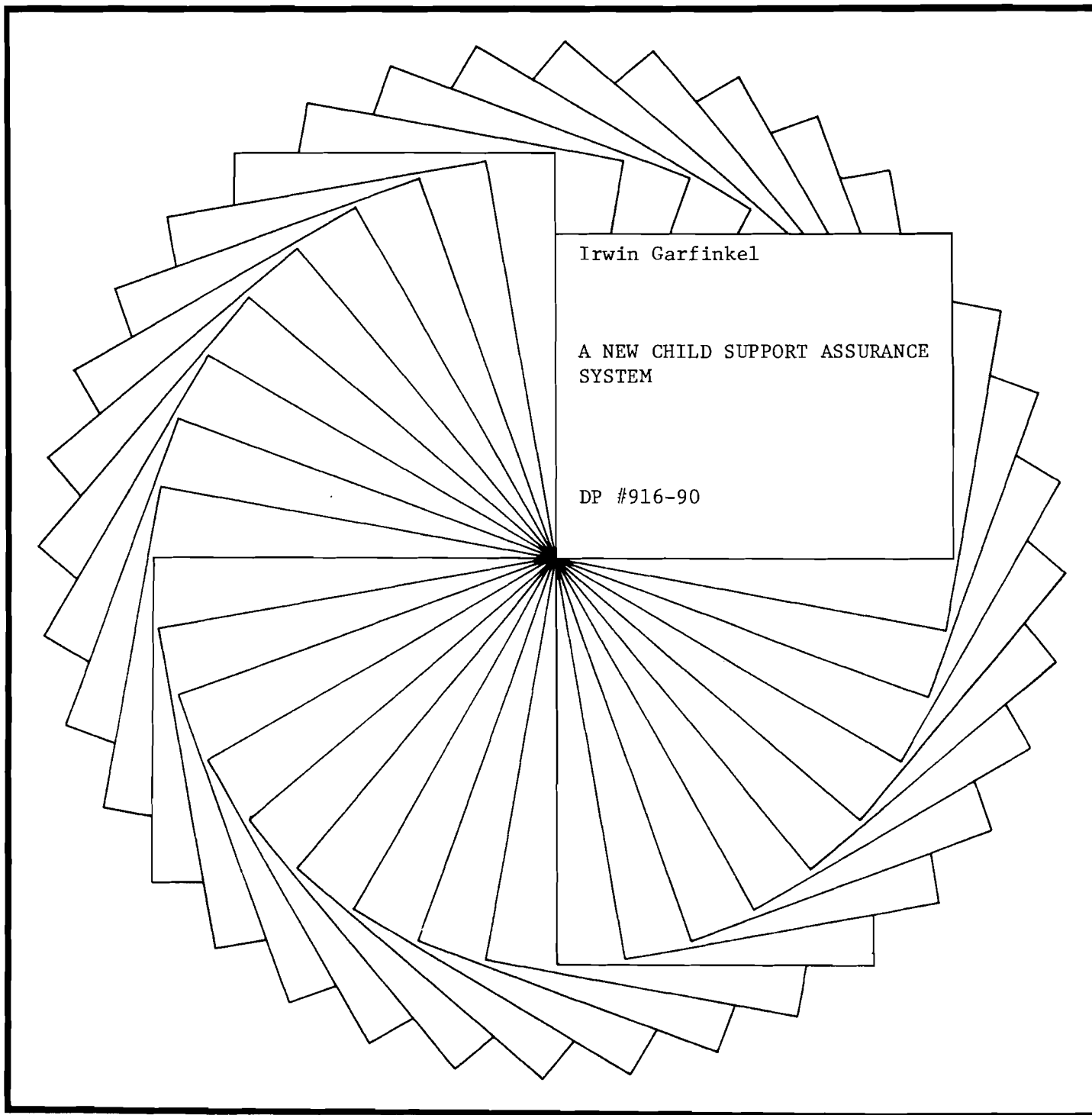

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A New Child Support Assurance System

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Abstract

The Child Support Assurance System (CSAS) designed in Wisconsin has become the model for national reform of child support. The three major components of the system are a child support standard, routine income withholding, and an assured child support benefit. Estimates of costs and benefits of the system suggest that although in the short run benefits will be quite modest, in the long run, both poverty and welfare dependence will be reduced substantially at little or no additional cost to the public. While the nation has taken giant strides toward the adoption of the collection features of CSAS--standards and withholding--little progress has been made on the assured benefit.

A New Child Support Assurance System

The quality of American child support institutions is of vital importance to the nation's future. Nearly one of every four children is living apart from at least one parent and therefore is potentially eligible for child support. More significantly, one of every two children born today will become eligible for child support before reaching the age of 18.¹

Prior to 1975, child support was nearly exclusively a state and local matter. State laws established the duty of nonresident parents to pay child support but left all the details up to local courts.² Judges had the authority to decide whether any child support should be paid and, if so, how much. They also had full authority over what to do if the nonresident parent failed to pay. Jail was the ultimate punishment for failure to pay.

Critics of the old system claimed that it condoned and therefore fostered parental irresponsibility, that it was rife with inequity, and that it contributed to poverty and welfare dependence.³ In 1979, the U.S. Census Bureau began gathering data on child support every other year. The first Census study indicated that slightly more than one in three nonresident parents paid some child support.⁴ The details of the study revealed weaknesses at every step in the child support process. Only six of ten mothers potentially eligible for child support had child support awards. (Only one of ten never-married mothers had legal entitlement to support.) Among mothers with legal awards, about half received the full amount to which they were entitled, and over a quarter received nothing. Few argued with the judgment that the system condoned parental irresponsibility. Other studies documented alleged inequities. Child support awards for children and parents in similar economic circumstances varied widely.⁵ Whereas most nonresident fathers paid no child support and suffered no consequences, thousands were sent to jail.⁶ And poor nonresident fathers who were legally obligated to pay child support were required to pay a substantially higher proportion of their

incomes than middle- and especially upper-income nonresident fathers.⁷ Finally, nearly half of single mothers and their children were poor and dependent on welfare.⁸

To rectify the shortcomings of the old child support system, researchers at the Institute for Research on Poverty at the University of Wisconsin-Madison in conjunction with civil servants in the Wisconsin Office of Child Support Enforcement developed a proposal in 1980 for a new child support assurance system (CSAS).⁹ The proposed reform has become the model for national reform of child support. This paper describes the child support assurance system and summarizes the case for it, presents quantitative estimates of a few of its benefits and costs, recounts how first Wisconsin and now the nation as a whole have begun adopting components of the new system, and concludes with a brief examination of what remains to be done.

I. CSAS: PHILOSOPHY, COMPONENTS, AND RATIONALE

The philosophical premise underlying CSAS is that parents are responsible for sharing income with their children and government is responsible for assuring that children who live apart from their parents receive the share to which they are entitled. The three major components of the system are (1) a child support standard, (2) routine income withholding, and (3) an assured child support benefit. A simple legislated standard determines the share of income, or child support obligation, that is owed. The child support obligation depends on the gross income of the nonresident parent and the number of children to be supported. Child support payments are routinely withheld from wages and other sources of income. Finally, the child's caretaker receives either what the nonresident parent pays or an assured child support benefit, whichever is higher. When nonresident parents pay less than the assured child support benefit level, the difference is made up by the state.

A child support assurance system may be thought of as an addition to our social security system. It is most analogous to Survivors' Insurance. Like Survivors' Insurance, CSAS aids children

of all income classes who suffer an income loss due to the absence of a parent. The cause of the absence differs of course. Survivors' Insurance compensates for the loss of income in the event of death. Child support assurance compensates for the loss arising from divorce, separation, and nonmarriage. The percentage-of-income standard in conjunction with routine income withholding makes the financing of CSAS similar to a proportional payroll tax, which is used to finance all of our social insurance programs. In the CSAS case, however, the "tax" applies only to those who are legally liable for child support. The assured-benefit component of CSAS makes the benefit structure of the system like all of our social insurance programs in that it provides greater benefits to low-income families than are justified on the basis of the family's contributions or taxes.¹⁰

Finally, a child support assurance system, like social insurance programs, is designed to prevent poverty and welfare dependence. Welfare programs relieve poverty; social insurance programs prevent it. It is constructive in this context to examine the views of the architects of our social security system. They believed that it was the obligation of the government both to provide relief to people who needed it and to prevent as many people as possible from needing it. Despite the fact that the architects of the Social Security Act provided federal cash relief on an unprecedented scale and enacted three new permanent federal cash relief programs--aid to the aged and blind as well as aid to dependent children--they remained uncomfortable with the widespread provision of cash relief, even for persons not expected to work. Indeed, President Roosevelt referred to cash relief as a narcotic.¹¹ Even though poor widows and their children were already eligible for Aid to Dependent Children, therefore, the architects of our social security system advocated the creation of a Survivors' Insurance program. Their strong preference for preventing rather than relieving poverty is evident in the following excerpt from the report of the 1938 Advisory Council on Social Security:

While public assistance is now being provided to a large number of dependent children in this country on a needs-test basis, the arguments for substituting benefits as a matter of right in the case of children are even more convincing than in the case of aged persons. A democratic society has an immeasurable stake in avoiding the growth of a habit of dependence

among its youth. The method of survivors' insurance not only sustains the concept that a child is supported through the efforts of the parent but affords a vital sense of security to the family unit.¹²

The new child support assurance system has a number of advantages over the traditional system. These are discussed briefly here.

A child support standard based on a percentage of income reduces inequities and is easy to understand. Establishing child support awards as a percentage of the nonresident parent's income also provides automatic indexing of child support awards, so that as the income of the nonresident parent increases, the amount owed automatically increases. Similarly, if the earnings of a nonresident parent decrease owing to unemployment or illness, his child support obligation will automatically drop. Because the incomes of most nonresident parents increase over time, establishing child support awards as a percentage of income will lead to increased payments to most children at the same time that it provides greater fairness to nonresident parents who become unemployed or ill.

Routine income withholding increases both the size and timeliness of child support payments. Nonresident 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 nonresident parents became delinquent within three years. No society profits by making so many into lawbreakers. Routine income withholding of child support obligations is a preventive measure that removes stigma and punishment from the collection process while enhancing children's economic security.

The assured benefit insures children from middle- and upper-middle-income families against the risk that their nonresident parent will fail to pay child support. When the percentage-of-income standard is fully implemented and child support orders are expressed in percentage terms, a sudden decline in the nonresident parent's income would result in a precipitous decline in child support if it were not for the assured benefit.

The assured benefit also enables those with low earnings ability and low child support entitlements to escape poverty. In the absence of an assured benefit, a large proportion of welfare mothers would still be poor even if they worked full time and received all the private child support to which they were entitled.

The assured benefit will encourage work and reduce welfare dependence. Unlike welfare, the assured benefit will not be reduced by one dollar for each dollar of earnings.

Finally, the assured benefit is an effective means of reinvesting the savings of increased child support collections. Sharing the gains of increased collections with poor resident-parent families who have child support awards not only bolsters their incomes in times of hardship, it gives resident parents an incentive to cooperate in establishing paternity and locating the nonresident parents of their children.

Strengthening child support enforcement has already begun to reduce AFDC costs and will do so even more in the future. The AFDC savings can be used to reduce taxes, but in view of the fact that children potentially eligible for child support and the mothers who care for them are among our poorest citizens, using these funds to provide an assured benefit is at the very least the compassionate thing to do. It is also wise, since one-half of the next generation will be potentially eligible for child support.

II. ESTIMATED COSTS AND BENEFITS

A child support assurance system has potential benefits and costs for all members of society. Resident-parent families, nonresident parents and their new families, and other citizens in their role as taxpayers will be affected. The potential benefits to resident-parent families include increases in incomes, reductions in economic insecurity and welfare dependence, and increases in the psychological well-being of mothers and children. The potential costs to nonresident parents include

reductions in income, increases in poverty and welfare dependence, and perhaps decreases in psychological well-being. CSAS may also affect remarriage rates of both resident and nonresident parents. Finally, the taxes of other citizens may either increase or decrease, depending upon the effectiveness of the collection of child support and the level of the assured benefit.

A comprehensive examination of all the benefits and costs of a child support assurance system is not possible at this time, since research to investigate the actual effects of CSAS has just begun.¹³ In the meanwhile, microsimulation analysis enables us to develop some crude estimates of some of the benefits and costs.¹⁴ In this section, we examine two benefits of CSAS (reductions in poverty and welfare dependence among resident-parent families) and one cost (increased costs to taxpayers).

Both the benefits and the costs of a child support assurance system will depend upon the level of the assured benefit, the tax rates on nonresident parents, and the effectiveness of child support collections. In Table 1 estimates of net savings, or costs, and reductions in poverty and AFDC caseloads are presented for national child support assurance programs, first with no assured benefit and then with three different assured benefit levels for the first child: \$1000, \$2000, and \$3000. Assured benefits for the second, third, fourth, fifth, and sixth child are equal to \$1000, \$1000, \$500, \$500, and \$500, respectively. The tax rates for nonresident parents are 17 percent for one child, 25 percent for two children, 29 percent for three children, 31 percent for four children, 32 percent for five children, and 33 percent for six or more children. The public-subsidyportion of the assured benefit is taxable income for the resident parent and the federal revenue derived from making it taxable is subtracted from the estimated costs of the assured benefit.

The estimates in the top panel of Table 1 assume that the collection is 100 percent effective. That is, they assume that there are child support awards in all cases, that the awards are equal to the percentages described above, and that all of the awards are paid. The reductions in the poverty gap-- the difference between the income of a poor family and the income needed to bring the family up to

Table 1

Estimated Benefits and Costs of a National CSAS over Time
in 1985 Dollars

Assured Benefit Level	Reduction in Poverty Gap	Reduction in AFDC Cases	Net Cost in Billions
Perfect System			
0	24%	20%	\$-2.7
1000	25%	23%	-2.5
2000	30%	33%	-1.4
3000	40%	49%	+0.7
Short Run I ^a			
0	0%	0%	+0.0
1000	2%	3%	+0.5
2000	5%	7%	+2.1
3000	9%	14%	+4.7
Short Run II ^b			
0	2%	2%	-0.1
1000	3%	4%	+0.1
2000	5%	8%	+0.9
3000	9%	14%	+2.7
Intermediate Run ^c			
0	12%	9%	-1.1
1000	13%	12%	-0.8
2000	17%	20%	+0.1
3000	24%	32%	+2.1

^aNo increase in child support award rates, award levels, or payment rates.

^bOnly change is awards are set according to Wisconsin standard; no change in award rates or payment rates.

^cAward rates and collection rates halfway between current levels and perfection. Award levels equal to the Wisconsin standard.

the poverty line--for families eligible for child support are substantial. Even with no assured benefit, increased child support collections would reduce the poverty gap by nearly one-quarter. Adding the assured benefit of \$3000 for the first child nearly doubles the reduction in poverty--from 24 percent to 40 percent.

Similarly, reductions in welfare caseloads are very large, ranging from a low of 16 percent in the absence of an assured child support benefit to three times that amount, or 49 percent, with an assured benefit of \$3000.¹⁵

Finally, assured benefits of \$1000 and \$2000 for the first child save money. Only the most generous assured benefit of \$3000 for the first child costs money. The savings arise because the extra dollars paid out for the assured benefit under the new system would be more than offset by increased child support collections and consequent reductions in welfare expenditures.

As indicated above, the estimates in the top panel of Table 1 presume a perfect child support collection system. As of 1990, however, the collection system is a long way from perfection. Enactment of a child support assurance system will increase the proportion of cases with child support awards, the average level of awards, and the proportion of awards that are paid. What we do not know now is by how much and how fast. Thus the estimates in the top panel should be interpreted as upper bounds of the long-run effects of CSAS on reductions in poverty and welfare dependence and lower bounds on the long-run costs.

The second panel in Table 1 presents short-run lower-bound estimates of the benefits and short-run upper-bound estimates of the costs of CSAS. The estimates are short run in that they assume no increase in child support award rates, award levels, or payment rates. Because all three are expected to increase, these assumptions also underestimate benefits and overestimate costs.

The short-run benefits of CSAS are quite modest. A \$2000 assured benefit reduces the poverty gap by only 5 percent and AFDC caseloads by only 8 percent. Even the assured benefit of \$3000 for

the first child reduces the poverty gap by only 9 percent and AFDC caseloads by just 14 percent. These are not trivial effects. But they are only one-quarter of the upper-bound estimates of long-run benefits.

Furthermore, in the short run, with absolutely no improvements in child support enforcement, CSAS would have positive net costs. The net costs range from a \$0.5 billion to \$4.7 billion.

These net costs can be reduced substantially and immediately by restricting eligibility to children whose awards have been updated to be in accordance with the Wisconsin percentage-of-income standard. If this single improvement in child support enforcement is achieved as the results in the third panel of Table 1 indicate, the costs are reduced to virtually zero for a \$1000 assured benefit, and to respectively \$0.9 billion and \$2.7 billion for the \$2000 and \$3000 assured benefit levels. It was awareness of these differences between the short- and long- run benefits and costs of CSAS that led the architects of the Wisconsin CSAS to recommend to the state that it would be fiscally prudent to enact CSAS in stages, beginning with the collection reforms. It is also useful to note that, as we shall see below, the country as a whole has already taken giant strides toward CSAS on the collection side.

Finally, it is worth emphasizing that as long as eligibility is limited to families with new or updated child support awards, even in the short run, the cost of a \$1000 assured child support benefit is practically zero. Thus it is possible to enact a very small assured child support benefit and get started down the right path at practically no cost. Even the cost of a \$2000 assured benefit is less than \$1 billion.

The last panel in Table 1 presents some intermediate-run estimates of the benefits and costs of CSAS. Both award rates and collection rates are halfway between their current levels and perfection. All award levels are assumed to be equal to the Wisconsin standard.

The intermediate-run benefits are fairly large. With an assured benefit of \$2000, both the poverty gap and AFDC caseloads are reduced by around 20 percent. With an assured benefit of \$3000, the poverty gap is reduced by 24 percent and AFDC caseloads by 32 percent.

Moreover, the costs are small. An assured benefit of only \$1000 saves \$.8 billion. The cost of an assured benefit of \$2000 is practically zero. Finally, even an assured benefit of \$3000 costs only \$2 billion.

One critical point that is not clear from Table 1 is that the ability of CSAS to reduce poverty and welfare dependence depends much more upon improvement in award rates than upon improvement in collection rates. This point is illustrated by the results presented in Table 2. The first panel in the table simply reproduces the first panel from Table 1 in which perfect collection is assumed. The second panel presents simulation results similar to those in the first panel. Like the first panel, the second assumes that awards are made in all cases and that the awards are equal to the Wisconsin standard. But, unlike the first, the second assumes that rather than paying 100 percent of what is owed, obligors continue in the future to pay the same percentage of what they owe as they do now.

Note that, except when there is no assured benefit, the effects on poverty and welfare dependence in the first two panels are very similar. What's more, the higher the assured benefit, the more similar are the results. This is because the assured child support benefit makes up for the loss of private child support. (Although estimates are not presented in the table, lower child support awards would have similar, negligible effects on the benefits.)

The third panel, like the first, assumes that all awards are equal to the Wisconsin standard and are paid in full. Unlike the first and second panels, however, the third panel assumes that the current award rate does not improve at all, rather than assuming that all children potentially eligible for child support get child support awards.

Table 2

Estimated Benefits and Costs of a National CSAS with
Current Collection Rates vs. Current Award Rates
in 1985 Dollars

Assured Benefit Level	Reduction in Poverty Gap	Reduction in AFDC Cases	Net Cost in Billions
Perfect Systems			
0	24%	20%	\$-2.7
1000	25%	23%	-2.5
2000	30%	33%	-1.4
3000	40%	49%	+0.7
Current Collection Rates ^a			
0	12%	4%	-0.5
1000	17%	11%	+0.8
2000	26%	28%	4.1
3000	38%	46%	9.2
Current Award Rates ^b			
0	4%	7%	-0.6
1000	4%	8%	-0.5
2000	6%	10%	-0.1
3000	9%	16%	+1.1

^aAwards made in all cases and equal to Wisconsin standard, but current collection rates.

^bAwards equal to Wisconsin standard, 100 percent collection rates, but current award rates.

The effects on poverty and welfare dependence are substantially lower than those in the first two panels. Even with an assured benefit of \$3000 for the first child, the reduction in the poverty gap is equal to about 10 percent compared to nearly 40 percent in the first two panels. Similarly, compared to the first two panels, the reductions in AFDC caseloads in the third panel are only about one-third as large. Indeed, in terms of the benefits, the results in the third panel of Table 2 are much closer to the results in the second panel of Table 1 than they are to the results in the first two panels of this table.

These results make it clear that the magnitude of the benefits of a child support assurance system will depend critically upon the extent to which the country succeeds in improving its record of establishing paternity and obtaining child support awards. As long as eligibility for the assured benefit is contingent upon legal entitlement to private child support, the assured benefit is of no use to a family that has not obtained a child support award. This has led some supporters of CSAS to advocate that eligibility for the assured benefit not be made contingent upon legal entitlement to private child support. If only the benefits of reducing poverty and AFDC caseloads are considered, it is tempting to dispense with this eligibility criterion. For doing so will enable us to achieve immediately some of the long-run economic benefits of CSAS. On the other hand, the integrity of the program will be undermined and the costs also will increase substantially.

Whereas the benefits of CSAS depend critically upon improvements in establishing paternity and obtaining child support awards, costs are more sensitive to improvements in collection rates. As the cost figures in panels 1 and 2 of Table 2 indicate, the failure to collect private child support leads to reductions in savings and increases in public costs. (Although estimates are not presented in the table, lower child support awards would similarly increase costs.) In contrast, failing to improve award rates has a much smaller effect on costs than failure to collect what is owed. This is because increases in award rates have two effects which tend to offset one another. One effect is an increase

in private child support payments, which reduces AFDC costs and thereby saves money. The other effect is that the number of children eligible for an assured benefit increases, thereby increasing costs.

To summarize: in the long run, at little or no additional cost to the public, CSAS can reduce substantially both poverty and welfare dependence. The short-run benefits are much smaller because until improvements are made in the establishment of paternity too few families will benefit from CSAS. The short-run costs are also substantially higher because it will take time for child support enforcement practices to improve. Yet simply by requiring that eligibility for the assured benefit be contingent upon either newly made or newly updated child support awards, the extra costs can be kept quite reasonable. Indeed, even in the short run, a \$1000 assured benefit would be cost neutral.

The long-run estimates indicate the great potential of a child support assurance system to reduce poverty and welfare dependence; the estimates also reveal the limits of the system. For these estimates 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 and half of the welfare caseload 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 to solve these problems.

III. THE EVOLUTION OF CSAS IN WISCONSIN AND NEW YORK

Wisconsin has adopted a series of new laws that have taken the state gradually toward a new child support assurance system. As mentioned earlier, the state found it fiscally prudent to begin implementation of the percentage-of-income standard and routine income withholding before implementation of the assured benefit. A further reason for delaying the implementation of the assured benefit was that it is more complicated administratively and fiscally.

Initially, CSAS had bipartisan support. Its principal advocates in the political world were Tom Loftus, a Democrat who became Majority Leader in the state Assembly in 1981 and Speaker of the Assembly in 1983, and Donald Percy, who was the Secretary of the Wisconsin Department of Health and Social Services (DHSS) from 1977 to 1984. Percy was first appointed to office by Governor Martin Schreiber, a Democrat, but he was reappointed by Governor Lee Dreyfus, a Republican.

In 1983 the Wisconsin Legislature directed the DHSS to (1) contract with 10 counties to routinely withhold child support payments from the wages of all new obligors and (2) publish a child support standard based on a percentage of the nonresident parent's income that judges and family court commissioners could use to determine child support obligations. The bill also contained a provision which required all Wisconsin counties to adopt routine income withholding in all new cases as of July 1, 1987.

The standard was published by DHSS and sent to all judges and family court commissioners in December 1983. It provides for a child support obligation equal to 17 percent for one child, and 25, 29, 31, and 34 percent respectively for two, three, four, and five or more children. Between January and May 1984 ten counties had contracted with DHSS to pilot the use of immediate income assignments.

Meanwhile, state officials also successfully sought federal legislation to allow Wisconsin to use federal funds to help finance the state's assured child support benefit. Because the assured benefit will reduce AFDC costs, of which the federal government pays about half, the federal government agreed to allow Wisconsin to use the resulting savings to help finance the assured benefit. The agreement, contained in the 1984 landmark federal child support legislation, extends for seven years--from the last quarter of 1986 through 1993.

The 1985 Wisconsin budget bill contained new child support legislation that permitted additional counties to begin immediate withholding prior to July 1, 1987, and made the DHSS

percentage-of-income standard the presumptive child support award as of July 1987. This means that awards can depart from the standard only if the judge justifies such a departure in writing. Finally, the 1985 bill gave the DHSS authority, subject to a final approval by the Joint Finance Committee, to implement the assured benefit on a demonstration basis in several counties.

Soon after the 1985 legislation was enacted, nearly twenty additional counties began implementing routine income withholding. Milwaukee, the largest county in the state, began withholding in January 1986. By July 1, 1987, all but two or three of Wisconsin's 72 counties had implemented routine income withholding.

Based on data from the original 10 pilot counties, it appears that implementation of routine withholding within counties falls short of universality.¹⁶ Whereas nearly 80 percent of the nonresident parents had income from which a child support obligation could be withheld from the outset of the obligation, the proportion with withholding was only about 40 percent in 1984 and 60 percent by 1986.

Early data on the extent to which the courts really were using the standard after it became the presumptive obligation in July 1987 indicate that though the standard is increasingly used to establish the initial child support order, the child support order is seldom expressed as a percentage of income. Rather, the percentages in the standard are used to establish a fixed dollar amount of the child support order. Because the incomes of nonresident parents on average increase over time and because the low level of child support orders is attributable in large measure to the inability of courts to regularly update awards to take account of changes in income, the failure to express orders as a percentage of income is very serious.

Implementation of the assured benefit was delayed by political disagreements first within Governor Anthony Earl's administration (1983-1986) and then within Governor Tommy Thompson's administration (1987-1990). Child care advocates within the Earl administration argued for utilizing

AFDC savings that arise from increased child support collections to finance child care rather than an assured child support benefit. By the time this issue was resolved within the Earl administration in favor of proceeding with piloting an assured benefit and proposing a statewide child care program, Governor Earl had been defeated and the Thompson administration had taken office. One key appointee of the new administration had been opposed to the entire CSAS reform and argued strongly against piloting the assured child support benefit. After the governor appointed a new secretary of DHSS in late 1988, it appeared as if the issue had been resolved in favor of proceeding with the pilots. Two counties, Dane and Oneida, were prepared to pilot the assured benefit beginning January 1, 1990. Additional funds for administration of the pilots were authorized by the legislature in the 1989 budget bill.

By mid-1989, however, the assured benefit had become a partisan issue. Assembly Speaker Loftus had made it clear that he intended to run for governor, and welfare and child support reform were two of his key issues. Governor Thompson sequestered the funds for the administration of the child support pilots. In the fall of 1989 the legislature passed a bill which directed the Governor to spend these funds, but the Governor vetoed the bill. In the 1990 election, Governor Thompson was re-elected. The fate of the assured benefit is unclear.

Meanwhile, in early 1986, Governor Cuomo of New York had appointed a panel of national experts to advise him on how to reduce poverty and welfare dependence. Several advocates of a child support assurance system were selected to be members of the panel. In December 1986, the panel issued a written report entitled A New Social Contract: Rethinking the Nature and Purpose of Public Assistance, which recommended adoption of a new child support assurance system. Governor Cuomo proposed that the state adopt a percentage-of-income standard and routine income withholding immediately and pilot the assured child support benefit in eight counties. In 1987, the New York State Legislature adopted neither a new child support standard nor routine income withholding but did

approve piloting a version of an assured child support benefit that was steeply income tested and limited to welfare recipients. By 1989, however, the New York legislature had adopted a modified version of the Wisconsin percentage-of-income standard. Owing to the federal requirement, routine withholding will be adopted in the state by 1994. Finally, as of 1989, seven New York counties were piloting a version of an assured child support benefit known as the Child Assistance Program.

IV. FEDERAL CHILD SUPPORT REFORMS OF 1975, 1984, AND 1988

Federal interest in child support grew as the caseload of the Aid to Families with Dependent Children (AFDC) program grew and shifted from orphans to children with living absent parents. Although the first federal legislation to enforce child support was enacted in 1950, and further bills were passed in 1965 and 1967, the 1975 legislation was particularly significant because it established the federal Office of Child Support Enforcement; required all states to establish state offices of child support enforcement; and provided federal reimbursement for about three-quarters of each state's enforcement costs. That is to say, the 1975 act created the public bureaucracy to enforce the private child support obligation.

The 1975 legislation provided federal matching funds for child support enforcement services for children who were not on welfare as well as for AFDC recipients, and it required states to provide services to nonrecipients upon request. Yet federal funding for nonrecipients was made available to the states only through 1976. After a series of temporary extensions, in 1980 Congress permanently extended federal support for child support services to all children potentially eligible for private child support, irrespective of income and AFDC reciprocity status.

The Child Support Enforcement Amendments of 1984 moved the nation modestly toward two of the three key components of a new child support assurance system by requiring states to adopt numeric child support guidelines, which courts could use to determine child support obligations; and

to withhold child support obligations from wages and other income sources of nonresident parents who become one-month delinquent in their payments of child support. The 1984 bill also took an extremely cautious step in the direction of an assured child support benefit by directing the Secretary of the Department of Health and Human Services (DHHS) to grant the state of Wisconsin a waiver to permit the state to use federal funds that would otherwise have been spent on the AFDC program to help fund an assured child support benefit.¹⁷ Finally, the bill contained two minor provisions relating to paternity establishment. One permits paternity to be established until the child's eighteenth birthday, and the other encourages states to develop expedited processes--that is administrative or bureaucratic rather than judicial processes--for establishing paternity.

The 1988 Family Support Act immensely strengthened the 1984 guidelines and withholding provisions. While the 1984 Child Support Amendments allowed the courts to ignore the guidelines, the 1988 legislation makes the guidelines the presumptive child support award, which means that departures from the guidelines must be justified in writing and are subject to review by a higher court. Furthermore, the Family Support Act requires states by 1993 to review child support awards of Title IV-D cases (those being handled by the Office of Child Support Enforcement) at least every three years and directs the DHHS to study the impact of requiring periodic review of all child support cases. With respect to routine income withholding, the 1988 legislation requires withholding of the child support obligation from the outset for all IV-D cases as of 1990 and for all child support cases as of 1994. As mentioned earlier, the previous legislation (1984) had required withholding only in cases of delinquency.

The Family Support Act also has three major paternity provisions: (1) states must either establish paternity in at least half of the out-of-wedlock cases on AFDC or increase the proportion of such cases in which they establish paternity by three percentage points each year; (2) states must obtain the social security numbers of both parents in conjunction with the issuance of birth

certificates; and (3) all parties in a contested paternity case must take a genetic test upon the request of any party, with the federal government paying 90 percent of the cost of the test.

In addition to these major provisions, the Family Support Act contains other notable provisions. Whereas the 1984 Child Support Act urged states to expedite procedures for establishing paternity, the 1988 legislation further exhorts the states to simplify paternity establishment by setting up a civil process for voluntarily acknowledging paternity and a civil procedure for determining paternity in contested cases. Further, whereas the 1984 statute urged states to develop demonstrations of more efficient techniques to enforce child support when the father is in a different state, the 1988 statute makes it more financially attractive for states to undertake such demonstrations and also establishes a federal advisory council to make recommendations for future legislation on interstate enforcement of child support.

V. REMAINING ISSUES

The nation has already taken giant strides towards the adoption of the two key collection features of a child support assurance system: numerical child support standards and routine income withholding. As of 1990, only two states, Wisconsin and New York, are authorized to use federal funds that would otherwise have been devoted to AFDC to help pay for an assured child support benefit. And only New York has actually begun piloting an assured child support benefit.

Of course, many collection-side issues remain. For example, what should the child support standard be? More specifically, should child support obligations decline as the income of the nonresident parent increases, or should obligations be proportional or even progressive with respect to income?¹⁸ How much discretion should remain and what role should the judiciary play in establishing child support obligations? Probably the single most important issue on the collection side is how successful we are going to be in improving paternity establishment.

The establishment of paternity and the adoption of an assured child support benefit are not, as we have seen, unrelated. An assured benefit not only reduces economic insecurity and welfare dependence. It also fosters the establishment of paternity. This is because entitlement to an assured child support benefit is dependent upon legal entitlement to private child support. Legal entitlement to child support in turn is dependent upon the identification of a liable nonresident parent, which in nonmarital cases, means the establishment of paternity. Thus, in order to qualify for an assured child support benefit, mothers of children born out of wedlock will have to identify the fathers of their children.

But we have also seen that the extent to which the assured benefit reduces economic insecurity and welfare dependence depends critically on the extent to which it fosters the establishment of paternity. Thus the adoption of an assured child support benefit is also likely to induce community leaders of poor groups to urge their constituents to be more cooperative with respect to establishment of paternity. Historically, advocates for the poor have not looked upon child support enforcement with a great deal of enthusiasm. This is understandable. For in the presence of AFDC and the absence of an assured benefit, child support enforcement amounts to Robin-Hood-in-reverse economics--taking from poor fathers to reduce AFDC costs and therefore reduce the tax burden of middle- and upper-middle-income families. An assured benefit changes all this. It reinvests the AFDC savings in poor families--provided that these families establish paternity and entitlement to child support and earn enough to leave welfare.

Thus CSAS may be viewed as a three-legged stool, in which the assured benefit is as vital to its balance as a numerical child support standard and routine income withholding.

Notes

¹Larry L. Bumpass, "Children and Marital Disruption: A Replication and an Update," Demography, 21 (February 1984):71-82.

²For the best single description, see Harry O. Krause, Child Support in America: The Legal Perspective (Charlottesville, Va.: Michie, 1981). See also David Chambers, Making Fathers Pay: The Enforcement of Child Support (Chicago: University of Chicago Press, 1979); Judith Cassetty, Child Support and Public Policy: Securing Support from Absent Fathers (Lexington, Mass.: D.C. Heath, 1978).

³Cassetty, Child Support and Public Policy; Chambers, Making Fathers Pay; Irwin Garfinkel and Marygold Melli, "Child Support: Weaknesses of the Old and Features of a Proposed New System," Special Report 32A, Institute for Research on Poverty, University of Wisconsin, Madison, 1982; Isabel V. Sawhill, "Developing Normative Standards for Child Support Payments," in The Parental Child Support Obligation, ed. Judith Cassetty (Lexington, Mass.: D. C. Heath, 1983).

⁴U.S. Bureau of the Census, CPR, Series P-23, No. 112, Child Support and Alimony: 1978 (Washington, D.C.: U.S. Government Printing Office, 1981), Table B, p. 5.

⁵Kenneth R. White and R. Thomas Stone, "A Study of Alimony and Child Support Rulings with Some Recommendations," Family Law Quarterly 10 (1976):83; L. M. Yee, "What Really Happens in Child Support Cases: An Empirical Study of the Establishment and Enforcement of Child Support Awards in the Denver District Court," Denver Law Quarterly 57 (1979):21.

⁶Chambers, Making Fathers Pay.

⁷Cassetty, Child Support and Public Policy; Garfinkel and Melli, "Child Support: Weaknesses of the Old and Features of a Proposed New System."

⁸Irwin Garfinkel and Sara S. McLanahan, Single Mothers and Their Children: A New American Dilemma (Washington, D.C.: Urban Institute Press, 1986).

⁹Garfinkel and Melli, "Child Support: Weaknesses of the Old and Features of a Proposed New System." CSAS was first proposed by Garfinkel in 1978 in testimony to both the Wisconsin Welfare Reform Commission and the legislature. The system included a standard for awards and a minimum assured benefit. The idea of a standard is attributable to work of Judith Cassetty, who wrote her dissertation with a research assistanceship from the Institute for Research on Poverty, and Isabel Sawhill, who was not then affiliated with IRP. See Cassetty, Child Support and Public Policy; Sawhill, "Developing Normative Standards." The idea of using the income tax system came from Harold Watts, a former director of IRP. His proposal appeared in All Our Children: The American Family under Pressure, by Kenneth Keniston and the Carnegie Council on Children (New York: Harcourt, Brace Jovanovich, 1977). The idea of an assured benefit probably came from the example of Sweden's advanced income maintenance system; or perhaps the idea of a minimum benefit came only after the idea of an addition to our social security menu. The idea of a social security type program is attributable to the Wisconsin tradition which has been transmitted in the current generation by Robert Lampman. Lampman was a student of Edwin Witte, the architect of the 1935 Social Security Act. Witte, in turn, was a student of John R. Commons, the architect of the U.S. workmen's compensation and unemployment insurance systems. See Lampman, Ends and Mean of Reducing Income Poverty (Chicago, Markham, 1971), and Social Welfare Spending: Accounting for Changes from 1950 to 1978 (Orlando, Fla.: Academic Press, 1984).

¹⁰In the U.S. social insurance system two benefit provisions favor low-income workers: progressive replacement rates and minimum benefits. Benefits are equal to a fraction of previous earnings. Replacement rates are progressive because the fraction is higher, the lower are previous earnings.

¹¹President Franklin D. Roosevelt, quoted in Josephine C. Brown, Public Relief 1929-1939 (New York: Henry Holt and Co., 1940), p. 165.

¹²Final Report of the 1937-38 Advisory Council on Social Security, in 50th anniversary edition of The Report of the Committee on Economic Security of 1935 (Washington, D.C.: National Conference on Social Welfare, 1985), pp. 192-193.

¹³Irwin Garfinkel et al., "Evaluation Design for the Wisconsin Child Support Assurance Demonstration," Institute for Research on Poverty, University of Wisconsin-Madison, June 1988; Irwin Garfinkel and Sara S. McLanahan, "The Effects of the Child Support Provisions of the Family Support Act of 1988 on Child Well-Being," Institute for Research on Poverty Discussion Paper no. 901-89, University of Wisconsin-Madison, 1989.

¹⁴The data used for the simulation are from the 1986 Current Population Survey-Child Support Supplement (CPS-CSS). The CPS-CSS provides a representative national sample of custodial mothers. Estimates of non-resident fathers' incomes are derived from the demographic characteristics of the resident mothers. For a description of the methodology, see Irwin Garfinkel and Donald Oellerich, "Noncustodial Fathers' Ability to Pay Child Support," Demography 26, no. 2 (May 1989):219-233.

Based on data from Wisconsin, about one-tenth of all children potentially eligible for child support live with their fathers. The CPS-CSS provides no data on the numbers or characteristics of these families. Because the omission of this group would underestimate costs, the CPS-CSS data is augmented by an artificial sample of resident fathers based on Wisconsin data. For a description of the microsimulation model used to derive the estimates of costs, poverty, and welfare caseload reductions, see Irwin Garfinkel, Philip K. Robins, Patrick Wong, and Daniel Meyer, "The Wisconsin Child Support Assurance System: Estimated Effects on Poverty, Labor Supply, Caseloads, and Costs," Journal of Human Resources 25(1990):1-31.

¹⁵The estimates of welfare caseload reductions may be too high or too low because they are based on annual data whereas eligibility is based on monthly income.

¹⁶Irwin Garfinkel and Marieka Klawitter, "The Effect of Routine Income Withholding on Child Support Collections," Institute for Research on Poverty Discussion Paper no. 891-89, University of Wisconsin-Madison, 1989.

¹⁷In effect, Wisconsin was to be given a block grant to run both a child support assurance system and the AFDC system at the same cost to the federal government as the old AFDC system alone. Extra costs or savings were solely to be borne by or be of benefit to the state.

¹⁸See Irwin Garfinkel and Marygold Melli, "The Use of Normative Standards in Family Law Decisions: Developing Mathematical Standards for Child Support," Institute for Research on Poverty Discussion Paper no. 900-89, University of Wisconsin-Madison, for a discussion of the critical issues that distinguish the Wisconsin and Colorado standards--the two leading competitors.