

FATHERHOOD IN THE CHILD SUPPORT SYSTEM: AN INNOVATIVE PROBLEM-SOLVING APPROACH TO AN OLD PROBLEM¹

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The article is a summary of the development of the District of Columbia Superior Court's Fathering Court Initiative. The Fathering Court Initiative is a problem-solving court that has developed an innovative approach to child support cases that involves noncustodial parents returning from a period of incarceration. The program is designed to operate as a court based partnership between government and private sector organizations that match resources with family needs to promote responsible co-parenting.

Keywords: *child support; problem-solving courts; re-entry programs; fathering court; responsible fatherhood*

"We're helping fatherhood groups get dads the support they need to be there for their children."²

I. INTRODUCTION

For many years, perhaps since its creation, the child support enforcement system has been approached with suspicion and perceived as the enemy by fathers — even fathers who wanted to do the right thing. And why should they feel differently? All too often courts impose child support obligations that fail to carefully balance the need to support a child with the very real needs of dads to support themselves as they contribute to raising their children. Prosecutors and other enforcement agencies often seem more concerned with establishing paternity and support orders and obtaining the most money possible because federal guidelines make the transfer of money from a noncustodial parent to a custodial parent more important than creating meaningful incentives for fathers to engage their children.³ In many instances, enforcement agencies avoid efforts that would modernize paternity establishment practices by appropriately using genetic testing tools that would avoid paternity guesswork. States consistently enact child support legislation that supports the federal view that payments made in support of children are more important than anything else.⁴ Many judges view child support assignments as one of the more frustrating assignments where judicial officers are provided with few resources to combat some of the most challenging and emotionally complex cases that they will ever encounter. This single-mindedness in approach should have no place in modern efforts to engage fathers in supporting and raising their children. It is time for courts, governmental agencies, and private and nonprofit organizations to adopt a problem-solving approach to child support enforcement that will encourage and reward co-parenting and produce better results for children.

The impact of the absence of appropriate child support coupled with the absence of dads contributing to the raising of their children in nonfinancial terms is well-chronicled. There should be no debate about whether the absence of meaningful engagement by dads and moms with their children promotes poverty,⁵ child abuse,⁶ crime,⁷ substance abuse,⁸ and just about every other social ill that plagues our children.⁹ Countless studies have supported the conclusion that it is even worse for at-risk children.

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II. THE REVOLVING DOOR OF CHILD SUPPORT

Every state has enacted child support guidelines that are designed to set forth an equitable approach to child support in which both parents share legal responsibility for the financial support of the minor child.¹⁰ These guideline statutes undertake efforts to add some measure of predictability and uniformity to child support determinations by providing courts and administrative agencies with a framework that balances such factors as the income and subsistence levels of each parent, the number of children covered by the order, other children residing in the household of either parent, other child support obligations, and any special circumstances that might include whether the noncustodial parent or parent with the legal duty to pay support has a disability or receives other government sponsored benefits. The primary factors of any child support guideline calculation are income of the parents and the ability of a noncustodial parent to pay support. As a result, one of the more difficult aspects of child support determinations is calculating the income of the parents. Where a noncustodial parent is unemployed, the court or administrative agency has very few options in determining the level of support. Guidelines are to be applied presumptively regardless of whether either parent receives Temporary Assistance For Needy Families (TANF) or any substantially similar means-tested public assistance program.¹¹ As a result, where a custodial parent receives benefits such as TANF, the child support system does little to encourage efforts to become less dependent on the government subsidy. While many support guideline statutes provide a mechanism for determining a support obligation for a noncustodial parent with limited income, when that parent's income falls below a certain designated mark,¹² guideline statutes often lead courts to conclude that the parent is unable to provide support. Where a determination is made that the parent's income is below the statutory subsistence level, but the parent has an ability to pay, there is a presumption that the parent should pay \$50 per month.¹³

When confronted with these types of complex child support determinations that involve so much more than a parent with little or no income, child support guideline statutes consistently fail to provide a mechanism that is designed to address the core reasons for underemployment or chronic unemployment. Support guidelines simply were not enacted to do anything more than transfer money from one parent to another for the support of minor children. In the District of Columbia, a typical response to such a situation would be to require the noncustodial parents to independently conduct job search efforts each week. Periodic court reviews would be scheduled to measure job search progress, but no more would be done to secure or promote meaningful employment opportunities. While courts and administrative agencies struggle to deliver meaningful support to custodial parents when confronted with a noncustodial parent's persistent employment problems, little else is done to marshal resources to encourage compliance with the support order. Many noncustodial parents become so suspicious of the enforcement system's approach that they are driven underground in their employment pursuits in an effort to avoid what they perceived as overbearing support orders¹⁴ that do little to encourage or promote meaningful dialogue between parents on how to jointly raise their children. The problem, in large part, is that there exists no single entity, government or private, which is invested in changing the approach of a well-intentioned system that has produced limited results.¹⁵ Even worse, system participants have come to expect nothing more than the meager results that are delivered.

When compliance with the so-called minimal order of \$50 per month and job search efforts is determined to be less than substantial, the journey down the well-traveled road to contempt is initiated.¹⁶ The government files a motion asking the court to enter a finding that the noncustodial parent willfully failed to comply with the court order.¹⁷ The government seeks to perfect service of process on the noncustodial parent and a hearing is scheduled. In a substantial number of cases, no contempt order was entered because the court presented with substantial employment difficulties was unable to conclude that the parent had an ability to pay the order of support.¹⁸ In that situation, the contempt petition is dismissed and the parties return to where they started: a minimal order of support that the noncustodial parent is unable to pay without some meaningful work opportunity. Even when an order of contempt is imposed and the noncustodial parent is sentenced to jail, the benefits of the contempt process remain limited and do little to promote long-term compliance. There may be a one-time payment made to avoid the period of incarceration (what many judges call "mattress money"

or funds stashed away for a child support rainy day), but there is little evidence that compliance with the order of support improves following the “get out of jail” payment. In many instances, compliance becomes even worse because the noncustodial parent goes underground in fear of a new contempt citation because persistent unemployment remained and nothing had changed regarding the ability or inclination to pay.

III. THE BENEFITS OF A PROBLEM-SOLVING APPROACH IN CHILD SUPPORT ENFORCEMENT

Recent trends suggest that child welfare systems, like child support enforcement and abuse and neglect, have recognized the inherent benefits of a collaborative approach that includes fathers in these systems of care. Problem-solving courts endeavor to deliver services to individuals who have had chronic involvement with the court system as a result of social problems such as mental health concerns, drug or alcohol dependence, health-related problems, and housing and employment concerns. Most problem-solving courts take a collaborative approach to treatment. They partner with social service oriented private and public entities that couple the delivery of services with the power of the court to encourage compliance. Initial problem-solving efforts were specialized portions of existing court dockets. Over time, however, the benefits of the problem-solving approach led to the creation of specialized courts with dedicated calendars focused entirely on instituting the problem-solving approach and achieving a type of therapeutic justice. These innovative court-based approaches to problem solving are generally distinguished by a number of features: a problem-solving focus; a team approach to decision making; integration of social services; court supervision of the treatment process; direct interaction between program participants and the presiding judge; community outreach; and a proactive role for the judge inside and outside of the courtroom.¹⁹

Problem-solving courts are designed to provide a type of individually tailored service to the parties before the court. Most courts are the product of extensive planning with court, government, and community-based stakeholders that create a social science based approach as a response to the root cause of court involved behavior. This type of approach is designed to balance concerns of public safety with the need to treat the root causes of court related behavior in an effort to reduce recidivism. Almost every problem-solving court couples service delivery with constant and rigorous monitoring of progress and program compliance. For example, an individual engaged in mental health treatment may be required to appear weekly in court to ensure that appointments are kept and that related services are in place and making strides toward addressing the participant’s needs.

Most problem-solving courts are driven by the assigned judge. This approach is very different from traditional docket management and requires recognition by other key stakeholders that the “business as usual” approach to resolving cases is often inconsistent with the delivery of individualized treatment to participants. The judge must be prepared to adopt nontraditional approaches to issues that have traditionally been met with cookie-cutter responses. Many judges and lawyers are uncomfortable with the type of direct interaction between the judge and the program participant that is a necessary component of problem-solving courts.²⁰ Judges must engage participants in a direct dialogue that underscores the philosophy that this is a joint effort to modify behavior that requires the participant to fully engage in identifying and implementing the problem-solving approach to chronic behaviors. Problem-solving courts are more about encouraging change and less about using the coercive powers of the court to mandate change that is motivated simply by an effort to avoid a period of incarceration. The judge must recognize that cases will be scheduled more frequently and hearings will consume more time to monitor progress and modify service delivery. The social science based approach of these courts requires an intimate partnership between the judge and stakeholders. Most courts engage in regular meetings with stakeholders on problem-solving court operations. Because problem-solving courts take a social science approach to service delivery, judges assigned to these courts must be prepared to yield some of the judge’s individual views on calendar management and the delivery of justice.²¹

A critical feature of problem-solving courts is a team-based approach to case management and service plan development. While the judge remains a key contributor to the process, the judge is also a member of a team that usually includes prosecutors, defense lawyers, and social workers. The identification of obstacles to a participant's success, as well as determining which services are to be delivered to the participant, is the product of collaborative decision-making by the team. This approach requires all team members to reexamine their traditional roles and accept the input of a nontraditional court player — the social scientist.

The necessity of service coordination makes a social scientist an indispensable member of the team. Simply referring participants to programs and hoping that they will follow through has traditionally demonstrated very little success. The assistance of social scientists in identifying a specific problem and coupling the participant with an appropriate resource is a necessary element of a problem-solving approach. Judges must be prepared to monitor cases more closely and to become familiar with the individual goals and challenges presented by each participant while accepting recommendations from social service providers on the best way to address compliance concerns. Most problem-solving courts hold regular case management meetings where the recent developments for each case are addressed. As a result of this process, judges in problem-solving courts receive much greater information than would be traditionally available regarding a participant's performance. This approach requires judges to accept input from the team and to respond quickly to the issues presented. The range of options available to the judge in problem-solving courts is generally much greater than those available in traditional court calendars where the option most readily advanced for failed compliance is detention. That type of judicial response is more closely associated with mandated or coerced change. The concept of sanction-based responses is a staple of problem-solving courts and seeks to redirect behavior through the imposition of carefully tailored sanctions designed to encourage behavior modification instead of compelling change. For example, where a participant continues to test positive for drug usage despite initial treatment efforts, problem-solving courts typically respond quickly by imposing graduated sanctions, such as more intensive monitoring, in-patient treatment, or weekends in jail.

Having identified the key components of problem-solving courts, the question remains whether the traditional approach to child support cases permits the adoption of problem-solving methods to case resolution.

IV. THE DISTRICT OF COLUMBIA'S FATHERING COURT INITIATIVE

A. THE DEVELOPMENT OF THE INITIATIVE

In early 2006, a group of individuals knowledgeable about the child support system began discussions on how the local court could partner with resource providers to develop a better service model for parents engaged in the pursuit of obtaining meaningful support for their children. Meaningful support, in this context, meant something much greater than increased child support payments. This group of individuals envisioned a system that promoted increased co-parenting and realistic levels of support that were based on something more than simply the income of the parties. The need for change was readily apparent in the District of Columbia where the Child Support Services Division (CSSD) was involved in over 77,000 child support cases in 2007.²²

The model for a change in approach was already in existence in the District of Columbia Superior Court's problem-solving calendars.²³ Problem-solving courts were growing in number across the country. Since the introduction of the first drug court program in Miami, Florida in 1989, the idea of treating the underlying problems associated with drug addiction had gained a foothold. Based on the Miami court model, courts no longer treated criminal offenses that were linked to drug addiction as a purely criminal law problem. Courts instead undertook efforts to promote social service models that delivered drug treatment to nonviolent offenders in an effort to treat the addiction and reduce recidivism by curing the cause of the criminal behavior.

In the early 80's, Fathering Programs began to emerge in community organizations. Most fathering programs undertook efforts to present to the larger community the benefits of father involvement in raising children. Some courts recognized these benefits and began to focus more on fatherhood issues in the context of child support. In 1998, in Jackson County, Missouri, the first Fathering Court began in partnership with The National Center for Fathering.²⁴ This effort was focused on developing an alternative to incarceration for defendants facing criminal sanctions for nonpayment of child support. The program also administered a fathering curriculum that achieved national prominence. The Quenching the Father Thirst curriculum is based on a 12-week program that emphasizes the importance of fathers realizing and internalizing the significance of being a father.²⁵ The curriculum focuses on the fact that most men want to be responsible fathers, but were raised in father-absent households where expectations regarding fathers rarely surfaced in a constructive way. The educational focus of the program also addresses co-parenting and working with the child support system to achieve better results for children.

The District of Columbia Superior Court Fathering Court Initiative was designed to inject the problem-solving approach employed in other sections of the court into specifically identified child support cases. The approach is much broader than just undertaking efforts to increase compliance with support orders, but includes a focus on developing responsible fathers and encouraging co-parenting through the use of the Quenching the Father Thirst curriculum.

Available funding required the court to consider the reentry population as the focus of the initiative.²⁶ Reentry courts were increasing in popularity and included problem-solving efforts that were focused on reintroducing offenders into the community and reducing recidivism. Over 7,000 District of Columbia inmates are held in the Federal Bureau of Prisons.²⁷ Another 3,500 inmates are held within the confines of the District of Columbia at the two local jails.²⁸ In 2005, the Court Services and Offender Supervision Agency (the federal agency responsible for the supervision of individuals on probation, parole, and supervised release — commonly referred to as CSOSA) monitored almost 16,000 people through probation, parole, and supervised release. One in four of the city's prisoners owe court-ordered child support.²⁹ In 2009, over 700,000 offenders were returned to communities across the United States with 93% of that population being male. Almost half of that group was fathers with minor children. Given these numbers, the need for a change in approach to the issue of child support was never more apparent. Focusing on this population required a careful assessment of which part of the reentry population would be most appropriate for the Initiative. While the executive committee struggled with the development of a distinct participant profile, the collaboration led to eligibility criteria that excluded only sex offenders and families that had experienced domestic violence. These criteria would permit all other offenders to be screened for participation by the project manager and accepted into the program subject to the final approval of the presiding judge. In many instances, participants with drug or mental health histories were eligible for the program as long as the participant demonstrated compliance with a treatment program monitored by the case manager. The eligibility design incorporated the idea of accepting a wider range of participants with the idea that each participant would be linked with the appropriate services necessary to encourage program compliance.

The District of Columbia Fathering Court Initiative began as a joint effort of the District of Columbia Superior Court Family Court, the Office of the Attorney General Child Support Services Division (the local child support enforcement prosecutor), Court Services and Offender Supervision Agency, the local Department of Human Services, and the Criminal Justice Coordinating Council (the local governmental entity that serves as a liaison between all local law enforcement organizations or CJCC). Many other private sector organizations joined these key stakeholders and worked throughout 2006 and early 2007 to develop a service delivery model.

This executive planning committee recognized that the largest single obstacle for the reentry population was employment. Employment was not only a key in establishing a foundation for a successful return to the community, but fathers' employment would be instrumental in resolving chronic nonpayment of child support. Both fathering and reentry programs agree that addressing the problems of unemployment is critical to fathers' efforts at building relationships with their children

and reducing recidivism.³⁰ While employment alone does not produce responsible fathers, regular employment with wage withholding reduces the emphasis placed on the delivery of regular child support payments to many families that are struggling to make ends meet.³¹

In an effort to immediately address the problem of unemployment for fathers returning from a recent period of incarceration, the District of Columbia Superior Court Fathering Court Initiative partnered with the city agency responsible for employment assistance. The District of Columbia Department of Employment Services' (DOES) Project Empowerment provided a soft job skills training and temporary subsidized employment program that was specially tailored to the reentry population. The soft job skills training focused on interview and inter-personal skills that were critical for job acquisition and retention. Training also included efforts that would raise awareness of issues such as timeliness, professional appearance, and techniques for handling workplace issues with managers, coworkers, and members of the public.

The subsidized employment piece encouraged employers to accept members of the reentry population with a limited commitment of resources by the employer. The hope was that following a period of employment subsidy, the participant would earn a position as part of the unsubsidized workforce. In most instances, subsidies lasted for 9 to 12 months. The partnership with DOES provided Fathering Court participants with some limited priority for Project Empowerment placement.

Shortly before the first program participants were accepted, the Fathering Court Initiative received additional grant funding that permitted the Initiative to contract with professional job counselors. During the program development phase, members of the Initiative's executive committee visited Philadelphia, Pennsylvania where a local court operated a child support employment program for individuals facing incarceration for nonpayment of support. The court-operated program engaged a private-sector organization, Educational Data Systems, Inc. (EDSI), to develop employment opportunities for program participants.

EDSI joined the Fathering Court Initiative and executed an agreement to provide full-time, permanent employment opportunities to all direct referral program participants and those participants who completed subsidized employment but who were not offered unsubsidized positions.³² EDSI developed contacts with employers who were in need of a consistent flow of referrals. Most program participants work directly with EDSI employment coordinators in office space provided by CSSD only one block away from the courthouse. EDSI provides participants with computer access for the filing of online applications and facilitates interviews with prospective employers specifically identified as being appropriate program participants.

A recognized critical component of all problem-solving courts is the availability of case management services. Case management services are provided to Fathering Court families through a partnership the Health Families Thriving Communities Collaborative (HFTCC). The Collaborative is a private sector program funded through the District of Columbia Department of Human Services to provide a variety of social service resources to residents in each of the eight wards in the city. Two cases managers were assigned to the Fathering Court Initiative and were chiefly responsible for providing high level intensive service to program participants. Ideally, each participant meets with a case manager within two weeks of entering the program. Case managers conduct a detailed intake that results in the development of an individual service plan that is the key to the delivery of appropriate social services. Based on these service plans, case managers coordinate and monitor an array of services for participants that may include health and mental health assessments and services, education and vocational assessment and training, housing assistance, and drug treatment. In most instances, these services are provided through existing governmental service providers at little or no additional cost to the city. Case managers monitor whether participants are pursuing services and appear at court hearings to report on progress.

Many of the efforts of the case managers are directed toward reconnecting program participants with their children and mending often strained relationships with custodial parents. In addition to contacting participants several times each week, case managers are specifically trained in mediation and often work with both parents to develop, implement, and monitor visitation schedules. One additional contribution of HFTCC is the implementation of the Quenching the Father Thirst

curriculum. The Father Thirst curriculum is based on experiential learning that engages participants by delivery of lessons on the importance of responsible fatherhood. Every Fathering Court participant is required to fully participate and complete the Father Thirst component prior to graduation from the program.

B. IMPLEMENTATION OF THE FATHER COURT INITIATIVE

The Fathering Court Initiative accepted its first participants in November, 2008. Throughout the first year, several other potential candidates were identified from a quarterly list of individuals designated by the Federal Bureau of Prisons to be released from prison within the next 90 days. Many of these candidates were interviewed through the use of video conferencing or conference calls through their institutional case managers prior to their release. For this group of participants, initial intake hearings were scheduled within ten days of release. In many cases, participants reported to their community supervision officer and attended a court hearing within the same week. During this same time, CSOSA began to sponsor community resource events at the Rivers Correction Institution in Winton, North Carolina, where a large number of District of Columbia offenders were held prior to release. These events permitted the Fathering Court project manager to visit the institution in an effort to educate soon-to-be released offenders about the Fathering Court Initiative. In addition to these efforts, CSSD began intensive outreach efforts at the local jail to identify and refer appropriate candidates to the Initiative. Additional participants were referred to the Initiative by judges, supervision officers, and community organizations.

At the intake hearing, both parents meet with the Fathering Court Team to learn about the program's components. The Team consisted of the project manager, who handled day-to-day operations of the Initiative, a designated member of the CSSD staff, the case manager, and a representative from EDSI. All participants were provided with a program orientation that highlighted the requirements of the year-long program. Participation was voluntary and each custodial parent was required to consent to participation prior to admission. The incentive for custodial parents is the very real possibility that program participation will result in receiving child support payments on a regular and consistent basis. For many custodial parents, although not all, the opportunity of having the children's father engaged in their lives is a primary consideration. The parties are made to understand that the Initiative maintains four goals that are not negotiable: fathers will maintain full-time employment; fathers will pay all child support obligations through wage withholding; both parents will support the development of a visitation schedule for all minor children; and all fathers will not reoffend. Once the Fathering Court contract was executed by the parties, the real work of achieving the four goals over the course of a year began.

Each father was referred to either DOES or EDSI to immediately begin employment efforts. All early participants completed the DOES three week job readiness program before entering either subsidized employment or employment opportunities through EDSI. Under either referral process, most participants were fully employed within 30 days. Many jobs were entry level opportunities that did not include benefits. Recognizing that these type of employment opportunities initially provided jobs with limited income, the Initiative and CSSD entered into an agreement that structured child support payments in a manner that promoted a successful return to the community by the father while ensuring that mothers began to receive regular and consistent support payments. Consistent with the Court and CSSD agreement, once employment was obtained by the father, a child support guideline calculation was completed that provided a presumptive child support obligation. Under the structured payment schedule, each father paid 25% of the presumptive child support payment during the first 90 days. The payment increased to 50% after the second 90 day period and the amount of support increased in a like manner throughout the one year period of participation in the program. By the time that the father is prepared to graduate from the program, the level of child support reaches the presumptive child support obligation.

While many program participants benefitted from the staggered increase approach to child support, the issue of arrearage payment raised significant concerns. It is not unusual for fathers returning from

prison to have accumulated thousands of dollars of child support arrears.³³ Most employment opportunities for program participants were entry level positions and could not provide enough income to effectively address payment of arrears and on-going support. CSSD developed the “Fresh Start Program” in an effort to assist with arrearage reduction. The “Fresh Start Program” permits Fathering Court participants to reduce child support arrears owed to the government for TANF benefits by as much as 25%. The program encourages fathers to make consistent payments while in the Initiative, and in return, the government forgives arrears owed up to 25% of the amount. This additional incentive was made available to Fathering Court participants as a pilot program. CSSD has since extended this incentive based program to other child support cases.

The issue of fathering and visitation is a critical component of the Initiative. In an effort to underscore the importance of regular contact with children, each program participant is required to complete the Quenching the Father Thirst curriculum. HFTCC conducted classes each Tuesday evening in one of their community-based centers. Professionally trained curriculum facilitators administered the program. The program began with a fatherhood pledge³⁴ and concluded 13 weeks later with a graduation ceremony. Because the program is 13 weeks in duration and each lesson builds on the teachings of the previous week, there were instances where participants entered the Initiative while the Father Thirst program was in session and were required to wait until the course was offered again. Stakeholders were concerned about the delay in program participation, so the Initiative entered into an agreement with the Concerned Black Men organization to provide a weekly fatherhood support group led by a program facilitator. These support groups were held in a local church and were open to the public. Some of the most dynamic discussions regarding common fatherhood experiences were the outgrowth of these weekly meetings. Men, and on some occasions women, openly discussed the common demands of raising children. The supportive environment, similar to Alcoholics Anonymous meetings, provided a bridge between program entry and formal enrollment in the Father Thirst course.

One Initiative goal is to develop a visitation schedule for each family. The cases managers are an integral resource for developing and supervising visits. In some cases, visits started through telephone contact. In other instances, visits were conducted at the court’s supervised visitation center when third party or family supervised visits were not available. The court’s Multi-Door Dispute Resolution Center often meets with parents to develop and memorialize the visitation agreement that becomes part of the parties’ child support order. In one instance, the visitation was so successful that the parents agreed for a summer long visit each year. In two other cases, visitation led to consent agreements where fathers received custody of their children following graduation from the Initiative.

One key feature of program operation is the intense monitoring provided by case managers. The individual service plan provided Team members with a roadmap to address issues that might negatively impact a participant’s success. Regular court hearings were used to monitor progress and address any issues that may have arisen. The frequency of hearings was largely the decision of the presiding judge made in consultation with the Team. Prior to each court hearing, the Team and program participants met in an effort to review progress since the last hearing. In some instances, employment or visitation was delayed or disrupted by the need for a change in a specific service to be delivered. For example, some participants were released from a period of incarceration with lingering problems associated with substance abuse dependence or mental health needs. The immediate delivery of social service resources designed to respond to the specific needs is critical to long-term success. For those participants with substance abuse issues, treatment was provided through CSOSA’s Reentry Sanctions Center. This program provided 28 days of in-patient treatment. Additional in-patient services and intensive out-patient treatment were available through the city’s Addiction Prevention and Recovery Administration (APRA). Drug testing is conducted by the individual service provider and each participant executes a release of information so that case managers may access test results.

A similar process is followed for participants in need of mental health services. Assessments and treatments are facilitated through the city’s Department of Mental Health. The process for obtaining many city sponsored services can be initiated in the Superior Court. The court and the District of

Columbia Mayor's Office partnered to establish the Mayor's Liaison Office. That office is staffed by members of city agencies that provide many of the social services needed by program participants. In addition, the court, in conjunction with the Department of Health, operates a Critical Care Unit in the courthouse that provides access to medical and mental health related services for individuals in immediate need of aid.

In some instances, program participation was interrupted as a result of significant health related issues. As a result of health related problems, case managers and CSOSA representatives work diligently to ensure that all participants receive health insurance coverage through Medicaid upon return to the community. Where health related problems prevent a participant from maintaining employment, case managers undertake efforts to obtain Social Security disability benefits and coordinate with custodial parents to ensure that derivative benefits are available to the children.³⁵

During the first several months of the Initiative it was discovered that program participants often needed services that were not identified in the individual service plans. For some participants, transportation to employment interviews presented significant obstacles. In an effort to address this concern, grant funds were used to provide subway and bus line SmartPasses. The project manager and case manager monitor this resource to ensure proper usage of the passes.

Other participants realized that limited education presented an obstacle to job acquisition and growth. A partnership with the University of the District of Columbia (UDC) presented participants with an opportunity to enroll in GED and vocational certificate programs at limited costs. For one participant placed in a subsidized job through Project Empowerment, long-term employment was contingent on the participant pursuing additional HVAC training. The University operated a certificate program in that area and quickly agreed to permit the participant's enrollment following the completion of an educational assessment.

Custodial and noncustodial parents similarly struggled with money management. Even with the addition of regular child support payments, many parents felt the financial pinch of raising children. Likewise, fathers had to learn to adjust their spending habits because of the increased costs of being a responsible parent. Most fathers indicated that they had never maintained a bank account and cashed pay checks at neighborhood businesses that often charged a substantial fee. Midway through the first year of operation, the Initiative recognized the need for assistance in this area and partnered with Capitol Area Asset Builders (CAAB) to provide no cost financial skills courses to all program participants. CAAB provides instruction including budgeting and saving, money tracking, credit management, financial rights, and school based saving options. All fathers are required to attend, and many custodial parents benefit from the services offered by CAAB.

In an effort to encourage better communication between parents, each year the Initiative has sponsored social events that are unrelated to court activity. Through generous donations from many organizations, families have been to the circus, college basketball games, and professional baseball games. During the summer of 2010, the Initiative sponsored a Family Health Care Day where medical service providers were made available to assist families in obtaining education and services to address a wide range of health related issues. Younger kids enjoyed face painting, clowns, and games while parents "enjoyed" aerobic activities and received tests for hypertension and diabetes. A health conscious lunch was served and information on healthy eating was made available to participants.

In an effort to ease some of the financial burdens facing many program families, the Initiative provided school supplies to all children in the program. A clothing bank has been established for participants. Many fathers take advantage of the clothing bank as they prepare for their employment interviews and their first days on the job. All of these services have been made available from donations by community organizations and individuals seeking to support the efforts of the Initiative. For some participants, subway cards have been made available to assist in travel to interviews and work while participants await their first paycheck.

Despite the availability of many social service resources to the members of the Fathering Court Initiative, not all participants are able to successfully complete the program. In some instances, the program was just too rigorous and the participant was not ready to meet the program requirements. For other participants, the relationship with the custodial parent and/or children was simply too broken to

mend. In some instances, the demands of work were too much for participants to handle given the lack of significant previous work experience. Untreated substance abuse issues remain a significant hurdle for many parents returning from a period of incarceration. Two participants reoffended and were returned to prison. In both instances, substance abuse was the cause. Two families decided that continuing in the Fathering Court Initiative was unnecessary for them — because they got married and rode off together into the child support sunset. Many fathers simply realized the value of meeting their child support obligations while being responsible fathers and wanted nothing more than a fair opportunity to continue their journey toward responsible citizenship. For those fathers, participation in the Initiative represented a powerful coalition of community stakeholders who recognized the family-saving and community cost-savings that are possible through the provision of supportive services and case management that prepares fathers to take increasing responsibility for themselves and their children.³⁶

C. CONCLUSION: THE FATHERING COURT HORIZON

The Fathering Court Initiative in the District of Columbia is a proven strategy with results that demonstrate the profound impacts dads can have in raising their children when proper services are coupled with the desire to be a responsible dad. The Fathering Court has emerged as a power family strengthening resource that is an alternative to the existing child support model that relies too heavily on prosecution and incarceration instead of treatment and reunification. The problem-solving approach to child support has the ability to strengthen fathers' capacities to have a positive co-parenting role in their children's lives. The Initiative saves taxpayers money by avoiding more incarceration and through the use of existing public and private sector programs that provide social services designed to produce better outcomes for families.³⁷ Ideas like temporary child support credits for parents enrolled in workforce development programs (instead of minimal \$50 per month orders) should be explored, as well as credits for unemployed noncustodial parent who are committed to visitation. This type of approach to child support encourages parents to be a part of the solution to the problem of nonpayment of child support, as well as encourages absent fathers by giving them a voice in a treatment process that does more than focus on dollars.

NOTES

1. The author is an Associate Judge in the District of Columbia Superior Court and the presiding judge of that court's Fathering Court Initiative. This article is dedicated to my parents, Milton and Evelyn Lee, who instilled in me the very commitment and sacrifice for family that I hope to promote in the parents participating in our fatherhood initiative and to the many men who are putting forth a tireless effort toward becoming responsible fathers.

2. President Barack Obama, February 3, 2011.

3. See The Deadbeat Parents Punishment Act of 1988, 18 U.S.C. 228. See also, 45 U.S.C. 305.01.

4. The Supreme Court recently commented that the "Federal Government has created an elaborate procedural mechanism designed to help the government and custodial parents to secure the payments to which they are entitled." *Turner v. Rogers*, 131 S. Ct. 1624 (citing *Blessing v. Freestone*, 520 U.S. 329, 333 (1997) (describing the "interlocking set of cooperatives federal state welfare programs" as they relate to child support enforcement)).

5. In 1998, more than 7 out of 10 children living in a household supported by Temporary Assistance to Needy Families (TANF) lived with a single parent. COMM. ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, 2000 GREEN BOOK (2000). Children in father absent homes are five times more likely to be poor. In 2002, 7.8 % of children in married-couple families were living in poverty, compared to 38.4 % of the children in female-householder families. U.S. CENSUS BUREAU, CHILDREN'S LIVING ARRANGEMENTS AND CHARACTERISTICS: MARCH 2002, (June 2003). Forty-five percent of unmarried mothers in large urban cities in the United States are poor and another 28% are "near poor," with income 200 % below the poverty line. Sara McLanahan, The Fragile Families and Child Wellbeing Study: Baseline National Report, (Center for Research on Child Wellbeing, 2003).

6. Compared to children living with both parents, living with a single parent almost doubles the risk that a child will suffer physical, emotional or educational neglect. The overall rate of child abuse and neglect in single parent households is 27.3 children per 1,000, whereas the rate of overall maltreatment in two parent households is 15.5 per 1,000. FEDERAL INTER-AGENCY FORUM ON CHILD AND FAMILY STATISTICS, AMERICA'S CHILDREN: KEY NATIONAL INDICATORS OF WELL-BEING, 2011.

7. One article that reviewed the rate of delinquent behavior between single parent and two parent households concluded that adolescents who live with a single parent were significantly more likely to commit status, property, or person related delinquent acts. See, Amy L. Anderson, *Individual and Contextual Influences on Delinquency: The Role of the Single-Parent Family*, 30 J. CRIM. JUST. 575–587 (November 2002). Perhaps of greater concern is the conclusion that youth from father-absence households had significantly higher odds of incarceration than those in mother-father households. See, Cynthia C. Harper & Sara S. McLanahan, *Father Absence and Youth Incarceration*, 14 J. RES. ON ADOLESCENTS 369–397 (September 2004).

8. Researchers at Columbia University found that children living in two parent households with poor relationships with their father are 68% more likely to smoke, drink, or use drugs compared to all teens in two parent households. Teens in single mother households fared much worse suffering, a 30% higher risk than those in all two parent households. *Survey links Teen Drug Use, Relationship With Fathers*, 6 ALCOHOLISM AND DRUG ABUSE WEEKLY, (September 1999).

9. Teenage girls without fathers were twice as likely to be involved in early sexual activity and seven times are likely to get pregnant as other adolescents. See, Bruce J. Ellis, et al., *Does Father Absence Place Daughters at Special Risk for Early Sexual Activity and Teen Pregnancy?* 74 CHILD DEV. 801–821, (May/June 2003).

10. The District of Columbia now has in place its second version of the guidelines that took effect on April 1, 2007. See, D.C. Code § 16-916.01(c) (1).

11. See e.g., D.C. Code § 16-916.01(c) (5).

12. In the District of Columbia, the self-support reserve is calculated at 133% of the United States Department of Health and Human Services poverty guideline for a single individual or \$14,404. See, D.C. Code § 16-916.01(g) (1).

13. For example, See, D.C. Code § 16-916.01(g) (2)-(3).

14. An internet search revealed a list of the top ten dubious reasons why child support was not paid based on actual explanations received by the South Carolina Department of Social Services.

10. I can't be the father because we were only together once.

9. I can't pay support because I told her that I was married and had a family to take care of.

8. I have other bills that are more important.

7. It is hard to pay child support when you can't get a job because of a criminal record.

6. I told her that I did not want to be a daddy and she said that was okay.

5. I didn't pay because I couldn't find a parking space at the courthouse.

4. The mother of the child is working now, and she doesn't need the money.

3. Her current husband makes enough to handle their bills.

2. My car needs repairs and I need it to get to work (the man drove a new BMW).

1. She said that she would never take me to court for support and she needs to honor her commitment.

15. In the United States, noncustodial parents pay less than 60% of their current court-ordered child support obligation, and almost one fourth of all custodial parents receive no support at all notwithstanding a court order. PAUL LEGLER, *LOW-INCOME FATHERS AND CHILD SUPPORT: STARTING OFF ON THE RIGHT TRACK* (Annie E. Casey Foundation) (2003).

16. Civil contempt in child support proceedings constitute one part of a very complex system designed to assure that a noncustodial parent complies with an order to make payments in support of a minor child. See, *Turner v. Rogers*, 131 S.Ct. 1624 (2011).

17. The power to punish for contempt is inherent in the judiciary. The contempt power enables the courts to perform their functions without interference, to control courtroom misbehavior, and to enforce orders and compel performance. The general rule in respect to civil contempt proceedings is that where factual proof of noncompliance with the judicial order is established, the burden of establishing justification for noncompliance shifts to the alleged contemnor. *Bolden v. Bolden*, 376 A.2d 430 (D.C. 1977).

18. A finding that the contemnor had the ability to pay the amount required is necessary to support the imposition of a contempt sanction. *Langley v. Kornegay*, 620 A.2d 865, 866–867 (D.C. 1993).

19. Donald J. Farole, Jr. et al., *Applying Problem-Solving Principles In Mainstream Courts: Lessons for State Courts*, 26(1) JUST. SYS. J. 57 (2005).

20. See, Tamar Meekins, *Specialized Justice: The Over-Emergence of Specialty Courts and the Threat of a New Criminal Defense Paradigm*, 50 SUFFOLK L. REV. 1 (2006).

21. The conflict of judicial philosophies remains a source of discussion within courts where problem-solving and traditional court calendars exist simultaneously. Many judges in traditional assignments view their role as resolving cases, not solving problems through some collaborative approach. For a fuller discussion, see, Donald J. Farole, *supra* note 18, at 68–69.

22. See, D.C. ACCESS TO JUST. COMMISSION, 60 JUSTICE FOR ALL? AN EXAMINATION OF THE CIVIL LEGAL NEEDS OF THE DISTRICT OF COLUMBIA'S LOW-INCOME COMMUNITY (2008).

23. The District of Columbia Superior Court established its first problem-solving court when it created a drug court in 1994. Since that time, the court has instituted other problem-solving courts that include: the Juvenile Drug Court, the Misdemeanor and Traffic Community Court, the Family Treatment Court, the Prostitution Court, the East of the River Community Court, the Juvenile Behavior and Diversion Program, the Mental Health Court, the Fathering Court Initiative and the newest entry, the Housing Code Court.

24. The National Center for Fathering is a nationally recognized program located in Kansas City, Missouri. The National Center is a nonprofit, scientific, and educational organization that focuses on research, training, and program development that equip men to become fathers to their children. More information is located at fathers.com.

25. GEORGE WILLIAMS, NAT'L CENTER FOR FATHERING, *QUENCHING THE FATHER THIRST: DEVELOPING A DAD* (2007), available at www.fathers.com.

26. The initial funding for the pilot project was made available through the Bureau of Justice Assistance, United States Department of Justice, and additional funding was made available through a separate grant from the Department of Labor and a separate Justice Department from the Byrne Foundation.

27. Washington Lawyers' Committee for Civil Rights and Urban Affairs, DC Prisoners' Project, available at <http://www.washlaw.org/index.php/dc-prisoners-rights.html>.

28. *Id.*

29. D.C. Courts Press Advisory, *Family Court and DC Attorney General's Office Announce Launch of New Fathering Court* (Oct. 30, 2007), available at www.dccourts.gov.

30. See, Esther A. Griswold, & Jessica Pearson, *Turning Offenders Into Responsible Parents and Child Support Payers*, 43 FAM. CT. REV. 358. See also, ELAINE SORENSON ET AL., *THE URB. INST., ASSESSING CHILD SUPPORT ARREARS IN NINE LARGE STATES AND THE NATION*, (2007).

31. A child with a nonresident father is 54% more likely to be poorer than his or her father. Elaine Sorenson & Cahva Zibman, *Getting to Know Poor Fathers Who Do Not Pay Child Support*, 75 SOC. SERV. REV. 420-434 (2001).

32. The initial partnership with EDSI was funded through the Department of Justice Byrne Foundation Grant.

33. In an effort to address this problem, the District of Columbia City Council passed legislation in 2004 that requested all sentencing judges to inquire about child support obligations and to permit motions to suspend support due to incarceration to be filed at the time that the sentence was imposed. See, D.C. Code § 23-112(a).

34. The Father Pledge:

I am a Man and Father, who is dealing with my past,
 Creating a positive legacy in my child that will last.
 I will quench my child's Father thirst,
 By remembering to keep my child's needs first.
 I will help my child develop in every way,
 Making time to listen and watching what I say.
 I will be involved in my child's life,
 Working with my child's mom without any strife.
 I will change what I am responsible for,
 And develop as a Dad reaching for more.
 I will be a Dad that never gives up,
 Emotionally filling my child's Father cup.

35. See, D.C. Code § 16-916.01(l).

36. NAT'L CENTER FOR FATHERING, *FATHERING COURT SUMMIT*, WASHINGTON, D.C. (October 26, 2009).

37. Winston Skinner, *Child Support Court Saving Money*, THE NEWMAN TIMES-HERALD, Sept. 15, 2010.

Judge Lee is currently assigned to the Family Court of the District of Columbia Superior Court. He has extensive experience with child support matters and has presided over the Superior Court's Fathering Court Initiative since its inception in 2007. The Fathering Court Initiative is a court-sponsored partnership between the Child Support Services Division of the Office of the Attorney General and many government and private sector providers that work together in helping men returning from a period of incarceration to become responsible fathers. The Initiative is designed to provide employment opportunities to assist with child support payments while working at developing co-parenting for custodial and noncustodial parents. He is also a member of the adjunct faculty at the University of the District of Columbia's David A. Clark School of Law and Howard University's School of Law.