

**Alternative Cost-of-Living Adjustments to Child Support Orders:  
A Simulation Using Wisconsin Orders**

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## I. INTRODUCTION

This report considers the potential effects of implementing an automatic cost-of-living adjustment (COLA) to modify child support awards in Wisconsin. The first half of the report—based primarily on literature reviews, analysis of state child support legislation, and discussion with officials in other states—presents alternative strategies for automated updating of orders that have been contemplated or tried elsewhere.<sup>1</sup> The second half analyzes the potential impacts of implementing one of the alternative COLA adjustments in Wisconsin.

## II. UPDATING CHILD SUPPORT ORDERS: A BRIEF HISTORY

Judicial rule in the United States has traditionally emphasized the finality of judgments for divorcing or never-married parents who are dissolving their relationship.<sup>2</sup> Divorcing adults were thought to be entitled to “make a clean break” and “get on with their lives,” unencumbered by concerns over the possibility of reopening court cases related to their divorce or to the arrangements made for their children. Although courts had the authority, based on state statute or derived from common law, to modify child support orders, the reluctance of courts to intervene after establishment of the original order came to be reflected in the “American” rule that child support orders could be amended only in the event of a significant and ongoing change in the circumstances of the child or the parent that could not have been foreseen at the time of the original order.<sup>3</sup>

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<sup>1</sup>Most of the material in the first half of the report appeared in the author’s earlier report, “Alternative Cost-of-Living Adjustments to Child Support Orders,” September 2003.

<sup>2</sup>See Oldham (2000) for a discussion of this point.

<sup>3</sup>For instance, increased child-rearing costs associated with the aging of the child from infancy through the teen years could have been foreseen, and therefore did not represent grounds for amending an order.

During the 1980s, child support policy makers focused on developing guidelines intended to resolve a variety of problems that resulted from individualized court orders.<sup>4</sup> Little attention was paid to the modification of orders that resulted from application of the new guidelines, except to consider whether the establishment of guidelines by itself constituted an unforeseeable but substantial change in circumstances.<sup>5</sup>

By the late 1980s researchers had begun to raise questions about whether the widespread disinclination to amend child support orders was contributing to the impoverishment of children.<sup>6</sup> Under the existing judicial standard, the custodial parent (usually the mother) was required to absorb the impact of inflation and the increased costs associated with the aging of children. Custodial parents who sought to change an order that was no longer adequate for the support of the children had to take the initiative in seeking a change in the order. This could be an expensive undertaking. Coupled with lack of information about the true financial circumstances of the noncustodial parent and uncertainties about what the courts would consider adequate evidence of a substantial change in circumstance, it was not surprising that relatively few orders were updated.<sup>7</sup>

The result was that few children living in single-parent households were able to benefit from the improved standard of living that would have come to them had they continued to live with the noncustodial parent, whose income and ability to pay child support typically increases over time,

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<sup>4</sup>See, e.g., Garfinkel (1982) for a description of the problems and Williams (1987) for a review of this period in the development of child support policy.

<sup>5</sup>About half the states adopted rules providing that the promulgation of the then-new guidelines might constitute a substantial change in circumstance if the guidelines-determined amounts differed from the existing order by a “significant” amount.

<sup>6</sup>See, for instance, Sidel (1986).

<sup>7</sup>See Robins (1992).

especially among fathers in nonmarital cases.<sup>8</sup> Furthermore, owing to inflation, the real value of child support orders declined substantially over time.<sup>9</sup>

The passage of the Family Support Act of 1988 required states to focus more resources on review and modification of child support orders. Effective October 13, 1993, states were required at least every three years to review and, if appropriate, adjust child support orders in most public welfare (IV-A), subsidized Foster Care (IV-E), and Medical Assistance cases. In most other IV-D cases, child support agencies were required to review and, if appropriate, adjust orders at the request of either parent.

The regulations implementing the Family Support Act in effect attempted to replace the traditional “substantial change in circumstances” test by providing, with some exceptions, that inconsistency between the original order amount and the amount that resulted from current application of the guideline constituted an adequate basis for petitioning for a modification of the order in a IV-D case. Comments published with the regulations leave little doubt that the Secretary of the U.S. Department of Health and Human Services (DHHS) intended to replace the traditional substantial change test.<sup>10</sup> The Omnibus Budget Reconciliation Act (OBRA) of 1993 completed the change by confirming that the “substantial change-in-circumstances” test is largely superseded by a rule that the parent need not demonstrate a change in circumstances if a parent requests a review of a child support order once in the three-year review cycle.

These were fairly substantial changes in the traditional rules governing modification of child support orders. Although not adopted uniformly by the judiciary, many observers expected that order revisions would become much more common. Several studies and demonstration projects were undertaken to examine the effects of the new review and adjustment procedures. The federal Office of Child Support

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<sup>8</sup>See Meyer (1995) and Phillips and Garfinkel (1993).

<sup>9</sup>See Williams (1987) and Smith (1994).

<sup>10</sup>57 Federal Register 61,577 (December 28, 1992) as quoted in Smith (1994).

Enforcement (OCSE) funded two studies, one in Oregon and the other a four-state study in Delaware, Colorado, Florida, and Illinois.<sup>11</sup> In addition, Wisconsin undertook an order revision project in the late 1980s.<sup>12</sup> A key finding of these studies was that relatively few cases (from 4 percent in Florida to 14 percent in Oregon) actually obtained revisions. State officials believed that the increased workload without a commensurate increase in state and local staffing, coupled with continued reluctance of custodial parents to cooperate, explained much of the failure to affect wider numbers of cases. However, in those cases in which orders were revised, the modifications were substantial. Across all the studies, average awards for public assistance cases increased between 68 and 102 percent after review and modification. Average awards for non-public-assistance cases increased between 54 and 66 percent.<sup>13</sup>

Many states reported dissatisfaction with mandatory review and adjustment. A resolution by the National Child Support Enforcement Association (NCSEA) in July 2000 stated that review and adjustment was not cost effective.<sup>14</sup> The effort to obtain information was time consuming. In states which use guidelines based on an income shares model, information about the income of both parents had to be collected, and in many states information about child care costs, medical costs, health insurance premiums, and other child-related costs also had to be collected. States were concerned that staff time was being diverted from other necessary tasks, including paternity establishment and enforcement of existing orders.

In 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) repealed the requirement for mandatory reviews (and adjustments, if appropriate) of most IV-D cases. In its place, PRWORA required that states notify parents of their right to seek a traditional review every three years. PRWORA also granted states the option of adjusting child support orders through the use of

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<sup>11</sup>See Price (1991) and Bishop (1992).

<sup>12</sup>See Kost et al. (1995).

<sup>13</sup>These findings are summarized in U.S. DHHS (2001).

<sup>14</sup>NCSEA (2000).

cost-of-living or other automated adjustments that alter orders periodically without traditional reviews. In response to PRWORA, 32 states, including Wisconsin, announced that they planned to discontinue triennial reviews of public assistance cases except when requested by a parent.<sup>15</sup>

### III. AN ALTERNATIVE TO TRADITIONAL REVIEW AND ADJUSTMENT: THE COLA

Changes in federal law have eliminated the legal barrier that restricted access to order modification by requiring a demonstration of significant change in circumstances. For a variety of reasons, however, these changes have not resulted in a substantial increase in the number of orders that are revised to reflect the current circumstances of the children and parents. With the elimination of mandatory reviews, officials at the DHHS have raised concerns about adverse effects on parents and children if orders remain unchanged over the entire minority of the children.<sup>16</sup> OCSE funded four states to experiment with alternative automated methods for identifying orders potentially eligible for modification. In addition, OCSE funded a study<sup>17</sup> of three states (Minnesota, Vermont, and New York) that either use COLAs or were considering an alternative modification mechanism. Since the time of that study, New Jersey has also implemented a COLA.<sup>18</sup>

#### Alternative COLA procedures

States that have adopted COLAs have developed somewhat different implementation rules to address the following questions:

#### I. What threshold should trigger the operation of the COLA?

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<sup>15</sup>Brown (1999b).

<sup>16</sup>Brown (1999b).

<sup>17</sup>DHHS (2001).

<sup>18</sup>It should be noted that the statutes of many states (including Wisconsin) permit the inclusion of a COLA in an individual child support order. This paper is concerned primarily with automated or automatic COLAs that are designed to be used with large numbers of orders.

- II. Should the COLA be voluntary or mandatory?
- III. How should an appeal of a proposed COLA operate? What should be the grounds for rebuttal?
- IV. How is the automatic COLA operationalized?

### *The Threshold*

In two states (Minnesota and New Jersey), the COLA is triggered by passage of time: all orders are subject to application of the COLA every two years. New York has adopted a slightly different system: the COLA is triggered if two years have elapsed since the original order or last modification AND if the proposed increase is 10 percent or more.<sup>19</sup>

### *Voluntary or Mandatory?*

Officials in both Minnesota and New York stress that the COLA should be mandatory because it removes the burden of initiating the process from the custodial parent.<sup>20</sup> The custodial parent can remain blameless in instances where the noncustodial parent objects. This may reduce litigation related to custody or other child support issues. In Minnesota, all IV-D cases are included.<sup>21</sup> In New York, it is automatic for TANF cases and optional for non-TANF cases.<sup>22</sup> In Iowa, a state sometimes identified as having an automated COLA system, both parents must request in writing that the order be updated via the

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<sup>19</sup>The New York state IV-D office originally proposed a system similar to Minnesota's, but the legislature was concerned that IV-D staff would be overwhelmed with changing large numbers of orders. After proposing several alternatives designed to reduce the number of eligible orders, this method was eventually adopted. (Personal communication with New York official.)

<sup>20</sup>Parents are notified of the proposed change in the child support order and may appeal it.

<sup>21</sup>At least one organization has published a pro se packet for use by non-IV-D case parents who wish to bring a court action without the assistance of an attorney.

<sup>22</sup>Non-TANF orders are part of the automated processing undertaken to identify eligible cases. When a non-TANF order is identified as eligible for a COLA, both parents receive a mailing with a simple postcard return. If either parent returns the postcard, the case will be included in the automated processing. The other parent retains the right to appeal the outcome.

COLA before the order can be included in the automated batch processing to determine the revised amount.<sup>23</sup>

### *The Appeal Process*

Once the states determine the amount of the proposed increase in the order, both parents are notified of the proposed change (as required by federal law). All states permit parents to appeal the COLA increase. The grounds for rebuttal in Minnesota and New Jersey are limited to the question of whether parental income actually increased at the same rate as the Consumer Price Index or whether the existing child support order already provides some alternative mechanism for periodic updating. In New York, an appeal triggers a full review of the child support order.<sup>24</sup> In Minnesota, following a Minnesota Supreme Court ruling in 1998, the requirements of the appeal process (including notice to the parties, scheduling of hearings, assembling of tax data, filing of motions, payment of filing fees, etc.) are the responsibility of the person who brings the appeal. The magistrate hearing the appeal has some discretion to reduce the amount of the COLA increase if actual income did not increase at the same rate as the Consumer Price Index.

### *Operationalizing the COLA*<sup>25</sup>

Minnesota conducts an annual process that begins in January of each year. Since 1983, all court orders have included language to provide that the COLA can be applied to the order every two years and stating which CPI index should be used. All cases that meet the standard (existence of a Minnesota order,

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<sup>23</sup>Iowa receives few requests for application of a COLA. Perhaps because a request for a traditional review and modification requires a request from only one parent, many more requests for review and modification are received. (Personal communication from an Iowa official.)

<sup>24</sup>In New York, the outcome of the appeal process could be a reduction of the order, an increase greater than the COLA process would suggest, or the application of the COLA-determined increase. In both Minnesota and New Jersey, the outcome is either to apply the COLA increase (or in some instances, a fraction of it) or to leave the amount of the order unchanged from before the COLA process was initiated.

<sup>25</sup>More detail can be found in U.S. DHHS (2001).



elapse of two years since the last modification of the order, and no evidence of a domestic violence issue) are identified in the automated child support information system, PRISM. The COLA for these cases is calculated automatically, and PRISM mails notices to both parents. If there is no objection, the COLA takes effect in May. PRISM mails notices to employers to increase withholding effective in May. If there is objection, notice must be served by the noncustodial parent by April 30. The automatic processing in PRISM for an appealed case is stopped until the magistrate has ruled.

New York adopted its COLA legislation in 1997. The automated processes are similar to Minnesota's except that the processing occurs every month, rather than annually beginning in January. To be determined eligible, two years must have elapsed since the last modification and the CPI-U index must have increased by at least 10 percent since either the last modification or 1984, the base year.<sup>26</sup> In New York, the custodial parent may also appeal if she believes that the noncustodial parent's income has risen by more than the increase of the CPI-U. The county IV-D office may also appeal.<sup>27</sup> The subsequent hearing is similar to a new support order hearing, with full financial disclosure required of both parents.<sup>28</sup>

New Jersey adopted its COLA legislation in 1998. As in New York, orders potentially eligible for COLA modification are identified every month, based on whether two years have elapsed since the last modification. Both parents receive notice of the impending change and how it was calculated. If a parent objects, both parents are required to send income information to a county IV-D office, which will make a ruling on whether incomes of the parents have changed enough to warrant the COLA. If a parent continues to object after an administrative finding, a court hearing limited to the same question will be held. The court may rule that either the order will be increased by the COLA-determined amount, or that

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<sup>26</sup>Some cases are excluded from the process at its outset, including cases indicating issues related to domestic violence.

<sup>27</sup>Initially nearly 95 percent of appeals were filed by county IV-D agencies. New York officials speculate that this resulted both from local agency access to wage records and to interest in adding medical support to orders that did not already include it (which the courts permit at COLA hearings in most New York counties).

<sup>28</sup>In New York, the route to a full review of a child support order without the necessity of proving a substantial change of circumstances is through a COLA hearing, rather than through the triennial review process.

it will remain unchanged. Parents can continue to request a triennial review regardless of COLA-determined modifications.

State and local child support staff in New York, Minnesota, and New Jersey are generally satisfied with the way that the COLA adjustment process operates in their states. They believe that the COLA helps keep orders in line with rising incomes and increasing child costs (although it does not substitute for a full review and modification in instances of greatly changed income or expenditures for the child). Child support officials believe that the COLA is cost-effective to operate, and is perceived as generally fair by parents (as evidenced by a low rate of parental appeals and low number of complaints to front-line workers). Custodial-parent groups are generally supportive. Fathers' rights groups tend to object on the grounds that the COLA process makes unfair orders worse over time.

#### IV. SIMULATING A COLA USING WISCONSIN DATA

At least two issues require consideration in an effort to assess the potential impact of adoption of an automated COLA adjustment on Wisconsin's orders. The first is what has happened over time to existing Wisconsin orders, and the second is how that compares to what might occur under the operation of an automated COLA adjustment.

##### The Data

We had originally hoped to use Cohorts 17 and 18 from the Court Record Database (CRD) because we intended to use information collected as part of the CRD to understand the reason(s) why orders were subsequently modified. We hoped to use this information to help estimate the proportion of orders that might actually be updated in an automatic process, as compared to those that might successfully appeal a COLA increase. However, we found only 29 cases in which the apparent reason for an order modification was clearly stated in the written record. Because these cases were too few to provide information on modification reasons, we decided to use data from KIDS so that we would gain the benefit of using a much larger sample.

To understand how a COLA might result in changed orders in Wisconsin, we selected a sample from KIDS that consists of all new orders established during 1997. In this sample are 5,555 cases with fixed dollar orders.<sup>29</sup> We deleted 16 cases in which the apparent new order disappeared in the next month. We converted all orders to monthly amounts. By selecting the sample in this way, we have excluded all orders that were converted from percentage expressed to fixed dollar orders.

### The Actual Change in 1997 Orders over Time

As shown in Table 1, many orders have been modified over the nearly five years after they were initially established. However, we are unable to analyze the reasons for modification, which may include factors such as changes in each parent's proportion of placement, birth of additional children, or other changes in circumstances such as loss of a job or incarceration of one parent.

Table 1<sup>30</sup> shows the distribution of the initial orders in the second month after the order was entered.<sup>31</sup> In that month, 325 orders are equal to \$0. It is likely that many, or perhaps all, of these 325 orders were initially being held open pending additional court findings. By the end of the first year after the second month, 264 orders have been changed to positive amounts. By four years later, almost all initial orders that started at zero have been modified. Only 26 orders remain equal to zero.<sup>32</sup>

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<sup>29</sup>We eliminated other kinds of orders (percentage expressed and others) because it is likely that any existing orders of those types could not be modified via an automated COLA adjustment.

<sup>30</sup>All tables and discussion in this report are in terms of nominal dollar figures. If the study period were longer than the five years of data examined here, it would be prudent to use real (deflated) dollars.

<sup>31</sup>More than 200 orders that are set to \$0 in the first month are modified to a positive amount in the second month, so we begin our analysis with the second month of the order. These are likely to be orders that were held open pending additional data collection or court determination.

<sup>32</sup>The 26 cases that are not changed during the five-year period may represent those in which contact with the noncustodial parent was never established.

**TABLE 1**  
**Change in Actual Monthly Orders over Time**  
**(compared annually to the actual amount of the initial order)**

Initial Amount	N	Mean	Actual Order 1 Year Later			Actual Order 2 Years Later			Actual Order 3 Years Later			Actual Order 4 Years Later		
			N ↑	N ↓	N ↔	N ↑	N ↓	N ↔	N ↑	N ↓	N ↔	N ↑	N ↓	N ↔
<b>Low Orders</b>														
\$0	325	—	264	—	64	279	—	45	285	—	39	299	—	26
0<\$50	261	34	121	7	133	126	10	125	129	12	120	134	11	116
\$50–\$99	590	76	205	24	361	211	33	346	220	46	323	229	48	312
<b>Middle Range Orders</b>														
\$100–\$149	1,200	126	83	36	1,081	108	48	1,044	134	55	1,011	167	67	966
\$150–\$199	723	169	35	41	647	64	57	602	85	69	569	117	32	544
\$200–\$299	1,133	238	46	60	1,026	73	83	976	111	96	925	145	111	876
<b>Medium High Orders</b>														
\$300–\$399	514	335	24	51	439	41	70	402	58	88	367	80	95	338
\$400–\$499	324	434	22	40	262	30	53	241	33	76	215	47	86	191
\$500–\$749	306	588	14	43	248	16	67	221	19	89	196	17	95	192
<b>Highest Orders</b>														
\$750–\$999	83	851	4	18	59	3	32	46	5	31	44	5	41	35
≥\$1,000	80	1,489	—	14	66	—	26	54	—	33	46	—	35	44

Among other low orders (less than \$100) upward modification is much more likely than downward modification. Four years after the initial order, for orders less than \$50, about 51 percent had increased, 4 percent had decreased, and about 44 percent remained unchanged. For initial orders between \$50 and \$100, about 39 percent had increased after four years, about 8 percent had decreased, and about 53 percent remained unchanged.

Initial orders in the middle range (orders between \$100 and \$299 per month) are more likely to remain unchanged. After four years, about 81 percent of orders set initially between \$100 and \$149 remained unchanged. For initial orders from \$150 to \$199, the proportion is 75 percent, and for initial orders from \$200-\$299, the proportion is 77 percent.

Initial orders in the middle range that are modified are more likely to be revised upward than downward, similar to the group of low initial orders. In the first subgroup (\$100-\$149), about 14 percent of the initial orders had increased after four years, and about 6 percent were revised downward. In the second subgroup (\$150-\$199), the analogous proportions are 16 percent and 9 percent. In the third subgroup (\$200-\$299), by four years after the initial order, about 13 percent had been revised upward and 10 percent revised downward.

The pattern is somewhat different among medium high initial orders, those that are between \$300 and \$749 per month. Many orders remain unchanged: in the first subgroup (\$300-\$399) about 66 percent were unchanged four years after the initial order; in the second subgroup (\$400-\$499), about 59 percent were unchanged; and in the third subgroup (\$500-\$749) about 63 percent remained unchanged after four years.

In this medium high group of initial orders, however, when initial orders are revised, they are more likely to be decreased than increased, unlike lower orders. In the first subgroup (\$300-\$399) about 19 percent were revised downward, compared to 16 percent that were revised upward. In the next subgroup (\$400-\$499) the analogous proportions are 27 percent revised downward compared to 15

percent revised upward. In the third subgroup (\$500-\$749), about 31 percent were lower after four years, compared to six percent that were higher.

The highest orders (those that are at least \$750 per month) are the least likely to be revised upward. This group constitutes only about 3 percent of all new fixed orders initially established in 1997. About 49 percent of them remained unchanged after four years. After the same period, about three percent were revised upward, while 48 percent were revised downward.

Table 2 shows changes in the means of actual orders over time. We use the same subgroups for the second month after the initial ordered amounts as shown in Table 1 and track the mean order of each subgroup over time. The means of orders in each subgroup in the low category (\$0- \$99) continue to rise over the four years, although the largest increase in the mean was in the first year after the initial order was established.

In the medium range of initial orders (\$100-\$299), orders generally rose over the four years, although the rate of increase, compared to low initial orders, slowed. In the medium high group (\$300-\$749), this pattern reverses itself, and the mean of the orders four years after they were established was lower than it had been initially. This is also true for the highest order groups.

Table 3 examines the average of the proportion of earnings that each actual order represents. Monthly earnings were calculated by dividing the quarterly earnings from the Division of Unemployment Insurance Wage Record by three and assigning the calculated monthly earnings to each month of the appropriate quarter. Resulting monthly earnings less than \$1.00 were discarded. If a case had no earnings

**TABLE 2**  
**Actual Average Order Amounts over Time, 1997 Sample**  
**(2nd month after initial order)**

Initial Order Amounts:	Average Initial Order		2 Years Later	4 Years Later
	N	Mean	Mean	Mean
<b>Low Orders</b>				
\$0	325	—	\$157	\$170
\$1–\$49	261	\$34	83	88
\$50–\$99	590	76	97	102
<b>Medium Range Orders</b>				
\$100–\$149	1,200	125	132	139
\$150–\$199	723	169	171	182
\$200–\$299	1,133	238	237	242
<b>Medium High Orders</b>				
\$300–\$399	514	335	320	325
\$400–\$499	324	434	406	382
\$500–\$749	306	588	529	493
<b>Highest Orders</b>				
\$750–\$999	83	851	718	635
\$1,000+	80	1,489	1,133	1,013

**TABLE 3**  
**Estimated Proportion of Earnings Paid for Child Support**  
**Using Actual Orders**

Initial Order Amounts:	Mean Proportion of Income for Actual Orders of 1997 (N=3,504)	Mean Proportion of Income for Actual Order after 2 Years (N=3,226)	Mean Proportion of Income for Actual Order after 4 Years (N=2,944)
<b>Low Orders</b>			
<\$50/mo	13	4	3
\$50–\$99	58	42	24
<b>Medium Range Orders</b>			
\$100–\$149	81	59	60
\$150–\$199	52	47	53
\$200–\$299	52	161	41
<b>Medium High Orders</b>			
\$300–\$399	34	36	31
\$400–\$499	43	29	58
\$500–\$749	44	36	42
<b>Highest Orders</b>			
\$750–\$999	35	31	25
≥\$1,000	33	37	26

**Note:** The income of obligors is estimated from Unemployment Insurance wage records.



in the second, 26<sup>th</sup>, or 50<sup>th</sup> month after the order was initially established, it was excluded from the calculation of the mean (and median) proportion of income.<sup>33</sup>

For this analysis we have made no attempt to separate orders by the number of children for whom they are being made, or by the proportion of time that each child spends with each parent, so the tables cannot be interpreted as an assessment of whether the orders were set using Wisconsin's child support guidelines. The tables should instead be interpreted as providing another way of looking at the progression of child support orders over time. Table 3 shows that over four years of analysis, despite the fact that average orders had increased somewhat, the proportion of earnings that the orders represent declined. This is because the average earnings rose at a faster rate than have the average orders.

Because the range of the individual proportions of child support to earnings is quite wide, we also include Table 4, which shows the median of the distribution for each order subgroup. The median represents the proportion of order to earnings at which half the child-support-order- to-earnings ratios are lower and half are higher. So, for example, among those whose initial orders are between \$50 and \$99, half of the individuals have child-support-order-to-earnings ratios that are below 13 percent. The fact that the mean (from Table 3) for the same group is so much higher (58 percent) shows that some members of this group have orders that represent closer to 100 percent of their earnings for that month.

#### Applying a COLA Adjustment to 1997 Wisconsin Orders

For this simulation, we have adopted an updating strategy somewhat similar to that used by Minnesota and New Jersey. We include all IV-D cases with a new order in 1997. We applied the

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<sup>33</sup>The problems with this approach to using quarterly Wage Record data are well known. First, the Wage Record may not contain the earnings of all who are employed, either because the employers are exempt from filing quarterly wages with DWD, or because the employer is located out of state. Second, the earnings may not be equally distributed across the quarter.

**TABLE 4**  
**Estimated Proportion of Income Spent for Child Support**  
**Using Actual Orders**

For Initial Orders of Amounts:	Median Proportion of Income for Actual Orders of 1997 (N=3,504)	Median Proportion of Income for Actual Order after 2 Years (N=3,226)	Median Proportion of Income for Actual Order after 4 Years (N=2,944)
<b>Low Orders</b>			
<\$50/mo	0	0	0
\$50–\$99	13.3	8.1	5.7
<b>Middle Range Orders</b>			
\$100–\$149	19.1	14.3	11.4
\$150–\$199	16.6	13.6	12.4
\$200–\$299	15.3	13.2	13.4
<b>Medium High Orders</b>			
\$300–\$399	16.1	14.3	14.2
\$400–\$499	18.4	15.1	14.4
\$500–\$749	20.3	19.4	18.1
<b>Highest Orders</b>			
\$750–\$999	24.3	21.4	21.1
≥\$1000	28.7	28.4	24.1

**Note:** The income for obligors is estimated from Unemployment Insurance wage records.

Consumer Price Index for Urban areas (CPI-U). Unlike Minnesota, which processes all eligible orders so that any increase would be implemented in May, we use a variation of the New Jersey plan, which selects orders every month based on whether two years have elapsed since the last modification.<sup>34</sup> Unlike Minnesota, we do not have a mechanism for eliminating cases in which there may be domestic violence issues. In addition, we have no mechanism for simulating the proportion of cases in which an objection to the proposed increase would be successful. In summary, we examine the outcomes in a scenario in which all cases in the sample are subject to a COLA adjustment two years after the second month of the first order, and then two years after that.<sup>35</sup> This results in mean and median changes in orders over time that are higher than would occur under actual implementation of an automated COLA adjustment. Therefore, these simulated figures should be viewed as the upper bound on estimates of new orders under an automated COLA scheme.

Table 5 shows the means and medians of original orders and those for orders adjusted by the COLA two and four years later. For mathematical reasons, orders for \$0 cannot be adjusted using a COLA. Actual orders are adjusted upward (refer to Table 2) through court order. For non-zero orders, the average (both mean and median) of all the orders rises quite slowly over four years. This reflects the relatively low rate of inflation during the years 1997-2001, which is captured in the CPI-U index. This outcome is different from the change of actual average orders over time (refer to Table 2): the mean of actual lower orders rose more under existing practice than under the simulated COLA, and the mean of actual higher orders declined over the four years of analysis.

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<sup>34</sup>As noted earlier, we start the analysis in the second month of the order, so that some of the orders that may have been held open will have been ordered to pay actual dollar amounts. The process could instead begin with an alternative “start” date.

<sup>35</sup>We initially attempted to apply the COLA adjustment only to cases in which there had been no modification for two years. Another option was to apply the COLA adjustment only to those cases without a downward modification, on the grounds that those downward-modified cases would successfully object to the increase. However, it was difficult to know how to treat orders that appeared to have been held open, and there were other problems in interpretation for other orders. So rather than adopt arbitrary rules for determining which cases might be eligible, we decided to apply the COLA adjustment to all orders.

**TABLE 5**  
**Estimated Orders using COLA Adjustment**

Initial Order Amount	1997 Initial Order			Two Years Later			Four Years Later		
	N	Median	Mean	N	Median	Mean	N	Median	Mean
<b>Low Orders</b>									
\$0	325	—	—	325	—	—	325	—	—
\$1–\$49	261	40	34	255	41	35	235	40	36
\$50–\$99	590	77	76	550	78	77	521	78	78
<b>Middle Range Orders</b>									
\$100–\$149	1,200	128	125	1,202	130	128	806	120	124
\$150–199	723	170	169	701	168	172	1,030	165	167
\$200–\$299	1,133	235	238	1,133	236	241	1,138	240	245
<b>Medium High Orders</b>									
\$300–\$399	514	325	335	548	337	340	588	338	345
\$400–\$499	324	433	434	327	442	442	358	449	452
\$500–\$749	306	584	588	323	581	596	330	582	605
<b>Highest Orders</b>									
\$750–\$999	83	850	851	90	855	860	107	835	852
\$1,000+	80	1,201	1,489	85	1,244	1,516	101	1,210	1,517

Table 6 shows the means of the proportion of earnings that the child support orders represent over time, after adjusting the orders for the COLA. For low child support orders (less than \$149 per month), the proportion of earnings devoted to child support is slightly higher than the proportion of earnings for actual orders (refer to Table 3), but still falls over the four-year period. This reflects the fact that earnings for those who started with low orders rose at a higher rate than did either actual or COLA-adjusted orders. The means of those in the middle order range (\$150-\$299 per month) are slightly more variable under the COLA adjustment, but tend not to deviate by a great deal from the means of the actual orders in the same time periods. The means of the medium high and high initial orders do not decline as much over time under the COLA adjustment as do the means of the actual orders. For those with higher orders, COLA-adjusted orders do a somewhat better job of “keeping pace” with increasing earnings than do actual orders as (sometimes) modified by the courts.<sup>36</sup>

For comparison with Table 4, we show Table 7, which examines the medians of the orders over time. For all initial order amounts, the median actual orders decline over time, especially for lower orders. Under the COLA simulation, in contrast, the medians rise over time.

## V. CONCLUSIONS AND REFLECTIONS ON FURTHER RESEARCH

This report has examined how Wisconsin child support orders first established in 1997 have changed over time. These changes were then compared that to a simulation of how all non-zero IV-D orders would change were they subject to a COLA adjustment every two years. We did not consider a variety of factors which might affect the modification decisions made by courts, such as changes in the proportion of physical placement, changes in the medical or other needs of the child, large changes in the earnings or income of both parents, and other changes in circumstance. We found that lower orders (which are more likely to be ordered for people with low incomes) tend to be modified upward more often

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<sup>36</sup>Recall that there may be other reasons, not accounted for in this analysis, which may result in greater variety among the court-ordered modifications than is true among the COLA-adjusted orders.

**TABLE 6**  
**Estimated Proportion of Income Paid for Child Support**  
**Under COLA-Adjusted Orders**

For Initial Orders of Amounts:	Mean Proportion of Income for Actual Orders of 1997 (N=3,504)	Mean Proportion of Income for COLA Adjusted Order after 2 Years (N=3,226)	Mean Proportion of Income for COLA Adjusted Order after 4 Years (N=2,944)
<b>Low Orders</b>			
<\$50/mo	13	5	6
\$50–\$99	58	33	18
<b>Middle Range Orders</b>			
\$100–\$149	81	53	44
\$150–\$199	52	49	55
\$200–\$299	52	46	50
<b>Medium High Orders</b>			
\$300–\$399	34	38	29
\$400–\$499	43	33	50
\$500–\$749	44	36	63
<b>Highest Orders</b>			
\$750–\$999	35	32	32
≥\$1000	33	40	33

**Note:** The income for obligors is estimated from Unemployment Insurance wage records.

**TABLE 7**  
**Estimated Median Proportion of Income Paid for Child Support**  
**Under COLA-Adjusted Orders**

Initial Order Amounts:	Median Proportion of Income for Actual Orders of 1997 (N=3,504)	Median Proportion of Income for COLA Adjusted Order after 2 Years (N=3,226)	Median Proportion of Income for COLA Adjusted Order after 4 Years (N=2,944)
<b>Low Orders</b>			
<\$50/mo	0	0	0
\$50–\$99	13.3	8.0	5.8
<b>Middle Range Orders</b>			
\$100–\$149	19.1	13.1	9.3
\$150–\$199	16.6	13.5	12.2
\$200–\$299	15.3	13.1	13.6
<b>Medium High Orders</b>			
\$300–\$399	16.1	14.8	13.9
\$400–\$499	18.4	15.8	15.3
\$500–\$749	20.3	19.1	19.6
<b>Highest Orders</b>			
\$750–\$999	24.3	22.9	22.7
≥\$1,000	28.7	29.6	27.3

than middle order recipients. High and very high order recipients were more likely to obtain downward modifications under current policy.

If a COLA adjustment system were substituted for the existing processes, the differential rates of change between low and high orders might be somewhat reduced. Overall, we found that, at least over a four-year period characterized by relatively low levels of inflation, earnings increased at a more rapid rate than did child support orders under both a COLA adjustment and under current policy. However, under the COLA simulation, high initial orders grew at the rate of inflation rather than decreasing over time as under current policy, and low orders grew more slowly over time under the COLA simulation than was the case under current policy.

Many questions remain. Since OCSE commissioned its pilots of the COLA adjustment projects, very little research has been conducted on the impact of the COLA on collections, as opposed to its impact on orders. At the request of U.S. DHHS, Minnesota staff did examine the increase in collections that occurred after a COLA adjustment. Analyzing these data, the DHHS reported that collections rose at the same rate as the COLA increases in TANF cases, but by less than the COLA increases in the non-TANF cases.<sup>37</sup> It is not clear why compliance with the newly increased orders should be worse for non-TANF cases.

In addition, none of the COLA states has formally analyzed how the COLA process affects the relationships among order amounts, state guidelines, and the noncustodial parent's ability to pay. No effort was made to assess that question in this study, although the data could be further analyzed to examine the extent to which COLA adjustments appear to come closer to (or move farther from) the amounts the guidelines would require.

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<sup>37</sup>DHHS (2001)



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