

A Comparison of Child Support Schemes in Selected Countries

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This chapter gives an overview of how child support schemes operate in selected other countries, of the contexts of these schemes in terms of government assistance and interaction with family law, and of the major problems and positive factors of the schemes. The UK, Canada, and NZ were chosen for comparison because they share with Australia the British tradition of law; Norway was chosen as a contrasting system that provides “advance maintenance” and explicitly assigns child support liabilities on the basis of set costs of children; and the US was chosen because our current scheme was based upon theirs, and for the policy contrast it provides. These countries are all similar to Australia in that they generally calculate liabilities using a formula as at least a guideline, if not as an absolute prescription. The majority of other countries do not have a child support scheme or agency as such; instead, they largely rely on discretionary court awards.

In almost all countries, and certainly in all the countries reviewed here, government helps families with some of the costs of children, whether this be through tax subsidies or cash benefits or through the provision of goods such as public education, health, and transport. However, the level of assistance to families varies widely, in line with differing views on the appropriate mix of public and private contributions to the raising of children and to support of individuals. It would therefore be unreasonable to examine the various child support systems in isolation from their wider social policy and legal background.

Historically, there has been a much higher level of government contribution (and of taxes paid to government) in countries with leftist governments and with more homogenous populations. Sweden and Norway fall into this category, though to a lesser extent now than a generation ago. The United States is at the other end of the this spectrum, at least amongst the countries surveyed. Countries with lower birth rates also tend to provide more generous family benefits. In addition, more ambitious social policy/extensive social reform is usually to be found in countries with central governments, such as Sweden, rather than in federations of states or provinces, particularly where the states are wary of federal government “interference”. This wariness seems to be greater in the United States than in Australia or Canada.

Of course, it is always difficult to make international comparisons of complex structures such as a child support scheme or family benefit regimes, where the tax, law, welfare, education, and health systems are all involved. Countries do not necessarily collect the same data in the same way, and some factors, such as community values, are problematic to measure or analyze, let alone compare. In addition, benefits provided to families may vary greatly between high- and low-income families, single- and dual-income families, and families with different numbers of children, so it is difficult to ascribe a particular “level” of benefit to a country. This chapter aims, therefore, to give a reasonable impression of the child support system and related issues of various countries, rather than strict comparisons of dollar amounts paid, for example.

UK

History and Context

The first legal provision, in the first half of the eighteenth century, for the enforceable financial support of children related to “bastard” children, since divorce was generally unavailable. The provisions were applied in the context of the Poor Laws, dating from 1598, which stipulated that the parishes were to relieve destitute people, and could then seek reimbursement from their relatives. The 1601 Act for the Relief of the Poore made the mothers, fathers, grandparents, and children of a poor person legally obliged to “relieve and maintain” them, under threat of a quite large fine. In the same way, men were obliged to support their illegitimate children or face gaol. A mother applying to the parish for relief was obliged to name the father; the parish would then support her and the child(ren) and pursue the father for reimbursement – which, it seems, was most often unsuccessful.

In the mid nineteenth century, shortly after the introduction of civil marriages, bastardry proceedings became a matter for the petty courts, and a woman could seek maintenance from the father for herself and the child, regardless of whether she was in receipt of poor relief. Divorce was still largely unavailable for all but the upper classes. When it became more widely available and used (especially after WWI), custody and maintenance were awarded through the courts, but there was little state enforcement available. The Maintenance Orders Act of 1958 allowed the attachment of earnings. In 1974, the Report of the Committee for One-Parent Families (the Finer Report) recommended the establishment of an agency to administer child maintenance arrangements, but legislation for the creation of the CSA was not established until 1991, and the Agency only began operation in 1993. The scheme that it was set up to administer was excessively complex, and results were poor. The White Paper on Child Support, *Children’s Rights and Parents’ Responsibilities*, published in July 1999, proposed a new scheme, detailed below, which was implemented in 2003.

The UK spends a similar amount to Australia (per capita) on family services and benefits. Universal child benefits are significant, and are greater than in Australia, though this difference is becoming less marked, due to recent increases to Australian FTB. There is also means-tested social assistance available to poorer families. Government payments to sole parents are roughly equivalent to those paid in Australia. Lone parents also get a higher rate of the Working Tax Credit, which is designed to reduce EMTRs for people moving from benefits to work, and may also receive a one-off payment of up to £1000 (all figures in British pounds, £1≈A\$2.37) if they move from benefits to work.

Carer parents in receipt of various social security pensions (not including child benefit) only receive the first £10 of child support paid, but receive their income support “gross” of maintenance, that is, the benefit payment takes no account of the maintenance paid by the non-resident parent to the Child Support Agency. Other carers receive all support paid. There is no clawback from Child Tax Credit, which begins to phase out at a family income of £15,000, being available in part up to incomes of £60,000.

Basis of scheme

The UK scheme is based on the principles that children have a right to the care and support of their parents, that parents have a responsibility to provide this, and that

government expenditure on meeting the needs of children should be minimised. The scheme is intended to contribute to the Department of Work and Pensions' objective of ending child poverty, and aims to be simple and fair.

Child support liability is in part determined by the amount of time that each parent spends with the child, but there is no legal link between the payment of or liability for child support and compliance with contact orders. That is, neither contact nor payments can legally be withheld in an attempt to make the other parent comply with orders or as a penalty for non-compliance.

Child support is calculated on net payer income, at a rate of 15% for one child, 20% for two children, and 25% for three or more. These percentages only apply to payers earning £200pw or above, with assessable income capped at £2000pw (all figures are net). If the payer is living in a new family with children, be they biological or step-children, these same percentages are allocated to the support of the new children *first* and this amount deducted from the payer's income, and then the percentages are applied again to the remaining income to determine the child support liability. For payers earning between £100 and £200pw, the first £100 of net income are disregarded and the following percentages applied to the remaining amount: 25% for one child, 35% for two children, and 45% for three or more. These percentages are reduced if the payer is living in a new family with dependent children. For payers earning less than £100pw or on benefits, a flat rate of £5.40pw applies (2004 figure – this amount is indexed to CPI). This is waived only in exceptional circumstances, or if a payer who would be liable for this rate due to their reliance on benefits cares for the child for 52 nights a year or more.

Where care is shared, child support payable is reduced by 1/7 for each night of weekly shared care, that is, reduced by 1/7 for 52 to 103 nights per year, by 2/7 for 104 to 155 nights, by 3/7 for 156 to 174 nights, and by 1/2 for 175 or more nights. The amount payable is also reduced by £7pw for each child the non-resident parent looks after for more than 175 nights. The amount to be paid is not usually reduced below the minimum £5.40, unless the payer is on benefits.

Where a payer is liable for child support to two or more former families, the amount of child support is calculated according to the total number of children, and then divided amongst the families on a pro rata basis. For example a payer who earns £300pw net and has one child to one former partner (A) and two children to a second former partner (B), with no children in their current family, is liable to pay 25% of his net income, so £75, of which £25 goes to A and £50 goes to B.

The level of support is intended to be quite minimal, and not more than half the cost of raising a child. Hence, the payee's income is not a factor in calculating liabilities. Payees can apply to a court for a 'top-up' order, where the basic child maintenance assessment is insufficient to cover school fees, extra costs incurred by children with disabilities, or because the non-resident parent has a high income. The allocation of assets in the divorce process can be taken into account in the calculation of child support liabilities. If the non-resident parent has substantial assets (apart from their home and business assets), this can also be taken into account, though income from savings and investments is not considered.

Departures from the formula may be made in special circumstances. These include:

- The payer has high costs related to seeing the child or children for whom maintenance is due (for example, travel costs)

- The payer has extra costs because a child who is living with them has a long-term illness or a disability
- The payer is still repaying a debt that they took on before separation from the parent with care, and that debt was for the benefit of the family or a member of the family
- Where the allocation of assets during separation was intended to provide support for the children
- Where the payer lives in a manner which belies their reported income.

Where the circumstances of a parent change (the non-resident parent's net income must change by more than 5%), they can request that the original decision be superceded. This can be done by telephone or in writing. Supercession decisions are subject to the normal method of appeal.

If a party to a CSA decision feels that it is wrong, they must, in the first resort, dispute the decision with the CSA. The decision is revised, and the liability may be changed. If a party still disagrees with the decision, they can appeal to an independent tribunal. (If a party attempts to appeal without first applying for the decision to be revised, the Appeals Unit will ask a decisionmaker if the decision can be changed through the first dispute mechanism.) If the decision is still disputed (for a matter at law, rather than administrative reason – simple errors can be corrected by the tribunal upon request), parties can appeal to a Child Support Commissioner. Commissioners are independent of the CSA; they are barristers, solicitors or advocates of not less than ten years' standing who are appointed by the Queen on the advice of the Lord Chancellor. In cases of special difficulty, a tribunal of Commissioners may sit on a case.

There is also an internal complaints procedure (for complaints relating to process and administration, rather than decisions and the scheme), with the possibility of appealing to the Independent Case Officer (outside of the civil service) and, in the last resort, to the Ombudsman.

Outcomes

Through courts, the UK CSA can garnishee earnings, seize assets, cancel driving licences, affect credit ratings and membership of professional organizations, and impose prison terms. Parents can also voluntarily have the CSA collect payments directly from their earnings.

In 2002–03, 76% of cases collected by CSA were compliant, with 73% of money collected. The average (mean) child support assessment in May 2004 was for £21.94pw, though this figure would be considerably higher if it took into account the minimum £5.40 payment required from many payers on benefits, even though they may be calculated to have no liability. Unfortunately, the CSA has been plagued by computer problems for 18 months, and more recent or detailed data is not available. This makes it impossible to assess the efficiency of the scheme or its effectiveness in terms of improving children's living standards (or to assess the effect on paying parents). That said, the fact that the government passes through only £10pw of child support to payees on income support means that payments made are certainly not improving living standards as much as they could for families at the lower end of the income spectrum. This limited pass-through is viewed poorly by both resident and non-resident parents, especially where the government is seen as retaining large amounts of money paid for the benefit of children.

The simplicity of the scheme is seen as a positive factor, especially given the extreme complexity of the previous scheme, which used more than 100 pieces of information about the parents' and children's circumstances to calculate liability, most of which could not be readily obtained. However, this simplicity also means that many of circumstances which affect parents' ability to pay, children's well-being, and quality of relationships are not able to be taken into account or must be addressed in departures from formula assessments.

Any analysis of the UK scheme must be very cautious, since the overwhelming source of frustration and complaint for all parties concerned is the extremely problematic computer system and its attendant administrative difficulties. These very basic problems could be camouflaging issues that are more inherent to the scheme and the calculation of child support.

New Zealand

History and Context

New Zealand's legal tradition is based on that of the UK. Until 1981, maintenance orders and agreements were determined and/or administered by the courts. In 1981, the Liable Parent Contribution Scheme was established to collect maintenance for the benefit of children living with income support recipients. The Scheme was administered by the Department of Social Welfare. Arrangements for parents not in receipt of income support continued to be made through the courts.

In 1992, the Child Support Scheme was established, administered by Inland Revenue. It is compulsory for custodial parents receiving income support to seek child support through the scheme. Other parents can use the scheme or can make voluntary or court-based agreements.

Due to increasing rates of separation and childbirth outside marriage, rates of sole parenthood have risen significantly in recent decades, and are higher than in Australia. Nearly half of mothers have spent some time as a sole mother before they turn 50. Young mothers are the most likely to be sole parents. Approximately 30% of sole parents have never lived with the other parent of their children. The rate of sole parenthood is much higher amongst Māori and Pacific Islands families.

The NZ government spends somewhat less per child than the Australian government does on providing family benefits and services. Families receive \$269 (all figures in New Zealand dollars, NZ\$1≈A\$0.95) a fortnight Family Tax Credit, which starts phasing out at a family income of \$9,500 and stops completely at \$17,500. They may also receive \$30 a fortnight per child in Child Tax Credit, diminishing from \$33,000 family income (higher where there is more than one child) and Family Support of \$144 a fortnight for the first child and \$94 a fortnight for each additional child, diminishing once family income reaches \$20,000. Importantly, if there is no private income in the household, parents are entitled to Family Support only. (The structure and levels of these benefits have recently changed substantially.)

Sole parents are eligible for Domestic Purposes Benefit, which is about \$250pw. Part-time work is required of the parent once the youngest child turns six, and full-time work is required when the youngest child turns fourteen.

If the payee is on sole parent benefit, all child support paid is retained by Inland Revenue to offset government expenditure on benefits, unless the payer pays more

than is dictated by the formula. In 2003–04, more child support was actually retained by government than passed on to payees (this includes penalties as well as formula-based liabilities).

Basis of scheme

The New Zealand scheme works on a percentage-of-payer-income method, with a self-support component, which component is increased for new families.

The steps are:

- 1) Work out the paying parent's taxable income
- 2) Take away a living allowance from that income
- 3) Multiply the result by a percentage based on the number of children for which the paying parent pays child support.

NZ uses the previous year's taxable income if the paying parent's income from the last tax year was only from salary, wages, interest or dividends. (Such parents are not required to lodge a tax return in NZ, but the information is reported monthly by employers.) 10 months worth of salary and wage details are known when the assessment is made, and 2 months are estimated so that the assessment can commence at the start of the financial year. When the end of the year is reached, the assessment is adjusted if the full year information varies the total income by more than \$500. The income used is from two taxable years ago (inflated by a factor) if the income included sources other than those listed, for example, rents or self employment. In most of these cases, the individual is required to lodge a tax return. The payee's income is not taken into account.

The deduction for living varies with the family arrangement of the payer. The living allowance is increased if the payer has a spouse (married or de facto), and further increased for each child living with the paying parent, whether a natural or step child of that parent. The allowances are based upon gross benefit rates. In 2005, the living allowance for the payer parent is \$12,578 for a single person, \$17,011 with a new partner, \$23,889 with a child, with further allowances of approximately \$2,500 for each additional child.

The percentages where the parent is not sharing care of the children (greater than 40%) are 18% for one child, 24% for two, 27% for three, and 30% for four or more.

Where care is shared (40% of nights or arrangements judged to be equivalent), each parent can apply for child support from the other. The percentages used are reduced by approximately 30%, to 12, 18, 21, and 24 respectively, with further increments for up to 8 children. The living allowance (for each parent) is assessed on the basis that the children are with them – so if there are two children in the shared arrangement, each parent will have a disregarded amount of \$25,746. Parents' liabilities are assessed against each other and the balance is due.

The maximum amount on which child support is assessed is 2½ times average income. For 2005 this is \$93,522, giving child support liabilities, in a situation without shared care or a new family, of \$14,570 for one child, \$19,427 for two, \$21,854 for three, and \$24,483 for four. The minimum amount for 2005 is \$688 (per payer, not per child or payee). This amount is adjusted annually. The average child support assessment for the year 2003–04 was \$2,391, with 1,095 people paying the maximum, and 64,600 assessed to pay the minimum amount (out of 141,962 child support payers).

If parents feel that the formula should not apply to them, they can request an administrative review. There are ten grounds for review, which are mostly similar to their Australian counterparts – they deal with situations where the costs of the children, the parent (including contact with the children), or the parent’s new family are higher than “usual”, and where the earning potential or assets of one of the parties has not been taken into account. Parents can make voluntary agreements, but may not agree to less than the formula amount if the payee is in receipt of income support.

If the payer expects their income to be more than 15% lower than the amount to be used in their assessment, in most cases they can provide an estimate of income (with some supporting evidence). This is reconciled with their actual income at the end of the year. A penalty may be payable for estimates less than 80% of actual income.

If a parent feels that an error has been made or that the assessment is wrong, they can object. They are encouraged to discuss the matter over the telephone first; if the issue cannot be resolved they must object in writing. The procedure for dealing with complaints is through internal (IR) custom service advisors and then through the Complaints Management Service.

Outcomes

In 2003–04, 73% of entitlements were collected, 61% on time in full. 86.4% of child support due has been collected since inception of the scheme in 1992. Child support is automatically deducted from social assistance benefits paid. Wages and bank accounts can be garnished and tax refunds and other due payments intercepted. Courts can, through contempt proceedings, sentence defaulters to community service.

Penalties for late payment are \$5 or 10%, whichever is greater, with an additional 2% for each extra month. These penalties are retained by the government, as are all payments made on behalf of children whose resident parent is in receipt of government benefits. This has an extremely negative effect on public perceptions of the scheme.

Overall, the scheme is very similar to that currently in operation in Australia (NZ’s scheme was closely modelled on the Australian version) and so positive and negative elements are also very similar, the demographic differences of the two countries notwithstanding.

Canada

History and Context

Canada is similar to Australia in that it is a society built on relatively recent immigration, largely from Britain and Europe, with a small indigenous population. The English (and larger) part of the country shares the legal and cultural tradition of Britain. Courts have for many years been authorised to order, during divorce proceedings, the payment of child support. However, until recently, orders could only be enforced through the courts and there was little government assistance, so little was paid.

The Federal government of Canada has responsibility for child support for children of de jure marriages. In 1997 it published child support Guidelines, which form the basis for the calculation of child support liabilities. They have been adopted, with some fairly minor adaptations, by the provinces for the purposes of calculating

support liabilities for children affected by de facto separation and for children whose parents have never lived together. Québec has its own guidelines, but the principles and objectives are largely similar to those of the federal Guidelines. Parents are encouraged to come to their own arrangements, and 90% of cases are settled by consent. There is no Child Support Agency: the Guidelines are just that, intended as a guide for judges and parents. There is, however, a system of Maintenance Enforcement Programs.

Like Australia, Canada has a mixture of systems that provide government benefits and services individuals and families. However, unlike Australia, Canada has no specific sole parent pension, nor additional tax benefit for stay-at-home mothers in intact families. In the past, sole parents of young children were declared “unemployable”, exempting them from the “search for work” test and allowing them to receive a higher level of benefit (though still below the poverty line) than people expected to look for work, but, since the 1980s, this is no longer the case, at least in most provinces. In 1994, about 57% of Canadian sole parents were employed, most of them on a full-time basis, and only 50% of sole parents received any government income assistance. Family benefits are also much lower than in Australia. They currently consist of a refundable tax credit for lower and middle income families, which is worth only about half of Australia’s FTB. Various provinces pay supplementary benefits, but these are minimal, except in Québec, where the maximum rates are worth about half Australian FTB (in addition to federal benefits).

Basis of scheme

The Canadian Child Support Guidelines aim:

- (a) to establish a fair standard of support for children that ensures they continue to benefit from the financial means of both spouses after separation;
- (b) to reduce conflict and tension between spouses by making the calculation of child support orders more objective;
- (c) to improve the efficiency of the legal process by giving courts and spouses guidance in setting the levels of child support orders and by encouraging settlement; and
- (d) to ensure consistent treatment of spouses and children who are in similar circumstances.¹

The Guidelines seem to be effective in meeting these aims, with the Department of Justice saying that most parents are now setting child support amounts without going to court.

The system is based on a modified income-shares model. Parents are required to contribute to the assessed cost of the child (from tables compiled from economic research on the costs of children at different income levels) according to their capacity. The resident parent’s income does not affect the payer’s liability, except in Québec – that is, except in Québec, the tables show the payer’s share of the costs only. This is justifiable on the grounds that, if the costs of children are calculated on the parents combined incomes, only very rarely will the payee have an income sufficient to reduce the payer’s liability as a percentage of income. Also, the amounts

¹ Department of Justice Canada (2002a), Vol I p5

indicated in the tables are intended to be minima – parents are encouraged to make their own arrangements for more than basic amounts. Additional costs (child care, etc) can be added to the base amounts provided in the tables.

Liabilities are generally calculated on the basis of gross income (with some allowable deductions), although some government payments, such as family benefits, are not usually included. There is a minimum personal reserve (set at approximately unemployment benefit level) below which nothing is payable. In Québec, this benefit-level self-support amount is deducted from both parents' incomes before calculations are made; in other provinces, the reserve is reflected in low or nil liabilities at low payer incomes. There is an additional rule in Québec, that child support liability cannot exceed 50% of disposable income (with court discretion in case of large assets, for example). The tables only go up to payer incomes of \$150k – court discretion applies above this level (1.3% of cases).

Child support is generally considered as income when calculating the payee's income for the receipt of various government benefits and subsidies, though some provinces allow a "pass-through" (that is, amount exempt from clawback or consideration). The National Child Benefit is calculated on family income, and (non-taxable) child support is not included.

There are formula-based adjustments for shared care only in Québec. Where payers have more than 40% care, each parent's calculated basic liability is multiplied by the time the child spends with the other parent and liabilities are offset, then additional costs (music lessons, childcare, etc) are divided according to the income ratio. Payers with contact of 20–40% have their basic liability reduced by the percentage of care they have above 20%, for example a payer with 32% care has his or her liability reduced by 12%. In other provinces, arrangements for shared care usually only apply where each parent has at least 40% of care and are by court discretion; rulings range from leaving the table amount stand, if the "resident" parent's costs are not significantly reduced and the other parent's costs not greatly increased, to establishing a much higher cost and dividing that. About 6% of cases involve shared care, which is similar to the Australian situation. In cases of split custody, each parent's liability towards their non-resident child(ren) is calculated and the liabilities are offset.

Having a second family does not automatically reduce the liability. Either parent can apply for a departure on the grounds of "undue hardship", and the support of other children is a basis on which this may be claimed.

In Canada, step-parents can be found liable for child support. The Divorce Act defines a child of the marriage (a child eligible to receive child support) as a child of two spouses or former spouses, including "any child of whom one is the parent and for whom the other stands in the place of a parent." Once it has been established that a step-parent has been acting *in loco parentis*, the step-parent can be found liable by the court to pay child support, though the court may order a lower amount, or payment for a limited amount of time, with the intention of allowing the biological parents of the child time to adapt to providing financial support. Courts use a variety of factors in determining liability, including the step-parent's degree of involvement in the life of the child, with the wellbeing of the child as the paramount consideration. Anyone judged to be acting *in loco parentis* can also apply for custody or contact.

Grounds for departure from the guidelines include:

- when children have reached the age of majority (but are still dependent),

- when there are additional expenses (which are defined restrictively, and include childcare, medical insurance and care, and extraordinary educational expenses),
- when there is undue hardship (such as indebtedness for family reasons, or a high cost to exercise the right of access to the children being supported, or the burden of other support obligations – if the payee household faces greater hardship than the payer household, on an equivalised household income basis, the claim will not be granted), and
- when there are high incomes.

Courts can exercise discretion or depart entirely from the formula.

Since decisions are made by courts (following guidelines), appeal and application for variation is through the court. Some provinces are setting up more administrative systems for variations.

Outcomes

The Scheme enjoys reasonable public perceptions, with about 75% of stakeholders thinking that the Guidelines are fair. 90% of cases are settled by consent, which seems to show reasonable acceptance of the Guidelines in practice, and may indicate that the Scheme is achieving its objective of increasing parental co-operation. However, the 40% threshold that the anglophone provinces set for determining shared care is problematic – it is seen as arbitrary, creating a cliff effect, and parents say that it is difficult to determine if it has been reached. The Scheme is also criticized for linking financial incentives to time spent with children, when child support and child custody are supposed to be separate issues. This can lead to conflict. In addition, the Canadian system is still largely reliant on the courts – this discretion lends flexibility to the Scheme, but also leads to inconsistency, and it is time-consuming and expensive.

Liabilities produced by the guidelines vary between provinces. On average for the anglophone provinces, a payer with a gross income of C\$15,000 (all figures in Canadian dollars, C\$1≈A\$1.04) would be liable, according to the tables, for about 9% of income, or \$1,350, for one child, up to \$3,450 or 23% for six (this represents from 11% [for one child] to 28% [for six] of net income). A payer on \$80k would be liable for about 10% gross for one child, up to 30% for six (15-47% of net). The median award for all cases in 2002 was \$427 a month, with the median for payer income being \$36,000 (mean \$43,532) and \$25,140 for payees (mean \$30,374). The amounts included in the tables are generally seen as a minimum amount, with courts often awarding more. Only 10% of paying parents report an income of less than \$15,000, compared with 40% in Australia (dollars and benefit levles are roughly equivalent). In Québec, a payer earning \$15,000 a year gross, if the payee had the same, would be liable for about \$2670 a year, unless the situation involved shared care.

The Government of Canada has authority to trace payers through federal databases and to garnishee and attach federal salaries and to divert pension benefits payable under the federal Superannuation Act to satisfy family support orders. To help families whose support payments are in persistent arrears, there is a special provision to allow pensions to be diverted before the pension becomes payable. Governments can also deny or suspend passports and specific federal licences to encourage compliance with family support orders and provisions. Defiance of a court order can

result in incarceration. Various provinces also have access to their provincial databases, such as motor registry, and can trace payers and suspend licences.

There are no readily available national statistics on compliance. It is estimated that 25–30% of cases registered with the Maintenance Enforcement Programs are fully compliant, and another 60% are compliant to some degree. Of course, cases with a history of non-compliance or where payees fear default are more likely to be registered for state enforcement. Regular payment appears to be much higher (about 2/3) amongst parents who come to a negotiated agreement than amongst those subject to a court order (43%). Regular payment is strongly associated with regular contact.

United States of America

History and Context

In the US, legislative responsibility for the payment of child support after family separation has been retained by individual states, though the *Family Support Act of 1988* required the states to establish child support schemes that followed some very basic guidelines. Prior to this, child support awards were at the discretion of the courts, and were inconsistent, minimal, and poorly enforced. In 1996, Congress passed the *Personal Responsibility and Work Opportunity Reconciliation Act*, which gave responsibility for welfare payments to the states and increased child support enforcement measures.

While rates of some taxes and levels of state provision also vary between states, it is possible to broadly outline how the context of the US schemes is different from the Australian context. Cash family benefits in the US are very limited and state provision of health services is restricted to those on low incomes – provision of health care for children is therefore often a requirement of child support guidelines. There is no direct program of income support for children at the national level. Food stamps support some families on very low incomes and there are some limited tax concessions for children. Child support is often completely clawed back if the payee is in receipt of social assistance.

The US has a high rate of lone parenthood and of never-married mothers – in 2001, 26.5% of all families were lone-parent families, and approximately 40% of these parents had never married. The majority (around 75%) of single parents are in paid employment, although rates appear to be declining slightly, especially for never-married mothers.

Bases of Schemes

The variety of child support schemes existing across the states makes it impossible to describe any sort of “average” or “usual” system. We are therefore examining the schemes of three states, Georgia, Wisconsin, and Montana, which are examples of the income-shares, percentage-of-obligor-income, and Melson models respectively. We also look at California, which has a different type of scheme. The income shares model is now predominant in the US, where it is used in 35 states. The federal government guidelines include that any scheme should take account of both parents’ incomes, and increasing numbers of states are doing this explicitly; in recent years, several states have moved from a percentage-of-obligor-income model to an income-shares model or a variant thereof. Most states have a self-support allowance for the

paying parent, though it is generally significantly lower than the Australian self-support amount.

Georgia

Georgia has very recently passed new legislation, which will base their child support scheme on an income-shares model, using gross income with some allowable deductions. The guidelines include tables of amounts giving basic child support obligations according to combined parental gross income. The schedule is “based on economic data which represents adjusted estimates of average total household spending for children between birth and age 18, excluding child care, health insurance, and health care costs in excess of \$100 per year.” Costs of contact are not included.

The parents’ combined income is located in the table and the amount for the relative number of children is split between the parents according to their relative incomes. Resident parents are assumed to meet their share of the basic amount in their care of the child. There is no separate self-support amount, but one is effectively built into the amounts in the tables. If the payer has an income below the federal poverty threshold, he or she may apply to the court for a departure from the tabled amounts.

Reasonable employment-related childcare costs, health insurance, extra health care costs, and “extraordinary expenses”, such as private school fees and costs of transporting children between parents’ homes are added to the parents’ basic obligations pro rata to the incomes. Extraordinary expenses are not presumptive and must be explicitly set out by the court as a departure.

Shared care is recognised by reducing the liability of the payer according to the amount of contact, in bands as follows: 100–136 days, 10%, 137–151 days, 20%, 152–166 days, 30%, 167–181 days, 40%, and 182+ days, 50%. The reduction applies to the basic obligation as stated in the table only, not to extra costs which are still allocated pro rata on income. There is no reduction for cases where liability is calculated on the “low-income obligor” model, as the amount awarded is explicitly “below actual child costs”. If the payer spends fewer than 60 days per year with the child, their liability may be increased in a similar fashion.

An adjustment made for biological or adopted (non-child support) children living with each parent by deducting an amount from their gross income as used in all calculations. The amount deducted is the same as the basic child support obligation (from the tables) for the relevant number of children if the other parent of those children does not live with the parent and children, or one half of the obligation for such children based on the combined income of the parents if they live together with the children.

For payers with obligations to multiple families, child support previously determined (for other children) is deducted from gross income. In cases of split custody, liability for each child is calculated separately and offset.

Wisconsin

In Wisconsin, liability is based on percentage of gross payer income. Some social security benefits, including food stamps, do not count towards income. The following percentages applied to the payer’s income: 17% for one child, 25% for two children, 29% for three, 31% for four, and 34% for five or more. There is no self-support component, and the payee’s income is not usually considered. Courts generally use

discretion for payer incomes below \$950/month (though it should be noted that they largely still make much higher awards than in similar cases in Australia) and for very high incomes.

Where both parents have shared care of at least 25% of the time, each parent's liability to the other is calculated. The relevant percentage is applied to each parent's income. These amounts are multiplied by 150%, to take account of the fact that it costs significantly more to care for a child in two households than in one. Each parent's resulting amount is multiplied by the percentage of time that the other parent cares for the child, giving their liability. The amounts are offset and any balance is payable. If the resulting payer is also classified as a low-income payer, the liability may be the lower amount resulting from this calculation or from the standard (non-shared care) calculation.

Where a payer has legal obligations to children in different families, the children are put in order by dates of obligation, which are the children's birthdays for marital children or dates of court orders for non-marital children. The amount of support due to children in the first family is calculated as normal. This amount is subtracted from the payer's assessed income for the purposes of calculating support due to the children in the second family. The process is repeated for any subsequent families. These rules apply to *all* children for whom the payer has a legal obligation, that is, it includes biological children in a new intact family. However, because of the ordering process, there will effectively be a reduction for these children only where another parent has applied for support for a non-marital child after the birth of the new children.

Montana

In Montana, the Melson formula is used. It is a two-step process that allocates a basic cost of the child between the parents, and then uses the Standard of Living Adjustment (SOLA) to increase liabilities for higher-income parents.

First, each parent's gross income, from essentially all sources is calculated. Special rules, designed to circumvent income concealment, apply to business operators and the self-employed. A personal allowance of 1.3 times the federal poverty index guideline for a one-person household, or \$11,674 in 2005 (all figures in US dollars, US\$1~A\$0.78), is from each parent's income. The legislation makes it clear that this is "a contribution toward, but is not intended to meet, the subsistence needs of parents". The basic cost of the child(ren) is given as 0.3 times the parents' personal allowance amount (\$3,502) for the first child, and 0.2 times this amount (\$2,335) for each subsequent child. This basic cost is apportioned between the parents according to the ratio of their incomes after the deduction for self-support.

The contribution required of low-income parents is calculated in a different way. Parents with an income below the self-support amount are assessed as having a liability of between 0% and 12% of their actual income; the percentage rises as income rises. In addition, parents who have an income of more than the self-support amount but who would be liable for less than 12% of their income are required to pay the greater of (a) 12% of their income or (b) the difference between their income and the self-support amount.

The purpose of the SOLA is to ensure that children enjoy the non-resident parent's higher living standard if he or she earns more than moderate income. If the parent has income after deducting the self-support amount and their child support liability, this

remaining amount is subject to the SOLA. A percentage is applied to the amount according to the number of children to be supported: 14% for one, 21% for two, 27% for three, 31% for four, continuing up to eight or more. The amount thus generated is added to the parent's liability. Where the parent must travel more than 2,000 miles per year for contact purposes, the cost of transportation (but not accommodation or other expenses) is deducted from the amount subject to the SOLA.

For shared care cases of more than 110 days/year (30%), each parent's obligation to the child is calculated and the liabilities offset. Where a parent has a pre-existing child support obligation to another family, this amount is deducted from their income before the new assessment is made. Where a parent has a legal obligation to support other children not the subject of an order, whether these children live with the payer (in a "second family") or not, an amount equal to one half the basic child cost (as described above) for each child is deducted from their income.

California

California's system uses a very complicated formula. It is not an income-shares formula because both parents' incomes are used in calculations only where the payer has some care of the children. The payer's liability is calculated by applying a child support percentage determined by the parents' joint net income to the payer's income. The child support percentage decreases as net parental income rises, by brackets, to recognise that higher-income parents spend less on children as a percentage of their income. It is 25% at middle incomes.

Where the payer has any care of the child, an adjustment is made by deducting the payer's fraction of care multiplied by the parents' joint net income from the payer's income, before multiplying by the child support percentage. There is no special arrangement for more equally shared care, but the formula feeds in the percentage of care of the higher income earner twice – once to determine any reduction for the payer on the basis of care, and once in a way that affects the child support percentage, in order to recognise the increased costs where children live in two households.

Where there is more than one child, the final amount to be paid is multiplied by a factor: 1.6 for two children, 2 for three children, 2.3 for four children, up to 2.86 for 10 or more children.

There is no self-support amount, but payers with net incomes of less than \$1,000/month are entitled to an adjustment according to their income. Judges can also vary amounts by discretion. Where the payee has more income than the payer, calculations are done slightly differently.

There is no automatic deduction for new children, but payers can apply to the court for special consideration on hardship grounds. If a payer is making child support payments to children in other families, the amount paid can be deducted from net income.

Outcomes

Individual states do not necessarily collect or publish figures on child support that is awarded or paid. Census figures for the whole of the US show that, in 2002, approximately 59% of resident parents were awarded child support, though many other parents report informal arrangements. The average (mean) amount awarded was \$5,044 and the average amount received was \$3,160. 45% of parents received

the full amount due. (As these figures are self-reported by payees, they are likely to somewhat understate the amounts, and may include in-kind support.)

Because child support awards are made by courts rather than by an administrative procedure, the process is subject to the delays and expenses of the court system. Many parents find it difficult to have their awards adjusted when their circumstances, or those of the child or the child's other parent, change. In addition, courts appear to be reluctant to reduce awards if the payer's income is reduced. Even imprisonment often does not result in a zero liability. These factors appear to lead to cases where payers accrue large debts that they truly do not have the means to pay, for which they are often imprisoned. It is difficult to see how this is in the best interests of children.

Norway

History and Context

In Norway, parents have an explicit duty to maintain and educate their children according to the child's ability and aptitude and their own financial circumstances, unless the child itself is possessed of the necessary means. Both parents have an obligation to contribute what is necessary, each according to his or her ability. Where one or both of the parents do not live with the child, fixed contributions to maintenance and education are payable. It is the child who has the right to this contribution, though, in practice, it is usually paid to the resident parent.

While parents retain this legal duty, they receive substantial financial help from government. Levels of general government assistance to families are somewhat higher than in Australia, with a universal child benefit (like FTB) paid at the rate of about NOK970/month/child (NOK1=~A\$0.20), more public daycare for young children and a 64% rebate on childcare costs, and/or an additional cash benefit paid for each child between the ages of 1 and 3, as well as paid parental leave to cover the first year of the child's life and other benefits. Lone parents receive additional cash benefit as though they had one extra child (for example, a sole parent with two children receives the amount that a partnered parent would for three children). Low-to-middle-income lone parents are also eligible for "advance maintenance", a payment (of about A\$240/month in 2004) guaranteed by the government where payers have a poor history of payment; this advance payment is then recouped from child support actually paid. The advance maintenance amount is also still available to the resident parent even if the father is unknown. While there is no dedicated lone-parent income support payment, lone parents are generally eligible for benefits that are worth almost twice the Australian Parenting Payment Single amount, at least until their children are eligible for school or kindergarten. Some of these benefits are "clawed back" from child support paid above the level of advance maintenance, and parents receiving them are obliged to use the state collection agency. Approximately 70% of lone parents in Norway are in paid employment.

Basis of scheme

Since 2003, liabilities have been assessed on an income shares, cost of children model, based on a family with a "reasonable" standard of living. The costs of children used are "standard" costs, as calculated by the National Institute for Consumer Research (SIFO), rather than varying according to family income. (It should be noted that this is a more reasonable approach in Norway than it would be in

Australia, due to the social structure of the countries.) Costs are calculated on the basis of consumption expenses, living expenses, and any costs of child care. Child Benefit payments received by the parent are deducted from the gross costs, and the net cost is divided between the parents. The assessed costs of children increase with the age of the child and are divided into three age groups (0-5 years, 6-10 years and 11 years and over).

The parents may make their own agreement regarding maintenance contributions to the child, but there are provisions to ensure that amounts are not so low as to have a negative impact upon child well-being.

There is no minimum liability. A maximum of 25% of income can be imposed as a liability, but parents can agree to more if they wish. This limit is intended to ensure that sufficient support is available to any children that the payer may have in a new family.

Liability is reduced to take account of contact, according to how many days per month the child spends with the payer, by brackets of 2-3, 4-8, 9-13, and 14-15 nights per month.

Outcomes

The provision of advance maintenance, in addition to other child benefits, to those children most at risk being left with inadequate income is a contributing factor to the very low level of child poverty in Norway – Unicef estimated it to be around 4% in 2000.

In addition, rates of parent-child contact in Norway are very high – 85–90% of children have seen their non-resident parent in the last year, and 70–75% have had contact in the last month. It also appears that the majority of non-resident parents spend more time with their children than is stipulated in contact orders/arrangements. It is not possible to ascribe this high level of contact to the child support scheme in isolation, but the simplicity and apparent fairness of the scheme may be a factor, as may as the high level of government support, as both could be expected to reduce parental conflict. The majority of parents report satisfaction with their contact arrangements.

Because the new scheme was only introduced in late 2003, statistics on amounts being transferred are not yet available.

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