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Imagining a new future: elimination of child support obligations for child welfare-involved families

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ABSTRACT

As we imagine the next generation of public child welfare, efforts to identify and eliminate practices that are harmful to families must be pursued. This commentary uses available research evidence to argue against child support enforcement for child welfare-involved families. Although research on this topic is sparse, the evidence from the few available studies suggests that child support enforcement likely harms child welfare-involved families. It delays reunification, increases family financial precarity, is cost ineffective, and is anathema to the values of family support. Federal policies that require or encourage referral of child welfare-involved families to child support agencies should be eliminated to better promote family strengths and cohesion.

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Child support enforcement efforts in the U.S. are designed to signal to parents their responsibility for children's financial security. In 1984, Congress made adjustments to the Social Security Act (Section 471(a)(17)) relating to child support enforcement and its connection to the child welfare system. Child welfare agencies are required to refer Title IV-E eligible parents whose children are separated to foster care to the state child support agency "where appropriate" and under conditions that support "the best interests of the child" (U.S. Department of Health and Human Services [U.S. DHHS], 2012). The intent of the policy is to reimburse states for the cost of providing care.

Federal guidance provides significant discretion to states to determine which families should be referred to child support. State child welfare agencies are responsible for determining the criteria for referral based on a "best interests" standard. Title IV-E eligible parents must be referred, although exemptions include whether the custodial parent is working toward reunification, and whether the referral would interfere with the parent's ability to achieve reunification. Title IV-E eligible families' circumstances must be reviewed individually to determine the appropriateness of an exemption. States are also encouraged to refer non-Title IV-E eligible parents, though they are not required to do so. Once a child support referral is received, the

child support office is responsible for locating the parent, establishing paternity (if relevant), and enforcing the child support obligation in concert with the courts. A child support order may be made against the custodial parent from whom the child was separated (most often the mother). An order may also be made against the non-custodial parent. Some evidence suggests that a large proportion of non-custodial parents already have child support orders established (Cancian, Cook, Seki, & Wimer, 2017); in these cases, child support obligations normally distributed to the custodial parent are re-directed to the state to offset the cost of care.

Research on this topic is sparse, but evidence from the few available studies suggests that the policy requiring child support referral and enforcement likely harms child welfare-involved families. It delays reunification, increases family financial precarity, is cost ineffective, and is anathema to the values of family support; the policy should be eliminated to better promote family strengths and cohesion.

What does research suggest about enforced child support obligations?

Based on a review of the limited literature on this topic, there are several reasons why child support enforcement for child welfare-involved families should be eliminated.

Child support increases length of stay in foster care

U.S. policy promotes the notion of temporary foster care, with safe, stable reunification prioritized. But the available evidence suggests that low-income parents generally reunify with their children more slowly (Courtney, 1994).¹ Moreover, parents who experience a substantial decline in income during their child's stay in care may experience more lengthy durations of out-of-home care (Wells & Guo, 2004, 2006). Cancian et al. (2017) examined this issue as it pertains to child support using data on over 2,000 mothers in Wisconsin from 2004–2006. Their study showed that an increase of \$100 per month in maternal child support payments to the state increased children's length of stay in care by 6.6 months. The findings were especially pronounced for Black mothers.

Child support disproportionately harms low-income families

Data from a number of studies confirm that parents whose children are placed in foster care are disproportionately poor, and large percentages live in extreme poverty (Hook, Romich, Lee, Marcenko, & Kang, 2016; Kang, Romich, Hook, Lee, & Marcenko, 2019; Marcenko, Hook, Romich, & Lee, 2012; Marcenko, Lyons, & Courtney, 2011; National Survey of Child and

Adolescent Well-Being, 2005; Pelton, 1994). Although some states apply the federal child support collection obligation to all parents regardless of Title IV-E eligibility, the requirements of the law only fall on Title IV-E (i.e., low-income) families (Hatcher, 2009). The imposition of child support obligations, therefore, falls disproportionately heavily on low-income families.

Child welfare families for whom child support obligations are collected experience much greater rates of extreme family poverty than non-child welfare involved families (Skophammer, 2017). Three studies examining the intersection of child support and child welfare have assessed family income. In one study, about one-third of parents had an annual income of less than \$10,000 (Skophammer, 2017); another showed that over half of child welfare parents had an annual income below \$10,000 (Eldred, 2020), and a third study found that over one-half of parents had no recorded earnings in the year prior to their child's removal (Cancian et al., 2017).

Child support increases family financial instability and reduces children's safety

A significant body of research shows that family poverty increases the risk of child maltreatment (for a review see: Drake & Jonson-Reid, 2014). Some of the seminal studies on this topic include: Berger, 2004; Jonson-Reid, Drake, & Kohl, 2009; Nikulina, Widom, & Czaja, 2011; Putnam-Hornstein & Needell, 2011; Sedlak et al., 2010). With regard to child support, family poverty, and maltreatment, Cancian, Yang, and Slack (2013) utilized data from a random assignment experiment suggesting that among parents *not* involved with the child welfare system, custodial parents' receipt of lower amounts of child support (compared to higher amounts of child support) experienced an increase in the risk of child maltreatment.

Some evidence indicates that formal child support payments make up approximately half of total annual income for low-income families (Solomon-Fears, 2014). Custodial parents whose child support income is redirected to the state therefore typically experience a significant decline in family income. These decrements can have impacts on family financial insecurity and on the likelihood of maltreatment.

Child support is inequitably applied

Because the federal policy guidance on implementation of the law is broad, there is significant variation across states in federal policy interpretation. For example, some states indicate that a child support referral will be made and state guidance does not include information about possible exemptions. In other states, no criteria are provided to determine a "best interests" standard. In 2012, fewer than five states provided explicit criteria for offering exemptions (Chellew, Noyes, & Selekmán, 2012).

Significant variability is also found in county policies within states, as well as between caseworkers within counties (Chellew et al., 2012). Moreover, Cancian et al. (2013) found that the application of child support orders across families was seemingly arbitrary; there was little association between the amount of a custodial or non-custodial parent's income, the likelihood of a child support order, or the payment amount required in child support orders.

Child support is cost in-effective

Evidence from a handful of studies shows that collection of child support obligations is cost ineffective. In 2015, a simple calculation of child support collections found that the total dollars collected divided by the number of children in care yielded \$165 per child collected in that year (Skophammer, 2017). In another study of child support enforcement in Wisconsin, Chellew et al. (2012) found that only 4% of direct child welfare costs were offset by child support payments. Some evidence suggests that child support collection efforts for child welfare-involved families are very complex and require approximately 50% more effort on the part of child support collection staff than work with non-child welfare-involved families (Orange County Department of Child Support Services [OCDCSS], 2019). As a result, cost-benefit analyses have yielded findings suggesting that administrative costs outweigh financial benefits to the state. In one study (MN), \$0.36 was collected for every dollar spent (Skophammer, 2017). In another (Orange County, Ca), the cost-benefit ratio was about one quarter (\$0.27) to a dollar (OCDCSS, 2019).

Child support can reduce kinship caregivers' financial support for children

Two federal information memoranda from 2012 clarified the intent of child support collections as one strategy to increase the income of relative caregivers (ACYF-CB-IM-12-06 and OCSE-IM-12-02). But kin caregivers are frequently aware that the financial benefits they may reap from the state may come at a cost to their relative daughter, sister, or niece. Limited evidence suggests that some kinship caregivers are aware of the rules associated with child support obligations. In order to reduce the likelihood that the custodial parent will be assigned a child support obligation, kin may eschew collecting a TANF child-only payment entirely (for those ineligible for a foster care subsidy) in an effort to protect their relative from the financial cost associated with child support (Hatcher, 2009).

Opportunities for reform

The child support system has undergone significant change over the past three decades. In general, efforts to reform child support policies focus on opportunities to strengthen rather than further strain families (Edin, Nelson, Butler, & Francis, 2019). Policies promoting child support payments as a government offset have shifted in many states and child support payments are increasingly directed to the custodial parent as a strategy to increase family income (Cancian, Meyer, & Caspar, 2008). These changes follow extensive evidence showing that child support payments are important to the financial well-being of single-parent families, and that they can have beneficial effects on children (Amato & Gilbreth, 1999; Argys, Peters, Brooks-Gunn, & Smith, 1998). Child welfare research has also shown the pernicious effects that family poverty can have on family wellness, family strengths, and on the increased likelihood of child maltreatment. Enforcing child support obligations does not align with the values that child welfare systems intend.

Federal policy currently allows states to “develop criteria for appropriate referrals in the best interests of the child involved” (U. S. DHHS, 2012), though further guidance about what constitutes “best interests” is not provided, and a “best interests” standard is to be applied to individual cases rather than broadly across a whole class of children. Based on the research evidence to date, it seems reasonable to suggest that federal law be adjusted so that states are allowed to exempt from child support *all* families whose children are in out-of-home care as child support enforcement does not support children’s best interests. Non-custodial parents’ child support obligations should *not* be redirected away from the custodial parent to offset the cost of care, nor should new child support obligations be imposed on the custodial parent. Both of these changes would ensure that fragile families are not financially penalized for their involvement with the child welfare system and that children’s well-being will be better promoted.

Note

1. Other evidence suggests that low-income mothers are less likely to reunify (Kortenkamp et al. 2004). Findings from Lee et al. (2017) contradict this evidence suggesting that the amount of income may be less important than the source of income, with women who are employed less likely to reunify than women who receive their income from public benefits.

Disclosure statement

No potential conflict of interest was reported by the author(s).

Notes on contributor

Jill Duerr Berrick, MSW, PhD, serves as the Zellerbach Family Foundation Professor in the School of Social Welfare at U.C. Berkeley. Berrick's research focuses on the relationship of the state to vulnerable families, particularly those touched by the child welfare system. She has written or co-written 11 books on topics relating to family poverty, child maltreatment, and child welfare services and has written extensively for academic journals. Berrick's research approach typically relies upon the voices of service system consumers to identify the impacts of social problems and social service solutions in family life. Her most recent book, *The Impossible Imperative: Navigating the Competing Principles of Child Protection* examines child welfare professionals and the morally contentious and intellectually demanding choices they regularly face in their work with children and families.

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