

CHILD SUPPORT ENFORCEMENT:

RESULTS, CHALLENGES, AND POLICY ISSUES

In the spring of 2000, the Census Bureau estimated that 13.5 million parents were raising 21.7 million children under the age of 21 whose other parent lived elsewhere. About 26.2 percent of all children nationwide were living with only one of their parents. Almost half of custodial mothers worked full-time year-round, but 28.7 percent were poor—about three times the 6.3 percent poverty rate for married couples with children.¹ In 1999, 63 percent of children with non-resident fathers lived in families with incomes below 200 percent of the poverty line.²

Child support programs are meant to increase the income of these families, preventing poverty and reducing welfare expenditures. Many eligible families, however, receive little or no child support. Only 58.7 percent of custodial parents had a child support order or agreement in 1999, and only 45.1 percent of those parents received the full amount they were due.³ The 108th Congress is likely to consider options for increasing child support collections. Understanding the current system is necessary to evaluate any of these proposals.

BACKGROUND

Until the 1970s, child support activities were considered under the domain of family courts and thus governed by state law. The federal

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government took one small step into this area in 1950 when it required that the state report to law enforcement when it provided cash assistance from federal Aid to Families with Dependent Children (AFDC) funds to children who had been abandoned by one parent. This mandate initially involved only a small number of children. But the AFDC caseload changed dramatically between 1950 and 1970, from mostly children whose fathers had died to mostly children whose parents were separated, divorced, or never married. Federal policymakers began to believe that the government was picking up the tab for absent fathers who did not support their children. Failing to establish paternity for children born out of wedlock was seen as a major impediment to shifting the cost of supporting these children back to their fathers.

The Child Support Enforcement and Paternity Establishment Program (CSE) passed in 1975, adding Part D to Title IV of the Social Security Act. CSE programs are partnerships between federal, state, and local authorities that assist custodial parents in locating non-custodial parents, establishing paternity, establishing child support obligations, and collecting child support payments. Federal funds are available to partially reimburse administrative costs for states that operate approved programs. CSE programs are usually run by human services agencies with the assistance of law enforcement and court officials. Their purpose is to reduce public expenditures on welfare by providing income that enables single parent families to leave or avoid entering the welfare system, and by recovering the cost of welfare benefits from non-custodial parents.

Two parties have a claim on child support payments made to custodial-parent families who receive government cash assistance: the custodial-parent families and the taxpayers who fund assistance to those families in the absence of adequate support payments. Custodial-parent families receive cash assistance by signing over their child support payments to the state, while the state collects from the non-custodial parent the support payment ordered by the court. The non-custodial parent is also expected to reimburse the state for any welfare or Medicaid costs it pays on behalf of the child to the custodial family that exceed the amount of child support received. Once a custodial-parent family leaves the welfare rolls,

the non-custodial parent owes current payments to the custodial-parent family, as well as any accumulated debt to the custodial-parent family for unpaid support, and reimbursement to the state for the assistance provided.

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) made major changes to the CSE system. PRWORA ended the federal guarantee of cash assistance for families below the poverty line by imposing a five-year limit on most types of assistance. It replaced the open-ended AFDC with Temporary Assistance to Needy Families (TANF), a limited block grant to the states. PRWORA continued the requirement that states operate a CSE program in order to receive federal funds for TANF. It mandated that custodial parents who receive TANF or Medicaid but refuse to cooperate with child support enforcement activities have their benefits reduced.⁴

Since 1985, custodial parents had received the first \$50 of child support payments without a reduction in benefits as an incentive to assist the state in paternity establishment and non-custodial parent location. PRWORA eliminated this requirement, but allowed states to continue incentive programs with state funds if they choose. The Act also decreased states' ability to prioritize most debt owed to the state for TANF and Medicaid payments ahead of debt owed to custodial-parent families who had left TANF. The intent of these changes was to promote exit from TANF and prevent re-entry by increasing the resources available to post-TANF families.

Currently, all custodial parents are eligible for CSE assistance in four program areas: locating non-custodial parents, establishing paternity, establishing child support obligations, and collecting payments. Custodial-parent families receiving TANF or Medicaid are automatically enrolled, whereas other custodial parents can opt to participate and may be charged a nominal fee for CSE services.

Mechanisms for enforcement of child support orders fall into two categories: encouragement and coercion. Encouragement mechanisms work to increase collections by increasing non-custodial parents' involvement in their children's lives. States have simplified paternity establishment, increasing the likelihood that unwed fathers will voluntarily acknowledge their paternity and establish a legal connection with the child. Since 1997, the federal

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government has also awarded \$10 million each year in block grants to states for programs that promote access and visitation for non-custodial parents.⁵

Non-custodial parents who are not convinced to participate by encouragement are required to do so through coercive measures. Child support payments can be withheld from paychecks and income tax refunds. States can suspend or revoke drivers and professional licenses, and the federal government will deny a passport to a parent who owes more than \$5,000. States can place liens on property and bank accounts. Criminal penalties may apply for failure to appear in court or to pay. Finally, state agencies use public shame as an enforcement technique: photographs of delinquent parents appear on posters, websites, and television.

RESULTS

CSE programs make three promises to taxpayers: first, that their efforts will increase collections; second, that their collections will recover or prevent welfare expenditures; and third, that the money collected for custodial-parent families will improve living conditions for children. How well have the CSE programs fulfilled these promises?

COLLECTION RATES

In 2001, CSE programs collected almost \$19.0 billion, a 6.2 percent increase from the previous year and a 58 percent increase from 1996.⁶ The percentage of families benefiting from these collections, though, is disappointing. About 64 percent of cases in the CSE system had a legal child support order, and about 68 percent of cases with orders had at least one collection—meaning that only 44 percent of cases had any money collected.⁷ State CSE agencies reported that \$24.7 billion in current support and \$88.1 billion in prior years' support was due in 2001. About \$14.2 billion (57 percent) of the current support due was collected. However, only \$5.7 billion (6.5 percent) was collected on past due amounts (arrearages), despite the fact that payments were made on over 59 percent of arrearage cases during the year.^{8,9}

How are we to judge these collection rates? Some argue that current collection figures understate the failure of the CSE system because so many cases don't have awards. Some researchers have estimated that if all non-custodial parents had an order and paid in full, the system would collect \$51 billion, which makes current collections look even more disappointing.¹⁰ Others see the gains posted

by CSE programs as evidence of success. Deciding which evaluation is correct is more difficult than it appears.

The first problem is that we do not know enough about the payments that are not made to determine whether states are doing well or poorly. State reports of child support due may be composed of several elements, especially for arrearages. Current payments may be due directly to the family or to the state to reimburse current or past TANF expenditures. Arrearages may consist of back payments to the family or to the state, fees, penalties, and interest. This mix of "owed" payments clouds determinations of how well the CSE system is doing in meeting children's needs and recovering welfare costs, because the federal government does not collect data that breaks down these amounts. There is also growing concern that much uncollected child support is owed by parents with little ability to pay, and thus arrearages are uncollectible debt.¹¹

The second problem is determining what effect CSE programs have on national rates of child support receipt. Between 1978 and 1999, the percentage of custodial mothers nationwide that had child support orders varied between 55.9 percent and 61.3 percent.¹² The amounts due and paid have increased over time for those families, but so has the aggregate deficit. The CSE programs, though, show increases on all measures of performance almost every year, including orders secured and total collections. Do these facts indicate that CSE programs have done little to affect national child support receipt rates, despite massive public investment and impressive-sounding results?

Two trends explain the contradiction between CSE programs' performance and the stagnation of national collection rates. First, the composition of the single mother population changed between the late 1970s and the late 1990s. In 1976, 83 percent of single mothers were divorced or separated, but by 1997 this had fallen to 54 percent. The proportion of never-married mothers increased from 17 percent to almost half. Never-married mothers are the least likely to have child support orders, and even the fourfold increase in their rate of receiving support between 1976 and 1997 could not make up for the negative influence of the demographic shift.¹³ Second, the percentage of total child support collections handled by the CSE system has increased, from less than 25 percent in 1978 to 85 percent in 1997.¹⁴ Part of the increase in performance by CSE programs reflects the growing number of families served, due to movement of child support cases away from the private sector and family courts and into the CSE

system. These trends combine to produce a child support enforcement system that is continually increasing its performance, but showing little impact on national rates of child support receipt due to shifts in demographics and service provision.

COST TO TAXPAYERS

Are CSE programs recovering welfare costs or allowing the government to avoid welfare expenditures? From 1979 to 1988, the answer to the first part was yes: federal and state costs to operate the programs were outweighed by recovered AFDC payments. In 1989, though, the programs produced a net deficit that has been growing ever since.¹⁵ The combined federal and state cost for CSE programs in 2001 was about \$4.8 billion, but only about \$2.2 billion in collections was retained by state and federal government to reimburse TANF expenditures.¹⁶ This reimbursement was only about 16.8 percent of the \$13.3 billion spent on TANF cash assistance during the previous year.¹⁷ Despite its intent as a cost recovery program, child support enforcement has become an expenditure program.

The appeal of CSE programs for cost avoidance is that if custodial parents had more income, they would not be eligible for as many public benefits. However, little empirical evidence exists to determine whether this actually happens. Most of the cost avoidance literature was published before 1990 and was performed in a significantly different environment than exists post-welfare reform.¹⁸ Small studies that have examined the cost avoidance and cost recovery issues suggest that cost avoidance potential for TANF is limited. More benefits might come from cost recovery than from avoiding the payment of public benefits, because child support awards to low-income families are generally very small and cannot substitute for public assistance.¹⁹

Research seems to indicate that receipt of child support increases the probability of a custodial family exiting TANF rolls, but the child support payment must replace a large portion of the TANF payment to have this effect.²⁰ Studies in Wisconsin, Washington, and Texas support the contention that steady child support payments decrease time spent on TANF and decrease re-entry. These studies are limited, with small sample sizes, missing data, and

narrow scopes of analysis; more work must be done to understand the potential for cost avoidance through CSE programs.²¹

CHILDREN'S LIVES

Urban Institute researchers estimate that if no child support had been paid in 1996, half a million more children in the U.S. would have been poor.²² Children whose custodial parent has a child support order are nearly twice as likely to receive financial support from their absent parent.²³ The addition of several enforcement measures to the CSE system between 1976 and 1997 is estimated to account for about one-third of the rise in rates of receiving child support for previously married mothers and one-half of the rise for never-married mothers.²⁴ Poor families who were previous AFDC recipients in 1996 were more likely to receive child support than those who were never on AFDC, suggesting that

the compulsory nature of CSE services for cash assistance recipients may have a positive effect.²⁵

Child support income is crucial to custodial-parent families. In 1996, the average family that received child support received 16 percent of its income from that source, with an average payment of \$3,795. For poor families that received child support, the payments were just over one quarter of their income. Poor families not on AFDC received an average of \$2,751, which was over one-third of their income.²⁶ Nationally, in 1999, only 15.5 percent of the 3.1 million custodial parents who received all the child support they were due were poor. Another 1.9 million custodial parents who received partial payments had a poverty rate of 24.6 percent. The 1.8 million custodial parents who received no child support, despite an order, had an even higher poverty rate of 29.8 percent—almost twice that of families receiving their full payment.²⁷ In 1997, about three percent of the families receiving non-TANF CSE services received child support payments large enough to push them above the poverty line.²⁸

The positive impact of these payments should not be ignored, but for families receiving TANF, child support is often another story. These families receive no immediate benefit from child support payments made on their behalf unless the state chooses to pass through part of the payment. For parents with no earnings after leaving TANF, child

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support is not a sufficient replacement.²⁹ Many non-custodial parents simply cannot pay as much in child support as their children's custodial parents receive in TANF payments.

LOW-INCOME FATHERS

Low-income non-custodial fathers are the population that the CSE system handles least effectively. About one-third of non-custodial fathers (3.5 million) in 1998 lived in poverty. In 1999, only 30 percent of these fathers paid child support, compared to a payment rate of 72 percent for non-poor fathers.³⁰

Several factors combine to produce this low payment rate from low-income non-custodial fathers.

Many of these fathers face similar barriers to work as do low-income custodial mothers and thus do not earn enough to pay significant amounts of child support on a regular basis. Over 85 percent of poor fathers have a high school diploma or less. Only eight percent work year-round in a full-time job, and over half report poor health or disability as the reason for not working. An estimated 16 percent are institutionalized, mostly in prison.³¹

Support payments made by poor non-custodial fathers tend to be higher relative to their incomes than those made by non-poor fathers. In 1999, 28 percent of poor fathers who paid child support paid over 50 percent of their income, whereas only two percent of non-poor fathers paid over 50 percent.³² Many poor fathers receive a default child support order based on an assumed income that may be inaccurate if it assumes full-time, year-round work at minimum wage or higher.³³ These estimated orders can lead to a low rate of collection even if non-custodial parents are paying a high percentage of their actual income.³⁴

State policies vary in determining arrearages. At one end of the spectrum, child support may be ordered starting when paternity is determined. At the other end, states may add retroactive child support payments from the child's birth, Medicaid birthing costs, retroactive TANF and Medicaid payments, fees, and double-digit interest on arrears. This suddenly-accrued debt can be difficult to pay while also paying the current order. The average case with arrears has a balance of \$8,487, and most of that debt is to the state.³⁵

Proponents of strong enforcement argue against reducing award levels for low-income fathers, as the minimum cost of raising a child is not lower for low-income parents. Fathers should be responsible for this debt like any other debt they incur, because the well-being of their children depends on these payments. Solutions that assist low-income fathers in making payments, or reduce payments, also risk rewarding fathers who have the ability to pay but do not. Solutions that increase enforcement measures, though, risk punishing fathers who truly cannot pay without increasing collections. Proponents of flexibility in award-setting often argue for a self-support reserve that will allow the non-custodial father to support himself and then provide whatever he can for the child. They note that the dead-

beat dad image does not accurately describe many of the parents who owe arrears, and that unrealistically high levels of debt discourage low-income parents from making any payments.

To increase collections among low-income non-custodial fathers, some advocates suggest support programs that

increase economic prospects. Employment and earnings are the strongest factors that influence the payment of child support orders, but low-income fathers are less likely to receive government-funded job-training services than low-income mothers.³⁶ Several states operate programs that link state agencies, courts, and community based organizations to help low-income fathers get and keep jobs and connect with their children. These programs may provide job search assistance, literacy programs, job training, parenting classes, and support groups. Unfortunately, we know little about the effectiveness of these programs. The only program of this type that has been rigorously evaluated is the Parents Fair Share (PFS) demonstration in Wisconsin. In PFS, organizations helped non-custodial low-income fathers work toward three goals: finding higher paying, stable jobs; increasing payment of child support; and becoming more involved parents. The only significant increase in payments, however, was due to the outreach process—many participants revealed previously unreported employment during their intake interviews.³⁷

In many states, custodial-parent families that are receiving TANF experience no direct benefit from any child support payments made on their behalf because these states retain 100 percent of collections.

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This can discourage their low-income non-custodial counterparts from paying, or motivate both parents to arrange a system of informal support such as cash or in-kind provision of diapers, food, or clothing. These non-custodial parents may not respond to increased enforcement or encouragement. They are seeking a connection with their children that cannot be replicated by making payments to the state.

TRENDS AND CHALLENGES

Improving collection rates is likely to become more difficult. CSE programs face the same challenges as many other social programs: growth in demand and changing demographics of the client base. The rapid growth of the CSE caseload in the 1990s is projected to slow between 1998 and 2009, but the child support population (custodial and non-custodial parents and children) will still grow faster than the general population over the next ten years. By 2009, it is projected that the child support population will be 72 million people. Thirty million children will be eligible for child support.³⁸

The number of custodial fathers, never-married parents, and non-parent caregivers will increase dramatically by 2009. The CSE system has performed poorly on behalf of custodial fathers, never-married parents, and minorities. Custodial fathers in 1999 had an award rate of only 39.2 percent.³⁹ Increases in non-custodial mothers could reveal difficulties similar to those the system currently experiences with low-income non-custodial fathers. The increase in never-married custodial mothers could also drive down receipt rates, as only about 48 percent of these mothers had awards in 1999, compared to about 69 percent of mothers who had ever been married.⁴⁰ Never-married parents are the most difficult to serve by any measure, and that means more resources are consumed to improve their receipt rates.

Hispanics will experience faster child support population growth than any other racial or ethnic group except Asians. Hispanic populations in the United States have lower median incomes and educational attainment than non-Hispanic whites. These characteristics are correlated with lower pay-

ment rates, but lower incomes also mean greater need for regular child support payments. In 1999, however, only 49 percent of Hispanic custodial mothers had a child support award, compared to a rate of about 72 percent for non-Hispanic white mothers.⁴¹ Increases in both never-married custodial mothers and Hispanic custodial mothers will also mean increases in low-income non-custodial fathers, for whom we currently have few successful collection strategies. Growth in these populations must be met with resources and creative solutions to avoid a drop in collection rates.

Funding for the system will also become an issue. States that have relied on TANF reimbursement collections to finance their CSE programs are

searching for new sources of funding as TANF rolls have dropped. The non-TANF population that receives services is growing faster than the TANF and post-TANF populations, but offers no opportunity for cost recovery.⁴² There is also some possibility that Congress will discuss lowering the reimbursement rate for state administrative costs in 2003 because about half of the states make a profit on their CSE program from

retained collections, federal reimbursement, and performance incentives.⁴³ The year 2000, though, was the first year in which states collectively lost money.⁴⁴ For individual states that lose money, a drop in federal reimbursement would strain the capabilities of their CSE programs—and all states are facing fiscal pressures from declining revenues and growing costs in health programs. Any increase in TANF caseloads due to the current recession might increase retained collections, but those revenues might not replace a cut in federal funding.

An interesting development in federal policy is the intersection of marriage and responsible fatherhood promotion with child support enforcement. In 1993, Congress tried encouraging voluntary paternity establishment for the first time. Since then, marriage promotion has become a dominant theme in debates around welfare reform. In 2003, Congress will likely consider several initiatives that promote marriage and increased involvement of fathers. President Bush's budget for the 2004 fiscal year, as well as several other pieces of legislation, includes grants for government programs and community and faith-based initiatives in this area.⁴⁵ Research

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indicates that father absence has negative effects on children, and increased contact with an absent parent is correlated with increased child support payments. Advocates for children understand this and agree that married two-parent households are usually best for children. Their concern is that funding for these initiatives will crowd out funding that currently helps custodial-parent families provide for their children, and that the emphasis on marriage will dominate over efforts to help parents and families in their current situations.

RECOMMENDATIONS

CSE programs enjoy support from conservatives and liberals alike. As such, improvements that require investment are not an impossible dream. The 108th Congress will likely consider changes to the CSE system. The following recommendations can be used to guide short-term decisions, but are designed to address longstanding problems in the system.

IMPROVE STATE REPORTING

Performance of the CSE system cannot be judged without knowing more about how much state programs are not collecting. The small percentage of arrearages paid compared to the percentage of current obligations paid is hard to explain without this data, and federal policymakers cannot devise strategies to increase collection rates without more information.⁴⁶ The federal government should also collect better data on why states differ so widely in their performance. The frequent adoption of state innovations by the federal government is a sign that many states have valuable experience to share. Yet the wide variations in cost effectiveness and collection rates demonstrate that many states also have much to learn.⁴⁷ The composition of reported arrearages should be explored, because it reflects on state performance and could explain some of the differences between states. The federal government currently publishes a list of best practices every year, but a more systematic evaluation of the data would help.

Finally, the federal government should support research on whether support orders for low-income fathers, often set at default levels or at high percentages of their income, are overly burdensome or unrealistic. To design better strategies for low-income fathers, we need to know what drives award setting. To more accurately measure performance of CSE programs, we must know if the award-setting

standards used by the system are reasonable.

DETERMINE HOW TO HELP LOW-INCOME NON-CUSTODIAL PARENTS

If payment levels are set so high that employment is disrupted through loss of housing or transportation, or if the non-custodial parent is driven away from the formal economy, then long-term continuity of payments is jeopardized in favor of short-term quantity. If these parents cannot make enough to support themselves, they will not be able to support their children. The federal government must test strategies to help low-income non-custodial parents do more for their children. Wisconsin's demonstration project misfired partly because it ventured into an unknown area. Lessons learned from this, and from efforts in other states, should be tested elsewhere to develop strategies that increase collections.

The following suggestions for helping low-income parents should also be examined for their potential to increase collections. First, parents who take financial responsibility for their children could be rewarded, even if they do not have physical custody. The most likely avenue for this reinforcement is the Earned Income Tax Credit (EITC). Non-custodial parents are not currently eligible for the EITC because they cannot claim their children as dependents. The EITC could be changed to support low-income non-custodial parents who work and pay child support. This may not increase collections from those who do not pay now, but may increase the likelihood that paying parents can continue their payments regularly. EITC expansion, however, could represent a sizeable government expenditure.

Several experimental state programs allow for the reduction of child support debt owed to the state for participants in state programs that include work. Other states have developed partial debt amnesties for those who establish a record of timely payment (much like interest rate reductions for on-time payers of student loans). These programs reward efforts by non-custodial parents to meet their obligations and may reduce debt that is, in reality, uncollectible. More information about state arrearages would enable states to see how much they stand to gain or lose by forgiving this debt.

Finally, either the federal government or a state should explore how non-custodial parents can be credited for in-kind support. This informal support is usually framed as a problem, the solution for which is to redirect the giving to the official payment system. But given the feeling of connection that these direct contributions provide, it might make more sense to allow non-custodial parents to

continue providing this support and claim it. The goal of the system is to get resources to children, not to operate a formalized child support payment mechanism. Also, custodial parents who receive cash assistance have their benefits reduced for receiving in-kind assistance if that assistance is reported. This double standard recognizes the importance of in-kind help to custodial parents, but considers provision of this help by non-custodial parents as a way to evade responsibility. Changing this standard might be impractical due to the record keeping requirements, but a pilot program would at least produce more information about how families interact with the system and how to increase their engagement.

MAINTAIN FUNDS FOR PROGRAMS THAT WORK

Like most people, unmarried parents desire family integration and stability.⁴⁸ The federal government is taking a positive step in trying to support these fragile families with programs that help them realize this desire for positive involvement. Increased visitation brought about by grant-funded programs has undoubtedly improved children's financial and emotional lives. The popularity of these initiatives should encourage advocates for low-income parents and children to participate in their design and implementation, ensuring that these families receive services that build on their strengths. However, there is a danger that in focusing on marriage and responsible fatherhood, money will be diverted from proven strategies for supporting children. There is also little research available about what programs might be effective in encouraging unmarried parents to marry or unwed fathers to be involved with their children.⁴⁹ As with strategies for supporting low-income fathers, we need more research before shifting resources away from techniques that have helped many non-custodial families raise their children.

IMPROVE WITH INFORMATION TECHNOLOGY

The future of child support enforcement promises more complicated cases, requiring greater investment and more flexible and creative solutions. These solutions, along with increases in the quality and quantity of data that states should report, mean greater investments are required in data management capacity. This has historically been a weak point for state CSE programs. In 1980, the federal government authorized a match of 90 percent for state data management systems. Only five states met a 1995 deadline to automate, and the rest were given two additional years to comply. As that dead-

line was approaching, the U.S. General Accounting Office criticized the Office of Child Support Enforcement for failing to lead effectively.⁵⁰ Many states still struggle with demands that their systems interface with the systems that administer TANF funds, a critical task in the era of time-limited benefits.⁵¹ The federal government must continue its dedication to assisting states in building information technology infrastructure.

CONCLUSION

The CSE program has made a substantial, positive contribution to the living conditions of children raised in single parent households. The changing demographics of the child support population, however, will challenge programs to decipher the reasons for non-payment and develop creative responses. Methods such as marriage promotion should complement, but not replace, the enforcement tools developed by federal and state governments that have helped millions of custodial-parent families provide for their children.

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NOTES

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