

Testimony of Fathers & Families, Inc.

Assessment of Interest and Penalties on Past-Due Child Support

Before: Department of Revenue Child Support Enforcement Division
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About Fathers & Families Based in Boston and Los Angeles, Fathers & Families is a national non-profit advocacy organization that improves children's lives by protecting their right to the love and care of both parents after separation or divorce. Through public education and legislative outreach programs, Fathers & Families seeks to shape public policy and change well-meaning but misguided laws, judicial traditions, and government policies that drive many loving fathers, and a few mothers, out of their children's lives after divorce. More information on Fathers & Families and its programs is available on the organization's website at www.FathersandFamilies.org or by calling (617) 542-9300.

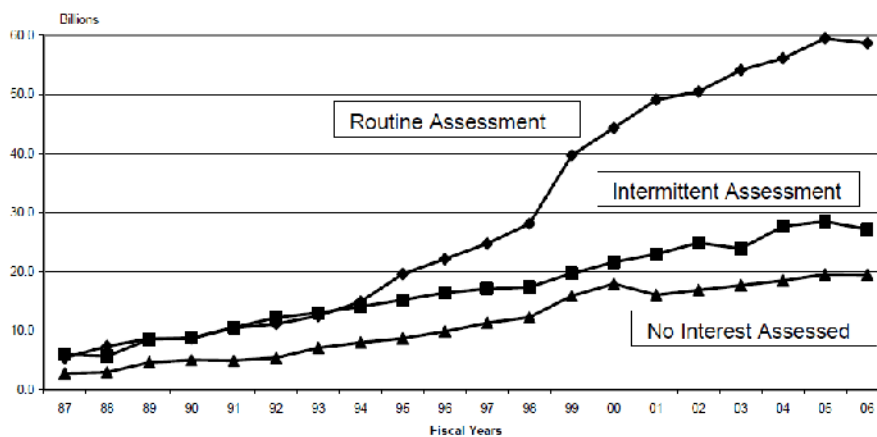
Fathers & Families would like to offer its staunch support for the reduction of interest on past due child support. Simply put, eighteen percent in annual interest and penalties is extremely high. We believe that reducing that amount to twelve percent (as currently proposed) would certainly be a good start, but we would like to see interest and penalties on back child support scaled back further. Abolishing such interest and penalty charges would not only benefit non-custodial parents struggling to meet their child support obligations--it would also benefit the state by diminishing uncollectible arrearages on the books ballooned by excessive interest and penalties. This in turn would improve the prospects for obtaining federal incentive payments.

The sum of interest and penalties should approximate the prime rate plus one or two percentage points. Alternatively, it should be set from time to time at the Commonwealth's cost of borrowing. We request further action by the DOR to achieve this goal.

Interest and penalty charges often work against the interests of states and their citizens.

According to a 2007 study by the Urban Institute¹, eighteen states routinely charge interest, eighteen states and Guam intermittently charge interest, and fourteen states, Puerto Rico, the Virgin Islands and the District of Columbia do not charge interest at all. Massachusetts, like other states, does face significant challenges in collecting interest and penalties. States that routinely charge interest have experienced a much larger increase in arrears than other states. The Urban Institute study found that from 1987 to 2006, states that charged interest saw a ten-fold increase in arrears, going from \$5.4 billion in 1987 to \$58.7 billion in 2006. Other states saw arrears grow about half as fast. States with no interest saw their arrears grow from \$2.8 billion in 1987 to \$19.5 billion in 2006. (See Chart 4.1 below.)

Chart 4.1 Child Support Arrears Held by State IV-D Programs from FY 1987 to FY 2006, Grouped by States' Interest Policies

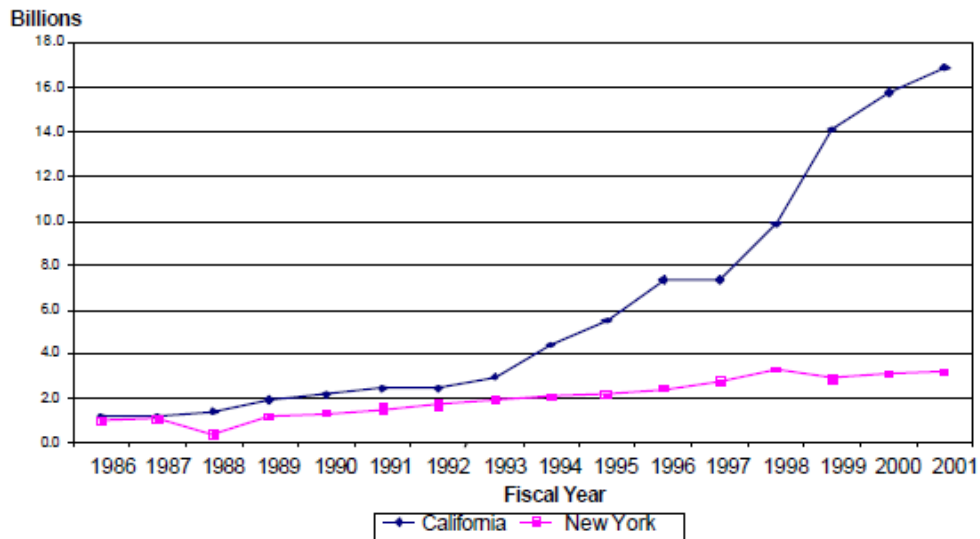


Source: Arrears data are from OCSE, Annual Statistical Reports and Preliminary Reports.
 Note: See chart 4.

¹ Sorensen, E., Liliana Sousa and Simon Schaner, "Assessing Child Support Arrears in Nine Large States and the Nation," The Urban Institute: Washington, DC, July 11, 2007.

This data is supported by an earlier study conducted by the Urban Institute in 1999 for California. The Institute compared California with New York because of New York's large area and large population. The one big difference between California and New York was that New York did not routinely assess interest on child support arrears. In 1992, New York and California's child support arrears were close – New York's arrears were \$1.8 billion while California's were \$2.5 billion. Nine years later, New York's child support arrears had only increased to \$3.2 billion, while California's grew to a whopping \$17 billion. (See Figure 2.)

Figure 2
Child Support Arrears: California and New York



Source: Child Support Enforcement Annual Reports to Congress

Penalties are also wrong for Massachusetts. Penalties on child support arrearages are inappropriate and hurt families. The problem of unpaid arrearages is primarily a problem of poverty. The Institute also found that 70% of all arrearages are owed by obligors who earn less than \$10,000, and 96% are owed by obligors who earn less than \$40,000. Other factors contributing to arrearages are loss of job, decreased earnings, illness and disability, the difficulty in obtaining modifications when misfortune strikes, pervasive errors by the Office of Child Support Enforcement (as documented in 2000 by the Massachusetts Auditor), incarceration, misidentification of the father, lack of notice of paternity, and unrealistically high support orders. None of these circumstances is helped by charging either interest or penalties. Neither does stronger enforcement of child support requirements work under such circumstances.

Instead, as indigent fathers accumulate child support debts, they feel as if they must evade the child support system and the risk of incarceration. They are driven underground by an

unforgiving system. The custodial parents and the Commonwealth then experience the complete termination of payments. Worst of all, when fathers go underground, their children also lose contact with them. Thus, they lose the most valuable thing the indigent father has to offer his children -- his love and guidance, not his money, of which he has very little. Massachusetts needs to find another way to support its indigent children than to pretend that indigent fathers have money that they do not have, and then compounding the problem with interest and penalties.

Every day, we at Fathers & Families hear from non-custodial parents who love their children, but who have recently lost their jobs or experienced a medical emergency that has left them with thousands in unpaid medical bills. They want to keep their obligations to their children, but they find the interest charges and penalties on court-ordered child support to be insurmountable obstacles to doing so.

To better inform public policy, Fathers & Families would like the DOR to provide an accounting of what percentage of arrearages is payable to the Commonwealth and what percentage is actually payable to custodial parents. For many non-custodial parents and for the Commonwealth, a reduction or elimination of interest charges and penalties on child support arrears is a step towards dealing with this issue responsibly.