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# What Works Is Work: Welfare Reform and Poverty Reduction

Ron Haskins\*

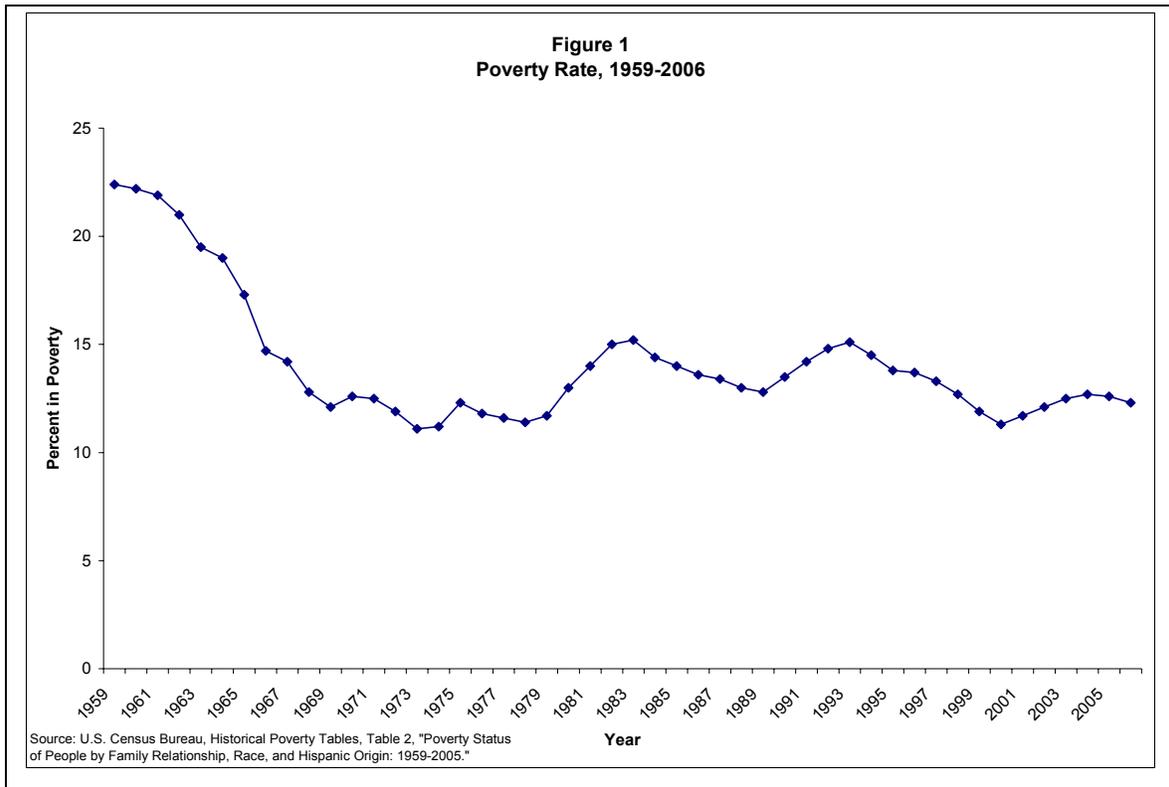
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This is an essay about how the 1996 welfare reform law and other policies contributed to the sharpest decline in child poverty since the early 1970s. The story is told in the context of the nation's long struggle to reduce poverty and the factors that have made it so difficult to make progress against poverty. These factors involve both forces over which individuals have little or no control and factors over which they have almost complete control. To a large extent, the achievement of welfare reform was to use both positive and negative incentives—carrots and sticks. The sticks encourage, cajole, or force able-bodied mothers to exploit the factors over which they have control and enter the labor force. The carrots reinforce their initiative with government-provided benefits that support poor and low-income workers. I argue that this combination of carrots and sticks is the most successful strategy for reducing child poverty that the government has yet devised. The strategy enjoys solid support from taxpayers, which suggests that innovative expansions that further increase personal responsibility, increase income, and reduce poverty would receive public support. Unfortunately, there are clear downsides to the new policies, raising the issue of whether creating outcomes that include increased work, increased income, and reduced poverty for many offset the decline into deep poverty of a few.

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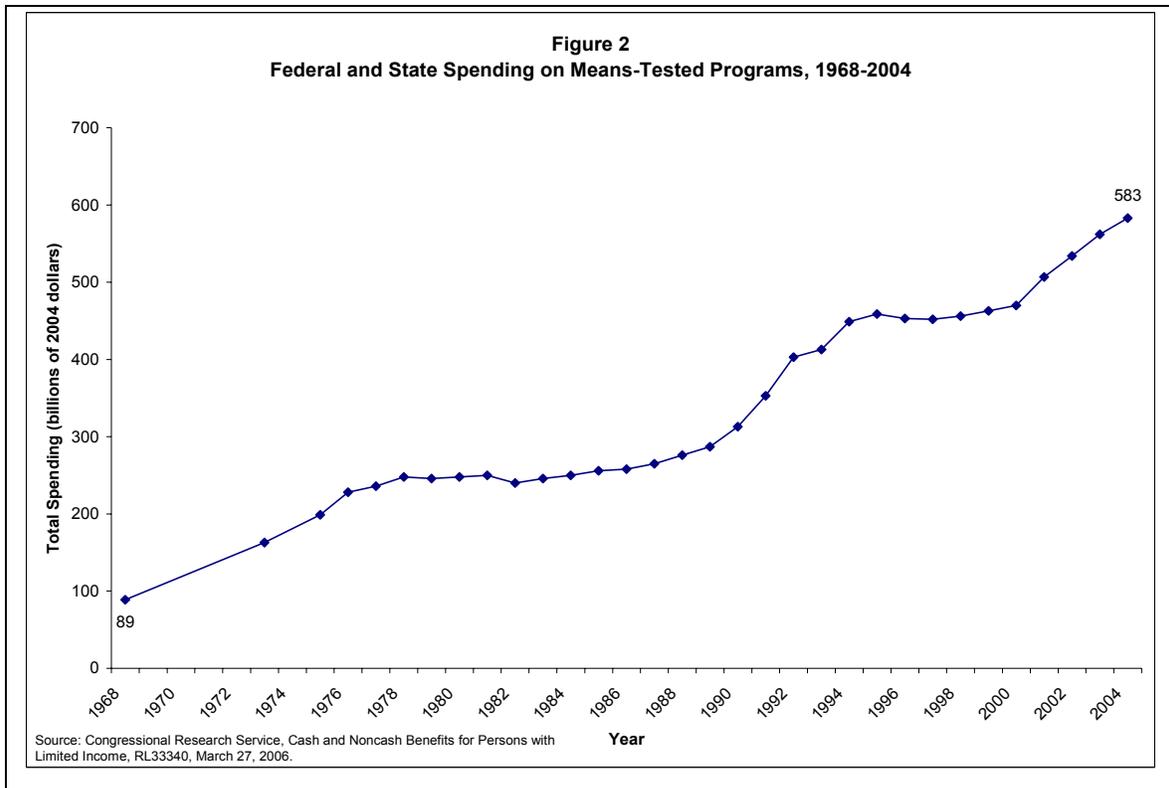
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## I. INTRODUCTION



Consider the surprising lack of progress against poverty in the last half-century or so.<sup>1</sup> Figure 1 shows that poverty fell precipitously during the 1960s, rose slightly for a few years, and then fell to its lowest level ever, a little over eleven percent, in 1973 and 1974. Over the next three decades and more, poverty moved up and down in rough correlation with the economy, but never again approached the low achieved in the mid-1970s.

<sup>1</sup> The official poverty measure in the United States suffers from numerous flaws. It is based on the cost of food in the 1950s and is adjusted only for family size and inflation. Flaws include the failure to consider regional differences or rural/urban differences in the cost of living, the failure to include many types of income from government benefits, and the failure to consider work-related costs such as child care and transportation. The National Academies, based on the work of an expert task force, published a thorough review of these and other problems and issued specific recommendations for revising the poverty measure. See NATIONAL RESEARCH COUNCIL, MEASURING POVERTY: A NEW APPROACH 25–69 (Robert T. Michael & Constance F. Citro eds., 1995). Although there has been abundant discussion in Washington, D.C. of changing the official poverty measure, so far it has not been changed. The level of poverty in any given year may be misleading because the official definition is flawed, but poverty trends (like those discussed here) are more or less unaffected because a common definition has been followed over the years. For the official definition of poverty and several other possible definitions, see generally *id.* See also Rebecca Blank, *Presidential Address: How to Improve Poverty Measurement in the United States*, 27 J. POL'Y ANALYSIS & MGMT. 233, 233–54 (2008); U.S. Census Bureau, *How the Census Bureau Measures Poverty*, <http://www.census.gov/hhes/www/poverty/povdef.html> (last visited Feb. 22, 2009).

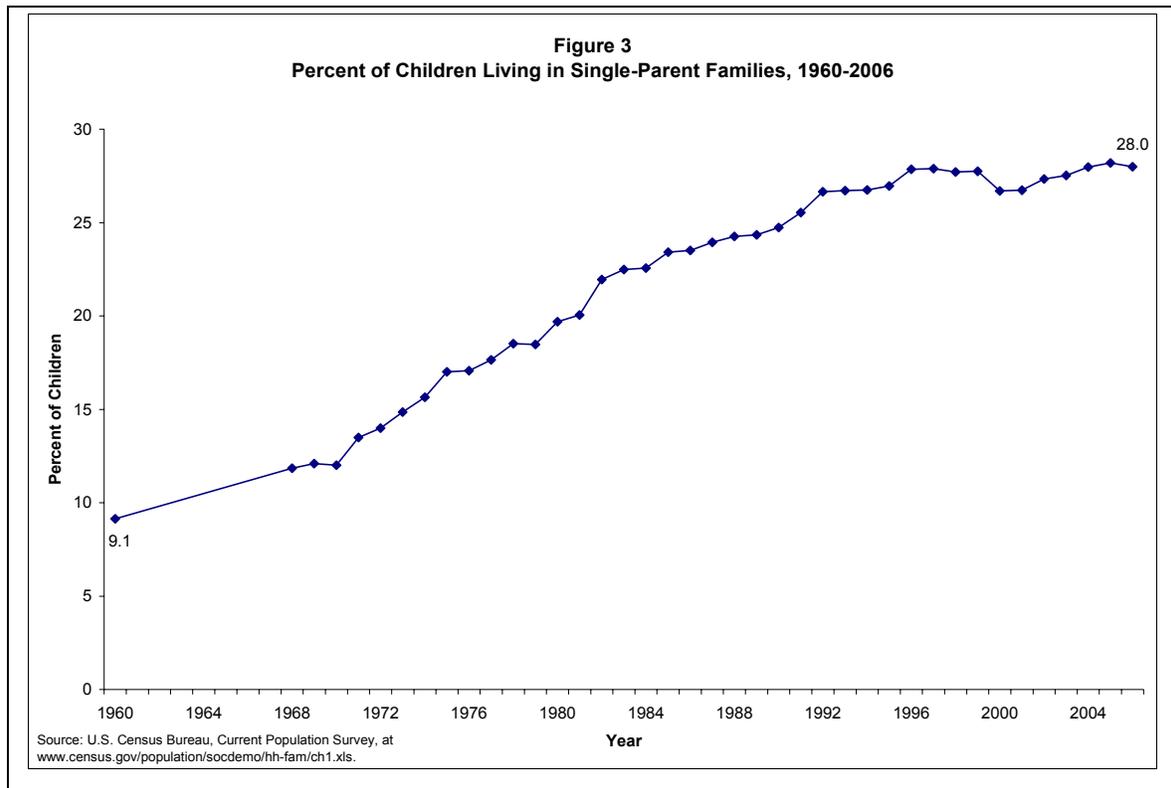


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This lack of progress is especially surprising in view of the tsunami of government means-tested programs and the blizzard of spending on these programs (Figure 2). As the breadth of these programs expanded—eventually to include cash, medical, nutrition, housing, social services, and other categories of programs—and spending grew as measured in constant dollars, as a percentage of all federal spending, and as a percentage of Gross Domestic Product (GDP), the nation made no progress against poverty.<sup>2</sup> If anything, there was a slight increase in poverty between the early 1970s and 2006. Why?

<sup>2</sup> Since 1968, federal spending on means-tested programs has increased from 6% to nearly 19% of total federal outlays and from less than 1.2% to nearly 3.6% of GDP. Author's calculations based on VEE BURKE, CONG. RESEARCH SERV., CASH AND NONCASH BENEFITS FOR PERSONS WITH LIMITED INCOME: ELIGIBILITY RULES, RECIPIENT AND EXPENDITURE DATA, FY2002-FY2004 (2006).

## A. Changing Family Composition



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It is by now old news that the American family has undergone profound changes in recent decades. Marriage rates fell while divorce rates increased to a high level in the early 1980s and have remained high since.<sup>3</sup> Non-marital birth rates continue to grow beyond all previous experience as cohabitation continues to increase.<sup>4</sup> The upshot is that at any given moment nearly thirty percent of American children live in a single-parent family, and over the course of their childhood far more spend some time in a single-parent family (Figure 3).<sup>5</sup> These discouraging figures are even worse in the case of minorities, especially black Americans. About seventy percent of black children are born into a single-parent family<sup>6</sup> and around half of the rest experience a divorce.<sup>7</sup> Thus, approximately eighty percent of black children spend at least part of their childhood living outside the context of a married-couple family.<sup>8</sup>

<sup>3</sup> See David Elwood & Christopher Jenks, *The Spread of Single-Parent Families in the United States Since 1960*, in *THE FUTURE OF THE FAMILY* 25, 30 (Daniel P. Moynihan, Timothy M. Smeeding & Lee Rainwater eds., 2006).

<sup>4</sup> *Id.* at 33–35.

<sup>5</sup> U.S. CENSUS BUREAU, *Living Arrangements of Children Under 18 Years Old: 1960 to Present*, in *CURRENT POPULATION SURVEY TABLE CH-1* (2008), available at <http://www.census.gov/population/socdemo/hh-fam/ch1.xls>.

<sup>6</sup> NAT'L CTR. FOR HEALTH STATISTICS, U.S. DEP'T OF HEALTH AND HUMAN SERV., *BIRTHS: FINAL DATA FOR 2004*, 61 tbl. 20, available at [http://www.cdc.gov/nchs/data/nvsr/nvsr55/nvsr55\\_01.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr55/nvsr55_01.pdf).

<sup>7</sup> See U.S. CENSUS BUREAU, *Survey of Income and Program Participation, Table 3: Marital History for People 15 Years and Over, by Age and Sex, for Black Alone: 2004*, available at <http://www.census.gov/population/socdemo/marital-hist/2004/tab3-blackalone.xls>.

<sup>8</sup> If around seventy percent of black children are born outside marriage and about half of the remainder

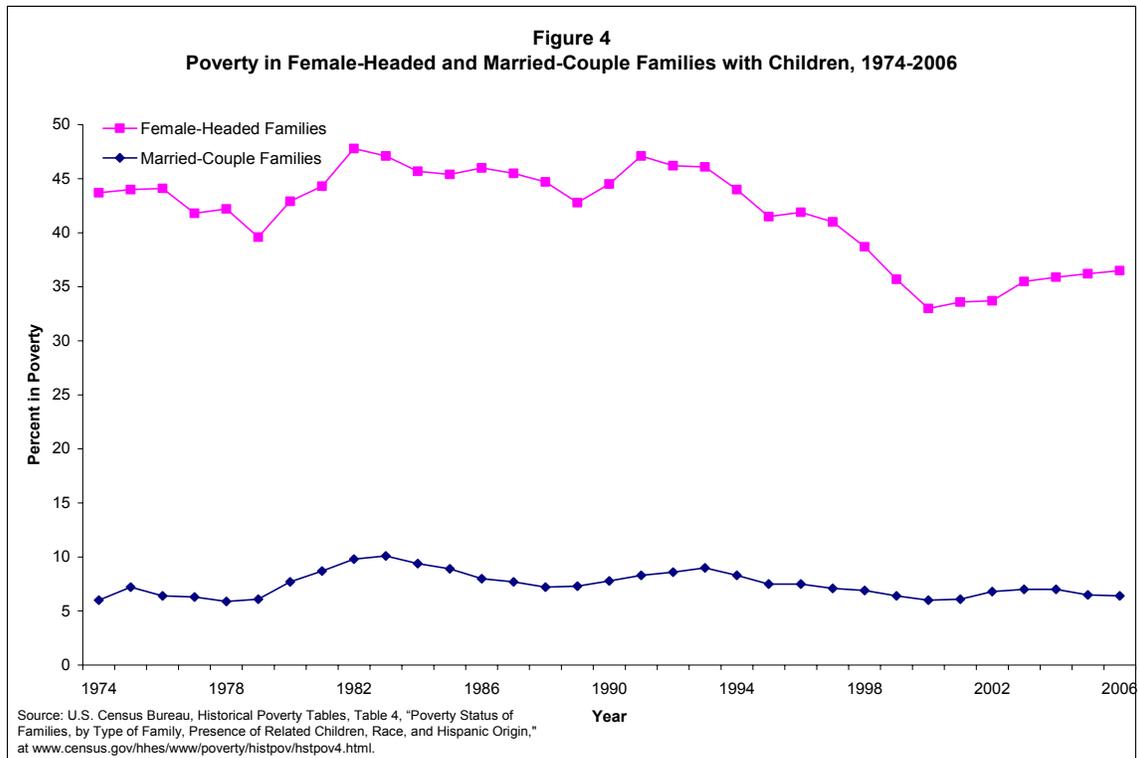


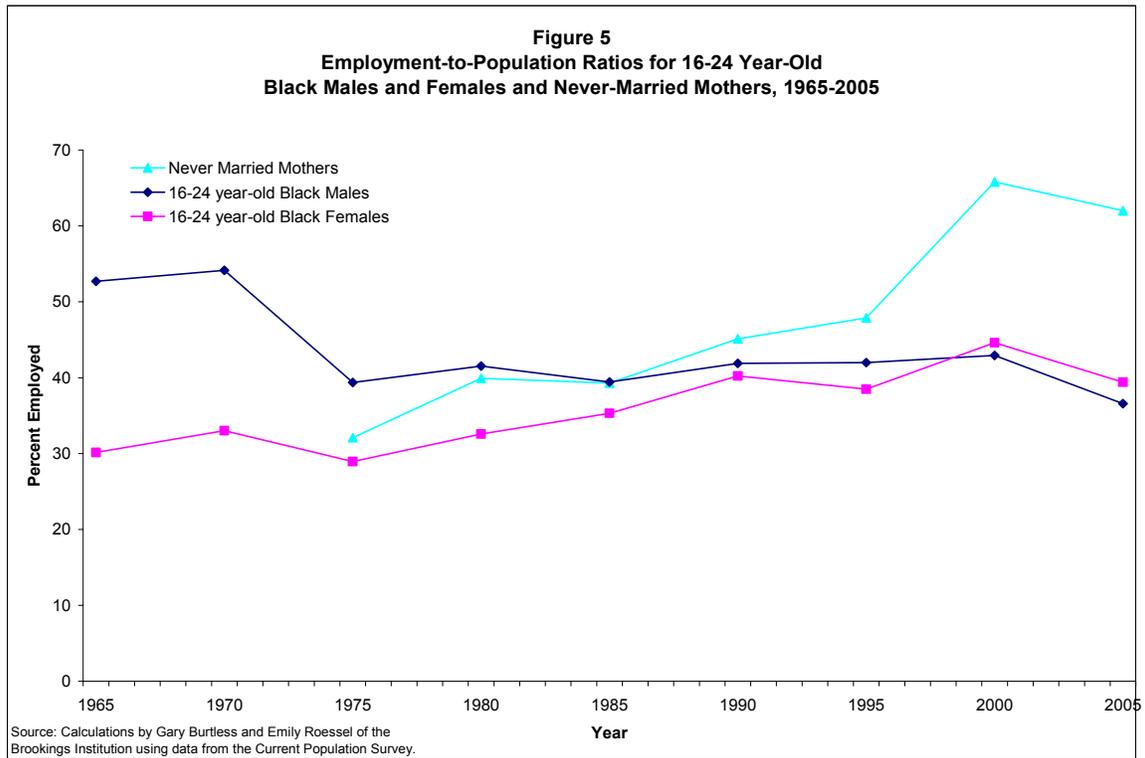
Figure 4 shows one reason why scholars and policymakers should be concerned about the growing number of children in single-parent families. In most years, poverty rates are four or five times as high in female-headed families as in married-couple families. It follows that as the fraction of children living in female-headed families rises (see Figure 3), all else being equal, so does the poverty rate for children. Given the disparity in poverty rates between these family types, it is little wonder that research suggests that an increase of children in married-coupled families would produce a fall in the poverty rate.<sup>9</sup> In addition, there could well be a long-term impact on poverty because children reared by their married parents do better in school, are less likely to have mental health problems, are less likely to be arrested, and are more likely to go to college than children reared by single parents.<sup>10</sup> In any case, until the rate of children living with their married parents increases, the high and still increasing share of children living with single parents will continue to push the poverty rate upwards.

experience a divorce, it would at first seem to follow that about eighty-five percent of black children spend some time in a single-parent family. However, around half of the children born outside marriage are born to couples that cohabit and some of these couples stay together and eventually marry.

<sup>9</sup> See Robert I. Lerman, *The Impact of the Changing US Family Structure on Child Poverty and Income Inequality*, 63 *ECONOMICA* S119, S127–37 (1996); Adam Thomas & Isabel Sawhill, *For Richer or for Poorer: Marriage as an Antipoverty Strategy*, 21 *J. POL'Y ANALYSIS & MGMT.* 587, 594–97 (2002).

<sup>10</sup> See generally Sara McLanahan, Elisabeth Donahue & Ron Haskins, *Introducing the Issue*, *FUTURE OF CHILD.*, Fall 2005, at 3, 10, available at [http://www.futureofchildren.org/usr\\_doc/01\\_foc\\_15-2\\_fall05\\_intro.pdf](http://www.futureofchildren.org/usr_doc/01_foc_15-2_fall05_intro.pdf) (arguing that marriage is “the most effective family structure in which to raise children”).

*B. Changes in Work and Wages*



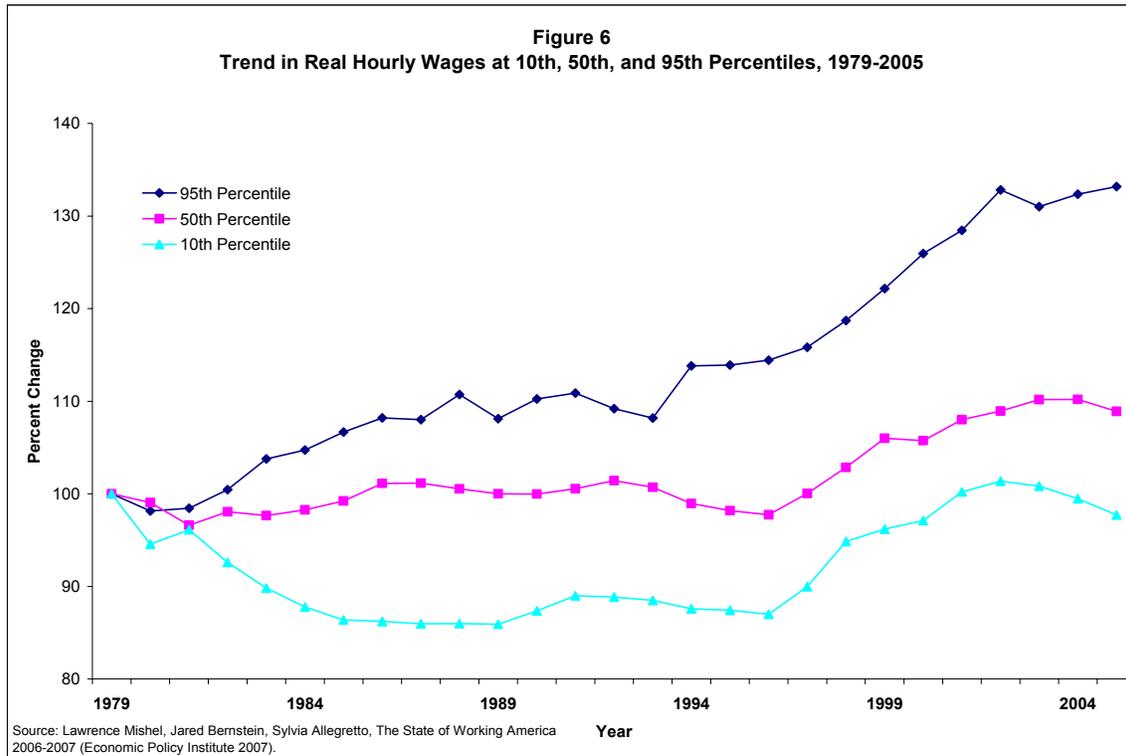
¶6 Work rates for males have declined in recent years in several nations with advanced economies.<sup>11</sup> This decline has been especially acute in the United States among young black males. Figure 5 shows labor force participation rates for young black males, black females, and never-married mothers of all races (but disproportionately black). Black male work rates started at the remarkably low level of slightly over fifty percent in the mid-1960s, declined precipitously in the early and mid-1970s, held steady until the early 2000s, and then fell again, ending the period with a work rate that had declined by nearly one-third since the mid-1960s.

¶7 There may well be a connection between the precipitous fall in male work rates, especially for young minority males, and the falling rate of marriage for young blacks. There is considerable evidence that a major qualification that females look for in a mate is employment and earnings. Poor women may be willing to cohabit with their boyfriends and even to have babies with them without any intention of marrying them because, among other factors, they are unemployed or work only sporadically.<sup>12</sup> Nonworking males contribute to child poverty by having babies outside marriage, by not

<sup>11</sup> ORG. FOR ECON. CO-OPERATION & DEV., EMPLOYMENT OUTLOOK: BOOSTING JOBS AND INCOMES 267 (2006), available at <http://www.oecd.org/dataoecd/53/15/36900060.pdf>.

<sup>12</sup> Based on interviews with 162 inner-city black, white, and Puerto Rican mothers, Edin and Kefalas emphasize the importance of economic factors in the mothers' thinking about males they would agree to marry. KATHY EDIN & MARIA KEFALAS, PROMISES I CAN KEEP: WHY POOR WOMEN PUT MOTHERHOOD BEFORE MARRIAGE 71-80, 201-04 (2005).

forming married-parent families, and by failing to provide support for their children when they live apart.



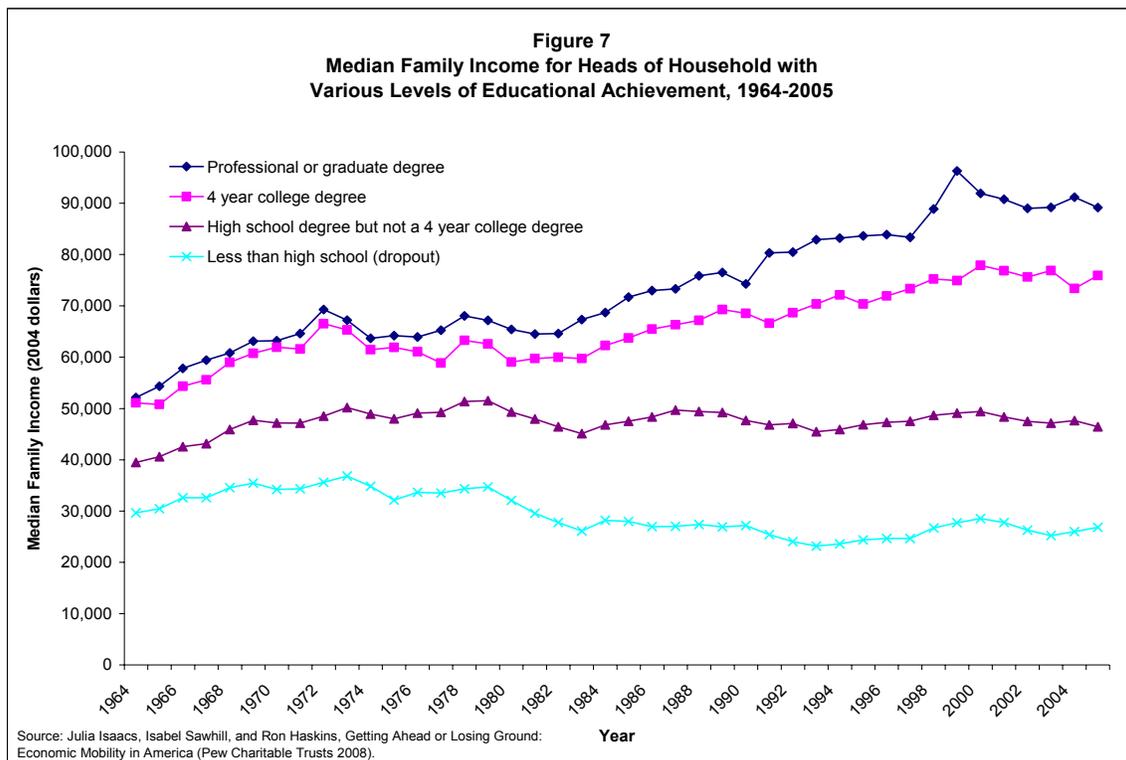
18 Nonwork is certainly an important reason for the lack of progress against poverty, but another part of the story involves problems with the low-wage labor market. Despite increases in the share of males and females of all ethnic groups completing high school since the 1960s, lack of education and skills at the bottom of the income distribution is still an important problem. Jobs that pay good wages usually require skills and experience, often based in part on education and training. But many young people—again especially black males—drop out of high school. Many more of all ethnic groups go no further than high school.<sup>13</sup> Furthermore, international trade, growing sophistication of business technologies, immigration of low-skilled workers, and the availability of cheap labor abroad have conspired to make wages more or less stagnant at the bottom of the U.S. wage distribution.

19 Figure 6 shows the trends in wages at the tenth, fiftieth, and ninety-fifth percentiles of the wage distribution from 1979 to 2005. To more clearly depict these trends, wages are expressed in proportion to wages in 1979. The story portrayed in Figure 6 is quickly told: wages at the bottom, after falling and then rising, are only a little above where they were nearly three decades ago; wages in the middle have increased somewhat (around 0.3% per year); and wages at the top have increased by nearly 40%. During this period, the American economy was the envy of the world because it generated so many jobs,

<sup>13</sup> For an excellent overview of trends in both high school and college graduation rates, see generally CLAUDE S. FISCHER & MICHAEL HOUT, *CENTURY OF DIFFERENCE: HOW AMERICA CHANGED IN THE LAST ONE HUNDRED YEARS* (2006).

grew by nearly three percent per year on average, and greatly increased the average wealth of most Americans.<sup>14</sup> Yet wages at the bottom have hardly improved. The only time the bottom of the wage distribution rose was during the tight labor market of the second half of the 1990s. But in most years for the past quarter century, wages at the bottom fell or were stagnant. If the American economy provided steady increases in wages at the bottom, workers receiving those wages would have a better chance to rise above poverty. But unfortunately, the job market at the bottom turns out to be another force pushing poverty up.

### C. Stagnant Levels of Education



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The American economy rewards those with more education, and the rewards have been growing in recent decades. Figure 7 portrays the differences in returns on schooling for those who have achieved various levels of educational credentials. Three points are apparent. First, there has consistently been a major difference in the income between those with higher and lower educational credentials. Second, this difference has been increasing for more than three decades. By 2005, there were major and increasing differences in income between those with professional or graduate degrees and those who

<sup>14</sup> See Ron Haskins, *Wealth and Economic Mobility*, in *GETTING AHEAD OR LOSING GROUND: ECONOMIC MOBILITY IN AMERICA* 47, 48 (Julia B. Isaacs, Isabel V. Sawhill & Ron Haskins, eds, 2008), available at [http://www.economicmobility.org/assets/pdfs/Economic\\_Mobility\\_in\\_America\\_Full.pdf](http://www.economicmobility.org/assets/pdfs/Economic_Mobility_in_America_Full.pdf); see also ROBERT I. LERMAN, *THE URBAN INST., HAVE MIDDLE INCOME PARENTS IMPROVED THEIR ECONOMIC STATUS?* (2007), available at <http://www.urban.org/publications/311424.html> (finding that all middle-income parents saw an increase in income, but only married parents had an increase in net worth).

held bachelors degrees. Those with bachelors degrees did much better than those with high school degrees, and those with high school degrees did better than dropouts. Third, the returns on achieving either a BA or a professional or graduate degree have been increasing for thirty years, while the returns on a high school degree or no degree have been declining or flat. In large part because of the wage story, high school dropouts now, and in the future, will have trouble rising above poverty, as will many with only high school diplomas.

¶11 Although people of both genders and all ethnic groups dramatically increased their levels of educational attainment over the course of the twentieth century, the rate of increase of high school completion has slowed considerably.<sup>15</sup> Equally important, children's learning of basic skills has been virtually flat over the past quarter century in both reading and math.<sup>16</sup> Further, at least forty percent of Americans receive no education beyond high school, and the rate of college completion is strikingly lower among minorities and children from low-income families.<sup>17</sup> Education levels and educational achievement, especially for those in the bottom half of the distribution, are stagnant, thereby contributing to the difficulty of reducing poverty.

#### D. Immigration

¶12 Another factor that puts upward pressure on U.S. poverty rates is immigration. Each year around 1.5 million immigrants enter the United States, about one-third of them illegally.<sup>18</sup> Recent immigrants to the United States fall into a bi-modal distribution. Many are highly educated and tend to do well in the U.S. labor market by getting good jobs with high wages. By contrast, many immigrants are high school dropouts and have only their labor to contribute to the American economy.<sup>19</sup> The poverty rate among immigrants is 15.2%, nearly 30% above that of non-immigrants.<sup>20</sup> If the immigrant poverty rate is higher than the rate for non-immigrants, it is a mathematical certainty that immigrants increase the overall poverty rate. A reasonable estimate is that in 2005, immigrants increased the poverty rate by about one percentage point.<sup>21</sup> Further, immigrant children make up about twenty-two percent of U.S. children, because many

<sup>15</sup> CLAUDE S. FISCHER & MICHAEL HOUT, *CENTURY OF DIFFERENCE: HOW AMERICA CHANGED IN THE LAST ONE HUNDRED YEARS* 12–18 (2006).

<sup>16</sup> See National Center for Educational Statistics, U.S. Department of Education, Tables and Figures, <http://nces.ed.gov/quicktables/index.asp> (last visited Feb. 22, 2009).

<sup>17</sup> *Id.*

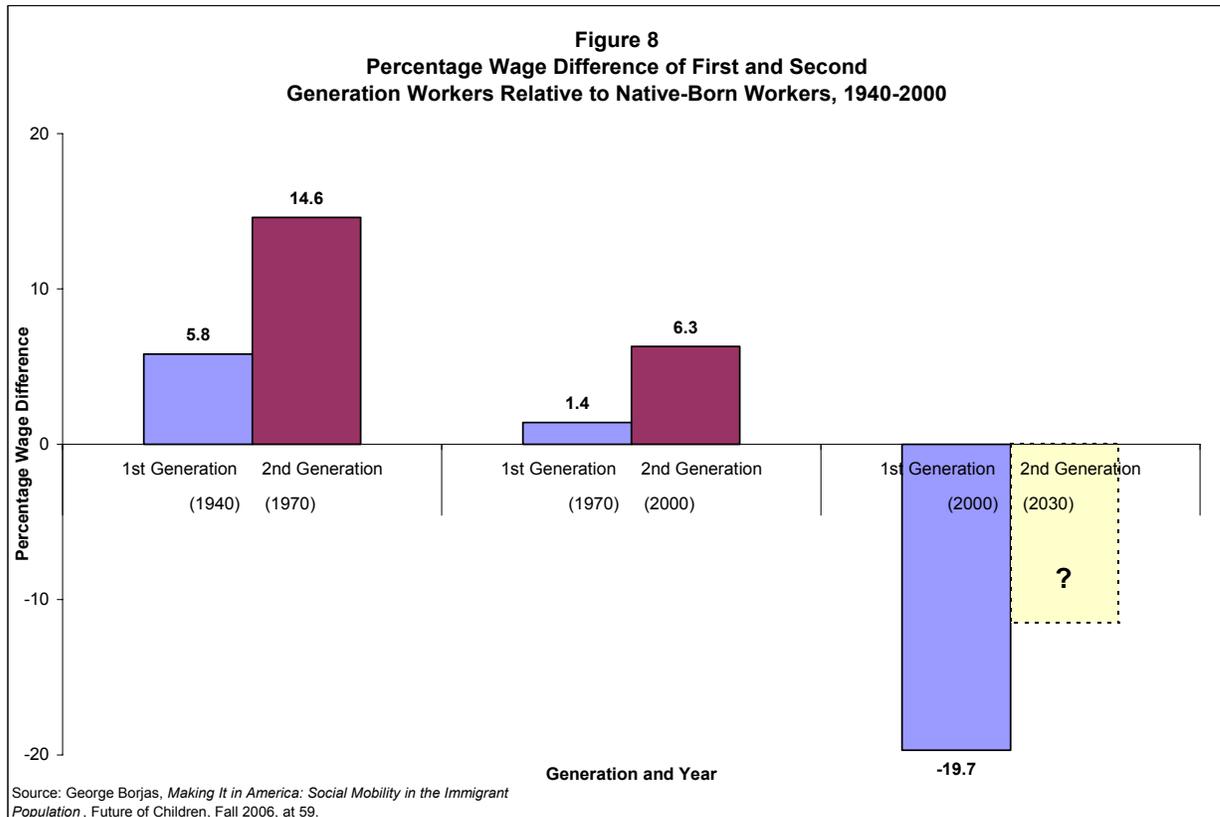
<sup>18</sup> For an overview of the trends in immigration to the United States between 1960 and 2005, see Philip Martin & Elizabeth Midgley, *Immigration: Shaping and Reshaping America*, POPULATION BULLETIN, Dec. 2006, at 1, 5, available at <http://www.prb.org/pdf06/61.4USMigration.pdf>. For information about illegal immigration, see JEFFREY S. PASSEL, *THE SIZE AND CHARACTERISTICS OF THE UNAUTHORIZED MIGRANT POPULATION IN THE U.S.: ESTIMATES BASED ON THE MARCH 2005 CURRENT POPULATION SURVEY* (2006).

<sup>19</sup> Ron Haskins, *Immigration: Wages, Education, and Mobility* in GETTING AHEAD OR LOSING GROUND: ECONOMIC MOBILITY IN AMERICA 81, 82 (Julia B. Isaacs, Isabel V. Sawhill & Ron Haskins, eds., 2008), available at [http://www.economicmobility.org/assets/pdfs/EMP\\_Immigrants\\_ChapterVII.pdf](http://www.economicmobility.org/assets/pdfs/EMP_Immigrants_ChapterVII.pdf) [hereinafter Haskins, *Immigration: Wages, Education, and Mobility*].

<sup>20</sup> U.S. CENSUS BUREAU, *People in Poverty by Nativity: 1993 to 2006*, in CURRENT POPULATION SURVEY HISTORICAL POVERTY TABLES: TABLE 23 (2008), available at <http://www.census.gov/hhes/www/poverty/histpov/hstpov23.xls>.

<sup>21</sup> Author's calculations based on *id.*

immigrants are in their prime child-bearing years.<sup>22</sup> Thus, the impact of immigrants on the child poverty rate is somewhat greater than their impact on the overall poverty rate.



¶13

A major reason for excess poverty among immigrants is that they command low wages relative to American workers (Figure 8). Comparing the age-adjusted wages of first-generation immigrants with the wages of non-immigrants in 1940, 1970, and 2000, George Borjas of Harvard showed a substantial decline of immigrant wages, from 5.8% above average non-immigrant wages in 1940, falling to only 1.4% above in 1970, and then falling still further to 19.7% below the average wages of native-born citizens in 2000.<sup>23</sup> The reason for this decline in relative wages of immigrants is that rapidly increasing shares of immigrants come from poor countries, such as Mexico, and have relatively low levels of education.<sup>24</sup> Nor is the problem of low relative wages confined to the first generation. If immigrants from a given region, such as Latin America, have

<sup>22</sup> RANDY CAPPS, MICHAEL FIX, JASON OST, JANE REARDON-ANDERSON & JEFFREY S. PASSEL, THE URBAN INST., THE HEALTH AND WELL-BEING OF YOUNG CHILDREN OF IMMIGRANTS 5 (2004).

<sup>23</sup> George J. Borjas, *Making It in America: Social Mobility in the Immigrant Population*, FUTURE OF CHILD., Fall 2006, at 55, 59, available at [http://www.futureofchildren.org/usr\\_doc/04\\_5563\\_borjas.pdf](http://www.futureofchildren.org/usr_doc/04_5563_borjas.pdf); see also Haskins, *Immigration: Wages, Education, and Mobility*, supra note 19, at 81 (reviewing the labor market experiences of immigrants over the last several decades and showing that the average education and wages of each new generation have been falling and that these relatively low wages persist into the second generation).

<sup>24</sup> See generally Mark R. Rosenzweig, *Global Wage Differences and International Student Flows*, in BROOKINGS TRADE FORUM 57 (Susan M. Collins & Carol Graham, eds., 2006) (examining educational levels of foreign-born students in the United States).

relative wages below average, their children will have higher relative wages because they will move closer to the mean of non-immigrant wages. Even so, as can be seen by in Figure 8, second generation immigrant relative wages fell from 14.6% above the non-immigrant average in 1970 to only 6.3% above average in 2000. If this pattern of declining relative wages continues into the future, the 2000 cohort of children immigrants will have wages that are below those of non-immigrant workers when they reach their prime earning years in the 2030s. Declining relative wages in both the first and second generation promise to continue the current trend of immigrants putting upward pressure on the U.S. poverty rate.

### *E. Summary*

¶14 The deck is stacked against scholars, administrators, and policymakers who want to figure out ways to reduce poverty in America—not to mention families that want to escape from or avoid poverty. An increasing share of children live in the family type that has the highest poverty rate, males have trended toward non-work, wages at the bottom of the distribution have been stagnant, too many young people drop out of school and fail to achieve strong math and literacy skills, and millions of low-skilled immigrants have placed downward pressure on wages at the bottom of the wage distribution, especially in some regions of the country. But nevermind the stacked deck. Policymakers, with help from scholars, have figured out a strategy for increasing income and reducing poverty among the most poverty-ridden group in our society—single females with children.

## II. A SUCCESSFUL PLAN TO REDUCE POVERTY

### *A. Background of the 1996 Reforms*

¶15 A key part of this anti-poverty strategy is the 1996 welfare reform law and, in particular, its work requirements. The context of the 1996 law was the failure of the strategy of simply giving money and in-kind benefits to the poor to reduce poverty. President Johnson, who declared the War on Poverty in 1964, said that his strategy was to provide “a hand up, not a hand out.”<sup>25</sup> Even so, research by David Ellwood and Mary Jo Bane at Harvard in the mid-1980s showed that the strategy of unencumbered giving led to many very long stays on the nation’s major cash welfare program, Aid to Families with Dependent Children (AFDC). Of the families on the rolls at any given moment, sixty-five percent would eventually be on cash welfare for eight years or more (counting repeat spells).<sup>26</sup>

¶16 As Congress began to wake up to the problem of welfare dependency, at least five streams merged to create a mighty river for reform.<sup>27</sup> The first was that the public did not like the federal strategy of supporting people on welfare for extended periods. The public wanted able-bodied people on welfare to work and leave welfare.<sup>28</sup> Although usually dormant as a political force, this preference of the public for work over welfare could be

<sup>25</sup> MICHAEL L. GILLETTE, *LAUNCHING THE WAR ON POVERTY: AN ORAL HISTORY*, at xiv–xv (1996).

<sup>26</sup> Mary Jo Bane & David T. Ellwood, *Slipping into and out of Poverty: The Dynamics of Spells*, 21 J. HUM. RESOURCES 1, 12, 18, 21 (1986).

<sup>27</sup> This account of the 1996 welfare reform legislation is based on RON HASKINS, *WORK OVER WELFARE: THE INSIDE STORY OF THE 1996 WELFARE REFORM LAW* (2006) [hereinafter HASKINS, *WORK OVER WELFARE*].

<sup>28</sup> R. KENT WEAVER, *ENDING WELFARE AS WE KNOW IT* 169–95 (2000).

ignited by any major public figure who decided to make welfare an issue, as Republicans often did approximately at election time. Second, the welfare reform legislation that was enacted with much fanfare in 1988, which mostly broadened benefits and included something like work suggestions rather than work requirements, was followed by a rapid increase in the welfare rolls.<sup>29</sup> Third, governors began experimenting with programs to encourage and cajole welfare recipients into work, primarily by teaching them how to look for work and then helping them plan for and participate in job interviews, a strategy widely referred to as “job search.” In large and well-conducted demonstration programs that included random-assignment evaluation designs, many of these programs were shown to increase work, reduce welfare spending, and, in some cases, save government money.<sup>30</sup> The upshot was that many governors jumped on the welfare reform bandwagon and began to agitate in Washington for more flexibility in running their welfare programs. A fourth important factor was that Bill Clinton won the Democratic nomination for President in part by campaigning on “ending welfare as we know it.” Such a political slogan had never previously been heard from a Democrat. Once elected, Clinton appointed a task force to write his welfare reform bill. After about a year of deliberation, Clinton’s task force produced a bill, but then the President encountered resistance from Democrats in Congress who were not willing to support the strong work requirements Clinton wanted. So Clinton and the Democratic Congress agreed to delay action until after the congressional elections of 1994.<sup>31</sup>

¶17 Bad mistake. For just when the Clinton effort to reform welfare appeared to be on life support, Republicans won both houses of Congress in the 1994 elections, considerably reducing Clinton’s ability to control congressional action on welfare reform. Now the fifth factor that produced the 1996 reforms was in place. House Republicans had been intent on reforming welfare for several years and had run their congressional elections on a platform that included a radical welfare reform proposal, developed by a small group of House Republicans appointed by the Republican leadership, that went beyond anything even Clinton had contemplated.<sup>32</sup> In retrospect, it seems fair to conclude that Clinton started a welfare reform movement that eventually exploded out of his control. In any case, Republicans passed their bill twice in 1995. Clinton vetoed both because they were too radical.<sup>33</sup> But Republicans passed a somewhat modified bill in 1996 and, with the presidential election approaching, half the Democrats in the House and Senate supported the Republican bill and Clinton signed it into law.<sup>34</sup>

<sup>29</sup> HASKINS, *WORK OVER WELFARE*, *supra* note 27, at 11–19.

<sup>30</sup> See generally JUDITH M. GUERON & EDWARD PAULY, *FROM WELFARE TO WORK* (1991) (synthesizing welfare reform experiments that took place in the states in the 1970s and 1980s before Congress enacted the sweeping Welfare Reform Law of 1996 and showing, based on rigorous evaluations of programs in twenty-one states involving over 65,000 people, that the reform programs increased the earnings of poor families and saved money).

<sup>31</sup> HASKINS, *WORK OVER WELFARE*, *supra* note 27, at 81.

<sup>32</sup> For details on the development of this bill, see *id.* at 20–83.

<sup>33</sup> Although opinions might differ, the bill President Clinton signed in August of 1996 was not very different from the two bills he vetoed. All of the main features of the original bills were in the signed bill, including the Temporary Assistance for Needy Families block grant, the child care block grant, the mandatory work requirements, the five-year time limit, the restrictions on welfare benefits for noncitizens, the reductions in food stamp benefits, and many others. Perhaps the major change in the bill President Clinton signed was that the reduction in the Earned Income Tax Credit was changed and only provisions approved by the Clinton Administration were included in the signed bill. See *id.* at 314–31, 364–76.

<sup>34</sup> *Id.* at 314–31.

*B. Provisions of the 1996 Law*

¶18 The 1996 welfare reform law was the most sweeping social legislation since the enactment of Medicaid and Medicare in 1965. The law deeply reformed child care, Supplemental Security Income for both children and for drug addicts, child support enforcement, and welfare for noncitizens.<sup>35</sup> Any of these individual sets of reforms would have constituted major changes in the nation's social programs, but taken together they made the 1996 law a blockbuster almost without precedent. But the reform that commanded the most attention from scholars, reporters, and politicians was the repeal of AFDC—a major New Deal program—and its replacement by the Temporary Assistance for Needy Families (TANF) program.

¶19 The heart of the TANF reforms can be captured in five major provisions.<sup>36</sup> The first was the end of entitlement. The AFDC program provided a guaranteed cash benefit to anyone who met the qualifications, roughly meaning anyone who had a child and no job. This legal right to cash welfare was repealed, leaving the way open for states to make welfare benefits contingent on specific actions that could lead to employment. Equally important was the symbolic value of the end of entitlement. Parents no longer had a right to welfare; they had to earn it, primarily by working or preparing for work.

¶20 The second major feature of the new law was the creation of a cash welfare block grant.<sup>37</sup> Under AFDC, states provided benefits to qualified individuals and the federal government paid half or more of the benefit. Thus, federal payments to states were dependent on the size of the caseload—the higher the caseload, the more federal dollars were given to the state. States that established programs to help welfare recipients work and then leave the rolls lost federal dollars; states that expanded their caseloads received more federal dollars. By contrast, under the block grant, states received a flat sum of federal dollars (roughly equal to the amount they received in 1994 or 1995, whichever was greater) no matter how many people were on the rolls, thereby giving them incentive to develop programs to help recipients leave the rolls.

¶21 The third major feature of the new law was that states had to enroll half (after a five-year phase-in) of their caseload in work programs, with the proviso that for every percentage point by which they reduced their caseload relative to the size of their 1994 caseload, their fifty percent work requirement would be reduced by one percentage point.<sup>38</sup> The purpose of the work requirement was not only to ensure that individual welfare recipients would have help finding work, but also to make sure that states substantially revised their welfare programs so that the programs featured strong components that helped and hassled most adults on the caseload to enter the workforce. The aim was to change what might be considered the “culture of welfare” from a

<sup>35</sup> For details, see *id.* at 364–76; WEAVER, *supra* note 28, at 316–41.

<sup>36</sup> The statutory provisions of TANF are found in Part A of Title IV of the Social Security Act, 42 U.S.C. §§ 601–608 (1997). The five provisions discussed in this section are found within Part A of Title IV as follows: end of entitlement, § 601(b); block grant, § 603; work requirements, § 607; sanctions, § 607(e); time limit, § 608(a)(7). These and the other provisions of the welfare reform legislation are outlined in HASKINS, *WORK OVER WELFARE*, *supra* note 27, at 364–76; see also STAFF OF H. COMM. ON WAYS AND MEANS, 104TH CONG., *SUMMARY OF WELFARE REFORMS MADE BY PUBLIC LAW 104-193* (Comm. Print 1996) [hereinafter *SUMMARY OF WELFARE REFORMS*].

<sup>37</sup> 42 U.S.C. § 603.

<sup>38</sup> For example, if a state reduced its caseload twenty percent below the 1995 level, the work requirement would be fifty percent minus twenty percent, or thirty percent. See 42 U.S.C. § 607(b)(3).

program that primarily cut checks and ignored personal responsibility to a program that tried to help people get back on their feet and achieve self-sufficiency through work.<sup>39</sup>

¶22 The fourth major tenet of the 1996 law required states to back up their work requirements with a state-devised system for imposing sanctions on recipients who did not meet the state work requirements.<sup>40</sup> Under this provision, every state had to reduce recipient cash benefits if the recipient did not prepare for work, search for work, or actually work for a minimum number of hours. Although states were not required to completely terminate welfare benefits for repeated violations of the work requirement, eventually all but nine states designed a sanctioning system that called for termination of benefits under some circumstances for some period of time.

¶23 Finally, one of the most controversial provisions of the legislation encouraged, but did not require, states to terminate benefits after five years.<sup>41</sup> This provision had two major loopholes. The first was that, as drafted, the provision simply disallowed using federal dollars for families that had been on the rolls for five years. Thus, states could use their own money to pay for families the state wanted to stay on the rolls after five years. In addition, the federal law allowed states to use federal dollars even after five years for up to twenty percent of their caseload. Perhaps the most important function of the five-year time limit was to signal—as the name of the new program implies—that welfare is temporary.<sup>42</sup>

¶24 Taken together, these five features of the new law constituted radical change in an important federal program that had been in force for over six decades. Nonetheless, the legislation passed Congress on a huge bipartisan vote and was signed into law by a Democratic president.

### C. *Work Support System*

¶25 But welfare reform was only half the federal strategy for attacking poverty. Over the period of more than a decade before the enactment of the 1996 reforms, Congress and Presidents Ronald Reagan, George H.W. Bush, and Bill Clinton had passed a series of laws that created, modified, or expanded programs that provided cash and in-kind benefits to poor and low-income working families, mostly families with children. Collectively, these programs are often referred to as the nation's "work support system." In my view, the work support system is one of the most important ingredients in the nation's approach to social policy. The system is comprised of four essential programs and several less vital, but still important programs.

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<sup>39</sup> See DAVID T. ELLWOOD, *POOR SUPPORT: POVERTY IN THE AMERICAN FAMILY* 3 (1988) (emphasizing the check writing culture of welfare almost a decade before the welfare reform law of 1996); IRENE LURIE, *AT THE FRONT LINES OF THE WELFARE SYSTEM: A PERSPECTIVE ON THE DECLINE IN WELFARE CASELOADS* 1 (2006) (directly observing welfare offices and finding that helping clients find work was the major emphasis of the new welfare administration); RICHARD P. NATHAN & THOMAS L. GAIS, *IMPLEMENTING THE PERSONAL RESPONSIBILITY ACT OF 1996: A FIRST LOOK* 1 (1999) (finding that major changes have taken place in the direction of emphasizing work, after reviewing the reforms in state programs about two years after the 1996 law went into effect).

<sup>40</sup> The Urban Institute maintains information about such sanctions. See The Urban Inst., *Assessing the New Federalism Project*, <http://anfdata.urban.org> (last visited Feb. 23, 2009).

<sup>41</sup> 42 U.S.C. § 608(a)(7).

<sup>42</sup> Richard P. Nathan, Presentation at the Annual Meeting of the Am. Political Sci. Ass'n: Updating Theories of American Federalism (Sept. 2, 2006).

¶26 The most important program in the work support system is the Earned Income Tax Credit (EITC), which provides cash payments through the tax code to boost the income of low-income workers, especially those with children. The EITC, created in 1975, was expanded in 1986 by Reagan, in 1990 by George H.W. Bush, and in 1993 by Clinton.<sup>43</sup> By the time the welfare reform law passed in 1996, the EITC was the biggest program providing cash to low-income families. Workers with children could receive a wage supplement of up to \$3600 (in 1996)—a little less than twice as much as a full time worker at the minimum wage would receive if the minimum wage had been raised by \$1 an hour (as in fact it was—from \$4.25 to \$5.15—in the year after welfare reform was enacted).<sup>44</sup>

¶27 Similarly, in 1990, Congress passed and George H.W. Bush signed a law that created a block grant for child care.<sup>45</sup> Simultaneously, two new programs were created under the AFDC program to help families pay for child care. The welfare reform law of 1996 combined all three child care programs and a few others into a child care block grant and approximately doubled the funding over a period of years so that states would have additional money to help families pay for child care.<sup>46</sup>

¶28 The food stamp program already helped millions of poor working families and promised to provide an income supplement in the form of food credits to families that left welfare. As in the past, food stamps declined in value as earnings increased, but a typical mother with two children earning \$10,000 per year qualified for about \$1500 in food stamps in 1996.<sup>47</sup> For several years, states complained that it was administratively difficult to provide working families with food stamps primarily because the states were fined for making payment errors and the cases most likely to have errors were those of working families.<sup>48</sup> Thus, states were not aggressive in providing food stamps to working families. In the 2002 farm bill, Congress changed several rules in the food stamp program that made it easier to administer cases that involve working families.<sup>49</sup> Since then, the rate of participation in food stamp programs by working families has increased substantially.<sup>50</sup>

¶29 Two programs—Medicaid and the State Child Health Insurance Program (SCHIP)—work together to provide health insurance to virtually all children from

<sup>43</sup> Tax Reduction Act of 1975, Pub. L. No. 94-12, 88, 89 Stat. 26 (codified as amended in scattered sections of 26 U.S.C.); Tax Reform Act of 1986, Pub. L. 99-514, 100 Stat. 2085 (codified as amended in scattered sections of 26 U.S.C.); Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, 107 Stat. 312 (codified as amended in scattered sections of 7, 16, 19, 26, 29, 30, 47 U.S.C.).

<sup>44</sup> Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1755 (codified as amended in scattered sections of 19, 26, 42 U.S.C.).

<sup>45</sup> Child Care & Development Block Grant of 1990, 42 U.S.C. §§ 9858–9858g (2008); STAFF OF H. COMM. ON WAYS & MEANS, 108th CONG., 2004 GREEN BOOK: BACKGROUND MATERIAL AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS 9-1 to 9-62 (Comm. Print 2004) [hereinafter 2004 GREEN BOOK].

<sup>46</sup> HASKINS, WORK OVER WELFARE, *supra* note 27, at 367–68.

<sup>47</sup> 2004 GREEN BOOK, *supra* note 45, at 15-16 to 15-18.

<sup>48</sup> AMERICAN PUBLIC HUMAN SERVICES ASS'N, CROSSROADS: NEW DIRECTIONS IN SOCIAL POLICY 45 (2001), available at <http://www.aphsa.org/Publications/Doc/crossroads.pdf>.

<sup>49</sup> Farm Security and Rural Investment Act of 2002, Pub. L. 107-171, 116 Stat. 134 (codified as amended in scattered sections of 7, 16, & 21 U.S.C.).

<sup>50</sup> CAROLINA RATCLIFFE, SIGNE-MARY MCKERNAN & KENNETH FINEGOLD, THE URBAN INST., THE EFFECT OF STATE FOOD STAMP AND TANF POLICIES ON FOOD STAMP PROGRAM PARTICIPATION 26 (2007), available at <http://www.urban.org/publications/411438.html>.

families earning under 200% of the federal poverty levels.<sup>51</sup> Before the mid-1980s, mothers who left welfare for work usually lost their Medicaid coverage.<sup>52</sup> Especially given the low rates of health insurance coverage provided by employers to low-wage workers, the loss of Medicaid was a major issue for mothers. In fact, mothers could make a rational decision to stay on welfare in order to ensure that their children had health coverage. Beginning in the mid-1980s, primarily under the leadership of Henry Waxman of the House Commerce Committee, Congress began the long process of breaking the connection between welfare and Medicaid.<sup>53</sup> By 1996, all children in families under the poverty level and many children in families up to 185% of the poverty level were eligible for Medicaid regardless of the status of their mothers.<sup>54</sup> Then in 1997, Congress enacted SCHIP and states were given funds to cover children in families up to 200% of the poverty level.<sup>55</sup> Mothers who leave welfare are covered for up to one year, but there are many poor working mothers who do not have health care coverage.

¶30 The EITC, child care, food stamps, and health insurance programs are generally considered to be the major programs in the work support system.<sup>56</sup> However, a host of other programs, although not designed specifically to help low-income workers, have eligibility standards, phase-out rates, or services that help low-income working families. All the child nutrition programs (child care food program, school lunch and breakfast, and the Special Supplemental Food Program for Women, Infants, and Children) as well as the housing programs are chief among these programs.<sup>57</sup> In addition, all mothers who have custody of children with a living non-resident father are eligible for services from the Child Support Enforcement program.<sup>58</sup> However defined, the work support programs are an indispensable tool for encouraging work by low-income adults and for helping low-income workers increase their income and avoid poverty.

### III. TRENDS IN WORK AND CHILD POVERTY IN THE WELFARE REFORM ERA

#### A. *Trends in Enrolment, Work, Earnings, and Child Poverty*

¶31 Most students of welfare reform and its effects emphasize that three factors, taken together, are reasonable explanations for the changes in welfare rolls: work rates, earnings, and child poverty that occurred among families headed by single mothers beginning in the mid-1990s. These factors are the sticks of welfare reform, the carrots of the work support system—especially the expansion of the EITC, and the hot economy of the mid- and late-1990s.<sup>59</sup>

<sup>51</sup> 2004 GREEN BOOK, *supra* note 45, at 15-26 to 15-98.

<sup>52</sup> ELLWOOD, *supra* note 39, at 175–76.

<sup>53</sup> 2004 GREEN BOOK, *supra* note 45, at 15-40.

<sup>54</sup> *Id.* at 15-33 to 15-35.

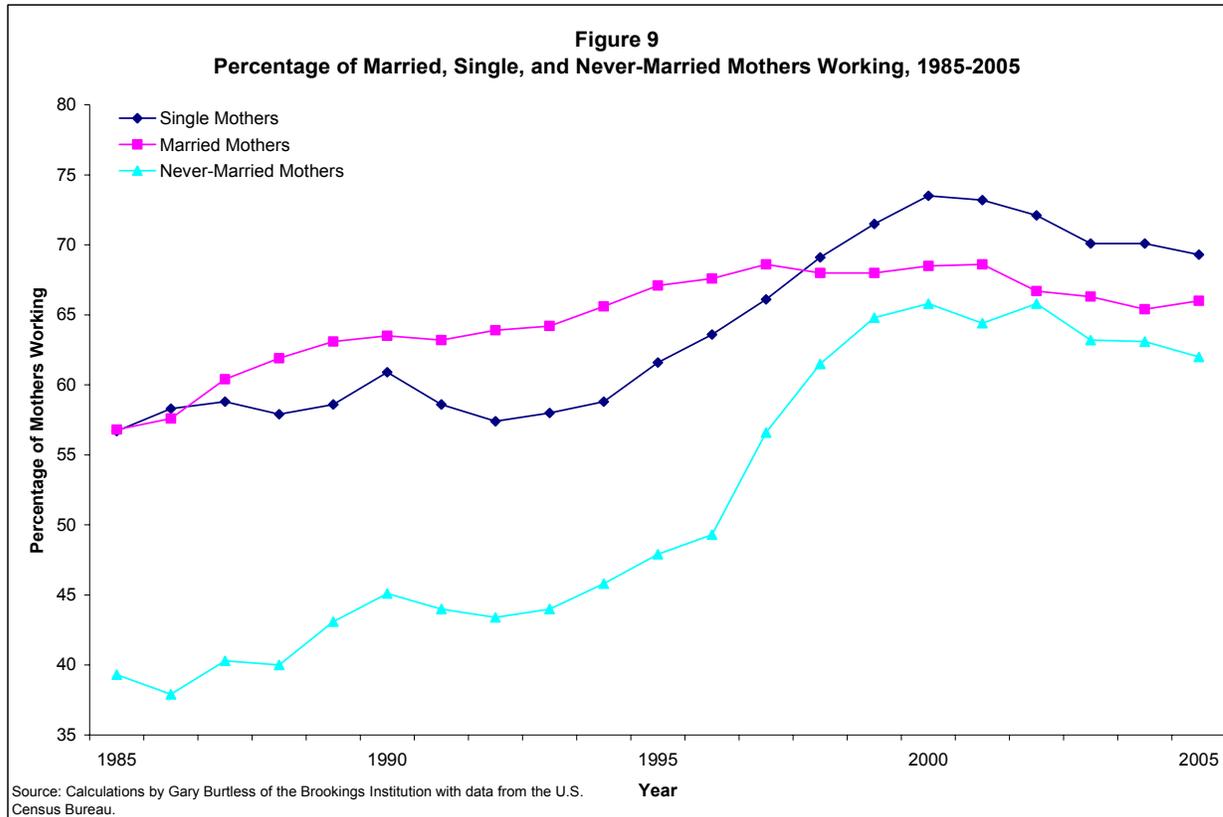
<sup>55</sup> *Id.* at 15-83 to 15-98.

<sup>56</sup> See generally ROBERT P. STOKER & LAURA A. WILSON, WHEN WORK IS NOT ENOUGH: STATE AND FEDERAL POLICIES TO SUPPORT NEEDY WORKERS (2006) (reviewing the development of the work support system and its current functioning and concluding that the system has great potential but that problems in implementation prevent it from helping as many low-income workers as it could).

<sup>57</sup> 2004 GREEN BOOK, *supra* note 45, at 15-98 to 15-118.

<sup>58</sup> See generally *id.* at 8-1.

<sup>59</sup> HASKINS, WORK OVER WELFARE, *supra* note 27, at 332–63. See generally JEFFREY GROGGER & LYNN A. KAROLY, WELFARE REFORM: EFFECTS OF A DECADE OF CHANGE (2005) (studying the effects of Welfare Reform on recipient's behavior); Christopher Bollinger et al., *Welfare Reform and the Level and Composition of Income*, in WELFARE REFORM AND ITS LONG-TERM CONSEQUENCES FOR AMERICA'S POOR



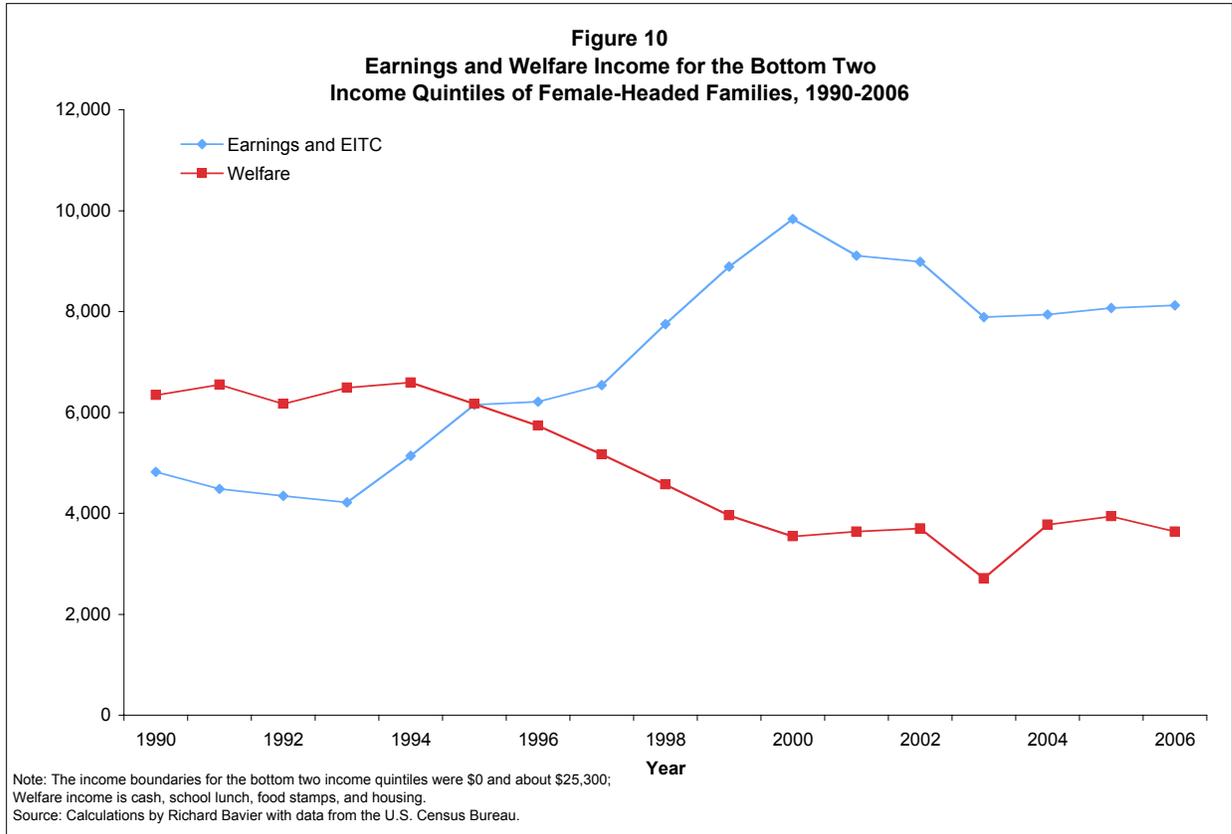
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Certainly nothing like the decline in welfare rolls seen after this reform had ever occurred before. In fact, in the three decades between the early 1960s and the early 1990s, the rolls increased almost every year, with two large spurts in the early 1970s and the early 1990s.<sup>60</sup> But since 1994, the rolls have declined every year, falling a total of sixty percent over that period.<sup>61</sup> This decline in the rolls was accompanied by a substantial increase in the share of single mothers who worked. Figure 9 shows the share of married, single, and never-married mothers who were employed each year between 1985 and 2005. The work rates of both single mothers and the subgroup of single mothers who were never married increased dramatically beginning in the mid-1990s. In fact, the work rates of never-married mothers increased about forty percent in the four years between 1996 and 2000.

(James P. Ziliak ed.) (forthcoming 2009) (documenting the changes in income of single mothers post-welfare reform); Robert F. Schoeni & Rebecca M. Blank, *What Has Welfare Reform Accomplished? Impacts on Welfare Participation, Employment, Income, Poverty, and Family Structure 4* (RAND, Working Paper No. DRU-2268, 2000), available at <http://www.rand.org/labor/DRU/DRU2268.pdf> (concluding that welfare reform both increased family earnings and reduced public assistance participation).

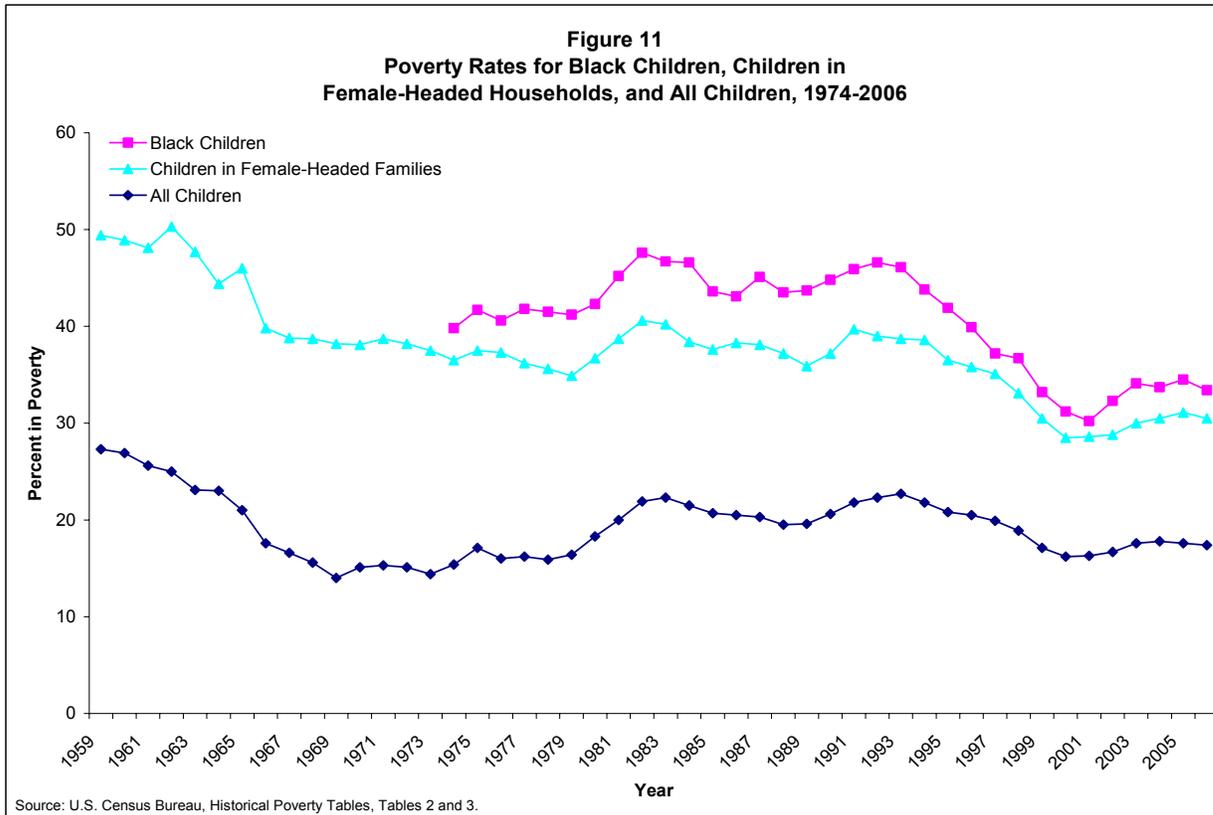
<sup>60</sup> 2004 GREEN BOOK, *supra* note 45, at 7-32.

<sup>61</sup> HASKINS, *WORK OVER WELFARE*, *supra* note 27, at 334.



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Given their rising work levels, it is not surprising that single mothers' incomes increased during this period, nor that the share of income accounted for by earnings increased as well. Figure 10 traces the major components of income for mothers in the bottom two income quintiles (with total income between \$0 and about \$25,300 in 2006). After the mid-1990s, income from earnings plus the EITC increased every year—until 2001—while income from welfare declined. Even after the recession of 2001, as the employment and earnings of female heads declined, earnings plus the EITC were still more than ninety percent higher in 2006 than they had been in 1993 before the rise in employment began.



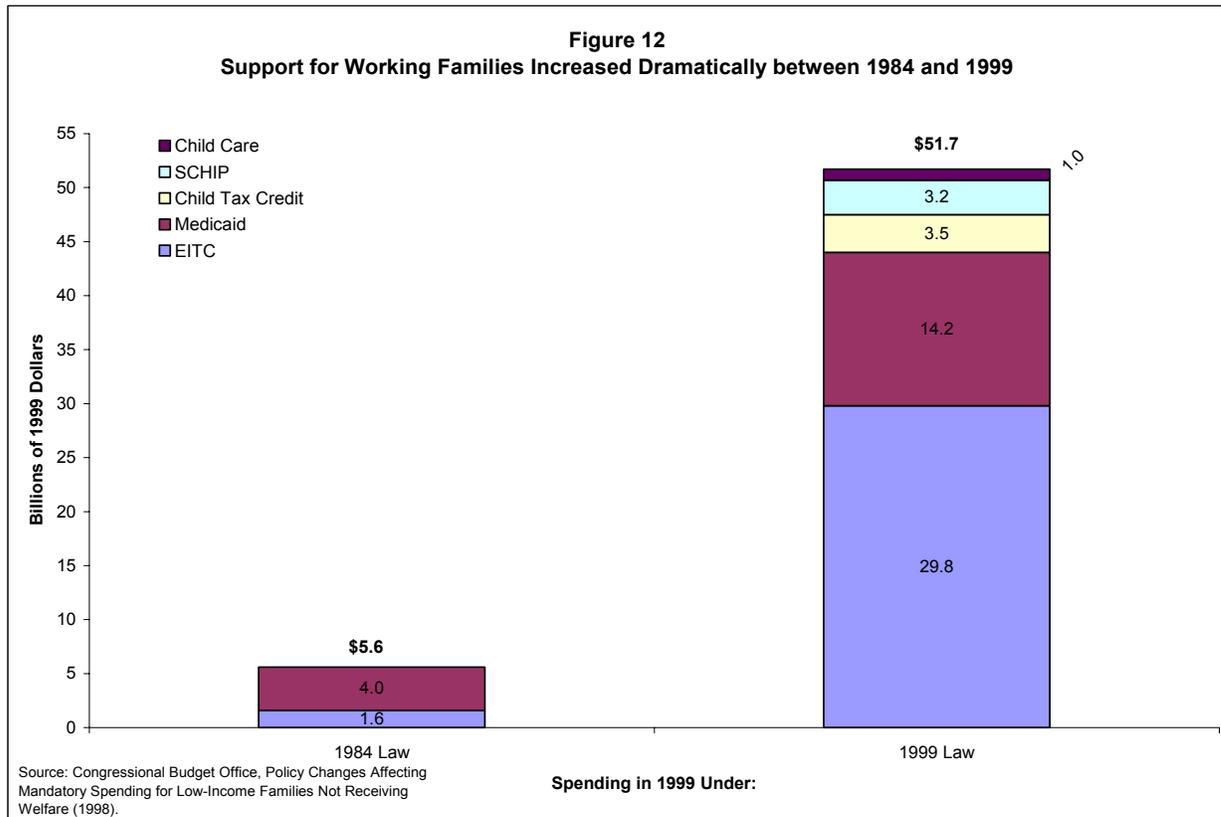
¶34 Reducing welfare dependency, increasing employment of single mothers, and reducing child poverty were three of the goals of welfare reform. If welfare dependency declined and employment and earnings increased among female heads following welfare reform, as we have seen that they did, trends in child poverty were likely to be affected. Figure 11 shows that between the mid-1990s and the recession of 2001, overall child poverty, poverty for children in female-headed families, and poverty among black children declined substantially. The declines in poverty among children in female-headed families (twenty-eight percent) and in black families (thirty-five percent) were especially steep.<sup>62</sup> Indeed, both the rates for all children in female-headed families and for black children reached their lowest level ever, and poverty among all children was within one percentage point of its lowest level ever—a remarkable achievement given all the demographic forces working simultaneously to drive up child poverty rates.

¶35 Two points about these declining poverty rates seem especially notable. The first is that, as we have seen, if the nation is to make progress against child poverty, policies that focus on female-headed families should be a major component of a national strategy both because so many children live in female-headed families and because the poverty rate of this family form is so high. That the poverty rate for children in female-headed families declined so substantially seems reasonable because single mothers were the main target of welfare reform and were also the group with the greatest increase in work rates and

<sup>62</sup> The decline in poverty for both groups was calculated based on the peak rate in the early 1990s (1992 for both blacks and female-headed families) and the lowest rate in either 2000 or 2001 (2000 for female-headed families and 2001 for blacks) before poverty started rising again following the recession of 2001.

earnings. Second, the robust decline in poverty among black children is attributable in part to the fact that such a high proportion of black children (around fifty percent) live in female-headed families and that black women were no less likely to find work than white women.<sup>63</sup>

*B. Explaining the Trends*



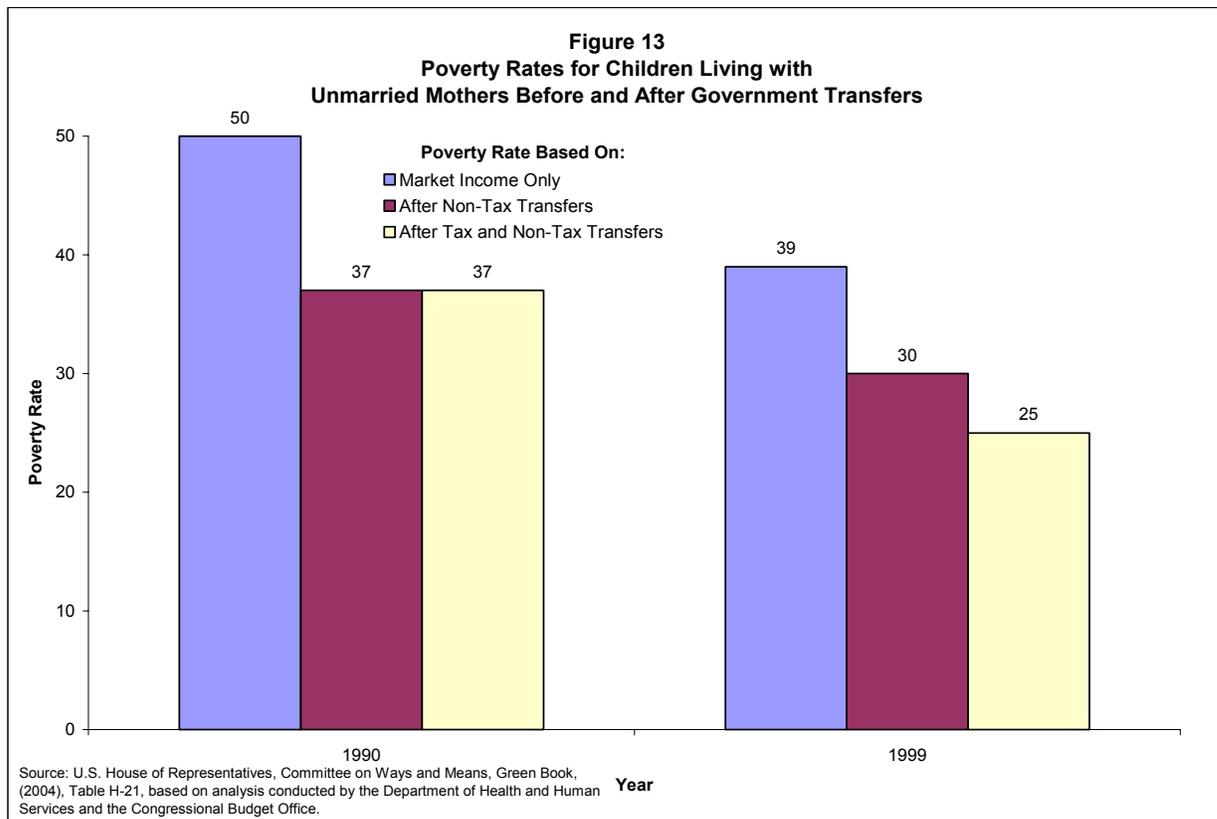
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Primarily because we do not have data from random-assignment experiments, it is inappropriate to conclude that welfare reform alone accounted for the trends reviewed above. This is especially the case since so many other factors that could plausibly affect the welfare rolls and employment by mothers formerly on welfare were also changing. Figure 12, based on a report from the nonpartisan Congressional Budget Office,<sup>64</sup> shows changes in the major programs that constitute the work support system. The figure shows that if child care, SCHIP, the Child Tax Credit, Medicaid, and the EITC had not been

<sup>63</sup> For data on the share of black children living with single mothers, see U.S. CENSUS BUREAU, *Household Relationship and Living Arrangements of Children Under 18 Years, by Age, Sex, Race, Hispanic Origin*, in CURRENT POPULATION SURVEY ANNUAL SOCIAL AND ECONOMIC SUPPLEMENT TABLE C-2 (2006), available at <http://www.census.gov/population/socdemo/hh-fam/cps2006/tabC2-blackalone.xls>. For data on work rates for low-income black, white, and Hispanic mothers, see U.S. DEP'T. OF HEALTH & HUMAN SERV., INDICATORS OF WELFARE DEPENDENCE: ANNUAL REPORT TO CONGRESS (2007) III-23, available at <http://aspe.hhs.gov/hsp/indicators07/ch3.pdf>.

<sup>64</sup> See CONGRESSIONAL BUDGET OFFICE, POLICY CHANGES AFFECTING MANDATORY SPENDING FOR LOW-INCOME FAMILIES NOT RECEIVING CASH WELFARE (1998), available at <http://www.cbo.gov/ftpdocs/8xx/doc849/noncash.pdf>.

created or expanded after 1984, in 1999 the nation would have spent just \$5.6 billion providing support through these programs to working families. But because all these programs were originated or expanded between 1984 and 1999, \$51.7 billion was spent on working families. Politicians and the media often refer to the 1996 welfare reforms as a revolution, but the difference between \$5.6 billion and the \$51.7 billion spent shows that Congress and a series of presidents from both parties also created a revolution in work support programs.



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And the two revolutions fit together. The analysis depicted in Figure 13, conducted by the Department of Health and Human Services and the Congressional Budget Office, provides a clear view of the impact of government programs on poverty rates of children in families headed by unmarried mothers in 1990, before welfare reform, and in 1999, after welfare reform. Compare the first bar graph in each set. These bars show the poverty rate before any government tax or transfer programs—life in the state of nature, so to speak.<sup>65</sup> Here we see that the poverty rate in 1999 was over twenty percentage points lower than in 1990 (fifty percent versus thirty-nine percent). Undoubtedly, this

<sup>65</sup> There could be a slight impact of government programs on the poverty estimates before government assistance. For example, mothers who had previously been in government education and training programs could have jobs that pay better or the availability of the EITC could increase the likelihood that mothers would work or work more hours. These effects, which are likely to be minor, would have been present both in 1990 and 1999.

decline in raw poverty before any government assistance was due to increased work and earnings by these unmarried mothers as reviewed above.

¶38 Now consider the impact of government programs, beginning with spending programs other than those administered through the tax code. In 1990, these programs had a major impact on poverty, driving the rate down from fifty percent to thirty-seven percent, a drop of over twenty-five percent. But despite the lower raw poverty rate in 1999, these same spending programs still managed to drive poverty down by nine percentage points (from thirty-nine percent to thirty percent), or nearly twenty-five percent. Now consider the child poverty rates after the effects of the EITC are taken into account. In 1990, the EITC had virtually no impact on poverty, both because it was much smaller in 1990 than in 1999 and because so few of these mothers worked in 1990. But in 1999, the EITC drove child poverty down another five percentage points, or by over fifteen percent.

¶39 It is often said that poverty programs are poor programs, but the story that lies behind the data in Figure 13 is a rare and hopeful example of how government programs can augment the efforts of individuals to produce an outcome that is high on the nation's agenda of social goals. The combination of more work by disadvantaged mothers and the growth of government programs that reinforced their efforts while increasing their income was associated with a poverty rate that was nearly a third lower than it had been before welfare reform.

¶40 Stepping back to reflect on these trends, three lessons for social policy seem apparent. The first, and most important, is that carrots and sticks work. Social policy should emphasize—and where necessary and possible demand—responsible personal behavior and then reward that behavior. Second, one of the major arguments against welfare reform was that there were not enough jobs available in the American economy to support a major movement of mothers into the job market.<sup>66</sup> That concern was misplaced as something on the order of 1.5 million additional mothers found jobs. Third, the prediction that low-wage jobs would doom mothers and their children to a life of poverty turned out to be questionable. There is no doubt that a full-time job, even at minimum wage, when combined with income from the EITC, provides more income than welfare alone, even in states like Connecticut and California with the highest welfare benefits.<sup>67</sup> But we know from numerous surveys that mothers leaving welfare on average earned about eight or nine dollars an hour, well above the minimum wage.<sup>68</sup> Moreover, nearly all the mothers who went to work got the EITC and many also received up to \$1000 or even \$1500 in food stamps. Both on paper and in practice (Figure 10), most mothers who left welfare improved their financial condition.<sup>69</sup>

<sup>66</sup> For an overview of the arguments used by scholars, politicians, and editorial page writers against welfare reform, see HASKINS, *WORK OVER WELFARE*, *supra* note 27.

<sup>67</sup> See generally NORMA B. COE, GREGORY ACS, ROBERT I. LERMAN & KEITH WATSON, THE URBAN INST., *DOES WORK PAY? A SUMMARY OF WORK INCENTIVES UNDER TANF* (1998), available at <http://www.urban.org/UploadedPDF/anf28.pdf> (providing an overview of state welfare programs).

<sup>68</sup> See, e.g., GREGORY ACS & PAMELA J. LOPREST, THE URBAN INST., *TANF CASELOAD COMPOSITION AND LEAVERS SYNTHESIS REPORT* 29–30 (2007).

<sup>69</sup> See Bollinger et. al, *supra* note 59; Robert A. Moffitt, *The Effect of Pre-PRWORA Waivers on AFDC Caseloads and Female Earnings, Income, and Labor Force Behavior*, in *ECONOMIC CONDITIONS AND WELFARE REFORM*, 91, 91–118 (Sheldon Danziger ed., 1999); Schoeni & Blank, *supra* note 59, at 8.

## IV. THERE IS A LOT LEFT TO DO

¶41 A problem with policymaking in the nation's capital and many state capitals is the highly partisan nature of the debate on welfare reform. In the battle to reauthorize the national reform law between 2002 and 2005, for example, the debate focused primarily on how high the welfare work requirements should be and as a result took a partisan turn almost immediately. This fight over work requirements seemed to preempt the kind of reasoned debate that would have been desirable. Four additional items should have been high on the agenda, but either were not discussed at all or received too little (and too partisan) discussion: maintaining or expanding the work support system; reducing nonmarital births and increasing marriage rates; providing more help to floundering or disconnected mothers; and addressing the problem of male non-work, crime, and incarceration. All of these issues should attract careful attention from policymakers and result in a new burst of innovation that would increase the personal responsibility of low-income Americans and further reduce poverty.

A. *Maintaining the Work Support System*

¶42 Many members of Congress do not seem to be fully aware of the vital role played by the work support system in providing incentives for unskilled and inexperienced adults to enter the workforce and take low-wage jobs, in reducing the poverty rate, and even in fighting the growing inequality in America.<sup>70</sup> The work support system is a national treasure and should be well tended by both federal and state policymakers. More specifically, two important actions now seem appropriate.

¶43 The first stems from the fact that not all eligible working families receive all the work support benefits for which they qualify.<sup>71</sup> As we have seen, a good example of actions Congress can take to improve effectiveness of the work support system is the 2002 food stamp reforms that streamlined state administration and led to increased food stamp enrolment by working families.<sup>72</sup> These reforms are an especially good model because they were proposed by states, based on the experience state officials had in trying to administer food stamps for working families, and were adopted by Congress and the Bush Administration on a bipartisan basis. As this example suggests, Congress should periodically review all programs in the work support system to ensure that eligible families are actually receiving the benefits, and solicit advice from recipients, state administrators, and researchers on improving the programs.

¶44 Second, low-income working families need more help paying for child care. Although Congress greatly increased child care funds when welfare reform was enacted in 1996, there have only been a few modest increases since then. There are many low-income working families that do not receive help paying for child care and there are large

<sup>70</sup> ISAACS, SAWHILL & HASKINS, *supra* note 14, at 85.

<sup>71</sup> See generally ROBERT P. STOKER & LAURA A. WILSON, WHEN WORK IS NOT ENOUGH: STATE AND FEDERAL POLICIES TO SUPPORT NEEDY WORKERS (2006) (examining the work support systems in all fifty states and the District of Columbia and criticizing the current work support system because many eligible workers do not receive these benefits); SHEILA R. ZEDLEWSKI & SETH ZIMMERMAN, THE URBAN INST., TRENDS IN WORK SUPPORTS FOR LOW-INCOME FAMILIES WITH CHILDREN, (2007), available at [http://www.urban.org/UploadedPDF/311495\\_Work\\_Supports.pdf](http://www.urban.org/UploadedPDF/311495_Work_Supports.pdf) (compiling information about and criticizing what percentage of eligible workers receive the benefits for which they are qualified under child-care subsidies, EITC, food stamps, Medicaid, and SCHIP).

<sup>72</sup> See RATCLIFFE, MCKERNAN & FINEGOLD, *supra* note 50, at 1.

inequities in the system because mothers leaving welfare are more likely to get a child care subsidy than similar mothers who did not go on welfare. Other than this conspicuous inequity, the child care block grant and the vouchers it funds seem to be working well. The major problem is simply that states need more money to ensure that more working families receive child care. Mark Greenberg of the Center for American Progress has recently recommended increasing child care funding by twenty billion dollars a year.<sup>73</sup> Given the serious and growing problems with the federal deficit, twenty billion dollars is too much to expect, but Congress should try to increase child care funding by one or two billion dollars per year over two or three years and make sure that states use all the money for child care.<sup>74</sup> The recommendation of one or two billion dollars is inherently subjective, but the amount should be small enough that it has a good chance of being accepted by Congress but big enough to provide meaningful help to low-income families trying to work.

### B. *Reducing Non-Marital Birth Rates and Increasing Marriage Rates*

¶45 Evidence shows that the optimum family form for promoting child development is the married-couple family.<sup>75</sup> Unfortunately, the share of children—especially black children—living with two parents has declined precipitously over the past four decades.<sup>76</sup> It is regrettable that scholars and program innovators have produced so little information about how to restore marriage rates. The knowledge base for increasing marriage rates today is approximately equivalent to the knowledge base for reducing poverty when President Johnson initiated the War on Poverty in 1964. To expand this knowledge base and then expand on what seems to work, several propositions seem reasonable.

¶46 First, we should do more to reduce non-marital births. Along with the decline of marriage, the entry of women into the paid labor-force, and the aging of the population, the rise of non-marital births is one of the most important demographic events of our time.<sup>77</sup> For reasons that are not clear, in sharp contrast with the modest concern over non-marital births among older women and declining marriage rates, the scholarly and policy worlds have long tried to figure out why so many teens give birth outside of marriage and how to do something about it. The consequences of teen births are serious for both the teen mother and for her baby.<sup>78</sup> Not the least of these consequences is that having a baby outside marriage reduces the mother's chances of eventually marrying.

<sup>73</sup> Mark Greenberg, *Next Steps for Federal Child Care Policy*, THE FUTURE OF CHILD., Fall 2007, at 73, 87, available at [http://www.futureofchildren.org/information2826/information\\_show.htm?doc\\_id=522089](http://www.futureofchildren.org/information2826/information_show.htm?doc_id=522089).

<sup>74</sup> There is an inherent tension between using a fixed sum of money for child care to help the maximum number of poor families trying to work and ensuring that child care is of high quality. Two important aspects of high quality child care are high teacher-to-student ratios and well qualified teachers, both of which are expensive. But anything that is expensive reduces the number of families that can be served. The federal block grant leaves the decision about how much to emphasize quality and how much to emphasize coverage to the states. See Ron Haskins, *Child Development and Child Care Policy: Modest Impacts*, in DEVELOPMENTAL PSYCHOLOGY AND SOCIAL CHANGE 140, 140–70 (David B. Pillemer & Sheldon H. White eds., 2005).

<sup>75</sup> See, e.g. SARA McLANAHAN & GARY SANDEFUR, GROWING UP WITH A SINGLE PARENT: WHAT HURTS, WHAT HELPS 3 (1994); McLanahan, Donahue & Haskins, *supra* note 10, at 3–12 (claiming most people today would probably agree that a “good” or “healthy” marriage is the ideal setting for raising children).

<sup>76</sup> U.S. CENSUS BUREAU, *supra* note 5.

<sup>77</sup> CHARLES MURRAY, LOSING GROUND: AMERICAN SOCIAL POLICY 1950-1980, 124–34 (1984).

<sup>78</sup> See e.g., ELIZABETH TERRY-HUMEN, JENNIFER MANLOVE & KRISTIN A. MOORE, NAT'L CAMPAIGN TO

¶47 There is evidence that several types of programs that engage teens in constructive activities and provide authoritative advice about abstinence and birth control can reduce both pregnancy rates and non-marital births without increasing abortion rates. These programs are reviewed in great detail by Douglas Kirby for the National Campaign to Prevent Teen and Unplanned Pregnancy.<sup>79</sup> The programs that have proven most effective in reducing both pregnancy rates and sexually transmitted diseases among teens are based on tested curriculums that emphasize, among other factors:

- Focusing on specific goals that influence behaviors that help achieve these goals (especially increasing abstinence and use of condoms);
- Changing factors that affect sexual behavior, such as knowledge of perceived risks, attitudes, perceived norms about abstinence, and goals for the future;
- Involving youth in constructive activities with adults such as mentoring and community service; and
- Securing support from local authorities such as schools, departments of health, and community-based organizations.

¶48 Congress should provide the Department of Health and Human Services (HHS) with up to one billion dollars a year for five years to provide money to states, local school districts, and other community-based organizations to implement tested programs shown to reduce sexual activity and teen pregnancy rates. All funded programs should emphasize either abstinence, or abstinence and condom use, and must agree to collect a standard set of data to monitor outcomes. HHS should give priority to jurisdictions that have high poverty rates. In addition, HHS should select several exemplary programs for careful evaluation by third parties using random-assignment designs. These third parties should then periodically report their findings to Congress and to the public.

¶49 Second, both the federal and state governments should experiment with ways to increase marriage rates among couples who want to marry, especially low-income couples. If the goals of the TANF program can be accepted as statements of national policy, increasing marriage rates and the share of children in married-couple families is already an official goal of federal policy.<sup>80</sup> Critics often pose this goal as one of trying to talk people into getting married. But research conducted on representative samples of couples who have had a child outside of marriage—a group that is disproportionately

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PREVENT TEEN PREGNANCY, *PLAYING CATCH UP: HOW CHILDREN BORN TO TEEN MOTHERS FARE 3* (2005) (children born to teen mothers begin kindergarten with lower levels of school readiness). *But see generally* FRANK F. FURSTENBERG, *DESTINIES OF THE DISADVANTAGED: THE POLITICS OF TEEN CHILDBEARING* (2007) (summarizing results from the Baltimore Study of teens who gave birth in the mid-1960s and were followed for nearly four decades by Furstenberg and his colleagues; presenting a strong and controversial critique of many of the public policies that the nation has adopted to fight teen pregnancy).

<sup>79</sup> See DOUGLAS KIRBY, *NAT'L CAMPAIGN TO PREVENT TEEN AND UNPLANNED PREGNANCY, EMERGING ANSWERS 2007: RESEARCH FINDINGS ON PROGRAMS TO REDUCE TEEN PREGNANCY AND SEXUALLY TRANSMITTED DISEASES* (2007).

<sup>80</sup> See SUMMARY OF WELFARE REFORMS, *supra* note 36, at 14 (noting that two of the four goals of TANF contain explicit statements about marriage. Goal 2 is to “end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage” and Goal 4 is to “encourage the formation and maintenance of two-parent families”).

poor and minority—shows that half of them live together, a total of eighty percent say they are in love, and ninety percent of those who live together say their chances of marriage are “fifty-fifty or better.”<sup>81</sup> If couples say they want to marry, why not fund community-based agencies to help them move toward marriage and to acquire relationship skills that research shows can increase marital satisfaction and reduce divorce rates?<sup>82</sup>

¶50 Two actions that have already been taken to promote healthy marriage deserve public recognition. The first is that the Bush administration used discretionary funds to establish high-quality demonstration programs designed to build and strengthen marriage.<sup>83</sup> Some of the programs are designed for young unmarried couples who have had a child together (and often cohabit),<sup>84</sup> some for young couples who are already married,<sup>85</sup> and some to promote community-wide programs that use media to point out the advantages of marriage for children, adults, and communities. Other programs are designed to use churches and other non-profit organizations to promote and strengthen marriage.<sup>86</sup>

¶51 Marriage education under the Bush programs is typically conducted in a setting with four or five couples and involves instruction and discussion of topics shown by research to be key issues in most marriages, such as communication, money management, dispute settlement, child rearing, trust, family violence, and sexual fidelity.<sup>87</sup> The sessions often follow clearly specified lessons and activities from curriculums developed for young couples, including curriculums that have been developed specifically for low-income black and Hispanic couples.<sup>88</sup> There are now a host of random-assignment studies being conducted around the nation to determine whether using this kind of program can increase marriage rates or reduce divorce rates.<sup>89</sup> All the studies are also collecting information on child outcomes, including performance on standardized tests and school performance to determine whether children benefit if their parents participate in marriage education programs. The federal government should continue these demonstration programs for at least another five years to determine whether carefully implemented marriage education that includes family coordinators and services impacts marriage rates, divorce rates, and children’s development.

<sup>81</sup> Sara McLanahan, *Fragile Families and the Reproduction of Poverty*, 621 ANNALS AM. ACAD. POL. & SOC. SCI. 112, 118 (2009).

<sup>82</sup> Howard J. Markman, Mari Jo Renick, Frank J. Floyd, Scott M. Stanley and Mari Clements, *Preventing Marital Distress through Communication and Conflict Management Training: A 4- and 5-Year Follow-Up*, 61 J. CONSULTING & CLINICAL PSYCHOL. 70, 70 (1993).

<sup>83</sup> Laura Meckler, *Poverty: The New Search for Solution; The Matchmaker: How a U.S. Official Promotes Marriage to Help Poor Kids*, WALL ST. J., Nov. 20, 2006, at A1.

<sup>84</sup> M. Robin Dion, *Healthy Marriage Programs: Learning What Works*, FUTURE OF CHILD., Fall 2005, at 139, 147, available at [http://www.futureofchildren.org/usr\\_doc/08\\_FOC15-2\\_fall05\\_Dion.pdf](http://www.futureofchildren.org/usr_doc/08_FOC15-2_fall05_Dion.pdf).

<sup>85</sup> MDRC, Supporting Healthy Marriage, [http://www.mdrc.org/project\\_12\\_64.html](http://www.mdrc.org/project_12_64.html) (last visited Feb. 23, 2009).

<sup>86</sup> See generally MIKE MCMANUS & HARRIET MCMANUS, LIVING TOGETHER: MYTHS, RISKS, AND ANSWERS (2008) (drawing a grim picture of cohabitation and divorce, and recommending the implementation of a program by churches throughout the country where older couples mentor young couples about how to build a trusting, happy, and enduring marriage).

<sup>87</sup> Ron Haskins, *Moynihan Was Right: Now What?* 621 ANNALS AM. ACAD. POL. & SOC. SCI. 282, 302 (2009) [hereinafter Haskins, *Moynihan Was Right*].

<sup>88</sup> THEODORA OOMS, CTR. FOR LAW AND SOC. POLICY, ADAPTING HEALTHY MARRIAGE PROGRAMS FOR DISADVANTAGED AND CULTURALLY DIVERSE POPULATIONS: WHAT ARE THE ISSUES? 1, 3–5 (2007).

<sup>89</sup> McLanahan, Donahue & Haskins, *supra* note 10, at 9–10.

¶52 Second, the Bush administration also sponsored legislation that now provides \$100 million a year for 5 years to support about 150 programs throughout the nation that aim to support healthy marriage.<sup>90</sup> Most of the programs are sponsored by community-based organizations like churches and other groups that provide services to poor and low-income families.<sup>91</sup> At the moment, none of these programs are being evaluated by well-designed studies. Someone with political sensibilities might notice that these programs are creating a network of local organizations and individual advocates who could play a role when the question of reauthorizing the \$100 million program comes up in Congress in 2009 or 2010.

¶53 Yet another way to increase the incentives for marriage is to reduce financial penalties in both the tax code and in transfer programs for couples who marry. Congress has already taken several actions to reduce tax penalties for married couples and has even modified the EITC so that married couples get to keep more of their EITC as their earnings rise.<sup>92</sup> Careful research on a representative national sample by Gregory Acs and Elaine Maag of the Urban Institute shows that for most cohabiting couples under 200% of the poverty level, the major marriage penalties come from loss of benefits in transfer programs rather than the EITC.<sup>93</sup> Based on this research, the federal or state governments should authorize demonstrations that study the effects of allowing low-income couples who marry to retain their welfare benefits, especially TANF and food stamps, for a year or two after marriage.

¶54 Finally, a less specific consideration than the proposals outlined above invokes a message about American culture. Consider welfare reform. It is true that a large number of federal and state statutory provisions were changed to produce both the sticks represented by work requirements and time limits, and the carrots represented by child care, health insurance, and wage subsidies for those who work. Many of these reforms were supported by scientific demonstrations showing that they would increase work and even save government money.<sup>94</sup> But having visited many of the programs, both before and after welfare reform, and having discussed the reforms with welfare recipients, welfare administrators, politicians from both sides of the aisle at the federal and state level, and with many scholars who study poverty and welfare, I would make the subjective claim that during the 1990s something very near to a consensus was developed on the need to increase personal responsibility and reduce welfare dependency among the poor. When public figures—and in this regard President Clinton deserves great credit—

<sup>90</sup> See Admin. for Child. & Families, U.S. Dep't of Health and Human Serv., The Healthy Marriage Initiative, <http://www.acf.hhs.gov/healthymarriage/about/mission.html> (last visited Mar. 3, 2009).

<sup>91</sup> NAT'L HEALTHY MARRIAGE RESOURCE CTR., DEP'T OF HEALTH AND HUMAN SERV., ADMINISTRATION FOR CHILDREN AND FAMILIES HEALTHY MARRIAGE INITIATIVE, 2002-2008: AN INTRODUCTORY GUIDE 6-11 (2008), available at [http://www.healthymarriageinfo.org/docs/acf\\_guide.pdf](http://www.healthymarriageinfo.org/docs/acf_guide.pdf).

<sup>92</sup> Adam Carasso & C. Eugene Steuerle, *The Hefty Penalty on Marriage Facing Many Households with Children*, FUTURE OF CHILD., Fall 2005, at 157, 157, available at [http://www.futureofchildren.org/usr\\_doc/09\\_FOC\\_15-2\\_fall05\\_Carasso-Steuerle.pdf](http://www.futureofchildren.org/usr_doc/09_FOC_15-2_fall05_Carasso-Steuerle.pdf).

<sup>93</sup> See GREGORY ACS & ELAINE MAAG, THE URBAN INST., IRRECONCILABLE DIFFERENCES? THE CONFLICT BETWEEN MARRIAGE PROMOTION INITIATIVES FOR COHABITING COUPLES WITH CHILDREN AND MARRIAGE PENALTIES IN TAX AND TRANSFER PROGRAMS 2 (2005), available at [http://www.urban.org/UploadedPDF/311162\\_B-66.pdf](http://www.urban.org/UploadedPDF/311162_B-66.pdf).

<sup>94</sup> See generally DAN BLOOM & CHARLES MICHALOPOULOS, NEXT GENERATION PROJECT, HOW WELFARE AND WORK POLICIES AFFECT EMPLOYMENT AND INCOME: A SYNTHESIS OF RESEARCH (2001), available at <http://www.mdrc.org/publications/99/full.pdf> (examining strategies to help mothers who have left welfare for work find stable jobs and advance to better jobs).

are singing a common tune of personal responsibility and work, and when this music is consistent with sharp changes in programs throughout the nation that are willingly and skillfully implemented by agents of government, something that might be called cultural change is afoot. The welfare reform movement changed the way many politicians, welfare administrators, and welfare recipients themselves viewed both welfare and work. Without similar broad changes in society reflecting the importance of education and marriage to adults, children, and society, our progress against poverty will be limited and the development of children—especially minority children—will suffer.

### C. *Floundering Mothers*

¶155 One of the most difficult problems in formulating a welfare system is striking the appropriate balance between requirements and risk. It has been realized almost since western societies began providing welfare benefits to the destitute that the availability of welfare reduces work effort.<sup>95</sup> A review of empirical research as early as 1981 by Sheldon Danziger, Robert Haveman, and Robert Plotnick found that welfare did reduce work effort.<sup>96</sup> The 1996 welfare law addressed the problem of welfare interfering with work effort by subjecting welfare mothers to more risk than any previous legislation. Specifically, by imposing sanctions on mothers who did not meet work requirements and by stipulating a five-year time limit on benefit receipt, the legislation virtually guaranteed that some mothers would lose their benefits. If mothers did not have cash from welfare and yet found it difficult to work consistently, they and their children would face destitution.

¶156 Rebecca Blank has examined the record on destitution associated with the 1996 reforms, perhaps more carefully than anyone else.<sup>97</sup> Blank estimates that more than two million single mothers have difficulty finding jobs or holding them and do not receive cash welfare.<sup>98</sup> Most of these mothers face multiple barriers to work including mild disabilities, addictions, transportation problems, personality problems, or have more than two children.<sup>99</sup> Blank proposes a special program for these mothers that would allow them to continue drawing cash welfare as long as they are attempting to prepare for employment or are working toward removing one or more of their barriers to work.<sup>100</sup> The program would be conducted by skilled caseworkers with small caseloads who would be able to provide individualized counseling and would have access to a range of services.<sup>101</sup> It would make sense for the federal government to set aside perhaps one billion dollars per year for the next five or six years to allow states to experiment with

<sup>95</sup>See SEYMOUR DRESCHER, *TOCQUEVILLE AND BEAUMONT ON SOCIAL REFORM* 143 (1968) (Tocqueville said that human nature created two incentives to work: “[T]he need to live and the desire to improve the conditions of life. Experience has proven that the majority of men can be sufficiently motivated to work only by the first of these incentives. . . . A law which gives all the poor a right to public aid, whatever the origin of their poverty, weakens or destroys the first stimulant and leaves only the second intact.”).

<sup>96</sup> Sheldon Danziger, Robert H. Haveman & Robert Plotnick, *How Income Transfer Programs Affect Work, Savings, and the Income Distribution: A Critical Review*, 19 J. OF ECON. LITERATURE 975, 980 (1981).

<sup>97</sup> See Rebecca M. Blank, *The Next Generation of Antipoverty Policies, Improving the Safety Net for Single Mothers Who Face Serious Barriers to Work*, FUTURE OF CHILD., Fall 2007, at 183, available at [http://www.futureofchildren.org/usr\\_doc/7\\_09\\_Blank.pdf](http://www.futureofchildren.org/usr_doc/7_09_Blank.pdf).

<sup>98</sup> *Id.* at 188.

<sup>99</sup> *Id.* at 183.

<sup>100</sup> *Id.* at 189.

<sup>101</sup> *Id.* at 191.

demonstration programs along the lines recommended by Blank. The federal government should pay the full cost of random-assignment evaluations of these programs. Although federal and state policymakers have not paid adequate attention to this difficult problem, it is potentially a politically divisive issue that could be used by opponents of welfare reform to argue that the law is leading to too much suffering and should be fundamentally revised. Social problems that are ignored fester and can ultimately lead to overreaction.

#### *D. Single Males and Fathers*

¶57 Another problem that, if anything, was exacerbated by welfare reform, is that too many young black males are dropping out of the labor force, fathering children outside marriage that they do not support, and adopting a life of crime and incarceration. In 1965, the work rates of young black males was about seventy-five percent greater than the work rate of young black females.<sup>102</sup> But over the years the work rates of black males fell while those of black females rose.<sup>103</sup> By 2000, the work rates of black females surpassed the work rates of black males.<sup>104</sup> When welfare reform required mothers to work, their work rates increased dramatically while the work rates of young black males were stable or declining. That mothers had little trouble finding jobs suggests that job availability does not explain the poor work rates of black males.

¶58 Not surprisingly, increased levels of unemployment by young males are associated with rising crime rates. Census and survey data of prison populations indicate that of males born between 1965 and 1969, three percent of whites and twenty percent of blacks had been in prison by the time they reached their early thirties.<sup>105</sup> This rate of incarceration for blacks was nearly double the rate for blacks born in the late 1940s and nearly seven times the rate for whites in the same age group.<sup>106</sup> More amazing still, sixty percent of black high school dropouts born in the 1960s spent time in prison.<sup>107</sup>

¶59 These spectacular trends reflect at least two underlying sets of causes. The first is the unfair and unwise set of laws and institutions that are the immediate cause of high incarceration rates. Mandatory sentences—especially for dealing drugs—have contributed greatly to the massive buildup of black males in prison.<sup>108</sup> A notable feature of the federal drug law passed in 1986 (in response to the crack epidemic) is that it imposed especially tough sentences on the sale of crack cocaine.<sup>109</sup> First-time offenders were to receive a mandatory minimum sentence of five years for selling just five grams of crack and selling more resulted in longer mandatory minimum sentences.<sup>110</sup> As a result, many black males—who were disproportionately likely to sell crack (as opposed

<sup>102</sup> Author's calculations based on Current Population Survey data (thanks to Emily Roessel for professional assistance). See U.S. Census Bureau, Current Population Survey, <http://www.census.gov/cps/> (last visited Feb. 24, 2009).

<sup>103</sup> *Id.*

<sup>104</sup> *Id.*

<sup>105</sup> Becky Pettit & Bruce Western, *Mass Imprisonment and the Life Course: Race and Class Inequality in U.S. Incarceration*, 69 AM. SOC. REV. 151, 151 (2004).

<sup>106</sup> *Id.* at 161.

<sup>107</sup> *Id.* at 164.

<sup>108</sup> *Id.*

<sup>109</sup> *Id.*

<sup>110</sup> Haskins, *Moynihhan Was Right*, *supra* note 87, at 290.

to powdered) cocaine—spent the critical years when they should have been in the job market locked up in prison.

¶60 The second cause of high black incarceration rates is the high level of criminal behavior by young blacks. Based on incarceration rates, it is clear that on a per-capita basis blacks commit significantly more crimes than whites.<sup>111</sup> For example, the 2005 homicide rate of 3.5 homicides per 100,000 whites as compared with 26.5 for blacks gives an idea of the dramatic difference in crime rates between the two groups.<sup>112</sup>

¶61 As Orlando Patterson, a black sociologist at Harvard, wrote, the propensity of black youths to commit crimes is due, in part, to the “catastrophic state of black family life.”<sup>113</sup> Undoubtedly other factors, including discrimination, limited economic opportunities, and problems in gender relations, are involved, but the lack of male influence in the home contributes to all of these factors as well as directly to crime rates. In place of a strong home life featuring limits enforced by fathers, Patterson holds that young black men have created what he calls the “cool pose culture.”<sup>114</sup> This culture functions “almost like a drug,” compelling young black men to hang out on the street, dress sharply, make sexual conquests, use drugs, and listen to hip-hop music with lyrics glorifying violence, misogyny, drugs, and sex.<sup>115</sup> How to break the hold of this culture, which Patterson believes has about one-fifth of young black males in its grip, is one of the top issues for both the black community and for policymakers at all levels of government.<sup>116</sup>

¶62 Three actions should be taken to address the extreme level of incarceration among young black men. First, marriage should be promoted and extra-marital pregnancy discouraged. There is now widespread agreement that being reared in female-headed families is a major cause of criminal behavior by young blacks.<sup>117</sup> Thus, the policies proposed above to reduce extra-marital births and promote marriage, if successful, would almost certainly reduce the number of young men who commit crimes.

¶63 Second, more should be learned about, and greater investments made, in prison release programs. Given that well over 600,000 people are released from prison each year, interest in helping men readjust to life outside prison has been increasing for several years.<sup>118</sup> Typical is a large-scale, random-assignment study of a well-known program conducted by the Center for Employment Opportunities (CEO) in New York City. CEO is one of the most experienced organizations in the nation at helping ex-felons find employment.<sup>119</sup> The current study is following about 1000 people who either received or did not receive the CEO job-assistance program. Early results suggest that men who join

<sup>111</sup> FBI.gov, Table 43–2006 Crime in the United States, [http://www.fbi.gov/ucr/cius2006/data/table\\_43.html](http://www.fbi.gov/ucr/cius2006/data/table_43.html) (last visited Feb. 23, 2009).

<sup>112</sup> OJP.USDOJ.gov, Homicide Trends in the U.S.: Trends by Race, <http://www.ojp.usdoj.gov/bjs/homicide/tables/oracetab.htm> (last visited Feb 23, 2009).

<sup>113</sup> Orlando Patterson, Op-Ed., *Jena, O.J. and the Jailing of Black America*, N.Y. TIMES, Sept. 26, 2006, §4, at 13.

<sup>114</sup> Orlando Patterson, Op-Ed., *A Poverty of the Mind*, N.Y. TIMES, Sept. 30, 2007, §4, at 13.

<sup>115</sup> *Id.*

<sup>116</sup> *Id.*

<sup>117</sup> McLANAHAN & SANDEFUR, *supra* note 75, at 21–22. See generally McLanahan, Donahue & Haskins, *supra* note 10.

<sup>118</sup> AMY L. SOLOMON, KELLY DEDEL JOHNSON, JEREMY TRAVIS & ELIZABETH C. MCBRIDE, THE URBAN INST., FROM PRISON TO WORK: THE EMPLOYMENT DIMENSIONS OF PRISONER REENTRY 1 (2004), available at [http://www.urban.org/UploadedPDF/411097\\_From\\_Prison\\_to\\_Work.pdf](http://www.urban.org/UploadedPDF/411097_From_Prison_to_Work.pdf).

<sup>119</sup> For information on the program, see Center for Employment Opportunities, <http://www.ceoworks.org/> (last visited Feb 25, 2009).

programs aimed at assisting felons soon after they are released were “less likely to have their parole revoked, to be convicted of a felony, and to be re-incarcerated.”<sup>120</sup> States and the federal Department of Justice should ensure that these programs continue to grow and that new programs conform to the results of the numerous on-going evaluations.

¶64 The final action, and the most difficult for policymakers, will be to revise laws that impose mandatory sentences on non-violent, first-time offenders. The law enforcement system should concentrate on keeping young men who have committed nonviolent crimes out of prison. The first step is to repeal laws that provide for harsh mandatory sentences on those who sell crack cocaine and laws that provide harsher penalties for selling crack than for selling powdered cocaine. In addition, the discretion of judges in imposing prison sentences should be restored. The Supreme Court, not exactly a bastion of liberal thought in America, has recently taken significant steps in this direction. On December 10, 2007, the Supreme Court issued two 7–2 decisions (*Gall v. United States*<sup>121</sup> and *Kimbrough v. United States*<sup>122</sup>) that provide some relief from the harsh federal sentencing guidelines enacted in 1986.<sup>123</sup> Both of these cases are consistent with increasingly urgent recommendations made for several years by the U.S. Sentencing Commission calling for reductions in penalties for the sale of crack cocaine.

#### V. CONCLUSION

¶65 A host of demographic and economic trends in the United States make it difficult for the nation to make progress against poverty and income inequality. However, government policies that raise work levels and provide public benefits to supplement earnings have proven to be effective in fighting poverty among female-headed families. But further progress seems unlikely unless more poor adults work, reduce the number of children born outside of marriage, and marry at higher rates. Government should spend additional funds to strengthen programs that provide cash and other benefits to low-wage workers and expand cash subsidies for young male workers. It should also design and test new programs for single mothers who encounter difficulty getting or holding a job, encourage marriage, and test innovative programs that discourage extra-marital births, especially among teens.

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<sup>120</sup> Dan Bloom, Cindy Redcross, Janine Zweig & Gilda Azurdia, *Transitional Jobs for Ex-Prisoners* (MRDC, Working Paper, Nov. 2007).

<sup>121</sup> 128 S. Ct. 586, 594 (2007).

<sup>122</sup> 128 S. Ct. 558, 575 (2007).

<sup>123</sup> In 1986, Congress passed legislation that imposed stiff mandatory penalties on drug traffickers who deal crack cocaine and other drugs. For example, the penalties for selling crack were 100 times greater than the penalties for selling powder cocaine. In the 2005 case of *United States v. Booker*, the Supreme Court held that, in effect, these statutory guidelines were not mandatory but advisory and that district courts should consider factors such as the characteristics of the defendant and the circumstances in which the offense was committed in the sentencing process. 543 U.S. 220, 245, 249 (2005). In both the *Gall* and *Kimbrough* cases, the Supreme Court allowed the imposition of lighter sentences on drug offenders due to mitigating circumstances, thereby showing unequivocally that lower courts can impose lighter sentences than those found in the original 1986 statute.