



Child Support in New Jersey: Trapping Families in Poverty

A Policy Brief by Grace Moran, Policy Fellow, Newark Community Street Team

About half of the nearly 2 million people currently incarcerated in the United States are parents, and at least 1 out of every 5 incarcerated people owes or pays child support.¹ Child support payments can be a serious challenge for any non-residential parent (parent who does not have custody of their child), but for incarcerated parents with no way to earn an income, they can quickly become a crippling debt that leaves them less able to care for their children or themselves, isolated from legitimate employment, and more likely to resort to illegal streams of income. I interviewed 6 incarcerated parents who were required to pay child support while they were in prison, and all of them feel that they and their families have been detrimentally impacted by these impossible debts.



In New Jersey, child support payments are based in part on the income of the obligor.² If there is a change in the parent's income, they are able to legally request a modification of payment in certain cases where the change was not voluntary, such as upon being fired or laid off. Until 1999, the state officially considered incarceration a 'voluntary' reduction of income, despite the fact that incarceration is, by definition, involuntary. Therefore, incarceration was not considered valid grounds for a modification.³ After the 1999 Halliwell v. Halliwell case in New Jersey's Superior Court, incarcerated parents have technically been allowed to file a motion to suspend child support payments for the duration of their sentence, allowing them to pause their payments until they're released.⁴ In practice, however, this information is rarely given to incarcerated parents. Only 1 of the 6 formerly incarcerated parents interviewed in the process of this research had any notification of this option, and that person was still ultimately unable to have his payments modified.

Case Study: Yashiek

Yashiek was paying support for 2 children when he was incarcerated in 2013. He was never told he could apply for a payment modification, but learned about that option from other parents he met in prison. He filed the necessary paperwork, but never received a court date. By the time he was released and finally found a job in 2022, he owed \$60,000. His paychecks were immediately garnished by \$300 a week, with no communication from the state explaining the massive deductions on his paychecks.)

¹ <https://www.themarshallproject.org/2015/10/18/for-men-in-prison-child-support-becomes-a-crushing-debt>

² <https://www.divorcelawnj.com/how-does-new-jersey-calculate-child-support/#:~:text=The%20court%20looks%20at%20the,child%20during%20an%20average%20month.>

³ <https://casetext.com/case/topham-raphanotti-v-gulli>

⁴ <https://www.njdivorcelegal.com/suspension-of-child-support-for-incarcerated-parents>



People working while incarcerated in New Jersey earn between \$1 and \$7 per day, with the majority of prison jobs paying only \$1 to \$3 dollars per day. This renders child support payments based on previous income virtually impossible to pay, and makes accumulation of debt unavoidable.⁵ When incarcerated parents inevitably miss payments, this outstanding amount known as arrears is added to the next payment, and can quickly snowball to an exorbitantly high amount of money owed. Interest and additional fees can increase the amount owed even further. As a result, incarcerated parents commonly leave prison owing tens of thousands of dollars. The enforcement of these payments are clearly ineffective when the support-paying parent has no possible way of paying them, and are therefore not in the interest of the child or the residential parent.

Case Study: John

John was released from prison in 2021 after serving 15 years. He was never informed that he could file for a payment modification and owed \$19,000 in arrears upon his release. When he started working, his modest paychecks were immediately heavily garnished, and he had no idea what to make of the deductions until a coworker in a similar situation explained

Another issue for almost every parent I spoke to was a lack of communication from the state at every stage of the process. For example, many parents who supported their children directly before their incarceration were court-ordered to pay only after they began their sentences, and were not informed that they were required to pay and were accumulating debt until close to or after their release.⁶ This leaves them with no chance to apply for a payment modification, and no knowledge of the debt they are accumulating until it has gotten out of control.

Case Study: Robert

Robert has one 7-year-old child for whom he paid child support in cash before his incarceration. Once he went to prison, his child's mother filed for support and he was required to pay \$254 a week. However, he was never notified of the accumulating payments until he was released, when he learned that he owed \$60,000 in arrears. He got a job soon after his release and his paychecks were immediately garnished by a third, again with no communication other than the deduction on his paycheck. Robert doubts he'll ever be able to pay back the \$60,000.

⁵ <https://newjerseymonitor.com/briefs/budget-plan-includes-wage-hike-for-incarcerated-people-working-prisonjobs/#:~:text=Prison%20pay%20ranges%20from%20%241,to%20Department%20of%20Correction%20data.>

⁶ <https://www.themarshallproject.org/2015/10/18/for-men-in-prison-child-support-becomes-a-crushing-debt>



These factors can lead to insurmountable piles of debt upon parents' release, on top of the already highly challenging situation of trying to find employment with a criminal record. Even when people are fortunate enough to find a job upon their release, their wages can be garnished, where the state takes a cut from their paycheck directly to go towards their child support debt. The state is even allowed to 'freeze and seize' money from the bank accounts of parents who have not paid support in 35 days.⁷

This dramatically disincentivizes people from reentering the workforce and encourages the pursuit of illegal income, which makes reincarceration more likely, communities less safe, and families weaker.

Case Study: Felix

Felix is a father of 7. He accumulated massive debt while in prison. When he started working after his release, he had \$260 taken out of every paycheck, and his children's mother said she was only receiving \$50 a week. Even now more than 12 years after his release, his paychecks are still garnished by 49%, and his children's mother says she is only receiving \$120 a week, significantly less than he is paying. One of Felix's daughters is now a single mother herself while studying to be a nurse, and this burden leaves him less able to help her and the rest of his family.

The state can also impose non-financial burdens on parents for unpaid support. For example, although a law enacted in 2021 eliminated the automatic suspension of driver's licenses when a warrant is issued for nonpayment, judges can still decide to do so after a hearing.⁸ This can rule out employment prospects that are not accessible by public transportation, affect the parent's ability to care for their child, and make them more likely to be reincarcerated for the charge of driving without a license. The state can also suspend professional licenses, creating yet another potential burden to employment and fulfillment of support debt.⁹

Perhaps the most glaring negative impact of this issue is that it can actually result in less material support for the children these payments are intended for. A 2017 study found that parents who owe child support arrears spend significantly less with their children and have less involvement in their daily lives.¹⁰

Also, child support can actually result in less material support for the children these payments are intended for. When an incarcerated parent has accumulated unpaid child support debt, they can be required to pay back the government for public assistance received by the child's residential parent, such as TANF (Temporary Assistance for Needy Families) or Medicaid, while

7. https://www.njcourts.gov/sites/default/files/forms/10752_guide_nji_csep_letter.pdf

8. <https://www.lsnj.org/KeyDevelopments/LicenseSuspension.aspx#:~:text=See%20P.L.,other%20jurisdictions'%20drug%20offense%20laws.>

9. https://www.njcourts.gov/sites/default/files/forms/10752_guide_nji_csep_letter.pdf

10. <https://www.nyc.gov/site/hra/help/debt-reduction.page#:~:text=Child%20Support%20debt%20is%20owed,received%20by%20that%20parent's%20child.>

<https://psycnet.apa.org/record/2016-45655-001>



while the non-residential parent was incarcerated.¹¹ In fact, the Child Support Enforcement program was created with the express purpose of reimbursing the state for assistance provided to families, called “welfare cost-recovery.”¹² This often means that substantial weekly payments are being made to the state and not being used to provide for the child. This effect is compounded because the payments to the state not only don’t support the children, they can actively hinder parents’ ability to provide for their children in several ways. For example, parents can have their tax returns and government payments such as the 2020 CARES act stimulus checks intercepted to pay down their arrears. Child support debt also measurably reduces the amount of non-monetary support nonresidential parents give their children, such as food, clothes, and school supplies.¹³ As a result, the entire family suffers economically. Several of the parents interviewed expressed frustration with this aspect of the system, since they were being financially ruined by these payments and their families were not even reaping the benefits.

Case Study: James

James paid support for his 7-year-old before going to prison in 2008. He didn’t realize he was still expected to pay until he received notice in 2015 that he owed \$14,000 in arrears. He still had 7 years to serve and no way to pay. He wants desperately to help his kids, now 22 and 30, but feels unable to due to this debt.

One immediate and necessary change is to reduce incarceration by ending criminalization of drug use and introducing restorative justice and other alternatives to arrest and incarceration.

New Jersey also needs a child support system that is designed to benefit children and residential parents, not to secure repayment for the state. There is a bill pre-filed for the 2024 New Jersey legislative session that, if passed, will automatically halt child support payments and arrears for parents incarcerated in a jail or prison for 180 days, which would be a huge step in the right direction.

Further Immediate reforms should include:

- Immediate automatic payment suspension for the duration of parents’ incarceration.

11. <https://www.nyc.gov/site/hra/help/debt-reduction.page#:~:text=Child%20Support%20debt%20is%20owed,received%20by%20that%20parent's%20child.https://www.themarshallproject.org/2015/10/18/for-men-in-prison-child-support-becomes-a-crushing-debt>
12. <https://crsreports.congress.gov/product/pdf/RS/RS22380/39>
13. <https://psycnet.apa.org/record/2016-45655-001>



- No required back payments for assistance such as TANF and Medicaid provided to children and custodial parents.
- Immediate communication required for all payment requests, arrears, or garnishment of wages.
- Ban on penalties for non-payment that further hinder parent's abilities to find employment, such as suspension of driver's and professional licenses.

Expecting incarcerated parents to keep up with the same weekly payments they made while earning an income sets up families for failure and makes communities less cohesive and less safe. While children still need financial support when their parents are in prison, requiring parents to find a way to provide while they are, at best, earning a few dollars a day does nothing to help these children. By expecting incarcerated parents to not only pay support, but also pay back the government, leaves them less able to support their children after their release.

All of the parents interviewed wanted nothing more than to support and help their kids but New Jersey's dysfunctional child support system hinders their ability to do so, and does nothing but provide more obstacles to their living safe and dignified lives with their families.

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