

## Establishing Realistic Child Support Orders: Engaging Noncustodial Parents

***Establishing child support orders based on parents' ability to pay results in higher compliance and increased parental communication. This fact sheet highlights several evidence-based best practices to establish realistic orders, including practices promoting parental involvement. When parents are involved in setting orders and those orders are based on accurate information, they are more likely to avoid default orders and arrears.***

Every child served by the child support program should be able to rely on steady, reliable support from their noncustodial parent throughout childhood as they grow into adulthood. To meet this goal, child support orders should be realistic and based on the noncustodial parent's actual ability to comply with the orders. Consistent child support payments help custodial families achieve economic stability, which is especially important to the millions of poor and deeply poor families served by the child support program.<sup>1</sup> The child support program currently lifts approximately one million families out of poverty each year.<sup>2</sup> Child support policies that help parents stay current and make regular payments will help families escape poverty and give children the resources they need to grow up strong and healthy.

In order for child support to be reliable, child support orders must be set accurately and based on a noncustodial parent's actual ability to pay them. Research shows that setting a realistic order improves the chances that child support payment will continue over time.<sup>3</sup> Research consistently finds that parents are more likely to stay current on their child support payments if the support obligation is 20 percent of earnings, or lower.<sup>4</sup> When parents cannot meet their child support obligations, compliance decreases and arrears accumulate. The accumulation of arrears has become a substantial problem, in part because a significant portion of the arrears are non-collectable.<sup>5</sup>



Additionally, if the child support order is set too high, low-income noncustodial parents may be discouraged from taking and keeping jobs, remaining in the underground economy.<sup>6</sup>

### How Child Support Orders Are Established

Each state has different procedures for establishing child support orders, though all states are required by federal law to have numeric guidelines that must be followed.<sup>7</sup> These state child support guidelines are based, in part, on the noncustodial parent's ability to pay. Ability to pay generally reflects current income, but it may also reflect prior income if a noncustodial parent's current income appears to be a temporary change from past and likely future income. Obtaining accurate income and asset information is crucial to setting realistic orders, and all states should be using the available automated tools to ensure that income is based on accurate and current information. For example, states often use administrative data on quarterly earnings and other income to more accurately gauge ability to pay.

If there is no information about the noncustodial parent's ability to pay, the child support order often is based on "imputed income." However, this practice leads to greater arrears than if orders are based on actual income and is being used less and less. Income is most likely to be imputed when the noncustodial parent fails to respond, such as not attending a child support hearing, and a default order is entered. Many states are trying to reduce the issuance of default orders, and to more fully engage parents in the establishment of orders.

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Child support payments are higher when noncustodial parents are involved in the order establishment process. Moreover, increasing noncustodial parent involvement at the time of order establishment can have a positive effect on noncustodial parent engagement in the lives of children. Services that help parents reach joint resolutions, where they can be done so safely, such as mediation, improve the relationship between parents and between noncustodial parents and their children, and increase child support payments. Thus, engaging noncustodial parents early on in order establishment is more likely to result in setting realistic orders, avoiding default orders, avoiding the unnecessary build-up of arrears, and increasing parental communication and involvement.

### Promising Practices for Setting Realistic Orders

Several strategies encourage the setting of realistic orders, including obtaining accurate income information, limiting the use of imputed income, minimizing default orders, developing appropriate guidelines for low-income parents, providing enhanced case management, and increasing the review and adjustment of orders.<sup>8</sup>

Many states have programs designed to encourage the setting of realistic orders. The three states profiled below show different ways of encouraging noncustodial parent involvement in setting realistic orders. Each of these projects began as smaller demonstration projects, and, given their successes, many of their strategies have been adopted more extensively. These projects show that enhanced customer service, individualized outreach, and enhanced automation all can improve setting realistic orders. Setting realistic orders will encourage the regular payment of support, help low-income parents maintain employment, and facilitate parental involvement in their children's lives.

#### California - Enhanced Parental Involvement Collaboration (EPIC)

**What it Does:** EPIC originated as a 17-month Office of Child Support Enforcement Special Improvement Project (SIP) grant in 2004. Project partners were the San Francisco County Child Support Agency (CSE), the San Francisco Unified Family Court, and the Court's designated Family Law Facilitator. EPIC was designed to increase the efficiency of the order establishment

procedure, reduce the number of cases in which income was imputed, reduce the number of defaults, streamline order establishment by providing enhanced customer service, such as telephone and mail outreach, and increase the rate of collections and overall support to families. The project set out to test the hypothesis that enhanced customer service and outreach strategies would reduce the order establishment default rate. The evaluation design used a random assignment methodology of new cases, with one set of cases being assigned to the "EPIC Team" and the other set of cases being exposed to the standard establishment practices.

The EPIC Team received specialized training on six alternative establishment interventions: (1) a letter written in basic language was mailed to noncustodial parents advising them of the child support action filed against them. The letter detailed next steps and provided CSE contact information; (2) If there was no response, the case worker attempted telephone contact with the noncustodial parent to set up a pre-conference to discuss basic elements of the establishment/enforcement process; (3) If those steps proved unsuccessful, the next step was customized service-of-process; (4) If the noncustodial parent continued to be unresponsive, further telephone and mail correspondence was initiated; (5) A "status conference" meeting between CSE and the noncustodial parent was the final outreach effort by the EPIC team to elicit the noncustodial parent's cooperation in the establishment process; (6) The "post judgment default letter," when issued, was an effort by the CSE agency to explain the meaning of a default judgment and to offer in-office assistance in modifying the order, if necessary.

**Results:** The project produced dramatic results in the approximately 850 cases in which support orders were obtained. Specifically, 11 percent of the EPIC cases resulted in default judgments while 65 percent of the non-EPIC cases resulted in default judgments. Almost all orders in the EPIC cases were based on income data whereas nearly 20 percent of the orders in the non-EPIC cases were based on presumed income. EPIC revealed that staff must encourage noncustodial parents and custodial parents alike to participate throughout the life of a case. The alternative outreach strategies for the EPIC cases resulted in more than 70 percent of these cases having noncustodial parent participation in the order establishment process, thereby eliminating the need to serve notice.

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Use of the telephone whenever possible to speak to customers achieved better results than sending another letter. The noncustodial parent participation rate was less than 8 percent in the non-EPIC cases. The rate of collection and support to the families also increased in the EPIC group and arrears growth slowed. Given these positive results, San Francisco County adopted EPIC practices as standard procedure throughout their caseload.

#### Texas - Arrears Prevention Project, Preventing Arrears by Improving Front-End Process

**What it Does:** Through an Office of Child Support Enforcement Section 1115 demonstration project in 2002, the Texas Office of the Attorney General (OAG) fundamentally altered the process of establishing orders by using more administrative processes and automatic systems to establish orders. The OAG hypothesized that if front-end processes were improved, then arrears would have less opportunity to accumulate. The grant intended to improve and expand the use of the administrative process for establishing orders (since orders were being established more quickly under the administrative process than the judicial process); reduce the time it took to enter order information into the Texas Child Support Enforcement System (TXCSES); and improve the issuance of automatic income withholding orders to shorten the time it took to obtain child support payments and increase the amount collected through employer withholding, thus reducing arrears growth.

Texas had an administrative process for establishing, enforcing, and modifying child support orders, called the Child Support Review Process (CSRP). However, field staff had not routinely used this process to establish child support orders. To increase use of the CSRP, OAG developed and implemented an automated system that determined whether new cases met the criteria for automatic CSRP approval. If they did, the new system automatically scheduled the CSRP conference and notified the parties. If they did not, the new system created a note for the OAG worker indicating why the case did not meet the criteria. The OAG worker then decided whether to continue pursuing CSRP or to send the case for judicial action. The goal of automating the initial steps of the CSRP was to increase its use which, in turn, was expected to reduce the amount of time it took to establish orders. If orders were established more quickly, OAG expected to reduce arrears accumulation.

The OAG also improved the order entry function on TXCSES and re-engineered the issuance of income withholding orders.

**Results:** Re-engineering the CSRP increased its use, increased the percent of orders established by OAG within six months of case opening, and reduced the amount of time between case opening and order establishment. Specifically, the number of newly opened cases that went through the CSRP doubled between 2003 and 2005, the number of orders that OAG established within six months of case opening increased by 18 percent, and the median number of days OAG took to establish orders after case opening declined by 23 percent. As part of the demonstration, Texas significantly updated its order establishment process, going from reliance on a highly judicial process to a process that established most orders administratively. This demonstration project also reached its ultimate goal of reducing arrears accumulation among newly opened cases with an order: the expansion and improvement of CSRP and the improvements to the issuance of automated income wage orders succeeded in reducing arrears accumulation among newly established orders.

#### Colorado - Reducing Default Orders in Child Support Cases in Colorado

**What it Does:** This Office of Child Support Enforcement Section 1115 demonstration project, which ended in 2006, tested several strategies for child support agencies to promote noncustodial parent participation in proceedings to establish child support orders and reduce the use of default orders. Conducted in two Colorado counties — Denver and Jefferson — the project involved the use of a variety of automated and worker-initiated techniques to promote contact, stimulate parental involvement, and increase payment. Techniques used included personal telephone calls, financial incentives to those who appeared at order-making proceedings, face-to-face meetings, and automated reminder calls. Denver County also encouraged parents to contact the agency by having process servers attempt to distribute a brief survey of interests and needs and a child support brochure along with the papers they normally deliver to noncustodial parents. One goal was to test the pros and cons of using more and less time-consuming actions to achieve contact with noncustodial parents and reduce default orders.

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The evaluation was designed to generate empirical information on (1) how a child support agency can do a better job of contacting and involving noncustodial parents in child support proceedings; and (2) how effective early outreach techniques are in preventing default orders, increasing the number of orders that accurately reflect the noncustodial parent's ability to pay, and encouraging payment of support orders. The different data types used for evaluation included: selected information on child support case characteristics; information on actions taken by workers to establish contact and results of these efforts; information on automated telephone calls regarding upcoming child support events and payments; reactions of custodial parents and noncustodial parents to negotiation conferences and various worker-initiated and automated telephone calls; longer-term reactions of noncustodial parents to various worker-initiated and automated telephone calls and noncustodial parents' understandings of the child support process; and, child support payment patterns and enforcement actions approximately 12 months after the case was referred for order establishment.

**Results:** The project shows that it was feasible for workers to reach most noncustodial parents at early stages of case processing and that routine attempts to contact and communicate were extremely beneficial. There was no consensus on the best way for workers to communicate, with roughly equal proportions favoring in-person meetings, letters, and telephone calls. Electronic reminder calls were rarely successful, nor were outreach efforts by process servers. Worker-initiated outreach was associated with a significant reduction in default orders and an increase in those established by stipulation. In addition to quicker processing, cases with worker contact were less apt to require service of process and less likely to rely on imputed income to generate child support orders. Workers were more likely to identify income using objective data sources and parent affidavits in cases where they had telephone and/or in-person contact with noncustodial parents. Other benefits were a significant improvement in the payment rate during both the first and second years after order establishment, reduced enforcement activity, high levels of user satisfaction, and increased use of objective data sources and parental affidavits to establish income.

## References

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2. Id.
3. Carl Formoso, *Determining the Composition and Collectibility of Child Support Arrearages*, Washington Department of Social and Health Services, Division of Child Support, 2003.
4. Mark Takayesu, *How Do Child Support Order Amounts Affect Payments and Compliance?*, Orange County Child Support Services, 2011; Carl Formoso, *Determining the Composition and Collectibility of Child Support Arrearages*, Washington Department of Social and Health Services, Division of Child Support, 2003; U.S. Department of Health and Human Services, Office of Inspector General, *The Establishment of Child Support Orders for Low Income Non-custodial Parents*, U.S. Department of Health and Human Services, OEI-05-99-00390, 2000.
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6. Vicki Turetsky, *Staying in Jobs and Out of the Underground: Child Support Policies that Encourage Legitimate Work*, Center for Law and Social Policy, 2007, available at <http://www.clasp.org/admin/site/publications/files/0349.pdf>.
7. 42 U.S.C. §667 (2011).
8. For more information about reviewing support orders, see PAID fact sheet *Providing Expedited Review and Modification Assistance*.

