

Realistic Child Support Policies that Support Successful Re-entry

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Why Deal With Child Support?

- 55% of state inmates are parents.
- 1/2 of parents in prison have an open child support case. In open child support cases, 1/2 have a support order and 1/2 are waiting for paternity or support order.
- Typically, parents owe \$10,000 entering prison and \$20,000+ upon release.
- *Strategy:* Help re-entering fathers maintain employment and pay steady child support over the long haul by managing child support obligations more flexibly and strengthening link between parents and children.

Child Support and Work

- Typical support orders range from \$250-\$300+ per month, more for multiple families.
- Most child support is collected involuntarily through payroll deductions. *The main way to avoid child support is to avoid formal employment.*
- Some poor fathers respond to child support pressures by “hustling” – making money in the underground economy.
- Evidence that increased incarceration *and* stronger child support enforcement have contributed to the decline in employment by less-educated African-American young men.

Link Between Child Support Debt and the Underground Economy

Fathers enter the underground economy to:

- ❑ increase ability to pay ongoing support
- ❑ satisfy purge payments
- ❑ meet parole conditions
- ❑ avoid incarceration for non-payment
- ❑ avoid payroll deductions
- ❑ avoid TANF distribution rules that allow states to keep payments



Eight Child Support Strategies

1. Assess parental status and child support near prison intake.
2. Participate in child support process during prison.
3. Help maintain parent-child contact during prison.
4. Set realistic initial orders.
5. Reduce or suspend orders during prison.
6. Manage child support debt after prison.
7. Provide post-prison child support services.
8. Distribute payments to families

Strategy #1: Assessing Parental Status at Prison Intake

- Prisons do not generally identify parental status.
- Assessment can identify prison programming needs, safety, and child support status.
- Knowing parental status is important for post-release planning.
- A few states have computer interfaces between corrections and child support agencies.

Strategy #2: Participating in Child Support Process During Prison

- While parent is incarcerated, the child support agency may establish paternity or child support default orders. About half of states do not.
- Incarcerated parents should be offered free genetic tests before establishing paternity.
- Incarcerated parents should receive notice and opportunity to participate.
- Telephone hearings can provide access (e.g., Texas).

Strategy #3: Supporting Parent-Child Contact and Engagement

- Work and family are key to successful re-entry. Some parents are powerfully motivated to do right by their children.
- Most parents are incarcerated 100 miles or more away from their children. Maintaining regular parent-child contact during prison is important to parents and children.
- Parenting and couples education can help prepare inmates for family re-unification.

Strategy #4: Setting Realistic Orders

When child support orders are established:

- ❑ Parents often misunderstand the process.
- ❑ Parents often fail to show up, resulting in default orders.
- ❑ Parents often do not have a meaningful opportunity to tell their story.
- ❑ Policies do not adequately address low-income families and fathers.

Setting Realistic Orders (cont')

- Every state has numeric child support guidelines. Guidelines must be reviewed every 4 years. (42 U.S.C. 667)
- Child support is supposed to be based on “ability to pay,” but policies sometimes do not result in realistic orders when parents have little income. Sometimes there simply is not enough money to go around.
- 50-65% of a paycheck can be withheld to comply with a child support order under Consumer Credit Protection Act. (15 U.S.C. 1673)

Setting Realistic Orders (cont')

Other typical guidelines policies:

- ❑ Incarceration is treated as “voluntary unemployment.” Over 1/3 of states bar adjustment of order due to this standard.
- ❑ When parents do not work, full-time, full-year, income is assumed (“imputed”).
- ❑ Sometimes, retroactive support, interest, welfare debt, and Medicaid childbirth costs are added on.
- ❑ Multiple family cases are not coordinated.

Setting Realistic Orders (cont')

Recommendations:

- ❑ Eliminate “voluntary unemployment” policy.
- ❑ Limit use of default orders and imputed income.
- ❑ Include self-support reserve.
- ❑ Represent low-income parents in guidelines policy review process.
- ❑ Limit interest, retroactive support, and other charges for low-income parents.
- ❑ Coordinate multiple family cases.
- ❑ Use administrative processes or specialized court dockets.
- ❑ Engage CBOs in more intensive child support case management.

Setting Realistic Orders (cont')

- **California** give obligors a year to ask for reconsideration of default orders based on inaccurate income information.
- **Connecticut** sets orders based on actual, not imputed, income during incarceration. Order can be adjusted for 12 months after initial entry and notice, and state must make motion to adjust if it determines that additional information on ability to pay justifies adjustment. (2003 legislation)
- **Texas** allows non-custodial parents to answer a summons and complaint by calling the court, minimizing default orders.

Strategy #5: Reduce or Suspend Orders During Incarceration

- All states have review and adjustment (modification) procedures (42 U.S.C. 666(a)(10)).
- Order can be adjusted or suspended on case-by-case basis or automatically.
- Order should be adjusted or suspended at prison intake to prevent arrears build-up and reviewed again after release.

Reduce or Suspend Orders During Incarceration (cont')

- ❑ **North Carolina** has a law that allows child support orders to be suspended when a parent is incarcerated (General Statute 50-13.10(d)).
- ❑ **Massachusetts** child support staff meet with inmates at intake, file a modification request, and suspend enforcement. After release, a court hearing reviews order.
- ❑ **Oregon** has a rebuttable presumption that an incarcerated parent with income of less than \$200 per month is unable to pay any support. The state will reduce an order to zero if the parent requests modification and is expected to be in prison for at least six more months. (ORS 416.425, rule 137-055-3300).
- ❑ **District of Columbia** criminal court judges are required to inform individuals with a support order who are sentenced to prison for more than 30 days that they may petition for modification or suspension of payments during incarceration. (Official Code, title 23, chapter 1.)

Strategy #6: Manage Child Support Debt

- The “Bradley amendment” prohibits retroactive modification of support obligations (42 U.S.C. 666(a)(9)).
- However, states do have the authority under federal law to forgive, waive, suspend, or “leverage” permanently assigned child support debt owed to the state to repay welfare, for example, by tying forgiveness to work participation. (OCSE-PIQ-00-03.)
- Some states are testing arrears management approaches.

Manage Child Support Debt (cont')

- ❑ **California** implemented Compromise of Arrears Program (COAP), permitting the compromise of permanently assigned arrears in exchange for partial payment of a delinquent child support debt. (Family Code Section 17560.)
- ❑ **Maryland Arrears Leveraging Pilot Project** offered non-custodial parents with at least one active/current child support case in Baltimore City who successfully completed an employment program offered by specified community-based organizations were eligible for arrears forgiveness based on program participation and current support payments.
- ❑ **Massachusetts** child support agency has discretionary authority to make “equitable adjustments” to arrears accumulated during unemployment or incarceration. Practice is to negotiate interest and fees to leverage payments. (830 CMR 119A.6.2.)
- ❑ **Washington State** established an administrative dispute resolution process through its Conference Boards to hear parental complaints and requests to adjust orders and arrears. An inmate may participate in telephone hearing with the Conference Board telephone hearing.

Strategy #7: Provide Post-Prison Child Support Services

Five goals for post-prison child support services:

- ❑ to help re-entering parents maintain employment.
- ❑ to establish steady and long-term child support payments, even if modest.
- ❑ to reconnect parent and child whenever in the child's best interests.
- ❑ to help prevent recidivism.
- ❑ to help prevent another generation from going to prison.

Provide Post-Prison Child Support Services (cont')

Recommendations:

- ❑ CBOs providing employment, re-entry, fatherhood, or legal services should develop a child support case management component.
- ❑ Include families in case planning.
- ❑ Include services to resolve child access disputes.
- ❑ Develop collaborations among child support, judicial, legal, employment, corrections, and community supervision agencies.

Provide Post-Prison Child Support Services (cont')

The following policies should be reviewed:

- “purge payments”
- incarceration for non-payment
- parole conditions
- drivers license suspension
- credit bureau reporting
- cumulative financial obligations, such as restitution and incarceration-related charges.

Strategy #8: Distribute Payments to Families

- The Deficit Reduction Act provides options and financial incentives for states to increase the support passed through to current and former TANF families.
- States have the authority under the new law to pay nearly all of the support to families (“full distribution”).

Distribute Payments to Families (cont.)

Wisconsin research finds that when support is distributed (“passed through”) to TANF children:

- Fathers pay more support.
- Fathers work less in the underground economy.
- Fathers establish paternity faster.
- Among families with regular support, couple conflict may be reduced.
- State cost fully offset by increased payments by fathers and reduced welfare use by families.

CSG Recommendations

- ❑ Identify and address child support at prison intake.
- ❑ Suspend enforcement during incarceration.
- ❑ Increase inmate participation at every stage of child support proceedings (telephone hearings, written submissions).
- ❑ Expeditiously review and adjust orders.
- ❑ Set orders based on actual, not imputed, income.
- ❑ Eliminate “voluntary unemployment” guidelines standard.
- ❑ Provide paternity genetic tests free of charge.
- ❑ Provide parenting programs.
- ❑ Assess for family violence and facilitate parent-child contact unless unsafe.
- ❑ Adopt policies encouraging regular child support payments upon release.
- ❑ Develop post-release plan that addresses child support.
- ❑ Assess policies linking nonpayment to incarceration (revocation of parole, contempt).
- ❑ Establish liaison staff in corrections, probation, parole, and child support agencies.
- ❑ Work with community-based fatherhood and reentry programs.

The Council of State Governments and ten other organizations formed the Re-Entry Policy Council, a partnership funded by the U.S. Departments of Justice, Labor, and HHS. See Policy Statements 8, 13, 18, 23, and 34.

A Few Resources

- **Federal Office of Child Support Enforcement,** *Incarceration, Reentry and Child Support Issues, and Working with Incarcerated and Released Parents,* <http://www.acf.hhs.gov/programs/cse/pubs/2006/reports/>
- **Council of State Governments,** *Report of the Reentry Policy Council,* www.reentrypolicy.org
- **Urban Institute,** www.urban.org
- **Center for Policy Research,** www.centerforpolicyresearch.org
- **Public/Private Ventures,** <http://www.ppv.org>
- **Institute for Research on Poverty,** <http://www.irp.wisc.edu/>
- **CLASP,** www.clasp.org

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