
Child Support Orders: A Perspective on Reform

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Abstract

This article presents a brief historical account of child support reform in the United States during this century. Reform in this area primarily reflects a shift from judicial discretion to administrative regularity. The two predominant types of child support guidelines in use today, income shares and percentage of income, are described and compared. The authors then present information on some of the current issues with regard to child support guideline reform. Finally, a Child Support Assurance system, which would provide a publicly guaranteed minimum benefit award to custodial parents under special circumstances, is proposed. Further discussion of child support reform is presented in the Overview and Analysis section of this journal issue.

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Never before has the quality of the American child support system been of such vital importance to the nation's future.¹ During the past 30 years, the proportion of children living with only one parent has increased dramatically, from about 8% in 1960 to 25% in 1990.² Of these children, 9.5% live with a divorced parent, 7.7% live with a never-married parent, and 7.6% live with a separated or widowed parent. (See the article by Shiono and Quinn in this journal issue.) By current estimates, more than one-half of all children born during the 1980s will live for a time with only one parent before reaching adulthood.³

America's child support system is in the midst of a profound transformation where judicial discretion is giving way to administrative regularity. Child support payments are routinely withheld from wages in an increasing proportion of cases. Blood tests and voluntary acknowledgments are rapidly replacing trials for establishing paternity. And, most important for our purposes, in less than a decade, the setting of the amount of child support has evolved from a highly discretionary decision with the amount set on a case-by-case basis to a system with federally mandated standards requiring the states to use mathematical formulas in setting the amounts.

We begin this article by examining the evolution of the current child support regime using formula-based guidelines, discuss some unresolved problems with those guidelines, and then look to the future of child support in terms of the proposal for a new Child Support Assurance (CSA) system.

The Traditional System, Its Shortcomings, and Remedial Federal Legislation

Child support, as a part of the family law system, is a province of the states. State

laws establish the duty of noncustodial⁴ parents to pay child support but traditionally have left the details to local courts who have handled child support orders on an individual case basis with almost no legislative guidelines. In the past, statutes used very general language, such as the amount should be “just and reasonable.” Lacking legislative guidance, courts developed rules that focused on two elements: the needs of the child, assessed on the basis of a budget submitted by the custodial parent; and the ability of the noncustodial parent to pay, assessed on the basis of that parent’s living costs and available income. The results were highly individualized and offered little guidance for other cases. Consequently, there were great inequities in child support awards. Research showed that, between judges in the same court and even between cases decided by the same judge, noncustodial parents in similar circumstances were treated very differently.⁵

Equally important, the case-by-case system resulted in child support awards that were generally regarded as very inadequate. Although there are many poor noncustodial fathers, this is only part of the problem. Based on estimates of the incomes of noncustodial fathers and the share of income that should be devoted to child support according to the two most widely used child support guidelines (described below), in 1983 noncustodial fathers should have been paying between \$25 and \$32 billion in child support; in fact they owed only \$10 billion and paid only \$7 billion.⁶

The major impetus for change in the manner in which child support was set came from the system for public support for children in single-parent households—the Aid to Families with Dependent Children (AFDC) program. That program was established in 1935 as part of the Social Security Act to provide support for children whose primary supporting parent was absent from the home, in most instances because of death. It was assumed that AFDC would shrink as more

and more children were protected by the survivor’s benefits of Social Security. Instead, as divorce, separation, and births outside marriage grew, so did AFDC. In 1950, congressional concern about the cost of AFDC resulted in the first federal child support legislation.⁷ In 1975, Congress enacted the Child Support Enforcement program as Title IV-D of the Social Security Act.⁸ (For further description of this act, see the article by Roberts in this journal issue.)

Some researchers⁹ interested in welfare reform began studying the private child support system to determine why it was so inadequate and placed such a heavy burden on the public. One of the failures they identified was the inadequacy and inequity of child support awards. They advocated abandonment of the existing system of individualized assessment of awards. The proposal that emerged was the use of a general numerical formula that would be applicable to the great majority of cases. In 1984, Congress amended the federal Child Support Enforcement program (Title IV-D of the Social Security Act) to require the states, as a condition of receiving federal funds for their AFDC programs, to adopt non-binding mathematical guidelines for setting child support.¹⁰ In 1988, the Family Support Act required that these mathematical formulas be used as rebuttable presumptions in all cases except where the court determined in writing or on the record¹¹ in the child support proceeding that the departure was justified. In addition, child support agencies were required to perform systematic reviews of awards every three years for AFDC cases (unless it is not in the best interest of the child), and for all non-AFDC IV-D cases where either parent requests a review. (See Box 1.)

Despite a decade and a half of child support reform, some indicators suggest there has been little progress. In both 1978 and 1989, only 6 of 10 eligible mothers had child support awards.¹² The proportion of awards paid increased

Box 1

The Family Support Act of 1988

On October 13, 1988, President Ronald Reagan signed the Family Support Act of 1988 into law. The primary purposes of this act were to reform the child support system and to expand work programs and requirements for Aid to Families with Dependent Children (AFDC) recipients. Closely related to the topic of this journal issue are the federal requirements for reform of the child support system as they relate to children of divorce. In this area, the act was written to achieve three specific goals: (1) to increase the number of awards among children who are eligible for support, (2) to develop fair and uniform guidelines for determining the amount of these awards, and (3) to strengthen procedures for collecting the money that is owed to custodial parents.

The act requires states to implement specific procedures for accomplishing these goals. For example, states must

- establish guidelines for judges and other state officials to use in setting the amounts of child support awards;
- implement a computerized tracking and monitoring system for child support enforcement; and
- withhold child support payments from the wages of a noncustodial parent unless there is a good reason not to require withholding or a satisfactory written agreement between the parents.

General explanations of these requirements follow.

GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS. All states have established child support guidelines but use various formulas for determining award amounts. Judges and other officials are required to follow these guidelines when determining child support award amounts unless the guidelines are rebutted by a written finding that following them would be unjust or inappropriate in a particular case.

States must review guidelines for awards every four years. In addition, beginning five years after enactment, states must review and adjust individual awards in AFDC cases every three years and must review support orders in non-AFDC cases at the request of either parent and adjust the order if appropriate.

COMPUTERIZED TRACKING AND MONITORING. By October 1, 1995, every state must have in operation an approved computerized system for tracking and monitoring support payments. States without a system of this kind were required to submit a design for such a system by October 1, 1991. Individual state systems will interface with CSENet, a nationwide child support enforcement communication network. In early Fiscal Year 1993, the CSENet host and hotline were activated, and the CSENet specific software and work stations were installed in all states. Automated interface with CSENet, a requirement for a certified system, must be in place by September 30, 1995. States will use this network to request or report information about location, paternity and support establishment, and/or collection and enforcement.

AUTOMATIC WAGE WITHHOLDING. Nationally, wage withholding brings in the largest percentage of child support collections. Because of the effectiveness of this process, the Family Support Act required immediate wage withholding for all orders being enforced by state child support enforcement agencies which were issued or modified on or after November 1, 1990. The act also required immediate wage withholding for all support orders issued on or after January 1, 1994, whether or not parents applied for public child support services. Wage withholding can be rebutted if one of the parents demonstrates—and the court finds—that there is a good reason not to require such withholding or if there is a written agreement between the parents providing for an alternative arrangement.) As of September 30, 1992, some 40 states had received either interim or final approval for their wage withholding procedures.

Although the amount of child support collected nationwide has increased since the implementation of this act, there is still room for improvement. For example, although every state uses guidelines to determine the amount of the support obligation, the noncustodial parent's income typically increases after the award is set, inflation reduces the value of the award, and awards, once set, are seldom adjusted. In addition, the costs of implementing a computerized tracking and monitoring system for child support enforcement may diminish the effectiveness of this program in some states. Finally, even though more child support orders are being awarded to custodial parents, many of these parents do not receive the full amount they are owed. These persistent problems need to be addressed.

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only from 64% to 69%. Worst of all, the real value of child support awards declined by 22% between 1978 and 1985, from \$3,680 to \$2,877. By 1989, average awards increased to \$3,293, still 10% lower than awards in 1978.

Do these trends indicate that the reforms were ineffectual or counterproductive? Previous research suggests that the answer to this question is no. Like Alice in Wonderland, the U.S. child support system has had to go faster just to stay in place.¹³ For example, while there was an improvement in paternity establishment and award rates for children born out of wedlock during the 1980s—from 1 in 10 to nearly 3 in 10—there was also an increase in the proportion of children in this high-risk group. In 1978, unmarried mothers accounted for only 19% of mothers potentially eligible for child support; by 1989, they constituted about 30% of the eligible population.¹² Thus, part of the decline in the real value of awards was the result of a shift in the demographic composition of children potentially eligible for support. Even more important was the substantial increase in the earnings of divorced mothers during the past 20 years. Because most courts take the mother's earnings into account when setting child support awards, the increase in earnings led to a reduction in the value of the average awards.¹⁴

Child Support Guidelines: Income Shares and Percentage of Income

In response to the 1984 and 1988 federal legislation, states have adopted numerical formulas or child support guidelines for determining child support awards. All but four states have adopted variants of two models, known respectively as *income shares* and *percentage of income*, which are based on the principle of income sharing.¹⁵ This section describes the principle of income sharing and the calculation of support under these two guidelines. Also, the major differences between the two guidelines are examined, and some problem issues for both types of guidelines are discussed.¹⁶

Principle of Income Sharing

Both guidelines share the same conceptual basis, which is the principle of income sharing.¹⁷ This principle is based on the theory that, by parenting a child, parents

take on the responsibility to share income with that child in approximately the same proportion as they would have if the family had not separated.

The rationale for using income sharing as the basis for setting child support consists of two points. First, it is fair to both the parent and the child. It orders a parent to pay based on the parent's income and also allows the child to share in the increases, or decreases, in the parent's income just as if the parent and child

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lived together. Second, it allows the courts to set child support without the necessity of a review of individual costs of care. The amount of child support is based on how much the parent would share with the child if the parent and child lived together. Consequently, income sharing lends itself to the development of a general formula.

Income Shares Formula

Income shares is the most widely used of the two formulas. It is used by about 33 jurisdictions. Under income shares, the income of both parents is combined, and a basic child support obligation is established using a percentage of income. The percentage of income reflects the portion of family income the given number of children would have received if the family lived together. The support obligation is 18% to 24% of net income for one child, 28% to 37% for two children, 35% to 46% for three children, and up to 46% or 61% for six children. The percentage is based on an estimate of the percentage of family income that is spent on children in two-parent households and varies according to family income level. Percentages decline as family income rises. Child care and extraordinary medical care expenditures may be added to the basic obligation, and the total child support obligation is then prorated between the parents according to their respective incomes. The non-custodial parent pays child support, and

the custodial parent is assumed to spend that amount on the child.

Percentage of Income Formula

The percentage of income formula is used in about 17 jurisdictions. The amount of the child support obligation is calculated based on the income of the noncustodial parent, using a percentage based on the same considerations as in income shares. The award amount for one child is 17% of noncustodial parent gross income, 25% for two children, 29% for three children, 31% for four children, and 34% for five or more children. Both child care and medical costs are included in the basic award and so are not added separately. The calculation is independent of the income level of the custodial parent. However, this does not mean that the income of the custodial parent is not considered. The custodial parent is assumed to spend as much or more on the child as the noncustodial parent; however, a payment is not calculated.

A Comparison of Income Shares and Percentage of Income Guidelines

Two major differences between the income shares and the percentage of income guidelines result from the effects that increased income by each parent has on the percentage of noncustodial parent income owed in child support. Both guidelines start with the notion that noncustodial parents should share the same percentage of income with their child as they would have if they lived with the child. Yet, with the income shares formula, the percentage of income obligated to child support declines as noncustodial parent income increases; with the percentage of income formula, it remains the same at all income levels. The authors of both guidelines appealed to different economic studies on the costs of children to justify their differing recommendations.¹⁸

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A recent review of the evidence commissioned by the federal government finds that the percentages in both guidelines are consistent with the large range of estimates in the economic literature on the costs of chil-

ren.¹⁹ Whether the percentages should be flat or decline is a value judgment.

In addition, under the income shares formula, child support owed by the noncustodial parent declines as the custodial parent's income increases. Advocates of the income shares standard argue that ignoring the income of the custodial parent is inequitable.²⁰ Advocates of the percentage of income standard argue that conditioning awards on the income of the custodial parent undermines the principle of income sharing.²¹ When the parents live together, the child benefits from the extra income if both parents work. A child in a single-parent household with two income-producing parents should enjoy the advantages of that situation as well.

(It should be noted here that state child support guidelines make special provisions for families in poverty. A discussion of how states apply child support guidelines to these families is a complex issue and beyond the scope of this article.)²²

Issues in Developing Child Support Guidelines

A variety of issues with regard to child support guidelines are currently in debate. Some of these issues are discussed below.

Including Actual Child Care Costs in Awards

Child care is a major expense for a single parent, and it is directly related to the child. Most of the income shares jurisdictions and 8 of the 17 percentage of income states prorate the cost of child care between the parents and add the noncustodial parent's share to the basic child support payment.^{23,24} For example, if the child care cost for the year equaled \$6,000, the noncustodial parent's income equaled \$50,000, and the custodial parent's income equaled \$25,000, the noncustodial parent's child support obligation would increase by two-thirds of \$6,000, or by \$4,000.

Basing the child support obligation upon actual child care expenditures is akin to the traditional method of relying upon individual budgets for establishing child support awards. It does not follow from and indeed may be counter to the income sharing philosophy that underlies both guidelines. Child care expenditures depend primarily upon how many hours the custodial parent works. Higher child care expen-

ditures are, therefore, associated with higher income. Thus, when the percentage of income guideline is used, prorating child care obligations leads to the anomalous result that support payment increases with custodial parent income.

On the other hand, because the income shares guideline counts custodial parent income in the determination of the noncustodial child support obligation, it is difficult to ignore the child care expenses incurred to earn that income. Indeed, under the income shares standard the prorating of child care expenditures tends to offset the effects of counting custodial parents' income. This offsetting effect helps account for the observation of practitioners and experts that, for the vast majority of cases, the percentage of income formula (which subsumes child care costs within the formula) and the income shares formula produce very similar results.²⁵ But including child care expenditures as well as custodial parent income substantially complicates the calculation of support owed and, as discussed below, makes updating of support awards more difficult.

Issues Regarding Health Care

States address the issues of medical care in their child support guidelines in a variety of ways. Most income shares states include extraordinary medical expenditures²⁶ as an add-on to the basic child support award and thus prorate them between the parents.²⁷ Some percentage of income states also allow the court to prorate extraordinary medical expenses between parents;²⁸ others provide that such expenses are a basis for varying the amount of award;²⁹ still others require the court to assign responsibility for medical expenses to one of the parents.³⁰

Some states also include provision for medical insurance in their child support guidelines. A common practice is to require that the noncustodial parent provide medical insurance when available through an employer or other group at reasonable cost.

For several reasons, none of these approaches is satisfactory. It is certainly better to have extraordinary medical expenses shared between the custodial and noncustodial parent than to have the custodial parent bear the entire cost. But, often sharing the burden between the custodial and noncustodial parent handicaps both and does not satisfactorily deal with the problem. The real issue is our nation's failure

to institute a national health insurance system. The child support system will not be able to resolve this social problem.

So too the practice of ordering noncustodial parents to provide medical insurance for their children creates substantial complications for the noncustodial parent. Adding someone to a medical insurance policy in the United States normally shifts this burden to the employer and to an insur-

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ance company. It is one thing to ask an employer to provide a relatively inexpensive service for child support in the form of immediate withholding. But shifting an employee from a single policy to a family policy can cost that employer several thousand dollars per year. This can change the marginal decision as to whether to employ the noncustodial father and at what level to compensate. Research has shown that, while orders are being written that include medical insurance, it is much more difficult to have the child placed on the policy.³¹ As it was with extraordinary medical expense, child support is being asked to make up for the failure to have an adequate national health plan.

Including Costs of Higher Education in Awards

The obligation to pay child support usually ends when the child reaches the age of majority. For most states, that age is now 18, reduced from 21, where it had been for most of U.S. history.³² Termination of child support at 18 has meant that, for most youngsters, noncustodial parent support ended before the child had completed high school. Some states have extended the support obligation to a period beyond 18 during which the child is completing high school. Other states have given the courts discretion to order support in these circumstances.³³ Many states have not addressed the problem at all. On balance, we suggest that states should be encouraged to adopt legislation extending support for the period during which the child is in high school at least to age 19, which is the age by which most students have completed the course.³⁴

Support for a college education is more problematic because parents in two-parent families are not required by law to provide support at that level and often do not, or feel they cannot do so.³⁵ Although most states have not addressed the issue of support for college education, a few have authorized courts in their discretion to order support for postsecondary education. Public policy is moving to a requirement that, at least, courts have this discretion.³⁶

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An alternative approach, supported by some public policymakers, is to treat post-high school education as a right and continue the child support order until the child has the opportunity to complete four years of postsecondary education or until the child's 22nd birthday if the young person is in a full-time school and is meeting the requirements of that school.³⁷ In this type of situation, because the child is now 18, direct payments from the noncustodial parent to the child and the child's college could substitute for payments to the custodial parent.

Treatment of Remarriage and Multiple Support Obligations

In this day of divorce and remarriage, child support issues often involve multiple families.³⁸ One frequently occurring problem is that of the noncustodial parent who remarries and has another family. Should that parent's obligation to the children of the first family be reduced in response to the financial burden of the second family? In principle, all children should be treated equally, but there is a long-standing tradition in American law of giving preference to the first family.³⁹ The rationale for that preference is that the support-paying parent and new spouse begin another family with full knowledge of the obligation owed the children of the first marriage. Neither the first family nor the public has a part in the noncustodial parent's decision to start a new family, so why should either party bear the costs? Unfortunately, the children of the second

marriage also have no part in the decision, and they may suffer from the obligation to the other children.

The problem poses difficult choices, and a few states have begun to reexamine the issue. One approach, known as the second family first doctrine, calculates child support for the children in the subsequent family and deducts that from the payer's income before calculating a modification for the first family.⁴⁰ Some states try to protect the expectation of children in the first family to continue to receive the support on which they had been counting by deducting the second family child support from the payer's income only if the modification would result in an increase for the first children.⁴¹

A closely related problem arises when the remarriage of the noncustodial parent ends and the issue is setting a child support payment for the children of the second family to be paid by a parent who is already paying child support. Again, most jurisdictions follow the first family preference, leaving that support award intact and reducing available income for the second support award by the amount of the first award.⁴² The effect is to give the children of the first marriage the full benefit of the noncustodial parent's unreduced income while reducing the income base for the children of the second marriage. As before, the principle of adult responsibility takes precedence over the principle of treating all children equally.

A more unusual situation—but one that is occurring more frequently—involves the noncustodial mother who remarries, has more children, and stays home to care for those children. Should she be relieved of her child support obligation because she is no longer earning income? Courts have had varying reactions to this type of problem. Some courts refuse to impute any earning capacity to a "nurturing mother."⁴³ Others calculate a child support award based on the parent's earnings prior to the decision to stay home.⁴⁴ The rationale of the courts who insist on a child support payment in these cases is that the mother has a duty to all her children, not just those in her current family.

The Effect of Dual Residence on Child Support Obligations

Joint legal custody, where both the custodial and noncustodial parent share the legal responsibility for making important decisions regarding their children's lives,

has spread quickly and is now the norm in some states.⁴⁵ Joint legal custody has no implications for the amount of child support to be paid.

Joint physical custody means that the child lives a substantial proportion of time with both parents. This arrangement is much less common than joint legal custody, but it has important implications for the amount of the child support obligation.

Shared parenting implies not only caring for the child but sharing expenses as well. Where the child spends half time with each parent, it can be assumed that each parent incurs equal out-of-pocket expenditures for the child. Therefore, if parental incomes are equal, each parent's child support obligation should be equal, which is to say that the net obligation of each should be zero. If parental incomes are not equal, an adjustment in child support should be made because the costs to each parent are the same. This adjustment is calculated for each parent based on the sole custody percentage. The child support payment is the difference between the two, payable to the lower-income parent.

Joint physical custody is complicated, however, because often children do not live with both parents equal amounts of time. In those cases, the time may vary from near equal time to little more than "normal visitation."⁴⁶ The issue in this type of case is how to reduce the child support to reflect the unequal sharing of child-raising costs. Two questions must be resolved to determine the reduction. The first is the point at which a reduction may begin. This point, that is, the amount of time that a child should be with a lesser-time parent before a reduction in child support is made, has come to be known as the *threshold*. Determining the threshold constitutes the first step in developing a formula for support reduction. Most states that have addressed the issue of a threshold have tied it to the amount of normal visitation on the assumption that the basic child support order takes visitation-connected expenses into consideration. However, most states do not provide for any reduction in child support until the time sharing is well above normal visitation—30% to 35% of the time.⁴⁷

The second question that must be addressed is how the reduction is to be made. The most commonly used approach operates on the theory that each parent owes

child support to the other parent based on that parent's income and the amount of time the child is cared for by the other parent. This approach appears, at first impression, to be fair, but the manner in which it has been implemented in many states makes it unfair. In many states, there is no reduction at 30% shared time, but at 35% shared time, there is a 35% reduction.⁴⁸ This approach creates what has come to be called the "cliff effect." It results in hardship to the primary custodian who does not experience that much reduction in expenses. If there is no reduction at 30%, a 35% reduction for 5% more time is a great loss to the primary custodian.

Another approach—and one that we favor—is to reduce the payments only for the amount of shared time over the threshold. Properly handled, this approach will reduce payments to zero at equally shared time if incomes are equal but does so gradually.⁴⁹

Updating Child Support Orders

One of the most common causes of inadequacy in child support awards is that their value erodes over time with inflation. In the past, a custodial parent was required to petition for modification to update the award and to retain the real value of the original order. But modification of child support is discouraged by the court system.

For example, the Uniform Marriage and Divorce Act suggests a modification "only upon a showing of changed circumstances so substantial and continuing as to make the terms unconscionable."⁵⁰ The

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rationale for discouraging modifications under the old system of individualized determinations of child support awards was that the time costs of modification seriously overburdened the courts. Every update was the equivalent of rehearing the case. If the average child support case has a 10-year-obligation life, annual modification or updating under the old system would increase the burden on the courts

tenfold. Furthermore, the requirement that the custodial parent seek modification of the order necessitated expenditures for attorneys' fees and increased tensions between the parties.

Now that numerical guidelines govern the setting of awards, it is easier to justify a procedure for periodic review based on changes in parental income and initiated by the child support system, not by the parent. As noted above, the Family Support Act (FSA) of 1988 requires child support enforcement agencies to review the awards of all AFDC cases every three years and all non-AFDC IV-D cases where either parent requests a review. Although there are no data on the national percentages of cases that are being reviewed and modified, results from five demonstration projects conducted in Colorado, Delaware, Florida, Illinois, and Oregon suggest that

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little updating of awards is taking place.⁵¹ Of all cases reviewed, only about 20% of the orders in AFDC cases were modified, and the proportion was about half that for non-AFDC cases. Furthermore, it took approximately 200 days to complete the review and modification process.⁵²

Thus, unless the FSA updating provisions are strengthened, either legislatively or administratively, they are likely to lead to only a modest increase in updating.⁵³ Even with remedial legislation, however, updating fixed dollar orders is likely to remain cumbersome and expensive.

In principle, the most efficient system for keeping child support orders current in terms of the income of the noncustodial parent is the use of the percentage of income guideline with the support order expressed as a percentage of income, for example, 17% for one child or 25% for two children. The child support agency notifies the noncustodial parent's employer of the percentage of income to be withheld and forwarded to the agency. As the income of the noncustodial parent increases (or decreases) over time, the child support withheld and paid changes

automatically as well. (If the child ages out or custody changes, of course, the percentage will need to be adjusted.) The only additional action the child support agency must take is to verify the income tax returns of the noncustodial parent each year to ascertain if he or she has received additional earned or unearned income. Unfortunately, most percentage of income jurisdictions express orders in fixed dollar terms rather than as a percentage of income. Experience in Wisconsin indicates that payments increase substantially—by 50% within two to three years—if orders are percentage based rather than fixed.⁵⁴

Automatic updating is not possible under the income shares guideline because orders cannot be expressed in percentage terms. Under income shares, the percentage of income owed depends not only on the number of children owed support, but also on the income of the noncustodial parent, the income of the custodial parent, and child care and extraordinary medical care expenditures. All of these factors are likely to change from year to year and even within years.

Updating the income shares standard is feasible but is likely to be substantially more costly than updating the percentage of income standard when the latter is used to express orders in percentage terms. Each year the child support agency must collect income tax returns from both parents, as well data on child care and extraordinary medical care costs from the custodial parent. A method for verifying the latter will have to be developed. The records of the two parents must be linked and a determination made on whether a different percentage of income should be applied to the new total. Then the child support agency must notify the employer, the custodial parent, and the noncustodial parent of the new obligation. The extra administrative burdens imposed by the income shares guideline will discourage updating. In view of the importance of updating to the adequacy of child support awards, the automatic updating achieved by utilizing the percentage of income standard to express orders in percentage terms is especially attractive.

Special Treatment for Poor Noncustodial Parents

On the whole, noncustodial parents are not particularly poor. In 1983 the mean income for all noncustodial fathers was

\$19,346, only 14% less than the average income of all men 25 to 64 years old, \$22,482.⁵⁵ Yet, there are a lot of poor noncustodial fathers. The incomes of nonwhite noncustodial fathers are half those of white counterparts. Among whites, divorced and remarried fathers have nearly three times the income of never-married fathers; among nonwhites the ratio is greater than three to one.

How much poor noncustodial parents should pay is an important and complex issue. The argument for a lower child support sharing rate for poor noncustodial parents is the same as the argument for a progressive rather than a regressive income tax: the poor are less able to pay. While 17% of income is a substantial burden for a middle-income noncustodial parent, for a poor noncustodial parent, it can be truly oppressive.

The argument against a lower child support sharing rate for poor parents is also strong. First, when poor parents live with their children, they spend at least as great a percentage of their income on their children as nonpoor parents do.⁵⁶ Second, equity argues that the share of income devoted to the child should be similar for poor custodial and poor noncustodial parents. Third, lowering the rate for the poor results in lower child support payments to custodial parents and their children or in higher taxes.

Directions for the Future: A Full-Fledged Child Support Assurance System?

Of all the proposals for reforming the nation's child support system, the most far-reaching is to add a Child Support Assurance (CSA) system to our menu of Social Security programs.⁵⁷ Under this system, child support awards would be set by a nationally legislated formula based on a percentage of the noncustodial parent's income, and payments would be deducted from the absent parent's earnings, just like Social Security deductions. The federal government guarantees a minimum level of child support—an *assured benefit*—just like minimum benefits in old age and unemployment insurance.

The Family Support Act of 1988,¹¹ by requiring states to utilize numerical guidelines and routine withholding of child sup-

port obligations, has taken the nation a long way toward a CSA system on the collection side. Adoption of a full-fledged Child Support Assurance system would take us even further by completing the shift from judicial discretion to administrative regularity, by shifting responsibility for administration from the judiciary to the Social Security Administration and the Internal Revenue Service, and by creating a single national formula for determining support obligations. In addition, a CSA system would establish a national assured child support benefit.

Of course, it is possible to adopt any component without the other two. Similarly, some components could be federal and others state based. For example, a federally funded assured child support benefit could be established, while child support collections remained a state responsibility. For this reason, we examine separately the desirability of each of the three components.

Discretion Revisited

Judicial discretion has not entirely disappeared from the child support system. Although the grounds for departures from the presumptive guidelines are narrow and departures must be justified in writing, based on data from Wisconsin,

where presumptive guidelines were instituted on the state's own initiative prior to federal requirements, departures from the guideline are common and written justifications are rare.⁵⁸ Furthermore, one national expert asserts that there is legal ambiguity with respect to whether the guidelines must be applied to noncontested cases.⁵¹ It appears to him, and to us, that in practice many courts do not require noncontested cases to conform to the guidelines and that bargaining down from the guidelines is common.⁵⁹

Should judicial discretion be eliminated entirely from the process of determining child support awards? When a public benefit such as welfare or an assured child support benefit is involved, the case for a legislative determination of the amount of child support to be paid is quite clear. The lower the amount of child support ordered, the greater the cost to the public of the government benefit. Determining how to apportion the costs of child rearing between parents and the public is a policy issue more appropriately decided by the legislative than the judicial branch of government.

But, what is the case for public intervention when there is no public benefit involved and the parents agree to an award that differs from the guideline? Many would argue that the presumption should be that the parents are the best judges of their children's interest and that insis-

bility of a public subsidy, many, including the authors, believe that the children's interests are better protected by a legislated standard of support than by bargaining between the parents.⁶¹

If child support obligations are to be determined by a simple numerical formula, the rationale for continuing to have courts administer the child support system is weak. Courts are designed to resolve disputes. The executive branch of government is more suited to the routine tasks of verifying eligibility, calculating obligations and entitlement based on numerical formulas, and collecting obligations and distributing payments. Indeed, the Social Security Administration and the Internal Revenue Service have proven track records in these areas. Massachusetts has given responsibility for collecting child support to the revenue department. At this point, however, there is no administrative blueprint for how a nationally administered system would work. Furthermore, courts may be required to continue to play some role, particularly in the establishment of legal entitlement to support.

Issues Regarding the Implementation of a National Child Support Guideline

Several congressional bills propose a national standard. Because of the lack of consensus among commission members, the U.S. Commission on Interstate Child Support recommended congressional appointment of a new national commission to study the desirability of a national child support guideline.⁶² The commission has summarized the arguments for and against a national guideline.

The most important argument against a national guideline is part of the more general argument for decentralization. The more decentralized are government functions, the greater is the dispersal of power and the opportunity for citizens to participate in shaping policy. Opponents also question the wisdom of federalizing child support guidelines while leaving other aspects of family law that affect divorce up to the states and of establishing a single federal model before we have had a chance to evaluate the experience with different state guidelines.

Proponents of a national guideline note that, without one, identical cases are treated differently in different states, creating inequities and forum shopping (seeking the best jurisdiction in which to

If child support obligations are to be determined by a simple numerical formula, the rationale for continuing to have courts administer the child support system is weak.

tence upon a uniform formula constitutes undue government interference. There are two responses. First, the proportion of families that receive a public benefit is much larger than most people imagine. During the past 20 years, the proportion of single mothers receiving welfare has varied between 40% and 60%.⁶⁰ Enacting an assured benefit available to all custodial parents irrespective of income would increase the percentage further. Second, even in situations where there is no possi-

obtain a divorce). Moreover, differences in state guidelines inhibit interstate enforcement because of the question of which state's guideline to apply. In view of the fact that nearly a third of child support enforcement cases are interstate, these are serious problems. A national guideline would enhance interstate equity and facilitate interstate enforcement. Finally, adoption of a national assured child support benefit would strengthen the argument for a national guideline. The cost of an assured benefit depends upon the amount of private support ordered and collected. Congress will be reluctant to assume responsibility for paying for the costs of the assured benefit with no power to affect this critical determinant of the costs.

Issues Regarding the Implementation of an Assured Child Support Benefit

An assured child support benefit is a government guarantee of a minimum amount of child support to those legally entitled to receive private support. For example, if the assured benefit were \$200 per month and the noncustodial parent paid only \$150, the government would make up the difference. Entitlement to the assured benefit would not depend upon the income of the custodial parent, but only upon legal entitlement to private child support. An assured child support benefit would increase economic security, reduce dependence on welfare, and increase paternity establishment. Although most noncustodial fathers can afford to pay substantially more private support, many have low and irregular incomes. No matter how successful we are in strengthening enforcement, private support payments for many poor children will continue to be low and irregular. The assured benefit would compensate by providing a steady, secure source of income for these children.

An assured benefit would reduce dependence on welfare because, unlike welfare, the assured benefit is not reduced as earnings increase. It complements rather than substitutes for work. Compared with increases in private support alone, an assured benefit would double the reduction in poverty and welfare dependence.⁶³ Finally, because only children legally entitled to private child support would be eligible for an assured benefit, the benefit creates an incentive for mothers to establish paternity and secure child support awards.

The argument against an assured benefit is that it will extend the role of government, increase costs, and create some adverse incentives. On balance, these costs appear to us to be smaller than the benefits achieved. When immediate withholding is implemented nationwide and the government is receiving and disbursing all private child support payments, the extra administrative burden of guaranteeing a minimum monthly payment will be minimal. The collection side reforms strengthening paternity establishment and establishing numerical child support guidelines and routine income withholding involve much larger extensions of the role of government than the assured benefit.

Despite the fact that the assured benefit is not income tested, it is relatively cheap. This is so for two reasons. First, because men and women mate with people of similar socioeconomic backgrounds—what demographers call assortative mating—most of the expenditures of an assured benefit go to poor and near-poor families. Second,

An assured child support benefit is a government guarantee of a minimum amount of child support to those legally entitled to receive private support.

a large proportion of these families are already receiving welfare. Estimates indicate that an assured benefit of \$2,000 per year for one child would cost between \$1 billion and \$2 billion.⁶⁴

Finally, because the assured benefit makes the payment received by the custodial parent larger than the payment made by the noncustodial parent, it creates an incentive for the couple to live apart or to feign living apart. Yet, welfare creates a similar incentive, and research shows that the adverse effects of the incentive have been small.^{60,65}

In 1984 and 1988 respectively, Congress authorized Wisconsin and New York to use federal funds that would otherwise have gone to AFDC to help finance state demonstrations of an assured child support benefit. Wisconsin failed to implement the demonstration because Wisconsin Gov.

Tommy G. Thompson was opposed to it. In 1989, seven New York counties began conducting a limited version wherein initial eligibility was restricted to families with incomes low enough to qualify for welfare.⁶⁶ The National Commission on Children and the U.S. Commission on Interstate Child Support endorsed federally funded state demonstrations of a full-fledged assured benefit, Sen. Bill Bradley (D-NJ) and Sen. John D. Rockefeller, IV (D-WV) have proposed such legislation, and in conjunction with Rep. Henry J. Hyde (R-IL), former Rep. Thomas J. Downey (D-NY) proposed a full-fledged national program.^{62,67}

Conclusion

During the past decade, the basis of the American child support system has shifted from judicial discretion toward administrative regularity. The amount of child support owed is increasingly determined by numerical formulas—child support guidelines—established by state commissions or legislatures. Two types of guidelines have been adopted in all but four states. These are income shares and percentage of income. Both are based on the principle that noncustodial parents should share the same percentage of income with their children as they would have if they had lived with the child. Under the percentage of income guidelines, the amount owed depends only upon the income of the noncustodial parent and the number of children owed support, whereas under the income shares guidelines, the amount also depends upon the income of the custodial parent and expenditures for child care and extraordinary medical costs. While the latter method appears to many to be

more equitable because it takes account of a greater number of factors, we have argued that the equity gains are debatable. Perhaps the most important advantage of the percentage of income guideline is that it allows orders to be expressed as a percentage of income and thereby permits automatic updating of awards.

Adoption of a national child support assurance system would complete the shift from judicial discretion to administrative regularity and add a publicly guaranteed minimum benefit. A CSA system could substantially reduce poverty and dependence on welfare at little extra cost.

A stronger child support system that transfers more money from both noncustodial parents and the public will increase the economic security and well-being of children of divorce. Child support alone, however, can accomplish only so much. For example, even a perfectly efficient child support enforcement system—awards in all cases, updated to existing guidelines, and paid in full—combined with a generous assured benefit of \$3,000 for the first child would eliminate only half the poverty gap for children potentially eligible for child support.⁶⁸ Further reductions in the economic insecurity facing children of divorce can be achieved only by greater public investments in children. What is needed is a comprehensive agenda like that recommended by the National Commission on Children which includes, in addition to a Child Support Assurance system, a \$1,000-per-child refundable tax credit in the personal income tax, national health insurance, and expanded provision of child care.⁶⁹

1. *Child support* is the term used to describe the mixture of private and public income transfers to children who live apart from a parent. Private child support is paid by the nonresident parent, that is, the parent who does not live with the child; public child support is paid by the government.
2. U.S. Bureau of the Census. *Household and family characteristics, 1991*. Current Population Reports, Series P-20, No. 458. Washington, DC: U.S. Government Printing Office, 1992.
3. Bumpass, L. Children and marital disruption: A replication and update. *Demography* (February 1984) 21:71-82.
4. *Noncustodial* is the traditional term used to describe the parent who does not live with the child. It may be more accurate to call that parent the *nonresident parent*, particularly now that all states authorize joint legal custody which enables a parent, who does not live with the child, to share legal custody with the resident parent.
5. White, K.R., and Stone, R.T. A study of alimony and child support rulings with some recommendations. *Family Law Quarterly* (1976) 10:83; Yee, L.M. What really happens in child support cases: An empirical study of the establishment and enforcement of child support awards in the Denver District Court. *Denver Law Quarterly* (1979) 57:21-68.

6. Garfinkel, I., and Oellerich, D. Noncustodial fathers' ability to pay child support. *Demography* (May 1989) 26:219-33.
7. Social Security Act, §402(a)(10) effective July 1, 1952, 64 Stat. 550 (1950). For information on legislative history see U.S. Department of Health and Human Services. *Social Security bulletin, annual statistical supplement 1982*. Washington, DC: U.S. Government Printing Office, 1983, p. 51. For analysis of child support reform, see Garfinkel, I. The role of child support in antipoverty policy. Institute for Research on Poverty, Discussion Paper No. 713-82. Madison: University of Wisconsin, 1982. See also Katz, S.N. A historical perspective on child support laws in the United States. In *The parental child-support obligation*. J. Cassety, ed. Lexington, MA: Lexington Books, 1983.
8. Social Security Amendments of 1974, Pub. L. No. 93-647 (codified as 42 U.S.C. §651 et seq.).
9. Garfinkel, I. *Assuring child support: An extension of Social Security*. New York: Russell Sage Foundation, 1992, pp. 42-45; and Cassety, J., ed. *The parental child-support obligation*. Lexington, MA: Lexington Books, 1983.
10. Child Support Enforcement Amendments of 1984, Pub. L. No. 98-378 (codified as 42 U.S.C. §§667).
11. Family Support Act of 1988, Pub. L. No. 100-485 (codified as 42 U.S.C. 667(b)(2)).
12. U.S. Bureau of the Census. *Child support and alimony: 1978*. Current Population Reports, Series P-23, No. 112. Washington, DC: U.S. Government Printing Office, 1981; U.S. Bureau of the Census. *Child support and alimony, 1989*. Current Population Reports, Series P-60, No. 173. Washington, DC: U.S. Government Printing Office, 1991.
13. See note no. 9, Garfinkel.
14. Robins, P.K. Why child support award levels declined from 1978 to 1985. *Journal of Human Resources* (1991) 27:362-79.
15. The formula used by four states is known as the Melson formula, after Judge Edward Melson, Jr., of Delaware, who developed it. It is based on the premise that parents should be allowed to meet their own basic needs, and then all remaining income is to be shared with their children. Under the Melson formula, a basic needs amount is set for each parent and child. The amount of each parent's needs, called a self-support reserve, is subtracted from that parent's income to yield what that parent has available for child support. Then the amount of the child's basic needs is prorated between the parents based on the income of each. Each parent's share of the child's basic needs is then subtracted from that parent's income to determine the amount of "discretionary income." A percentage of any income above these basic needs is added to the support, thus enabling children to share in the living standards of their parents above the basic needs level. As with the other formulas, the principal caretaker parent's share of the support is assumed to be provided in the course of care. The Melson formula is favorably discussed in Takas, M. Improving child support guidelines: Can simple formulas address complex families? *Family Law Quarterly* (Fall 1992) 26:171-94.
16. For a more detailed comparison of the income shares and percentage of income guidelines, see Garfinkel, I., and Melli, M. The use of normative standards in family law decisions: Developing mathematic standards for child support. *Family Law Quarterly* (Summer 1990) 24:157-78.
17. See note no. 16, Garfinkel and Melli. See also Williams, R.G. Advisory Panel on Child Support Guidelines. *Development of guidelines for child support orders: Advisory Panel recommendations and final report to the U.S. Office of Child Support Enforcement*. Williamsburg, VA: National Center for State Courts, September 1987.
18. The percentages in the income shares guidelines were derived from estimates of expenditures on children developed by Thomas Espenshade in Espenshade, T. *Investing in children: New estimates of parental expenditures*. Washington, DC: Urban Institute Press, 1984. The percentages in the percentage of income guidelines were derived from a review of more than one dozen studies of expenditures on children, including Espenshade's conducted by Jacques van der Gaag. See van der Gaag, J. On measuring the cost of children. In *Child support: Weaknesses of the old and features of a proposed new system*. I. Garfinkel and M. Melli, eds. Institute for Research on Poverty, Special Report No. 32A. Madison: University of Wisconsin, 1982, pp. 1-40.
19. Bassi, L., Aron, L., Barnow, B.S., and Pande, A. Estimates of expenditures on children and child support guidelines. Report submitted to the Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, by Lewin/ICF, October 1990. None of the studies of expenditures on children provides estimates for very wealthy families—those having incomes of more than \$100,000—because the samples of such families are too small in the surveys on which the studies are based.

20. See note no. 17, Williams.
21. See note no. 16, Garfinkel and Melli.
22. For a discussion of how states apply child support guidelines to families in poverty, see *Families in poverty: Women's Legal Defense Fund report card on state child support guidelines*. Washington, DC: Women's Legal Defense Fund. In press.
23. See note no. 19, Bassi, Aron, Barnow, and Pande.
24. For example, this procedure, with some qualifications, is advocated by the Women's Legal Defense Fund. See *Child care: Women's Legal Defense Fund report card on state child support guidelines*. Washington, DC: Women's Legal Defense Fund. In press.
25. See for example, Haynes, M.C. Statement. In *Written comments on the Downey-Hyde Child Support Enforcement and Assurance proposal*. December 18, 1992. Washington, DC: U.S. Government Printing Office, 1993.
26. Most states do not define the term "extraordinary medical expenses." However, one state defines them as "uninsured expenses in excess of \$100 for a single illness or condition. Extraordinary medical expenses include, but are not limited to, such costs as are reasonably necessary for orthodonture, dental treatment, asthma treatments, physical therapy and any uninsured chronic health problem. At the discretion of the court, professional counseling or psychiatric therapy for diagnosed mental disorders may also be considered as an extraordinary medical expense." Munsterman, J.T., and Grimm, C.B. Colorado child support guidelines III(F). *Child support guidelines: A compendium*. Williamsburg, VA: National Center for State Courts, 1991. Some states refer to uninsured medical expenses; see also Munsterman and Grimm, Arizona child support guidelines.
27. See child support guidelines for Colorado and Arizona, in note no. 26, Munsterman and Grimm.
28. See for example, Nev. Stats. §125.B.080 7, in note no. 26, Munsterman and Grimm.
29. See for example, D.C. Code 16-916.1 (M), which provides that the amount of the award may be varied where there is no medical insurance, it does not cover the item, or there is a high deductible; Georgia Stats. 19-6-15(c), in note no. 26, Munsterman and Grimm.
30. Wis. Stat. §767.25 (4m) (b) (1991-92).
31. Gordon, A.R. Implementation of the income withholding and medical support provisions of the Family Support Act. In *Child support and child well-being*. I. Garfinkel, S. McLanahan, and P. Robins, eds. Washington, DC: Urban Institute Press. In press.
32. In the early and mid-1970s, public policy determined that a person old enough to be drafted was also old enough to vote. The 26th Amendment to the U.S. Constitution providing that "The right of citizens of the United States, who are eighteen years of age or older, to vote shall not be denied or abridged by the United States, or by any State on account of age" was drafted and ratified by the states. In response, states provided for the right to vote at 18 in state and local elections, usually by reducing the age of majority from 21 to 18. Apparently, little thought was given to what has turned out to be a troublesome side effect. Because most states tie the duration of the duty to support to the age of majority, the duty to support now ends at 18 with the result that dependent children still in high school are no longer entitled to child support from the nonresident parent.
33. Clark, Jr., H.H. *The law of domestic relations in the United States*. Student ed., 2d ed. St. Paul, MN: West, 1988, p. 716.
34. The U.S. Commission on Interstate Child Support has recommended that Congress require the states to enact such a law. U.S. Commission on Interstate Child Support. *Supporting our children: A blueprint for reform*. Report to Congress. Washington, DC: U.S. Government Printing Office, 1992.
35. To require divorced parents to provide such support strikes some as unfair and, perhaps, a denial of equal protection. However, the courts have tended to view children of divorced parents as situated differently from children in intact families in this regard. "The legislature could find . . . that most parents who remain married to each other support their children through college years. . . . On the other hand, even well-intentioned parents, when deprived of the custody of their children, sometimes react by refusing to support them as they would if the family unit had been preserved . . ." *In re Marriage of Urban*, 293 N.W. 2d 198, 202 (Iowa 1980). See also, *Neudecker v. Neudecker*, 577 N.E. 2d 960 (Ind. 1991).
36. See note no. 34, U.S. Commission on Interstate Child Support. The commission recommends that Congress require states to have legislation granting courts discretionary power to order child support, payable to the adult child as a rebuttable presumption, at least to

- age 22 for a child who is enrolled in an accredited postsecondary or vocational school or college and who is a student in good standing.
37. See note no. 19, Bassi, Aron, Barnow, and Pande, p. 108.
 38. It has been estimated that 75% of divorced persons remarry. Takas, M. *The treatment of multiple family cases under state child support guidelines 2*. Washington, DC: U.S. Department of Health and Human Services, 1991.
 39. See note no. 38, Takas, p. 23.
 40. See note no. 38, Takas, pp. 23-24.
 41. See note no. 38, Takas, p. 26.
 42. This issue is the one most commonly addressed in state formulas when there is a subsequent family. Takas lists 40 states as authorizing the deduction of the prior child support award before calculating support for subsequent children. See note no. 38, Takas, Table A, pp. 14-15.
 43. Commonwealth ex rel. *Wasiolek v. Wasiolek*, 380 A2d 400 (Pa. Super 1977).
 44. *Roberts v. Roberts*, 496 N.W. 2d 210 (Wis. Ct. App. 1992). See also, *Atkinson v. Atkinson* (Superior Court of Pennsylvania, No. 01570 Pittsburgh, 1991). Dissenting opinion.
 45. Maccoby, E.E., and Mnookin, R.H. *Dividing the child: Social and legal dilemmas of custody*. Cambridge, MA: Harvard University Press, 1992.
 46. Normal visitation is probably about 20% of the calendar year consisting of every other weekend, plus a month during the summer and some holidays.
 47. One reason for not reducing child support until fairly high levels of time sharing are reached is that the costs to the primary parent are not reduced much by low levels of time shared. That parent still has the burden of providing housing for a child whose primary residence is with that parent. Melli, M., and Brown, P. Child support. In *Shared physical custody in Wisconsin: Present guidelines and possible alternatives*. Report prepared by the Institute for Research on Poverty for the Wisconsin Department of Health and Social Service. Madison: University of Wisconsin, December 1992.
 48. See note no. 15, Takas, p. 171. The most popular version of the offset formula is one that can be described as *offset plus*. Under this formula, the child support amount is increased by a factor of 1.35 or 1.5. The rationale behind this increase is that it recognizes the additional costs of shared parenting. However, this approach to the increased costs of shared parenting does not recognize the source of many of those costs and the distribution of expenses between parents. The increase in expenses in shared parenting comes primarily from the need to duplicate housing and other facilities for a child who now resides some of the time in the home of the nonprimary parent. The housing costs for the primary parent have been factored into the original child support payment paid by the nonprimary parent. Therefore, increasing the amount of the child support award to compensate for the need of the nonprimary parent to duplicate those housing facilities results in the nonprimary parent's paying twice for housing and related expenses. Increasing the child support order with the offset plus formula has one desirable result: it reduces the gap between support at the threshold and immediately above the threshold. This may explain why six states—Alaska, Colorado, Maryland, North Carolina, Oregon, and Vermont—and the District of Columbia use the offset formula with this modification. See also note no. 38, Takas.
 49. This approach is used in Hawaii. See note no. 47, Melli and Brown.
 50. Uniform Marriage and Divorce Act 1979; Sec. 316, 9A Uniform Laws Annotated.
 51. Williams, R.G. Implementation of the child support provisions of the family support act: Child support guidelines, updating of awards, and routine income withholding. In *Child support and child well-being*. I. Garfinkel, S. McLanahan, and P.K. Robins, eds. Washington, DC: Urban Institute Press. In press.
 52. Among the small proportion of awards that were modified, most were modified upward, resulting in a 60% to 144% overall increase in award levels. Despite the cumbersome and costly nature of the process, the data suggest that it is quite cost-effective and reduces welfare dependency by a small amount.
 53. Williams suggests a number of changes in laws and practices to reduce the cost of periodically reviewing and updating awards.
 54. Bartfeld, J., and Garfinkel, I. *Utilization and effects on payments of percentage expressed child support orders*. Institute for Research on Poverty, Special Report No. 55. Madison: University of Wisconsin, July 1992.

55. See note no. 6, Garfinkel and Oellerich, Table 3. Because most nonresident parents are men, this analysis focused on fathers.
56. Some studies find that the proportion of income spent on children declines as income increases while others find that the proportion is constant. None find that the proportion increases.
57. See Garfinkel, I., and Melli, M., eds. *Child support: Weaknesses of the old and features of a proposed new system*. Institute for Research on Poverty, Special Report No. 32A. Madison: University of Wisconsin, 1982; see note no. 9, Garfinkel. For other proposals, see note no. 34, U.S. Commission on Interstate Child Support.
58. Melli, M.S., and Bartfeld, J. *Use of the Wisconsin percentage of income standard to set child support: Experience in twenty counties, September 1987–December 1989*. Madison: Institute for Research on Poverty, University of Wisconsin, June 1991.
59. There has been little exploration of the reasons that departures from the guideline amount are below rather than above the guideline. However, an examination of specific factors listed in statutes or rules as a basis for departing from the guideline indicates that these policy directives are aimed more at decreasing than increasing the child support award. See note no. 58, Melli and Bartfeld.
60. Moffit, R. Incentive effects of the U.S. welfare system: A review. *Journal of Economic Literature* (1992) 30:1-61.
61. American Law Institute, Principles of Family Dissolution, Preliminary Draft No. 3 & 3.07 (1) (d) Comment F (Philadelphia, PA, September 1992).
62. See note no. 34, U.S. Interstate Commission on Child Support.
63. See note no. 9, Garfinkel, p. 54, Table 3.1, intermediate run estimates.
64. See note no. 9, Garfinkel, p. 54, Table 3.1 and p. 142. The estimates assume that the assured benefit increases by \$1,000 each for the second and third child and by \$500 for each subsequent child.
65. Garfinkel, I., and McLanahan, S. *Single mothers and their children: A new American dilemma*. Washington, DC: Urban Institute Press, 1986.
66. Hamilton, W., Burstein, N., and Moss, D. New York State's child assistance program: Experimentation in incentive based welfare reform. Paper presented at the Association for Public Policy Analysis and Management, 15th Annual Research Conference. Washington, D.C., October 1993.
67. National Commission on Children. *Beyond rhetoric: A new American agenda for children and families*. Washington, DC: National Commission on Children, 1991. The Bradley and Rockefeller proposals are in, respectively, Senate Bill 689 and Senate Bill 2237, 103rd Congress. The Downey-Hyde proposal is described in U.S. Congress, House Committee on Ways and Means, Subcommittee on Human Resources. *Written comments on the Downey-Hyde Child Support Enforcement and Assurance proposal*. December 18, 1992. Washington, DC: U.S. Government Printing Office, 1993.
68. See note no. 9, Garfinkel, The estimate includes children born out of wedlock as well as children of divorce.
69. See note no. 67, National Commission on Children.