

**APPENDIX A**

**State “Voluntary Unemployment” Policies**

<b>State</b>	<b>Cites</b>	<b>Does the law permit incarcerated parents to obtain a reduced or suspended support order?<sup>1</sup></b>
Alabama	<i>Alred v. Alred</i> , 678 So.2d 1144 (Ala.Civ.App.,1996); <i>Grogan v. Grogan</i> , 608 So.2d 397 (Ala.Civ.App.1992); <i>Rotar v. Weiland</i> , 591 So.2d 893 (Ala.Civ.App.1991)	Yes
Alaska	<i>Bendixen v. Bendixen</i> , 962 P.2d 170 (Alaska, 1998)	Yes
Arizona	<i>State ex rel. Dept. of Economic Sec. v. McEvoy</i> , 955 P.2d 988 (App. Div.1 1998); <i>State ex rel. Dept. of Economic Sec. v. Ayala</i> , 916 P.2d 504 (Ariz. App. Div. 1, 1996)	Yes
Arkansas	<i>Allen v. Allen</i> , 82 Ark. App. 42, 110 S.W.3d 772 (Ark. App. 2003); <i>Reid v. Reid</i> , 944 S.W.2d 559 (Ark. App. 1997); <i>Reid v. Reid</i> , 57 Ark. App. 289, 944 S.W.2d 559 (1997).	No. While there may not be an absolute ban against reducing orders, the courts do not appear to favor modification.
California	<i>In re Marriage of Smith</i> , 90 Cal. App. 4th 74 (Cal. App. 5 Dist. 2001); <i>State of Oregon v. Vargas</i> , 70 Cal.App.4th 1123 (Cal.App.5.Dist. 1999)	Yes
Colorado	<i>In re Marriage of Hamilton</i> , 857 P.2d 542 (Colo. App. 1993)	Yes
Connecticut	C.G.S.A. §46b-215e, as amended by P.A. 06-149 (2006).	Yes. However, a modification based solely on loss of income due to incarceration may not be granted if there was an offense against the custodial parent or child.
Delaware	<i>Division of Child Support Enforcement, ex rel. Harper v. Barrows</i> , 570 A.2d 1180 (Del. 1990)	No
District of Columbia	D.C. Official Code, title 23, chapter 1; <i>Lewis v. Lewis</i> , 637 A.2d 70 (D.C., 1994)	Yes. By statute, criminal court judges are required to inform defendants that they may request modification at the time of sentencing. The court must have petitions available for the defendant to complete and file in open court.
Florida	<i>Department of Revenue v. Jackson</i> ,	Yes. Modification hearing is held

	846 So.2d 486 (Fla., 2003)	post-incarceration.
Georgia	Georgia O.C.G.A. 19-6-15(f)(4)(D); <i>Staffon v. Staffon</i> , 587 S.E.2d 630 (Ga. 2003)	No
Guam		Yes
Hawaii		Yes
Idaho	<i>State Child Support Services v. Smith</i> , 40 P.3d 133 (Idaho App. 2001); <i>Carr v. Carr</i> , 779 P.2d 429 (Idaho App. 1989); <i>Nab v. Nab</i> , 757 P.2d 1231 (Idaho, 1988)	Yes
Illinois	<i>In re Marriage of Hari</i> , 804 N.E.2d 144 (Ill. App. 4 Dist. 2004); <i>In re Marriage of Burbridge</i> , 738 N.E.2d 979 (Ill. App. 3 Dist. 2000); <i>People ex rel. Meyer v. Nein</i> , 568 N.E.2d 436 (Ill. App. 4 Dist. 1991)	Yes
Indiana	<i>Lambert v. Lambert</i> , 861 N.E.2d 1176 (Ind. 2007)	Yes
Iowa	<i>In re Marriage of Barker</i> , 600 N.W.2d 321 (Iowa 1999)	Yes
Kansas	<i>Matter of Marriage of Thurmond</i> , 265 Kan. 715, 962 P.2d 1064 (Kan. 1998)	No
Kentucky	<i>Com. ex rel. Marshall v. Marshall</i> , 15 S.W.3d 396 (Ky. App., 2000)	Yes
Louisiana	<i>State v. Battson</i> , 828 So. 2d 132 (La. App. 2002); <i>Savage v. Savage</i> , 821 So. 2d 603 (La. App. 2002); <i>Toups v. Toups</i> , 708 So.2d 849 (La. App. 1st Cir., 1998); <i>State v. Nelson</i> , 587 So.2d 176 (La. App. 1991)	No. While there may not be an absolute ban, the courts do not appear to favor modifications.
Maine	<i>Hebert v. Hebert</i> , 475 A.2d 422 (Me., 1984); <i>Pendexter v. Pendexter</i> , 363 A.2d 743 (Me. 1976)	Yes
Maryland	<i>Willis v. Jones</i> , 667 A.2d 331, 339 (Md. 1995)	Yes
Massachusetts		Yes
Michigan	M.C.L. 552.517; <i>Pierce v. Pierce</i> , 412 N.W.2d 291 (Mich. App. 1987)	Yes. By statute, the Friend of the Court must review the support order within 14 days of learning that a parent will be incarcerated for more than a year.
Minnesota	<i>Franzen v. Borders</i> , 521 N.W. 2d 626 (Minn. Ct. App. 1994); <i>State ex rel. Carlton County v. Greenwood</i> , 398 N.W.2d 636 (Minn. App. 1987)	Yes
Mississippi	<i>Avery v. Avery</i> , 864 So.2d 1054 (Miss. App. 2004)	Yes
Missouri	<i>Moran v. Mason</i> , 236 S.W.3d 137 (Mo. Ct. App. S.D. 2007); <i>Oberg v. Oberg</i> , 869 S.W.2d 235 (Mo. Ct. App.)	Yes

	1993)	
Montana	<i>Mooney v. Brennan</i> , 848 P.2d 1020 (Mont. 1993)	No
Nebraska	<i>State ex rel. Longnecker v. Longnecker</i> , 660 N.W.2d 544 (Neb. App., 2003); <i>State v. Porter</i> , 259 610 N.W.2d 23 (Neb., 2000); <i>Oberg v. Oberg</i> , 869 S.W. 2d 235 (Mo. Ct. App. 1993)	No
Nevada		Yes
New Hampshire	<i>Rossino v. Rossino</i> , 153 N.H. 367 (N.H. 2006); <i>Noddin v. Noddin</i> , 123 N.H. 73 (N.H. 1983)	Yes
New Jersey	<i>Hallowell v. Hallowell</i> , 741 A.2d 638 (N.J.Super.A.D., 1999)	Yes
New Mexico	<i>Thomasson v. Johnson</i> , 903 P.2d 254 (N.M. Ct. App. 1995)	Yes
New York	<i>Matter of Knights</i> , 522 N.E.2d 1045 (N.Y. 1988)	No
North Carolina	N.C.G.S. 50-13.10(d)(4); <i>Orange County ex rel. Byrd v. Byrd</i> , 501 S.E.2d 109 (N.C. Ct. App. 1998)	Yes
North Dakota	<i>Surerus v. Matuska</i> , 548 N.W.2d 384 (N.D. 1996)	No. The courts impute minimum wage.
Ohio	<i>Cole v. Cole</i> , 590 N.E.2d 862 (Ohio App. 6 Dist. 1990)	Yes
Oklahoma	<i>State ex rel. Jones v. Baggett</i> , 990 P.2d 235 (Okla. 1999)	No. Typically, the courts impute minimum wage, although there is no absolute ban on modifications.
Oregon	O.R.S. 416.425(12); O.A.R. 137-055-3300; <i>Matter of Marriage of Willis</i> , 840 P.2d 697 (Or. 1992)	Yes
Pennsylvania	Pa.R.C.P.1910.19 (“Recommendation 75”); <i>Nash v. Herbster</i> , 932 A.2d 183 (Pa. Super., 2007); <i>Yerkes v. Yerkes</i> , 782 A.2d 1068 (Pa. Sup. Ct., 2003); <i>Newman v. Newman</i> , 597 A.2d 684 (Pa. Sup. Ct., 1991).	Yes
Puerto Rico		
Rhode Island		Yes
South Carolina		No. While there may not be an absolute ban, modifications are disfavored.
South Dakota	S.D.C.L. § 25-7-6.10(6); <i>Gisi v. Gisi</i> , 731 N.W.2d 223 (S.D., 2007)	No
Tennessee		Yes
Texas	<i>In Interest of M.M.</i> , 980 S.W.2d 699 (Tex. App.-San Antonio 1998); <i>Hollifield v. Hollifield</i> , 925 S.W. 2d 153 (Tex. App. 1996)	Yes

Utah	U.C.A. § 78-45-7.5; <i>Proctor v. Proctor</i> , 773 P.2d 1389 (Utah App., 1989)	Yes
Vermont		Yes
Virginia	Code of Virginia §20-108.2(B)	No. Legislation has been introduced to allow review, but has not passed.
Virgin Islands		
Washington	<i>In re the Marriage of Blickenstaff &amp; Blickenstaff</i> , 859 P.2d 646 (Wash. Ct. App. 1993)	Yes
West Virginia	<i>Adkins v. Adkins</i> , 221 W.Va. 602, 656 S.E.2d 47 (W.Va., 2007)	Yes
Wisconsin	<i>Rottschet vs. Dumbler</i> , 664N.W. 2d 525 (Wis. 2003)	Yes
Wyoming	<i>Glenn v. Glenn</i> , 848 P.2d 819 (Wyo. 1993)	Yes

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<sup>1</sup> Based on survey responses.

## APPENDIX B

### **Modification of Support Orders During Incarceration**

**Alaska:** Through a jail outreach program, child support staff visit inmates to provide general information about child support services, as well as information about modification petitions, default administrative order reviews, and other procedures. During staff visits, inmates are encouraged to make a payment every month, no matter how small.

**Arizona:** Through computer interfaces with the corrections department, the child support program identifies cases of incarcerated parents and submits them for review and adjustment. After the child support program sends a notice to the custodial parent and verifies that the inmate has no income-generating resources, the case is referred to the court with a recommendation to modify the order. Orders are routinely reduced to zero, with reinstatement to the previous amount upon release. Legislation was introduced recently to change from a judicial to administrative procedure; however, the bill did not pass.

**California:** When a non-custodial parent is incarcerated, the Los Angeles County child support program sends a notice to both parents, notifying them of plans to modify their child support order. The county uses a form called “Incarcerated Parents Request of Modification of Child Support and Information Sheet.” The case is placed on an expedited court calendar and, if neither parent contests, the order is modified. Orders are typically modified to zero. This process is completed in an average of 26 days.

**Colorado:** In 1999, the state child support program collaborated with four county programs and the corrections department to implement an HHS-funded demonstration project. An electronic data match was used to identify incarcerated parents with child support orders. Once identified, incarcerated parents were formally notified of their option to request modifications of child support orders to \$20.00 per month during their incarceration.<sup>1</sup>

**Connecticut:** A state statute directs the court to establish and modify support orders based on actual, not imputed, income during incarceration. Orders can be adjusted for 12 months after initial entry and notice. The child support program must make a motion to adjust if it determines that additional information indicating inability to pay justifies adjustment.<sup>2</sup>

**District of Columbia:** Criminal court judges are required to inform non-custodial parents who are sentenced to prison for more than 30 days that they may petition for modification or suspension of payments during incarceration. The court must have petitions available for the sentenced individual to complete and file in open court.<sup>3</sup> In

2006, the District of Columbia received an HHS grant to provide modification assistance to newly sentenced non-custodial parents, and parents already in prison.<sup>4</sup>

**Illinois:** From 2002 to 2004, the child support program conducted an HHS-funded demonstration project called the “Father Reintegration Project.” As part of this initiative, the child support program collaborated with the corrections department to provide general and case-specific information about child support, responsible fatherhood classes, and case management services in two transition centers. Project staff helped inmates determine their child support status, and assisted those with existing orders to request a modification. Modifications were handled through processes developed in coordination with the Circuit Court of Cook County. Recently, the child support program began a new initiative, “Project Child,” in partnership with correctional facilities in downstate Illinois, to assist inmates in applying for downward modification if their child support is at least \$100 per month and they have a minimum of 2 years remaining on their sentence.

**Indiana:** An Indianapolis public-private collaboration funded through a SIP grant was created to implement the 2007 *Lambert* decision overturning the state’s traditional “voluntary unemployment” standard and allowing modification of support orders during incarceration.

**Iowa:** The child support program is working with a reentry specialist employed by the corrections department to inform newly-incarcerated parents about their right to seek a review and adjustment of the court-ordered amount due to reduced income.

**Kansas:** The child support program has partnered with the corrections department to provide assistance to non-custodial parents incarcerated in two of the states correctional facilities. A child support staff person stationed inside the facilities determines the child support status of all new inmates through screening interviews and child support database searches. After identifying active cases, the staff person determines the case status, communicates with the child support office about the inmate’s location and can assist with genetic testing, services, stipulations, income withholding changes, or signing of documents. In some cases, the staff person also conducts voluntary paternity testing.<sup>5</sup>

**Maine:** The child support program works with the corrections department to provide educational materials and presentations to inmates in an attempt to facilitate review and adjustment of orders. The program uses telephone hearings for inmates.

**Maryland:** In “Project Fresh Start,” an HHS-funded demonstration project implemented in Prince George’s County, state and county child support programs, the corrections department, state prisons, and local jails are partnering to review and adjust the child support orders of incarcerated non-custodial parents.

**Massachusetts:** From 2000 to 2003, Massachusetts received an HHS-funded demonstration grant to operate the “Fathers in the Criminal Justice System Project.” The child support program, corrections department, parole office, and the Suffolk County sheriff’s department collaborated to communicate with and assist incarcerated and paroled non-custodial parents with their support orders. This process was facilitated through automated and manual agency data matches, cross-training of corrections and parole staff, placement of child support staff in prison intake centers and parole facilities, and simplified paternity and modification procedures. Child support staff met with inmates at intake. Modification petitions were filed near prison intake, and reviewed by the court post-release. Project staff used affidavits to serve as the inmates’ testimony, eliminating the need to transport inmates for modification hearings. Through this process, the project helped nearly 600 inmates reduce their child support orders to levels of \$50 to \$80 per month.<sup>6</sup>

**Michigan:** The Friend of the Court, part of the family division of the circuit court, is required to review support orders within 14 days of learning that a non-custodial parent will be incarcerated for more than one year. The child support program has worked with the court, the state bar, and corrections department to develop pro se forms for inmates to use for modifying child support orders.<sup>7</sup>

**Minnesota:** From 2000 to 2003, the Hennepin County and state child support program implemented a demonstration project through an OCSE Special Improvement Project (SIP) grant. The county provided incarcerated non-custodial parents with information about child support, assisted them with modification requests, and encouraged them to manage their support orders and make timely payments upon release. The county identified incarcerated non-custodial parents through monthly data matches from the corrections department and the state child support program, and through inquiries about child support cases raised during intake. The county installed phone lines in county offices to receive collect calls from inmates, simplified forms and affidavits to streamline modification requests, and trained child support staff to work with incarcerated parents. As a result of this project, the state implemented permanent changes, including proactively contacting incarcerated non-custodial parents to inform them of their modification options, appointing both a county case manager and prison intake staff person to oversee caseloads of incarcerated parents, accepting collect calls from incarcerated non-custodial parents, and using addressed, postage-paid envelopes for mail correspondence. The state child support program also contracted with the corrections department to permanently station a child support specialist inside one of the state’s prisons to help establish, enforce, and modify child support orders.<sup>8</sup> This work is part of a larger state project called “Strategies to Help Low Income Families” (SHLIF), identifying a set of preventative and early intervention actions when setting and modifying support orders, collecting current support and collecting arrears, including setting “reasonable and equitable” support orders and modifying “inappropriate” support orders.<sup>9</sup>

**New Jersey:** Through the “Responsible Parenting Program” operated by the corrections department, on-site case managers provide individual child support case assessment, paternity establishment, case modification, and enforcement resolution at two of the state’s prisons.

**North Carolina:** State law allows child support orders to be suspended when a parent is incarcerated. Caseworkers verify that an incarcerated non-custodial parent has no income or assets, assess whether the lack of income or assets is short-term or long-term, and code the case. A child support payment is not past due and no arrears accrue during any period when the parent is incarcerated, is not on work release, and has no resources with which to make the payment.<sup>10</sup>

**Pennsylvania:** Relying on earlier Supreme Court decisions, including the *Yerkes* decision in 2003, the state has not provided downward modifications of support orders during incarceration.<sup>11</sup> However, in 2006, the Supreme Court amended its rule, known as Recommendation 75, which provides for a process to review, modify, and close some cases based upon a parent’s ability to pay. The new rule specifically provides for downward modification when a noncustodial parent with no known assets whose institutionalization, incarceration, or long-term disability precludes the payment of support and renders the order unenforceable and uncollectible. The state is in the process of implementing this new policy.<sup>12</sup>

**Oklahoma:** The child support program is developing child support materials, which the corrections department will include in an orientation packet given to incarcerated parents near intake.<sup>13</sup>

**Oregon:** State rule defines an incarcerated obligor as a person who is expected to be confined in a correctional facility for at least six months. The state has a rebuttable presumption that an incarcerated parent with income less \$200 per month is unable to pay any support. The state reduces an order to zero if the parent requests modification and it is determined that the non-custodial parent has “no ability to pay” based on a regulatory list of possible sources of assets. By statute, the support order automatically reverts to its pre-incarceration level 60 days after the parent is released. The child support program provides inmates with modification forms, and consults with inmates on child support payment plans.<sup>14</sup>

**Texas:** The child support program has collaborated with an extensive array of criminal justice agencies, the courts, and community-based organizations in El Paso and Houston to provide services to inmates in four correctional facilities. Services include general and case-specific child support information, family reintegration classes dealing with relationships and parenting, assistance communicating with children and families, and referrals to community-based agencies for employment assistance and other supports. A child support handbook addressing modification was developed for incarcerated parents.<sup>15</sup>

**Utah:** During the 2007 session, the Utah legislature removed the “voluntary unemployed or underemployed” clause from the state child support guidelines. The state plans to implement downward modifications in cases that can be reviewed and adjusted administratively.<sup>16</sup>

**Washington:** From 2001 to 2003, the child support program collaborated with corrections and employment security departments to implement the “Child Support Joint Agency Collection Project.” One goal of this project was to increase the number of incarcerated non-custodial parents seeking support order modifications. Approximately 10,000 inmates were shown an educational video about the child support program and encouraged to contact the child support program. In an effort to test outreach methods, some of the nearly 1,500 non-custodial parents who contacted the child support program after viewing the video received in-person visits by child support staff, while others were contacted via mail. In both cases, the child support program provided case-specific information, responded to questions, and encouraged non-custodial parents to seek modifications, a Conference Board proceeding to write off some arrears, or a hearing to recalculate support orders. After completing this demonstration project, the state issued an agency-wide policy directive detailing the procedures for working with incarcerated non-custodial parents, explaining the rationale for working with this population, and providing step-by-step guidance for handling cases. Telephone hearings are available to inmates.<sup>17</sup>

**West Virginia:** “You are a Parent” is a program designed to remind incarcerated parents that they can have a positive influence on the lives of their children, and that one part of parenting is to handle support obligation responsibly. The program tells parents to “pay what you can” and “ask the court for a modification if you cannot pay the ordered amount.” The video has been distributed at regional jail sites and correctional facilities. Most facilities are showing it as a part of their inmate orientation program. Simplified modification forms are included in the brochure. Child support staff has trained staff at all facilities on how to assist inmates in completing forms. Most courts and corrections facilities have access to video conferencing equipment, and many have allowed inmates to participate through this technology.

**Wisconsin:** Milwaukee County uses a proactive process to minimize accrual of arrears of incarcerated parents. An electronic data match with corrections is used to identify incarcerated obligors. Both custodial and non-custodial parents are sent a one-page form with simplified language, notifying them of the option to request the suspension of the order during incarceration. When the non-custodial parent returns the form, the request is submitted to the court for approval. A court hearing is scheduled if the custodial parent objects. The non-custodial parent does not have to be present; however, arrangements can be made for them to participate in the hearing by telephone. Sixty days after the non-custodial parent’s release, the order is reinstated to the pre-incarceration level.<sup>18</sup>

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- <sup>1</sup> Griswold, E., Pearson, J. & Davis, L. (2001). *Testing a modification process for incarcerated parents*. Denver, CO: Center for Policy Research. Available at <http://www.centerforpolicyresearch.org/reports/Testing%20a%20Modification%20Process.pdf>
- <sup>2</sup> C.G.S.A. 46b-215e, as amended by P.A. 06-149 (2006).
- <sup>3</sup> District of Columbia Official Code, title 23, chapter 1.
- <sup>4</sup> Official Code, title 23, chapter 1. See U.S. Department of Health and Human Services, Office of Child Support Enforcement . *Abstracts for Section 1115 Grants Awarded in FY 2006*. [http://www.acf.hhs.gov/programs/cse/grants/abstracts/fy2006\\_1115\\_abstracts.html](http://www.acf.hhs.gov/programs/cse/grants/abstracts/fy2006_1115_abstracts.html)
- <sup>5</sup> Roberta Coons "Kansas CSE Partners with Department of Corrections." Unpublished article.
- <sup>6</sup> Griswold, E., Pearson, J., Thoennes, N. & Davis, L. (2004). *Fathers in the criminal justice system: A collaboration between child support enforcement and criminal justice agencies in Massachusetts*. Denver, CO: Center for Policy Research. Available at <http://www.centerforpolicyresearch.org/reports/profile%20of%20CS%20among%20incarcerated%20&%20paroled%20parents.pdf>
- <sup>7</sup> Michigan Compiled Law 552.517, and personal contact April 2, 2007.
- <sup>8</sup> Minnesota Department of Human Services, Hennepin County Child Support Division, and Center for the Support of Families, Inc. (2003). *Intervention strategies for working with low-income non-custodial parents in Minnesota*. St. Paul, MN: Minnesota Department of Human Services.
- <sup>9</sup> See *Project Summary: Strategies to Help Low Income Families (SHLIF)*, Minnesota Department of Human Services.
- <sup>10</sup> General Statute 50-13.10(d).
- <sup>11</sup> *Yerkes v. Yerkes*, 782 A.2d 1068 (Pa. Sup. Ct. 2003); *Newman v. Newman*, 597 A.2d 684 (Pa. Sup. Ct. 1991).
- <sup>12</sup> Pa. R.C.P. 1910.19 (amended May 19, 2006).
- <sup>13</sup> Personal contact February 13, 2007.
- <sup>14</sup> ORS 416.425(12), OAR 137-055-3300, available at [http://reentry.microportals.net/reentry/Re-Entry\\_Legislation.aspx](http://reentry.microportals.net/reentry/Re-Entry_Legislation.aspx) .
- <sup>15</sup> Griswold, E., Pearson, J., Davis, L., & Thoennes, N. (2005). *Family Reintegration Project: Increasing collections from paroled and released on-custodial parents in Texas*. Denver, CO: Center for Policy Research.
- <sup>16</sup> Utah Code 78-45-7.5.
- <sup>17</sup> Washington State Department of Social and Health Services. (2003). *State of Washington Child Support Joint Agency Collection Project*: Final grant report. Olympia, WA: Washington State Department of Social and Health Services.
- <sup>18</sup> Information cited from Center for Policy Research (2006). *Working With Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs: A Resource Guide*. U.S. Department of Health and Human Services, Office of Child Support Enforcement . Available at [http://www.acf.hhs.gov/programs/cse/pubs/2006/guides/working\\_with\\_incarcerated\\_resource\\_guide.pdf](http://www.acf.hhs.gov/programs/cse/pubs/2006/guides/working_with_incarcerated_resource_guide.pdf).

## APPENDIX C

### Arrears Adjustment Policies

**Alabama:** An interest rebate law allows for forgiveness of interest owed to the state and custodial parent (if the custodial parent agrees), in cases where current support is paid consistently for at least 12 months.<sup>1</sup>

**Alaska:** The state offers debt forgiveness for non-custodial parents who have accrued at least \$1,500 in state-owned child support arrears and has an ongoing child support obligation, owes arrears to custodial parent(s) or meets other criteria such as a recent incarceration. As part of the forgiveness agreement, non-custodial parents must agree to pay their ongoing child support orders, the monthly interest charge on any arrears owed to the custodial parent, and monthly arrears payments owed to custodial parents. Payments are made through income withholding, unless the child support program agrees to an alternative arrangement.<sup>2</sup>

**Arizona:** Courts may suspend the accrual of interest on child support orders during incarceration. The state has also piloted an informal arrears forgiveness program and is working toward implementing the program on a larger scale.<sup>3</sup>

**California:** The “Compromise of Arrears Program” (COAP) permits the compromise of arrears permanently assigned to the state in exchange for partial payment of the child support debt.<sup>4</sup>

**Connecticut:** The “Arrears Adjustment Program” is available to fatherhood program participants, as well as other non-custodial parents. It provides for a debt reduction schedule to encourage the positive involvement of non-custodial parents in the lives of their children and regular support payments. It also allows non-custodial parents to settle debt in full by a single advance payment.<sup>5</sup>

**District of Columbia:** As part of enrollment in a “Fathering Court” pilot project, the court may compromise state-owned arrears of reentering parents “dollar for dollar paid” under written guidelines developed by the child support program (housed in the Office of Attorney General).

**Georgia:** A state statute gives the child support program the authority to waive, reduce, or negotiate the payment of state-owned arrears upon a determination that good cause for nonpayment exists or that enforcement would result in substantial and unreasonable hardship to the parent or parents responsible for the support.<sup>6</sup> Courts have discretion in applying or waiving past due interest owed on arrears.<sup>7</sup>

**Guam:** The arrears compromise statute allows the Department of Law, with consent from the Attorney General, to compromise or settle arrears if deemed in the public interest.<sup>8</sup>

**Illinois:** The arrears management statute allows for compromise of child support arrears and interest owed to the state by low-income non-custodial parents in exchange for regular payments of support owed to the family.<sup>9</sup>

**Iowa:** The “Parental Obligation Pilot Project” (POPP) allows for forgiveness of a percentage of child support debt owed to the state, provided that the non-custodial parent makes regular support payments in compliance with the court order. Fifteen percent of the state-owned debt can be forgiven for six consecutive months of payments; 35% can be forgiven with twelve months of regular payment; and 80% can be forgiven after 24 months of consecutive payment.<sup>10</sup>

**Maryland:** The legislature established a statewide “Child Support Payment Incentive Program” open to non-custodial parents with gross income of less than 225 percent of the federal poverty level. In authorizing participation in the program, the child support program must consider whether the non-custodial parent has the current ability to pay; if the reduction of arrearages will enhance the non-custodial parent’s economic stability; and if the agreement serves the best interests of the children. If any of these factors are met, child support must agree to reduce the arrears owed to the state by 50% after 12 months of consecutive payment of the court-ordered amount. After 24 months of regular payments, the arrearages must be reduced to zero. Maryland was the first state to pilot a debt leveraging program.<sup>11</sup>

**Massachusetts:** The Commissioner of Revenue has discretionary authority to make equitable adjustments to arrears accumulated during unemployment, incarceration, or other periods of incapacitation. Arrears forgiveness may also be granted during periods of reconciliation with custodial parent or on the basis of any other factor deemed relevant by the Commissioner. The state practice is to negotiate interest and fees, accepting less than the full amount of arrearages owed to the state, in order to leverage payments and encourage participation in employment and parenting programs.<sup>12</sup>

**Michigan:** Several laws allow for adjustment of arrears and interest. In some cases, the Department of Human Services or its designee may use discretion to settle and compromise state-owned arrears.<sup>13</sup> Other laws allow non-custodial parents who do not have the ability to pay the arrearage in full, presently or in the foreseeable future, to request a payment plan (for a minimum of 24 months). At the completion of the payment plan, the court may waive any remaining arrears owed to the state.<sup>14</sup> Additionally, non-custodial parents may request a payment plan as a means to have the surcharge (interest) waived or reduced if regular payments are made.<sup>15</sup>

**Minnesota:** A 2007 state statute gives the parties (including the public authority with assigned arrears) the authority to compromise unpaid support debts or arrearages owed by one party to another, whether or not docketed as a judgment. A party may agree or disagree to compromise only those debts or arrearages owed to that party.<sup>16</sup> The statute is part of a project called “Strategies to Help Low Income Families” (SHLIF) that includes written policy identifying a set of preventative and early intervention actions when setting and modifying support orders,

collecting current support and collecting arrears, including developing community partner collaborations. The policy gives counties the discretion to reduce permanently assigned public assistance arrears on a case by case basis in accordance with the statute and requires counties to develop their own internal guidelines for implementing SHLIP policies. Part of the SHLIF project includes a one-year evaluation and development of sustainability plans.<sup>17</sup>

**Oklahoma:** The state permits a waiver of some or all child support arrears with the approval of the court, provided the parents mutually agree (or the state agrees when the debt is owed to the state).<sup>18</sup> Settlements of past support may include an agreement that the non-custodial parent make a lump sum partial payment or a series of payments toward the total amount of past support. Settlements also may include an agreement for the non-custodial parent to pay a specified number of current child support payments or in-kind payments in the future.<sup>19</sup> In addition, the state has established an amnesty program for accrued interest owed to the state. The state attorney in the local district must approve all settlements of state-owned interest.<sup>20</sup>

**Utah:** The state allows discharge of state-owned arrears that accrued while the non-custodial parent was in prison if the parent makes regular payment of the current support and arrears as ordered by the court for 12 consecutive months after release from prison. The 12-month period starts when the obligor becomes employed or 6 months after the obligor is released, whichever occurs first. Additionally, if a non-custodial parent is a participant in a prison re-entry program, no collection or enforcement action will be taken to collect the past-due support debt during participation. Similarly, if a parent is in a licensed mental health or substance abuse treatment program, no collection or enforcement action will be taken to collect the debt during in-patient treatment or up to six months of out-patient treatment. Up to 6 months of the debt accruing while the parent was in a treatment program may be forgiven if the full monthly support payment and the full assessed arrears payment have been made for 12 consecutive months.<sup>21</sup>

**Vermont:** The state negotiates a lump sum payment to settle state-owned arrears based on the non-custodial parent's ability to pay. The debt will be reduced only if the lump sum payment is made within the agreed upon time. In cases where the debt is owed to the custodial parent, all decisions are left to the custodial parent.<sup>22</sup>

**Washington:** The state established an administrative dispute resolution process through its Conference Boards to hear parental complaints and requests to adjust orders and arrears or enter into a lump sum compromise agreement.<sup>23</sup>

**West Virginia:** The amnesty program for the reduction of interest allows the custodial parent to forgive part or all of the accrued interest if the noncustodial parent pays the principal within a 24-month period.<sup>24</sup>

**Wisconsin:** The state has a policy that allows for forgiveness of state-owned arrears and interest. Requests for forgiveness of any non-interest arrears must be submitted to the Bureau of Child Support Settlement Coordinator for approval. The policy lists seven conditions that

might be considered eligible for forgiveness including: the non-custodial parent is now living with the children, has a long-term disability, has agreed to a lump-sum settlement, has no ability to pay the arrears, and has made good-faith attempts to pay the order. Local child support agencies may forgive state-owned interest and childbirth costs without submitting a request to the state.<sup>25</sup>

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<sup>1</sup> Code of Alabama §30-3-6.1.

<sup>2</sup> 15 AAC 125.650 to 125.695.

<sup>3</sup> A.R.S 25-327 and personal contact March 30, 2007.

<sup>4</sup> California Family Code Section 17560.

<sup>5</sup> Regulations of Connecticut State Agencies §17b-179b-1 to §17b-179b-4.

<sup>6</sup> O.C.G.A. 19-11-5.

<sup>7</sup> O.C.G.A 7-4-12.1.

<sup>8</sup> Title 5 G.C.A. §34107.

<sup>9</sup> Illinois Public Aid Code §5/10-17.2.

<sup>10</sup> IAC 441-100.2 (4).

<sup>11</sup> Annotated Code of Maryland §10-112.1.

<sup>12</sup> .830 CMR 119A.6.2.

<sup>13</sup> MCL 205.13.

<sup>14</sup> MCL 552.605e.

<sup>15</sup> MCL 552.603d.

<sup>16</sup> Minn. Stat. §518A.62.

<sup>17</sup> See *Project Summary: Strategies to Help Low Income Families (SHLIF)*, Minnesota Department of Human Services.

<sup>18</sup> 43 O.S. §112.

<sup>19</sup> Oklahoma Administrative Code 340:25-5-140.

<sup>20</sup> 56 O.S. §234.

<sup>21</sup> UT Admin. Code Rule R527-258.

<sup>22</sup> Vt. Stat. Ann, Title 33 §3903.

<sup>23</sup> Rev. Code of Washington 74.20A.220, Washington Admin. Code 388-14A-6400 through 388-14A-6415.

<sup>24</sup> West Virginia Code §48-1-302 (c).

<sup>25</sup> Child Support Bulletin # CSB 06-01.

## APPENDIX D

### Initiatives to Improve Re-entry and Child Support Outcomes

**Alabama:** A portion of TANF funds are used to support community-based fatherhood programs that provide services at several different prison facilities. Additionally, prison chaplains have implemented the Long Distance Dads<sup>1</sup> program in most state facilities for men. The state promotes child support education and collaboration by requiring it to be included as a component in all fatherhood grants.

**California:** The Imperial County child support program used an OCSE Special Improvement Project (SIP) grant to join forces with Project Dads, the Imperial Valley Regional Occupational Program, the Probation Department, the district attorney, the county court, and various community service providers to provide non-custodial parents with the skills and resources needed to obtain employment and pay child support and to take an active role in their children's lives. The project also assisted parents in obtaining child support modifications. Fifty-two percent of the parents served through this project were formerly incarcerated individuals.

**Colorado:** The Work and Family Center is a multi-agency collaboration that provides comprehensive services to paroled and released offenders in the Denver metropolitan area. Services include case management, employment assistance, help resolving child support issues, family reintegration and legal services. Many clients are referred to the center by parole officers or community corrections agents.<sup>2</sup>

**District of Columbia:** The child support program collaborated with the Superior Court to establish the Fathering Court, a pilot problem-solving court that provides recently released parents with job training, counseling, and employment in lieu of punitive child support enforcement measures.<sup>3</sup> As part of enrollment in the pilot, parents may obtain a reduction in state-owned arrears. In conjunction with the Fathering Court, the child support program works with the U.S. Bureau of Prisons and U.S. Court Services and Offender Supervision Agency to provide child support information and offer an order modification to prisoners housed in Rivers Correctional Institution, a federal prison in North Carolina where many DC residents are incarcerated. Additionally, the District has established an Office of Ex-Offender Affairs to provide direct services, resources and information to assist released individuals.<sup>4</sup>

**Florida:** In many areas of the state, local child support staff deliver education and outreach presentations for re-entry transition classes at state correctional facilities (this includes facilities for both men and women). Inmates within 90 days of release participate in work release, halfway houses, and transitional programs. Some local child support staff work with formerly incarcerated parents through local fatherhood initiatives and job training and placement organizations.

**Georgia:** Each month, child support staff visit the state's 10 transitional centers to inform non-custodial parents of services available through a statewide network of fatherhood programs upon their release. To encourage participation, enforcement of state-owned arrears is suspended while non-custodial parents are enrolled in a fatherhood program.

**Indiana:** Child support staff visit one of the state's re-entry centers to provide child support information to non-custodial parents that are scheduled for release within 18-24 months. An Indianapolis public-private collaboration partially funded through a SIP grant was created to implement the *Lambert* decision overturning the state's traditional "voluntary unemployment" standard. The collaboration includes a number of partners, including the state child support program, the county district attorney's office, and Workforce-Inc., a transitional jobs program for released parents.

**Iowa:** The child support program makes presentations on child support, fatherhood and marriage to inmates preparing for release. Additionally, the "Parental Obligation Pilot Project" (POPP) provides a number of incentives for formerly incarcerated individuals to participate in the Going Home Initiative, a work-related community project that offers employment training and weekly fathering and relationship classes. The POPP project incentives include: reducing the maximum amount an employer can withhold for child support to 25% of an employee's net pay for a period of 12 months, modifying support orders without the usual requirements, partial forgiveness of balance owed to the state if obligors pay their full obligation consecutively for 6, 12, and 24 months; and permitting a deviation of up to 25% from the child support guidelines when establishing or modifying support orders.

**Louisiana:** The child support program has established a cooperative agreement with the corrections department to provide child support information and an array of services to re-entering parents.

**Maryland:** In Baltimore, the child support program partners with a one-stop career center to improve employment outcomes for released parents. The center provides job readiness and occupational training, and assistance with job search and placement. A child support worker is based in the center to review cases, arrange for paternity testing, and the release of a driver's license when a non-custodial parent becomes employed.<sup>5</sup> Additionally, the state is currently implementing "Project Fresh Start," an HHS-funded demonstration project in Prince George's County to provide employment services and other supports to released parents with a child support case.

**Missouri:** The Family Support Division conducted a multi-faceted project for parents scheduled for release within 18 months from two medium-security facilities. The HHS-funded project employed a number of strategies designed to promote responsible fatherhood. Strategies included access to parenting information, parenting education programs, improved father-child visits, relationship skill-building, and increasing the

capacity of incarcerated parents to provide financial support for their children. Programs offered included Proud Parent classes, Long Distance Dads, Parents as Teachers, relationship enrichment skills training, mediation, and employment services upon release.<sup>6</sup>

**Nebraska:** A portion of the state's Access and Visitation federal grant funds are used to provide parenting education classes to inmates in state prison facilities. Child support education is provided during training sessions.

**Nevada:** Some reentry programs such as Going Home Prepared and New Beginnings are provided in state prison facilities.<sup>7</sup> Child support occasionally makes presentations in these classes. At the time of release, leniency is sometimes granted by setting arrears repayments at a minimum amount.

**New Jersey:** The "Responsible Parenting Program" operated by Department of Corrections provides parenting skills education, child support education, aftercare services, and vocational/employment assistance to residents in halfway houses.<sup>8</sup>

**New York:** The child support program trains all corrections counselors on the impact of child support on incarcerated non-custodial parents and supplies correction facilities with printed child support information to be included in the reception packet that all new inmates receive. The program also has a responsible parenting video that is shown in state prisons. In New York City, many local agencies help to fund the Center for Employment Opportunities (CEO), a transitional job program for released offenders. The child support program works closely with CEO in order to establish appropriate income withholding levels for released parents.<sup>9</sup>

**Pennsylvania:** A number of state courts provide re-entering parents with intensive case management and workforce services to improve employment and child support outcomes.<sup>10</sup> The Long Distance Dads Program is available in many of the state prison facilities.

**Texas:** The Texas Office of Attorney General (OAG) began "The Family Reintegration Project" in 2002. This three-year pilot program was designed to develop strategies for increasing child support payments, employment, and family reintegration among paroled and released parents. OAG and project staff provided participants with access to general and case-specific child support information and assistance as well as fatherhood and family reintegration activities. Post-release employment assistance was made available through a partnership with the Houston Area Urban League and the Texas Workforce Center of El Paso.<sup>11</sup>

**Virginia:** As part of a National Governors Association (NGA) initiative, Virginia has implemented a re-entry pilot program in five localities throughout the state. The program provides integrated service delivery and interagency collaboration. It involves

three key phases: (1) providing information about services and obligations to inmates and their families during incarceration; (2) developing release plans for return to the community, addressing financial obligations, housing, community resources, education, and training, employment, health, mental health and social reintegration; and (3) providing parenting and family mentoring extending to 12 months after release.

**Washington:** From 2001 to 2003, the child support program collaborated with the corrections and employment security departments to implement the “Child Support Joint Agency Collection Project.” One goal of this project was to increase the number of parents participating in the welfare-to-work employment assistance program upon their release. Eligible inmates were sent a letter of eligibility, an employment resource brochure, a welfare-to-work application and a non-custodial parent disclosure authorization form. Within 14 days of release, inmates were referred to the welfare-to-work program.<sup>12</sup>

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<sup>1</sup> A national prison-based fatherhood program developed by the National Fatherhood Initiative..

<sup>2</sup> See [http://www.reentrymediaoutreach.org/sp\\_family\\_iwfc.htm](http://www.reentrymediaoutreach.org/sp_family_iwfc.htm) .

<sup>3</sup> The fathering court model was developed by the National Center on Fathering.

<sup>4</sup> *Working with incarcerated and released parents: Lessons from OCSE grants and state programs* (2006)

<sup>5</sup> *Working with incarcerated and released parents: Lessons from OCSE grants and state programs* (2006)

<sup>6</sup> *Working with incarcerated and released parents: Lessons from OCSE grants and state programs* (2006); LeFebvre, K. (2004). *Incarcerated Fathers Collaboration Project: Fathers for Life, Final Project Report*.

Jefferson City, MO: Missouri Department of Social Services, Family Support Division.

<sup>7</sup> See [www.doc.nv.gov/programs/re-entry.php](http://www.doc.nv.gov/programs/re-entry.php).

<sup>8</sup> See [http://www.state.nj.us/corrections/annual\\_report/html/09\\_Division\\_of\\_Programs.html](http://www.state.nj.us/corrections/annual_report/html/09_Division_of_Programs.html).

<sup>9</sup> *Working with incarcerated and released parents: Lessons from OCSE grants and state programs* (2006)

<sup>10</sup> See, for example,

[http://www.alLEGHENYCOUNTY.us/uploadedFiles/DHS/About\\_DHS/Publications/Brochures/OCSEEmploymentBrochure.pdf](http://www.alLEGHENYCOUNTY.us/uploadedFiles/DHS/About_DHS/Publications/Brochures/OCSEEmploymentBrochure.pdf)

<sup>11</sup> Griswold, E., Pearson, J., Davis, L., & Thoennes, N. (2005). *Family Reintegration Project: Increasing collections from paroled and released on-custodial parents in Texas*. Denver, CO: Center for Policy Research.

<sup>12</sup> Washington State Department of Social and Health Services. (2003). *State of Washington Child Support Joint Agency Collection Project: Final grant report*. Olympia, WA: Washington State Department of Social and Health Services.



# State Child Support Survey: “Voluntary Unemployment” and Other Reentry Policies

Vicki Turetsky  
National CSE Training Conference  
August 27, 2008

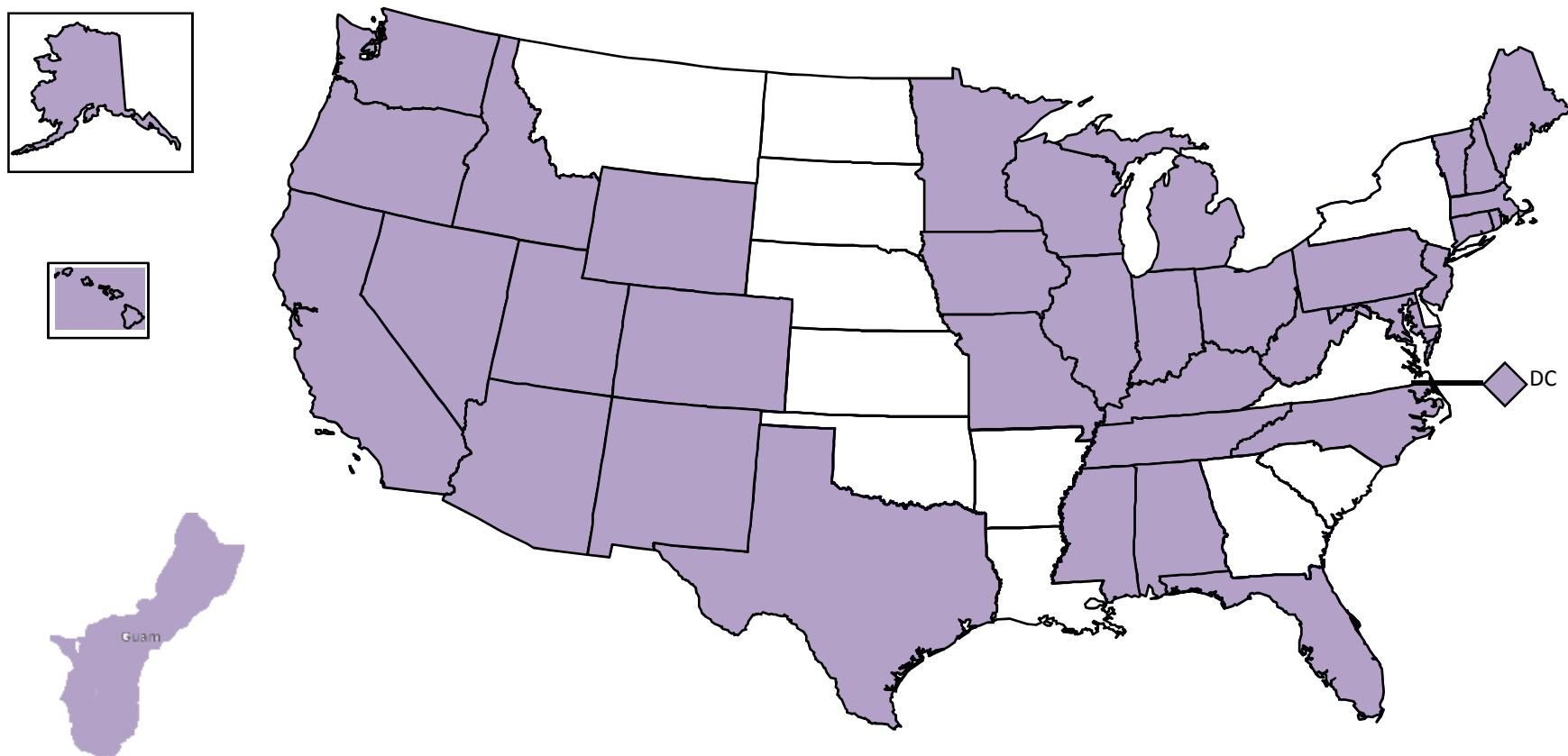
Based on forthcoming report by Jan Justice and Vicki Turetsky

# Trend toward reentry policies



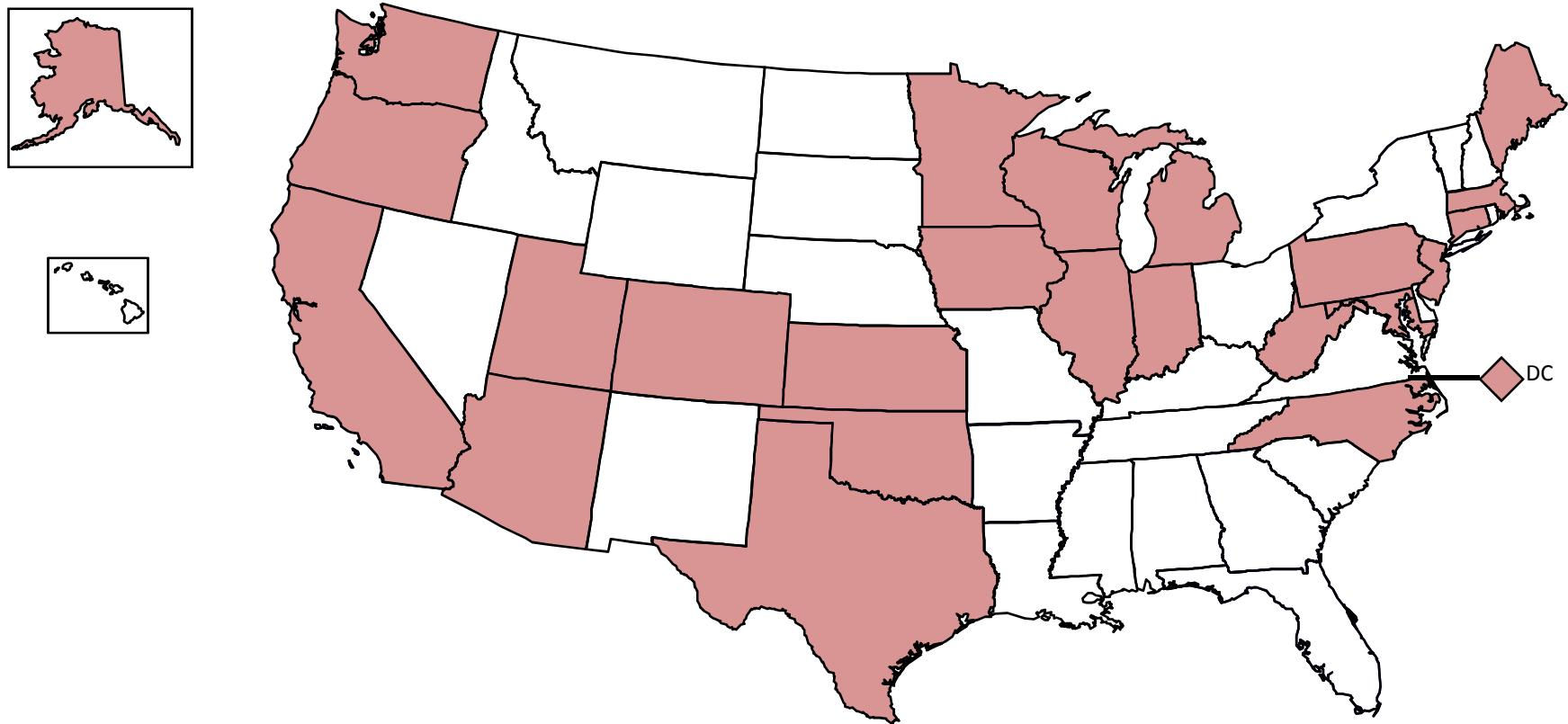
- ¾ of states have laws permitting reduction of orders during incarceration.
- ½ of states have an initiative or process to reduce orders during incarceration.
- 1/3 of states have an initiative or process to reduce state-owned debt.
- 1/3 of states have another child support initiative to improve reentry outcomes.

# States That Permit Reduction of Support Orders During Incarceration



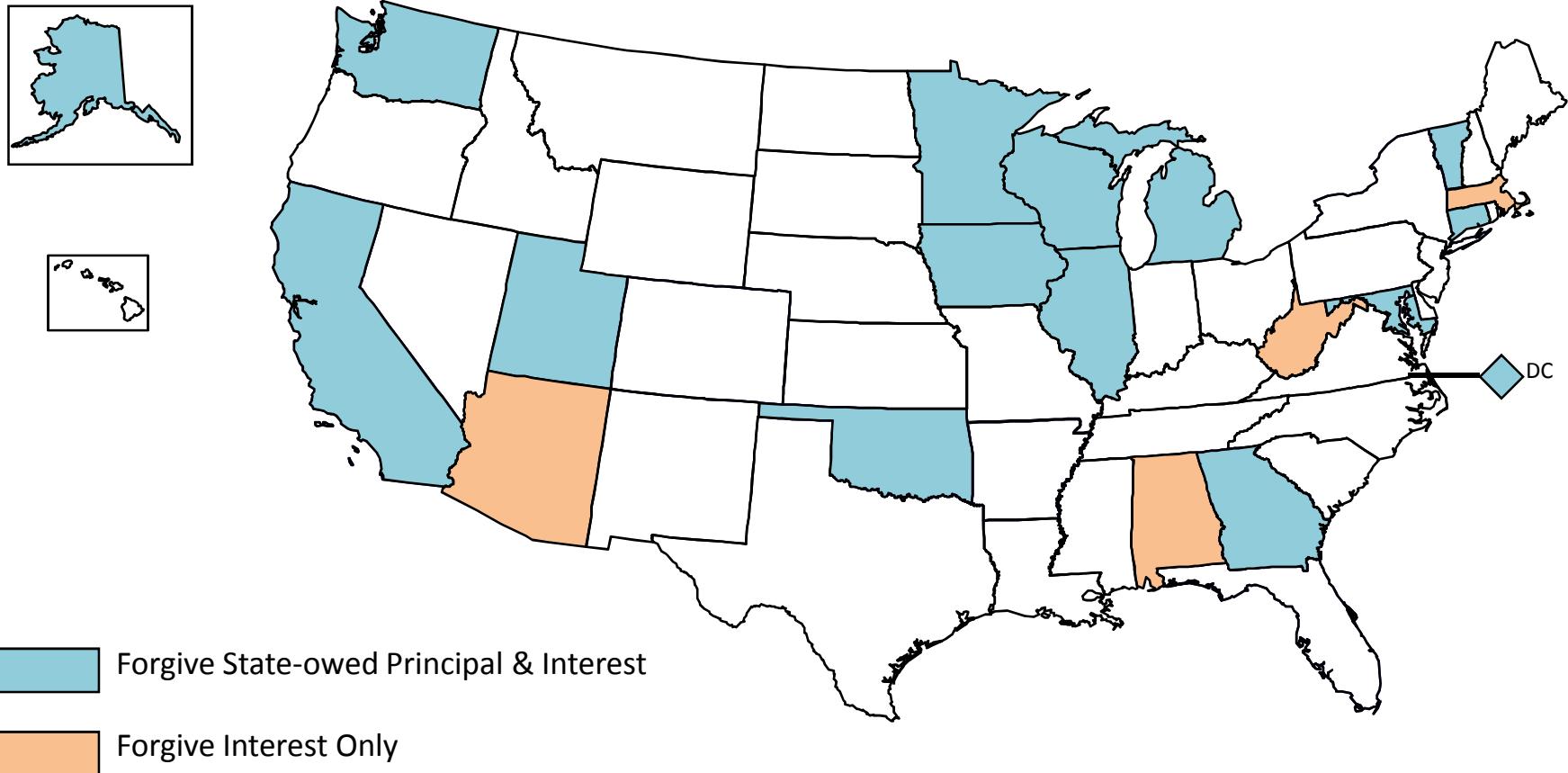
CLASP, August 27, 2008 draft

# States That Have Initiatives to Reduce Child Support Orders During Incarceration



CLASP, August 27, 2008 draft

# States That Have Legal Authority to Adjust Arrears



CLASP, August 27, 2008 draft

# States That Have Child Support Initiatives for Reentering Parents



CLASP, August 27, 2008 draft