Children with Incarcerated Parents Initiative

About CT Children with Incarcerated Parents Initiative (CTCIP)

Since 2008, the Institute for Municipal and Regional Policy (IMRP) located at Central Connecticut State University has been receiving annual funding from the Connecticut General Assembly to conduct and evaluate research, analyze and develop public policy, and help create a more inclusive Connecticut. The CT Children with Incarcerated Parents Initiative (CTCIP) is one of several IMRP projects, which identifies and provides funding for CIP-specific programs and services throughout the state for over a decade.

CTCIP has recently expanded its initiatives to improve the quality of supports for CIP through research in order to recommend better informed public policy and practice through various data and knowledge gained. CTCIP is Connecticut's primary resource center and think-tank for information on and for CIP.

Current Knowledge

- As of 2018, 1 in 14 U.S. children have had a parent who lived with them go to jail or prison.
- As of 2016, 8,248 incarcerated persons reported being a parent and caregiver to a child – identifying, at minimum, 18,034 CIP in the state of Connecticut.
- According to national data, 70% of children who were present at the time of their parent's arrest reported seeing their parent in handcuffs. Of that number, 30% reported guns being drawn in the process.
- One CTCIP study found more than 62,000 children living in CT who reported having had a parent arrested.
- Parental incarceration is independently associated with increased risk of learning disabilities, attention deficit disorder, behavioral and conduct problems, developmental delays and speech or language problems for CIP.
- The fostering and maintenance of the relationship between an incarcerated parent and child decreases the rate of recidivism in the parents.

Fiscal Findings & Implications

- When a parent is incarcerated, specifically a father, a family's income drops by an average of 22%. As a result, mothers/caregivers of CIP report being unable to pay for their children's basic necessities, including food, utilities, rent and medical care – creating reliance on state aid, programs and services.
- Co-parents left also behind cite problems with child care as a reason for quitting or not taking a job at all.
- Children with fathers in prison, particularly African-American, are at greater risk of ending up homeless.
- Over a 24-year period, the U.S. poverty rate could have fallen by approximately 20%, rather than remaining relatively steady, if incarceration rates hadn't increased overall.

CTCIP Endeavors

We identify, develop, and implement services and resources for CIP.
We provide outreach efforts to de-stigmatize and better foster networks for CIP and families affected.
We work to gain additional knowledge of the CIP population in our state, nation and across the world.
We strive to better identify the specific service-needs of CIP through research, evaluation and outreach.
We provide advocacy and recommendation for CIP-specific policy and practice.

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CHILDREN WITH INCARCERATED PARENTS INITIATIVE

2019 LEGISLATIVE PRIORITIES & CONSIDERATIONS

Fees for Incarcerated Individuals

According to a published OLR Report from November 2018, titled "Inmates Paying the Cost of Their Incarceration", CTDOC has been collecting fees from incarcerated individuals for services and programs that are "inmate-initiated" through authorization by state law and DOC agency regulation. Pursuant to state law, the DOC commissioner is required to adopt regulations to assess inmates for the costs of their incarceration (CGS § 18-85a). See attached report.

The DOC is currently charging inmates $3.00 in order to have access to various programs and services, including:

(1) elective education programs per course,
(2) vocational-education programs per course,
(3) inmate-initiated sick calls per visit,
(4) dental procedures per procedure,
(5) eyeglasses per prescription,
(6) drug tests if determined to be positive for illicit substances

This regulation is NOT codified in CT General Statute and is considered to be a current internal CTDOC Administrative Directive within the agency. This regulation has resulted in CTDOC collecting $5,669,687 in FY 15; $5,728,194 in FY 16; $4,778,428 in FY 17; and $6,465,907 in FY 18 in assessed incarceration costs, according to OFA. It is our understating that these collected fees are going into the State of CT's General Fund.

Although $3.00 may seem minimal, according to a 2017 national analysis, charging an incarcerated individual for programs and services $3.00 in CT is equivalent to a non-incarcerated individual who earns minimum wage in CT having to pay $233.08 out of pocket as a co-pay. See attached article for comparison.

If it is determined that fees will still be collected by CTDOC, perhaps the funds could be shifted to support the population that is paying the fees to save the state long-term costs associated with recidivism, reliance on state aid, etc. These collected fees could:

(1) **Create Office of Confined Persons Advocate** (both for incarcerated individuals and the mentally ill)
(2) **Further fund resources and services for CIP** & family reunification
(3) **Further fund re-entry services** for formerly incarcerated individuals
(4) **Further fund educational, vocational and job training** opportunities for individuals while incarcerated

(CGS § 18-85a-3; CTDOC Administrative Directive 3.2)

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Creation of the Office of Confined Persons Advocate (OCPA)

Similar to the Office of Child Advocate (OCA), the OCPA would have the authority to conduct independent investigations of abuse/neglect/maltreatment of confined persons within a state facility. OCPA's purview would be limited to **only** correctional facilities and mental health institutions.

OCPA would have the authority to perform inquiries into the general practices of various state agencies that confine adults to ensure agency practices are humane and meet ethical standards of conduct. OCPA would be able to request/receive confidential footage from facility cameras and access agency records to perform its duties.

OCPA can be created and funded through the application of an automatic 1% added to each CTDOC vendor contract and/or from the fees currently collected from incarcerated persons.

Support of the Adoption and Safe Families Act (ASFA) Language Change

In 1997, Congress passed the Adoption and Safe Families Act (ASFA), which mandated states' child welfare agencies to begin termination of parental rights in cases of children who have been in foster care for 15 of the previous 22 months.

The intent of ASFA is to prevent children from being in temporary foster placements for several years and increase adoption outcomes. Despite the stated intent, the law may actually contribute to the permanent severance of parent-child relationships against the best interests of the child. With the average length of incarceration in a state correctional facility being 34 months, the provision can often be triggered by parental incarceration alone. Even if the parent attempts to play an active role in their child's life, incarcerated parents are still finding their rights disproportionately terminated.

In an analysis of 3 million child-welfare cases from 2006-2016 to identify the ramifications of ASFA on families with an incarcerated parent, mothers and fathers who have a child placed in foster care because they are incarcerated and have not been accused of child abuse, neglect, endangerment, or even drug or alcohol use were more likely to have their rights terminated than parents who physically or sexually abused their children.

It was also determined that the legislation also created bonuses for states that facilitate more adoptions. Since 1998, the federal government has paid more than $639 million in these rewards alone.

As of today, a statutory language change has been proposed and raised through the Judiciary Committee as part of the Connecticut Sentencing Commission's legislative proposal package. For more information regarding the ramifications of ASFA on CIP, see attached testimony.

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OFFICE OF LEGISLATIVE RESEARCH
Objective Research for Connecticut's Legislature

ResearchReport

Inmates Paying the Cost of Their Incarceration

By: Katherine Dwyer, Associate Attorney
November 5, 2018 | 2018-R-0269

Issue

What is the law regarding inmates paying for the costs of their incarceration? This report updates OLR Report 2006-R-0231.

Summary

State law requires the Department of Correction (DOC) commissioner to adopt regulations to assess inmates for the costs of their incarceration (CGS § 18-85a). Pursuant to this statutory requirement, the commissioner adopted regulations that require charging inmates for the costs of their use of various services and programs. An inmate is a person confined or formerly confined in a correctional facility under a sentence imposed by a Connecticut state court (Conn. Agencies Regs. § 18-85a-1).

The regulations define the per-inmate, per-day cost of incarceration at DOC facilities as the amount computed using the same accounting procedures the comptroller uses to calculate such costs for state humane institutions. The regulations also make inmates responsible for the costs of certain services and programs such as sick calls; dental procedures; eyeglasses; elective and vocational educational programs; and lab tests to detect illegal drugs, if the results are positive (Conn. Agencies Regs. §§ 18-85a-1-4).

The law gives the state a claim for the costs of incarceration against an inmate's property but it excludes certain types of property. In addition to other legal remedies, the attorney general can bring an action to enforce the claim in Superior Court in the Hartford judicial district at DOC's

request. The action must be brought within two years of the inmate's release from prison or within two years of his death if he dies while in DOC custody. This restriction does not apply to property that is fraudulently concealed.

According to the Office of Fiscal Analysis, DOC collected $5,669,687 in FY 15; $5,728,194 in FY 16; $4,778,428 in FY 17; and $6,465,907 in FY 18 in assessed incarceration costs.

Inmates' Duty to Pay for Programs and Services

The regulations specify that the inmate's responsibility to pay for the use of services and programs is governed by the following schedule:

1. elective education programs: $3.00 per course;
2. vocational-education programs: $3.00 per course;
3. sick call (inmate-initiated visits): $3.00 per visit;
4. dental procedures: $3.00 per procedure;
5. eyeglasses: $3.00 per prescription; and
6. laboratory tests taken to detect illegal use of drugs where results are positive: actual cost of confirmation test (Conn. Agencies Regs. § 18-85a-3).

Property Subject to the State's Claim

The law gives the state a claim for incarceration costs against any property owned by an inmate except for:

1. property the inmate acquired after he or she was released from incarceration;
2. property acquired for work performed during incarceration as part of a program designated or defined in DOC regulation as a job training, skill development, career opportunity, or enhancement program (but the DOC commissioner may assess a participation fee);
3. money from a contract for reenacting the inmate's violent crime in various media (such as movies and books) or from the expression of the person's thoughts or feelings about the crime which by law must be paid to the Office of Victim Services; and
4. property that is statutorily exempt from execution to satisfy court judgments and exempt property of a farm partnership.

But the claim does apply to:

1. lottery and pari-mutuel winnings after the person's release from prison;
2. his or her estate, inheritance, and lawsuit proceeds won within a certain period after his release from prison; and
3. certain federal, state, or municipal pension, annuity, insurance contracts, and similar items that are for government employee retirement benefits (subject to the rights of an alternate payee under a qualified domestic relations order); and
4. property acquired for work performed during incarceration at a pilot program for inmate labor in private industry (CGS § 18-85a).

Lawsuit Proceeds

Whenever a person who owes the state money for the costs of incarceration wins a lawsuit judgment, the state's claim is a lien against the proceeds. The maximum amount of the claim is the full cost of the inmate's incarceration or 50% of the proceeds, minus certain expenses, whichever is less.

The incarceration lien has priority over all other claims, including any state lien for repayment of public assistance, except:

1. child support obligations the state can collect in public assistance repayments from a person's lawsuit proceeds (by law these funds must first reimburse Medicaid for coverage related to injuries that were the basis of the lawsuit);
2. expenses of the lawsuit, including attorney's fees;
3. hospitalization costs connected with the lawsuit not paid by insurance or other benefits;
4. physicians' fees associated with the hospitalization that the state has not paid for and that insurance or other benefits do not cover;
5. court-ordered restitution or compensation to a crime victim; and
6. payment of a civil judgment to a crime victim.

The proceeds are assignable to the state. The lien requires the inmate's attorney to pay DOC from the proceeds. But, if the attorney gives DOC written notice of a settlement or judgment that requests the lien amount, and DOC does not provide it within 45 days, then the attorney can distribute the proceeds to the inmate and is not liable to the state.

This provision applies to lawsuits brought within 20 years of the person's release from incarceration (CGS § 18-85b(a)).

Inheritance

When a person who owes the state money for the costs of incarceration inherits property or money, the state's claim is a lien against the inheritance for the total cost of incarceration or 50% of the inheritance, whichever is less. There is no reduction in this amount. The probate court must accept any lien notice that DOC files and, to the extent the estate has not already been paid out, order the estate distributed accordingly.

This provision applies to inheritances within 20 years of the person's release from incarceration (CGS § 18-85b(b)).

Death of Person Owing Costs of Incarceration

When someone who owes the state money for the costs of incarceration dies, the state has a lien against the estate up to the total costs of incarceration to the extent the estate is not needed to support a surviving spouse, parent, or dependent children. The lien has priority over all other unsecured claims, including public assistance liens, except for:

1. child support obligations the state can collect in public assistance repayments;
2. up to $375 for the expenses of his last sickness;
3. state payments of up to $1,200 for funeral and burial expenses to a person who received state supplement or temporary family assistance;
4. court-ordered restitution or compensation to a crime victim;
5. payment of a civil judgment to a crime victim; and
6. administrative expenses, including probate taxes and fees and fiduciary fees up to certain limits. If the deceased inmate has a prepaid funeral arrangement, the funeral and burial exception amount must be reduced by the amount of the arrangement.

The law allows priority for fiduciary fees, based on the value of the estate, only up to certain limits. It allows 5% on the first $2,000; 4% on the next $8,000; and 3% on the excess over $10,000. The probate court, after a hearing with a 10-day notice to DOC, can authorize payment above these levels for extraordinary services.

If the estate has paid any amount exceeding these limits, the person who received it must repay the estate, and the state can recover the amount with interest at the legal rate by civil suit.

This provision applies to the estate of someone who dies within 20 years of his or her release from incarceration (CGS § 18-85c).

KD:cmg

fee for service

State of Connecticut Department of Correction ADMINISTRATIVE DIRECTIVE	Directive Number 3.2	Effective Date 4/28/2017	Page 1 of 3
	Supersedes Handling of Funds, dated 10/03/14		
Approved By Commissioner Scott Semple	Title Handling of Funds		

1. Policy. The Department of Correction shall ensure that all monies collected are appropriately documented, secured and/or disbursed.

2. Authority and Reference.
   a. Connecticut General Statutes, Sections 2-90, 4-32, 4-33, 4-35, 4-55, 4-57a, 18-81, 18-85 and 54-53.
   b. State of Connecticut, Office of State Comptroller, Accounting Division, State Accounting Manual.
   c. State of Connecticut, Office of State Comptroller, Policy Services Division, Accounting Procedures Manual, Activity and Welfare Funds.
   d. American Correctional Association, Standards for the Administration of Correctional Agencies, Second Edition, April 1993, Standards 2-CO-1B-05 through 2-CO-1B-07.
   e. American Correctional Association, Standards for Adult Correctional Institutions, Fourth Edition, January 2003, Standards 4-4027, 4-4031, 4-4033 through 4-4036.
   f. American Correctional Association, Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, June 2004, Standards 4-ALDF-7D-11 and 4-ALDF-7D-12.
   g. American Correctional Association, Standards for Adult Probation and Parole Agencies, Third Edition, August 1998, Standards 3-3039, 3-3043 and 3-3044.
   h. American Correctional Association, Standards for Correctional Training Academies, First Edition, May 1993, Standards 1-CTA-1B-02, 1-CTA-1B-05 and 1-CTA-1B-07.
   i. Administrative Directives 3.7, Inmate Monies; 6.6, Reporting of Incidents and 6.10, Inmate Property.

3. Definitions. For the purposes stated herein, the following definitions apply:
   a. Custodian. An individual responsible for the security and maintenance of cash funds.
   b. Disbursements. Any authorized funds paid out of an account.
   c. Imprest Petty Cash. An advance or loan of government funds for service to the government.
   d. Petty Cash. A segregation and an advance of money from a fund for goods and/or services.
   e. Receipt. A written acknowledgment that a sum of money has been received.
   f. Receipts Journal. A form used to create a permanent record of all receipts.

4. Secure Maintenance of Funds. Funds shall be maintained in a 2-key or combination safe at all times. The lock combination shall be in the custody of not less than two (2) persons designated by the Unit Administrator.
   a. The keys or combination shall be changed following the reassignment of an individual with the combination. An inmate shall not be allowed to possess agency funds or records of agency funds. The contents of the safe shall be audited as necessary to maintain security.

5. Receipt of Funds. Receipts shall be issued for cash, money orders, and other negotiable instruments. The custodian shall be responsible for the security and maintenance of funds. Cash funds shall be controlled as follows:
   a. A designated employee(s) other than the cash custodian shall receive cash funds. The amount of cash received shall be verified by the receiver.

b. Central Office Funds:
   i. Funds received for the Department or the State Treasurer shall be recorded on form CO-99 "Official Receipt" form which is sequentially numbered, Attachment A. All receipts shall be signed by the staff member issuing the receipt. All used and voided receipts shall be accounted for in the receipt book.
   ii. All funds and accompanying receipts shall be placed in an envelope and forwarded to the proper location for deposit or placed in safe.
c. Inmate funds shall be handled in accordance with Administrative Directives 3.7, Inmate Monies and 6.10, Inmate Property.
d. All monies and approved monetary remittances received shall be recorded in the appropriate Receipt Journal, Attachment B.
e. Contaminated funds shall be handled in accordance with Administrative Directive 3.7, Inmate Monies.

6. Funds Deposit. All cash shall be deposited within 24 hours after receipt unless otherwise authorized by the Director of Fiscal Services. The deposit shall be made by a designated employee other than the custodian of the fund. The receipts are to be deposited in depositories approved by the State Comptroller and the State Treasurer consistent with Section 4-33 of the Connecticut General Statutes.
   a. An endorsement which has met state treasurer specifications is required on all checks being deposited.
   b. A Bank Deposit Ticket shall accompany all funds to be deposited.
   c. Deposits must be reconciled to the receipts journal.
   d. The validated copy of the Bank Deposit Ticket shall be retained for each deposit made.
   e. The Bank Statement for monthly transactions must be reconciled promptly by a person other than the custodian.

7. Petty Cash. Petty Cash funds are administered centrally under the direction of the Director of Fiscal Services based on the following criteria:
   a. Petty Cash funds shall be used to facilitate the purchases of small but necessary operating items, not to exceed $50.00, except for emergencies or specific exceptions granted by the State Comptroller; e.g. gate money, cash advances for travel. Petty Cash shall not be used for any items that can be paid in the usual manner.
   b. The Petty Cash custodian shall maintain records of fund activity as required by the Office of the Comptroller.
   c. A reconciliation of Petty Cash funds shall be performed each month, and the Petty Cash custodians shall submit a monthly status report, in accordance with the Comptroller's requirements, to the Director of Fiscal Services by the 10th of the following month.

8. Disbursement of Funds. Fiscal Services shall control and document all disbursement of funds.

9. Signature Control on Checks. The Director of Fiscal Services shall authorize three (3) or more employees in Fiscal Services to sign Petty Cash checks. The signatures shall be recorded with the Bank recording service. Each check shall bear two (2) signatures.

10. Loss of Funds. Any unexplainable shortage in any cash funds shall be reported to the Unit Administrator and the Directors of Fiscal Services and the Security Division immediately. If a loss results, the Connecticut State Police shall also be notified. Report of Loss or Damage to Real and Personal Property, Form CO-853, Attachment C, shall be completed within 48 hours of discovery and forwarded to the Office of the State Comptroller and to the Auditors of Public Accounts. The

incident shall be reported in accordance with Administrative Directive 6.6, Reporting of Incidents.

11. Misuse of State Funds. Any Administrator or Manager shall, upon detection, notify the Director of Fiscal Services, of any unauthorized, illegal, irregular, or unsafe handling or expenditure of State funds or breakdowns in the safekeeping of any other resources of the State or contemplated action to do the same within their knowledge. The Director of Fiscal Services shall take appropriate action and notify the Auditor of Public Accounts and the State Comptroller. Form CO-853, Attachment C, shall be used for this purpose. Any employee who suspects unauthorized, illegal, irregular or unsafe handling or expenditure of State funds shall report that fact to an appropriate supervisor.

12. Reports. Fiscal Services shall generate periodic statements of all fiduciary and agency-operated funds activity as required by the Office of the Comptroller, or more frequently as determined by the Director of Fiscal Services.

13. Audit. The Auditors of Public Accounts are empowered to audit the books and accounts of the Department of Correction. Each Unit Administrator shall offer total cooperation to the Auditors and provide all documentation required. A draft audit report(s) may be provided to the Commissioner of Correction and the Director of Fiscal Services by the auditors. Corrective actions and measures shall be submitted in writing to the Director of Fiscal Services no later than 15 business days following the receipt of the draft audit. The corrective actions shall be examined by the Director of Fiscal Services for completeness and relevance. Once approved, a response shall be prepared by the Fiscal Services Unit for the Commissioner. A copy of the formal audit report provided to the Commissioner by the Auditors of Public accounts shall be forwarded to the respective managers, who shall implement all necessary corrective actions.

14. Forms and Attachments. The following forms and attachments are applicable to this Administrative Directive and shall be utilized for their intended function:
    a. Attachment A, Official Receipt Form (CO-99);
    b. Attachment B, Receipt Journal;
    c. Attachment C, Report of Loss or Damage to Real and Personal Property Form (CO-853).

15. Exceptions. Any exception to the procedures in this Administrative Directive shall require prior written approval from the Commissioner.

The steep cost of medical co-pays in prison puts health at risk

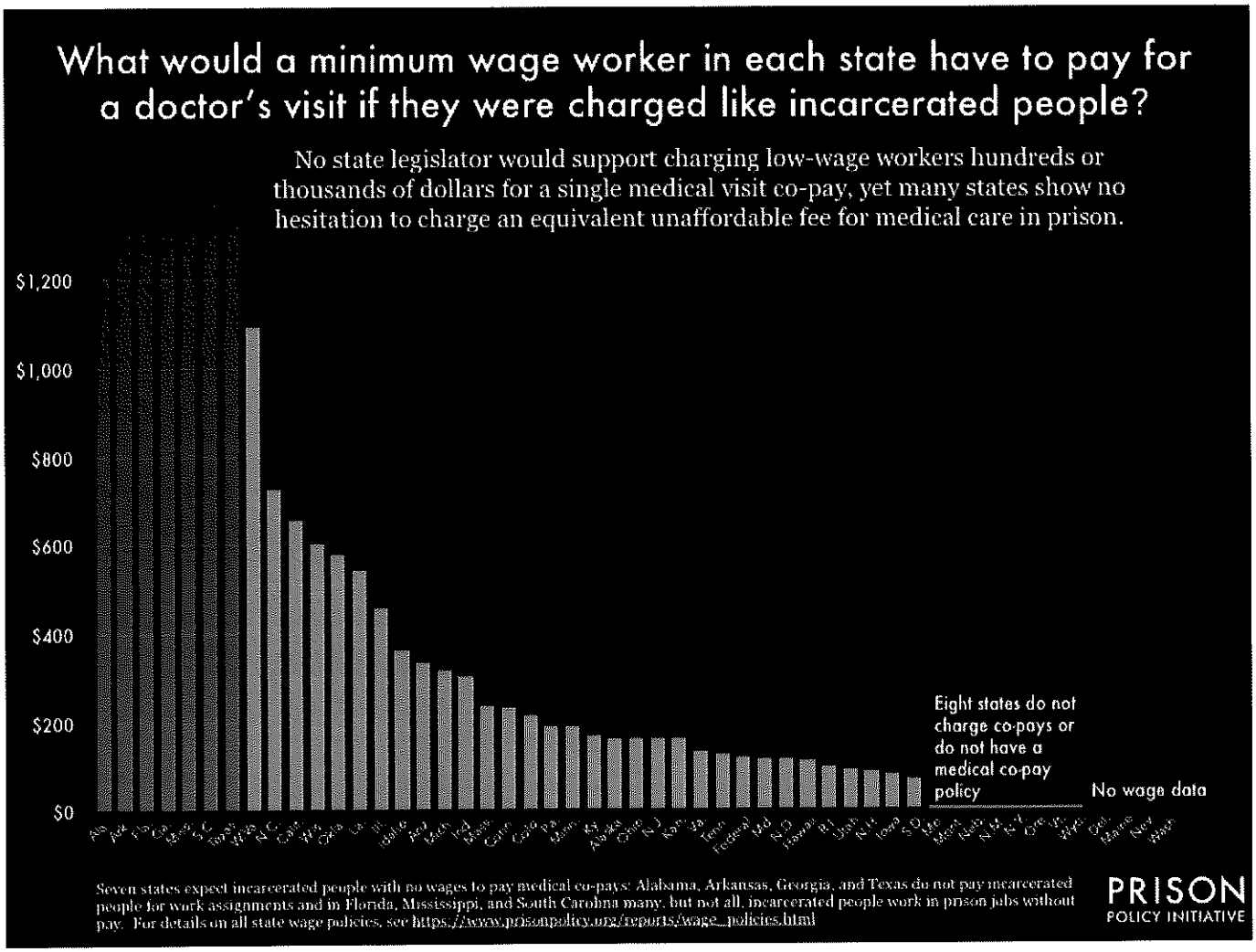
When we consider the relative cost of medical co-pays to incarcerated people who typically earn 14 to 62 cents per hour, it's clear they can be cost-prohibitive. Co-pays that take a large portion of your paycheck make seeking medical attention a costly choice.

by Wendy Sawyer, April 19, 2017

If your doctor charged a $500 co-pay for every visit, how bad would your health have to get before you made an appointment? You would be right to think such a high cost exploitative, and your neighbors would be right to fear that it would discourage you from getting the care you need for preventable problems. That's not just a hypothetical story; it's the hidden reality of prison life, adjusted for the wage differential between incarcerated people and people on the outside.

In most states, people incarcerated in prisons and jails pay medical co-pays for physician visits, medications, dental treatment, and other health services. These fees are meant to partially reimburse the states and counties for the high cost of medical care for the populations they serve, which are among the most at-risk for both chronic and infectious diseases. Fees are also meant to deter people from unnecessary doctor's visits. Unfortunately, high fees may be doing more harm than good: deterring sick people from getting the care they really do need.

A $2-5 medical co-pay in prison or jail may not seem expensive on its face. But when we consider the relative cost of these co-pays to incarcerated people who typically earn 14 to 63 cents per hour, it's clear how they can be cost-prohibitive. To compare the cost of medical co-pays in prisons and jails to what people pay on the outside (relative to the wages available to each population), I first calculated how many hours of work it would take a low-paid incarcerated person in each state to pay for one co-pay. Then, I translated this hourly cost into the wages earned by a minimum wage, "free world" worker in the same state.



See the table below for co-pay fees and minimum wages in each state. Policy details and sourcing information can be found in the Appendix. For another perspective, I also graphed what percent of the lowest-paid incarcerated person's monthly earnings is taken by a single co-pay in each state.

In West Virginia, a single visit to the doctor would cost almost an entire month's pay for an incarcerated person who makes $6 per month. For someone earning the state minimum wage, an equivalent co-pay that takes the same 125 hours to earn would cost an unconscionable $1,093. In Michigan, it would take over a week to earn enough for a single $5 co-pay, making it the free world equivalent of over $300. I found that fourteen* states charge a medical co-pay that is equivalent to charging minimum wage workers more than $200.

The excessive burden of medical fees and co-pays is most obvious in states where many or all incarcerated people are paid nothing for their work: Alabama, Arkansas, Florida, Georgia, Mississippi, South Carolina, and Texas. Texas is the most extreme example, with a flat $100 yearly health services fee, which some officials are actually trying to double to $200. People incarcerated in these states must rely on deposits into their personal accounts – typically from family – to pay medical fees. In most places, funds are automatically withdrawn from these accounts until the balance is paid, creating a debt that can follow them even after release.

Co-pays that take a large portion of prison wages make seeking medical attention a costly choice.

Co-pays in the hundreds of dollars would be unthinkable for non-incarcerated minimum wage earners. So why do states think it's acceptable to charge people making pennies per hour such a large portion of their earnings? Some might argue that incarcerated people have nothing better to spend wages on than medical care. But wages allow incarcerated people to buy things they need that the prison does not provide: toiletries, over-the-counter medicine, additional clothes and shoes, as well as phone cards, stamps, and paper to help them maintain contact with loved ones. Co-pays that take a large portion of prison wages make seeking medical attention a costly choice.

Part of the justification for charging incarcerated people medical co-pays is to force them to make difficult choices. Administrators want to deter "frivolous" medical visits. The National Commission on Correctional Health Care (NCCHC), however, argues that abuses of sick call can be managed with "a good triage system," without imposing fees that also deter *necessary* medical services. And although providers must treat people regardless of their ability to pay, incarcerated people with "low health literacy" may not understand this right. The NCCHC warns that co-pays may actually jeopardize the health of incarcerated populations, staff, and the public.

Out-of-reach co-pays in prisons and jails have two unintended but inevitable consequences which make them counterproductive and even dangerous. First, when sick people avoid the doctor, disease is more likely to spread to others in the facility – and into the community, when people are released before being treated. Second, illnesses are likely to worsen as long as people avoid the doctor, which means more aggressive (and expensive) treatment when they can no longer go without it. Correctional agencies may be willing to take that risk and hope that by the time people seek care, their treatment will be someone else's problem. But medical co-pays encourage a dangerous waiting game for incarcerated people, correctional agencies, and the public – which none of us can afford.

For details and sourcing information on co-pays (and what happens when incarcerated patients can't afford them), see the Appendix.

	Co-pay or fee	Prison job minimum wage	Hours of work required to afford one co-pay	State minimum wage	Equivalent co-pay at minimum wage (hours x minimum wage)
Alabama	$4.00	$0.00	n/a	$7.25	n/a
Alaska	$5.00	$0.30	16.67	$9.80	$163.33
Arizona	$5.00	$0.15	33.33	$10.00	$333.33
Arkansas	$3.00	$0.00	n/a	$8.50	n/a
California	$5.00	$0.08	62.50	$10.50	$656.25
Colorado	$3.00	$0.13	23.08	$9.30	$214.62
Connecticut	$3.00	$0.13	23.08	$10.10	$233.08
Delaware	$4.00	n/a	n/a	$8.25	n/a
Florida	$5.00	$0.00	n/a	$8.10	n/a
Georgia	$5.00	$0.00	n/a	$7.25	n/a
Hawaii	$3.00	$0.25	12.00	$9.25	$111.00
Idaho	$5.00	$0.10	50.00	$7.25	$362.50
Illinois	$5.00	$0.09	55.56	$8.25	$458.33
Indiana	$5.00	$0.12	41.67	$7.25	$302.08
Iowa	$3.00	$0.27	11.11	$7.25	$80.56
Kansas	$2.00	$0.09	22.22	$7.25	$161.11
Kentucky	$3.00	$0.13	23.08	$7.25	$167.31
Louisiana	$3.00	$0.04	75.00	$7.25	$543.75
Maine	$5.00	n/a	n/a	$9.00	n/a
Maryland	$2.00	$0.15	13.33	$8.75	$116.67
Massachusetts	$3.00	$0.14	21.43	$11.00	$235.71
Michigan	$5.00	$0.14	35.71	$8.90	$317.86
Minnesota	$5.00	$0.25	20.00	$9.50	$190.00
Mississippi	$6.00	$0.00	n/a	$7.25	n/a
Missouri	$0.00	$0.05	0.00	$7.70	$0.00
Montana	$0.00	$0.16	0.00	$8.15	$0.00
Nebraska	$0.00	$0.16	0.00	$9.00	$0.00
Nevada	$8.00	n/a	n/a	$7.25	n/a
New Hampshire	$3.00	$0.25	12.00	$7.25	$87.00
New Jersey	$5.00	$0.26	19.23	$8.44	$162.31
New Mexico	$0.00	$0.10	0.00	$7.50	$0.00
New York	$0.00	$0.10	0.00	$9.70	$0.00
North Carolina	$5.00	$0.05	100.00	$7.25	$725.00
North Dakota	$3.00	$0.19	15.79	$7.25	$114.47
Ohio	$2.00	$0.10	20.00	$8.15	$163.00
Oklahoma*	$4.00	$0.05	80.00	$7.25	$580.00
Oregon	$0.00	$0.05	0.00	$9.75	$0.00
Pennsylvania	$5.00	$0.19	26.32	$7.25	$190.79
Rhode Island	$3.00	$0.29	10.34	$9.60	$99.31
South Carolina	$5.00	$0.00	n/a	$7.25	n/a
South Dakota	$2.00	$0.25	8.00	$8.65	$69.20
Tennessee	$3.00	$0.17	17.65	$7.25	$127.94
Texas	$100.00 per year	$0.00	n/a	$7.25	n/a
Utah	$5.00	$0.40	12.50	$7.25	$90.63
Vermont	$0.00	$0.25	0.00	$10.00	$0.00
Virginia	$5.00	$0.27	18.52	$7.25	$134.26
Washington	$4.00	n/a	n/a	$11.00	n/a
West Virginia	$5.00	$0.04	125.00	$8.75	$1,093.75
Wisconsin	$7.50	$0.09	83.33	$7.25	$604.17
Wyoming	$0.00	$0.35	0.00	$7.25	$0.00
Federal	$2.00	$0.12	16.67	$7.25	$120.83
Average*	$3.47	$0.14	25.09	$8.30	$208.25

This table includes co-pay fees for non-emergency, patient-initiated visits with medical staff. The co-pay average excludes Texas, which charges on a yearly basis rather than per-service. For details and sourcing information on co-pays, see the Appendix. For information on wages, see "How much do incarcerated people earn in each state?" State minimum wage information was obtained from the National Conference of State Legislatures. Exceptions: for states with no minimum wage law or minimum wages below the federal law, I used the federal minimum wage. For states with two tiers of minimum wages for free-world workers, I used the higher wages that apply to larger businesses (Minn., Mont., Ohio, and Okla.). For Nevada, I used the lower of the two minimum wage tiers, which applies to jobs with health benefits.

Good day members of the Connecticut Sentencing Commission. My name is Aileen Keays and I am here to speak on behalf of the Connecticut Children with Incarcerated Parents Initiative in support of An Act Concerning the Adoption and Safe Families Act.

In 1997, Congress passed the Adoption and Safe Families Act (ASFA), which mandated states' child welfare agencies to begin termination of parental rights in cases of children who have been in foster care for 15 of the previous 22 months. The intent was to prevent children from being in temporary foster placements for several years and increase adoption outcomes. Exceptions to the mandate to file exist where:

1) at the option of the state, the child is being cared for by a relative,
2) the state finds that termination of parental rights would not be in the best interests of the child, or
3) the state has not provided appropriate services for the safe return of the child to his or her home.

"The legislation also created bonuses for states that facilitate adoptions. Since 1998, the federal government has paid more than $639 million in these rewards"[i].

Despite the stated intent, the law may actually contribute to the permanent severance of parent-child relationships against the best interests of the child.[ii]

With the average length of incarceration in a state facility being 34 months, the provision can be triggered by parental incarceration alone. Even when the parent has an active role in their child's life, incarcerated parents still find their rights being disproportionately terminated. Most shockingly, ***in an analysis of 3 million child-welfare cases from 2006-2016 to identify the ramifications of ASFA on families with an incarcerated parent, mothers and fathers who have a child placed in foster care because they are incarcerated and have not been accused of child abuse, neglect, endangerment, or even drug or alcohol use were more likely to have their rights terminated than parents who physically or sexually abused their children.*** Tens of thousands of children were placed into foster care solely because a parent was incarcerated. For about 5,000 of these children, or 1 in 8, their parent's rights were permanently terminated.

Even when the parent attempts to remain engaged in services designed to support reunification and to demonstrate an existing, active relationship, he/she may not necessarily be able to do so. One of the ways a parent can demonstrate their role in a child's life is by "spending time with their children regularly, showing up for court hearings, taking parenting classes, being employed, having stable housing, and paying child support to reimburse the government for the costs of foster care...all next to impossible from confinement." Corrections departments are not mandated by law to bring incarcerated parents to family

and court hearings. Also, families often do not have finances or transportation to visit the parent regularly or if at all.

Figure 1 (below) notes specific steps other states have taken to prevent the negative ramifications of ASFA.

State	Provision
Arkansas	Reasonable efforts to place a child for adoption or with a legal guardian or permanent custodian may be made concurrently with reasonable efforts to reunite a child with his or her family.[iii]
California	With exceptions, requires child welfare services, which may include reunification services.[iv]
Colorado	An exception to the TPR filing requirement exists when "The child has been in foster care under the responsibility of the county department for such period of time due to circumstances beyond the control of the parent such as incarceration of the parent for a reasonable period of time, court delays or continuances that are not attributable to the parent, or such other reasonable circumstances that the court finds are beyond the control of the parent."[v]
Massachusetts	Community-based sentencing alternatives for primary caretakers of dependent children who have been convicted of non-violent crimes.[vi]
Nebraska	The state shall not petition for TPR if parental incarceration is the sole factual basis.[vii]
New Mexico	The state shall not petition for TPR if parental incarceration is the sole factual basis.[viii]
New York	The state shall not petition for TPR if the sole basis would be that "the parent or parents are incarcerated, or participating in a residential substance abuse treatment program, or the prior incarceration or participation of a parent or parents in a residential substance abuse treatment program is a significant factor in why the child has been in foster care for fifteen of the last twenty-two months."[ix]
Oregon	Family Sentencing Alternative: Divert certain parents of minor children to a sentence under community supervision.[x] Note: An advocate's article notes that "physical custody of the child at the time of the offense," as used in Oregon and Washington, is "an outdated way of determining whether the individual before the court is a 'primary caregiver,' which is also a misleading way of determining the significance of the parent's role in the child's life."[xi] Divert women convicted of certain property crimes to supervision programs and addiction and mental health treatment.[xii]
Tennessee	(*PENDING 2019 ACTION*) Require "court to sentence a person who was convicted of a nonviolent offense and is the primary caretaker of a dependent child to an individually assessed sentence based on community rehabilitation with a focus on parent-child unity and support."[xiii]
Washington	The Children of Incarcerated Parents Bill of 2013[xiv] gives incarcerated parents the right: • "During dependency proceedings to have their service plans reflect the services available at the institution they are confined at, the right to participate in case conference meetings, the right to visitation unless it is not in the best interest of the child. • "To delay the filing of a termination by asking the court to make a "good cause exception" when the parent is maintaining a meaningful role in their child's

	life--via phone calls, letters, attempts to get DSHS to support the parent, and showing barriers they may have received when trying to maintain a meaningful role (e.g. DSHS didn't respond to letters or provide visitation)."[xv]

Connecticut has not adopted specific statutory provisions aimed at preventing unintended, unnecessary application of the ASFA 15/22 mandate. Connecticut's current law reflects ASFA as follows.

> Sec. 17a-111a. Commissioner of Children and Families to file petition to terminate parental rights, when. (a) The Commissioner of Children and Families shall file a petition to terminate parental rights pursuant to section 17a-112 if (1) the child has been in the custody of the commissioner for at least fifteen consecutive months, or at least fifteen months during the twenty-two months, immediately preceding the filing of such petition; (2) the child has been abandoned as defined in subsection (j) of section 17a-112; or (3) a court of competent jurisdiction has found that (A) the parent has killed, through deliberate, nonaccidental act, a sibling of the child or has requested, commanded, importuned, attempted, conspired or solicited to commit the killing of the child or a sibling of the child; or (B) the parent has assaulted the child or a sibling of a child, through deliberate, nonaccidental act, and such assault resulted in serious bodily injury to such child.
>
> (b) Notwithstanding the provisions of subsection (a) of this section, the commissioner is not required to file a petition to terminate parental rights in such cases if the commissioner determines that: (1) The child has been placed under the care of a relative of such child; (2) there is a compelling reason to believe that filing such petition is not in the best interests of the child; or (3) the parent has not been offered the services contained in the permanency plan to reunify the parent with the child or such services were not available, unless a court has determined that efforts to reunify the parent with the child are not required.[xvi]

At the end of last year, the Connecticut Children with Incarcerated Parents Initiative worked with the Connecticut Sentencing Commission's Collateral Consequences Subcommittee comprised of various relative state agencies and programs, and a smaller group which included the Department of Children and Families and Office of the Chief Public Defender, to craft language that would seek to rectify the unintended negative consequences of ASFA for children whose parents are incarcerated. Through deliberation and discussion, the language included in An Act Concerning the Adoption and Safe Families Act was written. Specifically, however in summary, this Act seeks to:

- Require a parent's treatment plan include programs and treatment that are available and accessible to that parent at the correctional facility within which they are confined.
- Provide for visits with the child unless visiting is not in the best interest of the child.
- In cases where a parent has a lengthy sentence and has a meaningful relationship with their child, the court shall consider a permanency plan that does not include

Termination of Parental Rights (TPR). This may include transfer of guardianship or permanent legal guardianship.

- Provide a definition for "compelling reason" to determine that TPR is not in the best interests of the child when the parent is incarcerated. Such reasons include that the parent maintains a meaningful role in the child's life, the parent's incarceration is the primary reason why the child is in foster care, and there is no other ground for filing to terminate.
- Outline the factors that DCF may consider when determining whether a parent has maintained a meaningful role in the child's life while incarcerated. These are: the parent's expressions of concern for their child (attempting to communicate with the child); the parent's attempts to comply with their case plan and repairing, maintaining or building the parent-child relationship; a positive response by the parent to DCF's reasonable efforts; information provided to DCF by others regarding the parent's attempts to maintain a meaningful role; limitations in the parent's access to programs, treatment, communication and participating in meetings due to their incarceration; whether the continued involvement of the parent is in the best interests of the child.
- Allow a parent to participate in permanent placement plan reviews via teleconference or videoconference when they are unable to attend in person.

In short, the CT Children with Incarcerated Parents Initiative strongly supports this legislation as it seeks to protect children from permanently losing their parent when that parent's incarceration is the primary contributing factor to termination. The legislation also protects parents from losing their children when, due to their incarceration, they are unable to participate meaningfully in the reunification plan. Parents should only be held accountable for action, and inaction, that is within their control.

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[i] The Marshall Project, "How Incarcerated Parents are Losing their Children Forever". December 2, 2018. Available online at https://www.themarshallproject.org/2018/12/03/how-incarcerated-parents-are-losing-their-children-forever.

[ii] The Brennan Center for Justice summarized the issue in a 2006 press release available at https://www.brennancenter.org/press-release/national-study-faults-federal-adoption-safe-families-act-consigningchildren-permanent; also see full *Rebuilding Families, Reclaiming Lives* report at https://www.brennancenter.org/publication/rebuilding-families-reclaiming-lives.

[iii] Adoption and Safe Families Act of 1999 (Led to development of: ACA § 9-27-302 / 303 / 325 / 327 / 328 / 329 and ACA § 9-27-332 / 334 / 335 / 337 / 338 / 341/ 343 / 402.), Ann. Code § 9-27-303(48)(D), http://law.justia.com/codes/arkansas/2016/title-9/subtitle-3/chapter-27/subchapter-3/section-9-27-303/.

[iv] See, "Reunification Services" dropdown, http://www.courts.ca.gov/1205.htm. See specific reunification services at § 361.5(a)(1), https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=361.5.&lawCode=WIC.

[v] C.R.S. 19-3-604 Termination of the Parent-Child Legal Relationship, http://web.lexisnexis.com/research/retrieve?_m=45bb9d4c597e35bd2dd9c18717fbcf24&csvc=toc2doc&cform=searchForm&_fmtstr=FULL&docnum=1&_startdoc=1&wchp=dGLzVzB-zSkAz&_md5=b87c49bed8968beb4b4ae3fe8b7f8fac.

[vi] 2017 Primary Caretakers bill, Bill S.770, An Act providing community-based sentencing alternatives for primary caretakers of dependent children who have been convicted of non-violent crimes, https://malegislature.gov/Bills/190/S770.

[vii] Nebraska Revised Statute 43-292.02, http://nebraskalegislature.gov/laws/statutes.php?statute=43-292.02.

[viii] 2006 New Mexico Statutes - Section 32A-4-28 — Termination of parental rights; adoption decree. http://law.justia.com/codes/new-mexico/2006/nmrc/jd_32a-4-28-d539.html.

[ix] New York Social Services Law § 384-b, search under "Laws" at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO.

[x] 2015 Family Sentencing Act, see . Summary information from http://www.justicestrategies.net/coip/blog/2015/09/family-sentencing-alternatives-oregons-new-pilot-program.

[xi] See http://www.publicnewsservice.org/2017-07-12/social-justice/prison-sentencing-reform-among-winners-of-or-legislative-session/a58474-2.

[xii] 2017 Safety and Savings Act, see https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/HB3078. Summary information from http://www.publicnewsservice.org/2017-07-12/social-justice/prison-sentencing-reform-among-winners-of-or-legislative-session/a58474-2.

[xiii] Primary Caretaker Legislation (TN) HB 0825 / SB 0919, see http://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0825.

[xiv] The Children of Incarcerated Parents Bill of 2013, http://app.leg.wa.gov/billsummary?BillNumber=1284&Year=2013.

[xv] "Help Incarcerated Parents in WA Protect Child-Parent Relationships During Dependency Cases," http://www.defensenet.org/ipp/incarcerated-parents-rights.

[xvi] See, https://www.cga.ct.gov/current/pub/chap_319a.htm#sec_17a-111a.