



Fathers, Families, and Healthy Communities (FFHC)  
White Paper on Child Support Reform Policy Priorities and Initiatives

The overall goal of the FFHC is to promote and implement promising practices in the human service delivery field to improve the opportunities and outcomes for children of noncustodial fathers. FFHC believes by enhancing noncustodial fathers' engagement with their families and leveraging the untapped assets of fathers, amazing things can happen to families and children. FFHC identifies the key barriers to improving father engagement and has designed strategies that leverage community assets resulting in better coordinated service delivery to African American noncustodial fathers and their families.

I. FFHC's Responsible Fatherhood Philosophy of Practice and Policy

FFHC's philosophy of policy and practice related to low-income noncustodial African-American fathers considers the following:

- Advancing father's rights and having those rights vindicated in an adversarial context can be counter to creating harmonious and sound co-parenting arrangements that advance positive child and family strengthening outcomes.
- Notwithstanding the recognition that there is an inherent bias in the legal system that favors mothers and their role, maximal effort should be put forward by those working with fathers to embrace mothers as collaborative partners in supporting the well-being and positive outcomes for children. It is fundamentally about the relationship that the father has with the child but attention to the nature of the working relationship the father has with the mother is also critically important.
- Employment is an essential feature in ensuring that low-income noncustodial fathers can connect emotionally, developmentally, physically and financially to their children. To this end, child support policy needs to incentivize and support fathers in their efforts to become economically self-sufficient, as well as accommodate rather than sanction fathers when they are financially incapable of meeting the obligations that the child support system has established for them. Thus, making a clear distinction between those fathers who cannot pay because of their marginal economic circumstances and those fathers who simply contest their child support obligation.
- Work with the child support agency to promote a vision that transforms child support practice and policy from that of cost recovery approach to that of a family strengthening enterprise. Thus, focusing less on the sanctioning of fathers who are unable to pay child support and more on making services available to those fathers to assist them in becoming economically self-sufficient while creating opportunities for those fathers to become better parents.

- Recognize that the father’s contribution is more than financial and create a space for considering the role that fathers can play in the lives of children beyond the father’s financial obligation and consider how child support agencies might support that approach even when fathers are financially incapable of paying child support due to their economic vulnerability or joblessness status.
- Where appropriate advance an approach that links the father’s commitment to being financially responsible for their child(ren) and the opportunity for that father to have regular physical, nurturing and emotional connection to his child(ren).
- Promote policy within the context of child support practice in which child support doesn't exacerbate or contribute to the fathers inability to be self-sufficient, i.e. examining policies that relate to license forfeiture, confinement for contempt of court associated with the inability to pay child support, or the destruction of the fathers credit due to policies related to reporting child support as an unpaid debt.

It is in the context of the aforementioned objectives that we articulate and identify child support policy changes that we believe need to occur that can be contemplated under two operational headings. Those headings include policies that support: 1) family strengthening and healthy father engagement and 2) fathers self-sufficiency and responsibility. Additional details related to these two approaches are articulated below.

## II. Overview of FFHC’s Child Support Public Policy Agenda

The FFHC has identified changing some current child support laws and policies that are barriers to fathers’ involvement with their children as its highest priority for 2014-2015. Both the Illinois Division of Child Support Services (DCSS) and the federal Office of Child Support Enforcement (OCSE) have recognized that past practices have insufficiently taken into account the life circumstances of many low income fathers and have sometimes failed to recognize the importance of the involvement of low-income fathers in their children’s lives, even when these fathers could provide little or no financial support. FFHC appreciates DCSS’s and OCSE’s openness to new ways of thinking about and assisting low income men and their families.

FFHC proposes that the Illinois DCSS support changes to Illinois law, regulation, policy, and/or practice, and even consider seeking a federal waiver under Section 1115 of the Social Security Act, 42 USC 1315(a), regarding: (1) the amount of child support passed through to families receiving Temporary Assistance to Needy Families (TANF); (2) visitation and access; (3) setting and modification of child support orders; and (4) arrearage mitigation and forgiveness. Below we’ll describe our reasoning in calling for such changes and the form such changes could take. Please note that FFHC also supports the CSAC’s recommendation that Illinois change its child support guidelines from the current percentage of noncustodial parents’ income model to an income shares model.

## III. Family Strengthening and Healthy Father Engagement Policy Promotion

- A. “Pass through” of child support” to TANF families.

The history of the relationship between child support and welfare cash assistance (AFDC and now TANF) is complicated. But currently in Illinois an amount up to the first \$50 of current support collected each month for a family (even if from more than one father) is passed through to the TANF family and that amount is disregarded in setting the amount of the TANF cash assistance grant. The child support over that first \$50 is retained as reimbursement for the TANF grant—Illinois keeps half and Illinois send half to the federal government which provides the TANF funds. Research as well as common sense tells us that the fact that so little of the support they pay actually benefits their children is a disincentive for fathers to pay support, as well as a disincentive for mothers to seek support. Fathers pay substantial percentages of their often meager earnings in support (leaving them little to support themselves) and see their children still very poor, given how low Illinois TANF grants are—currently the maximum monthly TANF grant for a parent and one child is \$318 (25% of the Federal Poverty Level); for a parent and two children, the maximum grant is \$432 per month (26% of the Federal Poverty Level).

Federal law currently allows a more generous pass through—up to \$100 for one child and up to \$200 for two or more children. FFHC proposes that Illinois adopt the most “family strengthening” pass though policy allowed by federal law--\$100 for one child and \$200 for two or more children. Alternatively, FFHC proposes that Illinois seek federal permission (through a waiver or demonstration) for an even more generous pass though policy, such as passing through and disregarding all support paid (with a caps, such as a percentage of the Federal Poverty Level) or passing through and disregarding three-fourths of the current support collected each month. A three-fourth pass through would treat the contributions of custodial and noncustodial parents of children on TANF similarly because Illinois currently disregards three-fourths of the earned income of parents on TANF when setting the TANF grant. This latter idea—making the child support pass through percentage equal to the TANF earned income disregard—came close to being adopted in Illinois. In 1999 the General Assembly passed HB 1232, the “Child Support Pays” bill which required a two-thirds pass through (at that time the TANF mother’s earned income disregard was two-thirds). Governor Ryan vetoed the bill and the override vote fell one vote short in the senate. The bill had had broad bi-partisan ( Senators Barack Obama and Dave Sullivan and Representatives Eileen Lyons and Julie Hamos were its chief sponsors) and strong editorial support, including that of the *Chicago Tribune*.

## B. Visitation and access

There has been a long-standing public policy that fails to support and/or create a nexus between noncustodial parent’s paying support and them having access and visitation with their children. Legally, matters related to child support payments and access/visitation are considered separate transactions. While it is true that we must be mindful that access and visitation be considered appropriate only when safe, functional, and a reasonably cooperative relationship exist between the custodial and noncustodial parents, access and visitation should be contemplated as a package deal within the context of the child support obligation. Research suggests that if noncustodial parents are able to establish ongoing healthy, safe and nurturing connections with their child they are more inclined to continue to sustain their child support obligation over time. Public policy should make explicit the link between the

child support obligation and access/visitation opportunities for noncustodial parents. We think this would involve DCSS staff and partners assisting parents in establishing parenting plans and visitation schedules, perhaps through use of mediators or counselors—with proper attention paid to those circumstances when access and visitation are not appropriate, such as in some domestic violence cases. Note that we are uncertain whether to recommend that such agreements need to be entered as court orders, and we would welcome further discussion on this. Research suggests this involvement of time and concern by the father will result in more regular, sustained, and increasing amounts of child support being paid by the noncustodial parent.

#### IV. Self-Sufficiency and Responsible Fatherhood Policy Promotion

##### A. Setting and modification of child support orders

There is an important rationale supporting the idea that child-support orders should be set appropriately (“right size orders”). Appropriate child support orders actually facilitate the noncustodial parent’s payment of those orders. Research suggests that if those orders outstrip the noncustodial parent’s capacity to pay they run the risk of pushing noncustodial parents into noncompliance. This is inconsistent with efforts to keep noncustodial parents financially and emotionally connected to their children and families. In past years/decades child support orders seem to have been entered based on assumptions (often incorrect) about earnings or on the child’s need, even if the noncustodial parent’s actual income would not support such high orders. We understand that DCSS’s current policies favor right size orders, and we support any needed adjustments to policy and practice that will weed out policies that result in unfair orders. We also suggest that DCSS’s take on, through appeals or legislation, the court decisions that refuse to modify orders that were set high even though the father had no or low income at the time and has low or no income now on the grounds that he cannot show the necessary “change in circumstance” to allow a modification.

We also propose that DCSS and its partners provide legal assistance to both parents regarding modification upward or downward as circumstances change, advertise the availability of such assistance widely, and educate parents about the absolute need to seek assistance and obtain modifications. Although providing such modification assistance to noncustodial parents in jail or prison is challenging, we strongly support DCSS’s efforts to do so.

##### B. Arrearage mitigation and forgiveness

Child support “arrearages” build up when fathers do not pay the full amount of child support due each month, and unpaid arrearages are increased each month by interest charges (computed at 9%). Illinois low-income fathers owe millions of dollars in child support arrearages. It is not possible to identify how much of that piled up when fathers had the money to pay support and willfully did not pay and how much piled up because the original order was overly high (not “right sized”) or because the order was not modified downward when the father lost his job, was incarcerated, or became disabled.

For those fathers who in fact could not pay while the child support meter kept running and who are only marginally and sporadically connected to the labor market, these arrearages are a crushing burden on them and their communities . These debts are unlikely to be paid off and become disincentive to work at all or at least in the above-ground economy. Fathers face withholding of up to 65% of their earnings, leaving them unable to meet their own needs for minimal living standard. They also face other enforcement efforts, such as seizure of tax refunds, loss of driving, occupational, and recreational licenses, passport denials--the list is long. They cannot take the first step toward asset building and saving for a rent deposit or a used car because bank accounts will be garnished to pay child support. They must remain “unbanked” with all the complications and challenges, including high costs for purchasing money orders, that status entails. And the child support debt appears on their credit reports, which interferes not only with their obtaining credit but often with employment opportunities because employers review credit reports of job applicants and look unfavorably on such unpaid debts.

As long as the federal Bradley Amendment which prohibits retroactive modification of support orders, is the law, which is likely to be a long time, we need to creatively grow arrearage relief options and expand the eligibility requirements for programs like “project clean slate.” We think additional relief options would include: reducing the high interest charge from the current 9% to a much lower percentage, tied, for example, to the rate paid by banks on savings accounts; DCSS’s forbearing from using any of its additional enforcement tools as long as a father was making current support payments plus a modest payment toward arrearages in full and on time; DCSS’s discussing with both the mother and the father the possibility of a mother’s forgiving all or part of an arrearage in return for an agreement to pay and actually paying current support. We also suggest that DCSS explore seeking a waiver from the federal Office of Child Support Enforcement, under 42 USCA 1315 (the “1115 waiver for demonstration projects) of the federal law’s prohibition on retroactive modification of child support orders. We think that allowing such modifications in cases where the order as originally entered was unfair or where it would have been modified downward had the father known the need to do so and received assistance with the modification proceeding would yield better outcomes for children because the daunting arrearage would no longer drive the father away from his family and keep him in deep poverty.

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