For parents in prison, unpaid child support bills can become a crushing debt.

BY JANE HOBACK

When parents go to prison, it can send their kids’ lives into chaos. The growing number of children with parents in prison raises concerns because of the increased risks they face. Children of incarcerated parents are more likely to live in poverty or unstable households, according to the National Resource Center on Children and Families of the Incarcerated at Rutgers University. More often than their peers, they face mental health issues and educational difficulties.

Approximately 1.53 million people were held in federal and state prisons at the beginning of 2016, leaving an estimated 2.7 million children behind. In addition, based on previous studies, about 400,000 inmates are under a child support order.

An “Enormous” Problem

With virtually no income, inmates who owe child support often leave prison with overwhelming debt—between $10,000 and $110,000 for each of them, according to a Marshall Project study of noncustodial parents in 10 states.

Lynne Haney, a sociology professor at New York University who has published a study of child support and incarceration, interviewed inmates in California, Florida and New York. Each owed an average of $35,000 in child support. Once out of prison, often with limited job prospects, some resorted to the “underground economy,” selling drugs, for example, and avoiding their families. Frequently, they wound up back in prison.

“It’s an enormous problem. It’s just mind-boggling,” Haney says. “We don’t even have a sense of the scale of the problem because we don’t have reliable data.”

The Federal Answer

The federal Office of Child Support Enforcement updated its administrative rule at the end of 2016. The new rule is intended to increase the effectiveness of the program for families, and offer more flexibility to states in managing the program. The rule also removes barriers to help states update systems with newer technology to improve efficiency and simplify the process of collecting and distributing child support. The new provisions are, for the most part, optional and do not require legislation in most states. But they do provide an opportunity for state legislators to clarify various child support enforcement laws.
The rule specifically addresses incarceration for failure to pay child support in light of the 2011 U.S. Supreme Court case \textit{Turner v. Rogers}. The case described the factors to be considered when determining which cases should be referred to the court for civil contempt, including a parent’s ability to pay.

When parents with child support orders are incarcerated for other offenses, the rule specifically addresses their right to have a child support order reviewed and potentially modified while they are confined. The rule prohibits states from treating incarceration as voluntary unemployment for purposes of modifying a child support order. Currently 36 states and the District of Columbia treat incarceration as involuntary unemployment, allowing for child support orders to be modified during periods of incarceration.

\textbf{States Take Various Approaches}

Utah lawmakers this year enacted legislation allowing incarceration to be considered a factor in setting child support amounts and, barring incarceration of at least six months, to be treated as voluntary unemployment when establishing or modifying a support order.

In 2015, Texas lawmakers passed legislation allowing child support payments to be adjusted for incarcerated noncustodial parents. The bill reversed a law that calculated support amounts by presuming the earnings of a parent owing child support were equal to the federal minimum wage for a 40-hour week.

“Former prisoners were getting caught in a trap,” says Brete Anderson, chief legislative director for Representative Senfronia Thompson (D), who sponsored the bill. “Some of these guys were coming out of prison after 10 years owing $200,000.”

California was the first state, and North Dakota is the most recent, to enact measures automatically suspending child support orders when parents are incarcerated.

Often, incarcerated parents have no idea they can ask for an adjustment of their support orders. “You have to know about it to apply for it,” Haney, the sociology professor, says. “I gave a talk to about 500 inmates in Florida, and I asked them, ‘How many of you knew that when you got into prison you had to apply to (modify) your order?’ Not a single one knew anything about it.”

Policy experts and state officials alike agree that, while it’s often difficult to find effective ways to notify prisoners, the effort is necessary. Pending legislation in New York would require that inmates be notified of their right to seek modification of child support orders. Washington is experimenting with various methods to get the word to prisoners that they have a right to make such a request.

“We’re trying to use more simple language, and we’re educating the corrections counselors as well,” says Wally McClure, director of the state’s Division of Child Support. “It doesn’t do any good for somebody to come out of prison with $30,000 or $40,000 worth of child support debt. That doesn’t help the child at all. The parent is just going to hide or go back to prison.”

Washington offers a program called Alternative Solutions to help noncustodial parents, including those coming out of prison, find jobs, training, housing, food, and medical and legal resources. It also helps them to adjust their child support payments to make it more likely they can pay what they owe.

\begin{table}[h]
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\begin{tabular}{|l|l|}
\hline
\textbf{Work vs. Jail} & \\
\hline
\textbf{Work} & \\
Unemployed parent who is behind in child support payments is referred to services that help him find a job, stay employed and pay child support. & \\
\textbf{A University of Texas study shows:} & \\
\begin{itemize}
\item More than 80\% find work within two months
\item Participants are 33\% less likely to file unemployment
\item Participants paid 51\% more in child support
\item Families are 21\% less likely to receive public assistance
\end{itemize} & \\
\textbf{Costs per day} & \\
\$5 & \\
\begin{itemize}
\item Skills assessment
\item Debt management
\item Job search assistance
\item Job placement
\item Follow-up monitoring and support
\end{itemize} & \\
\textbf{Child support paid} & \\
\$4,000 & \\
\hline
\textbf{Jail} & \\
Unemployed parent who is behind in child support payments is jailed with little or no opportunity to work. & \\
\textbf{A Pew Charitable Trusts study shows, after jail release:} & \\
\begin{itemize}
\item Individuals are unemployed nine weeks more per year
\item Annual earnings are reduced by 40\%
\item Hourly wages are 11\% less
\item Annual family income is reduced by 22\%
\end{itemize} & \\
\textbf{Costs per day} & \\
\$186 & \\
\begin{itemize}
\item Loss of job opportunities
\item New barriers to future work
\item Uncollectible debt
\item Loss of contact with children
\item Other collateral consequences
\end{itemize} & \\
\textbf{Child support paid} & \\
\$0 & \\
\hline
\end{tabular}
\caption{Work vs. Jail}
\end{table}

\textit{Source: Office of Child Support Enforcement, October 2015}
Alternatives to Prison

States also are providing alternative punishment for some parents who fail to pay child support so they can stay out of prison to help raise their children or get jobs to pay their child support orders.

Georgia Representative Alan Powell (R) sponsored legislation, enacted in 2015, that created diversion centers for noncustodial parents who have been sentenced to jail for failure to pay child support. The diversion centers allow parents to travel to and from their place of employment so they can keep their jobs and pay alimony or child support, including arrears. If parents don’t comply with the requirements, they can be sent to jail.

Georgia also expanded the Parent Accountability Courts throughout the state as an alternative to incarceration. Similar to drug courts, accountability courts offer noncustodial parents help in finding employment or getting the education needed to find a job. Parents also get help for substance abuse and mental health issues.

“A lot of these noncustodial parents don’t have the ability to pay, so they’re found guilty of violating the court order and told they’re going to jail,” Powell says. “That’s not going to help the child or the family that needs the money.”

The accountability courts have helped 2,711 noncustodial parents provide support to 4,780 children. Participants have paid an estimated $2.8 million in support and haved saved the state $10 million in incarceration costs, according to the Georgia Department of Human Services’ Division of Child Support Services.

Powell says the law is also helping lower Georgia’s high rate of incarceration, which in turn can yield cost savings. The cost of incarcerating one person for a year is $50,000, he says. “Instead of locking up the folks we’re mad at, we need to have that space for the folks we’re afraid of.”

Other states, including Louisiana and Virginia, and several counties also have established diversion or work release programs to help noncustodial parents find work so they can keep up with child support rather than go to jail.

Parents With Custody of Children

Children and families with an incarcerated parent face even greater challenges.

“Kids who have parents in prison are at a higher risk of truancy, of dropping out of school, of drug or alcohol abuse, of mental illness. They feel shame and isolation,” says Susan Leavell, program administrator of Washington’s Family and Offender Sentencing Alternative and Community Parenting Alternative programs. Established by law in 2010, these programs have been providing an alternative to prison for custodial parents, or taking them out of prison, when the court deems it is in the best interest of their children.

The Family and Offender Sentencing Alternative program allows judges to waive a sentence and impose 12 months of community supervision for eligible offenders facing a prison sentence to maintain a continued presence in their child’s life. Offenders are not eligible if they have been convicted of a felony sex or violent offense.

The Community Parenting Alternative program allows the Department of Corrections to transfer a prisoner back home on electronic monitoring for up to the last 12 months of his or her sentence, if they meet the same eligibility requirements as in the Family and Offender Sentencing Alternative program.

Parents must comply with several strict activity and reporting schedules that center on the family. The parents must read with their children and help with homework for at least 20 minutes every day, and they must have family dinner time with no electronic devices or television.

Program staff visit the families regularly. “The focus is not work,” Leavell says. “It’s about building the parenting skills and setting up structure and routine, things we know help kids thrive. It’s really about strengthening families.”

When parents make their children a priority, they are more likely to make good decisions in other areas of their lives, decisions that will keep them from going back to prison, Leavell says. Nearly 80 percent of participants have successfully completed the programs since they began.

While the numbers are encouraging, the stories tell the true success. “We get letters from teachers where they note a remarkable improvement in a child’s attendance or their engagement in school work,” Leavell says. She recalls a case of an eighth-grader who had been struggling in school, failing to meet standards for her grade level. “We were able to move out her mother [from prison] and get her back home. Within the next quarter, the girl was meeting the standard in reading. Those are the really exciting things.”

Choices Make a Difference

Texas’ NCP Choices Program is a court diversion program that assists unemployed and underemployed noncustodial parents find and maintain employment. A program participant must spend 30 hours a week looking for a job, meet with a workforce counselor every week until he or she finds a job, attend all court hearings and program appointments, comply with the child support order and communicate with the workforce counselor monthly after getting hired.

The program showed the following results in 2009:

• Participants paid $57 more child support 47 percent more often, showing a 51 percent increase in total collections. These results continued at two and four years after participation.
• Participants were 50 percent more consistent paying child support over time.
• Participants were employed at 21 percent higher rates than nonparticipants, two and four years after the program.
• Participants were about one-third less likely to file an unemployment claim in any given month in the first year after the program.
• The custodial parents associated with NCP Choices participants were 21 percent less likely to receive TANF benefits in the first year after the program, and 29 percent less likely two to four years after the program.

—Meghan McCann