



Resolution for A National Review of Child Support and Child Welfare Referral and Coordination Policies

Introduction

Nationally there is inconsistency in local and state policies and practices with respect to referral of foster care cases to child support. States and localities vary considerably in whether they automatically refer foster care cases, whether they exercise discretion under the “where appropriate” clause in the Social Security Act, whether they follow guidelines in setting child support orders if the case is referred, and whether the child welfare agencies sometimes establish paternity and set child support orders independently of the child support program. These inconsistencies can lead to referral policies that are inefficient and costly. They may also be contrary to the best interests of the child if they inadvertently prolong the child’s stay in out-of-home placement.

In most cases there is inadequate information-sharing between child support and child welfare agencies as well as deficiencies in the mutual understanding of the others’ roles, preventing effective coordination of actions in the best interests of the child and of the state. In addition, the potential role of child support agencies in facilitating location of noncustodial parents and establishment of paternity has been under-utilized. Overall, there appear to be few jurisdictions where the relationship between child support and child welfare agencies is functional and effective, and best practices of those positive collaborations are insufficiently understood and publicized.

There is also considerable evidence that the child support functions performed for foster care cases are not cost-effective when looking at the costs and benefits for child support programs alone. In the vast majority of cases, the administrative costs of handling foster care referrals greatly exceed collections for those cases. Many cases referred for child support action have children who return home before orders can be established or enforcement actions can be initiated, thereby wasting considerable work. Another consideration is that establishing a child support order against the former custodial parent (the “removal parent”) can actually increase foster care costs if it lengthens the out-of-home placement, but there is contradictory evidence on this topic, as discussed below.

Finally, the timely and correct identification of a child’s parents and relatives is important to stabilizing that child’s situation when taken from the removal parent. The child support agency often has information on the identity of parents, their legal parental status, their location, and the identify of relatives. This information is contained in OCSS’s Federal

Parent Locator Service (FPLS) and child welfare agencies have the ability to access that information, yet very few agencies have applied for that access.

These issues point to the need for more consistent national policies and better guidance with respect to the interaction between the child support and child welfare programs. There is a need for more research funding particularly with respect to the impact of child support orders on length of out-of-home placements. In addition, there is also a need for better identification of best practices and dissemination of such information to state and local child support and child welfare agencies. There should also be better utilization of the FPLS by child welfare agencies to assure more informed and timely decisions for children on potential placements with relative caretakers that may be in their best interests and obviate the need for foster care.

Background

Under Social Security Act Section 471(a)(17), child welfare agencies are required to secure assignments of rights to child support from Title IV-E cases involving foster care placements “where appropriate.” Child support agencies are then required to establish and enforce child support orders for the primary purpose of reimbursing the state for the costs of out-of-home placements. While sometimes both parents reside in the home from which the child has been removed, in most such cases the parents live apart. In over half of the cases, based on a Wisconsin study, there is already a child support case involving the former non-custodial parent. Thus, the referral generally involves establishment and enforcement of a child support order against the removal parent, and either establishment of paternity and an order of support against the former non-custodial parent, or the redirection of the non-custodial parent’s support obligation to the state.

Establishing and enforcing a child support obligation against a non-custodial parent has considerable value. Identifying a non-custodial parent and establishing paternity, if that has not been done, can provide additional placement resources for the child. Alternatively, child support provided by the non-custodial parent can reimburse a part of the cost of out-of-home placement. Perhaps more importantly, it can provide additional resources to the removal parent that can hasten reunification, if that parent has a reunification plan. Therefore, it is apparent that there is a need for the referral of a noncustodial parent to establish paternity and a new order, or to enforce an order that already exists.

Referral of the removal parent for child support is more problematic. Under section 471(a)(15)(B) of the Act, reasonable efforts must be made to preserve and reunify families and make it possible for a child to return home safely, unless there are certain

circumstances present indicating danger to the child. Within the child welfare program, reunification of the child with its parent(s) is a policy priority, and 56 percent of all foster care cases have reunification plans (2017).

The most significant reason for removal is neglect and, in a Wisconsin study (University of Wisconsin Institute for Research on Poverty), 85 percent of removal parents have incomes below \$10,000 per year, well below the poverty line. This is similar to a Minnesota study showing that 80 percent of parents have income less than \$10,000 per year. There is strong evidence from the Wisconsin study that establishing a child support order against a removal parent substantially increased the time the child spends in out-of-home placement. Based on a sample of 2,804 cases in 72 counties, the authors estimated that each \$100 in child support ordered against the removal parent increased the time spent in foster care by six months. These results suggest that requiring child support payments by a removal parent who is already poor extends the time required for the removal parent to assemble the resources to care for the child again, in cases where reunification continues to be the goal. The Wisconsin results raise the question of whether states and localities should refrain from referring removal parents to child support agencies while they are actively developing or have in place formal reunification plans.

However, a study conducted in North Dakota had the opposite results. With smaller samples of about 33 baseline and 44 pilot cases in one county, the study found that establishing child support orders against the removal parent decreased the time that the child spends in out-of-home placement. Ninety-four percent of the baseline cases completed placement (were reunified) within 12 months, whereas only 52 percent of the pilot cases completed placement within 12 months. North Dakota child support staff believe the accountability for child-rearing costs provides motivation to the removal parent to take necessary steps to bring the child home more quickly, thus resulting in significant savings of state expenditures for out-of-home placement. Further, while the Wisconsin study has greater size and methodological rigor, the contradictory results point to the need for further research on this key issue.

Both the Wisconsin and North Dakota studies may be reconciled by a best interest of the child determination. If a removal parent is motivated by a financial incentive to comply with a reunification plan, it is in the best interest of the child to pursue support. But if the removal parent does not require that financial incentive and reunification may be delayed by pursuing child support, it is not in the best interest of the child to pursue support and would be contrary to the policy and goal of reuniting a removal parent with their child.

Alternatively, it may make sense to defer referrals of removal parents to child support for a certain period, such as six months, to allow time for the child welfare agency to determine the direction of a case and assess whether a referral would be productive. One frustration encountered by child support agencies is to perform the work required to establish an order only to find that the child has returned home and the case against that parent needs to be closed. It may also make sense for child welfare agencies to become better informed about child support services and exercise greater discretion in making referrals.

Studies from Minnesota and Orange County, California have documented that child welfare cases are not cost-effective when comparing their administrative costs with collections. This was true even when collections from both parents were included. The Minnesota study estimated a cost-effectiveness ratio of \$0.36 collected for each dollar spent, while the Orange County estimated a cost-effectiveness ratio of \$0.27 collected for each dollar spent. Costs associated with pursuing child support from removal parents are likely to be even less cost-effective.

Additional issues arise in the interaction of child support and child welfare agencies. In some cases, child welfare agencies pursue paternity and/or child support in separate courts and can even conflict with prior orders that have been established by child support agencies. Critical information concerning child welfare cases is sometimes not shared with child support agencies, either due to lack of effective information-sharing practices or because of excessively strict confidentiality requirements. Sometimes child support agencies do not receive timely notification of reunification and cause additional stress for the custodial parent by failing to close cases timely.

The Social Security Act authorizes child support agencies to provide access to the FPLS to assist child welfare agencies in locating alleged fathers or non-custodial parents. This can facilitate paternity establishment or identification of the legal father. The legal link with a father and his relatives can provide additional placement possibilities, as well as additional economic and emotional support. Few child welfare agencies make use of this capability and information.

The North Dakota study demonstrated the value of an improved automated interface between the child welfare and child support agencies. It also showed the benefits of a “pre-notification” process that gave the child support agency advanced notice of cases that were going to be referred.

ACF’s Children’s Bureau and OCSS issued joint guidance in July of 2022 encouraging child welfare agencies to implement across-the-board policies that require an

assignment of the rights to child support for children who receive title IV-E Foster Care payments only in very rare circumstances¹

While there are jurisdictions where the child welfare and child support agencies have functional and productive relationships, there appear to be many more where the interactions could be improved. More research on key issues and best practices, and broader dissemination of such information would be valuable. In addition, greater clarity on referral policies at the federal and state levels would also provide for more consistent and more positive outcomes nationally.

THEREFORE, NCSEA resolves to urge the Administration for Children and Families to:

1. Develop guidance that provides, where there is a formal reunification plan, that a referral to pursue support against the removal parent is appropriate under section 471(a)(17) of the Act only if the child welfare agency determines the referral is in the best interest of the child in foster care.
2. Convene a federal-state workgroup consisting of child support and child welfare leaders at the federal level and from at least six states, as well as parents with experience as child welfare clients, that would:
 - Identify best practices for child support/child welfare interaction that can be disseminated nationally;
 - Develop recommendations for information-sharing between child support and child welfare agencies, including encouraging child welfare agencies to use FPLS data more productively;
 - Assess the impact of a best-interests-of-the-child standard for use of child support collections in foster care cases and whether states should consider the option of using such collections for a trust fund to help the custodial parent improve the child's standard of living following reunification;
 - Specify an agenda for future research concerning the impact of child support establishment and enforcement on child welfare cases, especially children in out-of-home placements.
3. Fund research on the impact of child support referrals on out-of-home placement stays, cost-effectiveness, and related issues.

¹ ACF DCL 22-06 OCSE Joint Letter on Updated Child Support Referral Policy

4. Identify best practices in child support/child welfare interactions and disseminate such information nationally.

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