

---

---

---

# Child Support Orders: Problems with Enforcement

Paula G. Roberts

## Abstract

Child support enforcement is a topic of major concern for millions of our children and for society as a whole. Nonreceipt of child support has serious financial implications for children living without one biological parent, including children of divorce. It also has serious financial consequences for our welfare system. An examination of the child support enforcement system reveals that it is currently in need of revision despite attempts at improvements in the past. Six key issues with regard to reform are discussed; however, there is disagreement as to whether a state-based approach, a federal approach, or some combination of the two should be used to accomplish reform. Recommendations as to what should be changed are offered by the author.

*Paula G. Roberts, J.D., is senior staff attorney at the Center for Law and Social Policy, a public-interest law firm specializing in issues affecting low-income families.*

**F**irst, this article examines the child support system and explains the flaws that exist within it. Next, recent reform efforts and their outcomes are described. Then, new reform proposals are presented and critiqued. Finally, the author's own prescription for child support enforcement reform in light of the need for child support assurance is given.

Children living in a two-parent family have a much greater chance of avoiding poverty than children living in a single-parent family. In 1990, 70.5% of children in the United States lived in two-parent households, consisting of children living either with both biological parents, in stepfamilies, or with adoptive parents (see the article by Shiono and Quinn in this journal issue). In 1991 the poverty rate for married-couple families with children under age 18 was 8.3%. In contrast, approximately one quarter of the children lived in single-parent households, 9.5% with a divorced parent, 7.7% with a never-married parent, and 7.6% with a separated or widowed parent. In 1991 the poverty rate for single-parent families headed by fathers was 19.6%; for

single-parent families headed by mothers, it was 47.1%.<sup>1</sup>

Financially speaking, the families of greatest concern are those headed by females. Children living in single-parent families headed by mothers (constituting 84% of single-parent families) are more than twice as likely to be poor as children living in single-parent families headed by fathers.<sup>2</sup> Although it is very important that all children who are due awards receive them, children living in families headed by mothers are of special concern because of their increased likelihood of being poor.

Bane suggests that there are a variety of reasons single-parent families headed by women are likely to be poor, including

Table 1

<b>Maximum Benefits Available to a Single Parent with Two Children in Selected States in 1992</b>			
<b>State</b>	<b>Maximum AFDC<sup>a</sup> Grant</b>	<b>Food Stamp Benefit</b>	<b>Combined Benefits As a Percentage of the Poverty Line</b>
Alabama	\$149	\$292	49
California	663	187	94
Colorado	356	280	70
Florida	303	292	66
Illinois	367	282	72
Massachusetts	539	225	84
Pennsylvania	421	260	75
South Carolina	210	292	56
Washington	531	253	87
Median	372	275	72

<sup>a</sup> Aid to Families with Dependent Children

Source: U.S. Congress, House Committee on Ways and Means. *Overview of entitlement programs: The 1992 Green Book*. Washington, DC: U.S. Government Printing Office, 1992, pp. 636-37.

the loss of economies of scale; greater prevalence of divorce and death among poor families; low and irregular levels of alimony, child support, and public assistance; fewer adult earners in the family; fewer opportunities for females of families to work; and the fact that women receive lower wages than men when they do work.<sup>3</sup>

With regard to wages, there are a variety of reasons single-parent families headed by mothers are so likely to be poor. Despite some progress, women workers still tend to be employed in low-paying jobs. Thus, while most single mothers (72%) do receive wages and many work full time, their families are still poor.<sup>4</sup> Nearly 23% of Hispanic mother-only families were poor in 1991, despite the fact that the mothers worked year-round, full-time. The corresponding numbers for white and African-American mother-only families were 9% and 18%.<sup>5</sup> These mothers could take a second or third job to supplement their earnings, but doing so would mean even less time for parenting. Or they could seek public assistance.

A mother who has minimum wage or near-minimum wage earnings might get

some help from the food stamp program. Cash assistance from the Aid to Families with Dependent Children (AFDC) program would not be available in most states. If, however, the mother lost her job, then she might seek AFDC. If she has more than minimal assets (for example, a car or a bank account), she would not be eligible for help. Once she sold or used up these resources, she would be able to receive AFDC. As shown in Table 1, the amount the family would receive varies greatly from state to state, but in no state would the family income reach the poverty level, even when combined with the value of food stamps. In most states, the family would live in deep poverty.

One avenue for improving the financial status of families headed by mothers (whether these families are the result of divorce or out-of-wedlock births) is through child support payments from the noncustodial parent.<sup>6</sup> If the mother could obtain regular child support payments, the financial picture would be better for many of these families. Those already working could have an income supplement that would move them out of poverty or near-poverty. Those relying on public assistance would have an incentive

Table 2

<b>Child Support Received by Mothers Eligible to Receive Support in 1989</b>		
	<b>All Women</b>	<b>Women Below Poverty</b>
Received no payment	24%	32%
Received at least some payment	76%	68%
Mean amount received	\$2,995	\$1,889

Source: 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.

to seek employment because a combination of wages and child support could raise their income to at least the poverty line.<sup>7</sup>

Unfortunately, one reason for the high poverty rate in single-parent families headed by mothers is that noncustodial fathers rarely pay as much child support as they can or should. Frequently, they pay no support at all. The most recent Census Bureau data indicate that 42% of all custodial mothers do not even have a child support order. Among unmarried mothers, the number is even higher: 66% lack a support order.<sup>8</sup>

Just as important as the fact that many mothers don't have support orders is the fact that those with orders do not receive what is owed. There is about a fifty-fifty chance that a mother with a child support order will actually receive full payment.<sup>9</sup> Some mothers will receive partial payment, but as Table 2 shows, even then almost one-fourth of all mothers with child support orders and one-third of poor mothers with such orders will receive nothing.<sup>10</sup> Of those who receive payment, the amount received is insufficient to support the child fully. Available data suggest that custodial fathers face a similar situation. According to a study which used Wisconsin data, only 30% of custodial fathers had a child support award. Of those with an award, 40% received no payment.<sup>11</sup>

A series of interrelated problems leads to nonpayment of child support. Among these problems are difficulty in locating the noncustodial parent, the complexity of establishing paternity if the parents were not married or the father decides to challenge the paternity of a child born within marriage, the convo-

luted and time-consuming process for establishing a support order, and the difficulty of enforcing an order once it has been established. These problems are difficult to solve when both parents live in the same state. When the parents live in different states or one moves to another country, the problems are almost impossible to resolve under current law.<sup>12</sup>

If these problems could be solved, the financial status of children in single-parent families headed by mothers would be substantially improved. Researchers estimate that, if paternity were established, support orders obtained, and reasonable standards for setting support were in place, each year between

---

***Just as important as the fact that many mothers don't have support orders is the fact that those with orders do not receive what is owed.***

---

\$17 billion and \$23 billion more than is currently being paid could be available to children in mother-headed families.<sup>13</sup> In fact, studies indicate that most non-custodial parents have enough income to provide an adequate level of support to their children.<sup>14</sup>

It should be noted, however, that better child support enforcement will not move children whose noncustodial father is poor out of poverty. This statement is especially true if the father is nonwhite, if the parents have never married, if the

children receive AFDC, or if any combination of these variables exists. In these situations, many fathers have too little income to make a substantial contribution to their children. Also, a small group of noncustodial parents will go to great lengths to avoid their child support obligations. Even a greatly improved child support enforcement system may not be able to force these parents to pay regularly. Some have suggested that a program called Child Support Assurance (CSA) be implemented to address these problems. (See the article by Garfinkel and colleagues in this journal issue.)

Under CSA, a minimally adequate monthly support payment would be made to the custodial parent (1) when the noncustodial parent pays the full amount he or she is capable of paying, but this amount is insufficient to keep the child out of poverty; or (2) when the noncustodial parent fails to pay or does not pay the entire amount of support owed. It is probable that a Child Support Assurance system would greatly improve the lives of many children, especially those living in families headed by mothers. If the mother knew that at least some child support would be received regularly each month, she could plan the family's economic future. If she were receiving AFDC, she would have an incentive to take a job even if it were low-paying because the guaranteed child support would supplement those wages. If she were already working, the regular support might enable the family to move to a better neighborhood, provide after-school care for a latch-key child, or allow the mother to drop her second job and devote more time to the children.

---

***With regard to costs, a Child Support Assurance system is not prohibitively expensive if the underlying child support enforcement system can be improved.***

---

With regard to costs, a Child Support Assurance system is not prohibitively expensive if the underlying child support enforcement system can be improved. The more parents meet their obligation to their children regularly and on time,

the less expensive a guaranteed child support system would be. Many Child Support Assurance advocates are thus also deeply involved in efforts to improve child support enforcement.

## **The Child Support Enforcement System**

Child support enforcement is part of domestic relations law. Historically, domestic relations law has been viewed as the exclusive province of the states.<sup>15</sup> As the Supreme Court stated in *Haddock v. Haddock*, 201 U.S. 562, 575 1905: "No one denies that the states, at the time of the adoption of the Constitution, possessed full power over the subject of marriage and divorce. . . . Besides, it must be conceded that the Constitution delegated no authority to the Government of the United States on the subject of marriage and divorce." Indeed, as late as 1975, the Supreme Court was maintaining that ". . . domestic relations is an area that has long been regarded as a virtually exclusive province of the states."<sup>16</sup>

The result is that 54 different legal systems operate within one country, including the states, territories, commonwealths, and the District of Columbia. While each state has its own variations, a custodial parent seeking child support must usually pursue the steps described below.

### **Steps to Receiving Child Support**

#### **Identify the Noncustodial Parent**

The first step is to identify the noncustodial parent. If the parents were married, doing so is usually not a problem.<sup>17</sup> If the parents were not married, a paternity proceeding has traditionally been required if the noncustodial parent is the alleged father. Paternity proceedings can be very complicated. All parties must submit to genetic tests, the tests must be analyzed, and the results reported. Even if the test results indicate a high probability of paternity, the alleged father may dispute the results and call expert witnesses. In many jurisdictions, he can ask for a jury trial. The mother will have to produce evidence in addition to the test results. The father's attorney may ask explicit and detailed questions about her sexual relations with other men prior to, and around the time of, conception. In addition, some states have antifornication laws and statutory rape laws. Thus, the civil paternity proceedings can give rise to a later

criminal action against the father.<sup>18</sup> The threat of possible criminal charges makes men reluctant to admit paternity, especially when the mother is a minor.

#### Locate the Noncustodial Parent

Whether the custodial parent seeks paternity and a support order or just a support order because paternity is not at issue, the proceeding can be brought only in a court that has jurisdiction over the noncustodial parent. Thus, the residence or business address of the responsible parent must be known because the courts of a state generally have jurisdiction only over a person who lives, owns property, or derives income in that state. The one exception is when a noncustodial parent who does not live, work, or own property in the state nonetheless has enough connection to the state to make it fair for the courts of that state to act. This is called *long-arm jurisdiction*. For example, if a man and a woman conceived a child in the District of Columbia, the man then left and returned to his home in Massachusetts, and the woman stayed in the District and gave birth there, a District of Columbia court might exercise long-arm jurisdiction over the Massachusetts father in a paternity case.

#### Serve the Noncustodial Parent with Legal Papers

The noncustodial parent's address or workplace must be known so that a sheriff or process server can deliver the legal papers. Some states (for example, Massachusetts) allow service by registered mail, but this practice is uncommon for service of the initial papers.

#### Schedule a Hearing

Scheduling a hearing can be a major cause of delay because of crowded court dockets. For example, a recent survey of custodial mothers in four different states (Georgia, New York, Ohio, and Oregon) found that, of those who eventually obtained an order, 40% waited more than six months after initiating their case before obtaining the order.<sup>19</sup>

#### Undertake Discovery

Child support obligations are based on the financial circumstances of the parents. Information about the parents' income, assets, earnings potential, and the like must be obtained. In addition, information about health insurance availability and cost must be uncovered. Although federal regulations now require that each state's child support guideline consider the availability of health insurance and

apportion health care costs, in 1989 the U.S. Bureau of the Census reported that 60% of all support orders lacked provisions regarding health insurance.<sup>8</sup> In addition, it is estimated that the total number of uninsured children in single-parent households approaches 8 million.<sup>20</sup> In many states, data about child care costs and any special needs of the child are also factored into the support amount. (For a more detailed description, see the article by Garfinkel in this journal issue.) A noncustodial parent may not willingly supply this information or provide accurate information to the other parent. If the noncustodial parent is uncooperative, the custodial parent may need to take depositions and issue subpoenas for records.

#### Appear at the Hearing

Both parties must appear at the hearing. If one party does not appear, the judge will frequently reschedule the hearing. Sometimes there are multiple reschedulings before the noncustodial parent finally appears or the court is willing to enter a default order based on failure to appear.

#### Enter the Order

At some point, a decision is made, payment is ordered, and that order is entered in the record. Depending on the state, the money goes to a court, a government registry, a state agency, or the custodial parent. In some states (for example, Ohio) all payments must first go through a governmental agency. In other states (for example, California) the custodial parent can choose to receive payment directly if he or she is not using the services of the state child support enforcement agency. If the payment is made to a court, central registry, or state agency, the collecting entity will record payment and disburse the money. If the custodial parent receives the money directly, there will be no formal record of payment.

#### Possible Additional Steps

As long as payment is voluntarily made, no further steps are required. When payment is not made, the noncustodial parent must be *relocated* and *notified* of the alleged default. Depending on the remedy to be used, the defaulter may have to be personally *served* and brought back into court. A *hearing* will have to be *scheduled*. If payment records exist, proving the amount of arrears should be straightforward. If there are no records, obtaining relief can be difficult.

In short, to receive child support, the custodial parent must usually hire a lawyer, finance the process for locating the absent parent, and pay filing fees, as well as fees for service of process and court costs. If paternity needs to be established, costs of genetic testing will also have to be borne. Even if she proceeds without a lawyer (that is, *pro se*) the fees and costs will have to be paid out of pocket. In many states custodial parents are discouraged or forbidden from acting *pro se*. Moreover, if payment is not voluntarily made, the custodial parent must bear a second round of attorney's fees and/or costs.

### Problems with the Existing System

The existing child support enforcement system works best for the affluent and well educated. For mothers of modest means or limited ability to cope with a sophisticated legal process, the system simply does not work.<sup>21</sup> Even for the affluent and well educated, the system is slow, complicated, and costly.

The problems engendered by this complex and costly system received less public attention when the out-of-wedlock birth rate was low, divorce was infrequent, and divorce usually occurred when the children neared or reached the age of majority. Today, the birth rate outside marriage is nearly 30%, the divorce rate is nearly 40%, and about 60% of divorces involve young children.<sup>22</sup> Slowly, America is responding to this reality.

---

*For mothers of modest means or limited ability to cope with a sophisticated legal process, the system simply does not work.*

---

In part, this response was triggered when many children in single-parent families headed by mothers began to enter the AFDC system. In the early 1970s, a study conducted by the RAND Corporation indicated that some of the growth in AFDC was related to mothers' inability to access child support. This led at least one powerful member of Congress to ask: "Should our welfare system be made to support the children whose father cavalierly abandons them—or chooses not to marry the mother in the first place? Is it

fair to ask the American taxpayer—who works hard to support his own family and to carry his own burden—to carry the burden of the deserting father as well? Perhaps we cannot stop the father from abandoning his children, but we can certainly improve the system by obtaining child support from him and thereby place the burden of caring for his children on his own shoulders where it belongs. We can—and we must—take the financial reward out of desertions."<sup>23</sup>

### Efforts to Improve the System

In 1975, Congress enacted Title IV-D of the Social Security Act.<sup>24</sup> This law requires every state with an AFDC program to also have a state agency to help parents obtain child support. These public agencies are required to assist in locating absent parents, establishing paternity, obtaining and modifying support orders, and enforcing those orders.<sup>25</sup>

The services of state IV-D agencies are free to recipients of AFDC and Medicaid.<sup>26</sup> In fact, the law requires that these families use IV-D services unless they have "good cause" for not pursuing child support.<sup>27</sup> The services of the state IV-D agencies are also available to mothers who are not receiving AFDC or Medicaid. These mothers apply for services and may pay a small application fee. They may also pay nominal fees for other services.<sup>28</sup> In this article, the cases involving AFDC and Medicaid families as well as cases where the custodial parent has applied for services will be referred to as "IV-D cases."

The new public system solved one of the major problems faced by lower-income custodial parents: it gave them access to services at little or no cost. In the early years, the federal government paid 75% of the state IV-D agency's expenses for providing these services. More recently, the federal government has paid 66% of the costs of the basic services and 90% of the costs related to genetic testing for paternity establishment and 90% for computerization.<sup>29</sup> Unlimited funding is available to states willing and able to put up the 34% (or 10%) state match required to obtain these federal funds. Unfortunately, few states are willing to take advantage of the generous funding. From the beginning, public programs have been understaffed and underfunded. For example, in 1990, nationwide there were on average 345 cases in the system

per full-time worker.<sup>30</sup> In many states, case loads exceed 1,000 per worker.

In addition, the 1975 law failed to address the need to streamline the processes for establishing paternity and obtaining support orders. In many states (for example, Tennessee) unless a paternity action was brought within one or two years of the baby's birth, paternity could not be established. Many states (for example, Delaware) still did not admit genetic test results to prove paternity. No state had a legally enforceable time frame within which a paternity or support action had to be resolved. The 1975 law also failed to acknowledge that few states actually had laws to enforce support orders once they were obtained. Some states (for example, Texas) actually prohibited wage garnishment to collect support from a parent who was in arrears on his obligation.

By 1980, two separate and equally flawed child support enforcement systems had emerged. The private system continued to operate for most nonwelfare families. It depended on the custodial parent's ability to afford legal counsel and wait for court action. Support, when paid, went directly from the noncustodial parent to the custodial parent leaving no public record of payment. If support was not voluntarily paid, no action was taken unless the custodial parent was financially able to hire a lawyer and pursue the arrears.

The public system focused primarily on welfare families. While providing free or low-cost services and maintaining records of payment, this system was woefully underfunded and understaffed. Moreover, this system saw its primary function as recoupment of AFDC benefits. In most states, any support collected was kept by the state to offset the AFDC grant; the family received nothing.<sup>31</sup> The few non-AFDC families who entered the system received inferior services.<sup>32</sup>

In the next decade, however, Congress—and many of the states—made bold attempts to improve the system. The major innovations are described below.

#### **Establishing Paternity**

Until the advent of genetic testing, establishing paternity was an archaic process. The mother had to prove her case with whatever evidence she could muster. Because doing so meant she had to testify that she had sexual relations with the father, she was subject to cross-

examination about her own sexual history and who else she might have had sexual relations with around the time of conception. Also, the action had to be brought within one or two years of the baby's birth. Fathers were entitled to a jury trial and proof beyond a reasonable doubt of their paternity.

---

### ***In 1988, Congress compelled states to enact laws requiring parties to submit to genetic tests when paternity is contested.***

---

In 1984, spurred in part by Supreme Court cases finding it to be unconstitutional to force the mother to bring a paternity action close to the time of the baby's birth,<sup>33</sup> Congress required every state to allow paternity to be established at least until the child's 18th birthday.<sup>34</sup> In 1988, Congress compelled states to enact laws requiring parties to submit to genetic tests when paternity is contested.<sup>35</sup> It also urged states to set up simple civil processes for establishing paternity voluntarily and to make contested cases civil, rather than criminal, proceedings.<sup>36</sup> These federal requirements apply to all paternity cases, not solely to IV-D cases.

Many states responded to these congressional mandates by revolutionizing the paternity process.<sup>37</sup> Several states (for example, Missouri and Oregon) have moved *voluntary* paternity establishment out of the courts and into the administrative process system.<sup>38</sup> Others (for example, Arizona and Massachusetts) have gone beyond voluntary out-of-court establishment of paternity to allowing paternity to be established by affidavit or by signing the birth certificate.<sup>39</sup> Still others (for example, Ohio and Washington) have gone into hospitals and birthing facilities to establish paternity at the time of the baby's birth.<sup>40</sup>

In *contested* cases, states have moved to a less rigorous standard of proof,<sup>41</sup> made genetic test results which yield a high probability of paternity a rebuttable presumption that the alleged father is the father,<sup>42</sup> and even made it possible to try paternity cases in an administrative proceeding rather than in court.<sup>43</sup>

### Expediting the Process for Establishing Orders

In 1984, Congress required every state to expedite the process for establishing and enforcing support awards in IV-D cases. States must now be able to obtain or enforce an order in 90% of their IV-D cases within three months of filing them; 98% must be processed within six months and 100% within a year.<sup>44</sup> States can continue to use their courts to issue and enforce orders so long as the courts can accomplish these tasks within the federal time frames. If the courts cannot do so, then states must set up an alternative process. One possibility open to the state is to establish a quasi-judicial system which is housed in the court but staffed by non-judges who are specially trained in child support matters. These staff members are usually called "masters" and can issue orders (subject to judicial review) which are then approved and docketed by a judge. The other possibility is for the state to set up an administrative process system. The administrative process system is usually housed in the IV-D agency and staffed by administrative law judges who issue orders which are then sent to the court for docketing.<sup>45</sup>

Some states have set up universal quasi-judicial procedures, the most comprehensive of which is Michigan's Friend of the Court System.<sup>46</sup> Michigan's system is used by non-IV-D as well as IV-D clients. Especially during the past two to three years, the trend has been for states (for example, Colorado) to set up administrative processes.<sup>47</sup> Administrative processes, however, are usually available only in IV-D cases. This can be problematic for families who come into and out of the IV-D system. If a court establishes an order in a non-IV-D case, for example, and the

---

*The need to collect, record, and disburse child support payment in immediate wage withholding cases has led some states to set up child support registries.*

---

family then applies for IV-D services, who can modify the order? An administrative agency cannot modify a court order, but

the IV-D agency may use only administrative processes in modification cases. This leaves the family in limbo.

### Improving the Chances that Support Will Be Paid on Time

Payment of support has traditionally been voluntary. The obligated parent had to make the affirmative decision each month (or week) to send a check, buy and mail a money order, or deliver the cash. If he or she was short of funds or angry at the custodial parent, the temptation to pay late or to skip the payment entirely was great.

In many states, the most common way to enforce a support order when the obligated parent did not pay was through a criminal action. In those states it was a misdemeanor (or sometimes a felony) to default on a support obligation. The other common remedy was to bring a contempt action. In civil contempt, the obligated parent is jailed until payment is made. As soon as he pays, he is released from jail. In criminal contempt, the defaulting parent is given a specific sentence whether or not he makes payment. Custodial parents were frequently reluctant to send their children's father to jail. Even those who were not reluctant recognized the futility of invoking these remedies. If the father was in jail, he was even less likely to pay support. If the question is how to get regular support, jailing the father does not seem to be the answer.<sup>48</sup>

The failure of this approach led some states to try a different one. Garnishing the obligated parent's wages to obtain overdue support was one remedy. Several states (for example, Kentucky and Massachusetts) went beyond this and authorized withholding of current support as well as overdue support from the obligated parent's paycheck. This method of ordering that support be withheld as soon as the child support order is entered is referred to as "immediate income (or wage) withholding."

In 1988, Congress decided to require all states to use this method of enforcement. Beginning in November 1990, in every IV-D case, all new or modified support orders must include immediate wage withholding unless the court or administrative agency finds good cause for not ordering withholding or both parents agree to an alternate payment arrangement.<sup>49</sup> All child support orders not established by the state IV-D agency must

contain immediate wage withholding as of January 1, 1994.<sup>50</sup>

In immediate wage withholding cases, once the child support order is entered, a notice is sent to the obligated parent's employer to withhold the money from the parent's paycheck and forward it to a named public entity, which could be the IV-D agency, a state central registry, or the clerk of the court.<sup>51</sup> That entity records payment and forwards the proceeds to the custodial parent or the welfare department if the family receives AFDC.<sup>51</sup> If the noncustodial parent is unemployed, the immediate withholding order is sent to the state unemployment insurance agency, which withholds the support payment from the obligated parent's unemployment benefits.<sup>52</sup>

The need to collect, record, and disburse child support payment in immediate wage withholding cases has led some states (for example, Ohio and Virginia) to set up child support registries.<sup>53</sup> These registries contain an abstract of the support order, payment records, and data about the parents. Several states (for example, Colorado) now require the obligated parent to keep the registry or court informed of his or her current address.<sup>54</sup>

The wage withholding system has also enhanced the importance of obtaining parents' Social Security numbers. These can be very helpful in identifying and properly crediting payments as they come in. States are, therefore, now also required to obtain each parent's Social Security number as part of the birth records process when a child is born or paternity is established.<sup>55</sup> These requirements affect both IV-D and non-IV-D cases.

Another reform engendered by wage withholding is employer reporting of all new hires or rehires.<sup>56</sup> Studies indicated that some noncustodial parents frequently change jobs to avoid wage withholding. By the time they are located and the new employer served with the income withholding order, these obligated parents have changed jobs again.<sup>57</sup> If the employer immediately reports a new hire, this practice is discouraged. The report is made (to the state employment service or the child support agency) and immediately cross-referenced to the state registry or record of IV-D cases. If there is a child support obligation, the employer is notified and withholding begins with the next paycheck. Some states (for example,

Washington) allow the report to be part of the existing W-4 reporting system that employers already use in reporting information about newly hired employees. Hence, the practice is often referred to as "W-4 reporting."

#### **Improving the Mechanisms Available to Collect and Enforce Arrears**

Once the use of immediate income withholding becomes more widespread, the number of children who do not receive support regularly should greatly diminish. Over time, there will be fewer cases in which large arrears are owed. However, according to recent government studies, this development is still several years off. Wage withholding in IV-D cases is not yet widespread<sup>57</sup> and in non-IV-D cases is just beginning to be implemented.<sup>58</sup> Moreover, even when withholding is a general practice, there will still be millions of children to whom support arrears are owed from the time before wage withholding began.

There is also the problem of collecting current support from those who are not wage earners. It is especially difficult to collect support from the self-employed, who do not have wages subject to withholding. To date, no one has devised a system for keeping these parents current in their support payments unless they voluntarily comply. Usually, the custodial

Table 3

Child Support Performance over Time						
	1978	1981	1983	1985	1987	1989
Percentage of mothers with an order	59	59	58	61	59	58
Percentage of mothers obtaining full amount ordered	49	47	51	48	51	48
Percentage of mothers obtaining partial payment	23	25	25	26	25	26
Percentage of mothers obtaining no payment	28	28	24	26	24	26

Source: 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.

parent must wait until sufficient arrears accumulate and invoke one of the remedies designed to help pay off arrears.

A number of mechanisms have been developed to collect arrears. Congress has authorized state IV-D agencies to send a notice to the Internal Revenue Service (IRS) when child support arrears in excess of a certain amount are owed in an IV-D case.<sup>59</sup> The IRS will seize any tax refund

arrears.<sup>66</sup> Some states (for example, Virginia) are even refusing to issue driver's licenses, car registrations, hunting and fishing licenses, and the like to those who are behind in their child support payments and have made no arrangements to meet their obligations.

#### Obtaining Health Insurance Orders

Many children can obtain health insurance through their noncustodial parent. Until recently, however, the state did little to obtain such coverage. Since 1989, greater emphasis has been placed on this service, and the picture is gradually changing.<sup>67</sup>

Health insurance coverage orders are meaningless unless they are enforced. Several states (for example, Virginia) have enacted laws requiring employers to put the children on the health insurance plan once the court or administrative agency has so ordered.<sup>68</sup> These laws also require the employers to provide custodial parents with claim forms and other plan-related information, and to honor the custodial parent's signature on the claim form.<sup>69</sup> Many of these laws apply in both IV-D and non-IV-D cases.

### *It is especially difficult to collect support from the self-employed, who do not have wages subject to withholding.*

due the obligated taxpayer and send the payment to the state agency. The state agency can then use the money to pay off the arrears. Federal law requires states that levy income taxes to have a similar program to seize state tax refunds to pay child support arrears.<sup>60</sup> Federal law also authorizes states to certify difficult IV-D cases to the IRS, which can then use all of the methods at its disposal to collect unpaid taxes to collect child support.<sup>61</sup>

Congress also requires states to have methods for collecting IV-D arrears by imposing liens on real and personal property;<sup>62</sup> by ordering withholding when an amount equal to one month's support is overdue;<sup>63</sup> and by reporting the arrears to credit agencies.<sup>64</sup> Some states (for example, Vermont) have gone beyond these federal requirements and are also seizing lottery winning<sup>65</sup> and withholding state professional licenses when a parent is in

### Problems with the System from the Custodial Parent's Point of View

Despite these changes, the child support enforcement picture remains bleak. Most of the studies of the IV-D system give it low marks for performance.<sup>70</sup> Since 1984, there have been more than 12 studies by the General Accounting Office (GAO), detailing deficiencies in the IV-D system.<sup>71</sup> The GAO has been particularly critical of the poor performance in interstate cases.<sup>72</sup> In these cases, the problem of

Table 4

Methods of Collection of Support in IV-D Cases in 1991	
Wage withholding	47%
Other (voluntary payment)	43%
Federal tax intercept	7%
Unemployment intercept	2%
State tax offset	1%

Source: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement. *Sixteenth Annual Report to Congress*. Washington, DC: DHHS, 1993, p. 11.

locating the noncustodial parent is more difficult, there are complex legal issues regarding jurisdiction to enter or enforce an order, and enforcement of cash and medical support is even more problematic because the employer is also usually located in a different state.

If the noncustodial parent lives in a foreign country, the situation is even more complex. To date, the United States has not ratified any of the treaties that would permit the international establishment and enforcement of support obligations.<sup>73</sup> Custodial parents must usually hire foreign counsel to establish an order if they want results.

Data from the Census Bureau (Table 3) confirm that very little overall progress has been made in the past decade in changing the number of mothers who have support orders and actually receive collections.

Data compiled annually by the Department of Health and Human Services indicate serious deficiencies in the IV-D program which probably contribute to the bleak picture painted by the Census Bureau. A collection of any kind at some time during the year was made in only one-third of IV-D cases with an order of support.<sup>74</sup> While income withholding is having some impact in IV-D cases, many of the other remedies are either not being used or are not very effective (Table 4).

Wage withholding seems the most effective method of obtaining payments but is clearly not in place in more than half of the cases with orders. Other methods—such as liens, bonds, and lottery intercepts—do not even account for one percent of the collections. The failure of

these methods may reflect underutilization by understaffed state agencies. Or it may reflect the difficulty of implementing federal mandates in a system traditionally governed solely by state law.

As a result, some custodial parents now turn to private collection agencies. These agencies may charge an application fee. They will only take cases in which an order has been established and there are arrears owed. Many will not take a case if the family now receives AFDC or received AFDC in the past. These private collection agencies make their money by taking a percentage of the support collected (usually 25% to 33%), thereby reducing the resources available to raise the child. For these reasons, they do not seem to offer a viable alternative source of help for most low- and moderate-income mothers.

Noncustodial parents are also unhappy with the system. Of particular concern is the question of access or visitation. Many fathers believe that the problem of nonpayment of support is tied to denial of access to the children. If fathers were given regular access and decision-making authority in their children's lives, they argue, fathers would pay more sup-

---

*Many fathers believe that the problem of nonpayment of support is tied to denial of access to the children.*

---

port.<sup>75</sup> Evidence to back up this position is mixed.<sup>76</sup> Moreover, withholding of financial support clearly hurts children.

Obligated parents should not be able to hurt their child in this way simply because they cannot agree with the custodial parent about proper access. For this reason, most policymakers agree that alleged interference with access should not be grounds for withholding support.<sup>77</sup>

Nonetheless, as Kelly points out in her article in this journal, there are good reasons for encouraging contact between children and their parents after divorce. Attention needs to be paid to developing mechanisms to resolve access problems.

To summarize, until recently, every state had its own unique child support enforcement system. Each system required a custodial parent to possess significant personal and financial resources to obtain or enforce a child support award. Starting in 1975, Congress began changing the system by requiring states to enact virtually identical laws in a number of ar-

change. There is consensus on several key issues among all of these groups.<sup>78</sup> The areas of agreement are as follows:

1. Paternity should be established as a routine matter at the time of every child's birth. To the maximum extent possible, this should be accomplished through simple nonjudicial processes. If paternity were routinely established, costly adversarial proceedings could be avoided, and more children would have the fundamental prerequisite to obtaining a support award.

2. There should be a national child support guideline to set and periodically modify support awards. A national guideline would bring greater equity to children and reduce the parent's ability to forum shop for the state with the guideline most favorable to him or her.

3. Support should be collected primarily through immediate withholding from the obligated parent's wages. An employer reporting system (W-4) should be implemented so that withholding can begin immediately whenever the obligated parent begins work or changes jobs. A procedure of this kind would vastly improve the rate of collection in cases where the obligated parent was a wage earner.

4. The process for establishing and enforcing orders in interstate cases needs to be overhauled and strengthened. As many cases as possible should be brought in the child's state of residence by greater use of long-arm statutes.

5. Enforcement of medical support orders must be required, and employers must be authorized to put children on available health insurance plans and facilitate children's use of these services.

There is, however, deep disagreement about how to accomplish these five changes. Some believe that, despite its shortcomings, the existing state-based system can be improved. Others believe that a more radical approach is required. They favor moving some or all aspects of the state system into a national system within the IRS or the Social Security Administration (SSA). This approach is usually referred to as "federalization."

### The State-Based Approach

As part of the Family Support Act of 1988, Congress authorized the establishment of the U.S. Commission on Interstate Child Support ("the Commission").<sup>79</sup> The 15 members of this Commission are the

---

*Despite nearly two decades of federal and state activity, there has been very little improvement in the likelihood that children will actually receive child support.*

---

eas. This "federalization of family law" has had a great impact on how paternity is established and how support awards are enforced. The federal law has also caused the creation of state agencies which provide low- or no-cost services to custodial parents.

Nonetheless, each state's system is distinctive, and no state has a truly effective system in place even for IV-D cases. This multiplicity of systems also makes interstate establishment and enforcement of support obligations problematic. As a result, despite nearly two decades of federal and state activity, there has been very little improvement in the likelihood that children will actually receive child support.

## The Current Debate

There is little disagreement that the child support enforcement system is in need of further revision. Indeed, IV-D clients, advocates, lawyers, state administrators, state officials, federal legislators, and two federal commissions have recommended

most vocal proponents of the state-based approach. As articulated in the Commission's Report, their rationale is: ". . . the majority of Commission members was not convinced that the federal government could do a better job than states in establishing and enforcing support. Commission members were concerned about: (1) the loss of creativity at the state and local level, (2) the federalization of one aspect of family law that often arises in the context of other family issues, (3) the existing backlog in federal courts, (4) the lack of an effective federal administrative model, (5) improper identification and distribution of payments, (6) the cost of creating a system that already exists at the state level, and (7) the taking of such a major step prior to evaluating the effects of state automated systems on states' abilities to effectively process cases."<sup>80</sup>

Therefore, the Commission recommended more than 100 changes in current state law and practice. The vast majority of the changes recommended by the Commission would be accomplished by mandates from the federal government to the states. Yet, even within the Commission, there was disagreement about the desirability of federal mandates.<sup>81</sup>

Other advocates of the state-based approach are even more adamantly opposed to federal mandates. They would prefer more federal funding and encouragement to states to adopt model legislation (for example, W-4 reporting). This strategy would bring more funding for the states without requiring that they actually improve the system. Many state administrators would also prefer less stringent audit standards so that states would have to pay less attention to compliance with every single federal mandate.<sup>82</sup>

Moreover, the Commission's recommendations rely heavily on a belief that many of the problems inherent in the state-based model can be addressed by the development of "an integrated, automated network linking all the states to provide quick access to location and income information . . . and a registry of support orders."<sup>80</sup> Because federal legislation requires all states to have automated statewide systems by October 1995,<sup>83</sup> the Commission envisions that it will be possible to build these systems into an integrated national system.<sup>84</sup> Unfortunately, a recent General Accounting Office report suggests that many of the state systems

are seriously flawed and will not be functioning on time.<sup>85</sup> Moreover, there is some question as to how quickly (if ever) these 54 independently developed automated systems will be able to communicate with one another.

Another cornerstone of the state-based approach is that every state be required to replace its current interstate child support law with the new Uniform Interstate Family Support Act (UIFSA) recently approved by the National Conference of Commissioners on Uniform State Laws. UIFSA contains broad long-arm jurisdiction, authorizes simpler pro-

---

*Some believe that, despite its shortcomings, the existing state-based system can be improved. Others believe that a more radical approach is required.*

---

cedures for exchanging information and holding hearings when the parties live in different states, and streamlines implementation of income withholding orders when the noncustodial parent's employer does business in a state other than the custodial parent's.<sup>86</sup>

The strength of the state-based approach is that it builds on existing good practices and engenders little political controversy among powerful interests such as judges, lawyers, and state legislators and officials. Its weakness is that it rests on the assumption that two totally untested ideas—automation and UIFSA—will radically increase the chances that support enforcement will improve.

Beneath the surface, it also holds a serious tension. Is it any the less "federalization" if Congress requires state legislatures to adopt laws than if Congress federalizes the function altogether? Is the Commission's approach really federalization by a different name? If so, those on the Commission who opposed federal mandates raise a real point. But then one is left simply encouraging states to adopt best practices rather than mandating them. Given the lack of progress under the mandates of the past two decades, isn't this approach tantamount to condemning a large number of the next gen-

eration of children living in single-parent families to poverty?

### The Federal Approach

In May 1992, Rep. Thomas J. Downey (D-NY) and Rep. Henry J. Hyde (R-IL) drafted a proposal to restructure the existing child support system radically. They would have moved the establishment of paternity, the modification of support orders, and the support enforcement function from the states to the federal government. A new agency located in the IRS or SSA would have taken on these responsibilities in a national, universal system.<sup>87</sup> Their proposal was part of a larger scheme which would also encompass a national Child Support Assurance (CSA) system and provide assistance to low-income non-custodial parents to improve their ability to pay support.<sup>88</sup> Their proposal garnered accolades from custodial parents and child support advocates and outrage from noncustodial parents, lawyers, and state and local officials.<sup>89</sup> Some of this opposition was a genuine response that such radical change was neither feasible nor advisable. Some of it was fear that private lawyers and state workers would lose their jobs in a federalized system. Because Rep. Downey was not reelected, it is unclear

those orders (primarily through income withholding) and disburse payments.

Geraldine Jensen, member of the U.S. Commission on Interstate Child Support who dissented from the Commission's report, stated that ". . . America's child support enforcement system fails in almost every possible way to serve the children. The message delivered at every public hearing the Commission held was the same: the system needs radical fundamental restructuring. It needs to put children first!"<sup>92</sup>

To provide a proposal for restructuring of the child support enforcement system with a new vision, Jensen worked with the Ad Hoc Committee to Improve Child Support. They developed a comprehensive and far-reaching proposal for reform which Jensen suggested is the kind of proposal that the Commission should have adopted. The fundamental recommendations of the Ad Hoc Committee to Improve Child Support were: (1) a child support assurance program must be adopted which guarantees that child support will be a regular, reliable source of income for children growing up with an absent parent; (2) responsibility for collecting and distributing child support should be federalized and housed in an agency like the Internal Revenue Service; (3) each state must have in place effective laws and practices to establish paternity and child support orders; and (4) national guidelines must be established to guarantee children a fair level of support.

The major strength of the federalization approach is its ability to create a uniform national system where the amount of child support and the likelihood that support will be paid will no longer depend on the custodial parent's ability to hire a lawyer and pay the attendant costs and where it will not matter if parents reside in different states. Its weaknesses are that it rests on the unproven assertion that the IRS can do a better job than the states and that it engenders violent negative political reaction from powerful constituencies such as the American Bar Association.

### Recommendations

Table 3 graphically illustrates that, despite enormous efforts, the state-based approach to reforming child support enforcement has failed. Further emphasis on this approach alone—as recommended by the U.S. Commission—will simply

---

*" . . . America's child support enforcement system fails in almost every possible way to serve the children. . . . the system needs radical fundamental restructuring. It needs to put children first!"*

---

whether such an innovative proposal will be introduced again. Rep. Hyde is now focused on the part of the proposal to federalize the collection of support.<sup>90</sup>

Others supported a somewhat less radical approach to federalization. Under the name the Ad Hoc Committee to Improve Child Support, a gathering of custodial and noncustodial parent groups, child support advocates, as well as some individual IV-D directors, and one member of the U.S. Commission on Interstate Child Support favored a partial federalization of the system and adoption of Child Support Assurance.<sup>91</sup> They favored establishing a national registry of all child support orders within the IRS. The IRS would enforce

doom a large part of another generation of children living in single-parent families to poverty or near poverty. This state-based approach also runs the risk that the federal government will pour even more money into a state-based system which has yet to show that it is capable of significant improvement.

Yet, reaction to the Downey-Hyde proposal demonstrates that a move to federalize the whole child support enforcement system has the potential to engender so much opposition that all efforts at reform could be stalemated. This result—like insistence on a pure state-based model—has terrible consequences for another generation of children. A CSA system could alleviate some of the problem but, in the current fiscal climate, it is hard to envision Congress authorizing a CSA unless payments collected from noncustodial parents offset most of the cost. Greatly improved child support enforcement is a fiscal prerequisite to CSA. So we come full circle. Insisting on full federalization dooms CSA.

Before giving in to despair, a middle ground must be developed. A plan needs to be put forth which strengthens that part of the state system which can be strengthened and moves to the federal level those functions which truly do need to be federalized if a CSA is to be implemented. Some will disagree with different pieces, but the following is suggested as a rough outline of how to structure a reform proposal.

1. Leave establishment of paternity at the state level. Require every state to offer voluntary establishment of paternity by affidavit at the hospital (for newborns) and the birth records agency (for other children). Require states to streamline contested case processing and provide federal funding for genetic testing research so that the cost of genetic tests is low and their reliability is high.

2. Develop a much greater capacity to locate parents at the state level. Require every state's child support computer system to have the ability to access data in every other computerized data base maintained by the state. Make this expanded state data base available to the computerized child support system of every other state so parents can be located across state lines. In addition, allow states access to federal records—including federal tax returns—when informa-

tion about parents' income and assets is needed so that proper support awards can be established and then enforced.

3. Enact a national child support guideline based on the percentage of income model so that the children of similarly situated noncustodial parents will be similarly supported. As Garfinkel's article in this journal issue indicates, there is much debate about which guideline is best. However, if one's goal is ease of administration, the percentage of income guideline seems best. It also addresses the problem inherent in the income shares model that awards go down when custodial parent income goes up, creating a work disincentive like the one which plagues the AFDC system.

---

***A plan needs to be put forth which strengthens that part of the state system which can be strengthened and moves to the federal level those functions which truly do need to be federalized.***

---

4. Leave the establishment and modification of support orders at the state level so that the issues can be addressed in the context of property distribution, custody, and visitation. Require that states use the national guideline as a rebuttable presumption of support to be paid. Also require all states to adopt UIFSA so that interstate cases can be handled expeditiously.

5. Establish a national registry for child support orders within the IRS. Every time a new order is entered, an abstract (containing the basic information needed for enforcement) would also be entered in the national registry. Modifications would also be entered in the registry as made.

6. Transition the enforcement of all child support orders from the states to the IRS. The process could begin with new orders, adding old orders as they are modified. Or interstate orders could be done first, followed by new orders and modified orders. Over a decade, this should bring most orders to federal enforcement and phase out state activity in this area, leaving states to focus their re-

sources on establishing paternity and obtaining orders.

7. Authorize the IRS to administer wage withholding for child support. Supplement this with a quarterly payment system (either in advance or retrospectively) for the self-employed. Require automatic use of all other IRS collection mechanisms against those who do not pay.

8. Have the IRS keep records and disburse the payments (including CSA payments) to custodial parents. This system would provide universal, federal

service at the collection and distribution end. Parents would be free to use the private system or the public system before that time to locate the noncustodial parent and his or her assets, establish paternity, and set or modify the support obligation. More affluent parents, especially those with significant property to distribute, would be free to pursue their rights under current state laws. Once the issue came down to collecting what is owed to children, however, the public system would be mandatory and swift.

We owe this much to our children.

1. U.S. Bureau of the Census. *Poverty in the United States: 1991*. Current Population Reports, Series P-60, No. 181. Washington, DC: U.S. Government Printing Office, 1992, p. 6.
2. See note no. 1, U.S. Bureau of the Census. This figure is obtained by dividing the total number of mother-only families (7,991 million) by the total number of single-parent families (9,504 million).
3. Bane, M.J. Marital disruption and the lives of children. *Journal of Social Issues* (1976) 32: 112. Also see Solomon, C. *Mother-only families: Trends and issues*. Washington, DC: Congressional Research Service, 1993; and U.S. General Accounting Office. *Mother-only families: Low earnings will keep many children in poverty*. HRD-91-62. Washington, DC: U.S. General Accounting Office, 1991.
4. See note no. 1, U.S. Bureau of the Census, pp. 126-27.
5. See note no. 1, U.S. Bureau of the Census, p. 115.
6. It is beyond the scope of this article to make distinctions between the financial circumstances of children in various types of single-parent families. The focus here is on child support awards because the majority of these children are entitled to them by law. However, careful analysis of the economic conditions of the various types of single-parent families may indicate needs that are unique to the family type, for example, single-parent family due to divorce, single-parent family due to multiple divorces, or single-parent family due to out-of-wedlock birth(s).
7. See note no. 3, U.S. General Accounting Office, p. 11.
8. 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, p. 5, Table C.
9. See note no. 8, U.S. Bureau of the Census, p. 4, Table B. According to 1989 data, 51% of the mothers received all that was owed, 25% received partial payment, and 24% received no payment.
10. See note no. 8, U.S. Bureau of the Census, p. 1.
11. Meyer, D., and Garasky, S. Custodial fathers: Myths, realities, and child support policy. Institute for Research on Poverty, Discussion Paper No. 982-92. Madison: University of Wisconsin, 1992, p. 28, Table 6.
12. The General Accounting Office estimates that at least one quarter of all child support cases involve parents who live in different states. Another 11% are cases where the noncustodial father's residence is unknown: both fathers living in different states from the ones in which their children live and fathers living abroad fall into this category. The custodial mothers in these cases were even less likely than those involved with in-state cases to receive child support. U.S. General Accounting Office. *Interstate child support: Mothers report receiving less support from out-of-state fathers*. HRD-92-39FS. Washington, DC: U.S. General Accounting Office, 1992, p. 3.
13. Garfinkel, I., and Oellerich, D. Noncustodial fathers' ability to pay child support. In *Child support assurance*. I. Garfinkel, S. McLanahan, and P. Robins, eds. Washington, DC: The Urban Institute Press, 1992, p. 73, Table 3.6.
14. There are a variety of studies on the issue each with some methodological limitations. Several of the studies suggest that the typical noncustodial father has income in the \$25,000-

- to \$30,000-per-year range, however. The most complete of the studies, which provides a breakdown by fathers' race and marital status, is Garfinkel, I., and Oellerich, D. Noncustodial fathers' ability to pay child support. *Demography* (May 1989) 26:219-33.
15. See, for example, *Barber v. Barber*, 62 U.S. 582 (1859); *Penoyer v. Neff*, 95 U.S. 714 (1878); *Maynard v. Hill*, 125 U.S. 190 (1888); *Simms v. Simms*, 1275 U.S. 162 (1899); *In re Burrus*, 136 U.S. 586 (1890).
  16. *Sosna v. Iowa*, 419 U.S. 393, 404 (1975).
  17. Occasionally, the paternity of a marital child can also be challenged. See, for example, *People in the Interest of L.J.*, 835 P.2d 1265 (Col. App. 1992).
  18. For a historical perspective on these issues, see Krause, H. *Illegitimacy: Law and social policy*. Indianapolis, IN: Bobbs-Merrill, 1971.
  19. Roberts, P. *Childhood's end*. Uniondale, NY: National Child Support Assurance Consortium, February 1993. Available from the Child Support Assurance Consortium, 773 Fulton Avenue, Uniondale, NY 11553. This study examines the child support experience of 300 low- and moderate-income mothers. It documents what happened to the families when the fathers left and failed to pay support. It also examines the experience of the mothers in trying to obtain support. There was no significant difference in the findings across the four sites.
  20. 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.
  21. According to the Census Bureau, the women most likely to actually obtain child support are white, have attended four or more years of college, and/or have remarried. Those least likely to receive support are African-American, high school dropouts, and/or they never married. See note no. 8, U.S. Bureau of the Census.
  22. Glick, P.C. American families: As they are and were. *Sociology and Social Research* (April 1990) 74:139-45.
  23. See 118 Cong. Rec. 8291 (1975) (remarks of Sen. Russell Long [D-LA]).
  24. See 42 U.S.C. §651 *et seq.*
  25. See 42 U.S.C. §651.
  26. See 42 U.S.C. §654(4).
  27. See 42 U.S.C. §§602(a) (26) and 1396k. "Good cause" can be found when the case involves issues of domestic violence, when the pregnancy was a result of rape or incest, or when adoption is being considered, 45 C.F.R. §232.42.
  28. See 42 U.S.C. §654(6).
  29. See 42 U.S.C. §655(a).
  30. U.S. Department of Health and Human Services, Administration of Children and Families, Office of Child Support Enforcement. *Sixteenth Annual Report to Congress*. Washington, DC: DHHS, 1993. The total number of full-time workers (Table 63) was divided by the full-time case load (Table 34) to obtain this figure.
  31. In 1984, this provision was changed slightly to allow custodial parents to have the first \$50 collected on time each month without reducing their AFDC grant or eligibility. 42 U.S.C. §602(a) (8) (A) (vi). A few states allow clients to keep even more than \$50, U.S.C. §602(a) (28).
  32. For a more detailed description and an overview of the legal challenges brought against these systems for their poor performance, see Roberts, P., and Mason, M. *Improving the quality of IV-D programs through litigation*. Chicago: National Clearinghouse for Legal Services, 1989. Available from the National Clearinghouse for Legal Services, 205 W. Monroe Street, 2nd Floor, Chicago, IL 60606-5013.
  33. *Mills v. Halbluetzel*, 456 U.S. 92 (1982); *Pickett v. Brown*, 462 U.S. 1 (1983). See, also *Clark v. Jeter*, 108 S.Ct. 1910 (1988).
  34. See 42 U.S.C. §666(a) (5), now codified at 42 U.S.C. §666(a) (5) (A)(i).
  35. See 42 U.S.C. §666(a) (5) (B).
  36. See 42 U.S.C. §668.
  37. For a more extensive discussion of recent developments in this area, see Roberts, P. Paternity establishment: An issue for the 1990s. *Clearinghouse Review* (1993) 26:1019.
  38. See, for example, Mo. Ann. Stat. §454.485; Or. Rev. Stat. §416.430.

39. See, for example, Ariz. Rev. Stat. Ann. §12-852; Mass. Gen. Stat., Ch. 209C, §11; Va. Code Ann. §20-49.1.
40. See, for example, Ohio Rev. Code Ann. §2301.357(B); Wash. Rev. Stat. 70.58.080.
41. In *River v. Minnich*, 107 S.Ct. 3001 (1987), the Supreme Court upheld the use of a “preponderance of the evidence” standard, rather than proof “beyond a reasonable doubt.”
42. See, for example, Ark. Code Ann. 9-10-108(a); Me. Rev. Stat. tit. 19, §§526.1 and 280.1(d); Wy. Stat. §14-2-109(c).
43. See, for example, Mt. Code Ann. §40-5-231 *et seq.*
44. See 42 U.S.C. §666(a)(2) and 45 C.F.R. §303.101(b)(2).
45. For a more detailed discussion, see Roberts, P. Expedited processes and child support enforcement: A delicate balance. Parts 1 and 2. *Clearinghouse Review* (1985) 19:483 and 620.
46. See Mich. Comp. Laws Ann. §§552.501 *et seq.*
47. See, for example, Col. Stat. Ann. 26-13.5-101 *et seq.*
48. For a more detailed discussion, see Chambers, D. *Making fathers pay: The enforcement of child support*. Chicago: University of Chicago Press, 1979.
49. See 42 U.S.C. §666(b) (3) (A)
50. See 42 U.S.C. §666(a) (8).
51. See 42 U.S.C. §666(b) (5).
52. See 42 U.S.C. §654 (19).
53. See, for example, Ohio Rev. Code §2301.35; Va. Code Ann. §20-60.5.
54. See, for example, Col. Rev. Stat. §26-13-114(7) (f).
55. See 42 U.S.C. §405(c)(2)(C).
56. See, for example, Wash. Rev. Code §26.23.040; Mass. Gen. L. ch. 62E.
57. U.S. General Accounting Office. *Interstate child support: Wage withholding not fulfilling expectations*. HRD-92-65BR. Washington, DC: U.S. General Accounting Office, 1992.
58. U.S. General Accounting Office. *States proceed with immediate wage withholding: More HHS action needed*. HRD-93-99. Washington, DC: U.S. General Accounting Office, 1993.
59. See 42 U.S.C. §664. For a more detailed description of this program, see Roberts, P. Federal income tax intercept. *Clearinghouse Review* (1985) 19:853.
60. See 42 U.S.C. §666(a) (3). For a more detailed description of this program, see Roberts, P. State income tax intercept. *Clearinghouse Review* (1986) 19:1168.
61. See 42 U.S.C. §652(b) and 26 U.S.C. §6305.
62. See 42 U.S.C. §666(a) (4).
63. See 42 U.S.C. §666(a) (1) and (a) (8).
64. See 42 U.S.C. §666(a) (7).
65. See, for example, Vt. Stat. Ann. tit. 15, §792.
66. See, for example, Calif. Welf. & Inst. Code §11350.6.
67. For a more complete discussion, see Roberts, P. Securing medical insurance coverage for children through the child support enforcement system. *Clearinghouse Review* (1992) 25:1436.
68. See Va. Code §20-79.3(5). See, also, Minn. Stat. Ann. §518.1271(3) and (4).
69. For a more complete discussion, see Roberts, P. Enforcing medical support orders. *Clearinghouse Review* (1992) 25:1562.
70. See, for example, U.S. Congress, House Committee on Ways and Means, Subcommittee on Human Resources. *The child support enforcement program: Policy and practice*. WMCP 101-19. Washington, DC: Congressional Research Service, 1989; and Mathematics Policy Research. *Income withholding, medical support, and services to non-AFDC cases after the Child Support Enforcement Amendments of 1984*. Princeton, NJ: Mathematica Policy Research, 1991.
71. See, for example, U.S. General Accounting Office. *Child support: Need to improve efforts to identify fathers and obtain support orders*. HRD-87-37. Washington, DC: U.S. General Accounting Office, April 1987; *Child support: State progress in developing automated enforcement systems*. HRD-89-10FS. Washington, DC: U.S. General Accounting Office, February 1989; *Child support collection efforts for non-AFDC families*. HRD-85-3. Washington, DC: U.S. General Accounting Office, October 3, 1984; *Child support enforcement: A framework for evaluating*

- costs, benefits, and effects.* PEMD-91-6. Washington, DC: U.S. General Accounting Office, March 1991; *Child support enforcement: More states reporting debt to credit bureaus to spur collections.* HRD-90-113. Washington, DC: U.S. General Accounting Office, July 1990; *Child support enforcement: Opportunity to defray burgeoning federal and state non-AFDC costs.* HRD-92-91. Washington, DC: U.S. General Accounting Office, July 1990; *Interstate child support: Better information needed on absent parents for case pursuit.* HRD-90-41. Washington, DC: U.S. General Accounting Office, May 1990; *Medicaid: Ensuring that noncustodial parents provide health insurance can save costs.* HRD-92-80. Washington, DC: U.S. General Accounting Office, June 1992; *States' progress in implementing the 1984 amendments.* HRD-87-11. Washington, DC: U.S. General Accounting Office, October 1986.
72. U.S. General Accounting Office. *Interstate child support: Case data limitations, enforcement problems, views on improvements needed.* HRD-89-25. Washington, DC: U.S. General Accounting Office, 1989; see note no. 12, U.S. General Accounting Office.
  73. These treaties include the United Nations Convention on the Recovery of Maintenance Abroad, the 1958 Hague Convention Concerning the Recognition and Enforcement of Decisions Relating to Maintenance Obligations Toward Children, the 1973 Hague Convention on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations of Children and Spouses, the 1973 Hague Convention on the Law Applicable to Maintenance Obligations, and the 1980 Hague Convention on International Access to Justice.
  74. See note no. 30, U.S. Department of Health and Human Services. This figure was obtained by dividing the average number of cases in which a collection was made (Table 39) by the total number of cases with an order (Table 35). If one looks at the entire IV-D case load, a collection is made in fewer than 20% of all cases (Table 39 divided by Table 35).
  75. For a more detailed discussion of the reasons for nonpayment as articulated by the parents themselves, see Furstenberg, Jr., F.F., Sherwood, K.E., and Sullivan, M.L. *Caring and paying: What fathers and mothers say about child support.* New York: MDRC, July 1992.
  76. Furstenberg, Jr., F.F. Marital disruptions, child custody, and visitation. In *Child support: From debt collection to social policy.* A.J. Kahn and S.B. Kamerman, eds. Newbury Park, CA: Sage, 1988, pp. 277-305.
  77. See, for example, H.R. 1961, 103rd Cong., 1st Sess., §101 (a) (1993).
  78. Endorsers of most or all of these basic ideas include the National Commission on Children, the U.S. Commission on Interstate Child Support, the American Public Welfare Association, the National Conference of State Legislatures, and the Ad Hoc Committee to Improve Child Support.
  79. See P.L. 100-485, 104 Stat 1388, codified as a note to 42 U.S.C. §666.
  80. See note no. 20, U.S. Commission on Interstate Child Support, p. xiii.
  81. See note no. 20, U.S. Commission on Interstate Child Support, Appendix B (views of Schuyler Babb, Judge Battle Robinson, and Judge Frances Rothschild).
  82. See, for example, National Conference of State Legislatures, Committees on Human Services and Law and Justice, Official Policy on Child Support Enforcement, 1992.
  83. See 42 U.S.C. §654(16).
  84. See note no. 20, U.S. Commission on Interstate Child Support, chapter 5.
  85. U.S. General Accounting Office. *Child support enforcement, timely action needed to correct systems development problems.* IMTEC-92-46. Washington, DC: U.S. General Accounting Office, August 1992.
  86. See note no. 20, U.S. Commission on Interstate Child Support. The full Act is printed as Appendix E.
  87. The Downey-Hyde Child Support Enforcement and Assurance Proposal (May 12, 1992) available from the Subcommittee on Human Resources, Committee on Ways and Means, B-317 Rayburn HOB, Washington, DC 20515.
  88. For a more detailed analysis of Downey-Hyde, see Roberts, P. An idea whose time has come: Child support assurance. *Clearinghouse Review* (1992) 26:766.
  89. Hearings Before the Subcommittee on Human Resources of the Committee on Ways and Means, 102nd Cong., 2d Sess., June 30 and July 1, 1992.
  90. See H.R. 773, 103rd Cong., 1st Sess. (1993).
  91. Child support for children: Making it work. July 1992. Endorsers of this document included IV-D directors from Georgia, Guam, Indiana, New Mexico, Texas, and Virginia, as well as the Organization for the Enforcement of Child Support, Second Husbands' Alli-

ance for Fair Treatment, Children's Defense Fund, Association for Children for Enforcement of Support, Inc., and the Center for Law and Social Policy. This document was assembled by the Ad Hoc Committee on Child Support, and copies are available from the Center for Law and Social Policy, 1616 P Street, NW, Suite 50, Washington, DC 20036.

92. See note no. 20, U.S. Commission on Interstate Child Support, Appendix B (dissenting opinion of Geraldine Jensen).