

November 18, 2015

Cecilia Munoz
Director, White House Domestic Policy Council
1650 Pennsylvania Ave., NW
Washington, D.C. 20502

Dear Ms. Munoz:

We the undersigned write to thank the Obama Administration for developing and releasing the Notice of Proposed Rulemaking: Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs issued by the Office of Child Support Enforcement on November 17, 2014. Many of our organizations provided comments on the rule during the notice-and-comment period, and we are all eager to see it finalized.

The final rule would not only make long-overdue improvements to the child support system to promote economic security for families and ensure the wellbeing of children. It would also serve to advance this administration's commitment to criminal justice reform, specifically by helping to reduce the barriers to reentry for formerly incarcerated individuals who are noncustodial parents. For those individuals—overwhelmingly Black and brown men—the stakes for themselves and their families are incredibly high.

For the following reasons, our organizations feel strongly that finalizing this rule is a critical part of the President's broader commitment to criminal justice reform, and a step that is immediately within his purview.

One of the most important components of the proposed regulation is the requirement that states consider noncustodial parents' actual ability to pay when setting child support orders. Unrealistic support orders help no one, trapping parents in a vicious cycle of debt, nonpayment, and even incarceration. Evidence shows that realistic, income-based orders result in more regular child support payments over time. Conversely, when support orders do not reflect the noncustodial parent's actual ability to pay, children are less likely to receive any child support and noncustodial parents are more likely to accumulate significant child support arrears, which can interfere with parental employment, exacerbate poverty and hardship, reduce parental involvement, increase family conflict, and decrease current support payments.

Another key component of the proposed rule is its prohibition on states treating incarceration as "voluntary unemployment," which precludes modification of support orders while a parent is in prison. As of 2012, incarceration was not a permissible basis for suspending child support orders in 14 states, meaning that a noncustodial parent can amass significant debt—plus interest—while behind bars, despite being unable to make payments. Given that many individuals leaving prison face significant barriers to employment, it can be difficult—if not impossible—for these parents to dig themselves out of this hole, setting them on a path to re-incarceration.

It is this vicious cycle that led to the tragic death of Walter Scott, a South Carolina father who was pulled over for a broken tail light and then shot in the back while trying to flee law enforcement for fear of being arrested for owing child support debt. Walter Scott wasn't alone—fully one in eight South Carolinians in jail are behind bars due to nonpayment of child support. This scenario disproportionately affects men of color, and addressing it fits squarely within priority Administration initiatives such as My Brother's Keeper.

Moreover, the proposed child support rule also builds on the Administration's efforts to remove barriers to employment for returning citizens. Punitive child support enforcement tools such as license revocation and civil contempt are unlikely to result in child support payments by low-income fathers and mothers, as the underlying problem for these parents is often the multiple barriers they face to finding and keeping a job. By giving state agencies new options to use federal child support funding to offer employment services to noncustodial parents who are out of work or struggling to make regular payments, the rule would help noncustodial parents find their economic footing and contribute financially to their children. Work-oriented programs in many states that help noncustodial parents get and keep jobs—instead of jailing them for nonpayment—have resulted in parents paying more child support and making more consistent payments.

In short, should the administration decline to finalize this important rule, it will have missed a critical piece of the puzzle in building a fair and equitable criminal justice system. We urge you to act now.

Please contact Rebecca Vallas at the Center for American Progress (rvallas@americanprogress.org) with any questions.

Sincerely,

AFL-CIO
American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
Center for American Progress
Center for Community Change Action
Center for Family Policy and Practice
Center for Law and Social Policy (CLASP)
Child Welfare League of America
Children's Defense Fund
Children's Home + Aid
Church of Scientology National Affairs Office
Coalition on Human Needs
Columbia University
CoParentingToday.com
Council on American-Islamic Relations
Crime Survivors for Safety and Justice
Fathers & Families Coalition of America
Fathers Incorporated
Fathers, Families, and Healthy Communities
First Focus Campaign for Children

Great Beginnings for Black Babies, Inc.
Heartland Alliance's National Initiatives on Poverty & Economic Opportunity
Institute for Science and Human Values
Institute for the Advancement of Working Families
Justice Strategies
Leadership Conference
Mission Neighborhood Centers, Inc.
Movement Advancement Project
NAACP
National African American Drug Policy Coalition, Inc.
National Center for Transgender Equality
National Employment Law Project
National Fatherhood Initiative
National LGBTQ Task Force
National Partnership of Community Leadership
National Women's Law Center
Ohio Fatherhood Practitioners Network
PolicyLink
Prison Policy Initiative
Responsible Fatherhood Advocate, LA California
Springfield Urban League Inc.
The Dibble Institute
The Strong Families Commission Incorporated
The Wilson Group, Inc.
United Church of Christ, Justice and Witness Ministries
Women Who Never Give Up