

The Government's Role in the Support of Children

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Modern America has not been kind to its children as reflected in numerous measures of their quality of life. Crime by and to juveniles is on the ascend.¹ Test scores are falling² and suicides by teenagers are on the rise.³ Children have replaced the elderly as the primary victims of poverty in the United States.⁴ A primary cause of these changes has been changes in the structure of the family, especially the increase in single parent households.⁵ A quarter of children live apart from a parent and recent estimates indicate that half of every two U. S. children will live apart from one of his or her parents some time before reaching adulthood.

Among the problems facing children, their poverty has attracted the most concern. While poverty is a problem for children in two parent households, it is a bigger problem in single parent households because absent parents tend to ignore financial responsibilities for their children.⁶

¹ John J. DiIulio, Jr., Saving the Children: Crime and Social Policy, in Irwin Garfinkel, Jennifer L. Hochschild, and Sara S. McLanahan, Eds., *Social Policies for Children*, (Washington, DC: Brookings, 1996), pp. 202-256.

² U.S. Bureau of the Census, Statistical Abstract of the United States, 1995, (Washington, DC: USGPO, 1995), Table 271, p. 175 [hereinafter *Statistical Abstract 1995*].

³ Ibid., Table 136, p. 100.

⁴ In 1970, 24.6 percent of people over 65 lived below the poverty level, while 14.9 percent of children under 18 were in that situation. Their position were reversed by 1993, when only 12.2 percent of people over 65 fell below the poverty level, but the percentage of children had grown to 22 percent. Ibid., Tables 745 and 748, pp. 480-1.

⁵ Sara McLanahan and Gary Sandefur, *Growing Up With a Single Parent: What Hurts, What Helps* (Cambridge, MA: Harvard, 1994) [hereinafter *Growing Up*]. Over half of children under 18 in families with a female householder and no spouse present were living below the poverty level. *Statistical Abstract 1995*, supra note 2, Tables 750, pp. 483.

⁶ While 22 percent of children live in poverty, over fifty percent of those in single parent households are living in that state. Ibid.

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Fewer than half of custodial parents were supposed to receive child support payments in 1991.⁷

In many cases, no child support award had been made. Even among custodial parents with child support awards, only about half receive the full amount to which they were entitled, one quarter receive less than what was owed, and one quarter receive nothing.⁸ More than half of all children potentially eligible for child support receive nothing from their biological fathers.⁹ Conditions were particularly grave for the children of unmarried women as only 30 percent of these mothers have established paternity and been given a child support award. This situation is not expected to improve as half of the next generation are expected to qualify for child support at some time in their lives. As a result, the quality of our child support system is important to the well-being of society and the government has a central role in determining that quality.

We are at a crossroad. A critical public policy issue is the role of the government in the support of children. A variety of opinions exist. Some argue that the sole responsibility of the government should be to make sure that parents and families fulfill their financial obligations to their children.¹⁰ While some people reach this conclusion based on ethical considerations, other prefer it because they feel that the wrong people are encouraged by government programs to

⁷ U.S. Bureau of the Census, *Who Receives Child Support?*, SB/95-16, June 1995, p. 1.

⁸ This situation has not changed over the last few decades. U.S. Bureau of the Census, *Child Support and Alimony*, 1978. Current Population Reports, ser. P-23, no. 112 (Washington: USGPO, 1981).

⁹ U.S. Bureau of the Census, *Child Support and Alimony*, 1989. Current Population Reports, ser. P-60, no. 173 (Washington: USGPO, 1991).

¹⁰ Charles Murray, "The Coming White Underclass," *Wall Street Journal*, October 29, 1993, p. A18.

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become parents. If the parents cannot afford their children, then they should be put up for adoption. Meanwhile, others advocate a government guaranteed minimum level of financial support for all children.¹¹ These people see the plight of children as similar to the past plight of the elderly that was in part corrected by Social Security. They see government guaranteed child support as an extension of Social Security to the young.

This paper addresses those issues using an economic framework. Voluntary choices both inside and outside markets generally tend to increase social welfare. We are all familiar with market transactions in which both the buyer and seller feel that they gained from the transaction. Similar situations exist outside markets.¹² Take marriage as an example. Brides and grooms usually exchange their vows with the expectation that marriage will increase their welfare relative to their alternative choices. However, not all voluntary choices increase social welfare with these situations described as “market failure.” Market failure can occur when transactions have substantial effects on third parties or either sellers or buyers have market power. A particular concern addressed in this paper is effects of choices on third parties--externalities--that can be

¹¹ A program that would provide government assured child support is summarized in Irwin Garfinkel, Sara S. McLanahan, and Philip K. Robins, “Findings of the Wisconsin Child Support Reform Project: Introduction and Summary,” in Irwin Garfinkel, Sara S. McLanahan, and Philip K. Robins, Editors, *Child Support Assurance: Design Issues, Expected Impacts, and Political Barriers as Seen From Wisconsin*, (Washington, DC: Urban Institute, 1992), pp. 3-25 [hereinafter *Child Support Assurance*]. It is fairly common in Europe for governments to guarantee a specific level of child support if it is not provided by an absent parent. See Alfred J. Kahn and Sheila B. Kamerman, “Child Support in the United States: The Problem,” in Alfred J. Kahn and Sheila B. Kamerman, Eds, *Child Support: From Collection to Social Policy*, (Newbury Park, CA: Sage, 1988), pp: 10-19.

¹² Gary S. Becker, *A Treatise on the Family, Enlarged Edition*, (Cambridge, MA: Harvard, 1991) [hereinafter *Treatise*].

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positive and negative. A well manicured lawn can be a source of positive externalities for neighbors, while an ignored lawn can generate negative externalities. The government has had an active role correcting for externalities by encouraging positive externalities with copyright protection for books, for example, and discouraging negative externalities with environmental laws, for example.

Children are an externality because they are the result of decisions by others. Voluntary sexual relations are assumed to increase the welfare of the participants both when they are expected to result in a pregnancy and when that is not the anticipated result. If the sexual relations result in a child, there will be substantial external effects on third parties. The parent's choice is going to have a significant external effect on the child and, depending on how well the parents raise the child, there can be significant effects on other members of society. These externalities are positive if the child has an enjoyable life and makes a positive contribution to society. Meanwhile, the externalities are negative if the child has a difficult time adjusting to life and participates in counterproductive or criminal acts that result social welfare. The government can have a central role in determining whether sexual relations result in positive rather than negative externalities.

While discussions of support for children often focus exclusively on financial support, other forms of support are also emphasized here.¹³ Of central importance is the effect of

¹³ The recognition that support goes beyond just financial support has been a source of frustration. While acknowledging that children thrive when they receive emotional and financial support from both parents, the U. S. Commission on Interstate Child Support based on its legislative mandate elected to address only financial support. Margaret Campbell Haynes, "Supporting Our Children: A Blueprint for Reform," 27 *Fam.L.Q.* 7, 9 (1993).

government funding versus parental funding of children on broader aspects of their lives.¹⁴

Increasingly, the government has assumed financial responsibility for some children--a role that had traditionally been filled by parents and their families. Often ignored during this shift in responsibility has been its effect on the incentives for parents to make choices that increase their children's welfare as well as that of society. With less financial responsibility for their children, some parents slight their other parental responsibilities to the detriment of their children and society.

Families consisting of adults and their children have traditionally played a critical role in society.¹⁵ Parents have performed an important function throughout history preparing their children for life by educating them and providing them with important social values. It is particularly important to recognize that the role of being a parent extends far beyond just the obligation to provide financial support to their children. The changes in the laws governing the financial responsibilities of the parents and the government have changed the incentives for parents to assume and perform their traditional role. Economic analysis is used to evaluate these incentives and to discuss alternative programs for improving the incentives for parents to act in a manner that improves their children's welfare.

¹⁴ This concern can be illustrated by the difference between the quantity and quality of adults. In his defense of a larger social role in child support, Harry Krause expresses a concern that reproduction rates may fall to levels endangering our economy and the social security system. Harry D. Krause, *Child Support Reassessed: Limits of Private Responsibility and the Public Interest*, 24 Fam.L.Q. 1, 27 (1990) [hereinafter *Child Support*]. Ignored is the quality of the adults produced by publicly funded child support.

¹⁵ Mark Hutter, *The Family Experience*, (New York: Macmillan, 1991), p. 5.

The focus of government support of children should be on the welfare of the children recognizing that the central role of adults during childhood should be to prepare children for adulthood. Current trends indicate that parents are doing a poor job of this responsibility increasing the need for the government to reevaluate the incentives facing parents. While the quality of life for children may have deteriorated in two parent households,¹⁶ the much larger problem is associated with single parent households. An obvious problem for many of these households is a lack of adequate income. It is essential for children's welfare in single parent households that governments identify their parents and forced them to assume responsibility for their support. As a minimum requirement, the obligation of parents to provide financial support for their children should be predictable. Governments have a central role in establishing guidelines and assuring that the funds are paid including withholding when necessary.

A concern for children's welfare that is primarily addressed by increasing the money and services available to custodial parents shifts the public policy focus away from the primary problem facing children today: unprepared and irresponsible parents. Being a successful parent requires much more than just the desire for or acceptance of a child. In the next section, a brief history of the government's role in the support of children is presented. The incentives these programs create for parents and government officials are then discussed. This paper then concludes by considering alternatives to government financial support that have the potential for increasing the welfare of children.

¹⁶ No-fault divorce has created incentives for parents to focus more closely on their own self interest rather than that of their families. See Allen M. Parkman, *No-Fault Divorce: What Went Wrong?*, (Boulder, CO: Westview, 1992) 99 [hereinafter *No-Fault*].

Background

The role of the government in the financial support of children has grown dramatically during this century.¹⁷ Parents and their families traditionally were the primary sources of support for children. This situation began to change early in this century, when states enacted mothers' pension laws to provide financial support for children. At the time of the Great Depression, only two states had failed to enact this type of legislation and, while some states permitted payments to mothers who were not widows, as of 1931 more than 80 percent of those aided were widows. The Federal Government enacted similar legislation as part of the Social Security Act of 1935. The Aid to Dependent Children program was patterned after the mothers' pension programs with the major expansion of coverage to include divorced, separated and never-married mothers as well as the children of widows.¹⁸ Coverage under the federal program was expanded to custodial parents and the program's name was changed to Aid to Families with Dependent Children (AFDC) in 1950. The first federal legislation related to child support was Section 402(a)(11) of the Social Security Act, which established the requirement for State welfare agencies to notify appropriate law enforcement officials AFDC was provided to deserted or abandoned children.

¹⁷ For a summary of the historical development of welfare programs, see Irwin Garfinkel and Sara S. McLanahan, *Single Mothers and Their Children*, (Washington, DC: Urban Institute, 1986), pp. 87-128 [hereinafter *Single Mothers*].

¹⁸ While Aid for Depend Children was intended to meet the needs of a child who had lost a parent, it quickly shifted toward being a program for supporting children who faced financial difficulties for other reasons. By 1940, only 42 percent of the participants had lost a parent and that percentage fell to less than one percent by 1982. Lowell H. Lima and Robert C. Harris, "The Child Support Enforcement Program in the United States," in Alfred J. Kahn and Sheila B. Kamerman, Ed., *Child Support*, (Newbury Park, CA: Sage, 1988), p. 21.

The programs to benefit children expanded in the 1960s to include food stamps and Medicaid, while the benefits from and eligibility for AFDC also were expanded.

Still, these programs were not intended to replace the financial support of living parents, especially fathers. Concerns about living parents not participating in their children's support caused Congress in 1974 to add Title IV-D to the Social Security Act establishing the federal child support enforcement system by creating an Office of Child Support Enforcement (OCSE) in the U. S. Department of Health, Education and Welfare (HEW). It required all states to establish state offices of child support enforcement and provided federal reimbursement for three-quarters of each state's enforcement costs. The initial results from this initiative were not encouraging. A 1981 study by the Census Bureau revealed that less than half of the nonresident parents paid any child support.¹⁹ Only six of 10 mothers potentially eligible for child support had child support awards and only one of 10 never-married women had child support awards. Among mothers with awards, only about half received the full amount to which they were entitled and over a quarter received nothing.

Recognizing the deficiencies in the existing process, additional legislation was enacted to deal with these problems. The Child Support Enforcement Amendments of 1984 required states to adopt numeric child support guidelines that courts could use at their discretion to determine child support obligations and also bound them to withhold child support obligations from wages and other income of nonresident parents who become one month delinquent in their child support

¹⁹ U.S. Bureau of the Census, *Child Support and Alimony: 1978*, Current Population Reports, P-23(112), (Washington, DC: USGPO, 1981).

payments. States were encouraged to develop expedited processes to establish paternity. The Family Support Act of 1988 strengthened the 1984 legislation requiring states to establish paternity, to create guidelines for setting initial awards, to update awards on a regular basis, and to automatically withhold child support obligations from the paychecks of nonresident parents.

While most legislation was aimed at increasing the financial support from parents, others started to work for government guaranteed child support. Researchers at the University of Wisconsin developed a proposal for a child support assurance system that would add a government guarantee of a minimum level of child support to the requirements of the 1988 legislation. The idea of government guaranteed child support received additional recognition in 1991 when the National Commission on Children recommended that the federal government in partnership with several states undertake a demonstration project to design and test a government insured child support plan. More recently, President Clinton has proposed the Work and Responsibility Act of 1994 that incorporates a child support system for the twenty-first century that includes provisions to establish awards in every case, to ensure fair award levels and to collect awards that are owed. Two other proposals in the Act guarantee some level of child support by testing the concept of child support assurance and to enhance parental responsibility and opportunity for nonresident parents.

The primary role of the government should be to increase social welfare. At first glance, it would appear that the welfare of children living in poverty would be best served by transferring income to them if not from their non-residential parents then from the government through their custodial parents. However, further reflection should recognize the incentives that follow from

government financial transfers to custodial parents may work to the children's and society's long term detriment because of negative externalities. Ideally, children will have parents who are capable of preparing them for life and committed to that responsibility. Unfortunately, an increased role for the government in providing financial support to children has perverse incentives for parents and government officials that reduce the likelihood that children will grow up in that type of environment.

Incentives for Parents

As the government has assumed the financial role that has traditionally been assumed by parents and families, it has encouraged some unprepared and irresponsible people to become parents.²⁰ These parents are often not willing to accept the cost of parenthood associated with a long term commitment to each other and the sacrifices necessary to prepare their children for life. If all children had a right to child support--if not from their parents, then from the government--that support would assume much of the role currently held by welfare programs such as AFDC

²⁰ It is noteworthy that when people consider the rationale for parental child support, they include situation such as the ongoing family, after divorce and when the absent parent never participated in the family. Ignored is the incentives that a predictable child support obligation would have for certain people avoiding becoming parents in the first place. See Child Support, *supra* note 14, at 4. Ignoring the incentives in the current system that permits men to father children for which they are unwilling to assume any responsibility and for women to mother children often to the extreme detriment of the children, Krause notes that many fathers simply do not have sufficient income to support their children, it would be unfair to expect them to foot the bill for their children and children have claim on society along with their claim on the parents. *Ibid.* at 14. Others have expressed a deeper concern for the "problems" of the fathers rather than the "problems" of the children. Roger J. R. Levesque, "Targeting 'Deadbeat' Dads: The Problem with the Direction of Welfare Reform," 15 *Hamline Journal of Public Law and Policy* 1 (1994).

and with the problems that are increasingly associated with them.²¹ Paramount among the problems associated with welfare programs are the incentives for some unprepared and irresponsible parents to have children and the disincentives for some parents to establish a two-parent household. Essentially all authors agree that living in a two-parent household is more desirable for a child than a single parent household.²²

By only addressing the financial predicament of some children, government support programs that focus on the financial needs of children tend to ignore the traditional role of parents.²³ Parenting goes far beyond just putting food on the table as it consists of nurturing as well as creating children. Parents have played an important role throughout history preparing their children for life by educating them and providing them with important social values. While

²¹ While AFDC payments are often identified as the only source of support for unmarried, poor mothers, the package of benefits can be much larger including food stamps, Medicaid, public housing, nutrition assistance, and utility assistance. The incentives created by these programs are discussed in Charles Murray, *Losing Ground: American Social Policy 1950-1980*, (New York: Basic Books, 1984).

²² *Growing Up*, supra note 5. Not only do single parents do a poor job of preparing children for becoming adults, they often are the source of child abuse. Richard J. Gelles and Murray A. Straus, "Profiling Violent Families," in Richard J. Gelles and Murray A. Straus, Eds, *Intimate Violence: The Definitive Study of the Cases and Consequences of Abuse in the American Family* (New York: Simon & Schuster, 1988), pp. 77-97 note that the prototypical abusive parent would be a single parent who was young (under thirty), had been married for less than ten years, had his or her first child before the age of eighteen, and was unemployed or employed part-time.

²³ While proponents of CSAS acknowledging that economic theory suggests that increasing the income of families headed by single women will enlarge the women and children living in such families, they go on to say that "increasing the incomes of families headed by single women will reduce some if not all of their present problems, it might also reduce the negative consequences associated with growing up in such a family." *Single Mothers*, supra note 17, at 3.

the educational role has been assumed to some extent by the government, parents still have an important role in education and the central function in establishing critical social values.²⁴ The decline in the family has been associated with a decrease in the recognition of these values by the current generation.

The Costs and Benefits of Parenthood

While the creation and nurturing roles of parents are instinctive, the choices made in conjunction with those roles are influenced by their costs and benefits.²⁵ Being a successful parent can be costly requiring substantial investments of time, energy and money, while being potentially the most beneficial and rewarding experience of a person's life. Social welfare is increased by activities whose benefits exceed their costs and that is also true with parenting. When parents make substantial investments in their children, it is highly likely that these children will turn into productive members of society. Society and the families are better off. Alternatively, when people produce children who are disruptive in their youth and antisocial as adults, the costs may exceed the benefits. Society would be better off if these children had never existed or had been encouraged to make different choices during their lives.

²⁴ According to an Oregon longitudinal study, the single best predictor of adolescent criminal behavior is a long established pattern of early antisocial behavior in school associated with a dysfunctional family situation. Hill Walker and Robert Sylwester, "Where is School Along the Path to Prison?," *Educational Leadership*, 49 (September 1991): 14-16.

²⁵ Allen M. Parkman, "The Deterioration in the Family: A Law and Economics Perspective," in Gary Melton, Editor, *The Individual, the Family and Social Good: Personal Fulfillment in Times of Change*, (Lincoln, NE: Nebraska, 1995): 21-52.

Traditionally, parents had incentives to avoid producing this later type of child as the best interests of the parents coincided with those of society. Most costs and benefits of children were internalized in the family because parents could anticipate a lifelong relationship with their children. This was especially true in agrarian societies in which geographic mobility was limited. Being forced to live in close proximity with their children, poor parenting could impose a substantial cost on parents so they were encouraged to devote substantial time, money and effort to that activity. In addition, the children were the cornerstone of their parents' support in their old age and poor parenting could have a devastating effect at that time. As a result of these incentives for responsible parenting, the families were better off and so was society.

An additional impetus for adults to be responsible parents was based on parenthood traditionally being a privilege rather than a right as the barriers to parenthood were substantial. Parents were usually expected to be married because premarital sex could create substantial problems for society and, therefore, strong sanctions were imposed to discourage it. To marry usually required a couple to wait until they had accumulated ample resources so that they could establish their own household. Since a marriage was difficult to dissolve because of limited opportunities for divorce, adults had incentives to incur substantial time and effort choosing a mate and then they had strong incentives to work to make their marriage a success. In summary, the requirement of minimum resources before marriage and the stability provided by the parents' recognition of a long duration for their marriage generally worked to the advantage of the couple's children.

That pattern has changed dramatically as some parents now expect a much weaker attachment to their children. In part, this is due to much greater geographic mobility, but it is also due to society accepting responsibilities and costs that used to be those of the parents. With fewer responsibilities, it is easier for parents to limit their involvement in their children's lives. Before there was AFDC, parents, especially fathers, or their families were expected to support their children. If the fathers were inclined to be unable or unwilling to assume that role, the burden fell on the mother or her family--a role that they often did not assume happily--making it difficult for fathers to avoid their responsibilities. When was the last time you heard about a shotgun wedding? Not only has society assumed responsibility for the financial obligations of some fathers, it has also assumed a custodial responsibility for children. When the parents have done a poor job of raising a child, it has become more common for the child to be sent to a publicly funded institution. Between 1950 and 1990, the number of children in juvenile institutions rose from 37 thousand to 104 thousand.²⁶ The dramatic increase in the homeless population is another reflection of weaker links between parents and their children.²⁷

Because of the decline in the parents' presence in their children's lives, the benefits--but probably more importantly the costs--of children increasingly have fallen on external parties.

²⁶ U. S. Bureau of the Census, *Historical Statistics of the United States: Colonial Times to 1970*, (Washington, DC: USGPO, 1976): 419, and U. S. Bureau of the Census, *Statistic Abstract of the United States, 1994*, (Washington, DC: USGPO, 1994): 69.

²⁷ Two parent households gave children access to not only their parents, but also a network of aunts, uncles and grandparents. This network is usually smaller and weaker when the child grows up in a single parent household. Christopher Jencks, *The Homeless* (Cambridge, MA: Harvard, 1994), p. 80.

These external benefits can consist of social interactions as well as increased productivity, while the external costs range from taxes for education to antisocial behavior such as crime. Many parents associate fewer costs with poor parenting and fewer benefits from expending substantial efforts to be good parents. The most obvious of these parents are those who do not participate in the rearing of their children, which increasingly has been fathers. Between 1950 and 1994, the percentage of American children living in mother-only families has climbed from six to 27 percent.²⁸ According to the Census Bureau data, 16 million children were living in families with no father present in 1994.²⁹ Not only are there no fathers present in these families, but the fatherless families are often in neighborhoods where more than half of all families with children were headed by a woman with no husband present.³⁰ In some cases, the fathers have no contact with their children at all. Thirty percent of all children born in 1992 were born to unmarried women.³¹ While in some cases, the children were born to co-habiting parents, that often was not the case. In 1992, there were 354 thousand births to unmarried women aged 15-19 compared with 190 thousand births to that group in 1970.³² If half of today's children are expected to spend some of their childhood in a single-parent home, we would also expect that the ties between the

²⁸ *Statistic Abstract 1995*, supra note 2, at Table 71, p. 61.

²⁹ *Ibid.*, Table 78, p. 65.

³⁰ The Annie E. Casey Foundation, *Kids Count Data Book*, (Baltimore, MD: The Annie E. Casey Foundation, 1995): 5 [hereinafter *Kids Count*].

³¹ *Statistical Abstract 1995*, supra note 2, Table 88, p. 73.

³² *Ibid.* at Table 94, p. 77.

parents and their children later in life to be weaker than in the past. In many cases, therefore, parents will assume less of a burden for poor parenting than they did in the past.

Because some people are shifting the cost of their poor parenting to others, the government's role in forcing parents to assume financial responsibility for their children is highly laudable and necessary for increasing social welfare. Currently, some parents, especially fathers, escape or limit their parental costs.³³ Yet, social welfare would be enhanced if parents were confronted with a substantial share of parental costs to encourage them to have children only when that choice will benefit the children, their parents and society. Some people, when confronted with these parental costs, might decide that they would prefer not to be a parent. They can only be confronted with these costs when they know that paternity will be diligently pursued followed by predictable and enforceable child support obligations. Meanwhile, child support provided by the government can reduce the costs of parenthood encouraging in some cases the wrong people to be parents.

Long Term Commitment

The problems facing children are particularly acute when their parents have not made a long term commitment to each other resulting in single-parent households. While this problem is particularly acute if the parents never lived together, it is also a problem when co-habiting or married couples separate. As noted by Sara McLanahan and Gary Sandefur,

³³ At least one author sees a contradiction between increased social acceptance of consensual non-marital sex and the strict enforcement of a civil liability on the parents for their sometimes accidental children. See *Child Support*, supra note 14, at 20.

Children who grow up in a household with only one biological parent are worse off, on average, than children who grow up in a household with both of their biological parents, regardless of the parents' race or educational background, regardless of whether the parents are married when the child is born, and regardless of whether the resident parent remarries.³⁴

Living in a single-parent household has a detrimental effect on performance in school decreasing the likelihood of completing high school by about five percentage points for white children and 13 percentage points for blacks.³⁵

A large proportion of poor, single mothers bore their first child as a teenager with the result that the mean age at first birth for women receiving AFDC in 1993 was 20.3 years.³⁶ Having children at an early age is associated with lower educational attainment and higher fertility for the mother and the children, both of which limit their opportunities to develop skills and relevant experience, thereby, reducing their earnings capacities.³⁷ Single parents not only often have low earnings capacities, but they are less able to instill important social values in their

³⁴ *Growing Up*, supra note 5, at 1.

³⁵ Sara McLanahan, "Family Structure and the Reproduction of Poverty," *American Journal of Sociology*, 90 (January 1985): 873 - 901.

³⁶ U.S. Bureau of the Census, *Mothers Who Receive AFDC Payments*, SB/95-2, March 1995.

³⁷ Kristin A. Moore and Martha R. Burt, *Private Crisis, Public Costs: Policy Perspectives on Teenage Childbearing*, (Washington, DC: Urban Institute, 1982).

children. Almost two-thirds of rapists, three-quarters of adolescent murders and the same percentage of long term prison inmates are young males who grew up without fathers in the house.³⁸ Children living in single-parent families headed by never-married young women have far greater delinquency rates than two-parent families.³⁹

Parents Below the Poverty Level

As noted above, children benefit from parents who have made a long term commitment to each other and are able and willing to incur the substantial parenting costs of which financial expenses are only one component. Still, if successful parenting requires a substantial commitment, it would seem reasonable that being financially capable of supporting the child should be fundamental. Individuals are poor due to many causes, some of which are under their control and some that are not. Many low income people have children that impose a substantial burden on the parents, but the children and their welfare are important to the parents and sacrifices for the benefit of the children are made willingly. However, some people parent children that they are unable or unwilling to support and that often has to be viewed as an irresponsible act.⁴⁰ This is not just due to a lack of money, but also as a reflection of a

³⁸ Irving Kristol, "Life Without Father," *The Wall Street Journal*, (November 3, 1994): A13.

³⁹ James Q. Wilson and Joan Petersilia, *Crime*, (San Francisco, CA: ICS Press, 1995).

⁴⁰ The growth in births to unmarried women is increasing at the same time that birthrates overall are decreasing. While accidents do occur, this data reflects the ability of adults to exercise some control over pregnancies. The birthrate per thousand unmarried women has increased from 26 in 1970 to 45 in 1992. See *Statistical Abstract 1995*, supra note 2, at Table 94, p. 77. The birthrate per thousand women aged 15-44 has generally fallen during this century from 127 in 1910 to 69 in 1992. It dropped dramatically during the Great Depression and then recovered

fundamental lack of concern for the welfare of the child. Having children that people are unable or unwilling to support is possible due to public funding. People who are unwilling or unable to fulfill the financial obligations associated with parenthood often are less likely to fulfill the other parental obligations such as educating and socializing their children.⁴¹

Welfare programs have reduced the cost of children for some parents, thereby, increasing the quantity demanded. Since mothers without mates have more readily qualified for aid, the growth of these programs in recent years has contributed heavily to the sharp growth in the ratio of illegitimate to legitimate birth rates.⁴² For example, the number of recipients in the AFDC program rose from 9.7 million in 1970 to 14 million in 1992.⁴³

While the value of AFDC payments adjusted for inflation have declined since 1970, the conclusion of the academic literature has been that AFDC and the other welfare programs have

during the post World War II baby boom. This decline is particularly noticeable since 1960 when the birthrate was 118. U. S. Bureau of the Census, *Historical Statistics of the United States* (Washington, DC: USGPO, 1976), Series Be-10, p. 49 and *Statistical Abstract 1995*, supra note 2, at Table 89, p. 74.

⁴¹ Robert Haveman and Barbara Wolfe, "The Determinants of Children's Attainments: A Review of Methods and Findings," *Journal of Economic Literature*, 33 (December 1995): 1829 - 1878, presents a summary of the research on the factors that influence children's attainments later in life. They note that growing up in a poor family appears to have a particularly negative effect on later work and earnings. *Id.* at 1864. Recognizing these problems, it has been advocated that the government provide support while increasing the high cost and ineffective process of having social workers scrutinize the quality of the children's home life. Children could be removed from home that had been bureaucratically determined to be inadequate. Child Support, supra note 14, at 29.

⁴² *Treatise*, supra note 12, at 139.

⁴³ *Statistical Abstract 1995*, supra note 2, Table 589, p. 377.

created incentives for unmarried women to have children.⁴⁴ While the early research on welfare programs, especially AFDC, produced mixed results, the more recent research associates those programs with the increase in illegitimacy rates and the poverty of unmarried mothers and their children.⁴⁵ Others have argued that even though AFDC payments adjusted for inflation fell after 1970, the large increases in those payments during the 1960s encouraged unmarried women to have children and then many of the social restraints on illegitimacy eroded as out-of-wedlock births became more common.⁴⁶ Even when the early research did not establish a statistically significant relationship between AFDC payments and the number of unmarried mothers, it is difficult to escape that without the substantial increase in welfare programs, eligibility and

⁴⁴ The welfare programs available to unmarried, poor mothers can include AFDC, food stamps, Medicaid, public housing, nutrition assistance, and utility assistance. If someone qualified for all of these programs, their value would be equivalent to pretax earnings of \$27,760 in Hawaii to \$13,059 in Mississippi, or if they only qualified for AFDC, food stamps and Medicaid, it would be equivalent to pretax earnings of \$21,300 in Alaska to \$6,100 in Mississippi. Michael Tanner, Stephen Moore, and David Hartman, "The Work vs. Welfare Tradeoff," *Policy Analysis*, 240 (September 19, 1995).

⁴⁵ Nearly all of the earlier investigations used cross-sectional state or SMSA data. It is difficult to establish causation with contemporaneous cross-sectional data and conventional regression techniques. To avoid these problems, more recent studies such as Calmon R. Winegarden, "AFDC and Illegitimacy Ratios: A Vector-Autoregressive Model," *Applied Economics*, 20 (December 1988): 1589 - 1601 and Robert D. Plotnick, "Welfare and Out-of-Wedlock Childbearing: Evidence from the 1980s," *Journal of Marriage and the Family*, 52 (August 1990): 735 - 46 have used time series data. Other researchers have established a substantial and consistent relationship between the size of public assistance payments and illegitimacy by using a more closely focused sample of young women in metropolitan areas. See Mark A. Fossett and K. Jill Kiecolt, "Mate Availability and Family Structure among African Americans in U. S. Metropolitan Areas," *Journal of Marriage and the Family*, 55(2) (May 1993): 288 - 302.

⁴⁶ Charles Murray, Does Welfare Bring More Babies?, *The Public Interest* 115 (Spring 1994): 17 - 30.

payments that have occurred since the 1960s, unmarried mothers generally could not have established independent households.

Not only does welfare permit women with poor employment opportunities to establish an independent household usually under poverty conditions, it acts as an inducement for women with employable skills to become mothers often forsaking employment and, thereby, joining the ranks of the poor.⁴⁷ Their fall below the poverty level is based on the relative attraction of low paying jobs and motherhood. Low paying jobs are also often unattractive jobs. The turnover rate at McDonald's is legend. Alternatively, tending one's own child is often viewed as an enjoyable experience. So while the income from welfare may not be as high as working in a low wage job, it can make motherhood more attractive than employment in a low-paying, monotonous job resulting in a household that would not otherwise be classified as poor joining that group.

To the extent that welfare discourages the presence of the father by providing an alternative source of support for a mother, it encourages the father to limit his parental responsibilities--a choice that some fathers probably find attractive. Being a good provider is still regarded as one of the central roles that men are expected to perform. A 1990 poll found that 77 percent of young women felt a well-paying job was an essential requirement for a husband.⁴⁸ Given society's expectations, it is difficult for a man to participate in a family for which he is not the primary source of support. About 24 percent of the children living with a divorced mother

⁴⁷ Mwangi S. Kimenyi and John Mukum Mbaku, "Female Headship, Feminization of Poverty and Welfare," *Southern Economic Journal*, 62(1) (July 1995): 44 - 52.

⁴⁸ "Women the Road Ahead," *Time*, 136(19): 14.

and about 33 percent of the children living with a never-married or remarried mother had no contact all with their fathers during the past year.⁴⁹

Parenthood has shifted from being a privilege to a right with the government assuming the financial role that traditionally had been assumed by the father. With AFDC, the government required and then encouraged women-headed households and the absence of the father often to the detriment of the children. While much of the thrust of social policy and practice has been to write off absent fathers, there is a growing body of research emphasizing the important role of father involvement can play in the positive cognitive, emotional, and social development of their sons and daughters.⁵⁰ Research shows that children born to single-teenage mothers are more likely to drop out of school, to give birth out of wedlock, to divorce or separate, and to be dependent on welfare.⁵¹ A recent report indicates that most young men in the juvenile justice system spent at least part of their childhood in a single parent household.⁵² The process has its own momentum as the high drop out rate of one generation leads to poor employment opportunities and absent fathers in the next generation.⁵³

⁴⁹ *Growing Up*, supra note 5, at 96.

⁵⁰ Nicholas Davidson, "Life Without Father: America's Greatest Social Catastrophe," *Policy Review*, 51 (1990): 40-44.

⁵¹ *Single Mothers*, supra note 17, at 1 - 2.

⁵² *Kids Count*, supra note 30, at 13.

⁵³ Even after income is taken into account, children who grow up in mother-only households are still far more likely to become single parents themselves than are people who grow up in two-parent households. *Single Mothers*, supra note 17, at 12.

In summary, among the poor, government financial support for children expands the incentives for people who had not met the most fundamental financial requirement for parenthood to become parents. If after government financial support, all children had equally qualified and motivated parents, we would have to judge the government support a success. But that does not appear to be the case with the result that the government support encourages some less qualified and motivated people to become parents.

Parents Above the Poverty Level

Even among parents above the poverty level, government financial support in the form of assured child support can have perverse effects. Often masked by romantic notions of marriage has been the search by women for reliable men as spouses.⁵⁴ Marriage can be a precarious institution for women since marrying an irresponsible man can impose substantial costs on them during marriage and at divorce, especially if there are children. These costs are often financial, but they can also be a reduction in the quality of their lives. Parenting can be much more difficult with only one parent and, if a divorced woman wants to remarry, custody of any children can be a major impediment to an active social life.

Knowing that these costs of a poor choice exist encourages women to critically assess potential mates.⁵⁵ As marriage has become a more vulnerable institution, in part because of the enacting of no-fault divorce, adults have been delaying marriage. The fault divorce grounds of

⁵⁴ *Treatise*, supra note 12, at 108-134.

⁵⁵ It has also encouraged married women to maintain marketable skills during marriage. See Allen M. Parkman, "Unilateral Divorce and the Labor-Force Participation Rates of Married Women, Revisited," *American Economic Review*, 82(3) (June 1992): 671-8.

adultery, cruelty and desertion provided some protection for spouses who worked at home. That protection was dramatically reduced by the introduction of no-fault divorce that permitted unilateral divorce subject to only limited compensation.⁵⁶ While most women are not familiar with the change in the grounds for divorce, they are familiar with the disaster that faces many middle-aged mothers who are divorced. As women have approached marriage with more caution, the average age at first marriage for women has increased from 20.8 in 1970 to 23.7 in 1988.⁵⁷

While potentially costly, children are also a source of great joy. Normally women would be expected to be reluctant to marry and mother the children of clearly irresponsible men, but knowledge that some government financial support is available to mothers encourages some women to screen potential mates less severely and to work less diligently to make relationships work. This process is called "moral hazard" as people with insurance are encouraged to increase the activities for which the insurance is provided.⁵⁸ Although the proponents of government assured child support have described it as similar to the survivor benefits contained in social security, the impact would be very different. While moral hazard can be a problem with any type of insurance, the opportunities for abuse under child support assurance are more numerous than under the survivor benefits in Social Security. The later program requires the death of the insured

⁵⁶ Lenore Weitzman, *The Divorce Revolution*, (New York: The Free Press, 1985) and *No-Fault*, supra note 16.

⁵⁷ *Statistical Abstract 1995*, supra note 2, at Table 145, p. 103.

⁵⁸ Peter Kerr, "Blatant Fraud Pushing Up the Cost of Car Insurances," *The New York Times*, (October 13, 1992): A3, notes auto insurance encourages people to dump their cars into rivers and then file stolen car claims.

worker as a requirement for government support, which is an alternative that is clearly not very attractive even with the insurance.

In summary, government provided child support provides an incentive for some women to scrutinize potential mates less closely and work less diligent to make a marriage work resulting in more single-parent households. The problems associated with a child growing up in a single-parent household are not unique to low income households.

Incentives for Government Officials

If government officials had the capacity and motivation to force parents to assume financial responsibility for their children, the incentives for irresponsible parental behavior caused by government financial support for children would be limited. However, it is unlikely that the actions of government officials will be effective. Traditionally, child support enforcement was not a public issue as the dominant social work doctrine proclaimed that the father should not be confronted with his support obligation because enforcement might inconvenience the mother.⁵⁹ While a program consisting of paternity identification, child support guidelines, and withholding would place a much larger administrative burden on governments, especially the Federal Government, the child support enforcement programs enacted to date have produced poor results. A cornerstone of a government child support program has to be the identification of non-resident parents followed by the requirement that they contribute to their children's support. A review of past performance and future incentives suggest that the proponents of a limited role for a

⁵⁹ Child Support, *supra* note 14, at 4.

government guaranteed child support have been overly optimistic about the effectiveness of government officials in this process.

Although the federal government has been involved in child support enforcement since 1975, its record is not impressive. Using 1983 data, Garfinkel and McLanahan estimated that only about 40 percent of absent white fathers and 19 percent of absent black fathers pay child support and among those who pay the average amount received was \$3,129 for white mothers and \$1,698 for black mothers. Placing these figures in perspective, these payments accounted for about 10 percent of the income of single white mothers and for about 3.5 percent of the income of black mothers.⁶⁰

Despite a decade and a half of child support reform, by 1990 some indicators suggested that there had been little more progress.⁶¹ Of the 11.5 million custodial parents in 1991, only 54 percent had obtained child support awards.⁶² Custodial mothers received an annual average of \$3,011 in child support payments, but 25 percent of mothers with awards received any payments and another 24 percent received only partial payments.⁶³

⁶⁰ *Single Mothers*, supra note 17, at 24.

⁶¹ Irwin Garfinkel, Sara S. McLanahan, and Philip K. Robins, "Child Support and Child Well-Being: What Have We Learned?," in Irwin Garfinkel, Sara S. McLanahan, and Philip K. Robins, Editors, *Child Support and Child Well-Being*, (Washington, DC: Urban Institute, 1994): 6 [hereinafter *Child Well-Being*].

⁶² *Statistical Abstract 1995*, supra note 2, Table 616, p. 391.

⁶³ *Ibid.*

There are vast differences across the states in the extent to which the reforms are being implemented. For example, the paternity establishment rate for children born outside marriage ranges from a low of 5.5 percent in Arizona to a high of 67 percent in Georgia.⁶⁴ An analysis of the paternity adjudication process in Wisconsin in 1990 demonstrated a range of results across counties.⁶⁵ Three counties were investigated with substantially higher adjudication rates in smaller counties. In the largest county, Milwaukee County, only 42 percent of cases were adjudicated and sanctions were rare in part because a staff of 104 was responsible for 77,776 cases.⁶⁶ Even though the federal government has been willing to pay 90 percent of the state's cost to automate their child support record-keeping, most states have yet to automate. During the 1980s, the likelihood of a custodial mother's obtaining an award and receiving full payment did not change.⁶⁷ A recent Urban Institute study showed that potential child support collections amount to as much as \$46 billion in 1995 dollars.⁶⁸ Yet only \$15 billion in awards are currently in place and only \$10 billion is paid leaving a collections gap of approximately \$36. Overall, average awards and

⁶⁴ *Growing Up*, supra note 5, at 148.

⁶⁵ Sara S. McLanahan, Patricia R. Brown, and Renee A. Monson, "Paternity Establishment in AFDC Cases: Three Wisconsin Counties," in *Child Support Assurance*, supra note 11, at 137.

⁶⁶ *Id.* at 146.

⁶⁷ U. S. General Accounting Office, *Child Support Assurance: Effect of Applying State Guidelines to Determine Fathers' Payments*, GAO/HRD-93-26, (Washington, DC: USGPO, 1993): 2.

⁶⁸ Irwin Garfinkel and Donald T. Oellerich, "Noncustodial Fathers' Ability to Pay Child Support," in *Child Support Assurance*, supra note 11, at 73.

payments declined by 25 percent in real terms between 1978 and 1985, although some of the change can be explained by a change in the composition of the parents.

As late as December 1994, the General Accounting Office (GAO) pointed out that management weaknesses were keeping the OCSE from effectively leading the program and the states, judging how well the program is working, and setting effective policies.⁶⁹ Despite 20 years of required performance reporting, OCSE has not developed universally understood data definitions, and states collected data in ways that make aggregation and comparison impractical. Therefore, OCSE was in no position to know how the national program was actually performing. By the early 1990s, OCSE's monitoring role had come into greater prominence with more than half of the OCSE staff devoted to compliance audits. State program staffs reported to the GAO that the audits helped them gain state legislative support, but the audits were too detailed and were too untimely to be useful management tools for them with audit reports sometimes issued two years after the period audited.

Who's Fault?

When programs fail, the usual conclusion is that it is not the people's fault but instead it is due to the underlying legislation. The solution is often new legislation. Frequently ignored are the incentives facing government officials who generally find it difficult to make onerous decisions and forcing parents to face up to their financial responsibilities to their children certainly can be

⁶⁹ U.S. General Accounting Office, *Child Support Enforcement: Families Could Benefit From Stronger Enforcement Program*, GAO/HEHS-95-24, (Washington, DC: USGPO, 1994): 3.

onerous.⁷⁰ Divorced parents usually are supporting two households rather than one, so it is no surprise that their finances are strained. Fathers of the children of unmarried mothers are often unemployed. Therefore, many non-custodial fathers have a legitimate claim to hardship. It is easier for officials to ignore the delinquent father and shift support to AFDC or any other social program that is available than to force the parents to live up to their obligations. If public programs become more generous relative to the resources of the fathers, the choice will become even more obvious for officials to provide public funding. This outcome is also influenced by the high cost of collecting from delinquent parents. In 1994, it cost the Federal government \$1.2 billion to collect \$7.3 billion in child support.⁷¹ The child support collected was probably the

⁷⁰ While the record of states' collecting child support is poor, some states are using innovative techniques. States such as Nebraska and Iowa have begun building electronic funds transfer networks to collect payments. Ellen Messmer, "Child Support Law Prompts States to Build EFT Networks," *Network World*, 11(8) (February 21, 1994): 14. In Massachusetts, child support collection was shifted from the welfare agency to the Department of Revenue (DOR). In two years the state has boosted its child support and alimony compliance rate from 59 percent to 78 percent. The DOR has a better database, but its employees are probably a lot less sympathetic to delinquent fathers. Alan R. Earls, "Dialing For Deadbeats," *Computerworld*, 28(26) (June 27, 1994): 129. In contrast to the lack of incentives facing government officials, private businesses with a profit motive have a strong incentive to collect from "deadbeat" fathers. For example, companies like Child Support Services charge an application fee of \$35 and a 25 percent contingency fee based on what they collect. Using the classic techniques of the bill-collection trade, Child Support Services locates about 85 percent of its targets. They are particularly effective because the 1977 Fair Debt Collection Practice Act restrictions do not apply to court ordered child support obligations. Susan Greco, "The Collectors," *Inc.*, 14(13) (December 1992): 148-157.

⁷¹ U. S. General Accounting Office, *Child Support Enforcement: Opportunities to Reduce Federal and State Costs*, GAO/T-HEHS-95-181, (Washington, DC: USGPO, 1995): 9-10.

easiest to collect, so the return on additional collection efforts would be expected to be even less productive.

The problems associated with government officials identifying and collecting from non-resident parents is compounded by the potential lack of cooperation from custodial parents who often are looking for a way to avoid imposing a cost on the non-custodial parents. If the parents still have a relationship, demands for child support tend to strain that relationship and reduce their overall resources.⁷² Alternatively, the parents may not have a harmonious relationship in which case the custodial parent may not want to be forced to have an ongoing relationship with the non-custodial parent or fear retaliation if child support is imposed on that parent. Therefore, even if support can be conditioned on cooperation by the custodial parent that cooperation may be limited in many cases. Only if the custodial parent wants to impose a cost on the non-custodial parent or there is no other source of funds will the custodial parent have an incentive to cooperate with the process. Noting the reluctance of the custodial parent, the bureaucrat will be even more inclined to take the easy way out by reporting that a diligent effort has been made to identify and collect from the non-custodial parent, thereby, qualifying the family for government financial support.

Conclusion

This paper argues that while the government's activities to identify both parents and force them to provide financial support for their children are laudable, necessary and should be

⁷² Sara S. McLanahan, Judith A. Seltzer, Thomas L. Hanson, and Elizabeth Thomson, "Child Support Enforcement and Child Well-Being: Greater Security or Greater Conflict?", in *Child Well-Being*, supra note 61, at 239.

encouraged, government financial support can work to the detriment of those programs while encouraging additional children by less reliable parents and marriages by less responsible adults. Government financial support for children has a fundamental appeal by directing money to deserving people. It is an easy response, especially if the perverse incentives created are ignored. As with welfare programs that encourage unmarried mothers to have children, when the perverse incentives created by the program are recognized, it is questionable whether the benefits of government child support program exceed the costs.

Harder and certainly less appealing programs may ultimately be better for society. The preferred government programs to support children would work to encourage prepared and responsible couples to have children or to place children in homes with those characteristics. Some people who have not made a long term commitment to each other and have not demonstrated the capacity to make a financial commitment to their children are having children. Their choices can result in negative externalities. Current policies condone and to some extent encourage this behavior. Shifting from parenthood being a right to the recognition that it is a privilege along with society having an obligation to protect children would encourage a different program. The cornerstone of any program has to be identification of parents coupled with the enforcement of their financial obligations to their children. An earned income credit that is less dependent on number of children might also be desirable. Still, children should not be subjected to unreliable and irresponsible parents. Rather than funding irresponsible parents, society should consider placing these children--for their own benefits--in foster homes or orphanages with the understanding that when at least one parent has demonstrated the ability to be a responsible

parent, they can assume that role with their child being placed in their custody. For the sake of the children, the period in a foster home or orphanage could be limited permitting adoption by people who are willing and able to provide the child with an acceptable environment.

Often the argument is made that adequately funded orphanages are most expensive than current programs. However, this overlooks the true cost of current programs in terms of lower education and employment attainment by children, poorer adjustment by them and in some cases extreme antisocial behavior. Orphanages, adoption and foster homes are clearly a second best solution to a child growing up in a loving, competent household. Government financial support hopes to promote those households, while this paper argues that it more likely to be destructive to that environment.