

**Child Support in a Recession:  
A Report on Interviews with Child Support Staff and Court Commissioners in Five Counties**

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I. INTRODUCTION

This report derives from interviews with child support staff and family court commissioners in five Wisconsin counties: Burnett, Lincoln, Marinette, Milwaukee and Rock. The director of the child support agency and one family court commissioner were interviewed in each county. In four of the five counties, a child support specialist was also interviewed. The focus of the interviews was on the effect of the severe recession that began in late 2008 on child support in the county.

Key objectives of the interviews were to assess (1) how child support and court staff set original orders when the obligor is unemployed; (2) whether and, if so how, child support and court staff adjust existing orders when obligors lose their jobs or experience reductions in earnings; and (3) whether child support agencies and courts have changed their practices on these questions since the severe economic downturn began. At the request of the Wisconsin Bureau of Child Support (BCS), questions were also asked about the effect of the recession on the frequency of shared placement and use of pro se, the availability of court time for child support, enforcement practices and frequency of delinquency, and the use of federal funds from the American Recovery and Reinvestment Act of 2009 (ARRA).

The five counties were selected with advice from BCS. All five counties had high unemployment rates that rose sharply in 2009. The five were spread throughout the state and represented a mix of small, medium, and large counties. Three of the counties border another state (Illinois, Michigan, and Minnesota) and thus have sizable interstate child support responsibilities. The counties are shown in Figure 1.



Table 1 shows the populations and unemployment rates of the five counties in 2009. They range from Milwaukee County, which has the largest population in the state, to Burnett County, the 11<sup>th</sup> smallest by population of Wisconsin's 72 counties.

**Table 1**  
**Population and Unemployment Rate in Five Wisconsin Counties**

County	2009 Population Estimate	2009 Unemployment Rate
Burnett	15,884	10.8%
Lincoln	29,404	11.0
Marinette	41,968	11.6
Milwaukee	959,521	9.3
Rock	160,155	12.5
State of Wisconsin	5,654,774	8.5

**Sources:** U.S. Census Bureau Quick Facts at <http://quickfacts.census.gov/qfd/states/55000.html>;  
Wisconsin Department of Workforce Development at  
<http://worknet.wisconsin.gov/worknet/dalaus.aspx?menuselection=da>

The interviews generally lasted 60–90 minutes, although two interviews with family court commissioners were shorter because they had to be squeezed between court hearings. The interviews and the report based on them are the first part of a two-stage research project. The second stage will utilize data to assess whether child support practice, as reported in the KIDS information system, appears to have changed in the recession.

## II. ORDER ESTABLISHMENT

Most of the interviewees reported that the severe recession had affected order revisions more than the setting of initial orders. Nevertheless, the recession still affected initial orders in several ways. First, because more unemployed parents were appearing at hearings, more orders were based on income primarily from Unemployment Insurance. Second, because more parents fit the criteria for low-income obligors, more orders were based on the guidelines for low-income payers. Third, more orders included mandatory work search provisions that fall under s. 767.55 of the statutes and that require the NCP to

apply for a certain number of jobs per week. Fourth, more orders were set based on imputed income that assumed that unemployed NCPs could find a minimum wage job. The respondents generally said that their procedures for determining initial orders had not changed during the recession, but that the financial condition of NCPs had changed. The change in the financial condition of obligors required the use of different options available under Wisconsin law for setting initial orders.

The respondents also generally said that the recession had led to a situation in which more parents report being self-employed and receiving most of their income in cash. Particularly in the northern counties—where much self-employment income derives from hunting, fishing, farming, construction, remodeling, and logging—the self-employment income is seasonal. In all the counties, determining the real income of a self-employed NCP, and hence the appropriate level of child support, is quite challenging. Child support staff and court commissioners say they ask a variety of questions about lifestyle—when and where the person last took a vacation, how many and what kind of motor vehicles the person owns, etc.—and try to resolve any apparent contradictions between the answers to those questions and statements about income. But many child support staff and court commissioners assume that many self-employed NCPs have more income than they are reporting to any government agency.

For obligors who are unemployed at the time of their initial order and have no income from Unemployment Insurance, one choice for child support officials involves deciding between (a) setting an order with a work search provision and no immediate payment obligation and (b) imputing income to require immediate payment of child support. Different counties have different tendencies in making this choice. For the northern counties, that decision may differ by time of year, since jobs are more available in the warmer months. Courts in the counties are generally reluctant to order no cash payment, even when the obligor clearly has no means to make the payment, because the courts want to reinforce the seriousness of a parent's financial obligation to his children. But especially for young obligors with no work history, and especially in the winter, some of the counties reported that the court will sometimes order work search and impose no cash order for a few months, as long as the NCP is making job

applications at the required rate. County officials said that the severe recession may have generated a slight increase in the use of this approach.

A more common approach to an initial order for an obligor who is unemployed and has no income is to impute income, based on an assessment of earnings capacity calculated either from the obligor's work history or the minimum wage, and also to require work search. In this case, if the obligor does not find a job and makes few child support payments but meets the work search requirement, the child support agency might not file a motion for contempt, although the obligor's arrears would of course increase. One northern county seems to more commonly mix the two approaches for unemployed NCPs, generally ordering the NCP to seek work for a month or two with no cash payment obligation and then ordering a payment based on the minimum wage times 35 hours per week if the payer does not find a job. Rock County also appears to mix the strategies, imposing a work search order for a month and then setting an order based on imputed income.

Milwaukee staff reported that, for new obligors with no income, they typically set an initial order based on the minimum wage times 30 hours per week. But the order is conditional and imposed only if the parent fails to cooperate with the Children First program.<sup>1</sup> The two Children First contractors in Milwaukee County—New Hope on the north side and UMOS on the south side—report to the child support agency on the compliance of the parents enrolled in the programs.

When counties with no Children First program require work search, the parent must periodically submit a form to the child support agency on which the parent reports the employers they have approached. Unless the parent is under a contempt order or a county has reason to believe the parent is not being truthful, county staff generally do not check with employers to see if the parent actually applied. In one northern county, the concern is that employers might be less likely to hire a person if the employer

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<sup>1</sup>The Children First program operates in 39 of Wisconsin's 72 counties, offering employment and training services to noncustodial parents who are unemployed or underemployed. A state agency, the Wisconsin Department of Children and Families, contracts with local agencies to operate Children First in the counties that have the program.

knows that wage withholding will be necessary. In another county, the expectation is that job availability inquiries will mostly be done on-line because unemployed parents lack either (or both) the gas money to visit employers in person or a driver's license.<sup>2</sup> In all counties, staff time for checking with employers to determine if someone applied is limited.

All the counties reported that orders based on imputation had changed in one way as a result of the recession: the minimum wage or some higher wage level times 40 hours per week is no longer in use. Now the assumption is that a noncustodial parent will only receive pay for 30 or 35 hours per week.

### III. ORDER REVISIONS

In all 5 counties in which interviews were held, child support staff said that they are sympathetic to the idea of revising orders promptly when child support payers lose their jobs involuntarily. They also report, and court commissioners confirm, that custodial parents and court staff are generally sympathetic to order revisions.

The northern counties all say they never limited their reviews to the statutorily-imposed 33-month cycle, instead reviewing all cases at least annually and being open to requests any time a payer's work situation changes. The three northern counties say they accomplish almost all their revisions through stipulations between the custodial and noncustodial parents, and that they have not so far had any difficulty getting both parties to agree to a stipulation.

The counties receive regular reports from the unemployment insurance systems of earnings and of unemployment benefits from Wisconsin and, especially for the border counties, neighboring states. But they say that noncustodial parents almost always report job losses, and that child support staff contact the custodial parent to help arrange a stipulation when that happens. If a payer subsequently gets a job, the child support agency makes an assessment of the likely stability of the job based on what staff know

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<sup>2</sup>Staff in two of the northern counties reported that a nontrivial share of NCPs had lost their drivers' licenses owing to driving while intoxicated offenses.

about the employer and the work record of the employee. Staff may then ask the parties to stipulate to a higher order or wait a month to do that while they further assess the stability of the job.

The three northern counties report that their procedures have not changed, but they are receiving many more requests for order changes based on a substantial change in circumstances. As a result, they say that they are doing many more desk reviews than in previous years, which has significant implications for their overall workload. County staff stress repeatedly that their standards for what constitutes a substantial change in circumstances have not changed. As a staff member in one county reported, “we would not pursue a change in the order if the change in circumstances was something like an increase in the cable bill.” What has changed is the job stability of many child support obligors.

One of the northern counties reported that, in a few cases, they have not even waited for one of the parties to request a change before making their own assessment of a substantial change in income and beginning a proactive effort to obtain a stipulation to a lower order. In that county, staff say they review each case every month and investigate when they notice changes in payment patterns.

The willingness of custodial parents to stipulate to a reduced order appears to differ somewhat across counties. The northern counties report little resistance on the part of custodial parents. In contrast, Rock County court and child support staff say that custodial parents sometimes resist agreeing to a stipulation that would lower their payment. Custodial parents are more likely to do so, say court staff, when the obligor loses his job completely than when he is temporarily furloughed and loses his earnings for a defined period. Still, many custodial parents even in Rock County are willing to agree to a reduced order, and staff said that they work to arrange these in many instances. They report many custodial parents as believing that something is better than nothing—a reduced order is better than no child support at all.

The trigger point for changing orders, say Rock County child support staff, is a 10 percent change in income. That change can become apparent in a variety of ways: one of the parents may report the change to the agency, agency staff may notice a change in payment patterns, or agency staff may be preparing a contempt motion.



When at least a 10 percent reduction in income occurs and efforts to arrange a stipulated order reduction are unsuccessful, Rock County child support staff will often first reduce payments on any state-owed arrearages, since they can do that without going to court. The next likely step would be to give the obligor the pro se packet along with some instruction about how to file a motion to reduce their order. Rock County child support staff expressed unhappiness at how little help they give someone preparing to file a motion, saying that they “used to do all the leg work for people” in that situation. But now, owing to reduced staff resources and increased concerns about giving legal advice when staff are not attorneys, they do much less for non-TANF cases, although staff did note that the redesigned pro se forms are easier for people to complete on their own.

For the most part, county staff in the three northern counties and in Rock County emphasized, procedures have not changed as a result of the recession. However, both child support staff and custodial parents are at least somewhat more sympathetic to the economic situations of obligors, and especially so when the obligor has a good payment history and has lost his job involuntarily.

The situation in Milwaukee is noticeably different. Staff say they have initiated a large number of reviews and adjustments, but not so much because of the economic downturn. Milwaukee experienced a backup in its review and adjustment operation, failing to meet the statutory requirement to review orders at least every 33 months. The state forced the county to develop a corrective action plan. Under the plan, the county used ARRA funds to hire 8 workers to address the backlog (4 were former workers who had retired and who trained the other 4).

Milwaukee staff say they never take on the task of getting the parties to stipulate when the economic circumstances of the obligor change. With 130 staff for 130,000 cases—down from over 200 staff a few years ago—county staff say they lack the time to arrange for stipulations. In cases when an obligor calls a staff person to say that he has lost his job or had his hours sharply reduced, one child support specialist said she would generally ask the obligor to come in so that she could describe the documentation he would need, give him the pro se forms, help him obtain a court date, and tell him about the free legal clinics (staffed by Marquette University law students and attorneys who volunteer their

time) that can help. However, it is apparently also the case that obligors who have lost jobs may not reach or be able to see their specialist. If the obligor reaches a recording, one staff member said that one option is to press 6 if the obligor wants a pro se form to request an order adjustment. The agency would then send a pro se form and a flyer that describes the free legal clinics in the county. (I called the Milwaukee child support number and was not presented with a direct option to request a pro se form; the most relevant option was to report a change in employment which, when pressed, led to an opportunity to leave a voice mail message.)

This practice of allowing the parties to the motion to seek their own adjustments has apparently changed over time, but not directly because of the recession. One child support agency staff member says that when she first started working for the agency nine years ago, workers would try to help arrange stipulations, but workers no longer have the time to do that.

Except for W-2 cases, reviews on the 33 month cycle in Milwaukee are conducted, as required by law, only if one of the parties requests it. As in any other case where a party requests a review on the grounds of a substantial change in circumstances, the department would at least send out the pro se form and flyer.

According to one of the Milwaukee family court commissioners, the recession has led many more people to submit motions to change orders, and the legal aid clinics provide useful assistance to those who seek it.

#### IV. PRO SE PROCEDURES

All the counties said they had made no changes in their procedures as a result of the recession, except that the more urban counties are giving less assistance to parents than they used to. Some said they thought that the \$30 filing fee for order revisions discouraged some obligors from filing motions. More commonly expressed was the perception that the \$100 fee for filing a pro se divorce had inhibited couples from obtaining a legal divorce. As a result, child support staff said, women are entering into other relationships without obtaining a divorce and having children by fathers who are not their legal husbands.

All the counties except one said that more pro se motions were being entered, but most staff attributed that to the simplification of the forms at least as much as to the economy. The three smaller counties still handle most order revisions through obtaining stipulations. Rock and Milwaukee are more likely to distribute pro se forms.

#### V. SHARED PLACEMENT

Staff in all the counties said that shared placement has become much more common, so common that it has become the standard initial placement in divorce cases. But they were skeptical that the recession was the reason for the increase in initial shared placement. Child support officials in all counties said they thought men often agreed to shared placement because it reduced the child support they would have to pay. In many cases, staff say, shared placement does not last for very long, changing to predominantly- mother placement or mother-only placement after a while either through informal drift or through a formal revision in placement.

But several family court commissioners also said they had noticed an increase in requests to move from mother-only to shared placement that they thought might stem from the economic recession. If the father is working less and the mother has an opportunity to work more, then a move to greater placement with the father might make sense for all parties.

Staff in Rock County reported that they had seen reductions in shared placement as a result of the closing of the GM plant. They say that a large number of noncustodial fathers with seniority in GM moved to other cities with GM plants, reducing the percentage of their children's placement with them as a result.

#### VI. ENFORCEMENT AND DELINQUENCY

Of the five counties, an official in only one (a northern county) reported that delinquency rates had risen. The other counties all said their delinquency rates had either stayed stable or improved during the recession. They all attributed that to the frequency of order revisions.

Concerning the effects of the recession on enforcement procedures, the family court commissioners reported no change. They all said that child support remains the first obligation of noncustodial parents and that those in financial distress should stop paying their credit card debt if they have to in order to pay their child support obligations. A commissioner in one county said she might give an obligor more time to sell a house to obtain funds to pay an order, but other than that she was not bending at all. One commissioner said he was sending more men to jail for contempt, but that contempt and the threat of jail are effective enforcement tools. In contrast, child support staff said that the recession had led them to be somewhat less likely to seek contempt orders, and that they were more willing to work with obligors to develop a plan to make reduced payments on their state-owed arrears. A child support staff person in a northern county said that, if an obligor said he could make a payment in three weeks after he gets paid for a roofing job, she would be more willing to wait and not immediately file a motion for contempt. A staff member in another county said they tell obligors that it's better to pay something rather than nothing, and if the obligor shows good faith, they will work with him to try to reduce his order if a substantial change in circumstances has occurred.

The performance standards may have something to do with the somewhat different perspectives of court commissioners and child support staff. Staff in three of the child support agencies said without being asked that the performance standards affect their priorities. They said it did not make sense to be overly rigid with obligors if that resulted in poor performance relative to the standards and, in consequence, a reduction in the staff needed to do the job of child support enforcement.

## VII. USE OF ARRA FUNDS

Marinette County child support staff said the county used its ARRA funds to hire an extra case specialist, so that the caseloads of the others went from 600 to 500. The new specialist did not need training because she had previously worked for the agency. Lincoln County used ARRA funds to pay for staff overtime and to hire a half-time clerical position. The person in that position returns the calls of people who left phone messages, so that the delay in responding to messages has dropped from an

average of three work days to one. Burnett County used its ARRA funds to hire a previous staff member who also did not require training. She concentrates on reviews and modifications, including for Minnesota orders. She also focuses on health orders.

Rock County used the ARRA funds for new equipment, especially imaging equipment and for overtime so that staff can do reviews and adjustments. Milwaukee used ARRA funds to hire 8 workers (four experienced and four with no experience) to address its review and adjustment backlog.

#### VIII. COURT TIME

Marinette County reported that their court time recently dropped from three days a month to two days. As a result, cases are scheduled out further—the delay is now about 2 months. Lincoln County said that it used to have 2 and one-half hours of court time every two weeks, and that recently dropped to 2 hours. Staff said the same number of cases are being handled in that time, but the pace is faster. Although the reduction in court time has not changed the number of cases the court handles each month, the growth in the number of cases going to court has resulted in a longer delay when scheduling cases—about 2 months ahead rather 1–2 months as before. Burnett County staff reported that they have one day of court time per month, which was no change from the past. However, because they have more cases, they have increased the number of cases scheduled for the same time block. Again, the court pace is faster.

Rock and Milwaukee Counties report no reduction in court time, but again, more cases result in a faster pace in court.

#### IX. CONCLUSION

The recession has increased the sympathy of child support staff and, to a lesser extent, family court commissioners to the difficulties faced by noncustodial parents. Yet those who work in the child support system believe they must continue to be aware of the need to reinforce the seriousness of a parent's financial obligation to his children. The dilemma of understanding the financial difficulties of obligors while simultaneously asserting the financial need of children is not easy to resolve, but the child

support staff and court commissioners all said they were willing to alter orders, and had been altering orders, when circumstances change. In the counties that can devote the necessary staff time, that is often accomplished through stipulations that require no court action. In more urban counties, where caseloads are higher, it is accomplished through court motions filed pro se.

Based on the statements by interviewees, the setting of initial orders has changed more slowly with the recession, although counties are apparently somewhat more likely to delay cash orders for a month or two while parents seek work or to stay cash orders while parents participate in a Children First program. In addition, child support agencies and courts have lowered the hours expected in imputed income cases from 40 hours per week to 30 or 35.

The next step in this research project is to assess whether these reported tendencies are reflected in administrative data for the state as a whole.