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Right-Sizing Orders

Venturing Outside the Presumptions

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- ▶ Introductions
- ▶ Definition – what is a “right-sized order”?
- ▶ Statistics – What are the numbers telling us?
- ▶ The importance of right-sized orders
- ▶ How is it being implemented?
 - ▶ (in Washington, Oregon, and California)
- ▶ Contributing factors
- ▶ Conclusions
- ▶ Q & A



DEFINITION

QUESTION:

“What is a *right-sized order*?”



“What is a *right-sized order*?”

Right-sizing

- ▶ *Merriam Webster*: to reduce (something, such as a workforce) to an optimal size or to undergo a reduction to an optimal size
- ▶ Dictionary.com: to adjust to an appropriate size
- ▶ Oxford Languages: convert (something) to an appropriate or optimum size

Aren't Guidelines Supposed to Produce Right-Sized Orders?

- ▶ When are orders wrong-sized?
- ▶ How do we know?
- ▶ Why is it so difficult for us to “fix”?



“What is a *right-sized order*?” (Cont.)

- ▶ **PIQ 00-03: State IV-D Program Flexibility with Respect to Low Income Obligor cautions against:**
 - ▶ Retroactive support
 - ▶ Income imputation
 - ▶ Minimum orders
- ▶ **AT 16-06: Flexibility, Efficiency, and Modernization in Child Support**
 - ▶ Increase flexibility
 - ▶ Improve efficiency
 - ▶ Improve customer service
 - ▶ *Remove barriers that impede timely child support payments*
- ▶ **45 CFR 302.56(c)(1) requires child support guidelines to:**
 - ▶ Be based on parents’ ability to pay
 - ▶ Consider all earnings and income
 - ▶ Consider basic subsistence needs
 - ▶ Consider the paying parent’s specific circumstances when imputation is authorized



“What is a *right-sized* order?”

(Continued)

Equity in Child Support Orders



“What is a *right-sized order*?” (Cont.)

Right-sized for who?

- ▶ **Parent receiving support** – The parent receiving support can rely on consistent payments.
- ▶ **Parent paying support** – A parent must have the *ability* to pay the support
- ▶ **Children** – Receiving consistent support can lead to improved parental relationships (between parents, and with the child)
- ▶ **Government/CSP** – efficiency, customers willing to engage (caseload size/relevance/cooperation)



Statistics

What are the numbers telling us?

According to the [US Census Bureau](#):

- ▶ As of January 2021, total child support arrears certified by states and submitted to OCSS totaled \$113.5 billion. About 88% of that amount, or \$100.1 billion, was submitted to OCSS more than five years ago.
 - ▶ Nearly 30% was initially submitted more than 20 years ago. Research shows that arrears are less likely to be collected the older they get.
- ▶ In 2018, three-quarters of receiving parents who received IV-D services had a (nonzero) child support order. Among those who had an order, 58% received payments in 2017, and they received an average of \$5,381.
- ▶ The child poverty rate in America is 16.9% nationwide as of 2021. This amounts to 11.6 million children living in poverty in the United States.
- ▶ The median household income in 2022 was \$70,181.



Statistics (Cont.)

What are the numbers telling us?

Research shows that modest increases in income for families living in poverty can have a positive effect on the children in those families:

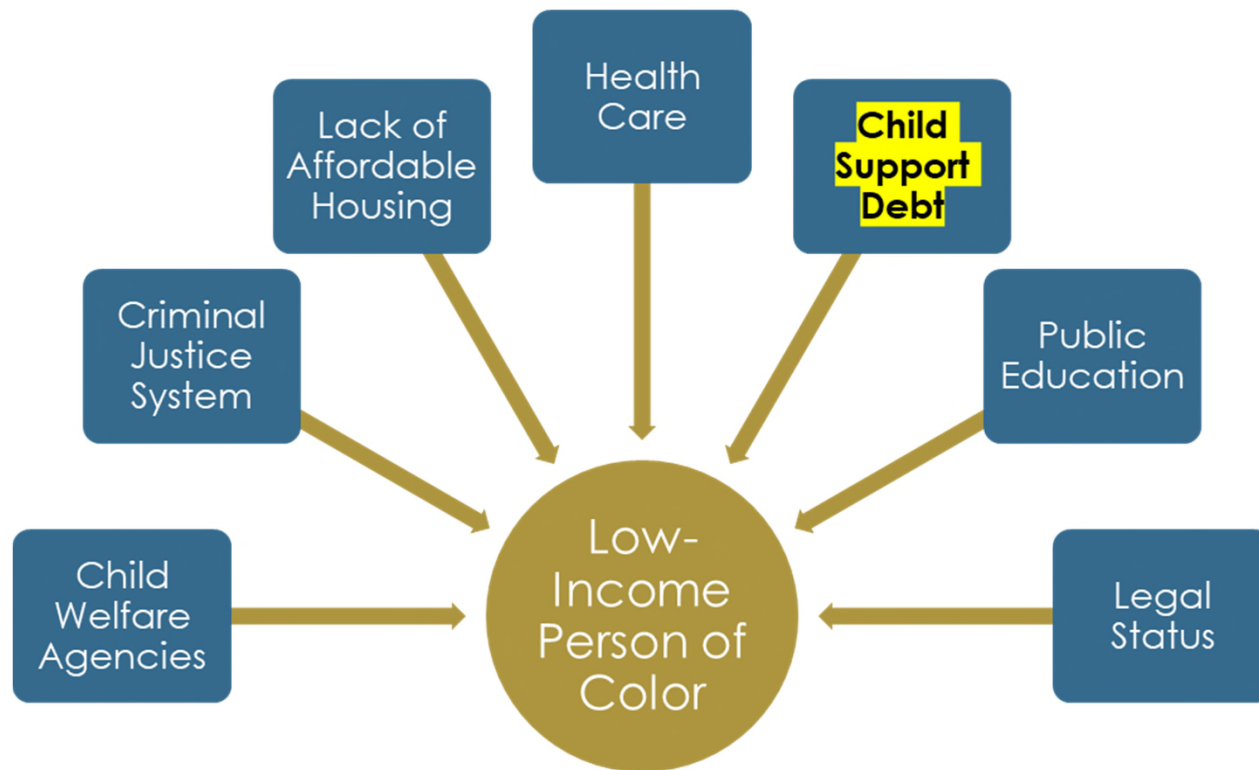
- ▶ “Strong evidence relates income increases to children’s test scores (achievement) and the number of years of schooling they complete (attainment).”
- ▶ A \$1,000 increase of income increases math and reading test scores for children.
- ▶ A \$3,000 increase for a family earning less than \$25,000 increases the long-term earning power of the children in adult life.

Source: [Greg Duncan and Katherine Magnuson, "The Long Reach of Early Childhood Poverty," Pathways \(Winter 2011\)](#), and [Greg Duncan, Katherine Magnuson and Elizabeth Votruba-Drzal, "Boosting Family Income to Promote Child Development," \(Spring 2014\)](#).



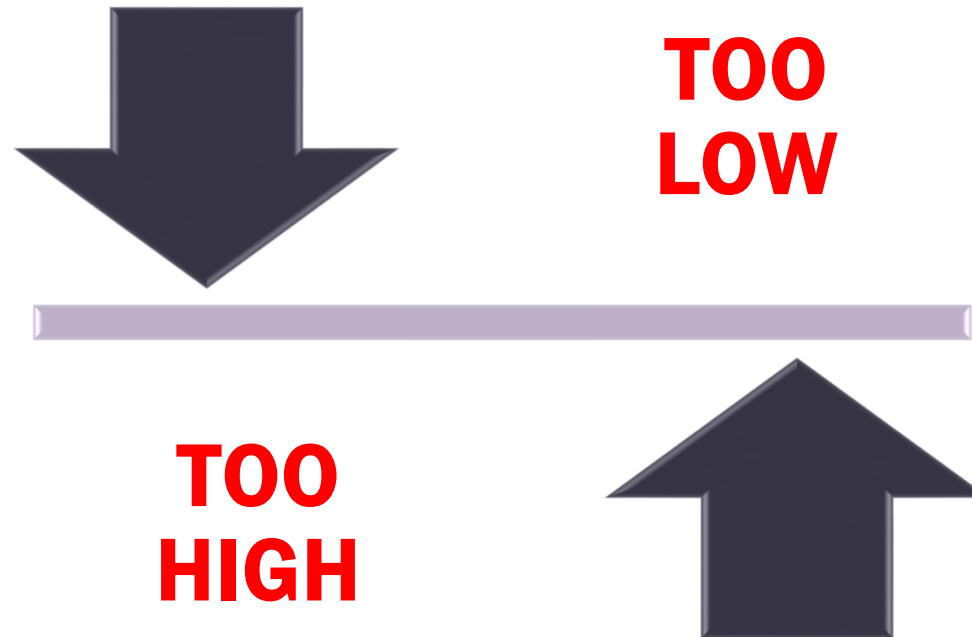
The Importance of Right-Sized Orders

Systemic Disparities in the Child Support System



The Importance of Right-Sized Orders

Negative Impact of Overly High or Low Orders



Importance of Right-Sized Orders

Wellbeing and Cost Savings



Washington Implementation

- ▶ Focused efforts on Right Sized Orders started as early as 2015.
- ▶ Multiple workgroups and overlapping efforts addressing Right Sized Orders: Ratio of Order to Wage, Evidence-Based Caseload Practices, Income Determination Pilots, and Human Centered Design.
- ▶ Shift in DCS culture and utilization of change management practices.



Washington Implementation (Cont.)

- ▶ Statutory changes passed by legislature in 2020 after recommendation from 2019 Child Support Schedule Workgroup.
- ▶ This included a revision to include a specific definition of full time to avoid imputation to 40 hours at a high minimum wage for an earner who is unlikely to receive 40 hours.
 - ▶ (6) "Full-time" means the customary number of maximum, nonovertime hours worked in an individual's historical occupation, industry, and labor market.
 - ▶ Also revised hierarchy of imputation created a rebuttable presumption of imputation to 32 hours per week at minimum wage for parents with specific barriers to employment:



Washington Implementation (Cont.)

- ▶ Statute instructs to use actual income unless the parent is voluntarily unemployed or voluntarily underemployed.
- ▶ RCW 26.19.071 also revised so that the factors to consider when determining if imputation is appropriate mirrored the factors listed in 45 CFR 302.56(c)(1) with addition consideration for parents engaged in reunification efforts for children in out-of-home placements.
- ▶ Policy instructs:
 - Use actual income for a parent who is not voluntarily underemployed or unemployed.
 - a. Use your professional judgment and experience to determine if underemployment or unemployment is voluntary after a full case review. Contact the parent for more information about their circumstances as needed.



Oregon Implementation

► Recognized Need for Change

► Revised Guideline Rules

- Use Actual Income.
- Use Potential Income when current actual income does not reflect historical or expected future earnings.
- If no evidence of income or earning ability, use full time minimum wage.

► Overcoming Resistance – Embedded Beliefs

- Need to impose an order that the paying parent should pay
- Everyone can earn full time minimum wages if they try
- Using less income rewards the paying parent for not trying
- Unfair to shift financial burden to custodial parent



Oregon Implementation

► Education and Training

- Provide internal training for Child Support Program
 - Leadership, Attorneys, Staff
- Outreach to Program Partners
 - Judges, Court Staff, Administrative Law Judges, Private Attorneys, Parents

► Reduced Past Support Orders

- ORS 25.515 permits, but does not require, past support to start on date of application or mandatory referral.
- Oregon adopted administrative rule that prohibits starting past support earlier than month proposed order is issued.
- Rule has dramatically reduced past support orders.



Oregon Implementation (Cont.)

Overcoming Resistance – Stressed Benefits of Getting it Right

- ▶ Paying parent more likely to pay
- ▶ Receiving parent better off receiving lower amount regularly than not receiving or only occasionally receiving a larger amount
- ▶ Avoids work for staff, attorneys and courts
- ▶ Reduces friction between parents
- ▶ May improve paying parent's relationship with children
- ▶ Doesn't burden paying parent with crippling debt



California Implementation

FEM Final Rule:

- ▶ Guideline and Establishment provisions

Senate Bill 343

- ▶ Operationalize the law into action



California Implementation



Proposed Legislation to Amend Existing Statute

Three ways to plead based on income:

- ▶ Actual income
- ▶ Earning capacity in lieu of actual income when actual income is known
- ▶ Earning capacity when actual income is not known



California Implementation

Proposed Legislation to Amend Existing Statutes

Local Child Support Agencies must show the court that reasonable efforts to determine actual income have been made, such as:

- ▶ Attempting to contact obligor at least three times.
- ▶ Seeking information from party seeking support.
- ▶ Searching available databases for employment and/or income information.



California Implementation



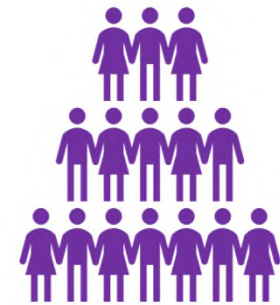
Stakeholder Interviews

35 conducted with variety of SMEs



Human-Centered Design

Total of four Sprints held



Workgroups

Core workgroup of key stakeholders

Focused sub workgroups



Contributing Factors

QUESTION:

What are the factors that contribute to a parent's earning ability?



Conclusions

Orders are right-sized when:

- ▶ The parent receiving support can rely on consistent payments
- ▶ The parent paying support is able to meet their obligation
- ▶ Children's basic needs are being met by both of their parents

Are we using the right terminology?

- ▶ For ourselves
- ▶ For customers
- ▶ For legal community





Thank you!



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