

## **EXECUTIVE SUMMARY**

Despite record child support collections by state child support programs, considerable sums of child support go unpaid every year. These past due payments of child support, referred to as child support arrears, accumulate each year and have reached unprecedented levels in recent years. In September 2006, the federal Office of Child Support Enforcement (OCSE) reported that the total amount of child support arrears that had accumulated nationwide since the program began in 1975 had reached \$105.4 billion.

These large amounts of arrears are disturbing for many reasons. First and foremost, most of these arrears are owed to custodial families who would benefit if they were collected. Second, some of these arrears are owed to the government. If these arrears were collected, it would improve the cost effectiveness of the child support program. Finally, high arrears are often interpreted by the public as a sign of agency incompetence and a failure to serve custodial families, when, in fact, the picture is more complicated than that.

The purpose of this report is to provide information about the underlying characteristics of child support arrears in the nation and in nine large states to help OCSE and state child support programs (also known as IV-D programs) improve their ability to manage arrears. The nine study states are: Arizona, Florida, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas. They were selected because of their relative size. Collectively, they held 39 percent of the nation's arrears in FY 2006. Each of the study states volunteered to participate in the study and provided detailed administrative data about their obligors and the arrears they owed. These data were matched by OCSE to six quarters of national quarterly wage and unemployment insurance data. Based on these data, each study state was provided with a detailed analysis of their arrears. This report draws from those analyses.

The analysis is organized around three basic questions:

- 1) Who owes the arrears?
- 2) How collectible are the arrears?
- 3) Why have arrears grown so rapidly?

Below, we summarize our findings for each of these questions. The report concludes with a discussion of actions taken by the study states to manage their arrears. This discussion is also summarized below.

### **Who Owes the Arrears?**

Child support arrears have a very distinct distribution.<sup>1</sup> Most of the arrears are owed by a relatively small number of non-custodial parents, each of whom owes a large amount of arrears. In the nine study states, 11 percent of the non-custodial parents with an

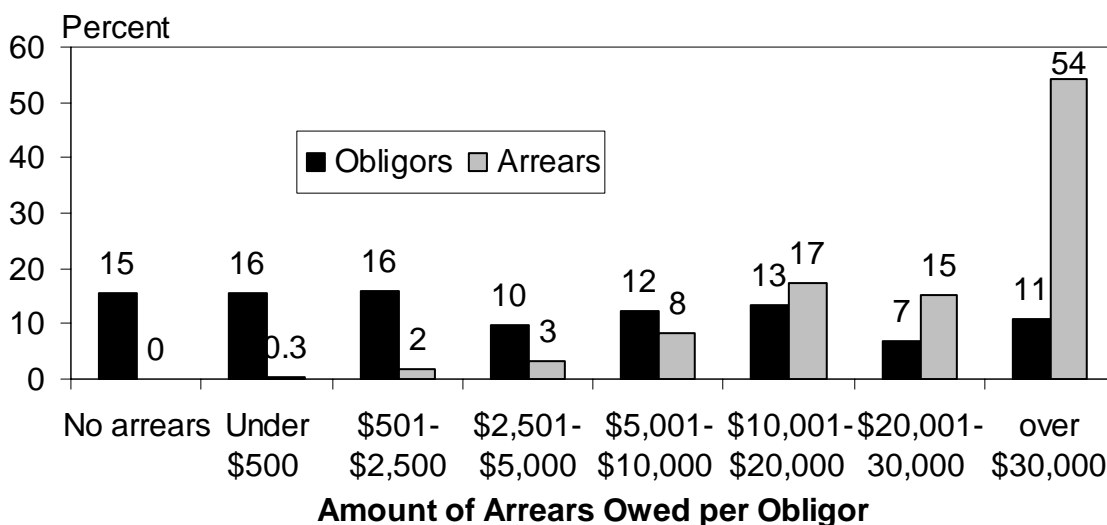
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<sup>1</sup> Throughout this report, child support arrears include principal and interest unless otherwise noted.

obligation to pay child support, or obligors, owed 54 percent of the total arrears held by these states.<sup>2</sup> Each of these obligors owed over \$30,000 in arrears.

The arrears distribution found in the nine study states is similar to that found in other states and for the nation as a whole. In California, 11 percent of the non-custodial parents who owed arrears owed a total of 45 percent of the state’s arrears in March 2000 and each of those debtors owed over \$40,000 in arrears.<sup>3</sup> Using data from the federal tax refund offset program in April 2006, researchers found that 43 percent of the nation’s certified arrears were owed by just 10 percent of the debtors, each of whom owed over \$40,000 in certified arrears.<sup>4</sup>

**Chart 1. Percent of Obligor and Arrears in Nine States, by Amount of Arrears Owed: 2003/04**



Source: Data are from Arizona, Florida, Illinois, Michigan, New Jersey, New York, Ohio, Pennsylvania, and Texas.

On the other hand, most of the obligors in the nine study states owed relatively small amounts of arrears. In fact, 15 percent of the obligors did not owe arrears at the time of the study. Another 16 percent of obligors owed less than \$500 in arrears. Adding obligors across the first four categories of arrears in the chart above shows that 57 percent of the obligors in the nine study states owed \$5,000 in arrears or less. These findings are also corroborated by other research on national certified arrears.<sup>5</sup>

Given that most obligors owe relatively modest amounts of arrears, one can easily understand why a casual observer might conclude that arrears should be easy to collect. Unfortunately, as we discuss below, this is not correct. While most obligors

<sup>2</sup> The data from the nine study states reflects either FY 2003 or CY 2004.

<sup>3</sup> Sorensen, Elaine, Heather Koball, Kate Pomper, and Chava Zibman. “Examining Child Support Arrears in California: The Collectibility Study.” March 2003.

<sup>4</sup> Dennis Putze, “Who Owes the Child Support Debt?” Presented at the Peer to Peer Training Conference sponsored by the federal Office of Child Support Enforcement (San Diego, CA) May 16, 2006.

<sup>5</sup> Ibid.

owe modest amounts of arrears, they owe a small percentage of the total arrears held by state child support programs. In the nine study states, the 57 percent of obligors who owed up to \$5,000 in arrears owed less than 6 percent of the total arrears held by these states.

In the nine study states, the obligors who owed over \$30,000 in arrears, whom we refer to as high debtors, were quite different from other obligors. A major difference was the amount of reported income that high debtors had compared to other obligors.<sup>6</sup> Nearly three quarters of the high debtors had no reported income or reported incomes of \$10,000 a year or less. In contrast, one fifth of obligors with no arrears had reported incomes this low. High debtors were also more likely than other obligors to have multiple current support orders, interstate orders, and orders that had been in effect for at least 10 years. In addition, they were less likely than others to have paid support in the last year and to have a ZIP code on record.

Just as high debtors tended to have no or low reported income, arrears tended to be concentrated among obligors with these characteristics. In the nine study states, 70 percent of the arrears were owed by obligors who had either no reported income or reported income of \$10,000 a year or less. It is probably not surprising to many readers that arrears tend to accumulate among individuals with no or low reported income because the most effective means of collecting support, wage withholding, is not effective among this population. Although some of these individuals may have unreported income (or assets), it tends to be very difficult to collect support from these individuals, which is evident when you compare payment rates among obligors by the amount of reported income that they have. In eight study states, 93 percent of obligors with reported incomes over \$10,000 a year paid child support in the past year, but only 57 percent of obligors with no or low reported income paid child support in the past year.<sup>7</sup>

Some child support professionals have suggested that states should examine obligors by their ability and willingness to pay child support.<sup>8</sup> We attempted to stratify obligors in this manner, but found it difficult to do so given the data that we had available. In an effort to shed light on this idea, we divided obligors by the amount of reported income that they had and whether or not they paid child support. However, having no or low reported income does not necessarily mean individuals have no or a limited ability to pay child support. These individuals may have other sources of income beyond that which we had access to or they may have assets, which we had no information about. Nonetheless, it is instructive to see how arrears are distributed by reported income and payment behavior.

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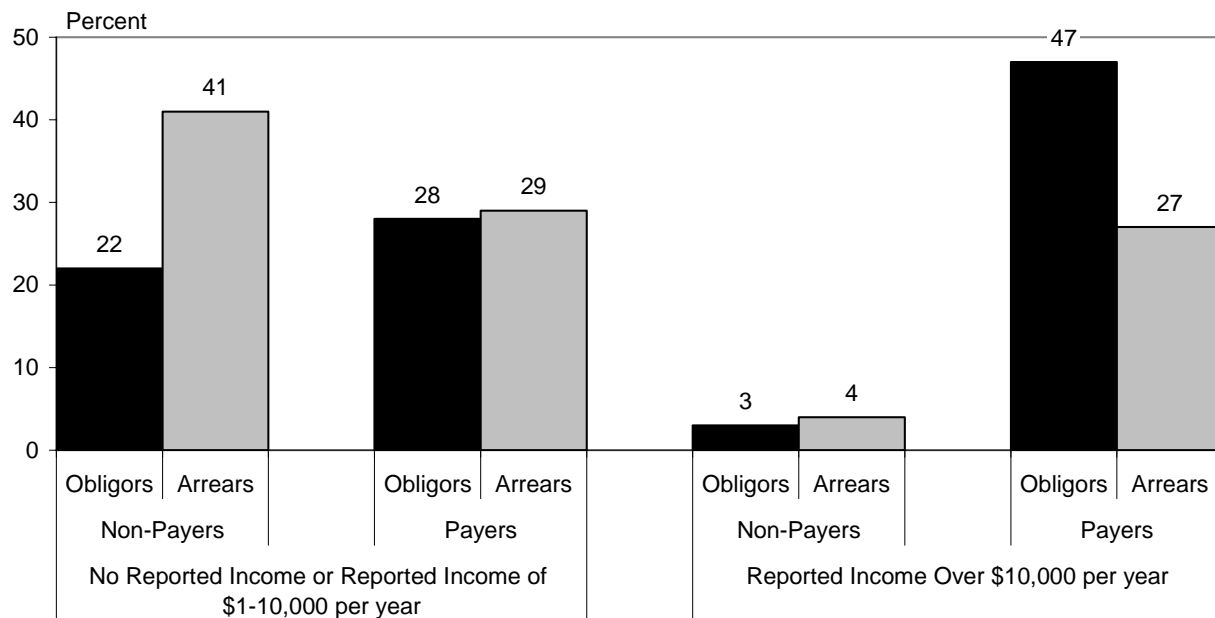
<sup>6</sup> As noted in the text, six quarters of quarterly wage and unemployment insurance data were matched by OCSE to each of the study state data files. The Urban Institute used these matched data to create an annualized income variable for each obligor. The annualized income variable includes quarterly wages and unemployment compensation. We refer to this annualized income variable as “reported income” throughout this report.

<sup>7</sup> New York is not included here because it did not provide 12 months of payment data.

<sup>8</sup> For example, see Center for the Support of Families, “Child Support Delivery Study: Final Report and Recommendations.” Prepared for the Minnesota Division of Child Support Enforcement. January 1999.

We find that, when obligors were divided by their payment behavior and reported income amounts, the only group of obligors who owed significantly more arrears than it represented in the obligor population was those who had no reported income or reported income of \$10,000 a year or less and did not pay child support in the past year. In eight study states, 22 percent of the obligors fell in this category, but they owed 41 percent of the arrears in these states.<sup>9</sup> These findings suggest that this group of obligors – those with no or low reported incomes who do not pay child support -- are the most difficult to collect from. Another large group of obligors (28 percent) had no or low reported incomes and paid child support in the past year. These obligors owed roughly a proportional share of the arrears (i.e. 29 percent). Thus, this group of obligors – those with no or low reported incomes who paid child support – were not contributing disproportionately to arrears in these states. This suggests that these study states did not have as difficult a time collecting from these obligors as they did from those with no or low reported income who did not pay child support for a year.

**Chart 2. Percent of Obligor and Arrears in Eight States, by Annual Reported Income and Payment Status in the Last Year: 2003/04**



Source: Child support data are from Arizona, Illinois, Florida, Michigan, New Jersey, Ohio, Pennsylvania, and Texas. Reported income is based on six quarters of national quarterly wage and unemployment insurance data from OCSE.

Due to insufficient data, we cannot conclude that all obligors with no reported income or reported income of \$10,000 a year or less and did not pay child support for a year are “unable to pay child support”. Some of these obligors may be self-employed or working in industries that are not covered by quarterly wage data. Others may be working in covered industries, but are working under the table. Still, some may be engaged in

<sup>9</sup> New York is not included in chart 2 because we did not receive 12 months of payment data.

illegal activities. It may be that individual obligors within this group have large amounts of unreported income and sizable assets, but the group as a whole appear less able to pay child support than other groups of obligors. This conclusion is based on the median order amounts that these obligors were expected to pay, which were considerably lower than the median order amounts of other obligors, including those who had no or low reported income and paid support. Specifically, in seven study states, the median order for obligors with no or low reported income who did not pay child support for a year was \$180 per month, which was \$59 per month lower than the median order for obligors with no or low reported income who paid support.<sup>10</sup> In addition, we should note that other research has found that 10 percent of debtors who did not match to four quarters of quarterly wages were institutionalized, 9 percent were receiving Social Security Administration benefits, and 6 percent were receiving Supplemental Security Income benefits, suggesting that about a quarter of the obligors without reported quarterly wages are either disabled or incarcerated.<sup>11</sup> Another study of debtors with no reported wages for four quarters looked at their income in the following year.<sup>12</sup> Less than half of these obligors had any income in the following year. And of those that did have income, the amounts were low (median \$7,500). Because this group of obligors – those with no or low reported income who did not pay child support for a year -- is contributing disproportionately to arrears, it is important that child support enforcement agencies focus on these obligors and learn more about them.

Chart 2 also shows that a very small percent of obligors in eight study states had an ability to pay child support (i.e. their reported incomes were over \$10,000 a year), but they did not pay child support for a year. Only 3 percent of the obligors fell in this category in the eight states and they owed 4 percent of the arrears in these states. In contrast, nearly half of the obligors (47 percent) had an ability to pay child support (i.e. their reported income was over \$10,000 a year) and they paid child support in the last year. They owed 27 percent of the arrears in these states, a much smaller proportion of the arrears than their relative share of the obligor population.

### **State Variation in Arrears**

We find that the study states varied by the characteristics of their obligors and this variation helped explain differences in the amount of arrears held by states. The extent to which obligors matched to quarterly wage and unemployment insurance data varied by state, with New York having the lowest match rate at 68 percent and Pennsylvania having the highest match rate at 80 percent. Of course, the more obligors who match to quarterly wage data the easier it is to collect support and keep arrears under control. Thus, based on this measure, Pennsylvania had an easier time managing its arrears than New York.

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<sup>10</sup> Florida was not included here because we did not receive order amounts from this state.

<sup>11</sup> U.S. DHHS, OCSE, "Story Behind the Numbers: Who Owes the Child Support Debt?" July 2004.

<sup>12</sup> Karen Gardiner, Mike Fishman, Sam Elkin, and Asaph Glosser. *Enhancing Child Support Enforcement Efforts Through Improved Use of Information on Debtor Income*. Final Report prepared for the U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation. October 2006. <http://aspe.hhs.gov/hsp/07/CSE-enhancement/debtor>

States also varied by the extent to which their obligors had arrears-only cases. In Illinois, Michigan and New York about a quarter of the obligors had arrears-only cases, but in other states, such as Ohio, considerably fewer obligors had arrears-only cases. While obligors with arrears-only cases are no longer accumulating new arrears, they tended to owe large amounts of arrears. Thus, states that have larger percentages of arrears-only cases tended to have higher arrears than states that did not.

Another characteristic that varied among the states was the proportion of obligors with a current support order who had more than one current support order, meaning that they had more than one family for whom they owed current support. In Arizona, 8 percent of the current support obligors had two or more current support orders, the lowest percentage among the study states. The highest percentage figures were in Illinois, New Jersey, and Ohio. Each of these states had 15 percent of their current support obligors with two or more current support orders. These obligors tended to owe about twice as much of the arrears owed by current support obligors than they represented in the population. Thus, in Illinois, New Jersey, and Ohio, current support obligors with two or more current support orders owed over 30 percent of the arrears owed by current support obligors.

Differences in state policies also influenced the amount of arrears each state held. Study states that assessed interest on a routine basis had considerably higher arrears per obligor than states that did not. States that assessed retroactive support on a routine basis tended to have higher arrears per obligor than states that did not. States that appeared to impute income when establishing orders in a large percentage of their cases tended to have higher arrears per obligor than states that did not.

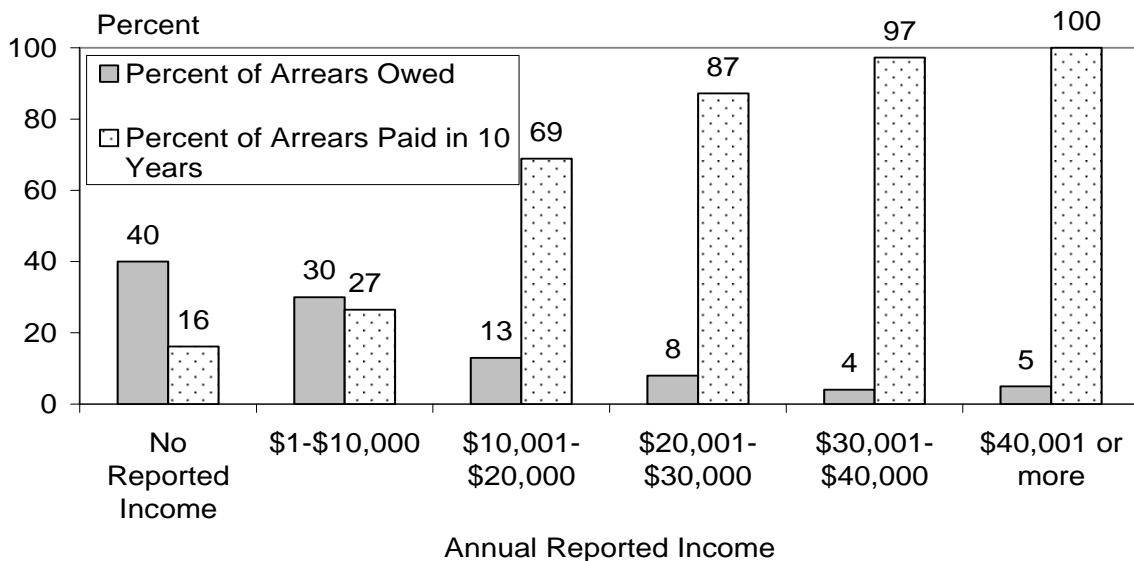
Furthermore, state policies can influence the characteristics of obligors. For example, in Pennsylvania, nearly all orders established in the state are in the IV-D program. The Domestic Relations Court in Pennsylvania provides IV-D services under a cooperative agreement and it includes IV-D applications as part of the court intake process. Individuals are not required to complete the IV-D application, but because it is part of the intake process, most people do. This practice may explain why 70 percent of the obligors in Pennsylvania had their IV-D case opened within a year of their order established. Other study states had considerably fewer obligors who had their orders established and their IV-D cases opened within a year of each other. This is an important distinction because obligors who had their IV-D cases opened around the same time as their order was established tended to owe considerably less arrears than other obligors. In Pennsylvania, for example, the median amount of arrears owed by obligors who opened their IV-D case around the same time as their order was \$800, while the median amount of arrears owed by obligors who had their order established at least a year *after* their IV-D case was opened owed twice that amount.

## How Collectible are the Arrears?

To answer this question, we developed a microsimulation model that estimates how much arrears are likely to be collected over a 10-year period and how much arrears are likely to grow during this time frame. Combining results across seven study states, we estimate that 40 percent of the arrears owed at the time the data were extracted will be collected over 10 years.<sup>13</sup> At the time the data were extracted, these states held \$30 billion in arrears; we estimate that \$12 billion of that will be collected in 10 years. In addition, we predict that arrears will grow in these seven states by 60 percent over 10 years, reaching \$48 billion in 2014.

The reason we estimate that less than half of the arrears will be collected over 10 years is because so much of the arrears are owed by obligors with no or low reported income. It is very difficult to collect from obligors who have no or low reported income. Further, the amounts that tend to be collected from these obligors are relatively small compared to the amounts of arrears that are owed. Thus, this combination of traits – no or low reported income and high arrears – result in very low arrears payment rates.

**Chart 3. Percent of Arrears Owed and Percent of Arrears Paid in 10 Years for Seven States, by Reported Income Categories: 2003/04**



Source: Child support data from Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas. These data were matched by OCSE to national quarterly wage and unemployment insurance data, which were used to generate reported income.

Chart 3 shows that obligors with no reported income owed 40 percent of the arrears in these seven states, respectively, but they are estimated to pay only 16 percent of their arrears over a 10-year period. Similarly, obligors with reported incomes between \$1 and \$10,000 a year owed 30 percent of the arrears and they are estimated to pay 27

<sup>13</sup> The seven states are: Arizona, Illinois, Michigan, New Jersey, Ohio, Pennsylvania, and Texas.

percent of their arrears over a 10-year period. Thus, relatively little of these arrears are likely to be collected.

In contrast, once reported incomes exceeded \$10,000 a year, obligors tended to owe relatively small amounts of arrears. Further, these obligors are relatively easy to collect from since they have reported incomes that exceed \$10,000 a year. Because, in general, these obligors have relatively high reported incomes and lower arrears, they are predicted to pay considerably more of their arrears in 10 years. In fact, we predict that obligors with reported incomes over \$40,000 a year will pay 100 percent of their arrears in 10 years. These obligors, however, owed only 5 percent of the arrears in these states.

### **Why have Arrears Grown So Rapidly?**

The primary factor that has caused arrears to grow so dramatically has been the assessment of interest on a routine basis. Many states began to assess interest on a routine basis in the 1990s, as their computer systems could manage to calculate and track interest. In addition, in 1986, Congress enacted legislation, referred to as the Bradley Amendment, which mandated that child support arrears be considered a judgment by operation of law. Since most states require that interest be charged on judgments, many states began to charge interest on child support arrears after this legislation was enacted. Today, 18 states charge interest on a routine basis, 18 states and Guam may charge interest but do so intermittently, and 14 states, Puerto Rico, the Virgin Islands, and the District of Columbia do not charge interest.<sup>14</sup> The chart below divides states, territories, and the District of Columbia into these three groups and tracks their arrears since fiscal year 1987.

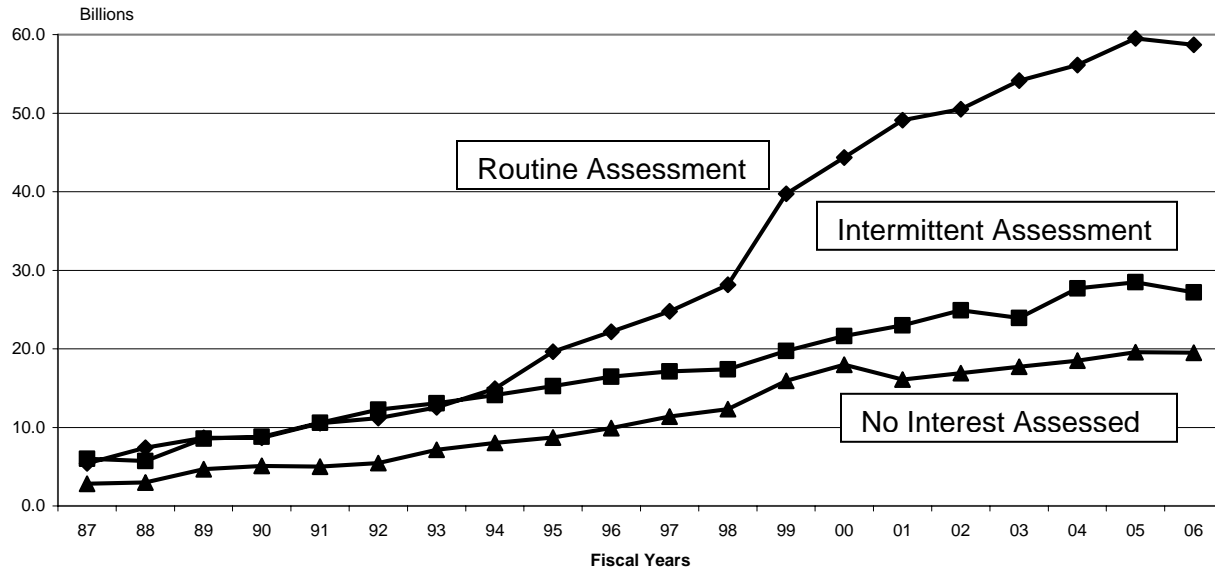
All states have experienced an increase in arrears between FY 1987 and FY 2006, but the chart below shows that states that charge interest on a routine basis have experienced a much larger increase in arrears than other states. Between FY 1987 and FY 2006, states that charged interest routinely experienced more than a ten-fold increase in arrears, going from \$5.4 billion in FY 1987 to \$58.7 billion in FY 2006. In contrast, other states saw their arrears grow about half as fast. States that charged interest intermittently experienced a 353 percent increase in arrears over this period (arrears went from \$6.0 billion in FY 1987 to \$27.2 billion in FY 2006), while states that do not charge interest experienced a 592 percent increase in arrears (arrears went from \$2.7 billion in FY 1987 to \$19.5 billion in FY 2006).

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<sup>14</sup> State interest policies are based on information from the OCSE Intergovernmental Referral Guide and telephone interviews with state child support administrators. The states that charge interest routinely are: Alabama, Alaska, Arizona, California, Georgia, Massachusetts, Michigan, Minnesota, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Rhode Island, Texas, Virginia, West Virginia, and Wisconsin. The states that charge interest intermittently are: Arkansas, Colorado, Guam, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Mississippi, Missouri, New York, Ohio, Oregon, Utah, Vermont, Washington, and Wyoming. The remaining states do not charge interest.



**Chart 4. Child Support Arrears Held by State IV-D Programs from FY 1987 to FY 2006, Grouped by States' Interest Policies**



Source: Arrears data are from OCSE, Annual Statistical Reports and Preliminary Reports.

Note: Data in FY 2006 are not strictly comparable to earlier years. In FY 2006, OCSE instructed states to not report arrears for responding interstate cases to eliminate the double counting of these arrears. Prior to that time, these arrears had been reported to OCSE by both responding and initiating states. Data are also not strictly comparable before and after FY 1999. In FY 1999, OCSE changed the reporting instructions to states regarding the inclusion of interest and penalties when reporting arrears.

We examined three other factors thought to contribute to arrears growth – the assessment of retroactive support, the lack of compliance with current support orders, and the low payment rate on arrears. Retroactive support did not appear to be a major factor contributing to arrears in the study states. This is not surprising since only three of the nine study states assessed retroactive support on a routine basis (i.e. Arizona, New Jersey, and Texas). Furthermore, these three states do not assess retroactive support back to the date of birth in paternity cases, which limits the amount of retroactive support that can be assessed. In Texas, retroactive support represented about 10 percent of the arrears (we do not have comparable information for Arizona and New Jersey).

On the other hand, we find that non-compliance with current support orders was a major factor contributing to arrears, especially among obligors with no or low reported income. In the study states, 40 percent of the current support obligors had no or low reported income, but they generated 60 percent of the unpaid current support during the year. The majority of current support obligors with no or low reported income paid something toward current support, but the median amount that they paid was very low, especially compared to their order. Among current support obligors with reported incomes of \$10,000 a year or less, their median order represented 83 percent of their reported income and their median payments represented 7 percent. This gap between the

amount due and amount paid among obligors with low reported income is a major factor contributing to arrears.

Another factor that we find that contributes to arrears is the low payment rate on arrears. Nationally, during the past several years, about 6 percent of arrears have been collected. If states could have doubled their collection rate on arrears to 12 percent since FY 2002, we predict that arrears would have stopped growing and would have totaled \$86 billion in FY 2006. Unfortunately, most debtors do not pay 12 percent of their arrears each year. Those who do, tend to owe less than \$1,000 in arrears. We examined debtors by their characteristics and found that debtors with no reported income were the least likely to pay arrears.

### **Actions taken by Study States to Manage Arrears**

The study states have taken numerous actions to manage their arrears, which are presented in this report to provide ideas for other states to consider as they manage their arrears. These strategies cover the entire range of arrears management techniques, from order establishment to arrears compromise programs.

One strategy that study states have used to prevent arrears from accruing in the first place is to set realistic orders. Having access to verifiable earnings data helps child support workers set realistic orders. It reduces the need to impute income at levels that often exceed actual income. In the past, study states did not have access to state and national quarterly earnings records to assist in the order determination process, but today many of the study states have this information readily available for case workers to use as they seek new orders. Some of the study states request state income tax records to assist in this process as well.

Nearly all of the study states have a low-income provision in their state child support guidelines, which aims to reduce the child support order amount for low-income obligors. Most of the low-income provisions utilize a self-support reserve for the obligor, although the guidelines do not always use that term. Not surprisingly, given that the states have different costs of living, the size of the self-support reserve varies, from a low of \$550 per month in Ohio to a high of \$1,047 per month in New York.

Many of the study states have taken steps to increase parental participation in the order establishment process. Making documents more readable, using welcoming letters, and holding pre-hearing conferences are some of the strategies that study states have used. Study states have also taken steps to improve their service of process to ensure that parents are notified of their pending order.

Study states have reduced the length and use of retroactive support. Two study states - Michigan and Texas - passed laws that eliminate the policy of setting retroactive support back to the date of the birth of the child in paternity cases. Now Texas may go back up to 4 years prior to the date of filing to set retroactive support; Michigan may go back to the date of filing to set an order unless there is willful avoidance.

A variety of early intervention strategies have been adopted by the study states. The primary aim of these strategies is to intervene early enough after the order is established to prevent delinquency from occurring in the first place. These strategies rely on increased contact with the non-custodial parent, mainly through reminder calls or letters. In some study states, new positions have been created to conduct this outreach. Efforts have also been made to make employment services and other services available to non-custodial parents at the time the order is established if these services are needed to prevent arrears accumulation.

Improving the wage withholding process is also key to preventing arrears from accumulating in the first place since so much of child support is collected using this process. Texas has focused considerable attention on improving this process in recent years, culminating in a fully revised employer repository, updated interfaces, and a single website that employers can use to meet all of their child support-related responsibilities.

Increasing review and modification of orders is another strategy for preventing arrears accumulation. The Deficit Reduction Act of 2005 will result in greater utilization of this strategy since it reinstated the requirement that all TANF cases must be reviewed and modified every three years, effective October 1, 2007.

Possibly the toughest task for states is to manage their existing arrears. Chapter 5 describes several strategies that the study states have undertaken to tackle this problem. Revising a state's interest policy is an important step in this process. Two of the study states – Michigan and Texas -- have lowered their interest rate in recent years.<sup>15</sup>

Another strategy that study states have used to manage their existing arrears is to conduct amnesty programs. Pennsylvania and other study states have conducted arrears amnesty programs. These programs allow obligors to come forward and take steps to correct their delinquencies without being arrested.

Two other study states -- Michigan and Illinois – have passed legislation that authorizes arrears compromise programs. These programs allow the child support program (or the court) to reduce the amount of arrears owed to the state if the obligor meets certain criteria. Since 2005, judges in Michigan may approve payment plans that discharge some of the state-owed arrears if the plans are in the best interest of the children, the arrears were not the result of willfully avoiding the obligation, and the obligor does not have the ability to pay all of the arrears in the future. In Illinois, the legislation allows the child support program to reduce state-assigned arrears in exchange for regular payments of support to the family if the obligor was unable to pay the arrears during the time it was accumulated.

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<sup>15</sup> In Michigan, interest is called a surcharge.

Another strategy that study states have used to manage their existing arrears is to conduct a special review of their non-paying arrears cases. Typically, states start with their highest arrears cases. Workers are asked to contact the parties involved and make every effort to move the case, either to payment or closure.

The Deficit Reduction Act of 2005 should also increase arrears collections. Three provisions are particularly noteworthy in this regard. First, the amount of arrears that triggers passport denial was reduced from \$5,000 to \$2,500, effective October 1, 2006. Second, the Act authorizes the federal tax offset program to collect child support arrears owed to adult children in non-TANF cases, effective October 1, 2007. Third, it authorizes OCSE to match cases with arrears to information maintained by insurance companies effective October 1, 2005.