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Incarcerated Payers: A Review of Child Support Agency Practice

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Abstract

This report follows a series of previous reports completed as part of the research agreement between the Bureau of Child Support (BCS) and researchers at the Institute for Research on Poverty (IRP) examining the issue of incarcerated payer policy in Wisconsin. In addition to the complexities inherent in these cases, child support agencies (CSAs) have faced a changing policy landscape in recent years at both the state and federal level. Based on interviews with child support staff from twenty-four CSAs around the state, this report seeks to understand CSA practice across Wisconsin for cases with incarcerated payers, with a focus on examining the role of recent policy guidance. Overall, this research finds that practice and approaches to incarcerated payers are currently in flux in Wisconsin and practice varies across the state. Some of this variation may be attributed to county context, including size, agency structure, and local courts. Additionally, we identify areas in which additional guidance for may be helpful.

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BACKGROUND

The steep rise in incarceration in the United States over the past decades has been well-documented, as has its impact on incarcerated individuals (e.g., Uggen, Manza, & Thompson, 2006; Wakefield & Uggen, 2010; Western, 2006). Research and policy have recently begun to attend to the impact of incarceration on families in general, and children in particular. At the end of 2016, over 1.5 million individuals were incarcerated in federal or state facilities, the majority of whom were expected to spend at least one year in incarceration (Carson, 2018). Of these 1.5 million, estimates suggest that over half are the parents of minor children (Glaze & Maruschak, 2008), and over 2.7 million children in the United States have a parent who is incarcerated (Pew Charitable Trusts, 2010). Research suggests these children are at increased disadvantage across a variety of domains including social-emotional development, educational attainment, housing security, and economic well-being (Geller et al., 2012; Foster & Hagan, 2007; Wakefield & Wildeman, 2011; Wildeman, 2014).

Child support is one avenue through which children's economic well-being may be affected by parental incarceration, and the intersection of incarceration and child support has taken on increased importance in recent years at both the state and federal levels. A recent estimate from the National Conference of State Legislatures (NSCL) suggests approximately 400,000 incarcerated individuals have active child support orders (NSCL, 2016). As an increasing number of families in the child support system are also impacted by incarceration, policymakers are faced with a number of challenges and tradeoffs. Specifically, the evidence suggests that incarceration may play a major role in nonpayment of child support (Ha, Cancian, Meyer, & Han, 2008). Additionally, an incarcerated parent with a child support order is likely to

have a very limited ability to make significant child support payments during the period of incarceration and may face an overwhelming amount of debt upon release and decreased future earnings potential (Levingston & Turetsky, 2007; Pager, 2003).

In addition to programs intended to support incarcerated parents with child support orders in finding employment upon release, one policy option that has received increased attention at the federal and state level is order modification for incarcerated payers. This can be implemented in a variety of ways, but ultimately results in orders being reduced, or eliminated, during the period of incarceration. At the federal level, the Office of Child Support Enforcement (OCSE) has begun addressing this issue through research and recent federal regulations released in 2016 (Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs, 2016). States, too, have adopted a variety of approaches and philosophies to order modification, instituting a number of initiatives, including many focused on modifying current orders, and more recently, automatically suspending orders for incarcerated parents. Thirty-six states currently allow for modification of orders as a result of incarceration, and some states—including California and North Dakota—have begun to administratively suspend orders for incarcerated payers (NSCL, 2016; Bismarck Tribune, 2017). In order to be in compliance with new federal regulations, all states must begin allowing for modification of these orders in the coming years.

Order modification, however, is not without its critics. Many in the child support community and outside view modifying orders as unfairly rewarding criminal behavior, and shortchanging children and custodial parents. As child support agencies (CSAs) continue to grapple with this complex issue and how best to balance the interests of competing stakeholders including custodial parents (CPs), noncustodial parents (NCPs), and state and federal rules, they

face a variety of practice options in dealing with child support orders for incarcerated parents. In Wisconsin, CSAs have received guidance on this issue in recent years in the form of Child Support Bulletins (CSBs). In 2013, the Bureau of Child Support issued a CSB that offered some potential practice options for consideration, and, more recently, in December 2017, a newly-released CSB outlined CSA responsibilities in light of the 2016 federal regulation changes.

This report follows a series of previous reports completed as part of the research agreement between the BCS and researchers at the Institute for Research on Poverty (IRP) examining the issue of incarcerated payer policy in Wisconsin. It seeks to understand how CSAs across Wisconsin are managing the competing perspectives on practices for incarcerated payers, and integrating the guidance contained in the 2013 and 2017 CSBs. We examine the current federal and state policy context, with a focus on recent changes. We then outline the current study and highlight findings, followed by recommendations of best practices and areas where CSAs may benefit from additional state support.

Previous Research

Rising levels of incarceration impact both intact families and families who rely on the formal child support system and, thus, child support payments from the incarcerated individual. Though some incarcerated individuals have earnings or access to financial resources during their period of institutionalization, most do not. This means that the incarcerated parent will likely be unable to meet his or her child support obligations and is likely to build up a significant amount of debt during the period of incarceration (Levingston & Turetsky, 2007). As a result, there is evidence that, upon release, not only will overall wage potential decrease, but these individuals are less likely to cooperate with the formal child support system and more likely to engage in work in the informal economy (Pearson, 2004; Department of Health and Human Services,

2006). For the child and custodial parent relying on payment, this results in a significant decrease in financial support not only for the period of incarceration but likely beyond. There is some evidence that reducing debt owed may increase payments upon release (Cancian, Heinrich, & Chung, 2009), making order modification an attractive policy option.

Incarcerated Payers in Wisconsin

Researchers at the Institute for Research on Poverty (IRP) have completed numerous reports on order modification for incarcerated payers in Wisconsin dating back to 2006. These reports have traced the evolution of state policy, with a particular focus on the Milwaukee Prison Project. In this project, Milwaukee County held open child support orders for NCPs during their time in prison. An intent of the project was to decrease the amount of arrears accumulated, thereby increasing child support payments upon release. The reports are unique in that they provide some of the only empirical evidence as to the impact of modifying orders on payments and earnings upon release; results suggest order modification in Milwaukee County was moderately successful in increasing order payments upon the NCP's release (Noyes, Cancian, & Cuesta, 2012; Noyes, Cancian, Cuesta, & Salas, 2017).[1]

Previous research competed at IRP also found substantial variation in how CSAs across Wisconsin handled cases with incarcerated payers. Interviews with child support staff in each child support agency in Wisconsin conducted in 2009 revealed some counties had instituted their own practices for cases with incarcerated payers, resulting in a variety of approaches across the state. In the absence of explicit policy, county processes evolved to meet county needs around

[1]For more information about the Milwaukee Prison Project and specific findings, see: Cancian, Noyes, Chung, & Thornton, 2009; Cancian, Noyes, Chung, Kaplan, & Thornton, 2009; Noyes, Pate, & Kaplan, 2009; and Noyes, Cancian, & Cuesta, 2012.

the issue, resulting in variation in county treatment of the issue across the state (Cancian, Noyes, Chung, Kaplan, & Thornton, 2009).

Notably, like many child support policy issues, incarcerated payers likely differentially impact counties across the state based on a variety of factors. County size likely plays an important role in this variation. Smaller counties may have very few of these cases, which may have enabled them to take more individualized proactive steps given the smaller workload. On the other hand, larger counties likely have had greater incentive to institute routine practices or processes given the large number of these cases on their caseload. In addition, counties with a higher proportion of incarcerated payers face particular issues related to existing performance incentives; indeed, concern about performance was part of what drove the establishment of the Milwaukee Prison Project.

Changing Policy Context

Overlaid on the existing intrastate variation is an evolving policy context at both the federal and state levels. Following federal regulations, Wisconsin statutes currently require the review of child support orders every three years. They also currently allow for a modification of an order outside the 3-year cycle if there is "a substantial change in circumstances" (Wisconsin Statutes 767.59(1f)). In addition to statutes, Wisconsin case law has historically loomed large in the state's handling of order modification for these cases. In particular, the Wisconsin Supreme Court decision in the 2003 *Rottscheit v Dumler* case has driven practices across the state at both the CSA and judicial levels. In this case, the Supreme Court upheld a decision that denied an NCP's request for modification of an order as a result of incarceration. In its decision, the Court agreed that incarceration would be one factor to consider in reviewing orders, but it could not be the sole factor. In practice, attorneys and judges often interpret this case law to require

consideration of a variety of factors—including incarceration length, earnings potential, and child's age—in determining whether a child support order can be modified due to incarceration.

The Wisconsin Bureau of Child Support issued a CSB on the issue of incarcerated payers in 2013. This bulletin, CSB 13-04, indicated that if an incarcerated payer contacted a CSA to notify the agency of his or her incarceration, the CSA must evaluate whether a review of the case was appropriate. The bulletin also provided a recommended form that CSAs could provide to incarcerated payers to formally request a review of their case. CSB 13-04 also included three exemptions, or cases in which the CSA need not consider review of a case. Specifically, these exemptions are in cases where the NCP was incarcerated for: (1) a crime against a child; (2) a crime against the CP: or (3) felony non-payment of child support.

Since the 2013 CSB, federal regulations have changed. Specifically, in December 2016, OCSE released new federal regulations via the Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs final rule. Citing research that order modification may increase payments in the long run, the final rule included important changes for agency treatment of incarcerated payers. Specifically, states must review and may modify orders when they become aware that an NCP has been incarcerated. Additionally, states may no longer consider incarceration voluntary unemployment for modification purposes. OCSE encouraged states to take a proactive approach in reviewing and modifying orders. States must be in compliance within one year after the state's next quadrennial review following the guideline release; for Wisconsin, this means that all changes must be implemented by 2021. OCSE also encouraged states to develop electronic interfaces with their correctional departments to assist with identification of affected cases.

In response to the federal changes, BCS issued CSB 17-14 in December 2017 to ensure CSAs were following the new regulations set forth in the 2016 federal rule changes. The most recent bulletin informed CSAs that they now must proactively contact the NCP and CP about their right to request a review upon learning that an NCP is incarcerated for at least 180 days. It also removed the exemptions for cases that may not be reviewed that were included in the 2013 CSB. Notably, in some cases, the case law stemming from *Rottscheit v. Dumler* may conflict with the 2016 regulation changes.

Thus, in addition to the overall complexities raised by incarcerated payers in general, CSAs in Wisconsin have faced a number of practice and process decisions related to incarcerated payers in recent years. The 2013 CSB did not explicitly require CSAs to make changes to their practice, but it may have had an effect on processes. The 2017 CSA does require changes, but given the recency of the bulletin, CSAs may not have had the opportunity to implement changes. Given that variation existed across the state before the CSBs, it is important to understand the role that these recent policy changes have had on county practice. The research reported here seeks to understand the variation in practice that exists in Wisconsin, and the role of recent changes on CSA practice.

METHODS

In order to understand current county process across the state, we interviewed staff at child support agencies across Wisconsin using a semi-structured interview guide over a period of two months. Given the range of processes across the state, semi-structured interviews allowed for a more flexible and nuanced understanding of local context, processes, and policies than a survey instrument or other standardized technique might have. Below, we describe our sample selection and provide more detail about the study design.

Sample

We selected a range of counties across Wisconsin[2] with the intent to achieve an understanding of the variation in processes and to identify best practices and common issues facing CSAs, particularly as it related to the release of the 2013 and 2017 CSBs. We selected our sample to represent variation in size and region; we also sought to include counties most likely to be affected by incarcerated NCPs. Overall, we identified 23 of Wisconsin's 72 counties in which to conduct interviews; 15 based on a combination of population size and incarceration rates, and 8 based on a pattern of previous proactive outreach to incarcerated payers as identified in previous reports (Cancian, Noyes, Chung, Kaplan, and Thornton, 2009).

Data from the Wisconsin Department of Corrections indicate that in 2016, over 70 percent of individuals admitted to prison were convicted in 15 counties (Wisconsin Department of Corrections, n.d.). Though this is not a perfect measure of the incarcerated population by county, slightly over 70 percent of the state's adjusted IV-D caseload as of September 30, 2017 were in these 15 counties (Wisconsin Department of Children and Families, 2017). We were able to conduct interviews in 14 of these 15 large counties.[3] In addition to these 14 counties, a previous IRP report identified 12 CSAs that were, at the time, using a "mixed" proactive approach to handling cases with incarcerated payers (Cancian Noyes, Chung, Kaplan, and Thornton, 2009). We included these counties to ensure that we interviewed counties taking a variety of approaches. Given that four of the counties classified as having a "mixed" approach were also among the 15 largest counties, this yielded a sample of 23 counties. To complete the

[2]Our sample also includes one county in which the CSA is managed by a tribal partner.

[3]We were unable to connect with one of the fifteen counties to schedule an interview during the data collection period.

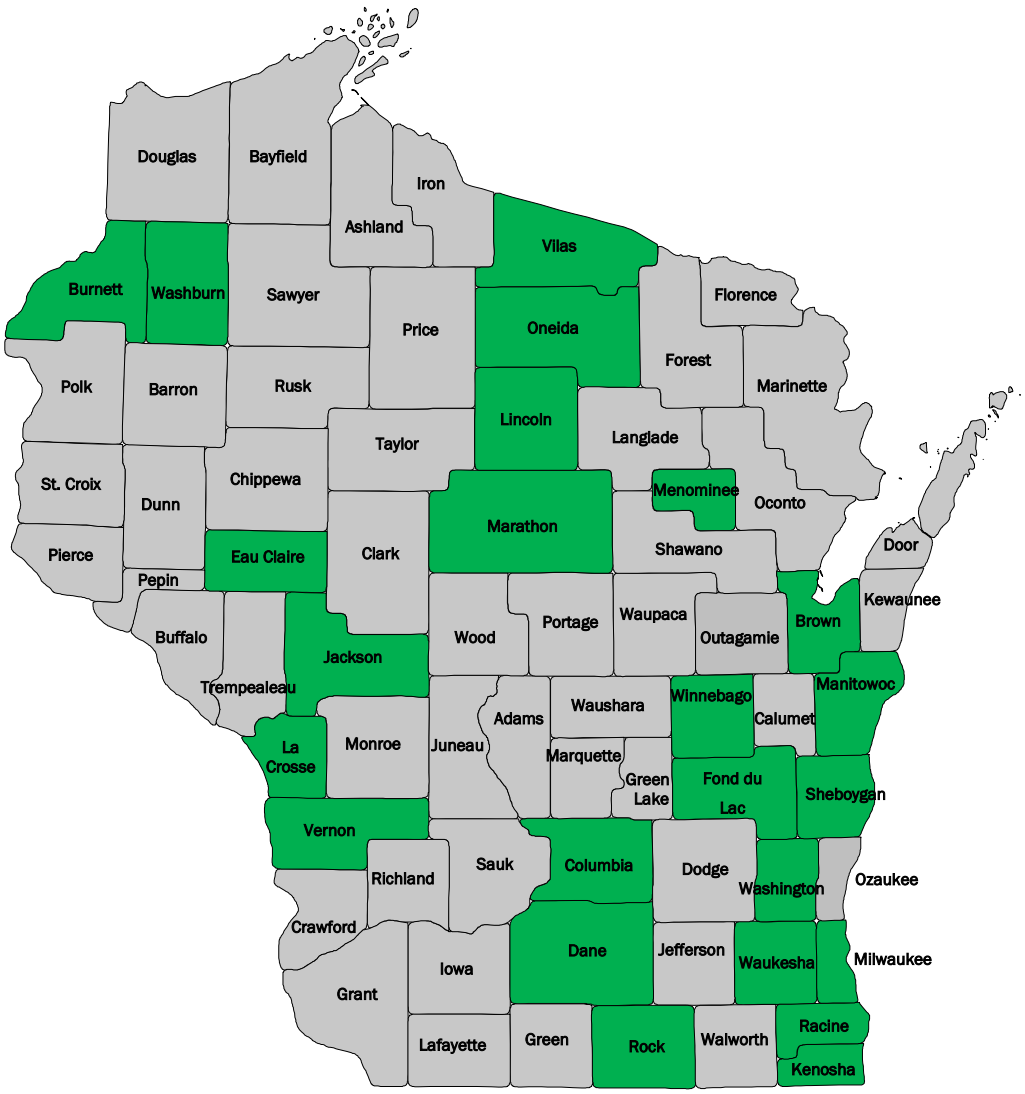
sample, the BCS identified two additional counties with a special interest in the issue of incarcerated payers. From our original list of 25 counties, we successfully contacted 24 counties for participation.

Our purposeful sampling strategy allowed us to understand the processes in counties that include most incarcerated payers in Wisconsin (likely greater than 70 percent based on the estimates outlined above). It also allowed us to interview counties employing a range of strategies before and after the 2013 and 2017 CSB were released. Additionally, as Figure 1 illustrates, these counties provided regional variation. Thus, we felt confident that our sample provided a strong cross-section of the CSAs in the state of Wisconsin, representing large and small counties, counties from all regions, counties that were previously aware of and responding to the issue of incarcerated payers, and counties that may need to adjust their approach based on the CSB 17-14.

We received contact information from BCS and contacted a point person in each county to schedule an interview. Interviews were conducted either in-person (7 counties) or over the phone (17 counties) during March and early April of 2017. Interviews lasted, on average, approximately 60 minutes. The staff roles of individuals we interviewed ranged from county to county. In many counties, we spoke to the director or supervisor of the CSA. Some counties (n=9) included their attorneys in the conversation. The length of time in child support and in current positions ranged widely, from a few months to 30 years or more. Interview topics focused on county process for cases with incarcerated payers; evolution of the process, particularly as it relates to the Child Support Bulletins from 2013 and 2017; understanding of and reaction to the 2017 policy changes; best practices and suggestions for these cases; current challenges; relationship with the local courts; and philosophies and motivations for handling

these cases. With permission, the interviews were recorded for transcription purposes; 23 of 24 counties agreed to have their interviews recorded.

Figure 1
Counties in Which Interviews Were Conducted



Notes: The 24 counties in which interviews were conducted are shown in green (darker shaded in grayscale). One additional county was selected for our research sample, but we were unable to schedule an interview there during the data collection period.

Using NVivo software, the interviews were then coded for themes using a directed content analysis approach (Hsieh & Shannon, 2005). Using previous research and theory as a guide, codes were developed in advance and used for analysis. After initial analysis of the data, the codes were refined to allow for analysis of the full scope of themes from the interviews. Given the importance of county context in local processes, categorization features of NVivo were used to further explore themes by relevant county characteristics such as size and expressed philosophy.

FINDINGS

In this section we outline the major findings that emerged from our interviews with child support staff across the state. We focus on overall themes that emerged and provide an overview of the variety of county processes that were reported.

A) Time of Transition:

> *"So, you know, we're sort of straddling sort of prior practice and kind of this new practice that [we] just came up with."*

One important contextual piece of this study was the timing of the interviews. CSB 17-14 was released in late December, and interviews were conducted beginning in March. Therefore, many of the counties were in the process of establishing practices for incarcerated payers to incorporate the guidance from the recent bulletin. In some cases, counties had developed initial practices and anticipated that revisions would be likely as their experience with this caseload grew; many counties, for example, said that they had not yet had a case go to hearing under their newly established processes. Overall, many of the counties we spoke to expressed that this was a time of transition regarding this process. As one county told us, "We've tried it a couple of

different ways and so our process has just changed even this week as to how we're going to handle [it]."

In addition, many of the CSAs were juggling staff transitions, which added to the complexity of implementation. Some of the supervisors and managers we interviewed were in their current positions for less than six months or on an interim basis, and some CSAs were in the midst of hiring permanent directors, attorneys, or other key positions. In some cases, interviewees indicated that they had not yet established a formal practice in response to the guideline changes because they were waiting until key positions—such as the director or attorney position—were filled. In addition to child support staff transitions, some also expressed that they were working with new court commissioners or judges, which might impact their process.

Given the recency of this change and the range of time implementation may take, follow-up discussions with agencies around the state at a later date could well elicit different responses, including challenges and best practices. Indeed, one county asked whether we would be returning to conduct interviews later this year. Thus, the context of change is important to keep in mind throughout this report. As counties gain more experience with these cases and the current guidelines, processes, challenges, and best practices are likely to evolve in large and small ways.

B) County Variation in Process:

> *"I would love to see more consistency from county to county because you can have the same incarcerated parent in our case as in [another] county and they're not doing anything with their case but we are."*

Though one of the aims of the federal regulations and 2017 CSB may have been to increase the consistency of practice across jurisdictions, interviews revealed a range of county

practices and processes in place. Variations exist throughout the process for incarcerated payers, including: how, when, and if incarcerated NCPs—and CPs—are contacted regarding a review and modification; factors that are considered in reviewing the order; if the CSA will set the case for a hearing; if the CSA will request a modification of the order; and, if so, what position the CSA will take in requesting the modification.

Contacting NCPs/Triggering Events

A majority of the counties either proactively contact NCPs upon learning of their incarceration, or are setting up processes to do so, though this is still not the case in all counties. A few counties we spoke with will conduct a review of the case only if they receive a request from the NCP in writing, even if they have learned of incarceration from some other avenue. In some cases, the counties believed this was following the policy in CSB 17-14, while in another, the county had not yet digested the information from the bulletin. Additionally, the ways in which counties learn whether an NCP is incarcerated vary widely. Many counties—particularly larger counties—have staff regularly checking a variety of worklists, Department of Correction (DOC) websites, Wisconsin Consolidated Court Automation Program (CCAP), local jail rosters, and a variety of other resources. CSAs may also learn about incarceration in the course of a review or a request from another state agency. Smaller counties, too, indicated that it would be unlikely that they would not know if a payer in one of their cases was incarcerated simply by following local news. CSAs also indicated that they would often receive this information directly from the NCP or the CP. Additionally, some counties—usually larger counties—have established proactive outreach and partnering with local incarceration facilities to provide necessary forms and information about requesting a review to incarcerated individuals.

Still, as will be described in Section D, triggering events and the amount of effort required by staff under the new bulletin to locate new cases with incarcerated NCPs was a source of confusion and frustration. Many counties expressed concern that there was a lot of information that was not available to them, or that the information they had access to was not accurate or up-to-date. They were worried that this might leave them out of compliance with the 2017 CSB even if they believed they were checking all of the sources currently available.

Review Process

Once the CSA is aware that an NCP is incarcerated, there are many different practices followed by counties. In most cases—but not all—the practice is for workers to wait for a confirmed expected release date or length of sentence to contact the parties, and, as soon as they can confirm a mandatory release date, they will begin the process for initiating a review or a stipulation. As one staff member told us, "If there's no mandatory release date . . .we kind of stop right there." However, at least one county does not wait for sentencing information before beginning the process, though, as county staff there indicated, this may not be feasible in larger counties with a significant incarceration workload: "[T]he CSB says you have to send it at 180 days, but it doesn't say you can't send it before that. So I would just say, you know, if you have someone that's incarcerated . . .send the form out. That would be a best practice, it's just, send the form out to anyone that you know who was incarcerated. But, you know, that's easy for me to say because we're a small county."

Just over half of the counties we spoke to send review paperwork to both the CP and the NCP; the rest send it only to the NCP. The review paperwork also varies from county-to-county. Though many counties reported using the form provided in the 2013 CSB, others have since drafted their own forms or packets. Appendix A contains examples from a variety of counties.

Some counties design forms to enable them to continue processing the review or request for modification even if they are unable to receive additional information from the NCP or if the NCP will not be able to appear at a modification hearing. These packets vary in what is requested from the NCP, with some counties requiring very little information, or simply a signature, and at least one requiring full financial statements or other information necessary to complete the full review process.

In most counties, if the NCP does not complete the request for review or necessary paperwork, the county does not continue with the case. However, in some counties, the process continues regardless of response from the NCP. One county, for example, simultaneously begins the review process and sends the review paperwork out. County staff explained, "We felt like there were still hoops that we were making people [jump through]—especially people who weren't in a situation to jump through them. But we could simultaneously put the case into review and begin processing. Thereby we were circumventing hoops, you know. If they didn't respond back right [away] it was . . . still moving forward." A handful of counties will also proceed to bring the case for a hearing without hearing back from the NCP. As one county told us, "You're a party to the case. You can bring it yourself. Just bring it yourself. And if so-and-so was incarcerated and gets on the phone, appears by phone at the hearing and says, 'I don't want it held open,' fine. Sure. Cool. Nothing lost."

Though some counties thought of the review and request for modification as separate processes, others considered them one and the same. Thus, some counties may review cases of incarcerated payers but choose not to bring the case for hearing to request a modification. Over

half of the counties interviewed set all cases for hearings, regardless of most case factors.[4] Other counties, though, would conduct a case review prior to deciding to set the case for hearing. They considered a variety of factors, including length of incarceration, earnings potential, age of the NCP, criminal history, age of the child, and the crime committed. For example, one county told us:

> "It's not always that simple. So the attorneys are looking at various information that the specialists are gathering for them as far as you know the criminal history, why are they incarcerated, what's the length of incarceration, are they going to be in any treatment programs, are they able to work while they're incarcerated, what are their earnings, what are their particular training and skills, what has been their earning history. So, they're looking at various things to make a determination, you know, before they determine if we're going to request the court to review it."

While some—particularly the attorneys we spoke with—explicitly cited the case law established in *Rottscheit v. Dumler* in this review, others did not. In addition, some counties had different interpretations of the implications of the so-called Dumler factors or Dumler analysis. One county, for example, does not review orders for cases with a sentence of less than 18 months, because this is their interpretation of how to balance the factors in case law. In some counties, though, the Dumler analysis is a mere formality, and the case is very likely to be set for court no matter what the factors might be.

Stipulations

Upon learning that an NCP is incarcerated, and in some cases prior to or simultaneous to beginning the review, the next step in many counties is to attempt to work with both parents to reach a stipulation to modify orders in these cases prior to bringing the case to court. The

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[4]At the time of our interviews, many counties were still following the exemptions from the 2013 CSB; thus, this includes counties who were still screening out cases in which a crime was committed against a child, the CP, or in cases of felony nonpayment of child support. These cases, then, were neither reviewed nor set for hearing.

reported success rate of stipulations seemed to vary widely, with some counties reporting that the CP is "hardly ever" willing to stipulate to a reduction of the order amount and others estimating that more than half of cases agree to stipulate. Counties where stipulations were common were optimistic about the process, indicating that it resulted in less court time and fewer resources and was an important way to get buy-in from both parties in the process. For example, one county official said of their process, "One of the things we do is . . .reach out to the custodial parent first. This saves a lot of time and resources."

Requests for Modification

Like the review process, the standard request for modification varies across the state. In some counties, the Dumler analysis plays into the request for modification. In over half the counties we interviewed (n=14), counties always request the same modification if they bring a case to court—holding open the case with minimum payment on arrears. Another common option is for the CSA to not take a position and to simply set the case for court and let the judge decide what should happen. We heard this mostly from smaller counties, and this may be correlated with counties that do not have in-house attorneys and rely on corporate counsel. Staff we spoke with often expressed that not taking a position was in the best interest of the CSA, because it left the court as "the fact finder." For example, one child support staff member explained, "We'll come in the court and say we've scheduled this hearing at the request of the incarcerated payer. These are the options for the court. And we just lay those options out and we let the court decide."

A handful of counties expressed that it was important to appear neutral and not advocate for any position or one individual in the case. One county leaves the individual to schedule their

own hearings for this reason, telling us, “The problem with us scheduling it, it looks like we’re advocating, and that’s not true. We don’t want to feel like [either parent] has leverage.”

We also heard from counties taking alternate approaches. One county does not argue for holding the order open except under exceptional circumstances. They view the affidavit requesting a modification as coming from the NCP, not from the CSA, and make no recommendation as to what the modification should be, or if one should happen at all. Another county advocates for minimum wage orders, “And, then what we’re doing, when we ask for the modification, we’re not asking for it to be set at zero. We are asking that it be set at a minimum wage order.”

C) 2013 CSB:

“That bulletin really initiated our evolution in thinking about these cases.”

Overall, most counties reported that the 2013 CSB did change county practice. In all, 16 of the counties we interviewed reported that the 2013 CSB definitively or likely changed county practice, even if this was simply through use of the standardized review form. Two of these counties, however, do not routinely review orders for incarcerated NCPs, indicating that various interpretations of this bulletin may exist. Four counties reported that they did not change practice as a result of the 2013 notice, and, in all cases, this was because they already had some process in place for incarcerated payers. Three counties indicated that they could not be sure whether this particular bulletin had any impact on practice due to staff turnover and other issues, but that it was unlikely. Two counties had no recollection of the memo. In one case the county may have instituted changes in response, but the timeline was unclear; in the other, the county had no recollection of this communication.

D) 2017 CSB:

> *"We agreed wholeheartedly with what was in the bulletin, but there are areas that we're still working through."*

Almost all of the counties we spoke to were aware of the 2017 CSB, and, in many cases, child support staff were eager to talk with us about the implications of the bulletin. As this report will review, interpretations of the necessary changes varied widely. Only a small handful of counties did not seem aware of the bulletin or were unclear about its contents. There was a range of reactions to this bulletin and the implications it would have, as indicated by the quotes below:

- "[The CSB has] built-in consistency not only with regard to our agency internally . . . but it should be doing the same thing statewide."
- "And I feel like the CSB was very specific, you know, as far as the steps that we have to send this request for review but then it left—I feel like it left agencies a lot of room to make this judgement call, so every agency could be doing something differently right now. The bulletin just left it very open ended."

Differences in Interpretations

As the last quote highlights, there were many differences between counties in understanding and interpreting the implications for county practice of the 2017 CSB. While some counties felt the bulletin was very specific with regard to practice, others felt there was a lot of room for variation. Similarly, some counties did not feel that it required a change to current practice, while others were greatly concerned about whether they were in compliance with the guidance in the new bulletin. These quotes represent the range of changes that agencies felt they had to make to practice to be in compliance:

- "I don't feel like it really changed that much. I mean, I think it changed the amount of time that . . . we have to send the form out if they're incarcerated for a certain amount of time. I think that changed, the amount of time."
- "I think prior to [the 2017 CSB], we have certain workers that were probably a little more aggressive in reviewing incarcerated payors, some maybe not so much. So, once the rule changed and we worked with [everyone] and came up with this policy, it's more now across the board where everybody understands what their responsibilities are and why it's

important to look at incarcerated payer orders and not just, you know . . . but it's, you know, not considered voluntary unemployment anymore."

- "Staff, where they used to stop, they have to continue. And that's a hard movement forward sometimes to make."

One of the areas of common concern was the level of responsibility for proactively identifying cases with incarcerated NCPs. In particular, some counties voiced concern that it was extremely difficult to find accurate information and that the level of responsibility was unclear; they wondered to what extent they were expected to track down sources beyond available worklists. As one director told us, "Exactly, how do we find out? And it's more—and that was kind of our question at our staff meeting, you know, after this was issued. One of the questions was are we supposed to go out and look for these cases, like are we supposed to be actively seeking out these release dates?" Another expressed the following common sentiment,

"I think part of the frustration is being able to obtain the information that [staff] need about the length of incarceration . . . [W]e have an automated interface with the Department of Corrections, but it's delayed, and it doesn't serve 100 percent accurate purpose because, at times, we'll get hits that they're incarcerated when we just found out last week they've been released." This led to concerns about compliance, as indicated by the following statement, "So obviously the agencies are very concerned about being in compliance and concerned about how we can comply when we don't have access to the information that we need in order to comply. That I think was the biggest concern of anybody. I personally am still very concerned about whether my agency is compliant."

Incorporating Case Law from Rottscheit v. Dumler

The Dumler decision loomed large over counties' interpretation and understanding of how to incorporate the new CSB into practice. In particular, many counties are still relying on

the case law in *Rottscheit v. Dumler*, even when it may be in opposition to the updated guidelines. How case law is applied also varies; depending on the county, it may determine which cases go through a formal review, which cases will be brought forward for a modification, or what, if any, modification will be requested if the case is brought to hearing. Often, counties were hesitant to lay out a clear picture of what cases might be brought for hearing based on this analysis, saying that the factors are complex.

Incarceration Period of 180 Days or Longer

The 2016 federal regulations require a review for cases where the NCP is incarcerated for a period of 180 days or more, which represents a change in how many counties previously defined long-term incarceration. For many CSAs, this change was the only notable change in their process for these cases. Additionally, many counties found this change to be the most challenging to implement in practice, with one director telling us, “Philosophically, I like the idea. Operationally, I think it poses some problems.” In particular, counties cited gray areas of sentencing, county jail time, and their own timelines to bring cases for court as issues. One county suggested that it would be best to set every case for hearing, regardless of the timeline, thereby bypassing this issue. Others, though, suggested that their local court calendars were already full, and this new timeline might mean bringing cases for hearing once the NCP had already been released. One attorney indicated, “[I]t says a 12 or what is it, 180-day incarceration period. Well, then we find out 30 days before they’re going to be released. And now we’re sending a packet out, we’re going to have a hearing two months after their release because we’re not going to get in court for three months.”

Crimes Against a CP or Child, and Felony Nonpayment of Child Support

Of all of the changes counties were facing related to the 2017 CSB, the removal of these exceptions elicited the most concern from child support staff. As one staff member told us, "The thing that most of the workers are concerned about is not being able to consider what they're sentenced for."

Counties who were otherwise enthusiastic about the modification process and every other part of the 2017 CSB expressed reticence about these changes, with many suggesting it would be difficult to get buy-in from their local courts or that it would negatively impact the agency's overall credibility. The responses below are illustrative of what we heard across the state.

- "[The judiciary is] going to wonder what we're doing over here."
- "And I'll tell you the main thing is—I have a really hard time arguing, being really honest, if somebody was beating up a CP, you know, if somebody has harmed a child, really hard time evaluating that. And I feel like I have a good feel for our courts. I'm not seeing them [modify the order]."
- "We're scheduling this review hearing because we're required to . . . but we're not in favor of this."

That CSAs will no longer be able to consider an exemption for felony nonpayment of child support was perhaps the most frustrating to staff. Though concerns about the other two exemptions may have been moral or values-based, people we spoke with indicated that they felt this change had perverse incentives. Many felt that it was a confusing message to send; previously the NCP was convicted of not paying child support and now would receive a modification to do just that. For example, one county told us, "[W]e're talking out all sides of our mouths at that point." They were also concerned that the success of any such motions would be limited. As one attorney said, "It makes us look sloppy."

In addition to general concerns about these exemptions, we heard from child support staff around the state that there was perceived ambiguity and a wide variety in understanding of when

CSAs would need to be begin taking these changes into account, if at all. Some already were doing so, while others noted that it was their understanding that this wouldn't be effective until after the next guidelines review, or that it would require statutory action at the state level. The uncertainty was summarized by one individual who told us, "I know that's an area that a lot of counties around the state have been asking for some specific policy on . . .whether or not it's appropriate to end or modify the child support order in those situations."

E) Role of the Judiciary:

"And the courts really do what they want."

One theme that emerged consistently in our interviews was the crucial role of the judiciary in cases with incarcerated payers. As one interviewee stated, "It doesn't matter what we do if the court commissioners are going to reject every motion anyway." In approximately a quarter of the counties we interviewed court commissioners were described as being "on board" and almost always agreeing to modify or hold orders open during the period of incarceration. Another quarter described local courts that would mostly grant the CSA's request to modify or hold open orders, unless the CP showed up at the hearing and objected, as illustrated by the experience described in one county, "There's a good chance that [the commissioner] will suspend the order for these people unless, you know, the custodial parent can come up with a very compelling reason why he shouldn't."

For other CSAs, though, despite agency efforts to work with the judiciary, the courts were seen as a sticking point in the process. For example, one attorney told us, "My opinion is that no judge in [the county] would set it at zero." Some CSAs reported that they do not ask for modifications or hold-opens because their judiciary would simply never grant them, saying "[P]art of it is based on our history with our court officials and what they anticipate our court

officials are going to be receptive to and not." Additionally, at least two counties reported that local court officials were interpreting the new regulations to mean that the CSA could no longer withhold any money from the NCP, but that the orders themselves could not be suspended. Thus, orders were left running with no option for the agency to collect, leaving the CSA in a difficult position with respect to performance (since no collections could be made) and the NCP in a difficult-position with respect to arrears (which would necessarily accumulate given no modification to the order, but no collections).

Overall, the significant role of the judiciary in the outcome of these cases was clear from our interviews. Child support staff often brought up their local courts, or, in some cases, their perception of other courts around the state, during interviews, indicating that they viewed the judiciary as a major factor in how cases may turn out. Though in some cases child support agencies reported working closely with their judiciary, local courts were seen as separate entities that may not have access to current policy research on incarcerated payers, were insulated from issues of performance, and may not be aware of the changing philosophy about these cases in the child support community. The following statement sums up what many of the child support staff told us doing interviews:

> "I don't know what the ratio of judges in the state—like which judges agree to zeroing support and which ones don't. And I know a comment was made a few years back that at one time when judges go to their conferences or educational opportunities or whatever and they talked about incarcerated individuals and the consensus was, at that time, they were not to zero the order where now I think the tide is turning . . . I don't know how many judges are, you know, changing from what they were told several years ago."

F) CSA Challenges:

> *"The mechanisms . . .nobody has provided to our agencies, and we don't have the ability to get that information ourselves. So I think that's very tough."*

As previously described, counties expressed concern about implementation of the 2017 CSB for a variety of reasons, including how and when to consider exceptions contained in the 2013 CSB, how to identify and process cases with incarceration of 180 days or more, and whether they are fully meeting requirements. One suggestion received repeatedly was for better interfaces with the DOC. This included both electronic and personal communication. Some counties described changes which made it more difficult to talk to probation officers and other relevant stakeholders. Others described electronic systems with incorrect or unreliable information. Though having the state autogenerate notices of the right to review was, in theory, quite useful, many people we spoke with expressed concern that this would actually add more work in the long-run if the data used to autogenerate the notices was not correct. The feeling of one staff member who told us, "[Automatic notices] should not go out unless the person is clearly eligible for this," was common among interviewees.

As previously discussed, counties reported that they are diligently checking the information they can access, but many are concerned that they are missing cases because the information they have may be incomplete or inaccurate. Federal cases and cases in which the individual was incarcerated in another state were seen as particularly challenging; CSAs that bordered other states were especially concerned about the lack of information from outside Wisconsin. For the most part, CSAs described doing what they thought was the best they could with the available resources. As one director told us, "[W]e do what we can [for now] . . . until how information . . . gets to us is improved."

The workload involved in checking these different sources and identifying a release date seemed to be agencies' main concern about increased burden for staff. The extent to which CSAs were concerned about impact on workload varied by size of the county and incarcerated NCP population, and whether the CSA would need to substantially change their practices as a result of the new federal regulations. Some counties also expressed concern about the increase in court time they anticipated as a result of the changes.

CSAs were also both concerned about and interested in the variation in practice across the state. On one hand, they felt it would be useful to understand what common practice was across the state and how they fit in. They also, though, were concerned that the variation caused challenges when an NCP may have multiple cases in different counties or when NCPs may discuss their situations with one another. For example, one staff member told us, "And, I guess, I'm looking at it as being consistent across the state, because if we're doing a policy in [County A] and we've got another case on the same party in [County B] and they're setting their orders at zero, that's a problem."

Some counties suggested that the order modification process might be more efficient and systematic if the state adopted automatic or administrative case closure or suspension for incarcerated payers and noted that it had been introduced in other states, like North Dakota. They suggested that having the process done administratively would be more efficient overall and create less burden on child support staff. One individual explained support of the state adopting this method this way:

> "Because of the volume of work and the ultimate, the end result. If we can do this administratively, it can get accomplished what the state wants us to accomplish much more efficiently than this process. Sending out letters to both mom and dad, the postage, the time, the paper. And then processing them when they come back, the volume."

Still, other counties expressed concern about this possibility, saying that automating the process would overlook some of the exceptional cases where an NCP might, for example, receive a settlement or other large sum of money.

G) Best Practices:

> *"And I really think our best practice advice to anybody who is struggling with the need to move forward with this is, let it go. You know, the reality of it is, this is a policy . . . [Y]ou're more apt to get collections when they're able to pay if there seems to be a light at the end of the tunnel."*

In addition to challenges, many counties also shared suggestions for best practice. This was particularly true for counties that had a process in place prior to the most recent CSB and felt that their practice was running smoothly. Best practice suggestions focused on open communication with the judiciary and other stakeholders, establishing a written policy within the agency to assure consistency, and, for larger counties, instituting a regular court calendar dedicated to incarcerated payer cases.

Perhaps unsurprisingly given the important role of the judiciary in this process, establishing close collaboration with local court officials was one of the most common suggestions for having a successful process. Many agencies indicated that they had success working with their court officials to come up with a process that would work for the agency and the courts. Others also indicated that bringing evidence about the impact of suspending orders had helped the process. Another key ingredient of a successful relationship with local courts seemed to be time, persistence, and patience, as indicated by the following statement, "It just took time. I remember the first time we started talking about it, and they were aghast that we would even spend time thinking about doing such a thing."

Additionally, many counties with established written practices suggested this had benefited them in taking the guesswork out of these cases for workers, which led to more consistent outcomes across the agency, and, for smaller agencies, assured consistency of institutional practices in anticipation of staff turnover. Counties often described their written practices as living documents open to revisions given the experience and feedback of staff or changing federal or state policy. One county pointed to another benefit of written practices, saying, “Now we have a written policy . . . that we can turn to if the payee is upset.”

In addition, open communication with staff was an underlying theme of interviews. CSAs suggested setting aside time at regular staff meetings to discuss changes to practice as a result of the CSB and working through more complicated or confusing aspects of the regulations. This sort of communication may be especially important in the face of changing overall philosophies of these cases. As one manager told us, “I think that takes a compelling child support manager to get their staff buy-in first of all. Because I think once you’re really dedicated to the purpose you don’t have to worry a whole lot about your staff being inconsistent because you need to have their buy-in.”

Some counties are relatively successful in reaching agreement between the CP and NCP prior to the case going to hearing. Many expressed surprise about the success rate of their stipulation process and encouraged other agencies to take some time to reach out to the CP and talk through the options. In many cases, staff described success in simply explaining that the likelihood of receiving payment might be low, as this interviewee explained, “I think, you know, we do a good job of kind of talking to the custodial parent about that. Just like, you know, well, they already owe this much. And, you know, I mean just to kind of get them to think about that.”

Lastly, two counties had success with keeping a calendar specifically for cases with incarcerated payers for court. In one county, one day of the court calendar is set aside for these cases, while the other county set up a special calendar for a limited period in order to clear many of these cases. Both suggested that counties with a large enough caseload of incarcerated payers may wish to consider this practice given its efficient use of court time for such things as connections to local incarceration facilities so that individuals can appear and court commissioner knowledge of and understanding of the various factors in these cases.

H) Motivation and Philosophy:

"You can't get blood from a turnip."

The policy changes at the federal and state level are consistent with changing views regarding incarcerated payers. The range of motivations and philosophies around incarcerated payers and their shifting nature were evident in our interviews. Many interviewees noted that things had shifted from the past or that it was sometimes difficult for more experienced staff members to take a different perspective. Many cited new research and their own experiences in noting that suspending these orders often leads to better results and buy-in from all parties later on.

In our interviews we typically asked whether interviewees strongly agreed, agreed, disagreed, or strongly disagreed with the following statements:

- "It's not fair to give people who have broken the law a break"
- "It's not fair for custodial parents to get less child support."
- "It does more harm than good to charge people when they can't pay."
- "Enforcing these cases makes it more likely that the NCP won't be able to successfully transition to life after incarceration."

- "Order modification is a good way to manage performance and not divert resources to work unproductive cases."

A majority disagreed that it was unfair to give NCPs a break through modifying their child support order and that it was unfair for CPs to receive less in payments in these cases. For many, their disagreement was based on the premise that this was flawed thinking, and, "[I]t's not like there's a magic bucket where they're going to be able to pull money out and send it to the CP." A handful of counties agreed with the first two statements, expressing concern for the child's well-being or expenses borne by tax payers as a result of the NCP's choice to engage in criminal behavior. Counties that disagreed were more likely to report requesting that orders be held open during the period of incarceration, while almost all counties that agreed reported either not taking a position or requesting a modification other than suspense. County size also seemed to play a role; with some exceptions, counties that agreed were often smaller counties, though there was a diversity of opinions among counties of all sizes.

While every county agreed with the statement that modifying orders would help performance, counties varied to the degree that performance motivated their practices and positions. Larger counties—which were most likely to have a larger proportion of cases with incarcerated payers—tended to be much more concerned with the performance aspect. In addition to the perceived positive outcomes suspending these cases might bring, they also saw the upside in performance. Other counties did not mention performance at all and simply felt that this was the right thing to do for everyone in the case.

CONCLUSIONS/RECOMMENDATIONS

Despite recent state and local policy changes that may have been intended to standardize practice across the state, variation in handling cases with incarcerated NCPs persists. Though

some of this is due to local courts, there is also substantial variation in process and practice across CSAs. Some of this variation is the result of what agencies perceive as ambiguity in the bulletins or variation in interpretations of the implications of the bulletin. Part of this variation may be attributed to evolving philosophies about how to equitably balance the multiple stakeholders in these cases.

As our interviews highlight, this is an issue that is currently in flux in Wisconsin. Like any new policy, time and experience are necessary to smooth out some of these issues. Still, our interviews also indicated that local agencies could benefit from additional guidance and support in the near term as well. We offer the following recommendations for the near-term:

(1) Clarify expectations for how CSAs can proactively identify cases with incarcerated payers, and provide additional resources as warranted. In the long-term, working toward improved interfaces with the DOC and other incarceration facilities may build in efficiencies, provided the data available are reliable.

(2) Provide additional resources and clarity around integrating case law, and *Rottscheit v. Dumler* in particular, in light of new federal regulations. Specifically, CSAs could use direction on cases with crimes against a CP, child, or felony nonpayment of child support, and any expected timeline for changes in statute related to these cases.

(3) Consider resources to support CSAs in working with local court officials on these cases and ensuring that the judiciary is aware of new federal and state policy and what this means for CSA practice.

(4) Facilitate roundtables and other events where counties can discuss this issue, best practices, and challenges. Counties were eager to learn from one another. Some counties suggested an updated contact list of CSAs across the state on the BCS website would be useful for this purpose.

(5) Continue to provide and share evidence, data, and research related to incarcerated NCPs. CSAs also were eager for more information about how these changes would impact performance and other metrics in the long-term. Continuing to monitor this issue and provide information to all stakeholders will be beneficial.

(6) Clarify the state's overall aims for these cases, and whether, for example, the goal is to suspend orders for all incarcerated NCPs. If so, consider ways to make this administratively easier. A quote from one interviewee may be illustrative, "I think what would be nice is if the state gave us better guidelines on what to consider when somebody

> is incarcerated. I mean, because every county is going to do things differently because their judiciary is different. Their attitudes are different."

Given the impact local courts can have on the outcome of these cases and the variation in judicial approaches across the state, future research focused on the role of the judiciary in this process may be useful. Understanding judicial approaches is essential to fully grasping the range of outcomes in cases with incarcerated payers across the state. Additionally, given that some agencies report setting practice according to their expectations for how the judiciary will respond, this may also provide insight into county variation in process.

Additionally, there is a variation between large and small counties in many areas related to this issue, including impacts on workload, performance, and access to information. Considering important contextual variation across counties, including factors related to size and agency organizational structure (e.g. whether the agency has its own dedicated attorneys), may support BCS providing more tailored technical assistance.

Finally, our interviews revealed that, like state and federal policy, the philosophies and understanding of how best to approach cases with incarcerated payers is in flux around the state. As many interviewees noted, given the scope of the opioid epidemic and continued rise in incarceration, the number of cases affected by this issue is likely to rise. Just as policymakers are attempting to balance the competing demands and challenges of the rise in incarcerated payers, Wisconsin child support agencies are seeking to implement practices that they believe to be equitable, to support the interests of all parties in the case, and to be in compliance with a changing policy landscape.

APPENDIX

This appendix contains example notices from three counties. In the first two examples, the NCP and the CP receive the same notice upon notification of the NCP's incarceration. In the third example, the NCP and CP receive different notices.

Child Support Agency

NOTICE OF RIGHT TO REQUEST A REVIEW OF YOUR CHILD SUPPORT ORDER DUE TO INCARCERATION

Federal law requires Child Support Agencies (CSAs) to review, and if appropriate, adjust child support orders when either parent has experienced a substantial change in financial circumstances.

The state has received information that the payer in this child support case is incarcerated. If the child support payer will be incarcerated for a period of more than 180 days, (6) months, either parent may contact the Child Support Agency to request a review of the child support order.

The Child Support Agency will review the paying parent's income and assets to determine the payer's current ability to pay the amount ordered. If the payer no longer has the ability to pay, the CSA will determine whether it will ask the court to modify the order. To request a review, either parent may complete the information below and forward it to the child support agency responsible for the case.

NAME OF CUSTODIAL PARENT:_____

NAME OF INCARCERATED PARENT:_____

DATE OF INCARCERATION:_____

FACILITY NAME WHERE INCARCERATED:_____

ADDRESS:_____

SENTENCE START DATE:_____

TOTAL YEARS SENTENCED:_____

ANTICIPATED RELEASE DATE:_____

I am requesting a review. I agree to fully cooperate with this review by completing the appropriate forms and providing the required information.

I am the incarcerated parent (chose one) YES_____ NO_____

Child Support Case Number or PIN:_____

Signature:_____DATE:_____

Print Name:_____

NOTICE OF RIGHT TO REQUEST A REVIEW OF YOUR CHILD SUPPORT ORDER DUE TO INCARCERATION

Dear <CP and NCP name>,

You are receiving this letter because our agency has learned that the payer in this child support case is currently incarcerated and will be for a period of more than 180 days (6 months). Federal law requires Child Support Agencies to review, and if appropriate, adjust child support orders when either parent has experienced a substantial change in financial circumstances. Due to the payer's incarceration, either parent may contact the Child Support Agency to request a review of the child support order.

If a review is requested, our agency will review the paying parent's income and assets to determine the payer's current ability to pay the amount ordered. If the payer no longer has the ability to pay, the Child Support Agency will determine whether to ask the court to modify the order.

To request a review of your case, either parent can fill in the information below and return it to our office using the enclosed envelope.

Name of Person Requesting Review: _____

Name of Incarcerated Parent: _____

Date of Incarceration: _____

Expected Release Date: _____

I am requesting a review of my child support case. I agree to fully cooperate with the review process by completing any required forms and providing any required information.

Signature: _____ Date: _____

Print Name: _____

NOTICE OF RIGHT TO REQUEST MODIFICATION OF CHILD SUPPORT AND INSTRUCTIONS

The state has received information that you are incarcerated. While you are incarcerated, your child support orders continue to charge and any amount that accrues will become arrears. If you will be incarcerated for a period of more than 180 days (6 months), either parent may request a modification of the child support orders. Your incarceration does not mean that your child support will automatically stop.

The Court is unable to retroactively modify your child support and can usually only modify the child support from the date your modification request is filed. This paperwork can only be used for your cases in County. If you have cases in other counties, you must file motions in those counties.

If you are requesting a modification of your child support, please fill out all the enclosed forms.

Instructions:

1. Complete the enclosed document fully and write legibly. Your motion could be denied if no one can read your handwriting. The Court date and time will be completed by the Child Support Agency when you return this document.

2. Answer honestly. Criminal cases are public record. If you misrepresent the charges you are incarcerated for, the Court could take that into consideration when reviewing your request.

3. If you have more than one case with child support orders, you must file a separate motion for each case.

4. Sign on page 2. If you do not sign the document, it will not be filed.

Please complete all the forms to the best of your ability. If your facility is unable to accommodate a phone appearance, these documents may be used to determine your motion.

MOTION TO MODIFY CHILD SUPPORT WHILE INCARCERATED

I request that my child support be modified while I am incarcerated based upon the following:

1. I have been incarcerated since _____ and cannot pay the child support I have been ordered to pay.
2. My mandatory release date is: _____
3. My parole eligibility date is: _____
4. My current income while in custody is $_____ per month.
5. List all crimes for which you are serving this sentence (if you have been revoked please indicate the underlying crime(s) you were on probation/parole for): _____
   _____
6. My probation was revoked for the following violation(s): _____
   _____
7. I have been charged with domestic violence against the custodial parent and/or child(ren) in this action. (Please circle one.) YES NO
8. I have been convicted of any crimes against any children. (Please circle one.) YES NO
9. If yes to 8 or 9, please list the manner of crimes and dates: _____
   _____
10. This is a list of any pending charges that I have at this time: _____
    _____
11. I was employed prior to my incarceration. (Please circle one.) YES NO
12. In order to pay after I am released, I plan on doing the following work: _____
    _____
13. I am eligible for work release outside or within the prison facility. YES NO
14. List any assets, such as bank accounts, retirement plans, stocks/bonds, etc. that can be used to pay the child support while you are incarcerated: _____
    _____
15. Any other information you want the court to consider: _____
    _____

Date: _____

_____
Signature

_____
Print Name

_____
Institution Identification Number

Institution and Address:

_____

_____

Case No. _____

STATE OF WISCONSIN

In re the Paternity/Support of _____

_____,
Petitioner,

vs

Case No. _____

_____,
Respondent.

IVD(s): _____

NOTICE OF HEARING AND
MOTION FOR MODIFICATION OF CHILD SUPPORT WHILE INCARCERATED

NOTICE OF HEARING

Please take notice that a hearing on the attached motion shall be held:

Before:

Location:

Date: _____ Time: _____ a.m. / p.m.

Failure to appear could result in an order being issued granting the relief requested in the motion.

NOTICE OF RIGHT TO REQUEST A REVIEW OF CHILD SUPPORT ORDER DUE TO INCARCERATION

Federal law requires Child Support Agencies to review, and if appropriate, adjust child support orders when either parent has experienced a substantial change in financial circumstances.

The state has received information that the payer in this child support case is incarcerated. If the child support payer will be incarcerated for a period of more than 180 days, (6) months, either parent may contact the Child Support Agency to request a review of the child support order.

The Child Support Agency will review the paying parent's income and assets to determine the payer's current ability to pay the amount ordered while they are incarcerated. If the payer no longer has the ability to pay, the Child Support Agency will determine whether it will ask the court to modify the order.

If you agree to a modification of this order while the payer is incarcerated, please complete and return the included form. Make sure to check any applicable boxes on the form.

STATE OF WISCONSIN

_____,
Petitioner,

v.

Case No.:
IVD No.:

_____,
Respondent.

STIPULATED ORDER TO SUSPEND CHILD SUPPORT

The payor parent in this case is current incarcerated for more than 180 days. The payee parent is voluntarily asking the Court to suspend child support until after release.

This case has a current child support order running in the amount of $_____ per week / month. The Petitioner / Respondent is currently incarcerated and will be incarcerated for more than 180 days. There has been a substantial change in the Petitioner's / Respondent's financial situation due to their incarceration.

The Petitioner / Respondent and State of Wisconsin request the following relief:

☐ That the current child support order in this action be suspended effective _____.

☐ That the arrears repayment order be modified to the amount of $1.00 per month effective _____.

X That all orders modified by this document recommence 60 days following the release of the Petitioner / Respondent from custody at the rates prior to this order.

X That the Petitioner / Respondent comply with previous order of the court and notify the Child Support Agency and other party within 10 days of any change of address.

The State of Wisconsin believes that this ex parte order is appropriate and does not prejudice the Petitioner / Respondent in this matter.

_____ _____
Petitioner

ORDER

The above requested relief is granted and so ordered.

_____

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