The evolution of child support policy

by Irwin Garfinkel


For reasons not entirely understood, a change in marital behavior has been occurring in the United States—and in the rest of the industrialized world though at lower levels—in the past half century. Permanent marriage is on the wane. Whites marry and increasingly divorce; blacks are increasingly likely never to marry at all. The result has been an explosion in the number of single-parent families. By 1983, 7.2 million families with children were headed by women. By 1984 one out of five children and over half of black children lived in a home in which no father was present.

Most of these families have found themselves economically insecure; about half of the group is in poverty. Their hardship is due in part to the failure of absent parents to adequately support their children, in part to the relatively low earning power of single mothers, and in part to the level of welfare benefits. After a near tripling between 1955 and 1975, benefits declined by over one-quarter between 1975 and 1985.

Public alarm over family breakup has grown with the rise in the welfare rolls. Aid to Families with Dependent Children (AFDC, formerly ADC, for Aid to Dependent Children) was enacted as part of the Social Security Act of 1935 to provide for the needs of poor fatherless children, most of whose fathers had died. It was expected that Survivors Insurance, to be enacted in 1939, would support children whose fathers had a work history, and in the interim—until all families were covered by this insurance—AFDC would fill the gap.

Since the 1930s, however, the caseload has changed dramatically. Now the vast majority of the cases, close to 90 percent, are on welfare because the fathers are absent from home—divorced from, separated from, or never married to the mothers of their children.

The state has a long tradition of providing support to fatherless children, especially those made fatherless by war. In eighteenth-century England and America, government aid was invariably more generous to widows and their children than to the rest of the needy, though it was expected that destitute mothers would do what they could to support themselves, and poor children were also expected to work. That the state should support children who had able-bodied fathers who had deserted them has never, however, been a very popular idea. Though such children were covered by AFDC from the outset, whether they should be covered was controversial.

Enthusiasm for supporting such children was further eroded by the change in women's work patterns. By the early 1970s nearly half of all middle- and upper-income mothers, even those with young children, were working outside the home at least part time, and the proportion of married mothers who earn wages has continued to grow since then.

Does it make sense, then, for government to support children whose mothers do not work and whose fathers fail to take responsibility for them? And yet the need is great. The meager stipends provided by AFDC in most states are better than nothing. Or are they? It has long been believed that welfare feeds upon itself. Popular opinion has argued—and some research has shown—that welfare has some possibly detrimental effects. It may break up marriages; it clearly seems to retard remarriage and to encourage young girls with babies to live in separate households from their extended families; finally, though most of the research shows otherwise, one or two studies suggest that it may encourage young girls to keep their babies and thus increase the proportion of never-married mothers.

I italicize the phrase possibly detrimental effects to emphasize that even though in general two parents are better than one, there are exceptions. Parental abuse of children, while not something we like to talk about, exists. Some evidence suggests it is more common among stepparents than natural parents. Who is to say that on balance children are not better off if their mothers are encouraged by social welfare benefits to delay remarriage? Nor is it clear that the children would fare better if their mothers gave them up for adoption rather than raising them. This is especially true of poor black children. The chances of being adopted outside their family are very small. People who work in our foster-care system are for the most part capable and well meaning, but children who grow up in that system also appear to suffer serious disabilities. In short, once the imperfections in this world are acknowledged, it follows that some increases in single
parenthood induced by social welfare benefits may actually improve the well-being of children.

Welfare also sustains some long-term dependency and is associated with some intergenerational dependency. Yet most of those who ever receive welfare do so for less than four years, and the overwhelming majority of children who grow up in families heavily dependent on welfare do not themselves become heavily dependent.

The research notwithstanding, it is safe to summarize public perceptions of welfare as demoralizing, expensive, inadequate, and necessary. This is why it is often described as "the welfare mess."

Government’s response has been, belatedly, to foster the traditional means of support for children: contributions from both parents. Private child support is moving from individual determinations in the courtroom to the routinization associated with taxation and social insurance. At the same time, the welfare system is changing. No longer are government benefits expected to substitute for parental earnings. Rather they are coming to be viewed as a supplement to the earnings of both parents.

Changes in private child support

The private child support system—whereby an absent parent contributes to the maintenance of his children—has been implemented through the judicial branch. The court determines the amount of child support to be paid by the noncustodial parent on an individualized basis, and the noncustodial parent pays the support directly to the parent caring for the children.

When the number of broken marriages and paternity cases was small, greater equity was perhaps achieved by this individualized system. In small communities, the judge knew the parents and their circumstances, so justice was better served by taking account of all particulars. But when the number of cases is large and the system impersonal, this method breaks down. In practice, judges now do very little to tailor child support to particular circumstances.

Other aspects of the system are problematic. First, only 61 percent of mothers eligible for child support have awards. The proportion with an award varies dramatically with the marital status of the mother. Whereas eight out of ten divorced mothers receive child support orders, less than half of separated mothers and less than one in five of never-married mothers have orders.

The private system is also very expensive, in time and cost to the parents and in delays for the children needing support. And this case-by-case determination treats equals unequally. Data for Wisconsin, for example, indicate that child support awards range from zero to over 100 percent of the noncustodial father’s income. The system is also regressive. Child support obligations represent a greater proportion of the incomes of low-income parents than of those who are well off.

Child support awards are considered to be inadequate, though the problem may be not so much that initial awards are low as that they do not reflect changes in the earnings ability of the noncustodial parent, or even changes in the cost of living.

Collecting support once an award is made has also been difficult. When failure to pay occurs, the custodial parent generally must initiate a legal action, a proceeding fraught with difficulties. It requires legal counsel—a substantial financial burden for a parent already not receiving support—and often involves difficult fact determinations because of the lack of adequate records of direct payments to the custodial parent. Nationally, as recently as 1985, only half of the parents with awards received the full amount owed them and about one-quarter received nothing.

Congressional interest in absent fathers grew as the upward trend in divorce, separation, desertion, and out-of-wedlock births increased the number of families dependent on AFDC. The first federal legislation on private child support was enacted in 1950. State welfare agencies were required to notify law enforcement officials when a child receiving AFDC benefits had been deserted or abandoned. Further legislation, enacted in 1965 and 1967, allowed states to request addresses of absent parents from federal social security records and tax records. States were also required to establish a single organizational unit to enforce child support and establish paternity.

The most significant federal legislation was enacted in 1975, when Congress added Part D to Title IV of the Social Security Act, establishing the Child Support Enforcement (IV-D) program. This legislation created the public bureaucracy to enforce private child support obligations.

By 1985 collections reached $2.7 billion, including $1 billion for AFDC recipients. This represents an increase of 282 percent in collections for AFDC families between 1976 and 1985. Census Bureau statistics indicate that real child support award levels have fallen rather sharply during the last six years, and overall payment rates of child support relative to what is owed have increased only slightly. The decline in the real amount of child support owed seems attributable to both the erosion of the real value of awards by inflation and the changing composition of those getting awards (i.e., more never-married and fewer divorced women).

Still, there is good reason to believe both that the system is getting better and that child support collections will continue to grow, as the 1985 figures do not reflect the strongest federal child support legislation to date. That legislation, passed in 1984, addressed most of the major shortcomings of the private child support system: the failure to obtain an award from the courts, the inequity and inadequacy of awards, and the failure to collect support. States are now required to adopt expedited procedures for obtaining support.
orders either through the judicial system or in an administrative agency. To increase the number of awards to nonmarried mothers, states are required to extend the period during which paternity action can be initiated to any time up to the child’s eighteenth birthday. All states are required to establish child support guidelines to enable judges and others determining the sizes of awards to set equitable and adequate support payments—though these guidelines are not binding on the judiciary. To enhance collections, the 1984 amendments provide fiscal incentives for states to monitor payments in all cases. Moreover, the amendments require the states to adopt automatic income withholding for child support to take effect after one month’s delinquency.

Public child support

Public support is a significant feature of the child support system, and public transfers substantially exceed private child support transfers. Whereas slightly over $7 billion in private child support was paid in 1985, AFDC expenditures on families potentially eligible for child support were equal to no less than $8 billion. If the costs for food stamps ($5 billion), housing assistance ($3 billion), and Medicaid ($8 billion) are included, public transfers equaled nearly $24 billion, or more than three times private transfers.15

As mentioned above, dissatisfaction with AFDC has grown along with costs and caseloads. On a number of occasions regulations have been changed in an effort to reduce the welfare population. The first government program explicitly to aid AFDC mothers in finding employment was the Work Incentive Program (WIN), established in 1967. WIN required all nonexempted persons aged 16 or older who applied for or received AFDC to register for work and training. The program was supposed to assess job skills and provide job training and employment placement, but has furnished little assistance of this nature. It has not had much impact on either work or caseloads.

In 1981 the Reagan administration sought to cut off benefits to recipients with substantial earnings and to require those who received benefits to work for them. Congress agreed to much, but not all, of this strategy. By 1987 almost every major welfare reform proposal contained both work requirements and the provision of services such as training and day care to facilitate work.

As structured, nevertheless, AFDC encourages welfare dependency. After four months on a job, a woman on AFDC faces a reduction in benefits of a dollar for every dollar of net earnings. It is not surprising therefore that the majority of mothers on welfare do not work.

Even if they were fully employed, however, one-half of welfare mothers could earn no more than the amount of their annual welfare grant, and another quarter could earn only up to about $3,200 more.16 How many more could not earn enough to cover the costs of their Medicaid benefits has not been established. But surely the numbers are large. Finally, this estimate takes no account of the necessity of some of these mothers to work less than full time, full year.17 This evidence suggests that transfers are necessary to provide an adequate standard of living for these families.

The only way to alleviate the poverty of single parents without creating total dependency is to supplement rather than replace their earnings, either from improved collections of private child support or from public transfers.

Congress and the Reagan administration have already approved two alternative methods of sharing some of the AFDC savings from increased collections. All states must ignore the first $50 per month of private child support (which is paid to the state when the custodial parent is on welfare) in calculating the AFDC benefit (a $50 set-aside). This increases the benefit by up to $50 for a recipient when the noncustodial parent makes support payments. Two states, Wisconsin and New York, can use the federal share of AFDC savings to help fund an assured child support benefit as part of a comprehensive Child Support Assurance System (CSAS).

The Wisconsin plan

Under a Child Support Assurance System, all parents living apart from their children are obligated to share their income with their children. The sharing rate is specified in administrative code and, exceptional cases aside, depends only upon the number of children owed support. In Wisconsin this rate is equal to 17 percent of the noncustodial parent’s gross income for one child, and 25, 29, 31, and 34 percent respectively for two, three, four, and five or more children. The obligation is collected through payroll withholding in cases where that is possible, as are social security and income taxes. In other words, child support is akin to a proportional tax on noncustodial parents. Children with a legally liable noncustodial parent are entitled to benefits equal to either the child support paid by the noncustodial parent or a socially assured minimum benefit, whichever is higher. Should the noncustodial parent pay less than the assured benefit, the difference is paid by the state. The extra costs of the assured benefit are financed from AFDC savings that result from increased child support collections and from a small surtax up to the amount of the subsidy, which is paid by custodial parents who receive a public subsidy. Finally, in order to make work even more attractive, one other provision has been added to the Wisconsin plan. Low-income custodial parents are compensated for work expenses, such as child care, at the rate of $1 per hour worked for one child and $1.75 for two or more children.

The state of Wisconsin, following the recommendation of the Institute for Research on Poverty 1982 study report, Child Support: Weaknesses of the Old and Features of a Proposed New System,18 is implementing the child support assurance system in stages. The percentage-of-income standard was made an option for the courts to use in 1983 and became the presumptive child support obligation as of July 1987. (The percentages, however, are still being used to
arrive at fixed dollar child support orders rather than being expressed in percentage terms.) Immediate withholding was piloted in 10 counties in 1984 and also became operational statewide in July 1987. The assured benefit is scheduled to be piloted in late 1988.

The plan has a number of advantages over the traditional court proceedings. A fixed sharing rate provides automatic indexing of child support awards, so that as the income of the noncustodial parent increases, the award increases. Since very low child support payments are related at least as much to lack of adjustment for increased earnings as they are to low court orders, indexing should increase payment amounts. Also, if the earnings of noncustodial parents decrease owing to unemployment or illness, their obligations will drop as well.

Automatic withholding, rather than withholding in response to delinquency, will increase both the size and timeliness of child support payments. Noncustodial parents who have defaulted for a few months may have spent the money for other purposes and often cannot afford to pay back the arrearage. Most important, Wisconsin's recent experience with withholding in response to delinquency shows that 70 percent of noncustodial parents became delinquent within three years. No society profits by making so many into lawbreakers. Uniform automatic withholding removes any element of stigma and punishment from the collection process while enhancing children's economic security.

The assured benefit in Wisconsin provides support for children when the noncustodial parent does not have sufficient resources to pay that amount, owing to low earnings ability, unemployment, illness, or other circumstances. The assured benefit in conjunction with the work-expense offset means that a mother with some earnings need not go on welfare should she receive little or no assistance from the noncustodial father.

How the assured benefit, work-expense offset, and custodial-parent tax would work in comparison to welfare in Wisconsin is illustrated in Table 1. The examples are all for a family composed of a single mother and two children. The first four columns give respectively the hourly wage, annual hours worked, annual earnings, and private child support paid. We consider two low-wage workers and one moderate-wage worker: $3.35 per hour, $5.00 per hour and $8.00 per hour. For the lowest-wage worker we consider three different amounts of annual hours worked: 1,000 hours, 1,500 hours, and 2,000 hours, which correspond roughly to half-time, three-quarters time, and full-time work. For the $5.00 per hour worker we consider only 1,000 and 1,500 hours worked, and for the $8.00 per hour worker we consider only 1,000 hours worked. The reason for this, as we shall see below, is that at higher wages it takes fewer hours of work for the CSAS option to dominate welfare. To simplify the table, child support is held constant in each example at $2,500 per year, based on a noncustodial father's income of $10,000, which is a bit below the average income of noncustodial fathers of AFDC children in Wisconsin.

The next three columns show the amount of AFDC plus food stamps that the family is entitled to, given its earnings and family size, the amount of federal income and social security taxes that the family is liable for—or given the earned income tax credit, the refund the family is entitled to, which shows up as a minus—and finally the net income of the family under the welfare option (cols. 3 +4 +5 −6). The next six columns give figures for the assured benefit, the work-expense offset, food stamps, the custodial-parent tax, and the net income of the family.

### Table 1
Comparing CSAS to Welfare in Wisconsin, 1986 for Child-Support Eligible Family with Two Children

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<td>3,528</td>
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<td>−431</td>
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**Note:** A negative number in the tax column means that a credit in that amount is added to income.
federal income and social security tax liability, and net income (cols. 3+8+9+10-11-12).

The net income columns for the welfare and CSAS options indicate the following. For a mother who can earn only the minimum wage of $3.35 per hour, welfare is a slightly better bet at half-time work than CSAS—$9,456 versus $8,645. Half-time work at $5.00 per hour combined with CSAS, however, is slightly better than welfare. For the minimum-wage worker who works three-quarters time, CSAS also dominates slightly, and for a woman working three-quarters time at $5.00 per hour, CSAS is about $2,600 higher—$13,072 versus $10,447. Finally, the last row indicates for the $8.00 per hour worker, CSAS dominates even at half-time work.

One very important qualification to these comparisons should be noted. The value of Medicaid coverage is not included. If, as is frequently the case, there is no medical coverage in the jobs these mothers can obtain, the CSAS option will be much less attractive than the comparisons in Table 1 suggest. This points out the necessity of having a package of reforms to reduce poverty and welfare dependence as opposed to any single solution.

The Wisconsin CSAS is projected to reduce poverty among families with children eligible for child support by about 30 percent and AFDC caseloads by about 20 percent if it is cost neutral (i.e., if it funnels all AFDC savings from enhanced collection back into the system).20 A cost-neutral federal child support assurance system like the one being tried in Wisconsin, but without the work-expense offset, would reduce the poverty gap and AFDC caseloads by, respectively, 40 percent and 50 percent.21 The national figures are so much better because, although Wisconsin's income is below average, it does more to prevent poverty through generous AFDC payments and other means than most other states.

Such estimates, while they indicate the potential of a child support system to reduce poverty and dependence, also reveal its limits. For they tell us that even if all the welfare savings resulting from increased private child support to AFDC families were used to finance an assured benefit, over half of the poverty problem for this group would remain. In short, child support can play a large part in solving the nation's poverty and welfare problems for single mothers and their children. But by itself, it is insufficient.

The division of responsibility

The nation is now involved in a great debate about how financial responsibility for supporting children should be divided between parents and among parents and the state.

Recent trends are clear. We are imposing greater financial responsibility on both custodial mothers and noncustodial fathers, including those who are poor. Moreover, public benefits to single mothers and their children have declined. But the recent trends must be put into the context of longer-run trends.

With respect to the responsibility of noncustodial parents to pay child support, I would argue that it is part of a much larger trend. Why is child support playing such a prominent role in the welfare reform debate in the 1980s, when it played such a small role in the 1960s and 1970s? I think the answer is to be found in the changing composition of the AFDC caseload. As it came to be dominated by children with a living noncustodial parent, the federal government responded—but very slowly and cautiously. As described above, the response began weakly in 1950. It generated great controversy and change in 1975 and reached a crescendo in 1984, when Congress unanimously voted for the strongest child support legislation to date. In retrospect, increasing public enforcement of private child support obligations was an important issue in the 1960s and 1970s, and even the 1950s. Most of us didn't see it, however, even in 1975, because we had our eyes on other important issues.

I took no notice when the 1975 Child Support Act passed. But not long after, I received a request, in my recently assumed capacity as the director of the Institute for Research on Poverty, from the Office of the Assistant Secretary for Planning and Evaluation in the Department of Health, Education, and Welfare: “Could I please try to find someone at IRP to study child support?” I was not favorably disposed to the idea of increasing public enforcement of the private child support obligations of the poor. What little thought I had given to the issue was colored by my background in social work. Most social workers viewed the public enforcement of private child support obligations as simply punitive.

I responded by encouraging a graduate student in social work, Judith Cassetty, to write her doctoral dissertation on child support. Cassetty's work, other pioneering work, including that of Isabel Sawhill, and my own research convinced me that the public enforcement of private child support obligations could not be dismissed as merely punitive.

In short, the trend toward greater public enforcement of private child support in the last ten years appears in retrospect to be part of a longer-run trend, a trend that most social scientists and policy analysts didn't see until recently. In our book, Sara McLanahan and I argue that the same is true for the responsibility of poor custodial parents to contribute some earnings to their family budget. The trend in this case goes back at least to the 1962 Social Security Amendments initiated by the Kennedy administration.

In contrast, the 25 percent cut in AFDC benefits in the 1975–85 decade runs counter to the long-term trend. It came on the heels of a near tripling in real benefits in the 1955–75 period.24 Viewed from the perspective of 1935, AFDC represented a huge leap forward in benefits to single mothers and their children. The long-run trend in benefits has been up, and unless our standard of living stops increasing that trend
will continue. Indeed, it appears as if the cuts in real benefits had come to an end by the early 1980s; they have already begun to increase slightly.15 I expect the future value of public benefits to single mothers to increase in the form of assured child support benefits, day care benefits, health care benefits that are not tied to AFDC, and other benefits that reinforce work, and finally—to a lesser extent—in the form of increases in AFDC benefits.

When historians look back on the last half of the twentieth century, I think they will conclude that U.S. social policy moved simultaneously at a very slow, uneven pace toward higher public benefits and greater reinforcement of the traditional obligation of both parents to support their children financially. Simultaneously increasing public benefits and reinforcing traditional values like work and parental responsibility were the signal achievement of the Social Security Act. Survivors Insurance, after all, amounts to public benefits that are not tied to AFDC, and other benefits that assured child support benefits, day care benefits, health care transfers were derived by Irwin Garfinkel and Sara McLanahan; see Single Mothers and Their Children, Table V-2.

Joel Handler, in his essay in this issue, is more pessimistic. He sees requirements to pay child support and work as limiting the right of poor citizens to cash public assistance and as punitive attempts to reduce public benefits. Though I disagree with him, he calls our attention to a real danger: Enforcing child support and work can be administered punitively. I worry, for example, that as we collect more child support from the relatively poor fathers of the children on welfare, that money will not be used to reduce the poverty of single mothers and their children. We may wind up, instead, playing Robin Hood in reverse and use it to reduce the taxes of the middle- and upper-middle classes. That would be disgraceful, but it could happen. In the three-hundred-year history of American aid to the poor, we’ve had no shortage of disgraces. But we’ve had as well our share of proud moments. Although it is far from clear that social policy in the 1990s will be worthy of the legacy of the Social Security Act, I remain optimistic.

2Ibid., p. 46.
3Ibid., p. 12.
4Ibid., p. 173.
6See Garfinkel and McLanahan, Single Parents and Their Children, for a review of the literature.
7They are much more likely than the rest of the population to become homeless. See Irving Pilavin, Michael Sosin, and Herb Westerfield, “Conditions Contributing to Long-Term Homelessness: An Exploratory Study,” IRP Discussion Paper no. 853-87, 1987.
15Estimates of private child support are taken from U.S. Bureau of the Census, “Child Support and Alimony, 1985.” Estimates of public child support transfers were derived by Irwin Garfinkel and Sara McLanahan; see Single Mothers and Their Children, Table V-2.
16Isabel Sawhill, “Discrimination and Poverty among Women Who Head Families,” Signs, 2 (1976), 201–211. The figure $3,200 is my adjustment to 1985 dollars. In the original paper the number was $1,000 in 1968 dollars.
19See Thomas McDonald, James Moran, and Irwin Garfinkel, “Wisconsin Study of Absent Fathers’ Ability to Pay More Child Support,” IRP Special Report no. 34, September 1983. With one minor exception the examples would not change if different amounts of child support were used. If private child support were between zero and $50 per month, the welfare option would be less than that in the table because the welfare benefit calculations ignore up to $50 a month in child support. For child support between $50 per month (or $600 per year) and $2,500, the assured benefit option would be somewhat less attractive if the custodial parent earned enough to become liable for an increased custodial-parent surtax. Similarly, for child support between $2,500 and $3,552 the opposite would be the case.
20The estimates for Wisconsin include predicted increases in work on the part of AFDC recipients in response to the improved work incentives of CSAS. The national estimates, however, do not include work responses. All of the decrease in the national estimates result from CSAS benefits—alone or in combination with other income of current AFDC recipients—being higher than AFDC benefits.
21The CSAS plan simulated has a benefit of only $2,500 for the first child.
25Between 1981 and 1985 the real average monthly AFDC benefits per family increased from $328 to $338. See U.S. House of Representatives, Committee on Ways and Means, Background Material, Table 18, p. 391.