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Child Support Basics

*Information for Financial Education
and Asset Development Programs*

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Introduction

The 2009 U.S. Census Bureau report shows an ongoing increase in the depth and breadth of poverty in the United States and a continuing growth in income disparities between the highest and lowest earners.¹ This increase in poverty and income disparity is the current state of an alarming 15 and 30 year rise, respectively.² Concurrent with the release of the census information is the expiration of the most recent five-year term of the Temporary Assistance to Needy Families (TANF) program. In the context of the poverty statistics, the upcoming welfare reauthorization discussion will likely cover the issues of (1) the impact and efficacy of entitlement and other safety net programs and (2) support for economic stability through education, skill building, and employment.

Safety net programs provide much needed (albeit limited) support and services to the poorest Americans. However, the census data suggest that a more long-term response—beyond the temporary provision of basic needs—is necessary to help families move out of poverty, toward economic security.

One relatively successful response to addressing poverty has been financial management education and skill building for economically struggling families. These programs recognize the need of families to (1) move beyond subsistence, (2) accumulate and protect savings for planned and unforeseen expenses, and (3) identify and access resources for post-secondary education and training. Under current policy and practice, the most successful and comprehensive programs are tailored to the needs of custodial parents—generally, women. However, low-income men (including noncustodial fathers) are being profoundly impacted by the loss of employment and the rise of poverty reflected in the recent census report. In particular, men’s unemployment rates have exceeded those for women during the Great Recession,³ and, for men who were working, “the real median earnings of male workers declined by 4.1 percent” over

the past two years (compared to a 2.8 percent decline for women).⁴ Also, within the male demographic, African American men and Latino men continue to experience a disparate impact of this deepening poverty and income insecurity.⁵

Poor noncustodial parents (mostly men) face unique barriers to asset development and financial security, and one of the most intractable of these is child support debt. In order to develop and operate effective programs to help men and women—both custodial and noncustodial parents—move toward economic security, it is important for financial literacy trainers, asset development specialists, and community-based program developers to understand the basic mechanics of the child support system.

A companion document, *Financial Literacy and Low-Income Noncustodial Parents*, provides a general outline of the issue of child support debt and information about how that specific type of debt mitigates against protected saving and asset development. This paper covers basic child support policy and practice information, discusses the issue of child support debt in relation to financial literacy and asset development for noncustodial parents, and outlines the basics of the child support process.

This information is not designed to respond to individual issues or intended to substitute for professional representation. We cannot provide a step-by-step guide to assess and address the concerns of individual fathers in asset development and financial literacy programs. The child support system is a component of the judicial system, and the most precise way to address the individual issues of child support debtors is to engage with that system through an attorney or other legal representative.⁶ This document is meant to provide basic, general information about the child support system. The information can be most effectively used with the complementary document, *Financial Literacy and Low-Income Noncustodial Parents*, to inform program development and analysis.

Financial Literacy Programming for Child Support Debtors

Debt reduction and eradication is an important aspect of the work of financial management and asset development projects. Most poor families and low-income individuals live at subsistence levels and, consequently, have difficulty prioritizing debt payment. Family support professionals are moving beyond safety net programs toward financial management services that are designed to respond to economic difficulty with skills training and education. Various components of such programs address credit repair, debt management, and asset development. Participants go through a curriculum that provides information to help individuals build savings and pay debt

simultaneously. Both men and women—custodial and noncustodial parents—can benefit from guidance and information on this issue. However, for parents who do not live with their children (most of whom are men) there is a definite need for asset development and financial literacy services that recognize the possibility of differences **in circumstances** between custodial and noncustodial parents. A primary difference is child support debt.

A financial education program that serves low-income men should, of course, include general financial information and debt eradication strategies. However, a program which intends to serve noncustodial parents should be developed with the child support difference in mind. Financial education programming and practice that incorporate a basic understanding of child support debt can result in practical services that are tailored and responsive to the unique needs and circumstances of noncustodial parents. With regard to child support, men who are noncustodial parents need to grasp their financial situation in two essential elements: (1) to comprehend the absolute nature of the requirement to pay child support and (2) to understand that, under most current child support policy, asset development can only begin when child support payments are consistent and compliant.

Under the current welfare and child support systems, many low-income men will have child support debt that is owed to the state. Managing that debt is difficult for low-income men because:

- The amount owed can be a substantial portion of the income of an individual who earns less than 200% of poverty.
- In accordance with federal and state welfare policy, enforcement of child support payments is aggressive and sure.
- Unlike nonpayment of other debt, nonpayment (or untimely payment) of court-ordered child support can result in imprisonment.

Child Support Basics

The remaining sections of this guide provide basic information about the child support issues low-income noncustodial parents face. Program developers and analysts are encouraged to use this information to contextualize some of the financial issues that complicate asset development work with noncustodial parents.

This information might also prove useful to service providers who work directly with low-income men. Though direct service providers do not necessarily operate from a broad, programmatic perspective, individual case management and problem-solving would be enhanced by a general knowledge of the child support system and the challenges it presents to low-income noncustodial parents.

A lack of legal representation or expertise is greatly felt by people who interact with the child support system because the system runs on unique, arcane, and often incomprehensible processes. Under ideal conditions, poor families dealing with the child support system would have access to legal service professionals. Under current conditions, however, for these families—especially for noncustodial fathers—it is extremely difficult to retain legal services. It is important to keep in mind that advocates and social service providers who are not legal professionals cannot provide legal advice or representation. However, program participants can benefit from interaction with a program or a provider with knowledge (whether it is a basic understanding or a greater level of experience and expertise) of the child support system.

How Service Providers Can Help

Understanding the administrative processes and the legal jargon of the child support system is difficult. Misinformation and lack of understanding compounds this difficulty. Parents need some very basic understanding of the “whys” and “hows” of the child support system. They also need some knowledge of basic legal terms and processes. Without this understanding, they have very little control over or impact on the outcome of the child support process. Therefore, a primary goal of this document is to demystify the processes by providing service providers (and ultimately, parents) with basic procedural and contextual information.

The legal language of the child support system can put unrepresented parents at a distinct practical disadvantage. When low-income parents receive legal documents in the mail, or when they have conversations with someone from the child support

enforcement agency or family court, they are likely to see or hear unfamiliar (and in some cases indecipherable) legal terms and directives. As a result, parents may not understand what is being asked of them. This may be especially true for noncustodial fathers, who are more likely to get child support information on paper or through the mail, rather than in a face-to-face conversation with an agency representative.

It is important that noncustodial parents understand what is being asked of them in the child support process. If, for example, they cannot decipher the terms or conditions of an agreement they are presumed to have made, parents are in danger of being held in contempt, waiving their rights, or agreeing to terms they cannot possibly meet.

Basic information about the system should include myth-busting. In case management and other information exchanges, service providers have an opportunity to disabuse parents of the incorrect notions they have about child support and family law. When parents accept myths and misinformation about the welfare, child support, and judicial systems as truth, additional barriers arise such as confusion, fear, and anger at the system. With the information contained in this document, some investigative work, and conversations with knowledgeable people in the community (lawyers, child support agency representatives), service providers can clear up some of the misinformation and confusion.

Child Support Issues are Legal Issues

Because of its complexity and bureaucracy, non-legal professionals have many questions about the child support system. These questions include:

- Why should a man voluntarily submit himself to this system?
- What if he doesn't have a job or he doesn't make much money?
- Will the system bury him under impossible child support payments?
- Shouldn't he just pay to take care of his child? Why is that difficult?
- What's not to understand? Just pay!
- Doesn't he understand his responsibility?

The information and details that follow will answer each of these questions. However, the first question claims particular attention:

Why should any person (especially one who cannot pay) respond to a summons and voluntarily submit himself to this system?

The question is reasonable. Many men in social service programs are unemployed and very poor themselves. They find themselves faced with child support orders and child support debt they cannot pay. Often, they cannot reconcile their concept of “child support” with the bill they receive from their local agency. When they are required to interact with the child support system, they can be so confused by the process and anxious about the enforcement mechanisms that they avoid it completely.

Essential Information

The following sections outline child support processes and procedures and their potential impact on low-income noncustodial parents.

- LEGAL SUMMONS

It is unwise to disregard a “letter from child support,” so the answer to the question highlighted above is important to know and understand. The “letter” (which is likely a legal summons) should not be disregarded or ignored because the consequences of doing so can be extremely negative and far reaching. Potential outcomes or sanctions can include: incorrect orders, insurmountable debt, and incarceration. Also, it is unlikely that a parent summoned in this way by the court will be able to avoid the system indefinitely. Even if avoidance is possible, legal responsibility and debt still will be assigned in the absence of the noncustodial parent. And the debt amount will continue to grow.

- NEW HIRE REGISTRY

Federal and state law requires employers to submit all new employees’ names into an automated New Hire Registry. This system matches employee names and information with child support case information. Therefore, when a parent who has a child support order (or debt) finds a new job, he is more likely to be apprehended by the child support enforcement system. This is obviously pertinent and important information for fatherhood programs or asset development programs whose participants find employment after entering the program. A noncustodial parent would be well advised to approach (or respond to) the child support system before they begin the process of labeling him a “deadbeat” father and looking for him as a delinquent. If he ignores the

debt and the summons, the consequences of being found after that search has started can be devastating.

- “CHILD SUPPORT”

The legal documents used by the family court and the child support system are filled with terms that parents do not understand. Some terms that might otherwise be understood by the parent may not, in the legal context, carry their ordinarily understood meanings. Even the term—“child support”—itself may be confusing. Most low-income parents want to provide for their children’s financial needs, and those who interact with the system understand that they are expected to make court-ordered child support payments. However, a general understanding of the term “child support”—payment of a definite amount of money to the custodial parent to be used to provide for the daily needs of the child—is confused by the actual agency requirements and processes. For example, parents may wonder why payment is made to a government agency instead of the custodial parent; how a parent might “waive” rights without knowing what they are giving up; or how a parent can be in “contempt of court” if he is not purposefully ignoring or willfully disobeying a judge’s order.

Many aspects of the process can render both the term and system confusing and intimidating. One important example is the payment amount received by the mother. Some custodial parents who receive (or have previously received) cash welfare benefits do not get a check for the full amount of child support that was paid. Some amount of the payment may be retained to reimburse the government for the welfare payment. This issue is explored and explained further below, but it is useful to point out here that a difference in the amount paid by the father and the amount received by the mother can cause conflict and confuse the understood meaning of “child support.”

Confusion and misunderstanding can extend beyond the process. Many parents wonder why the government and the courts are involved in their family relationships and responsibilities. Some believe that conflicts and questions of payment and custody are unfairly decided.

The Child Support Process

The following information about the legal basis for support and custody orders explains how the responsibilities and rights are assigned to mothers and fathers. The particular effect of these family court orders on very low-income families who have,

at some time during their child's life, received government financial assistance is also explained.

The process and effects of a child support order is explored from the perspective of families in four specific situations: upon divorce or separation; upon paternity establishment; when the child's custodial family receives government assistance; and when the noncustodial parent is unemployed or has a very low income.

Traditionally, child support payments could be made directly to the custodial parent. That worked out in roughly one of two ways for a custodial parent; either she was:

- lucky enough to have a consistent, dedicated payer or
- unlucky enough to have a noncustodial parent, who was consistently late or sometimes didn't make a payment at all.

At that time, luck played too prominent a role in receipt of payment. One of the important reasons for the incremental changes to child support policy over the last 35 years was to address the uncertainty endured by mothers—usually the legal custodian of the children, the recipient of the payment, and the less-resourced parent. Child support payment guidelines were standardized and agency enforcement mechanisms were strengthened in order to ensure the contribution of noncustodial/nonresident parents to the financial support of their children.

● CHILD SUPPORT AFTER DIVORCE OR SEPARATION

The term “child support” is based on and derived from a family law concept for which it will be useful here to provide a very basic legal perspective. Traditionally, when a couple with children divorced, one of the parents retained custody of the children and the other parent was required to pay money to the custodial parent to contribute to the financial support of the child. Basically, this is the way family law continues to work today (an exception to that process applies in some cases where court-ordered “visitation” or “parenting time”⁷ is more evenly divided between the parents).

In the event of divorce or legal separation, individual parents and/or their lawyers present their case in a family law court. The court must enter a decision as to whether—and the terms under which—an order for divorce or separation will be granted. That same court issues an order for the custody arrangement and for the amount of money to be paid by the noncustodial parent to the custodial parent. Payment of that money by the noncustodial parent is called “child support.” In some

cases, courts may order child support to be paid by a noncustodial parent who is still married, but is legally separated or has physically left the residence of the child.

- PATERNITY ESTABLISHMENT

In situations where the parents of a child were never married, the basic concept of child support is the same; however, the process is different. In every state, a child born to an unmarried woman—legally—has no father. In other words, paternity has not been established by law. The child support process in this situation is different from that of the divorcing couple because the court *must* make a legal determination as to the identity of the baby’s father before a child support order can be issued. Even if both the mother and the biological father of the baby know that he is the father, even if the baby’s paternity has been acknowledged among their friends and in their community, the child has no legal father until there is further legal action. That action must be either (1) a legal determination by a court or administrative body or (2) the signature of both parents on a legal form that acknowledges the fatherhood (paternity) of the man.

Cohabiting parents are not necessarily excluded from any part of this process. In both divorce and paternity establishment cases, the statutory assumption is that the child lives with one parent *and does not live with the other parent*.⁸ In fact, the legal concept of child support is based on and functions on the assumption that one of the parents does not live with the child.

If the establishment of paternity happens in court, a judge can make a decision about custody and parenting time (visitation). In most state and county jurisdictions, only a judge can make custody decisions. If, on the other hand, paternity is legally established by the existence of the document (signed in the hospital when the baby is born, in the child support office, or elsewhere), a court representative is not present. In that case, specific custody and parenting time decisions are likely not made. However, every child support agency does have a process by which an agency can facilitate the issuance of a child support order. The noncustodial parent may not have a legal order regarding visitation, but he will be ordered to pay child support.

A “**voluntary acknowledgment**” is a co-signed document by which both parents acknowledge that the man is the father of the woman’s child. Each state has an official form, and a variety of names for the form are used in the various states. When both parents sign the acknowledgment document, it can become a legal establishment of paternity.

A voluntary acknowledgment document is not a birth certificate (though it is

often signed by the parents in the hospital when the baby is born). Technically, a birth certificate is the document that makes a record of a child's birth. It gives the time and place of birth, and it identifies legally acknowledged parents. Without the legal acknowledgment of paternity, the birth certificate cannot declare legal fatherhood. In fact, since 1996, the law has required that in order for a man's name to appear on a child's birth certificate, paternity must have been established or he must have signed a voluntary acknowledgment.

In some states and counties, the voluntary acknowledgment is included on the birth certificate document. Parents who sign that type of certificate may be legally acknowledging paternity. Of course, once an acknowledgment is signed, paternity can be established and a child support order can be entered.

In 1993, a federal law mandated that voluntary acknowledgment forms should be available in every hospital, and a 1996 law directed states to make the form widely available to parents. Currently, mothers and fathers are asked in the hospital on the occasion of the child's birth whether or not they want to sign the form. The person providing the document is required to explain (orally and in writing) the contents and the significance of the form.

Many parents prefer the voluntary acknowledgment method to the court process. Those who do not get an opportunity to use this document in the hospital are often able to inquire about the forms from the county agency charged with keeping vital records. However, because signing this document results in a binding legal declaration, parents should be encouraged to carefully consider this process before executing the document. It may be in their best interest and the best interest of their child to get more information about how the child support system and the family law system will impact their lives after paternity is established.

In every state, paternity must be established before the child support agency can charge a noncustodial parent with paying child support, send him a bill to pay medical support, withhold money from his paycheck for child support, or take his income tax refund. A man who experiences any of these requirements or charges must have first been declared the legal father of the child(ren) listed in the directing documents.

Any party in a paternity case has the right to ask for a paternity test, and the state is required to pay for the test (though, if the man is found to be the father of the child, he can be required to repay the expense of the test). It is often helpful to ask a representative of the court system or the child support enforcement agency about the exact process to be followed when genetic tests are requested in a particular state or county.

It is important for financial education, and asset development and other service providers who interact with low-income parents to understand—and perhaps be able to explain—the concept of child support. This basic understanding is especially important when two other issues increase the complexity of the legal situation: the poverty of the child’s custodial family and the poverty of the noncustodial parent.

- THE CHILD SUPPORT PROCESS FOR UNEMPLOYED OR VERY LOW-INCOME NONCUSTODIAL PARENTS

All of the issues and processes described above are complicated by the fact that a significant number of the men facing child support debt and complex legal processes are unemployed and very poor themselves.

By law, a child support order should be based on a noncustodial parent’s ability to pay—that is, the payment amount should be based on his income and his assets. However, many low-income parents have child support orders they cannot pay. Since this “ability to pay” argument is a legal one, ideally, it should be made by a legal advocate—a lawyer. The reality is, however, that poor parents are unlikely to have access to legal services. And for those unrepresented parents, once the paternity establishment or child support process begins, their inability to understand or negotiate the system by themselves can lead to inappropriate order amounts, sanctions, insurmountable debt, and possibly even incarceration.

Furthermore, many fathers who come to social service programs and community-based organizations do not understand the connection between the government child support system and the welfare system. They do not understand that welfare law can require their participation in the government child support system. The child’s mother may or may not intend to involve the father through this formal process. Regardless, neither of them really has a choice in the matter. Welfare law mandates low-income parents to interact with the child support system.

- THE CHILD SUPPORT PROCESS WHEN THE CUSTODIAL FAMILY RECEIVES CASH WELFARE BENEFITS

A subtle, but important point of note is that child support is *not* originally owed by the noncustodial parent to the government. The original order is to pay the support amount to the custodial parent. However, parents might easily be confused about the payment and the debt because:

- Child support agencies can initiate an action against the noncustodial parent without the request or consent of the custodial parent.
- Most child support payments are submitted to a government agency.
- Many very poor custodial parents get a payment amount that is less than the amount submitted by the custodial parent.

The father's debt to the state is indirect and is based on a document signed by the mother. When a mother who does not live with the father of her children applies for and is granted cash welfare benefits, she must (by federal law) sign a document that assigns her right to any child support she receives to the state government. That action (which is called an "assignment") means that the state government has the right to collect and retain the payment and decide how to disburse the funds (among the state and federal governments and the family).

As long as the family receives cash benefits, state governments can keep all of the child support payments until the total amount paid equals the amount received by the custodial parent over the entire term of the assistance period. Often in those situations, both parents are confused by the fact that their children may not receive direct benefit from the money noncustodial parents pay in child support.

Child Support Debt

The amount of child support owed by a noncustodial parent can be a substantial portion of a very low income. The difference between child support debt and the more typical debt financial literacy specialists encounter is the extremely harsh consequences for nonpayment. It is unlikely that very low income, inability to pay, or unemployment will influence the legal decision maker against imposing sanctions on the debtor. Of course, unemployment and low-income does have an effect on the noncustodial parent's ability to pay child support. Regardless of those circumstances, however, enforcement of a child support order can be very aggressive and sure. And, unlike nonpayment of other debt, nonpayment (or untimely payment) of court-ordered child support can result in imprisonment.

As described above, a judicial or administrative order requires parents to pay child support for children who are not in that parent's legal physical custody. Delinquent child support debt that is owed by a noncustodial parent is called "**arrears.**" In some

jurisdictions, when current, periodic payment is not made, interest accrues on the unpaid debt. **Retroactive support** based on an order entered after a child is born may also be a part of a child support arrearage, depending on state policy. Additional charges for some noncustodial parents include: reimbursement to the state for genetic testing, birthing costs, medical support, and other court costs and fees. Interest accrues on the delinquent amount of court-ordered support.

Child support enforcement penalties can include the seizure of assets, suspension of a driver's license, passport denial, and even incarceration. In some cases where families are current recipients of cash welfare benefits, a portion of the collected support amount is retained by the state government to repay welfare costs.

Also, depending on state policy and the economic situation of a custodial family, arrears can be owed to the custodial parent or to the state. If the family has never received welfare benefits, past due payments are owed to the custodial parent, who makes any decisions regarding their enforcement or forgiveness. If the family has received cash benefits, the debt is assigned to and collected by the state (up to the amount paid to the custodial family in cash welfare benefits). Only the state has the power to reduce or forgive the child support arrears that are owed to the state.

Finally, it is important to note that federal child support policy includes many directives and imperatives for state practice. In accordance with federal policy, child support arrears cannot be discharged in bankruptcy. And, state child support agencies are required to periodically report parents who are at least two months delinquent in child support payments to credit bureaus.

Debt Accrual

One of the most difficult aspects of working to improve the financial situations of low-income noncustodial parents is the presence of high child support debt. Asset development specialists and other financial education providers should be aware of the mechanisms and processes by which child support debt accrues.

It may be difficult to understand how a parent can fail to find a way to pay child support and even harder to understand how unpaid child support debt can grow to insurmountable levels. Below are many of the reasons that child support debt accrues; for any individual parent who is delinquent in the payment of child support, there is a particular combination of reasons and circumstances.

● DEFAULT ORDERS

When the noncustodial parent fails to respond to the summons or appear as demanded, a **default order** can be entered in his absence. The order, entered by a court or administrative authority, directs him to pay a stated amount of child support on a periodic basis. Many child support orders are entered during hearings to establish paternity, and in those cases, both the initial order establishing his paternity and the child support order are entered in his absence. Default orders of this nature are at the root of many cases that result in child support debt. Various reasons some low-income men may not respond to a summons and appear in court include:

- The parent may not have received the subpoena to appear.
- The parent may have had a negative experience(s) with courts in which he was unable to make his situation or actions understood.
- The parent may fear the child support enforcement system.
- The parent may be incarcerated.
- An individual may know he is not the father of the subject child and assumes that the system will discover the mistaken identity.

If the parent does not appear in court, paternity is established by default and a child support amount is ordered. Some courts and child support agencies impute a full-time minimum wage job as the basis of the payment order.

Some low-income noncustodial fathers know that the document in the mail leads them down a road ending in a child support order that they may be unable to pay. Some parents decide not to respond to the receipt of the “child support letter.” They think that they can ignore the legal documents they get in the mail about child support and paternity establishment, avoid the courts, avoid the obligation, and avoid financial liability. Others know that the financial charge is unavoidable, but they may think that to ignore the document is to bypass the court appearance and delay the inevitable bills and charges. This non-response strategy often leads to a chain of events, including default judgments of paternity, default child support orders, and insurmountable debt owed by fathers who may not learn of their child support obligations until long after the child support order was entered.

One of the most significant points to communicate with parents about dealing with the child support system—or any legal or administrative system—is that they should open the mail and respond in some way to the directions or questions contained

in the document. This “child support letter” could be a copy of an important legal document, sometimes called the “notice” or “summons.” Our legal system is based on many fundamental requirements, and one of them is that if a legal decision is to be made about someone they must get “notice” as to the day, time, and place that the decision will be made. In the end, once the “notice” has been given, *whether or not the person responds to it*, the decision can be made. When a decision is made by default, the order is just as valid legally as an order made when the parent is present at the hearing to present his side of the issue. Because “letters from child support” are sometimes left unopened or are read but not understood, some men discover belatedly that they are subject to a child support or paternity order for a child of whose existence they may or may not be aware.

Also, some low-income parents with very unstable housing situations do not remain at one address long enough to receive current mail. In those cases, the requirement for notice can be met by a document sent to the last known address of the man they believe is the father of the child in question.

Given the fact that an order can be entered whether or not a defendant appears in court, an individual may decide that his presence will have no effect on the final decision. There are many reasons he should be there to present himself and his financial situation. The two most important are: (1) if he is unsure of his paternity of the child, a genetic test can be taken to prove or disprove his paternity and (2) he is the best person to provide his employment and financial information.

- ABILITY TO PAY AND IMPUTATION OF INCOME

Even when the child support order is not set by default, it may be set far beyond the ability of the low-income parent to pay. A parent may be incapable of documenting or articulating employment barriers and may have no access to legal services or resources that would help him navigate the process. The number of parents with similar circumstances may leave a judge or child support official disinclined to accommodate individual circumstances. Moreover, computer automation makes it difficult to incorporate those circumstances in the decision making process. Child support officials see many parents with similar stories; it is not surprising that many of them become skeptical of whether the situations are real or excuses made up to avoid responsibility. While judges have discretion to order any amount of child support, guidelines are usually automatically applied in a more administrative system. The reality of a parent’s actual income might mean that the child support

amount is not feasible and does not leave enough for the noncustodial parent to sustain himself.

- INTEREST

A key element of insurmountable child support debt is interest. Many states currently charge interest rates on unpaid child support on a regular basis, and others do so intermittently.⁹ Although interest charges can serve the purpose of compensating a custodial parent who has not received timely payment, much of the unpaid interest owed by noncustodial parents is owed to the state. Moreover, this policy is not well understood by noncustodial parents. Because of the interest charged, the debt keeps growing at a rate that gets further out of reach. As the debt begins to look more and more insurmountable, noncustodial parents can become discouraged and less likely to be able to pay off the debt.

- RETROACTIVE SUPPORT

In some jurisdictions, a child support order that is established months (or even years) after a child is born can create retroactive child support debt. This amount may reflect payment for all of the months of the child's life from the date of birth, or for some shorter period or amount as determined by the court or by state law. Retroactive debt can set a noncustodial parent on a course of child support arrearages even when a current child support payment is never missed.

- INCARCERATION

The issues of child support debt and incarceration are related in many ways. In almost every state and county jurisdiction, the law allows incarceration of parents who do not pay court-ordered child support. In some jurisdictions, this policy is put into practice and noncustodial parents are incarcerated. In many others, the practice is rare or nonexistent. In the few jurisdictions where incarceration is a regular practice, parents can be incarcerated on criminal charges of nonpayment or on civil charges of contempt of court (as a result of "refusal" to pay). Moreover, regardless of whether the parent is incarcerated for nonpayment of child support or for a criminal sentence unrelated to child support, a low-income noncustodial parent cannot pay child support while he is in jail. Depending on local policy and practice, arrears debt can continue to accrue during this time.

- DIFFICULTY OBTAINING MODIFICATIONS

Parents do have a legal right to request a modification of their child support order if it does not reflect the noncustodial parent’s current income or circumstances, but modifications (specifically downward modifications) are difficult to obtain.¹⁰ It is clear that many custodial single-parent families are in great need of the income provided by child support payments. However, child support orders that do not reflect low-income noncustodial parents’ circumstances or ability to pay only serve to accumulate debt and further threaten the economic security of the debtor parent and, by extension, that of his children.

A Final Note

A single informational document cannot address the individual cases of each noncustodial parent in an asset management or financial literacy program. And, resolution of child support issues is not the purview of community-based financial educational programs. Furthermore, all of the issues addressed in this document are most successfully addressed with the help of a lawyer or other legal service professional. However, any program that works with low-income fathers is enhanced by a familiarity with and a basic understanding of this type of debt.

This document provides that basic information about the structure and process of the child support system, and the information may—for some readers—highlight the political and policy implications of the child support system. However, for families and service providers, neither the politics nor the policy is nearly as immediately important as the practical implications for families, communities, and financial literacy service providers.

A central and pressing need for financial literacy and asset building programs—and other services targeted at low-income noncustodial parents—is that of addressing child support issues and creating debt reduction programs that account for this unique type of debt. This document is intended to help service providers respond to that need.

Footnotes

- 1 For example, Ahrons & Miller 1993, Amato 1993, Furst US Census Current Population Report, 2009.
- 2 Ibid., US Congress Joint Economic Committee “Income Inequality and the Great Recession,” 2010.
- 3 US Bureau of Labor Statistics, 2010.
- 4 US Census Current Population Report, 2009.
- 5 UC Berkeley Labor Center “Data Brief: Black Employment and Unemployment in August 2010,” September 3, 2010.
- 6 In fact, non-lawyers designing or working in programs are prohibited from providing legal advice or representation.
- 7 Except that custody and visitation issues are now much more complex and involved than they were 50 years ago, and under many current state laws, those issues change the basic dynamics of child support payment.
- 8 The policy assumption is that living arrangements may change and custodial parents need a child support order to formalize and insure his contribution.
- 9 Sorensen et al., “Assessing Child Support Arrears in Nine Large States and the Nation,” 2007.
- 10 Turner and Sorensen, “Nonresident Fathers and Child Support Modifications,” 1997. Certainly, regardless of noncustodial parent income level, individual circumstances may warrant either upward or downward modification.



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