A New Model for Child Support Enforcement

By Judge Milton C. Lee Jr.

The child support system, with its complex mixture of federal guidelines and local statutes, has failed to adequately serve some of its neediest families. Historically, this well-meaning system sought to deliver the most monetary support possible from a noncustodial parent to a custodial parent. Federal legislation told prosecutors and other enforcement agencies to prioritize establishing paternity and support orders and obtaining the most money possible. In the states, child support guideline statutes have likewise focused primarily on the income of parents in determining the appropriate level of support. By contrast, noncustodial parents, and their lawyers in the rare instance where they are represented by counsel, consistently tried to minimize financial obligations.

When there is little dispute over these issues or where the parents have established incomes, guideline statutes deliver exactly what they are designed to produce: a child support order focused almost exclusively on money. But where the parents are unemployed or underemployed, or where either parent is dependent on government-sponsored benefits like Temporary Assistance for Needy Families (TANF), or where domestic discord dominates the proceeding, the results produced by guideline statutes are woefully inadequate. In these instances, issues critical to parents jointly raising their children are rarely if ever addressed and leave parents with a type of partial justice.

In general, then, the child support system has failed to address crucial issues like increasing certainty in paternity, providing visitation, and fostering co-parenting. Many judges view child support calendars as one of the more frustrating assignments because they receive limited resources to address some of the most emotionally trying and complex of all cases. As a result, many support orders failed to appropriately balance the very real need
of monetary support with the equally real need of dads to support themselves as they contribute to the raising of their children. The absence of dads co-parenting their children, like the absence of appropriate monetary support, has led to devastating effects on child development. The resulting system is viewed with suspicion by parents and perceived as the enemy by many fathers—including well-meaning fathers who want to do the right thing.

The District of Columbia’s child support system was typical. When a noncustodial parent earns less than $14,404, the statutory minimal subsistence level, child support guidelines require the imposition of a minimal child support order of $50 per month. That’s right—$50 per month to support a minor child. In these instances, custodial parents appropriately ask, “What am I supposed to do with $50 per month?” Not surprisingly, noncustodial parents respond in a similar fashion, “How am I supposed to pay $50 per month without a job?” The guideline response to this difficult but shockingly common situation is to require the noncustodial parent to perform weekly job search efforts in hopes of finding employment and to return to court for periodic reviews. In most cases, this endless process continues without any meaningful change until work is obtained, payments are missed, or job search efforts cease. Little else is done to promote better results for parents and their children.

Parents came to expect little more from a well-meaning system that produced limited results. And why should they hope for anything more when enforcement agencies and courts have traditionally failed to undertake efforts designed to produce better, more far-reaching results for families?

The District of Columbia Superior Court’s Fathering Court Initiative
The District of Columbia Superior Court’s Fathering Court Initiative has developed a problem-solving approach to child support designed at correcting these systemic problems by balancing the need for monetary support with the benefits of co-parenting. The early results have been impressive. After four years of work in the Initiative, I am ready to share some of the benefits derived from our initial efforts at delivering a problem-solving approach to child support cases.

The D.C. Superior Court’s Fathering Court Initiative was developed to deliver a problem-solving approach to child support cases. The problem-solving approach to case management has been fully implemented in the local court system. The problem-solving courts are generally distinguished from tradition calendar management approaches by the existence of a team approach to the delivery of social services, increased court monitoring of the treatment process, direct interaction between program participants and the presiding judge, and a proactive role for the treatment team and the presiding judge both inside and outside the courtroom. In a general sense, problem-solving courts are designed to develop an individually focused service plan that addresses the root causes of court-related behavior. This approach to case management requires rigorous court supervision of each participant’s progress and less of a focus on traditional calendar management goals.

The development of a problem-solving approach to child support requires stakeholders to change the primary focus from the desire to transfer the most money possible from the noncustodial parent to the custodial parent to the noncustodial parent’s ability to provide meaningful monetary support. To accomplish this, the problem-solving process must include useful employment opportunities. It must balance the need for monetary support with the many other issues necessary to promote co-parenting.

The traditional approach to child support enforcement created a number of problems that undercut efficient case processing and prevented a more complete type of justice for the parties. Recently, the national fatherhood movement began to develop an alternative approach to child support enforcement that relies less on the imposition of sanctions for nonpayment and more on a social service model of case resolution that encourages parents to work on all issues that involve their children. The first such court was developed in Jackson, Missouri, through a partnership with the National Center for Fathering. The goal was to provide the court with options other than imprisonment for the criminal failure to pay child support.

Borrowing from the Jackson, Missouri, experience and with a redesigned focus, the D.C. Superior Court Fathering Court Initiative began as a partnership to develop a new approach to child support cases that focused on a social service model designed to provide a more holistic approach to the issues facing families. Partners included the court, the Office of the Attorney General Child Support Services Division (CSSD) (the local child support enforcement agency), Court Services and Offender Supervision Agency (the federal government agency that is responsible for the supervision of all community-placed adult offenders), the local Department of Human Services (DHS), the Department of Employment Services (DOES), and the Criminal Justice Coordinating Council (CJCC) (a local government entity that serves as a liaison between law enforcement agencies and social service-based agencies), as well as several other private sector partners.
Funding from the Department of Justice required the Fathering Court Initiative to focus on a reentry population. The reentry population was a perfect group of participants for the problem-solving approach promoted by the Fathering Court Initiative. Reentry programs were developed to deliver services to adult offenders returning to their communities following a period of incarceration and were gaining momentum with the expectation that recidivism would decrease. In addition, parents returning from a period of incarceration had few, if any, meaningful employment opportunities. The traditional view had been to accept that arrearages would be created because support orders would continue to run despite the period of incarceration and efforts to collect those sums would simply begin anew upon release from prison. One in four of the city's prisoners owed court-ordered child support. Almost half of that group was fathers with minor children. Against this backdrop, the need for a change in approach to child support was never more apparent.

The single biggest obstacle facing the reentry population is employment. Meaningful employment opportunities are key to a successful return to the community. Employment would also provide returning fathers with an opportunity to begin paying child support on a regular and consistent basis. To address this critical need, the Initiative partnered with the DOES. DOES operates the publicly funded Project Empowerment, a training and subsidized employment program that was specially tailored to assist the reentry population. Project Empowerment included soft job skill training as well as placement in government-sponsored jobs for nine to 12 months. The underlying premise of Project Empowerment is that successful placement in subsidized employment would lead to permanent employment opportunities for participants at the conclusion of the government subsidy.

Because of questions about the validity of the premise, additional grant funding was secured from the Department of Justice for the Initiative to enter into an agreement with professional private-sector job counselors. Educational Data Systems, Inc. (EDSI) was tasked with developing permanent full-time employment opportunities for program participants. Program participants work directly with EDSI employment coordinators and are referred to employers that develop relationships with EDSI. EDSI had successfully worked with child support agencies and courts in other jurisdictions to provide the very same type of resources to child support participants facing incarceration for the failure to pay support. As part of this collaborative approach, the local child support enforcement agency provides EDSI with office space one block from the court so that Initiative participants can have easy access to the child support agency and the court.

Each quarter, Court Services and Offender Supervision Agency for the District of Columbia provides referrals to the Initiative from a list of individuals scheduled for release from the Federal Bureau of Prisons. The Fathering Court program manager makes an initial assessment of a candidate's eligibility and an intake hearing is usually scheduled within 10 days of release from prison. At the initial court hearing, the Fathering Court program requirements are explained to the parties and the Fathering Court contract is executed. The Initiative goals for this voluntary program include full-time employment for all fathers, regular and consistent payment of child support, an agreement by both parents to work toward the development of a visitation schedule for all minor children, and the hope that all fathers will not reoffend.

Those admitted to the program are then referred to Project Empowerment or EDSI to begin pursuit of employment. Most participants are employed within 30 days of referral. A child support guideline calculation is completed at the initial court appearance. One of the central features of the Fathering Court partnership with CSSD is that Initiative participants pay a reduced amount of support based on a structured payment schedule for the program's one-year duration. The father pays 25 percent of the presumptive child support payment during the first 90 days of the program, 50 percent for next 90-day period, and so forth until graduation from the program. This structured payment schedule permits fathers to obtain employment upon return to the community without the burdens of very substantial child support orders. This approach permits fathers to get accustomed to the budgetary balancing that occurs each month as they make regular support payments and to address their personal needs. At graduation from the yearlong program, each father should be paying the presumptive amount of monthly support. In addition, the Initiative and CSSD promised to reward program compliance with a 25 percent reduction in any government-owned arrears. This joint approach to arrears reduction was originally made available only to Fathering Court Initiative participants. The pilot program was so well received that CSSD later extended the Fresh Start Program to a much wider range of noncustodial parents.

Most stakeholders anticipated that
services are made available to Initiative assistance, and educational and vocational training. In most instances, these services are monitored by Case managers to ensure proper delivery and compliance. Case managers are specially trained in mediation and work with both parents to develop and supervise visitation sessions. Visitation is a critical component of program participation. In some instances, visitation begins through telephone contact or Skype for children outside the immediate area. In other cases, visitation takes place at the court's supervised visitation center when third-party or family-supervised visits are not available. Often, a case manager's initial efforts at mediation would lead to a referral to the court’s Multi-Door Dispute Resolution Center, where both parents would formulate a visitation agreement that would become part of their child support order. In rare instances, fathers have returned to court with petitions to enforce visitation rights.

Because visitation and co-parenting are such important parts of the Fathering Court Initiative, each program participant is required to complete the Quenching the Father Thirst curriculum, which was developed by the National Center for Fathering to help men understand the significance of being a father. Despite their desire to be good fathers, almost all participants failed to grasp the full scope of their obligation to their children. The Quenching the Father Thirst classes require fathers to spend several Saturday afternoons with a trained facilitator to refocus their perception of fatherhood. Some of the most provocative and selfless discussions are led by men who simply never had a father as a role model. Most participants leave the classes with a newfound understanding of their obligations as well as a new commitment toward their children that goes far beyond paying child support.

In an effort to support fathers in their efforts to do more than just pay child support...
support, the Initiative sponsors several activities that are unrelated to court activity. As a result of generous donations to the program, participating families attend the circus, college basketball games, and professional baseball games. Recently the Initiative organized a Family Health Care Day where medical service providers conducted screenings in addition to educational sessions on a number of health-care issues. Such events, far beyond court-related functions, have produced increased communication between parents on child-related issues and allow both parents to experience their children in a setting designed to promote family bonding.

Four years of Fathering Court experience has helped the Initiative staff recognize that service to families requires an ability to address needs that are not immediately identified as part of the service plans. For example, many fathers experienced difficulty financing travel to and from employment training programs and interviews. Appropriate attire for interviews and employment opportunities also presented significant obstacles for some participants. Mothers raising children alone without meaningful financial support from the father expressed frustration about the day-to-day expenses and time constraints associated with child rearing. In an effort to address these concerns, some grant funds were reprogrammed to permit the issuance of subway fare cards to assist with travel.

Through generous donations from community organizations, local churches, and individuals, the Initiative has provided school supplies for all children and a clothing bank has been created to assist with preparation for job pursuits. Some participants realized that educational limitations curtailed their ability to pursue permanent employment. Certification courses and GED preparation classes were made available through a partnership with the University of the District of Columbia. Case managers learned to be flexible in their approach to social service coordination to ensure that the families were consistently monitored for program compliance.

All of these services are the product of a problem-solving approach to child support. The ability to promote positive change for families has been substantial and should encourage a broader application of this approach.

Graduation
On January 27, 2012, a group of 14 fathers, having completed a yearlong trek toward responsible fatherhood, graduated from the Fathering Court. This was the fourth and biggest graduating class. Twelve of the 14 fathers had obtained full-time employment. Two graduates became eligible for Social Security Disability Insurance benefits as a result of serious health-related issues. All of the fathers have paid child support throughout their participation in the program—either as a result of wage withholding from employment or through the acquisition of Social Security derivative benefits. Each father has taken substantial strides toward contributing to the raising of his children in every way expected of a parent. Over the four years of program operation, only two participants have reoffended and returned to jail. In most instances, mothers have given these fathers a new opportunity to be involved with their children beyond the financial contributions contemplated by the child support system. Like most problem-solving courts, the Fathering Court Initiative is rigorous and not all participants are successful. The strategies used by the Fathering Court Initiative have produced encouraging results for child support families.

The time has come for child support stakeholders to give serious thought to the use of the Fathering Court Initiative's problem-solving model on a much larger scale. Presently, there exists very little incentive for its families through the use of a problem-solving approach.

Resources
- The District of Columbia Child Support Guidelines, D.C. Code § 16-916.01(c)(1).
- George Williams, Nat’l Ctr. for Fathering, Quenching the Father Thirst: Developing a Dad (2007).

Endnotes
1. Case management services were initially provided to the Initiative through a partnership with the Healthy Families Thriving Communities Collaborative Council, a publicly funded organization that delivers a vast array of services to some of the neediest segments of the city. Recently, case management has become part of court operations.