

PROVIDING EQUAL ACCESS TO JUSTICE

Child Support Policy Fact Sheet

Introduction

This moment is ripe for increasing equal access to justice in the child support program. A just and equitable decision in a child support case takes into account the factual circumstances and financial needs of all members of the family—children, custodial mothers, and noncustodial fathers. Incorporating family-centered policies, processes, and services sets the stage for both parents to achieve a resolution to their child support cases that provides support for children, supports healthy family relationships, and reassures both parents that the program is fair.¹

This publication is part of the **Centering Child Well-Being in Child Support Policy** series produced by Ascend at the Aspen Institute and Good+Foundation to highlight family-centered child support policies. This fact sheet discusses effective policies and services to improve access to justice in the child support program.

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What the Research Shows

Almost all custodial families in the child support program have only one parent living in the home, usually a mother. Custodial families in which a child lives with the mother but not the father have significantly lower incomes than other families.² Custodial families with low incomes are disproportionately represented in the child support program caseload.³ The racial and ethnic composition of custodial mothers who participate in the child support program is not significantly different than those who do not receive program services. However, because nearly half of all Black children live with one parent, compared to a quarter of white children, Black families as a whole are overrepresented in the child support program.⁴

Child support is a significant source of income for custodial families with low incomes who receive it, reducing income disparities between custodial families and two-parent families.⁵ At the same time, child support policies can exacerbate disparities for noncustodial parents with low incomes. The research shows a strong link between noncustodial parent earnings and child support payments.⁶ In Wisconsin and Maryland, more than 90 percent of the noncustodial parents who did not make any child support payments had unstable employment and earnings below \$10,000 per year.⁷ Noncustodial parents with reported incomes of \$10,000 or less owe 70 percent of the child support debt.⁸

Although incarceration rates have fallen over the last 15 years, Black men are incarcerated at almost six times the rate of white men and more than twice the rate of Hispanic men.⁹ A history of incarceration is relatively common for fathers with low incomes in the child support caseload.¹⁰ Fathers who have been incarcerated earn less and pay less child support compared to fathers who were never incarcerated, and they owe a disproportionate amount of arrears.¹¹

Some noncustodial fathers are incarcerated specifically for nonpayment of child support. Among noncustodial parents with child support debts participating in the *Fragile Families and Child Wellbeing Study* (FFCWS), a large-scale study following almost 5,000 children born in large U.S. cities since 1998, 14 percent went to jail for nonpayment of child support within the first nine years of their children's lives.¹² A Wisconsin study determined that about 15,000 noncustodial parents in the state between 2000 and 2010 experienced some period of incarceration due to civil or criminal child support charges.¹³ Interviews identified county-by-county variations in the use of civil contempt proceedings and criminal nonsupport prosecutions, but there was a shared concern about the cost and a lack of knowledge regarding their overall effectiveness or the extent to which the use of civil contempt leads to parental incarceration.¹⁴

Although there is evidence that child support policies and practices exacerbate existing income disparities among fathers with low incomes, there is little research examining whether child support policies generate racial and ethnic disparities apart from income status.¹⁵ While some state child support programs collect sufficient race and ethnicity data to measure and monitor disparities within the program, the Office of Child Support Enforcement (OCSE) does not collect this information at the federal level, making it difficult to obtain a national picture.

In one of the few studies analyzing racial disparities in the child support program, Black noncustodial parents in Wisconsin were much more likely than white parents to have a warrant issued for failing to show up for the hearing or to comply with the contempt conditions set by the judge, but they were less likely to be picked up on the warrant and jailed. Younger parents, parents with no or low earnings, and parents with high debts were the most likely to have warrants issued, although these characteristics did not increase the likelihood of getting picked up and jailed.¹⁶ Another study using FFCWS data found that there were no significant differences in child support enforcement actions based on race, but the TANF status of custodial parents was associated with increased use of punitive enforcement actions against noncustodial parents.¹⁷

The perception of procedural fairness is an important predictor of whether people comply with family court decisions and other legal orders, whatever their social, economic, or racial backgrounds or previous experiences with the legal system.¹⁸ If people perceive the process to be fair, they are more likely to comply with a decision, whether or not the outcome is favorable to them.¹⁹ Legitimacy, more than deterrence, is the main reason people accept and try to comply with court orders.²⁰ Five key aspects of people's interactions with court and agency staff influence their trust and confidence in the process: respect, voice, neutrality, understanding, and helpfulness.²¹

There is evidence suggesting that perceived fairness increases noncustodial fathers' compliance with child support obligations in divorce cases.²² However, both noncustodial fathers and the general public consider several aspects of the child support process unfair and counterproductive.²³ Noncustodial fathers with low incomes are less likely to comply with child support requirements that they perceive to be unfair, counterproductive, or punitive.²⁴ Perceptions of the courts are affected by people's overall experience with the legal system.²⁵ People of color and those with low incomes report higher rates of contact with the criminal and civil legal systems and more negative consequences.²⁶

The *Child Support Noncustodial Parent Employment Demonstration (CSPED)*, a multistate research study that tested a new approach to child support services for noncustodial parents with low incomes and barriers to employment who are behind on their child support payments, including integrated case management, child support, employment, and parenting services, found that noncustodial parents reported substantially higher satisfaction with child support services (68 versus 46 percent).²⁷ A follow-up study of CSPED found that Black parents reported lower perceptions of fair treatment than white parents, but for the subset of Wisconsin participants, Black parents who reported fair treatment paid more and had higher compliance rates.²⁸

Another multistate federal research project, *Procedural Justice-Informed Alternatives to Contempt (PJAC)*, aimed to address noncustodial parents' reasons for nonpayment, improve the consistency of their payments, and promote positive engagement with the child support program and custodial parents by incorporating procedural justice principles into child support outreach, engagement, and case management as an alternative approach to civil contempt proceedings for noncustodial parents with a history of not paying child support. The project included enhanced investigation, case action plans, case conferences, enhanced child support services (such as support order modification, debt reduction, driver's license reinstatement, and parenting time assistance), referrals to supportive services, and specialized staff training. Over 11,000 noncustodial parents were part of the random assignment study and represented a group that was especially difficult to obtain payment from.

The study found that PJAC services led to a nearly 60 percent reduction in civil contempt filings, improved noncustodial parent trust and cooperation, increased case information, and improved caseworker satisfaction.²⁹ However, noncustodial parents indicated in interviews that improved interactions with child support staff members did not translate into an improved sense that the child support program was taking their financial circumstances into account in setting and enforcing support orders or into improved views about the child support program overall.³⁰

What Isn't Working

Surveys and interviews of people who had been involved in the legal system identify persistent racial and income gaps in perceptions of whether the state courts are fair and impartial and provide equal justice for all. Respondents say that courts treat Black litigants and litigants with low incomes worse than others, and that judges do not understand the challenges facing the people who appear in their courtrooms.³¹ Annual public opinion surveys of registered voters conducted for the National Center for State Courts (NCSC) have charted improvements in perceived fairness over the past decade, but they also have shown similar racial and income gaps in perceptions of fairness and equity, and public concerns about a two-tiered legal system and access to justice in rural areas.³²

An NCSC report published in 2015 found that three-fourths of all civil cases involved at least one self-represented, or *pro se* party, usually the defendant, who did not have an attorney. Most cases were resolved by default judgment or dismissal without any formal adjudication, and many cases lacked a sufficient evidentiary basis. In addition, many court decisions in uncontested cases were not supported by adequate documentation or were based on inaccurate information. Defendants often did not receive hearing notices and lacked knowledge about court processes.³³

In interviews of people involved in the criminal and civil legal systems, many people reported that they did not understand essential court processes and did not have a voice in the process. They reported being confused, apprehensive, stressed, intimidated, and unable to obtain information or to get out their side of the story. Some people expressed feeling disrespected and not having their concerns taken seriously.³⁴

Many noncustodial fathers participating in the child support program have expressed similar views.³⁵ The legal process can be complicated and confusing. Almost all fathers and mothers in child support program cases are self-represented.³⁶ Typically, the only attorney in the courtroom represents the authority of the state, creating an asymmetry in legal expertise and power.³⁷ While the state attorney (county attorney or district attorney) does not represent either parent, custodial mothers often do not attend child support hearings.³⁸ Civil legal assistance typically is not available for either parent, although some states provide a right to legal counsel for noncustodial parents in paternity establishment or civil contempt cases.³⁹

In every state, the child support program uses a combination of judicial and administrative processes to establish paternity, establish and modify support orders, and enforce obligations.⁴⁰ Three-fourths of all child support payments are collected on time through payroll deductions—which some fathers say they prefer as a payment method but requires stable employment to be effective.⁴¹ States also use a variety of enforcement strategies to try to collect on arrears, including tax and government payment offsets, bank account seizures, property liens, credit bureau reporting, driver’s license suspension, and civil contempt.⁴² Unlike divorced fathers, unmarried fathers do not have meaningful access to legal procedures for resolving parenting time issues in most states.⁴³

In many states, child support cases are heard in high-volume civil court dockets.⁴⁴ Traditional family court rules are designed to support an adversarial process driven by lawyers on each side. The assumption is that an adversarial process will produce a just and equitable outcome.⁴⁵ However, as many state courts have recognized, child support and other family law cases may not be best served by adversarial procedures because of the intimate, emotional, and often culturally sensitive issues involved.⁴⁶ Too often, formulaic procedures are used to satisfy due process—the right to notice, the opportunity to be heard, the right to present evidence under fair rules, and a timely decision by a neutral decision-maker—without ensuring that parents actually understand what is going on and have a meaningful opportunity to tell their side of the story. In some states primarily using judicial processes, court backlogs caused by the COVID-19 pandemic have prevented or delayed paternity and order establishment and order modification.

Equal access to justice in the child support program requires fair procedures. But it also requires fair policies applied equitably. While there are significant state-by-state variations in establishment and enforcement policies and practices, the child support program has two basic tracks. One track includes policies that apply to noncustodial fathers who receive support orders based on their actual earnings and pay on time through payroll withholding. Another track involves policies applied to parents who have low or no reported earnings and who fall behind on payments. These policies include income imputation, interest charges, high payroll withholding rates, and debt-driven enforcement strategies designed to compel payments, such as driver’s license suspension and civil contempt proceedings.

The primary reasons for nonpayment are unstable employment, low earnings, and incarceration.⁴⁷ Many fathers with low earnings have orders that exceed 50 percent of their actual earnings; these orders do not reflect their ability to earn enough income to both pay their orders and support themselves.⁴⁸ These child support policies have a disparate effect on noncustodial fathers with low

incomes, compound existing racial disparities, and are not effective in generating consistent support for their children.⁴⁹

Why It Matters to Families

Noncustodial fathers agree that they have a responsibility to support their children, and most provide at least some support, whether paid through the child support program or provided informally to the family.⁵⁰ For custodial families with incomes below the federal poverty level (\$23,030 for a family of three in 2022), child support payments represent a 40 percent share of family income when they receive it.⁵¹ Although families with the lowest incomes need child support the most, they are least likely to receive it because mothers and fathers from the same community typically have similar barriers to employment.⁵²

Many noncustodial fathers living in poverty are frustrated about their limited ability to support their children and also with the formal child support system.⁵³ Noncustodial fathers express low levels of trust in the child support program.⁵⁴ If a father walks out of a child support office or courtroom feeling disrespected and unheard, he may avoid future contact with the child support program.⁵⁵ A bad experience with child support can become a tipping point for leaving a job and going underground.⁵⁶ Even fathers who are financially able to pay may be reluctant to engage with the program or make payments if they have experienced negative interactions with the child support program, are unable to see their children regularly, or have conflicts with custodial mothers.⁵⁷ Enforcement strategies such as driver's license suspension and civil contempt can contribute to a sense of injustice and resentment toward the state.⁵⁸

Fathers lack accurate information about child support rules and report difficulty getting through to a caseworker.⁵⁹ Child support hearings cause them to miss a day's work and sometimes lose a job.⁶⁰ Some fathers feel that child support workers and judges do not respect them, judge them for not paying child support, and lack empathy for their circumstances.⁶¹ Many fathers express resentment that communications from the child support agency seem threatening and intended to instill fear.⁶² They are afraid of harsh consequences for failure to pay child support, yet the amount of their child support orders make it hard to survive if they try to pay them.⁶³ Fathers say that they resent being treated like a "deadbeat dad" or a criminal instead of a person and father who cares about his children.⁶⁴ Noncustodial fathers also express frustration that paying child support does not help them secure parenting time with their children, and they see this as deeply unfair.⁶⁵ Welfare cost recovery policies add to this distrust, since sometimes their payments will not go to their

children but instead will be kept by the state to reimburse cash assistance costs.⁶⁶

Fathers experiencing poverty say that going to jail for nonpayment does not do their family any good.⁶⁷ They believe that it is unfair that arrears accumulate during incarceration, leaving them in debt for life.⁶⁸ Unmanageable child support debt weighs heavily on noncustodial fathers, impedes their ability to earn and get ahead, and makes it less likely that families will receive support payments in the future. They report that it is difficult to get their orders modified to reflect their actual incomes.⁶⁹ A recent study found that child support arrears, unlike other types of parental debt, are associated with worse outcomes for children that become stronger as children age, including anxiety, depression, and delinquent behaviors.⁷⁰

Why It Matters to States

In 2020, 87 percent of cases in the child support program had support orders, but only 66 percent of current support due was collected.⁷¹ Unrealistic child support orders contribute to this compliance gap. When fathers do not earn enough or are incarcerated, they fall behind on their payments and arrears build.⁷² A recent OCSE analysis finds that 88 percent of arrears are more than five years old, which means they are unlikely to be collected despite state enforcement efforts.⁷³

The potential repercussions of child support cases involving noncustodial fathers experiencing poverty can negatively impact their employment, harm the very families the program intends to help, and increase state costs.⁷⁴ Overly aggressive child support enforcement strategies can compromise the ability of fathers to earn and pay child support in the future. A demand for purge payments may reduce informal support for children and often exhausts the resources of other family members or the custodial mother when they make the payment on behalf of the noncustodial father.⁷⁵ Jailing fathers for nonpayment of child support does not improve future compliance, is traumatic for children, and is costly for the state. Housing people in jail can cost up to \$70 per day by some estimates. Even short jail stays can increase the risk of future incarceration.⁷⁶

States have an enormous stake in improving parent perceptions that the child support policies and processes are fair. Procedural fairness underlies the constitutional guarantee of due process under the law, informs the decision-making process, and makes it more likely that fathers will try to comply with their support orders.⁷⁷ Deterrence-based strategies such as incarceration, fear, and shaming are likely to increase distrust without improving compliance.⁷⁸ To

improve public perception of the child support program and to increase compliance by noncustodial fathers with low incomes, states should strengthen procedural fairness in the program, adopt realistic policies, and implement targeted case management and other services.⁷⁹

But more than child support compliance is at stake. When people view the child support process as a legitimate exercise of state authority, they are more likely to maintain a general commitment to obey the law.⁸⁰ Public trust and confidence in most institutions have been declining.⁸¹ A smoldering sense of unfairness in the child support program can erode general confidence in the legitimacy of state government and undermine respect for the law. This too can increase state fiscal and non-fiscal costs in terms of labor force participation, tax revenues, law enforcement, and civic engagement.

A Better Way to Do Business

To protect the well-being of children and help families succeed, the child support program must bring a wide lens to its work or risk doing harm. Child support is not a simple story. Both parents have the responsibility to support and care for their children, and children have a right to financial and nonfinancial support from their parents. Yet the child support contributions expected from noncustodial fathers experiencing poverty are often unrealistic, and the consequences for nonpayment can be harsh and counterproductive. A just and equitable decision in a child support case takes into account the factual circumstances and financial needs of all members of the family—children, custodial mothers, and noncustodial fathers.

As research shows, a change in the child support program's approach leads to an increased sense of trust and being treated fairly, which in turn can improve parental engagement and cooperation.⁸² The quality of interpersonal treatment particularly matters—whether parents feel that public officials genuinely care about their needs and concerns, listen to them, treat them with dignity, and respect their rights.⁸³ When fathers and mothers feel that their concerns and needs have been heard and considered, they are more likely to believe that the decision-maker is acting in the interests of the children and parents and trying to do what is right for everyone involved.⁸⁴

Fathers have a right to feel confident that their support order amount considers their specific circumstances and is not based on generalized assumptions.⁸⁵ Uncontested final judgments must meet the same standards for due process and evidence as contested cases.⁸⁶ Judges, hearing officers, and caseworkers should explain to parents how the decision in the case was reached and the rationale behind the law.⁸⁷ Efforts by agencies and courts to help both parents

understand how things work, what the rules are, and what they need to do may increase parental perception of fairness.⁸⁸ Fathers and mothers should have the opportunity at every stage of the process to engage, provide information, ask questions, and learn about their rights. All legal notices and other forms should be simplified and written in plain language.⁸⁹

Service of process rules should be modernized to reliably reach parents, including the use of emails and text messages to send copies of notices and calendar reminders. A number of courts and agencies provide parents with materials that clearly and simply explain child support and court processes, key terms, legal rights, and basic hearing rules and expectations in multiple languages.⁹⁰ Courts and agencies also have website portals, social media platforms, kiosks, help desks, and legal assistance centers to increase information available to self-represented parents.⁹¹ Using multiple information channels (websites, phone apps, social media, legal assistance centers, community organizations) can improve outreach to young parents and Black and Hispanic parents.⁹²

The COVID-19 pandemic experience has increased judicial interest in alternatives to traditional court hearings. Courts and agencies are assessing their experiences with providing virtual hearings, case conferences, and customer services in response to the COVID-19 epidemic to identify best practices and lessons learned. In one state implementing virtual case conferencing for child support cases, parents reported that they prefer the case conferencing process to in-person court hearings—they miss less work, they do not have to find child care, and their travel and waiting time is reduced. Both the court and child support agency agree that the case conferencing process is better for parents and a better use of state resources.⁹³

Research studies have found that alternative approaches to traditional court hearings provide self-represented litigants with more opportunity to have a say in the outcome, reduce the focus on winning and losing, and create a more positive climate between parents in family law cases. When parents settle their conflicts in less adversarial ways, they have better feelings toward each other, toward the courts, and toward the law.⁹⁴ In public opinion polls, people say they would prefer to use alternative dispute resolution processes rather than traditional court hearings by a two-to-one margin. They believe that alternative dispute resolution processes are faster, less expensive, and more responsive to their needs.⁹⁵ Fostering positive communication between the parents makes it more likely that noncustodial fathers will maintain ongoing relationships with their children and pay child support.⁹⁶

Just over half of states currently use judicial processes to establish child support orders. In many states, a court magistrate, commissioner, or other judicial

hearing officer hears child support cases instead of a judge. A few states have extended family court resources available to divorcing parents—mediation, case conferencing, and other alternative dispute resolution processes—to unmarried parents participating in the child support program. Some local jurisdictions have implemented child support-related problem-solving courts, which use a multidisciplinary approach combining adjudication with individualized case management and services to address barriers to payment such as incarceration, unemployment, homelessness, or substance use.⁹⁷ Some courts also are considering ways to improve service of process and effective notice to parents.

A quarter of states use administrative hearings, in lieu of traditional court hearings, in which an administrative hearing officer conducts hearings and the state agency issues the support orders. The remaining quarter of states do not schedule hearings to establish support orders unless the issues are complex or a parent requests a court hearing. Instead, these states use case conferences as the main way to establish support orders. The child support agency schedules a case conference with the parents to negotiate a child support order based on state guidelines and come to an agreement approved by the court. Case conferencing is informal, participative, and conciliatory and can offer a quick resolution.⁹⁸ In addition, some tribes incorporate family circles or grandparent councils to help conciliate child support or other types of cases.⁹⁹

This moment is ripe for increasing equal access to justice in the child support program. In 2015, the state court chief justices and court administrators launched the *Justice for All* initiative to restore public confidence in the fairness and equity of the judicial process, to make the justice system more responsive to people's everyday civil legal needs, to modernize judicial case management, and to implement family-centered justice that effectively address family needs across courts and in the community. The *Cady Family Justice Initiative* focuses specifically on family courts. Almost all states have created Access to Justice commissions that bring together courts, bar associations, legal services, and other stakeholders to remove barriers to civil justice for self-represented people with low incomes and other barriers to access.¹⁰⁰

On a parallel track, the child support program has begun to modernize its policies and practices to increase fairness and equity in the program, become more responsive to a noncustodial father's ability to pay, and implement a continuum of family-centered services intended to improve the capacity of noncustodial fathers to support their children financially and spend time with them.¹⁰¹ Incorporating family-centered policies, processes, and services into the child support program sets the stage for both parents to achieve a resolution to their child support cases that provides support for children, supports healthy family relationships, and reassures both parents that the program is fair.¹⁰²

Yet there is more to do to understand impacts of child support policies on fathers and mothers with low incomes and parents of color and to identify new approaches that effectively and fairly respond to the circumstances of both parents. Regular customer surveys and ongoing consultation with communities served by the child support program are essential for identifying what is working and what is not and who is affected and how, as well as research testing different approaches to implementing an effective family-centered program and new data collection efforts to determine whether specific child support program policies and practices have a disparate effect on communities of color.¹⁰³

¹ Both mothers and fathers living apart from their children are legally responsible for paying child support, and the incomes of both parents are taken into account in setting child support orders. Although the fact sheet is on noncustodial fathers, gender-neutral terms are used to accurately describe specific research findings and state practices. This fact sheet is authored by Vicki Turetsky, Esq., former federal Office of Child Support Enforcement (OCSE) commissioner.

² Sorensen, 2021; Grall, 2020.

³ Elaine Sorensen, *Characteristics of Custodial Parents and Their Children: Who Receives Child Support (IV-D) Services and Who Doesn't?* Office of Child Support Enforcement (OCSE), Administration for Children and Families, U.S. Department of Health and Human Services, 2021; Timothy Grall, *Custodial Mothers and Fathers and Their Children: 2017*, Current Population Reports P60-269, Census Bureau, 2020.

⁴ Among families receiving child support program services, 47 percent are white, 24 percent are Black, 24 percent are Hispanic, and 5 percent represent other races and ethnicities. Among families not receiving program services, 50 percent are white, 24 percent are Black, 21 percent are Hispanic, and 5 percent represent other races and ethnicities. Sorensen, 2021; Grall, 2020. For a framework for analyzing racial and ethnic disparities in child support and other human services programs, see Marla McDaniel, Tyler Woods, Eleanor Pratt, and Margaret C. Simms, *Identifying Racial and Ethnic Disparities in Human Services: A Conceptual Framework and Literature Review*, Office of Planning, Research and Evaluation, Administration for Children and Families, U.S. Department of Health and Human Services, 2017.

⁵ Natalie Demyan and Letitia Logan Passarella, *Lifting Families Out of Poverty: Child Support is an Effective Tool for Maryland Families*, School of Social Work, University of Maryland, 2019.

⁶ Maria Cancian, Yoona Kim, and Daniel R. Meyer, *Who Is Not Paying Child Support?* Institute for Research on Poverty, University of Wisconsin–Madison, 2021.

⁷ Cancian, Kim, and Meyer, 2021; Lauren A. Hall, Letitia Passarella, and Catherine Born, *Who Pays Child Support? Noncustodial Parents' Payment Compliance*, School of Social Work, University of Maryland, 2014; Yoonsook Ha, Maria Cancian, Daniel R. Meyer, and Eunhee Han, *Factors Associated with Nonpayment of Child Support*, Institute for Research on Poverty, University of Wisconsin–Madison, 2008.

⁸ Elaine Sorensen, Liliana Sousa, and Simon Schaner, *Assessing Child Support Arrears in Nine Large States and the Nation*, Urban Institute, 2007.

⁹ John Gramlich, *Black Imprisonment Rate in the U.S. Has Fallen by a Third Since 2006*, Pew Research Center, 2020; E. Ann Carson, *Prisoners in 2018*, Bureau of Justice Statistics, Office of Justice Programs, U.S. Department of Justice, NCJ 253516, 2020 (state-by-state incarceration data); William J. Sabol, Thaddeus L. Johnson, and Alexander Caccavale, *Trends in Correctional Control by Race and Sex*, Council on Criminal Justice, 2019. See MDRC, *Seeking Evidence-Based Solutions: Introduction to MDRC's Work on Pretrial Justice Reform* (video), 2019.

¹⁰ For example, 70% of participants who volunteered for employment services had criminal records in the CSPED study, which involved over 10,000 noncustodial parents in a multistate child support caseload. CSPED participants were 40% Black, 33% white, and 22% Hispanic. Jennifer L. Noyes, Lisa Klein Vogel, and Lanique Howard, *Final Implementation Findings from the Child Support Noncustodial Parent Employment Demonstration (CSPED) Evaluation*, Institute for Research on Poverty, University of Wisconsin–Madison, 2018. In the Maryland child support caseload, 16% of noncustodial parents had an incarceration history, while 20% of non-paying parents and 9% of partial payers in the Wisconsin caseload were incarcerated at some point in the year before order establishment. Cancian, Kim, and Meyer, 2021; Yoonsook Ha, Maria Cancian, Daniel R. Meyer, and Eunhee Han, *Factors Associated with Nonpayment of Child Support*, Institute for Research on Poverty, University of Wisconsin–Madison, 2008; Pamela Caudill Ovwigho, Correne Saunders, and Catherine E. Born, *The Intersection of Incarceration & Child Support: A Snapshot of Maryland's Caseload*, School of Social Work, University of Maryland, 2005; additional studies cited in Kirsten D. Levingston and Vicki Turetsky, "Debtor's

Prison—Prisoners' Accumulation of Debt as a Barrier to Reentry," *Clearinghouse REVIEW, Journal of Poverty Law and Policy*, 2007.

¹¹ Jennifer L. Noyes, et al., *Holding Child Support Orders of Incarcerated Payers in Abeyance: Four Year Outcomes*, Institute for Research on Poverty, University of Wisconsin–Madison, 2017; OCSE, *Jobs Not Jail*, 2015; Pew Charitable Trusts, *Collateral Costs: Incarceration's Effect on Economic Mobility*, 2010.

¹² Elizabeth Cozzolino, *Public Assistance, Relationship Context, and Jail for Child Support Debt*, *Socius*, vol. 4, 1, 2018. Births to unmarried mothers were oversampled, including a large number of Black, Hispanic, and low-income families. See *About the Fragile Families and Child Wellbeing Study*, Princeton University (website).

¹³ Steven T. Cook, *Child Support Enforcement Use of Contempt and Criminal Nonsupport Charges in Wisconsin*, Institute for Research on Poverty, University of Wisconsin–Madison, rev. 2015.

¹⁴ Steven Cook and Jennifer L. Noyes, *The Use of Contempt and Criminal Nonsupport as Child Support Enforcement Tool: A Report on Local Perspectives and the Availability of Data*, Institute for Research on Poverty, University of Wisconsin–Madison, 2011.

¹⁵ Cook, 2015. A University of Maryland study identified county-by-county variations in income imputation rates in setting support orders. The Maryland study suggests that counties with higher imputation rates occurred in urban and rural counties, counties with high and low Black populations, and counties with higher unemployment rates. Lauren A. Hall, Natalie Demyan, and Letitia Logan Passarella, *Maryland Child Support Guidelines: 2011-2014 Case-Level Review*, School of Social Work, University of Maryland, 2016. Michigan and Minnesota data analyses found that Black, Hispanic, Native American, and Asian/Pacific Islander noncustodial parents owe disproportionate amounts of arrears. For a discussion of the effect on parents of different races and ethnic groups of alternative services to civil contempt offered in the *Procedural Justice-Informed Alternatives to Contempt Demonstration (PJAC)*, see Melanie Skemer, Jennifer Hausler, Oliver Williams, Louisa Treskon, and Jacqueline Groskaufmanis, *A Comparison of Approaches Informed by Procedural Justice and Traditional Enforcement in the Procedural Justice Informed Alternatives to Contempt Demonstration*, MDRC, June 2022.

¹⁶ Cook, 2015. A warrant was executed and a parent picked up for booking in jail in less than half of cases with an issued warrant. See Tonya L. Brito, David J. Pate, Jr., and Jia-Hui Stefanie Wong, "Negotiating Race and Racial Inequality in Family Court," *IRP Focus*, vol. 36, 2020.

¹⁷ Maretta D. McDonald, *Looking at the Impact of Race on Child Support Enforcement Outcomes*, Southeastern Louisiana University, 2016 (unpublished thesis).

¹⁸ Tom R. Tyler, *Why Procedural Justice Matters*, Community Justice 2012: International Conference of Community Courts (video posted on Center for Court Innovation website); Tom R. Tyler, "Procedural Justice and the Courts," *Court Review: The Journal of the American Judges Association*, vol. 44, issue 1/2, 26, 2007.

¹⁹ Rachel Swaner, et al., *What Do Defendants Really Think? Procedural Justice and Legitimacy in the Criminal Justice System*, Center for Court Innovation, 2018; Tyler, 2007.

²⁰ Tyler, 2007.

²¹ Judicial Council of California, *Procedural Fairness in the California Courts*, 2019; Swaner, et al., 2018; Tracey L. Meares, *Procedural Justice: The Secret Ingredient?* Community Justice 2014: International Conference of Community Courts (video posted on Center for Court Innovation website); Tyler, 2012; Tyler, 2007.

²² Tyler, 2007; I-Fen Lin, "Perceived Fairness and Compliance with Child Support Obligations," *Journal of Marriage and Family*, vol. 62, 88, 2000; Robert E. Emery, Sheila G. Matthews, and Katherine M. Kitzmann, "Child Custody Mediation and Litigation: Parent Satisfaction and Functioning One Year After Settlement," *Journal of Consulting and Clinical Psychology*, vol. 62, 124, 1994.

²³ See Skemer, et al., 2022; Yoona Kim and Daniel R. Meyer, *Perceptions of Fair Treatment and Child Support*, Institute for Research on Poverty, University of Wisconsin–Madison, 2021; I-Fen Lin and Sara McLanahan, "Parental Beliefs about Nonresident Fathers' Obligations and Rights," *Journal of Marriage and Family*, vol. 69, 2007.

²⁴ Maureen R. Waller and Robert Plotnick, "Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research," *Journal of Policy Analysis and Management*, vol. 20, 89, 2001.

²⁵ Swaner, et al., 2018.

²⁶ Rebecca L. Sandefur, *White Paper: What We Know and Need to Know About the Legal Needs of the Public*, 67 S.C. L. Rev. 445, 2016.

²⁷ CSPED services also increased noncustodial parents' sense of responsibility for their children and decreased use of harsh discipline. Impacts on employment, earnings, and child support payments were limited. Maria Cancian, Daniel R. Meyer, and Robert G. Wood, *Final Impact Findings From the Child Support Noncustodial Parent Employment Demonstration (CSPED)*, Institute for Research on Poverty, University of Wisconsin–Madison, 2019; Elaine Sorensen, *What We Learned from Recent Federal Evaluations of Programs Serving Disadvantaged Noncustodial Parents*, Office of Planning, Research and Evaluation (OPRE), Administration for Children and Families, U.S. Department of Health and Human Services, 2020.

²⁸ Kim and Meyer, 2021.

²⁹ PJAC demonstration sites include counties in Arizona, California, Michigan, Ohio, and Virginia. About 90 percent of noncustodial parents in the demonstration are male and have 1.4 children. Forty-one percent are Black., 35 percent are white, and 21 percent are Hispanic. As a group, the parents had a long history of noncompliance, child support debt, and tense relationships with the other parent. About a third of the noncustodial parents participating in the PJAC study

had been referred to contempt proceedings more than once, and nearly 20 percent of the parents had “debt-only” cases (usually meaning that the children were no longer minors). Skemer, *et al.*, 2022; Louisa Treskon, Douglas Phillips, Jacqueline Groskaufmanis, and Melanie Skemer, *Procedural Justice in Child Support Enforcement: Lessons from an Implementation Study of the Procedural Justice-Informed Alternatives to Contempt Demonstration*, MDRC, March 2022; Yana Kusayeva, *Using Principles of Procedural Justice to Engage Disconnected Parents*, MDRC, 2020; Caroline Mage, Peter Baird, and Cynthia Miller, *A New Response to Child Support Noncompliance: Introducing the Procedural Justice Informed Alternatives to Contempt Project*, MDRC, 2019.

³⁰ Louisa Treskon and Jacqueline Groskaufmanis, *Parents’ Reflections on Their Experiences with the Child Support Program in the Procedural Justice-Informed Alternatives to Contempt Demonstration*, MDRC, Aug. 2022.

³¹ National Center on State Courts (NCSC), *State of the State Courts* annual public opinion polls of registered voters (subset of voters with direct experience in state court), 2012-2019; Swaner, *et al.*, 2018 (people with recent experience in criminal court); see Tyler, 2012.

³² NCSC, *State of the State Courts* annual public opinion polls of registered voters, 2014-2019 (full sample). See Tyler, 2012 (public surveys). NCSC polling finds that mistrust of the courts runs high with African American voters, who are the least likely to agree that the courts are unbiased and taking the needs of people into account.

³³ NCSC, *Call to Action: Achieving Civil Justice for All, Recommendations to the Conference of Chief Justices by the Civil Justice Improvements Committee*, 2015. See Sandefur, 2016. For example, a North Carolina study determined that large numbers of mailed driver’s license suspension hearing notices do not reach the drivers, subjecting them to arrest for driving with a suspended license. Brandon L. Garrett, Karima Modjadidi, and William Crozier, “Undeliverable: Suspended Driver’s Licenses and the Problem of Notice,” *UCLA Criminal Justice Law Review*, vol. IV, 2020.

³⁴ Skemer, *et al.*, 2022; NCSC, 2017 *State of the State Courts* public opinion poll; NCSC, 2015; Swaner, *et al.*, 2018; Rachel Porter, *Procedural Fairness in California: Initiatives, Challenges, and Recommendations*, Center for Court Innovation, 2011.

³⁵ Kim and Meyer, 2021.

³⁶ Moore, 2020; Brito, Pate, and Wong, 2020.

³⁷ See NCSC, 2015.

³⁸ Many states have statutes specifying the scope of state legal representation, e.g., Fla. Stat. § 409.2564(5), Mass. Gen. L. ch. 119A, §3, Wis. Stat. § 767.205(2)(b)1.

³⁹ Rebecca L. Sandefur and Aaron C. Smyth, *Access Across America: First Report of the Civil Justice Infrastructure Mapping Project*, American Bar Association, 2011; See American Bar Association, *Civil Right to Counsel* (state-by-state legal authorities by case type) (dated by state).

⁴⁰ Karen N. Gardiner, John Tapogna, and Michael E. Fishman, *Administrative and Judicial Processes for Establishing Child Support Orders*, Lewin Group, 2002.

⁴¹ Quinn Moore, *et al.*, *Parents and Children Together: How Low-Income Fathers in Responsible Fatherhood Programs Perceive and Provide Financial Support for Their Children: Summary Brief*, Mathematica Policy Research, 2020; Pate, 2002; Lin, 2000.

⁴² 42 U.S.C. §§ 654 and 666. Up to 65 percent of disposable earnings may be withheld for child support under some conditions. Consumer Credit Protection Act, 15 U.S.C. § 1673(b)(2). For the 2016 federal civil contempt, rule, see 45 C.F.R. § 303.6(c)(4).

⁴³ Jessica Pearson and Rasa Kaunelis, *Child Support Program and Parenting Time Orders: Research, Practice, and Partnership Project: Site Visit Report*, Center for Policy Research, 2015. Jessica Pearson and Lanae Davis, *Ensuring Access, Encouraging Support: Final Report*, Center for Policy Research, 2007.

⁴⁴ Many courts with high-volume dockets, such as family courts, use block calendaring, where a large number of cases are scheduled at the same time. Parents report to court at the beginning of the schedule and wait for their case to be called. They are expected to take off work, even though they may miss a day’s wages. Courtrooms may be overcrowded and noisy.

⁴⁵ NCSC, 2015.

⁴⁶ Tyler, 2007.

⁴⁷ Cancian, Kim, and Meyer, 2021.

⁴⁸ Kim and Meyer, 2021.

⁴⁹ Teskon and Skemer, 2021; Natalie Demyan and Letitia Logan Passarella, *Actual Earnings and Payment Outcomes Among Obligor with Imputed Incomes*, School of Social Work, University of Maryland, 2018. Other studies have made similar findings. Mark Takayesu, *Understanding Payment Barriers to Improve Child Support Compliance*, Orange County Department of Child Support Services, 2013; Office of Inspector General, *The Establishment of Child Support for Low Income Noncustodial Parents*, U.S. Department of Health and Human Services, 2000. Sorensen, 2007; Miller and Knox, 2001.

⁵⁰ Lin, 2021; Meyer and Lin, 2021; Grall, 2020; Maureen R. Waller, Allison D. Emory, and Elise Paul, “Money, Time, or Something Else? Measuring Noncustodial Fathers’ Informal and In-Kind Contributions,” *J. of Fam. Issues*, vol. 39, 3612, 2018; Moore, *et al.*, 2020; Holcomb, *et al.*, 2015; Mathematica Policy Research, *Fathers Talk About Financially Supporting Their Children* (video); Waller and Plotnick, 2001.

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- ⁵¹ Elaine Sorensen, *The Child Support Program is a Good Investment*, OCSE, 2016; Elaine Sorensen, *Child Support Plays and Increasingly Important Role for Poor Custodial Families*, Urban Institute, 2010.
- ⁵² Maria Cancian and Dan Meyer on *Final Results from the CSPED Impact Evaluation* (podcast), 2019.
- ⁵³ Kim and Meyer, 2021; Moore, et al., 2020; Holcomb, et al., 2015.
- ⁵⁴ For two recent studies discussing noncustodial parent perspectives, Parents and Children Together (PACT) and CSPED, see Elizabeth Clary, et al., *Providing Financial Support for Children: Views and Experiences of Low-Income Fathers in the PACT Evaluation*, Mathematica Policy Research, 2017; Pamela Holcomb, et al., *In Their Own Voices: The Hopes and Struggles of Responsible Fatherhood Program Participants in the Parents and Children Together Evaluation*, Office of Planning, Research, and Evaluation, 2015; Cancian, et al., 2019; Noyes, et al., 2018; Diane Paulsell, et al., *Helping Noncustodial Parents Support Their Children: Early Implementation Findings from the Child Support Noncustodial Parent Employment Demonstration (CSPED) Evaluation*, Institute for Research on Poverty, University of Wisconsin–Madison, 2015.
- ⁵⁵ Cummings, 2020. See Tyler, 2012; Tyler, 2007.
- ⁵⁶ Jacqueline Groskaufmanis, *Integrating Procedural Justice Principles into Child Support Case Management*, MDRC, 2021.
- ⁵⁷ Groskaufmanis, 2021.
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- ⁶² Paulsell, et al., 2015.
- ⁶³ Moore, et al., 2020; Clary, et al., 2017; Holcomb, et al., 2015; Paulsell, et al., 2015; Mathematica Policy Research “Fathers Talk About Financially Supporting Their Children,” (undated video); Abell Foundation, “Improving Child Support in Maryland” (video), 2019.
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- ⁷⁴ OCSE, *Family and State Benefits of Debt Compromise*, OCSE-IM-22-03 (Aug. 18, 2022); Cummings, 2020; Paulsell, et al., 2015; Holcomb, et al., 2015.
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