

**Child Support Enforcement Use of Contempt and Criminal Nonsupport  
Charges in Wisconsin**

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## **INTRODUCTION**

With the rising proportion of American children who spend at least part of their childhood living apart from one or both parents, public policy has increasingly turned to child support as a mechanism for providing resources to such children. Since the mid-1970s, the federal government has encouraged the establishment and enforcement of child support orders for children with nonresident parents through mandates, incentives, and the provision of various enforcement tools to states, including data systems (such as the New Hires database), automatic payment mechanisms (such as income withholding and the interception of tax refunds), and administrative consequences for nonpayment (such as the revocation of licenses). Even with these tools, there remains a relatively large proportion of nonresident parents with child support orders who do not comply with their payment obligations. A recent Wisconsin study (Ha, Cancian, and Meyer, 2007) found that over one-half of nonresident fathers did not make regular child support payments during the first year of the order, with 14 percent paying nothing. After five years, those not making any payments increased to 27 percent.

When faced with a noncompliant parent, child support agencies will initially rely on standard enforcement mechanisms (such as identifying employers and requesting wage withholding, intercepting any tax refunds). If these strategies are unsuccessful, the possibility exists for enforcement to be pursued within the criminal and civil justice systems. This includes the issuing of contempt citations, the filing of criminal charges, and, ultimately, arrest and incarceration.

Little quantitative information exists on the use of enforcement mechanisms, but some qualitative research has suggested that incarceration for failure to pay support is not uncommon (May and Roulet, 2005), and questions have been raised about racial and economic disparities in

the use of such tools (Patterson, 2008). Given these concerns and the limited previous analysis of these questions, this report examines the information available in Wisconsin administrative data systems on the incidence of civil and criminal enforcement of child support orders, and the characteristics of those parents subject to such enforcement.

### Issues in Understanding Civil and Criminal Child Support Enforcement

This report follows an earlier report (Cook and Noyes, 2011) that reviewed the civil and criminal child support enforcement options available under Wisconsin law and child support policy, and described results of interviews with local officials involved in various aspects of enforcement proceedings. In Wisconsin, while laws and regulations governing child support are set at the state level, and the child support administrative management system is managed by the state Bureau of Child Support, child support enforcement in each case is managed by county child support agencies and individual case workers. As discussed in the earlier report, there is a fair amount of discretion left for county policy or caseworker preference in the use of the various enforcement mechanisms. This discretion is not reserved to the child support agency or workers. Civil and criminal enforcement actions require the participation of county courts (including judges and family court commissioners), district attorneys, and law enforcement agencies (county sheriffs, local police). Local control and a wide variety of actors leads to a great deal of variation across Wisconsin in the use of these enforcement mechanisms, with some counties reporting that different types of civil or criminal action are never or rarely used, while others report they are the tools of first resort.

In addition, the involvement of so many different offices leads to a dispersion of data. Child support agencies maintain records on the enforcement of the child support case, courts maintain records on court cases and proceedings, and local law enforcement keeps data on

arrests and jail bookings. Some of this data is maintained in statewide administrative data systems, while other data is maintained only at the local level. This makes it difficult to develop a complete picture of the utilization of civil and criminal child support enforcement options across the state.

### Civil and Criminal Child Support Enforcement Actions

In Wisconsin, state child support policy, as stated in the Wisconsin Child Support Manual, lists several judicial actions that may be considered when a child support order is delinquent in an amount equal to a full month of support (Wisconsin Bureau of Child Support, n.d.). These actions include a charge of civil contempt (as permitted by s. 767.77(3)(c), Wis.Stats.) or a charge of criminal nonsupport (if under 120 days as a class A misdemeanor under s. 948.22(3), Wis. Stats, or, if 120 days or more, as a Class I felony under s. 948.22(2) Wis. Stats.)

To pursue a civil contempt charge, the child support agency first recommends the charge to the court. If the court agrees, it typically issues: (1) a purge condition, which is an action that if taken by the delinquent parent will result in a lifting of the contempt charge; the action is usually some pattern of payment on the order. And (2) a remedial sanction, which is usually commitment to the county jail; the remedial sanction is stayed in order to give the parent an opportunity to meet the purge condition. If the parent does not meet the purge condition within the time period specified, then the child support agency can approach the court to ask for the stay to be lifted, and, if the prescribed remedial action is commitment to the county jail, for a warrant to be issued. If a warrant is issued, then the parent is subject to detainment and incarceration until he or she begins to meet the purge conditions.

To pursue a criminal charge, the child support agency or the custodial parent can refer the case to the county district attorney, who makes the final decision to pursue the charge. If the charge is filed, an arrest warrant may be issued, and the delinquent parent is arraigned in court, tried, and, if convicted, subject to penalties that may include incarceration.

While state child support regulations require that enforcement action be taken within 30 days of identifying a delinquency equal to a full month of support (BCS, n.d.), it is also indicated that “administrative enforcement measures are preferable to” judicial remedies. Consequently, there is a great deal of discretion permitted to agencies and staff to determine what circumstances would result in the use of civil contempt or criminal nonsupport charges.

## **DATA AND METHODS**

As mentioned above, there is no single administrative data source that captures all aspects of the judicial enforcement process. Child support workers, courts, and law enforcement all maintain case records reflecting their responsibilities in the legal process. This report examines data from various state and local administrative data systems in order to understand the quality of data available, the incidence of the usage of judicial enforcement actions, and the characteristics of the parents and cases subject to these enforcement actions.

### **Kids Information Data System**

Information on child support cases is maintained in the Kids Information Data System (KIDS), a state-managed administrative data system, with data entered by county child support workers. KIDS includes information on case and individual characteristics, financial information

on child support orders and payments, and enforcement actions.<sup>1</sup> There are three relevant sources of data in KIDS on judicial enforcement: (1) the events table, (2) the warrants table, and (3) the commitment table. Of these three, the most useful for the purposes of our analysis is the events table, as most enforcement actions in child support cases are recorded as case events in this table, with standardized event codes associated with various steps in the judicial enforcement process. The presence, timing, and pattern of these events can be used to determine the incidence and progress of judicial enforcement actions for each case.

The steps in the judicial enforcement process and the entry of enforcement actions into KIDS are prescribed by the procedures in the Wisconsin Child Support Manual (BCS, n.d.). When a decision is made to pursue a civil contempt charge on a case, the case worker is to set up a hearing (event code: HECN), then send notice to the delinquent parent (codes: AT13, EN22, EN23, and EN27). If the delinquent parent does not appear at the hearing, then a bench warrant would be requested (WR04). If the parent is found in contempt, and then fails to comply with the purge conditions, a request is made to lift the stay on the contempt order and to issue a warrant and commitment order (WR10).

To pursue criminal nonsupport actions, the case worker first would notify the custodial parent (codes EN12, EN13), and allow the custodial parent 10 days to object. If the custodial parent objects then there would be no pursuit of criminal charges.<sup>2</sup> If there is no objection, then

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<sup>1</sup>Data on characteristics and financial information drawn from KIDS has been used in many previous IRP reports. This report represents the first comprehensive use of information on judicial enforcement in a report regarding the Wisconsin child support system.

<sup>2</sup>Custodial parents who are receiving public assistance must file for good cause; non-assistance custodial parents may object without a good cause filing.

the case worker would prepare a referral to the district attorney for criminal prosecution (code EN11).

There are many reasons that a case may not proceed through all steps of these two processes. The ultimate goal of any enforcement action is to elicit the noncustodial parent's payment on their order. Merely notifying the delinquent parent of the intention to proceed with these actions may be enough to provoke payments (or negotiations on a plan to pay). If so, further steps in the process may be deemed unnecessary. Also, courts or district attorneys may not agree to find contempt or to pursue criminal charges.

When judicial enforcement actions do result in the issuance of a warrant, then we find record of those warrants in the second source of information in KIDS—the warrants table. This table includes the type of the warrant (bench warrant, commitment warrant, etc.), the date of each issued warrant, and any expiration or withdrawal dates associated with each issued warrant.

Finally, the third source of relevant data in KIDS is the commitment table. This table provides a place for the child support worker to record any instance of incarceration for noncustodial parents, regardless of whether the incarceration is the result of a child support enforcement action, or for some other reason.

While, in theory, these three KIDS tables should provide information to allow us to track judicial enforcement actions from initiation through commitment, we have discovered limitations in the data available from some of these tables that constrain our ability to fully trace the path of all cases. Our initial analysis of the events tables showed that some counties (specifically, Milwaukee, Kenosha, and Racine) had no cases that used the event codes associated with warrant requests or criminal support non-referrals. Since previous discussions with child support and judicial personnel in those counties indicated that these types of enforcement actions were

pursued by those counties, this absence of records appears to be a result of local differences in record keeping. However, it does limit our ability to trace the full enforcement procedure in these counties. (All three of the counties do, however, have warrants recorded in the warrants table.) In addition, relatively low numbers of warrant requests in 2000, 2001, and the first 3 months of 2002, compared both to warrants issued in those years, and to warrants requested in later years, suggest that even in the counties in the rest of the state there is reason to be concerned that warrant request data in KIDS events tables may not be complete (although all these other counties have at least some entry of warrant requests).

In addition, our preliminary examination of the commitment table found that the table was sparsely populated, and did not include many spells of incarceration for noncustodial parents that we observed in state prison and Milwaukee County Jail data. As such, we concluded that the information in the commitment table was not sufficiently complete or reliable to be of use in this analysis.

#### Consolidated Court Access Program

When judicial enforcement actions lead to a court hearing, this will be recorded as part of the court record. Actions in pursuit of a civil contempt charge will be recorded as part of the original court case that determined the child support order due from the noncustodial parent. Criminal contempt charges are filed as new criminal court cases. In Wisconsin, public court case records are maintained in the Consolidated Court Access Program (CCAP). Unfortunately, not all relevant case types are available in the public CCAP data. Child support orders are made as part of family cases (usually divorces or legal separations of married parents), or paternity cases (when parents are unmarried). State law dictates that the paternity determination process in paternity cases is confidential; most counties do not enter any information from paternity cases in

the public CCAP data, including any associated legal enforcement actions for child support noncompliance.

#### Incarceration Data from the Milwaukee County Jail System

We use records on jail bookings from the Milwaukee County Sheriff's Department to determine which noncompliant parents eventually spend some time in jail. These data are obviously limited to those booked into the Milwaukee jail system; data on jail bookings in other counties are not available. In addition, while these data include the charges for which individuals are booked, a comparison of the incidence of bookings for criminal nonsupport with data provided by the Milwaukee County child support office has made us concerned about the reliability of the recorded booking charges, at least those charges related to nonpayment of child support. These concerns were discussed in the earlier report (Cook and Noyes, 2011) that reviewed the civil and criminal child support enforcement options available under Wisconsin law and child support policy, and described results of interviews with local officials involved in various aspects of enforcement proceedings. Our analysis of these records takes into account our uncertainty about the reliability of these charges.

#### Incarceration data from Wisconsin Department of Corrections

We also have records on individuals incarcerated in the Wisconsin state prison system. We examine these records for individuals who are in prison on charges of nonsupport, although we expect that most sentences for nonsupport will be for shorter periods of time that would most likely be served in a county jail, rather than in the state prison system.

## RESULTS

### Civil Contempt Hearings and Warrants

The process of judicial enforcement begins with a decision by the child support caseworker to initiate such action. The initiation of contempt charges is observed in KIDS with the setting of a contempt hearing and a record of notification to the delinquent parent; we identified 506,201 hearing dates recorded in KIDS between 2000 and 2010. If we exclude Milwaukee, Racine, and Kenosha Counties (where the subsequent step of a warrant request is not recorded), there are 310,368 hearing dates. Some events recording the setting of contempt hearings appear to be just rescheduling of previously scheduled hearings; therefore, we focus on the record of notification to the delinquent parent as these notifications appear to be recorded only once per contempt request.

In Table 1a, we see that, between 2000 and 2010, there were 291,698 instances of civil contempt notifications sent to delinquent parents. An individual noncustodial parent may be delinquent on more than one child support case, and so may have multiple notifications at one time (if the case worker is pursuing contempt on a number of delinquent cases at once), and the parent may also have multiple notifications over time as contempt charges are pursued, then resolved or dropped, and then pursued again. In theory, each of these separate notifications could lead to a separate warrant. These 291,698 contempt notifications were sent to 111,240 different noncustodial parents<sup>3</sup> with 57 percent of noncustodial parents being notified once and those remaining receiving multiple notifications (not shown on table). Multiple notifications might occur if a noncustodial parent had resolved an initial contempt hearing notification (by

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<sup>3</sup>Only 1,598 (1.4 percent) of these parents have a warrant requested without first having been notified of the initial contempt hearing, and most of those occur in 2000 and 2001 indicating they may have been sent such notification before the observation period.

negotiating a resolution with the child support agency) and then again fell into noncompliance, or if they remained noncompliant after previous contempt hearings.

**Table 1a. Civil Contempt Actions in Wisconsin 2000 to 2010**

Year	Contempt Actions					
	All Counties	Counties Entering Warrants <sup>a</sup>				
	Civil Contempt Notifications Sent	Civil Contempt Hearing Notifications Sent	Warrants Requested	Ratio of Warrants Request to Contempt Notifications Sent	Warrants Issued	Ratio of Warrants Issued to Warrants Requested
2000	24,182	16,494	2,162	0.13	1,949	0.90
2001	27,967	18,477	2,104	0.11	2,233	1.06
2002	27,419	18,664	4,562	0.24	2,339	0.51
2003	31,935	20,728	6,214	0.30	2,726	0.44
2004	29,227	20,909	6,721	0.32	2,716	0.40
2005	29,430	21,582	7,523	0.35	3,120	0.41
2006	27,046	19,853	7,312	0.37	3,012	0.41
2007	24,219	19,360	7,105	0.37	3,062	0.43
2008	23,934	18,544	7,354	0.40	3,288	0.45
2009	24,207	19,700	7,149	0.36	3,103	0.43
2010	22,132	17,484	6,780	0.39	2,592	0.38
Total	291,698	211,795	64,986	0.31	30,140	0.46

**Source:** KIDS

<sup>a</sup>Excluding Milwaukee, Racine, and Kenosha counties

If the delinquent parent does not appear for a contempt hearing, or if they have had a contempt finding but failed to comply with the purge conditions, then the child support worker can request a warrant. An analysis of the ratio of warrant requests to contempt notifications statewide is not possible, given that three counties (Milwaukee, Racine, and Kenosha) do not record warrant requests. However, for the rest of the state, we observe 64,986 warrant requests<sup>4</sup> for the 211,795 contempt notifications that were sent out, or about 30 percent.

<sup>4</sup>Even in the remaining 69 counties, there are some indications that not all warrant requests are being entered into KIDS, especially in the earliest years of this observations window.

In the data, during the 2000 to 2010 time period, 64,986 warrants were requested, and 30,140 warrants were issued in contempt cases, again excluding the three counties that do not record warrant requests. Over the full period, slightly less than half of the warrants requested resulted in a warrant issued.<sup>5</sup> Another 12,800 contempt warrants were issued in Milwaukee, Racine, and Kenosha Counties during this period, but the ratio of warrants issued to warrants requested in these counties cannot be calculated given that we have no data about the number of warrant requests made.

Table 1a also shows the trends in contempt actions by year. Statewide, the number of contempt notifications sent to delinquent noncustodial parents has varied over this time period, rising to a high of approximately 32,000 in 2003, and then falling to a low in the 2010 of 22,000. As reflected in the second column, this same general pattern occurs when Kenosha, Milwaukee, and Racine Counties are excluded, although the peak is reached in 2005. Warrant requests resulting from nonappearance in court or from noncompliance with purge conditions take a similar path, but with much lower numbers of warrants in 2000 and 2001 and the first three months of 2002, and not as great a decline in the last years of the decade. The remarkably low numbers of warrant requests in 2000 to 2002 may well be the result of differences in documentation procedures, as the shortfalls compared to later years are almost entirely comprised of commitment warrants; bench warrants remain consistent across the 11 years. This also would explain the very high ratio of warrants relative to requests in the first two years. Ignoring these early years, there are approximately two to three notifications sent for every warrant ultimately requested.

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<sup>5</sup>The ratio of warrants issued to warrants requested falls to one-quarter if we exclude the months in 2000 to 2002 when it appears some warrant requests may not have been recorded, as discussed below.

The figures in Table 1a account for total notifications, warrant requests, and warrants. Additional analysis (not shown in the table) traces these actions by the NPC involved. These calculations show that there were 80,768 individual parents in these counties who received the 211,795 contempt notifications. A little less than one-half (36,346, or 45 percent) of these noncustodial parents were notified of a contempt hearing only once during these 11 years, and of those only 5,567 (15 percent) end up with a warrant request.<sup>6</sup> Those with multiple hearing notices (44,422) are more likely to have a warrant request (17,694, or 40 percent). In total, the 64,986 warrants were requested for 24,858 separate noncustodial parents, with 11,692 (47 percent) having one warrant request, 90 percent having 5 warrant requests or less, and the remaining having as many as 56 warrant requests.

#### Criminal Nonsupport Referrals and Warrants

Switching from civil to criminal proceedings, the initiation of criminal nonsupport charges is observed in the data with a notification to the custodial parent. Table 1b shows the 10,493 instances of notice of criminal referral sent to custodial parents statewide. Not all initiations proceed through all of the enforcement steps. As previously noted, the initiation of the action may lead to payments by the delinquent parent, or, at least, contact by the delinquent parent with the child support agency to negotiate a payment plan to stave off further action. In the case of criminal charges, the custodial parent may file a good cause exception (if receiving public assistance), or some other objection (if not receiving public assistance), to the pursuit of criminal charges; if so, the child support worker would not make an actual referral.

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<sup>6</sup>About ten percent of NCPs were notified more than 5 times, but some NCPs had as many as 70 separate notifications over the time period.

**Table 1b: Criminal Nonsupport Actions in Wisconsin 2000 to 2010**

Year	Criminal Nonsupport Actions				
	All Counties		Ratio of Referrals to Custodial Parent Notifications	Criminal Warrants Issued	Ratio of Criminal Warrants to Referrals
	Custodial Parent Notifications Sent	Referrals to District Attorneys			
2000	932	338	0.36	88	0.26
2001	1,213	398	0.33	54	0.14
2002	1,140	405	0.36	100	0.25
2003	1,359	488	0.36	108	0.22
2004	1,219	601	0.49	106	0.18
2005	1,228	570	0.46	114	0.20
2006	1,001	589	0.59	109	0.19
2007	823	555	0.67	73	0.13
2008	542	387	0.71	67	0.17
2009	528	387	0.73	55	0.14
2010	508	366	0.72	28	0.08
Total	10,493	5,084	0.48	902	0.18

Source: KIDS

Over the time period we observed 5,084 referrals to district attorneys for criminal nonsupport were made by child support staff. The number of referrals is approximately one-half of the number of times in which notification is sent to the custodial parent. However, 21 percent of referrals to a district attorney occurred without any recorded event (in KIDS) of notification to the custodial parent. It is possible that case workers are communicating with the custodial parents directly, rather than sending a written notification that would automatically appear in KIDS. Regardless of whether they are preceded by an observed notification, relatively few of all referrals result in the actual issuance of a criminal warrant, indicating that charges have been filed. As can be seen in the final column of Table 1b, about 18 percent of referrals resulted in a criminal warrant being issued.

The trend in custodial parent notifications of possible criminal referrals is generally similar to that found for civil contempt charges, but with a much sharper and more dramatic decline in the initiation of this enforcement tool in the later years, falling from a high of 1,359 in

2003 to just over 500 in 2010. Actual referrals to district attorneys, which may proceed with or without recorded custodial parent notification, rose from 338 in 2000 to a peak of 601 in 2004, and then declined to 366 in 2010. If we look only at those cases where a custodial parent notification is observed, then we move from approximately 30 percent of notifications leading to referrals in the middle of the decade, to just over half near the end of the decade (not shown in table).

Overall, these patterns when looking at the entire state suggest a decline in the initiation of both types of judicial enforcement in the latter half of the decade, although in both contempt and criminal referral procedures, the largest reductions appear concentrated in Milwaukee County. Cook and Noyes (2011) reported concerns from county staff about the resource commitments needed to pursue judicial enforcement actions, and, specifically, a decision by Milwaukee County to emphasize administrative enforcement remedies rather than the use of civil contempt as an enforcement tool beginning in 2006. The overall declines in the use of both of these types of judicial enforcement seem largely driven by the shift in the emphasis of Milwaukee County's enforcement efforts.

To the extent that there is a decline seen in other counties, staff also emphasized that contempt charges were appropriate only when the lack of payments is seen as a willful decision by the delinquent nonpayer, and criminal nonsupport charges are pursued only in situations where the delinquent parent showed a continuing pattern of noncooperation. As such, the decline in the initiation of these enforcement tools may be exacerbated by declines in the economy and increases in noncustodial parent unemployment. As Thomas Kaplan found in another IRP report (2010), child support agencies expressed more sympathy and made additional efforts to accommodate nonpayers' financial situation during the economic downturn. If child support staff

perceive the reason for nonpayment to be a matter of the parent's economic circumstance rather than a willful act of noncooperation, then they may be less likely to pursue such actions.

Finally it should be noted that the use of contempt and criminal nonsupport charges to enforce a child support order are not mutually exclusive. In fact, it is infrequent that a referral for criminal nonsupport be made without first having pursued a contempt hearing. Only 17 percent of delinquent parents were referred for criminal prosecution without first having been notified of a contempt hearing. On the other hand, only a small fraction of parents who are notified of a contempt hearing have a subsequent referral for criminal nonsupport (2.5 percent).

### Executed Warrants

In the warrant tables, KIDS records the warrants that are issued for both civil contempt and criminal nonsupport cases. Information on the date a warrant is executed makes possible an estimate of whether the delinquent parent was arrested (and likely incarcerated, if even just for booking). The data employed for this analysis includes warrants issued in all counties in the state.

Among the 40,854 noncustodial parents that have a warrant issued<sup>7</sup> as part of a contempt hearing, 15,511 (38 percent) have a warrant executed.<sup>8</sup> Presumably, the vast majority of those with executed warrants spent some time in jail. Note that the number of parents with issued warrants exceeds the number of parents who had a warrant request made. This is due in part to missing data on warrant requests for Milwaukee, Kenosha, and Racine Counties, but even in the

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<sup>7</sup>Above we noted 24,858 NCPs with warrant requests in the state, excluding the three counties where we know warrant requests are not recorded. These parents with issued warrants include parents in the entire state. In addition, as discussed above, some parents have warrants issued with no preceding record of a warrant request.

<sup>8</sup>The KIDS warrant table indicates when a warrant has been executed. Execution indicates that intent of the warrant has been carried out. While the execution of a warrant does not necessarily indicate that the parent has been incarcerated, it does indicate that law enforcement personnel have acted on the warrant.

other counties there are more warrants than warrant requests. Assuming that all warrant requests are being entered into KIDS in other counties, this could indicate that courts may be issuing warrants without a warrant request from the child support worker. This could occur if the court issues a bench warrant spontaneously in response to a nonappearing parent.

Putting aside that not all warrants are preceded by a recorded warrant request, the likelihood of moving from a warrant request to an issued warrant can be estimated for those counties where warrant requests are entered into KIDS (i.e., all counties except Milwaukee, Kenosha, and Racine). Among the 24,858 parents with a warrant request, 15,040 (61 percent) have a warrant issued, and 9,549 (38 percent of all, and 63 percent of those with a warrant issued) have a warrant executed. When a warrant is requested by the child support agency, the warrants issued are more likely to be commitment warrants or due diligence warrants, which direct law enforcement to pursue the person with the warrant. Other warrants may not be actively pursued, but only executed if the person encounters law enforcement for other reasons.

A similar exercise can be done for parents in criminal nonsupport cases. Of the 3,591 parents who had a criminal nonsupport case referred to a district attorney by their child support caseworker from 2000 to 2010, only 457 (13 percent) had a criminal warrant issued, and only 268 (7 percent of all referrals, 59 percent of issued warrants) had that warrant executed. This aligns with the findings from the previous report (Cook and Noyes, 2011) in which county child support staff indicated that the criminal nonsupport charges tend to be used only as a last resort with particularly intransigent cases. This is further supported by the fact that the vast majority of criminal support cases have previously been subject to civil contempt enforcement tools.

The likelihood of moving from having a contempt hearing scheduled, to having a warrant issued, and then to having that warrant executed depends on the response of the noncustodial

parent, and subsequent decisions made by individuals in different agencies and institutions—from child support workers, to judges and court commissioners and law enforcement personnel. We are not able to capture many aspects of this process in our administrative data. However, we can consider differences by parents' characteristics and work and child support history, as recorded in administrative data. We find that outcomes for both civil and criminal nonsupport cases vary with the characteristics of the delinquent parent.

Table 2 shows the likelihood, measured in the entire state, of moving through these stages of the civil and criminal enforcement procedure by parental characteristics measureable in our data. The first two columns show the probability of having a warrant issued in a contempt case, the second set of columns show the likelihood of having that warrant executed. The third and fourth set of columns show the progress in the smaller set of parents facing criminal nonsupport; specifically the likelihood of a criminal warrant for those who have had a criminal nonsupport case referred to local prosecutors, and the likelihood of having that criminal warrant executed.

The vast majority of parents facing judicial enforcement procedures are men. Comparing outcomes for fathers and mothers, we see that fathers are somewhat more likely than mothers to have a warrant issued in either contempt or criminal cases, but, given a warrant, are somewhat less likely to be picked up on that warrant. In contempt cases, as parents grow older they are less likely to have warrants issued, and, if we ignore the small number of parents under 18, less likely to have a warrant executed. There does not appear to be a consistent relationship between age and the probability of a warrant in criminal cases.

African-American parents are much more likely to have warrants issued in contempt cases (60 percent of the time), but once warrants are issued they appear to be the least likely to have those warrants executed. In particular, African-American noncustodial parents are almost

**Table 2. Warrants and Executed Warrants for Parents Subject to Contempt Hearings and Criminal Referrals, 2000–2010**

	Among all Parents with a Civil Contempt Hearing		Among all Parents with a Noncriminal Warrant Issued		Among all Parents Referred for Criminal Prosecution		Among all Parents with a Criminal Warrant Issued	
	<i>N</i>	Percent with Warrant Issued	<i>N</i>	Percent with Warrant Executed	<i>N</i>	Percent with Warrant Issued	<i>N</i>	Percent with Warrant Executed
<b>All</b>	111,421	37%	48,551	36%	3,598	13%	1,318	61%
<b>Sex</b>								
Fathers	97,347	37	43,320	35	3,319	13	1,228	61
Mothers	14,000	31	5,201	39	275	9	90	68
<b>By Age</b>								
18 and Under	270	49	132	34	1	0		
18–21	5,267	45	2,387	43	14	14	2	50
21–25	15,712	42	6,574	41	135	18	37	43
25–30	21,665	40	8,670	39	364	14	98	50
30–40	39,367	36	14,342	37	877	17	269	52
Over 40	29,022	30	8,718	37	608	18	192	52
Missing	46	50	23	30	1	0		
<b>By Race</b>								
White	64,040	31	22,529	47	2,355	13	782	63
Black	21,063	61	15,918	24	246	11	189	72
Hispanic	4,838	40	2,400	26	128	16	58	40
Asian	824	24	232	31	15	7	9	33
Other/Multiracial	4,955	48	2,870	29	127	14	61	49
Unknown	15,701	24	4,602	27	727	12	219	55
<b>By UI Earnings in Year Before Contempt Hearing*</b>								
Zero	29,446	38	11,231	32	1,090	18	348	51
\$0–\$2,500	13,068	47	6,106	41	302	15	91	57
\$2,500–\$5,000	8,039	42	3,375	42	149	10	32	31
\$5,000–\$10,000	12,007	38	4,610	41	158	12	31	55
\$10,000–\$20,000	15,521	33	5,091	42	100	13	26	31
\$20,000–\$30,000	8,696	25	2,182	40	39	18	13	8
Over \$30,000	8,421	18	1,493	37	32	16	5	100

(table continues)

**Table 2, continued**

	Among All Parents with a Civil Contempt Hearing		Among All Parents with a Noncriminal Warrant Issued		Among All Parents Referred for Criminal Prosecution		Among All Parents With a Criminal Warrant Issued	
	<i>N</i>	Percent with Warrant Issued	<i>N</i>	Percent with Warrant Executed	<i>N</i>	Percent with Warrant Issued	<i>N</i>	Percent with Warrant Executed
<b>By total CS Arrears in Month Before Hearing*</b>								
No Arrears	13,258	11%	1,414	35%	5	80%	5	60%
\$1–\$1,000	12,368	25	3,077	41	7	29	2	0
\$1,000–\$2,500	18,938	34	6,419	42	81	12	11	36
\$2,500–\$5,000	17,057	39	6,720	39	197	20	57	44
\$5,000–\$10,000	12,428	44	5,443	40	372	15	99	44
Over \$10,000	21,149	52	11,015	33	1,208	16	372	53

\*All amounts in current dollars (not adjusted for inflation).

twice as likely to have a warrant issued, but only about half as likely to have that warrant executed, when compared to white noncustodial parents. In criminal cases, there is little difference by parent's race in the likelihood of having a criminal warrant issued, but blacks and then whites have the highest likelihood of having those warrants acted upon.

In examining parents' economic situation and ranking parents by their earnings as reported to the Unemployment Insurance system in the year before their first contempt hearing, we found that those with higher earnings are substantially less likely to have a contempt hearing result in a warrant. It is likely that parents with more resources are in a better position to meet any payment requirements from the court and child support agency to avoid further action. Once a warrant is issued, however, there is little association between earnings and the likelihood of having the warrant executed. Surprisingly there is also little relationship between earnings and the likelihood of having a criminal warrant issued after being referred for criminal prosecution. It is notable, however, that well over one-half of these parents have zero formal earnings.

Since noncompliance with the child support system is the motivating reason for these judicial enforcement efforts, we also examined the relationship between parents' total arrears in their child support cases when they are first notified of a contempt hearing or referred for criminal prosecution. While there are substantial numbers of parents who are called for contempt hearings with no or quite low arrears, these parents are much less likely to have a warrant issued as a result of those scheduled hearings. Only 10 percent of the no-arrears parents had a warrant issued, while over one-half of those with arrears exceeding \$10,000 had a warrant issued. Again, however, once warrants are issued, there is no strong relationship between the amount of arrears and the likelihood that a warrant will be executed. In criminal nonsupport cases, the vast majority of the parents being referred for prosecution have high levels of arrears.

In summary, there appear to be substantial differences<sup>9</sup> in the likelihood of contempt hearings resulting in issued warrants by parental characteristics, with younger parents, low-income parents, and parents with high child support arrears the most likely to have warrants issued. Other transitions in the judicial enforcement process, such as the likelihood of getting picked up on a warrant, and the likelihood of having a criminal nonsupport referral lead to a criminal warrant, do not appear to differ much by these parental characteristics.

### Findings of Contempt in CCAP

The 111,421 parents with contempt hearing notifications were also matched to Wisconsin court records in CCAP but sample selectivity issues limited the usefulness of these data for the analysis. Contempt charges in child support cases are filed as part of the original paternity or family case that established the child support order. The vast majority (74 percent) of contempt charges are filed in paternity cases (rather than family cases) and most counties in Wisconsin consider paternity cases to be confidential and therefore do not enter them into CCAP. Those parents with contempt charges on family cases were matched with CCAP to identify cases where the delinquent parent was found guilty of the contempt charge. Of the 28,992 delinquent parents who had a notification of a contempt hearing on a family case, 7,995 (27 percent) were found in contempt of court. Comparing which of these parents had a warrant issued (and were therefore subject to arrest and incarceration), it was found there was little correlation between a finding of contempt and the issuance of a warrant. Approximately half of all the family case parents with a contempt of court finding were issued a warrant, and about 60 percent of those with a warrant were also found in contempt. In these cases, many warrants appear to be issued for non-

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<sup>9</sup>Due to the large number of cases here, all difference in judicial enforcement outcomes were statistically significant, even when those differences do not appear to be very noticeable.

appearance, before any finding of contempt for nonpayment, and many of the parents who do have a finding of contempt of court have the contempt order stayed in anticipation of them meeting the purge conditions for the contempt finding, and therefore not having a warrant issued. Unfortunately, information on the stays of contempt findings is not consistently recorded in the court records, so it is not possible to easily use these data to trace the process from hearing, to contempt finding, to stay, to possible warrant. Given the limitation to contempt charges in family cases, further use of these data did not seem fruitful.

### Incarceration Outcomes

Incarceration as a result of judicial enforcement actions can take a number of forms. First, delinquent parents who are notified of a contempt hearing and do not appear in court for a scheduled hearing can have a warrant issued against them. Depending on the type of warrant issued and the policies of local law enforcement, officers may actively pursue the parent, or the parent may be picked up in the course of other contact with law enforcement personnel. They can be booked into the local jail and held, or released on bond, with the expectation that they will appear at their next scheduled court hearing.

Second, as we noted in our description of the contempt process, after a contempt hearing, if the delinquent parent is found in contempt, any commitment order will typically be stayed for some time period to give the respondent an opportunity to meet the purge conditions associated with the contempt finding. If they do not, then the court can issue a commitment warrant which authorizes the respondent (whether actively pursued or arrested in the course of other contact) to be taken directly to the local jail.

Third, if convicted of criminal nonsupport, a delinquent parent may be sentenced to serve time. Misdemeanor convictions can result in sentences as long as 9.5 months, to be served in a

local jail; felony convictions can result in sentences as long as 3.5 years. In most counties, sentences shorter than a year would be served in the county jail, those longer in state prison.

Since any commitment related to contempt of court is served in county jail, and even misdemeanor criminal support sentences are less than one year, it is reasonable to assume that most incarceration resulting from child support enforcement would be served in county jails; only felony nonsupport results in state prison sentences. In fact, our analysis of data from the Wisconsin State Department of Corrections found only 34 individuals serving time in the state prison for criminal nonsupport between 2005 and 2010, and all were serving time on other charges at the same time. Therefore, the analysis of incarceration related to judicial enforcement of child support orders needs to concentrate on those in local jails.

The local jail data available for the present research is limited to the Milwaukee County Jail. Incarcerations in the Milwaukee Jail Data related to child support enforcement are identified by those with a booking charge of criminal nonsupport,<sup>10</sup> but comparisons of the numbers of criminal nonsupport cases in Milwaukee with data provided by the Milwaukee county child support office indicate that there are many more criminal nonsupport cases in the booking data than are referred for prosecution in Milwaukee County. We suspect that the jail may have been booking those brought in for child support-related contempt charges under the criminal nonsupport booking code. To confirm this hypothesis, the sample of delinquent parents with warrants for contempt or criminal nonsupport from Milwaukee County was identified in KIDS and matched with individuals in the Milwaukee Jail Data. Using these matched data, it was confirmed that 95 percent had been issued warrants on either contempt or criminal charges

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<sup>10</sup>Specifically the booking charges used to select cases were “Failure to Support Child <120 days,” and “Failure to Support Child >120 days.”

related to their child support nonpayments. However, the large majority (72 percent) of these individuals booked and incarcerated under criminal nonsupport charges had actually had warrants issued for contempt of court charges in child support cases. Most of the remaining cases (23 percent of the total) had warrants for criminal nonsupport.<sup>11</sup> While most of these individuals were booked into the jail under a misdemeanor criminal nonsupport charge, it appears that many actually had warrants issued for contempt, but not for criminal nonsupport. Nonetheless, while the specific charge they appear under in the data is incorrect, these individuals are being incarcerated due to child support enforcement issues.

All bookings that involved any recorded criminal failure to support a child charge were selected, although, as described above, these bookings are presumed to include those booked into jail on contempt of court charges related to child support cases, in addition to those with actual criminal nonsupport charges. It is important to note that these data reflect bookings into the jail system, and not court hearings or convictions. The outcomes of these bookings are not known. For those who actually face contempt charges, the incarceration would be expected to end when the court is satisfied they have begun or have a plan to begin payment on their obligations. For those who actually face criminal nonsupport charges, the charges may be dropped before trial, individuals may be found not guilty of the charges, and even those found guilty may be sentenced to probation instead of continued jail or prison time.

The incidence of incarcerations in Milwaukee County for these charges has changed dramatically over the decade. As shown in Table 3, the number of bookings related to child support was notably higher from 2000 to 2004 with around 1,500 bookings each year. Since

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<sup>11</sup>Note that 87 percent had warrants issued in the year preceding the booking, while another 8 percent had warrants issued more than a year earlier.

2005, incarcerations for child support-related cases have dropped continuously (except for 2006) and dramatically. By 2010, total incarcerations had dropped to one-tenth the level they had been in 2000. While this generally confirms the finding from Cook and Noyes (2011) that Milwaukee County shifted its enforcement efforts to administrative enforcement options rather than civil contempt proceedings in 2006, we actually observe the decline beginning in 2005.

**Table 3. Incarcerations Related to Child Support  
Milwaukee County Jail System, 2000–2010**

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total
<b>Total</b>	1,561	1,472	1,397	1,665	1,445	483	530	339	267	197	137	9,475

The bookings on child support related charges (which, we believe, for the most part are actually child support-related contempt bookings) only occur alongside other types of contempt charges infrequently. During the 2000 to 2004 period, less than one percent of also included bookings also included a separate charge for contempt. From 2005 to 2010, accompanying contempt charges were more common, comprising 10 to 15 percent of the child support related bookings each year. In addition to the child support-related bookings that also have additional accompanying contempt charges, another 50 percent of these bookings included other, non-child support-related criminal charges. Other common charges on these bookings include driving violations and violations of protection orders. Given that a large proportion of these cases have active warrants for child support related charges at the time of the booking, this supports the finding from interviews (as discussed in the previous report) that defendants are often stopped for some other infraction, and then discovered to have an outstanding warrant on the child support-related case.

While these bookings mostly involved separate individuals, there were nearly 1,500 people who were booked on child support-related charges more than once during the time period

reviewed. Table 4 shows the numbers of bookings that included child support related charges for the 7,362 individuals booked from 2000 to 2010. Over 20 percent of those booked were booked more than once. While some of these multiple spells of incarceration may just reflect different stages of the judicial process (e.g., an initial booking at the time of arrest, a subsequent booking after conviction), at least a quarter of those with multiple bookings were charged under different charges, or had bookings separated by over a year, likely indicating completely separate judicial processes.

**Table 4. Number of Bookings for Criminal Nonsupport, by Individual Milwaukee County Jail System, 2000–2010**

Number Of Bookings	N	Percent
1	5,869	79.7%
2	1,076	14.6
3	275	3.7
4	102	1.4
5	27	0.4
6 or more	13	0.1
Total	7,362	100.0

**Note:** Percentages may not sum to 100 due to rounding.

The data provided by Milwaukee County provides only limited demographic characteristics of the incarcerated individuals. Given the large change in the numbers of criminal nonsupport bookings after 2004, we were particularly interested to learn whether the characteristics of those being charged changed as well. Table 5 shows the race, sex, and age at the time of booking separately for those bookings occurring in the early and later periods. We note that in both time periods the bookings are predominately black (75 to 80 percent) and male (90 to 95 percent), the age distribution of those incarcerated for child support-related charges is similar to those arrested on other charges. While differences between the two time periods are

not dramatic, they are statistically significant, with those booked less likely to be black and more likely male and older in the second half of the decade.

**Table 5. Individual Characteristics, by Booking for Criminal Nonsupport Milwaukee County Jail System, 2000–2010**

	2000–2004		2005–2010	
	<i>N</i>	Percent	<i>N</i>	Percent
<b>Race</b>				
Black	5,995	79.5%	1458	75.4%
White	1,500	19.9	464	24.0
Asian	14	0.2	4	0.2
Indian	30	0.4	9	0.5
Unknown	1	0.01	0	0.0
<b>Sex</b>				
Male	6,828	90.6	1,850	95.6
Female	712	9.4	85	4.4
<b>Age</b>				
Under 18	47	0.6	8	0.4
18 to 21	569	7.6	92	4.8
22 to 25	1,221	16.2	234	12.1
26 to 30	1,716	22.8	347	17.9
31 to 35	1,571	20.8	397	20.5
36 and up	2,416	32.0	857	44.3

**Note:** Percentages may not sum to 100 due to rounding.

IRP has also matched individuals from the Milwaukee County Jail data to state administrative data from the Unemployment Insurance Wage Records and the child support administrative system, KIDS. Since the jail data only includes names and birthdates, the matching process is not perfect, but we can examine data on earnings and child support obligations for a large percentage of the bookings.

In Table 6 we present data on earnings and child support outcomes for the calendar year before the year of the booking. Currently we only have earnings and child support data available from 2000 to 2010 so we confine this analysis to bookings occurring in 2001 and later.

**Table 6. Economic Characteristics, by Booking for Criminal Nonsupport Milwaukee County Jail System, 2000–2010**

Mean (Year Before Booking)	2001–2004	2005–2010
No Annual Earnings	52.8%	58.2%
Annual Earnings, if any	\$4,196	\$4,396
Annual Child Support Owed	\$3,301	\$4,356
No Payment on CS Orders	60.2%	55.5%
Total Annual Payment, if any	\$1,324	\$1,355
CS Paid/Owed Ratio	0.247	0.162
N	4,727	1,531

**Note:** All figures in current dollars (not adjusted for inflation).

Arrested noncustodial parents are in a poor economic situation with poor child support outcomes in the calendar year immediately preceding their incarceration. The majority of those arrested on criminal nonsupport charges have no formal earnings reported to the unemployment insurance system, and even among those with any formal earnings, they average only \$4,000 to \$4,500 for the entire year. While these nonpayers may have sources of income in the informal economy, the lack of formal earnings makes it difficult to use the traditional tools of child support enforcement (wage garnishment) in these cases.

Since all of these parents have gone through either a civil or criminal judicial enforcement process for noncompliance with their child support orders, it is not surprising to find that child support outcomes for these obligors are quite poor. Their annual child support obligations are substantially higher than their formal earnings, given that the majority have no formal earnings. Nearly two-thirds have made no payment, and even those who are making payments do not come close to meeting their obligations. It is interesting to note that annual orders for these individuals have increased by nearly a third in the second half of the decade, but formal earnings and payments increased only slightly. The end result is compliance ratios which have fallen from .25 to .16.

Of course, those arrested come from those who are noncompliant with their child support order, who have gone through the steps of a contempt hearing or criminal nonsupport referral, and then have had a warrant issued. Previous research has regularly found that noncompliance is higher for younger and poorer noncustodial parents (Sorensen and Zibman, 2001; Cancian and Meyer, 2006; Ha, Cancian, Meyer and Han, 2008), and the results in table 2 show that, among those for whom judicial enforcement is initiated, younger and poorer parents with large child support arrears are more likely to have warrants issued. Given the greater disadvantage of those entering the judicial enforcement process and the increased likelihood of the disadvantaged moving through each step of the process, it is not surprising that in the end, those actually taken into custody for child support-related charges are in particularly poor economic situations.

## **CONCLUSIONS**

The goal of this report was to examine available administrative data sources to assess their adequacy for analyzing the use of various judicial enforcement measures in Wisconsin child support cases. As documented here, existing data are not ideal for examining these questions, with issues of data quality, population coverage, and cross-county inconsistency posing problems for the research. Notwithstanding these limitations, by taking account of the judicial enforcement process, and combining data across multiple data sets, it is possible to draw some conclusions about the incidence and some risk factors associated with steps in the enforcement process.

The enforcement process for the contempt decision generally goes through several steps: (1) decision by the caseworker to pursue, (2) notification to the delinquent payor, (3) court hearing, (4) decision to issue a warrant if payor does not appear at hearing, (5) contempt decision (along with sanctions and purge conditions) if payor attends hearing, (6) determination if payor

has met purge conditions, (7) decision to issue warrant to commit if payor has not met conditions, (8) arrest and incarceration if warrant is issued.

The steps are similar for the decision about pursuing criminal nonsupport charges: (1) decision to pursue (usually after having pursued contempt process), (2) notification of custodial parent, (3) referral to district attorney, (4) decision by district attorney to prosecute, (5) criminal warrant, (6) arrest and booking of the defendant, (7) trial, (8) sentencing (if convicted), (9) incarceration.

Information on each of these steps is not held in a single place, and for some cases, are not gathered anywhere. In particular, for contempt cases in Milwaukee, Kenosha, and Racine Counties, data on warrant requests is not entered into KIDS. In all counties, court proceedings on paternity cases are usually not available in the open court records, incarceration information is not generally collected in KIDS, and local jail data is not collected centrally.

That said, some conclusions about the judicial enforcement process can be drawn. The use of both types of judicial enforcement procedures rose in the first half of the last decade, and then declined in the last years of the decade, even as the overall child support caseload remained steady or rose somewhat. Most of the latter decline appears to be concentrated in Milwaukee County. Additional analysis would be required to better identify the factors accounting for the time trends, but previous research (Cook and Noyes, 2011) suggests that at least some of the decline in Milwaukee County may have been related to resource constraints that led to a decision to concentrate the county's enforcement efforts on other, less costly options.

Criminal nonsupport charges are used relatively infrequently, especially as compared to contempt charges, and the initiation of the enforcement procedure only leads to a warrant request

or a referral for prosecution about one-half the time, and a criminal warrant is issued in only a small percentage of cases referred.

Strong differences in the likelihood of moving through the enforcement process were seen only in the probability of having a warrant issued after one has been called to court for a contempt hearing. Here parents who were younger, lower-income, and with high child support arrears were most likely to have a warrant issued. However, in neither contempt nor criminal nonsupport cases were there strong differences by age or economic circumstance in the likelihood of having a warrant executed, once a warrant was issued.

Due to the limited administrative data available from local law enforcement agencies, firm conclusions on a statewide level about the incarceration experiences of delinquent payors subject to these enforcement procedures are impossible to draw. However, if we assume that those subject to an executed warrant spend at least some time in custody, then we can estimate that approximately 15,000 parents statewide experienced some period of incarceration due to child support-related charges between 2000 and 2010.

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