

CHAPTER ELEVEN

Child Support

THE STARTING POINT FOR DETERMINING CHILD SUPPORT usually is the **guideline** that has been set by the state legislature or by court rule.

Under federal laws passed in the 1980s, states must establish guidelines for determining child support. The guidelines were required because the federal government believed that the amounts ordered for child support had been too low and that there was too much variation in the amounts of support for children in similar circumstances.

Child support guidelines generally resulted in the desired effect: child support payments increased by approximately 50 percent and support payments within each state became more uniform than they were before guidelines were passed.

Guidelines are formulas that consider the income of the parents, the number of children, and perhaps some other factors. The formulas are based on studies of how much families ordinarily spend for raising children.

Guidelines try to approximate the proportion of parental income that would have been spent for child support if the family had not been divided by divorce. Courts plug numbers into the formula and come up with an amount of support that should be paid for the child or children. The guidelines apply equally to children born to married parents and to children born out of wedlock.

Parents can argue that because of special circumstances, a court should order more or less support than the guideline amount. (For a list of factors that might be a basis for going above or below guidelines, [see the box on pages 6-7.](#))

Determining Parents' Incomes

When applying guidelines, most states look to either the parents' net income or gross income.

Gross income means the parents' income from all sources, including wages and investments, with no deductions for taxes or other expenses. Non-wage benefits a parent receives from an employer might be counted as income. For example, military housing allowances usually are counted as income when determining child support. Use of a company car for personal business also might be counted as income.

Net income means gross income minus federal and state income taxes, Social Security tax, Medicare tax, and health insurance. Some states will allow other deductions when determining net income. Additional deductions might include: union dues, mandatory retirement contributions, obligations of support to other families (other than the family whose support is currently at issue), and payment on debts incurred during the marriage that were incurred for the benefit of the family.

For self-employed persons, the determination of income may be complex. Courts will allow deductions of reasonable business expenses before determining net income. But courts may disallow unusually high business expenses and depreciation that reduce income artificially without hurting the parent's cash flow.

Thus, certain expenses that are deductible for tax purposes may not be deductible from income for the purpose of setting child support. For example, if a self-employed parent claimed a large deduction for depreciation of office equipment, the deduction may be quite permissible for the Internal Revenue Service, but it might not be treated as a full deduction from income for the purpose of setting child support, particularly if the office equipment will have a long useful life.

Examples of Guidelines

The amount of money a parent will have to pay in child support varies from state to state because each state has its own guidelines and judges may differ in their willingness to depart from guidelines.

Generally, there are two types of child support guidelines. One type is based on the income of the person who is supposed to pay child support and the number of children. The other type of guideline is based on the income of *both* parents and number of children. This second type of guideline often is referred to as the **income shares model**.

Illinois is an example of a state with guidelines based on the income of only the parent from whom support is due. This is the Illinois guideline in effect in 1999:

Number of children	Percent of supporting party's net income
1	20 percent
2	25 percent

3	32 percent
4	40 percent
5	45 percent
6 or more	50 percent

Under this guideline, if a noncustodial parent ("supporting party") had a net income of \$40,000, the annual level of child support would be \$8,000 for one child; \$10,000 for two children; \$12,800 for three children, etc.

In the "income shares model", which considers the income of both parents, the court first adds the net income (or in some states, the gross income) of both parents. Then the court consults a long table--or computer program--which assesses the total obligation of support as a percentage of the combined incomes and the number of children. Generally, the percentage drops as the combined incomes rise, on the assumption that financially well-off parents need to spend a smaller portion of their incomes on their children than parents who are less well-off.

The court multiplies the combined incomes by the percent figure and obtains a dollar amount that the child or children are considered to need for support. Then the responsibility to pay that support is divided between the parents in proportion to each parent's income.

Here is an example using Colorado's child support schedules. Assume a father and mother have two children and a combined annual gross income of \$60,000: \$40,000 earned by the father and \$20,000 earned by the mother. The schedules put the guideline amount for support at \$11,508 per year (\$959 per month). Since the father earns two-thirds of the parties' combined

income, he would pay two-thirds of the children's support (\$7,672 a year) and the mother would pay one-third (\$3,836).

If one parent had primary custody of the children, the other probably would make a cash payment to that parent. The parent with primary custody probably would not make a cash payment as such, but would be assumed to be spending that amount on the children.

Alternatively, the parents might set up a checking account for the children's expenses, deposit their respective shares into the account, and agree on the type of expenses that could be paid from the account.

Sidebar:

DEPARTING FROM SUPPORT GUIDELINES

States vary in the degree to which child support guidelines are specific. Some guidelines are quite detailed and consider many factors. Courts usually do not depart from such guidelines except in exceptional cases. Other guidelines are more general--providing a certain amount of support based on income of the parent (or parents) and the number of children, but not taking into account a variety of factors that could serve as a basis for increasing or decreasing the amount of support. Here are some factors that *might* be a basis for departing from guidelines:

Reasons for Going Above Guidelines

- (C) Child care expenses (especially if unusually high)
- (C) Medical and dental expenses not covered by insurance
- (C) Special educational needs, such as private school, tutoring, speech therapy
- (C) Recreational activities such as summer camp, sports teams, and after-school activities
- (C) Income of noncustodial parent's new spouse (which may free funds of the noncustodial parent to pay more child support)
- (C) Voluntary unemployment or underemployment of the noncustodial parent (in which case the court may attribute income to the noncustodial parent in an amount that the court thinks the parent should be making, even though he or she is not)

Reasons for Going Below Guidelines

- (C) Unusual custody arrangements such as splitting custody of the children (some children with mother; some children with father)
- (C) Joint custody arrangements in which the child spends an equal amount of time or a substantial amount of time with each parent
- (C) High cost of transportation for child to visit with noncustodial parent, such as when the parents live in different states
- (C) High income of the noncustodial parent (particularly if the guidelines do not have a cut-off point for which the guidelines do not apply for income above a certain level)
- (C) The noncustodial parent's duty to support other families, including a new spouse and child
- (C) The noncustodial parent's debts, particularly if the debts were incurred during the marriage to the spouse or former spouse who is seeking support
- (C) Income of the custodial parent's current spouse (which frees funds of the custodial parent to support the child)
- (C) A need to channel funds to a closely held business (which may help the business grow and provide funds for more child support in the future)
- (C) Property division in connection with a divorce, such as giving the custodial parent a home with a paid-off mortgage or low mortgage
- (C) Significant income of the child, such as from a trust fund received by inheritance

[End of sidebar]

CHILD SUPPORT GUIDELINES BY STATE

Chart 2C Child Support Guidelines

STATE	Income Share	Percent of Income	Extraordinary Medical Deduction	Child-care Deduction	College Support	Shared Parenting Time Offset
Alabama	X	x	x p	x m	x	
Alaska		x	x m	x	x	x
Arizona	X		x m	x p		
Arkansas		x	x d	x d		
California	X		x m	x m		x
Colorado	X		x m	x m		x
Connecticut	X		x d			
Delaware			x m	x m		x
District of Columbia		x	x d	x	x	x
Florida	X		x p	x m		
Georgia		x	x p	x m		
Hawaii			x m	x	x	x
Idaho	X		x m	x p		x
Illinois		x			x	
Indiana	X		x p	x m	x	
Iowa	X				x	
Kansas	X			x m		x
Kentucky	X		x m	x p		
Louisiana	X		x m	x m		
Maine	X		x m	x m		
Maryland	X		x m	x m		x
Massachusetts		x	x m	x	x	
Michigan	X		x m	x m	x	x
Minnesota		x		x m		x

Mississippi		x	x d	x d		
Missouri	X		x m	x m	x	
Montana			x m	x m		
Nebraska	X		x d	x m		x
Nevada		x	x m	x d		x
New Hampshire		x	x d		x	
New Jersey	X		x m	x m	x	x
New Mexico	X		x p	x m		x
New York	X		x m	x m	x	
North Carolina	X		x p	x m		x
North Dakota		x		x d		
Ohio	X		x m	x m		
Oklahoma	X		x d	x m		x
Oregon	X		x p	x m	x	x
Pennsylvania	X		x m/d	x m		
Rhode Island	X		x d	x m		
South Carolina	X		x d	x m	x	
South Dakota	X		x d	x d		
Tennessee		x	x m		x	
Texas		x	x m	x d		
Utah	X		x m	x m/p		x
Vermont	X		x m	x m		x
Virginia	X		x m	x m		x
Washington	X		x m	x m	x	
West Virginia	X		x m	x m		x
Wisconsin		x	x m	x d		
Wyoming	X		x d	x d		x

Source: LAURA W. MORGAN, CHILD SUPPORT GUIDELINES: INTERPRETATION AND APPLICATION (Aspen Law & Business Supp. 2000).

m = mandatory deduction
p = permissive deduction

d = deviation factor

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Effect of Joint Custody

A question often arises on the effect of joint custody on child support. The effect of joint custody will depend on the nature of the joint custody arrangement. If the parents have **joint legal custody** (by which they share making major decisions regarding the child), that by itself will have little effect on child support. If the parents have only joint legal custody, one parent still has primary custody of the child and handles payment of most of the child's day-to-day expenses. The custodial parent's expenses for the child have not been reduced by the joint custody arrangement.

If the parents have **joint physical custody** with the child spending a substantial amount of time with each of parent, and if the parents have approximately equal incomes, it is possible neither parent will have to pay support to the other. The father and mother will pay the child's day-to-day expenses when the child is in the respective homes. The parents, however, will need to coordinate payments on major expenses such as camp, school, clothing, and insurance.

If there is a significant difference in the parents' incomes, the parent with higher income probably will make payments to the other parent or pay more of the child's expenses, but the amount paid probably will be less than the guideline amount because of the joint physical custody arrangement.

Child Support During Summer Vacations

Child support usually must be paid by the noncustodial parent when the child is with the noncustodial parent for summer vacations or long holiday breaks. Courts reason that many major

expenses for the benefit of the child--such as rent, mortgage, utilities, clothes, and insurance--have to be paid whether the child is with the custodial parent or not. So, usually, a full support payment is due, even if the child is with the noncustodial parent.

On the other hand, the parties themselves (or the court) are free to set payments in different amounts during vacation periods when the child is with the noncustodial parent. The lower amount for vacation periods with the noncustodial parent might reflect savings to the custodial parent for food expenses or child care.

A related issue may arise if the noncustodial parent wants to reduce child support payments to the custodial parent because the noncustodial parent has spent money on the child, such as for clothes or extra-curricular activities. That almost never is a basis for reducing child support payments to the custodial parent.

Court orders or divorce settlements almost always provide that child support is to be paid in specific dollar amounts from one parent to the other. Courts do not want the complications of trying to sort out whether the parties on a particular occasion agreed to an alternate way of making child support payments. Courts also do not want the noncustodial parent unilaterally changing the method of paying child support and potentially interfering with the budget planning of the custodial parent.

If the noncustodial parent wants to pay for clothes or extra-curricular activities of the child, that is fine (and nice for the child), but the court will treat such payments as gifts to the child, not as part of the noncustodial parent's support obligation.

College Expenses

The obligation of a divorced parent to pay for the child's college expenses or trade school will depend on the state in which the parents live and any agreement between the parents regarding such expenses.

Courts in some states will require parents to pay for a child's college expenses, assuming the parents can afford it and the child is a good enough student to benefit from college. Courts in these states reason that the child's parents probably would have helped pay for the child's education had the marriage remained intact and that the child's education should not suffer because of the divorce.

In an Illinois case, for example, the father during the marriage was very enthusiastic about having his son attend Dartmouth College--the same school the father attended. The father took his son to Dartmouth for three visits. The father often bought his son clothes and memorabilia with the Dartmouth logo. The father even arranged for influential alumni of Dartmouth to write letters of recommendation for his son.

After all these efforts, the son got into Dartmouth. But at about that time, the father and mother divorced, and the father no longer wanted to pay for his son to go to Dartmouth. The Illinois courts said that under these circumstances, the father (who earned more than \$200,000 per year) had to pay for his son to go to Dartmouth.

In other states, however, a parent's obligation to pay support ceases when the child reaches the age of majority (or graduates high school), and thus the parents are not obliged to pay for the child's college education. Courts in these states note that married parents are not required

to pay for their child's college expenses, and, therefore, divorced parents are not required to do so either.

Regardless of the state's law on compulsory payment of college expenses, the mother and father can agree as part of their divorce settlement to pay for these costs. Courts usually will enforce those agreements.

Children generally are expected to help pay for their college education and related expenses by working at summer jobs and using some of their own savings. The parents' obligation to pay, if there is such an obligation, will depend on the amount of income and assets of the parents. A parent with low income usually will not be expected to pay for the child's college education.

Modification of Child Support

A common standard for modification of child support is a **“substantial change in circumstances.”** That usually refers to a change in income of the parent who is supposed to paying support. If the parent who is obliged to pay support suffers a loss of income, that could be a basis for reducing support; conversely, if the parent's income increases, that could be a basis for increasing support.

Changes in circumstances of the child also can be a reason for modifying support. If the child has significant new expenses such as orthodonture, special classes, or health needs that are not covered by insurance, that too can be a reason for increasing support.

Significant changes in the income of the parent seeking support also can be a basis for modification. If the custodial parent's income drops (particularly through no fault of the custodial parent), that might be a basis for increasing support. If the custodial parent's income increases, that might be basis for reducing support from the noncustodial parent.

In some states, support orders may be reviewed automatically every few years to set support consistent with the parents' current income and the support guidelines. If the parent who is supposed to pay support has a major drop in income (such as through loss of a job) and the income is not likely to be replaced soon, the parent should promptly go to court to seek modification of child support.

The obligation to pay support at the designated amount continues until a court orders otherwise. A court's order for child support generally is effective for future support payments only. Normally, a court cannot retroactively modify support payments, even if the parent who was supposed to pay had a good reason for not making full payments.

When a parent loses a job or experiences a financial setback, one of the last things the parent may want to do is incur more expenses by hiring an attorney to try to reduce support. But if the parent has a good reason to reduce support, the money is well spent since the support obligation will continue at the original amount. The meter on the cab runs at the same rate, so to speak. As an alternative to an attorney, if the local court is relatively user-friendly, the party seeking to change support might try to represent himself or herself. For more discussion of representing oneself, [see chapter 14](#).

Reducing Support

When a child reaches the age of majority (usually eighteen) or graduates high school, that normally is a basis for stopping child support for that child, unless the parent is obliged to help pay for that child's college education. (For discussion of support for a child's college education, [see page 13.](#))

Whether payments stop at age eighteen or at graduation from high school depends on the law of the state. Many states say payments stop at the later of those two events (assuming the child will graduate high school in a normal amount of time).

If only one child is the subject of a support order, the parent who is obliged to pay child support (the "**obligor**") can stop making payments when the child reaches eighteen or graduates high school. The obligor does not have to go to court to seek permission to stop payments.

If there is more than one child who is subject of a support order, the right of the obligor to reduce payments when the oldest child reaches the age of majority will depend on the wording of the court's support order.

If support is set at a certain amount per child (for example, "child support shall be \$200 per month for each of the three children"), then the obligor may reduce payments by \$200 as each of the three children reach the age of majority. Under this example, child support would be \$600 per month when all three children were under eighteen; \$400 per month when the oldest child reached eighteen; \$200 per month when the middle child reached eighteen; and no support when all three were over eighteen.

If, on the other hand, child support for three children was set as a lump sum for all children (for example “child support for the three children shall be \$600 per month”), then the obligor must keep paying \$600 per month until the youngest of the three children reaches eighteen, *unless* the obligor goes to court and obtains a reduction in child support.

When the oldest child reaches the age of majority, that can be a basis for a court to reduce support, but it is not an automatic basis for doing so. The court will look at a variety of factors, including the current income of the parents and needs of the remaining children. If the income of the parents has remained the same and the needs of the remaining two minor children are the same, the obligor can expect that the amount of support for the remaining two children will decrease. The amount of reduction will not necessarily be one-third, however. Applying Illinois’ child support guidelines ([see page 3](#)), for example, the obligor could expect that child support payments would be reduced from 32 percent of his or her net income to 25 percent of net income.

When considering whether to go to court to seek a reduction in child support based on the oldest child reaching majority (or when seeking a reduction on some other basis), the obligor should consider how the guidelines apply to the obligor’s *current* income. If the obligor’s current income has risen significantly since the last order, a new child support order for two children may actually be more than the guideline amount for three children since support for three children was set at a time when the obligor’s income was lower.

To elaborate on the examples just given, assume that at the time of divorce five years ago an obligor had a net income of \$22,500 per year. If the obligor had three children, and Illinois

guidelines applied, the obligor would pay 32 percent of net income for child support, which is \$7,200 per year or \$600 per month. Assume further that the court's order (or the parents' settlement agreement) provided that "child support for the three children shall be \$600 per month." Five years later, the obligor's income has doubled (to a net income of \$45,000). If the obligor now wants to reduce child support because the oldest child has reached eighteen, the obligor could be in for an unpleasant surprise if the obligor went to court.

While it is true that a child's **emancipation** (reaching the age of majority) is a basis for changing child support, the guidelines when applied to the obligor's current income would actually result in an increase in child support. Applying the Illinois guidelines of 25 percent of net income for obligors with two children, support would now be at \$11,250--a \$4,050 per year increase from the old support order even though there is one less child to support.

Similar considerations apply to the parent to whom support is due. If the parent receiving support has had a significant increase in income from wages or elsewhere, that parent may not be able to obtain a significant increase in support if the state's guidelines or other legal principles would shift more of the support obligation to the parent receiving support.

Sometimes it is best not to rush off to court, even though one may be tempted to.

Unpaid Child Support

Since the mid-1980s, not a year has gone by without federal and state politicians making proclamations about unpaid child support. The proclamations often are followed up with new

laws and regulations designed to improve enforcement and go after “deadbeats.” Like the perennial “War on Crime,” progress is slow and new laws are not a full solution to the problem.

The Census Bureau reports that only about half of the parents entitled to receive child support receive the full amount that is due. About one-quarter of parents to whom support is due receive partial payments, and the other one-quarter receive nothing at all. The Census Bureau estimates that each year, about \$10 billion dollars in court-ordered child support is not paid.

In addition to that, there are several million mothers who have not obtained orders of child support for their children. A high proportion of those women had children out of wedlock.

For women who actually receive child support, the average amount owed is \$3,767 per year, or about \$314 per month. (These are 1995 figures--the last year in which a complete survey was done.)

Non-payment by fathers is not the only child support enforcement problem. Prosecutors who handle support collections estimate that between 2 and 5 percent of their cases involve mothers who did not pay their child support obligations. Mothers' payment rates are worse than fathers'. 57 percent of mothers pay all or a portion of their court-ordered child support payments; 70 percent of fathers pay all or a portion of their court-ordered child support payments.

Payment of child support correlates with visitation with time spent with the child. The Census Bureau reports that 74 percent of fathers with joint custody or visitation paid child support, whereas only 35 percent of fathers without joint custody or visitation paid support.

The cost of trying to collect unpaid child support is substantial. According to the U.S. Office of Child Support Enforcement, in Fiscal Year 1997, child support enforcement agencies

spent \$3.4 billion to collect about \$13.3 billion in child support. In other words, each dollar of administrative costs generated about \$3.91 of child support payments (although some portion of child support payments would have been made without involvement of an enforcement agency).

Enforcement

State and federal governments have a variety of techniques for enforcing payments of child support. The most common is a wage deduction order, by which an employer sends a portion of the obligor-parent's wages to a state agency that then sends the money to the parent who has custody of the child.

Beginning in 1994, all new child support orders were required to provide for an automatic deduction from the obligor's wages. The wage deduction takes effect immediately unless the parties have agreed otherwise or unless a court waives immediate deductions from wages. Even with such a waiver or agreement, the order must provide that a wage deduction will begin without returning to court if the person owing child support falls more than thirty days behind in payments. Wage withholding can be used to collect current support as well as past-due support.

Wage deduction orders are effective in collecting support if the parent is regularly employed and does not change jobs frequently. If the parent loses a job, there is, of course no wage from which to make a deduction. If the parent changes jobs, the new employer must be served with a deduction notice before wages are withheld.

If a parent is self-employed, the parent is still obliged to send payments, but the person to whom support is due cannot look to an independent employer to make sure that payments are sent on time.

For parents who are behind in support payments, the state also can intercept federal and state tax refunds. This is a useful remedy if the obligor-parent has a sizeable refund due. If the obligor filed a joint income tax return with a new spouse, the new spouse can show the enforcement authorities the portion of the income tax refund that belongs to him or her so that the spouse's portion of the refund will not be intercepted. As a matter of pragmatics, the tax intercept usually is helpful for only one year. Once an obligor-parent has had a substantial tax refund seized, that parent often adjusts deductions of taxes from wages so that refunds in future years will be minimal.

In addition to seizing tax refunds, states also can place liens on property, such as real estate and automobiles to obtain past-due support.

Another penalty that states may impose on parents who have not paid support is a finding of **contempt of court**. A finding of contempt of court means that the person charged with contempt has willfully not done something that he or she has been ordered to do by the court--in this case, to pay child support. A finding of contempt of court can result in a fine, a jail term, or both. If the parent cannot pay support for a good reason, such as loss of a job without fault of the parent, a court will not find the parent in contempt, but the obligation to pay support continues.

To enforce child support orders when the child lives in one state and the obligor lives in another state, the laws can be used to establish support orders and collect payments. The main law in this areas is the **Uniform Interstate Family Support Act (UIFSA)**.

State's attorneys or district attorneys are available to help with collection of child support, though their efficiency varies from district to district. Some parents to whom support is due have complained of delays in handling of support claims. States attorneys provide their services at no costs to parents who are receiving public aid. For parents who do not receive public aid, the states attorney also can provide assistance, but a small charge (usually less than \$25) may apply.

Private attorneys can help parents with collection of child support. The attorney's normal rates will apply, although some attorneys may be willing the handle the case for a **contingency fee**, which means the lawyer will take a portion of whatever is collected, but the client will not have to pay the attorney if nothing is collected. The permissibility of contingency fees to collect past-due support varies from state to state. The amount of the contingency fee also varies, but a payment to the attorney of one-third of the amount collected is a common arrangement.

Attorney fees also can be assessed against the party who was supposed to pay support, but did not. In that case, the parent who was supposed to pay support will pay for the attorney of the other parent in addition to his or her own attorney fees.

Another way of collecting past-due child support is to use a collection agency. Some collection agencies will handle collection of child support just as they handle collection of business debts or credit card debts. Collection agencies usually charge a contingency fee.

Collection agencies can be found through the Yellow Pages (particularly the “Business” volume of the Yellow Pages, if there is a separate volume for business-related services).

Although prosecutors involved in punishing parents who do not pay child support usually work for state or county governments, federal prosecutors can get involved too. In 1992, Congress passed the **Child Support Recovery Act**, which makes it a federal crime to willfully fail to pay child support to a child who resides in another state if the past-due amount has been unpaid for over one year or exceeds \$5,000. Punishments under the federal law include up to six months imprisonment and a \$5,000 fine for a first offense, and up to two years imprisonment and a \$250,000 fine for a repeat offense.

Federal prosecutors are not the primary enforcers of past-due child support payments. Most U.S. Attorneys prefer to use their resources for larger scale criminal activity, although they will pursue some of the more egregious cases. For parents seeking government help in collecting child support, local prosecutors are likely to have more to offer than federal prosecutors, unless the amount of past-due support is very large and the obligor lives in a different state than the parent to whom support is due.

One egregious case that arose before passage of the federal law was handled by Arizona prosecutors. A thirty-five year-old man was ordered to pay \$600 per month support for his three children, but never paid a penny, according to Arizona child support officials. The man moved from state to state, changing the spelling of his name and his Social Security number four times in an effort to avoid collection of support. When prosecutors finally caught up with the man ten

years after the original support order, the man owed \$108,000 in past-due support and interest. He was sentenced to one and a half years in prison.

Most parents who owe support do not make a such career out of avoiding support obligations. Nonetheless enforcement of support can be difficult.

As noted earlier, one of the most commonly used tools for collecting support--automatic deduction for the obligor's wages--works only if the parent to whom support is due or the government know where the obligor is working *and* the obligor's employer has been served with papers ordering the employer to deduct child support payments from wages. Serving an employer with a deduction order is a simple process; it generally can be done by mail. But first, the government or parent to whom support is owed needs to know where the employer is.

Another technique to try to force payment of child support is to make the granting or renewal of certain types of licenses contingent on payment of support. If an obligor does not pay support, the obligor could lose his or her driver's license or professional license (such as a license to practice law or medicine or work as a barber, beautician, or plumber).

Maine was one of the first states to enact legislation to make licensing contingent upon payment of child support. Maine reported that as of early 1995, it collected approximately \$25 million in past-due support as a result of the program. Maine found that the threat of license revocation often was enough to induce prompt payment. Of 21,000 persons who received warning letters from the state, well more than half of those persons made payments or entered into a written agreements to make payments. After the warning letters were sent out, only 400

parents received formal notice that their licenses would be revoked in twenty-one days and, of those, forty-one actually lost their licenses.

Proponents of making licensing contingent upon payment of child support like the comparative simplicity of the approach. Revocation (or threats of revocation) of licenses can be handled administratively. In some states, such as Maine, court hearings are not necessary as they are with some other remedies, such as actions for contempt of court.

Opponents of programs such as Maine's are concerned that an administrative system may not adequately take into account the hardship to an obligor who has lost a job or lost income and cannot afford to pay. If an obligor's professional license is revoked, the obligor's ability to pay may be harmed further.

Sidebar:

COLLECTING PAST-DUE CHILD SUPPORT

The following is a checklist of techniques for collection of past-due child support:

- **Wage withholding orders**--These are entered by a court and served on the employer of the parent who owes support. (The person who owes support is called the “obligor”) The employer sends payments to the government, which then sends support payments to the parent to whom support is owed.
- **Tax refund intercepts**--The government sends a notice to the Internal Revenue Service or the state department of revenue, directing that the obligor’s tax refund be sent to the government for payment of support.
- **Liens on property**--A lien can be placed on the real estate, automobile, or other property of the obligor. If support is not paid, the property can be confiscated and sold. Alternatively, the lien may stay on the property until it is sold by the obligor, at which point, the debt must be paid before the obligor receives any proceeds from the sale.
- **Contempt of court**--The person to whom support is due or the government can ask a court to hold the obligor in contempt of court for willful failure to pay support. If found guilty of contempt of court, the obligor can be jailed, fined, or both.

- **Collection agencies**--Some collection agencies are willing to help collect past-due support, just as they collect past-due commercial debts. Collection agencies usually charge a portion of the amount collected.
- **Revocation of licenses**--States will revoke the driver's license or professional licenses of persons who have not paid child support.

- **Interstate collections** --In addition to the remedies just listed, state and federal statutes are available to facilitate enforcement of support orders when the obligor and the person to whom support is due live in different states. State and federal prosecutors can help with interstate collections.

[End of sidebar]

Child Support and Visitation

Child support and visitation are independent rights and obligations. If a parent is not receiving child support, the remedy for that parent is to go to court (or activate a wage withholding order) to collect child support. The parent who is supposed to receive child support may not deny visitation or contact with the child because support was not paid.

Similarly, if visitation or contact with the child is blocked by the custodial parent, the legal remedy for the noncustodial parent is go to court to obtain an order enforcing visitation. The noncustodial parent may not cut off or reduce child support because the custodial parent interfered with visitation.

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