

# CLASP

CENTER FOR LAW AND SOCIAL POLICY

## **Backing Away From Parental Responsibility: Child Support Budget Cuts Will Unravel a Decade of Progress**

*“One particularly bone-headed proposal would severely cut the funds for child support enforcement.”—October 26, 2005 New York Times editorial*

The largest set of cuts to children’s programs proposed in the House budget reconciliation legislation is to the child support enforcement program. The child support program provides the mechanisms to enforce the child support responsibilities of parents who live apart from their children. Almost two-thirds of single parent families in this country receive state child support services. That is 17.3 million children. In 2004, states collected \$22 billion in child support payments—private funds paid by non-custodial parents from their earnings to support their children.

The proposed cuts represent almost half of the total cuts to children’s programs in the House budget bill. Under the proposal, the federal government would slash federal child support funds by 40 percent. Nearly \$5 billion in federal funds would be cut from the child support program over the next five years, and almost \$16 billion would be cut over the next ten years. Without these federal funds to enforce child support, Congressional Budget Office estimates that \$24 billion of child support would go uncollected over the next ten years as a direct result of the cuts. The House bill would shift federal costs to families, imposing an additional fee on custodial parents and saving the federal government \$172 million over five years and \$405 million over ten years.

These cuts make no sense. It is sheer fiction to claim that the proposed cuts to child support funding will simply shift costs to states and will not hurt families. The cuts are so large that it is as if we decided to stop collecting child support one year out of every ten.

This a results-oriented program that has dramatically improved its performance over the last decade. The President’s 2006 budget cites the child support program as “one of the highest rated block/formula grants of all reviewed programs government-wide. This high rating is due to its strong mission, effective management, and demonstration of measurable progress toward meeting annual and long term performance measures.”<sup>1</sup> This is a program that efficiently leverages four dollars in private dollars for every one federal, state, and county dollar spent. The program epitomizes the value of parental

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<sup>1</sup> FY 2006 U.S. Department of Health and Human Services. *Budget in Brief*. Retrieved Oct. 27, 2005 at <http://www.hhs.gov/budget/06budget/acf.html#legislativeProp>.

responsibility—increasing family self-sufficiency, decreasing public assistance use, reducing out-of-wedlock births, and discouraging divorces.

### **\$24 Billion in Child Support Would Go Uncollected**

The potential impact of these child support cuts on kids is staggering. While the child support program serves families at all income levels, it serves many struggling families and lifted more than a million Americans out of poverty in 2002. Most states and advocates think the impact on families and states would be worse than the \$24 billion in uncollected child support projected by CBO over the next ten years. The CBO estimate assumes that states will come up with an extra \$5 billion in state and local revenues over the next ten years to help plug the \$16 billion funding hole left by the federal cuts. This is unlikely, especially since governors and legislators would be scrambling to find state and local funds to help plug the holes left by federal cuts to other children's programs made by this budget bill.

And the picture is bleaker than that. State child support programs receive part of their federal funding based on their performance results. It is a carrots and sticks approach to funding. If they do not improve their performance every year, they will lose incentive payments. If their performance slips, many states will be at risk of penalties. The penalties would be taken against TANF funds. For example, states are expected to establish paternity (the legal father-child relationship) for 90 percent of children born out of wedlock. Until they reach 90 percent, they must improve their paternity rate every year. If they slip below 90 percent or fail to make progress, they will receive a penalty of one to five percent of their TANF funds. With the cuts proposed by the House, states are likely to experience a downward spiral of their performance and funding.

These cuts would dismantle the progress made by states over the past decade, gutting their capacity to deliver effective child support services for years to come. The inevitable result is that fewer non-custodial parents will support their children and more families will sign up for welfare. Child support performance will surely erode and more states will certainly incur penalties as they cut costs. States are likely to stop updating their computers, fail to maintain strict controls on data accuracy, avoid any special case steps such as bringing contempt motions, put interstate cases on the back burner, cancel employer outreach and other program improvement projects, stop providing specialized services to low-income fathers and domestic violence victims, and end child support pass-through policies.

### **Back to the “Bad Old Days”**

Ten years ago, the child support collection rate was just 18 percent. In other words, in 1994, more than 80 percent of families in the child support program received no payments at all. The prominent custodial parent association, the Association for Children for Enforcement of Support (ACES), used to wear buttons in the halls of Congress that read “18.2%: It's Not Working.” Federal and state legislators received volumes of letters

and calls from custodial parents who complained that they were not getting enough help collecting support.

This dismal collection rate was not because state administrators were not trying hard enough. It was because the child support program was severely under-funded and understaffed. A number of studies showed that when program investment in the child support program increased to a reasonable level, child support performance numbers improved directly and significantly. The insight that it costs money to run an effective program came as no surprise to state administrators. In 1994, the Government Accountability Office (GAO) found in that child support caseworkers in many states were struggling with caseloads that averaged 2,000 for each worker.

The program's weak performance sent the wrong law enforcement message. Non-custodial parents knew that they could get away with not supporting their children—all they had to do was change jobs or cross county lines. And sometimes the child support program could not find them even when the custodial parents told the program where they worked.

### **A Decade of Progress, and a Program that Works**

Congress took these complaints from parents seriously. In 1988, it set up a bipartisan U.S. Commission on Interstate Child Support Enforcement, which issued a 1992 report recommending new enforcement tools, interstate data matching, and performance-based incentive funding. In hearings leading up to welfare reform, Members of the House Ways and Means Committee admonished state officials that they had one “last chance” to make the child support program work. A bipartisan commitment to ensuring that parents supported their children emerged in the 1996 welfare reform legislation. While other elements of welfare reform were highly controversial, Members on both sides of the aisle agreed that effective child support enforcement had to be a central element of any successful welfare reform effort.

In the welfare reform bill passed by Congress the following year, states were given the sweeping new enforcement tools and automated interstate data bases recommended by the U.S. Commission. Employers and banks became critical private partners of the child support program. And in 1998, Congress passed the Child Support Performance Incentive Act, which tied child support funding to results and required states to reinvest federal incentive payments in the child support program.

Slowly, but surely, the performance of the child support program began to improve in the late 1990s. That collection rate rose from 18 percent a decade ago to 51 percent in 2004. Once a court has entered a support order, the rate jumps to 69 percent—almost three-fourths of families with a support order in place now receive child support. And usually, the support payments are steady.

While the child support program has a considerable way to go before reaching top performance, it has made dramatic progress over the last decade. Child support is a

government success story. Almost half of the families in the child support caseload used to receive TANF assistance, but no longer. The research is clear that child support has been a key reason why many families have been able to leave and stay off of welfare, resulting in at least a fourth of the welfare caseload decline in the early days of welfare reform. Just as importantly, more consistent child support enforcement has created a culture of compliance and sent the public message that parents are responsible for supporting their children.

However, proponents of the child support cuts argue that only the “marginal” cases will go un-enforced. But what does this mean, exactly? The “marginal” cases—the hard-to-collect cases—are precisely those where we need consistent child support enforcement. Many non-custodial parents have steady employment and are willing to support their children. These parents are likely to continue paying through employer payroll deductions. Their payments are the “low-hanging fruit.”

Instead, the families that most need the help are the most likely to lose child support as a result of the cuts. Enforcement is needed most in situations where non-custodial parents would evade their responsibilities by hiding their assets or crossing state lines, or avoid steady employment so that they do not have to support their children. Specialized child support services are also needed for non-custodial parents who have difficulty maintaining jobs and relationships with their children. In recent years, states have made strides in assisting these parents. However, insufficient funding will drive the child support program back to the old days, when indigent fathers got jail time, not job services. And without strong child support enforcement, the culture of compliance—which took so long to create—will unravel the expectation of parents and young boys alike that they are responsible for supporting their children.

### **The Untold Story: Increased State Investment**

Over the last decade, states got new enforcement tools, new computer systems, and revamped performance incentive funding to help increase the effectiveness of the child support program. And they worked. But there is one more factor that has helped states improve their performance. State investment in the child support program also increased.

In 2004, the total cost to the public to collect \$21.9 billion in child support was \$5.3 billion. Altogether, the federal government contributes 75 percent of the cost of child support services.<sup>2</sup> There are two sources of federal funding. The first is a federal match.

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<sup>2</sup> In a June 30, 2005 letter, the GAO concluded that the federal government contributes 88 percent of child support costs. The GAO arrives at this amount by subtracting retained collections from the federal and state shares of expenditures. This is incorrect, for two reasons. First, most states use their state share of retained collections to help offset their Maintenance of Effort obligation under the TANF program and do not use it to fund child support services. Second, the state share does not account for amounts passed through to TANF families and thus significantly overstates the support actually kept by states as revenue. About 40 percent of the states pass through support to families from their state share of retained collections. However, these pass-through amounts are not reported to HHS or reflected in federal data because the federal government does not share in their cost.

The federal government pays for 66 percent of program costs, or \$3.5 billion in 2004. In addition, the federal government paid performance incentive payments to states totaling \$454 million in 2004. Combined federal spending on the child support program in 2004 was just under \$4.0 billion (including the 66 percent federal match and incentive payments), while the states and counties contributed the remaining \$1.3 billion out of their own funds.<sup>3</sup>

Since 1994, states and counties have invested significantly more of their own funds into the child support program. Increased funding levels overall have helped to improve state performance. Funding has increased at both federal and state levels. However, state investment has increased more rapidly than federal funding. Between 1994 and 2004, states increased their investment of state-only dollars in the program by 140 percent, while federal funds increased by 48 percent. Moreover, state investment of state-only dollars has increased since 1994. In 1994, incentive payments were 46 percent of the state contribution. In 2004, under the current performance incentive system—including the federal match—the incentive payments have *dropped* to 25 percent of the state contribution.

### **A 66 Percent Federal Match is Cost-Effective**

The House budget legislation would reduce the federal match rate for child support expenditures from 66 percent to 50 percent by 2010. The match rate would drop to 62 percent in 2007, 58 percent in 2008, 54 percent in 2009, and 50 percent in 2010 and thereafter. Some proponents of child support funding cuts have argued that the match rate should be reduced to 50 percent to “bring it in line” with other federally-funded programs. However, this argument fundamentally misunderstands the funding structure of both the child support program and other federally-funded programs.

Although the 66 percent federal matching funds are designated as “administrative,” the fact is that the funds cover all child support services provided to families—such as establishing paternity when a baby is born, going to court to obtain a support order, adjusting orders that become out of date, locating non-custodial parents and their assets, sending payroll withholding orders to employers, seizing bank accounts and income tax refunds, processing and distributing support payments, providing customer call centers, using secure procedures for domestic violence victims, referring low-income non-custodial parents to job services, updating computers and ensuring that data is accurate.

Unlike some programs, the child support program has no separate “services,” or “benefits” category. That is where most of the cost is in most children’s programs. For example, in the Food Stamp program, the federal government pays 50 percent of administrative costs, but it pays 100 percent of benefit costs. In the Women, Infant, and Children (WIC) food program, Head Start, and Supplement Security Income (SSI)

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<sup>3</sup> The state matching share of child support expenditures was \$1.8 million in 2004. However, states are required by statute to spend their performance incentive payments on program costs, leaving \$1.3 billion in additional program costs to be paid with state and county funds.

programs, the federal government pays 100 percent of required benefits and services. In the Medicaid and foster care programs, the federal government pays 50 percent of administrative costs, but a varying rate (50 to 77 percent) of benefits and services.

The child support program is unique among children's programs because the government cost of the "benefit" paid to families is zero—the federal government helps pay for the child support services to collect the private payments made by non-custodial parents. The federal government picks up most of the tab, but it directs the states to carry out very specific federal requirements so that child support enforcement works effectively across state lines. It is in the federal government's interest to do so, because the child support program collects \$4.38 in private funds for every \$1.00 dollar of public funds spent, reduces the use of more expensive public assistance benefits, and reinforces parental responsibility. An Urban Institute study found that the child support program cost \$4.0 billion in 1999, but saved more than \$4.9 billion in direct budgetary outlays in public assistance programs.

### **An Incentive System that Has Produced Results**

The House budget bill also would eliminate the ability of states to draw down a 66 percent federal match on federal performance incentive payments. The idea behind the federal incentive statute is to reward states that do well and penalize states that do poorly. The child support program is one of the few programs that receive a portion of their funding based on results. States have to have to earn the incentive payments, or they do not receive them. If they fail to meet minimum performance levels, they receive a penalty.

Under the incentive statute, state child support programs are measured on five core performance measures. Child support data are audited every year by the federal Department of Health and Human Services. If a state fails to meet the minimum level on one or more of the performance measures (or if its data is inaccurate), the state receives a double penalty. It will lose its incentive payments for that measure. But that is not all. The state also will lose a hefty one to two percent of its TANF federal block grant funds. If the state meets the minimum level, but does not improve the next year, the state will get neither incentive payment nor penalty. If the state does well, it will get an incentive payment. The better the state performs, the higher the incentive payment.

Incentive funds amount to 11 percent of federal child support funds, and they are capped by statute. For fiscal year 2004, the incentive payment pool was set at \$454 million divided among successful states. For fiscal year 2005, the incentive payment pool was set at \$446 million. To the extent that states do not perform, the incentive pool is not distributed. It is a carrots and sticks approach, and it has helped drive up results in nearly all states.

The federal government has paid states incentive payments since the beginning of the child support program. However, these incentive payments used to be based on the amount of retained collections in welfare cases. The results-based system change came

about in part to bring the child support program in line with the goals of welfare reform. Under the old system, states had an incentive to keep families on welfare. Under the new system, states were encouraged to collect support so that families could leave welfare.

States are required by statute to reinvest their incentive payments in the child support program. States draw down a federal matching payment at the standard 66 percent rate for all allowable program costs, including those paid for with incentive funds. Contrary to some claims by proponents of the budget cuts, that matching feature has always been a part of the incentive funding, and Congress continued the match as part of the 1998 incentive system. This match has particularly helped poor states and small states draw on a predictable pool of funds to improve their performance.

The current performance incentive structure has not only driven improved performance, it has driven up state investment in the child support program. States are now highly motivated to improve their performance and earn the incentive payments with the federal match. It is a risky proposition for states. If states fail to improve their performance and produce good results, they will lose the incentive funding and risk serious penalties against their TANF funds. If they invest what it takes to succeed, they will receive additional federal funds that can help them continue to improve their performance. If states can no longer draw down matching funds on their incentive payments, they will have less incentive—and less funding available—to improve their performance year after year.

### **Proposed Funding Cuts Would Kill Distribution Reforms**

Federal and state governments also hold back \$2.1 billion per year in child support payments made on behalf of current and former TANF families. These collections are retained to help repay welfare benefits provided to families, and do not directly benefit children. Instead, the retained collections are treated as government revenues. The federal government keeps the lion's share, particularly in poor states where the federal government may keep up to 77 percent of the retained collections.<sup>4</sup> The federal share of the retained collections is paid into the federal treasury. The state share is generally used to help pay for the states' Maintenance of Effort obligation under the TANF program or is passed through to families receiving TANF assistance.

A consensus has emerged that child support should be paid to families and not treated as government revenues. The research is clear that many fathers are unwilling to pay when

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<sup>4</sup> The federal and state governments split the retained collections according to each state's Medicaid matching rate (called the "Federal Medical Assistance Percentage" or "FMAP"). The federal government kept \$1.1 billion and states kept \$927 million in 2004. Overall, the federal government retains 55 percent of retained collections and states retain 45 percent. However, poorer states, those with higher FMAP rates, repay a larger percentage of retained collections to the federal government. For example, Mississippi repays 77 percent of its retained collections to the federal government. As discussed in an earlier footnote, the amounts actually kept by states as revenue is overstated in HHS data reports because they do not include support paid to families under state pass-through policies.

their child support payments are kept by the government, effectively taxing them at a 100 percent rate. The policy of holding back collections to repay welfare benefits has driven many fathers of children receiving welfare benefits away from steady employment and regular contact with their children and helped to push them into the underground economy. However, the Wisconsin pass-through demonstration and other studies provide solid evidence that fathers pay more support when the money goes to their children instead of the government.

Both Senate and House TANF reauthorization bills reflect that consensus by authorizing states to pay more of the child support to children, rather than the government. Yet, if these proposed cuts go through, states will not be able to afford to carry out the distribution reforms intended to bring the child support program into line with the self-sufficiency and family reinforcement goals of welfare reform.

### **Fees Will Drive Up Administrative Costs**

The proposed legislation would shift federal costs to working families by requiring custodial parents who have never been on welfare to pay a \$25 annual service fee if more than \$500 is collected. This mandatory fee is on top of a federally-required application fee and other state fees and costs. Not only is such a fee unfair to the low and moderate income families served by the child support program, but the fee is impractical and expensive. Most states have concluded that it would cost more to administer these fee than the revenue generated by the fees. Importantly, states would be required to incur substantial costs to reprogram their computers. In practice, fees are likely to result in “caseload churning” costs, where families sign up for child support services when they are not getting paid, drop out when the support starts coming in, and then re-apply for services when the support stops. Because of their payroll function, employers have a special interest in avoiding caseload churning.

### **Conclusion**

When parents live apart, the combination of the mother’s earnings (contributed directly to the household) and the father’s earnings (paid through child support) help support children. The child support program is the first line of defense against poverty and public assistance costs. It is unique among other children’s programs because the benefit to children is paid by their non-custodial parents, not the public. It is a cost-effective, successful government program that helps millions of working single parent families.

The child support program works in large part because program funding has increased at both federal and state levels. However, state investment has increased more rapidly than federal funding. In the decade since 1994, states and counties have increased their state-only dollars in the program by 140 percent, while the federal government increased its funding by 48 percent. The child support program helps families become self-sufficient, promotes parental responsibility, keeps fathers connected to their children, and avoids federal public assistance costs—consistent with bipartisan values often expressed in Congress.

