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CASELOAD HIGHLIGHTS

EXAMINING THE WORK OF THE STATE COURTS

Welfare Reform and the Domestic Relations Caseload

Passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA, or the Welfare Reform Act) represents a major policy shift for the United States in its administration of welfare benefits and child support enforcement. The Welfare Reform Act dissolves Aid to Families with Dependent Children (AFDC), the federal assistance program for children that had been in place since 1935.[1] Specifically, the Welfare Reform Act removes the federal "safety net" for needy children and in its place supplies the states with block grants to develop and operate their own welfare programs through the Temporary Assistance for Needy Families (TANF) program.

To comply with mandates of the Welfare Reform Act, states must enact and monitor a host of new policies. The new legislation likewise has important consequences for state courts, particularly in the domestic relations area. This edition of *Caseload Highlights* explores how welfare reform affects the processing of domestic relations caseloads in three areas: (1) interstate child support, child support cases in which parents reside in different states, (2) intrastate child support, child support cases in which both parents live in the same state, and (3) paternity, cases establishing male parentage of a child for purposes of determining and enforcing legal support obligations. National data collected by the Court Statistics Project (CSP) are then used to illustrate the impact of legislative change on the volume and trend of interstate support and paternity caseloads in the state courts.

Welfare Reform Terminology

- **AFDC**: Aid to Families with Dependent Children, the federal program commonly known as "welfare." In place since 1935, this program has been replaced by TANF (Temporary Assistance for Needy Families).
- **Continuing, exclusive jurisdiction**: Case jurisdiction that is retained for the purpose of amending and modifying orders. In UIFSA cases, states that originally issue child support orders retain jurisdiction as long as specified circumstances exist.
- **Interstate child support cases**: Cases in which the court is asked to establish reciprocal enforcement of child support orders across state lines. (Some states refer to these cases as URESA, RURESA, UIFSA, or reciprocal support cases.)
- **Intrastate child support cases**: Cases in which all parties are residents of the same state and the court is asked to establish, modify, and/or enforce child support orders (i.e., non-interstate cases).
- **IV-D Programs**: State-level child support enforcement programs developed as a result of Title IV, Part D, of the Social Security Act. Currently, IV-D Programs must provide child support services to AFDC and Medicaid recipients and to other custodial parents who request assistance.
- **Long-arm jurisdiction**: Allows a state to assert personal jurisdiction over a nonresident respondent.
- **OCSE**: Office of Child Support Enforcement, the federal agency within the Administration for Children and Families of the Department of Health and Human Services that oversees administration of the Child Support Enforcement program.
- **Paternity case**: A court action to determine whether a person is the father of a child, commonly for the purpose of enforcing support obligations.
- **PRWORA/Welfare Reform Act**: The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly referred to as the Welfare Reform Act, which eliminates AFDC. The new law contains strong work requirements, a performance bonus for states moving welfare recipients into jobs, state maintenance of effort requirements, comprehensive child support enforcement, and support for families moving from welfare to work.
- **TANF**: Temporary Assistance for Needy Families, the new federal entitlement program replacing AFDC. TANF provides states with block grants for time-limited cash assistance to families in need.
- **URESA/RURESA**: The Uniform Reciprocal Enforcement of Support Act and its revised version, both of which were intended to facilitate the processing of interstate family support cases.
- **UIFSA**: The Uniform Interstate Family Support Act adopted in 1992 that replaces URESA. The act is intended to improve uniformity between states, to establish provisions concerning paternity, and to eliminate the need for multiple child support orders, which were necessary under URESA.

Interstate Child Support

A clear effect of the Welfare Reform Act on domestic relations caseloads is evident in the area of interstate child support. In particular, PRWORA mandated that all states adopt the Uniform Interstate Family Support Act (UIFSA) by January 1, 1998. UIFSA was developed to replace the Uniform Reciprocal Enforcement of Support Act (URESA) and its revised version (RURESA). UIFSA differs from URESA in several respects. For example, while URESA and RURESA were intended to facilitate the enforcement of interstate support cases, they sometimes led to jurisdictional conflicts and the issuing of multiple orders for the same case. UIFSA provides criteria for determining the controlling order if multiple orders exist and gives continuing, exclusive jurisdiction to a tribunal once it issues an order. Also, under URESA/RURESA, states were required to have reciprocal laws in place to enable the enforcement of interstate support orders. UIFSA requires states to enforce each other's child support orders regardless of any conflicts of laws between the issuing and enforcing states. Overall, UIFSA establishes a long-arm jurisdiction that, in most cases, allows one state to maintain jurisdiction over a case and eliminates the need for a two-state process to establish paternity and to establish, modify, or enforce child support orders. As of late October 1997, 45 states and the District of Columbia had adopted UIFSA and 38 states had started implementation.[2] **Table 1** shows the current volume of interstate child support filings, total filings per 100,000 residents, and filings as a percent of the state's total domestic relations caseload for 25 states that currently report complete and comparable data. The majority of these states have fewer than 100 filings per 100,000 residents, and these cases typically comprise less than 10 percent of all domestic relations filings. The introduction of UIFSA, or the expanded use of executive branch agencies, as in Vermont, has had a considerable impact on the trend of interstate support filings.

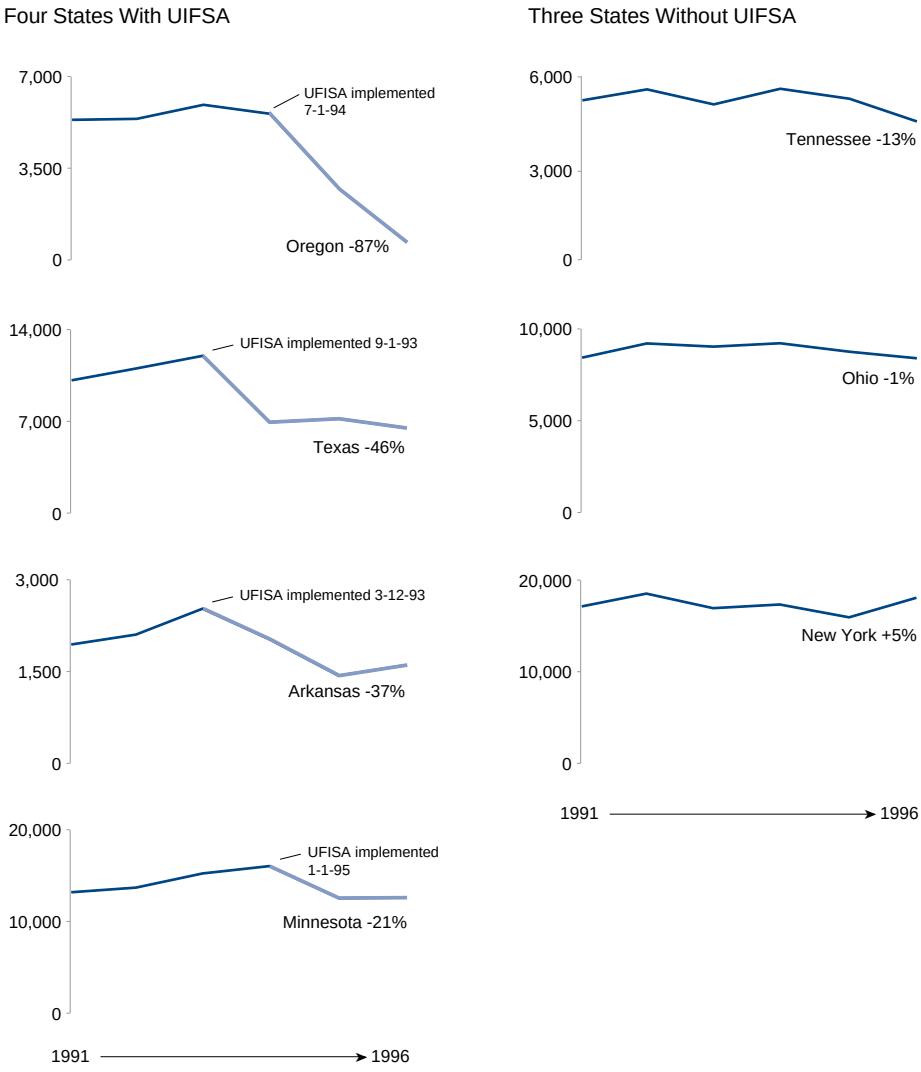
TABLE 1
Interstate Child Support Caseloads in 25 States, 1996

State	Total Filings	Filings per 100,000 Population	Filings as a % of Domestic Caseload[1]	Population Rank	Date UIFSA Implemented
Unified Courts					
District of Columbia	2,583	476	10%	51	2/13/96
Minnesota	12,606	271	19	20	1/1/95
South Dakota	1,687	230		46	7/1/94
Kansas	2,598	101	6	33	7/1/95
Missouri	2,787	52	3	16	1/1/97
Wisconsin	1,795	35		18	4/30/94
Puerto Rico	489	13		26	N/A
General Jurisdiction Courts					
Rhode Island	6,407	647		44	1/1/97
Florida	26,666	185	7	4	7/1/97
New York	18,049	99	3	3	12/31/97
Indiana	5,014	86		14	1/1/97
Tennessee	4,526	85	8	17	1/1/97
Utah	1,531	77	6	35	4/28/96
Ohio	8,403	75	4	7	1/1/98
Arkansas	1,603	64	2	34	3/12/93
Alaska	381	63	4	49	1/1/96
North Carolina	4,328	59	4	11	1/1/96
Hawaii	628	53	3	42	7/1/97
Vermont	233	40	1	50	1/1/98
Michigan	3,438	36	3	8	6/1/97
Texas	6,499	34		2	9/1/93
Louisiana	1,328	31		22	1/1/96
New Mexico	481	28	2	37	7/1/95
Oregon	701	22	1	30	7/1/94
Maine	99	8		40	7/1/95

[1] This figure was not calculated for states with incomplete or overinclusive data.

The adjacent trend lines show interstate child support filings for seven states.[3] The three states on the right (Tennessee, Ohio, and New York) had not implemented UIFSA before the January 1, 1998 federal deadline, while the four states on the left (Oregon, Texas, Arkansas, and Minnesota) implemented UIFSA at various times between 1993 and 1995. For the states that did not enact UIFSA before the deadline, the trend in interstate filings has remained relatively stable. In contrast, after implementing UIFSA, the four states shown on the left experienced an immediate and substantial drop in interstate filings. These declines continued through 1996 and ranged from 21 percent in Minnesota to 87 percent in Oregon.

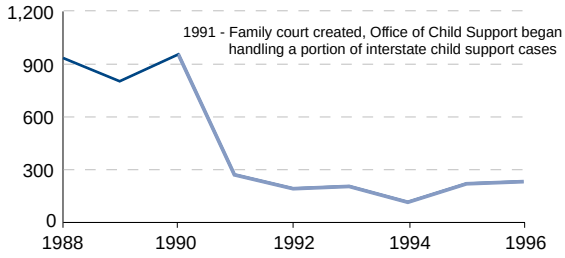
Number of Interstate Child Support Filings, 1991-1996



Administrative Process in Vermont

In 1991, Vermont created a family court. At the same time, the Office of Child Support (an executive branch agency) began handling a portion of the interstate child support cases traditionally handled by the courts. Currently, the state court handles only those cases in which the respondent lives in Vermont. As a result, cases handled by the courts dropped 76 percent between 1990 and 1996. The adjacent graph clearly illustrates how the use of nonjudicial agencies can have a direct impact on court caseload.

Interstate Child Support Filings for Vermont, 1988-1996



Intrastate Child Support

A second area of domestic relations caseloads directly affected by the Welfare Reform Act is the establishment, modification, and enforcement of intrastate child support orders. Historically, child support cases have been processed individually through a traditional judicial process whereby a case was initiated by a complainant and handled by private attorneys or prosecutors. Over time, this system became ineffective for enforcing child support orders, partly because many parents could not afford a private attorney and many local prosecutors made child support enforcement for welfare cases a low priority.[4] As a result, IV-D Programs were often overwhelmed by obligee parents who needed help getting child support, but for a variety of reasons, they could not complete the process on their own. In recent years, there has been a trend toward developing administrative procedures to establish and enforce child support obligations, which could "potentially speed adjudication, reduce cost, preserve or even enhance due process, improve access to the adjudicatory process, reduce fragmentation of case processing and free up court time by relieving the court system of routine child support matters."[5] The Welfare Reform Act encourages continuation of this trend by advocating greater autonomy for state child support enforcement agencies and promoting the creation of effective administrative procedures focusing on access to information, mass case processing, and proactive enforcement.[6]

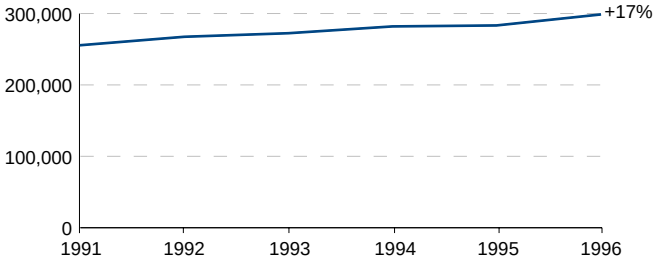
While the Welfare Reform Act does not mandate the use of administrative procedures, it requires states to create expedited procedures[7] that allow the state child support agency to act in routine cases without obtaining an order from a judicial or administrative tribunal. PRWORA requires that state legislation enable state agencies to (1) subpoena financial or other information needed to establish, modify, or enforce a support order, (2) impose penalties for failure to respond to such a request, and (3) impose financial penalties to secure overdue support payments (e.g., by withholding income, attacking assets, imposing liens). The Welfare Reform Act also gives states the right to transfer child support establishment, modification, and enforcement actions between local jurisdictions, without additional filing or service on the respondent. The effective use of administrative child support procedures may be found in Oklahoma, where an Office of Administrative Hearings has the same authority as a district court in most child support-related matters, and in Colorado, where administrative processes have been expanded to include the issuance of temporary orders of financial responsibility when paternity is not an issue.[8] In theory, intrastate child support establishment, modification, and enforcement caseloads filed in the courts should decrease with the expanded use of administrative procedures.

Paternity

The passage of the Welfare Reform Act is also intended to facilitate improvements in the establishment of paternity. PRWORA requires states to streamline their processes for establishing paternity, adopt in-hospital acknowledgement programs, and create their own cooperation requirements for welfare recipients. Historically, to qualify for full federal funding for services to needy children, states have been required to establish paternity in a specified percentage of AFDC cases. The mandatory paternity establishment percentage is determined using a sliding scale based on the state's past performance.[9] The Welfare Reform Act increases the 75 percent paternity establishment rate, mandated by the Omnibus Budget Reconciliation Act of 1993, to 90 percent.[10]

The process of establishing paternity has long been cumbersome in many jurisdictions. For example, an uncomplicated, contested paternity case may have required four or more separate court hearings to reach resolution.[11] The Welfare Reform Act emphasizes establishing paternity in routine cases through administrative procedures, such as in-hospital paternity establishment programs and paternity acknowledgement affidavits. In addition, states are required to advertise and to encourage the use of voluntary paternity acknowledgement.[12] The act clarifies the legal status of signed paternity acknowledgements and states explicitly that no judicial or administrative proceeding is required to ratify

Paternity Filings for 21 States,* 1991-1996



* AK, AR, CO, CT, DC, DE, HI, IN, KS, LS, MA, MD, MI, MO, ND, NV, NY, OH, OR, UT, and WI.

an unchallenged acknowledgement of paternity. PRWORA also allows state child support agencies to order "up-front" genetic testing in contested paternity cases, which further streamlines paternity acknowledgement procedures.[13] Some sources suggest that most men will admit paternity voluntarily if genetic test results reflect a high probability that the alleged father is the father of the child, thus eliminating the need for court action.[14]

Data from the Court Statistics Project show that between 1991 and 1996, paternity caseloads rose 17 percent in the 21 states for which accurate paternity caseload data are available. The variation in the volume of paternity filings is illustrated in **Table 2**. In 1996, the paternity filings per 100,000 residents ranged from 7 to 2,018, and in most of the states listed, these cases comprised 15 percent or less of total domestic relations filings.

Encouraging and clarifying the legal status of voluntary paternity acknowledgements, dismissing the need to ratify voluntary acknowledgements through administrative or judicial proceedings, and allowing child support agencies to order genetic tests may contribute to a decrease in paternity caseloads. This view is supported by recent experience in the Ohio court system (see below).

TABLE 2
Paternity Caseloads in 25 States, 1996

State	Total Filings	Filings per 100,000 Population	Filings as a % of Domestic Caseload[1]	Population Rank
Unified Courts				
Dist. of Columbia	10,964[2]	2,018	44%	51
Massachusetts	19,653[3]	323	9	13
Wisconsin	14,893	289		18
Connecticut	8,892[4]	272	26	29
Kansas	5,921	230	15	33
North Dakota	1,303	202	10	48
Missouri	8,630	161	9	16
Puerto Rico	269	7		26
General Jurisdiction Courts				
Maryland	32,678[4, 5]	644	30	19
Michigan	52,202[4]	544	31	8
Arkansas	10,291	410	15	34
New York	61,474	338	10	3
Ohio	27,982	250	12	7
Indiana	14,578	250		14
Hawaii	2,616	221	12	42
Vermont	1,297	220	6	50
Louisiana	7,953	183		22
Oregon	4,859	152	9	30
Oklahoma	4,703	142	8	28
New Mexico	2,242	131	8	37
Alaska	716	118	8	49
Delaware	750	103		47
Tennessee	4,473	84	6	17
Utah	1,682	84	7	35
Nevada	1,203	75	3	39

Table 2 notes

[1] This figure was not calculated for states with incomplete or overinclusive data.

[2] This figure reflects an unusually large number of reactivated cases in 1996.

[3] This figure slightly underrepresents total filings because some paternity cases are missing.

[4] This figure is inflated as uncontested (voluntary) cases and/or custody modifications are included.

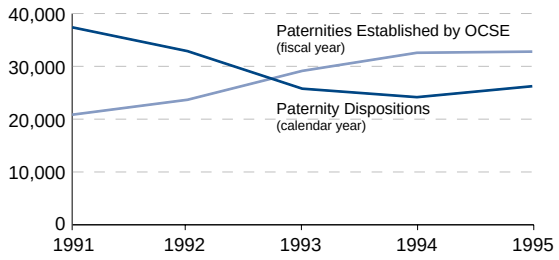
[5] This figure slightly underrepresents total filings as some paternity cases are listed under unclassified domestic relations cases.

Administrative Paternity Establishment in Ohio

Ohio illustrates the movement from a judicially oriented paternity establishment process to a system that focuses on administrative procedures. In July 1992, Ohio enacted legislation allowing the child support enforcement agency to hold administrative paternity establishment hearings. Currently, in the vast majority of cases, an attempt must be made to establish paternity administratively before a court case can be filed. A paternity order can be issued by an administrative officer if paternity is acknowledged voluntarily or genetic test results indicate a 95 percent or higher probability that the alleged father is the father of the child. If either party does not appear for the administrative action, the case is dismissed and parties are informed of their right to file in juvenile court.[15]

A comparison of state court paternity disposition data and paternities established through Ohio's child support enforcement program illustrates this shift in orientation. Prior to the 1992 legislation, court dispositions were much greater than the number of paternities established by the child support enforcement program. This relationship reverses in 1993 and has been sustained through 1995. As would be expected, Ohio's paternity filings dropped (20 percent) between 1992 and 1993.

Paternity Cases in Ohio, 1991-1995



Note: Disposition data are overinclusive given that dismissed cases are included.

Conclusion

The Welfare Reform Act introduced a number of new policies that directly affect how a large share of domestic relations cases will be handled. The primary changes focus on facilitating interaction between states and expanding the role of administrative agencies and procedures. One key aspect of these reforms is reducing the need to involve the state courts in processing routine interstate support, intrastate support, and paternity cases. A first look at the data suggests that states that have adopted UIFSA, for example, often experience dramatic reductions in the number of interstate support filings. Therefore, we expect that the full implementation of welfare reform legislation in the states will result in a drop in the number of inter- and intrastate support and paternity cases filed in the state courts. However, the impact of this drop in *caseload* on judicial *workload* remains unclear. Future analysis will be needed to examine the specific types of domestic relations cases that continue to be filed in the state courts, as well as to further our understanding of individual court case processing and management techniques.

Endnotes

[1] 42 USC § 601-617, the Social Security Act of 1935.
[2] OCSE memo #DCL-97-69.
[3] The seven states examined are those that have reported complete and comparable data between 1991 and 1996.
[4] P. Legler, "The Coming Revolution in Child Support Policy: Implications of the 1996 Welfare Act," *Family Law Quarterly* 30, no. 3 (1996): 545.
[5] Ibid., 552.
[6] Ibid.
[7] PL104-193 § 325.
[8] Office of Child Support Enforcement, *Compendium of State Best Practices for Child Support Enforcement*, 3d ed. (January 1996).
[9] 42 USC § 452.
[10] The states are given several years to reach the 90 percent standard, but must increase their paternity establishment rates by between 2 and 6 percentage points a year, dependent upon their current rates. PL104-193 § 341.
[11] V. S. Williams and R. G. Williams, "Identifying Daddy," *Judges' Journal* 28, no. 3 (1989): 2-7.
[12] PL104-193 § 332.
[13] Federal law requires states to have a rebuttable or conclusive presumption of paternity based on genetic test results.
[14] Legler, op. cit., 533.
[15] Office of Child Support Enforcement Information Memorandum 93-06.

The Court Statistics Project (CSP)

In existence since 1975, the CSP is administered by the National Center for State Courts, with generous support by the State Justice Institute (Grant SJI-91-N-007-O98-1) and the Bureau of Justice Statistics. The CSP receives general policy direction from the Conference of State Court Administrators through its Court Statistics Project Advisory Committee. Those wishing a more comprehensive review and analysis of the business of state trial and appellate courts are invited to read the CSP's latest publication, *Examining the Work of the State Courts, 1996.*

CASELOAD HIGHLIGHTS

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