

Background Paper on New York's Child Support System

History: SCAA has been involved in child support reform for almost a decade; seeking avenues to streamline and simplify the state's child support system in order to get children economic support from both parents. SCAA published two major reports on child support: *Orders in The Court: The Failures of New York's Judicial Child Support System (1995)* and *Child Support Reform in New York: A Key to Making Welfare Reform Successful and Alleviating Child Poverty (1998)*. A number of positive changes have occurred in the child support system in the past 5 years and, with the advent of welfare reform in 1996, far greater emphasis has been placed on child support as an important source of income.

New York is in the forefront of cultural change in the child support system, recognizing that the child support caseload composition is undergoing rapid changes. In 1995, 50% or more of the approximately 1 million IV-D child support caseload was on welfare, while in 1999 only 33% of the caseload was on welfare. This trend is expected to continue with over 80% of the caseload expected to be low-income working mothers with children within the next few years. **More and more, the child support system must be viewed as a system providing income support to working families rather than a system that recovers welfare costs for the state.** With that as background, New York has enacted a number of new initiatives under the current administration including:

- Expanded and improved voluntary in-hospital paternity establishment
- Turning cases that are more than four months in arrears over to the Department of Taxation and Finance for enforcement
- The establishment of automatic cost-of-living adjustments for many existing child support cases
- Rigorous new hire and wage reporting procedures
- Aggressive use of driver's license suspensions for failure to pay child support
- A stepped up emphasis on collections

More about New York's child support system can be found on the website of the Office of Child Support Enforcement at www.dfa.state.ny.us/nysotda/csms/default.htm. Substantial information on the nation's child support system including state comparisons and explanations of federal & state roles and responsibilities can be found on the website of the Administration For Children and Families within the Department of Health & Human Services at www.acf.dhhs.gov/.

The Pataki administration has also proposed a major systematic change, which SCAA supports, to speed up the process of establishing child support orders. This expedited administrative system for quickly establishing child support orders in cases where paternity is not in dispute and reliable income information regarding the non-custodial parent is readily available through tax or employer records is essential to making the system more responsive to the needs of children. While legislation introduced by the Governor to establish an administrative process for child support orders stalled in the Legislature, the Governor and the Office of Court Administration have jointly entered into an expedited process system for order establishment, particularly in New York City.

Together these reforms have led to significant performance improvements in New York's child support system from 1995 – 2000 including:

- A 50% increase in the number of cases in which paternity has been established from 42% of cases in 1995 to 63% of cases in 2000
- A 14% increase in the number of cases with orders from 58% in 1995 to 66% in 2000
- A 76% increase in collections from \$671.6 million in 1995 to \$1.18 billion in 2000

Even with these improvements, New York still has significant problems:

- In 37% of IV-D cases, paternity has not been established
- 34% of all cases still have no child support order in place
- Current support due totals \$1.177 billion, but only \$866 million or 74% is collected
- Total support due including all arrears is \$3.1 billion, but only \$1.1 billion or 35% is collected (although many arrears will likely never be collected and are really bad debt)
- Only 31% of the nearly 1 million cases in the IV-D child support system have any collections
- Medical support orders that connect children to either private or public health care coverage are far too infrequently enforced

Two important reforms that need to be addressed now are: 1) the distribution of more collected child support directly to families and children, particularly those on TANF, and 2) the need to rationalize and enforce medical support orders for children.

Distribution rules around child support are needlessly complex. They also differ for TANF and non-TANF cases. A full discussion of this and other critical child support issues is available on the website of the Center for Law and Social Policy, a leading national child support advocacy organization at www.clasp.org. In regard to TANF, states were given the option under federal law of continuing, discontinuing or changing the old AFDC requirement that they must pass-through and disregard for welfare eligibility purposes the first \$50 of child support collected each month for welfare families. This policy was meant to provide the custodial mother with an incentive to cooperate with the child support system as well as an incentive to the non-custodial parent to pay child support. New York chose to continue its \$50 monthly pass-through, even though the state must still reimburse the federal government for its share of collections.

SCAA believes that the full amount of child support collected should be passed through to a family on welfare and at least the first \$100 disregarded for welfare eligibility purposes. From a family's perspective, the financial value of a disregard is to increase family income while on TANF, while the financial value of passing through the support is to have child support in place and budgeted for when the family leaves TANF. When child support is paid to the family receiving TANF, it helps the family leave welfare sooner by providing an accurate sense of the amount and regularity of child support payments available to combine with earnings and the EITC as an alternative to continued TANF participation.

The Governor has proposed a measure in each of the last three years that would use TANF surplus funds to increase the child support pass-through and disregard from \$50 to \$100 monthly. This is a significant step in the right direction and will benefit more than 45,000 TANF families by providing an additional \$18 million annually in economic support. It will also provide a stronger incentive for custodial parents to cooperate in the establishment of child support and non-custodial parents to pay the child support they owe. However, this expanded pass-through has yet to be enacted by the Legislature.

Additionally, the Governor is proposing legislation to rationalize the system of medical support orders so that more children can get health care coverage. Over 700,000 children in New York lack health care coverage and although there are no exact estimates, many of them are also connected to the IV-D child support system. While medical support orders should be established along with child support orders under current law, they too often are not, because no rational process or protocol is outlined for the court to follow.

The Governor's proposal, which SCAA supports, would look first to establish private coverage through employer-based plans that might be available to either parent and that would provide access to health care for the child. In cases where private coverage is available to both parents, the preference will be for the coverage available to the custodial parent. Coverage for the non-custodial parent, as long as it allows the child to actually access health care, would be the second preference. In such cases, the court would order the purchase of the appropriate coverage and determine how much each parent must pay towards the cost. Where no private coverage option is available, the court would order the custodial parent to apply for public coverage through either Child Health Plus or Medicaid. SCAA believes this public coverage option could be greatly improved if, instead of the court simply ordering the custodial parent to apply for public benefits, either the court or the local IV-D agency declared the custodial mother and child(ren) presumptively eligible for Child Health Plus or Medicaid and facilitated their enrollment in the appropriate program. The Governor's proposal to rationalize the establishment of medical support has also not been enacted by the Legislature.