

Executive Summary: Reforming Child Support to Improve Outcomes for Children and Families

by Vicki Turetsky

The Problem

Two decades of research present a stark message to Maryland policymakers: Unrealistic child support policies and practices entangle poor African American men and their families in poverty and have become a destabilizing force in the Baltimore community. Child support orders set beyond the ability of noncustodial parents to comply push them out of low-wage jobs, drown them in debt, hound them into the underground economy, and chase them out of their children's lives. Federal rules adopted in 2016 require Maryland to incorporate a set of evidence-based policies into the state child support guidelines to improve payment consistency, workforce participation, and child wellbeing.

There is broad consensus that both parents should contribute to their children's support when living apart, and custodial parents should not have to bear the sole burden of support. Most noncustodial parents want to provide for their children, and most do pay child support.¹ Consistent, on-time payments can help low-income families increase their economic stability and improve family relationships. However, families do not benefit when parents cannot afford to pay their orders. Falling behind on child support payments can exacerbate family hardship and tensions, driving a wedge between the parents and pushing noncustodial parents away from their children—the exact opposite of what the child support program is set up to do.

Table 1. Child Support Debt in 2018

	State of Maryland	Baltimore City
Amount of debt owed in 2018	\$1,351,254,671	\$402,609,302
Amount of current and past child support collected in 2018	\$551,553,452	\$74,954,539
Amount of debt uncollected in 2018	\$1,232,935,897	\$378,634,170

Source: Email to the author from Jamie Haskel, University of Maryland School of Social Work, dated May 8, 2019.

More than \$1.3 billion in child support debt went uncollected by the Maryland child support program in 2018, while more than \$400 million was uncollected in Baltimore.² (see Table 1.) This amount represents debt accumulating ever since the child support program began more than four decades ago. Most of this debt will never be collected, no matter how tough enforcement efforts are. Yet uncollectible debt builds year-by-year, interfering with noncustodial parent employment and burdening taxpayers with costly and unsuccessful collection activities.

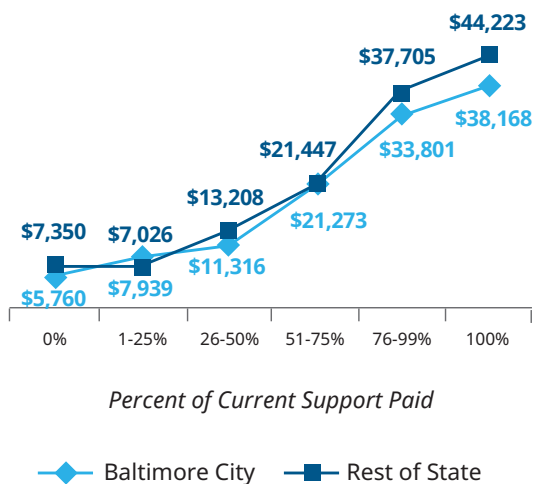
The hard reality is that sometimes there just is not enough money to go around. Inability to pay the order amount is the main reason for nonpayment. Nearly all parents who fall behind

on child support payments have unstable employment and low earnings, and a significant number of parents are incarcerated. One study found that 90 percent of those noncustodial parents who made no payment and 60 percent making partial payment were incarcerated or did not have year-round employment.³

The employment situation is bleak for many noncustodial parents with a child support case. Mothers and fathers from the same low-income communities often have similar barriers to full-time employment. Noncustodial parents with limited education and marketable skills, an intermittent work history, and sometimes a criminal record struggle to find and maintain full-time work at sufficient wages to support themselves and pay their child support obligations.⁴ Across Maryland, 50 percent of noncustodial parents in the state child support program caseload were employed in 2017, and 43 percent of these earned minimum wages or less. In Baltimore, 57 percent of noncustodial parents were employed and 47 percent earned the minimum wages or less.⁵ (See Figure 2.) One-quarter of noncustodial parents with a child support case in the Maryland program caseload receive Supplemental Nutrition Assistance Program (SNAP) benefits, one indicator of low income and food insecurity. In Baltimore, it is 42 percent.⁶

Noncustodial parents with the lowest incomes and most barriers to employment are often expected to pay an impossibly large share of their income toward child support.⁷ If child support orders are set beyond the ability of parents to pay them, compliance falls off and debt builds.⁸ When parents fall behind, poorly targeted and overly aggressive enforcement can make it even harder for them to stay employed and keep up with their support payments. Noncustodial parents who cannot keep up sometimes turn to work “under the table” or even engage in illegal activities to support their children and themselves.⁹ The incentive to work and pay is further undermined by welfare cost recovery policies that hold back support payments from the poorest families and use it to fund government operations.¹⁰

Figure 1. Average Annual Earnings among Employed NCPs by Percent of Current Support Paid



Source: Reprinted from Letitia Logan Passarella and Catherine E. Born, *Who Pays Child Support in Baltimore City? Noncustodial Parent (NCP) Payment Compliance*, University of Maryland School of Social Work, Family Welfare Research and Training, 2014)

Notes: Earnings are based on NCPs with employment in a Maryland UI-covered job. NCPs may have additional earnings that are not accounted for here.

Median earnings were lower in each of the payment compliance groups—by about \$2,000 to \$4,000. This makes a larger difference among the lower income groups where average earnings can be double the median earnings. For example, among Baltimore City noncustodial parents, median earnings for those who paid 0% were \$1,603 (compared to \$5,760 in average earnings), while median earnings for those who paid 100% were \$35,077 (compared to \$38,168 in average earnings).

Maryland parents who paid all of their current support were expected to pay 18 percent of their earnings toward child support. Parents who paid the least amount were expected to pay more than 70 percent of their income. The experience in Baltimore is similar. This disparity is unfair and unsustainable.

Setting Child Support Orders

In general, child support orders are based on the combined actual income of both parents according to guidelines established by the state. However, when parents are poor, courts often do not base support orders on the parents' actual earnings. Instead, standardized orders are issued based on full-time minimum wages attributed to the parents. The result is highly regressive: Maryland noncustodial parents who earn a \$50,000 median income are ordered to pay 14 percent of their earnings toward child support, while noncustodial parents earning a \$6,000 median income are ordered to pay 61 percent, according to a University of Maryland analysis.¹¹

Research shows that the best predictor of compliance with a child support order is a noncustodial parent's monthly gross earnings.¹² As earnings increase, compliance increases. According to a University of Maryland analysis, Maryland parents who paid all of the current support ordered earned an average of \$44,000 during the year. In Baltimore City, parents who paid all of their support earned an average of \$38,000. Conversely, parents who did not pay any of their current support earned an average of \$7,350 statewide and \$5,800 in Baltimore—considerably less than the federal poverty level.¹³ (See Figure 1.)

There are two reasons why higher earning parents are more likely to pay the child support they owe. The first reason is straightforward: higher earning parents have more income to support their children and themselves. But

the second reason is more insidious: higher earning parents are expected to pay a much lower share of their income toward child support. Maryland parents who paid all of their current support were expected to pay 18 percent of their earnings toward child support. Parents who paid the least amount were expected to pay more than 70 percent of their income. The experience in Baltimore is similar.¹⁴ This disparity is unfair and unsustainable.

For two decades we have known that, regardless of how much noncustodial parents are ordered to pay, parents generally manage to pay about 20 percent of their actual gross earnings toward child support. Compliance falls off by parents at all income levels when support orders are set higher than about 20 percent of earnings.¹⁵ This finding holds true in Maryland: Statewide, noncustodial parents were ordered to pay 34 percent of their earnings to current support on average, but they paid 20 percent.¹⁶ (See Figure 2.) There also is some evidence that orders set above 20 percent of income have the unintended—and counterproductive—effect of decreasing, not increasing, support payments for families.¹⁷ Unpaid support becomes debt. Three in five Maryland noncustodial parents in the child support program owe child support arrears.¹⁸

Some people believe that higher orders and tougher enforcement will increase collections. They reason that if a support order is set high and enforced rigorously, parents will increase their work hours and earnings.

FIGURE 2: BALTIMORE CITY

Snapshot of Noncustodial Parents (NCPs)



38,918

NCPs with a current Child Support Case

23%

of the statewide current Child Support Caseload

92%
are men

42%
received Food Supplement benefits

91%
are African American

44% were associated with a Temporary Cash Assistance Case

The Average Noncustodial Parent:

41 was the average age

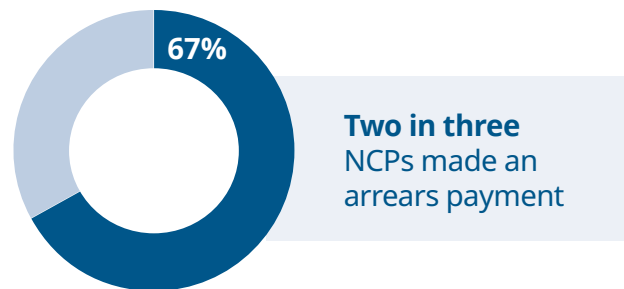
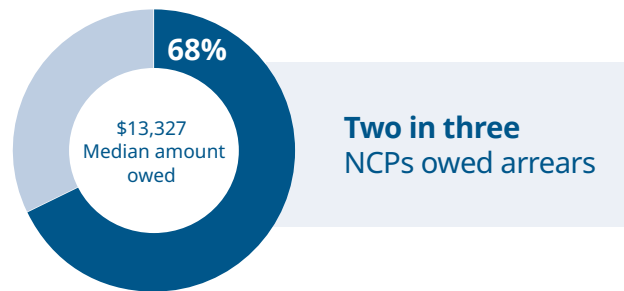
2 child support cases

2 children

57% of NCPs were employed and earned a median of **\$20,372**.^a

Half of NCPs earned the minimum wage, while one third earned the Maryland living wage.^b

On average, NCPs were ordered to pay about **one third** of their earnings to current child support, but they actually paid less than **one fifth** of their earnings to current support



Source: Reprinted from Natalie Demyan and Letitia Logan Passarella, *Snapshot of Noncustodial Parents in Maryland: Examining Who Owed Support in July 2017 and Snapshot of Noncustodial Parents in Baltimore: Examining Who Owed Support in July 2017*, University of Maryland School of Social Work, Ruth Young Center for Families & Children, 2018

Data are based on a sample of 1,039 noncustodial parents (NCPs) who had an active child support case in July 2017. Obligations and payments are based on data between July 2016 and June 2017.

Percentages may not total 100% due to rounding.

^a Employment and median earnings are based on jobs covered in Maryland by Unemployment Insurance between July 2016 and June 2017.

^b Full-time minimum wage is based on the prevailing minimum in 2017 (\$8.75 per hour). Maryland living wage is based on market-rate costs of basic necessities (\$30,410 annually) (<http://livingwage.mit.edu/states/24>).

FIGURE 2: MARYLAND

Snapshot of Noncustodial Parents (NCPs)



169,833

NCPs with a current Child Support Case

92%
are men

25%
received Food Supplement benefits

67%
are African American

26% were associated with a Temporary Cash Assistance Case

The Average Noncustodial Parent:

41 was the average age

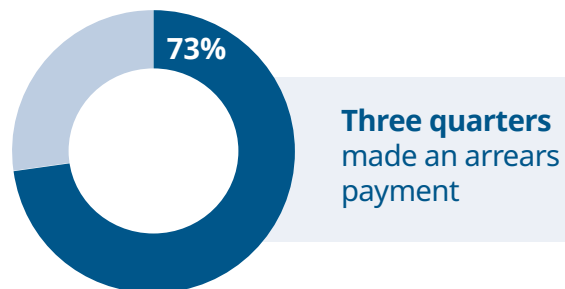
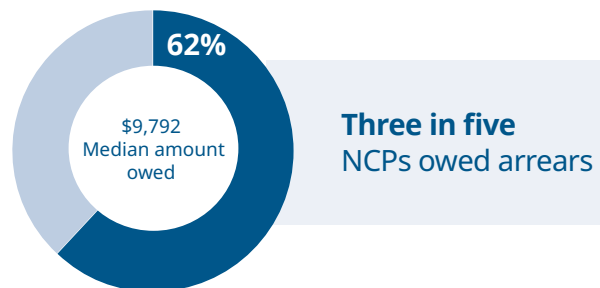
1 child support cases

2 children

50% of NCPs were employed and earned a median of **\$22,689**.^a

43% of NCPs earned the minimum wage, while **39%** earned the Maryland living wage.^b

NCPs were ordered to pay about **one third** of their earnings to current support, but they actually paid **one fifth** of their earnings to current support



Source: Reprinted from Natalie Demyan and Letitia Logan Passarella, *Snapshot of Noncustodial Parents in Maryland: Examining Who Owed Support in July 2017* and *Snapshot of Noncustodial Parents in Baltimore: Examining Who Owed Support in July 2017*, University of Maryland School of Social Work, Ruth Young Center for Families & Children, 2018

Data are based on a sample of 18,317 noncustodial parents (NCPs) who had an active child support case in July 2017. Obligations and payments are based on data between July 2016 and June 2017.

Percentages may not total 100% due to rounding.

^a Employment and median earnings are based on jobs covered in Maryland by Unemployment Insurance between July 2016 and June 2017.

^b Full-time minimum wage is based on the prevailing minimum in 2017 (\$8.75 per hour). Maryland living wage is based on market-rate costs of basic necessities (\$30,410 annually) (<http://livingwage.mit.edu/states/24>).

Old uncollectible debt can interfere with the economic stability of working parents and create lifelong indebtedness, well after the children are grown and have children of their own. There is ample evidence that many low-earning parents facing substantial child support debt become discouraged and leave formal employment.

But the evidence is clear: Higher orders and tougher enforcement will not increase collections when the barrier to payment is poverty.¹⁹ It does no good, and in fact, it does harm, when orders are set too high. A realistic and balanced approach to child support is essential to obtaining consistent child support payments.

Recommendations

Every four years, Maryland and other states review the effectiveness of their child support guidelines and update their approach to setting support orders. Around the country, states are implementing more realistic and evidence-based strategies aimed at increasing consistent, on-time payment; decreasing the accumulation of debt; and redirecting payments to families, instead of state operations. During the upcoming quadrennial review of its state guidelines, Maryland has an opportunity to make the child support process work better for low-income families.

This report focuses on 15 specific policy recommendations that Maryland can implement to increase the accuracy of and compliance with child support orders when parents have low incomes. Some are required policy changes. Improved parental compliance translates to improved performance on federal incentive measures. Three key evidence-based strategies underlie these policy recommendations.

Strategy #1: Set child support orders that reflect parents' actual ability to pay.

This report places particular emphasis on getting the support order right. The evidence is clear that setting an accurate child support order and keeping it up-to-date greatly improves the chances that noncustodial parents will make regular payments and continue to pay over time. The 2016 federal rules are intended to increase compliance by improving the accuracy of orders, particularly those issued in cases where the parents have the lowest incomes.

Maryland's child support guidelines should clearly reflect the federal standard, which requires support orders for low-income parents to be based on "earnings, income, and other evidence of ability to pay," established through fact-finding about the parents' specific circumstances. Right-sizing the order is critical to increasing compliance, holding parents accountable for making regular payments, and decreasing uncollectible arrears.

A major culprit behind unaffordable orders is using attributed, or imputed, income as the basis for calculating support obligations in low-income cases. Imputed income is fictitious income. Across the state, one-fourth of all child support orders are based on full-time, minimum wages, rather than evidence of actual income and ability to pay. Parents having orders based on imputed income actually earned 72 percent

less than the amount listed on the child support worksheets. Not surprisingly, the collection rate for imputed minimum wage orders is 10 percentage points lower than orders that are based on actual income in low-income cases.²⁰

This report recommends that Maryland adopt a number of specific policies to improve the accuracy of support orders based upon ability to pay and to conform state guidelines to the new federal requirements:

1. Articulate the standard in state guidelines that child support orders must be based on the noncustodial parent's "earnings, income and other evidence of ability to pay."
2. Update the self-support reserve, leaving enough money in a low-income parent's pockets to pay for basic subsistence needs.
3. Tighten up state guidelines so that "potential," or imputed, income is not routinely used as the basis for orders when the parents are impoverished.
4. Restructure the state guidelines by extending the schedule to zero income, gradually increasing support amounts consistent with the noncustodial parent's ability to pay.
5. Implement child support problem-solving courts and other less adversarial approaches and continue to improve judicial access for pro se litigants in child support cases.
6. Shorten the timeframes included in Md. Family Law Code § 12-104.1, which allows incarcerated parents to request modification of their orders.
7. Suspend child support obligations upon incarceration by operation of law and automate the process.
8. Institute a procedure to review and adjust obligations upon release from prison.

Strategy #2: Reduce uncollectible child support debt.

Old uncollectible debt can interfere with the economic stability of working parents and create lifelong indebtedness, well after the children are grown and have children of their own. There is ample evidence that many low-earning parents facing substantial child support debt become discouraged and leave formal employment. This usually is because they cannot afford to live on the earnings that remain once child support has been deducted from their paychecks. High arrears can substantially reduce child support payments, earnings, and labor force participation by noncustodial parents.²¹

Just as alarming, there is mounting evidence that child support debt creates a barrier to father involvement. Indebted noncustodial fathers have significantly less contact with their children, are less engaged in their daily activities, and provide less frequent informal support.²² Indebtedness is associated with greater parental depression, alcohol overuse, poor health, worsened family relationships, less effective parenting, and deteriorating child behavior.²³

Enforcement mechanisms alone are not effective in increasing collections from low-income parents. In fact, overly aggressive enforcement efforts, particularly driver's license suspensions, can make matters worse, by interfering with work and family responsibilities.²⁴ A driver's license suspension can set up a vicious cycle, making it harder to pay child support than before the suspension. Data show that driver's license suspensions affect the poor to a much greater extent than other income groups.²⁵ For low-income parents, employment and debt leveraging programs, such as the Maryland Child Support Payment Incentive Program (PIP) and Noncustodial Parent Employment Programs (NPEP) managed by the Child Support Administration can be effective in increasing child support payments.²⁶

Parents are more willing to pay when child support benefits their children. Research in several states found that more noncustodial parents paid child support and parents paid more support when it was passed through to their children.

We recommend that Maryland adopt specific policies to identify and reduce uncollectible child support arrears:

1. Define criteria to automatically review and write off old uncollectible debt owed to the state.
2. Strengthen Maryland's child support debt leveraging and noncustodial parent employment programs, including PIP and NPEP.
3. Implement new strategies to reduce the accumulation of debt in low-income cases.
4. Stop suspending driver's licenses for child support nonpayment when parents earn less than 200 percent of poverty.

Strategy #3: Ensure that children, not the state, receive the money when their parents pay child support.

Not all families benefit equally from the collection of child support. In fact, Maryland withholds child support payments from many of the poorest families—namely, those who receive, or used to receive, Temporary Cash Assistance, (“TCA”). As a condition of receiving cash assistance, families are required to sign over to the state their rights to child support. When the state collects support in those cases, it holds back the money to reimburse the assistance. Even after families no longer receive assistance, the state keeps a cut of

support payments until the assistance is paid off. These retained payments are shared with the federal government and treated as government revenues.

Last year, the Maryland legislature adopted a partial pass-through of support payments paid to families receiving TCA. Effective July 1, 2019, families receiving assistance will receive up to \$100 for one child and \$200 for two or more children from the support paid by the children's noncustodial parent. This is a step in the right direction, but Maryland needs to do more. In FY 2017, Maryland retained \$16 million in child support and paid half to the federal government—money that could have gone to low-income families instead. Most of these retained collections are owed to families that no longer receive TCA but struggle to make ends meet.

Parents are more willing to pay when child support benefits their children. Research in several states found that more noncustodial parents paid child support and parents paid more support when it was passed through to their children. A study in Wisconsin found that when families received their child support, reliance on cash assistance decreased, child care satisfaction increased, and child maltreatment reports decreased—and with no net cost to the state.²⁷

It is time to end the child support program's cost-recovery role in Maryland. Welfare cost recovery is not cost-effective and reduces federal performance incentive funding. Using child support as state revenues sends a mixed

message to parents about the importance of supporting their children and undermines the mission of the child support program. It reduces the willingness of parents to cooperate with the child support program and comply with their child support orders. It aggravates the strains between the parents and further disconnects parents from their children. It deprives some of the poorest families of needed resources and increases the use of public assistance. Through the eyes of parents, it is just plain wrong.²⁸

We recommend that Maryland adopt specific policies to increase the amount of collected child support paid to families, rather than keeping the money to reimburse TCA costs:

1. For current TCA families, pass through 100 percent of all support.
2. For former TCA families, cancel old assignments and pay families the child support collected from federal tax refunds.
3. Adopt all 5 federal options outlined in Appendix II to pay all collections to current and former TCA families and get child support completely out of the welfare cost recovery business.

By focusing on these three key evidence-based strategies—and recommending the specific policies in this report—we hope to offer promising alternatives that not only better meet the needs of low-income families but also ensure that low-income children and their families receive the support they need.

About the Author

Vicki Turetsky is an attorney and independent policy consultant. She previously served as the commissioner of the federal Office of Child Support Enforcement in the Obama Administration and worked a number of years in state government.

Endnotes

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Executive Summary: Reforming Child Support to Improve Outcomes for Children and Families Executive Summary

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