



March 15, 2021

CHILD SUPPORT ENFORCEMENT PRIMER

This memorandum provides an overview of child support enforcement, including a discussion of the role of the federal government and state agencies in child support, details of the Kansas child support system and changes made during the quadrennial review of the Child Support Guidelines, and analysis of a June 2020 evaluation of the child support system in Kansas by Midwest Evaluation and Research, LLC.

The Role of the Federal Government and State Agencies

Congress and Federal Child Support Legislation

The first federal law regarding child support enforcement was the Social Security Act Amendments of 1950, which required state welfare agencies to contact law enforcement officials when providing abandoned children with assistance *via* the Aid to Families with Dependent Children (AFDC) program. Further federal legislation on the issue did not occur until the 1960s, when Congress authorized states to use social security records to locate parents as part of the Social Security Amendments of 1965 (PL 89-97). Two years later, Congress amended Title IV of the Social Security Act to require state welfare agencies to use a single administrative unit for child support collection and establishment of paternity for children receiving public assistance. States were also given access to Internal Revenue Service (IRS) records to obtain information on noncustodial parents.

Some members of Congress continued to recommend comprehensive reform of child support enforcement, and the Social Services Amendments of 1974 (1974 Amendments) (PL 93-647) created the Program for Child Support Enforcement and Establishment of Paternity under the new Title IV-D of the Social Security Act. This program, now administered by the federal Office of Child Support Enforcement (OCSE), was placed under the U.S. Department of Health, Education, and Welfare (now the U.S. Department of Health and Human Services). The purpose of this program was to create a parent locator service; set standards for state programs; review state program plans; audit state program operations; certify child support cases referred to federal courts for enforcement; verify child support cases submitted to the IRS for collection; provide technical and reporting assistance to state programs; maintain program records regarding operations, expenditures, and collections; and submit an annual report to Congress. The 1974 Amendments also dictated the state program responsibilities, including the creation of a state program plan, which required federal approval. States, as part of the plan, were required to designate a child support agency; set procedures to establish paternity and secure support orders for those receiving, or who applied for, public assistance; distribute payments rather than have direct payments; enter into agreements with the courts and law

enforcement; establish a parent locator service; cooperate with other states regarding child support cases; and maintain a record of collections and disbursements.

A decade after creating the federal child support enforcement program, Congress passed the Child Support Amendments (the 1984 Amendments) of 1984 (PL 98-378), which sought to improve state child support enforcement. The 1984 Amendments required states to create child support guidelines, enact certain enforcement measures such as mandatory income withholding, apply certain enforcement measures in interstate and intrastate cases, and make these services available to parties not receiving public assistance (non-AFDC parties). States could charge fees to non-AFDC cases and nonresident delinquent parents to offset costs. The 1984 Amendments also made funding available for the implementation of automated systems to better effectuate these new measures. Enactment of several laws followed, including the Family Support Act of 1988 (PL 100-485), which clarified child support guideline requirements, made child support evasion a federal crime, and required states to recognize support orders from other states.

The last major federal law on child support enforcement was the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (PL 104-193). PRWORA established the Federal Case Registry and the National Directory of New Hires to track delinquent parents across state borders and required employers to report all new hires to the directory. It also streamlined and expanded income withholding procedures. Further, PRWORA mandated that states adopt the Uniform Interstate Family Support Act, create a voluntary paternity establishment form and encourage its use, establish a centralized registry for collection and distribution of payments, and create expedited procedures for establishing paternity and child support orders. PRWORA also allowed states to implement stricter penalties, such as wage garnishment and asset seizure, for parents failing to pay child support. It also allowed enforcement agencies to access public and private records.

PRWORA also shifted the purpose of OCSE. When OCSE was first created in 1974, its goal was to reimburse benefits from government welfare programs by finding absent parents, establishing paternity, and establishing and enforcing support orders. But in the 1990s, the agency became focused on ensuring children receive more of the support paid by their parents. Since then, child support programs have emerged as a major source of income for families.

IV-D vs. Non-IV-D

OCSE focuses on information pertaining to IV-D cases, named for Title IV-D of the Social Security Act, which governs child support services. Prior to PRWORA, these cases were referred to as AFDC cases, but that program was replaced by Temporary Assistance for Needy Families (TANF) in 1997. IV-D cases are those either assigned to the state IV-D agency because a party involved receives public assistance under certain federal programs or because the parties voluntarily sought assistance from the state IV-D agency. Federal programs that require the use of state child support services include TANF cash assistance, Supplemental Nutrition Assistance Program, child care assistance, foster care, and Medicaid. These cases may be referred to as public assistance IV-D cases, whereas those in which a family is not receiving public assistance but using the services of the state IV-D agency are referred to as non-public assistance IV-D cases. Foster care cases are generally referred to as IV-E cases, because Title IV-E of the Social Security Act governs foster care.

In addition to cooperating with the IV-D agency, TANF recipients must also assign child support rights to the IV-D agency. When a state collects child support on behalf of the TANF

recipient, it may reimburse itself and the federal government for any TANF assistance. Some states allow the child support payment to “pass-through,” either in part or wholly, to the TANF recipient. These states are commonly referred to as pass-through states and often do not count the child support payment as income for the purposes of TANF eligibility. Roughly one-half of the states allows at least part of the child support payment to pass through. Colorado was the first state, in 2015, to implement a full pass-through policy.¹ Legislation enacted in 2020 would alter this program. Kansas, Iowa, Nebraska, and Oklahoma are not pass-through states.

Cases in which the parties are not required to or do not voluntarily use the child support services of the state IV-D agency are called non-IV-D cases. In these cases, child support is established and maintained privately. An example of a non-IV-D case is a child support order established following a divorce, where the order is part of the divorce decree. Any family is eligible to use the services of the state IV-D agency, so what was originally a non-IV-D case may become a IV-D case if it is referred to the state IV-D agency for help with collection or arrears issues.

The Role of the State Agency

As noted above, Congress established the roles and responsibilities of OCSE and the state child support agencies, generally referred to as IV-D agencies. In general, OCSE partners with federal, state, tribal, and local governments to ensure children receive the necessary support by establishing paternity, promoting responsible parenting, and encouraging family self-sufficiency. OCSE aids state and tribal child support agencies in several ways, including providing financial support for operations, policy guidance and technical help, audits and educational programs, assistance with intergovernmental child support cases, and limited enforcement services such as federal tax refund intercepts. OCSE also gathers annual data from states to measure progress towards its different goals.² However, as the main administrators, states do have some flexibility in the operation of child support services. This flexibility is clearest in the variety of child support guideline models and the sliding scale of child support enforcement and establishment methods.

Child Support Guideline Models

States generally use one of three child support guideline models: the income shares model, the percentage income model, or the Melson formula. While states use different models, the same factors are often considered, *e.g.*, the income of the parents and health coverage for the child, which is mandated by federal law. Some of the distinguishing factors between the models are whether the court considers the incomes of both parents and whether the needs of the parents are also considered in the support order.

The income shares model is the most popular and is used by 40 states, including Kansas. This model is based on the idea that a child should receive the same proportional amount from each parent that they would if the parents lived together. Seven states use the percentage income model, which determines support using a statutory percentage of the noncustodial parent’s income. There are two versions of this model: varying and flat. For the

1 National Conference of State Legislatures, Child Support Pass-Through and Disregard Policies for Public Assistance Recipients, May 29, 2020, <https://www.ncsl.org/research/human-services/state-policy-pass-through-disregard-child-support.aspx>.

2 Office of Child Support Enforcement, FY 2019 Preliminary Data Report, <https://www.acf.hhs.gov/css/policy-guidance/fy-2019-preliminary-data-report>.

varying percentage version, the portion of income varies based on the noncustodial parent's income level; whereas under the flat percentage version, the portion remains flat. Three states use the Melson formula, named for its creator, Delaware Family Court Judge Melson. This model considers the parents' needs prior to calculating child support and adds a standard of living bonus after the needs of the whole family are calculated. The District of Columbia uses a hybrid model.

Establishment and Enforcement Methods

Establishment and enforcement of child support orders is also varied across the states. Unlike child support guidelines, where each model is distinct, establishment and enforcement methods fall more on a spectrum, from judicial to administrative. Three elements that characterize the methods of each state: the forum, the presiding officer, and attorney involvement. More court-like elements, such as a courtroom, judge, or lawyer, indicate the process leans judicial. Alternatively, an administrative model would involve be more likely to involve a state agency, with a hearing, and no attorneys.

While some states are strictly judicial or administrative, the majority of states fall somewhere in the middle of the spectrum with a hybrid system. This could involve a mix of the elements in the process, such as an administrative hearing with attorneys. A hybrid system also could use either model on a case-by-case basis, with the model determined by case type or party choice. In that system, states may require all IV-D cases be determined administratively and all other cases judicially. Alternatively, parties could seek assistance from the courts or the state agency, or both. Per the National Conference of State Legislatures, Kansas and 22 other states are considered to always use the judicial method.

States have a variety of enforcement tools available, some of which have been mentioned above. These methods include income withholding, tax refund interception, property liens, seizure of assets and some benefits, posting a security or guarantee, driver's license suspension, and charging individuals with civil and criminal contempt. Some states also intercept lottery winnings, publish a list of delinquent individuals, immobilize the car of the delinquent individual until they establish a payment plan, and use electronic monitoring *via* ankle bracelets. States can also collaborate with OCSE for additional enforcement methods, like passport denial and matching insurance claimants and beneficiaries to child support payors.

Child Support Enforcement in Kansas

In the mid-1990s, states began considering cost-saving changes for child welfare agencies, including privatization. Kansas began a major overhaul in response to a lawsuit and began privatizing the state's entire child welfare system. To date, only Florida has privatized child welfare to a similar extent. Some states have privatized portions of their child welfare system, and some states had privatized portions, but shifted away from privatization. Nebraska experimented with privatization for five years in the 2000s, but ultimately did not move in that direction. Oklahoma contracted out its child support services but determined it was more cost effective to keep the system under a state agency.

Key Actors and Related Duties in Kansas

The Department for Children and Families (DCF) is the child support enforcement and IV-D agency in Kansas.³ While parts of the Kansas child welfare system, such as foster care, were completely privatized by 1997, the current child support enforcement structure was not fully privatized and implemented until 2013. DCF has four contracts to cover child support services: YoungWilliams; Sunflower Child Support Services; Kansas Child Support Services, LLC; and Veritas.⁴ Veritas covers only the establishment and finance parts of child support for Sedgwick County, which is also covered by the 18th Judicial District Court Trustees and Sedgwick County.⁵ Additionally, DCF contracts with Maximus Human Services, Inc. for the Child Support Services Call Center (Call Center) and YoungWilliams for the Kansas Payment Center (KPC).

Child support services operations in Kansas may be privatized, but DCF and its child support services program (CSS) still play a key role, functioning much like the OCSE by setting policies and procedures,⁶ training contractors and providing technical assistance, ensuring compliance with contracts, overseeing the budget of the program, monitoring legislation, partnering with other state agencies and tribes, evaluating the performance of the program and contractors, and addressing the needs and concerns of the public.

The full-service contractors are essentially front-line staff for child support enforcement. The contractors must follow the policies and procedures set by CSS. Contractors are responsible for staffing local offices, appearing in court for child support cases, and conducting community outreach regarding child support services. Contractors are charged with establishing, monitoring, and enforcing paternity and child support orders for individuals who assigned their child support rights to DCF under KSA 2020 Supp. 39-709 and 39-756 (IV-D cases). Additionally, as the contractors' client is DCF, contractors must file notices of assignments under KSA 2020 Supp. 39-754. The Secretary for Children and Families is considered a necessary party to enforce, modify, satisfy, or end any support obligation.⁷ The current contracts were renewed for one year in 2020 and will expire on June 30, 2021, with the option for an additional one-year renewal.

District court trustees operate in some counties. The court trustees are appointed by a judge and operate in a similar capacity as the full-service contractors. Court trustees separate IV-D and non-IV-D cases and monitor and enforce child support orders. The court may even charge the court trustee with collecting the child support payment.

The Call Center, operated by Maximus, is charged with providing assistance regarding frequently asked child support questions. Employees provide information on enrolling for child support services, in general and specific cases. Call Center representatives also mail documents as requested. The current contract with Maximus expires on June 30, 2021.

3 See KSA 39-753, which establishes the duties of the Secretary for Children and Families regarding IV-D child support enforcement services.

4 Department for Children and Families, Contractor Information, August 10, 2020, <http://www.dcf.ks.gov/services/CSS/Pages/Contractor-Information.aspx>.

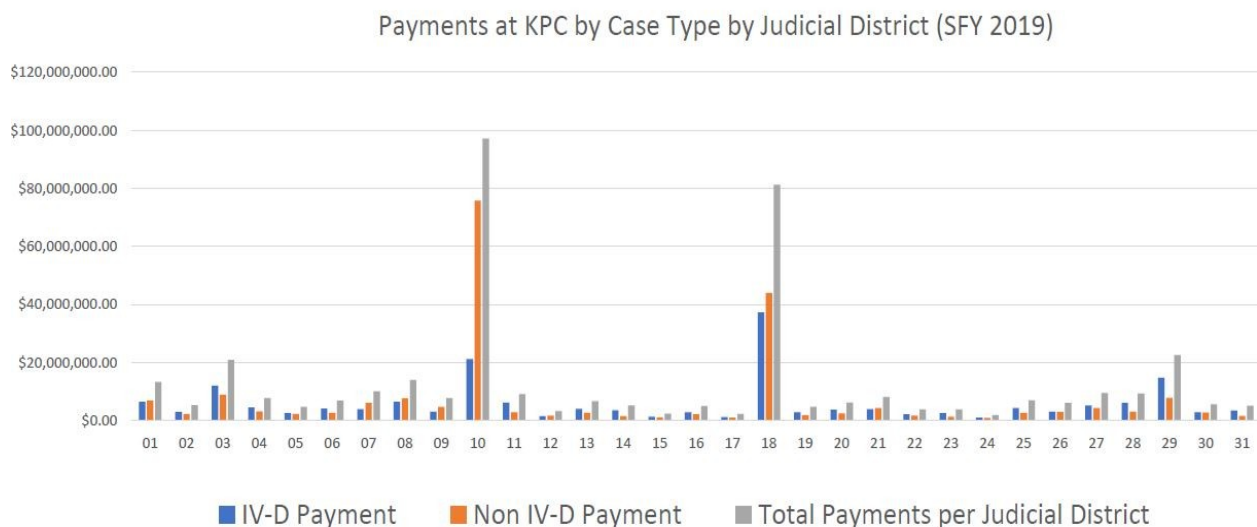
5 18th Judicial District Court, Welcome to the Office of the Court Trustee, <https://www.dc18.org/court-trustee>.

6 DCF, Child Support Services Policies, <http://www.dcf.ks.gov/services/CSS/Pages/CSSPolicies.aspx>.

7 KSA 2020 Supp. 39-754(f).

KPC, operated by YoungWilliams, is charged with processing all child support and spousal and maintenance support payments in Kansas.⁸ IV-D and non-IV-D cases are kept separate to be able to submit certain federal data. While it maintains records, the purpose of KPC is not maintaining balances, but merely processing payment. It does not track what amount was paid as compared to the actual order. Payors are able to pay online or by mail, and payees can receive the payment through a direct deposit or on a debit card. Some parties, including payors, payees, and district court trustees, are able to access KPC records and create annual reports. The current contract with YoungWilliams expires on June 30, 2022.

In state fiscal year (SFY) 2019, there were 107,184 cases with at least one payment via KPC. Of this amount, 76,176 were IV-D cases, and 31,008 were non-IV-D cases. Of the support paid through KPC by collection type, roughly 45.0 percent was IV-D, over 30.0 percent was non-IV-D with a court trustee, and over 20.0 percent was non-IV-D without a court trustee. In total, \$397.3 million was paid through KPC in SFY 2019. \$181.9 million of this was in IV-D payments, and \$215.4 million was in non-IV-D payments.



Child Support Process Statutes

Before child support can be established, paternity must be proven. Paternity is presumed when:

- The child is born during the marriage or within 300 days of the termination of the marriage or within similar constraints for an attempted marriage between the parties;
- The paternity has been acknowledged in writing; or
- With a genetic test of 97 percent probability or greater.⁹

⁸ KSA 39-7,135, which establishes the Kansas Payment Center for collection and disbursement of child support payments. See KSA 2020 Supp. 23-3004 and KSA 39-754.

⁹ See KSA 23-2201 and KSA 23-2205 through 23-2225, known as the Kansas Parentage Act.

As noted above, Kansas leans heavily judicial on the spectrum of child support establishment and enforcement methods. Under KSA 2020 Supp. 23-3001, the courts are charged with ensuring minor children are supported, namely through a court order for child support and educational expenses. A child support order generally expires when the minor child turns 18 years old, but it can be extended upon written agreement of the parties or if the child has not completed high school.

The establishment and modification of child support orders is governed by KSA 23-3001 through 23-3006. Child support order payments are collected and disbursed by KPC, as noted in the previous section. Child support is generally withheld from income.¹⁰ However, parties may be excluded from this requirement under certain statutory exceptions when there is a written agreement provided to the court.¹¹ The payor is required to maintain a record of the payment and provide that evidence annually to the court and payee. A court can modify a child support order upon request, but if the request is within three years of the original order or a modification order, a material change of circumstance must be shown.¹² If it has been more than three years, a material change of circumstance does not need to be shown.¹³ An example of a change is if a party's income increases or decreases to the extent that the amount owed would be 10.0 percent less.¹⁴

While income withholding is the main method of child support enforcement in Kansas, there are other enforcement methods available in those cases without an income withholding order. A court may impose licensing restrictions,¹⁵ DCF can report arrears to consumer credit reporting agencies,¹⁶ and a lien may be placed on the payor's personal property.¹⁷ Kansas can also intercept income tax refunds, garnish the payor's bank accounts, or intercept other benefits. Failure to pay can also result in criminal or civil charges and imprisonment.¹⁸

Recent Changes

2020 Child Support Guidelines Update

In 2016, OCSE published The Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs Final Rule (Final Rule). The Final Rule made several changes to rules considered outdated. Per OCSE, the purpose of the Final Rule was to address procedures that could increase regular, on-time payments to families and support modernization, reduction of unpaid arrears, customer services, and management practices.¹⁹ Changes from the Final Rule were included during Kansas' quadrennial review of the Kansas Child Support Guidelines, which

10 KSA 23-3103. *E.g.* Kansas Bar Association (KBA), Child Custody, Support and Visitation, https://www.ksbar.org/page/child_custody. See KSA 23-3108 through 23-3118 (known as the Income Withholding Act).

11 KSA 23-3004.

12 KSA 23-3005.

13 *Id.*

14 KBA, Child Custody, Support and Visitation, https://www.ksbar.org/page/child_custody.

15 KSA 23-3119 and 23-3120; accord KSA 8-292.

16 KSA 2020 Supp. 23-3121.

17 KSA 23-3122.

18 See KBA, Child Custody, Support and Visitation, https://www.ksbar.org/page/child_custody.

began in 2018, with the changes taking effect January 1, 2020. The guidelines are reviewed by an advisory committee, appointed by the Kansas Supreme Court, and then adopted by the Kansas Supreme Court.²⁰

According to DCF, major changes included:

- Shifting from obligor/obligee to payor/payee terminology when referring to the legal parent ordered to pay child support (payor) and the person who is receiving the ordered child support (payee);
- Amending the guidelines focused on earning ability to require evidence of the earning ability of the noncustodial parent (and of the custodial parent and children if the State desires), remove minimum wage as the default earning ability for incarcerated and other struggling parents, consider the needs of the payor when determining child support, and consider a variety of factors when imputing income, such as the local job market;²¹
- Clarifying that child support is meant for the child, regardless of where or with whom the child lives;
- Adding a section on how to include Social Security benefits when calculating child support and language on the termination of child support; and
- Updating sections regarding reimbursed medical expenses, school breaks beyond summer breaks, and the long-distance transportation costs and proportional share of income calculations.

Other changes included adjusting parenting time percentage and shared custody provisions, changing the spousal maintenance payments to reflect the federal 2017 Tax Cuts and Jobs Act (PL 115-97), making the Short Form Domestic Relations Affidavit more user-friendly, and updating the child support schedules by an economist.

Child Support Services Computer System Replatforming

Since 2013, DCF has been planning a replatforming of the child support services computer system, including Kansas Automated Eligibility Child Support Enforcement System (KAECSES), due to the systems' aging and becoming increasingly at risk. The replatforming would primarily involve modernizing the underlying code. Due to the number of users and size of the system, DCF has planned for a seamless transition to have minimal impact on users. DCF began setting aside funding for the replatform in SFY 2019. As of July 2020, DCF expects the planning, procurement, and closure of the project will take between 18 and 24 months.

19 Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, Child Support Final Rule Fact Sheets, January 5, 2012, <https://www.acf.hhs.gov/css/policy-guidance/child-support-final-rule-fact-sheets>.

20 Kansas Judicial Branch, Child Support Guidelines, <https://www.kscourts.org/About-the-Courts/Programs/Child-Support-Guidelines>.

21 See *Id.* See also Kansas Child Support Guidelines; 45 CFR § 302.56(c)(1)(i) and (iii).

Funding is planned through SFY 2022. The time frame and cost of the actual replatforming will depend on the vendor chosen.

According to DCF, the agency was in the procurement process for a contractor at the beginning of January 2021 and implementation is planned to begin April 1, 2021. KAECSES is the primary focus of the replatforming, which is one of the major recommendations discussed below.²²

Midwest Evaluation and Research Report

In SFY 2020, DCF engaged Midwest Evaluation and Research, LLC (MER) to evaluate the “managerial accountability and consonance of the Kansas IV-D program.”²³ The Final Report from MER was released in June 2020. The Final Report outlines the findings under each evaluation goal, provides recommendations broken into three tiers by difficulty, and reviews the methodology and survey results that drove the recommendations.

Evaluation Goals

MER was contracted to evaluate the child support enforcement program using nine key objectives to guide the project. In the report, and this primer, those goals are referred to as evaluation goals, which directed MER to research:

- The impact of the implemented privatization model on the IV-D program and performance of related components;
- The availability and accessibility of IV-D services to Kansas residents;
- The efficiency, customer service, and general managerial effectiveness of IV-D service offices;
- The impact of privatization on the five federal performance measures for state IV-D programs;
- The controls and performance measures for privatized IV-D contractors and vendors;
- The long-term value of privatization balanced against the time limitations and metrics of the contracts of contractors and vendors;
- Metrics to measure meaningful IV-D performance for all stakeholders: taxpayers, customers (obligors, obligees, the Secretary for Children and Families, and the Secretary of Corrections), the court system, employers/payors of income, and vendors;

²² See *infra* Recommendations on page 10 and Tier 2 on page 12; see also sources cited *infra* note 26.

²³ Midwest Evaluation and Research, LLC, Final Report, “Evaluation of the Managerial Accountability and Consonance of the Kansas IV-D Program,” June 2020.

- The impact of changes to mandatory program compliance on federal performance measures and contractor and vendor performance; and
- The impact of the mainframe computer system on program performance.²⁴

As part of the evaluation, MER considered various data sources, including OCSE report data from 2010 to 2018; contractor performance measure data; surveys of payors, payees, and CSS and contractor staff; and “ideas and themes captured during site visits with Kansas child support offices.”²⁵

Recommendations

Considering the history of child support enforcement, the context of Kansas’ current program, and the findings from the evaluation goals, MER made recommendations, including three high-priority recommendations. The standard-priority recommendations are sorted into three tiers according to difficulty of implementation. The least difficult to implement recommendations are in Tier 1, and the most difficult to implement recommendations are in Tier 3.

The three high-priority recommendations, deemed to be the most effective, are to maximize the potential of the privatization contracts, update KAECSES, and modernize the Kansas IV-D program.

First, to maximize the use of privatization, MER recommended DCF administration and child support staff work with the Legislature to set recommendations for new CSE contracts to be implemented. In particular, MER noted the contractors surveyed requested more communication with CSS.

Second, MER stated updating KAECSES is “one of the most important and impactful steps that can be taken to improve the overall efficiency and effectiveness of the Kansas IV-D system.”²⁶ MER noted that, due to its age, the system requires extensive user training, takes greater time to input and extract information, and is unable to automate processes and set linkages in data as compared to a more modern system. While an entirely new system could cost tens of millions of dollars, MER suggested KAECSES could be migrated to a modern mainframe platform, with changes occurring gradually to save money, or moved to a third-party system, which would not require the same initial investment costs.

Third, MER recommended Kansas adopt practices from higher-performing states to modernize the Kansas system. This includes, but is not limited to, large-scale training on the child support policy manual, automation of repetitive tasks for child support casework, “buy-in from legislature,”²⁷ automation of more procedures where possible, moving away from the policy of establishing an order with arrears, considering changes to the Child Support Guidelines at the next four-year review in 2024 to deduct a portion of the payor’s income as a “self-support reserve,”²⁸ and making employers partners in child support to better effectuate income withholding as the means of child support payment.

²⁴ Midwest Evaluation, LLC, Final Report, page 3.

²⁵ *Id.*

²⁶ *Id.*, page 19.

²⁷ *Id.*, page 20.

Tier 1 (Least Difficult)

MER made three recommendations in Tier 1.

First, MER recommended improved information sharing with the public and those involved in child support. MER noted many employers do not have sufficient resources and information to carry out income withholding, which accounts for 84.6 percent of collections in Kansas. This could be improved with outreach, employee training, having employer specialists, and automating the processing of withholding orders.

MER also noted high levels of misunderstandings can create frustration and mistrust among customers.²⁹ MER recommended the following to solve this issue: provide more information through the DCF website, social media, and other means; create a more intentional process to ensure payees and payors understand child support and the relationships between child support, custody, visitation, and parenting; train front-line staff in customer services skills to improve the relationship with customers; “validate payees’ and payors’ role in their child support arrangements”;³⁰ and develop a process to keep customers informed about their arrangements.

Second, MER recommended improving communication with and between contractors to maximize privatization’s potential. MER observed privatization led to a decrease in performance in some areas, though the contractors have been improving their performance and the child support system in Kansas, and that inherent in privatization is competition between contractors. This competition means contractors have no incentive to share best practices either with DCF or other contractors. To sustain the privatized system successfully, MER recommended implementing two-way communication between DCF staff and contractors and enhancing data sharing between DCF staff and contractors.

Third, MER recommended DCF implement a regular review and update process for child support services. MER noted DCF was then creating a new child support policies and procedures manual and made several recommendations to assist in the use of this manual in improving child support services. The recommendations are as follows:

- Complete the child support policy manual, provide statewide training on the manual, and implement a process for regular reviews and updates;
- Study the establishment and purpose of support obligations for reimbursing the government for public assistance paid out regarding the impact on overall collections performance and arrears. Additionally, MER recommended a move away from starting arrears in cases where there is “clear and objective evidence”³¹ that the payor “actively avoided efforts to establish orders”;³²

28 *Id.*, page 21.

29 *Id.*, page 23.

30 *Id.* (Payors indicated they felt that their needs are not seriously considered and the system is more concerned with the needs of the custodial parent.)

31 *Id.*, page 25.

32 *Id.*

- Consider closure of cases in which the only debt owed is to the State and implement a policy to the effect. Federal guidance allows for the waiving of the federal share if the state waives its share;
- Review the waiting time periods for contesting paternity, income withholding actions, and case closure for opportunities to shorten that time *via* policy or legislation;
- Pursue a change in the handling of arrears when the payor is incarcerated *via* policy or legislation, as many staff noted the need for clarity in this area;
- Review the policies and procedures for case referral and consider the interaction of child support establishment and enforcement with other programs. In particular, several contractors noted that the establishment and enforcement of child support orders in foster care cases can be difficult and counterproductive to DCF's ultimate goal of reunification. MER also stated there is a "strong feeling"³³ that the establishment of support orders solely for recovering public assistance paid out should be mostly discontinued because it is not cost-effective and is detrimental to CSS' overall performance;
- Review the overall impacts of Medicaid referrals since 2015 on the child support program. Contractors anecdotally expressed concern about duplicate and low-quality referrals, which took time from the case managers. Review of KAECSES data could determine the impact of Medicaid eligibility for families with child support; and
- Place emphasis on engagement, rather than enforcement, for customer service strategies.

Tier 2 (Moderately Difficult, Relative to Other Tiers)

MER made eight recommendations in Tier 2:

- **Update or replace KAECSES.** Per the staff surveys, MER reported KAECSES causes daily issues for caseworkers. More specific recommendations include improving exchange of information between child support systems and systems that make automatic referrals to KAECSES, maximizing the automation of administrative processes, and receiving caseworker input on these revisions to the data system to implement enhancements requested;
- **Build internal leadership.** To prevent knowledge loss that comes from regular turnover of staff, MER recommended managers understand the value of retaining staff, design policies within the human resources system to improve retention, and implement succession planning for continuity of leadership and direction of the program;

³³ *Id.*, page 26.

- **Evaluate and update contracts.** MER noted it could not fully evaluate the IV-D program contracts due to a lack of data. To that end, MER suggested DCF request comprehensive data from contractors and conduct an in-depth research study to evaluate the performance of the contractors to ensure the effectiveness of the IV-D program. This could include creating more performance-based contracts;
- **Evaluate the Call Center.** MER observed the model of a single contractor responsible for the Call Center working with all the other contractors, DCF, KPC, and customers can lead to “finger-pointing” and a lack of accountability for customer service from the contractors. MER reported the Call Center is considered inefficient and viewed poorly by the public and recommended addressing this issue by either moving the responsibilities of the Call Center to full-service contractors or providing more training to Call Center employees;
- **Use proven practices to staff cases.** MER recommended DCF create a single unified child support model for casework. This model should allow for flexibility between contractors as needed, but include the use of a task-oriented, case-oriented, or hybrid model for casework, customer service focused on engagement rather than enforcement, and a plan for accountability and community outreach;
- **Refer non-IV-D cases into the IV-D system.** MER recommended the development and presentation of an argument to “decision-makers” that all non-IV-D cases should be referred to the IV-D program when the support order is issued, with the option of case closure to opt out. From site interviews, MER determined there is an interest in bringing more non-IV-D cases into the IV-D system. According to MER, the arguments for this move include that it would result in more consistent payments and increased family self-sufficiency, tools to locate payors and enforce payments would be available to a larger population, and IV-D services are free or low-cost. Further, MER noted more IV-D cases may increase Kansas’ standing for federal performance measures and increase federal incentive payments;
- **Begin data analysis of Kansas child support.** MER recommended the creation of either a data team in DCF or the hiring of an outside evaluator who can evaluate the debt owed in all Kansas child support cases. Per MER, the team would be essential for performance management and improvement; and
- **Change the IV-D program funding structure.** MER recommended rather than rely on fee collection, which can start a payor out in arrears and discourage payment, the IV-D program follow other states by seeking legislative funding. State legislative funding draws a federal match of 66.0 percent. Per preliminary OCSE reports, Kansas collections retained by the State decreased from 2.6 percent in 2010 to 1.3 percent in 2018. Furthermore, MER observed families using IV-D program services are often financially vulnerable, with OCSE reports noting that child support accounts for about one-half of the income of low-income parents who receive child support.³⁴ The Kansas Child Support Services program funding currently includes retained collections (from public assistance paid out)

³⁴ *Id.*, page 33.

and fees, along with a funding pool and a “relatively small legislative appropriation.”³⁵

Tier 3 (Most Difficult)

Finally, MER made two recommendations in Tier 3.

First, MER recommended the child support processes be reviewed to determine if any, or all, can be done administratively, rather than judicially, to improve timeliness and provide a less adversarial environment. For example, income withholding is currently a quasi-judicial process in Kansas, but many states carry it out administratively. The move to more administrative processes could potentially save time and staff effort, improve services to customers, and allow for streamlined automation.

Second, MER recommended the State study the effectiveness of Kansas' dual system. MER noted the majority of states moved away from local government involvement in child support during the modernization of child support. In Kansas, some counties operate court trustee programs using county funds, but not all families have access to this program, resulting in families receiving services from a court trustee or IV-D contractor or not receiving services from the system. Without more data, MER stated it could not fully assess the pros and cons of the current system.

Methodology and Limitations

As noted above, MER conducted surveys and site visits, along with data review, and focused on nine evaluation goals to create the list of recommendations. This methodology included the following primary data sources: historical OCSE data from 2010 and 2018,³⁶ survey data³⁷ and interview responses from payees and payors,³⁸ “ideas and themes captured during site visits,”³⁹ contractor performance measure data,⁴⁰ and survey data from CSS, contractor, and court trustee staff.⁴¹ Site visits included visits to DCF, the KPC, YoungWilliams of Dodge City, Sunflower Child Support Services, the 18th Judicial District and its subcontractor Veritas, YoungWilliams of Topeka, Maximus, and the Kansas Child Support Services, LLC.

The quantitative surveys included a random sample of 14 payees and payors who had interacted with the system in the previous 12 months. Interaction in this case meant involvement in paternity establishment or testing, order establishment, order enforcement, and other child support matters. MER stated it had intended to sample over 800 payees and payors, but the COVID-19 pandemic limited its ability to reach a sample this large. Participants were offered a \$10.00 Walmart gift card, paid for by MER. Participants could opt in to a telephone interview. In total, 14 surveys were completed, and 9 participants opted in to a telephone interview.

35 *Id.*

36 *Id.*, page 43.

37 *Id.*, pages 58-120.

38 *Id.*, pages 121-122.

39 *Id.*, pages 38 and 123-124.

40 *Id.*, pages 125-127.

41 *Id.*, pages 128-151.

The historical OCSE data was pulled from the publicly available preliminary reports for 2010 and 2018, with a focus on calculating data and comparing it to the data of other states. MER compared Kansas to the United States as a whole, Arizona, Nebraska, and Tennessee. States were selected for comparison using a few specific characteristics: centralized state-administered child support, court orders for establishment, at least one full-service contractor/vendor in the child support program, a high case-to-staff ratio, and similar state demographics and geographical characteristics.⁴²

MER reported the evaluation was hampered by two primary limitations: the COVID-19 pandemic affected crucial components of the evaluation, namely the limiting of surveys from the planned number of more than 800 to 20 participants, and the “lack of useable data [...] collected and provided by DCF.”⁴³ First, the stay-at-home order limited MER’s ability to survey a high number of payees and payors because it occurred as MER was collaborating with DCF to send out the survey requests. Without the relevant staff able to pull the needed data, the number of payees and payors surveyed was limited. MER noted the number ultimately surveyed (14, with 9 interviews) “is not a representative sample of the customers of the IV-D system.” Second, Midwest Evaluation found that DCF could not always provide requested data because that data was not collected, collected using another proxy, or collected but not able to be obtained due to technological difficulties. The example MER noted is the lack of comprehensive contractor performance data dating back to the beginning of privatization. The only data available on contractor performance is collections information dating back to 2015 and the four federal performance incentive measures.

Appendix A: Data from the OCSE Preliminary Report for Federal Fiscal Year 2019

Below are selected tables from the OCSE's FY 2019 Preliminary Data Report. This report includes state information on collections, payments, established paternity, established orders, and other program data.⁴⁴ This Appendix includes data for Kansas, the three states compared in the MER Report (Arizona, Nebraska, and Tennessee), and Iowa, which is used comparatively because it is an administrative-leaning child support enforcement state.

Total Distributed Collections by Fiscal Year

The total amount of collections distributed on behalf of both TANF and non-TANF families.

	2015	2016	2017	2018	2019
Kansas	\$182,652,580	\$187,350,486	\$187,303,061	\$193,295,241	\$199,179,937
Arizona	313,943,546	312,073,959	310,751,664	309,651,612	308,990,164
Iowa	307,628,096	307,779,154	305,476,647	304,654,109	306,299,307
Nebraska	206,767,027	206,148,541	204,462,116	204,543,763	206,181,054
Tennessee	601,662,972	604,695,788	598,990,132	597,725,019	598,464,375

⁴² *Id.*, pages 40-41.

⁴³ *Id.*, page 152.

⁴⁴ Office of Child Support Enforcement, FY 2019 Preliminary Data Report, <https://www.acf.hhs.gov/css/policy-guidance/fy-2019-preliminary-data-report>.

Payments to Families or Foster Care by Fiscal Year

The total amount distributed to families or foster care to be used for the child.

	2015	2016	2017	2018	2019
Kansas	\$167,857,407	\$173,267,704	\$175,180,555	\$182,268,541	\$188,603,058
Arizona	299,201,531	298,950,624	298,253,147	297,808,221	297,878,962
Iowa	278,108,078	278,672,094	275,984,695	276,067,298	277,479,425
Nebraska	198,523,532	197,832,408	196,044,495	196,148,401	197,360,078
Tennessee	552,031,309	557,430,716	555,977,893	558,654,568	560,025,374

Total Caseload at the End of the Year by Fiscal Year

The total number of IV-D cases open on the last day of the fiscal year, including requests from other states.

	2015	2016	2017	2018	2019
Kansas	134,216	141,105	138,914	139,768	135,773
Arizona	178,113	173,601	170,331	164,224	157,828
Iowa	170,817	167,846	165,810	163,544	160,634
Nebraska	108,443	108,674	106,796	105,009	100,820
Tennessee	369,641	366,715	367,386	361,082	346,474

Total Cases with Support Orders Established by Fiscal Year

The total number of IV-D cases open that also have established support orders.

	2015	2016	2017	2018	2019
Kansas	\$56,734,600	\$58,747,231	\$58,372,960	\$59,185,583	\$62,269,147
Arizona	96,250,882	94,571,021	94,824,860	95,269,681	95,469,883
Iowa	75,389,029	76,926,393	75,458,707	73,875,415	72,547,616
Nebraska	50,066,617	48,869,803	48,383,246	49,539,816	49,665,101
Tennessee	190,006,235	194,427,235	186,120,764	184,421,547	187,395,732

Support Orders Established by Fiscal Year

The number of cases with support orders established that year by the IV-D agency.

	2015	2016	2017	2018	2019
Kansas	10,948	9,638	9,710	9,775	9,144
Arizona	3,989	4,371	4,450	4,486	4,090
Iowa	7,353	7,925	8,139	7,658	6,285
Nebraska	8,774	8,492	8,794	7,896	8,024
Tennessee	90,033	86,488	83,258	81,860	82,891

Total Cases for Which Paternity is Established or Acknowledged by Fiscal Year

The number of children born out-of-wedlock whose paternity was either acknowledged through voluntary or other acknowledgment processes, or for whom paternity was established.

	2015	2016	2017	2018	2019
Kansas	20,855	22,474	21,087	19,380	19,426
Arizona	46,617	47,656	49,001	52,315	49,456
Iowa	12,418	12,533	12,350	12,120	11,798
Nebraska	9,787	9,616	9,333	9,330	9,144
Tennessee	51,812	50,394	48,790	47,839	46,502

Total Arrearages Due for All Fiscal Years by Fiscal Year

The total amount of arrears due and unpaid, which may include interest and penalties, at the end of the fiscal year for all fiscal years.

	2015	2016	2017	2018	2019
Kansas	\$767,729,849	\$802,596,796	\$840,111,485	\$876,113,937	\$842,713,642
Arizona	1,748,640,365	1,725,191,931	1,713,459,627	1,658,801,892	1,620,845,515
Iowa	850,413,565	844,813,545	838,375,148	834,163,420	823,628,356
Nebraska	698,779,500	713,890,734	732,182,054	748,600,960	716,870,100
Tennessee	3,067,393,429	3,150,490,129	3,254,628,478	3,380,270,367	3,446,692,740

Total Support Distributed as Arrears by Fiscal Year

The total amount of support distributed as arrears in that fiscal year, including judgments that were paid in this fiscal year for support owed in prior years.

	2015	2016	2017	2018	2019
Kansas	\$56,734,600	\$58,747,231	\$58,372,960	\$59,185,583	\$62,269,147
Arizona	96,250,882	94,571,021	94,824,860	95,269,681	95,469,883
Iowa	75,389,029	76,926,393	75,458,707	73,875,415	72,547,616
Nebraska	50,066,617	48,869,803	48,383,246	49,539,816	49,665,101
Tennessee	190,006,235	194,427,235	186,120,764	184,421,547	187,395,732

Total Children in IV-D Cases by Fiscal Year

The number of children under the age of 18 with open IV-D cases at the end of the year.

	2015	2016	2017	2018	2019
Kansas	138,443	146,900	144,524	143,253	140,219
Arizona	172,779	164,677	156,537	147,555	138,419
Iowa	168,009	164,737	161,741	158,297	145,324
Nebraska	155,245	155,522	153,262	151,379	146,186
Tennessee	383,824	373,762	366,485	354,486	337,477

Cost-Effectiveness Ratio by Fiscal Year

The total collections forwarded to other states, collections distributed, and fees retained by other states, divided by the total current quarter claims and prior quarter adjustments minus the non-IV-D cost.

	2015	2016	2017	2018	2019
Kansas	\$5.80	\$5.69	\$5.72	\$5.75	\$5.80
Arizona	5.35	4.98	6.15	5.29	5.28
Iowa	5.71	5.73	5.46	5.86	5.97
Nebraska	5.97	5.97	5.23	5.91	5.71
Tennessee	7.99	7	6.74	7.05	7.16

Incentive Payment Estimates by Fiscal Year

The estimated amount earned by the state for efficiency.

	2015	2016	2017	2018	2019
Kansas	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000	\$4,000,000
Arizona	6,375,000	6,312,500	6,150,000	6,150,000	6,050,000
Iowa	7,000,000	3,500,000	7,000,000	7,000,000	7,000,000
Nebraska	2,750,000	2,750,000	2,750,000	2,750,000	2,750,000
Tennessee	6,800,000	8,000,000	16,000,000	16,000,000	14,000,000

Incentive Performance Measures for FY 2019

Incentive performance measures include:

- IV-D Paternity Establishment Percentage (PEP): the number of children in the IV-D caseload born out-of-wedlock with paternity acknowledged or established in the fiscal year divided by the number of children in the IV-D caseload born out-of-wedlock in the preceding fiscal year;
- Statewide PEP: the number of children in the state born out-of-wedlock with paternity acknowledged or established in the fiscal year divided by the number of children in the state born out-of-wedlock in the preceding fiscal year;

- Percent of Cases with Orders: the number of IV-D cases with orders divided by the number of IV-D cases;
- Current Collections: the amount collected for current support in IV-D cases divided by the amount owed;
- Arrearage Cases: the number of IV-D cases paying towards arrears divided by the number of IV-D cases with arrears due; and
- Cost-Effectiveness Ratio: the amount of IV-D dollars collected divided by the dollars expended.

	IV-D PEP	Statewide PEP	Percent of Cases with Orders	Percent of Current Collections	Percent of Arrearage Cases	Cost-Effectiveness Ratio
Kansas	N/A	102.82%	89.38%	58.08%	58.43%	\$5.80
Arizona	159.06%	N/A	91.61%	59.77%	58.34%	5.28
Iowa	N/A	96.47%	92.71%	73.14%	69.21%	5.97
Nebraska	N/A	92.71%	88.23%	71.65%	69.86%	5.71
Tennessee	N/A	92.79%	85.31%	56.77%	62.63%	7.16

Total Administrative Expenditures by Fiscal Year

The total amount eligible for federal funding claimed by the state for administrative costs reduced by program income, e.g. fees and interest earned.

	2015	2016	2017	2018	2019
Kansas	\$35,437,126	\$37,073,632	\$36,830,649	\$37,538,171	\$38,088,635
Arizona	66,527,241	70,433,259	57,082,068	66,153,935	66,071,892
Iowa	56,732,798	56,638,705	59,012,399	54,755,683	54,071,265
Nebraska	36,587,514	36,565,543	41,286,928	36,521,847	38,049,100
Tennessee	80,102,865	91,996,627	94,685,309	90,409,634	89,057,889

State Share of Administrative Expenditures by Fiscal Year

The state share of current expenditures for the quarter and prior adjustments from the prior quarter, minus federal Federal Parent Locator Service fees.

	2015	2016	2017	2018	2019
Kansas	\$14,688,621	\$13,265,035	\$12,522,422	\$13,823,581	\$16,779,242
Arizona	23,992,830	30,956,450	23,538,000	26,034,235	26,918,382
Iowa	23,546,151	24,240,161	25,090,849	22,809,007	23,028,139
Nebraska	17,261,204	16,458,461	18,673,606	15,907,175	17,439,757
Tennessee	27,234,972	31,278,852	32,208,626	30,959,060	30,545,532