Feasibility of Collecting Fees for Child Support Services

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Division of Child Support Response to Recommendation 1 of the Joint Legislative Audit and Review Committee performance audit (Report 00-3) dated June 28, 2000.

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Executive Summary

This report is in response to the JLARC recommendation that the Division of Child Support (DCS) conduct a feasibility study for collecting fees for child support services.

- DCS has found that assessing fees of any type permitted by the federal Office of Child Support Enforcement is not cost effective. In addition to being administratively cumbersome, fees do not do a particularly good job of increasing income to the state. Fees add less than 1 percent to the state's coffers. The state keeps only 34 cents on the dollar, with administrative costs diminishing the returns even further. Fees also tend to mire the agency in controversy and allegations of unfair practices against struggling families.

- There are three types of fees:

  - Application fees;
  - Fees for services; and
  - Late (or interest) fees

- The assessment of application fees or fees for services can be interpreted as punitive toward the non-assistance custodial parent. Most single-headed household families are poor or near poor. Evidence indicates that assessing a fee against such families could keep them from receiving child support services that may keep them off welfare. Most (73 percent) of the DCS caseload is comprised of current and former assistance cases, which typically equates with low-income.

- DCS does try to get reimbursement for the state for genetic testing and birth costs. These subrogated debts, however, fall toward the bottom of the distribution chain, which means many of these debts are very old and few are ever paid in full.

- DCS prevailed in a class action lawsuit in 1994 that sought to force the state to assess interest. A subsequent bill to change RCW failed to pass in 1995. DCS demonstrated that it was not cost effective to develop and integrate interest assessment into the statewide-automated system, which is necessary.

- Recent empirical evidence shows that assessing interest does not improve payment on current support, a federal performance indicator.

  - Evidence also indicates that assessing interest actually worsens the federal performance indicator, paying arrears cases.

  - Many of the obligors are low income. Imposing interest against the obligated non-custodial parent when many struggle to pay the arrears accumulated on their child support is questionable.

Feasibility of Collecting Fees for Child Support Services

Introduction

This report responds to Recommendation 1 of the Joint Legislative Audit and Review Committee (JLARC) performance audit (Report 00-3) on the Division of Child Support dated June 28, 2000. Specifically, Recommendation 1 states:

> *To determine if it is cost-effective to recover part of its expenses for providing services to non-public assistance clients. DCS should study the feasibility of collecting fees for any of its services from such clients, and present its findings with recommendations to the legislature.*

The Division of Child Support agreed to study the issue of collecting fees. The approach in this document is to review the legal background that enables the state to charge fees, assess the types of fees that may be charged and to discuss what other states have done regarding fees.

Background

The Social Security Amendments of 1974 created Title IV-D of the Social Security Act. Title IV-D created a federal-state child support program. The program was designed for cost recovery of state and federal outlays on public assistance paid to families and for cost avoidance to help families leave welfare and to help families not on welfare to avoid turning to public assistance *(see Appendix 1, Federal Legislative History of Child Support*).

Applicants for and recipients of public assistance had to accept IV-D services and cooperate with the IV-D agency unless they had "good cause" for not cooperating, such as potential harm to the recipient or the child. Families not receiving public assistance could apply for IV-D services and could close their cases at any time.

The Omnibus Budget Reconciliation Act of 1981 mandated that states charge a service fee to non-assistance obligors of 10 percent of the amount of past due support owed. The intent of Congress was to make non-assistance cases self-supporting and reserve free services to the assistance cases. Congress removed the requirement the following year because states found the administration of the fee burdensome. The Tax Equity and Fiscal Responsibility Act of 1982 removed the mandatory non-assistance late fee requirement and made it a state option to recover administrative costs in non-assistance cases. The state could deduct the administrative costs from collections or charge the non-custodial parent. *(See Appendix 1, Federal Legislative History of Child Support.*) "That arrangement, also, proved to be unattractive to state IV-D agencies, and only a handful ever pursued this 'cost recovery' option."[1]

The Child Support Amendments of 1984 increased the oversight functions of the federal government to increase the uniformity among states. An area relevant to this discussion was the intent of Congress that states fully and effectively serve public assistance and non-public assistance families alike. IV-D agencies were also required to continue child support services to families leaving assistance without an application and without an application fee for services. State IV-D agencies were also required to advertise their services to non-assistance families. *(See Appendix 1, Federal Legislative History of Child Support.*)

[1] Laura Wish Morgan, 2000, *Child Support Enforcement in the United States and the Role of the Private Bar*, Support Guidelines.com.

Feasibility of Collecting Fees for Child Support Services

The State of Washington's Division of Child Support is the state's child support agency. As such, it operates in compliance with the mandates of Title IV-D of the Social Security Act. Each state that operates a child support agency must have a state plan that meets requirements set forth in US Code Title 42, Section 654. Subsection (6)(B) states:

> *An application fee for furnishing such services [child and spousal support] shall be imposed on an individual, other than an individual receiving assistance under a State program funded under part A [AFDC or TANF] or E [foster care] of this subchapter, or under a State plan approved under subchapter XIX [Medicaid] of this chapter, or who is required by the State to cooperate with the State agency administering the program under this part pursuant to subsection (l) or (m) of section 2015 of title 7 [food stamps], and shall be paid by the individual applying for such services, or recovered from the absent parent, or paid by the State for the operation of the plan, and shall be considered income to the program), the amount of which (I) will not exceed $25 (or such higher or lower amount (which shall be uniform for all States) as the Secretary may determine to be appropriate for any fiscal year to reflect increases or decreases in administrative costs), and (ii) may vary among such individuals on the basis of ability to pay (as determined by the State).*

To summarize, the state may charge fees or recover costs only from individuals who are not receiving public assistance services. The Washington State Plan also states former IV-A recipients are exempt from fees. There are three types of fees that state child support programs can charge to non-assistance families. They are:

- Application fees – States must charge non-assistance families an application fee up to $25 that can be paid by the custodial parent, noncustodial parent or the state.
- States may charge fees to recover fees for services from non-assistance families.
- States may charge a late fee between 3 to 6 percent of the amount of overdue support from noncustodial parents with non-assistance cases.[2]

The way in which cost recovery works for child support programs is not straightforward. Revenue that is generated from fees does not generate a dollar-for-dollar increase in state general revenue funds. Fees that are collected are required by OCSE to offset administrative costs. Each dollar collected as a fee in child support programs reduces federal reimbursement by 66 cents, in effect increasing state revenues by only 34 cents.

I. Application Fees

"Beginning October 1, 1985, the State plan must provide that an application fee will be charged to each individual who applies for services under this section" [45 CFR 302 State Plan Requirements]. The application fee must be uniformly applied on a statewide basis. The fee may not exceed a flat dollar amount of $25. In lieu of a flat fee, the state may set an amount not to exceed $25, using a fee schedule based on the applicant's income. In an interstate case, the fee is charged by the state where the individual applies for child support service. The state has three options under P.L 98-378 and 45 CFR 302: collect the fee from the custodial parent, the noncustodial parent or pay it out of state funds.

"In the legislative history of P.L. 98-378, the CBO [Congressional Budget Office] estimated that the fee would average $15 and that revenues would be $15 million in FY 1989."[3] What the CBO did not expect was the

[2] 45 CFR Ch. III (10-1-99 Edition)

response of states to take the third option of paying the fee out of state funds. In response to states exercising this option, the Office of the Inspector General within the Department of Health and Human Services conducted a review of states' practices to determine if states were charging the fee in accordance with CBO revenue-raising expectations. The result of the study confirmed that 32 states were charging only token fees of $1 or less, with 24 states absorbing the fees rather than charging the applicants. The Office of Inspector General summarized the following concerns of the states regarding charging application fees:

- *The administrative burden associated with the application, along with the collection and accounting for the fee, simply was not worth the effort.*
- *The fee was seen as a possible impediment to individuals requesting CSE [child support enforcement] services.*
- *The States did not wish to turn away anyone needing CSE services just because they could not afford to pay the application fee.*
- *There was no financial incentive for the State to collect application fees because it was not cost-effective.*
- *Fees in general take away child support which could be going to the child or the family.*[4]

The Office of the Inspector General urged the Administration for Children and Families to try to obtain congressional sponsorship to make the make the application fee mandatory at $25 and to establish a $25 annual user fee for non-AFDC applicants. Neither the mandatory application fee of $25 nor the annual user fees for non-AFDC applicants was adopted. Again, there was little support among state child support officials because such fees were believed to take money away from the child and the family.

In 1996, the North Dakota Department of Human Services conducted a survey of state child support agencies on charging non-AFDC application fees. They received 44 responses. Of the responding states, 54.5 percent stated the applicant was responsible for the application fee and the remainder said the state was responsible for the application fee. Eleven of the state-application paid IV-D programs had charged the applicant before. When asked whether they preferred that the state paid or the applicant paid, 73 percent preferred that the state paid. Some of the reasons cited were that it was hard to process and account for the receipts, making it more trouble than it was worth to charge the applicant the fee. Another response was that it discouraged some applicants from filing for or continuing non-AFDC services. Also, expressed was the notion that applicants are the ones who are in need of the money in the first place.

The proportion of states charging application fees has increased over time. Many IV-D programs are now mandated by state law to charge application fees. There still remains resistance because of the reasons stated by states' representatives.

Washington State's Application Fee Option

Prior to the mid-1980s, the Division of Child Support (known then as the Office of Support Enforcement) charged an application fee of 10 percent or ten dollars, whichever was less. The legislature changed the option from applicant payment of the fee to state payment of the fee because of the hardship it caused for non-

[3] Richard P. Kusserow, Inspector General, Department of Health and Human Services, "States' Practices and Perspectives for Assessing Fees for Child Support Services to Applicants not Receiving Aid to Families with Dependent Children (A-06-9 1-00048)," July 8, 1992.
[4] Kusserow, *ibid.*

assistance parents. Since that change, Washington State has elected to pay the application fee of $1.00 per non-assistance applicant out of state funds.

In accordance with §454(4) and (25) and 457 (c) of the Act and 45 CFR 302.33(a)(2) and (3), the State of Washington, in its State Plan[5], does not:

(a) require an application, other request for services or an application fee from any individual who is either a IV-A, IV-E or title XIX recipient; or required by the State to cooperate with the State agency pursuant to subsection (1) or (m) of section 6 of the Food Stamp Act of 1977; or former IV-A recipient.
(b) charge fees or recover costs from any non-IV-A Medicaid recipient.

"State funds used to pay an application fee are not program expenditures under the State plan but are program income under Sec. 304.50 of this chapter" [45 CFR 302]. The application fees are reported to the federal Office of Child Support Enforcement (OCSE) on the federal report form OCSE-131 (Part 1) (now the OCSE-396-A (Part 1)), Child Support Enforcement Program Financial Report, Part 1: Quarterly Report of Expenditures and Estimates. The fees are reported on line 2, "Costs Recovered, Fees."
The calculation of the costs is $1.00 times the number of new cases each quarter that were non-assistance and state foster care. For FFY 1998, for example, Washington State's cost for non-assistance fees was $15,686.[6] Washington State has chosen the option to pay the application fee from state funds to encourage nonassistance families to apply for IV-D services. The cost will be lowered to $.01 per new case each quarter once the state plan is revised and approved. This adjustment will reduce the state expenditure 99 percent per year and will not require extensive administrative costs to change and maintain the revised charge.

II. Fees for Services (Recovery of Costs)

There are two types of fees for services mandated by statute: 1) federal tax intercept fees and 2) Federal Parent Locate Service (FPLS) fees. The first is a fee not to exceed $25 that can be charged to a nonassistance family for submitting a request to IRS for a federal tax intercept.[7] "By statute, the IVD agency must charge a fee to any one except a recipient of TANF-funded services who seeks information from the Federal Parent Locate Service (FPLS), 42 USC Section 653(e)(2)."[8] States may elect to pay this fee out of its own funds, charge the custodial parent or the noncustodial parent. Washington pays the fees out of its own funds. For federal fiscal year 2000, Washington State paid $92,445 for IRS Offset and $37,524 for FPLS.

States may also elect in their state plans to recover any costs incurred in excess of any fees collected to cover administrative costs under the IV-D state plan. A state that elects to recover costs must collect on a case-by-case basis either excess actual or standardized costs. States recovering standardized costs must develop written methodology to estimate costs as closely to actual as possible. The child support program cannot treat any amount collected as recovery of costs **unless** they exceed the current amount of child support owed under the obligation.

[5] 45 CFR Ch. III (10-1-99 Edition), Sections 2.5-2(a) and (b)
[6] US Department of Health and Social Services, Administration for Children and Families, Office of Child Support Enforcement, *Child Support Enforcement: Twenty-Third Annual Report to Congress for the period ending September 30,1998.*
[7] 42 USC §654(6)(C), §664(a)(2)(A) and §664(b)(2)(B); 45 CFR §303.72(I)(2);
[8] Memorandum to the Child Support Group, dated May 21, 1998, from Paula Roberts re: A Preliminary Look at Fees in the IVD Program."

Feasibility of Collecting Fees for Child Support Services

The state that chooses to recover costs must notify the responsible party of the costs it will recover. In addition, the state must notify all other states if it recovers costs from the individual receiving IV-D services.
The cost recovery efforts in the form of fees for services for non-assistance families are not widely practiced among states, except for specific expenditures. For example, Washington State does assess fees related to establishing paternity against the father. It also establishes a liability against a noncustodial parent found to be the father for the cost of genetic tests paid by the state IV-D program.[9] These fees are cost recovery for paternity laboratory tests (DNA or blood tests) and are set up as separate cases called "paternity subros." These paternity subro cases also include costs to serve the putative father and Guardian Ad Litem fees in the pursuit of establishing paternity.

DCS also used to recover birth costs to repay the state if the mother was on assistance or to repay the mother who was not on assistance. "The agency may assess a responsible parent's liability for a dependent child's birth costs, not recovered by health insurance, if there is no order assessing or relieving the responsible parent of liability for birth costs. The agency shall assess liability for birth costs based on the parent's proportionate share of the basic support obligation for the child."[10] The recovery of birth costs was discontinued about seven years ago unless specified in court orders. Advocates for the First Steps Program argued that birth cost recovery could act as a deterrent for mothers seeking prenatal care. Secretary Thompson required the Washington child support program to cease repayment of birth costs.

The reality for both types of cost recovery cases, paternity and medical subros, is that they are not particularly cost effective. For example, as of January 2001, there were 29,162 of these types of cases with total arrears owed of $12,876,734. The average debt owed was $441 per case. Seventy-five percent (21,789) of these cases have never received a payment. One-fourth of the cases were created before January 1994 and half were created before January 1997. In terms of where they fit in the distribution scheme, they are not considered IV-D cases so they are not part of the automated distribution. This means that payments are applied to these types of cases after all other debt is paid. The other issue to keep in mind is that once a debt is over a year old, the likelihood of collection diminishes rapidly.

Washington State's Experience with Nonassistance Fees

Prior to 1971, state child support enforcement services were provided only on AFDC cases. From 1971 to June 1984, DCS charged fees to custodial parents not receiving public assistance.[11] DCS used a variety of fee structures over the years, ranging from a fixed monthly fee to a fixed percentage of collections. For example:

- In 1971 nonassistance charges included an initial preparation fee (IP) of $12.35, a monthly fee of $6.25, and an additional locate fee of approximately $7.00.
- Later, the locate fee was dropped, while the IP fee and monthly fees varied over time.
- The most recent structure included an initial preparation fee (or application fee) of $20.00. The monthly fee was changed to $10.00 or 10 percent of the monthly payment collected, whichever was less.

Collecting nonassistance fees was neither simple nor non-controversial. Questions of fairness were often raised. The earliest monthly fee charged custodial parents a fixed amount regardless of whether DCS collected any

[9] WAC 388-11-048
[10] WAC 388-11-220
[11] Except where noted, most of the information in this section was drawn from Steve Spitzer's 1996 draft chapter 14 "Cash Historical" for the *DCS Cash Manual* and from e-mail responses from two long-time agency employees. Laurie Rawlins maintained the nonassistance payment program during this period. Jon Conine headed OSE at the time nonassistance fees were discontinued.

child support. To remedy that problem, the monthly fee was charged only when a payment was collected. But a fixed fee was still a problem: a custodial parent who paid a flat fee of $10 on a payment of $50 had a 20 percent fee, while another paid 10 percent on a $100 payment. Ultimately, a percentage of payment fees was adopted because it seemed fairer.

Even so, fees were criticized because they penalized the family for the noncustodial parent's failure to pay. Custodial parents' groups lobbied to have the fees dropped. The head of OSE (DCS) in 1984 recently recalled being criticized at a legislative hearing for "putting women on welfare because of the fee" (which at that time was $10 a month or 10 percent, whichever was less).[12]

Maintaining nonassistance fees was a time-consuming process. In the 1970s, without computers, the procedure involved manually posting information to cards with columns labeled: date, payment amount, fees, fees deducted, check amount, and fee balance. This information was manually typed on the stub of each check. At the end of the day, tapes were run on the cards and the checks for payment amount, fees deducted, and check amount. Once a week, a Payment Authorization was prepared to transfer fees to the State Treasurer's Account.

The first attempt at automating this process was the Non-Assistance Payment System (NAPS), which was used from June 1980 until March 1989, when the Support Enforcement Disbursement System (SEDS) was implemented. Despite computers, NAPS required intricate procedures and daily mailing of paper copies from field offices to state office.

Even apart from technology, maintaining nonassistance fees was not simple. When fees changed, forms had to be changed as well. Moreover, custodial parents had to be notified and their consent obtained before increased fees could be withheld. For example, a February 1983 memo from the then-chief of the agency outlined "the remainder of the 451 fee increase project." Some excerpts highlight the problem:

> *To date it appears that only about one-third to one-half of the AC's [non-assistance custodial parents] to whom mailings were done have returned completed 18-78's [applications for service] . A few AC's have cancelled collection services, and a number of other files have been closed . . . .During February, NAPS will remind all AC's on whose behalf payments are processed to complete and return new 18-78's. This reminder will be printed on the non-assistance check transmitted to the AC. . . . Field Office Managers should consider having cashiers review all 451 [nonassistance] payments to ensure that new 18-78's have been received. . . .*
>
> *Where the only indebtedness at issue is a 451 debt, field offices may wish to hold further collection action on 451 cases for which no new 18-78 has been received. These AC's also might be contacted to determine if they wish to retain OSE services. . . . .*
>
> *As of March 1st, it is recommended that all cases other than prosecuting attorney cases on which new 18-78's have not been received be closed. All such cases, including prosecuting attorney cases, must be closed upon receipt of a payment or as of April 1st, whichever occurs sooner.*
>
> *. . . . A prosecuting attorney memorandum will be issued approximately February 15th to advise [them] of the impending closure by OSE of these cases and that a list will be forthcoming from the local field*

[12] Jon Conine, e-mail, July 26, 2000.

> *office. It will then be incumbent on the prosecuting attorney to contact these AC's and obtain their 18-78's prior to receipt of the first payment after March 1st, or prior to April 1st, if no such payment is received.*[13]

Despite the vast improvements in support enforcement technology since 1983, the issues highlighted by this memorandum would remain for any ongoing fee system beyond a simple initial application fee.

Beginning June 1, 1984, DCS ceased charging fees on nonassistance cases as a result of new child support legislation passed during the 1984 Washington State legislative session. Fees were a relatively minor part of this legislation, which included the controversial adoption of mandatory wage assignments.

According to the new law, if a monthly fee were charged, it would be assessed against the *noncustodial* parent rather than the custodial.

> *(3) The secretary may collect a fee from the person obligated to pay support to compensate the department for services rendered in establishment of or enforcement of support obligations. This fee shall be limited to not more than ten percent of any support money collected as a result of action taken by the secretary. The fee charged shall be in addition to the support obligation. In no event may the fee be collected by the department of social and health services until all current support obligations have been satisfied. . . . The secretary may, on showing of necessity, waive or defer any such fee.*[14]

Despite this change, the 1984 law preserved the possibility of also charging the nonassistance custodial parent an application fee. The purpose is quite illuminating.

> *(2) . . . Applications accepted under this section may be conditioned upon the payment of a fee as required through regulation issued by the secretary. . . . The secretary may establish by regulation, such reasonable standards as may be necessary to limit applications for support enforcement services. Said standards shall take into account the income, property, or other resources already available to support said person for whom a support obligation exists.*[15]

Taken together, the law seems to envisage a possible monthly fee intended to recover program costs from noncustodial parents, combined with a possible fee to control the number of nonassistance applications.

But the cost recovery potential of monthly fees for noncustodial parents was called into question before the law was passed. The Fiscal Note submitted by DSHS for the child support bill (HB 1627) succinctly summarized the problem:

> *While the proposed legislation authorizes the department to collect a fee from the obligor parent, it is not possible to do so on a cost-effective basis and comply with the intent of the legislation.*

[13] Robert E. Querry, OSE Memo No. 83-5, *451 Fees Increase*, February 2, 1983.

[14] Washington Laws, 1984, Ch. 260, Sec. 29, p. 1422.

[15] Washington Laws, 1984, Ch. 260, Sec. 29, p. 1421.

> *The major problem is that most cases are delinquent. . . . In most cases, the entire amount is never collected.*
>
> *If a fee was not collected until all current and past due child support obligations had been satisfied, very little in fees would ever be collected. If a fee were to be deducted as collections are received, the custodial parent would actually be the one paying the fee, which would violate what DSHS understands to be the intent of the legislation. The debt owed by the obligor would be increased by the amount of the fee, but in most cases it would not be collected.*[16]

The author recognized that all the provisions in the bill (not just fees) might together generate more collections as well as an increased caseload for the department and the courts, but saw no way to estimate probable impact. He also recognized that eliminating the custodian's fee might have a small effect in reducing DSHS expenditures for food stamps and medical assistance. But mainly the Fiscal Note saw elimination of the nonassistance fees as costing the state and federal governments hundreds of thousands of dollars in revenue each year. In other words, charging the noncustodial parent might be good policy, but charging the custodial parent was the way to increase revenue.

Neither the DSHS Fiscal Note nor the summary reports from legislative committees mention the possibility that dropping nonassistance fees and encouraging nonassistance applications might ultimately avoid costs in public assistance. No one appears to have attempted to factor in the probable costs to DCS of maintaining the time-consuming nonassistance fee program.

The outcome of the 1984 legislation was that the child support program discontinued fees for the nonassistance custodian and did not implement monthly fees for the NCP either.[17] This outcome appears to reflect the balance of public political pressures rather than any calculation of financial benefit.

The Office of Child Support Enforcement's Study of Child Support Financing

In the wake of welfare reform, the federal Office of Child Support Enforcement (OCSE) initiated a study of child support program financing. As part of this study, OCSE contracted with The Lewin Group to prepare a fact-finding report on state financing of child support enforcement programs.[18]

The report found that several states generate a small amount of program revenue through application fees and fees for tax refund offsets and paternity testing. Such fees make up a tiny portion of the financing of child support programs. Across all states (weighted equally), "fees and other cost recoveries finance a negligible

[16] Department of Social and Health Services, Fiscal Note, Request Number 84-188, HB 1627, January 21, 1984.

[17] Later in 1984 DCS (OSE) implemented the Terminated Active (TA) period. Under this program, DCS automatically provided nonassistance collection services free of charge to custodial parents for three to five months after AFDC terminated. Although DCS collected and distributed current support to the family without charge during this period, DCS also applied all payments in excess of current support to DSHS arrears, even if there were TA arrears owed to the CP at the time the payment was received. DCS discontinued this program in December 1987 to comply with a change in federal law. Later, as a result of the *Mullen v. Sugarman* class action lawsuit, DSHS refunded TA arrears.

[18] Michael E. Fishman, Kristin Dybdal, and John Tapogna, *State Financing of Child Support Enforcement Programs: Final Report*, prepared for Assistance Secretary for Planning and Evaluation and Office of Child Support Enforcement, Department of Health and Human Services, under Contract Number 100-96-0011, 1999. The report is available at www.acf.dhhs.gov/programs/cse.

proportion (2%) of State and local shares of child support expenditures." For states with state-administered child support programs (rather than county-administered), fees/recoveries made up only 1% of the composition of state and local share of expenditures.[19]

As part of its study, OCSE also conducted a series of financing consultations with program partners and stakeholders in 1998. The participants included representatives from OCSE, other federal offices, state IV-D agencies, and the U.S. Congress, as well as state legislators and legislative staff, family court representatives, researchers from public policy institutes, and representatives from NCSEA, and various advocacy groups. Meetings were held in Washington, D.C., and at regional centers throughout the U.S. [20]

The issue of nonassistance fees was included in the discussion agenda for the Financing Consultation meetings. Consultation Question 9 asked:

> *Does the current law regarding payment of a portion of the CSE costs by families serve the best interests of children and the child support program? If not, what alternatives would better accomplish program goals?*

Despite the array of responses to the question, the meeting summaries show common themes across the country. On balance, the summaries show opposition to fees. In 1999 and in 2000, IV-D directors or their representatives responded to inquiries regarding fees. Again, there is considerable opposition to fees. (*See Appendix 3 for the detailed comments.)*

The participants who supported fees appeared, like others, to be concerned about parents' ability to pay. They advocated the use of sliding scale fees based on ability to pay.[21] At least one participant would have limited even a sliding scale fee to families "significantly above the poverty line."[22] The justification offered for fees was the child support program's limited funding. One participant stated that "fees need to be added for higher income families because the program cannot afford to offer free services to these families at the risk of not serving poor families."[23]

Only one participant was quoted as saying that "if customers can pay for the services, they should go to the private sector firms." But this person also raised the issue of the amount of access to government resources that will be granted to private sector firms.[24] This perspective does not point to a simple income-level division between those the government will help collect child support and those left to their own devices. Rather it

[19] Final Report, pp. 8-9.

[20] Meeting summaries are available on the Internet at the federal site listed above.

[21] Child Support Enforcement Financing Consultation Meeting, Washington, D.C., November 9, 1998, pg. 18.

[22] CSE Financing Consultation Meeting, Atlanta, GA, October 28, 1998, pg. 42.

[23] Meeting at Mesa, AZ, November 5, 1998, pg. 47.

[24] Meeting at Denver, CO, on September 18, 1998, pp. 28-29.

proposes a division between those who get "free" government support enforcement services and those who pay a private firm to access government resources.[25]

Arguments against Fees

Three major arguments against fees appeared in the meeting summaries:

1. *Fees are ineffective at accomplishing their stated purpose of cost recovery.*
2. *Fees are incompatible with the aims of the child support program.*
3. *Charging fees has undesirable effects that will damage state IV-D agencies.*

Do Fees Recover Costs?

Participants frequently expressed doubt about the actual cost efficiency of charging fees, though fees were intended for cost recovery. "It generally seems to cost more to set up the system to determine, collect and account for cost recovery than is collected."[26] The administrative cost of charging fees seems to outweigh the benefits derived.[27] Moreover, the new distribution rules (family first distribution requirements) make it difficult to keep money for the state or federal government.[28] Some participants emphasized the "real need to seriously estimate the amount that can be collected from cost recovery."

Are Fees Compatible with the Program's Mission of Helping Children?

Participants saw fees as incompatible with the purposes of the child support program on several grounds. For them, the purpose of the program was to help children or, more broadly, to help families. (In opening the meetings, the OCSE Project Manager quoted key concepts from the Child Support Strategic Plan, including the Mission, Vision, and Our Customers, all of which emphasize helping children. None refers to cost recovery.)[29]

Some expressed an opposition in principle to the idea of charging fees. They objected on moral grounds to child support fees:

> *One participant stated that the whole mission of the program is abandoned when fees are charged. This participant stated that you should not charge for justice in the enforcement of the birthright of children to be*

[25] Interestingly enough, these meeting summaries show little evidence of moral sentiment for fees—i.e., that simply as a matter of ethical principle people *ought* to pay fees for service. By contrast, in his account of Iowa policy and focus group discussions on child support user fees, Steve Garasky notes a rather wide support for fees, combined with a sense that the recipient should pay for services and a sense that the state had "an obligation to taxpayers." Even so, consensus broke down over the kinds of issues raised in the OCSE Financing Consultation meetings and elsewhere in this report. Steve Garasky, "User Fees and Family Policy: Attempting to Recover Costs for State Provided Child Support Enforcement Services," *Policy Studies Journal*, 25:1 (Spring 1997), pp. 100-108.

[26] Seattle, WA, October 6, 1998. See also Mesa, AZ meeting, November 5, 1998 , pp. 36 and 47.

[27] Albany, NY, November 12, 1998, pg. 53.

[28] Seattle, WA, October 6, 1998; Atlanta, GA, October 28, 1998, pp. 36, 41-42.

[29] See, for example, the summary for the October 2, 1998 meeting in Washington, D.C. Jerry Fay's reiteration of these concepts is repeated in each meeting summary.

supported by their parents. Another participant added that it is wrong to charge a child for services when the child has been forced to ask for help to obtain this birthright of support.[30]

Others also opposed fees and charges because "the child loses," but on financial rather than moral grounds.

One participant stated that studies in her state have shown that 92% of people in the child support system fall below 200% of the poverty line. This participant opined that this indicates that very few families could afford to pay fees and not have it impact their standard of living. Another participant added that as more families go off TANF, the child support system will become increasingly low-income and that extreme care should be taken in deciding to charge fees.[31]

Objections to fees intended to recover costs were repeated frequently. Cost recovery keeps money from families "because there is only a finite amount of money to collect. We are not collecting amounts which even approach the total due."[32] "Other participants added that any recovery takes money from children and that child support needs to be funded as a government program without costs being passed on to families."[33]

As the last sentence indicates, the status of the child support system as a "government program" was a topic of disagreement. At another meeting, a participant "expressed frustration because Child Support is expected to be a profit maker or to be self funding which is very different than other social programs' goals."[34] This theme again points to the conflict many see between the child support program's mission of helping children and its older role of recovering costs expended on public assistance. A particularly strong statement about this conflict was submitted by the Center for Law and Social Policy.[35]

Some participants saw cost recovery efforts as distractions from the proper work of the child support program. A participant said that most people could not afford to pay for child support services. "Attempting to charge is wasteful energy. The more important task at hand is to concentrate energy on getting orders and enforcing them."[36]

Others saw cost recovery fees as incompatible with making the child support program serve as many people as possible. Someone suggested that "the program needs to encourage as much participation as possible and that

[30] Albany, NY, November 12, 1998, pg. 53.

[31] Chicago, IL, November 18, 1998, pg. 60.

[32] Seattle, WA, October 6, 1998. See also summaries for Atlanta, October 28, 1998, and Mesa, AZ November 5, 1998, pp 36, 42, 47.

[33] Chicago meeting, November 18, 1998, pg. 60.

[34] Mesa, AZ, November 5, 1998.

[35] Letter from Vicki Turetsky to John Monahan, ACF, in 1999. The letter asserts a "fundamental tension between the program's dual missions of cost-recovery and service delivery. The program's reimbursement-driven funding structure has undercut its performance . . . " This letter and statements by NCSEA and various advocacy groups are available at www.acf.dhhs.gov/programs/cse.

[36] Denver meeting, September 18, 1998.

fees will drive paying cases from the system or keep families from seeking services." [37] This last objection to cost recovery as incompatible with the program's purpose comes close to the third set of arguments.

Would Charging Fees Damage State Child Support Programs?

The third major theme was the fear that charging fees would damage state child support agencies by increasing the proportion of complicated, nonpaying cases within the caseload and by increasing demands on overburdened systems. Some participants feared that the "better performing cases would opt to leave the system if fees are charged and will only return if child support stops. This will leave the program with only the more complicated cases."[38] Other participants contended that those who can afford to pay fees already have paying cases. Their cases are relatively inexpensive to handle and more easily resolved. These people can move out of the IV-D system if they wish to avoid fees. But fees would not apply to public assistance cases, and these are typically more difficult to work.[39]

If charging fees should result in the loss of paying cases leaving a higher concentration of difficult cases in the caseload, the outcome could be lowered collection rates, lowered cost effectiveness, and a loss of federal incentives.

Others suggested that charging fees is likely to increase the parents' expectations of customer service from the agency. Increased demand for service would put more stress on an overburdened system. A participant suggested that fees not be allowed until a child support office reached adequate service levels.[40]

This discussion appears to present IV-D agencies with a quandary. Fees are proposed to meet funding shortfalls, but fees may increase demands for better service (and generate more anger when support is not collected). In turn, better customer service probably requires increased staffing, which in turn costs more money. On the other hand, if charging fees causes customers with better paying cases to exit the system, the caseload may decline, but the remaining mix may be more expensive to work and result in lower payments and lowered federal incentives.

Policy Considerations on Fees

As discussed earlier, fees can be assessed against either the noncustodial parent or the custodial parent or both. The most frequently charged fee is an initial application fee for nonassistance services.[41] Such a fee is also the simplest to administer, because the custodian makes a single payment when submitting the application.

[37] Washington, D.C., November 9, 1998.

[38] Albany, NY, November 12, 1998.

[39] Denver meeting, September 18, 1998.

[40] Washington, D.C., November 9, 1998.

[41] Federal law prohibits an application fee for custodians leaving public assistance, but in fact requires states to assess an initial fee for new nonassistance services. The fee can be up to $25. However, the law allows states to cover the fee from the state general fund, which Washington has chosen to do.

Feasibility of Collecting Fees for Child Support Services

States can also charge a monthly fee for collections (often a small percentage) or charge fees for specific services. They may withhold such fees from collections, assessing the custodian and thus diminishing child support sent to the family. Or they may add the fees to the noncustodial parent's bill, collecting them only after all child support is collected and distributed to the family. Or they may combine elements of the previous two methods by initially withholding from collected child support, then recovering the fees from the noncustodial parent after all regular support is collected and distributed, in order to reimburse the custodian. (Since most noncustodial parents owe arrears, the latter two methods have disadvantages: receivables are inflated over a period of time; computer tracking of separate fee amounts is required; and additional calculations are required to determine the ratio of collections to administrative costs for incentive purposes.)
Some states charge interest to delinquent noncustodial parents, with the intention of collecting and distributing the interest after all the current and arrears are collected and distributed. This further inflates the receivables, raising additional issues for the agency.

Fee policies raise questions of efficiency and effectiveness, as well as specific calculations of benefit versus cost. They also raise broader questions of equity and the purpose of the child support program.

One public policy dilemma here is deciding who should be assessed the charges—i.e., who gets the bill? Generally, user fees are charged to the recipient of services. But, as Steven Garasky points out, "child support enforcement services are somewhat unique relative to other services for which user fees are charged. The need for CSE [child support enforcement] services often results from the actions of another individual (e.g., the nonpayment of support by a noncustodial parent)."[42]

In such a situation public policy scholars may recommend other solutions. For example, H. S. Rosen suggests that a fee structure to recover costs for services necessary to correct the behavior of others should either penalize the culprit or subsidize the victim.[43]

For child support enforcement, the penalty solution would entail passing the fees on to the noncustodial parent. When states impose fees and interest on the noncustodial parent, they are, in part, choosing the penalty solution. They also intend to give the debtor an incentive to comply in a timely manner. The problem is that this solution does not appear to be very effective. There are too many delinquent child support cases, too much accumulated debt, and too many debtors who seem to have inadequate income to pay current support, let alone the arrearages. The penalty solution increases the debt, which is the reason for imposing the penalty in the first place.

Alternatively, the subsidy solution would be to provide free child support enforcement services to the custodial parent. In essence, this is the solution chosen by the state of Washington since 1984.

Impact of Nonassistance Fees on Collections

Irwin Garfinkel and Philip Robins conducted a national study that concluded that charging fees to custodial parents had a negative effect on child support collections.[44] The policy of charging nonassistance fees showed a

[42] Steven Garasky, "User Fees and Family Policy: Attempting to Recover Costs for State Provided Child Support Enforcement Services," available at http://www.spea.indiana.edu/ncsea-data. The article appeared in *Policy Studies Journal*, 25:1 (Spring 1997), pp. 100-108.
[43] H. S. Rosen, *Public Finance*, 3rd ed., Homewood, Ill., 1992, cited by Garasky.

negative correlation with all the outcome measures, including likelihood of having a child support order, amount of the order, amount of child support collected, and the collection rate. However, the major impact was on the likelihood of having an order, followed by the amount of the order.

Further analysis showed that fees did not make a significant difference in the collection rate when the researchers controlled for the presence of an order. The negative effect of nonassistance fees comes "primarily by reducing the probability of having an [order], as well as the level of the [order] for those with an award . . . ."[45] The authors did not find the results surprising. They found that the negative coefficients for charging fees "are consistent with economic theory and suggest that families are price sensitive when applying for child support services."[46] In other words, charging a custodial parent for nonassistance services makes the parent less likely to apply for enforcement services. Therefore the parent is less likely to get a child support order. When the parent does have an order, it is likely to be lower because, lacking the IV-D agency's help, a modification is less likely.[47]

This study found that, in contrast to charging fees, several enforcement tools adopted by states had positive impacts on child support collections. These included immediate wage withholding, requiring payment through a central agency, publicizing the availability of services, having uniform child support guidelines, wage withholding upon delinquency, and allowing paternity to be established until the child reached 18 years of age.

Garfinkel and Robins looked at enforcement tools implemented by states chiefly as a result of the 1984 Child Support Enforcement Amendments. The study covered data collected primarily between 1978 and 1987. Much has happened in child support enforcement in the last dozen years. This study cannot help us assess the impact of policies and tools mandated by the 1988 Family Support Act or welfare reform or the 1997 Child Support Performance legislation. Charging nonassistance fees has not become a more popular policy with states in the intervening years.

However, there is not an updated study available to show whether the strengthened enforcement tools of a IV-D agency are enticing enough to induce more custodial parents to apply despite fees.

The Logic of Charging the Custodian

Charging custodial parents fees for nonassistance services could serve either of two purposes. One would be to discourage applicants in order to keep the nonassistance caseload as small as possible and still comply with federal law. To be eligible for federal public assistance (IV-A) funds, a state must maintain a IV-D program as well. But if the goal is to provide minimal social services, a state might strive to restrict IV-D services as much

[44] Irwin Garfinkel and Philip K. Robins, "The Relationship Between Child Support Enforcement Tools and Child Support Outcomes," in *Child Support and Child Well-Being*, ed. by Irwin Garfinkel, Sara McLanahan, and Philip K. Robins (Washington, D.C.: Urban Institute Press, 1994), pp. 133-171.

[45] Garfinkel and Robins, page 159.

[46] Garfinkel and Robins, page 142.

[47] In her discussion of this study, Paula Roberts concluded "fees should not be imposed but that, if they are, the least harm will be done by imposing them at the time of collection not at the beginning of the process." Roberts, "A Preliminary Look at Fees in the IVD Program," Memorandum, Center for Law and Social Policy, May 21, 1998, pp. 6-7.

as possible to current public assistance families and those leaving assistance. This view is likely to be particularly popular among circles concerned about public agencies encroaching on private business. Here the assumption seems to be that if a custodian is not poor enough to need public assistance, he or she should hire an attorney or private collection agency to collect child support. Of course, the danger of such a strategy is that families with precarious incomes may be discouraged from applying for child support enforcement and end up on public assistance as a result.

The second and more usual reason for imposing fees is cost recovery. States have viewed child support services as a means to recover costs of providing public assistance. The Title IV-D program was designed for cost recovery of state and federal outlays on public assistance paid to families **and** for cost avoidance to help families leave welfare and to help families not on welfare to avoid turning to public assistance. The cost recovery design has received far greater attention than the latter, even though cost avoidance was found in the enactment language of the IV-D program in 1974.

Historically, child support among public assistance recipients has been assigned to the state, and collected payments were used to offset welfare costs. Although services were then extended to nonassistance families, cost recovery has continued to dominate the child support program. The logic behind charging fees to nonassistance cases was that the state should recover costs by charging fees for service to those who were not on assistance. The problem was that most state child support programs have a small proportion of truly "never assistance cases;" the majority (75 percent or higher) of IV-D cases are comprised of assistance and **former** assistance cases.

Since welfare reform, the emphasis on the cost recovery model alone has come under attack as obsolete. Critics have argued that the model is incompatible with the logic of welfare reform, which is intended to help families become self-sufficient.[48] Welfare reform has merely focused attention on the second half of the intent of Title IV-D, which is self-sufficiency.

But even for states working within a cost recovery model, the advisability of charging nonassistance fees has been strongly debated. If the custodian is discouraged from applying for or continuing enforcement services, the family may end up back on public assistance. This is precisely why federal law forbids charging custodial parents fees for enforcement services when they first leave public assistance. The goal is to encourage custodians to take advantage of IV-D services and thereby to avoid additional public welfare costs.

Balancing these two goals—cost recovery and cost avoidance—has dominated policy debates even when the priority of family independence and self-sufficiency has not been emphasized. But in the new arena, family independence and public cost avoidance are viewed as compatible goals; it is the viability of cost recovery that is now questioned.

A shortcoming of cost avoidance arguments has been the one-sided concern with keeping families off assistance once they have left AFDC or TANF. Logically, cost avoidance strategies should be equally concerned with preventing families from needing public assistance in the first place. Indeed, it can be argued that a custodian's motivation to remain independent is probably stronger before the family goes on public assistance. Keeping families off assistance might be much cheaper than getting them off and keeping them off later. If so, policy

[48] Vicki Turetsky, *What If All the Money Came Home?* Center for Law and Social Policy, June 2000. See also *Testimony of Vicki Turetsky, Senior Staff Attorney, Center for Law and Social Policy, before the Subcommittee on Oversight and Investigations, Committee on Commerce, U.S. House of Representatives, February 24, 1999*. Both are available at http://www.clasp.org/pubs.

makers should be concerned that single-parent households get effective child support enforcement services **before** the family has to seek TANF. This in turn means encouraging custodians to apply for nonassistance services rather than adopting a policy that would effectively limit the caseload.

Some issues of fact arise here. How important is child support to single-parent household income? What proportion of single-parent households are poor (i.e., living at or near the poverty level)? What proportion are at risk of needing public assistance?

Single-Parent Household Income and IV-D Services

Numerous studies have shown that children living in single-parent households are much more likely to be poor than others. For example, an Urban Institute study concluded that in 1996 such children were "three times as likely to be poor and four times as likely to receive public assistance as other children."[49]

Matthew Lyon has provided a useful recent examination of the relationship between use of IV-D services and family income level.[50] Lyon used U.S. Census data to identify some characteristics of the custodial parent families eligible for child support enforcement services.[51] One of the most valuable aspects of this study is that he provides separate statistics for the population of eligible families, and within that category, for families actually using IV-D services in 1995, and for those eligible but not using IV-D services. This makes it possible to compare IV-D families with non-IV-D families by income/poverty level, participation in welfare and other government programs, gender and marital status of the custodial parent, residence of the noncustodial parent, whether there is a child support agreement, and receipt of support payments. Data cover the status of families in 1995. (*See Appendix 2 for some of Lyon's tables.*)

Another advantage is that his definition of public assistance includes not only IV-A cash assistance but also Medicaid, food stamps, housing subsidies, and SSI. His tables provide separate columns for (a) all families eligible for IV-D services, and within that, (b) families receiving IV-A cash assistance, (c) families receiving other public assistance excluding IV-A cash (food stamps, Medicaid, housing subsidy, or SSI), and (d) families receiving no public assistance. Combined with the poverty-level comparison, we get a fuller picture of these families' economic position.

[49] Elaine Sorensen and Chava Zibman, "To What Extent Do Children Benefit from Child Support? New Information from the National Survey of America's Families, 1997," *Focus* 21:1(Spring 2000), 34.

[50] Matthew Lyon, *Characteristics of Families Using Title IV-D Services in 1995*, U.S. DHHS, Office of the Assistant Secretary for Planning & Evaluation, Human Services Policy Office, May 1999. The brief report itself is accessible at http://www.aspe.hhs.gov/CSE-Char99/CSE-Char99.htm. Unfortunately, the data precede welfare reform, but hopefully the author will produce an update with later census data. The tables appear in *Appendix 2* of this report. We reproduced them because they are available only in QuattroPro.

[51] A child support eligible family is defined as "a custodial parent with an own child under age 21 living in the household whose other parent is absent from the household." According to Lyon, there were 13,739,431 child support eligible families in the United States in 1995. His definition in fact excludes some situations for which a IV-D agency would establish a case, while, on the other hand, current support ends at age 18 in many jurisdictions. Of course, debt collection continues for years after age 18.

Feasibility of Collecting Fees for Child Support Services

In 1995 the U.S. median family income was $40,611, according to U.S. Census Bureau estimates.[52] Most single-parent households fall below median income. Lyon's analysis shows that the majority of families eligible for IV-D services have very modest incomes. In 1995, 43.5 percent of eligible families had incomes under $20,000, and 59.7 percent had incomes under $30,000. Of those actually receiving IV-D services, 54.1 percent had incomes under $20,000, and 69.4 percent had incomes under $30,000.[53] In appraising these dollar amounts, it is important to keep in mind that the Census Bureau's definition of income is very broad. The amounts are before taxes and include child support received, cash public assistance, and other governmental transfers.[54]

The contrasts become even starker when stated in terms of the ratio of income to poverty level. This ratio adjusts for size of the household.[55] According to the Census Bureau, in 1995 10.8 percent of all families, and just 5.5 percent of married-couple families, were below the poverty level.[56] Lyon shows that of single-parent households (families eligible for IV-D services), 30.4 percent were below the poverty level; 40.9 percent of those actually receiving IV-D services.

If we extend the net a bit wider to catch those with incomes less than 150 percent of the poverty level, we include 44 percent of families who could have received IV-D services in 1995. Of the families actually receiving IV-D services, 56.7 percent had incomes less than 150 percent of the poverty level. Among them, IV-A cash assistance families were the poorest; 85.9 percent were below 150 percent of the poverty level, compared to 64.4 percent of the other public assistance families, and 22.4 percent of the families receiving IV-D services but no public assistance.

By comparison, the families that were eligible but did not receive IV-D services tend to have higher incomes. Only 23.2 percent are below 150 percent of the poverty level. Yet even here, the percentages seem surprisingly high. For example, 69.4 percent of those receiving public assistance other than IV-A cash are below 150 percent of the poverty level. And 19.3 percent of the families that received neither IV-D services nor public assistance had incomes below 150 percent of the poverty level. What seems most surprising is that these latter

[52] U.S. Census Bureau, "USA Statistics in Brief—Income, Prices, Energy," revised August 2, 2000; <http://www.census.gov/statab/www/part4.html>

[53] Adapted from Lyon, Table 3B.

[54] Income amounts are before taxes, FICA, Medicare deductions, union dues, etc., are deducted. Income includes earnings, unemployment compensation, social security, workers compensation, SSI, cash public assistance, survivor benefits, disability benefits, veterans' payments, pensions and retirement income, child support, alimony, educational assistance (Pell grants, scholarships, etc.), interest, dividends, rents, royalties, trusts, and other income. Although this is a broad definition of income, it excludes most capital gains, lump-sum inheritances or insurance payments, and gifts. It also excludes some noncash benefits that families may get, such as food stamps, health benefits, rent-free housing, employer contributions to education, retirement, and transportation. Although some of these exclusions understate benefits that low-income families may get, obviously many of the exclusions result in understating the income of better-off families.

[55] For example, in 1995 the poverty threshold for a two-person family with head under age 65 was $10,259; for a three-person household, $12,158; and for a four-person household, $15,569. In terms of income/poverty ratio, these figures would be referred to as 100 percent of the poverty level. The comparable figures for 150 percent of the poverty level were $15,389 (two-person); $18,237 (three-person); and $23,354 (four-person). Lyon, Table 4A.

[56] U.S. Census Bureau, "Historical Poverty Tables," Table 4; http://www.census.gov/hhes/poverty/histpov/hstpov4.html. See also Table 13.

two categories do not seek IV-D services in higher numbers. As Lyon shows (Table 8), families with IV-D services are more likely to have support agreements and receive payments than their non IV-D counterparts. It is especially surprising that families receiving other public assistance do not face more legal and social pressure to apply for support enforcement.

Lyon's analysis distinguishes between families receiving types of assistance in 1995 and those not receiving assistance at that time. Unfortunately, we cannot determine how many of those families had *formerly* received assistance, even though they did not in the period considered. Nor can we determine how many of those families in his category of "receiving IV-D services but no public assistance" were former assistance families who had continuously received IV-D services since they left public assistance, so that they avoided the possibility of application fees.

How Significant Is Child Support?

Given the predominance of low incomes among single-parent households, how important is child support? In the Urban Institute study cited above, Sorensen and Zibman showed that, when received, child support is an important part of income for poor single-parent families. For single-parent poor families that received some child support in 1996, child support averaged over one-quarter (26.2 percent) of family income. Child support comprised 29.6 percent of 1996 income for families formerly on welfare, compared to 38.7 percent of income for poor families who had never received public assistance.[57]

The problem is, of course, that the majority do not receive any child support. An interesting finding was that "**poor families that were formerly on welfare are more likely to receive child support than those that have never been on welfare**." Of former assistance families, 41.7 percent received child support, compared to 32.8 percent of poor families that had never been on welfare. The authors speculate that "a possible reason is the requirement that families seeking welfare cooperate with child support enforcement agencies, while families that are not on welfare only receive services from these agencies if they request them." While families are on assistance, IV-D services are required. These services continue after the family leaves public assistance, unless the custodial parent specifically requests that the agency stop enforcing current support. This is a significant finding. For poor families that have never been on welfare, child support is a larger part of family income when received than it is for former assistance families, yet they are less likely to get such support. This finding emphasizes the importance of encouraging families to apply for IV-D services. Even modest fees for services may be a significant amount of a poor family's income.

Summing Up: Should DCS Charge the Family for Services?

Evidence from numerous studies suggests such a policy would not be practical or equitable. It would not increase collections; in fact, one national study indicates that collections would decrease. It would certainly be a cause of serious concern for many stakeholders, including custodial parents, noncustodial parents, advocacy groups and concerned citizens.

1. Charging the custodial parent is penalizing the family; yet our purpose is to help these families.

[57] Sorensen and Zibman, p. 36, especially Table 3.

2. Advocates for custodial fees assume a far greater income difference than actually exists between TANF families and nonassistance families. Single-parent households generally have very modest incomes; many are near the poverty level. The well-off minority do not seek IV-D services.

3. Providing free services to TANF families while charging nonassistance counterparts penalizes those custodial parents who try to remain off assistance, sometimes by working multiple jobs. It cannot be good public policy to penalize citizens who try to be independent, support their children and follow the rules. When a TANF parent can get child care, cash assistance and free enforcement services, it cannot be equitable to charge a nonassistance parent who is trying to earn a living, feed and clothe children, and balance child care with employment.
4. Even small fees may be a hardship for struggling families. Presently, income differences are widening even in the presence of a booming economy. In Washington State, growing housing and energy costs are putting many working families at risk. Food banks report increasing visits both by families leaving TANF and those who have not been on assistance.

5. States that charge fees use income scales, so that those below a certain level do not pay for services. When most of the likely applicants have high enough incomes to pay fees, the user fees may generate enough reimbursement for the agency to justify the cost of developing and implementing them. When the majority of users have low income, it becomes questionable whether it is worth the agency's staff time and computer programming to develop the fees and monitor the incomes.

6. Cost recovery is not likely to be effective given the income spread of single-parent households. Cost avoidance, however, remains an important consideration. If fees prevent parents from applying for child support services, they may be more likely to end up applying for public assistance. The costs of funding the public assistance programs are far greater than those of providing nonassistance child support enforcement.

III. Late Fees and Interest

The ability for states to impose late payment fees on noncustodial parents who owe overdue child support was effective September 1, 1984.[58] The fee, proscribed by the federal government, can be no less than 3 percent and no more than 6 percent of overdue support. "The fee shall accrue as arrearages accumulate and shall not be reduced upon partial payment of arrears. The fee may be collected only after the full amount of overdue support is paid and any requirements under State law for notice to the noncustodial parent have been met."[59]

Washington's Legal and Legislative Challenges Regarding Interest

Washington State Statute (Title 26) allows interest to be charged. The Washington State Plan for Support Collection and Establishment of Paternity under Title IV-D of the Social Security Act (Section 2.11), however, currently has no procedures in place for the imposition of late payment fees in accordance with §454 (21) of the Act.
The State of Washington prevailed in a class action challenge to force the Office of Support Enforcement (now the Division of Child Support) to assess and collect interest on unpaid child support. The class action suit, Krenzel v. DSHS, was brought by the Northwest Women's Law Center. The Superior Court of Washington for

[58] WAC 388-11-22
[59] WAC 388-11-22

the County of King ruled on July 15, 1994 that RCW 26.23.030 (2) is permissive and the Office of Support Enforcement is authorized, but **not** required, to assess and collect interest in child support cases.

In the 1995 legislative session, legislation (SB5390/HB1217) was proposed that would amend RCW 26.23.030 (2) to make charging interest mandatory rather than permissive. The proposed revision was:

> *The office of support enforcement ((~~may~~)) shall assess and collect interest at the rate of twelve percent per year on unpaid child support that has accrued under any support order entered into the registry. This interest rate shall not apply to those support orders already specifying an interest assessment at a different rate.*

As a result of Krenzel v. DSHS and the subsequent proposed legislative change, the Division of Child Support prepared several detailed analyses. The Bill Analysis for HB1217 dated January 19, 1995 states that there are no existing requirements under Title IV-D of the Social Security Act for states to assess and collect interest. In addition, the argument was brought that extensive reprogramming of the state's computer system would need to be undertaken. Finally, it was argued that interest must be distributed according to complex federal distribution rules. This distribution is further complicated by multiple parent families, interstate cases and differing case types (then AFDC and non-AFDC, now TANF, Former Assistance and Never Assistance).

It was stated in the bill analysis that the Division of Child Support expended a minimum of 3,600 staff hours per month in the distribution of child support for more than 200,000 child support payments per month. It was argued that spending more time determining the proper distribution of interest would potentially delay payments to children and families that depend upon those payments.

A discussion paper was completed as well that provided more fiscal details.[60] In the paper, a description of the complex distribution process was outlined. The date of the child support received determines whether it is applied to current support and whether the recipient family received public assistance during the prior month. Second, if there is more than one family owed child support, the payment must be split proportionately between the families, based on the date of collection. If a family is on public assistance or has been on public assistance with a debt owed, the distribution scheme changes.

The report further points out that interest collected on child support is not the same as interest assessed in a basic account receivable system. It states:

> *For example, most companies that assess and collect interest merely retain the interest collected; DCS must distribute any interest collected. Since DCS must distribute child support to multiple families in cases where the responsible parent owes child support for more than one family, DCS will also distribute interest amongst multiple families in these cases. Furthermore, for those cases where debts are owed to both the state and the family, two separate interest debts must be calculated for each case. As the status of these cases change (i.e., the family begins receiving public assistance and/or terminates public assistance, etc.), interest must be recalculated. This recalculation is necessary because each time there is a case status change, the debt or portions thereof are reassigned to the state and/or the family. Problem resolution on cases involving interest can be labor and time intensive.*

[60] Division of Child Support, "Discussion Paper: Imposition and Collection of Interest," February 9, 1995.

Feasibility of Collecting Fees for Child Support Services

An Oregon study was cited in the discussion paper that was conducted by Policy Studies Inc. in 1994. They found that no increase in child support collections would result from imposing interest.

A DCS cash workgroup was formed to study methodology for assessment of interest of child support debts. The memorandum from Meg Sollenberger, Director of DCS, to Jerry Friedman, Assistant Secretary, Economic Services, Department of Social and Health Services, dated September 26, 1994, stated that the workgroup would prepare a report detailing their study of interest. The cash workgroup consisted of headquarters and field office staff. A report was prepared.[61]

In the cash workgroup's report, it was stated that interest might be considered as program income rather than as child support, which would result in interest being reported to the federal government as program income. Program income reduces dollar-for-dollar the claim the state makes to the federal government for matching funds. RCW 74.20A.270, however, defines the support debt as including any accrued interest charged on a support debt. Therefore, interest was finally defined as child support by the cash workgroup.

Interest would be paid after current child support, non-welfare debt and welfare debt distributions have been made. SEMS (Support Enforcement Management System) would need to develop a separate payment record for interest because interest must be simple and not compounded. Case law prohibits compounding interest unless authorized by express language in statute or an agreement.[62]

The cash workgroup contacted other states. They asked representatives from the child support agencies if they compute and collect interest on child support arrears, how they compute interest on arrears and how they distribute interest collections. They also asked, "What would you do differently?" The report states the overwhelming response from responding states was, "Not do interest."

The workgroup paper lists Option One as their recommendation:

> *Due to the distribution complexity, negative impact on organizational efficiency and the significant costs associated with assessment of interest, it is the strongest recommendation of this workgroup that, until federal mandates are issued addressing interest payments for child support debt, interest* ***NOT*** *be assessed or collected by DCS.*

There were two other options, one a long-term development option and one a short-term implementation option. The short-term implementation option was not recommended. Basically, it was a manual adjustment on all debt owed as of December 31, 1995. It was rejected because it would be much more costly and would, in effect, calculate compound interest, which is not permitted.

The long-term option required SEMS development and implementation costs in excess of $2 million, using 49 FTE staff months. The elapsed time was estimated at 18 months (including database changes, modification of 84 financial programs and a program release). Other costs included substantial training costs, $60,000 annual notice costs and staff time to respond to questions and concerns from noncustodial and custodial parents.

The legislation failed to pass. The Washington State Division of Child Support does not charge interest.

[61] Division of Child Support Cash Workgroup, "Interest Proposal," February 2, 1995.
[62] Caruso v. Local Union No. 690, 50 Wash. App. 688, 749 P.2d 1304 (1988).

Policy Studies Inc.: A Study of Interest Usage on Child Support Arrears

Policy Studies, Inc. published a study June 2000 entitled, "A Study of Interest Usage on Child Support Arrears: State of Colorado." The federal Office of Child Support Enforcement (OCSE) funded the study on the effects of charging interest on child support arrears. The Colorado Division of Child Support Enforcement contracted with Policy Studies Inc (PSI) to conduct the study and make recommendations for a statewide interest policy. Individual Colorado counties charged varying amounts of interest at the time of the study.

OCSE has no written guidelines on how interest should be calculated. Whether to apply child support to interest or principal first is left up to the states.[63] The interest could be calculated as simple annual or could be compounded annually or monthly. Federal rules for distribution of interest are, however, specified. If accrued interest attaches to the child support debt, it is then viewed as child support and subject to distribution rules for child support arrearages. "Interest must follow the same complex distribution rules as arrearages that require separate tracking of six categories of assigned and unassigned arrears."[64]

Another issue discussed in the study is that of state differences in arrearages and the calculation of interest. With the Uniform Interstate Family Support Act (UIFSA), states are required to enforce the orders of the initiating state. The responding state, regardless of whether the responding state assesses interest, must collect and enforce interest if the initiating state assesses interest.[65]

Yet a third policy issue has been raised that could affect interest. Child support passthrough legislation has been proposed by several representatives and senators, which would pass all child support paid directly to TANF recipients. In addition to eliminating the complex distribution scheme that currently exists, all interest payments would go to the family instead of some of it being assigned to the state through current distribution rules.

Lessons Learned from the States:

In 1998, the Region VIII Office of Child Support Enforcement conducted a survey on interest. They found that states varied in their approaches to interest. Forty-seven percent of states assessed interest, according to this survey. Of those charging interest, about 75 percent recently began assessing interest while the remainder has charged interest for a long time. For those states not charging interest, three major reasons were stated: 1) interest is administratively burdensome; 2) the automated system cannot handle interest; and 3) collecting interest is not cost effective.

Then, in 1999, Policy Studies Inc. designed a survey to expand upon the regional survey findings from 1998. Specifically, they wished to further explore why some states thought charging interest was cost effective while others did not. The other areas of inquiry probed the dynamics of interest assessment among the states.

[63] Federal Office of Child Support Enforcement Action Transmittal 98-24.
[64] Jane Venohr, David Price and Esther Griswold, *A Study of Interest Usage on Child Support Arrears: State of Colorado*, Policy Studies Inc., Final Report, June 1, 2000.
[65] *OCSE Region IX-X State 1998 Bi-Regional Report*, Bi-Regional Conference, San Francisco, CA, Appendix B, as referenced in Venohr, et al.'s report.

Feasibility of Collecting Fees for Child Support Services

Policy Studies Inc. conducted a telephone survey of 19 states to document their philosophies, experiences and practices around interest. One-hour telephone interviews were conducted over the summer of 1999 and focused on:

- Contributing factors to states' decisions to charge or not charge interest;
- Contributing factors for effective interest charges; and
- Challenges faced by states in charging interest and how they were overcome.

The states interviewed are shown below in a table that depicts the interest category of the state: 1) charges interest statewide; 2) charges interest on a case-by-case basis; and 3) charges no interest.

Charges Interest Statewide	Charges Interest Case by Case	No Interest
1. Alabama	11. Indiana (ordered by judge)	16. Michigan (uses surcharge in lieu of interest)
2. Arizona	12. Nebraska (administered through county courts)	17. Pennsylvania
3. Massachusetts	13. New Jersey (ordered by Board of Social Services or custodial parent)	18. Washington
4. Minnesota	14. New York (county office reduces arrears to judgment)	19. Utah
5. New Mexico	15. Oregon (if custodial parent initiates)	
6. Oklahoma		
7. Rhode Island		
8. Texas		
9. Virginia		
10. West Virginia		

Policy Studies Inc. reported that states' decisions to charge and collect interest were based on four factors:

- statutory provisions;
- statewide automation capability and costs;
- moral issues (e.g., child support arrearages should be subject to interest just as consumer debts are); and
- likely effects on payments.

Some states' statutes mandate interest charges while others permit it. Washington State's statutes permit it.

The survey uncovered two prevalent beliefs:

- If interest is charged, obligors will pay more regularly and more timely because child support will be on par with other consumer debt.
- Obligors who are delinquent in child support will accumulate huge debts they will never be able to pay if they are assessed interest.

There is no empirical data to support either belief regarding child support. PSI referred to a General Accounting Office (GAO) report regarding unpaid debt owed to the Internal Revenue Service (IRS).[66] The GAO report analyzed the 1997 $214 billion in unpaid assessments. Thirty-six percent of the assessments were deemed uncollectible. Twenty-two percent were disputed by either the taxpayers or the courts as truly owed to the IRS. Not surprisingly, there was little payment activity on the disputed assessments. "Cases which were more likely to be collected were defined by (a) evidence of regular payment, (b) the ability or willingness of the taxpayer to pay, and (c) the newness of the debt."[67] Debts accrued within the past four years were more likely to be paid than older debts.

PSI stated that there are parallels in the IRS study and the survey they conducted among Colorado child support respondents. The comments made by respondents in the PSI survey supported the beliefs stated earlier. Interest does not matter among those who are not going to pay anyway and the threat of interest acts as a deterrent to non-compliance among those able and willing to pay who have a fairly new debt.

[66] United States General Accounting Office, 1998, *Internal Revenue Service: Composition and Collectibility of Unpaid Assessments.* GAO/AIMD-99-12. Washington, D.C.: U.S. Government Printing Office.
[67] Venohr, et al., pg. 13.

Feasibility of Collecting Fees for Child Support Services

PSI compiled evidence relating to collection of assessed interest and to costs of calculating interests. They found that:

- Minnesota's interest comprises 7 percent of all arrears and of that, 70 percent is owed to public assistance.
- In 1995, Virginia collected about $500,000 of their $80 million interest debt, or about 0.6 percent.
- Oregon estimated in 1994 that less than 1 percent of the $400 million in interest debt that would accrue over a 20-year period would be likely to be collected within five years.
- Massachusetts collected an average of $400 each from 2,000 obligors from their new interest program (1999).
- New York assigned three full-time staff for six months to develop and test automated interest calculations.
- Washington (1993) estimated the cost of reprogramming necessary for automated interest calculations at more than $2 million. Estimates for calculating each case on the automated system would total more than $24 million.
- Iowa (1992) estimated the cost of automation at $50,000 and the development costs at $27,000.
- Respondents from states indicated that computer programming for interest complicated the conversion process to the statewide-automated systems required by federal law.

Other findings and recommendations from other states regarding interest follow:

1. States that assess interest do so on the basis of moral grounds rather than on evidence that the policy would be cost effective. The moral issue that is referenced is the belief that assessing interest on child support puts child support on par with other debts. Oregon and Washington based their objections to collecting interest on economics, concluding that interest assessment would not be cost effective.

   Policy Studies Inc. conducted a study for the Oregon Department of Justice, Support Enforcement Division, in 1994. The purpose was to estimate the amount of interest that had accrued on arrears between 1975 and 1995 and how much Oregon might collect. Oregon was developing a statewide-automated system that could calculate and track interest. They estimated that the amount of interest on arrears that had accumulated over the 20-year period was $400 million. Collections derived from interest were estimated to range between $0.8 million and $3.5 million, with most of it from non-AFDC arrearages. "Oregon did not believe their share of the collections would offset the costs of back-entering interest."[68]

2. States that assess interest must do so on their statewide-automated systems. Interest must be calculated and tracked on the automated systems. Utah had collected interest in the past and had discontinued the practice unless it is a specific dollar amount specified in a judgment. Because the state interest rate changed over time, the Utah child support agency stopped charging interest because its automated system lacked the capability to calculate rate variations.

   Colorado's child support program has a statewide-automated system, ACSES, but it neither calculates interest nor tracks interest arrears and principal arrears separately. Instead, technicians calculate interest using off-the shelf PC-based software packages, their own computer programs or manual calculations. Once the interest is calculated, the county technicians are supposed to enter it into the automated system.

   Noncustodial parents are not routinely notified of interest assessments. Child support orders do state that interest may be charged. The State Auditor's review of this type of interest calculation in 1999 yielded a

[68] Venohr, et al., pg. 17.

finding of incorrect calculations, interest not calculated through the state-wide automated system and lack of notification to the noncustodial parents about the interest charges. Less than half the counties in Colorado assess interest. Of the counties that do assess interest, most do not calculate monthly interest but rather assess interest at the time of a child support action.

3. Keep interest assessment as simple as possible. Try to avoid rules that require manual adjustments to the interest calculations.

4. Notify the noncustodial parent of the interest assessment. Some states used a separate billing statement, while others relied on annual notification or notification on the order.

5. Some states have alternatives to interest. Michigan assesses fees rather than interest because their automated system did not have the capacity to track interest. The child support agency adds a surcharge for past-due child support payments. "On January 1 and July 1 of each year, a surcharge calculated at an 8% annual rate is added to support payments that are past due as of those dates, less two weeks' support."[69] Because it is a fee, it is treated as program income and is not subject to the same Federal incentives as child support collections. Program income reduces dollar-for-dollar the claim the state makes to the federal government for matching funds.

   Massachusetts employs an interest amnesty program. An obligor who pays 75 percent of current support owed and at least $1 toward arrears is granted amnesty from paying interest on arrears. The design of this program was to parallel Federal performance indicators that provide incentives on the percentage of current support paid and the proportion of arrears cases with a payment.

6. Interest adds complexity to the already complex distribution scheme. In Texas, state statutes specify further interest distribution, resulting in 24 sub-categories of arrears it must track.

Impact of Interest on Child Support Collections

1. Interest inflates the accounts receivables. Policy Studies Inc. estimated that adding interest would add about $130 million to Colorado's arrears balances within the first year of statewide implementation. An alternative they suggested was to assess interest on past-due current support only after a specified date and not on existing arrears, which would add about $1 million in interest arrears within the first year of statewide implementation.

2. The percentage of interest likely to be collected ranges from 0.6 percent to 6.4 percent. The minimum is based on the experience of Virginia and the maximum is based on the experience of Colorado.

3. The study found no evidence that interest encourages timely payment of current support. PSI looked at performance on percent of current support paid, which is a federal incentive measure, among counties in Colorado that assessed interest and those that did not. They found that counties that assess interest generally perform less well on this measure. "The evidence, that shows that current support paid is **not more** in interest-assessing counties than counties that do not assess interest, does not support the theory that interest increases payment of current support."[70]

[69] Jane Venohr, et al., Policy Studies, Inc., June 1999, "Study of Interest Usage on Child Support Arrears."
[70] Vehohr, et al., pg. 47

4. They did state that interest could sometimes be used to effectively negotiate regular payments. "Although not used frequently, interest is used to negotiate lump sum payments, keep payments on current support regular and encourage unemployed and underemployed obligors to enroll in a six-month employment program."[71]

5. The effect of assessing interest on low-income obligors may be a disincentive to payment. Low-income obligors carry a large share of arrears debt. Many young noncustodial fathers not paying support are below the poverty level.

6. Notification regarding the assessment of interest has resulted in payments in Massachusetts and Virginia.

Costs and Benefits of Assessing Interest

Policy Studies Inc. concluded that if Colorado began assessing interest on all past due current support beginning January 1, 2000, they would likely collect $7,000 the first year. They estimated the implementation cost at $347,662, which includes developing business rules, automating the interest function statewide and training staff. Notifying noncustodial parents would cost $141,849 for an annual mailing, $267,246 for a quarterly mailing and $601,636 for a monthly mailing. The mailing costs include the cost of producing, printing and mailing notices and a conservative amount of customer service response.

In their report, PSI mentions that the State Auditor's Office considered Colorado's arrears high compared to other states, $4,400 per case on average compared to the national average of $2,263. "Statewide interest assessment will increase the gap between Colorado and the national average, particularly if interest is assessed on all arrears."[72]

PSI found that counties assessing interest collected 7.0 percent of their arrears compared with 6.9 percent of arrears collected by counties not assessing interest. Interest had no effect on the percent of arrears paid in the Colorado counties. PSI conducted a similar comparison among states and found no statistically significant difference in arrears collection by whether states assessed interest or not. Interest-assessing states collected 51 percent of their current support compared to 52 percent of non-interest-assessing states.

Other issues that must be addressed in interest assessment are interstate cases and the federal concern about arrears. About one-third of noncustodial parents live in a different state than the custodial parent according to the Census Bureau. The federal Office of Child Support Enforcement has established an Interstate Reform Workgroup to review interstate case policy to develop uniform standards for collection, disbursement, distribution and case processing. They are assessing the need for uniform arrears and interest calculations. Compromise policies are being discussed that may cap arrears amounts and interest.

The national amount of past due support was $46.9 billion in 1998. With much of the debt accounted for by poor or near poor males, it is unlikely much of this debt will ever be paid. The federal government and several states are currently reviewing child support schedule guidelines in terms of low-income obligors and arrears growth. Washington State has received two grants: one for studying arrearage growth and one for assessing the child support schedule. These policy issues will be addressed through these grants. Final reports are expected in September 2001 and June 2002, respectively.

[71] Vehohr, et al., pg. 41
[72] Venohr, et al., pg. 43.

Feasibility of Collecting Fees for Child Support Services

The issue of poor obligors is one of national concern. Elaine Sorenson of the Urban Institute has done extensive research in this area and estimates 16 to 32 percent of young noncustodial fathers who are not paying child support are impoverished. A report to the Minnesota legislature stated that half its obligors with arrears have gross monthly incomes of $1,500 or less. It would take an average of eight years to pay arrears if the obligor pays the maximum amount.

A central question is why interest is being pursued when many obligors cannot pay existing arrears. PSI explored the theory that interest charges might drive some obligors underground, resulting in a smaller proportion of paying cases in counties that assess interest than in those that do not.

To test this theory, PSI used the federal incentive measure, percent of cases paying arrears, to compare counties that assess interest with those that do not. The result of this comparison supports this theory. Counties that do not assess interest have greater proportions of arrears paying cases than those counties that assess interest. The differences were statistically significant.

From the study by PSI, assessing interest is not cost effective. In addition, it appears that assessing interest on impoverished obligors could force them underground, resulting in fewer payments on arrears. The federal incentive measure, cases paying toward arrears, could also be worsened, with diminished incentive payments to the state.

Another study conducted by PSI[73] looked at the growth of aggregate child support debt. As of June 30, 1999, Minnesota's child support debt was close to $1 billion. The rate of growth accelerates the larger the amount. For example, over the previous six-month period, total debt increased by $39.5 million. "The public assistance portion of this balance increased $11.1 million (28% of total increase), with nearly half (48.6%) of this increase in the form of interest charges on existing balances," according to the authors.[74] The debt total has nearly doubled in only seven years, due to the addition of interest.

Hennessey and Venohr conclude that low-income noncustodial parents owe the majority of the public assistance of this debt. "This conclusion is based on research on low-income non-custodial fathers, which suggests that they share similar socioeconomic characteristics with the custodial mothers of their children (Sorenson 1996)."[75] They also point out that 80 percent of the debt is more than one year old, substantially reducing the odds of successful collection. Interest diminishes the collectibility of arrears and worsens a state's performance on the incentive measure of cases paying toward arrears.

[73] James A. Hennessey and Jane Venohr, "Exploring Options: Child Support Arrears Forgiveness and Passthrough of Payments to Custodial Families," prepared by Policy Studies, Inc. for Minnesota Department of Human Services Child Support Enforcement Division, February 9, 2000.
[74] Hennessey and Venohr, page 14.
[75] *Ibid*.

APPENDIX 1

Federal Legislative History of Child Support

Feasibility of Collecting Fees for Child Support Services

1998

Public Law 105-200, the Child Support Performance and Incentive Act of 1998, provides penalties for failure to meet data processing requirements, reforms incentive payments, and provides penalties for violating interjurisdictional adoption requirements. Incentive payments are based on paternity establishment, order establishment, current support collected, cases paying past due support, and cost effectiveness and on a percentage of collections. Incentive payments must be reinvested in the state's child support program.

Public Law 105-187, the Deadbeat Parents Punishment Act of 1998, establishes felony violations for the willful failure to pay legal child support obligations in interstate cases.

1996

Title III if the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Public Law 104-193) abolished Aid to Families with Dependent Children (AFDC) and established Temporary Assistance for Needy Families (TANF). Each state must operate a Title IV-D child support program to be eligible for TANF funds. States had to comply with numerous changes in child support services.

1995

Public Law 104-35 extends the deadline two years for states to have an automated data processing and information retrieval system. The 90 percent match was not extended.

1994

Public Law 103-432, the Social Security Act Amendments of 1994, requires states to periodically report debtor parents to consumer reporting agencies.

Public Law 103-403, the Small Business Administration Amendments of 1994, renders delinquent child support payers ineligible for small business loans.

Public Law 103-394, the Bankruptcy Reform Act of 1994, does not stay a paternity, child support or alimony proceeding. Child support and alimony are made priority claims.

Public Law 103-383, the Full Faith and Credit for Child Support Orders Act, requires states to enforce other states administrative and court orders.

1993

Public Law 103-66, the Omnibus Budget Reconciliation Act of 1993, required states to establish paternity on 75 percent of the children in their caseload instead of 50 percent.

States had to adopt civil procedures for voluntary acknowledgement of paternity. The law also required states to adopt laws to ensure the medical compliance in orders.

Feasibility of Collecting Fees for Child Support Services

1992

Public Law 102-537, the Ted Weiss Child Support Enforcement Act of 1992, amended the Fair Credit Reporting Act to include child support delinquencies in credit reporting.

Public Law 102-521, the Child Support Recovery Act of 1992, imposed a federal criminal penalty for the willful failure to pay child support in interstate cases.

1990

Public Law 101-508, the Omnibus Budget Reconciliation Act of 1990, permanently extended the federal provision for IRS tax refund offsets for child and spousal support.

1989

Public Law 101-239, the Omnibus Budget Reconciliation Act of 1989, made permanent the requirement that Medicaid continue for four months after termination from AFDC.

1988

Public Law 100-485, the Family Support Act of 1988, emphasized the duties of parents to work and support their children, underscoring the importance of child support as the first line of defense against welfare dependence. States were required to: 1) develop mandatory support guidelines; 2) meet paternity standards; 3) respond to requests for services within specified time periods; 5) develop an automated tracking system; 6) provide immediate wage withholding; 8) have parents furnish Social Security number when a birth certificate is issued; and 9) notify AFDC recipients of monthly collections.

1987

Public Law 100-203, the Omnibus Budget Reconciliation Act of 1987, required states to provide services to families with an absent parent who receives Medicaid and have them assign their support rights to the state.

1986

Public Law 99-509, the Omnibus Budget Reconciliation Act of 1986, included an amendment that prohibited retroactive modification of child support awards.

1984

Public Law 98-378, the Child Support Amendments of 1984, expanded federal oversight to increase uniformity among states. States were required to enact statutes to improve enforcement. Federal Financial Participation (FFP) rates were adjusted to encourage reliance on performance-based incentives. Audit provisions were altered to evaluate a state's effectiveness. States were mandated to provide equal services for AFDC and non-AFDC families alike. A mandatory application fee not to exceed $25 on non-AFDC applicants who apply for child support services was enacted, which could be paid by the applicant, recovered from the absent parent or paid by the state out of its own funds.

Feasibility of Collecting Fees for Child Support Services

Public Law 98-369, the Tax Reform Act of 1984, included two tax provisions for alimony and child support.

1982

Public Law 97-253, the Omnibus Budget Reconciliation Act of 1982, allowed access to information obtained under the Food Stamp Act of 1977.

Public Law 97-252, the Uniformed Services Former Spouses' Protection Act, authorized military retirement or retainer pay to be treated as property.

Public Law 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, included several provisions affecting IV-D, including reducing the FFP and incentives. In addition, Congress repealed the mandatory non-AFDC collection fee retroactive to 1981, making it an option. States were allowed to collect spousal support for non-AFDC cases. Military personnel were required to make allotments from their pay if delinquent.

1981

Public Law 97-35, the Omnibus Reconciliation Act of 1981, amended IV-D in five ways: 1) IRS was authorized to withhold tax refunds for delinquent child support; 2) IV-D agencies were required to collect spousal support for AFDC families; 3) IV-D agencies were required to collect fees from parents delinquent in child support; 4) obligations assigned to the state were no longer dischargeable in bankruptcy proceedings; and 5) states were required to withhold a portion of unemployment for delinquent support.

1980

Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, amended the Social Security Act as follows: 1) FFP for non-AFDC was made permanent; 2) states could receive incentives on interstate AFDC collections; and 3) states had to claim expenditures within two years.

Public Law 96-265, the Social Security Disability Amendments of 1980, increased federal matching funds to 90 percent for automated systems. IRS was authorized to collect arrearages for non-AFDC families. IV-D was given access to wage data.

1978

Public Law 95-598, the Bankruptcy Reform Act of 1978, repealed section 456(b) of the Social Security Act (42 USC §656(b)), which had barred the discharge in bankruptcy of assigned child support arrears. (Public Law 97-35 in 1981 restored this section.)

1977

Public Law 95-142, the Medicare-Medicaid Antifraud and Abuse Amendments of 1977, enabled states to require Medicaid applicants to assign the state their rights to medical support. Incentives were made for states securing collections on behalf of other states.

Feasibility of Collecting Fees for Child Support Services

Public Law 95-30 amended section 454 of the Social Security Act, including garnishment of federal employees, bonding employees who handle cash and changing incentive rates.

1976

Public Law 94-566 required state employment agencies to provide addresses of obligated parents to state child support agencies.

1974

Public Law 93-647, the Social Security Amendments of 1974, created Title IV-D of the Social Security Act, the child support program. The program was designed for cost recovery of state and federal outlays on public assistance and for cost avoidance to help families leave welfare and to help families avoid turning to public assistance.

1967

Public Law 90-248, the Social Security Amendments of 1967, allowed states access to IRS for addresses of obligated parents. Each state was required to establish a single child support unit for AFDC children. States were required to work cooperatively.

1965

Public Law 89-97, the Social Security Amendments of 1965, allowed welfare agencies to obtain addresses and employers of obligated parents from Health, Education and Welfare.

1950

Public Law 81-734, the Social Security Act Amendments of 1950, added section 402(a)(11) to the Social Security Act. State welfare agencies had to notify law enforcement officials when providing AFDC to a child. The Uniform Reciprocal Enforcement of Support Act (URESA) was approved.

APPENDIX 2

Tables Reprinted from

Characteristics of Families Using Title IV-D Services in 1995

By Matthew Lyon

May 1999

TABLE 1: THE POPULATION OF CSE ELIGIBLE FAMILIES: 1995

	Number	Percentage
Total CSE Eligible Population	13,739,431	100.0%
IV-D Participation		
IV-D	8,694,501	63.3%
Non IV-D	5,044,930	36.7%
Public Assistance		
Cash Assistance (IV-A)	2,959,860	21.5%
Non-cash Assistance	3,014,001	21.9%
No Public Assistance	7,765,570	56.5%
Type of Assistance Received		
IV-A	2,959,860	21.5%
Medicaid	5,009,415	36.5%
Food Stamps	4,040,327	29.4%
Housing Subsidy	1,727,558	12.6%
SSI	866,646	6.3%
Family Income		
$0	135,903	1.0%
$1 to $5000	1,000,991	7.3%
$5001 to $10,000	1,795,524	13.1%
$10,001 to $15,000	1,691,378	12.3%
$15,001 to $20,000	1,342,021	9.8%
$20,001 to $25,000	1,110,795	8.1%
$25,001 to $30,000	1,116,748	8.1%
above $30,000	5,545,071	40.4%
Income/Poverty Ratio		
<50% of poverty level	1,779,322	13.0%
50 to 99%	2,392,532	17.4%
100 to 149%	1,924,083	14.0%
150 to 199%	1,564,413	11.4%
200 to 249%	1,426,927	10.4%
250 to 299%	1,122,018	8.2%
>300%	3,530,136	25.7%
Gender of CP		
Mothers	11,634,325	84.7%
Fathers	2,105, 106	15.3%
Marital Status of CP		
Married	2,709,155	19.7%
Widowed	362,613	2.6%
Divorced	4,964,321	36.1%
Separated	2,064,405	15.0%
Never Married	3,638,938	26.5%
Agreement/Receipt Status		
Total w/ Award	8,297,794	60.4%
Legal/Informal Agreement in Place	7,967,376	58.0%
Pending Legal Agreement	330,418	2.4%
Total w/ Receipt	6,190,537	45.1%
Receipt with support due	4,768,534	34.7%
Residence of NCP		
NCP In-state	10,247,726	74.6%
NCP Out-of-State	3,491,705	25.4%

SOURCE: CPS/CSS Match File, March/April 1996.

TABLE 2: RECEIPT OF PUBLIC ASSISTANCE OF IV-D FAMILIES: 1995

	Number	*Percentage*
IV D Yes	8,694.501	100.0%
Cash Assistance (IV-A)	2,959,860	34.0%
Non-cash Assistance	2,617,270	30.1%
No Public Assistance	3,117,371	35.9%
Type of Assistance Received		
1V-A	2,959,860	34.0%
Medicaid	5,009,415	57.6%
Food Stamps	3,818,267	43.9%
Housing Subsidy	1,536,281	17.7%
SSI	831,849	9.6%
IV D No	5,044,930	100.0%
Cash Assistance (IV-A)	0	0.0%
Non-cash Assistance	396,731	7.9%
No Public Assistance	4,648,199	92.1%
Type of Assistance Received		
IV-A	0	0.0%
Medicaid	0	0.0%
Food Stamps	222,060	7.1%
Housing Subsidy	191,277	6.1%
SSI	34,798	1.1%

SOURCE: CPS/CSS Match File, March/April 1996.

Note: Throughout, the category of "Noncash" does NOT include families in the "Cash (IV-A)" column. But it does seem to include SSI. So Noncash must really be "non IV-A Cash Assistance."

TABLE 3A: FAMILY INCOME LEVEL & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES (NUMBER): 1995

Income	All CSE Eligible Families	Cash Assistance (IV-A)	Non-cash Assistance	No Public Assistance
TOTAL	1 3,7 39,431	2,959,860	3,114,001	7,765,5 70
$0	135,903	0	83,636	52,267
$1 to $5000	1,000,991	601,393	256,315	143,283
$5001 to $10,000	1,796,524	1,005,592	535,447	255,485
$10,001 to $15,000	1,691,378	524,688	579,315	587,375
$15,001 to $20,000	1,342,021	267,206	412,839	661,976
$20,001 to $25,000	1,110,795	149,597	254,122	707,076
$25,001 to $30,000	1,116,748	89,117	247,200	780,431
above $30,000	5,545,071	322,266	645,128	4,577,677
IV-D Yes	8,094,501	2,959,860	2,617,270	3,117,371
$0	104,278	0	78,775	25,503
$1 to $5000	870,347	601,393	219,265	49,689
$5001 to $10,000	1,558,902	1,005,592	444,863	108,447
$10,001 to $15,000	1,273,118	524,688	511,978	236,452
$15,001 to $20,000	907,377	267,206	336,024	304,147
$20,001 to $25,000	650,259	149,597	218,547	282,115
$25,001 to $30,000	678,221	89,117	221,585	367,519
above $30,000	2,651,999	322,266	586,235	1,743,498
IV-D No	5,044,930	0	396,731	4,648,199
$0	31,625	0	4,861	26,764
$1 to $5000	130,644	0	37,050	93,594
$5001 to $10,000	237,622	0	90,585	147,037
$10,001 to $15,000	418,261	0	67,338	350,923
$15,001 to $20,000	434,643	0	76,815	357,828
$20,001 to $25,000	460,537	0	35,577	424,960
$25,001 to $30,000	438,527	0	25,61.5	412,912
above $30,000	2,893,072	0	58,93	2,834,179

SOURCE: CPS/CSS Match File, March/April 1996.

TABLE 3B: FAMILY INCOME LEVEL & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES (PERCENTAGE): 1995

Income	All CSE Eligible Families	Cash Assistance (IV -A)	Non-cash Assistance	No Public Assistance
TOTAL	100.0%	100.0%	100.0%	100.0%
$0	1.0%	0.0%	2.8%	0.7%
$1 to $5000	7.3%	20.3%	8.5%	1.8%
$5001 to $10,000	13.1%	34.0%	17.8%	3.3%
$10,001 to $15,000	12.3%	17.7%	l9.2%	7.6%
$15,001 to $20,000	9.8%	9.0%	13.7%	8.5%
$20,001 to $25,000	8.1%	5.1%	8.4%	9.1%
$25,001 to $30,000	8.1%	3.0%	8.2%	10.0%
above $30,000	40.4%	10.9%	21.4%	58.9%
IV D Yes	100.0%	100.0%	100.0%	100.0%
$0	1.2%	0.0%	3.0%	0.8%
$1 to $5000	10.0%	20.3%	8.4%	1.6%
$5001 to $10,000	17.9%	34.0%	17.0%	3.5%
$10,001 to $15,000	14.6%	17.7%	19.6%	7.6%
$15,001 to $20,000	10.4%	9.0%	12.8%	9.8%
$20,001 to $25,000	7.5%	5.1%	8.4%	9.0%
$25,001 to $30,000	7.8%	3.0%	8.5%	11.8%
above $30,000	30.5%	10.9%	22.4%	55.9%
IV D No	100.0%	100.0%	100.0%	100.0%
$0	0.6%	NIA	1.2%	0.6%
$1 to $5000	2.6%	NIA	9.3%	2.0%
$5001, to $10,000	4.7%	NIA	22.8%	3.2%
$10,001 to $15,000	8.3%	NIA	17.0%	7.5%
$15,001 to $20,000	8.6%	NIA	19.4%	7.7%
$20,001 to $25,000	9.1%	N/A	9.0%	9.1%
$25,001 to $30,000	8.7%	N/A	6.5%	8.9%
above $30,000	57.3%	NIA	14.8%	61.0%

SOURCE: Preliminary data, CPS/CSS Match File, March/April 1996.

TABLE 4A: POVERTY THRESHOLDS, BY FAMILY SIZE: 1995

Inc/Pov Ratio	Two Persons	Three Persons	Four Persons	Five Persons	Six Persons	Seven Persons
50%	$5,130	$6.079	$7.785	$9.204	$10.402	$11.776
100%	$10,259	$12,158	$15,569	$18,408	$20,804	$23,552
150%	$15,389	$18,237	$23,354	$27,612	$31,206	$35,328
200%	$20,518	$24,316	$31,138	$36,816	$41,608	$47,104
250%	$25,648	$30,395	$38,923	$46,020	$52,010	$58,880
300%	$30,777	$36,474	$46,707	$55,224	$62,412	$70,656

NOTES: Two-person family threshold is for families with head under age 65.

SOURCES: U.S. Bureau of the Census; U.S. House of Representatives: Committee on Ways and Means: 1998 *Green Book*

TABLE 4B: RATIO OF FAMILY INCOME TO POVERTY LEVEL & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES (NUMBER): 1995

Inc/Pov Ratio	All CSE Eligible Families	Cash Assistance (IV-A)	Non-cash Assistance	No Public Assistance
TOTAL	13,739,431	2,959,860	3,014,001	7,765,570
<50%	1,779,322	1,035,990	496,268	247,064
50 to 99%	2,392,532	1,151,638	798,389	442,505
100 to 149%	1,924,083	355,610	664,632	903,841
150 to 199%	1,564,413	172,597	375,317	1,016,499
200 to 249%	1,426,927	87,526	262,190	1,077,211
250 to 299%	1,122,018	69,637	142,286	910,095
>300%	3,530,136	86,862	2,74,919	3,168,355
IV-D Yes	8,694,501	2,959,860	2,617,270	3,117,371
<50%	1,553,033	1,035,990	426,030	91,013
50 to 99%	1,998,579	1,151,638	682,182	164,759
100 to 149%	1,374,049	355,610	575,849	442,590
150 to 199%	973,609	172,597	323,720	477,292
200 to 249%	806,509	87,526	234,307	484,676
250 to 299%	563,598	69,637	119,118	374,843
>300%	1,425,125	86,862	256,065	1,082,198
IV-D No	5,044,930	0	396,731	4,648,199
<50%	226,289	0	70,238	156,051
50 to 99%	393,953	0	116,207	277,746
100 to 149%	50,034	0	88,783	461,251
150 to 199%	590,804	0	51,597	539,207
200 to 249%	620,419	0	27,885	592,534
250 to 299%	558,420	0	23,167	535,253
>300 %	2,105,012	0	18,855	2,086,157

SOURCE: CPS/CSS Match File March/April 1996.

TABLE 4C: RATIO OF FAMILY INCOME TO POVERTY LEVEL & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES (PERCENTAGE): 1995

Inc/Pov Ratio	All CSE Eligible Families	Cash Assistance (IV-A)	Non-cash Assistance	No Public Assistance
TOTAL	100.0%	100.0%	100.0%	100.0%
<50%	13.0%	35.0%	16.5%	3.2%
50 to 99%	17.4%	38.9%	26.5%	5.7%
100 to 149%	14.0%	12.0%	22.1%	11.6%
150 to 199%	11.4%	5.8%	12.5%	13.1%
200 to 249%	10.4%	3.0%	8.7%	13.9%
250 to 299%	8.2%	2.4%	4.7%	11.7%
>300%	25.7%	2.9%	9.1%	40.8%
IV D Yes	100.0%	100.0%	100.0%	100.0%
<50%	17.9%	35.0%	16.3%	2.9%
50 to 99%	23.0%	38.9%	26.1%	5.3%
100 to 149%	15.8%	12.0%	22.0%	14.2%
150 to 199%	11.2%	5.8%	12.4%	15.3%
200 to 249%	9.3%	3.0%	9.0%	15.5%
250 to 299%	6.5%	2.4%	4.6%	12.0%
>300%	16.4%	2.9%	9.8%	34:7%
IV D No	100.0%	N/A	100.0%	100.0%
<50%	4.5%	N/A	17.7%	3.4%
50 to 99%	7.8%	N/A	29.3%	6.0%
100 to 149%	10.9%	NIA	22.4%	9.9%
150 to 199%	11.7%	N/A	13.0%	11.6%
200 to 249%	12.3%	N/A	7.0%	12.7%
250 to 299%	11.1%	NIA	5.8%	11.5%
>300%	41.7%	N/A	4.8%	44.9%

SOURCE: CPS/CSS Match File, March/April 1996.

TABLE 6: MARITAL STATUS OF CUSTODIAL PARENT & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES: 1995

NUMBER

CP Marital Status	All CSE Eligible Parents	Cash Assistance (IV-A)	Non-cash Assistance	No Public Assistance
TOTAL	13,739,431	2,959,860	3,014,001	7,765,570
Married	2,709,155	175,090	428,383	2,105,682
Widowed	362,613	45,041	83,392	234,180
Divorced	4,964,321	616,764	1,020,275	3,327,282
Separated	2,064,405	564,692	515,468	988,245
Never Married	3,638,938	1,562,273	966,484	1,110,181
IV-D Yes	8,694,501	2,959,860	2,617,270	3,117,371
Married	1,480,988	175,090	385,750	920,148
Widowed	215,221	45,041	74,503	95,677
Divorced	2,750,903	616,764	865,881	1,268,258
Separated	1,266,098	560,692	402,613	302,793
Never Married	2,981,292	1,562,273	888,524	530,495
IV-D No	5,044,930	0	396,731	4,648,199
Married	1,228,167	0	42,633	1,185,534
Widowed	147,392	0	8,890	138,502
Divorced	2,213,418	0	154,394	2,059,024
Separated	798,307	0	112,854	685,453
Never Married	657,646	0	77,959	579,687

PERCENTAGE

CP Marital Status	All CSE Eligible Parents	Cash Assistance (IV A)	Non-cash Assistance	No Public Assistance
TOTAL	100.0%	100.0%	100.0%	100.0%
Married	19.7%	5.9%	14.2%	27.1%
Widowed	2.6%	1.5%	2.8%	3.0%
Divorced	36.1%	20.8%	33.9%	42.8%
Separated	15.0%	18.9%	17.1%	12.7%
Never Married	26.5%	52.8%	32.1%	14.3%
TOTAL	100.0%	100.0%	100.0%	100.0%
Married	17.0%	5.9%	14.7%	29.5%
Widowed	2.5%	1.5%	2.8%	3.1%
Divorced	31.6%	20.8%	33.1%	40.7%
Separated	14.6%	18:9%	15.4%	9.7%
Never Married	34.3%	52.8%	33.9%	17.0%
TOTAL	100.0%	N/A	100.0%	100.0%
Married	24.3%	N/A	10.7%	25.5%
Widowed	2.9%	N/A	2.2%	3.0%
Divorced	43.9%	N/A	38.9%	44.3%
Separated	15.8%	N/A	28.4%	14.7%
Never Married	13.0%	N/A	19.7%	12.5%

SOURCE: CPS/CSS Match File, March/April 1996.

TABLE 7: RESIDENCE OF NON-CUSTODIAL PARENT & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES: 1995

NUMBER

NCP Residence	All CSE Eligible Parents	Cash Assistance (IV-A1	Non-cash Assistance	No Public Assistance
TOTAL	13,739,431	2,959,860	3,014,001	7,765,570
In-state	10,247,726	2,213,363	2,249,054	5,785,309
Out-of-state	3,491,705	746,496	764,948	1,980,261
IV-D Yes	8,694,501	2.959,860	2,617,810	3,117,371
In-ate	6413,251	2,213,363	1,944,821	2,255,067
Out-of-state	2,281,251	746,496	672,451	862,304
IV-D No	5.044.930	0	396.731	4.648.199
In-state	3,834,476	0	304,235	3,530,241
Out-of-state	1,210,455	0	92,498	1,117,957

PERCENTAGE

NCP Residence	All CSE Eligible Parents	Cash Assistance (IV-A)	Non-cash Assistance	No Public Assistance
TOTAL	100.0%	100.0%	100.0%	100.0%
In-State	74.6%	74.8%	74.6%	74.5%
Out-of-state	25.4%	25.2%	25.4%	25.5%
TOTAL	100.0%	100.0%	100.0%	100.0%
Its-state	73.8%	74.8%	74.%	72.3%
Out-of-state	26.2%	25.2%	25.7%	27.7%
TOTAL	100.0%	N/A	100.0%	100.0%
In-state	76.0%	N/A	76.7%	75.9%
Out-of-state	24.0%	NIA	23.3%	24.1%

SOURCE: CPS/CSS Match File, March/April 1996.

TABLE 8: AGREEMENTIRECEIPT STATUS & RECEIPT OF PUBLIC ASSISTANCE OF CSE ELIGIBLE FAMILIES: 1995

NUMBER

Agreement/Receipt	All CSE Eligible Parents	Cash Assistance (IV-A)	Non-cash Assistance	No Public Assistance
TOTAL	13,739,431	2,959,860	3,014,001	7,765,570
Agreement/Receipt	5,133,183	825,422	991,424	3,316,337
Agreement/No Receipt	3,164,611	724,941	752,180	1,687,490
No Agreement/Receipt	1,057,354	259,267	287,326	510,761
No Agreement/No Receipt	4,384,283	1,150,230	983,072	2,250,981
IV-D Yes	8,694,501	2,959,860	2,617,270	3,117,371
Agreement/Receipt	3,335,654	825,422	893,719	1,616,513
Agreement/No Receipt	2,240,215	724,941	681,950	833,324
No Agreement/Receipt	697,839	259,267	250,287	188,285
No Agreement/No Receipt	2,420,793	1,150,230	791,314	479,249
IV-D No	5,044,930	0	396,731	4,648,199
Agreement/Receipt	1,797,529	0	97,704	1,699,825
Agreement/No Receipt	924,396	0	70,230	854,166
No Agreement/Receipt	359,515	0	37,039	322,476
No Agreement/No Receipt	1,963,490	0	191,758	1,771,732

PERCENTAGE

Agreement/Receipt	All CSE Eligible Parents	Cash Assistance (IV-A)	Non-cash Assistance	Non Public Assistance
TOTAL	100.0%	100.0%	100.0%	100.0%
Agreement/Receipt	37.4%	27.9%	32.9%	42.7%
Agreement/No Receipt	23.0%	24.5%	25.0%	21.7%
No Agreement/Receipt	7.7%	8.8%	9.5%	6.6%
No Agreement/No Receipt	31.9%	38.9%	32.6%	29.0%
TOTAL	100.0%	100.0%	100.0%	100.0%
Agreement/Receipt	38.4%	27.9%	34.1%	51.9%
Agreement/No Receipt	25.8%	24.5%	26.1%	26.7%
No Agreement/Receipt	8.0%	8.8%	9.6%	6.0%
No Agreement/No Receipt	27.8%	38.9%	30.2%	15.4%
TOTAL	100.0%	N/A	100.0%	100.0%
Agreement/Receipt	35.6%	N/A	24.6%	36.6%
Agreement/No Receipt	18.3%	N/A	17.7%	18.4%
No Agreement/Receipt	7.1%	N/A	9.3%	6.9%
No Agreement/No Receipt	38.9%	N/A	48.3%	38.1%

SOURCE: CPS/CSS Match File, March/April 1996.

APPENDIX 3

Comments from the States IV-D Programs

Comments from IV-D Directors Regarding Fees

A January 22, 2001 e-mail from Margot Bean, the IV-D Director from the State of New York, asked for responses from IV-D directors to the following issues:

1. *Recommend one national interest rate and one national method of satisfaction (i.e., simple or compound);*
2. *Eliminate the accrual and collection of interest;*
3. *Make no changes to the existing processes and require the controlling order state to periodically update interest balances with all states providing enforcement services;*
4. *All states currently charging interest on child support debts would be eligible to join an interest consortium whose purpose would be to standardize interest procedures for participating states.*

The responses from the IV-D directors follow:

Tom Bernier, State of Alabama:

> *By State law, Alabama charges 12% simple interest. The law was aimed at all judgements and several years ago child support was included in that category. It was extremely difficult to get it going initially and it still complicates our accounting and distribution programming. It does, however, generate a good bit more money than we thought it would, both for the CP and the state. We routinely have people who want to pay off their account so they can stop the interest. It's hard to see the state law changing to a uniform national rate in the absence of a Federal mandate.*

Diane Fray, State of Connecticut:

> *CT does not charge interest, and my commissioner has no intention of changing the policy. I need a proposal that lets me maintain this stance.*

Robert Riddle, State of Georgia:

> *Georgia doesn't charge interest, and given a choice would not want to charge interest.*

Nancy Thoma, State of Iowa:

> *Iowa's response to this question is we do not charge interest and are not planning to see that happen in the future, either through our recommendation to Iowa Legislature, or by initiative by our legislature based on past debates. Our position is we would resist having a national interest rate established.*

Teresa Kaiser, State of Maryland:

> *Maryland does not charge interest and would find it very problematic to do so. We understand that others do and the political realities around that issue but don't want to be forced to charge it. It is not a "service" which we offer. A client may very well get a private attorney to calculate and pursue this for her/him but our accounting is complicated enough without this.*

Laura Kadwell, Minnesota:

> *Minnesota does now charge interest. The rate is set each year by the Supreme Court for Judgments and our law requires that child support interest be 2% over the rate set for judgments.*
>
> *We would like to see one standard interest rate using simple interest nationwide. We do believe that it could work to have some states opt out of doing interest charging but all states who do charge interest doing so uniformly.*
>
> *If we can not get to this then there should be at least a uniform policy set as to how the states are to keep the balances in synch and how often and who has the primary role of assuring the states stay synchronized. The consortium idea might work but we would rather avoid the need for this level of effort and still not have standardization because all states that charge interest would not join in the effort.*

Daryl Wusk, State of Nebraska:

> *Nebraska charges interest and prefers to continue. However I would not recommend our method and would prefer a set amount for all states. By statute: The interest rate is set at an additional 1 (one) percentage point above the T-Bill rate at the time of divorce. Each month the average T-Bill rate is used; it does not change daily. The rate remains in effect for the duration of the order unless the order is modified. If modified a new amount is computed using the formula…I would vote for the 6% to 9% range for interest. It would be a big debate but I believe we could pass such a law in Nebraska.*

Barry Miller, State of North Carolina:

> *North Carolina does not charge interest and is not particularly interested in doing so, given an option.*

Ray Weaver, State of Oklahoma:

> *Oklahoma now charges interest, and we are one of those states that desire to keep it that way, based on the leverage factor as an effective enforcement tool, and the public perception that a child support debt should be as important as a Visa bill. Option #3 would be the preference, although we would discuss options 1 & 4. The latter two would be very difficult to achieve.*

Kevin Aguirre, State of Oregon:

> *Oregon does not charge interest currently. But, we are willing to reconsider our position if it furthers uniformity nationwide.*
>
> *However, the decision to change our policy in this area will not be arrived at simply or easily. There are, in our opinion, equal but conflicting fundamental philosophical issues regarding this subject that will need to be rectified before we could change in this area. (Not to mention any system programming issues that may require attention.)*
>
> *Case in point, we do understand and are sympathetic with your (and others) position that "a CSP [child support program?] debt should be treated the same as any other debt." However, we in Oregon also understand that while this philosophy fits well with obligors that have the ability-to-pay, we do not think*

it fits well at all for those obligors that lack the ability-to-pay. After all, unlike a car, children cannot, and should not be repossessed for lack of payment. For instance, we find it hard to see how these "unable-to-pay" situations would be improved by piling interest on top of an impoverished obligor's ever-increasing, and already overwhelming, CSP debt.

The question for us then is how would increasing this debt further, for legitimate "unable-to-pay" obligors, benefit the State's ability to collect the debt, the obligor's ability-to-pay their CSP, and the children's receipt of CSP?

Jack Murphy, State of Rhode Island:

Rhode Island charges interest by state statute at 12 per annum, simple interest. We do however use it as a bargaining tool in our attempts to get NCPs to settle past due balances. I doubt very much if we could get our law changed without a federal mandate for child support debts.

Nick Young, State of Virginia:

Virginia charges 9% and it would be politically infeasible to erase that rate in my opinion. A universal rate might fly, but there is no such thing as free money. If you owe someone, interest is the usual compensation for borrowing/lending.

Cisselon Nichols, Virgin Islands:

The Virgin Islands is in the same position as CT. We do not and will not charge interest.

On July 3, 2000, Alice Embree, Office of the Attorney General, State of Texas, solicited input from IV-D directors on alternate sources of revenue—fees. The responses were as follows:

Diane Fray, State of Connecticut, sent this statement:

We have just received a recommendation from our vendor that is studying Performance Enhancement for CT that we eliminate the application fee for non-assistance clients for the following reasons:

1. *Charging a fee can be a barrier to entry for some customers.*
2. *Fee administration is not cost effective (66 percent of the fees recovered by BCSE revert to the federal government as an offset to other program expenditures.*

Keep in mind that the fees are considered income, and must be reported on OCSE 34A. It therefore reduces Federal reimbursement, so every $100 collected, you are really only getting $33 of new income (minus your administrative costs).

From Kansas, the reply was:

Many years ago when applicants paid a $15 fee, we found that the low revenue (once the Feds took their 66%) did not justify the administrative hassles of handling and accounting for the money, the questions/complaints, and the disagreements when someone wanted to reopen a Non-pa [public assistance] case.

Montana responded:

> *Federal suit: Missoula Division (Holden et al v MT, Cause CV 98-179-M-DWM)*
> *The most common complaints concerning fees were 1. We don't pay a fee for law enforcement services, why should we pay for child support enforcement. 2. 66% goes back to the Feds anyway. Taking money out of the mouths of children by charging custodial parents. It is very difficult to charge obligated parents if you want to bring in cash right away.*

Oklahoma replied:

> *In Oklahoma, we do not have an official cost-benefit analysis to share with you, although we have gone through the process, and do not charge fees. We found that in a program that is federally funded to the degree this program is, fees are self-defeating. You wind up sending a lot of money back to D.C. And, fees most often deter people from your services, who most need your help. Even fees that come from NCP's [noncustodial parents], most often compete with funds that could have been used to support children.*

Rhode Island wrote:

> *The Feds themselves told us many years ago that we cannot just arbitrarily set fees, but would have to base them on detailed studies that would require us to keep track of our minutes spent on particular activities, in order to come up with the set fees for services. This would be cumbersome for staff, so we abandoned any ideas of trying to keep track of individual case costs or even performing time surveys that would be the basis for establishing a fee schedule. 66% of fees collected going to Feds as recovery also caused loss of interest.*

The State of Virginia asked a series of questions regarding fees and compiled the following state responses December 1999:

Dan McDonald, Arkansas:

> *NCP's [noncustodial parents] & CP's [custodial parents] various fees: monthly, annually, those related to legal fees and court actions. Provides 15% of the funding. No [cost effectiveness] information available. NCP is charged an annual fee of $36. The CP pays $18 per month for months in which a collection is made. Other costs are charged per a fee schedule.*

Gary Padilla, California:

> *No fee to IV-D applicants (we have opted to pay one cent per case out of state general funds). We have also opted not to recover costs from the Noncustodial parent. California has chosen not to charge fees principally because we felt that the population we serve is already on the lower end of the poverty spectrum and charging fees would only further intensify this problem.*

Diane Fray, Connecticut:

> *We only charge fees for the IV-D application ($31,500 annual) and IRS collection ($39,000 annual, but the IRS keeps $19,500.) No cost benefit analysis. CP pays $25 application fee (unless waived based on standard monthly need (TANF) for that size family and $15 IRS fee per collection, but IRS charges the state $7.45—state net is $7.55. Commissioner opted not to implement proposed sliding fee scale for*

services such as legal representation. Attempting to recoup blood test or sheriff fees from NCP's is a burden administratively and only beneficial if you take it directly from the collections.

Beverly Lehmann, Georgia:

$25 Non-pa application fee. Fees collected FFY 99 were $177,754. The applicant pays the $25 fee.

Kathy Montague, Guam:

The legislature repealed a 2% administrative fee for employers about five years ago. They have not agreed since then to impose fees.

Idaho (The following is a summary of the Idaho response, which was a detailed listing of their fees):

Idaho has a recovery plan for the custodial parent: 20 percent of each support payment until legal costs are paid. If there are additional cases, recovery is 20 percent of each support payment, on every case, until the cost is paid. "There is an attempt to obtain an order directing the Noncustodial parent to pay the costs. If successful, the recovery amount will be returned to the Custodial parent when the Noncustodial parent has paid the fines." Idaho submitted a cost recovery list for each service provided, e.g., establishing or modifying an order, enforcing existing order, establishing a legal father, and other legal actions. The costs ranged from $120 to $600, with $90 per hour charged for "other legal services."

Brian Laatsch, Iowa:

We presented the legislature with income data from our obligors and obligees which showed the majority of the IV-D obligors and obligees are in a lower economic class. It did not make sense to our legislature to place an extra financial burden on them. We worked briefly with a proposal that said we would charge a fee to obligors and obligees if their annual income was 200% of the poverty line, but the proposal was discarded because the expected revenue was less than the estimated cost of developing and administering the fee system.

Jamie Corkhill, Kansas:

One cent application fee; deducts a cost recovery fee from Non-pa collections—today it is 2%, in 2000 it will be 4% of collections. FY 99-cost recovery fees grossed approx. $1.4 million—state netted $475,000.

G. Hood, Louisiana

Non-pa application fee. We don't have enough programmers to implement this [cost recovery fees] right now. In Louisiana, the Feds get about 70% of any fees collected, so the state would not wind up with very much money. Finally, we don't want to upset the clients by doing cost recovery.

Stephen Hussey, Maine:

We do not charge fees because if we were truly collecting up to the appropriate amount of current support and arrears, not much money would remain for fees. We were charging for triennial reviews ($137 for review and court modification) and discovered that those who needed it most could not afford

it. In addition, it is an accounting nightmare—the distribution process is difficult enough to explain without adding another level.

Christa Anders, Minnesota:

$25 Non-pa application fee. The Governor proposed a fee last session. It would have been a fee on collections, basically charged 2% to CP's and 2% to NCP's. The legislature did not pass the Governor's proposal, primarily because the feds would get 66% of the money. They also felt that the money should be used to support the children, not pay fees.

Darrell Baughn, Mississippi:

$25 Non-pa application fee, $5.00 a month for each paying withholding order. 7/1/98 to 6/30/99 $86,631 can be attributed to attorney fees, application fees and withholding and application fees. We have 82 counties in Mississippi and use Chancellors, county court judges, and family masters, and they all have different ideas about allowing us to charge attorney fees. Many of the judges have said that they will not allow us to charge attorney fees to the NCP as a matter of routine since our reimbursements return to the general fund and do not support DCSE. We would like to draft legislation that would create a special fund for all costs and fees received.

Mary Ann Wellbank, Montana:

Application fee ($5-$25); admin modification fees (ranging to $750); hearing fees; paternity testing fees; up to $25 for federal and state offsets. Cost recovery fees totaled approx. $381,000 for over an 11 ½ month period. No info on cost benefit analysis, but in addition to programming, quite a bit of time was spent dealing with letters to the Governor, congressional delegation and Legislature than ever before—and now there is a suit in federal court. Fees revoked. Controversial "enforcement" fee was charged to custodial parent because it could be recovered immediately from collections. To try to charge this to the obligated parent would have required us to pass on all current support to the CP first, and then collect from obligated parent at the very end, no help with our immediate cash need.

Leland Sullivan, Nevada:

We will be reducing our application fee from $2 to $.01 beginning 1-1-2000.

Lloyd Peterson, New Hampshire:

Reviewed ten years ago, concluded the "cost" far outweighed any financial benefit—either to the state or as a way to manage caseloads. Given the preventative nature of child support, (i.e., avoidance of PA dependency) we decided not to go this route.

Kevin Boyle, New York:

We do not charge fees because we believe that regardless of who is charged the fee, ultimately the burden falls on the custodial family who are the folks we are trying to help. In addition, it would be an administrative nightmare only to reduce our expenditure claim accordingly.

Feasibility of Collecting Fees for Child Support Services

Mike Schwindt, North Dakota:

> *North Dakota does not charge fees. The State Auditor's office pushed the issue several years ago but nothing changed. In North Dakota the potential is not that great, considering the cost of charging, collecting, and accounting for the fees. Also, considering the Montana experience with charging the customers, we continue to look to the state for revenue rather than the customers.*

Ray Weaver, Oklahoma:

> *$25 Non-Welfare application fee; we will pursue attorney fees and DNA testing costs. Any cost recovery fees have to be shared with the feds, not at the 66% rate, but at a much higher rate, depending on the amount of enhanced federal matching funds received. If a state's average matching funding is 80%, then for each dollar recovered from fees, .80 goes back to the feds. You must also consider administrative costs, system reprogramming, etc. Any fees collected, whether from the obligee or the obligor will compete with funds available for the payment of child support. The fees you reference are more related to making people pay for services for cost recovery. We, so far, have been able to put off fees of that type, because it hurts women and children.*

Jim Schultz, Oregon:

> *$1 application fee; tax offset collection fee; genetic testing fee. Total fees collected in FFY = $264,048. Have not done a cost-benefit analysis, except we know we'd have to "eat" the tax offset or genetic testing fees if we didn't recover them. We want to make the program accessible for families, and we don't want to take money from the obligor that could go toward support for the child—which helps families avoid TANF.*

Daniel Richard, Pennsylvania:

> *One cent application fee; recover costs of genetic testing. Generally, we have not charged fees at the state level in as much as a 66% offset for federal reimbursement must occur anyway, and fees do impose a potential hardship in most cases.*

Jack Murphy, Rhode Island:

> *CSE was within the state's welfare dept. for 21 years and had a "culture" of giving things away. We have discussed fees with the judicial system but they feel custodial parents need every dime, and it's unfair to charge them since other customers get services for free by federal mandate (i.e. former AFDC, now TANF, etc.) 66% of fees collected going to Feds as recovery also caused loss of interest.*

South Carolina responded:

> *We had a $25 application fee at one time, but this was seen as a barrier to service by some, so it was reduced to $1. We quickly found that the cost to process this fee was much greater than the money brought in and eliminated the application fee entirely.*

Feasibility of Collecting Fees for Child Support Services

Terry Walter, South Dakota, said:

> *Administrative costs associated with assessing, collecting and distributing fees from the NCP [noncustodial parent] cannot be justified; assessing the CP [custodial parent] would reduce income available for supporting the children and increase public assistance; not good public policy.*

James Kidder, Utah, reported some of the fees charged by the state. He said:

> *Because most of the examples utilize a combination of income withholding and automation to track, the cost associated is low. Anything that requires a manual process on a case by case basis is generally not worth it.*

Mary Brown, Vermont, stated:

> *From past experience, charging fees dramatically raises expectations and demands on the system. Ideally, fees should be paid by those who create the need for the service, i.e., those parents who are not following court orders.*

Bill Brownfield, Virginia, reported:

> *$1 Non-pa application fee (paid by the state) Attorney fees-assessed when the state prevails. Cost recovery from obligor elected in state plan. Annual report: $289,017 collected in FY 1998.*