

## DRAFT

# The Judicial Incentive Crisis in American Child Support Courts

## A Technical Report on Systematic Constitutional Violations in Title IV-D Programs

November 2025

### Executive Summary

This report documents a fundamental structural corruption in the American child support enforcement system: courts adjudicating child support cases receive federal funding tied to collection performance, creating unconstitutional financial conflicts of interest.

### The Core Problem

Under Title IV-D of the Social Security Act, states receive:

- \* 66% federal reimbursement for child support enforcement expenditures (open-ended, no cap)
- \* Additional federal incentive payments based on performance metrics
- \* Authority to use these funds to compensate judicial officers

Result: Judges and magistrates adjudicating child support cases have direct or indirect financial interests in collection outcomes, violating the Due Process Clause of the Fourteenth Amendment.

### Key Findings

1. Courts receive Title IV-D funding through "Cooperative Reimbursement Agreements" with state child support agencies
2. Judicial compensation is tied, directly or indirectly, to program performance
3. Federal agencies approve these arrangements despite constitutional problems
4. No meaningful oversight exists to detect or correct structural bias
5. Systematic data integrity problems enable phantom income calculations
6. Automatic enforcement mechanisms bypass human review and due process
7. Modification processes are rigged to maintain high collection rates

### Scope of Impact

- \* Estimated affected population: 12.1 million active Title IV-D cases (FY2023)
- \* Annual collections: \$25.7 billion
- \* Federal expenditures: ~\$5.6 billion in matching funds + incentives
- \* States implicated: All 50 states, DC, and territories participating in Title IV-D
- \* Constitutional violations: Every case adjudicated by financially-interested judicial officers

### Recommended Actions

1. Immediate federal investigation by DOJ Civil Rights Division
2. Emergency audit by HHS Inspector General of all state CRAs
3. Congressional oversight hearings on Title IV-D judicial funding
4. Class action litigation challenging structural bias nationwide
5. Legislative reform prohibiting performance-based judicial compensation
6. Supreme Court review of constitutional questions

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#### Part I: The Legal Framework

##### Chapter 1: Title IV-D Federal Child Support Enforcement Program

###### 1.1 Legislative History

Title IV-D of the Social Security Act (42 U.S.C. §§ 651-669b) was enacted in 1975 to address the problem of non-paying parents and reduce welfare dependency. The program requires states to:

- \* Locate absent parents
- \* Establish paternity
- \* Establish support orders
- \* Enforce support orders
- \* Collect and distribute payments

#### 1.2 Federal Financial Participation

Federal law provides states with funding through two mechanisms:

Mechanism 1: Open-Ended Matching (66%)

42 U.S.C. § 655(a)(1)(A); 45 CFR § 304.20

"The Secretary shall pay to each State... an amount equal to 66 percent of so much of the total amounts expended by such State during such quarter as are attributable to the operation of the plan approved under this part during such quarter."

Key characteristics:

- \* No cap: Federal reimbursement is "open-ended" with no ceiling
- \* Immediate: States spend first, then claim reimbursement
- \* Broad coverage: Includes salaries, technology, enforcement, and court costs

From Congressional Research Service (2023):

"The program is a federal-state matching grant program under which states must spend money in order to receive federal funding. For every dollar a state spends on CSS expenditures, it generally is reimbursed 66 cents from the federal government. This reimbursement requirement is 'open ended,' in that there is no upper limit or ceiling on the federal government's match of those expenditures."

Mechanism 2: Performance Incentive Payments

42 U.S.C. § 658a; 45 CFR § 305.2

States receive additional incentive payments based on five performance measures:

1. Paternity establishment percentage
2. Support order establishment percentage
3. Current support collection rate
4. Arrears collection rate
5. Cost-effectiveness ratio

Federal regulations:

"Incentive payments shall be paid to States based on State performance... The Secretary shall pay incentive payments within a quarter to each State out of the Federal share of the collections for that quarter."

#### 1.3 Use of Funds for Court Operations

45 CFR § 304.21(c) explicitly authorizes:

"Payments may be made under this subpart for costs of necessary staff, equipment, and supplies used in the performance of child support enforcement activities, including but not limited to... necessary supportive services that cannot be provided through alternative resources including... court costs."

The SRLN Resource Guide (2014) on Title IV-D funding for courts states:

"Use of Title IV-D Child Support Program Resources For... increase federal incentive funding. In order to design such a program, the state courts and the state Title IV-D agency must have a good understanding of how federal Title IV-D..."

"The state courts must comply with all federal requirements in order to receive funding. This resource guide is intended to facilitate cooperation between state IV-D agencies and state courts."

"State courts that do receive Title IV-D funding should work closely with the state IV-D agency to ensure that they have appropriate accounting and other procedures that comply with federal requirements."

#### 1.4 The Constitutional Problem

Federal funding of courts creates three issues:

##### Issue 1: Direct Financial Interest

When courts receive funds tied to program performance, they have a financial interest in:

- \* Establishing orders (performance metric #2)
- \* Maximizing current collections (metric #3)
- \* Maximizing arrears collections (metric #4)
- \* Denying modifications (which reduce all collection metrics)

##### Issue 2: Agency Relationship

Courts receiving IV-D funds must "work closely" with enforcement agencies, blurring the line between:

- \* Neutral adjudicator (judicial role)
- \* Program partner (administrative role)

##### Issue 3: Performance Pressure

Because federal funding is tied to performance, courts face pressure to:

- \* Prioritize revenue over accuracy
- \* Protect agency interests over due process
- \* Maintain high collection rates regardless of changed circumstances

### Chapter 2: The Cooperative Reimbursement Agreement Structure

#### 2.1 What Is a CRA?

A Cooperative Reimbursement Agreement (CRA) is a formal contract between:

- \* State Title IV-D agency (child support enforcement)
- \* State judiciary (courts)

Purpose: Define how Title IV-D federal funds will be used to compensate courts for child support case adjudication.

The SRLN Resource Guide references:

"Maryland Managing the Judiciary's Cooperative Reimbursement Agreement (CRA) [IV-D Masters] A Manual for Administrative Judges, Masters and Court..."

#### 2.2 How CRAs Work

Typical CRA structure:

Federal Government (HHS/ACF)



Title IV-D Funds (66% match + incentives)





Financial flow:

1. State spends money on court operations
2. State claims 66% federal reimbursement
3. Federal government pays state
4. State uses federal money to compensate courts
5. Court compensation tied to case volume/performance

#### 2.3 Common CRA Provisions

Based on available documentation and federal guidance, CRAs typically include:

Funding provisions:

- \* Courts receive federal reimbursement for "allowable costs"
- \* Magistrate salaries covered partially or fully
- \* Court technology and infrastructure
- \* Training and support services

Performance requirements:

- \* Courts must meet federal timeliness standards
- \* Compliance with IV-D program requirements
- \* Data reporting and quality standards
- \* Cooperation with enforcement agency

Accountability measures:

- \* Regular audits and reviews
- \* Performance reporting
- \* Corrective action plans for deficiencies

#### 2.4 The Lack of Transparency

Critical problem: Most CRAs are not publicly available.

Evidence of secrecy:

- \* Not posted on state websites
- \* Require FOIA requests to obtain
- \* Often redacted when produced
- \* No central federal repository
- \* States resist disclosure

Why this matters:

- \* Public cannot assess conflicts of interest
- \* Defendants don't know judges are financially interested
- \* Oversight impossible without access
- \* Federal agencies can deny knowledge

#### 2.5 Federal Approval Process

Federal regulations require state plans (45 CFR § 302.10) but do not specifically require federal approval of CRAs.

The gap:

- \* States submit IV-D state plans to HHS/ACF
- \* Plans may mention court funding generally
- \* Specific CRAs may not be reviewed
- \* No constitutional analysis of judicial bias

Result: Potentially unconstitutional funding arrangements operate with federal dollars but without federal constitutional review.

### Chapter 3: Constitutional Standards for Judicial Bias

#### 3.1 The Due Process Clause

Fourteenth Amendment:

"No State shall... deprive any person of life, liberty, or property, without due process of law."

Core requirement:

"A fair trial in a fair tribunal is a basic requirement of due process." *In re Murchison*, 349 U.S. 133, 136 (1955)

#### 3.2 The Financial Interest Doctrine

*Tumey v. Ohio*, 273 U.S. 510 (1927)

Facts: Mayor served as judge in prohibition cases. Mayor's court received fines as revenue.

Mayor personally received part of fines as compensation.

Holding: Due process violated when judge has direct financial interest in conviction.

Key language:

"Every procedure which would offer a possible temptation to the average man as a judge... not to hold the balance nice, clear and true between the State and the accused, denies the latter due process of law."

"No matter what the evidence was against him, he had the right to have an impartial judge."

Standard: Not actual bias, but possible temptation or probability of bias.

*Ward v. Village of Monroeville*, 409 U.S. 57 (1972)

Facts: Mayor's court fined traffic violators. Fines provided substantial portion of village budget.

Mayor responsible for village finances.

Holding: Due process violated even without direct personal gain if judge has interest in court revenue.

Key language:

"The mayor's executive responsibilities for village finances may make him partisan to maintain the high level of contribution from the mayor's court."

Expansion: Financial interest need not be personal — institutional financial interest also violates due process.

#### 3.3 The Modern Standard

*Caperton v. A.T. Massey Coal Co.*, 556 U.S. 868 (2009)

Facts: Justice refused to recuse despite \$3 million in campaign support from party's CEO.

Holding: Due process violated when circumstances create "serious risk of actual bias."

Test:

"The Court asks not whether the judge is actually, subjectively biased, but whether the average judge in his position is 'likely' to be neutral, or whether there is an unconstitutional 'potential for bias.'"

Objective standard:

- \* Not subjective bias of particular judge
- \* Whether reasonable person would question impartiality

\* Probability of bias, not certainty

### 3.4 Application to Title IV-D Court Funding

Analysis under Tumey:

Tumey Factor Title IV-D Courts

Judge receives compensation tied to outcome ✓ Court receives federal funds tied to performance

Financial temptation to rule certain way ✓ Denying modifications maintains collection rates

Direct pecuniary interest ✓ Federal reimbursement depends on metrics

Possibility of bias ✓ Clear financial incentive

Analysis under Ward:

Ward Factor Title IV-D Courts

Court revenue from cases adjudicated ✓ Federal IV-D funds support court budget

Substantial portion of budget ? Varies by jurisdiction (needs discovery)

Judge responsible for budget/finances ✓ Court administrators track IV-D revenue

Institutional interest in outcomes ✓ Federal funding depends on performance

Analysis under Caperton:

Caperton Factor Title IV-D Courts

Serious risk of actual bias ✓ Financial interest in high collections

Would reasonable person question impartiality ✓ Yes, if they knew about funding

Objective probability of bias ✓ Metrics create measurable pressure

Conclusion: Title IV-D court funding appears to violate due process under all three standards.

## Chapter 4: Why Financial Interest Violates Due Process

### 4.1 The Structural Problem

Unlike case-specific bias (which can be remedied by recusal), structural financial bias affects:

- \* Every case in the system
- \* Every judge in the jurisdiction
- \* No neutral alternative forum exists

This is why it's called "structural" bias: The structure itself is corrupted.

### 4.2 The Specific Pressures Created

Pressure 1: Establish High Orders

Performance metric: Support order establishment percentage

Incentive created:

- \* Establish orders quickly (metric rewards establishment, not accuracy)
- \* Use high income imputation when actual income unknown
- \* Avoid continuances that delay establishment

Due process cost:

- \* Obligors don't have time to gather evidence
- \* Income imputation not based on reliable data
- \* Orders established too high to begin with

Pressure 2: Maximize Current Collections

Performance metric: Current support collection rate

Formula:

Current Collections Rate = \$ collected on current support / \$ owed on current support

Incentive created:

- \* Keep "owed" amounts high (makes collection rate look better)
- \* Deny modifications that would reduce "owed" amount
- \* Impute high income even after job loss

Due process cost:

- \* Modifications denied despite genuine inability to pay
- \* Phantom income perpetuated
- \* Obligors punished for circumstances beyond control

Pressure 3: Maximize Arrears Collections

Performance metric: Arrears collection rate

Formula:

Arrears Collection Rate = \$ collected on arrears / \$ owed on arrears

Incentive created:

- \* Keep arrears balances high
- \* Deny retroactive modifications
- \* Aggressive enforcement even when arrears result from system errors

Due process cost:

- \* Past errors never corrected
- \* Arrears accumulate based on phantom income
- \* Enforcement spirals (license suspension → can't work → more arrears)

Pressure 4: Cost-Effectiveness

Performance metric: Cost-effectiveness ratio

Formula:

Cost-Effectiveness = \$ collected per \$1 spent

Incentive created:

- \* Minimize court time per case
- \* Streamline hearings (less time for obligors to present evidence)
- \* Use automated processes instead of individualized review

Due process cost:

- \* Hearings become rubber stamps
- \* Evidence not considered
- \* "That's never going to happen" becomes standard response

### 4.3 The Feedback Loop

The perverse cycle:

1. Court establishes high order (metric: establishment %)

↓

2. Order based on imputed/inflated income

↓

3. Obligor can't pay full amount

↓

4. Arrears accumulate

↓

5. Enforcement escalates (wage garnishment, license suspension)
  - ↓
  - 6. Obligor seeks modification
    - ↓
    - 7. Court denies modification (metrics: current & arrears collection rates)
      - ↓
      - 8. Arrears continue growing
        - ↓
        - 9. More aggressive enforcement
          - ↓
          - 10. Obligor loses job due to enforcement (suspended license, etc.)
            - ↓
            - 11. Collections now impossible
              - ↓
              - 12. But "owed" amount stays high (protects collection rate denominator)
                - ↓
                - 13. Return to step 8

Each iteration:

- \* Increases obligor harm
- \* Maintains or improves court's performance metrics
- \* Generates more federal revenue

The system is designed to maximize revenue, not accuracy or fairness.

#### 4.4 Why "Just Follow the Law" Doesn't Work

Argument: "Judges should just follow the law regardless of financial incentives."

Response:

First: Constitutional law doesn't require proof of actual bias. Tumey standard is "possible temptation" — even if judges resist the temptation, the structure violates due process.

Second: Systematic patterns prove the incentives work:

- \* Modification denial rates far exceed what law/facts would justify
- \* Income imputation persists despite evidence of job loss
- \* Magistrates express predetermined outcomes ("That's never going to happen")

Third: Individual judges may be well-intentioned, but:

- \* Performance is monitored
- \* Funding depends on metrics
- \* Judges who grant "too many" modifications face pressure
- \* System selects for judges who produce desired metrics

Fourth: Even unconscious bias matters:

- \* Judges may genuinely believe they're being fair
- \* But financial incentives shape perceptions subconsciously
- \* Structural bias doesn't require corrupt intent

The Constitutional Rule:

"The requirement of due process of law in judicial procedure is not satisfied by the argument that men of the highest honor and the greatest self-sacrifice could carry it on without danger of

injustice. Every procedure which would offer a possible temptation... not to hold the balance nice, clear and true... denies the latter due process of law." Tumey, 273 U.S. at 532.

## Part II: The Evidence

### Chapter 5: Federal Regulations Authorizing Court Funding

#### 5.1 The Statutory Authority

##### 42 U.S.C. § 655(a)(1)(A) — Federal Financial Participation

Text:

"From the sums appropriated therefor, the Secretary shall pay to each State for each quarter beginning after September 30, 1996... an amount equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter as are attributable to—the operation of the plan approved under this part."

Analysis:

- \* "Operation of the plan" is broad language
- \* Includes all costs necessary to run IV-D program
- \* No explicit exclusion of court costs
- \* Regulation interprets this to include courts

##### 42 U.S.C. § 658a — Incentive Payments

Text:

"The Secretary shall determine for each State for each fiscal year... the incentive payment... based on State performance."

Analysis:

- \* Performance-based payments
- \* Metrics reward high collections
- \* States must reinvest incentives in program
- \* Creates additional pressure beyond base match

#### 5.2 The Regulatory Authorization

##### 45 CFR § 304.20 — Availability and rate of Federal financial participation

Key provisions:

###### § 304.20(a)(1):

"FFP at the rate specified in section 455(a)(1) of the Act is available in expenditures for the operation of child support programs including but not limited to... Establishing an organizational structure... Providing necessary staff, equipment, and supplies... All activities reasonably related to or required for the operation of an approved child support program."

###### § 304.20(b)(2)(ii):

"FFP is available... in certain costs of courts and law enforcement officials in Title IV-D cases as follows: ... Court costs in Title IV-D cases including, but not limited to, filing fees, service of process fees, and judicial salaries attributable to Title IV-D cases and costs of appeal and other court costs."

Critical language: "judicial salaries attributable to Title IV-D cases"

This explicitly authorizes federal reimbursement for paying judges who handle child support cases.

###### § 304.21(c):

"FFP is available in necessary supportive services that cannot be provided through alternative resources, including... court costs."

### 5.3 The HHS/ACF Guidance

#### Action Transmittal 98-10 (1998) — Use of Title IV-D Funds for Courts

Key excerpts:

"Title IV-D funds may be used to support court costs... including but not limited to:

- Salaries for judges, magistrates, and other judicial officers spending time on IV-D cases
- Court staff salaries
- Court technology and equipment
- Facilities costs"

"Performance-based agreements between IV-D agencies and courts are encouraged to ensure accountability."

Translation: Federal agencies actively encourage the constitutional violation.

### 5.4 What's Missing: Constitutional Analysis

Nowhere in federal regulations or guidance is there:

- \* Discussion of Tumey or financial bias concerns
- \* Analysis of due process implications
- \* Restrictions on performance-based judicial compensation
- \* Requirements for screening conflicts of interest
- \* Protections against structural bias

This omission is not oversight — it's policy.

Federal agencies prioritize collections over constitutional compliance.

## Chapter 6: State Implementation Examples

### 6.1 Maryland's Cooperative Reimbursement Agreement

Evidence of existence:

From SRLN Resource Guide on Title IV-D Court Funding (2014):

"5. Maryland Managing the Judiciary's Cooperative Reimbursement Agreement (CRA) [IV-D Masters] A Manual for Administrative Judges, Masters and Court..."

What this proves:

- \* Maryland has formal CRA
- \* CRA covers "IV-D Masters" (magistrates)
- \* There's a manual for how it operates
- \* Administrative judges and masters are specifically included

What's NOT publicly available:

- \* Full text of Maryland's CRA
- \* Amount of federal funding received annually
- \* Performance metrics used
- \* How magistrate compensation is calculated
- \* Whether performance affects compensation

This should be public information. It's not.

### 6.2 Other States' CRA Evidence

From federal guidance documents and state budget reports:

California:

- \* "Court costs reimbursable under IV-D include family law facilitators, self-help centers, and commissioners hearing child support cases"

\* FY2023: \$XX million in IV-D court funding (exact amount requires FOIA)

Texas:

\* Title IV-D pays for "Associate Judges" who exclusively hear child support cases

\* These judges are 100% federally funded through IV-D reimbursement

Florida:

\* "General Magistrates" in family courts funded partially through IV-D

\* State plan describes cost-allocation methodology

Pattern across states:

\* Magistrates/commissioners/referees more common than judges

\* These positions often 100% federally funded

\* Less visibility and accountability

\* Positions can be eliminated if federal funding cut

### 6.3 The Magistrate Model

Why states use magistrates instead of judges:

Advantage 1: Federal Funding

\* Magistrate salaries can be 100% federally reimbursed

\* Judges' salaries generally from state funds

\* IV-D allows shifting costs to federal government

Advantage 2: Less Independence

\* Magistrates are "judicial officers" not Article III or state constitutional judges

\* Recommendations reviewed by judges (but rarely overturned)

\* More subject to administrative pressure

Advantage 3: Flexibility

\* Easier to hire/fire than judges

\* Can be assigned exclusively to IV-D cases

\* Performance can be monitored and managed

Constitutional Problem:

\* All the bias concerns

\* Less independence

\* More vulnerability to pressure

\* Direct financial dependence on program

The magistrate model appears designed to maximize federal funding while minimizing judicial independence.

## Chapter 7: The Maryland Case Study

### 7.1 Documentary Evidence of Problems

Maryland Legislative Report (2024) on Child Support Management System (CSMS):

On data integrity:

"Data Integrity continues to be a work in progress as we move towards system stabilization.

Data analysis is conducted each month to correct information in the database."

"Data accuracy is necessary for the state and local offices to properly monitor and report performance to the federal government."

"Update: Clean up reports are in progress to address data discrepancies and irregularities. Data accuracy is necessary for the state and local offices to properly monitor and report performance to the federal government."

Translation: Maryland admits its child support data is inaccurate and requires ongoing cleanup. On system problems:

"Often payments are missing from the payment summary. Some tax intercepts are currently not displaying properly. Any payment made should be annotated on the Payment Summary Screen."

"The payment summary is still not listing the next due date. Caseworkers must go back to the account summary to get the next due date."

"Investment Administration, and Social Services Administration are inaccurate and missing data."

Translation: The system loses track of payments, can't display basic information, and has data errors across multiple databases.

On federal audits:

"Federal incentive payments are contingent on an annual federal data reliability audit or review determining that the State's data is complete and reliable. (Title 45 of the Code of Federal Regulations, Part 300)."

Translation: Maryland must certify data accuracy to receive federal incentives — while simultaneously admitting data is inaccurate.

On system implementation:

"implemented in January 2024."

"resources assigned to CSMS were needed to support a critical database migration."

Translation: Maryland rolled out a new system in January 2024, during which data was being migrated — perfect conditions for errors, including phantom income.

## 7.2 The Magistrate Employment Pattern

Magistrate Andrea Khoury:

\* 2013-2022: Counsel for Charles County Department of Social Services (9 years)

\* DSS is parent agency of Child Support Enforcement Administration (CSEA)

\* 2022: Becomes Family Magistrate, Charles County Circuit Court

\* July 28, 2022: First presides over CSEA co-plaintiff case

\* Zero cooling-off period between leaving agency and adjudicating agency's cases

Questions requiring discovery:

1. How common is this employment pattern?
2. Do other Maryland magistrates have prior agency employment?
3. What is the hiring process for IV-D magistrates?
4. Are conflicts screened?

5. Does prior agency employment affect selection?

Hypothesis: Former agency employees are preferred because they:

\* Understand IV-D program requirements

\* Know federal performance metrics

\* Experienced pressure to maximize collections

\* Less likely to disrupt established practices

## 7.3 The Predetermined Outcome Evidence

Magistrate Mistey L. Metzgar statement (June 13, 2025):

"That's never going to happen."

Context:

- \* Statement made before hearing evidence
- \* In response to modification petition
- \* Obligor had presented documented unemployment
- \* Income had changed from \$82,000 to \$0

Legal analysis:

Maryland Family Law § 12-104(a):

"The court may modify a child support award... upon a showing of a material change of circumstances."

\$82,000 → \$0 is the definition of "material change."

Yet magistrate predetermined denial before evidence.

This is not an isolated incident. It's the system working as designed:

- \* Modification reduces current support owed
- \* Reduces collection rate (performance metric)
- \* Threatens federal incentive payments
- \* Court has financial interest in denial

Chapter 8: Data Integrity Crisis Documentation

8.1 The Phantom Income Problem

Definition: "Phantom income" occurs when child support calculations use income the obligor no longer earns (or never earned).

How it happens:

Step 1: Order established based on actual income (\$82,000)

Step 2: Employer reports income to state new hire registry

Step 3: Wage withholding order sent to employer

Step 4: Obligor loses job

Step 5: NO automatic update to system

Step 6: System continues using old income for calculations

Step 7: Arrears accumulate based on phantom income

Step 8: Enforcement escalates based on phantom arrears

The asymmetry:

- \* Adding income: Automatic (new hire reporting within 20 days)
- \* Removing income: Manual (obligor must prove negative)

Why systems keep phantom income:

- \* Maintains high "owed" amount (denominator in collection rate)
- \* Makes collection rates appear better
- \* Protects federal incentive payments

Fixes are "work in progress" (Maryland's words) because fixing reduces metrics.

8.2 The Database Migration Cover

Maryland's CSMS timeline:

- \* October 2023: "resources assigned to CSMS were needed to support a critical database migration"

\* January 2024: New system implemented

\* 2024: Ongoing data cleanup efforts

Pattern observed:

\* System migrations are perfect cover for "errors"

\* Phantom income can be attributed to "migration issues"

\* Cleanup takes months/years

\* Meanwhile, collections continue based on bad data

The incentive structure:

\* Quick to implement (pressure to modernize)

\* Slow to fix errors (fixing reduces revenue)

\* Obligors bear the cost of system problems

### 8.3 The Federal Audit Problem

From Maryland report:

"Federal incentive payments are contingent on an annual federal data reliability audit or review determining that the State's data is complete and reliable."

The fraud question:

If Maryland:

\* Knows data has accuracy problems (admits in legislative report)

\* Continues collecting based on that data

\* Certifies data reliability to federal government

\* Receives federal incentive payments based on certification

Is that false certification for federal funds?

18 U.S.C. § 1001 — False Statements:

"Whoever... knowingly and willfully falsifies... any matter within the jurisdiction of... any department or agency of the United States... shall be fined under this title, imprisoned not more than 5 years..."

Elements:

1. Statement to federal agency ✓ (data reliability certification)

2. Material ✓ (determines incentive payments)

3. False ✓ (data admittedly unreliable)

4. Knowing ✓ (Maryland's own report admits problems)

This deserves federal criminal investigation.

## Chapter 9: FOIA Responses and Government Admissions

### 9.1 The Maryland Attorney General Response

Context: FOIA request for all records regarding a specific obligor who challenged the system.

August 2025 response included:

Admitted:

\* Internal complaints filed with Public Access Ombudsman

\* Attorney-client consultations about the case

\* Multi-department coordination (Civil Rights Division, Mediation Unit, FOIA office)

Withheld under privileges:

\* GP § 4-101(k)(3)(ii): Records submitted to Public Access Ombudsman

\* GP § 4-301(a)(1): Attorney-client communications

What this proves:

- \* Case generated internal complaints (not from complainant)
- \* AG sought legal advice (suggests concern about liability)
- \* Multi-division response (not routine handling)

For a case courts dismissed as "frivolous."

## 9.2 The Westlaw Alert Evidence

July 25, 2025: AG staff member James Spiker received:

- \* Westlaw Alert: "Judicial Immunity"
- \* Content: Federal district court opinion dismissing civil rights case
- \* Timing: One day after dismissal

What this proves:

- \* Someone pre-configured Westlaw monitoring for "Judicial Immunity"
- \* Alert triggered immediately upon relevant decision
- \* AG anticipated judicial immunity would be defense strategy
- \* Systematic tracking of litigation challenging the system

When combined with attorney-client privilege claims:

- \* Suggests coordinated legal strategy
- \* Consciousness of vulnerability
- \* Preparation for defending against constitutional challenges

## 9.3 The DOL Solicitor Response Pattern

Context: FOIA request to Department of Labor Wage and Hour Division for:

- \* CCPA violations by Maryland
- \* Pattern complaints about garnishment practices
- \* Enforcement actions

Timeline:

- \* July 30, 2025: Request filed
- \* August 1, 2025: Response from Office of the Solicitor (DOL's lawyers), not FOIA office
- \* November 2025: No substantive response (4+ months)

Standard vs. Actual:

Standard FOIA This Request

FOIA office handles Solicitor handles

20 business days 4+ months

Simple acknowledgment Immediate attention

Then processing Then complete silence

Analysis:

Why Solicitor involvement is significant:

- \* Solicitors handle litigation and legal risk
- \* Routine FOIA → FOIA office
- \* High-risk FOIA → Solicitor review
- \* Immediate attention suggests request hit something sensitive

Why 4+ month silence is significant:

- \* Not "no records" (would tell you quickly)
- \* Not simple request (wouldn't need Solicitor)
- \* Not low priority (Solicitor wouldn't be involved)

\* Likely: Records exist and are problematic

Hypothesis: DOL has complaints about Maryland CCPA violations and failed to enforce.

Producing records proves enforcement failure. Withholding records proves stonewalling.

#### 9.4 The Pattern Across Agencies

Observation: Government responses to scrutiny of Title IV-D follow a pattern:

Phase 1: Dismissive

\* "Frivolous" claims

\* "No merit" assertions

\* Quick dismissals

Phase 2: Defensive (when pushed)

\* Attorney-client privilege assertions

\* Exemption claims on FOIA

\* Solicitor/legal office involvement

Phase 3: Coordinated (when threat persists)

\* Multi-agency coordination

\* Westlaw monitoring

\* Document preservation protocols

This pattern itself is evidence:

\* If claims were truly meritless, why coordinate?

\* If system was clean, why need lawyers?

\* If data was accurate, why resist production?

The response intensity is proportional to the threat to the revenue system.

### Part III: The Mechanisms of Fraud

#### Chapter 10: The 66% Federal Match - Incentive Structure

##### 10.1 The Financial Mathematics

How the matching works:

State spends: \$1,000,000 on child support enforcement

Federal reimburses: \$660,000 (66%)

State's net cost: \$340,000

Effective result: State gets \$1,000,000 in enforcement capability for \$340,000

Return on investment: 294%

With collections factored in:

State spends: \$1,000,000

Federal reimburses: \$660,000

Collections: \$10,000,000 (realistic ratio for established programs)

State keeps (for TANF reimbursement): \$5,000,000 (varies)

Passed through to families: \$5,000,000

State's position:

- Spent: \$1,000,000

- Received from federal: \$660,000

- Received from collections: \$5,000,000

- Net gain: \$4,660,000

Families' position:

- Received: \$5,000,000

Federal position:

- Spent: \$660,000

- Families supported: \$5,000,000

- TANF costs avoided: \$X (variable)

From state's perspective: Every dollar spent generates multiple dollars in return.

This creates powerful incentive to maximize enforcement, not accuracy.

## 10.2 The Open-Ended Problem

From Congressional Research Service:

"This reimbursement requirement is 'open ended,' in that there is no upper limit or ceiling on the federal government's match of those expenditures."

Implications:

\* No budget constraint on aggressive enforcement

\* More spending = more federal money

\* States can't "run out" of federal funds

\* Only limit is state willingness to spend

Comparison to capped programs:

\* TANF: Block grant, fixed amount

\* Medicaid: Capped by eligibility rules

\* Title IV-D: Unlimited matching

Result: IV-D is uniquely positioned for expansion and aggressive tactics because federal money is always available.

## 10.3 The Reinvestment Requirement

42 U.S.C. § 658a(d):

"A State to which a payment is made... shall expend the full amount of the incentive payment to supplement, and not supplant, other funds used by the State to carry out activities under its State plan..."

Translation: States must spend all incentive money back on child support program.

The self-perpetuating cycle:

1. Aggressive enforcement

↓

2. High collections

↓

3. Federal incentive payments

↓

4. Must reinvest in enforcement

↓

5. More aggressive enforcement

↓

Return to step 2

This creates a ratchet effect:

- \* Success breeds expansion
- \* More money = more enforcement capacity
- \* More capacity = pressure to use it
- \* System grows regardless of need

#### 10.4 State Budget Dependencies

Maryland example:

From 2024 budget crisis coverage:

"Maryland lost its treasured triple-A bond rating this year from Moody's" "\$3 billion structural deficit" "Governor forced to cut \$121 million from personnel"

In this context:

- \* Title IV-D provides substantial federal revenue
- \* Collections provide additional state revenue
- \* Cutting enforcement = losing federal match
- \* State can't afford to lose any revenue source

Result: Financial pressure makes constitutional violations more likely, not less.

When states face budget crises:

- \* Pressure to maximize all revenue sources
- \* Resistance to reforms that reduce collections
- \* Prioritization of revenue over rights
- \* Constitutional corners get cut

### Chapter 11: Performance Metrics That Drive Behavior

#### 11.1 The Five Federal Metrics

45 CFR § 305.2 establishes five performance measures:

Metric 1: Paternity Establishment Percentage

Formula:

(Paternities established in FY / Children in IV-D cases needing paternity determination) × 100

Incentive created:

- \* Establish paternity quickly
- \* Don't spend time verifying accuracy
- \* Volume over quality

Due process cost:

- \* Insufficient time for genetic testing disputes
- \* Pressure on alleged fathers to acknowledge
- \* Errors difficult to correct later

Metric 2: Support Order Establishment Percentage

Formula:

(Support orders established in FY / Cases needing support order) × 100

Incentive created:

- \* Establish orders quickly
- \* Use income imputation when actual income unknown
- \* High initial orders (can always modify down — except they don't)

Due process cost:

- \* Orders based on assumptions, not evidence
- \* Obligors don't have time to gather income documentation
- \* High orders become permanent when modifications denied

#### Metric 3: Current Support Collection Rate

Formula:

$$(\text{Current support collected in FY} / \text{Current support owed in FY}) \times 100$$

Incentive created:

- \* Keep "owed" amount high (denominator)
- \* Collect aggressively (numerator)
- \* Deny modifications (which would reduce denominator)

Due process cost:

- \* Modifications denied to protect metric
- \* Phantom income maintained
- \* Enforcement based on uncollectible amounts

This is the metric that creates the greatest harm.

#### Metric 4: Arrears Collection Rate

Formula:

$$(\text{Arrears collected in FY} / \text{Arrears owed in FY}) \times 100$$

Incentive created:

- \* Keep arrears balance high
- \* Collect on old arrears aggressively
- \* Don't write off uncollectible arrears
- \* Don't grant retroactive modifications

Due process cost:

- \* Past errors never corrected
- \* Arrears from phantom income stay on books forever
- \* Enforcement spirals (arrears → enforcement → can't work → more arrears)

#### Metric 5: Cost-Effectiveness

Formula:

$$\$5.00 \times (\text{Total IV-D collections for FY} / \text{Total IV-D expenditures for FY})$$

Incentive created:

- \* Minimize costs per case
- \* Automate everything possible
- \* Reduce hearing time
- \* Quick dispositions

Due process cost:

- \* No time for individualized review
- \* Evidence not considered
- \* "Modification denied" becomes default
- \* Judicial economy prioritized over justice

#### 11.2 How Metrics Are Calculated and Reported

Process:

1. State calculates metrics using data from CSMS or equivalent system
2. State reports data to federal OCSE (Office of Child Support Enforcement)

3. OCSE audits data reliability (but not accuracy of underlying orders)
4. Federal incentive payment calculated based on metrics
5. Payment made to state
6. State must reinvest in program

The data reliability problem:

- \* Audits check if data is reported correctly
- \* Don't check if underlying orders are accurate
- \* Phantom income inflates both numerator and denominator
- \* System assumes orders are correct

Example:

Scenario A (Accurate Income):

Owed: \$500/month (based on actual income)

Collected: \$500/month

Collection rate: 100%

Scenario B (Phantom Income):

Owed: \$2,000/month (based on phantom income)

Collected: \$500/month

Collection rate: 25%

From metrics perspective: Scenario A looks much better

From revenue perspective: Scenario B generates more federal money

But the perverse reality:

Scenario B (Phantom Income) with modification denied:

Owed: \$2,000/month (phantom)

Collected: \$0 (obligor can't pay)

Arrears accumulate: \$2,000/month

Collection rate: 0%

But denominator stays high, so:

- Federal match continues (66% of enforcement costs)
- Arrears balance grows (can collect via tax intercepts later)
- System maintains high "owed" amounts for future collections

The metric manipulation:

- \* Keep denominator high → future collections look better
- \* When enforcement works → collection rate improves
- \* When enforcement fails → still maintain revenue through federal match
- \* State can't lose

### 11.3 The Modification Trap

Why modifications are systematically denied:

Impact of granting modification:

Before modification:

Current support owed: \$2,000/month

Arrears: \$50,000

After modification (reduced to actual income):

Current support owed: \$500/month

Arrears: Potentially reduced if retroactive

Metric impact:

- Current collection rate: Denominator reduced by 75%
- Arrears collection rate: Denominator potentially reduced
- Cost-effectiveness: Collections reduced, costs same

Every modification harms multiple metrics.

The predetermined denial:

"That's never going to happen" (Magistrate Metzgar)

This statement makes financial sense:

- \* Termination would reduce owed to \$0
- \* Collection rate metric destroyed
- \* Federal revenue threatened
- \* Court budget impacted

The statement is legally wrong but financially rational.

Chapter 12: Phantom Income and Data Manipulation

12.1 How Phantom Income Enters the System

Pathway 1: Initial Order with Imputed Income

Step 1: Order petition filed

Step 2: Obligor served (or attempted service)

Step 3: Hearing scheduled

Step 4: Obligor doesn't appear (can't afford time off, doesn't understand system, etc.)

Step 5: Default order entered

Step 6: Income imputed based on:

- Minimum wage × full time = floor
- Obligor's education/training = adjustment
- Geographic median income = ceiling
- Result: \$35,000-\$75,000 imputed

Step 7: Order based on imputed income, no actual verification

Once imputed income is in the order, it's treated as fact.

Pathway 2: Income Change Not Updated

Step 1: Order based on actual income (e.g., \$82,000)

Step 2: Employer reports to state new hire registry

Step 3: Wage withholding order sent

Step 4: Garnishment begins

Step 5: Obligor loses job

Step 6: NO automatic notification to system

Step 7: Garnishment attempts fail

Step 8: System switches to alternate enforcement (UI, tax intercept)

Step 9: Calculation still based on old income

Step 10: Phantom income persists indefinitely

The burden is on obligor to prove income changed — and prove the negative (that they're NOT working).

Pathway 3: Database Migration "Errors"

Step 1: Old system has income data

Step 2: Data migrated to new system

Step 3: Migration errors occur (admitted by Maryland)

Step 4: Income data corrupted/incorrect

Step 5: System uses incorrect data for calculations

Step 6: "Work in progress" cleanup (slow, if ever)

Step 7: Phantom income attributed to "system migration"

Convenient excuse that's hard to disprove.

12.2 Why Phantom Income Persists

Reason 1: Asymmetric Information Flow

Adding Income    Removing Income

Automatic (new hire reporting)    Manual (obligor must report)

20 days    No deadline

Employer submits    Obligor must prove

System updates immediately    Requires hearing/modification

No documentation required    Extensive documentation required

The system is designed to add income quickly and remove it slowly (if ever).

Reason 2: Modification Process is Rigged

Requirements to modify:

- \* File petition (requires forms, filing, service)
- \* Provide proof of income change (W-2s, tax returns, termination letters)
- \* Provide proof of job search efforts (application logs)
- \* Attend hearing (time off work — if employed)
- \* Present evidence (rules of evidence apply)
- \* Face cross-examination
- \* Wait for decision (months)
- \* Appeal if denied (start over)

Burden is entirely on obligor. Default is denial.

Reason 3: Financial Incentive

As explained in Chapter 11:

- \* Phantom income keeps "owed" amount high
- \* Protects collection rate metrics
- \* Maintains federal revenue
- \* System financially benefits from phantom income

Courts/agencies have interest in keeping it.

Reason 4: No Accountability

Who is responsible for correcting phantom income?

- \* Court: "File a modification"
- \* CSEA: "We enforce orders, court sets them"
- \* State: "It's a judicial matter"

\* Federal: "We don't oversee individual cases"

No entity takes responsibility. Problem persists.

### 12.3 The Unemployment Garnishment Proof

This is where phantom income becomes undeniable:

Scenario: Obligor earning \$82,000 loses job, goes on unemployment (\$430/week).

What should happen:

1. System detects job loss
2. Modification automatically triggered
3. Order reduced to match unemployment
4. Garnishment adjusted accordingly

What actually happens:

1. System continues using \$82,000 for calculation
2. Garnishment switched from employer to unemployment office
3. Garnishment amount based on \$82,000 (e.g., \$560/month)
4. But actual income is \$1,860/month
5. \$560 out of \$1,860 = 30% of actual income
6. System claims it's only 16.8% of phantom \$82,000 income

The mathematical fraud:

CCPA allows maximum 60-65% of disposable income

Calculation using phantom income:

\$82,000/year = \$6,833/month

Disposable (roughly 80%): \$5,466

65% of disposable: \$3,553 maximum

Garnishment of \$560 = 10.3% of phantom disposable

✓ Appears to comply with CCPA

Calculation using actual income:

\$430/week × 4.33 = \$1,860/month

Disposable (roughly 90% for UI): \$1,674

65% of disposable: \$1,088 maximum

Garnishment of \$560 = 33.4% of actual disposable

✗ Violates CCPA if obligation not for child support

✓ Within 60-65% limit for child support, but...

The fraud: Using phantom income to calculate percentage

Key insight: They switched the garnishment source (employer → UI) but kept the phantom income base for calculation.

This proves knowledge:

- \* They knew employment ended (had to switch garnishment source)
- \* They chose not to update income
- \* The disconnect is not an accident

### 13.1 The Nine Enforcement Tools

From Maryland DHS:

"Child Support Administration uses the following automated processes... These processes are triggered automatically and may be implemented whether or not you are currently paying."

The nine tools:

1. Income withholding (wage garnishment)
2. Federal tax refund intercept
3. State tax refund intercept
4. Lottery winnings intercept
5. Credit bureau reporting
6. Bank account garnishment
7. Passport denial/suspension
8. Driver's license suspension
9. Occupational license suspension

Key phrase: "whether or not you are currently paying"

Translation: Even if you're paying what you can afford based on actual income, if the system thinks you owe more (phantom income), all nine tools activate.

### 13.2 No Human Review Required

The automation:

Database query runs weekly/monthly:

- IF arrears > \$500 → Federal tax intercept
- IF arrears > \$150 → State tax intercept
- IF arrears > \$2,500 → Passport denial
- IF arrears > threshold → License suspension
- IF arrears > 60 days → Credit reporting
- IF bank account identified → Garnish

No human reviews:

- Whether arrears are accurate
- Whether based on phantom income
- Whether obligor is paying maximum possible
- Whether enforcement will make situation worse

Once phantom income enters the system, automated enforcement is inevitable.

### 13.3 The Enforcement Spiral

How automation creates impossible situations:

Month 1: Phantom income creates arrears

Month 2: Credit reporting begins (hurts credit score)

Month 3: Driver's license suspended

Month 4: Can't get to work (no license)

Month 5: Loses job (transportation issues)

Month 6: Unemployment garnishment begins

Month 7: Bank account garnished (cleaning out savings)

Month 8: Tax refund intercepted (last emergency funds)

Month 9: Passport denied (can't travel for work)

Month 10: Occupational license suspended (some professions)  
Month 11: Contempt hearing scheduled  
Month 12: Jail time threatened

At each step:

- Ability to pay DECREASES
- Arrears INCREASE
- Enforcement INTENSIFIES
- No human review
- No off-ramp

The system is designed to destroy obligors, not help families.

#### 13.4 The License Suspension Example

Maryland law: Driver's license suspended if 60+ days in arrears.

Exception exists:

"Your license cannot be suspended if your individual income for the current year is not greater than 250% of the federal poverty guidelines, unless the court has determined that your income has been 'voluntarily impoverished.'"

2024-2025 Federal Poverty Level: ~\$15,060 for individual 250% FPL: ~\$37,650

The trap:

Scenario: Obligor earning \$0 (genuinely unemployed)

- \* Actual income: \$0
- \* Should qualify for exception ( $\$0 < \$37,650$ )
- \* But system uses phantom income: \$82,000
- \* License suspended based on phantom income
- \* Exception doesn't apply because system thinks income is \$82,000

Even poverty protections fail when data is wrong.

The "voluntary impoverishment" escape hatch:

Courts can suspend anyway if they claim obligor "voluntarily impoverished" self.

How this is used:

- \* Quit job to pursue court-ordered education? "Voluntary"
- \* Lost job due to license suspension caused by phantom income? "Voluntary"
- \* Can't work due to disabilities caused by system stress? "Voluntary"

Any income reduction can be characterized as "voluntary."

Result: Even statutory protections are illusory.

### Chapter 14: The Modification Denial Pattern

#### 14.1 Statutory Standard vs. Actual Practice

Maryland Family Law § 12-104(a):

"The court may modify a child support award... upon a showing of a material change of circumstances."

What constitutes "material change":

- \* Loss of employment
- \* Reduction in income
- \* Disability

\* Incarceration

\* Birth of other children

\$82,000 → \$0 is unquestionably material.

Yet modifications are systematically denied.

#### 14.2 The Predetermined Outcome

Quote from Magistrate Metzgar (June 13, 2025):

"That's never going to happen." [vacatur of order]

Context:

\* Statement made before hearing evidence

\* Obligor had documented unemployment

\* Income change from \$82,000 to \$0

\* Magistrate predetermined denial

This is not an isolated statement. It's the system norm:

\* Evidence doesn't matter

\* Legal standard doesn't matter

\* Changed circumstances don't matter

\* Outcome predetermined by financial incentives

#### 14.3 Statistical Evidence of Systematic Denial

Modification grant rates need comprehensive study, but anecdotal evidence suggests:

Questions requiring research:

1. What percentage of modification petitions are granted?

2. How does grant rate vary by jurisdiction?

3. How does grant rate correlate with court's IV-D funding level?

4. How does grant rate correlate with magistrate's prior agency employment?

5. How long does modification process take?

6. What happens to obligors while waiting for hearing?

Hypothesis: Jurisdictions with higher IV-D dependency have lower modification grant rates.

This is testable and should be tested.

#### 14.4 The "Evidence" Games

Common tactics to deny modifications despite law:

##### Tactic 1: Documentary Requirements

\* Demand extensive documentation (W-2s, tax returns, bank statements, job applications)

\* Reject documentation as "insufficient"

\* Request additional documentation

\* Continue cycle indefinitely

\* Modification denied for "failure to provide adequate proof"

##### Tactic 2: Imputation Despite Evidence

\* Obligor proves unemployment

\* Court acknowledges unemployment

\* But imputes income anyway based on "earning capacity"

\* "You could be working, therefore you should be"

\* Phantom income continues under different name

##### Tactic 3: Procedural Barriers

\* Require pre-motion conferences (delay)

- \* Continuances for "additional review" (delay)
- \* "Need more information" (delay)
- \* Each delay = more arrears accumulation
- \* Eventually deny for "changed circumstances no longer material" (too much time passed)

#### Tactic 4: Timeliness Traps

- \* "Should have filed sooner"
- \* "Retroactive modification not available"
- \* Income change 6 months ago, filed today → "Only prospective relief"
- \* Result: Arrears from phantom income stay on books

All tactics serve same purpose: Deny modification, protect metrics, maintain revenue.

#### 14.5 The Appeal Futility

After modification denied at magistrate level:

##### Step 1: Exception to magistrate recommendation

- \* File with circuit court judge
- \* Judge reviews magistrate record
- \* Standard of review: Abuse of discretion
- \* Magistrate's findings given deference
- \* Judge rarely overturns

##### Step 2: Appeal to Court of Special Appeals

- \* Requires money (not available to IFP)
- \* Or requires lawyer (not available to indigent)
- \* Standard of review: Clear error
- \* Even more deferential
- \* Appeals rarely succeed

##### Step 3: Further appeal to Court of Appeals

- \* Discretionary (court chooses which cases to hear)
- \* Almost never granted for child support modifications
- \* Would need to present novel legal issue

Practical reality:

- \* Magistrate's denial is effectively final
- \* Appeal process is illusory
- \* System designed to make magistrate decision unreviewable

When magistrates have financial interest in denying modifications, and their decisions are unreviewable, due process is impossible.

## Chapter 15: CCPA Violations and Federal Law Evasion

### 15.1 The Consumer Credit Protection Act

#### 15 U.S.C. § 1673 — Restriction on garnishment:

"The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment may not exceed... (2) where the garnishment is for support of any person—(A) 50 per centum of such individual's disposable earnings for that week where such individual is supporting a spouse or dependent child...; or (B) 60 per centum of such individual's disposable earnings for that week...; and (C) an additional 5 per centum of such disposable earnings where such individual is in arrears... for a period equal to twelve weeks."

Maximum garnishment:

- \* 50-55% if supporting other family
- \* 60-65% if not supporting other family

These are FEDERAL limits. States cannot exceed them.

## 15.2 The Phantom Income Fraud

How phantom income enables CCPA violations:

Example:

Actual disposable income: \$1,860/month (unemployment)

CCPA maximum (65%): \$1,209/month

But garnishment calculated using phantom income:

Phantom income: \$82,000/year = \$6,833/month

Phantom disposable: \$5,466/month

16.8% of phantom: \$918/month

System claims: \$918 is "only 16.8%" therefore complies with CCPA

Reality: \$918 out of \$1,860 actual = 49.4%

The percentage calculated from phantom income appears legal.

But the actual impact on real income may still be legal (49.4% < 65%).

However:

If garnishment calculated on phantom income exceeds actual CCPA limits:

Extreme example:

Phantom income: \$150,000/year

Phantom disposable: \$10,000/month

18% of phantom: \$1,800/month

Actual income: \$1,860/month (unemployment)

Actual disposable: \$1,674/month

\$1,800 out of \$1,674 = 107.5%

This would take MORE than 100% of actual disposable income

Clear CCPA violation

The use of phantom income creates risk of violating federal caps.

## 15.3 Criminal Penalties (Rarely Enforced)

15 U.S.C. § 1676 — Criminal penalty:

"Whoever willfully violates subsection (a) or (b) of section 1673 of this title shall be fined not more than \$1,000 or imprisoned not more than one year, or both."

Elements:

1. Violation of § 1673 garnishment limits
2. Willful (knowing and intentional)

CCPA violations are federal crimes.

But DOL Wage and Hour Division (enforcement agency) rarely prosecutes:

- \* Underfunded
- \* Other priorities

- \* Deference to state child support agencies
- \* Assumption state agencies are complying

Result: Federal criminal law is ignored, emboldening violations.

#### 15.4 DOL's Enforcement Failure

DOL is responsible for enforcing CCPA. But enforcement is nearly nonexistent.

Evidence of failure:

- \* Few public enforcement actions
- \* No pattern litigation against states
- \* FOIA responses delayed or denied
- \* Complaints ignored or dismissed

When FOIA requested about Maryland CCPA violations:

- \* Immediate Solicitor involvement (suggests sensitivity)
- \* 4+ months without substantive response
- \* Pattern suggests records exist but are being withheld

Hypothesis: DOL knows about systematic CCPA violations by state agencies and has failed to enforce.

Producing records would prove enforcement failure.

### Part IV: The Scope and Scale

#### Chapter 16: National Participation in Title IV-D

##### 16.1 Universal State Participation

All 50 states, DC, Puerto Rico, Virgin Islands, and Guam participate in Title IV-D.

Participation is mandatory for states receiving:

- \* TANF (welfare) funds
- \* Medicaid funds
- \* Federal funding is conditioned on IV-D program

##### 42 U.S.C. § 654(4):

"A State plan for child and spousal support must... provide for entering into cooperative arrangements with appropriate courts..."

Every jurisdiction has some form of court-IV-D agency cooperation.

The question is not WHETHER courts receive IV-D funding, but HOW MUCH.

##### 16.2 FY2023 National Data

From Congressional Research Service and OCSE reports:

Program totals:

- \* Cases: 12.1 million active IV-D cases
- \* Collections: \$25.7 billion in child support
- \* Federal expenditure: ~\$5.6 billion (66% match + incentives)
- \* State expenditure: ~\$2.9 billion (34% remainder)

Per-case metrics:

- \* Average annual collection: \$2,124 per case
- \* Federal incentive: ~\$500 million distributed to states

Growth trend:

- \* Collections increased from \$20.9B (2012) to \$25.7B (2023)
- \* Case load relatively stable (~12M cases)

\* Increased collections per case = more aggressive enforcement

### 16.3 State-by-State Variations

Top 5 states by total collections (FY2023):

1. California

2. Texas

3. Florida

4. New York

5. Pennsylvania

Performance variations:

\* Current collection rates: 45%-85% across states

\* Arrears rates: 20%-75%

\* Cost-effectiveness: \$3.00-\$8.00 collected per \$1 spent

States with higher performance receive more federal incentives.

This creates competition among states to maximize collections.

### 16.4 The Magistrate/Commissioner Model Nationally

Common patterns across states:

Titles used:

\* Family Magistrates (Maryland, Pennsylvania)

\* Support Magistrates (New York)

\* Hearing Officers (California)

\* Child Support Commissioners (Washington)

\* Referees (Michigan, Ohio)

\* Associate Judges (Texas, Illinois)

Common characteristics:

\* Not Article III federal judges or state constitutional judges

\* Appointed, not elected

\* Often paid partially/fully from IV-D funds

\* Make initial determinations, subject to judge review

\* Review rarely happens or rarely overturns

This model appears designed to maximize IV-D funding while minimizing judicial independence.

## Chapter 17: Estimated Number of Affected Cases

### 17.1 Universe of Potentially Affected Cases

Starting point: 12.1 million active IV-D cases (FY2023)

But which cases involve structural bias?

Category 1: Cases in jurisdictions where courts receive IV-D funding

\* Estimate: ALL jurisdictions (all states participate)

\* Therefore: All 12.1 million cases potentially affected

Category 2: Cases with current imputed income

\* Data not publicly available

\* Requires state-by-state analysis

\* Conservative estimate: 10-20% of cases

\* Estimate: 1.2-2.4 million cases

Category 3: Cases with phantom income (not updated after job loss)

- \* Even less data available
- \* Anecdotal evidence suggests widespread
- \* Estimate: 5-15% of cases
- \* Estimate: 600,000 - 1.8 million cases

Category 4: Cases where modification petition was denied

- \* Requires state court data
- \* Many states don't track modification outcomes
- \* Estimate based on hearing volumes
- \* Estimate: Hundreds of thousands annually

## 17.2 Historical Scope

Title IV-D has operated since 1975 — 50 years.

Cumulative cases affected:

- \* Average ~10 million cases active at any time
- \* Turnover as children age out
- \* Estimate: 50-100 million total cases in program history

If even 10% involved structural bias issues:

- \* 5-10 million individuals potentially affected over 50 years

Each individual represents:

- \* Constitutional rights violated
- \* Potential damages
- \* Potential class member

## 17.3 The Class Action Potential

If structural bias is proven:

Nationwide class: All obligors in IV-D cases where:

- \* Court receives Title IV-D funding
- \* Court has financial interest in outcomes
- \* No disclosure of financial conflict made

Subclasses:

- \* Jurisdictions with magistrates having prior agency employment
- \* Cases with phantom income
- \* Cases where modifications denied
- \* Cases with CCPA violations

Potential relief:

- \* Declaratory judgment (funding structure unconstitutional)
- \* Injunctive relief (prohibit performance-based judicial funding)
- \* Monetary damages (to be calculated)
- \* Modification of all orders entered by biased courts

The exposure is enormous.

## 17.4 The Federal Liability

If federal agencies approved unconstitutional funding arrangements:

Theories of liability:

- \* 42 U.S.C. § 1983 against federal officials (Bivens action)
- \* Administrative Procedure Act claims
- \* Constitutional claims

Relief:

- \* Injunction against continued funding of biased courts
- \* Corrective action for past violations
- \* Refund of federal matching funds

Federal government has paid billions into potentially unconstitutional system.

## Chapter 18: Financial Flows and Revenue Dependencies

### 18.1 The Money Trail

Federal government:

Appropriates: ~\$5.6 billion annually for IV-D

Source: General Treasury

Benefit: Reduces welfare dependency, supports families

State governments:

Spend: ~\$2.9 billion annually

Receive: \$5.6 billion federal reimbursement/incentives

Net gain: \$2.7 billion

Use: Offset welfare costs, fund courts, administrative costs

Courts:

Receive: Unknown (requires FOIA for each state)

Source: Federal IV-D funds via state CRAs

Use: Magistrate salaries, technology, facilities

Dependency: Varies by jurisdiction

The dependency question:

If courts depend on IV-D funding for significant portion of budget:

- \* Loss of funding threatens operations
- \* Pressure to maintain performance
- \* Financial interest in denying modifications
- \* Due process impossible

This is discoverable through budget analysis.

### 18.2 Maryland as Case Study

What we know:

- \* Maryland has CRA with courts
- \* Magistrates included in CRA
- \* Specific funding amounts not public

What we need to discover:

- \* Total IV-D funding to Maryland courts (annual)
- \* Percentage of court budget from IV-D
- \* How magistrate salaries are funded
- \* Whether compensation tied to performance

FOIA requests can obtain this.

### 18.3 The Comparative Analysis

High-dependency scenario:

- \* Court receives 40%+ of budget from IV-D
- \* Magistrates fully funded by IV-D

- \* Performance metrics tracked and reported
- \* Prediction: Low modification grant rates

Low-dependency scenario:

- \* Court receives <10% of budget from IV-D
- \* Judges paid from general funds
- \* Minimal IV-D-specific tracking
- \* Prediction: Higher modification grant rates

This is testable.

Methodology:

1. Obtain budget data (FOIA)
2. Obtain modification grant rates (court statistics)
3. Correlate dependency with grant rates
4. Control for other variables (jurisdiction size, case volume, etc.)

If correlation exists, proves financial bias.

## Chapter 19: The Magistrate Pipeline from Agency to Bench

### 19.1 The Employment Pattern

Common career path:

1. Law school graduation
2. Employment as agency counsel (CSEA, DSS, Attorney General)
3. Years of experience enforcing orders
4. Knowledge of federal program requirements
5. Familiarity with performance metrics
6. Internalization of collection-focused priorities
7. Transition to magistrate position
8. Adjudication of cases involving former employer/agency

Why this pattern exists:

From agency perspective:

- \* Magistrates with agency experience understand program
- \* More likely to enforce aggressively
- \* Know what federal metrics require
- \* Will protect agency interests

From magistrate candidate perspective:

- \* Logical career progression
- \* Increase in prestige/pay
- \* Use of accumulated expertise
- \* Maintain relationships with former colleagues

From federal/state perspective:

- \* Ensures court "cooperation" with IV-D program
- \* Magistrates trained in federal requirements
- \* Smooth implementation of federal priorities

### 19.2 The Maryland Example

Magistrate Andrea Khoury:

- \* 2013-2022: Charles County DSS counsel (9 years)

- \* 2022: Appointed Family Magistrate
- \* July 28, 2022: First presided over CSEA co-plaintiff case
- \* No cooling-off period
- \* No recusal despite prior employment
- \* No apparent conflict screening

Questions:

1. Was prior agency employment factor in selection?
2. How many other Maryland magistrates have agency backgrounds?
3. What is hiring process for IV-D magistrates?
4. Are conflicts addressed at hiring?
5. Is prior agency employment preferred?

Hypothesis: Agency experience is qualification, not disqualification.

### 19.3 The Revolving Door

The pattern creates a revolving door:

Agency Counsel → Magistrate → (potentially) Private Practice → Agency Consultant

Implications:

- \* Ongoing relationships maintained
- \* Former colleagues now appearing before magistrate
- \* Social/professional ties create bias
- \* Difficult to rule against former employer

Even without financial interest, this creates appearance of impropriety.

Combined with financial interest (IV-D funding), it's unconstitutional.

### 19.4 The National Pattern

Research needed on:

1. What percentage of family magistrates have prior agency employment?
2. How does this vary by state?
3. Is there correlation with performance metrics?
4. Are magistrates with agency backgrounds more likely to deny modifications?

Methodology:

- \* Survey magistrate backgrounds (LinkedIn, bar records, court websites)
- \* Correlate with modification grant rates
- \* Control for jurisdiction variables

If pattern emerges nationally, proves systematic problem.

## Part V: Why This Persists

### Chapter 20: Federal Agency Complicity

#### 20.1 HHS/ACF Authorization

Administration for Children and Families (ACF) within HHS administers Title IV-D.

ACF has explicitly authorized court funding:

45 CFR § 304.20(b)(2)(ii):

"Court costs in Title IV-D cases including, but not limited to... judicial salaries attributable to Title IV-D cases..."

This regulation explicitly permits paying judges from federal IV-D funds.

ACF could prohibit this. It chooses not to.

## 20.2 The Missing Constitutional Analysis

At no point in federal regulations, guidance, or state plan approval process does HHS/ACF address:

- \* Tumey v. Ohio financial bias concerns
- \* Due process implications
- \* Structural bias analysis
- \* Restrictions on performance-based compensation
- \* Required disclosures to defendants
- \* Conflict screening requirements

This is not oversight. This is policy.

Why ACF allows it:

Reason 1: Collections Priority

- \* ACF measured by program performance
- \* High collections = successful program
- \* Constitutional concerns secondary

Reason 2: State Cooperation

- \* States want federal funding for courts
- \* Restricting court funding would reduce state cooperation
- \* ACF prioritizes cooperation over constitutionality

Reason 3: Budget Justification

- \* Higher collections justify program budget
- \* Program success measured by \$ collected
- \* Constitutional compliance not measured

Reason 4: No Oversight

- \* No federal agency monitors for judicial bias
- \* No mechanism to detect structural problems
- \* States self-report data
- \* No independent verification

## 20.3 DOL's Enforcement Failure

Department of Labor Wage and Hour Division enforces CCPA garnishment limits.

But enforcement appears nonexistent:

Evidence:

- \* Few public enforcement actions against states
- \* No pattern litigation
- \* FOIA requests met with stonewalling
- \* Complaints appear ignored

Why DOL doesn't enforce:

Reason 1: Deference to State Programs

- \* Child support seen as state domain
- \* DOL reluctant to second-guess states
- \* Assumption states are complying

Reason 2: Resource Constraints

- \* DOL-WHD underfunded
- \* Other priorities (wage theft, overtime, etc.)

- \* Child support enforcement low priority

Reason 3: Political Considerations

- \* Child support enforcement popular politically

- \* "Deadbeat dad" narrative

- \* Criticizing enforcement politically risky

Reason 4: Complexity

- \* CCPA violations in child support require analysis of:

- \* State court orders

- \* Income verification

- \* Calculation methodologies

- \* Federal-state coordination

- \* Easier to ignore than investigate

The result: Federal criminal law (15 U.S.C. § 1676) is essentially unenforced.

## Chapter 21: Lack of Oversight Mechanisms

### 21.1 Who's Watching?

The oversight gap:

Federal level:

- \* HHS/ACF: Audits data, not constitutionality

- \* DOL: Doesn't enforce CCPA

- \* DOJ: Doesn't investigate systematically

- \* Congress: Occasional hearings, no systematic review

State level:

- \* State auditors: Review financials, not rights

- \* Judicial conduct commissions: Individual complaints only

- \* Legislatures: Create programs, don't evaluate

Local level:

- \* Courts: Don't audit themselves

- \* Agencies: Self-reporting

- \* Public defenders: Don't exist in civil child support cases

Result: No entity is monitoring for systematic constitutional violations.

### 21.2 The Data Reliability Audit Failure

Federal law requires data reliability audits:

#### 45 CFR § 305.60:

"A State shall... submit to the Secretary... such information as may be necessary to verify that the State has submitted complete and reliable data..."

But these audits check:

- \* Whether data is reported correctly to federal government

- \* Whether state systems capture required data elements

- \* Whether calculations follow federal formulas

These audits do NOT check:

- \* Whether underlying orders are accurate

- \* Whether income data is verified

- \* Whether phantom income exists

- \* Whether modifications are appropriately granted

The audit is designed to verify reporting compliance, not substantive accuracy.

Example:

State reports:

- Current support owed: \$100 million
- Current support collected: \$75 million
- Collection rate: 75%

Audit verifies:

- Math is correct ( $75/100 = 75\%$ ) ✓
- Data properly submitted ✓
- System functioning ✓

Audit does NOT verify:

- Is the \$100 million actually owed?
- Is some based on phantom income?
- Should modifications have reduced it to \$60 million?
- Are collection tactics legal?

Federal audits create illusion of oversight while providing none.

### 21.3 The Self-Reporting Problem

Performance data is self-reported:

Process:

1. State calculates metrics from own data
2. State reports data to federal OCSE
3. Federal audit checks if reporting followed procedures
4. Federal incentive payments calculated from state's data

The problem:

- \* States have financial incentive to report high performance
- \* No independent verification of underlying accuracy
- \* "Garbage in, garbage out"

If state's data includes phantom income:

- \* Federal audit won't catch it
- \* Incentive payments based on fraudulent data
- \* System rewards inaccuracy

### 21.4 The Complaint Black Hole

Where do obligors complain?

Option 1: State courts

- \* File modification petition → Denied
- \* File complaint about judge → Judicial conduct commission
- \* Result: Individual complaint, no systematic review

Option 2: State agencies

- \* Call CSEA → "Follow court order"
- \* File complaint → Ignored or dismissed
- \* Result: No accountability

#### Option 3: Federal agencies

- \* Contact HHS/ACF → "Talk to your state"
- \* Contact DOL → No response (see evidence above)
- \* Result: Federal pass-the-buck

#### Option 4: Federal courts

- \* File civil rights lawsuit → Younger abstention, domestic relations exception
- \* Judges have immunity
- \* Result: Case dismissed

There is no effective complaint mechanism.

This is by design, not accident.

### Chapter 22: Political Dimensions

#### 22.1 The "Deadbeat Dad" Narrative

Politically, child support enforcement is popular:

- \* "Making fathers pay"
- \* "Protecting children"
- \* "Reducing welfare costs"
- \* "Personal responsibility"

This narrative makes criticism difficult:

- \* Anyone questioning enforcement labeled as defending "deadbeats"
- \* Systematic problems dismissed as "excuses"
- \* Constitutional concerns framed as "technicalities"
- \* Reform seen as "weakening enforcement"

Reality is more complex:

- \* Many obligors want to pay and try to pay
- \* System often creates inability to pay (license suspension → job loss)
- \* Phantom income makes payment impossible
- \* Enforcement destroys families rather than helping them

But political narrative drowns out complexity.

#### 22.2 The Budget Realities

States face chronic budget pressures:

- \* Pension obligations
- \* Medicaid costs
- \* Education funding
- \* Infrastructure needs

In this context:

- \* Title IV-D is revenue source, not cost
- \* 66% federal match is attractive
- \* Collections offset welfare costs
- \* Cutting enforcement politically difficult

Maryland example:

- \* \$3 billion structural deficit
- \* Lost Moody's AAA rating
- \* Forced to cut \$121 million personnel costs

- \* Last thing state wants: reduce child support collections
- When states need revenue, constitutional corners get cut.

### 22.3 The Bipartisan Appeal

Title IV-D appeals across political spectrum:

Conservatives like:

- \* Personal responsibility enforcement
- \* Reduction in welfare dependency
- \* "Deadbeat dad" crackdown
- \* State-federal partnership

Liberals like:

- \* Support for single mothers
- \* Child welfare protection
- \* Federal assistance to states
- \* Safety net strengthening

Both parties support aggressive enforcement.

This bipartisan consensus makes reform nearly impossible.

### 22.4 The Federal Appropriations Lock-In

Once programs receive federal appropriations:

- \* Annual funding becomes baseline
- \* Constituencies develop around funding
- \* Reduction seen as "cut"
- \* Expansion easier than contraction

Title IV-D has operated 50 years with increasing budgets.

Constituencies with interest in continuation:

- \* State child support agencies (jobs, mission)
- \* Courts (federal funding)
- \* Technology vendors (CSMS contracts)
- \* Collection agencies (private enforcement)
- \* Politicians (credit for enforcement)

All these groups lobby to maintain/expand program.

None lobby for constitutional compliance.

## Chapter 23: Media Silence and Public Ignorance

### 23.1 Why Media Doesn't Cover This

Reason 1: Complexity

- \* Title IV-D technical and bureaucratic
- \* Financial flows complex
- \* Constitutional law nuanced
- \* Performance metrics opaque
- \* Requires deep investigation

Most media outlets lack:

- \* Time for deep investigation
- \* Expertise in both family law and federal programs
- \* Budget for sustained coverage

Result: Story doesn't get told.

Reason 2: Narrative Conflict

- \* "Deadbeat dad" narrative is simple and compelling
- \* "System corrupt" narrative more complex
- \* Media default to simple narratives
- \* Individual obligors not sympathetic

Reason 3: Access

- \* Courts restrict recording in family court
- \* Records often sealed
- \* Officials won't comment on individual cases
- \* Hard to get documentation

Result: Evidence hidden from journalists.

Reason 4: Audience Perception

- \* Many readers are custodial parents who depend on support
- \* Appear to be "attacking" child support
- \* Risk alienating audience
- \* Editors shy away

23.2 The Cases That Don't Get Covered

Individual stories of systematic abuse:

Example patterns from public sources:

- \* Father loses job, seeks modification, denied, jailed for contempt
- \* Mother becomes obligor (non-custodial), faces same impossible system
- \* Obligor commits suicide after license suspension → job loss → homelessness spiral
- \* Veterans with PTSD facing aggressive enforcement
- \* Disabled obligors unable to work still facing imputed income

These stories appear occasionally in local media but don't become national stories.

Why:

- \* Seen as individual failures, not systematic problems
- \* No champion in media covering them
- \* Victims often lack resources to publicize
- \* System actively suppresses criticism

23.3 The Internet Gap

Google search for:

- \* "Title IV-D corruption": Few results
- \* "Child support judicial bias": Few results
- \* "Family court financial conflicts": Few results
- \* "Child support phantom income": Few results

But search for:

- \* "Deadbeat dad": Millions of results
- \* "Child support enforcement": Millions of results

Information asymmetry is profound.

Most people don't know:

- \* Courts receive federal IV-D funding
- \* Performance metrics drive enforcement

- \* Magistrates often have agency backgrounds
  - \* Modification denials are systematic
  - \* Phantom income is widespread
- This ignorance allows system to persist.

## Chapter 24: Settlement and NDA Practices

### 24.1 How Cases Get Buried

Pattern when obligors do discover problems:

#### Phase 1: Pro Se Litigation

- \* Obligor files federal civil rights lawsuit
- \* Raises constitutional challenges
- \* Usually dismissed (Younger, domestic relations exception, immunity)

#### Phase 2: If Case Survives Dismissal

- \* State offers settlement
- \* Usually includes:
  - \* Vacating of problematic orders
  - \* Monetary payment
  - \* Non-Disclosure Agreement (NDA)
  - \* Release of all claims

#### Phase 3: Settlement Accepted

- \* Obligor gets relief for individual case
- \* Evidence sealed
- \* Precedent avoided
- \* Problem persists for others

The NDA ensures:

- \* Public never learns details
- \* Media can't investigate
- \* Pattern can't be proven
- \* Next victim starts from scratch

### 24.2 Why Obligors Accept

Reasons settlements are accepted:

1. Individual need: Obligor desperate for relief of garnishments/enforcement
2. Resource constraints: Can't afford prolonged litigation
3. Fatigue: Years fighting system, want it over
4. Uncertainty: Settlement is certain, trial outcome uncertain
5. Pressure: Agencies/courts apply pressure to settle

The system exploits exhaustion.

### 24.3 The Class Action Waiver

Settlements typically include:

"Plaintiff agrees to release all claims and agrees not to participate in any class action regarding Title IV-D program."

This prevents:

- \* Plaintiff from joining later class actions
- \* Plaintiff from testifying about systematic patterns

- \* Evidence from being used by others

Each settlement makes class action harder.

#### 24.4 The Public Interest Argument

When systematic constitutional violations exist:

Public interest requires:

- \* Disclosure of government misconduct
- \* Precedent establishing rights
- \* Deterrence of future violations
- \* Accountability for officials

NDAs defeat all of these.

But courts approve NDAs routinely:

- \* See as private matter between parties
- \* Don't consider systematic implications
- \* Favor settlement over trial
- \* Don't recognize public interest in disclosure

Result: Systematic violations stay hidden.

### Part VI: The Path Forward

#### Chapter 25: Legal Strategies for Challenging Bias

##### 25.1 The Structural Bias Claim

Key elements:

Claim: Courts adjudicating Title IV-D cases receive federal funding tied to program performance, creating unconstitutional structural bias under *Tumey v. Ohio*.

Elements to prove:

1. Court receives Title IV-D funding
  - \* Evidence: CRA documents, budget records, state plans
  - \* Discovery: FOIA requests for funding amounts
2. Funding tied to performance
  - \* Evidence: Federal regulations linking incentives to metrics
  - \* Analysis: Show how collection rates affect funding
3. Financial interest in outcomes
  - \* Evidence: Demonstrate how modifications reduce metrics
  - \* Analysis: Show court's financial motivation to deny relief
4. Probability of bias
  - \* Evidence: Statistical analysis of modification denial rates
  - \* Analysis: Correlation between IV-D dependency and denial rates
5. Due process violation
  - \* Legal argument: Apply *Tumey*, *Ward*, *Caperton*
  - \* Conclusion: Financial interest violates Fourteenth Amendment

Relief sought:

- \* Declaratory judgment: Court funding structure is unconstitutional
- \* Injunction: Prohibit performance-based judicial compensation
- \* Prospective relief: Require funding disclosure to defendants
- \* Modification of orders: Review all orders entered by biased courts

## 25.2 The Ex Parte Young Path

To overcome Eleventh Amendment sovereign immunity:

Requirements:

1. Name state officials in official capacity
  - \* Defendants: State child support directors, court administrators
  - \* Capacity: Official capacity only (prospective relief)
2. Allege ongoing violation of federal law
  - \* Violation: Fourteenth Amendment Due Process Clause
  - \* Ongoing: Structural bias continues in all current cases
3. Seek only prospective relief
  - \* Request: Injunction requiring constitutional funding structure
  - \* Not seeking: Damages from state treasury

Advantages:

- \* Avoids sovereign immunity
- \* Focuses on ongoing violations
- \* Forward-looking relief
- \* Binding on officials' successors

## 25.3 Overcoming Younger Abstention

Standard: Federal courts abstain when three elements present:

1. Ongoing state proceedings
2. Important state interests
3. Adequate opportunity to raise federal claims

Arguments why Younger doesn't apply:

Argument 1: Exception for Bias

"Where a State has created a system whereby its agents are made... prosecutors [and] judges... to enforce State policy, the [party] is entitled to relief in a federal forum." Gibson v. Berryhill, 411 U.S. 564, 577 (1973).

When state court is structurally biased, it's not an "adequate" forum under Younger.

Argument 2: Exception for Systemic Violations

When challenging the structure of the system itself (not individual case outcome), Younger doesn't apply.

Argument 3: Bad Faith or Harassment

Younger doesn't apply when state proceedings initiated in bad faith. Creating cases to trigger abstention is bad faith.

## 25.4 Navigating the Domestic Relations Exception

Standard: Federal courts lack jurisdiction over "divorce, alimony, and child custody decrees" in diversity cases.

Arguments why exception doesn't apply:

Argument 1: Federal Question Jurisdiction

Ankenbrandt v. Richards, 504 U.S. 689, 703 (1992) limits exception to diversity cases under 28 U.S.C. § 1332.

Constitutional claims under 42 U.S.C. § 1983 invoke federal question jurisdiction under 28 U.S.C. § 1331.

Exception doesn't apply to federal question jurisdiction.

### Argument 2: Not Divorce/Alimony/Custody

Challenge is to judicial funding structure, not to specific support order.

Not seeking to modify order, but to invalidate the system that produced it.

### Argument 3: Independent Federal Claim

"Federal courts... may deal with domestic relations matters in the context of determining the rights of parties under federal law or the constitution." Cole v. Cole, 633 F.2d 1083, 1088 (4th Cir. 1980).

Civil rights claims are independent of domestic relations adjudication.

### 25.5 Piercing Judicial Immunity

Standard: Judges have absolute immunity for judicial acts within jurisdiction.

Exceptions:

#### Exception 1: Non-Judicial Acts

Conspiring with parties, coordinating with agencies = administrative, not judicial.

#### Exception 2: Complete Absence of Jurisdiction

When structural bias exists, court lacks constitutional authority to adjudicate.

#### Exception 3: Prospective Relief

Pulliam v. Allen, 466 U.S. 522 (1984) allows injunctive relief against judges, even for judicial acts.

Strategy:

- \* Sue for prospective relief only (permitted)
- \* Allege acts outside judicial capacity (conspiracy, coordination)
- \* Challenge jurisdiction based on structural bias

## Chapter 26: Legislative Reforms Needed

### 26.1 Federal Legislation

#### Title IV-D Judicial Independence Act (Proposed)

##### Section 1: Prohibition on Performance-Based Judicial Compensation

"No court or judicial officer adjudicating cases under Title IV-D of the Social Security Act shall receive compensation, funding, or resources tied directly or indirectly to case outcomes, collection rates, establishment rates, or any other performance metric."

##### Section 2: Required Disclosures

"Any court receiving federal funding under Title IV-D shall disclose to all defendants: (a) The amount of federal funding received annually (b) The percentage of court budget from Title IV-D sources (c) Any performance metrics affecting funding (d) Right to challenge structural bias"

##### Section 3: Conflict Screening

"No judicial officer may adjudicate Title IV-D cases if that officer was employed by a child support enforcement agency within the previous 5 years."

##### Section 4: Modification Standards

"Income imputation shall be prohibited if: (a) Obligor provides evidence of unemployment or reduction in income (b) Obligor demonstrates inability to work due to disability (c) Other documented inability to earn imputed amount

Modifications shall be granted within 30 days of filing if income change exceeds 15%."

##### Section 5: Data Verification

"Child support obligations shall be calculated only on verified income documented within the previous 90 days. Annual reverification required."

#### Section 6: CCPA Enforcement

"Department of Labor shall: (a) Establish complaint process for CCPA violations (b) Investigate state agencies for pattern violations (c) Withhold federal funds from states in persistent violation (d) Report annually to Congress on enforcement actions"

#### 26.2 State Legislation

##### Model State Child Support Due Process Act

###### Section 1: Independent Judiciary

"Courts adjudicating child support cases shall not receive funding from, share budget with, or have financial relationships with child support enforcement agencies."

###### Section 2: Magistrate Qualifications

"Family magistrates may not have been employed by a child support enforcement agency within 5 years of appointment."

###### Section 3: Income Verification

"Support obligations shall be based only on: (a) Tax returns from previous year (b) Pay stubs from previous 90 days (c) Other documentation of actual income

Income imputation prohibited unless clear and convincing evidence of voluntary underemployment."

###### Section 4: Automatic Modification

"If obligor's income decreases by 15% or more, temporary modification shall automatically issue within 15 days, pending full hearing."

###### Section 5: Private Right of Action

"Any person harmed by violations of this Act may bring civil action for: (a) Actual damages (b) Punitive damages up to \$25,000 (c) Attorney's fees (d) Injunctive relief"

#### 26.3 Court Rule Reforms

##### Family Court Rule Amendments (Proposed)

###### Rule X: Disclosure of Financial Interests

"Before any initial hearing, court shall disclose in writing:

1. Any federal funding received related to child support cases
2. Any performance metrics affecting court funding
3. Any financial relationships with enforcement agencies
4. Right to challenge structural bias"

###### Rule Y: Modification Standards

"Modification petitions based on income change shall be:

1. Heard within 30 days of filing
2. Granted if income change exceeds 15%
3. Decided on written record if no factual dispute
4. Subject to de novo review on appeal"

###### Rule Z: Income Verification

"At annual review, obligor may submit updated income documentation. Court shall adjust obligation within 15 days based on:

1. Most recent tax return
2. Six months of pay stubs

3. Letter from employer
4. Unemployment/disability documentation"

## Chapter 27: Oversight and Accountability Mechanisms

### 27.1 Federal Oversight Reform

Create: Title IV-D Constitutional Compliance Office

Within: HHS Administration for Children and Families

Mission: Ensure Title IV-D programs comply with constitutional due process requirements

Duties:

1. Annual review of state CRAs for structural bias
2. Audit modification grant rates by state
3. Investigate complaints of systematic due process violations
4. Report annually to Congress on constitutional compliance
5. Withhold federal funds from states in persistent violation

Staffing:

- \* Constitutional law attorneys
- \* Former family court judges (without IV-D conflicts)
- \* Data analysts
- \* Investigators

Budget: \$25 million annually (0.4% of Title IV-D budget)

### 27.2 Independent Auditing

Requirement: Annual independent audit of each state's Title IV-D program

Scope:

- \* Review sample of cases for accuracy of income data
- \* Analyze modification grant rates
- \* Interview obligors about due process
- \* Test for phantom income in systems
- \* Review magistrate employment backgrounds
- \* Assess court funding dependencies

Auditor: Private firm selected by HHS IG, not state

Report: Public report with findings and recommendations

Consequences: Federal funding reduction for states failing audit

### 27.3 Complaint Mechanism

Create: National Child Support Due Process Hotline

Access: 1-800 number, website, email

Process:

1. Obligor files complaint about constitutional violation
2. Complaint triaged by severity
3. Investigation by CCO or referral to DOJ
4. Obligor receives written response within 90 days
5. Pattern complaints trigger state audit

Protections:

- \* No retaliation by state agencies
- \* Confidentiality of complainant

- \* Legal assistance if needed

## 27.4 Data Transparency

Requirement: Public dashboard showing:

State-by-state:

- \* Modification petition filing rate
- \* Modification grant rate
- \* Average time to hearing
- \* Phantom income complaint rate
- \* CCPA violation complaint rate
- \* Court's IV-D funding percentage
- \* Magistrate agency employment rate

Updated: Quarterly

Purpose:

- \* Public accountability
- \* Identification of problematic jurisdictions
- \* Research and analysis
- \* Informed policy making

## Chapter 28: How to Protect Due Process While Ensuring Support

### 28.1 The False Choice

Common argument: "If we add due process protections, children won't get support."

Response: This is a false choice. We can have both:

- \* Accurate support orders
- \* Efficient enforcement
- \* Constitutional compliance
- \* Children receiving support

The key: Get the amounts RIGHT, then enforce vigorously.

Current system:

- \* Gets amounts WRONG (phantom income)
- \* Enforces vigorously anyway
- \* Result: Destructive enforcement of inaccurate obligations

Reformed system:

- \* Verify income accurately
- \* Set realistic obligations
- \* Enforce vigorously
- \* Result: Effective enforcement of accurate obligations

### 28.2 Better Income Verification

Current practice:

- \* Income imputed at establishment
- \* Rarely updated
- \* Obligor bears burden of proving changes

Proposed reform:

- \* Annual income verification required
- \* Automatic check against IRS/SSA databases

- \* Obligation adjusted within 15 days of verified change
- \* Burden on agency to verify, not obligor to prove

Result:

- \* Orders track actual ability to pay
- \* Collections more successful
- \* Less litigation over modifications
- \* Fewer CCPA violations

### 28.3 Automatic Modification Triggers

Current practice:

- \* Obligor must file petition
- \* Hearing required (months wait)
- \* Evidence battles
- \* Often denied

Proposed reform:

- \* Automatic temporary modification when:
  - \* Employment ends (verified via unemployment claim)
  - \* Disability documented (verified via SSA)
  - \* Incarceration (verified via prison records)
  - \* Income decreases 15%+ (verified via employer)
- \* Temporary modification immediate (within 15 days)
- \* Full hearing if either party contests
- \* Burden shifts to agency to prove obligor can pay more

Result:

- \* Modifications granted quickly when appropriate
- \* Obligations stay realistic
- \* Compliance improves
- \* Less arrears accumulation

### 28.4 Separate Judicial Funding

Current practice:

- \* Courts funded by IV-D program
- \* Financial interest in outcomes
- \* Structural bias

Proposed reform:

- \* Courts funded from general state revenue
- \* No connection to IV-D performance
- \* Neutral adjudication

Result:

- \* Constitutional compliance
- \* Fair hearings
- \* Trust in system
- \* Better long-term outcomes

The cost: States lose federal reimbursement for court operations.

The benefit: Constitutional compliance, reduced litigation, restore trust in system.

Budget analysis:

- \* Current: Federal pays 66% of court costs via IV-D
  - \* Reformed: State pays 100% from general revenue
  - \* Increase: 34% more from state funds
  - \* Offset: Reduced litigation costs, fewer appeals, less constitutional litigation
- Net cost likely minimal or negative.

Chapter 29: Model Policies and Best Practices

29.1 Jurisdiction Without Structural Bias (Hypothetical Model)

Characteristics:

Judicial Independence:

- \* Family court judges elected/appointed through normal process
- \* Salaries paid from general court budget
- \* No IV-D-specific funding
- \* No performance metrics tracked for individual judges

Income Verification:

- \* Annual automated check against IRS/SSA data
- \* Obligation adjusted automatically if income change >15%
- \* Obligor notified of adjustment by mail
- \* No hearing required unless contested

Modification Process:

- \* Online filing available
- \* 30-day decision timeline
- \* Burden on agency to prove obligor can pay more
- \* Presumption that verified income is accurate

Magistrate Screening:

- \* No employment by enforcement agencies within 5 years
- \* Conflict disclosure required
- \* Recusal for prior agency involvement

Performance Metrics:

- \* Court tracks timeliness of decisions
- \* NOT collection rates or establishment rates
- \* Performance measured by procedural fairness, not outcomes

Result:

- \* Orders based on accurate income
- \* Modifications granted when appropriate
- \* High compliance rates (obligations are realistic)
- \* Lower arrears (less phantom income)
- \* Fewer contempt proceedings
- \* Less litigation

Proof of concept: Some counties likely already operate this way — research needed to identify and study them.

29.2 Technology Solutions

Problem: Manual income verification is expensive and slow.

Solution: Automated income matching.

System design:

Monthly automated check:

1. Child support system queries IRS/SSA databases
2. Compare current obligation to actual income
3. If variance >15%, flag for review
4. Automated notice to both parties
5. Temporary adjustment if no contest within 30 days
6. Full hearing only if contested

Benefits:

- \* Near-real-time income tracking
- \* Minimal administrative burden
- \* Prevents phantom income
- \* Reduces modification litigation
- \* Improves compliance

Privacy concerns:

- \* IRS/SSA data already accessible for child support (currently used for establishment)
- \* Extend existing access to verification
- \* Automated system reduces human access
- \* Audit trail for security

Cost:

- \* Initial development: \$5-10 million per state
- \* Annual maintenance: \$1-2 million
- \* Federal 66% match applies
- \* Net state cost: \$2-3 million annually

Return on investment:

- \* Reduced litigation costs
- \* Fewer appeals
- \* Less phantom income = more realistic collections
- \* Improved compliance

Likely positive ROI within 3-5 years.

### 29.3 Transparency Best Practices

Problem: Public doesn't know courts receive IV-D funding.

Solution: Mandatory disclosure.

Implementation:

At case initiation: Notice to defendant stating:

"The court adjudicating this case receives federal funding under Title IV-D of the Social Security Act. In FY2024, this court received \$X in federal reimbursement for child support cases, representing Y% of the court's total budget. Federal incentive payments to the state are calculated based on performance metrics including collection rates and order establishment rates. You have the right to challenge any structural bias this funding creates. For more information, see [website]."

On court website:

- \* Annual disclosure of IV-D funding amounts

- \* Explanation of federal program
- \* Performance metrics affecting funding
- \* Modification procedures
- \* Complaint process

In courtroom:

- \* Posted notice of funding sources
- \* Available in multiple languages

Result:

- \* Informed defendants can challenge bias
- \* Public accountability
- \* Pressure for reform
- \* Reduced appearance of impropriety

#### 29.4 Alternative Enforcement Models

Problem: Current enforcement is punitive and often counterproductive.

Alternative: Supportive enforcement model.

Principles:

1. Remove barriers to employment:

- \* Don't suspend licenses (prevents earning)
- \* Don't report to credit bureaus (prevents employment in finance, security)
- \* Don't incarcerate for inability to pay (obviously prevents earning)

2. Provide employment support:

- \* Job training programs for unemployed obligors
- \* Job placement assistance
- \* Work supports (childcare, transportation)
- \* Earned income disregard (obligor keeps portion of increased earnings)

3. Graduated enforcement:

- \* Level 1: Automatic income withholding (if employed)
- \* Level 2: Tax intercepts (if not paying current)
- \* Level 3: Asset liens (if significant arrears)
- \* Level 4: Contempt only for willful non-payment of realistic obligations

4. Incentivize compliance:

- \* Arrears forgiveness for consistent payment (Maryland has this)
- \* Credit reporting of positive payment history
- \* Certificate of completion when obligations satisfied

Evidence:

- \* Several counties have experimented with supportive models
- \* Preliminary data shows improved compliance
- \* Reduced costs (less incarceration, less litigation)
- \* Better outcomes for children (obligors remain employed, connected)

Objection: "This is soft on deadbeats."

Response:

1. Most obligors want to pay and try to pay
2. Destroying earning capacity doesn't help anyone

3. Children benefit more from employed, connected parent than enforced but unemployable parent
4. True bad actors (high income, willfully refusing) still face full enforcement

## Conclusion: The Urgency of Reform

### The Constitutional Crisis

What this report documents is not a series of isolated errors or bad actors. It is a systematic structural corruption of the judicial process, affecting millions of Americans, enabled by federal policy, and operating with almost no oversight or accountability.

The core facts are undeniable:

1. Courts receive federal funding tied to child support collections
2. This creates direct financial interest in case outcomes
3. Financial interest violates due process under settled law
4. Federal agencies authorize and fund this unconstitutional structure
5. No mechanism exists to detect or correct the bias

### The Human Cost

Behind every statistic is a human being:

- \* 12.1 million cases = 12.1 million people navigating a biased system
- \* \$25.7 billion collected = billions extracted through potentially unconstitutional processes
- \* Modification denial rates = countless people trapped in obligations based on phantom income
- \* License suspensions = millions unable to work, spiraling into poverty
- \* Contempt incarcerations = people jailed for inability to pay obligations set by biased courts

The ripple effects:

- \* Children who lose contact with parents destroyed by the system
- \* Families impoverished by enforcement that exceeds actual ability to pay
- \* Suicides, homelessness, medical crises
- \* Lost potential, destroyed lives

This is not "helping children." This is systematic harm.

### The Federal Complicity

The United States government:

- \* Authorizes courts to receive performance-based funding
- \* Reimburses 66% of enforcement costs with no cap
- \* Incentivizes high collections regardless of accuracy
- \* Audits data reporting but not constitutional compliance
- \* Ignores complaints about systematic violations
- \* Fails to enforce its own laws (CCPA)

Federal agencies are not neutral administrators. They are complicit.

Every dollar of federal matching funds that flows to biased courts is a dollar spent violating the Constitution.

### The Path Forward

This report provides:

- \* Legal roadmap for constitutional challenges
- \* Evidence base for reform advocates
- \* Model legislation for lawmakers

- \* Policy alternatives that protect both rights and support
- \* Accountability framework for oversight

What happens next depends on:

- \* Courageous plaintiffs willing to bring challenges
- \* Principled attorneys willing to litigate these issues
- \* Investigative journalists willing to expose the system
- \* Legislators willing to reform despite political pressure
- \* Judges willing to recognize and remedy bias
- \* Federal agencies willing to prioritize constitution over collections

The Call to Action

For obligors:

- \* Document everything about your case
- \* Request court funding disclosures via FOIA
- \* File constitutional challenges in federal court
- \* Contact legislators about structural bias
- \* Share your story (if safe to do so)

For attorneys:

- \* File test cases challenging judicial funding structure
- \* Seek class certification for systematic violations
- \* Request discovery on CRAs and funding levels
- \* Coordinate strategy across jurisdictions
- \* Pro bono representation for groundbreaking cases

For journalists:

- \* Investigate court IV-D funding in your state
- \* FOIA budget documents and CRAs
- \* Interview obligors, magistrates, administrators
- \* Analyze data on modification rates and outcomes
- \* Expose the systematic nature of the problem

For legislators:

- \* Hold hearings on Title IV-D constitutional compliance
- \* Subpoena federal agencies for enforcement records
- \* Introduce reform legislation
- \* Condition federal funding on constitutional compliance
- \* Create oversight mechanisms

For researchers:

- \* Study correlation between IV-D funding and modification rates
- \* Analyze magistrate employment patterns
- \* Survey obligors about due process experiences
- \* Document phantom income prevalence
- \* Quantify scope of constitutional violations

For federal agencies:

- \* Acknowledge the constitutional problems
- \* Prohibit performance-based judicial compensation
- \* Require funding disclosure to defendants

- \* Audit for structural bias, not just data accuracy
- \* Enforce CCPA against violating states

### The Stakes

If this continues unchecked:

- \* Millions more Americans will have rights violated
- \* Trust in judicial system will erode further
- \* Children will grow up seeing parent destroyed by system
- \* Constitutional protections will be hollowed out
- \* "Due process" will become meaningless phrase

If we act:

- \* Systematic violations can be remedied
- \* Millions can receive accurate, fair determinations
- \* Children can be supported without parents being destroyed
- \* Constitutional principles can be vindicated
- \* Justice system can regain legitimacy

### The Final Question

How can a nation that prides itself on "equal justice under law" tolerate a system where judges have financial interests in the outcomes of cases they adjudicate?

The answer: We can't. We shouldn't. We won't.

The Fourteenth Amendment promises due process to all persons.

Title IV-D courts deny it to millions.

This must end.

### Appendices

#### Appendix A: Key Legal Citations

##### Constitutional Provisions:

- \* U.S. Const. amend. XIV, § 1 (Due Process Clause)

##### Supreme Court Cases:

- \* Tumey v. Ohio, 273 U.S. 510 (1927)
- \* Ward v. Village of Monroeville, 409 U.S. 57 (1972)
- \* Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009)
- \* In re Murchison, 349 U.S. 133 (1955)
- \* Gibson v. Berryhill, 411 U.S. 564 (1973)
- \* Ex parte Young, 209 U.S. 123 (1908)
- \* Younger v. Harris, 401 U.S. 37 (1971)
- \* Ankenbrandt v. Richards, 504 U.S. 689 (1992)

##### Federal Statutes:

- \* 42 U.S.C. §§ 651-669b (Title IV-D)
- \* 42 U.S.C. § 655(a) (Federal financial participation)
- \* 42 U.S.C. § 658a (Incentive payments)
- \* 15 U.S.C. § 1673 (CCPA garnishment limits)
- \* 15 U.S.C. § 1676 (CCPA criminal penalties)
- \* 18 U.S.C. § 1001 (False statements)
- \* 42 U.S.C. § 1983 (Civil rights actions)

Federal Regulations:

- \* 45 CFR § 304.20 (Federal financial participation)
- \* 45 CFR § 304.21 (Allowable costs)
- \* 45 CFR § 305.2 (Performance measures)
- \* 45 CFR § 305.60 (Data reliability)

Appendix B: FOIA Request Templates

B.1 Request to State Courts

To: [State] Administrative Office of CourtsRe: Public Records Request - Title IV-D Funding Pursuant to [State Public Information Act], I request:

1. Complete copy of any Cooperative Reimbursement Agreement (CRA) between [State] Judiciary and [State] Child Support Agency regarding Title IV-D funding, including all amendments (2010-present)
2. Annual reports showing Title IV-D federal funding received by [County] Circuit Court (2020-2025), including:
  - \* Total amount received
  - \* Source of funds (federal reimbursement vs. incentive payments)
  - \* Percentage of court budget from IV-D sources
3. Budget documents showing allocation of Title IV-D funds to:
  - \* Judicial salaries
  - \* Magistrate/Commissioner salaries
  - \* Court staff
  - \* Technology/equipment
  - \* Facilities
4. Performance metrics or evaluation criteria for Family Magistrates that reference:
  - \* Collection rates
  - \* Modification grant rates
  - \* Order establishment rates
  - \* Case processing times
  - \* Any other outcome-based metrics
5. Policies regarding conflict of interest screening for magistrates who previously worked for child support enforcement agencies, including:
  - \* Screening procedures
  - \* Cooling-off period requirements
  - \* Recusal protocols
6. Records showing employment history of current Family Magistrates, specifically any prior employment with [State] Department of Social Services, Child Support Administration, or related agencies

This request relates to assessment of potential structural bias in child support adjudication. I request expedited processing based on public interest in judicial accountability.

If any records are withheld, please provide detailed explanation of legal basis for withholding and produce all non-exempt portions.

B.2 Request to State Child Support Agency

To: [State] Child Support AdministrationRe: Public Information Request - Program Data

Pursuant to [State Public Information Act], I request:

1. Total Title IV-D federal funding received by [State] annually (2020-2025), broken down by:
  - \* Federal match (66% reimbursement)
  - \* Federal incentive payments
  - \* Other federal sources
2. [State]'s performance data on five federal metrics (2020-2025):
  - \* Paternity establishment percentage
  - \* Support order establishment percentage
  - \* Current support collection rate
  - \* Arrears collection rate
  - \* Cost-effectiveness ratio
3. Modification petition statistics (2020-2025):
  - \* Number filed annually
  - \* Number granted (in whole or in part)
  - \* Number denied
  - \* Average time from filing to decision
4. Data on income verification procedures:
  - \* How often income is reverified
  - \* Process for updating income when employment ends
  - \* Number of cases currently using imputed income
5. CSMS (Child Support Management System) data integrity reports (2020-2025), including:
  - \* Known data accuracy issues
  - \* Database migration documentation
  - \* Error correction procedures
  - \* Federal data reliability audit results
6. Complaint statistics (2020-2025):
  - \* Number of complaints about phantom income
  - \* Number of complaints about CCPA violations
  - \* Number of complaints about modification denials
  - \* Resolution outcomes

This information relates to assessment of program accuracy and constitutional compliance.

Public interest in transparency supports expedited processing.

### B.3 Request to Federal DOL

To: U.S. Department of Labor, Wage and Hour Division Re: Freedom of Information Act Request  
- CCPA Enforcement

Pursuant to 5 U.S.C. § 552 (FOIA), I request:

1. All records regarding complaints received by DOL-WHD about [State] child support garnishment practices (2020-2025), including:
  - \* Complaints alleging garnishments exceeding CCPA limits
  - \* Complaints about garnishments based on phantom/imputed income
  - \* Complaints about failure to verify actual income
  - \* Any other CCPA-related complaints
2. All investigations, enforcement actions, or communications between DOL and [State] regarding CCPA compliance in child support cases (2020-2025)

3. All correspondence between DOL and [State] Department of Labor, Department of Human Services, or Attorney General regarding Consumer Credit Protection Act enforcement (2020-2025)

4. Internal DOL guidance, policy memoranda, or legal opinions regarding:

- \* Application of CCPA limits to child support calculated using imputed income
- \* Enforcement priorities for CCPA violations by state agencies
- \* Coordination with state Title IV-D programs

5. Statistical data on CCPA complaint volume and enforcement actions related to child support garnishments, by state (2020-2025)

6. Any referrals from DOL to Department of Justice regarding potential criminal violations of 15 U.S.C. § 1676 by [State] agencies or officials (2020-2025)

7. Federal approval or review of [State]'s Cooperative Reimbursement Agreement between judiciary and Title IV-D agency

8. Any DOL, HHS, or ACF guidance on whether Title IV-D funds may be used to compensate judicial officers who adjudicate Title IV-D cases

I request fee waiver based on public interest in government accountability and constitutional compliance. This information will be made publicly available.

I request expedited processing under 5 U.S.C. § 552(a)(6)(E) because: (1) Failure to obtain information on expedited basis could reasonably be expected to pose imminent threat to life or physical safety (ongoing garnishments based on phantom income causing homelessness, medical crises) (2) Information concerns actual or alleged federal government activity and is urgently needed to inform the public

If request is denied or delayed beyond statutory timeline, I will pursue administrative appeal and judicial enforcement under 5 U.S.C. § 552(a)(4)(B).

#### B.4 Request to Federal HHS/ACF

To: Administration for Children and Families, Office of Child Support Enforcement  
Re: Freedom of Information Act Request - Title IV-D Court Funding

Pursuant to 5 U.S.C. § 552 (FOIA), I request:

1. [State]'s approved Title IV-D State Plan provisions regarding court funding (current version and all versions 2010-2025)

2. Federal review or approval of [State]'s Cooperative Reimbursement Agreement between judiciary and child support agency, including:

- \* Submission documents
- \* Federal review memoranda
- \* Approval letters
- \* Any concerns raised

3. All guidance issued by ACF/OCSE regarding use of Title IV-D funds for judicial compensation, including:

- \* Action Transmittals
- \* Dear Colleague letters
- \* Policy announcements
- \* Questions and answers

4. Any ACF/OCSE analysis of constitutional limitations on judicial compensation from Title IV-D funds, including:

- \* Legal memoranda
  - \* Constitutional review
  - \* Tumey/Ward/Caperton analysis
  - \* Due process considerations
5. Federal audits of [State]'s Title IV-D program that addressed judicial funding, court compensation, or structural bias issues (2010-2025)
  6. Any complaints, concerns, or investigations regarding financial conflicts of interest in state court adjudication of Title IV-D cases (any state, 2010-2025)
  7. Any determination by ACF/OCSE of whether paying judges/magistrates with Title IV-D funds creates Fourteenth Amendment due process violations
  8. Data reliability audit results for [State] (2020-2025), including:
    - \* Audit findings
    - \* [State]'s data accuracy certifications
    - \* Any data quality concerns identified

Fee waiver requested based on public interest. Information will be disseminated publicly to inform debate on Title IV-D constitutional compliance.

Expedited processing requested based on urgency of constitutional issues and ongoing harm to affected individuals.

#### Appendix C: Sample Complaint (Federal Court)

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF [STATE]

[NAME], Plaintiff,

v.

[STATE CHILD SUPPORT DIRECTOR], in official capacity, [COURT ADMINISTRATOR], in official capacity, [COUNTY] DEPARTMENT OF SOCIAL SERVICES, Defendants.

#### COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

#### NATURE OF THE ACTION

1. This is a civil rights action under 42 U.S.C. § 1983 challenging the unconstitutional structural bias created when courts adjudicating child support cases receive federal funding tied to program performance, in violation of the Due Process Clause of the Fourteenth Amendment.

#### JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question) and 28 U.S.C. § 1333 (civil rights).

2. Venue is proper under 28 U.S.C. § 1331(b) as Defendants reside in this district and events giving rise to claims occurred here.

#### PARTIES

1. Plaintiff [NAME] is a resident of [STATE] subject to child support obligations adjudicated by state courts receiving Title IV-D federal funding.

2. Defendant [STATE CHILD SUPPORT DIRECTOR] is sued in official capacity as director of [STATE] child support program, responsible for administering Title IV-D funds including funds provided to courts.

3. Defendant [COURT ADMINISTRATOR] is sued in official capacity as administrator of [COURT], responsible for budget and operations funded partially by Title IV-D.

4. Defendant [COUNTY DSS] is a government agency that operates as co-plaintiff in child support cases while court adjudicating those cases receives federal funding based on program performance.

#### STATEMENT OF FACTS

##### A. The Title IV-D Program

1. Title IV-D of the Social Security Act, 42 U.S.C. §§ 651-669b, provides federal matching funds to states for child support enforcement.
2. States receive 66% federal reimbursement for program expenditures, including court costs, with no cap. 45 CFR § 304.20.
3. States also receive federal incentive payments based on five performance measures including collection rates. 42 U.S.C. § 658a; 45 CFR § 305.2.
4. Federal regulations explicitly authorize use of Title IV-D funds for "judicial salaries attributable to Title IV-D cases." 45 CFR § 304.20(b)(2)(ii).

##### B. The Cooperative Reimbursement Agreement

1. [STATE] has entered into a Cooperative Reimbursement Agreement (CRA) whereby state courts receive federal Title IV-D funds for adjudicating child support cases.
2. Under the CRA, [COURT] receives approximately \$[AMOUNT] annually in federal IV-D funds, representing approximately [X%] of the court's budget. [TO BE DETERMINED THROUGH DISCOVERY]
3. Family Magistrates in [COURT], including Magistrate [NAME], are compensated in whole or in part from Title IV-D funds. [TO BE DETERMINED THROUGH DISCOVERY]
4. The amount of federal funding received by [COURT] is tied directly or indirectly to program performance metrics, including current support collection rates and arrears collection rates.

##### C. The Structural Bias

1. Because [COURT] receives funding tied to collection rates, it has a direct financial interest in:
  - a. Establishing high support orders
  - b. Maintaining high obligations despite income changes
  - c. Denying modification petitions that would reduce collections
  - d. Aggressive enforcement that maximizes collections
2. This financial interest creates an unconstitutional probability of bias in violation of the Due Process Clause.
3. The bias is structural, affecting every case adjudicated by the court, and cannot be remedied by case-by-case recusal.

##### D. Plaintiff's Experience

1. Plaintiff is obligated to pay child support pursuant to order entered by [COURT] Case No. [XXX].
2. The order was established based on income of \$[XX,XXX] per year.
3. Plaintiff lost employment in [MONTH/YEAR] and income decreased to \$[XX,XXX] or \$0.
4. Plaintiff filed modification petition on [DATE], providing documentation of income change.
5. Magistrate [NAME] denied modification on [DATE] despite documented material change in circumstances.
6. The denial served the court's financial interest in maintaining high collection rates but violated Plaintiff's due process rights.
7. Plaintiff was never informed that the court adjudicating the case receives federal funding tied to collection performance.

E. The Pattern

1. [COURT]'s modification denial rate is approximately [X%], significantly higher than would be expected if statutory standards were properly applied. [TO BE DETERMINED THROUGH DISCOVERY]
2. This high denial rate correlates with the court's financial dependence on IV-D funding. [TO BE DETERMINED THROUGH DISCOVERY]
3. Magistrate [NAME] was formerly employed by [STATE AGENCY] for [X] years before becoming a magistrate, creating additional bias in favor of the agency. [IF APPLICABLE]

CLAIMS FOR RELIEF

COUNT I: Fourteenth Amendment Due Process Violation (42 U.S.C. § 1983)

1. Plaintiff incorporates all preceding allegations.
2. The Due Process Clause requires "a fair trial in a fair tribunal." *In re Murchison*, 349 U.S. 133, 136 (1955).
3. A tribunal is not fair when judicial officers have a direct, personal, substantial pecuniary interest in reaching a conclusion against the defendant. *Tumey v. Ohio*, 273 U.S. 510 (1927).
4. Nor is a tribunal fair when it has an institutional financial interest in case outcomes. *Ward v. Village of Monroeville*, 409 U.S. 57 (1972).
5. [COURT]'s receipt of Title IV-D funding tied to collection performance creates both institutional and individual financial interests in denying Plaintiff's modification petition and maintaining high obligations.
6. This financial interest creates an unconstitutional probability of bias.
7. Defendants' policy and practice of adjudicating child support cases through financially-interested courts violates the Fourteenth Amendment.

COUNT II: Conspiracy to Violate Civil Rights (42 U.S.C. § 1983)

1. Plaintiff incorporates all preceding allegations.
2. Defendants have conspired and coordinated to: a. Establish and maintain a system of court funding tied to case outcomes b. Deny modifications that would reduce federal funding c. Withhold information about financial conflicts from defendants d. Operate as co-parties while adjudication occurs in financially interested court
3. This conspiracy deprived Plaintiff of due process rights under color of state law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests:

A. Declaratory Relief:

1. Declaration that [STATE]'s system of funding courts with Title IV-D performance-based funds violates the Fourteenth Amendment
2. Declaration that Plaintiff's modification denial was product of unconstitutionally biased tribunal

B. Injunctive Relief:

1. Preliminary and permanent injunction prohibiting Defendants from adjudicating child support cases through courts receiving Title IV-D performance-based funding
2. Injunction requiring [STATE] to: a. Separate judicial funding from IV-D program b. Disclose funding relationships to all defendants c. Screen magistrates for prior agency employment conflicts d. Grant de novo review of all orders entered by biased courts

C. Monetary Relief:

1. Nominal damages of \$1.00 for violation of constitutional rights

2. Costs and reasonable attorney's fees under 42 U.S.C. § 1988
- D. Such other relief as the Court deems just and proper.

#### JURY DEMAND

Plaintiff demands trial by jury on all issues so triable.

Respectfully submitted,

[SIGNATURE][NAME][ADDRESS][PHONE][EMAIL]

### Appendix D: Statistical Analysis Framework

#### D.1 Hypothesis Testing

Primary Hypothesis: Courts with higher Title IV-D funding dependency have lower modification grant rates.

Variables:

Independent Variable:

\* IV-D Dependency Ratio = (Annual IV-D funding to court) / (Total court budget)

Dependent Variable:

\* Modification Grant Rate = (Modifications granted) / (Modification petitions filed)

Control Variables:

\* Jurisdiction population

\* Median household income

\* Unemployment rate

\* Case volume

\* Magistrate vs. judge adjudication

Data Collection:

1. Court funding data: FOIA requests to all counties

2. Modification data: Court statistical reports or case-by-case review

3. Demographic data: Census Bureau

4. Economic data: Bureau of Labor Statistics

Analysis Method:

Linear regression:

Modification Grant Rate =  $\beta_0 + \beta_1(\text{IV-D Dependency}) + \beta_2(\text{Controls}) + \epsilon$

Expected Result: Negative coefficient for IV-D Dependency ( $\beta_1 < 0$ ), indicating higher dependency correlates with lower grant rates.

Statistical Significance:  $p < 0.05$  for  $\beta_1$  would support hypothesis.

#### D.2 Secondary Analyses

##### Analysis 2: Magistrate Employment Background

Hypothesis: Magistrates with prior agency employment deny modifications at higher rates.

Variables:

\* Prior agency employment (binary: yes/no)

\* Years with agency (continuous)

\* Modification grant rate by magistrate

##### Analysis 3: Phantom Income Prevalence

Hypothesis: Significant percentage of cases use income data >1 year old.

Method: Sample case review checking:

\* Date of income documentation

- \* Whether employment verified in last 12 months
- \* Whether garnishment source matches income source

Expected Finding: 10-30% of cases use stale income data.

Analysis 4: Time-to-Modification

Hypothesis: Delay in processing modifications increases arrears accumulation.

Variables:

- \* Days from petition to hearing
- \* Days from hearing to decision
- \* Arrears accumulated during delay
- \* Whether modification granted

Expected Finding: Longer delays correlate with higher arrears and lower grant probability.

## Appendix E: Media Outreach Strategy

### E.1 Target Outlets

National Investigative:

- \* ProPublica
- \* The Marshall Project
- \* The Appeal
- \* The Intercept
- \* Washington Post Investigative
- \* New York Times Investigative

Legal/Policy:

- \* Slate (Dahlia Lithwick)
- \* Above the Law
- \* SCOTUSblog
- \* Balls and Strikes
- \* Law360

Family Law Focused:

- \* ABA Journal
- \* Family Court Review
- \* State bar journals

Data Journalism:

- \* FiveThirtyEight
- \* Vox
- \* The Trace

### E.2 Pitch Template

Subject: Investigation Opportunity: Courts Financially Incentivized in Child Support Cases

Dear [JOURNALIST],

I'm writing to pitch an investigative story about a structural corruption in America's child support courts that affects 12 million cases annually.

The core finding: Courts adjudicating child support cases receive federal funding tied to collection performance, creating unconstitutional financial bias.

Key evidence: • Federal regulations explicitly authorize paying judicial salaries from performance-based funds (45 CFR § 304.20) • States receive 66% federal match on collections

with no cap (42 U.S.C. § 655) • Courts have direct financial interest in denying modifications (reduces collection rates) • Pattern of magistrates moving from enforcement agencies to bench with no conflict screening

Why this matters: • Supreme Court has held financial interest violates due process (Tumey v. Ohio, 1927) • Yet federal agencies explicitly authorize the practice • No public disclosure to defendants • Affects millions, disproportionately low-income and minority obligors

What makes this story strong: • Documentary evidence (federal regulations, state budgets, FOIA responses) • Legal framework (clear constitutional violations) • Human impact (families destroyed by biased system) • Government complicity (federal agencies approve it) • Scale (nationwide, all 50 states)

Sources available: • Affected obligors with documentation • Court budget documents via FOIA • Federal regulations and guidance • Constitutional law experts • Data on modification denial rates I've compiled comprehensive documentation and can provide: • Technical report (100+ pages) • FOIA request templates • Legal analysis • Contact information for sources • Data analysis framework

This story has never been fully told despite affecting millions. The financial incentive structure is hidden in federal regulations that few people read.

Are you interested in investigating? I'm happy to provide materials and connect you with sources.

Best regards,[NAME]

E.3 Supporting Materials for Media

Document Package to Provide:

1. Executive Summary (2 pages)
2. Full Technical Report (PDF)
3. Key Federal Regulations (highlighted relevant sections)
4. Sample FOIA Responses (Maryland AG Westlaw alert, etc.)
5. Timeline (showing coordination and timing)
6. Glossary (explaining Title IV-D, CRA, etc.)
7. Expert Contact List (constitutional law professors, family law practitioners)
8. Obligor Contact List (willing to be interviewed)
9. Data Analysis (modification rates, funding levels)
10. Comparison Chart (state-by-state where data available)

Appendix F: Congressional Testimony Outline

If called to testify before House/Senate committee:

Opening Statement

"Mr./Madam Chairman, members of the committee, thank you for the opportunity to testify today about a constitutional crisis hiding in plain sight within America's child support system.

For fifty years, Title IV-D has operated on a principle that seems innocuous: the federal government reimburses states for child support enforcement costs. But buried in the regulations implementing this program is an authorization that would shock most Americans: federal funds may be used to pay the salaries of judges adjudicating child support cases.

Not just any judges — judges whose compensation comes from a program that pays based on collection performance. Judges who have a financial interest in the outcomes of the cases before them.

In 1927, the Supreme Court held in *Tumey v. Ohio* that due process is violated when a judge has a financial interest in conviction. The Court said—and I quote—"Every procedure which would offer a possible temptation to the average man as a judge not to hold the balance nice, clear and true between the State and the accused, denies the latter due process of law."

Yet today, nearly a century later, we have systematically embedded that exact same financial temptation into courts affecting 12 million Americans.

This is not about helping children or holding parents accountable. Those are important goals. This is about how we pursue those goals — and whether we do so within constitutional bounds. I'm here today to present evidence that we are not."

#### Key Points to Make

##### Point 1: The Authorization

- \* Show 45 CFR § 304.20(b)(2)(ii)
- \* Explain how federal reimbursement works
- \* Demonstrate open-ended nature (no cap)

##### Point 2: The Financial Interest

- \* Explain performance metrics
- \* Show how modification denials protect metrics
- \* Present statistical correlation data

##### Point 3: The Constitutional Standard

- \* Review *Tumey*, *Ward*, *Caperton*
- \* Apply to Title IV-D context
- \* Explain why "structural bias"

##### Point 4: The Human Cost

- \* Present case studies (with permission)
- \* Show enforcement spiral
- \* Demonstrate real-world harm

##### Point 5: The Federal Complicity

- \* HHS/ACF authorized it
- \* DOL fails to enforce CCPA
- \* No oversight for bias

##### Point 6: The Solution

- \* Separate judicial funding from program funding
- \* Require disclosure of financial conflicts
- \* Strengthen modification procedures
- \* Enhance federal oversight

#### Anticipate Questions

Q: "Don't children need support?"

A: "Absolutely. But accurate support calculated by unbiased courts. Current system gets amounts wrong through phantom income, then enforces wrong amounts aggressively. Children don't benefit when parents are destroyed by enforcement of obligations they can't possibly meet."

Q: "Aren't judges supposed to follow the law regardless of financial incentives?"

A: "The Supreme Court has held that due process doesn't depend on judges' subjective ability to resist temptation. The Constitution requires removing the temptation entirely. Even the appearance of bias violates due process."

Q: "How much would reform cost?"

A: "States would lose 66% federal reimbursement for court costs — but gain reduced litigation, fewer appeals, better compliance with realistic orders. Net cost likely minimal. More importantly, constitutional compliance isn't optional."

Q: "Is this happening in every state?"

A: "Federal authorization applies to all states. Individual funding levels vary and require investigation. But authorization itself and perverse incentives affect all Title IV-D programs."

Q: "What do you want Congress to do?"

A: "Three things immediately: (1) Hold oversight hearings to expose scope, (2) Prohibit performance-based judicial compensation in reauthorization, (3) Mandate structural bias audits by HHS Inspector General."

## Appendix G: Resources and Next Steps

### G.1 Organizations Working on Reform

#### National:

- \* National Family Law Project
- \* National Center for Youth Law
- \* Center for Family Policy and Practice
- \* Fatherhood Coalition
- \* American Civil Liberties Union (Economic Justice Project)

#### Research/Policy:

- \* Brennan Center for Justice
- \* Constitution Project
- \* National Center for State Courts
- \* American Bar Association (Family Law Section)

#### Legal Services:

- \* Legal Services Corporation
- \* Pro bono programs at major law firms
- \* Law school clinics (family law, civil rights)

### G.2 How to Get Involved

#### For affected individuals:

1. Document your case thoroughly
2. File FOIA requests for court funding disclosure
3. Contact attorneys about constitutional challenges
4. Share information (if safe) with researchers and media
5. Join or form advocacy groups

#### For attorneys:

1. Consider taking test cases pro bono
2. Coordinate with other attorneys on strategy
3. File amicus briefs in pending cases

4. Present CLEs on the issue

5. Write law review articles

For researchers:

1. Study modification grant rates by jurisdiction

2. Analyze court budget data

3. Survey affected populations

4. Document magistrate employment patterns

5. Publish findings

For journalists:

1. FOIA court funding in your state

2. Interview affected obligors

3. Analyze public data

4. Investigate local patterns

5. Connect to national story

For legislators:

1. Request briefings from HHS/ACF and DOL

2. Hold oversight hearings

3. Introduce reform legislation

4. Condition appropriations on compliance

5. Support constituent complaints

For citizens:

1. Educate yourself and others

2. Contact representatives

3. Support reform organizations

4. Share information widely

5. Demand accountability

### G.3 Online Resources

To be created:

\* Website hosting full report

\* Database of state CRAs (as obtained)

\* Modification rate data by jurisdiction

\* FOIA request generator

\* Case law database

\* Media coverage tracker

### Final Note

This report represents thousands of hours of research, analysis, and documentation. It is provided freely to the public, to researchers, to journalists, to attorneys, to legislators, and to anyone working to restore constitutional due process to America's family courts.

The evidence is clear. The law is settled. The harm is ongoing.

What happens next is up to all of us.

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For updates, corrections, or to contribute additional evidence: [Contact information to be added]

This report is dedicated to the millions of Americans whose constitutional rights have been violated by financially-conflicted courts, and to the children who deserve both support and justice.

<https://gitforensics.org>

END OF REPORT