

The Child Support Program in California: Current Challenges, Future Objectives¹

"The timely receipt of child support is critical for millions of American families and children . . . promoting family self-sufficiency and child well-being."

– U.S. Dep't of Health & Human Services, Administration for Children and Families

I. The Importance of Winning the Child Support Enforcement Challenge

California, like all the states, has struggled mightily for years to improve its performance in collecting child support for needy families and children. The simple fact is that child support – financial support provided by one parent, generally the noncustodial parent, to the child – is critical to the financial security of millions of children across the nation and throughout California. Half of all children who live in poverty, live with one parent, with the other parent living elsewhere.² For low-income families who receive child support, child support accounts for 40 percent of their income.³ Child support is also a substantial source of income for families leaving welfare. Over 40 percent of children in post-welfare families receive child support; and, for those that do, child support accounts for 30 percent of their income.⁴

The child support program also has other benefits. Effective child support enforcement promotes marriage and reduces births to unwed parents. In addition, parents who pay child support are more likely to be involved with their children.⁵ Finally, successful child support enforcement not only recoups public assistance expenditures, but also reduces the need for public assistance in the first place.⁶

II. How California's Program Is Structured

Pre-1999: The origins of California's child support program go back to 1872 when California first adopted the Penal Code, which made failure to pay child support a misdemeanor, later increased to a felony.⁷ From the 1950's until the early 1970's, California enacted a series of laws governing child support enforcement, and most counties established Family Support Divisions within their district attorneys' offices to enforce those support obligations.

¹ This paper was prepared by Leora Gershenzon, Counsel, Assembly Judiciary Committee, March 2005

² Sorensen E., *Child Support Gains Some Ground, Snapshots of American Families*, Urban Institute (2003).

³ U.S. Census Bureau, *Custodial Mothers and Fathers and Their Child Support: 2001*, P60-225 (2003).

⁴ Sorensen E., *Child Support Gains Some Ground, supra* Note 2 Sorensen, E and C. Zibman, *Child Support Offers Some Protection Against Poverty*, Series B, No. B-10, Urban Institute (2000).

⁵ Seltzer, J., *et al*, *Will Child Support Enforcement Increase Father-Child Contact and Paternal Conflict After Separation?* in Garfinkel, *et al*, *FATHERS UNDER FIRE* (1998).

⁶ Cost avoidance is \$2.6 billion nationally. Wheaton, L., *Child Support Cost Avoidance in 1999, Final Report*, Office of Child Support Enforcement (2003).

⁷ Penal Code 270.

When the federal child support program began in 1975, California established the Department of Social Services (DSS) as the single state agency responsible for administration of the state's child support program. DSS, however, did not operate the program alone, but contracted out the day-to-day operations of the program to the 58 county district attorneys' office.

Throughout the 1990's California's child support program found itself under attack by parents, advocates and the media for its lackluster performance and automation failures (see below). In 1998, the *Los Angeles Times* ran an in-depth series documenting the failures of the child support program in Los Angeles County and across the state.⁸ On January 26, 1999, the Assembly and Senate Judiciary Committees and the Assembly Human Services and Senate Health and Human Services Committees held a joint hearing on the program entitled Reforming California's Child Support System: A Consensus for Action.

The Dramatic 1999 Legislative Reforms: Following the landmark two house hearings reviewing the continuing inadequacies of the state's child support enforcement program, an unusual consensus for action arose, and in 1999 the Legislature spearheaded major structural reforms in the program by (1) transferring state responsibility from DSS to the newly created Department of Child Support Services (DCSS); (2) transferring local responsibility for the program from the district attorneys to local child support agencies (LCSAs) which, except for hiring decisions, were put under the control of DCSS; and (3) creating a complaint resolution and fair hearing process for resolving child support complaints.⁹

Pursuant to the legislation, DCSS was required to develop uniform forms, policies and programs, and performance standards. If LCSAs failed to meet required performance standards, DCSS was to assist in program operations and management. In contrast to its previous funding structure, the reformed program was now funded entirely through federal and state funds.

III. History of the Federal Child Support Program

A. The Federal Program

Enacted in 1975, Title IV-D of the Social Security Act requires all states with a welfare program to operate a child support program which establishes and enforces child support obligations.¹⁰ Title IV-D requires every state to establish a single organizational unit responsible for the state's child support enforcement program. The child support requirements have been expanded and strengthened considerably since the program's creation. Amendments in 1988 strengthened the program by requiring wage withholding for current support as well as past-due support. The 1988 act also required all states to

⁸ Greg Krikorian & Nicholas Riccardi, *Failure to Provide: Los Angeles County's Child Support Crises*, LOS ANGELES TIMES A1 (October 11-13, 1998).

⁹ SB 542 (Burton/Schiff), Chapter 480, Statutes of 1999; AB 196 (Kuehl), Chapter 478, Statutes of 1999; AB 472 (Aroner), Chapter 803, Statutes of 1999.

¹⁰ P.L. 93-647 (H.R. 17045), 42 U.S.C. §651 *et seq.*

implement statewide automated child support systems for all cases in the states' IV-D caseload by October 1, 1995, later extended to October 1, 1997.¹¹ Significant amendments in 1996 again expanded program requirements and required all states to operate a State Disbursement Unit (SDU) as part of their automated system.¹²

The Child Support Performance and Incentive Act of 1998 (CSPIA) established new federal performance measures and an incentive and penalty structure to fund and motivate states to improve their child support performance efforts.¹³ Under CSPIA, states receive federal incentives based on performance on five federal performance measures: (1) paternities established; (2) support orders established; (3) current support collected; (4) arrears collected; and (5) cost-effectiveness. In order to obtain incentive payments, and to avoid penalties, the performance data must be deemed by the federal government to be complete and reliable.

The incentive pool for the states is capped. Thus, California's incentive is based not only on its performance on the five measures and its total support collections, but also on the performance of the other states. The federal incentive pool for federal fiscal year 2005 is \$446 million, increasing to \$458 million in 2006 and \$471 million in 2007. In addition, the incentive dollars are matched \$2 for each \$1 with federal match dollars.

Recognizing that not all states were able to complete their child support automation systems by the deadline, CSPIA also provided an alternative penalty scheme. When many states failed to meet the 1997 automation deadline, CSPIA established an alternative penalty scheme whereby penalty for failure to complete the automation system now results in a loss of federal administrative funding of the child support program, beginning at 4 percent the first year and rising to 30 percent by the fifth and subsequent years until the automation system is certified as complete. The penalty is reduced by 90% in any year that a state successfully completes its automation system.

B. The Federal Computer Automation Requirements

California's first attempt to produce a statewide automated child support system, called the Statewide Automated Child Support System (SACSS), was developed by Lockheed Martin Information Management Systems. Major systemic problems were discovered very early in the process, but development continued. By 1997, after well over \$100 million had been expended and the federal deadline for completion of the automation system had passed, it became apparent that SACSS would never perform adequately, and California terminated the contract.¹⁴

California's next attempt to develop a single statewide system, spearheaded by local district attorneys, was a consortia approach. Under that approach, four county systems

¹¹ P.L. 100-485 (HR 1720). The automation deadline was extended pursuant to P.L. 104-35 (HR 2288)

¹² P.L. 104-193 (H.R. 3724).

¹³ P.L. 105-200 (HR 3130), as amended by P.L. 105-34 (HR 2015).

¹⁴ For more information on SACSS's failures, see California State Auditor, *Health and Welfare Agency: Lockheed Martin Information Management Systems Failed to Deliver and the State Poorly Managed the Statewide Automated Child Support System* (March 1998); California State Assembly Committee on Information Technology, *The \$260 Million Dollar Question: Will the Statewide Automated Child Support System (SACSS) Ever Really Work? An Addendum* (November 1977).

were to be linked together to form a statewide system.¹⁵ That proposal, which required substantially upgrading existing systems and then developing an overarching computer architecture to link the systems together, was ultimately rejected by the federal government.

California's latest attempt began in 1999 with AB 150 (Aroner), Chapter 479 of the Statutes of 1999. That legislation established a partnership between DCSS and the Franchise Tax Board to procure, develop, implement and maintain a statewide automated child support system. Development of the automation system, known as the California Child Support Automation System (CCSAS), began in earnest in 2000. The system has two components: the Child Support Enforcement (CSE) system and the SDU. After competitive procurements, a team of vendors led by IBM was awarded the CSE contract in July 2003, and Bank of America was awarded the SDU services contract in December 2004. The IBM contract is for \$801 million, the Bank of America seven-year contract is for \$186 million, and the total ten-year project costs are projected to be \$1.3 billion.

In an attempt to minimize federal penalties, CCSAS has been designed in two phases. The first phase, Version One, is an alternative system configuration (linking two existing county systems with a statewide database) allowing for early certification and an end to penalties. The second phase, Version Two, is designed to implement a state-of-the-art single statewide system which should significantly improve program performance.

IV. Five Years Since the 1999 Legislative Reorganization of the Program: Just How Far Have We Come, and What Are the Key Remaining Challenges?

A. California Program Performance: A Mixed Bag

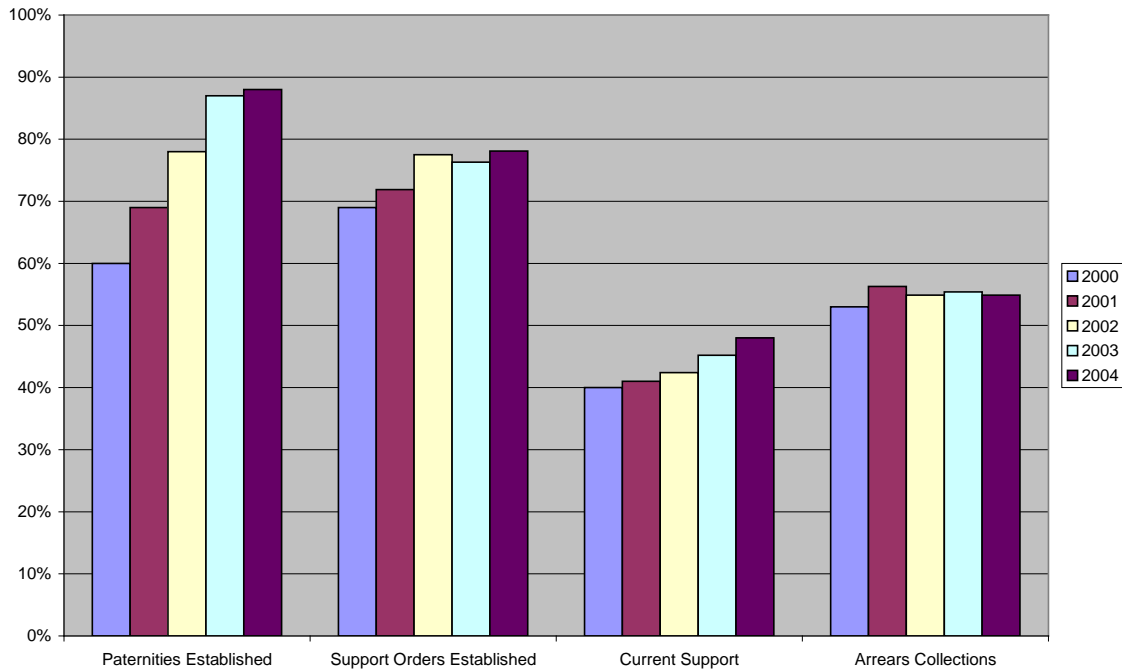
In an effort to improve performance, DCSS, in collaboration with local agencies and other child support stakeholders, developed a strategic plan that set forth annual statewide performance goals for the five federal measures and additional state measures.¹⁶ The statewide measures were then translated down annually to local performance expectations for each of the local child support agencies. Finally, DCSS developed a Quality Assurance and Performance Improvement Plan, to continually assess results and refine program operations to achieve performance expectations.

The results of California's child support performance efforts since 2000 are for the most part positive. California has improved performance on three of the five federal measures (paternities established, orders established and current support collections) held relatively flat on one measure (arrear collections) and lost ground on one measure (cost-effectiveness). Tables 1 and 2 below set forth California's performance on the federal measures since 2000.

¹⁵ See AB 2779 (Aroner), Chapter 329 of the Statutes of 1998.

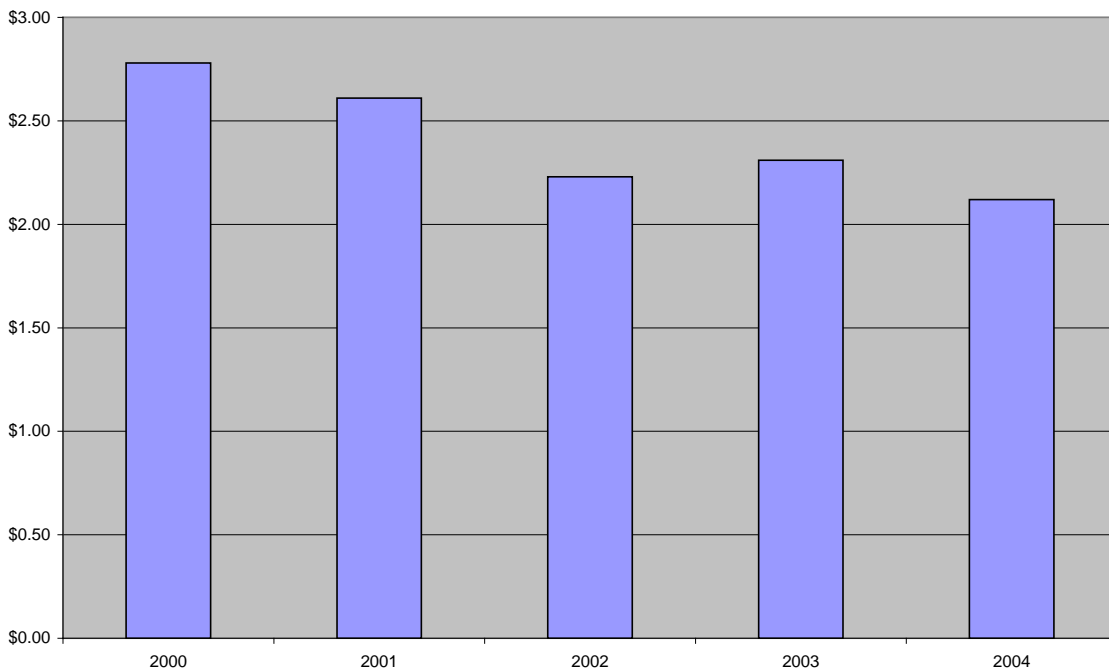
¹⁶ DCSS, *California Child Support Services Program: Strategic Plan 2002 – 2005*.

TABLE 1. California's Performance on the Federal Performance Measures



Source: DCSS.

California's Performance on the Cost-Effectiveness Measure



Source: DCSS.

Despite the improvements that California has made on the measures, the state still lags behind the nation on several key measures. Of the five measures, California performs above the national average on two measures (paternities and support orders established),

below on one (arrear collections) and significantly below on two (current support collections and cost-effectiveness). California's rank on the performance measures in federal fiscal year 2003 (2004 data are not yet available nationally) compared with the other states and territories is set forth in the Table 3:

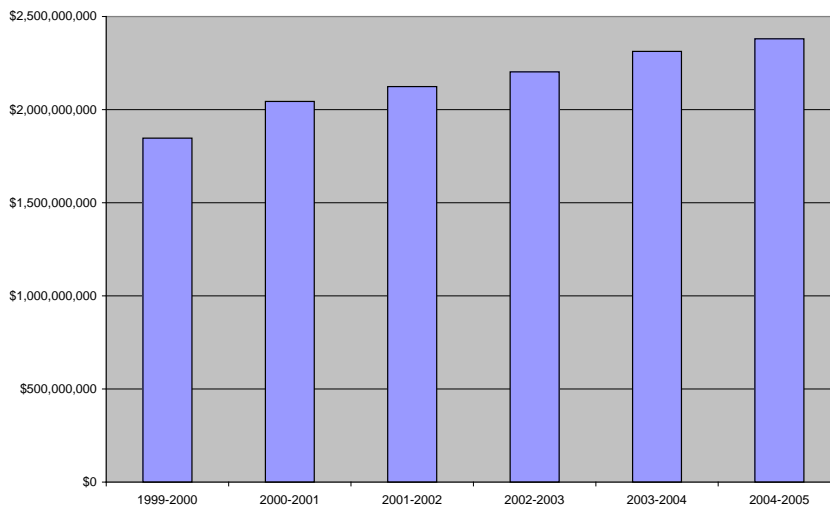
TABLE 3: California's Rank on the Federal Child Support Measures

Performance Measure	Rank
Paternities Established	11/26 ¹⁷
Orders Established	24/54
Current Support Collections	51/54
Arrear Collections	41/54
Cost-Effectiveness	50/54

Source: Federal Office of Child Support Enforcement, *Child Support Enforcement FY 2003 Preliminary Data Report*.

The incentive payments that a state receives from the federal government are based not only on the state's performance on the five federal measures, but also on its total collections. The federal incentive formula is based on a state's performance on the measures multiplied by its total collections, with a greater weight being applied to collections made on behalf of current and former assistance families. As Table 4 shows, overall collections have been steadily rising, although the percentage increase has been leveling out recently.

TABLE 4. California's Child Support Collections



Source: DCSS.

When California's actual performance is compared with the goals set forth in its Strategic Plan, California's performance has been mixed, with some goals achieved while others goals, notably

¹⁷ States have an option to use one of two paternity establishment measures: one using just the IV-D caseload (set forth in Table 3) or one using a statewide paternity measurement. California ranks 3 out of 31 states under the latter measurement.

in the area of current support and arrears collections, have not been achieved. DCSS has recently reduced its performance goals for these two measures even further by permitting local agencies to performance at either their 2004 goal or just 0.5 or 1 percentage point above that goal.¹⁸ This reduction in expectations could not only reduce support collected for children, but could also reduce California's incentive payments, particularly because no other state appears to be reducing its performance expectations.

B. Automation Failures and Penalties

As discussed above, California is now developing the CCSAS project in two phases: Version One, which seeks to link two existing system and, under an alternative system configuration, end the federal penalties, and Version Two, which will implement a true statewide system. Version One was originally scheduled to be completed by February 2006, but system competition has been moved up to September 2005. Version Two is anticipated to be completed by September 2008. The SDU is scheduled to begin operations in September 2005, although the roll out to all the local child support agencies is not expected to be completed until the following year.

Table 5 sets forth the automation penalties, which are anticipated to reach a cumulative total of \$1.2 billion through 2006. Note, the penalties will be reduced by 90 percent in the federal fiscal year the state successfully implements the system.

TABLE 5. California's Automation Penalties

Federal Fiscal Year	State Fiscal Year	Penalty Rate	Penalty Amount (in the millions)	Cumulative Penalty (in the millions)
1998	1997-98	4%	\$12	\$12
1999	1998-99	8%	\$27	\$39
2000	1999-00	16%	\$65	\$104
2001	2000-01	25%	\$111	\$215
2002	2001-02	30%	\$157	\$372
2003	2002-03	30%	\$190	\$562
2004	2003-04	30%	\$192	\$754
2005	2004-05	30%	\$218	\$972
2006	2005-06	30%	\$223	\$1,195

Source: DCSS.

California had sought to limit the federal penalties through legislation introduced by Congressman Matsui in 2002.¹⁹ While supported by numerous local, state and national organizations, as well as over half of California's congressional delegation, that legislation did not move in Congress. California then sought to pay the penalties annually, rather than quarterly. The Bush Administration agreed to that request for 2005,

¹⁸ Child Support Services (CSS) Letter No. 04-23 (October 22, 2004).

¹⁹ H.R. 4857 (2002).

but has denied a similar request for the 2006 federal fiscal year.²⁰ As a result, assuming California is unable to seek certification of its system by the end of federal fiscal year 2005, California will be required to pay both the 2005 and three-fourths of the 2006 federal penalty in the 2005-06 state fiscal year.

California had considered completing Version One and the SDU by September 30, 2005 in order to seek penalty relief during the 2005 federal fiscal year. However, in October 2004, the federal Department of Health and Human Services informed California that the child support system would not be considered complete and the state not subject to penalty relief until the SDU was fully operational, receiving "all IV-D payments and mandated non-IV-D payments," which is unlikely to occur by September 2005.²¹ It is not at all certain that other states were held to this strict completion interpretation.

As a result, California is expected to pay over \$1 billion in penalties to the federal government, unless the schedule is somehow accelerated, the federal Health and Human Services Department relaxes its requirement that the SDU is operating in all cases on the date the state seeks certification or Congress authorizes some form of penalty relief.

V. Issues for Consideration: Opportunities for Improvement

In reviewing the history and current performance of California's child support program, there are several areas that may provide opportunities to improve the effectiveness and efficiency of California's program. These areas may prove ripe for further investigation and possible new legislative action.

1. Performance expectations: Given the importance of child support for children and the federal incentive and penalty scheme, should California develop statewide, aggressive performance expectations to further drive program improvements? Is it appropriate for the Legislature to establish and closely monitor statewide performance expectations?
2. Sufficient state control: Does the state DCSS have sufficient control over the local child support agencies to ensure necessary improvements in program operations can be implemented statewide? Is there more that can be done to ensure performance goals are achieved? Does DCSS need additional tools to enhance performance at the local level? Do local agencies need additional tools?
3. Automation implementation and penalty elimination: Is development of the California Child Support Automation System on track? Is there sufficient state oversight of the project? Is the federal government treating California the same as other states as California prepares to implement the statewide child support automated system? Is it possible for California to complete Version One and terminate federal penalties by the end of 2005? If so, what efforts are necessary? If not, are there other steps that California can take, whether through Congress or the Bush Administration, to reduce penalties?

²⁰ Letter from Deputy Assistant Secretary Curtis Coy to Deputy Director Olivia Cortez (February 4, 2005).

²¹ Letter from Assistant Secretary Wade Horn to Secretary Kim Belshé (October 19, 2004).