

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**State Policies Used to Establish
Child Support Orders
For
Low Income
Non-custodial Parents**



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Inspector General**

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OEI-05-99-00391**

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EXECUTIVE SUMMARY

PURPOSE

To examine the policies States use to determine the amount of child support to be paid by low-income non-custodial parents.

BACKGROUND

The recent decline in welfare receipt elevates the need for increased child support collections to help single parents maintain self-sufficiency. The low-income status of many non-custodial parents adds to the challenge of boosting child support collections to meet custodial family needs. Some low-income obligors are delinquent in support payments because they are unwilling to pay support. However, one study estimates that 60 percent of non-custodial parents who do not pay child support, have a limited ability to pay support based on their income levels, education levels, rates of institutionalization, and intermittent employment history.¹ These non-custodial parents have come to be known in the child support community as “dead-broke” rather than “dead-beat”.

In recent years, the research and policy community has devoted more attention to strategies to increase the ability of non-custodial parents to pay child support. One primary area of concern is the order establishment process. In particular, representatives of the child support enforcement community have raised questions regarding the effect of income imputation and arrearage policies on the non-custodial parent’s ability to comply with the requirements of their child support order.

We examined the policies used by States to determine the financial obligations owed by non-custodial parents through a close-ended survey of the Directors of each State’s child support enforcement agency. While this report provides self-reported information on all States’ policies in this area, our companion report, *The Establishment of Child Support Orders for Low-Income Non-custodial Parents* (OEI-05-99-00390), provides a more in-depth review of the practices used to determine financial obligations in a sample of 10 States and the payment compliance associated with these practices.

OVERVIEW

Retroactive Support

Forty-six States charge non-custodial parents for welfare paid prior to the establishment of the order (welfare debt) or for retroactive support. Most States also charge non-custodial parents for the costs of paternity testing. Some States charge non-custodial parents other establishment-related fees, court and attorney fees, case processing fees and birth-related medical charges.

Routine Fees and Interest

In addition to the monthly support obligation and front-end arrears, non-custodial parents in many States are also obligated to pay other ongoing fees and interest on unpaid support. Forty-six States allow employers to charge fees to non-custodial parents for income withholding. In seven of these States, non-custodial parents are also charged ongoing case processing fees. In 34 States, interest charges on unpaid support can add to the total charges for which non-custodial parents are responsible.

Income Imputation

Most States impute (i.e. attribute) income to the non-custodial parent if the non-custodial parent fails to provide relevant income information or if the non-custodial parent is unemployed or underemployed. Most of the States which impute income consider a combination of factors to determine the imputed amount. Thirty-five States base imputed income on the premise that the non-custodial parent should be able to work a minimum wage job for 40 hours/week.

Minimum Order Policies

Thirty States specify an income threshold below which orders are established as a minimum amount. Eleven States which do not have an income threshold still have a minimum award amount available for use in low-income cases. The thresholds used to define low-income obligors and the minimum order amounts used vary by State.

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INTRODUCTION

PURPOSE

To examine the policies States use to determine the amount of child support to be paid by low-income non-custodial parents.

BACKGROUND

This report examines the policies States use to determine the amount of child support to be paid by low-income non-custodial parents. While this report provides information on all States' policies in this area, a companion report, *The Establishment of Child Support Orders for Low-Income Non-custodial Parents* (OEI-05-99-00390), examines these policies in more depth in a sample of States and their relationship to payment compliance. A follow-up report will examine the degree to which child support orders are aligned with the earnings of obligors and the relationship between order alignment and payments.

Low Payment Rates and Custodial Parent Poverty

Although child support collections have increased significantly in recent years, overall rates of collection remain low. In fiscal year (FY) 1997, of the \$17.6 billion due in current support, \$8.1 billion, or 46 percent was not collected.²

Low child support collections leave many single mothers and their children in poverty. In 1995, 85 percent of custodial parents were women, 33 percent of whom lived below the Federal poverty line.³ The percentage of custodial parents receiving welfare declined significantly in the past few years, dropping from 47 percent in 1995 to 34 percent in 1998.⁴ This decline in welfare receipt elevates the need for increased child support collections to help struggling single parents maintain self-sufficiency. The regular receipt of child support is often cited as a critical ingredient to welfare reform success.

The Earnings of Non-Custodial Parents

The non-custodial parent population can be divided into three income tiers: high, middle, and low. In each of these tiers, there are non-custodial parents who do not pay their child support. The percentage of obligors who do not pay support is greatest in the low-income tier.⁵ Some obligors are delinquent in support payments because they are unwilling to pay support. However, one study estimates that 60 percent of non-custodial parents who

do not pay child support, have a limited ability to pay support based on their income levels, education levels, institutionalization rates, and intermittent employment history.⁶ These non-custodial parents are known as “dead-broke” rather than “dead-beat”.

Increasing Attention to the Treatment of Low-income Non-custodial Parents

In recent years, the research and policy community has devoted more attention to the treatment of low-income non-custodial parents in the child support system. Especially in the wake of welfare reform, more attention is being devoted to how to improve the family maintenance contributions of low-income fathers to parallel the welfare-to-work initiatives for low-income mothers. The Department of Health and Human Services’ Fatherhood Initiative and the proposed Fathers Count Act demonstrate this trend.

As researchers and policy-makers develop strategies to increase the cooperation of non-custodial parents, one primary area of concern is the order establishment process. Representatives of the child support enforcement community have raised questions about the effect of income imputation and arrearage policies on the non-custodial parent’s ability to comply with the support order obligation.

The establishment of orders for child support enforcement cases (also known as IV-D cases, referring to the related title of the Social Security Act), occurs through either judicial or administrative processes. States are required to establish child support orders in accordance with State guidelines, outlining specific descriptive and numeric criteria. Any deviation from the presumptive guideline amount must be justified in writing.

This report and its companions examine how States address the limited incomes of non-custodial parents in the establishment of orders and the relationship between these practices and payment compliance. Inability to pay is only one of several reasons for non-compliance with child support orders. Other reasons often cited as potential motivators of unwillingness to pay support include custody and visitation disputes and State retention of payments made on behalf of families on welfare.

SCOPE AND METHODOLOGY

In this inspection we provide an overview of the policies used by all States to determine the amount owed in child support orders. To gather data on the State policies, we sent a close-ended survey to the directors of the child support enforcement agencies in each State and the District of Columbia. Surveys were distributed via facsimile in September 1999 and survey data was collected between September and December 1999. Survey responses reflect State policy and are not necessarily reflective of local practice. The responses were self-reported by the IV-D Directors or assigned staff and were not probed.

OVERVIEW

Retroactive Support

Map I: States That Charge for Welfare Debt/Retroactive Support

All but six of the States charge non-custodial parents for welfare paid to the child prior to the establishment of the order (welfare debt) or retroactive support for time prior to the establishment of the order. These two categories were combined to reflect all charges for prior child support. Forty-six States hold non-custodial parents responsible for this debt in addition to their monthly support obligation.

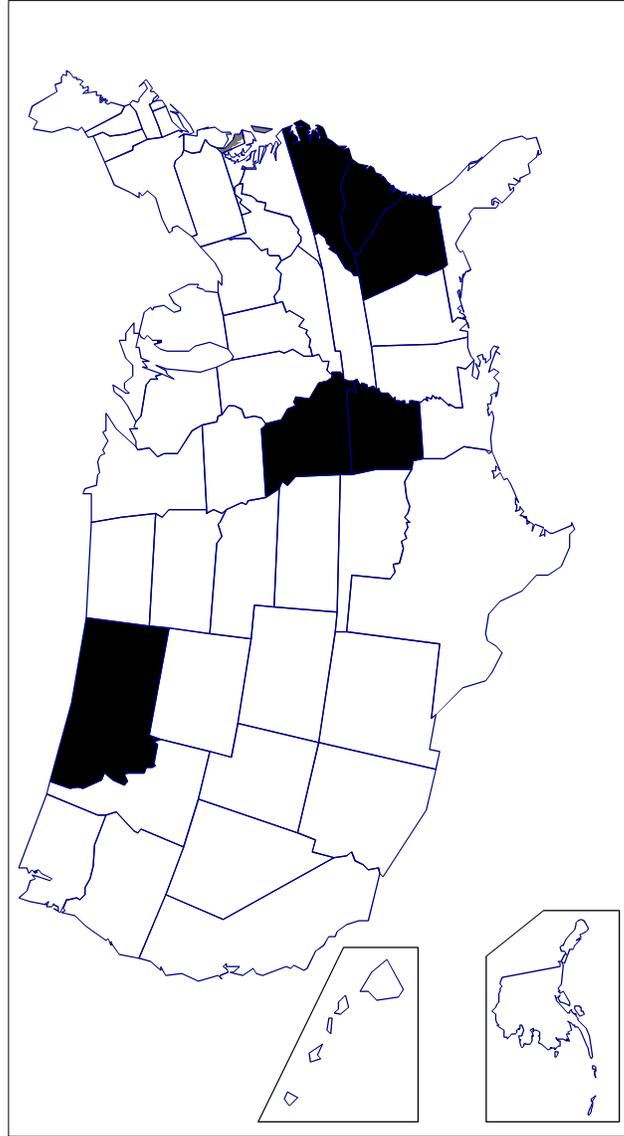
Table I: Period of Time For Which Non-custodial Parents are Subject to Welfare Debt/Retroactive Support Charges

In the 46 States that charge for support prior to order establishment, the point in time from which the debt is calculated varies, ranging from the child's date of birth to the date of filing for support. This table gives a State-by-State summary of the time periods for which non-custodial parents are held accountable for support prior to order establishment. The survey question was not designed to capture different periods of time for which States may charge retroactive support in TANF versus non-TANF cases.

Figure I: Front End Fees Charged to the Non-custodial Parent At the Time of Order Establishment

In addition to the prospective support order obligation, non-custodial parents are potentially responsible for other front end costs at the time of order establishment. Eight States charge non-custodial parents for case processing fees. Nine States charge for court fees and 10 charge for attorneys' services. All States, with the exception of Vermont, charge the non-custodial parents for either blood or genetic testing to determine fatherhood. Twenty-five States charge for birth related medical costs. All of the States, except Arkansas, Georgia, Missouri, Montana, North Carolina and South Carolina, charge non-custodial parents for welfare debt or retroactive support.

Map I: States That Charge Welfare Debt/Retroactive Support



- States that collect for welfare debt/retroactive support payments*
- States that do not charge welfare debt or retroactive support

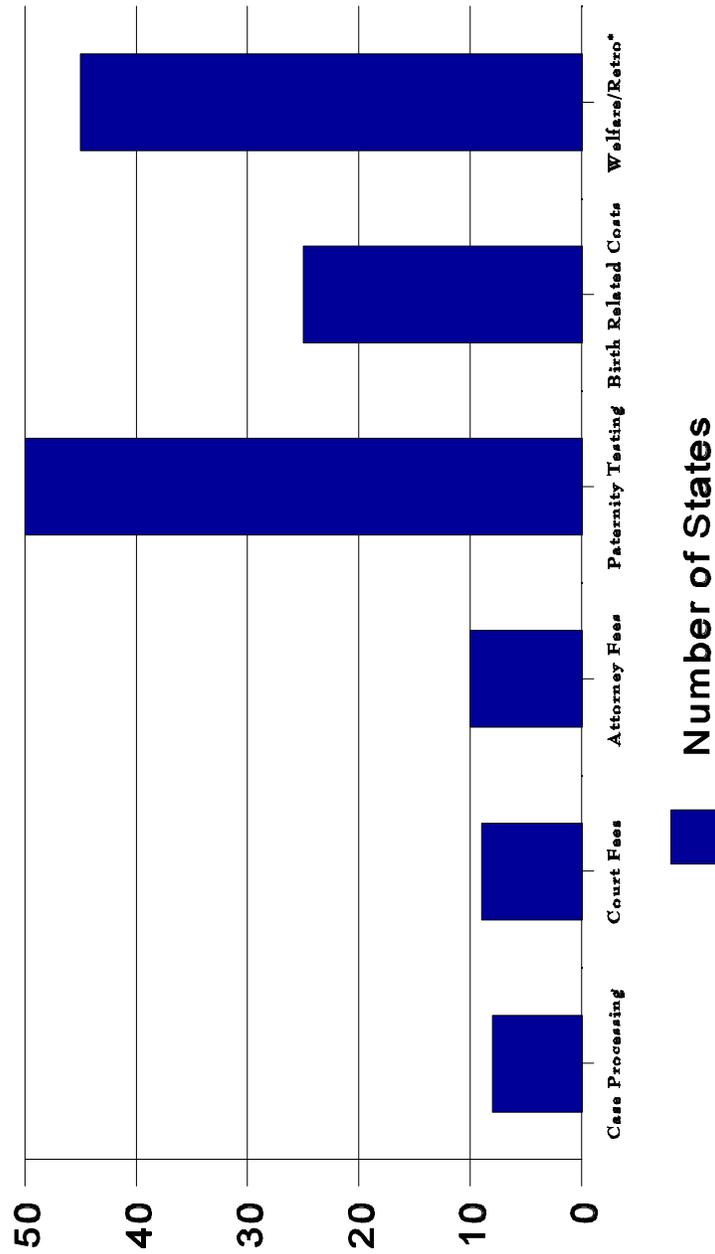
*States responded that they charged for either welfare debt or retroactive support; these categories were combined to reflect charges for child support prior to order establishment

Table 1: Period of Time for Which Non-Custodial Parents are Subject to Welfare Debt/Retroactive Support Charges

State	Time Period
Alabama	From date of paternity establishment, maximum is 2 years prior
Alaska	From date of service of paternity, maximum is 6 years prior
Arizona	From date of filing for support
Arkansas	<i>Do not collect</i>
California	Up to 3 years prior to date of filing for support
Colorado	From date of birth of child
Connecticut	From date of birth of child, maximum is 3 years prior
Delaware	From date of paternity establishment, maximum is 2 years prior
D.C.	From date of birth of child
Florida	Up to 2 years prior to date of filing for support
Georgia	<i>Do not collect</i>
Hawaii	Court's discretion
Idaho	Up to 3 years prior to date of filing for support
Illinois	Court's discretion
Indiana	From date of birth of child or date of filing for paternity (court's discretion)
Iowa	From date of birth of child or up to 3 years prior to filing for support
Kansas	From when the non-custodial parent knew of the existence of the child
Kentucky	Court's discretion
Louisiana	From date of filing for support
Maine	Up to 6 years prior to date of filing for support
Maryland	From date of filing for support
Massachusetts	From date of birth of child
Michigan	From date of birth of child
Minnesota	Up to 2 years from date of filing for support
Mississippi	Court's discretion
Missouri	<i>Do not collect</i>

State	Time Period
Montana	<i>Do not collect</i>
Nebraska	From date of birth of child
Nevada	Up to 4 years prior to date of filing for support
New Hampshire	From date of filing for support
New Jersey	From date of filing for support
New Mexico	From date of birth of child
New York	From date custodial parent (CP) opened case with the TANF office
North Carolina	<i>Do not collect</i>
North Dakota	From date of birth of child or first contact with IV-D Agency
Ohio	From date of birth of child
Oklahoma	Up to 60 months prior to the date of filing for support
Oregon	From date of first contact with IV-D Agency
Pennsylvania	From date of filing for support
Rhode Island	Up to 6 years prior to date of paternity establishment
South Carolina	<i>Do not collect</i>
South Dakota	From date of birth of child, maximum is 6 years
Tennessee	From date of paternity establishment
Texas	From date of birth of child
Utah	Up to 4 years prior to the date of order establishment
Vermont	From the date of filing for support with the court
Virginia	From date of birth of child, limit is to July, 1988 when the guidelines were established
Washington	From date CP started to receive public assistance or date of filing for support
West Virginia	From date of birth of child
Wisconsin	Court's discretion
Wyoming	From date of paternity establishment

Figure I: Front End Costs



*States responded that they charged for either welfare debt or retroactive support; these categories were combined to reflect charges for child support prior to order establishment

Routine Fees and Interest

Map II: States' Policies on Routine Fees

In addition to the support obligation paid by the non-custodial parent, many of the States charge, or allow employers to charge ongoing fees. Forty-seven States allow employers to charge non-custodial parents a fee for income withholding. In addition to employers' fees, seven of the States charge non-custodial parents for ongoing case processing. Only five of the States do not charge non-custodial parents for either employer or case processing fees.

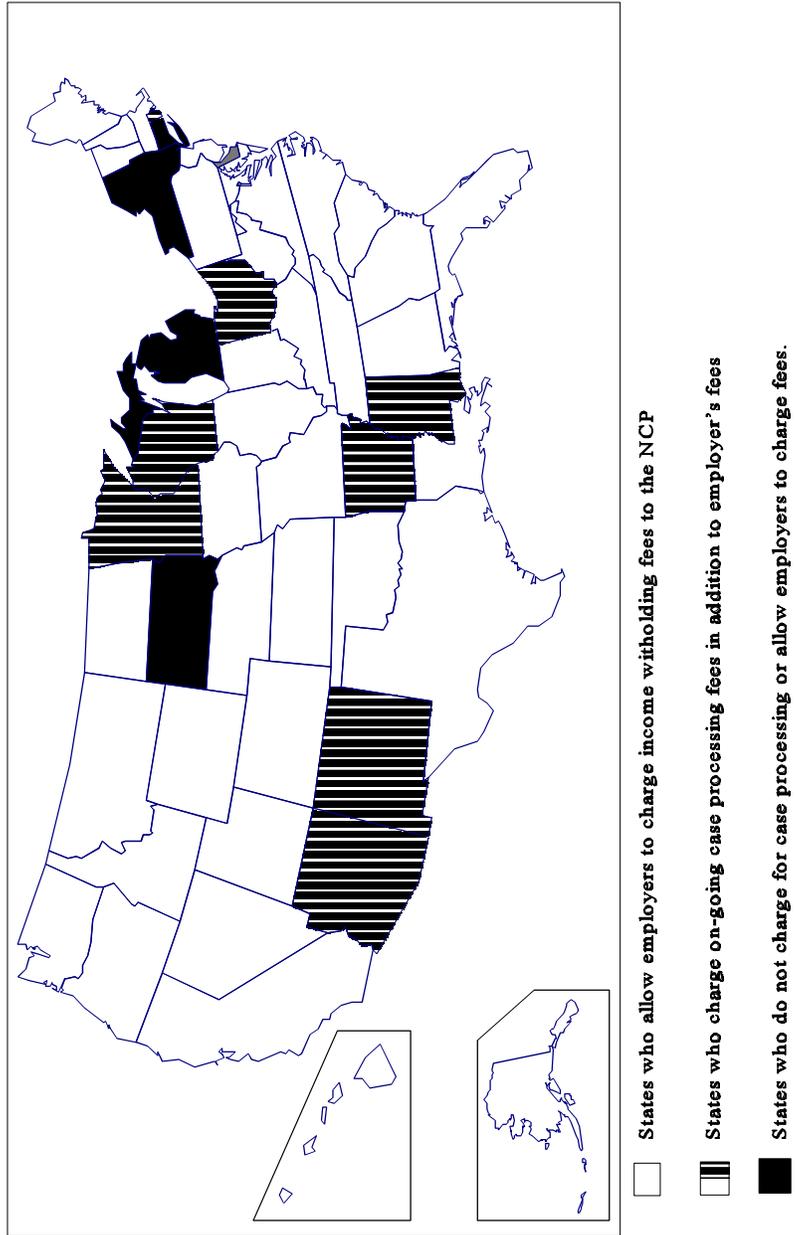
Map III: States' Policies on Charging Interest on Support Owed

Thirty-four States charge interest to the non-custodial parents on either debt stemming from charges prior to the order establishment, arrears which build up after order establishment, or on the total amount of debt and arrears past due. Eighteen of the States do not charge non-custodial parents any interest.

Map IV: States with Multiple Policies for Collecting Fees

Several States charge multiple front end and ongoing fees leading to a larger cumulative cost for the non-custodial parent to pay in addition to the monthly support obligation. Michigan and Pennsylvania reportedly charge non-custodial parents for case processing and attorney fees, paternity testing fees and birth-related medical costs in addition to retroactive support. Seven States charge non-custodial parents interest on the support owed in addition to charges for retroactive support and three or more front-end fees. New Mexico and Mississippi charge non-custodial parents all of the front end fees listed, retroactive support, ongoing case processing fees and interest on unpaid support.

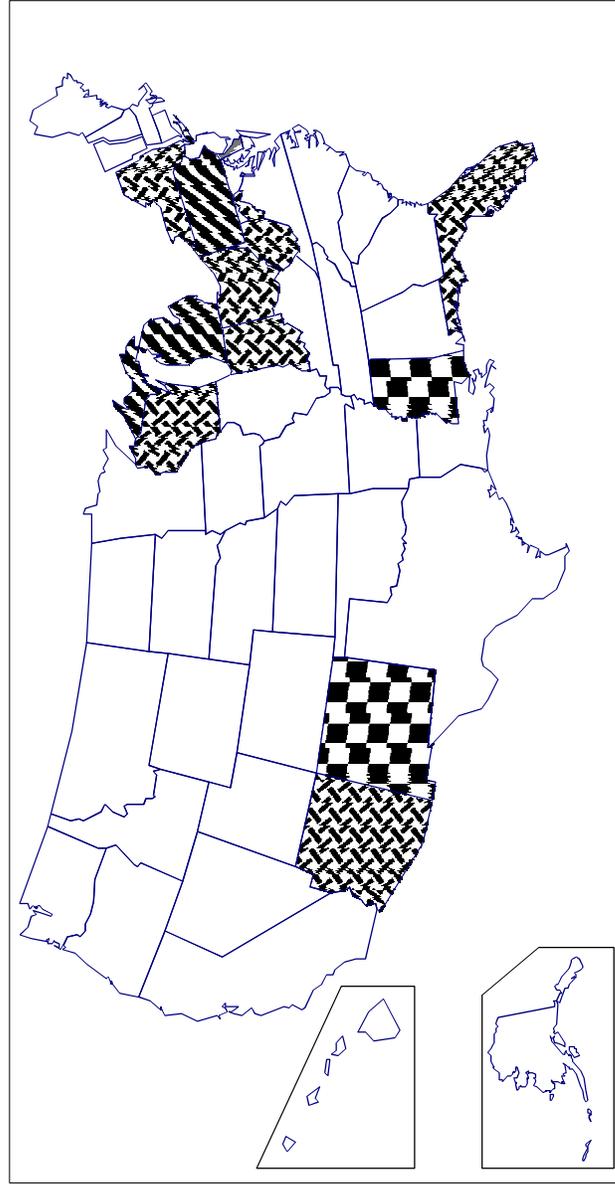
Map II: States' Policies on Routine Fees



Map III: States' Policies on Charging Interest on Support Owed



Map IV: States With Multiple Policies for Collecting Fees



-  States that charge retroactive support and three or more front end fees*
-  States that charge retroactive support, three or more front end fees and interest
-  States that charge retroactive support, all front end fees, ongoing case processing fees and interest

*States responded that they charged for either welfare debt or retroactive support; these categories were combined to reflect charges for child support prior to order establishment

Income Imputation

Map V: States That Impute Income by Policy

Only the District of Columbia, Connecticut and Mississippi do not impute (i.e. attribute) income by policy. In 30 States, imputation is practiced if the non-custodial parent fails to provide relevant information or is currently unemployed or underemployed. Five States impute income only if the non-custodial parent fails to provide relevant information such as pay stubs, income tax returns or financial affidavits. Thirteen States impute income only if the non-custodial parent is unemployed or underemployed.

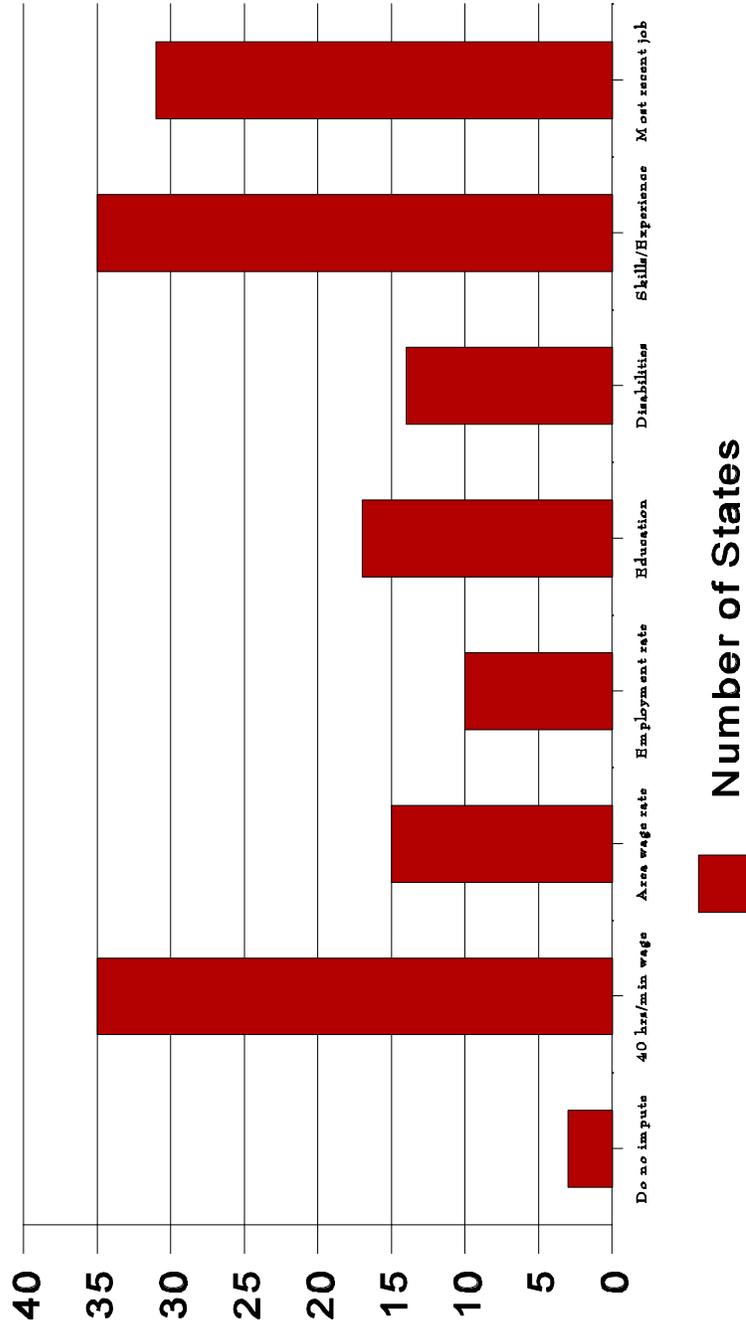
Figure II: Basis of Imputation

Most of the 48 States that impute income consider a combination of factors in determining the amount of income to be imputed to the non-custodial parent. Thirty-five States base imputed awards on the premise that the non-custodial parent should be able to work a minimum wage job for 40 hours per week. Fifteen of the States consider the area wage rate and 10 of the States look at the area employment rate to determine imputed income. Seventeen States consider the non-custodial parent's level of education while 14 account for disabilities hindering full employment. Thirty-five States evaluate the non-custodial parent's skills and experience and thirty-one base imputation on most recent employment, where information is available.

Map V: States That Impute Income by Policy



Figure II: Basis of Imputation



Minimum Order Policies

Map VI: States' Policies Toward Low-Income Non-custodial Parents

If the non-custodial parent is low-income, 30 States specify an income threshold below which orders are established differently. The thresholds used to define low-income obligors and the treatment of their orders vary by State. States with a threshold use a minimum award which is either presumptive or mandatory, or leave it to the court's discretion to determine the award amount. Eleven States which do not have a threshold defining low-income obligors still have a minimum award amount to apply in cases where a non-custodial parent is determined to be low-income. Ten States do not have a threshold or a minimum award amount to apply in low-income cases.

Table II: States' Treatment of Low Income Obligor

States typically set low-income thresholds to be a minimum amount of weekly, monthly or annual earnings. Alaska and Maine use the Federal poverty level as their low-income threshold. Minimum order amounts range from \$20/month to \$168/month, with most minimum order States setting minimum awards between \$20 and \$50/month. Table II displays the income thresholds and minimum order amounts used by States. Some States may have reported a minimum threshold within their guidelines to be a separate threshold for low-income obligors while other States with such a guideline threshold might have responded that they do not have an income threshold below which a minimum obligation is ordered. (See question 4 in Survey in Appendix A).

Map VI: States' Policies Toward Low-Income Obligor

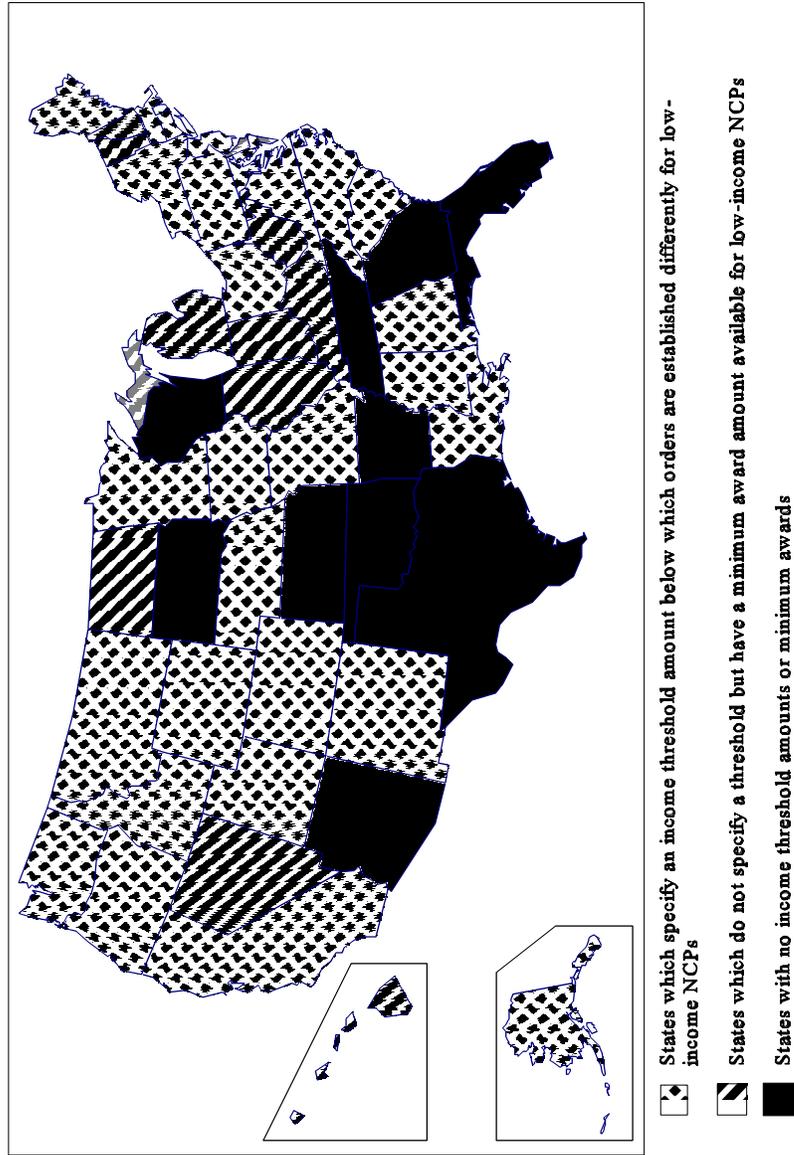


Table 2: States' Treatment of Low-Income Obligor

State	Income Threshold Amount (converted to months)	Presumptive Minimum Award*	Mandatory Minimum Award**	Award is Court's Discretion	No Minimum Specified
Alabama	\$550/month			X	
Alaska	Federal poverty level		\$50/month		
Arizona	none				X
Arkansas	none				X
California	\$1000/month net			X	
Colorado	\$400/month			\$20-50 month	
Connecticut	\$723/month	\$28/month			
Delaware	none		\$106/month		
D.C.	\$625/month	\$50/month			
Florida	none				X
Georgia	none				X
Hawaii	none	\$50/month			
Idaho	\$800/month	\$50/month			
Illinois	none			X	
Indiana	none			X	
Iowa	\$500/month	\$50/month			
Kansas	none				X
Kentucky	none		\$60-90/month		
Louisiana	\$600/month			X	
Maine	Federal poverty level		10% of income		
Maryland	\$599/month gross	\$20-50/month			
Massachusetts	\$531/month	\$50/month			
Michigan ¹	none		\$21/month		

¹ Michigan statute offers one formula to use for low-income obligors above the Federal poverty level and a formula for those below it. As part of the mandatory minimum order, a health care add-on of between \$3-\$11/week is added.

State	Income Threshold Amount (converted to months)	Presumptive Minimum Award*	Mandatory Minimum Award**	Award is Court's Discretion	No Minimum Specified
Minnesota	\$550/month				X
Mississippi	\$417/month			X	
Missouri	\$824/month	\$20-50/month			
Montana ²	\$893/month	X			
Nebraska	\$687/month	\$50/month			X
Nevada	none			X	
New Hampshire	none		\$50/month		
New Jersey ³	\$723 combined/month	\$21-179/mo		X	
New Mexico	\$800/month	\$100/month			
New York ⁴	\$687/month		\$25-50/month		
North Carolina	\$800/month				X
North Dakota	none		\$50/month		
Ohio ⁵	\$700/month combined		\$50/month		
Oklahoma	none				X
Oregon	\$850/month gross	\$50/month			
Pennsylvania	\$550/month		\$20-50/month		
Rhode Island	\$600/month				X
South Carolina	\$600/month	\$50/month			
South Dakota	none				X
Tennessee	none				X
Texas	none				X

² The minimum award for Montana is a percentage of the non-custodial parent's (NCP's) income based on the relationship between their net income and the State's self-support reserve.

³ The State of New Jersey sets awards for low-income situations based on the combined income of both the NCP and CP.

⁴ The State of New York also has a self support reserve for the NCP set at \$11,124 for 1999.

⁵ The State of Ohio sets awards for low-income situations based on the combined income of both the NCP and CP.

State	Income Threshold Amount (converted to months)	Presumptive Minimum Award*	Mandatory Minimum Award**	Award is Court's Discretion	No Minimum Specified
Utah	\$649/month	\$20/month			
Vermont	none		\$85-106/mo		
Virginia	\$600/month		\$65/month		
Washington	\$600/month	\$25/month			
West Virginia	none		\$50/month		
Wisconsin	none				X
Wyoming ⁶	\$732/month combined		\$50/month		

Definitions:

- * **Presumptive Minimum Award:** Award amount according to the guidelines (after other guideline adjustments have been made). This is the amount of the order unless the court deviates.
- ** **Mandatory Minimum Award:** Specified minimum award amount from which there can be no downward deviation.

⁶ Wyoming statute sets awards for low-income situations based on the combined income of both the NCP and CP.

Survey Instrument

State Child Support Order Establishment Practices Survey

STATE: _____ **SURVEY CONTACT NAME:** _____
PHONE _____ **DATE:** _____

Guidelines

1. If your State uses Percentage of Income guidelines in the computation of a support order obligation, what are the specific percentages used per number of children?

One child Two children Three children
 Four children Five or more children

Imputation

2. In what instances is imputation used as a means of determining the income of the non-custodial parent?

NCP fails to provide relevant information
 NCP is currently unemployed
 NCP is perceived to be deliberately unemployed or underemployed
 Never Impute
 Other (please specify) _____

3. If income is imputed, what standards are used or what factors are considered during the imputation process?

<input type="checkbox"/> 40 hours/week at minimum wage	<input type="checkbox"/> Educational level
<input type="checkbox"/> Median Income in the State	<input type="checkbox"/> Physical and mental disabilities
<input type="checkbox"/> Cost of raising a child in the State	<input type="checkbox"/> Special skills and training
<input type="checkbox"/> Prevailing wage rates in the area	<input type="checkbox"/> Prior employment experience
<input type="checkbox"/> Availability of employment in the area	<input type="checkbox"/> Income received during most recent employment period
<input type="checkbox"/> Other (please specify) _____	

Survey Instrument

7. If NCP is responsible for child support during time prior to order establishment, from what point in time is the past obligation calculated?

Birthdate of child for whom support is due
 Date of paternity establishment
 Date of first contact with NCP by IV-D system
 Other (please specify): _____

8. If NCP is responsible for child support during time prior to order establishment, is there a limit, whether temporal or monetary, on the amount of the past obligation which may be sought?

Yes No

If yes, please specify limit:

9. If NCP is responsible for welfare payments made to custodial parent prior to order establishment, is there a limit, whether temporal or monetary, on the amount of past obligation which may be sought?

Yes No

If yes, please specify
limit: _____

Related Office of Inspector General Reports

Paternity Establishment: Notification of Rights And Responsibilities For Voluntary Paternity Acknowledgment (OEI-06-98-00051)

Paternity Establishment: Use of Alternative Sites for Voluntary Paternity Acknowledgment (OEI-06-98-00052)

Paternity Establishment: State Use of Genetic Testing (OEI-06-98-00054)

Paternity Establishment: The Role of Vital Records Agencies (OEI-06-98-00055)

Paternity Establishment: Payment to Vital Records (OEI-06-98-00056)

Review and Adjustment of Support Orders (OEI-05-98-00100)

Review and Adjustment of Support Orders, Experience in Ten States (OEI-05-98-00102)

Unpaid Child Support and Income Tax Deductions (OEI-05-95-00070)

Grantees and Providers Delinquent in Child Support (OEI-07-95-00390)

Review and Adjustment of IV-D Child Support Orders (OEI-07-92-00990)

Follow-Up on AFDC Absent Parents (OEI-05-89-01270; 8/91)

Child Support Enforcement Collection for Non-AFDC Clients (OAI-05-88-00340; 7/89)

Child Support Enforcement Collections, AFDC Cases: An Overview (OAI-05-86-00097)

Child Support Enforcement Collections on AFDC Cases: Non-Pursuit (OAI-05-87-00033)

Child Support Enforcement Collections on AFDC Cases: Arrearages (OAI-05-87-00034)

Child Support Enforcement Collections on AFDC Cases: Modification of Court Orders (OAI-05-87-00035)

End-Notes

1. "Income and Demographic Characteristics of Nonresident Fathers in 1993", Elaine Sorenson and Laura Wheaton, the Urban Institute, *Forthcoming Report*
2. 22nd Annual Report to Congress, Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, FY 1997.
3. "Child Support for Custodial Mothers and Fathers: 1995" Current Population Report, U.S. Census Bureau, March 1999.
4. "Child Support Enforcement: Effects of Declining Welfare Caseloads are Beginning to Emerge", GAO/HEHS-99-105, Draft Version May 17, 1999.
5. "Low-Income Noncustodial Fathers: Who are They and What are States Doing to Assist Them in Their Efforts to Pay Child Support", Elaine Sorenson, The Urban Institute, January, 1997.
6. Op. cit., "Income and Demographic Characteristics of Nonresident Fathers in 1993"