

# CENTER FOR FAMILY POLICY AND PRACTICE

23 NORTH PINCKNEY STREET, SUITE 210 - MADISON, WI 53703  
PHONE 608.257.3148 - FAX 608.257.4686 - WWW.CFFPP.ORG

## POLICY BRIEFING

MARCH 2008 \_ VOL. 10, NO. 1

### **Child Support Pass-Through Could Have Big Pay-Off under New Law**

The Deficit Reduction Act of 2005 (DRA) provides incentives to states to distribute more child support to families receiving Temporary Assistance for Needy Families (TANF) benefits. TANF families must assign their right to child support that is collected on their behalf to the state as a condition of receiving benefits. The state may then retain any collected child support as reimbursement for the cost of TANF benefits. Under current law, states may choose to pass child support through to TANF families, but must bear the cost of the pass-through. Once the DRA state options are available in October 2008, states will be able to pass through up to \$100 in child support payments per month for TANF families with one child and up to \$200 a month for TANF families with two or more children. The federal government will share in the cost of the pass-through if states disregard the passed-through child support when determining a family's TANF benefits.

The Urban Institute has estimated the potential impact on states and TANF families of adopting the new child support pass through policies. They estimate that:

- If all states adopted a \$100/\$200 pass-through and disregard, the average amount of child support received by families while on TANF would more than double, from approximately \$337 to \$806 per year. TANF families would receive 65 percent of the child support collected on their behalf, and average family income would increase \$488, or 3.3 percent.
- In months in which TANF families receive TANF benefits, the average child support received would increase 159 percent, or \$529 annually. The additional income would reduce the poverty gap (the amount of income needed to exceed the poverty level) by \$179 million and would remove about 3,400 families from poverty.
- An additional amount of child support would likely reach TANF families because the pass-through itself would encourage payment from noncustodial parents who would see that their payments had a direct benefit to their family.
- If all states adopted a \$100/\$200 pass-through and disregard, at least \$346 million in child support would go to TANF families. Increased payments that result from noncustodial parents' increased willingness to make child support payments that benefit their family are estimated to raise this amount to \$376 million. The net cost to states would be between \$146 and \$152 million, and the net cost to the federal government would be between \$46 and \$67 million.
- The total estimated net cost to both state and federal governments would be between 51 and 63 cents per dollar of child support distributed to TANF families.

The authors note that the DRA provides an important opportunity for states to rethink their pass-through and disregard policies in order to benefit TANF families at a relatively low cost to states and to the federal government.

The report, *The Potential Impact of Increasing Child Support Payments to TANF Families*, by Laura Wheaton and Elaine Sorensen, is available at [www.urban.org](http://www.urban.org).

## **Criminal Penalties, Child Support Debt Create Barrier to Successful Reentry**

*Debtor's Prison – Prisoners' Accumulation of Debt as a Barrier to Reentry* was recently published in the Clearinghouse Review Journal of Poverty Law and Policy (a publication of the Sargent Shriver National Center on Poverty Law). The article makes the case that a growing list of fees and cost-recovery policies, in addition to burdensome and largely uncollectible child support debt, results in a hardship that reduces the chances that prisoners will succeed upon release. The authors review recent studies and findings to make the following points:

- A 1997 U.S. Department of Justice survey found that 75 percent of state prisoners did not complete high school and almost half reported incomes of less than \$1,000 in the month before arrest. Two-fifths were either unemployed or working only part-time before their arrest.
- Most of the policies that drive up debt for prisoners affect prisoners of color. A 2005 Bulletin of the Bureau of Justice Statistics found that 60 percent of state and federal prisoners were black or Hispanic. Of all 25-29-year-old black men, 8 percent were in prison in 2005. Thirty percent of young black men have a history of incarceration.
- Debt is accumulated by incarcerated individuals through a variety of policies that are established independently but combine to have a devastating effect. Financial penalties have become increasingly popular in recent years as the public attempts to shift the burden of the cost of incarceration to the individuals who commit crimes, despite the fact that this population is least able to bear the financial debt that accrues. Criminal justice-related debts include:
  - Fines and assessments charged with a punitive purpose, imposed in 25 percent of all felony convictions.
  - Restitution, a court-ordered payment by the offender to the victim for financial losses.
  - Public cost-recovery fees and debts that are imposed by criminal justice agencies but originate from a variety of sources, including per diem jail fees, public defender recoupment fees, costs of prison housing, and monthly parole or probation supervision fees. Noted also is that courts often recover costs for court expenses, such as maintenance of court facilities, service of warrants, and law enforcement officers' retirement funds.Since these fees are not coordinated by one authority, there is never an assessment of the full financial obligation that results once the fees are combined and levied against an individual.
- Most incarcerated adults are parents, and half of incarcerated parents have child support obligations. For 30 percent of families who receive TANF benefits, the noncustodial parent is incarcerated. For incarcerated parents with child support orders, debt accrues quickly:
  - Parents who owe child support enter prison with an average of \$10,000 in child support debt, and leave prison owing \$20,000 or more.
  - Contributing to insurmountable child support debt are: orders that begin too high; the use of a legal presumption of full-time, minimum-wage employment to establish the original order; charging interest and fees on child support debt; retroactive child support that can date back to the birth of the child, and seeking reimbursement for the birth costs of the child.
  - Few states have a process for adjusting orders when a parent is incarcerated and few incarcerated parents know to initiate a request for an adjustment.
  - Twenty-five percent of states consider incarceration "voluntary unemployment," effectively disqualifying incarcerated parents from adjusting their child support order downward.
  - The fact that most of the child support owed by incarcerated parents is not paid to the family, but to the state as repayment of welfare costs, reduces the likelihood that it will be

paid at any point.

- Incarceration contributes to the build-up of unpaid child support at the state level. In Colorado, parents with a history of incarceration owed 18 percent of arrears. Over 30 percent of Washington state cases with arrears of over \$500 and no recent payment history involved parents with prison records. In California, incarcerated parents had median arrears that were 50 percent higher than other debtors.
- Criminal financial debts may be collected from an inmate's prison account. These accounts are often funded by the inmate's partner, spouse or other family member who deprived their own household in order to provide funds to the inmate.
- Upon release from prison, individuals who have fallen behind in criminal debt payments face civil judgments and reincarceration. Interest and other costs associated with civil collection methods for this debt may also be charged, and the consequence for not paying might be incarceration.

The authors make a number of recommendations for assessing the impact of criminal penalties and child support debt, and for ensuring more realistic and reasonable debt collection practices.

The article is available at [www.clasp.org](http://www.clasp.org), or by subscription to the Clearinghouse Review Journal of Poverty Law and Policy.

### **New Study Confirms Poverty Of Child Support Debtors**

The Urban Institute has expanded on an earlier study of the income and status of child support "debtors" in California. The California study, released in 2001, revealed such striking information on the concentration of child support arrearages among the poorest parents that OCSE commissioned a larger study to examine arrears in nine states. This study, *Assessing Child Support Arrears in Nine Large States and the Nation*, has now been completed.

The report provides information about the characteristics of child support arrears in the nation and in the nine study states and documents that the poorest parents are unable to pay their child support by virtue of their own poverty. The study exhaustively breaks down the payment patterns and income characteristics of child support obligors, continually producing data that support the position that arrearages are largely a function of parents' lack of income. Among the findings:

- Seventy percent of the arrears were owed by obligors who had either no reported income or reported income of \$10,000 or less.
- Almost 75 percent of the parents with child support debt that exceeded \$30,000 had no reported income or reported incomes of \$10,000 or less.
- Parents with no income or income below \$10,000 represented 40 percent of current support obligors, but 60 percent of the unpaid child support accrued during the study year.
- Almost 38 percent of child support debtors had no reported wages in 2006, and they held 46 percent of total arrears.

The report, by Elaine Sorensen, Liliana Sousa and Simon Schaner, was prepared for the Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, Office of Human Services Policy and Office of Child Support Enforcement, under Contract Number 233-02-0092. It is available at [www.urban.org](http://www.urban.org).

## National Fatherhood Demonstration Project Results Evaluated

The Partners for Fragile Families Demonstration Projects (PFF), a large-scale initiative that sought to increase the capacity of young, economically disadvantaged fathers and mothers to provide for their children financially and emotionally, has recently been evaluated by the Urban Institute. PFF was funded primarily by the Ford Foundation and the U.S. Department of Health and Human Services Office of Child Support Enforcement (OCSE). The demonstration project involved 13 sites in nine states and was implemented over three years beginning in 2000. PFF projects targeted young fathers (16 to 25 years old) who had not yet established paternity, on the theory that by targeting new fathers at a point when they had little or no previous involvement with the child support system and when they might still have a positive relationship with the mother, better outcomes could be expected. Project elements included:

- promoting voluntary paternity establishment;
- connecting young fathers with the child support system and encouraging payment of child support;
- improving parenting and relationship skills of young fathers;
- helping young fathers secure and retain employment;
- providing other types of services to strengthen family ties, commitments, and father involvement when parents do not live together.

The evaluation looked at outcomes over a one- to two-year period for employment rates and earnings levels; and for the establishment and payment of child support orders. The authors warn that report data should be interpreted cautiously because there were data limitations and a low number of participants in some projects.

Given that many experienced fatherhood services providers and welfare and family policy experts recommend that child support agency connection and involvement are an important element of successful fatherhood programs, and of positive outcomes for noncustodial parents and families, it is important to note the following implementation lesson from the study (*italics added for emphasis*):

**“The goal of the PFF initiative to make lasting systemic changes in the ways public agencies and community organizations work with low-income families was difficult to attain. ...Although state CSE agencies were the conduit for the resources [for the PFF programs]..., many of them were not actively involved in the planning or operational process *and generally did not make state level changes* because of PFF. This lack of involvement may have limited the PFF-related state-level institutional and policy changes on noncustodial fathers.”**

Other key findings included:

- Employment rates (ranging from 47 to 57 percent) were low for PFF participants and did not change over the evaluation period. PFF employment rates were significantly below the national average quarterly employment rate for African American men. For projects with sufficient data to allow a two-year follow-up, employment rates decreased from 61 percent to about 49 percent after two years.
- Earnings for PFF participants who worked were low, but rose slightly over the follow-up period. Even at the end of two years, with some significant wage increases, however, this population remained near the poverty level. Imputed annualized income for PFF participants was between \$7,332 and \$11,204. The poverty level for a one-person household in 2003 was \$8,980.
- The proportion of PFF participants with child support orders grew from 14 percent of cases at the time of enrollment in PFF, to 28 percent after one year of enrollment, to 35 percent after two years of enrollment.

- Eighty percent of PFF participants with a child support order made at least one payment over the two-year period. In the second year after enrollment, 38 percent of those with an order made payments in more than 6 months during the year. The cumulative amount of child support paid increased overall in most of the project sites.

The authors note that, even in the absence of improvements in employment and earnings, the results suggest that offering low-income fathers support services, such as peer support and parenting and family strengthening education and skills may hold some promise for improving child support outcomes.

The report, *Partners for Fragile Families Demonstration Projects: Employment and Child Support Outcomes and Trends*, by Karin Martinson, Demetra Smith Nightingale, Pamela A. Holcomb, Burt S. Barnow and John Trutko, is available at [www.urban.org](http://www.urban.org).

### **A Tax Season Warning on Refund Anticipation Loans**

The National Consumer Law Center (NCLC) and the Consumer Federation of America (CFA) have compiled information from last year's tax season to warn taxpayers and those who assist them against Refund Anticipation Loans (RALs). RALs are loans based on the taxpayer's refund that typically last from 7-14 days until the actual IRS refund repays the loan. While there have been some improvements in the terms and use of the loans, they are still an avoidable and unnecessary expense that disproportionately affects low-income taxpayers. According to NCLC:

- In the 2006 tax filing season, approximately 1 in 14, or 9 million tax returns involved RALs. Loan fees ranged from \$32 to \$130. Most tax preparers charged an additional "application" or "processing" fee of \$40. The effective annual interest rate for these loans ranged from 50 percent to nearly 1200 percent.
- Loan fees for RALs from the 2006 tax year totaled \$900 million, with an additional \$90 million in other fees.
- "Instant" RALs are offered for an additional fee that ranges from \$25 to \$85. The APR on these loans ranges from 168 percent to 1400 percent.
- New rules for 2009 allow tax preparers permission to expand the number of third-party companies to which they can share tax return information, providing they have written permission from the taxpayer. Advocates argued unsuccessfully that such sensitive information should be kept private, and that it would be easy for a tax preparer to secure written permission given the number of signatures that are already required on tax returns. Taxpayers are warned to pay close attention when signing documents to ensure that they are not providing consent for their tax information to be shared or sold to marketers.

The NCLC also reports some positive developments related to RALs:

- Although RALs remain an unnecessary expense and create risk of escalating debt, their price has declined significantly over the past year due to lowered fees and interest charged by some of the biggest banks.
- The number of taxpayers (9 million) who used RALs in 2006 was significantly lower than the 12.4 million who used them in 2005. Some of this drop might be explained by a reporting difference between the two years, however.
- As a result of advocacy, the three major RAL banks have stopped offering "pay stub" and "holiday" loans, effectively eliminating this practice. This type of RAL was made prior to the tax filing season, before a taxpayer received an IRS Form W-2, and represented additional costs and risks to taxpayers.

The NCLC adds the following warning about RALs:

*In addition to their costs, RALs can be a risky proposition. A RAL must be repaid even if the taxpayer's refund is denied, is smaller than expected, or frozen. If the taxpayer cannot pay back the RAL, the lender may send the account to a debt collector. The unpaid RAL will also show up as a black mark on the taxpayer's credit record. If the taxpayer applies for a RAL or RAC from a commercial preparer next year, she may find that her next year's refund gets grabbed to repay this year's unpaid RAL debt.*

The report is available at [www.consumerlaw.org](http://www.consumerlaw.org).