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Child Support and Reentry

EXECUTIVE SUMMARY

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Executive Summary

In the past 40 years, the United States has experienced an expansion in two of its largest state systems: the criminal justice system and the public child support system. Since 1980, the incarceration rate has increased by 500%. There are now over two million citizens in U.S. prisons and jails and another five million under correctional supervision (Carson, 2020). Every year, close to 700,000 citizens are released from state and federal prison and nearly nine million are released from jail (Dumont et al., 2012; Carson, 2020). Of those, the majority are men of color, who struggle to reintegrate with the mark of a criminal record. Mass incarceration and mass reentry not only impact those who are imprisoned, but also the communities and families these citizens return to and integrate back into.

Over this same period, the child support system also expanded to new levels, with federal involvement increasing to promote parental responsibility and to ensure that children receive parental support (U.S. Department of Health and Human Services, 2018a, 2018b). Most research indicates that the expanded child support system has worked well for divorced parents with moderate and/or regular sources of income; in 2016, it collected over \$33 billion for custodial parents (U.S. Department of Health and Human Services, 2016). Yet, there is also agreement that this system has been less successful in securing financial support from low-income parents (Cancian and Meyer, 2018). Over the past 30 years, there has been a tenfold increase in child support debt; the \$11.3 billion owed in 1987 jumped to \$114.7 billion in 2017 (National Conference of State Legislatures [NCSL], 2017; Office of Child Support Enforcement [OCSE], 2017). This amount is more than federal expenditures on public assistance and food stamps combined, and this increased debt has largely fallen on poor families. The majority of the 5.5 million parents who owe this debt have extremely low incomes; 70% of the accumulated debt is owed by parents with incomes of \$10,000 or less (Sorensen, Sousa, and Schaner, 2007).

In many respects, developments in these two public arenas are interconnected, with rising imprisonment contributing to rising child support debt and rising child support debt contributing to rising imprisonment. Parents caught in the middle of these trends can find their post-prison reintegration particularly difficult and challenging, which can then affect their ability to fulfill their financial obligations to their families, secure their own well-being, and stay out of jail. Social scientists and researchers have only recently begun to analyze these interconnections. There is now an emergent body of research that addresses how criminal justice and child support work together to shape reentry for this population of parents.

This paper focuses on what social scientists and policy analysts have learned about how child support, criminal justice, and reentry are related: How do child support obligations affect reintegration? How does incarceration affect child support repayment and debt? What policies exacerbate the debt-recidivism link? Which policies show promise in ameliorating it? These are complex questions largely because reentry from prison is itself a multifaceted process shaped by many institutional dynamics. From this body of research, several broad findings have emerged:

1. The reentry goals of parents with child support debt are similar to those of other reentering groups: stable employment, familial reintegration, and desistance from crime. Yet, they confront distinct barriers to meeting those goals. Researchers have begun to unpack the institutional processes underlying these barriers.
2. One of the biggest obstacles to reentry is the size of a parent's child support debt, which averages \$20,000 to \$36,000, depending on the state and the data used. This is two to three times more than the average support debt of other low-income parents and three to four times the average criminal justice debt of other reentering citizens.
3. There are several institutional barriers that complicate parents' economic security and familial well-being — challenges to formal sector employment, familial conflict, and cycles of recidivism. Child support debt also acts as its own barrier, particularly if support and arrears payments are set too high for parents to manage.
4. Several state and federal policies exacerbate the reentry challenges of parents with child support debt. To

the extent that policies accelerate the accumulation of debt, restrict the modification of debt, and punish indebted parents with reincarceration, they impede reentry and contribute to negative family outcomes.

5. Some state and federal policies have been shown to alleviate the reentry challenges of parents with support debt. To the extent that policies provide coordinated assistance with support modification, reduce government-owed debt, and tailor arrears to fit the economic realities of parents' lives, they support reentry and family reintegration.

Given the relative newness of this area of inquiry, there are several limitations to the existing research on reentry and child support. First, because research on incarcerated parents with debt remains rare, much of what is known about the policy effects on them is gleaned from research on low-income parents with child support debt in general. Second, research that evaluates policy effects on incarcerated parents is methodologically limited; it rarely uses control groups, so it can be unclear if their outcomes are attributable to a policy intervention. It also tends to study short-term effects, so long-term efficacy often remains unclear. However, there are several key questions about child support and reentry that researchers can answer, including those discussed below.

The Basics: How Many Indebted Parents Are There and What Do They Owe?

Social scientists are beginning to gain a fuller picture of reentering parents with child support debt: the size of this group of parents, their demographic makeup, and the amount of their support debt. In terms of their size, estimates of the number

of parents with both criminal records and child support obligations vary according to how they are computed. If measured from the criminal justice side, researchers estimate that the number of indebted parents in prison is **450,000 to 550,000** (Levingston and Turetsky, 2007; Brito, 2012; Cancian, 2017; NCSL, 2019). When the jail population is added, the number rises by several hundred thousand, bringing it closer to **800,000** (NCSL, 2019), although there is some evidence that the number could be as high as **one million** (Mellgren et al., 2017). Add to this estimate parents from the child support side who are not currently incarcerated and it doubles, as the number of indebted parents with criminal justice backgrounds is estimated to be over **one million** (Ha et al., 2008; Putze, 2017).

Similarly, researchers know that this group of parents has an unusually large debt burden. Several factors underlie their accumulation of debt, including:

- Restrictions on prospective order modification (in/voluntary unemployment).
- Restrictions on retroactive order modification.
- Support orders set by default and imputed income.
- Retroactive child support.
- Interest and fees on arrears.

Estimates vary in regard to the average debt burden of this group of parents. Previous estimates conducted in the early 2000s put their average debt at about \$10,000. More recent estimates are much higher. Based on 2018 data, one study found the average incarcerated parents' debt was **\$20,000** — a debt that more than doubled during incarceration (NCSL, 2019). My research on 145 formerly incarcerated fathers from three states (New York,

Florida, and California) found the average debt was **\$36,500**, with some fathers owing over \$500,000 in support (Haney, 2018). This means the average debt of incarcerated fathers is up to three times that of other low-income fathers, estimated to be \$8,000 to \$12,000 (Turner and Waller, 2017; McLeod and Gottlieb, 2018).

What Institutional Obstacles Do Parents Confront in Reentry?

Most social scientific research in this area focuses on the institutional processes underlying reentry and reintegration. This research has unearthed several barriers to incarcerated parents' economic opportunity, familial well-being, and legal security. These include:

Economic obstacles. Research in this area has centered on patterns of debt accumulation for incarcerated parents and their effects on post-prison employment. Overall, research shows that child support obligations and debt adversely affect formal-sector employment. They are associated with a shorter average workweek and a turn to informal work (Turetsky, 2007; Miller and Mincy, 2012; Cancian, Heinrich, and Chung, 2009; Pleggenkuhle, 2018). Stricter child support enforcement policies are also associated with a decline in labor force participation and earnings (Holzer, Offner, and Sorensen, 2005; Schroeder and Doughty, 2009; Pate, 2016; Brito, 2020). This is particularly true of drivers' license revocation and contempt of court (Cadigan and Kirk, 2020; Meyer, Cancian, and Waring, 2020; Zatz and Stoll, 2020).

Familial obstacles. The combined effect of incarceration and child support debt puts considerable pressure on family networks, creating a unique set of reentry challenges for this group of parents. Child support obligations tend to be the

source of tension between custodial and noncustodial parents, particularly when they remain unmet (Seltzer, McLanahan, and Hanson, 1998; Waller and Plotnick, 2001; Nelson, 2004; Edin and Nelson, 2013; Hodges, Meyer, and Cancian, 2019). Also, research consistently shows that support debt is negatively associated with payment compliance, particularly for incarcerated parents with large debt (Huang, Mincy, and Garfinkel, 2005; Maldonado, 2006; Ha, Cancian, and Meyer, 2011; Emory et al., 2020). These patterns of debt have been shown to influence parents' caretaking, decreasing their contact and engagement with children and in-kind support (Turner and Waller, 2017; Pleggenkuhle, 2018). This is especially true for incarcerated parents, who often act as cyclical parents in ways that only worsen their familial turmoil and distrust (Haney, 2018, forthcoming).

Legal obstacles. Incarcerated parents confront unique legal barriers that make their post-prison reentry even more perilous. These include barriers to information and knowledge about child support orders in prison, order and debt modification after prison, and support enforcement measures (Pearson, 2004; Patterson, 2008; Cammett, 2011; Roman and Link, 2015, 2017; Mellgren et al., 2017). Remedial sanctions, such as drivers' license revocation and asset liens, affect parents' employment and put them in legal peril (Solomon-Fears, Smith, and Berry, 2012; Haney, 2018; Cadigan and Kirk, 2020). The use of contempt actions has particularly negative outcomes, especially for formerly incarcerated parents, as it undermines integration after prison and desistance from crime (Spjeldnes, Yamatani, and Davis, 2015; Cozzolino, 2018; NCSL, 2019).

What State Policies Impede Reentry?

Social scientific research on the institutional processes of reentry clearly shows that post-prison reintegration can be particularly perilous for this group of parents. It is also clear that some state policies contribute to these obstacles. To the extent that state policies accelerate the accumulation of debt, restrict the modification of debt, and punish debt with reincarceration, they impede parents' reentry and contribute to negative family outcomes. More specifically, policies shown to be particularly challenging for parents with support debt include:

Restrictive modification policies. State policies that impose restrictions on the ability of incarcerated parents to request and obtain modifications of their support orders impede the reentry process. This is true for modifications both **during** and **after** incarceration. During prison, policies that restrict the *eligibility* and *accessibility* of order modification, either by defining incarceration as "voluntary unemployment" (prior to 2016) or by making them inaccessible, lead to much higher debt accumulations (Griswold, Pearson, and Davis, 2001; Pearson, 2004; Patterson, 2008; Turetsky, 2008; Meyer and Warren, 2011; Cammett, 2011; NCSL, 2019). After prison, policies with strong restrictions on retroactive debt modification contribute to the accumulation of parental arrears. Examples include narrow interpretations of the Bradley Amendment and limited use of low-income orders (Office of Inspector General [OIG], 2000; Levingston and Turetsky, 2007; Justice, 2007; Brito, 2019; Haney, 2018). All of these restrictions worsen parents' debt and reentry challenges.

Interest charges and fees. Another reason for the rapid accumulation of child support debt for incarcerated parents is the interest charged on arrears. The majority of states charge interest on child support debt — many at a rate of 10% or more (NCSL, 2019). Research shows that interest policies are driving the accumulation of debt in these states (Sorensen, Sousa, and Schaner, 2007). Although the overwhelming majority of this debt has been deemed uncollectible, states continue to charge compound interest on it, thus impeding parents' ability to get out of debt and worsening their reentry outcomes (Sorensen et al., 2003; Brito, 2019; Haney, 2018).

Criminal and civil contempt. Although more data are needed on the effects of contempt actions for support debt, research suggests that the use of custodial punishment derails parents in the reentry process (Pearson, 2004; Patterson, 2008; Cammett, 2011; Cook and Noyes, 2011; Brito, 2012; NCSL, 2019). It can set into motion cascading effects that restrict parents from working, cause housing instability, inhibit the care of children, lead to job loss, and complicate desistance from crime (Spjeldnes, Yamatani, and Davis, 2015; Haney, 2018; Vogel, 2020a, 2020b).

What State Policies Facilitate Reentry?

Some state and federal policies have been shown to address the reentry challenges of parents with child support debt. Policies that provide coordinated assistance with support modification and help bring support payments to manageable levels can facilitate parents' reentry and family reintegration. Although more robust evaluations of these state policies are needed, preliminary findings suggest positive effects on reentry. They include:

Proactive modification assistance. State policies that proactively modify or suspend

child support orders during incarceration are shown to help to overcome the bureaucratic barriers to managing support orders (Aharpour et al., 2020). Proactive assistance is associated with a decline in parents' arrears and order amounts, as well as increased support payments and amounts (Griswold, Pearson, and Davis, 2001; Griswold and Pearson, 2003, 2005; Cancian et al., 2009; Roman and Link, 2015; Cancian, 2017). Administrative suspensions are also associated with lower arrears, higher support payments, and increased compliance after prison, although more research is needed on their long-term effects (Cancian, 2017; Haney and Link, 2017; Haney, forthcoming).

Coordinated reentry and child support assistance. Policies and programs that assist parents with support orders and debt within a coordinated reentry framework (as opposed to those in child support offices alone) have positive effects. A range of state-level studies show that coordinated programs and court diversion projects help with the intersecting reentry needs of parents with child support debt (Pearson, 2004; Roman and Link, 2015; Cancian, 2017; Brito, 2019). This is particularly true when it comes to employment and payment compliance: Studies in Colorado, Texas, Georgia, Wisconsin, and California show that these programs lead to statistically significant increases in participants' employment rates, wages, and the amount/frequency of child support payments (Pearson, Thoennes, and Davis, 2003; Griswold et al., 2004; Pearson, 2004; Schroeder and Doughty, 2009; Schroeder and Kahn, 2011). More systematic evaluations with controls and comparison groups are needed to assess these outcomes, as well as studies of policy effects on familial reintegration and well-being.

Increased pass-throughs on public assistance orders. State policies differ in terms of the amount of child support passed through to families in public

assistance cases. Research finds that increasing pass-through amounts is correlated with significant increases in the frequency and amount of child support payments (Sorensen and Hill, 2004; Cassetty, 2002; Legler and Turetsky, 2006; Cancian, Meyer, and Caspar, 2008; Lippold, Nichols, and Sorensen, 2013). Research also suggests that increased pass-throughs lower parents' welfare debt and expand the resources given to children, although the link between pass-throughs and familial well-being needs further study (Sorensen and Hill, 2004; Hahn, Edin, and Abrahams, 2018; Financial Justice Project, 2019).

Debt relief programs. Many states and locales have experimented with debt-relief programs for both low-income parents and formerly incarcerated parents (OIG, 2000; OCSE, 2011, 2018). These programs vary considerably in size and scope, with most focusing on government-owed debt. All of the evaluations of these policies find debt forgiveness is associated with lower debt burdens, more consistent support payments, and higher support payments (Pearson and Davis, 2002; Heinrich, Burkhardt, and Shager, 2011; Pearson, Thoennes, and Kaunelis, 2012). These policies also show promise in improving familial relationships; one recent study found that they reduced barriers to employment, housing insecurity, and parental stress (Hahn, Edin, and Abrahams, 2018; Hahn et al., 2019).

What Further Research Is Needed?

Research on the relationship among child support, criminal justice, and reentry is still emerging. Thus, there are data issues that should be addressed before this research can be carried out most effectively. In addition to data issues, there are three key areas in which additional research will make particularly important contributions

to policy reform: research on patterns of debt accumulation, the effects of custodial sanctions, and racial disparities in reentry.

Data issues. The data available to researchers in this area have often been limited, particularly administrative data from state child support offices. Quantitative researchers have thus used datasets that are not ideal for studying national-level state processes. Also, qualitative researchers have been limited to relatively small sample sizes and state case studies. To address these data issues, it is recommended that:

- State administrative data become more widely available and accessible.
- Research using experimental designs with control groups be prioritized.
- Robust, systematic evaluations of pilot programs and experiments be conducted.
- Research with larger sample sizes and state comparisons be prioritized.

Research on national patterns of debt accumulation. There are critical gaps in research on the accumulation of debt for incarcerated parents, particularly as it relates to recidivism. Research addressing these questions at the national level should be prioritized:

- Who owes how much child support debt, by age, household type, and sentence length?
- What are the patterns of debt accumulation before, during, and after prison?
- What interventions have the strongest impact on debt before, during, and after prison?

- Does debt have long-term negative effects on parental employment and family relationships, and do these effects relate to recidivism?

Research on patterns of custodial sanctions and contempt actions. Despite the far-reaching effects of jailing parents for support debt, little is known about patterns in the use and effects of contempt actions. Research on the following questions should be prioritized:

- What is the demographic makeup of parents held in contempt?
- What are cross-county and cross-state patterns in the use of contempt?
- Does contempt relate to job loss, housing instability, familial tension, and recidivism?

Research on racial disparities. Few studies examine race as a factor shaping the experiences of reentering parents with support debt. Key questions thus remain, including:

- Are there racial differences in the accumulation of parental debt?
- Are there racial differences in how debt relates to employment and recidivism?
- Are there racial differences in the use and consequences of custodial sanctions?

What Policy Reforms Are Recommended?

Despite the need for more research, many studies point to the significant effects of policy reforms on the lives of indebted

parents and their families. These policy reforms address the two main barriers facing parents: the accumulation of support debt and related enforcement measures. Such reforms could work together across all three levels of government and include:

Federal Reforms

- Expand the Final Rule
 - Strengthen the directives and modification guidelines given to states.
 - Create incentives for states to modify the support orders of institutionalized parents.
 - Advance guidelines and incentives to curtail the use of custodial punishment for debt.
- Expand Exemptions to the Bradley Amendment
 - Waive institutionalized parents from restrictions on retroactive modification.
 - Ensure this exemption is consistent across states and not undermined by local discretion.
- End Public Assistance Payback
 - Waive public assistance payback for institutionalized parents.
 - Introduce a minimum support guarantee for all children and commit to use public resources to meet this minimum when parents cannot do so (due to institutionalization).

State Reforms

- Implement \$0 Incarceration Orders
 - Institutionalized parents should be given a right to \$0 incarceration orders.
 - Incarceration orders should be administratively set and discretionary practices should be curtailed.
- End Interest Charges on Support Debt
 - In states where state directors of child support services set interest rates, they should be 0% for institutionalized parents.
 - In states where state constitutions set interest rates, amendments or statutes should exempt institutionalized parents from such charges and fees.
- Restrict Custodial Sanctions for Debt
 - Introduce statewide protocols to be followed in all contempt cases.
 - Use alternative-to-incarceration programs prior to issuing jail time for debt.
 - Set clear limits on the amount issued to purge from contempt of court.
 - Create independent oversight committees to review cases of custodial punishment.

Local Reforms

- Create and Extend Partnerships between OCSE and DOC
 - Expand and increase the accessibility of assistance with child support orders.
 - Coordinate assistance with support orders across criminal justice institutions.
 - Establish coordinated data sharing between child support and jails.
- Expand Debt-Relief Programs
 - Establish debt-relief programs that are most effective for incarcerated parents.
 - Recruit community-based organizations to administer debt-relief programs.
 - Reward locales for lowering the debt burden of institutionalized parents.
- Ensure Court Practices Follow Due Process Standards
 - Make public the rate of contempt actions, both by county and by judge.
 - Oversee locales with high rates of noncompliance and contempt filings.
 - Recruit community organizations to evaluate court enforcement practices.

To read the full white paper, go to <https://www.ojp.gov/pdffiles1/nij/300780.pdf>.