city like Dayton, where single parents lead approximately half the households, it is very easy to fall into language such as, "Tell your mom we are having pizza night on Friday." A young child might assume dad is not invited, especially if he does not live with the child. Changing the language and atmosphere — magazines in the lobby, posters on the wall — are key factors in making fathers more welcome and making their kids know they are welcome. I can be a much-needed liaison for agencies that are less comfortable talking to men.

The court system

Fortunately, Montgomery County has judges and magistrates that seek alternatives to incarceration for the defendants that come before them. The Juvenile Court child support imposition docket and Federal Drug Reentry Court are two examples. Instead of imposing sentences, the imposition docket gives obligors (mostly fathers) the opportunity to work with me because I am present at the hearings. In reentry court, I sit on a panel of community agency representatives that provide wrap-around services for returning citizens.

While there are non-profit agencies, church groups, and other concerned citizen-formed entities helping fathers in various communities, having a fatherhood coordinator that is an actual employee of Job and Family Services provides clients direct access to case information — child support, public assistance, Child Protective Services — that other agencies cannot offer.

My knowledge and connections are superior. I have close relationships with decision-makers such as judges and other high-ranking government officials who can shape policy and practices that make being a noncustodial parent less difficult. In that same vein, I have easy access to the policies and procedures that are already in place so I can tell fathers how to navigate the system. As a government employee, I get the information firsthand as part of my daily work.

Client feedback suggests that our model is successful. Not only do parents appreciate the information and casework they receive, but many fathers are also pleasantly surprised to have a positive experience with "the system" after years of negative encounters that led to an adversarial relationship. This enlightened view of Job and Family Services will undoubtedly make fathers more likely to engage with the agency and less likely to "go underground."

For more information, contact Mike Newsom at 937-496-7569.

Earlier this year, local Montgomery County agencies and businesses treated returning fathers and their children to a "We the Fathers" banquet. Here are a few of the proud families.

Customer service at the federal level

Phyllis Jones, *OCSE*

Did you know that OCSE, located in Washington, DC, has a Customer Service Branch? It is the key point of contact for OCSE's child support program customer inquiries. We investigate and provide timely responses to the inquiries we receive from parents, grandparents, and other relatives with a child support case. We receive written, electronic, and telephone assistance requests directly from parents and indirectly through members of Congress, the HHS Office of the Secretary, the Office of Inspector General, and the OCSE Tipline. You may be surprised to learn that we even receive requests from the White House because many people write directly to the president about their child support concerns.

Responding to inquiries is a nationwide team effort. The branch can answer the majority of general questions about the child support program with our collective knowledge about federal and state policies and procedures. However, we do not maintain individual case files, nor do we have access to state databases containing individual case information. We rely heavily on our state and U.S. territorial child support contacts to give us case-specific and accurate information to share with the customer.

We also work closely with the OCSE regional program staff, the liaisons between the federal and state contacts. The regional staff play an important role in resolving escalated, complex inquiries, especially intergovernmental/interstate cases where there might be conflicting information coming from multiple state agencies. Their vast knowledge of the child support programs in their areas is extremely useful. They help us improve our knowledge base of state child support programs. We also consult with staff from various OCSE divisions to learn more so we can resolve customers' inquiries quickly and thoroughly.

Not all inquiries are complex, but they do involve a variety of issues. These are some of the most common topics:

- Unpaid child support payments;
- Unmanageable court order obligations;
- Disputes over arrears balances;
- Failures of courts or agencies to take enforcement actions; and
- Custody and visitation agreement problems.

When we respond to requests, we provide a case status update written in plain language to help customers understand the child support program and processes. We also explain the next steps they need to take in the case and encourage them to continue to communicate directly with their state and local offices to resolves their issues. We include state contact information and, if necessary, referrals to family-centered resources for issues that are not child support-related.

Sprinkled amidst the more simple fixes are the complex inquiries that sometimes involve people on federal, state, and local levels. In one case, we were able to help facilitate a better arrears repayment plan between two parents, which changed a $10 per month payment into an offer to pay two-thirds of the balance due — about $20,000. In another success story, we helped a state resolve a request to reimburse a parent whose tax offset had incorrectly gone to the other parent.

The branch does not handle every inquiry that comes to our attention. We have the help of our sister divisions in OCSE. Our colleagues in the Division of Policy and Training respond to international inquiries. Our counterparts in the Division of Federal Systems respond to tax offset and passport denial questions. The federal tribal coordinator responds to cases involving tribal inquiries.

We track and maintain records of our customer inquiries in our automated Customer Inquiry Management system. It gives central office and regional customer service specialists access to real time information. Having access to historical information is helpful when determining if we have already addressed the same concern in the past with the customer.

We store the following data:

- The original inquiry and communications related to it;
- Our official response;
- The customer's role (custodial/noncustodial parent, grandparent, elected official, etc.);
- The type of case (in-state or interstate);
- The inquiry category (enforcement, modification, custody/parenting time, etc.); and
- Our mode of contact (email, letter, fax, White House, etc.).

The little daily successes matter the most — explaining how the child support program works, listening and empathizing with the customer, or simply providing a local agency phone number. These are the positive outcomes we deliver every day. We value the strong partnerships we have with staff in the regional, state, and local offices, and recognize the efforts we all make to provide quality customer service.

For more information on the federal Customer Service Branch, contact Shawyn Drain, at Shawyn.Drain@acf.hhs.gov. To request additional assistance with your individual child support case, please follow these steps listed on the OCSE website.

In Memoriam

With deep sadness, we report that Phyllis Jones passed away in early June just after drafting this article. Phyllis worked for OCSE for many years and for the Office of Head Start and other community support organizations throughout her career. She was a bright light in our office and we will miss her dearly. We dedicate this month's Child Support Report to Phyllis.

TECH FOCUS

Tribal Child Support Budget Toolbox

Lisa White, *OCSE*

The tribal child support budget submission process can be difficult, time consuming, and inefficient. Tribes can spend a lot of time clarifying information and gathering missing documentation before OCSE ultimately approves a budget and provides operational funding for the tribe's child support program.

Tribes must submit their annual child support budgets by August 1. By regulation, they must include the following:

- Application and budget forms SF-424 and SF-424A signed by the tribal chairman;
- Quarterly estimates of expenditures;
- Notification of whether the tribe is requesting funds for indirect costs;
- Narrative justification for each cost category; and
- A statement that the tribe will be able to meet the non-federal share.

They must also provide supporting documentation for expenses in certain cost categories. Aside from these requirements, there is no standardization of the tribal child support budget process. Almost every budget submitted by the 59 comprehensive tribal child support programs is different, which makes reviewing them challenging, tedious, and time consuming.

In the past, tribes would mail paper copies of budgets to the Office of Grants Management (OGM) who would review the tribal budgets without OCSE input. In 2011, OCSE and OGM began coordinating review of tribal budgets.

Beginning in 2015, OCSE gave tribes the option of using GrantSolutions, a software tool that allows the tribe to input budget information, upload documents, and share the package with OGM and OCSE electronically. These were great improvements, but we decided we could do better.

To help eliminate the frustration many tribal programs experience during budget season, OGM and OCSE developed the Tribal Budget Toolbox.

We held training webinars in May to introduce the Toolbox to tribal child support directors and fiscal staff, as well as to review policy on allowable costs. We also held a workshop at the National Tribal Child Support Association's Annual Training Conference in Tulalip, WA, in June.

continued

OCSE will add additional tools in the coming months on topics such as identifying non-federal share opportunities, tips for reducing program expenditures, and guidelines for submitting a budget amendment.

Our hope is that this new resource will minimize headaches associated with the tribal child support budget process. By standardizing submissions, OGM and OCSE will be able to review budgets more efficiently. Most importantly, the Toolbox will simplify the budget submission process so tribal child support programs will get the funds they need faster.

For more information about the new toolbox, contact Lisa White at lisa.white@acf.hhs.gov.

The toolbox includes:

- A checklist that itemizes the documents required in annual budget submissions;
- Detailed guidance explaining the information tribes must include;
- Standardized templates tribes can use to document budget information, including narrative justifications;
- Talking points for tribal child support directors to use when speaking to tribal council and finance personnel; and
- Training materials.

Child Support Report

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ANALYSIS

Analyze this: OCSE's new data blog!

The Division of Performance and Statistical Analysis (DPSA) launched a new data blog in June called Analyze this! It is our way of providing child support professionals and other stakeholders with in-depth analysis of child support data and related information so the community is well informed.

Our first blog addresses the question, "Is the percentage of custodial parents with a child support order going up or down?" We analyzed data from the Census Bureau and the child support program and offered possible explanations for the difference in trends. In upcoming blogs, we may address questions such as why the child support caseload has declined, or why poor custodial parents do not have a child support order.

Each quarter, DPSA researchers and guest bloggers will explore various topics related to child support. We welcome your ideas for future blog topics. Read Analyze this and let us know what you think!

For more information on the new data blog, contact Melody Morales at melody.morales@acf.hhs.gov.

Share your story ideas

In child support, we often share performance data, but do not regularly share success stories. Do you know of a child support success story that we could highlight? What new initiatives or improvements has your office made lately? Thanks to your contributions, the *Child Support Report* continues to be a successful tool connecting child support professionals with partners and parents. Help us expand our reach with suggestions on the topics you value most. Send a brief 2-3 sentence overview of your story idea to gretchen.tressler@acf.hhs.gov.

PROCEDURAL JUSTICE SPECIAL SUPPLEMENT

Basic Constitutional Principles Required in the Enforcement of Fines, Fees, and Child Support

The following information is extracted from a March 14, 2016 Justice Department DCL.

To help judicial actors protect individuals' rights and avoid unnecessary harm, we discuss below a set of basic constitutional principles relevant to the enforcement of fines and fees. These principles, grounded in the rights to due process and equal protection, require the following:

Courts must not incarcerate a person for nonpayment of fines or fees without first conducting an indigency determination and establishing that the failure to pay was willful.

The due process and equal protection principles of the Fourteenth Constitutional Amendment prohibit "punishing a person for his poverty." *Bearden v. Georgia*, 461 U.S. 660, 671 (1983). Accordingly, the Supreme Court has repeatedly held that the government may not incarcerate an individual solely because of inability to pay a fine or fee. Such a deprivation would be contrary to the fundamental fairness required by the Fourteenth Amendment." *Id.* at 672-73; *see also Tate v. Short*, 401 U.S. 395, 398 (1971) (holding that state could not convert defendant's unpaid fine for a fine-only offense to incarceration because that would subject him "to imprisonment solely because of his indigency"); *Williams v. Illinois*, 399 U.S. 235, 241-42 (1970) (holding that an indigent defendant could not be imprisoned longer than the statutory maximum for failing to pay his fine). The Supreme Court recently reaffirmed this principle in *Turner v. Rogers*, 131 S. Ct. 2507 (2011), holding that a court violates due process when it finds a parent in civil contempt and jails the parent for failure to pay child support, without first inquiring into the parent's ability to pay. *Id.* at 2518-19.

To comply with this constitutional guarantee, state and local courts must inquire as to a person's ability to pay prior to imposing incarceration for nonpayment. Further, a court's obligation to conduct indigency inquiries endures throughout the life of a case. *See Bearden, 461 U.S.* at 662-63. A probationer [obligor] may lose her job or suddenly require expensive medical care, leaving her in precarious financial circumstances. For that reason, a missed payment cannot itself be sufficient to trigger a person's arrest or detention unless the court first inquires anew into the reasons for the person's non-payment and determines that it was willful. In addition, to minimize these problems, courts should inquire into ability to pay at sentencing, when contemplating the assessment of fines and fees, rather than waiting until a person fails to pay.

Under *Bearden*, standards for indigency inquiries must ensure fair and accurate assessments of defendants' ability to pay. Due process requires that such standards include both notice to the defendant that ability to pay is a critical issue, and a meaningful opportunity for the defendant to be heard on the question of his or her financial circumstances. *See Turner*, 131 S. Ct. at 2519-20 (requiring courts to follow these specific procedures, and others, to prevent unrepresented parties from being jailed because of financial incapacity). Jurisdictions may benefit from creating statutory presumptions of indigency for certain classes of defendants — for example, those eligible for public benefits, living below a certain income level, or serving a term of confinement. *See, e.g.*, R.I. Gen. Laws § 12-20-10 (listing conditions considered "prima facie evidence of the defendant's indigency and limited ability to pay," including but not limited to "[q]ualification for and/or receipt of" public assistance, disability insurance, and food stamps).

Courts must consider alternatives to incarceration for indigent defendants unable to pay fines and fees.

When individuals of limited means cannot satisfy their financial obligations, *Bearden* requires consideration of "alternatives to imprisonment." 461 U.S. at 672. These alternatives may include extending the time for payment, reducing the debt, requiring the defendant to attend traffic or public safety classes, or imposing community service. *See id.* In some cases, it will be immediately apparent that a person is not and will not likely become able to pay a monetary fine. Therefore, courts should consider providing alternatives to indigent defendants not only after a failure to pay, but also in lieu of imposing financial obligations in the first place.

Neither community service programs nor payment plans, however, should become a means to impose greater penalties on the poor by, for example, imposing onerous user fees or interest. With respect to community service programs, court officials should consider delineating clear and consistent standards that allow individuals adequate time to complete the service and avoid creating unreasonable conflicts with individuals' work and family obligations. In imposing payment plans, courts should consider assessing the defendant's financial resources to determine a reasonable periodic payment, and should consider including a mechanism for defendants to seek a reduction in their monthly obligation if their financial circumstances change.

Courts must not condition access to a judicial hearing on the prepayment of fines or fees.

State and local courts deprive indigent defendants of due process and equal protection if they condition access to a hearing or court proceeding on payment of fines or fees. *See Boddie v. Connecticut*, 401 U.S. 371, 374 (1971) (holding that due process bars states from conditioning access to compulsory judicial process on the payment of court fees by those unable to pay); *see also Tucker v. City of Montgomery Bd. of Comm'rs*, 410 F. Supp. 494, 502 (M.D. Ala. 1976) (holding that the conditioning of an appeal on payment of a bond violates indigent prisoners' equal protection rights and "'has no place in our heritage of Equal Justice Under Law'" (citing *Burns v. Ohio*, 360 U.S. 252, 258 (1959)).

This unconstitutional practice is often framed as a routine administrative matter. For example, a motorist who is arrested for driving with a suspended license may be told that the penalty for the citation is $300 and that a court date will be scheduled only upon the completion of a $300 payment (sometimes referred to as a prehearing "bond" or "bail" payment). Courts most commonly impose these prepayment requirements on defendants who have failed to appear, depriving those defendants of the opportunity to establish good cause for missing court. Regardless of the charge, these requirements can have the effect of denying access to justice to the poor.

Courts must provide meaningful notice and, in appropriate cases, counsel, when enforcing fines and fees.

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Cent. Hanover Bank & Trust Co*., 339 U.S. 306, 314-15 (1950); *see also Turner*, 131 S. Ct. at 2519 (discussing the importance of notice in proceedings to enforce a child support order). Thus, constitutionally adequate notice must be provided for even the minor cases. Courts should ensure that citations and summonses adequately inform individuals of the precise charges against them, the amount owed or other possible penalties, the date of their court hearing, the availability of alternate means of payment, the rules and procedures of court, their rights as a litigant, or whether in-person appearance is required at all. Gaps in this vital information can make it difficult, if not impossible, for defendants to fairly and expeditiously resolve their cases. And inadequate notice can have a cascading effect, resulting in the defendant's failure to appear and leading to the imposition of significant penalties in violation of the defendant's due process rights.

Further, courts must ensure defendants' right to counsel in appropriate cases when enforcing fines and fees. Failing to appear or to pay outstanding fines or fees can result in incarceration, whether through the pursuit of criminal charges or criminal contempt, the imposition of a sentence that had been suspended, or the pursuit of civil contempt proceedings. The Sixth Amendment requires that a defendant be provided the right to counsel in any criminal proceeding resulting in incarceration, *see Scott v. Illinois*, 440 U.S. 367, 373 (1979); *Argersinger v. Hamlin*, 407 U.S. 25, 37 (1972), and indeed forbids imposition of a suspended jail sentence on a probationer who was not afforded a right to counsel when originally convicted and sentenced, *see Alabama v. Shelton*, 535 U.S. 654, 662 (2002). Under the Fourteenth Amendment, defendants likewise may be entitled to counsel in civil contempt proceedings for failure to pay fines or fees. *See Turner*, 131 S. Ct. at 2518-19 (holding that, although there is no automatic right to counsel in civil contempt proceedings for nonpayment of child support, due process is violated when neither counsel nor adequate alternative procedural safeguards are provided to prevent incarceration for inability to pay).

Courts must not use arrest warrants or license suspensions as a means of coercing the payment of court debt when individuals have not been afforded constitutionally adequate procedural protections.

The use of arrest warrants as a means of debt collection, rather than in response to public safety needs, creates unnecessary risk that individuals' constitutional rights will be violated. Warrants must not be issued for failure to pay without providing adequate notice to a defendant, a hearing where the defendant's ability to pay is assessed, and other basic procedural protections. *See Turner*, 131 S. Ct. at 2519; *Bearden*, 461 U.S. at 671-72; *Mullane*, 339 U.S. at 314-15. When people are arrested and detained on these warrants, the result is an unconstitutional deprivation of liberty. Rather than arrest and incarceration, courts should consider less harmful and less costly means of collecting justifiable debts, including civil debt collection.

In many jurisdictions, courts are also authorized — and in some cases required — to initiate the suspension of a defendant's driver's license to compel the payment of outstanding court debts. If a defendant's driver's license is suspended because of failure to pay a fine, such a suspension may be unlawful if the defendant was deprived of his due process right to establish inability to pay. *See Bell v. Burson*,

402 U.S. 535, 539 (1971) (holding that driver's licenses "may become essential in the pursuit of a livelihood" and thus "are not to be taken away without that procedural due process required by the Fourteenth Amendment"); *cf. Dixon v. Love*, 431 U.S. 105, 113-14 (1977) (upholding revocation of driver's license after conviction based in part on the due process provided in the underlying criminal proceedings); *Mackey v. Montrym*, 443 U.S. 1, 13-17 (1979) (upholding suspension of driver's license after arrest for driving under the influence and refusal to take a breath-analysis test, because suspension "substantially served" the government's interest in public safety and was based on "objective facts either within the personal knowledge of an impartial government official or readily ascertainable by him," making the risk of erroneous deprivation low). Accordingly, automatic license suspensions premised on determinations that fail to comport with *Bearden* and its progeny may violate due process.

Even where such suspensions are lawful, they nonetheless raise significant public policy concerns. Research has consistently found that having a valid driver's license can be crucial to individuals' ability to maintain a job, pursue educational opportunities, and care for families. At the same time, suspending defendants' licenses decreases the likelihood that defendants will resolve pending cases and outstanding court debts, both by jeopardizing their employment and by making it more difficult to travel to court, and results in more unlicensed driving. For these reasons, where they have discretion to do so, state and local courts are encouraged to avoid suspending driver's licenses as a debt collection tool, reserving suspension for cases in which it would increase public safety.

Courts must not employ bail or bond practices that cause indigent defendants to remain incarcerated solely because they cannot afford to pay for their release.

When indigent defendants are arrested for failure to make payments they cannot afford, they can be subjected to another independent violation of their rights: prolonged detention due to unlawful bail or bond practices. Bail that is set without regard to defendants' financial capacity can result in the incarceration of individuals not because they pose a threat to public safety or a flight risk, but rather because they cannot afford the assigned bail amount.

As the Department of Justice set forth in detail in a federal court brief last year, and as courts have long recognized, any bail practices that result in incarceration based on poverty violate the Fourteenth Amendment. *See* Statement of Interest of the United States, *Varden v. City of Clanton*, No. 2:15-cv-34-MHT-WC, at 8 (M.D. Ala., Feb. 13, 2015) (citing *Bearden*, 461 U.S. at 671; *Tate*, 401 U.S. at 398; *Williams*, 399 U.S. at 240-41). Systems that rely primarily on secured monetary bonds without adequate consideration of defendants' financial means tend to result in the incarceration of poor defendants who pose no threat to public safety solely because they cannot afford to pay. To better protect constitutional rights while ensuring defendants' appearance in court and the safety of the community, courts should consider transitioning from a system based on secured monetary bail alone to one grounded in objective risk assessments by pretrial experts. *See, e.g.*, D.C. Code § 23-1321 (2014); Colo. Rev. Stat. 16-4-104 (2014); Ky. Rev. Stat. Ann. § 431.066 (2015); N.J. S. 946/A1910 (enacted 2015); *see also* 18 U.S.C. § 3142 (permitting pretrial detention in the federal system when no conditions will reasonably assure the appearance of the defendant and safety of the community, but cautioning that "[t]he judicial officer may not impose a financial condition that results in the pretrial detention of the person").

Courts must safeguard against unconstitutional practices by court staff and private contractors.

In many courts, the judge or magistrate may preside for only a few hours or days per week, while most of the business of the court is conducted by clerks or probation officers outside of court sessions. As a result, clerks and other court staff are sometimes tasked with conducting indigency inquiries, determining bond amounts, issuing arrest warrants, and other critical functions — often with only perfunctory review by a judicial officer, or no review at all. Without adequate judicial oversight, there is no reliable means of ensuring that these tasks are performed consistent with due process and equal protection. Regardless of the size of the docket or the limited hours of the court, judges must ensure that the law is followed and preserve "both the appearance and reality of fairness, generating the feeling, so important to a popular government, that justice has been done." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980) (internal quotation marks omitted); *see also* American Bar Association, MODEL CODE OF JUDICIAL CONDUCT, Canon 2, Rules 2.2, 2.5, 2.12.

Additional due process concerns arise when these designees have a direct pecuniary interest in the management or outcome of a case—for example, when a jurisdiction employs private, for-profit companies to supervise probationers. In many such jurisdictions, probation companies are authorized not only to collect court fines, but also to impose an array of discretionary surcharges (such as supervision fees, late fees, drug testing fees, etc.) to be paid to the company itself rather than to the court. Thus, the probation company that decides

what services or sanctions to impose stands to profit from those very decisions. The Supreme Court has "always been sensitive to the possibility that important actors in the criminal justice system may be influenced by factors that threaten to compromise the performance of their duty." *Young v. U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 810 (1987). It has expressly prohibited arrangements in which the judge might have a pecuniary interest, direct or indirect, in the outcome of a case. *See Tumey v. Ohio*, 273 U.S. 510, 523 (1927) (invalidating conviction on the basis of $12 fee paid to the mayor only upon conviction in mayor's court); *Ward v. Village of Monroeville, Ohio*, 409 U.S. 57, 61-62 (1972) (extending reasoning of *Tumey* to cases in which the judge has a clear but not direct interest). It has applied the same reasoning to prosecutors, holding that the appointment of a private prosecutor with a pecuniary interest in the outcome of a case constitutes fundamental error because it "undermines confidence in the integrity of the criminal proceeding." *Young*, 481 U.S. at 811-14. The appointment of a private probation company with a pecuniary interest in the outcome of its cases raises similarly fundamental concerns about fairness and due process.

Department of Justice Resource Guide

The Resource Guide, compiled by the Office of Justice Programs Diagnostic Center within DOJ, helps leaders make informed policy decisions and pursue sound strategies at the state, local, and tribal levels. Below are some relevant child support resources.

- Michigan's Ability To Pay Workgroup: Tools and Guidance for Determining and Addressing an Obligor's Ability to Pay
- Reducing Failure to Appear in Nebraska: A Field Study
- The Criminal and Labor Market Impacts of Incarceration
- The Labor Market Consequences of Incarceration
- Repaying Debt
- Criminal Justice Debt: A Toolkit for Action
- Criminal Justice Debt: Action Kit for Web
- Georgia Public Defender Council Website

EXHIBIT I

A Look at Arrests of Low-Income Fathers for Child Support Nonpayment Enforcement, Court and Program Practices

Source:
Center for Family Policy and Practice
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CENTER FOR FAMILY POLICY AND PRACTICE

RACHEL DURFEE

A Look at Arrests of Low-Income Fathers for Child Support Nonpayment

Enforcement, Court and Program Practices

JANUARY 2005

BY REBECCA MAY AND MARGUERITE ROULET


FFPP

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COVER ILLUSTRATION
"FOR THOSE IN CAPTIVITY"

WOODCUT WITH HAND COLORING
23 1/2" x 20 1/2"

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A Look at Arrests of Low-Income Fathers for Child Support Nonpayment

Enforcement, Court and Program Practices

BY REBECCA MAY AND MARGUERITE ROULET

INTRODUCTION

There has been a growing national emphasis over recent years on increasing fathers' (and particularly, noncustodial fathers') involvement with their families, an emphasis that focuses on everything from financial support to emotional nurture. However, it has become apparent that low-income noncustodial fathers have been affected very differently by these efforts than have been wealthier fathers. Many of the recent legislative and policy initiatives have been directed at augmenting noncustodial fathers' financial support of their children. For fathers whose children receive (or have received) public assistance, this emphasis is coupled with the belief that such support will reduce the dependence of children and their custodial parents on public assistance. However, recent research shows that a large number of fathers whose children receive assistance are themselves in need of assistance.[1] Many of these fathers are poorly educated young men who have few job skills and few prospects for secure, long-term employment. Many also face a variety of other issues that create further instability in their lives (e.g., health issues). Without support, these fathers are unlikely to be able to effectively replace a system of public assistance and meet the financial needs of their children. At the same time, they are negatively affected by laws and policies that are designed to enforce financial support from noncustodial fathers who are able but unwilling to provide such support.

One of the issues of particular concern to low-income noncustodial fathers is the relationship between child support enforcement and incarceration, and the effect of both on their lives and their families. There are distinct ways in which child support enforcement and incarceration are linked: first, there has been an increasing effort by states to criminalize the nonpayment of support (both as misdemeanors and as felonies), and, second, incarceration for any reason has an impact on existing child support obligations and debt.

Both of these issues have a disproportionate effect on low-income noncustodial parents. Using the threat or practice of incarceration for nonpayment of child support is most likely to encourage compliance from noncustodial parents who have the financial means to avoid incarceration with the help of legal representation or by meeting their outstanding support obligation. Low-income noncustodial parents by contrast are less likely to be able to secure legal representation to address child support issues or represent them in a criminal nonsupport case, or to make payments to avoid imprisonment. Similarly, incarceration for other offenses disproportionately affects low-income individuals and exacerbates the financial vulnerability of low-income noncustodial parents and their families. For most of these parents, their support orders will not be reduced while they are incarcerated and (unless they find some other means of continuing to pay during their incarceration), they will accumulate arrears and interest on these arrears. Moreover, in most states, if the custodial parent and child receive public assistance, the child support arrears are not owed to the child and custodial parents but to the state, and thus are of no direct benefit to the child, and cannot be forgiven by the custodial parent.

The long-term consequences of these practices on individuals can be enormous. Whether they have been incarcerated for nonpayment of child support or on other grounds, the fact of having been incarcerated and having a criminal record, coupled with a large debt that can quickly reach an unpayable amount can make it virtually impossible for noncustodial parents to secure and maintain employment or to establish stability upon release. The lack of employment and continuing escalation of debt in turn greatly increase the likelihood that the noncustodial parents will be re-incarcerated for nonpayment of child support.[2]

This series of papers explores three distinct aspects of practices related to arrests for nonpayment. In the first, we looked at the incidence of arrests

using any documentation that could be found for each state. We collected articles from newspapers using an internet search, searched the web for any statistics or reports made public by county sheriffs or police departments, local or state child support agencies, and for certain jurisdictions, we gathered data made available by request. Overall, these pieces of information provide ample evidence that in the majority of states nonpayment of support results in jail time for noncustodial parents. The second paper focuses on the court process and is based on observations of courtroom practices in several areas. We looked at what may even be considered trivial aspects of the courtroom for noncustodial parents, but aspects that taken together have the effect of either discouraging parents from appearing in court or preventing them from being given a fair hearing. For the third, we highlight several programs that have found innovative ways of addressing these issues. There is no model for eliminating the poverty and debt that poor noncustodial parents have to battle daily, but these programs take on certain aspects of the barriers faced by such families and in so doing are creating a viable option for positive change.

The papers provide a snapshot of the real world for noncustodial parents. They are not exhaustive, but are representative. They do not provide a definitive portrait of a uniform system, because there is no such uniformity. They do, however, provide a candid picture of a system's impact on poor families that is not often viewed outside of the circle of individuals immediately involved.

Arresting for Nonpayment of Child Support

A Look at State and Local Practices

BY REBECCA MAY

INTRODUCTION

Our investigation of practices related to the arrest of parents for nonpayment of child support has included interviews and focus groups held with parents and caseworkers, reviews of literature on the topic, monitoring court systems, seeking out programs addressing the issues for noncustodial parents, and for this report, the collection and review of any available data and articles that described incidents of arrests for nonpayment.

The child support system, a necessary vehicle for obtaining support for children when parents live separately, is often criticized for inefficiencies in pursuing delinquent parents, collecting child support from them and distributing it to the custodial parent and children. Viewing this system from the standpoint of the noncustodial parent conjures images of deadbeat fathers hiding their assets and neglecting their children. These parents are most deserving of strict child support enforcement measures, and most likely to respond to them by paying their child support.

There is another system at play, however, for poor noncustodial parents. In this system, child support orders are set whether the parent has the ability to pay or not, and often they are set in default, without the presence of the noncustodial parent. The system's goal shifts for poor families who are on welfare from responding to the request of the custodial parent for child support that would directly benefit her children, to pursuing the noncustodial parent as a resource to repay government expenditures on welfare regardless of the wishes of the custodial parent. For these fathers, employment is spotty and unstable, housing even more so, and child support orders

can quickly become a debt that they are unable to manage or pay. Word gets out that "turning yourself in" to child support means facing a system that will force you to pay what you don't have or go to jail, so parents avoid courts and end up further behind and at risk of incarceration. The work of the Center on this project has focused exclusively on these parents.

Parents who are poor can fall quickly into debt for child support for many reasons. The order might be set imputing (ascribing) a wage that is beyond their actual earning capacity, which is extremely limited for most noncustodial parents who do not pay child support. The federal Office of Child Support Enforcement reports that of the more than $70 billion in child support debt nationally, 70% is owed by noncustodial parents who have no quarterly earnings or with annual earnings of less than $10,000. Only 4% of child support arrears are held by noncustodial parents with more than $40,000 in annual income. [3]

Many states charge fees such as the cost for the birth of the child, or start arrearages climbing immediately with the imposition of retroactive child support that dates as far back as the birth of the child in some states, or in others, to the beginning of welfare receipt. Interest on unpaid child support is as high as 12% annually in many states.[4] The longer a parent continues avoiding the system and its enforcement measures, the more at risk he becomes of serving a term in jail for nonpayment. It goes without saying that the period of time spent in jail adds to the child support debt and makes it harder to obtain employment upon release.

As a part of the project, we have attempted to get a realistic depiction of the incidence of arrests for child support nonpayment. This task has proven to be quite challenging. On the one hand, every focus group and interview we have conducted across the country has provided ample testimony by low-income noncustodial parents of spending time in jail for the nonpayment of child support. On the other hand, there is little evidence in the literature on the numbers of parents who have been arrested on such charges. A review of literature on child support or low-income noncustodial parents yields so little information on it that one might be led to believe that arrests were used rarely if at all, and that they are used primarily as a tool to spur payments from parents who can afford to pay but don't.

The extent to which parents are arrested for nonpayment is important because it is through the experience of serving jail time that low-income families undergo the most hardship related to child support enforcement.

On the one hand, every focus group and interview we have conducted across the country has provided ample testimony by low-income noncustodial parents of spending time in jail for the nonpayment of child support. On the other hand, there is little evidence in the literature on the numbers of parents who have been arrested on such charges.

When a parent has little or no income, they are without the means to make necessary child support payments that could keep them out of jail, and yet they are the most likely to serve a jail sentence for nonpayment. For these very families, the custodial parent and children are in turn unlikely to gain from any payments that the noncustodial parent can muster up because of the state's practice of retaining child support payments to reimburse welfare costs. Arresting poor parents for not paying child support leaves each of the goals of the child support enforcement system unmet: children don't get child support when a parent is incarcerated; noncustodial parents' chances at succeeding in the job market are dealt a blow; and custodial parents are left to contend with parenting and surviving without any chance of assistance from their partner.

The reviewed articles provide a glimpse into the most common perceptions at the local level. The most common comments from officials concern the importance of compelling parents to pay child support, even if it means jail sentences for those who don't, because children suffer when child support is not paid. Such comments make it clear that when judges, attorneys or law enforcement officials push for strict enforcement of child support, they are not accounting for the fact that, for poor families, much of the child support arrearage may be owed to the state and not the family. In a typical statement, a district court judge in Alabama stated in defense of a proposed state law to make nonpayment a felony, "I believe we should take care of children first. Adults are grownups. They make their own decisions. Children are innocent. All grownups should take care of their children first." Such statements are made repeatedly, in spite of the state's policy to retain child support as welfare repayment. In fact, 49% of the total amount of child support debt nationally is owed to the government as repayment of the custodial parent's welfare benefits, and not to the custodial parent.[5]

If it were known how extensively the practice of arresting parents for nonpayment is utilized, it would add a critical component to the understanding of noncustodial parents' experiences.

Documentation of Arrests for Nonpayment

This report will summarize our findings from two different sources of information on arrests. The first is a collection of newspaper references to arrests from across the country, dating back to the 1990's but primarily from

the last two to three years. While the collected articles are not exhaustive, they are quite thorough thanks to the capacity of the internet to regularly locate articles referring to child support. The articles vary in the amount and type of information they contain, and were not checked for accuracy beyond what was published by the newspaper. This method of collecting information is likely to underestimate the incidence of arrests. It is logical that there would be far more arrests that occur for nonpayment than there are news stories reporting them, and that we would not be capable of uncovering all incidents of arrests. For example, in the City of St. Louis (which is not administered as part of St. Louis County), a caseworker with a fatherhood program told us that fathers in his program regularly face either one year in jail or several years of probation for nonpayment. He advises them to take the year in jail because probation carries conditions that will often lead to jail time at a later point. We could find no explicit documentation of arrests in St. Louis, however. In Cook County, Illinois, we observed courtrooms in which fathers appeared before the judge who were serving jail sentences for nonpayment, but little information was available on arrests in Illinois. On the other hand, when there is documentation, it confirms that the jurisdiction (state or local) in which the arrests take place is in the practice of implementing such enforcement tactics in some measure.

Enforcement practices are primarily county-driven, and there is little reporting specific to nonpayment arrests and outcomes. While all states have statutes that allow for the arrest of child support obligors who do not pay child support[6], states may or may not regularly implement this law, depending on state and local strategies. In addition, civil contempt arrests and incarceration outnumber criminal nonsupport arrests in many if not most jurisdictions.

Child support agencies do not typically track arrests for nonpayment, so finding documentation often depends on the record-keeping of sheriff's or prosecuting attorney's offices, and the meaning of the records is not always clear. For example, warrants for the arrest of nonpayers do not necessarily result in actual arrests unless the subject of the warrant fails to appear and/or to comply with payment of the child support arrearage or an accepted payment plan. A high number of warrants, however, are a strong indication that a jurisdiction takes an aggressive stance toward nonpayment and very likely has many warrants that result in arrests. Where a law enforcement office records a high number of warrants for nonpayment, we were often

able to find other indicators of arrests, such as actual arrest numbers or newspaper documentation.

The news being reported below ranges from incidents involving one or more arrests, to a sting operation in which many parents were arrested, and sometimes include an overview of the county's or state's efforts in collecting child support.

The review found 36 states with arrests for nonpayment of child support that were reported in the press. In some areas, arrests are far more common than in others. For many of the states, there were reports from several counties within the state. The number of articles reporting arrests and their content often create a clear picture of an aggressive approach to using arrests for nonpayment. Other times, it is not clear whether or not the arrests are few and noteworthy or part of a larger practice of arrests that go unreported.

In some cases, notices of amnesty programs, in which noncustodial parents who are behind in child support payments are given a window of time to come forward and begin making arrangements to pay in return for a suspension of enforcement, provided a wealth of information on outstanding warrants and typical practices. One Ohio county child support enforcement agency described their amnesty program as providing a basis on which to refute reasons given by fathers who subsequently appeared in court after failing to pay child support: "For those who were arrested in August, we could say, 'We had an amnesty program in July—why didn't you come forward and work with us? You had your chance.'"[7]

Celebrities who fail to pay support and are arrested as a result receive press coverage that would not be given to most arrested noncustodial parents. Such reports are included here because they are an indication that, if these parents are being arrested, parents with fewer legal resources are likely to be arrested in that area in greater numbers.

When a locality is covered in the press for its aggressive program of arresting parents who are behind in child support, the prosecuting attorneys or child support officials often represent their efforts as being targeted only at those "deadbeat" parents who can afford to pay but don't. In fact, however, the same article often includes information that belies this characterization, describing those who are arrested as very poor parents or parents who have hit bottom. The rationale for pursuing these cases, that the children

suffer when child support goes unpaid, fails to take into account the poverty and circumstances of poor noncustodial parents. For parents whose families have ever received public assistance, the Herculean goal of paying off sometimes staggering child support arrearages would result in much if not most of the payment going to the state as reimbursement for welfare.

The following list of states and the evidence we could find from each is our best way of getting a picture of the extent to which arrests for nonpayment are happening nationally. Our hope is that this initial documentation can provide a basis on which to further explore both the extent that low-income parents are spending time in jail for unpaid child support and other more constructive means to assist poor families when the noncustodial parent gets behind in child support payments.

State-by-State Findings

1. ALABAMA

- In July 2004, a roundup in Marshall County led to the arrest of 34 people after a month-long moratorium on arrests during which 10 cases were settled by making payments or payment plans. The 34 who were arrested were required to pay approximately 25 percent of the owed support before being released from jail. Arrests, Past-due Child Support Paid In Crackdown, July 3, 2004. www.ledger-enquirer.com.
- In a report in the Tuscaloosa web magazine *Dateline Alabama*, retiring federal prosecutor Eric Ruschky states that he is most proud of prosecuting about 200 parents over the past 11 years who didn't pay child support. The report quotes Ruschky as saying, "One of the God-ordained functions of government is to punish evildoers." http://www.tuscaloosanews.com/apps/pbcs.dll/article?AID=/20041014/APN/410140765&cachetime=3&template=dateline.
- In Marshall County, Alabama the District Attorney and the County Department of Human Resources worked together in May 2004 to "round up" 75 noncustodial parents with child support arrears. DHR Director Wayne Sellers states in the article, "Some time behind bars might do these parents some good. Sometimes it takes that to get their attention that their children are living in poverty." About two-thirds of the county's child support cases are reported in the article as being in arrears. The arti-

cle also describes a "Deadbeat Dads" advertisement put out by a former Alabama Governor that referred to the parents as "dogs."

- A July 2004 article in the *Daily Home*, an on-line newspaper for Talladega, Pell City and Sylacauga Alabama, describes a day in the courtroom of Talladega County District Judge George Sims:

> *At least three times during the court proceedings, Sims ordered three fathers to jail for failure to pay support. "I don't know what else to do, but put you in jail. You haven't paid your support in some time," Sims said to one. An attorney defending one of the fathers said child support is not the only issue these fathers—and mothers—face when they get behind on their child support. "There are a lot more issues here than just child support not being paid," he said. As the judge listened, fathers told of not having a job, no driver license and losing their cars or homes because of no income. Wilkins, who has worked more than 16 years in the DA's office on child support cases, said the end result will be they either pay or end up in jail.*

  Mary Ashcraft, director of the Talladega County Department of Human Resources, points out that if the parent doesn't pay child support, "It just gets bigger and bigger. It's like a big ball of yarn because the interest keeps adding up on the support not paid," she said. Susan Bobo, child support supervisor for St. Clair County, said 12 percent interest is added to the child support payment when it isn't paid. Some get so far behind, they may never pay all the child support. One of the reasons is interest. Alabama has a 12 percent interest rate. "That can add up," Bobo said. Collecting Child Support Difficult Task, July 18, 2004. *Daily Home* online, www.dailyhome.com.

- A Sheriff's Department report for the Clarke County Democrat in Grove Hill, Alabama regularly lists arrests for contempt for nonpayment of child support. www.clarkecountydemocrat.com, *Front Page*.

- Overcrowding of county jails is a growing and dangerous problem for the State of Alabama, where conditions such as sleeping on floors, and unsanitary cells, linens and food have been reported. A Morgan County jail built for 96 housed 256 in one report . *The New York Times* Archives, Crowded Jails Create Crisis for Prisons in Alabama, April 26, 2001.

- The *Andalusia Star* reports that at the Covington County Jail, violent and non-violent offenders are housed together, despite the work release privi-

leges of some inmates. The article states that, "Only inmates who have committed or been charged with non-violent offenses are eligible for work release duties. Those in jail for breaking child support obligations, inmates incarcerated on failure to appear charges, bad checks, and others in similar situations are examples." http://www.tuscaloosanews.com/apps/pbcs.dll/article?AID=/20041014/APN/410140765&cachetime=3&template=dateline.

2. ALASKA

HB 514 was signed into law by Alaska Governor Murkowski on June 29, 2004. The new legislation makes nonpayment of child support a felony punishable by a sentence of up to five years. It also makes aiding the nonpayment of child support a felony subject to the same penalties as nonpayment. Alaska currently has more than 14,000 cases where a parent is more than $10,000 in arrears or has failed to make a payment for more than 24 months. The final bill includes a requirement that the child support agency create an arrears forgiveness program as an incentive for the noncustodial parent to make payments.

- A State Department of Revenue press release announces the first use of the state's new law that allows for criminal prosecution of individuals who assist parents in avoiding child support payments. Two persons were arrested under these charges. www.csed.state.ak.us/PressReleases/4CriminalCharges.html.

3. ARIZONA

- Seventy-seven officers from the Pima County Sheriff's Department sought 140 persons with arrest warrants for nonpayment in a one-day sweep. Of 40 persons arrested, 37 were taken to jail until they could make the child support payments. Child support sweep nabs 40, April 2, 2004. http://www.dailystar.com/dailystar/relatedarticles/16446.php.
- The Maricopa County Sheriff's Office describes the Child Support Arrest Warrant Team as "an assignment within the Warrant Service Unit, responsible for serving Child Support Arrest Warrants and maintaining the MCSO Deadbeat Parent "Tip Line." In addition, the Child Support team regularly coordinates the Sheriff's Office "Deadbeat Parent Roundup Operations." http://www.mcso.org/submenu.asp?file=warrantsdivision.

- A Pima County child support sweep was conducted in April, 2004, resulting in 40 parents who were brought in to court to face charges of unpaid child support. Authorities had warrants for 140 people. The state is reported to have 250 warrants for nonsupport in Pima County. 40 Served Over Unpaid Child Support, April 2, 2004, *The Tucson Citizen*, www.tucsoncitizen.com.
- The *Fountain Hills Times* reported that Maricopa County Sheriff Joe Arpaio received an award in August 2004 from the U.S. Department of Health and Human Services for "his efforts in arresting deadbeats." Sheriff Arpaio initiated "one-day round-ups" that resulted in more than 200 arrests since 2000. His practice, called the "deck of cards" technique, designates parents with the highest unpaid child support amounts as aces, kings and queens. http://www.fhtimes.com/times/2004archives/8-18-04/arpaio.htm.

4. ARKANSAS

Prior to 1997, Arkansas law held that the offense of criminal nonsupport [Ark. Code Ann. § 5-26-401 (Repl. 1997)] was a Class A misdemeanor, except that it became a Class D felony if the person left Arkansas to avoid the duty to support, or had previously been convicted of nonsupport. However, the statute was amended in 1997 to provide that the offense be a Class D felony where the amount owed is more than $5,000 and a Class B felony where the amount owed is more than $25,000.

- One couple whose divorce has led to jail for the father is said by attorneys in a *Bentonville Morning News* report to represent one case among hundreds in which parents get behind and spend time in jail. A circuit judge states, "Trouble keeping a job, and not having a job in this area is not an excuse." Another circuit judge says of jailing nonpayers, a practice he says he uses "on many a week," that "for us, it works very well. They go to jail and money flies out of the woodwork." Courts Using Jail to Enforce Child Support, April 18, 2004, www.razorbackcentral.com.
- In a November 3, 2004 Circuit Court of Appeals decision, *Bobby Morris v. Hon. Lance Hanshaw*, a conviction of Mr. Morris for Class B felony nonsupport was upheld, and Mr. Morris was sentenced to serve 40 years in state prison for the nonpayment of child support. Mr. Morris argued that the trial court erred in failing to dismiss the felony charges because the statute of limitations for a Class B felony is three years, and his convic-

tion was based on arrearages that dated back more than three years from the time he was charged with nonsupport. His child support arrearages would not have reached the Class B felony level if the three-year statute of limitations had been applied. http://courts.state.ar.us/opinions/2004b/20041103/ar031347.wpd.

- A former state basketball star, Corey Beck, was jailed for the third time in the last two years for failure to pay child support on November 2, 2004. Mr. Beck was booked into Washington County Detention Center and will serve a 90-day sentence that could be shortened through a work release program. On his original charge of nonpayment in 2002, he was sentenced to 10 years of probation during which he was required to remain current on his support payments, maintain steady employment and pay his probation fees. Beck Jailed for Probation Violation, November 2, 2004. *The Morning News/Razorback Central*.

5. CALIFORNIA

- The Butte County District Attorney's Office is reported by the *Chico News and Review* to use Father's Day weekend each year to round up and arrest "deadbeat dads." Father's Day Sweep Nets Five 'Deadbeat Dads, June 21, 2001. http://www.newsreview.com/issues/chico/2001-06-21/county2.asp.
- The Los Angeles County Child Support Services Department answers a question in a "Frequently Asked Questions" section regarding jail time for a noncustodial parent who misses payments this way: "The department uses both civil and criminal actions to enforce the payment of child support. Our primary goal is to collect the child support for the children. However, if an NCP has demonstrated that he will not pay child support, then the case may be reviewed for a criminal prosecution. Conviction on a misdemeanor charge of 'Willful Failure to Provide' (Penal Code Section 270) carries a penalty of up to one year in the county jail." http://childsupport.co.la.ca.us/faq.htm#seventeen.
- According to the Shasta County District Attorney's Office Bureau of Investigations, "Allegations of the criminal willful failure of a parent to support their minor child is another of the areas investigated by members of the Bureau of Investigation. Non-supporting parents can be charged with failure to provide under Penal Code Section 270 or abandonment

under Penal Code Section 271. In many instances a family court order regarding custody, visitation, and support has already been issued. In these situations, a parent who is not supporting their children can also be charged with a violation of a court order under Penal Code Section 166(a)(4). Investigations into allegations of criminal non- support are conducted by DA Investigators on behalf of the Department of Child Support Services and are in addition to the various civil court procedures that may have already been attempted in order to have the parent support the minor child. http://da.co.shasta.ca.us/investigations.shtml#non-support.

6. CONNECTICUT

- A story in the *Hartford Advocate* describes a state marshal in Hartford County, Connecticut as he makes rounds arresting parents for nonpayment of child support. One father works full-time and describes his love for his four kids but is wanted on two warrants for failure to appear in court and will have to pay at least $9,000 cash in bond or stay in jail. The father is sure he will be held for two weeks and lose his job. Another father arrested on this day believes we will lose his job and spend weeks in the "can." The state marshall says that his quarry are more often down on their luck and disorganized, rather than heartless jerks who care nothing for their children. "In other words, they're poor." The article states that thousands of warrants for failure to appear in court for nonsupport need to be served across the state. It's a Deadline for Deadbeat Dads, January 8, 2004, *The Hartford Advocate*. http://hartfordadvocate.com/gbase/news/content?oid=oid:49157.
- One hundred child support delinquents were tracked down in a weekend statewide sweep by sheriffs in 1997. The sheriffs had 554 civil arrest warrants. The same sweep in 1999 netted 33 arrests on 371 arrest warrants. http://www.cslib.org/attygenl/press/.

7. FLORIDA

- Police in Ocala are reported to be searching for 74 men and women who have failed to make child support payments. Ocala Police Department spokesman Sgt. Russ Kern states, "These individuals have three choices. They can pay the people they owe, they can turn themselves in or, they can go to jail." The Marion County Sheriff's Office reports that it takes

into custody 20-25 people each month for failing to pay child support. Police Get Strict On Deadbeat Parents, November 19, 2003, www.starbanner.com.

- A legal update from The Police Law Institute in 2004 includes a summary of changes for law enforcement officers. The update states that "there is a mandatory 15-day jail sentence for anyone who, having been noticed by the State Attorney's Office and been previously adjudged in contempt for failure to comply with a support order willfully fails to provide support which he/she has the ability to provide to a child or a spouse whom the person knows he/she is legally obligated to support. http://www.floridapolicelaw.org/.

8. GEORGIA

- The *Savannah Morning News* regularly publishes a "Child Support Docket." The docket lists names and dispositions of court cases for nonpayment of child support from the docket of one judge over the course of approximately one week. On a typical docket, approximately 6 to 23 individuals are listed as incarcerated and 3 to 10 warrants are issued for failure to appear. The amount of unpaid child support, including interest on the arrears, of those who were incarcerated ranged from $1,132 to nearly $36,000. http://www.savannahnow.com.
- Georgia State Senator Regina Thomas held a town hall meeting in Savannah to discuss child support because of the level of complaints she had been getting. Thomas states that, "From the non-custodial parents, I'm hearing 'I'm doing all I can, I'm paying something and they still want to put me in jail.'" Town Hall Meeting on Child Support, September 28, 2004. www.wtoctv.com.
- A state amnesty program was announced beginning December 1, 2004. Parents behind in child support were urged to come forward and work out a payment plan. The article states that, "those who don't pay during an amnesty period could end up in court or even behind bars." Child Support Amnesty Begins, December 1, 2004. *WALB News*, www.walb.com.
- Forty people were arrested in Tift County in June 2003 for not paying child support, and the Child Support Office reported having warrants for more. http://64.233.167.104/search?q=cache:Gc1HYMuBmh4J:www.tifton-

gazette.com/articles/2003/06/14/news/news1.txt+tift+county+%22child+support%22+roundup&hl=en.

- A Bail Enforcement Agent reports on his website: "In 1998 B.R.S. became the first Private Service to contract with a District Attorney's Office of Child Support Enforcement (Tift Judicial Circuit) for the purpose of locating, locating and serving, and locating and causing the arrest of delinquent, absentee parents. This was a milestone. At the time, it was unheard of that a branch of the State District Attorney's office would even consider using bounty hunters. We got our first set of orders two weeks before Christmas and on December 23rd we started picking them up. We made sure that 35 Deadbeat Dads spent their Christmas in the Tift County Jail." http://home.mindspring.com/~traici/id7.html.

9. INDIANA

- Lake County Prosecutor Bernard Carter provided a 30-day period of amnesty for parents owing child support in November 2003. When only one person came in to pay, the prosecutor had police serve 60 warrants, and County Sheriff Rogelio Dominguez approved overtime pay for officers to work off-duty hours to serve the warrants. Carter stated that, "The law gives us the right to file criminal charges. It's not when you get that good job you have to pay, it's if you work even part time for any two-week period." Sheriff Dominguez states in the article that "voluntary nonpayment is a form of child abuse." *Northwest Indiana News*, Parents Targeted for Back Payments, November 11, 2003. www.nwitimes.com.
- In a meeting of the Indiana Child Custody and Support Advisory Committee, the Assistant Chief Deputy Prosecutor for the Marion County Child Support Division reported that out of 80,000 to 100,000 open child support cases each year, about 3%, or 2,400 to 3,300 result in incarceration for nonpayment. Roughly 15—20 of these are criminal charges, and the rest are civil contempt. According to the child support prosecutor, "Civil enforcement is typically a more efficient way to collect a child support arrearage." Indiana Child Custody and Support Advisory Committee, Meeting Minutes, September 30, 2002. www.in.gov/legislative/interim/committee/ccsa.html.
- The *Johnson County Daily Journal* reports that child support enforcers in the county "scour internet databases to track down deadbeat parents. Once

they find them, prosecutors can try to jail nonpaying parents to coerce them to pay the child support they owe." The article states that continued nonpayment will end in the person serving a jail sentence, and "if the threat of going to jail for civil contempt still doesn't coerce payment, Gaunt also can file a criminal charge of Class D felony nonsupport of a dependent." If You Don't Pay Support, Investigators Will Find You, March 16, 2004. www.thejournalnet.com.

- The Monroe County Child Support Division describes their role in filing and prosecuting cases of nonsupport on a regular basis. The sentence in such cases "depends on the facts of that particular case; however, defendants are normally placed on probation under detailed terms, including, of course, the requirement that they pay current support as well as an amount toward the support arrearage. If a defendant fails to abide by the terms of probation, that defendant may serve time in the Monroe County Jail or the Indiana Department of Corrections. http://www.co.monroe.in.us/prosecutor/Child_Support.html.
- Kosciusko County prosecuting attorney's sweep led to the arrest of 10 parents on one night. The sweep was described as part of the prosecutor's war on deadbeat parents. Twenty-five Class D felony charges of nonsupport were filed against 21 individuals in a "stepped-up campaign to collect delinquent child support." http://www.timeswrsw.com/archive/1996/No829961.HTM.

10. KENTUCKY

- A December 2002 article describes the release of 567 non-violent offenders from county jails in the state of Kentucky due to budget problems. The prisoners being released had charges dealing with drugs, theft, receiving stolen property and nonsupport. Kentucky Releases Inmates Due to Budget Troubles, December 18, 2002. www.wcpo.com.
- In Campbell County, Kentucky, Judge D. Michael Foellger has adopted a policy of giving fathers who are facing jail for the nonpayment of child support a choice of either serving their 30-day term in jail or having a vasectomy. Judge Foellger applies the choice in civil contempt cases to fathers who are more than $10,000 behind in court-ordered child support and who have had several children with different women. Thus far, the option has been given to six or seven men. All except one have chosen

the vasectomy. None have appealed the order, so no higher court has reviewed the cases. Judge Foellger has suggested to some women under similar circumstances that they have a tubal ligation. http://www.kypost.com/2004/05/06/judge050604.html.

- Kentucky's top environmental enforcement officer was arrested for nonpayment of child support, triggering his resignation. James P. Kirby II was arrested in his office by sheriff's deputies on a contempt of court order. He was $4,100 behind in child support. Kirby, who earned $68,000 was able to make arrangements to pay the back child support and have the contempt order dropped. State Environmental Official Resigns After Arrest, September 28, 2004. www.courier-journal.com.

11. LOUISANA

Louisiana Senate Bill 633 was approved in 2004 by the House and Senate. The bill makes nonpayment of child support a felony if a parent is more than a year behind on child support payments or owes more than $5,000 in child support.

- Criminal charges were prepared on December 8, 2004 in Ouachita Parish against the first parent to become subject to the state's new criminal penalties. The parent built up more than $5,000 in past-due child support since a new state law went into effect Aug. 15, 2004. The article states that, "Previously, civil prosecution could drag on for years before a parent might be subject to jail time for neglect or contempt of court. 'We'll be in court sooner than later,' said Ouachita Parish District Attorney Jerry Jones. State Raises Focus On Child Support, December 8, 2004. *The Advocate News*, www.2theadvocate.com.
- A *Times Picayune* story includes the fact that if a parent fails to pay child support or misses a meeting with the probation officer, he/she may end up back in jail for 22 months. Revolving Door Costs Us Dearly, January 8, 2004. www.nola.com.
- *The Advertiser* of Lafayette regularly publishes a list of individuals who have been booked at the Lafayette Parish Correctional Center. The list contains individuals who have been arrested for nonsupport. http://www.acadiananow.com/localarrests/html/BBDC934E-5127-4135-88CA-F7CD495CAADA.shtml.

- The Police Beat section of the *St. Landry Parish Daily World* regularly lists bookings for nonsupport. http://www.dailyworld.com/html/38F0F7FA-58F0-472F-A3C2-F32B2314B681.shtml.

12. MARYLAND

- The Montgomery County Sheriff's Office reports that it receives over 3,500 child support cases of which 86% of the noncustodial parents are "located and served." The Sheriff's Office last year arrested approximately 350 noncustodial parents on Child Support Warrants. http://www.mcsheriff.com/childsupport.htm.
- The *Baltimore Sun* reported in May 2004 that Baltimore County was serving more nonsupport warrants than ever before, and that prosecutors were beginning to charge nonpaying parents criminally. County Sheriff R. Jay Fisher states that when he took the job in 2003 he decided to make serving the warrants a priority. In the first three months of 2004, deputies served almost 70 percent more warrants than they had during the same time the year before. In addition, 20 people had been charged with criminal nonsupport, an offense that carries a potential three-year jail sentence, in the prior six months. www.baltimoresun.com.

13. MASSACHUSETTS

- The state Department of Revenue issues a Most Wanted list of parents who owe child support. The list contains the names of over 20,000 parents who owe at least $10,000. Nonpayment of child support is punishable in the state by up to two and a half years in prison and a $5,000 fine. The state also maintains a list of the ten most wanted parents, and 85 of the parents on this list had either surrendered or been arrested as of February 2004. www.tauntongazette.com.
- In Dedham, former New England Patriots football player Dave Meggett was ordered jailed in September 2004 for six months for failing to pay $191,600 in child support. Meggett surrendered to authorities after a warrant was issued for his arrest. http://sfgate.com/cgi-bin/article.cgi?file=/news/archive/2004/09/17/sports1155EDT0232.DTL.

- Twenty men were sought on warrants in a Hamden County child support sweep in 1997 as part of a crackdown by the state Department of Revenue. Nine were arrested and unless child support was paid, would spend time in jail. http://www.constable.com/press.html.

14. MICHIGAN

Michigan appears to be particularly aggressive in pursuing and arresting parents who owe child support. State Attorney General Michael Cox has made the enforcement of child support a priority. Since taking office in 1993, he has assembled a child support enforcement team of lawyers and investigators that have gone after "deadbeats" with felony warrants and a public awareness media campaign. The state legislature has followed suit by passing a package of bills that increase the penalties for nonpayment.

Nearly 800 warrants for felony nonpayment of child support have been issued so far in the state in 2004. Failure to respond to the warrants with an accepted agreement to pay the child support debt results in up to four years in prison.

- In Ingham County, Michigan, there are 2,900 outstanding warrants for nonpayment, and 800 have been executed since the beginning of the Attorney General's campaign. Since 2000, 67 parents have been charged with felony nonpayment in the county. Ingham County Friend of the Court Donald Reisig praised the hard-line approach, quoting mobster Al Capone: "you can get so much more with a smile and a gun than with just a smile." Tough Stance Is Paying Off, October 10, 2004. *Lansing State Journal*, www.lsj.com.
- In one case in Jackson County, a homeless father was extradited from Texas on felony nonsupport charges. The father had a history of alcohol and substance abuse and was almost $133,000 in arrears on his child support. $38,000 of the unpaid support was owed to the state of Michigan for welfare reimbursement.
- *The Detroit News* reports that, since Wayne County Prosecutor Michael Duggan and Attorney General Mike Cox announced a "deadbeat campaign" in April 2003, authorities have arrested 313 parents who were behind in child support payments. The article also reports 508 felony warrants were issued for nonsupport as of July 2003. Duggan Tackles Detroit Social Ills, July 28, 2003. *The Detroit News*, www.detnews.com. In

announcing the campaign in April, Duggan promised that his new five-lawyer child support enforcement unit would prosecute 1,000 deadbeat parents this year for nonpayment of child support. *Child support abuse is targeted*, April 23, 2003. Detroit Free Press, www.freep.com.

- According to the Wayne County Sheriff Warren Evans, more than 700 civil arrests for nonpayment of child support are made in the county each month. Approximately 100 of these are found through investigations, and the remaining 600 are identified when stopped by police for an unrelated reason. Friend of the Court data reveal that out of 340,000 active child support cases in the county, 28,255 have an active civil warrant for nonpayment. *New Sheriff's unit tracks down felony child support "deadbeats,"* http://www.co.wayne.mi.us/sheriff/community/felonyFOC.htm.
- The Lansing State Journal's April 2003 Special Report, *Failure to Support*, was a series of articles on child support enforcement. The series included the following information:
  - Ingham County deputies organize one-day sweeps for "deadbeats" approximately once per year. A February 2003 roundup netted 11 arrests.
  - Ingham County Sheriff Chief Deputy Vicki Harrison reported that in April 2003, 35 of 562 inmates in Ingham County jail were there strictly for refusing to pay child support.
  - In Ingham County, bench warrants were out for 3,700 parents for failing to pay child support.
  - Forty-three parents were jailed in one week in Ingham County for failing to pay child support. Prior to the recent increase in arrests, no more than 18 were arrested weekly for delinquent child support.
  - According to Ingham County Friend of the Court Donald Reisig, in a typical year authorities arrest up to 1,000 averaging about 80 per month.
  - According to state figures, parents earning less than $20,000 per year owe approximately 75% of Michigan's $7 billion child support debt. About half of the debt is owed to the government as repayment for welfare assistance received by the custodial parent and children. A complete listing by county of child support owed to the state and to the custodial parent is available at http://www.paykids.com/CountyStatistics.asp.

Police Charged with Rounding Up Deadbeats, April 13, 2003; Deadbeat Parents, System Fail Children, April 13, 2003; Is Jail the Answer for Deadbeats? April 13, 2003; Attorney General Pushes for Overhaul of Child Support System, April 14, 2003; Felony Warrants Can Put Nonpayers in Prison, April 14, 2003; Ingham Jails 43 Deadbeats Over Arrears, April 27, 2003; Police Nabbing More Deadbeats, June 28, 2003; When the Poorest Owe the Most Child Support, June 29, 2003. *Lansing State Journal*, www.lsj.com.

- In Macomb County, 947 arrest warrants were served, 586 of which were civil warrants, for failure to pay child support in 2002. Reported in a conversation with the Friend of the Court Detective Sergeant.
- An Antrim County man was sentenced to two to three years in prison for a $17,000 child support debt. The parent owed child support through 1997. His child was adopted in that year, meaning that his parental rights were relinquished. Child Support Jail Time Is Fair, January 26, 2004. *Traverse City Record-Eagle*, www.record-eagle.com.
- Felony arrest warrants were issued for 27 people by the St. Clair County prosecutor's office in April 2004. The warrants were announced by Attorney General Mike Cox as the first in a reinforced effort to collect unpaid child support. The warrants carry a maximum penalty of four years, but some people will face longer sentences if they are charged as habitual offenders. Warrants Seek Child Support, April 23, 2004, *The Times Herald*, www.thetimesherald.com.

15. MINNESOTA

- An arrest of a father in St. Paul who could be sentenced to up to two years in prison if convicted is described as one of the most egregious cases in Ramsey County in recent years. The father owed more than $44,000 and was confined previously for 90 days in the county workhouse for civil contempt for not paying child support.
- In Clay County, a man was sentenced to two years for failing to pay on his child support arrears of $97,000. The sentence is the longest ever imposed in the state for nonpayment of child support. Assistance Clay County Attorney Gregg Jensen said it is unlikely that the man's grown children will ever see the support, and that once the sentence it served, it will likely be

reduced to a civil judgment. The state Department of Corrections reports that seven people have been sent to correctional facilities on similar charges. Lengthy sentences appear to be rare in the state. Sentence In Clay Case Sets Record, August 25, 2002, http://trishymouse.net/record.html.

16. MISSISSIPPI

- The "You Can Run But You Can't Hide" program is a unit of the Mississippi Attorney General's Office that is "dedicated to the criminal prosecution of the deadbeat parents of Mississippi children." The requirements for criminal prosecution are that the child is or was a resident of Mississippi, there is an existing child support order, the criminal charges are brought within 24 months of the child's 18th birthday and previous attempts to collect child support through the courts and/or the state have failed. http://www.mississippi.gov/frameset.jsp?URL=http%3A%2F%2Fwww.ago.state.ms.us%2F
- The Mississippi Division of Child Support webpage states that contempt actions are among their enforcement methods. "A noncustodial parent can be taken to court for noncompliance with the court order. This action can result in the court ordering the noncustodial parent to be incarcerated." www.mdhs.state.ms.us/csemdhs.html

17. MISSOURI

- In Buchanan County, which has a population of approximately 86,000, criminal nonsupport charges were filed against 900 parents in 2002. In 1990, 89 such charges were filed. The increase is due to an aggressive program put into place by Buchanan County Prosecuting Attorney Dwight Scroggins. If found guilty of a felony, a defendant faces up to four years in prison. For a misdemeanor, the sentence may be up to one year. About 1,200 Buchanan County parents are on probation for not paying regularly, and of the 172 inmates in the Buchanan County jail in July 2003, 25 were serving nonsupport sentences and 18 were awaiting court proceedings for not paying their child support. Child Support a Top Priority, July 20, 2003. *St. Joseph News-Press*, www.stjoenews-press.com.
- A Criminal Non-Support report from the state Prosecuting Attorney's office shows that in Fiscal Year 2001:

- In Clay County, there were 162 criminal non-support charges filed and 98 convictions.
- In Jackson County, there were 410 criminal non-support charges filed and 382 convictions.
- In St. Louis County, there were 539 criminal non-support charges filed and 488 convictions.
- Total state charges for criminal non-support were 1,644 with 1,330 convictions.

Criminal Non-Support Statistics for Fiscal Year 2001, data provided by Buchanan County Prosecutor's Office.

- A woman was charged with criminal nonsupport for the first time in Jefferson County in December 1994. County Prosecutor George McElroy says that the father is usually the one charged with non-support, but that other women probably would be charged soon. Mother of Three Is Charged with Criminal Non-support, December 13, 1994, *St. Louis Post-Dispatch*.
- Cape Girardeau judges are reported to be increasingly willing to sentence parents who fail to pay child support to 3–4 year sentences in prison. Overcrowding at Missouri's Department of Corrections has discouraged judges in the past from handing out such sentences, opting for probation when a parent is convicted of criminal nonsupport instead. Punishing Deadbeats, December 6, 2003, *Southeast Missourian*, www.semissourian.com.

18. NEBRASKA

- A list of outstanding warrants in Cass County includes 26 warrants for "Failure to Obey a Child Support Order," and four warrants for criminal nonsupport. http://www.cassne.org/wanted.asp.

19. NEVADA

- The *Lahontan Valley News* reports that Jerome B. Voss was paroled after serving four months in prison for child support nonpayment. Voss was one of a dozen men listed on Nevada's 10 most wanted list for failure to pay child support in 1998. He was apprehended in Washington and extradited to Churchill County, Nevada. Man Who Owed $75,000 In Child Support Paroled, November 10, 2004. *Lahontan Valley News*, www.lahontanvalleynews.com/.

20. NEW HAMPSHIRE

- The Sheriff's Arrest Log of the *Portsmouth Herald* regularly lists arrests for criminal nonsupport. http://www.seacoastonline.com/2003news/12042003/police_l/63811.htm

21. NEW JERSEY

- A May 2003, Superior Court ruling prohibited judges from incarcerating indigent noncustodial parents for failing to pay child support if they were not provided with a court appointed lawyer. The ruling was expected to result in the release of approximately 300 New Jersey parents. *Anne Pasqua, et al v. Hon. Gerald J. Council*, A-6875-02T3 New Jersey Superior Court, Appellate Division.
- In May 2004, a mother who was arrested for failure to appear in court for unpaid child support died in jail while waiting to have her case heard by a judge. The mother owed child support for two children and was the subject of three arrest warrants. Her mother had custody of the children. The woman worked at several diners in the area but was unemployed at the time of arrest. Chief probation officer John Higgins stated that the woman would not have been held in jail for an extended period had she survived, because, "the law requires that she should have been heard before a judge within 72 hours." Higgins added that, "this law is not targeted at poor people. She would have seen a judge and then established a way to pay the child support. She would have been released after that." Mom Who Died In Jail Was Slated for Release. *Bridgewater Courier News*, May 9, 2004. www.c-n.com.
- In September, 2004, a statewide nonsupport sweep resulted in the apprehension of 401 parents delinquent in child support payments. Also targeted were parents who failed to appear at court hearings to establish a child support order or order for medical support. Notes Sheriff Joseph W. Oxley, "Although this one day event focuses attention on the apprehension of non-support offenders, sheriff's offices in every county in New Jersey find and arrest non-support offenders 7 days a week, 365 days a year." Sheriff's Association of New Jersey Conducts Statewide Nonsupport Sweep, September 30, 2004. http://www.ahherald.com/news/2004/0930/child_nonsupport_sweep.htm.

- *The Bridgeton News* Sheriff's Blotter regularly reports instances of arrests for overdue child support. http://www.nj.com/search/index.ssf?/base/news-9/109930443717910.xml?bridgeton?local_news.
- *The Daily Journal* for Cumberland County Police Beat regularly lists arrests by the Cumberland County Sheriff's Dept. for failure to pay child support. Police Beat, *The Daily Journal*, www.thedailyjournal.com.
- Tennis player Roscoe Tanner was arrested for failure to pay more than $82,000 in child support. Tanner was wanted on a state warrant that was forwarded to the Orange County Sheriff's Department, and was being held in the Orange County jail on $50,000 bail. http://www.tennis-forum.net/tennis/Roscoe_Tanner_arrested_again_377580.html.
- In a September, 2004 Cumberland County "sweep," sheriff's officers teamed up with police departments from throughout the county for a roundup to arrest those with warrants against them for nonpayment of child support. According to sheriff's department Lt. Terry Pangbum, "All deals are off. We're going to round them up and put them in jail." Cumberland County had 1,623 active warrants in September for those in arrears. 29 Held for Child Support $$, September 30, 2004. www.nj.com/news/bridgeton/.

22. NEW MEXICO

- Eight arrest warrants were served in Santa Fe County in one week in January 2004. www.kobtv.com/process.

23. NORTH CAROLINA

- Of 331 records of arrest warrants listed by the Cabarrus County Sheriff's Office, 70 were for nonsupport. http://www.cabarruslaw.us/warrant_results.asp.
- The Durham County Sheriff reports that, "from July 1999 to June 2000, $758,304 was collected in back child support, 326 Child Support OFA's (Orders for Arrest) were served, with 2114 attempts being made." http://www.co.durham.nc.us/departments/cannonball.cfm?ID=10&deptPage=Operations/Records/Child_Support_Enforcement.cfm.
- A father who was captured in Kuwait in 1990 and spent nearly five months

as an Iraqi hostage was arrested the night after he returned home to North Carolina for nonpayment of $1,425 in child support while he was a hostage. Child-Support-Law Amendment Comes To Attention of Hill, April 27, 1999. www.washtimes.com.

- A Wake County judge has adopted the use of house arrest as an alternative to jail for parents who do not pay child support. Citing overcrowded jails and the cost of housing nonpaying parents, the judge says the house arrest program frees up jail space and costs and allows parents to work to support their children instead of falling further behind in payments. Wake House Arrest Program Paying Off for Child Support System, Taxpayers, October 14, 2003, www.wral.com.
- Nineteen parents were arrested in a round-up in Edgecombe County on November 7, 2004. www.rockymounttelegram.com.
- In an article on rising medical costs for inmates, individuals incarcerated for failure to pay child support are cited as one of the reasons for increased jail populations and associated costs. Bladen County Attorney Leslie Johnson said that, "You can't let them go, but you can't keep them in. In jail they are fed and get medical care when they need it. We need to find a way to get these people through the court system quicker." Cost of Inmate Medical Care Skyrocketing, January 27, 2004. www.bladenjournal.com.

24. NORTH DAKOTA

- The Grand Fork's County Warrants List of the Sheriff's Office lists 73 individuals with warrants for child support nonpayment. http://www.grandforkscounty.net/sheriff/warrants.xls.

25. OHIO

- The Hamilton County, Ohio Prosecutor's Office Criminal Non-Support Division indicted 1,720 persons for felony non-support as of February 2003. The Division reports a conviction rate of over 96% and that about one-half of the defendants are sentenced to a term in prison, with the remainder being placed on Community Control or Probation and having to provide support in order to stay out of prison. www.hcpros.org/divisions/crimnon-support/.

- One article describes a man who was sentenced to four years of community controlled sanctions under intensive supervised probation, which includes 90 days in jail, after he pled guilty to a charge of criminal non-support. The man "was also ordered to keep his child support payments current and make payments toward his arrearages. If he violates the terms of his sanctions, he could be sentenced to as much as 11 months in prison." http://www.irontontribune.com/articles/2004/01/10/news/news04.txt.
- The child support website for Sandusky County, Ohio lists current active civil and criminal warrants for failing to appear at court proceedings. Twenty-six warrants were active at the latest update. http://www.sanduskycountydjfs.org/CSEA/warrants.htm.
- The *Dayton Daily News* reports on a new Non-Support Court run by Judge John W. Kessler. On the first day of the court, one defendant with a bandaged arm and under a doctor's care was ordered to three days in jail and sheriff's work detail. When the defendant claimed that he was under a doctor's care and unable to work, Kessler stated, "I don't see anything wrong with your other hand." He also 'waved off' a defense attorney and told him, "You have no place here." Twenty-two men convicted of felony nonsupport were seen in his court on that day. Non-Support Court Tough On Offenders, January 13, 2004. http://www.mcsea.org/supportcourtkessler_1.pdf.
- As an indication that one county has a practice of arresting child support obligors, an Athens County candidate for sheriff was revealed to have been arrested for child support and spent time in jail almost 20 years ago. http://www.athensnews.com/issue/article.php3?story_id=18542.
- A Franklin County child support "roundup" resulted in the arrest of 11 parents in May 2003. The county press release announcing the roundup states that, "The Franklin County Commissioners and Franklin County sheriff have partnered since 1992 to aggressively pursue outstanding child support warrants. The Sheriff's Department provides two full-time deputies under contract with the CSEA [Child Support Enforcement Agency] to arrest child support offenders. Two thousand six hundred twenty individuals have been apprehended under this partnership since 1992." Franklin County Continues Targeting Child Support Offenders, May 23, 2003. http://www.franklincountyohio.gov/Commissioners2/csea/news/.

- In December 2003, Butler County Judge David Niehaus held what he called a "Christmas child support docket" which resulted in 19 parents being sentenced to jail for failing to pay child support. The judge holds the hearings just before the holidays to make the threat of jail more intimidating. One father brought receipts showing about half of his paycheck was being docked each month for child support, but he was still more than $1,000 behind. The judge sentenced him to jail, stating, "We're not playing games. You owe a lot of money. You knew what you had to do when you came in here." Court Jails 14, Collects Thousands In Child Support, December 17, 2003, www.journal-news.com.
- Hancock County announced its first two convictions for criminal nonsupport in 1997. A child support attorney for the county states in the article that local child support matters are usually handled through civil proceedings. At such hearings, a person accused of failing to make child support payments appears before a judge or magistrate. If the accused fails to make an effort to pay the arrearages, he can be sentenced to up to 90 days in jail. Also mentioned is that other Ohio counties have been pursuing felony convictions for years. Wood County indicts an average of 20 people per year on felony nonsupport charges. Under Ohio law, a person can be charged with a felony nonsupport offense if he fails to make support payments during any 26 weeks during a two-year period. The 26 weeks do not have to be consecutive. Felony Charges Filed In Two Support Cases, June 19, 1997. *The Courier News*, www.thecourier.com/issues/1997/Jun/061997.htm.

26. OKLAHOMA

- A full-time investigator with 17 years of experience in law enforcement was assigned to the Child Support Enforcement Division for four counties in the state. After two months on the job, 44 parents had been picked up on bench warrants for failing to pay child support. Oklahoma District 27 District Attorney Richard Gray states, "We are not afraid to jail parents who have outstanding bench warrants." Child Support Agency Cracks Down, December 7, 2004. *Muskogee Daily Phoenix*, www.muskogeephoenix.com.

27. OREGON

- The State Court of Appeals reversed a felony criminal nonsupport conviction in August 2004. At trial, a Washington County child support specialist testified that the county has a "policy to look for missing obligors in the law enforcement data system to see if they have been convicted of [any] crimes." She also testified that part of her job is to conduct inquiries with other state agencies to determine if the obligor is incarcerated or on public assistance during the period of nonpayment. If the obligor was neither incarcerated nor on public assistance, the state infers that the obligor is "without lawful excuse" in not paying child support. The state relies on the obligor's child support file to make this inference, but the Appeals Court noted that no criminal history search or public assistance verification had been requested, and that there were no facts on which to base this inference. http://www.publications.ojd.state.or.us/A120133.htm.

28. PENNSYLVANIA

- In Montgomery County, an amnesty program was announced on October 13, 2004 that would run for one week ending October 22. According to the article, "during those days, parents who owe back child support can avoid arrest, imprisonment and other penalties by reporting in person to domestic relations or the sheriff's department and making payment arrangements." Amnesty notification letters were mailed out in September to about 800 parents who have bench warrants for not paying about $11.5 million in back child support. Parents Who Owe Can Get Amnesty Next Week To Arrange Payments, October 13, 2004, *The Morning Call*. http://www.mcall.com/news/local/all-b1_2amnestyoct13,0,2318009.story?coll=all-newslocal-hed.
- A Dauphin County resident was reported to have been homeless when he was incarcerated twice and served 6-month jail terms for failing to pay child support. Homeless No More, Handyman Looks To Future, *The Patriot News*, October 25, 2004. www.wjettv.com.
- Erie County sheriff's deputies spent several weeks in August, 2004 serving warrants and arresting more than 600 parents who owed back child support. The sweep is described as the fourth of the year. Crackdown To Begin On Parents Behind In Child Support, August 11, 2004, www.wjettv.com.

29. SOUTH CAROLINA

- A report on Charleston County jail overcrowding describes deplorable conditions at the county jail, where 1,261 people were crowded into facilities meant for 800. Among the incarcerated are 150-200 men and women serving sentences for unpaid child support. In 1990, just 24 were in jail on child support charges. A Project Restore caseworker states, "A lot of people call them deadbeat dads, but I have a problem with that term. A lot of these men are just down and out, or because of their educational status, they don't know how the system operates and they get in trouble." 450 Inmates Too Many . . . 'We're Up On Each Other Like Flies,' October 19, 2003, www.charleston.net.

30. TENNESSEE

- The Coffee County Arrest Report regularly lists arrests for failure to pay child support. *Coffee County Arrest Report*, http://www.tullahoma.net.

31. TEXAS

- Texas Attorney General Greg Abbott regularly publishes news releases that announce the arrest of child support evaders and child support round-ups. As of December 2004, a total of 56 parents had been arrested by the Attorney General since he first took office in December 2002. www.oag.state.tx.us/oagnews.
- *The Victoria Advocate* reports a "round-up" of 18 parents who were arrested on contempt-of-court charges for failing to appear in court and pay child support. The parents face sentences of up to six months in jail if they cannot pay child support in full and on time. Sheriff Mike Ratcliff stated that this was a small sampling of the number of child support warrants that come through his office. Roundup Nabs 18 Parents Accused of Not Making Child Support Payments, October 8, 2004. www.thevictoriaadvocate.com.
- Former NFL player Cris Dishman was jailed in Fort Bend County on charges of failing to pay child support. The warrant was discovered during a traffic stop. Former NFL Player Accused of Failing To Pay Child Support, *KGBT 4–TV*, Harlingen, TX.

- A Dallas County Sheriff reported in a phone conversation that there were 700 warrants in the county for failure to pay support. He related that there were only two officers dedicated to tracking down these offenders, and that as a result arrests were "not common enough."
- The Travis County Legal Division of Domestic Relations describes its services related to child support this way: "Teams of attorneys, a paralegal, enforcement officers, and legal secretaries perform enforcement of child support and medical support. Methods used include: telephone and letter collection, driver's license, hunting and fishing license and professional license suspension, contempt of court, community supervision (probation), incarceration, administrative income withholding, and criminal nonsupport referrals to the Travis County District Attorney's Office." http://www.co.travis.tx.us/dro/enforce_support.asp.
- *The Daily Sentinel* in Nacogdoches provides a regular Police Report that includes warrants for criminal nonsupport. http://www.dailysentinel.com/news/newsfd/auto/feed/news/2004/10/08/1097209587.18121.5749.3604.html

32. UTAH

- In the notorious case of bigamist Tom Green, who was convicted of four counts of bigamy in 2003, child support was also an issue. Mr. Green was charged with criminal nonsupport for failing to pay the state $54,000 in child support after his wives received public assistance. Green was sentenced to five years in the Utah state prison for bigamy and nonpayment. http://www.nephitimesnews.com/0802/082102/1.htm.

33. VIRGINIA

- A "Crime Solvers" section of the Fredericksburg newspaper lists persons who are wanted on charges of owing child support bi-weekly, and offers a reward for information leading to an arrest. http://fredericksburg.com/News/FLS/2004/102004/10272004/1544361.
- The Washington County Sheriff's Office lists current outstanding warrants by name. On November 10, the county listed five outstanding warrants for "Desertion and Nonsupport." A large proportion of the warrants are listed as "Parole Violation," "Failure to Appear in Court," and "Con-

tempt of Court," charges that could also be related to child support nonpayment. http://www.washcova.com/departments/sheriff/warrants.php.

34. WASHINGTON

- Pierce County Sheriff's Deputies from the Warrant Unit formed a Fugitive Task Force to round up and arrest more than 40 parents behind in child support payments in June 2002. The story was covered by a local television station. *Pay Up, Or Else!* June 7, 2002. www.komotv.com.
- The King County Sheriff's Support Enforcement Unit conducted a month-long sweep of parents delinquent in payments in June 2004. The Unit had 779 active warrants at the beginning of the sweep, and 61 were arrested in the first two weeks of the sweep. Parents were offered an amnesty in the month before the sweep whereby if the parent contacted the child support agency and agreed to a payment plan, the arrest warrant would be quashed. Seventy-one warrants were quashed in this way. http://www.metrokc.gov/sheriff/news/article.aspx?id=65.

35. WISCONSIN

- The Wisconsin Department of Corrections reports that from 1999 to 2003, there were 435 admissions to state prison for the non-payment of child support. Of theses, 261 were convicted of nonpayment plus some other criminal conviction and 174 were convicted solely for nonpayment. Information received by e-mail correspondence from the Wisconsin Department of Corrections.
- In Dane County there were 2,899 bookings to jail for nonpayment of child support (felony, misdemeanor, and civil contempt) from January 2000 to August 2003. Of these, more than 1,400 or 48% were African-American and 50% were white. Another set of data reveal that from January to August 11, 2000, there were 365 jail bookings for felony or misdemeanor child support nonpayment (not including civil contempt). Of these, 147 were of African-Americans. Data obtained from Dane County Sheriff's Office.
- In Milwaukee County, from April 1999 to April 2001, over 6,200 people who were booked to the county jail had nonpayment of child support listed as one of their offenses. Unlike the Dane County arrest numbers, child support delinquency was not necessarily the initial reason for apprehen-

sion or arrest, however. Once arrested on one charge, warrants for non-payment of child support were discovered, and penalties applied.[8]

- The Eau Claire (Wisconsin) Leader-Telegram reports that a noncustodial father with child support arrearages exceeding $25,000 is facing 18 counts for failing to pay child support, seventeen of which are felonies. The father has one child who was born in 1990 and failed to pay child support from January 1996 to August 1999, and from September 2000 through December 2002. If convicted on all counts, he could be sentenced to 34 years in prison.

- The Racine County Child Support Division describes its enforcement services: "When a payer is 30 days or greater behind in child support payments, court action may be considered. Court enforcement action includes an Order to Show Cause being filed and heard before the Judge which may result in charges of contempt. Criminal Nonsupport enforcement is a crime, which is prosecuted by the District Attorneys Office and results from a failure to pay court ordered child support. A custodial parent may file a complaint directly with the District Attorney's office or through the Child Support Division once all other enforcement options have been taken." http://www.racineco.com/childsupport/index.aspx.

- In Wood County, three men were sentenced to terms ranging from two to three years for failing to pay child support. The article describes the Wood County Child Support Office and Sheriff's Department as working together to increase efforts to find parents behind in child support. Three Deadbeat Dads Sentenced, October 23, 2004. www.marshfieldnewsherald.com.

36. WEST VIRGINIA

- The Harrison County Prosecutor's Office handled 40 court cases for child support contempt in 2003, according to Harrison County Prosecuting Attorney Joe Shaffer. Some of those cases were felony cases that cost about $5,000 each to prosecute, Shaffer said. The others were misdemeanors that cost $1,500-$2,000 each, Shaffer said. So far this year, Shaffer's office has handled about 35 child support contempt prosecutions, he said. Past-Due Child Support Payments Often Add Up To Millions, *Clarksburg Exponent Telegram*, December 7, 2004. http://www.cpubco.com.

Notes from Child Support Courts

Process and Issues

BY REBECCA MAY

INTRODUCTION

In the course of investigating child support enforcement practices, we conducted courtroom observations in several states as child support cases were heard. This brief report is intended to describe the environment and the workings of the courtroom, for those who may work with parents on these issues, but are not a part of the legal profession and do not typically witness the court process. In the few courtrooms that we monitored, we noted several practices that might not be a part of formal courtroom policy, but that can have a determining effect on outcomes for poor families. At a minimum, these practices and their impact on outcomes bear further analysis.

The child support system has become increasingly efficient at finding parents who do not pay child support. Through such new tools as wage garnishment and the National Directory of New Hires, as well as stronger enforcement tools such as liens on property, license suspensions and the threat of incarceration, the system is poised to root out nonpayers and ensure that they pay their child support order. But the tools were established with enforcement against parents who are able to pay but don't pay in mind. These financially-able parents are justly made more accountable to their families by the system. But the most aggressive child support enforcement policies tend to have the greatest impact on the poorest parents who are unable to pay. Poor parents are most likely to have default child support orders that overestimate their true earning capacity, and are the least likely to be able to afford legal representation.

Low-income and even no-income parents have been acknowledged by the U.S. Office of Child Support Enforcement (OCSE) to be responsible for the greatest portion of unpaid child support. According to OCSE, of the more than $70 billion in child support debt nationally, 70% is owed by non-custodial parents who have no quarterly earnings or with annual earnings

of less than $10,000. Only 4% of child support arrears are held by noncustodial parents with more than $40,000 in annual income.[9]

While there are many institutions and systems that affect the livelihood of poor noncustodial parents, the courtroom is the center of some of the most stressful elements with which parents must contend. How do these individuals end up so involved in the courts by virtue of their parenthood? For a low-income couple, the most common scenario is one in which the custodial parent relies on any of a number of sources of public assistance that require her to cooperate with child support in identifying and locating her child's father in order to receive benefits. This cooperation may not be voluntary. Also, it is most important to bear in mind that identifying the father may not hold even the prospect of income support for a custodial parent and her children. If she receives welfare, in most states, any child support paid will be retained by the state as reimbursement for welfare costs. It is clear from our previous work in this area that many families are better off financially when they circumvent the system and the noncustodial parents pays the mother directly and informally.

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Often the custodial parent provides just enough information for the child support system to serve a summons to the noncustodial parent to appear in court for paternity and child support order establishment. But poor noncustodial parents have extremely unstable housing situations, and for this and many other reasons are likely to either not receive or to not respond to the summons. This sets off a series of events, including a default paternity establishment and a child support order that is often based on an imputed minimum wage that exceeds the parent's actual earnings. So, while child support debt is growing quickly, particularly in states that apply interest to the debt, a parent may be unaware of the debt until he is served with an arrest warrant. Even when the parent is aware that the debt is rising, he may be unable to contend with the system in order to attempt a modification to a lower order—a move that is exceedingly difficult and unlikely to result in a downward modification, and that will not reduce the amount of already accumulated child support arrears.

There are very few employment opportunities for parents with weak work histories and education or training who live in neighborhoods of poverty. Parents with barriers such as a criminal record or substance abuse may form a large core of the noncustodial parents who are deeply in debt, and for these parents the court system is extremely intimidating.

Process

Every local jurisdiction has its own particular process for handling noncustodial parents who are behind in child support payments. Enforcement can be initiated primarily by state administrative staff from the child support agency, or by prosecuting attorney's offices. In many communities, low-income noncustodial parents rarely see a judge no matter the process, unless they are sentenced to jail or prison for nonpayment.

In Cook County, Illinois, child support cases are heard in a central child support office in downtown Chicago. Most child support activities are carried out by a hearing officer who is not a judge. Only if parents cannot agree or if the noncustodial parent requests it, is the case likely to come before a judge. In most cases, the hearing officer makes a recommendation to the judge who reviews the recommendation without a hearing. Although the court cases are public, they are not commonly monitored. From our experience, it is not easy for observers who are not family members or support people to be allowed in the courtroom, despite their right to be present.

In Buchanan County, Missouri, child support enforcement is handled by the county prosecuting attorney's office. Buchanan County is particularly aggressive in enforcing child support. According to service providers we spoke to in that county, and the prosecuting attorney himself, the office prides itself on its efficiency in finding and prosecuting nonpayers before their arrearages get too high. Though small (its total population is approximately 86,000), Buchanan County accounts for a high proportion of arrests statewide for nonpayment. In 2002, 900 arrests for nonpayment of child support were made in the county. Perhaps because criminal charges are brought regularly and dockets are devoted exclusively to hearing the cases on particular days, hearings are open to the public. It appeared, however, that only persons with an immediate interest in the case were present on the day we observed.

In the state of Michigan, the Friend of the Court office handles most child support enforcement activities. The Michigan Family Independence Agency makes referrals for court orders for child support to the county prosecutor. After the written support order is signed by the judge and filed with the court clerk, the case is typically handled by the Friend of the Court office. The Friend of the Court is mandated to make recommendations to the circuit court judge on initial child support orders and to initi-

ate child support enforcement actions, including petitioning for an order to show cause requiring the noncustodial parent to appear in court for nonpayment. In spite of the judicial nature of the process, it is difficult for interested individuals to hear the cases and the dispositions. This is because much of the substance of the process happens during a meeting between the child support attorney and the client, who usually does not have a lawyer to represent him. The typical result of the meeting is a signed stipulation which is then sent to the judge for signature.

In Wayne County, Michigan, certain days are set aside for warrant court during which all cases involving contempt for nonpayment are heard. Approximately 50 parents appeared on the day we visited. Each case was called to a private meeting in the order in which they arrived.

In Dane County, Wisconsin parents first meet with the child support attorney who also seeks a stipulation that can be sent to a Family Court Commissioner. Family Court Commissioners hear cases and make judgments but are not judges. Wisconsin has a history of closing paternity cases from public view, and continues to do so through the child support issues of the case. A written request from the Center for permission to monitor paternity cases was denied by a Family Court Commissioner.

In the courtrooms we visited, we noted the following:

- It appeared to be extremely unusual for there to be any monitoring of the child support courts by persons without a direct interest in the cases. In fact, child support enforcement cases that go to court are so rarely monitored that in Chicago we were first told that the cases were private. Only when we asked to see the state law that provided for this privacy and a supervisor was consulted, was it confirmed that in fact the hearings were open to the public and we were allowed access to the courts. Most cases are heard without oversight from the public.
- Persons with legal representation were seen in the same courtroom as those without, but their cases were heard first. Although this may make sense logistically for the lawyers' workload, it results in a process that requires a much longer period of time away from work to contend with child support issues for those who cannot afford a lawyer and are likely to have the most tenuous jobs.
- Judges control every aspect of the process and the environment in the courtroom. This means that the treatment of persons can vary by the per-

sonality and mood of the judge or by his/her viewpoints outside of the actual case circumstances.

- When judges hear child support cases regularly, they are more likely to become jaded to the "excuses" of parents who have not paid their child support obligations. Such excuses must seem repetitious and insincere when heard consistently. In addition, judges are not necessarily aware of how the child support agency works as a practical matter with regard to welfare families, assuming that not paying child support strips children of needed resources when in many of these cases the child support payments are kept by the state as repayment for welfare costs.
- Judges were observed chastising clients in sometimes inappropriate ways. One client who had obtained a GED and a low-wage job, was told by a judge, "I'm sure you think your life's going good right now—but being 25 and in prison isn't something to look forward to." Another client was told, "I have my own kids to worry about. I don't need to be worrying about yours, too."
- In this same courtroom, one father arrived late and, when asked to explain, responded to the judge that he didn't get off work until 3:15 pm, and that he could not get to the court by the designated time of 3:00 pm. The judge responded, "Too bad. You're under arrest," and had the father move to the other side of the courtroom to be arrested. Only then, after a chilling few minutes for the father, did the judge tell him that he wasn't really under arrest but that, "you should know—if you'd been a few minutes later or I was in a bad mood, you'd be under arrest, you understand?" The judge later told the father that if he had not been late to court, "I could have been at the club watching my kids play tennis." This father had started a job that would allow him to begin making payments but stated that the employer would not let him off for his court date. He was also the only African-American father seen by the judge for child support on this day.
- In Chicago, defendants who had a lawyer were seen first, followed by those who had no lawyer. Last seen were those who had been arrested for nonpayment and had spent some time in jail because they could not afford the purge bond necessary to gain their freedom. These clients were male and mostly minority. Each one attested to the fact that he did not have the money to pay child support, could not raise the money from family or acquaintances and stated that as long as he was held in jail, he would be

unable to earn the money necessary to pay child support. In spite of this repeated scenario, each such defendant was returned to jail for two additional weeks and a hearing before another judge was set for that date.

- Parents facing incarceration for nonpayment of child support often contend with the system in a closed setting with no oversight or monitoring by the public or a legal professional.
- Clients who appeared to be from other countries were consistently asked about their legal status. In one case, the judge threatened that he could have the client deported despite the fact that the client had lived in the United States since he was 12 years old.
- One African-American parent in Madison was waiting in a hallway for his attorney who was informally discussing his case with the Family Court Commissioner. Another commissioner told him to "get out of the hallway", clearly not expecting that he was represented and so assuming that he did not belong there.
- A judge's visitation decision in Chicago involved a situation in which the mother suggested that there was possible danger to the child. In this case, the mother spoke no English and her lawyer had failed to appear. The judge asked both the mother and father if they preferred to continue and the mother answered that she did not. She explained that she wanted her lawyer present and that she had reason to fear for her daughter, but was cut off by the judge who ordered unsupervised visitation for the daughter with her father.

Fees

A striking observation in several courtrooms was the apparent priority placed by different stakeholders in obtaining payment from noncustodial parents for fees related to their services.

- Judges seemed to have the payment of court fees as a high priority. The presiding judge in Missouri made the payment of court fees by a particular date a condition of letting a noncustodial parent leave the courtroom. He repeatedly asked the parent for a date by which the court fees (not the child support payments) could be made, and stated that if the fees were not paid by that date, there would be a warrant for the parent's arrest.

- For prosecuting attorneys, payment of child support is clearly the priority.
- In Michigan, the friend of the court is required by law to charge a yearly fee to be paid by the noncustodial parent with a child support order.
- Noncustodial parents who are intimidated by the court system are easily persuaded to use scarce financial resources to hire private attorneys. Payment of attorney fees can cause severe hardship particularly when added to the other fees imposed during the process of contending with child support enforcement agencies.
- For many parents, yet more fees are charged related to incarceration work-release privileges, jail costs, probation fees and other locally mandated fees, the payment of which might all be a condition of probation or parole.

Legal Representation

In most jurisdictions there are private attorneys who specialize in child support cases, know each other well but often have large caseloads that prevent them from knowing their clients. In many of the courtrooms we watched, these attorneys would call out their client's name as the court room filled with cases, meeting the client for the first time just prior to the hearing. We overheard communication with clients that ranged from straightforward sharing of information to unsympathetic and even incorrect advice. In one case, a lawyer told her client, who said that he was sure that he was not the father, "You keep saying that, but you are until you find the real father." This lawyer's immediate reply failed to mention a genetic test that the father had a right to request. "Finding the real father" is not part of his legal responsibility.

For low-income parents, the choice to hire a lawyer means taking a risk of getting deeper into debt in the hope that having legal representation will improve the outcome of the case. For many noncustodial parents, however, the costs add to an existing burden without a tangible gain. Lawyers with a high turnover in cases who have little time to get to know their clients stand little chance of building a case that could persuade a judge to be lenient, even when the facts of the case might merit leniency.

Depending on the jurisdiction, when parents are facing a jail sentence for nonpayment, they usually (but not always) are given the right to a public defender if they cannot afford a lawyer. In practice, however, public

defenders have even larger caseloads, and obtaining their services can be challenging. Extremely low-income cut-offs for eligibility prevent many parents from obtaining a public defender.

Conclusions

It is particularly frustrating that outcomes for noncustodial parents in the courtroom depend on persuading a judge or attorney that they are legitimately trying but unable to find work, are painfully aware of the important role they play in the lives of their children, or are attempting to turn a lifetime of poor choices around for the sake of their children. All of these circumstances would merit leniency and support, and yet they are the most difficult to decipher. Is this particular parent using excuses simply to avoid paying child support, or is this a legitimate reason to provide another chance? When staff are overextended and hear the same excuses on a regular basis, it becomes more and more likely that they will increasingly find them to be just another excuse. The climate that results only discourages noncustodial parents from coming forward in the first place.

Another unfortunate aspect of the system for noncustodial parents is the high caseloads carried by child support staff, attorneys and judges. High caseloads lead to an increased likelihood that noncustodial parents will be viewed as "all the same," as making excuses, and not credible in their reasons for being unable to pay child support. In counties where arresting noncustodial parents for nonpayment is a high priority or a common practice, bringing more parents into the offices and courtrooms and increasing caseloads would likely increase the tendency to become jaded toward these parents.

The courtroom has such power over citizens who are unable to pay child support by virtue of poverty that it is an important place to focus efforts that might change some of the status quo. A more consistently open process that is easily monitored would provide some assistance, as would a program for educating judges and other persons involved in the system on the consequences of child support system practices for low-income parents. Some judges and other decision-makers are not aware of welfare policies such as reimbursement, believing that any money they can extract from a noncustodial parent will directly benefit the children. Training of courtroom personnel by persons familiar with the barriers faced by low-income parents might provide an alternate viewpoint on which more fair decisions could be made.

Promising Practices for Low-Income Parents

BY MARGUERITE ROULET

As the first paper in this series documents, the vast majority of states have begun to implement harsh enforcement measures for nonpayment of child support, including the filing of criminal charges and the use of incarceration. As noted above, these measures, while useful in securing payments from noncustodial parents with the means to pay, can have devastating consequences for low-income noncustodial parents who do not have the financial capacity to meet their child support obligations. Given these consequences, even as most states are employing more stringent and punitive enforcement measures, a few localities and states throughout the country are beginning to look into alternative practices and policies, in order to mitigate some of the more devastating consequences these are having for low-income parents and their families.

In June 2004 CFFPP sponsored a meeting with representatives from some of these programs. The goal of the meeting was to gain a better understanding of the program objectives and the services they provide as they address the intersection of child support and incarceration policies. All of the participating programs provide some form of comprehensive services that assist low-income noncustodial parents in stabilizing their child support situations and avoiding incarceration and/or in addressing child support and other issues during and after incarceration. The programs include:

- Program Protect (OK),
- Parents' Fair Share (MO),
- Fathers Support Center (MO),
- Project Impact (CA),
- Marin County Department of Child Support (CA),
- My Home Inc. (MN),

• The Urban League of Greater Madison (WI),
• Legal Action of Wisconsin (WI),
• Southeast Ministry (DC).

While the situations of individual programs vary, and the kinds of services they can provide vary accordingly, the discussion brought to light several avenues programs can pursue as they work with low-income noncustodial parents and their families.

The programs take a variety of approaches to these issues, from both a structural and programming point of view. While some programs are community-based (e.g., My Home Inc., Southeast Ministry), others represent collaborations among state agencies (Project Protect) or between private and public entities (Project Impact and Marin County Department of Child Support Services). Not all of the programs are able to provide the full array of services discussed—for example, Southeast Ministry's work with clients from the District of Columbia does not allow for a state focus in their work as they operate within a federal rather than state context; some agencies cannot address specific issues because the local child support agency is unwilling to participate, etc. However, while the situations of individual programs vary, and the kinds of services they can provide vary accordingly, the discussion brought to light several avenues programs can pursue as they work with low-income noncustodial parents and their families.

Overall, the kinds of services provided by these programs include:

- services in communities to assist individuals in overcoming child support and employment barriers to avoid the threat of incarceration;
- services immediately upon incarceration to help individuals who have child support orders try to modify or otherwise address these as soon as possible;
- pre-release services to assist individuals in addressing outstanding matters and acquiring credentials that will be necessary upon release (e.g., state ids);
- post-release services to assist individuals in securing employment and other matters necessary to establishing stability and to assist with ongoing child support issues.

The ultimate aim of all of these efforts is to enhance the ability of low-income noncustodial parents to establish stable lives and support their children over the long term. The following section highlights several of the programs and some of the innovations they have developed. (While all of the programs provide valuable resources and services, and most of them address child support and incarceration issues, we do not describe all of them here. Rather, our effort is to focus on three to four programs that

provide specific services pertaining to the intersection of child support and incarceration policies or that provide program services to help clients avoid incarceration for nonpayment of child support.)

Brief Program Descriptions

PROJECT: PROTECT

Partnership for Reintegration of Offenders Through Employment and Community Treatment

Project Protect is a pilot project in Oklahoma funded through the Department of Justice's offender re-entry initiative. It is a collaboration of numerous state agencies, including the Office of Child Support Enforcement, Department of Corrections, Workforce Oklahoma, and the Child Welfare Office.

The project is directed at incarcerated noncustodial parents and provides a variety of services related to employment, child support, parenting, AODA, health, housing, transportation, and family reunification. A primary component of this collaboration is identifying child support issues faced by incarcerated noncustodial parents and addressing these both during the period of incarceration and after release. While the project currently targets incarcerated parents two years prior to their release date, the ultimate objective is to identify individuals' child support concerns immediately upon incarceration and prevent the accumulation of arrearage debt. To this end, the Oklahoma Office of Child Support Enforcement has provided training on child support matters to transition workers who have been hired through the project to work with incarcerated noncustodial parents who are participating in the project. These staff, in turn, have access to participant parents' child support records and can work with these parents while they are incarcerated.

Currently, project participants—who are two years from their release date—meet with the transition workers to review their child support situation, and their child support orders may be modified to reflect prison wages. During this period, individuals also participate in a variety of programming in the areas listed above. (These may be provided either in prison or at a halfway house.) Upon release, the individual continues to work with a child support worker as well as a probation officer, and to receive services through

these and other agencies. For the first 90 days after release, certain child support enforcement remedies may be stayed, as the noncustodial parent seeks employment. While the state cannot eliminate all existing arrearage debt, it can negotiate that which is owed to the state, and custodial parents can forgive any arrears owed to them. Noncustodial parents continue to receive services and maintain connections with the Office of Child Support Enforcement after release.

The ultimate objectives of the project, as outlined by the state, are to:

- Provide an array of services to noncustodial parents both during incarceration and after release,
- Reduce recidivism, and
- Increase current monthly child support payments of incarcerated noncustodial parents in order to prevent the accumulation of arrears and ultimately increase child support collections from noncustodial parents upon release.

This last effort is further defined by emphasizing the need to focus on evaluating the earning potential and the debt level of participants and setting orders that accurately reflect the former, while working to reduce or eliminate the latter.

PROJECT: I.M.P.A.C.T.

MARIN COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES

Like Project Protect, the collaboration between Project IMPACT and the Marin County Department of Child Support Services is directed at noncustodial parents who are incarcerated. It is currently directed at fathers, but is ultimately aimed also at noncustodial mothers.

Project I.M.P.A.C.T. (Incarcerated Men Putting Away Childish Things) was established in 1995 in San Quentin Prison under the leadership of Chaplain Earl Smith. The program addresses numerous issues faced by incarcerated fathers and provides programming and services in such areas as relationship building, conflict resolution, life skills, substance abuse and violence prevention and provides referral services in the areas of housing, family law, and child support.

In early 2003 Project I.M.P.A.C.T. began to work directly with the

Department of Child Support Services and the Marin County Family Law Facilitator's Office to provide direct information about child support to incarcerated parents. Representatives from the Marin County Department of Child Support Services and Family Law Facilitators gave monthly presentations to inmates that included both a general overview of California child support policy and direct consultation with individuals to answer questions about their specific situations. The purpose of these presentations was, on the one hand, to inform incarcerated parents about their child support obligations and encourage them to address these, and, on the other, to simplify and expedite the process of modifying orders in order to prevent the accrual of arrears. The Marin County Department of Child Support Services received the simplified modification requests and disbursed them to appropriate local child support agencies within the state. State approval of the form and prioritization of these modification requests is designed to ensure that cooperating parents receive attention and are more likely to be able to adjust their orders to reflect their current financial status.

Over the course of the collaboration, representatives have found that the direct one-on-one interaction with noncustodial parents, during which they can address some of their specific questions, has been more successful (in terms of responses from noncustodial parents) than making forms and information widely available within the prison system. Consequently, the project has begun to enlist more representatives from the surrounding Bay Area to help provide regular information sessions in the prison. Secondly, the project aims to begin providing presentations to the inmates just entering the prison system to facilitate earlier intercession. The ultimate goal of the project is to expand to other prisons and jails within the state, with the overall objective of addressing the extremely high level of child support arrears that are currently owed within the state.

In addition to the child support and other services provided to noncustodial parents during incarceration, Project I.M.P.A.C.T. also provides services to noncustodial parents once they have been released.

PARENTS' FAIR SHARE

FATHERS SUPPORT CENTER

The Parents' Fair Share program is a Missouri program directed at low-income noncustodial parents who are struggling to meet their child support

obligations. Begun as part of a national demonstration project working with noncustodial parents, in 1993 Parents' Fair Share became the statewide program to work with noncustodial parents in Missouri. The program is state-run—originally operated through the Division of Child Support Enforcement, it is administered by the Division of Workforce Development within the Missouri Department of Economic Development. The program serves as a referral for, and collaborates with, other state agencies (e.g., the Department of Corrections, Department of Social Services, and Department of Elementary and Secondary Education). In addition, some of the local PFS programs have also developed relationships with other, private agencies serving low-income noncustodial parents, such as the Fathers Support Center in St. Louis. Both the state-run PFS program and the community-based Fathers Support Center provide services to low-income noncustodial fathers who are struggling with child support debt. While they work with parents who have been incarcerated, this is not their primary focus, and services are not exclusively directed at them.

PFS works with un- or underemployed noncustodial parents with child support orders who are eighteen years or older and provides a variety of services aimed at increasing their financial security and ability to support their children. The program provides educational GED services and vocational training, employment services, parenting and mediation services, peer support, and financial assistance for specific training or educational or other employment needs. In addition, while parents are enrolled in the program, their child support payment amounts can be reduced temporarily, and the PFS program will coordinate with the office of child support enforcement to suspend enforcement measures.

The program is broadly based, drawing funding from numerous state and federal programs (e.g., Department of Labor, Department of Social Services, etc.) and working with a broad array of state agencies (e.g., Career Centers, Workforce Investment Boards, WIA partner agencies, DOC, etc.). As such, the program can serve individuals who are facing very different situations and can be flexible in terms of the kinds of services that can be provided. One of the more striking aspects of the program is its capacity to provide paid training to noncustodial parents. Program participants are required to seek and obtain part-time employment while completing a Missouri Department of Elementary and Secondary approved training program funded by PFS. Parents' Fair Share participants can receive TRE (trans-

portation related expense) for up to $10 per day while being involved in a training program and also looking for part-time employment. The expectation of each participant is that child support be paid from authorized TRE, although payments are not mandated. The Missouri PFS program is unusual in that it not only offers paid training, but also coordinates its efforts with offices of child support enforcement to adjust child support orders and enforcement measures during the period of enrollment in the program.

The Fathers Support Center is not as specifically directed at child support issues as the PFS program but mandates that $25 per week is applied to child support payments for each dually enrolled participant. The Fathers Support Center focuses on supporting low-income noncustodial fathers in their efforts to be involved with their children. However, recognizing that child support often presents a barrier to such involvement, the program does provide services aimed at securing employment and enhancing financial stability, as well as legal and other assistance in addressing child support matters.

The program is an intensive, voluntary program that meets from 8 am until 4 pm, five days a week, for eight weeks. The program includes services that address personal life choices, relationship building, parenting, anger management, spousal abuse, job readiness, and job placement. The program also provides limited job training and housing assistance, legal assistance to program participants on matters of poverty and family law, peer support, and intensive case management. Program staff remain in contact with participants on a monthly basis for a year after they have completed the program and remain available as a resource for former participants. As such the Fathers Support Center represents a critical community resource that fathers and their families can turn to repeatedly as needed as they work to financially and/or socially enhance their lives.

Critical Program Components

Each of the programs described above incorporates numerous components that can be useful in assisting low-income noncustodial parents during and after incarceration. The following list identifies some of the program components other programs may wish to consider implementing. While some of these may be easily replicable, others may require considerable organizational planning (e.g., collaborations among agencies), or may not be possible in a given locality (e.g., developing special arrangements with child

support enforcement agencies). To assist others in learning more about the programs or about specific program aspects in greater detail, we have also included contact information for each of the programs.

PROJECT: PROTECT

- The project entails carefully developed collaborations among agencies that include cross training and access to records as appropriate.
- The project operates long term (two years) providing a broad range of services that can be accessed either in prison or at a halfway house, providing more opportunity for individuals to benefit from the services.
- Currently the project focuses on noncustodial parents who will be released from prison in two years. However, the ultimate objective is to work with noncustodial parents as soon as they are incarcerated in order to address child support and other issues immediately. This will help reduce the accrual of arrears and will help make parents aware of their specific situations in regard to their child support obligations.
- Child support orders may be modified to reflect prison wages, thus avoiding the accrual of arrears.
- The project maintains continuity of services for noncustodial parents after they are released, and probation officers remain in contact with both caseworkers and child support workers.
- The project provides for a 90-day stay on certain child support enforcement remedies when the noncustodial parent is released.
- The project focuses on reducing arrears. The state can negotiate child support debt that is owed to the state (and custodial parents can forgive arrears that are owed to them).
- By forgiving state debt, modifying orders during incarceration, and providing a period for noncustodial parents to secure employment upon release, the project focuses on establishing and collecting accurate child support orders that reflect individuals' ability to pay and reduces the likelihood that large arrears will accrue.
- Although the project is not only concerned with child support issues and has other goals as well (for example, the reduction of recidivism), the importance of child support is recognized within these efforts. At the

same time, the project provides a broad array of services that are critical to establishing security and stability after incarceration.

PROJECT: I.M.P.A.C.T.

MARIN COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES

- Like Project Protect, this effort involves a carefully developed collaboration between agencies, including the Department of Corrections and Offices of Child Support Enforcement. Unlike Project Protect, which was initiated as a state-level pilot project, this collaboration began at the local level, with the interaction of a county child support office and a prison-based program. However, over time the project has received state sanction and is being explored as a model for other programs and counties throughout the state.
- The project addresses low-income incarcerated fathers' needs and concerns in a holistic manner and provides a broad array of services. At the same time, it recognizes that child support, and specifically, the accrual of large arrears during incarceration, presents a tremendous barrier upon release, and thus addresses this issue directly.
- The project has created simplified forms for parents to request modifications of existing child support orders and has provided a centralized and expedited process for addressing these.
- Through regular presentations in the prison, noncustodial parents have direct contact with child support representatives and Family Law Facilitators and can discuss issues that are directly pertinent to their situations. According to project representatives, this direct contact has proven very effective in engaging parents in the process and making it more understandable and manageable for them.
- Like Project Protect, Project I.M.P.A.C.T. maintains contact with noncustodial parents in neighborhood communities after they have been released and provides continuity of services for them through the linking of pre-release and post-release services.

PARENTS' FAIR SHARE

FATHERS SUPPORT CENTER

- The Parents' Fair Share program leverages funding from many different sources and is able to provide varied programming accordingly.
- The PFS program is able to provide participants with paid training. Frequently, low-income noncustodial parents cannot take advantage of training programs unless these are paid.
- The PFS program works closely with the office of child support enforcement and can help coordinate specific child support payment arrangements for participants while they are in the program.
- A representative of the PFS program or a representative of the child support enforcement office with knowledge of the PFS program is available to those seeking employment at Missouri Career Centers.
- The PFS program has established collaborations with numerous state and private agencies, thus permitting them to reach a broad population and provide a broad array of services.
- The Fathers Support Center provides intensive case management, with long-term daily contact for 8 weeks, followed by monthly contact for over a year.
- The Fathers Support Center operates as a voluntary program, thus drawing individuals who are interested in the program's offerings and maintaining a non-coercive environment.
- The Fathers Support Center works with numerous lawyers who provide legal services to participants on matters of family and poverty law.
- Both programs emphasize the importance of peer support for participants and build this into their services.

Additional Program Services

In addition to the services provided through the programs discussed above, other programs represented at the CFFPP meeting provide services that can be critical when working with low-income noncustodial parents.

- One of the key issues addressed was the provision of legal information

and services to low-income noncustodial parents and their families. Like the Fathers Support Center, which also provides some legal assistance to families, Legal Action of Wisconsin was able to provide low-income noncustodial parents in Milwaukee with limited legal assistance pertaining to employment barriers through a program entitled "Legal Intervention For Employment," (a project supported by federal funds through the Private Industry Council and through referrals from a number of service providers). The project did not work with incarcerated individuals but rather with individuals in the community who were struggling with employment and child support issues. The project provided legal assistance in reinstating driver's licenses, correcting information on criminal background records, and on numerous child support matters, from arrears reductions to current support modifications. LAW worked closely with the Milwaukee County child support enforcement office to reduce or eliminate state-owed arrears and interest for noncustodial parents who were able to work and pay their obligations for six consecutive months. Funding for this particular project was discontinued, but other federal funds have been obtained for a two-year LIFE demonstration project in Milwaukee and several other counties in the state of Wisconsin where LAW continues to focus on the kinds of issues noted above for noncustodial parents referred by partner agencies who assist low-income people in their attempts to obtain employment.

- Several of the programs (including Southeast Ministry, the Urban League of Greater Madison, My Home Inc., as well as those described in greater detail above) incorporate a strong peer support component. This has long been recognized as an important aspect of programs serving low-income noncustodial parents, who frequently receive little public support and have very few venues in which they can freely discuss issues they are facing with others who are in similar situations.
- Program representatives also highlighted the importance of finding means to inform low-income noncustodial parents about some of the policies and practices that can have significant implications for them and their families.

The list of services provided through the programs described above is not exhaustive. However, it does suggest some areas that programs, state agencies, and policy makers might consider as they examine ways to mitigate some of the unintended consequences of stronger enforcement policies for low-income noncustodial parents and their families.

Program Contact Information

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Project I.M.P.A.C.T.
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California State Prison
San Quentin, CA 94964
Phone: 415-454-1460 ext. 5307

Marin County Department of Child Support Services
VaDonna Danesi
Supervising Child Support Officer
7655 Redwood Blvd
Novato, CA 94945
Phone: 415-499-6512

Parents' Fair Share
Steve Gibson
Department of Social Services
Division of Child Support Enforcement
P.O. Box 2320
Jefferson City, MO 65102-2320
Phone: 1-800-735-2466

Fathers Support Center
Halbert Sullivan
P.O. Box 2055
St. Louis, MO 63158
Phone: 314-621-2737

My Home, Inc.
Farris Glover
1010 University Avenue, Suite 1
Saint Paul, Minnesota 55104
Phone: 651-659-3059

Southeast Ministry, Program Site
Chester Hart
3111 Martin Luther King, Jr. Avenue, SE
Washington, DC 20032
Phone: 202-562-2636

Urban League of Greater Madison
Brian Benford
Fatherhood Responsibility Program
151 East Gorham
Madison, WI 53707
Phone: 608-251-8550

Legal Action of Wisconsin
230 W. Wells Street, Room 800
Milwaukee, WI 53203
Phone: 414-278-7722

FOOTNOTES

[1] United States Office of Child Support Enforcement, Understanding Child Support Debt: A Guide to Exploring Child Support Debt in Your State. July 2004.

[2] May, Rebecca, The Effect of Child Support and Criminal Justice Systems on Low-Income Noncustodial Parents. Center for Family Policy and Practice, June 2004.

[3] U.S. Office of Child Support Enforcement, op.cit.

[4] Roberts, Paula, An Ounce of Prevention and a Pound of Cure: Developing State Policy on the Payment of Child Support Arrears by Low Income Parents, Center for Law and Social Policy, May 2001.

[5] U.S. Office of Child Support Enforcement, op.cit.

[6] Sussman, Scott and Corey Mather. Criminal Statutes for Non-Payment of Child Support, Center for Family Policy and Practice, 2003.

[7] States use a new carrot to collect child support, December 2, 2004. The Christian Science Monitor. www.csmonitor.com.

[8] Pate, David J. Jr., The Life Circumstances of African American Fathers with Children on W-2: An Ethnographic Inquiry, Focus, Vol. 22, No. 2, Summer 2002.

[9] United States Office of Child Support Enforcement, Understanding Child Support Debt: A Guide to Exploring Child Support Debt in Your State. July 2004.

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EXHIBIT J

Compliance Dates For The Flexibility, Efficiency, And Modernization In Child Support Enforcement Programs Final Rule

Source:

Office of Child Support Enforcement | ACF

Published: December 20, 2016

COMPLIANCE DATES FOR THE FLEXIBILITY, EFFICIENCY, AND MODERNIZATION IN CHILD SUPPORT ENFORCEMENT PROGRAMS FINAL RULE

Effective Date (when the final rule goes into effect): 30 Days after Federal Register Issue Date, or January 19, 2017

Compliance Date (when states must comply with the final rule revisions): 60 Days after Issue Date, or February 21, 2017, **except for:**

Federal Requirement	Compliance Date
45 CFR 302.32: Collection and distribution of support payments by the IV-D agency	30 days after December 20, 2016, or January 19, 2017
45 CFR 302.33(a)(4): Services to individuals not receiving title IV-A assistance – Former IV-E recipients	If state law revisions are not needed, the compliance date is 1 year after December 20, 2016, or December 20, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
45 CFR 302.33(a)(6): Services to individuals not receiving title IV-A assistance – Paternity-only Limited Service	No specific date since this is an optional requirement
45 CFR 302.38: Payments to the family	If state law revisions are not needed, the compliance date is 60 days after December 20, 2016, or February 21, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
45 CFR 302.56(a) – (g): Guidelines for setting child support orders	1 year after completion of the first quadrennial review of the state's guidelines that commences more than 1 year after December 20, 2016
45 CFR 302.56(h): Guidelines for setting child support orders	First quadrennial review of the guidelines commencing after the state's guidelines have initially been revised after the final review
45 CFR 302.70: Required state laws –Exemptions	30 days after December 20, 2016, or January 19, 2017
45 CFR 303.3: Location of noncustodial parents	If state law revisions are not needed, the compliance date is 1 year after December 20, 2016, or December 20, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
45 CFR 303.4: Establishment of support obligations	1 year after completion of the first quadrennial review of the state's guidelines that commences more than 1 year after December 20, 2016
45 CFR 303.6(c)(4): Enforcement of support obligations – Civil contempt	If state law revisions are not needed, the compliance date is 60 days after December 20, 2016, or February 21, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.

Federal Requirement	Compliance Date
45 CFR 303.8(b)(2): Review and adjustment of child support orders Optional notice for incarcerated noncustodial parents	No specific date since this is an optional requirement
45 CFR 303.8(b)(7)(ii): Review and adjustment of child support orders Mandatory notice for parents when noncustodial parent incarcerated	If state law revisions are not needed, the compliance date is 1 year after December 20, 2016, or December 20, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
45 CFR 303.8(c): Review and adjustment of child support orders – Incarceration basis for adjustment	1 year after completion of the first quadrennial review of the state's guidelines that commences more than 1 year after December 20, 2016
45 CFR 303.8(d): Review and adjustment of child support orders – Health care	1 year after completion of the first quadrennial review of the state's guidelines that commences more than 1 year after December 20, 2016
45 CFR 303.11(b): Case closure criteria	No specific date since this is an optional requirement
45 CFR 303.11(c) and (d): Mandatory provisions of case closure criteria	If state law revisions are not needed, the compliance date is 1 year after December 20, 2016, or December 20, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
45 CFR 303.31: Securing and enforcing medical support obligations	If state law revisions are not needed, the compliance date is 60 days after December 20, 2016, or February 21, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
45 CFR 303.100: Procedures for income withholding	30 days after December 20, 2016, or January 19, 2017
45 CFR 304.20: Availability and rate of federal financial participation	No specific date since this is an optional requirement
45 CFR 304.23: Expenditures for which federal financial participation is not available	30 days after December 20, 2016, or January 19, 2017
45 CFR 307.11(c)(3)(i) and (ii): Functional requirements for computerized support enforcement systems in operation by October 1, 2000	If state law revisions are not needed, the compliance date is 1 year after December 20, 2016, or December 20, 2017. If state law revisions are needed, the compliance date is the first day of the second calendar quarter beginning after the close of the first regular session of the state legislature that begins after the effective date of the regulation.
Topic 2 Revisions: Electronic records	No specific date since this is an optional requirement
Topic 3 Revisions: Technical revisions	30 days after December 20, 2016, or January 19, 2017

EXHIBIT K

No Default Judgment in Contempt

Source:

A UNC School of Government

https://civil.sog.unc.edu

https://civil.sog.unc.edu/no-default-judgment-in-contempt/

By
Cheryl Howell
'

Cheryl Howell is a Professor of Public Law
and
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at 5:00 am
and
is filed under Civil Law,
Civil Practice,
Family Law.

No Default Judgment in Contempt

Even when contempt is based upon the failure to pay child support, the contempt order must contain the conclusion of law that respondent willfully violated the court order. That conclusion must be supported by findings of fact showing respondent actually has/had the ability to comply or to take reasonable steps to comply and deliberately failed to do so. Those findings of fact must be based on evidence.

In other words, a contempt order cannot be entered by default - a court cannot assume a respondent has the ability to comply simply because the respondent fails to prove he/she does not have the ability to comply.

Civil Contempt

A civil contempt proceeding can be initiated in one of three ways:

- Pursuant to GS 5A-23(a1), by filing a verified motion, or a motion along with an affidavit, and a notice of hearing on the contempt motion; or
- Pursuant to GS 5A-23(a), by filing a verified motion, or a motion along with an affidavit, that includes a request for a show cause order;
- And for child support contempt only, pursuant to GS 50-13.9(d), by filing an affidavit and asking a judge or a clerk to issue a show cause order.

In all three situations, the court can hold the respondent in civil contempt only if the court concludes:

- The order being violated remains in force;
- The purpose of the order may still be served with the respondent's compliance with the order;
- The respondent's failure to comply with order is **willful**; and
- The respondent **has the present ability to comply** with the order in whole or in part or take reasonable steps that would enable him/her to comply in whole or in part.

GS 5A- 21(a).

Since the purpose of civil contempt is to force compliance, the only remedy is imprisonment until the respondent complies with the order. GS 5A-21. The court must ensure the respondent "holds the keys to the jail" by ordering a purge that respondent has the actual present ability to perform. *Jolly v. Wright*, 300 NC 83 (1980)(respondent must have the actual present ability to purge himself of contempt at the time he is jailed).

Who Issues the Show Cause in Civil Contempt?

For civil contempt actions pursuant to GS 5A-23(a), only a judge can issue the show cause order. Moss v. Moss, 222 NC App 75 (2012). In child support cases, GS 50-13.9(d) allows the show cause to be issued either by a judge or by a clerk of court.

When Can a Show Cause Order be Issued?

No show cause should be issued unless there are facts in the verified motion or affidavit that will support the conclusions required for contempt. This is because the show cause is issued only upon a finding of **probable cause** to believe obligor is in contempt. GS 5A-23(a). This means that in addition to alleging respondent has failed to comply with an order, the motion/affidavit also must contain credible allegations that provide a reasonable ground for believing the respondent is willfully failing to comply with the order. Young v. Mastrom, Inc., 149 NC App 483 (2002).

'Burden of Proof'

When contempt is initiated pursuant to GS 5A-23(a1) by motion and notice of hearing, the moving party has the burden of going forward with evidence at the contempt hearing to establish the factual basis for contempt. GS 5A-23(a1).

When contempt is initiated by a verified motion or affidavit and the issuance of a show cause order, either pursuant to GS 5A-23(a) or GS 50-13.9(d), the burden of going forward with evidence at the hearing is upon respondent. Shumaker v. Shumaker, 137 NC App 72 (2000). However, this is only because a judge or clerk previously determined – based on specific factual allegations in the verified motion or affidavit – there is probable cause to believe respondent is in contempt.

Despite this shifting of the burden of proof, no contempt order can be entered without sufficient evidence to support the conclusion that respondent acted willfully and has the present ability to comply with the purge ordered by the court. *Henderson v. Henderson*, 307 NC 401 (1983); *Lamm v. Lamm*, 229 NC 248 (1948). While appellate courts have stated that a respondent who fails to make an effort to show a lack of ability to comply "does so at his own peril", *Hartsell v. Hartsell*, 90 NC App 380 (199), it is clear there can be no default contempt order.

Criminal Contempt

There is only one way to initiate an indirect criminal contempt proceeding. GS 5A-15(a) provides that a judicial official – either a clerk or a judge – initiates the proceeding by issuing a show cause order. The statute does not require a verified motion or affidavit, but the show cause order must contain adequate information to put respondent on notice of the allegations forming the basis for the charge. *O'Briant v. O'Briant*, 313 NC 432 (1985).

The purpose of criminal contempt is to punish, so the focus is on the past behavior of respondent. So for example, if contempt is based on the failure to pay child support, criminal contempt must be based on the conclusion – adequately supported by factual findings that are adequately supported by evidence – respondent willfully failed to pay at some point in the past. In criminal proceedings, despite the fact that the action is initiated by a show cause order, the burden of presenting evidence at trial always remains with the moving party and the court must find willful disobedience beyond a reasonable doubt. GS 5A-15(f).

As the goal of criminal contempt is to punish rather than force compliance, the court has the option of ordering imprisonment, a fine, or censure. GS 5A-12. None of these require the court to conclude respondent has the present ability to comply **at the time the contempt order is entered**, as is required with a purge in civil contempt.

Ability to Pay

So what evidence is sufficient to show actual ability to comply? That’s the topic of my next blog. Stay tuned.

EXHIBIT L

Factors and Outcomes Associated with Patterns of Child Support Arrears

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Factors and Outcomes Associated with Patterns of Child Support Arrears

Hyunjoon Um

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requirements for the degree of
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ABSTRACT

Factors and Outcomes Associated with Patterns of Child Support Arrears

Hyunjoon Um

The term “deadbeat dad” has been used to refer to nonresident fathers who intentionally avoid meeting child support obligations. Such a stereotypical image has reinforced the notion that public policy should strengthen the child support enforcement system to prevent nonresident fathers from escaping their financial obligations to their children. Public pressure, along with the need to recoup government expenditures on welfare costs, has compelled the federal and state governments to build a strong child support enforcement program during the past decades. Although many empirical researchers have found that strict child support enforcement is responsible for an increase in child support payments received through a formal system, the extent of non-payments still remains high. Arrears, defined as unpaid child support either owed to custodial families or the government, grew to over $115 billion nationally. Although the Office of Child Support Enforcement (OCSE) collected and distributed approximately $7 billion of these arrears in 2016, 11.3 million child support cases still had arrears remaining.

Despite the growing problem of child support arrears, relatively little research has been carried out on the long-term factors and outcomes associated with arrears accumulation. This is because prior studies of child support arrears rely on cross-sectional data, which cannot adequately address this research gap. What is more, in regarding information on child support outcomes, many previous child-support studies rely predominantly on maternal reports rather than on information obtained directly from the noncustodial fathers, which may introduce measurement errors. The proposed study will solve this problem by using data from Fragile Families and Child Well-Being Study, a longitudinal survey of 4,898 children born to married and unmarried parents in the major cities in the U.S. between 1998 and 2000. Because the data

are the first and only longitudinal information providing a nationally representative sample of unmarried fathers, it is eminently suited to address the limitation of prior research.

The objective of the proposed three-paper dissertation is to address gaps in the literature by exploring the following three questions.

Question 1. What are the effects of state-level child support enforcement policies on long-term individual patterns of arrears accumulations among noncustodial fathers?

Strong child-support enforcement is responsible for noncustodial father's child support arrears accumulation. However, little is known about the extent to which child support policies affect noncustodial fathers' long-term patterns of arrears accumulation. Studying the long-term patterns of arrears accumulation is potentially important, especially for policy makers who would be better able to make informed decisions about the timing of policy intervention. This chapter will examine the long-term impact of child support policies that penalize a father who had failed to comply with child support obligations on his arrears accumulation patterns.

Question 2. What is the association between arrears and fathers' later health/mental health outcomes?

The next chapter of the study will discuss one of the detrimental consequences of child support arrears: fathers' health and mental health problems. While several notable qualitative studies have provided anecdotes about challenges that the noncustodial fathers face after the accumulation of child support arrears, only one quantitative study examined the association between the fathers' arrears and their health and mental health problems. The proposed study

will address these gaps in knowledge by using the stress process model proposed by Pearlin and colleagues.

Question 3. How child support indebtedness matter for residential union formation among non-resident couples at childbirth?

How money matters for union transitions among low-income unmarried parents have been of great interest to policy makers given the extensive evidence that marriage (or cohabitation) is associated with lower rates of child poverty. Child support enforcement is the tool intended to mitigate financial loss experienced by children. The system simply collects money from the noncustodial parent (usually fathers) and distributes it to the custodial parent (usually mothers). Therefore, the child support system is highly linked to union transitions decisions among parents who are either recipients or obligors of child support. Despite extensive empirical studies on this topic, limited research has been aimed at understanding the adverse consequences of child support enforcement and its impact on union formation. That is, rather than successfully collecting money from noncustodial fathers, some governments' efforts could be failed to make many low-income fathers comply with their obligations, resulting in a decline in the amount of child support received by custodial mothers. Thus, this chapter will investigate whether fathers' arrears accumulation affects transitions to residential unions among parents not living in such unions at childbirth. In this chapter, parents who did not cohabit at birth, but who subsequently formed residential unions with one another or with a new partner are modeled as competing risks using a discrete-time competing risks hazard model framework.

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Chapter 1.

The Effects of State-level Child Support Enforcement on Long-term Patterns of Arrears Accumulations among Noncustodial Fathers

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I. INTRODUCTION

The goal of the child support program is to make sure that children receive financial support from both parents, to compel both parents to remain involved in children's lives, and to reduce welfare costs. Another responsibility of the program is to collect accrued child support payments owed either to custodial families or to the government. When the custodial family receives public assistance, the custodial parent is required to cede their right to child support payments to the state under Federal law. If the noncustodial parent does not comply with the obligation, then the delinquent child support will be treated as a debt owed to the government. As of November 2013, a quarter of all arrears were owed to the government, a number that dropped from 51 percent in November 2002 (Office of Child Support Enforcement, 2014).

Delinquent payments of child support are detrimental in many respects. If the arrears are owed to custodial families, children may receive less support than needed. A substantial research literature shows that children with limited financial resources are at risk of adverse outcomes including academic failure (Dahl & Lochner, 2005), and behavioral and cognitive problems (Aughinbaugh & Gittleman, 2003; Blau, 1999; Yeung, Linver, & Brooks–Gunn, 2002). If the arrears are owed to the government, delinquency in the payment of child support debt negatively affects the money the state collects, further burdening taxpayers.

In addition, an arrears debt may be problematic in and of itself. Noncustodial fathers with high arrears can lose hope of ever repaying the amount owed (Waller & Plotnick, 2001) and are more likely to avoid working in the formal labor market than those fathers with no arrears burden (Bartfeld & Meyer, 2003; D. P. Miller & Mincy, 2012). The fathers may also be subject to punitive enforcement actions, such as tax refund intercepts, asset seizure, driver's license restrictions, and even incarceration that may affect their ability to pay child support and, as a

result, can aggravate the arrears problems (Holzer, Offner, & Sorensen, 2005; Sorensen, Sousa, & Schaner, 2007; Turetsky, 2007). Moreover, mothers with a large amount of uncollected child support debts owed by noncustodial fathers may not allow their child to visit with those fathers (Turner & Waller, 2017).

In response to these problems, policymakers have enacted a range of child support policies intended to close gaps between the incomes available to children in single and two parent families, however, many policy measures have contributed to the growth in arrears (Bartfeld, 2003; Sorensen et al., 2007; Sorensen & Turner, 1997). In addition, the distribution of arrears is highly skewed toward low-income fathers, suggesting that fathers' ability to pay could be responsible for the growth in arrears (Kim, Cancian, & Meyer, 2015; Sorensen et al., 2007).

Despite a growing body of research on the accumulation of child support arrears, little is known about the extent to which the state and individual-level factors contribute to noncustodial father's long-term patterns of arrears accumulations (Bartfeld, 2003; Heinrich, Burkhardt, & Shager, 2011; Pearson & Davis, 2002; Roberts, 2001; Sorensen, 2004; Sorensen, Koball, Pomper, & Zibman, 2003; Sorensen et al., 2007). Much of the previous research relies on a cross-sectional data set, which is limited to one period, therefore, it may be unable to distinguish between two noncustodial fathers who have accumulated the same amount of arrears but over different amounts of time (Kim et al., 2015). If policymakers can predict which of those two fathers would accumulate arrears more rapidly over the next several years, then they can allocate their resources more effectively to avoid further accumulation of arrears (Bartfeld, 2003; Heinrich et al., 2011; Roberts, 2001; Sorensen et al., 2007).

A study conducted by Kim, Cancian, and Meyer (2015) is the only previous literature that examined the long-term trajectories of child support arrears. Using longitudinal data drawn from

the Wisconsin administrative data system, Kim and colleagues (2015) identified six idiosyncratic patterns of arrear accumulations among noncustodial fathers who established their first child support order in 2000. The study found that almost half the fathers in their sample never accumulated a substantial amount of arrears over the 11 years. In addition, once arrears were accumulated, it appears that one-fifth of the cases with increased at a slow pace, while the remainder showed a rapid increase at a certain point in time (Kim et al., 2015).

Although Kim and colleague (2015) offered an informative picture of the patterns of arrears growth, they did not provide any insight into what factors make each trajectory group distinct from the others. Moreover, the data they used was not nationally representative, which inevitably called into question whether the results would be generalizable to people in other states. Lastly, they have not investigated the outcomes for nonresident fathers during childbirth who are less likely than resident parents to comply with child support obligations. To overcome these shortcomings, the proposed study will draw on data from the Fragile Families and Child Wellbeing Study (FFCWS), a longitudinal birth cohort study designed to explore a comprehensive understanding of unmarried parents and their children. The objective of this first chapter is to inform state and local OCSE managers and policymakers about the several factors associated with the long-term growth in arrears.

II. THEORETICAL FRAMEWORK AND EMPIRICAL EVIDENCE

There are no direct theoretical studies available to predict the accumulation patterns of child support arrears among noncustodial fathers. Nevertheless, the study of child support compliance may be consistent with the context in which the fathers are delinquent in paying off their child support debts (Kim et al., 2015). This study uses Beller and Graham's (1996) economic model of child support as a theoretical framework. They use a simplified version of the

theory of the consumer to help identify the factors associated with the child support payments of noncustodial fathers. They find that compliance (or payments) with child support obligations by noncustodial fathers depends on three determinants, including *the child support enforcement, the father's ability to pay, and the father's willingness to pay.*

Child Support Enforcement and Arrears Accumulation

The Federal government has enacted several child support laws ranging from automatic wage garnishment to intercepting federal tax refunds to collect delinquent payments. Although every state has already adopted most of these laws, there is still variation in child support enforcement practices amongst states because the enforcement is a state-run entity (Sorensen et al., 2007). A large body of research indicates that accumulation of arrears is, in part, the result of state-level enforcement policies (Office of Child Support Enforcement, 2014; Sorensen, 2004; Sorensen et al., 2003, 2007). According to a report from the Institute for Research on Poverty (Bartfeld, 2003), nearly 50 percent of total debts were attributable to the following four state-level policies: *interest on arrears, retroactive support orders, lying-in costs,* and, *other fees.* The *interest on arrears* is a penalty charged on past-due child support payments. A certain assessment of interest may contribute to a large arrears balance. In the nine-state study about child support arrears, Sorensen and colleagues (2007) showed that states that assessed interest on a routine basis had a higher arrear growth rate than other states between the 1990s and 2000s. The *retroactive support order* is an obligation that covers the period prior to establishing a child support order. This order usually does not include the direct support given to children before the order was established (Sorensen, 1997b; Sorensen & Turner, 1997; Waller & Plotnick, 2001). The retroactive order is a crucial factor contributing to arrears growth for some states, including Colorado, where 19 percent of total arrears consisted of the retroactive order (Thoennes, 2001).

Therefore, noncustodial parents who are required to pay child support prior to the establishment of the current order are less likely to comply with their obligations. Lastly, *lying-in costs* usually refer to the reimbursement for Medicaid costs associated with the birth of the child, and *other fees* refer to any charges associated with paternity establishment, including genetic testing, court, and attorney fees.

The accumulation of arrears depends on the length of time the fathers remain in the child support system, which can be defined *as a case-length effect*. As mentioned by Bartfeld (2003) and the U.S. Department of Health and Service (2000), the four state-level policies mentioned above will directly cause an increase in arrears over time after the establishment of the child support order. This suggests that the longer the father stays in the child support system, the more likely he is to accumulate child support arrears. According to this view, this study posits the following hypothesis:

HYPOTHESIS 1: *Nonresident fathers who have been in the child support system for a long time may have a high level of child support arrears*.

The case-length effect may vary depending upon the efficiency of the enforcement system designed to collect accrued child support payments. A long literature has sought to investigate various aspects of how the ineffectiveness of the child support system is responsible for arrears accumulation. For instance, child support agencies' limited ability to modify support orders would lead to the accumulation of greater arrears when a noncustodial parent's income declines (Ha, Cancian, & Meyer, 2010; Johnson, Levine, & Doolittle, 1999). Furthermore, some states establish child support orders based on noncustodial parents' "imputed income", which does not necessarily reflect the low-income noncustodial parents' ability to pay (Turetsky, 2000;

U. S. Department of Health and Human Services, 2000). [1] The Office of Inspection General (2000) found that a larger percentage of IV-D cases with order amounts established using imputed income exhibited lower compliance than cases with orders using non-imputed income.

To promote the efficiency of child support enforcement, Congress enacted the Child Support Performance and Incentive Act (CSPIA) of 1998[2] (U.S. Government Accountability Office, 2011) and rewarded states that perform well based on the National Child Support Goals measured by a number of achievements, including: arrearage collection, paternity establishment, order establishment, current collection, and cost-effectiveness (Solomon-Fears, 2013). More specifically, thirty-three percent of annual administrative expenditure, or $500 million,[3] are given to the states that have achieved high levels of performances in those goals (U.S. Government Accountability Office, 2011).

To compete for the incentives, state and local governments had to develop a number of strategies to improve the collection of delinquent child support obligations. One strategy is to prevent further accumulation of arrears. Another strategy is to reduce existing arrears (Bartfeld & Meyer, 2003; Heinrich et al., 2011; Sorensen et al., 2007). The preventive strategy includes: establishing realistic child support orders and ease the process for applying for and obtaining a modification, reducing lying-in costs and interest rates charged on arrears, and eliminating retroactive orders. Given the substantial amount of arrears that have already accrued, debt reduction policies, such as the debt compromise program, are the favored arrears reduction strategy being introduced by many states and counties (U. S. Department of Health and Human

[1] The income is imputed based on the noncustodial parents' most recent work history. For low-income men, however, the imputed income usually overestimate the actual income because of their labor market instability (Turetsky, 2000).
[2] Pub. L. No. 105-200, 112 Stat. 645 (1998)
[3] The fund was adjusted to inflation rate, and the amount of which was increased to 504 million in FY2010 (Gerrish, 2017).

Services, 2007). The underlying philosophy for debt compromise programs is to use state resources to help noncustodial parents pay off child support debts. As of September 2018, 45 states were operating such programs, each of which has its own requirements for eligibility (Office of Child Support Enforcement, 2019). Each of the programs is expected to increase collections on child support debt from noncustodial parents without hurting their financial stability (Heinrich et al., 2011).

In sum, a vast majority of past studies have shown that the accumulation of child support arrears can vary depending on the degree of child support enforcement. Therefore, we can easily assume that compared to nonresident fathers who lived in states with more effective child support enforcement policies, those fathers living in the state with less effective enforcement policies will accumulate more child support debts. However, no study has investigated whether the efficiency effect may operate through the case-length effect. It seems plausible that fathers who respond to the effective child support system may be the one who has accumulated high arrears due to being in the child support system for a long time. On the contrary, fathers who have recently established child support orders may not be responsive to the efficiency of the enforcement system because their arrears amounts are not large enough to be eligible for debt reduction or adjustment programs. This leads to the following hypothesis:

HYPOTHESIS 2: *The efficiency of child support policies will have a strong impact on noncustodial fathers who have been in the child support system for a long time.*

A Role of Fathers' Ability to Pay Child Support in Arrear Growth Model

A long history of empirical research has generally found that a nonresident father's ability to pay is positively associated with child support compliance (Garfinkel, Glei, & McLanahan, 2002; Garfinkel, Meyer, & McLanahan, 1998; Garfinkel & Oellerich, 1989; C.

Miller, Garfinkel, & McLanahan, 1997; Sinkewicz & Garfinkel, 2009; Sorensen, 1997a). While the early studies often use fathers' income as a proxy for ability to pay (Bartfeld & Meyer, 1994, 2003; C. Miller et al., 1997; Sonenstein & Calhoun, 1990; Sorensen, 1997a, p. 199), later studies have presented new estimates of the ability to pay, that include incarceration (Geller, Garfinkel, & Western, 2011), multiple fertility (Sinkewicz & Garfinkel, 2009), and the burden of the order (Meyer, Ha, & Hu, 2008).

The evidence of child support compliance appears to be consistent with the context of a father's arrears accumulation (Kim et al., 2015). Evidence from a study of nine large states suggests that low-income fathers are likely to owe a large amount of arrears (Sorensen et al., 2007). More specifically, fathers who make less than $10,000 per year owe two-thirds of child support debt. The study also showed that 54 percent of total arrears were owed by 11 percent of the noncustodial parents, and each of these "high debtors" owed $30,000 or more (Sorensen et al., 2007). The most recent data from OCSE Federal Offset Debtor File found similar results, showing that only 17 percent of obligors owed 55 percent of total arrears, and each of these debtors owed $40,000 or more (Putze, 2017).

The high rates of arrears accumulation among low-income fathers may stem from their limited ability to access labor markets (Sorensen & Zibman, 2001). Prior research provided a list of potential barriers to work, which can take the form of poor work history, low educational attainment, dependence on drugs or alcohol, and health limitations (S. Danziger et al., 2000; S. K. Danziger & Seefeldt, 2003; Lipscomb, Loomis, McDonald, Argue, & Wing, 2006; Pugh, 1998). The presence of such barriers to work would likely hamper low-income fathers' ability to find and (if employed) maintain employment. If the father loses his job, there is a time lag between leaving the previous job and entering a new job. During unemployment spells, low-

income fathers may be less likely to comply with their obligations, resulting in an accumulation of arrears more rapidly than other fathers who do comply.

The fathers' ability to pay may also change over time due to men's increasing patterns of income over the life course (Garfinkel, McLanahan, Meadows, Mincy, & others, 2009; Percheski & Wildeman, 2008a; Phillips & Garfinkel, 1993). A study conducted by Nepomnyaschy and Garfinkel (2010) outlined a hypothesis that a father's growing ability to pay child support over time may explain the upswings in total cash support. However, the authors point out that this hypothesis needs to be substantiated by additional research (Nepomnyaschy & Garfinkel, 2010). In the Wisconsin study of arrear trajectories, half of the fathers with arrears paid-off their debts after they owed the maximum amount of arrears (Kim et al., 2015).

Fathers' Relationship Status with the Mother of their Child at the Time of Birth

In the past half-century, there has been a substantial increase in the number of children who were born outside of marriage (Bumpass & Lu, 2000). According to 2015 data from the National Vital Statistics System, about 40 percent of all children were born out of wedlock, with much higher rates among African Americans (Hamilton, Martin, & Osterman, 2016).

Fathers are less involved with their nonresident child if they have not lived together at some point after the birth of their child. Previous research found that fathers who were never married to or had never lived with their children's mother were less likely than ever-married or ever-cohabited fathers to pay child support (Carlson & McLanahan, 2002; Nepomnyaschy & Garfinkel, 2010), or other forms of assistance (Paasch & Teachman, 1991). Part of the reason for this discrepancy may be associated with nonresident fathers' willingness to pay child support. That is, as pointed out by Weiss and Willis (1985), fathers who have never cohabited with the mother are less willing to pay optimal amounts in child support because they find it difficult to

monitor the allocation of the child support transfer. In addition, fathers who are not co-residential are likely to form new partnerships and have additional children with more than one partner (Edin & Nelson, 2013). The empirical evidence has indicated that noncustodial fathers will be less involved with their nonresident children when either or both parents have newborn children (Manning & Smock, 2000; Rangarajan & Gleason, 1998), although Mincy Pouncy and Zilanawala (2016) found that the visitation rates of never resident fathers were as high as its rates of fathers who live with their child at birth.

Despite the substantial evidence supporting the role of fathers' willingness to pay as a determinant of child support compliance, their role in predicting arrears accumulation remains controversial. This is because fathers in the formal system are already obligated to pay child support so they have no incentive to provide additional informal cash support voluntarily. In addition, a father's willingness to pay may not influence the payment behavior of fathers who are employed in the formal labor market, because child support payments are automatically deducted from their paychecks (Bartfeld & Meyer, 2003; Lin, 2000).

A more plausible explanation for the differences in arrears accumulation between the two types of family structures (fathers in the stable relationship vs fathers in the less stable relationship) may come from a "selection effect," which postulates that economically and emotionally disadvantaged fathers are more likely to be selected into a less stable relationship (Conger et al., 1990, 1992). That being said, according to Gary Becker's "gain to trade" model of marriage, men with a lower disposable income are considered less attractive partners in, even if women have a child between such men (Becker, 1973; Bumpass, Sweet, & Cherlin, 1991; Seltzer, Schaeffer, & Charng, 1989). Therefore, when the court establishes a child support order,

fathers in less stable relationships would be at higher risk of accumulating child support debt because they are much more economically vulnerable than fathers in stable relationships.

In short, existing literature provides clear evidence that the accumulation of child support arrears can be intertwined with fathers' relationship with the mother of their child. While the vast majority of previous studies have focused on couples who have previously married and divorced, a growing number of recent studies have attempted to focus on child support outcomes for nonresident couples after childbirth (Nepomnyaschy & Garfinkel, 2010). However, no previous studies of which I am aware have addressed whether the trajectories of arrears vary depending upon fathers' residential status with their child at birth.

It is also likely that a heavier arrears burden may be imposed on fathers who are required to pay child support retroactively after the order is established. More specifically, a father who has to pay the interest charged on a retrospective order, along with unpaid due child support, can accumulate arrears more rapidly than a father who does not. Of course, the former is more likely to have had an unstable relationship with the mother of his child than the latter. Based on these considerations, I propose a related hypothesis.

HYPOTHESIS 3: *Compared to fathers who live with their child at birth, fathers who were nonresident at birth are more likely to accumulate a greater amount of child support arrears over time.*

The government's efforts to reduce the accumulation of arrears may not be as efficient for fathers in an unstable relationship with the mother as it is for those in a stable relationship. Prior empirical work indicates that fathers who have never cohabited with the mother, as compared to those who have cohabited, are less likely to be impacted by efficient child support enforcement (Nepomnyaschy & Garfinkel, 2010). To test whether those results obtained from Nepomnyaschy and Garfinkel's work can also be found in the context of child support arrears, the current study posits the following hypothesis:

HYPOTHESIS 4: *The improvement of the government's efforts is more effective in reducing the arrears for fathers who lived with their child at birth than for fathers who were not resident at birth.*

III. METHODS

Data

The study uses data from the Fragile Families and Child Wellbeing Study (FFCWS, hereafter), a longitudinal birth cohort study of approximately 5,000 children born into 20 large cities with populations over 200,000 in the United States between 1998 and 2000 (Reichman, Teitler, Garfinkel, & McLanahan, 2001). The FFCWS is a longitudinal birth cohort study designed to explore a comprehensive understanding of unmarried parents and their children. The nonmarital births were oversampled and represented 75 percent of the total sample of the study at baseline interview (3,712 nonmarital birth VS. 1,186 marital births). The cities were chosen by a stratified random sampling procedure based on welfare generosity, the strength of the child support system, and the strength of the local labor market. Based on being classified as either high, medium, or low level of strictness for each of those three characteristics, cities were chosen at random from the nine clusters formed. This accounts for 16 of the cities.[4] Four additional cities[5] were selected due to funders' interest (Reichman et al., 2001). The parents of each focal child were interviewed in the hospital when the child was born (February 1998 to September 2000 / wave 1), and the follow-up interviews were conducted by phone when the focal child was one (June 1999 to March 2002 / wave 2), three (April 2001 to December 2003 / wave 3), five (July 2003 to February 2006 / wave 4), and nine (February 2007 to 2011 / wave 5). The rate of attrition tends to increase over the long-term: the response rate at baseline and each of the

[4] This includes Boston, Pittsburgh, Toledo, Norfolk, Philadelphia, Indianapolis, Richmond, Jacksonville, Baltimore, San Jose, Austin, Chicago, San Antonio, New York, and Corpus Christi.
[5] This include Milwaukee, Detroit, Newark, and Oakland.

following four waves were 100%, 89%, 86%, 85% and 72% for mothers, and 78%, 69%, 67%, 64%, and 54% for fathers, respectively (FFCWS, 2017).

Analytic Sample

The analysis of the current study uses 7,944 repeated observations (2,781 unique observations) of all fathers who were not living with the mother of the focal child since the 1-year follow-up. A decision to include all noncustodial fathers instead of focusing on those with child support orders was made based on several considerations. First, it is possible that some nonresident fathers with no formal child support obligations would have established child support orders had they lived in a state with different child support policies. Therefore, excluding these fathers from the analytic sample may lower the external validity of the study. In addition, the results for censored data analysis usually demonstrate less bias than for truncated data. A previous simulation study for the developmental processes showed that bias in estimating the treatment effects created by left-truncated data was twice as large as the bias created by left-censored data (Cain et al., 2011).

Consistent with previous studies (Nepomnyaschy & Garfinkel, 2010), I also retain fathers who were married to or cohabitating with the child's mother at baseline, in part to explore whether the results vary depending upon parents' relationship status at childbirth. The analytic sample is further restricted to fathers who were not deceased, not unknown, nor awarded primary custody of the focal child at any wave. These exclusion criteria led to a final sample size of 1,521 for 1-year follow-up, 1,815 for 3-year follow-up, 2,160 for 5-year follow-up, and 2,448 for 9-year follow-up survey. It seems that the number of observations increases as time passes, partly because parents are more likely to divorce or become separated as time passes. Accordingly, it is

presumed that the ratio of fathers with orders to the total number of noncustodial fathers has increased over time.

Missing Data

As a panel study, FFCWS data suffers from attrition, which can result in biased estimation as long as the attrition is not missing completely at random. Panel attrition can also reduce the analytic sample size, resulting in wider confidence intervals as the margin of error increases. Moreover, non-random attrition can threaten the external validity of the study results by introducing potential selection biases that may distort the causal link between treatment and outcomes. To account for such problems, the current study used multiple imputation using chained equation (MICE), the most advanced imputation technique in social science so far (White, Royston, & Wood, 2011). Unlike other imputation techniques, MI uses multiple complete data sets with multiple times to impute missingness. The main advantage of using the MICE technique is related to its feasibility to handle many complex patterns of missing data, although the process of its implementation can be more difficult. However, software packages, such as STATA, allow researchers to avoid such complexity. Next, the confidence intervals of the study results will have correct coverage properties, as MI addresses more types of uncertainties about the missing values than any other imputation technique. For instance, the regression imputation approach assumes that the coefficients taken from the points on the regression line are true values of the parameter estimates. The MI approach, on the other hand, is skeptical of this assumption due to the uncertainty of the model's parameter values. To address this type of uncertainty, this technique draws the coefficient values from an appropriate distribution, a normal distribution in the case of this study, instead of assuming that the values are true.

Measures

The duration of the child support obligation

The duration of the child support obligation is measured at each wave, starting from one-year follow-up interviews, based on the mother's report. Mothers were first asked whether they have a legal agreement or child support order that requires fathers to contribute to children. If mothers answered "yes", they were asked when the legal agreement was first reached. The duration of the child support obligation can be measured by calculating the time interval between the date of the legal agreement and the date the mother was interviewed at each wave. By using years as a unit of analysis, the duration of child support obligation is interpreted as *the elapsed number of years since the legal order was established.* The measure is rounded to one if the length of legal obligation is less than one but greater than zero.

Accumulated child support arrears

The amount of accumulated child support arrears is measured across each wave, starting from one-year follow-up interviews, primarily reported by mothers. They were first asked whether the father has any arrears that he is supposed to pay to the mother or the government. If they answered "yes", then they were further asked the amount of the arrears that the father actually accrued. For mothers who had child support orders, but who did not respond to the question about arrears, the study assumed that the amount of arrears is equivalent to the difference between the amount of child support owed and the amount received. It was additionally assumed that the amount of arrears is zero for fathers who complied with child support obligations in full. The annual amount of arrears accrued was adjusted to 2001 dollars using the Consumer Price Index.

It is evident that the mother's report of the father's child support debts can be claimed as an imperfect measurement. For example, as Miller and Mincy (2012) pointed out, mothers may under-report the actual amount of arrears owed by fathers because they have little information about the unpaid amount of child support owed to children of different mothers. However, unlike Miller and Mincy's work, this study does not address the question of whether the arrears are affecting or being affected by fathers' behaviors. In addition, missing information on arrears can also be considered as measurement errors on the dependent variable, which will end up in the regression error but do not bias the regression results[6] (see Appendix 1).

Figure 1 illustrates the distribution of mothers against the amount of arrears owed by the children's fathers. Consistent with prior research (Kim et al., 2015; Sorensen et al., 2007), a significant number of mothers do not have arrears owed by the fathers. However, once the arrears are present, then the amount is high. Panel A of Table 1 shows that the average amount of child support arrears increases from one wave to the next

Performance measures on current and past-due child support collections

Fathers living in different states will be exposed to different degrees of enforcement "treatment," allowing researchers to use a natural experiment methodology to study the effectiveness of child support enforcement (CSE) system. To construct a valid measure that captures the effectiveness of the system, the study uses a performance-based method prescribed by the performance-based incentive and penalty program under the Child Support Performance and Incentive Act of 1998 (CSPIA). Among the five criteria used in the program, this research

[6] However, an additional errors in the regression model may slightly reduce the overall statistical power.

explores two performance measurements, current and arrearage collections, that are expected to have the most salient impacts on fathers' arrears accumulation.

The construction of the performance measures assigned to each observation unfolds in two steps: First, data on performance indicators were collected from the Office of Child Support Enforcement (OCSE) annual reports (1999-2010). Both indicators were measured as percentages, and the method of measuring each indicator is given in Appendix 2. For the next step, the performance indicators were assigned to each observation, based on the state where the mother established the child support order. To avoid the issue of temporal ordering, the performance indicators were measured one-year prior to the mother's interview year for each wave. Figure 2 graphically illustrates trends in both performance measures used in the study. As suggested in the Figure, the results of both performance measures have improved significantly over the period from 1999 to 2010, when the mothers in FFCWS had one to nine-year follow-up interviews (for detailed information on performance measures for each state, see Appendix 3-1 and 3-2).

Covariates

A number of baseline characteristics are associated with fathers' ability to pay child support are added to the model. These include age, education level (high school dropouts, high school graduates, some college, and college graduates), race and ethnicity (White, Black, Hispanic, Other), cognitive functioning (0=low to 15 high; Wechsler Adult Intelligence Scale Revised; WAIS-R, 1981), depressive symptoms (0= not depressed, 1=depressed; measured at wave 2 based on the World Health Organization's Composite International Diagnostic Interview-Short Form ; CIDI, 1998), fathers' number of children, and relationship status with the mother at baseline (1=no cohabitation, 2=cohabitation, 3=married).

A set of time-varying covariates are also added to the model. First, I use an individual-level time-varying covariate that assumed to be correlated with fathers' ability to pay child support: this includes a mother-reported fathers' jail status variable (father ever in jail since past wave) constructed by FFCWS at each given wave (1=Yes, 0=No). Next, I used a set of state-level time-varying covariates that are assumed to be correlated with both performance measures and fathers' arrears outcome. These include an unemployment rate, a poverty rate (percent of a person in poverty), a proportion of children in single-parent families, a proportion of people who went to college, and a proportion of people born in the United States.[7] To avoid the reverse causality problem, all state-level variables used in the study were measured one-year prior to the mother's interview year. For ease of interpretation, each state-level covariate is standardized to a mean of 0 and a standard deviation of 1, but unstandardized values are presented in Table 1.

Lastly, to control for both state and annual fixed effects, a series of dummy variables for each state and mothers' interview year are added to the model. In particular, it is important to include the mother's interview year in the model, because the changes in the long-term trend of performance measures can lead to biased estimates of true policy effectiveness. More specifically, it can be misinterpreted as if the positive relationship between arrears and elapsed years are the result of the changes in performance measures that have steadily increased since 2001 (See Figure 2). Including a set of dummy variables indicating the mother's interview years in the model can solve this problem by fixing changes in trends over time.

Panel B of Table 1 reports summary statistics for variables used in the analysis. The first six columns represent fathers' baseline demographic characteristics for the main analytic sample (N=2,781), stratified by relationship status with child's mothers at the time of childbirth. When

[7] All state-level data are from Bureau of Labor Statistics website.

compared to the non-resident sub-sample (N=1,421), fathers in the resident sub-sample (N=1,360) were older, less likely to be Black, have post-secondary schooling, and had more children. The next eight columns represent time-varying covariates for repeated observations across an individual over time (N=7,944). On average, fathers in the sample are more likely to be in jail over time. Except for the poverty rate and the proportion of individuals who attended college, most state-level time-varying covariates remained constant from year 1 to year 9 follow-up interviews.

Analytic Strategy

Tobit Analysis

The estimation of arrears trajectories using the standard regression model will lead to inconsistent and biased estimates of the parameters of interest. This is, as explained above, because many observations are clustered at zero when the child support order has not been established. To obtain consistent and unbiased parameter estimates, the study uses Tobit analysis. The idea of this model is a combination of Probit and Truncated regression models, allowing researchers to predict whether or not the dependent variable is at zero and, if not zero, to estimate the expected value of the uncensored distribution (Breen, 1996; Greene, 1981, 2000). The structural equation of the standard Tobit model is given below:

$$y_{it} = \begin{cases} y_{it}^{*} = X_{it}\beta + \epsilon_{it} & if \quad y_{it}^{*} > 0 \\ 0 & if \quad y_{it}^{*} \leq 0 \end{cases} \qquad (1)$$

where $\epsilon_i \sim i.i.d \;\; N(0, \sigma^2)$, and y_{it}^{*} is a latent variable (accumulation of arrears) for father i (reported by mother) at wave t (2 to 5). The $X_{it}\beta$ matrix represents the specification for two multivariate models. The first model is a baseline model estimating changes in debt accumulation over time. The regression equation is expressed in the following form:

$$X_{it}\beta \equiv \beta_0 + \beta_1(years)_{it} + \beta_2{}^T W_{it} + \beta_3{}^T Z_i + \beta_4{}^T State_i + \beta_5{}^T i\_yr_{it} \quad (2)$$

Where $years_t$ is the number of years that have passed since the child support order was established; W_{it} is a vector of time-varying covariates (state-level covariates were measured 1 year prior to the mother's interview year); Z_i is a vector of time-invariant covariates; *State* is a set of dummy variables indicating the state where child support was established; and i_yr_{it} is the survey year for each i at which the arrears were measured. As for the coefficients of interest, the intercept β_0 represents an initial status of child support arrears that remain constant over time (at $years_t$=0) and the slope β_1 refers to the growth rate on the trajectories of child support arrears over time. The β_1 is also defined as a *case-length effect*, which refers to the changes in the accumulation of child support arrears depending on the time between the date the order was established and the date the arrears were measured.

The second model analysis is a moderation model, examining the extent to which changes in performance measures affect debts accumulation over time. Results should show whether the outcome of the first regression model varies depending on the performance measures. The estimation equation is as follows:

$$X_{it}\beta \equiv \beta_0 + \beta_1(years)_{it} + \beta_2(PM)_{it} + \tau(PM \times years)_{it} + \beta_3{}^T W_{it} + \beta_4{}^T Z_i + \beta_5{}^T State_i + \beta_6{}^T i\_yr_{it} \quad (3)$$

Where $(PM)_{it}$ denotes each performance measure; and the interaction term, $(PM \times years)_{it}$, indicates if the growth rate on the trajectories of child support arrears differs depending on each performance measure.

Results are presented as marginal effects on the expected value for arrearage outcomes for both censored and uncensored observations (so, the intercept β_0 is not stated in the result). Unlike its classical linear model counterpart, the expression of marginal effects for the Tobit

model depends not just on the coefficient itself, but also on the values of all other variables in the equation. [8] Since the interaction term presented in Eq3 is composed of two continuous variables, it is advisable to set these two variables to discrete values so that results can be readily interpreted. Therefore, when estimating marginal effects, the performance measure values are set at a one standard deviation interval around the mean[9] and the elapsed year indicator is set at a one-year interval.[10]

To estimate the parameters of interest, statistical software packages, such as Stata use the following (log)-likelihood function for the censored normal distribution (see Appendix III for derivation):

$$\begin{aligned} \ln L &= \sum_{y_{it}>0}^{N} \ln f(y_{it}) + \sum_{y_{it}=0}^{N} \ln F(0) \\ &= \sum_{y_{it}>0}^{N} \left\{ -\ln \sigma + \ln \phi \left(\frac{y_{it} - X_{it}\beta}{\sigma} \right) \right\} + \sum_{y_{it}=0}^{N} \ln \left(1 - \Phi \left(\frac{X_{it}\beta}{\sigma} \right) \right) \end{aligned} \tag{4}$$

[8] In the Tobit model, the marginal effects on the expected value of the outcome (censored and uncensored) can be expressed as:

$$\frac{\partial E[y|x_1, X]}{\partial x_1} = \beta_1 \Phi \left(\frac{X_{it}\beta}{\sigma} \right)$$

for changes in variable x_1 if the variable is not a part of the interaction term, and

$$\frac{\partial E[y|x_1, X]}{\partial x_2} = (\beta_2 + \beta_3 x_3) \Phi \left(\frac{X_{it}\beta}{\sigma} \right)$$

for changes in variable x_2 if the variable is a part of the interaction term ($x_2 * x_3$) (Ai & Norton, 2003; Greene, 1999). Note that Φ is a cumulative density function of the standard normal distribution of outcome.

The $\Phi \left(\frac{X_{it}\beta}{\sigma} \right)$ is an adjustment factor, indicating the estimated probability of observing an uncensored observation given the value of X_{it}. Therefore, the marginal effect of X would be equal to an expected value of β if the $\Phi \left(\frac{X_{it}\beta}{\sigma} \right)$ is equal to 1 (meaning that there are no censored observations).

[9] As presented in Figure 2, both arrearage collection and current collection measures have a mean value of .60, but as for a standard deviation, the arrearage collection is .06 and the current collection is .09.

[10] This type of marginal effects is usually termed as "marginal effects at a representative value (MER)" in microeconometrics (Cameron & Trivedi, 2010).

where f(.) and F(.) denote the probability density function (PDF) and the cumulative density function (CDF) of the latent variable y_{it}^{*}, respectively, and ϕ and Φ represent the PDF and the CDF of the standard normal distribution. The log-likelihood function consists of two parts: The first part is the likelihood function for the classical OLS under $y_{it} > 0$ (uncensored), whereas the second part is the probability function that the outcome is censored.

Instrumental Variable Estimation for the Measurement Errors

OCSE's annual reports were believed to be the most accurate source to measure state performance measurements. The OCSE Office of Audit is now responsible for assessing the completeness, accuracy, and reliability of the states' reporting system. The Data Reliability Audits (DRA) proclaimed that the reliability of state reporting system has improved since 1999 (Huang & Edwards, 2009). Despite OCSE's efforts towards minimizing reporting errors, states still have incentives to over-report their performance measures, resulting in a potential upward bias in our estimates (See Appendix 1 for the explanation as to why the measurement errors in the performance measures may result in biased results). In order to adjust for the potential measurement errors that can occur, this paper used state expenditures on enforcement as an instrument to predict performance in the subsequent analysis. In doing so, the changes in the level of the performance measure are explained only through state expenditures on arrears.

Following the notation used by Angrist and Pischke (2008), the instrumental variable model is estimated using a two-stage least squares (2SLS) estimation. The first stage can be written as Equation (2):

$$PM_{it} = \alpha_1 + \beta_1{}^{T} X_i + \beta_2 EXP_{it} + \varepsilon_{it} \qquad (5)$$

where PM_{it} denotes the performance measured for state i at year t; a_i is the state-effect constant over time; χ is a vector of confounders that are included in the Tobit model (Time-varying and

Time-invariant covariates with state and year dummies); EXP is the expenditure variable (IV); and δt is the time-trend effect (constant across states). In accordance with the method used by Huang and Edwards(2009), the expenditure variable will be measured by an inverse ratio of each state's total number of OCSE caseloads to the number of full-time staff members.

It is assumed that states with high expenditures on child support systems are expected to spend more on hiring full-time workers, and as a result, the child support caseload per capita is expected to decrease. Note that Time-variant confounders and EXP_{it} variable that were measured one-year prior to the mother's interview year for each wave were used. In the second stage, the actual performance measures used in the original equation (3) are substituted into the predicted performance measures estimated from the first-stage regression. For ease of interpretation, the EXP_{it} variable is standardized to a mean of 0 and a standard deviation of 1.

To be valid, the instrument used in the analysis must satisfy two requirements: it must be predictive of the performance measures, and orthogonal to any other determinants on an accumulation of arrears except the performance measure. The first condition is assumed to be satisfied based on the evidence provided by Huang and Edwards (2009) suggesting that the indicator of state expenditures on the enforcement is one of three dimensions that causes the child support performance index. The second condition also appears to be fulfilled since the government's expenditure on enforcement affects the accumulation of arrears only through its effects on the state's efforts in managing arrears. The first condition is tested and reported in the current study. If the expenditures could serve as a good instrument by passing these two conditions, then theoretically the variances in the performance measure can be purged of the measurement errors. However, as explained in Appendix 4, the variance of the 2SLS estimator is

usually higher than that of OLS estimator and is assumed to be the same in Tobit models used in this study.

IV. RESULTS

Accumulation of Child Support Arrears over Time (Case-Length Effect)

With reference to equation (2), I begin the multivariate Tobit analysis by estimating the effects of elapsed time since the establishment of child support orders (hereafter *elapsed time*) on an accumulation of child support arrears. In this study, I define this effect as a *case-length effect*, which refers to the changes in the accumulation of child support arrears depending on the time between the date the order was established and the date the arrears were measured. Results are presented as marginal effects in Table 2. In the first column, only the elapsed time indicator as a key independent variable is included. The result is consistent with my first Hypothesis that the longer the father stays in the child support system, the greater the debt to be accumulated. More specifically, fathers in the overall analytic sample accumulate a new arrear of $433.43 on average per every year after establishing the child support order.

In the next two columns, a set of covariates is included, along with state and year fixed effects. The case-length effects have slightly decreased ($415.92 and $407.16 per year), but are statistically significant even after adjusting for an array of covariates and state-and year fixed effects. Consistent with a host of prior studies, fathers are accumulating less arrears as they get older, indicating that the fathers' ability to pay child support increases over time (Garfinkel et al., 2009; Percheski & Wildeman, 2008b; Phillips & Garfinkel, 1993). In addition, fathers who have more children accumulate a greater amount of arrears than fathers who have fewer children and lower intelligence scores. The accumulation of arrears is estimated to be smaller for Black fathers (as compared to White fathers), demonstrating the differences across racial and ethnic

lines. Though at first glance these racial differences might seem counterintuitive, White fathers are more likely than Black fathers to have a greater amount of child support obligations because they have a relatively higher income than their Black counterparts. Therefore, more White fathers will accumulate more arrears than Black fathers if they do not fulfill their obligations. Lastly, fathers who were in jail are estimated to have about $200 more in child support arrears per year than fathers who were not in jail.

The final two columns disaggregate the sample by parents' relationship status at the time of the focal child's birth. The fathers who lived with the child's mother at the time of childbirth (hereafter resident group) have a lower amount of arrears accumulation over time after establishing a child support order than those fathers who did not live with the mother at the time of childbirth (hereafter nonresident group). More specifically, the fathers in the resident group accumulate new arrears of $350.72 on average per year after establishing the order, while the fathers in the nonresident group accumulate new arrears of $421.80 annually. The effects of covariates on the accumulation of arrears also vary by this relationship sub-group. Fathers' intelligence seems to play an important role in accumulating arrears in the resident group, but not in the nonresident group. On the other hand, race/ethnicity is a significant factor contributing to the accumulation of arrears only in the nonresident group. Finally, the fathers in the resident group accumulate arrears nearly three times more than their nonresident group counterparts if they were in prison during the survey period.

Moderation Effects of CSPIA's Performance measures on Accumulation of Child Support Arrears over Time

The case-length effects presented in Table 2 may vary depending on the different CSE agencies and its strategies. The interactive models in Figure 3 and Table 3 show variations in trajectories of child support arrears by CSPIA's *two performance measures* – current collection

(Panel 1) and arrearage collection (Panel 2) – which are used as proxy measures for the effectiveness of CSE system. Each regression model controls for a host of time-invariant and time-varying characteristics along with state and year fixed effects. The performance measure values are set at a one standard deviation interval around the mean and the elapsed year indicator is set at a one-year interval.

Performance measures assumed to be constant over time

The current study estimates the moderating effects in two ways. First, I stratify the case-length effect by each performance measure that is assumed to be constant over time.[11] Results are visually displayed in Figure 3 using the *marginsplot* command implemented in Stata15. The solid line represents the growth trajectory of arrears for fathers who live in the states where the focal performance measure is at the mean, and the dotted line represents the same growth trajectory but only for fathers in the states where the performance measure is one standard deviation above the mean. Note that the gray-shaded area indicates 90% confidence interval for expected p-values. The results reported in Panel 1 provide support for Hypothesis 2 that the efficiency of child support policies has a strong impact on noncustodial fathers who have been in the child support system for a long time. That is to say, the case-length effect is higher for fathers who live in the states with less effective child support enforcement when compared with fathers who live in the states with more effective enforcement.

More specifically, suppose that fathers have been accumulating arrears for four years since the order was established. If these fathers lived in states where the current collection

[11] With reference to Equation (3). the conditional marginal effect of this interactive model in the Tobit framework can be expressed as

$$\frac{\partial E[Y|years, PM, X]}{\partial years_{it}} = (\beta_1 + \tau \times PM_i)\Phi\left(\frac{X_{it}\beta}{\sigma}\right)$$

performance is 60 percent[12], they would accumulate additional arrears of $1,479.11 for next year. By contrast, fathers who lived in states where the current performance is 69 percent[13] would accumulate additional arrears of only $847.87 under the same condition.

Furthermore, the gaps in the case-length effect between the fathers from states with high- and low-performance in CSE were becoming more pronounced over time. For instance, if the elapsed time is at 3 years, the difference in case-length effect between the two groups of states is $208.14 [$801.36 - $593.22], whereas if the elapsed time increases to 7 years, then the difference becomes $ 602.87 [$1952.08 - $1349.21]. Therefore, promoting the effectiveness of the CSE system would alleviate the burden of arrears for fathers and provides more benefits to these fathers over time. [14]Results are consistent with those in Panel 2, except that the gaps are not statistically significant across the elapsed years.

Allow performance measures to change over time

While the first approach is intuitive in visualizing the moderating effects, it does not provide policymakers with enough information about how much the arrears accumulate if the performance measures change over time. To overcome this limitation, the second approach estimates the conditional marginal effects of the performance measure on an accumulation of child support arrears at each elapsed year.[15] For the sake of brevity, the results of the second approach presented in Table 3 show only the most relevant information (full results are available upon request).

[12] Note that mean value of the current collection measure is 60 percent

[13] Note that one standard deviation above the mean of current collection measure is 69 percent

[14] For instance, the Start Smart program recently implemented in Texas would be the best example of CSE policies that might result in increased collection of current child support. See Farrell and Morrison (2019) for more details.

[15] The same as above, the conditional marginal effect of this interactive model can be expressed as:

$$\frac{\partial E[Y|years, PM.X]}{\partial PM_{it}} = (\beta_2 + \tau \times years_{it})\, \Phi\left(\frac{X_{it}\beta}{\sigma}\right)$$

There are several notable findings from the second approach. First, an increase in performance measures after a long elapsed time can reduce arrears more substantially than it does in a short elapsed time. For instance, suppose that fathers have been accumulating arrears for five years since the order was established. Assuming that performance measures have changed at this time, the results in the first column of Panel 1 show that the increase in the current collection by one standard deviation from the mean is expected to decrease the arrears by $918.23. However, if the performance measures change when the elapsed time is ten years, then the amount of arrears is expected to be decreased by $2,034.07 under the same condition.

On the contrary, the improvement of the CSE system cannot moderate the case-length effects when the elapsed period is short. That is, the difference in the level of performance measure does not contribute to the changes in arrears for the first two years after the order is established (results not shown in Table 3).

The amount of arrears that are reduced due to an increase in performance measure is not constant but rather increases over time. If the arrears were to decrease linearly, then the reduced amount of arrears when the elapsed time is 7 years would be $242.90*7/3=$566.77 or 918.23*7/5=$1,285.52, which are much smaller than what was estimated in the current study ($2,034.07). These results are quite similar to those in Panel 2 using the arrearage collection as a performance measure.

Lastly, suppose that states may require the same, or at least similar, efforts to increase one standard deviation from the mean for both performance measures. Since the overall values of arrears in Panel 1 are lower than the corresponding values in Panel 2, the current collection performance may be a more efficient tool for predicting the reduction in child support arrears than the arrearage collection performance is.

Results stratified by the fathers' residential status during childbirth

The second and third columns in both Panels of Table 3 indicate that the increase in performance of CSE system decreases the case-length effects more rapidly for fathers who were resident at birth than for fathers who were nonresident at birth. If the arrears have been accumulating for 7 years since the order was established, fathers who were resident at birth and who live in states with the current collection of 69 percent are estimated to accumulate $3,251.40 less in arrears than fathers who live in states with the current collection of approximately 60 percent. On the other hand, as presented the third column of Panel 1, the reduction in arrears for fathers in the nonresident group is much smaller than the reduction in arrears for fathers in the resident group under the same condition ($-3,251.40 vs $-1,121.17). Results in the second and third column of Panel 2 show similar findings.

Furthermore, the fathers in the nonresident group need more time than the fathers in the resident group do to get benefits from the effectiveness of CSE system. More specifically, the moderation effects of the CSE enforcement become significant for fathers in the nonresident group when the elapsed time reaches to 7 years, whereas those fathers in the resident group need only 3 years. These results suggest that the improvement of performance on the CSE system is more effective in reducing the arrears for the fathers in the resident group than those fathers in the nonresident group.

Supplemental Analysis

The study also uses instrumental variable techniques to remove possible measurement errors that could bias the estimates upward. In each panel of Table 4, the first row presents the results from the first-stage equation predicting performance measures. As the results for both performance measures are similar to one another (suggesting that expenditures are the same for

current or arrears collections), the regression results for the current collection measure is the only one presented. The results from the first row suggest that a one standard deviation increase in expenditures on child support systems is associated with a 0.1 to 0.14 standard deviation increase in current performance measure, indicating that the present instrument yields a reliable estimation of performance measures. The results from the second row to the fifth row of the 2SLS show the estimated amount of arrears reduced by the moderating effect of performance measures, which have been instrumented with the expenditure variable. The predicted performance measures obtained from the first stage of 2SLS have significant marginal effects on the accumulation of child support arrears. However, as expected, the standard error on performance measures have also increased slightly compared to the model without IV regression. The moderating effects of the predicted performance measures have increased slightly compared to the Tobit model without IV regression, suggesting that this supplemental analysis has corrected for the upward bias induced by measurements errors.

V. DISCUSSION

The last step of the child support enforcement process is to collect accrued child support payments owed either to custodial families or to the government. Theoretically, states' efforts to collect current or delinquent child support payments on the growth in individual's child support arrears are as important as other microeconomic factors, such as fathers' ability and willingness to fulfill their child support responsibilities. However, relatively little research has been carried out on the policy intervention associated with long-term arrears accumulation. Moreover, many previous studies ignore fathers who were nonresident at the time of the child's birth. The main contribution of this paper is to close these gaps by examining how the improvement of CSE system alters the long-term trajectories of the accumulation of child support arrears using recent

data from the Fragile Families and Child Wellbeing Study. The CSPIA's performance measures were used as a proxy measurement for the effectiveness of the CSE system.

Consistent with previous research, the current study found that the accumulation of arrears showed, on average, a continuous increase after the establishment of the child support order. This is because once the arrears are accumulated, the amount will continue to snowball due to the interest charged on the arrears (Sorensen et al., 2007). The study was also the first to provide support for the notion that the effectiveness of the CSE system contributes to a faster reduction of arrears. That being said, fathers living in states with less efficient child support enforcement were estimated to accumulate more arrears over time than those fathers living in states with more efficient enforcement. Furthermore, the longer the time has elapsed since the order was established, the greater the amount of arrears will be reduced when the performance measure increases. These findings provide the evidence that states' effort to collect both current and overdue child support payments could be one of the factors that determine diverse patterns of arrears accumulation. These patterns, as introduced by Kim et al. (2015), include "a continuous increase" or "a continuous increase then decrease at some point."

The long-term trajectories of arrears accumulation varied substantially depending on the fathers' residential status during childbirth. The results obtained indicate that fathers who did not live with their child at the time of the birth were more likely to fall further behind in paying-off their child support debts over time, compared to those fathers who lived with their child at birth. One of the potential reasons for the discrepancy in results between these two groups may be that the fathers in the nonresident group might be obligated to pay retroactive child support after the order is set, and as a result, may suffer more from arrears burden than those fathers in the resident group. Testing this hypothesis was beyond the scope of this study, but hopefully will be

addressed in future research. Another potential reason may be that fathers in the nonresident group are economically more vulnerable than those fathers in the resident group do because of their limited ability to access labor markets. This hypothesis was consistent with a recent study by Nepomnyaschy and Garfinkel (2010).

The study also showed that states' efforts to collect delinquent child support payments for fathers in the nonresident group were not as successful as such efforts targeting those fathers in the resident group. For instance, suppose these two groups of fathers have the same elapsed time since the order was established. If the performance measures increase by one standard deviation from its mean, fathers who were resident at birth will accumulate smaller amounts of arrears than those fathers who were nonresident at birth. Part of the reason for such discrepancy may be that those fathers who become high debtors are likely to have an unstable relationship with the mother at birth and are not eligible to apply for child support programs that reduce the existing arrears. For instance, the eligible population for such arrears reduction program is, in general, restricted to noncustodial fathers with less arrears burden and who have no history of late payment within the last six months. If the noncustodial fathers have arrears owed to custodial mothers, the local child support agency must contact to those mothers to ask for a voluntary compromise of arrears. If the custodial mothers do not agree to the compromise, then the noncustodial fathers must pay the full amount of arrears owed to custodial parents. Therefore, those fathers who are not in the stable relationship with the mother of their child will face great difficulty getting benefits from this program and as a result, would fall further behind in paying off their debts.

Due to limited resources, many local enforcement agencies may not be able to provide appropriate services to all nonresident fathers who are struggling to pay off their child support

obligations. Therefore, the agencies sometimes may have to reluctantly decide which practices or strategies they should employ to achieve the goals. Based on these considerations, suppose that the state-level child support agencies have limited resources that could be used for improving either the current or the arrearage collection performances. According to the findings from the current study, the reduction in arrears caused by a one-standard deviation increase in current performance measure is much larger than that reduction caused by the same standard deviation increase in arrearage performance measure.

In sum, the results from the current study have several implications for child support policy. The study found strong evidence that efficient child support enforcement leads to a long-term decrease in the accumulation of arrears. This study also finds strong evidence that more efficient child support enforcement policies convey greater benefits to children who lived with their father at birth than children who did not. These findings align with the efforts from policymakers and researchers who have sought to find various strategies to encourage fathers to be with their children at the time of birth.

Despite the encouraging findings of this study, it is worth mentioning a few caveats. First, as aforementioned in the previous section, measurement errors on the dependent variable due to the use of the mother's report of the father's child support debt may slightly reduce overall statistical power. Therefore, the results of this study can be replicated when new data that contains complete information on the actual amount of arrears owed by fathers is available. Second, although the study used the two-stage least square method to account for potential bias occurring from measurement error of performance measure, the instrumental variable used in this method was not strong enough to minimize the variance of the resulting estimator.

Therefore, future research could explore additional instrumental variables to minimize the variance of the estimator.

References

Ai, C., & Norton, E. C. (2003). Interaction terms in logit and probit models. *Economics Letters*, *80*(1), 123–129.

Angrist, J. D., & Pischke, J.-S. (2008). *Mostly harmless econometrics: An empiricist's companion*. Princeton university press.

Aughinbaugh, A., & Gittleman, M. (2003). Does money matter? A comparison of the effect of income on child development in the United States and Great Britain. *Journal of Human Resources*, *38*(2), 416–440.

Bartfeld, J. (2003). *Forgiveness of state-owed child support arrears*. Citeseer. Retrieved from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.117.7818&rep=rep1&type=pdf

Bartfeld, J., & Meyer, D. R. (1994). Are there really deadbeat dads? The relationship between ability to pay, enforcement, and compliance in nonmarital child support cases. *Social Service Review*, *68*(2), 219–235.

Bartfeld, J., & Meyer, D. R. (2003). Child support compliance among discretionary and nondiscretionary obligors. *Social Service Review*, *77*(3), 347–372.

Becker, G. S. (1973). A theory of marriage: Part I. *Journal of Political Economy*, *81*(4), 813–846.

Beller, A. H., & Graham, J. W. (1996). *Small change: The economics of child support*. Yale University Press.

Blau, D. M. (1999). The effect of income on child development. *The Review of Economics and Statistics*, *81*(2), 261–276.

Bradshaw, J. (2006). Child support and child poverty. *Benefits*, *14*(3), 199–208.

Breen, R. (1996). *Regression models: Censored, sample selected, or truncated data* (Vol. 111). Sage.

Bumpass, L., & Lu, H.-H. (2000). Trends in cohabitation and implications for children s family contexts in the United States. *Population Studies*, *54*(1), 29–41.

Bumpass, L., & Raley, R. K. (1995). Redefining single-parent families: Cohabitation and changing family reality. *Demography*, *32*(1), 97–109.

Bumpass, L., Sweet, J. A., & Cherlin, A. (1991). The role of cohabitation in declining rates of marriage. *Journal of Marriage and the Family*, 913–927.

Cain, K. C., Harlow, S. D., Little, R. J., Nan, B., Yosef, M., Taffe, J. R., & Elliott, M. R. (2011). Bias due to left truncation and left censoring in longitudinal studies of developmental and disease processes. *American Journal of Epidemiology*, *173*(9), 1078–1084.

Cameron, A. C., & Trivedi, P. K. (2010). *Microeconometrics using stata* (Vol. 2). Stata press College Station, TX.

Cancian, M., Meyer, D. R., & Han, E. (2011). Child support: Responsible fatherhood and the quid pro quo. *The Annals of the American Academy of Political and Social Science*, *635*(1), 140–162.

Carlson, M., & McLanahan, S. (2002). Fragile families, father involvement, and public policy. *Handbook of Father Involvement: Multidisciplinary Perspectives*, 461–488.

Conger, R. D., Conger, K. J., Elder, G. H., Lorenz, F. O., Simons, R. L., & Whitbeck, L. B. (1992). A family process model of economic hardship and adjustment of early adolescent boys. *Child Development*, *63*(3), 526–541.

Conger, R. D., Elder Jr, G. H., Lorenz, F. O., Conger, K. J., Simons, R. L., Whitbeck, L. B., … Melby, J. N. (1990). Linking economic hardship to marital quality and instability. *Journal of Marriage and the Family*, 643–656.

Dahl, G. B., & Lochner, L. (2005). *The impact of family income on child achievement*. National Bureau of Economic Research.

Danziger, S., Corcoran, M., Danziger, S., Heflin, C., Kalil, A., Levine, J., … Tolman, R. (2000). Barriers to the employment of welfare recipients. *Prosperity for All?: The Economic Boom and African Americans*, 245.

Danziger, S. K., & Seefeldt, K. S. (2003). Barriers to employment and the 'hard to serve': Implications for services, sanctions, and time limits. *Social Policy and Society*, *2*(2), 151–160.

Edin, K., & Nelson, T. J. (2013). *Doing the best I can: Fatherhood in the inner city*. Univ of California Press.

Enforcement, O. of C. S. (2008). *Handbook on Child Support Enforcement*. GPO FCIC.

Farrell, M., & Morrison, C. (2019). *Using Behavioral Strategies to Increase Initial Child Support Payments in Texas*. Retrieved from https://www.mdrc.org/sites/default/files/BICS_Texas_2019.pdf

FFCWS. (2017). Fragile Families and Child Wellbeing Study. Retrieved March 31, 2017, from http://www.fragilefamilies.princeton.edu/documentation

Garfinkel, I., Glei, D., & McLanahan, S. S. (2002). Assortative mating among unmarried parents: Implications for ability to pay child support. *Journal of Population Economics*, *15*(3), 417–432.

Garfinkel, I., McLanahan, S. S., Meadows, S. O., Mincy, R., & others. (2009). Unmarried Fathers' Earnings Trajectories: Does Partnership Status Matter? *Princeton, NJ: Center for Research in Child Wellbeing*.

Garfinkel, I., Meyer, D. R., & McLanahan, S. S. (1998). A Brief History of Child Support. *Fathers under Fire: The Revolution in Child Support Enforcement*, 14.

Garfinkel, I., & Oellerich, D. (1989). Noncustodial fathers' ability to pay child support. *Demography*, *26*(2), 219–233.

Geller, A., Garfinkel, I., & Western, B. (2011). Paternal incarceration and support for children in fragile families. *Demography*, *48*(1), 25–47.

Gerrish, E. (2017). The effect of the child support performance and incentive act of 1998 on rewarded and unrewarded performance goals. *Journal of Policy Analysis and Management*, *36*(1), 65–96.

Greene, W. (1981). On the asymptotic bias of the ordinary least squares estimator of the Tobit model. *Econometrica: Journal of the Econometric Society*, 505–513.

Greene, W. (1999). Marginal effects in the censored regression model. *Economics Letters*, *64*(1), 43–49.

Greene, W. (2000). Econometric analysis (International edition).

Ha, Y., Cancian, M., & Meyer, D. R. (2010). Unchanging child support orders in the face of unstable earnings. *Journal of Policy Analysis and Management*, *29*(4), 799–820.

Hamilton, B. E., Martin, J. A., & Osterman, M. J. (2016). Births: preliminary data for 2015.

Heinrich, C. J., Burkhardt, B. C., & Shager, H. M. (2011). Reducing child support debt and its consequences: Can forgiveness benefit all? *Journal of Policy Analysis and Management*, *30*(4), 755–774.

Holzer, H. J., Offner, P., & Sorensen, E. (2005). Declining employment among young black less-educated men: The role of incarceration and child support. *Journal of Policy Analysis and Management*, *24*(2), 329–350.

Huang, C.-C., & Edwards, R. L. (2009). The relationship between state efforts and child support performance. *Children and Youth Services Review*, *31*(2), 243–248.

Johnson, E. S., Levine, A., & Doolittle, F. C. (1999). *Fathers' fair share: Helping poor men manage child support and fatherhood*. Russell Sage Foundation.

Kim, Y., Cancian, M., & Meyer, D. R. (2015). Patterns of child support debt accumulation. *Children and Youth Services Review*, *51*, 87–94.

Lin, I.-F. (2000). Perceived fairness and compliance with child support obligations. *Journal of Marriage and Family*, *62*(2), 388–398.

Lipscomb, H. J., Loomis, D., McDonald, M. A., Argue, R. A., & Wing, S. (2006). A conceptual model of work and health disparities in the United States. *International Journal of Health Services, 36*(1), 25–50.

Manning, W. D., & Smock, P. J. (2000). "Swapping" families: Serial parenting and economic support for children. *Journal of Marriage and Family, 62*(1), 111–122.

Meyer, D. R., Ha, Y., & Hu, M.-C. (2008). Do high child support orders discourage child support payments? *Social Service Review, 82*(1), 93–118.

Miller, C., Garfinkel, I., & McLanahan, S. (1997). Child support in the US: Can fathers afford to pay more? *Review of Income and Wealth, 43*(3), 261–281.

Miller, D. P., & Mincy, R. B. (2012). Falling further behind? Child support arrears and fathers' labor force participation. *Social Service Review, 86*(4), 604–635.

Nepomnyaschy, L., & Garfinkel, I. (2010). Child support enforcement and fathers' contributions to their nonmarital children. *Social Service Review, 84*(3), 341–380.

Office of Child Support Enforcement. (2014). *Major Change in Who is Owed Child Support Arrears*. Retrieved November 9, 2017, from https://www.acf.hhs.gov/css/resource/major-change-in-who-is-owed-child-support-arrears

Office of Child Support Enforcement. (2019). *State Child Support Agencies with Debt Compromise Policies.* Retrieved January 2, from http://www.easybib.com/reference/guide/apa/website

Paasch, K. M., & Teachman, J. D. (1991). Gender of children and receipt of assistance from absent fathers. *Journal of Family Issues, 12*(4), 450–466.

Pearson, J., & Davis, L. (2002). An Evaluation of the Colorado Arrears Forgiveness Demonstration Project. *Denver, CO: Center for Policy Research*. Retrieved from http://hermes.cde.state.co.us/drupal/islandora/object/co%3A1089/datastream/OBJ/download/An_evaluation_of_the_Colorado_arrears_forgiveness_demonstration_project___final_report.pdf

Percheski, C., & Wildeman, C. (2008a). Becoming a dad: Employment trajectories of married, cohabiting, and nonresident fathers. *Social Science Quarterly, 89*(2), 482–501.

Percheski, C., & Wildeman, C. (2008b). Becoming a dad: Employment trajectories of married, cohabiting, and nonresident fathers. *Social Science Quarterly, 89*(2), 482–501.

Phillips, E., & Garfinkel, I. (1993). Income growth among nonresident fathers: Evidence from Wisconsin. *Demography, 30*(2), 227–241.

Pugh, M. (1998). *Barriers to work: the spatial divide between jobs and welfare recipients in metropolitan areas*. Center on Urban and Metropolitan Policy, the Brookings Institution.

Putze, D. (2017). Who Owes the Child Support Debt? U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement,. Retrieved from https://www.acf.hhs.gov/css/ocsedatablog/2017/09/who-owes-the-child-support-debt

Rangarajan, A., & Gleason, P. (1998). Young unwed fathers of AFDC children: Do they provide support? *Demography*, *35*(2), 175–186.

Reichman, N. E., Teitler, J. O., Garfinkel, I., & McLanahan, S. S. (2001). Fragile families: Sample and design. *Children and Youth Services Review*, *23*(4–5), 303–326.

Roberts, P. (2001). An ounce of prevention and a pound of cure: Developing state policy on the payment of child support arrears by low-income parents. *Washington, DC: Center for Law and Social Policy*.

Seltzer, J. A., Schaeffer, N. C., & Charng, H.-W. (1989). Family ties after divorce: The relationship between visiting and paying child support. *Journal of Marriage and the Family*, 1013–1031.

Sinkewicz, M., & Garfinkel, I. (2009). Unwed fathers' ability to pay child support: New estimates accounting for multiple-partner fertility. *Demography*, *46*(2), 247–263.

Solomon-Fears, C. (2013). Child support enforcement program incentive payments: Background and policy issues. *Congressional Research Service*.

Sonenstein, F. L., & Calhoun, C. A. (1990). Determinants of child support: A pilot survey of absent parents. *Contemporary Economic Policy*, *8*(1), 75–94.

Sorensen, E. (1997a). A national profile of nonresident fathers and their ability to pay child support. *Journal of Marriage and the Family*, 785–797.

Sorensen, E. (1997b). Welfare reform and low-income noncustodial fathers: New constraints and opportunities.

Sorensen, E. (2000). Child support offers some protection against poverty.

Sorensen, E. (2004). Understanding how child-support arrears reached $18 billion in California. *The American Economic Review*, *94*(2), 312–316.

Sorensen, E., Koball, H., Pomper, K., & Zibman, C. (2003). Examining child support arrears in California: The collectibility study. *Washington, DC: The Urban Institute*.

Sorensen, E., Sousa, L., & Schaner, S. (2007). Assessing child support arrears in nine large states and the nation. *Washington, DC: Urban Institute*. Retrieved from http://tpcprod.urban.org/UploadedPDF/1001242_child_support_arrears.pdf

Sorensen, E., & Turner, M. (1997). Barriers in child support policy: A review of the literature. *National Center on Fathers and Children*.

Sorensen, E., & Zibman, C. (2001). Getting to know poor fathers who do not pay child support. *Social Service Review*, *75*(3), 420–434.

Thoennes, N. (2001). Understanding Child Support Arrears in Colorado. *Denver, Colorado: Center for Policy Research*.

Turetsky, V. (2000). Realistic Child Support Policies for Low Income Fathers. Kellogg Devolution Initiative Paper.

Turetsky, V. (2007). Staying in jobs and out of the underground: Child support policies that encourage legitimate work. *Child Support Series Policy Brief No*, *2*.

Turner, K. J., & Waller, M. R. (2017). Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement With Children. *Journal of Marriage and Family*, *79*(1), 24–43.

U. S. Department of Health and Human Services, O. of I. G. (2000). The establishment of child support orders for low income non-custodial parents. Retrieved from https://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf

U. S. Department of Health and Human Services, O. of I. G. (2007). State Use of Debt Compromise to Reduce Child Suppport Arrearage. Retrieved from http://oig.hhs.gov/oei/reports/oei-06-06-00070.pdf

U.S. Government Accountability Office. (2011). Child support enforcement: Departures from long-term trends in sources of collections and caseloads reflect recent economic conditions.

Waller, M. R., & Plotnick, R. (2001). Effective child support policy for low-income families: Evidence from street level research. *Journal of Policy Analysis and Management*, 89–110.

Weiss, Y., & Willis, R. J. (1985). Children as collective goods and divorce settlements. *Journal of Labor Economics*, *3*(3), 268–292.

White, I. R., Royston, P., & Wood, A. M. (2011). Multiple imputation using chained equations: issues and guidance for practice. *Statistics in medicine*, *30*(4), 377-399.

Yeung, W. J., Linver, M. R., & Brooks–Gunn, J. (2002). How money matters for young children's development: Parental investment and family processes. *Child Development*, *73*(6), 1861–1879.

Table 1. Descriptive Statistics for Outcomes, Time-Invariant and Time-Varying Covariates

	Baseline						Year 1		Year 3		Year 5		Year 9	
	Full		Resident		Nonresident		Full sample							
	M/%	(SD)	M/%	(SD)	M/%	(SD)	M	(SD)	M	(SD)	M	(SD)	M	(SD)
Panel A														
Amount of arrears accumulated [0-$90,000]							226.7	(1,059)	661.4	(1,998)*	1,305	(4,307)*	2,605	(7,413)*
Number of elapsed years since order establishment (year) [0-10.65 years]							0.12	(0.33)	0.50	(0.92)*	1.31	(4.31)*	2.60	(7.41)*
Panel B														
Fathers' time-invariant characteristics														
Age in years [15-54]	26.94	(6.79)	27.86	(6.64)	25.81	(6.80)*								
Number of Kids [1-18]	2.12	(1.49)	2.16	(1.51)	2.08	(1.46)*								
Intelligence (WAIS_R) [0-15]	6.39	(2.71)	6.42	(2.75)	6.34	(2.66)								
Depressive Symptom (CIDI) [0-1]	0.17	(0.37)	0.16	(0.36)	0.18	(0.38)								
% White	14%		19%		7%									
% Black	54%		42%		68%	*								
% Hispanic	28%		34%		22%									
% Other	4%		5%		3%									
% Less than high school degree	34%		33%		35%									
% High school degree	39%		35%		44%	*								
% Some college	20%		22%		18%									
% College degree	7%		10%		3%									
Time-varying covariates														
Fathers in jail status [0-1]							0.11	(0.32)	0.13	(0.34)*	0.12	(0.33)*	0.15	(0.36)*
State unemployment rate [.02-.11]							0.05	(0.01)	0.05	(0.01)	0.06	(0.01)	0.05	(0.01)
State poverty rate [7.20-17.30]							10.73	(2.81)	10.85	(2.79)	12.09	(2.52)*	12.23	(2.61)*
% of children in single parent [.25-.38]							0.30	(0.02)	0.30	(0.02)	0.30	(0.02)	0.32	(0.02)
% of people went to college [.12-.32]							0.18	(0.03)	0.19	(0.03)*	0.19	(0.04)*	0.21	(0.04)*
% of people born in U.S. [.71-.98]							0.88	(0.07)	0.87	(0.08)	0.87	(0.08)	0.85	(0.08)
# of Observations	3,351		1,854		1,497		1,834		2,172		2,504		2,999	

Note: The range of variable is presented in block parentheses. For simplicity, the descriptive statistics were calculated based on the first set of imputed data. Results were similar for other 4 imputed samples. Chi-square test for categorical variables and t-test for continuous and binary variable were used to assess the statistical difference between resident and nonresident samples. T-test was used to assess whether the time-varying covariates increase or decrease over time. *Significant at $P<.05$

Source: Fragile Families and Child Well-being Study (FFCWS), Wave 1-5.

Table 2. Multivariate Model for Assessing Effects of Elapsed Time Since the Establishment of Child Support Orders on an Accumulation of Child Support Arrears: Based on Tobit Analysis.

	Full (1)	Full (2)	Full (3)	Resident (4)	Nonresident (5)
Number of elapsed years since the establishment of the orders	433.43***	415.92***	407.16***	350.72***	421.80***
	(18.29)	(20.88)	(20.70)	(67.14)	(30.94)
Fathers' age in years		-23.06***	-21.40***	-26.87***	-17.60+
		(5.99)	(5.72)	(8.03)	(9.69)
Fathers' education (versus high school dropouts)					
High school degree		-11.85	-5.37	-26.52	-23.29
		(66.43)	(64.69)	(100.69)	(90.82)
Some college		-6.29	9.77	-8.46	-3.57
		(100.63)	(102.50)	(128.57)	(127.59)
College degree		-248.16	-173.80	-187.48	-174.17
		(171.43)	(176.55)	(140.31)	(313.51)
Fathers' number of kids		64.10**	61.68**	53.89+	61.13*
		(20.55)	(20.41)	(32.75)	(29.26)
Fathers' intelligence (WAIS_R)		22.00+	19.10	47.11**	-5.61
		(12.54)	(12.54)	(18.02)	(15.27)
Race/Ethnicity (versus White)					
Black		-274.01*	-203.78+	4.60	-350.91*
		(123.01)	(121.47)	(140.16)	(172.68)
Hispanic		-212.61	-130.34	55.58	-252.24
		(144.62)	(132.31)	(140.65)	(195.60)
Other		-278.64	-183.33	231.51	-586.12*
		(209.94)	(196.58)	(280.87)	(235.11)
Depressive Symptom (CIDI)		66.31	58.60	4.50	103.25
		(94.98)	(94.49)	(105.78)	(100.97)
Baseline Relationship Status (versus Nonresident)					
Cohabitation		-46.58	-40.64	—	—
		(78.68)	(72.49)		
Married		-298.04**	-225.12*	—	—
		(102.61)	(107.71)		
Fathers in jail		198.74+	207.27+	332.78**	135.26
		(118.66)	(113.11)	(120.28)	(124.96)
State poverty rate		-37.37	46.15	114.60	-77.98
		(46.64)	(79.08)	(94.54)	(120.29)
State unemployment rate		28.67	-25.19	-0.30	-40.92
		(43.40)	(93.52)	(85.88)	(99.97)
People born in the United States		34.94	-88.10	-110.62	-48.99
		(42.96)	(80.71)	(127.19)	(183.44)
children in single parent families		-14.32	-7.81	31.68	-56.35
		(34.66)	(58.28)	(68.17)	(71.57)
people who went to college		-69.81	70.29	115.20	6.24
		(43.50)	(102.51)	(114.12)	(137.11)
State Fixed Effects	N	N	Y	Y	Y
Interview Year Fixed Effects	N	N	Y	Y	Y
Observations	*9,509*	*9,509*	*9,509*	*4,465*	*5,044*

Note: Results are presented as marginal effects on the expected value for arrearage outcomes for both censored and uncensored observations. *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Source: Fragile Families and Child Well-being Study (FFCWS), Wave 1-5.

Table 3. Moderating Effects of Performance Measure on the Relationship Between a Number of Years Since the Child Support Orders were Established and the Accumulation of Arrears: Based on Tobit Analysis.

Panel 1: For current collection measure

	Changes from the Mean to +1SD (from .60 to .69)		
	(1) Full	(2) Resident	(3) Nonresident
Elapsed Time at			
1 year	25.59	25.10	26.29
	(54.31)	(61.60)	(59.77)
3 years	-242.90+	-357.34*	-125.66
	(136.54)	(159.30)	(151.22)
5 years	-918.23**	-1,407.37***	-505.98
	(304.37)	(392.92)	(332.24)
7 years	-2,034.07***	-3,251.40***	-1,121.17+
	(555.31)	(758.91)	(594.08)

Panel 2: For arrearage collection measure

	Change from the Mean to +1SD (from .60 to .64)		
	(1) Full	(2) Resident	(3) Nonresident
Elapsed Time at			
1 year	-5.51	-38.92	10.62
	(42.61)	(70.33)	(52.47)
3 years	-193.08+	-353.80	-88.27
	(103.61)	(220.53)	(123.84)
5 years	-637.87**	-1,123.81*	-328.17
	(220.52)	(523.86)	(256.82)
7 years	-1,356.21***	-2,415.23*	-713.07
	(391.80)	(964.79)	(446.83)

Note: *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Table 4. Instrumental Variable Estimates for Current Collection Measure

	Changes from the Mean to +1SD (from .60 to .69)		
	(1) Full	(2) Resident	(3) Nonresident
2SLS- 1st Stage			
Effect of standardized expenditure on current collection	.12*	.10+	.14**
	(.039)	(.050)	(.042)
2SLS- 2nd Stage			
Elapsed Time at			
1 year	51.129	48.687	54.033
	(139.952)	(155.730)	(176.405)
3 years	-233.651	-368.628	-95.051
	(299.710)	(343.019)	(378.834)
5 years	-981.376+	-1,551.896*	-499.821
	(539.770)	(644.361)	(676.783)
7 years	-2,233.861**	-3,649.664***	-1,174.725
	(830.352)	(1,020.634)	(1,026.901)

Note: *** p<0.001, ** p<0.01, * p<0.05, + p<0.10

Figure 1. *Distribution of Mothers Against the Amount of Arrears Owed by the Fathers.*

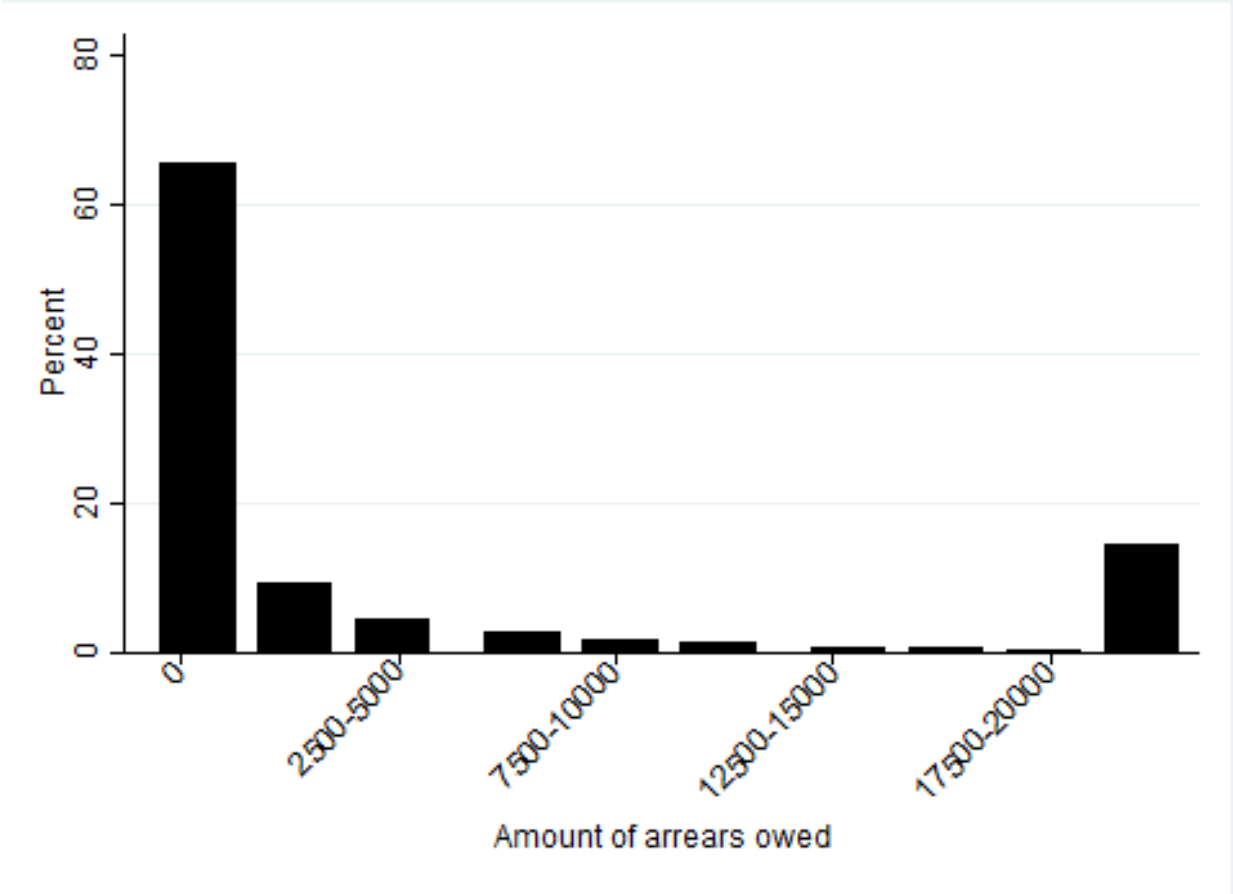


Figure 2. *Average Percentage of Performance Measures, 1999 to 2010*

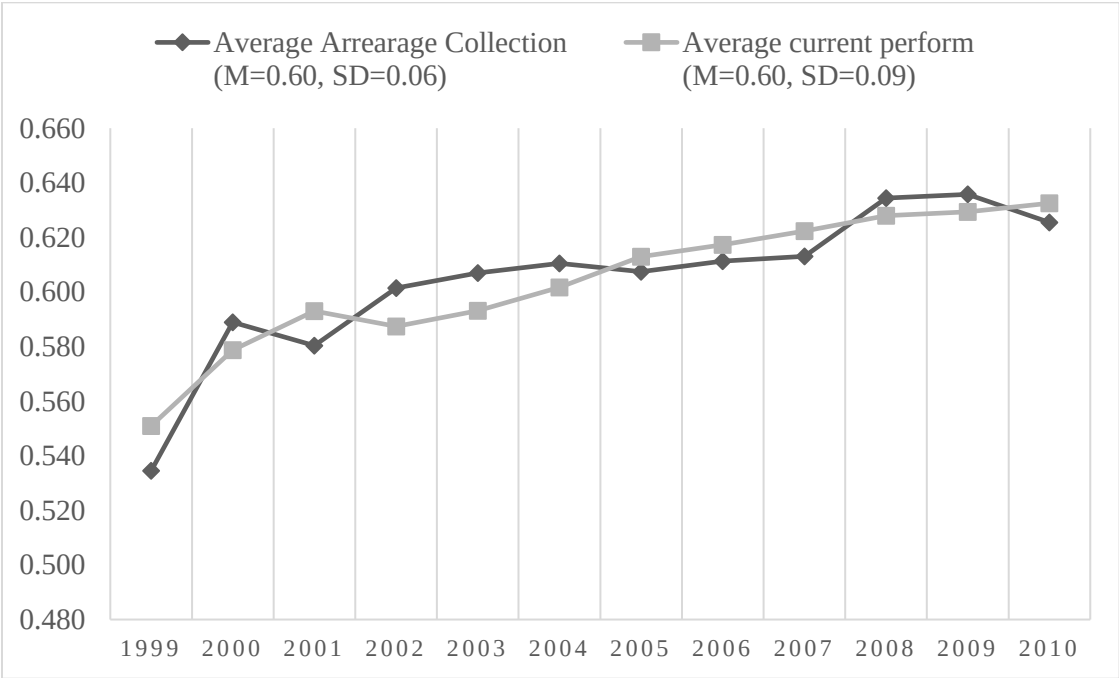
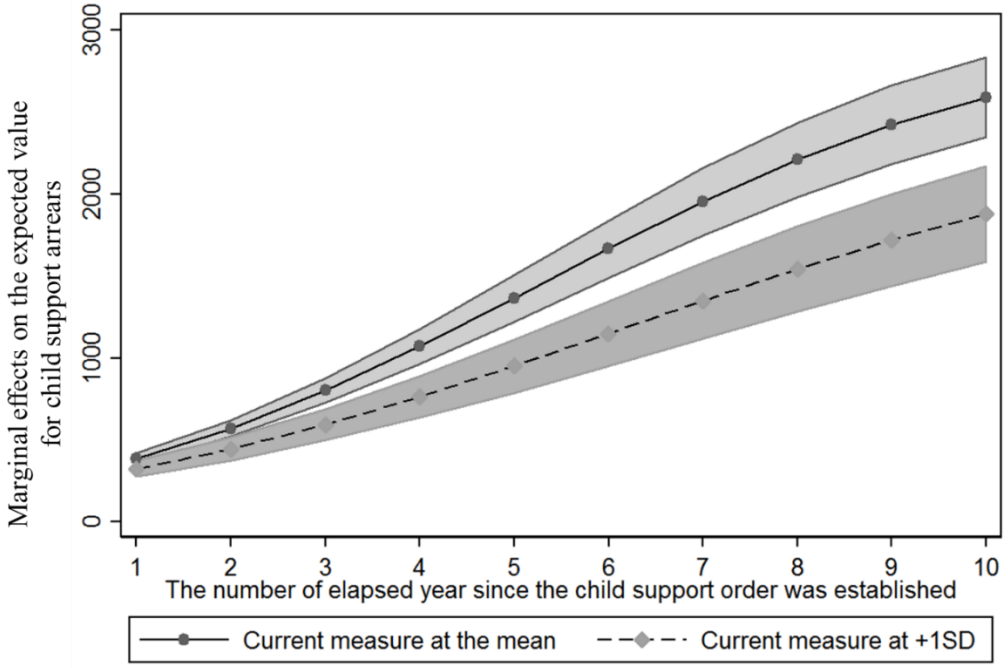
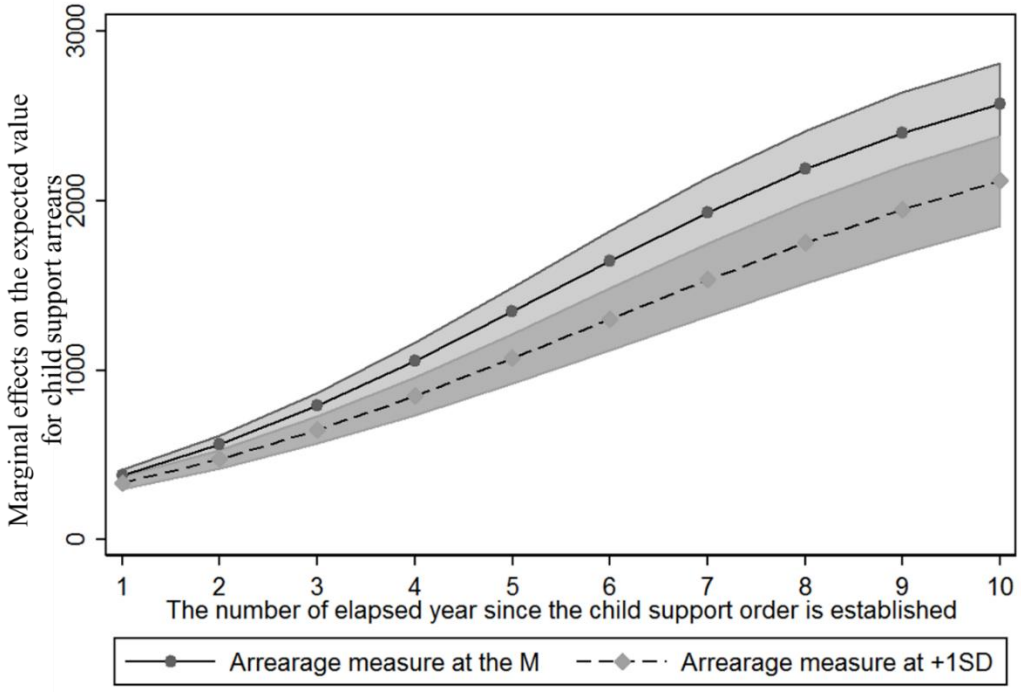


Figure 3. *The Marginal Effects of Elapsed Time Since the Establishment of Child Support Orders on an Accumulation of Child Support Arrears Stratified by CSPIA's Performance Measures*

Panel 1: For current collection measure



Panel 2: For arrearage collection measure



Appendix 1. Measurement Errors on the Dependent and Explanatory Variable

Note: Due to the extensive equations required for the proof, the work was written through LateX software)

Measurement Errors in Dependent Variable

Suppose that we have a simple regression model, such as:

$$Y_{Actial,i} = \alpha + \beta X_i + \varepsilon_i$$

Now, suppose that we cannot observe the actual value of outcome, $Y_{Actual,i}$,instead we can only observe it with measurement error: $Y_{Measured,i} = Y_{Actial,i} + \omega_i$ Note that the measurement error, ω_i, is assumed to be uncorrelated with the explanatory variable, X_i, and error term, ε_i. Lets substitute $Y_{Measured,i}$ to the original regression model:

$$Y_{Measured,i} = \alpha + \beta X_i + \varepsilon_i$$

Then the esimated β will be

$$\begin{aligned}
\hat{\beta} &= \frac{Cov(Y_{Measured,i}, X_i)}{Var(X_i)} \\
&= \frac{Cov(Y_{Actual,i} + \omega_i, X_i)}{Var(X_i)} \\
&= \frac{Cov(\alpha + \beta X_i + \varepsilon_i + \omega_i, X_i)}{Var(X_i)} \\
&= \frac{Cov(\alpha, X_i)}{Var(X_i)} + \frac{Cov(X_i, X_i)}{Var(X_i)} + \frac{Cov(\varepsilon_i, X_i)}{Var(X_i)} + \frac{Cov(\omega_i, X_i)}{Var(X_i)} \\
&= \beta \frac{Var(X_i)}{Var(X_i)} \\
&= \beta
\end{aligned}$$

Therefore, measurement errors on the dependent variable do not bias the regression results.

Measurement Errors in the explanatory Variable

Now, suppose that we have a measurement error in the explanatory variable., $X_{Measured,i}$. If u_i is an measurement error, then

$$X_{Measured,i} = X_{Actual,i} + u_i$$

Lets substitute $X_{Measured,i}$ to the original model:

$$\begin{aligned} Y_{Actual,i} &= \alpha + \beta X_{Actual,i} + \varepsilon_i \\ &= \alpha + \beta(X_{Measured,i} - u_i) + \varepsilon_i \\ &= \alpha + \beta X_{Measured,i} + (\varepsilon_i - \beta u_i) \\ &= \alpha + \beta X_{Measured,i} + e_i \\ \therefore \text{If } Cov(X_{Measured,i}, e_i) &\neq 0 \longrightarrow Biased \end{aligned}$$

If the explanatory variable $X_{Measured,i}$ and the error term e_i are positively correlated, then the estimated β will be biased upward. To see this is true, let's assume that **the actual coefficient β is negative.** When u_i increases, then both the $X_{Measured,i}$ and the e_i also increase, resulting in a positive explanatory variable/error term correlation.Therefore,**when β is negative, then the slope of the actual explanatory variable is steaper than those of the measured one.** This applies in the same way to regression models with interaction terms.

Appendix 2. CSPIA Performance Measure for Current and Arrearage Collection

Performance Measure	**How to measure**
Percent of Current Collection	$\frac{\text{Amount of current support collected in IV} - \text{D}}{\text{Amount of current support owed in IV} - \text{D}}$
Percent of Arrearage Cases	$\frac{\text{Number of cases paying towards arrears in IV} - \text{D}}{\text{Number of cases with arrears due in IV} - \text{D}}$

Appendix 3-1.CSPIA Performance Measure by Years Across States: Arrearage Collection

ST	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	State Average
IL	0.326	0.488	0.508	0.523	0.514	0.582	0.459	0.513	0.537	0.592	0.626	0.613	0.523
MI	0.343	0.600	0.582	0.608	0.590	0.556	0.532	0.543	0.554	0.567	0.595	0.571	0.553
TN	0.466	0.479	0.497	0.545	0.573	0.592	0.600	0.606	0.594	0.609	0.599	0.575	0.561
IN	0.439	0.514	0.511	0.526	0.548	0.562	0.580	0.588	0.596	0.642	0.647	0.641	0.566
CA	0.598	0.534	0.563	0.549	0.554	0.549	0.560	0.565	0.571	0.591	0.594	0.603	0.569
VA	0.520	0.542	0.565	0.564	0.575	0.574	0.578	0.581	0.585	0.596	0.583	0.605	0.572
NY	0.370	0.598	0.607	0.604	0.598	0.591	0.590	0.588	0.600	0.612	0.606	0.592	0.580
MA	0.519	0.553	0.570	0.583	0.604	0.588	0.579	0.585	0.593	0.621	0.620	0.607	0.585
MD	0.575	0.599	0.606	0.643	0.624	0.621	0.639	0.637	0.623	0.629	0.636	0.616	0.620
WI	0.620	0.660	0.617	0.611	0.620	0.643	0.642	0.590	0.605	0.620	0.618	0.621	0.622
NJ	0.607	0.562	0.585	0.612	0.656	0.633	0.632	0.638	0.639	0.657	0.659	0.624	0.625
OH	0.563	0.579	0.418	0.675	0.663	0.663	0.665	0.673	0.671	0.682	0.665	0.640	0.630
TX	0.633	0.634	0.630	0.645	0.623	0.635	0.652	0.673	0.673	0.686	0.666	0.645	0.650
FL	0.799	0.818	0.750	0.628	0.646	0.658	0.667	0.637	0.599	0.623	0.604	0.599	0.669
PA	0.639	0.673	0.697	0.707	0.715	0.710	0.735	0.752	0.758	0.788	0.818	0.831	0.735
Year Average	0.534	0.589	0.580	0.601	0.607	0.610	0.607	0.611	0.613	0.634	0.636	0.626	0.604

Appendix 3-2. CSPIA Performance Measure by Years Across States: Current Collection

ST	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	State Average
IL	0.405	0.400	0.410	0.424	0.452	0.480	0.493	0.504	0.515	0.528	0.534	0.560	0.475
MI	0.146	0.442	0.468	0.485	0.505	0.510	0.528	0.538	0.548	0.566	0.575	0.583	0.491
TN	0.516	0.365	0.376	0.391	0.470	0.492	0.533	0.518	0.531	0.554	0.580	0.579	0.492
IN	0.446	0.449	0.483	0.504	0.537	0.547	0.554	0.557	0.558	0.540	0.526	0.519	0.519
CA	0.486	0.499	0.521	0.564	0.564	0.567	0.567	0.544	0.518	0.524	0.520	0.522	0.533
VA	0.537	0.565	0.582	0.590	0.597	0.600	0.609	0.616	0.620	0.626	0.621	0.620	0.598
NY	0.501	0.651	0.620	0.599	0.577	0.585	0.605	0.623	0.634	0.645	0.636	0.634	0.609
MA	0.660	0.672	0.603	0.594	0.557	0.602	0.605	0.614	0.622	0.620	0.624	0.625	0.616
MD	0.569	0.585	0.603	0.620	0.632	0.618	0.631	0.642	0.638	0.646	0.649	0.645	0.623
WI	0.547	0.587	0.636	0.597	0.609	0.626	0.638	0.654	0.664	0.668	0.676	0.679	0.632
NJ	0.616	0.631	0.646	0.650	0.650	0.649	0.653	0.656	0.657	0.657	0.635	0.651	0.646
OH	0.700	0.736	0.766	0.651	0.647	0.647	0.651	0.649	0.656	0.663	0.670	0.669	0.676
TX	0.711	0.664	0.680	0.668	0.673	0.679	0.690	0.691	0.689	0.688	0.674	0.666	0.681
FL	0.771	0.766	0.785	0.727	0.677	0.676	0.690	0.706	0.706	0.707	0.706	0.706	0.719
PA	0.652	0.666	0.716	0.747	0.748	0.744	0.747	0.746	0.780	0.789	0.813	0.832	0.748
Year Average	0.551	0.579	0.593	0.587	0.593	0.602	0.613	0.617	0.622	0.628	0.629	0.633	0.604

Appendix 4. Proof of Why Two-Stage Least Squares has Larger Variance than Least Squares.

(Note: Due to the extensive equations required for the proof, the work was written through LateX software)

Suppose that y is an outcome variable, X is a vector of covariates, and Z is a vector of instrumental variables. To estimate b_{2SLS}, I consider the following standard regression estimator

$$\beta_{2SLS} = (\hat{X}'\hat{X})^{-1}(\hat{X}'y)$$

where $\hat{X}$ is a predicted X, which can be derived by regressing X on Z. or

$$X = Z'\beta_{IV} + \varepsilon, or$$
$$\hat{X} = Z\beta_{IV}$$

Assume that the vector of instrumental variables is (1) predictive of the X, and (2) unrelated to the outcome variables except through the X. To be valid, T-tests or F-tests on the vector of instrumental variable must be statistically significant AND $E[Z|\varepsilon] = 0$. Therefore,

$$\begin{aligned} Z'X &= Z'Z\beta_{IV} + Z'\varepsilon_i \\ \beta_{IV} &= (Z'Z)^{-1}(Z'X) \\ \therefore \hat{X} &= Z(Z'Z)^{-1}(Z'X) \\ &= (I - M_Z)X \end{aligned}$$

Where M_z is the "residual maker" because $MzX = (I - Z(Z'Z)^{-1}Z')X = X - Z'b_{IV} = e(resid)$, since $b_{IV} = (Z'Z)^{-1}(Z'X)$.
Note that M_z is an idempotent matrix, therefore $(\hat{X}'\hat{X}) = X(I - M_z)X$
Under homoskedastic errors, the Asymptotic variance for β_{2SLS} will be

$$\begin{aligned} Asy.var[2SLS] &= E[(\beta_{2SLS} - \beta)(\beta_{2SLS} - \beta)'] \\ &= (\hat{X}'\hat{X})^{-1}\hat{X}'\varepsilon\varepsilon'\hat{X}(\hat{X}'\hat{X})^{-1} \\ &= \sigma^2(\hat{X}'\hat{X})^{-1} \\ &= \sigma^2(X'(I - Mz)X)^{-1} \end{aligned}$$

Which is larger than the Asymptotic variance for standard β_{LS}: $Asy.Var[LS] = \sigma^2(X'X)^{-1}$
Proof

Compare inverse $\rightarrow$If negative, then Asy,Var[LS] is less precise than Asy.Var[2SLS]

$$Asy.Var[LS]^{-1} - Asy.Var[2SLS]^{-1}$$
$$= \frac{1}{\sigma^2}[X'X - X'(1 - M_z)X] > 0 \in \forall \, \mathbf{R}$$

If M_z is closed to zero, then we can minimize the difference. M_z being closed to zero means Z is almost perfectly predicting X (That being said a residual maker makes no residual).
Therefore, the "weak instrument" is responsible for large variance in $Asy.var[2SLS]$

Chapter 2.

The Role of Child Support Debt on the Development of Mental Health Problems among Nonresident Fathers

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I. INTRODUCTION

When a child lives in a single-parent household, a nonresident parent (usually a father) is obligated to provide financial assistance to the resident parent who lives with the child. Since the enactment of the Child Support Enforcement Act of 1975, the federal government continued to strengthen its effort in collecting child support payments from noncustodial fathers (Pirog & Ziol-Guest, 2006). Nonetheless, the level of noncompliance remains high: the Office of Child Support Enforcement (OCSE) reports that as of 2011, the child support debt grew to over $110 billion nationally. Although the OCSE collected and distributed approximately $7 billion of these arrears in 2010, 11.3 million child support cases still had arrears remaining (OCSE, 2011). Without a doubt, the child support debt is damaging to the state economy (Bartfeld, 2003; Heinrich, Burkhardt, & Shager, 2011; Sorensen, Sousa, & Schaner, 2007).

In addition, child support debt may have unintended consequences for both nonresident fathers and their children. A growing body of research has raised concerns that child support debts are detrimental to custodial mothers and children because they fail to receive much needed-income (Bartfeld, 2005; Bartfeld & Meyer, 2003; Sorensen et al., 2007). Recent studies have also demonstrated the negative impact of child support debt on nonresident fathers' labor force participation (Miller & Mincy, 2012) and their involvement with children (Turner & Waller, 2017). However, previous studies have neglected to explore other significant consequences of the debt, particularly the impact on fathers' mental health outcomes, such as depression and anxiety.

Depression is an important cause of work absenteeism, loss of productivity, and even mortality (Henderson, Harvey, Øverland, Mykletun, & Hotopf, 2011; Mykletun et al., 2007). Approximately one in five clinically depressed and treated patients in the U.S. committed suicide

(Bostwick & Pankratz, 2000), which is expected to be higher among untreated persons. Anxiety, as is usually comorbid with depression, is responsible for a marked impairment in quality of life, reduction in social and occupational functioning (Greenberg et al., 1999; Kessler & Greenberg, 2002; Sherbourne, Wells, Meredith, Jackson, & Camp, 1996). Both depression and anxiety are typically recurrent and chronic, causing a significant financial burden associated with the use of medical resources (Fostick, Silberman, Beckman, Spivak, & Amital, 2010; Greenberg et al., 1999). The inability to repay debts would cause falling further behind in paying off child support debt, resulting in more severe depressive symptoms among impacted fathers. Indeed, the last victim of this vicious cycle would be the children who have not received any support from their nonresident fathers.

Despite some qualitative studies showing that the accumulation of large child support debt may be adversely affecting the mental health of nonresident fathers (Lin, 2000; Waller & Plotnick, 2001), there have been few quantitative studies on this relationship. Using previously unavailable data of fathers' mental health outcomes from the Fragile Families and Child Wellbeing Study (FFCWS), the current study estimates whether the nonresident fathers with child support debts are at risk for the development of mental health problems. Since the data do not provide enough information about whether the father meets anxiety disorder criteria after 3-year follow-up survey, the study uses an alcohol abuse problem as an alternative outcome, given the evidence that both anxiety and alcohol problems have a shared comorbid condition with common underlying risk factors (Brady & Lydiard, 1993; Kushner, 1996; Kushner, Abrams, & Borchardt, 2000). Another goal of this paper is to investigate whether the presence of social support from friends and family can buffer or protect the fathers from the negative consequences of child support debt.

II. POLICY CONTEXT

Child support debts appear at the final stage of the child support enforcement process. When a couple is divorced or separated, a child support order must be set by state child support guidelines. Before the enactment of the Child Support Enforcement Act of 1975, family court judges had the discretion to decide the amount of child support owed. The problem with this method is that judicial discretion can sometimes be unfair, unreasonable, and even arbitrary, and therefore, the nonresident father may not be willing to comply with his obligations (Pirog & Ziol-Guest, 2006). The presence of judicial discretion was the major cause of child support debt until the enactment of the Family Security Act of 1988. This Act required judges to report a statement of reasons if the amount of child support owed deviated from the guidelines. To enforce this law, each state had to explore a variety of potential guidelines that could apply to their specific situation. There are three different types of child support guidelines including; income shares, percentage of income, and Melson Formula model. All three guidelines take into account the incomes of either or both parents when determining the amount of the child support award.

The amount of the child support award can be modified if fathers' ability to pay child support changes (Ha, Cancian, & Meyer, 2010). However, having a child support order modified sometimes takes a longer period of time than many low-income fathers expect. A father interviewed in Mincy et al. (2014) claimed that he could not get his child support order modified because the mother of his child did not appear in court at the time of the modification hearing. Another father who had fluctuating income had difficulty modifying the orders because he could not take a day off to attend court (Mincy et al., 2014). The problem is that the child support debts continue to grow over the period of waiting for the modification. Of course, it is even more

detrimental to incarcerated fathers who usually do not have the means to pay the debts (Holzer, Offner, & Sorensen, 2005; Pearson, 2004). Further compounding the problem is that most of these low-income fathers are ignorant of the conditions under which they are eligible to apply for the modification (Hatamyar, 2000).

A nonresident father may also be less likely to allocate income to child support when his children receive less money than expected (Beller & Graham, 1996). For instance, a father with children on welfare might be reluctant to comply with child support obligations, knowing that the contributions to the child will instead be used to recoup government expenditures on welfare costs (Waller & Plotnick, 2001). To address this issue, the Child Support Amendments of 1984 required states to pass through $50 of the child support payment to the custodial parent on welfare, and disregard this amount for determining the welfare grant. The main purpose of this policy was to give the child support obligors an incentive to use the formal child support program by cooperating with the local enforcement agencies. However, the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA) modified the pass-through and disregard policies, and now states can either keep all the child support received to recover welfare expenditures or pass all or part of the payments to custodial mothers. Another groundbreaking government effort in collecting child support includes automatic wage withholding for delinquent obligors. The Child Support Enforcement Amendments of 1984 mandated wage withholding for every noncustodial father with arrears, resulting in an increase in child support collections from the fathers (Garfinkel & Klawitter, 1990). The automatic wage withholding covers almost 70 percent of child support collected in 2004 (Pirog & Ziol-Guest, 2006).

Despite remarkable success in collecting child support from nonresident fathers, the level of unpaid child support remains high, especially among low-income fathers. According to a recent study based on nine large states, fathers who make less than $10,000 per year owed two-thirds of total child support debt, and each of these "high debtors" owed more than $30,000 (Sorensen et al., 2007). The greater the amount of debt, the less likely the father will participate in the formal labor market because the debt would lower the effective wage (Beller & Graham, 1996). If the father cannot work, then there are fewer chances to pay-off child support debts, and as a result, the debts are more likely to snowball. Therefore, the nonresident fathers with high arrears will continue to fall further behind regarding the repayment of their debts (Miller & Mincy, 2012; Pate, 2002).

A large body of research indicates that accumulation of arrears is, in part, the result of state-level enforcement policies (Office of Child Support Enforcement, 2014; Sorensen, 2004; Sorensen, Koball, Pomper, & Zibman, 2003; Sorensen et al., 2007). Sorensen and colleagues (2007) found that states that assessed interest on a routine basis had higher arrears growth rate than other states between the 1990s and 2000s. A report from the Institute for Research on Poverty (Bartfeld, 2003) yielded consistent results indicating that nearly 50 percent of total debts were attributable to the state-level policies. In addition, some punitive enforcement actions, such as tax refund intercepts, asset seizures, and professional license revocations, do not result in increased child support collection, but instead make it hard for low-income fathers to work in the formal labor market (Mincy & Sorensen, 1998; Sorensen et al., 2007).

To reduce the accumulation of child support debts, state and local governments had developed a number of policies under the Child Support Performance and Incentive Act of 1998

(CSPIA) [16] (U.S. Government Accountability Office, 2011). There are two approaches to reduce the debts: one is to prevent the further accumulation of debt, and the other is to reduce the existing debt (Bartfeld & Meyer, 2003; Sorensen et al., 2007). The underlying philosophy of the debt reduction programs is to help noncustodial parents pay off their current child support debts by using state resources so that they can continue to comply with child support obligations in the future. Several states, including Wisconsin, Colorado, and California, have reported that such debt reduction programs have reduced child support debt burdens for nonresident fathers and increased the receipt of child support (California Department of Child Support Service, 2008; Heinrich et al., 2011; Pearson & Davis, 2002).

III. THEORETICAL AND EMPIRICAL LITERATURE

Stress Process Model as a Theoretical Framework

The obligation to repay debts usually comes with a feeling of shame and guilt, resulting in low self-esteem (Dwyer, McCloud, & Hodson, 2011). Likewise, child support debt may erode the father's sense of self-concept because it hampers future consumption, and increases feelings of impotence. A sociological perspective suggests that a sense of self-concept is a potential resource that can protect mental health from detrimental life events such as economic hardship and indebtedness (Kessler & Essex, 1982; Lachman & Weaver, 1998; Pudrovska, Schieman, Pearlin, & Nguyen, 2005). Thus, fathers with child support debts may become frustrated and as a result, have a high risk of depression and anxiety.

[16] According to CSPIA, the federal government is required to provide an incentive to the states that perform well based on National Child Support Goals measured by five performance indicators: arrearage collection, paternity establishment, order establishment, current collection, and cost-effectiveness (Solomon-Fears, 2013).

In recent years, research on mental health outcomes associated with personal debt has been guided by the stress process model (Drentea & Lavrakas, 2000; Drentea & Reynolds, 2015). The stress process model, proposed by Pearlin and his colleagues (Pearlin, 1999; Pearlin, Menaghan, Lieberman, & Mullan, 1981), consists of three interactive conceptual components: (1) stressors, (2) moderating resources, and (3) stress outcomes. The underlying assumption of this model is that stressors are shaped by the socioeconomic contexts associated with a father's mental health outcomes. Therefore, complex genetic mental disorders, such as schizophrenia, are usually not used as outcomes in the stress process model (Aneshensel, 1992).

The stressors include those events that occur at a personal or family level that are either acute or may have chronic consequences. One's indebtedness is a money-related stressor that could lead directly to changes in the individual's level of depression or delinquent behaviors (see Panel 1 in Figure 1). For instance, fathers with a large accumulation of arrears may have to face many uncomfortable or distressing factors. They may have to cut down their regular household expenditures, such as food or housing, to pay their overdue debts. Because of an inability to make ends meet due to a heavy arrears burden, fathers may experience serious psychological distress (Murray, 2010).

In addition, Pearlin and many stress researchers posit that life stressors can be alleviated by the presence of one's social support that is disproportionally distributed across social groups (See Panel 2 in Figure 1). The term "social support" refers to the extent to which individuals can access financial and emotional support, or both, in the form of relationships (Cohen & Wills, 1985; Johnson & Sarason, 1978; Pearlin, 1999). In the stress process model, social support is a coping device that helps fathers deal with distress caused by financial strain. For instance, when the fathers have a high arrears burden, social support can serve as a safety net to help fathers get

through difficult times. Therefore, if the father receives social support from his friends and family, his chances of developing mental health problems in response to a stressor will decrease.

Debts and Mental Health among General Population

A large body of literature suggests that financial indebtedness or an increase in debt may create a higher risk of stress-related mental health problems, such as anxiety, depression, and substance abuse (Bridges & Disney, 2010). The evidence of a causal link between individual debts and mental health is prevalent across western countries. Using data from 17 European countries between 1995 and 2012, Clayton, Liñares-Zegarra, and Wilson (2015) have shown that accumulated household debts are an important factor for negative health outcomes across countries. This finding is in line with earlier work by Fitch, Hamilton, Bassett and, Davey (2011) who conducted a systematic review of the relationship between personal debt and mental health in the English-language and peer-reviewed literature between 1980 and 2009. Among the 50 selected papers, a large number of studies found significant relationships between debt and mental health (Clayton et al., 2015). Consistent with this study, a meta-analysis recently published in clinical psychology examined data from 65 studies and found the relationship between debts and mental health. The study suggested that the likelihood of having a mental disorder is more than three times higher among people in debt (Richardson, Elliott, & Roberts, 2013). Meltzer and his colleagues further expanded this idea and found that the situation was more detrimental among those with addictive behaviors, such as alcohol or drug dependence (Meltzer, Bebbington, Brugha, Farrell, & Jenkins, 2013).

A growing number of studies have been addressing debt-related issues that have emerged in the U.S. According to a report from the Federal Reserve Bank of New York (2017), mortgage

debt, credit card debt, and student loans[17] are three major reasons Americans fall into economic hardship. Over the past two decades, media reports about the adverse mental health consequences of financial debts have increased significantly, leading many researchers to investigate the effects of indebtedness across different groups (Jacoby, 2002). Drentea and Lavrakas (2000) examined the effect of credit card debt on health problems. Using a random telephone survey in Ohio in 1997, they found that credit card debt has a stronger effect than income on stress-related health outcomes and risky behaviors, and the effects are stronger for Blacks than other racial groups. Reading and Reynolds (2001) focused on maternal depression among women who have children less than one year of age. Using self-reported data collected from families with young children, however, they found that debt concerns were not independently associated with depressive symptoms measured six months later.

There are several potential confounders to the association between indebtedness and mental health outcomes. Dreatea (2000) argued that younger adults are more anxious about debts because anxiety tends to decrease with age (Schieman, 1999). Depression, on the other hand, is less likely among young adults (Mirowsky & Ross, 1992). According to Dwyer and colleagues (2011), young adults are less stressed out from the credit card or other debts than older adults because they tend to view those debts as future investments. Another confounder of the association between indebtedness and mental health is the debt burden (Meltzer et al., 2013). Zimmerman and Katon (2005) showed that depression was highly associated with income among

[17] Total U.S. household debt hit a record high in the first quarter of 2017. According to the Federal Reserve Bank of New York (2017), Americans have more than $9 trillion in mortgage debt and nearly $4 trillion in student loan and credit card debt combined. Americans owe more than $60,000 per person in household debt, which is the third largest amount of debt per capita among OECD countries after Japan and Ireland (OECD, 2017). Households' ability to maintain debt has been declining since the recession began, as the ratio of debt to disposable income drops from 133.7% in 2007 to 103.3% in 2017. Apparently, Americans are up to their eyeballs in debt.

low-income male. The result suggests that the greater the burden of debt, the higher the degree of depression.

Child Support and Mental Health Problems among Low-Income Fathers

Low-income nonresident fathers may have a higher risk of mental health problems than other fathers (DeKlyen, Brooks-Gunn, McLanahan, & Knab, 2006). One possible reason may be related to the strictness of the child support enforcement system. Many noncustodial fathers with high levels of child support debt find it hard to comply with child support obligations. According to qualitative research conducted by Waller and Plotnick (2001), a large amount of child support debt is often described as burdensome and overwhelming for low-income noncustodial fathers. Many noncustodial father respondents to the study could not pay off child support debts, despite allocating more than half of their income to child support payments (Waller & Plotnick, 2001). To quote a father interviewed in Sherwood's qualitative study(1992) introduced by Waller and Plotnick (2001), this high level of child support debt is "what's killing us."

Kimberly Turner and Maureen Waller's study (2017) is the only empirical research that explored the link between child support arrears and fathers' mental health, although the study was originally designed to test the mediating effects of mental health on a relationship between child support arrears and father involvement. Nevertheless, they found that an accumulation of child support debt at a high level creates an increased risk for depressive symptoms among nonresident fathers whose noncustodial child was aged 9. However, the potential threat associated with endogeneity arising from simultaneity is of concern as the link between child support and mental health was cross-sectional. That is, the mental health problems of the father may lead to an inability to pay child support obligations. Therefore, the endogeneity of child

support arrears may result in biased estimates of the effect of the debts on fathers' mental health outcomes.

Based on the stress-process model and the extant literature, the present study tests the following three hypotheses:

H_1: Child support debt will be positively associated with fathers' poor mental health outcomes.

H_2: The effect of having child support debt on mental health outcomes will be stronger for fathers with high debt burdens than those with low debt burdens.

H_3: The existence of social support moderates the relationship between child support debt and the risk of mental health problems among nonresident fathers.

IV. DATA AND VARIABLES

Data Set

The analysis of the current study uses 3,099 repeated observations (1,606 unique observations) of fathers who were not deceased or unknown but were not living with the mother of the focal child at some point since the one-and nine-year follow-up survey. From the 4,898 unique observations at the baseline survey, 183 cases are excluded because fathers were deceased or unknown between baseline and year-nine follow-up, and 407 cases are excluded because fathers had custody, yielding 4,308 unique observations. Of these, 1,982 fathers (46%) who remain resident between one and nine-year follow-up are excluded from the sample. An additional 720 unique observations are dropped because the father was not interviewed at three-five- and nine-year follow-up; yielding the final observations of 1,606.

For the dynamic model, I pool the sample across three-, five-, and nine-year surveys when the father's mental health outcomes were measured, yielding a pooled sample of 3,099. The pooled sample consists of 1,009 cases from the 3-year follow-up, 1,146 cases from the 5-

year follow-up, and 944 cases from the 9-year follow-up survey. Missing data on a dependent variable is included in the imputation process but is later excluded from the analytic sample, the method recommended by Von Hippel (2007), yielding 3,088 repeated observations (1,603 unique observations) for the depression outcome and 2,886 observations (1,546 unique observations) for the binge drinking outcome. The differences in demographic characteristics between the two repeated samples are minimal.

Compared to the core sample of Fragile Families and Child Wellbeing Study (FFCWS) at baseline, the study sample includes a larger proportion of fathers with lower educational attainment, more likely to born in the United States, and more African American and fewer White fathers. The study sample also includes a smaller proportion of fathers who work in full-time jobs and whose child's mother are financially independent. In short, the analytic sample is comprised of fathers who are relatively vulnerable to financial shocks. This is not surprising, given that the sample is restricted to nonresident fathers who appear to be more economically vulnerable than their resident father counterparts (Mincy et al., 2014).

Variables

Paternal depression

As shown in the literature review, paternal depression is an important dimension of mental health outcomes. Based on the World Health Organization's Composite International Diagnostic Interview-Short Form (CIDI-SF) (Kessler, Andrews, Mroczek, Ustun, & Wittchen, 1998), paternal depression is measured by fathers' direct reports at the one-, three-, five- and nine-year follow-up surveys of the FFCWS. Fathers were asked whether they had been feeling sad, blue, depressed, or were losing interest in things that were usually pleasurable in the past year that lasted more than 2 weeks. If they answered yes to any of the items, they were asked

more specific questions. These included whether they were: 1) losing interest, 2) feeling tired, 3) gain or lose in weight, 4) trouble falling asleep 5) trouble concentrating, 6) feeling down, and 7) thinking about death. Each item score used in the study is summed, leading to a depression score range of 0-7. Using this depression score, I predict the probability of being in a CIDI depression category among fathers who endorse diagnostic stem questions. As revealed by Kessler et al. (1982), individuals with a probability of more than 0.5 in the CIDI depression category or those with a depression score of 3 or higher are expected to have a major depressive disorder. The current study uses a dichotomous measure of the major depressive symptoms based on the Kessler et al.'s method described above. To control for non-random selection into arrearage status, the study introduces a measure of prior paternal depression.[18]

Alcohol abuse problem

The study examines self-reported fathers' alcohol abuse problem in the one-, three-, five- and nine-follow-up surveys of the FFCWS based on the Alcohol and Drug Dependence scales derived from the World Health Organization's CIDI-SF (Kessler et al., 1998). Fathers will be considered as having an alcohol problem if they have at least five or more drinks in a single day in the last twelve months (dichotomous outcomes). The study includes a measure of prior alcohol dependence from the previous wave to control for an earlier level of alcohol use. [19]

Stress exposure: child support arrears

Following the method used by Miller and Mincy (2012), the current study constructs two measures of child support arrears at the three- five- and nine-year follow-up surveys. One is a binary measure taking the value of 1 if the fathers have ever had a child support debt, and 0

[18] Note that the depression variable measured at the one-year follow-up survey is used only for the lagged dependent variable).
[19] Note that the alcohol abuse problem variable measured at the one-year follow-up survey is used only for the lagged dependent variable).

otherwise. The other is a categorical measure constructed by taking the ratio of the amount of arrears to fathers' income (0= no arrears, 1=1-50%: low arrears burden, 2= 50% or above: high arrears burden). Both income and arrears are adjusted to 2006 dollars using the Consumer Price Index. Because of the high proportion of missing data for the father-reported arrears variables, the study uses the data reported by their child's mother. The mothers were asked if the father has any arrears that he is supposed to pay to the mothers or to the government. For those who did not report arrears but established child support orders, I assumed that the amount of arrears is equivalent to the difference between the amount of child support owed and the amount received. I also assumed that the amount of arrears is zero for fathers who complied with child support obligations in full.

It is evident that mothers are likely to report the father's child support debts with errors. For example, as Miller and Mincy (2012) pointed out, mothers may under-report the actual amount of arrears owed by fathers because they have little information about the unpaid amount of child support owed to children of different mothers. In this case, it is difficult to make an accurate estimate of arrears unless there is administrative data for child support. However, if a case, other than the missing cases, is directly related to the mother, she may over-report on the father's arrears. Much of past research on child support has suffered from inaccurate information about payments and orders reported by both mothers and fathers. For instance, there is evidence supporting the notion that mothers tend to over-report noncustodial fathers' obligations to support their children, whereas fathers tend to under-report their obligations (Braver, Fitzpatrick, & Bay, 1991). This evidence is consistent with the results from the FFCWS data where the father's reports on the proportion of arrears that he owes to the mother or the government were significantly lower than the mother' reports. Therefore, using the mothers' reports of arrears as a

key independent variable may induce a downward bias in the estimates of the effect of arrears on mental health outcomes. The study has attempted to address this limitation using an instrumental variable approach, as described below.

Moderator: social support

Social support refers to a range of assistance individuals could get from friends and family if needed (Cohen & Hoberman, 1983). In particular, when one becomes a parent, she or he may need extra financial help from others. I assume that a person who can help the father financially can also provide him with emotional support and make him feel less stressed about his child support debt. To measure the social support, I created a dichotomous measure to indicate whether a father had received social support from the following question: "Since the child was born, have you received any financial help or money from anyone other than mother?" The support includes fathers' relatives and friends but does not include help from any government or private agency.

Table 1 presents the descriptive statistics for dependent and key explanatory variables. Of the fathers in the analytic sample (N=3,099), only 13.7% of them experienced depression at 1-year follow-up survey, slightly declining to 12% at 3-year and 5-year, but rising again to 14.5% by 9-year. In the 1-year follow-up survey, only 10% of fathers were engaged in binge drinking, but this proportion had increased to 35.3% of fathers by 9-year. As expected, the proportion of fathers who owe child support arrears had continued to increase over time since childbirth (from 10.2% at 1-year follow-up to 34.9% at 9-year follow-up survey). As time passes since the childbirth, a higher proportion of nonresident fathers had accumulated arrears burdens that exceeded their incomes: In the 1-year follow-up survey, only 1.6% of fathers owed child support

debts that were more than 50 percent of their income, but this proportion increased to 9.7% of fathers by 9-year.

Control variables

The study accounts for the selection into nonresident fatherhood by controlling for a large number of individual-and state-level characteristics. The study first controls for a number of time-invariant socioeconomic characteristics of fathers reported by the father at the time of the baby's birth. The study also adjusts for a set of time-varying covariates measured at each survey year.

Fathers' self-reported educational attainment at the time of birth is measured as a four-category scale: less than high school (reference), high school diploma, some college, and college graduate. Fathers' race/ethnicity is measured by a set of dummy variables for non-Hispanic White (reference), non-Hispanic Black, Hispanic, and other race. Fathers' nativity is coded as a dummy variable, with 1 indicating whether the father was born in the United States. Fathers' age and age squared are measured in years at the time of birth. To measure fathers' cognitive functioning, the study uses the Wechsler Adult Intelligence Scale-Revised (WAIS-R), a single most widely used instrument in measuring cognitive developments for young adults. The score for this variable ranges from 0 to 15, where 15 means "very intelligent." Fathers' health at the time of birth is represented by a Likert scale ranging from 1 (Great) to 5 (Poor).

The study includes three pieces of information relating to the relationship quality between mothers and fathers: (1) absence of a father's name on the birth certificate (1=No, 0=Yes); (2) fathers' number of children with other mothers at the time of baby's birth; and (3) whether fathers asked the mother to have an abortion (1=Yes, 0=No). For the measure of mothers' financial wellbeing, the study includes two sets of dummy variables indicating (1) whether the

mothers have unemployment insurance, disability insurance, or social security; and (2) whether the mothers receive money from friends and family. The study includes two pieces of information about the child: (1) gender (1=Male, 2=Female), and (2) low-birth weight (1=baby less than 2,500 grams, 0=baby more than or equal to 2,500 grams).

To account for the initial value problem in the dynamic Probit model, the study includes five sets of dummy variables indicating family mental health history by asking the following questions about the fathers' biological father (1) he was depressed or blue most of the time; (2) he constantly nervous, edgy, or anxious; (3) he ever have a problem with drinking; (4) he ever have a problem with drugs; and (5) he ever attempt to commit suicide.

The study also includes a set of time-varying covariates measured at each survey year: mother-reported relationship transition (father becoming a non-resident parent), whether the father was in jail at the time of the interview reported by the mother, and fathers' self-reported labor force participation (1=unemployed, 2=part-time job, and 3=full-time job). Because the time-varying covariates may be affected by either or both arrears and mental health outcomes, the study will present an alternative set of estimates with lagged time-varying covariates to determine the robustness of the findings.

Table 2 provides descriptive statistics for all covariates used in the study. Approximately 20% of fathers had some college or more. 11.5% of fathers were non-Hispanic White, 64.7% were non-Hispanic Black, and 20.8% were Hispanic. On average, these fathers were in their mid-20s at the time of the baby's birth and more than 90% of them were born in the U.S. Most fathers were healthy and had their name on the birth certificate. On average, these fathers had 2.134 children with other women before the focal child was born. Only 11.6% of fathers asked the mother to have an abortion. Ten percent of mothers received public assistance, but 37% of them

received income from friends and family members. Slightly more than half of the children were boys, and only 10% of them were of low birthweight. Less than a quarter of fathers had a biological father who suffered from mental health disorders. Forty percent of fathers received social support from friends and families when the baby was born.

In regard to time-varying covariates, most fathers become nonresident when the child was five years old the results of which are consistent with the findings of Halpern and Turney (2000). Thirteen percent of fathers have been in jail at mothers' 3- and 5-year interview, declining to 8.1% at 9-year interview. Most noncustodial fathers work in full-time jobs during survey years.

Missing Data

The presence of non-random attrition can cause a serious bias in estimating the causal link between treatment and outcomes. In this paper, less than 15 percent of the 3,099 cases have missing information on any study variables. Because of a large number of variables with missing data, the study uses multiple imputation using chained equation (MICE), the most advanced imputation technique in social science so far. Unlike other imputation techniques, MICE uses multiple complete data sets with multiple times to impute missingness. To use this method, three consecutive processes are needed. First, the missing values are replaced in m times, in this study's case 5 times, to generate complete data sets. Next, these multiply imputed data sets are analyzed by using a separate imputation model for each variable to generate complete data. Lastly, combine the results of the complete data set and run the previous three steps multiple times (5 times in this study).

There are three advantages of using the MICE technique. First, MICE can use model restrictions to handle complex patterns of missing data. For instance, if a father reported that he

did not establish child support orders, he skipped questions related to child support arrears. With this skip-pattern in mind, imputation models with restriction ensure that missing values on child support arrears would not be imputed for those fathers who did not establish child support orders. Next, the MICE assumes that the missing data should follow *a missing at random* mechanism, which is not a strong assumption because the study has a large number of covariates that may provide more information about the missing data. Lastly, the confidence intervals of the study results will have correct coverage properties, as MICE addresses more types of uncertainties about the missing values than any other imputation technique. For instance, the regression imputation approach assumes that the coefficients taken from the points on the regression line are considered a true value. The MICE approach, on the other hands, is skeptical of this assumption due to the uncertainty of the model's parameter. To address this type of uncertainty, MICE draws the coefficient values from an appropriate distribution, a normal distribution in case of this study, instead of assuming that the values are true.

V. ANALYTIC STRATEGY

The main objective of this study is to test whether nonresident fathers who owe child support arrears are at risk for the development of mental health and alcohol abuse problems. Our theory predicts that fathers with a history of mental health problems are likely to fall into financial difficulties, which may later have a more significant impact on severe mental illness. Therefore, failure to control for the previous mental health status may overstate the impact of child support debt on current mental health problems. To address these concerns, the study includes a lagged dependent variable (whether father had mental health/alcohol abuse problems at the previous wave) as a covariate to reduce a possible omitted variable bias. Another theoretical motivation to include the lagged dependent variable is to capture the *autoregressive*

effects – the effect that accounts for the previous level of the dependent variable.[20] This method, also known as the "dynamic Probit model" can be estimated only from the longitudinal data set.

The specification for the dynamic Probit model is as follows:

$$P\left(y_{it} = 1|\left(Arr_{i,t}, y_{i,t-1}, X_{it}, \omega_i, \mu_i,\right)\right) = \Phi\left(\tau Arr_{i,t} + \gamma y_{i,t-1} + X'_{i,t}\alpha + \omega'_i\beta + \mu_i\right) \quad (1)$$

Where i = 1, …, N for each individual in the panel, and t refers to the time period, either wave 3 (3-year follow-up), wave 4 (5-year follow-up), or wave 5 (9-year follow-up). The dependent variable, y_{it}, is defined as a dummy variable indicating whether father i has mental or alcohol abuse problems at time t. As previously mentioned, I include the fathers' previous history of mental or alcohol abuse problems, $y_{i,t-1}$[21], to account for the autoregressive effect. The coefficient of the autoregressive parameter,γ, indicates the extent to which a predisposition to mental/alcohol abuse problems in the previous survey year is transmitted to mental/alcohol abuse problems in the current survey year. $Arr_{i,t}$ is defined in two alternative ways: either a dummy variable indicating whether father i has accumulated child support arrears at time t or the ratio of arrears to earnings. X_{it} and ω_i are vectors of time-varying and time-constant covariates, respectively. Note that the issue of reverse causality will be discussed in a later section. Lastly, μ_t is time-invariant effects representing unobserved heterogeneity that is common to father i across all waves (individual-specific effects).

Although the dynamic Probit models can minimize the omitted variable bias, it cannot fully eliminate the possibility of such bias if the initial condition effects are neglected (Arellano

[20] Or it can be defined as "the effect of a construct on itself measured at a later time" (Selig & Little, 2012)

[21] t-1 t refers to the lagged time period, either wave 2 (1-year follow-up), wave 3 (3-year follow-up), or wave 4 (5-year follow-up).

& Hahn, 2006; Bover & Arellano, 1997; Heckman, 1987; Wooldridge, 2005). That being said a potential relationship between time-invariant unobserved heterogeneity, μ_i, in Eq 1 and fathers' past mental health status, $y_{i,t-1}$, can lead to a significant problem of the so called "initial value problem." For example, mental health outcomes can be attributed not only to a combination of social, psychological, and economical factors, but also to unobserved personal tendencies that do not change over time (initial condition). Obviously, these unobserved personal tendencies would affect fathers' past mental health status, which would violate the basic assumption of random effects that μ_i should be independent of all other variables on the right-hand side (Angrist & Pischke, 2008). Violation of this assumption can lead to serious bias in estimates of autoregressive parameter and all other parameters, including τ.

Some studies have attempted to solve this problem by assuming that μ_i is exogenous but, as Heckman (1987) showed, this assumption can cause more serious bias. Instead, I use the approach proposed by Wooldridge (2005) who suggests that the distribution of unobserved effects can be modeled based on the initial dependent variable. However, since the fathers' mental health problems based on the CIDI-SF were not measured at the baseline of FFCWS study, its initial condition for some fathers is unknown[22]. Instead, assuming that family's past mental health history can predict one's risks for future mental disorders and alcohol use problems, and those risks are assumed to remain constant over time, I specify the unobserved heterogeneity as a linear function of the fathers' family mental health history (MHS_{i0}) as follows:

$$\mu_i = \delta_0 + \delta_1 MHS_{i0} + \varepsilon_i \qquad (2)$$

[22] Especially for those who report an establishment of child support order at Year1 follow-up.

Where

$$\mu_i|(MHS_{i0}\, Arr_{it}, y_{i,t-1}, X_{it}) \approx N(0, \sigma_\varepsilon^2) \tag{3}$$

Therefore, I substitute eq2 into eq1 by adding the MHS variable as an additional covariate. This procedure yields the following equation:

$$P\left(y_{it} = 1|\left(Arr_{it}, y_{i,t-1}, X_{it}, \omega_i, MHS_{i0}, \varepsilon_i\right)\right) = \Phi\left(\tau Arr_{it} + \gamma y_{i,t-1} + X'_{i,t}\alpha + \omega'_i\beta + \delta MHS_{i0} + \varepsilon_i\right) \tag{4}$$

The study examines three successive models by subsequently adding predictors as specified in Equation 1 and 4. The first model is a bivariate model predicting mental health outcomes based only on whether or not fathers owe child support arrears. In the subsequent model (Model 2), the study replicates the results of previous studies showing that mental health and alcohol abuse outcomes are highly correlated with an individual's socio-economic characteristics. Finally, in Model 3, the study adds the lagged dependent variable and initial conditions of mental health/alcohol abuse problems to Model 2. The standard errors in each model are clustered by year to account for unobserved temporal heterogeneities. In order to make the coefficients of the Probit estimation interpretable, all results are presented as marginal effects evaluated at the sample means.

VI. RESULTS

Main Analysis

The estimation results from the dynamic Probit model are reported in Table 3 for depression and Table 4 for alcohol abuse problems. It first presents a bivariate model (Model 1) and then a model including previously identified covariates[23] (Model 2), followed by a model

[23] The model includes a set of time-invariant socio-demographic characteristic, as well as individual-and state-level covariates that change over time.

including both the lagged dependent variable and the initial conditions (Model 3). In each model, coefficients on the dichotomous measure of child support debt are shown at the first row. The coefficients on the ratio of arrears to earnings measure are presented in the subsequent row. Lastly, the coefficients on the covariates are from the models where the dichotomous measure was used as a key independent variable.

From the depression model, the study provides strong evidence that fathers who owe arrears are more likely to report depressive symptoms than those who do not owe any arrears. Model 1, the bivariate model, in the left panel of Table 3 shows that there is about 5.6[24] percentage point difference in probability of having depressive symptoms between fathers who owe child support debt versus fathers who do not owe any. Having a father whose ratio of debt to income is less than 50 percent would still be at risk for the development of depressive symptoms, but the risk to the father who owes child support debt of more than 50 percent of his income is still higher (5.4 vs 8.2 percentage point). In Model 2, the results for the debt-depression relationship are robust to the inclusion of a rich set of covariates, although the effect size is reduced. For example, the magnitude of the coefficient on fathers' arrearage status is reduced by 21 percentage points (b=0.044, $p<0.001$), and a similar degree of change is also observed in fathers with low and high arrears burden (b=0.049, $p<0.05$ for low burdens; and b= 0.048, $p<0.01$ for high burdens, respectively). In Model 3, which adjusted for the lagged dependent variable and the initial condition, arrears coefficients are slightly reduced in magnitude (b=0.036) but remain significant at the 1 % level. The coefficient estimates of the lagged dependent variable can be interpreted as 1 percentage point increase in the probability of developing depressive symptoms in previous

[24] Note that when this result is expressed in logit form, the ratio of the probability of not having depressive symptom versus having depressive symptom (odd ratio) is 1.64. According to Chen et al.'s study (2010), the magnitude of this ratio (Odd ratio) is considered to be small as the odd ratio of 1.68 is assumed to be equivalent of Cohan's d of 0.2.

survey year produces a 0.11 percentage point increase in the probability of developing depressive symptoms in the current survey year.

Turning to the estimates of alcohol abuse problems, Model 1 in the right panel of Table 3 shows that fathers with child support arrears are 6.7 percentage points more likely to develop alcohol problems than those without the arrears. In addition, as reported in the second row, having child support arrears of less than 50 percent of fathers' income is associated with an 8.3 percentage point increase in the probability that fathers have drinking problems. However, the arrears coefficients drop by including a large set of covariates in Model 2, although the coefficient remains significant at the 1% level. The regression coefficients for arrears do not change substantially in Model 3, which adjusted for the lagged dependent variable and the initial condition. The coefficient estimates of the autoregressive effect imply that a 1 percentage point increase in the probability of having drinking problems in the previous survey year produces a 0.150 percentage point increase in the probability of having drinking problems in the current survey year. In sum, the results indicate that, compared to those who did not owe any arrears, fathers who owe arrears are more likely to report mental health symptoms and are more likely to have alcohol abuse problems.

The findings for the control variables are generally consistent with the previous research on depression in adults. As shown in the second column of Table 3, fathers are more likely to develop mental health problems when they are unemployed, have a history of incarceration, or have children with other women. These factors put fathers at higher risk of depression. In addition, African American fathers are less likely than White fathers to develop depressive symptoms, the result of which is consistent with those obtained from a large number of previous studies (Assari & Burgard, 2015; Brown, 2003; Williams & Mohammed, 2009; Williams, Yu, Jackson, &

Anderson, 1997). The marginal effects of the initial condition on depression are shown in the third column of Table 3, indicating that family mental health history is significantly associated with fathers' current depression.

The marginal effects of the control variables on the alcohol outcomes are shown in the fifth column of Table 3, indicating that fathers are more likely to develop alcohol problems when they are attached to the labor market, have no history of incarceration, or have obtained higher education. The finding that White fathers have a higher risk of developing alcohol dependence than African American fathers is not consistent with previous research in which African American Americans have a higher risk of alcohol dependence (Herd, 1994; Mulia, Ye, Greenfield, & Zemore, 2009). Part of the reason for this discrepancy is that the sample of the study consisted of non-resident fathers who are predominately Black and Hispanic. Therefore, the results are not representative of the White Americans in general.

Heterogeneous Effects of Child Support Debt by Social Support

As hypothesized in the stress process model, the effects of child support debt on the development of depression and alcohol abuse problems may be moderated by social support. That is, fathers who experience more support from friends and family may be less likely to develop mental health and alcohol abuse problems as a result of child support debt than those who experience less support. To test this hypothesis, equation 5 adds an interaction term between child support debt and social support ($Arr_{it} \times SSup_i$) to the Eq4.

$$P\left(y_{it} = 1|\left(Arr_{it}, SSup_i, y_{i,t-1}, X_{it}, \omega_i, \mu_i, MHS_{i0}\right)\right) = \\ \Phi\left(\tau Arr_{it} + \pi(Arr_{it} \times SSup_i) + \gamma y_{i,t-1} + X'_{it}\alpha + \omega'_i\beta + \delta MHS_{i0} + \varepsilon_i\right) \quad (5)$$

The interaction term represents the difference in the marginal effect of child support debt on outcomes between fathers with and without social support. However, unlike the linear model with the explicit interaction term, the marginal effect of child support arrears is not constant but instead depends on the arrears variable and other covariates, including the social support variable. Therefore, as described by Ai and Norton (2003), the coefficient of the interaction term in nonlinear models, such as equation (5), is not equivalent to the marginal effect calculated by statistical software packages, e.g. Stata. Instead, as suggested by Karaca-Mandic et al. (2012), table 4 shows the marginal effect of child support arrears for fathers with social support and the marginal effect of child support arrears for fathers without social support. Testing the hypothesis requires taking the difference between these two marginal effects.

The first two columns in Table 4 provide the results required to test the hypothesis that fathers without social support will be more likely to develop depressive symptoms than those with social support if they have child support arrears. The results support this claim. That is, compared to those who received social support from friends and family during childbirth, fathers who have not received any social support have a probability of developing depressive symptoms that is 3.1 (=6.0-2.9) percentage points higher when they are behind in child support payments. The results reported in Panel 2 are more compelling in terms of dividing fathers into sub-groups who owe arrears either more or less than half of their income. Fathers with a relatively low arrears burden do not receive much benefit from social support because it could only lower the probability of having depressive symptoms by 0.8 (= 5.3-4.5) percentage points. On the other hand, if the fathers with a relatively high arrears burden do not receive social support, the incidence of depressive symptoms increases by 10.8 (= 9.4 – (-1.4)) percentage points. The

results in the second column show that the hypothesis is robust to the inclusion of the lagged dependent variable and the initial condition.

The next two columns in Table 4 provide the results required to test the hypothesis that fathers without social support are more likely to engage in alcohol abuse than those with social support if they accumulate child support arrearages. The results support this hypothesis for fathers who owe arrears less than half of their income. However, the probability of having drinking problems is greater for fathers with high arrears burden who received social support from friends and family (see the results of column 3 and 4 in Panel 2). This discrepancy may be attributed to social drinking. Fathers with social support tend to have many close friends and family who involve with them and may have more chance to drink alcohol on social occasions. These friends and family may also offer a drink when a person is going through a financial crisis since alcohol is believed to relieve stress, which may cause more alcohol consumption.

Robustness Check: Instrumental Variable Estimates

As indicated above, the potential measurement errors associated with mothers' reports of fathers' child support arrears can introduce a downward bias in the estimated effect of arrears on mental health outcomes. In addition, there is also a problem of reverse causality if the mothers' reports of arrears are provided before the fathers' reports of mental health outcomes. One might argue that at least the latter problem could be solved by taking the lagged value of child support predictor as an explanatory variable. However, this approach may cause another problem associated with the timing of the survey if the interval between the time when the lagged value of arrears was measured and the time when the mental health outcomes were measured is too long. For instance, some fathers reported that they did not have arrears at the 5-year-follow-up interview, but began accumulating arrears shortly after the interview. These fathers are similar to those who

are in the "arrears group," but being treated as if they are in the "non-arrears group," making the results less reliable.

To account for these two potential threats to internal validity, the study uses an instrumental variable (IV) approach that identifies an exogenous source of variation in child support arrears. The idea of this approach is to isolate the effects of arrears on mental health or alcohol abuse problems from other sources of variation, such as measurement error. To be valid, the instrument used in the analysis must satisfy two requirements: it must be associated with child support arrears and be related to mental health outcomes but only through its direct association with child support arrears. With this premise in mind, the study uses *the percentage of state arrearage collections* as an instrument for child support arrears. The arrearage collection is one of five performance measures designed to assess the effectiveness of a state's child support enforcement system under the Child Support Performance and Incentive Act of 1998 (Huang & Edwards, 2009). The degree of state arrearage collection is an exogenous variable that differs across states and years. Therefore, changes in the percentage of state arrearage collections will affect the likelihood that the father owes child support debt but that does not have a direct effect on depression or alcohol abuse problems, except when the father suffers from debt burdens. A description of this measure is provided in Appendix 1.

The study follows the three-stage procedure introduced by Adam et al. (2009), which takes into account the binary nature of the endogenous variable. This approach differs from a standard two-stage least square (2SLS) procedure, because the latter depends little on the correct specification of the first stage model, whereas the former has an opportunity to have the first stage correctly specified. Although Angrist and Kruger (2001) argue that the consistency of the second stage of 2SLS does not hinge on the correct functional form being used in the first stage, Adam et

al. (2009) counter argue that misspecification in the first stage may contaminate the second stage results, yielding biased estimates of causal effects in finite samples. Despite the mixed opinions on the misspecification of the first stage, the current study will follow the argument of Adam et al. (2009).

The first two stages of the three-stage procedure are presented in Eq6 and Eq7 respectively, while the functional form of the third stage is shown in Eq8.

$$P\left(Arr_{it} = 1|\left(\, Z_{it}, X_{it}, \omega_i, {\varepsilon_i}^{Probit}\,\right)\right) = \Phi\left(Z'_{it}\pi + X'_{it}\alpha + \omega'_i\beta + {\varepsilon_i}^{Probit}\right) \tag{6}$$

$$Arr_{it} = X'_{it}\alpha + \omega'_i\beta + \widehat{Arr}_{it} + {\varepsilon_i}^{ols} \tag{7}$$

$$P\left(y_{it} = 1|\left(\widehat{\widehat{Arr}}_{it}, X_{it}, \omega_i, \mu_i\right)\right) = \Phi\left(\tau\widehat{\widehat{Arr}}_{it} + X'_{i,t}\alpha + \omega'_i\beta + \mu_i\right) \tag{8}$$

The first stage (or Eq6 above) uses Probit analysis to estimate the probability that a father will have child support debt at given interview year (Arr_{it}), based on a set of valid instruments (Z_{it}) and observed predictors. The second stage (or Eq7 above) re-estimates the child support debt model using an OLS regression with the fitted value of the first stage ($\widehat{Arr}_{it}$) estimated in Eq6 and a set of observed predictors. The third stage (or Eq8 above) estimates the original Probit model of depression or alcohol abuse outcomes after replacing the endogenous variable(Arr_{it}) with the second stage predicted value ($\widehat{\widehat{Arr}}_{it}$). Because the predicted value derived from the first two stages

produces an exogenous source of variation in child support arrears, the third stage allows one to obtain unbiased estimates of the effects of child support arrears on mental health outcomes.

The first and third columns of Table 5 present the results from the first-stage equation (Eq6) predicting child support arrears. As the z-statistics of these relations are both over 3.8, the specification does not appear to suffer from problems associated with weak instruments. The results from the second and fourth columns of the 3SLS show the estimated probability of having depression and alcohol abuse problems influenced by the predicted arrears. The 3SLS estimates are larger than the corresponding Probit estimates in magnitude, suggesting that the latter are downward-biased by confounding factors, such as measurement errors in mothers' reports of arrears.

VII. DISCUSSION

Debt in the U.S. reached more than $10 trillion in 2017 (Federal Reserve Bank of New York, 2017). A growing number of recent studies have sought to understand the impact of this trend on mental health among the general population. However, the trend of these debts does not include child support debt, the largest portion of the debt owed by noncustodial fathers. The present study contributes to the prior literature by extending the stress process theory in the context of child support enforcement policy. Using nationally representative data on nonresident fathers, this study provides the first evidence on whether nonresident fathers who owe child support debt are at risk for the development of mental health problems.

The study provides strong evidence that fathers who owe arrears are more likely to report mental health problems than those who do not owe any arrears. The study also finds that fathers who receive more support from friends and families during childbirth were less likely to develop depression caused by child support arrears than those who receive less support. To attenuate a

potential omitted variable bias, the study included a lagged dependent variable to control for fathers' previous mental health status. As a robustness check, the study also used an instrumental variable approach to correct for endogeneity and measurement error associated with mothers' report of fathers' child support arrears. The results were robust to the inclusion of a rich set of covariates and a lagged dependent variable.

Despite these findings, the study has several limitations. While the instrumental variable approach is essential for addressing concerns about measurement error in child support arrears reported by the mothers of focal children, it is not a panacea because the approach could not address the missing information about the unpaid child support owed to children of different mothers. Therefore, the results may be underestimated if the fathers owe child support to children of different mothers. The results of this study can be replicated when new data that contains complete information on the actual amount of arrears owed by fathers is collectible.

Nevertheless, the results from the current study have several implications for child support policy. First, debt reduction policies, such as the debt compromise programs adopted by a growing number of states, may have larger benefits than previously anticipated, because fathers' mental health problems due to arrears are smaller. To the extent that mental health problems reduce employability, fathers will be less likely to lose their jobs. These fathers are also less likely to fall further behind in paying off their debts in the future. The study also finds strong evidence that fathers with social support are less likely to develop depressive symptoms than those without social support.

References

Adams, R., Almeida, H., & Ferreira, D. (2009). Understanding the relationship between founder–CEOs and firm performance. *Journal of Empirical Finance*, *16*(1), 136–150.

Ai, C., & Norton, E. C. (2003). Interaction terms in logit and probit models. *Economics Letters*, *80*(1), 123–129.

Aneshensel, C. S. (1992). Social stress: Theory and research. *Annual Review of Sociology*, *18*(1), 15–38.

Angrist, J. D., & Pischke, J.-S. (2008). *Mostly harmless econometrics: An empiricist's companion*. Princeton university press.

Arellano, M., & Hahn, J. (2006). Understanding bias in nonlinear panel models: Some recent developments. In *Advances in Economics and Econometrics, Ninth World Congress, Cambridge University Press, forthcoming*.

Assari, S., & Burgard, S. (2015). Black-White differences in the effect of baseline depressive symptoms on deaths due to renal diseases: 25 year follow up of a nationally representative community sample. *Journal of Renal Injury Prevention*, *4*(4), 127.

Bartfeld, J. (2003). *Forgiveness of state-owed child support arrears*. Citeseer. Retrieved from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.117.7818&rep=rep1&type=pdf

Bartfeld, J. (2005). *Arrearages, lying-in orders, and child support compliance among fathers of W–2 children in Wisconsin*. Citeseer. Retrieved from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.124.1941&rep=rep1&type=pdf

Bartfeld, J., & Meyer, D. R. (2003). Child support compliance among discretionary and nondiscretionary obligors. *Social Service Review*, *77*(3), 347–372.

Beller, A. H., & Graham, J. W. (1996). *Small change: The economics of child support*. Yale University Press.

Bostwick, J. M., & Pankratz, V. S. (2000). Affective disorders and suicide risk: a reexamination. *American Journal of Psychiatry*, *157*(12), 1925–1932.

Bover, O., & Arellano, M. (1997). Estimating dynamic limited dependent variable models from panel data. *Investigaciones Economicas*, *21*(2), 141–165.

Brady, K. T., & Lydiard, R. B. (1993). The association of alcoholism and anxiety. *Psychiatric Quarterly*, *64*(2), 135–149.

Braver, S. L., Fitzpatrick, P. J., & Bay, R. C. (1991). Noncustodial parent's report of child support payments. *Family Relations*, 180–185.

Bridges, S., & Disney, R. (2010). Debt and depression. *Journal of Health Economics*, *29*(3), 388–403.

Brown, T. N. (2003). Critical race theory speaks to the sociology of mental health: Mental health problems produced by racial stratification. *Journal of Health and Social Behavior*, 292–301.

California Department of Child Support Service. (2008). *Compromise of Arrears Program* (Report to the Legislature).

Chen, H., Cohen, P., & Chen, S. (2010). How big is a big odds ratio? Interpreting the magnitudes of odds ratios in epidemiological studies. *Communications in Statistics—Simulation and Computation®*, *39*(4), 860–864.

Clayton, M., Liñares-Zegarra, J., & Wilson, J. O. (2015). Does debt affect health? Cross country evidence on the debt-health nexus. *Social Science & Medicine*, *130*, 51–58.

Cohen, S., & Hoberman, H. M. (1983). Positive events and social supports as buffers of life change stress. *Journal of Applied Social Psychology*, *13*(2), 99–125.

Cohen, S., & Wills, T. A. (1985). Stress, social support, and the buffering hypothesis. *Psychological Bulletin*, *98*(2), 310.

DeKlyen, M., Brooks-Gunn, J., McLanahan, S., & Knab, J. (2006). The mental health of married, cohabiting, and non–coresident parents with infants. *American Journal of Public Health*, *96*(10), 1836–1841.

Drentea, P., & Lavrakas, P. J. (2000). Over the limit: the association among health, race and debt. *Social Science & Medicine*, *50*(4), 517–529.

Drentea, P., & Reynolds, J. R. (2015). Where does debt fit in the stress process model? *Society and Mental Health*, *5*(1), 16–32.

Dwyer, R. E., McCloud, L., & Hodson, R. (2011). Youth debt, mastery, and self-esteem: Class-stratified effects of indebtedness on self-concept. *Social Science Research*, *40*(3), 727–741.

Federal Reserve Bank of New York. (2017). *Quarterly Report on Household Debt and Credit.* Retrieved from https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/pdf/HHDC_2017Q1.pdf.

Fitch, C., Hamilton, S., Bassett, P., & Davey, R. (2011). The relationship between personal debt and mental health: a systematic review. *Mental Health Review Journal*, *16*(4), 153–166.

Fostick, L., Silberman, A., Beckman, M., Spivak, B., & Amital, D. (2010). The economic impact of depression: resistance or severity? *European Neuropsychopharmacology*, *20*(10), 671–675.

Garfinkel, I., & Klawitter, M. M. (1990). The effect of routine income withholding of child support collections. *Journal of Policy Analysis and Management*, *9*(2), 155–177.

Greenberg, P. E., Sisitsky, T., Kessler, R. C., Finkelstein, S. N., Berndt, E. R., Davidson, J. R., … Fyer, A. J. (1999). The economic burden of anxiety disorders in the 1990s. *The Journal of Clinical Psychiatry*.

Ha, Y., Cancian, M., & Meyer, D. R. (2010). Unchanging child support orders in the face of unstable earnings. *Journal of Policy Analysis and Management*, *29*(4), 799–820.

Hatamyar, P. W. (2000). Interstate establishment, enforcement, and modification of child support orders. *Okla. City UL Rev.*, *25*, 511.

Heckman, J. J. (1987). *The incidental parameters problem and the problem of initial conditions in estimating a discrete time-discrete data stochastic process and some Monte Carlo evidence*. University of Chicago Center for Mathematical studies in Business and Economics.

Heinrich, C. J., Burkhardt, B. C., & Shager, H. M. (2011). Reducing child support debt and its consequences: Can forgiveness benefit all? *Journal of Policy Analysis and Management*, *30*(4), 755–774.

Henderson, M., Harvey, S. B., Øverland, S., Mykletun, A., & Hotopf, M. (2011). Work and common psychiatric disorders. *Journal of the Royal Society of Medicine*, *104*(5), 198–207.

Herd, D. (1994). Predicting drinking problems among black and white men: results from a national survey. *Journal of Studies on Alcohol*, *55*(1), 61–71.

Holzer, H. J., Offner, P., & Sorensen, E. (2005). Declining employment among young black less-educated men: The role of incarceration and child support. *Journal of Policy Analysis and Management*, *24*(2), 329–350.

Huang, C.-C., & Edwards, R. L. (2009). The relationship between state efforts and child support performance. *Children and Youth Services Review*, *31*(2), 243–248.

Jacoby, M. B. (2002). Does indebtedness influence health? A preliminary inquiry. *The Journal of Law, Medicine & Ethics*, *30*(4), 560–571.

Johnson, J. H., & Sarason, I. G. (1978). Life stress, depression and anxiety: Internal-external control as a moderator variable. *Journal of Psychosomatic Research*, *22*(3), 205–208.

Karaca-Mandic, P., Norton, E. C., & Dowd, B. (2012). Interaction terms in nonlinear models. *Health Services Research*, *47*(1pt1), 255–274.

Kessler, R. C., Andrews, G., Mroczek, D., Ustun, B., & Wittchen, H.-U. (1998). The world health organization composite international diagnostic interview short-form (cidi-sf). *International Journal of Methods in Psychiatric Research*, *7*(4), 171–185.

Kessler, R. C., & Essex, M. (1982). Marital status and depression: The importance of coping resources. *Soc. F.*, *61*, 484.

Kessler, R. C., & Greenberg, P. E. (2002). The economic burden of anxiety and stress disorders. *Neuropsychopharmacology: The Fifth Generation of Progress*, *67*, 982–992.

Kushner, M. G. (1996). Relationship between alcohol problems and anxiety disorders. *The American Journal of Psychiatry*, *153*(1), 139.

Kushner, M. G., Abrams, K., & Borchardt, C. (2000). The relationship between anxiety disorders and alcohol use disorders: a review of major perspectives and findings. *Clinical Psychology Review*, *20*(2), 149–171.

Lachman, M. E., & Weaver, S. L. (1998). The sense of control as a moderator of social class differences in health and well-being. *Journal of Personality and Social Psychology*, *74*(3), 763.

Leventhal, T., & Brooks-Gunn, J. (2000). The neighborhoods they live in: the effects of neighborhood residence on child and adolescent outcomes. *Psychological Bulletin*, *126*(2), 309.

Lin, I.-F. (2000). Perceived fairness and compliance with child support obligations. *Journal of Marriage and Family*, *62*(2), 388–398.

Meltzer, H., Bebbington, P., Brugha, T., Farrell, M., & Jenkins, R. (2013). The relationship between personal debt and specific common mental disorders. *The European Journal of Public Health*, *23*(1), 108–113.

Miller, D. P., & Mincy, R. B. (2012). Falling further behind? Child support arrears and fathers' labor force participation. *Social Service Review*, *86*(4), 604–635.

Mincy, R. B., Jethwani, M., & Klempin, S. (2014). *Failing our fathers: Confronting the crisis of economically vulnerable nonresident fathers*. Oxford University Press.

Mincy, R. B., & Sorensen, E. J. (1998). Deadbeats and turnips in child support reform. *Journal of Policy Analysis and Management: The Journal of the Association for Public Policy Analysis and Management*, *17*(1), 44–51.

Mirowsky, J., & Ross, C. E. (1992). Age and depression. *Journal of Health and Social Behavior*, 187–205.

Mulia, N., Ye, Y., Greenfield, T. K., & Zemore, S. E. (2009). Disparities in alcohol-related problems among White, Black, and Hispanic Americans. *Alcoholism: Clinical and Experimental Research*, *33*(4), 654–662.

Murray, J. (2010). Debt and reducing stress associated with the economic downturn. *Journal of Public Mental Health*, *9*(3), 27–35.

Mykletun, A., Bjerkeset, O., Dewey, M., Prince, M., Overland, S., & Stewart, R. (2007). Anxiety, depression, and cause-specific mortality: the HUNT study. *Psychosomatic Medicine*, *69*(4), 323–331.

OECD. (2017). General government gross debt per capita, 2009, 2015 and 2016. https://doi.org/10.1787/gov_glance-2017-graph11-en

Office of Child Support Enforcement. (2014). Major Change in Who is Owed Child Support Arrears. Retrieved November 9, 2017, from https://www.acf.hhs.gov/css/resource/major-change-in-who-is-owed-child-support-arrears

Pate, D. J. (2002). An ethnographic inquiry into the life experiences of African American fathers with children on W-2. *Nonexperimental Analyses of the Full Disregard and Pass-Through*, *2*, 29–118.

Pearlin, L. I. (1999). The stress process revisited. *Handbook of the Sociology of Mental Health*, 395–415.

Pearlin, L. I., Menaghan, E. G., Lieberman, M. A., & Mullan, J. T. (1981). The stress process. *Journal of Health and Social Behavior*, 337–356.

Pearson, J. (2004). Building debt while doing time: Child support and incarceration. *Judges J.*, *43*, 4.

Pearson, J., & Davis, L. (2002). An Evaluation of the Colorado Arrears Forgiveness Demonstration Project. *Denver, CO: Center for Policy Research*. Retrieved from http://hermes.cde.state.co.us/drupal/islandora/object/co%3A1089/datastream/OBJ/download/An_evaluation_of_the_Colorado_arrears_forgiveness_demonstration_project___final_report.pdf

Pirog, M., & Ziol-Guest, K. M. (2006). Child support enforcement: Programs and policies, impacts and questions. *Journal of Policy Analysis and Management*, *25*(4), 943–990.

Pudrovska, T., Schieman, S., Pearlin, L. I., & Nguyen, K. (2005). The sense of mastery as a mediator and moderator in the association between economic hardship and health in late life. *Journal of Aging and Health*, *17*(5), 634–660.

Reading, R., & Reynolds, S. (2001). Debt, social disadvantage and maternal depression. *Social Science & Medicine*, *53*(4), 441–453.

Richardson, T., Elliott, P., & Roberts, R. (2013). The relationship between personal unsecured debt and mental and physical health: a systematic review and meta-analysis. *Clinical Psychology Review*, *33*(8), 1148–1162.

Schieman, S. (1999). Age and anger. *Journal of Health and Social Behavior*, 273–289.

Selig, J. P., & Little, T. D. (2012). Autoregressive and cross-lagged panel analysis for longitudinal data.

Sherbourne, C. D., Wells, K. B., Meredith, L. S., Jackson, C. A., & Camp, P. (1996). Comorbid anxiety disorder and the functioning and well-being of chronically ill patients of general medical providers. *Archives of General Psychiatry*, *53*(10), 889–895.

Sherwood, K. E. (1992). Child support obligations: What fathers say about paying. *Caring and Paying: What Fathers and Mothers Say about Child Support*, 57–76.

Solomon-Fears, C. (2013). Child support enforcement program incentive payments: Background and policy issues. *Congressional Research Service*.

Sorensen, E. (2004). Understanding how child-support arrears reached $18 billion in California. *The American Economic Review*, *94*(2), 312–316.

Sorensen, E., Koball, H., Pomper, K., & Zibman, C. (2003). Examining child support arrears in California: The collectibility study. *Washington, DC: The Urban Institute*.

Sorensen, E., Sousa, L., & Schaner, S. (2007). Assessing child support arrears in nine large states and the nation. *Washington, DC: Urban Institute*. Retrieved from http://tpcprod.urban.org/UploadedPDF/1001242_child_support_arrears.pdf

Turner, K. J., & Waller, M. R. (2017). Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement With Children. *Journal of Marriage and Family*, *79*(1), 24–43.

U.S. Government Accountability Office. (2011). Child support enforcement: Departures from long-term trends in sources of collections and caseloads reflect recent economic conditions.

Von Hippel, P. T. (2007). 4. Regression with missing Ys: An improved strategy for analyzing multiply imputed data. *Sociological Methodology*, *37*(1), 83–117.

Waller, M. R., & Plotnick, R. (2001). Effective child support policy for low-income families: Evidence from street level research. *Journal of Policy Analysis and Management*, 89–110.

Williams, D. R., & Mohammed, S. A. (2009). Discrimination and racial disparities in health: evidence and needed research. *Journal of Behavioral Medicine*, *32*(1), 20–47.

Williams, D. R., Yu, Y., Jackson, J. S., & Anderson, N. B. (1997). Racial differences in physical and mental health: Socio-economic status, stress and discrimination. *Journal of Health Psychology*, *2*(3), 335–351.

Wooldridge, J. M. (2005). Simple solutions to the initial conditions problem in dynamic, nonlinear panel data models with unobserved heterogeneity. *Journal of Applied Econometrics*, *20*(1), 39–54.

Zimmerman, F. J., & Katon, W. (2005). Socioeconomic status, depression disparities, and financial strain: what lies behind the income-depression relationship? *Health Economics*, *14*(12), 1197–1215.

Table 1. Descriptive Statistics: Proportion of Dependent and Key Independent Variables

	at 1-year follow-up (lagged value at 3-year follow-up)	at 3-year follow-up N=1,099	at 5-year follow-up N=1,146	at 9-year follow-up N=944
Dependent variable				
Fathers with depression (%)	13.7%	12.0%	12.3%	14.5%
Fathers engaged in binge drinking (%)	10.0%	10.1%	24,3%	35.3%
Independent variable				
Fathers with child support arrears (%)	10.2%	27.0%	30.0%	34.9%
Ratio of arrears to fathers' income (%)				
No arrears	89.8%	72.9%	70.0%	64.9%
Between 0 and .50	8.6%	21.6%	22.3%	25.4%
50 and over	1.6%	5.5%	7.7%	9.7%

Note: The descriptive statistics were calculated based on the first set of imputed data. Results were similar for other 4 imputed samples. Total number of observations: 1,099+1,146+944=3,099

Table 2. Descriptive Statistics for Control, Moderator, and Instrumental Variables (N=3,099)

	Mean/ %	(SD)
Time-invariant covariates		
Father's educational attainment at baseline (%)		
less than high school	34.7%	
High school diploma	42.5%	
Some college	19.5%	
College graduate	3.3%	
Race/ethnicity (%)		
White	11.5%	
Black	64.7%	
Hispanic	20.8%	
Other	3.0%	
Father US born (%)	91.3%	
Father's age at baseline	26.24	(6.887)
Father's intelligence (WAIS_R)	6.366	(2.573)
Father's health at baseline	2.026	(0.957)
Father-mother relationship quality		
father's name on the birth certificate (%)	91.1%	
father's # of kids with other mothers at BL	2.134	(1.411)
father asked mother to have abortion (%)	11.6%	
Mothers' financial wellbeing at baseline		
have UI,, disability or SSC (%)	10.3%	
receive Income from friends and family (%)	36.9%	
Child characteristics at baseline		
Male (%)	51.9%	
Low birthweight (%)	10.3%	
Family mental health history: asked about fathers' biological father		
he was depressed or blue most of time	16.8%	
he constantly nervous, edgy, or anxious	8.0%	
he ever have a problem with drinking	21.0%	
he ever have a problem with drugs	24.7%	
he ever attempt to commit suicide	0.9%	
Moderator		
Father received social support from friends and families when the baby was born (%)	40%	

Table 2. (continued)

	Mean/ %	(SD)
Time-varying covariates		
Relationship transition		
(father becoming a non-resident parent) (%)		
at 1-year follow-up	4.1%	
at 3-year follow-up	8.3%	
at 5-year follow-up	69.5%	
at 9-year follow-up	18.1%	
Fathers in jail (%)		
at 3-year follow-up	12.9%	
at 5-year follow-up	12.9%	
at 9-year follow-up	8.1%	
Fathers' labor force participation (%)		
at 3-year follow-up		
Unemployed	16.8%	
Part-time job (less than 35 hours)	11.8%	
Full-time job (more than 35 hours)	71.5%	
at 5-year follow-up		
Unemployed	16.6%	
Part-time job (less than 35 hours)	14.2%	
Full-time job (more than 35 hours)	69.2%	
at 9-year follow-up		
Unemployed	0.4%	
Part-time job (less than 35 hours)	18.8%	
Full-time job (more than 35 hours)	80.8%	
A Set of potential instrumental variables		
State's unemployment rate (unit: one percent)		
at 3-year follow-up	6.110	(0.925)
at 5-year follow-up	6.011	(1.106)
at 9-year follow-up	7.703	(2.411)
CSPIA: ability to collect arrears		
(unit: ten percentage)		
at 3-year follow-up	5.978	(0.994)
at 5-year follow-up	0.602	(0.809)
at 9-year follow-up	6.336	(0.712)
Whether mothers on welfare (%)		
at 3-year follow-up	59.7%	
at 5-year follow-up	60.5%	
at 9-year follow-up	57.9%	

Note: The descriptive statistics were calculated based on the first set of imputed data. Results were similar for other 4 imputed samples. Standard deviations are presented in parentheses.

Table 3.Static and Dynamic Probit Regression of Mental Health and Alcohol Abuse Problems

	Fathers with major depression			Fathers with alcohol abuse problems		
	Model 1 dy/dx	Model 2 dy/dx	Model 3 dy/dx	Model 1 dy/dx	Model 2 dy/dx	Model 3 dy/dx
Fathers in arrears	0.056***	0.044***	0.036**	0.067***	0.053**	0.059**
	(0.013)	(0.013)	(0.012)	(0.019)	(0.019)	(0.019)
Ratio of arrears to income (ref= no arrears)						
Between 0 and .50	0.054***	0.049**	0.039*	0.083***	0.058**	0.064**
	(0.016)	(0.016)	(0.015)	(0.023)	(0.022)	(0.023)
.50 and over	0.082**	0.048*	0.043†	0.030	0.048	0.056
	(0.027)	(0.024)	(0.024)	(0.040)	(0.042)	(0.041)
Lagged dependent added			0.106***			0.150***
			(0.017)			(0.019)
Father's educational attainment at baseline (ref= less than high school)						
High school diploma		0.004	0.005		0.024	0.022
		(0.015)	(0.015)		(0.019)	(0.019)
Some college		-0.011	-0.009		0.049*	0.037
		(0.019)	(0.019)		(0.025)	(0.025)
College graduate		0.037	0.034		0.042	0.020
		(0.046)	(0.044)		(0.051)	(0.049)
Race/ethnicity (ref=White)						
Black		-0.100***	-0.077**		-0.234***	-0.203***
		(0.024)	(0.024)		(0.031)	(0.031)
Hispanic		-0.084**	-0.063*		-0.068+	-0.052
		(0.028)	(0.027)		(0.038)	(0.038)
Others		-0.027	-0.035		-0.117*	-0.100+
		(0.046)	(0.043)		(0.057)	(0.058)
Father US born		0.015	0.007		0.068+	0.063+
		(0.027)	(0.026)		(0.037)	(0.038)
Father's age		-0.002	-0.002		-0.008	-0.007
		(0.007)	(0.006)		(0.010)	(0.010)
Father's age squared		-0.000	-0.000		0.000	0.000
		(0.000)	(0.000)		(0.000)	(0.000)
Father's intelligence (WAIS_R)		0.003	0.002		0.005	0.004
		(0.002)	(0.002)		(0.003)	(0.003)
Father's health		0.004	0.003		0.010	0.008
		(0.008)	(0.007)		(0.009)	(0.009)
Father-mother relationship quality						
father's name on the		-0.012	-0.012		0.029	0.024
birth certificate		(0.021)	(0.020)		(0.030)	(0.030)
father's # of kids with		0.012*	0.009†		0.003	0.004
other mothers		(0.005)	(0.005)		(0.006)	(0.006)
father asked mother to		-0.014	-0.015		0.017	0.007
have abortion		(0.019)	(0.019)		(0.025)	(0.025)

Table 3. (continued)

	Fathers with major depression			Fathers with alcohol abuse problems		
	Model 1 dy/dx	Model 2 dy/dx	Model 3 dy/dx	Model 1 dy/dx	Model 2 dy/dx	Model 3 dy/dx
Relationship transition: father becoming a non-resident parent (ref=at 1-yr)						
3-year follow-up		0.006	0.016		0.104*	0.107**
		(0.038)	(0.034)		(0.041)	(0.037)
5-year follow-up		0.040	0.046		0.178***	0.189***
		(0.033)	(0.028)		(0.031)	(0.027)
9-year follow-up		0.076*	0.075*		0.125***	0.126***
		(0.035)	(0.031)		(0.034)	(0.030)
Mothers' financial wellbeing at baseline						
mother has unemployment		-0.025	-0.020		0.027	0.025
insurance, disability or SSC		(0.021)	(0.020)		(0.026)	(0.026)
Income from friends and		0.015	0.012		0.011	0.003
family		(0.012)	(0.012)		(0.017)	(0.017)
Child characteristics at baseline						
Male		0.003	0.004		0.029+	0.020
		(0.012)	(0.012)		(0.016)	(0.016)
Low birthweight		0.026	0.022		-0.039	-0.036
		(0.018)	(0.018)		(0.027)	(0.027)
Time varying covariates						
Fathers in jail at previous		0.037†	0.034†		-0.087**	-0.083**
interview		(0.020)	(0.020)		(0.030)	(0.031)
Father's work status at previous interview (ref=unemployed)						
Part-time job (less than 35h)		-0.011	-0.000		0.103***	0.102***
		(0.027)	(0.026)		(0.029)	(0.029)
Full-time job (more than 35h)		-0.054*	-0.039†		0.106***	0.100***
		(0.022)	(0.021)		(0.023)	(0.023)
Family mental health history: Asked About fathers' biological father						
was depressed or blue most			0.054*			0.025
of time			(0.023)			(0.027)
constantly nervous, edgy,			0.059*			0.006
or anxious			(0.027)			(0.036)
ever have a problem with			-0.037			0.040
drinking			(0.032)			(0.052)
ever have a problem with			0.043			0.007
drugs			(0.032)			(0.050)
ever attempt to commit			0.039			0.037
suicide			(0.057)			(0.085)
Number of observations	3,088	3,088	3,088	2,886	2,886	2,886
Individual observations	1,603	1,603	1,603	1,546	1,546	1,546

Note: † p<0.1, *$p < .05$. **$p < .01$. ***$p < .001$

Table 4. Heterogeneous Effects of Child Support Arrears on Noncustodial Fathers' Mental Health and Alcohol Abuse Problems by Social Support

	Fathers with major depression		Fathers with alcohol abuse problems	
	(1) dy/dx	(2) dy/dx	(3) dy/dx	(4) dy/dx
Panel 1				
Fathers in Arrears				
No arrears VS Yes Arrears				
received social support	0.029	0.024	0.032	0.022
	(0.021)	(0.020)	(0.028)	(0.027)
did not receive social support	0.060**	0.048*	0.010	0.005
	(0.019)	(0.018)	(0.021)	(0.021)
Panel 2				
Ratio of arrears to income				
1. No arrears VS				
low arrears burden (between 0 and 50)				
received social support	0.045+	0.036	0.048	0.050†
	(0.025)	(0.023)	(0.035)	(0.034)
did not receive social support	0.053*	0.043*	0.062*	0.068*
	(0.021)	(0.20)	(0.028)	(0.028)
2. No arrears VS				
high arrears burden (50 and more)				
received social support	-0.014	-0.008	0.116†	0.120†
	(0.031)	(0.032)	(0.071)	(0.067)
did not receive social support	0.094**	0.080*	0.002	0.010
	(0.035)	(0.032)	(0.049)	(0.049)
Number of observations	3,088	3,088	2,886	2,886
Individual observations	1,603	1,603	1,546	1,546
Controls	Yes	Yes	Yes	Yes
Lagged DV and initial condition added	No	Yes	No	Yes

Note: † p<0.1, *$p < .05$. **$p < .01$. ***$p < .001$

Table 5. Instrumental Variable Regression of Noncustodial Fathers' Mental Health and Alcohol Abuse Problems on Child Support Arrears

	Mental health problems		Alcohol abuse problems	
	First Stage dy/dx	Third Stage dy/dx	First Stage dy/dx	Third Stage dy/dx
Dependent variable	Fathers in arrears	Fathers with major depression	Fathers in arrears	Fathers engaged in binge drinks
A key explanatory variable				
Fathers in arrears		0.091***		0.190***
		(0.031)		(0.030)
A Instrumental variable				
CSPIA: percentage of state arrearage collections	-0.036***		-0.047***	
	(0.010)		(0.010)	
Father's educational attainment at baseline (ref= less than high school)				
High school diploma	-0.005	0.007	-0.030	0.029
	(0.020)	(0.015)	(0.019)	(0.018)
Some college	0.020	-0.009	0.004	0.047*
	(0.026)	(0.019)	(0.025)	(0.023)
College graduate	-0.102†	0.057	-0.135**	0.054
	(0.056)	(0.050)	(0.037)	(0.051)
Race/ethnicity (ref=White)				
Black	-0.072*	-0.083***	-0.059*	-0.200***
	(0.029)	(0.024)	(0.028)	(0.030)
Hispanic	-0.090**	-0.066*	-0.080**	-0.039
	(0.034)	(0.027)	(0.032)	(0.036)
Others	-0.114*	-0.027	-0.070	-0.104†
	(0.056)	(0.045)	(0.050)	(0.054)
Father US born	0.148***	0.003	0.120*	0.020
	(0.045)	(0.027)	(0.045)	(0.033)
Father's age	0.016†	-0.003	0.011	-0.008
	(0.009)	(0.007)	(0.008)	(0.007)
Father's age squared	-0.000*	0.000	-0.000	0.000
	(0.000)	(0.000)	(0.000)	(0.000)
Father's intelligence	0.007†	0.002	0.002	0.004
	(0.004)	(0.003)	(0.004)	(0.003)
Father's health	0.001	0.004	-0.007	0.010
	(0.009)	(0.008)	(0.008)	(0.008)

Table 5. (continued)

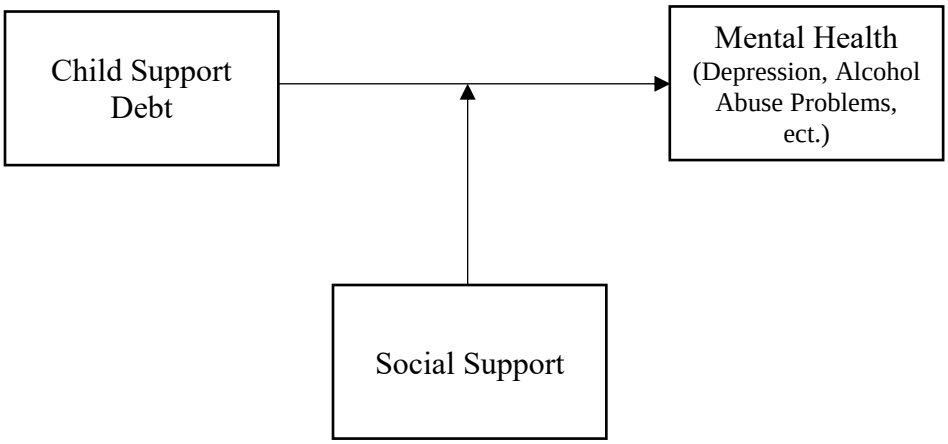
	Instrumental variable regression			
	Mental health problems		Alcohol abuse problems	
	First Stage dy/dx	Second Stage dy/dx	First Stage dy/dx	Second Stage dy/dx
Dependent variable	Fathers in arrears	Fathers with major depression	Fathers in arrears	Fathers engaged in binge drinks
Father-mother relationship quality				
father's name on the	-0.055†	-0.012	-0.044	0.028
birth certificate	(0.029)	(0.021)	(0.027)	(0.028)
father's # of kids with	0.008	0.010†	0.003	0.002
other mothers	(0.006)	(0.005)	(0.006)	(0.006)
father asked mother to	0.005	-0.019	0.009	0.018
have abortion	(0.028)	(0.020)	(0.024)	(0.024)
Mothers' financial wellbeing at baseline				
mother has UI,	0.003	-0.026	0.016	0.027
disability or SSC	(0.029)	(0.021)	(0.025)	(0.024)
Income from friends	0.028	0.013†	0.043*	0.001
and family	(0.018)	(0.013)	(0.017)	(0.016)
Child characteristics at baseline				
Male	0.051**	0.003	0.045**	0.023
	(0.017)	(0.012)	(0.016)	(0.015)
Low birthweight	0.039	0.027	0.036	-0.045†
	(0.027)	(0.019)	(0.024)	(0.025)
Time varying covariates				
Fathers in jail at	0.057†	0.034†	0.040	-0.092**
previous interview	(0.031)	(0.020)	(0.036)	(0.029)
Father's work status at previous interview (ref=unemployed)				
Part-time job	0.053	-0.010	0.073*	0.090**
(less than 35h)	(0.033)	(0.026)	(0.029)	(0.028)
Full-time job	0.009	-0.049*	0.059*	0.096**
(more than 35h)	(0.027)	(0.021)	(0.025)	(0.023)
Family mental health history: Asked About fathers' biological father				
was depressed or	0.006	0.062*	0.037	0.0233
blue most of time	(0.040)	(0.025)	(0.036)	(0.027)
constantly nervous,	0.040	0.070*	0.006	0.005
edgy, or anxious	(0.048)	(0.029)	(0.048)	(0.038)
ever have a	-0.024	-0.045	0.006	0.033
drinking problem	(0.058)	(0.032)	(0.046)	(0.049)
ever have drug	0.030	0.053†	0.008	0.011
problems	(0.053)	(0.031)	(0.044)	(0.048)
ever attempt to	0.030	0.043	-0.068	0.021
commit suicide	(0.090)	(0.058)	(0.083)	(0.083)

Note: † p<0.1, *$p < .05$. **$p < .01$. ***$p < .001$

Figure 1. *Stress Process Model for Noncustodial Fathers with Child Support Arrears*

1. Causal effects of child support debt on mental health among nonresident fathers

2. Moderated effect of child support debt on mental health



Appendix 1. Child Support Performance and Incentive Act for Arrearage Collection Measurement

The construction of the arrearage collection measurement assigned to each observation unfolds in two steps: First, Data on performance indicators were collected from the Office of Child Support Enforcement (OCSE) annual reports (1999-2010). Arrearage collection measurement was measured as percentages, and the method of measuring each indicator was given as follow:

$$\frac{\text{Number of cases paying towards arrears in IV} - \text{D}}{\text{Number of cases with arrears due in IV} - \text{D}}$$

Next, the performance indicator was assigned to each observation, based on the state where the custodial mother established the child support order.

Chapter 3.

Child Support Indebtedness and Residential Union Formation among Non-resident Couples at Childbirth

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I. INTRODUCTION

Non-marital births in the United States have increased over several decades, and today, 40 percent of all births now occur outside of marriage (McLanahan & Sawhill, 2015). In addition, there are a growing number of children who were not living with their biological fathers at the time of birth (Carlson, 2012). Past research overwhelmingly shows that children in families headed by single mothers are at high risk of poverty, and score lower on cognitive and behavioral assessments than their peers from two-parent households (McLanahan, 1995, 2004).

Low-income single mothers may have several strategies to cope with financial difficulties arising from single parenting. For these mothers, the surest way to move out of poverty is to get married to (or at least live with) a man who can support both mother and child. Marriage has been viewed as the strongest tool for poverty eradication in the United States among low-income, uneducated mothers (Amato & Maynard, 2007; Brown, 2010). According to data from National Longitudinal Survey of Youth 1979, for instance, the poverty rate for a single parent without a high school diploma is 25% percent, whereas the rate for a married parent with same educational attainment is only 12% percent (Wilcox, 2015).[25]

As money matters in the relationship market, the child support system plays a significant, but a mixed role in residential union formation patterns among these mothers. There is a substantial body of literature about how child support enforcement affect union formation, although the results are mixed (Acs & Nelson, 2004; Bloom, Conrad, & Miller, 1996; Carlson, Garfinkel, McLanahan, Mincy, & Primus, 2004; Folk, Graham, & Beller, 1992; Mincy & Dupree, 2001; Yun, 1992). What is less understood and less well-documented in the literature is the possible effects of child support arrears accumulation on a residential union formation among

[25] The study was adjusting for Age, Race, Ethnicity, and Maternal Education.

both mothers and fathers who were not resident at childbirth. More specifically, the study will address the question of whether a decrease in fathers' disposable income due to child support arrears is responsible for both mothers' and fathers' residential union formation with one another or with a new partner. To examine the association between child support debt and new union formation among nonresident couples at childbirth, the proposed study will use data from the Fragile Families and Child Well-Being Study, a cohort study that tracks unmarried couples shortly after child's birth with follow-up interviews when the focal child was approximately one, three, five, and nine years of age. The study will focus on nonresident parents who had a baby born in twenty large U.S. cities between 1998 and 2000.

II. THEORETICAL FRAMEWORK AND EMPIRICAL EVIDENCE

A Theory of Marriage and Other Relationships

Theoretical underpinnings for custodial and noncustodial parents' chances of union formation come from the microeconomic perspective initially suggested by Gary Becker (1973). In Becker's point of view, unmarried men and women see each other as potential trading partners. In a relationship market, a couple jointly decides to get married rather than to remain single when each partner has more to gain from one another. The term "gain" may vary by individuals but, in general, contains human capital, an effective division of labor (also known as 'specialization'), and affections (Becker, 1973). Therefore, unmarried men and women will keep looking for a mate until the expected gain they would get from the mate does not surpass the additional costs incurred for searching for a new partner.

Scholars after Becker have developed theories applied to the non-traditional marriage market. Many scholars pay closer attention to the growing variety of family structures, such as cohabitation and stepfamilies. Some evidence suggests that many newly single parents are

transitioning from singlehood to non-marital cohabitation because they can get benefits from each other by sharing living expenses without legal constraints (Bumpass, Sweet, & Cherlin, 1991; Seltzer, 2000). Moreover, as cohabitation is becoming more institutionalized, state and local governments are now becoming more lenient toward cohabitating couples by granting them some of the rights that married couples gained through marriage (Cherlin, 2004). For instance, in 2009 the federal government extended health insurance to domestic partners, benefits that had only been available to immediate family in the past. As a result, some of the theoretical considerations contemplated by Becker (1973) are also relevant to decisions about cohabitation.

Nonresident Couples at the Time of Birth and New Union Formation

Along with the increase of children who were raised by unmarried parents, it is a new phenomenon that many children in the U.S. are not living with their biological fathers at the time of birth (Carlson, 2012). Such fathers are previously missing from the survey data, so little is known about whether these fathers would form a union with a new partner after union dissolution with the child's mother. Previous studies show that these fathers are relatively socioeconomically disadvantaged compared to their married or cohabited counterparts (Mincy, Jethwani, & Klempin, 2014). Therefore, based on the Becker's theory explained above, this result can lead to the hypothesis that fathers may have an incentive to enter the relationship market more actively if they face financial burden, such as child support obligations. At the same time, they may be less attractive in the relationship market due to their low socioeconomic position.

Based on the premises of assortative mating, the mothers who did not live with her child's father at birth may also have low socioeconomic status (Mincy et al., 2014). Therefore,

economic resources would also be a key factor for these mothers in deciding whether to enter the relationship market. However, previous studies show that mothers are less likely than fathers to remarry or cohabit after union dissolution (Bramlett & Mosher, 2002; Buckle, Gallup Jr, & Rodd, 1996; Wu & Schimmele, 2005).[26] One possible explanation for these findings is that mothers may find it difficult to enter into the relationship market if they cannot manage to handle childcare and work at the same time. This is especially true for mothers with limited ability to meet childcare needs through work or other financial opportunities (De Graaf & Kalmijn, 2003).

A mother with co-resident children is usually perceived as a less desirable partner for a man with no co-residential children. If this mother meets a man in the relationship market, he is usually a father who lives with his children (Goldscheider & Sassler, 2006). This trend seems to be more apparent for mothers with young children who often spend more time in childcare activities than mothers with older children or childless women (Sweeney, 1997).

Child support and Union Formation

A range of empirical research on child support systems has provided mixed results. Folk et al. (1992), using data drawn from 1979-1984 CPS, suggested that child support payments appear to have no effect on remarriage among divorced mothers, whereas Yun (1992) suggested that such payments have a small but positive effect on marital formation in the long-run. Bloom et al. (1996) focused on mixed evidence associated with fathers' remarriage, showing that a decrease in father's disposable income due to strict child support policy does not discourage him from getting married.

Results from longitudinal studies with different subsamples contradict previous findings. Using a subsample of unmarried couples in FFCWS, Mincy and Dupree (2001) found that more

[26] Although such findings are not specific to the couples who are nonresident at the time of birth.

aggressive child support enforcement would reduce the mother's plan to cohabit with her child's biological father. This work was further extended by Carlson et al. (2004) who reported that unmarried mothers are less likely to get married to their child's biological father when the child support enforcement is strong. Note that the two studies from FFCWS have focused on the changes in union formation involving parents with a child in common.

In light of past research, the father's accumulation of arrears is expected to reduce the likelihood of union transition among biological parents. More specifically, arrears accumulation will make it harder for fathers to form cohabiting or marital unions with the mother of their children. However, the effect of arrears accumulation on union formation with new partners is ambiguous. For example, arrears accumulation reduces the disposable income available to mothers, unless it is owed to the state. As a result, the mother will spend more time searching for a new partner in the relationship market, which increases the likelihood of a transition to a stable relationship. However, lower disposable income will make her a less attractive partner for men in the relationship market than other mothers who receive all the child support due. As for the father, the unfulfilled financial obligations from a previous relationship can reduce nonresident fathers' disposable income, making them less attractive in the relationship market. At the same time, lower disposable income can increase fathers' incentive to transition into marital or cohabiting unions. Thus, whether arrears accumulation increases or decreases the likelihood of union formation with new partners for mothers and nonresident fathers is an empirical question, which no previous study has addressed.

The answer to this question has an important implication for child support policy. Suppose that the accumulation of arrears reduces the prospects that mothers and nonresident fathers will form unions with new partners. This should increase policymakers incentive to adopt

policies that limit the growth of arrears (e.g., charging interest and penalties on unpaid child support, making it easier for low-income nonresident fathers to downward modify child support orders).

In sum, the study will investigate whether fathers' burden associated with child support arrears affects the transition to a residential union formation among couples who were not living together at the time of childbirth. [27] In this study, each noncustodial parent will choose following three mutually exclusive union formation during the survey period: 1) stay single, 2) resident with a new partner, or 3) resident with one another. The event-history analysis is conducted using a discrete-time competing risks hazard model in which the transition to either marriage or cohabitation and remain single are treated as competing events.

III. METHODS

Analytic Sample

I draw on data from the FFCWS baseline and nine-year follow-up surveys. The present study will be restricted to 1,900 children whose biological parents were not living together at the time of the child's birth: this includes 1,255 parents who were romantically involved but living apart (i.e, visiting), and 606 parents who were not in a romantic relationship (i.e, friends, hardly talk, and never talk). This baseline sample will be decomposed into two sub-samples: one for fathers' union transitions and the other for mothers' union transitions. Both sub-samples will be further restricted to parents who reported their relationship status across all subsequent waves. The observations will be censored if the parents transition into cohabitation or marriage with a current or new partner. This yields a final sample size of 4,163 observations for mothers' union

[27] Almost 40 percent of couples in fragile family data were not living together at the time of child birth (Reichman, Teitler, Garfinkel, & McLanahan, 2001).

transitions (1,900 at one year, 1,058 at three years, 713 at five years, and 492 at nine years after the child's birth) and a size of 2,739 observations for fathers' union transitions (1,900 at one year, 470 at three years, 232 at five years, and 134 at nine years after the child's birth).

To impute missing information on independent variable and covariates, the study uses multiple imputation using chained equation (MICE). Note that missing information on the dependent variables, instead, these observations will be dropped from the analysis.

Dependent Variable

The main outcome of interest will be union transitions. Both mothers and fathers were asked about their relationship status at each wave. The union formation will be classified into three mutually exclusive and exhaustive categories: (a) married to or cohabitation with a baby's biological parent, (b) married to or cohabitation with a new partner, or (c) remain single at the time of the survey (reference). [28]

The current study does not decompose "remain single" category into a set of potential subcategories such as "a romantic but non-residential union (or "visiting union") for two reasons: The first reason is related to the nature of the hazard model. Once parents transition to a new union, they will be censored to avoid reverse causality. If the study defines "non-resident romantic relationship" as a new form of family union, many unmarried parents will be censored from the study at a relatively early stage due to relationship churning. Such churning occurs in on-again /off-again relationships within or across partners (Halpern-Meekin & Turney, 2016;

[28] In this study, the ideal way to classify union formation is in five categories, that is: (a) married to a baby's biological parents, (b) cohabitation with a baby's biological parents, (c) married to a new partner, (d) cohabitation with a new partner, and (e) remain single. However, this five-categoryapproach is usually of limited statistical power, given the study's modest sample size. For this reason, I am going to pursue a second strategy where I collapse into marriage and cohabitation union at the same level in order to avoid the power problem.

Nepomnyaschy & Teitler, 2013) and is especially frequent when children are younger than five years old (Turney & Halpern-Meekin, 2017). The first five years after the focal child's birth may not be enough time to accumulate arrears because doing so involves, moving from informal to formal child support and defaulting on a child support order (Kim, Cancian, & Meyer, 2015; Sorensen, Sousa, & Schaner, 2007). Thus, it is unlikely that child support arrears are responsible for such churning. By contrast, marriage or cohabitation can be directly affected by the fathers' unfulfilled financial obligations because it takes a relatively long time for couples to establish such a relationship. If parents who are censored by relationship churning are later married or cohabiting, one will not be able to observe how child support arrears affect these subsequent union transitions. The second reason is that having arrears may not be a major hindrance for parents with low socioeconomic backgrounds to transitioning to a nonresidential-romantic relationship. This is because of the cost of such unions is a relatively smaller commitment than other types of union formation, like marriage or cohabitation. If so, then classifying the additional union formation that is not predicted by fathers' arrearage status may reduce the number of subjects in each category, and result in reduced statistical power.

Fathers' Child Support Arrears

The fathers' child support arrears will be measured across each wave mainly reported by mothers. Fathers' report on arrears will be used if the mother's report is missing or if the father has any unpaid child support obligations from previous partners. Both parents were first asked whether the father has any arrears that he is supposed to pay to the mothers (or previous partners) or to the government. If they said "yes", then they were further asked the amount of the arrears that the father actually accrued. I coded as a dichotomous indicator in the model that identifies fathers who had no arrears accrued.

Covariates

To attenuate potential omitted variable bias, the study uses a large set of control variables identified in previous studies. The vector of control variables consists of time-invariant covariates and time-varying covariates. Time-invariant covariates are obtained from the baseline survey. Time-varying covariates are obtained one wave before the wave at which the relationship outcomes occur to avoid potential bias associated with reverse causality.

First, the analyses include basic demographic characteristics of each parent. Mother's and father's race and ethnicity are measured as a series of dummy variables: Non-Hispanic White (reference), Non-Hispanic Black, Hispanic, and Others. Their nationality is coded as a dummy variable, with 1 indicating whether they were born in the United States. Fathers' and Mothers' age are measured in years at the time of childbirth. The study includes two pieces of information about the child: (1) gender (1=Male, 2=Female), and (2) low-birth weight (1=baby less than 2,500 grams, 0=baby more than or equal to 2,500 grams).

Next, the study also controls for several economic characteristics of each parent, including educational attainment, work status, income, and whether the mother receives welfare benefits. Educational attainment is measured at the time of childbirth and is coded as a series of dummy variables: less than high school (reference), high school graduate, some college, and college graduate. Work status is measured as a time-varying variable with three categories: unemployed (reference), part-time employment, and full-time employment. Annual earnings are measured by self-report in which both mothers and fathers were asked how much they earned based on hours/weeks they reported. For a measure of the mother's financial wellbeing, the study includes a dummy variable indicating whether the mothers have unemployment insurance,

disability insurance, or social security. These two controls (parents' work status and whether mothers on welfare) are also measured as time-varying covariates.

The study also includes a set of variables representing the behavioral and health characteristics of parents. As one dimension of behavioral characteristics of fathers, the study uses a dichotomous variable indicating whether the fathers had ever been in jail, reported by the mother of their child at each survey interview. Note that this indicator was constructed by FFCWS researchers. The health quality for both parents is measured at each wave, with 1 being 'Poor to 5 being 'Excellent.'

Finally, the study incorporates following five pieces of information relating to the relationship quality between mothers and fathers: religious homogamy, mothers' relationship duration with the child's father before pregnant, the presence of multiple partner fertility, whether fathers' name on the birth certificate, and whether father asked the mother to have an abortion. First, religious homogamy is assessed with a dummy variable indicating 1 if the religious preference is the same for both father and mother. Relationship duration before childbirth is measured as the number of years by asking mothers "how long did you know the child's father before you got pregnant" at the baseline survey. To account for the prevalence of multiple partner fertility of each parent, the study includes a dummy variable, which takes on a value of one if the parent has children with someone other than the mother/father of a focal child. The absence of a father's name on the birth certificate is a dummy variable coded as 1 at the baseline survey if the mother reported that the father did not want his name on the birth certificate. Lastly, the study includes a dummy variable that equals 1 if the father asked the mother to have an abortion at the baseline survey.

Table 1 provides weighted descriptions for these covariates.[29] The first column of Table 1 covers mothers' information, and the second column covers fathers' information. Each measurement is taken from the person directly involved unless otherwise noted. If the information is not confined to each mother and father, such as the gender of the child, the study uses the information that the mother reported. As shown in Table 1, the current sample is dominated by racial minorities for both mothers and fathers. Mothers are relatively economically disadvantaged compared to fathers, and these gaps are widening over time after childbirth. In addition, more and more mothers rely on welfare income, and even more fathers have reported that they were in jail in the past. Fathers and mothers in the sample spent, on average, three years in the relationship before the focal child was born, and more than 35 percent of them had the same religion at the time the child was born. Lastly, most fathers signed the birth certificate, while one in five of them asked mothers to have an abortion.

Analytic Strategy

The study uses a discrete-time competing risks hazard model to estimate the role of fathers' indebtedness while controlling for the other covariates on transitioning to cohabitation and marriage after union dissolution. Unlike the Cox-proportional hazard model, the discrete-time hazard model can allow one to include time-varying repressors in the estimation. In this study, the unit of analysis for the mothers' study is the mother and those of analysis for the fathers' study is the father, respectively. The event outcome is union formation, defined as cohabitation or marriage. Given that these two events are jointly determined, a multinomial logit

[29] The descriptive statistics were calculated based on the first set of imputed data. Results were similar for other 4 imputed samples.

model is estimated. The length of the event is defined as the time elapsed between the birth of the focal child and union transitions to either cohabitation or marriage. [30] I use a wave as one interval unit (one, three, five, and nine years after the focal child's birth). If the event has not occurred by the end of the survey period, the duration will be right-censored. Once the observations are transitioned into cohabitation or marriage, they will be censored to avoid reverse causality. The first model specification (Model 1) for the analysis is given by the following equation:

$$\ln\left(\frac{\Pr\left(y_{it}=r\middle|y_{it-1,}=0\right)}{\Pr\left(y_{it}=0\middle|y_{it-1,}=0\right)}\right)=\beta_1{}^{(r)}\text{year}_{it}^{(r)}+\beta_2{}^{(r)}\text{Arr}_{it-1}^{(r)}+\varepsilon_i^{(r)} \quad (1)$$

where

$y_{it}=$

$$\left\{\begin{array}{c} r=0 \text{ if remain single in } t \\ r=1 \text{ if married to or cohabitation with a baby's biological parent in } t\ (event\ type\ 1) \\ r=2 \text{ if married to or cohabitation with a new partner in } t\ (event\ type\ 2)\end{array}\right\},$$

$\Pr\left(y_{it}=r\middle|y_{it-1,}=0\right)$ is the probability of event type *r* during interval *t* given no event has occurred in the previous interval, $year_{it}^{(r)}$ denotes a vector of functions of the cumulative duration by interval *t* (at one, three, five, or nine years since childbirth) for event type *r* with a coefficient α, and $arr_{it-1}^{(r)}$ is a binary variable for arrears at t-1.

In the subsequent models, I add vectors of covariates to Eq 1 to account for selection bias:

[30] Note that every parent in the analytic sample were not living together at the time of the child's birth.

$$\ln\left(\frac{\Pr(y_{it}=r|y_{it-1,}=0)}{\Pr(y_{it}=0|y_{it-1,}=0)}\right) = \beta_1{}^{(r)}\text{year}_{it}^{(r)} + \beta_2{}^{(r)}\text{Arr}_{it-1}^{(r)} + \beta_3{}^{(r)}\text{X}_{it-1}^{(r)} + +\beta_4{}^{(r)}\text{X}_{i}^{(r)} + \varepsilon_i^{(r)} \quad (2)$$

where $\text{X}_{i-1}^{(r)}$is a vector of time-varying covariates with a vector of coefficients β_3 for event type *r*, $\text{X}_{i}^{(r)}$is a vector of time-invariant covariates with a vector of coefficients β_4 for event type *r*, and $\varepsilon_i^{(r)}$ is unobserved heterogeneity between individuals, assuming that $(\varepsilon_i^{(1)}, \varepsilon_i^{(2)})$~multivariate normal.

IV. RESULTS

Table 2 presents the life table estimates of the cumulative risk of new union formation for both mothers and fathers after childbirth. The table shows that, within one year after childbirth, approximately 10 percent of mothers re-partnered, with 7 percent choosing the father of their child and 3 percent choosing a new partner. During the same period, 13 percent of fathers re-partnered, with 9.5 percent choosing the mother of their child and 3.5 percent choosing a new partner. By 5 years after the birth of the focal child, 45.5 percent of mothers formed a new union, with 19.4 percent choosing the child's father and 25.1 percent choosing a new partner. The corresponding rates for men were 25.8 percent and 26.0 percent, respectively. Nine years after childbirth, 31.4 percent of mothers and 30.2 percent of fathers remain single. These results are consistent with previous literature reviews, suggesting that women had a lower re-partnering rate than men did and the timing of the re-partnering is slower for mothers (Wu & Schimmele, 2005).

The results of the discrete-time event analysis are reported in Table 3 for mothers' residential union formation and Table 4 for fathers' residential union formation, respectively. First four columns of both Tables pertain to union formation between biological parents, next

four columns to union formation with a new partner. Model 1 controls for basic demographic characteristics of the couples and their children. Model 2, 3, and 4 respectively add each parent's economic, behavioral, and relationship characteristics that are likely to affect the new union formation decision. In each model, coefficients on the survey dummy variables and the fathers' child support indebtedness are presented in the top portion of the tables, and coefficients on the other covariates are presented in the bottom portion of the tables.

Union Formation of Single Custodial Mothers after Childbirth

The first column of Table 3 presents the log odds of custodial mothers transitioning to a residential union formation with a father of their child versus remaining single. For mothers, chances of living with the father of their child decline over time: the odds of union formation between biological parents at nine-year survey are 23% (OR=0.769) lower than the odds of such union formation at the one-year survey. Chances of living with a new partner, on the other hand, tend to be higher over time. The results from the fifth column of Table 3 show that compared to the mothers forming a union with a new partner at the one-year survey, the odds of such union formation are 1.848 times higher by the three-year survey, 2.527 times higher by the five-year survey, and 1.412 times higher by the nine-year survey.

The study provides strong evidence that fathers' accumulation of arrears reduces the likelihood of union formation between biological parents. In Table 3, for instance, having fathers who accumulate child support arrears decreases the odds of marriage or cohabitation among biological parents by 72.9% (OR=0.271). Obviously, this result is almost identical to the result in Table 4 (OR=0.243). In the subsequent Models, which introduce the remaining controls, arrears coefficient does not significantly change in magnitude and remains significant at 0.1 percent level, suggesting that these findings are robust to the endogeneity concerns. However, the study

does not support the hypothesis that the arrears may affect the mothers' decision to form a union with a new partner. The coefficient on the arrears is positive but not statistically different from zero at the ten percent level (See the fifth column of Table 3).

The study observes a number of significant associations with the mothers' decision to form a new union formation among the covariates. Model 1 only includes parents' demographic characteristics. Consistent with previous research, the study finds that Black mothers are less likely to enter a stable relationship with the father of their child and/or with the new partner than White mothers, while foreign-born mothers are more likely than native-born mothers to form a stable relationship with the father of their child. In addition, mothers are less likely to form a stable union with their child's father who was older at the childbirth. Likewise, mothers who were older at the child's birth are less likely to form a union with a new partner. Again, the addition of the demographic characteristics does not significantly change the estimated coefficients for child support arrears.

Model 2 adds parents' economic characteristics to model 1. As shown in the second column of Table 3, the income of both parents increases the odds of union formation between biological parents. In addition, the odds of mothers being married to or cohabiting with a father who works full time are 1.343 times higher than are the odds of mothers being married to or cohabiting with a father who is unemployed. Economic vulnerability is also significantly associated with the likelihood of mothers' union formation with a new partner. The sixth column of Table 3 shows that mothers who are welfare recipients are 1.299 times more likely to form a union with a new partner than are those non-welfare mothers. In addition, mothers who graduated from some college are 1.318 times (OR=0.759) less likely to form a union with a new partner than mothers who had dropped out of high school.

Model 3 adds parents' behavioral and health characteristics to model 2. The third column of Table 3 shows that the odds of being married to or cohabitating with the father are 1.618 times (OR=0.618) lower if the father has ever been in jail. Model 4 adds relationship characteristics to model 3. For mothers, the odds of being married to or cohabiting with the father are 1.231 times (OR=0.812) lower if the father has multiple partner fertility. The odds of union formation with a new partner are 1.533 times higher for mothers who have children with someone other than the focal child's father than are those who have not. The chances of living with the fathers are lower (OR=0.701) if the father asked the mother to have an abortion when she was pregnant. Mothers who had a father's name on the birth certificate of their child are 2.583 times more likely to enter a marital or cohabiting union with the father than are those without such certificate. The mothers, on the other hands, are less likely to enter a union with a new partner if they had a father's name on the child's birth certificate (OR=0.723).

Union Formation of Single Noncustodial Fathers after Childbirth

Table 4 shows the log odds of noncustodial fathers transitioning to a new union formation. Since the results for union formation between biological parents reported from the first four columns of Table 4 are almost identical to those shown in Table 3, such results are not reported in the text, but they are available upon request. For fathers, chances of living with a new partner had shown a steady increase by the five-year survey since childbirth, but then substantially reduced at the nine-year survey. For instance, compared to the fathers forming a union with a new partner at the one-year survey, the odds of such union are 1.642 times higher by the three-year survey, 2.019 times higher by five-year survey, but 7.042 times (OR=1.632) lower by the nine-year survey.

The study shows that child support arrears may affect the fathers' decisions to form a union with a new partner. In the fifth column of Table 4, for instance, fathers who accumulate child support arrears are 1.632 times more likely to form a union with a new partner than are those who do not. Arrears coefficient does not significantly change in magnitude and remains significant when adjusting for the potential confounding variables.

The findings for the control variables are generally consistent with the previous research on union formation after childbirth. As shown in the fifth column (Model 1) of Table 4, White fathers are more likely to form a union with a new partner than Black fathers, while older fathers at the child's birth are less likely to enter a stable relationship with a new partner. In addition, fathers are less likely to form a stable relationship with a mother of their child or a new partner if the child was born with weight lower than 2,500g. Model 2 adds parents' economic characteristics to model 1 and shows that fathers who work full time are 1.432 times more likely to form a union with a new partner than are those who are unemployed. Model 3 shows that by adding parents' behavioral and health characteristics to model 2, fathers who have ever been incarcerated are less likely to have a stable relationship with their child's mother or new partner than fathers who have not. Lastly, model 4 shows that, by adding relationship characteristics to model 3, fathers are more likely to form a union with a new partner if they have children with someone other than the focal child's mother, or if the father and mother have different religious beliefs.

Robustness Check: Propensity-Score Based Estimates

The findings from the regression-based discrete-time event analysis suggest that fathers are more likely to form a union with a new partner if they had accumulated child support debt.

On the other hand, the chances of living with the mother are high if the father had no arrears burden. These results, however, may be driven by selection bias if there is a certain type of father who is both more likely to owe child support debt and more likely to form a new union later on. The current study accounts for such potential selection bias by including a rich assortment of demographic and human capital variables that were identified in the previous literature. In practice, however, the regression-based methods, our models included, may cause a serious problem if there is a lack of overlap in covariate distributions across the treatment and the control group. For instance, in Miller and Mincy's study (2012), there were not many fathers with high arrears burdens who are also rich and well-educated, in comparison to those fathers with no arrears. Obviously, the likelihood of such a problem would be higher for a model with a large number of covariates. These estimates may distort the true effect of being a father with arrears burden on union formation after childbirth. Therefore, it seems that some alternative causal inference techniques are necessary to adequately address the study's selection bias issue.

As an alternative to the regression-based method, this paper uses two propensity score-based models: a propensity score matching with a caliper and an inverse probability of treatment weighting (Rosenbaum & Rubin, 1983, 1984, 1985). These two models reduce or eliminate the effect of systematic differences in demographic characteristics between treated (fathers with arrears burden) and untreated subjects (fathers with no arrears) on outcomes.

Propensity score matching with a caliper (PSM). The purpose of this method is to carry out a matched comparison group that is similar to our treatment group (fathers with arrears burden). Three consecutive steps are conducted to achieve the goal. First, logistic regression is used to estimate the conditional probability of being in the treatment group given the observed

confounding demographic covariates. The value of this probability is called a propensity score, which can be derived as follows:

$$\Pr\left(Z = 1 \middle| X = x_1, \dots x_p\right) = \hat{e}(X) \quad (3)$$

, where Pr denotes probability, $X = x_1, \dots x_p$ is a vector of confounding demographic covariates, Z=1 is a treatment assignment indicating fathers with arrears burden, and $\hat{e}(X)$is an estimated propensity score. Thus, this score is measured by each individual's own demographic characteristics that contribute to being assigned to the treatment group.

Second, the estimated propensity score is used to create a matched comparison group for the treatment group (a father who are assigned to have an arrear burden) from the overall comparison group (a father who are not assigned to have an arrear burden). For example, if a father in the comparison group had a propensity score of .5, he would be assigned to the matched comparison group for those fathers in the treatment group who had a same or similar propensity scores. The study employs a nearest neighbor matching with replacement technique within a .01 radius of caliper distance (Rosenbaum & Rubin, 1985). [31] The nearest neighbor matching with replacement technique allows an individual in the comparison group to be selected multiple times for the people in the treatment group who have a close propensity score. If the propensity scores are equally close to one another, the untreated individuals are randomly selected. The closeness in our matching technique was restricted by a pre-specified width of propensity scores, called caliper distance. If no fathers in the comparison group had propensity scores that located within a range of caliper, the treated fathers within that caliper would not be matched with any fathers in the comparison group. These unmatched fathers in the treated group would be, therefore, dropped out from the matched sample. Since there is no specific rule of thumb for

[31] In STATA15, PSMATCH2 commend with radius matching option is used.

choosing the width of the caliper (Austin, 2011), the study chose the caliper at .01, which leads to meet the balance in confounding covariates between matched comparison group and treatment group. Checking the balance was conducted using a *psbal2* command in STATA15. Further details about a balancing test are discussed in Appendix 1.

In the third step, the study employs the average treatment effect for those who actually were treated (ATT), which makes inference on a specific subpopulation, that is, a group of fathers with arrears. [32] ATT is defined as the expected differences in potential outcomes:

$$\tau_{ATT} = E(Y_{it}^1 - Y_{it}^0 | Z_{it-1} = 1) = E(Y_{it}^1 | Z_{it-1} = 1) - E(Y_{it}^0 | Z_{it-1} = 1) \quad (4)$$

Each observation (father or mother) *i* has two potential outcomes, the potential control outcome Y_i^0 under the (lagged) treatment condition ($Z_{it-1} = 1$), and the potential treatment outcome Y_i^1 under the lagged treatment condition as well. Many researchers in using propensity score matching tended to compare these potential outcomes (Y_i^1 - Y_i^0) for the estimation of treatment effect. This method, called the difference in means, is, however, likely to have large standard errors (Austin, 2011). To reduce the standard error, this study uses the regression-adjusted matched estimates technique. This method regresses the outcome not only on a treatment indicator but also on a set of confounding covariates in order to have a second chance to account for variables that the study may not have balanced perfectly.

***Inverse probability of treatment weight (IPTW)*:** Using the propensity score matching with caliper method to estimate the effects would drop some unmatched subjects in the treatment group, and as a result, might aggravate a precision of estimates. Moreover, if the omitted subjects

[32] As to the policy makers, they may not be interested in comparing this group of fathers with those fathers who have no arrears burdens as they may have some unobserved baseline characteristics that are correlated with the union formation. Therefore, if we have those groups of two fathers be compared, we cannot guarantee that changing in union formation is caused by whether or not having arrears burden, or by some unobserved characteristics.

are a significant proportion of the population when the matched sample is being constructed, it will be difficult to generalize the results to the entire population. To avoid these problems, an alternative method that gives weight to either or both the treatment and comparison group was introduced (Hirano & Imbens, 2001).

This method named inverse probability of treatment weight (IPTW) uses weights based upon each subject's propensity score, e_i. As to ATT estimand, the goal of IPTW is to create a pseudo sample by re-weighting the comparison group that looks like the treatment group. Weights in estimating ATT can be defined as follows:

$$w_{it,ATT} = z_{it-1} + \frac{(1 - z_{it-1})e_{it}}{1 - e_{it}} \quad (5)$$

Let z_{it-1} denote an indicator of whether or not the i[th] father was treated (being assigned to have arrears). If the father was assigned to the treatment group (z_i = 1) at wave t-1. If the father was assigned to the lagged treatment group (z_{it-1} = 1), there is no need to re-weight, as he would get a weight of 1. If the father was assigned to the comparison group (z_{it-1} = 0), he would get weights equal to $\frac{e_i}{1-e_i}$; the denominator of this weighted equation is the probability of not receiving a given treatment, and the numerator is the probability of being in the treatment group (, or propensity score). This inverse probability-weighted equation makes fathers in the comparison group look like fathers in the treatment group. Therefore, in the third step, the IPTW estimate of the ATT estimand is employed by following estimating equation:

$$\text{IPTW}_{ATT\ Weight} = \frac{1}{n}\sum_{i}^{n} y_{it} z_{it-1} - \frac{1}{n}\sum_{i}^{n} \frac{y_{it}(1 - z_{it-1})e_{it}}{(1 - e_{it})} \quad (6)$$

where n denotes the number of observations, and $y_i$indicates the union formation outcomes measured on the ith father (or mother) at wave t. Again, each parent in the comparison group was weighted by $\frac{(1-z_{it-1})e_i}{(1-e_i)}$, making these observations similar to those in the treatment group.

Table 5 presents the estimation results for the propensity-based analyses separately for mothers' union formation (Panel 1), and fathers' union formation (Panel 2). The first two columns present the results from PSM, while the last two columns present the results from the IPTW. The results of mothers' union formation are, in general, consistent with those estimated using the regression-based method. As for the results of fathers' union formation, however, there are some discrepancies in the magnitudes of arrears effects. In the PSM, 165 unmatched subjects are excluded from the treatment group. Since these subjects are considered vulnerable fathers who do not have any matched subjects with similar propensity scores in the control group, the arrears effects in the PSM model with no such fathers are, of course, reduced. For instance, in the PSM model (shown in Panel 2 of Table 5), fathers who accumulate child support arrears are only 1.651 times more likely to form a union with a new partner than are those who do not, whereas the odds is 1.731 times in the regression-based model (see Model 4 in Table 4). Once the omitted fathers are taken into account in IPTW model, however, the arrears effects increase by 10.5-fold (OR=1.824, see Panel 2 of Table 5), the odds of which are even 5.3 fold higher than the one in the regression-based model. Thus, the results of fathers' union formation from the regression-based discrete-time event analysis reported in Table 4 may underestimate the actual arrears effects.

V. DISCUSSION

Non-marital births in the United States have become prevalent in recent decades, particularly among couples who are socioeconomically disadvantaged (Bumpass, 1990; Ellwood

& Jencks, 2004). Many of these couples are at risk for relationship dissolution at some point during their child's life (Dush, Kotila, & Schoppe-Sullivan, 2011). The absence of biological fathers from the household is adversely associated with their child's wellbeing (Amato, 2005). In addition, emerging evidence suggests that single mothers are more likely than married mothers to be in poverty (Cancian & Reed, 2008). Many of these mothers and politicians are thinking of marriage as a tool to alleviate child poverty and its adverse effects (Amato & Maynard, 2007; Brown, 2010). In response to these trends, a growing body of research has sought to understand what factors contribute to the marriage or re-partnering behaviors among unwed mothers and fathers after the childbirth (Berger, Cancian, & Meyer, 2012; Bzostek, McLanahan, & Carlson, 2012). The findings of these previous studies are consistent with the theory of marriage (Becker, 1973; Bumpass, Sweet, & Martin, 1990; Cherlin, 2009; Oppenheimer, 1988), suggesting that economic capabilities are the primary determinant of their re-partnering behaviors (Bzostek et al., 2012). Since money matters in the relationship market, the child support system can also play a significant role in the union formation patterns among these parents.

Although there are some studies that have demonstrated the role of child support in union formation for both mothers and fathers (Acs & Nelson, 2004; Bloom, Conrad, & Miller, 1996; Carlson, Garfinkel, McLanahan, Mincy, & Primus, 2004; Folk, Graham, & Beller, 1992; Mincy & Dupree, 2001; Yun, 1992), little is known about the conditions in which fathers could not meet their child support obligations because of their high arrears burdens. This is an important question because, in recent years, there has been a growing number of noncustodial fathers who have limited ability to support custodial families of children financially (Kim et al., 2015; Sorensen et al., 2007). Thus, this paper examines whether nonresident fathers' accumulation of

child support arrears would affect the transition to a new union formation among parents who were not living together at the time of childbirth. The study draws on data from a large longitudinal birth cohort study and uses a regression-based discrete-time event analysis. As regression-based analyses may be inappropriate for estimating the causal effects of the study, the study also explores propensity score methods to estimate the treatment effects (being a father with arrears burden) that apply specifically to a group of fathers with arrears burdens.

The study reveals a number of interesting findings. First, mothers have a lower re-partnering rate than fathers do: the life table estimates of the cumulative risk of new union formation indicate that, within five years of childbirth, approximately 56 percent of mothers and 48 percent of fathers remained single (see Table 2). This result is consistent with those in Bzostek, McLanahan, an Carlson (2012), who found that slightly more than half of unwed mothers re-partnered within five years of childbirth. For fathers, chances of living with a mother of their child decline over time, but the likelihood that they live with a new partner increases by five-years after childbirth, then substantially declines by the nine-year survey (see Table 3 and Table 4).

Second, as hypothesized, the results show that having fathers who owe child support arrears reduces the likelihood of transition to a residential relationship between biological parents who were not living together at the time of childbirth. The findings are consistent with previous literature on union formation among parents who had their child outside of wedlock (Carlson et al., 2004; Mincy & Dupree, 2001). The results are robust to the inclusion of a rich set of covariates. The results also do not seem to be influenced by selection based on differences in fathers' propensity to accumulate their child support debt.

Lastly, the study provides strong evidence that fathers' financial burden associated with child support arrears are likely to affect fathers' residential union formation with a new partner, even after adjusting for the selection bias introduced by non-random allocation of fathers to the treatment group (arrears group). Thus, as reported in the results of the propensity score-based analyses in Table 5, fathers who accumulate child support arrears are 1.824 times more likely to form a union with a new partner than are those who do not. However, the findings are not consistent with those of Bloom et at. (1996), who found no statistically significant relationship between low-income nonresident fathers' child support payments and their likelihood of remarriage. The discrepancy between the present study's findings and those of Bloom et at. (1996) may be due to the focused of the latter on child support received by custodial mothers, while the former focuses on the existence of child support debt, which appears to have a direct impact on the father's re-partnering. In addition, unlike Bloom et at. (1996), the outcome of the present study includes cohabitation, a type of union regarded as less committed than marriage unions. Thus, a father may cohabit with a new partner because of his financial difficulties caused by an increase in debt burden, but it may be difficult for him to secure a marital partner to.

The study has several implications for policy makers, researchers, and practitioners. Child support debt may have unintended consequences for children by making noncustodial fathers marry or cohabit with a new partner. The father may not want to spend more time and money on children from a previous relationship after forming a residential union with a new partner (Mincy et al., 2014). The situation would be even worse if the father has children with the new partner, and that is very likely. Some researchers posit that paternal multiple-partner fertility may pose a risk to child outcomes because it hampers fathers from providing adequate resources to all of their children (Bronte-Tinkew, Horowitz, & Scott, 2009; Fomby & Osborne,

2017; Meyer, Cancian, & Cook, 2005). Others provide evidence that paternal multiple-partner fertility may cause an increase in children's externalizing behaviors and physical health through both paternal depression and father involvement, respectively (Bronte-Tinkew et al., 2009; Stewart, Manning, & Smock, 2003). In addition, if the problem of child support debt is not resolved, then the relationship between the father and the new partner may deteriorate, resulting in poor outcomes for children from the new partner. Therefore, policies designed to help fathers manage their child support debt are of importance to both fathers and their children.

Despite several interesting findings, the study has several potential limitations. First, the propensity score methods cannot completely resolve selection bias. Some fathers may be selected into the arrears group because of these unobserved factors that can produce bias in the estimation of model parameters. One possible example of such an unobserved factor is a sense of responsibility required to secure and sustain employment. Fathers who lack this sense of responsibility in the workplace will be less likely to have stable employment, and therefore, less able to pay off their child support debts. In the relationship market, mothers are less likely to accept offers when the potential partner has limited ability to sustain employment (Cigno, 1991; Grossbard-Shechtman, 1993). Therefore, the causal interpretation would be validated if and only if these unobserved factors that affect treatment assignment (arrears group) have no effect on the outcome, except through treatment. This is the key assumption of propensity models, often referred to as the ignorability assumption. However, this is an untestable assumption.

Second, the potential measurement errors associated with mothers' reports of fathers' child support arrears can introduce bias in estimating the effect of arrears on union formation for fathers and mothers. For example, as Miller and Mincy (2012) pointed out, mothers may under-report the actual amount of arrears owed by fathers because they have little information about the

unpaid amount of child support owed to children of different mothers. However, mothers' reports of arrears may be more reliable than fathers' self-report because fathers tend to under-report their obligations (Braver, Fitzpatrick, & Bay, 1991). Therefore, the result of this study should be replicated when new data that are free of measurement errors is collectible.

References

Acs, G., & Nelson, S. (2004). Changes in living arrangements during the late 1990s: Do welfare policies matter? *Journal of Policy Analysis and Management, 23*(2), 273–290.

Amato, P. R. (2005). The impact of family formation change on the cognitive, social, and emotional well-being of the next generation. *The Future of Children*, 75–96.

Amato, P. R., & Maynard, R. A. (2007). Decreasing nonmarital births and strengthening marriage to reduce poverty. *The Future of Children*, 117–141.

Austin, P. C. (2011). An introduction to propensity score methods for reducing the effects of confounding in observational studies. *Multivariate Behavioral Research, 46*(3), 399–424.

Becker, G. S. (1973). A theory of marriage: Part I. *Journal of Political Economy, 81*(4), 813–846.

Berger, L. M., Cancian, M., & Meyer, D. R. (2012). Maternal re-partnering and new-partner fertility: Associations with nonresident father investments in children. *Children and Youth Services Review, 34*(2), 426–436.

Bloom, D. E., Conrad, C., & Miller, C. (1996). *Child support and fathers' remarriage and fertility*. Retrieved from National Bureau of Economic Research website: http://www.nber.org/papers/w5781

Bramlett, M. D., & Mosher, W. D. (2002). Cohabitation, marriage, divorce, and remarriage in the United States. *Vital Health Statistics, 23*(22), 1–32.

Braver, S. L., Fitzpatrick, P. J., & Bay, R. C. (1991). Noncustodial parent's report of child support payments. *Family Relations*, 180–185.

Bronte-Tinkew, J., Horowitz, A., & Scott, M. E. (2009). Fathering with multiple partners: Links to children's well-being in early childhood. *Journal of Marriage and Family, 71*(3), 608–631.

Brown, S. L. (2010). Marriage and child well-being: Research and policy perspectives. *Journal of Marriage and Family, 72*(5), 1059–1077.

Buckle, L., Gallup Jr, G. G., & Rodd, Z. A. (1996). Marriage as a reproductive contract: Patterns of marriage, divorce, and remarriage. *Ethology and Sociobiology, 17*(6), 363–377.

Bumpass, L. (1990). What's happening to the family? Interactions between demographic and institutional change. *Demography, 27*(4), 483–498.

Bumpass, L., Sweet, J. A., & Cherlin, A. (1991). The role of cohabitation in declining rates of marriage. *Journal of Marriage and the Family*, 913–927.

Bumpass, L., Sweet, J., & Martin, T. C. (1990). Changing patterns of remarriage. *Journal of Marriage and the Family*, 747–756.

Bzostek, S. H., McLanahan, S. S., & Carlson, M. J. (2012). Mothers' repartnering after a nonmarital birth. *Social Forces*, *90*(3), 817–841.

Cancian, M., & Reed, D. (2008). *Family structure, childbearing, and parental employment: Implications for the level and trend in poverty*. Citeseer.

Carlson, M. J. (2012). Understanding young fertility in the context of economic disadvantage. In *Early adulthood in a family context* (pp. 221–227). Springer.

Carlson, M. J., Garfinkel, I., McLanahan, S., Mincy, R., & Primus, W. (2004). The effects of welfare and child support policies on union formation. *Population Research and Policy Review*, *23*(5–6), 513–542.

Cherlin, A. (2004). The deinstitutionalization of American marriage. *Journal of Marriage and Family*, *66*(4), 848–861.

Cherlin, A. (2009). *Marriage, divorce, remarriage*. Harvard University Press.

Cigno, A. (1991). *Economics of the family*.

De Graaf, P. M., & Kalmijn, M. (2003). Alternative routes in the remarriage market: Competing-risk analyses of union formation after divorce. *Social Forces*, *81*(4), 1459–1498.

Dush, C. M. K., Kotila, L. E., & Schoppe-Sullivan, S. J. (2011). Predictors of supportive coparenting after relationship dissolution among at-risk parents. *Journal of Family Psychology*, *25*(3), 356.

Ellwood, D., & Jencks, C. (2004). *The spread of single-parent families in the United States since 1960*.

Folk, K. F., Graham, J. W., & Beller, A. H. (1992). Child support and remarriage: Implications for the economic well-being of children. *Journal of Family Issues*, *13*(2), 142–157.

Fomby, P., & Osborne, C. (2017). Family instability, multipartner fertility, and behavior in middle childhood. *Journal of Marriage and Family*, *79*(1), 75–93.

Goldscheider, F., & Sassler, S. (2006). Creating stepfamilies: Integrating children into the study of union formation. *Journal of Marriage and Family*, *68*(2), 275–291.

Grossbard-Shechtman, S. (1993). *On the economics of marriage: a theory of marriage labor and divorce*.

Halpern-Meekin, S., & Turney, K. (2016). Relationship churning and parenting stress among mothers and fathers. *Journal of Marriage and Family*, *78*(3), 715–729.

Hirano, K., & Imbens, G. W. (2001). Estimation of causal effects using propensity score weighting: An application to data on right heart catheterization. *Health Services and Outcomes Research Methodology, 2*(3–4), 259–278.

Kim, Y., Cancian, M., & Meyer, D. R. (2015). Patterns of child support debt accumulation. *Children and Youth Services Review*, *51*, 87–94.

McLanahan, S. (1995). The consequences of nonmarital childbearing for women, children, and society. *Introduction Iii Executive Summary: Nonmarital Childbearing in the United States v*, 229.

McLanahan, S. (2004). Diverging destinies: How children are faring under the second demographic transition. *Demography*, *41*(4), 607–627.

McLanahan, S., & Sawhill, I. (2015). Marriage and child wellbeing revisited: Introducing the issue. *The Future of Children*, 3–9.

Meyer, D. R., Cancian, M., & Cook, S. T. (2005). Multiple-partner fertility: Incidence and implications for child support policy. *Social Service Review*, *79*(4), 577–601.

Miller, D. P., & Mincy, R. B. (2012). Falling further behind? Child support arrears and fathers' labor force participation. *Social Service Review*, *86*(4), 604–635.

Mincy, R. B., & Dupree, A. T. (2001). Welfare, child support and family formation. *Children and Youth Services Review*, *23*(6–7), 577–601.

Mincy, R. B., Jethwani, M., & Klempin, S. (2014). *Failing our fathers: Confronting the crisis of economically vulnerable nonresident fathers*. Oxford University Press.

Nepomnyaschy, L., & Teitler, J. (2013). Cyclical cohabitation among unmarried parents in Fragile Families. *Journal of Marriage and Family*, *75*(5), 1248–1265.

Oppenheimer, V. K. (1988). A theory of marriage timing. *American Journal of Sociology*, *94*(3), 563–591.

Reichman, N. E., Teitler, J. O., Garfinkel, I., & McLanahan, S. S. (2001). Fragile families: Sample and design. *Children and Youth Services Review*, *23*(4–5), 303–326.

Rosenbaum, P. R., & Rubin, D. B. (1983). The central role of the propensity score in observational studies for causal effects. *Biometrika*, *70*(1), 41–55.

Rosenbaum, P. R., & Rubin, D. B. (1984). Reducing bias in observational studies using subclassification on the propensity score. *Journal of the American Statistical Association*, *79*(387), 516–524.

Rosenbaum, P. R., & Rubin, D. B. (1985). Constructing a control group using multivariate matched sampling methods that incorporate the propensity score. *The American Statistician*, *39*(1), 33–38.

Seltzer, J. A. (2000). Families formed outside of marriage. *Journal of Marriage and Family*, *62*(4), 1247–1268.

Sorensen, E., Sousa, L., & Schaner, S. (2007). Assessing child support arrears in nine large states and the nation. *Washington, DC: Urban Institute*. Retrieved from http://tpcprod.urban.org/UploadedPDF/1001242_child_support_arrears.pdf

Stewart, S. D., Manning, W. D., & Smock, P. J. (2003). Union formation among men in the US: Does having prior children matter? *Journal of Marriage and Family*, *65*(1), 90–104.

Sweeney, M. M. (1997). Remarriage of women and men after divorce: The role of socioeconomic prospects. *Journal of Family Issues*, *18*(5), 479–502.

Turney, K., & Halpern-Meekin, S. (2017). Parenting in On/Off Relationships: The Link Between Relationship Churning and Father Involvement. *Demography*, 1–26.

Wilcox, W. B. (2015). *Testimony before the Subcommittee on Human Resources Committee on Ways and Means "Challenges Facing Low-Income Individuals and Families in Today's Economy."*

Wu, Z., & Schimmele, C. M. (2005). Repartnering after first union disruption. *Journal of Marriage and Family*, *67*(1), 27–36.

Yun, K.-R. (1992). Effects of child support on remarriage of single mothers. *An Institute for Research on Poverty Study on Child Support Assurance: Design Issues, Expected Impacts, and Political Barriers as Seen from Wisconsin, Washington, DC: Urban Institute Press*.

Table 1. Weighted Descriptive Statistics

	Mothers		Fathers	
	Mean	SD	Mean	SD
Basic Demographic Characteristics				
Non-Hispanic White	0.179		0.133	
Non-Hispanic Black	0.501		0.593	
Hispanic	0.293		0.221	
Others	0.027		0.053	
US Born	0.873		0.883	
Age at Childbirth	22.422	0.379	25.699	0.849
Child is Male	0.525			
Child is Low Birthweight	0.141			
Economic Characteristics				
Education at Childbirth				
Less than high school	0.492		0.450	
High school graduate	0.341		0.335	
Some college	0.146		0.272	
College graduate	0.021		0.033	
Work Status				
at Baseline				
Unemployed	0.154		0.079	
Part-time	0.371		0.186	
Full-time	0.475		0.735	
at 1-year follow-up				
Unemployed	0.249		0.160	
Part-time	0.348		0.136	
Full-time	0.403		0.704	
at 3-year follow-up				
Unemployed	0.311		0.120	
Part-time	0.246		0.126	
Full-time	0.443		0.754	
at 5-year follow-up				
Unemployed	0.319		0.131	
Part-time	0.202		0.114	
Full-time	0.479		0.755	
Income				
at Baseline	18,693	1,049	27,380	1,834
at 1-year follow-up	19,511	1,206	30,859	3,102
at 3-year follow-up	21,959	1,874	30,622	2,784
at 5-year follow-up	23,677	1,679	38,357	3,428
Mothers on welfare				
at Baseline	0.438			
at 1-year follow-up	0.522			
at 3-year follow-up	0.557			
at 5-year follow-up	0.619			

Table 1. (Continued)

	Mothers		Fathers	
	Mean	SD	Mean	SD
Behavioral and Health Characteristics				
Mother reported Father in Jail				
at baseline			0.050	
at 1-year follow-up			0.063	
at 3-year follow-up			0.089	
at 5-year follow-up			0.085	
Health Quality (1=Poor, …, 5=Excellent)				
at baseline	3.844	0.052	3.889	0.079
at 1-year follow-up	3.646	0.075	3.914	0.093
at 3-year follow-up	3.613	0.073	3.912	0.106
at 5-year follow-up	3.497	0.090	3.779	0.133
Relationship Quality				
Father-Mother Religious Homogamy	0.364			
Relationship Duration Before Pregnant in Year	3.337	0.198		
Whether the Father/Mother Has Children with Someone Other than Child's Mother/Father	0.355		0.344	
Fathers' Name on the Birth Certificate	0.720			
Father Asked Mother to Have Abortion	0.204			
Unweighted Unique Observations	1,850		1,425	
Unweighted Total Observations				
at 1-year follow-up	1,669		1,036	
at 3-year follow-up	1,617		1,027	
at 5-year follow-up	1,346		883	
at 9-year follow-up	1,009		687	
Total	5,641		3,633	

Table 2. Life Table Estimates of Cumulative Proportion of New Union Formation

	Mothers Proportion			Fathers Proportion		
Number of year after childbirth	Remain single	w/ a father of child	w/ a new partner	Remain single	w/ a mother of child	w/ a new partner
1 Year	0.898	0.073	0.030	0.871	0.094	0.035
3 Years	0.745	0.148	0.107	0.694	0.187	0.119
5 Years	0.555	0.194	0.251	0.482	0.258	0.260
9 Years	0.314	0.356	0.329	0.302	0.398	0.300

Table 3. Results from the Discrete-time Multinomial Logit Models Predicting Mothers' Transition to Cohabitation and Marriage Following Child Birth

	Mother Married to or Cohabitation with a Baby's Father				Mother Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Discrete Time Since Childbirth (ref=one-year survey)								
Three-year survey	1.136	1.144	1.136	1.112	1.848***	1.812***	1.818***	1.857***
	(0.100)	(0.105)	(0.106)	(0.105)	(0.210)	(0.211)	(0.213)	(0.219)
Five-year survey	0.947	0.940	0.918	0.893	2.527***	2.417***	2.401***	2.464***
	(0.094)	(0.096)	(0.099)	(0.098)	(0.291)	(0.285)	(0.295)	(0.305)
Nine-year survey	0.769*	0.735**	0.748*	0.726**	1.412**	1.330*	1.288+	1.322*
	(0.086)	(0.086)	(0.088)	(0.087)	(0.187)	(0.182)	(0.178)	(0.184)
Child Support Arrears	0.271***	0.289***	0.296***	0.296***	1.092	1.042	1.038	1.052
	(0.048)	(0.051)	(0.053)	(0.054)	(0.127)	(0.124)	(0.124)	(0.127)
Basic Demographic Characteristics								
Race/ethnicity (Ref= White)								
Black	0.685**	0.774*	0.780*	0.659***	0.727*	0.672**	0.669**	0.688**
	(0.079)	(0.093)	(0.095)	(0.083)	(0.090)	(0.086)	(0.086)	(0.091)
Hispanic	1.208	1.293+	1.321*	1.187	0.895	0.860	0.855	0.868
	(0.160)	(0.178)	(0.184)	(0.171)	(0.135)	(0.133)	(0.134)	(0.138)
Others	0.473**	0.535*	0.517*	0.453**	0.933	0.929	0.940	0.986
	(0.136)	(0.156)	(0.154)	(0.137)	(0.244)	(0.246)	(0.250)	(0.265)
Mother US born	0.766*	0.770+	0.775+	0.705*	1.004	0.997	0.993	1.033
	(0.100)	(0.105)	(0.107)	(0.100)	(0.172)	(0.175)	(0.176)	(0.187)
Fathers' age at BL	0.980*	0.980*	0.979*	0.983	1.000	1.001	1.002	0.995
	(0.009)	(0.010)	(0.010)	(0.012)	(0.010)	(0.010)	(0.010)	(0.011)
Mothers' age at BL	0.997	0.999	1.001	0.999	0.934***	0.934***	0.933***	0.923***
	(0.010)	(0.011)	(0.011)	(0.012)	(0.011)	(0.011)	(0.011)	(0.012)
Child is Male	0.964	0.970	0.969	0.967	1.021	1.004	0.995	0.982
	(0.069)	(0.070)	(0.071)	(0.072)	(0.081)	(0.081)	(0.081)	(0.080)
Low birthweight	0.986	0.977	0.996	0.994	0.950	0.948	0.944	0.942
	(0.109)	(0.111)	(0.114)	(0.115)	(0.118)	(0.119)	(0.119)	(0.120)

Table 3. (Continued)

	Mother Married to or Cohabitation with a Baby's Father				Mother Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Economic Characteristics								
Father's education at baseline (ref= less than high school)								
High school grad.		0.884	0.879	0.868		0.758**	0.868	0.772*
		(0.078)	(0.078)	(0.077)		(0.076)	(0.077)	(0.079)
Some college		1.051	1.070	1.119		1.056	1.119	1.066
		(0.127)	(0.130)	(0.137)		(0.142)	(0.137)	(0.146)
College grad.		0.811	0.820	0.806		0.740	0.806	0.782
		(0.190)	(0.193)	(0.196)		(0.218)	(0.196)	(0.231)
Mother's education at baseline (ref= less than high school)								
High school grad.		1.025	1.021	1.050		0.996	1.011	1.025
		(0.092)	(0.093)	(0.097)		(0.096)	(0.098)	(0.101)
Some college		0.880	0.865	0.886		0.765*	0.775*	0.832
		(0.098)	(0.098)	(0.101)		(0.096)	(0.097)	(0.105)
College grad.		0.929	0.903	0.894		0.947	0.963	1.110
		(0.215)	(0.209)	(0.209)		(0.285)	(0.291)	(0.339)
Father's work status (ref=unemployed)								
Part-time		0.921	0.859	0.832		0.699*	0.729+	0.739+
		(0.158)	(0.152)	(0.147)		(0.113)	(0.121)	(0.122)
Full-time		1.277+	1.202	1.158		0.787+	0.833	0.845
		(0.175)	(0.175)	(0.163)		(0.099)	(0.104)	(0.106)
Mother's work status (ref=unemployed)								
Part-time		0.820	0.817+	0.784*		0.989	0.987	1.004
		(0.101)	(0.100)	(0.097)		(0.127)	(0.128)	(0.132)
Full-time		0.844	0.825+	0.791*		1.166	1.143	1.149
		(0.089)	(0.088)	(0.086)		(0.141)	(0.139)	(0.141)

Table 3. (Continued)

	Mother Married to or Cohabitation with a Baby's Father				Mother Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Ln(mother's Income)		1.189***	1.193***	1.184***		0.992	0.997	1.000
		(0.041)	(0.042)	(0.042)		(0.029)	(0.030)	(0.030)
Ln(father's Income)		1.086**	1.075*	1.071*		1.000	1.007	1.008
		(0.031)	(0.031)	(0.030)		(0.021)	(0.022)	(0.022)
Mother on welfare		0.941	0.939	0.957		1.356**	1.359**	1.269*
		(0.076)	(0.077)	(0.082)		(0.128)	(0.129)	(0.119)
Behavioral and Health Characteristics								
Mother reported			0.654*	0.685*			1.223	1.173
father in jail			(0.112)	(0.116)			(0.163)	(0.157)
father health quality			0.991	0.987			0.915	0.913
			(0.088)	(0.086)			(0.094)	(0.094)
mother health quality			0.990	0.974			0.950	0.955
			(0.044)	(0.044)			(0.048)	(0.048)
Relationship Characteristics								
Religion				1.143				1.041
homogeneity				(0.137)				(0.125)
Relationship				1.006				0.972*
duration before								
pregnant in year				(0.009)				(0.011)
Fertility: children with someone other than the focal child's father(mother)								
Mother				1.001				1.494***
				(0.096)				(0.147)
Father				0.835				1.140
				(0.115)				(0.148)

Table 3. (Conrinued)

	Mother Married to or Cohabitation with a Baby's Father				Mother Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Fathers' name on the birth certificate				2.658*** (0.317)				0.738** (0.073)
Father asked mother to have abortion				0.697*** (0.074)				0.888 (0.100)
Number of Obs.	5,641	5,641	5,641	5,641	5,641	5,641	5,641	5,641
Individual Obs	1,850	1,850	1,850	1,850	1,850	1,850	1,850	1,850

Note: † p<0.1, *$p < .05$. **$p < .01$. ***$p < .00$

Table 4. Results from the Discrete-time Multinomial Logit Models Predicting Fathers' Transition to Cohabitation and Marriage Following Child Birth

	Father Married to or Cohabitation with a Baby's Mother				Father Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Discrete Time Since Childbirth (ref=one-year survey)								
Three-year survey	1.138	1.143	1.152	1.146	1.642***	1.737***	1.759***	1.774***
	(0.118)	(0.124)	(0.127)	(0.127)	(0.221)	(0.242)	(0.247)	(0.251)
Five-year survey	0.984	0.983	0.950	0.950	2.019***	2.124***	2.163***	2.202***
	(0.112)	(0.116)	(0.119)	(0.119)	(0.278)	(0.302)	(0.323)	(0.330)
Nine-year survey	0.618***	0.587***	0.580***	0.587***	0.142***	0.154***	0.155***	0.156***
	(0.077)	(0.077)	(0.077)	(0.079)	(0.039)	(0.043)	(0.043)	(0.044)
Child Support Arrears	0.244***	0.268***	0.278***	0.279***	1.629***	1.667***	1.701***	1.731***
	(0.048)	(0.054)	(0.057)	(0.057)	(0.236)	(0.248)	(0.256)	(0.265)
Basic Demographic Characteristics								
Race/ethnicity (Ref= White)								
Black	0.664**	0.743*	0.740*	0.712*	0.683*	0.679*	0.663*	0.643**
	(0.088)	(0.103)	(0.105)	(0.103)	(0.108)	(0.111)	(0.110)	(0.108)
Hispanic	1.500**	1.568**	1.591**	1.512*	0.874	0.841	0.807	0.869
	(0.230)	(0.251)	(0.259)	(0.249)	(0.174)	(0.172)	(0.169)	(0.184)
Others	0.500*	0.525*	0.499*	0.475*	0.738	0.733	0.676	0.730
	(0.151)	(0.160)	(0.156)	(0.150)	(0.242)	(0.243)	(0.229)	(0.249)
Mother US born	0.559***	0.576***	0.604**	0.578**	0.710	0.722	0.736	0.704
	(0.089)	(0.095)	(0.101)	(0.098)	(0.165)	(0.172)	(0.176)	(0.170)
Fathers' age at BL	0.984+	0.985	0.984	0.987	1.007	1.007	1.009	0.998
	(0.009)	(0.009)	(0.009)	(0.010)	(0.011)	(0.011)	(0.011)	(0.012)
Mothers' age at BL	0.999	1.000	1.000	1.001	0.966*	0.969*	0.968*	0.959**
	(0.011)	(0.011)	(0.011)	(0.012)	(0.013)	(0.014)	(0.014)	(0.015)
Child is Male	0.956	0.973	0.984	0.975	1.090	1.091	1.126	1.123
	(0.078)	(0.081)	(0.083)	(0.083)	(0.111)	(0.113)	(0.118)	(0.118)
Low birthweight	1.075	1.073	1.096	1.094	1.143	1.164	1.175	1.184
	(0.134)	(0.137)	(0.142)	(0.142)	(0.171)	(0.176)	(0.180)	(0.184)

Table 4. (Continued)

	Father Married to or Cohabitation with a Baby's Mother				Father Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Economic Characteristics								
Father's education at baseline (ref= less than high school)								
High school grad.		0.913	0.902	0.906		1.040	1.038	1.067
		(0.091)	(0.091)	(0.092)		(0.127)	(0.127)	(0.133)
Some college		1.165	1.176	1.228		1.246	1.206	1.183
		(0.166)	(0.170)	(0.179)		(0.210)	(0.205)	(0.199)
College grad.		0.772	0.772	0.805		0.936	0.913	1.013
		(0.214)	(0.214)	(0.228)		(0.338)	(0.329)	(0.379)
Mother's education at baseline (ref= less than high school)								
High school grad.		1.079	1.081	1.082		0.960	0.955	0.984
		(0.111)	(0.113)	(0.114)		(0.120)	(0.121)	(0.126)
Some college		0.896	0.880	0.881		0.790	0.772	0.832
		(0.115)	(0.115)	(0.117)		(0.125)	(0.124)	(0.136)
College grad.		0.724	0.696	0.676		0.781	0.749	0.880
		(0.200)	(0.193)	(0.189)		(0.275)	(0.265)	(0.318)
Father's work status (ref=unemployed)								
Part-time		1.032	0.904	0.907		1.345	1.283	1.278
		(0.216)	(0.189)	(0.193)		(0.293)	(0.288)	(0.284)
Full-time		1.520*	1.360+	1.351+		1.437+	1.324	1.327
		(0.260)	(0.239)	(0.241)		(0.272)	(0.256)	(0.256)
Mother's work status (ref=unemployed)								
Part-time		0.769*	0.771+	0.760*		1.145	1.144	1.161
		(0.102)	(0.103)	(0.102)		(0.195)	(0.198)	(0.203)
Full-time		0.818	0.801+	0.788+		1.251	1.265	1.236
		(0.103)	(0.102)	(0.101)		(0.201)	(0.206)	(0.203)

Table 4. (Continued)

	Father Married to or Cohabitation with a Baby's Mother				Father Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Ln(mother's Income)		1.157***	1.166***	1.164***		0.991	0.990	0.991
		(0.043)	(0.044)	(0.044)		(0.039)	(0.040)	(0.041)
Ln(father's Income)		1.071*	1.053+	1.051+		1.025	1.012	1.012
		(0.029)	(0.029)	(0.029)		(0.032)	(0.032)	(0.031)
Mother on welfare		0.938	0.941	0.950		0.966	0.992	0.931
		(0.086)	(0.087)	(0.089)		(0.110)	(0.115)	(0.111)
Behavioral and Health Characteristics								
Mother reported			0.457***	0.473***			0.610*	0.565**
father in jail			(0.092)	(0.095)			(0.125)	(0.115)
Alcohol abuse			0.872	0.877			0.927	0.908
			(0.089)	(0.092)			(0.120)	(0.120)
father health quality			1.008	1.001			1.047	1.048
			(0.047)	(0.049)			(0.066)	(0.067)
mother health quality			1.042	1.040			1.033	1.025
			(0.043)	(0.044)			(0.054)	(0.053)
Relationship Characteristics								
Religion				1.089				0.822+
homogeneity				(0.116)				(0.096)
Relationship				1.017				1.012
duration before								
pregnant in year				(0.015)				(0.018)
Fertility: children with someone other than the focal child's father (mother)								
Mother				0.998				1.312*
				(0.099)				(0.173)
Father				0.867				1.634**
				(0.097)				(0.265)

Table 4. (Continued)

	Father Married to or Cohabitation with a Baby's Mother				Father Married to or Cohabitation with a New Partner			
	Model 1	Model 2	Model 3	Model 4	Model 1	Model 2	Model 3	Model 4
Fathers' name on the birth certificate				1.449** (0.204)				1.011 (0.159)
Father asked mother to have abortion				0.761* (0.093)				1.091 (0.154)
Number of Obs.	3,633	3,633	3,633	3,633	3,633	3,633	3,633	3,633
Individual Obs	1,425	1,425	1,425	1,425	1,425	1,425	1,425	1,425

Note: † p<0.1, *$p < .05$. **$p < .01$. ***

Table 5. Results from the Propensity Score-Based Method Predicting Both Parents' Transition to Cohabitation and Marriage After Childbirth

Panel 1: Union Formation of Custodial Mothers after Childbirth

	PSM[a]		IPTW[b]	
	Mother Married to or Cohabitation with a Baby's Father (1)	a New Partner (2)	Mother Married to or Cohabitation with a Baby's Father (3)	a New Partner (4)
Three-year survey	1.117	1.723**	1.014	1.797***
	(0.170)	(0.296)	(0.782)	(0.298)
Five-year survey	0.806	2.230***	0.782	2.143***
	(0.147)	(0.394)	(0.134)	(0.369)
Nine-year survey	0.767	1.227	0.614**	1.159
	(0.152)	(0.259)	(0.112)	(0.240)
Child Support Arrears	0.274***	1.026	0.318***	1.054
	(0.055)	(0.140)	(0.060)	(0.136)
Number of Obs.	5,191		5,641	
Individual Obs	1,713		1,850	

Panel 2: Union Formation of Noncustodial Fathers after Childbirth

	PSM[a]		IPTW[b]	
	Father Married to or Cohabitation with a Baby's Mother (1)	a New Partner (2)	Father Married to or Cohabitation with a Baby's Mother (3)	a New Partner (4)
Three-year survey	1.172	1.906*	0.853	1.740**
	(0.230)	(0.493)	(0.163)	(0.366)
Five-year survey	0.848	1.821*	0.576*	1.721*
	(0.193)	(0.494)	(0.141)	(0.390)
Nine-year survey	0.534**	0.099***	0.487**	0.123***
	(0.121)	(0.050)	(0.110)	(0.051)
Child Support Arrears	0.245***	1.651*	0.385***	1.824**
	(0.057)	(0.320)	(0.084)	(0.320)
Number of Obs.	3,179		3,633	
Individual Obs	1,260		1,425	

Note: † p<0.1, *$p < .05$. **$p < .01$. ***$p < .001$

PSM[a]: Propensity score matching with caliper; IPTW[b]: Inverse probability of treatment weight. All confounding covariates used in the regression-based analysis are included in each model.

Appendix 1. Means of Baseline Demographic Covariates Before and After Matching

	Unmatched			Matched		
	Arrears	No Arrears	Sig	Arrears	No Arrears	Sig
Fathers' Characteristics						
Non-Hispanic White	0.087	0.070		0.083	0.084	
Non-Hispanic Black	0.714	0.689	*	0.715	0.733	
Hispanic	0.163	0.213		0.166	0.161	
Others	0.036	0.028		0.036	0.022	
Less than high school	0.392	0.356		0.376	0.407	
High school graduate	0.403	0.435	*	0.412	0.402	
Some college	0.193	0.178		0.199	0.179	
College graduate	0.013	0.032		0.013	0.012	
US Born	0.965	0.914	*	0.963	0.964	
Age at Childbirth	25.631	25.916		25.657	25.899	
Mothers' Characteristics						
Non-Hispanic White	0.149	0.102		0.138	0.136	
Non-Hispanic Black	0.693	0.660	*	0.698	0.702	
Hispanic	0.142	0.213		0.147	0.144	
Others	0.015	0.025		0.016	0.018	
Less than high school	0.312	0.406		0.322	0.337	
High school graduate	0.406	0.338	*	0.394	0.410	
Some college	0.260	0.226		0.263	0.235	
College graduate	0.022	0.030		0.022	0.018	
US Born	0.988	0.912	*	0.987	0.986	
Age at Childbirth	23.429	23.649		23.503	23.299	
Child's Characteristics						
Child is Male	0.582	0.525	*	0.579	0.569	
Child is Low Birthweight	0.129	0.125		0.123	0.123	

Note: *$p < .05$.

The study complied with following criteria to achieve close balance: 1) for continuous variable, the difference in means must be less or equal to .05 treatment group standard deviations, and the ratio of standard deviation for these variables must be between .91 and 1.1, and 2) for each categorical variable, the difference in percentages across groups must be less than or equal to .025. As shown in the Table above, all variables met the balance targets.

Dissertation Conclusions and Implications for Policy

A non-marital birth in the United States has increased in recent decades, and today, 40 percent of all birth occurs outside of marriage (Bumpass & Lu, 2000; McLanahan & Sawhill, 2015). Public concerns about the high poverty rates experienced by these children have led federal, state, and local governments to strengthen its effort in collecting child support payments from noncustodial fathers (Mincy, Jethwani, & Klempin, 2014; Pirog & Ziol-Guest, 2006). Despite some encouraging success in meeting its goal, there are still large amounts of unpaid child support owed by poor noncustodial fathers who are unable to meet their child support obligations (Sorensen, Sousa, & Schaner, 2007). A growing body of research has sought to understand factors and outcomes associated with patterns of child support arrears among noncustodial fathers (Bartfeld, 2005; Miller & Mincy, 2012; Sorensen et al., 2007; Turner & Waller, 2017). The present dissertation is part of such an effort. Together, the chapters in this dissertation aimed to explore the role of state-level enforcement effort in predicting the accumulation of child support debt, or whether or not such debt would have any effect on fathers' mental health problems or their re-partnering decisions. All chapters used the first five waves of data from the Fragile Families and Child Wellbeing Study, a longitudinal birth cohort study designed to explore the comprehensive understanding of nonresident parent.

A BRIEF OVERVIEW OF FINDINGS

Chapter 1 investigated the extent to which child support policies affect noncustodial fathers' long-term patterns of arrears accumulation. To avoid potential biases stemming from the censored observations, a Tobit model was implemented. Results from this work indicate that the association between a number of years since the order was established and the accumulation of arrears was more substantial for fathers who live in the states with less efficient child support

enforcement. The results also show that more efficient child support enforcement brought fewer arrears burden to fathers who lived with their child at birth than those who did not.

Chapter 2 explored the detrimental consequences of child support arrears: fathers' mental health problems. The main objective of this chapter is to test whether nonresident fathers who owe child support arrears are at risk for the development of depression and alcohol abuse problems. To attenuate a potential omitted variable bias, fathers' previous mental health status was included as a covariate. As a robustness check, I used an instrumental variable approach to correct for endogeneity and measurement error associated with mothers' report of fathers' child support arrears. The results of this analysis provide strong evidence that fathers who owed arrears were more likely to report mental health problems than those who did not owe any arrears. The results also showed that fathers who received more support from friends and families during childbirth were less likely to develop depression caused by child support arrears than those who received less support. The results were robust to the inclusion of a rich set of covariates and a lagged dependent variable.

Chapter 3 investigated whether fathers' arrears accumulation affected the transition to a new union formation among couples who were not living together at the time of childbirth. The event-history analysis was conducted using a discrete-time competing risks hazard model in which the transition to either marriage or cohabitation and remain single are treated as competing events. As a robustness check, I employed propensity-score matching methods to reduce some of the bias arising from the confounding variables. The results showed that having fathers who owe child support arrears reduced the likelihood of transition to a committed relationship between biological parents who were not living together at the time of childbirth. However, the arrears may not affect mothers' decision to form a union with a new partner. The results also provided

strong evidence that fathers' financial burden associated with child support arrears were likely to affect fathers' decision to form a stable union with a new partner, even after adjusting for the selection bias introduced by non-random allocation of fathers to the treatment group (arrears group).

IMPLICATIONS FOR POLICY AND RESEARCH

The findings from each chapter contribute to the literature on child support and low-income noncustodial fathers in a number of ways. First, results from Chapter 1 indicate that efficient child support enforcement would lead to a faster reduction of arrears, which is of greater benefit to children who lived with their father at birth. Therefore, the results can be used to inform policymakers and researchers who have sought to find various strategies to encourage fathers to attend the birth of their child.

Second, findings from Chapter 2 contribute to the prior literature by extending the stress process theory in the context of child support enforcement policy. Using nationally representative data on nonresident fathers, this work provides the first evidence on whether nonresident fathers who owe child support debt are at risk for the development of mental health problems. In addition, results from Chapter 2 support the idea that social support may protect fathers with high arrears burden from the negative consequences of stress exposure. The findings suggest that policies that promote social support and mental health in the child support system can break the vicious cycle of fathers' repeated failures of complying with their child support orders.

Third, results from Chapter 3 contribute to the literature on re-partnering patterns of unmarried couples in the United States. The findings add to the evidence that a decrease in fathers' disposable income due to a high arrears burden may increase their incentive to form a

stable relationship with a new partner. This finding contradicts to the previous study showing that lower disposable income will make the father a less attractive partner for women in the relationship market (Bloom, Conrad, & Miller, 1996).

In addition, if the father has children with a new partner (which is very likely), he may not be able to provide adequate resources to his children from both previous and current relationships. This should give lawmakers an incentive to adopt policies that limit the growth of arrears (e.g., charging interest and penalties on unpaid child support, making it easier for low-income noncustodial fathers to downward modify child support orders, and forgiveness of arrears program, etc.).

FUTURE RESEARCH

A growing number of scholars have recognized the problems associated with child support debt among noncustodial fathers, but there is still limited knowledge of how arrears are accumulated or eliminated over time. As pointed out by Kim et al. (2015), there is still much to understand about preventive factors that we can learn from the fathers who have succeeded in paying off their arrears. Therefore, future research is needed to identify the characteristics of these fathers.

Future research should also explore whether our results are driven by measurement errors in the child support arrears variable. Because the study relies on mothers' reports of fathers' child support arrears, the results of the chapter using arrears as a key independent variable could be biased. Although I used the instrumental variable approach to address concerns about measurement error, it is not a panacea because the method could not address the missing information about the unpaid amount of child support owed to children of different mothers.

Therefore, the result of this study should be replicated in future research with new data that are free of measurement errors.

References

Bartfeld, J. (2005). *Arrearages, lying-in orders, and child support compliance among fathers of W–2 children in Wisconsin*. Citeseer. Retrieved from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.124.1941&rep=rep1&type=pdf

Bloom, D. E., Conrad, C., & Miller, C. (1996). *Child support and fathers' remarriage and fertility*. National Bureau of Economic Research. Retrieved from http://www.nber.org/papers/w5781

Bumpass, L., & Lu, H.-H. (2000). Trends in cohabitation and implications for children s family contexts in the United States. *Population Studies*, *54*(1), 29–41.

Kim, Y., Cancian, M., & Meyer, D. R. (2015). Patterns of child support debt accumulation. *Children and Youth Services Review*, *51*, 87–94.

McLanahan, S., & Sawhill, I. (2015). Marriage and child wellbeing revisited: Introducing the issue. *The Future of Children*, 3–9.

Miller, D. P., & Mincy, R. B. (2012). Falling further behind? Child support arrears and fathers' labor force participation. *Social Service Review*, *86*(4), 604–635.

Mincy, R. B., Jethwani, M., & Klempin, S. (2014). *Failing our fathers: Confronting the crisis of economically vulnerable nonresident fathers*. Oxford University Press.

Pirog, M., & Ziol-Guest, K. M. (2006). Child support enforcement: Programs and policies, impacts and questions. *Journal of Policy Analysis and Management*, *25*(4), 943–990.

Sorensen, E., Sousa, L., & Schaner, S. (2007). Assessing child support arrears in nine large states and the nation. *Washington, DC: Urban Institute*. Retrieved from http://tpcprod.urban.org/UploadedPDF/1001242_child_support_arrears.pdf

Turner, K. J., & Waller, M. R. (2017). Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement With Children. *Journal of Marriage and Family*, *79*(1), 24–43.

EXHIBIT L1

The Effects of State-level Child Support Enforcement on Long-term Patterns of Arrears Accumulations among Noncustodial Fathers

Source:
Columbia University

By
Um, Hyunjoon

The Effects of State-level Child Support Enforcement on Long-term Patterns of Arrears Accumulations among Noncustodial Fathers

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ABSTRACT

Ineffective child support enforcement is responsible for the accumulation of child support arrears. Using the first five waves of data from the Fragile Families and Child Wellbeing Study (FFCWS), the study examines the extent to which child support policies affect noncustodial fathers' long-term patterns of arrears accumulation. To avoid potential biases stemming from the censored observations, a Tobit analysis was designed to address observations clustered at zero. The study finds that the association between the number of years since an order was established and the accumulation of arrears was larger for fathers who live in states with less efficient child support enforcement. The study also finds that more efficient child support enforcement brings a smaller arrears burden to fathers who lived with their child at birth than for those who did not.

Keywords: Child support arrears · Child support enforcement ·Noncustodial fathers

I. INTRODUCTION

The goal of the child support program is to make sure that children receive financial support from both parents, to compel both parents to remain involved in children's lives, and to reduce welfare costs. Another responsibility of the program is to collect accrued child support payments owed either to custodial families or to the government. When the custodial family is receives public assistance, the custodial parent is required to cede their right to child support payments to the state under Federal law. If the noncustodial parent does not comply with the obligation, then the delinquent child support will be treated as a debt owed to the government. As of November 2013, a quarter of all arrears were owed to the government, a number that dropped from 51 percent in November 2002 (Office of Child Support Enforcement, 2014).

Delinquent payments of child support are detrimental in many respects. If the arrears are owed to custodial families, children may receive less support than needed. A substantial research literature shows that children with limited financial resources are at risk of adverse outcomes including poverty (Bradshaw, 2006; Cancian, Meyer, & Han, 2011; Sorensen, 2000), academic failure (Dahl & Lochner, 2005), and behavioral and cognitive problems (Aughinbaugh & Gittleman, 2003; Blau, 1999; Yeung, Linver, & Brooks–Gunn, 2002). If the arrears are owed to the government, delinquency in the payment of child support debt negatively affects the money the state collects, further burdening taxpayers.

In addition, an arrears debt may be problematic in and of itself. Noncustodial fathers with high arrears can lose hope of ever repaying the amount owed (Waller & Plotnick, 2001) and are more likely to avoid working in the formal labor market than those fathers with no arrears burden (Bartfeld & Meyer, 2003; D. P. Miller & Mincy, 2012). The fathers may also be subject to punitive enforcement actions, such as tax refund intercepts, asset seizure, driver's license

restrictions, and even incarceration that may affect their ability to pay child support and, as a result, can aggravate the arrears problems (Holzer, Offner, & Sorensen, 2005; Sorensen, Sousa, & Schaner, 2007; Turetsky, 2007). Moreover, mothers with a large amount of uncollected child support debts owed by noncustodial fathers may not allow their child to visit with those fathers (Turner & Waller, 2017).

In response to these problems, policymakers have enacted a range of child support policies intended to close gaps between the incomes available to children in single and two parent families, however, many policy measures have contributed to the growth in arrears (Bartfeld, 2003; Sorensen et al., 2007; Sorensen & Turner, 1997). In addition, the distribution of arrears is highly skewed toward low-income fathers, suggesting that fathers' ability to pay could be responsible for the growth in arrears (Kim, Cancian, & Meyer, 2015; Sorensen et al., 2007).

Despite a growing body of research on the accumulation of child support arrears, little is known about the extent to which the state and individual-level factors contribute to noncustodial father's long-term patterns of arrears accumulations (Bartfeld, 2003; Heinrich, Burkhardt, & Shager, 2011; Pearson & Davis, 2002; Roberts, 2001; Sorensen, 2004; Sorensen, Koball, Pomper, & Zibman, 2003; Sorensen et al., 2007). Much of the previous research relies on a cross-sectional data set, which is limited to one period, therefore, it may be unable to distinguish between two noncustodial fathers who have accumulated the same amount of arrears but over different amounts of time (Kim et al., 2015). If policymakers can predict which of those two fathers would accumulate arrears more rapidly over the next several years, then they can allocate their resources more effectively to avoid further accumulation of arrears (Bartfeld, 2003; Heinrich et al., 2011; Roberts, 2001; Sorensen et al., 2007).

A study conducted by Kim, Cancian, and Meyer (2015) is the only previous literature that examined the long-term trajectories of child support arrears. Using longitudinal data drawn from the Wisconsin administrative data system, Kim and colleagues (2015) identified six idiosyncratic patterns of arrear accumulations among noncustodial fathers who established their first child support order in 2000. The study found that almost half the fathers in their sample never accumulated a substantial amount of arrears over the 11 years. In addition, once arrears were accumulated, it appears that one-fifth of the cases with increased at a slow pace, while the remainder showed a rapid increase at a certain point in time (Kim et al., 2015).

Although Kim and colleague (2015) offered an informative picture of the patterns of arrears growth, they did not provide any insight into what factors make each trajectory group distinct from the others. Moreover, the data they used was not nationally representative, which inevitably called into question whether the results would be generalizable to people in other states. Lastly, they have not investigated the outcomes for nonresident fathers during childbirth who are less likely than resident parents to comply with child support obligations. To overcome these shortcomings, the proposed study will draw on data from the Fragile Families and Child Wellbeing Study (FFCWS), a nationally representative longitudinal birth cohort study designed to explore a comprehensive understanding of unmarried parents and their children. The objective of this first chapter is to inform state and local OCSE managers and policymakers about the several factors associated with the long-term growth in arrears.

II. THEORETICAL FRAMEWORK AND EMPIRICAL EVIDEN

There are no direct theoretical studies available to predict the accumulation patterns of child support arrears among noncustodial fathers. Nevertheless, the study of child support compliance may be consistent with the context in which the fathers are delinquent in paying off

their child support debts (Kim et al., 2015). This study uses Beller and Graham's (1996) economic model of child support as a theoretical framework. They use a simplified version of the theory of the consumer to help identify the factors associated with the child support payments of noncustodial fathers. They find that compliance (or payments) with child support obligations by noncustodial fathers depends on three determinants, including *the child support enforcement, the father's ability to pay, and the father's willingness to pay.*

Child Support Enforcement and Arrears Accumulation

The Federal government has enacted several child support laws ranging from automatic wage garnishment to intercepting federal tax refunds to collect delinquent payments. Although every state has already adopted most of these laws, there is still variation in child support enforcement practices amongst states because the enforcement is a state-run entity (Sorensen et al., 2007). A large body of research indicates that accumulation of arrears is, in part, the result of state-level enforcement policies (Office of Child Support Enforcement, 2014; Sorensen, 2004; Sorensen et al., 2003, 2007). According to a report from the Institute for Research on Poverty (Bartfeld, 2003), nearly 50 percent of total debts were attributable to the following four state-level policies: *interest on arrears, retroactive support orders, lying-in costs*, and, *other fees.* The *interest on arrears* is a penalty charged on past-due child support payments. A certain assessment of interest may contribute to a large arrears balance. In the nine-state study about child support arrears, Sorensen and colleagues (2007) showed that states that assessed interest on a routine basis had a higher arrear growth rate than other states between the 1990s and 2000s. The *retroactive support order* is an obligation that covers the period prior to establishing a child support order. This order usually does not include the direct support given to children before the order was established (Sorensen, 1997b; Sorensen & Turner, 1997; Waller & Plotnick, 2001).

The retroactive order is a crucial factor contributing to arrears growth for some states, including Colorado, where 19 percent of total arrears consisted of the retroactive order (Thoennes, 2001). Therefore, noncustodial parents who are required to pay child support prior to the establishment of current order are less likely to comply with their obligations. Lastly, *lying-in costs* usually refer to the reimbursement for Medicaid costs associated with the birth of the child, and *other fees* refer to any charges associated with paternity establishment, including genetic testing, court, and attorney fees.

The accumulation of arrears depends on the length of time the fathers remain in the child support system, which can be defined *as a case-length effect*. As mentioned by Bartfeld (2003) and the U.S. Department of Health and Service (2000), the four state-level policies mentioned above will directly cause an increase in arrears over time after the establishment of the child support order. This suggests that the longer the father stays in the child support system, the more likely he is to accumulate child support arrears. According to this view, this study posits the following hypothesis:

HYPOTHESIS 1: *Nonresident fathers who have been in the child support system for a long time may have a high level of child support arrears*.

The case-length effect may vary depending upon the efficiency of the enforcement system designed to collect accrued child support payments. A long literature has sought to investigate various aspects of how the ineffectiveness of the child support system is responsible for arrears accumulation. For instance, child support agencies' limited ability to modify support orders would lead to the accumulation of greater arrears when a noncustodial parent's income declines (Ha, Cancian, & Meyer, 2010; Johnson, Levine, & Doolittle, 1999). Furthermore, some states establish child support orders based on noncustodial parents' "imputed income", which

does not necessarily reflect the low-income noncustodial parents' ability to pay (Turetsky, 2000; U. S. Department of Health and Human Services, 2000). [1] The Office of Inspection General (2000) found that a larger percentage of IV-D cases with order amounts established using imputed income exhibited lower compliance than cases with orders using non-imputed income.

To promote the efficiency of child support enforcement, Congress enacted the Child Support Performance and Incentive Act (CSPIA) of 1998[2] (U.S. Government Accountability Office, 2011) and rewarded states that perform well based on the National Child Support Goals measured by a number of achievements, including: arrearage collection, paternity establishment, order establishment, current collection, and cost-effectiveness (Solomon-Fears, 2013). More specifically, thirty-three percent of annual administrative expenditure, or $500 million,[3] are given to the states that have achieved high levels of performances in those goals (U.S. Government Accountability Office, 2011).

To compete for the incentives, state and local governments had to develop a number of strategies to improve the collection of delinquent child support obligations. One strategy is to prevent further accumulation of arrears. Another strategy is to reduce existing arrears (Bartfeld & Meyer, 2003; Heinrich et al., 2011; Sorensen et al., 2007). The preventive strategy includes: establishing realistic child support orders and ease the process for applying for and obtaining modification, reducing lying-in costs and interest rates charged on arrears, and eliminating retroactive orders. Given the substantial amount of arrears that have already accrued, debt reduction policies, such as the debt compromise program, are the favored arrears reduction

[1] The income is imputed based on the noncustodial parents' most recent work history. For low-income men, however, the imputed income usually overestimate the actual income because of their labor market instability (Turetsky, 2000).
[2] Pub. L. No. 105-200, 112 Stat. 645 (1998)
[3] The fund was adjusted to inflation rate, and the amount of which was increased to 504 million in FY2010 (Gerrish, 2017).

strategy being introduced by many states and counties (U. S. Department of Health and Human Services, 2007). The underlying philosophy for debt compromise programs is to use state resources to help noncustodial parents pay off child support debts. At least 40 states were operating such programs in 2011, each program having its own requirements for eligibility (Heinrich et al., 2011). Each of the programs is expected to increase collections on child support debt from noncustodial parents without hurting their financial stability.

In sum, a vast majority of past studies have shown that the accumulation of child support arrears can vary depending on the degree of child support enforcement. Therefore, we can easily assume that compared to nonresident fathers who lived in states with more effective child support enforcement policies, those fathers living in the state with less effective enforcement policies will accumulate more child support debts. However, no study has investigated whether the efficiency effect may operate through the case-length effect. It seems plausible that fathers who respond to the effective child support system may be the one who have accumulated high arrears due to being in the child support system for a long time. On the contrary, fathers who have recently established child support orders may not be responsive to the efficiency of the enforcement system because their arrears amounts are not large enough to be eligible for debt reduction or adjustment programs. This leads to the following hypothesis:

HYPOTHESIS 2: *The efficiency of child support policies will have a strong impact on noncustodial fathers who have been in the child support system for a long time.*

A Role of Fathers' Ability to Pay Child Support in Arrear Growth Model

A long history of empirical research has generally found that a nonresident father's ability to pay is positively associated with child support compliance (Garfinkel, Glei, & McLanahan, 2002; Garfinkel, Meyer, & McLanahan, 1998; Garfinkel & Oellerich, 1989; C.

Miller, Garfinkel, & McLanahan, 1997; Sinkewicz & Garfinkel, 2009; Sorensen, 1997a). While the early studies often use fathers' income as a proxy for ability to pay (Bartfeld & Meyer, 1994, 2003; C. Miller et al., 1997; Sonenstein & Calhoun, 1990; Sorensen, 1997a, p. 199), later studies have presented new estimates of the ability to pay, that include incarceration (Geller, Garfinkel, & Western, 2011), multiple fertility (Sinkewicz & Garfinkel, 2009), and the burden of the order (Meyer, Ha, & Hu, 2008).

The evidence of child support compliance appears to be consistent with the context of a father's arrears accumulation (Kim et al., 2015). Recent evidence from a study of nine large states suggests that low-income fathers are likely to owe a large amount of arrears (Sorensen et al., 2007). More specifically, fathers who make less than $10,000 per year owe two-thirds of child support debt. The study also showed that 54 percent of total arrears were owed by 11 percent of the noncustodial parents, and each of these "high debtors" owed $30,000 or more (Sorensen et al., 2007). The most recent data from OCSE Federal Offset Debtor File found similar results, showing that only 17 percent of obligors owed 55 percent of total arrears, and each of these debtors owed $40,000 or more (Putze, 2017).

The high rates of arrears accumulation among low-income fathers may stem from their limited ability to access labor markets (Sorensen & Zibman, 2001). Prior research provided a list of potential barriers to work, which can take the form of poor work history, low educational attainment, dependence on drugs or alcohol, and health limitations (S. Danziger et al., 2000; S. K. Danziger & Seefeldt, 2003; Lipscomb, Loomis, McDonald, Argue, & Wing, 2006; Pugh, 1998). The presence of such barriers to work would likely hamper low-income fathers' ability to find and (if employed) maintain employment. If the father loses his job, there is a time lag between leaving the previous job and entering a new job. During unemployment spells, low-

income fathers may be less likely to comply with their obligations, resulting in an accumulation of arrears more rapidly than other fathers who do comply.

The fathers' ability to pay may also change over time due to men's increasing patterns of income over the life course (Garfinkel, McLanahan, Meadows, Mincy, & others, 2009; Percheski & Wildeman, 2008a; Phillips & Garfinkel, 1993). A study conducted by Nepomnyaschy and Garfinkel (2010) outlined a hypothesis that a father's growing ability to pay child support over time may explain the upswings in total cash support. However, the authors point out that this hypothesis needs to be substantiated by additional research (Nepomnyaschy & Garfinkel, 2010). In the Wisconsin study of arrear trajectories, half of the fathers with arrears paid-off their debts after they owed the maximum amount of arrears (Kim et al., 2015).

Fathers' Relationship Status with the Mother of their Child at the Time of Birth

In the past half-century, there has been a substantial increase in the number of children who were born into a single-parent family (Bumpass & Lu, 2000). According to 2015 data from the National Vital Statistics System, about 40 percent of all children were born out of wedlock, with much higher rates among African Americans (Hamilton, Martin, & Osterman, 2016).

Fathers are less responsive to their nonresident child if they have not lived together at some point after the birth of their child. Previous research found that fathers who were never married to or had never lived with their children's mother were less likely than ever-married or ever-cohabited fathers to pay child support (Carlson & McLanahan, 2002; Nepomnyaschy & Garfinkel, 2010), or other forms of assistance (Paasch & Teachman, 1991). Part of the reason for this discrepancy may be associated with nonresident fathers' willingness to pay child support. That is, as pointed out by Weiss and Willis (1985), fathers who have never cohabited with the mother are less willing to pay optimal amounts in child support because they find it difficult to

monitor the allocation of the child support transfer. In addition, fathers who are not co-residential are likely to form new partnerships and have additional children with more than one partner (Edin & Nelson, 2013). The empirical evidence has indicated that noncustodial fathers will be less devoted to their nonresident children when either or both parents have newborn children (Manning & Smock, 2000; Rangarajan & Gleason, 1998), although Mincy Pouncy and Zilanawala (2016) found that the visitation rates of never resident fathers were as high as its rates of fathers who live with their child at birth.

Despite the substantial evidence supporting the role of fathers' willingness to pay as a determinant of child support compliance, their role in predicting arrears accumulation remains controversial. This is because fathers in the formal system are already obligated to pay child support so they have no incentive to provide additional informal cash support voluntarily. In addition, a father's willingness to pay may not influence the payment behavior of fathers who are employed in the formal labor market, because child support payments are automatically deducted from their paychecks (Bartfeld & Meyer, 2003; Lin, 2000).

A more plausible explanation for the differences in arrears accumulation between the two types of family structures (fathers in the stable relationship vs fathers in the less stable relationship) may come from a "selection effect," which postulates that economically and emotionally disadvantaged fathers are more likely to be selected into a less stable relationship (Conger et al., 1990, 1992). That being said, according to Gary Becker's "gain to trade" model of marriage, men with a lower disposable income are considered less attractive partners in, even if women have a child between such men (Becker, 1973; Bumpass, Sweet, & Cherlin, 1991; Seltzer, Schaeffer, & Charng, 1989). Therefore, when the court establishes a child support order,

fathers in less stable relationships would be at higher risk of accumulating child support debt because they are much more economically vulnerable than fathers in stable relationships.

In short, existing literature provides clear evidence that the accumulation of child support arrears can be intertwined with fathers' relationship with the mother of their child. While the vast majority of previous studies have focused on couples who have previously married and divorced, a growing number of recent studies have attempted to focus on child support outcomes for nonresident couples after childbirth (Nepomnyaschy & Garfinkel, 2010). However, no previous studies of which I am aware have addressed whether the trajectories of arrears vary depending upon fathers' residential status with their child at birth.

It is also likely that a heavier arrears burden may be imposed on fathers who are required to pay child support retroactively after the order is established. More specifically, a father who has to pay interest charged on a retrospective order, along with unpaid due child support, can accumulate arrears more rapidly than a father who does not. Of course, the former is more likely to have had an unstable relationship with the mother of his child than the latter. Based on these considerations, I propose related hypothesis.

HYPOTHESIS 3: *Compared to fathers who live with their child at birth, fathers who were nonresident at birth are more likely to accumulate a greater amount of child support arrears over time.*

The government's efforts to reduce the accumulation of arrears may not be as efficient for fathers in an unstable relationship with the mother as it is for those in a stable relationship. Prior empirical work indicates that fathers who have never cohabited with the mother, as compared to those who have cohabited, are less likely to be impacted by efficient child support enforcement (Nepomnyaschy & Garfinkel, 2010). To test whether those results obtained from Nepomnyaschy and Garfinkel's work can also be found in the context of child support arrears, the current study posits the following hypothesis:

HYPOTHESIS 4: *The improvement of government's efforts is more effective in reducing the arrears for those fathers who were nonresident at birth than those who live with their child at birth.*

III. METHODS

Data

The study uses data from the Fragile Families and Child Wellbeing Study (FFCWS, hereafter), a longitudinal birth cohort study of approximately 5,000 children born into 20 large cities with populations over 200,000 in the United States between 1998 and 2000 (Reichman, Teitler, Garfinkel, & McLanahan, 2001). The FFCWS is nationally representative of nonmarital birth in large U.S. cities: the nonmarital births were oversampled and represented 75 percent of the total sample of the study at baseline interview (3,712 nonmarital birth VS. 1,186 marital births). The cities were chosen by a stratified random sampling procedure based on welfare generosity, strength of the child support system, and the strength of the local labor market. Based on being classified as either high, medium, or low level of strictness for each of those three characteristics, cities were chosen at random from the nine clusters formed. This accounts for 16 of the cities.[4] Four additional cities[5] were selected due to funders' interest (Reichman et al., 2001). The parents of each focal child were interviewed in the hospital when the child was born (February 1998 to September 2000 / wave 1), and the follow-up interviews were conducted by phone when the focal child was one (June 1999 to March 2002 / wave 2), three (April 2001 to December 2003 / wave 3), five (July 2003 to February 2006 / wave 4), and nine (February 2007 to 2011 / wave 5). The rate of attrition tends to increase over the long-term: the response rate at

[4] This includes Boston, Pittsburgh, Toledo, Norfolk, Philadelphia, Indianapolis, Richmond, Jacksonville, Baltimore, San Jose, Austin, Chicago, San Antonio, New York, and Corpus Christi.
[5] This include Milwaukee, Detroit, Newark, and Oakland.

baseline and each of the following four waves were 100%, 89%, 86%, 85% and 72% for mothers, and 78%, 69%, 67%, 64%, and 54% for fathers, respectively (FFCWS, 2017).

Analytic Sample

The analysis of the current study uses 7,944 repeated observations (2,781 unique observations) of all fathers who were not living with the mother of the focal child since the 1-year follow-up. A decision to include all noncustodial fathers instead of focusing on those with child support orders was made based on several considerations. First, it is possible that some nonresident fathers with no formal child support obligations would have established child support orders had they lived in a state with different child support policies. Therefore, excluding these fathers from the analytic sample may lower the external validity of the study. In addition, the results for censored data analysis usually demonstrate less bias than for truncated data. A previous simulation study for the developmental processes showed that bias in estimating the treatment effects created by left-truncated data was twice as large as the bias created by left-censored data (Cain et al., 2011).

Consistent with previous studies (Nepomnyaschy & Garfinkel, 2010), I also retain fathers who were married to or cohabitating with the child's mother at baseline, in part to explore whether the results vary depending upon parents' relationship status at childbirth. The analytic sample is further restricted to fathers who were not deceased, not unknown, nor awarded primary custody of the focal child at any wave. These exclusion criteria led to a final sample size of 1,521 for 1-year follow-up, 1,815 for 3-year follow-up, 2,160 for 5-year follow-up, and 2,448 for 9-year follow-up survey. It seems that the number of observations increases as time passes, partly because parents are more likely to divorce or become separated as time passes. Accordingly, it is

presumed that the ratio of fathers with orders to the total number of noncustodial fathers has increased over time.

Missing Data

As a panel study, FFCWS data suffers from attrition, which can result in biased estimation. Panel attrition can reduce the analytic sample size, resulting in wider confidence intervals as the margin of error increases. Moreover, non-random attrition can threaten the external validity of study results by introducing potential selection biases that may distort the causal link between treatment and outcomes. To account for such problems, the current study used multiple imputation using chained equation (MICE), the most advanced imputation technique in social science so far (White, Royston, & Wood, 2011). Unlike other imputation techniques, MI uses multiple complete data sets with multiple times to impute missingness. The main advantage in using the MICE technique is related to its feasibility to handle many complex patterns of missing data, although the process of its implementation can be more difficult. However, software packages, such as STATA, allow researchers to avoid such complexity. Next, the confidence intervals of the study results will have correct coverage properties, as MI addresses more types of uncertainties about the missing values than any other imputation technique. For instance, the regression imputation approach assumes that the coefficients taken from the points on the regression line are true values of the parameter estimates. The MI approach, on the other hand, is skeptical of this assumption due to the uncertainty of the model's parameter values. To address this type of uncertainty, this technique draws the coefficient values from an appropriate distribution, a normal distribution in the case of this study, instead of assuming that the values are true.

Measures

The duration of the child support obligation

The duration of the child support obligation is measured at each wave, starting from one-year follow-up interviews, based on the mother's report. Mothers were first asked whether they have a legal agreement or child support order that requires fathers to contribute to children. If mothers answered "yes", they were asked when the legal agreement was first reached. The duration of the child support obligation can be measured by calculating the time interval between the date of legal agreement and the date the mother was interviewed at each wave. By using years as a unit of analysis, the duration of child support obligation is interpreted as *the elapsed number of years since the legal order was established.* The measure is rounded to one if the length of legal obligation is less than one but greater than zero.

Accumulated child support arrears

The amount of accumulated child support arrears is measured across each wave, starting from one-year follow-up interviews, primarily reported by mothers. They were first asked whether the father has any arrears that he is supposed to pay to the mother or the government. If they answered "yes", then they were further asked the amount of the arrears that the father actually accrued. For those who did not report arrears but established child support orders, the study assumed that the amount of arrears is equivalent to the difference between the amount of child support owed and the amount received. It was additionally assumed that the amount of arrears is zero for fathers who complied with child support obligations in full. The annual amount of arrears accrued was adjusted to 2001 dollars using the Consumer Price Index.

It is evident that the mother's report of the father's child support debts can be claimed as an imperfect measurement. For example, as Miller and Mincy (2012) pointed out, mothers may under-report the actual amount of arrears owed by fathers because they have little information

about the unpaid amount of child support owed to children of different mothers. However, unlike Miller and Mincy's work, this study does not address the question of whether the arrears are affecting or being affected by fathers' behaviors. In addition, missing information on arrears can also be considered as measurement errors on the dependent variable, which will end up in the regression error but do not bias the regression results[6] (see Appendix 1). Therefore, complete information on the actual amount of arrears owed by fathers is redundant.

Figure 1 illustrates the distribution of mothers against the amount of arrears owed by the children's fathers. Consistent with prior research (Kim et al., 2015; Sorensen et al., 2007), a significant number of mothers do not have arrears owed by the fathers. However, once the arrears are present, then the amount is high. Panel A of Table 1 shows that average amount of child support arrears increases from one wave to the next, although the evidence does not support the existence of a positive relationship between the arrears and the duration of child support obligations. This is because some mothers have established the orders in earlier waves, while others have done this in later waves.

Performance measures on current and past-due child support collections

Fathers living in different states will be exposed to different degrees of enforcement "treatment," allowing researchers to use a natural experiment methodology to study the effectiveness of child support enforcement (CSE) system. To construct a valid measure that captures the effectiveness of the system, the study uses a performance-based method prescribed by the performance-based incentive and penalty program under the Child Support Performance and Incentive Act of 1998 (CSPIA). Among the five criteria used in the program, this research

[6] However, an additional errors in the regression model may slightly reduce the overall statistical power.

explores two performance measurements, current and arrearage collections, that are expected to have the most salient impacts on fathers' arrears accumulation.

The construction of the performance measures assigned to each observation unfolds in two steps: First, data on performance indicators were collected from the Office of Child Support Enforcement (OCSE) annual reports (1999-2010). Both indicators were measured as percentages, and the method of measuring each indicator is given in Appendix 2. For the next step, the performance indicators were assigned to each observation, based on the state where the mother established the child support order. To avoid the issue of temporal ordering, the performance indicators were measured one-year prior to the mother's interview year for each wave. Figure 1 graphically illustrates trends in both performance measures used in the study. As suggested in the Figure, the results of both performance measures have improved significantly over the period from 1999 to 2010, when the mothers in FFCWS had one to nine-year follow-up interviews (for detailed information on performance measures for each state, see Appendix 3-1 and 3-2).

Covariates

A number of baseline characteristics are associated with fathers' ability to pay child support are added to the model. These include age, education level (high school dropouts, high school graduates, some college, and college graduates), race and ethnicity (White, Black, Hispanic, Other), cognitive functioning (0=low to 15 high; Wechsler Adult Intelligence Scale Revised; WAIS-R, 1981), depressive symptoms (1= not depressed, 1=depressed; measured at wave 2 based on the World Health Organization's Composite International Diagnostic Interview-Short Form ; CIDI, 1998), fathers' number of children, and relationship status with the mother at baseline (1=no cohabitation, 2=cohabitation, 3=married).

A set of time-varying covariates are also added to the model. First, I use an individual-level time-varying covariate that assumed to be correlated with fathers' ability to pay child support: this includes a mother-reported fathers' jail status variable constructed by FFCWS at each given wave (1=Yes, 0=No). Next, I used a set of state-level time-varying covariates that are assumed to be correlated with both performance measures and fathers' arrears outcome. These include an unemployment rate, a poverty rate (percent of person in poverty), a proportion of children in single-parent families, a proportion of people who went to college, and a proportion of people born in the United States.[7] To avoid the reverse causality problem, all state-level variables used in the study were measured one-year prior to the mother's interview year. For ease of interpretation, each state-level covariate is standardized to a mean of 0 and a standard deviation of 1, but unstandardized values are presented in Table 1.

Lastly, to control for both state and annual fixed effects, a series of dummy variables for each state and mothers' interview year are added to the model. In particular, it is important to include the mother's interview year in the model, because the changes in the long-term trend of performance measures can lead to biased estimates of true policy effectiveness. More specifically, it can be misinterpreted as if the positive relationship between arrears and elapsed years are the result of the changes in performance measures that have steadily increased since 2001 (See Figure 2). Including a set of dummy variables indicating mother's interview years in the model can solve this problem by fixing changes in trends over time.

Panel B of Table 1 reports summary statistics for variables used in the analysis. The first six columns represent fathers' baseline demographic characteristics for the main analytic sample (N=2,781), stratified by relationship status with child's mothers at the time of childbirth. When

[7] All state-level data are from Bureau of Labor Statistics website.

compared to the non-resident sub-sample (N=1,421), fathers in the resident sub-sample (N=1,360) were older, less likely to be Black, have post-secondary schooling, and had more children. The next eight columns represent time-varying covariates for repeated observations across an individual over time (N=7,944). On average, fathers in the sample are more likely to be in jail over time. Except for the poverty rate and the proportion of individuals who attended college, most state-level time-varying covariates remained constant from year 1 to year 9 follow-up interviews.

Analytic Strategy

Tobit Analysis

The estimation of arrears trajectories using the standard regression model will lead to inconsistent and biased estimates of the parameters of interest. This is, as explained above, because many observations are clustered at zero when the child support order has not been established. To obtain consistent and unbiased parameter estimates, the study uses Tobit analysis. The idea of this model is a combination of Probit and Truncated regression models, allowing researchers to predict whether or not the dependent variable is at zero and, if not zero, to estimate the expected value of the uncensored distribution (Breen, 1996; Greene, 1981, 2000). The structural equation of the standard Tobit model is given below:

$$y_{it} = \begin{cases} y_{it}^{*} = X_{it}\beta + \epsilon_{it} & if \quad y_{it}^{*} > 0 \\ 0 & if \quad y_{it}^{*} \leq 0 \end{cases} \qquad (1)$$

where $\epsilon_i \sim i.i.d \;\; N(0, \sigma^2)$, and y_{it}^{*} is a latent variable (accumulation of arrears) for father i (reported by mother) at wave t (2 to 5). The $X_{it}\beta$ matrix represents the specification for two multivariate models. The first model is a baseline model estimating changes in debt accumulation over time. The regression equation is expressed in the following form:

$$X_{it}\beta \equiv \beta_0 + \beta_1(years)_{it} + \beta_2{}^T W_{it} + \beta_3{}^T Z_i + \beta_4{}^T State_i + \beta_5{}^T i\_yr_{it} \quad (2)$$

Where $years_t$ is the number of years that has passed since the child support order was established; W_{it} is a vector of time-varying covariates (state-level covariates were measured 1 year prior to the mother's interview year); Z_i is a vector of time-invariant covariates; *State* is a set of dummy variables indicating the state where child support was established; and i_yr_{it} is the survey year for each i at which the arrears were measured. As for the coefficients of interest, the intercept β_0 represents an initial status of child support arrears that remain constant over time (at $years_t$=0) and the slope β_1 refers to the growth rate on the trajectories of child support arrears over time. The β_1 is also defined as a *case-length effect*, which refers to the changes in the accumulation of child support arrears depending on the time between the date the order was established and the date the arrears were measured.

The second model analysis is a moderation model, examining the extent to which changes in performance measures affect debts accumulation over time. Results should show whether the outcome of the first regression model varies depending on the performance measures. The estimation equation is as follows:

$$X_{it}\beta \equiv \beta_0 + \beta_1(years)_{it} + \beta_2(PM)_{it} + \tau(PM \times years)_{it} + \beta_3{}^T W_{it} + \beta_4{}^T Z_i + \beta_5{}^T State_i + \beta_6{}^T i\_yr_{it} \quad (3)$$

Where $(PM)_{it}$ denotes each performance measure; and the interaction term, $(PM \times years)_{it}$, indicates if the growth rate on the trajectories of child support arrears differs depending on each performance measure.

Results are presented as marginal effects on the expected value for arrearage outcomes for both censored and uncensored observations (so, the intercept β_0 is not stated in the result). Unlike its classical linear model counterpart, the expression of marginal effects for the Tobit

model depends not just on the coefficient itself, but also on the values of all other variables in the equation. [8] Since the interaction term presented in Eq3 is composed of two continuous variables, it is advisable to set these two variables to discrete values so that results can be readily interpreted. Therefore, when estimating marginal effects, the performance measure values are set at a one standard deviation interval around the mean[9] and the elapsed year indicator is set at a one-year interval.[10]

To estimate the parameters of interest, statistical software packages, such as Stata use the following (log)-likelihood function for the censored normal distribution (see Appendix III for derivation):

$$\ln L = \sum_{y_{it}>0}^{N} \ln f(y_{it}) + \sum_{y_{it}=0}^{N} \ln F(0)$$

$$= \sum_{y_{it}>0}^{N} \left\{-\ln \sigma + \ln \phi \left(\frac{y_{it} - X_{it}\beta}{\sigma}\right)\right\} + \sum_{y_{it}=0}^{N} \ln\left(1 - \Phi\left(\frac{X_{it}\beta}{\sigma}\right)\right) \quad (4)$$

[8] In the Tobit model, the marginal effects on the expected value of the outcome (censored and uncensored) can be expressed as:

$$\frac{\partial E[y|x_1, X]}{\partial x_1} = \beta_1 \Phi\left(\frac{X_{it}\beta}{\sigma}\right)$$

for changes in variable x_1 if the variable is not a part of the interaction term, and

$$\frac{\partial E[y|x_1, X]}{\partial x_2} = (\beta_2 + \beta_3 x_3)\Phi\left(\frac{X_{it}\beta}{\sigma}\right)$$

for changes in variable x_2 if the variable is a part of the interaction term $(x_2 * x_3)$ (Ai & Norton, 2003; Greene, 1999). Note that Φ is a cumulative density function of the standard normal distribution of outcome.

The $\Phi\left(\frac{X_{it}\beta}{\sigma}\right)$ is an adjustment factor, indicating the estimated probability of observing an uncensored observation given the value of X_{it}. Therefore, the marginal effect of X would be equal to an expected value of β if the $\Phi\left(\frac{X_{it}\beta}{\sigma}\right)$ is equal to 1 (meaning that there are no censored observations).

[9] As presented in Figure 2, both arrearage collection and current collection measures have a mean value of .60, but as for a standard deviation, the arrearage collection is .06 and the current collection is .09.

[10] This type of marginal effects is usually termed as "marginal effects at a representative value (MER)" in microeconometrics (Cameron & Trivedi, 2010). ~~Cameron and Trivedi~~

where f(.) and F(.) denote the probability density function (PDF) and the cumulative density function (CDF) of the latent variable y_{it}^{*}, respectively, and ϕ and Φ represent the PDF and the CDF of the standard normal distribution. The log-likelihood function consists of two parts: The first part is the likelihood function for the classical OLS under $y_{it} > 0$ (uncensored), whereas the second part is the probability function that the outcome is censored.

Instrumental Variable Estimation for the Measurement Errors

OCSE's annual reports were believed to be the most accurate source to measure the state performance measurements. The OCSE Office of Audit is now responsible for assessing the completeness, accuracy, and reliability of states' reporting system. The Data Reliability Audits (DRA) proclaimed that the reliability of state reporting system has improved since 1999 (Huang & Edwards, 2009). Despite OCSE's efforts towards minimizing reporting errors, states still have incentives to over-report their performance measures, resulting in a potential upward bias in our estimates (See Appendix I for the reasons the estimates will be biased upward). In order to adjust for the potential measurement errors that can occur, this paper used state expenditures on enforcement as an instrument to predict performance in the subsequent analysis. In doing so, the changes in the level of the performance measure are explained only through state expenditures on arrears.

Following the notation used by Angrist and Pischke (2008), the instrumental variable model is estimated using a two-stage least squares (2SLS) estimation. The first stage can be written as Equation (2):

$$PM_{it} = \alpha_1 + {\beta_1}^T X_i + \beta_2 EXP_{it} + \varepsilon_{it} \quad (5)$$

where PM_{it} denotes the performance measured for state i at year t; a_i is the state-effect constant over time; χ is a vector of confounders that are included in the Tobit model (Time-varying and

Time-invariant covariates with state and year dummies); EXP is the expenditure variable (IV); and δt is the time-trend effect (constant across states). In accordance with the method used by Huang and Edwards(2009), the expenditure variable will be measured by an inverse ratio of each state's total number of OCSE caseloads to the number of full-time staff members.

It is assumed that states with high expenditures on child support systems are expected to spend more on hiring full-time workers, and as a result, the child support caseload per capita is expected to decrease. Note that Time-variant confounders and EXP_{it} variable that were measured one-year prior to the mother's interview year for each wave were used. In the second stage, the actual performance measures used in the original equation (3) are substituted into the predicted performance measures estimated from the first-stage regression. For ease of interpretation, the EXP_{it} variable is standardized to a mean of 0 and a standard deviation of 1.

To be valid, the instrument used in the analysis must satisfy two requirements: it must be predictive of the performance measures, and orthogonal to any other determinants on an accumulation of arrears except the performance measure. The first condition is assumed to be satisfied based on the evidence provided by Huang and Edwards (2009) suggesting that the indicator of state expenditures on the enforcement is one of three dimensions that causes the child support performance index. The second condition also appears to be fulfilled since the government's expenditure on enforcement affects the accumulation of arrears only through its effects on the state's efforts in managing arrears. The first condition is tested and reported in the current study. If the expenditures could serve as a good instrument by passing these two conditions, then theoretically the variances in the performance measure can be purged of the measurement errors. However, as explained in Appendix 4, the variance of the 2SLS estimator is

usually higher than that of OLS estimator and is assumed to be the same in Tobit models used in this study.

IV. RESULTS

Accumulation of Child Support Arrears over Time (Case-Length Effect)

With reference to equation (2), I begin the multivariate Tobit analysis by estimating the effects of elapsed time since the establishment of child support orders (hereafter *elapsed time*) on an accumulation of child support arrears. In this study, I define this effect as a *case-length effect*, which refers to the changes in the accumulation of child support arrears depending on the time between the date the order was established and the date the arrears were measured. Results are presented as marginal effects in Table 2. In the first column, only the elapsed time indicator as a key independent variable is included. The result is consistent with my first Hypothesis that the longer the father stays in the child support system, the greater the debt to be accumulated. More specifically, fathers in the overall analytic sample accumulate a new arrear of $433.43 on average per every year after establishing the child support order.

In the next two columns, a set of covariates is included, along with state and year fixed effects. The case-length effects have slightly decreased ($415.92 and $407.16 per year), but are statistically significant even after adjusting for an array of covariates and state-and year fixed effects. Consistent with a host of prior studies, fathers are accumulating less arrears as they get older, indicating that the fathers' ability to pay child support increases over time (Garfinkel et al., 2009; Percheski & Wildeman, 2008b; Phillips & Garfinkel, 1993). In addition, fathers who have more children, and have higher scores on the Weschler Adult Intelligence Scale, accumulate a greater amount of arrears than fathers who have fewer children and lower intelligence scores. The accumulation of arrears is estimated to be smaller for Black fathers (as compared to White

fathers), demonstrating the differences across racial and ethnic lines. Though at first glance these racial differences might seem counterintuitive, White fathers are more likely than Black fathers to have a greater amount of child support obligations because they have a relatively higher income than their Black counterparts. Therefore, more White fathers will accumulate more arrears than Black fathers if they do not fulfill their obligations. Lastly, fathers who were in jail are estimated to have about $200 more in child support arrears per year than fathers who were not in jail.

The final two columns disaggregate the sample by parents' relationship status at the time of the focal child's birth. The fathers who lived with the child's mother at the time of childbirth (hereafter resident group) have a lower amount of arrears accumulation over time after establishing a child support order than those fathers who did not live with the mother at the time of childbirth (hereafter nonresident group). More specifically, the fathers in the resident group accumulate new arrears of $350.72 on average per year after establishing the order, while the fathers in the nonresident group accumulate new arrears of $421.80 annually. The effects of covariates on the accumulation of arrears also vary by this relationship sub-group. Fathers' intelligence seems to play an important role in accumulating arrears in the resident group, but not in the nonresident group. On the other hand, race/ethnicity is a significant factor contributing to the accumulation of arrears only in the nonresident group. Finally, the fathers in the resident group accumulate arrears nearly three times more than their nonresident group counterparts if they were in prison during the survey period.

Moderation Effects of CSPIA's Performance measures on Accumulation of Child Support Arrears over Time

The case-length effects presented in Table 2 may vary depending on the different CSE agencies and its strategies. The interactive models in Figure 3 and Table 3 show variations in

trajectories of child support arrears by CSPIA's *two performance measures* – current collection (Panel 1) and arrearage collection (Panel 2) – which are used as proxy measures for the effectiveness of CSE system. Each regression model controls for a host of time-invariant and time-varying characteristics along with state and year fixed effects. The performance measure values are set at a one standard deviation interval around the mean and the elapsed year indicator is set at a one-year interval.

Performance measures assumed to be constant over time

The current study estimates the moderating effects in two ways. First, I stratify the case-length effect by each performance measure that is assumed to be constant over time.[11] Results are visually displayed in Figure 3 using the *marginsplot* command implemented in Stata15. The solid line represents the growth trajectory of arrears for fathers who live in the states where the focal performance measure is at the mean, and the dotted line represents the same growth trajectory but only for fathers in the states where the performance measure is one standard deviation above the mean. Note that the gray-shaded area indicates 90% confidence interval for expected p-values. The results reported in Panel 1 provide support for Hypothesis 2 that the efficiency of child support policies have a strong impact on noncustodial fathers who have been in the child support system for a long time. That is to say, the case-length effect is higher for fathers who live in the states with less efficient child support enforcement when compared with fathers who live in the states with more efficient enforcement.

[11] With reference to Equation (3). the conditional marginal effect of this interactive model in the Tobit framework can be expressed as

$$\frac{\partial E[Y|years, PM, X]}{\partial years_{it}} = (\beta_1 + \tau \times PM_i)\Phi\left(\frac{X_{it}\beta}{\sigma}\right)$$

More specifically, suppose that fathers have been accumulating arrears for four years since the order was established. If these fathers lived in states where the current collection performance is 60 percent[12], they would accumulate additional arrears of $1,479.11 for next year. By contrast, fathers who lived in states where the current performance is 69 percent[13] would accumulate additional arrears of only $847.87 under the same condition.

Furthermore, the gaps in the case-length effect between the fathers from states with high- and low-performance in CSE were becoming more pronounced over time. For instance, if the elapsed time is at 3 years, the difference in case-length effect between the two groups of states is $208.14 [$801.36 - $593.22], whereas if the elapsed time increases to 7 years, then the difference becomes $ 602.87 [$1952.08 - $1349.21]. Therefore, promoting the effectiveness of CSE system would alleviate the burden of arrears for fathers and provides more benefits to these fathers over time. Results are consistent with those in Panel 2, except that the gaps are not statistically significant across the elapsed years.

Allow performance measures to change over time

While the first approach is intuitive in visualizing the moderating effects, it does not provide policymakers with enough information about how much the arrears accumulate if the performance measures change over time. To overcome this limitation, the second approach estimates the conditional marginal effects of the performance measure on an accumulation of child support arrears at each elapsed year.[14] For the sake of brevity, the results of the second

[12] Note that mean value of the current collection measure is 60 percent
[13] Note that one standard deviation above the mean of current collection measure is 69 percent
[14] The same as above, the conditional marginal effect of this interactive model can be expressed as:

$$\frac{\partial E[Y|years, PM.X]}{\partial PM_{it}} = (\beta_2 + \tau \times years_{it})\, \Phi\left(\frac{X_{it}\beta}{\sigma}\right)$$

approach presented in Table 3 show only the most relevant information (full results are available upon request).

There are several notable findings from the second approach. First, an increase in performance measures after a long elapsed time can reduce arrears more substantially than it does in a short elapsed time. For instance, suppose that fathers have been accumulating arrears for five years since the order was established. Assuming that performance measures have changed at this time, the results in the first column of Panel 1 show that the increase in the current collection by one standard deviation from the mean is expected to decrease the arrears by $918.23. However, if the performance measures change when the elapsed time is ten years, then the amount of arrears is expected to be decreased by $2,034.07 under the same condition.

On the contrary, the improvement of the CSE system cannot moderate the case-length effects when the elapsed period is short. That is, the difference in the level of performance measure does not contribute to the changes in arrears for the first two years after the order is established (results not shown in Table 3).

The amount of arrears that is reduced due to an increase in performance measure is not constant but rather increases over time. If the arrears were to decrease linearly, then the reduced amount of arrears when the elapsed time is 7 years would be $242.90*7/3=$566.77 or 918.23*7/5=$1,285.52, which are much smaller than what was estimated in current study ($2,034.07). These results are quite similar to those in Panel 2 using the arrearage collection as a performance measure.

Lastly, suppose that states may require the same, or at least similar, efforts to increase one standard deviation from the mean for both performance measures. Since the overall values of arrears in Panel 1 are lower than the corresponding values in Panel 2, the current collection

performance may be a more efficient tool for predicting the reduction in child support arrears than the arrearage collection performance is. However, states may need the same efforts to raise 1 percentage point on both performance measures. If so, then the states can reduce arrears much more efficiently by spending money on improving the arrearage collection rather than by funding on promoting the collection on current child support performance. The results from Table 4 support that fathers in the resident group who live in a state where the arrearage collections have improved from 60 to 65 percent would accumulate less in arrears than fathers living a state where collections on current child support have improved the same percentage.

Results stratified by the fathers' residential status during childbirth

The second and third columns in both Panels of Table 3 indicate that the increase in performance of CSE system decreases the case-length effects more rapidly for fathers who were resident at birth than for fathers who were nonresident at birth. If the arrears have been accumulating for 7 years since the order was established, fathers who were resident at birth and who live in states with the current collection of 69 percent are estimated to accumulate $3,251.40 less in arrears than fathers who live in states with the current collection of approximately 60 percent. On the other hand, as presented the third column of Panel 1, the reduction in arrears for fathers in the nonresident group is much smaller than reduction in arrears for fathers in the resident group under the same condition ($-3,251.40 vs $-1,121.17). Results in the second and third column of Panel 2 show similar findings.

Furthermore, the fathers in the nonresident group need more time than the fathers in the resident group do to get benefits from the effectiveness of CSE system. More specifically, the moderation effects of CSE enforcement become significant for fathers in the nonresident group when the elapsed time reaches to 7 years, whereas those fathers in the resident group need only 3

years. These results suggest that the improvement of performance on CSE system is more effective in reducing the arrears for the fathers in the resident group than those fathers in the nonresident group.

Supplemental Analysis

The study also uses instrumental variable techniques to remove possible measurement errors that could bias the estimates upward. In each panel of the Table 5, the first row presents the results from the first-stage equation predicting performance measures. As the results for both performance measures are similar to one another, the regression results for the current collection measure is the only one presented. The results from the first row suggest that a one standard deviation increase in expenditures on child support systems is associated with a 0.1 to 0.14 standard deviation increase in current performance measure, indicating that the present instrument yields a reliable estimation of performance measures. The results from the second row to the fifth row of the 2SLS show the estimated amount of arrears reduced by the moderating effect of performance measures, which have been instrumented with the expenditure variable. The predicted performance measures obtained from the first stage of 2SLS have significant marginal effects on the accumulation of child support arrears. However, as expected, the standard error on performance measures have also increased slightly compared to the model without IV regression. The moderating effects of the predicted performance measures have increased slightly compared to the Tobit model without IV regression, suggesting that this supplemental analysis has corrected for upward bias induced by measurements errors.

V. DISCUSSION

The last step of the child support enforcement process is to collect accrued child support payments owed either to custodial families or to the government. Theoretically, states' efforts to

collect current or delinquent child support payments on the growth in individual's child support arrears are as important as other microeconomic factors, such as fathers' ability and willingness to fulfill their child support responsibilities. However, relatively little research has been carried out on the policy intervention associated with long-term arrears accumulation. Moreover, many previous studies ignore fathers who were nonresident at the time of the child's birth. The main contribution of this paper is to close these gaps by examining how the improvement of CSE system alters the long-term trajectories of the accumulation of child support arrears using recent data from the Fragile Families and Child Wellbeing Study. The CSPIA's performance measures were used as a proxy measurement for the effectiveness of CSE system.

Consistent with previous research, the current study found that the accumulation of arrears showed, on average, a continuous increase after the establishment of the child support order. This is because once the arrears are accumulated, the amount will continue to snowball due to the interest charged on the arrears (Sorensen et al., 2007). The study was also the first to provide support for the notion that effectiveness of CSE system contributes to a faster reduction of arrears. That being said, fathers living in states with less efficient child support enforcement were estimated to accumulate more arrears over time than those fathers living in states with more efficient enforcement. Furthermore, the longer the time has elapsed since the order was established, the greater the amount of arrears will be reduced when the performance measure increases. These findings provide the evidence that states' effort to collect overdue child support payments could be one of the factors that determine diverse patterns of arrears accumulation. These patterns, as introduced by Kim et al. (2015), include "a continuous increase" or "a continuous increase then decrease at some point."

The long-term trajectories of arrears accumulation varied substantially depending on the fathers' residential status during childbirth. The results obtained indicate that fathers who did not live with their child at the time of the birth were more likely to fall further behind in paying-off their child support debts over time, compared to those fathers who lived with their child at birth. One of the potential reasons for the discrepancy in results between these two groups may be that the fathers in the nonresident group might be obligated to pay retroactive child support after the order is set, and as a result, may suffer more from arrears burden than those fathers in the resident group. Testing this hypothesis was beyond the scope of this study, but hopefully will be addressed in future research. Another potential reason may be that fathers in the nonresident group are economically more vulnerable than those fathers in the resident group do because of their limited ability to access labor markets. This hypothesis was consistent a recent study by Nepomnyaschy and Garfinkel (2010).

The study also showed that states' efforts to collect delinquent child support payments for fathers in the nonresident group were not as successful as such efforts targeting for those fathers in the resident group. For instance, suppose these two groups of fathers have the same elapsed time since the order was established. If the performance measures increase by one standard deviation from its mean, fathers who were resident at birth will accumulate smaller amounts of arrears than those fathers who were nonresident at birth. Part of the reason for such discrepancy may be that those fathers who become high debtors are likely to have an unstable relationship with the mother at birth and are not eligible to apply for child support programs that reduce the existing arrears. For instance, the eligible population for such arrears reduction program is, in general, restricted to noncustodial fathers with less arrears burden and who have no history of late payment within last six months. If the noncustodial fathers have arrears owed to custodial

mothers, the local child support agency must contact to those mothers to ask for a voluntary compromise of arrears. If the custodial mothers do not agree to the compromise, then the noncustodial fathers must pay full amount of arrears owed to custodial parents. Therefore, those fathers who are not in the stable relationship with the mother of their child will face great difficulty getting benefits from this program and as a result, would fall further behind in paying off their debts.

Due to limited resources, many local enforcement agencies may not be able to provide appropriate services to all nonresident fathers who are struggling to pay off their child support obligations. Therefore, the agencies sometimes may have to reluctantly decide which practices or strategies they should employ to achieve the goals. Based on these considerations, suppose that the state-level child support agencies have limited resources that could be used for improving either the current or the arrearage collection performances. According to the findings from the current study, the reduction in arrears caused by a one-percentage point increase in arrearage performance measure is much larger than that reduction caused by the same percentage point increase in current performance measure.

However, we do not know how much it would cost for local agencies to raise a one-percentage-point on each performance measurement. Therefore, we cannot determine which of the performance measures is a more effective tool to reduce arrears.

In sum, the results from current study have several implications for child support policy. The study found strong evidence that efficient child support enforcement leads to long-term decrease in the accumulation of arrears. This study also finds strong evidence that more efficient child support enforcement policies convey greater benefits to children who lived with their father at birth than children who did not. These findings align with the efforts from policymakers and

researchers who have sought to find various strategies to encourage fathers to attend the birth of their child.

Despite the encouraging findings of this study, it is worth mentioning a few caveats. First, as aforementioned in the previous section, measurement errors on the dependent variable due to the use of the mother's report of the father's child support debt may slightly reduce overall statistical power. Therefore, the results of this study can be replicated when new data that contains complete information on the actual amount of arrears owed by fathers is available. Second, although the study used the two-stage least square method to account for potential bias occurring from measurement error of performance measure, the instrumental variable used in this method was not strong enough to minimize the variance of the resulting estimator. Therefore, future research could explore additional instrumental variables to minimize the variance of the estimator.

References

Ai, C., & Norton, E. C. (2003). Interaction terms in logit and probit models. *Economics Letters*, *80*(1), 123–129.

Angrist, J. D., & Pischke, J.-S. (2008). *Mostly harmless econometrics: An empiricist's companion*. Princeton university press.

Aughinbaugh, A., & Gittleman, M. (2003). Does money matter? A comparison of the effect of income on child development in the United States and Great Britain. *Journal of Human Resources*, *38*(2), 416–440.

Bartfeld, J. (2003). *Forgiveness of state-owed child support arrears*. Citeseer. Retrieved from http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.117.7818&rep=rep1&type=pdf

Bartfeld, J., & Meyer, D. R. (1994). Are there really deadbeat dads? The relationship between ability to pay, enforcement, and compliance in nonmarital child support cases. *Social Service Review*, *68*(2), 219–235.

Bartfeld, J., & Meyer, D. R. (2003). Child support compliance among discretionary and nondiscretionary obligors. *Social Service Review*, *77*(3), 347–372.

Becker, G. S. (1973). A theory of marriage: Part I. *Journal of Political Economy*, *81*(4), 813–846.

Beller, A. H., & Graham, J. W. (1996). *Small change: The economics of child support*. Yale University Press.

Blau, D. M. (1999). The effect of income on child development. *The Review of Economics and Statistics*, *81*(2), 261–276.

Bradshaw, J. (2006). Child support and child poverty. *Benefits*, *14*(3), 199–208.

Breen, R. (1996). *Regression models: Censored, sample selected, or truncated data* (Vol. 111). Sage.

Bumpass, L., & Lu, H.-H. (2000). Trends in cohabitation and implications for children s family contexts in the United States. *Population Studies*, *54*(1), 29–41.

Bumpass, L., & Raley, R. K. (1995). Redefining single-parent families: Cohabitation and changing family reality. *Demography*, *32*(1), 97–109.

Bumpass, L., Sweet, J. A., & Cherlin, A. (1991). The role of cohabitation in declining rates of marriage. *Journal of Marriage and the Family*, 913–927.

Cain, K. C., Harlow, S. D., Little, R. J., Nan, B., Yosef, M., Taffe, J. R., & Elliott, M. R. (2011). Bias due to left truncation and left censoring in longitudinal studies of developmental and disease processes. *American Journal of Epidemiology*, *173*(9), 1078–1084.

Cameron, A. C., & Trivedi, P. K. (2010). *Microeconometrics using stata* (Vol. 2). Stata press College Station, TX.

Cancian, M., Meyer, D. R., & Han, E. (2011). Child support: Responsible fatherhood and the quid pro quo. *The Annals of the American Academy of Political and Social Science*, *635*(1), 140–162.

Carlson, M., & McLanahan, S. (2002). Fragile families, father involvement, and public policy. *Handbook of Father Involvement: Multidisciplinary Perspectives*, 461–488.

Conger, R. D., Conger, K. J., Elder, G. H., Lorenz, F. O., Simons, R. L., & Whitbeck, L. B. (1992). A family process model of economic hardship and adjustment of early adolescent boys. *Child Development*, *63*(3), 526–541.

Conger, R. D., Elder Jr, G. H., Lorenz, F. O., Conger, K. J., Simons, R. L., Whitbeck, L. B., … Melby, J. N. (1990). Linking economic hardship to marital quality and instability. *Journal of Marriage and the Family*, 643–656.

Dahl, G. B., & Lochner, L. (2005). *The impact of family income on child achievement*. National Bureau of Economic Research.

Danziger, S., Corcoran, M., Danziger, S., Heflin, C., Kalil, A., Levine, J., … Tolman, R. (2000). Barriers to the employment of welfare recipients. *Prosperity for All?: The Economic Boom and African Americans*, 245.

Danziger, S. K., & Seefeldt, K. S. (2003). Barriers to employment and the 'hard to serve': Implications for services, sanctions, and time limits. *Social Policy and Society*, *2*(2), 151–160.

Edin, K., & Nelson, T. J. (2013). *Doing the best I can: Fatherhood in the inner city*. Univ of California Press.

Enforcement, O. of C. S. (2008). *Handbook on Child Support Enforcement*. GPO FCIC.

FFCWS. (2017). Fragile Families and Child Wellbeing Study. Retrieved March 31, 2017, from http://www.fragilefamilies.princeton.edu/documentation

Garfinkel, I., Glei, D., & McLanahan, S. S. (2002). Assortative mating among unmarried parents: Implications for ability to pay child support. *Journal of Population Economics*, *15*(3), 417–432.

Garfinkel, I., McLanahan, S. S., Meadows, S. O., Mincy, R., & others. (2009). Unmarried Fathers' Earnings Trajectories: Does Partnership Status Matter? *Princeton, NJ: Center for Research in Child Wellbeing*.

Garfinkel, I., Meyer, D. R., & McLanahan, S. S. (1998). A Brief History of Child Support. *Fathers under Fire: The Revolution in Child Support Enforcement*, 14.

Garfinkel, I., & Oellerich, D. (1989). Noncustodial fathers' ability to pay child support. *Demography*, *26*(2), 219–233.

Geller, A., Garfinkel, I., & Western, B. (2011). Paternal incarceration and support for children in fragile families. *Demography*, *48*(1), 25–47.

Gerrish, E. (2017). The effect of the child support performance and incentive act of 1998 on rewarded and unrewarded performance goals. *Journal of Policy Analysis and Management*, *36*(1), 65–96.

Greene, W. (1981). On the asymptotic bias of the ordinary least squares estimator of the Tobit model. *Econometrica: Journal of the Econometric Society*, 505–513.

Greene, W. (1999). Marginal effects in the censored regression model. *Economics Letters*, *64*(1), 43–49.

Greene, W. (2000). Econometric analysis (International edition).

Ha, Y., Cancian, M., & Meyer, D. R. (2010). Unchanging child support orders in the face of unstable earnings. *Journal of Policy Analysis and Management*, *29*(4), 799–820.

Hamilton, B. E., Martin, J. A., & Osterman, M. J. (2016). Births: preliminary data for 2015.

Heinrich, C. J., Burkhardt, B. C., & Shager, H. M. (2011). Reducing child support debt and its consequences: Can forgiveness benefit all? *Journal of Policy Analysis and Management*, *30*(4), 755–774.

Holzer, H. J., Offner, P., & Sorensen, E. (2005). Declining employment among young black less-educated men: The role of incarceration and child support. *Journal of Policy Analysis and Management*, *24*(2), 329–350.

Huang, C.-C., & Edwards, R. L. (2009). The relationship between state efforts and child support performance. *Children and Youth Services Review*, *31*(2), 243–248.

Johnson, E. S., Levine, A., & Doolittle, F. C. (1999). *Fathers' fair share: Helping poor men manage child support and fatherhood*. Russell Sage Foundation.

Kim, Y., Cancian, M., & Meyer, D. R. (2015). Patterns of child support debt accumulation. *Children and Youth Services Review*, *51*, 87–94.

Lin, I.-F. (2000). Perceived fairness and compliance with child support obligations. *Journal of Marriage and Family*, *62*(2), 388–398.

Lipscomb, H. J., Loomis, D., McDonald, M. A., Argue, R. A., & Wing, S. (2006). A conceptual model of work and health disparities in the United States. *International Journal of Health Services*, *36*(1), 25–50.

Manning, W. D., & Smock, P. J. (2000). "Swapping" families: Serial parenting and economic support for children. *Journal of Marriage and Family*, *62*(1), 111–122.

Meyer, D. R., Ha, Y., & Hu, M.-C. (2008). Do high child support orders discourage child support payments? *Social Service Review*, *82*(1), 93–118.

Miller, C., Garfinkel, I., & McLanahan, S. (1997). Child support in the US: Can fathers afford to pay more? *Review of Income and Wealth*, *43*(3), 261–281.

Miller, D. P., & Mincy, R. B. (2012). Falling further behind? Child support arrears and fathers' labor force participation. *Social Service Review*, *86*(4), 604–635.

Nepomnyaschy, L., & Garfinkel, I. (2010). Child support enforcement and fathers' contributions to their nonmarital children. *Social Service Review*, *84*(3), 341–380.

Office of Child Support Enforcement. (2014). Major Change in Who is Owed Child Support Arrears. Retrieved November 9, 2017, from https://www.acf.hhs.gov/css/resource/major-change-in-who-is-owed-child-support-arrears

Paasch, K. M., & Teachman, J. D. (1991). Gender of children and receipt of assistance from absent fathers. *Journal of Family Issues*, *12*(4), 450–466.

Pearson, J., & Davis, L. (2002). An Evaluation of the Colorado Arrears Forgiveness Demonstration Project. *Denver, CO: Center for Policy Research*. Retrieved from http://hermes.cde.state.co.us/drupal/islandora/object/co%3A1089/datastream/OBJ/download/An_evaluation_of_the_Colorado_arrears_forgiveness_demonstration_project___final_report.pdf

Percheski, C., & Wildeman, C. (2008a). Becoming a dad: Employment trajectories of married, cohabiting, and nonresident fathers. *Social Science Quarterly*, *89*(2), 482–501.

Percheski, C., & Wildeman, C. (2008b). Becoming a dad: Employment trajectories of married, cohabiting, and nonresident fathers. *Social Science Quarterly*, *89*(2), 482–501.

Phillips, E., & Garfinkel, I. (1993). Income growth among nonresident fathers: Evidence from Wisconsin. *Demography*, *30*(2), 227–241.

Pugh, M. (1998). *Barriers to work: the spatial divide between jobs and welfare recipients in metropolitan areas*. Center on Urban and Metropolitan Policy, the Brookings Institution.

Putze, D. (2017). Who Owes the Child Support Debt? U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement,. Retrieved from https://www.acf.hhs.gov/css/ocsedatablog/2017/09/who-owes-the-child-support-debt

Rangarajan, A., & Gleason, P. (1998). Young unwed fathers of AFDC children: Do they provide support? *Demography*, *35*(2), 175–186.

Reichman, N. E., Teitler, J. O., Garfinkel, I., & McLanahan, S. S. (2001). Fragile families: Sample and design. *Children and Youth Services Review*, *23*(4–5), 303–326.

Roberts, P. (2001). An ounce of prevention and a pound of cure: Developing state policy on the payment of child support arrears by low-income parents. *Washington, DC: Center for Law and Social Policy*.

Seltzer, J. A., Schaeffer, N. C., & Charng, H.-W. (1989). Family ties after divorce: The relationship between visiting and paying child support. *Journal of Marriage and the Family*, 1013–1031.

Sinkewicz, M., & Garfinkel, I. (2009). Unwed fathers' ability to pay child support: New estimates accounting for multiple-partner fertility. *Demography*, *46*(2), 247–263.

Solomon-Fears, C. (2013). Child support enforcement program incentive payments: Background and policy issues. *Congressional Research Service*.

Sonenstein, F. L., & Calhoun, C. A. (1990). Determinants of child support: A pilot survey of absent parents. *Contemporary Economic Policy*, *8*(1), 75–94.

Sorensen, E. (1997a). A national profile of nonresident fathers and their ability to pay child support. *Journal of Marriage and the Family*, 785–797.

Sorensen, E. (1997b). Welfare reform and low-income noncustodial fathers: New constraints and opportunities.

Sorensen, E. (2000). Child support offers some protection against poverty.

Sorensen, E. (2004). Understanding how child-support arrears reached $18 billion in California. *The American Economic Review*, *94*(2), 312–316.

Sorensen, E., Koball, H., Pomper, K., & Zibman, C. (2003). Examining child support arrears in California: The collectibility study. *Washington, DC: The Urban Institute*.

Sorensen, E., Sousa, L., & Schaner, S. (2007). Assessing child support arrears in nine large states and the nation. *Washington, DC: Urban Institute*. Retrieved from http://tpcprod.urban.org/UploadedPDF/1001242_child_support_arrears.pdf

Sorensen, E., & Turner, M. (1997). Barriers in child support policy: A review of the literature. *National Center on Fathers and Children*.

Sorensen, E., & Zibman, C. (2001). Getting to know poor fathers who do not pay child support. *Social Service Review*, *75*(3), 420–434.

Thoennes, N. (2001). Understanding Child Support Arrears in Colorado. *Denver, Colorado: Center for Policy Research*.

Turetsky, V. (2000). Realistic Child Support Policies for Low Income Fathers. Kellogg Devolution Initiative Paper.

Turetsky, V. (2007). Staying in jobs and out of the underground: Child support policies that encourage legitimate work. *Child Support Series Policy Brief No, 2*.

Turner, K. J., & Waller, M. R. (2017). Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement With Children. *Journal of Marriage and Family*, *79*(1), 24–43.

U. S. Department of Health and Human Services, O. of I. G. (2000). The establishment of child support orders for low income non-custodial parents. Retrieved from https://oig.hhs.gov/oei/reports/oei-05-99-00390.pdf

U. S. Department of Health and Human Services, O. of I. G. (2007). State Use of Debt Compromise to Reduce Child Suppport Arrearage. Retrieved from http://oig.hhs.gov/oei/reports/oei-06-06-00070.pdf

U.S. Government Accountability Office. (2011). Child support enforcement: Departures from long-term trends in sources of collections and caseloads reflect recent economic conditions.

Waller, M. R., & Plotnick, R. (2001). Effective child support policy for low-income families: Evidence from street level research. *Journal of Policy Analysis and Management*, 89–110.

Weiss, Y., & Willis, R. J. (1985). Children as collective goods and divorce settlements. *Journal of Labor Economics*, *3*(3), 268–292.

White, I. R., Royston, P., & Wood, A. M. (2011). Multiple imputation using chained equations: issues and guidance for practice. *Statistics in medicine*, *30*(4), 377-399.

Yeung, W. J., Linver, M. R., & Brooks–Gunn, J. (2002). How money matters for young children's development: Parental investment and family processes. *Child Development*, *73*(6), 1861–1879.

Table 1. Descriptive statistics for outcomes, time-invariant and time-varying covariates

	Baseline						Year 1		Year 3		Year 5		Year 9	
	Full		Resident		Nonresident		Full sample							
	M/%	(SD)	M/%	(SD)	M/%	(SD)	M	(SD)	M	(SD)	M	(SD)	M	(SD)
Panel A														
Amount of arrears accumulated [0-$90,000]							226.7	(1,059)	661.4	(1,998)*	1,305	(4,307)*	2,605	(7,413)*
Number of elapsed years since order establishment (year) [0-10.65 years]							0.12	(0.33)	0.50	(0.92)*	1.31	(4.31)*	2.60	(7.41)*
Panel B														
Fathers' time-invariant characteristics														
Age in years [15-54]	26.94	(6.79)	27.86	(6.64)	25.81	(6.80)*								
Number of Kids [1-18]	2.12	(1.49)	2.16	(1.51)	2.08	(1.46)*								
Intelligence (WAIS_R) [0-15]	6.39	(2.71)	6.42	(2.75)	6.34	(2.66)								
Depressive Symptom (CIDI) [0-1]	0.17	(0.37)	0.16	(0.36)	0.18	(0.38)								
% White	14%		19%		7%									
% Black	54%		42%		68%	*								
% Hispanic	28%		34%		22%									
% Other	4%		5%		3%									
% Less than high school degree	34%		33%		35%									
% High school degree	39%		35%		44%	*								
% Some college	20%		22%		18%									
% College degree	7%		10%		3%									
Time-varying covariates														
Fathers in jail status [0-1]							0.11	(0.32)	0.13	(0.34)*	0.12	(0.33)*	0.15	(0.36)*
State unemployment rate [.02-.11]							0.05	(0.01)	0.05	(0.01)	0.06	(0.01)	0.05	(0.01)
State poverty rate [7.20-17.30]							10.73	(2.81)	10.85	(2.79)	12.09	(2.52)*	12.23	(2.61)*
% of children in single parent [.25-.38]							0.30	(0.02)	0.30	(0.02)	0.30	(0.02)	0.32	(0.02)
% of people went to college [.12-.32]							0.18	(0.03)	0.19	(0.03)*	0.19	(0.04)*	0.21	(0.04)*
% of people born in U.S. [.71-.98]							0.88	(0.07)	0.87	(0.08)	0.87	(0.08)	0.85	(0.08)
# of Observations	3,351		1,854		1,497		1,834		2,172		2,504		2,999	

Note: The range of variable is presented in block parentheses. For simplicity, the descriptive statistics were calculated based on the first set of imputed data. Results were similar for other 4 imputed samples. Chi-square test for categorical variables and t-test for continuous and binary variable were used to assess the statistical difference between resident and nonresident samples. T-test was used to assess whether the time-varying covariates increase or decrease over time. *Significant at $P<.05$

Source: Fragile Families and Child Well-being Study (FFCWS), Wave 1-5.

Table 2. Multivariate model for assessing effects of elapsed time since the establishment of child support orders on an accumulation of child support arrears: based on Tobit analysis.

	Full (1)	Full (2)	Full (3)	Resident (4)	Nonresident (5)
Number of elapsed years since the establishment of the orders	433.43***	415.92***	407.16***	350.72***	421.80***
	(18.29)	(20.88)	(20.70)	(67.14)	(30.94)
Fathers' age in years		-23.06***	-21.40***	-26.87***	-17.60+
		(5.99)	(5.72)	(8.03)	(9.69)
Fathers' education (versus high school dropouts)					
High school degree		-11.85	-5.37	-26.52	-23.29
		(66.43)	(64.69)	(100.69)	(90.82)
Some college		-6.29	9.77	-8.46	-3.57
		(100.63)	(102.50)	(128.57)	(127.59)
College degree		-248.16	-173.80	-187.48	-174.17
		(171.43)	(176.55)	(140.31)	(313.51)
Fathers' number of kids		64.10**	61.68**	53.89+	61.13*
		(20.55)	(20.41)	(32.75)	(29.26)
Fathers' intelligence (WAIS_R)		22.00+	19.10	47.11**	-5.61
		(12.54)	(12.54)	(18.02)	(15.27)
Race/Ethnicity (versus White)					
Black		-274.01*	-203.78+	4.60	-350.91*
		(123.01)	(121.47)	(140.16)	(172.68)
Hispanic		-212.61	-130.34	55.58	-252.24
		(144.62)	(132.31)	(140.65)	(195.60)
Other		-278.64	-183.33	231.51	-586.12*
		(209.94)	(196.58)	(280.87)	(235.11)
Depressive Symptom (CIDI)		66.31	58.60	4.50	103.25
		(94.98)	(94.49)	(105.78)	(100.97)
Baseline Relationship Status (versus Nonresident)					
Cohabitation		-46.58	-40.64	—	—
		(78.68)	(72.49)		
Married		-298.04**	-225.12*	—	—
		(102.61)	(107.71)		
Fathers in jail		198.74+	207.27+	332.78**	135.26
		(118.66)	(113.11)	(120.28)	(124.96)
State poverty rate		-37.37	46.15	114.60	-77.98
		(46.64)	(79.08)	(94.54)	(120.29)
State unemployment rate		28.67	-25.19	-0.30	-40.92
		(43.40)	(93.52)	(85.88)	(99.97)
People born in the United States		34.94	-88.10	-110.62	-48.99
		(42.96)	(80.71)	(127.19)	(183.44)
children in single parent families		-14.32	-7.81	31.68	-56.35
		(34.66)	(58.28)	(68.17)	(71.57)
people who went to college		-69.81	70.29	115.20	6.24
		(43.50)	(102.51)	(114.12)	(137.11)
State Fixed Effects	N	N	Y	Y	Y
Interview Year Fixed Effects	N	N	Y	Y	Y
Observations	*9,509*	*9,509*	*9,509*	*4,465*	*5,044*

Note: Results are presented as marginal effects on the expected value for arrearage outcomes for both censored and uncensored observations. *** p<0.001, ** p<0.01, * p<0.05, + p<0.10
Source: Fragile Families and Child Well-being Study (FFCWS), Wave 1-5.

Table 3. Moderating effect of performance measure on the relationship between a number of years since the child support orders were established and the accumulation of arrears: based on Tobit analysis.

Panel 1: For current collection measure

	Changes from the Mean to +1SD (from .60 to .69)		
	(1) Full	(2) Resident	(3) Nonresident
Elapsed Time at			
1 year	25.59	25.10	26.29
	(54.31)	(61.60)	(59.77)
3 years	-242.90+	-357.34*	-125.66
	(136.54)	(159.30)	(151.22)
5 years	-918.23**	-1,407.37***	-505.98
	(304.37)	(392.92)	(332.24)
7 years	-2,034.07***	-3,251.40***	-1,121.17+
	(555.31)	(758.91)	(594.08)

Panel 2: For arrearage collection measure

	Change from the Mean to +1SD (from .60 to .64)		
	(1) Full	(2) Resident	(3) Nonresident
Elapsed Time at			
1 year	-5.51	-38.92	10.62
	(42.61)	(70.33)	(52.47)
3 years	-193.08+	-353.80	-88.27
	(103.61)	(220.53)	(123.84)
5 years	-637.87**	-1,123.81*	-328.17
	(220.52)	(523.86)	(256.82)
7 years	-1,356.21***	-2,415.23*	-713.07
	(391.80)	(964.79)	(446.83)

Table 4.

Panel 1: For current collection measure

	Changes from the 60 to 65 percent		
	(1) Full	(2) Resident	(3) Nonresident
Elapsed Time at			
1 year	25.16	32.19	18.77
	(30.70)	(36.18)	(32.79)
3 years	-115.41	-159.59+	-66.92
	(76.56)	(90.57)	(82.94)
5 years	-483.38**	-715.70**	-286.26
	(170.09)	(225.28)	(182.69)
7 years	-1,100.36***	-1,712.29***	-643.43*
	(309.55)	(432.47)	(326.78)

Panel 2: For arrearage collection measure

	Changes from the 60 to 65 percent		
	(1) Full	(2) Resident	(3) Nonresident
Elapsed Time at			
1 year	-3.83	-32.01	9.27
	(35.44)	(60.18)	(43.46)
3 years	-161.00+	-303.85	-73.55
	(88.81)	(198.47)	(104.00)
5 years	-540.41**	-974.37*	-275.92
	(191.52)	(478.23)	(216.96)
7 years	-1,149.86***	-2,088.23*	-600.36
	(340.31)	(871.95)	(377.32)

Table 5. Instrumental Variable Estimates

For current collection measure

	Changes from the Mean to +1SD (from .60 to .69)		
	(1) Full	(2) Resident	(3) Nonresident
2SLS- 1st Stage			
Effect of standardized expenditure on current collection	,12*	.10+	.14**
	(.039)	(.050)	(.042)
2SLS- 2nd Stage			
Elapsed Time at			
1 year	51.129	48.687	54.033
	(139.952)	(155.730)	(176.405)
3 years	-233.651	-368.628	-95.051
	(299.710)	(343.019)	(378.834)
5 years	-981.376+	-1,551.896*	-499.821
	(539.770)	(644.361)	(676.783)
7 years	-2,233.861**	-3,649.664***	-1,174.725
	(830.352)	(1,020.634)	(1,026.901)

Figure 1. Distribution of mothers against the amount of arrears owed by the fathers.

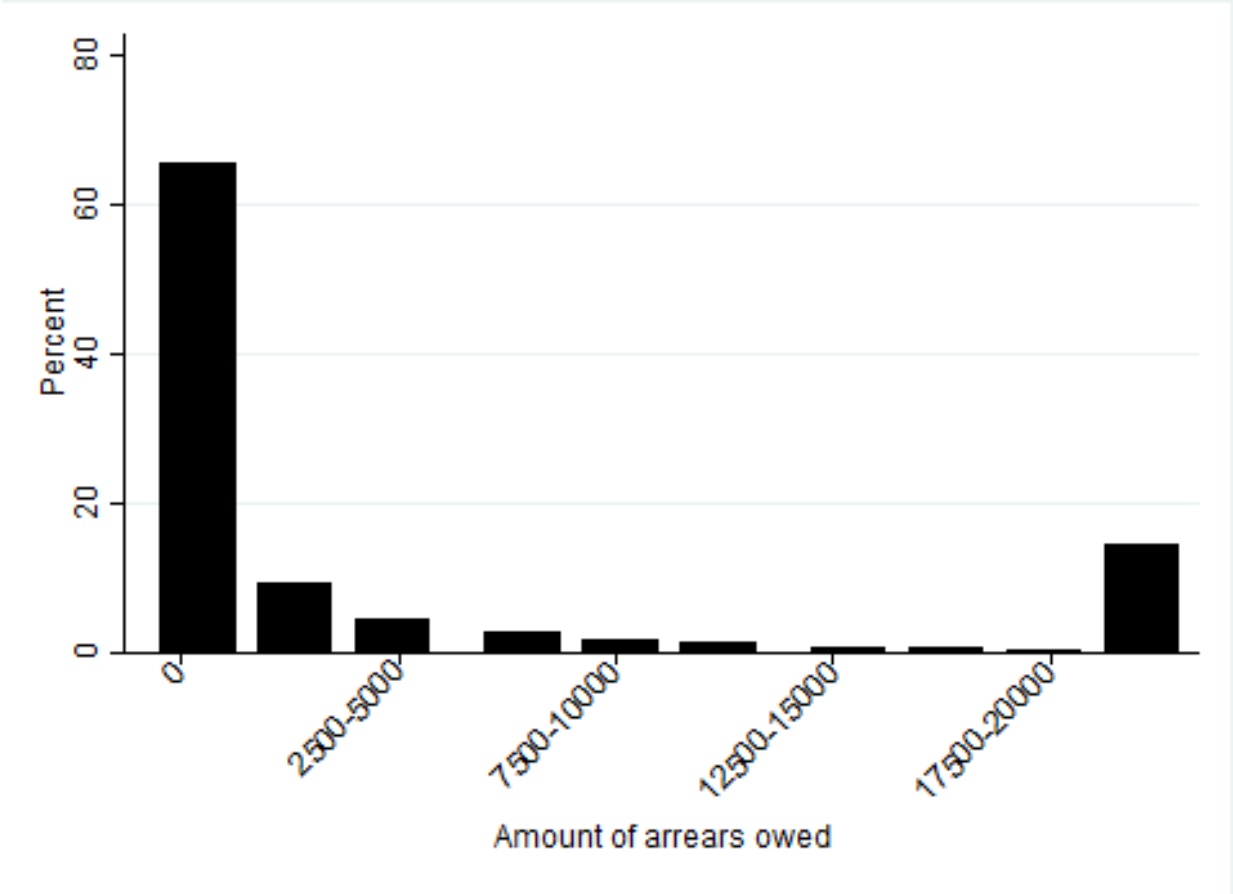


Figure 2. Average Percentage of Performance Measures, 1999 to 2010

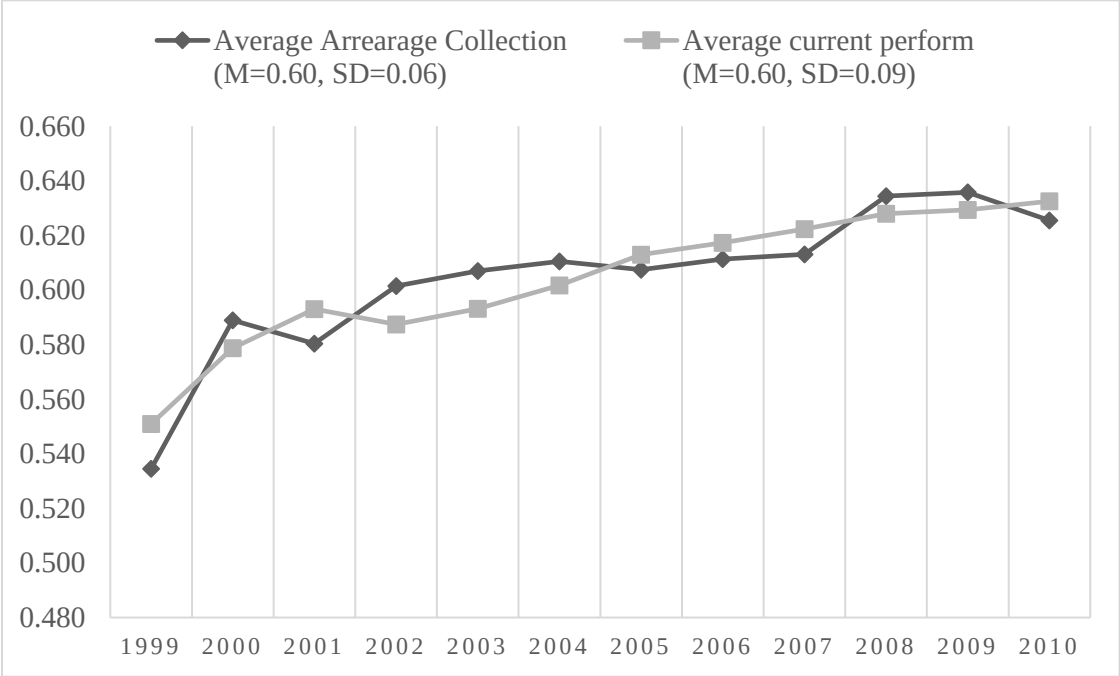
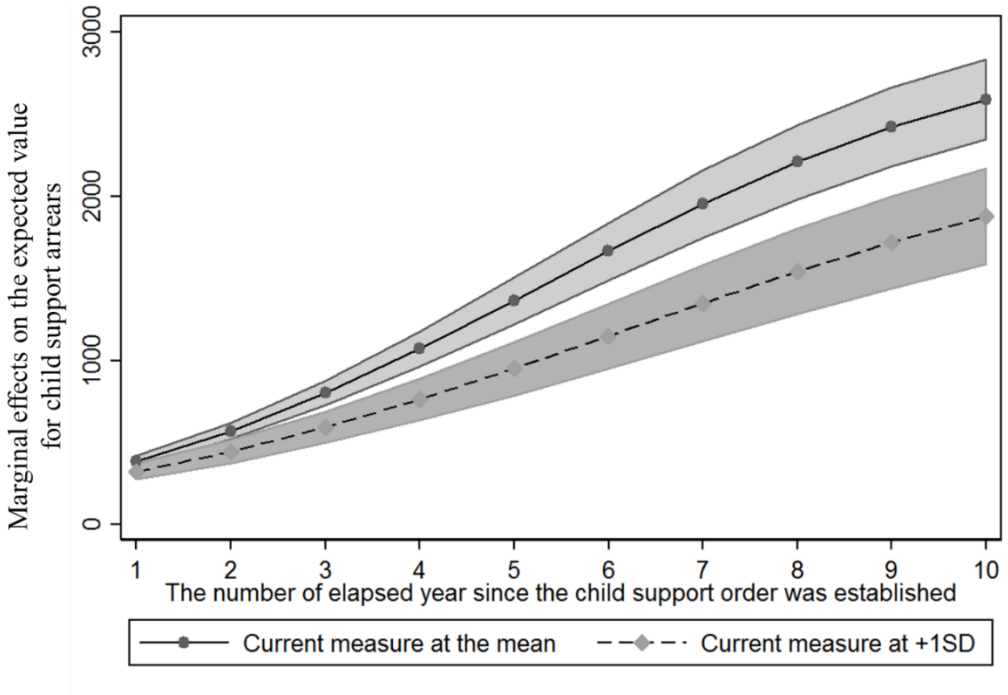
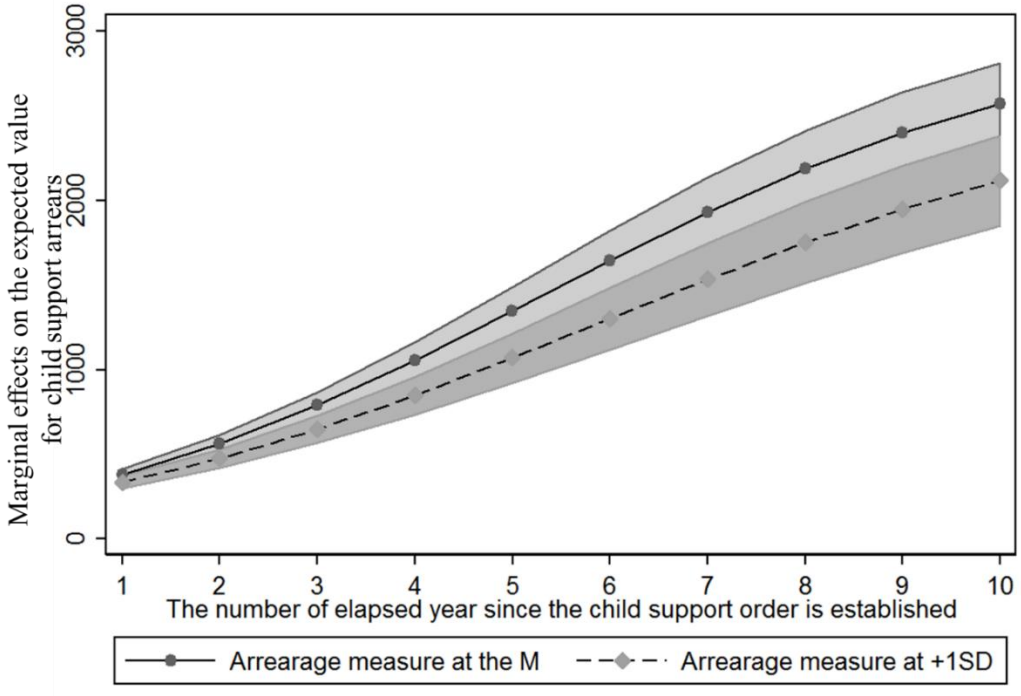


Figure 3. The marginal effects of elapsed time since the establishment of child support orders on an accumulation of child support arrears stratified by CSPIA's performance measures

Panel 1: For current collection measure



Panel 2: For arrearage collection measure



Appendix 1. Measurement errors on the dependent and explanatory variable

Note: Due to the extensive equations required for the proof, the work was written through LateX software)

Measurement Errors in Dependent Variable

Suppose that we have a simple regression model, such as:

$$Y_{Actial,i} = \alpha + \beta X_i + \varepsilon_i$$

Now, suppose that we cannot observe the actual value of outcome, $Y_{Actual,i}$,instead we can only observe it with measurement error: $Y_{Measured,i} = Y_{Actial,i} + \omega_i$ Note that the measurement error, ω_i, is assumed to be uncorrelated with the explanatory variable, X_i, and error term, ε_i. Lets substitute $Y_{Measured,i}$ to the original regression model:

$$Y_{Measured,i} = \alpha + \beta X_i + \varepsilon_i$$

Then the esimated β will be

$$\begin{aligned}
\hat{\beta} &= \frac{Cov(Y_{Measured,i}, X_i)}{Var(X_i)} \\
&= \frac{Cov(Y_{Actual,i} + \omega_i, X_i)}{Var(X_i)} \\
&= \frac{Cov(\alpha + \beta X_i + \varepsilon_i + \omega_i, X_i)}{Var(X_i)} \\
&= \frac{Cov(\alpha, X_i)}{Var(X_i)} + \frac{Cov(X_i, X_i)}{Var(X_i)} + \frac{Cov(\varepsilon_i, X_i)}{Var(X_i)} + \frac{Cov(\omega_i, X_i)}{Var(X_i)} \\
&= \beta \frac{Var(X_i)}{Var(X_i)} \\
&= \beta
\end{aligned}$$

Therefore, measurement errors on the dependent variable do not bias the regression results.

Measurement Errors in the explanatory Variable

Now, suppose that we have a measurement error in the explanatory variable., $X_{Measured,i}$. If u_i is an measurement error, then

$$X_{Measured,i} = X_{Actual,i} + u_i$$

Lets substitute $X_{Measured,i}$ to the original model:

$$\begin{aligned} Y_{Actual,i} &= \alpha + \beta X_{Actual,i} + \varepsilon_i \\ &= \alpha + \beta(X_{Measured,i} - u_i) + \varepsilon_i \\ &= \alpha + \beta X_{Measured,i} + (\varepsilon_i - \beta u_i) \\ &= \alpha + \beta X_{Measured,i} + e_i \\ \therefore \text{If } Cov(X_{Measured,i}, e_i) &\neq 0 \longrightarrow Biased \end{aligned}$$

If the explanatory variable $X_{Measured,i}$ and the error term e_i are positively correlated, then the estimated β will be biased upward. To see this is true, let's assume that **the actual coefficient β is negative.** When u_i increases, then both the $X_{Measured,i}$ and the e_i also increase, resulting in a positive explanatory variable/error term correlation.Therefore,**when β is negative, then the slope of the actual explanatory variable is steaper than those of the measured one.** This applies in the same way to regression models with interaction terms.

Appendix 2. *CSPIA Performance Measure for Current and Arrearage Collection*

Performance Measure	**How to measure**
Percent of Current Collection	$\frac{\text{Amount of current support collected in IV} - \text{D}}{\text{Amount of current support owed in IV} - \text{D}}$
Percent of Arrearage Cases	$\frac{\text{Number of cases paying towards arrears in IV} - \text{D}}{\text{Number of cases with arrears due in IV} - \text{D}}$

Appendix 3-1.CSPIA Performance measure by years across states: arrearage collection

ST	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	State Average
IL	0.326	0.488	0.508	0.523	0.514	0.582	0.459	0.513	0.537	0.592	0.626	0.613	0.523
MI	0.343	0.600	0.582	0.608	0.590	0.556	0.532	0.543	0.554	0.567	0.595	0.571	0.553
TN	0.466	0.479	0.497	0.545	0.573	0.592	0.600	0.606	0.594	0.609	0.599	0.575	0.561
IN	0.439	0.514	0.511	0.526	0.548	0.562	0.580	0.588	0.596	0.642	0.647	0.641	0.566
CA	0.598	0.534	0.563	0.549	0.554	0.549	0.560	0.565	0.571	0.591	0.594	0.603	0.569
VA	0.520	0.542	0.565	0.564	0.575	0.574	0.578	0.581	0.585	0.596	0.583	0.605	0.572
NY	0.370	0.598	0.607	0.604	0.598	0.591	0.590	0.588	0.600	0.612	0.606	0.592	0.580
MA	0.519	0.553	0.570	0.583	0.604	0.588	0.579	0.585	0.593	0.621	0.620	0.607	0.585
MD	0.575	0.599	0.606	0.643	0.624	0.621	0.639	0.637	0.623	0.629	0.636	0.616	0.620
WI	0.620	0.660	0.617	0.611	0.620	0.643	0.642	0.590	0.605	0.620	0.618	0.621	0.622
NJ	0.607	0.562	0.585	0.612	0.656	0.633	0.632	0.638	0.639	0.657	0.659	0.624	0.625
OH	0.563	0.579	0.418	0.675	0.663	0.663	0.665	0.673	0.671	0.682	0.665	0.640	0.630
TX	0.633	0.634	0.630	0.645	0.623	0.635	0.652	0.673	0.673	0.686	0.666	0.645	0.650
FL	0.799	0.818	0.750	0.628	0.646	0.658	0.667	0.637	0.599	0.623	0.604	0.599	0.669
PA	0.639	0.673	0.697	0.707	0.715	0.710	0.735	0.752	0.758	0.788	0.818	0.831	0.735
Year Average	0.534	0.589	0.580	0.601	0.607	0.610	0.607	0.611	0.613	0.634	0.636	0.626	0.604

Appendix 3-2. CSPIA Performance measure by years across states: current collection

ST	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	State Average
CA	0.405	0.400	0.410	0.424	0.452	0.480	0.493	0.504	0.515	0.528	0.534	0.560	0.475
IN	0.146	0.442	0.468	0.485	0.505	0.510	0.528	0.538	0.548	0.566	0.575	0.583	0.491
IL	0.516	0.365	0.376	0.391	0.470	0.492	0.533	0.518	0.531	0.554	0.580	0.579	0.492
TN	0.446	0.449	0.483	0.504	0.537	0.547	0.554	0.557	0.558	0.540	0.526	0.519	0.519
FL	0.486	0.499	0.521	0.564	0.564	0.567	0.567	0.544	0.518	0.524	0.520	0.522	0.533
VA	0.537	0.565	0.582	0.590	0.597	0.600	0.609	0.616	0.620	0.626	0.621	0.620	0.598
TX	0.501	0.651	0.620	0.599	0.577	0.585	0.605	0.623	0.634	0.645	0.636	0.634	0.609
MI	0.660	0.672	0.603	0.594	0.557	0.602	0.605	0.614	0.622	0.620	0.624	0.625	0.616
MD	0.569	0.585	0.603	0.620	0.632	0.618	0.631	0.642	0.638	0.646	0.649	0.645	0.623
MA	0.547	0.587	0.636	0.597	0.609	0.626	0.638	0.654	0.664	0.668	0.676	0.679	0.632
NJ	0.616	0.631	0.646	0.650	0.650	0.649	0.653	0.656	0.657	0.657	0.635	0.651	0.646
NY	0.700	0.736	0.766	0.651	0.647	0.647	0.651	0.649	0.656	0.663	0.670	0.669	0.676
OH	0.711	0.664	0.680	0.668	0.673	0.679	0.690	0.691	0.689	0.688	0.674	0.666	0.681
WI	0.771	0.766	0.785	0.727	0.677	0.676	0.690	0.706	0.706	0.707	0.706	0.706	0.719
PA	0.652	0.666	0.716	0.747	0.748	0.744	0.747	0.746	0.780	0.789	0.813	0.832	0.748
Year Average	0.551	0.579	0.593	0.587	0.593	0.602	0.613	0.617	0.622	0.628	0.629	0.633	0.604

Appendix 4. Proof: why two-stage least squares has larger variance than least squares.

(Note: Due to the extensive equations required for the proof, the work was written through LateX software)

Suppose that y is an outcome variable, X is a vector of covariates, and Z is a vector of instrumental variables. To estimate b_{2SLS}, I consider the following standard regression estimator

$$\beta_{2SLS} = (\hat{X}'\hat{X})^{-1}(\hat{X}'y)$$

where $\hat{X}$ is a predicted X, which can be derived by regressing X on Z. or

$$X = Z'\beta_{IV} + \varepsilon, or$$
$$\hat{X} = Z\beta_{IV}$$

Assume that the vector of instrumental variables is (1) predictive of the X, and (2) unrelated to the outcome variables except through the X. To be valid, T-tests or F-tests on the vector of instrumental variable must be statistically significant AND $E[Z|\varepsilon] = 0$. Therefore,

$$\begin{aligned} Z'X &= Z'Z\beta_{IV} + Z'\varepsilon_i \\ \beta_{IV} &= (Z'Z)^{-1}(Z'X) \\ \therefore \hat{X} &= Z(Z'Z)^{-1}(Z'X) \\ &= (I - M_Z)X \end{aligned}$$

Where M_z is the "residual maker" because $MzX = (I - Z(Z'Z)^{-1}Z')X = X - Z'b_{IV} = e(resid)$, since $b_{IV} = (Z'Z)^{-1}(Z'X)$.
Note that M_z is an idempotent matrix, therefore $(\hat{X}'\hat{X}) = X(I - M_z)X$
Under homoskedastic errors, the Asymptotic variance for β_{2SLS} will be

$$\begin{aligned} Asy.var[2SLS] &= E[(\beta_{2SLS} - \beta)(\beta_{2SLS} - \beta)'] \\ &= (\hat{X}'\hat{X})^{-1}\hat{X}'\varepsilon\varepsilon'\hat{X}(\hat{X}'\hat{X})^{-1} \\ &= \sigma^2(\hat{X}'\hat{X})^{-1} \\ &= \sigma^2(X'(I - Mz)X)^{-1} \end{aligned}$$

Which is larger than the Asymptotic variance for standard β_{LS}: $Asy.Var[LS] = \sigma^2(X'X)^{-1}$
Proof

Compare inverse →If negative, then Asy,Var[LS] is less precise than Asy.Var[2SLS]

$$\begin{aligned} &Asy.Var[LS]^{-1} - Asy.Var[2SLS]^{-1} \\ &= \frac{1}{\sigma^2}[X'X - X'(1 - M_z)X] > 0 \in \forall \text{ R} \end{aligned}$$

If M_z is closed to zero, then we can minimize the difference. M_z being closed to zero means Z is almost perfectly predicting X (That being said a residual maker makes no residual).
Therefore, the "weak instrument" is responsible for large variance in $Asy.var[2SLS]$

EXHIBIT M

$2.1 million awarded for procedural justice-informed alternatives to contempt child support cases

Procedural Justice-Informed Alternatives to Contempt (PJAC)

Virginia: Virginia Division of Child Support Enforcement

Location: Hampton District Office and Richmond District Office

Project Name: Procedural Justice Informed Alternatives to Contempt

FY 2016 Award: $200,000

Source: Office of Child Support Enforcement | ACF

https://www.acf.hhs.gov/css/grants/grant-updates-results/pjac

More Extended Details

https://www.acf.hhs.gov/archive/media/press/2016/millions-awarded-for-procedural-justice-informed-alternatives-to-contempt-child-support-cases

Published: October 3, 2016

Last Reviewed: June 13, 2019

Procedural Justice-Informed Alternatives to Contempt (PJAC)

The PJAC demonstration project seeks to increase parents' compliance with child support orders by increasing trust and confidence in the child support agency and its processes. PJAC is a five-year project that will allow grantees to examine whether incorporating procedural justice principles into child support business practices increases reliable child support payments. The goals are to increase reliable payments, reduce arrears, minimize the need for continued enforcement actions and sanctions, and reduce the inappropriate use of contempt.

For details, read the funding opportunity announcement for the **PJAC Project (https://ami.grantsolutions.gov/files/HHS-2016-ACF-OCSE-FD-1172_1.pdf)**and **PJAC Evaluation (https://ami.grantsolutions.gov/files/HHS-2016-ACF-OCSE-FD-1171_0.pdf).**

On September 30, 2016, OCSE awarded Section 1115 grants for PJAC to Arizona, California, Michigan, Ohio, and Virginia.

Georgia was awarded a grant to manage the evaluation of the PJAC Project.

Press Release

$2.1 million awarded for procedural justice-informed alternatives to contempt child support cases (https://wayback.archive-it.org/8654/20170326135726/https://www.acf.hhs.gov/media/press/2016/millions-awarded-for-procedural-justice-informed-alternatives-to-contempt-child-support-cases)

PJAC

PROCEDURAL JUSTICE-INFORMED ALTERNATIVES TO CONTEMPT

JUNE 2019

A New Response to Child Support Noncompliance

INTRODUCING THE PROCEDURAL JUSTICE-INFORMED ALTERNATIVES TO CONTEMPT PROJECT

by Caroline Mage, Peter Baird, and Cynthia Miller

When a child does not live with both parents, the parent who does not live with the child, called the noncustodial parent, may be responsible for a share of the costs associated with raising the child. Child support agencies help families obtain this support by locating parents, establishing paternity, setting financial obligations, and enforcing those obligations.

These child support programs have a broad reach: In 2017, they served 15 million children, or roughly one in five children in the United States, and collected over $32 billion.[1] The federal Office of Child Support Enforcement (OCSE) helps states, territories, and tribes develop, manage, and operate these programs. The primary goal of child support programs is to improve children's well-being by emphasizing the roles of both parents in providing for them.

Some families receive child support from noncustodial parents regularly. For other families, payments may be sporadic, partial, or not received at all. Nationally, among all families owed child support payments, including those not receiving agency services, 26 percent received a partial amount and 31 percent received no payment at all during the year.[2] Parents who do not make their child support payments can be subject to enforcement measures, including civil contempt actions requiring them to attend court hearings. Parents may face arrest if they fail to appear in court or fail to pay their share.

This study brief describes an alternative to the civil contempt process intended to increase engagement and consistent and reliable payments among noncompliant noncustodial parents. The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project was developed by OCSE to adapt and apply principles of procedural justice to child support compliance efforts. Procedural justice is also referred to as procedural fairness. It is "the idea that how individuals regard the justice system is tied more to the perceived fairness of the *process* and how they were treated rather than to the perceived fairness of the *outcome*."[3] This approach has produced notable increases in compliance and long-term rule-following behavior in criminal justice and judicial settings.[4]

[1] Office of Child Support Enforcement (2018).

[2] Grall (2018). Note that this 2015 statistic is based on all families owed child support, not just those receiving services from the child support system.

[3] Gold (2013).

[4] Berman and Gold (2012).

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BUILDING KNOWLEDGE TO IMPROVE SOCIAL POLICY

The underlying premise of the PJAC demonstration is that similar outcomes could be achieved in child support settings. Five grantees across the country are operating this demonstration, emphasizing respect, transparency, and helpfulness in child support programs' delivery of services to parents who are at the point of being referred to the contempt process for nonpayment. The goal of the PJAC demonstration is to increase reliable child support payments by improving both parents' perceptions of fairness in the child support program.

MDRC is leading a random assignment evaluation of the model's effectiveness in collaboration with research partners at MEF Associates and the Center for Court Innovation. Oversight of the evaluation is provided by the Georgia Division of Child Support Services. The study will examine whether using principles of procedural justice is more effective than the current costly, court-driven contempt process.

THE CURRENT ENFORCEMENT PROCESS

Child support programs have several methods to obtain payment, such as issuing income withholding orders, intercepting tax refunds, placing liens on assets, or seizing bank accounts. If these tools are ineffective, programs can consider referring nonpaying parents to the legal system for civil or criminal contempt. Although there is variation across programs, there are several steps in the contempt process that are consistent. The first step involves locating parents who are behind on child support and serving them with a "show cause" order that requires them to attend court. Given challenges in locating such parents, programs do not succeed in serving the order with many of them. For those who are served, the next step is to appear in court. Yet many nonpaying parents do not attend the scheduled hearing and thus never reach this second step. Noncustodial parents who do appear in court may experience one or more of several outcomes. For example, the parent may make a one-time "purge" payment; the parent may be given a period of time to make additional payments with a follow-up hearing scheduled to confirm compliance; the parent may receive a referral to services to help him or her find a job. For all parents, regardless of whether they appear in court, continued noncompliance could lead to a warrant for their arrest, possibly resulting in jail time.

The contempt process can be time-consuming, and it is difficult to measure the extent to which it leads to increased, consistent child support payments.

THE PROMISE OF PROCEDURAL JUSTICE

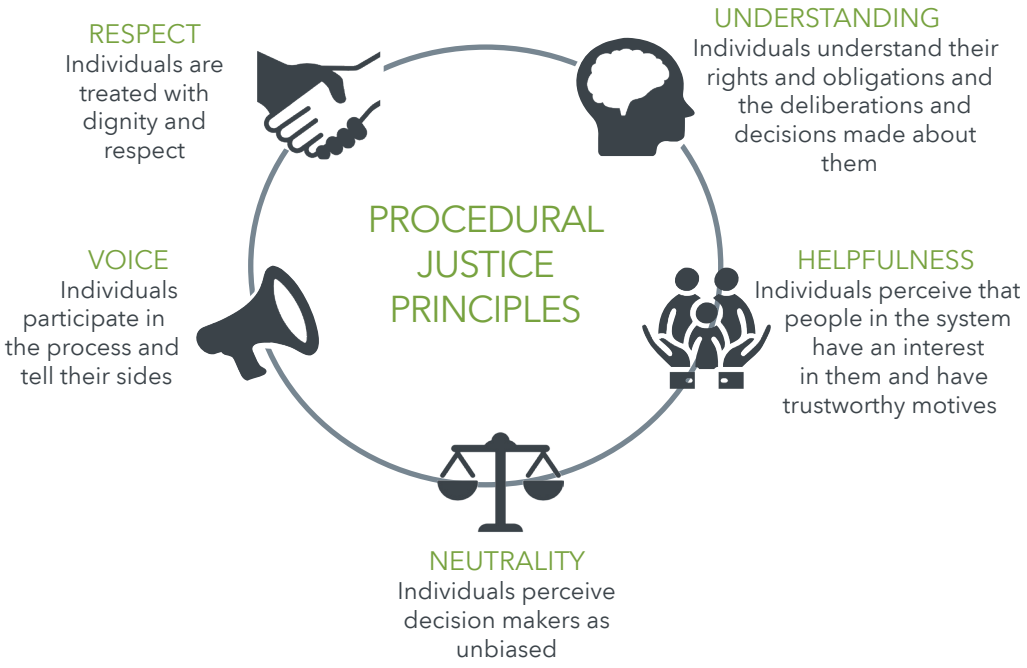
Perceptions of the justice system are often related to specific experiences individuals have with officials in that system, such as police, prosecutors, and judges. Research in this area suggests that people in court settings who have been treated according to procedural justice principles are more likely to be satisfied with the outcome, whether positive or negative, and to comply with it.[5] As Figure 1 shows, procedural justice suggests that a person's perception of a system or process depends on five key elements: respect, individuals' understanding of the process, the helpfulness of those in authority, neutrality on the part of decision-makers, and individuals' ability to have a voice in the process.[6]

Similar to other contexts in which procedural justice has proven beneficial, child support enforcement is a complicated legal process that can have long-term consequences for families. Child support enforcement actions are often automated, legalistic, and impersonal, rather than inviting input and engagement by one or both parents. For example, when an authority notifies a noncustodial parent of an impending enforcement action, the parent may not be given an opportunity to explain the reasons for nonpayment or given a *voice* to tell his or her side of the story. The process may also suggest a lack of *respect* for parents, because the agency may appear to be focused on collecting debts without assuming that parents want to support their children. Child support programs may also struggle to convey their *neutrality*; they are often put in the middle of emotionally fraught family relationships, and a noncustodial parent may feel that the program is working

[5] Berman and Gold (2012).

[6] Swaner et al. (2018).

FIGURE 1
The Five Key Elements of Procedural Justice



solely on behalf of the custodial parent. Due to limited resources and time, child support programs may not always be sufficiently *helpful* to parents who may need additional questions answered or assistance with paperwork, for example. Finally, the complex content of the notices delivered to both parents may inhibit their *understanding* of the process. The legal forms they receive do not typically spell out the steps they can take to remedy the situation or the consequences of not doing so. As a result, parents may feel disempowered and not know how they can participate in the process of establishing and meeting child support obligations.

By incorporating procedural justice principles into child support enforcement efforts through the PJAC model, child support programs have the potential to reframe their work with families as a respectful, problem-solving endeavor focused on how to engage with the entire family and increase the likelihood that children receive financial and emotional support.

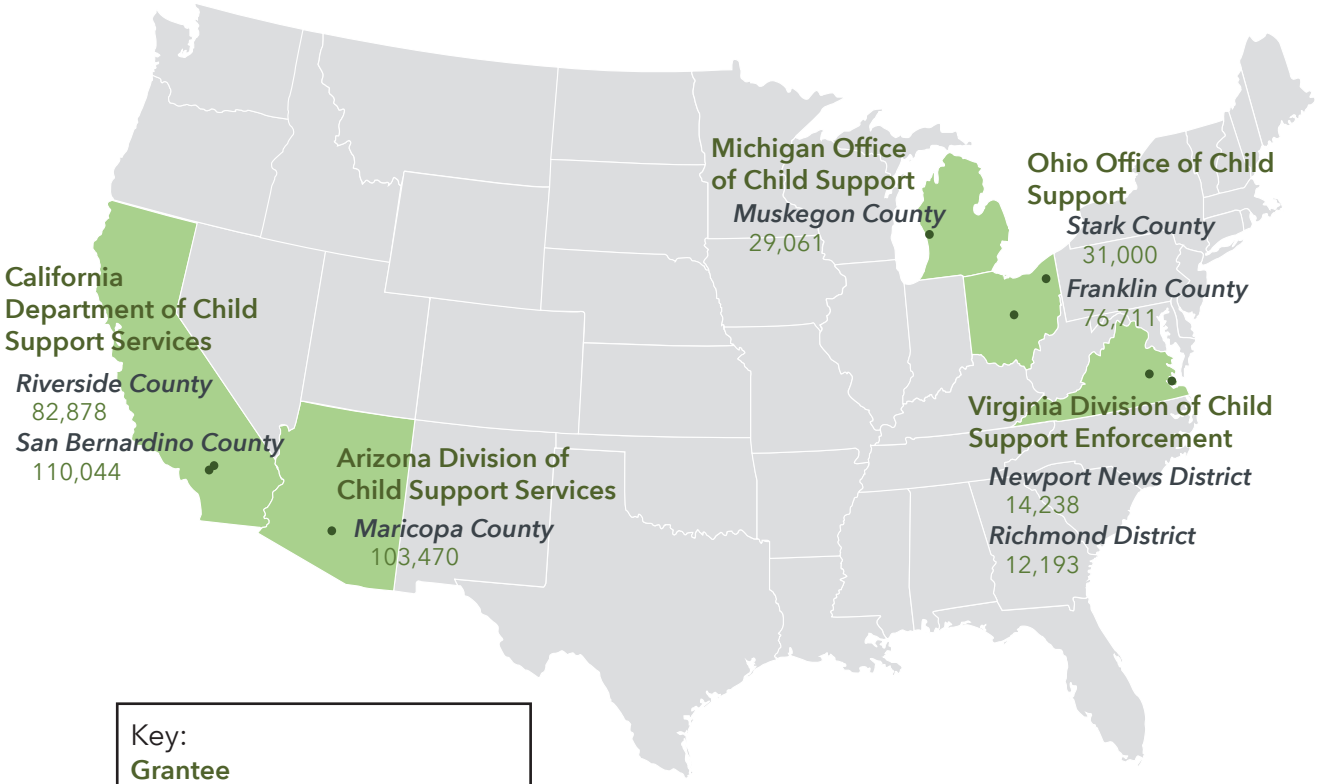
THE PJAC DEMONSTRATION

In 2016, OCSE awarded PJAC grants to five child support programs through a competitive process. These programs are the Arizona Division of Child Support Services, the California Department of Child Support Services, the Michigan Office of Child Support, the Ohio Office of Child Support, and the Virginia Division of Child Support Enforcement. Figure 2 shows the site locations and total caseload sizes at each. In Ohio, Franklin and Stark counties implement PJAC independently, whereas Virginia and California each operate as one site with two locations.

Each participating child support program identified a PJAC director who oversees the implementation of services, as well as three to five caseworkers whose time is dedicated to the PJAC demonstration, most with previous experience as enforcement officers. PJAC caseworkers have been trained on a variety of core topics, including procedural justice, domestic violence, and dispute resolution techniques.

In addition to developing the PJAC model, OCSE provides technical assistance and implementation support through biweekly case management calls with each agency, biweekly program administration calls with agency directors, facilitation of monthly peer learning community calls, and review and feedback on program implementation and study enrollment.

FIGURE 2
PJAC Sites and Caseloads



The PJAC Demonstration Study

MDRC is leading the PJAC demonstration study, which uses a random assignment research design. The target population for the study is noncustodial parents who are able, but unwilling, to pay their child support obligation. Noncustodial parents who are about to enter the contempt process are assigned at random to either a program group offered PJAC services or to a control group not eligible to receive PJAC services; instead, the control group will proceed with the standard contempt process. MDRC will follow both groups over time to assess the project's effects on service receipt, enforcement and contempt actions, judicial system involvement, experiences with and perceptions of the child support program and courts, and child support payments and debt. The evaluation will also gather information to assess whether offering PJAC services is more cost effective than traditional contempt practices. Each child support program is required to enroll 2,300 noncustodial parents over three years — 1,500 assigned to the program group and 800 assigned to the control group.[7]

Child support programs participating in the PJAC demonstration use a web-based management information system (MIS) developed specifically for the project. The MIS serves as a tool for PJAC managers and caseworkers to manage their caseloads, and for OCSE to monitor implementation and identify technical assistance needs. The MIS also gathers data for the evaluation by quantifying parents' receipt of PJAC services.

[7] Franklin and Stark Counties in Ohio are each required to enroll 2,300 individuals. Virginia and California are each required to enroll 2,300 across their local sites.

The evaluation has three components:

- **Implementation study.** The implementation study will describe, for each of the six sites, how the PJAC project was implemented, including the services provided and differences between the PJAC approach and the usual child support enforcement business process.
- **Impact study.** The impact study will measure the effects of PJAC on key outcomes, including service receipt, enforcement and contempt actions, judicial system involvement, and child support payments and debt.
- **Benefit-cost study.** The benefit-cost study will measure the monetary cost of the PJAC project relative to the cost of usual child support enforcement contempt practices. These net costs will then be weighed against the monetary benefits generated by PJAC, which may include reduced court and contempt processing costs and increased child support payments.

The PJAC Model

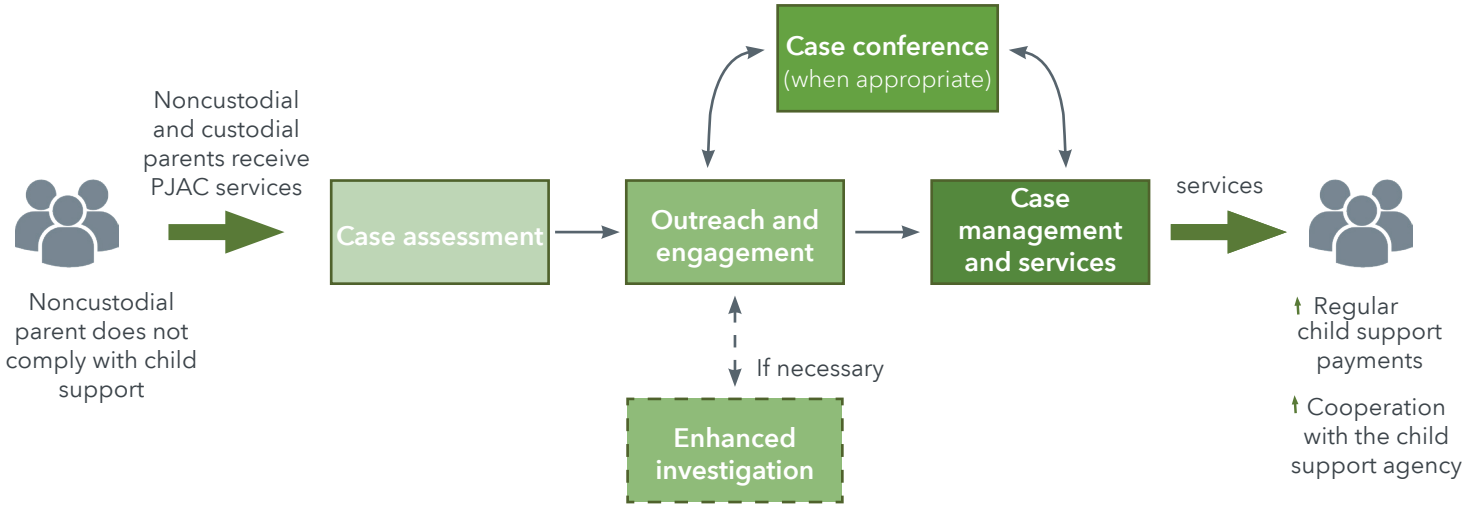
The PJAC demonstration model offers an alternative to a process that may feel impersonal, difficult to understand, and lacking in human engagement. At the point when a noncustodial parent is on the verge of referral to the contempt process, a trained PJAC caseworker begins working jointly with both the noncustodial parent and the custodial parent. This relationship between the caseworker and both parents is infused with principles of procedural justice and is the common thread that runs through all aspects of service delivery.

The PJAC treatment is meant to be a short-term service aimed at increasing compliance and engagement. If noncustodial parents assigned to the program group are unwilling to engage with the child support agency and participate in PJAC services, their treatment may include eventually being referred to the regular contempt process. Figure 3 illustrates the four components of the PJAC model.

1. **Case assessment.** The initial phase of PJAC involves a thorough review of the case, including payment history and previous enforcement actions, as well as a review of available data, such as employment and criminal justice records and parents' activity on social media, to help caseworkers gather relevant details such as location or employment information. Through the procedural justice lens, the case assessment focuses on both parents, examining areas where one or both may have perceived the previous process to be biased. This review allows the caseworker to gain an understanding of the parents' history with the child support program and learn of circumstances such as unemployment or existing domestic violence indicators that will be important factors in working effectively with them. This background knowledge is intended to enhance the caseworker's ability to communicate with the parents and tailor services to their situation. After documenting key information about where either parent may have misunderstandings about the case, outreach to the parents begins.
2. **Outreach and engagement.** The PJAC caseworker conducts initial outreach to both custodial and noncustodial parents using language informed by procedural justice (see Figure 1). The first contact attempt is made to the custodial parent. In these preliminary conversations the PJAC caseworker strives to gain an understanding of the parent's concerns, relationship with the noncustodial parent (including safety and parenting issues), and insight into reasons for the noncustodial parent's noncompliance. The caseworker then contacts the noncustodial parent to discuss reasons for nonpayment, clear up misunderstandings, and identify any previously undisclosed employment or disability. Exchanges with both parents during this phase focus on further explaining services available to the noncustodial parent under PJAC and may include development of a case action plan. Outreach methods could include phone calls, texts, social media messages, and letters.

   If a parent cannot be located at any point in the PJAC process, the caseworker will attempt **enhanced investigation**, or more in-depth efforts to find the noncustodial parent (such as contacts with extended family, use of

FIGURE 3
The PJAC Model



fee-based location services, and social media searches). A noncustodial parent may be referred to the standard contempt process at any point if it is determined that the parent is evading contact attempts.

3. **Case conference.** If both parents are located, they are invited to participate in a case conference, when appropriate; these conferences may be repeated as necessary, depending on the needs of the case. A case conference is intended to identify obstacles to regular payment and begin a conversation about potential solutions with all parties in direct communication, building on knowledge already gained during case assessment and outreach. Case conferences may be held in person, or with one or both parents on the phone or on a video call. Alternatively, if one or both parents are not amenable to participating in a joint conference or if scheduling proves difficult, the caseworker may conduct a "shuttle" case conference, in which the caseworker facilitates negotiations by going back and forth between parents.
4. **Case management and services.** Based on information gathered through the case assessment and engagement with the parents, the caseworker works with the parents to develop a case action plan. The case action plan includes agreed-upon next steps to address barriers and determine a path to reliable payment. Next steps could include tailored services such as parenting time agreements, modifications of child support orders to better fit current economic circumstances, compromise on child support debt, and referrals to partners that provide employment training or parenting support services. The case management and services phase of the PJAC model focuses on delivering the services agreed to in the case action plan and monitoring the noncustodial parent's progress toward the goal of making regular child support payments. Case action plans may be adjusted over time as necessary.

Box 1 describes the way the process may play out in a PJAC caseworker's daily routine.

LOOKING FORWARD

The evaluation team will release evaluation findings and implementation lessons for practitioners through two sets of briefs. The first set, the study briefs described below, will focus on results from the evaluation:

- **Implementation lessons (2020).** This brief will describe the PJAC services provided at

BOX 1
What Does a PJAC Caseworker Do Each Day?

Many child support caseworkers now dedicated to the PJAC demonstration previously worked as enforcement officers, handling large caseloads, tracking automated enforcement actions, responding to system alerts, and reacting to complaints from parents. PJAC has meant a change to more proactive and comprehensive case management. One PJAC caseworker shared her approach to structuring her workdays, providing an example of how the PJAC model is implemented in practice:

Lucy begins each day by checking for new alerts and responding to voicemail messages from custodial or noncustodial parents. To optimize time, Lucy then alternates days spent completing case assessments and days conducting outreach to parents. On a Monday, for example, she might spend the bulk of her time working on assessments for new cases, reviewing the history of the noncustodial parents' interactions with the child support program and assessing their strengths or challenges in terms of potential for making regular payments. Then on Tuesday, she will spend much of the day making phone calls or sending messages to both noncustodial and custodial parents about their cases — for example, sending text reminders to make payments. For most of her case conferences, Lucy must communicate between parties by phone in shuttle fashion, rather than through a joint conversation. As the parents and caseworker reach agreement, Lucy types up the case action plan outlining the terms of the agreement and mails it to both parents.

Some activities occur on an as-needed basis. For example, on some days Lucy goes to the courthouse to attend contempt hearings for noncustodial parents who were nonresponsive to PJAC services and therefore referred back to the standard contempt process. Lucy also reviews her entire caseload every one or two weeks to check for new information and confirm that payments are still being made. If Lucy's review uncovers any new issues, she will call the parents to revisit the case action plan and address whatever problems have arisen.

Compared with her previous work as an enforcement officer, Lucy finds that PJAC allows her more time to devote to each noncustodial parent and to provide additional resources. For example, though she was able to refer parents to resources in the community in her former role, she now knows of more supportive-service partners where she can regularly send referrals. Much of her time as a regular enforcement caseworker was spent addressing crises, usually in response to calls from custodial parents, rather than listening to both parents and seeking solutions.

each site and how they were implemented. To accomplish this, the evaluation team will conduct interviews with child support staff members and study participants (both custodial and noncustodial parents), conduct a staff survey, and observe program activities. Data from the PJAC MIS will also provide detailed information regarding the services parents receive. This information will provide important context for understanding any effects of PJAC services found in the impact analysis.

- **Service contrast (2021).** Another study brief will explore the differences between the PJAC services (the program group experience) and the business-as-usual child support enforcement contempt practices (the control group experience). This assessment of service contrast will rely on both the implementation data sources described above and child sup-

port administrative data regarding delivery of child support services and enforcement actions among both program and control group members.

- **Impact analysis (2022).** This brief will describe the impact of the PJAC model on key outcomes, including child support payments and debt and judicial system involvement. Outcomes will be measured using child support administrative data and, in some instances, jail records.
- **Benefit-cost analysis (2022).** This brief will define the monetary cost of the PJAC interventions relative to the cost of usual child support enforcement contempt practices. The analysis will compare the staffing and service costs of the PJAC model for those in the program group with the costs of the standard contempt process for those in the control group. A variety of data sources will contribute to the calculations. Some sources, such as child support agency expenditure reports, will show costs incurred. Others will describe staff effort and activities: For example, a time use study will show the proportion of enforcement caseworker time spent on different activities. Costs will then be weighed against any monetary benefits generated by PJAC services, which may include reduced court and contempt processing costs and increased child support payments.

A second set of briefs, the project briefs, will be released two times per year through 2022. These shorter briefs will share lessons learned in practice about service delivery and will aim to guide child support professionals who are interested in learning more about specific elements of PJAC services. Topics will include the following, with additional briefs to be determined over the course of the project:

- PJAC staff training
- Engagement and outreach strategies
- Characteristics of noncustodial parents
- Engagement with custodial parents
- The case conference process
- Profiles of families

CONCLUSION

The PJAC demonstration provides an opportunity to build rigorous evidence about an innovative approach to engaging with parents who are noncompliant with their child support obligations and who may also have avoided engagement with the child support program and possibly with their children. The goal of the PJAC model is to increase reliable, regular child support payments. The evaluation will provide evidence on the implementation, impacts, and cost-effectiveness of the PJAC model that may guide child support policy in years to come. ◀

REFERENCES

Berman, Greg, and Emily Gold. 2012. "Procedural Justice from the Bench: How Judges Can Improve the Effectiveness of Criminal Courts." *Judges' Journal* 51, 2: 20-22.

Gold, Emily, in collaboration with Melissa Bradley. 2013. "The Case for Procedural Justice: Fairness as a Crime Prevention Tool." *Community Policing Dispatch* 6, 5 (September). Website: https://cops.usdoj.gov/html/dispatch/.

Grall, Timothy. 2018. *Custodial Mothers and Fathers and Their Child Support: 2015*. Current Population Report P60-262. Washington, DC: U.S. Census Bureau.

Grants.gov. 2016. "HHS-2016-ACF-OCSE-FD-1172, Procedural Justice Informed Alternatives to Contempt (PJAC), Department of Health and Human Services, Administration for Children and Families - OCSE." Website: www.grants.gov/web/grants/view-opportunity.html?oppId=283283.

Office of Child Support Enforcement. 2018. "About the Office of Child Support Enforcement." Website: www.acf.hhs.gov/css/about.

Swaner, Rachel, Cassandra Ramdath, Andrew Martinez, Josephine Hahn, and Sienna Walker. 2018. *What Do Defendants Really Think? Procedural Justice and Legitimacy in the Criminal Justice System*. New York: Center for Court Innovation.

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PJAC
PROCEDURAL JUSTICE-INFORMED ALTERNATIVES TO CONTEMPT

PROJECT BRIEF
JULY 2019

Incorporating Strategies Informed by Procedural Justice into Child Support Services:

TRAINING APPROACHES APPLIED IN THE PROCEDURAL JUSTICE-INFORMED ALTERNATIVES TO CONTEMPT (PJAC) DEMONSTRATION

Zaina Rodney

OVERVIEW

The Procedural Justice-Informed Alternatives to Contempt (PJAC) demonstration project integrates procedural justice principles into child support enforcement business practices in six child support agencies across the United States. Procedural justice is the idea of fairness in processes that resolve disputes and result in decisions. Research has shown that if people perceive a process to be fair, they will be more likely to comply with the outcome of that process whether or not the outcome was favorable to them.[1]

PJAC's target population is noncustodial parents who are not compliant with their child support obligations, but who have been determined to be able to pay their child support. The goal of PJAC is to improve consistent payment among noncustodial parents who are at the point of being referred to the legal system for civil contempt of court for failure to comply with their child support orders. PJAC aims to accomplish its goal by addressing parents' barriers to providing reliable payments and by promoting positive engagement with the child support program and the other parent.

This demonstration was developed by the federal Office of Child Support Enforcement (OCSE), which is within the Administration for Children and Families in the Department of Health and Human Services. MDRC is leading a random assignment study of the model's effectiveness in collaboration with research partners at MEF Associates and the Center for Court Innovation. Oversight of the evaluation is provided by the Georgia Division of Child Support Services. For an overview of the PJAC demonstration, see *A New Response to Child Support Noncompliance: Introducing the Procedural Justice-Informed Alternatives to Contempt Project*.[2]

This brief is the first in a series developed primarily for child support practitioners and administrators that shares lessons from the PJAC model's implementation. It describes the specialized training provided to child support staff members at the six participating agencies.

INTRODUCTION

During PJAC's initial planning year, participating child support agencies selected staff members to serve as case managers. The majority of these new PJAC case managers previously held positions as child support enforcement workers in their agencies, though some were newly hired for the project. Most did not have formal training in the strategies that are central to providing PJAC services, and thus

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[1] Swaner et al. (2018).

[2] Mage, Baird, and Miller (2019).

required instruction in a range of topics. It was also important to train leaders at each agency in these strategies, so that they could better support case managers in their work. Training began in early 2017, before case managers began their work with PJAC enrollees, and will continue for the duration of the project. This brief addresses the question, "What training was provided to child support case managers as they set out to incorporate strategies informed by procedural justice into their work with parents?"

CONTENT AREAS

OCSE provided the same training to PJAC case managers at all six agencies to impart a consistent education in the principles underlying PJAC activities. This standard training focused on four content areas: procedural justice concepts and applications, responses to domestic violence, dispute resolution, and trauma-informed practices. These four areas were selected because they represent challenges common in child support enforcement; the idea was that case managers would learn to address them using principles of procedural justice, enhancing their ability to deliver the PJAC model. Some agencies have conducted complementary training to reinforce the standard training content or to increase case managers' capabilities in additional areas such as customer service, financial management, and countering implicit bias (that is, unconscious attitudes toward groups of people).

Procedural Justice Concepts and Applications

Training in procedural justice concepts provides PJAC case managers with a framework to guide their interactions with parents. The training centers on the five central elements of procedural justice and identifies concrete applications of these elements in the PJAC service model. As applied to the child support context, the elements are:

- **Respect:** Parents should believe they were treated with dignity and respect and their concerns were taken seriously.
- **Understanding:** Parents should understand the child support processes and have their questions answered.
- **Voice:** Parents should have a chance to be heard by sharing their side of the story and expressing their concerns.
- **Neutrality:** Parents should perceive the decision-making process to be impartial.
- **Helpfulness:** Parents should feel that the child support agency was helpful and interested in addressing their situations.

The training focuses on overcoming the challenges to delivering services that are informed by procedural justice to all customers and reworking aspects of child support practices to orient them more toward procedural justice. For example, in one training activity, case managers practiced customizing their outreach to parents by reviewing excerpts of case histories and identifying parents' previous concerns. The case managers then role-played ways to address those concerns in their initial interactions with the parents. This activity highlights ways to apply the procedural justice elements of respect and voice. By offering to address parents' concerns, case managers demonstrate that they take the concerns seriously and are listening to them. Training and role-playing prepare PJAC case managers to use procedural justice principles in all their interactions with parents.

Responses to Domestic Violence

Domestic-violence-response training gives case managers an understanding of how family-violence dynamics can manifest in child support or court settings. The training digs deep into best practices for working with survivors and abusers. It teaches case managers to create a safe environment where parents may feel comfortable disclosing their concerns. Case managers learn how to navigate domestic-violence dynamics to negotiate between parents safely.

In one intense activity, case managers listened to an actual 911 call reporting domestic violence and were asked to take on the viewpoint of the abusive parent, the other parent, or either of their two children, and to identify possible short- and long-term effects on that person. Case managers were then asked to con-

sider techniques they could use to engage parents in these circumstances. One strategy was to begin conversations with abusive parents by discussing their relationships with their children, to focus them on their positive feelings as parents before discussing child support payments. In the PJAC demonstration, domestic-violence-response training is meant to strengthen case managers' ability to address child support compliance while minimizing the risks of further harm.

> *I was not aware of the numerous challenges faced by survivors of domestic violence, especially those presented by the child support system. The [domestic violence training] changes the way I think about processes, cases, and how we interact with clients.*
>
> *– Staff member in Virginia*

Dispute Resolution

Dispute-resolution training prepares case managers to communicate effectively and use negotiation skills to address the concerns of both parents. Case managers learn strategies to listen actively to both parents, to identify the issues underlying emotional or negative statements, and to help parents resolve disputes. In one activity, case managers practiced opening up communication between parents by reframing a negative statement such as "She's a fraud and is trying to trick me again" into a neutral statement such as "It sounds as if you are concerned about being treated fairly." In the PJAC service model, these skills and concepts are applied throughout interactions with parents, particularly during case conferences, in which case managers often meet with both parents and negotiate action plans for bringing cases back into compliance.

Trauma-Informed Practices

The training in trauma-informed practices identifies how past or present trauma might inhibit parents' overall ability to manage their daily lives, specifically as it pertains to their capacity to participate in the child support process. The training defines trauma, identifies its possible manifestations in parents, and encourages case managers to show compassion for behavior that could be perceived as resistant. In one discussion, case managers named possible manifestations of trauma such as being overwhelmed, being unable to plan ahead, or having strong reactions to seemingly minor irritants. Case managers using trauma-informed practices acknowledge how trauma may affect parents' ability to absorb and process information. For example, when communicating with parents, case managers can apply strategies to explain child support procedures clearly and verify that parents understand the processes and decisions related to their cases, which in turn may empower parents to voice their concerns and questions.

> *Thanks to the trauma-informed care training, I now understand that when a client does not follow through on a promise they made or is nonresponsive, it is often not a deliberate act to avoid me or our agency. I seem to have more patience now that I know it can take many attempts to reach someone and to instill trust in our program.*
>
> *– Staff member in Franklin County, Ohio*

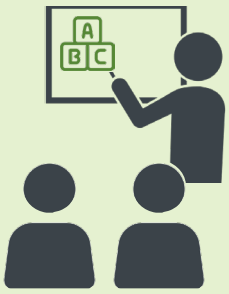
TRAINING APPROACHES

Training in the four content areas was delivered in various formats, as presented in Figure 1. Both case managers and PJAC leaders learned important skills from the foundational training, which was complemented by learning-community calls (cross-agency webinars) and in-depth case analyses. All of these approaches feature a combination of presentations, discussions, and practice activities. Training sessions are designed to encourage active learning, provide opportunities for comments and suggestions, and reinforce previously learned concepts and skills.

CONCLUSION

Case managers receive continuing training and support as they employ strategies informed by procedural justice throughout their work on the PJAC project. The follow-up training provides an important opportunity for staff members to assess their use of procedural justice strategies and to adapt their approaches as they encounter new situations, gain experience, and learn what is most effective in their work with parents.

Figure 1: Training Approaches



IN-PERSON FOUNDATIONAL TRAINING

Build skills for case management

- In-person session (at each agency or across agencies at the annual grantee meeting) with staff members and subject-matter experts
- Activities:
  - Create shared understanding of PJAC terms
  - Put principles into a child support context
  - Think through implementation barriers
  - Role-play to practice skills and consider the parent's perspective

LEARNING-COMMUNITY WEBINARS

Share knowledge, materials, and practices across agencies

- Monthly cross-agency webinar with staff members and OCSE, occasionally with subject-matter experts
- Activities:
  - Expert presentation on new strategies
  - Agency presentation on PJAC activities or implementation challenges
  - Discussion about adapting strategies presented by experts or responding to implementation challenges

CASE-ANALYSIS CALLS

Tailor strategies to make progress with challenging cases

- Monthly calls with OCSE and PJAC staff members and supervisors from agencies
- Activities:
  - Walk through and analyze case managers' cases
  - Identify areas for improvement
  - Brainstorm solutions

REFERENCES

Mage, Caroline, Peter Baird, and Cynthia Miller. 2019. *A New Response to Child Support Noncompliance: Introducing the Procedural Justice-Informed Alternatives to Contempt Project.* New York: MDRC.

Swaner, Rachel, Cassandra Ramdath, Andrew Martinez, Josephine Hahn, and Sienna Walker. 2018. *What Do Defendants Really Think? Procedural Justice and Legitimacy in the Criminal Justice System.* New York: Center for Court Innovation.

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Administration for Children and Families

Office of Child Support Enforcement

Procedural Justice Informed Alternatives to Contempt (PJAC)
HHS-2016-ACF-OCSE-FD-1172
Application Due Date: 07/08/2016

Procedural Justice Informed Alternatives to Contempt (PJAC)

HHS-2016-ACF-OCSE-FD-1172

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Department of Health & Human Services
Administration for Children and Families

Program Office:	Office of Child Support Enforcement
Funding Opportunity Title:	Procedural Justice Informed Alternatives to Contempt (PJAC)
Announcement Type:	Modification
Funding Opportunity Number:	HHS-2016-ACF-OCSE-FD-1172
Primary CFDA Number:	93.564
Due Date for Applications:	**07/08/2016**

Executive Summary

Notices:

- **Applicants are strongly encouraged to read the entire funding opportunity announcement (FOA) carefully and observe the application formatting requirements listed in *Section IV.2. Content and Form of Application Submission*. For more information on applying for grants, please visit "How to Apply for a Grant" on the ACF Grants Page at** http://www.acf.hhs.gov/grants/howto.

This funding opportunity announcement has been modified. *Section I.Program Description* and *Section IV.2.The Project Description* have been updated to provide details for applicants who may be implementing random assignment in another child support-led demonstration project.

The Administration for Children and Families (ACF), Office of Child Support Enforcement (OCSE) invites eligible applicants to submit competitive grant applications to develop and implement programs that offer an alternative to contempt by incorporating procedural justice principles into child support business practices as part of a national demonstration framework. The national demonstration, titled Procedural Justice Informed Alternatives to Contempt (PJAC), will consist of the following core components: 1) initial screening; 2) outreach/engagement; 3) case conferencing, assessment, and action planning; 4) enhanced investigation; 5) enhanced child support services; 6) other support services; and 7) case management. Each of these components will incorporate procedural justice principles into their design.

The grant project period will be 5 years. The first year will be a planning year devoted to start-up and development of the program design and pilot testing. Enrollment into the project will last for a 3 year period, and the final year will focus on evaluation and close-out of the project, as well as continued services to those already enrolled, and sustainability work.

Section 1115 grant funds awarded to each project will be treated as state or tribal expenditures

under title IV-D that, for purposes of the demonstration project, will be reimbursed by the regular title IV-D federal financial participation (FFP) match. The total approved cost of the project is the sum of the ACF grant award under Section 1115 and regular FFP. Grantees do not need to provide matching funds. Continuation awards will be offered each year of the project. For additional information see*Section II. Federal Award Information*.

Grantees will not conduct their own evaluations, but must support and fully participate in an OCSE-funded cross-site evaluation. Random assignment of potential participants into treatment and control groups will be required. The evaluation of these grants will be funded through an OCSE cooperative agreement under a companion funding opportunity announcement (FOA) for evaluation of and technical assistance to these projects. Applicants for this grant may also submit an application under the companion FOA, but it is not a requirement for application or selection under this announcement. A successful applicant under this FOA may also be selected as a successful applicant under the companion FOA but one award is not dependent on the other. The recipient under the evaluation FOA will not conduct evaluation activities but will be required to select a third-party organization to conduct the evaluation.

I. Program Description

Statutory Authority

Section 1115 of the Social Security Act (42 U.S.C. 1315) authorizes funds for experimental, pilot, or demonstration projects that are likely to assist in promoting the objectives of Part D of title IV. Section 1115 provides that "the project-- a) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program; b) may not permit modification in the child support program which would have the effect of disadvantaging children in need of support; and c) must not result in increased cost to the Federal Government under part A of such title.This section authorizes funding recipients to draw Federal Financial Participation (FFP) on the grant award amount according to the federal cost share formula.

In 2014, Section 302(b) of Public Law 113-183 amended section 1115(b) of the Social Security Act (42 U.S.C. § 1315(b)) to expand the eligibility for OCSE research and demonstration grants to include Tribal IV-D programs. Amended section 1115(b) provides that:

"(2) An Indian tribe or tribal organization operating a program under section 655(f) of this title shall be considered a state for purposes of authority to conduct an experimental, pilot, or demonstration project under subsection (a) to assist in promoting the objectives of part D of subchapter IV of this chapter and receiving payments under the second sentence of that subsection. The Secretary may waive compliance with any requirements of section 655(f) of this title or regulations promulgated under that section to the extent and for the period the Secretary finds necessary for an Indian tribe or tribal organization to carry out such project. Costs of the project which would not otherwise be included as expenditures of a program operating under section 655(f) of this title and which are not included as part of the costs of projects under section 1310 of this title, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under a tribal plan or plans approved under such

section, or for the administration of such tribal plan or plans, as may be appropriate. An Indian tribe or tribal organization applying for or receiving start-up program development funding pursuant to section 309.16 of Title 45, Code of Federal Regulations, shall not be considered to be an Indian tribe or tribal organization operating a program under section 655(f) of this title for purposes of this paragraph."

Description

A. Background

The Title IV-D Program, Use of Contempt, and Opportunities for Procedural Justice: Every child support program has a portion of the caseload that is noncompliant with child support orders. Child support and other social responsibility programs, like child welfare, seek strategies to engage parents and encourage parental compliance and responsibility. Key to compliance with child support orders is the parent's (1) ability to pay the amount ordered, and (2) willingness to pay consistently.

One strategy that some jurisdictions use in response to noncompliance is civil contempt proceedings, including the threat of incarceration, to enforce child support (Gardiner, 2002). Although standard contempt practices sometimes result in one-time "purge" payments to avoid jail, there is no evidence that these practices result in future compliance with the support order through ongoing support payments that families can count on to make ends meet. In fact, incarceration and the threat of incarceration can be counterproductive when the noncustodial parent is indigent (Solomon-Fears, Berry, & Smith, 2012), resulting in the accumulation of additional child support debt and reduced employment (Thoennes, 2002). See Incarceration as Last Resort Penalty. Incarceration has the potential to reduce future earnings, erode a child's relationship with his or her parent, and negatively impact family and community stability (The Pew Charitable Trusts, 2010). Even the threat of incarceration can have unintended consequences, by dissuading parents who owe child support from contact with the child support system and driving them into the underground economy (Meyer & Bartfeld, 2003). In addition, contempt procedures are more expensive than other enforcement remedies (Coffin, 2014).

Most unpaid child support arrears are owed by parents with reported incomes below $10,000 per year (Sorensen, Sousa, & Schafer, 2007). In *Turner v. Rogers*, 564 U.S. ___, 131 S. Ct. 2507 (2011) the U.S. Supreme Court found that holding a parent who owes child support in contempt and ordering him to be incarcerated without finding that he has the ability to pay his arrearage deprives him of his liberty without due process of law. The Court stated that "the critical question likely at issue in these cases concerns, as we have said, the defendant's ability to pay."

Recognizing these realities, some child support programs have developed innovative strategies to increase compliance and reduce the build-up of unpaid arrears by working proactively with both parents and addressing the underlying impediments to payment. Some states have redirected their resources away from civil contempt to practices that encourage voluntary compliance with child support orders, such as enhanced investigation, case conferencing, setting income-based orders, early intervention, timely modification,

employment services, and other more cost-effective approaches For example, following the *Turner* decision, one state reduced its use of civil contempt procedures by almost two-thirds, bringing 2,783 actions in 2013 compared to 7, 796 actions in 2010. During that same time period, collections increased by 14 percent, with collections of nearly $120 million in 2013 compared to $105 million in 2010 (Lowry & Potts, 2010). See Illinois Update on Using Civil Contempt to Collect Child Support.

OCSE Information Memorandum 12-01, (IM-12-01) issued in June 2012, offers detailed information on promising and evidence-based practices to help state IV-D programs increase reliable child support payments, improve access to justice for parents without attorneys, and reduce the need for jail time. Research suggests that the practices highlighted in IM-12-01 can improve compliance with child support orders, increasing both the amount of child support collected and the consistency of payment. These practices include setting accurate orders based upon the noncustodial parent's actual income, improving review and adjustment processes, developing debt management programs, incorporating employment services into the child support program, and encouraging mediation and case conferencing to resolve issues that interfere with consistent child support payments. OCSE intends for the PJAC demonstration to add to the evidence base of innovations in child support business practices that jurisdictions can use to increase reliable child support and reduce the use of costly contempt proceedings and jail time for noncompliant obligors.

This demonstration program is not intended to prohibit the *appropriate* use of contempt when there is evidence of a parent's ability to pay and willful failure to do so. The issue is not the use of contempt procedures *per se*, but the routine use of contempt actions to gather information from the parents or to leverage the collection of one-time purge payments that do not generally lead to future compliance and regular payments. The routine use of contempt hearings can lead to less employment, more participation in the underground economy, and child support noncompliance. When combined with jail time, it can erode parental earnings capacity. Contempt hearings and the threat of jail in low-income communities can contribute to parental distrust, disengagement, and noncooperation with the child support program (Cook, 2015). See Child Support Enforcement Use of Contempt and Criminal Nonsupport Charges in Wisconsin. As noted by the Supreme Court in *Turner,* "the routine use of contempt for nonpayment of child support is likely to be an ineffective strategy" over the long term.

While some jurisdictions routinely use show cause or contempt proceedings to elicit information relevant to child support compliance from the noncustodial parent without jail as a typical outcome, it is unlikely that filing contempt proceedings are the most cost-effective means to obtain information. For example, in lieu of a court summons and court appearance, one state implemented an "appear and disclose" process, a form of case conferencing that compels parents to come into the office and talk to a trained investigator in a less formal and adversarial setting. Other states have redirected their enforcement resources away from civil contempt to evidence-based practices that encourage voluntary compliance with child support orders, such as setting realistic orders, early intervention, modification, employment services, and other programs when the noncustodial parent falls behind (Office of Child Support Enforcement, 2012). See Establishing Realistic Child Support Orders: Engaging Noncustodial Parents.

What is Procedural Justice? Procedural justice is sometimes referred to as "procedural fairness". Very simply, it is "the idea that how individuals regard the justice system is tied more to the perceived fairness of the *process* and how they were treated rather than to the perceived fairness of the *outcome*" (Bradley, 2013). See The Case for Procedural Justice: Fairness as a Crime Prevention Tool. Dozens of studies conducted in criminal and civil legal proceedings, including family law, show that when individuals believe the process and outcome are fair, they are more likely to accept decisions made by courts and other public authorities and are more willing to comply in the future (Tyler, Procedural Justice and the Courts, 2007). See Procedural Justice and the Courts.

Focusing on procedural justice strategies in the child support program may result in parents paying child support reliably if he or she feels that the outcome is arrived at fairly. And reliable payments can lead to other favorable outcomes for the parent, including reduction in potential arrears, avoidance of contempt proceedings, and improved relationships with the custodial parent and their child.

Research suggests that procedural justice is "effective in both creating positive dynamics within families and in facilitating long-term adherence to agreements" (Tyler, Procedural Justice and the Courts, 2007). Perhaps most interesting to the child support program is the finding that trust and confidence in legal authorities increases when people experienced procedural justice, despite receiving less than desired outcomes (Tyler & Fagan, Legitimacy And Cooperation: Why Do People Help the Police Fight Crime in Their Communities?, 2008).

The literature identifies five key elements of procedural justice:

(1) Voice and Participation – the litigants' perception that they have had the opportunity to tell their side of the story and that the decision-maker has taken the story into account in making the decision;

(2) Neutrality of the Process – the litigants' perception that the decision-making process is unbiased and trustworthy;

(3) Respect –the litigants' perception that system players treat the litigants with dignity;

(4) Understanding – the litigants' perception that they understand the process and how decisions are made;

(5) Helpfulness – the litigants' perception that the system players are interested in their personal situation to the extent the law allows (Jensen & Gold LaGrada, 2015). See Measuring Perceptions of Fairness: An Evaluation Toolkit.

The elements of procedural justice identified in the literature are based upon research demonstrating that the manner in which disputes are handled by the courts has an important influence on a person's impression of their experiences in the court system (Lind, 1988). Incorporating procedural justice elements into the deliberative process can increase the litigants' perspective that the legal process is just and fair, no matter the outcome. Additionally, incorporating procedural justice elements into business practices can result in increased future compliance with program rules or decisions (Tyler, Procedural Justice and the Courts, 2007).

How is procedural justice different than due process? The two concepts are very closely related. The concept of due process of law includes the procedural requirements, such as

notice and opportunity to be heard, that the government must provide before depriving an individual of their property or liberty. Due process is guaranteed by the Fifth Amendment to the U.S. Constitution, which provides "No person shall…be deprived of life, liberty, or property, without due process of law," and applies to all states under the 14th Amendment.

Procedural justice builds on due process. It's not only concerned with respecting and meeting a person's legal rights, but also with *how* those rights are met and an individual's *perception* of the process. Incorporating procedural fairness principles is particularly important when litigants are self-represented and are unable to afford an attorney.

Evidence Base for Procedural Justice: Research on the positive impacts of procedural justice is supported by a number of laboratory and field studies of trials and other legal procedures (Lind, 1988). As Tyler notes, "At this point the influence of procedural justice is widely supported by both experimental and field research" (Tyler, Procedural Justice and the Courts, 2007).

Because perceived fairness is based on the information, experiences and perceptions of the participant, the field of procedural justice has some similarity to behavioral economics research and practice. For example, providing clear, simple information in an accessible and nonthreatening way and simplifying the process has been shown to increase response rates (Richburg-Hayes, et al., 2014). See Behavioral Economics and Social Policy: Designing Innovative Solutions for Programs Supported by the Administration for Children and Families. Similarly, attention to physical space, staff interactions and other environmental factors can increase engagement and compliance (Center for Court Innovation, 2011). See Procedural Fairness in California.

Child support agencies are just beginning to examine the potential impact procedural justice innovations can have on parental engagement with the child support program, accurate order setting, payment reliability, enforcement options, contempt proceedings, and even the relationship between the noncustodial parent, custodial parent, and children. Existing research suggests that the integration of procedural justice practices into child support business processes is likely to increase the reliability of child support payments, as well as increase parents' confidence and trust in the child support program. Parents who are unable to make their child support payments, or who have accrued high arrears, do not generally have favorable opinions of the child support program. In particular, procedural justice practices may help improve the perception of the child support program in low-income communities of color, where distrust of the child support program is high. We expect there to be a positive relationship between reliable payment of child support and the use of procedural justice practices, although the impact of procedural justice interventions on child support payment rates and reducing the number of civil contempt cases has not yet been rigorously tested.

Incorporating procedural justice strategies into child support case practice might mean that a parent who is ordered to pay child support may be more likely to pay regularly if he or she feels that the outcome is arrived at fairly. In turn, regular payment can lead to other favorable outcomes for families including improved co-parenting relationships and greater economic self-sufficiency.

Works Cited

Bradley, E. G. (2013, September). *The Case for Procedural Justice: Fairness as a Crime*

Prevention Tool. Retrieved from Community Policing Dispatch: http://cops.usdoj.gov/html/dispatch/09-2013/fairness_as_a_crime_prevention_tool.asp

Center for Court Innovation. (2011). *Procedural Fairness in California: Initiatives, Challenges, and Recommendations.* San Francisco: Judicial Council of California/Administrative Office of the Courts.

Coffin, A. (2014). Florida's Data Analytics: Compliance of Support Orders. *Presentation to the OCSE Strategic Planning Workgroup on Measuring Child Support Performance*.

Cook, S. (2015). *Child Support Enforcement Use of Contempt and Criminal Nonsupport Charges in Wisconsin.* Madison, WI: University of Wisconsin, Institute for Research on Poverty.

Gardiner, K. (2002). *Administrative and Judicial Processes for Establishing Child Support Orders*. Lewin Group.

Jensen, E., & Gold LaGrada, E. (2015). *Measuring Perceptions of Fairness: An Evaluation Toolkit.* Center for Court Innovation.

Lind, E. A. (1988). *The Social Psychology of Procedural Justice.* New York: Springer Science and Business Media.

Lowry, P., & Potts, D. (2010). *Illinois Update on Using Civil Contempt to Collect Child Support.* Chicago, IL: American Bar Association.

Meyer, D., & Bartfeld, J. (2003). Child Support Compliance among Discretionary and Nondiscretionary Obligors. *Social Science Review 77(3)*, 347-372.

Office of Child Support Enforcement. (2012, June 20). *Office of Child Support Enforcement Fact Sheets.* Retrieved from Establishing Realistic Child Support Orders: Engaging Noncustodial Parents Fact Sheet: http://www.acf.hhs.gov/programs/css/resource/establishing-realistic-child-support-orders

Richburg-Hayes, L., Anzelone, C., Dechausay, N., Datta, S., Fiorillo, A., Potok, L., et al. (2014). *Behavioral Economics and Social Policy: Designing Innovative Solutions for Programs Supported by the Administration for Children and Families.* Washington, DC: MDRC.

Solomon-Fears, C., Berry, C., & Smith, A. M. (2012). *Child Support Enforcement: Incarceration As the Last Resort for Nonpayment of Support.* Washington, DC: Congressional Research Service.

Sorensen, E., Sousa, L., & Schafer, S. (2007). *Assessing Child Support Arrears in Nine Large States and the Nation.* Washington, DC: Urban Institute.

The Pew Charitable Trusts. (2010). *Collateral Costs: Incarceration's Effect on Economic Mobility,*. The Pew Charitable Trusts.

Thoennes, N. (2002). *Child Support Profile: Massachusetts Incarcerated and Paroled Parents.* Denver, CO: Center for Policy Research.

Tyler, T. R. (2007). Procedural Justice and the Courts. *Court Review: The Journal of the American Judges Association, Volume 44, Issue 1/2*.

Tyler, T. R., & Fagan, J. (2008). Legitimacy And Cooperation: Why Do People Help the Police Fight Crime in Their Communities? *Ohio State Journal of Criminal Law 231-275*, 6.

B. Purpose and Goals

The overall goal of the PJAC demonstration is to increase reliable child support by offering an alternative to contempt that is guided by procedural justice principles. These grants will test the efficacy of an alternative to contempt that helps increase child support compliance and reliable payments by emphasizing procedural justice principles in the following business practices: (1) gathering information through screening, outreach, and case conferencing; and (2) taking the right action at the right time, which includes applying the right child support tool as well as using other appropriate support services if needed.

The evaluation of the PJAC demonstration will result in information on how to design an alternative to contempt that is based on procedural justice principles that can be incorporated into regular child support business operations. It can produce evidence on whether or not these practices improve reliable child support payments, impact other program outcomes, and are more cost effective than traditional contempt practices. PJAC also seeks to increase parent's trust and confidence in the child support process, reduce arrears, minimize the need for continued enforcement actions/sanctions by increasing voluntary compliance, and reduce the inappropriate use of contempt.

C. Program Design

PJAC will incorporate comprehensive procedural justice components into child support business practices as a means of increasing reliable support payments and reducing the need for contempt in addressing noncompliance. OCSE anticipates that grantees will implement the program model and elements described in this funding announcement. OCSE will work with grantees during the first planning year to further refine the proposed model.

PJAC grantees will be part of a national demonstration and peer learning framework that will include a cross-site random assignment evaluation to assess the impact of these programs in order to inform their successful replication nationwide. A cooperative agreement for evaluation of the demonstration program will be awarded under companion FOA, HHS-2016-ACF-OCSE-FD-1171.

The evaluation will be conducted by an independent evaluator; grantees must implement a random assignment model with guidance from the evaluator and actively contribute to all aspects of participant and programmatic data collection. Additionally, the evaluation will include an implementation study component (e.g., documenting the characteristics of the demonstration programs, participants, and management structures and practices; experiences of staff and participants; and challenges and lessons learned), and a benefit-cost analysis. The evaluator will provide evaluation-related guidance and assistance to the demonstration grantees (e.g., guidance regarding random assignment; review of case processes and services for the control and treatment groups to ensure that they remain substantially different; etc.).

Grantees must collect and report any data (participant or program) required to support the evaluation. This will ensure that other child support agencies will benefit by learning how to design and implement the program model as an alternative to contempt and how to incorporate procedural justice components into child support operations. Grantees do not need

to conduct their own program evaluation and may not use grant funds to pay for a separate evaluation. However, grant funds may be used to support compilation and analyses of program performance data for purposes of effective management and oversight of program operations.

Random assignment is expected to occur in the PJAC demonstration between October 1, 2017 to September 30, 2020. Applicants must ensure that the child support office(s) in the location(s) being proposed to implement this grant project will not be implementing random assignment in another child support-led demonstration during this time period. If a state child support agency is already involved in another child support-led demonstration that will be conducting random assignment between October 1, 2017 and September 30, 2020, it should only apply for this grant in areas of the state that are not involved in that ongoing demonstration. For the purposes of this FOA, OCSE considers all OCSE grants and waivers to be child support-led demonstrations. Additionally, any other demonstration led by the state, tribal, or local child support office without OCSE involvement are also considered to be child-support led demonstrations.

Target Population: The PJAC demonstration shall be focused on parents who owe child support arrears and would normally be scheduled for a contempt action. For the demonstration target population, the grantee should have exhausted readily available enforcement remedies typically applied in that jurisdiction to noncompliant cases prior to filing a contempt action. If the grantee does not currently routinely use contempt actions as part of its business model, the target population is noncompliant parents who have been subjected to all available administrative enforcement remedies and continue to be noncompliant.

Enrollment: Grantees must have the capacity to identify at least 3,000 noncustodial parents who meet the target population criteria within the three-year enrollment period. This may be across multiple locations within a state or jurisdiction. Grantees must assign 1500 noncustodial parents to receive grant program services, and assign an equal number of noncustodial parents to a control group that will be subject to child support enforcement processes normally implemented by the IV-D program. Noncustodial parents will be randomly assigned according to procedures developed by the national evaluator in consultation with grantees.

Timeline: Over the 5-year grant project period, it is expected that the first year will be devoted to start-up and development of the program design and pilot testing; the second, third, and fourth years will provide program enrollment and services; and the final year will be devoted primarily to continued services for those already enrolled, grant close-out, and sustainability planning. New enrollees may be served in the final year, but they may not be included in all aspects of the evaluation.

Services: The PJAC demonstration will be led by the child support program. Each grantee will incorporate procedural justice components into child support business practices as a means of increasing reliable support payments and reducing the use of contempt in addressing noncompliance. Grantees are expected to incorporate procedural justice practices into all aspects of their demonstration project. All authorities within the child support system that will be part of the demonstration project must consistently demonstrate commitment to ensuring that parents are treated fairly, respectfully, and compassionately.

Grantees must implement the core program model described in this funding announcement and work with OCSE and the evaluation team to refine program models to facilitate cross-site evaluation and replicability. Service models may vary along dimensions such as partners involved, methods for conducting outreach, and optional services provided.

The core components of the demonstration project will be:

1) **Initial screening**: In order for a parent to be eligible for the demonstration project, the IV-D agency must have exhausted the readily available enforcement remedies typically applied in that jurisdiction to a noncompliant parent prior to filing a contempt action. The IV-D agency should be ready to consider contempt or whatever next step that jurisdiction would take. At this point, parents who meet this criterion will be randomly assigned into treatment and control groups. Random assignment will take place prior to pre-contempt screening for ability to pay.

Parents who are randomly assigned to the control group will receive business as usual, including required screening for ability to pay before the jurisdiction files for contempt. Parents randomly assigned to the treatment group will receive program services which are designed to gather relevant case information, apply child support actions appropriate to each case, and provide support services needed to produce reliable payment of child support.

2) **Outreach/engagement**: OCSE anticipates that participants assigned to the treatment group will be challenging to contact. Grantees must develop and implement specialized outreach processes to engage parents in program services. At a minimum, grantees will be expected to establish a specialized outreach team for the purpose of contacting parents who owe support and getting them to appear at a case conference to discuss the program.

3) **Case conferencing, case assessment and action planning**: Grantees will be expected to conduct an introductory case conference with all parents who respond to the outreach efforts and appear for the case conference meeting. The introductory case conference will include an assessment of the noncustodial parent's barriers to reliable payment of support and development of a case action plan to address those barriers. The case action plan will identify which child support services and support services may be needed and determine the extent to which case management is needed.

4) **Enhanced investigation**: If the initial screening and outreach do not yield sufficient information to determine the parent's ability to pay, OCSE expects grantees to conduct an enhanced investigation before pursuing contempt. Parents selected to receive grant services may not be brought into court for contempt unless the child support program has evidence that the parent has the ability to pay the child support order. Grantees must develop a range of investigative approaches that go beyond automated searches and typical administrative reviews to gather information needed to determine the appropriate next steps for engaging the parent.

5) **Enhanced child support services for Noncustodial and Custodial Parents**: *Enhanced Child Support Services for Participants Assigned to the Treatment Group.* Enhanced child support services are a core service that must be available to all members of the treatment group. Although these services must be available, whether they are used will depend upon the circumstances of the case. The first enhanced child support service that grantees will be expected to have available is the ability to proactively conduct a child support review and

initiate a modification if appropriate. The second enhanced child support service that grantees will be expected to have available is the ability to suspend all non-mandatory enforcements actions.

All enhanced child support services implemented as part of the demonstration should focus on the ultimate goal of obtaining steady, reliable child support. Grantees may consider state-owed debt compromise programs as well as negotiation of family-owed debt. Grantees may also consider accepting partial payments or gradual income withholding on the amount due if program participants are unable to pay the full amount of their order. Accepting partial payments up front will demonstrate that the case manager and the child support program understand the noncustodial parent's inability to pay the full order. Similarly, grantees may wish to consider creating an on-ramp to maintaining employment and regular payments through gradual implementation of income withholding (This would require a waiver of 45 CFR 303.100 - Procedures for Income Withholding).

Enhanced Child Support Services for the Custodial Parent(s). OCSE expects that each grantee will contact the custodial parent(s) associated with parents in the treatment group to inform them of the noncustodial parent's involvement in the program. This contact may occur during the screening and outreach/engagement stages of the program or after the noncustodial parent has developed an action plan. In addition, OCSE expects that each grantee will develop a process for engaging the custodial parent regarding any items in the noncustodial parent's action plan that might involve the custodial parent, such as adjusting parenting time or compromising family-owed child support debt.

6) **Support services (including dispute resolution and employment services):** OCSE anticipates that employment services and dispute resolution services will be the most commonly requested services and thus is requiring that grantees include them in their grant program services. Grantees are required to include employment services and dispute resolution services as part of their program, but delivery of these services should be directly tied to the case action plans developed for each individual participant and the role these services play in leading to reliable payment of child support. Grantees may incorporate additional, optional support services (e.g., financial literacy, housing assistance, GED classes, legal services, ESL classes, substance abuse, and assistance with parenting time) that they believe will help participants overcome barriers to reliable payment of support. Although multiple partners may be involved in delivering services to program participants, grantees are expected to coordinate service delivery so that participants experience the program as an integrated package.

7) **Case management**: Ongoing assessment of participants' needs and coordinating program services through case management is critical for the success of the project. The required case management activities will assure that noncustodial parents are connected to the right mix of services to overcome barriers to compliance, fully engaged in the alternative to contempt intervention, and held accountable for meeting their child support responsibilities. Grantees are expected to fully incorporate procedural justice into all case management activities. Specialized case management is particularly important for parents with a history of incarceration or where family violence is present.

The program components are expected to assist parents who owe child support to engage with the child support program, increase their willingness to pay support through the formal

process, overcome barriers to reliable payment of child support, and promote positive engagement with the other parent.

The first three components must be offered to all noncustodial parents who are assigned to receive grant program services. The fourth component, enhanced investigation, must be included if the initial screening and outreach/engagement has produced insufficient information to determine ability to pay. The final three components must be provided based upon the circumstances of the case or the needs of the participant as identified during the case assessment and case action plan process or during ongoing case management.

Domestic Violence Plan: Safety is a top priority. Family violence safeguards must be fully addressed and additional safeguards will be required for services that involve both the noncustodial parent and custodial parent, such as dispute resolution services. The child support agency must establish ongoing partnerships with domestic violence service providers throughout the life of the grant to promote safe service delivery and provide effective referrals both to treat those who perpetrate violence as well as for those who are victims of violence. Grant funds may be used to pay for domestic violence expert consultation, staff training, development of screening and response protocols as well as direct domestic violence services affecting program participants' ability to provide reliable child support. A domestic violence plan must be developed and adhered to throughout the five-year demonstration. OCSE will provide technical assistance in the development of domestic violence plans, and will assist grantees in securing needed services using national-level resources. After award, grantees must submit a domestic violence plan to OCSE for approval at least 60 days prior to the start of service delivery to participants. **Grantees may not begin service delivery without an approved domestic violence plan.**

Partnerships: OCSE expects grantees to partner with other agencies with core competencies in providing the required employment services and domestic violence services. OCSE also expects grantees to partner with other agencies for other support services. Grantees may decide to provide the required dispute resolution services themselves or partner with an organization that has core competency in dispute resolution.

Grantees are also expected to obtain the support of the court (in jurisdictions where contempt procedures are used) and child support attorney's office (if independent from the child support agency), as evidenced, at a minimum, by a letter of support included in the grant application. Grantees may also partner with the court (e.g., a problem solving court) or child support attorney's office as long as these entities are willing to cooperate with and adhere to the implementation and evaluation of the demonstration.

Examples of other partnerships that grantees may establish to support program implementation include, but are not limited to:

- Corrections/reentry programs;
- Fatherhood and parenting programs;
- Community colleges, high schools, vocational training, GED centers;
- Financial literacy and coaching organizations;
- Cooperative parenting service providers and Access and Visitation grantees;
- Legal services;
- Pro se Legal Assistance Centers;

- Court Facilitators;
- Mental health and substance abuse treatment providers;
- Medicaid, CHIP, Healthcare Exchanges/Navigators;
- Faith and community-based groups;
- Access to justice experts; and
- Law Schools.

All partners must agree to adhere to procedural justice principles throughout the process.

Even though most grantees will have several partners, grantees are encouraged to develop a program that fully integrates child support services with other program elements into a single package for the participant. OCSE encourages applicants to propose co-locating services to reduce the burden on participants to navigate multiple agencies and locations and to facilitate communication among partners.

D. Evaluation Design

This demonstration is intended to generate the best evidence-based knowledge and information possible so that state, tribal and federal policymakers and program administrators can determine whether embedding procedural justice principles into child support business practices can increase reliable child support. It will utilize the gold standard in evaluation design, namely a randomized control trial. Although its shortcomings and challenges are well-documented, random assignment is widely recognized as the best way to isolate the true effects of any one program or treatment on the desired outcomes. Therefore, policymakers now regularly demand this level of evidence in order to make decisions regarding programs in which to invest.

This demonstration project will test the efficacy of an alternative to contempt intervention informed by procedural justice principles in improving the reliability of child support payments. The national evaluation will look at the impact of the demonstration projects on factors such as the amount and reliability of child support payments, child support debt, the use of enforcement actions, the employment and earnings of parents who owe support, and public cost. Perceptions of fairness, levels of trust, and participation in the child support program will also be examined.

All awarded demonstration projects must support and fully participate in a national, cross-site evaluation, which will be conducted by an independent third-party evaluator. They do not need to conduct their own evaluations and are not permitted to expend grant funds on their own evaluation.

OCSE and the evaluator will provide extensive technical assistance to demonstration projects, including, but not limited to refining proposed interventions, developing an appropriate mechanism for randomly assigning individuals into the control or treatment groups, and data collection. The evaluation will include an impact analysis based on random assignment, an implementation analysis (with interviews with program staff and stakeholders), and a benefit-cost analysis. Both the PJAC demonstrations and the evaluation of PJAC grant award are cooperative agreements, and OCSE may amend particulars of the evaluation design and implementation during the project period to best meet the goals of the demonstration.

E. Program Management

Child support agencies must ensure appropriate project management for PJAC projects. OCSE anticipates that each grantee will employ a project manager or managers to ensure that the project is planned, implemented, and evaluated successfully. This position is expected to be full-time (40 hours/week). It will require oversight of child support case processes and case managers and face-to-face contact with the staff from other partners providing services. OCSE expects that the project manager will hold regular meetings with project staff (across all partners) to discuss any challenges or barriers that they may be facing and attempt to resolve those challenges and barriers as quickly and effectively as possible. Because proximity is important, OCSE anticipates that the project manager(s) will work either in, or in close proximity to the office(s) where the demonstration project is being conducted.

The project manager will also be responsible for ensuring that management records are created and updated as required by the evaluator. OCSE anticipates that the project manager will also function as the site evaluation coordinator, working collaboratively with OCSE and the third-party evaluator supporting data collection and sharing information with the evaluation team as the primary data source for the evaluation will come from administrative records. Grantees may also propose to have separate staff assigned as the project manager and evaluation coordinator. It is imperative that whoever serves as the evaluation coordinator understand the importance of the independent evaluation and maintain the integrity of this independence. Grantees may also propose alternative approaches to project management, but they must be fully justified.

Annual Workshop: There will be an annual workshop each year for project grantees in Washington, DC, to support effective project management and peer learning. The annual workshop will promote coordination, information and resource sharing, troubleshooting, training, and learning opportunities. Grantees are required to send at least two key staff to this conference each year, including their project manager. The kickoff grantee workshop will be held in Washington, DC on December 1-2, 2016.

The project manager/evaluation coordinator is responsible for the following key project tasks:

Project development and management:

- Actively engage and collaborate with OCSE and the evaluation team to refine the project interventions.
- Ensure all project staff and partner staff receives training and support for incorporating procedural justice concepts into all program activities.
- Maintain oversight and knowledge of the implementation of all project components including: outreach, case conferences, random assignment, case assessments, case management, employment services, alternative dispute resolution services, domestic violence services, and other optional services.
- Maintain communication with project decision makers, including the child support (IV-D) director, and ensure that all necessary stakeholders are included as appropriate.
- Check in regularly with project staff to identify issues and concerns related to implementing the demonstration and completing evaluation activities and communicate those to OCSE and the evaluation team.
- Actively participate in OCSE and evaluation team site visits.

Data collection and management

- Ensure that all evaluation-related data collection and submission is appropriately staffed and managed with access to necessary technology, and that program staff who will be responsible for collecting evaluation-related data receive necessary training from the evaluation team.
- As necessary, assist the evaluation team in making arrangements to obtain child support administrative data, including appropriate consents from program participants, and administrative data of other agencies and programs, and materials that facilitate use of such data (e.g., data dictionaries).
- Assist OCSE and the evaluation team in identifying and addressing any concerns related to administrative data.
- Assist the evaluation team in scheduling interviews, surveys, focus groups, and any other required means of information collection for the purposes of program evaluation.
- Coordinate logistics of OCSE and evaluation team site visits, including preparing agendas, as requested, and arranging for participation by all key decision makers.

F. Waiver Requirements

The applicant may need to request a waiver of certain provisions of the Act. Section 1115(a)(1) of the Act allows the Secretary of Health and Human Services to waive a state plan requirement in Section 454, and Section 1115(a)(2)(A) allows the Secretary to treat certain unallowable expenditures as allowable state expenditures for purposes of the demonstration project. Waivers requested in the application will be covered as part of the cooperative agreement unless noted upon award. Waivers requested after award will be granted if it is determined they are essential to the demonstration. Here are examples of activities that applicants may wish to request waivers for as part of their grant application:

- Employment services, including work supports such as transportation assistance;
- Assistance with parenting time orders;
- Fatherhood programs;
- Financial coaching; and
- Financial incentives.

A request to waive state-wideness and other state plan requirements that facilitate the conduct of the project or enable the state to accomplish the purposes of the project may also be needed.

For more information on program components specific to this FOA, please reference *Section IV.2. Content and Form of Application Submission, The Project Description, and Budget and Budget Justification.*

II. Federal Award Information

Funding Instrument Type:	Cooperative Agreement
Estimated Total Funding:	$1,600,000
Expected Number of Awards:	9
Award Ceiling:	$200,000 Per Budget Period
Award Floor:	$117,647 Per Budget Period

Average Projected Award Amount:	$158,824 Per Budget Period
Anticipated Project Start Date:	09/30/2016

Length of Project Periods:

Length of Project Period:	60-month project with five 12-month budget periods

Additional Information on Awards:
Awards made under this announcement are subject to the availability of federal funds.

Applications requesting an award amount that exceeds the *Award Ceiling* per budget period, or per project period, as stated in this section, will be disqualified from competitive review and from funding under this announcement. This disqualification applies only to the *Award Ceiling* listed for the first 12-month budget period for projects with multiple budget periods. If the project and budget period are the same, the disqualification applies to the *Award Ceiling* listed for the project period. Please see *Section III.3. Other, Application Disqualification Factors.*

Note: For those programs that require matching or cost sharing, recipients will be held accountable for projected commitments of non-federal resources in their application budgets and budget justifications by budget period or by project period for fully funded awards, even if the projected commitment exceeds the required amount of match or cost share. **A recipient's failure to provide the required matching amount may result in the disallowance of federal funds.** See *Section III.2.* of this announcement for information on cost-sharing or matching requirements.

OCSE expects the total project budget for PJAC awards will be $588,235 for the first year of funding, which includes both the Section 1115 award and Federal Financial Participation match funding. Applicants should calculate their award request based on their organization's Federal Financial Participation match rate. For example:

- A state that receives $200,000 in Section 1115 award dollars would have a total project budget of $588,235, which includes a 66 percent FFP match representing $388,235; and
- A tribe that receives $117,647 in Section 1115 award dollars would have a total project budget of $588,235, which includes a 80 percent FFP match representing $470,588.

Applicants should provide a detailed budget for the first 12-month budget period, as well as a 5-year budget for the entire project period. Continuation awards will be offered each year of the project. Estimated award ceilings and floors for the 5-year project period are as follows: FY 2016 - $200,000/$117,647; FY 2017 - $225,000/ $132,353; FY 2018, 2019, and 2020 - $118,738/$69,846.The expected funding for the 5-year project period totals a ceiling of $781,214 and a floor of $459,538 in Section 1115 funds, plus FFP for a total project budget of approximately $2,297,688.

Description of ACF's Anticipated Substantial Involvement Under the Cooperative Agreement

ACF anticipates substantial involvement in the following activities:

- Providing consultation to each recipient with regard to the development and implementation of program design, approaches to address problems that arise, and identification of areas needing technical assistance;
- Facilitating and guiding the accurate, uniform data collection and application of the random assignment model required to effectively execute a cross-site national evaluation, including technical assistance as needed;
- Providing timely review, comments, and decisions on inquiries and documents submitted by recipients;
- Ensuring that a workshop for grantees is held in Washington, DC, one time for each year the grant program is funded, to promote coordination, information sharing, and access to resources, training, and learning opportunities;
- Ensuring that teleconferences and/or webinars are regularly held among recipients funded under this announcement to promote coordination, information sharing, and access to resources, training and learning opportunities; and
- Working together to address issues or problems identified by the recipient, ACF, or others with regard to the program's ability to carry out the full range of activities included in the approved application in the most efficient and effective manner.

III. Eligibility Information

III.1. Eligible Applicants

State IV-D agencies (including the District of Columbia, Guam, Puerto Rico, and the Virgin Islands) and Tribal Title IV-D agencies or the umbrella agency of the IV-D program are eligible to receive awards under this FOA.

Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement. See *Section III.3. Other, Application Disqualification Factors.*

III.2. Cost Sharing or Matching

Cost Sharing / Matching Requirement: No

For all federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the criteria listed in 45 CFR 75.306.

For awards that require matching by statute, recipients will be held accountable for projected commitments of non-federal resources in their application budgets and budget justifications by budget period, or by project period for fully funded awards, even if the projected commitment exceeds the amount required by the statutory match. **A recipient's failure to provide the statutorily required matching amount may result in the disallowance of federal funds. Recipients will be required to report these funds in the Federal Financial Reports.**

For awards that do not require matching or cost sharing by statute, where "cost sharing" refers to any situation in which the recipient voluntarily shares in the costs of a project other than as statutorily required matching. These include situations in which contributions are voluntarily proposed by an applicant and are accepted by ACF. Non-federal cost sharing will be included in the approved project budget so that the applicant will be held accountable for proposed non-federal cost-sharing funds as shown in the Notice of Award (NOA). **A recipient's failure to provide voluntary cost sharing of non-federal resources that have been accepted by ACF as part of the approved project costs and that have been shown as part of the approved project budget in the NOA, may result in the disallowance of federal funds. Recipients will be required to report these funds in the Federal Financial Reports.**

III.3. Other

Application Disqualification Factors
Applications from individuals (including sole proprietorships) and foreign entities are not eligible and will be disqualified from competitive review and from funding under this announcement.

Award Ceiling Disqualification
Applications that request an award amount that exceeds the *Award Ceiling* per budget period or per project period as stated in *Section II. Federal Award Information,* will be disqualified from competitive review and from funding under this announcement. This disqualification applies only to the *Award Ceiling* listed for first 12-month budget period for projects with multiple budget periods. If the project and budget period are the same, the disqualification applies to the *Award Ceiling* listed for the project period.

Required Electronic Application Submission
ACF requires electronic submission of applications at www.Grants.gov**. Paper applications received from applicants that have not been approved for an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.**

Applicants that do not have an Internet connection or sufficient computing capacity to upload large documents to the Internet may contact ACF for an exemption that will allow the applicant to submit applications in paper format. Information and the requirements for requesting an exemption from required electronic application submission are found in "Request an Exemption from Electronic Application Submission" in *Section IV.2. Content and Form of Application Submission.*

Missing the Application Deadlines (Late Applications)
The deadline for electronic application submission is 11:59 p.m., ET, on the due date listed in the *Overview and* in *Section IV.4. Submission Dates and Times.* Electronic applications submitted to www.Grants.gov after 11:59 p.m., ET, on the due date, as indicated

by a dated and time-stamped email from www.Grants.gov, will be disqualified from competitive review and from funding under this announcement. That is, applications submitted to www.Grants.gov, on or after 12:00 a.m., ET, on the day after the due date will be disqualified from competitive review and from funding under this announcement.

Applications submitted to www.Grants.gov at any time during the open application period, and prior to the due date and time, which fail the www.Grants.gov validation check, will not be received at, or acknowledged by, ACF.

Each time an application is submitted via www.Grants.gov, the submission will generate a new date and time-stamp email notification. Only those applications with on-time date and time stamps that result in a validated application, which is transmitted to ACF, will be acknowledged.

The deadline for receipt of paper applications is 4:30 p.m., ET, on the due date listed in the *Overview* and *in Section IV.4. Submission Dates and Times.* Paper applications received after 4:30 p.m., ET, on the due date will be disqualified from competitive review and from funding under this announcement. **Paper applications received from applicants that have not received approval of an exemption from required electronic submission will be disqualified from competitive review and from funding under this announcement.**

Notification of Application Disqualification
Applications that are disqualified under these criteria are considered to be "non-responsive" and are excluded from the competitive review process. Applicants will be notified of a disqualification determination by email or by USPS postal mail within 30 federal business days from the closing date of this FOA.

IV. Application and Submission Information

IV.1. Address to Request Application Package

Michelle Jadczak
U.S. Department of Health and Human Services
Administration for Children and Families
Office of Child Support Enforcement
330 C Street, SW
Washington, DC 20201
Phone: (202) 401-4578

Electronic Application Submission:
The electronic application submission package is available in the FOA's listing at www.Grants.gov.

Applications in Paper Format:
For applicants that have received an exemption to submit applications in paper format,

Standard Forms, assurances, and certifications are available in the Application Package available in the FOA's Grants.gov synopsis at www.Grants.gov. They are also available at http://www.grants.gov/web/grants/forms/sf-424-family.html#sortby=1. See *Section IV.2.Request an Exemption from Required Electronic Application Submission* if applicants do not have an Internet connection or sufficient computing capacity to upload large documents (files) to www.Grants.gov.

Standard Forms that are compliant with Section 508 of the Rehabilitation Act (29 U.S.C. § 794d):
Available at the Grants.gov Forms Repository website at http://www.grants.gov/web/grants/forms/sf-424-family.html#sortby=1.

Federal Relay Service:
Hearing-impaired and speech-impaired callers may contact the Federal Relay Service (FedRelay) for assistance at www.gsa.gov/fedrelay.

IV.2. Content and Form of Application Submission

FORMATTING APPLICATION SUBMISSIONS
In FY 2013 ACF implemented a new application upload requirement. Each applicant applying electronically via www.Grants.gov is required to upload only two electronic files, excluding Standard Forms and OMB-approved forms. No more than two files will be accepted for the review, and additional files will be removed. Standard Forms and OMB-approved forms will not be considered additional files.

FOR ALL APPLICATIONS:
Authorized Organizational Representative (AOR)
AOR is the designated representative of the applicant/recipient organization with authority to act on the organization's behalf in matters related to the award and administration of grants. In signing a grant application, this individual agrees that the organization will assume the obligations imposed by applicable Federal statutes and regulations and other terms and conditions of the award, including any assurances, if a grant is awarded.

AOR authorization is part of the registration process at www.Grants.gov. where the AOR will create a short profile and obtain a username and password from the Grants.gov Credential Provider. AORs will only be authorized for the DUNS number registered in the System for Awards Management (SAM).

Point of Contact
In addition to the AOR, a point of contact on matters involving the application must also be identified. The point of contact, known as the Project Director or Principal Investigator, should not be identical to the person identified as the AOR. The point of contact must be available to answer any questions pertaining to the application.

Application Checklist

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials.

Accepted Font Style
Applications must be in Times New Roman (TNR), 12-point font, except for footnotes, which may be TNR 10-point font.

Page Limitations
Applicants must observe the page limitation(s) listed under "PAGE LIMITATIONS AND CONTENT FOR ALL SUBMISSION FORMATS:". *Page* limitation(s) do not include SFs and OMB-approved forms.

All applications must be double-spaced. An application that exceeds the cited page limitation for double-spaced pages in the Project Description file or the Appendices file will have the last extra pages removed and the removed pages will not be reviewed.

Application Elements Exempted from Double-Spacing Requirements
The following elements of the application submission are exempt from the double-spacing requirements and may be single-spaced: the table of contents, the one-page Project Summary/Abstract, required Assurances and Certifications, required SFs, required OMB-approved forms, resumes, logic models, proof of legal status/non-profit status, third-party agreements, letters of support, footnotes, tables, the line-item budget and/or the budget justification.

Adherence to FOA Formatting, Font, and Page Limitation Requirements
Applications that fail to adhere to ACF's FOA formatting, font, and page limitation requirements will be adjusted by the removal of page(s) from the application. Pages will be removed before the objective review. The removed page(s) will not be made available to reviewers.

In instances where formatting and font requirements are not adhered to, ACF uses a formula to determine the actual number of pages to be removed. The formula counts the number of characters an applicant uses when following the instructions and using 12-point TNR and compares the resulting number with that of the submitted application. For example, an applicant using TNR, 11-point font, with 1-inch margins all around, and single-spacing, would have an additional 26 lines, or 1500 characters, which is equal to 4/5 of an additional page. Extra pages resulting from this formula will be removed and will not be reviewed. Applications that have more than one scanned page of a document on a single page will have the page(s) removed from the review.

For applicants that submit paper applications, double-sided pages will be counted as two pages. When the maximum allowed number of pages is reached, excess pages will be removed and will not be made available to reviewers.

NOTE: Applicants failing to adhere to ACF's FOA formatting, font, and page limitation requirements will receive a letter from ACF notifying them that their application was

amended. The letter will be sent after awards have been issued and will specify the reason(s) for removal of page(s).

Copies Required
Applicants must submit one complete copy of the application package electronically. Applicants submitting electronic applications need not provide additional copies of their application package.

Applicants submitting applications in paper format must submit one original and two copies of the complete application, including all Standard Forms and OMB-approved forms. The original copy must have original signatures.

Signatures
Applicants submitting electronic applications must follow the registration and application submission instructions provided at www.Grants.gov.

The original of a paper format application must include original signatures of the authorized representatives.

Accepted Application Format
With the exception of the required Standard Forms (SFs) and OMB-approved forms, all application materials must be formatted so that they are 8 ½" x 11" white paper with 1-inch margins all around.

If possible, applicants are encouraged to include page numbers for each page within the application.

ACF generally does not encourage submission of scanned documents as they tend to have reduced clarity and readability. If documents must be scanned, the font size on any scanned documents must be large enough so that it is readable. Documents must be scanned page-for-page, meaning that applicants may not scan more than one page of a document onto a single page.

PAGE LIMITATIONS AND CONTENT FOR ALL SUBMISSION FORMATS:
With the exception of Standard Forms (SFs) and OMB-approved forms, the application submission is limited to 100 pages in its entirety. The application should be uploaded in two files:

File One (Project Description)

- Project Summary/Abstract
- Table of Contents
- Project Narrative
- Budget and Budget Justification

File Two (Appendices)

- Letters of Support
- Resumes and CVs (exempt from the page limitation)
- Third-Party Agreements and/or Other Supporting Material

ELECTRONIC APPLICATION SUBMISSION INSTRUCTIONS
Applicants are required to submit their applications electronically unless they have requested and received an exemption that will allow submission in paper format. See *Section IV.2. Application Submission Options* for information about requesting an exemption.

Electronic applications will only be accepted via www.Grants.gov. **ACF will not accept applications submitted via email or via facsimile.**

Each applicant is required to upload ONLY two electronic files, excluding SFs and OMB-approved forms.

File One: Must contain the entire Project Description, and the Budget and Budget Justification (including a line-item budget and a budget narrative).

File Two: Must contain all documents required in the Appendices.

Adherence to the Two-File Requirement
No more than two files will be accepted for the review. Applications with additional files will be amended and files will be removed from the review. SFs and OMB-approved forms will not be considered additional files.

Application Upload Requirements
ACF strongly recommends that electronic applications be uploaded as Portable Document Files (PDFs). One file must contain the entire Project Description and Budget Justification; the other file must contain all documents required in the Appendices. Details on the content of each of the two files, as well as page limitations, are listed earlier in this section.

To adhere to the two-file requirement, applicants may need to convert and/or merge documents together using a PDF converter software. Many recent versions of Microsoft Office include the ability to save documents to the PDF format without need of additional software. Applicants using the Adobe Professional software suite will be able to merge these documents together. ACF recommends merging documents electronically rather than scanning multiple documents into one document manually, as scanned documents may have reduced clarity and readability.

Applicants must ensure that the version of Adobe Professional they are using is compatible with Grants.gov. To verify Adobe software compatibility please go to Grants.gov and click on "Support" at the top bar menu and select "Adobe Software Compatibility", which is listed under the topic "Find Answers Online." The Adobe verification process allows applicants to test their version of the software by opening a

test application package. Grant.gov also includes guidance on how to download a supported version of Adobe, as well as troubleshooting instructions if an applicant is unable to open the test application package. There is also a help page for configuring Firefox and Chrome to open PDFs using Adobe software.

The Adobe Software Compatibility page located on Grants.gov also provides guidance for applicants that have received error messages while attempting to save an application package. It also addresses local network and/or computer security settings and the impact this has on use of Adobe software.

For any systems issues experienced with Grants.gov or with SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance at https://www.acf.hhs.gov/sites/default/files/assets/systems_issue_policy_final.pdf under "How to Apply for a Grant/Submit an Application."

Required Standard Forms (SFs) and OMB-approved Forms
Standard Forms (SFs) and OMB-approved forms, such as the SF-424 application and budget forms and the SF-P/PSL (Project/Performance Site Location), are uploaded separately at Grants.gov. These forms are submitted separately from the Project Description and Appendices files. See *Section IV.2. Required Forms, Assurances, and Certifications* for the listing of required Standard Forms, OMB-approved forms, and required assurances and certifications.

Naming Application Submission Files
Carefully observe the file naming conventions required by www.Grants.gov**. Limit file names to 50 characters (characters and spaces).** Special characters that are allowed under Grants.gov's naming conventions, and are accommodated by ACF's systems, are listed in the instructions available in the Download Application Package at Grants.gov. Please also see http://www.grants.gov/web/grants/applicants/submitting-utf-8-special-characters.html.

Use only file formats supported by ACF
It is critical that applicants submit applications using only the supported file formats listed here. While ACF supports all of the following file formats, **we strongly recommend that the two application submission files (Project Description and Appendices) are uploaded as PDF documents in order to comply with the two file upload limitation.** Documents in file formats that are not supported by ACF will be removed from the application and will not be used in the competitive review. This may make the application incomplete and ACF will not make any awards based on an incomplete application.

ACF supports the following file formats:

- Adobe PDF – Portable Document Format (.pdf)
- Microsoft Word (.doc or .docx)

- Microsoft Excel (.xls or .xlsx)
- Microsoft PowerPoint (.ppt)
- Corel WordPerfect (.wpd)
- Image Formats (.JPG, .GIF, .TIFF, or .BMP only)

Do Not Encrypt or Password-Protect the Electronic Application Files
If ACF cannot access submitted electronic files because they are encrypted or password protected, the affected file will be removed from the application and will not be reviewed. This removal may make the application incomplete and ACF will not make awards based on an incomplete application.

FORMATTING FOR PAPER APPLICATION SUBMISSIONS:
The following requirements are only applicable to applications submitted in paper format. Applicants must receive an exemption from ACF in order for a paper format application to be accepted for review. See *Section IV.2. Request an Exemption from Required Electronic Application Submission* later in this section under *Application Submission Options* for more information.

Format Requirements for Paper Applications
All copies of mailed or hand-delivered paper applications must be submitted in a single package. If an applicant is submitting multiple applications under a single FOA, or multiple applications under separate FOAs, each application submission must be packaged separately. The package(s) must be clearly labeled for the specific FOA it addresses by FOA title and by Funding Opportunity Number (FON).

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate sections of the application. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the federal government for review. **All application materials must be one-sided for duplication purposes. All pages in the application submission must be sequentially numbered.**

Addresses for Submission of Paper Applications
See *Section IV.7. Other Submission Requirements* for addresses for paper format application submissions.

Required Forms, Assurances, and Certifications

Applicants seeking grant or cooperative agreement awards under this announcement must submit the listed Standard Forms (SFs), assurances, and certifications with the application. All required Standard Forms, assurances, and certifications are available in the Application Package posted for this FOA at www.Grants.gov.

Other versions of required Standard Forms, assurances,and certifications are available

at Grants.gov http://www.grants.gov/web/grants/forms/sf-424-family.html.

Forms / Assurances / Certifications	Submission Requirement	Notes / Description
Mandatory Grant Disclosure	Submission is required for all applicants and recipients, in writing, to the awarding agency and to the HHS Office of the Inspector General (OIG) all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to: The Administration for Children and Families, U.S. Department of Health and Human Services, Office of Grants Management, ATTN: Grants Management Specialist, 330 C Street, SW., Switzer Building, Corridor 3200, Washington, DC 20201 **And** U.S. Department of Health and Human Services,	Mandatory Disclosures, 45 CFR 75.113

	Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue, SW., Cohen Building, Room 5527, Washington, DC 20201	
SF-424 - Application for Federal Assistance	Submission is required for all applicants by the application due date.	Required for all applications.
DUNS Number (Unique Entity Identifier) and Systems for Award Management (SAM) registration.	A DUNS number (Unique Entity Identifier) is required of all applicants. To obtain a DUNS number, go to http://fedgov.dnb.com/ webform. Active registration at the Systems Award Management (SAM) website must be maintained throughout the application and project award period. SAM registration is available at http://www.sam.gov.	A DUNS number (Unique Entity Identifier) and SAM registration are eligibility requirements for all applicants. See *Section IV.3. Unique Entity Identifier and System for Award Management (SAM)* for more information.
SF-424A - Budget Information - Non-Construction Programs and SF-424B - Assurances - Non-	Submission is required for all applicants when applying for a non-construction project. Standard	Required for all applications when applying for a non-construction project. By signing and submitting the SF-424B, applicants

Construction Programs	Forms must be used. Forms must be submitted by the application due date.	are making the appropriate certification of their compliance with all federal statutes relating to nondiscrimination.
SF-424 Key Contact Form	Submission is required for all applicants by the application due date.	Required for all applications.
SF-Project/Performance Site Location(s) (SF-P/PSL)	Submission is required for all applicants by the application due date.	Required for all applications. In the SF-P/PSL, applicants may cite their primary location and up to 29 additional performance sites.
LGBTQ Accessibility Policy for Discretionary Grants	Submission is required for all applicants by the application due date.	The LGBTQ Accessibility Policy for Discretionary Grants is available in the *Appendix* section of the FOA and must be included in the “Appendices” file of the application submission.
SF-LLL - Disclosure of Lobbying Activities	If submission of this form is applicable, it is due at the time of application. If it is not available at the time of application, it may also be submitted prior to the award of a grant.	If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the applicant shall complete and submit the SF-LLL, "Disclosure Form to Report Lobbying," in

		accordance with its instructions.
Certification Regarding Lobbying (Grants.gov Lobbying Form)	Submission required of all applicants with the application package. If it is not submitted with the application package, it must be submitted prior to the award of a grant.	Submission of the certification is required for all applicants.

Non-Federal Reviewers
Since ACF will be using non-federal reviewers in the review process, applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget as well as Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.If applicants are submitting their application electronically, ACF will omit the same specific salary rate information from copies made for use during the review and selection process.

The Project Description

The Project Description Overview

Purpose
The project description provides the majority of information by which an application is evaluated and ranked in competition with other applications for available assistance. It should address the activity for which federal funds are being requested, and should be consistent with the goals and objectives of the program as described in *Section I. Program Description*. Supporting documents should be included where they can present information clearly and succinctly. When appropriate, applicants should cite the evaluation criteria that are relevant to specific components of their project description. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application in a manner that is clear and complete.

General Expectations and Instructions
Applicants should develop project descriptions that focus on outcomes and convey strategies for achieving intended performance. Project descriptions are evaluated on the basis of substance and measurable outcomes, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix.

General Instructions for Preparing a Full Project Description

Introduction
Applicants must prepare the project description statement in accordance with the following instructions while being aware of the specified evaluation criteria in *Section V.1. Criteria*. The text options give a broad overview of what the project description should include while the evaluation criteria identify the measures that will be used to evaluate applications.

Table of Contents

List the contents of the application including corresponding page numbers. The table of contents must be single spaced and will be counted against the total page limitations.

Project Summary/Abstract

Provide a summary of the application's project description. The summary must be clear, accurate, concise, and without reference to other parts of the application. The abstract must include a brief description of the proposed grant project including the needs to be addressed, the proposed services, and the population group(s) to be served.

Please place the following at the top of the abstract:

- Project Title
- Applicant Name
- Address
- Contact Phone Numbers (Voice, Fax)
- E-Mail Address
- Web Site Address, if applicable

The project abstract must be single-spaced, in Times New Roman 12-point font, and limited to one page in length. Additional pages will be removed and will not be reviewed.

Approach

Outline a plan of action that describes the scope and detail of how the proposed project will be accomplished. Applicants must account for all functions or activities identified in the application. Describe any design or technological innovations, reductions in cost or time, or extraordinary social and/or community involvement in the project. Provide a list of organizations, cooperating entities, consultants, or other key individuals that will work on the project, along with a short description of the nature of their effort or contribution.

Cite potential obstacles and challenges to accomplishing project goals and explain strategies that will be used to address these challenges.

Please note: If a state wants to apply for this grant project and will be implementing random assignment in the counties that it is proposing as part of another child support-led demonstration, then it must provide the following in the approach: 1) a description of the child-support led intervention and whether it is an OCSE grant, wavier, or other state/tribal/local project; and 2) a detailed explanation of how it will ensure that participants

randomly assigned in the PJAC demonstration will not be members of the treatment group in the other child support-led demonstration.

Approach Element 1: Procedural Justice

The application must discuss how the following procedural justice elements will be incorporated into the demonstration project:

- **Voice and participation:** How will relevant parties to a case have the opportunity to explain their side of the story in their own words? How will the applicant ensure that participants are fully informed and engaged in the process? How will the applicant provide opportunities for the participants to offer suggestions for resolving the child support issues that triggered their involvement and move toward reliable child support payments?
- **Neutrality of the Process:** How will the applicant demonstrate to participants that the process is implemented transparently and without bias? What steps will the applicant take to inform participants of the rules that are being applied, how those rules were made, and why those rules apply to their situation? How will the applicant address perceived bias of the child support system to favor custodial parents?
- **Understanding:** How will the applicant explain the decision-making process and the basis for actions taken by the child support agency in implementing the program intervention? How will program forms, letters, digital communication, and other outreach activities be adapted to ensure they are easy to understand, demonstrate respect both for individuals and their rights, and provide opportunities for participants to address concerns and questions they have about the program intervention?
- **Respect:** What steps will be taken to demonstrate respect for participants in the program intervention? How will the applicant ensure that all agency staff and partners involved in the demonstration project treat participants with dignity?
- **Helpfulness:** How will the applicant demonstrate an interest in program participants' situations and outcomes? What steps will be taken to communicate thoughtful consideration for participants' views, questions, and interests?

Approach Element 2: Initial Screening

The first core service offered to parents in the treatment group is an initial screening to determine a parent's ability to pay and identify other factors that may be contributing to noncompliance. The applicant must include a description of:

- The current process for initiating contempt actions, including what enforcement remedies are exhausted, and how parents who owe support are screened for ability to pay; and
- How the applicant proposes to modify this process for the parents randomly assigned to receive program services (i.e. the treatment group). At a minimum, this discussion should describe the on-line data sources that will be used to determine ability to pay and how the custodial parent will be contacted to solicit information.

Approach Element 3: Outreach/Engagement

Applicants must explain how they will engage parents to participate in the alternatives to contempt program. The application must include a description of:

- How the applicant will conduct outreach for this demonstration;
- How child support staff will be involved in the outreach efforts;
- How the applicant will incorporate procedural justice informed approaches into outreach;
- A rationale for the proposed outreach methods and how they are informed by the demographic and cultural context for which they are proposed;
- Any previously successful outreach efforts of the applicant; and
- Any proposed outreach incentives.

Approach Element 4: Case Conferencing, Assessment, and Case Action Plans

Applicants must describe how they will conduct an introductory case conference, assess noncustodial parents' barriers to reliable payment of support, and develop case actions plans to overcome those barriers.

The application must include a description of:

- How procedural justice is incorporated into the case conference to ensure that the noncustodial parents who appear for this meeting will have a full understanding of the program, what the consequences of participation are, what their rights are throughout the process, and that they have ample opportunity to express their side of the story and have it treated as relevant;
- Steps the applicant will take to ensure that conferences are conducted in locations and times that promote participation by parents;
- Whether the initial case conference will include both parents, together or separately;
- The elements that will be included in the case assessment, the rationale for those elements and how they will inform case action plans;
- How the assessment and action plan will be tied to the participant's ability to pay child support reliably;
- Assessment and action planning tools or protocols from which the applicant proposes to draw upon when developing their assessment and action plans - copies of draft assessment and action plan tools should be included as appendices to the application.

Approach Element 5: Enhanced Investigation

The applicant must describe how they will gather additional information about parents who do not respond to the outreach and engagement strategies implemented as part of the project.

The applicant must include a description of:

1) How the applicant proposes to handle participants in the treatment group who do not appear for a case conference. The applicant should be specific about how it will conduct an enhanced investigation in those cases where the initial screening and outreach do not yield sufficient information to determine the parent's ability to pay.

Approach Element 6: Enhanced Child Support Services

Enhanced Child Support Services for Participants Assigned to the Treatment Group. Applicants should describe the enhanced child support services that they propose to have available for parents in the treatment group and under what conditions they propose to use

them.

The applicant must include a description of:

- The current process, if any, the applicant uses to proactively review child support orders and modify those orders if appropriate. Also indicate who is eligible for this service.
- How the applicant proposes to proactively review child support orders and modify those orders if appropriate for members of the treatment group, including the circumstances under which this service will be used.
- The specific non-mandatory enforcement actions that would be suspended and under what conditions these suspensions would take place.

Applicants should discuss any additional enhanced child support services that they propose to offer participants in the treatment group, being specific about the types of services being offered and under what conditions.

Enhanced Child Support Services for the Custodial Parent(s). Applicants should describe how they will contact custodial parents and appropriately engage them in demonstration project activities. The applicant must include a description of:

- How and when the applicant proposes to inform the custodial parent(s) of the noncustodial parent's participation in grant services;
- How the applicant proposes to follow up on action items that involve the custodial parent(s);
- Whether and how the applicant proposes to offer case conferencing, dispute resolution services, domestic violence services, or referral services to custodial parent(s) associated with noncustodial parents receiving grant services;
- How procedural justice principles will be embedded into these services.

Approach Element 7: Other Support Services

Applicants must include the following additional core support services as part of their grant program services:

- Employment services, and
- Dispute resolution services.

For employment services, applicants are expected to describe who will provide these services, their experience providing these services, and their experience serving noncustodial parents. Applicants should also describe the method of delivering employment services as well as the type of employment services proposed. All applicants are expected to provide individualized employment services, but employment classes may also be proposed. OCSE encourages applicants to include job development and placement as part of the menu of employment services. Applicants should also describe how these services will be coordinated with other services being offered to parents in the treatment group.

With regard to dispute resolution services, applicants should describe: how they propose to deliver dispute resolution services; who will be delivering these services; their experience in delivering these services, and the types of issues that they expect to address through dispute

resolution. Applicants are encouraged to include assistance with parenting time as part of dispute resolution services.

Applicants are required to include employment services and dispute resolution services as part of their program, and describe how delivery of these services will be directly tied to the case action plans developed for each individual participant and the role these services play in leading to reliable payment of child support.

Applicants may propose additional, optional support services that they believe will help participants overcome barriers to reliable payment of support. Optional services that an applicant proposes to include in their program should be described in detail in their proposal.

Optional services may include, but are not limited to;

- Financial coaching;
- Literacy programs, including high school equivalency certificates (such as GED certificates) and English as a second language (ESL) programs;
- Referrals to additional support services (e.g. housing, substance abuse, legal services); and
- Assistance with parenting time.

Approach Element 8: Case Management

The applicant should describe their proposed approach to providing case management for program participants.

The application must include a description of:

- How case management activities will connect noncustodial parents to the right mix of services to overcome barriers to compliance, support full engagement in program services, and hold parents accountable for meeting their child support responsibilities,
- How the applicant will incorporate procedural justice principles into case management activities, and
- What specialized case management activities will be incorporated for parents with a history of incarceration or family violence.

Applications proposing to offer case management services by a partnering agency must provide a compelling case for why that approach is likely to be more effective in reaching child support program goals.

Approach Element 9: Domestic Violence Plan and Services

Applicants must describe in the grant application how proposed program activities will ensure a comprehensive response to disclosures of domestic violence, safety planning, and referrals to appropriate assistance both before and after the screening process, and build the capacity of program staff and partners to address domestic violence, including a training plan. Applicants are required to identify in their proposals the local, tribal or state-level domestic violence experts with whom they will consult throughout the project, including in the development and implementation of written domestic violence protocols, referral plans, and the provision of domestic violence training for key staff and consultants working with participants. They must also include how they will safeguard custodial parent information to

help ensure their emotional and physical safety. A letter of support from the domestic violence experts must be included in the grant application.

Approach Element 10: Partnerships

Describe the organizations, cooperating entities, consultants, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution in this project. Applicants should demonstrate inclusion of partnerships and services that strengthen the overall design of the program and support the ability of the child support agency to implement comprehensive procedural justice practices into the proposed alternatives to contempt.

Applicants must include the following partners:

- Employment services providers; and
- Domestic violence service providers.

Applicants may decide to provide dispute resolution services themselves or partner with an organization that has core competency in dispute resolution.

Applicants must have the active cooperation and support of the court and public attorney's office (if separate from the child support agency), as evidenced by a letter of support at a minimum, and may include either or both offices as a grant partner.

Examples of optional partnerships are found in *Section I. Program Description*. Applicants must demonstrate that a relationship exists with these partners or that such a relationship can be established quickly because of existing connections and agreements to work together. In addition, all partners must agree to adhere to procedural justice principles throughout the process.

Approach Element 11: Evaluation

Applications must demonstrate ability of the applicant to:

- Adhere to the random assignment methodology and participate in all activities related to conducting random assignment within their respective site;
- Assign over three years, at least 3,000 eligible parents who owe arrears, approximately half of whom would be assigned to the alternative to contempt intervention and half of whom would go through "enforcement as usual" in the applicant's jurisdiction;
- Work with the evaluator to develop a process for random assignment that meets the needs of the evaluation and minimizes the disruption of program operations;
- Provide data to evaluators on treatment and control groups in required formats through required reports/systems;
- Comply with and maintain the integrity of the evaluation, ensuring the differential between the treatment and control groups;
- Participate in the implementation evaluation including on-site interviews and information collection; and
- Participate in and support any other evaluation activities as required by OCSE.

Personnel and Resources

The applicant must include:

- A qualified project manager with relevant experience and resources adequate to plan, manage, and complete the project;
- An evaluation coordinator (may be the program manager) with relevant experience and resources adequate to meet the data collection and other evaluation needs of the third-party evaluator;
- A description of the role of other key staff members who are proposed to work on the project and a biographical sketch or resume for each of these persons;
- Job descriptions for each vacant key position should be included as well. As new key staff are appointed, biographical sketches or resumes will also be required; and
- Contact persons and telephone numbers.

Organizational Capacity and Experience

The application must include:

- Explanation and evidence of ability and authority to implement the proposed project, including a description of the procurement process that may be necessary for procuring services from third-party entities;
- Explanation and evidence of ability to instill procedural justice practices into the child support program;
- Description of applicant's previous experience and capacity to: screen noncustodial parents for ability to pay, conduct outreach to noncustodial parents who are unable to pay child support, conduct in person meetings, assessments, and draft action plans for noncustodial parents, conduct enhanced investigations and conduct ongoing case management if the child support program is providing this service;
- Description of applicant's previous experience providing enhanced child support services, such as suspension of non-mandatory enforcement actions, expedited review and modification, and compromise of state-owed arrears;
- Description of applicant's previous experience and capacity to screen for domestic violence, implement family violence safeguards, and work with domestic violence experts;
- Description of applicant's previous experience and capacity to provide or coordinate with dispute resolution services;
- Description of applicant's previous experience and capacity to work with third-party organizations to provide employment services and other support services;
- Description of how meaningful involvement of the child support (IV-D) director and other relevant decision-makers will be maintained throughout the demonstration;
- Explanation and evidence of previous experience working with a third-party evaluator, participating in an evaluation, and understanding of the evaluation requirements of the grant project;
- Explanation and evidence of ability and experience managing a grant and working with project partners such as OCSE;
- Explanation and evidence of ability and experience sharing administrative data for evaluation, and sharing it with a third-party evaluator;
- An organizational chart that explains how the project will be organized, what organizations will be involved, and the type of personnel in each organization that will

be involved in the demonstration; and
- Any other pertinent information the applicant deems relevant to support the organizational capacity required to support the activities outlined in the grant application.

Geographic Location

Describe the precise location of the project and boundaries of the area to be served by the proposed project.

Letters Of Support

Provide statements from community, public, and commercial leaders that support the project proposed for funding. All submissions must be included in the application package.

The Project Budget and Budget Justification

All applicants are required to submit a project budget and budget justification with their application. The project budget is entered on the Budget Information Standard Form, either SF-424A or SF-424C, according to the directions provided with the SFs. The budget justification consists of a budget narrative and a line-item budget detail that includes detailed calculations for "object class categories" identified on the Budget Information Standard Form. Applicants must indicate the method they are selecting for their indirect cost rate. See Indirect Charges for further information.

Project budget calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. If matching or cost sharing is a requirement, applicants must include a detailed listing of any funding sources identified in Block 18 of the SF-424 (Application for Federal Assistance). See the table in *Section IV.2. Required Forms, Assurances, and Certifications* listing the appropriate budget forms to use in this application.

Special Note: *The Consolidated Appropriations Act, 2016, (Division E, Title VII, General Provisions – Government-Wide), limits the salary amount that may be awarded and charged to ACF grants and cooperative agreements. Award funds issued under this announcement may not be used to pay the salary, or any percentage of salary, to an individual at a rate in excess of Executive Level II. The Executive Level II salary of the "Rates of Pay for the Executive Schedule" is $185,100. This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties of the applicant organization. This salary limitation also applies to subawards and subcontracts under an ACF grant or cooperative agreement.*

Provide a budget using the 424A and/or 424C, as applicable, for each year of the proposed project. Provide a budget justification, which includes a budget narrative and a line-item detail, for the first year of the proposed project. The budget narrative should describe how the categorical costs are derived. Discuss the necessity, reasonableness, and allocation of the proposed costs.

The application must include:

- A detailed budget that contains reasonable cost estimates for the project, including adequate staffing, costs of participating in the evaluation (including data collection) and justifications for the amounts requested.

Applicants should provide a detailed budget for the first 12-month budget period, as well as a 5-year budget for the entire project period. Refer to Section II, Federal Award Information for 5-year budget estimates.

Budgets and budget narratives should include details on FFP funding, however, the SF-424 and SF-424A should only detail the SECTION 1115 FUNDING request for YEAR ONE.

The budget proposal for the first year must include:

- a full-time project manager that is an employee of the child support agency;
- attendance of the project manager and one additional staff at a 2-day workshop in Washington, DC, during Year 1; and
- reasonable costs for the proposed project design, including sufficient resources to support full participation in the national cross-site evaluation, and support required data collection.

General

Use the following guidelines for preparing the budget and budget justification. Both federal and non-federal resources (when required) shall be detailed and justified in the budget and budget narrative justification. "Federal resources" refers only to the ACF grant funds for which you are applying. "Non-federal resources" are all other non-ACF federal and non-federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, federal budget; next column(s), non-federal budget(s); and last column, total budget. The budget justification should be in a narrative form.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known at the time of application. For each staff person provide: the title; time commitment to the project in months; time commitment to the project as a percentage or full-time equivalent: annual salary; grant salary; wage rates; etc. Do not include the costs of consultants, personnel costs of delegate agencies, or of specific project(s) and/or businesses to be financed by the applicant. Contractors and consultants should not be placed under this category.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, Federal Insurance Contributions Act (FICA) taxes, retirement insurance, and taxes.

Travel

Description: Costs of out-of-state or overnight project-related travel by employees of the applicant organization. Do not include in-state travel or consultant travel.

Justification: For each trip show the total number of traveler(s); travel destination; duration of trip; per diem; mileage allowances, if privately owned vehicles will be used to travel out of town; and other transportation costs and subsistence allowances. If appropriate for this project, travel costs for key project staff to attend ACF-sponsored workshops/conferences/grantee orientations should be detailed in the budget.

Equipment

Description: "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year per unit and an acquisition cost that equals or exceeds the lesser of: (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation, shall be included in or excluded from acquisition cost in accordance with the applicant organization's regular written accounting practices.)

Justification: For each type of equipment requested applicants must provide a description of the equipment; the cost per unit; the number of units; the total cost; and a plan for use of the equipment in the project; as well as a plan for the use, and/or disposal of, the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy, or section of its policy, that includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category. This includes office and other consumable supplies with a per-unit cost of less than $5,000.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Include third-party evaluation contracts, if applicable, and contracts with secondary recipient organizations (with budget detail), including delegate agencies and specific project(s) and/or businesses to be financed by the applicant. This area is not for individual consultants.

Justification: Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open, and free competition. Recipients and subrecipients are required to use 45 CFR 75.328 procedures and must justify any anticipated procurement action that is expected to be awarded without competition and exceeds the simplified acquisition threshold fixed by 41 U.S.C. § 134, as amended by 2 CFR Part 200.88, and currently set at $150,000. Recipients may be required to make pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc., available to ACF.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each contractor/sub-contractor, by agency title, along with the same supporting information referred to in these instructions. If the applicant plans to select the contractors/sub-contractors post-award and a detailed budget is not available at the time of application, the applicant must provide information on the nature of the work to be delegated, the estimated costs, and the process for selecting the delegate agency.

Other

Description: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to: consultant costs, local travel; insurance; food (when allowable); medical and dental costs (noncontractual); professional services costs (including audit charges); space and equipment rentals; printing and publication; computer use; training costs, such as tuition and stipends; staff development costs; and administrative costs.

Justification: Provide computations, a narrative description, and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category has one of two methods that an applicant can select. An applicant may only select one.

1) The applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant federal agency.

Note: An applicant must enclose a copy of the current approved rate agreement. If the applicant is requesting a rate that is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

2) Per 45 CFR § 75.414(f) Indirect (F&A) costs, "any non-Federal entity [i.e., applicant] that has never received a negotiated indirect costs rate, … may elect to charge

a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time."

Justification: This method only applies to applicants that have never received an approved negotiated indirect cost rate from HHS or another cognizant federal agency. Applicants awaiting approval of their indirect cost proposal may request the 10 percent de minimis. When the applicant chooses this method, costs included in the indirect cost pool must not be charged as direct costs to the grant.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under federally-funded projects, the sale of commodities or items fabricated under an award, license fees and royalties on patents and copyrights, and interest on loans made with award funds.

Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application that contain this information.

Commitment of Non-Federal Resources

Description: Amounts of non-federal resources that will be used to support the project as identified in Block 18 of the SF-424.

For all federal awards, any shared costs or matching funds and all contributions, including cash and third-party in-kind contributions, must be accepted as part of the recipient's cost sharing or matching when such contributions meet all of the criteria listed in 45 CFR § 75.306.

For awards that require matching by statute, recipients will be held accountable for projected commitments of non-federal resources in their application budgets and budget justifications by budget period, or by project period for fully funded awards, even if the projected commitment exceeds the amount required by the statutory match. **A recipient's failure to provide the statutorily required matching amount may result in the disallowance of federal funds. Recipients will be required to report these funds in the Federal Financial Reports.**

For awards that do not require matching or cost sharing by statute, where "cost sharing" refers to any situation in which the recipient voluntarily shares in the costs of a project other than as statutorily required matching. These include situations in which contributions are voluntarily proposed by an applicant and are accepted by ACF. Non-federal cost sharing will be included in the approved project budget so that the applicant will be held accountable for proposed non-federal cost-sharing funds as shown in the Notice of Award (NOA). **A**

recipient's failure to provide voluntary cost sharing of non-federal resources that have been accepted by ACF as part of the approved project costs and that have been shown as part of the approved project budget in the NOA, may result in the disallowance of federal funds. Recipients will be required to report these funds in the Federal Financial Reports.

Justification: If an applicant is relying on match from a third party, then a firm commitment of these resources (letter(s) or other documentation) is required to be submitted with the application. Detailed budget information must be provided for every funding source identified in Item18. "Estimated Funding ($)" on the SF-424.

Applicants are required to fully identify and document in their applications the specific costs or contributions they propose in order to meet a matching requirement. Applicants are also required to provide documentation in their applications on the sources of funding or contribution(s). In-kind contributions must be accompanied by a justification of how the stated valuation was determined. Matching or cost sharing must be documented by budget period (or by project period for fully funded awards). **A recipient's failure to provide a statutorily required matching amount may result in the disallowance of federal funds.**

Applications that lack the required supporting documentation will not be disqualified from competitive review; however, it may impact an application's scoring under the evaluation criteria in *Section V.1.* of this announcement.

Paperwork Reduction Disclaimer

As required by the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3521, the public reporting burden for the Project Description and Budget/Budget Justification is estimated to average 60 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection information. The Project Description and Budget/Budget Justification information collection is approved under OMB control number 0970-0139, expiration date is 01/31/2019. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Application Submission Options

Electronic Submission via www.Grants.gov
Additional guidance on the submission of electronic applications can be found at http:// www.grants.gov /web /grants /applicants /apply- for- grants.html.

After a grant application package is submitted to www.Grants.gov, a confirmation screen will appear on the applicant's computer screen. This screen confirms that an application has been submitted an application to Grants.gov. This page also contains a tracking number to identify the status of the application submission in the Track My Application feature.

When the application has completed the Grants.gov submission process, Grants.gov will send email messages to advise the applicant of the progress of the application through its system. **Over the next two business days, an applicant should receive two emails from Grants.gov:**

- **Submission Receipt Email**: Confirms successful receipt of the application by the Grants.gov system and indicates the application's status as "Received."
- **Submission Validation** –OR– **Rejection with Errors Email**: Indicates that the application was either successfully validated or rejected by Grants.gov. Either the application has been successfully validated by the system prior to transmission to the grantor agency or the application has been rejected due to errors.

Application Validation at www.Grants.gov
After an application has been successfully submitted to www.Grants.gov, it still must pass a series of validation checks. After an application is submitted, Grants.gov generates a submission receipt via email and also sets the application status to "Received." This receipt verifies that the application has been successfully delivered to the Grants.gov system.

Next, Grants.gov verifies the submission is valid by ensuring it does not contain viruses, the opportunity is still open, and the applicant login and applicant DUNS number match. If the submission is valid, Grants.gov generates a submission validation receipt via email and sets the application status to "Validated."

If the application is not validated, the application status is set to "Rejected." The system sends a rejection email notification to the applicant and the applicant must re-submit the application package. See "What to Expect After Submitting" at www.Grants.gov for more information.

Each time an application is re-submitted to www.Grants.gov, the applicant will receive a new **Submission Receipt Email**. Only applications with on-time date and time stamps in Submission Receipt Email, and that pass validation, will be transmitted to ACF. Applications that are submitted on time that fail the validation check are not be transmitted to ACF and will not be acknowledged.

NOTE: The Grants.gov validation check can affect whether the application is accepted for review. If an application fails the Grants.gov validation check and is not resubmitted by 11:59 p.m., ET, on the due date, it will not be transmitted to ACF and will be excluded from the review.

Similarly, if an applicant resubmits their application to Grants.gov by 11:59 p.m., ET, on the due date, and the resubmitted application does not pass the validation check, it will not be transmitted to ACF and will be excluded from the review.

Grants.gov Support Center

- If applicants encounter any technical difficulties in using www.Grants.gov,

contact the Grants.gov Support Center at: 1-800-518-4726, or by email at support@grants.gov, to report the problem and obtain assistance. Hours of Operation: 24 hours a day, 7 days a week. The Grants.gov Support Center is closed on federal holidays.

- Applicants should always retain Grants.gov Support Center service ticket number(s) as they may be needed for future reference.
- **Contact with the Grants.gov Support Center prior to the listed application due date and time does not ensure acceptance of an application. If difficulties are encountered, the Grants Management Officer listed in *Section VII. HHS Awarding Agency Contact(s)* will determine whether the submission issues are due to Grants.gov system errors or user error.**

Issues with Federal Systems

For any systems issues experienced with Grants.gov or SAM.gov, please refer to ACF's "Policy for Applicants Experiencing Federal Systems Issues" document for complete guidance at https://www.acf.hhs.gov/sites/default/files/assets/systems_issue_policy_final.pdf.

Request an Exemption from Required Electronic Application Submission

ACF recognizes that some applicants may have limited or no Internet access, and/or limited computer capacity, which may prohibit them from uploading large files at www.Grants.gov. To accommodate such applicants, ACF offers an exemption from required electronic submission. The exemption will allow applicants to submit hard copy, paper applications by hand-delivery, applicant courier, overnight/express mail couriers, or by other representatives of the applicant.

To receive an exemption from required electronic application submission, applicants must submit a written request to ACF that must state that the applicant qualifies for the exemption for one of the two following reasons:

- Lack of Internet access or Internet connection, or
- Limited computer capacity that prevents the uploading of large documents (files) at www.Grants.gov.

Applicants may request and receive the exemption from required electronic application submission by either:

- Submitting an email request to electronicappexemption@acf.hhs.gov, or
- Sending a written request to the Office of Grants Management Contact listed in *Section VII. HHS Awarding Agency Contact(s)* in this announcement.

Requests for exemption from required electronic application submission will be acknowledged with an approval or disapproval.

Requests that do not state one of the two listed reasons will not be approved.

An exemption is applicable to all applications submitted by the applicant organization

during the Federal Fiscal Year (FFY) in which it is received. Applicants need only request an exemption once in a FFY. Applicants must request a new exemption from required electronic submission for any succeeding FFY.

Please Note: electronicappexemption@acf.hhs.gov **may only be used to request an exemption from required electronic submission.** All other inquiries must be directed to the appropriate agency contact listed in *Section VII*. of this announcement. Queries or requests submitted to this email address for any reason other than a request for an exemption from electronic application submission will not be acknowledged or answered.

All exemption requests must include the following information:

- Funding Opportunity Announcement Title,
- Funding Opportunity Number (FON),
- The listed Catalog of Federal Domestic Assistance (CFDA) number,
- Name of Applicant Organization and DUNS Number,
- AOR name and contact information,
- Name and contact information of person to be contacted on matters involving the application (i.e., the Point of Contact), and
- The reason for which the applicant is requesting an exemption from electronic application submission. The request for exemption must state one of the following two reasons: 1) lack of Internet access or Internet connection; or 2) lack of computer capacity that prevents uploading large documents (files) to the Internet.

Exemption requests must be *received by* ACF no later than two weeks before the application due date, that is, 14 calendar days prior to the application due date listed in the *Overview* and in *Section IV.4. Submission Dates and Times*. If the fourteenth calendar day falls on a weekend or federal holiday, the due date for receipt of an exemption request will move to the next federal business day that follows the weekend or federal holiday.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.4. Submission Dates and Times* of this announcement.

Paper Format Application Submission
An exemption is required for the submission of paper applications. See the preceding section on "*Request an Exemption from Required Electronic Application Submission.*"

Applicants with exemptions that submit their applications in paper format, by mail or delivery, must submit one original and two copies of the complete application with all attachments. The original and each of the two copies must include all required forms, certifications, assurances, and appendices, be signed by the AOR, and be unbound. The

original copy of the application must have original signature(s). See *Section IV.7*. of this announcement for address information for paper format application submissions. Applications submitted in paper format must be received by 4:30 p.m., ET, on the due date.

Applicants may refer to *Section VIII. Other Information* for a checklist of application requirements that may be used in developing and organizing application materials. Details concerning acknowledgment of received applications are available in *Section IV.4. Submission Dates and Times* in this announcement.

IV.3. Unique Entity Identifier and System for Award Management (SAM)

All applicants must have a DUNS Number (http://fedgov.dnb.com/webform) and an active registration with the System for Award Management (SAM.gov/SAM, https://www.sam.gov).

Obtaining a DUNS Number may take 1 to 2 days.

All applicants are required to maintain an active SAM registration until the application process is complete. If a grant is awarded, registration at SAM must be active throughout the life of the award.

Plan ahead. Allow at least 10 business days after you submit your registration for it to become active in SAM and at least an additional 24 hours before that registration information is available in other government systems, i.e. Grants.gov.

This action should allow you time to resolve any issues that may arise. Failure to comply with these requirements may result in your inability to submit your application through Grants.gov or prevent the award of a grant. Applicants should maintain documentation (with dates) of your efforts to register for, or renew a registration, at SAM. User Guides are available under the "Help" tab at https://www.sam.gov.

HHS requires all entities that plan to apply for, and ultimately receive, federal grant funds from any HHS Agency, or receive subawards directly from recipients of those grant funds to:

- Be registered in the SAM prior to submitting an application or plan;
- Maintain an active SAM registration with current information at all times during which it has an active award or an application or plan under consideration by an OPDIV; and
- Provide its active DUNS number in each application or plan it submits to the OPDIV.

ACF is prohibited from making an award until an applicant has complied with these requirements. At the time an award is ready to be made, if the intended recipient has

not complied with these requirements, ACF:

- May determine that the applicant is not qualified to receive an award; and
- May use that determination as a basis for making an award to another applicant.

IV.4. Submission Dates and Times

Due Dates for Applications
Due Date for Applications: **07/08/2016**

Explanation of Due Dates

The due date for receipt of applications is listed in the *Overview* section and in this section. See *Section III.3. Other, Application Disqualification Factors*.

Electronic Applications
The deadline for submission of electronic applications via www.Grants.gov is 11:59 p.m., ET, on the due date. Electronic applications submitted at 12:00 a.m., ET, on the day after the due date will be considered late and will be disqualified from competitive review and from funding under this announcement.

Applicants are required to submit their applications electronically via www.Grants.gov unless they received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission.*

ACF does not accommodate transmission of applications by email or facsimile.

Instructions for electronic submission via www.Grants.gov are available at: http://www.grants.gov/web/grants/applicants/apply-for-grants.html.

Applications submitted to www.Grants.gov at any time during the open application period prior to the due date and time that fail the Grants.gov validation check will not be received at ACF. These applications will not be acknowledged.

Mailed Paper Format Applications
The deadline for receipt of mailed, paper applications is 4:30 p.m., ET, on the due date. Mailed paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

Hand-Delivered Paper Format Applications
Applications that are hand-delivered by applicants, applicant couriers, by overnight/express mail couriers, or other representatives of the applicant must be

received on, or before, the due date listed in the *Overview* and in this section. These applications must be delivered between the hours of 8:00 a.m. and 4:30 p.m., ET, Monday through Friday (excluding federal holidays). Applications should be delivered to the address provided in *Section IV.7.Other Submission Requirements*.

Hand-delivered paper applications received after the due date and deadline time will be considered late and will be disqualified from competitive review and from funding under this announcement.

Hand-delivered paper format application submissions will be disqualified if the applicant organization has not received an exemption through the process described in *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

No appeals will be considered for applications classified as late under the following circumstances:

- Applications submitted electronically via www.Grants.gov are considered late when they are dated and time-stamped after the deadline of 11:59 p.m., ET, on the due date.
- Paper format applications received by mail or hand-delivery after 4:30 p.m., ET, on the due date will be classified as late and will be disqualified.
- Paper format applications received from applicant organizations that were not approved for an exemption from required electronic application submission under the process described in *Section IV.2. Request an Exemption from Required Electronic Submission* will be disqualified.

Emergency Extensions
ACF may extend an application due date when circumstances make it impossible for an applicant to submit their applications on time. Only events such as documented natural disasters (floods, hurricanes, tornados, etc.), or a verifiable widespread disruption of electrical service, or mail service, will be considered. The determination to extend or waive the due date, and/or receipt time, requirements in an emergency situation rests with the Grants Management Officer listed as the Office of Grants Management Contact in *Section VII. HHS Awarding Agency Contact(s)*.

Acknowledgement from www.Grants.gov
Applicants will receive an initial email upon submission of their application to www.Grants.gov. This email will provide a **Grants.gov Tracking Number**. Applicants should refer to this tracking number in all communication with Grants.gov. The email will also provide a **date and time stamp**, which serves as the official record of application's submission**.** Receipt of this email does not indicate that the application is accepted or that is has passed the validation check.

Applicants will also receive an email acknowledging that the received application is in the **Grants.gov validation process**, after which a third email is sent with the information that the submitted application package has passed, or failed, the series of checks and validations. Applications that are submitted on time that fail the validation check will not

be transmitted to ACF and will not be acknowledged by ACF.

See "What to Expect After Submitting" at www.Grants.gov for more information.

Acknowledgement from ACF of an electronic application's submission:
Applicants will be sent additional email(s) from ACF acknowledging that the application has been retrieved from www.Grants.gov by ACF. Receipt of these emails is not an indication that the application is accepted for competition.

Acknowledgement from ACF of receipt of a paper format application:
ACF will not provide acknowledgement of receipt of hard copy application packages submitted via mail or courier services.

IV.5. Intergovernmental Review

This program is not subject to Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," or 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." No action is required of applicants under this announcement with regard to E.O. 12372.

IV.6. Funding Restrictions

Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. (45 CFR §75.442)

Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-Federal entity. No proposal costs of past accounting periods will be allocable to the current period. (45 CFR §75.460)

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this grant award.

Purchase of real property is not an allowable activity or expenditure under this grant award.

IV.7. Other Submission Requirements

Submit paper applications to one of the following addresses. Also see *Section IV.2. Request an Exemption from Required Electronic Application Submission*.

Submission By Mail
Jessica Lohmann
OCSE
DPI
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20201

Hand Delivery
Jessica Lohmann
OCSE
DPI
Mary E. Switzer Building
330 C Street, SW
Washington, DC 20201

Electronic Submission
See *Section IV.2.* for application requirements and for guidance when submitting applications electronically via http://www.Grants.gov.
For all submissions, see *Section IV.4. Submission Dates and Times*.

V. Application Review Information

V.1. Criteria

Please note: Reviewers will not access, or review, any materials that are not part of the application documents. This includes information accessible on websites via hyperlinks that are referenced, or embedded, in the application. Though an application may include web links, or embedded hyperlinks, reviewers will not review this information as it is not considered to be part of the application documents. Nor will the information on websites be taken into consideration in scoring of evaluation criteria presented in this section. Reviewers will evaluate and score an application based on the documents that are presented in the application and **will not** refer to, or access, external links during the objective review.

Applications competing for financial assistance will be reviewed and evaluated using the criteria described in this section. The corresponding point values indicate the relative importance placed on each review criterion. Points will be allocated based on the extent to which the application proposal addresses each of the criteria listed. Applicants should address these criteria in their application materials, particularly in the project description and budget justification, as they are the basis upon which competing applications will be judged during the objective review. The required elements of the project description and budget justification may be found in *Section IV.2* of this announcement.

Technical Approach	Maximum Points:67

Approach Element 1: Procedural Justice (2 points)

- A sound approach for how the applicant will incorporate and consistently demonstrate procedural justice practices in all aspects of the program design, including voice and participation, neutrality of process, understanding, respect, and helpfulness. (2 points)

Approach Element 2: Initial Screening (4 points)

- A description of the current process for initiating contempt actions, including what enforcement remedies are exhausted, and how parents who owe support are screened for ability to pay. (1 points)
- A sound approach for how the applicant proposes to modify the current contempt action initiation process for the parents randomly assigned to receive grant services (i.e., the treatment group), including: (1) a description of the on-line data sources that will be used to determine ability to pay, and (2) how the custodial parent will be contacted to solicit information. (3 points)

Approach Element 3: Outreach and Engagement (6 points)

- A sound approach of how the applicant will conduct outreach for this demonstration, including a description of how child support staff will be involved. (3 points)
- A sound approach for how the applicant will incorporate procedural justice informed approaches into outreach. (1 point)
- A rationale for the proposed outreach methods and how they are informed by the demographic and cultural context for which they are proposed. (1 point)
- A description of any previously successful outreach efforts of the applicant and any proposed outreach incentives. (1 point)

Approach Element 4: Case Conferencing, Assessment, and Case Action Plans (7 points)

- A sound approach for how procedural justice activities will ensure that the noncustodial parents who appears for the case conference meeting will have a full understanding of the program, what the consequences of participation are, what their rights are throughout the process, and ample opportunity to express their side of the story and have it treated as relevant. (1 point)
- A description of the steps the applicant will take to ensure that conferences are conducted in locations and times that promote participation by parents. (1 point)
- Clarification of whether the initial case conference will include both parents, and whether the parents will conference together or separately. (1 point)
- A description of the elements that will be included in an assessment and the rationale for those elements and how they will inform case action plans. (2 points)
- An explanation of how assessment and action plan will be tied to the participant's ability to pay child support regularly. (2 points)

Approach Element 5: Enhanced Investigation (5 points)

- A sound approach for handling program participants who do not appear for a case

conference, including specifics about plans for enhanced investigation in those cases where the initial screening and outreach do not yield sufficient information to determine the parent's ability to pay. (5 points)

Approach Element 6: Enhanced Child Support Services (8 points)

- A description of the current process, if any, used to proactively review and modify child support orders, and a sound approach for reviewing and modifying child support orders under the demonstration, including details on the circumstances under which parents in the treatment group would be eligible for this service. (2 points)
- A description of the specific, non-mandatory enforcement actions that will be suspended and under what conditions these suspensions will take place. (1 points)
- A description of other enhanced child support services that will be provided to noncustodial parents in the treatment group. (1 point)
- A sound approach for how the applicant proposes to inform the custodial parent(s) of the noncustodial parent's participation in grant services. (1 point)
- A sound approach for following-up on action items that involve the custodial parent(s). (1 point)
- A sound approach for how the applicant proposes to engage the custodial parent(s) associated with program participants. (1 point)
- A sound approach for how procedural justice principles will be embedded into these services. (1 point)

Approach Element 7: Other Support Services (9 points)

- A sound approach for providing employment services, including a description of who will provide these services, their experience providing these services, and their experience serving noncustodial parents. (2 points)
- A description of the method of delivering employment services, as well as the type of employment services proposed, and how these services will be coordinated with other services being offered to parents receiving grant services. (2 points)
- A plan for providing dispute resolution services and how this service will tie to the case action plans developed for each individual participant, as well as the role these services will play in leading to reliable payment of child support. (3 points)
- A description of any optional support services and an argument for how it will strengthen the overall program. (2 points)

Approach Element 8: Case Management (5 points)

- A sound approach for ensuring ongoing assessment of participants' needs. (2 points)
- A plan for coordinating program services through case management. (1 point)
- A description of how procedural justice is incorporated into case management. (1 point)
- A description of who will provide case management services and, if services are to be provided by someplace other than the child support office, a justification for why a partnering agency that approach is likely to be more effective in reaching

child support program goals. (1 point)

Approach Element 9: Domestic Violence Plans and Services (8 points)

- A description of the applicant's proposed screening and response to disclosures of domestic violence, paying particular attention to how these responses will vary depending upon whether the proposed services involve only the noncustodial parent or both parents. (2 points)
- A description of the services that will be provided by ongoing partnerships with domestic violence service providers for perpetrators and victims of violence if those services are anticipated to improve the reliability of child support. (2 points)
- A plan for building the capacity of program staff and partners to address domestic violence, including a training plan. (2 points)
- Identification of local, tribal or state-level domestic violence experts with whom the applicant will consult throughout the project. (1 point)
- A strong plan for safeguarding custodial parent information. (1 point)

Approach Element 10: Partnerships (4 points)

- A description of the organizations, cooperating entities, consultants, or other key individuals who will work on the project, along with a short description of the nature of their effort or contribution in this project. (2 points)
- Evidence that demonstrates a relationship with proposed partners or that a relationship can be established quickly because of existing connections and agreements to work together. (2 points)

Approach Element 11: Evaluation (9 points)

- A sound plan for adhering to the random assignment methodology, working with the evaluator to develop a process for random assignment, and describing how services provided to the treatment and control groups will be meaningfully different. (2 points)
- Evidence of the ability to assign, over three years, at least 3,000 eligible parents who owe arrears, approximately half of whom would be assigned to the alternative to contempt intervention and half of whom would go through "enforcement as usual". (include descriptions of measures planned to ensure control group members do not receive treatment services) (5 points)
- A plan for providing data to the evaluator on treatment and control groups in required formats through required reports/systems and participating in the implementation evaluation including on-site interviews and information collection. (2 points)

Personnel and Resources	Maximum Points:6

To what degree does the applicant demonstrate and/or provide the following:

- Plans to employ a qualified project manager with relevant experience and resources adequate to plan, manage, and complete the project. (2 points)
- Plans to employ an evaluation coordinator (may be the project manager), with

relevant experience and resources adequate to serve as primary liaison to the evaluator. (2 points)
- A description of the role of other key staff members who are proposed to work on the project and a biographical sketch or resume for each of these persons. (2 points)

Organizational Capacity and Experience	Maximum Points:16

To what degree does the applicant demonstrate and/or provide the following:

- Explanation and evidence of ability and authority to implement the proposed project, including a description of the procurement process that may be necessary for procuring services from third-party entities. (1 point)
- Explanation and evidence of ability to instill procedural justice practices into the child support program. (1 point)
- A description of applicant's previous experience and capacity to: screen noncustodial parents for ability to pay, conduct outreach to noncustodial parents who are unable to pay child support, conduct in person meetings, assessments, and draft action plans for noncustodial parents, conduct enhanced investigations, and conduct case management if provided by child support staff. (2 points)
- Description of applicant's previous experience providing enhanced child support services, such as suspension of non-mandatory enforcement actions, expedited review and modification, and compromise of state-owed arrears. (1 point)
- Description of applicant's previous experience screening for domestic violence, implementing family violence safeguards, and working with domestic violence experts. (2 points)
- Description of applicant's previous experience providing or coordinating with dispute resolution services. (2 points)
- Description of applicant's previous experience working with third-party organizations to provide employment services and other support services. (2 points)
- Description of how meaningful involvement of the child support (IV-D) director and other relevant decision-makers will be maintained throughout the demonstration. (1 point)
- Explanation and evidence of previous experience working with a third-party evaluator, participating in an evaluation, and understanding of the evaluation requirements of the grant project. (1 point)
- Explanation and evidence of ability and experience managing a grant and working with project partners such as OCSE. (1 point)
- Explanation and evidence of ability and experience sharing administrative data for evaluation, and sharing it with a third-party evaluator. (1 point)
- An organizational chart that explains how the project will be organized, what organizations will be involved, and the type of personnel in each organization that will be involved in the demonstration. (1 point)

Project Budget and Justification	Maximum Points:6

To what degree does the applicant demonstrate and/or provide the following:

- A detailed budget that contains reasonable cost estimates for the project, including adequate staffing, and justifications for the amounts requested. (2 points)
- A budget proposal for the first year including a full-time project manager that is an employee of the child support agency; attendance of the project manager and one additional staff at a 2-day workshop in Washington, DC; reasonable costs for the proposed project design; and justifications for the amounts requested. (2 points)
- Estimates for costs required to support full participation in the national cross-site evaluation, including time and costs of staff participating in the evaluation, including data collection and a staff evaluation coordinator. (2 points)

Letter(s) of Support	Maximum Points:5

To what degree does the applicant demonstrate and/or provide the following:

- Letter(s) of support from the court, child support attorney's office (if independent of the child support agency), domestic violence experts, other proposed partners. (5 points)

V.2. Review and Selection Process

No grant award will be made under this announcement on the basis of an incomplete application. No grant award will be made to an applicant or sub-recipient that does not have a DUNS number (www.dbn.com) and an active registration at SAM (www.sam.gov). See *Section IV.3. Unique Entity Identifier and System for Award Management (SAM)*.

Initial ACF Screening
Each application will be screened to determine whether it meets any of the disqualification factors described in *Section III.3.Other, Application Disqualification Factors*.

Disqualified applications are considered to be "non-responsive" and are excluded from the competitive review process. Applicants will be notified of a disqualification determination by email or by USPS postal mail within 30 federal business days from the closing date of this FOA.

Objective Review and Results
Applications competing for financial assistance will be reviewed and evaluated by objective review panels using only the criteria described in *Section V.1. Criteria* of this announcement. Each panel is composed of experts with knowledge and experience in the area under review. Generally, review panels include three reviewers and one chairperson.

Results of the competitive objective review are taken into consideration by ACF in the selection of projects for funding; however, objective review scores and rankings are not binding. Scores and rankings are only one element used in the award decision-making process.

ACF may elect not to fund applicants with management or financial problems that would indicate an inability to successfully complete the proposed project. Applications may be funded in whole or in part. Successful applicants may be funded at an amount lower than that requested. ACF reserves the right to consider preferences to fund organizations serving emerging, unserved, or under-served populations, including those populations located in pockets of poverty. ACF will also consider the geographic distribution of federal funds in its award decisions.

ACF may refuse funding for projects with what it regards as unreasonably high start-up costs for facilities or equipment, or for projects with unreasonably high operating costs.

Federal Awarding Agency Review of Risk Posed by Applicants
As required by 2 CFR 200 of the Uniform Guidance, effective January 1, 2016, ACF is required to review and consider any information about the applicant that is in the Federal Awardee Performance and Integrity Information System (FAPIIS), https://www.fapiis.gov/, before making any award in excess of the simplified acquisition threshold (currently $150,000) over the period of performance. An applicant may review and comment on any information about itself that a federal awarding agency has previously entered into FAPIIS. ACF will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under federal awards when completing the review of risk posed by applicants as described in 2 CFR § 200.205 Federal Awarding Agency Review of Risk Posed by Applicants (http://www.ecfr.gov/cgi-bin/text-idx?node=se2.1.200_1205&rgn=div8).

Please refer to *Section IV.2.* of this announcement for information on non-federal reviewers in the review process.

Approved but Unfunded Applications
Applications recommended for approval that were not funded under the competition because of the lack of available funds may be held over by ACF and reconsidered in a subsequent review cycle if a future competition under the program area is planned. These applications will be held over for a period of up to one year and will be re-competed for funding with all other competing applications in the next available review cycle. For those applications determined as approved but unfunded, notice will be given of the determination by email.

V.3. Anticipated Announcement and Federal Award Dates

Announcement of awards and the disposition of applications will be provided to applicants at a later date. ACF staff cannot respond to requests for information regarding funding decisions prior to the official applicant notification.

VI. Federal Award Administration Information

VI.1. Federal Award Notices

Successful applicants will be notified through the issuance of a Notice of Award (NoA) that sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-federal share to be provided (if applicable), and the total project period for which support is contemplated. The NoA will be signed by the Grants Officer and transmitted via postal mail, email, or by GrantSolutions.gov or the Head Start Enterprise System (HSES), whichever is relevant. Following the finalization of funding decisions, organizations whose applications will not be funded will be notified by letter signed by the cognizant Program Office head. Any other correspondence that announces to a Principal Investigator, or a Project Director, that an application was selected is not an authorization to begin performance.

Project costs that are incurred prior to the receipt of the NoA are at the recipient's risk and may be reimbursed only to the extent that they are considered allowable as approved pre-award costs. Information on allowable pre-award costs and the time period under which they may be incurred is available in *Section IV.6. Funding Restrictions*.

VI.2. Administrative and National Policy Requirements

Unless otherwise noted in this section, administrative and national policy requirements that are applicable to discretionary grants are available at: http://www.acf.hhs.gov/administrative-and-national-policy-requirements.

Award Term and Condition for Federal Recognition of Same-Sex Spouses/Marriage

A standard term and condition of award will be included in the final Notice of Awards (NOA) that states: "In any grant-related activity in which family, marital, or household considerations are, by statute or regulation, relevant for purposes of determining beneficiary eligibility or participation, grantees must treat same-sex spouses, marriages, and households on the same terms as opposite-sex spouses, marriages, and households, respectively. By "same-sex spouses," HHS means individuals of the same sex who have entered into marriages that are valid in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex marriage. By "same-sex marriages," HHS means marriage between two individuals validly entered into in the jurisdiction where performed, including any of the 50 states, the District of Columbia, or a U.S. territory or in a foreign country, regardless of whether or not the couple resides in a jurisdiction that recognizes same-sex-marriage. By "marriage," HHS does not mean registered domestic partnerships, civil unions or similar formal relationships recognized under the law of the jurisdiction of celebration as something other than a marriage."

This project activity is considered research and awardees must follow all direction from OCSE and the evaluation team regarding controls for human subjects. The evaluation plan and design will be approved by the evaluator's Institutional Review Board (IRB). Program grantees are not required to have their projects approved by a separate IRB.

VI.3. Reporting

Recipients under this FOA will be required to submit performance progress and financial reports periodically throughout the project period. Information on reporting requirements is available on the ACF website at http://www.acf.hhs.gov/discretionary-post-award-requirements#chapter-2.

For planning purposes, the frequency of required reporting for awards made under this announcement are as follows:

Performance Progress Reports:	Annually
Financial Reports:	Annually

VII. HHS Awarding Agency Contact(s)

Program Office Contact

Michael Hayes
U.S. Department of Health and Human Services
Administration for Children and Families
Office of Child Support Enforcement
330 C Street, SW
Washington, DC 20201
Phone: (202) 401-5651
Email: michael.hayes@Acf.hhs.gov

Office of Grants Management Contact

Bridget Shea Westfall
U.S. Department of Health and Human Services
Administration for Children and Families
Office of Grants Management
330 C Street, SW
Washington, DC 20201
Phone: (202) 401-5542

Federal Relay Service:

Hearing-impaired and speech-impaired callers may contact the Federal Relay Service (FedRelay) at www.gsa.gov/fedrelay.

VIII. Other Information

Reference Websites

U.S. Department of Health and Human Services (HHS) http://www.hhs.gov/.

HHS Grants Forecast http://www.acf.hhs.gov/ hhsgrantsforecast/index.cfm.

Administration for Children and Families (ACF) http://www.acf.hhs.gov/.

ACF Grants Homepage https://www.acf.hhs.gov/ grants.

ACF Funding Opportunities http://www.acf.hhs.gov/grants/open/foa/.

ACF "How to Apply for a Grant" https://www.acf. hhs.gov/ grants/ how-to-apply-for-grants.

Catalog of Federal Domestic Assistance (CFDA) https://www.cfda.gov/.

For submission of a paper format application, all required Standard Forms (SF), assurances, and certifications are available on the ACF Grants-Forms page through https://www. acf.hhs.gov/grants-forms.

Standard grant forms are available at the Grants.gov Forms Repository webpage at http:// www.grants.gov/web/ grants/forms/sf-424- family.html.

For information regarding accessibility issues, visit the Grants.gov Accessibility Compliance Page at http://www.grants.gov/web/grants/accessibility-compliance.html

Code of Federal Regulations (CFR) http://www.ecfr.gov/.

The *Federal Register* https://www.federalregister.gov/.

United States Code (U.S.C.) http://uscode.house.gov/.

The Office of Child Support Enforcement (OCSE) may post applicant resources online at http ://www.acf.hhs.gov/programs/css/grants. Please check the site periodically for updates.

Application Checklist

Applicants may use the checklist below as a guide when preparing your application package.

What to Submit	Where Found	When to Submit

The Project Budget and Budget Justification	Referenced in *Section IV.2. The Project Budget and Budget Justification* of the announcement.	Submission is required in addition to submission of SF-424A or SF-424C. It must be submitted with the application package by the due date in the *Overview* and in *Section IV.4. Submission Dates and Times*.
Commitment of Non-Federal Resources	Referenced in *Section IV.2. The Project Budget and Budget Justification*.	Submission is due by the application due date found in the *Overview* and *Section IV.4. Submission Dates and Times*.
Letters of Support	Referenced in *Section IV.2. The Project Description*.	Submission is due by the application due date listed in the *Overview* and in *Section IV.4. Submission Dates and Times*.
Table of Contents	Referenced in *Section IV.2. The Project Description*.	Submit with the application by the due date found in the *Overview* and in *Section IV.4. Submission Dates and Times*.
Mandatory Grant Disclosure	Requirement, submission instructions, and mailing addresses are found in the "Mandatory Grant Disclosure" entry in the table in *Section*	Concurrent submission to the Administration for Children and Families and to the

	IV.2. Required Forms, Assurances and Certifications.	Office of the Inspector General is required.
The Project Description	Referenced in *Section IV.2. The Project Description*.	Submission is due by the application due date found in the *Overview* and in *Section IV.4. Submission Dates and Times*.
Project Summary/Abstract	Referenced in *Section IV.2. The Project Description.* The Project Summary/Abstract is limited to one single-spaced page.	Submission is due by the application due date found in the *Overview* and in *Section IV.4. Submission Dates and Times*.
SF-424 - Application for Federal Assistance	Referenced in *Section IV.2.Required Forms, Assurances, and Certifications.* For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory." Also available at http://www .grants.gov/web/ grants/ forms .html by using the link to "SF-424 Family."	Submission is due by the application due date found in the *Overview* and in *Section IV.4. Submission Dates and Times.*
SF-424A - Budget Information - Non-Construction Programs and	Referenced in *Section IV.2. Required Forms, Assurances, and Certifications.*	Submission is due by the application due date found in the *Overview* and in

SF-424B - Assurances - Non-Construction Programs	For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory." Also available at http://www.grants.gov/ web/ grants/ forms.html by using the link to "SF-424 Family." These forms are ***required*** for applications under this FOA: • Projects that include only non-construction activities must submit the SF-424A and SF-424B, along with the SF-424 and SF-P/PSL.	*Section IV.4. Submission Dates and Times.*
DUNS Number (Unique Entity Identifier) and Systems for Award Management (SAM) registration.	Referenced in *Section IV.3. Unique Entity Identifier and System for Award Management (SAM)* in the announcement. To obtain a DUNS number (Unique Entity Identifier), go to http://fedgov.dnb.com/webform. To register at SAM, go to http ://www.sam.gov.	A DUNS number (Unique Entity Identifier) and registration at SAM.gov are required for all applicants. Active registration at SAM must be maintained throughout the application and project award period.
SF-424 Key Contact Form	Referenced in *Section IV.2. Required Forms, Assurances, and Certifications.* For electronic application submission, this form is	Submission is due with the application by the application due date found in the

	submission, this form is available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Optional." The form is also available at http:// www. grants. gov/ web/ grants/forms.html by using the link to "SF-424 Family."	*Overview* and in *Section IV.4. Submission Dates and Times.*
SF-Project/Performance Site Location(s) (SF-P/PSL)	Referenced in *Section IV.2.Required Forms, Assurances, and Certifications.* For electronic application submission, these forms are available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Mandatory." Also available at http://www .grants.gov/web/ grants/ forms .html by using the link to "SF-424 Family."	Submission is due by the application due date found in the *Overview* and in *Section IV.4. Submission Dates and Times.*
LGBTQ Accessibility Policy for Discretionary Grants	Referenced in the table *Section IV.2. Required Forms, Assurances and Certifications*.	Submission is due with the application package by the application due date found in the *Overview* and in *Section IV.4. Submission Dates and Times*.

SF-LLL - Disclosure of Lobbying Activities	"Disclosure Form to Report Lobbying" is referenced in *Section IV.2. Required Forms, Assurances, and Certifications.* For electronic application submission, this form is available on the FOA's Grants.gov "Download Opportunity Instructions and Application" page under "Download Application Package" in the section entitled, "Optional." The form is available in the electronic application kit at Grants.gov and at http://www.grants.gov/ web/ grants/ forms.html by using the link to "SF-424 Family." If applicable, submission of this form is required if any funds have been paid, or will be paid, to any person for influencing, or attempting to influence, an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan.	If submission of this form is applicable, it is due at the time of application. If it not available at the time of application, it may also be submitted prior to the award of a grant.
Certification Regarding Lobbying (Grants.gov Lobbying Form)	Referenced in *Section IV.2. Required Forms, Assurances, and Certifications.* For electronic application submission, these forms are	Submission is due with the application package or prior to the award of a grant.

	available on the FOA's Grants.gov page under the "Application Package" tab in the section entitled, "Mandatory." Available at http://www. grants .gov/ web/ grants/ forms. html by using the link to "SF-424 Family."	

EXHIBIT N

DC-570 ORDER

Date: March 14, 2012

Signed By Larry D. Willis Sr.

ORDER
Commonwealth of Virginia

Case No.: JA078213-03-00 / 04-00

CHESAPEAKE Juvenile and Domestic Relations District Court

JESSICA L. CHILDERS V. / *In re:* TROY J. CHILDERS

THE FOLLOWING PARTIES WERE PRESENT:

☐ Juvenile ☐ Attorney: ☐ Probation Officer

☐ Guardian *ad Litem*

☐ Father ☐ Mother ☐ Guardian:

☒ Petitioner/Complainant ☐ Attorney:

☒ Respondent/Defendant ☐ Attorney:

☐ Commonwealth's Attorney:: ☐

Type of Case: CH SPT ; SP SPT

☐ Felony ☐ Misdemeanor ☐ CHINS ☐ Custody ☐ Visitation ☒ Support ☐ Foster Care ☐ Other

Type of Hearing:

☐ Determination/Appointment of Counsel ☐ Detention Hearing ☐ Transfer Hearing
☒ Adjudicatory Hearing ☐ Disposition Hearing ☐ Continuance ☐ Review ☐ Preliminary Hearing
☐ Show Cause ☐ Trial ☐ Motion ☐

PLEA: ~~||||~~ ||

FINDINGS OF THE COURT:

called Resp.
757-553-5191

accumulated # arrear = 1,708.70 as of 3-14-12

IT IS ORDERED THAT:

~~JT legal to F & M~~
~~P. Many physical to M~~

Child support $644.19/mnth — pay through Treasurer of VA eff. 8-18-11
$148.64/wk 1st pmt 4-1-12
health insurance not available
50% meds NCI

Spousal support — $87.54/month
$20.20/wk

This case is continued to:

3-14-12
DATE

[signature]
JUDGE

FORM DC-570 12/98 PC (A100531 8/09)

EXHIBIT O

Virginia DCSE Payment Record

Date Range Selected: 10/03/2011 to 12/16/2019

Source:
The Virginia Department of Social Services (VDSS)

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

Division of Child Support Enforcement
PO BOX 550
Richmond, VA 23218
http://www.dss.virginia.gov/family/dcse/
1-800-468-8894

Virginia DCSE Payment Record

December 16, 2019

Case Number: 0004355866
Date Range Selected: 10/03/2011 to 12/16/2019

Case Number: 0004355866
Parent Paying Support: CHILDERS JR., TROY JEFFREY - 0000402946
Parent/Custodian Receiving Support: CHILDERS, JESSICA LYNN - 0004355860
Last Payment Date: 11/29/2018

Order Information				
Support Type	Current Support Charge	Charge Frequency	Start Date	Next Charge Date
Child Support	835.75	MONTHLY	05/01/2015	01/01/2020

Balance Information			
	Owed To		Total
	Parent/Custodian Receiving Support	Virginia	
Arrears	48,457.32	0.00	48,457.32
Interest	9,648.64	0.00	9,648.64
Fees	0.00	120.00	120.00
Subtotal	58,105.96	120.00	58,225.96
Unpaid Current Support Charge	835.75	0.00	835.75
Total	58,941.71	120.00	59,061.71

VIRGINIA DEPARTMENT OF SOCIAL SERVICES

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Virginia DCSE Payment Record

December 16, 2019

Case Number: 0004355866

Date Range Selected: 10/03/2011 to 12/16/2019

Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
12/16/2019				835.75			48,457.32	9,648.64	120.00	58,225.96
12/01/2019	835.75			835.75						58,225.96
12/01/2019				-835.75		EOM	+835.75	+238.10		
11/01/2019	835.75			835.75						57,152.11
11/01/2019				-835.75		EOM	+835.75	+233.92		
10/01/2019	835.75			835.75						56,082.44
10/01/2019				-835.75		EOM	+835.75	+229.75		
09/01/2019	835.75			835.75						55,016.94
09/01/2019				-835.75		EOM	+835.75	+225.57		
08/01/2019	835.75			835.75						53,955.62
08/01/2019				-835.75		EOM	+835.75	+221.39		
07/01/2019	835.75			835.75						52,898.48
07/01/2019				-835.75		EOM	+835.75	+217.21		
06/01/2019	835.75			835.75						51,845.52
06/01/2019				-835.75		EOM	+835.75	+213.03		
05/01/2019	835.75			835.75						50,796.74
05/01/2019				-835.75		EOM	+835.75	+208.85		
04/01/2019	835.75			835.75						49,752.14
04/01/2019				-835.75		EOM	+835.75	+204.67		
03/01/2019	835.75			835.75						48,711.72
03/01/2019				-835.75		EOM	+835.75	+200.49		
02/01/2019	835.75			835.75						47,675.48
02/01/2019				-835.75		EOM	+835.75	+196.32		

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Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
01/01/2019	835.75			835.75						46,643.41
01/01/2019				-835.75		EOM	+835.75	+192.14		
12/01/2018	835.75			835.75						45,615.52
12/01/2018						EOM		+192.14		
11/29/2018		1,060.00	B	0.00			-224.25			45,423.38
11/01/2018	835.75			835.75						45,647.63
11/01/2018						EOM		+193.26		
10/16/2018		400.00	B	0.00			-149.25			45,454.37
10/10/2018		400.00	C, D	250.75		DFEE				45,603.62
10/04/2018		185.00	C	650.75						45,603.62
10/01/2018	835.75			835.75						45,603.62
10/01/2018				-835.75		EOM	+835.75	+189.83		
09/01/2018	835.75			835.75						44,578.04
09/01/2018				-835.75		EOM	+835.75	+185.65		
08/01/2018	835.75			835.75						43,556.64
08/01/2018				-235.75		EOM	+235.75	+184.47		
07/31/2018		100.00	C	235.75						43,136.42
07/30/2018		500.00	C	335.75						43,136.42
07/01/2018	835.75			835.75						43,136.42
07/01/2018				-335.75		EOM	+335.75	+182.79		
06/14/2018		500.00	C	335.75						42,617.88
06/01/2018	835.75			835.75						42,617.88
06/01/2018				-485.75		EOM	+485.75	+180.36		

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Date Range Selected: 10/03/2011 to 12/16/2019

Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
05/21/2018		350.00	C	485.75						41,951.77
05/01/2018	835.75			835.75						41,951.77
05/01/2018				-235.75		EOM	+235.75	+179.18		
04/19/2018		600.00	C	235.75						41,536.84
04/01/2018	835.75			835.75						41,536.84
04/01/2018						EOM		+179.18		
03/12/2018		2,400.00	B, D	0.00		DFEE	-1,564.25			41,357.66
03/01/2018	835.75			835.75						42,921.91
03/01/2018				-835.75		EOM	+835.75	+182.82		
02/01/2018	835.75			835.75						41,903.34
02/01/2018				-835.75		EOM	+835.75	+178.65		
01/01/2018	835.75			835.75						40,888.94
01/01/2018				-835.75		EOM	+835.75	+174.47		
12/01/2017	835.75			835.75						39,878.72
12/01/2017				-835.75		EOM	+835.75	+170.29		
11/01/2017	835.75			835.75						38,872.68
11/01/2017				-375.75		EOM	+375.75	+168.41		
10/30/2017		360.00	C	375.75						38,328.52
10/04/2017		100.00	C	735.75						38,328.52
10/01/2017	835.75			835.75						38,328.52
10/01/2017				-785.75		EOM	+785.75	+164.48		
09/29/2017		50.00	C	785.75						37,378.29
09/01/2017	835.75			835.75						37,378.29

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Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
09/01/2017				-835.75		EOM	+835.75	+160.30		
08/01/2017	835.75			835.75						36,382.24
08/01/2017				-250.75		EOM	+250.75	+159.05		
07/31/2017				250.75	+120.00				+120.00	35,972.44
07/06/2017		585.00	C	250.75						35,852.44
07/01/2017	835.75			835.75						35,852.44
07/01/2017				-835.75		EOM	+835.75	+154.87		
06/01/2017	835.75			835.75						34,861.82
06/01/2017				-835.75		EOM	+835.75	+150.69		
05/01/2017	835.75			835.75						33,875.38
05/01/2017						EOM		+150.69		
04/11/2017		450.00	B	0.00			-114.25			33,724.69
04/10/2017		500.00	C	335.75						33,838.94
04/01/2017	835.75			835.75						33,838.94
04/01/2017				-835.75		EOM	+835.75	+147.08		
03/01/2017	835.75			835.75						32,856.11
03/01/2017				-835.75		EOM	+835.75	+142.90		
02/01/2017	835.75			835.75						31,877.46
02/01/2017						EOM		+142.90		
01/31/2017		450.00	B	0.00			-64.25			31,734.56
01/05/2017		450.00	C	385.75						31,798.81
01/01/2017	835.75			835.75						31,798.81
01/01/2017				-385.75		EOM	+385.75	+141.30		

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Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
12/01/2016	835.75	450.00	C, D	385.75		DFEE				31,271.76
12/01/2016				-835.75		EOM	+835.75	+137.12		
11/01/2016	835.75			835.75						30,298.89
11/01/2016				-382.75		EOM	+382.75	+135.20		
10/31/2016		453.00	C	382.75						29,780.94
10/01/2016	835.75			835.75						29,780.94
10/01/2016				-835.75		EOM	+835.75	+131.03		
09/01/2016	835.75			835.75						28,814.16
09/01/2016				-535.75		EOM	+535.75	+128.35		
08/30/2016		300.00	C	535.75						28,150.06
08/01/2016	835.75			835.75						28,150.06
08/01/2016				-835.75		EOM	+835.75	+124.17		
07/01/2016	835.75			835.75						27,190.14
07/01/2016				-835.75		EOM	+835.75	+119.99		
06/01/2016	835.75			835.75						26,234.40
06/01/2016				-835.75		EOM	+835.75	+115.81		
05/01/2016	835.75			835.75						25,282.84
05/01/2016				-835.75		EOM	+835.75	+111.63		
04/01/2016	835.75			835.75						24,335.46
04/01/2016				-635.75		EOM	+635.75	+108.45		
03/10/2016		200.00	C, D	635.75		DFEE				23,591.26
03/01/2016	835.75			835.75						23,591.26
03/01/2016				-835.75		EOM	+835.75	+104.27		

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1-800-468-8894

Virginia DCSE Payment Record

December 16, 2019

Case Number: 0004355866

Date Range Selected: 10/03/2011 to 12/16/2019

Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
02/01/2016	835.75			835.75						22,651.24
02/01/2016				-596.14		EOM	+596.14	+101.29		
01/08/2016		239.61	C	596.14						21,953.81
01/01/2016	835.75			835.75						21,953.81
01/01/2016				-585.75		EOM	+585.75	+98.36		
12/01/2015	835.75	250.00	C	585.75						21,269.70
12/01/2015				-835.75		EOM	+835.75	+94.19		
11/01/2015	835.75			835.75						20,339.76
11/01/2015				-835.75		EOM	+835.75	+90.01		
10/01/2015	835.75			835.75						19,414.00
10/01/2015				-835.75		EOM	+835.75	+85.83		
09/01/2015	835.75			835.75						18,492.42
09/01/2015				-835.75		EOM	+835.75	+81.65		
08/01/2015	835.75			835.75						17,575.02
08/01/2015				-500.75		EOM	+500.75	+79.15		
07/15/2015		150.00	C	500.75						16,995.12
07/08/2015		185.00	C	650.75						16,995.12
07/01/2015	835.75			835.75						16,995.12
07/01/2015				-662.75		EOM	+662.75	+75.83		
06/05/2015		173.00	C	662.75						16,256.54
06/01/2015	835.75			835.75						16,256.54
06/01/2015				-835.75		EOM	+835.75	+71.65		
05/01/2015	835.75			835.75						15,349.14

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Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
05/01/2015				-1,000.00		EOM	+1000.00	+66.65		
04/01/2015	1,000.00			1,000.00						14,282.49
04/01/2015				-700.00		EOM	+700.00	+63.15		
03/04/2015		300.00	C, D	700.00		DFEE				13,519.34
03/01/2015	1,000.00			1,000.00						13,519.34
03/01/2015				-1,000.00		EOM	+1000.00	+58.15		
02/01/2015	1,000.00			1,000.00						12,461.19
02/01/2015				-1,000.00		EOM	+1000.00	+53.15		
01/01/2015	1,000.00			1,000.00						11,408.04
01/01/2015				-700.00		EOM	+700.00	+49.65		
12/03/2014		300.00	C	700.00						10,658.39
12/01/2014	1,000.00			1,000.00						10,658.39
12/01/2014				-1,000.00		EOM	+1000.00	+44.65		
11/01/2014	1,000.00			1,000.00						9,613.74
11/01/2014				-1,000.00		EOM	+1000.00	+39.65		
10/01/2014	1,000.00			1,000.00						8,574.09
10/01/2014				-100.00		EOM	+100.00	+39.15		
09/16/2014		900.00	C	100.00						8,434.94
09/01/2014	1,000.00			1,000.00						8,434.94
09/01/2014				-1,000.00		EOM	+1000.00	+34.15		
08/01/2014	1,000.00			1,000.00						7,400.79
08/01/2014				-300.00		EOM	+300.00	+32.65		
07/29/2014		700.00	C	300.00						7,068.14

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Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
07/01/2014	1,000.00			1,000.00						7,068.14
07/01/2014				-200.00		EOM	+200.00	+31.65		
06/18/2014		800.00	C	200.00						6,836.49
06/01/2014	1,000.00			1,000.00						6,836.49
06/01/2014						EOM		+31.65		
05/14/2014		1,000.00	C	0.00						6,804.84
05/01/2014	1,000.00			1,000.00						6,804.84
05/01/2014				-100.00		EOM	+100.00	+31.15		
04/23/2014		900.00	C	100.00						6,673.69
04/01/2014	1,000.00			1,000.00						6,673.69
04/01/2014				-667.99		EOM	+667.99	+27.81		
03/19/2014		78.14	C	667.99						5,977.89
03/11/2014		253.87	C	746.13						5,977.89
03/01/2014	1,000.00			1,000.00						5,977.89
03/01/2014						EOM		+27.81		
02/28/2014		761.61	B	0.00			-523.22			5,950.08
02/11/2014		761.61	C	238.39						6,473.30
02/01/2014	1,000.00			1,000.00						6,473.30
02/01/2014				-238.39		EOM	+238.39	+29.24		
01/13/2014		761.61	C	238.39						6,205.67
01/01/2014	1,000.00			1,000.00						6,205.67
01/01/2014						EOM		+29.24		
12/27/2013		507.74	B	0.00			-15.48			6,176.43

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Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
12/11/2013		507.74	C	492.26						6,191.91
12/01/2013	1,000.00			1,000.00						6,191.91
12/01/2013						EOM		+29.32		
11/22/2013		507.74	B	0.00			-15.48			6,162.59
11/18/2013				492.26	+1035.38		+1007.30	+28.08		6,178.07
11/08/2013		507.74	C	492.26						5,142.69
11/01/2013	1,000.00			1,000.00						5,142.69
11/01/2013						EOM		+24.36		
10/25/2013		761.61	B, D	0.00		DFEE	-269.22			5,118.33
10/09/2013		507.61	C, D	492.39		DFEE				5,387.55
10/01/2013	1,000.00			1,000.00						5,387.55
10/01/2013				-1,000.00		EOM	+1000.00	+20.70		
09/13/2013	355.90			1,000.00						4,366.85
09/01/2013	644.10			644.10						4,366.85
09/01/2013						EOM		+20.70		
08/21/2013		300.00	B	0.00			-55.90			4,346.15
08/13/2013		400.00	C	244.10						4,402.05
08/01/2013	644.10			644.10						4,402.05
08/01/2013				-644.10		EOM	+644.10	+17.76		
07/01/2013	644.10			644.10						3,740.19
07/01/2013						EOM		+17.76		
06/18/2013		680.00	B	0.00			-35.90			3,722.43
06/01/2013	644.10			644.10						3,758.33

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Date Range Selected: 10/03/2011 to 12/16/2019

Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
06/01/2013				-644.10		EOM	+644.10	+14.72		
05/01/2013	644.10			644.10						3,099.51
05/01/2013						EOM		+14.72		
04/30/2013		698.00	B	0.00			-53.90			3,084.79
04/01/2013	644.10			644.10						3,138.69
04/01/2013						EOM		+14.99		
03/12/2013		690.00	B	0.00			-45.90			3,123.70
03/01/2013	644.10			644.10						3,169.60
03/01/2013						EOM		+15.22		
02/13/2013		1,000.00	B	0.00			-355.90			3,154.38
02/01/2013	644.10			644.10						3,510.28
02/01/2013				-644.10		EOM	+644.10	+13.78		
01/01/2013	644.10			644.10						2,852.40
01/01/2013						EOM		+13.78		
12/19/2012		400.00	A				-400.00			2,838.62
12/13/2012		660.00	B	0.00			-15.90			3,238.62
12/01/2012	644.10			644.10						3,254.52
12/01/2012						EOM		+15.86		
11/27/2012		675.00	B, D	0.00		DFEE	-30.90			3,238.66
11/02/2012				644.10	+2628.53		+2571.30	+57.23		3,269.56
11/01/2012	859.20			644.10						641.03
11/01/2012				-259.10		EOM	+259.10	+1.86		
10/03/2012		385.00	C	44.00						380.07

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Date Range Selected: 10/03/2011 to 12/16/2019

Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
10/01/2012	429.00			429.00						380.07
10/01/2012						EOM		+1.86		
09/14/2012		500.00	B	0.00			-71.00			378.21
09/01/2012	429.00			429.00						449.21
09/01/2012						EOM		+2.22		
08/02/2012		900.00	B	0.00			-471.00			446.99
08/01/2012	429.00			429.00						917.99
08/01/2012				-429.00		EOM	+429.00	+2.43		
07/01/2012	429.00			429.00						486.56
07/01/2012				-429.00		EOM	+429.00	+0.28		
06/01/2012	429.00			429.00						57.28
06/01/2012						EOM		+0.28		
05/30/2012		800.00	B	0.00			-371.00			57.00
05/01/2012	429.00			429.00						428.00
05/01/2012				-428.00		EOM	+428.00			
04/01/2012	429.00	1.00	C	428.00						0.00
03/30/2012		429.00	C	0.00						0.00
03/01/2012	429.00			429.00						0.00
02/09/2012		429.00	C	0.00						0.00
02/01/2012	429.00			429.00						0.00
01/12/2012		378.54	C	0.00						0.00
01/01/2012	429.00	50.46	C	378.54						0.00
12/21/2011		199.54	C	0.00						0.00

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Payment Record Detail										
Support Type(s) Selected: Child Support, Miscellaneous					Transactions		Balances			
Date	Current Support Charge	Payment Amount	Distribution	Unpaid Current Support Charge	Adjustment Amount	Other	Arrears	Interest	Fees	Total
12/01/2011	429.00	229.46	C	199.54						0.00
11/30/2011		470.54	A, I, D			DFEE	-470.33	-0.21		0.00
11/09/2011		430.00	B	0.00			-1.00			470.54
11/01/2011	429.00			429.00						471.54
11/01/2011				-429.00		EOM	+429.00	+0.21		
10/20/2011				429.00	+42.33		+42.33			42.33
10/19/2011	429.00			429.00						0.00

Distribution and Transaction Code Definitions	
A	Payment applied to Arrears
B	Payment applied to both Arrears and Current Support Charge
C	Payment applied to Current Support Charge
D	As a result of the 2005 Deficit Reduction Act, $35 is sent each federal fiscal year (Oct 1-Sep 30) to the federal government. This amount is deducted, after $550 has been paid, from next payment due to Parent/Custodian Receiving Support.
F	Payment applied to Fees
I	Payment applied to Interest
M	Payment applied to Miscellaneous
EOM	Adjustments to the amount owed through the end of the prior month or through the end of the prior Current Support Charge cycle.
DFEE	See definition of D above in Distribution column.
Subtotal	Amount owed through the last day of the prior month and is also the total amount owed as of the payment record created date. It does not include the Unpaid Current Support Charge balance.

EXHIBIT P

Form DC-628

Order of Support

Date: March 14, 2012

Signed By Larry D. Willis Sr.

ORDER OF SUPPORT (CIVIL)

Commonwealth of Virginia

This Court's Case No. JA078213-03-00
DCSE ID No.

[ ] **TEMPORARY ORDER** [X] **FINAL ORDER**

CHESAPEAKE J & DR - ADULT [X] Juvenile and Domestic Relations District Court [ ] Circuit Court
301 ALBEMARLE DRIVE, CHESAPEAKE, VA 23322
STREET ADDRESS OF COURT

Petitioner: CHILDERS, JESSICA L
[ ] Identifying information not provided for good cause shown
Residential Address:
1976 S MILITARY HWY LOT #84, CHESAPEAKE, VA, 23320

Residential Telephone No.: (757) 651-0068

Mailing Address if Different:

Social Security No. (last 4 digits only): XXX-XX-2653
Driver's Lic. No. & State:
Date of Birth: 12/11/1984

Employer: HALL AUTOMOTIVE
VIKING ROAD, VIRGINIA BEACH, VA
Address:

Telephone No.:

v.

Respondent: CHILDERS, TROY JEFFREY
[ ] Identifying information not provided for good cause shown
Residential Address:
4006 MORRIS COURT, CHESAPEAKE, VA, 23323

Residential Telephone No.: (757) 553-5191

Mailing Address if Different:

Social Security No. (last 4 digits only): XXX-XX-5996
Driver's Lic. No. & State:
Date of Birth: 04/17/1975

Employer: SELF-EMPLOYED

Address:

Telephone No.:

[ ] This case is DISMISSED without prejudice because the Respondent could not be located for service of process.
[ ] Upon hearing the evidence, the Court finds for the Respondent and ORDERS that the case be DISMISSED.

PRESENT: [X] Petitioner [ ] Attorney/ Guardian Ad Litem for Petitioner [ ] DCSE Representative [ ] Attorney for DCSE
[X] Respondent [ ] Attorney/ Guardian Ad Litem for Respondent [ ] Guardian Ad Litem for child(ren) [ ] Other

[ ] Upon hearing the evidence, the Court finds that [X] this (these) dependents [ ] a parent of the Respondent in necessitous circumstances:

NAME	SOC. SEC. # (last 4 digits only)	SEX	DATE OF BIRTH	RELATIONSHIP TO RESPONDENT
CHILDERS ZOEY LYNN	XXX-XX-0350		03/23/2008	C
CHILDERS HARLEY MARIE	XXX-XX-6704		04/20/2010	C

is (are) entitled to support from the Respondent, and that the Respondent is chargeable with support as alleged in the petition. Therefore, the Court ORDERS the Respondent to pay:

[X] $ 644.10 per month CURRENT CHILD SUPPORT effective 08/18/2011 for all children listed above; **OR**
[ ] $ per month CURRENT CHILD SUPPORT effective divided among the above-listed children as follows:

$ for CHILDERS ZOEY LYNN $ for
$ for CHILDERS HARLEY MARIE $ for

[ ] $ per month CURRENT SPOUSAL SUPPORT effective
[ ] $ per month COMBINED CHILD-SPOUSAL (UNITARY) SUPPORT effective
[ ] $ per month SUPPORT FOR A PARENT effective
[ ] $ per month PAYMENT TOWARDS ARREARAGES OF $ 1,708.70

TOTAL $ 644.10 per month payable, first payment due on the 1st day of APR, 2012, and each subsequent payment is due on the 1st day of each month thereafter. Payments may be made in intervals of 148.64, per WEEKLY, beginning on 04/01/2012
DATE PAYMENT AMOUNT INTERVAL

All support paid shall be credited to current support first and the remainder shall be credited to arrearages.
Child support shall terminate on a child's eighteenth birthday; however, support shall continue for any child who is over the age of eighteen and (i) a full-time high school student, (ii) not self-supporting and (iii) living in the home of the parent receiving child support, until the child reaches the age of nineteen or graduates from high school, whichever occurs first; and if any arrearages for child support, including interest or fees, exist at the time the youngest child emancipates, payments shall continue in the total amount due until all arrearages are paid. If the above current child support is not divided per child, the ordered amount cannot be changed except by a court.

[ ] Continuing support for , a child whom the court has determined (i) is severely and permanently mentally
Name of Child
or physically disabled, (ii) is unable to live independently and support himself and (iii) resides in the home of the parent seeking support.

ORDER OF SUPPORT (CIVIL) Case No. JA078213-03-00

[ ] Respondent [ ] Petitioner is ordered to execute the appropriate tax forms or waivers to grant the other party the right to take the income tax dependency exemption for tax years ..... for .....
CHILD OR CHILDREN
for federal and state income tax purposes.

[ ] The Court finds that a license, certificate, registration or other authorization to engage in a profession, business, trade, occupation, or recreational activity issued by the Commonwealth of Virginia is held by

	TYPE OF LICENSE	AGENCY GRANTING LICENSE	LICENSE NUMBER
Respondent	.....	.....	.....
Petitioner	.....	.....	.....

Upon a delinquency of a support payment for a period of 90 days or more, or in an amount of $5,000 or more, a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the Commonwealth. Virginia Code § 20-60.3.

[ ] Withholding from income is ordered payable through the Virginia Department of Social Services by [ ] court income deduction order or [ ] administrative order for income withholding.

[X] Immediate withholding from income is not ordered, pursuant to a written agreement between the parties or for good cause shown.

It is further ORDERED that:

.....

[X] This Order was determined based on [X] sole [ ] shared [ ] split custody guidelines.

[ ] A child support award of $ ..... by application of the guidelines provided in Virginia Code § 20-108.2 would be unjust or inappropriate in this case as determined by the relevant evidence pertaining to the factors set forth in the attached supplement which is incorporated herein by reference, the ability of each party to provide child support, and the best interest of the child.

[ ] Entered in accordance with the parties' written stipulation or agreement.

[ ] The Respondent is also required to post with the Clerk a recognizance pursuant to § 20-114 of $ ..... with/without surety .....

[ ] The Respondent shall also pay: $ ..... reimbursement of costs to the Petitioner due .....

$ ..... attorneys' fees to the Petitioner's attorney due .....

If arrearage amount equals or exceeds 3 months owed, reasonable attorneys' fees must be ordered pursuant to Virginia Code § 16.1-278.18, and may be ordered pursuant to § 20-78.2.

NOTICE: Support payments may be withheld as they become due from income without further amendment of this order or having to file an application for services with the Virginia Department of Social Services. Such order shall only be entered upon motion after proper notice sent by the clerk or counsel. Support payments may be withheld without further amendment of this order upon application for services with the Virginia Department of Social Services. In determining a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Failure to make payments when due means that interest will accrue according to Virginia Code § 6.1-330.54.

The Virginia Department of Social Services may initiate a review of the amount of support ordered by any court. If a change in circumstances, as defined in the State Board of Social Services' regulations, has occurred, the Department shall report its findings and a proposed modified order to the court which entered the order. Notice shall be served on both parties. Either party may request a hearing on the proposed modified order by filing a request with such court within 30 days of receipt of notice by the requesting party. Unless a hearing is requested with the time limits, no hearing shall be required and the modified order shall be effective 30 days after the notice is received and shall amend any prior court order. Virginia Code § 20-60.3.

In cases enforced by the Virginia Department of Social Services, the Department of Motor Vehicles may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Virginia Department of Social Services that the person is delinquent in the payment of child support by 90 days or in an amount of $5,000 or more, or the person has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings.

If the order being reviewed by the Department deviates from the guidelines, based on one or more factors set out in Virginia Code § 20-108.1, a hearing shall be scheduled with the court which entered the order.

THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL AMENDED OR ANNULLED BY THIS COURT OR A COURT OF COMPETENT JURISDICTION TO WHICH AN APPEAL MAY BE TAKEN.

3-14-12
DATE

JUDGE

SEEN AND AGREED AS TO NO PROVISION FOR INCOME WITHHOLDING.

PETITIONER: .....

RESPONDENT: .....

EXHIBIT Q

Imputing Income: Voluntary Unemployment is Not Enough

Source:

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Imputing Income: Voluntary Unemployment is Not Enough

Beware. A child support or alimony order should never contain the word “capacity” or the words “ability to earn” unless it also contains the words “bad faith.”

Maybe that statement is a little extreme, but it is intended to make a point. Alimony and child support obligations must be determined based on actual present income. Earning capacity rather than actual income can be used only when a party is intentionally depressing actual income in deliberate disregard of a support obligation. In other words, it is not appropriate for an order to be based on what a person should be earning- or on minimum wage - rather than on what that person actually is earning unless evidence shows the party is acting in bad faith and the court actually includes that conclusion of law in the order.

The Bad Faith Rule

The Child Support Guidelines state:

"If the court finds that a parent’s voluntary unemployment or underemployment is the result of the parent’s bad faith or deliberate suppression of income to avoid or minimize his or her child support obligation, child support may be calculated based on the parent’s potential, rather than actual, income".

This bad faith rule was not created by the child support guidelines but instead is a rule established years ago in case law. *See e.g., O’Neal v. Wynn,* 64 NC App 149 (1983)(absent a finding that [parent] is acting in a deliberate disregard of his obligation to provide reasonable support for his child, his ability to pay child support is determined by his actual income at the time the award is modified).

Despite the fact that the law has been well-settled for a long time, the Court of Appeals frequently must remand cases to the trial courts because income is imputed without a determination of bad faith.

Voluntary unemployment or underemployment

One of the most recent examples is Nicks v. Nicks, NC App (June 16, 2015). In that case, the trial court imputed income to mother when considering both her motion to modify child support due to her substantial reduction in income and her request for alimony. Evidence established that mom was a doctor who earned $8,000 per month working part-time at the time the original child support order was entered in 2011. After the original child support order was entered in 2011 but before the

trial court heard her request for alimony in 2013, mom became unemployed because the clinic where she worked closed. She was offered another full time position but declined it in order to stay home with the teenaged daughter of the parties who was experiencing severe emotional problems that required treatment though medication and counseling.

The trial court made findings that mom was voluntarily unemployed and had the capacity to earn at least $8,000 per month. After imputing income to mom, the trial court denied her motion to modify child support, concluding there had been no change in circumstances. Regarding alimony, the court concluded mom's reasonable expenses were approximately $11,000 but that she should be able to meet $8,000 of that total by working.

The court of appeals remanded both the child support and the alimony determination to the trial court after holding that the trial court erred by imputing income without finding that mom was depressing her income in bad faith. Citing the long-standing bad faith rule, the court in *Nicks* stated "the dispositive issue is whether the party is motivated by a desire to avoid her reasonable support obligations." Explaining the application of the rule to alimony cases, the court held:

In the context of alimony, bad faith means that the spouse is not living up to income potential in order to avoid or frustrate the support obligation. Bad faith for the dependent spouse means shirking the duty of self-support.

The court of appeals did not indicate whether evidence in this case was sufficient to support a finding of bad faith by the trial court, stating instead:

"We believe the trial court could find competent evidence to support a determination in either direction without abusing its discretion as long as its conclusion is supported by sufficient findings of fact."

Even minimum wage is improper without bad faith

When there is no evidence that a parent has any income at all, it is not uncommon for a court to enter an order, especially a child support order, imputing minimum wage. Case law is clear that this violates the bad faith rule as well.

A recent example is Ludlam v. Miller, 225 NC App 350 (2013). In that child support case, neither parent was employed at the time of the hearing. Both had been searching for employment without success. The trial court entered a child support order after imputing minimum wage to both parents and the court of appeals reversed. The trial court has no authority to enter an order based on earning capacity rather than actual income – even an order that imputes only minimum wage – unless the court making findings and reaches the conclusion that the parents are intentionally depressing income in deliberate disregard of their child support obligation. See also Godwin v. Williams, 179 NC App 838 (2006)(error to impute income to teenage father who left his job to

attend college full-time without finding bad faith).

So what facts are sufficient to show bad faith?

The trial court has a great deal of discretion in determining when a party has acted in bad faith. Some case examples will be the subject of my next post.

EXHIBIT R

The Establishment of
Child Support Orders for
Low Income
Non-custodial Parents

Source:

Department of Health and Human Services

OFFICE OF
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The Establishment of Child Support Orders for Low Income Non-custodial Parents

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The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, is to protect the integrity of the Department of Health and Human Services programs as well as the health and welfare of beneficiaries served by them. This statutory mission is carried out through a nationwide program of audits, investigations, inspections, sanctions, and fraud alerts. The Inspector General informs the Secretary of program and management problems and recommends legislative, regulatory, and operational approaches to correct them.

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EXECUTIVE SUMMARY

PURPOSE

To examine the policies and practices used to determine the amount of child support to be paid by low-income non-custodial parents and the relationship of these practices to the dollars collected on low-income cases.

OVERVIEW

This inspection focuses on the relationship between the payment of child support and order establishment practices for a subset of the non-custodial parent population — low-income non-custodial parents. This subset constitutes about one-third of the total non-custodial parent population.[1] The goal of this inspection is to understand current methods of setting support for these non-custodial parents and to determine possible alternative methods to improve their payment rates.

Sources of Non-Payment of Child Support

The non-custodial parent population can be divided into three income tiers: high, middle, and low. In each of these tiers, there are non-custodial parents who do not pay their child support. The percentage of obligors who do not pay child support is greatest in the low-income tier. In this tier, obligors have family income below the poverty threshold for their family size or personal income below the poverty threshold for a single individual.[2]

Some low-income obligors are delinquent in support payments because they are unwilling to pay support. However, one study estimates that 60 percent of non-custodial parents who do not pay child support, have a limited ability to pay support based on their income levels, education levels, high rates of institutionalization, and intermittent employment history.[3] These non-custodial parents have come to be known in the child support community as "dead-broke" rather than "dead-beat."

While the increased use of enforcement mechanisms may positively affect the payment compliance of higher income obligors, tools such as asset seizure, passport denial and the criminal pursuit of non-support are not likely to generate payments from obligors who do not have the income to pay the support they owe, even if they are willing to pay.

Promoting Payment of Child Support

In order to increase the payment of child support by low-income obligors, representatives of the child support community have begun to explore other avenues in addition to punitive enforcement. Congressional support for the proposed Fathers Count Act, the Department's Fatherhood Initiative and the IV-D Community's fatherhood activities demonstrate a growing effort to address payment inability in order to increase collections. The Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA) presented a package of temporary aid and opportunities to welfare mothers in return for the expectation that they would get a job and become self-sufficient. Child support payments are seen as a vital ingredient to this self sufficiency. In order to increase child support payments to former welfare families, the limited earnings capacity of the fathers of these families need to be addressed. Just as welfare mothers are expected to improve their personal responsibility in exchange for work opportunities, so should low-income fathers. Congress expanded Welfare-to-Work funding with this intention.

In recognition of the need to increase collections in low-income cases, we examined the methods used to determine the financial obligations owed by non-custodial parents and their relationship to payment collections in low-income cases. We conducted our inspection through case record reviews of 402 cases, representing 281 non-custodial parents, and through in-depth interviews in a 10 State sample.

This report looks in depth at the practices used to determine financial obligations in 10 States and the payment compliance associated with these practices. Our companion report, *State Policies Used to Establish Child Support Orders for Low-income Non-custodial Parents*, provides information on all States' policies in this area.

FINDINGS

Methods Used to Determine Financial Obligations for Low-income Obligors Often Yield Poor Results

States use tools such as retroactive support and income imputation to encourage non-custodial parents to cooperate with child support and to enforce accountability. It is understandable that States do not want to reward a non-custodial parent for delaying the award or for not earning income to pay support. However, it appears that these incentives to cooperate are not effective means of getting non-custodial parents to pay support.

- **RETROACTIVE SUPPORT:** Most sampled States routinely charge non-custodial parents for retroactive support. The longer the period of retroactivity, the less likely it is that the parent will pay any support.

When non-custodial parents were not charged any retroactive support, 14 percent made no payments during the first 32 months of the child support obligation. When non-custodial parents were charged between 1 and 12 months of retroactive support, the percent which made no payments rose to 23 percent. The percentage of non-payers rose to 34 percent when the non-custodial parents were charged for more than 12 months of retroactive support.

- **INCOME IMPUTATION:** Most sampled States impute income when the non-custodial parent is unemployed or income is unknown. Income imputation appears ineffective in generating payments.

  Where imputed income was used to calculate the amount of the child support obligation owed in cases established in 1996, almost half of the cases generated no payments toward the financial obligation over a 32 month period. In contrast, where cases were not based on imputed income, only 11 percent of cases received no payments during this time period. While it is possible that the parents for whom income was imputed were potentially less likely to pay anyway, imputing income does not appear to be an effective method of getting them to pay.

- **MINIMUM ORDERS:** Six of the sampled States routinely establish minimum orders when the non-custodial parent has limited payment ability. Minimum order cases exhibit lower payment compliance than other cases.

  In 36 percent of cases established as a minimum order in 1996, the non-custodial parents made no payments in the first 32 months of the order. In contrast, 20 percent of cases established as non minimum orders (i.e. all others) received no payments over this time. This non-payment could be a reflection of limited earnings and the fact that minimum awards are not based on actual income.

- **DEBT OWED TO THE STATE:** Most sampled States will not reduce debt owed to the State by the non-custodial parent except in rare cases. Median debt on 1996 cases is over $3,000.

  Non-custodial parents can accrue an unlimited amount of debt owed to the State which remains on their account indefinitely, regardless of whether the debt is due to inability to pay or unwillingness to pay. Seventy-five percent of cases established in 1996 owed over $1,231 in child support debt 32 months after the financial order was established.

- **JOB PROGRAMS:** Few sampled child support agencies formally link with job programs. Non-custodial parent participation in such programs is minimal.

Despite increasing attention to the limited earnings capacity of low-income non-custodial parents and increased funding for job services, most sampled States have only informal arrangements for referral to existing job services programs. These programs are largely external to the IV-D agencies with little to no participation by non-custodial parents.

CONCLUSION

As the facts in this report demonstrate, the policies reviewed do not usually generate child support payments by low-income non-custodial parents. Recognition of this fact presents opportunities to improve payment levels by modifying State policies that determine the amount that low-income absent parents must pay. Clearly, some systematic experimentation is warranted.

The experiments should emphasize parental responsibility, while improving the ability of low-income non-custodial parents to meet their obligations. This requires a dual approach of setting realistic support obligations and providing employment support with work requirements. The goal of these approaches is to get non-custodial parents to take financial responsibility for their child, which is to the benefit of all of the parties involved — the custodial parent, the State and, ultimately, the child.

States are in the best position to conduct such experiments. However, the Office of Child Support Enforcement can do much to encourage, facilitate, and evaluate such State experimentation. We offer suggestions for State research and experimentation corresponding to the four areas of analysis contained in this report: retroactive support, income imputation, debt owed to the States, and job programs. We present the following suggestions to OCSE:

- Facilitate and support State experiments to test the payment effects of using various periods of retroactivity in determining the amount of support to be paid.

- Facilitate and support State experiments to test negotiating the amount of debt owed to the State in exchange for improved payment compliance.

- Encourage States to decrease the use of income imputation and to test alternative means of identifying income for low-income obligors.

- Encourage States to formalize ties to local job services programs and to require unemployed non-custodial parents to participate in job programs.

AGENCY COMMENTS

The Administration for Children and Families (ACF) and the Assistant Secretary for Planning and Evaluation (ASPE) provided formal comments to the draft report. Both offices concurred with the report's findings and suggested approaches. The text of the ACF and ASPE comments can be found in Appendix F.

In addition to existing initiatives, ACF described numerous actions that they will take to implement the suggested approaches with regard to retroactive support charges, compromising arrears, income imputation, and job programs.

The ASPE commented that our findings are consistent with, and complementary to, other research on this subject. The ASPE also indicated that our suggested approaches would strengthen existing Administration efforts to improve the payment compliance and involvement of low-income non-custodial parents.

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INTRODUCTION

PURPOSE

To examine the policies and practices used to determine the amount of child support to be paid by low-income non-custodial parents and the relationship of these practices to the dollars collected on low-income cases.

BACKGROUND

This report examines how a sample of 10 States determine the financial obligations owed by non-custodial parents and the relationship between these practices and payment compliance. While this report looks in depth at these practices in 10 States, a companion report, *State Policies Used to Establish Child Support Orders for Low-income Non-custodial Parents* (OEI-05-99-00391), provides information on all States' policies in this area. A follow-up report will examine the degree to which child support orders are aligned with the actual earnings of low-income non-custodial parents and the relationship between order alignment and payment compliance.

Low Payment Rates And Custodial Parent Poverty

Although child support collections have increased significantly in recent years, overall rates of collection remain low. In fiscal year (FY) 1997, of the $17.6 billion due in current support, $8.1 billion, or 46 percent was not collected.[4]

Low child support collections leave many single mothers and their children in poverty. In 1995, 85 percent of custodial parents were women, 33 percent of whom lived below the Federal poverty line.[5] The percentage of custodial parents receiving welfare declined significantly in the past few years, dropping from 47 percent in 1995 to 34 percent in 1998.[6] This decline in welfare receipt elevates the need for increased child support collections to help struggling single parents maintain self-sufficiency. The regular receipt of child support is often cited as a critical ingredient to welfare reform success.

The Earnings of Non-Custodial Parents

The non-custodial parent population can be divided into three income tiers: high, middle, and low. In each of these tiers, there are non-custodial parents who do not pay their child

support. The percentage of obligors who do not pay child support is greatest in the low-income tier. In this tier, obligors have family income below the poverty threshold for their family size or personal income below the poverty threshold for a single individual.[7]

Some low-income obligors are delinquent in support payments because they are unwilling to pay support. However, it is estimated that 60 percent of non-custodial parents who do not pay child support, have a limited ability to pay support based on their income levels, employment history, education levels and rates of institutionalization.[8] In one study of low-income obligors, 60 percent had no high school diploma or GED and 70 percent had been arrested.[9] These non-custodial parents are known in the child support community as "dead-broke" rather than "dead-beat."

The Office of Inspector General and the Office of Child Support Enforcement have a joint enforcement effort targeted at higher income obligors with the most egregious arrears. The focus of this highly successful initiative is the criminal pursuit of non-support. While the increased use of enforcement mechanisms may positively affect the payment compliance of higher income obligors, tools such as asset seizure, passport denial and the criminal pursuit of non-support are not likely to generate payments from obligors who do not have the income to pay the support they owe.

Increasing Attention to the Treatment of Low-income Non-custodial Parents

In recent years, the research and policy community has devoted more attention to the treatment of low-income non-custodial parents in the child support system. Especially in the wake of welfare reform, more attention is being devoted to how to improve the family maintenance contributions of low-income fathers to parallel the welfare-to-work initiatives for low-income mothers. Three recent developments demonstrate this trend.

- The Department of Health and Human Services has highlighted its Fatherhood Initiative as a priority. The Fatherhood Initiative strives to promote and support the involvement of fathers in their children's lives. To this end, a portion of welfare-to-work funds in the Balanced Budget Act of 1997 was designated to help low-income fathers secure employment, pay child support and increase their involvement with their children. The Department has also provided funds for services targeting non-custodial parents through the Fatherhood Initiative and related OCSE demonstrations. Most recently, in March 2000, the Department announced $15 million in combined federal and private funding for demonstration projects serving non-custodial parents who do not have a child support order in place and may face obstacles to employment.

- Amendments to the welfare-to-work law in the November 1999 Consolidated

Appropriations Act broadened the eligibility requirements for non-custodial parents to participate in the services available through welfare-to-work programs.

- Building upon these efforts to boost the financial and emotional contributions of non-custodial parents, the U.S. House of Representatives passed the Fathers Count Act in November 1999. This proposed legislation includes grants for projects designed to promote successful parenting and encourage payment of child support. The bill is expected to be considered by the U.S. Senate in 2000.

As researchers and policy-makers develop strategies to increase the cooperation of non-custodial parents, one primary area of concern is the order establishment process. Representatives of the child support enforcement community have raised questions about the effect of income imputation and arrearage policies on the non-custodial parent's ability to comply with the support order obligation.

The establishment of orders for child support enforcement cases (also known as IV-D cases, referring to the related title of the Social Security Act), occurs through either judicial or administrative processes. States are required to establish child support orders in accordance with State guidelines, outlining specific descriptive and numeric criteria. Any deviation from the presumptive guideline amount must be justified in writing.

This report and its companions examine how States address the limited incomes of non-custodial parents in the determination of financial obligations for support and the relationship between these practices and payment compliance. Inability to pay is only one of several reasons for non-compliance with child support orders. Other reasons often cited as potential motivators of unwillingness to pay support include custody and visitation disputes and State retention of payments made on behalf of families on welfare. Future inspections will examine these other potential barriers to payment compliance.

SCOPE AND METHODOLOGY

In this inspection, we examined State policies used to determine the amount of support owed, the implementation of these policies in 10 States and the relationship between these policies and payment compliance on a random sample of cases in the 10 States.

We selected a random sample of cases (and the 10 States associated with them) using a two-stage, stratified cluster sample. We stratified the continental United States (excluding Alaska) into three strata based on State policy regarding the establishment of minimum awards for low-income obligors. We then divided each State into a number of case clusters based on the estimated number of child support cases per State. From each

stratum, we randomly selected three or four clusters. The States containing the randomly selected clusters became our sample States, shown below.

Stratum	Description	Clusters	
		Population	Sample
1	Awards in court's discretion	893 Clusters in 16 States	3 Clusters in MS, OK, PA
2	Presumptive awards	614 Clusters in 18 States	3 Clusters in TX, VA, WA
3	Mandatory minimum awards	652 Clusters in 14 States plus District of Columbia	4 Clusters in CO, MA, MD, NY

For stratum 3, we randomly selected two replacement clusters because our first selections, Michigan and Indiana, declined to participate in the study. Because of this replacement, our statistics are projected to a population that excludes the clusters for Michigan (153 clusters) and Indiana (35 clusters).

We reviewed State documents to examine the order establishment policies of the 10 sample States. To examine how these policies are implemented by local offices, we conducted site visits to two child support enforcement offices in each sampled State - one in proximity to the State capital and one within 150 miles distance of the capital. In each office, we interviewed a manager and a staff-person responsible for establishing support orders regarding the local practices used to establish orders for low-income non-custodial parents.

We conducted our interviews between September and November 1999. All descriptions of local order establishment policies and practices are current as of this period. We conducted our interviews in Oklahoma just prior to the implementation of new State guidelines scheduled to take effect November 1st, 1999. The descriptions of order establishment policies and practices in Oklahoma are current as of October 1999.

We also conducted case record reviews in each of the 10 States. From these States we obtained data on all child support cases in which (1) the child support order was established during 1996, (2) the custodial parent was on Aid to Families with Dependent Children (AFDC) or Temporary Assistance to Needy Families (TANF) at the time the order was established, and (3) the case was still open. We chose cases in which the custodial parent was on AFDC or TANF because of the demonstrated correlation between

custodial family welfare receipt and non-custodial parent low-income status. One analysis of compiled research on the incomes of non-custodial parents, using 1995 dollars, found that the mean annual income of fathers of children on welfare was between $10,000 and $15,000. The 1995 poverty level for an individual with one child was $10,504.[10]

We randomly assigned the non-custodial parents for these cases to each State's clusters. We then randomly selected one cluster per State for our sample. From these clusters, we randomly selected a sample (usually 35 per cluster) of non-custodial parents. We reviewed all child support cases for each non-custodial parent in our sample, including any cases the non-custodial parent had open for other children. This resulted in a sample of 281 non-custodial parents with 402 child support cases, of which 298 cases had been established during 1996 in the sampled States. Data on the methods used to establish support orders and the subsequent payments generated is based on the cases established during 1996 in the sampled States.

The payment period we examined on all cases is 32 months as this was the period of time for which all cases had the opportunity for payment. Thirty-two months is the minimum amount of time between the last month in which sampled orders were established, December 1996, and the last month for which we had access to payment information for all cases, August 1999. Except where specified, the statistics in this report are weighted to reflect all levels of clustering and stratification. All reported correlations are statistically significant at the 90 percent confidence level or greater.

Appendix C contains weighted projections from our sampled cases for all of the policies examined, with greater detail provided on some of the policies than what is covered in the text of the report.

In this report we examined the interaction between some order establishment practices and inability to pay and the relationship of this interaction to low collections. We did not examine unwillingness to pay by the sampled non-custodial parents and its effect on collection rates. We plan to examine some of the factors contributing to unwillingness to pay, such as custody and visitation disputes and pass-through policies, in future inspections. We also did not examine all of the policies of the sampled States guidelines in detail, concentrating instead on the guideline policies covered in this report.

Our review was conducted in accordance with the *Quality Standards for Inspections* issued by the President's Council on Integrity and Efficiency.

FINDINGS

RETROACTIVE SUPPORT: Most sampled States routinely charge non-custodial parents for retroactive support. The longer the period of retroactivity, the less likely it is that the parent will pay any support.

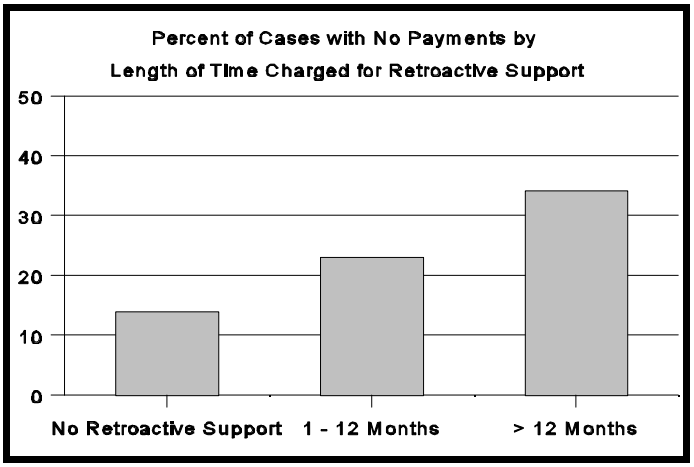
All sampled States have a policy to charge non-custodial parents for retroactive support, payable to either the custodial parent or the State depending on welfare status, for the time prior to the establishment of the order. Eight of the 10 States routinely act on this policy with the commencement of financial responsibility ranging from the date of birth of the child to the date the request for support was filed. Respondents in Massachusetts and Mississippi indicated that it is not standard practice to charge non-custodial parents for retroactive support in their States.

While Colorado and Texas charge the non-custodial parent for support back to the child's date of birth regardless of the amount of time passed, Oklahoma limits the allowable duration to 60 months. Virginia charges for retroactive support to the date paternity was established. New York and Washington apply the retroactive charge as of the date the TANF case opened or the date of filing for support in non-TANF cases. Maryland and Pennsylvania limit retroactivity to the date of filing for support in all cases.

Non-custodial parents were charged retroactive support in 58 percent of child support cases established in 1996. In 53 percent of the cases charged, charges were for 12 months or less. In 31 percent, charges were for 13 months to 36 months of retroactive child support. In 16 percent, charges were for more than 36 months of retroactive support.

There are several reasons States charge retroactive support: 1) as a disincentive to non-custodial parents to delay the establishment of support; 2) to hold non-custodial parents accountable for supporting their children from birth; and 3) to recoup expenses incurred by the State or the custodial parent for caring for the child without the other parent's help. While these are sound reasons for charging retroactive support, our analysis indicates that doing so may be counter-productive to getting support payments.

The longer the time for which non-custodial parents are charged retroactive support, the less likely they are to make any payment on their child support order once established



A logistic regression shows that the increase in the length of time for which parents are charged retroactive support is significantly associated with an increase in the probability that the case will generate no payments. As depicted, when non-custodial parents were not charged retroactive support, 14 percent made no payments during the first 32 months of the child support obligation. When non-custodial parents were charged between 1 and 12 months of retroactive support, the percent which made no payments rose to 23 percent. The percentage of non-payers rose to 34 percent when the non-custodial parents were charged more than 12 months of retroactive support.

Charges for retroactive support are based on the monthly support obligation and are often over $1,000

In all of the sampled States, retroactive support is calculated by applying the State guidelines to the non-custodial parent's income to determine the monthly support obligation, multiplied by the number of months they are obligated. Although retroactive support is often owed to the State to recover costs for welfare paid to support the child, the amount of welfare paid does not determine the amount owed. The sampled States charge the non-custodial parent for the guideline award amount for the period of retroactivity, retaining the portion equal to prior welfare payments provided and allocating the remainder, if any, to the custodial parent.

Of cases established in 1996 with retroactive support charges, the median amount of retroactive support charged was just under $1,500. In States that charge for retroactive support preceding the date of filing for support, the median amount charged was $1,542, with 17 percent of the cases charged over $5,000. In States which limit retroactivity to the date of filing for support, the median amount of retroactive support charged was $383.

Other front-end charges used by our sampled States include court and attorney fees and recovery costs for paternity testing and birth-related medical costs

According to the State policy in all of our sampled States, the non-custodial parent is charged for the costs of paternity testing if he does not voluntarily acknowledge paternity and is found to be the father. Respondents in Massachusetts indicated that non-custodial parents are rarely ever charged for paternity tests while respondents in the other States indicated that non-custodial parents are routinely held accountable for these costs, with the exception of minors in Pennsylvania. The reported costs of paternity tests in the sampled States range from $140 to $400.

Three of the sampled States routinely charge non-custodial parents for service of process, court or attorney fees at the point of order establishment. In Pennsylvania and Colorado, the reported fees ranged from $15 to $30. In Mississippi, the reported fees are $32 if the parties stipulate to the proposed order and $117 if the case is heard in court. In three other sampled States, non-custodial parents are sometimes charged attorney fees in non-TANF cases, however this is not routine.

While six States have a policy to charge non-custodial parents for birth-related costs, respondents in only two States indicated applying these charges in practice. Respondents in one local office in New York and both local offices in Pennsylvania stated that non-custodial parents are routinely charged for birth-related medical costs paid by the State. The charges of birth-related medical expenses were cited by these respondents as running between $2,000 and $4,000 on average.

In 9 percent of child support cases established in 1996, non-custodial parents were charged for paternity testing with a median charge of $206. Court fees were charged in 14 percent of the cases with a median charge of $243. Less than 1 percent of non-custodial parents were charged attorney fees or birth-related medical charges. Of the 1996 cases which were charged these and other miscellaneous fees, an average (mean) of $257 in fees was added to the initial obligation. However, of all 1996 cases, only $63 on average was added to the cases by other fees. The bulk of front-end costs is clearly constituted by retroactive support charges.

A greater percentage of the non-custodial parents who were charged front-end costs, including retroactive support, did not make any payments towards the monthly support obligation after order establishment than non-custodial parents who were not charged front-end costs. Twenty-three percent of all cases were not charged any front-end costs. Of these cases, 16 percent of the non-custodial parents made no payments towards the monthly support obligation during the first 32 months of the order, whereas 26 percent of the non-custodial parents charged up-front costs made no payments during this time.

Employer withholding fees and interest charges can add to ongoing financial obligations

All of the sampled States, except New York, allow employers to charge non-custodial parents income withholding fees, ranging from $1 to $5 per transaction. Mississippi charges non-custodial parents $5/month payable to the State for income withholding processing in addition to the transaction fee charged by the employers.

In 8 of the 10 States, it is State policy to charge interest on unpaid support. Four of these States routinely charge interest, with rates ranging from 9 to 18 percent annually. In a couple of States, the charges are only levied if the cases meet certain non-payment criteria. In Colorado, the county IV-D offices determine whether interest will be charged. In Denver, with a significant share of the Colorado caseload, interest is charged on unpaid support at a rate of 12 percent compounded monthly. However, in non-TANF cases, the custodial parent can waive the interest. In TANF cases, the Denver IV-D office uses interest as a negotiation tool to bring non-custodial parents into payment compliance.

INCOME IMPUTATION: Most sampled States impute income when the non-custodial parent is unemployed or income is unknown. Income imputation appears ineffective in generating payments.

Most of the sampled caseworkers said that they primarily use income documentation provided directly by the non-custodial parent, such as wage stubs or tax statements, to calculate support due. If the non-custodial parent fails to appear or provide this documentation, most of the caseworkers then search for income information through an automated interface with the State labor or tax record systems. Most of the caseworkers indicated that they do not yet obtain income information from the National Directory of New Hires. If income information is obtained through the State labor or tax systems, caseworkers typically verify this information with the indicated employer.

In all sampled States except Mississippi, income is imputed to the non-custodial parent if no income information is available through the above means. Half of the States impute income when the non-custodial parent is unemployed. Most of the States also impute income if the parent is deemed to be "underemployed". For example, if a non-custodial parent works 35 hours/week at a minimum wage job, minimum wage earnings for the additional 5 hours will be imputed to the parent in the support calculations.

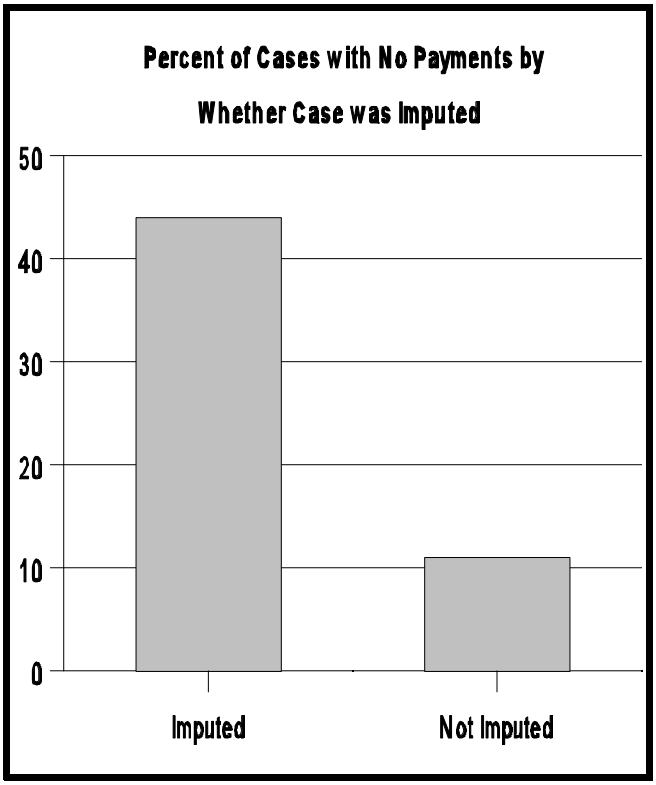
In the nine States that impute income, the most common reasons cited were that the non-

custodial parent was unemployed or did not provide earnings information. In 37 percent of cases established in 1996 where income was imputed, it was due to unemployment or underemployment. In 46 percent of imputed cases, the non-custodial parent did not appear at the conference or court hearing or failed to provide income information. In their absence, orders were set by default using an imputed income.

Respondents indicated that the primary source of information on which they base imputation is the non-custodial parent's most recent work history. When a work history is unavailable, several States base earnings capacity on the non-custodial parent's skills and education. In the absence of any information, most States base imputed income on minimum wage earnings for a 40 hour work week. In imputed cases established in 1996, child support agencies used minimum wage as the basis to impute in 65 percent of cases.

Imputed cases exhibit lower payment compliance than non-imputed cases

In all of the States, 33 percent of the cases established using imputed income generated no payments. Based on the information available in case files, we were only able to universally determine whether income was imputed in three States (CO, MA & TX). In the other seven States, files did not contain a specified means to indicate imputation. Therefore, we could not be sure that cases not indicated as imputed, were not in fact imputed. To compare payments generated by imputed vs. non-imputed cases, we limit our analysis to these three States.



In the three States, 45 percent of the financial awards established in 1996 were based on imputed income. Forty-four percent of these imputed cases generated no child support payments over a 32 month period, commencing with the start of the order. In contrast, only 11 percent of non-imputed income cases in these three States generated no payments during this time. Despite the limitation of this analysis to three States, this difference is statistically significant at the 99 percent confidence level.

A causal relationship between the use of income imputation and lack of payments can not be assumed. Non-custodial parents who fail to provide information or are unemployed at the time of order establishment are potentially less likely to pay support than those who appear in court or are employed. However, as demonstrated, imputing income to these parents to calculate their support, is not a very effective method of getting them to pay.

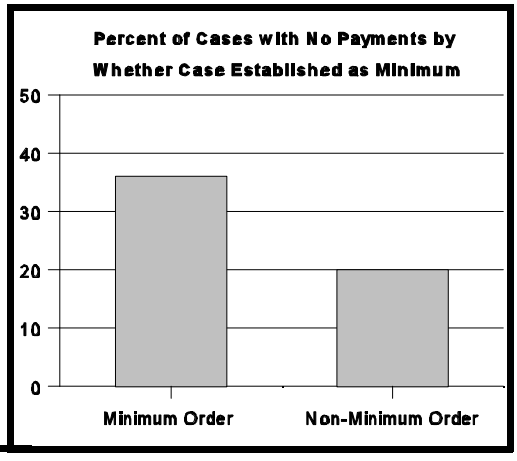
MINIMUM ORDERS: Six of the sampled States routinely establish minimum orders when the non-custodial parent has limited payment ability. Minimum order cases exhibit lower payment compliance than other cases.

According to State policy, eight States establish child support orders using a minimum monthly payment amount when the non-custodial parent's income is below a specified threshold or earnings capacity is limited. The thresholds for low-income obligors in these eight States range from $400/month to $686/month.

In two of these States with a minimum order policy, Colorado and Mississippi, respondents indicated that minimum orders are rarely established. In Mississippi, caseworkers rely on court discretion in cases where the earnings capacity of the non-custodial parent is limited. In Colorado, respondents indicated that they routinely impute income to be minimum wage to calculate the award in lieu of setting a minimum order.

Respondents in the other two States without a minimum order policy, Oklahoma and Texas, indicated that they also routinely impute income to be minimum wage when the non-custodial parent is unemployed or income is unknown. In States imputing income as minimum wage, orders reportedly range from $125 to $185 per month for one child, depending on the income of the custodial parent. In the other six States, reported presumptive minimum monthly order amounts range from $20 to $50 per month.

Many States establish minimum orders for obligors without known income with the expectation that all parents, regardless of income, should make some financial contribution to their child. Additionally, some staff argue that it is important to put a financial order in place which can then be modified once income is known.



A higher percentage of minimum order cases made no payments towards their support obligation than non minimum order cases

Minimum awards were set for 13 percent of the cases established in 1996 with a median charge of $55/month. In 36 percent of cases established as a minimum order in 1996, the non-custodial parents made no payments in the first 32 months of the order. In contrast, 20 percent of cases established as non minimum orders (i.e. all others) received no payments over this time. This lack of payment on minimum orders could be a reflection of limited earnings capacity and the fact that minimum awards are not based on actual income.

Minimum orders are often used to establish orders for incarcerated non-custodial parents

Most sampled States do not have a uniform policy for setting support orders when the non-custodial parent is incarcerated at the time the order is established. Respondents in most of the local offices visited either set a minimum order amount or wait until the non-custodial parent is released to establish a financial obligation. In one local office visited in Texas and in both local offices in Oklahoma, the non-custodial parent is responsible for paying an award based on income imputed as minimum wage for 40 hours/week during incarceration. Offices that wait until the non-custodial parent is released establish paternity while the non-custodial parent is incarcerated and then establish the financial obligation upon release or at an interval shortly thereafter.

In all sampled States, respondents indicated that arrears continue to accrue for non-custodial parents that become incarcerated after the order is established. The burden is on the non-custodial parent to request a modification of the order. All of the respondents indicated that incarcerated non-custodial parents rarely request a modification. In all but one of the local offices visited, accrued debt remains on the non-custodial parent's child support account after release. In one county in Pennsylvania, the caseworker interviewed indicated that the non-custodial parent could, upon release, petition to have the arrears that accrued while incarcerated forgiven.

DEBT OWED TO STATES: Most sampled States will not reduce debt owed to the State by the absent parent except in rare cases. Median debt on 1996 cases is over $3,000.

Respondents in every sampled State indicated that debt owed to the State is almost never reduced, nor are arrears ever limited after the point of order establishment. Non-custodial

parents can accrue an unlimited amount of debt owed to the State which remains on their account indefinitely. Respondents in most States indicated that judges may intervene to reduce the debt but this rarely happens. In Massachusetts, Pennsylvania and Texas respondents said that the State can and has appealed a judge's decision to reduce debt owed to the State by a non-custodial parent.

In Colorado, the county child support office can negotiate the amount of debt owed by the non-custodial parent for un-reimbursed public assistance if any other county that is also owed un-reimbursed public assistance agrees to the negotiated amount. In Washington, the debt owed to the State by a non-custodial parent may be reduced administratively if hardship can be proven. Examples of hardship include if the non-custodial parent is on welfare or if paying the debt would harm other children for whom the non-custodial parent is responsible. However, this debt is not legally eliminated and could be pursued in the future in court.

Respondents in every State, except Texas, indicated that debt owed to the custodial parent is forgiven if the custodial parent agrees to waive the arrears owed to her. In some States, the custodial parent must agree to this debt forgiveness in a legal court order.

States are reluctant to reduce debt because they have expended public resources to support the child in the absence of the non-custodial parent fulfilling their responsibility. While this is understandable, large debt burdens may deter the non-custodial parent from making any support payments, thus resulting in a lower return on the public expenditures. The median amount of debt remaining on child support cases established in 1996 after 32 months of expected payments was $3,278. The mean amount of debt after 32 months was $4,831, with some cases owing over $25,000. Seventy-five percent of cases established in 1996 owed over $1,231 in child support debt 32 months after the financial order was established.

Most Sampled States will modify the pay-back plan on arrears

While debt is rarely reduced, all of the States allow modifications to the pay-back plan on arrears. In six States, modifications are made to reduce the rate of repayment when the non-custodial parent cannot afford the established rate. In the other four States, modifications usually involve increasing the scheduled amount due, condensing the period of time in which the arrears are to be paid.

In four of the six States that reduce the repayment rate, the rates are linked to the monthly support obligation (MSO) at the point of order establishment. In three of these States (NY, VA, & WA), modifications to the rate of repayment are made administratively at a

later point if the non-custodial parent cannot afford to pay. In Massachusetts, a change in the rate of arrears payments must be court ordered. Oklahoma and Colorado set repayment rates according to State policy to amortize the debt over a fixed time period, rather than base the rate on the MSO. Respondents said that they adjust the rates at the time the order is established if the non-custodial parent cannot afford to pay the rate in accordance with State policy.

Modifications to the monthly obligation amount are dependent upon proof of a substantial change in circumstances

All States inform non-custodial parents of their right to request a modification at the time the order is established. Respondents indicated that this is usually communicated verbally or in written form at the initial conference with the non-custodial parent. In all States, modifications to the monthly support obligation require a change to the formal court order and are made only when either the non-custodial parent's income has changed by a specified amount or the obligation would change by a specified amount. A report issued by the Office of Inspector General in March 1999, "Review and Adjustment of Support Orders", OEI-05-98-00100, found deficiencies in the methods States were using to notify parents of the right to request a review as well as a reluctance in some States to modify orders downward.

JOB PROGRAMS: Few sampled child support agencies formally link with job programs. Non-custodial parent participation in such programs is minimal.

Despite increasing attention by the research and policy community to the limited earnings capacity of low-income non-custodial parents and increased funding for job services, most sampled States have only informal arrangements for referral to existing job services programs. These programs are largely external to the IV-D agencies with little to no participation by non-custodial parents. Respondents in virtually all local offices were vaguely aware of job service programs. They often indicated that these programs were newly implemented and acknowledged having limited information about them. Some respondents reported referring non-custodial parents to these programs but with little information on what the program offers and whether the parent ever followed through.

Reasons cited for lack of participation included program eligibility requirements, non-custodial parents not volunteering, and a lack of means to promote participation or to follow-up on referrals. Washington and Maryland have more structured referral processes to job services; however, participation is still reported to be minimal.

Greater participation is reported in "seek work" programs. Two States, Pennsylvania and Massachusetts, have structured IV-D "seek work" programs through which non-custodial parents are required to apply for employment and report back on their progress on a weekly or monthly basis. In some localities the Massachusetts program involves job services in addition to seek-work if the non-custodial parent is determined to be in need of such services to secure a job.

Respondents in Massachusetts and Pennsylvania indicated that roughly 10 percent of their total non-custodial parent caseload participate in "seek work" programs. Participation is often mandated in the court order establishing a temporary minimum support obligation. The non-custodial parent must actively apply for jobs and report back on the search. Upon employment, the order is modified to reflect the non-custodial parent's new income. If the parent does not obtain a job and is deemed to have not made a good faith effort, he may be held in contempt of court.

CONCLUSION

States use a variety of tools to encourage non-custodial parents to cooperate with the child support enforcement system. Many of these tools are designed to hold non-custodial parents liable for child support payments regardless of behaviors which may inhibit order establishment or payment of the order. While these policies may discourage unwillingness to pay, if non-custodial parents are unable to pay the support owed, such policies are not likely to promote payment compliance.

As the facts in this report demonstrate, the policies reviewed do not usually generate child support payments by low-income non-custodial parents. Recognition of this fact presents opportunities to improve payment levels by modifying State policies that determine the amount that low-income absent parents must pay. Clearly, some systematic experimentation is warranted.

The experiments should emphasize parental responsibility, while improving the ability of low-income non-custodial parents to meet their obligations. This requires a dual approach of setting realistic support obligations and providing employment support with work requirements. The goal of these approaches is to get non-custodial parents to take financial responsibility for their child, which is to the benefit of all of the parties involved — the custodial parent, the State and, ultimately, the child.

States are in the best position to conduct such experiments. However, the Office of Child Support Enforcement can do much to encourage, facilitate, and evaluate such State experimentation. We offer suggestions for State research and experimentation corresponding to the four areas of analysis contained in this report: retroactive support, income imputation, debt owed to the States, and job programs. We present the following suggestions to the OCSE to facilitate such experimentation:

RETROACTIVE SUPPORT: Facilitate and support State experiments to test the payment effects of using various periods of retroactivity in determining support

Our findings demonstrate that the longer period of time for which retroactive support is charged, the less likely the parent is to pay support. States could test and evaluate the payment effects of charging retroactive support for various time periods, including restricting retroactivity to the time the request for child support was initially filed. These demonstrations would indicate whether shorter periods of retroactivity are more effective in generating payments.

Most of the sampled States routinely charge non-custodial parents front-end arrears to recoup support for a period of time prior to the establishment of the child support order. One reason States may charge retroactive support without limits is the rationale that the non-custodial parent should be responsible for the child from the time the child is born. Some States may charge retroactive support as an incentive for non-custodial parents to cooperate with the IV-D agency as early as possible.

Although it can be argued that these are justifiable reasons for charging retroactive support for longer periods of time, these policies does not appear effective in getting non-custodial parents to pay. Our findings show that the greater the length of time for which non-custodial parents are charged retroactive support, the less likely they are to make any payments on their child support order, once established.

When a low-income non-custodial parent starts off an order nearly $2,000 in arrears, he or she may view compliance with the support order as hopeless in the face of what may be an insurmountable debt and may avoid contact with the system all together. Fathers interviewed by the Parents' Fair Share program often cited overwhelming arrears as an obstacle to their payment compliance.[11] In non-marital cases, the non-custodial parent may not have even known that the child existed during the time of retroactive support. When faced with charges for support dating back several years in some cases, the non-custodial parent is not likely to view the child support system as a fair and reasonable system with which they can work. In effect, cooperation may actually be discouraged.

The OCSE could fund evaluations in several States to test various periods of retroactivity to determine whether non-custodial parents demonstrate a higher rate of payment compliance when retroactivity is restricted. Exceptions should be made in cases where a non-custodial parent makes clear efforts to delay the filing for support. For example, in Massachusetts, non-custodial parents are only charged retroactive support in egregious cases. State evaluations should also examine the effect of restricting retroactive support on non-custodial parent cooperation with the order establishment process.

DEBT OWED TO STATES: Facilitate and support State experiments to test negotiating the amount of debt owed to the State in exchange for improved payment compliance

Many low-income non-custodial parents face insurmountable arrears. Viewing the system as unreasonable and adversarial, many low-income obligors pay nothing rather than something. Debt negotiation as a method of improving payments has recently garnered a significant level of attention in the IV-D community. The OCSE could provide leadership in this area by facilitating State experimentation to test the payment effects of debt negotiation. Specifically, OCSE could fund State demonstration programs to test:

- Reducing child support debt owed to the State if the non-custodial parent demonstrates a continued effort to pay the monthly obligation and the debt due exceeds a defined level of burden relative to the non-custodial parent's income.

- Reducing the debt owed to the State in cases where the non-custodial parent has reunited with the custodial parent and children and the reunited family's income is below a certain threshold.

The sampled States rarely reduce arrears owed to the State. Many respondents indicated that they are forbidden by law from doing so. While the Bradley Amendment (42 USC Section 666(a)(9)) states that child support orders are not retroactively modifiable, this does not preclude State reduction of child support arrears owed to the State. The Bradley Amendment requires States to make arrears a judgement by operation of law. As stated in the OCSE's Policy Information Question (PIQ)-99-03, as a party to a judgement, States can agree to compromise or settle the judgement, pursuant to State law. Accordingly, States can accept less than the full payment of arrearages assigned to the State just as they can compromise and settle any other judgements in the State.

In July 1999, the Internal Revenue Service (IRS) issued regulations to allow tax debt forgiveness, rather than seizing assets, when a taxpayer can show that their assets are needed to pay for medical care or basic living expenses. The IRS Commissioner stated "For taxpayers caught in severe hardships, this gives the IRS a new tool to work with people and help settle their tax debt." State public assistance agencies could follow the lead of the IRS by reducing the debt owed to the State in cases where the debtor does not have the income to pay the total debt to encourage and facilitate routine payments.

Child support debt, especially in States which charge interest on unpaid support, can often amount to a substantial burden relative to the income of low-income non-custodial parents. The average amount of child support debt remaining on cases established in 1996 is nearly $5,000 with 75 percent of cases owing over $1,200.

The accumulation of such high arrears often triggers penalties such as license revocation and criminal pursuit. In some cases, this debt is due to the non-custodial parent's failure to pay support which the non-custodial parent could have and should have paid. In other cases debt is due to front-end arrears which the non-custodial parent never had the income to pay or a decline in the non-custodial parent's income once the order was established.

In any of these circumstances, the high level of debt is likely to result in no payments. Low-income non-custodial parents faced with thousands of dollars in debt, often see attempts to comply with a support order as futile. The OCSE could provide research and

demonstration grants to States to test the effects of intervening in these instances and reducing the debt to a feasible level in return for the non-custodial parent's continued payment compliance on the monthly obligation. In cases where the non-custodial parent is reunited with the custodial parent and children, debt reduction could be tested as a tool to help support the newly reunited family to maintain self-sufficiency and remain intact.

INCOME IMPUTATION: Encourage States to decrease the use of income imputation and to test alternative means of identifying income for low-income obligors.

If a non-custodial parent does not respond to a summons to appear at a conference or court hearing, fails to submit income information and does not have recent income listed on the State tax or employment system, caseworkers tend to base the award on imputed income. The caseworkers interviewed indicated that they are not yet using the New Hires Directory to obtain information or are having difficulty using it for low-income cases.

It is understandable that States do not want to reward non-custodial parents for failing to appear or submit information or for failure to work. An award should be established and to establish an award, income must be used. Child support agency staff are often faced with no other choice but to impute income. However, as the reviewed cases demonstrate, imputing income yields poor payment results. In order to increase payments, States must exercise every possible means to base awards on actual, rather than imputed income.

OCSE could help States to base awards on actual income more often by:

- Impressing upon States the importance of devoting time and resources to obtain income information as a priority in the order establishment process;

- Ensuring States are effectively using the information supplied by the National Directory of New Hires, implemented in 1997; and

- Funding demonstration projects to test alternative means of identifying income for low-income non-custodial parents, many of whom are self-employed, work as day laborers, are paid in cash, and change jobs frequently.

If an award is not initially established in accordance with ability to pay, States should not assume that it will be appropriately modified down the road. Although parents are legally allowed to have their order reviewed at least once every three years, many non-custodial parents may not know of this right or may not have the means to exercise it.

A report issued by the Office of Inspector General in March 1999, "Review and

Adjustment of Support Orders", OEI-05-98-00100, found deficiencies in State notification policies and different treatment for downward modifications, with several States requiring non-custodial parents to pursue such modifications on their own. The recommendations of that report, encouraging greater use of review and adjustments, would help to ensure that orders are more in line with ability to pay over time. Just as orders should be aligned with ability to pay at the point of order establishment, they should remain aligned over time in order to encourage payment compliance.

JOB PROGRAMS: Encourage States to formalize links with job services programs and to require unemployed non-custodial parents to participate in these programs

The OCSE could encourage States to take advantage of existing programs to increase the earnings capacity and payment abilities of low-income non-custodial parents. Specifically States could formalize referral relationships with outside agencies, court order unemployed non-custodial parent participation in these programs, and institute structured follow-up procedures.

- IV-D agencies could establish linkages with programs offering both seek work and job training approaches, in order to refer non-custodial parents to the appropriate track depending upon their level of job readiness.

- Unemployed, able-bodied non-custodial parents could be required in their court order to participate in job services or seek work or face contempt of court.

- Financial obligations should be established based on the income level attained following program participation, rather than based on imputed income, in order to improve the potential for support collections. Award amounts should be aligned with any income earned through program participation or set as a minimum amount until a final award can be determined upon employment.

- To facilitate IV-D efforts to require such participation, OCSE could recommend a change to related language in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) to expand State authority to require non-custodial parent participation in work activities. The PRWORA gives States authority to require any unemployed person owing past due support to participate in work activities. The OCSE could recommend this be amended to provide States the authority to also require any unemployed person *at the point of order establishment* to participate in work activities.

- In addition to urging States to move ahead in this area independently, OCSE

could recommend that any proposed fatherhood legislation include funding for projects which model this approach. Projects could test the effects of ordering non-custodial parent participation in seek work or job services and delaying the establishment of the final financial obligation until actual income can be used.

- To enhance child support agency efforts to formally link with job programs, OCSE could propose that any fatherhood legislation require grant applicants to coordinate with IV-D agencies. Applicants could be required to delineate each agency's responsibility in the referral arrangement, linkages between order establishment and service participation, and responsibility for follow-up efforts.

State IV-D agencies should not provide the job services directly. Rather, they should take advantage of existing programs which are federally funded to serve the non-custodial parent population. Under the Balanced Budget Act of 1997, welfare-to-work funds are available for States to provide employment and training services to low-income non-custodial parents of children receiving TANF. In September 1999, the Department of Labor awarded 64 welfare-to-work grants totaling $222 million, for projects targeting specific categories of recipients including non-custodial parents. The Department of Health and Human Services has also provided funds for services targeting non-custodial parents through the Fatherhood Initiative and related OCSE demonstrations. Most recently, in March 2000, the Department announced $15 million for demonstration projects serving non-custodial parents who do not have child support orders in place.

Despite the multiple sources of funds available, our findings reveal that services for low-income non-custodial parents are greatly underutilized. In most sampled States, referral relationships with local job service programs appeared to be very informal, devoid of any linkages between the establishment of an order and service participation, and lacking follow-up on referrals that are made. Few non-custodial parents volunteer for such services and most sampled States do not mandate participation.

One reason cited by respondents for lack of participation was restrictions on program eligibility. The November 1999 Consolidated Appropriations Act included amendments to the welfare-to-work law to broaden the eligibility requirements for non-custodial parent participation in job services. Hence, restrictions should no longer be a barrier.

Enforcement mechanisms alone have not appeared effective in improving child support payments from low-income non-custodial parents. For many of these parents it is not a matter of unwillingness to pay but inability to pay. In the wake of welfare reform, it is critical that greater efforts are made to boost the payment of support owed to low-income families. Just as low-income custodial parents are expected to go to work and contribute to the financial well-being of their family in return for limited transitional assistance,

low-income non-custodial parents should be held to the same expectation. If they do not have the income to pay support, they should be allowed the opportunity to earn the income and then be expected to pay support.

Requiring unemployed non-custodial parents to participate in job services at the time of order establishment can have the added benefit of uncovering unreported employment. Findings from the Parent's Fair Share Demonstration revealed that part of the increase in child support payments produced by the project's extra outreach services was due to parents informing the child support agency of previously unreported employment.[12]

Our analysis demonstrates that imputing income and setting minimum awards are not effective methods of achieving payment compliance when a non-custodial parent is unemployed. Requiring unemployed non-custodial parents to engage in structured job services programs and then basing the child support order on actual income promises greater payment compliance. This combination of opportunities and enforcement can be seen as the parallel to the personal responsibility contract expected of custodial mothers. In accordance with the Fatherhood Initiative's goals of promoting responsible fatherhood and family self-sufficiency, we encourage the OCSE to facilitate State efforts to take this next step in the evolution of the child support enforcement program.

AGENCY COMMENTS

The Administration for Children and Families (ACF) and the Assistant Secretary for Planning and Evaluation (ASPE) provided formal comments to the draft report. Both offices concurred with the report's findings and suggested approaches. The text of the ACF and ASPE comments can be found in Appendix F.

In addition to existing initiatives, ACF described numerous actions that they will take to implement the suggested approaches with regard to retroactive support charges, compromising arrears, income imputation, and job programs.

The ACF offered one technical comment on the report. In reference to our discussion of caseworkers' use of the NDNH, the ACF asked us to clarify that the study was conducted using sample cases established during 1996 which was prior to the implementation of the National Directory of New Hires (NDNH). Although the case data was collected on cases established in 1996, the process data collected through case worker interviews reflect local practices as of the time of data collection, September through November 1999. This distinction is explained in the Scope and Methodology section of the report. Therefore, the discussion of the lack of use of NDNH data by sampled caseworkers is relatively current.

The ASPE commented that our findings are consistent with, and complementary to, other research on this subject. The ASPE also indicated that our suggested approaches would strengthen existing Administration efforts to improve the payment compliance and involvement of low-income non-custodial parents.

APPENDIX A

Confidence Intervals for Selected Statistics

The following table shows the point estimates and 95 percent confidence intervals for selected statistics, in the order that they appear in the report. These calculations account for all levels of clustering and stratification as described in the methodology.

Statistic	Point Estimate	95 Percent Confidence Interval
For cases that were established during 1996, average (mean) additional costs beyond the basic child support order	$1,852	$508 - $3,195
Of cases that were established during 1996, percent with retroactive support charges	57.9%	27.2% - 88.5%
For cases that were established during 1996, average (mean) retroactive support charges	$1,788	$473 - $3,104
For cases that were established during 1996, average (mean) additional costs other than retroactive support charges	$63	$13 - $114
Of monthly-payment cases that were established during 1996, percent that were established using a minimum award	12.8%	2.6% - 23.0%
For monthly-payment cases that were established during 1996, average (mean) debt remaining after 32 months	$4,831	$3,099 - $6,564

APPENDIX B

Results of Hypothesis Testing

The following tables show the percent of cases in which the non-custodial parent did not make any payments during the first 32 months, broken out by category. We used t-tests to evaluate the confidence level that the difference between the categories was statistically significant. In the last table, we used logistic regression with one independent variable.

FRONT-END COSTS

Category		Percent of cases with zero payments during the first 32 months
1996 monthly-payment cases	Cases with front-end costs	25.7 percent
	Cases without front-end costs	15.7 percent
Value of t		1.86
Confidence level		93 percent

INCOME IMPUTATION

Category		Percent of cases with zero payments during the first 32 months
1996 monthly-payment cases in States where imputation data were available for all cases[1]	Cases with imputed income	44.1 percent
	Cases without imputed income	10.9 percent
Value of t		16.56
Confidence level		99 percent

MINIMUM ORDERS

Category		Percent of cases with zero payments during the first 32 months
1996 monthly-payment cases	Cases established as minimum orders	36.2 percent
	Cases established as non-minimum orders	20.1 percent
Value of t		1.95
Confidence level		94 percent

[1] Imputation data were available for all cases in three States: Colorado, Massachusetts, and Texas.

For the following table, we used logistic regression with one independent variable. The independent variable was the number of months charged for retroactive support, and the dependent variable was whether the non-custodial parent made any payments during the first 32 months.

RETROACTIVE SUPPORT

Degrees of freedom	1
Wald F	17.93
Confidence level	99 percent

APPENDIX C

Case Data

Descriptive Information on Sampled Cases	Number
Non-Custodial parents (NCPs) for whom child support cases were reviewed	281
Reviewed child support cases established in 1996 in the sampled States	298
Reviewed child support cases established in 1996 in sampled States with a non-zero monthly support obligation	293
Reviewed cases including secondary cases for the sampled NCPs	402
Sampled NCPs with more than 1 child support case	74

Weighted Statistics Based on The Sampled Cases

Except where specified, the following statistics are weighted projections from our sample, taking into account all levels of clustering and stratification.

Initial Orders with Monthly Support Order (MSO) >0 Established in 1996		
Percent of 1996 cases that required monthly payments (MSO>0):		98.1%
Sample minimum and maximum orders		$22 to $853
Mean order amount		$179
Quartiles:	25%	$98
	50% (median)	$145
	75%	$222

Arrears Due after 32 Months of Financial Obligations Established in 1996		
Percent of 1996 cases with arrears >0		92.4%
Sample minimum and maximum arrears		$1 to $57,838
Mean arrears amount (of cases charged arrears)		$5,230
Quartiles:	25%	$1,426
	50% (median)	$3,591
	75%	$6,791

Income Used in Calculation of the Order		
Of 1996 monthly-payment cases, sample (un-weighted), percent of cases for which the income used to calculate the order was in the file and was greater than zero		57.7%
Sample minimum and maximum annual income used		$310 to $37,440
Mean annual income used		$11,088
Quartiles:	25%	$7,759
	50% (median)	$9,869
	75%	$14,501

Front-end Arrears Charged on 1996 Cases

Retroactive Support		
Percent of 1996 cases charged retroactive support		57.9%
Sample minimum and maximum retroactive support amounts		$47 to $36,942
Mean retroactive support amount (of cases charged retroactive support)		$3,091
Quartiles:	25%	$641
	50% (median)	$1,480
	75%	$3,205
Mean Duration of time (months) Non-custodial parents were charged retroactive support		22.8
Quartiles:	25%	4.4
	50% (median)	10.8
	75%	26.2

Court Fees		
Percent of 1996 cases charged court fees		13.5%
Sample minimum and maximum arrears		$5 to $349
Mean court fees amount (of cases charged court fees)		$205
Quartiles:	25%	$101
	50% (median)	$243
	75%	$275

Birth Fees[2]	
Percent of 1996 cases charged birth fees	<1%
Sample minimum and maximum birth fees	$124 to $2,293
Mean birth fees amount	$532

Paternity Fees		
Percent of 1996 cases charged paternity fees		9.0%
Sample minimum and maximum paternity fees		$142 to $408
Mean paternity fees amount		$231
Quartiles:	25%	$188
	50% (median)	$206
	75%	$252

Case Processing Fees[3]	
Percent of 1996 cases charged case processing fees	3.4%
Sample minimum and maximum case processing fees	$10 to $66
Mean case processing fees amount	$19

1996 Cases Based on Imputed Income	
Percent of cases established in 1996 based on imputed Income[4]	45.5%
Mean amount of income imputed (all States)	$9,789
Median amount of income imputed (all States)	$8,600

2 Only 4 cases were charged birth fees.

3 Only 11 cases were charged case processing fees.

4 We were only able to gather complete data on imputation in CO, MA, and TX, although we were able to gather some imputation data in other sampled States.

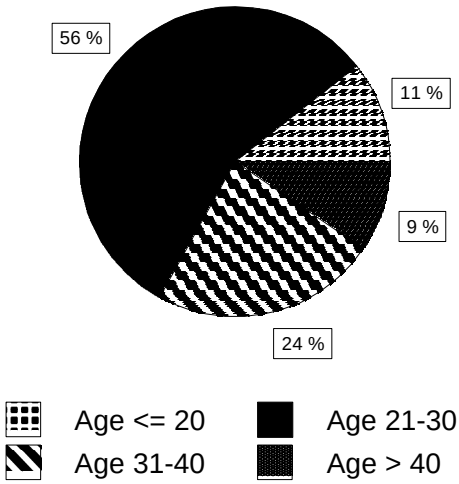
Reasons for Income Imputation (All States)	
NCP did not appear at the case conference or court hearing	31.5%
NCP unemployed	27.2%
No information was available on NCP income	14.5%
NCP underemployed/perceived to be deliberately unemployed	10.0%
False information provided	1.5%

Factors on Which Imputation was Based (All States)	
Minimum wage	65.2%
Court discretion	23.4%
Income received in most recent employment period	12.1%
Work history	11.8%
Education level	10.8%
Skills	4.5%
Disability of NCP	2.0%

1996 Cases Established as a Minimum Award	
Percent of 1996 cases established as a minimum award	12.8%
Mean minimum award	$74
Median minimum award	$55

Modifications to Cases Established in 1996	
Percent of 1996 monthly-payment cases which had at least one modification to the monthly support obligation (MSO)	13.3%
Percent of 1996 monthly-payment cases in which the MSO was modified to zero	6.3%
Percent of 1996 monthly-payment cases in which the MSO was modified downward (excluding modifications to zero)	3.3%

Percent of NCP by Age Category



Percent of Cases in Each NCP Age Category with No Payments Made In First 32 Months of Support Order	
Age 20 Years or Under	16.9%
Age 21 to 30 Years	22.0%
Age 31 to 40 Years	18.6%
Age 40 Years and Over	27.7%

Percent of NCPs Located in Urban[5] and Rural Areas and Payment Compliance				
	Zip		County	
	Urban	Rural	Urban	Rural
NCP Location	77.8%	22.2%	79.2%	20.8%
Cases with No Payments[6]	24.6%	8.7%	22.4%	16.6%

5 For these statistics, we defined "urban zip codes" and "urban counties" to be zip codes and counties with more than 50 percent urban population based on 1990 census data.

6 Differences in payment compliance between urban and rural locations were statistically significant.

APPENDIX D

Related Office of Inspector General Reports

Paternity Establishment: Notification of Rights And Responsibilities For Voluntary Paternity Acknowledgment (OEI-06-98-00051)

Paternity Establishment: Use of Alternative Sites for Voluntary Paternity Acknowledgment (OEI-06-98-00052)

Paternity Establishment: State Use of Genetic Testing (OEI-06-98-00054)

Paternity Establishment: The Role of Vital Records Agencies (OEI-06-98-00055)

Paternity Establishment: Payment to Vital Records (OEI-06-98-00056)

Review and Adjustment of Support Orders (OEI-05-98-00100)

Review and Adjustment of Support Orders, Experience in Ten States (OEI-05-98-00102)

Unpaid Child Support and Income Tax Deductions (OEI-05-95-00070)

Grantees and Providers Delinquent in Child Support (OEI-07-95-00390)

Review and Adjustment of IV-D Child Support Orders (OEI-07-92-00990)

Follow-Up on AFDC Absent Parents (OEI-05-89-01270; 8/91)

Child Support Enforcement Collection for Non-AFDC Clients (OAI-05-88-00340; 7/89)

Child Support Enforcement Collections on AFDC Cases: An Overview (OAI-05-86-00097)

Child Support Enforcement Collections on AFDC Cases: Non-Pursuit (OAI-05-87-00033)

Child Support Enforcement Collections on AFDC Cases: Arrearages (OAI-05-87-00034)

Child Support Enforcement Collections on AFDC Cases: Modification of Court Orders (OAI-05-87-00035)

APPENDIX E

Bibliography

1. "Low-Income Noncustodial Fathers: Who are They and What are States Doing to Assist Them in Their Efforts to Pay Child Support", Elaine Sorenson, The Urban Institute, January, 1997.

2. "Broke But Not Deadbeat, Reconnecting Low-Income Fathers and Children", Dana Reichert, the National Conference of State Legislatures, July 1999

3. "Income and Demographic Characteristics of Nonresident Fathers in 1993", Elaine Sorenson and Laura Wheaton, the Urban Institute, *Forthcoming Report* .

4. 22nd Annual Report to Congress, Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, FY 1997.

5. "Building Opportunities, Enforcing Obligations: Implementation and Interim Impacts of Parents' Fair Share." Manpower Demonstration Research Corporation. NY, NY, 1998.

6. "Child Support for Custodial Mothers and Fathers: 1995" Current Population Report, U.S. Census Bureau, March 1999.

7. "Child Support Enforcement: Effects of Declining Welfare Caseloads are Beginning to Emerge", GAO/HEHS-99-105, Draft Version May 17, 1999.

8. *Fathers' Fair Share,* A Manpower Demonstration Research Corporation Study, Russell Sage Foundation, New York, 1999.

9. *Fathers Under Fire: The Revolution in Child Support Enforcement,* Edited by Irv Garfinkel, Sara Mclanahan, Daniel R. Meyer, and Judith A. Selzer, Russel Sage Foundation, New York, 1998.

10. "Setting Support When the Noncustodial Parent is Low Income", Policy Memorandum by Paula Roberts, Center for Law and Social Policy, February 8th, 1999.

11. "Obligating Dads: Helping Low-Income Noncustodial Fathers do More for their Children", Elaine Sorenson, The Urban Institute, 1999.

12. "Low-Income, Non-Residential Fathers: Off-Balance in a Competitive Economy," Kathryn Edin, Laura Lein, and Timothy Nelson, Draft, September 1998.

13. "The Review and Adjustment of Support Orders", OEI-05-98-00100, Office of Inspector General, U.S. Department of Health and Human Services, March 1999.

14. "Child Support Guidelines: Interpretation and Analysis", Laura Morgan, Aspen Law & Business, Aspen Publishers, Inc. New York, New York, 1999.

15. "Low-Income Fathers and Child Support Orders", Daniel Meyer, Marcia Cancian, & Marygold S. Melli, Institute for Research on Poverty, University of Wisconsin -Madison, June 1997.

16. "Are there Really Deadbeat Dads? The Relationship between Ability to Pay, Enforcement, and Compliance in Nonmarital Child Support Cases.", Judi Barfeld and Daniel Meyer, Institute for Research on Poverty, University of Wisconsin -Madison, March 1993.

APPENDIX F

Agency Comments

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Office of the Assistant Secretary, Suite 600
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

DATE: July 3, 2000

TO: June Gibbs Brown
Inspector General

FROM: Olivia A. Golden
Assistant Secretary
For Children and Families

SUBJECT: Comments on OIG Draft Reports Entitled "The Establishment of Child Support Orders for Low Income Non-Custodial Parents" (OEI-05-99-00390) and "State Policies Used to Establish Child Support Orders for Low Income Non-Custodial Parents"(OEI-05-99-00391)

Attached is the Administration for Children and Families' comments on the above-captioned reports. If you have questions, please contact David Gray Ross, Commissioner, Office of Child Support Enforcement, at (202) 401-9370.

Attachment

Agency Comments

COMMENTS OF THE ADMINISTRATION FOR CHILDREN AND FAMILIES ON THE OFFICE OF INSPECTOR GENERAL'S DRAFT REPORTS: "THE ESTABLISHMENT OF CHILD SUPPORT ORDERS FOR LOW INCOME NON-CUSTODIAL PARENTS" (OEI-05-99-00390) AND "STATE POLICIES USED TO ESTABLISH CHILD SUPPORT ORDERS FOR LOW INCOME NON-CUSTODIAL PARENTS" (OEI-05-99-00391)

The Administration for Children and Families (ACF) agrees with the OIG on the importance of assuring that low income non-custodial parents have every opportunity to support their children, including supporting them financially and emotionally, and providing medical support. ACF has a number of recent accomplishments in policy, technical assistance, and other activities designed to support this important objective. In addition, ACF has several projects underway or planned that are consistent with ACF's own plans in this area and the OIG's recommendations.

ACF welcomes the interest and contribution of the OIG, and does not disagree with OIG's findings, nor with the conclusions of the draft report. ACF appreciates the care that has been taken to note that, while the findings may reveal a correlation among selected factors, they do not demonstrate any causal relationships, which OIG proposes should be the subject of further work to be undertaken by OCSE. ACF does wish to offer one clarification: the report does not clearly indicate that the study was conducted using sample cases established during 1996, which was prior to the implementation of the National Directory of New Hires (NDNH). "...Most of the caseworkers indicated that they do not yet obtain income information from the NDNH..." (p 14). ACF believes that the use of NDNH data is much more extensive now than it would or could have been at the time the sample was drawn. ACF remains committed to promoting the full and effective use of NDNH data.

ACF has been working with all State Child Support Agencies to encourage them to use the NDNH data. OCSE staff have made numerous site visits to support States in streamlining their business rules for the statewide system, to support software development discussions on automating the use of the NDNH data, and to measure the benefits of using the NDNH data. OCSE will continue to encourage States to use NDNH as one key means of identifying the income of non-custodial parents.

Agency Comments

ACF has taken important actions in the area of child support policy, as well. On March 22, 1999 OCSE issued PIQ 99-03, regarding compromising arrearages, to help to clarify the policy situation for States. This PIQ clarified States' authority to accept less than the full payment of assigned child support arrearages, and noted that federal law does not bar States from settlement of a judgment obligation for child support.

The OIG report discusses birthing costs and other expenses associated with maternity. The report of the Medical Child Support Working Group recommends amending the Social Security Act to preclude State IV-D agencies from attempting to recover Medicaid-covered prenatal, birthing, and perinatal expenses from a non-custodial parent. The Working Group, convened jointly by the Secretaries of Health and Human Services and of Labor, concludes that it is more important to establish paternity and future child support and to encourage fathers to establish a relationship with their children than to recoup pregnancy-related Medicaid costs.

ACF has been very active in encouraging State IV-D agencies to become involved with Welfare-to-Work (WtW). Among the actions already completed and underway are the following:

- ACF has sent the complete list of WtW grantee names, address and contact numbers to State IV-D agencies. (OCSE IM-00-06)
- The ACF Offices of Child Support Enforcement and of Family Assistance, working with the Department of Labor (DoL), have jointly produced and issued strategies to increase referral, recruitment, eligibility determination and the provision of service between WtW, child support enforcement and TANF. (OCSE IM-00-05)
- ACF has proposed to DoL a Memorandum of Understanding to undertake a number of results-oriented projects during the next year, such as: development of a bench card for judges to make referrals to their local WtW operators; an audioconference for Federal regional staff from Child Support Enforcement, TANF and DoL/ETA to increase awareness of WtW and to encourage referrals; and promotion of promising practices supporting employment training and child support enforcement collaboration
- ACF has encouraged state IV-D agencies to become involved in the development of Workforce Investment Boards.
- OCSE has hotlinked its website to the WtW/DoL website.

Agency Comments

Finally, the evaluation of the ten recently-approved Partners for Fragile Families waiver demonstration projects is expected to provide information that will add to the overall understanding of issues associated with low income non-custodial parents, and to provide additional examples of successful techniques for working with such parents at the local level.

The OIG's specific recommendations are identified below, along with the ACF response to each.

OIG Recommendations

RETROACTIVE SUPPORT: Facilitate and support State experiments to test the payment effects of using various periods of retroactivity in determining support.

....States could test and evaluate the payment effects of charging retroactive support for various time periods, including restricting retroactivity to the time the request for child support was initially filed. ....

The OCSE could fund evaluations in several States to test various periods of retroactivity to determine whether non-custodial parents demonstrate a higher rate of payment compliance when retroactivity is restricted. ... State evaluations should also examine the effect of restricting retroactive support on non-custodial parent cooperation with the order establishment process.

ACF Response

ACF agrees with these recommendations for State and ACF action, and will implement a two-part plan for testing these and other research questions posed in the OIG report.

First, ACF will distribute the two companion OIG reports to the State title IV-D agencies and others in the field. ACF will invite interested States, after reviewing OIG's work, to devise their own studies of these topics. ACF will offer assistance in the design of the projects and especially in the design of the evaluations of demonstration or research projects. ACF will remind States that the federal government would bear most of the costs of any such State-generated projects, because such activities, undertaken by IV-D agencies, are eligible for 66% federal financial participation.

Agency Comments

Second, ACF will include the themes identified by the OIG in the next (FY 2001) Announcement of the availability of Section 1115 research and domonstration grants. ACF will advertise one or more priority areas within that Announcement that would address the general subject of improved strategies for dealing with low-income non-custodial parents, with the hope that several projects will result. The purpose of the Section 1115 Announcement is to offer additional federal financing to encourage the conduct of demonstration projects that have not been undertaken at the State level, or that require more rigorous evaluation than States were willing on their own to propose. It may be that ACF will use Special Improvement Project (SIP) grants as well, to test practices or concepts or to demonstrate promising practices.

In addition, ACF will issue further policy clarification related to retroactive support, as described in response to the next recommendation, below. The policy clarification is intended to assure that States are aware of the latitude and authority they have under existing law and regulations, and the importance of and widespread interest in the issues raised by the OIG.

OIG Recommendations

DEBT OWED TO STATES: Facilitate and support State experiments to test negotiating the amount of debt owed to the State in exchange for improved payment compliance.

….OCSE could fund State demonstration programs to test:

- reducing child support debt owed to the State if the non-custodial parent demonstrates a continued effort to pay the monthly obligation and the debt due exceeds a defined level of burden relative to the non-custodial parent's income.

- reducing the debt owed to the State in cases where the non-custodial parent has reunited with the custodial parent and children and the reunited family's income is below a certain threshold.

…. The OCSE could provide research and demonstration grants to States to test the effects of intervening in these instances and reducing the debt to a feasible level in return for the non-custodial parent's continued payment compliance on the monthly obligation. ….

Agency Comments

ACF Response

ACF agrees with these recommendations for State and OCSE action, and will take positive steps to educate and advise States about recent findings concerning child support enforcement and low income non-custodial parents. OCSE's policy division plans to issue two policy documents related to these OIG reports:

- An Action Transmittal to State IV-D agencies on welfare to work and its relationship to the CSE program and

- A Policy Interpretation Question/Answer to educate States about the findings of the IG reports and to indicate how States might use these findings to improve their programs. This document will cover topics such as retroactive support, compromising arrears, and minimum orders.

These policy issuances will include or will be accompanied by "best practices" material that will provide examples for States and offer concrete suggestions for policy implementation.

In addition, ACF will incorporate questions related to debt owed to States into the two-part plan, described above, for testing these and other research questions posed in the OIG report.

OIG Recommendations

INCOME IMPUTATION: Encourage States to decrease the use of income imputation and to test alternative means of identifying income for low-income obligors.

….OCSE could help States to base awards on actual income more often by:

- Impressing upon States the importance of devoting time and resources to obtain income information as a priority in the order establishment process;

- Ensuring States are effectively using the information supplied by the National Directory of New Hires, implemented in 1997; and

- Funding demonstration projects to test alternative means of identifying income for low income non-custodial parents, many of whom are self-employed, work as day laborers, are paid in cash, and change jobs frequently.

Agency Comments

ACF Response

ACF will work with States and localities to emphasize the importance of obtaining accurate and useful income information. This activity can include:

- Conduct of a national audio conference on this subject, with the participation of appropriate staff from all the States

- Inclusion of this topic in OCSE-provided training courses and materials available through NECSRS, as appropriate, and advice to the State Child Support Training Coordinators through OCSE's network.

- Inclusion of good examples of State practice in ACF-provided and promoted "best practices" publications, and the OCSE newsletter, *Child Support Report*.

- Provision of technical assistance (TA) as necessary through the ACF Regional Offices and other TA resources, and inclusion of this theme in the inventory of TA needs being compiled with the national TA Advisory Group. Such technical assistance could include encouraging States to improve techniques for reaching non-custodial parents to assure that they appear at child support hearings, to limit the use of income imputation, and encouraging States to have more effective service of process procedures to ensure that non-custodial parents are actually and effectively notified of child support hearings, including notices and materials in Spanish.

- Direct TA through publications, workshops at conferences, and other media aimed at improving the use of the NDNH.

ACF will continue its work to ensure that States are effectively using the information available to them from the National Directory of New Hires. This activity can include technical assistance of the sort described above, along with promotion through the other avenues of information and encouragement available to ACF, including enlisting the aid of advocacy groups and national organizations. Conceivably, a Special Improvement Project (SIP) Grant could be a vehicle for testing better approaches to using NDNH information, to assist States to develop and model more effective practices.

Agency Comments

OCSE will fund demonstration projects to test alternative means of identifying income for low-income non-custodial parents, either as SIP grants as noted above, or as a part of the overall plan for testing these and other research questions posed in the OIG report.

OIG Recommendations

JOB PROGRAMS: Encourage States to formalize links with job services programs and to require unemployed non-custodial parents to participate in these programs.

….Specifically, States could formalize referral relationships with outside agencies, court order unemployed non-custodial parent participation in these programs, and institute structured follow-up procedures.

- IV-D agencies could establish linkages with programs offering both seek work and job training approaches, in order to refer non-custodial parents to the appropriate track ….

- Unemployed, able-bodied non-custodial parents could be required in their court order to participate in job services or seek work or face contempt of court.

- Financial obligations should be established based on the income level attained following program participation, rather than based on imputed income, in order to improve the potential for support collections. Award amounts should be aligned with any income earned through program participation or set as a minimum amount until a final award can be determined upon employment.

- To facilitate IV-D efforts to require such participation, OCSE could recommend a change to related language in PRWORA to expand State authority to require non-custodial parent participation in work activities. ….The OCSE could recommend this be amended to provide States the authority to also require any unemployed person at the point of order establishment to participate in work activities.

- ….OCSE could recommend that any proposed fatherhood legislation include funding for projects which model this approach. Projects could test the effects of ordering non-custodial parent participation in seek work or job services

Agency Comments

and delaying the establishment of the final financial obligation until actual income can be used.

- ….OCSE could propose that any fatherhood legislation require grant applicants to coordinate with IV-D agencies. Applicants could be required to delineate each agency's responsibility in the referral arrangement, linkages between order establishment and service participation, and responsibility for follow-up efforts.

ACF Response

ACF will continue its efforts in this area by taking a number of actions, including:

- Encouraging States to become involved with One-Stop Centers and to promote models of such collaboration.

- Continuing to conduct workshops in national and regional conferences to demonstrate the benefits of collaboration and cross-program referral with employment training programs, especially WtW.

- Sponsoring more joint meetings with WtW grantee and child support enforcement staff to cross-train and encourage collaboration and referrals, especially for non-custodial parents.

- Issuing a formal OCSE Action Transmittal (AT) on working with WtW.

- Continuing to provide technical assistance to IV-D agencies to refer non-custodial parents to Welfare to Work Sites or to TANF or other job programs where non-custodial parents are served.

- Working with the Office of Family Assistance and the TANF program to insure that States are aware of the non-custodial parent job program options under the TANF block grant.

As to the legislative recommendations offered by the OIG, ACF will take all of the OIG's recommendations into account in the development of the President's FY 2002 Budget and related legislative proposals.

Agency Comments

The Administration has consistently proposed review and adjustment of child support orders, as it did in the President's Budget for FY 2001. There is a provision for review and adjustment in Title II of H.R. 4678, currently under consideration in the House. The Administration has reiterated its support for that provision. Title V of H.R. 4678, entitled Fatherhood Programs, also contains provisions that are consonant with the OIG's recommendations, and which the Administration supports.

APPENDIX F

Agency Comments

DEPARTMENT OF HEALTH & HUMAN SERVICES Office of the Secretary

The Assistant Secretary for Planning and Evaluation
Washington, D.C. 20201

JUL 12 2000

TO: June Gibbs Brown
Inspector General

FROM: Margaret A. Hamburg, M.D. MAH
Assistant Secretary for Planning and Evaluation

SUBJECT: OIG Draft Report on the Establishment of Child Support Orders for Low-Income Non-Custodial Parents

Thank you for the opportunity to comment on the OIG reports on this important subject. Because of our responsibility for coordinating the Department's fatherhood initiative, we have been concerned, based on anecdotal reports and research findings, that state child support policies and procedures may not always appropriately reflect the economic circumstances for low-income non-custodial parents and that efforts to coordinate child support policies and employment and training opportunities need to be strengthened. These reports give weight to the findings of other research being conducted with HHS funding and throughout the federal government on the need for policy changes to ensure that low-income non-resident parents have the opportunity to provide emotional and financial support for their children. If you have any questions on our comments, please contact Linda Mellgren at 690-6806.

APPENDIX F

Agency Comments

COMMENTS OF THE OFFICE OF THE ASSISTANT SECRETARY FOR PLANNING AND EVALUATION ON THE OFFICE OF INSPECTOR GENERAL'S DRAFT REPORTS: "THE ESTABLISHMENT OF CHILD SUPPORT ORDERS FOR LOW INCOME NON-CUSTODIAL PARENTS" (OEI-05-99-00390) AND "STATE POLICIES USED TO ESTABLISH CHILD SUPPORT ORDERS FOR LOW INCOME NON-CUSTODIAL PARENTS" (OEI-05-99-00391)

The Office of the Assistant Secretary for Planning and Evaluation is pleased to review the two draft reports issued by the OIG on the establishment of orders for low-income non-custodial parents. Based on the evidence provided in these reports and on the growing body of research on non-resident fathers and their contributions to family and child well-being, we would agree with the conclusion of the OIG report that additional systematic experimentation on how best to set realistic child support obligations and provide employment support for low-income non-resident parents is warranted.

The studies findings on retroactive support, income imputation and minimum orders are consistent with other research that finds that for low-income fathers there is often an unrealistic fit between the size of the child support obligation and ability to pay. Some examples of these research findings are: when support is paid low-income fathers actually pay a higher proportion of their gross income in support than do higher income fathers (Sorensen and Wheaton, 2000); low-income fathers often have substantial child support arrearages relative to income (findings from the Parents' Fair Share Demonstration); and that linkages to the labor force are often tenuous due to low skills and education, criminal justice system involvement, and health care and treatment needs (Parents' Fair Share and Edin, Lein and Nelson, 1998). These finding support the OIG concern that increased use of enforcement tools will do little to generate payments from obligors who do not have the income to pay the support they owe.

HHS efforts are currently underway in ACF and elsewhere to identify more effective ways of providing parenting and employment support for low-income non-resident parents through Office of Child Support Enforcement demonstrations, such as the Responsible Fatherhood demonstration projects and the Partners for Fragile Family demonstration waiver projects, through efforts to encourage States to use TANF funds to fund responsible fatherhood projects that promote work and improved parenting, through increased efforts on promoting father involvement in Head Start and Early Head Start, and through various projects in the Office of Community Services to improve employment opportunities for low-income fathers. Additional interdepartmental efforts are also underway between HHS and the Department of Labor through the Welfare-to Work program and development of the Work Force Investment Act One Stop Employment Centers, the Department of Education in collaborative efforts to improve fathers involvement in children's education and with the Department of Justice to identify the effects of incarceration on child support payments and on the outcomes of other HHS programs servicing poor children and families. These efforts would all be strengthened by specific efforts to ensure the establishment of child support obligations consistent with the non-custodial parent's ability to pay. We would be happy to work with the Administration of Children and Families to develop and enhance appropriate child support components in all the Department's fatherhood activities.

APPENDIX G

End-Notes

1. "Low-Income Noncustodial Fathers: Who are They and What are States Doing to Assist Them in Their Efforts to Pay Child Support", Elaine Sorenson, The Urban Institute, January, 1997. And "Broke But Not Deadbeat, Reconnecting Low-Income Fathers and Children", Dana Reichert, the National Conference of State Legislatures, July 1999

2. "Income and Demographic Characteristics of Nonresident Fathers in 1993", Elaine Sorenson and Laura Wheaton, the Urban Institute, *Forthcoming Report* .

3. Ibid.

4. 22nd Annual Report to Congress, Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, FY 1997.

5. "Child Support for Custodial Mothers and Fathers: 1995" Current Population Report, U.S. Census Bureau, March 1999.

6. "Child Support Enforcement: Effects of Declining Welfare Caseloads are Beginning to Emerge", GAO/HEHS-99-105, Draft Version May 17, 1999.

7. Op. cit., "Income and Demographic Characteristics of Nonresident Fathers in 1993".

8. Ibid.

9. Op. cit., "Broke But Not Deadbeat, Reconnecting Low-Income Fathers and Children".

10. *Fathers Under Fire: The Revolution in Child Support Enforcement,* Edited by Irv Garfinkel, Sara Mclanahan, Daniel R. Meyer, and Judith A. Selzer, Russel Sage Foundation, New York, 1998.

11. *Fathers' Fair Share,* A Manpower Demonstration Research Corporation Study, Russell Sage Foundation, New York, 1999.

12. "Building Opportunities, Enforcing Obligations: Implementation and Interim Impacts of Parents' Fair Share." Manpower Demonstration Research Corporation. NY, NY, 1998.

EXHIBIT S

ORDER

Date: September 10, 2013

Signed By Larry D. Willis Sr.

ORDER
Commonwealth of Virginia

Case No: JA0 78213 - 03-02 J
04-01

Chesapeake Juvenile and Domestic Relations District Court

DCSE obo: Jessica Childress

V. / *In re*: Troy J. Childers

THE FOLLOWING PARTIES WERE PRESENT:

[ ] Guardian Ad Litem .....

[X] Petitioner [ ] Attorney: .....

[X] Respondent [ ] Attorney: .....

[X] DCSE Special Counsel: VERREY/CLARK ..... [ ] DCSE Court Specialist: RAINEY/ .....

Type of Case ☐ Support ☐ SC/FTC Support ☐ Mot Amend Support ☐ UIFSA ☐ ASO Appeal ☒ Mot Modify Rec'd Ch. Supp.
☐ Mot Rehear ☐ SC/FTA ☐ CA/FTC/Support ☐ CA/FTA ☐ Register Foreign Order

☒ S/C FTC Spousal Supp.

Type of Hearing:
☒ Determination/Appointment of Counsel ☐ Transfer Jurisdiction Hearing ☐ Trial
☒ Adjudicatory Hearing ☐ Disposition Hearing ☐ Continuance ☐ Review
☒ Show Cause ☐ Motion ..... ☐ .....

PLEA: .....

YEAR:..... due $ ..... paid $ ..... YEAR:..... due $ ..... paid $.....

YEAR:..... due $ ..... paid $ ..... YEAR:..... due $ ..... paid $.....

YEAR:..... due $ ..... paid $ ..... YEAR:..... due $ ..... paid $.....

IT IS ORDERED THAT: ARREARAGE FIXED AT $ 3,589.10 PLUS INTEREST AS OF 5-31-13

RESPONDENT TO PAY $ 1,000 PER MONTH ON CURRENT SUPPORT AND $ 100.00 PER MONTH

ON ARREARS EFFECTIVE 6-5-13 WITH FIRST PAYMENT DUE 10-1-13

HEALTH INSURANCE [ ] YES [ ] NO [X] NOT AVAILABLE by [ ] RESPONDENT [ ] PETITIONER

DENTAL INSURANCE [ ] YES [ ] NO

Appeal Bond 3,589

RESPONDENT SHALL PAY 50 % OF ANY REASONABLE & NECESSARY UNREIMBURSED MEDICAL AND DENTAL EXPENSES IN EXCESS OF $250 FOR ANY CALENDAR YEAR FOR EACH CHILD COVERED BY THIS ORDER.

Accrued 2,000

WAGE WITHHOLDING [X] YES [ ] NO [X] SOLE [ ] SPLIT [ ] SHARED GUIDELINES

03-02 - $1,000/month support

04-01 - not guilty - appealed the spousal support

ISSUE SC/RULE: [ ] FTA for Resp. / Pet. [ ] FTC ISSUE CAPIAS: [ ] FTA for Resp. / Pet. [ ] FTC

This case is continued to: ..... AT .....a.m. FOR .....

SUMMONS: [ ] COMPLAINANT [ ] RESPONDENT

9-10-13
DATE

JUDGE

EXHIBIT T

Form DC-628

Order of Support

Date: September 10, 2013

Signed By Larry D. Willis Sr.

ORDER OF SUPPORT (CIVIL)
Commonwealth of Virginia

This Court's Case No. JA078213-03-02
DCSE ID No.

[ ] **TEMPORARY ORDER** [X] **FINAL ORDER**

CHESAPEAKE J & DR - ADULT [X] Juvenile and Domestic Relations District Court [ ] Circuit Court

301 ALBEMARLE DRIVE, CHESAPEAKE, VA 23322
STREET ADDRESS OF COURT

Petitioner: CHILDERS, JESSICA L
[ ] Identifying information not provided for good cause shown
Residential Address:
1976 S MILITARY HWY LOT #84, CHESAPEAKE, VA, 23320

Residential Telephone No.: (757) 651-0068

Mailing Address if Different:

Social Security No. (last 4 digits only): XXX-XX-2653
Driver's Lic. No. & State:
Date of Birth: 12/11/1984

Employer: HALL AUTOMOTIVE
VIKING ROAD, VIRGINIA BEACH, VA
Address:

Telephone No.:

v.

Respondent: CHILDERS, TROY JEFFREY
[ ] Identifying information not provided for good cause shown
Residential Address:
4006 MORRIS COURT, CHESAPEAKE, VA, 23323

Residential Telephone No.: (757) 553-5191

Mailing Address if Different:

Social Security No. (last 4 digits only): XXX-XX-5996
Driver's Lic. No. & State:
Date of Birth: 04/17/1975

Employer: SELF-EMPLOYED
Address:

Telephone No.:

[ ] This case is DISMISSED without prejudice because the Respondent could not be located for service of process.
[ ] Upon hearing the evidence, the Court finds for the Respondent and ORDERS that the case be DISMISSED.

PRESENT: [X] Petitioner [ ] Attorney/ Guardian Ad Litem for Petitioner [X] DCSE Representative [X] Attorney for DCSE
[X] Respondent [ ] Attorney/ Guardian Ad Litem for Respondent [ ] Guardian Ad Litem for child(ren) [ ] Other

[ ] Upon hearing the evidence, the Court finds that [X] this (these) dependents [ ] a parent of the Respondent in necessitous circumstances:

NAME	SOC. SEC. # (last 4 digits only)	SEX	DATE OF BIRTH	RELATIONSHIP TO RESPONDENT
CHILDERS ZOEY LYNN	XXX-XX-0350		03/23/2008	C
CHILDERS HARLEY MARIE	XXX-XX-6704		04/20/2010	C

is (are) entitled to support from the Respondent, and that the Respondent is chargeable with support as alleged in the petition.
Therefore, the Court ORDERS the Respondent to pay:

[X] $ 1,000.00 per month CURRENT CHILD SUPPORT effective 06/05/2013 for all children listed above; **OR**
[ ] $ ..... per month CURRENT CHILD SUPPORT effective ..... divided among the above-listed children as follows:

$ ..... for ..... $ ..... for .....
$ ..... for ..... $ ..... for .....

[ ] $ ..... per month CURRENT SPOUSAL SUPPORT effective .....
[ ] $ ..... per month COMBINED CHILD-SPOUSAL (UNITARY) SUPPORT effective .....
[ ] $ ..... per month SUPPORT FOR A PARENT effective .....
[X] $ 100.00 per month PAYMENT TOWARDS ARREARAGES OF $ 3,589.10

TOTAL $ 1,100.00 per month payable, first payment due on the 1st day of OCT, 2013, and each subsequent payment is due on the 1st day of each month thereafter. Payments may be made in intervals of 1,100.00, per MONTHLY, beginning on 10/01/2013
PAYMENT AMOUNT INTERVAL DATE

All support paid shall be credited to current support first and the remainder shall be credited to arrearages.
Child support shall terminate on a child's eighteenth birthday; however, support shall continue for any child who is over the age of eighteen and (i) a full-time high school student, (ii) not self-supporting and (iii) living in the home of the parent receiving child support, until the child reaches the age of nineteen or graduates from high school, whichever occurs first; and if any arrearages for child support, including interest or fees, exist at the time the youngest child emancipates, payments shall continue in the total amount due until all arrearages are paid. If the above current child support is not divided per child, the ordered amount cannot be changed except by a court.

[ ] Continuing support for _____ (Name of Child), a child whom the court has determined (i) is severely and permanently mentally or physically disabled, (ii) is unable to live independently and support himself and (iii) resides in the home of the parent seeking support.

ARREARAGES:

[ ] **No arrearages exist as of** .....

[X] $ 3,589.10 child support arrearage owed by Respondent.

[ ] $ ..... spousal support arrearage owed by Respondent.

[ ] $ ..... unitary (child/spousal) support arrearage owed by Respondent.

[X] **$ 3,589.10 total SUPPORT arrears owed by Respondent [ ] with interest included [X] without interest included**

[ ] arrears include an assessment from the effective date of this order to the first payment due date.

[ ] This total includes TANF debt or other public funds paid prior to the effective date of this order of $ ..... for ..... months.

These arrearages are calculated as of the date of this Order including support owed for the current month. This amount does not include payments made after 05/31/2013, and respondent shall be credited for any payments made thereafter. Interest shall continue to accrue on unpaid arrearages at the judgment rate unless the petitioner, in a writing submitted to the court, waives the collection of interest.

PAYMENT:

Payment shall be made payable to:

[ ] Petitioner at the address shown in the beginning of the Order.
The parties shall give the court at least 30 days written notice, in advance, of any proposed change of residential and, if different, mailing address and of any change of telephone number within 30 days of the change. The Respondent is required to keep the court informed of the name, address, and telephone number of his/her current employer.

[X] Treasurer of Virginia and sent to Virginia Department of Social Services, Division of Child Support Enforcement, P.O. Box 570, Richmond, Virginia 23218-0570 unless otherwise instructed by that agency or this Court and shall contain the following:

1. Check or money order made payable to the Treasurer of Virginia.
2. Print on the check or money order:
   - Your name and social security number
   - Petitioner's name as shown on the first page of this order
   - The DCSE ID No. shown on the first page of this order. If no such number is shown, use this Court's name and case number as shown on the front page of this order until that number is sent to you; then start using the DCSE ID No.

The parties shall give to the Virginia Department of Social Services and the court, at least 30 days written notice, in advance, of any proposed change of residential and, if different, mailing address and of any change of telephone number within 30 days of the change. The Respondent is required to keep the Virginia Department of Social Services and the court informed of the name, address and telephone number of his/her current employer.

[X] The parties shall also give each other at least 30 days written notice, in advance of any change of residential and, if different, mailing address and of any change in telephone number within 30 days after the change.

WARNING: Failure to pay in accordance with this order is a violation of this order and may be punished by a jail sentence or a fine or both. In addition, you may not receive credit for payments made contrary to the payment instructions provided in this order. Whenever income withholding is authorized, it is your responsibility to make the payment to DCSE until the income withholding becomes effective. You are responsible for keeping records of payments you make.

HEALTH CARE PROVISIONS:

[ ] Respondent [ ] Petitioner shall provide health care coverage for the [ ] child(ren) [ ] spouse and shall deliver the document necessary for the use of such coverage by the dependents

[ ] Respondent [ ] Petitioner shall provide dental care coverage for the [ ] child(ren) [ ] spouse and shall deliver the document necessary for the use of such coverage by the dependents

[ ] Respondent [ ] Petitioner presently has health care coverage and is ordered to maintain it or comparable coverage.

Health Insurance Company ..... Policy name .....

Name of Policy Holder ..... Policy number .....

In the event of any change in health insurance, the responsible party is required to notify the opposing party of the change. The responsible party shall inform the Virginia Department of Social Services, if support payments are ordered to be paid through the Virginia Department of Social Services, or the opposing party, if support payments are ordered to be paid directly to the opposing party, of any changes in the availability of the health care coverage for the minor child or children.

[X] The Court finds that "health care coverage" as defined by the statute is not available at "reasonable cost" as defined by statute, and therefore, the Court does not order either the Respondent or the Petitioner to provide health care coverage.

[X] Any reasonable and necessary unreimbursed medical and dental expenses, in excess of $250 for any calendar year, for each child covered by this order shall be paid in the following manner: 50 % Respondent 50 % Petitioner.

ORDER OF SUPPORT (CIVIL) Case No. JA078213-03-02

[ ] Respondent [ ] Petitioner is ordered to execute the appropriate tax forms or waivers to grant the other party the right to take the income tax dependency exemption for tax years ..... for .....
CHILD OR CHILDREN
for federal and state income tax purposes.

[ ] The Court finds that a license, certificate, registration or other authorization to engage in a profession, business, trade, occupation, or recreational activity issued by the Commonwealth of Virginia is held by

	TYPE OF LICENSE	AGENCY GRANTING LICENSE	LICENSE NUMBER
Respondent	.....	.....	.....
Petitioner	.....	.....	.....

Upon a delinquency of a support payment for a period of 90 days or more, or in an amount of $5,000 or more, a petition may be filed for suspension of any license, certificate, registration or other authorization to engage in a profession, trade, business, occupation, or recreational activity issued by the Commonwealth. Virginia Code § 20-60.3.

[X] Withholding from income is ordered payable through the Virginia Department of Social Services by [ ] court income deduction order or [X] administrative order for income withholding.

[ ] Immediate withholding from income is not ordered, pursuant to a written agreement between the parties or for good cause shown.

It is further ORDERED that:

.....

[X] This Order was determined based on [X] sole [ ] shared [ ] split custody guidelines.

[ ] A child support award of $ ..... by application of the guidelines provided in Virginia Code § 20-108.2 would be unjust or inappropriate in this case as determined by the relevant evidence pertaining to the factors set forth in the attached supplement which is incorporated herein by reference, the ability of each party to provide child support, and the best interest of the child.

[ ] Entered in accordance with the parties' written stipulation or agreement.

[ ] The Respondent is also required to post with the Clerk a recognizance pursuant to § 20-114 of $ ..... with/without surety .....

[ ] The Respondent shall also pay: $ ..... reimbursement of costs to the Petitioner due .....

$ ..... attorneys' fees to the Petitioner's attorney due .....

If arrearage amount equals or exceeds 3 months owed, reasonable attorneys' fees must be ordered pursuant to Virginia Code § 16.1-278.18, and may be ordered pursuant to § 20-78.2.

NOTICE: Support payments may be withheld as they become due from income without further amendment of this order or having to file an application for services with the Virginia Department of Social Services. Such order shall only be entered upon motion after proper notice sent by the clerk or counsel. Support payments may be withheld without further amendment of this order upon application for services with the Virginia Department of Social Services. In determining a support obligation, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Failure to make payments when due means that interest will accrue according to Virginia Code § 6.1-330.54.

The Virginia Department of Social Services may initiate a review of the amount of support ordered by any court. If a change in circumstances, as defined in the State Board of Social Services' regulations, has occurred, the Department shall report its findings and a proposed modified order to the court which entered the order. Notice shall be served on both parties. Either party may request a hearing on the proposed modified order by filing a request with such court within 30 days of receipt of notice by the requesting party. Unless a hearing is requested with the time limits, no hearing shall be required and the modified order shall be effective 30 days after the notice is received and shall amend any prior court order. Virginia Code § 20-60.3.

In cases enforced by the Virginia Department of Social Services, the Department of Motor Vehicles may suspend or refuse to renew the driver's license of any person upon receipt of notice from the Virginia Department of Social Services that the person is delinquent in the payment of child support by 90 days or in an amount of $5,000 or more, or the person has failed to comply with a subpoena, summons, or warrant relating to paternity or child support proceedings.

If the order being reviewed by the Department deviates from the guidelines, based on one or more factors set out in Virginia Code § 20-108.1, a hearing shall be scheduled with the court which entered the order.

THIS ORDER SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL AMENDED OR ANNULLED BY THIS COURT OR A COURT OF COMPETENT JURISDICTION TO WHICH AN APPEAL MAY BE TAKEN.

9-10-13
DATE

JUDGE

SEEN AND AGREED AS TO NO PROVISION FOR INCOME WITHHOLDING:

PETITIONER: .....

RESPONDENT: .....

EXHIBIT U

Paycheck Stubs

One for week 11/29/13 - 12/05/13

Another for week 12/06/13 - 12/12/13

H. L. ANDERSON & SON, INC D/B/A MobileVac
CHESAPEAKE, VIRGINIA 23324

1155

Employee	Status (Fed/State)	Allowances/Extra
Troy J Childers, 4006 Morris Court, Chesapeake, VA 23323	Single/Withhold	Fed-8/0/VA-2/0
	Pay Period: 11/29/2013 - 12/05/2013	Pay Date: 12/13/2013

Earnings and Hours	Qty	Rate	Current	YTD Amount
Straight Time	40.00	10.00	400.00	4,850.63
Overtime	3.31	15.00	49.65	790.61
			449.65	5,641.24

Taxes	Current	YTD Amount
Federal Withholding	0.00	
Social Security Employee	-27.88	-349.76
Medicare Employee	-6.52	-81.80
VA - Withholding	-16.00	-197.00
	-50.40	-628.56

Adjustments to Net Pay	Current	YTD Amount
Child Support 237-23-5996	-253.87	-3,048.44
Net Pay	145.38	1,966.24

MobileVac, 707 Burrow Avenue, Chesapeake, VA 23324 , H. L. ANDERSON & SON, INC.

H. L. ANDERSON & SON, INC D/B/A MobileVac
CHESAPEAKE, VIRGINIA 23324

1157

Employee	Status (Fed/State)	Allowances/Extra
Troy J Childers, 4006 Morris Court, Chesapeake, VA 23323	Single/Withhold	Fed-8/0/VA-2/0
	Pay Period: 12/06/2013 - 12/12/2013	Pay Date: 12/20/2013

Earnings and Hours	Qty	Rate	Current	YTD Amount
Straight Time	34.30	10.00	343.00	5,193.63
Overtime			0.00	790.61
			343.00	5,984.24

Taxes	Current	YTD Amount
Federal Withholding	0.00	
Social Security Employee	-21.26	-371.02
Medicare Employee	-4.97	-86.77
VA - Withholding	-10.00	-207.00
	-36.23	-664.79

Adjustments to Net Pay	Current	YTD Amount
Child Support 237-23-5996	-253.87	-3,300.31
Net Pay	52.90	2,019.14

MobileVac, 707 Burrow Avenue, Chesapeake, VA 23324 , H. L. ANDERSON & SON, INC.

EXHIBIT V

TAXES FROM 2013

Internal Revenue Service
United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Request Date: 03-19-2015
Response Date: 03-19-2015
Tracking Number: 100240069964

Tax Return Transcript

SSN Provided: [redacted]
Tax Period Ending: Dec. 31, 2013

The following items reflect the amount as shown on the return (PR), and the amount as adjusted (PC), if applicable. They do not show subsequent activity on the account.

SSN: [redacted]
SPOUSE SSN:

NAME(S) SHOWN ON RETURN: TROY J CHILDERS

ADDRESS: 4006 MORRIS CT
CHESAPEAKE, VA 23323-1930-068

FILING STATUS:	Single
FORM NUMBER:	1040
CYCLE POSTED:	20150905
RECEIVED DATE:	Feb.18, 2015
REMITTANCE:	$0.00
EXEMPTION NUMBER:	1
DEPENDENT 1 NAME CTRL:	
DEPENDENT 1 SSN:	
DEPENDENT 2 NAME CTRL:	
DEPENDENT 2 SSN:	
DEPENDENT 3 NAME CTRL:	
DEPENDENT 3 SSN:	
DEPENDENT 4 NAME CTRL:	
DEPENDENT 4 SSN:	
PTIN:	
PREPARER EIN:	

Income

WAGES, SALARIES, TIPS, ETC:	$6,623.00
TAXABLE INTEREST INCOME: SCH B:	$0.00
TAX-EXEMPT INTEREST:	$0.00
ORDINARY DIVIDEND INCOME: SCH B:	$0.00
QUALIFIED DIVIDENDS:	$0.00
REFUNDS OF STATE/LOCAL TAXES:	$0.00
ALIMONY RECEIVED:	$0.00
BUSINESS INCOME OR LOSS (Schedule C):	$0.00
BUSINESS INCOME OR LOSS: SCH C PER COMPUTER:	$0.00
CAPITAL GAIN OR LOSS: (Schedule D):	$0.00
CAPITAL GAINS OR LOSS: SCH D PER COMPUTER:	$0.00
OTHER GAINS OR LOSSES (Form 4797):	$0.00
TOTAL IRA DISTRIBUTIONS:	$0.00
TAXABLE IRA DISTRIBUTIONS:	$0.00
TOTAL PENSIONS AND ANNUITIES:	$0.00
TAXABLE PENSION/ANNUITY AMOUNT:	$0.00
RENT/ROYALTY/PARTNERSHIP/ESTATE (Schedule E):	$0.00
RENT/ROYALTY/PARTNERSHIP/ESTATE (Schedule E) PER COMPUTER:	$0.00
RENT/ROYALTY INCOME/LOSS PER COMPUTER:	$0.00
ESTATE/TRUST INCOME/LOSS PER COMPUTER:	$0.00
PARTNERSHIP/S-CORP INCOME/LOSS PER COMPUTER:	$0.00
FARM INCOME OR LOSS (Schedule F):	$0.00
FARM INCOME OR LOSS (Schedule F) PER COMPUTER:	$0.00
UNEMPLOYMENT COMPENSATION:	$0.00
TOTAL SOCIAL SECURITY BENEFITS:	$0.00
TAXABLE SOCIAL SECURITY BENEFITS:	$0.00
TAXABLE SOCIAL SECURITY BENEFITS PER COMPUTER:	$0.00
OTHER INCOME:	$0.00
SCHEDULE EIC SE INCOME PER COMPUTER:	$0.00
SCHEDULE EIC EARNED INCOME PER COMPUTER:	$6,623.00
SCH EIC DISQUALIFIED INC COMPUTER:	$0.00
TOTAL INCOME:	$6,623.00
TOTAL INCOME PER COMPUTER:	$6,623.00

Adjustments to Income

EDUCATOR EXPENSES:	$0.00
EDUCATOR EXPENSES PER COMPUTER:	$0.00
RESERVIST AND OTHER BUSINESS EXPENSE:	$0.00
HEALTH SAVINGS ACCT DEDUCTION:	$0.00

Exhibit W

Exhibit W – Witness information sheet.

This document does not contain any private information. All information is publicly available online. This information can be published.

Nirvana Childers
410 S College Dr
Franklin, VA 23851
Phone: (434) 430-5631

Russell S. Fryske
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Grawn, Mi 49637
Phone: 734-834-9033

David P Byler
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Sinkiss2000@Yahoo.Com

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(703) 623-9655
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Chesapeake, VA 23323
(757) 717-4930

Helen Amanda Marsh
4006 Morris ct.
Chesapeake, VA 23323
757-717-3099

Bobby Lee Burton
1425 Drum Point Rd,
Virginia Beach, VA
23457
(757) 544-3340 or
(757) 427-3344

EXHIBIT X

Plasma Donations 2019

Transaction Details

Sort by date range

12 ▼ / January ▼ / 2019 ▼ Thru 18 ▼ / December ▼ / 2019 ▼

Print this page

See an unfamiliar charge?

Direct Inquiries to card services at help.na@wirecard.com or 800-439-9568

My Account

Date	Acct#	Memo	Type	Description	(USD $) Fee	(USD $) Amount	Balance
11-Nov-2019	XXX4437	LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-6.69	-1.25
08-Nov-2019	XXX4437	POS Decline Fee:TINEE GIANT #544 CIT - CHESAPEAKE, VA	Fee	POS Transaction Decline	0.25	+0.00	+5.44
08-Nov-2019	XXX4437	POS Decline Fee:TINEE GIANT #544 CIT - CHESAPEAKE, VA	Fee	POS Transaction Decline	0.25	+0.00	+5.69
07-Nov-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.07	+5.94
07-Nov-2019	XXX4437	7-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-3.67	+8.01
06-Nov-2019	XXX4437	LITTLE CAESARS 1240 00 - PORTSMOUTH , VA	Spend $	POS Transaction Without PIN		-5.63	+11.68
06-Nov-2019	XXX4437	7-ELEVEN - CHESAPEAKE , VA		PIN POS	0.50	-7.56	+17.31
06-Nov-2019	XXX4437	MCDONALD'S F59 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.01	+25.37
06-Nov-2019	XXX4437	POS Decline Fee:7-ELEVEN - CHESAPEAKE, VA	Fee	POS Transaction Decline	0.25	+0.00	+31.38
06-Nov-2019	XXX	.	Receive $			+10.00	+31.63
05-Nov-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-3.77	+21.63
04-Nov-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-9.70	+25.40
04-Nov-2019	XXX4437	120 G WASHINGTON H - CHESAPEAKE , VA	ATM $	In-Network Domestic ATM		-20.00	+35.10
03-Nov-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.09	+55.10
02-Nov-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-15.66	+60.19
01-Nov-2019	XXX	.	Receive $			+75.00	+75.85
30-Oct-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.08	+0.85
29-Oct-2019	XXX4437	TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.12	+5.93
29-Oct-2019	XXX4437	1729 MILITARY HWY - CHESAPEAKE , VA	ATM $	In-Network Domestic ATM		-60.00	+12.05

29-Oct-2019	XXX	.	Receive $			+75.00	+72.05
29-Oct-2019	XXX	Instant Re-issue Card Fee				-2.95	-2.95
31-Jul-2019	XXX	Account maintenance fee - July 2019	Fee	Card Maintenance Fee		-0.60	+0.00
03-Apr-2019	XXX	66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.54	+0.60
03-Apr-2019	XXX	6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.34	+3.14
02-Apr-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-8.63	+5.48
02-Apr-2019	XXX	6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.83	+14.11
01-Apr-2019	XXX	6666LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-4.64	+18.94
01-Apr-2019	XXX	6666SUNOCO 0282953900 QPS - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.06	+23.58
01-Apr-2019	XXX	.	Receive $			+25.00	+29.64
31-Mar-2019	XXX	6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-1.00	+4.64
30-Mar-2019	XXX	6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.08	+5.64
30-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.00	+11.72
30-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.43	+16.72
29-Mar-2019	XXX	66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.72	+23.15
29-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-7.14	+27.87
28-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.01	+35.01
28-Mar-2019	XXX	6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.12	+41.02
28-Mar-2019	XXX	6666SHELL OIL 57546164005 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.03	+47.14
28-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.56	+52.17
28-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-7.14	+54.73
28-Mar-2019	XXX	6666LITTLE CAESARS 1778-00 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.69	+61.87
28-Mar-2019	XXX	6666MCDONALD'S F37 - NORFOLK , VA		PIN POS	0.50	-1.13	+68.56
28-Mar-2019	XXX	.	Receive $			+50.00	+70.19
27-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.21	+20.19
27-Mar-2019	XXX	6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.57	+24.40
26-Mar-2019	XXX	66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-9.21	+29.97

26-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.21	+39.18
25-Mar-2019	XXX66667-ELEVEN 37037 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.00	+43.39
25-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.84	+49.39
25-Mar-2019	XXX6666DOLLAR-GENERAL - CHESAPEAKE , VA		PIN POS	0.50	-3.71	+55.23
25-Mar-2019	XXX .	Receive $			+50.00	+59.44
24-Mar-2019	XXX66667-ELEVEN 33999 - CHESAPEAK , VA	Spend $	POS Transaction Without PIN		-6.77	+9.44
22-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-8.77	+16.21
22-Mar-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.12	+24.98
22-Mar-2019	XXX66667-ELEVEN 36973 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-13.00	+29.10
22-Mar-2019	XXX666627O0 YADKIN ROAD - CHESAPEAKE , VA	ATM $	In-Network Domestic ATM		-20.00	+42.10
21-Mar-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-9.19	+62.10
21-Mar-2019	XXX66667-ELEVEN 33565 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-12.78	+71.29
21-Mar-2019	XXX6666LITTLE CAESARS 1778-00 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.69	+84.07
21-Mar-2019	XXX6666FOOD LION #1611 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.75	+90.76
21-Mar-2019	XXX .	Receive $			+50.00	+97.51
20-Mar-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-9.60	+47.51
19-Mar-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.32	+57.11
19-Mar-2019	XXX6666USPS PO 5 857 GEOR - CHESAPEAKE , VA		PIN POS	0.50	-9.80	+62.43
18-Mar-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-8.86	+72.73
18-Mar-2019	XXX .	Receive $			+50.00	+81.59
17-Mar-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.95	+31.59
17-Mar-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-7.09	+34.54
16-Mar-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.14	+41.63
15-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-10.05	+46.77
15-Mar-2019	XXX6666FOOD LION #1611 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.14	+56.82
14-Mar-2019	XXX66667-ELEVEN 37119 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-2.04	+61.96
14-Mar-2019	XXX6666HARDEES 2974 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.56	+64.00

14-Mar-2019	XXX .	Receive $			+40.00	+69.56
11-Mar-2019	XXX .	Receive $			+30.00	+29.56
06-Mar-2019	XXX66667-ELEVEN 33565 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.00	-0.44
06-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.21	+4.56
05-Mar-2019	XXX6666EXXONMOBIL 48153381 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-3.08	+8.77
05-Mar-2019	XXX6666SUNOCO 0282953900 QPS - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-1.31	+11.85
05-Mar-2019	XXX66667-ELEVEN 33565 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-7.65	+13.16
05-Mar-2019	XXX66667-ELEVEN 37119 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-5.00	+20.81
05-Mar-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.22	+25.81
05-Mar-2019	XXX6666LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-5.58	+31.03
05-Mar-2019	XXX6666900 CAVALIER - CHESAPEAKE , VA	ATM $	In-Network Domestic ATM		-20.00	+36.61
05-Mar-2019	XXX6666616 CAROLINA ROAD - SUFFOLK , VA	ATM $	Out-of-Network Domestic ATM	2.50	-22.25	+56.61
05-Mar-2019	XXX .	Receive $			+55.00	+81.36
04-Mar-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-9.21	+26.36
04-Mar-2019	XXX66667-ELEVEN 33565 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.00	+35.57
03-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-10.63	+39.57
03-Mar-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-4.43	+50.20
02-Mar-2019	XXX6666LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-5.58	+54.63
02-Mar-2019	XXX .	Receive $			+50.00	+60.21
27-Feb-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.23	+10.21
25-Feb-2019	XXX66667-ELEVEN - VIRGINIA BEAC, VA		PIN POS	0.50	-6.00	+12.44
25-Feb-2019	XXX6666841 S MILITARY HWY - VIRGINIA BEAC, VA	ATM $	In-Network Domestic ATM		-40.00	+18.94
25-Feb-2019	XXX .	Receive $			+50.00	+58.94
24-Feb-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.00	+8.94
24-Feb-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.84	+13.94
23-Feb-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-11.21	+19.78
23-Feb-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-1.50	+30.99

23-Feb-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-7.81	+32.49
22-Feb-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-1.12	+40.30
22-Feb-2019	XXX6666VICTORY MINI MART - PORTSMOUTH , VA	Spend $	POS Transaction Without PIN		-3.00	+41.42
22-Feb-2019	XXX6666LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-5.58	+44.42
22-Feb-2019	XXX .	Receive $			+50.00	+50.00
18-Feb-2019	XXX66667-ELEVEN 32868 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-1.80	+0.00
18-Feb-2019	XXX66667-ELEVEN 37119 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-8.20	+1.80
18-Feb-2019	XXX6666841 S MILITARY HWY - VIRGINIA BEAC, VA	ATM $	In-Network Domestic ATM		-40.00	+10.00
18-Feb-2019	XXX .	Receive $			+50.00	+50.00
16-Feb-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-2.00	+0.00
15-Feb-2019	XXX66667-ELEVEN 37119 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-8.00	+2.00
15-Feb-2019	XXX6666841 S MILITARY HWY - VIRGINIA BEAC, VA	ATM $	In-Network Domestic ATM		-40.00	+10.00
15-Feb-2019	XXX .	Receive $			+50.00	+50.00
12-Feb-2019	XXX6666GAS N GO CITGO #6 - SUFFOLK , VA	Spend $	POS Transaction Without PIN		-2.77	+0.00
12-Feb-2019	XXX6666900 CAVALIER - CHESAPEAKE , VA	ATM $	In-Network Domestic ATM		-60.00	+2.77
11-Feb-2019	XXX66667-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-6.64	+62.77
11-Feb-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-5.09	+69.41
11-Feb-2019	XXX6666LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-5.58	+74.50
11-Feb-2019	XXX6666LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-3.27	+80.08
11-Feb-2019	XXX6666EXXONMOBIL 48289680 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN		-4.00	+83.35
11-Feb-2019	XXX .	Receive $			+75.00	+87.35
11-Feb-2019	XXX6666POS Decline Fee:SUNOCO 0282953900 - CHESAPEAKE, VA	Fee	POS Transaction Decline		-0.25	+12.35
11-Feb-2019	XXX6666POS Decline Fee:SUNOCO 0282953900 - CHESAPEAKE, VA	Fee	POS Transaction Decline		-0.25	+12.60
10-Feb-2019	XXX6666GAS N GO CITGO #6 - SUFFOLK , VA	Spend $	POS Transaction Without PIN		-5.47	+12.85
10-Feb-2019	XXX66661160 PORTSMOUTH BL - SUFFOLK , VA	ATM $	In-Network Domestic ATM		-20.00	+18.32
09-Feb-2019	XXX6666TINEE GIANT #544 CITGO - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN		-3.35	+38.32
09-Feb-2019	XXX6666FOOD LION #161 - CHESAPEAKE , VA		PIN POS	0.50	-13.28	+41.67

08-Feb-2019	XXX6666	LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN	-5.58	+55.45
08-Feb-2019	XXX	.	Receive $		+50.00	+61.03
06-Feb-2019	XXX6666	GAS N GO CITGO #6 - SUFFOLK , VA	Spend $	POS Transaction Without PIN	-7.43	+11.03
06-Feb-2019	XXX6666	7-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN	-9.79	+18.46
06-Feb-2019	XXX6666	7-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN	-3.00	+28.25
06-Feb-2019	XXX6666	7-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN	-8.83	+31.25
05-Feb-2019	XXX6666	7-ELEVEN 18667 - CHESAPEAKE , VA	Spend $	POS Transaction Without PIN	-9.92	+40.08
04-Feb-2019	XXX	.	Receive $		+50.00	+50.00
01-Feb-2019	XXX6666	7-ELEVEN 37119 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN	-7.86	+0.00
01-Feb-2019	XXX6666	LITTLE CAESARS 1240 00 - VIRGINIA BEAC , VA	Spend $	POS Transaction Without PIN	-1.89	+7.86
01-Feb-2019	XXX6666	841 S MILITARY HWY - VIRGINIA BEAC, VA	ATM $	In-Network Domestic ATM	-40.00	+9.75
01-Feb-2019	XXX	.	Receive $		+50.00	+49.75
01-Feb-2019	XXX	Instant Re-issue Card Fee			+0.00	-0.25

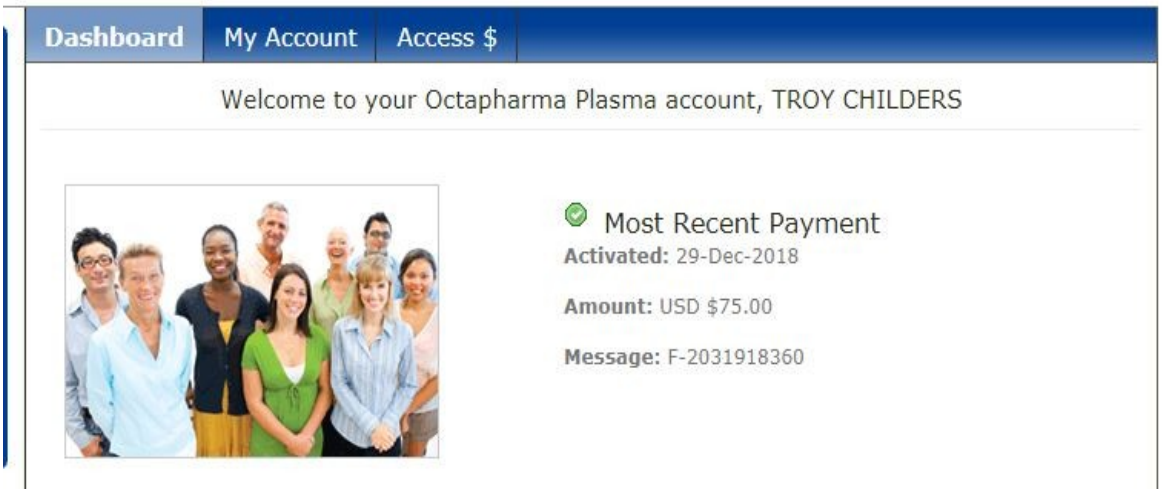
Fee Summary

Fee Details As of Date 18/Dec/2019

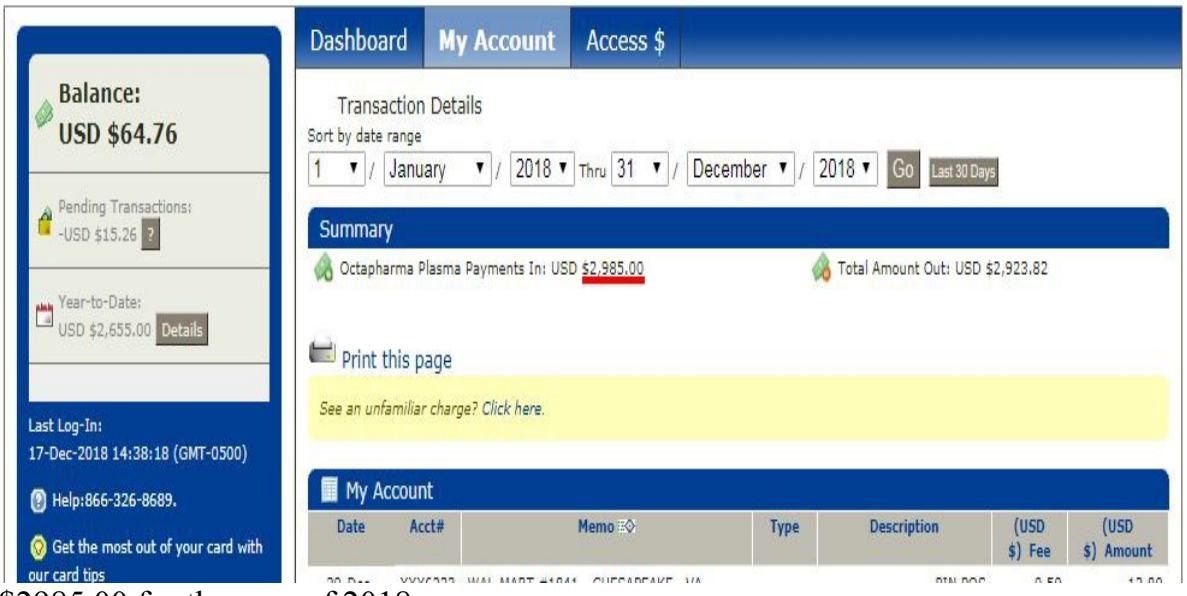
Summary Totals do not include certain third party fees

Current Month Fee Total: USD $0.00
Prior Month Fee Total: USD $0.50
Year to Date Fee Total: USD $9.55

Plasma Donations 2018



octapharma plasma



$2985.00 for the year of 2018

EXHIBIT Y

TAXES FROM 2014

Internal Revenue Service
United States Department of the Treasury

This Product Contains Sensitive Taxpayer Data

Request Date: 03-19-2015
Response Date: 03-19-2015
Tracking Number: 100240069286

Tax Return Transcript

SSN Provided: [redacted]
Tax Period Ending: Dec. 31, 2014

The following items reflect the amount as shown on the return (PR), and the amount as adjusted (PC), if applicable. They do not show subsequent activity on the account.

SSN: [redacted]
SPOUSE SSN:

NAME(S) SHOWN ON RETURN: TROY J CHILDERS

ADDRESS: 4006 MORRIS CT
CHESAPEAKE, VA 23323-1930-068

FILING STATUS:	Single
FORM NUMBER:	1040
CYCLE POSTED:	20150905
RECEIVED DATE:	Apr.15, 2015
REMITTANCE:	$0.00
EXEMPTION NUMBER:	1
DEPENDENT 1 NAME CTRL:	
DEPENDENT 1 SSN:	
DEPENDENT 2 NAME CTRL:	
DEPENDENT 2 SSN:	
DEPENDENT 3 NAME CTRL:	
DEPENDENT 3 SSN:	
DEPENDENT 4 NAME CTRL:	
DEPENDENT 4 SSN:	
PTIN:	
PREPARER EIN:	

Income

WAGES, SALARIES, TIPS, ETC:	$4,638.00
TAXABLE INTEREST INCOME: SCH B:	$0.00
TAX-EXEMPT INTEREST:	$0.00
ORDINARY DIVIDEND INCOME: SCH B:	$0.00
QUALIFIED DIVIDENDS:	$0.00
REFUNDS OF STATE/LOCAL TAXES:	$0.00
ALIMONY RECEIVED:	$0.00
BUSINESS INCOME OR LOSS (Schedule C):	$474.00
BUSINESS INCOME OR LOSS: SCH C PER COMPUTER:	$474.00
CAPITAL GAIN OR LOSS: (Schedule D):	$0.00
CAPITAL GAINS OR LOSS: SCH D PER COMPUTER:	$0.00
OTHER GAINS OR LOSSES (Form 4797):	$0.00
TOTAL IRA DISTRIBUTIONS:	$0.00
TAXABLE IRA DISTRIBUTIONS:	$0.00
TOTAL PENSIONS AND ANNUITIES:	$0.00
TAXABLE PENSION/ANNUITY AMOUNT:	$0.00
RENT/ROYALTY/PARTNERSHIP/ESTATE (Schedule E):	$0.00
RENT/ROYALTY/PARTNERSHIP/ESTATE (Schedule E) PER COMPUTER:	$0.00
RENT/ROYALTY INCOME/LOSS PER COMPUTER:	$0.00
ESTATE/TRUST INCOME/LOSS PER COMPUTER:	$0.00
PARTNERSHIP/S-CORP INCOME/LOSS PER COMPUTER:	$0.00
FARM INCOME OR LOSS (Schedule F):	$0.00
FARM INCOME OR LOSS (Schedule F) PER COMPUTER:	$0.00
UNEMPLOYMENT COMPENSATION:	$0.00
TOTAL SOCIAL SECURITY BENEFITS:	$0.00
TAXABLE SOCIAL SECURITY BENEFITS:	$0.00
TAXABLE SOCIAL SECURITY BENEFITS PER COMPUTER:	$0.00
OTHER INCOME:	$0.00
SCHEDULE EIC SE INCOME PER COMPUTER:	$0.00
SCHEDULE EIC EARNED INCOME PER COMPUTER:	$5,112.00
SCH EIC DISQUALIFIED INC COMPUTER:	$0.00
TOTAL INCOME:	$5,112.00
TOTAL INCOME PER COMPUTER:	$5,112.00

Adjustments to Income

EDUCATOR EXPENSES:	$0.00
EDUCATOR EXPENSES PER COMPUTER:	$0.00
RESERVIST AND OTHER BUSINESS EXPENSE:	$0.00
HEALTH SAVINGS ACCT DEDUCTION:	$0.00

Exhibit Z

Intake record from
Chesapeake Integrated Behavioral Healthcare

Chesapeake IBH

		Client Name:	**TROY CHILDERS**
Client ID:	**18027**	Date/Time:	**8/3/2017 2:30 PM to 4:30 PM**
Program Area	**Intake**	Service Type/CPT	**ZZIntake Evaluation / 90791**
Employee:	**Mironda Womack , LMHP-Eligible, QMHP**	Service ID:	**1571945**

IDENTIFYING INFORMATION

Type of intake assessment: Initial
Date of Admission/Update: 8/3/2017
Days Waiting for Treatment: 2
Address:
4006 MORRIS COURT
Apt/Suite#:

City:
CHESAPEAKE
State:
VA
Zip Code:
23323
Preferred Phone:
717-3099(SISTER)
Age:
42
Gender:
Male
Race:
Unknown
Marital Status:
Divorced
Preferred Language:

Preferred Language: English
****AR/Legal Guardian/Any Substitute Decision Maker:**
False

PRESENTING NEEDS - ADMIT

REFERRAL SOURCE:
Family or Friend
Referral Source Update if Needed: Family or Friend
EMERGENCY?: No
***CLIENT'S STATEMENT OF PRESENTING NEEDS/PREFERENCES at REFERRAL:**
7/31 depressed. stated he can not do anything. no si . no insurance
***CLIENT'S STATEMENT OF MAIN GOAL:** 'To get some help with my severe depression '.
***ADDITIONAL INFORMATION: Include precipitant/onset/duration of stated, psychiatric & support needs:**
Troy presents as a family referral seeking mental health and psychiatric services. He reports a historical diagnosis of Depression dating back to his childhood. He denies ever receiving any type of mental health services previously and/or being prescribed any psychotropic medications. However, he reports a family history of depression and states that his mother attempted suicide multiple times prior to dying from what he considers suicide (refusing to take her medications for a serious medical condition).

Troy states that for the past three years he have not been able to function to the capacity he once did; of which he attributes to several life stressors (divorce, child support payments, being unemployed, and not being able to see his children as a result of his ex-wife moving 7 hours away). During this intake he at times made vague suicide comments and at one point talked about his friend who committed suicide for what he states was similar to his current situation (child support payments and marital issues).

He describes his depressive symptoms as (not wanting to be around others, lack of energy, feelings of hopelessness and worthlessness, sleeping daily, not bathing an/or brushing his teeth, as well as isolates himself from others in a dark room all day).Troy states that the aforementioned symptoms have been occurring since his divorce the year of

2011. He endorses the symptoms has increased in intensity and frequency within the last several months and identifies (going from owning his own roofing & construction company of which he states was very profitable to donating plasma as a form of income,ex-wife moving seven hours away with his children, having to reside with his sister) as the antecedent.

Troy denies having a substance usage/abuse history. A BAC was performed and resulted as .000. Troy declined having a UDS performed and reports his reasoning for declining is due to the financial obligation and his report of not having a substance usage/abuse history.
Appetite: Within normal limits
Sleep: Hypersominia, Comments*
Troy states that he goes from going days without sleeping to currently sleeping too much. He describes his sleep pattern as "erratic".

PAST MH/SA/MEDICAL HX

DATES/PROVIDERS/REASONS: N/A
MH:
Denied

SA:
Denied
 # OF PRIOR DRUG/ALCOHOL ABUSE PROGRAMS: No prior episodes
MAJOR MEDICAL CONCERNS/MEDICAL HISTORY:
Troy reports a medical condition consisting of an "unofficial diagnosis" of irregular heart beats.Troy states that he goes from going days without sleeping to currently sleeping too much. He describes his sleep pattern as "erratic".

MEDICATIONS

No Medications reported by individual: None

FAMILY MH/SA/MEDICAL HX

Describe family history of mental illness, substance abuse, intellectual disability and major medical concerns: Descrbe:
MH:
Multiple maternal members: Depression, Bipolar,

SA:
Maternal niece: multiple illicit drug usage

ID:
Denied

Major Medical Concern: Multiple paternal family members: Diabetes; Multiple maternal family members: with lung conditions.

SUBSTANCE USE/ABUSE

SUBSTANCE OF USE/ABUSE HX: None
PRIMARY DRUG OF ABUSE: None
PRIMARY DRUG FREQUENCY: Not Collected
PRIMARY DRUG METHOD: Not Collected
PRIMARY DRUG AGE OF 1st USE: Not Collected
SECONDARY DRUG OF ABUSE: None
SECONDARY DRUG FREQUENCY: Not Collected
SECONDARY DRUG METHOD: Not Collected
SECONDAARY DRUG AGE OF 1st USE: Not Collected
TERTIARY DRUG OF ABUSE: None
TERTIARY DRUG FREQUENCY: Not Collected
TERTIARY DRUG METHOD: Not Collected
TERTIARY DRUG AGE OF 1st USE: Not Collected
SOCIAL CONNECTEDNESS*, (participation in support recovery activities in the past month, e.g. AA, NA, SAARA): No participation in the past month

FAMILY & SOCIAL SUMMARY

CHILDHOOD ISSUES*: Describe:
Troy was born on 4/17/1975 in Gastonia North Carolina to an intact family. He reports being the youngest of two by his parents union. He reports being the second eldest of five with his mother and stepfather. He recalls reaching all his childhood developmental milestones without any difficulties and or delays. He describes a traumatic childhood and describes his mother as "crazy". He states that his stepfather raised him from the age of 13 up until he was 17 years

of age. He recalls experiencing physical abuse as a child by a boyfriend of his mother prior to her remarrying his stepfather.
COGNITIVE DELAY*: Not Applicable
ADULT ISSUES*: Describe:
Troy recalls getting married the year of 2008 and reports having two children by that union. He reports that they separated the year of 2011 and divorced the year of 2014. He endorses her wanting to be with someone else as the reasoning for his divorce. He describes his relationship as "estrange" with his ex-wife, and "good" with his children until his ex-wife moved seven hours away. He reports having a "good" relationship with his family. He reports his mother died when he was 19 years of age.
TYPE OF RESIDENCE: Private residence/school/dorm
INDEPENDENT LIVING STATUS*: Yes
HOUSING STABILITY*: Not Applicable
EDUCATIONAL HISTORY
Educational Status:
Completed High School (Grade 12 or GED)
Education Status- Highest grade level completed or educational attainment: Grade 8
School (if applicable):

School Performance and Peer Relationships: Describe:
Troy states that he dropped out of school during his 8th grade school year. He reports behavioral issues, poor academic performance, and frequent absenteeism as his reasoning for dropping out. He states that he obtained his GED the year of 2005. He recall having a very few positive peer relationships during his school years.
Special Education Status: No
School Attendance Status*: Not Applicable
WORK HISTORY*:
2003-2008 TJ Childers Roofing (owner)
2013- 2016Aqua Shell roofing
2012-2013 Mobil Vac
Current Employment Status:
Unemployed: Seeking Employment
Employment Status: Unemployed: Seeking Employment
Military Status: Not Applicable (No military)
LEGAL HISTORY*: Describe:
Denied
Current Legal Status:
Voluntary (Self Referred)
Legal Status: Voluntary (Self Referred)
Number Arrests Past 30 Days: 00
INTERESTS & ACTIVITIES/HOME & DAILY LIVING*: Describe:
Troy describes his daily living activities as isolating himself in a dark room, and/or getting on Facebook.

MENTAL STATUS

MSE Narrative:
Troy is a 42 year old, Caucasian male, who appears his stated age.He is tall in stature and considered obese. He presents dressed in casual attire. He appears somewhat unkempt and has a very poor body odor. He admits to not bathing and/or brushing his teeth for quite some time. He was able to make intermittent eye contact and presents as cooperative and engaging. Speech was within normal range in all areas. Mood presents as depress and sad and was described in a similar fashion by him. There were no evidence of thought or perceptual disturbances. He made vague suicide comments and a couple of times talked about how when his best friend was going through a difficult time with child support and marital issues he committed suicide by hanging and stated that he at times thought about committing suicide then stated that he is too fearful of suffering from pain and the act of actually going through with it. He denies HI. Concentration, attention, impulse control all presents as intact. There were no evidence of gross judgment impairment, however, at times during this intake his judgment presents as slightly impaired as evidence by (him referencing his friends suicide by hanging as a way of escaping his child support issues, him blaming his wife for him not being able to work, and his vague comments about his SI). Current level of insight presents as developing.
Appearance: Casual attire, Malodorous, Unkempt
Behavior: Normal motor display w/o evidence of movement disorder, psychomotor agitation or restriction, Comments*
intermittent eye contact
Speech: Normal tone, quantity, rate, rhythm & volume
Attitude: Cooperative & engaging
Mood: Comments
depress and sad
Affect- Emotional expression: Sad, Comments*
depress

Affect- Range: Full range
Affect- Appropriateness to topics of conversation: Appropriate to topics of conversation
Affect- Intensity: No undue intensity
Affect- Lability: No lability
Thought Content: No paranoia, delusion, obsession; -SI, -HI
Suicidal thought: Comments
He made vague suicide comments and a couple of times talked about how when his best friend was going through a difficult time with child support and marital issues he committed suicide by hanging and stated that he at times thought about committing suicide then stated that he is too fearful of suffering from pain and the act of actually going through with it.
Violent thought: Denied
Thought Processing: Goal directed and logical; spontaneous
Perceptual disturbance: -AH, -VH
Judgment: No evidence of gross impairment, Comments*
Although he did not evidence gross judgment impairment, he did, however, present as slightly impaired as evidence by (him referencing his friends suicide by hanging as a way of escaping his child support issues, him blaming his wife for him not being able to work, and his vague comments about his SI).
Immediate & Short term memory: 3/3 immediate; 3/3 at five minutes
Orientation: Fully oriented to all measures of time, place and situation
Attention: Attended to interview without evidence of impairment: responded to inquiry with appropriate responses, concentration appeared intact
Abstract Reasoning: Formal operations
Insight: Developing

DIAGNOSTIC IMPRESSIONS

IF THIS IS AN INTAKE UPDATE, DOES THE CLIENT RECEIVE PSYCHIATRIC SERVICES?: No
DIAGNOSIS:
Effective Date: 8/3/2017
Last Updated: 8/3/2017
1(296.32 / F33.1) Major depressive disorder, Recurrent episode, Moderate
2(V61.03 / Z63.5) Disruption of family by separation or divorce
3(V62.29 / Z56.9) Other problem related to employment
WHODAS 2.0 General Disability
THIS IS A REQUIRED QUESTION: PLEASE CHECK THE ANSWER THAT APPLIES: YES, the diagnosis was reviewed.

SMI ASSEMNT-REQUIRED 18+

DOB:
4/17/1975
AGE: (Person must be 18 years of age or older):
42
LEVEL OF DISABILITY (must meet at least two of these criteria on a continuing or intermittent basis:
Due to mental illness, is unemployed; employed in sheltered setting or supportive work situation; has m arkedly limited or reduced employment skills; or has a poor employment history.: No
Due to mental illness, requires public financial assistance to remain in the community and may be unable to procure such assistance without help.: No
Due to mental illness, has difficulty establishing or maintaining a personal social support system.: No
Due to mental illness, requires assistance in basic living skills such as personal hygiene, food preparation, or money management.: No
Exhibits inappropriate behavior that often results in intervention by the mental health or judicial system.: No
DURATION OF ILLNESS (Must meet at least one of the criteria:
Is expected to require services of an extended duration.: Yes
Troy is expected to require psychiatric services for an extended duration.
Has undergone psychiatric treatment more intensive than outpatient care, such as crisis response services, alternative home care, partial hospitalization, or inpatient hospitalization, more than once in his or her lifetime.: No
Has experienced an episode of continuous, supportive residential care, other than hospitalization, for a period long enough to have significantly disrupted the normal living situation.: No
Current SMI Status: None

PRELIMINARY TX PLAN

BRIEF SUMMARY OF ISSUES TO BE ADDRESSED:*:
Troy would benefit from outpatient therapy one to four times per month to assist him in developing the necessary cognitive skills that will enable him to display an alleviation and or decrease of his depressive symptoms, an increase in self worth, and an opportunity to properly process his current life stressors, so that that he may return to a previous

level of effective functioning.

Troy presents to be in need of psychiatric services for a review of his current depressive symptoms and to address potential medication need(s). He was educated on the walk-in clinic procedure and provided a handout.

PRIMARY REFERRAL: Adult MH Outpatient

ADJUNCTIVE SERVICES(S): .

Troy presents to be in need of psychiatric services for a review of his current depressive symptoms and to address potential medication need(s). He was educated on the walk-in clinic procedure and provided a handout.

RECOMMENDED REFERRAL(S)/OTHER SERVICES: .

Chesapeake Care Free Clinic

NEEDS A CAPACITY EVALUATION?: No

DISCHARGE PLANNING:

'Troy will be discharged from services once he has evidence mood stability, a decrease and or alleviation of his current depressive symptoms and no longer require this level of service.

STRENGTHS/ABILITIES:

Troy presents as receptive to receiving services. He reports having stable housing and reliable transportation.

PROGNOSIS: Fair

PROGNOSIS BASED ON: (Identify motivation for tx, strengths, and limitations):

Based upon current level of insight, limited previous history treatment and current motivation of wanting to "feel better".

ESTIMATED LENGTH OF TREATMENT: 6 - 12 months

Employee Signature

Miranda Womack, MSW, LMHP-E

Supervised in Social Work

8/3/17 7:24 PM
Mironda Womack
LMHP-Eligible, QMHP

Approved by MWOMACK on 8/3/17

EXHIBIT A12

Debt And Depression: Causal Links And Social Norm Effects

Source:
University Of Nottingham

By
John Gathergood

Published: 2012

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DEBT AND DEPRESSION: CAUSAL LINKS AND SOCIAL NORM EFFECTS*

John Gathergood

Individuals exhibiting problems repaying their debt obligations also exhibit much worse psychological health. Selection into problem debt on the basis of poor psychological health accounts for much of this difference. The causality between problem debt and psychological health may be two way. Using individual level UK panel data, local house price movements exogenous to individual households are used to establish the causality from problem mortgage debt to psychological health. In addition, the social norm effects of problem debt are investigated using local bankruptcy and repossession rates. Results indicate there are sizeable causal links and social norm effects in the debt–psychological health relationship.

This article examines the relationship between household problem debt, otherwise known as over-indebtedness, and psychological health, using the UK's household panel survey. Access to credit improves household welfare by facilitating consumption smoothing. However, inability to repay debts can result in drastic welfare losses arising from bankruptcy or the seizure of collateral such as housing. Psychiatrists commonly report problem debt as a source of severe anxiety and psychological distress (Fitch *et al.*, 2007). In the medical literature small-scale studies based on individuals exhibiting poor mental health find problem debt to be a common correlate with depression, anxiety and even self-harm (Hatcher, 1994; Maciejewski *et al.*, 2000; Reading and Reynolds, 2001).

There is a well-documented statistical association between problem debt and poor psychological health at the individual level. Studies based on large samples of cross-sectional survey data using self-reported health data show that the positive association between high levels of debt or usage of high-cost credit and poor psychological health is not readily explained by covariates such as demographic and related characteristics or other existing health conditions (Bartel and Taubman, 1986; Lea *et al.*, 1995; Hamilton *et al.*, 1997; Drentea, 2000; Brown *et al.*, 2005; Lenton and Mosley, 2008). There is also evidence that high-debt households exhibit more prevalent adverse health behaviours which may be related to the formation of psychological health such as smoking and obesity (Grafova, 2007).

What is more difficult to establish is causality between problem debt and psychological health. The positive relationship between the two might be explained by

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unobserved factors not captured in cross-section analysis, or alternatively a two-way causality.[1] Also, an individual's perception of the severity of their debt problems may be affected by their psychological health state. An individual with poor psychological health might be more, or less, inclined to subjectively report they are struggling with debts compared to an individual with good psychological health in the same financial situation. Bridges and Disney (2010) find evidence from UK household survey data that objective measures of debt problems correlate more weakly with subjective evaluations of poor psychological health than subjective measures of debt problems.

This study investigates the relationship between problem debt and psychological health for the UK by using the British Household Panel Survey (BHPS) (previously used by Wildman, 2003 and Brown *et al.*, 2005 in related studies).[2] This study makes the following contributions. First, it documents the large cross-sectional inequality in psychological health between those with and without problem debts. This is shown for both subjective and objective measures of psychological health. Households who report they face 'difficulty' meeting their housing payments (mortgage or rent), or are at least two months late on their housing payments, or who report that meeting their consumer credit repayments presents a 'heavy burden' to their household, exhibit poorer psychological health. To establish this result is not driven by perceptions alone local-level delinquency rates are used as an instrument for self-reported debt problems. We also present evidence of poorer psychological health among the spouses or partners of respondents reporting debt repayment difficulties, suggesting the reporting of debt difficulties is not driven by the psychological health state of the respondent.

Second, this study shows that selection into problem debt on the basis of poor psychological health accounts for much of the observed cross-sectional variation in psychological health between those with and without problem debts. Individuals who move into arrears on their housing payments or into reporting a heavy burden of debts between two waves of data exhibited, on average, worse psychological health in the first wave of data compared with those not moving into debt problems. This positive selection into problem debt on the basis of poor psychological health accounts for most of the observed difference in health in the cross-section comparison between the two groups.

Third, this study estimates the causal impact of worsening problem debt on psychological health by using movements in local-level house prices as exogenous variation in the severity of the consequences of inability to meet mortgage debt

[1] A similar problem confronts the researcher seeking to understand the impact of income on health, as earned income is most likely endogenous to health status (Fritjers *et al.*, 2005; Gardner and Oswald, 2007).

[2] The key advantage of using the BHPS for this study is that it includes data on the geographical location of the household, not available in the Families and Children Survey (FACS) used in Bridges and Disney (2010). These data are crucial for the instrumental variable strategy used to identify the causal impact of problem debt (which uses local-level house price movements) and to establish reference group effects (which are defined at the local level) later in the article. The BHPS also has the advantage of including the General Health Questionnaire (GHQ) as an alternative to self-reported data on anxiety-related medical conditions. Also, the BHPS has the advantage of being more representative of the population as a whole. Whereas FACS surveys only family units with children and in the vast majority of cases interviews the mother (with women twice as likely to report depression compared with men in the UK), the BHPS is a representative sample of all UK households and adopts the typical convention of allowing the household to self-assign the household head and interviews all members of the household. Finally, the BHPS is a long-running household panel and so provides a usable number of observations of individuals with very severe debt problems.

commitments. It does so in the following manner: it is shown that mortgage holders who enter into arrears on their mortgage debts in localities where house prices are growing (and so their home equity 'buffer' is increasing) suffer less deterioration in psychological health compared to individuals who enter into arrears in localities where house prices are falling (and so their home equity 'buffer' is decreasing). This identification strategy also allows a natural comparison group – renting households – for whom the impact of rent arrears on psychological health is shown to be unaffected by local house price movements. This allows us to rule out the possibility that local house price movements simply act as a proxy for local economic conditions in these regressions.

Home equity buffers have been shown to be important forms of consumption insurance for households facing adverse income shocks (Hurst *et al.* 2004; Benito, 2009). We show that households with mortgage payment problems who suffer house price falls are less likely to be able to refinance or extract housing equity and, furthermore, incur higher future mortgage payment costs. This primarily arises due to households who experience mortgage payment problems typically doing so in the early years of their mortgage contracts when they are most likely to seek to refinance to avoid reset rates arising after short-term mortgage deals elapse. House price falls reduce the option to do so and increase the chances of households facing the reset rate.

Fourth, the impact of the onset of problem debt on psychological health is shown to demonstrate a 'social norm' effect.[3] Individuals who exhibit the onset of problems repaying their unsecured debts in localities with a higher bankruptcy rate are shown to experience less deterioration in psychological health. In the context of a uniform bankruptcy law across localities (and so little reason to believe that non-payment on unsecured debts is more likely to result in a bankruptcy filing in one region compared with another) this result is interpreted as evidence of a reduced social stigma associated with problem debt in areas in which problem debt is more prevalent. Individuals who exhibit the onset of problems repaying their secured debts in localities with higher mortgage repossession rates also show less deterioration in psychological health.

1. Data

1.1. *The BHPS*

The BHPS is a well-known long-running UK household panel survey which started in 1991 and has been conducted annually; the most recent available data is for the year 2008. All 18 available waves of data are used for this study. The BHPS is a general household survey which began with approximately 5,500 households with 10,000 individuals from England and Wales in 1991, interviewing adults in the household on a range of socioeconomic topics including their finances, labour market activity and health. As the health and debt data are central to this study, these are now considered in more detail.

[3] Social norm effects have been widely studied in the labour supply and consumption literatures (Blinder and Pesaran, 1998; Lindbeck *et al.*, 1999).

1.2. *Psychological Health Data*

The BHPS includes two survey instruments related to psychological health. First, in the health module of the survey all adult respondents in the household are asked to identify the health problems or disabilities which they currently suffer from among those on a list, the most relevant of which for this analysis is '*Anxiety, depression, bad nerves, psychiatric problems*'. Respondents are asked to ignore temporary conditions when answering this question. We use answers to this question to construct an indicator variable which takes a dummy form with a value of 1 for yes and 0 for no.

Second, the BHPS also includes the General Health Questionnaire (GHQ) in each wave. The GHQ comprises a series of 12 questions in which respondents are asked to identify how frequently they currently feel, relative to their normal state, depression, anxiety leading to insomnia, inability to cope and a number of related feelings (details of the particular questions asked are provided in Appendix A). Responses to the GHQ forms the basis for the 'GHQ Caseness Score', also known as the 'Caseness GHQ', a well-known scale measure of psychological health used in the medical and psychological literature and increasingly in the economics literature as a measure of 'mental' or 'psychological' health or 'wellbeing' (such as Clark, 2003).[4] The GHQ Caseness score is ordered between 0 and 12, with 12 representing the poorest state of mental health.

1.3. *Data on Household Finances and Problem Debts*

The BHPS asks respondents detailed questions on their household finances every five years (in waves 5, 10 and 15) so it is not possible to construct balance sheet information for each wave of the survey.[5] In addition, the head of household is asked the following questions about their household's financial situation. In all waves all households which either own a home via a mortgage or who rent a home are asked: 'Many people these days are finding it difficult to keep up with their housing payments. In the last twelve months would you say you have had any difficulties paying for your accommodation?' (Yes/No) followed by the question 'In the last twelve months have you ever found yourself more than two months behind with your rent/mortgage'? (Yes/No). In addition, in each wave since 1995 all households with outstanding unsecured credit on which they are making repayments are asked: 'To what extent is the repayment of such debts and the interest a financial burden on your household? Would you say it is.... A heavy burden, Somewhat of a burden, Not a problem'?

[4] The GHQ Caseness Score is calculated by counting the number of cases in which an individual reports experiencing six negative feelings 'rather more than usual' or 'much more than usual', or experiencing six positive feelings 'less so than usual' or 'much less so than usual'. Hence a score of 12 indicates the individual reported they feel each of the six negative feelings at least 'rather more than usual' plus each of the six positive feelings less or much less than usual, and a score of 0 indicates the individual feels each of the six negative feelings not more than 'no more than usual' and each of the positive feelings at least as much as usual. On this basis, a score of 12 represents the lowest level of psychological wellbeing (worst mental health) and a score of 0 represents the highest level of psychological wellbeing (best mental health). Some studies invert this 12-point score, known as the 'inverted GHQ' such that a higher value represents a better level of psychological health.

[5] However, in each wave respondents are asked some questions relating to their finances: detailed questions about their income, the amount they save from their current income, an estimate of the value of their home and any debts secured against it together with the type of mortgage they currently hold and the cost of their monthly housing payment (mortgage or rent).

From answers to the first question we construct a (1/0) dummy variable for the respondent's evaluation of their difficulty paying for their housing based on the yes/no answer. We consider this answer to be a 'subjective' response as the interpretation of the term 'difficult' might vary between households. From the second question we construct a (1/0) dummy variable for the respondent's objective housing arrears position based on their yes/no answer. This is designated as an 'objective' measure because whether or not an individual is two months late on payments is not a matter of interpretation. From the third question we construct a (1/0) dummy variable for the respondent's subjective evaluation of their difficulty meeting their unsecured debt payments which takes a value of 1 is the respondent reports 'A heavy burden' or 'somewhat of a burden' and a value of 0 if they report 'not a problem'.

1.4. *Summary Statistics*

Summary statistics for household demographic characteristics, education, employment and income are provided in Table 1. Individual characteristics and psychological health data are provided for the head of the household. As the housing payment questions are asked in every wave but the consumer credit payment question is asked only for 1995 onwards, summary statistics are shown for two periods separately 1991–2008 and 1995–2008. Comparing households in the whole sample 1991–2008 (Column 1) with those with housing payment problems (Column 2, 9.7% of the sample) and those 2+ months late on housing payments (Column 3, 2.3% of the sample), households with payment problems of either type are typically younger, more likely to have a male household head, more likely to have children, be less educated, be in unemployment and have lower income. From Columns 4 and 5, those with consumer credit payment problems (16.2% of the sample) are typically more likely to have a male household head and have children, but there are less noticeable differences in other variables (particularly in household income).

Comparing average measures of psychological health between heads of households with payment difficulties to those without payment difficulties: heads of households with housing payment problems exhibit GHQ scores which are on average 1.63% points higher and are 6% points more likely to report an anxiety-related illness. For the 2+ months late on housing payments indicator the differences are larger at 2.05% points and 12% points respectively and for the 'heavy burden' consumer credit payments indicator the differences are 0.98% and 6% points. These differences in means are in each case statistically significantly different from zero at very high levels of confidence. By way of comparison, these differences are also larger than the average difference in GHQ score between individuals in employment and those unemployed, which are 1.6% points and 4% points respectively.

2. Results

2.1. *Panel Evidence on Problem Debt and Psychological Health*

This subsection explores whether these observed differences in psychological health between those with and without housing and consumer credit payment problems

Table 1

Summary Statistics for BHPS Households

	1991–2008			1995–2008	
	1. Whole sample	2. Housing payment problems	3. 2+ months late on housing payments	4. Whole sample	5. Consumer credit payments a heavy burden
N	66,664	6,499	1,541	54,731	8,864
Percentage of sample	100	9.7	2.3	100	16.2
Demographics					
Age	40	38	37	40	39
Male = 1	0.41	0.48	0.50	0.42	0.46
Married = 1	0.67	0.56	0.51	0.67	0.67
Has children = 1	0.47	0.54	0.58	0.48	0.58
Ethnic minority group = 1	0.14	0.14	0.16	0.17	0.17
Home owner = 1	0.66	0.47	0.39	0.66	0.34
Highest educational qualification					
GCSE = 1	0.32	0.35	0.38	0.32	0.34
A-level = 1	0.20	0.19	0.15	0.21	0.20
Degree = 1	0.16	0.10	0.06	0.17	0.16
Employment status					
Employed = 1	0.67	0.57	0.48	0.68	0.67
Self-employed = 1	0.10	0.10	0.09	0.09	0.07
Unemployed = 1	0.05	0.10	0.16	0.04	0.05
Income					
Household income (monthly, £s)	£2,100	£1,400	£1,200	£2,100	£2,000
Psychological health					
GHQ12 Score (0–12)	2.03	3.50	4.04	2.04	2.87
Suffers anxiety = 1	0.08	0.16	0.21	0.09	0.14

Notes. Questions on housing payment problems asked in waves 1991–2008 inclusive, question on consumer credit payment problems asked in waves 1995–2008 inclusive only. Male, married, has children, ethnic minority group, GCSE, A-level, degree, employed, self-employed, unemployed are 1/0 dummy values taking the value 1 if 'yes' and 0 otherwise. Individual characteristics are identified from the head of household. Monthly income is real household monthly gross labour income in 1995 prices (adjusted using the Retail Prices Index).

arise due to covariates, selection or psychological health-driven biases in the perception of problem debt. First, to address the role of associated covariates and selection multivariate panel regression, estimates are presented. Second, to test whether the differences arise due to perceptions, the self-reported problem debt indicators (which may be biased by perception) are instrumented using local-level data on delinquency rates.

First, those households with and without problem debts differ in a range of associated characteristics, as illustrated in Table 1. Also, the average differences between groups might arise due to selection into problem debt on the basis of poor psychological health, or alternatively selection out of problem debt on the basis of better psychological health. Table 2 presents a transition matrix of before and after average GHQ Caseness Scores and rates of reporting anxiety for individuals entering the

Table 2

Transition Matrix: Entry into Debt Problems by Psychological Health Measures

	GHQ12 Score		Anxiety-related illness	
	Mean (SD) at t	Mean (SD) at $t+1$	% (SD) at t	% (SD) at $t+1$
Housing payments				
No payment problems at t, payment problems at $t+1$ ($N=2{,}413$)	2.97 (3.59)	3.40 (3.87)	0.14 (0.35)	0.16 (0.37)
No payment problems at t, no payment problems at $t+1$ ($N=42{,}134$)	1.78 (2.90)	1.80 (2.95)	0.07 (0.26)	0.07 (0.26)
Not 2+ months late t, 2+ months late at $t+1$ ($N=648$)	3.48 (3.88)	4.06 (4.16)	0.19 (0.39)	0.24 (0.43)
Not 2+ months late t, Not 2+ months late at $t+1$ ($N=43{,}899$)	1.93 (3.03)	1.94 (3.07)	0.08 (0.27)	0.08 (0.27)
Consumer credit repayments				
Not a heavy burden at t, heavy burden at $t+1$ ($N=3{,}561$)	2.42 (3.37)	2.64 (3.53)	0.12 (0.32)	0.12 (0.33)
Not a heavy burden at t, not a heavy burden at $t+1$ ($N=31{,}949$)	1.78 (2.94)	1.78 (2.96)	0.08 (0.27)	0.08 (0.27)

housing and consumer credit problem debt states compared with those not entering problem debt states.[6] A comparison suggests that, in each case most of the observed difference in psychological health by problem debt status in the cross-section arises due to positive selection into problem debt on the basis of poor psychological health. Those households exhibiting the onset of problem debts already had worse psychological health in the first wave.

Panel regression estimates are presented in Table 3. The vector of control variables includes a broad range of demographic, education and employment, financial and related controls, details of which are provided in the notes accompanying the Table, plus regional dummies and year dummies. In each case, the dependent variable is the psychological health measure (the GHQ Caseness Score in Columns 1 and 2, the indicator variable of anxiety-related illness in Columns 3 and 4). Pooled panel estimates are presented alongside household fixed-effects estimates. Each model includes the three indicators of payment problems and is estimated for the 54,731 households present in at least two consecutive waves of the survey between 1995 (the first year in which the consumer credit question was asked) and 2008. In the pooled panel estimates in Columns 1 and 3, psychological health improves with employment and self-employment and is worse for men, the unemployed, those divorced and older individuals (nonlinearly). The coefficients on each of the problem debt measures are positive and significant at the 1% level. The coefficients on these variables are in each

[6] For example, whereas in the cross-section those reporting difficulty paying for housing exhibited on average GHQ Caseness scores 1.63 points higher than those not reporting problems, in the transition data the deterioration in GHQ score among those developing difficulties paying for housing is 0.43 points. In the case of those 2+ months late with housing payments and those who face a 'somewhat or heavy burden' of consumer credit the difference in the transition is 0.58 (compared with 2.05 in the cross-section) and 0.24 (compared with 0.99 in the cross-section).

Table 3

Multivariate Estimates of Relationship Between Problem Debt and Psychological Outcomes

	Dependent variable: GHQ-12 Score (O.L.S.)				Dependent variable: Anxiety-related illness (LPM)			
	(1)		(2)		(3)		(4)	
(1) Housing payment 'problems'	1.15**	(0.05)	0.62**	(0.05)	0.05**	(0.01)	0.02**	(0.001)
(2) 2+ months late housing payment	0.52**	(0.11)	0.47**	(0.11)	0.06**	(0.01)	0.03**	(0.01)
(3) Consumer credit 'heavy burden'	0.75**	(0.04)	0.33**	(0.04)	0.04**	(0.01)	0.01**	(0.003)
(4) Age (years)	0.11**	(0.01)	0.08**	(0.02)	0.01**	(0.00)	0.01**	(0.00)
(5) Age squared (years)	−0.001**	(0.00)	−0.001**	(0.00)	−0.001**	(0.00)	−0.001**	(0.00)
(6) Male = 1	0.48**	(0.03)	–		0.04**	(0.00)	–	
(7) Married = 1	0.12**	(0.05)	−0.02	(0.09)	0.01	(0.01)	0.01	(0.01)
(8) Divorced = 1	0.48**	(0.05)	0.43**	(0.10)	0.04**	(0.01)	0.03**	(0.01)
(9) Employed = 1	−1.52**	(0.05)	−0.85**	(0.07)	−0.16**	(0.01)	−0.07**	(0.01)
(10) Unemployed = 1	0.32**	(0.07)	0.31**	(0.08)	0.11**	(0.01)	0.05**	(0.01)
(11) Self-employed = 1	−1.61**	(0.06)	−0.86**	(0.09)	−0.17**	(0.01)	−0.07**	(0.01)
Regional dummies	Yes		Yes		Yes		Yes	
Year dummies	Yes		Yes		Yes		Yes	
Fixed effects	No		Yes		No		Yes	
No. observations	54,731		54,731		54,731		54,731	
F	141.83		21.89		165.23		8.99	
Prob>F	0.0000		0.0000		0.0000		0.0000	
R-squared	0.10		0.08		0.12		0.08	
No. groups	–		10,525		–		10,525	
Mean in sample	2.04		2.04		0.09		0.09	
SD in sample	3.16		3.16		0.29		0.29	

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Control variables: age of head of household, age of head of household squared, dummy variables for male household head, employment status (employed, unemployed, self-employed), marital status (married, divorced), spouse educational and employment/self-employment status, dummy variables for skill group (professional, skilled, semi-skilled), dummy variables for age of youngest child (0–3, 3–5, 5–12, 12–16 years), dummy variables for whether member of occupational pension plan, whether moved home in last year, whether smokes, spouse smokes plus value of total outstanding mortgage debt in pounds; number of dependent children; household annual income, household annual income squared.

case considerably smaller than the unconditional differences in means between those with and without problem debts provided in Table 2.

In the models including household fixed effects (Columns 2 and 4) many of the covariates remain statistically significant. The coefficients on the problem debt variables are reduced in magnitude but remain statistically significant at the 1% level. The associations between problem debt and GHQ scores in Column 2 compared with the unconditional comparison (values given here in parenthesis) are: subjective difficulty paying for housing 0.62 (1.63), 2+ months late with housing payment 0.47 (2.05), subjective difficulty paying for consumer credit 0.33 (0.92). In Column 4, the equivalent values are 0.02 (0.08), 0.03 (0.12) and 0.01 (0.06) respectively. Therefore, in each case the magnitude of the association between problem debt and poor psychological health falls by at least two-thirds. These fixed-effects estimates establish there is a clear association between the onset of problem debt and the worsening of

psychological health at the household level controlling for time-invariant heterogeneity but that the estimated effects are weaker than in the unconditional comparisons. Of course, these results do not establish the direction of causality between these contemporaneous changes.

Secondly, one difficulty with using the subjective measures of problem debt is the possibility that self-reported measures of problem debt or arrears might themselves be biased by an individual's mental health state. If a respondent's mental health state impacts upon their *perception* of their problem debt state, subjective measures of 'problems' and 'burdens' reported by respondents could be unreliable. Ideally, we would use lender-provided debt data, or data externally validated by some other means, which is not possible in the BHPS. Instead we present evidence against this bias by using two alternative approaches.

First, we instrument subjective responses using lender-provided measures of local-level mortgage and consumer credit delinquency, exploiting geographic variation in non-payment of debts. These local-level measures will correlate with actual debt problems but not purely perceived problems; although there is the possibility that poor mental health may affect the perceptions of individuals such that they report their own debt state to be something closer to the problematic state they observe in others in their locality. Results show the geographic concentration of housing and consumer credit payment problems are strong instruments for self-reported payment problems. Table 4 presents IV estimates in which these local-level rates are used as instruments alongside OLS estimates.[7] In each case the IV procedure is implemented using two-stage least squares.[8] In each case the instruments are precisely defined at the 0.001% level. Results from the second stage regressions return coefficients of very similar magnitude to those in Table 3.

Second, we examine the relationship between the payment 'problems' and 'burdens' responses given by the household head and the psychological health of the household head's spouse or partner. If the household head's perception of a payment difficulty arises due to his or her mental health state and not due to an actual difficulty, we would not expect to find a positive relationship between the head of household's answers to the payment difficulty questions and the psychological health of the household head's spouse or partner. If the payment difficulty is an actual problem and not purely a perception, we would expect to observe the psychological health effects for a partner or spouse who shares in the household's financial situation. Of course, in the latter case we would not expect the household head's psychological health to correlate perfectly with the psychological health of a spouse or partner as observed psychological health arises due to combinations of genetic, historical and environmental factors not all shared by household members. As we have individual level data for households in our sample, we can examine this relationship.

[7] Measures of the local-level mortgage and consumer credit delinquency rate at available at the county level from the Council of Mortgage Lenders (CML) and Experian. CML provide data on the proportion of outstanding home loans at least three months in arrears. Experian provide data on the proportion of consumer credit products at least three months delinquent.

[8] The dependent variables are as before. Separate models are estimated which include housing payment problems and consumer credit a heavy burden. In the housing payment regressions the sample is comprised of all years for which the housing payment question was included in the BHPS, in the case of the consumer credit payment regressions the sample is the years 1995–2008 only as before.

Table 4

IV Estimates for Relationship Between Problem Debt and Psychological Health Outcomes

	GHQ12 Score				Anxiety-related illness			
	(1) Housing payment problems		(2) Credit burden		(3) Housing payment problems		(4) Credit burden	
Dependent variable: GHQ12 Score (0–12)	OLS	IV 2nd stage	OLS	IV 2nd stage	LPM	IV 2nd stage	LPM	IV 2nd stage
(1) Housing payment 'problems'	0.77**	0.76**		–	0.02**	0.02**		–
	(0.04)	(0.10)			(0.001)	(0.003)		
(2) Consumer credit 'heavy burden'		–	0.67**	0.57**		–	0.01**	0.01**
			(0.04)	(0.06)			(0.001)	(0.002)
		IV 1st stage		IV 1st stage		IV 1st stage		IV 1st stage
(3) Local mortgage arrears rate	–	0.85**	–	–	–	0.85**	–	–
		(0.04)				(0.04)		
(4) Consumer credit delinquency rate	–	–	–	0.90**	–		–	0.90**
				(0.04)				(0.04)
Regional dummies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Fixed effects	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
F	29.51	12.45	17.02	11.41	14.60	11.76	13.54	11.64
No. observations	66,664	66,664	54,731	54,731	66,664	66,664	54,731	54,731
No. groups	11,936	11,936	10,525	10,525	11,936	11,936	10,525	10,525
Mean in sample	2.03	2.03	2.04	2.04	0.09	0.09	0.09	0.09
SD in sample	3.12	3.12	3.16	3.16	0.28	0.28	0.29	0.29

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables as in Table 3.

Table 5

Multivariate Estimates of Relationship Between Problem Debt and Spouse Psychological Outcomes

	Dependent variable: Spouse GHQ-12 Score (O.L.S.)		Dependent variable: Spouse anxiety-related illness (LPM)	
	(1)	(2)	(3)	(4)
(1) Housing payment 'problems'	0.90**	0.59**	0.06**	0.02**
	(0.09)	(0.10)	(0.01)	(0.01)
(2) 2+ months late housing payment	0.60**	0.71**	0.03**	0.02**
	(0.20)	(0.21)	(0.01)	(0.01)
(3) Consumer credit 'heavy burden'	0.57**	0.25**	0.04**	0.01**
	(0.06)	(0.05)	(0.01)	(0.004)
Regional dummies	Yes	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes	Yes
Fixed effects	No	Yes	No	Yes
No. observations	43,016	43,016	43,016	43,016
F	27.16	8.00	38.28	7.59
Prob>F	0.0000	0.0000	0.0000	0.0000
R-squared	0.07	0.05	0.10	0.06
No. groups	–	11,263	–	11,263
Mean in sample	1.94	1.94	0.08	0.08
SD in sample	3.02	3.02	0.26	0.26

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables (for household head) as in Table 3, plus controls for spouse characteristics: age, age squared, dummy variables for male, employment status (employed, unemployed, self-employed), educational and employment/self-employment status, dummy variables for skill group (professional, skilled, semi-skilled), dummy variables for whether member of occupational pension plan.

Table 5 presents estimates from models in which the partner/spouse's psychological health data are the dependent variable and the household head's responses to the payment difficulty questions enter as a dependent variable. For completeness, we include the full set of household head control variables together with control variables for partner/spouse characteristics. As can be seen from Table 5, in each case the coefficients on the payment problem and burden variables are positive, statistically significant and have magnitudes similar to those in Table 3. Hence head of household reported payment difficulties are associated with poorer psychological health on the part of his or her spouse or partner. On this basis, we conclude that the self-reported data on payment difficulties is not severely affected by a perception-bias.[9]

2.2. *Evidence From House Price Changes*

The results from the previous subsection document that the onset of problem debt is associated with deterioration in psychological health but the causality between these two might run in either direction. An obvious identification strategy is to exploit exogenous variation in sources of psychological health or problem debt, that is, a variable correlated with psychological health which is exogenous to changes in

[9] On this basis, we continue to use the self-reported measures of problem debt in the subsequent analysis.

individual indebtedness or, conversely, a variable correlated with problem debt which is exogenous to individual changes in psychological health. This study uses a source of exogenous source of variation in the severity of an individual's problem debt: housing equity shocks arising from movements in local-level house prices which make the consequences of arrears on mortgage payments more or less severe.

The rationale for this is as follows. Unlike mortgage debt, movements in the value of an individual's property are largely exogenous to the actions of the individual household. However, house price movements do impact upon the severity of late or non-payment of mortgage debts via their effect on the housing equity a homeowner owns in their home. If faced with difficulty paying a mortgage it is unambiguously better for an individual to face such a scenario with more rather than less housing equity.[10] The null hypothesis under such an exercise is that individuals who exhibit the onset of problems paying for their housing but contemporaneously benefit from a positive housing equity shock will see less deterioration in their psychological health as the effects of their payment problems are mitigated in part by their equity gain.

Using local-level house price shocks as an instrument for the severity of problem mortgage debt also has the attraction of presenting a natural comparison group: renters, who experience late payment of their housing payments but do not benefit from increases in the value of the home in which they are resident. Of course, assignment into housing tenure is not exogenous to the individual household (unlike the value of house price changes in the locality). Renters are typically younger, with lower incomes and less likely to have children, so these and related covariates need to be included as additional controls in the econometric model. There is also an added advantage to the homeowners – renters comparison: one objection to interpreting house price shocks as a proxy for housing equity movements is that positive house price shocks might also reflect positive local income shocks (which increase housing demand and so cause house values in the locality to increase). Comparing the outcomes for renters with homeowners allows us to exploit renters as a comparison group who experience the effects of local income shocks correlated with house price movements but not the shocks in home equity.

To show the relevance of house price movements to homeowner's mortgage activity and the particular relevance of changes in housing equity for homeowners with mortgage arrears, a series of models are first estimated to quantify the impact of house price movements on household payment problems, mortgage refinancing and equity extraction plus mortgage costs. This is done to substantiate the idea that house price movements are relevant for the psychological health of households, particularly those with payment difficulties. Local-level house price data are obtained from the Halifax Building Society (now Lloyds-Halifax Bank of Scotland) Mix-Adjusted House Price Index (2011), which is available at the county level.

[10] Households who experience equity falls will suffer increases in their leverage and have less scope to refinance (and so face higher future payments), withdraw equity or sell their home without incurring a capital loss. More housing equity increases the likelihood of being able to refinance a mortgage onto more favourable terms, and increases the equity buffer if an individual is forced to sell their home. Hurst and Stafford (2004) present evidence that households use housing equity as a source of insurance when faced with income shocks.

Table 6

House Price Changes, Problem Debt and Future Mortgage Activity

	Whole sample	Mortgage holders only		
	(1) 2+ months late on housing payment $t+1$	(1) Refinances mortgage $t+1$	(2) Withdraws equity $t+1$	(3) Change in monthly mortgage payments (%) $t+1$
(1) 2+ months late	0.09**	−0.07**	−0.02**	0.09**
	(0.01)	(0.02)	(0.003)	(0.03)
(2) Δ house price (£'0,000s)	−0.01	0.01**	0.01**	0.01
	(0.01)	(0.002)	(0.006)	(0.01)
(3) 2+ months late × Δ house price (£'0,000s)	−0.02**	0.02**	0.01**	−0.03**
	(0.004)	(0.004)	(0.002)	(0.003)
Regional dummies	Yes	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes	Yes
Fixed effects	Yes	Yes	Yes	Yes
No. observations	66,664	35,949	35,949	35,949
F	9.64	8.16	9.39	9.36
Prob>F	0.0000	0.0000	0.0000	0.0000
No. groups	11,936	6,248	6,248	6,248
Mean in sample	0.02	0.15	0.06	−0.02
SD in sample	0.15	0.31	0.12	0.10

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables as in Table 4.

Table 6 presents estimates from a number of panel data models for household mortgage activity. In the first column, the dependent variable is whether the household is 2+ months late on mortgage payments in the next wave. The coefficient on the house price term is statistically insignificant. Local house price movements have no effect on the likelihood of future payment arrears. However, the coefficient on the interaction term (in the third row) implies that households who are 2+ months late on their housing payments at t and experience a subsequent decline in local-level house prices of £10,000 are, compared to the baseline predicted probability, twice as likely to be 2+ months late on their payment at $t+1$. The estimates in the subsequent columns show that those households who are 2+ months late on their mortgage payments at t and experience house price falls between t and t+1 are less likely to refinance (Column 3), less likely to withdraw home equity (Column 4) and, crucially, experience higher future mortgage payments (Column 5). Therefore, households with mortgage arrears who experience price falls are more likely to face future arrears, higher mortgage costs and less scope to refinance, including equity withdrawal. We would, therefore, expect such households to suffer increased psychological stress.[11]

Following on from these results, we now present estimates of the impact of house price movements on psychological health for households with and without payment

[11] It is perhaps not surprising that we find house price falls for those in arrears lead to negative outcomes. The majority of households who experience mortgage arrears do so in the early years since purchase (for an examination of the dynamics of mortgage arrears in the BHPS see Gathergood (2009)). At this stage in the life-cycle households are likely to be highly leveraged, so house price movements can have substantial effects on refinancing opportunities.

Table 7

Exogenous House Price Changes, Problem Debt and GHQ12 Scores (O.L.S. Estimates)

Dependent variable: GHQ12 Score	(1) Owners only	(2) Renters comparison group	(3) Consumer credit problems
(1) 2+ months late	1.18**	1.24**	–
	(0.12)	(0.21)	
(2) Δ house price (£'0,000s)	−0.006	−0.01	−0.01
	(0.01)	(0.01)	(0.01)
(3) 2+ months late × Δ house price (£'0,000s)	−0.42**	0.11	–
	(0.11)	(0.12)	
(4) 2+ months late × owner	–	0.21**	–
		(0.03)	
(5) Δ house price (£'0,000s) × owner	–	−0.05	–
		(0.03)	
(6) 2+months late × Δ house price (£'0,000s) × owner	–	−0.64**	–
		(0.18)	
(7) Heavy burden	–	–	0.47**
			(0.07)
(8) Heavy burden × Δ house price (£'0,000s)	–	–	0.01
			(0.04)
(9) Heavy burden × owner	–	–	0.15
			(0.09)
(10) Δ house price (£'0,000s) × owner	–	–	−0.05
			(0.03)
(11) Heavy burden × Δ house price (£'0,000s) × owner	–	–	−0.21
			(0.12)
Regional dummies	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes
Fixed effects	Yes	Yes	Yes
No. observations	46,776	66,664	54,731
F	6.05	6.48	5.07
Prob>F	0.0000	0.0000	0.0000
No. groups	8,713	11,936	10,525
Average in sample	1.76	2.04	2.04
SD in sample	2.89	3.12	3.16

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables as in Table 4.

problems. Results are presented in Table 7 (in which the GHQ score is the dependent variable) and Table 8 (in which anxiety as a medical condition is the dependent variable). In each case results are presented firstly for the sample of owners only (Column 1), then in a model including the renters comparison group (Column 2) and finally also for the sample in which consumer credit payments are observed and interacted with the house price movement (Column 3).

In Table 7, Column 1 the coefficient on the change in the county-level house price is statistically insignificant. Hence house price changes do not affect the psychological health of homeowners. The interpretation of the coefficient on the interaction term is that an individual who experiences the onset of housing payment arrears but a simultaneous positive increase in local-level house prices of £10,000 experiences a deterioration in their GHQ score of 0.42 points less than an individual who does not experience a positive house price gain.

In Column 2, the renters comparison group is introduced into the model. Results indicate the negative impact of falling house prices on GHQ scores is specific to

homeowners only. The interaction term between late payment and the homeowner dummy implies homeowners with late payments suffer worse GHQ scores compared with renters. The interaction term between late payment, homeownership and the house price change indicates homeowners with late payments who suffer house price falls experience an increase (worsening) of their GHQ score. This effect is limited to homeowners only, with no impact for the renter comparison group. The magnitude of the interaction term implies a homeowner in late payment who suffers a £10,000 fall in house price experiences an increase in their GHQ score of 0.64 points.

Column 3 presents estimates for the same model as Column 2 but with consumer credit payment problems as the problem debt variable and is estimated over the 1995–2008 sample of households. Homeowners with consumer credit payment problems will also see their financial situation worsen if house prices fall as their scope for extracting home equity to repay outstanding consumer credit will diminish. The direction and magnitudes of the homeowner interaction terms are similar to before: homeowners who are late with payments have worse GHQ scores; homeowners late with payments who experience house price falls also have worse GHQ scores. However, the coefficients on these interactions are not statistically significantly different from zero.

Table 8 presents results from models with the (1/0) dummy variable for whether the individual suffers from anxiety or a related condition as the dependent variable. Results here reveal the same pattern as in Table 7. The pattern in the coefficients in the model for homeowners only (Column 1) shows negative local house price movements which accompany the onset of housing payment problems result in increased likelihood of suffering an anxiety-related medical condition for homeowners who are late on their housing payments. In Column 2, the relationship to the reference renters group is the same as before with no effect of house price movements on renters. The model for consumer credit in Column 3 returns expected signs on the homeowner and consumer credit burden interaction terms but these are again not statistically significantly different from zero.

Taken together, these results show that exogenous variation in the severity of arrears on housing payment arising from local-level house price movements causally impact the extent of deterioration in psychological health (by either of the measures used). This effect is stronger for homeowners with late payments on their housing debts than those who experience a heavy burden of consumer credit. An explanation for this difference is that the financial characteristics of households late on housing payments appear much worse than those households facing a heavy burden of consumer credit such that the housing equity buffer is more important for the latter group than for the former (see Table 1).

2.3. *Social Norm Effects in the Debt–Depression Relationship*

This final subsection in the analysis investigates the existence of social norm effects in the relationship between problem debt and psychological health. To the author's knowledge, such effects have not been investigated elsewhere. This is perhaps surprising: a growing empirical literature in economics finds that individual perceptions

Table 8

Exogenous House Price Changes, Problem Debt and Suffering Anxiety (L.P.M. Estimates)

Dependent variable: Whether suffers anxiety (1/0)	(1) Owners only	(2) Renters comparison group	(3) Consumer credit problems
(1) 2+ months late	0.03**	0.02**	–
	(0.006)	(0.008)	
(2) Δ house price (£'0,000s)	0.001	0.001	0.001
	(0.001)	(0.001)	(0.001)
(3) 2+ months late × Δ house price (£'0,000s)	−0.004**	0.01	–
	(0.001)	(0.02)	
(4) 2+ months late × owner	–	0.02**	–
		(0.007)	
(5) Δ house price (£'0,000s) × owner	–	−0.01	–
		(0.01)	
(6) 2+months late × Δ house price (£'0,000s) × owner	–	−0.005**	–
		(0.001)	
(7) Heavy burden	–	–	0.01**
			(0.003)
(8) Heavy burden × Δ house price (£'0,000s)	–	–	0.002
			(0.003)
(9) Heavy burden × owner	–	–	0.02
			(0.01)
(10) Δ house price (£'0,000s) × owner	–	–	−0.003
			(0.006)
(11) Heavy burden × Δ house price (£'0,000s) × owner	–	–	−0.01
			(0.006)
Regional dummies	Yes	Yes	Yes
Year dummies	Yes	Yes	Yes
Fixed effects	Yes	Yes	Yes
No. observations	46,776	66,664	54,731
F	2.34	3.49	2.16
Prob>F	0.0000	0.0000	0.0000
R-squared	0.01	0.01	0.01
No. groups	8,713	11,936	10,525
Average in sample	0.06	0.09	0.09
SD in sample	0.23	0.28	0.30

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables as in Table 4.

and choices are influenced by those of others.[12] This raises the prospect that social norm effects might be present in the relationship between problem debt and psychological health.

The particular social norm effect hypothesised here is the impact of social stigma arising from problem debt. The literature on the social stigma of individual indebtedness and adverse debt outcomes such as bankruptcy presents evidence that higher reference group bankruptcy rates diminish the social stigma associated with being declared bankrupt (Fay *et al.*, 2002; Cohen-Cole and Duygan-Bopp, 2008). The falling

[12] For example, Clark (2003) shows the impact of unemployment on psychological health is less severe for individuals who live in localities in which the unemployment rate is higher, and hence is more of a 'social norm' among the population. This finding is contrary to a standard labour market analysis in which higher local unemployment is indicative of fewer job opportunities and would result in increased psychological stress.

stigma of bankruptcy has been widely cited as a reason why the bankruptcy filing rate increased rapidly in both the UK and US during the early 2000s, despite little change in the number of individuals who might benefit financially from filing. As with unemployment, the negative psychological effect of high debt might arise in large part due to the perceived stigma of problem debts rather than the material losses incurred by over-indebtedness and bankruptcy.

The existence of reference group effects is investigated in the following manner. Two contexts for problem debts are considered: problem housing debt in the context of the prevailing local housing repossession rate; and problem consumer credit debts in the context of the prevailing local personal insolvency rate. County-level repossessions data are provided by the Council for Mortgage Lenders. For bankruptcy data, we use data on the bankruptcy orders issues by courts in England and Wales provided by the Insolvency Service. So in both cases the 'reference group' level of bankruptcy is defined at a relatively broad 'local' definition.

Tables 9 and 10 present results for models in which these reference group rates of mortgage repossessions among mortgage holders and individual bankruptcies (cases per 100) are included in the specification in an interaction term to capture the impact of the local bankruptcy/repossession rate on the psychological health of those with problem debt. In Table 9 the GHQ score is the dependent variable, in Table 10 anxiety as a medical condition is the dependent variable. Column 1 presents estimates for a model estimated on a sample of all individuals. The reference group effect is captured by interacting the dummy variable for individuals exhibiting 2+ months late on payments with the local repossessions rate.

Results firstly reveal the rate of local repossession rate has no impact on wellbeing independent of late payments (row 2). However, the coefficient on the interaction term (row 6) implies that individuals experiencing the onset of mortgage arrears in regions in which mortgage arrears are more prevalent see less deterioration in their psychological health scores compared with individuals who exhibit an onset of mortgage arrears in regions with lower mortgage arrears rates. The coefficient value implies this effect is small. The mean repossession rate across all region-year observations is 0.89% and range from the 25th to the 75th percentile is 0.53%. The coefficient value of 0.024 implies a 0.5% point increase in the repossession rate is associated with a 0.012 point reduction in the GHQ Caseness Score. On this basis, a very high regional repossession rate of 10% would be required to offset approximately one quarter of the negative effect of late payment on the GHQ Caseness Score (a 10% rate would reduce the GHQ Score by 0.24 points, the coefficient on the late payment variable is 1.06 (row1)).

In Column 2, a similar exercise is undertaken for the case of the subjective consumer credit payments burden question and the regional bankruptcy rate. The interaction term between the two is again statistically significant (at the 1% level) both for renters (row 9) and owners (row 12), and stronger for owners. The magnitudes imply the onset of consumer credit problem debt in a region with a bankruptcy rate of 10% leads to approximately half the deterioration in psychological health which would be experienced at a bankruptcy rate of 0%. Table 10 repeats the exercise from Table 9 with the objective psychological stress measure as the dependent variable. In these specifications the interaction terms on reference-level mortgage arrears and the bankruptcy rate are both negative but are much less statistically significant.

Table 9

Reference Group Effects: Regional Bankruptcy/Repossession Rates and Effects of Problem Debts on Psychological Health: GHQ12 Measure (O.L.S.)

Dependent variable: GHQ12 Score	(1) Repossession rate	(2) Bankruptcy rate
(1) 2+ months late	1.06**	–
	(0.09)	
(2) Repossession rate	0.001	–
	(0.002)	
(3) 2+ months late × repossession rate	−0.005	–
	(0.003)	
(4) 2+ months late × owner	0.34**	–
	(0.07)	
(5) Repossession rate × owner	0.004	–
	(0.003)	
(6) 2+ months late × repossession rate × owner	−0.024*	–
	(0.010)	
(7) Heavy burden	–	0.41**
		(0.05)
(8) Bankruptcy rate	–	0.045
		(0.053)
(9) Heavy burden × bankruptcy rate	–	−0.010**
		(0.003)
(10) Heavy burden × owner	–	0.06
		(0.04)
(11) Bankruptcy rate × owner	–	0.01
		(0.01)
(12) Heavy burden × bankruptcy rate × owner	–	−0.014**
		(0.004)
Regional dummies	Yes	Yes
Year dummies	Yes	Yes
Fixed effects	Yes	Yes
No. observations	66,664	54,731
F	2.18	2.86
Prob>F	0.0000	0.0000
R-squared	0.01	0.01
No. groups	11,936	10,525
Average in sample	2.04	2.04
SD in sample	3.12	3.16

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables as in Table 4.

These results suggest some evidence in favour of the existence of social norm effects with stronger and more statistically significant effects for the subjective measure of psychological health. The results indicate that the psychological impact of problem debt, both mortgage debt and consumer credit debt, is less severe for individuals who live in localities in which problem debt is more widespread. This result is in keeping with the finding from the unemployment literature that the effect of unemployment on psychological health is less severe in localities in which unemployment is more prevalent (Clark, 2003). One interpretation of these results is that the social norm of problem debt, through peer group effects in localities in which problem debt is more prevalent, lessens the anxiety and worry caused by an individual's problem debt position.

Table 10

Reference Group Effects: Regional Bankruptcy/Repossession Rates and Effects of Problem Debts on Psychological Health: Suffering Anxiety (L.P.M.)

Dependent variable: GHQ12 Score	(1) Repossession rate	(2) Bankruptcy rate
(1) 2+ months late	0.02**	–
	(0.006)	
(2) Repossession rate	−0.001	–
	(0.001)	
(3) 2+ months late × repossession rate	−0.001	–
	(0.001)	
(4) 2+ months late × owner	0.02**	–
	(0.004)	
(5) Repossession rate × owner	−0.001	–
	(0.001)	
(6) 2+ months late × repossession rate × owner	−0.001*	–
	(0.0005)	
(7) Heavy burden	–	0.02**
		(0.004)
(8) Bankruptcy rate	–	0.001
		(0.001)
(9) Heavy burden × bankruptcy rate	–	−0.001**
		(0.0003)
(10) Heavy burden × owner	–	0.01
		(0.01)
(11) Bankruptcy rate × owner	–	0.001
		(0.001)
(12) Heavy burden × bankruptcy rate × owner	–	−0.001*
		(0.0005)
Regional dummies	Yes	Yes
Year dummies	Yes	Yes
Fixed effects	Yes	Yes
No. observations	66,664	54,731
F	2.18	2.86
Prob>F	0.0000	0.0000
R-squared	0.01	0.01
No. groups	11,936	10,525
Average in sample	0.09	0.09
SD in sample	0.28	0.30

Notes. Significant at *5% level, **1% level. Standard errors reported in parentheses. Additional control variables as in Table 4.

3. Conclusion

This study has investigated the relationship between problem debt and psychological health. Results demonstrate that much of the cross-sectional variation in problem debt and psychological health is attributable to omitted variables and selection. However, results show that exogenous factors which make the consequences of problem debt more severe do impact upon respondents' psychological stress. Furthermore, results provide strong evidence that respondents' reactions to problem debt have a non-negligible social dimension in which the prevailing local level of indebtedness impacts on individual psychological stress. These results suggest a role for policy towards helping individuals who suffer both problem debt and depression, both in terms of recognition that those individuals with problem debts may need psychological help and that

peer effects might help to mitigate the impact of problem debt on an individual's psychological health. Policy initiatives have emerged in recent years. For example, beginning in 2005, The Money Advice Liaison Group, a group of credit counselling agencies and representatives from the credit industry, have developed (voluntary) guidelines for creditors dealing with debtors with mental health problems.[13]

Appendix A. BHPS General Health Questionnaire

Introduction:

> 'Here are some questions regarding the way you have been feeling over the last few weeks. For each question please ring the number next to the answer that best suits the way you have felt'.

The first question is:

> 'Have you recently been able to concentrate on whatever you're doing?'

With four possible answers:

> 'Better than usual ...
> Same as usual ...
> Less than usual ...
> Much less than usual...'

The next six questions are:

> 'Have you recently lost much sleep over worry?
> Have you recently felt constantly under strain?
> Have you recently felt you couldn't overcome your difficulties?
> Have you recently been feeling unhappy or depressed?
> Have you recently been losing confidence in yourself?
> Have you recently been thinking of yourself as a worthless person'

With the four possible answers:

> 'Not at all ...
> No more than usual ...
> Rather more than usual ...
> Much more than usual ...'

The next five questions are:

> 'Have you recently felt that you were playing a useful part in things?
> Have you recently felt capable of making decisions about things?
> Have you recently been able to enjoy your normal day-to-day activities?
> Have you recently been able to face up to problems?
> Have you recently been feeling reasonably happy, all things considered?'

[13] For example, the MALG have developed a 'Debt and Mental Health Evidence Form' for use by individual creditors dealing with clients with debt problems as a means of recording and recognising symptoms of mental health problems exhibited by debtors and providing guidance on referrals to medical professionals. This pro-forma is accompanied by a set of 'Good Practice Mental Health Guidelines' for creditors.

With four possible responses:

'More so than usual ...
About same as usual...
Less so than usual ...
Much less than usual ...'

University of Nottingham

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References

Bartel, A. and Taubman, P. (1986). 'Some economic and demographic consequences of mental illness', *Journal of Labor Economics*, vol. 4(2), pp. 243–56.
Benito, A. (2009). 'Who withdraws housing equity and why?', *Economica*, vol. 76, pp. 51–70.
Blinder, A. and Pesaran, M.H. (1998). 'Optimal consumption decisions under social interactions', Working Papers in Economics No. 9805, University of Cambridge.
Bridges, S. and Disney, R. (2010). 'Debt and depression', *Journal of Health Economics*, vol. 29(3), pp. 388–403.
Brown, S., Taylor, K. and Wheatley-Price, S. (2005). 'Debt and distress: evaluating the psychological cost of credit', *Journal of Economic Psychology*, vol. 26(5), pp. 642–63.
Clark, A. (2003). 'Unemployment as a social norm: psychological evidence from panel data', *Journal of Labor Economics*, vol. 21(3), pp. 323–51.
Cohen-Cole, E. and Duygan-Bopp, B. (2008). 'Household bankruptcy decision: the roles of social stigma and information sharing', Working Paper No. QAU08-6, Federal Reserve Board Bank of Boston Quantitative Assessment Unit.
Drentea, P. (2000). 'Age, debt and anxiety', *Journal of Health and Social Behaviour*, vol. 41(4), pp. 437–50.
Fay, S., Hurst, E. and White, M. (2002). 'The household bankruptcy decision', *American Economic Review*, vol. 92(3), pp. 106–718.
Fitch, C., Chaplin, R., Trend, C. and Collard, S. (2007). 'Debt and mental health: the role of psychiatrists', *Advances in Psychiatric Treatment*, vol. 13, pp. 194–202.
Fritjers, P., Haisken-De New, J. and Shields, M. (2005). 'The causal effect of income on health: evidence from German reunification', *Journal of Health Economics*, vol. 24(5), pp. 997–1017.
Gardner, J. and Oswald, A. (2007). 'Money and mental well-being: a longitudinal study of medium-sized lottery wins', *Journal of Health Economics*, vol. 26(1), pp. 49–60.
Gathergood, J. (2009). 'Income shocks, mortgage repayment risk and financial distress among UK households', CFCM Working Paper No. 09/03, University of Nottingham.
Grafova, I. (2007). 'Your money or your life: managing money, managing health', *Journal of Family and Economic Issues*, vol. 28(2), pp. 285–303.
Hamilton, V., Merrigan, P. and Dufresne, E. (1997). 'Down and out: estimating the relationship between mental health and unemployment', *Health Economics*, vol. 6(4), pp. 397–406.
Hatcher, S. (1994). 'Debt and deliberate self-poisoning', *British Journal of Psychiatry*, vol. 164, pp. 111–14.
Hurst, E. and Stafford, F. (2004). 'Home is where the equity is: liquidity constraints, refinancing and consumption', *Journal of Money, Credit and Banking*, vol. 36(6), pp. 985–1014.
Lea, S., Webley, P. and Walker, C. (1995). 'Psychological factors in consumer debt: money management, economic socialisation and credit use', *Journal of Economic Psychology*, vol. 16(4), pp. 681–701.
Lenton, P. and Mosley, P. (2008). 'Debt and health', Sheffield Economic Research Paper Series Number 2008004, University of Sheffield.
Lindbeck, A., Nyberg, S. and Weibull, J. (1999). 'Social norms and economic incentives in the welfare state', *Quarterly Journal of Economics*, vol. 114(1), pp. 1–35.
Lloyds-HBOS (2011). 'Halifax house price index', http://www.lloydsbankinggroup.com/media1/economic_insight/halifax_house_price_index_page.asp (last accessed: 9 December 2011).
Maciejewski, P., Prigerson, H. and Mazure, C. (2000). 'Self-efficacy as a mediator between stressful life and depressive symptoms', *British Journal of Psychiatry*, vol. 176, pp. 373–8.
Reading, R. and Reynolds, S. (2001). 'Debt, social disadvantage and maternal depression', *Social Science and Medicine*, vol. 53(4), pp. 441–53.
Wildman, J. (2003). 'Income related inequalities in mental health in Great Britain: analysing the causes of health inequality over time', *Journal of Health Economics*, vol. 22(2), pp. 295–312.

EXHIBIT A13

**Child Support,
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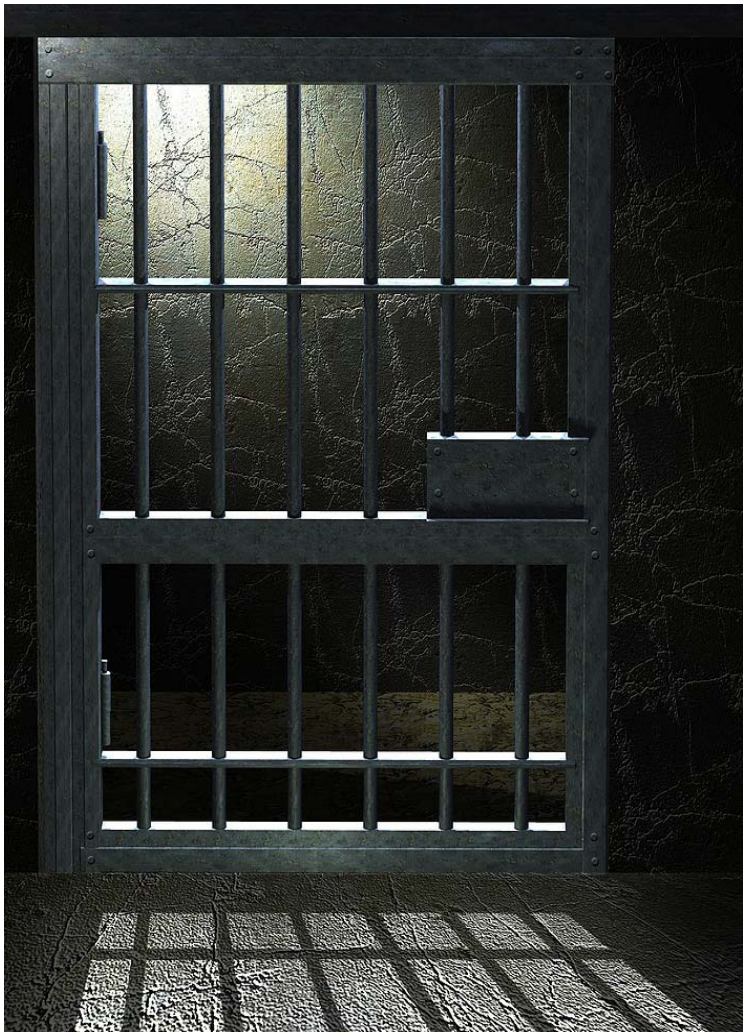
Child Support, Debt, and Prisoner Reentry:

Examining the Influences of Prisoners' Legal and Financial Obligations on Reentry



Final Report to the National Institute of Justice

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Abstract

Former prisoners are increasingly facing the burden of financial debt associated with legal and criminal justice obligations in the U.S., yet little research has pursued how—theoretically or empirically—the burden of debt might affect key outcomes in prisoner reentry. To address the limited research, we examine the impact that having legal child support (CS) obligations has on employment and recidivism using data from the Serious and Violent Offender Reentry Initiative (SVORI). In this report we describe the characteristics of adult male returning prisoners with child support orders and debt, and examine whether participation in SVORI was associated with greater services receipt than those in the comparison groups (for relevant services such as child-support services, employment preparation, and financial and legal assistance).

We also examine the lagged impacts that child support obligations, legal employment and rearrest have on each other. Results from the crossed lagged panel model using GSEM in STATA indicate that while having child support debt does not appear to influence employment significantly, it does show a marginally significant protective effect—former prisoners who have child support obligations are less likely to be arrested after release from prison than those who do not have obligations. We discuss the findings within the framework of past and emerging theoretical work on desistance from crime. We also discuss the implications for prisoner reentry policy and practice.

Keywords: prisoner reentry, criminal justice debt, child support, employment, legal obligations, recidivism, desistance, generalized structural equation modeling

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Executive Summary

Background

Former prisoners are increasingly facing the burden of financial debt associated with legal and criminal justice obligations (Bannon, Nagrecha, & Diller, 2010). Debt can result from unpaid fines, court fees, treatment fees, law enforcement fees, restitution, and child support orders. A 2004 study found that upon release, 62% of respondents reported having legal/financial debt related to the criminal justice system (Visher, LaVigne, & Travis, 2004). Child support obligations can substantially add to this burden of debt. While little research exists on how much former prisoners owe in child support, estimates suggest between 13 to 24 percent of released prisoners owe over $400 per month in child support (Griswold, Pearson, Thoennes, & Davis, 2004).

Often, child support orders continue unmodified during a prisoner's incarceration. This can lead to large outstanding sums at the time of release. In one of the few studies in this area, the median total for child support debt across state and local prisoners was estimated to be about $10,000, such that half of prisoners owed more than $10,000 and half owed less (Pearson, 2004). Qualitative research and anecdotal evidence suggest this debt and related correctional debt from fines and fees can create significant barriers to successful reentry. Because returning prisoners often have to pay large portions of their salary to government agencies and/or the mothers of their dependent children, it has been suggested that incentives to work are reduced. Legal debt may create a disincentive to find any work at all (Harris, Evans, & Beckett, 2010; McLean & Thompson 2007). In terms of recidivism, this disincentive to find work in the formal labor market could increase recidivism by pushing former prisoners into the illicit economy. Alternatively, having this debt could increase ties to family and children, possibly promoting desistance.

Despite this bleak economic outlook for returning prisoners with child support debt and extant theory that informs why it may matter vis-à-vis key outcomes such as employment and recidivism, no large-scale or national studies have examined how the obligations associated with child support or other accruing debt influence these outcomes in the reintegration process. The current work addresses this empirical gap using longitudinal data from the multi-site Serious and Violent Offender Reentry Initiative (SVORI) to examine the associations among child support

orders, employment and recidivism.

Research Questions

- Are the demographic, criminal justice and employment-related characteristics of incarcerated men with child support orders significantly different in any important way from incarcerated males without child support orders?
- Did SVORI clients receive more support and services related to child support orders and modification of debt after release from prison compared to non-SVORI participants?
- Does having legal child support obligations decrease the likelihood of employment in later waves, net of key demographic and criminal justice history factors?
- How does employment influence the relationship between child support debt and recidivism?
- Is family instrumental support a significant predictor of reduced recidivism or increased employment in models assessing the relationship between child support obligations, employment and recidivism?

Data and Key Theoretical Variables

Data used in these analyses, made available through ICPSR, are from 1,011 adult men with children under age eighteen that were part of the evaluation of the multi-site, longitudinal Serious and Violent Offender Reentry Initiative (SVORI) (Lattimore et al., 2012; Lattimore & Visher, 2014). Subjects involved in the study had extensive criminal histories, substance abuse problems, low involvement in the legitimate labor market, and generally high levels of needs across a range of domains (Lattimore, et al., 2012). The SVORI impact evaluation study focused on 12 programs, and respondents were interviewed at four time points, providing a longitudinal examination of the reentry success. Respondents were interviewed approximately 30 days prior to their release from institutional corrections. Follow-up interviews were conducted at three, nine, and 15 months post release. Re-incarcerated respondents were re-interviewed in prison or jail. At three months, 60% (603) were successfully re-interviewed; 61% (616) were interviewed at nine months; and 66% (672) at 15 months. Forty-two percent of respondents (429) were successfully interviewed at each wave.

Dependent Variables

Employment was measured as a binary (Y/N) variable at each wave indicating if the respondent supported himself via a legitimate job since the last interview. Baseline items asked about legitimate employment six months prior to incarceration. Respondents were coded as "1" if they reported legitimate employment in response to the question: "how did you support yourself since the last interview/in the six months before you were incarcerated?" **Recidivism** was operationalized as rearrest, which was as a Yes/No dichotomous outcome measured at 3, 9, and 15 months using official arrest data from the National Crime Information Center (NCIC). The strength of this measure is that, unlike self-reported crime that suffers from moderate attrition, this outcome has very little missing data, and for the small amount that is missing, reincarceration data can help to inform what happened to these subjects (details are provide in the Methods section). The respondents in the study were released between 2004 and 2006, and the data on these rearrests were gathered in 2008 and 2009. This resulted in a post-release follow-up period of at least 21 months for all participants (Lattimore & Visher, 2014).

Key Independent Variables

In line with recent research (Miller & Mincy, 2012), **child support (CS)** was measured at each wave using the dichotomous variable "Are you currently required to pay child support for any of your children under age 18?" At baseline, respondents were asked "Were you required to pay child support for any of your children under age 18 during the six months before you were incarcerated?" A measure of child support arrears was also assessed for use in the analyses. **Family instrumental support** was included as a theoretically important covariate measured at each follow-up wave as the sum of five items probing the degree to which family members provided support in the following domains: housing, transportation, employment, substance abuse, and financial support. Responses ranged from "strongly disagree" (0) to "disagree" (1) to "agree" (2) to "strongly agree" (3). Thus, the scale ranged from 0 – 15 with higher values indicating more support. Cronbach's alpha was .89 at each wave for this variable.

Additionally, we used a number of covariates and control variables typically used in recidivism analyses. The description of these variables can be found in the full report.

Results from Descriptive Analyses

Key findings from research questions 1 and 2 are presented below.

- Of the 1011 males reporting having children under 18, 312, or 31%, were required to pay child support during the six months prior to incarceration. Of the 312, only 57% of those with required payments reported having made the payments prior to their incarceration. The overwhelming majority (92%) owed back support (i.e., had child support debt).
- Of those with child support orders, roughly a quarter (27%) had their child support orders modified while they were incarcerated.
- Five states had at least 60% of their respondents who reported that they owed over $5,000 in back support (Iowa, Kansas, Missouri, Nevada and South Carolina).
- Adult males with child support orders were significantly older, had more past convictions (controlling for age), were less likely to be convicted of a violent crime for their instant incarceration, were more likely to have had alcohol and other drug treatment (pre-incarceration), and had fewer days incarcerated with regard to their instant incarceration.
- Compare to respondents with minor children but without CS, those with CS reported a higher need for child-related support services and a higher likelihood of receiving any child-related service while incarcerated. Males with CS were also more likely to be employed six months prior to their incarceration and reported lower amounts of income from illegal activity compared to males with minor children but without CS.
- For those with CS, among the most oft-cited top needs at baseline was the need for a job. After the need for a job, the five most frequently identified top needs were: (1) a driver's license, (2) education, (3) job training, (4) child support payment assistance, and (5) child support debt modifications.
- There were only a handful of respondents with child support orders and jobs who appeared to make a good wage pre-incarceration—only 18 respondents reported having jobs where they make over $15 per hour.
- During the first three months after release from prison, among those with CS, 28% of respondents reported receiving assistance in finding employment, 21% received assistance in obtaining employment documents, and 17% received job training. Eleven percent received assistance modifying CS obligations, and 3% reported child support

payment assistance. Only 2% of those with need reported receiving help with money management.

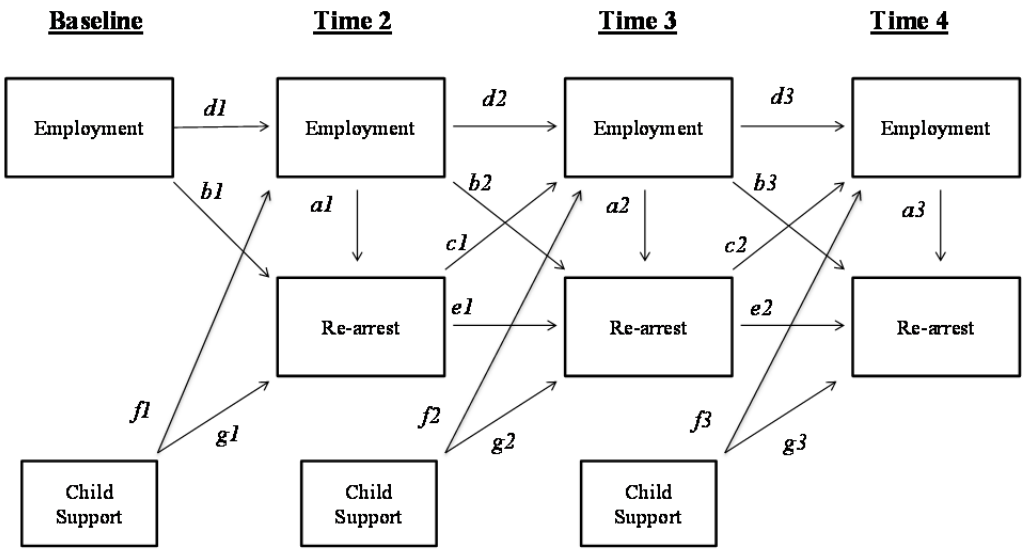
- SVORI clients with a reported baseline need for help with modifications of CS debt were more likely to receive the service in the three months post incarceration (16%) than those respondents not in SVORI programming (5%). The difference was marginally significant at p=0.059.
- In count regression models, receiving SVORI programming significantly increased the incidence rate (179%) of receiving an additional child support-related service, job- or financial assistance-related service ($p < .001$).

In summary, we can conclude that those respondents in the SVORI group were more likely to receive a child support-related service or related financial or legal services than those respondents who did not receive the SVORI programming. When examining services provided in prison, a significantly higher mean percentage of males received child-related services if they had a child support obligation (compared to those that did not have child support orders) since services included those related to having child support obligations. However, the full regression model (Table 10), showed that having child support obligations was not significantly associated with receiving more services related to having child support orders or related debt. Perhaps this is so because it was only through SVORI participation that males received detailed needs assessments and/or case management that made it possible to have services tailored to the needs of the individual.

Conceptual Model and Longitudinal Modeling Approach

To address the remaining research questions we created and tested a longitudinal cross lagged panel model using a structural equation framework. This model estimates the effect of having child support obligations on employment and recidivism over time. In addition, it estimates the impacts that employment has on rearrest within the same waves, and the lagged effects that these outcomes have on each other over time.

Conceptual Model for Longitudinal Assessment of Child Support, Employment and Recidivism



Baseline interviews conducted approximately 30 days prior to institutional release. Time 2, Time 3, and Time 4 interviews conducted at 3-, 9-, and 15-months, respectively.

Key Findings from the Cross Lagged Panel Models vis GSEM

- Findings show that the effect of having legal child support obligations before incarceration was associated with a marginally significant 43% reduction in the odds of re-arrest at the three-month interview ($p < .10$, two-tailed).
- Reporting child support obligations at the three-month interview reduced the odds of an official arrest between the three- and nine-month interview by 32%, although the association did not reach conventional significance ($p = .17$).
- Current employment significantly reduced the odds of re-arrest for two out of three cross-sectional paths examined. The path was not significant for employment at nine months on arrest at 9 months, which missed conventional alpha levels at $p = .19$.
- Longitudinal analyses showed that employment at the preceding time point did not affect changes in recidivism at the next wave.
- However, for one path, re-arrest significantly predicted changes in employment at the next wave. The effect of being arrested between release and the three-month interview was associated with a 41% reduction in the likelihood of reporting employment between the three- and nine-month interviews ($p < .01$).

- Family instrumental support only showed a marginally significant impact on one outcome in one wave, and it was not in the expected direction. A one-unit increase in instrumental support at the 15-month interview was associated with a 4% decrease in the odds of reporting employment in the same wave ($p < .10$). Other models tested if family instrumental support had lagged impacts on either outcome; no significant effects were found.

Discussion of Key Longitudinal Findings

Our analyses sought to assess whether child support debt in particular affects key outcomes in reentry. In terms of recidivism, we reviewed the theoretical literature to show that the potential effect of having a child support obligation could either be positive or negative. The current analyses found that those who had child support debt were *less* likely to be rearrested compared to those who did not report having this obligation (though the effect was only marginally significant). From a desistance and life course framework, one could argue that a child support obligation acts as a key social tie that binds former prisoners with their families upon community release. Whether this increase in informal control is the mechanism behind these findings is an area ripe for further inquiry.

Some researchers and reentry advocates have suggested that burdensome legal financial obligations associated with criminal justice processing, including child support debt, act as a barrier to reentry and can push former prisoners back into illegal activity. Our findings do not suggest that having one type of debt obligation—child support—acts as a force that fosters criminal behavior. This finding has implications for judicial decisionmakers and prisoner reentry advocates who are concerned that levying substantial child support obligations on non-custodial fathers may have adverse consequences in terms of offending.

In terms of legitimate employment, having a child support obligation did not appear to have any significant effects on this outcome. Perhaps there is no association between the two. Or maybe there was not sufficient time in the model for any effect to appear. For example, if having child support affects certain structural barriers in reentry such as being unable to clean up a criminal record history, this could then have an impact on employment, but the effect could be lagged more than what was modeled in our data. Regardless, our results indicate that there is no

support for the hypothesis that men are disillusioned with their criminal justice and economic situation upon release from prison and, as a result, turn away from legitimate employment.

Additional work might try to uncover any potential mechanisms connecting child support debt and reduced reoffending to see if increased attachments and involvements with family might indeed be responsible for some of the associations found here. Qualitative and mixed methods research may be particularly well suited to get at this question. Finally, the current work focused solely on one type of debt, but ex-prisoners are burdened with many other types, including fines, user fees, and restitution. These debts are very different in nature and come from different sources. As such, their impacts on several policy-related outcomes of interest could be highly variable.

Conclusions

The financial obligations that encumber criminal justice populations have risen markedly in recent years, yet how the burden of debt impacts released prisoners is not known. We addressed this empirical gap by using a large, multistate, longitudinal reentry data set and examined the impact that child support obligations have on recidivism and employment. While no evidence was found that this debt hinders or facilitates employment, we did find that those with this debt were slightly less likely to be arrested during the observation period.

Chapter 1. Introduction and Research Questions

In 2012, there were 637,411 releases from state and federal prisons (Carson & Golinelli, 2013). Recidivism data from the Bureau of Justice Statistics show that over three quarters of prisoners released from state prisons will be rearrested within 5 years (Durose, Cooper, & Snyder, 2014). Across the wide range of reentry strategies and programs, only a handful of interventions have produced reductions in recidivism. The growing number of null and negative findings regarding community-based reentry programs has led some scholars to expand their focus from the much-studied broad domains of employment, mental health, substance abuse and housing, to include an examination of how correctional *policies* might influence recidivism and specifically, how these policies might impact a prisoner's readiness for and access to services and supported reentry opportunities. This area of study includes how the legal financial obligations of prisoners might impact the community reintegration process.

Released prisoners often face substantial financial burdens. These include—but are not limited to—fines, court fees, treatment fees, law enforcement fees, restitution, and child support orders. A recent multi-state study found that upon release, nearly two-thirds (62%) of respondents reported having legal/financial debt related to the criminal justice system (Visher, La Vigne, & Travis, 2004). Child support obligations add to the burden of debt. According to the Bureau of Justice Statistics (BJS), the majority of state and federal prisoners are parents of children under the age of eighteen and 88 percent of fathers with minor children are *non-custodial* parents (Glaze & Maruschak, 2008). Estimates suggest that between 13 to 24 percent of released prisoners owe more than $400 per month in child support (Griswold, Pearson, Thoennes, & Davis, 2004). Moreover, there is evidence that the scale of debt among criminal justice populations is unprecedented (Bannon, Nagrecha, & Diller, 2010; McLean & Thompson,

2007).

Often, child support debt continues to accrue throughout a prisoner's incarceration. A 2002 study of fathers in the correctional system in Massachusetts found that virtually every prisoner with a child support order owed at least some amount of "back due" support. The median total for child support debt across state and local prisoners was estimated to be about $10,000, such that half of prisoners owed more than $10,000 and half owed less (Pearson, 2004). The few other existing studies corroborate these estimates (Griswold, Pearson, & Davis, 2001; Ovwigho, Saunders, & Born, 2005). Qualitative research and anecdotal evidence suggest this debt and related correctional debt from fines and fees can create significant barriers to successful reentry. Because returning prisoners often have to pay large portions of their salary to government agencies and/or the mothers of their dependent children, it has been hypothesized that incentives to work are reduced. Indeed, many have suggested that legal debt creates a disincentive to find any work at all (Burch, 2011; Harris, Evans, & Beckett, 2010; McLean & Thompson 2007). In terms of recidivism, this disincentive to find work in the formal labor market could push ex-prisoners into the illicit economy. Furthermore, the consequences of failure to pay legal financial obligations may be great. A study from Washington state found that of returning prisoners who owed debt, one-fourth reported that an arrest warrant had been issued because of failure to pay and most were subsequently incarcerated for nonpayment (Harris et al., 2010).

Despite this bleak economic outlook for returning prisoners with child support debt, no large-scale or national studies have examined how legal financial obligations associated with child support or accruing debt influence key outcomes in the reintegration process. The current work attempts to begin to address this empirical gap using longitudinal data from the multi-state

Serious and Violent Offender Reentry Initiative (SVORI) to examine the association among child support orders, employment and recidivism. The bulk of this report summarizes empirical analyses that rely on path analysis via Generalized Structural Equation Modeling (GSEM). We also provide a descriptive picture of those male returning prisoners who have child support orders and the relationships among relevant criminal justice, demographic and employment-related characteristics. The report is organized as follows: we first outline the key research questions examined, and then in Chapter 2, we define child support obligations and review the current literature on debt associated with criminal justice populations, and particularly child support debt, and how theory informs the relationship between debt and reentry-related outcomes. Chapter 3 describes the SVORI dataset and the key variables used in this report. Chapter 4 provides a descriptive picture of male respondents who have child support and examines service needs and service receipt related to having child support obligations and associated debt. Chapter 5 presents the analytic model for the examination of the research questions in longitudinal framework, presents the results of the longitudinal analyses and discusses the findings and how they are relevant for policy and practice.

Research Questions

The research questions for this study were guided by our key goal to examine the influence of child support orders and related debt on recidivism.

1. Are the demographic, criminal justice and employment-related characteristics of incarcerated men with child support orders significantly different from incarcerated males with minor children without child support orders?
2. Did SVORI clients receive more support and services related to child support orders and modification of debt after release from prison than non-SVORI participants?

3. Does having legal child support obligations decrease the likelihood of employment in later waves, net of key demographic and criminal justice history factors?
4. How does employment influence the relationship between child support debt and recidivism?
5. Is family support a significant predictor of reduced recidivism in models assessing the relationship between child support obligations, employment and recidivism?

Note that in our research proposal to NIJ we indicated we would examine the research question: *Does having legal child support obligations and associated debt increase the likelihood of having illegal employment (concurrently and later employment)?* After we obtained the dataset and ran preliminary analyses we found that the number of returning prisoners reporting illegal employment was too low to use the variable in our longitudinal models. Only 3.36% (33 individuals) reported receiving any income from illegitimate sources in the three months post incarceration. In addition, the correlation coefficient between owing back support three months out and reporting any illegitimate income during the three months post incarceration was very small and not significant: $r(712)= 0.067$; $p = 0.32$. As a result of these data issues, we did not address this question.

Chapter 2. Background and Literature Review

Child Support in America

The Child Support Enforcement program was established in 1975 to help limit public expenditures in the welfare program. As such, at the time, the program only enforced orders for non-welfare families by request; the core goal was cost recovery from those already in the welfare system (Cancian, Meyer, & Han, 2011). It wasn't until 1980 that the child support enforcement program made permanent enforcement activities on behalf of all families. Mothers receiving Temporary Assistance for Needy Families (TANF) are required to pursue child support from the NCP, even though those mothers might not believe it is in the family's best interest. In many child support cases, payments that are made do not go to the dependent family; child support payments made by the NCP go directly to the federal government to offset welfare costs (Cancian, Meyer, & Han, 2011).

The laws that govern legal child support orders vary by state, but for the most part, determinations of child support are usually incorporated into family law cases, which cover divorce, separation, paternity, custody, and visitation. Today, child support experts generally agree that child support serves to reduce the financial insecurity and the likelihood of living in poverty among children and custodial parents. In addition, by helping to prevent a family from entering the public welfare system, it also reduces public spending on welfare (Waller & Plotnick, 1999). Overall, these goals ensure that children receive their fair share of their parents' income and reinforce parental responsibility.

For newly convicted offenders with child support orders sentenced to prison or jail, the status of the order upon entry to the institution will vary greatly by state; in some states, the order can be modified such that the case is placed on inactive status and the prisoner does not pay child

support while incarcerated. The "Personal Responsibility and Work Opportunity Act" (PRWORA) of 1996—and specifically the "Bradley Amendment"—legislated that child support debts could not be modified retroactively. Policy is more flexible with the modification of orders prospectively. These decisions were left completely up to the states, leading to wide disparities in modification across the states because the legal principle applied by state courts in this determination process is whether "substantial changes in earning capacity" have occurred. Unemployment can qualify as one of these substantial changes, but the status of unemployment cannot be voluntary unemployment. As of 2014, inmates in 21 states are ineligible for prospective child support modification during the time they serve their sentences.

Although some states allow for prospective modification, states do not routinely reduce an order when an individual enters prison (U.S. Department of Health and Human Services, Office of Child Support Enforcement [OCSE], 2012) and the burden is often left to the prisoner, and hence, many prisoners are not aware that their child support cases can be modified or placed on inactive dockets during their incarceration. The ones that do may lack the requisite knowledge to complete the modification paperwork (Cammett, 2010; Pearson, 2004). For those that enter the process of order modification, the application process takes an average of three to seven months (U.S. Department of Health and Human Services, Office of Child Support Enforcement [OCSE], 2006). Overall, these issues are implicated in the mounting debt that released prisoners face and create potential barriers to community reintegration, as described in more detail below.

Rising Debt among Individuals in the Criminal Justice System

It is not only child support-related debt that impacts prisoners and released prisoners. In recent years there has been a dramatic increase in the application of legal financial obligations on criminal justice defendants (Beckett & Harris, 2011; Harris et al., 2010; Levingston & Turetsky,

2007). In addition to child support payments, under the umbrella of legal financial obligations are fines, restitution, and "user fees." Fines are punitive and are applied during the court process. Restitution is monies that defendants pay to victims for damage caused. The last category of legal financial obligations—"user fees"—is a relatively new phenomenon whereby criminal justice agencies such as police, courts, jails, prisons, and probation and parole charge clients for passing through their "cog" in the system (Bannon et al., 2010). Amounts charged to these defendants are highly discretionary, and there is considerable variability in how much is charged across various jurisdictions. Scholars have implicated the recent economic downturn in America as the catalyst for the emergence of these user fees: agencies are trying to recoup from defendants funding they have lost from state governments (Bannon et al., 2010; Beckett & Harris, 2011).

With regard to child support debt, many former prisoners face unprecedented large sums of debt upon reentry into the community (Cammett, 2010; Mincy & Sorensen, 1998; Ovwigho et al., 2005; Pearson, 2004; Sorensen, 1997). This is largely the result of two factors. First, as described earlier, PRWORA stipulated that child support orders could not be modified retroactively under any conditions, resulting in prisoners with large amount of arrears. And second, once released, and in about half of the states, former prisoners are assessed taxes on their child support arrears. Because these arrears are usually large, and because the taxes compound over time, already large debt burdens often increase dramatically in the few years after release. In California, for example, using administrative data on noncustodial parents who owe back child support, Sorenson (2004) found that taxes levied specifically on these arrears represented the largest contributor to escalating debt burdens.

Once released into the community, former prisoners are responsible for repaying these debts, usually via probation, parole, or child support enforcement offices. Although national estimates are lacking, some data have shown that former prisoners can have roughly $5,000 in unpaid (non-child support) debt upon release (Bucklen & Zajac, 2009). The Massachusetts study previously cited found that parolees had accrued an average debt of $5,250 during their imprisonment (Thoennes, 2002). A study that examined the intersection of incarceration and child support in Maryland by choosing a random sample of non-custodial fathers with child support orders, found that of the subsample that was incarcerated at the time of the study (n=68), the median child support arrears was roughly $16,000 (Ovwigho, Saunders & Born, 2005). Even more alarming, arrears ranged from $552 to $70,305. For the formerly incarcerated subsample (n=246), median arrears were $11,554, with a range from $32 to $108,394.

Why Does Rising Debt Matter for Reentry?

Rising criminal justice debt should interest scholars and policymakers alike for four key reasons. First, prisoner debt may delay release dates and often becomes a stipulation of probation or parole—for which non-payment can result in a return to jail (American Civil Liberties Union, 2010). In Pennsylvania, inmates eligible for parole cannot be released until they pay a compulsory fifty-dollar fee (Evans, 2014). Although debtors' prisons were formally deemed unconstitutional in *Tate v. Short* (1971), incarceration for criminal justice debt non-payment continues to happen (Cammett, 2010; Patterson, 2008). In *Tate v. Short*, the U.S. Supreme Court decided that debtors could not be incarcerated for nonpayment unless they "willfully" did not pay their debts. The term "willfully" is a source of controversy that has caused many debtors to remain incarcerated for debt nonpayment—different courts and different judges have widely varying interpretations of what is willful nonpayment. Of course, as others have pointed out, not

only is this practice constitutionally questionable, but because of the high costs of incarceration it is likely fiscally questionable as well (Bannon et al., 2010).

Second, a sizable proportion of the criminal justice population is socio-economically disadvantaged (Pettit & Western, 2004). Some research has shown that criminal justice debt can be a source of stress and strain for former prisoners (Martire, Sunjic, Topp, & Indig, 2011; Richards & Jones, 2004). Descriptive work has also shown that former prisoners identified criminal justice-related debt as a reason for recidivating (Martire et al., 2011). Other scholars have cited qualitative evidence that criminal justice debt can be "crushing" and that it is antithetical to the goals of prisoner reentry and rehabilitation (Richards & Jones, 2004).

Third, there is a real need for children and families to receive financial support from their previously incarcerated fathers. However, because a large proportion of the criminal justice population consists of low income earners, it is essential to strike an appropriate and realistic balance between providing for dependent offspring while not causing harm to the obligor (i.e., the person who owes child support), such as incarceration for nonpayment, or punitive measures for nonpayment such as driver's suspension (which could hinder employment) (Bannon et al., 2010; Holzer, Offner, & Sorensen, 2005). Research has shown that orders are often unrealistically high—in that they do not represent ability to pay (Cammett, 2010; Patterson, 2008; Pearson, 2004; Sorensen, 2004). Analysis of payment data by the federal government has shown that, for poor noncustodial fathers, when orders represent a smaller percentage of their income, the fathers are more likely to pay (U.S. Department of Health and Human Services, Office of Inspector General [OIG], 2000) .

Finally, it is theoretically plausible that rising child support and other debt could affect reentry-related outcomes, such as employment obtainment and recidivism. It is these policy-

relevant areas to which we now turn.

Child Support Debt and Recidivism

Although the relationship between child support obligations and recidivism has been rarely discussed in the criminological literature, there are multiple plausible theoretical frameworks which might explain why having child support obligations and related debt might influence recidivism or desistance from crime. Some theories lead to the suggestion that there might be a protective relationship between child support debt and recidivism, where the debt acts as a protective factor against continued offending; other theories suggest that debt will increase the likelihood of continued offending. These are reviewed below.

Life course criminology (Sampson & Laub, 1993), which emphasizes the factors implicated in crime continuity and desistance beyond adolescence (Cullen, 2011), offers a number of principles relevant to the relationship between debt and reentry success. First, because child support systems link former prisoners with their families, having this formal requirement in place could foster parental or familial involvement and attachment. This key bond to family may encourage desistance by structuring routine activities and giving the former prisoner a new sense of purpose and identity (Laub & Sampson, 2003). Indeed, Seltzer, McLanahan, & Hanson (1998) found that requiring parents to pay child support increased parental involvement between the paying fathers and his dependent children. However, virtually no other studies to date have addressed these linkages empirically. Second, former offenders have offered historical narratives indicating that parental responsibilities acted as a turning point (Laub & Sampson, 2003). Becoming a parent changes routine activities and likely inculcates a new sense of responsibility among most parents. However, this heightened sense of parental responsibility could be realized more slowly for some parents than others.

Maruna (2001) highlighted the key role of identity transformation in his study of desisters and persisters in Liverpool. Desisters tended to acknowledge their past and tie it into a narrative of how they have changed into a "new" person. An example Maruna offers is how some former prisoners begin a new career helping people currently struggling with substance abuse or problems with the law. This calling inculcates a sense of purpose, and leads to identity change (Maruna, 2001). Applied to the present situation, it is possible that having an active child support order acts as a catalyst for eventual identity change. Former prisoners, realizing their prior absence in their children's lives, can create a narrative whereby they acknowledge they were once "deadbeat" dads, but now they have the duty and purpose of supporting their loved ones. This shift can serve as the basis for identity or attitudinal change.

Alternatively, being required to pay what could amount to hefty child support payments could act as a financial strain (Agnew, 2006) large enough to "push" or motivate people to offend, possibly in the form of revenue-generating or acquisitive crimes. If, in the eyes of former prisoners, this strain is associated with their families, it could damage relationships further, weakening the informal control of ties to family. In an Australian sample of released prisoners, Martire et al. (2011) found that 60% of their sample reported that their debt adversely affected their relationship with their partner; 60% reported that it hurt their family relationships. A study of parolees in Pennsylvania found that those who had criminal justice debt[1] reported having a harder time "making ends meet" than did those without debt (Bucklen & Zajac, 2009). However, there were no significant differences in recidivism between those who had and those who did not have this debt. Martire et al. (2011) reported descriptive statistics indicating that debt associated with criminal justice was a perennial source of stress (64% reported it as stressful). Thirteen percent of this sample cited debt as the motivating factor for their last acquisitive crime (Martire

et al., 2011). In addition, qualitative evidence has linked debt with acquisitive crimes (Sutton, 1995). Sutton (1995) showed that some property offenders—shoplifters in particular—are motivated by their large, outstanding debt burdens.

Child Support Debt and Employment

Theorists from various disciplines have argued that rising child support debt could lead to reductions in formal employment and labor force participation (Holzer et al., 2005; Miller & Mincy, 2012; Pirog, Klotz, & Byers, 1998; Pirog & Ziol-Guest, 2006). Pirog, Klotz, & Byers (1998) demonstrated that child support orders for economically disadvantaged fathers typically ranged from 20-35 percent of their income. In addition, payroll and other taxes on this group meant that their marginal tax rates were as high as 60-80% (Primus, 2006). Should these fathers have outstanding payments, federal law allows states to garnish up to 65% of their take-home pay (Sorensen & Oliver, 2002). Given these stringent parameters, theorists have argued that noncustodial fathers are incentivized not to work, or to find work in the underground economy where their incomes will not be detected.

Alternatively, having child support debt might affect employment through causing the emergence of other important structural barriers in reentry. Research has shown that having a criminal record can make finding employment very difficult for former prisoners (Pager, 2007). As a response to this trend, advocacy groups have attempted to reduce this barrier by expunging stale criminal records. Scholars have contributed to this effort by showing that sufficiently old convictions fail to predict future criminality (Blumstein & Nakamura, 2009). However, in many jurisdictions, prevailing policy prohibits criminal record expungement for former prisoners who still have outstanding child support debt (Vallas & Patel, 2012). In addition, in several states the first penalty for nonpayment of child support is a driver's license suspension (Bannon et al.,

2010; Cammett, 2010; Levingston & Turetsky, 2007), which could affect employment by excluding those jobs that require driving, and also by limiting the job search to a narrower geographic area.

However, it is also plausible that having a child support order could be positively related to employment after prison. As others have theorized (see Visher, Debus-Sherrill, & Yahner, 2011), having financial debt could be a motivating factor to find more employment as former prisoners who have debt would need to earn more to keep up with both debt payments and regular expenses.

Empirical evidence on the question of whether child support and other debt impact employment is mixed and is limited to a few studies. Analyzing a sample of young African American men with low education, Holzer, Offner, and Sorensen (2005) found that the increasingly strict child support enforcement policies at the state-level were associated with significant declines in their labor force participation. For noncustodial fathers in the Fragile Families study, Miller and Mincy (2012) found that having child support was associated with lower average weeks worked later in time in the formal economy. This effect was contingent on amount of debt and amount of income: people with high debt and low income worked less in the formal economy; those with low debt burdens and a high income reported more time in legitimate employment. Though not focused on child support in particular, two additional studies examined the effect of debt generally on employment. Visher, Debus-Sherrill, & Yahner's (2011) analysis of the data on released prisoners in three states showed that having debt slightly increased the proportion of time worked post release to the community, although the effect did not reach conventional levels of statistical significance. In Martire et al.'s (2011) sample from Australia, 67% of respondents reported that having debt made it harder to find employment. For

ex-prisoners returning to the community, it remains unclear theoretically and empirically how the obligation of paying child support and related debt affects employment.

Given the very limited empirical examination of the effects of debt on recidivism, and the limited evidence that debt affects employment, the purpose of this study is to address this empirical gap. Considering the dramatic growth in the child support system and its strict enforcement since the PRWORA (Cammett, 2010; Patterson, 2008), we investigate the effects that having child obligations and related debt has on both of employment and recidivism in a longitudinal framework. In the next chapter we describe the data and methods used to examine the research questions.

Chapter 3. The Dataset and Key Measures

Data used in these analyses, made available through ICPSR, are from a subsample of 1697 adult men that were part of the evaluation of the multi-site, longitudinal Serious and Violent Offender Reentry Initiative (SVORI) (Lattimore et al., 2012; Lattimore, Steffey & Visher, 2009). Subjects involved in the study had extensive criminal histories, substance abuse problems, low involvement in the legitimate labor market, and generally high levels of needs across a range of domains (Lattimore, et al., 2012). Forty-one percent of the subjects were in prison most recently for a violent offense, 25% for property offenses, and 34% for drug offenses. The modal types of violent offenses were robbery and assault. Of this male sample, 1,011 were parents of children under age 18. As our analysis is centered on the role of child support obligations, we have chosen this subgroup for use in the present analyses.

The SVORI impact evaluation study focused on 12 programs from the following states: Indiana, Iowa, Kansas, Maine, Maryland, Missouri, Nevada, Oklahoma, Pennsylvania, South Carolina and Washington. Strategies for selecting an eligible control/comparison group varied by program site due to inherent difficulties in crime and justice evaluation research (Lum & Yang, 2005). In particular, some reentry programs were already underway by the time the evaluation effort was funded and slated to begin. Therefore, two sites used a randomized design, and the remaining sites used a two-stage quasi-experimental design whereby respondents were propensity-score matched to ensure comparability between experimental and control/comparison groups (Shadish, Cook, & Campbell, 2001). This procedure produced a strong balance between SVORI and non-SVORI groups (Lattimore, Steffey & Visher, 2009).

The dataset was chosen for the current study because it represents a rare multi-state opportunity to examine child support obligations, child support debt, and employment as

possible factors related to recidivism. For the current study, the treatment and comparison group males are examined together; although we control for SVORI treatment assignment, we are not interested in differences between these groups (although we control for possible differences).[2]

SVORI respondents were interviewed at four time points, providing a longitudinal examination of reentry success. Respondents were interviewed approximately 30 days prior to their release from institutional corrections. Follow-up interviews were conducted at 3, 9, and 15 months post release. Re-incarcerated respondents were re-interviewed in prison or jail. At three months, 58% (984) were successfully re-interviewed; 61% (1,035) were interviewed at nine months; and 66% (1,113) at 15 months. Forty-two percent of respondents were successfully interview at each wave. With respect to respondents with children under 18, 60% (603), 61% (616), and 66% (672) were re-interviewed at three, nine, and 15 months, respectively. Forty-two percent of this subsample (n = 429) were successfully interviewed at each wave. Table 1 shows the full SVORI adult male sample interviewed at each wave, along with the subsample of males with minor children.

Table 1. Male SVORI Data set Sample Size, by Wave

	W1 (30 days pre-release)		**W2 (3 months post release)**		**W3 (9 months post release)**		**W4 (15 months post release)**	
	Males	Males with Minor Children	Males	Males with Minor Children	Males	Males with Minor Children	Males	Males with Minor Children
SVORI	863	508	529	323	565	336	582	337
Comparison	834	503	455	280	470	280	531	335
Total	1,697	1,011	984	603	1,035	616	1,113	672

At the time of their first interview, the mean age of male subjects was 29.6 years old. Approximately 59% percent of the subjects were Black, 30% were White, and 11% identified as Hispanic or other. At baseline, 31% of respondents reported having an active child support order before their incarceration (312 of 1,011 respondents).

A number of variables were used to conduct analyses to answer the research questions. Below, we describe the main variables that are used in our longitudinal analyses, beginning with the dependent variables. The full correlation matrix for all key variables can be found in the Appendix.

Dependent Variables

Employment was measured as a binary variable at each wave indicating if the respondent supported himself via a legitimate job since the last interview. Respondents were coded as "1" if they reported legitimate employment in response to the question: "how did you support yourself since the last interview," and "0" if they did not report legitimate employment. This operationalization is in line with much of the research on employment among offending populations (Skardhamar & Savolainen, 2014). Baseline employment was coded as "1" if the respondent reported legitimate employment in the six months prior to the instant incarceration, and "0" if he did not. Baseline employment status was used as a control in longitudinal models.

Recidivism was operationalized as rearrest, which was as a (1/0) dichotomous outcome measured at 3, 9, and 15 months using official arrest data from the National Crime Information Center (NCIC)[3]. These administrative data were collected by the SVORI researchers and they contain rearrests recorded by the Federal Bureau of Investigation. SVORI researchers elected to request these data from the NCIC rather than individual states in an effort to capture arrests of individuals outside of their state. The final data files were obtained by SVORI researchers in

2008 and 2009. The strength of this measure is that, unlike self-reported crime that contains missing data due to attrition, this outcome has little missing data. Of the 1,011 subjects in our sample, rearrest data are available for 951 respondents, or 96%. For those respondents who had missing data on rearrest, official record, time-varying data on reincarceration was inserted into the rearrest variable and used as a proxy measure. Thus, our rearrest outcome variable contained no missing cases.[4] The subjects in the study were released between 2004 and 2006, and the data on these rearrests were gathered in 2008 and 2009. This resulted in a post-release follow-up period of at least 21 months for all participants (Lattimore & Visher, 2014).

Key Independent Variables

In line with recent research (Miller & Mincy, 2012), child support (CS) was measured at each wave using the dichotomous variable "Are you currently required to pay child support for any of your children under age 18?" At baseline, respondents were asked "Were you required to pay child support for any of your children under age 18 during the six months before you were incarcerated?" A measure of child support arrears was also assessed for use in the analyses. Respondents were asked at each wave: "Do you owe back child support?" Models were run with child support operationalized both ways. Because results were very similar and using "child support obligation" instead of "back support" yielded higher statistical power in the longitudinal models, we used "*having a child support order"* as the key child support variable in all analyses.[5] Of the 312 male respondents who had a child support order at baseline, 89% indicated they owed back support; 4% did not answer the question on back support. As described in Chapter 5, final models used child support obligations reported in a previous wave to predict key outcomes at later waves.

Family instrumental support was included as a theoretically important covariate (Laub & Sampson, 2003; Visher, Debus-Sherrill , & Yahner, 2011) measured at each follow-up wave as the sum of five items probing the degree to which family members provided support related to housing, transportation, employment, substance abuse, and financial. Responses ranged from "strongly disagree" (0), "disagree" (1), "agree" (2), and "strongly agree" (3). The scale ranged from 0 to 15 with higher values indicating more support. The Cronbach's alpha was high (a=.89) at each wave. This variable was measured contemporaneously to the outcome variables (i.e., reported by the respondent in the same wave).

Type of offense for which the respondent was currently serving a sentence (i.e., the instant incarceration) was measured as "property offense," with other types of offenses as the reference category. **Age at first arrest**, a measure often found in reentry evaluation studies (Lattimore et al., 2012; Lattimore & Visher, 2014), was also included as a covariate to control for criminal justice risk. **Supervision status** ("on supervision") measured if the respondent was on probation or parole (1/0) at each subsequent interview. To control for variation that might be due to SVORI participation, we created a dichotomous indicator (**SVORI participation**) of whether the respondent was part of the treatment condition. **Job services** was measured at each wave with the item: "Have you received any educational or employment services in prison/since release/in the last six months?"

Research has shown that physical health is often a significant predictor for obtaining and retaining a job (Visher et al., 2011). Therefore, we included a measure of physical health as a predictor in the paths to employment outcomes. **Physical health problems** reflects the following baseline items: "Does your health now limit you in moderate activities—such as moving a table or playing basketball—a lot (2), a little (1), or not at all (0)?" and "Does your health now limit

you a lot (2), a little (1), or not at all (0) when climbing several flights of stairs?" The variable ranged from 0 – 4 with higher scores indicating worse health. The Cronbach's alpha was .81.

Re-incarcerated status—A dummy indicator was used to identify respondents who were re-incarcerated at each follow-up interview point. All reincarcerated subjects were interviewed.[6]

The following demographics were measured at baseline and considered time invariant. **Race** was measured using the dummy variable "African American" with "White" and "Hispanic/other" as the reference category. **Age** was measured as chronological age at release from the instant incarceration. An education indicator measured whether the respondent completed high school or received a GED (**high school/GED**).

Married/partner was measured as a dichotomous variable—where the value of "1" indicated whether the person was married or had a steady partner. This variable was measured as *time variant*, to account for respondents who might change their marital status after release from prison.

Sex was not included in our analyses as our sample only contained men in the SVORI. We chose to restrict the analyses to men for this study as child support obligations largely burden men, especially incarcerated men (Sorenson, 1997; Sorenson & Oliver, 2002).

Chapter 4: Who has Child Support Debt?

The current chapter describes the characteristics of the men who reported being required to pay child support and those who have accrued child support debt. We first examine descriptive characteristics for the sample and then take a closer look at the past and current employment-related characteristics for those required to pay child support versus those without child support obligations. For this descriptive section we do not use imputation to address missing data, but report the number of respondents with missing data, where appropriate.

Only males with children were asked questions about child support payments and related debt. Of the 1,697 men in the SVORI sample, 13 respondents (0.77%) did not answer the question related to having children. Of the remaining respondents, 1056, or 63%, reported having at least one child, with 1,011 men, or 60%, having children under the age of 18. The percentage who report having children in the SVORI sample is somewhat larger than the national numbers provided by Bureau of Justice Statistics (BJS) (Glaze and Maruschuk, 2008). BJS reported that 52% of male state inmates indicated they had children under the age of 18 (the data are based on 2004 Survey of Inmates in State and Federal Correctional Facilities).

Table 2 shows the frequency distribution for the number of children that respondents had for those respondents with minor children (n=1011). Forty percent of the sample with minor children (25%) reported having one child and 16% reported having four or more. Of the 1,011 males reporting having children under 18, 312, or 31%, were required to pay child support during the six months prior to incarceration. Of this group, only 57% of those with required payments reported having made the payments prior to their incarceration. The overwhelming majority (92%) owed back support (i.e., had child support debt). Table 3 summarizes these numbers and shows the amount of child support debt reported.

Table 2. Respondents' Number of Children, SVORI Male Sample with Children under 18 (n=1011)	
Number of Children	**%**
1	40.26
2	26.81
3	16.82
4	9.20
5	3.36
6 or more	3.55

Table 3. Descriptive Statistics for Males with Child Support Obligations (n=312)[a]	
Provided primary care for at least one child pre-incarceration	41.48%
Made the payments (before current incarceration)	57.37
Had court order for support modified while incarcerated	26.50
State forgave/decreased some or all of back support	6.72
Owes no back child support	7.97
Owes less than $1,000 in back child support	7.84
Owes $1,000 to $2,999	15.30
Owes $3,000 to $4,999	18.43
Owes $5,000 or more	58.43
Missing info on amount of back child support	*18.27*

[a]Percentages calculated on valid cases (excludes missing)

An interesting point from Table 3 is that roughly 42% of males with child support orders indicated that they had primary care responsibilities for at least one child before their incarceration. The question was asked to respondents as follows: *"During the six months prior to your incarceration this time, did you (if involved in steady relationship and lived with that person before incarceration: did you and your partner) have primary care responsibilities for any of your own children under the age of 18? By 'your own' we mean your biological or legally adopted children. By 'primary care responsibilities' we mean that the children lived with you most of the time, you fed and clothed them, and that you were not paid for this?"* If a respondent indicated having primary care responsibilities, it could be that he was informally taking care of

the children for whom he owed child support, or that he had additional children for whom he was responsible that were not associated with the child support order. It is not possible to understand this from the data. Looking across the entire SVORI sample, those with and without child support orders, 48% indicated they had primary care responsibilities for at least one child. This is very similar to the findings from the Bureau of Justice Statistics' 2004 Survey of Inmates in State and Federal Correctional Facilities data—54% of fathers in state prisons indicated they had primary financial responsibility for at least one minor child (Glaze & Maruschak, 2008).[7]

Table 3 also shows that roughly a quarter (27%) of the sample reported having had their child support orders modified while they were incarcerated.[8] Of the 12 states represented in the SVORI sample there were differences in the percentages of respondents reporting they made the payments, owed over $5,000 and had their order changed while incarcerated (see Table 4). Tests of statistical significance were not conducted because the cell sizes were too small. There was a wide range across states in the percentage of respondents who reported making their child support payments in the period before incarceration, from a low of 35% in Maryland to 75% in Indiana. Table 4 shows that there were five states where 50% or more of their respondents reported that they owed over $5,000 in back support. The percentage of respondents reporting they had their orders modified also varied widely across states. This is likely due to different laws regarding whether child support orders can be modified during an incarceration. It is notable that half the respondents in Washington State had their orders modified. In Washington State, another 27% indicated that the state forgave or decreased the amount of back support owed. Five states had no respondents report that the state forgave or decreased back pay.

Table 4. Differences on Child Support Order Characteristics at Baseline, by State [a]

State	Made payments before incarceration	Owed over 5K	Had order changed while incarcerated?	State decreased/ forgave back support
Indiana	75.00%	50.00%	20.00%	15.00%
Iowa	68.63	66.66	31.37	6.12
Kansas	45.45	45.45	27.27	0.00
Maine	36.84	47.37	27.78	5.88
Maryland	35.14	40.54	25.81	0.00
Missouri	46.67	53.33	13.33	0.00
Nevada	52.63	63.16	37.50	7.69
Ohio	50.00	33.33	0.00	0.00
Oklahoma	46.67	46.67	30.77	0.00
Pennsylvania	63.89	22.22	42.86	3.70
S. Carolina	70.91	54.54	11.11	10.42
Washington	42.86	21.43	50.00	27.27

[a]Percentages calculated on valid cases (excludes missing)

Table 5 shows the demographic and criminal justice-related characteristics of the men with minor children who had child support orders, those who did not, and highlights statistically significant differences between the two groups. The results of this table and the following table address our first research question [RQ1]: Are the demographic, criminal justice and employment-related characteristics of incarcerated men with minor children with child support orders significantly different from incarcerated males with minor children without child support orders? There are significant differences in means for a number of variables. Males with child support orders are, on average compared to the rest of the male SVORI sample with children under 18, significantly older, have more past convictions (controlling for age), less likely to be convicted of a violent crime for their instant incarceration, more likely to have had alcohol and other drug treatment (pre-incarceration), and have had fewer days incarcerated with regard to

their instant incarceration.

Table 5. Baseline Difference of Means T-Tests for Key Demographics, Respondents with Child Support vs. Without, for Respondents with Children under 18

Variable	Mean for those with CS	Mean for those without CS	*t*-value
Age at release	30.43	29.13	-2.97**
Black	0.55	0.63	2.37*
White	0.36	0.27	-3.00**
Married/partner	0.48	0.48	0.01
High school/GED	0.62	0.58	-1.22
Family CJ history	0.59	0.59	-0.09
Peers CJ history	0.68	0.64	-1.39†
Age at 1st arrest	16.47	15.84	-1.94†
Homeless prior to incar.	0.13	0.12	-0.39
Arrest rate	0.54	0.52	-0.52
Number juv. incarc.	3.67	3.89	0.44
Number of prison stays	1.58	1.59	0.06
Conviction rate	0.24	0.21	-2.18*
Drug conviction for instant incar.	0.38	0.37	-0.32
Violent conviction for instant incar.	0.32	0.43	3.15**
Prop. conv for instant incar.	0.24	0.22	-0.60
AOD treatment	0.57	0.48	-2.57*
Alcohol use—recent	0.84	0.82	-0.58
Days incarcerated	769.99	905.60	2.91**

†p < .10, *p < .05, **p < .01, ***p <.001

Table 6 highlights significant differences in means for the job-related characteristics of men with minor children who have child support orders compared to men who do not have child support orders. This table also includes relevant items for service needs and receipt and a number of scales for interpersonal and psychological characteristics. Male respondents with child support reported an increased need for child-related support services and a higher likelihood of receiving any child-related service while incarcerated. They were also more likely to be employed six months prior to their incarceration and reported receiving a lower amount of money from illegal income and the difference in number of hours per week worked at a job pre-incarceration

approaches significance, with those with child support orders reporting more hours. Males with child support on average had significantly higher scores on the depression scale.

Table 6. Baseline Difference of Means T-Tests for Employment, Service Need and Receipt, and Interpersonal Variables, Respondents with Child Support vs. Without, Respondents with Children under 18

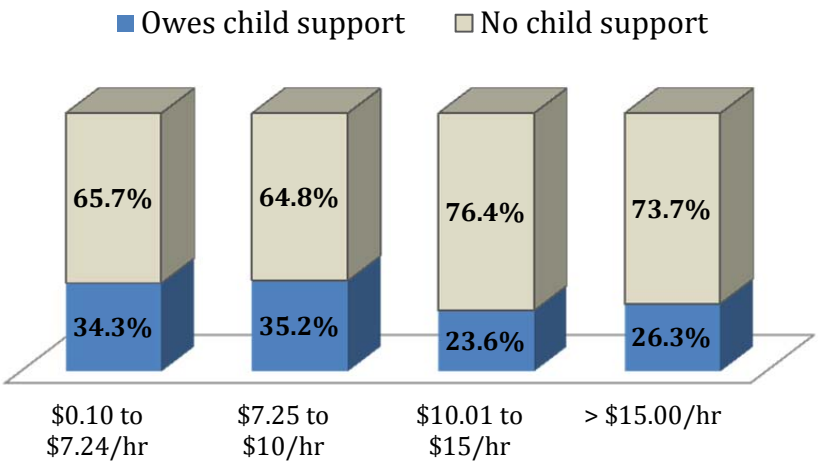
Variable	Mean for those with CS	Mean for those without CS	*t*-value
Self-reported need for employment services	0.99	0.99	-0.84
Self-reported need for child-related services	0.96	0.79	-9.55***
Received any employment skills in prison	0.73	0.74	0.15
Received any child-related skills training-prison	0.36	0.25	-3.71***
Employed 6 months prior to incarceration	0.74	0.66	-2.43*
Hours/week at pre-inc job	43.36	41.02	-1.87†
Supported self with illegal activity prior to incar. (yes/no)	0.41	0.47	1.86†
Amount illegal income (1=all to 5=none)	3.83	3.48	-3.33**
Legal cynicism scale	5.43	5.67	1.26
Ready for change scale	14.04	13.85	-1.12
Anxiety scale	7.79	7.41	-1.89
Depression scale	8.77	8.13	-2.43*
Hostility scale	6.58	6.34	-1.39
Interpers. sensitivity scale	7.65	7.33	-1.42

†p < .10, *p < .05, **p < .01, ***p <.001

Because there were significant differences in means for job-related characteristics, and jobs are an important aspect of one's ability to pay child support, we examined the hourly pay pre-incarceration for SVORI respondents with jobs. For those respondents with a job in the six months prior to incarceration (n=1083), the average hourly salary for the entire SVORI sample was $10.52. For those with child support, the hourly salary was $10.72. Figure 1 shows the

differences in hourly pay pre-incarceration between those with child support orders when pay is broken down into four ranges. The proportion of men with child support is much lower in the two lower hourly pay ranges than compared to the two highest ranges ($10 to $15 per hour and over $15 per hour). There were only a handful of respondents with child support orders and jobs who appeared to make a good wage pre-incarceration—only 18 respondents reported having jobs where they made over $15 per hour (not shown). It is not known whether the respondents worked full time at these higher paying jobs and whether the jobs were permanent.

Figure 1. Hourly salary for those employed pre-incarceration



To further understand the needs of individuals with child support orders we examined the SVORI data to determine the key needs reported by the respondents. The SVORI evaluation interviewers asked respondents to report on a number of needs across a wide range of domains. After the respondents answered either yes/no to a list of prompted needs, asked respondents to list their top two needs. Table 7 reports the frequencies for male respondents with child support for whether a skill/services was listed as a "top two" need. The table reports frequencies at baseline and at three months post-release. The three-month frequencies are weighted to correct

for attrition. Needs related to children or child support are highlighted in bold text. At baseline, 15% of respondents with CS reported child support payment assistance as a top two need. Interestingly, this percentage dropped to 13% at three months, but the percentage reporting the need for child support *modifications* as a top need increased from 13% at baseline to 18% at three months post incarceration. Furthermore, this increase put the need at the third most frequently listed top 2 need (from this list of needs).[9]

Table 7. Top Needs[a] Identified by Fathers with Child Support Orders

	Baseline	Wave 2 (3 mos.)
A job	30.2%	24.7%
Driver's license	24.4	29
More education	16.4	11.8
Job training	15.1	6.5
Child support payment assistance	**14.5**	**12.9**
Child support debt modification	**12.9**	**17.7**
Place to live	12.9	14
Financial assistance	12.2	11.8
Transportation	7.1	14.5
Access to food/clothing	5.1	0.5
Medical care	4.5	3.8
Custody modification	**4.2**	**3.2**
Parenting Skills	**4.2**	**8.6**
Alcohol/Drug Treatment	4.2	3.8
Life Skills	2.6	0.5
Personal Relationships Skills	2.6	2.2
Health Insurance (public)	2.6	6.5
Mental Health Care	2.6	3.8
Money Management Skills	2.3	3.8
Religious Assistance	2.3	3.8
Legal Assistance	**1.9**	**4.8**
Documents for Employment	1.6	0.5
Child Care	**1.0**	**1.1**
Public Financial Assistance	1.0	1.1

[a]Percentage of respondents who chose need as a "top two" need across all their stated needs

Another interesting finding related to one's parenting obligation is that the frequency of reporting needing parenting skills as a top need more than doubled after release from prison (as did legal assistance, which may be related to an interest in modifying child support orders or

payments). With regard to the needs that were most often reported as top needs, the most oft-cited top needs at baseline were the need for a job and a driver's license. These were also the highest ranked top needs after release (although their ranking flipped).

In the next section, we examine our second research question: *Did SVORI clients receive more support and services related to child support orders and modification of debt after release from prison than non-SVORI participants?* Table 8 reports descriptive data on how many fathers with a child support obligation reported certain child support service needs and other related service needs, as well as how many received those services by the three-month interview. We focus only the period three months post incarceration because this is typically the crucial reentry period for returning prisoners (Petersilia, 2003), and we want to limit issues with attrition.

On average, 68% of respondents reported having service needs in the following domains: (1) job training, (2) child support payment assistance, (3) modifications in child support debt, (4) custody modifications, (5) legal assistance, (6) financial assistance, (7) documents for employment, (8) a job, and (9) money management skills. The highest ranked among these domains was financial assistance, with 85% of fathers with child support reporting it as a need. The next four most identified child-support related needs were child support payment assistance (79%), modifications in child support debt (77%), job training (76%), and a job (73%). Of the needs listed in the table, the least frequently cited need was legal assistance (54%).

The subsequent columns reflect the percentage of fathers (SVORI and non-SVORI) with child support who identified having these needs and reported receiving services in these areas. Twenty-eight percent of respondents reported receiving assistance in finding employment, and 21% received assistance in obtaining employment documents. Seventeen percent received job training. Eleven percent received assistance modifying child support obligations, and 3%

reported child support payment assistance. In the remaining needs categories, less than 5% received services for these child-support related needs. The final two columns indicate, as expected, that SVORI respondents who reported having service needs in these areas were more likely to receive them than non-SVORI respondents. Although more SVORI clients received each of the services listed, the differences were only significant or marginally significant for three service areas: job training, modifications in child support debt and assistance finding a job. The lack of significance in some of the other differences may likely be due to small cell sizes. Notably, 16% of SVORI clients received assistance paying child support compared to only 5% of respondents not in the SVORI program, and no non-SVORI respondents reported receiving job training at three months out compared to roughly a quarter in SVORI.

Table 8. Child Support-Related Service Needs from Baseline and Receipt at 3 Months

	All Male Respondents with CS		SVORI Clients v. Comparison Group for Those Who Reported Need	
	Reported as a Need at Baseline (those with CS)	Of Those with Need, Percentage Received 3 Months Post Incarceration (those with CS)	SVORI Clients Received Service (3 Mos.)[a]	Non-SVORI Received Service (3 Mos.)[b]
Job training	76.28%	16.67%	23.33%†	0%
CS payment assistance	79.35	3.47	5.06	1.54
Modifications in CS debt	86.59	11.48	16.42†	5.45
Custody modifications	49.03	1.08	2.00	0.00
Legal assistance	53.85	5.00	8.00	2.00
Financial assistance	85.26	3.66	4.60	2.60
Employment documents	47.76	21.43	21.74	21.05
Assistance finding a job	73.63	27.86	36.84**	17.19
Money management	67.95	2.34	2.90	1.69

†p < .10, *p < .05, **p < .01, ***p <.001; CS = Child Support; [a]denominator is all SVORI treatment group respondents with CS who reported need at baseline; [b] denominator is non-SVORI respondents with CS who reported need for this service at baseline.

Table 9 is a count regression model predicting the number of services received in the three months post-release for those who reported child support obligations at baseline. The count of services variable was created by summing the dichotomous variables for receipt of the nine different services related to child support obligations, related debt or finding employment that are listed in Table 8. Although the scale had a possible maximum value of 9, the values ranged from 0 to 6, with 57% of the wave 2 respondents indicating they didn't receive any of the 9 services. The regression analysis uses the propensity score-based treatment weights created by SVORI researchers (see Lattimore & Visher, 2009:27-30). Results produce incidence rate ratios (IRR), which can be interpreted as the independent effect of a one-unit change in X on the incidence rate of Y, in our case receiving an additional child support-related service. Receiving the SVORI treatment significantly increased the incidence rate (179%) of receiving an additional child support-related service ($p < .001$).

Table 9. Negative Binomial Regression of CS-related Services Received for those with CS obligations at 3 Months (n=185)

CS Services	IRR	Std. Err.
Age	1.011	0.021
SVORI treatment group	2.787***	0.597
Child support at baseline	1.591†	0.430
African American	1.420	0.304
Hispanic	1.252	0.565
High school/GED	2.453**	0.648
Index offense – property	0.498*	0.142
Age at first arrest	0.975	0.022
Days incarcerated	1.000	0.000
Pre-prison employment	1.003	0.197
Physical health problems	0.846†	0.081

†p < .10, *p < .05, **p < .01, ***p <.001
Analyses are propensity-score adjusted.

The effect of having a high school education or GED raised the IRR by 145% ($p < .01$). Being convicted of a property offense, as opposed to a different offense category, resulted in a 50% decrease in the incidence rate for service receipt. In the subsample of fathers reporting child support debt at baseline, the effect of reporting child support obligations at wave 2 resulted in a marginally significant 59% increase in the incidence rate for service receipt ($p < .10$).

Table 10 details the results of a similar count regression model, but the model uses the entire sample of male respondents, not just those with child support obligations. The model

Table 10. Fixed Effects Negative Binomial Regression of CS-related Services Received, Entire Male Sample at 3 Months (n=980)

CS-related Services	IRR	Std. Err.
Age	0.997	0.008
SVORI treatment group	1.699***	0.172
Child support	1.077	0.113
African American	1.458**	0.159
Hispanic	1.160	0.190
High school education	1.120	0.122
Index offense- property	1.017	0.130
Days incarcerated	1.000**	0.000
Physical health problems	0.991	0.048
Iowa	1.382	0.334
Indiana	1.182	0.294
Kansas	1.208	0.362
Maryland	0.694	0.190
Maine	0.840	0.295
Pennsylvania	0.758	0.213
South Carolina	0.769	0.175
Washington	1.152	0.392
Oklahoma	0.769	0.236
Missouri	1.044	0.243
Nevada	1.303	0.294

†p < .10, *p < .05, **p < .01, ***p <.001
Note: Ohio is reference category for all states in model.
Analyses are propensity-score adjusted.

assesses predictors with regard to the number of child support-related services former prisoners received by the three-month interview (n=980). Similar to the above model, this analysis was weighted to reflect any differences found between the treatment and control group. State controls are included in the model to account for any state-level variation in service receipt, which in turn fixes the effects of the other predictors in the model to the individual level (note we did not add state controls to the earlier model given the small subsample size of n=185).

Being a SVORI participant (compared to a non-SVORI participant) resulted in a 70% increase in the incidence rate for receiving one additional child support-related service ($p < .001$). The effect of being African American (compared with White and Hispanic) resulted in a 46% increase in the incidence rate. Notably, reporting having child support obligations (either at the baseline or three-month interview) did not significantly predict receiving child support-related services at the three-month follow-up.

To answer the research question about differences in service receipt for SVORI clients versus the comparison group, from these analyses we can conclude that those respondents in the SVORI treatment group were more likely to receive a higher number of child support-related services or related financial or legal services than those respondents who did not receive the SVORI treatment. When examining services provided in prison, it is not surprising that a significantly higher mean percentage of males who received child-related services/skills had a child support obligation. What is interesting is that in the full regression model (Table 10), we found that having child support obligations was *not* significantly associated with receiving more services related to having child support orders or related debt. Perhaps this is so because it was only through SVORI participation that males receive detailed needs assessments and/or case management that made it possible to have services tailored to the needs of the individual.

Chapter 5. Longitudinal Associations among Child Support, Employment and Recidivism

Conceptual Model and Analysis of Longitudinal Data

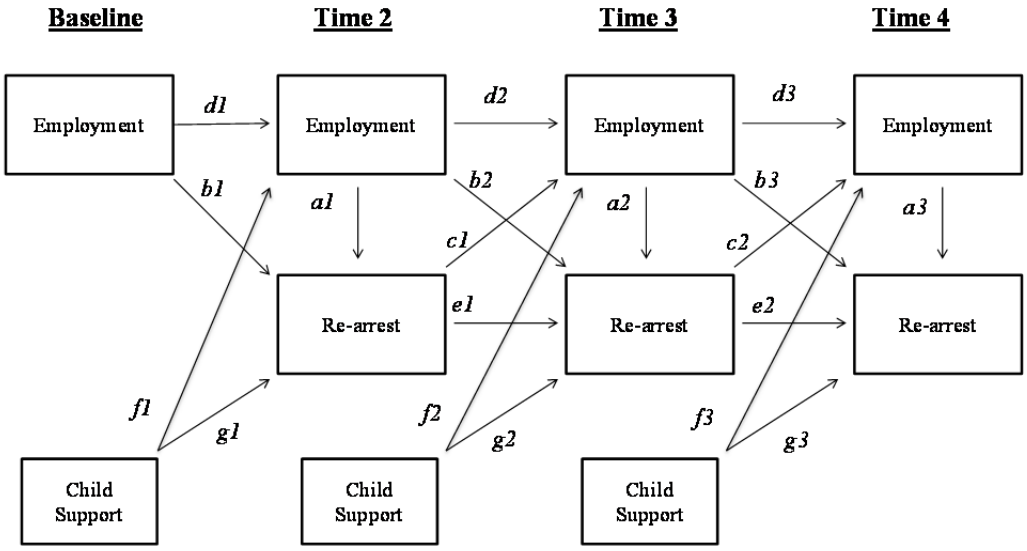
To address the remaining research questions we created and tested a longitudinal model using a structural equation framework. The remaining questions include: (1) Does having legal child support obligations decrease the likelihood of employment in later waves, net of key demographic and criminal justice history factors? (2) How does employment influence the relationship between child support debt and recidivism? And (3) is family instrumental support a significant predictor of reduced recidivism in models assessing the relationship between child support obligations, employment and recidivism?

The panel nature (i.e., repeated observations of the same people over time) of these data is leveraged for two related reasons. First, items for child support debt, employment, rearrest, family support, and other key variables are time-variant, thus we can more accurately capture how levels of our key variables influence the outcomes variables over time in the reentry process. Second, panel data analysis allows for previous levels of key variables to be incorporated in the analyses. In this way, relationships examined no longer reflect the effect of X on Y, but rather *changes* in X on later *changes* in Y. While it is impossible to preclude the fact that some third, unidentified, time-varying variable Z is causing both changes in X and Y, this method marks a strong improvement over traditional cross-sectional methods that suffer potential endogeneity and time-ordering issues (Berrington, Smith, & Sturgis, 2006; Wooldridge, 2010).

In the current analyses, employment and recidivism outcomes are treated as endogenous, and therefore affect each other over time. The core model indicating the hypothesized paths for

the two key outcomes (without the covariates) and the main predictor (child support obligations) is shown in Figure 2. Following Wilson's (1997) deindustrialization model by which unemployment leads to changes in routine activities and increased future criminal behavior, we assess the impact that unemployment has on recidivism (job → rearrest). Within each wave, the cross-sectional impact of being employed is assessed on the likelihood of re-arrest (paths a1, a2, and a3) for each of the waves post-baseline. Longitudinally, the impact of being employed at one time point is assessed on changes in re-arrest at later point (paths b1, b2, and b3). Conversely, the impact of being re-arrested on the likelihood of later changes in employment status is analyzed (paths c1, c2, and c3).

Figure 2. Conceptual Model for Longitudinal Assessment of Child Support, Employment and Recidivism



Baseline interviews conducted approximately 30 days prior to institutional release. Time 2, Time 3, and Time 4 interviews conducted at 3-, 9-, and 15-months, respectively.

These hypothesized paths are motivated by theoretical and empirical work emphasizing the powerful and stigmatizing forces behind official arrest, and its social consequences, such as the impact on one's likelihood of securing legitimate employment (Maruna & Immarigeon, 2004; Uggen, Manza, & Thompson, 2006). Our preliminary analyses (not shown here) showed that child support having lagged impacts on re-arrest and employment fit the data much better than models with child support affecting outcomes in the same wave (BIC difference = 15). As such paths f1 through f3 and paths g1 through g3 in Figure 2 illustrate the hypothesized associations between child support obligations and employment and rearrest, respectively. The models also included paths for the association between each outcome and itself across waves (paths d1 through d3 and e1 and e2). Models with the strongest fit in terms of BIC were models with employment and re-arrest having lagged impacts on each other, child support lagged on both outcomes, and employment affecting re-arrest in the same wave. It is important to note, that with regard to employment and re-incarceration, the SVORI protocol carefully asks respondents who were re-incarcerated (at each interview): *"After you were released but before you were re-incarcerated, how did you support yourself?"* This phrasing helps establish whether a respondent held any job in that post-instant incarceration period but before he was reincarcerated for a violation or a new offense.

Employment and recidivism outcomes are measured across multiple interview time points: both are recorded at 3, 9, and 15 months post release. The independent variables, including child support, family support, marital status, supervision status, job services, physical health problems, and re-incarcerated status, are time-varying; type of offense, SVORI-group assignment, and all demographics are time-invariant. Because the key outcomes of interest are dichotomous (employment and rearrest), generalized structural equation modeling (GSEM) in

Stata 13 was used to estimate the paths. Each outcome was regressed on child support, instrumental family support, marital status and other covariates.

Missing data were dealt with in the analyses in two complementary ways. First, the Heckman probit correction (-heckprobit-) (StataCorp, 2013) was used to address sample selection bias due to attrition at follow-up waves (3, 9, and 15 months). Unlike the two-step Heckman correction that models the selection equation using probit regression, obtains the inverse mills ratio (IMR) for each case, and includes the IMR in an OLS model, the Heckman probit correction in GSEM uses latent variables and probit regression only (StataCorp, 2013). In this way, it is able to model dichotomous outcomes, unlike the two-step Heckman correction (Bushway, Johnson, & Slocum, 2007). In the GSEM approach, a variable indicating whether the respondent selected (selected) into the sample at that interview was used. A latent variable (L) with a variance constrained to 1 affects the outcome of interest (L→JOB), in addition to affecting the selected variable (L→selected), with the latter path's coefficient constrained to 1. Paths from independent variables are drawn toward both the outcome of interest and the selected variable.

Since the selected variable should use information from some variables that are not affecting the outcome of interest (StataCorp, 2013), the variable AGE was used to predict selection but not employment. This variable was chosen because it was removed from the primary equation because of collinearity issues with the variable instrumental family support.

As discussed in the measures section, the outcome variable for recidivism (based on official re-arrest records) was complete data at every time point. Therefore, the Heckman correction was not applicable for these paths. Paths predicting rearrest at 3, 9, and 15 months use

a logit link function, while the paths toward employment use a probit link. Results from both are exponentiated into odds ratios.

The second method of addressing missing data is through GSEM's maximum likelihood estimation in Stata 13. This approach uses equation-wise deletion rather than listwise deletion, which does not automatically drop cases that have some missing data. Instead, it uses all of the data available it when estimating parameters (StataCorp, 2013). For example, a respondent who was interviewed at baseline and nine months only would be included in the analyses relevant for those time points, and dropped from the equations where there were missing values. Other longitudinal estimating techniques, such as the repeated measures ANOVA, would drop this respondent entirely. Using this method, GSEM was able to use at least some data from all but one of the respondents in our sample (n=1,010). While the Heckman correction and the benefits of GSEM address the problem of attrition, it remains a limitation in the current work.

In addition to the variables found in the main model in Figure 2 (i.e., employment, rearrest, and child support), the cross-lagged panel model included a set of covariates theoretically and empirically grounded in the desistance and reentry literature. These variables, described in more detail in Chapter 3, included: high school education/GED; having children under 18; age at first arrest; on probation/parole supervision; Married/partner; family instrumental support; property offense for instant incarceration; SVORI participation; received job services in prison; physical health problems; reincarcerated; and race. Age at release was used in the Heckman correction models and as a result does not appear in the results tables. To create a final path model that was as parsimonious as possible, some variables were only used to predict one outcome. We modeled physical health problems and job services in prison as having

paths to employment but not rearrest; on supervision and age at first arrest were modeled as predictors of rearrest but not employment.

Results

Table 11 (which can be found at the end of this chapter) provides the descriptive statistics for the key variables. Employment outcomes varied over time, with more people reporting legitimate employment at Time 3 and Time 4 than Time 2. Sixteen percent of the sample were arrested between release and Time 2, and 32% were arrested between Time 2 and Time 3, and Time 3 and Time 4, respectively. Percentages of respondents reporting having child support were similar over time, and correlations for the child support variables were strong across waves (See Appendix for the full correlation matrix).

Propensity score matching techniques (PSM) in Stata 13 (teffects psmatch) were used to control for observable differences between those with and without child support obligations. Following the literature on matching techniques, we first focused on choosing variables that occurred before the key variable of interest occurred (i.e., having a child support order) (Dehejia & Wahba, 2002). The following variables were chosen; age, race, education, marital status, age at first arrest, and type of instant offense. We also included the indicator of "ready for change" (a turning point scale) because we believe that this variable may represent general motivation, which is applicable to paying down debt and obtaining a job. PSM's nearest neighbor function was implemented in Stata and it returned a minimum of three matches per one case with a child support obligation. The maximum matches per one case was five. Covariates on which the groups were matched showed reasonable overlap. Results (see Table 12) show that, after matching on these covariates, the average treatment effect (ATE) of having a child support obligation on rearrest at Wave 2 is -0.043 ($p < .10$, two-tailed). In other words, those with the

obligation were slightly less likely to be rearrested at Wave 2 than those without it—the coefficient was marginally significant. Conditional predicted probability scores of being in the treated (CS) group versus not were then estimated to create propensity scores so they could be included in the final path analysis.

Results from the propensity score adjusted cross-lagged panel model are shown in Table 13 and 14 for re-arrest and employment outcomes, respectively. Findings show that the effect of having child support before incarceration was associated with a marginally significant 43% reduction in the odds of re-arrest at the three-month interview ($p < .10$, two-tailed). The following two waves showed no significant effects. Child support obligations at the three-month interview reduced the odds of an official arrest between the three and nine month interview by 32% ($p = .17$). For the last time period, the reporting having child support at the nine-month interview was associated with a 17% reduction in the odds of being arrested between the nine- and 15-month interview ($p = .49$).

Employment significantly reduced the odds of re-arrest for two out of three cross-sectional paths examined. The path was not significant ($p = .19$) for employment at 9 months on arrest at 9 months, although it was in the same direction as the other waves. Longitudinal analyses showed that employment at an earlier time point did not exert significant impacts on recidivism at a later time point. However, for one path, re-arrest significantly predicted changes in employment at the next wave. The effect of being arrested between release and the three-month interview was associated with a 41% reduction in the likelihood of reporting employment between the three- and nine-month interviews ($p < .01$). This effect was not significant at the next wave (15 months), although the direction of the association was the same (OR = .89).

Marital status, which was time-varying, did not show significant effects on rearrest in the reentry process. At Time 2 and Time 3, the effect of being married or having a serious partner was associated with a reduced likelihood of rearrest, but neither effects reached conventional alpha levels. With respect to employment, reporting being married at baseline and at Time 4 was associated with increases in the likelihood of reporting being employed in the same wave ($p < .05$). Instrumental family support only showed a small and marginally significant impact on one outcome. A one-unit increase in instrumental support at the 15-month interview was associated with 4% decrease in odds of reporting employment in the same wave ($p < .10$). Other models tested if instrumental support had lagged impacts on either outcome; no significant effects were found.

There were a few covariates that were significant in predicting rearrest. At Time 2 these were education (negative) and reincarcerated status (positive). At Time 3, significant covariates were education (negative; $p < .05$), and being under supervision (negative; $p < .05$). Both prior rearrest and reincarcerated were significant (both strongly positive). By Time 4 results showed that property offenders (compared to all other offenders) had a higher likelihood of rearrest ($p < .05$), in addition to prior rearrest and reincarcerated status. Regarding employment at Time 2, the effects of having a high school education or GED significantly and positively predicted employment ($p < .05$). Race (African American status) ($p < .01$) and having more physical health problems ($p < .001$) decreased the likelihood of reporting legal employment. Coefficients for education, race, and physical health problems more or less showed the same effects through Time 3 and Time 4. At Time 4, SVORI participation was significantly associated with reporting legal employment (OR = .33, $p < .05$). This last result mirrors findings from the 2004 evaluation

of the SVORI (Lattimore & Visher, 2009). Lattimore and Visher found that SVORI participation increased receipt of employment-related services and was linked to better employment outcomes.

Bayesian information criterion (BIC) and Akaike information criterion (AIC) analyses were used to assess relative model fit. This is the preferred approach when assessing goodness of fit for models using GSEM, as traditional methods of model fit in structural equation modeling (RMSEA, CFI, etc.) cannot be computed in GSEM.[10] Generally, lower AICs and BICs indicate superior relative model fit (Long, 1997). Model BICs that are lower by 6 or more are considered to be "very strongly" better (Raftery, 1995). AIC and BIC analyses showed the strongest model fit for the following paths: child support having lagged impacts on re-arrest and employment, employment and re-arrest having lagged impacts on each other, and employment affecting re-arrest in the same wave. The path configurations in this model yielded a BIC 15 points lower than any other models.

State Context and Panel Models

Attempting to model state-level variation in a longitudinal model of this size is difficult. Adding dummy controls for each state in the SVORI would create an "overparameterized" model with 77 new paths--11 states x 7 outcomes (one state would be the reference category; Tanaka, 1987). Current Stata software cannot estimate such a model. Still, the question of whether any of the impacts of child support obligations seen varies by state context remains an interesting question worth investigating. Indeed, it would seem plausible that the effects of having a legal child support obligation would be different from state to state given that each state has their own office of child support enforcement with a varying set of policies and procedures. To address possible state variation, we estimated a model where the outcome variable is state mean-centered. Mean-centering a variable can be interpreted, for example, as giving respondents a

"score" for rearrest, which is represented by their deviation from their state's mean rearrest score. For example, if the respondent was rearrested (score of "1") and the average rearrest in his state was 50%, then his rearrest score for this state mean-centered outcome would be 1 - .50 or .50. Conversely, if a person from the same state was not rearrested (score of "0"), their score would be 0 - .50, or -.50. As such, the outcome is converted into a continuous variable that is conceptually different from a dichotomous rearrest variable, but takes into account state context by removing all interstate variation from the model. The interpretation of this approach (in a structural equation model where the outcome is now continuous) is the effect of X on the b-unit deviation from the state's average score on rearrest.

Table 15 shows the results of this state mean-centered structural equation model. We only modeled the outcomes at Time 2 because we had found a marginally significant effect of child support on rearrest at Time 2. While findings show that significant impacts of current employment and education persist, the effect of having a child support obligation, though in the same direction of the coefficient from our key model without state variables, is not significant, even at the marginal level of $p < .10$. Specifically, the effect of having child support is associated with a -.016 deviation from the state's average rearrest score. This finding indicates that the effects of legal child support obligations are different in different states. In other words, it is less that a child support obligation matters per se at the individual level with respect to rearrest, but that having child support in *certain places* can have an impact on rearrest but not in others. This finding has strong theoretical implications and opens up new lines of inquiry for research in this area.

Discussion of Key Findings

In the context of unprecedented levels of criminal justice and child support debt, many

former prisoners face once they are released from prison (Bannon et al., 2010; Beckett & Harris, 2011; Patterson, 2008), the analyses presented in the current chapter sought to assess whether child support obligations in particular affect employment and rearrest. In terms of recidivism, the literature supports both the possibility that child support debt could be protective and, conversely, that debt may lead to criminal activity, and which, in turn, leads to a higher likelihood of rearrest. We found tentative support in the direction of child support being a protective factor. Those who had child support obligations were *less* likely to be rearrested compared to those who did not report having this obligation, controlling for a number of important covariates—the relationship was marginally significant. Although we did not formally test the strength of the relationship between the father and the family, from a life course perspective, it could be that having a formal child support obligation can strengthen the returning prisoner's bond to his family. This increased social tie might then act as a protective factor for future criminality. Alternatively, from a desistance framework, one could argue that having child support obligations or debt helps to foster or bring out a change in attitude or identity. This change, in turn, might reduce criminal participation (CS→prosocial identity/attitude→desistance). In other words, future work, in line with Maruna's research on identity and desistance as a process, should assess if increased prosocial attitudes or positive identity change mediates the effect of child support on reoffending. Future research should also more closely examine familial relationships when assessing the relationship among child support obligations and reentry. Regardless of the mechanism at play here, our findings show that the protective effect of having this legal obligation fades into non-significance during the remaining twelve months of observation. This pattern resonates with the reentry literature's focus on the critical time period immediately after release (Petersilia, 2003). Once a former prisoner is back

into the community for an extended time, other criminogenic dynamics can begin to set in, and the protective efforts of earlier reentry interventions may disappear.

Goffman's (2009) study of men "on the run" in Philadelphia could provide an alternative interpretation for these results. She argued that the primary concern among former prisoners was to not return to custody. As such, they would "cultivate unpredictability" as a strategy to avoid being detected by police or other authorities for other crimes or technical violations (Goffman, 2009). Since many jurisdictions have adopted stringent child support policies, this could be another reason or incentive for former prisoners with child support obligations to be on the run. Because our measure of recidivism was official rearrests, perhaps the former inmates with child support obligations were more adept in avoiding police confrontations, perhaps avoiding police arrests altogether.

Our final statistical models, however, showed that the effect of having a legal child support obligation disappears once state context is accounted for. These results are instructive for theory. They suggest that theorizing on the impacts of legal financial burdens on former prisoners needs to move beyond a simple individual-level model whereby X causes Y among former prisoners nationwide. Instead, the implications for theory are that these obligations matter for some individuals in *some places*. Theorizing and empirically testing state-level factors that shape or condition this effect is a direction that this area of research should pursue. For example, we know that states have wide discretion in crafting their child support policies and enforcement strategies (Cammett, 2010), and some states have much stricter rules vis-à-vis implementation and compliance. In these states, it is conceivable that child support enforcement employees work more closely with probation and parole to connect former prisoners with their families and ensure timely payment. The "what works" literature on reentry also shows that some states are

beginning to address debt through coordinated reentry planning. For example, some states, such as Ohio, have Child Support Enforcement agency staff that directly link returning prisoners with child support obligations to a coordinated reentry program. Future research could unpack state-level dynamics with multilevel modeling techniques (which were not possible using the SVORI data given the number of states in the study).

Taking both the results from the state-controlled and non-state-controlled models into account, one finding is clear: having a child support obligation was not associated with more reoffending. Much conjecture and anecdotal evidence have suggested that having a debt burden imposed by the courts puts a strain on former prisoners once back into the community. These returning prisoners can be threatened with reincarceration and other punitive measures for non-payment. As such, they may be more likely to explore illegal means of revenue, such as drug sales or theft, in order to manage their debt burdens. Although it is possible that child support obligations could have adverse impacts on other important areas of life, our results suggest that, on average, the obligation itself is not fostering new criminal activity after an individual is released from prison. We are not suggesting that judges and other criminal justice system stakeholders turn their attention away from sentenced prisoners with child support orders. The findings from Chapter 4 on the service needs and service receipt for those who have child support orders suggest that there is a vast unfulfilled need for services to assist released and soon-to-be released prisoners with child support obligations. Given the amount of unmet need—for example, our findings showed that of prisoners who stated they needed assistance with child support payments, only 3% received support in the three months after release—our findings have implications for reentry planning. More specifically, prisoner case plans and reentry plans should include an assessment of debt and particular needs related to debt so that linkages to services

could be made upon release. For policymakers, we call attention to the need for more legislative oversight.

Turning to the domain of employment, having a child support obligation did not appear to have any significant effects on this outcome. Perhaps there is no association between the two, or maybe there was not sufficient time in the model for any effect to appear. For example, if having child support affects certain structural barriers in reentry such as being unable to clean up a criminal record history, this could then have an impact on employment, but the effect could be lagged more than what was modeled in our data. Regardless, our results indicate that there is no support for the popular hypothesis that men with child support debt are disillusioned with their criminal justice and economic situation and as a result, turn away from legitimate employment.

As expected, and in support of Wilson's (1997) deindustrialization thesis, employment and rearrest from the same waves were strongly negatively associated. However, since these cross-sectional paths are subject to questions of causal directionality (employment affects rearrest but rearrest also affects employment), we examined the lagged effects of both on each other while controlling for prior employment and rearrest. Testing the longitudinal version of the Wilson (1997) thesis that lack of employment increases criminal behavior, we found no significant relationship between employment at an earlier time period and changes in later arrests.

However, we did find support for the reverse: arrests can decrease the likelihood of being employed later in time (while controlling for reincarceration). An arrest by the three-month interview was significantly and strongly associated with a change in employment (a drop in employment) at the nine-month interview. We couched this pathway using a stigma and labeling framework (Uggen et al., 2006); former inmates who recidivate are not attractive targets for hire.

Alternatively, what we may have uncovered is a process where arrests caused employers to terminate those employees. However, if the latter is the case, one would expect that termination to occur immediately and the effect we found was lagged, lending a bit more credence to the stigma and labeling argument.

Reflecting on life course theory, although we did find a marginally significant effect of having child support obligations on recidivism at three months out, we did not find strong support for other key turning point variables such as employment and marriage (both time-varying measures in our models). In the data, the effects of having a steady partner or being married on arrest was negative at two of three waves, but neither were significant. This could be reflective of the SVORI sample being one that consists mainly of violent and serious offenders. Sampson and Laub's work has shown that violent offenders tend to desist later than property offenders (Sampson & Laub, 2003). In their study, the average age for desistance for violent offenders was 31.3; and for property offenders it was 26.2. The average age at release for the current SVORI sample was 29.2. The lack of a strong and consistent relationship for employment and marriage could also be a measurement issue—our measures did not capture the quality of the job or marriage, and as Sampson and Laub (1993) have shown, desistance is more likely when attachment to a job or marriage is high.

Regardless of the theories at work here, future research should seek to understand how particular formal (i.e., child support orders) and informal obligations of fatherhood interact with factors related to the quality of parent-child relationship in the overall desistance process. Our models did not include measures of the quality of parent-child relationships or the actual parental responsibility held by the respondent (or attitudes toward parental responsibility), nor were they designed to discern differences in relationships or obligations across children for respondents

who had more than one child.

Furthermore, the analyses presented in this report did not examine whether there are mechanisms where child support obligations and heavy debt influences several other critically important and not-often examined health outcomes such as stress, depression, overall health, and substance abuse. The results of the difference in means testing Chapter 4 (Table 6) suggests that there might be differences in depression worth exploring that are associated with having child support obligations. One past study that involved surveys with incarcerated fathers in a maximum security prison found that those males who reported poor relationships with their children were more likely to suffer from depression (Lanier, 1993).

Limitations

As in all studies, our findings need to be qualified by limitations. First, our recidivism dependent variable (i.e., official data on rearrest) is not a perfect measure of recidivism, as some reoffending certainly was not captured in this variable. However, its strength, relative to the self-report measures of recidivism in these data, is the lack of missing information in these data. However, another limitation is that we did not examine other measures of recidivism, such as reconviction and reincarceration. While we acknowledge that recidivism research often contains multiple outcomes measures, we relied on the official rearrest data because of its completeness in comparison with the other recidivism measures—given the extent of missing data in the SVORI data, we believe this strength outweighs any limitations. Further, official arrest dependent variables tend to be preferred in reentry research (Lattimore et al., 2012).

We also acknowledge limitations with our child support measure. We operationalized child support as a dichotomous indicator and, as such, it does not capture information related to how much was owed, how often one paid, how often family or friends helped pay the obligation,

etc. For the most part, the SVORI protocol did not include refined measures on payment information. For the questions related to amount of debt, the incidence of missing data was high and the ranges of the response categories in these variables were large enough (e.g., over $10,000 or more in back due support) that they were not deemed useful to a rigorous examination of the research questions. A further examination of existing qualitative studies also revealed that individuals cannot often quantify the amount of debt they have. One strength of our chosen variable is that it could be theoretically appropriate from a life course, "turning points" perspective. If it is true that having a child support obligation strengthens social bonds and that this leads to lower recidivism, then the important construct theoretically is having the legal obligation in place per se. Still, future work should pursue different operationalizations of child support debt, including how much was owed, and whether payments were made.

Second, with respect to missing data, the SVORI data contain a non-trivial amount of attrition. We addressed potential bias that might arise from this issue in two different ways: GSEM and the Heckman correction. Unlike longitudinal repeated measures analysis that requires complete data at every time point, GSEM can use cases that have some missing data at some waves. This "equationwise deletion" method retains more information than listwise deletion methods that drop entire cases that have missing data. Two, the Heckman correction employed adjusts for sample non-representativeness after the baseline interview. We compared results from Heckman vs. non-Heckman models and found them to be very similar, boosting confidence in the patterns uncovered. While these methods represent new and innovative ways to address missing data, we realize that these methods are not a complete solution to the problem of potential bias introduced by attrition.

Third, the majority of measures used in this study relied on self-report data. With the

exception of measures for rearrest and reincarceration, key variables such as our child support measure derived from self-report data collection techniques. This could present an issue if prisoners and former in this sample did not want to be forthcoming about having this legal financial obligation. We checked the few existing state-level studies of child support among the incarcerated populations and found that the percentages reporting having this obligation were very similar to the percentage among the SVORI respondents (Griswold, Pearson, & Davis, 2001; Ovwigho, Saunders, & Born, 2005). Thus, we have increased confidence that the child support measure in the SVORI data has validity.

Fourth, the way in which SVORI survey questions were asked and the time periods involved can sometimes obfuscate a real understanding of the timing of events in a respondent's life. And any study involving reincarceration has some limitations related to censoring. As we stated earlier, with regard to employment, the SVORI interval protocol asks whether the respondent, if reincarcerated, held any job before his reincarceration—which helps support our choice of modeling whether employment influenced rearrest in the cross-section. It is possible, however, that a respondent simply may have had less opportunity to be employed given their incarceration, particularly if it was a lengthy one. We examined a variety of models here, and used the best fitting model as described in Figure 2.

Conclusions

The financial obligations that encumber criminal justice populations have risen markedly in recent years, yet how the burden of debt impacts released prisoners is not known. We began to address this empirical gap through the examination of a large, multistate, longitudinal reentry data set and examined the impact that child support obligations have on recidivism and employment. While no evidence was found that the legal obligation to pay child support hinders

or facilitates employment, we did find that those with child support obligations were slightly less likely to be arrested during their initial release from incarceration.

With regard to policy implications, there are a number of important points worth making. One, arranging for more former prisoners to have child support debt is not an implication of this work for obvious reasons. Instead, this empirical finding is of practical use if having child support and paying the support acts as a "signal" to help identify those who are most likely to have begun the desistance process (Bushway & Apel, 2012). Whether this signal holds any value in foreshadowing long-term desistance is an empirical investigation worth pursuing.

Two, and perhaps more important, future reentry research might want to determine whether any protective effect of having a child support obligation is due to an increase in informal social control. If so, the relevant policy implication would be that reentry practitioners should capitalize on the finding that child support obligations and perhaps related debt seem to bind males to improving their life outcomes—whether it is in regard to improving their role as a father, overall family life, or general responsibility to be a productive, it is important for practitioners to provide services that support the needs of these men with children and debt burdens. As reentry research has grown exponentially in the last decade, a number of researchers have strongly advocated for family-centric reintegration strategies and counseling programs (diZerega & Shapiro, 2007; Haney, 2003). In addition, the public must be made aware that much could be gained by supporting soon-to-be released fathers in their efforts to pay child support. If, as found in the Maryland study of child support and incarceration, that in all states a quarter of all child support arrears owed to custodial parents are owed by individuals who are incarcerated or previously incarcerated (Ovwigho, Saunders & Borne, 2005), policymakers might think differently about how to prioritize supports for returning prisoners.

Table 11. Summary Statistics				
Variables	**N**	***M***	***SD***	**Range**
Dependent Variables				
T2Rearrest	1011	0.164	0.371	0-1
T3Rearrest	1011	0.323	0.468	0-1
T4Rearrest	1011	0.315	0.465	0-1
Employment (1=yes, 0=no)				
T2Employment	602	0.651	0.477	0-1
T3Employment	588	0.702	0.458	0-1
T4Employment	560	0.677	0.468	0-1
Time-varying Covariates				
Child Support (CS) (1=yes, 0=no)				
Baseline CS	1009	0.309	0.462	0-1
T2CS	603	0.365	0.482	0-1
T3CS	616	0.369	0.483	0-1
T4CS	671	0.399	0.490	0-1
Instrumental Family Support				
T2FamilySupport	591	11.604	2.857	0-15
T3FamilySupport	572	11.173	3.004	0-15
T4FamilySupport	550	11.200	2.961	0-15
Marital Status/Steady Partner (1=yes, 0=no)				
BaselineMarried	1008	0.476	0.500	0-1
T2Married	602	0.630	0.483	0-1
T3Married	616	0.692	0.462	0-1
T4Married	672	0.609	0.488	0-1
Job Services (1=yes, 0=no)				
T2JobServices	603	0.401	0.491	0-1
T3JobServices	616	0.344	0.475	0-1
T4JobServices	672	0.210	0.407	0-1
Physical Health Problems (0-4)				
T2PhysicalHealth	601	0.521	1.103	0-4
T3PhysicalHealth	616	0.584	1.123	0-4
T4PhysicalHealth	672	0.583	1.106	0-4
On Supervision (1=yes, 0=no)				
T2Supervised	602	0.826	0.380	0-1
T3Supervised	670	0.516	0.500	0-1
T4Supervised	613	0.687	0.464	0-1
Reincarcerated (1=yes, 0=no)				
T2Reincarcerated	1011	0.041	0.197	0-1
T3Reincarcerated	1011	0.162	0.369	0-1
T4Reincarcerated	1011	0.229	0.421	0-1
Time Invariant Covariates				
Age at release	1011	29.675	6.441	18-73
African American	1011	0.591	0.492	0-1
Hispanic/Other	1011	0.111	0.314	0-1
White	1011	0.298	0.457	0-1
HS education (1=yes, 0=no)	1011	0.590	0.492	0-1
SVORI participation (1=yes, 0=no)	1011	0.502	0.500	0-1
Employed at baseline (1=yes, 0=no)	1009	0.634	0.482	0-1
Index offense- property (1=yes, 0=no)	1011	0.168	0.374	0-1
Age at first Arrest	1003	16.011	4.839	6-48

Baseline= 30 days prior to release; T2= 3 months post release; T3= 9 months post release; T4= 15 months post release.

Table 12. Treatment Effects Estimation (Propensity-score Matching) of Child Support on Rearrest at Wave 2

Rearrest W2	Coef.	AI Robust S.E.	*p*	95% C.I.
ATE (avg. txt effect) of Baseline Child Support	-.043	.026	.094	-.09three-.007

ATE = Average Treatment Effect; Estimator: propensity-score matching; Outcome model: matching; Treatment model: logit; 938 observations; nearest neighbor (3); min: 3, max: 4. Covariates matched on: age, race, type of offense, education, martial status, age at first arrest, ready for change (turning point scale).

Table 13. Re-arrest Outcomes Estimated via GSEM, n=1010

	Wave 2 (3 mos.)		Wave 3 (9 mos.)		Wave 4 (15 mos.)	
Re-arrest	**OR**	***SE***	**OR**	***SE***	**OR**	***SE***
Prior employment	.744	.204	1.171	.337	1.298	.401
Current employment	.323***	.089	.681	.164	.432**	.132
Child support at prior wave	.568†	.142	.677	.192	.833	.225
HS education/GED (time invariant)	.389**	.502	.583*	.159	1.043	.288
Age at 1st arrest	.995	.033	.996	.028	1.007	.025
African American (time invariant)	1.369	.431	1.306	.373	1.442	.413
SVORI participant (time invariant)	1.069	.290	1.006	.265	1.297	.344
On supervision	.932	.314	.524*	.141	1.265	.337
Married/partner	.665	.184	.656	.192	1.283	.380
Family instrumental support	.981	.047	.942	.040	1.014	.045
Property offense (time invariant)	.840	.339	1.454	.510	1.228*	.438
Prior re-arrest			1.870†	.650	4.110***	1.200
Reincarcerated	15.681***	6.893	8.201***	2.423	10.853***	3.530

†p < .10, *p < .05, **p < .01, ***p <.001, two-tailed tests

Model Log-likelihood	*df*	AIC	BIC
-4000.69	101	8203	8700

Table 14. Heckman-adjusted Employment Outcomes Estimated via GSEM, n=1010

	Baseline		Wave 2 (3 mos.)		Wave 3 (9 mos.)		Wave 4 (15 mos.)	
Employment	**OR**	**SE**	**OR**	**SE**	**OR**	**SE**	**OR**	**SE**
Prior re-arrest					.592**	.113	.898	.152
Prior employment			1.468**	.171	2.122***	.299	2.820***	.113
Child support at prior wave			1.013	.123	1.068	.156	.797	.114
HS education/GED at baseline	1.062	.147	1.322*	.152	1.253*	.178	1.209*	.178
Received job services (each wave)			.960	.111	1.080	.157	1.122	.184
African American (time invariant)	.593***	.109	.747*	.090	.710*	.115	.872	.131
SVORI participant			1.193	.137	1.050	.146	1.330*	.190
Physical health probs (time invariant)	1.029	.056	.794***	.039	.807***	.045	.870*	.054
Married/partner	1.387*	.186	1.109	.129	1.040	.164	1.442*	.113
Family instrumental support			.984	.020	1.020	.024	.957†	.024
Property offense	1.373†	.262	.826	.129	.893	.173	1.172	.237
Reincarcerated			1.111	.249	1.296	.237	1.079	.213

†p < .10, *p < .05, **p < .01, ***p<.001, two-tailed tests

Model Log-likelihood	*df*	AIC	BIC
-4000.69	101	8203	8700

Table 15. State Mean-centered SEM Model—Wave 2 Rearrest n=1,011

Rearrest	Coef.	S.E.	p-value
Current employment	-.126***	.032	0.000
Prior employment	.001	.024	0.962
Married/partner	-.013	.032	0.685
Baseline Child Support	-.016	.024	0.497
Property offense	.030	.030	0.323
HS Education	-.040†	.023	0.081
Age at 1st Arrest	-.000	.002	0.977
SVORI participant	-.017	.023	0.463
On supervision	-.009	.040	0.830
African American	.003	.024	0.915
Instrumental Family Support	-.001	.005	0.892
Reincarcerated	.520***	.055	0.000

†p < .10, *p < .05, **p < .01, ***p<.001

Rearrest dependent variable represents the respondent's deviation from the average rearrest score of his state. This procedure controls for state-level context effects. Model estimated uses Stata's 13's SEM maximum likelihood with missing values (mlmv) function.

Model Log-likelihood	*df*	AIC	BIC
-9515.28	104	19238	19750

References

Agnew, R. (2006). *Pressured into crime: An overview of general strain theory*. New York: Oxford University Press.

American Civil Liberties Union. (2010). *In For a Penny: The Rise of America's New Debtors' Prisons*. Retrieved from https://www.aclu.org/prisoners-rights-racial-justice/penny-rise-americas-new-debtors-prisons.

Bannon, A., Nagrecha, M., & Diller, R. (2010). *Criminal Justice Debt: A Barrier to Reentry*. Brennan Center for Justice at New York University School of Law.

Berrington, A., Smith, W. F., & Sturgis, P. (2006). An overview of methods for the analysis of panel data. Economic and Social Research Council National Centre for Research Methods Briefing Paper.

Beckett, K., & Harris, A. (2011). On cash and conviction. *Criminology & Public Policy*, *10*(3), 509–537. doi:10.1111/j.1745-9133.2011.00726.x

Blumstein, A., & Nakamura, K. (2009). Redemption in the presence of widespread criminal background checks*. *Criminology*, *47*(2), 327–359. doi:10.1111/j.1745-9125.2009.00155.x

Bucklen, K. B., & Zajac, G. (2009). But Some of Them Don't Come Back (to Prison!) Resource Deprivation and Thinking Errors as Determinants of Parole Success and Failure. *The Prison Journal*, *89*(3), 239–264. doi:10.1177/0032885509339504

Burch, T. R. (2011). Fixing the broken system of financial sanctions. *Criminology & Public Policy*, *10*(3), 539–545. doi:10.1111/j.1745-9133.2011.00728.x

Bushway, S. D., & Apel, R. (2012). A signaling perspective on employment-based reentry programming. *Criminology & Public Policy*, *11*(1), 21–50. doi:10.1111/j.1745-9133.2012.00786.x

Bushway, S., Johnson, B. D., & Slocum, L. A. (2007). Is the magic still there? the use of the Heckman two-step correction for selection bias in criminology. *Journal of Quantitative Criminology*, *23*(2), 151–178. doi:10.1007/s10940-007-9024-4

Cammett, A. (2010). Deadbeats, deadbrokes, and prisoners. *Georgetown Journal on Poverty Law and Policy*, *18*, 127.

Cancian, M., Meyer, D. R., & Han, E. (2011). Child Support: Responsible Fatherhood and the Quid Pro Quo. *The Annals of the American Academy of Political and Social Science*, *635*(1), 140-162.

Carson, E. A., & Golinelli, D. (2013). Prisoners in 2012. *Bureau of Justice Statistics.*

Cullen, F. T. (2011). Beyond adolescence-limited criminology: Choosing our future—the American Society ofCriminology 2010 Sutherland Address. *Criminology*, *49*(2), 287–330. doi:10.1111/j.1745-9125.2011.00224.x

Dehejia, R. H., & Wahba, S. (2002). Propensity score-matching methods for nonexperimental causal studies. *Review of Economics and Statistics*, *84*(1), 151-161.

di Zerega, M., & Shapiro, C. (2007). Asking about family can enhance reentry. *Corrections Today, 69*, 58–61.

Durose, M. R., Cooper, A. D., & Snyder, H. N. (2014). Recidivism of Prisoners Released in 30 States in 2005: Patterns from 2005 to 2010. *Bureau of Justice Statistics*.

Evans, D. N. (2014). *The debt penalty: Exposing the financial barriers to offender reintegration*. Retrieved from: http://justicefellowship.org/sites/default/files/The%20Debt%20Penalty_John%20Jay_August%202014.pdf

Glaze, L. E., & Maruschak, L. M. (2008). *Parents in prison and their minor children* (Rev. three-30-2010). Washington, D.C.: U.S. Department of Justice, Office of Justice Programs. Retrieved from http://purl.access.gpo.gov/GPO/LPS77767

Goffman, A. (2009). On the Run: wanted men in a Philadelphia ghetto. *American Sociological Review*, *74*(3), 339–357.

Griswold, E. A., & Pearson, J. (2005). Turning offenders into responsible parents and child support payers. *Family Court Review*, *43*(3), 358–371. doi:10.1111/j.1744-1617.2005.00039.x

Griswold, E. A., Pearson, J., & Davis, L. (2001). Testing a Modification Process for Incarcerated Parents. *Denver, CO: Center for Policy Research.*

Griswold, E. A., Pearson, J., Thoennes, N., & Davis, L. (2004). Fathers in the Criminal Justice System. *Denver, CO: Center for Policy Research.*

Haney, C. (2003). The psychological impact of incarceration: implications for postprison adjustment. In J. Travis & M. Waul (Eds.), *Prisoners Once Removed: The Impact of*

Incarceration and Reentry on Children, Families and Communities (pp. 3three- 68). Washington DC: Urban Institute Press.

Harris, A., Evans, H., & Beckett, K. (2010). Drawing blood from stones: legal debt and social inequality in the contemporary United States. *American Journal of Sociology*, *115*(6), 1753–1799. doi:10.1086/651463

Holzer, H. J., Offner, P., & Sorensen, E. (2005). Declining employment among young Black less-educated men: The role of incarceration and child support. *Journal of Policy Analysis and Management*, *24*(2), 329–350.

Lanier, C. S., Jr. (1993). Affective states of fathers in prison. *Justice Quarterly, 10*, 4nine-65.

Lattimore, P. K., Barrick, K., Cowell, A., Dawes, D., Steffey, D., Tueller, S., & Visher, C. A. (2012). Prisoner reentry services: What worked for SVORI evaluation participants. *Washington, DC: National Institute of Justice*.

Lattimore, P. K., Steffey, D. M., & Visher, C. A. (2009). Prisoner reentry experiences of adult males: Characteristics, service receipt, and outcomes of participants in the SVORI Multi-site Evaluation. *Research Triangle Park, NC: RTI International. Retrieved September*, *7*, 2011.

Lattimore, P. K., & Visher, C. A. (2009). *The multi-site evaluation of SVORI: Summary and synthesis*. Washington, DC: Urban Institute.

Lattimore, P. K., & Visher, C. A. (2014). The impact of prison reentry services on short-term outcomes evidence from a multisite evaluation. *Evaluation Review*, *37*(three-4), 274–313. doi:10.1177/0193841X13519105

Laub, J. H., & Sampson, R. J. (2003). *Shared beginnings, divergent lives: delinquent boys to age 70*. Cambridge, Mass. ; London: Harvard University Press.

Levingston, K., & Turetsky, V. (2007). Debtor's Prison--prisoners' accumulation of debt as a barrier to reentry. *Clearinghouse Review*, *41*(three-4), 186–197.

Long, J. S. (1997). *Regression models for categorical and limited dependent variables*. Thousand Oaks, Calif. ; London: Sage Publications.

Lum, C., & Yang, S.-M. (2005). Why do evaluation researchers in crime and justice choose non-experimental methods? *Journal of Experimental Criminology*, *1*(2), 191–213. doi:10.1007/s11292-005-161nine-x

Martire, K., Sunjic, S., Topp, L., & Indig, D. (2011). Financial sanctions and the justice system: Fine debts among New South Wales prisoners with a history of problematic substance use. *Australian & New Zealand Journal of Criminology*, *44*(2), 258–271. doi:10.1177/0004865811405258

Maruna, S. (2001). *Making good: how ex-convicts reform and rebuild their lives* (1st ed.). Washington, D.C: American Psychological Association.

McLean, R. L., & Thompson, M. D. (2007). *Repaying debts*. Council of State Governments Justice Center.

Miller, D. P., & Mincy, R. B. (2012). Falling further behind? child support arrears and fathers' labor force participation. *Social Service Review*, *86*(4), 604–635. doi:10.1086/668761

Mincy, R. B., & Sorensen, E. J. (1998). Deadbeats and Turnips in Child Support Reform. *Journal of Policy Analysis and Management*, *17*(1), 44–51.

Ovwigho, P. C., Saunders, C., & Born, C. E. (2005). *The Intersection of Incarceration & Child Support: A Snapshot of Maryland's Caseload*. Family Welfare Research and Training Group, University of Maryland, School of Social Work.

Pager, D. (2007). *Marked: race, crime, and finding work in an era of mass incarceration*. Chicago: University of Chicago Press.

Patterson, E. G. (2008). Civil contempt and the indigent child support obligor: the silent return of debtor's prison. *Cornell Journal of Law and Public Policy*, *18*, 95.

Pearson, J. (2004). Building debt while doing time: child support and incarceration. *Judges' Journal*, *43*, 4.

Petersilia, J. (2003). *When Prisoners Come Home: Parole and Prisoner Reentry*. New York, NY: Oxford University Press.

Pettit, B., & Western, B. (2004). Mass imprisonment and the life course: race and class inequality in U.S. incarceration. *American Sociological Review*, *69*(2), 151–169.

Pirog, M. A., Klotz, M. E., & Byers, K. V. (1998). Interstate comparisons of child support orders using state guidelines. *Family Relations*, *47*(3), 289–295. doi:10.2307/584979

Pirog, M. A., & Ziol-Guest, K. M. (2006). Child support enforcement: programs and policies, impacts and questions. *Journal of Policy Analysis and Management*, *25*(4), 943–990.

Primus, W. (2006). Improving public policies to increase the income and employment of low-income non-resident fathers. In R. Mincy (Ed.) *Black Males Left Behind*. Washington, DC: The Urban Institute Press.

Raftery, A. E. (1995). Bayesian model selection in social research. *Sociological Methodology*, *25*, 111–163. doi:10.2307/271063

Richards, S. C., & Jones, R. S. (2004). Beating the perpetual incarceration machine. In S. Maruna & R. Immarigeon (Eds.), *After crime and punishment: Pathways to offender reintegration* (pp. 201-232). London: Willan Publishers.

Sampson, R. J., & Laub, J. H. (1993). Crime in the making: pathways and turning points through life. *Crime & Delinquency*, *39*(3), 396–396. doi:10.1177/0011128793039003010

Seltzer, J., McLanahan, S., & Hanson, T. (1998). "Will Child Support Enforcement Increase Father-Child Contact and Parental Conflict After Separation?" Pp. 157-189 in Fathers Under Fire: The Revolution in Child Support Enforcement. I. Garfinkel, S. McLanahan, D. Meyer, and J. Seltzer (eds.). New York: Russell Sage Foundation.

Skardhamar, T., & Savolainen, J. (2014). Changes in criminal offending around the time of job entry: a study of employment and desistance. *Criminology*, *52*(2), 263–291. doi:10.1111/1745-9125.12037

Sorensen, E. (1997). A national profile of nonresident fathers and their ability to pay child support. *Journal of Marriage and the Family*, *59*(4), 785. doi:10.2307/353782

Sorensen, E. (2004). Understanding how child-support arrears reached $18 billion in California. *The American Economic Review*, *94*(2), 312–316.

Sorensen, E., & Oliver, H. (2002). Policy Reforms are Needed to Increase Child Support from Poor Fathers [Text]. Retrieved August 25, 2014, from http://www.urban.org/publications/410477.html

StataCorp. (2013). *Stata Statistical Software: Release 13*. College Station, TX: StataCorp LP.

Sutton, M. (1995). Supply by theft: Does the market for second-hand goods play a role in keeping crime figures high? *British Journal of Criminology*, *35*(3), 400–416.

Tanaka, J. S. (1987). "How big is big enough?": Sample size and goodness of fit in structural equation models with latent variables. *Child Development, 58,* 134-146.

Thoennes, N. (2002). Child Support Profile: Massachusetts Incarcerated and Paroled Parents. *Denver, CO: Center for Policy Research*.

Uggen, C., Manza, J., & Thompson, M. (2006). Citizenship, democracy, and the civic reintegration of criminal offenders. *Annals of the American Academy of Political and Social Science*, *605*, 281–310.

U.S. Department of Health and Human Services, Office of Child Support Enforcement. (2006). *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs*. Retrieved from: http://www.acf.hhs.gov/programs/css/resource/working-with-incarcerated-and-released-parents.

U.S. Department of Health and Human Services, Office of Child Support Enforcement. (2012). *Project to Avoid Increasing Delinquencies. Child Support Fact Sheet Series, Number 4.* Retrieved from: http://www.acf.hhs.gov/sites/default/files/ocse/realistic_child_support_orders_for_incarcerated_parents.pdf.

U.S. Department of Health and Human Services, Office of Inspector General. (2000). *The Establishment of Child Support Orders for Low Income Non-custodial Parents*. Retrieved from: https://oig.hhs.gov/oei/reports/oei-05-9nine-00390.pdf.

Vallas, R., & Patel, R. (2012). Sentenced to a life of criminal debt: A barrier to reentry and climbing out of poverty. *Clearinghouse Review*, *46*, 131–141.

Visher, C. A., Debus-Sherrill, S. A., & Yahner, J. (2011). Employment after prison: a longitudinal study of former prisoners. *Justice Quarterly*, *28*(5), 698–718. doi:10.1080/07418825.2010.535553

Visher, C. A., LaVigne, N. G., & Travis, J. (2004). Returning home: Understanding the challenges of prisoner reentry. Maryland pilot study: Findings from Baltimore. Urban Institute.

Waller, M. R., & Plotnick, R. D. (1999). *Child support and low-income families: Perceptions, practices, and policy*. San Francisco: Public Policy Institute of California.

Wilson, W. J. (1997). *When work disappears: the world of the new urban poor* (1st Vintage Books ed.). New York: Vintage Books.

Wooldridge, J. M. (2010). *Econometric Analysis of Cross Section and Panel Data*. MIT Press.

Appendix

Table A-1 Correlation Matrix

Bold font indicates correlation coefficients that are significant at $p < .05$

Table A-1	Age	African American	White	Hispanic	Index offense-property	Days Incarcerated	Age at 1st Arrest	Job-Baseline	Job-3 mos.	Job-9 mos.
Age	1.000									
African American	**0.090**	1.000								
White	-0.031	**-0.783**	1.000							
Hispanic/other race	**-0.095**	**-0.424**	**-0.229**	1.000						
Index offense-property	-0.036	**-0.218**	**0.239**	-0.007	1.000					
Days Incarcerated	-0.018	**0.145**	**-0.107**	**-0.070**	**-0.068**	1.000				
Age at 1st Arrest	**0.379**	0.014	-0.003	-0.017	-0.052	**-0.093**	1.000			
Job-Baseline	**0.081**	**-0.132**	**0.120**	0.032	**0.077**	**-0.133**	**0.117**	1.000		
Job-3 mos.	-0.054	**-0.126**	**0.089**	0.068	0.001	0.072	0.037	**0.155**	1.000	
Job-9 mos.	**-0.101**	**-0.130**	**0.130**	0.011	0.020	**0.110**	0.062	**0.135**	**0.333**	1.000
Job 15 mos.	-0.062	**-0.159**	**0.102**	**0.100**	**0.084**	0.050	0.066	**0.139**	**0.344**	**0.394**
Child Support-Baseline	**0.095**	**-0.081**	**0.094**	-0.011	**0.023**	**-0.083**	0.062	**0.069**	0.018	0.016
Child Support-3 mos.	-0.010	**-0.113**	**0.151**	-0.044	**0.112**	**-0.101**	-0.034	0.015	-0.011	0.027
Child Support-9 mos.	-0.003	-0.032	0.049	-0.022	-0.002	-0.028	-0.029	0.040	0.041	0.043
Child Support-15 mos.	0.019	-0.034	0.059	-0.035	0.053	-0.054	-0.000	0.037	0.029	0.000
Rearrest-3 mos.	0.005	**0.069**	**-0.084**	0.0137	-0.006	**-0.077**	-0.026	-0.057	-0.172	-0.163
Rearrest-9 mos.	0.002	**0.060**	-0.024	**-0.068**	0.017	**-0.077**	**-0.079**	**-0.085**	-0.076	-0.145
Rearrest-15 mos.	-0.040	**0.068**	-0.054	-0.028	**0.065**	**-0.102**	-0.053	-0.007	-0.085	-0.050
Family Support-3 mos.	-0.041	0.040	-0.042	-0.001	-0.026	**0.156**	0.041	0.070	-0.012	-0.014
Family Support-9 mos.	-0.012	0.005	-0.004	-0.002	-0.063	**0.110**	0.040	0.045	0.040	**0.092**
Family Support-15 mos.	-0.015	0.072	-0.054	-0.035	-0.022	0.045	0.104	0.051	0.027	0.083
SVORI participant	-0.015	**0.114**	**-0.087**	-0.052	-0.023	**0.125**	0.041	-0.039	0.039	-0.006
Married-Baseline	-0.013	0.041	-0.049	0.007	-0.015	**-0.113**	0.037	**0.070**	**0.083**	**0.083**
Married-3 mos.	**-0.080**	0.027	-0.053	0.037	-0.069	0.046	-0.010	**0.084**	0.053	0.007
Married-9 mos.	-0.039	-0.024	0.004	0.033	0.001	0.024	0.023	0.064	0.049	**0.098**
Married-15 mos.	0.020	-.031	-0.005	0.060	0.011	**0.108**	0.040	0.051	0.079	0.064
Health Problems-3 mos.	**0.165**	0.023	-0.015	-0.013	**-0.093**	-0.025	0.100	-0.039	**-0.206**	**-0.201**
Health Problems-9 mos.	**0.211**	0.027	-0.058	0.042	-0.078	-0.049	0.071	-0.010	**-0.187**	**-0.215**
Health Problems-15 mos.	**0.190**	0.007	-0.046	0.061	-0.062	-0.075	0.066	0.009	**-0.117**	**-0.163**
Reincarcerated-3 mos.	-0.037	-0.002	-0.024	0.039	0.001	0.015	-0.031	-0.041	0.031	-0.070
Reincarcerated-9 mos.	**-0.091**	0.010	0.012	-0.035	0.024	-0.022	-0.074	0.033	-0.009	-0.002
Reincarcerated-15 mos.	**-0.103**	-0.039	**0.066**	-0.035	**0.088**	0.002	-0.056	0.004	0.039	0.024
Supervised-3 mos.	**-0.113**	-0.060	0.056	0.011	-0.038	**0.143**	-0.016	-0.009	0.079	**0.090**
Supervised-9 mos.	-0.070	-0.053	0.050	0.008	-0.030	**0.192**	0.005	-0.020	0.085	0.051
Supervised-15 mos.	-0.025	0.020	-0.021	-0.000	-0.098	**0.232**	-0.002	-0.049	0.060	**0.103**
Job Services-3 mos.	**-0.040**	**0.067**	**-0.069**	-0.003	-0.051	**0.143**	0.004	0.063	0.003	0.054
Job Services-9 mos.	-0.085	0.088	-0.098	0.006	-0.071	**0.103**	-0.065	-0.021	-0.051	0.029
Job Services-15 mos.	-0.016	0.041	-0.016	-0.041	-0.013	0.019	-0.025	0.063	0.013	-0.059

	Job 15 mos.	Child Support-Baseline	Child Support-3 mos.	Child Support-9 mos.	Child Support-15 mos.	Rearrest-3 mos.	Rearrest-9 mos.	Rearrest-15 mos.	Family Support-3 mos.	Family Support-9 mos.	Family Support-15 mos.
Age											
African American											
White											
Hispanic/other race											
Index offense-property											
Days Incarcerated											
Age at 1st Arrest											
Job-Baseline											
Job-3 mos.											
Job-9 mos.											
Job 15 mos.	1.000										
Child Support-Baseline	0.009	1.000									
Child Support-3 mos.	**-0.056**	**0.585**	1.000								
Child Support-9 mos.	**-0.027**	**0.532**	**0.663**	1.000							
Child Support-15 mos.	**0.024**	**0.473**	**0.619**	**0.706**	1.000						
Rearrest-3 mos.	**-0.145**	-0.042	-0.027	-0.062	-0.023	1.000					
Rearrest-9 mos.	**-0.138**	-0.031	-0.060	-0.060	-0.088	**0.127**	1.000				
Rearrest-15 mos.	**-0.086**	-0.021	-0.066	-0.071	-0.035	**0.073**	**0.210**	1.000			
Family Support-3 mos.	0.032	-0.008	0.006	0.019	-0.009	-0.041	**-0.121**	-0.043	1.000		
Family Support-9 mos.	-0.018	0.008	-0.038	0.012	-0.025	**-0.095**	**-0.141**	-0.073	**0.478**	1.000	
Family Support-15 mos.	0.006	0.022	-0.021	0.021	-0.033	-0.038	-0.032	-0.064	**0.489**	**0.617**	1.000
SVORI participant	**0.105**	-0.016	-0.019	-0.032	-0.040	-0.028	**-0.064**	-0.028	**0.174**	**0.115**	0.026
Married-Baseline	0.066	-0.001	-0.052	-0.040	-0.034	0.015	-0.009	-0.027	0.069	0.063	**0.125**
Married-3 mos.	0.025	-0.001	-0.034	-0.042	-0.042	-0.025	-0.048	-0.049	**0.123**	**0.142**	0.022
Married-9 mos.	0.077	0.054	0.018	0.014	-0.033	-0.077	-0.033	-0.003	**0.141**	**0.096**	0.087
Married-15 mos.	**0.146**	0.010	-0.008	0.041	-0.020	-0.073	**-0.208**	0.013	0.054	**0.098**	0.044
Health Problems-3 mos.	**-0.184**	-0.000	0.020	-0.021	-0.007	-0.012	0.049	-0.000	-0.031	-0.066	**-0.115**
Health Problems-9 mos.	**-0.208**	-0.023	-0.018	-0.062	-0.055	-0.021	-0.013	-0.002	0.026	-0.039	**-0.094**
Health Problems-15 mos.	**-0.188**	0.006	-0.024	-0.032	0.014	-0.007	0.058	0.009	**-0.113**	**-0.154**	**-0.151**
Reincarcerated-3 mos.	-0.068	0.025	-0.013	-0.01	-0.043	**0.260**	-0.045	0.011	-0.049	0.005	0.020
Reincarcerated-9 mos.	-0.019	0.030	0.048	0.011	0.016	**0.145**	**0.246**	-0.014	-0.013	**-0.113**	0.013
Reincarcerated-15 mos.	-0.002	0.023	-0.006	-0.021	-0.061	**0.120**	**0.231**	**0.223**	0.003	-0.072	**-0.116**
Supervised-3 mos.	**0.070**	-0.016	0.030	0.024	0.026	-0.030	**-0.082**	-0.024	0.046	0.029	0.016
Supervised-9 mos.	**0.095**	-0.017	-0.018	-0.065	0.014	**-0.084**	-0.061	-0.024	-0.054	0.017	0.037
Supervised-15 mos.	0.130	0.008	-0.005	0.013	-0.007	**-0.105**	**-0.173**	-0.028	**0.094**	**0.093**	0.058
Job Services-3 mos.	-0.047	-0.080	-0.030	0.000	-0.002	-0.067	-0.044	-0.036	0.117	0.147	0.054
Job Services-9 mos.	0.016	-0.053	-0.054	-0.008	0.001	-0.078	**0.046**	0.058	**0.043**	0.049	0.090
Job Services-15 mos.	0.049	0.051	-0.026	0.011	0.064	-0.016	**-0.113**	0.012	**0.098**	0.065	0.000

	SVORI participant	Married-Baseline	Married-3 mos.	Married-9 mos.	Married-15 mos.	Health Problems-3 mos.	Health Problems-9 mos.	Health Problems-15 mos.	Reincarcerated-3 mos.	Reincarcerated-9 mos.	Reincarcerated-15 mos.
Age											
African American											
White											
Hispanic/other race											
Index offense-property											
Days Incarcerated											
Age at 1st Arrest											
Job-Baseline											
Job-3 mos.											
Job-9 mos.											
Job 15 mos.											
Child Support-Baseline											
Child Support-3 mos.											
Child Support-9 mos.											
Child Support-15 mos.											
Rearrest-3 mos.											
Rearrest-9 mos.											
Rearrest-15 mos.											
Family Support-3 mos.											
Family Support-9 mos.											
Family Support-15 mos.											
SVORI participant	1.000										
Married-Baseline	0.018	1.000									
Married-3 mos.	0.029	**0.350**	1.000								
Married-9 mos.	0.039	**0.242**	**0.363**	1.000							
Married-15 mos.	0.042	**0.188**	**0.304**	**0.332**	1.000						
Health Problems-3 mos.	0.014	**-0.117**	-0.025	0.008	-0.039	1.000					
Health Problems-9 mos.	**0.083**	**-0.120**	**-0.105**	0.012	0.004	**0.601**	1.000				
Health Problems-15 mos.	0.014	**-0.134**	**-0.153**	-0.030	-0.070	0.465	**0.534**	**1.000**			
Reincarcerated-3 mos.	-0.006	0.055	0.070	**-0.109**	-0.062	-0.050	-0.040	-0.061	1.000		
Reincarcerated-9 mos.	0.019	**-0.081**	-0.033	**-0.082**	**-0.342**	0.007	-0.071	-0.067	**0.249**	1.000	
Reincarcerated-15 mos.	-0.007	**-0.087**	-0.062	-0.004	**-0.296**	-0.033	-0.062	-0.037	**0.090**	**0.429**	1.000
Supervised-3 mos.	-0.024	-0.035	0.040	**0.096**	0.021	-0.021	-0.070	-0.046	-0.018	**0.086**	**0.125**
Supervised-9 mos.	-0.003	0.045	**0.091**	0.022	**0.154**	0.015	-0.005	-0.065	0.036	-0.075	**-0.246**
Supervised-15 mos.	**0.105**	0.010	**0.102**	0.061	**0.149**	0.038	0.049	-0.043	-0.030	**-0.196**	**-0.100**
Job Services-3 mos.	**0.192**	-0.029	-0.044	-0.016	-0.062	-0.030	0.062	0.075	-0.059	-0.013	-0.004
Job Services-9 mos.	**0.105**	-0.057	0.000	**0.084**	0.033	0.038	0.024	0.001	**-0.089**	0.012	-0.023
Job Services-15 mos.	**0.111**	-0.035	-0.022	0.022	**0.128**	0.006	0.078	0.025	-0.040	**-0.095**	**-0.112**

	Supervised-3 mos.	Supervised-9 mos.	Supervised-15 mos.	Job Services-3 mos.	Job Services-9 mos.	Job Services-15 mos.					
Age											
African American											
White											
Hispanic/other race											
Index offense-property											
Days Incarcerated											
Age at 1st Arrest											
Job-Baseline											
Job-3 mos.											
Job-9 mos.											
Job 15 mos.											
Child Support-Baseline											
Child Support-3 mos.											
Child Support-9 mos.											
Child Support-15 mos.											
Rearrest-3 mos.											
Rearrest-9 mos.											
Rearrest-15 mos.											
Family Support-3 mos.											
Family Support-9 mos.											
Family Support-15 mos.											
SVORI participant											
Married-Baseline											
Married-3 mos.											
Married-9 mos.											
Married-15 mos.											
Health Problems-3 mos.											
Health Problems-9 mos.											
Health Problems-15 mos.											
Reincarcerated-3 mos.											
Reincarcerated-9 mos.											
Reincarcerated-15 mos.											
Supervised-3 mos.	1.000										
Supervised-9 mos.	**0.268**	1.000									
Supervised-15 mos.	**0.471**	**0.463**	1.000								
Job Services-3 mos.	0.036	-0.021	0.089	1.000							
Job Services-9 mos.	0.032	**0.055**	**0.139**	**0.310**	1.000						
Job Services-15 mos.	-0.031	**0.078**	**0.095**	**0.188**	**0.350**	1.000					

Notes

[1] It is unclear what type of debt this was and whether child support debt was included.

[2] Our investigation is centered on the impacts that having a child a child support obligation might have on recidivism and employment in reentry. As such, we are interested in how having a child support order affects both participants in the SVORI and non-SVORI groups. To address any differences that arise from analyzing the two groups together, we control for SVORI participation.

[3] These NCIC data were collected from records spanning the entire United States, and not from the twelve states in the study individually. As such, rearrests were captured for the respondents even if he was arrested outside of his home state.

[4] We recognize the strengths and weaknesses of this strategy. While respondents who were reincarcerated were almost certainly rearrested, there could exist respondents who were rearrested but not reincarcerated. As such, we ran all analyses two ways: filling in re-incarcerated as a proxy and without. The model results were almost identical; and hence we report on models using re-incarceration to signify re-arrest in cases missing re-arrest information.

[5] Of the 312 male respondents who had a child support order at baseline, 89% indicated they owed back support; 4% did not answer the question on back support.

[6] Correlations between rearrest and reincarcerated status across the three follow-ups were r=.33, r=.30, and r=.22, respectively. Many rearrested subjects were reincarcerated, and some subjects were rearrested and not reincarcerated. Others were not rearrested but were reincarcerated due to technical violations.

[7] Note the question is asked somewhat differently—BJS asks about primary *financial* responsibility.

[8] A modification of an order means that a judge has signed off on a request from one or both parents to change the order. If one parent initiates the request, the other parent must approve it. The order is not officially modified until a judge has signed the modification request. Not all states allow for child support orders to be modified due to incarceration. And for the states that allow this process, some states initiate the process before incarceration (e.g., in related court hearings) and some states allow for the modification process to take place after the father is sentenced.

[9] Note: a few needs related to interpersonal services (e.g., domestic violence support, etc.) were not included in this list. This change in ranking for child support debt modification—moving up to become the third ranked need of all top 2 needs three months after release—suggests that men with child support obligations are struggling to make their payments and are very cognizant of their obligation and associated needs.

[10] The model chi-squared statistic is based on the covariance matrix of observed variables that is implied by the model. In the case of the model chi-squared statistic, this covariance matrix is compared to the observed covariance matrix (the one implied by the saturated model).

To compute these statistics, we need to estimate variances and covariances involving observed exogenous variables in the model. When we fit a model using SEM, the variances and covariances of the observed exogenous variables are estimated along with the rest of the model. The likelihood that is being maximized is based on multivariate normality of all variables in the model, including the observed exogenous variables. Therefore, after fitting the model, we can obtain an estimate of a joint covariance matrix that includes both endogenous and exogenous variables.

The estimation performed by GSEM here, however, is different. Maximum likelihood estimation is used, but the likelihood is not based on a multivariate normal distribution that includes the exogenous variables. Instead, the likelihood is formed conditional on the exogenous variables. GSEM does not estimate the variance and covariances of exogenous variables along with the other parameters in the model, meaning there is no joint model-implied covariance matrix that can be compared to an observed covariance matrix. Because this estimation performed by GSEM is different, it is not possible to estimate a model chi-squared tests or statistics such as RMSEA and CFI that can be estimated using traditional SEM techniques.

EXHIBIT A14

Does Debt Discourage Employment and Payment of Child Support? Evidence from a Natural Experiment

Source:

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Abstract

Despite substantial technological improvements to the child support enforcement program, many single parents do not receive child support. Particularly for families whose incomes are below the poverty level, child support is frequently a vital financial resource. The federal government's primary motivation for establishing the federal Child Support Enforcement (CSE) program was to recover the costs associated with public assistance payments to poor single-parent families by collecting payments from the noncustodial parents. In this study, we use variation in the birthing costs over time and across counties in Wisconsin to identify the effect of child support debt on nonresident fathers' child support payments and formal earnings. Our results suggest that higher arrears, in themselves, substantially reduce both child support payments and formal earnings for the fathers and families that already likely struggle in securing steady employment and coping with economic disadvantage, a serious unintended consequence of child support policy.

Does Debt Discourage Employment and Payment of Child Support?
Evidence from a Natural Experiment

INTRODUCTION

In Fiscal Year (FY) 2007, more than 60,000 full-time equivalent staff worked in child support programs in the United States to collect child support and related debt owed from approximately 15.8 million cases (U.S. Department of Health and Human Services, Administration for Children and Families, 2008). Despite substantial enhancements and technological improvements to the child support enforcement program, and improved outcomes across many indicators, many single parents do not receive child support, or receive only partial and irregular payments. Over $105 billion in back child support was reported owed for prior years, and $6.9 billion of this debt was collected and distributed in FY 2007. Although current support collections were up slightly from FY 2006, total child support debt continues to grow nationwide, having increased by more than 250 percent in real terms over the last decade.

Unpaid child support and high levels of child support debt contribute to hardship and disruption for both custodial parents (CPs) and noncustodial parents (NCPs) and for their children. Particularly for families whose incomes are below the poverty level, child support is frequently a vital financial resource, contributing to almost one-third of income among families who receive current support payments (Sorensen and Oliver, 2002). A recent study of Wisconsin child support cases showed that 20 percent of families relied on child support for more than half of their income, although only 51 percent of poor families received some support in at least 10 months of the year (Cancian and Meyer, 2005). The absence of or deficiencies in child support payments have also been shown to increase conflict between parents and to reduce NCPs' contact with their children (Ovwigho et al., 2005; Bartfeld, 2003).

Concerns about these burdens on families, however, were secondary to the federal government's primary motivation for establishing the federal Child Support Enforcement (CSE) program—to recover the costs associated with public assistance payments to poor single-parent families by collecting payments

from the noncustodial parents. States collect support payments from NCPs with the assistance of the federal government in covering administrative costs. Families in the child support system who are receiving public assistance have been required to assign their rights to child support collections to the state. The set of CSE tools available to states to enforce collections and impose penalties on delinquent parents has expanded over time and now includes wage withholding and work requirements; tax intercepts; the revocation of driver's, professional, recreational, and occupational licenses and passports; the imposition of liens on property; asset seizure; and incarceration.

Some apparently unintended consequences of the interactions of the welfare and child support systems have been a greater likelihood that low-income, never-married NCPs will accumulate a disproportionate amount of child support debt and face more child support enforcement actions. Poor job skills and lack of employment opportunities frequently contribute to their inability to pay child support, and ability to pay is highly correlated with compliance with support orders (Pate, 2002; Bartfeld and Meyer, 2003; Ha et al., 2006).[1] There is also some evidence that low-income parents facing substantial debts and wage withholding are more likely to become discouraged and leave formal employment. In addition, other policies governing support obligations, such as high interest rate charges on unpaid child support (12 percent in Wisconsin), have contributed to rapidly growing debt balances (Sorensen et al., 2007). This problem is aggravated by parents' poor understanding of policies and procedures for adjusting child support orders and the subsequent failure to make adjustments to orders in the face of unemployment, disability, or incarceration (Pate, 2002).

The limited cooperation of parents with the child support collection system raises not only child support debt but also the level of state resources that are expended on collection efforts (U.S. Department of Health and Human Services, Administration for Children and Families, 2008). In addition, states bear

[1]Note, however, that while higher orders may reduce compliance (often measured as the *proportion* of ordered support paid), at typical levels, higher orders are not associated with lower absolute payments (Ha et al., 2006).

the major burden of other health and social service costs associated with assisting these families. Recently, many analysts have argued for increased efforts to secure child support, citing the need for non-welfare income sources for low-income families given the elimination of Aid to Families with Dependent Children (AFDC) and the subsequent absence of an entitlement to cash assistance (Cancian and Meyer, 2006; Sousa and Sorensen, 2006). However, others have argued that some CSE actions have become counter-productive, exacerbating a problematic cycle in which parents with large arrears balances are less willing and able to cooperate with the formal child support system and subsequent payments are reduced (Bartfeld, 2005; Waller and Plotnick, 2001). Understanding the impact of CSE and growing child support arrears on child support payment patterns is critical to resolving this debate.

In this paper, we aim to make both a substantive and methodological contribution to the literature by using a natural experiment to investigate the relationship between child support arrears and child support case outcomes (including current support payments and formal employment among NCPs). Disentangling the causal effects of debt is challenging, because high child support arrears may be both a cause and a consequence of low compliance with child support orders. We take advantage of the fact that birthing costs, which are charged to the father when an unmarried mother's childbirth costs are covered by Medicaid, vary substantially by county and over time and yet have historically been unrelated to other characteristics of the case. In effect, some fathers with newly established paternity may begin their relationship with the CSE system with a large debt (due to the birthing cost assessment), while other fathers with similar case characteristics or backgrounds may not have to bear these early and high debt burdens. It is this exogenous source of variation that we use to identify the impact of child support arrears on child support case outcomes.

In the following sections we review previous literature in this area, describe the policy context that affords our natural experiment, and discuss the data and methods used to derive our results. We then report findings, which suggest that higher arrears are generally associated with lower child support payments and lower earnings for fathers, although the patterns of effects vary with fathers' age and their

degree of labor market attachment. We discuss the implications of these results for the causal interpretation of the relationships described in prior research, as well as for recent policy debates, in the concluding section.

LITERATURE REVIEW

To identify the true effects of child support arrears and enforcement on child support case outcomes, one would ideally conduct an experiment in which both debt and current support orders (of varying amounts) were randomly assigned to noncustodial parents at the onset. One could then study whether parents facing higher debt burdens and/or support obligations were more likely to fail to pay (and to encounter additional CSE actions) and the subsequent consequences of these failures for future support payments, employment activities, and other case outcomes. Although this type of experiment would not be feasible for legal and ethical reasons, alternative sources of variation in the establishment of payment expectations (for current support and arrears) might be used to nonexperimentally investigate these relationships. The successful identification of causal relationships using nonexperimental methods is frequently challenging, however, and typically relies on one's ability to make a strong case that one or more of the sources of variation being used is exogenous (i.e., operates to randomly influence the causal variable of interest). In this research, we argue that a sizeable component of the initial debt amount assigned to NCPs (who are assessed birthing costs) varies randomly by county and is uncorrelated with unobserved characteristics of NCPs that influence compliance or child support case outcomes.

Our study adds to a growing literature that has attempted to understand and estimate the effects of child support enforcement policy on case outcomes. Researchers have investigated the effects of child support enforcement on noncustodial parents' paternity establishment, divorce and remarriage, contact with their children, employment and earnings, compliance with ongoing child support obligations, and other outcomes using a variety of methods and data (Aizer and McLanahan, 2006; Bartfeld, 2005; Holzer et al., 2005; Huang et al., 2005; Carlson et al., 2004; Plotnick et al., 2004; Bartfeld and Meyer, 2003;

Argys and Peters, 2001; Bloom et al., 1998; Freeman and Waldfogel, 1998, 2001; Seltzer et al., 1998). For example, a number of studies have taken advantage of variation in CSE policies across states and over time (using state and year fixed effects) to identify the effects of stricter child support enforcement on outcomes such as sexual behavior and fertility (Garfinkel et al., 2003; Plotnick et al., 2004); employment and labor force participation (Holzer et al., 2005; Freeman and Waldfogel, 1998); and child support compliance rates (Huang et al., 2005).

In addition, to address concerns about possible unobserved, time-varying heterogeneity across (or within) states that might be correlated with child support policy and case outcomes, a few of these studies have also employed a differences-in-differences strategy (using a comparison group) to estimate outcomes. Holzer et al. (2005) used samples of young black men and comparable white men from the Current Population Survey to estimate the effects of child support policy on the employment rates of blacks versus whites (in models that also included state and time dummy variables).[2] And Freeman and Waldfogel compared custodial and noncustodial fathers in the same states using data from the Survey of Income and Program Participation, with the expectation that if unobserved factors were not driving the results, they would only find effects of CSE policies on noncustodial fathers. Similarly, Aizer and McLanahan (2006) drew from the Fragile Families and Child Wellbeing Study data to compare the effects of stricter child support enforcement on the fertility and child investment decisions of single women relative to married women living in the same state.

Other studies, including that of Bartfeld (2005), who used Wisconsin data comparable to ours, employ an instrumental variables (IV) approach to address the endogeneity problem of unobserved factors influencing both compliance/arrears and child support case outcomes. Drawing on a cross-sectional sample of families from the National Survey of Families and Households, Seltzer et al. (1998:

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[2]Holzer et al. explain that they attribute the observed effect of child support enforcement policy (an index variable) on whites to unobserved heterogeneity and infer its effects on blacks only from any additional effect that this variable has on that group.

173) used as instruments state practice and statute variables—state effectiveness in child support collections, state CSE expenditures, and information on state statutes governing the collection and distribution of child support payments—to "purge the child support coefficients of unobserved characteristics of fathers and families" that might influence parental involvement (their outcome of interest). The performance of their instruments was weak in some models, and thus, they offered a limited interpretation of the results in these cases. In her study of the relationship of child support arrears owed to the state and compliance with ongoing support obligations, Bartfeld (2005) used as an instrument a dummy variable indicating if the child support order had been in effect for more than one year at the time a mother entered welfare, which she suggested would be related to arrears but not to current compliance. Although Bartfeld did not report on the performance of the instrument, the results from her estimation using actual arrears differed from those of the IV estimation, the latter of which showed that there was no relationship between child support arrears and compliance with current support orders.

Bartfeld's (2005) analysis is of particular interest for our study, as she also investigated the relationship of birthing cost assessments to subsequent compliance with current support orders. In addition, she distinguished between discretionary obligors and nondiscretionary obligors in her analysis, where nondiscretionary obligors are those who have consistent formal sector employment, and thus, may have little control over their support payments (which may be withheld or intercepted automatically). Although she was not able to find a suitable instrument to use in modeling the impact of birthing costs on compliance, Bartfeld's multivariate analysis with a rich set of control variables showed that discretionary obligors with birthing cost assessments had significantly lower compliance rates in the first 2 years (after the mother entered welfare). And while this analysis was not able to fully address the standard concerns about endogeneity, it does suggest that these relationships might merit further exploration with improved data and methods.

In general, the substantive results of the above studies suggest that there likely are significant relationships (with important consequences) among child support enforcement activities, the build-up of

debt, and subsequent compliance with current support orders and related family outcomes. CSE actions and expenditures have been shown to be positively related to child support collections (Holzer et al., 2005; Freeman and Waldfogel, 2001), negatively related to out-of-wedlock births (Aizer and McLanahan, 2006), and to have some modest effects on parental involvement and employment outcomes. In the analysis that follows, we aim to advance our understanding of these relationships.

CONCEPTUAL FRAMEWORK AND APPROACH TO ANALYSIS

Child support agencies in some states charge the fathers in nonmarital births for medical costs (including prenatal and perinatal expenses) that are paid for by Medicaid. These assessments (or "birthing" costs) may result in large additions to the state child support debt of fathers, with no expected benefits for the custodial parents or their children. Wisconsin is among the few states that routinely charge birthing costs, with the amounts varying by county and over time.[3] As discussed below, there is no systematic information collected about birthing cost charges over time and across counties. Interviews with individuals familiar with the system suggest that the level of birthing costs assessed vary with a wide range of idiosyncratic factors. Correlation analyses do not show any significant relationship between birthing cost charges and common measures of the strength of child support enforcement.[4] Thus, we make the assumption that this randomly varying assignment of birthing costs, for child support cases in which the arrears are primarily or entirely composed of birthing costs, will result in child support debt burdens that are unrelated to fathers' income or ability to pay child support, or to the exposure to child support enforcement efforts.

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[3]We know of no systematic source of information on the jurisdictions that typically charge Medicaid birthing costs to nonresident fathers. New York and Wisconsin are among the only states known to routinely assess birthing costs. (Personal communication with Vicki Turetsky, March 2009.)

[4]For example, using measures for a point in time (in 1998), we found no significant correlation between birthing costs typically assigned in a county and the percent of IV-D cases with paternity established, with a court order, or with collections.

Theoretically, we adopt the perspective that orders to make payments on current child support obligations and payments on arrears may be viewed as a proportional tax on earnings. Child support orders in Wisconsin are typically assessed at 17 percent of income for the first child. In addition, if birthing costs constitute more than half (52 percent) of the required current child support order amount, the assessment of birthing charges will mechanically trigger actions to recover the arrears, including the establishment of an arrears payment plan and county enforcement actions.[5] In a regression analysis using Wisconsin child support cases with current support orders, we confirmed that the amount of the monthly child support order is a very strong, statistically significant and positive predictor of the dollar amount of any monthly arrears payment order.[6] Thus, similar to obligations to pay current support orders, we expect requirements to make payments on arrears balances to function like a proportional tax on the income (or earnings) of noncustodial parents.

Basic principles of taxation theory suggest that the imposition of a proportional tax on earnings is likely to induce one or both of two contrasting effects on an individual's work behavior. The first of these possible behavioral responses is a substitution effect, in which the individual reduces work effort given that the costs of enjoying more leisure are relatively lower following the assessment of the tax. Alternatively, the child support and arrears payment burdens may induce individuals to work more hours in order to attain the same level of net earnings (or take-home pay) after the payment amounts (analogous

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[5]See http://dcf.wisconsin.gov/publications/dwsc_864_p.htm for additional details on income withholding and other child support payment guidelines.

[6]The dependent variable in the regression was the dollar amount that a custodial parent was ordered to pay monthly toward arrears for a given case. The predictor variables included the fixed monthly dollar amount of the current child support order due, the amount of the arrears debt balance at the time the order to pay on arrears was established, the current support debt balance, the total number of child support subaccounts for which the noncustodial parent was ordered to pay current support, an indicator for paternity cases, the number of children involved in the case, an indicator for African American and an indicator for never-married parents. In addition to the fixed monthly dollar amount of the current child support order due, the amount of the arrears debt balance at the time the order to pay on arrears was established was also a strong, positive, and precise predictor of the arrears payment order amount. The complete results are available from the authors upon request.

to taxes) are deducted. The econometric evidence on the implications of proportional taxation is by and large inconclusive, in part because the two effects in combination may cancel each other out.

We hypothesize that we may observe differential effects of arrears payment burdens for noncustodial parents with differing histories of labor force attachment and earnings. If a NCP's options for increasing his work hours are limited or difficult to realize, the substitution effect may dominate, leading the NCP to reduce labor force participation. If instead the NCP has stable employment, he may not only be able to increase work hours, but he may also be able to take advantage of income exclusions and deductions that allow him to protect some of his income from taxation and moderate the change in the relative costs of leisure and work effort (see Feldstein, 1999). For NCPs who work but not continuously with a stable employer, either effect might dominate.

Recent research has also shown, however, that child support orders are not always updated with changes in income; in fact, Ha, Meyer, and Cancian (2006) show that it is unusual for orders to change in ways that are consistent with earnings changes, including the major increases or declines (such as a move to unemployment). On the other hand, Rich, Garfinkel, and Gao (2006: 4) report that updating of child support obligations is "more common than not" for families receiving public assistance, and they thus suggest the effect of child support and debt burdens on NCPs should be to discourage work. If the updating of orders happens infrequently or does not closely correspond to earnings, one might alternatively argue that the effect of these burdens will operate more like a lump-sum tax. For those working in the formal economy, a lump-sum tax, although it has no distortionary effect, is expected to induce an increase in labor (i.e., an income effect) to offset the lower income (Fullerton, 1991).[7] Clearly, this is an unresolved issue for which bringing more empirical analysis to bear is essential to better understand the impact of debt burdens on NCP employment and earnings outcomes.

[7]Because income in the informal economy is not directly subject to CSE, a lump-sum tax creates an incentive to substitute informal for formal employment.

As detailed below, we develop a measure of the typical birthing costs charged for Medicaid births by county and month. This measure is highly correlated with child support arrears but is uncorrelated with observed (and we assume unobserved) characteristics of birth parents that affect child support payments and other outcomes of interest (e.g., earnings). In other words, birthing costs satisfy two basic conditions of instrumental variables (Heckman, 1997): they determine arrears (the "treatment" of interest in this study) but are mean-independent of the error terms in our outcome equations. Exploiting this instrument, we estimate the relationship between child support arrears and subsequent child support payments. We also estimate the relationship between arrears and nonresident fathers' formal earnings, and we investigate how this relationship might differ for fathers' with stable employment histories versus those with more limited labor force attachment or no recent earnings.

DATA AND METHODS

We use state administrative records for paternities established in Wisconsin between November of 1997 and December of 2003. All cases meet the following selection criteria: the mother is the custodial parent, the father is assessed birthing costs in one of the 23 counties for which we have developed information on typical birthing charges, and the child is the first born to the father (enabling us to match the birthing charges to a particular child). We also restrict our sample to those for whom we observe father and child's date of birth, date of paternity establishment, and father's Social Security number (to allow matching with earnings records). A full explanation of the sample selection criteria is included in Appendix A. Our final sample for analysis includes 12,631 fathers.

We also developed our measure of typical birthing costs from these administrative data. Because we know of no documentation of historical birthing costs by county, we used the administrative data to determine the modal birthing cost in each county and month. We included in our analysis the 23 counties (of a total of 72) for which we had sufficient numbers of observations and sufficiently regular cost amounts, so that we could measure a typical birthing cost amount that was unrelated to the characteristics

of the individual cases in that county and month.[8] It is also important to note that these 23 counties included 80 percent of the total number of Wisconsin child support cases with paternity established. For a few counties and periods, when it appears that a new birthing charge was phased in over time, we allow there to be two "typical" birthing costs in a given county and month.[9]

For the 12,631 cases in our sample, the simple correlation between actual birthing costs charged to the father and the typical county/month costs is 0.75. Across all the county/months included in this analysis, the median proportion of cases in which the actual birthing cost charge matched the typical cost was 81 percent. Typical birthing charges are also highly correlated with total arrears—0.60 at the beginning of year 1, and 0.27 at the beginning of year 2. As anticipated, these simple statistics suggest that county/month variation in birthing costs will serve as an effective instrument—generally invariant to fathers' individual characteristics but highly correlated with arrears.

Table 1 shows the means of the primary variables used in our analysis, including actual and typical birthing costs. Actual birthing costs charged to fathers ranged from $10 to $22,584, with a mean of $2,330. Our measure of typical birthing costs in a county/month ranged from $1,100 to $4,700, with a mean of $2,378. Seventy-nine percent of fathers had pre-birth annual earnings, which averaged $8,572 per year for those with any earnings. Low earnings are expected given a relatively young sample who had fathered children outside of marriage (over 40 percent of the fathers were under 21 at the time the child was born, and thus even younger when pre-birth earnings were measured), and who had a low-income partner eligible for Medicaid. The top panel of Table 1 shows our dependent variables. Eighty percent of fathers paid some child support in the first year, and 73 percent paid in the second year. Among those

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[8]We include 23 counties for 6 years and 3 months, for a total of 1725 county/months. Of these we exclude 40 individual county/months because of insufficient sample sizes and/or inconsistent patterns of birthing costs, for a total of 1,685 county/months. See Appendix B for details regarding the determination of typical birthing costs.

[9]We assign to each case the most frequent birthing cost (first typical cost) for the relevant county and month if the absolute difference between observed birthing cost for that case and the first typical cost is less than $150, or otherwise the closest of the two typical charges. Details of the procedures followed in determining typical birthing costs are provided in Appendix B.

Table 1
Descriptive Statistics of Primary Variables Used in the Empirical Analysis

	Mean	Median	Minimum	Maximum
Dependent Variables				
Percent paying any child support in Year 1	79.78%			
Percent paying any child support in Year 2	73.49			
Child support paid in Year 1	$1,584.93	$1,122.08	0.00	$22,129.92
Child support paid in Year 2	1,539.29	988.29	0.00	21,691.53
Child support paid in Year 1 (conditional on some payment)	1,986.63	1,702.67	$1.97	22,129.92
Child support paid in Year 2 (conditional on some payment)	2,094.44	1,840.99	0.93	21,691.53
Percent with any formal earnings in Year 1	75.45%			
Percent with any formal earnings in Year 2	70.16			
Formal earnings in Year 1	$9,371.28	5,249.00	0.00	49,883.00
Formal earnings in Year 2	9,616.32	4,569.00	0.00	49,908.00
Formal earnings in Year 1 (conditional on some earnings)	12,420.63	9,921.00	4.00	49,883.00
Formal earnings in Year 2 (conditional on some earnings)	13,706.14	11,003.00	4.00	49,908.00
Independent Variables				
Actual birth costs*	2,330.29	2,285.00	10.00	22,584.00
Typical birth costs	2,378.05	2,300.00	1,100.00	4,700.00
Arrears at beginning of Year 1	2,444.77	2,320.34	0.00	22,887.33
Arrears at beginning of Year 2	3,045.14	3,035.69	0.00	25,176.50
Father's employment during 7–18 months prior to birth of child				
Zero quarter of earnings (percent)	21.28%			
1–3 quarters of earnings (percent)	37.36			
4 quarters of earnings with a single employer reporting earnings in all 4 quarters (percent)	11.59			
4 Q of earnings with multiple employers reporting earnings in all 4 quarters (percent)	29.77			
Annual earnings of Father 7–18 months prior to birth of child	$6,748.18	3,394.00	0.00	39,750.00
Annual earnings of Father 7–18 months prior to birth of child (conditional on being Positive)	8,572.49	5,703.00	7.00	39,750.00
Time difference among events including birth of child, paternity establishments, first child support order, and LI order				
LI ordered within 6 months after first child support order and paternity established within 6 months after birth of child	37.02%			
First child support owed before LI order	11.95			
First child support order after 6 months following LI order, or paternity established after 6 months following birth of child	51.03			

(table continues)

Table 1, continued

	Mean	Median	Minimum	Maximum
Whether father has additional legal obligations for a child in the post baseline periods.				
No more child within a year (percent)	74.05%			
Fathers who have additional legal obligations for a child of the same partner within a year (percent)	8.96			
Fathers who have additional legal obligations for a child of another mother within a year (percent)	16.99			
No more child within two years (percent)	68.78			
Fathers who have additional legal obligations for a child of the same partner within two years (percent)	11.25			
Fathers who have additional legal obligations for a child of another mother within two years (percent)	19.97			
Age of Father at Birth of Child				
17–20	41.35			
21–24	32.61			
25–28	13.29			
29+	12.75			
Race of Father				
White	41.64			
Black	38.59			
Others	10.31			
Missing	9.46			
County of Child Support Order				
Milwaukee	40.45			
Racine	7.07			
Dane	6.67			
Brown	4.93			
Kenosha	4.25			
Other 18 Counties included	36.63			
Year of child's birth				
1998	22.59			
1999	19.44			
2000	18.38			
2001	18.07			
2002	15.54			
2003	5.98			

*Actual birthing costs are not included in the models and are shown here for reference only. Cases in which the year of child's birth is 1998 include 3.26 percent (n=412) cases in which child was born in November or December of 1997. N=12,631.

paying some support, median amounts were $1,703 and $1,841 in the first and second year, respectively. This is a substantial portion of earnings for many fathers; among the 75 percent of fathers with formal earnings in the first year following the birthing costs order, median earnings were just below $10,000.[10]

In estimating the relationship between child support arrears and nonresident fathers' subsequent child support payments and formal earnings, we employ two basic approaches. In the first set of models, we simply include typical birthing costs in an ordinary least squares (OLS) regression with other control variables to assess their effects on child support paid and father's formal earnings. As indicated above, typical birthing costs vary by county and over time and are highly correlated with total arrears.[11] In the second (IV) specification, we estimate a two-stage model. In the first stage, we predict total arrears with our typical birthing cost measure (varying by county and over time) as the focal instrumental variable, and we also include other county-level measures of baseline[12] labor market conditions (average earnings by industry and industry employment shares) that we expect may influence arrears but are unrelated to fathers' characteristics that affect child support payments and earnings. This first stage model also includes measures of fathers' labor market histories, baseline demographic characteristics (e.g., age, race, family composition), and county dummies. Predicted arrears from this first-stage estimation were then entered into the second stage outcome models to assess the relationship between arrears and the outcomes of interest.

In both of the above approaches to identification, we include interactions of the birthing cost measures with measures of fathers' employment histories (prior to the birth of their first child) in the outcome models. Specifically, we constructed four measures of fathers' employment histories: an

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[10]Note that the Wisconsin child support guidelines generally call for a father of one child to pay 17 percent of income in support.

[11]We use our measure of typical birthing costs, which are unrelated to father's individual characteristics, rather than actual birthing costs assessed for the individual case. Estimates using actual birthing costs are qualitatively similar.

[12]Our *baseline* is defined as the first full quarter after we observe both positive child support owed *and* an order to pay birthing costs.

indicator for fathers who worked 1–3 quarters during the 7–18 months prior to the birth of their first child; an indicator for fathers who worked all four quarters of the 7–18 months before the birth of their first child for a single (the same) employer; an indicator for fathers who worked for all four quarters and had more than one employer in the 7–18 months before the birth of their first child; and an indicator for fathers who had no (zero) earnings reported during the 7–18 months prior to the birth of their first child. The three measures for fathers with at least some employment prior to the birth of their first child were entered into the outcome model and also interacted with typical birthing costs (or with predicted arrears) in the estimation of these models. The objective of estimating these models is to test the differing predictions of theory discussed above, for which the current base of empirical evidence provides mixed support or limited insight into the relationship of fathers' labor market attachment to the added burden of debt.

RESULTS

We first consider whether child support debt discourages payment of child support. Birthing costs, assessed at the beginning of a father's child support payment experience and varying randomly across county and month (that is, independently of fathers' own characteristics), provide an opportunity to identify the effects of child support debt on child support payments. Table 2 shows two sets of estimates from the two model specifications with the interactions described above. The first set is based on our simple estimation of the effects of typical birthing costs using OLS regression. The second set of estimates are from the two-stage IV model, with typical birthing costs and other exogenous factors used in the first stage model to predict total arrears, and predicted arrears included in the second stage model to estimate child support paid. The results of the first-stage estimation are reported in Appendix C, and decisively confirm the validity of our focal instrument, typical birthing costs, as a strong statistically significant predictor of total arrears. Other instruments such as the (logged value of) total employment in a given county and year and employment shares in industry sectors (e.g., construction) are also strong

Table 2
OLS & Two-Stage Models of Effects of Child Support Debt on Child Support Paid in the First and Second Year after Baseline with Interactions

	Model: OLS with Typical County/Month Birthing Charges				Model: Two Stage Model with Predicted Arrears			
	Father's Payments 1st Year after Baseline		Father's Payments 2nd Year after Baseline		Father's Payments 1st Year after Baseline		Father's Payments 2nd Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.
Intercept	517.75	10,163.00	-7,584.12	12,503.00	3,088.37	10,876.00	-9,135.04	13,154.00
Typical Lying-in (LI) costs/$1,000 (for county/month), or Predicted arrears/$1,000 (at baseline and baseline+1 year)	141.31***	43.86	200.61***	48.13	112.91**	57.36	202.87***	65.24
Father's employment during 7–18 months prior to birth of child (reference category: zero quarter of earnings)								
1–3 quarters of earnings	233.13***	78.16	290.24***	84.51	290.53***	87.21	344.82***	94.36
4 quarters of earnings with a single employer	105.27	120.20	461.76***	129.97	69.43	125.14	392.57***	135.51
4 quarters of earnings with multiple employers	208.03**	89.66	399.46***	97.02	199.14**	98.15	400.28***	106.29
Interaction: Father has positive pre-earnings for 1–3 quarters*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-210.17***	31.62	-225.52***	34.18	-213.78***	32.99	-224.35***	35.69
Interaction: Father has positive pre-earnings all 4 quarters with a single employer*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-194.88***	42.80	-289.41***	46.29	-162.22***	45.12	-238.54***	48.83
Interaction: Father has positive pre-earnings all 4 quarters with multiple employers*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-260.66***	33.12	-298.35***	35.88	-238.75***	35.05	-274.36***	37.96
Annual Earnings of Father 7–18 months prior to birth of child (conditional on some earnings divided by $1,000)	111.22***	5.90	97.29***	6.38	109.52***	5.93	96.26***	6.41
Father's annual earnings squared 7–18 months prior to birth of child (conditional on some earnings and divided by $1,000,000)	-0.75***	0.17	-0.84***	0.19	-0.73***	0.18	-0.83***	0.19

(table continues)

Table 2, continued

	Model: OLS with Typical County/Month Birthing Charges				Model: Two Stage Model with Predicted Arrears			
	Father's Payments 1st Year after Baseline		Father's Payments 2nd Year after Baseline		Father's Payments 1st Year after Baseline		Father's Payments 2nd Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.
Time difference among events including birth of child, paternity establishments, first child support order, and LI order (reference category: LI ordered within 6 months after first child support order and paternity established within 6 months after birth								
First child support owed before LI order	101.55**	43.03	98.56**	46.49	152.38**	59.92	97.85	66.33
First child support order after 6 months following LI order, or paternity established after 6 months following birth of child	-93.30***	30.35	-101.79***	32.61	-102.63***	31.49	-98.94***	34.09
Whether father has additional legal obligations for a child at the beginning of the first (or second) year after baseline (reference category: no more child)								
Father has one female partner but more than one child	-172.06***	43.41	-210.51***	42.51	-174.16***	43.43	-211.85***	42.55
Father has more than one female partner	-303.06***	33.60	-306.25***	34.38	-306.14***	33.61	-309.90***	34.40
Age of Father (reference category: 17–20)								
21–24	84.89***	29.46	57.72*	31.87	90.25***	29.51	60.66*	31.96
25–28	223.33***	40.02	209.15***	43.27	229.66***	40.05	213.97***	43.32
29+	250.55***	41.34	246.28***	44.78	262.79***	41.56	254.50***	45.08
Race of Father (reference category: Black)								
White	684.05***	34.56	662.24***	37.37	675.15***	35.47	663.99***	38.43
Others	375.84***	43.68	339.16***	47.21	380.25***	43.69	345.73***	47.23
Missing	811.45***	50.54	740.70***	54.72	801.39***	51.63	744.15***	56.08
Year of LI Order (reference category: between November 1997 and December 1998)								
Year 1999	-85.69**	40.20	-176.51***	44.03	-83.65**	40.71	-180.37***	44.82
Year 2000	-149.24***	46.81	-195.45***	50.73	-138.48***	50.95	-203.95**	56.09
Year 2001	-207.15***	55.36	-297.22***	60.33	-187.55***	64.25	-306.92***	71.38
Year 2002	-316.33***	66.16	-383.40***	71.64	-280.00***	82.84	-393.83***	91.71
Year 2003	-372.64***	86.63	-420.03***	91.06	-325.18***	105.09	-430.65***	113.11

Notes: Also included in these models but not shown in this table were county dummies and county-level controls for average total employment, average earnings by industry and industry employment shares. * implies statistical significance at α=0.10; ** at α=0.05 and *** at α=0.01.

predictors in the first-stage model. Since the equation is over-identified (i.e., there are more instruments than problematic explanatory variables), we expect these strong instruments to yield coefficient estimates with negligible bias and approximately normal standard errors, given our large sample size (Murray, 2006).

The parameter estimates in these models (in Table 2) are generally consistent with prior research. Child support payments are higher for fathers with higher earnings, for older fathers, and for non-black fathers. We also include measures of legal commitments to other mothers and the number of children (measured at the beginning of the year). Both of these variables are associated with reduced child support payments in both years. Fathers for whom there is a longer time lag between paternity establishment and baseline—where the baseline is the first month after the full quarter with both birthing costs and positive child support owed—pay less support in both years.

The OLS and two-stage models produce patterns of estimated effects of child support debt on subsequent child support payments that are generally comparable. The OLS estimates suggest that an additional $1,000 of typical birthing charges increases child support paid by an average of $141 (about 9 percent of average child support paid) in the first year, and $200 (13 percent) in the second year for fathers with no employment in the 7–18 months prior to the birth of their first child; the comparable two-stage model estimates suggest increases of $113 and $203, respectively, in child support paid by these fathers for each $1,000 in predicted arrears. For fathers who were employed in the 7–18 months prior to the birth of their first child, the estimated effects in both the OLS and two-stage models—taking into account the statistically significant interactions between labor market attachment and birthing costs—are all negative, implying reductions in child support paid.[13,14] For example, the OLS models show that

[13]Child support distribution hierarchies mean that most child support collected would be distributed for current support before going to pay birthing costs. Nonetheless, we also estimated a model in which we included payments towards birthing costs in our measure of payments—to verify that birthing costs were associated with lower total payments, rather than simply with lower payments towards current support. Our results were qualitatively similar, with birthing costs having a statistically significant negative effect on total payments in all four models.

fathers employed 1–3 quarters prior to birthing charges paid $68.86 less in child support in year 1 and $24.91 less in year 2 for each $1,000 in typical birthing costs; the two-stage models suggest these fathers paid $100.87 less in child support in year 1 and $21.48 less in year 2 for each $1,000 in predicted arrears. In addition, the negative effects are likewise substantial for fathers who worked all four quarters for a single employer, and they are largest for those who had more than one employer (sequentially or concurrently) in the 7–18 months before the birth of their first child. Focusing on the two-stage model and fathers who worked four quarters for multiple employers, we find that fathers pay $126 less in child support in year 1 and $71 less in year 2 for each $1,000 in predicted arrears. Although we pay a small price in precision (slightly wider confidence intervals) using the predicted values of arrears, as is typical for IV estimation, both sets of estimates of the moderating effects of child support debt on payments by working fathers are statistically significant and suggest substantively important effects.

Automatic wage withholding has made child support payments increasingly nondiscretionary for fathers working in the formal labor market. As discussed earlier, increased child support debt burdens may induce some fathers to work more hours in order to attain the same level of take-home pay, while the substitution effect may dominate for others with limited options for increasing work hours, leading them to reduce labor force participation. Other low-income fathers facing large debts and substantial wage withholding may simply become discouraged and leave formal employment. Table 3 shows estimates of the effects of child support debt on nonresident fathers' total earnings in the first and second years after baseline from OLS and two-stage least squares models that parallel those in Table 2. In each of the models, the effect of birthing costs assessments on earnings (for fathers with no employment in the 7–18 months before the birth of their first child) is positive, although statistically significant only in year 2; a $1,000 increase in birthing charges is associated with an increase in formal earnings of $430 in the first post-baseline year and $597 in the second year in the OLS models, and $500 and $947, respectively, in

[14]In an alternative specification, we excluded cases with zero child support paid. The estimated effects were larger but followed similar patterns.

Table 3
OLS & Two-Stage Models of Effects of Child Support Debt on Father's Earnings in the First and Second Year after Baseline with Interactions

	Model: OLS with typical county/month birthing charges				Model: Two Stage Model with predicted arrears			
	Father's Earnings 1st Year after Baseline		Father's Earnings 2nd Year after Baseline		Father's Earnings 1st Year after Baseline		Father's Earnings 2nd Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.
Intercept	-122,142.00*	63,412.00	-182,211.00**	80,651.00	-124,216.00*	67,831.00	-203,295.00**	84,778.00
Typical Lying-in (LI) costs/$1,000 (for county/month), or Predicted arrears/$1,000 (at baseline and baseline +1)	429.82	273.66	596.62*	310.43	500.10	357.73	947.23**	420.49
Father's employment during 7–18 months prior to birth of child (reference category: zero quarter of earnings)								
1–3 quarters of earnings	668.30	487.69	713.70	545.15	969.94*	543.94	1,102.22*	608.14
4 quarters of earnings with a single employer	1,015.07	749.94	1,547.78*	838.35	1,618.23**	780.51	2,578.88***	873.37
4 quarters of earnings with multiple employers	1,714.53***	559.45	2,396.84***	625.85	1,811.39***	612.17	2,822.31***	685.05
Interaction: Father has positive pre-earnings for 1–3 quarters*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-8.41	197.27	-59.77	220.49	-116.11	205.76	-191.17	230.04
Interaction: Father has positive pre-earnings all 4 quarters with a single employer*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-377.94	267.05	-475.30	298.59	-595.06**	281.41	-835.45***	314.73
Interaction: Father has positive pre-earnings all 4 quarters with multiple employers*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-635.68***	206.65	-886.20***	231.46	-647.67***	218.61	-1,011.88***	244.69
Annual Earnings of Father 7–18 months prior to birth of child (conditional on some earnings divided by $1,000)	770.95***	36.83	823.87***	41.16	773.00***	36.96	828.18***	41.31
Father's annual earnings squared 7–18 months prior to birth of child (conditional on some earnings and divided by $1,000,000)	-2.12*	1.09	-5.09***	1.22	-2.17**	1.09	-5.16***	1.22

(table continues)

Table 3, continued

	Model: OLS with typical county/month birthing charges				Model: Two Stage Model with predicted arrears			
	Father's Earnings 1st Year after Baseline		Father's Earnings 2nd Year after Baseline		Father's Earnings 1st Year after Baseline		Father's Earnings 2nd Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.
Time difference among events including birth of child, paternity establishments, first child support order, and LI order (reference category: LI ordered within 6 months after first child support order and paternity established within 6 months after birth								
First child support owed before LI order	-691.74***	268.45	-1,214.69***	299.90	-831.78**	373.71	-1,576.51***	427.53
First child support order after 6 months following LI order, or paternity established after 6 months following birth of child	-665.25***	189.34	-757.64***	210.35	-630.34***	196.39	-675.57***	219.73
Whether father has additional legal obligations for a child at the beginning of the first (or second) year after baseline (reference category: no more child)								
Father has one female partner but more than one child	-311.63	270.86	-284.03	274.23	-311.91	270.89	-281.02	274.22
Father has more than one female partner	-982.81***	209.63	-1,141.33***	221.79	-985.47***	209.62	-1,145.10***	221.73
Age of Father (reference category: 17–20)								
21–24	-268.96	183.82	-492.36**	205.55	-271.04	184.08	-505.55**	205.96
25–28	-272.68	249.69	-741.19***	279.10	-288.16	249.80	-771.43***	279.19
29+	-887.27***	257.94	-1,426.86***	288.84	-900.57***	259.24	-1,472.22***	290.57
Race of Father (reference category: Black)								
White	2,923.41***	215.65	3,124.58***	241.05	2,951.71***	221.25	3,189.44***	247.69
Others	2,230.64***	272.50	2,139.72***	304.53	2,237.53***	272.48	2,145.29***	304.41
Missing	3,964.06***	315.32	4,655.02***	352.95	3,998.36***	322.01	4,743.94***	361.43
Year of LI Order (reference category: between November 1997 and December 1998)								
Year 1999	-854.93***	250.80	-1,175.89***	284.00	-859.95***	253.91	-1,228.88***	288.89
Year 2000	-1,783.01***	292.08	-1,893.07***	327.24	-1,818.60***	317.80	-2,048.25***	361.50
Year 2001	-2,304.16***	345.38	-2,328.67***	389.16	-2,343.81***	400.74	-2,554.66***	460.05
Year 2002	-2,968.63***	412.78	-2,708.84***	462.11	-3,027.22***	516.71	-3,038.98***	591.08
Year 2003	-3,127.70***	540.54	-2,862.28***	587.37	-3,209.35***	655.44	-3,256.54***	729.00

Notes: Also included in these models but not shown in this table were county dummies and county-level controls for average total employment, average earnings by industry and industry employment shares. * implies statistical significance at α=0.10; ** at α=0.05 and *** at α=0.01.

the two-stage models. For fathers employed 1–3 quarters prior to the birth of their first child—taking into account the interaction between birthing cost charges and recent labor market attachment—the resulting effect is also positive and larger in year 2 than year 1. In year 2, the OLS model shows that these fathers earn $537 more for each $1,000 in typical birthing costs, while the two-stage model suggests that they earn $756 more in year 2 for each $1,000 in predicted arrears. And for fathers working for a single employer all four quarters prior to the birth of their first child, the moderating effects of birthing cost charges are again positive but considerably smaller for three of the models ($52 to $121), and in the two-stage model predicting year 1 earnings, the net effect is negative (reducing earnings by $95).

Table 3 also shows, however, that for fathers working all four quarters in the 7–18 months before the birth of their first child with more than one employer (sequentially or concurrently), the moderating effects of additional debt are negative. The OLS models show that these fathers earn $206 less in year 1 and $290 less in year 2 for each $1,000 in typical birthing costs, and the two-stage models suggest reductions in earnings of $148 and $65, respectively, in years 1 and 2.[15] These reductions in formal earnings are not only statistically significant but are also substantively important, representing up to 2.5 percent of average pre-baseline earnings (and 3 percent of median pre-baseline earnings) for each additional $1,000 in debt. In general, the results in Table 3 suggest that fathers with less labor market attachment in the pre-baseline year may have more opportunity for increasing their labor force participation and earnings, and it appears that on net, they do this in response to the imposition of birthing costs. For fathers working all four quarters in the pre-baseline year for a single employer, the moderating effects of birthing costs charges are smaller, likely reflecting their limited ability to increase earnings in the short term. And for fathers working for more than one employer in the pre-baseline period, we suggest that the observed negative effect of birthing cost charges may reflect reductions in extra work effort

[15]In an alternative specification, we excluded cases with zero earnings. The estimated effects were larger but again followed similar patterns.

among these fathers in response to this new tax on their earnings; that is, the substitution effect appears to dominate.[16]

We also estimated the two-stage least squares models shown in Tables 2 and 3 separately for fathers age 17–20 years and for those age 21 years and older at the birth of their first child. In Table 4, we first present the key results for the interactions between pre-baseline employment categories and predicted arrears, along with the main effects for these variables for the earnings outcomes (showing results for fathers age 17–20 and those 21 years and older side-by-side). What is immediately apparent in this table is that the moderating effects of birthing cost charges on earnings are experienced primarily by younger fathers. In fact, while the coefficients on the interaction terms are all statistically significant for fathers age 17–20 years, only one interaction term for older fathers is statistically significant (for those working all four quarters for more than one employer in the second year). We generally find that although fathers are earning more and paying more child support in the second year post-baseline than in the first year after the imposition of birthing cost charges, the imposition of birthing cost charges has a "discouraging" (negative) effect on work and child support payments in both years that is clearly stronger for younger fathers who are first getting a "toehold" in the labor market. In addition, the negative moderating effect of arrears is actually strongest for young fathers who were working for a single employer all four quarters in the 7–18 months before the birth of their first child, with large reductions in earnings of $366 in year 1 ($849 – $1,215) and $896 ($,1044 – $1,940) in year 2. Alternatively, Table 5 shows that there is little difference in the moderating effects of arrears on fathers' child support payments for younger versus older fathers; the interactions are negative, statistically significant and of fairly similar size for both groups of fathers, and generally consistent with the findings presented in Table 2.

[16]Because child support debt might be expected to discourage all formal employment, as a sensitivity test, we also estimated probit models of any employment in the first or second year. The results again suggested a significant effect of debt on employment, in both years, whether estimated using OLS or a two-stage model with predicted arrears.

Table 4
Two-Stage Models of Effects of Child Support Debt on Earnings in the First and Second Year after Baseline by Fathers' Age

	Model: Two Stage Model for Fathers Age 17–20 Years				Model: Two Stage for Fathers Age 21 or More Years			
	Father's Earnings 1st Yr after Baseline		Father's Earnings 2nd Yr after Baseline		Father's Earnings 1st Yr after Baseline		Father's Earnings 2nd Yr after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.
Intercept	-59,345.00	93,684.00	-127,889.00	120,019.00	-170,802.00*	95,190.00	-222,665.00*	117,095.00
Typical Lying-in (LI) costs/$1,000 (for county/month), or Predicted arrears/$1,000 (at baseline and baseline +1)	848.51*	473.64	1,043.71*	563.18	162.94	517.24	709.54	604.47
Father's employment during 7–18 months prior to birth of child (reference category: zero quarter of earnings)								
1–3 quarters of earnings	1,409.00**	659.93	1,907.86**	748.81	79.34	857.65	-412.91	954.06
4 quarters of earnings with a single employer	4,351.60***	1,273.55	6,994.86***	1,443.81	-824.64	1,080.71	-886.09	1,203.78
4 quarters of earnings with multiple employers	3,233.47***	818.78	3,625.87***	929.53	-136.29	913.21	711.39	1,016.91
Interaction: Father has positive pre-earnings for 1–3 quarters*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-460.36*	259.49	-449.47	294.62	217.92	311.45	131.67	346.50
Interaction: Father has positive pre-earnings all 4 quarters with a single employer*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-1,214.74**	482.12	-1,940.39***	546.61	-152.60	373.69	-178.23	416.04
Interaction: Father has positive pre-earnings all 4 quarters with multiple employers*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-978.47***	297.31	-1,019.95***	337.00	-303.43	314.63	-745.37**	350.90

Note: * implies statistical significance at α=0.10; ** at α=0.05 and *** at α=0.01.

Table 5
Two-Stage Models of Effects of Child Support Debt on Child Support Paid in the First and Second Year after Baseline by Fathers' Age

	Model: Two Stage Model for Fathers Age 17–20 Years				Model: Two Stage for Fathers Age 21 or More Years			
	Father's Payments 1st Yr after Baseline		Father's Payments 2nd Yr after Baseline		Father's Payments 1st Yr after Baseline		Father's Payments 2nd Yr after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.	Coeff.	S.E.
Intercept	2,529.32	13,729.00	-14,766.00	17,403.00	4,013.06	15,751.00	-4,199.35	18,647.00
Typical Lying-in (LI) costs/$1,000 (for county/month), or Predicted arrears/$1,000 (at baseline and baseline +1)	64.37	69.41	142.42*	81.66	137.76	85.59	228.62**	96.26
Father's employment during 7–18 months prior to birth of child (reference category: zero quarter of earnings)								
1–3 quarters of earnings	263.74***	96.71	363.18***	108.58	141.28	141.92	172.18	151.93
4 quarters of earnings with a single employer	445.57**	186.63	801.00***	209.35	-316.56*	178.83	40.29	191.69
4 quarters of earnings with multiple employers	166.47	119.99	504.77***	134.78	-26.28	151.11	144.96	161.94
Interaction: Father has positive pre-earnings for 1–3 quarters*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-138.52***	38.03	-144.22***	42.72	-239.53***	51.54	-250.50***	55.18
Interaction: Father has positive pre-earnings all 4 quarters with a single employer*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-183.95***	70.65	-271.77***	79.26	-171.05***	61.84	-249.06***	66.25
Interaction: Father has positive pre-earnings all 4 quarters with multiple employers*typical birthing costs/$1,000 (or predicted arrears/$1,000)	-112.26***	43.57	-176.89***	48.87	-303.20***	52.06	-319.26***	55.88

Note: * implies statistical significance at α=0.10; ** at α=0.05 and *** at α=0.01.

Taken as a whole, the results of our analysis suggest that the effects of large additions to child support debt burdens (through birthing costs charges) on nonresidential fathers' future earnings and payment of current support will depend importantly on their ability to meet or offset these new payment obligations with increased labor force participation. Perhaps of paramount concern for policymakers is the finding that younger fathers with stronger labor market attachment prior to birthing cost assessments are likely to reduce their earnings and current child support payments the most in the face of higher debt burdens. Clearly, many families may be negatively affected by these fathers' responses to increasing child support debt.

CONCLUSIONS

In this study, we use variation in the birthing costs over time and across counties in Wisconsin to identify the effect of child support debt on nonresident fathers' child support payments and formal earnings. Because birthing costs are only assessed for mothers covered by Medicaid, our results apply to a low-income sample. However, about 70 percent of all child support arrears are estimated to be owed by fathers with no formal earnings or earnings below $10,000 per year (Sorensen et al., 2007), suggesting that low-income families are an appropriate focus for an analysis of child support debt. We find evidence that higher assessed birthing costs are significantly and substantively associated with both reduced child support payments and reduced formal earnings, particularly for younger fathers with stronger prior labor force attachment. Because child support debt can be the result of low earnings and the failure to pay support, establishing the direction of causality has been difficult. By exploiting an exogenous source of variation in birthing charges, which contributes to substantial differences in debt burdens early in the child support payment experience, we are able to more confidently identify the effects of debt on child support paid and on formal employment.

Ironically, the same feature (birthing charges being unrelated to father's characteristics) that makes birthing costs an excellent instrument for identifying the causal effects of arrears also makes it a

problematic public policy. In 2000, the congressionally mandated Medical Support Working Group recommended that child support enforcement agencies be precluded from attempting to recover Medicaid covered birthing costs from noncustodial parents (MSWG, 2000; Recommendation 20). And in an amicus brief of the Center on Fathers, Families, and Public Policy (2001), an argument is made that the practice of charging fathers for birthing costs goes against the intent of Congress to encourage mothers to obtain appropriate health care during and following pregnancy, without concern for the implications for noncustodial parents and their future ability to pay child support. As such, very few states currently act to recover Medicaid birthing costs, and the Deficit Reduction Act did not include this policy among the many aspects of the child support enforcement addressed. In addition, other recent bills have included provisions to eliminate Medicaid birthing-cost recovery, in part because this policy has not factored in the father's ability to pay. In 2006, Wisconsin Act 304 reduced birthing cost assessments for low-income fathers, limiting the amount of recovery to one-half the actual and reasonable costs of the pregnancy and birth (Wisconsin Legislative Reference Bureau, 2006).[17] The elimination of birthing cost assessments was an important provision of The Responsible Fatherhood and Healthy Families Act, co-sponsored in 2007 by then-Senator Obama, and was featured in policy proposals he made during his presidential campaign.

Our interest, however, is less in the policy of birthing costs per se, than in contributing to our understanding of the likely implications of growing child support arrears for the functioning of the child support system and the well-being of resident and nonresident parents and their families. At a time when federal support for child support agencies has been wavering, and many agencies are facing reductions in staff and other resources, there is growing pressure to implement or maintain policies that offset government costs. The assessment of birthing costs is consistent with a widespread focus on cost-recovery. It is estimated, for example, that in the short run, abandoning the current policy for recovering

[17]The act was not retroactive, and did not affect the cases included in our analysis, all of which were ordered to pay birthing costs in 2003 or earlier.

birthing costs would cost the Wisconsin child support and Medicaid programs over $20 million per year.[18] On the other hand, such efforts to recover short-term or one-time government costs may be counterproductive if they lead to reduced cooperation with the child support system. Our results suggest that higher arrears, in themselves, substantially reduce both child support payments and formal earnings for the fathers and families that already likely struggle in securing steady employment and coping with economic disadvantage, a serious unintended consequence of child support policy.

[18]Correspondence with the Wisconsin Bureau of Child Support, Department of Workforce Development.

Appendix A
Sample Construction

We draw our sample from 72,363 legally established fathers and court-ordered payers whose first-born (oldest) child lives with his/her mother, and was born no earlier than November 1, 1997 (when administrative data on birthing costs is available), and no later than the first quarter of 2004 (to allow us to potentially observe 2 years of post-baseline outcomes).

1) Restricting the sample to 21,512 fathers charged birthing costs and owing child support. Of the 72,363 father-child pairs, we eliminated 39,160 fathers who owed no birthing costs, 833 fathers with missing information on birthing costs, and 746 fathers for whom we could not match birthing costs to an individual child. We also eliminate 9,439 who had never owed child support. A manual check of a few of these cases suggests most are co-habiting resident fathers. We also eliminated 671 fathers who owed no support in the 2 years after baseline (because their first order was of very short duration).

2) Of 21,512 remaining father-child pairs, we eliminated 285 fathers with an unknown date of paternity establishment, 101 fathers whose paternity was oddly established after the baseline started, 120 fathers with unknown birthdates, and 407 fathers with missing or incorrect Social Security numbers (and consequently no earnings information).

3) Of 20,700 remaining father-child pairs, we eliminated 4,508 cases whose baseline (birthing costs assessed and first child support order in place) was after the first quarter of 2004, in order to have information on child support payments and earnings for 2 years after the baseline.

4) Of 16,599 remaining father-child pairs, we eliminated 296 fathers with extreme (above the 99th percentile) yearly earnings either in the year prior to baseline or any of the 2 years after the baseline.

5) Of 16,303 remaining father-child pairs, we selected 13,105 fathers who owed birthing costs in one of the 23 counties for which we developed information on typical birthing costs (see Appendix B), and in a month during which we observed typical costs.

6) Of the 13,105 remaining father-child pair, we eliminated 27 fathers whose paternity was not established until baseline.

7) Of 13,078 remaining father-child pairs, we eliminated 447 fathers who were under the age of 17 at the birth of child.

These steps resulted in a final sample of 12,631 father-child pairs.

Appendix B
Construction of Typical Birthing Charges

We are not aware of any systematic documentation of birthing (birthing) charges by county and over time in Wisconsin. Based on administrative records of charges in individual cases, we derived the typical birthing costs for each county and month using the following procedure:

1) Recode individual birthing charges in $200 increments and call the modal category the "typical" birthing charge for that county/month in which the month refers to the month/year of child's birth. This results in 1,632 county/month values (6 years and 2 months for 23 counties for a total of 1,702 county/months, less 70 county/months with at most one birthing charge observation).

2) If other amounts of individuals' birthing charges than the modal category are found for a given county/month, provisionally set a second "typical" birthing charge for that county/month.

3) Smooth the data as follows: if the first typical birthing charge for a county/month deviates from the typical charge in *adjacent months*, while the charges in adjacent months are identical to one another, set the typical charge for the current county/month to match that of adjacent months. (Adjacent months are defined as 1 month before and 1 after, 2 months before and 1 month after, or 1 month before and 2 months after.) If the first typical charge is altered, set the second typical birthing cost equal to the original charge (overriding any existing second charge). Note that 7.17 percent of a total of 1,632 county/month birth charges were altered in this process. Additionally, out of the 70 county/months that were excluded in step 1 for the reason that there was at most one birthing charge observation for a county/month, 17 county/months were newly given the first typical charge from the typical charge in adjacent months. This results in 1,649 county/months with the first typical birthing charge.

4) Allow a second typical birthing cost in a given county/month if the value of the second typical charge is equal to the first typical charge in that county at some point in the previous or subsequent 12 months. This allows for some cases to be assessed an "old" or "new" charge, possibly because of delays in assessment, or of uneven implementation of a new cost structure. Note that 246 county/months were given a second typical charge as a result.

For each individual father-child pair (N=12,631), set the typical birthing charge to the first typical charge for the relevant county and month (or, if the absolute differences between individuals' actual birthing charges and the first typical charge are more than $150, to the closest of the two typical charges for the 193 county/months in which there are two options).

Appendix C
First Stage Models of Arrears at Baseline and 1 Year after Baseline

	Model: OLS (with typical county/month birthing charges)			
	Father's Arrears at Baseline		Father's Arrears 1 Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.
Intercept	22,331.00***	8,474.42	24,960.00*	13,834.00
Typical Lying-in (LI) costs/$1,000 (for county/month)	609.32***	29.03	616.02***	50.19
Father's employment during 7–18 months prior to birth of child (reference category: zero quarter of earnings)				
1–3 quarters of earnings	-47.42	29.37	-13.07	49.42
4 quarters of earnings with a single employer	-187.37***	52.34	-265.87***	87.96
4 quarters of earnings with multiple employers	-107.29***	41.40	-39.06	69.60
Annual Earnings of Father 7–18 months prior to birth of child (conditional on some earnings divided by $1,000)	-10.74**	4.77	-100.76***	8.02
Father's annual earnings squared 7–18 months prior to birth of child (conditional on some earnings and divided by $1,000,000)	0.16	0.14	1.99***	0.24
Time difference among events including birth of child, paternity establishments, first child support order, and LI order (reference category: LI ordered within 6 months after first child support order and paternity established within 6 months after birth				
First child support owed before LI order	803.71***	34.61	1,051.39***	58.55
First child support order after 6 months following LI order, or paternity established after 6 months following birth of child	-161.70***	24.56	-16.02	41.30
Whether father has additional legal obligations for a child at the beginning of the first year after baseline (reference category: no more child)				
Father has additional legal obligations for a child of the same female partner			232.90***	59.08
Father has additional legal obligations for a child of another female partner			874.38***	45.72
Age of Father (reference category: 17–20)				
21–24	36.77	23.78	62.79	40.05
25–28	29.22	32.29	-11.94	54.36
29+	90.84***	33.20	147.67***	56.05
Race of Father (reference category: Black)				
White	-149.45***	27.78	-504.93***	47.02
Others	-13.87	35.25	-200.40***	59.40
Missing	-203.54***	40.72	-774.49***	68.75

(table continues)

Appendix C, continued

	Model: OLS (with typical county/month birthing charges)			
	Father's Arrears at Baseline		Father's Arrears 1 Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.
Year of LI Order (reference category: between November 1997 and December 1998)				
Year 1999	106.07***	33.78	-41.27	54.70
Year 2000	308.11***	38.36	130.06**	63.71
Year 2001	430.21***	44.98	177.27**	75.31
Year 2002	666.33***	53.54	323.76***	89.96
Year 2003	860.31***	69.99	415.96***	117.88
Father's County (compared to Milwaukee)				
County 2	-3,235.84***	1,100.51	-2,635.97	1,678.58
County 3	-1,767.22***	435.25	-722.76	709.00
County 4	-2,479.44***	742.73	-1,822.95	1,195.77
County 5	-3,665.67***	1,374.91	-2,967.93	2,105.50
County 6	-2,675.73***	551.28	-889.62	898.23
County 7	-2,417.91***	930.82	-1,356.15	1,424.17
County 8	-2,766.16***	1,044.31	-2,714.99*	1,593.85
County 9	-2,912.01**	1,454.43	-2,566.81	2,371.50
County 10	-3,110.19***	1,164.50	-2,873.83	1,835.02
County 11	-4,687.93***	1,308.92	-4,158.64**	2,079.94
County 12	-4,625.96***	1,155.24	-2,949.60*	1,757.75
County 13	-2,806.38*	1,506.78	-4,886.60**	2,300.76
County 14	-4,399.20***	1,234.36	-3,159.54*	1,872.75
County 15	-3,766.37**	1,470.27	-4,043.22	2,299.19
County 16	-5,171.62***	1,311.54	-4,089.74**	2,007.43
County 17	-4,534.60***	1,581.39	-3,934.09	2,533.35
County 18	-4,982.37***	1,607.34	-5,120.26**	2,501.05
County 19	-4,937.34**	2,061.62	-6,621.37**	3,215.18
County 20	-6,093.73***	1,818.48	-5,490.89*	2,835.17
County 21	-6,436.66***	1,470.67	-4,364.33*	2,377.58
County 22	-5,618.25***	1,889.10	-6,738.06**	3,026.49
County 23	-5,399.67***	1,867.54	-5,489.01*	2,892.35
Log of Total Employment in County during 5-2 full quarters prior to Baseline	-1,373.41***	528.79	-1,399.66*	849.60
Employment Share of Agriculture and Forestry during 5-2 full quarters prior to Baseline	3,484.52	17,297.00	2,632.50	24,164.00
Employment Share of Mining during 5-2 full quarters prior to Baseline	-188,362.00*	104,853.00	-264,708.00	213,570.00
Employment Share of Construction during 5-2 full quarters prior to Baseline	3,253.18	3,239.84	1,727.69	10,191.00
Employment Share of Manufacturing during 5-2 full quarters prior to Baseline	5,815.39***	1,676.68	1,001.57	2,590.04
Employment Share of Wholesale trade during 5-2 full quarters prior to Baseline	5,753.46**	2,247.58	2,136.95	4,440.25

(table continues)

Appendix C, continued

	Model: OLS (with typical county/month birthing charges)			
	Father's Arrears at Baseline		Father's Arrears 1 Year after Baseline	
N=12,631	Coeff.	S.E.	Coeff.	S.E.
Employment Share of Transportation, Information and Utilities during 5-2 full quarters prior to Baseline	-9,613.11***	2,664.24	7,948.81*	4,442.33
Employment Share of Retail sale during 5-2 full quarters prior to Baseline	3,850.92**	1,875.79	1,808.90	3,295.25
Employment Share of Finance, insurance and real estate during 5-2 full quarters prior to Baseline	21,323.00***	5,258.76	-10,809.00	8,167.82
Average Weekly Earnings of Agriculture and Forestry during 5-2 full quarters prior to Baseline	-0.90**	0.44	0.03	0.78
Average Weekly Earnings of Mining during 5-2 full quarters prior to Baseline	0.23	0.22	0.36	0.34
Average Weekly Earnings of Construction during 5-2 full quarters prior to Baseline	-2.24***	0.74	-0.68	1.19
Average Weekly Earnings of Manufacturing during 5-2 full quarters prior to Baseline	-2.60***	0.70	-1.39	1.02
Average Weekly Earnings of Wholesale trade during 5-2 full quarters prior to Baseline	2.29***	0.70	0.45	1.16
Average Weekly Earnings of Transportation, Information and Utilities during 5-2 full quarters prior to Baseline	1.53***	0.41	-0.38	0.64
Average Weekly Earnings of Retail sale during 5-2 full quarters prior to Baseline	-0.06	0.93	-1.47	1.57
Average Weekly Earnings of Finance, insurance and real estate during 5-2 full quarters prior to Baseline	-1.94***	0.44	0.68	0.71
Average Weekly Earnings of Service during 5-2 full quarters prior to Baseline	0.41	1.25	-0.14	2.11

Note: * implies statistical significance at α=0.10; ** at α=0.05 and *** at α=0.01.

References

Aizer, Anna, and Sara S. McLanahan. 2006. "The Impact of Child Support Enforcement on Fertility, Parental Investments, and Child Well-Being." *The Journal of Human Resources* 41(1): 28–45.

Argys, Laura M., and H. Elizabeth Peters. 2001. "Interactions between Unmarried Fathers and Their Children: The Role of Paternity Establishment and Child-Support Policies." *The American Economic Review* 91(2): 125–129.

Bartfeld, Judi. 2005. "Arrearages, Lying-In Orders, and Child Support Compliance among Fathers of W-2 Children in Wisconsin." Working paper, University of Wisconsin–Madison.

Bartfeld, Judi. 2003. "Falling Through the Cracks: Gaps in Child Support among Welfare Recipients." *Journal of Marriage and Family* 65(1): 72–89.

Bartfeld, Judi, and Daniel R. Meyer. 2003. "Child Support Compliance among Discretionary and Nondiscretionary Obligors." *Social Service Review* 77(3): 347–372.

Bloom, David E., Cecilia Conrad, and Cynthia Miller. 1998. "Child Support and Fathers' Remarriage and Fertility." In *Fathers Under Fire: The Revolution in Child Support Enforcement*, edited by Irwin Garfinkel, Sara S. McLanahan, Daniel Meyer, and Jane A. Seltzer. New York: Russell Sage Foundation, pp. 128–156.

Cancian, Maria, and Daniel R. Meyer. 2005. "Child Support in the United States: An Uncertain and Irregular Income Source?" Discussion Paper 1298-05, Institute for Research on Poverty, University of Wisconsin–Madison.

Carlson, Marcia, Irwin Garfinkel, Sara S. McLanahan, Ronald Mincy, and Wendell Primus. 2004. "The Effects of Welfare and Child Support Policies on Union Formation." *Population Research and Policy Review* 23: 513–542.

Center for Family Policy and Practice. 2001. "Congress Should Preclude Child Support Agencies from Recovering Medicaid-Covered Prenatal Birth Expenses." (http://www.cffpp.org/publications/medicaid.html).

Freeman, Richard B., and Jane Waldfogel. 2001. "Dunning Delinquent Dads: The Effects of Child Support Enforcement Policy on Child Support Receipt by Never Married Women." *The Journal of Human Resources* 36(2): 207–225.

Freeman, Richard B., and Jane Waldfogel. 1998. "Does Child Support Enforcement Affect Male Labor Supply?" In *Fathers Under Fire: The Revolution in Child Support Enforcement*, edited by Irwin Garfinkel, Sara S. McLanahan, Daniel Meyer, and Jane A. Seltzer. New York: Russell Sage Foundation, pp. 94–127.

Fullerton, Don. 1991. "Reconciling Recent Estimates of the Marginal Welfare Cost of Taxation." *The American Economic Review* 81(1, March): 302–308.

Garfinkel, Irwin, I. Chien Huang, Sara S. McLanahan, and Daniel S. Gaylin. 2003. "Will Child Support Enforcement Reduce Nonmarital Childbearing?" *Journal of Population Economics* 16(1): 55–70.

Ha, Yoonsook, Daniel Meyer, and Mei-Chen Hu. 2006. "Do Higher Child Support Orders Discourage Child Support Payments?" Working paper, University of Wisconsin–Madison.

Heckman, James J. 1997. "Instrumental Variables: A Study of Implicit Behavioral Assumptions Used in Making Program Evaluations." *The Journal of Human Resources* 32(3): 441–462.

Holzer, Harry J., Paul Offner, and Elaine Sorensen. 2005. "Declining Employment among Young Black Less-Educated Men: The Role of Incarceration and Child Support." *Journal of Policy Analysis and Management* 24(2): 329–350.

Huang, Chien-Chung, James Kunz, and Irwin Garfinkel. 2002. "The Effect of Child Support on Welfare Exits and Re-Entries." *Journal of Policy Analysis and Management* 21(4): 557–576.

McCormick, Mike, and Glenn Sacks. 2007. "Fatherhood Bill: Not Enough Carrot, Too Much Stick." *Wisconsin State Journal*, July 1, C2.

Medical Child Support Working Group; U.S. Department of Labor and U.S. Department of Health and Human Services. 2000. *21 Million Children's Health: Our Shared Responsibility* (Executive Summary of Report) June. Retrieved from http://www.acf.hhs.gov/programs/cse/pubs/2000/reports/medrpt/.

Murray, Michael P. 2006. "Avoiding Invalid Instruments and Coping with Weak Instruments." *The Journal of Economic Perspectives* 20(4): 111–132.

Ovwigho, Pamela C., Correne Saunders, and Catherine E. Born. 2005. "The Intersection of Incarceration and Child Support: A Snapshot of Maryland's Caseload." Report of the Family Welfare Research and Training Group, University of Maryland, School of Social Work.

Pate, David J., Jr. 2002. "An Ethnographic Inquiry into the Life Experiences of African American Fathers with Children on W-2." In *Nonexperimental Analyses of the Full Disregard and Pass-Through, Volume 2*, edited by Daniel R. Meyer and Maria Cancian. Report to the Wisconsin Department of Workforce Development.

Plotnick, Robert D., Irwin Garfinkel, and Sara S. McLanahan. 2004. "Better Child Support Enforcement: Can It Reduce Teenage Premarital Childbearing?" *Journal of Family Issues* 25(5): 634–657.

Seltzer, Jane A., Sara S. McLanahan, and T. Hanson. 1998. "Will Child Support Enforcement Increase Father-Child Contact and Parental Conflict after Separation?" In *Fathers Under Fire: The Revolution in Child Support Enforcement*, edited by Irwin Garfinkel, Sara S. McLanahan, Daniel Meyer, and Jane A. Seltzer. New York: Russell Sage Foundation, pp. 157–190.

Sorenson, Elaine, and Helen Oliver. 2002. "Policy Reforms are Needed to Increase Child Support from Poor Fathers." Working Paper, The Urban Institute, April.

Sorensen, Elaine, Liliana Sousa, and Simon Schaner. 2007. "Assessing Child Support Arrears in Nine Large States and the Nation." Urban Institute report to U.S. Department of Health and Human Services. Downloaded from: http://aspe.hhs.gov/hsp/07/assessing-CS-debt/report.pdf.

Sousa, Liliana, and Elaine Sorensen. 2006. "The Economic Reality of Nonresident Mothers and Their Children." The Urban Institute Policy Brief, Series B, No. B-69, May.

U.S. Department of Health and Human Services, Administration for Children and Families. 2008. Child Support Enforcement (CSE) FY 2007 Preliminary Report. Downloaded from: http://www.acf.hhs.gov/programs/cse/pubs/2008/preliminary_report_fy2007/.

Waller, Maureen R., and Robert Plotnick. (2001). "Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research." *The Journal of Policy Analysis and Management* 20(1): 89–110.

Wisconsin Legislative Reference Bureau. 2006. *Summary of the 2005–2006 Wisconsin Legislative Session*. Research Bulletin 2006–1. http://www.legis.state.wi.us/lrb/pubs/rb/06RB1.pdf.

EXHIBIT A15

Mental Health Records From
The Chesapeake City Jail

Proof of Suicide Watch

Source:

The Chesapeake Sheriffs Office

Behavioral Health Psychiatric Provider Initial Evaluation	Patient Name (Last, First MI) Childers, Troy Jeffrey 2019-0002178
Date of Birth: 4/17/75	Date 4/26/19
Status:	x Adult

Presenting Issue: Pt evaluated via tele psychiatry, notes reviewed. He is a 44 yo AAM who has been @ CCC since 4/4/19 charged with Failure to Pay Child Support. Has been sentenced to 6 months incarceration. Longest past incarceration x 2 weeks.

Current Psychotropic Medications: none

Current Status:

Upon initial evaluation by MHP on 4/5/19 pt said that he had sought MH tx @ CSB twice for depression but did not pursue as he "could not get in to talk with the psychiatrist."

MHP met with pt on 4/6/19 and it was then documented that pt had been on "SP 24 hours ago." He was then described as calm with stable mood and in NAD, reporting minimal anxiety and minimum depression.

Today pt said that 3 weeks ago spoke w/FBI about his Federal case against local Judges and other authorities; and he voiced SI and "was crying because nobody investigates a man with the child support, I wrote to the governor and to everybody. People all think I'm rich and I have all this money and they keep insisting and the reason why the put me in jail is because they said I had the ability to pay because my step father owns a roof company." Police was sent to his home and he told them he was fine and they left.

When asked about SI pt was reluctant to answer and required significant amount of time and multiple questioning as he was vague and evasive stating he was leery to answer because of having been on Suicide watch (SW). Ultimately did say that he has been having SI "on and off" for years "mainly when I'm at home in the dark room." Says that being around other inmates, " hearing positivity and (peers) listening to me and they are up at night playing poker and joke all night and that helps me." Says that socializing w/people helps him as sister and husband are negative.

As this writer attempted to explore when pt's first contact w/MHP was, he said "My sisters were murdered by my mother when I was 15. I've just been through a lot of suffering, my mother's boyfriend abused me when I was 6 years old; but a lot of the issue w/my children. I've lost everything I love." Says that he has seen his children once in the past 6 years.

Says that he has been feeling more depressed since 2013 when problems started w/child support issues but he has not been able to secure tx because he would go to a therapist and would never f/u w/appointments with psychiatrists. Says that since then he has been feeling depressed to the point that he does not feel like getting up, sleep is erratic, feels sad. Explains that he goes for weeks w/o having showers, getting up, or brushing his teeth. Since then has had SI "a few tims." When asked about attempts he says "not really, I've never had the courage." First says that he may have had plans "but I'm really not comfortable to talk about that." Later does acknowledge that in the past has considered jumping off a building as he says "best friend in Georgia hang himself for the same thing (child custody/support issues) in 2004, he kept coming back to jail. Perseverative on the fact that he finds court system is not sensitive to men who are in his situation. Talks about doing research about his legal situation and finding that people including "police officers that have committed suicide, even left suicide letters from them that wanted to have part of their income and not their income taken." Says that all he wants to do is live and take care of himself but unable to do so because of the court system.

Denies other affective/PTSD or psychotic sxs. NO HI. He is evasive and unclear in his answers about suicidality and in the context of his legal situation, being this his first incarceration and presenting severely distraught with multiple losses, recommend that pt be placed on SW. There is no less restrictive intervention at this time that will ensure the safety of this patient. Case was discussed w/MHC, Ms. Wiggins.

History of Prior Treatment?	• Yes No denied

Behavioral Health Suicide Watch Initial Assessment

TROY JEFFREY CHILDERS #2019-0002178

JMS ID:	95233	**Location:**	[OUT]
DOB:	04/17/1975	**Interviewer:**	QMHP Wiggins, Priscilla (04/05/2019 1407)
Age:	44		
Height:	6ft 0in		
Weight:	278		

Current	Interviewer	Date	Question	Answer	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Status:	◉ **Adult**	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	1) Wish to be Dead: Person endorses thoughts about a wish to be dead or not alive anymore, or wish to fall asleep and not wake up. Have you wished you were dead or wished you could go to sleep and not wake up?	◉ **No**	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	2) Suicidal Thoughts: General non-specific thoughts of wanting to end one's life/commit suicide, "I've thought about killing myself" without general thoughts of ways to kill oneself/associated methods, intent, or plan. Have you actually had any thoughts about killing yourself?	◉ **No**	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Reason for Watch:	◉ **Other**	Inmate stated he had suicidal thoughts 2 weeks ago.
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Date placed on Watch:		04/04/2019
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Placed on Watch by:	☑ **Nursing**	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Events leading to Suicide/Self-Harm Watch (include patient's report as well as the official records of the event)	Per Chart Note04/04/2019 20:10 Author: RN Moss, Eugene ..Inmate stated he had suicidal thoughts 2 weeks ago. Inmate stated he was very depressed because he was using tobacco dip. Inmate placed in MP1 and follow up with mental health :	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Appearance	☑ **Appropriate**	Inmate was dressed in a safety smock.
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Speech	☑ **Appropriate**	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Mood	☑ **Appropriate**	
✓	QMHP Wiggins, Priscilla	04/05/2019 1407	Affect	☑ **Appropriate**	

	QMHP Wiggins, Priscilla	04/05/2019 1407	Thought Form	☑ **Coherent**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Thought Content	☑ **Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Orientated To	☑ **Person** ☑ **Place** ☑ **Time** ☑ **Situation**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Intelligence	☑ **Average**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Memory	☑ **Intact**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Insight	☑ **Intact**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Judgment	☑ **Fair**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Behavior	☑ **Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Medication Compliant?	◉ **No**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Current Homicidal Ideations?	◉ **No**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Current Suicide Ideations?	◉ **No**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Estimated Current Self-harm/Suicide Risk Level	◉ **Low**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Behaviors of Concern:	Inmate presented as a pleasant individual who has been struggling to pay his child support. His facial expression was not congruent with his multiple concerns. He reported on various attempts to get help from the FBI, the Governor and Child support Office. He talked about his frustrations with those individuals not listening to him. He talked about the law and how the law is not suppose to charge the poor because they can't pay or put the in jail. Inmate denies that he has ever felt like killing or hurting himself or anyone else.	
	QMHP Wiggins, Priscilla	04/05/2019 1407		☑ **Other (describe)**	Inmate will discontinues making statements that are not true.
	QMHP Wiggins, Priscilla	04/05/2019 1407		☑ **Impulsive**	
	QMHP Wiggins, Priscilla	04/05/2019 1407		☑ **Identifies reason for living**	
	QMHP Wiggins, Priscilla	04/05/2019 1407		☑ **Discharge from watch, follow-up within 7 days**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Clothing:	☑ **Safety Smock**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Food:	☑ **Regular Tray**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Other:	☑ **Book** ☑ **Glasses**	
		04/05/2019 1407	Consultation:	☑	Gregg Smith, LPC

	QMHP Wiggins, Priscilla			**Consultation with**	
	QMHP Wiggins, Priscilla	04/05/2019 1407	Refer to:	☑ **Psychiatry**	Inmate reported that he has been seeking help for his depression.
	QMHP Wiggins, Priscilla	04/05/2019 1407	Signature, Date and Time:	P.L. Wiggins MSW, CSOTP, CSAC, MHC	04/05/2019 1328

Behavioral Health Suicide Watch Daily Follow-Up and Discharge

TROY JEFFREY CHILDERS #2019-0002178

JMS ID:	95233	**Location:**	[OUT]
DOB:	04/17/1975	**Interviewer:**	QMHP Wiggins, Priscilla (04/29/2019 1712)
Age:	44		
Height:	6ft 0in		
Weight:	278		

Current	Interviewer	Date	Question	Answer	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712		◉ **Discharge**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Status:	◉ **Adult**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Type of Watch and Frequency:	◉ **Other, Indicate watch frequency**_____	10 Minutes
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Reason for Watch:	☑ **Other** _____	Inmate reported a history of depression and SI.
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Interventions during session:	Engaged inmate into a discussion pertaining to his state of mind six months ago and today. He reported no mental health distress and reported is lack of understanding as to why he was placed on SP.	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Appearance:	☑ **Appropriate**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Speech:	☑ **Appropriate**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Mood:	☑ **Appropriate**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Affect:	☑ **Appropriate**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Thought Form:	☑ **Coherent**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Orientated To:	☑ **Person** ☑ **Place** ☑ **Situation**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Intelligence:	☑ **Average**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Memory:	☑ **Intact**	
✓	QMHP Wiggins, Priscilla	04/29/2019 1712	Insight:	☑ **Intact**	
				☑	

	QMHP Wiggins, Priscilla	04/29/2019 1712	Judgment:	**Intact**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Behavior:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Medication Compliant:	**N/A**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Current Suicidal Ideations:	**No**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Current Homicidal Ideations:	**No**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Estimated current self-harm/suicide risk level:	**Low**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Has the patient engaged in self-harm since last assessment?	**No**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Behaviors of Concern:	NONE	
	QMHP Wiggins, Priscilla	04/29/2019 1712		**Identify rationale for downgrading watch**	Inmate denied SI.
	QMHP Wiggins, Priscilla	04/29/2019 1712		**Change level of suicide watch to** _____	Observation
	QMHP Wiggins, Priscilla	04/29/2019 1712	Clothing:	**Regular Uniform**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Food:	**Regular Tray**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Other:	**Book**	
	QMHP Wiggins, Priscilla	04/29/2019 1712		**Discontinue suicide watch, follow-up within 7 days** **Columbia-Suicide Severity Scale completed (required if downgrading or discontinuing watch)** **Consulted with:** _____	Dr. Lemley
	QMHP Wiggins, Priscilla	04/29/2019 1712	2) Suicidal Thoughts: General non-specific thoughts of wanting to end one's life/commit suicide, "I've thought about killing myself" without general thoughts of ways to kill oneself/associated methods, intent, or plan. Have you actually had any thoughts of killing yourself?	**No**	
	QMHP Wiggins, Priscilla	04/29/2019 1712	Signature Date/Time:	P.L. Wiggins MHC	04/29/2019 1712

Behavioral Health Initial Evaluation

JMS ID: 95233 **Location:** [OUT]
DOB: 04/17/1975 **Interviewer:** QMHP Wiggins, Priscilla (04/05/2019 1433)
Age: 44

TROY JEFFREY CHILDERS #2019-0002178

Current	Interviewer	Date	Question	Answer	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Status:	Adult	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Mental Health Outpatient Treatment?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Psychiatric Hospitalizations?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Current psychotropic medications?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Pharmacy?	N/A	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Prior Psychotropic Medications?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Prior Diagnosis?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Prior Mental Health Court Services?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Prior SSDI?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1433	Prior Guardianship?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1433	Past Self-Harm/Suicide Attempts?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Current Self-Harm Thoughts?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Concerns about ability to cope while incarcerated?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Substance Use?	No	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Type:	Inmate Denied	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Last Used:	Inmate Denied	
✓	QMHP Wiggins, Priscilla	04/05/2019 1431	Type:	Inmate Denied	
✓		04/05/2019 1431	Last Used:	Inmate Denied	

	QMHP Wiggins, Priscilla				
	QMHP Wiggins, Priscilla	04/05/2019 1431	Type:	Inmate Denied	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Last Used:	Inmate Denied	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Type:	Inmate Denied	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Last Used:	Inmate Denied	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Type:	Inmate Denied	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Last Used:	Inmate Denied	
	QMHP Wiggins, Priscilla	04/05/2019 1431	History of Inpatient Treatment?	No	
	QMHP Wiggins, Priscilla	04/05/2019 1433	History of Outpatient Treatment?	Yes	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Educational History (including special education):	Inmate reported that he stopped school in the eight grade. He reported that he obtained his GED and completed some college courses.	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Employment History:	Inmate reported that he work in roofing.	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Military History:	NONE	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Legal History:	Failure To pay child support	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Housing Status prior to arrival:	Inmate reported that he lives in the house he grew up in.	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Family History of Mental Illness	Yes	Inmate reported that various family members take medications for mental health but he is not sure of the diagnoses.
	QMHP Wiggins, Priscilla	04/05/2019 1431	Family/Social Support:	Inmate reported that he has some family support.	
	QMHP Wiggins, Priscilla	04/05/2019 1431	History of Violent Behavior:	No	Inmate reported
	QMHP Wiggins, Priscilla	04/05/2019 1431	History of Sexual Offense (perpetrating):	No	Inmate reported
	QMHP Wiggins, Priscilla	04/05/2019 1431	History of Victimization:	No	Inmate reported
	QMHP Wiggins, Priscilla	04/05/2019 1433	History of Head Injury:	No	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Patient Strengths:	Inmate did not report any strength at this time.	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Medication Compliant:	No	
		04/05/2019 1431	Suicide Ideations Report:	No	

	QMHP Wiggins, Priscilla				
	QMHP Wiggins, Priscilla	04/05/2019 1431	Homicidal Ideations Noted:	**No**	
	QMHP Wiggins, Priscilla	04/05/2019 1431		LOW	
	QMHP Wiggins, Priscilla	04/05/2019 1431		**Responsibility to family or others; living with family**	
	QMHP Wiggins, Priscilla	04/05/2019 1431		**Identifies reason for living**	
	QMHP Wiggins, Priscilla	04/05/2019 1431		Inmate is a 43 year old male who reports that the government is taking all of his money for child support as putting him into jail unlawfully. He that he has been trying to pay his child support for sixteen years and is not able to nor is he able to live off of then dollars a week, which is what is said to be left over after child support is paid. Inmate denied a documented mental health diagnosed. He denied SI and HI.	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Appearance:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Speech:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Mood:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Affect:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Thought Form:	**Coherent**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Thought Content:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Orientation:	**Person** **Place** **Purpose** **Time**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Intelligence:	**Average**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Memory:	**Intact**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Insight:	**Fair**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Judgment:	**Fair**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Behavior:	**Appropriate**	
	QMHP Wiggins, Priscilla	04/05/2019 1431	Comments:	Inmate reported seeking mental health services at his local CSB on two occasions for depression. He reported that he left, because he could not get in to talk with the psychiatrist, so he lift and has not been back.	
	QMHP Wiggins, Priscilla	04/05/2019 1431		**Behavioral Health will follow-up within _____ days/date.**	Seven days
		04/05/2019 1431	Refer to:	**Psychiatric Provider**	

	QMHP Wiggins, Priscilla				
	QMHP Wiggins, Priscilla	04/05/2019 1431	Evaluator Signature:	P.L.Wiggin, LCSW, CSOTP, CSAC	04/05/2019 1421

Behavioral Health Structured Progress Note

JMS ID: 95233 Date Created: 07/17/2019 1527
DOB: 04/17/1975 Last Saved: 07/17/2019 1527

TROY JEFFREY CHILDERS #2019-0002178

Current	Interviewer	Date	Question	Answer	
✓	Chase, Lindsey	07/17/2019 1527	Status:	◉ Adult	
✓	Chase, Lindsey	07/17/2019 1527	Referred From:	☑ Behavioral Health	
✓	Chase, Lindsey	07/17/2019 1527	Reason for Referral/Subjective Findings:	MH F/U	
✓	Chase, Lindsey	07/17/2019 1527	Appearance:	☑ Disheveled	
✓	Chase, Lindsey	07/17/2019 1527	Speech:	☑ Appropriate	
✓	Chase, Lindsey	07/17/2019 1527	Mood:	☑ Appropriate	
✓	Chase, Lindsey	07/17/2019 1527	Affect:	☑ Blunted ☑ Flat	
✓	Chase, Lindsey	07/17/2019 1527	Thought Form:	☑ Coherent	
✓	Chase, Lindsey	07/17/2019 1527	Thought Content:	☑ Appropriate	
✓	Chase, Lindsey	07/17/2019 1527	Orientated to:	☑ Person ☑ Place ☑ Time ☑ Situation	
✓	Chase, Lindsey	07/17/2019 1527	Intelligence:	☑ Average	
✓	Chase, Lindsey	07/17/2019 1527	Memory:	☑ Intact	
✓	Chase, Lindsey	07/17/2019 1527	Insight:	☑ Intact	
✓	Chase, Lindsey	07/17/2019 1527	Judgment:	☑ Intact	
✓	Chase, Lindsey	07/17/2019 1527	Behavior:	☑ Appropriate	
✓	Chase, Lindsey	07/17/2019 1527	Medication Compliant:	◉ Yes	
✓	Chase, Lindsey	07/17/2019 1527	Suicidal Ideations Noted:	◉ No	
✓	Chase, Lindsey	07/17/2019 1527	Homicidal Ideations Noted:	◉ No	
✓	Chase, Lindsey	07/17/2019 1527		I/M reported that he does not feel that his meds are working and that he needs them increased as he is still very anxious. I/M denied SI/HI. MHP reviewed coping skills with the I/M that he can use until seen by the psychiatrist to discuss his meds.	
✓	Chase, Lindsey	07/17/2019 1527		☑ Behavioral Health to follow-up PRN or through sick call ☑ Behavioral Health follow-up (# days/date) ☑ Refer to Psychiatry	
✓	Chase, Lindsey	07/17/2019 1527	Evaluator Signature	Lindsey Chase, MHP	07/17/2019

Behavioral Health Safety Plan/Crisis Response Plan BH222UN0000ACCEN011317

JMS ID: 95233 Location: [OUT]
DOB: 04/17/1975 Date Created: 05/09/2019 1230
Last Saved: 05/09/2019 1230

TROY JEFFREY CHILDERS #2019-0002178

Current	Interviewer	Date	Question	Answer
✓	Chase, Lindsey	05/09/2019 1230	Status:	◉ Adult
✓	Chase, Lindsey	05/09/2019 1230	Reason for Referral:	SP 7 day f/u
✓	Chase, Lindsey	05/09/2019 1230	Written on card that can easily be carried by patient?	◉ Yes
✓	Chase, Lindsey	05/09/2019 1230	Written By?	☑ MHP
✓	Chase, Lindsey	05/09/2019 1230	Step 1: Identify personal warning signs. Thoughts, images, emotions, behavior, physical sensations, symptoms or signs. Patient identified the following:	I/M reported that his personal warning sign is that he becomes extremely depressed.
✓	Chase, Lindsey	05/09/2019 1230	Step 2: Self-management strategies. Patient identified the following: These skills should foster the ability to self-manage crises and develop self-regulation skills. Initial coping strategies should include activities that can be performed independently by the patient. Consider prompting the patient, if having difficulty naming coping strategies, with skills in the following areas: -Behavioral activation -Relaxation -Mindfulness -Distraction activities	I/M reported that his self-management strategies include talking with others and being social.
✓	Chase, Lindsey	05/09/2019 1230	Step 3: Social Support. Patient identified the following: List sources of external support, typically friends or positive social environments (recreation yard, chapel, etc...). Specific names and places should be identified, and should consider the availability of each listed item and its applicability to the plan. For example, if the patient identifies their mother, but the mother is not able to accept collect calls, encourage the exploration of other options for external social support.	I/M reported that his sister is is social support.
✓	Chase, Lindsey	05/09/2019 1230	Step 4: Professional/Crisis Support: Patient and MHP listed the following: Assist the patient in identifying professional resources available in the correctional environment. Examples include Medical staff (Nursing, providers), Behavioral Health staff, Mobile crisis/Community Service Board, etc...	I/M reported that CIBH is his source of professional support.
✓	Chase, Lindsey	05/09/2019 1230	Step 5: Reasons for Living. Patient identified the following: The list can include: -People (family, friends, children, pets) -Meaningful activities (hobbies, TV shows, visiting with loved ones, exercise/working out, etc...) -Dreams of aspirations (getting a job, vocational school, getting a degree, completing a project, taking a trip) -Ideals or values (not wanting to hurt others, love for others) -Spiritual/Religious beliefs -Or other factors that reduce the desire for suicide and increase the desire for life Try to elicit specific names or events/things, as overgeneralizations can group many reasons into one, and minimize the true extent of positive features in the patient's life.	I/M stated that his reason for living is "to see what happens next."

			Questions that may assist in developing specific names and reasons for living: -What are the names of your family members? -What types of things have you done with that family member that you enjoy? -The next time you see this person, what would you like to do together? Ask the patient to read the RFL list both at regularly scheduled times and as needed. Instructions should be given to add to the list as things are identified during daily life.		
	Chase, Lindsey	05/09/2019 1230	Signature:	Lindsey Chase, MHP	05/08/2019

Behavioral Health Structured Progress Note

JMS ID: 95233 Date Created: 04/30/2019 1532
DOB: 04/17/1975 Last Saved: 04/30/2019 1532

TROY JEFFREY CHILDERS
#2019-0002178

Current	Interviewer	Date	Question	Answer
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Status:	◉ Adult
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Referred From:	☑ Post suicide watch release follow-up
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Reason for Referral/Subjective Findings:	Inmate was cleared from SP on yesterday.
●	QMHP Wiggins, Priscilla	04/30/2019 1532	If post suicide watch release follow-up, number of days since discharge:	1
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Appearance:	☑ Appropriate
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Speech:	☑ Appropriate
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Mood:	☑ Appropriate
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Affect:	☑ Appropriate
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Thought Form:	☑ Coherent
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Thought Content:	☑ Appropriate
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Orientated to:	☑ Person ☑ Place ☑ Situation
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Intelligence:	☑ Average
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Memory:	☑ Intact
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Insight:	☑ Intact
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Judgment:	☑ Intact
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Behavior:	☑ Appropriate
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Medication Compliant:	◉ No
●	QMHP Wiggins, Priscilla	04/30/2019 1532	Suicidal Ideations Noted:	◉ Yes
		04/30/2019 1532	Homicidal Ideations Noted:	◉ Yes

	QMHP Wiggins, Priscilla				
	QMHP Wiggins, Priscilla	04/30/2019 1532		Inmate reported no mental health issues or concerns. He expressed concerns about not being able to call his family due to no money on his books. He denied SI and HI. He is oriented X3	
	QMHP Wiggins, Priscilla	04/30/2019 1532		☑ **Behavioral Health to follow-up PRN or through sick call**	6 Days
	QMHP Wiggins, Priscilla	04/30/2019 1532	Evaluator Signature	P.L. Wiggins MSC	04/30/2019

Family Psychiatric History?	• ○ Yes ○ No reported that several family members are on psychotropic medications but unclear about dx. Says that his mother would "cut her wrists and wipe blood all over my sister's faces."
Relevant Past Medical History and Medications?	• ○ Yes ○ No NKDA
Prior Self-Harm Attempt?	• ○ Yes ○ No denies
Prior Violence Toward Others?	• ○ Yes ○ No past assault charges but only once convicted age 18, malicious wounding in 2007 nolle prossed, domestic violence not convicted.
History of Substance Abuse?	• ○ Yes (Document last date of use) ○ No experimented w/THC

Mental Status Exam

Appearance:	Speech:	Mood:	Affect:	Thought Form:	Thought Content:
• ☐ Appropriate	• ☐ Appropriate	• ☐ Appropriate	• ☐ Appropriate	• X ☐ Coherent	• X ☐ Appropriate
• ☐ Meticulous	• X ☐ Excessive	• X ☐ Depressed	• X ☐ Tearful	• ☐ Circumstantial	• ☐ Comp/Obsessive
• ☐ Unclean	• ☐ Loud	• ☐ Euphoric	• ☐ Blunted	• ☐ Tangential	• ☐ Thought Insertion
• x ☐ Disheveled	• ☐ Slowed	• X ☐ Anxious	• ☐ Flat	• ☐ Loose Association	• ☐ Broadcasting
• ☐ Bizarre	• ☐ Pressured	• ☐ Angry	• ☐ Labile	• ☐ Poverty of Thought	• ☐ Delusional
• ☐ Other	• ☐ Slurred	• ☐ Irritable	• ☐ Hostile	• ☐ Flight of Ideas	• ☐ Hallucinations
	• ☐ Other	• ☐ Other	• ☐ Other	• X ☐ Other PERSEVERATIVE	• ☐ Suicidal
					• ☐ Homicidal
					• ☐ Other

Orientation:	Intelligence:	Memory:	Insight:	Judgment:	Behavior:
• x ☐ Person	• ☐ Above Average	• X ☐ Intact	• ☐ Intact	• ☐ Intact	• X ☐ Appropriate
• x ☐ Place	• x ☐ Average	• ☐ Immediate Impaired	• ☐ Good	• ☐ Good	• ☐ Belligerent
• x ☐ Purpose	• ☐ Below Average	• ☐ Recent Impaired	• X ☐ Fair	• X ☐ Fair	• ☐ Agitated
• x ☐ Time	• ☐ Developmentally Disabled	• ☐ Remote Impaired			• ☐ Withdrawn
					• ☐ Cooperative
					• ☐ Uncooperative

Diagnosis (include mental disorders and relevant medical conditions)
MDD recurrent, severe w/o psychotic features

Plan 1 Medication: sp disc of r, b and alt tx options welcomes trial of
1) Hydroxyzine 50 mg PO TID
2) Celexa 20 mg po qhs

Plan 2 Labs: none ordered

Plan 3 Other: Discussed risks, benefits & alternatives; importance of medication use, compliance and appointments
f/u w/MHP for monitoring and supportive interventions
place on SW

Plan 4 Follow-up Date/Time: ☐ 12 weeks ☐ 4-6 weeks ☐ x Other, please specify: 1-3 weeks/PRN

Provider Signature: Ilana Iacobovici, M.D. | Title: Psychiatrist

C-729 Continuity of Care

TROY JEFFREY CHILDERS
#2019-0002178

CHESAPEAKE CORRECTIONAL CENTER
400 ALBEMARLE
CHESAPEAKE, VA 23222
TELEPHONE # 757-382-7084

Release Date:		
ALLERGIES:	pollen	

Major Health Problems
Including medical and psychiatric problems

PROBLEMS:	CV - Hypertension PSYCH - Depression	
Current Medications PLACE THE AMOUNT OF MEDICATION GIVEN TO INMATE UPON DISCHARGE (EXAMPLE TYLENOL # 10)	SERTRALINE (ZOLOFT) 50MG TAB QHS; Directions: 1 TAB [BY MOUTH] BY MOUTH EVERY NIGHT AT BEDTIME *MAY CAUSE DROWSINESS*;24tabs HYDROXYZINE HCL (ATARAX) 50MG TAB TID; Directions: TAKE 1 TABLET BY MOUTH 3 TIMES DAILY;25tabs	
Medical Instructions and Treatment Orders		
Follow-up with your personal physician, clinic, mental health clinic or health department.	(●) **Yes** ( ) No ( ) No medical instructions or treatment orders required	

CHESAPEAKE HEALTH DEPARTMENT: 748 BATTLEFIELD BLVD. CHESAPEAKE, VA 23320 (PH) 757-382-8600
COMMUNITY SERVICE BOARD: 224 GREATBRIDGE BLVD. CHESAPEAKE, VA 23320 (PH) 757- 547-9334
CHESAPEAKE CARE FREE CLINIC: 2145 SOUTH MILITARY HWY., CHESAPEAKE, VA 23320 (757)545-5700

Your signature indicates receipt of Continuity of Care and Medical Discharge Instructions and medication		
	( ) Inmate unavailable to sign. Continuity of Care and Medical Discharge Instructions forwarded to inmate's last known address. ( ) Inmate unavailable to sign. No medical instructions or orders required and Continuity of Care not forwarded to inmate.	
Inmate Signature / Date		
Medical Staff Member Signature / Date	S. Welton, Lpn	10/04/2019
Reviewed by: / Date		

Dynamic Mobile Imaging
"X-Ray and Ultrasound in Motion"

Phone: 866-483-9729

FAX: 804-282-1773

PATIENT REPORT

Document ID: 189006

PATIENT NAME:	Childers, Troy	DATE OF SERVICE:	06/26/2019
DATE OF BIRTH:	04/17/1975	REFERRING PHY:	Taylor, Alex
PATIENT ID:	149517	TECHNOLOGIST:	Ball, Megan
FACILITY:	Chesapeake Jail	INTERPRETING COMPANY:	Meridian Radiology
ROOM #:			

PROCEDURE: 73630 - FOOT 3 view (Right)

RESULTS:

PROCEDURE:
73630-(RIGHT) FOOT 3 VIEW

History: Pain

Correlative Films Provided: None.

FINDINGS:
Small bony densities are seen just dorsal to the tarsometatarsal junction on the lateral view only. There are no other significant osseous abnormalities. There is soft tissue swelling.

IMPRESSION:
Small bony densities dorsal to the tarsometatarsal junction on the lateral view only. Differential diagnosis would include small avulsion fractures (ages indeterminate), ligamentous calcification or nonspecific soft tissue calcification. There is soft tissue swelling. Clinical correlation recommended.

Signed By NASH, ROGER MD at 06/26/2019 10:52:42 AM

INTERPRETING DOCTOR: ROGER NASH

ELECTRONICALLY SIGNED: ROGER NASH (Wed, Jun 26, 2019 10:52:00 EDT)

APS, D
6/26/19

EXHIBIT A16

Reply Letter From
President Barack Obama
and
Commissioner Vicky Turetsky

Date of Letter: July 27, 2015

ADMINISTRATION FOR
CHILDREN & FAMILIES
370 L'Enfant Promenade SW, 4th Floor, Washington DC 20447 www.acf.hhs.gov/programs/cse

July 27, 2015

Troy Childers
4006 Morris Ct
Chesapeake, VA 23323

Dear Mr. Childers:

I am responding to your letters dated June 1, 2015, to President Barack Obama and Commissioner Vicki Turetsky regarding your belief that your child support order was calculated incorrectly. Your letter to the President was referred to the federal Office of Child Support Enforcement because we oversee the child support program.

Your child support order obligation was established by a judge. The Office of Child Support Enforcement does not intervene in court matters and cannot provide legal advice; however, the following information may be helpful in pursuing your legal concern.

If you need legal assistance: You may find free legal aid programs, information and forms for your state or territory: www.LawHelp.org

To appeal a court ruling: You may appeal to the state's judicial commission, which usually functions under the state supreme court. Helpful information is available on the National Center for State Courts website: http://www.ncsc.org/Information-and-Resources/Browse-by-State.aspx.

To file a complaint against an attorney: You can find helpful information at this website: deltabravo.net/custody/atty-complaint.php.

With regard to your child support obligation, a major topic of discussion in the child support program is focused on accurate orders, which we sometimes call "right-sized" orders. We recognize that noncustodial parents are more likely to pay their monthly obligation if they think the amount is fair and affordable. Children and families do not benefit if a noncustodial parent cannot pay support due to any number of factors. We are not referring to parents that can pay but voluntarily choose to not support their children. We are concerned with parents who want to support their children financially and be the best parents they can be, but face financial hardships.

Each state currently determines the formula they will use to calculate child support orders and courts play a significant role in many states in terms of establishing the monthly obligation. Given that there is much discussion around this issue, it is quite possible that future policies will be created to ensure orders are right-sized.

If you think your obligation is too high, you may contact your child support agency to request a review and modification of your order. You may also petition the court on your own to get your order modified. For more information about how to change your order, see your state's Guide to Changing a Child Support Order on our website found here:

http://www.acf.hhs.gov/programs/css/resource/state-by-state-how-to-change-a-child-support-order

I am sorry we could not provide assistance, but hope this information is useful. Please know that your concerns, as well as the concerns of other noncustodial parents, are included in our general discussions on this issue.

Sincerely,

P. Jones

P. Jones
Child Support Program Specialist
Customer Service Branch
Office of Child Support Enforcement

12637PJ

EXHIBIT A17

Reply Letters From:

Tim Kaine
and
Mark Warner

Date of Mark Warner Letter: May 22, 2015

Date of Tim Kaine Letter: July 2, 2015

TIM KAINE
VIRGINIA

COMMITTEE ON
ARMED SERVICES

COMMITTEE ON
FOREIGN RELATIONS

COMMITTEE ON
THE BUDGET

SPECIAL COMMITTEE
ON AGING

United States Senate

WASHINGTON, DC 20510-4607

WASHINGTON OFFICE:

WASHINGTON, DC 20510–4607
(202) 224–4024

July 2, 2015

Mr. Troy Childers
4006 Morris Ct
Chesapeake, VA 23323-1930

Dear Mr. Childers:

Thank you for taking the time to contact my office. I have received your letter and appreciate your willingness to share your concern.

I understand this is an extremely frustrating situation. However, the rules of the U.S. Senate do not allow me to intervene in legal matters or overturn decisions made by the court. For your assistance, I have attached a State of Virginia legal resource document in case you would like to pursue further legal action. The services listed may be able to provide you with legal assistance.

Again, thank you for writing. Please do not hesitate to contact me in the future if you feel I can be of assistance to you.

Sincerely,

Tim Kaine

MARK R. WARNER
VIRGINIA

United States Senate

WASHINGTON, DC 20510–4606

COMMITTEES:
FINANCE
BANKING, HOUSING, AND URBAN AFFAIRS
BUDGET
INTELLIGENCE
RULES AND ADMINISTRATION

May 22, 2015

Mr. Troy Childers
4006 Morris Court
Chesapeake, VA 23323-1930

Dear Mr. Childers,

Thank you for taking the time to contact me with your concerns regarding the Division of Child Support Enforcement (DCSE). I appreciate the trust and confidence you have shown in me by bringing this matter to my attention.

I am always pleased to be able to assist Virginians whenever I can. However, a careful review of your correspondence indicates that your situation is under the direct authority of the Commonwealth of Virginia. My jurisdiction as a United States Senator is primarily over federal matters.

My staff and I stand ready to be of assistance in any federal matter that is of concern to you. Thank you.

Sincerely,

Mark R Warner

MARK R. WARNER
United States Senator

MRW/kp

☐ 180 West Main Street
Abingdon, VA 24210
Phone: (276) 628–8158
Fax: (276) 628–1036

☐ 101 West Main Street
Suite 4900
Norfolk, VA 23510
Phone: (757) 441–3079
Fax: (757) 441–6250

☐ 919 East Main Street
Suite 630
Richmond, VA 23219
Phone: (804) 775–2314
Fax: (804) 775–2319

☐ 129B Salem Avenue, SW
Roanoke, VA 24011
Phone: (540) 857–2676
Fax: (540) 857–2800

☐ 8000 Towers Crescent Drive
Suite 200
Vienna, VA 22182
Phone: (703) 442–0670
Fax: (703) 442–0408

http://warner.senate.gov

EXHIBIT A18

Request For A Hearing Letter

Date of Letter: February 12, 2015

RECEIVED

FEB 1 3 2015

DATE: FEBUARY 12, 2015

From:

Troy J. Childers CASE NUMBER# **0004355866**
4006 Morris ct.
Chesapeake, VA

TO: CHESAPEAKE DCSE

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
DIVISON OF CHILD SUPPORT ENFORCEMENT

Regarding: INTENT TO SUSPEND DRIVERS LICENSE

I **Troy Jeffrey Childers** request a hearing in **THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT** on this matter. I love my kids and I would never willfully default on pay my child support payments. I have sold everything I can to pay my child support, I even have borrowed money. I have undeniable proof and evidence to present to the court. Without a driver's license it will be impossible to pay my child support.

Please file a petition for a hearing in court and I must inform you that I already have a hearing scheduled for **April 21, 2015.** I do not see a reason why this matter should not be discussed on this date along with my child support case. I look forward to getting this matter resolved.

Thank you for your time

Troy Jeffrey Childers

DATE: Feb. 12, 2015

EXHIBIT A19

Letter To:

Terry Mcauliffe,
Mark Herring
and
Craig M. Burshem

Date of Letter: April 30, 2015

NOTICE OF A VIOLATION OF BOTH FEDERAL & STATE LAWS

DATE: APRIL 30, 2015

Troy J. Childers
4006 Morris Ct.
Chesapeake, VA

CASE NUMBER: 0004355866

To:

VIRGINIA GOVERNOR: **TERRY MCAULIFFE**
DEPUTY COMMISSIONER: **CRAIG M. BURSHEM**,
DIRECTOR OF THE DIVISION OF,
CHILD SUPPORT ENFORCEMENT,
VARIOUS MEDIA OUTLETS

ATTORNEY GENERAL: **MARK HERRING**
DEPARTMENT OF SOCIAL SERVICES
DESIGNATED CASE WORKER
ATTORNEY FOR THE DIVISON OF,
CHILD SUPPORT ENFORCEMENT

I am sending this letter with confidence to multiple media outlets and reporters across the country. I am also sending this letter to a few government officials also even though I really do not expect that they will take any action.

DSS of Virginia has destroyed my life starting with the indirect murder of my three baby sisters when I was fifteen years old. Later in life, DSS of Virginia placed my daughter in custody of women that shipped my daughter to multiple families across the country from California to New York State.

My daughter was physically abused, raped and witnessed a suicide at a very young age. I have proof of the death of my baby sisters due to the inaction of Virginia Beach Child Protective Services. Now they continue to violate the law in my child support case.

FEDERAL STATUTE 15 U.S. Code § 1673 CODE OF VIRGINIA, § 34-29

I **Troy J. Childers** want to inform the necessary state officials and government agencies of a possible violation of both federal and State laws. In their **official capacity** state government employees at the Division of Child Support Enforcement have possibly committed actions which are against federal and state law during the Commonwealth's handling of my child support case.

I want to provide a clear understanding of the law along with evidence only to provide notice at the current time to all whom may receive this letter.

STATUTE 15 U.S. Code § 1673 SECTION B:

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

STATUTE 15 U.S. Code § 1673 SECTION C:

(c) Execution or enforcement of garnishment order or process **PROHIBITED**
No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

Code of Virginia, § 34-29 (b1)

(b1) The maximum part of the aggregate **disposable** earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

(1) Sixty percent of such individual's disposable earnings for that week; or

(2) If such individual is supporting a spouse or dependent child other than the spouse or child with respect to whose support such order was issued, 50 percent of such individual's disposable earnings for that week.

The 50 percent specified in subdivision (b1) (2) shall be 55 percent and the 60 percent specified in subdivision (b1) (1) shall be 65 percent if and to the extent that such earnings are subject to garnishment to enforce an order for support for a period which is more than 12 weeks prior to the beginning of such workweek.

(c)No court of the Commonwealth and no state agency or officer may make, execute, or enforce any order or process in violation of this section.

The exemptions allowed herein shall be granted to any person so entitled without any further proceedings.

FACTUAL BACKGROUND

I have attached three years of annual income federal tax return statements:

(Exhibit A) 2012 Taxes: Income $12,015.00
(Exhibit B) 2013 Taxes: Income $6,623.00
(Exhibit C) 2014 Taxes: Income $5,112.00

A job that I had working **$10.00** an hour for only a few months are what three separate child support orders are calculated from.

In **October, 2013** I was ordered to pay **$1100.00** per month, the most recent child support order is **$1085.00** per month. One hundred of the **2013** is towards arrears and the **2015** order, two hundred and fifty is towards the arrears.

The State guidelines were **NOT** used in any of my cases accept in the most recent case where the original guidelines from **2013** were used. The guidelines have changed since then because my kids are both in school this year.

My current order of support is based on **$18,000** a year.

Fact: There is no way to determine what my actual annual Income would be if I continued to work at this company. **NO** court and no State government agency can prove that I would have made **$18000.00** a year.

When the weather conditions were bad I did not work forty hours per week. This was beyond my control and when this happened I would receive sometimes just **$50.00** a week after child support deductions and there have been times where I received no check at all after child support was taken. There were also some weeks where I had overtime but my highest take home was **$145.00** a week after working excessive hours.

A new owner bought the company and soon after fired me.

I have had over **$6000.00** in instant arrears **NOT** from non-payment but from a mistake made by the clerk of court which created over **$3500.00** in instant arrears combined with imputed income.

How can my child support obligation amount be justified based on **$18,000** a year with no proof that this is my income? Even with job loss, income loss and circumstances beyond my control my child support obligation is never lowered. Child Support in Virginia is supposed to be calculated by your proven income **NOT** make believe fantasy income created out of thin air.

Even my driver's license was taken without even a hearing and by an action that was a total disregard of State law which I have addressed in another letter.

Before going to court I paid my support with **NO** arrears. I even paid for child support **($700.00** a month) for one year before there was ever a legal child support order. I only missed one payment. So if I'm trying to avoid paying support why did I do this?

People are exposed to information about so called "**Deadbeat Dads**" without knowing the circumstances. They are **Not** exposed to all the facts. There are men in our country that are firefighters, Police officers, military officers that are outstanding heroes in our society that commit suicide each year over child support.

I understand now why these men took such a desperate action. You feel trapped with no way out especially when you are ordered to pay an amount that is more than you make. I have proof!

I have sold proof that I have been ordered to pay an amount that I never had the ability to pay. I have solid proof that Child Support Enforcement has a total disregard for the law.

Below, is a letter delivered to Child Support Enforcement which shows their total disregard of Virginia State law.

NOTICE OF A VIOLATION STATE LAW § 46.2-320.1. (SECTION A)

DATE**: APRIL 30, 2015**

From:
Troy J. Childers
4006 Morris Ct.
Chesapeake, VA

CASE NUMBER: **0004355866**

To:

VIRGINIA GOVERNOR: **TERRY MCAULIFFE**

ATTORNEY GENERAL: **MARK HERRING**

DEPUTY COMMISSIONER: **CRAIG M. BURSHEM**,
DIRECTOR OF THE DIVISION OF,
CHILD SUPPORT ENFORCEMENT,
VARIOUS NEWS MEDIA OUTLETS,

DEPARTMENT OF SOCIAL SERVICES
DESIGNATED CASE WORKER &
ATTORNEY FOR THE DIVISON OF,
CHILD SUPPORT ENFORCEMENT,

Regarding: **VIOLATION OF VIRGINIA CODE § 46.2-320.1.**

On **February 7, 2015** I received a notice by mail of intent to suspend my driver's license from The Department of Child Support Enforcement. The letter was written and dated on **February 3, 2015.**

Under Virginia code § 46.2-320.1 (section A):

The obligor shall be entitled to a judicial hearing if a request for a hearing is made, in writing, to the Department of Social Services within **10 days** from service of the notice of intent. Upon receipt of the request for a hearing, the Department of Social Services shall petition the court that entered or is enforcing the order, requesting a hearing on the proposed suspension or refusal to renew.

On **February13, 2015**, I personally hand delivered a letter to my local child support enforcement office. This letter was stamped as being received by The Child Support Enforcement District Office located at 814 Greenbrier Circle**,** in Chesapeake, Virginia on **February13, 2015.**

This letter was a professionally written letter with clear understanding of a request for a hearing in **The Juvenile and Domestic Relations District Court.** The letter was written and signed by me, Troy Jeffrey Childers on February 12, 2015. This request was received by Child Support Enforcement within the **10 day** time frame allowed by state law.

The Child Support Enforcement District Office disregarded and completely ignored my request. No petition was filed as described under § **46.2-320.1.** My license was just taken from me and this action extremely impairs my ability to work.

One definition of the English word "entitled" located under Virginia law:
Entitled Definition: The condition of having a right to have

The Child Support Enforcement District Office has violated my rights and Due process of law under the Fifth Amendment of The United States Constitution.

The Doctrine of Ex parte Young

The doctrine of Ex parte Young permits an individual to petition a federal court to enjoin State officials in their official Capacities from engaging in future conduct that would violate the Constitution or a federal Statute. **Franks v. Ross, 313 F.3d 184, 197 (4th Cir. 2002)**

Signed and Dated by me.

Below is the request letter stamped and received by Child Support Enforcement

RECEIVED

FEB 13 2015

DATE: FEBUARY 12, 2015

From:

Troy J. Childers CASE NUMBER# **0004355866**
4006 Morris ct.
Chesapeake, VA

TO: CHESAPEAKE DCSE

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
DIVISON OF CHILD SUPPORT ENFORCEMENT

Regarding: INTENT TO SUSPEND DRIVERS LICENSE

I **Troy Jeffrey Childers** request a hearing in **THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT** on this matter. I love my kids and I would never willfully default on pay my child support payments. I have sold everything I can to pay my child support, I even have borrowed money. I have undeniable proof and evidence to present to the court. Without a driver's license it will be impossible to pay my child support.

Please file a petition for a hearing in court and I must inform you that I already have a hearing scheduled for **April 21, 2015.** I do not see a reason why this matter should not be discussed on this date along with my child support case. I look forward to getting this matter resolved.

Thank you for your time

Troy Jeffrey Childers

DATE: Feb. 12, 2015

EXHIBIT A20

Letter From
The Virginia Department
of Motor Vehicles

Drivers License
Suspension
Error

Date of Letter: May 12, 2015

COMMONWEALTH of VIRGINIA

Richard D. Holcomb
Commissioner
MAY 12, 2015

Department of Motor Vehicles
2300 West Broad Street

Post Office Box 27412
Richmond, VA 23269-0001

TROY J CHILDERS
4006 MORRIS CT
CHESAPEAKE, VA 23323-1930

DEAR MR. CHILDERS,

UPON NOTIFICATION FROM THE DEPARTMENT OF SOCIAL SERVICES, DIVISION OF CHILD SUPPORT ENFORCEMENT, DMV HAS CANCELED THE SUSPENSION OF YOUR DRIVING PRIVILEGE ISSUED 05/12/15 FOR NONCOMPLIANCE WITH A CHILD SUPPORT ORDER. THIS SUSPENSION WAS IN ERROR BY THE DEPARTMENT OF SOCIAL SERVICES.

THIS DOES NOT AFFECT ANY ADDITIONAL REVOCATION, SUSPENSION, DISQUALIFICATION OR CANCELLATION OF YOUR DRIVING PRIVILEGE WHICH MAY HAVE BEEN IMPOSED BY THE COMMISSIONER OF THE DEPARTMENT OF MOTOR VEHICLES OR ANY COURT IN VIRGINIA. IF ANY OTHER ACTIONS HAVE BEEN IMPOSED YOU MUST COMPLY WITH EACH OF THOSE REQUIREMENTS BEFORE YOUR PRIVILEGE TO DRIVE CAN BE REINSTATED.

YOU MAY DIRECT ANY QUESTIONS YOU HAVE REGARDING THIS ACTION TO THE DEPARTMENT OF SOCIAL SERVICES, DIVISION OF CHILD SUPPORT ENFORCEMENT AT 1-800-468-8894 OR YOU MAY CONTACT ANY OF THEIR DISTRICT OFFICES.

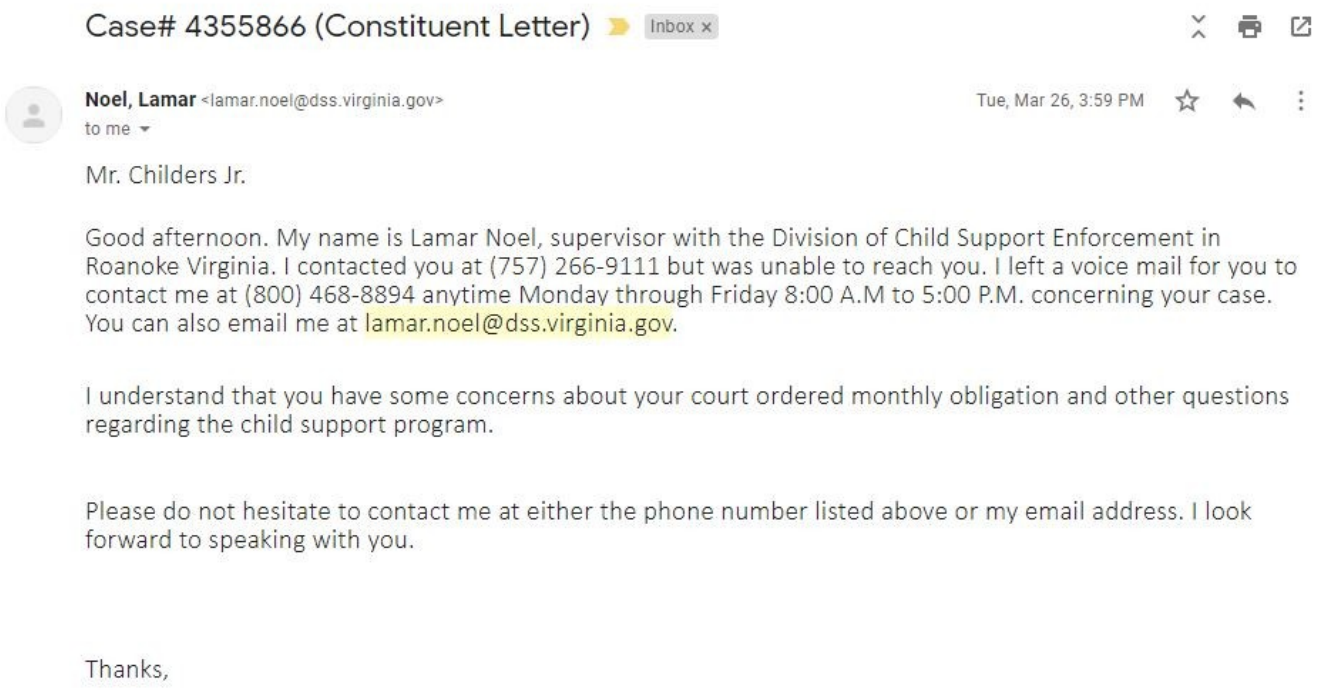
I APOLOGIZE FOR ANY INCONVENIENCE THIS MAY HAVE CAUSED. ANY QUESTIONS YOU HAVE REGARDING THE STATUS OF YOUR DRIVING PRIVILEGE MAY BE DIRECTED TO OUR CUSTOMER SERVICE REPRESENTATIVE AT THE FOLLOWING NUMBER:

* VOICE: 1-804-497-7100
* CONNECT TO HARD OF HEARING TTY DEVICE AT 1-800-272-9268
* E-MAIL: WWW.DMVNOW.COM

M. N. FORD, DIRECTOR
DRIVER SERVICES ADMINISTRATION

APOL

EXHIBIT A21



Case# 4355866 (Constituent Letter) Inbox ×

Noel, Lamar <lamar.noel@dss.virginia.gov> Tue, Mar 26, 3:59 PM

to me

Mr. Childers Jr.

Good afternoon. My name is Lamar Noel, supervisor with the Division of Child Support Enforcement in Roanoke Virginia. I contacted you at (757) 266-9111 but was unable to reach you. I left a voice mail for you to contact me at (800) 468-8894 anytime Monday through Friday 8:00 A.M to 5:00 P.M. concerning your case. You can also email me at lamar.noel@dss.virginia.gov.

I understand that you have some concerns about your court ordered monthly obligation and other questions regarding the child support program.

Please do not hesitate to contact me at either the phone number listed above or my email address. I look forward to speaking with you.

Thanks,

Email From:

Lamar P. Noel
Support Enforcement Supervisor
Virginia Department of Social Services
3535 Franklin Road SW, Suite H
Roanoke, VA 24014
lamar.noel@dss.virginia.gov

EXHIBIT A22

Reply Letter From:

The U.S. Department of Justice

Date of Letter: May 23, 2019

U.S. Department of Justice
Civil Rights Division

Criminal Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530

JFF:mh:kyb
144-79-0
1073087

Troy Childers
4006 Morris Ct.
Chesapeake, VA 23323

MAY 2 3 2019

Dear Sir or Madame:

Thank you for your correspondence. The Civil Rights Division relies on information from community members to identify potential civil rights violations. The Federal Bureau of Investigation and other law enforcement agencies conduct investigations for the Division. Therefore, you may want to contact your local FBI office or visit www.FBI.gov.

The Criminal Section is one of several Sections in the Civil Rights Division of the U.S. Department of Justice. We are responsible for enforcing federal criminal civil rights statutes. The Criminal Section prosecutes criminal cases involving:

- Civil rights violations by persons acting under color of law, such as federal, state, or other police officers or corrections officers;
- Hate crimes;
- Force or threats intended to interfere with religious activities because of their religious nature;
- Force or threats intended to interfere with providing or obtaining reproductive health services and
- Human trafficking in the form of coerced labor or commercial sex.

We cannot help you recover damages or seek any other personal relief. We also cannot assist you in ongoing criminal cases, including wrongful convictions, appeals, or sentencing. For more detailed information about the Criminal Section or the work we do, please visit our web page: www.justice.gov/crt/about/crm/.

We will review your letter to decide whether it is necessary to contact you for additional information. We do not have the resources to follow-up on or reply to every letter. If your concern is not within this Section's area of work, you may wish to consult the Civil Rights Division web page to determine whether another Section of the Division may be able to address your concerns: www.justice.gov/crt. Again, if you are writing to report a crime, please contact the federal and/or state law enforcement agencies in your local area, such as the Federal Bureau of Investigation or your local police department or sheriff's office.

Sincerely,

/s/
The Criminal Section

EXHIBIT A23

Virginia Gets D Grade In 2015 State Integrity Investigation

Source:
Center for Public Integrity

The State Integrity Investigation is a comprehensive assessment of state government accountability and transparency done in partnership with Global Integrity.

Published on November 9, 2015

STATE INTEGRITY 2015

Published — November 9, 2015
Updated — November 12, 2015 at 12:12 pm ET

VIRGINIA GETS D GRADE IN 2015 STATE INTEGRITY INVESTIGATION

Modest progress fueled by scandal

Nancy Madsen

The State Integrity Investigation (https://www.publicintegrity.org/accountability/state-integrity-investigation/state-integrity-2015) is a comprehensive assessment of state government accountability and transparency done in partnership with Global Integrity. (https://www.globalintegrity.org/)

Virginia

GRADE: **D**(66) RANK: **16**TH

Assessing the systems in place to deter corruption in state government

Click on each category for more detail

OUR METHODOLOGY

Public Access to Information	GRADE: F(36)	RANK: 38th
Political Financing	GRADE: F(39)	RANK: 46th
Electoral Oversight	GRADE: B-(82)	RANK: 4th
Executive Accountability	GRADE: D(64)	RANK: 19th
Legislative Accountability	GRADE: D(64)	RANK: 18th
Judicial Accountability	GRADE: C-(72)	RANK: 4th
State Budget Processes	GRADE: C-(72)	RANK: 32nd
State Civil Service Management	GRADE: C-(70)	RANK: 3rd
Procurement	GRADE: B(86)	RANK: 2nd
Internal Auditing	GRADE: B(86)	RANK: 8th
Lobbying Disclosure	GRADE: F(58)	RANK: 30th
Ethics Enforcement Agencies	GRADE: D(64)	RANK: 12th
State Pension Fund Management	GRADE: D-(63)	RANK: 27th

Tell your legislators about their grade

Provide us with your street address and Zip code and we will find your state representatives so you can tell them how your state ranked.

Street address | Zip | Find my legislators

We will not save or share the personal information after using it to send emails on your behalf. See our privacy policy and terms of use.

State Integrity Investigation

Explore the full interactive to learn more about other states.

Credit: Yue Qiu, Chris Zubak-Skees and Erik Lincoln, Center for Public Integrity with Global Integrity

Virginia long claimed it had an ethical political culture based on a tradition of civic service, genial debate, and gentlemanly behavior – until events proved otherwise in 2014. That's when the conviction of former Gov. Bob McDonnell on federal corruption charges rocked Old Dominion politics.

Evidence presented in court showed that McDonnell and his family accepted $177,000 in gifts and loans from Jonnie Williams, the then-CEO of a tobacco-turned-health-supplement company. At the time, neither the loans nor the gifts — rounds at a tony golf club, a $20,000 New York shopping spree for his wife, Maureen McDonnell, and a Rolex watch for the governor — were barred under state law. Virginia allowed unlimited gifts to its politicians, but required their disclosure.

McDonnell did not report most of Williams' largesse, however, initially claiming they were exempt because the CEO was a close family friend and the gifts were primarily to his family. In the end, McDonnell was sentenced to two years in prison on 11 counts of public corruption, although his case is still working its way through the appellate courts.

The state legislature responded in March 2014 by passing the first limits on gifts for politicians and their family members. It created a new ethics council to collect and publish disclosure forms for all branches of government.

In April, the gift limits were lowered to $100, a change sought by McDonnell's successor, Gov. Terry McAuliffe; the new limits will go into effect in January. "We took an important step forward to strengthen the ethics legislation that was passed last year by further increasing transparency and accountability," McAuliffe said in a statement August 31.

These improvements to ethics laws and oversight played a part in Virginia earning a score of 66, **ranking it 16th** (https://www.publicintegrity.org/2015/11/03/18822/how-does-your-state-rank-integrity) in the **State Integrity Investigation** (https://www.publicintegrity.org/accountability/state-integrity-investigation/state-integrity-2015) , a data-driven assessment of state government accountability and transparency by the Center for Public Integrity and Global Integrity.

Highlights

The creation of the new gift limits and the inclusion of lawmakers' family members helped hike Virginia's scores in several categories of the State Integrity Investigation. **In 2012, Virginia scored 55 and came in at 47th** (https://www.publicintegrity.org/2012/03/19/18223/virginia-gets-f-grade-2012-state-integrity-investigation) out of the 50 states. The two scores are not directly comparable, however, due to changes made to improve and update the project and methodology, such as eliminating the category for redistricting, a process that generally occurs only once every 10 years.

Virginia also scored well in internal auditing and civil service, where it finished in third place, in part because of the creation of an inspector general's office. This was a campaign promise of McDonnell's. The Inspector General oversees a fraud, waste, and abuse tip hotline, and is empowered to investigate complaints as well as issues found by a separate auditor of public spending accounts. Evidence of any potential crimes is turned over to law enforcement.

Virginia ranked second in the category of procurement, partly because of the state's readily accessible, web-based procurement disclosures. It offers a centralized database of procurement needs, bid winners and procurement rules and regulations.

State officials have "adopted the attitude that they want to be as pure as Caesar's wife," said Ron Jordan, executive director for the Virginia Governmental Employees Association, who worked in the executive and legislative branches for more than 20 years.

Enforcement weaknesses

Watchdogs and independent observers lament that shortfalls still exist in the ethics law. No procedures exist for auditing the newly-expanded disclosures, and the ethics council lacks authority to investigate or discipline any government officials.

Only lobbyists, their employers or people seeking contracts with a state agency are covered by the gift ban, allowing others seeking official backing for private gains to continue giving items of value to lawmakers. Paying for lawmakers' travel to meetings is not barred, although it must be disclosed and approved by the ethics council. And the gift ban does not cover sponsorship of "widely attended events," as well as gifts of food and beverages at events where a public official is "performing official duties related to his public service." These exemptions leave the door open for privately subsidized gatherings, large and small, that may not be disclosed.

Virginia again scored poorly on information access, lobbying disclosure and political financing. The state's Freedom of Information Act has many exemptions, notably including all work conducted by the major regulatory body for businesses, insurance, financial institutions, utilities and railroads, known as the State Corporation Commission. Elected officials can also invoke exemptions that cover working papers or correspondence.

But the issue that needs urgent attention, said Megan Rhyne, executive director of the Virginia Coalition for Open Government, is fees. "Under the law, state government and local governments can charge for labor," she said. "Partly because of shrinking budgets, we have departments charging for records" that did not previously demand payment, while others have simply increased their fees.

Virginia has no limits on donations to state-level election campaigns or inaugural committees, with the consequence that donations exceeding $100 vastly outnumber smaller donations in state elections. And the Department of Elections has no authority to audit campaign finance reports.

Lobbying declarations similarly are not subject to audits, and lobbyists sometimes find creative ways to stay below a $50 threshold for reporting. Multiple lobbyists have organized large events, for example, and split the costs among lobbyists and all the firms and businesses they work for. And when lobbyists do not make disclosures, legislators typically don't either.

"Virginia's laws rely on classical bribery, finding the quid pro quo," said Dave Ress, reporter at the Daily Press newspaper, located in Newport News, Virginia. But such cases are few and far between, leaving much election financing in a gray zone. "If XYZ company drops $5,000 into a campaign fund, there's a reason for that besides desiring good government. If a legislator [then] went along with a vote the company wanted, is that bribery?"

EXHIBIT A24

Reply Letter From

The Judicial Inquiry
and
Review Commission
of Virginia

By

Donald R. Curry

Date of Letter: September 17, 2013

COMMONWEALTH of VIRGINIA

Judicial Inquiry and Review Commission

P.O. Box 367
Richmond, Virginia 23218-0367
(804) 786-6636
Fax: (804) 371-0650

September 17, 2013

Mr. Troy J. Childers
4006 Morris Court
Chesapeake, VA 23323

Dear Mr. Childers:

This is in response to your complaints dated September 12-13, 2013. The Commission has no authority to review or change the judge's decision in your support case. The only avenue for such review is by appeal. The requirement that the appeal bond be sufficient to cover your arrearage is a statutory requirement. The fact that you are unable to post the required bond does not give the Commission any jurisdiction over the matter.

Sincerely,

Donald R. Curry
Counsel

ab

EXHIBIT A25

Proof That Judge Larry D. Willis Sr.
Was The Chairman of

The Judicial Inquiry
and
Review Commission
of Virginia

Source:
Virginia Lawyers Weekly

Date: March 13, 2000

VIRGINIA LAWYERS WEEKLY

Two New JIRC Members Selected By Assembly

By: Virginia Lawyers Weekly March 13, 2000

The General Assembly has elected two new members to the Judicial Inquiry and Review Commission. Judge Larry D. Willis Sr. of Chesapeake Juvenile and Domestic Relations Court will fill an unexpired term previously held by Judge James H. Flippen Jr. of Norfolk J&DR Court. The term will end June 30, 2002. Lynchburg lawyer Bevin R. Alexander Jr. ...

EXHIBIT A26

Proof That Judge Larry D. Willis Sr.
and
Donald R. Curry

Worked Together For Sometime
Possibly A Few Years

Source:
Judicial Inquiry and Review Commission

Date: December 1, 2003

COMMONWEALTH of VIRGINIA

Judicial Inquiry and Review Commission

P.O. Box 367
Richmond, Virginia 23218-0367
(804) 786-6636
Fax: (804) 371-0650

December 1, 2003

REPORT TO THE VIRGINIA GENERAL ASSEMBLY

In accordance with Section 17.1-905 of the Code of Virginia, the Judicial Inquiry and Review Commission makes the following report concerning its activities during the past twelve months:

1. The Commission continues to keep statistical information on all incoming telephone calls and correspondence. Complaints and inquiries are separated into categories indicating the source, the nature of the complaint or inquiry, and whether a violation of the Canons of Judicial Conduct was alleged. The statistics are attached and made a part of this report.

2. The Commission's 2003 statistical report also includes the number of times during the year that the Commission issued formal charges against a judge, the number of formal hearings conducted, and the number of informal meetings with judges to discuss complaints.

3. Pamphlets describing the function of the Commission have been made available to the public and distributed to all the Clerks' offices of General District, Juvenile, and Circuit Courts. The pamphlet explains how complaints are initiated, the confidential nature of Commission proceedings, and the array of dispositions available to the Commission. Similar pamphlets specifically aimed at lawyers also have been distributed widely to members of the bar.

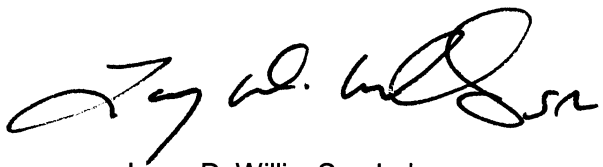
4. Information concerning the Commission also is available on the Internet on the home page of the Virginia Supreme Court. The Commission's Rules, the Canons of Judicial Conduct and complaint forms are accessible on the website.

5. Commission Counsel also provides informal ethics advice to Virginia judges on a daily basis. During the past twelve months, Counsel responded to 330 such requests.

6. The Judicial Ethics Advisory Committee responds to requests from judges for formal opinions concerning whether proposed future conduct complies with the Canons of Judicial Conduct. Commission staff continues to provide administrative support for this Committee. Information concerning the Ethics Committee and an index of the Committee's formal opinions also are available on the Internet.

7. The Commission has presented numerous educational programs concerning judicial ethics. These programs have been conducted at local, regional, and state meetings for judges and bar groups. Commission staff also held training programs for substitute judges during October and November in Abingdon, Harrisonburg, Henrico, Manassas, Rustburg, and Suffolk.

Respectfully submitted,



Larry D. Willis, Sr., Judge
Chairman

dk

Enclosure

11/7/03

JUDICIAL INQUIRY AND REVIEW COMMISSION
December 1, 2002 to November 30, 2003

Judges subject to the jurisdiction of the Commission	772
State Corporation Commission Judges	3
Virginia Workers' Compensation Commission	3

Written inquiries received

Attorneys	20
Judges	14
Court employees	1
General public	34
Litigants	157
Victims	2
Inmates	231
Media	0
Other	47
TOTAL	506

Nature of written inquiry

Ruling/decision	248
Ex parte	13
Bias or prejudice	49
Delay	22
Rude behavior	45
Failure to follow the law	33
Ethics opinion	12
How to file	55
Other	101
	578

Telephone inquiries received

Attorneys	55
Judges	349
Court employees	14
General public	43
Litigants	396
Victims	12
Inmates	1
Media	5
Other	145
In Person	6
TOTAL	1026

Nature of telephone inquiry

Ruling/decision	235
Ex parte	13
Bias or prejudice	71
Delay	28
Rude behavior	84
Failure to follow the law	70
Ethics opinion	341
How to file	142
Other	162
	1143

Files opened upon the complaint of

Attorney	9
General public	1
Litigant	5
Judge	2
Inmate	1
Court Staff	1
Commission	10
Victims	0
Other	3
TOTAL	32

Commission Dispositions

No violation	2
Not a substantial breach	14
Informal meetings	14
Formal charges	5
Formal hearings	5
Supreme Court complaints	0
Canons breached	5
Retired	4
Removed from docket	6
Pending	16

Recusals

Staff	0
Commission	7

dk
12/1/03

EXHIBIT A27

The $602,000 Judicial Scam of the Virginia Citizens since 1999 - The Judicial Inquiry and Review Commission

Source:

Janice Wolk Grenadier
15 West Spring Street
Alexandria, VA 22301
202-368-7178
jwgrenadier@gmail.com

https://proseamerica.blogspot.com/2016/02/the-602000-judicial-scam-of-virginia.html

https://valaw2010.blogspot.com/2019/10/the-602000-judicial-scam-of-virginia.html

Date: February 13, 2016

ProSe America

Saturday, February 13, 2016

The $602,000 Judicial Scam of the Virginia Citizens since 1999 - The JIRC

Around September of 2008 Janice Wolk Grenadier made her 1st Judicial Complaint to the Virginia Judicial Inquiry and Review Committee aka JIRC.

Donald Curry the person in charge of the JIRC informed Janice about the Judge she complain she should not bother "He is my friend, I will not take a complaint against him" Janice filed the complaint and a letter stating it would not be investigated came back to her the next day.

Janice found through investigation that Judge Donald Kent is by all appearance the head of the Old Boys Network and rules on all.

You can read Janice's story at www.valaw2010.blogspot.com. Janice was illegally jailed October 14, 2014 for Cash for Lawyers no different than Cash for Kids where the Judges went to jail.

On January 13, 2016 Wednesday around 4.30 pm (complaints dated Jan 11, 2016) Janice had delivered complaints with this letter to the JIRC:

Janice Wolk Grenadier
15 West Spring Street
Alexandria, VA 22301
202-368-7178
jwgrenadier@gmail.com

January 11, 2016
Katherine B. Burnett
Judicial Inquiry & Review Commission
100 North 9th Street #661
Richmond, Virginia 23219

Re:: The criminal enterprise of this Judicial Committee in direct conflict of the mandate and law. That since September of 2008 this commission has ignored all complaints against Circuit Court Judges by Janice Wolk Grenadier. The outcome was it empowered the Judges to Jail and Torture Janice for CASH for Lawyers from October 22, 2014 – November 12, 2014. The collusion of Judges between the State of Virginia Circuit Court, General Court, the USDC of DC and USDC of VA and the USDC of the 4the Circuit of Appeals, and the USDC of the District of Columbia Appeals this can no longer be ignored.

Dear Ms. Burnett,

This commission was created to protect the Virginia Citizens – American Citizens from an enterprise that polices itself. That the appearance is this commission is it is "Cherry Picked" to protect the Judges and not the American Citizens. That the acts and actions of this commission since September of 2008 when I called Mr. Donald Curry with my first complaint was "Don't bother with a complaint he is my friend it will go nowhere" is exactly what this commission is – a group of Friends of the Old Boys Network and Judges to pretend and give the appearance of compliance.

When in 2012 I asked to be of service and serve on the Commission all letters and emails were ignored by the Judicial Committee because they knew I would hold the Judges accountable. It is the Judges whose job it is to make sure everyone in the room follows the law, follows the rules and the lawyers are held accountable. **These Judges instead and it seems across America now look at who has the money, who has the power and that is how they rule**. The documents, the acts and actions of the Judges show this.

You have by your personal acts and actions empowered the Judges in the State of Virginia with the support and help of the Old Boys Network, the Governor, the Attorney General and the Virginia Legislature to act lawlessly. Helping and supporting Judges who Cover Up the criminal acts of attorneys.

I have in the past complained against Judges Haddock, Kent, Kemler, Clark, Dawkins, Fortkort, Brown, McGrath, McCue all complaints were ignored, which according to the reports that you submit each year shows this is a pattern and practice of this commission. I have attached a chart from 1999 – 2015 the actions of this Commission which shows the lack of enforcement of the law allowing / empowering Judges to act lawlessly with Bias, Favoritism, Cronyism, Retaliation and Retribution with anyone who questions the integrity of the system.

That I have a different perspective then most as I was married to the son of a Judge and know of the inner workings of the Virginia et al Judiciary and the enterprise of it as a business no different than the Mafia – it is working under the law as a Rico and Racketeering type enterprise. Harming American Citizens every day.

The facts are clear and documented that Judge Donald Haddock in May of 2008 to Janice stated "You will never get a fair trial we LOVE ILONA" Judge Haddock than went on to chose Janice's Judges in every hearing and every judge Janice has had including tampering with the Grand Jury. That Judge Donald Kent – Judge Haddock's best friend has been a co-conspirer by all appearance since the start and went to the trouble that when Janice was to meet with her Senator in Virginia Patsy Ticer had Janice lied to and told that she was meeting with her assistant. The women Janice met with never worked with Patsy Ticer. The women stated after hearing Janice's story "Do you know who I am" Janice "NO" The other women " I am the x-wife of Donald Kent – Martha Kent", "Me and My family can't get a fair trial either" " You can not win this, You are no longer one of them" Patsy Ticer went on recently to admit to Janice this scheme and to say "Well you can't beat Ilona she has to much money and power" That may be this commissions America – but, that is not the Constitution and not the way the laws and the rules of the United States Supreme Court read.

You can have a winning case but, with a corrupt Judge you have nothing.

The following Cases are involved in this Complaint:

Court	Case No.	Judge	Case Description
City of Alexandria Circuit Court	99 - 1253	John Kloch Nolan Dawkins James Clark	Divorce – without a property settlement – real estate stolen from me due c. $20 Mill from Div Lawyer Ilona Grenadier Heckman and David Grenadier – due to fraud, use of lawyers not licensed in VA
Virginia Court of Appeals	2141-13-4		Appealed re-opening to collect - David did not even have to respond the court did as it was told and ignored the law - Div Lawyer with Ben DiMuro intervened into the Divorce re-open
City of Alexandria Circuit Court		James Clark	Divorce to protect assets Lis Pendens
Prince William County Circuit Court	14 – 2185 14 – 2185 - 1	Mary Grace O'Brien Carroll A. Weimer Jr.	Divorce to protect assets Lis Pendens
City of Alexandria Circuit Court	CH 010654	James Clark John Kloch Lisa Kemler Donald Haddock Nolan Dawkins Thomas Fortkort J. Howe Brown James McGrath	Bellefonte Partnership - The number of Judges is that is how many it took for Judge Donald Haddock to pull in favors
Supreme Court of Virginia	110156		Case No. CH 010654
Supreme Court of Virginia	122204		Case No. CH 010654
City of Alexandria General District Court		Richard J. McCue	
City of Alexandria Circuit Court		Donald Haddock James Clark Richard Bowen Potter	Grand Jury –
City of Alexandria Circuit Court	CL 15 - 00361	Judge James Clark	Case for Ilona Grenadier Heckman and David Grenadier to collect on the illegal legal fees their attorneys were awarded and who acted in collusion lying in court, lying in court documents, lying to the Supreme Court of Virginia

That Janice in all above cases has not had a Judge with Jurisdiction that the attached documents will show the criminal acts of Divorce lawyer Ilona Grenadier Heckman that these Judges are covering up for the "LOVE" Judge Donald Haddock expressed when he stated "You will never get a fair trial"

Janice would then get in 2012 till today a Judge in the City of Alexandria put their by Judge Haddock and his friends – Judge James Clark. On the Orders that Judge James Clark signed on December 23, 2015 he admitted to:

1. Tampering with evidence submitted into the record in October 2012
2. Denying Due Process
3. Inclusion with the hiring of Mark Stuart or as a friend to Divorce Lawyer Ilona Grenadier Heckman to have Janice drugged and sexual inappropriate pictures taken, or to have her girls raped or to plant drugs on the girls or in the home. That he was aware by signing the Order that when the police where called that Randy Sengel had informed the police not to

take any complaints from Janice

4. That he had **jailed and had Janice tortured in jail** to collect funds from Janice to line the pockets of lawyers Michael Weiser Esq, Ben DiMuro, Hillary Collyer, Andrea Mosley and now Judge John Tran. That he stated on Nov 22, 2015 to Janice's opponents lawyer in court "I am so sorry I can not collect your legal fees – You will need to come back and get a judgment"
5. That Judge Clark colluded in the blog jwgrenadierisalair.blogspot.com by Loretta Lax Miller aka Muggy Cat and Divorce Lawyer Ilona Grenadier Heckman with her lawyers

That the above is just a bit of what has been done to me from these Judges with the collusion of many

That the Judge and Lawyers all signed the Orders on December 23, 2015 admitting to the above with no opposition to what was written on the Orders. That this is not the first time the Orders stated the "TRUTH" by Janice and the Orders were signed by the above Judge and other Judges. That the record and the TRUTH was disclosed and the signature of the Judge's, Lawyers and Janice tell the true story, of the criminal acts of the Lawyers and Judges. That all American Citizens going in to the courts across America need to understand the Judges are accustom to and rule on or by the way the they are told by a lawyer or someone of power who has a stake in the outcome.

That I am aware this committee can not change the out come but, what it can do is not allow it to happen to someone else It can hold these Judges accountable for their criminal acts and this is what this committee is suppose to do and has ignored these mandates by the law and the legislator of Virginia.

These Judge's went to far in illegally Jailing me. This enterprise has acted in collusion and you have a supervisor type position to ensure that this does not happen, Yet you and Donald Curry have empowered these Judges to know and believe there is no consequences for this bad behavior. Just the opposite you support it, empower it and promote it within the Judiciary. The bigger the Favor the Judge does the higher in the ranks he will go, and no different than a street gang his protection by this commission.

I complain to this commission today against:

1. Judge James Clark
2. Judge Donald Haddock
3. Judge Nolan Dawkins
4. Judge Lisa Kemler
5. Judge Thomas Fortkort
6. Judge J. Howe Brown
7. Judge James McGrath
8. Judge Richard Potter
9. Judge Mary Grace O'Brien
10. Judge Carroll A. Weimer Jr.
11. Judge Richard J. McCue
12. Judge Donald Kent
13. Judge Cynthia Kinser

That since 2008 the above and others have acted in collusion in a Rico and Racketeering enterprise ignoring the following Judicial Cannons, State and Federal Laws:

Their are responsibility and consequences of a Judge who has grounds to recuse himself is expected to do so. If a judge does not know that grounds exist to recuse themselves the error is harmless. If a judge does not recuse themselves when they should have known to do so, they may be subject to sanctions, which vary by jurisdiction. Depending on the jurisdiction, if an appellate court finds a judgment to have been made when the judge in question should have been recused, it may set aside the judgment and return the case for retrial. In this case the Scheme of Fraud on the Court to work with the those not holding them to the law – ruling in their favor even with Civil Rights Violations shows a strong bias to harm and intimidate Pro Se Litigant Janice.

"Any judge who does not comply with his oath to the Constitution of the United States, wars against that Constitution and engages in violation of the Supreme Law of the Land. If a judge does not fully comply with the Constitution, then his orders are void, ***In re Sawyer***, 124 U.S. 200 (1888), he is without jurisdiction, and he/she has engaged in an act or acts of treason." ***"U.S. v. Will***, 449 U.S. 200, 216, 101 S. Ct. 471, 66 Ed.2d 392, 406 (1980); ***Cohens v. Virginia***, 19 U.S. (6 Wheat) 264, 404, 5 L.Ed 257 (1821)"

Where an extrajudicial false accusation of a deeply personal and profession nature has been made by the Court against Pro se Janice prior to his ever ascending the bench, but manifests itself in his current hostile and antagonistic frame of mind in a matter over which he is currently presiding, Section 455 (a) of Title 28 mandates that the Court "shall disqualify himself" since his impartiality might reasonably be questioned.

Added to the clear language of Section 445, which requires disqualification where the court's impartiality might reasonably be questioned, is the forceful holding of the U.S. Supreme Court in Liteky v. U.S., 510 U.S. 540, 557 (1994), clearly requiring disqualification under the circumstances presented here: "Section 455(a) provides that a judge ***"shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."*** For present purposes, it should suffice to say that Section 455 (a) is triggered by an attitude or state of mind so resistant to fair and dispassionate inquiry as to cause a party, the public, or a reviewing court to have reasonable grounds to question the neutral and objective character of a judge's rulings or finding" .

The Second Circuit and the Southern District have repeatedly invoked these objective standards in defining the basis for recusal. Gil Enterprises, Inc. v. Delvy, 79 F.2d 241 (2d Cir. 1996); U.S. v. Occhipinti, 851 F. Supp. 523 (SDNY, 1993). As acknowledged in Grodin v. Random House, Inc., 61 F. 3d. 1045 at 1053, citing appropriate language in Liteky: "deep seated antagonism makes fair judgment impossible."

The basis for recusal here is premised on an extraordinary false accusation leveled against counsel while the judge was still in private practice. It was, and is, a personal attack that is extrajudicial. See U.S. v. Serrano, 607 F.2d 1145 (5th Cir. 1979) and U.S. v. Zagaire, 419 F. Supp. 494 (N. Dist. Cal. 1976), ***where specific note is taken that extrajudicial attacks of a personal nature are the strongest basis for granting relief***.

Nor does it matter that the Court fails to recall the specifics of the event in question: "The goal of section 455(a) is to avoid even the appearance of partiality. **If it would appear to a reasonable person that a judge has knowledge of facts that would give him an interest in the litigation then an appearance of partiality is created** even though no actual partiality exists because the judge does not recall the facts, because the judge actually has no interest in the case or because the judge is pure in heart and incorruptible. The judge's forgetfulness, however, is not the sort of objectively ascertainable fact that can avoid the appearance of partiality." Lilyeberg v. Health Services Acquisition Corp., 486 U.S. 847, 871 (1988).

The plain language of 28 U.S.C. 455(b)(2) is clear:

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
(b) He shall also disqualify himself in the following circumstances:

(2) Where in private practice he served as lawyer in the matter in controversy, or a lawyer with whom he previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it.

In discussing the import of § 455(b), Chief Justice Rehnquist noted, in his dissent, in Lilyeberg v. Health Services Acquisition Corp., 486 U.S. 847, 871 (1988) that: "Subsection (b) of § 455 sets forth more particularized situations in which a judge must disqualify himself. Congress intended the provisions of § 455 (b) to remove any doubt about recusal in cases where a judge's interest is too closely connected with the litigation to allow his participation."

Where two separate factors involving a past association with a party and personal animus toward counsel combine to establish the personal bias and prejudice of the judge, as set forth in a timely and sufficient affidavit, the allegations must be accepted as true and the Court is required to recuse itself pursuant to 28 U.S.C. § 144."

The recusal motion has been filed "at the earliest possible moment after obtaining the facts demonstrating a basis for recusal." See U.S. v. Occhipinti, 851 F. Supp. 523, 567 (So. Dist., NY 1993). It sets forth the origins of the Court's bias: an extrajudicial episode and prior association. U.S. v. Zagaire, 419 F. Supp. 494 (No. Dist. Cal. 1976), and documents with particularity the manifestation of bias as reflected in the current proceeding.

As such, and for purposes of Section 144 of Title 28, the allegations of a certified affidavit must be accepted by the Court as true, and the Court must act in accordance with the mandate of § 144 and recuse itself. U.S. v. Sykes, 7 F. 3d 1331 (7th Cir. 1993).

That the evidence in the above cases filed shows the Fraud, Perjury, Forgery, Obstruction of Justice, intend to mentally harm with much suffering by Janice, Discrimination for Social Hierarchy and Religious beliefs, the collusion to silence Janice while illegally jailed, Fraud on the Court, Professional Code of Ethics Violations, support of hate crimes, intimidation, support of illegal jailing and torture of Janice to intimidate and silence, et al that all acts and actions have been knowledgeable willful acts that were and are ongoing malicious, violent, oppressive, fraudulent, wanton, or grossly reckless by the above Judges and Divorce Lawyer Ilona et al..

. **That no Plaintiff or Defendant can win when a Judge is ruling in Retaliation, Retribution, Bias, Favoritism, Cronyism or for or with a financial conflict. The following are the conflicts that the above Judges have shown with the Judicial Canons: as has been shown in documents filed with this court.**

1. The Judges have violated Canon 1 of the Canons of Judicial Conduct for the Commonwealth of Virginia and United States of America in that they:
   a. failed to uphold the integrity and independence of the judiciary
   b. failed to maintain and enforce standards of conduct for fellow judges, and officers of the court.
   c. failed to observe minimal standards so that the integrity and independence of the judiciary would be preserved.
   d. failed to construe and apply the provisions of the Canons of Judicial Conduct to further their objectives.
   e. reduced the public confidence in the integrity and independence of judges and the deference of the public to the judgments and rulings of courts and

injured the system of government under law.
f. acted based on favor.
g. failed to comply with the law
h. failed to interpret and apply the laws that govern us.
i. failed to respect and honor the judicial office as a public trust.
j. failed to enhance and maintain confidence in our legal system.
k. failed to be an arbiter of facts and law for the resolution of disputes.
l. failed to meet even minimal standards for ethical conduct of judges.

2. The Judges violated Canon 2 of the Canons of Judicial Conduct in that they failed to respect and comply with the law and failed to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

3. The Judges violated Canon 3, of the Canons of Judicial Conduct by failing to perform the duties of his judicial office impartially and diligently.

4. The Judges violated Canon 3, Section 3B(2) in that they failed to be faithful to the law and maintain professional competence in it.

5. The Judges violated Canon 3, Section 3B(4) in that they failed to hear any proceedings fairly and with patience, failed to dispose promptly of the business of the court and failed to be efficient and businesslike while being honest and deliberate.

6. The Judges violated Canon 3, Section 3B(5) in that they failed to perform judicial duties without Retaliation, Retribution, Favoritism, Cronyism bias or prejudice.

7. The Judges violated Canon 3, Section 3B(6) in that she failed to refrain in Orders from manifesting, by words or conduct, bias or prejudice based upon social hierarchy, to protect others. Judges violated Canon 3, Section 3B(7) in that they failed to accord every person who has a legal interest in a proceeding, the right to be heard according to law.

8. The Judges violated Canon 3, Section 3B(7) in that they and there staff initiated, permitted, and/or considered **ex parte communications**, or considered other communications made to the judge outsider the presence of the parties concerning a pending or impending proceeding on several occasions.

9. The Judges violated Canon 3, Section 3B(7) in that she failed to disclose to all parties all ex parte communications described in Sections 3B(7)(a) and 3B(7)(b) regarding a proceeding pending or impending before the judge.

10. The Judges violated Canon 3, Section 3B(7) in that they independently investigated facts in a case outside the courtroom and considered evidence other than that presented in documents, and with the fact they did not allow my witness's to take the stand.

11. The Judges violated Canon 3, Section 3B(7) in that they failed to insure that Section 3B(7) was not violated through law clerks or other personnel on the judge's staff. [If communication between the trial judge and the appellate court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication should be provided to all parties.]

12. The Judges violated Canon 3, Section 3B(8) in that they failed to dispose promptly of the business of the court. In a fair and unbias why following the law and rules of the Court.

13. The Judges violated Canon 3, Section B(9) in that she failed to abstain from public comment about a pending or impending proceeding in any court, and failed to direct similar abstention on the part of court personnel subject to his direction and control.

14. The Judges violated Canon 3, Section 3C(1) in that they failed to diligently discharge the judge's administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration,

15. The Judges violated Canon 3, Section 3C(2) in that they failed to require staff, court officials and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge and to

refrain from manifesting bias or prejudice in the performance of their official duties.

16. The Judges violated Canon 3, Section 3C(3) in that as a they Judge failed to take reasonable measures to assure the prompt disposition of matters before the court.in a professional and fair way.

17. The Judges violated Canon 3, Section 3C(4) in:
    a. that they failed to exercise the power of appointment impartially and on the basis of merit;
    b. that they engaged in Retaliation, Retribution, Bias, and showed favoritism;

18. The Judges violated Canon 3, Section 3D(1) in that they received reliable information indicating a substantial likelihood that other Judges, and Lawyers hat acted criminally, had conflicts and had committed violations of these Canons or other laws and they did not take appropriate action.

19. The Judges violated Canon 3, Section 3D(1) in that they had knowledge that Judge and lawyers had committed violations of these Canons that raises a substantial question as to their fitness for office and they did not inform the Judicial Inquiry and Review Commission or other authorities as they are required to do.

20. The Judges violated Canon 3, Section 3D(2) in that they received reliable information indicating a substantial likelihood that the attorney's in this case and others had committed a violation of the Code of Professional Responsibility and they did not take appropriate action.

21. The Judges violated Canon 3, Section D(2) in that had knowledge that Attorney Ilona Grenadier Heckmna and others has committed violations of the Code of Professional Responsibility that raised a substantial question as to his trustworthiness and fitness as a lawyer and they did not inform the Virginia State Bar.

22. That to date Janice has personally provided several statement's and Motions to Judge outlining much of the above and offering to provide additional information.

23. The above Judges have engaged in "conduct prejudicial to the proper administration of justice" (Va. Const. art. VI, § 10; Code of Virginia § 17.1-906) and there performance as a Judge needs investigating and a Special Grand Jury should be empowered for a fair and unbias investigation into this court and the actions of the above Judges..

The Criminal Misconduct consists of the following:

Criminal Misconduct and Misconduct While in Office	**Facts and Laws**
TITLE 18, U.S.C., SECTION 242	***Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any person in any State, Territory, Commonwealth, Possession, or District to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, ... shall be fined under this title or imprisoned not more than one year, or both; and if bodily injury results from the acts committed in violation of this section or if such acts include the use, attempted use, or threatened use of a dangerous weapon, explosives, or fire, shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnaping or an attempt to kidnap, aggravated sexual abuse, or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be fined under this title, or imprisoned for any term of years or for life, or both, or may be sentenced to death.***
Racketeering 18 USC § 1961	
Extortion 18 USC § 1951, 18 USC § 1963, Va Code 18.2-470 VA Code §18.2-439 Acceptance of bribe by officer or candidate	That the appearance to is that the Judges were and are in the loop of the collusion of having Janice jailed and tortured for being poor, Catholic and to Cover up the criminal acts. At all times threatening incarceration by other Judges if Janice did not pay. Collusion with others in the intimidation in hopes of Janice being Murdered or committing suicide the acts and actions show a pattern and practice / Collusion of Virginia Circuit Court Judges, USDC Federal Court and Appeals Court in Virginia and the District of Columbia That when DiMuroGinsberg, Grenadier Anderson Starace Duffett & Kieser donated substantially to the Portrait of Judge Donald Haddock was nothing more than a THANK YOU – BRIBARY for always having their back.

Obstruction of Justice 18 USC § 1503(a) , § 1505, § 1506, § 1510, § 1511, § 1512, § 1513, § 1514, § 1514(A), § 1519 VA Code § 18.2-409 Resisting or obstruction execution of legal process VA Code 18.2	Making judicial decisions outside of the courtroom and relying on extrajudicial, ex parte information to issue substantive decisions. Conducting ex parte discussions with opposition and government agencies. **Not requiring opposition to prove their case but ruling for them anyway**. Denying procedural due process, denying any and all witness's or information that showed the criminal activity of Ilona Grenadier Heckman/ David Grenadier/Erika Lewis and their lawyers. Issuing baseless, noncompliant orders and seeking or trying to intimidate with the possibility of money to opponents lawyers.
Mail Fraud 18 USC § 1341	Causing the issuance of coercive letters demanding payment of baseless legal fees in support and making threats if I do not pay, then illegally jailing Janice. The above Judges after a conversation with Judge Haddock, Martha Kent et al Janice believes the Judges believe they are above the law and by all appearance cooperating outside to find favor with others in the Judiciary
Honest Services Fraud 18 USC § 1961	Systemic denial of honest services of the court system, while perpetrating a kickback scheme to gain favor with others, or financial gain. To be seen as a game player with the "Old Boys Network" with the hope of pay raises, bonus and the payments towards dinners, parties, portraits or what ever the Judge may request of the lawyers which give the appearance of bribery. That Janice has seen first hand that the Judge's and Lawyers who are friends talk prior to a trial and the decision is made prior to the trial for the better friend of the most Powerful Judge as in Janice's case it is Judge Donald Kent and Judge Donald Haddock by appearance running the Judiciary et al in Virginia and in Washington DC it would be Judge Walton, Howell, Leon and Boasberg, and in the USDC of VA Judge Lee with appeals Judge's Wilkinson, Niemeyer, Hamilton along with many other in the USDC of the District of Columbia
Gang Activity	
Conspiracy 18 USC § 1961 VA code § 18.2-22	Collusion with numerous individuals and agencies to obstruct justice. Smearing character and reputation to obtain self-serving favors with the intention of causing overt denials of due process and blocking receipt of honest services while some judges have been seeking illegal payments. Deformation of Janice Wolk Grenadier
Public Assistance Fraud VA Code §18.2-469 Officer refusing, delaying, ect., to execute process for criminal	Participating in scheme to fraudulently obtain state and federal funds through the Hamp Program and extorted payments from me, for Ilona Grenadier Heckman and lawyers without legal or factual basis, with the intention of distributing the money among co-conspirators. That ignoring the banks $251 Billion in fines, allowing Lawyers not to answer complaint, ignoring TroutmanSanders aka Mays and Valentine conflict in all cases.
Egregious Legal Errors	
42 U.S.C. § 1981 Equal Rights Under the Law	Participation in attempting to baselessly destroy Janice financially, physically and mentally. Collusion to illegally Libel and Slander with the Blog jwolkgrenadierisalair.blogspot.com USDC of District of Columbia denying restraining orders to win favor in a defamatory public opinion not issued without due process. Collusion to continue Libel and slander with other Judges and lawyers to protect colleagues. Ultimate goal of murder or suicide, without legal basis and accomplished through criminality, in both jurisdictions.
42 U.S.C. § 1983Civil Action for Deprivation of Rights	Participation attempting to baselessly destroy Janice. Collusion to Libel, Slander with religious hate in a defamatory public opinion without due process. Ultimate goal of murder, suicide to make homeless without legal basis and accomplished through criminality, in both jurisdictions. To protect the criminal actions of Ilona Grenadier Heckman and those in the "Judicial, Government and Elected Officials" whom had already stepped outside the box of the law in the Cover Up of Lawyer Ilona's actions
Due Process Fifth and Fourteenth Amendment no person "deprived of life, liberty, or property without due process of law"	Deliberate denial of substantive and procedural due process systemically favoring any opponent on the basis of Social Hierarchy to obtain favor with the Judiciary, the Government and other Elected Officials. Collusion to deny procedural due process in VA foreclosure proceedings – not allowing a Jury by Trial as demanded by Janice for fairness in the courts. That dismissing the complaint with baseless reasoning after proper motions and causing the issuance of unfounded rulings.
Social Hierarchy - Discrimination	Defined: Different degrees of power and authority by Persons who believe they are above the law as in Gov't, Elected Officials & Judiciary when missed by these persons who believe "They make the laws for those that believe they are above the law so they do not have to follow the same laws" Discrimination for being poor, blacked balled by the Old Boys Network
Religious Discrimination 42 USC § 2000bb First Amendment of US Constitution	The First Amendment guarantees freedom of Religion – That all Bodies of the Judiciary, the Government and Elected Officials have supported **Ilona's HATE OF CATHOLICS** et al
Decisions made in bad faith for a corrupt purpose deliberately and intentionally failing to follow the law	All decisions and Orders have been done deliberately to deny Due Process to protect the Criminal Acts and Knowledgeable actions of "FRIENDS and Colleagues"
Extrinsic Fraud *See e.g., Schlossberg v. Schlossberg,* 343 A. 2d 234 - Md: Court of Appeals 1975	Deliberately issuing unfounded, baseless orders with the knowledge of the Clerk of Court and collusion to lie to Janice. Perjury, Fraud, harassment seeking money,
Abuse of Contempt Powers VA § 18.2-456 (4) Misbehavior of an officer of the court in his official character (5)Disobedience or resistance of an officer of the court	Collusion with others in cases to deliberately deny due process to get case in a contempt posture, then issuing petitions and orders that do not comply with the statutory procedure and threaten contempt, incarceration and if I do not pay. Illegally incarcerating, torturing Janice from October 22 – November 12, 2014 for the hopes of her committing suicide when she was released, to prevent e-mails showing Mark Warner's knowledge of the corruption in the Judiciary and the cover up of Lawyer Ilona Grenadier Heckman, for pure abuse of Janice.
Ex parte Communications Judicial Canon 3(B)7 Virginia code of Professional Conduct	Deliberately conducting ex parte discussions with opposition and government agencies and doing their own investigations, then using the extrajudicial information to issue baseless rulings while also denying due process and seeking money for criminal acts by

	lawyers. That the hamp program offered by the government has been misused by the Banks and Lawyers which have been pled and ignored
Deformation / Libel / Slander VA Code §18.2 417 Slander and libel, 28 USC § 4101	That in collusion with the other judges the words /statements "frivolous" "Delusional, malicious & looking for frivolous law suits" saying I am Fantastic and fanciful nature by Gerald Bruce Lee and similar saying by other Judges. Janice has the documents and the proof of corruption by the Judiciary and Lawyer Ilona Ely Freedman Grenadier Heckman – Law firms DiMuroGinsberg and BWW Law Group and Troutman Sanders aka Mays & Valentine and the Judge's for favor are colluding to cover up all criminal acts. That the use of Deformation is because the real law does not work, because the LAW is on the side of Janice.
Perjury VA Code § 18.2-10, § 18.2-434, § 8.01-4.3	That when the Judge's signed Orders that were outside the law, not true and correct that were false in statements they committed Perjury. That Lawyers Ilona Grenadier Heckman, Ben DiMuro, Michael Weiser, Andrea Mosley, Judge John Tran, Hillary Collyer, filed documents and mislead this court Obstruting Justice with statement that they knew to be untrue
VA Code § 17.105	**Designation of Judges** to hold courts and assist other Judges – That all Judges in all cases by Janice have been by Judges that did not have Jurisdiction making all orders "VOID"
VA Code § 18.2 - 21	**An Accessory, either before or after the fact**, may, whether the principal felon be convicted or not, or be amenable to Justice or not be indicted, tried convicted and punished in the county or corporation in which he became accessory or in which the principal felon might be indicted.
VA Code § 18.2-481 Treason VA Code § 18.2-482 Misprision of Treason	**Treason Resisting the execution of the laws under color of its authority.** If any person knowing of such treason shall not, as soon as my be, give information thereof to the Governor, or some conservator of the peach he shall be guilty of a Class 6 Felony
VA Code § 18.2-472	**False entries or destruction of records by officers** of the court – When Kemler, Dawkins and Clark mailed back documents submitted properly into the record ie Mail Fraud
VA Code § 18.2-168	**Forging Public Records** – Ilona Grenadier Heckman That when Ilona was involved with the forgery of Sonia Grenadier's name in the Trust agreement and then after knowing and be caught forging continued to use such document with the help of other Lawyers, Government officials
VA Code § 18.2-455 Unprofessional Conduct: revocation of license	**Conduct illegal by an attorney at law** or any person holding license from commonwealth to engage in a profession in unprofessional conduct

That the above outlines only some of the criminal activity and collusion

Attached Exhibits but, all documents filed in the Supreme Court of Virginia, The Appeals Court of Virginia, The Circuit and General Court of the City of Alexandria and the Circuit Court of Prince Williams County which are available to this committee on line should be considered.

That Janice reminds this commission she is Pro Se and Poor – But HAS LEGAL STANDING due to the fact she has the LAW and the TRUTH on her side. The above Judges have acted criminal, deceitfully in collusion to cover up the criminal acts of Divorce Lawyer Ilona Grenadier Heckman since on September 2007 when Divorce Lawyer Ilona Grenadier Heckman LIED IN COURT, she and her attorneys have though out this process with the support of the Judges, the Appeals Court and the Supreme Court supported this behavior.

Exhibit	Description	Pages
1	The Faces of the Murdered / Suicide and Survivor's of the Old Boys Network in Northern VA - These 4 pages are a shore outline of the Criminal Activity	4
2	The Exhibits Filed in the USDC for the Eastern Division of Virginia The Exhibits give this commission the information in regard to the Criminal Acts of the Judges and Divorce Lawyer Ilona Grenadier Heckman et al - Including Exhibit 35 GIC liquidation Agreement done by a Lawyer not licensed in Virginia	69
3	Letter Gov. Terry McAuliffe	1
4	Letter Gov. Terry McAuliffe	2
5	Letter Chief Justice Donald W. Lemons	2
6	Letter Director James Comey	3
7	Letter Senator Norment & Delegate Albo to apply for an appointment for the citizen position	1
8	Complaint Judge James Clark and back up	
9	Complaint Judge Donald Haddock and back up	
10	Complaint Judge Lisa Kemler and back up	
11	Complaint Judge Nolan Dawkins and back up	
12	Complaint Judge Thomas Fortkort and back up	
13	Complaint Judge J. Howe Brown and back up	
14	Complaint Judge James McGrath and back up	
15	Complaint Judge Richard Potter and back up	
16	Complaint Judge Carroll A. Weimer Jr and Judge Mary Grace O'Brien and back upn	

That all documents have been submitted with the hopes of this Commission doing the right thing. That I would not have been illegally jailed if this Commission had done its job back in September of 2008.

I look forward to hearing back from you.

Respectfully Submitted

Janice Wolk Grenadier
15 W. Spring Street
Alexandria, Virginia 22301
202-368-7178

Monday January 18 , 2016 was a holiday - on Tuesday - Two - 2 - working days later January 19, 2016 for all the Judges the following letter was sent to Janice: With this letter please keep mind the above letter stated very clearly that Janice did not expect the JIRC to change the outcome but, to prevent it from happening to someone else.

COMMONWEALTH OF VIRGINIA

Judicial Inquiry and Review Commission

P.O. Box 367
Richmond, Virginia 23218-0367
(804) 786-6636

January 19, 2016

Ms. Janice Wolk Grenadier
15 West Spring Street
Alexandria, VA 22301

Dear Ms. Grenadier:

This is in response to your January 11, 2016, complaint to the Judicial Inquiry & Review Commission. The Commission has no authority to review or change a judge's rulings. Your complaint fails to provide a valid basis for action by the Commission.

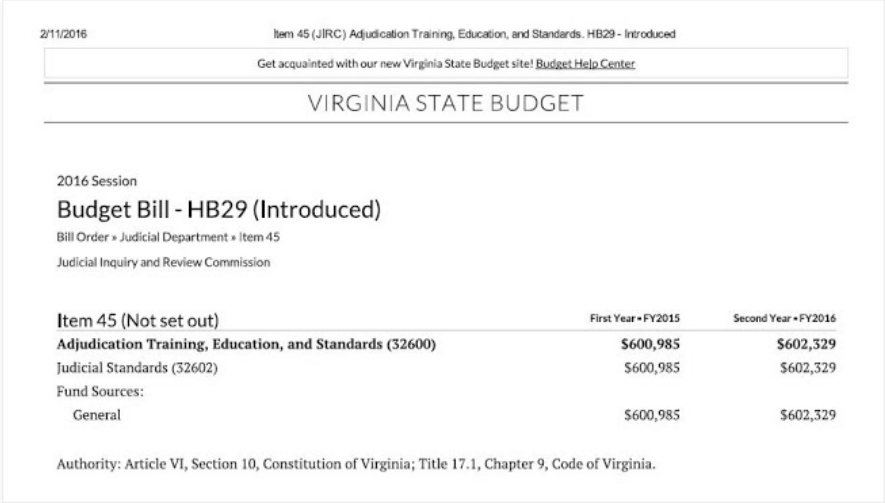
Sincerely,

Robert Q. Harris
Assistant Counsel

ab

The State of Virginia has allocated $602,000 to support this Corrrpt Commission - That a few years ago as the letter states Janice voluntiered to become a member - Janice was dubbed a "PAIN IN THE ASS" and Janice's letter , phone calls and e-mails were ignored - The following shows that

1. The Budget amount,
2. The Letter from Janice to JIRC
3. The Detailed Information from the JIRC to the Legislature from 1999 - 2015 that shows they DO NOT INVESTIGATE any Virginia Citizens Complaints:



2/11/2016 Item 45 (JIRC) Adjudication Training, Education, and Standards. HB29 - Introduced

Get acquainted with our new Virginia State Budget site! Budget Help Center

VIRGINIA STATE BUDGET

2016 Session

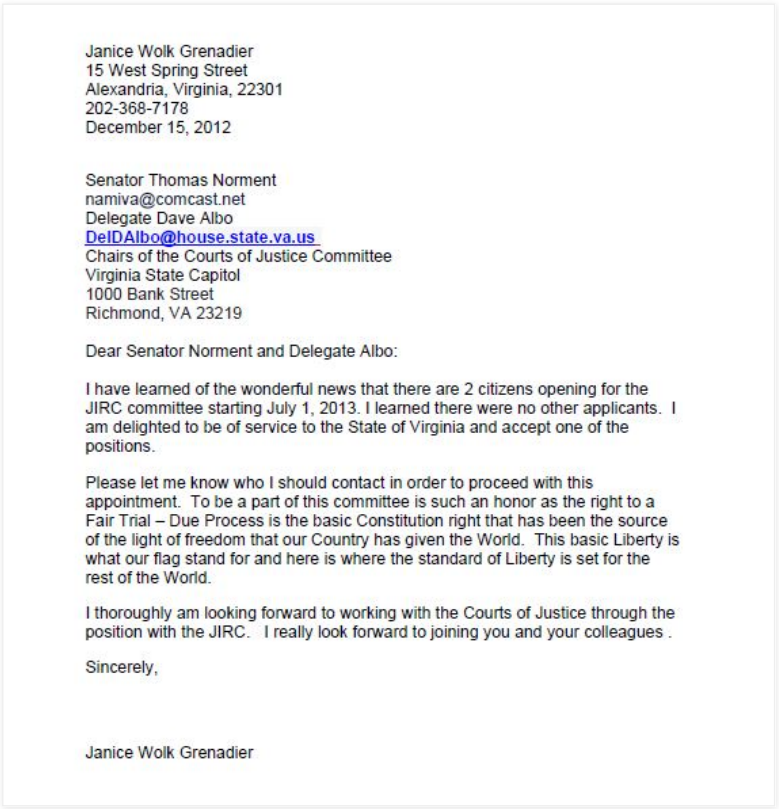
Budget Bill - HB29 (Introduced)

Bill Order » Judicial Department » Item 45

Judicial Inquiry and Review Commission

Item 45 (Not set out)	First Year - FY2015	Second Year - FY2016
Adjudication Training, Education, and Standards (32600)	**$600,985**	**$602,329**
Judicial Standards (32602)	$600,985	$602,329
Fund Sources:		
General	$600,985	$602,329

Authority: Article VI, Section 10, Constitution of Virginia; Title 17.1, Chapter 9, Code of Virginia.



Janice Wolk Grenadier
15 West Spring Street
Alexandria, Virginia, 22301
202-368-7178
December 15, 2012

Senator Thomas Norment
namiva@comcast.net
Delegate Dave Albo
DelDAlbo@house.state.va.us
Chairs of the Courts of Justice Committee
Virginia State Capitol
1000 Bank Street
Richmond, VA 23219

Dear Senator Norment and Delegate Albo:

I have learned of the wonderful news that there are 2 citizens opening for the JIRC committee starting July 1, 2013. I learned there were no other applicants. I am delighted to be of service to the State of Virginia and accept one of the positions.

Please let me know who I should contact in order to proceed with this appointment. To be a part of this committee is such an honor as the right to a Fair Trial – Due Process is the basic Constitution right that has been the source of the light of freedom that our Country has given the World. This basic Liberty is what our flag stand for and here is where the standard of Liberty is set for the rest of the World.

I thoroughly am looking forward to working with the Courts of Justice through the position with the JIRC. I really look forward to joining you and your colleagues .

Sincerely,

Janice Wolk Grenadier

JUDICICIAL INQUIRY AND REVIEW COMMISSION
1999 - 2015

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Judges subject to the Jurisdiction of the Commission																	
	751	768	777	774	772	780	782	781	781	766	787	784	773	794	799	788	848
State Corporation Commission Judges																	
		3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Virginia Workers Compensation Commission																	
		3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Written inquiries received																	
Attorneys	13	12	16	7	20	15	7	8	14	10	9	8	8	11	12	10	14
Judges	18	13	13	8	14	6	18	13	2	13	6	15	13	3	3	45	107
Court Employee	5	5	2	0	1	18	0	0	8	2	0	2	3	0	1	0	2
General Public	46	61	11	6	34	23	6	6	5	23	6	10	7	11	11	8	15
Litigants	110	125	125	149	157	160	132	141	166	189	214	201	225	233	212	226	235
Victims	5	2	3	2	2	2	0	3	3	2	0	0	1	0	1	1	1
Inmates	119	149	170	179	231	222	205	239	172	219	196	194	186	165	149	176	141
Media	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Other	4	2	20	20	47	35	40	27	65	42	40	37	21	27	43	17	23
In Person																	
Total	320	369	360	371	506	481	408	437	435	500	471	467	464	450	432	483	538

1

JUDICICIAL INQUIRY AND REVIEW COMMISSION
1999 - 2015

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Nature of Written Inquiry																	
Ruling Decision	120	128	159	174	248	222	151	196	200	289	296	316	316	329	315	323	318
Ex parte	3	11	6	6	13	7	11	6	11	10	8	10	9	11	8	5	13
Bias prejudice	26	44	57	41	49	92	79	101	68	60	85	41	45	45	40	54	78
Delay	14	16	16	16	22	17	24	33	20	18	11	17	19	15	16	8	10
Rude behavior	21	35	35	43	45	58	50	37	45	45	58	62	59	76	60	38	41
Failure to Follow the Law	30	62	34	30	33	52	26	43	18	25	29	17	23	48	15	12	9
Ethics Opinion	18	12	13	6	12	14	17	11	6	10	5	10	12	1	2	38	101
How to File	34	32	30	51	55	39	51	45	25	30	31	20	35	25	33	34	32
Other	70	93	77	66	101	57	40	77	147	223	231	259	221	233	212	250	243
Total	335	433	427	433	578	558	449	549	540	710	754	752	739	783	701	762	845
Telephone Inquires Received																	
Attorneys	62	52	45	57	55	50	39	35	48	39	40	37	29	34	24	47	34
Judges	263	248	241	253	349	367	417	388	439	451	464	390	404	456	518	506	571
Court Employees	21	14	21	11	14	15	6	10	11	11	7	9	8	6	5	10	9
General Public	225	186	63	38	43	39	25	5	18	21	20	49	32	73	100	124	139

2

JUDICICIAL INQUIRY AND REVIEW COMMISSION
1999 - 2015

Litigants	396	376	432	362	396	445	361	341	318	310	301	359	364	342	296	302	396
Victims	18	18	12	17	12	12	5	7	15	9	9	7	7	6	4	2	0
Inmates	2	0	4	3	1	5	3	2	2	1	4	1	3	1	0	1	1
Media	13	4	3	5	5	1	0	0	0	1	0	0	0	0	0	0	0
Other	23	27	81	120	145	136	97	115	120	114	106	83	85	60	51	48	35
In Person	11	11	9	7	6	8	20	15	5	10	10	7	5	21	11	31	51
Total	1034	936	911	873	1026	1078	973	918	976	967	961	942	937	996	1009	1071	1,171
	1999	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Nature of Telephone Inquiry																	
Ruling Decision	238	218	242	228	235	238	188	205	243	236	282	265	235	205	204	1127	88
Ex Parte	13	15	13	12	13	20	17	12	14	13	10	12	13	9	4	4	3
Bias Prejudice	77	68	66	64	71	88	61	77	60	67	69	62	58	45	26	25	16
Delay	25	24	28	27	28	35	36	26	32	23	24	12	16	19	14	2	5
Rude Behavior	74	74	84	68	84	88	67	64	47	66	57	52	60	53	31	23	12
Failure to follow the Law	75	58	52	63	70	79	62	72	66	55	49	37	39	30	10	5	12
Ethics Opinion	233	231	232	243	341	348	424	396	439	460	458	398	405	481	525	511	608
How to File	197	160	125	121	142	161	148	152	72	103	106	163	192	207	238	306	322
Other	218	180	161	135	162	150	117	116	176	208	179	205	202	237	190	250	271
Total	1150	1028	1003	961	1143	1208	1120	1120	1149	1231	1234	1206	1220	1286	1242	1253	1337

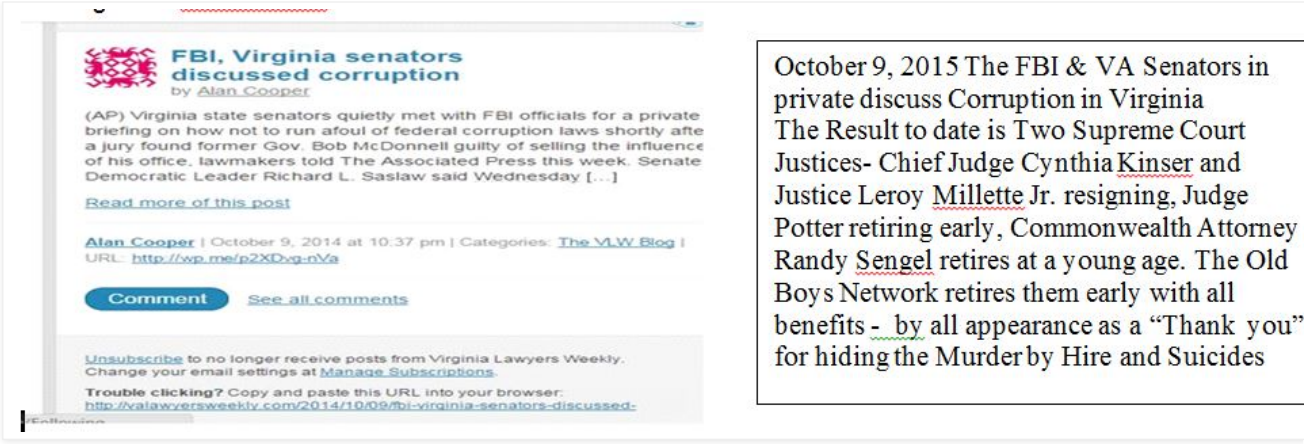
3

JUDICICIAL INQUIRY AND REVIEW COMMISSION
1999 - 2015

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Files Opened upon the Complaint of																	
Attorney	11	4	3	5	9	3	8	8	2	3	5	8	4	5	9	10	15
General Public	6	7	0	2	1	0	0										
Litigant	18	13	5	9	5	6	7	8	4	4	4	5	7	3	7	3	2
Judge	1	2	3	0	2	2	0	0	0	1	5	5	1	1	0	4	2
Inmate	2	1	0	0	1	2	0	0	0	0	1	1	0	0	0	1	0
Court Staff	1	1	0	1	1	0	0	1	0	0	1	1	0	2	2	0	0
Commission	6	4	7	14	10	15	17	13	17	12	4	12	19	13	11	22	9
Victims	2	2	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1
Other		4	5	1	3	6	0	0	0	0	0	2	0	0	1	3	3
Total	47	38	23	32	32	34	33	30	23	20	20	34	31	24	30	44	32
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
Commission Dispositions / Dismissals																	
No Jurisdiction	0	0	2														
No Violation	27	18	4	8	2	7	12	0	9								
No Further Action							18	22	5	2	3	5	9				
Informal Meetings				9	14	14	9	8	3	7	4	7	8	7	2	2	2
Dismissed										16	16	23	21	23	30	37	28

4

You will notice that one Judge retired last year. That was our Chief Justice Cynthia Kinser and by all appearance was the coverup of the relaease -of Micheal Gardener



If you have made it to here - you can see the evidence is clear the $602,000. SCAM to EMPOWER JUDGES in the State of Virginia to ignore the LAW. The Judges in PA went to jail for CASH for KIDS - JUDGE JAMES CLARK jailed JANICE WOLK GRENADIER CASH FOR LAWYERS

Divorce Lawyer Ilona Grenadier Heckman
DiMuroGinsberg for Ben DiMuro, Judge John Tran, Hillary Collyer, Andrea Mosley
Michael Weiser Esq
Troutman Sanders aka Mays & Valentine
Keller Heckman

You will also want to read:

https://www.scribd.com/doc/299242956/State-s-Best-Kept-Secret-is-Agency-That-Judges-the-Judges

THE VIRGINIAN PILOT

DATE: Sunday, September 22, 1996 TAG: 9609230248
SECTION: LOCAL PAGE: B1 EDITION: FINAL
SOURCE: BY MARK DAVIS
LENGTH: 217 lines

STATE'S BEST KEPT SECRET IS AGENCY THAT JUDGE THE JUDGES

The complaint was filed in secret. The public was not told that a Norfolk judge may have acted improperly.

A government agency investigated the judge in secret. There was no public record.
A misconduct hearing was called in secret. The location was kept quiet. The agency would not confirm the judge's name or even that it was meeting.

Witnesses against the judge were called in secret. Subpoenas were not filed in open court, as they are in criminal cases. The witnesses' testimony may never be known. They were urged not to talk after the hearing.

A newspaper reporter who showed up was asked the leave the building, a Holiday Inn. The reporter stayed out in the hallway.

And in the end, Judge Luther C. Edmonds of Norfolk Circuit Court resigned under pressure. That was nearly two weeks ago, and still nothing is known officially about the case, and probably nothing ever will be. Edmonds will go back to his private law practice in Virginia Beach and he will be eligible for a judge's pension in a few years.

The exact charges against himremain sealed. The nature of his alleged misdeeds remain unknown. The name of whoever filed the complaint against him remains confidential. The testimony against him is secret.

The system worked exactly as it was intended: The public will never be told why a sitting judge left office.

Lawyers call it The Jerk that's JIRC, short for Judicial Inquiry and Review Commission.
It is the most powerful and most secretive government body you've never heard of.

How secret is Virginia's judicial commission? Consider the scene Sept. 12 when the commission heard charges against Edmonds.

Nothing at the Holiday Inn Executive Center on Greenwich Road hinted at the serious proceedings inside. It was 8:30 a.m. and the hotel buzzed with activity.

Several meetings were going on at once. In Parlor E, Navy officers discussed rescue techniques. In Parlor B, blue collar workers from Georgia Pacific talked shop. Their doors were open.
Across the hall in Parlor C, the door was closed and locked. No one was admitted without permission. There was no sign on the door or on the hotel marquee to tell visitors who was meeting there. Inside, the seven commission members three judges, two lawyers and two private citizens met.

The hearing started, then stopped abruptly. JIRC's chief counsel emerged to confront a VirginianPilot
reporter waiting outside.

``I am asking you to leave the building," Reno S. Harp III told the reporter. ``I can't order you to leave, but I am asking you to leave the building. Your presence here is threatening the confidentiality of the witnesses who will testify."

It is that secret.

For 25 years, the JIRC has been meting out justice behind closed doors. This is required by the state constitution, under the heading of
``Disabled and unfit judges." It says, ``Proceedings before the Commission shall be confidential."
How confidential are they? So confidential that, until 1993, it was a crime for witnesses to publicly discuss their testimony.

So confidential that, until 1978, it was a crime for newspapers to report that an investigation existed.
Technically, the commission is not all powerful.

Technically, it answers to the state Supreme Court, which has the real power to remove or censure judges. Technically, the commission merely makes recommendations, and technically the most serious cases become public when the charges and transcript move to the Supreme Court.
But that rarely happens.

In 25 years, only six judges statewide have been publicly punished. And only one case resulted in a judge's removal a Richmond judge who gave away confiscated guns and liquor.

More often, judges under investigation resign, like Edmonds, and their cases fade away. Many lawyers and judges say it is the fairest system possible. They say privacy is needed to protect judges' reputations from unfair attacks and to protect witnesses who are afraid to come forward.

``I know there's some debate about whether the entire process should be open," says commission chairman Theodore J. Craddock, a Lynchburg lawyer. ``I personally feel the system should stay the way it is. I've seen it work and I feel it works best . . .

``Anybody can make an allegation. I think the reputation of a judge can be unfairly attacked."
The system is so secret that Craddock says he cannot offer examples of cases in which confidentiality was needed.

Richmond lawyer James C. Roberts has represented several accused judges before the commission. He agrees on the need for secrecy. He says many complaints against judges are worthless and deserve to be kept quiet.

Besides, Roberts says, ``You're more apt to have people come forward and be honest and candid under those circumstances than if the process had been public."

Harp, the commission's chief counsel for 25 years, refuses to get drawn into the debate. He says simply that confidentiality is required by the state constitution ``and I'm required to follow it."

He calls the commission ``the personnel department of the judiciary," an agency that deals with problem employees like any other.

In an interview earlier this year in the Newport News Daily Press, Harp said he sometimes works in the background to get at the root causes of judges' problems medication, for example, or alcoholism, or even a hearing aid.

Sometimes the commission simply eases a judge into retirement, sometimes for medical reasons, sometimes as a quick remedy to charges of misconduct.

For example, Judge Stephen Comfort retired from Chesapeake General District Court in

1993, saying he had become bored with the job.

A few days later, a friend said Comfort was forced to quit by the judicial commission. The friend said Comfort was being investigated for improperly intervening with another judge in the friend's child visitation dispute.

As in the Edmonds case, neither the judge nor Harp could comment because the investigation was confidential.

Last week, Harp said other ``personnel departments'' don't have to deal with problem employees in public.

The system has its critics. Richmond lawyer David P. Baugh may be the most outspoken. In 1990, he attacked the commission's confidentiality with a federal lawsuit.

He complained that his First Amendment rights were being violated because he could not talk about a complaint he had filed against a judge.

And he won. A federal judge ruled that Virginia cannot stop witnesses and complainants from talking about their cases.

As a result, the General Assembly in 1993 revoked the law that made it a crime. But the legislature made no other changes, and the commission still urges witnesses to remain silent after they testify, even after hearings are over.

That infuriates Baugh.
``The JIRC is the ultimate star chamber,'' Baugh says. ``I have a hard time keeping secrets from the people. We're paying the tab for this guy (a judge). We don't know the allegations against him. We don't even know if the allegations ought to be crimes . . .

``If I make a complaint against you and it's a crime, it becomes public. If I make a complaint against a judge, that's different . . . I don't like this secrecy. Secrecy and democracy don't mix.''
Norfolk City Treasurer Joseph Fitzpatrick agrees.

In 1979, when Fitzpatrick was a state senator, he tried to change the rules. His anger was sparked by secret misconduct hearings against
Norfolk Judge Joseph Jordan of General District Court.
The investigation was no secret. Many lawyers in town talked openly about the case. It was debated endlessly in the press. Eventually, the
commission did certify public charges against Jordan to the Supreme Court, and Jordan was publicly censured.

Fitzpatrick testified for Jordan in secret. He was furious that Jordan had been ``tried in the press'' without a public hearing. In the legislature, he called for a constitutional amendment to open the system.

Fitzpatrick lost that fight, but his opinion hasn't changed.
``It occurred to me that judges were subject to being found guilty without anyone ever knowing what the charges were,'' Fitzpatrick said last week. ``The more these things go on, the more convinced I am that . . . the public should know what a judge is being charged with and should be able to be a part of any action taken against a judge, through the media.''

Even accused judges who want their hearings open cannot change the law.

In 1990, for example, Portsmouth Judge Archie Elliott Jr. of General District Court was accused of misconduct. Again, it was a poorly held secret. Lawyers, including Portsmouth's top prosecutor, talked openly about the case. Elliott asked for an open hearing. The commission said no.
The commission never revealed the outcome of the hearing. It became public only after Elliott told a church congregation three days later that the charges against him had been dismissed.

``There were so many rumors floating around about different allegations,'' Elliott's attorney, Kenneth R. Melvin, said at the time. ``We wanted the people to know that the charges were essentially procedural allegations.''

Is there another way?
Most states are not as secret as Virginia. All 50 keep initial investigations private. But after that, 32 states make cases public when charges are filed against a judge, according to the American Judicature Society in Chicago.

Among the less secretstates are neighbors North Carolina, Maryland, West Virginia and Tennessee.
Unlike Virginia, seven states and the District of Columbia also allow an accused judge to waive confidentiality.

Only 13 states have systems similar to Virginia's, and six are more secret, including

neighboring Kentucky.

In 1978, the U.S. Supreme Court ruled that newspapers and broadcasters in Virginia cannot be prosecuted for truthfully reporting on the
JIRC. The issue arose after The VirginianPilot
was convicted of a misdemeanor and fined $500 for reporting that a judge was under investigation.

Chief Justice Warren Burger wrote: ``The operations of the courts and the judicial conduct of judges are matters of utmost public concern.

The operation of the Virginia commission (JIRC), no less than the operation of the judicial system itself, is a matter of public interest."

After the ruling, JIRC's chairman breathed a sigh of relief. At least, he said, the hearings themselves will remain closed. A ruling against JIRC's secret nature ``would have killed the commission," he said.

The American Bar Association has a different take.

In 1991, an ABA commission reported that the public is suspicious of lawyers who discipline themselves in secret. The report focused on lawyer disciplinary systems not judicial discipline systems but found that lawyers hold themselves to different standards than the general
public.

``The irony that lawyers are protected by secret proceedings while earning their livelihoods in an open system of justice is not lost on the public," the ABA commission wrote.
``The public will never accept the claim that lawyers must protect their reputations by gag rules and secret proceedings." ILLUSTRATION:

JUDICIAL INQUIRY AND REVIEW COMMISSION
When Judge Luther C. Edmonds, left, resigned, the public never knew why. The commission kept secret the charges against him. The name of whoever filed the complaint against him, and the testimony, remains unknown, as well.

COMMISSION MEMBERS
The Virginia Judicial Inquiry and Review Commission has seven members three judges, two lawyers and two laymen. They are appointed by the General Assembly to fouryear terms. The members are:

Chairman Theodore J. Craddock, Lynchburg lawyer.
Vice Chairman Thomas E. Glascock, Hampton lawyer.
Judge James H. Flippen Jr., Norfolk Juvenile and Domestic Relations Court
Robert J. Grey, Richmond, retired from A.H. Robbins
John S. Massad Sr., Richmond, real estate
Judge Paul F. Sheridan, Arlington Circuit Court
Judge Joseph S. Tate, Marion General District Court
KEYWORDS: JUDGES JIRC JUDICIAL INQUIRY AND REVIEW COMMISSION

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issues/1996/vp960922/09230248.

Posted by Unknown at Saturday, February 13, 2016

Labels: Chuck Grassley, DiMuroGinsberg., Erika Lewis, JIRC, Judicial Inquiry and Review, Keller Heckman, Mark herring, Mark Warner, Ted Cruz, Trump, VSB

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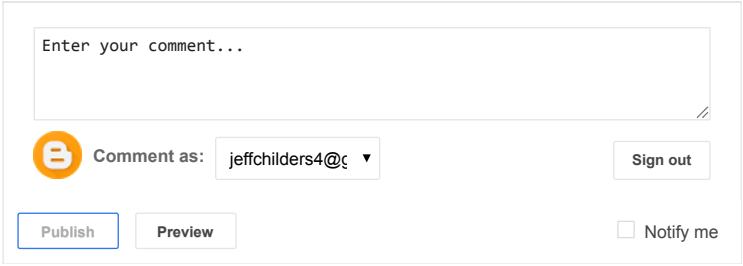

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EXHIBIT A28

Judicial Inquiry And Review
Commission Of Virginia
Opinion By
V. Record No. 090845
Justice Leroy F. Millette, Jr.
November 5, 2009
Ramona D. Taylor, Judge Of
The Second Judicial District

Page 12

Judge Taylor also asserted that an email written by the chairman of the Commission, Judge Larry D. Willis, Jr., to the juvenile and domestic relations court appeared to have "prompted and/or played a role" in one of Judge Taylor's prior informal contacts with the Commission. Therefore, Judge Taylor argued that Judge Willis should have **recused** himself.

I have noticed online that sometimes Judge Larry D. Willis, Sr. has been called Judge Larry D. Willis, Jr. They are the same person.

Date: November 5, 2009

PRESENT: Koontz, Kinser, Lemons, Goodwyn and Millette, JJ., and Carrico and Russell, S.JJ.

JUDICIAL INQUIRY AND REVIEW
COMMISSION OF VIRGINIA

v. Record No. 090845

OPINION BY
JUSTICE LEROY F. MILLETTE, JR.
November 5, 2009

RAMONA D. TAYLOR, JUDGE OF
THE SECOND JUDICIAL DISTRICT

The Judicial Inquiry and Review Commission ("the Commission") filed the present complaint against Ramona D. Taylor, Judge of the Second Judicial District, pursuant to the original jurisdiction of this Court set forth in Article VI, § 10 of the Constitution of Virginia and Code § 17.1-902. The Commission asserted that its charges against Judge Taylor for allegedly violating the Canons of Judicial Conduct ("the Canons") are well founded in fact and are of sufficient gravity to constitute the basis for censure by this Court.

I. FACTS AND PROCEEDINGS

On January 13, 2009, the Commission issued a Notice establishing formal charges against Judge Taylor that she had engaged in misconduct or engaged in conduct prejudicial to the proper administration of justice while serving as a judge in the Juvenile and Domestic Relations District Court for the City of Virginia Beach ("the juvenile and domestic relations

court”). Judge Taylor was charged with alleged violations of Canons 1, 2, 2A, and 3B(2).

The Commission alleged that on May 2, 2007, at the conclusion of an adjudicatory hearing on a misdemeanor assault charge against a 15 year old defendant (“K.M.”), who was not then in custody, Judge Taylor found K.M. guilty following his plea of “not innocent.” During the adjudicatory hearing, the Commission alleged, “someone in the courtroom audience blurted out that [K.M] had used a racial epithet toward the victim of the assault,” and Judge Taylor called witnesses to the stand to testify about the use of the racial epithet. According to the Commission, Judge Taylor found that K.M. represented a risk of harm to the community, and remanded him to custody pending a sentencing hearing scheduled for May 24, 2007.

The Commission further alleged that Judge Taylor denied K.M.’s request for immediate sentencing so that an appeal could be noted, and ordered that a social history be compiled for the sentencing hearing. In addition, the Commission alleged that Judge Taylor denied K.M.’s May 2, 2007 written motion for bond and release pending the sentencing hearing by order entered on May 3, 2007 that expressly stated it was “an interlocutory, non-appealable order” (“May 3rd order”).

The Commission further contended that, by letter from his counsel dated May 4, 2007, K.M. sought reconsideration of the

May 3rd order. The Commission alleged that K.M.'s four-page letter outlined K.M.'s factual and legal argument in support of bond, his appeal of the denial of bond to the next higher court, and his request for an immediate sentencing so that he could immediately appeal, because otherwise denying bail and imposing incarceration would make K.M.'s right to a de novo appeal meaningless. However, according to the Commission, Judge Taylor denied reconsideration by an order in which she maintained her position that the denial of K.M.'s motion for bond and release was interlocutory and non-appealable ("May 8th order").[1] The Commission alleged that when K.M. attempted to appeal his case, the clerk of the juvenile and domestic relations court ("the clerk of court" or "clerk") refused to process the appeal, and K.M. filed a petition for writ of mandamus against the clerk in the Circuit Court for the City of Virginia Beach ("the circuit court"). The writ of mandamus, which was granted by order dated May 11, 2007, directed the clerk of court to process an appeal of Judge Taylor's order. After a bond hearing also conducted on May 11th, the circuit court released K.M. to the custody of his parents.

[1] Judge Taylor entered a "Corrective Order" containing the same language that "[t]his order is an interlocutory, nonappealable order" on May 8, 2007 nunc pro tunc May 3, 2007.

In Judge Taylor's answer to the Notice of formal charges, she maintained that she did not recall whether K.M.'s counsel requested an immediate sentencing. Judge Taylor admitted that she entered the May 3rd order denying K.M.'s motion for bond and release pending the sentencing hearing, and that K.M. requested reconsideration of that order. However, Judge Taylor denied that K.M.'s counsel cited to authority that clearly gave K.M. the right to appeal the decision denying bail and asserted that the authority cited by K.M.'s counsel is "subject to contrary legal interpretations with regard to its applicability to juvenile defendants detained post-adjudication and pre-disposition."

Judge Taylor admitted that at the mandamus hearing, the attorney for the clerk of court asserted that the clerk was "under a direct order by [Judge Taylor] as the Chief Judge not to process the defendant's appeal," but averred that the attorney incorrectly stated the capacity in which Judge Taylor served when she advised the clerk regarding the appealability of the May 3rd order. Judge Taylor asserted that she was functioning as the presiding judge, not as the chief judge, at all times when addressing the clerk regarding the appealability of the May 3rd order. Judge Taylor therefore requested that the formal charges asserted in the Commission's Notice be dismissed.

On March 10, 2009, the Commission conducted an evidentiary hearing on the charges, at which time Judge Taylor was present and represented by counsel. The Commission members voted unanimously to bifurcate the hearing as follows: (1) evidence about a violation of the Canons, and if the Commission found a violation, then (2) other evidence regarding the appropriate sanction, if any.

As part of the evidence before the Commission, the parties stipulated that when K.M.'s counsel tried to file a notice of appeal to the May 3rd order, the deputy clerk advised Judge Taylor that K.M.'s counsel was attempting to file a notice of appeal and Judge Taylor "confirmed that the order by its express terms was not appealable, but did not state to the deputy clerk that the notice of appeal should not be accepted." The parties further stipulated that "[t]he deputy clerk then informed [K.M.'s counsel] that the order was not appealable and, therefore, the notice of appeal would not be accepted."

Judge Taylor testified that at the conclusion of the May 2, 2007 hearing on K.M.'s misdemeanor assault charge, she ordered K.M. securely detained "in order to safeguard the community" and ordered a social history, which is a complete background investigation on K.M. Judge Taylor testified that

she did not recall K.M.'s counsel's request for a final appealable order.

Judge Taylor testified that in ruling on K.M.'s motion for reconsideration, she said to his counsel:

> [W]hat I'm going to do is I'm going to put all of my authority [in the order] to make sure that . . . just in case you get a Circuit Court judge who we were talking about, you know, perhaps a Circuit Court judge shooting from the hip, and that was the expression that I had used, thinking that a lot of times they were busy, they had a very hectic docket, and because we deal with these juvenile codes so frequently, I wanted to make sure that the Circuit Court judge was aware I was relying upon the Juvenile Code.

Judge Taylor stated that when the deputy clerk asked her whether the May 3rd order was appealable, she "may have said something like, Well, I've already addressed that in my order, and that was the end of it." Later in the hearing, Judge Taylor testified that when the deputy clerk asked her if the

order was appealable, Judge Taylor said, "[a]s my order states, no. I don't believe it's appealable."

When Judge Taylor was asked at the hearing if it was apparent to her that the deputy clerk inquired into the May 3rd order's appealability because the deputy clerk was trying to decide whether to process the appeal, Judge Taylor replied, "[y]es." Nevertheless, Judge Taylor testified that it was the deputy clerk's responsibility to consult the clerk of court on how to proceed, and if doubt remained, it was the clerk's office's responsibility to call this Court to obtain guidance on the matter.[2] Judge Taylor testified that she would not

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[2] Although Judge Taylor repeatedly asserted that the clerk's office should have contacted the Supreme Court of Virginia to obtain guidance, she was presumably referring to the Office of the Executive Secretary (OES), which would be the appropriate administrative department of this Court to contact under these circumstances. OES provides administrative support for all of the courts and magistrate offices within the Commonwealth. Office of the Executive Secretary of the Supreme Court of Virginia, The Official Website for the Supreme Court of Virginia, Court Administration—Office of the Executive Secretary (OES), http://www.courts.state.va.us/courtadmin/aoc/oes/home.html (last visited Oct. 22, 2009). Within the OES, the Department of Judicial Services (DJS) serves as the liaison between the judiciary's administrative offices and the courts throughout the Commonwealth, providing administrative services through publications, trainings, field visits, and the research and support of various programs. Id. (follow "Judicial Services" hyperlink to http://www.courts.state.va.us/courtadmin/aoc/djs/home.html (last visited Oct. 22, 2009)). The Juvenile and Domestic Relations District Court Services division of the DJS provides guidance and assistance to juvenile and domestic relations

instruct the clerk's office on what measures to take, as "that is not [her] function as the judge" and "frankly, as the judge, [she does not] get involved in the mechanics of appeals." Judge Taylor reiterated her position by stating: "What I have stated and what I sincerely believe is that my duties as the presiding judge were to decide the case; my duties were finished." In Judge Taylor's opinion, the clerk's office had

> the responsibility, independent of the language in the May 3rd order, to accept or deny K.M.'s appeal, depending on the guidelines the clerk's office received from this Court [OES].

Judge Taylor described her May 8th order denying K.M.'s motion to rehear as merely a way to "red flag that there was an appealability problem" for the circuit court. Judge Taylor stated, "I don't believe that the legislators, for whatever reason, intended juveniles to be included within the appeal provisions for bond determinations under 19.2-124." Judge Taylor continued, "[s]o for whatever reason, juveniles, I believe, are treated separately," as she believed Code §§ 19.2-124 and 19.2-319 are inapplicable to juvenile

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district court judges and clerks on caseflow management and case processing, among other things. Id. We therefore

detention. Judge Taylor testified that "[a]s the judge interpreting the statute, what [she] indicated to [K.M.'s] attorney was that [she] did not believe that with regard to where [K.M.] was in the proceeding, that he had a right to appeal his detention status." According to Judge Taylor, "[i]t was a legal determination that because of his status, post-adjudication/pre-disposition, that he didn't have the right to appeal."

Judge Taylor maintained that when she entered the May 3rd order she "fully expected" K.M.'s counsel to appeal it. For that reason, Judge Taylor contended that she was merely "flagging" the issue of the appealability of the order for the circuit court, but did not "rule" on that issue. Judge Taylor explained:

> I wanted the Circuit Court judge to know I had a concern about it. So by saying this order is an interlocutory, non-appealable order, that wasn't a ruling because that was really for the Circuit Court to look at and to decide whether this case should be properly appealed to that court.

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reference OES in brackets when Judge Taylor refers to this Court in relevant portions of her argument.

(Emphasis added.)

After the hearing, the Commission determined that Judge Taylor violated Canons 1, 2A, and 3B(2), and "that the charges set forth in the Notice were well-founded and of sufficient gravity to constitute the basis for censure." The Commission made an express finding by clear and convincing evidence that Judge Taylor had acted intentionally to thwart K.M.'s attempt to appeal from the order that denied his request for bail.

The Commission then considered additional evidence and argument regarding the appropriate sanction. In determining whether to file a formal complaint in this Court pursuant to Article VI, § 10 of the Constitution of Virginia and Code § 17.1-902, the Commission considered two exhibits pertaining to Judge Taylor's two prior informal contacts with the Commission. Judge Taylor's counsel objected to the exhibits, because (1) the informal contacts had resulted in dismissals, arguing that dismissals are inappropriate for consideration by the Commission, and (2) the exhibits were irrelevant and more prejudicial than probative. The Commission received the exhibits into evidence "for the purpose of final disposition." Upon deliberation, the Commission decided that the charges of violations of the Canons were well founded and of sufficient

gravity to constitute the basis for censure and filed a complaint against Judge Taylor in this Court.

Judge Taylor filed a post-hearing motion to dismiss and for other relief, seeking reconsideration and dismissal of the complaint on the basis that the evidence at the hearing revealed "nothing more tha[n] mere legal errors which cannot support a finding that any of the pertinent Canons of Judicial Conduct were violated." Judge Taylor asserted that there was "no evidence in the record" that she "knowingly and/or willingly violated any statutes or legal rights," and that "she did not knowingly and/or willingly commit any legal errors."

Judge Taylor also requested that the Commission reconsider the admission and use of documents relating to "prior contacts" between Judge Taylor and the Commission, contending that there is no legal basis for the use of such documents. Judge Taylor argued that any slight probative value of the documents is substantially outweighed by their prejudicial effect, the use of such documents violates her right of confidentiality in the Commission's review process,

and denies her equal protection and due process rights under the United States and Virginia Constitutions.[3]

Judge Taylor also asserted that an email written by the chairman of the Commission, Judge Larry D. Willis, Jr., to the juvenile and domestic relations court appeared to have "prompted and/or played a role" in one of Judge Taylor's prior informal contacts with the Commission. Therefore, Judge Taylor argued that Judge Willis should have recused himself.

Additionally, Judge Taylor argued that as applied to the facts of the complaint against her, the Canons are unconstitutionally vague and without appropriately definite standards, resulting in an arbitrary and capricious process.

The Commission denied Judge Taylor's motion by order dated April 14, 2009. In an accompanying letter, which addressed the admission of documents relating to prior contacts, the Commission stated that, pursuant to Code § 17.1-913, whatever record the Commission files with its complaint in this Court becomes public. The Commission also maintained that certain exhibits would not be sealed because they, or the information they contained, had already become public as part of the circuit court file.

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[3] Judge Taylor has abandoned her equal protection argument in this Court.

On April 28, 2009, the Commission filed its complaint with this Court. In her answer to the Commission's complaint, Judge Taylor alleged that the evidence in the record was insufficient to establish that she "knowingly and/or willingly violated any statutes, legal rights and/or [the] [C]anons." In addition, Judge Taylor alleged that there is no factual basis for any findings against her, that her motion to dismiss and for other relief is well-founded, and that there is insufficient basis for a censure.

II. CANONS OF JUDICIAL CONDUCT

The relevant portions of the Canons at issue in this case are:

> Canon 1. A Judge Should Uphold the Integrity and Independence of the Judiciary.
>
> A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of these Canons are to be

construed and applied to further that objective.

Canon 2. A Judge Shall Avoid Impropriety and the Appearance of Impropriety in All of the Judge's Activities.

A. A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

. . . .

Canon 3. A Judge Shall Perform the Duties of Judicial Office Impartially and Diligently.

. . . .

B. Adjudicative Responsibilities.–

. . . .

(2) A judge shall be faithful to the law and maintain professional competence in it. . . .

Va. Sup. Ct. R., Part 6, § III, Canons 1, 2, and 3.

III. ANALYSIS

The Commission's filing of a formal complaint in this Court triggered our duty to conduct a hearing in open court for the purpose of determining whether Judge Taylor "engaged in misconduct while in office, or . . . has engaged in conduct prejudicial to the proper administration of justice." Va. Const. art. VI, § 10.

> In conducting the hearing on the formal complaint filed by the Commission, this Court considers the evidence and makes factual determinations de novo. The Commission must prove its charges in this Court by clear and convincing evidence. The term "clear and convincing evidence" has been defined as "that measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established. It is intermediate, being more than a mere preponderance, but not to the extent of such certainty as is required beyond

a reasonable doubt in criminal cases. It does not mean clear and unequivocal."

Judicial Inquiry & Review Comm'n v. Lewis, 264 Va. 401, 405, 568 S.E.2d 687, 689 (2002) (citations omitted). Factual determinations, findings and opinions of the Commission are not accorded any particular weight nor deference. Judicial Inquiry & Review Comm'n v. Peatross, 269 Va. 428, 444, 611 S.E.2d 392, 400 (2005). If after conducting a de novo review of the record and hearing argument of counsel, we find clear and convincing evidence that the judge has engaged in misconduct while in office or has engaged in conduct prejudicial to the administration of justice, we shall censure the judge or remove the judge from office. Va. Const. art. VI, § 10; Judicial Inquiry & Review Comm'n v. Shull, 274 Va. 657, 670, 651 S.E.2d 648, 656 (2007).

Judge Taylor presents us with four issues to consider:

(1) Whether the record proves by clear and convincing evidence that Judge Taylor engaged in misconduct while in office or engaged in conduct prejudicial to the proper administration of justice sufficient to prove the charged violations of the Canons;

(2) Whether the Canons, as applied to Judge Taylor and the record in this case, are sufficiently definite and certain for purposes of due process;

(3) Whether it was lawful for the Commission to consider evidence of Judge Taylor's "prior contacts" with the Commission; and

(4) Whether Judge Taylor is entitled to any relief based on the conflict/recusal issue addressed in her post-hearing motion to dismiss.

A. Sufficiency of the Evidence

The Commission argues that the record proves by clear and convincing evidence that Judge Taylor engaged in misconduct while in office or in conduct prejudicial to the proper administration of justice. As an initial matter, the Commission asserts that K.M. had the right to appeal Judge Taylor's denial of bail. The Commission maintains that "it is a fundamental precept of Virginia criminal procedure that *all* decisions denying bail are appealable by the defendant, at least until such appeals reach this Court." The Commission contends that all criminal cases involve either pretrial bail, the denial of which is appealable pursuant to Code § 19.2-124, or post-conviction bail in circuit court, the denial of which is appealable pursuant to Code § 19.2-319. The Commission

further argues that because appeals from a district court conviction are de novo, a defendant remains in pretrial status for bail purposes throughout the district court proceedings. The Commission cites Code § 19.2-120(A) and (E), which state:

> A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:
>
> 1. He will not appear for trial or hearing or at such other time and place as may be directed, or
>
> 2. His liberty will constitute an unreasonable danger to himself or the public.
>
> . . . .
>
> E. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

(Emphasis added.) Furthermore, the Commission points out that Code § 19.2-124(A) provides that

> [i]f a judicial officer denies bail to a person, requires excessive bond, or fixes unreasonable terms of a recognizance under this article, the person may appeal therefrom successively to the next higher court or judge thereof, up to and including the Supreme Court of Virginia or any justice thereof where permitted by law.

According to the Commission, these statutes when read together make it clear that K.M. had a right to appeal Judge Taylor's denial of bond, as he remained within the status of "[a] person who is held in custody pending . . . hearing . . . or otherwise." Code § 19.2-120(A). The Commission asserts that K.M. falls within the definition of "person" contained in Code § 19.2-119: " *'Person'* means any accused, or any juvenile taken into custody pursuant to § 16.1-246." The Commission argues that nothing in the Code justified the exception Judge Taylor carved out for a juvenile held "post-adjudication/pre-disposition." The Commission contends there

is no plausible support in Virginia law for Judge Taylor's conclusion that a "no appeal zone" exists in the juvenile and domestic relations court when a juvenile is first taken into custody at the conclusion of the adjudicatory hearing and bail is denied pending a final disposition hearing.

The Commission argues that even if this Court determines Judge Taylor's actions were "mere legal error," this Court should not excuse the manner in which she "arrogated to herself the power to rule that her own decision was immune from appellate review." At oral argument, the Commission asserted, "there's a difference between wrongly concluding that [the May 3rd order] wasn't appealable and ruling, putting in your order that it's not appealable and then taking action subsequent[ly] that effectively blocked the appeal." Additionally, the Commission contends this Court should not excuse Judge Taylor's refusal to retreat from her untenable position when given ample opportunity to do so. The Commission avers that Judge Taylor violated the Canons by her clear misappropriation of judicial power, which constituted "conduct prejudicial to the proper administration of justice." Va. Const. art. VI, § 10.

The Commission asserts that this Court should reject Judge Taylor's contention that she did not "rule" that her order could not be appealed and that she included the

"nonappealable" language in the May 3rd order only to "flag" the issue for the circuit court. As support for this argument, the Commission points out that Judge Taylor referred to her action as a ruling in an email to her fellow juvenile and domestic relations court judges, in which Judge Taylor wrote:

> I found after an adjudicatory hearing that [K.M.] posed a substantial risk of harm to the community and ordered him to be securely detained pending disposition. [K.M.'s counsel] filed a motion the next day requesting that [K.M.] be released on bond. I denied that request and ruled that the order was interlocutory and nonappealable. . . . I ruled that the order was not appealable . . . .

(Emphasis added.) Also, the Commission asserts that in Judge Taylor's answer to the Notice of formal charges, she did not deny ruling that the order was nonappealable and did not at that time state that she merely flagged the issue for the circuit court.

The Commission argues that the clerk of court believed that the clerk's office of the juvenile and domestic relations court was compelled by the May 3rd order to reject K.M.'s

notice of appeal, because the order stated it was "an interlocutory, nonappealable order." The Commission asserts that when the deputy clerk consulted Judge Taylor about whether the May 3rd order was appealable, Judge Taylor's only response of directing the deputy clerk to the order was tantamount to insuring that the clerk's office would decline to process the notice of appeal. The Commission contends that Judge Taylor violated the Canons by directly thwarting an appeal by ruling that her own decision was not subject to appeal and by advising the deputy clerk that the order was not appealable, when Judge Taylor knew the clerk was faced with the decision whether to accept a notice of appeal from K.M.'s attorney.

Judge Taylor contends that nothing in the record supports the Commission's assertion that she violated any of the subject Canons. Rather, Judge Taylor argues, the record shows that she attempted to apply the law exactly as it is written and the Commission offered no plausible theory to support its assertion that she committed a clear misappropriation of judicial power.

Judge Taylor maintains that a post-adjudication, pre-disposition detention pursuant to Code § 16.1-248.1(G) does not implicate Code § 19.2-124 bail appeal rights because the proceeding is no longer in the pretrial stage. Furthermore,

Judge Taylor asserts that Code § 19.2-120 distinguishes "bail" from "detention," and subsection E of that statute directs a judicial officer to "inform the person of his right to appeal from the order denying bail or fixing the terms of bond or recognizance," but does not mention "detention." According to Judge Taylor, "[g]iving due consideration to the words actually used by the General Assembly in the subject statutes, [her] reading of the provisions is correct or, at a minimum, plausible and supportable."

Judge Taylor reiterated that the language in the May 3rd order that it was an "interlocutory, nonappealable" order was included to flag the order for the circuit court to ensure that the appealability issue would be addressed. Judge Taylor contends that this Court's prior opinions addressing complaints brought by the Commission support dismissal of the complaint against her. Judge Taylor asserts that her case is distinguishable from Lewis, as there is no allegation nor evidence that she defied or disrespected an order of any higher court. 264 Va. at 406, 568 S.E.2d at 690. Moreover, according to Judge Taylor, the statutes at issue leave room for a difference of opinion, and she argues that several of her fellow judges on the juvenile and domestic relations court agreed with her analysis. She acknowledged, however, that her legal interpretations could be mistaken. In this manner,

Judge Taylor contends that her case is similar to Peatross, as the record in this matter reveals, at worst, mistakes of law, which alone do not warrant discipline. 269 Va. at 447-48, 611 S.E.2d at 402-03.

As an initial matter, we note that it is difficult to understand Judge Taylor's position that the General Assembly intended to create a "no appeal zone" for juveniles held post-adjudication, pre-disposition. The weakness of Judge Taylor's argument can be demonstrated by one example, which in essence was delineated in K.M.'s May 4, 2007 letter to Judge Taylor. If a juvenile and domestic relations judge has the authority to detain a juvenile in secure detention pending disposition without review by the circuit court, the judge, by extending the date of disposition, can effectively require the juvenile to be detained indefinitely which would make the juvenile's right of appeal to the circuit court for de novo trial meaningless. Such a result is not only inconsistent with Virginia's statutory scheme providing for trial de novo for appeals from district courts to circuit courts, it also flies in the face of our commitment to allowing persons accused of crimes to challenge the denial of bond successively to the next higher court, and the statutory requirement that the judicial officer denying bail inform the defendant of his or her right to appeal.

However, the real issue in this case is not whether Judge Taylor made a legal error in denying K.M. the right to appeal his secured detention and denial of bail. The issue at the heart of this case is whether Judge Taylor thwarted K.M.'s right to have her ruling reviewed and, if she did thwart the appeal of her ruling, whether that is a violation of the Canons.

We conclude the Commission has met its burden of proving by clear and convincing evidence that Judge Taylor committed the violations of the Canons charged in the Notice of the Commission dated January 13, 2009. Although the relevant statutes support a finding that Judge Taylor erred in her interpretation of the law, her actions rose to a level beyond a mistake of law when she affirmatively blocked K.M.'s attempted appeal to the circuit court.

Judge Taylor's ethical violations began when she ruled that her May 3rd order was interlocutory and nonappealable. It is undisputed that when K.M.'s counsel attempted to file a notice of appeal at the clerk's office, Judge Taylor directed the deputy clerk to the "interlocutory, nonappealable" language appearing on the order when the deputy clerk sought guidance on whether to process the notice of appeal.

On May 4, 2007, K.M.'s counsel sought reconsideration of Judge Taylor's ruling by letter stating:

> I would respectfully ask that you reconsider your ruling as represented by the attached Order entered May 3, 2007 in this case. Please understand that I have the utmost respect for the Court and it is because of that I am asking this Court to reconsider its ruling in light of what I feel to be clear authority that would allow my client an appeal from your denial of his request for a bond pending the sentencing hearing in this matter, and also your denial of our request of the Clerk to appeal your ruling.

K.M.'s counsel cited Code §§ 19.2-120 and 19.2-124 in support of his contention that K.M. was entitled to bail and, if denied by the juvenile and domestic relations court, entitled to an appeal to the circuit court. K.M. asserted, through counsel, that Judge Taylor's rulings, while interlocutory, were appealable both as to the denial of bond and as to Judge Taylor's ruling that "[t]his order is [a] . . . nonappealable order," which denied K.M.'s right to appeal. K.M.'s counsel also stated that he had "previewed" the issue briefly with the circuit court and that the circuit court "certainly felt that [Judge Taylor's] denial of [K.M.'s]

right to appeal on the motion for a bond is an appealable order." Judge Taylor did not respond to the letter.

K.M.'s counsel also wrote a letter dated May 4, 2007 to the clerk of court stating that K.M. wished to appeal the May 3rd order as well as Judge Taylor's determination that the order was not appealable, and requested that the clerk's office "forthwith today prepare appropriate appeal notices." K.M.'s counsel stated that if the clerk's office did not prepare the appeal notices, he would have no alternative but to proceed with a writ of mandamus. The clerk responded by letter dated May 7, 2007 to K.M.'s counsel, stating: "Please be advised that I am compelled to follow the ruling entered on May 3rd, 2007 by Judge Ramona D. Taylor, which states the order is interlocutory and non-appealable." A copy of the clerk's May 7th letter was sent to Judge Taylor. Judge Taylor's only apparent response was to enter her May 8th "corrective order" nunc pro tunc to May 3, 2007, containing the same language ruling, "this order is an interlocutory, nonappealable order."

Judge Taylor's testimony at the Commission hearing further indicates her intention to thwart K.M.'s appeal. Judge Taylor admitted she knew that when the deputy clerk inquired into the order's appealability, the clerk was trying to decide whether to process the appeal. At the hearing,

Judge Taylor repeatedly stated her belief that it was not her function as a judge to get involved in the processing of appeals and that her duties ended when she decided the case. Judge Taylor put the onus on the deputy clerk to consult her supervisor and on the clerk's office to consult this Court [OES] to obtain guidance on the appealability of the order irrespective of the language of the order. However, Judge Taylor never provided direction to either the deputy clerk or the clerk of court to contact this Court [OES]. Despite denying responsibility for what occurred after she entered the May 3rd order, Judge Taylor admitted to the Commission that she was the chief judge at the time and in that capacity, she had the authority to direct the clerk what to do.[4]

Judge Taylor does not deny that the clerk's office may have felt compelled to refuse K.M.'s appeal as a result of Judge Taylor's instruction to refer back to the language of the order. Judge Taylor also gave no indication of any attempt on her part to correct what she now claims was the clerk's mistaken belief that she was compelled by Judge Taylor to refuse to process the appeal. Only four days after the

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[4] Judge Taylor became chief judge of the juvenile and domestic relations court on July 1, 2006. Her term was for two years.

order was entered, Judge Taylor was sent a copy of the letter from the clerk of court, which clearly stated that the clerk was "compelled" to follow Judge Taylor's ruling that the order was nonappealable. Even at oral argument, when Judge Taylor's counsel was asked, "when [Judge Taylor] said to the clerk that the order by express terms is not appealable, wasn't she at least implicitly directing the clerk what to do with the paperwork?," her counsel responded: "I think it's fair to say that one could walk away with that message."

It is clear from the record that Judge Taylor was well aware of K.M.'s counsel's efforts to secure K.M.'s release either through an appeal of the denial of bond or an appeal of Judge Taylor's order that the denial of bond was nonappealable, or by an appeal de novo of K.M.'s case to the circuit court. However, Judge Taylor did not seek to clarify what she now argues was her position that she: (1) did not rule the May 3rd order was not appealable; (2) did not direct the clerk's office to refuse K.M.'s notice of appeal; and (3) believed the clerk's office should contact this Court [OES] for guidance on processing the notice of appeal. In addition, Judge Taylor had knowledge of the writ of mandamus filed against the clerk of court and did no more to address the matter than send an email to fellow judges explaining her ruling and informing them that K.M.'s attorney had filed a

writ of mandamus "to compel the filing of an appeal from [the May 3rd order]," and stated that she "ruled that the order was not appealable." Judge Taylor subsequently sent another email informing her fellow judges that the writ of mandamus had been granted, and thanking the clerk "for holding up so well under the pressure of this litigation and for keeping [Judge Taylor] so well informed."

Judge Taylor's argument that she did not rule that her May 3rd order was not appealable is implausible. Judge Taylor described her action as a "ruling" in her email to her fellow judges. Thus, when the deputy clerk asked whether the order was appealable, Judge Taylor reinforced the effect of her ruling by directing the clerk to the "nonappealable" language that Judge Taylor herself typed on the order. In addition, Judge Taylor's argument that her ruling that the order was interlocutory and nonappealable was merely a "red flag" for the circuit court is equally implausible. Judge Taylor has produced no other examples of ruling an order nonappealable for use as a "red flag" to the circuit court. Finally, what makes her "flagging" argument most implausible is that her actions prevented the order from ever reaching the circuit court where it could purportedly serve as a "red flag." If the interlocutory and nonappealable language was truly intended as a "red flag," Judge Taylor should have promptly

advised the deputy clerk to process the appeal so that the circuit court could rule.

A judge may not prevent the appeal of his or her own decisions. More than a century ago, we recognized the basic principle that a court cannot prevent its own decision from being reviewed on appeal by refusing to certify the facts proved and the evidence in the case. Powell v. Tarry, 77 Va. 250, 264 (1883). Therefore, it is clear that a court cannot expressly rule that its own decision is not subject to appellate review, by ruling the order is interlocutory and nonappealable.

We do not agree with Judge Taylor's argument that she did not thwart K.M.'s appeal because once she made her ruling, the case was out of her hands. It is disingenuous of Judge Taylor to claim that when she responded to the clerk who asked her whether the appeal should be processed, Judge Taylor was not in a supervisory position over that clerk. Her argument that she was acting as the presiding judge and not the chief judge with supervisory authority over the clerk's office was certainly never made clear to the deputy clerk or the clerk of court. What is clear is Judge Taylor knew that when she pointed the deputy clerk to the language of her ruling that the deputy clerk was not going to process the appeal. Judge Taylor also knew in the days following that the clerk of court

had refused to process the appeal because the clerk felt compelled by Judge Taylor's order not to process it.

Judge Taylor's argument that she believed the clerk's office should contact this Court [OES] for guidance on processing the appeal is equally disingenuous. Although she now states that processing the appeal is in the nature of a ministerial act under the supervision of the clerk, she never made that statement to the deputy clerk when the deputy clerk asked about processing the appeal. Furthermore, Judge Taylor's position that the clerk should have brought any questions to this Court [OES] was never communicated to the clerk, despite K.M.'s concerted efforts to obtain review by a higher court in order to secure his release from custody. Finally, Judge Taylor's argument that she had nothing more to do with whether the case was appealed after her entry of the May 3rd order is belied by her entry of the corrective order on May 8, 2007 nunc pro tunc to May 3, 2007 amidst the threat of a pending writ of mandamus.

Judge Taylor's actions in thwarting K.M.'s appeal of the denial of bond and even of his appeal of her interlocutory and purportedly nonappealable ruling violated the law. When K.M. and his family were prevented by Judge Taylor's actions from obtaining appellate review of her rulings, public confidence in the integrity and impartiality of the judiciary was

diminished. Judge Taylor violated Canons 1, 2A, and 3B(2) and these violations constituted conduct prejudicial to the administration of justice.

B. Due Process

Judge Taylor asserts that the Canons are unconstitutionally vague and without appropriately definite standards as applied to the facts in the complaint against her, and that vague and indefinite laws and regulations offend due process rights. Judge Taylor argues that "[a] close reading of the subject Judicial Canons reveals that they are a mix of clear standards and vague aspirational statements." According to Judge Taylor, Canon 1's requirement that a judge "shall personally observe [high standards of conduct] so that the integrity and independence of the judiciary will be preserved" does not describe a meaningful standard of conduct for purposes of a disciplinary case. Judge Taylor argues that Canon 2's requirement that a judge act "at all times in a manner that promotes public confidence" likewise sets forth no particular standards or guidelines. Lastly, Judge Taylor contends that Canon 3's requirement to "be faithful to the law" is "far more aspirational than measurable." Therefore, Judge Taylor maintains that the subject Canons are

unconstitutionally vague and insufficiently definite to satisfy due process rights in a disciplinary matter.

The Commission asserts that Judge Taylor cites no authority holding that the Canons violate due process because they are impermissibly vague. According to the Commission, courts in other jurisdictions have rejected due process challenges to codes of judicial conduct, and thus it urges this court to likewise reject Judge Taylor's vagueness due process argument.

We hold that the Canons are sufficiently definite and certain to withstand Judge Taylor's due process challenge. "The procedural due process requirements of the Constitution of Virginia compel the Commission, and this Court, to recognize the balance that must be struck between protecting the integrity of the judiciary and the rights of individual judges." Judicial Inquiry & Review Comm'n v. Elliott, 272 Va. 97, 114, 630 S.E.2d 485, 493 (2006).

Courts in other jurisdictions that have considered whether canons of judicial conduct violate "due process" because they are impermissibly vague have rejected such claims. See In re Assad, 185 P.3d 1044, 1052 (Nev. 2008) (Canon 2A not vague); In re McGuire, 685 N.W.2d 748, 762 (N.D. 2004) ("courts in other jurisdictions appear to have routinely rejected vagueness challenges to codes of judicial conduct");

In re Hill, 8 S.W.3d 578, 582-83 (Mo. 2000) (rejecting "vagueness" challenge to Canons 2A and 2B, holding that "[n]either absolute certainty nor impossible standards of specificity are required," and that "[t]his is especially true in judicial discipline."); Comm'n on Judicial Performance v. Spencer, 725 So.2d 171, 176 (Miss. 1998) (rejecting "vagueness" challenge to Canons 1, 2A, 2B, and 3B, holding that "the Canons are sufficient to put [persons] of common intelligence on notice of what type of conduct is prohibited."); In re Young, 522 N.E.2d 386, 387-88 (Ind. 1988) (rejecting "vagueness" challenge to Canons 1 and 2, holding that "a greater degree of flexibility and breadth is permitted with respect to judicial disciplinary rules and statutes than is allowed in criminal statutes.").

"The test for determining whether the Canons are vague is whether they convey to a judge a sufficiently definite warning of the proscribed conduct when measured by common understanding and practice." In re Hill, 8 S.W.3d at 582. As relevant to the issues in this case, all three Canons which the Commission alleges Judge Taylor violated require a judge to comply with the law so that there will be public confidence in the integrity and impartiality of the judiciary.

The Canons for the Commonwealth of Virginia contain a Preamble, which provides in relevant part that

> [t]he Canons of Judicial Conduct are intended to establish standards for ethical conduct of judges. They consist of broad statements called Canons, specific rules set forth in Sections under each Canon and Commentary. The text of the Canons and the Sections is authoritative. Each Commentary, by explanation and example, is advisory and provides guidance with respect to the purpose and meaning of the Canons and Sections. The Commentary is not intended as a statement of additional rules.
>
> Va. Sup. Ct. R., Part 6, § III, Preamble.

The Commentary to Canon 1 includes the following language: "Although judges should be independent, they must comply with the law . . . . [V]iolation of this Canon diminishes public confidence in the judiciary and thereby does injury to the system of government under law." Canon 2A requires a judge to comply with the law in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Canon 3B(2) requires a judge to be faithful to the law.

The Commission has alleged that Judge Taylor's thwarting of K.M.'s appeal was a violation of law which diminished public confidence in the judiciary, an allegation that we have concluded has been established by clear and convincing evidence. The relevant Canons clearly prohibit a judge's failure to follow the law in such a manner as to fail to promote public confidence in the integrity and impartiality of the judiciary. There can be no "vagueness" in the application of the relevant Canons to the conduct in question.

C. The Commission's Consideration of "Prior Contacts"

Judge Taylor cites Code § 17.1-913 to support her argument that it was improper for the Commission to admit and consider evidence of Judge Taylor's prior contacts with the Commission. Specifically, she notes that the statute provides that all prior contacts "not filed with the Supreme Court in connection with a formal complaint filed with that tribunal, shall be kept in the confidential files of the Commission." Code § 17.1-913(A).

Judge Taylor contends that Rule 16 of the Rules of the Judicial Inquiry and Review Commission applies and requires that the records of a proceeding concluded "without an adverse finding by the Commission against a judge . . . be maintained in the Commission's confidential files." 15 VAC § 10-10-10.

Judge Taylor asserts that neither Code § 17.1-913 nor Commission Rule 16 allow for the removal of the confidentiality of records of complaints that were not deemed "well founded," and the 2002 and 2006 prior contacts were not determined to be well founded.

Additionally, Judge Taylor argues that unlike Shull, in which Judge Shull's demeanor was discussed in a prior informal proceeding and that proceeding was later considered by this Court for purposes of disposition, the "prior contacts" Judge Taylor had with the Commission were not "directly relevant" to the issues now before the Court. Rather, Judge Taylor states they are irrelevant and more prejudicial than probative of any issue in dispute. The prior contacts, Judge Taylor contends, are irrelevant because the 2002 contact related to an in camera interview and the 2006 contact related to a complaint about starting court late, and both were resolved in her favor. Judge Taylor asks this Court to disregard the prior contacts evidence when determining whether she committed any violation during the 2007 events at issue.

The Commission relies on Shull to support its argument that consideration of Judge Taylor's prior contacts with the Commission was appropriate. 274 Va. at 676-77, 651 S.E.2d at 659. According to the Commission, this Court expressly referred to and relied upon evidence of prior contacts in its

decision to remove Judge Shull from office. The Commission maintains that with regards to the issue of disposition, this Court should be presented with evidence regarding a judge's past contacts with the Commission. The Commission cites Rule 13(B) of the Rules of the Judicial Inquiry and Review Commission, which provides that any "material [and] relevant" evidence may be admitted. 15 VAC § 10-10-10.

Additionally, the Commission contends that evidence surrounding Judge Taylor's 2002 informal contact with the Commission was relevant to show whether she was amenable to discipline by the Commission or whether the matter needed to be referred to this Court. The Commission maintains that Code § 17.1-913, regarding confidentiality of the record sent by the Commission to this Court in support of a complaint, and Commission Rule 16, regarding preservation of files at the Commission, are not relevant to the admissibility of evidence of prior contacts at the evidentiary hearing.

We hold that the evidence regarding Judge Taylor's prior contacts with the Commission was properly admitted by the Commission and is now properly before us for review. At the outset of the Commission hearing, counsel for the Commission stated that "the exhibits are all in the red binder there on the witness desk. . . . But the sides are in agreement that there's no objection to the admission of any of the exhibits."

Counsel for Judge Taylor acknowledged the agreement as to the exhibits contained in the binder. The binder, which is part of the record before this Court, contains the Commission's exhibits described as "[c]orrespondence related to judge's 2001-02 informal contact with JIRC," "[r]edacted annotated agenda from JIRC meeting 4-19-02," "[t]ranscript of judge's informal meeting with JIRC dated 5-21-02," and "[c]orrespondence related to judge's 2006 informal contact with JIRC." Judge Taylor's agreement to the Commission's admission of the exhibits is fatal to her argument that the Commission erred in admitting those same exhibits. Rule 5:25.

D. Recusal of Commission Chairman

Judge Taylor argues that the Commission's chairman, Judge Willis of the Chesapeake Juvenile and Domestic Relations District Court, should have recused himself due to his status as complainant in a prior contact with the Commission. According to Judge Taylor, Canon 3E requires disqualification of the judge from any proceeding in which his or her "impartiality might reasonably be questioned," including instances in which the judge has "personal knowledge of disputed evidentiary facts concerning the proceeding," is a "party to the proceeding," or is likely "to be a material witness." Judge Taylor contends that the proceedings before

the Commission were tainted by Judge Willis' involvement and therefore seeks dismissal of the complaint.

The Commission maintains that it can be reasonably inferred that Judge Taylor was aware of Judge Willis' involvement in a prior informal contact since 2006 and therefore knew of the purported grounds for Judge Willis' recusal at the outset of the Commission's evidentiary hearing in 2009, but failed to timely object to his participation. Judge Willis' role in Judge Taylor's 2006 prior contact with the Commission is reflected by an email dated January 26, 2006 from Judge Willis to Judge Deborah M. Paxson, who at the time was the chief judge of the Virginia Beach Juvenile and Domestic Relations District Court, regarding an issue of delays in that court which adversely affected proceedings in the Chesapeake Juvenile and Domestic Relations District Court. The email did not name any judge responsible for the delays and expressly stated: "I do not want any information about who the judge was . . ." However, Judge Willis requested in his email that Judge Paxson notify the judges of the juvenile and domestic relations court of its contents. The Commission argues that it may be inferred that Judge Paxson did notify the judges, including Judge Taylor, of Judge Willis' complaint in 2006.

We agree with the Commission's waiver argument, and hold that Judge Taylor did not timely object to Judge Willis' participation in the present proceedings. "A motion for disqualification [of a judge] must be made when the movant learns the grounds upon which the motion is based; thereafter, the motion comes too late." Mason v. Commonwealth, 219 Va. 1091, 1098, 254 S.E.2d 116, 120 (1979). We therefore will not consider this issue. Rule 5:25.

IV. CONCLUSION

In considering the record before us, we note letters from attorneys who have appeared before Judge Taylor. These letters offer testaments to Judge Taylor's professionalism as an attorney and as a judge of the juvenile and domestic relations court. We have reviewed those submissions as part of our consideration of the proper disposition of this case.

Addressing the issue of disposition, Judge Taylor asks us to compare the facts in four published opinions by this Court addressing complaints brought by the Commission, and conclude that the record in this case supports a dismissal of this Complaint. In addition, Judge Taylor argues that her "prior contacts" with the Commission should not be construed as a lack of amenability to informal discipline on her part, but rather, a lack of courtesy on the part of the Commission.

The Commission also directs us to a comparison of prior disciplinary complaints brought by the Commission and specifically, to the case of Judicial Inquiry & Review Commission v. Lewis. In addition, the Commission asks us to consider Judge Taylor's prior experience with the Commission as an indication of her lack of amenability to informal discipline.

We agree with the Commission that this case is very comparable to Lewis, in which we censured a district court judge. Id. at 407, 568 S.E.2d at 690. As in Lewis, Judge Taylor violated the Canons by improper conduct in a single case. Id. at 405-07, 568 S.E.2d at 689-90. In both cases, the judges involved violated Canons 1, 2A, and 3B(2). In Lewis, the judge enforced a contempt order that he knew had been stayed by the circuit court. Id. at 403-04, 568 S.E.2d at 688. Here, Judge Taylor thwarted any review of her secure detention order by the circuit court through appeal of her denial of bond and appeal of her order denying appeal.

In Lewis, the direct harm caused by the judge's ethical violation was a father's incarceration for several hours in disregard of a circuit court's stay order. Id. at 404, 568 S.E.2d at 688. In this case, Judge Taylor's ethical violation blocked appellate review of her rulings and forced K.M. to remain in secure detention for nine days before his writ of

mandamus was reviewed by the circuit court and he was released to the custody of his parents.

Judge Lewis was censured with no evidence of prior disciplinary contacts with the Commission. In this case, we do not believe it is necessary to consider Judge Taylor's disputed prior disciplinary record to conclude that censure as sought by the Commission is the appropriate remedy.

In Lewis, we stated that "[p]ublic confidence in the judiciary and the administration of our legal system depends upon faithful adherence to the law . . . . Courts cannot reasonably expect citizens to comply with their orders if the courts themselves do not yield to the orders of higher courts." Id. at 406, 568 S.E.2d at 690. Although Judge Taylor was not faced with an order from the circuit court reviewing her decision and compelling K.M.'s release, she did impermissibly shield her ruling from any review. Judge Taylor's actions, which prevented K.M.'s attorney from seeking his release from secured detention by means authorized by law, impair public confidence in the judiciary and the administration of our legal system. Unless citizens can trust that judges will follow the law, our courts will lose the public's respect and confidence upon which our legal system depends.

Accordingly, we order that Judge Taylor be, and hereby is, censured for engaging in "conduct prejudicial to the proper administration of justice." Va. Const. art. VI, § 10; Code § 17.1-906.

Censure ordered.

JUSTICE KOONTZ, with whom JUSTICE GOODWYN joins, dissenting.

I respectfully dissent. In my view, upon a de novo review, the evidence in this case falls short of clear and convincing evidence that Judge Ramona D. Taylor, a judge of the City of Virginia Beach Juvenile and Domestic Relations District Court, violated the Canons of Judicial Conduct. I therefore do not agree that censure of Judge Taylor by this Court is warranted under Article VI, Section 10 of the Constitution of Virginia.

Many of the historical and procedural facts which ultimately led to the charges against Judge Taylor by the Judicial Inquiry and Review Commission ("the Commission") are not in dispute. On May 2, 2007, Judge Taylor conducted an adjudicatory hearing on a misdemeanor assault charge against a fifteen year old juvenile ("K.M."). K.M. was represented by counsel at that hearing. Upon K.M.'s plea of "no contest" and the evidence presented, Judge Taylor found K.M. guilty of that charge. K.M. had previously been before Judge Taylor on

February 5, 2007 regarding a child in need of services petition ("CHINS petition") filed by his parents. With regard to the CHINS petition, Judge Taylor had ordered, among other things, that K.M. be on good behavior and to refrain from illegal substance abuse. At the conclusion of the adjudicatory hearing on the assault charge, Judge Taylor, as authorized by Code § 16.1-273, ordered that a "social history," which she described as a "full background investigation," be prepared and set the matter for final disposition on May 24, 2007.

Finding that K.M. posed "a substantial risk of harm to the community based upon the egregious nature of the assault," Judge Taylor remanded him to secure custody pending the dispositional hearing scheduled for May 24, 2007. K.M.'s counsel requested Judge Taylor either to enter a final disposition or to release K.M. on bond pending the hearing scheduled for May 24, 2007. In an order entered on May 3, 2007, and subsequently amended nunc pro tunc on May 8, 2007, Judge Taylor denied K.M.'s request for bond pending the May 24, 2007 hearing. In Judge Taylor's order, she stated her reasons for denying the request for bond in the following way:

> Section 19.2-120 of the Virginia Code addresses the factors a judge should consider in determining the bond of a person "held in custody pending trial or hearing." The defendant in this case is being held post-trial and pre-disposition pursuant to § 16.1-

> 248.1(G) of the Virginia Code. The right to appeal a pre-trial bond determination provided in section 19.2-120(E) of the Virginia Code does not apply to a juvenile held post-adjudication/pre-disposition.

The order further states that "[t]his order is an interlocutory, nonappealable order."

Given the fact that K.M. had assaulted a younger boy to the extent that the victim required medical attention and the fact that Judge Taylor was aware K.M. had not responded favorably to the conditions previously imposed upon him as a result of the CHINS petition, the Commission concedes that Judge Taylor acted within her authority in finding K.M. guilty of the assault charge and in finding that he posed a risk of harm to the community. Additionally, the Commission does not contest that Judge Taylor was authorized by statute to deny K.M.'s request for the immediate disposition of the assault charge without having the benefit of a social history to guide that disposition. Moreover, the Commission also concedes that Judge Taylor did not act improperly in denying K.M. a bond. Rather, the Commission's claim of misconduct is based on the allegation that Judge Taylor intentionally "thwarted" K.M.'s attempt to appeal the order denying his request for bond to the circuit court.

As to that allegation, the undisputed material facts and the reasonable inferences that may be drawn from those facts

do not establish, in my view, that Judge Taylor intentionally thwarted K.M.'s attempt to appeal the order denying his request for bond pending the scheduled dispositional hearing on May 24, 2007. It is undisputed that a number of Judge Taylor's colleagues on the City of Virginia Beach Juvenile and Domestic Relations District Court shared her view that an order such as the order at issue in K.M.'s case was interlocutory and nonappealable. Code § 16.1-248.1(G) provides, in pertinent part, that: "The court is authorized to detain a juvenile . . . at any time after a delinquency petition has been filed, both prior to adjudication and after adjudication pending final disposition subject to the time limitations set forth in [Code] § 16.1-277.1." (Emphasis added.) The latter Code section establishes a time limitation of thirty days for the completion of the dispositional hearing in a case involving a juvenile held in secure detention. However, with reference to the issue of bond, Code § 19.2-119 defines, for purposes of Code § 19.2-120, a "Person" to mean "any accused, or any juvenile taken into custody pursuant to § 16.1-246." The provisions for bail contained in Code § 19.2-120(A) reference "[a] person who is held in custody pending trial or hearing for an offense."

These statutory provisions were the basis upon which Judge Taylor and her colleagues concluded that a juvenile held

in secure detention following an adjudicatory hearing and prior to a final dispositional hearing was not entitled to rely upon the appeal provisions of Code § 19.2-120. In a prior opinion, however, this Court has made it clear that mistakes of law alone do not warrant discipline. Judicial Inquiry & Review Comm'n v. Peatross, 269 Va. 428, 447-48, 611 S.E.2d 392, 402-03 (2005). These statutory provisions are not so readily apparent in their application to the circumstances of K.M.'s case as to be totally inconsistent with Judge Taylor's assertion that she "sincerely believed" that her order denying bail was interlocutory and nonappealable.

As suggested by the majority, the issue at the heart of this case is whether Judge Taylor's actions rose to a level beyond a mistake of law. The focus of that issue rests principally upon Judge Taylor's response to the deputy clerk's inquiry regarding whether K.M.'s notice of appeal of the denial of bond should be accepted and processed. By stipulation, Judge Taylor and the Commission agree that the deputy clerk went to Judge Taylor and advised her that K.M.'s counsel was at the clerk's office to file a notice of appeal. "Judge Taylor confirmed that the order by its express terms was not appealable, but did not state to the deputy clerk that the notice of appeal should not be accepted." The deputy clerk did not accept the notice of appeal. As a result,

counsel for K.M. successfully obtained a writ of mandamus from the circuit court and K.M. was released on bond from detention.

Beyond question, the deputy clerk's refusal to accept and process K.M.'s appeal resulted from Judge Taylor's response to the deputy clerk's inquiry. In my view, it is equally clear that Judge Taylor's response was based upon a sincere belief that her order concerning bail was interlocutory and nonappealable. Several undisputed facts readily support that conclusion. At the time of her ruling, Judge Taylor orally explained to K.M.'s counsel her rationale for believing that her bond ruling was interlocutory and nonappealable and she wrote that rationale in her order.

The majority reasons that the issue is "whether Judge Taylor thwarted K.M.'s right to have her ruling reviewed and, if she did thwart the appeal of her ruling, whether that is a violation of the Canons." Unlike the majority, I am of opinion that the Commission has not shown by clear and convincing evidence that Judge Taylor's actions were knowingly improper, and that this difference in the interpretation of the evidence presented is especially relevant to the determination of whether she "has engaged in conduct prejudicial to the proper administration of justice" as contemplated by Article VI, Section 10 of the Constitution of

Virginia. In this case, the Commission argues that, if this Court determines Judge Taylor's action were "mere legal error," she "arrogated to herself the power to rule that her own decision was immune from appellate review." This argument is unpersuasive because the evidence establishes that, while legally in error, Judge Taylor was merely following the law as she and her colleagues understood it to be.

In Peatross, this Court declined to censure a jurist for legal errors. 269 Va. at 449-50, 611 S.E.2d at 403-04. This Court stated that certain errors and omissions committed by Judge Peatross were errors of law, "not violations of the Canons." Id. at 447, 611 S.E.2d at 402. This Court cited with approval cases from Illinois and California that stated that mere legal error should not be the subject of discipline. Id.; see Oberholzer v. Comm'n on Judicial Performance, 975 P.2d 663, 680 (Cal. 1999); Harrod v. Illinois Courts Comm'n, 372 N.E.2d 53, 65 (Ill. 1977); see also In re Inquiry Concerning a Judge, No. 207 (Tucker), 501 S.E.2d 67, 71 (N.C. 1998). We stated that not punishing a judge for legal errors is important in order to maintain the independence of the judiciary. See Peatross, 269 Va. at 447, 611 S.E.2d at 402 (citing Harrod, 372 N.E.2d at 65) (stating that in order to maintain an independent judiciary, errors of law should not be the subject of discipline)).

In my view Peatross is controlling in this case because there is insufficient evidence to establish that the legal error committed by Judge Taylor was accompanied by bias, abuse of authority, or intentional disregard of the law. It is noteworthy in that regard that the orders and actions of Judge Taylor occurred in May 2007, and the present proceedings were conducted before the Commission in March 2009. To the extent that the majority finds degrees of conflict in Judge Taylor's testimony as expressed in its opinion, such is readily understandable with the lapse of time involved. Moreover, these conflicts do not establish a violation of the Canons under the clear and convincing standard required to establish such a violation.

Judge Taylor's actions do not rise to the level of judicial misconduct, particularly in light of this Court's precedents. Unlike the circumstances in Judicial Inquiry & Review Comm'n v. Lewis, 264 Va. 401, 406, 568 S.E.2d 687, 690 (2002), Judge Taylor did not defy a superior court's order. Unlike the circumstances in Judicial Inquiry & Review Comm'n v. Shull, 274 Va. 657, 676-77, 651 S.E.2d 648, 659-60 (2007), Judge Taylor did not demean litigants and bring discredit to the judiciary. In the absence of clear and convincing evidence that Judge Taylor acted intentionally to thwart the appeal, rather than merely erred in failing to direct the

deputy clerk to perform the ministerial duty of accepting and processing the notice of appeal of her order, I cannot agree with the majority that her actions violated the Canons of Judicial Conduct.

The censure of a judge for misconduct has obvious and drastic consequences for the judge both professionally and personally. Judges make errors of law, but such errors do not constitute misconduct unless, for example, the judge purposefully deprives a litigant of rights that the judge knows a litigant is entitled to by law. Without such a high standard, the independence of the judiciary will be constantly in question.

For these reasons, I would dismiss the complaint filed in this case by the Commission against Judge Taylor.

EXHIBIT A29

STATE'S BEST KEPT SECRET
IS AGENCY THAT JUDGES
THE JUDGES

Source:

The Virginian Pilot

Tag: 9609230248
Section: Local Page: B1 Edition: Final
Source: By Mark Davis
Length: 217 Lines

Date: Sunday, September 22, 1996

THE VIRGINIAN-PILOT

DATE: Sunday, September 22, 1996 TAG: 9609230248
SECTION: LOCAL PAGE: B1 EDITION: FINAL
SOURCE: BY MARK DAVIS
LENGTH: 217 lines

STATE'S BEST KEPT SECRET IS AGENCY THAT JUDGES THE JUDGES

The complaint was filed in secret. The public was not told that a Norfolk judge may have acted improperly.

A government agency investigated the judge in secret. There was no public record.

A misconduct hearing was called in secret. The location was kept quiet. The agency would not confirm the judge's name or even that it was meeting.

Witnesses against the judge were called in secret. Subpoenas were not filed in open court, as they are in criminal cases. The witnesses' testimony may never be known. They were urged not to talk after the hearing.

A newspaper reporter who showed up was asked the leave the building, a Holiday Inn. The reporter stayed out in the hallway.

And in the end, Judge Luther C. Edmonds of Norfolk Circuit Court resigned under pressure.

That was nearly two weeks ago, and still nothing is known officially about the case, and probably nothing ever will be. Edmonds will go back to his private law practice in Virginia Beach and he will be eligible for a judge's pension in a few years.

The exact charges against himremain sealed. The nature of his alleged misdeeds remain unknown. The name of whoever filed the complaint against him remains confidential. The testimony against him is secret.

The system worked exactly as it was intended: The public will never be told why a sitting judge left office.

Lawyers call it The Jerk - that's JIRC, short for Judicial Inquiry and Review Commission.

It is the most powerful and most secretive government body you've never heard of.

How secret is Virginia's judicial commission? Consider the scene Sept. 12 when the commission heard charges against Edmonds.

Nothing at the Holiday Inn Executive Center on Greenwich Road hinted at the serious proceedings inside. It was 8:30 a.m. and the hotel buzzed with activity.

Several meetings were going on at once. In Parlor E, Navy officers discussed rescue techniques. In Parlor B, blue-collar workers from Georgia Pacific talked shop. Their doors were open.

Across the hall in Parlor C, the door was closed and locked. No one was admitted without permission. There was no sign on the door or on the hotel marquee to tell visitors who was meeting there.

Inside, the seven commission members - three judges, two lawyers and two private citizens - met.

The hearing started, then stopped abruptly. JIRC's chief counsel emerged to confront a Virginian-Pilot reporter waiting outside.

``I am asking you to leave the building,'' Reno S. Harp III told the reporter. ``I can't order you to leave, but I am asking you to leave the building. Your presence here is threatening the confidentiality of the witnesses who will testify.''

It is that secret.

For 25 years, the JIRC has been meting out justice behind closed doors. This is required by the state constitution, under the heading of ``Disabled and unfit judges.'' It says, ``Proceedings before the Commission shall be confidential.''

How confidential are they? So confidential that, until 1993, it was a crime for witnesses to publicly discuss their testimony.

So confidential that, until 1978, it was a crime for newspapers to report that an investigation existed.

Technically, the commission is not all-powerful. Technically, it answers to the state Supreme Court, which has the real power to remove or censure judges. Technically, the commission merely makes recommendations, and technically the most serious cases become public when the charges and transcript move to the Supreme Court.

But that rarely happens.

In 25 years, only six judges statewide have been publicly punished. And only one case resulted in a judge's removal - a Richmond judge who gave away confiscated guns and liquor.

More often, judges under investigation resign, like Edmonds, and their cases fade away.

Many lawyers and judges say it is the fairest system possible. They say privacy is needed to protect judges' reputations from unfair attacks and to protect witnesses who are afraid to come forward.

``I know there's some debate about whether the entire process should be open,'' says commission chairman Theodore J. Craddock, a Lynchburg lawyer. ``I personally feel the system should stay the way it is. I've seen it work and I feel it works best . . .

``Anybody can make an allegation. I think the reputation of a judge can be unfairly attacked.''

The system is so secret that Craddock says he cannot offer examples of cases in which confidentiality was needed.

Richmond lawyer James C. Roberts has represented several accused judges before the commission. He agrees on the need for secrecy. He says many complaints against judges are worthless and deserve to be kept quiet.

Besides, Roberts says, ``You're more apt to have people come forward and be honest and candid under those circumstances than if the process had been public.''

Harp, the commission's chief counsel for 25 years, refuses to get drawn into the debate. He says simply that confidentiality is required by the state constitution ``and I'm required to follow it.''

He calls the commission ``the personnel department of the judiciary,'' an agency that deals with problem employees like any other.

In an interview earlier this year in the Newport News Daily Press, Harp said he sometimes works in the background to get at the root causes of judges' problems - medication, for example, or alcoholism, or even a hearing aid.

Sometimes the commission simply eases a judge into retirement, sometimes for medical reasons, sometimes as a quick remedy to charges of misconduct.

For example, Judge Stephen Comfort retired from Chesapeake General District Court in 1993, saying he had become bored with the job.

A few days later, a friend said Comfort was forced to quit by the judicial commission. The friend said Comfort was being investigated for improperly intervening with another judge in the friend's child visitation dispute.

As in the Edmonds case, neither the judge nor Harp could comment because the investigation was confidential.

Last week, Harp said other ``personnel departments'' don't have to deal with problem employees in public.

The system has its critics.

Richmond lawyer David P. Baugh may be the most outspoken. In 1990, he attacked the commission's confidentiality with a federal lawsuit. He complained that his First Amendment rights were being violated because he could not talk about a complaint he had filed against a judge.

And he won. A federal judge ruled that Virginia cannot stop witnesses and complainants from talking about their cases.

As a result, the General Assembly in 1993 revoked the law that made it a crime. But the legislature made no other changes, and the commission still urges witnesses to remain silent after they testify, even after hearings are over.

That infuriates Baugh.

``The JIRC is the ultimate star chamber,'' Baugh says. ``I have a hard time keeping secrets from the people. We're paying the tab for this guy (a judge). We don't know the allegations against him. We don't even know if the allegations ought to be crimes . . .

``If I make a complaint against you and it's a crime, it becomes public. If I make a complaint against a judge, that's different . . . I don't like this secrecy. Secrecy and democracy don't mix.''

Norfolk City Treasurer Joseph Fitzpatrick agrees.

In 1979, when Fitzpatrick was a state senator, he tried to change the rules. His anger was sparked by secret misconduct hearings against Norfolk Judge Joseph Jordan of General District Court.

The investigation was no secret. Many lawyers in town talked openly about the case. It was debated endlessly in the press. Eventually, the commission did certify public charges against Jordan to the Supreme Court, and Jordan was publicly censured.

Fitzpatrick testified for Jordan in secret. He was furious that Jordan had been ``tried in the press'' without a public hearing. In the legislature, he called for a constitutional amendment to open the system.

Fitzpatrick lost that fight, but his opinion hasn't changed.

``It occurred to me that judges were subject to being found guilty without anyone ever knowing what the charges were,'' Fitzpatrick said last week. ``The more these things go on, the more convinced I am that . . . the public should know what a judge is being charged with and should be able to be a part of any action taken against a judge, through the media.''

Even accused judges who want their hearings open cannot change the law.

In 1990, for example, Portsmouth Judge Archie Elliott Jr. of General District Court was accused of misconduct. Again, it was a poorly held secret. Lawyers, including Portsmouth's top prosecutor, talked openly about the case.

Elliott asked for an open hearing. The commission said no.

The commission never revealed the outcome of the hearing. It became public only after Elliott told a church congregation three days later that the charges against him had been dismissed.

``There were so many rumors floating around about different allegations,'' Elliott's attorney, Kenneth R. Melvin, said at the time. ``We wanted the people to know that the charges were essentially procedural allegations.''

Is there another way?

Most states are not as secret as Virginia. All 50 keep initial investigations private. But after that, 32 states make cases public when charges are filed against a judge, according to the American Judicature Society in Chicago.

Among the less-secret states are neighbors North Carolina, Maryland, West Virginia and Tennessee.

Unlike Virginia, seven states and the District of Columbia also allow an accused judge to waive confidentiality.

Only 13 states have systems similar to Virginia's, and six are more secret, including neighboring Kentucky.

In 1978, the U.S. Supreme Court ruled that newspapers and broadcasters in Virginia cannot be prosecuted for truthfully reporting on the JIRC. The issue arose after The Virginian-Pilot was convicted of a misdemeanor and fined $500 for reporting that a judge was under investigation.

Chief Justice Warren Burger wrote: ``The operations of the courts and the judicial conduct of judges are matters of utmost public concern. The operation of the Virginia commission (JIRC), no less than the operation of the judicial system itself, is a matter of public interest.''

After the ruling, JIRC's chairman breathed a sigh of relief. At least, he said, the hearings themselves will remain closed. A ruling against JIRC's secret nature ``would have killed the commission,'' he said.

The American Bar Association has a different take.

In 1991, an ABA commission reported that the public is suspicious of lawyers who discipline themselves in secret. The report focused on lawyer disciplinary systems - not judicial discipline systems - but found that lawyers hold themselves to different standards than the general public.

``The irony that lawyers are protected by secret proceedings while earning their livelihoods in an open system of justice is not lost on the public,'' the ABA commission wrote.

``The public will never accept the claim that lawyers must protect their reputations by gag rules and secret proceedings.'' ILLUSTRATION: Graphic

Color photo

JUDICIAL INQUIRY AND REVIEW COMMISSION

When Judge Luther C. Edmonds, left, resigned, the public never

knew why. The commission kept secret the charges against him. The

name of whoever filed the complaint against him, and the testimony,

remains unknown, as well.

COMMISSION MEMBERS

The Virginia Judicial Inquiry and Review Commission has seven

members - three judges, two lawyers and two laymen. They are

appointed by the General Assembly to four-year terms. The members

are:

Chairman Theodore J. Craddock, Lynchburg lawyer.

Vice Chairman Thomas E. Glascock, Hampton lawyer.

Judge James H. Flippen Jr., Norfolk Juvenile and Domestic

Relations Court

Robert J. Grey, Richmond, retired from A.H. Robbins

John S. Massad Sr., Richmond, real estate

Judge Paul F. Sheridan, Arlington Circuit Court

Judge Joseph S. Tate, Marion General District Court

KEYWORDS: JUDGES JIRC JUDICIAL INQUIRY AND

REVIEW COMMISSION

EXHIBIT A30

Reply Letter From

The Judicial Inquiry
and
Review Commission
of Virginia

By

Robert Q. Harris

Date of Letter: May 22, 2015

COMMONWEALTH of VIRGINIA

Judicial Inquiry and Review Commission

P.O. Box 367
Richmond, Virginia 23218-0367
(804) 786-6636
Fax: (804) 371-0650

May 22, 2015

Mr. Troy J. Childers
4006 Morris Court
Chesapeake, VA 23323

Dear Mr. Childers:

This is in response to your May 17, 2015, complaint to the Judicial Inquiry & Review Commission alleging that a judge's rulings in your support case constitute unethical conduct. You raise the same complaints that you previously presented to the Commission in 2013. I direct your attention to the Commission's September 17, 2013, letter to you explaining that the Commission has no authority to review a judge's decision. A copy of that letter is enclosed.

Sincerely,

Robert Q. Harris
Assistant Counsel

ab

Enclosure

Exhibit A31

Exhibit A31 – Letter From Russell S. Fryske that is electronically signed.

Russell S. Fryske
5621 Pine AIre dr
Grawn, Mi 49637

To whom this may concern.

I am Russell S. Fryske...and I personally have had ongoing cases heard in front of judge Larry Willis Sr.

In the state of Virginia in the Chesapeake juvenile Domestic Relations Court. Case #'s jj073180-07-00, jj073180-08-00

Judge Larry Willis SR. Has repeatedly denied me any or all due process in my custody case. He has ignored my requests, motions, and affidavits, and declarations of facts which were important to the show causes, hearings and previous cases held in his courtroom.

On a previous show cause hearing judge Willis had personally called in a favor from attorney Mrs Shelly Woods to represent me. This seemed a little odd to me, I felt uncomfortable by this action and expressed my

concerns in court about this course of action and it fell upon deaf ears. I had received information through another attorney in Chesapeake area that I had consulted with that Mrs Woods and judge Willis were very good friends, that Mrs woods acts as a replacement for judge Willis when he's on vacation and that I should have her removed from my case because this was a conflict of interest.

I had filled petitions / motions to remove Mrs Woods because this became a huge conflict of interests in my case when I found out from Mrs Shelly Woods herself that she was good friends the guardian ad litem who was appointed by judge Willis as the representative to my children! The GAL Mrs Katherine Schafer Brown was personally trained by Mrs Shelly Woods. Herself! Mrs Brown had become personal friends with my ex wife and has made several unfair, biased recommendations to the court that judge Willis agreed upon. Mrs Brown is no psychology expert and nor is she a medical expert of any kind but judge Willis lets her make these recommendations based off of the best interests of the children.

Mrs woods and Mrs. Brown and judge Willis were all pausing in the court hearing to text messaging each other while my case was going on. I

found this to rather unsettling and when I brought it to the courts attention I was threatened with contempt of court. Which was retaliation from judge Willis himself.

Under section 42 of the U.S. Code £ 12203 this falls under prohibition against retaliation and coercion. How can any one get due process when three court officials are, have already decided your case in text messages while they are pretending to hear what you have to say.

"THE SUPREME COURT RULED THAT THERE IS A PRESUMPTION THAT A PARENT ACTS IN THEIR CHILDREN'S BEST INTERESTS".

The United States Supreme Court has stated: "There is a presumption that parents act in their children's best interests, Parham v. J. R., 442 U. S. 584, 602; there is normally no reason or compelling interest for the State to inject itself into the private realm of the family to further question a parents' ability to make the best decisions regarding their children. *Reno v. Flores*, 507 U. S. 292, 304. The state may not interfere in child rearing decisions when a parent is available. *Troxel v. Granville*, 530 U.S. 57 (2000)
Judge Willis has allowed this to happen.

Judge Larry to Judge Willis has blatantly refused to hear any evidence from me in my case. He had denied me due process in every case that I have

had come in front of him, He has been very biased towards me as a man and a good father... a fire fighter/ emergency medical technician who's a role model in my community and I'm treated like a criminal in his court room, has always found in favor of my ex wife so he can collect incentives money from the Feds.

He has also given instruction to the guardian ad litem on how to alienate me from my children he has denied me access to my children by taking away joint legal physical custody from me and given my ex wife full custody then based off of the recommendations of the GAL only gives me 10 minute phone conversations with my two children every Wednesday at 7:00 pm when their mother sees that it's fit for her to have our children call me. This not fair nor is it equal with the confines of the law through the lower juvenile domestic & relations courts in Chesapeake.

This is retaliation from judge Willis who has penalized me for fighting for equal rights to see my children, He has also ordered ungodly, unfair punitive amounts of child support upon me making my living and financial resources next to impossible to live off of.

Judge Larry Willis SR has violated his oath of office under 28 U.S code 453. By refusing due process under the law, "NO justice was administered while performing his duties as a judge."

He has shown no respect and has denied me several times of equal rights by showing his biased character towards me, other men in his courtroom. His lack of incumbency proves he violates his oath of office and by doing so has taken away my rights to due process under the law.

He has shown no due process to me, other people who represent themselves “pro se” because they can’t afford to hire an attorney because of financial hardships he has forced upon us through paying higher than normal child support.

Judge Willis allows B.A.R attorneys to abuse the “pro se” litigants in his courtroom who are trying to defend themselves against false allegations and malicious attacks. He does not follow Virginia code, statues in his courtroom which is a violation of the Virginia Supreme Court. when it’s for fathers! When is this corruption he has created within this juvenile and domestic relations district court that he operates out of going to stop!

He finds pro se litigants in contempt for speaking of constitutional law, cases and reprehends them to a jail sentence of 10 days with 5 days served for good behavior.

There has to be a remedy of action and recourse to stop this from happening to others in his courtroom because he has and will continue to destroy many others lives like mine by continuing to cause undue hardships as he has.

I, Russell S Fryske declare under penalty of perjury that the foregoing statements are true and correct.

Executed on 7/14/16.

I may be contacted personally @ 734-834-9033.

Electronically signed by:
Russell S. Fryske
5621 Pine AIre dr
Grawn, Mi 49637.

EXHIBIT A32

James Smith's (Aka Michael Sinclair's)

Blog

Chesapeake JDR Court

You have no Rights in this Court

The VLW blog

A Great Legal BLOG on Virginia, Click here to read

Source:
http://myjdrcourtcase.blogspot.com

My Case and other items from Virginia.

This is my case in Chesapeake JDR court and other items in and around Chesapeake VA

When police or prosecutors conceal significant exculpatory or impeaching material, we hold, it is ordinarily incumbent on the state to set the record straight. - Ruth Bader Ginsburg

Sunday, August 17, 2008

Kevins Story VA (Judges Olds and Willis)

It's good to see that there are people taking action to defend their rights as a father.
I only wish that F4J would come to Chesapeake, VA and protest to bring awareness to the discrimination against fathers taking place in its Juvenile and Domestic Relations Court.
I haven't had overnight visits in more than a year because of a temporary sole custody order that Judge Willis in Chesapeake, VA ordered last February when my ex-wife snatched my kids up from Atlanta where we lived at the time and carried them to Virginia.

In February 2007 I filed for divorce and custody of my children in the Fulton County courts in Atlanta where we lived for 5 years before my wife took the children. That same month, Judge Willis in Chesapeake, Virginia in violation of Federal Law stole the jurisdiction away from the Georgia courts and gave custody without visitation to my wife that I was finally granted a divorce from in December of last year.

That wasn't enough. I have 3 children. One was actually born in Georgia, and not in Virginia like my other 2 children. My wife and kids lived with me continuously from 1996 until my wife took the children and left in Feb. 2007. In 1999, even though I wasn't separated from my wife, the Chesapeake Juvenile and Domestic Relations court issued an order for child support in the amount of $311 per month. Once again, it was the dishonorable Judge Willis that issued the order. So, the Department of Child Support Enforcement in Chesapeake, Virginia got a judgment in the amount of $33, 000 against me. They claimed I owed back child support from Feb. 2007 dating back to 1999 for the support of my oldest daughter Alexis. Well, I told them and demonstrated to them by presenting tax returns and medical bills as well as school records that Alexis, and my wife lived with me all those years. I was the only one working, and I did support my child. They levied all my bank accounts and garnished 65% of my wages. Needless to say, I became homeless in Atlanta because I couldn't pay my bills after they illegally took money from my accounts that I didn't even owe.

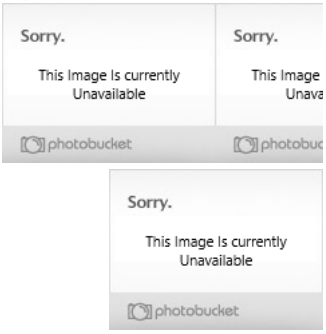
It took 6 months to get to court. The dishonorable
Judge Olds
in Chesapeake, Virginia ruled to give me a credit for $26, 000, but I was already homeless, I was forced to move in with my sister in North Carolina and I still hadn't seen my kids for almost a year.

Then,
Judge Olds
set child support for the amount of money that I was earning in Atlanta, not what I currently owe in North Carolina. So, I still can't afford to rent my own place. I live with my sister, and I can't have a bank account. My employer takes 65% of everything I earn. The order in October last year issued by
Judge Olds
is a temporary support order and not a final order. So, I can' even appeal it. My ex-wife is still collecting welfare in Virginia, not working and the legal system thinks its better to take all my earnings and leave the children with her. So, I'll finally be able to get my support adjusted in May of this year, 2008, which is the date that the dishonorable
Judge Olds
, in Chesapeake, VA set for our final support hearing. This is after living a year and a half on just 35% of what I earn. And, after having been made homeless by a bogus collective judgment obtained by DCSE in Virginia in the amount of $33, 000.

Here is where I am. I finally have a custody and visitation hearing, a year after my wife snatched the kids from me and left me in Chesapeake, Virginia on March 19, 2008. That is this week. I hope this judge orders that I can at least have normal scheduled and overnight visitations with my kids whom do love me very dearly as their father, still. But, I don't have my hopes up, because I've been treated like nothing more than a criminal and a prisoner by this court in Chesapeake, VA thus far.

Email me

When E-mailing me please use the Gmai
is my main account.



Chesapeake JDR Court

You have no Rights in this Court

The VLW blog

A Great Legal BLOG on Virginia, Click he

Tweet Blender

Links

- AMERICAN UNIVERSITY Focus group report on problem-solving courts and traditional case management
- CALIFORNIA Court Programs: Collaborative Justice Homepage
- CENTER FOR COURT INNOVATION Problem-solving justice webpage
- INDIANA Indiana Judicial Center: Problem Solving Court Homepage
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- MINNESOTA Judicial Council Strategic Plan for Problem-Solving Courts

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I hope someone in J4F can help me. I want to sue the Chesapeake court and the DCSE for violating my rights in the Federal Courts. I've investigated it, and it can be done. The jurisdiction for this matter would be in Norfolk, VA. With some support and encouragement and a little coaxing and perhaps hand-holding, I could file the papers myself as a pro-se litigant. I'd love to see the looks on Judge Willis's and Judge Old's faces as they stand in front of a Federal Court Judge and have to explain what the hell they were doin.

at 8/17/2008 08:51:00 PM

Labels: Court Bias, Family Court, Information, Olds

5 comments:

makeapositivechange said...

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Thursday, December 16, 2010 7:39:00 PM

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Adrien
757-359-9251

Wednesday, June 26, 2013 11:04:00 PM

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Don't go to court without a court reporter! Not in Front of Larry Willis, A court reporter will protect you! Without a Court reporter he will bash attorneys, bash witnesses. Break federal law and the Canons of Judicial Conduct for the State of Virginia. The law is supposed to protect us against from a judge.

There is something that we all can do. Do not be afraid! Submit a complaint!

Judicial Inquiry and Review Commission
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Phone - (804) 786-6636

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- Colorad
- North C System
- Connec Branch
- North I Supreme C
- Suprem Delaware
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- Suprem Guam
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FAX - (804) 371-0650

http://courts.state.va.us/agencies/jirc/jirc_complaint_form.pdf

Let's get this injustice removed!

peoplevslarrywillis@gmail.com
peoplevslarrywillis@aol.com

Stand up and Fight!

Friday, August 09, 2013 8:32:00 PM

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Thank you for allowing me to speak.

Tuesday, August 20, 2013 4:30:00 PM

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He ruins peoples lives. He is bias. I been in front of many Judges, most of them are fair.
No one wants to go against a Judge. Lower court Judge have been known to break the rules in the past.

He will order the court reporter to leave so there is no evidence. He will order child support payments as high as 1200 a month when someone only makes 400 a week. He gets away with it.

Monday, October 07, 2013 6:15:00 PM

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This is Judge Eileen Anita Olds

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- ▼ 2008 (88)

This Judge doesn't play fair. (Bias)

My Case and other items from Virginia.

This is my case in Chesapeake JDR court and other items in and around Chesapeake VA

When police or prosecutors conceal significant exculpatory or impeaching material, we hold, it is ordinarily incumbent on the state to set the record straight. - Ruth Bader Ginsburg

Sunday, August 17, 2008

Kevins Story VA (Judges Olds and Willis)

It's good to see that there are people taking action to defend their rights as a father.
I only wish that F4J would come to Chesapeake, VA and protest to bring awareness to the discrimination against fathers taking place in its Juvenile and Domestic Relations Court.
I haven't had overnight visits in more than a year because of a temporary sole custody order that Judge Willis in Chesapeake, VA ordered last February when my ex-wife snatched my kids up from Atlanta where we lived at the time and carried them to Virginia.

In February 2007 I filed for divorce and custody of my children in the Fulton County courts in Atlanta where we lived for 5 years before my wife took the children. That same month, Judge Willis in Chesapeake, Virginia in violation of Federal Law stole the jurisdiction away from the Georgia courts and gave custody without visitation to my wife that I was finally granted a divorce from in December of last year.

That wasn't enough. I have 3 children. One was actually born in Georgia, and not in Virginia like my other 2 children. My wife and kids lived with me continuously from 1996 until my wife took the children and left in Feb. 2007. In 1999, even though I wasn't separated from my wife, the Chesapeake Juvenile and Domestic Relations court issued an order for child support in the amount of $311 per month. Once again, it was the dishonorable Judge Willis that issued the order. So, the Department of Child Support Enforcement in Chesapeake, Virginia got a judgment in the amount of $33, 000 against me. They claimed I owed back child support from Feb. 2007 dating back to 1999 for the support of my oldest daughter Alexis. Well, I told them and demonstrated to them by presenting tax returns and medical bills as well as school records that Alexis, and my wife lived with me all those years. I was the only one working, and I did support my child. They levied all my bank accounts and garnished 65% of my wages. Needless to say, I became homeless in Atlanta because I couldn't pay my bills after they illegally took money from my accounts that I didn't even owe.

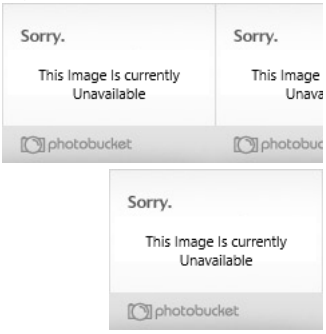
It took 6 months to get to court. The dishonorable
Judge Olds
in Chesapeake, Virginia ruled to give me a credit for $26, 000, but I was already homeless, I was forced to move in with my sister in North Carolina and I still hadn't seen my kids for almost a year.

Then,
Judge Olds
set child support for the amount of money that I was earning in Atlanta, not what I currently owe in North Carolina. So, I still can't afford to rent my own place. I live with my sister, and I can't have a bank account. My employer takes 65% of everything I earn. The order in October last year issued by
Judge Olds
is a temporary support order and not a final order. So, I can' even appeal it. My ex-wife is still collecting welfare in Virginia, not working and the legal system thinks its better to take all my earnings and leave the children with her. So, I'll finally be able to get my support adjusted in May of this year, 2008, which is the date that the dishonorable
Judge Olds
, in Chesapeake, VA set for our final support hearing. This is after living a year and a half on just 35% of what I earn. And, after having been made homeless by a bogus collective judgment obtained by DCSE in Virginia in the amount of $33, 000.

Here is where I am. I finally have a custody and visitation hearing, a year after my wife snatched the kids from me and left me in Chesapeake, Virginia on March 19, 2008. That is this week. I hope this judge orders that I can at least have normal scheduled and overnight visitations with my kids whom do love me very dearly as their father, still. But, I don't have my hopes up, because I've been treated like nothing more than a criminal and a prisoner by this court in Chesapeake, VA thus far.

Email me

When E-mailing me please use the Gmai
is my main account.



Chesapeake JDR Court

You have no Rights in this Court

The VLW blog

A Great Legal BLOG on Virginia, Click he

Tweet Blender

Links

- AMERICAN UNIVERSITY Focus group report on problem-solving courts and traditional case management
- CALIFORNIA Court Programs: Collaborative Justice Homepage
- CENTER FOR COURT INNOVATION Problem-solving justice webpage
- INDIANA Indiana Judicial Center: Problem Solving Court Homepage
- MARYLAND Office of Problem-Solving Courts
- MINNESOTA Judicial Council Strategic Plan for Problem-Solving Courts

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- New Je
- Alaska

I hope someone in J4F can help me. I want to sue the Chesapeake court and the DCSE for violating my rights in the Federal Courts. I've investigated it, and it can be done. The jurisdiction for this matter would be in Norfolk, VA. With some support and encouragement and a little coaxing and perhaps hand-holding, I could file the papers myself as a pro-se litigant. I'd love to see the looks on Judge Willis's and Judge Old's faces as they stand in front of a Federal Court Judge and have to explain what the hell they were doin.

at 8/17/2008 08:51:00 PM

Labels: Court Bias, Family Court, Information, Olds

5 comments:

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- North I Supreme C
- Suprem Delaware
- Northe Islands
- Florida Circuit
- Suprem Ohio
- Florida
- Oklaho Court Netv
- Suprem Guam
- Puerto
- Hawaii Judiciary
- Rhode Judiciary
- Idaho S
- Tennes Court
- Indiana System
- Texas - District Co
- Kansas Branch
- Texas J
- Kentuc Justice
- Vermor
- Suprem Louisiana
- Virginia System
- Maine Branch
- Washin Courts
- Maryla
- West Vi Supreme C Appeals
- Minnes Court Syst
- Wiscon System

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peoplevslarrywillis@gmail.com
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Stand up and Fight!

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This Judge doesn't play fair. (Bias)

EXHIBIT A33

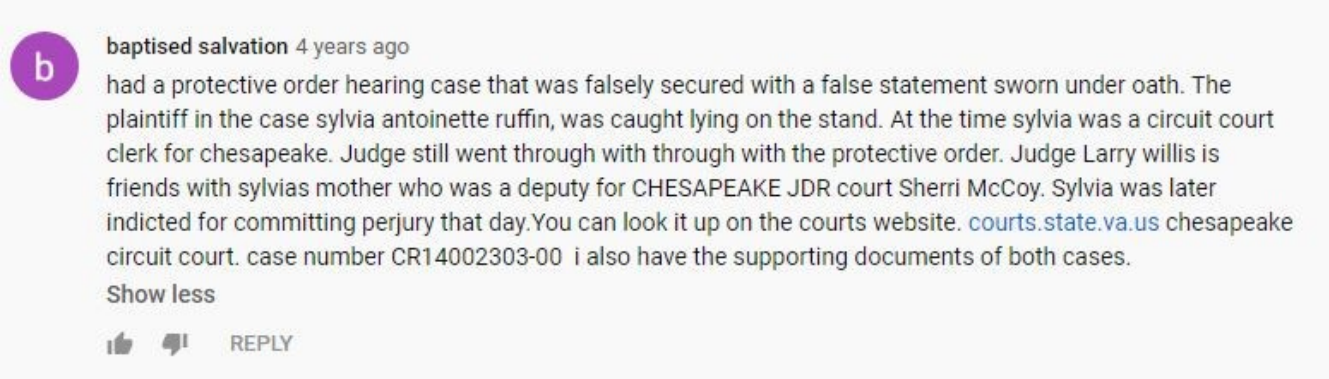
James Smith's (Aka Michael Sinclair's)

Twitter Account

Source:
https://twitter.com/sinkiss2000

EXHIBIT A34

Comment on YouTube About
Judge Larry D. Willis, Sr.



b

baptised salvation 4 years ago

had a protective order hearing case that was falsely secured with a false statement sworn under oath. The plaintiff in the case sylvia antoinette ruffin, was caught lying on the stand. At the time sylvia was a circuit court clerk for chesapeake. Judge still went through with through with the protective order. Judge Larry willis is friends with sylvias mother who was a deputy for CHESAPEAKE JDR court Sherri McCoy. Sylvia was later indicted for committing perjury that day.You can look it up on the courts website. courts.state.va.us chesapeake circuit court. case number CR14002303-00 i also have the supporting documents of both cases.

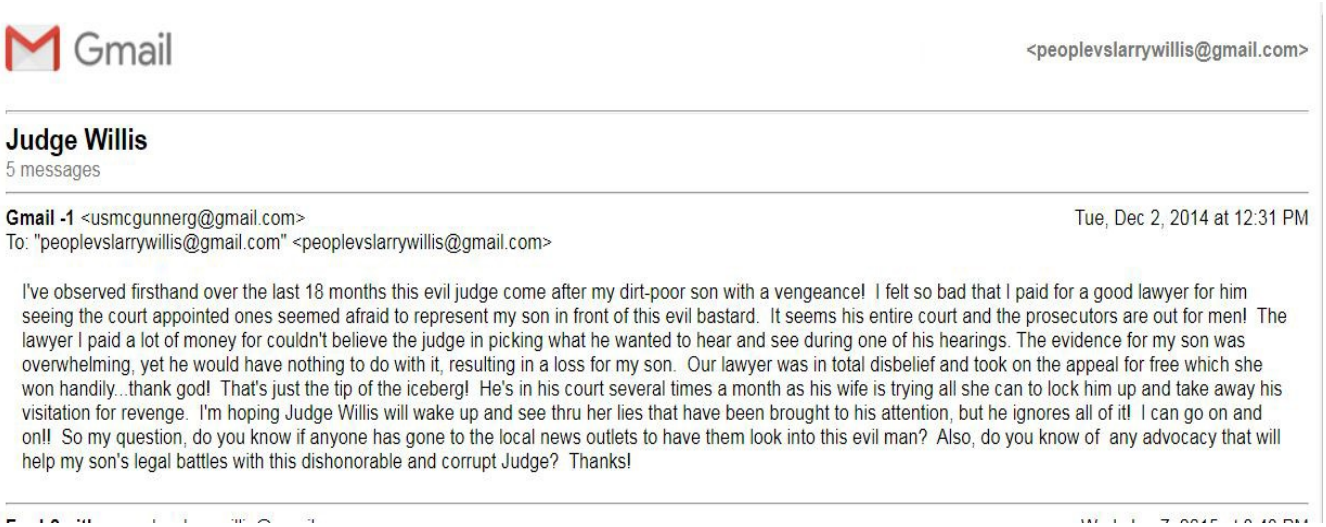
Show less

REPLY

Source:
https://www.youtube.com/watch?v=iRnK-xcRqwQ

EXHIBIT A35

Email From: usmcgunnerg@gmail.com



Gmail <peoplevslarrywillis@gmail.com>

Judge Willis
5 messages

Gmail -1 <usmcgunnerg@gmail.com> Tue, Dec 2, 2014 at 12:31 PM
To: "peoplevslarrywillis@gmail.com" <peoplevslarrywillis@gmail.com>

I've observed firsthand over the last 18 months this evil judge come after my dirt-poor son with a vengeance! I felt so bad that I paid for a good lawyer for him seeing the court appointed ones seemed afraid to represent my son in front of this evil bastard. It seems his entire court and the prosecutors are out for men! The lawyer I paid a lot of money for couldn't believe the judge in picking what he wanted to hear and see during one of his hearings. The evidence for my son was overwhelming, yet he would have nothing to do with it, resulting in a loss for my son. Our lawyer was in total disbelief and took on the appeal for free which she won handily...thank god! That's just the tip of the iceberg! He's in his court several times a month as his wife is trying all she can to lock him up and take away his visitation for revenge. I'm hoping Judge Willis will wake up and see thru her lies that have been brought to his attention, but he ignores all of it! I can go on and on!! So my question, do you know if anyone has gone to the local news outlets to have them look into this evil man? Also, do you know of any advocacy that will help my son's legal battles with this dishonorable and corrupt Judge? Thanks!

EXHIBIT A35B

JUDICIAL INTERVIEWS
Senate Committee for Courts of Justice
and
the House Judicial Panel

Friday, December 2, 2016

House Room C — General Assembly Building

Page 3

Judge Larry D. Willis, Sr.

1st Judicial District, Juvenile and

Domestic Relations District Court

(Chesapeake)

Citizens opposed:

Donna Parker

Rhonda Kirschmann

JUDICIAL INTERVIEWS

Senate Committee for Courts of Justice

and the

House Judicial Panel

Friday, December 2, 2016
House Room C — General Assembly Building

9:00 a.m. **Robert H. Simpson (James City County)**
Citizen member for his second term
Judicial Inquiry and Review Commission

Judge C. Randall Lowe
28th Judicial Circuit (Bristol, Smyth, Washington)

Judge James R. Swanson
23rd Judicial Circuit (Roanoke, Salem, Roanoke County)

Scott R. Geddes
Pro tempore appointee to 23rd Judicial District, General District Court (Roanoke, Salem, Roanoke County) effective January 1, 2017

Judge Paul A. Tucker
25th Judicial District, Juvenile and Domestic Relations District Court (Buena Vista, Covington, Lexington, Staunton, Waynesboro, Alleghany, Augusta, Bath, Botetourt, Craig, Highland, Rockbridge)

Judge Joseph W. Milam, Jr.
22nd Judicial Circuit (Danville, Franklin, Pittsylvania)

Judge Pamela L. Brooks
20th Judicial District, Juvenile and Domestic Relations District Court (Loudoun, Fauquier, Rappahannock)

9:00 a.m.
Cont'd

Judge Jeffrey W. Parker
20th Judicial Circuit (Loudoun, Fauquier, Rappahannock)

Citizens opposed: *Gregory Harrington*
Deborah Napier
Valerie Garvey

Judge J. Gregory Ashwell
20th Judicial District, General District Court (Loudoun, Fauquier, Rappahannock)

Citizen opposed: *Valerie Garvey*

10:30 a.m. **Judge Leslie L. Lilley**
2nd Judicial Circuit (Virginia Beach, Accomack, Northampton)

Judge William R. O'Brien
2nd Judicial Circuit (Virginia Beach, Accomack, Northampton)

Judge H. Thomas Padrick, Jr.
2nd Judicial Circuit (Virginia Beach, Accomack, Northampton)

Judge John R. Doyle, III
4th Judicial Circuit (Norfolk)

Judge Mary Jane Hall
4th Judicial Circuit (Norfolk)

Judge Jerrauld C. Jones
4th Judicial Circuit (Norfolk)

Judge M. Randolph Carlson, II
4th Judicial District, Juvenile and Domestic Relations District Court (Norfolk)

11:30 a.m. **H. Gayland Lyles (Fairfax County)**
Citizen member for his second term
Judicial Inquiry and Review Commission

Judge Bonnie L. Jones
8th Judicial Circuit (Hampton)

11:30 a.m.
Cont'd

Judge Matthew W. Hoffman, pro tempore
7th Judicial District, General District Court (Newport News)

Judge Thomas W. Carpenter
7th Judicial District, Juvenile and Domestic Relations District Court (Newport News)

Judge Rufus A. Banks, Jr.
1st Judicial District, Juvenile and Domestic Relations District Court (Chesapeake)

Citizens opposed: *Donna Parker*
Rhonda Kirschmann

Judge Larry D. Willis, Sr.
1st Judicial District, Juvenile and Domestic Relations District Court (Chesapeake)

Citizens opposed: *Donna Parker*
Rhonda Kirschmann

Judge Alfred W. Bates, III
5th Judicial District, General District Court (Franklin, Suffolk, Isle of Wight, Southampton)

Judge Stephen D. Bloom
6th Judicial District, General District Court (Brunswick, Emporia, Greensville, Hopewell, Prince George, Surry, Sussex)

Judge Mayo K. Gravatt
11th Judicial District, General District Court (Amelia, Dinwiddie, Nottoway, Petersburg, Powhatan)

12:30-1:30 LUNCH BREAK

1:30 p.m. **Judge Rossie D. Alston, Jr.**
Court of Appeals of Virginia (Manassas)

Judge Craig D. Johnston
31st Judicial Circuit (Manassas, Manassas Park, Prince William)

1:30 p.m.
Cont'd

Judge William T. Newman, Jr.
17th Judicial Circuit (Arlington, Falls Church)

Judge Jan L. Brodie
19th Judicial Circuit (Fairfax, Fairfax County)

Judge Richard E. Gardiner, pro tempore
19th Judicial Circuit (Fairfax, Fairfax County)

Judge Michael J. Cassidy
19th Judicial District, General District Court (Fairfax, Fairfax County)

Judge Susan Stoney, pro tempore
19th Judicial District, General District Court (Fairfax, Fairfax County)

Judge Constance H. Frogale
18th Judicial District, Juvenile and Domestic Relations District Court (Alexandria)

2:30 p.m. **Judge Charles S. Sharp**
15th Judicial Circuit (Fredericksburg, Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond County, Spotsylvania, Stafford and Westmoreland)

Judge Julian W. Johnson
15th Judicial District, Juvenile and Domestic Relations District Court (Fredericksburg, Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond County, Spotsylvania, Stafford and Westmoreland)

Judge Shannon O. Hoehl
15th Judicial District, Juvenile and Domestic Relations District Court (Fredericksburg, Caroline, Essex, Hanover, King George, Lancaster, Northumberland, Richmond County, Spotsylvania, Stafford and Westmoreland)

Judge Timothy J. Hauler
12th Judicial Circuit (Chesterfield, Colonial Heights)

Judge James J. O'Connell, III
12th Judicial District, General District Court (Chesterfield, Colonial Heights)

Judge Thomas O. Bondurant, Jr. , pro tempore
14th Judicial District, General District Court (Henrico)

Judge Denis F. Soden
14th Judicial District, Juvenile and Domestic Relations District Court (Henrico)

##

SHOW CAUSE SUMMONS (CIVIL)

Commonwealth of Virginia

VA. CODE §§ 8.01-508, 8.01-519, 8.01-564, 8.01-565, 16.1-69.24, 16.1-278.16, 19.2-358

RECEIVED BY SHERIFF CITY OF CHESAPEAKE 2016 MAY -5 AM 10:44

CHESAPEAKE J & DR - ADULT
CITY OR COUNTY

[ ] General District Court
[x] Juvenile and Domestic Relations District Court

301 ALBEMARLE DRIVE, CHESAPEAKE, VA 23322
STREET ADDRESS OF COURT

TO ANY AUTHORIZED OFFICER:

You are hereby commanded to summon forthwith the Respondent to appear before this Court on 06/21/2016 09:00 AM (DATE AND TIME) to show cause, if any, why Respondent should not, pursuant to Virginia Code § 16.1-278.16

[ ] have judgment in the amount of $ ..... or other such amount as may be proved entered against the Respondent Garnishee

[ ] be imprisoned until the Respondent complies with the Court's order or be fined for:

[ ] failure to pay fines, costs, forfeiture, restitution and/or penalty or an installment thereof:
payment due: $ ..... on .....

[x] failure to provide support as ordered on 04/21/2015 (DATE)
$ 835.75 per MONTH
with $ 21,953.81 arrearages as of 12/31/2015

[ ] failure to obey an order of [ ] this court [ ] .....
dated ..... ordering .....

[ ] failure to appear on ..... (DATE) to answer interrogatories

[x] (Other-Explain) SEE ATTACHED

Proper attire required in Court Rooms
NO Shorts
NO Halters/tank tops
NO flip-flop shoes
NO hats
NO food, drink or gum
NO camera phones

WARNING: Failure to appear may result in your being fined or jailed.

05/04/2016
DATE ISSUED

[ ] CLERK [ ] MAGISTRATE [ ] JUDGE

FORM DC-481X FRONT 10/13

CASE NO. JA078213-03-04

SUMMONS THIS RESPONDENT:
CHILDERS, TROY JEFFREY; JR
LAST NAME, FIRST NAME, MIDDLE NAME
4006 MORRIS COURT
CHESAPEAKE VA 23323-1930

2

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN MO.	BORN DAY	BORN YR.	HT. FT.	HT. IN.	WGT.	EYES	HAIR
W	M	04	17	75	6	02	280	BL	BD

SSN XXX-XX-5996

SHOW CAUSE SUMMONS (CIVIL)

In connection with the case of

[ ] Commonwealth of Virginia
[ ] JESSICA CHILDERS, DCSE

v./*In re*

CHILDERS, TROY JEFFREY; JR
CHILD SUPPORT

UNDERLYING CASE NO. A78213-03-03

NOTICE TO RESPONDENT: If this Show Cause Summons is issued based upon your alleged failure to provide support as ordered, your ability to pay the ordered support will be a critical issue in this proceeding. You will have an opportunity at the hearing to respond to statements and questions about your financial status.

RECEIVED AND FILED
MAY 10 2016
Chesapeake Juvenile & Domestic Relations District Court

HEARING DATE AND TIME
06/21/2016
09:00 AM
1

WW160505026

5/9 LC

Exhibit A36 – Proof of the June 21, 2016 court date and six month sentence.

Exhibit A36

[ ] Dismissed on motion of Petitioner.

The Respondent was this day:

[ ] tried in absence
[X] present

The Respondent was:

[ ] represented by counsel

....
NAME OF COUNSEL

[X] not represented by counsel

The Respondent:

[ ] denied contempt
[X] did not contest contempt
[ ] admitted contempt

And was TRIED and FOUND by me:

[ ] not guilty of civil contempt
[X] guilty of civil contempt
[ ] see attached Order

In addition:

[X] that there is a support arrearage of $ ~~29,780.94~~ 34,861.82
as of 9/30/16
[X] with interest included
[ ] without interest included
[ ] that the garnishee should have withheld $ ....

[X] Pending disposition on 7/6/17 10:00am
DATE AND TIME
the court ORDERS
I CMP participation

10/6/16 .... [signature]
DATE JUDGE

[ ] I ORDER the charge dismissed
[ ] with prejudice
[ ] without prejudice

FORM DC-481X REVERSE 10/13

I impose the following Disposition:

[X] Placed in custody until the respondent complies with the requirements of the court's order for a maximum of 6 mos susp.

[ ] Civil fine of $ ....
payable to ....

[ ] Judgment against garnishee in favor of judgment creditor of $ ....

[ ] Other: ....

[X] ~~Appeal Bond $~~ ~~29,780.94~~ 34,861.82

[ ] Appearance Bond $ ....
[ ] unsecured [ ] secured

[ ] Accrual Bond $ ....

[ ] Work Release [ ] authorized if eligible
[ ] required [ ] not authorized

[ ] Other: ....

[ ] Respondent may purge his/her jail sentence by paying a lump sum of $ .... to
[ ] DCSE [ ] ....

[ ] Purge Clause ....

[X] Respondent has been advised of his or her right to appeal the civil contempt.

10/6/16 [signature] 7/6/17 [signature]
DATE JUDGE

RETURNS: Each respondent was served according to law, as indicated below, unless not found.

Name ....
Address ....

[ ] PERSONAL SERVICE — Telephone No. ....

[ ] Being unable to make personal service, a copy was delivered in the following manner:

[ ] Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.

[ ] Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)

[ ] Served on Secretary of the Commonwealth.

[ ] Not found

SERVING OFFICER

.... for ....
DATE

COSTS

120 CT. APPT. ATTY. $ ....
234 JAIL ADMISSION FEE $ ....

EXHIBIT A37

JUVENILE & DOMESTIC RELATIONS DISTRICT COURT MANUAL

CHAPTER 2

Page 10

C. Judicial Disqualification

Source:

Office of the Executive Secretary

- Prepare the case to include all case-related documents and attach the documents to the case papers.
- Issue witness subpoenas and subpoenas *duces tecum*. In most civil matters, these may be issued by an attorney who is an active member of the Virginia Bar.
- Generate a docket of cases to be heard on each court date through the automated Juvenile Case Management System.
- Accept and account for prepayments prior to court for certain cases.
- Respond to public inquiries concerning case status, court date, prepayment procedures, court procedures or other questions. With regard to a crime victim, the clerk must take care to assure that requests are honored for nondisclosure of residential address, telephone number, place of employment of victim and members of victim's family. Va. Code § 19.2-11.2. A clerk must not disclose the residential address, telephone number, or place of employment of a person who is protected by a protective order issued for family abuse or acts of violence. Va. Code §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, 19.2-152.8, 19.2-152.9, and 19.2-152.10. In addition, the clerk must be careful to not disclose location or contact information of a party in a support case where a protective order has been issued or a court finds that there is reason to believe the party is at risk of physical or emotional harm from the other party.
- Accept continuance requests, according to the court's policy.

- On the court date, the clerk's office will:

  - Assure that cases assigned to the respective court date are on the docket.
  - Verify that all of the case materials for cases on the docket are in order and ready for court on the court date.
  - Deliver the case materials for all cases on the docket to the court.

C. Judicial Disqualification

If a district court judge is disqualified for any reason from participating in a case, neither the judge nor the clerk of the court may participate, directly or indirectly, in the selection of the judge who will be designated to preside over that case.

When a district court judge is disqualified for any reason, the judge shall enter an appropriate order of disqualification and send it to the chief judge of the district who will: (i) designate herself or himself or another judge of that court or district to preside over the case; (ii) designate a judge from another district if one is available or a retired district judge, from the Supreme Court's list of retired judges subject to recall, to preside over the case; (iii) designate a retired circuit judge, from the Supreme Court's list of retired judges subject to recall and who consents to the designation, to preside

over the case; or (iv) inform the Chief Justice of the Supreme Court of Virginia, who shall designate a judge to preside over the case. The chief judge may direct the clerk of the court to contact any judge or judges selected by the chief judge. If the chief judge is the judge who is disqualified or if all the judges in a district are disqualified because of a conflict of interest, the chief judge or the clerk of court shall forward a DC-91, ORDER OF DISQUALIFICATION along with the JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT COVER SHEET REQUEST FOR DESIGNATION-RECUSAL CASE to the Chief Justice of the Supreme Court of Virginia, who will designate a judge to preside over the case. Notwithstanding the foregoing, no substitute judge appointed pursuant to Va. Code § 16.1-69.9:1 shall be designated to preside over any case where the regular judge is disqualified unless either the chief judge or the Chief Justice has determined that no active judge, or retired judge subject to recall, is reasonably available to serve.

D. Cross-Designation

An order of cross-designation permits a general district judge to sit as a juvenile and domestic relations district judge in his district or permits a juvenile and domestic relations district judge to sit as a general district judge. These orders permit one type of judge to cover for the other type in districts where a judge might not be available in each type of court every day. They also permit judges of one type of court to assist the judges in the other in order to relieve docket congestion.

The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned. Va. Code §16.1-69.35.

E. Case Hearing, Judgment

In court, a case may be continued to another date, tried, or dismissed. If the case is tried, the lawyers or the parties to the case plead their respective sides in the case. A general district court hearing may be tape recorded by a party or his lawyer. Va. Code § 16.1-69.35:2. A case may not be heard on the trial date for a variety of reasons, including:

Exhibit A38

Exhibit A38 – Proof of indigence copy of form dc-334 signed by the plaintiff.

REQUEST FOR APPOINTMENT OF A LAWYER

Commonwealth of Virginia

Case No. JA078213-03-00

VA. CODE ANN. §§ 16.1-266, 267 §§ 19.2-159, 160, 163

[ ] Circuit Court
[ ] General District Court
[X] Juvenile and Domestic Relations District Court

Chesapeake
CITY OR COUNTY

Tracy Childers Adult

ADDRESS TELEPHONE NUMBER

TO THE ADULT: You have been charged with an offense punishable by death or confinement in a state correctional facility or in jail, including charges for revocation of suspension of imposition or execution of sentence or probation; or you are a party in a case involving allegations of abuse and/or neglect or a case in which you may be subjected to termination of your residual parental rights and responsibilities. You have the right to be represented by a lawyer with respect to this matter. In addition, the court shall consider appointing counsel to represent the parent or guardian of a child who is the subject of a foster care plan, foster care review or permanency planning hearing. You may retain a lawyer at your own expense or, if it is determined by the court that you are unable to afford a lawyer, this court will appoint a lawyer to represent you. If the judge appoints a lawyer to represent you, the lawyer will be paid with public funds whether or not you are convicted. However, if you are convicted, you shall pay the amount of the court-appointed lawyer's fee as part of the costs of prosecution. You may also waive your right to a lawyer.

REQUEST FOR APPOINTMENT OF A LAWYER—STATEMENT OF INDIGENCY

I, the undersigned, have been advised this day by this Court of my right to be represented by a lawyer in the case involving me; I certify that I am without means to employ a lawyer and I hereby request the Court to appoint a lawyer for me. My financial statement accompanies this request.

I have been informed that the lawyer appointed for me will be paid with public funds, but if I am convicted of a criminal offense, I shall have to pay the amount of the court-appointed lawyer's fee as part of the costs of prosecution. This lawyer will represent me in this case in all state courts until relieved or replaced by another lawyer.

If the court finds me to be not indigent, and if the court then declines to appoint a lawyer to represent me, I understand that I may employ my own lawyer. But, if I appear without counsel on the trial date, I may be deemed to have waived my right to counsel.

X 3-6-2018 X
DATE ADULT

The Court was advised that ....., a lawyer, has been retained to represent the accused in this Court.
This information was provided by:

[ ] the above-named person [ ] the lawyer [ ] .....

.....
DATE

[ ] JUDGE [ ] CLERK

ORDER OF APPOINTMENT OF COUNSEL

THE REQUEST FOR APPOINTMENT OF A LAWYER WAS EXECUTED UNDER OATH. HAVING EXAMINED THE ADULT AND CONSIDERED OTHER COMPETENT EVIDENCE, I FIND THAT

[ ] the Adult is not indigent and not entitled to representation by a court-appointed attorney.

[X] the Adult is indigent within the guideline set forth in the law and is entitled to representation by court-appointed counsel;

[ ] the Adult is not indigent and the Adult refuses to either employ counsel or waive his right to representation by a lawyer, but that the following circumstances and the ends of justice require the appointment of counsel:

.....

.....

Therefore I appoint the lawyer indicated below to represent the adult at such hearings and all other stages of the proceeding in this court and in any other court to which this case may be appealed or certified until relieved or replaced by another lawyer.

[ ] The Clerk shall send a copy of this Order to the Indigent Defense Commission as notice that the lawyer indicated below is not on the list maintained by the Commission, but has otherwise demonstrated to the Court an appropriate level of training and experience.

Brian Thomasson
NAME, ADDRESS OF COURT APPOINTED LAWYER

454-2110

7-10-18 10AM #2
~~5-24-18 1:00~~
NEXT HEARING DATE AND TIME

3-5-18
DATE

JUDGE

FORM DC-334 REVISED 11/06 (A180763 8/17)

SHOW CAUSE SUMMONS (CIVIL)

Commonwealth of Virginia

VA. CODE §§ 8.01-508, 8.01-519, 8.01-564, 8.01-565, 16.1-69.24, 16.1-278.16, 19.2-358

CHESAPEAKE J & DR - ADULT
CITY OR COUNTY

[ ] General District Court
[X] Juvenile and Domestic Relations District Court

301 ALBEMARLE DRIVE, CHESAPEAKE, VA 23322
STREET ADDRESS OF COURT

TO ANY AUTHORIZED OFFICER:

You are hereby commanded to summon forthwith the Respondent to appear before this Court on 03/06/2018 01:00 PM to show cause, if any, why Respondent should not, pursuant to
DATE AND TIME

Virginia Code § .....

[ ] have judgment in the amount of $ ..... or other such amount as may be proved entered against the Respondent Garnishee

[X] be imprisoned until the Respondent complies with the Court's order or be fined for:

[ ] failure to pay fines, costs, forfeiture, restitution and/or penalty or an installment thereof:
payment due: $ ..... on .....

[X] failure to provide support as ordered on 04/21/2015
DATE
$ 835.75 per MONTH
with $ 40,768.94 arrearages as of 12/31/2017

[ ] failure to obey an order of [ ] this court [ ] .....
dated ..... ordering .....

[ ] failure to appear on ..... to answer interrogatories
DATE

[ ] (Other-Explain)

Proper attire required in Court Rooms
NO Shorts
NO Halters/tank tops
NO flip-flop shoes
NO hats
NO food, drink or gum
NO camera phones

WARNING: Failure to appear may result in your being fined or jailed.

02/21/2018
DATE ISSUED

[ ] CLERK [ ] MAGISTRATE [ ] JUDGE

FORM DC-481X FRONT 10/13

CASE NO.
JA078213-03-08

SUMMONS THIS RESPONDENT:
CHILDERS, TROY JEFFREY; JR
LAST NAME, FIRST NAME, MIDDLE NAME
4006 MORRIS CT
CHESAPEAKE VA 23323-1930

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN MO.	BORN DAY	BORN YR.	HT. FT.	HT. IN.	WGT.	EYES	HAIR
W	M	04	17	75					

SSN
XXX-XX-5996

SHOW CAUSE SUMMONS
(CIVIL)

In connection with the case of

[ ] Commonwealth of Virginia
[ ] .....
JESSICA L CHILDERS

v./In re

CHILDERS, TROY JR

.....

UNDERLYING CASE NO. .....

NOTICE TO RESPONDENT: If this Show Cause Summons is issued based upon your alleged failure to provide support as ordered, your ability to pay the ordered support will be a critical issue in this proceeding. You will have an opportunity at the hearing to respond to statements and questions about your financial status.

HEARING DATE AND TIME
03/06/2018
01:00 PM
2

Exhibit A39

Exhibit A39 – Proof of the March 6, 2018 court date.

Exhibit A40

Exhibit A40 Received on 3-6-2018 – Proof of The Current Threat of Incarceration.

ICN#: DCSE837046 FIPS: 51550J
MOTION FOR SHOW CAUSE SUMMONS OR CAPIAS
Commonwealth of Virginia

CASE NO JA078213-03-08
DCSE ID NO 0004355866

Hearing Date and Time

CHESAPEAKE JDR COURT

Juvenile and Domestic
Relations District Court

This motion is filed in connection with Case Number: JA078213-
JESSICA L. CHILDERS v./In re TROY J. CHILDERS JR.

Party Making This Request:
Commonwealth of Virginia
Division of Child Support Enforcement

Party to be Served:

TROY J. CHILDERS JR.
4006 MORRIS CT
CHESAPEAKE VA 23323 1930

Address
Telephone number: ( ) -

Address
Telephone number: (000) 000 - 0000
Race: WH Sex: M Height: 6'2"
Born: 04/17/1975 Weight: 280
Hair: BLOND Eyes: BLUE
SSN: XXX-XX-5996

The undersigned respectfully represents to the Court that the defendant should,

{ } pursuant to Va Code 19.2-306, serve the sentence previously suspended on because

{ } have his or her recognizance revoked or modified because of the following violation of conditions of release:

{ X } be imprisoned, fined or otherwise punished or dealt with according to law

{ } pursuant to Va. Code { } 18.2-456/16.1-69.24 for failure to obey an order of { } this court { } ordering

such act of the respondent being described as
on .

{ } pursuant to Va. Code { } 18.2-456/16.1-69.24 { } 19.2-358 { } 19.2-305.2 (restitution only), for failure to pay fines, costs, forfeitures, restitution and/or penalties or an installment thereof; payment due: $ .00 on .

{ X } pursuant to Va. Code 16.1-278.16 for failure to provide support as ordered on 04/21/2015 : $ 835.75 per MNTH with $ 40768.94 arrearage as of 12/31/2017 .

{ } pursuant to 19.2-303.3, have his or her local community-based probation revoked or modified because

{ } pursuant to 19.2-304, have his or her probation period or conditions modified as follows:

because

{ } pursuant to { } 4.1-305 { } 18.2-57.3 { } 18.2-251 { } 19.2-303.2, have his or her deferral of proceedings revoked and be subjected to the proceedings as provided by law because:

{ } (Other-Explain)

Therefore, the undersigned requests the issuance of process to the respondent to answer the above motion.

1-25-18
DATE

Supervisor
TITLE

S. Hargate
SIGNATURE

FORM DC-635
E0EST007

MOTION FOR SHOW CAUSE SUMMONS

CASE NO. JA078213-
PAGE 1 OF 1
Rev. 07/08

EXHIBIT A41

ORDER

Judge David J. Whitted Wrote

"Strongly Consider Jailtime"

Date:July 10, 2018

Commonwealth of Virginia: *In the Chesapeake Juvenile and Domestic Relations District Court*

ORDER
DCSE ROP-ORDER [10/07]

Case No: JA078213-03-07,03-08

DCSE obo: Jessica Childers V. / In re: Tracy Childers, Jr.

The following individuals were present:

[ ] Guardian Ad Litem ..... [ ] Other(s): .....

[ ] Petitioner ..... [ ] Attorney: .....

[ ] Respondent ..... [X] Attorney: B Thomason - 03-08

[X] DCSE Special Counsel: CLARK/WHITLEY/ ..... [ ] DCSE Court Specialist: RAINEY/COKER/.....

Type of Case: [ ] Support [X] SC/FTC Support [ ] CA/FTC Support [ ] UIFSA [ ] ASO Appeal [X] MTA - child supp
[ ] Mot Rehear [ ] SC/FTA [ ] CA/FTA [ ] Register Foreign Order [ ] S/C CONTEMPT [ ]

Type of Hearing:
[ ] Determination/Appointment of Counsel [X] Adjudicatory Hearing [ ] Disposition Hearing [ ] Show Cause [ ] Motion [ ] Transfer Jurisdiction Hearing [ ] Continuance [ ] [ ] Trial [ ] Review [ ]

PLEA: ..... Monthly Order: $_____ Date of Order: _____

YEAR: ..... due $ ..... paid $ ..... YEAR: ..... due $ ..... paid $ .....

Last Payment: _____ (DATE) Paid: $_____ Amount Ordered: $_____ / ____% Compliant Since: _____ (DATE)

ORDER: Respondent shall pay $ 835.75 /month **CURRENT SUPPORT** effective _____.

ARREARS are $ 43,016.42 [X] Including Interest [ ] Plus Interest of $ _____ as of 6/30/18.

Respondent shall pay $ 250.00 /month towards arrears. The first payment is due on _____.

Appeal Bond is $ _____. No Appeal Bond Required because: .....

Health Insurance to be provided by: [ ] Respondent [ ] Petitioner [ ] Not Available.....

Dental Insurance to be provided by [ ] Respondent [ ] Petitioner [ ] Not Available

Respondent shall pay ____% of any reasonable and necessary unreimbursed medical and dental expenses incurred in any calendar year for each child covered by this Order.

Payment Method: [ ] Wage Withholding [ ] Treasurer [ ] Direct [ ] Sole [ ] Split [ ] Shared Guidelines [ ] Deviation

$835.75 + $200 to 43,016.32 6/30/18 Last Payment $500 6/30/16

- If Mr. Childers does not pay as ordered, the Court will strongly consider Jail time

ISSUE FTA: [ ] SC [ ] CAPIAS for: [ ] Respondent [ ] Petitioner ISSUE FTC: [ ] SC [ ] CAPIAS for: [ ] Respondent [ ] Petitioner

This case is continued to 1/15/19 at 10:00 a.m. for .....

Summons: [ ] Petitioner [ ] Respondent [ ] .....

7-10-18
DATE

JUDGE

EXHIBIT A42

Form DC-334
Indigent Form

Signed By Troy Childers,

Attorney Lisa Henderson
and
Judge Alfreda Talton-Harris

Date: February 19, 2019

REQUEST FOR APPOINTMENT OF A LAWYER

Commonwealth of Virginia

Case No. JA078213-03-08

VA. CODE ANN. §§ 16.1-266, 267 §§ 19.2-159, 160, 163

[ ] Circuit Court
[ ] General District Court
[X] Juvenile and Domestic Relations District Court

Chesapeake
CITY OR COUNTY

Childers Troy Adult

4006 Morris CT. Chesapeake VA 23323 757-266-9111
ADDRESS TELEPHONE NUMBER

TO THE ADULT: You have been charged with an offense punishable by death or confinement in a state correctional facility or in jail, including charges for revocation of suspension of imposition or execution of sentence or probation; or you are a party in a case involving allegations of abuse and/or neglect or a case in which you may be subjected to termination of your residual parental rights and responsibilities. You have the right to be represented by a lawyer with respect to this matter. In addition, the court shall consider appointing counsel to represent the parent or guardian of a child who is the subject of a foster care plan, foster care review or permanency planning hearing. You may retain a lawyer at your own expense or, if it is determined by the court that you are unable to afford a lawyer, this court will appoint a lawyer to represent you. If the judge appoints a lawyer to represent you, the lawyer will be paid with public funds whether or not you are convicted. However, if you are convicted, you shall pay the amount of the court-appointed lawyer's fee as part of the costs of prosecution. You may also waive your right to a lawyer.

REQUEST FOR APPOINTMENT OF A LAWYER—STATEMENT OF INDIGENCY

I, the undersigned, have been advised this day by this Court of my right to be represented by a lawyer in the case involving me; I certify that I am without means to employ a lawyer and I hereby request the Court to appoint a lawyer for me. My financial statement accompanies this request.

I have been informed that the lawyer appointed for me will be paid with public funds, but if I am convicted of a criminal offense, I shall have to pay the amount of the court-appointed lawyer's fee as part of the costs of prosecution. This lawyer will represent me in this case in all state courts until relieved or replaced by another lawyer.

If the court finds me to be not indigent, and if the court then declines to appoint a lawyer to represent me, I understand that I may employ my own lawyer. But, if I appear without counsel on the trial date, I may be deemed to have waived my right to counsel.

X Troy J. Childers 2-19-2019 X [signature]
DATE ADULT

The Court was advised that ..... , a lawyer, has been retained to represent the accused in this Court.
This information was provided by:

[ ] the above-named person [ ] the lawyer [ ] .....

.....
DATE

.....
[ ] JUDGE [ ] CLERK

ORDER OF APPOINTMENT OF COUNSEL

THE REQUEST FOR APPOINTMENT OF A LAWYER WAS EXECUTED UNDER OATH. HAVING EXAMINED THE ADULT AND CONSIDERED OTHER COMPETENT EVIDENCE, I FIND THAT

[ ] the Adult is not indigent and not entitled to representation by a court-appointed attorney.

[ ] the Adult is indigent within the guideline set forth in the law and is entitled to representation by court-appointed counsel;

[ ] the Adult is not indigent and the Adult refuses to either employ counsel or waive his right to representation by a lawyer, but that the following circumstances and the ends of justice require the appointment of counsel:

.....

.....

Therefore I appoint the lawyer indicated below to represent the adult at such hearings and all other stages of the proceeding in this court and in any other court to which this case may be appealed or certified until relieved or replaced by another lawyer.

[ ] The Clerk shall send a copy of this Order to the Indigent Defense Commission as notice that the lawyer indicated below is not on the list maintained by the Commission, but has otherwise demonstrated to the Court an appropriate level of training and experience.

NAME, ADDRESS OF COURT APPOINTED LAWYER

Lisa Henderson
627-2016

4/4/19 11am #3
NEXT HEARING DATE AND TIME

2/19/19
DATE

[signature]
JUDGE

FORM DC-334 REVISED 11/06 (A192082 12/18)

Exhibit A43

Proof of Court Date on April 4, 2019

See page 2

Appeal bond amount of $48,711.72

Appearance bond amount $25,000.00

Accrual bond amount $3,255.00

Purge bond amount $5,695.40

(2) U118022106

SHOW CAUSE SUMMONS (CIVIL)

Commonwealth of Virginia

VA. CODE §§ 8.01-508, 8.01-519, 8.01-564, 8.01-565, 16.1-69.24, 16.1-278.16, 19.2-358

[ ] General District Court

CHESAPEAKE J & DR - ADULT [X] Juvenile and Domestic Relations District Court

CITY OR COUNTY

301 ALBEMARLE DRIVE, CHESAPEAKE, VA 23322

STREET ADDRESS OF COURT

RECEIVED AND FILED FEB 24 2018 Chesapeake Juvenile & Domestic Relations District Court

TO ANY AUTHORIZED OFFICER:

You are hereby commanded to summon forthwith the Respondent to appear before this court on 03/06/2018 01:00 PM to show cause, if any, why Respondent should not pursuant to

DATE AND TIME

Virginia Code § .....

[ ] have judgment in the amount of $ ..... or other such amount as may be proved entered against the Respondent Garnishee

[X] be imprisoned until the Respondent complies with the Court's order or be fined for:

[ ] failure to pay fines, costs, forfeiture, restitution and/or penalty or an installment thereof:

payment due: $ ..... on .....

[X] failure to provide support as ordered on 04/21/2015

DATE

$ 835.75 per MONTH

with $ 40,768.94 arrearages as of 12/31/2017

[ ] failure to obey an order of [ ] this court [ ] .....

dated ..... ordering .....

[ ] failure to appear on ..... to answer interrogatories

DATE

[ ] (Other-Explain) Proper attire required in Court Rooms
NO Shorts
NO Halters/tank tops
NO flip-flop shoes
NO hats
NO food, drink or gum
NO camera phones

WARNING: Failure to appear may result in your being fined or jailed.

02/21/2018

DATE ISSUED

[ ] CLERK [ ] MAGISTRATE [ ] JUDGE

FORM DC-481X FRONT 10/13

CASE NO.

JA078213-03-08

SUMMONS THIS RESPONDENT:

CHILDERS, TROY JEFFREY; JR

LAST NAME, FIRST NAME, MIDDLE NAME

(2)

4006 MORRIS CT

CHESAPEAKE VA 23323-1930

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN MO.	BORN DAY	BORN YR.	HT. FT.	HT. IN.	WGT.	EYES	HAIR
W	M	04	17	75					

SSN XXX-XX-5996

SHOW CAUSE SUMMONS (CIVIL)

In connection with the case of

[ ] Commonwealth of Virginia

[ ] .....

JESSICA L CHILDERS

v./*In re*

CHILDERS, TROY JR

.....

UNDERLYING CASE NO. .....

NOTICE TO RESPONDENT: If this Show Cause Summons is issued based upon your alleged failure to provide support as ordered, your ability to pay the ordered support will be a critical issue in this proceeding. You will have an opportunity at the hearing to respond to statements and questions about your financial status.

HEARING DATE AND TIME

~~03/06/2018~~

01:00 PM

RECEIVED BY CHESAPEAKE SHERIFF'S OFFICE 2018 FEB 12 PM 1:29

1/15/19 @10AM #2

2/19/19 3PM #3

4/4/19 #3

"I certify that the document to which this authentication is affixed is a true copy of a record in the Chesapeake Juvenile and Domestic Relations District Court, and that I have custody of the record, and that I am the custodian of that record."

Clerk Deputy Clerk

Date 10/17/19

[ ] Dismissed on motion of Petitioner.

The Respondent was this day:

[ ] tried in absence

[X] present

The Respondent was:

[ ] represented by counsel

.....
NAME OF COUNSEL

[ ] not represented by counsel

The Respondent:

[✓] denied contempt

[ ] did not contest contempt

[ ] admitted contempt

And was TRIED and FOUND by me:

[ ] not guilty of civil contempt

[✓] guilty of civil contempt

[ ] See attached Order

In addition:

[✓] that there is a support arrearage of $ 48,711.72 as of 3/31/19

[✓] with interest included

[ ] without interest included

[ ] that the garnishee should have withheld $ .....

[ ] Pending disposition on .....
DATE AND TIME

the court ORDERS

.....

.....

.....

.....
DATE

_____
JUDGE

[ ] I ORDER the charge dismissed

[ ] with prejudice

[ ] without prejudice

I impose the following Disposition:

[ ] Placed in custody until the respondent complies with the requirements of the court's order for a maximum of

.....

[ ] Civil fine of $ .....

payable to .....

[ ] Judgment against garnishee in favor of judgment creditor of $ .....

[✓] Other: 6 MOS jail

.....

.....

[✓] Appeal Bond $ 48,711.72

[✓] Appearance Bond $ 25,000

[ ] unsecured [✓] secured

[✓] Accrual Bond $ 3,255

[✓] Work Release [✓] authorized if eligible

[ ] required [ ] not authorized

[ ] Other: .....

.....

[ ] Respondent may purge his/her jail sentence by paying a lump sum of $ ..... to

[ ] DCSE [ ] .....

[✓] Purge Clause 5,695.40

.....

.....

[ ] Respondent has been advised of his or her right to appeal the civil contempt.

4/4/19
DATE

_____
JUDGE

RETURNS: Each respondent was served according to law, as indicated below, unless not found.

Name .....

Address .....

.....

.....

[ ] PERSONAL SERVICE | Telephone No. .....

[ ] Being unable to make personal service, a copy was delivered in the following manner:

[ ] Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.

.....

.....

[ ] Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)

[ ] Served on Secretary of the Commonwealth.

[ ] Not found

_____
SERVING OFFICER

..... for _____
DATE

COSTS

120 CT. APPT. ATTY. $.....

234 JAIL ADMISSION FEE $ .....

EXHIBIT A44

Medication Prescribed
By
The Chesapeake City Jail

C-729 Continuity of Care

TROY JEFFREY CHILDERS
#2019-0002178

CHESAPEAKE CORRECTIONAL CENTER
400 ALBEMARLE
CHESAPEAKE, VA 23222
TELEPHONE # 757-382-7084

Release Date:		
ALLERGIES:	pollen	

Major Health Problems
Including medical and psychiatric problems

PROBLEMS:	CV - Hypertension PSYCH - Depression	
Current Medications PLACE THE AMOUNT OF MEDICATION GIVEN TO INMATE UPON DISCHARGE (EXAMPLE TYLENOL # 10)	SERTRALINE (ZOLOFT) 50MG TAB QHS; Directions: 1 TAB [BY MOUTH] BY MOUTH EVERY NIGHT AT BEDTIME *MAY CAUSE DROWSINESS*;24tabs HYDROXYZINE HCL (ATARAX) 50MG TAB TID; Directions: TAKE 1 TABLET BY MOUTH 3 TIMES DAILY;25tabs	
Medical Instructions and Treatment Orders		
Follow-up with your personal physician, clinic, mental health clinic or health department.	(●) **Yes** ( ) No ( ) No medical instructions or treatment orders required	

CHESAPEAKE HEALTH DEPARTMENT: 748 BATTLEFIELD BLVD. CHESAPEAKE, VA 23320 (PH) 757-382-8600
COMMUNITY SERVICE BOARD: 224 GREATBRIDGE BLVD. CHESAPEAKE, VA 23320 (PH) 757- 547-9334
CHESAPEAKE CARE FREE CLINIC: 2145 SOUTH MILITARY HWY., CHESAPEAKE, VA 23320 (757)545-5700

Your signature indicates receipt of Continuity of Care and Medical Discharge Instructions and medication		
	( ) Inmate unavailable to sign. Continuity of Care and Medical Discharge Instructions forwarded to inmate's last known address. ( ) Inmate unavailable to sign. No medical instructions or orders required and Continuity of Care not forwarded to inmate.	
Inmate Signature / Date		
Medical Staff Member Signature / Date	S. Welton, Lpn	10/04/2019
Reviewed by: / Date		

Family Psychiatric History?	• ○ Yes ○ No reported that several family members are on psychotropic medications but unclear about dx. Says that his mother would "cut her wrists and wipe blood all over my sister's faces."
Relevant Past Medical History and Medications?	• ○ Yes ○ No NKDA
Prior Self-Harm Attempt?	• ○ Yes ○ No denies
Prior Violence Toward Others?	• ○ Yes ○ No past assault charges but only once convicted age 18, malicious wounding in 2007 nolle prossed, domestic violence not convicted.
History of Substance Abuse?	• ○ Yes (Document last date of use) ○ No experimented w/THC

Mental Status Exam

Appearance:	Speech:	Mood:	Affect:	Thought Form:	Thought Content:
• ☐ Appropriate	• ☐ Appropriate	• ☐ Appropriate	• ☐ Appropriate	• X ☐ Coherent	• X ☐ Appropriate
• ☐ Meticulous	• X ☐ Excessive	• X ☐ Depressed	• X ☐ Tearful	• ☐ Circumstantial	• ☐ Comp/Obsessive
• ☐ Unclean	• ☐ Loud	• ☐ Euphoric	• ☐ Blunted	• ☐ Tangential	• ☐ Thought Insertion
• x ☐ Disheveled	• ☐ Slowed	• X ☐ Anxious	• ☐ Flat	• ☐ Loose Association	• ☐ Broadcasting
• ☐ Bizarre	• ☐ Pressured	• ☐ Angry	• ☐ Labile	• ☐ Poverty of Thought	• ☐ Delusional
• ☐ Other	• ☐ Slurred	• ☐ Irritable	• ☐ Hostile	• ☐ Flight of Ideas	• ☐ Hallucinations
	• ☐ Other	• ☐ Other	• ☐ Other	• X ☐ Other PERSEVERATIVE	• ☐ Suicidal
					• ☐ Homicidal
					• ☐ Other

Orientation:	Intelligence:	Memory:	Insight:	Judgment:	Behavior:
• x ☐ Person	• ☐ Above Average	• X ☐ Intact	• ☐ Intact	• ☐ Intact	• X ☐ Appropriate
• x ☐ Place	• x ☐ Average	• ☐ Immediate Impaired	• ☐ Good	• ☐ Good	• ☐ Belligerent
• x ☐ Purpose	• ☐ Below Average	• ☐ Recent Impaired	• X ☐ Fair	• X ☐ Fair	• ☐ Agitated
• x ☐ Time	• ☐ Developmentally Disabled	• ☐ Remote Impaired			• ☐ Withdrawn
					• ☐ Cooperative
					• ☐ Uncooperative

Diagnosis (include mental disorders and relevant medical conditions)
MDD recurrent, severe w/o psychotic features

Plan 1 Medication: sp disc of r, b and alt tx options welcomes trial of
1) Hydroxyzine 50 mg PO TID
2) Celexa 20 mg po qhs

Plan 2 Labs: none ordered

Plan 3 Other: Discussed risks, benefits & alternatives; importance of medication use, compliance and appointments
f/u w/MHP for monitoring and supportive interventions
place on SW

Plan 4 Follow-up Date/Time: ☐ 12 weeks ☐ 4-6 weeks ☐ x Other, please specify: 1-3 weeks/PRN

Provider Signature: Ilana Iacobovici, M.D. | Title: Psychiatrist

EXHIBIT A45

Broken Foot
At
The Chesapeake City Jail

Small avulsion fractures

Date: June 26, 2019

Dynamic Mobile Imaging
"X-Ray and Ultrasound in Motion"

Phone: 866-483-9729

FAX: 804-282-1773

PATIENT REPORT

Document ID: 189006

PATIENT NAME:	Childers, Troy	DATE OF SERVICE:	06/26/2019
DATE OF BIRTH:	04/17/1975	REFERRING PHY:	Taylor, Alex
PATIENT ID:	149517	TECHNOLOGIST:	Ball, Megan
FACILITY:	Chesapeake Jail	INTERPRETING COMPANY:	Meridian Radiology
ROOM #:			

PROCEDURE: 73630 - FOOT 3 view (Right)

RESULTS:

PROCEDURE:
73630-(RIGHT) FOOT 3 VIEW

History: Pain

Correlative Films Provided: None.

FINDINGS:
Small bony densities are seen just dorsal to the tarsometatarsal junction on the lateral view only. There are no other significant osseous abnormalities. There is soft tissue swelling.

IMPRESSION:
Small bony densities dorsal to the tarsometatarsal junction on the lateral view only. Differential diagnosis would include small avulsion fractures (ages indeterminate), ligamentous calcification or nonspecific soft tissue calcification. There is soft tissue swelling. Clinical correlation recommended.

Signed By NASH, ROGER MD at 06/26/2019 10:52:42 AM

INTERPRETING DOCTOR: ROGER NASH

ELECTRONICALLY SIGNED: ROGER NASH (Wed, Jun 26, 2019 10:52:00 EDT)

APS, D
6/26/19

EXHIBIT A46

$304.50 Owed To

The Chesapeake City Jail

For Rent

CITY OF CHESAPEAKE

Invoice Number 357093

Miscellaneous Invoice

BILLING DEPT.	CUSTOMER ACCT. NO.	INVOICE DATE	DUE DATE	AMOUNT DUE
SHERIFF	60508	11/21/2019	12/22/2019	304.50

191222 000001236 000060508 06 003570934 000030450 7

TROY JEFFREY CHILDERS
4006 MORRIS CT
CHESAPEAKE VA 23323

CHECK CONVERSION INFORMATION
When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. When we use information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution.

Return top portion with payment. - Keep lower portion for your records.

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED AMOUNT
SHERIFF-JAIL FEE	1.00	274.50	274.50
INMATE HOUSING $1.50 PER DAY INMATE MEDICAL FEES	1.00	30.00	30.00

Chesapeake VIRGINIA

INVOICE NUMBER : 357093 **INVOICE DATE : 11/21/2019** **TOTAL DUE : 304.50**

10% Annual Interest begins month following due date

Make Checks Payable To:
CITY OF CHESAPEAKE
Mail To:
Barbara O. Carraway
City Treasurer
PO Box 16495
Chesapeake, VA 23328-6495
(757) 382-6281

Should you have questions concerning your bill please call:
(757) 382-6150

TINV35

CHESAPEAKE CITY CORRECTIONAL CENTER

Resident Account Summary

Friday, October 18, 2019 @10:22

For PERM ID: 95233 CHILDERS, TROY

Date	Transaction	Description	Amount	Balance	Owed	Held	Reference
10/04/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	304.50	0.00	10/04/2019
10/03/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	303.00	0.00	10/03/2019
10/02/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	301.50	0.00	10/02/2019
10/01/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	300.00	0.00	10/01/2019
09/30/2019	INP	OID:100459281-ComisaryPur	0.00	0.00	298.50	0.00	09/30/2019
09/30/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	298.50	0.00	09/30/2019
09/29/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	297.00	0.00	09/29/2019
09/28/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	295.50	0.00	09/28/2019
09/27/2019	MEDICAL CHA	DENTAL,PRESCRIPTION FEE	15.00	0.00	294.00	0.00	09/27/2019
09/27/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	279.00	0.00	09/27/2019
09/26/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	277.50	0.00	09/26/2019
09/25/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	276.00	0.00	09/25/2019
09/24/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	274.50	0.00	09/24/2019
09/23/2019	INP	OID:100458623-ComisaryPur	0.00	0.00	273.00	0.00	09/23/2019
09/23/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	273.00	0.00	09/23/2019
09/22/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	271.50	0.00	09/22/2019
09/21/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	270.00	0.00	09/21/2019
09/20/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	268.50	0.00	09/20/2019
09/19/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	267.00	0.00	09/19/2019
09/18/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	265.50	0.00	09/18/2019
09/17/2019	INP	OID:100457980-ComisaryPur	0.00	0.00	264.00	0.00	09/17/2019
09/17/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	264.00	0.00	09/17/2019
09/16/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	262.50	0.00	09/16/2019
09/15/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	261.00	0.00	09/15/2019
09/14/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	259.50	0.00	09/14/2019
09/13/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	258.00	0.00	09/13/2019
09/12/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	256.50	0.00	09/12/2019
09/11/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	255.00	0.00	09/11/2019
09/10/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	253.50	0.00	09/10/2019
09/09/2019	INP	OID:100457312-ComisaryPur	0.00	0.00	252.00	0.00	09/09/2019
09/09/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	252.00	0.00	09/09/2019
09/08/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	250.50	0.00	09/08/2019
09/07/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	249.00	0.00	09/07/2019
09/06/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	247.50	0.00	09/06/2019
09/05/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	246.00	0.00	09/05/2019
09/04/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	244.50	0.00	09/04/2019
09/03/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	243.00	0.00	09/03/2019
09/02/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	241.50	0.00	09/02/2019
09/01/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	240.00	0.00	09/01/2019
08/31/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	238.50	0.00	08/31/2019
08/30/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	237.00	0.00	08/30/2019
08/29/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	235.50	0.00	08/29/2019
08/28/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	234.00	0.00	08/28/2019
08/27/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	232.50	0.00	08/27/2019
08/26/2019	MEDICAL CHA	SICK CALL	10.00	0.00	231.00	0.00	08/26/2019
08/26/2019	MEDICAL CHA	PRESCRIPTION FEE	5.00	0.00	221.00	0.00	08/26/2019
08/26/2019	INP	OID:100455789-ComisaryPur	0.00	0.00	216.00	0.00	08/26/2019
08/26/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	216.00	0.00	08/26/2019
08/25/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	214.50	0.00	08/25/2019
08/24/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	213.00	0.00	08/24/2019
08/23/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	211.50	0.00	08/23/2019
08/22/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	210.00	0.00	08/22/2019
08/21/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	208.50	0.00	08/21/2019
08/20/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	207.00	0.00	08/20/2019
08/19/2019	INP	OID:100455157-ComisaryPur	0.00	0.00	205.50	0.00	08/19/2019
08/19/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	205.50	0.00	08/19/2019
08/18/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	204.00	0.00	08/18/2019
08/17/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	202.50	0.00	08/17/2019

CHESAPEAKE CITY CORRECTIONAL CENTER

Resident Account Summary

Friday, October 18, 2019 @10:22

For PERM ID: 95233 CHILDERS, TROY

Date	Transaction	Description	Amount	Balance	Owed	Held	Reference
08/16/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	201.00	0.00	08/16/2019
08/15/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	199.50	0.00	08/15/2019
08/14/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	198.00	0.00	08/14/2019
08/13/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	196.50	0.00	08/13/2019
08/12/2019	INP	OID:100454191-ComisaryPur(	0.00	0.00	195.00	0.00	08/12/2019
08/12/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	195.00	0.00	08/12/2019
08/11/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	193.50	0.00	08/11/2019
08/10/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	192.00	0.00	08/10/2019
08/09/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	190.50	0.00	08/09/2019
08/08/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	189.00	0.00	08/08/2019
08/07/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	187.50	0.00	08/07/2019
08/06/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	186.00	0.00	08/06/2019
08/05/2019	INP	OID:100453475-ComisaryPur(	0.00	0.00	184.50	0.00	08/05/2019
08/05/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	184.50	0.00	08/05/2019
08/04/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	183.00	0.00	08/04/2019
08/03/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	181.50	0.00	08/03/2019
08/02/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	180.00	0.00	08/02/2019
08/01/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	178.50	0.00	08/01/2019
07/31/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	177.00	0.00	07/31/2019
07/30/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	175.50	0.00	07/30/2019
07/29/2019	INP	OID:100452825-ComisaryPur(	0.00	0.00	174.00	0.00	07/29/2019
07/29/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	174.00	0.00	07/29/2019
07/28/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	172.50	0.00	07/28/2019
07/27/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	171.00	0.00	07/27/2019
07/26/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	169.50	0.00	07/26/2019
07/25/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	168.00	0.00	07/25/2019
07/24/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	166.50	0.00	07/24/2019
07/23/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	165.00	0.00	07/23/2019
07/22/2019	INP	OID:100452238-ComisaryPur(	0.00	0.00	163.50	0.00	07/22/2019
07/22/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	163.50	0.00	07/22/2019
07/21/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	162.00	0.00	07/21/2019
07/20/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	160.50	0.00	07/20/2019
07/19/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	159.00	0.00	07/19/2019
07/18/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	157.50	0.00	07/18/2019
07/17/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	156.00	0.00	07/17/2019
07/16/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	154.50	0.00	07/16/2019
07/15/2019	EPR	OID:100451586-ComisaryPur(	0.00	0.00	153.00	0.00	07/15/2019
07/15/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	153.00	0.00	07/15/2019
07/14/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	151.50	0.00	07/14/2019
07/13/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	150.00	0.00	07/13/2019
07/12/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	148.50	0.00	07/12/2019
07/11/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	147.00	0.00	07/11/2019
07/10/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	145.50	0.00	07/10/2019
07/09/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	144.00	0.00	07/09/2019
07/08/2019	INP	OID:100451001-ComisaryPur(	0.00	0.00	142.50	0.00	07/08/2019
07/08/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	142.50	0.00	07/08/2019
07/07/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	141.00	0.00	07/07/2019
07/06/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	139.50	0.00	07/06/2019
07/05/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	138.00	0.00	07/05/2019
07/04/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	136.50	0.00	07/04/2019
07/03/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	135.00	0.00	07/03/2019
07/02/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	133.50	0.00	07/02/2019
07/01/2019	INP	OID:100450736-ComisaryPur(	0.00	0.00	132.00	0.00	07/01/2019
07/01/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	132.00	0.00	07/01/2019
06/30/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	130.50	0.00	06/30/2019
06/29/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	129.00	0.00	06/29/2019
06/28/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	127.50	0.00	06/28/2019
06/27/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	126.00	0.00	06/27/2019

CHESAPEAKE CITY CORRECTIONAL CENTER

Resident Account Summary

Friday, October 18, 2019 @10:22

For PERM ID: 95233 CHILDERS, TROY

Date	Transaction	Description	Amount	Balance	Owed	Held	Reference
06/26/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	124.50	0.00	06/26/2019
06/25/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	123.00	0.00	06/25/2019
06/24/2019	INP	OID:100450028-ComisaryPur	0.00	0.00	121.50	0.00	06/24/2019
06/24/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	121.50	0.00	06/24/2019
06/23/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	120.00	0.00	06/23/2019
06/22/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	118.50	0.00	06/22/2019
06/21/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	117.00	0.00	06/21/2019
06/20/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	115.50	0.00	06/20/2019
06/19/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	114.00	0.00	06/19/2019
06/18/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	112.50	0.00	06/18/2019
06/17/2019	EPR	OID:100449039-ComisaryPur	0.00	0.00	111.00	0.00	06/17/2019
06/17/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	111.00	0.00	06/17/2019
06/16/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	109.50	0.00	06/16/2019
06/15/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	108.00	0.00	06/15/2019
06/14/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	106.50	0.00	06/14/2019
06/13/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	105.00	0.00	06/13/2019
06/12/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	103.50	0.00	06/12/2019
06/11/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	102.00	0.00	06/11/2019
06/10/2019	INP	OID:100448419-ComisaryPur	0.00	0.00	100.50	0.00	06/10/2019
06/10/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	100.50	0.00	06/10/2019
06/09/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	99.00	0.00	06/09/2019
06/08/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	97.50	0.00	06/08/2019
06/07/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	96.00	0.00	06/07/2019
06/06/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	94.50	0.00	06/06/2019
06/05/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	93.00	0.00	06/05/2019
06/04/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	91.50	0.00	06/04/2019
06/03/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	90.00	0.00	06/03/2019
06/02/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	88.50	0.00	06/02/2019
06/01/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	87.00	0.00	06/01/2019
05/31/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	85.50	0.00	05/31/2019
05/30/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	84.00	0.00	05/30/2019
05/29/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	82.50	0.00	05/29/2019
05/28/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	81.00	0.00	05/28/2019
05/27/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	79.50	0.00	05/27/2019
05/26/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	78.00	0.00	05/26/2019
05/25/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	76.50	0.00	05/25/2019
05/24/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	75.00	0.00	05/24/2019
05/23/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	73.50	0.00	05/23/2019
05/22/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	72.00	0.00	05/22/2019
05/21/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	70.50	0.00	05/21/2019
05/20/2019	INP	OID:100446623-ComisaryPur	0.00	0.00	69.00	0.00	05/20/2019
05/20/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	69.00	0.00	05/20/2019
05/19/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	67.50	0.00	05/19/2019
05/18/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	66.00	0.00	05/18/2019
05/17/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	64.50	0.00	05/17/2019
05/16/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	63.00	0.00	05/16/2019
05/15/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	61.50	0.00	05/15/2019
05/14/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	60.00	0.00	05/14/2019
05/13/2019	INP	OID:100446109-ComisaryPur	0.00	0.00	58.50	0.00	05/13/2019
05/13/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	58.50	0.00	05/13/2019
05/12/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	57.00	0.00	05/12/2019
05/11/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	55.50	0.00	05/11/2019
05/10/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	54.00	0.00	05/10/2019
05/09/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	52.50	0.00	05/09/2019
05/08/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	51.00	0.00	05/08/2019
05/07/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	49.50	0.00	05/07/2019
05/06/2019	INP	OID:100445201-ComisaryPur	0.00	0.00	48.00	0.00	05/06/2019
05/06/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	48.00	0.00	05/06/2019

CHESAPEAKE CITY CORRECTIONAL CENTER

Resident Account Summary

Friday, October 18, 2019 @10:22

For PERM ID: 95233 CHILDERS, TROY

Date	Transaction	Description	Amount	Balance	Owed	Held	Reference
05/05/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	46.50	0.00	05/05/2019
05/04/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	45.00	0.00	05/04/2019
05/03/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	43.50	0.00	05/03/2019
05/02/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	42.00	0.00	05/02/2019
05/01/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	40.50	0.00	05/01/2019
04/30/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	39.00	0.00	04/30/2019
04/29/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	37.50	0.00	04/29/2019
04/28/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	36.00	0.00	04/28/2019
04/27/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	34.50	0.00	04/27/2019
04/26/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	33.00	0.00	04/26/2019
04/25/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	31.50	0.00	04/25/2019
04/24/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	30.00	0.00	04/24/2019
04/23/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	28.50	0.00	04/23/2019
04/22/2019	INP	OID:100443913-ComisaryPur	0.00	0.00	27.00	0.00	04/22/2019
04/22/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	27.00	0.00	04/22/2019
04/21/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	25.50	0.00	04/21/2019
04/20/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	24.00	0.00	04/20/2019
04/19/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	22.50	0.00	04/19/2019
04/18/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	21.00	0.00	04/18/2019
04/17/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	19.50	0.00	04/17/2019
04/16/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	18.00	0.00	04/16/2019
04/15/2019	INP	OID:100443230-ComisaryPur	0.00	0.00	16.50	0.00	04/15/2019
04/15/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	16.50	0.00	04/15/2019
04/14/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	15.00	0.00	04/14/2019
04/13/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	13.50	0.00	04/13/2019
04/12/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	12.00	0.00	04/12/2019
04/11/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	10.50	0.00	04/11/2019
04/10/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	9.00	0.00	04/10/2019
04/09/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	7.50	0.00	04/09/2019
04/08/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	6.00	0.00	04/08/2019
04/07/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	4.50	0.00	04/07/2019
04/06/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	3.00	0.00	04/06/2019
04/05/2019	PER DIEM	DAILY HOUSING FEE	1.50	0.00	1.50	0.00	04/05/2019

Exhibit A47

Proof of Court Date on October 22, 2019

In courtroom 1, with
Judge Larry D. Willis, Sr.
Presiding

JA078213-03-10

SUMMONS
COMMONWEALTH OF VIRGINIA

Case No. .....

CHESAPEAKE J & DR - ADULT ..... Juvenile and Domestic Relations District Court

301 ALBEMARLE DRIVE, CHESAPEAKE, VA 23322 (757) 382-8100
COURT'S STREET ADDRESS AND TELEPHONE NUMBER

JESSICA L CHILDERS, DCSE ..... v./In re TROY JEFFREY CHILDERS

Inmate # 95233

HEARING DATE	HEARING TIME
10/22/2019	01:00 PM

CTRM: 1

TO ANY AUTHORIZED OFFICER: I COMMAND YOU to summon the parties as designated below.

TO THE PERSON SUMMONED: I COMMAND YOU to appear before this Court at the date, place and time specified in this Summons to respond to the allegations in the attached documents in accordance with the provisions of the Juvenile and Domestic Relations District Court Law. Failure to appear at Court may subject you to contempt of court proceedings.

NOTE: READ THE NOTICE ABOUT RIGHT TO REPRESENTATION BY A LAWYER ON THE BACK OF THIS SUMMONS. DOCUMENT(S) ATTACHED.

[ ] PETITION [ ] Notice of Termination of Residual Parental Rights (District Court Form DC-535) [ ] Notice to Respondent in Enforcement Proceeding Under Virginia Code § 20-146.29 of the Uniform Child Custody Jurisdiction and Enforcement Act

[ ] Notice of change in date and/or time of hearing

[ ] Notice to juvenile to show cause why the juvenile's driver's license should not be suspended under Virginia Code § 46.2-334.001.

[ ] MTA: LOWER CHILD SUPPORT .....

09/12/2019
DATE ISSUED

[ ] CLERK [ ] JUDGE

RETURNS: Each person was served according to law, as indicated below, unless not found.

Name and Address:
TROY JEFFREY CHILDERS
400 ALBEMARLE DT
CHESAPEAKE, VA 23322

☐ PERSONAL SERVICE Tel. No. (757) 553-5191

Being unable to make personal service, a copy was delivered in the following manner:

☐ Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.

.....

☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)

☐ Not found

SERVING OFFICER

..... for _____
DATE

DISABILITY ACCOMMODATIONS
for loss of hearing, vision, mobility, etc., contact the court ahead of time.

Proper attire required in Court Rooms
NO Shorts
NO Halters/tank tops
NO flip-flop shoes
NO hats
NO food, drink or gum
NO camera phones

FORM DC-510X (FRONT) 07/09

MOTION TO AMEND OR REVIEW ORDER
Commonwealth of Virginia

Case No. JA078213-03-10
10/22/19 @ 1pm #1

[ ] General District Court
[X] Juvenile and Domestic Relations District Court

Chesapeake
COURT ADDRESS
301 ALBEMARLE DR, 2nd FLOOR, Chesapeake VA 23322

This motion is filed in connection with Case No. 0004355866

[X] In re Zoey L. Childers and Harley M. Childers
NAME OF CHILD

[X] Troy Jeffrey Childers (PETITIONER) v. Jessica L. Childers (RESPONDENT)

PETITIONER	RESPONDENT
400 Albemarle Drive	265 Meadows Lane
ADDRESS/LOCATION	ADDRESS/LOCATION
Chesapeake, VA 23322	Wytheville, VA 24382
757-266-9111	757-651-0068
TELEPHONE NUMBER	TELEPHONE NUMBER

The undersigned respectfully represents to the Court that an order dated ..... (DATE) was entered by the [X] above-named Court [ ] ..... Court

$850.00 per month and $235.00 per month towards the arrears. Pay eight hundred and fifty dollars per month and two hundred thirty five dollars towards the arrears. The total is one thousand eighty five dollars per month.
REQUIREMENTS OF ORDER

[X] The undersigned moves that the attached order be changed, amended, and/or modified as follows:

CHANGES, AMENDMENTS AND/OR MODIFICATIONS TO ORDER
The Child Support order amount should be lowered based on my ability to pay.

..... for the following reason(s):

① Income loss due to a 6 months of Jail Incarseration.

② Income loss due to Mental health problems and mental illness.

[X] The undersigned moves for a hearing on the modifications of the above order proposed by the Department of Social Services and that the Court take whatever other action it deems necessary.

August 25, 2019
DATE

RECEIVED AND FILED
AUG 29 2019
Chesapeake Juvenile & Domestic Relations District Court

Zoey L. Childers
[X] PETITIONER [ ] RESPONDENT

FORM DC-630 FRONT 05/05 (A181605 10/17)

Exhibit A48

Upcoming Court Date on January 16, 2020

at

The Wythe JDR Court

SUMMONS

JA009448-01-01

SUMMONS

COMMONWEALTH OF VIRGINIA

Case No. .....

WYTHE J&DR COURT - ADULT DIVISION ..... Juvenile and Domestic Relations District Court

225 S. 4TH ST, SUITE 204, WYTHEVILLE, VA 24382 (276) 223-6080

COURT'S STREET ADDRESS AND TELEPHONE NUMBER

JESSICA L CHILDERS ..... v./In re TROY J CHILDERS .....

HEARING DATE	HEARING TIME
01/16/2020	11:45 AM

TO ANY AUTHORIZED OFFICER: I COMMAND YOU to summon the parties as designated below.

TO THE PERSON SUMMONED: I COMMAND YOU to appear before this Court at the date, place and time specified in this Summons to respond to the allegations in the attached documents in accordance with the provisions of the Juvenile and Domestic Relations District Court Law. Failure to appear at Court may subject you to contempt of court proceedings.

NOTE: READ THE NOTICE ABOUT RIGHT TO REPRESENTATION BY A LAWYER ON THE BACK OF THIS SUMMONS. DOCUMENT(S) ATTACHED.

[ ] PETITION [ ] Notice of Termination of Residual Parental Rights (District Court Form DC-535) [ ] Notice to Respondent in Enforcement Proceeding Under Virginia Code § 20-146.29 of the Uniform Child Custody Jurisdiction and Enforcement Act

[ ] Notice of change in date and/or time of hearing

[ ] Notice to juvenile to show cause why the juvenile's driver's license should not be suspended under Virginia Code § 46.2-334.001.

[X] MTA SUPPORT .....

12/02/2019 .....
DATE ISSUED

Michelle Musselore, DC
[ ] CLERK [ ] JUDGE

RETURNS: Each person was served according to law, as indicated below, unless not found.

Name and Address:
TROY J CHILDERS
4006 MORRIS COURT
CHESAPEAKE, VA 23323

DISABILITY ACCOMMODATIONS
for loss of hearing, vision, mobility, etc., contact the court ahead of time.

☐ PERSONAL SERVICE Tel. No. (757) 266-9111

Being unable to make personal service, a copy was delivered in the following manner:

☐ Delivered to family member (not temporary sojourner or guest) age 16 or older at usual place of abode of party named above after giving information of its purport. List name, age of recipient, and relation of recipient to party named above.

.....

☐ Posted on front door or such other door as appears to be the main entrance of usual place of abode, address listed above. (Other authorized recipient not found.)

☐ Not found

SERVING OFFICER

..... for _____
DATE

COPY

FORM DC-510X (FRONT) 07/09

MOTION TO AMEND OR REVIEW ORDER
Commonwealth of Virginia

Case No. JA009448-01-01

1-16-20 @ 11:45AM

[ ] General District Court
[X] Juvenile and Domestic Relations District Court

Chesapeake
301 ALBEMARLE DR, 2nd FLOOR, Chesapeake VA 23322
COURT ADDRESS

This motion is filed in connection with Case No. 0004355866

[X] In re Zoey L. Childers and Harley M. Childers
NAME OF CHILD

[X] Troy Jeffrey Childers (PETITIONER) v. Jessica L. Childers (RESPONDENT)

PETITIONER	RESPONDENT
400 Albemarle Drive	265 Meadows Lane
ADDRESS/LOCATION	ADDRESS/LOCATION
Chesapeake, VA 23322	Wytheville, VA 24382
757-266-9111	757-651-0068
TELEPHONE NUMBER	TELEPHONE NUMBER

The undersigned respectfully represents to the Court that an order dated ..... (DATE) was entered by the [X] above-named Court [ ] ..... Court

$850.00 per month and $235.00 per month towards the arrears. Pay eight hundred and fifty dollars per month and two hundred thirty five dollars towards the arrears. The total is one thousand eighty five dollars per month.
REQUIREMENTS OF ORDER

[X] The undersigned moves that the attached order be changed, amended, and/or modified as follows:

CHANGES, AMENDMENTS AND/OR MODIFICATIONS TO ORDER
The Child Support order amount should be lowered based on my ability to pay.

..... for the following reason(s):

① Income loss due to a 6months of Jail Incarseration.

② Income loss due to Mental health problems and mental illness.

[X] The undersigned moves for a hearing on the modifications of the above order proposed by the Department of Social Services and that the Court take whatever other action it deems necessary.

August 25, 2019
DATE

RECEIVED AND FILED
AUG 29 2019
Chesapeake Juvenile & Domestic Relations District Court

Filed in the Office of the Wythe Co. Juvenile & Domestic Relations Court Wythe County, Virginia
[X] PETITIONER [ ] RESPONDENT NOV, 20 19
at 10:44 am/pm
Clerk/Dep Clerk

FORM DC-630 FRONT 05/05 (A181605 10/17)

Exhibit A49

Exhibit A49 – Proof of a traumatizing event.

The Virginian-Pilot

Local News

Census reveals a more integrated Norfo

9 areas include more blacks

Tragedy in Beach

2 sisters die, 3rd is critically hurt in trailer fire

Norfolk judge to fight public drunkenness charge

3rd sister in Beach fire dies as life support is cut

By Lynn Waltz
Staff writer

VIRGINIA BEACH — Ashley Burton, 3½, was removed from life support machines at Sentara Norfolk General Hospital on Tuesday morning, becoming the third sister to die from a fire that swept through a trailer home Monday afternoon.

"There was still a little bit of hope one of them would make it," said the girls' father, Bob Burton. "I lost my three little girls, and nothing can replace them. We lost everything."

Bridget Burton, 2½, was pronounced dead at the scene of the fire Monday. Barbie Burton, 1, was pronounced dead at Sentara Leigh Hospital shortly after the fire broke out at 4:40 p.m.

Ashley was taken from the trailer in cardiac arrest. She was later revived but had burns over 80 percent of her body. Her father gave permission for her to be taken off life support Tuesday morning during a visit to the American Red Cross.

The Red Cross has provided lodging and food for three days for Burton, his wife, Brenda, and Brenda's 15-year-old son, Jeffrey. The organization also gave them vouchers for clothing. Everything they had was destroyed in the fire, a Red Cross caseworker said.

Investigators have shown that the fire had started in the living room, but the cause is still undetermined. Arson is not suspected.

On Monday afternoon, Burton, a roofer for 20 years, was at his business, Burton Roofing Inc. on Laskin Road, when he got a phone call telling him that there was an emergency and to hurry home.

He had just called his wife to tell her he was on his way home, but the emergency call came before he could leave. Brenda Burton left the trailer after her husband called. She had gone to buy milk at a nearby 7-Eleven.

> *"I don't know where we're going to live. We lost everything we had. We'll have to start all over, but it won't be the same."*
>
> **Bob Burton, the girls' father**

But she ran out of gas and went into Waldo works Supply Co. on Bonney Road to see whether someone could drive her home. An employee, Jerry Kiddins, drove her to her home at the end of Landsdia Drive in the Kempsville area. They saw the trailer in flames.

"Brenda's not holding up too good," Bob Burton said. "Today was really a shocker. It really tore her up today."

Confusion about whether Jeffrey, who is Brenda Burton's son and Bob's stepson, was caring for the children was clarified Tuesday. The family and police said he was with his stepfather at work.

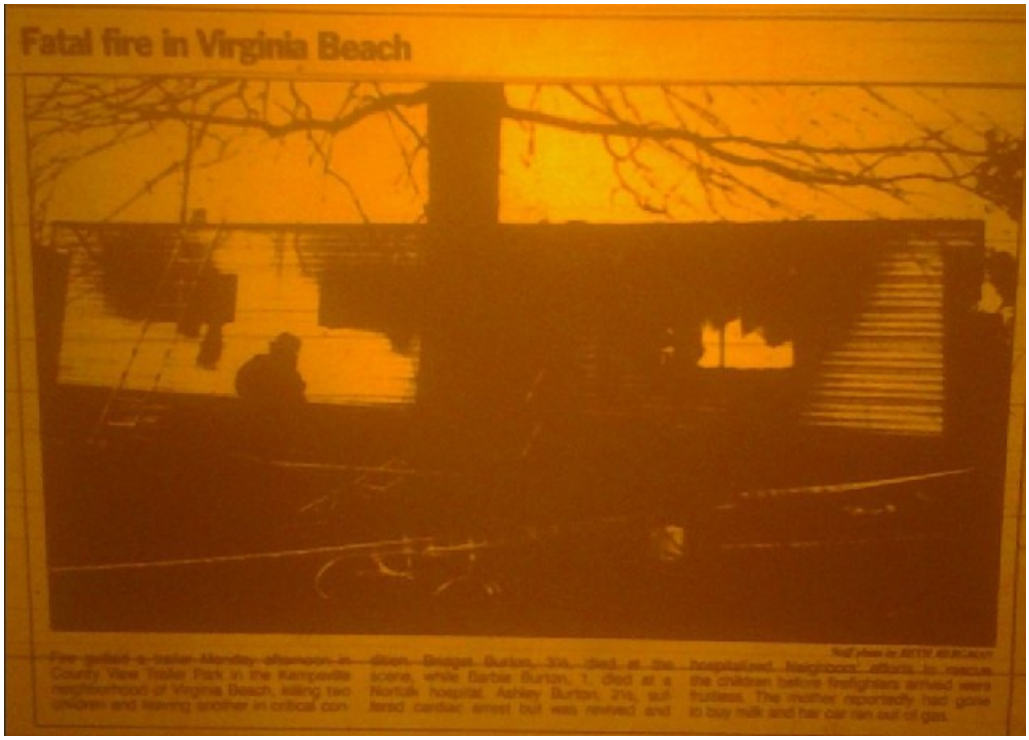
Brenda Burton left the trailer only after getting a call that they were both on their way home. Police are investigating the circumstances under which the children were left.

Burton said he had no idea where the family would go now.

"I know it's going to be rough," he said. "I don't know where we're going to live. We lost everything we had. We'll have to start all over, but it won't be the same."

A Red Cross caseworker, Nancy Wasserman, said that the Red Cross would extend the family's stay at a local motel and provide the first month's rent when they find a place to live.

Collected items fail to link suspect to killing of woman



ARTICLES FROM THE VIRGINIA PILOT

2 SISTERS DIE, 3RD IS CRITICALLY HURT IN TRAILER FIRE
Published: February 26, 1991
Section: LOCAL, page D1
Source: Lynn Waltz, Staff writer

VIRGINIA BEACH – Fire swept through a trailer home Monday afternoon, killing two young sisters and critically injuring a third sister, apparently after they were left alone at the County View Mobile Homes in the Kempsville section.

The mother of the children had gone to a nearby 7-Eleven to buy milk for the youngest girl when her car ran out of gas and delayed her return, said the man

who drove her home. Bridget Burton, 3 1/2, was pronounced dead at the scene, fire officials said. Barbie Burton, 1, was pronounced dead when she arrived at Sentara Leigh Memorial Hospital shortly after the fire broke out at 4:40 p.m.

The third child, Ashley Burton, 2 1/2, has burns over 80 percent of her body, most of them third degree, said officials at Leigh.

Though the cause of the fire was undetermined Monday night, arson is not suspected.

Though reports initially suggested that the children had been left in the care of a 15-year-old police said they do not think the teenager was in the trailer when the fire broke out.

``The best information we have is that the 15-year-old was not home," said police Lt. Wray Boswell. ``We'll continue to investigate if she (the mother) knowingly left them alone."

Jerry Eddins, a Norfolk man who drove home the mother, Brenda Burton, from the convenience store, said the woman was panicky when she arrived at the trailer park.

``When we drove to the dead-end street, one end of the trailer was engulfed in flames with black smoke pouring out," said Eddins, an employee of the nearby Waterworks Supply Co. on Bonney Road. ``Some people were trying to get into the trailer. . . . People were screaming that there were some little kids inside. . . . The mother was screaming, `Oh my babies,' as she ran up to the trailer."

Eddins said Brenda Burton was not wearing a coat and had intended to make a quick trip to the store and return home. ``It couldn't have been more than 15 or 20

minutes between the time she came into the store and when I carried her back to the trailer," he said.

The girls' father, whose first name was not immediately available, is a self-employed roofer. He was called from a job when the fire broke out.

Neighbors trying to rescue the children were driven back by flames and heat when they broke down the door and broke windows. Firefighters, arriving at 4:45, carried the three children into the yard at the end of Landola Drive, where a neighbor performed cardiopulmonary resuscitation on one of the children.

A Navy couple, Elisabel and Thomas Brown, had just returned home from work when the fire broke out.

``I was the first one to get there," Thomas Brown said. ``The front living-room window and door was in flames. I kicked the door open, and the whole living room was filled with flames. I couldn't hear anyone inside. Another guy broke a window and had to back out. The smoke was too great."

Neighbors ran a garden hose and tried unsuccessfully to cool down a window to enter the trailer. Drivers along the Virginia Beach-Norfolk Expressway, who spotted the flames, jumped over the highway fence, but no one could get inside, witnesses said.

``The mother was hysterical," Elisabel Brown said. ``She was the one that told us it was the kids."

Firefighters said that the youngest child was found in a round, plastic baby-walker in the hallway and that the two other children were lying on a bed in the back bedroom.

``I believe they must have been sleeping," said Battalion Chief Chase N. Sargent. ``Otherwise, they would have been trying to hide or get away from the smoke."

Thomas Brown’s mother, Lynne Morgan, a nurse visiting from New Jersey, gave CPR to one of the children, she said.

``I told them I was a nurse and the fireman said, `Do CPR,' " Morgan said.

Morgan saw the flames first when she returned from the store to her son’s trailer, next door to the fire.

Firefighters first put out flames in the front of the trailer, then moved to the rear where access was blocked by a washer and dryer, Sargent said.

The blaze began in the front living room, officials said.

The cause will be released today after the completion of the investigation. By 6 p.m. Monday, the white trailer with small brown shutters was no longer smoldering. Its metal framework showed through the open side where fire had burned through the aluminum siding.

Neighbors still stood in the street talking about the tragedy.

``They just moved in this summer," one said. ``We didn’t even know them."

``I’ve lived here 30 years," said another. ``It’s just unbelievable how quickly these trailers go up."

A 37-year-old man who has lived in the trailer court for 12 years said he’s seen fires there before.

``I’ve seen three or four go up and they do go up quick, but they’ve always gotten out," he said. ``That’s what’s so sad. It’s so sad."

3RD SISTER IN BEACH FIRE DIES AS LIFE SUPPORT IS CUT
Published: February 27, 1991
Section: LOCAL, page D3
Source: Lynn Waltz, Staff writer

VIRGINIA BEACH – Ashley Burton, 2 1/2, was removed from life support machines at Sentara Norfolk General Hospital on Tuesday morning, becoming the third sister to die from a fire that swept through a trailer home Monday afternoon.

``There was still a little bit of hope one of them would make it," said the girls' father, Bob Burton. ``I lost my three little girls, and nothing can replace them. We lost everything." Bridget Burton, 3 1/2, was pronounced dead at the scene of the fire Monday. Barbie Burton, 1, was pronounced dead at Sentara Leigh Hospital shortly after the fire broke out at 4:40 p.m.

Ashley was taken from the trailer in cardiac arrest. She was later revived but had burns over 80 percent of her body. Her father gave permission for her to be taken off life support Tuesday morning during a visit to the American Red Cross.

The Red Cross has provided lodging and food for three days for Burton, his wife, Brenda, and Brenda's 15-year-old son, **Troy Jeffrey Childers**. The organization also gave them vouchers for clothing. Everything they had was destroyed in the fire, a Red Cross caseworker said.

Investigations have shown that the fire had started in the living room, but the cause is still undetermined. Arson is not suspected.

On Monday afternoon, Burton, a roofer for 20 years, was at his business, Burton Roofing Inc. on Laskin Road, when he got a phone call telling him that there was an emergency and to hurry home.

He had just called his wife to tell her he was on his way home, but the emergency call came before he could leave. Brenda Burton left the trailer after her husband called. She had gone to buy milk at a nearby 7-Eleven.

But she ran out of gas and went into Waterworks Supply Co. on Bonney Road to see whether someone could drive her home. An employee, Jerry Eddins, drove her to her home at the end of Landola Drive in the Kempsville area. They saw the trailer in flames.

``Brenda’s not holding up too good," Bob Burton said. ``Today was really a shocker. It really tore her up today."

Confusion about whether Troy Jeffrey Childers, who is Brenda Burton’s son and Bob’s stepson, was caring for the children was clarified Tuesday. The family and police said he was with his stepfather at work.

Brenda Burton left the trailer only after getting a call that they were both on their way home. Police are investigating the circumstances under which the children were left.

Burton said he had no idea where the family would go now.

``I know it’s going to be rough," he said. ``I don’t know where we’re going to live. We lost everything we had. We’ll have to start all over, but it won’t be the same."

A Red Cross caseworker, Nancy Wassenaar, said that the Red Cross would extend the family’s stay at a local motel and provide the first month’s rent when they find a place to live.

FUND STARTED TO ASSIST VICTIMS OF TRAILER FIRE

1 of 3 articles found.

Published: March 2, 1991 in LOCAL section, page B3

Length: 83 words

Source: From staff reports Story excerpt:

> VIRGINIA BEACH – A fund has been started for the family who lost their three young children and everything they owned in a trailer fire.
>
> The fire started about 4:40 p.m. Monday in the trailer of Bob and Brenda Burton at the end of Landola Drive in the County View Trailer Park in Kempsville. The fire killed Bridget, 3 1/2, Ashley, 2 1/2, and Barbie, 1.
>
> Donations may be sent to the Benefit of the Burton Family, Cenit Bank for Savings, 905 Kempsville Road, Virginia Beach, Va. 23464.

EXHIBIT A50

Who Owes the Child Support Debt?

Source:
Office of Child Support Enforcement | ACF

Published: March 28, 2019

Date

Select Month and Year

Topic

Select Topic

Who Owes the Child Support Debt?

September 15, 2017

TOPICS: **Debt**

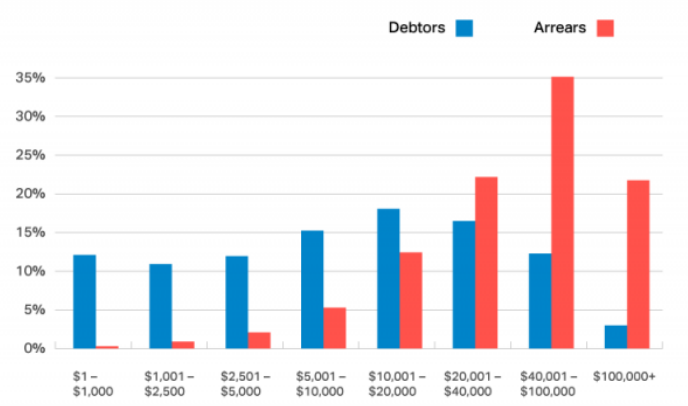
AUTHOR: **DENNIS PUTZE** **(https://www.acf.hhs.gov/css/analyze-this-about#Dennis Putze)**

Child support arrears represent the amount of child support that was due to the custodial family, but remains unpaid. It is owed either to the custodial family or to the government. Any child support owed while the family received Temporary Assistance for Needy Families, commonly called TANF benefits, is owed to the government.

State child support programs routinely send information about child support cases that owe arrears to the Office of Child Support Enforcement's (OCSE) Federal Offset Program. OCSE uses various enforcement remedies, such as intercepting federal tax refunds, to collect arrears. Any arrears collected are returned to the state child support program to distribute either to the family or to the government.

The OCSE Federal Offset Debtor File lists the amounts of past-due child support each noncustodial parent debtor owes. As of April 2017, 5.5 million delinquent noncustodial parents, or debtors, owed over $114 billion in past-due child support. Approximately 20% of the total arrears is owed to the government. The following data is based on a sample of the debtors in the Federal Offset Debtor File as of April 2017.

Percent of Debtors and Arrears by Amount Owed – April 2017



Source: OCSE Federal Offset Debtor File (based on a sample of debtors)

A Small Number of Debtors Owe Most of the Debt

The graph shows that the majority of debtors owe smaller amounts of child support debt while a minority of debtors owe most of it.

- More than 50% of debtors owe less than $10,000 in past-due child support and represent less than 10% of the total arrearage.
- Only 15% of debtors owe more than $40,000 in past-due child support but account for over 55% of the total debt.
    - Debtors with arrearages between $40,000 and $100,000 account for 35% of the total debt but make up only 12% of the population.
    - Debtors with arrearages over $100,000 account for 22% of the total debt but only 3% of the population.

We plan to analyze the child support debt further and report our findings in future blogs. We look forward to hearing your views. Please send comments to **DPSAsupport@acf.hhs.gov**.

« Previous Post (http://www.acf.hhs.gov/css/ocsedatablog/2017/05/child-support-program-funding-2008-2016)

Next Post » (http://www.acf.hhs.gov/css/ocsedatablog/2017/12/the-child-support-program-provides-more-support-to-families-in-2016)

Last Reviewed: March 28, 2019

EXHIBIT A51

Attorney Fees

Date: July 31, 2019

ROANOKE DISTRICT OFFICE
CHILD SUPPORT ENFORCEMENT
3535 FRANKLIN ROAD SW SUITE H
ROANOKE VA 24014

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF SOCIAL SERVICES
DIVISION OF CHILD SUPPORT ENFORCEMENT

Notice of Fee Payment Due

978/1--S 0--B 0 CS# 0004355866

TROY J. CHILDERS JR.
CHESAPEAKE JAIL
400 ALBEMARLE DRIVE
CHESAPEAKE VA 23322

DATE: 07/31/2019

DCSE CASE NUMBER: 0004355866 CUSTODIAL PARENT NAME: JESSICA L. CHILDERS

You owe the following on the above case:

Attorney Fees: $120.00

This fee payment is due now. Payment must be made by check or money order. Do not send your fee payment with your child support payment. Send your fee payment separately to:

Division of Child Support Enforcement
P. O. Box 712
Richmond, Va. 23218

Attach a copy of this notice with your fee payment, or include the DCSE Case Number with your fee payment and identify the type of fee payment. If not properly identified, your payment will be processed as a child support payment if you owe child support.

If your fee payment is not received promptly, the Division of Child Support Enforcement will take further collection actions.

If you have any questions, please contact this office.

LORI J. DOOLEY
Authorized Representative

(800)468-8894
Telephone Number

APECS 519 08/08