

2016–2018 Child Support Policy Research Agreement
Task 4A:
Child Support Enforcement Tools and Their Relationship to Payments:
A Review of County Policy and Practice

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Abstract

This is one of two reports completed as part of the research agreement between the Wisconsin Department of Children and Families Bureau of Child Support and researchers at the Institute for Research on Poverty, University of Wisconsin–Madison, examining child support enforcement practices in Wisconsin. Child support agencies in Wisconsin have some discretion in the selection, sequencing, and timing of enforcement tools when noncustodial parents get behind on child support payments. Drawing on interviews with five child support agencies across the state, this report seeks to understand the processes child support agencies undertake to determine when enforcement is appropriate, which tools to use given a case’s circumstances, and the order in which to use them. Overall, this research finds that while child support agencies have similar enforcement tools available as options, practices for selecting, sequencing, and implementing these tools vary across counties, and sometimes within counties. County context factors, such as agency structure, county size, availability of supportive services within the county, and relationships with local courts, contribute to this variation. We identify factors contributing to practice decisions and areas in which additional guidance or supports might be helpful to counties.

BACKGROUND

Throughout the United States, changes in family structure have led to a substantial increase in the proportion of children living apart from a parent. Almost a third of children did not live with both parents in 2016 (U.S. Census Bureau, 2017), as a result of high divorce rates and a growing share of births to unmarried parents (Cancian, Meyer, & Han, 2011). In Wisconsin, 37 percent of babies born in 2016 were born to unmarried mothers (Centers for Disease Control and Prevention, 2018). Household structure is an important factor contributing to a child's economic well-being, as children who grow up in single-parent households are disproportionately likely to grow up poor. In 2015, for example, 28.2 percent of all female-headed families lived in poverty, compared to 5.4 percent of married-couple families (Proctor, Semega, & Kollar, 2016).

These changes, combined with changes to the social safety net eliminating guarantees for cash assistance, make child support an increasingly important resource for single-parent families. Among those custodial parent families who received all of the child support owed to them in 2015, child support represented 16 percent of their personal income. This resource was especially central for custodial parent families living in poverty, for whom (of those receiving all of the support owed to them) child support made up 58 percent of their personal income. However, most custodial parent families do not receive the full amount of child support they are owed. In 2015, 44 percent of all custodial parents (and 39 percent of custodial parents living in poverty) received all of the child support they were owed, 31 percent received partial payments, and the remaining 25 percent received none (Grall, 2018).

When noncustodial parents do not pay the child support they owe, child support agencies have an assortment of tools available to increase compliance with formal child support orders. The federal Office of Child Support Enforcement requires each state to enforce child support

orders and has provided a series of tools to do so. Tools include letters, wage withholding, credit reporting, liens, tax intercepts, license suspension, asset seizure, and passport revocation.

Agencies can also initiate civil contempt and criminal nonsupport proceedings, both of which can result in incarceration for nonpayment (Cook & Noyes, 2011; United States General Accounting Office, 2002). Universally, tools for establishing support, and capacity for extracting payments, have grown steadily since the program's inception (Sorensen & Hill, 2004). In Wisconsin's state-supervised, county-administered child support system, counties and the state both play a crucial role in child support enforcement.

This report is one of two that seek to understand county practices related to enforcing child support orders, as part of the research agreement between the Bureau of Child Support and researchers at the Institute for Research on Poverty. In combination, these reports aim to provide information to help improve Wisconsin counties' use of enforcement tools. This report focuses on how county staff make decisions related to selecting, sequencing, and timing the use of child support enforcement tools; factors contributing to decision-making; the role different staff play in selecting and implementing enforcement tools; and staff perceptions of the relative effectiveness of these tools. The information gathered in this report complements the quantitative analyses presented in the second report, which further explores when and which tools are used in various contexts, and the relationship between enforcement tools and payments. The outline of this report is as follows. We first describe the various child support enforcement tools available to child support agencies, as well as the child support context in Wisconsin. We next describe relevant prior research. We then describe the current study and provide study findings gathered through interviews with child support agency and court staff in five Wisconsin counties. We

conclude with recommendations of best practices based on county experiences and areas in which additional guidance or support might be helpful to counties.

CHILD SUPPORT ENFORCEMENT

Enforcement Tools

Administrative remedies

Since the 1970s, federal and state governments have significantly expanded the administrative enforcement techniques and resources available for improving noncustodial parents' compliance with formal child support orders. Through the Child Support Enforcement Amendments of 1984, Congress required states to implement income withholding and intercept state tax refunds for noncustodial parents behind on their child support obligations. This requirement was followed by the Family Support Act of 1988, which required states to develop child support guidelines, operate automated systems for monitoring child support payments, and, for orders established or modified after 1990, implement automatic wage withholding—a process first piloted in Wisconsin (Rothe, Ha, & Sosulski, 2004). Wisconsin intercepts state income tax refunds, as well as lottery winnings of 1,000 dollars or more and lump sum retirement benefits, in order to pay down arrears balances (Gentry, 2015).

The 1996 legislation that overhauled the welfare system, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), also included provisions related to child support enforcement. These provisions strengthened the array of tools available to child support agencies, and also enabled child support agencies to take administrative actions against noncustodial parents behind on their support, separate from court processes. These new measures included provisions allowing states to certify driver's licenses for suspension, professional licenses, and recreational licenses from delinquent noncustodial parents and expanding

requirements for state child support agencies to establish processes for imposing administrative liens on delinquent noncustodial parents' property. Wisconsin implemented a child support lien docket in 2000; currently, noncustodial parents qualify for the docket after reaching an arrears balance of 500 dollars or one month's support amount (whichever is greater). Under these provisions, child support agencies can request financial institutions to freeze and enforce liens, as well as seize and sell personal property, in order to pay down arrears balances.

Additionally, PRWORA included provisions intended to assist states to locate and collect child support from noncustodial parents, by requiring state and federal directories of child support cases and new hires. Wisconsin implemented a state directory of new hires for employer reporting in 1998 (Gentry, 2015). PRWORA also helped facilitate administrative enforcement when the noncustodial parent lives in a different state from his or her children, by requiring states to enact the Uniform Interstate Family Support Act (UIFSA) in order to qualify for federal child support enforcement funds. UIFSA, enacted by all states by 1998, required employers to comply with the other state's laws for implementing income withholding orders, and allowed states to request administrative enforcement from the state child support agency in which the noncustodial parent resides (Sampson, 2009).

More recently, the federal Deficit Reduction Act of 2005 began to allow states to intercept federal tax refunds for noncustodial parents with state-owed arrears balances, in order to pay down the arrearage. Wisconsin implemented this tool in 2007. This act also reduced the threshold for which the federal government can deny passports for noncustodial parents behind on their obligations, a requirement initiated through PRWORA and implemented in Wisconsin in 2005. This process imposes a hold on requests for new passports and passport renewals, for noncustodial parents 2,500 dollars or more in arrears.

Civil contempt

If a noncustodial parent becomes delinquent on their ordered support, and administrative remedies are either unsuccessful or impossible, child support agencies or circuit court commissioners can initiate contempt proceedings against the noncustodial parent (Gentry, 2015). Cook and Noyes (2011) differentiate between civil (or remedial) contempt and criminal nonsupport, two distinct processes. Civil contempt actions are most relevant to child support enforcement, as they are initiated to compel compliance with a court order. Child support agency staff can initiate civil contempt actions in response to a noncustodial parent's failure to pay ordered support; the judiciary decides whether or not to find a noncustodial parent in contempt. If a noncustodial parent is found in civil contempt, the court issues remedial sanctions and purge conditions as requirements to clear the contempt. Typically, the remedial sanction is delayed in order to allow the noncustodial parent time to achieve the terms of the purge conditions. If the noncustodial parent does not meet the purge conditions in the specified timeframe and the court has ordered a jail sentence as a remedial sanction, the court can issue a bench warrant for the noncustodial parent's commitment to jail. Once in jail for civil contempt, the noncustodial parent can obtain their release by meeting the purge conditions (Cook & Noyes, 2011). In 2016, the federal Office of Child Support Enforcement provided states with guidance for use of civil contempt and requirements for states regarding ability to pay through the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule (2016) and an amendment to the final rule (see page 7 of this report for additional detail).

Criminal nonsupport

Criminal nonsupport is distinguished from civil contempt in several important ways. First, it is intended as a punitive action in response to a willful failure to meet a known legal

obligation to provide support for a child. Additionally, the district attorney, rather than the court commissioner, decides whether or not to pursue criminal charges. Further, the consequences for criminal nonsupport differ from those of civil contempt. Criminal nonsupport is considered a Class A misdemeanor (for willful nonpayment for fewer than 120 consecutive days) or a Class 1 felony (for intentional nonpayment for 120 or more consecutive days); a noncustodial parent can be charged with multiple felonies if the time period spans multiple distinct periods each spanning 120 or more consecutive days. Consequences for misdemeanor criminal nonsupport can include a fine of up to 10,000 dollars and/or a prison sentence of up to nine months; for felony contempt, the maximum sentence is a fine of up to 10,000 dollars and/or a prison sentence of up to three and a half years (Gentry, 2015).

The Wisconsin Context

In Wisconsin, counties and the state each play important roles in enforcing child support orders. Counties lead child support enforcement efforts, and have flexibility to implement enforcement strategies within state and federal guidelines. In addition to enforcing support orders, counties also establish paternity and orders for financial and medical support. Among other functions, the state

- develops policy;
- provides technical assistance and training;
- monitors local agency activities for compliance with federal and state guidelines;
- collects and distributes payments;
- supports enforcement through the operation of locate services, the state directory of new hires, the financial record matching system, the lien docket, and a central registry for processing interstate cases; and

- coordinates intercept programs, property liens, and license suspensions (Gentry, 2015).

In September 2017, the Bureau of Child Support released *Child Support Bulletin 17-11*, containing additional direction on the use of civil contempt related to the ability to pay ordered support in light of federal regulation changes. The agency issued the bulletin in response to the federal Office of Child Support Enforcement’s release of the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule (2016). An amendment to the final rule required states to establish guidelines for the use of civil contempt, including requirements for child support agencies to: (1) screen noncustodial parents for ability to pay their ordered support or otherwise comply with orders; (2) provide the courts with information about noncustodial parent ability to pay to help inform the court’s determination of ability to pay purge amounts or otherwise comply with purge conditions; and (3) provide notice to the noncustodial parent that ability to pay “constitutes the critical question in the civil contempt action.”

In accordance with these requirements, *Child Support Bulletin 17-11* (2017) required child support agencies to take several review steps prior to filing for civil contempt. These included review of locate sources for evidence about the noncustodial parents’ ability to pay or otherwise comply through earnings, income, or other sources; search for indications that the noncustodial parent receives a needs-based benefit; and search for other information that could indicate the noncustodial parents’ inability to pay. The bulletin also required agencies to consider all appropriate administrative enforcement remedies prior to filing for contempt; consider whether review and adjustment actions might be appropriate; and review the case for appropriate judicial referral remedies and other appropriate referrals. The bulletin additionally required agencies to identify a physical address for the noncustodial parent prior to filing; attempt

communication via two different methods in the previous 30 days prior to filing; and provide the court with information regarding ability to pay or otherwise comply with the order. The bulletin specified that agencies were to incorporate these civil contempt guidelines into agency practice effective immediately.

PREVIOUS RESEARCH

Past research on the relationship between enforcement tools and compliance has generally found enforcement to be effective in securing compliance from many obligors, though analyses from Wisconsin indicate that enforcement is less successful with obligors who struggle financially or experience incarceration. Beller and Graham (1991) found that child support enforcement tools were generally more effective at increasing the amount of child support paid by obligors meeting part of their obligation than at increasing the likelihood of receiving any payment. In other words, enforcement tools were not useful for those paying nothing to begin with, but useful for those already paying something. The authors found wage withholding and property liens to be particularly effective enforcement for increasing the amount of child support received by custodial mothers. Freeman and Waldfogel (2001) found that increases in child support enforcement expenditures, as well as increases in the strength of enforcement legislation, significantly increased child support received by never-married mothers, and states that paired increased spending with strengthened enforcement experienced the greatest gains.

Wisconsin Research

Institute for Research on Poverty researchers have conducted an array of analyses related to child support enforcement tools since 2004, including those in Wisconsin. Some of these analyses have looked specifically at enforcement practices for special populations, such as incarcerated payers (Noyes, Cancian, & Cuesta, 2012) or families once involved in the child

welfare system (Cancian et al., 2012), and enforcement practices during periods of economic recession (Kaplan, 2010). Other research has examined which payers comply with formal support obligations under given circumstances. Ha and colleagues (2008) found that the child support enforcement system generally works as designed, with 85 percent of obligors complying with formal support orders when they: (1) had earnings all year, (2) had annual earnings of 20,000 dollars or more, and (3) did not experience a change in employers. The enforcement system is less successful in securing compliance, however, from obligors who lacked the ability to pay due to experiencing incarceration, unstable employment, and low earnings. Nearly all (90 percent) obligors who did not pay any support experienced incarceration or lacked full-time employment, as did 75 percent of obligors who made partial payments. The authors also identified two important relationships between enforcement tools and compliance. First, changing employers can lead to a noncustodial parent missing payments due to delays in the process by which systems issue a new withholding order to the noncustodial parent's new employer. The authors conclude that efforts to establish withholding more rapidly following an employment change could help increase compliance. Second, the authors found that obligors with unstable employment were more likely to comply with support orders when they experienced any change in order, suggesting that modifications in response to obligors' financial situations could help to facilitate compliance.

Additional research efforts have looked specifically at county practices related to enforcement strategies and the relationship between enforcement tools and compliance. Rothe and colleagues (2004) conducted interviews with child support agency staff in tandem with analysis of administrative data to understand implementation of relatively new enforcement tools by county agencies, and the relationship between use of these tools and child support payments.

Through interviews, the authors identified variation in the roles played by enforcement staff, relationships with the court, and use of enforcement tools across counties. The results of the administrative data analysis suggested that wage withholding is a particularly strong enforcement measure, along with enforcement letters and contempt actions. Two additional reports have examined the use of contempt as an enforcement strategy. Cook and Noyes (2011) found that county practices related to use of contempt as an enforcement tool varied substantially across counties, with some counties using contempt rarely, and others using it early on in the enforcement process. Cook (2015) found a downward trend in use of civil contempt as an enforcement tool across the state overall in the latter half of the 2000s, with most of this trend driven by Milwaukee County. Cook found criminal nonsupport charges to be initiated rarely and referred for prosecution even less frequently.

THE CURRENT STUDY

We interviewed child support agency and court staff from five counties across Wisconsin, in order to gain an understanding of county practices across the state.

Sample

Counties were selected in consultation with Bureau of Child Support staff. We included the two counties that had participated in the Supporting Parents/Supporting Kids program (known nationally as the Child Support Noncustodial Parent Employment Demonstration, or CSPED), in order to include their unique insights into enforcement processes given CSPED's emphasis on a new approach to administering child support services. As these two counties are mid-size counties, we also selected two large counties, located in southern Wisconsin, and a smaller county in northern Wisconsin, in order to explore a broad range of agency experiences and local factors that might affect enforcement processes.

Within each county, we interviewed the child support agency director or supervisor and one or more child support enforcement staff members. These staff were either case managers or supervisors. We also spoke to child support agency attorneys in four counties, as well as court commissioners in four counties. Interviews were conducted from June through August of 2018 in-person in all counties and lasted an average of 75 minutes.

Data Collection and Analysis

We used a semi-structured interview protocol to conduct interviews. This approach allowed for an in-depth exploration of county-level practices and issues in a more flexible and context-specific manner than a survey instrument or other standardized technique might have. Our interview protocol was approved by the University of Wisconsin Social Sciences Institutional Review Board, which oversees and approves research involving human subjects. To facilitate privacy, interviews took place in conference rooms or offices within each county. Each respondent provided permission to audio-record their interview. After each county's interviews concluded, we transcribed each audio recording for analysis. Using NVivo software, the interviews were coded for themes using a conventional content analysis approach (Hsieh & Shannon, 2005). Initial codes were derived directly from the data and refined after initial analysis.

FINDINGS

We organize the main findings that emerged from our interviews with child support and court staff by area, including pre-enforcement processes, administrative enforcement processes, and contempt processes. In each section, we describe key themes that emerged, review the range of processes reported by the counties, and discuss trends or recent changes. After reviewing information on the typical sequence of enforcement actions, we discuss county best practices.

We include verbatim quotes where appropriate, sometimes altered to protect confidentiality while maintaining content.

Pre-Enforcement Processes

Becoming Aware of Nonpayment

Across counties, staff described three main ways in which they became aware that a noncustodial parent had fallen behind on payments. Primarily, staff used worklists and state-generated reports to identify noncustodial parents behind on payments. These reports and worklists provided different sorts of information; for example, some indicated missed payments in varying time thresholds, some displayed percentages of underpayment, and others reported arrears balances. Across all counties, to varying degrees, staff also received calls from payees (typically but not always custodial parents) upon their failure to receive the expected payment. Staff reported that such calls would often trigger them to prioritize looking into the case in question, if they had not yet reached the case on their worklist. The frequency with which staff reported payees calling in varied across counties, with one county indicating that about 50 percent of all incoming calls came from custodial parents inquiring about missed payments. In some counties, workers often gave their direct telephone numbers out to custodial parents on their caseloads and therefore received these inquiries directly. In others, such calls went to the agency's general reception number or to staff specifically charged with fielding incoming calls. Finally, and less frequently than calls from payees, staff in most counties reported that noncustodial parents called in to report that they had not paid their support, typically due to loss of employment or medical reasons.

Pre-Enforcement Actions

When staff became aware that a noncustodial parent had fallen behind on payments, they initiated a range of actions that varied across counties. Staff in all counties characterized their initial steps as “detective work,” “getting the story,” or “try[ing] to figure out what’s going on,” in order to understand the context surrounding nonpayment. Staff across counties searched for information that might suggest issues, as described by one enforcement worker, “beyond [the noncustodial parents’] control,” such as recent incarceration or a change in employer for which wage withholding had not yet gone through.

Staff described generally using a similar range of tools to support this information-gathering phase, including use of locate resources; checking databases for indications of incarceration, new employment, or recent disability; sending letters; and making phone calls to the noncustodial parent or other parties. Two counties emphasized social media as a useful source of context clues. Staff reported using email in only very rare circumstances and not at all in some counties; no counties used text messaging, though all were considering it. All counties described starting with a locate process prior to direct outreach to noncustodial parents. As one enforcement worker described, “If it’s not—if it’s not something out of their control, you know, the incarceration or changing jobs, then like we’ll reach out to them if they haven’t contacted us. That’s my first step. I like to reach out to them and see what’s going on.”

The ordering and intensity of the direct outreach processes that followed the initial locate varied across counties. Two counties described beginning their efforts with phone calls, primarily aimed at the noncustodial parent, but also to gather information from custodial parents or other potential sources of information. Staff in one county described that these phone calls took place either after the state’s automated enforcement letters went out, or concurrently with that process; in the other county, staff typically waited to make phone calls until two months

after the state's second automated enforcement letters were sent. Staff in these counties felt phone calls were the best way to reach noncustodial parents, who they found typically ignored their letters, and had the added benefit of allowing the enforcement worker to convey a desire to help. If unsuccessful in reaching the noncustodial parent, enforcement workers followed up with a letter. As one enforcement supervisor described:

“If we have good locate information on them, we have a phone number to reach out, that's always the best way because you're going directly to the source. So, it's going to be quicker than sending on a request for information to an employer or to—even to the custodial parent, who may or may not have good information, right? Just call the NCP, the person who's responsible to be paying the order, and ask them what happened. ‘It looks like you were late last month or you didn't pay the full amount. Like, do you have a new job? What's the situation?’ I mean, I feel like that's definitely more effective than just sending out the enforcement letter. ‘Hey, you didn't get a—you know, nothing came in. You may have X, Y and Z enforcement taken against you...’ NCPs are really appreciative of having that contact from the caseworker, you know, rather than getting the letter. ‘Oh, this is a person who's handling my case! They noticed that I'm not paying and they're calling me to ask why rather than suspend the license or seize the account or whatever other options they might have.’”

Staff in these counties described that the purpose of these phone calls was to gather information to help understand why the noncustodial parent did not pay their support and determine whether it was appropriate to hold off on enforcement. For example, they sought information about incarceration, or whether the noncustodial parent had a medical issue or lost a job. When appropriate, they followed up with referrals to employment programs, provided information about modification processes, and sent out forms to gather information about

medical barriers to payment. Supervisors in these counties felt that this form of outreach ultimately facilitated payments. As one supervisor described, “I keep my office door open. I walk the halls and I see their performance numbers. And the people who are constantly talking with their people are my top performers—they're in the 85 percentage of collections.”

In the other three counties, staff typically followed locate efforts with additional letters. Staff cited two main reasons for this approach—large caseloads and problems identifying a working telephone number for the noncustodial parent. Two counties emphasized the need to attempt contact with noncustodial parents in two formats prior to pursuing contempt. In one county, workers sent enforcement letters (directly from the agency and separate from the state’s mailings), followed by a phone call 14 days later; the time threshold in another county between state letters and county child support agency mailings varied. In the third county, staff described relying primarily on letters due to their large caseloads. One staff member in this county described, “Not as a matter of every time that something is brought to the attention are we calling an NCP. Just because the amount of calls that that would involve, because the caseload.”

The Role of Caseloads, Modifications, and Employment Resources

Across all counties, staff emphasized a desire to understand the reasons behind lack of payment and to provide resources to help the noncustodial parent come into compliance. Staff identified three issues throughout interviews that affected their ability to achieve these goals. First, the extent to which staff were able to spend time working cases and performing customized outreach depended in part on caseload size. In counties with large caseload ratios, staff expressed that making multiple and persistent attempts to reach noncustodial parents was difficult due to the volume of cases for which they were responsible. In contrast, staff in counties with smaller caseload ratios described a relatively high level of familiarity with the cases on their caseloads

and the recent circumstances of their customers. Staff in two counties with relatively low caseload ratios described giving out their direct telephone number to the parties on their caseload and being personally known by their customers; they described that customers would sometimes call proactively to explain why they had not paid or in anticipation of not being able to pay. In contrast, in counties with larger caseloads, enforcement workers struggled to make personal contact with all of their customers due to volume. In these counties, customers called into reception or to a call center staff member to report issues or problems, rather than calling the worker directly. This meant that workers needed to check additional sources to identify potential barriers to payment that may have already been reported by noncustodial parents.

Next, staff across counties stated that, if they were able to successfully reach a noncustodial parent, they asked questions or listened for indications that an order modification might help the noncustodial parent become compliant. If a change of circumstances applied to the noncustodial parents' situation, workers initiated a review. In several counties, staff described encouraging participants without a change in circumstances, but whose order was set higher than they could pay, to file a motion for modification pro se. However, across all of these counties, staff reported that fear of the process, intimidation about the steps involved, or literacy barriers often prevented noncustodial parents from pursuing this option.

Finally, staff across counties described seeking to determine whether a noncustodial parent would be eligible for supportive services through a program intended to help them find work as an alternative to enforcement. When enforcement workers were able to reach a noncustodial parent by telephone and learned of a recent job loss, they asked questions to figure out whether the noncustodial parent was interested in, and eligible for, services. Some counties actively recruited for these programs and had target numbers of noncustodial parents they sought to enroll

each month; others issued referrals when appropriate but did not have specific targets. Some counties had systematized processes for gathering information from these programs regarding noncustodial parent participation; others lacked a formal process or struggled to obtain updates. When noncustodial parents enrolled in these programs and made a good faith effort to participate, staff held off on enforcement activities.

Three factors interfered with the ability of these programs to help noncustodial parents—noncustodial parent willingness to participate, program availability, and program effectiveness. Across counties, staff described that such programs could often help noncustodial parents, but “you have to be a willing participant.” Services available across counties differed substantially; some counties had multiple programs providing both employment and parenting services; some had relatively robust programs available that had been in operation for several years and covered a broad array of services; others lacked resources beyond a basic employment and training program for FoodShare (the name of Wisconsin’s Supplemental Nutrition Assistance Program) recipients. Counties also had different perceptions of the effectiveness of the resources available. Several counties characterized their county’s employment service providers as strong, beneficial, and able to overcome most obstacles impeding employment for many obligors. In contrast, a staff member in one county described the program available within their county as “the fig leaf that covers the nakedness of poverty,” because while the resources available could be helpful in finding work, many of the payers most in need of such help had substantial barriers to employment, such as childhood trauma or substance abuse. The staff member noted:

“So we're going to say, all right, you're going to go into this program. It's going to get you into a job. There's going to be people, if they want to avail themselves from it, who will actually be successful. I mean even—I think especially in this economy, if you want a

job, you know, and you're willing to attend these programs and participate, then I think you're going to end up with a job. Those tools are there. However, we've got people who are not well-suited to be able to succeed in that or even to show up at the same place. I mean one of the things that we know from all the data that we've read about poverty is the ability to make future plans. That reality, the exigencies of poverty, is not great.”

Regardless of the breadth or perceived effectiveness of resources available, all counties agreed that having these resources was better than not having such options, and that the presence of such resources helped them to do their jobs. Supervisors felt that having these resources available helped caseworkers to see their roles differently, as helpers with a goal of promoting compliance, rather than solely as enforcers. Stated one supervisor:

“It has changed the perspective of what child support workers see their role as. That's first and foremost. Even beyond the benefits to the NCP, it's the participating in the program.

When you have caseworkers who understand that they don't just have to be confrontational, they can be empowering and they can offer a solution to a problem that has in the past only been something that's punitive.”

Enforcement staff concurred with this assessment, and also noted that having such programs as an option helped them to pursue contempt down the road if the noncustodial parent declined assistance and continued not to pay. As one staff member described:

“We have this job services program here, so we refer everyone to [the program]... and when they do that, it bolsters my case. Because if they get kicked out, because they don't follow through with what the job developer tells them to do—they don't show up to meetings. Well, then, I have the evidence there that he's not making a diligent effort to find work. I can show to the court—now the court knows I have these programs. So the whole ‘there's no jobs out

there' argument isn't working now. The whole 'I have felonies, so I can't find a job' argument used to be a really good one. Seven years ago, that was a good argument.”

Enforcement Processes

Administrative Enforcement

Staff described administrative enforcement remedies of two types—automated processes, and administrative actions taken by workers. Automated enforcement remedies, including state-generated enforcement letters, tax intercepts, passport holds, and placement on lien dockets were enacted automatically in response to pre-defined arrears or time-based thresholds. Enforcement staff described having discretion over a range of administrative enforcement tools, including suspension of driver's licenses, professional licenses and recreational licenses; income withholding, including wage withholding and withholding of other income or benefits; account seizures; and property liens.

Enforcement Prompters and Decision-Making

Staff became aware of a noncustodial parent's eligibility for administrative enforcement procedures using worklists or in the course of case management. One staff member described:

“The state runs a website. They check at the end of the month each child support case that's eligible to go to the lien docket. And then once somebody is on the lien docket then what happens is—I guess, you could run a report to see how many people are on the lien docket, but we don't usually do that. We just wait for the enforcement opportunities to come about and then [enforce] as long as they're on the lien docket. And we have certain reports that we can—that we can print that are specific for that sort of case management. So we have an account seizure report that we work, that would only list people that are on the lien docket and eligible for account seizure.”

Automated enforcement actions were important across counties because they provided the opportunity for enforcement workers to pursue future actions, such as freezing or seizing assets. Several mentioned passport holds as sometimes helpful; the hold prompted noncustodial parents who sought to leave the county to reach out to the child support agency and make a payment. Two counties described vehicle liens as a particularly important component of administrative enforcement, because some noncustodial parents in these counties often sought to sell or “junk” vehicles; the vehicle lien prevented them from doing so and required them to reach out to the child support agency and negotiate a payment prior to release of the lien. Staff in one county described a general expectation for a current payment of support and a payment on arrears in exchange for lifting the lien. One staff member noted:

“We don't want to take away their sole means of transportation. And if they're trying to sell their car to get a more reliable vehicle, I need to understand it isn't in the best interest of the agency to take everything. So, what we look for is current support and then payment on arrears. That's going to be the minimum. And then, we're willing to lift the lien on that. A lot of the cars are being junked. So, you know, we're getting as much as we can. We're getting a percentage or a [fixed] amount that will get us that hit on arrears.”

Staff described that whereas automated processes “happened behind the scenes,” enforcement workers needed to select which worker-initiated administrative actions to take and the circumstances under which to take them. Across counties, staff described that enforcement workers had autonomy in deciding when it was appropriate to enforce. Most workers and supervisors felt that enforcement worker discretion at this phase of enforcement was important because of the knowledge caseworkers had about the circumstances of the case.

Staff in all counties described that the decision about whether or not to enforce depended on the context of the case. Staff emphasized that nonpayment alone did not necessarily mean that they would take enforcement actions. As one staff member stated:

“It doesn't automatically mean that just because you stopped paying that it's going to go on the road of enforcement. But most of the times it does, unless you have contact with that person that explains the situation.”

Staff cited reasons such as documented medical issues, temporary job loss, and incarceration as factors that often led them to hold off on enforcement actions. Described one staff member:

“Maybe the NCP calls, you know, either you called him or, or her and they—you're having a conversation with them for whatever reason. And they say, ‘I got laid off but I'm going to be back to work, like, a seasonal thing. Sometimes like I get laid off for the fall, but as soon as winter comes, then I'm going to be plowing.’ He really has something else lined up. Or maybe there's a medical reason and they're saying, ‘I'm going to see the doctor, I got appointment with the doctor, and we discussed the medical capacity form.’”

Key in staff decision-making about whether or not to enforce was whether or not the noncustodial parent had been in communication with the child support agency to let enforcement staff know why they had not paid. As one staff member described:

“For me, on the enforcement end, I think for me it's how responsive is my NCP? How, you know, I'm calling you, are you talking to me, are you answering your phone, are you picking up? I might let it go a little longer if they're cooperating and they're like, yes, I'd like to try to get [into an employment] program... I mean, if we're working together, and we're speaking to each other, and then you cut me out, then we start looking at, you know, like driver's license suspension, things of that nature. Because when you've kind of

cut me out, we're not communicating anymore, we're not staying in touch. You told me you were coming into [the employment program]; you didn't do that. You know, you're not holding up your end, I'm going to start looking at other options now.”

Another staff member echoed this sentiment, adding:

“That's why we always tell them, you know, like, it's just important for you to communicate with us, because we don't know what's going on. If you all of a sudden stop paying, and we don't hear anything, we can't presume the best... Meanwhile, the custodial parent is calling and wanting to know what's going on. So, most often-- that's why we encourage them to contact us with things that happen because that's only going to help them. It's not going to hurt them.”

Staff stated that when noncustodial parents reported a job loss or medical issues, they followed up periodically to inquire about the noncustodial parent's job search status, medical forms, and participation in employment programs. Some used calendar reminders to make follow-up phone calls; others sent letters reminding noncustodial parents that they had fallen behind. If noncustodial parents did not provide the required documentation, or if enforcement staff felt they were not engaging in efforts to find employment, they would activate enforcement measures at their discretion. Described one staff member, “If you're not working, what do you do to find work? If there's a medical issue as to why you can't work, you need to provide proof.”

Staff across counties also reported taking partial payments into account when deciding whether or not to initiate enforcement actions; how staff viewed partial payments varied across counties, and within counties, decisions varied depending on case circumstances and worker discretion. Staff in three counties described that consistent partial payments signaled a need for services; prior to enforcing, staff in these counties described reaching out to noncustodial parents

by phone to determine whether employment services or a case review might be appropriate. Staff in two counties described taking enforcement actions on cases with partial payments as a lower priority than following up with noncustodial parents paying nothing. From the perspective of these staff members, partial payments generally signaled a willingness to engage with the system and efforts taken to meet their obligation. Described one staff member, “Send in anything, show a good faith effort, and I’ll hold off. So, you know, if you paid 90 percent, we really don’t care so much.” Staff emphasized the importance of considering the totality of case circumstances, including the noncustodial parents’ employment circumstances and assets. Described one staff member, “We’re not too hard if somebody’s paying three-quarters of their order, [but] if you have 10,000 dollars, 20,000 dollars, 50,000 dollars in your account, then we have a problem.”

Enforcement Selection and Sequencing

Selection and sequencing of worker-initiated administrative enforcement tools varied across counties, and counties reported that enforcement workers had discretion in choosing and sequencing tools within counties. Across counties, staff described that workers selected administrative tools that they perceived were most likely to yield payment from the noncustodial parent, rather than seeking to punish the noncustodial parent for noncompliance. Additionally, staff interviewed in all counties expressed the importance of not taking administrative actions that would further diminish a noncustodial parent’s ability to meet formal support obligations.

Across counties, staff generally began by considering whether license suspension was appropriate; staff had the ability to pursue suspension of the different license types in any combination. Staff in two counties generally described evaluating whether driver’s, recreational, and professional licenses should be suspended separately; staff in three counties described that they generally suspended all three simultaneously because, as one staff member described, “you

don't know what's going to hit them the most." Staff in all counties described suspension of recreational licenses as a strategy that was productive for some noncustodial parents with these licenses; three counties in particular stressed the importance of recreational license suspension. Two targeted enforcement actions at times of the year, such as the start of the hunting and fishing seasons, most likely to generate a response from the noncustodial parent. Staff in some counties found driver's license suspension to be generally unproductive due to the likely effect of the action on ability work; however, staff in several counties noted that notifying noncustodial parents about the possibility of a professional license suspension helped in some instances to "get the attention" of the noncustodial parent.

Staff use of driver's license suspension varied across counties. Staff in one county described that, as an agency, they had philosophically moved away from driver's license suspension a number of years ago because their experience indicated that license suspensions interfered with a noncustodial parent's ability to work. As a result, staff in this county reported that license suspension, as well as the threat of suspension, occurred rarely. Staff in two counties had recently gotten away from suspending driver's licenses in response to judiciary concerns about driver's license suspension interfering with ability to work; judges and commissioners in these counties ruled against the county in contempt cases in which the noncustodial parent successfully argued that lack of a driver's license impeded their ability to work and pay support. One of these counties temporarily ceased suspending driver's license suspension entirely due to feedback from the judiciary, though had recently reinstated the process after learning about the ability of noncustodial parents to obtain restricted occupational driver's licenses, allowing them to drive for employment purposes only. This county was able to resume license suspension after establishing a process for conveying information about occupational licenses to noncustodial

parents and describing this new process to the judiciary. Staff in these counties, however, emphasized that sending letters providing notice to the noncustodial parent that their license could be suspended remained an important tool, even if the likelihood of suspension was low; these staff perceived that letters warning noncustodial parents of this possibility sometimes caused them to reach out to the agency in response.

Staff in two counties described pursuing driver's license suspension routinely if the worker felt it was appropriate. In these counties, staff explained that a noncustodial parent's employment and payment status affected this decision, with staff being unlikely to pursue driver's license suspension on a noncustodial parent who was working and making partial payments. Stated one staff member:

“We encourage our people to make reasonable decisions on enforcement... License suspension is not supposed to be automated. I mean that is something that is supposed to require an analysis of, Are we helping or hurting by doing this? Because, frankly, we don't want people's licenses being suspended. We want people able to get to work.”

After attempting license suspension, or if driver's license suspension was determined inappropriate, staff generally moved forward to consider whether asset freezing and seizure was appropriate. Staff in one county evaluated the appropriateness of license suspension and asset seizure concurrently. Staff described examining assets such as bank accounts, retirement accounts, pension funds, worker's compensation funds, and lump sums from settlements. Staff in most counties described pursuing asset seizure cautiously; they were hesitant to seize assets that were sufficiently limited as to only meet the noncustodial parent's basic needs. Staff also noted that asset seizure could be counterproductive by harming the relationship between the

caseworker and the noncustodial parent, or by causing the noncustodial parent to hide assets.

Described one staff member:

“Seizing the account is something that in my experience hurts the relationship of the NCP and the agency because once we touch someone's money, once they know that you can do that, they're likely not going to hold—they're going to close that bank account or whatever to make it more difficult for that to ever happen again.”

Another staff member added:

“Account seizure is kind of—it's frustrating because checking accounts, if there's 1,500 dollars in there, is that something you should be spending time on? Because by the time you go to seize it, they may have paid their rent and their car payment. And do you really want somebody to be homeless, too? I mean, you've got to talk to these people. But if there's a retirement or if there's a savings account or somebody is living large and there's a big asset there, yes, they're going to begin doing that... We use it when it's appropriate. But we're careful of checking accounts and we look more so at savings or investments.”

Staff described that variation in staff processes within counties was driven by the need to respond differently depending on the context of the case, as well as individual worker experiences and preferences. Staff varied in their approaches to pursuing tools, the amount of time between letters or trying new tools, and the extent of their outreach in between use of administrative tools. Staff in all counties said that workers needed discretion to select and sequence enforcement tools in order to respond to the circumstances of each case. Explained one staff member:

“So, where are they on the spectrum? Are they somebody who needs, you know, some encouragement and needs to be referred to a job program and needs to have some

accountability? Maybe in the middle? Or on the far end, is this somebody who's driving, you know, a \$40,000 brand new car and throwing cash around? So child support agency needs to be on a roll with any one of those people, which is why I think that we need to have a range of enforcement tools available to us, but we need people to be able to make appropriate use of discretion.”

Despite the variation in sequencing, timing, and selection of administrative enforcement tools, staff across counties reported an expectation that enforcement workers pursue all relevant administrative tools before considering administrative remedies exhausted and evaluating a case for potential civil contempt proceedings. As a staff member in one county described, workers did not take the same steps in the same order, but, “we all get to the same point.” In three counties, staff were required to submit checklists to their supervisor or child support attorneys to confirm that administrative enforcement remedies were considered or attempted; in others, staff described being aware of attorney and court expectations for use of these tools prior to contempt.

Staff Roles in Administrative Enforcement

With a few exceptions, staff reported that enforcement staff have considerable autonomy in decision-making related to administrative enforcement prior to initiation of contempt. When administrative enforcement staff operated as a distinct unit, these staff described close coordination with the enforcement caseworker assigned to a case. Enforcement staff sometimes coordinated with supervisors on questions, and supervisors sometimes provided suggestions if they arose in the course of a case review. Staff in two counties discussed obtaining permission from a supervisor to negotiate a payment amount with noncustodial parents in exchange for clearing a passport hold or vehicle lien. Staff described conferring with child support attorneys rarely during this stage of enforcement.

Changes to Administrative Enforcement Practices Over Time

Staff described a number of changes to enforcement practices throughout their time working in child support enforcement in Wisconsin. A consistent theme across all counties underlying many of these changes was an emphasis on shifting agency culture and practices to better align with the needs of noncustodial parents, in support of the goal of better serving children and families. Staff said that this approach was necessary for overcoming the negative experiences with and perceptions of child support many noncustodial parents had. One staff member explained, “We have been trying very hard over the last six or seven years to change that attitude, you know. ‘We’re not here to hit you right on the head. We’re here to help you. The whole point is to try to make things better so that you can pay the child support.’” A staff member in another county described performing outreach through community partners across a wide range of forums, “to debunk some of the myths or rumors about child support and to make people more comfortable with coming to communicate with us.”

Staff described the driving force behind this change in approach as coming from federal offices, from the state, and from within agencies. Described a staff member in one county:

“I believe the message from the federal office and the federal level has come down and they want us to be more open and more fair. I mean, everybody’s got low-income guidelines now. Everybody wants to see if you got the ability to pay before you actually take action... They want us to get in contact with them. Early intervention is huge with the feds and it has—all of that has streamline down into the state office.”

Transitions in approach were not without challenges. In several counties, staffing cutbacks contributed to larger caseloads, while at the same time, more customer-focused approaches required more time and attention on the part of the caseworker. Staff in several counties also

mentioned that not all staff embraced approaches that required more customer interaction, and as a result, noncustodial parents' experiences interacting with child support varied depending on their assigned worker. And, several counties discussed attempting to standardize practices, so that all customers had the same opportunity to begin complying with their orders prior to contempt regardless of who their caseworker is, while at the same time aiming to give caseworkers the autonomy to select tools appropriate for specific case circumstances. However, staff across all counties expressed that these shifts in approach to working with noncustodial parents helped them to serve noncustodial parents and children.

Agency shifts in approach towards working with noncustodial parents took three primary forms: (1) changes to agency perspectives on roles; (2) changes to approaching relationships with noncustodial parents; and (3) changes to specific administrative enforcement practices.

Changes to Agency Role. Across all counties, staff described a shift in the role of their agencies from strictly enforcement towards a more supportive role aimed at helping the noncustodial parent overcome barriers to meeting their formal support obligations. Staff described several aspects to this shift. First, staff discussed a change towards referring noncustodial parents to other programs, including employment and parenting resources, intended to help them overcome their barriers to finding work and having a relationship with their children. Staff in all counties (including counties that participated in the CSPED demonstration as well as counties that did not) strove towards this new approach, though some counties were more adequately resourced to leverage these resources than others.

Next, staff in all counties described transitioning towards a more proactive and personalized approach towards working with noncustodial parents. In some counties, this change affected not only outreach to noncustodial parents behind on their support obligations, but also a

more accessible general orientation, from making staff and supervisors available for in-person meetings, to, in one county, pulling the call center in-house so that noncustodial parents could reach their worker directly with questions. For noncustodial parents behind on their obligations, this approach involved going beyond sending letters when parents got behind, but also making phone calls to understand the noncustodial parent's circumstances. Explained one staff member:

“In the past that's really how it was done here, is that it was to push the letters out and, you know, sit behind the desk and the computer and kind of hide behind the notices. Since then...we have been more focused on the education outreach in connecting with the participants. That has made a huge difference; it's made a world of difference because they feel like they are being heard, I think. And they feel like we're not just there to collect their support all the time. That we can provide them resources or other ideas and things like that to try to help them more than just demand their payment.”

Staff in all counties also described proactively seeking information that would help them to know whether a downward modification was appropriate for the case. Described one staff member, “I think we are enforcement-oriented, but I feel like we're enforcement-oriented with the goal of getting to a public policy success. Of getting to support, which means employment, and you know, which means right-sizing of orders.”

Additionally, staff described that their agencies had begun to include what they described as an educational component to their role, aimed at intervening with noncustodial parents behind on their support early to explain the system, and describe why it is in the noncustodial parent's best interest to avoid arrears and interest. Explained one staff member:

“A lot of times I don't think that they're aware of what they're—how quickly the interest accrues either, so... it's kind of informing them where they're at with where their arrears

balances are, with their interest. You know, some people are paying and they're like, 'I'm paying; why are you seizing my account?' And it's like, 'Well, you're paying \$50 a month but you're accruing interest that, you know, \$80 a month. You're not even touching that.' So a lot of that is kind of being more of that friendly helpful person as well, because I think when people leave the courthouse, they don't really realize how quickly interest accrues that it's going to continue and so part of that, I think, is providing the knowledge to them as well... You know, I think once people realize that they have so much interest, they're like, 'Yes, you know what, I can pay an extra hundred dollars a month.'"

Across counties, staff emphasized that intervening with noncustodial parents early helps to set positive habits; avoid the accrual of arrears that eventually feel insurmountable; and position the child support agency as a resource rather than solely as a collections-oriented agency.

Changes to Relationships. In all counties, staff described a transition towards a greater emphasis on building rapport and a positive relationship with noncustodial parents. This manifested itself in several ways. First, staff described making a concerted effort to reach out to parents, understand their circumstances, and demonstrate empathy when their circumstances made it difficult to comply with their formal support obligations. Described one staff member:

"We're much gentler in working with the payers much, much more. And I've only been here six years. And when I started, never would I call and say, 'Do you need to come in and talk? What are you doing? Can I help you? How can I—you know, let me see if you need a modification.' I would have never made that phone call asking them, you know, 'I notice you're not paying, what's going on with your life?'"

Staff sought to personalize relationships and present their goal as to help the noncustodial parent overcome barriers to paying. Described one staff member:

“I let them know that I'm the one that makes those decisions. It's not just an arbitrary decision that some upper echelon person is making because you're not paying. As long as you're keeping in touch with us, you don't have to worry about those things. If I know what's going on with you and you're running into problems, just let me know what's going on. If I've got resources, I will help you with those resources. So we just sort of let them know that, ‘No, our goal is not to put you in jail and cause problems for you.’ It might have been at one time but it's not anymore.”

Many staff found this change in approach as effective for reaching some noncustodial parents who previously avoided interaction with the agency. One staff member stated, “With a little bit of compassion and a little bit of investment of time, I know that there are people that have just broken down that resistance and helped them start towards getting things better.”

Changes to Specific Administrative Enforcement Practices. Staff in three counties raised practice changes related to focusing on current support rather than state-owed arrears. Staff discussed engaging more frequently in practices such as seeking out cases with arrears-only debt appropriate for closure, particularly when a noncustodial parent had extenuating circumstances such as incarceration contributing towards the accrual of state-owed debt, or was in arrears-only status but consistently lacked employment. Staff described encouragement from management and the state to close these sorts of cases to instead focus efforts on cases more likely to produce current payments for families. Staff also talked about getting away from taking enforcement actions on arrears in circumstances when the noncustodial parent was keeping up with current support payments.

Staff in all counties also discussed using license suspension as a tool less frequently than in the past, to varying degrees. One county placed less emphasis on reducing the practice, and

instead emphasized changes related to becoming more selective about which kinds of licenses to suspend in what circumstances. One county stopped suspending licenses entirely until recently instituting a process to help noncustodial parents with suspended licenses obtain an occupational license. The remaining three counties described using driver’s license suspension infrequently, or cautiously, particularly if the noncustodial parent was working, or if the enforcement worker suspected the case might ultimately be a candidate for contempt.

Additionally, staff in all counties talked about making decisions related to administrative enforcement practices such as account seizures carefully. Staff cautioned that these practices could undermine trust between the noncustodial parent and the caseworker and make them angry, so in circumstances in which they hoped to facilitate consistent compliance across time, they often tried other means first. As one staff member explained:

“We’re in an unusual position of being—we exist in both social services and enforcement. So, on the one hand, we operate largely as a social services agency. And at the same time, we have to have the ability to compel enforcement, because left to their own devices, people don’t always do what they’re supposed to do... our job is helping people to be responsible whether they want to be or not. And so that’s—I mean, that’s an important job. So the enforcement tools are necessary. So when you have things like the lien docket, you know, or the ability to intercept a tax refund or the ability to put a lien on a vehicle or real property or suspend a license, all of those are necessary tools. But we prefer to see people do this on a voluntary basis.”

Civil Contempt

Civil Contempt Prompters and Decision-Making

Counties used different time and amount thresholds when considering whether civil contempt might be appropriate for a given case. Staff in one county used a minimum threshold of two months without payments and two used a 90-day threshold. Two counties described making decisions on a case-by-case basis, though staff in one of these two described that attorneys generally would not accept a case for contempt before six months of nonpayment. Staff stated that they generally did not use dollar amount thresholds in deciding whether or not to pursue contempt due to variation in order amounts. However, staff in three counties described that, unless they had information suggesting the noncustodial parent could pay more but chooses not to, they would not proceed to contempt if a noncustodial parent was making partial payments. From the perspective of staff, partial payments were generally reflective of what the noncustodial parent was able to pay, and taking cases with partial payments to contempt was typically considered “really not winnable.” Additionally, in one county, staff described that involuntary payments, made, for example, through tax intercepts, would be considered a payment like any other and re-start the time threshold for proceeding to contempt. In another county, staff would delay contempt in response to involuntary payments by taking a “watch and wait” approach, though no specific timing threshold was reset in this county.

Once staff determined that a noncustodial parent was sufficiently behind on payments to meet the threshold for contempt, they sought to determine whether other factors impeded the noncustodial parent’s compliance in such a way that rendered the case inappropriate for contempt. Consistent with *Child Support Bulletin 17-11*, counties described reviewing locate sources for evidence of inability to pay, checking whether administrative enforcement remedies had been exhausted, and identifying a physical address for the noncustodial parent. Counties also described attempting communication by at least two different methods in the 30 days prior to

filing. In all counties, staff described that they would not proceed to contempt if the noncustodial parent had a documented inability to pay, or if they were unable to locate the noncustodial parent. However, staff described variation in the intensity of staff efforts, within and across counties, as they considered whether or not to file for contempt. For example, staff in several counties described that while staff were required to make contact in two different forms prior to contempt, some attorneys expected to see a longer history of contact attempts, reviewed the case history carefully, and might send cases back for additional contact attempts if they thought it appropriate to do so. In contrast, staff in one county described that attorneys accepted all cases as long as the two-method threshold was met. Similarly, within counties, staff described that some workers moved on contempt as soon as the minimum thresholds were met, whereas others preferred to continue personal contact attempts and pursue additional potential contact leads.

In addition to these shared criteria, counties used some criteria differently. For example, in counties with employment service programs, staff said that they first determined whether or not the noncustodial parent had already received referral to the program. If a referral had not been made, staff generally attempted to provide one before proceeding to contempt. Efforts to provide information about these resources varied across counties and staff. Within one county, one enforcement worker consistently made referrals to the county FoodShare Employment and Training provider, but did not think that other staff made such referrals pre-contempt. Within several other counties, some staff sent letters and fliers about possible referral sources; others said that they mentioned these referral sources only by telephone. If a referral had been made, staff in two counties reported checking in with the employment provider to determine whether or not the noncustodial parent had been engaging in services as expected; staff in the third county reported receiving inadequate information about participation from the employment provider to

factor it into their contempt decision-making. Additionally, staff in one county described that they sometimes called custodial parents to confirm that they still wanted child support services on a case before proceeding to contempt, and would proceed to case closure if the custodial parent indicated they no longer wanted services. In another county, staff explained that they would not proceed to contempt for noncompliance with state-owed arrears debt only; the noncustodial parent also needed to be out of compliance with a current order or an order for family-owed arrears.

Despite this variation, staff across counties consistently reported a common theme—they pursued contempt when: (1) other administrative remedies had been exhausted, and (2) the obligor was not in communication with the enforcement worker. Described one staff member:

“So [the enforcement worker] should've tried all their administrative remedies. They should've tried to contact the person. They should've tried to find out what's going on. They should've tried to offer, you know, job services, to see if they can help them find a job. They should've used all of their administrative tools, and they should've made a significant effort before it gets referred [for] judicial enforcement.”

Another staff member emphasized the role of lack of communication in the contempt decision-making process:

“Let's say all the enforcement pieces that can happen administratively have happened. We've tried to get them to work with you, they're still not even bothering to respond or they're giving you the runaround or something. Then you decide it looks like it may be a good case for contempt.”

When staff felt that the noncustodial parent was “trying” to meet their obligation, or to stay in communication with the agency, they described that they typically held off on pursuing contempt, at least initially. Explained one staff member:

“You know, send in anything. Anything is better than nothing. If you say to your person, I understand you're not working, just send in \$25. And then they send in the \$25, OK, I'm not going to file a contempt against him this month. You know, I'll hold off on what I'm doing.

They responded. They showed a good faith effort and they're willing to work with me.”

Another staff member echoed the sentiment that they would give obligors time to address payment barriers, as long as they were experiencing legitimate barriers and making an effort. The staff member stated:

“I'm going to do some work with the guy before I really would necessarily ask the court find him in contempt and put him that much closer to potentially go into jail... I will give people lots of opportunities to do what they should do and then it's only really after they failed to address their situation and continue to ignore what they should be doing about this. Then I'll take it in [for contempt] and ring it up without any qualms.”

Staff Perceptions of the Role of Civil Contempt

Across counties, staff described civil contempt as a process with a goal of “getting someone’s attention” and determining the circumstances of a case, rather than a goal of punishment. One staff member characterized civil contempt as, “Remedial. It's not punitive. It's to remedy in noncompliance for the court order and it's not to punish someone for failing to follow the court order.” Described one staff member, “It’s all really about getting information and then helping the payer understand what they can do better to comply with what the court has ordered them to do.” Another staff member added:

“So, the whole contempt process really is a fishing expedition for information because the child support system is built to have a computer just kind of automatically match stuff, kick out income assignments and that collects a lot of money without the need for a lot of human involvement... the problems are the system is not working in an automated fashion, we need some human intervention, and some people just need human intervention which is drag them in front of the court.”

When noncustodial parents were unresponsive to enforcement worker contacts and they could not determine why a noncustodial parent was not paying, staff felt that they had run out of options. Across counties, staff described that most of the cases they pursued for civil contempt ultimately have underlying issues related to ability to pay, rather than unwillingness to pay. Staff in one county characterized civil contempt cases in which the noncustodial parent had the ability to pay but chose not to as “in the single digits, percentage-wise.” A staff member from another county agreed, explaining, “I don't think that there are any or very many people that are in contempt just because they feel that they shouldn't pay. It's that they can't pay, and there's probably a lot of things that they can't pay. And at some point, they're determining whether they pay the rent or pay the child support.” Staff felt the civil contempt process, for noncustodial parents whom they were unable to reach through other means, helped them to understand the underlying issues related to ability to pay. Described one staff member:

“People drop from the radar for several different reasons. They're bums and they're just never going to pay unless, you know, we go so far as to charge them criminally with support and put them in jail. There's people that have truly tragic situations and they just don't deal with it. People in the depths of depression, addiction. So, a lot of the benefit of a contempt hearing is you get, hopefully there's somebody right in front of you. You can

talk with them about what's going on. You can break through some of the barriers of whatever is going on and either get their head pointed in the direction of 'Hey, you've got to deal with this.' You know, 'OK, your support is way too high but the solution isn't to just go underground and not pay anything. It's better for us if you pay what you can. Here are some resources that you can go talk to, to get some help.'”

Civil Contempt Process

Staff described that generally, enforcement workers had discretion to decide when pursuing contempt was appropriate within agency guidelines, but could confer with attorneys or supervisors when they wanted advice or a second opinion on a borderline case. In one county, staff felt that there was little variation across workers in deciding when contempt was appropriate, due to consistency in attorney expectations. In the other counties, staff described that worker preferences about how quickly to pursue contempt varied, particularly when noncustodial parents had some degree of ongoing contact with the agency. Across counties, once an enforcement worker decided a case was appropriate for pursuing civil contempt, they began preparing information for the agency's attorneys. In one county, supervisors reviewed all cases enforcement workers considered for contempt before the cases were sent for attorney review.

Staff in three counties described preparing checklists for attorneys to review, indicating the steps they had taken and information they had reviewed in preparing for the contempt. In all counties, staff described that attorneys needed to review the case before moving forward with preparing an order to show cause. County descriptions of the level of attorney involvement at this stage in the process varied. In one county, staff described that attorneys reviewed the checklist and sent cases back if, based on the checklist, all administrative remedies had not been exhausted. In another county, staff described that attorneys did not review cases for merit, but for

legality only. In three counties, staff described a very active role for attorneys, with attorneys reviewing case-level information and notes within the child support database prior to filing, checking other systems to identify whether the noncustodial parent had been incarcerated, and sending cases back to enforcement workers if they felt the case was not appropriate for contempt or additional administrative or outreach actions were needed before filing. Within most counties, staff also described variation in attorney preferences prior to contempt; staff explained that attorneys had discretion over which cases to take, and attorney expectations for staff steps taken prior to filing varied. Once the attorney agreed to accept a case, enforcement workers prepared paperwork for the court and sent paperwork off to the noncustodial parent.

Counties described a similar overall process for contempt cases to work through the court system, with some variation across and within counties in the steps leading to contempt, and staff preferences and roles. As a first step, counties described holding an initial hearing, in which the noncustodial parent is advised of their rights to an attorney. The timeframe for that staff described typically elapsed between nonpayment and the initial hearing varied across counties; in some counties, staff described moving quickly after 60 days of nonpayment, and setting up hearings within two or three months; in two counties, staff described that about a year typically elapsed between the last payment and the initial hearing. In four counties, these initial hearings occurred before a commissioner; in the fifth, they take place before a judge. Enforcement staff in some counties took turns covering initial hearings; in others, they are expected to attend court when their own customers appear for contempt-related matters. At the subsequent hearing, which staff described as occurring between one and four months after the initial hearing depending on the county, cases would either be dismissed, if the noncustodial parent had come into compliance; or re-set, if court staff determined the noncustodial parent needed more time to look

for work or obtain documentation; or the noncustodial parent could be found in contempt, by default, stipulation, or judicial finding. If a noncustodial parent was found in civil contempt, the court issued remedial sanctions and purge conditions as requirements to clear the contempt. Remedial sanctions across counties were typically delayed in order to allow the noncustodial parent time to achieve the terms of the purge conditions. County practices related to purge conditions varied across and within counties, with some court staff always using the same purge conditions, and others varying conditions based on the circumstances of the case.

Once a noncustodial parent was found in civil contempt, the child support agency then monitored compliance with the purge conditions prior to the next scheduled hearing. In some counties, staff reported that enforcement workers monitored these conditions through worklists consistently; in others, staff reported inconsistency across workers because time constraints made monitoring difficult, so workers checked progress in the weeks leading up to the next hearing. If the noncustodial parent remained noncompliant, the enforcement worker typically requested through the child support attorney a warrant from the court to initiate the warrant of commitment process to lift the stay on the sentence. This generally led to the issuance of a bench warrant, though two counties waited until the noncustodial parent was picked up for another reason, such as a traffic violation, rather than requesting that the sheriff's office would attempt to locate and arrest the noncustodial parent for the child support matter only. Once apprehended, the noncustodial parent then appeared before a judge for a commitment hearing. Staff reported that, within and across counties, the likelihood of going to jail at that point varied based on preferences of specific judges, as well as local conditions such as jail overcrowding. Three counties described the likelihood of the noncustodial parent being sent to jail immediately as very low; rather, the courts usually provided one or more opportunities to return at a later date

with a payment. Across counties, once in jail for civil contempt, the obligor could obtain their release by meeting purge conditions.

Changes Over Time

Across counties, staff identified several changes to the contempt process over time. First, staff across counties reported greater emphasis on ability to pay and a trend away from contempt in general, in favor of other enforcement options. Staff generally reported an expectation that enforcement workers try to exhaust other enforcement options pre-contempt. Staff in several counties also reported that once a case was brought for contempt, court staff had recently placed greater emphasis on setting realistic purge conditions, identifying and addressing barriers to payment, and providing more chances to comply pre-incarceration. Staff described factors such as state guidelines, cost, jail overcrowding, and the staff time required to bring a case for contempt as factoring into this trend. One staff member described the cost element to this decision, stating, “You don't need to pay an attorney to get information out of the guy if just some simple efforts can get it at a worker level.” Another staff member emphasized the shift towards providing supports for noncustodial parents to meet their obligations:

“Well, [the process for deciding whether or not to pursue contempt has] changed over time. When I started... it was a real prosecutorial focused, you know. Our job was to get money out of deadbeats and, you know, you kind of were there quasi-representing the custodial parent and you were just trying to get as much money as you can. A lot of that money was going to reimburse the state given the assignment supported the time. And the pendulum swung a great deal in the last—a long period of time. And now we're much more about helping people and breaking barriers down and rightsizing orders in a way.”

The second trend identified across counties was review by a child support attorney of each case that an enforcement worker recommended for contempt prior to pursuing the option. Described one staff member, “Now attorneys must review all contempts before they go out. Previously they used to just review on their own and schedule hearings and prep documents and do all that. But just within the past year or so the state changed their process and basically requiring that attorneys have to review cases prior to them being scheduled for contempt.” Staff cited state guidance driving this trend, and many staff reported that this review helped facilitate more consistency across workers in determining which cases were brought in for contempt.

Criminal Nonsupport

Criminal Nonsupport Process

In counties that pursued criminal nonsupport, staff explained that the process generally began with the child support agency making a determination that the case should be considered for criminal nonsupport charges, then making a referral to the district attorney’s office. Staff described that child support enforcement workers generally identified potentially eligible cases and conferred with child support attorneys (or in one county, the child support agency director) to determine suitability for a referral. Once referred to the district attorney’s office, district attorney staff decided whether or not to pursue charges.

Criminal Nonsupport Prompters and Decision-Making

Across counties, staff described pursuit of criminal nonsupport as relatively rare, with some variation across counties. One county had ceased pursuit of criminal nonsupport entirely. Two counties described the practice as occurring only in extreme circumstances, with the staff who participated in interviews recalling no or only a few instances in recent years. In the other

two counties, staff recalled recent instances in which they had made referrals for criminal nonsupport, but characterized these referrals, and charges resulting from referrals, as rare.

Staff described that several factors played into the decision regarding whether or not to pursue criminal nonsupport charges. First, staff stated that all administrative options should be pursued first, and civil contempt should be pursued when possible prior to exploring criminal nonsupport. Next, staff reported needing evidence that the noncustodial parent had sufficient income to pay but willfully chose not to, in a manner characterized by staff as “very egregious with a big payout.” Staff cited examples such as finding evidence that the noncustodial parent was taking expensive vacations or buying expensive cars, yet disregarding their child support obligations. Further, in the counties that pursued criminal nonsupport, taking this action required both the child support agency’s will to pursue it and the district attorney’s office willingness to take the case.

Staff in three counties described that actors outside of the child support agency sometimes catalyzed pursuit of a criminal nonsupport referral. In two counties, staff described that pursuit of a criminal nonsupport typically required the custodial parent to “really push it” with the child support agency; in other words, for the custodial parent to proactively make requests of and provide information to the agency. In another county, staff described that when criminal nonsupport was pursued, typically, this process began with either a child support attorney or a judge overseeing the civil contempt process making a recommendation in court that the child support agency consider a referral for criminal nonsupport.

Staff described several factors contributing to the infrequent use of criminal nonsupport: capacity and organizational priorities, as well as views regarding the efficacy and potential negative consequences of the process. These factors affected both the likelihood of the child

support agency making a referral, as well as the likelihood of the district attorney's office pursuing charges. First, across counties, staff reported that capacity and will for pursuit of these cases varied due to the time and labor required by the process. In one county, staff described that understaffing within the child support agency substantially reduced the number of referrals for criminal nonsupport charges, contributing to instances of these charges decreasing within the county. Some staff in this county felt that the district attorney's office might take more cases if they received more referrals, but noted that the time and labor required of child support enforcement workers and attorneys to prepare for these proceedings set a high threshold for consideration of such referrals. In another county, staff described that district attorney staff were limited and prioritized pursuit of other types of cases, such as drug-related cases, over child support cases. Explained one staff member, "I don't even know that it matters about the amount [of nonpayment]. I think it matters more, are [the district attorneys] dealing with too much meth? The child support is not their biggest concern. Or whatever they're dealing with, you know, there's just—there is more critical cases."

Next, staff described that views towards the potential negative consequences and efficacy of criminal nonsupport charges affected referrals as well as the likelihood of pursuit of charges. Described a staff member in a county that sometimes pursued criminal nonsupport, referrals occur infrequently because "It is such a hammer, for one. You want to make sure you've exhausted all your other remedies. And two, because it is such a hammer, it's sometimes difficult to get a case prosecuted. You know, if the stars don't align, the DA's not going to take the case." In most counties, including the county that no longer pursued criminal nonsupport, staff members noted that giving the noncustodial parent a criminal record for failure to pay support could make it more difficult for the noncustodial parent to obtain work and ultimately pay

support. Particularly when the noncustodial parent had no other felonies yet, this potential negative consequence affected decision-making. Noted a staff member in one of these counties:

“It would have to be an extreme case for me to file a felony on somebody who otherwise has a clean criminal record. I don't want to make somebody a felon based on nonsupport unless it's an extreme case and we've tried everything else.”

Staff in one county also found the criminal nonsupport process to be generally less effective than other means. Described one staff member:

“We don't refer a lot of cases for felony. And truth be told, we don't see a lot of successful results. We actually see more positive results through contempt than we do through felony proceedings... and oftentimes we are not kept in the loop with what's going on with the [felony] proceedings. There's many times that I didn't even know that a hearing was being held. So I don't refer a lot of cases because of that.”

Changes Over Time

Across counties, staff generally described a decrease in the use of criminal nonsupport over time. These changes occurred within a landscape of an effort to exhaust other options, resource constraints and organizational priorities, and attention to the impact incarceration might have on future employment and payment of child support.

Best Practices

County staff were asked to share their perspectives on enforcement tools that are most effective, and enforcement tools generally found to be ineffective.

Circumstantially Effective Tools

Though responses varied across and sometimes within counties, a theme that emerged across counties was that most tools are effective under some circumstances, though the range of

circumstances under which tools are effective varies depending on the tool. For example, as previously described, though staff across counties described passport suspension occurring relatively rarely (ranging from “never” to “not very often” across counties), staff in most counties felt that under the right conditions, passport suspension can act as useful tool. Described one staff member, “One of the very effective tools in very narrow circumstances, but when it hits somebody, it's extremely effective, is passport denial. That creates—when someone is planning on going out of the country and they find out they can't get their passport, we've made significant collections on those cases.” Similarly, as previously described, staff in two counties also described that automobile liens can be an effective tool under certain circumstances.

Most Effective Practices

Across counties, staff described that making phone calls and performing direct outreach to noncustodial parents who got behind on their child support payments was often an effective tool for heading off enforcement entirely, as well as gathering information to help identify appropriate enforcement tools later in a case's lifecycle. Enforcement worker outreach prior to initiating enforcement tools allowed child support staff to build rapport and trust, identify barriers to payment, and problem solve collaboratively with the noncustodial parent. Described one staff member, “Outreach gives us that opportunity to resolve the situation before they're ever in the place where they should have their name on a contempt or something like that.” Another staff member explained, “Usually it's them calling us but now we're trying to hit it right up front with the phone call and say, ‘You know, we're here to help you out too. You know, we want you to get a job...’ So, it sounds like you're sort of making an offer of service.” Staff found that these actions sometimes precluded the need for subsequent enforcement, but even when they did not,

helped them to build the case that they had taken actions to try to help the noncustodial parent address their barriers, which often became useful later on in the enforcement process.

Additionally, in counties with robust employment service referral options, many staff identified the ability to provide these services as their “most effective tool”; even in a county that wished their employment service providers were more effective or better resourced, some staff members identified the employment service program as “the best tool.”

In the realm of traditional administrative enforcement tools, many staff across counties felt that automatic income withholding is “the best tool” when noncustodial parents were already working, or when the child support agency could help them start working with the help of an employment program. Many staff also found license suspension, or at least the threat of suspension, to be an effective tool. As previously noted, staff across counties noted that suspension of recreational licenses was an effective tool for some noncustodial parents. Though staff cautioned that driver’s license suspension needed to be used carefully, because doing so could impede the noncustodial parent’s ability to obtain employment, they also found license suspension letters as sometimes an effective means of obtaining a noncustodial parent’s attention. Described one staff member, “Believe it or not, they can get an enforcement warning letter here in this delinquency process and not be shaken. But boy, the minute they see that their fishing and hunting license and maybe their driver's license are going to be taken, they call us.” Staff opinions on suspending professional licenses were more mixed within and across counties; some staff stated that they would never pursue suspension of a professional license due to the impact on the noncustodial parent’s livelihood, whereas others felt that this severity of consequence created an opportunity in some circumstances.

In addition to the aforementioned administrative enforcement tools, staff across counties described civil contempt as an important enforcement tool. Though staff generally characterized civil contempt as a last resort, staff in all counties reported that contempt was necessary for noncustodial parents who could not be compelled to pay through administrative enforcement actions or would not respond to child support agency outreach efforts. Described one staff member, “The contempt is I feel like the most effective in the noncustodial parents who are just not responding to anything. It demands attention. The other ones suggest attention.” Another staff member explained that civil contempt sometimes gained the attention of noncustodial parents who did not take seriously the authority of the child support agency, due to the role of the judiciary. A staff member in another county characterized civil contempt as, “our biggest tool,” not only as a means to get the attention of the noncustodial parent, but also as a vehicle for driving changes, such as providing an opportunity for motions related to order modification, that could help the noncustodial parent come into compliance. Staff in other counties similarly noted that the contempt process facilitated a discussion between court staff and the noncustodial parent. “We’re counseling, negotiating, and we get money that way. That’s a great tool.”

Least Effective Practices

Though staff generally felt that most enforcement tools could be appropriate under the right conditions, a few tools emerged as least preferred among staff. First, staff in three counties described alternative payment plans as generally ineffective. Described one staff member, “I mean, it's disingenuous. Replace it with something that makes sense, but I mean, come on.” A staff member in another county elaborated, “Obviously they're not making their payments in the first place. So, you know, we are not at liberty to lower their court order. The court has ordered

what their payments are regardless of when, you know, whether they're in between work or whatever. I don't find [alternative payments plans] to be very helpful.”

Though administrative enforcement staff in one county characterized account seizures as sometimes helpful tools, across the rest of the counties, staff described a number of concerns regarding account seizures. First, staff in several counties described them as “hardly ever an option,” due to low account balances and shared accounts between the noncustodial parent and other family members. Explained one staff member, “Account seizure. I don't know. Our populous we're serving aren't affluent enough to have something like that.” Next, staff found that seizing assets could damage the relationship with the noncustodial parent, making it more difficult to compel their compliance in the future. Further, staff found that noncustodial parents often moved their money following account seizure, making it useful only once. Explained one staff member, “It’s a one-shot deal. You do it and they take their money out.”

Finally, across most counties, staff characterized the automated enforcement letters generated by the state as generally unhelpful. One staff member described the letters as, “A lot of wasted paper”; another lamented the cost associated with the letters for very little payoff, stating, “You don’t even want to know what our postage costs for the letters.” Staff felt that noncustodial parents ignored these letters, and several staff described the language as confusing or convoluted. Staff found writing and customizing their own letters to be a more effective option.

CONCLUSIONS/RECOMMENDATIONS

This report represents an attempt to better understand the actions child support agency staff take to facilitate child support payments; perceptions about the relationship between these tools and payments; and the roles played by various staff within these processes. Interviews with child support and court staff identified that staff generally take a variety of steps to attempt to facilitate payments prior to and during enforcement. During the administrative enforcement

phase, child support enforcement workers generally have discretion to use tools that they feel are appropriate for a given case. Though this discretion can help workers adapt to varying circumstances, it also provides the opportunity for treatment of a given case to vary depending on the worker assigned to a particular case. Some counties have taken steps towards standardization, such as pre-contempt checklists, and child support attorney review of cases prior to contempt filings is generally regarded to have facilitated greater consistency in the minimum steps taken prior to contempt. Nonetheless, a noncustodial parent's experience with the system during administrative and judicial enforcement processes likely differs depending on the county in which the noncustodial parent resides, and to a certain extent, the child support and court staff with whom the noncustodial parent interacts.

The interviews conducted for this analysis suggest several steps for further consideration. First, a theme that emerged across counties was the value of pre-enforcement contact between child support enforcement workers and noncustodial parents behind on their child support obligations. Staff identified that providing outreach, particularly early on in the lifecycle of a case, can help establish expectations with new payers, as well as deal with problems before child support arrearages become insurmountable. Described one staff member, "Early intervention, I think, is really key. Because once you get people to practice early intervention and education, then those people are more apt to build a positive relationship and get those people in here and then open them up them to be more willing to talk about their situation." Further, proactive outreach from the child support agency helps identify the agency as interested in the noncustodial parent's success in meeting his obligations, as well as identify barriers and potential solutions to support. However, proactive outreach requires both facilitating sufficient staff

capacity for such individualized attention, as well as leadership directives regarding expectations for outreach.

Another consistent theme across counties was the current or potential value of employment programs. Staff identified that facilitating consistent payments through wage withholding requires noncustodial parents to work, and consistent, adequately paying employment as a barrier for many noncustodial parents behind on their child support obligations. Staff reported that the availability, quality, and accountability of employment programs varied across counties, and those with robust service arrays viewed these services as crucial to their ability to facilitate compliance. Therefore, creative solutions for facilitating these services for child support customers; facilitating consistency within and across counties regarding to whom, when, and how services are offered; and consistently incorporating information from these service providers into court processes, all merit consideration.

Additionally, across counties, from these interviews emerged a need for clear, comprehensible information for noncustodial parents at each stage throughout the enforcement process. Staff described right-sizing orders as an important component of child support enforcement services, and yet, staff identified that many noncustodial parents are intimidated and overwhelmed by the paperwork and processes required to obtain a modification. Similarly, staff described incorporating an educational aspect to their child support roles and undertaking various efforts to help noncustodial parents understand their obligations, rights, and responsibilities. Providing counties with user-friendly, simplified documents and templates to support this educational role could help facilitate noncustodial parent engagement and understanding throughout the enforcement process, as well as promote consistency in the delivery of this information within and across counties.

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