

Access to Justice Innovations

Child support procedures that are accessible and easy to use help assure a fair and just process and lead to better child support outcomes, especially for parents without lawyers. This fact sheet profiles several child support access to justice innovations, including court facilitators, self-help hotlines and centers, and online tools that facilitate active, informed participation by parents.

Fundamental fairness and access to justice are critical to effective child support enforcement. Child support is at its core a legal obligation. When child support procedures are clear, realistic, and fair to both parents and their children, parents are more likely to make reliable support payments that their children can count on. Whether a child support program makes greater use of administrative process or judicial procedures, providing parents with accurate information about the child support process and helping them obtain appropriate child support orders can improve child support outcomes.

The United States Supreme Court case *Turner v. Rogers*¹ addressed whether a noncustodial parent facing incarceration for civil contempt of nonpayment of child support is constitutionally entitled to a lawyer as a matter of due process. The Court held that representation by legal counsel is not constitutionally required under many circumstances, as long as appropriate procedural safeguards are in place while highlighting the need for increased legal assistance and information, particularly for *pro se* (unrepresented) parents.² A forthcoming Action Transmittal will provide more information on the legal requirements of *Turner*.

To address the issues raised by *Turner*, the Office of Child Support Enforcement (OCSE) has developed a strong collaboration with the Department of Justice's (DOJ) Access to Justice Initiative. The Access to Justice Initiative was established to improve access to justice in the criminal and civil justice system and to help the justice system efficiently deliver outcomes that are fair and accessible to all, irrespective of wealth and status.



As part of the initiative, DOJ works with stakeholders to increase access to counsel and *pro se* legal assistance and to improve the justice delivery systems that serve people who are unable to afford lawyers. The OCSE-DOJ collaboration focuses on improving self-help strategies in state judicial and administrative child support proceedings, helping states implement the four criteria³ in *Turner*, and reducing the use of civil contempt that leads to incarceration in states that use civil contempt to enforce child support.

The child support program serves over 17 million children, and most of the parents involved in the child support system navigate without a lawyer. Many child support agencies have developed innovations to make customer engagement more “user friendly.” Providing information to *pro se* parents helps ensure that parents understand the child support process, know what to expect in the child support process, and provide accurate financial information.

When parents are provided accurate information about the child support process, are given the opportunity to present information about their circumstances and are really listened to, support orders are more accurate and parents are more likely to comply with the orders. In fact, research suggests that parents are more likely to comply with child support orders that they perceive to be fair, while they are less likely to comply with child support orders that they perceive to be unfair.⁴ Implementing fair and inclusive procedures that ensure that parents are meaningful participants in child support proceedings is an important step in avoiding future civil contempt proceedings and other costly enforcement measures, including jail.

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Turner presents an opportunity for child support agencies to examine their policies and procedures to make sure that parents have accurate and easy to understand information about obtaining and providing child support. Improving access to justice for parents without lawyers may take many forms. Access to Justice initiatives to assist *pro se* litigants include, for example, the use of court facilitators, self-help hotlines and centers, and online tools. Child support agencies, the courts, or the legal services community, including *pro bono* lawyers, may offer Access to Justice programs. A mix of *pro se* services often are offered together.

Many child support programs already have practices to assist unrepresented parents, including setting accurate orders based on the noncustodial parent's actual ability to pay support,⁵ improving review and adjustment processes,⁶ developing debt management programs, and encouraging mediation and case conferencing to resolve child support issues. These innovations will be discussed further in a future Information Memorandum on alternatives to incarceration.

Court Facilitators

Court facilitators may provide a range of services, such as offering legal information, advice, or providing parents the opportunity to negotiate to reach a resolution on their dispute.

California

Each county in California has an Office of Family Law Facilitator, a cooperation between the Administrative Office of the Courts and the Department of Child Support Services. The attorney facilitators help demystify courtroom procedures and humanize the court system, and provide assistance in child support matters.⁷

Washington

In Washington, the Family Law Courthouse Facilitators, who are attorneys, provide basic services to *pro se* litigants, including referrals to legal and social services resources, assistance in calculating child support, assistance in completing court forms, explanation of legal terms, information on basic court procedures and logistics, and attendance at *pro se* hearings.⁸

Self-Help Hotlines and Centers

Self-help hotlines and centers provide brief legal assistance and information without providing actual legal representation. Self-help centers typically help unrepresented litigants fill out court forms.⁹ Frequently, attorneys are involved in providing legal information to parents.

Minnesota

In Hennepin County, Minnesota, the self-help center offers a workshop for clients interested in filing a child support modification, and staff meet with clients after the class to answer questions about their situation.¹⁰

Texas

In Texas, Legal Aid of Northwest Texas, in partnership with the Texas Office of the Attorney General, has a hotline staffed by attorneys who answer questions from parents about child support.¹¹ Hotline attorneys aim to facilitate establishment of agreed-upon orders, reduce parental conflict and misunderstandings, ensure that orders are "right-sized," prevent default orders, and promote positive co-parenting.

District of Columbia

In the District of Columbia, a collaboration between Bread for the City, Legal Aid Society of DC, and the DC Bar Pro Bono Program provides *pro bono* representation and legal information and advice to individuals with child support cases. Attorneys are placed in the courts, enabling them to provide same-day representation for parents, often resulting in establishment or modification of appropriate orders. Parents are also able to use the court-run DC Family Court Self-Help Center to obtain legal information regarding child support cases.¹²

Online Tools

Many child support agencies have used online tools to provide information, such as materials explaining the child support process and/or how to modify a child support order. In addition to information, many states have child support court forms available online. These online forms are court-approved legal documents that can be filled out, printed, and taken to the courthouse for filing. Court websites often contain links to these materials.

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More sophisticated automated online tools may assist the parent in actually filling out the court filing online, through a program much like Turbo Tax, guided by “A2J” interview software.¹³ New York already uses this software.¹⁴

Kentucky

The Kentucky Division of Child Support, Jefferson County Attorney’s Office and the Legal Aid Society developed online legal information in which parents are directed to off-site services, including online video tutorials on child support processes and access to ready-made forms and child support worksheet calculators.¹⁵

Minnesota

Minnesota Department of Human Services, Child Support Enforcement Division has a project that targets simplification and streamlining of child support orders by changing policies, forms and procedures in order to expedite the review and modification process and applying technical supports to the *pro se* process. The project targets high-impact, low-cost improvements for families in less complicated circumstances (e.g., prison, public assistance and disability). The electronic *pro se* modification website successfully completed a 3-month pilot, and the grantees developed a modification informational brochure and guide book, now available online.¹⁶

South Carolina

The South Carolina modification process is being developed through the collaborative effort of the South Carolina Center for Fathers and Families, the South Carolina Department of Social Services Child Support Enforcement Division, South Carolina Court Administration, South Carolina Access to Justice Commission, South Carolina Bar Foundation, and South Carolina Legal Services.

Washington

Washington has a “Quick Help Guide” that provides important child support information online.¹⁷ Produced by the state child support agency, this guide offers useful links to court forms, child support calculators, and provides assistance for victims of domestic violence.

Conclusion

Child support agencies can help assure just child support processes, whether administrative or judicial, by making sure that their processes are simple and easy to follow. Additionally, by collaborating with their judiciary, state or local Access to Justice Commissions,¹⁸ and bar associations, child support agencies can play a critical role in developing materials and other appropriate procedural safeguards for unrepresented parents.



References

1. 131 S. Ct. 2507 (2011).
2. Richard Zorza, *A New Day for Judges and the Self-Represented: The Implications of Turner v. Rogers*, *The Judges' Journal*, Vol. 50, Number 4, Fall 2011.
3. Turner requires that four criteria be met:
 1. Providing notice to NCP that "ability to pay" is a critical issue in the contempt proceeding.
 2. Providing a form (or the equivalent) that can be used to elicit relevant financial information
 3. Providing an opportunity at the contempt hearing for the noncustodial parent to respond to statements and questions about his/her financial status (e.g., those triggered by his/her responses on the form declaring financial assets)
 4. Requiring an express finding by the court that the noncustodial parent has the ability to pay
4. Waller, M. and Plotnick, R., *Effective Child Support Policy for Low-Income Families: Evidence from Street Level Research*, *Journal of Policy Analysis and Management*, Vol. 20, No. 1 (Winter, 2001), pp. 89-110; Lin, I-Fen, "Perceived Fairness and Compliance with Child Support Obligations", Institute for Research on Poverty, Discussion Paper no. 1150-97 (1997) (based on a sample of divorced parents in 1986 and 1988).
5. For more information about establishing and maintaining realistic child support orders, see PAID fact sheet *Establishing Realistic Child Support Orders: Engaging Noncustodial Parents*.
6. For more information about the review and adjustment process, see PAID fact sheet *Providing Expedited Review and Modification Assistance*.
7. <http://www.courts.ca.gov/selfhelp-facilitators.htm>
8. Washington State Court Rule GR 27.
9. <http://www.mncourts.gov/district/4/?page=1286>.
10. *Promising Practices: Hennepin County, MN, Self Help Center*, Child Support Report, February 2010.
11. For this and other OCSE grant-funded activities, please see: www.acf.hhs.gov/programs/cse/grants/abstracts/by_state.html
12. http://www.dccourts.gov/internet/public/aud_family/selfhelp.jsf
13. For examples of state resources, see <http://www.lawhelp.org/>. For forms available with the A2J software, see <https://www.lawhelpinteractive.org/>.
14. For the New York form, please see https://lawhelpinteractive.org/login_form?template_id=template.2009-05-21.0133314769&set_language=en or <http://www.nycourthelp.gov/diy/supportmodification.html#Q4>
15. For the videos and self-help services, see <http://kyjustice.org/node/1879>. The state child support office has online tools as well: See <http://chfs.ky.gov/dis/cse.htm> and <http://csws.chfs.ky.gov/csws/>
16. http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_155989#
17. <http://www.dshs.wa.gov/pdf/esa/dcs/DCSQuickHelpGuide2.pdf>
18. For more information on Access to Justice Commissions, see http://www.americanbar.org/groups/legal_aid_indigent_defendants/initiatives/resource_center_for_access_to_justice/state_atj_commissions.html.

