



# A HIGH PRICE TO PAY

RECOMMENDATIONS FOR MINIMIZING DEBT'S ROLE IN DRIVING RECIDIVISM RATES

BY: MICHAEL SCHULTE | REVISED MAY 2015



**GEORGIA**  
CENTER for OPPORTUNITY  
[georgiaopportunity.org](http://georgiaopportunity.org)



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## ABOUT GEORGIA CENTER FOR OPPORTUNITY

Georgia Center for Opportunity (GCO) is an independent, non-partisan think-tank dedicated to increasing opportunity and improving the quality of life for all Georgians. We research ways to help remove barriers to opportunity, promote those solutions to policymakers and the public, and help innovative social enterprises deliver results on the ground. The primary pathways to opportunity – strong families, quality schools, and stable employment – which historically gave people a chance to succeed, regardless of social and economic background – have experienced a rapid decline in recent decades. We study and understand the obstacles along these pathways and work to break through the barriers to opportunity so that Georgia will become a state where all have a real chance to prosper.

Our work is focused on five primary impact areas:



## ABOUT THE PRISONER REENTRY INITIATIVE

In 2009, the Pew Center on the States released a study showing that Georgia led the country with 1 in 13 adults under some form of correctional supervision. Our experience working to strengthen families in inner-city Atlanta confirmed this high offender population and the social problems that arise from parents cycling in and out of prison. As a means of addressing this issue, we launched our Prisoner Reentry Working Group. The group's aim is to develop policy and community solutions that work to improve offender reintegration, increase public safety, and drive down costs of incarceration. Our eight working group members consist of individuals with considerable expertise in Georgia's correctional system and a strong interest in improving outcomes for prisoners returning to the community.

## AUTHOR

Michael Schulte is a Breakthrough Fellow for Georgia Center for Opportunity's Prisoner Reentry Initiative. Schulte holds a B.A. in Government from Berry College and is a John Jay Fellowship Alumnus.

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The opinions expressed in this report are those of the author and do not necessarily reflect the opinions of Georgia Center for Opportunity, the Prisoner Reentry Working Group members, or others who were interviewed for this work. Likewise, any errors or omissions are inadvertent and are the responsibility of the author alone.

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## EXECUTIVE SUMMARY

It is in the state's interest and in the interest of justice for offenders returning from prison (hereafter "returning citizens"<sup>i</sup>) to pay debts and obligations owed to family members, victims, courts, and criminal justice agencies. Children need financial support from parents who have been incarcerated, victims ought to receive just compensation for losses and damages they have suffered, and courts and criminal justice agencies should be reimbursed for services that they provide. Nonetheless, for many people reentering society after a period of incarceration, debts and the inability to earn money while in prison create serious obstacles to a successful transition.

It is not uncommon for returning citizens to leave prison owing tens of thousands of dollars in child support arrears, restitution, court fines, fees, and surcharges to criminal justice agencies. Unrealistic terms for repaying these debts can discourage them from paying anything at all and encourages returning citizens to engage in the illegal, underground economy as a means of earning an income. Such actions may result in probation or parole violations, or even re-incarceration.

Enforcing the repayment of debts and obligations without considering the needs and financial circumstances of returning citizens works contrary to the interests of all stakeholders involved. The State of Georgia should consider implementing the following recommendations as a means of encouraging returning citizens to pay what they owe while taking into consideration their need to be successfully reintegrated and reestablished within the community:

### IDENTIFY OFFENDERS WITH CHILD SUPPORT INVOLVEMENT UPON ENTRY TO PRISON

The state should identify offenders with child support responsibilities upon entry to prison by electronically matching the Georgia Department of Corrections (GDC) and Division of Child Support Services (DCSS) agency caseloads using common identifiers such as social security numbers and birth dates. This data match will allow the DCSS to provide pertinent information to incarcerated non-custodial parents concerning their child support obligation(s), as well as identify those who need to establish paternity and/or child support orders but have not already done so.

### PROVIDE CHILD SUPPORT INFORMATION AND SERVICES TO PARENTS DURING THEIR INCARCERATION

Once identified, the DCSS should inform incarcerated non-custodial parents of the amount of their child support obligation(s), notify them periodically of the amount their arrears have accrued, work with them to develop a plan for meeting these obligations upon release, and inform them of the incentives available to them through the state for consistent payment of support.

<sup>i</sup> We realize that some will be frustrated by our use of the term "returning citizen" in this report and would prefer to see us use a more familiar term such as "ex-offender." Our use of the term "returning citizen" is intended not as a political statement but as an acknowledgement that almost all offenders will return to our community at some point in the future and that it is in our best interest to think of offenders in that light, as our thinking will shape how we treat them during incarceration and what we expect of them upon release.

## PROVIDE A 90-DAY GRACE PERIOD TO EASE THE TRANSITION PHASE

Upon release, the court and DCSS should automatically review the amount of child support returning citizens can pay on a case-by-case basis. Those who have no means of paying anything at that time should be given a grace period of 90 days before having to pay their obligations and repay debt. This grace period will provide them time to find a job, housing, transportation, and other essential needs that can enable them to meet their obligation. After the 90 days, those who still cannot pay their child support orders should be referred to the Georgia Fatherhood Program (GFP) or a Child Support Problem Solving Court (PSC) to receive additional help in finding a job and meeting their obligations.

## LIMIT AMOUNT OF WAGES TO BE GARNISHED BY THE STATE

For returning citizens who have a job and are able to pay some amount of child support, the court should determine on a case-by-case basis the amount of wages to be garnished from their paycheck. The court should take into consideration such factors as the returning citizen's income, cost of living, and other dependents that he or she is taking care of. The state should set a ceiling of 50 percent as the maximum percentage of wages to be withheld from a returning citizen – something which a third of the states have already done.

## FORGIVE FINES, FEES, AND SURCHARGES OWED TO THE STATE

The state should consider incentivizing returning citizens to pay child support and restitution by forgiving (or waiving) all or some of the fines, fees, and surcharges owed to the state for those who meet their monthly obligations. Forgiving these expenses in exchange for consistent payments would encourage greater compliance among returning citizens, which means that families and victims would receive more money in the long run. The state should tie participation in reparative activities as a condition for receiving these benefits, including drug treatment services, GFP, a PSC, or community service projects.

## REINSTATE DRIVER'S LICENSES THAT WERE SUSPENDED FOR NON-PAYMENT OF CHILD SUPPORT

The state should lift driver's license suspensions for returning citizens' whose licenses were suspended because they were more than 60 days in arrears in making payments in full for current support, periodic payments on a support arrearage, or periodic payments on a reimbursement for public assistance. To maintain driving privileges, the state should require that returning citizens be actively seeking a job or actively working, and that they consistently pay child support according to their means.

## INCREASE PARTICIPATION IN THE STATE DEBT REDUCTION PLAN

The state should increase participation in the State Debt Reduction Plan (SDRP) by enrolling returning citizens who are struggling to pay child support arrears owed to the state. This plan allows those who qualify to negotiate and reduce their debt through entering into a payment plan. One way DCSS can promote the plan to returning citizens is by notifying those who are participating in GFP or a PSC. Increased participation in the SDRP has the potential of motivating more obligors to comply with long-term payment plans, eliminating uncollectible debt, facilitating case closure where appropriate, and helping families to become more self-sufficient.





## DESIGNATE A SINGLE AGENCY TO TRACK AND CONSOLIDATE RETURNING CITIZENS' DEBTS

One agency should be designated to track and consolidate individual returning citizens' debts in a centralized tracking system and ensure that it remains updated as the person travels through the criminal justice system and is released into the community. This agency should be responsible for collecting all offense-related debt and disbursing funds according to the priority set by the federal and state government.<sup>ii</sup> Regular updates concerning the total amount of debt owed and expected dates and amounts of repayment should be sent to returning citizens, victims, courts, and criminal justice agencies. Courts and criminal justice agencies should use this information to establish realistic repayment plans for returning citizens based on their financial situation.

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<sup>ii</sup> Offense-related debt does not include child support, which is collected and tracked by DCSS and cannot be consolidated with restitution, fines, fees, and surcharges. Nonetheless, the amount of child support that has been collected should also be tracked by the agency that is consolidating offense-related debts, because the amount that goes toward child support (which must be paid first in priority according to federal law) impacts the amount that can be paid toward these other debts.



# INTRODUCTION

Ninety-five percent of people who enter state prisons return to society one day,<sup>1</sup> and these returning citizens face numerous barriers to reentry. Perhaps the most significant of all barriers is the challenge of finding and maintaining employment. One study reveals that a criminal record reduces the likelihood of a job callback or offer by nearly 50 percent.<sup>2</sup> Returning citizens who cannot find jobs soon after release are more likely to recidivate than those who do. The U.S. Probation and Pretrial Services System found that in 2003, unemployed offenders under their supervision were revoked at a rate more than 500 percent higher than the rate of employed offenders.<sup>3</sup> Another study of federal offenders found a high correlation between employment and the outcome of supervision, showing that “[u]nemployed offenders were more likely to be revoked, while nine out of ten employed offenders completed supervision successfully.”<sup>4</sup>

Recidivist offenders account for 42 percent of the current prison population in Georgia.<sup>5</sup> This outcome negatively impacts public safety and costs taxpayers an exorbitant amount of money. Georgia spends \$21,039 per year for every person who ends up back behind bars, amounting to over \$130 million annually for every cohort of released prisoners that recidivates.<sup>6</sup>

This report serves as a complement to GCO’s first report on returning citizens’ need for employment<sup>iii</sup> by examining how debts that arise from a criminal conviction – including restitution, court fines, fees, and surcharges – and unpaid child support that accumulates during incarceration, serve as a formidable barrier to reentry. It is tied closely with the issue of employment, as offenders who are unable to earn money by working while in prison and who have difficulty securing a job upon release likely have no means of paying their debts and obligations. Returning citizens who default on these payments may face re-incarceration as a consequence for breaking their conditions of release. Others who obtain a job may find it impossible to juggle repaying debts and obligations while providing for their own basic needs.

The aim of this report is to help policymakers see the importance of creating realistic repayment options for returning citizens in order to encourage them to make current payments of child support and restitution, pay their other debts, and maintain legitimate employment. In this way, the state can work to balance the interests of all stakeholders involved.

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<sup>iii</sup> GCO published a report in December 2013 titled *Increasing Employment Opportunities for Ex-Offenders* (Read the report at <http://www.georgiaopportunity.org/assets/2014/10/GCO-Report-workforce-web.pdf>). Several recommendations in the report were included in the reforms that the Georgia Council on Criminal Justice Reform proposed to the state legislature in its January 2014 report, including lifting driver’s license suspensions for drug offenders who committed non-driving related crimes, protecting employers who hire qualified ex-offenders from negligent hiring liability, and “banning the box” for state employers so that they move the question about an applicant’s criminal history to a point later in the hiring process. The reforms pertaining to driver’s license suspensions and negligent hiring liability were incorporated into SB 365, which passed the House and Senate with virtually no opposition and was signed into law by Governor Nathan Deal on April 13, 2014.



## CAUSES OF DEBT

Returning citizens often face a mountain of debt upon leaving prison that makes it more difficult to successfully reenter society. Some of this debt may have existed prior to incarceration – such as consumer debt and child support – while much of it arises as a direct result of a criminal conviction, and is made much worse by subsequent incarceration and unemployment. Studies have shown average debt amounts in certain jurisdictions to be as high as \$20,000 in child support arrears<sup>7</sup> and between \$500 and \$2,000 in offense-related debt.<sup>8</sup> This onerous amount of debt, combined with the lack of opportunity to earn or save money while in prison, causes many offenders to reenter society with little hope of being able to repay what they owe.

Offense-Related Debt	Other Debt
<ul style="list-style-type: none"> <li>▪ Restitution</li> <li>▪ Fines</li> <li>▪ Fees</li> <li>▪ Surcharges</li> </ul>	<ul style="list-style-type: none"> <li>▪ Consumer Debt</li> <li>▪ Child Support</li> </ul>

## CONSUMER DEBT

It is common for people who are incarcerated to carry some level of consumer debt into prison, whether it is from outstanding mortgages, car loans, school loans, or credit cards.<sup>9</sup> Missed payments on these mortgages, loans, and bills result in back interest, fees, and fines accumulating over the course of a person's incarceration. The end result can be the offender accumulating an unmanageable amount of debt by the time he or she is released, leading him or her to file for bankruptcy.<sup>10</sup>

## CHILD SUPPORT

Child support typically comprises the largest debt returning citizens owe,<sup>11</sup> as non-custodial parents who are unable to modify their orders during incarceration can owe tens of thousands of dollars in arrears by the time they are released.<sup>12</sup>

One study examining Massachusetts' inmates and parolees revealed that non-custodial parents entering prison owed an average of \$10,543 in unpaid child support and were likely to generate an additional \$10,000 in arrears by the time they were released.<sup>13</sup> More startlingly, one-fifth of the state inmates were estimated to generate arrears balances in excess of \$30,000 while in prison.<sup>14</sup> Another study of 350 parolees in Colorado demonstrated that they had an average balance of \$16,651 in arrears.<sup>15</sup>

**Non-custodial parents who are unable to modify their orders during incarceration can owe tens of thousands of dollars in arrears by the time they are released.**

## Sixty percent of offenders in Georgia self-report having one or more children upon entering prison.

Many returning citizens in Georgia are likely to be impacted by child support debt, as 60 percent of offenders in Georgia self-report having one or more children upon entering prison.<sup>16</sup> Accepting the circumstances of the incarcerated, some states allow offenders to modify their child support while in prison to avoid the accrual of arrears. However, Georgia offenders are prohibited from modifying their arrears while incarcerated, as the state deems incarceration to be a form of “voluntary unemployment.”<sup>17</sup> As such, there is no mechanism for indigent offenders in Georgia to avoid accruing child support debt.

Once child support arrears have accrued, federal law requires non-custodial parents to pay the full amount owed to custodial parents, even if modification of orders is granted upon release from prison.<sup>18</sup> However, federal law does permit arrears owed to the state to be forgiven retroactively.<sup>iv</sup> Child support arrears become owed to the state when the Department of Human Resources supplies Temporary Assistance for Needy Families (TANF) to custodial parents who are not receiving requisite child support payments from non-custodial parents. Once funds are distributed, the non-custodial parent becomes obligated to repay the state for supplying the amount of assistance he or she was originally responsible for paying the custodial parent.<sup>19</sup>

## RESTITUTION

Another source of debt which many returning citizens owe upon reentry is payment of restitution to victims. The amount of restitution owed by offenders usually ranges from several hundreds of dollars to several thousands of dollars, depending on the offense.<sup>20</sup> Restitution provides a way for offenders to pay for financial loss and other damages suffered by victims including lost property, medical expenses, costs of counseling, funeral and burial expenses, and lost wages.<sup>21</sup> It serves as a way for the offender and the state to demonstrate that they recognize the harm that the victim suffered and the offender’s obligation to make amends.<sup>22</sup> One study conducted in Pennsylvania found that paying restitution is related to lower recidivism.<sup>23</sup> For all of these reasons, it is an important obligation for returning citizens to pay.

**The amount of restitution owed by offenders usually ranges from several hundreds of dollars to several thousands of dollars, depending on the offense.**

Georgia law requires the payment of restitution to be condition of probation or parole for those with a court order to pay this obligation.<sup>24</sup> The court determines the amount of restitution and manner of paying it during sentencing, and probation and parole officers are responsible for facilitating and monitoring payment compliance once the offender is in the community. For example, parolees must begin paying restitution upon release and are required to pay a minimum of \$30 per month.<sup>v,25</sup>

<sup>iv</sup> In this report, we advocate for arrears owed to the state to be forgiven as an incentive to encourage non-custodial parents to make regular payments of child support. We do not advocate for the forgiveness of arrears owed to custodial parents, as we believe it is the responsibility for the non-custodial parent to pay this debt to the custodial parent and child. In both cases, the well-being of the child is the end sought.

<sup>v</sup> Payment is required upon release for parolees serving 90 days or more under parole supervision.



## FINES, FEES, AND SURCHARGES

A third source of debt that encumbers returning citizens is fines, fees, and surcharges that arise as a direct result of a criminal conviction.

Fines imposed by the court are intended to punish offenders and deter others from committing such crimes.<sup>26</sup> The amount of the fine varies based on the person's charge and can be mandatory or discretionary.<sup>27</sup> A fine for a third DUI offense in Georgia, for instance, can be as high as \$5,000.<sup>28</sup>

**While small in isolation, surcharges can total hundreds and even thousands of dollars.**

Fees are amounts charged to offenders in exchange for the services provided by courts, probation departments, parole supervision, and other agencies.<sup>29</sup> For example, the Georgia State Board of Pardons and Paroles collects a monthly supervision fee of \$30 from every parolee with a supervision period of three months or longer.<sup>vi,30</sup> Another example is that courts have an application fee of \$50 for those applying for indigent defense.<sup>vii,31</sup>

Finally, surcharges are add-on amounts often unrelated to the crime but used to generate general fund revenue for criminal justice agencies.<sup>32</sup> Revenue is designated toward such things as retirement funds for sheriffs and peace officers, law enforcement facilities and training, indigent defense programs, and education and treatment programs.<sup>33</sup> While small in isolation, surcharges can total hundreds and even thousands of dollars.<sup>34</sup>

Georgia began collecting court fees and surcharges in 1950 when the legislature passed a statute requiring a deduction to be taken from every criminal fine to support the Peace Officers' Annuity and Benefit Fund. By 2001, the number of court-imposed fees and surcharges had risen to 21 to support nine state programs, five local programs, and the State General Fund.<sup>35</sup> Fees and surcharges range from \$0.50 per case to 50 percent of the total fine amount.<sup>36</sup>

## INABILITY TO EARN OR SAVE MONEY IN PRISON

A fourth reason returning citizens in Georgia have difficulty repaying debts upon release is that they do not have the ability to earn money for their work performed while incarcerated.<sup>37</sup> As one of only three states that do not pay inmates for work,<sup>viii,38</sup> Georgia bars those who are indigent from being able to meet current obligations, pay-down debt, or save for their inevitable reentry while in prison. This policy removes a strong incentive for them to work and develop skills and experience that will be helpful in obtaining a job upon release.

<sup>vi</sup> Parolees serving for violent offenses pay a monthly victim compensation fee of \$30 in lieu of the supervision fee.

<sup>vii</sup> Judges have discretion to waive the Indigent Defense Fund application fee.

<sup>viii</sup> Arkansas and Texas also do not pay inmates for work.



## DEBT AS A BARRIER TO REENTRY

John works as a retail manager and earns a net income of \$30,000 annually. He is divorced and has one child who lives with his ex-wife. The court determined that John should pay \$500 per month to support his daughter, and he is up-to-date on his payments. After leaving a party one night, John was pulled over by the police and found to be driving under the influence of cocaine. The police officer also found two grams of cocaine in his possession. John was arrested for these offenses and sentenced to six years in prison.

After serving two years, John becomes eligible for parole. Because he had no source of income while incarcerated and only had minimum savings prior to entering, he had no means of paying child support while in prison. By the time he is released, John has accrued a significant amount of debt. He has difficulty finding a job but eventually is hired as a warehouse assistant making \$9 per hour after taxes. With this income, he will have difficulty paying his child support and debt obligations while trying to meet his basic living expenses.

### JOHN'S FINANCIAL OBLIGATIONS

<b>Fine</b>	<b>\$1,000</b>
<b>Court Fees and Surcharges</b>	<b>\$908.75</b>
Peace Officers Annuity and Benefit Fund	\$50
Clerks' Retirement Fund	\$1.75
Sheriffs' Retirement Fund	\$2
Peace Officer, Prosecutor, and Indigent Defense Fund – A	\$50
Peace Officer, Prosecutor, and Indigent Defense Fund – B	\$100
Jail Construction and Staffing Fund	\$100
Local Victim Assistance Programs	\$50
Law Library	\$5
Drug Abuse Treatment and Education Fund	\$500
Crime Lab Fee	\$50
<b>Child Support Arrears (\$500 x 24 mo.)</b>	<b>\$12,000</b>
<b>Total Debt upon Release from Prison</b>	<b>\$13,908.75</b>



## MONTHLY FINANCIAL SITUATION AFTER RELEASE

<b>Annual Net Income</b> (as determined for child support)	<b>\$18,720</b>
<b>Monthly Net Income</b>	<b>\$1,560</b>
<b>Monthly Obligations</b>	<b>\$587</b>
Current Child Support	\$500
Offense-Related Debt <sup>ix</sup>	\$40
Parole Supervision Fee	\$30
Drug Testing	\$17
<b>Remaining Monthly Income</b>	<b>\$973</b>

*\*John has only \$973 to pay monthly living expenses (housing, food, transportation, etc.) and to put toward the \$12,000 he owes in child support arrears. His situation highlights the desperate need for a realistic repayment plan to be formed for returning citizens that will enable them to pay an appropriate amount of child support while being able to support themselves financially during this critical reentry period.*

Sources: Council of State Governments Justice Center, Texas Office of Court Administration, Georgia Superior Court Clerks' Cooperative Authority, and DMV.org<sup>39</sup>

<sup>ix</sup> Since offense-related debt is typically expected to be paid fully over the course of a parolee's term of supervision, we used the following formula to estimate the amount John will have to pay each month to satisfy this debt: (Fine + Court Fees and Surcharges)/ Time on parole supervision.





# CONSEQUENCES OF DEBT

An inordinate amount of debt and unrealistic terms of repayment create numerous barriers for returning citizens, including difficulty providing for their basic needs, the threat of revocation and re-incarceration, and various penalties for non-compliance.

## MOUNTING FINANCIAL PRESSURE

Having to immediately begin paying financial obligations upon release combined with carrying thousands of dollars in debt puts tremendous financial pressure on returning citizens. Many leave prison with great anxiety wondering where they will live and work, and some possess only what they were given upon release: \$25, a change of civilian clothes, and a bus ticket to their release destination.<sup>40</sup> A great number of returning citizens do not have a decent-paying job prior to prison,<sup>x,41</sup> and their prospect of finding one after release is slim.<sup>42</sup> One study reveals that three-fourths of people released from prison owing child support, restitution, and supervision fees reported having difficulty paying off these debts.<sup>43</sup> They may be willing to make these payments but simply do not have the means to do so right away.

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## THREAT OF REVOCATION OR ARREST

The payment of debts and obligations is a condition of probation and parole in Georgia;<sup>44</sup> therefore, a violation of these conditions by failing to pay can result in a revocation hearing.<sup>45</sup> While it is not common practice for the Parole Board to revoke a parolee solely for his or her failure to pay financial obligations,<sup>46</sup> in some jurisdictions revocation hearings are regularly sought for those on probation.<sup>47</sup> One public defender in Georgia reports that probationers who cannot pay criminal justice debt are often arrested for failing to report to officers who are involved in collection.<sup>48</sup> This may not result in re-incarceration, but it may cause a person to miss work and subsequently lose his or her job. Those who fail to appear at a payment hearing can have a warrant issued for their arrest.<sup>49</sup> Further, Georgia law requires a person to remain under probation supervision until all outstanding obligations are paid, or until the termination of the sentence, whichever comes first.<sup>50</sup> Prolonged time on probation can increase the likelihood that a person may break a condition of supervision, resulting in administrative sanctions or judicial revocation.<sup>51</sup>

## PENALTIES FOR NON-COMPLIANCE

For those who do not pay court-ordered financial obligations and debt, Georgia law allows for garnishment, levy, foreclosure, and all other actions provided for the collection of fines, fees, and restitution.<sup>52</sup> This can be detrimental for a returning citizen who is struggling to make ends meet. Unpaid debt also may lead to the suspension of one's driver's license, making transportation to and from work very challenging, since Georgia law allows for the suspension of a driver's license for any person who has accumulated child support arrears equivalent to or greater than two months' worth of payments.<sup>xi,53</sup> This barrier can impede a person's ability to find work and earn income, leading to more and more debt accumulating. In addition, criminal justice debt can be converted into a civil judgment allowing credit

<sup>x</sup> Fifty-nine percent of people detained in jails across the nation in 2002 reported monthly incomes of less than \$1,000 prior to arrest.

<sup>xi</sup> Suspending and reinstating driver's licenses is an administrative process that is handled by the DCSS.



reporting agencies access to the information. This in turn damages – or further damages – returning citizens' credit, making it more difficult to obtain employment and housing.<sup>54</sup>

A combination of these barriers may lead returning citizens to feel angry, overwhelmed, and hopeless, as they believe that unrealistic demands and terms of repayment have been placed upon them. As a result, some may become desperate and resort to engaging in the underground economy as a means of supporting themselves or paying their debts.<sup>55</sup> Others may try to avoid paying anything at all because they feel powerless to change their situation, or because they disagree with the financial penalties applied to them.<sup>56</sup> The result is that returning citizens may face revocation for failing to pay or re-incarceration for committing new offenses,<sup>57</sup> leading to more debt accumulation, increased costs to taxpayers, and fewer dollars going to children and victims.

## RECOMMENDATIONS

In order to address the barriers that debt creates for returning citizens, to increase the amount of debts and obligations they repay, and to reduce the cost to taxpayers in the long-run, the state of Georgia should consider implementing the following recommendations. These recommendations will allow returning citizens to have a clearer understanding of what they owe, have a strong incentive to pay their debts, and have a repayment strategy that is reasonable considering their financial situation:

### IDENTIFY PARENTS WITH CHILD SUPPORT INVOLVEMENT UPON ENTRY TO PRISON

When a person is first taken to prison, part of the intake procedure should involve determining whether he or she has current child support orders. Georgia already has a systematic way of identifying inmates with child support obligations by using common identifiers such as social security numbers and birth dates to electronically match the GDC and DCSS agency caseloads. While this data match is done upon an offender entering a transitional center, it is not routinely done at the point of entry to prison.<sup>58</sup> The state should conduct this match at the point of entry in order to become aware of non-custodial parents who are incarcerated so as to provide them with information and services that will ensure consistent payment upon release. It will also allow the DCSS to identify those who need to establish paternity and/or child support orders but have not yet done so.<sup>59</sup>

The GDC can incorporate this data match process into the intake procedure conducted at Georgia Diagnostic and Classification Prison (GDCP) in Jackson. Hiring a full-time DCSS employee at GDCP would be beneficial for fulfilling this task.

### PROVIDE CHILD SUPPORT INFORMATION AND SERVICES TO PARENTS DURING THEIR INCARCERATION

Parents with child support orders should receive information about their responsibilities upon entering prison. The state can do this by creating a video that provides general information about child support, producing a brochure with common questions and answers, and placing a child support representative at the state's correctional intake facility to answer questions and provide counseling.

States that have utilized informational videos for incarcerated parents include Washington, New Hampshire, Minnesota, Oregon, and Texas.<sup>60</sup>

## States that have utilized informational videos for incarcerated parents include Washington, New Hampshire, Minnesota, Oregon, and Texas.

**Texas** has created a brochure with common questions and answers on child support and contact information for child support offices throughout the state to give to inmates during the intake process.<sup>61</sup>

**Massachusetts** bases a CSE worker in the DOC main intake facility to process incoming inmates, make presentations during the orientation session, and interview individual inmates with child support responsibilities.<sup>62</sup>

**Oregon** is an example of a state that combines a couple of these outreach techniques.<sup>63</sup>

In addition to providing general information at intake, DCSS should inform non-custodial parents of the specific amount of their child support obligation(s), as well as periodically notify them of the amount their arrears have accrued during their incarceration. A DCSS outreach team should visit correctional facilities on a regular basis to provide case-specific information to non-custodial parents with orders and arrears, enroll them in fatherhood classes, and help them develop a plan for meeting these obligations upon release.

**Massachusetts** utilizes an outreach team that regularly visits state prisons and county jails offering child support-related services to inmates.<sup>64</sup>

## PROVIDE A 90-DAY GRACE PERIOD TO EASE THE TRANSITION PHASE

Upon release, the court and DCSS should automatically review the amount of child support returning citizens can pay on a case-by-case basis. Those who have no means of paying anything at that time should be given a grace period of 90 days before having to pay their obligations and repay debt. This grace period will provide returning citizens time to find a job, housing, transportation, and other needs that are essential to their successful reentry without being instantly crippled by the demands placed upon them. Finding a job and being able to earn money for a few months prior to enforcement would place them in a better position to support their children in the long run.

In order for returning citizens to remain eligible for this grace period, they should be required to successfully follow their Transition Accountability Plan (TAP), which details the terms, conditions, and expectations of their release to the community (TAP 2), as well as outlines the supervision and services they will receive (TAP 3).<sup>xii,65</sup> Further, eligibility should include actively seeking a job and regularly working once one is obtained. After the grace period ends, the court and DCSS should review returning citizens' child support orders again and set them at a reasonable amount relative to their current income.

If a person is unable to find a job and pay regular support orders by the time the 90-day grace period ends, the parent should be placed in a Child Support Problem Solving Court (PSC), also known as a Parental Accountability Court (PAC), to receive the assistance needed to obtain a job. The judicial oversight provided by this court will help to keep the parent actively seeking a job in order to make consistent payments. Those who fail to meet the requirements of the court will receive sanctions such as appearing before the judge more frequently, losing their driver's license, or facing short periods of incarceration until they demonstrate a sincere effort to support their children financially.<sup>66</sup>

<sup>xii</sup> Transition Accountability Plans "consist of the returning citizen's Case Management Plan updated at critical junctures in the transition process and are prepared at prison intake, at the point of the parole decision, at the point of return to the community, and at the point of discharge from parole supervision."



Other states have provided such a grace period for returning citizens to aid in their reintegration:

**Oklahoma** passed a law in 2011 that defers the start date of newly established orders until 45 days after the non-custodial parent has been released.<sup>67</sup>

**Oregon** provides 61 days before an action to establish a support obligation is initiated for obligors who had a gross income of less than \$200 per month while incarcerated.<sup>68</sup>

## LIMIT AMOUNT OF WAGES TO BE GARNISHED BY THE STATE

For returning citizens who have a job and are able to pay some amount of child support yet refuse to do so, the court should determine on a case-by-case basis the amount of wages to be garnished from their paycheck. The court should take into consideration such factors as the returning citizen's income, cost of living, and other dependents that he or she supports.

Currently, federal law allows up to 65 percent of a non-custodial parent's wages to be garnished by the state for child support.<sup>69</sup> Georgia wage garnishment laws generally follow federal guidelines,<sup>70</sup> leaving little income for returning citizens to afford their basic living expenses when garnished to this extent. To ensure returning citizens have enough money to provide for their needs, the state should set a ceiling of 50 percent as the maximum percentage of wages to be withheld from a returning citizen. A third of the states have already done this as early as 2001.<sup>71</sup>

## FORGIVE FINES, FEES, AND SURCHARGES OWED TO THE STATE

**Forgiving these expenses in exchange for consistent payments would likely result in greater compliance among returning citizens, which means that families and victims would receive more money in the long run.**

The state could offer a major incentive to encourage returning citizens to pay child support and restitution by forgiving (or waiving) all or some of the fines, fees, and surcharges owed to the state for those who meet their monthly obligations. Forgiving these expenses in exchange for consistent payments would likely result in greater compliance among returning citizens, which means that families and victims would receive more money in the long run. To receive such a waiver, the state could require participation in reparative activities such as drug treatment services,<sup>72</sup> GFP,<sup>xiii,73</sup> a PSC, or community service projects.

In certain jurisdictions of Georgia, returning citizens have been allowed to perform community service as a means of offsetting certain financial obligations such as fines.<sup>74</sup> Similarly, the state should consider expanding the availability of debt forgiveness as a means of encouraging pro-social behavior.

<sup>xiii</sup> The Georgia Fatherhood Program assists non-custodial parents in paying child support through offering education, training, and job placement services. This program also provides non-custodial fathers the opportunity to voluntarily acknowledge their paternity and/or initiate the legitimization process. It serves over 3,000 non-custodial parents in the state each year.

## REINSTATE DRIVER'S LICENSES THAT WERE SUSPENDED FOR NON-PAYMENT OF CHILD SUPPORT

The state should lift driver's license suspensions for returning citizens' whose licenses were suspended because they were more than 60 days in arrears in making payments in full for current support, periodic payments on a support arrearage, or periodic payments on a reimbursement for public assistance.<sup>75</sup> Reinstating driver's licenses provides greater opportunity for returning citizens to support their children financially and engage with them personally. Driver's licenses are needed for many returning citizens to commute to and from work given the limited availability of public transportation in Georgia.<sup>xiv</sup> Without the ability to get to work and earn an income, returning citizens with outstanding child support are even less likely to make consistent payments. Further, not having a license may prevent them from being able to visit their children and be more involved in their lives, which has been shown to improve the chances of non-custodial parents paying support.<sup>76</sup>

Once their driver's license has been reinstated, returning citizens should demonstrate a sincere effort to pay their child support obligation. Those who cannot meet their obligation should be placed in a PSC where they can have the opportunity to maintain driving privileges by fulfilling the requirements set by the judge, such as actively searching for a job 40 hours per week and completing program requirements. Once they obtain a job, they should make consistent payments of support according to their ability to pay. Driver's licenses should only be suspended in cases where a person refuses to pay child support and it provides the judge an effective point of leverage to encourage him or her to do so.<sup>77</sup>

## INCREASE PARTICIPATION IN THE STATE DEBT REDUCTION PLAN<sup>xv</sup>

Georgia currently has a statute that gives DCSS the authority to waive, reduce, or negotiate the payment of state-owed arrears as reimbursement for public assistance if it is determined that there is good cause for nonpayment or that enforcement would result in substantial and unreasonable hardship to the parent paying support.<sup>xvi,78</sup> This statute resulted in DCSS forming a State Debt Reduction Plan which provides non-custodial parents the opportunity to negotiate and reduce their debt owed to the State of Georgia through entering into a payment plan.<sup>79</sup>

This practice of compromising child support debt owed to the state for regular payments of support is consistent with that of 45 other states across the country. Only six states do not allow any compromise of arrears.<sup>xvii, 80</sup>

<sup>xiv</sup> See the benefits gained by lifting driver's license suspensions for recently released offenders as outlined in GCO's previous report, *Increasing Employment Opportunities for Ex-Offenders*: <http://www.georgiaopportunity.org/assets/2014/10/GCO-Report-workforce-web.pdf>.

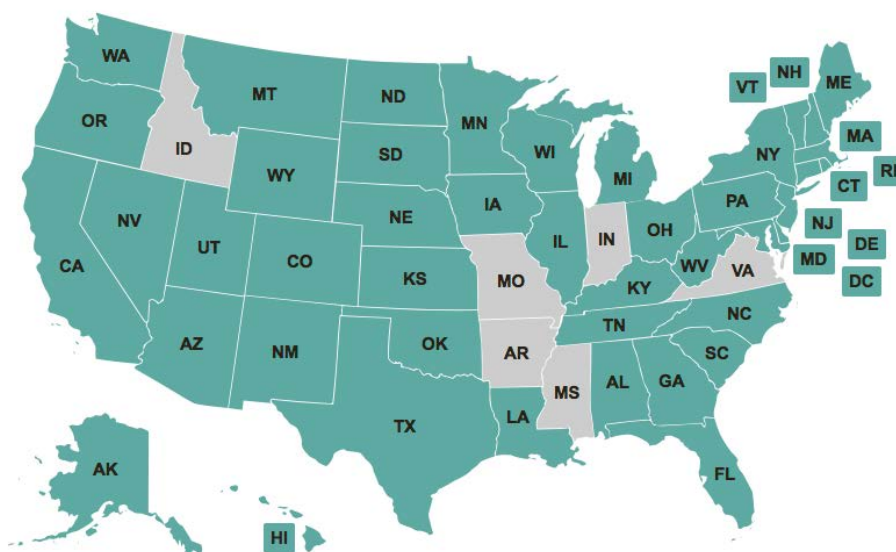
<sup>xv</sup> In the December 2014 version of this report, GCO recommended that the state "forgive arrears and interest owed to the state" among returning citizens to encourage regular payment of current child support. However, upon learning that the state already has a plan in place to forgive arrears owed to the state among non-custodial parents, thanks to J.P. Taylor, Problem Solving Court Coordinator with the Pataula Judicial Circuit and member of the Georgia Council on Criminal Justice Reform, GCO has replaced this recommendation with the current one.

<sup>xvi</sup> While DCSS may unilaterally waive state-owed arrears based on child support obligations issued administratively, state-owed arrears that have accumulated based on court-ordered child support obligations may only be waived or reduced by the court. DCSS can file a motion with the court to request a waiver/reduction of the remaining state debt after a non-custodial parent completes the State Debt Reduction Plan, but the court has the sole discretion in deciding whether to grant the reduction.

<sup>xvii</sup> The six states that do not allow compromise of arrearages are Arkansas, Idaho, Indiana, Missouri, Mississippi, and Virginia. In Indiana, the Governor and Attorney General agreed to compromise state-owed arrears for a limited number of ex-offenders who successfully participated in a program funded by the Federal Office of Child Support Enforcement. However, funding ended in 2010 and the program is no longer active.



### State Child Support Agencies With Debt Compromise Policies



Source: Office of Child Support Enforcement<sup>81</sup>

\*States in gray do not have a debt compromise policy

Georgia waives state-owed arrears on a case-by-case basis after an agent with DCSS determines that the case meets the necessary criteria, including: (1) Whether good cause existed for the nonpayment of the public assistance debt; (2) whether repayment or enforcement of the debt would result in substantial and unreasonable hardship for the parent owing the debt; (3) the non-custodial parent's current ability to pay the debt; and (4) evidence that the non-custodial parent is making regular payments, regardless of the amount. In considering whether hardship exists, DCSS evaluates whether the person is unemployed, disabled, or has barriers to gainful employment, such as a criminal record or limited education.<sup>82</sup>

For those who are eligible, the SDRP provides non-custodial parents the ability to have a significant percentage of their state-owed arrears reduced. The amount they can have their arrears reduced depends upon the amount that they owe. Those with a greater amount of arrears owed to the state are eligible to have a greater percentage reduced (with the exception of those who owe less than \$100, who can have their entire state-owed arrears balance waived).<sup>83</sup>

In addition, non-custodial parents are afforded several options to pay an agreed upon percentage of state-owed arrears, including making a one-time lump sum payment, paying monthly installments, or doing a combination of the two. However, they must strictly adhere to the payment schedule because failure to complete the plan will result in its termination and will cause the parent to lose the ability to have a portion of his or her debt compromised.<sup>84</sup>



The following table provides a break-down of the SDRP:

State-Owed Arrears Balance	Percentage Non-Custodial Parent Pays	Percentage Waived or Reduced	Payment Options
\$100 or less	0%	100%	N/A <sup>xviii</sup>
\$101 - \$2,999	50%	50%	Lump sum and/or 6 monthly installments
\$3,000 - \$8,999	33%	67%	Lump sum and/or 12 monthly installments
\$9,000 - Above	25%	75%	Lump sum and/or 24 monthly installments <sup>xix</sup>

Source: Division of Child Support Services<sup>85</sup>

While Georgia has a detailed debt reduction plan in place to assist indigent non-custodial parents who owe arrears to the state, it appears that the participation in the plan is limited. In 2014, only 349 out of the 354,427 total non-custodial parents ordered to pay child support in Georgia entered into the plan, based on the 30 DCSS offices that reported.<sup>xx,86</sup>

More should be done to enroll struggling returning citizens with child support arrears owed to the state into the plan. One way to do this is by promoting it within GFP and PSCs, which returning citizens will be likely to participate in. Increased participation in the SDRP has the potential of motivating more obligors to comply with long-term payment plans, eliminating uncollectible debt, allowing the state to use its resources on collectible debt, facilitating case closure where appropriate,<sup>87</sup> and helping families to become more self-sufficient.<sup>88</sup>

## DESIGNATE A SINGLE AGENCY TO TRACK AND CONSOLIDATE RETURNING CITIZENS' DEBTS

The amount of child support and offense-related debt a person owes, and the amount he or she has paid, should be tracked throughout incarceration and into his or her release into the community. Tracking these figures allows returning citizens to have clear expectations as to what they owe, allows victims and families to know what they should expect to be paid, and allows courts and criminal justice agencies to know how successful their debt collection efforts have been.<sup>89</sup>

At an aggregate level, tracking debt collection in Georgia has vastly improved since the implementation of House Bill 1EX in 2004. This bill mandates the regulation of the collection and distribution of money collected by the court and criminal justice system – a task which the state assigned to the Georgia Superior Court Clerks'

<sup>xviii</sup> The DCSS still attempts to secure a nominal payment of \$10 from non-custodial parents on cases with \$100 or less of state owed arrears or unpaid public assistance (UPA) judgments. The reason for collecting a payment on these cases prior to case closure is to increase the total number of cases paying towards arrears on the federal 157 report.

<sup>xix</sup> DCSS specifies that "[a]ny deviations beyond 24 months must be approved by the office Supervisor or Manager on a case-by-case basis."

<sup>xx</sup> While not all 354,427 non-custodial parents ordered to pay child support in Georgia owe arrears to the state, the large figure suggests that there may be numerous non-custodial parents (particularly those reentering society from prison) who do (or should) qualify for the plan, but are currently being overlooked.





Cooperative Authority (The Clerks Authority). The Clerks Authority created a website called CourtTRAX which publishes reports of the remittances and fund information that it receives on a daily basis from all trial courts across the state, including superior, state, probate, municipal, magistrate, and juvenile courts.<sup>90</sup> CourtTRAX represents significant strides made in accounting for debt collection among state courts; however, a coordinated effort to track returning citizens' debts and to prioritize their repayment at an individual level still lags behind.

Currently, multiple state agencies attempt to collect money from offenders at the same time: DCSS collects child support, courts collect fines, fees, surcharges, and restitution, the GDC collects fines, fees, and restitution for returning citizens on probation, and the State Board of Pardons and Paroles collect supervision fees and restitution for returning citizens on parole.<sup>91</sup> These agencies typically have different priorities and collection methods which cause them to compete for a limited pool of money. Returning citizens may not know exactly how much money they owe, nor do they always know the correct agency to which they need to pay their various debts. Part of this confusion results from the fact that no single agency provides returning citizens with a summary of the status of all their obligations.<sup>92</sup> This lack of information and coordination leaves offenders without a clear repayment strategy and results in children, victims, and agencies receiving less money in the long run.

Type of Debt	Collecting Agency
Child Support	Division of Child Support Services
Restitution	Court; however, once a person is placed on probation or parole, these agencies become the ordering authority. Restitution payments made while under probation or parole are received and accounted for by the Georgia Department of Corrections Consolidated Banking Unit, unless specified by the court/county of conviction. The Department of Corrections then distributes payments to the victim.
Fines	Court and Probation
Fees	Court, Probation, and Parole
Surcharges	Court

Sources: Division of Child Support Services, Georgia Superior Court Clerks' Cooperative Authority, Georgia Department of Corrections, and Georgia State Board of Pardons and Paroles<sup>93</sup>

In order to resolve this issue, the state should designate one agency to track all of a returning citizen's debts within a single system (child support, restitution, fines, fees, and surcharges). The agency selected for this role should establish memoranda of understanding (MOUs) with all other collecting agencies to allow for information-sharing. The MOU should specify what information is shared and how often it is updated. Among the information tracked should be a returning citizen's employment and financial status.<sup>94</sup>

Once this information has been compiled into a centralized database, the selected agency should be responsible for collecting all offense-related debts (restitution, fines, fees, and surcharges) and



distributing payments according to the priority set by federal and state law.<sup>xxi,95</sup> It should also be responsible for updating the offender's information as he or she travels through the criminal justice system and is released into the community.<sup>96</sup> To carry out this effort, the selected agency should have specific staff members who are dedicated to tracking and collecting debt. The staff can be paid by withholding a percentage of successful collections.<sup>97</sup>

This centralized system would accomplish several things: It would streamline collection efforts, allowing judges, clerks, and supervision officers to have more time to fulfill their other duties;<sup>98</sup> it would allow for regular notifications to be sent to returning citizens, victims, courts, and criminal justice agencies, creating greater transparency as to the total amount of debt owed and the expected dates and amounts of repayment;<sup>99</sup> and it would inform courts and criminal justice agencies as to the amount a returning citizen can reasonably be expected to pay given their multiple debt obligations and overall financial situation.<sup>100</sup> Such information would allow them to develop long-term repayment plans that encourage consistent payments according to each person's ability.<sup>101</sup>

As Georgia considers implementing a system to improve debt collection among returning citizens, it should consider innovations made in the following two states:

**New Jersey** – The Adult Probation Department consolidates debts for probationers by collecting information from various courts and directs payments toward restitution and other financial obligations according to the proportion set by the judges.<sup>102</sup>

**Utah** – The Department of Corrections has developed an automated accounting system that tracks the centralized collection of restitution through linking probation, parole, and court records throughout the state. This Offender Obligation System generates monthly statements reminding offenders of the total amount owed and the amount of the next payment due. It also allows victims to call-in from anywhere within the state to check the status of restitution payments.<sup>103</sup>

Creating a system like these by linking probation, parole, court, and DCSS records would position Georgia as a leader in the area of tracking and collecting debt.

## CONCLUSION

Developing a more reasonable approach to repaying debts could encourage returning citizens to pay current orders of child support and restitution according to their ability to pay, benefiting families, victims, and the community at large. It could also improve their likelihood of successfully reentering society, as having realistic payments makes them less likely to participate in the underground economy and more likely to accept their present responsibilities. Solutions that incentivize returning citizens to pay debts and obligations should be explored, particularly those that increase their ability to work, earn an income, and engage in pro-social behavior.

<sup>xxi</sup> Federal law prioritizes paying child support above all offense-related debts, and Georgia prioritizes paying restitution above fines, fees, and surcharges. However, since child support cannot be consolidated with these other offense-related debts, the collecting agency should be aware of the amount of child support a returning citizen owes by tracking it within this system. This will allow the agency to determine the amount of money that can be designated toward other debts, given the returning citizen's financial situation after paying child support.



# NOTES

<sup>1</sup> Timothy Hughes and Doris James Wilson, "Reentry Trends in the United States: Inmates returning to the community after serving time in prison," Bureau of Justice Statistics, last revised March 12, 2014, accessed March 12, 2014, <http://www.bjs.gov/content/reentry/reentry.cfm>.

<sup>2</sup> Devah Pager, Bruce Western, and Naomi Sugie, "Sequencing Disadvantage: Barriers to Employment Facing Young Black and White Men with Criminal Records," *The Annals of the American Academy of Political and Social Science* 623 (2009): 195-213, retrieved from the U.S. National Library of Medicine, National Institute of Health, NIH Public Access, Author Manuscript, 4, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3583356/pdf/nihms-439026.pdf>.

<sup>3</sup> D. Burris et al., *The Correlation Between Employment, Education, and Recidivism*, News & Views, Washington, DC: U.S. Office of Pretrial and Probation Services, Administrative Division of the United States Courts, 2004; cited in John Rakis, "Improving the Employment Rates of Ex-Prisoners Under Parole," *Federal Probation* 69 (2005): para. 5, <http://www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2005-06/employment.html>.

<sup>4</sup> J.L. Johnson, "Does Employment Help Reduce Recidivism for Federal Offenders," *News & Views* 32 (2007): 1-8; cited in Jack McDonough and William D. Burrell, "Offender Workforce Development: A New (and Better?) Approach to an Old Challenge," *Federal Probation* 72 (2008): para. 3, [http://www.uscourts.gov/uscourts/federalcourts/pps/fedprob/2008-09/12\\_offender\\_workforce.html](http://www.uscourts.gov/uscourts/federalcourts/pps/fedprob/2008-09/12_offender_workforce.html).

<sup>5</sup> Georgia Department of Corrections, *Inmate Statistical Profile: All Active Inmates*, Operations, Planning, and Training Division, Planning and Analysis Section, July 1, 2014, 68, [http://www.dcor.state.ga.us/Research/Monthly/Profile\\_all\\_inmates\\_2014\\_06.pdf](http://www.dcor.state.ga.us/Research/Monthly/Profile_all_inmates_2014_06.pdf).

<sup>6</sup> This figure was calculated by taking the average number of prisoners released annually by the Georgia Department of Corrections from 2009-2013 (20,685), multiplying this number by the average recidivism rate of released prisoners over the last decade (0.30), and multiplying this figure by the average annual cost per inmate during Fiscal Year 2010 (\$21,039). See Georgia Department of Corrections, "Total prison releases by home county for the past five complete calendar years," Office of Planning and Analysis, January 10, 2014, 4, [http://www.dcor.state.ga.us/Research/Standing/Inmate\\_releases\\_by\\_county\\_by\\_CY.pdf](http://www.dcor.state.ga.us/Research/Standing/Inmate_releases_by_county_by_CY.pdf); Georgia Council on Criminal Justice Reform, *Report of the Georgia Council on Criminal Justice Reform*, January 2014, 6, [http://gov.georgia.gov/sites/gov.georgia.gov/files/related\\_files/document/GA%20Criminal%20Justice%20Reform%20Council%20Report.pdf](http://gov.georgia.gov/sites/gov.georgia.gov/files/related_files/document/GA%20Criminal%20Justice%20Reform%20Council%20Report.pdf); Christian Henrichson and Ruth Delaney, *The Price of Prisons: What Incarceration Costs Taxpayers*, Vera Institute of Justice, Center on Sentencing and Corrections, January 2012 (Updated July 20, 2012), 10, <http://www.vera.org/sites/default/files/resources/downloads/price-of-prisons-updated-version-021914.pdf>.

<sup>7</sup> Nancy Thoennes, *Child Support Profile: Massachusetts Incarcerated and Paroled Parents*, Center for Policy Research, May 2002, 26, <http://cntrpolres.qwestoffice.net/reports/profile%20of%20CS%20among%20incarcerated%20&%20paroled%20parents.pdf>.

<sup>8</sup> Carl Reynolds et al., *A Framework to Improve How Fines, Fees, Restitution, and Child Support are Assessed and Collected from People Convicted of Crimes*, Council of State Governments Justice Center and the Texas Office of Court Administration, Interim Report, March 2, 2009, 8, <http://csgjusticecenter.org/wp-content/uploads/2013/07/2009-CSG-TXOCA-report.pdf>.

<sup>9</sup> Erica Sandberg, "Ex-offenders face big debt challenges after prison," CreditCards.com, August 30, 2010, accessed May 8, 2014, para. 7, <http://www.creditcards.com/credit-card-news/ex-offenders-felons-prisoners-jail-in-debt-1264.php>.

<sup>10</sup> Connie Prater, "How to prepare financially for time in prison," CreditCards.com, October 15, 2010, accessed March 26, 2014, para. 7, <http://www.creditcards.com/credit-card-news/how-to-prepare-inmate-financially-jail-prison-1265.php>.

<sup>11</sup> Carl Reynolds et al., *A Framework to Improve*, 10.

<sup>12</sup> Nancy Thoennes, *Child Support Profile*, 18.

<sup>13</sup> Ibid., 26.

<sup>14</sup> Ibid.



<sup>15</sup> Jessica Pearson, “Building Debt While Doing Time: Child Support and Incarceration,” *Judge’s Journal* 43 (2004): 7, <https://peerta.acf.hhs.gov/uploadedFiles/BuildingDebt.pdf>; Jessica Pearson and Lanae Davis, *Serving Parents Who Leave Prison: Final Report on the Work and Family Center*, Center for Policy Research, 2001, ii, <http://www.hawaii.edu/hivandaids/Serving%20Parents%20Who%20Leave%20Prison.pdf>.

<sup>16</sup> Georgia Department of Corrections, *Inmate Statistical Profile*, 8.

<sup>17</sup> Office of Child Support Enforcement, “Project to Avoid Increasing Delinquencies: ‘Voluntary Unemployment,’ Imputed Income, and Modification Laws and Policies for Incarcerated Noncustodial Parents,” U.S. Department of Health and Human Services, July 2012, 4, [http://www.acf.hhs.gov/sites/default/files/ocse/paid\\_no4\\_companion.pdf](http://www.acf.hhs.gov/sites/default/files/ocse/paid_no4_companion.pdf); See O.C.G.A. § 19-6-15(j).

<sup>18</sup> Jessica Pearson, “Building Debt,” 5.

<sup>19</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, Council of State Governments Justice Center, 2007, 26, [http://csgjusticecenter.org/wp-content/uploads/2012/12/repaying\\_debts\\_full\\_report-2.pdf](http://csgjusticecenter.org/wp-content/uploads/2012/12/repaying_debts_full_report-2.pdf).

<sup>20</sup> Judge Brian Amero, Henry County Superior Court, telephone conversation with author, May 29, 2014.

<sup>21</sup> National Center for Victims of Crime, “Restitution Procedures,” in *Promising Practices and Strategies for Victim Services in Corrections*, 1997, <http://www.victimsofcrime.org/library/publications/archive/promising-practices-and-strategies-for-victim-services-in-corrections>; National Center for Victims of Crime, *Making Restitution Real: Five Case Studies on Improving Restitution Collection*, 2011, 3, 4, <http://csgjusticecenter.org/wp-content/uploads/2011/11/2011-Natl-Center-for-Victims-of-Crime-report.pdf>.

<sup>22</sup> National Center for Victims of Crime, *Making Restitution Real*, 4.

<sup>23</sup> R. Barry Ruback, *Restitution in Pennsylvania: A Multimethod Investigation*, Submitted to Pennsylvania Commission on Crime and Delinquency, Final Grant Report, August 2002, 9, 98, <https://www.ncjrs.gov/pdffiles1/Archive/221282NCJRS.pdf>.

<sup>24</sup> O.C.G.A. § 17-14-3.

<sup>25</sup> Georgia State Board of Pardons and Paroles, “Restitution,” accessed April 10, 2014, <http://pap.georgia.gov/restitution>; Georgia Department of Corrections, “Collections,” accessed October 17, 2014, <http://www.dcor.state.ga.us/Divisions/Corrections/ProbationSupervision/FieldOperations.Collect.html>.

<sup>26</sup> Paul Peterson, “Supervision Fees: State Policies and Practices,” *Federal Probation* 76 (2012): para. 2, <http://www.uscourts.gov/uscourts/FederalCourts/PPS/Fedprob/2012-06/supervision.html>.

<sup>27</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 2.

<sup>28</sup> O.C.G.A. § 40-6-391.

<sup>29</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 2; Georgia State Board of Pardons and Paroles, “Supervision & Victim Fees,” accessed April 10, 2014, <http://pap.georgia.gov/supervision-victim-fees>.

<sup>30</sup> Georgia State Board of Pardons and Paroles, “Supervision & Victim Fees,” accessed May 12, 2014, <http://pap.georgia.gov/supervision-victim-fees>.

<sup>31</sup> Administrative Office of the Courts, *Court Fees in Georgia – Laws and Information 2004*, Court Business and Process Improvement Program, October 2004, 5, [http://www.georgiacourts.org/aoc/publications/courtfeesbook10\\_2004.pdf](http://www.georgiacourts.org/aoc/publications/courtfeesbook10_2004.pdf).

<sup>32</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 2.

<sup>33</sup> Administrative Office of the Courts, *Court Fees in Georgia*, 5.

<sup>34</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt: A Barrier to Reentry*, Brennan Center for Justice, New York University School of Law, 2010, 1, <http://www.brennancenter.org/sites/default/files/legacy/Fees%20and%20Fines%20FINAL.pdf>.



<sup>35</sup> Russell W. Hinton, “Court Fees,” Department of Audits and Accounts, Performance Audit Operations Division, October 2001, 1. This executive summary can be found in the following report: Administrative Office of the Courts of Georgia, *Municipal Court Fee Study*, November 2003, Appendix A-1, [http://www.georgiacourts.org/aoc/publications/municipal\\_court.pdf](http://www.georgiacourts.org/aoc/publications/municipal_court.pdf).

<sup>36</sup> Ibid.

<sup>37</sup> Adam Crisp, “Georgia inmates strike in fight for pay,” *timesfreepress.com*, December 14, 2010, accessed May 20, 2014, <http://www.timesfreepress.com/news/2010/dec/14/georgia-inmates-strike-in-fight-for-pay/?local>.

<sup>38</sup> Ibid.; Cindy Upton and Sarah Harp, *Cost of Incarcerating Adult Felons*, Kentucky Legislative Research Commission, Program Review and Investigations Committee, Research Report No. 373, 45, <http://www.lrc.ky.gov/lrcpubs/rr373.pdf>; Peter Wagner, “Section III: The Prison Economy,” in *The Prison Index: Taking the Pulse of the Crime Control Industry*, Western Prison Project and the Prison Policy Initiative, April 2003, 130-131, <http://www.prisonpolicy.org/prisonindex/prisonlabor.html>; A.J. Sabree, Strategic Planning and Implementation Consultant for the Georgia Department of Juvenile Justice, email message to author, June 5, 2014.

<sup>39</sup> Carl Reynolds et al., *A Framework to Improve*, 37-40; Georgia Superior Court Clerks’ Cooperative Authority, “CourtTRAX Online Calculator,” accessed July 7, 2014, <http://www.courttrax.org/calculator/calculator.aspx>; DMV.org, “DUI & DWI in Georgia,” accessed July 7, 2014, <http://www.dmv.org/ga-georgia/automotive-law/dui.php>.

<sup>40</sup> Laurie Linke and Peggy Ritchie, *Releasing Inmates from Prison: Profiles of State Practices*, U.S. Department of Justice, National Institute of Corrections, September 2004, 25, <https://s3.amazonaws.com/static.nicic.gov/Library/021386.pdf>.

<sup>41</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 7.

<sup>42</sup> Devah Pager, Bruce Western, and Naomi Sugie, “Sequencing Disadvantage,” 195-213.

<sup>43</sup> Nancy G. La Vigne, Christy Visser, and Jennifer Castro, *Chicago Prisoners’ Experiences Returning Home*, Urban Institute, December 2004, 10, [http://www.urban.org/UploadedPDF/311115\\_ChicagoPrisoners.pdf](http://www.urban.org/UploadedPDF/311115_ChicagoPrisoners.pdf); cited in Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 8.

<sup>44</sup> O.C.G.A. § 42-8-35; O.C.G.A. § 42-9-44; Georgia State Board of Pardons and Paroles, “Parole Conditions,” accessed July 24, 2014, <http://pap.georgia.gov/parole-conditions>; Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 21, endnote 118.

<sup>45</sup> O.C.G.A. § 42-8-38; O.C.G.A. § 42-9-44; Georgia State Board of Pardons and Paroles, “Parole Conditions.”

<sup>46</sup> Robert Keller, Deputy Director of the Governor’s Office of Transition, Support, and Reentry, email message to author, April 1, 2014.

<sup>47</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 21, endnote 119.

<sup>48</sup> Ibid., endnote 145; See Telephone Interview with Nick White, Defender, Houston County Pub. Defender Office, Nov. 6, 2009.

<sup>49</sup> Ibid.

<sup>50</sup> O.C.G.A. § 17-10-1(a)(2): “Probation supervision shall terminate in all cases no later than two years from the commencement of probation supervision unless specially extended or reinstated by the sentencing court upon notice and hearing and for good cause shown; provided, however, in those cases involving the collection of fines, restitution, or other funds, the period of supervision shall remain in effect for so long as any such obligation is outstanding, or until termination of the sentence, whichever first occurs.”

<sup>51</sup> Georgia Department of Corrections, “Probation Options Management,” accessed October 17, 2014, <http://www.dcor.state.ga.us/Divisions/Corrections/ProbationSupervision/ProbationOperations.html>; Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 25.

<sup>52</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, endnote 196. See O.C.G.A. § 17-10-20(c): “Fines and restitution can be collected through levy, foreclosure, garnishment, and all other actions provided for the enforcement of judgments in Georgia”; See O.C.G.A. § 42-8-34.2(a) “authorizing the collection of ‘arrearage . . . through issuance of a writ

of *fieri facias*’ from defendants for whom payment of fines, costs, and restitution is a condition of probation. However, no one the Brennan Center interviewed knew of wage garnishment or liens being used in practice.”

<sup>53</sup> O.C.G.A. § 19-6-28.1(b).

<sup>54</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 27; See O.C.G.A. § 17-10-20(a): “In any case in which a fine or restitution is imposed as part of the sentence, such fine and restitution shall constitute a judgment against the defendant”; Jonathan D. Glater, “Another Hurdle for the Jobless: Credit Inquiries,” *New York Times*, August 6, 2009, accessed April 10, 2014, [http://www.nytimes.com/2009/08/07/business/07credit.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2009/08/07/business/07credit.html?pagewanted=all&_r=0).

<sup>55</sup> Kirsten D. Levingston and Vicki Turetsky, “Debtors’ Prison: Prisoners’ Accumulation of Debt as a Barrier to Reentry,” *Clearinghouse Review Journal of Poverty Law and Policy* 41 (2007): 188, <http://www.clasp.org/docs/0394.pdf>.

<sup>56</sup> Douglas N. Evans, *The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration*, John Jay College of Criminal Justice, Research & Evaluation Center, August 2014, 7, [http://justicefellowship.org/sites/default/files/The%20Debt%20Penalty\\_John%20Jay\\_August%202014.pdf](http://justicefellowship.org/sites/default/files/The%20Debt%20Penalty_John%20Jay_August%202014.pdf); Carl Reynolds et al., *A Framework to Improve*, 1.

<sup>57</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 24.

<sup>58</sup> A.J. Sabree, Strategic Planning and Implementation Consultant for the Georgia Department of Juvenile Justice, email message to author, June 5, 2014.

<sup>59</sup> Center for Policy Research, *Working with Incarcerated and Released Parents: Lessons from OCSE Grants and State Programs – Resource Guide*, Department of Health and Human Services, Administration for Children and Families, Office of Child Support Enforcement, March 2006, 11.

<sup>60</sup> *Ibid.*, 13.

<sup>61</sup> *Ibid.*, 14.

<sup>62</sup> *Ibid.*, 13-15.

<sup>63</sup> *Ibid.*, 17.

<sup>64</sup> *Ibid.*, 15.

<sup>65</sup> The Georgia Prisoner Reentry Initiative Implementation Team, *The Georgia Prisoner Reentry Initiative Framework – Summary*, December 2013, received in an email from the Governor’s Office of Transition, Support, and Reentry on February 18, 2014.

<sup>66</sup> Division of Child Support Services, “New Courts Launch in Dublin and Gwinnett Circuits,” *Problem Solving Court Express*, Georgia Department of Human Services, Volume 2, Issue 2, April – June 2014, received in an email on June 9, 2014; *Ibid.*, See article, “Problem Solving Court Highlights for SFY2014”; *Ibid.*, See article, “Meet PSC Program Manager Susan Cosby”; Division of Child Support Services, “Problem Solving Court,” Georgia Department of Human Services, Presentation to the Georgia Administrative Office of the Courts, Archived Annual State Accountability Court Material, 2011, slide 7, <http://w2.georgiacourts.org/gac/files/PSC%20Power%20Point%20for%20AOC%20conference.pdf>; Division of Child Support Services, “Community Outreach Programs,” Georgia Department of Human Services, accessed June 9, 2014, <http://dcss.dhs.georgia.gov/community-outreach-programs>; Administrative Office of the Courts, “Accountability Courts Directory,” June 2014, <http://www.georgiacourts.gov/index.php/aoc/court-services/accountability-courts>.

<sup>67</sup> Okla. Admin. Code § 340:25-5-178(k) (2011); Office of Child Support Enforcement, “Project to Avoid Increasing Delinquencies,” 11.

<sup>68</sup> Or. Rev. Stat. § 416.425(12) (2011); Or. Admin. R.137-055-3300 (2011); Office of Child Support Enforcement, “Project to Avoid Increasing Delinquencies,” 11.

<sup>69</sup> See <http://www.childsupportguidelines.com/articles/art200110.html> for an explanation of the Federal Consumer Credit Protection Act which sets the limits for the percentage of income that can be garnished from a non-custodial parent for child support.





<sup>70</sup> Patricia Dzikowski, “Georgia Wage Garnishment Law,” NOLO Law for All, accessed May 12, 2014, <http://www.nolo.com/legal-encyclopedia/georgia-wage-garnishment-law.html>.

<sup>71</sup> Paula Roberts, *An Ounce of Prevention and a Pound of Cure: Developing State Policy On The Payment of Child Support Arrears By Low Income Parents*, Center for Law and Social Policy, May 2001, 40-41, Appendix 6, <http://www.clasp.org/resources-and-publications/publication-1/0084.pdf>; Ann Cammett, *Making Work Pay: Promoting Employment and Better Child Support Outcomes for Low-Income and Incarcerated Parents*, New Jersey Institute for Social Justice, February 2005, 11, <http://csgjusticecenter.org/wp-content/uploads/2007/09/Making-Work-Pay-Promoting.pdf>.

<sup>72</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 40.

<sup>73</sup> Great American Network, “Georgia Fatherhood Program,” accessed June 17, 2014, <http://www.ganet.org/GAFatherhood/>; Lamonica Thornhill, Fatherhood Agent for the Division of Child Support Services, author acquired this information while participating in It Takes a Village Today’s Fatherhood Class at Clayton Transitional Center, May 21, 2014; Division of Child Support Services, “Problem Solving Court,” slide 3.

<sup>74</sup> Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 15.

<sup>75</sup> O.C.G.A. § 19-11-9.3.

<sup>76</sup> Christine Winquist Nord and Nicholas Zill, *Non-Custodial Parents’ Participation in Their Children’s Lives: Evidence from the Survey of Income and Program Participation, Volume I, Summary of SIPP Analysis*, Westat, Inc., Subcontractor to the Lewin Group, Inc., Prepared for the Office of the Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, August 14, 1996, <http://fatherhood.hhs.gov/SIPP/NONCUSP1.HTM>; See section titled, “Encouraging and Facilitating Non-residential Parents’ Access to Their Children.”

<sup>77</sup> Judge Brian Amero, Henry County Superior Court, telephone conversation with author, May 29, 2014; Alicia Bannon, Mitali Nagrecha, and Rebekah Diller, *Criminal Justice Debt*, 3.

<sup>78</sup> O.C.G.A. § 19-11-5; Office of Child Support Enforcement, “State Child Support Agencies With Debt Compromise Policies,” accessed July 1, 2014, <http://www.acf.hhs.gov/programs/css/state-child-support-agencies-with-debt-compromise-policies-map>.

<sup>79</sup> Division of Child Support Services, “State Debt Reduction Guidelines: Employee Reference Guide – Standard Operating Procedure 251,” 1, received in an email on December 19, 2014.

<sup>80</sup> National Conference of State Legislatures, “State Child Support Agencies with Debt Compromise Policies,” accessed July 7, 2014, para. 2, <http://www.ncsl.org/research/human-services/state-child-support-debt-compromise-policies.aspx>.

<sup>81</sup> Office of Child Support Enforcement, “State Child Support Agencies.”

<sup>82</sup> Division of Child Support Services, “State Debt Reduction Guidelines: Employee Reference Guide – Standard Operating Procedure 251,” 2.

<sup>83</sup> *Ibid.*, 6.

<sup>84</sup> *Ibid.*

<sup>85</sup> *Ibid.*

<sup>86</sup> Erica Thornton, Manager of the Policy and Paternity Unit, Division of Child Support Services, Georgia Department of Human Services, email message to author, February 3, 2015; Georgia Department of Human Services, “Division of Child Support Services: Fact Sheet,” Revised November 2014, <http://dhs.georgia.gov/sites/dhs.georgia.gov/files/2014%20DCSS%20Fact%20Sheet%20Rev%20November%202014%5B1%5D.pdf>.

<sup>87</sup> Office of Child Support Enforcement, “State Child Support Agencies”; See North Dakota.

<sup>88</sup> Oakland County Michigan, “FAQ re State of Michigan Child Support Arrears Forgiveness Program,” November 26, 2012, <http://www.oakgov.com/courts/foc/Documents/forms1/FAQ%20re%20State%20of%20Michigan%20Child%20Support%20Arrears%20Forgiveness%20Program.pdf>.





<sup>89</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 19-20.

<sup>90</sup> Georgia Superior Court Clerks' Cooperative Authority, "CourtTRAX – Fines and Fees Reporting," accessed June 4, 2014, <http://www.courttrax.org/>. In addition to publishing reports of the remittances and fund information that it receives on a daily basis from all trial courts across the state, CourtTRAX provides the following resources: Online calculators to help courts properly calculate and assess fines and fees, a listing of legislation pertaining to fines and fees, standardized forms for courts to use for remittances, free online training courses, and a partial payment priority list that instructs courts to prioritize restitution above all other fees and surcharges.

<sup>91</sup> Division of Child Support Services, "Mission Statement," accessed October 17, 2014, <http://dcss.dhs.georgia.gov/mission-statement>; The Clerks Authority, "Fines & Fees," Georgia Superior Court Clerks' Cooperative Authority, accessed October 17, 2014, <https://www.gsccca.org/fines-and-fees>; Georgia Department of Corrections, "Collections"; Georgia State Board of Pardons and Paroles, "Restitution."

<sup>92</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 17, 19.

<sup>93</sup> See endnote 91.

<sup>94</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 22.

<sup>95</sup> Ibid., 17, 20; 42 U.S.C. § 666; Georgia Superior Court Clerks' Cooperative Authority, "CourtTRAX Partial Payments," accessed October 17, 2014, <http://www.courttrax.org/partial.asp>.

<sup>96</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 20.

<sup>97</sup> Ibid., 21.

<sup>98</sup> Ibid.

<sup>99</sup> Ibid., 20.

<sup>100</sup> Carl Reynolds et al., *A Framework to Improve*, 2.

<sup>101</sup> Rachel L. McLean and Michael D. Thompson, *Repaying Debts*, 23.

<sup>102</sup> Ibid., 20.

<sup>103</sup> Ibid., 20-21; Anne Crowe, "Information Management and Evaluation of Restitution Programs" in *A Compendium of Promising Practices for Restitution*, unpublished bulletin of the American Probation and Parole Association and the Victims' Assistance Legal Organization, November 19, 2006, 247-249, <http://www.valor-national.org/restitution/j-chapter9.pdf>.







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