
Who Goes to Jail for Child Support Debt?

Elizabeth Cozzolino

INTRODUCTION

Child support enforcement aims to increase child well-being by ensuring that noncustodial parents contribute to children's material well-being. Yet owing child support debt puts nonresident parents at risk for going to jail, triggering potentially negative collateral consequences, particularly on children. Understanding more about jail for child support nonpayment, therefore, is important for child well-being.

Enforcing child support orders is connected to both the welfare and criminal justice systems. When a parent with a child support order receives public assistance, some of the child support goes to the state rather than all of it going directly to the parent. In fact, about one quarter of the approximately \$144 billion in child support debt is owed to the state to reimburse welfare payments.

About 70 percent of the 15 million open child support cases owe debt. Noncustodial parents who fail to make their court-ordered child support payments can be found in contempt of court and incarcerated for their failure to pay. Being jailed for child support debt is a multistep process. Noncustodial parents must first live apart from their children; next, they need to have a formal child support order; next, they need to accrue child support debt. Only this last group is at risk of going to jail for not paying their child support debt.

Both the state—because it can recoup some of the costs of public assistance—and custodial parents who are owed child support have incentives to pursue child support debt. Jailing for child support nonpayment is just one of many mechanisms of child support enforcement, but little is known about how frequently this tactic is used or against whom.

The quality of the relationship between the mother and father of the child could shape a parent's progress into becoming at risk for jail for child support debt. Many custodial parents are owed child support debt, but not all pursue this debt. A mother might seek to enforce a child support order against the father of their child when the relationship between them is poor or when either parent has moved on with a new partner or new children.

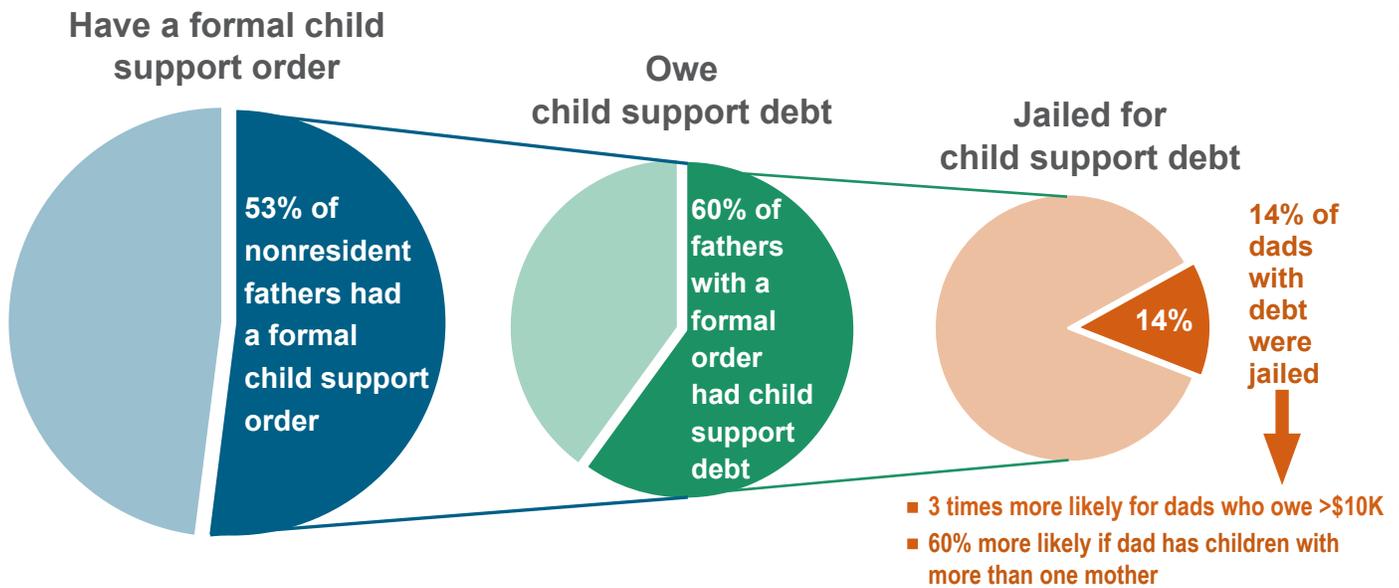
Similarly, conflict and mistrust between parents is one reason fathers give for their hesitation to pay child support. Also, when a father has a new partner and children, he often “starts over” with this new family, which could result in a lower investment in the first partner and children. This family complexity may also affect his ability to pay, as new residential children must compete with his other nonresidential children for family resources.

This brief describes a study of who goes to jail for nonpayment of child support, focusing on the factors that make it more likely for someone to be sent to jail for child support debt. Data come from four waves of the Fragile Families and Child Wellbeing Study (FFCW), a sample of nearly 5,000 families, when focal children were one, three, five, and nine years old.

KEY FINDINGS

- > 53% of children in the FFCW sample had a nonresident father by the time they were 9 years old.
 - > 52% of nonresident fathers had a formal child support order
 - > 60% of fathers with child support orders had child support debt
 - > **14% of fathers with child support debt – 1 in 7 – were jailed for that debt** (see figure)
- > Two main factors increase the risk to go to jail for unpaid child support.
 - > Amount of money owed: Dads owing more than \$10,000 in child support debt are more than three times as likely to go to jail for unpaid child support, compared to those owing less than \$500.
 - > Children with other women: Dads who have children by more than one mother have 60% higher odds of going to jail for unpaid child support, compared to those with children by only one mother.
- > In addition, fathers are more likely to have a formal child support order and accrue child support debt if the moms have received public assistance and there is conflict in their relationship with the mom.

WHO GETS JAILED FOR CHILD SUPPORT DEBT?



This figure shows the multistep process of being in the pool of noncustodial fathers¹ at risk of being jailed for child support debt and who among child support debtors are more likely to go to jail.

¹ Findings focus exclusively on noncustodial fathers; noncustodial mothers in the FFCW is too small for analysis.

POLICY IMPLICATIONS

The child support enforcement system is a civil entity which may refer noncustodial parents for nonpayment of child support to the courts. Most frequently, these are civil courts, which may not provide the same due process protections as criminal courts, such as the right to a court-appointed attorney. This study estimated that 14% of child support debtors were jailed for nonpayment of child support. Extrapolating this figure to the full population of child support debtors (11 million individuals in 2014), this means as many as 1.5 million parents could be getting sent to jail for unpaid child support. These incarcerations could constitute a huge financial cost to the state.

Parental incarceration could also have negative impacts on children. Child support policy aims to increase the wellbeing of children by ensuring that both parents contribute to their upbringing. However, incarcerating parents for nonpayment of child support could be triggering negative consequences for children—contrary to the child support system's stated goal.

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REFERENCE

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