

Child Support and the Custodial Mother's Move or Remarriage:
What Citizens Believe the Law Should Be

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Abstract

Whether a custodial mother's new husband earns more or less than the father, economic realities ensure his income will usually affect the child's financial well-being, sometimes dramatically. The stepfather's daily contact with the child may be more than the father's, possibly burdening his relationship with his child, especially if mother moves with stepfather and child to a distant location. Nonetheless, the law does not usually consider remarriage and moves in setting the father's child support obligation. With remarriage now common, the tension between these traditional rules and economic and social realities may suggest the rules' reform. This paper asks if current law is consistent with citizens' beliefs about what the law should provide. A random sample of citizens was asked to set support amounts across cases with systematically varying facts about the mother's circumstances. The citizens' preferred rules, inferred from these case decisions and their answers to Likert questions, show considerable support for the law's taking remarriage into account, especially at higher stepfather incomes. The mother's move to a distant location does not alone affect most respondents' support judgments, but it does when combined with either remarriage or an increase in the mother's income. These effects are found in both male and female respondents, although females are less responsive than males to remarriage without relocation. Our respondents appear to consider both social and financial factors in these judgments, and to prefer more rules that are more nuanced than the traditional law's categorical exclusion of remarriage and moves in support judgments.

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During the 1980's the law governing child support changed quite dramatically. Federally mandated enforcement measures for the first time compelled compliance with state court support orders, transforming what had in practice (though not principle) been a voluntary system (Ellman, Kurtz, Weithorn, Bix, Czapanskiy, & Eichner, 2010, pp. 518-523, 576-580). At the same time, federal law required all states to adopt formulaic guidelines that set the exact dollar amount of the support order that judges would be required to impose in most cases, ending the traditional rule of trial judge discretion that had yielded considerable variation in the support amounts ordered in essentially identical cases arising within a state (42 U.S.C. § 667(a), (b)(2), 2000); 45 C.F.R. § 302.56(a)(2), 1989). The result was that the state rules governing child support mattered more, because their application became more consistent across cases within the state, and the support orders they produced were usually enforced.

Federal law imposes no substantive requirements on state guidelines, and in fact the dollar amount of the guideline support order applicable to any given case varies considerably from state to state. (Pirog, Grieshop & Elliot, 2003; Morgan & Lino, 1999; Braver & Stockburger, 2004). In prior work (Ellman, Braver & MacCoun, 2009; 2012) we have considered quite extensively the extent to which existing guidelines are consistent with citizens' intuitions about how to construct a fair guideline system. By giving our respondents a series of cases with systematically changing parental incomes, we effectively constructed a guideline based on citizen judgments, that we later found were associated with their views on principles that a support law might adopt. By repeating this exercise across a series of studies with different family circumstances, we learned whether and how those changes affected citizen judgments

(Braver, Ellman & MacCoun, 2014; Ellman & Braver 2011). These earlier studies, and others (Ellman et. al 2014; Ellman, 2012) also compared the guideline rules implicit in these citizen judgments to those implicit in state legal regimes.

In this paper we shift our focus to three child support rules, nearly universal across the states, which carry forward policies from the pre-guideline era. Because these rules are now part of every state's guidelines, they bind judges setting support amounts more effectively than they did in the pre-guideline era when departures from them could have hidden within the exercise of trial judge discretion. Each of the three rules establishes that a particular fact does *not* matter in setting support amounts: 1) the remarriage of the primary custodian; 2) the income of the primary custodial parent's new spouse;¹ and 3) the primary custodian's relocation, with the child, to a distant location that makes it difficult or impossible for the other parent to maintain regular contact with the child.² Courts often consider certain financial consequences of a relocation, such as the increased cost of visitation (e.g., *Irons v. Holt*, 2014; *Green v. Parks*, 2014), but the impact of the relocation on the obligor's ability to maintain his³ relationship with the child does not itself affect calculation of the his support obligation.)

One can understand these three rules as particular applications of three broader principles: 1) Parents are responsible for their child's support; 2) No one else is responsible for the child's support; and 3) The parental support obligation is unconditional—it always accompanies parental status, and does not depend on any other facts to justify it. The custodial parent's remarriage thus cannot matter unless the new spouse also adopts the child, replacing the noncustodial parent as the legal parent (and thereby ending his parental status and thus terminating entirely his support obligation). So the addition of a stepfather cannot alone affect the father's obligations. Nor, if the third principle is correct, can the burden a relocation imposes on the father-child relationship have any effect, because the parental duty of support does not

depend on the existence of any actual relationship between parent and child, or even on the parent's having an opportunity to establish or maintain such a relationship. A man who has never met this child because he (or the mother) moved to a distant location before birth retains his support obligation unless his parental status ends (which normally requires some other reason). (Brad v. Lee, 1997; Brenton v. Patrick, 2001; Anno, 2001).

The first of these broader principles probably strikes most people as so obvious as to be almost tautological: to be a parent is necessarily to be a person on whom the minor child relies for nurturance and support. And the second principle—that only parents have this responsibility—would seem to be the first principle's natural corollary. The third principle may seem to follow from the assumption that one cannot shed one's parental responsibilities while retaining one's parental status. Of course, none of these principles are inconsistent with the law regulating when one parent may take the child to a location at some distance from the other parent—that is a separate question. But they do seem to foreclose reducing the support obligation as a result, so long as the other parent remains a parent.

These principles all assume a binary concept of the parental support obligation: either you are a parent with full responsibility for the child's support, or a nonparent with no responsibility. There is no in-between status. There was little occasion to challenge this binary vision when divorce rates were low and blended families uncommon, but today it may often seem oddly disconnected from the realities of family life. The prevalence of divorce followed by remarriage is now too high to ignore the issues such living arrangements create, and most people probably have friends or relatives who are part of such "blended families" even if they have not themselves been part of one. Divorce and remarriage are also common occasions for moving. More than one-half of those who were separated from their spouse moved between 2005 and

2010; in 2005, 23% of all those who told the Census Bureau they had move in the past five years had moved from a different state.⁴ The population's increased familiarity with the day to day realities of managing blended families could affect the social consensus about the appropriateness of the binary vision. Social mores are much more pervasive than the law in regulating the conduct of family members toward one another, and legal rules that are in tension with social mores may not be durable.

Consider stepparent support obligations, for example. Whether or not stepparents have a legal duty to support children living with them, they usually will. People sharing a household have too many joint consumption items to avoid it. The stepparent contributing to his blended family's rent or electric bill is necessarily contributing to the cost of housing his stepchildren. And so on with other items, such as automobiles. Even for items that are in principle consumed separately, such as groceries, considerable vigilance would be needed to ensure a stepchild realized no benefit, and it is hard to imagine a marriage could survive the tension created by one spouse's aggressive efforts to avoid conferring any benefits on the other spouse's children. The situation is only more dramatic in the case of a wealthy stepparent who earns far more than either of the parents; his income may provide his new family, including his stepchildren, with a living standard far more comfortable than the child would have had if the original marriage had survived. At the other extreme, it is possible, of course, that a stepparent earns less than he costs—less than the marginal cost of adding him to the custodial household. In that less common case, the stepparent must rely on the income of the parent he married, consuming funds that might otherwise have gone toward his stepchildren's support. So here too, the presence of a stepparent has an unavoidable impact on the children's financial well-being.

The point is that a rule instructing courts to ignore stepparent income, when setting child

support levels, is in tension with social and economic realities. It normally matters to the child how much money the stepparent earns, and it can matter a great deal. Why then would the child support system ignore this fact? The obvious explanation is that the child's well-being is not the only purpose served by the support law: Another purpose is to enforce a parent's moral obligation to support his or her children (Ellman & Ellman, 2008). A third party's support for the children that is generous enough to ensure their well-being doesn't discharge the parent's moral—or legal--obligation. But it may render redundant the law's companion purpose for requiring support, protecting the child's well-being. If only one of the law's two usual reasons for requiring support remains relevant, is an adjustment in the amount of support apt? Perhaps. The law's purpose of ensuring parents meet their obligation to contribute to their child's support may be satisfied with a smaller payment than we would require if the child's well-being depended on a larger payment.

The standard legal response to claims about stepparent support does not really consider this question. Consider, for example, *Long v. Creighton* (2003), in which the custodial mother testified that she earned \$24,122 a year, that her new husband earned \$45,000 annually, and that he covered her and her children on his health insurance policy. When asked what percentage of household expenses she paid, she said, "It's all joint, it's all combined. Our monies are combined." On that basis, the trial court assumed her new husband paid for his proportionate share of their household expenses, and reduced the father's support order accordingly. This reduction was reversed on the mother's appeal:

[W]hen the [trial] court found that Long's spouse is responsible for 69% of the family's total expenses because he earns 69% of the family's total income, the court indirectly made Long's spouse responsible for the support of Long's children. No case law or statute imposes a legal duty upon a new spouse to provide support for his or her step-children (p. 625).

The court did not deny the economic reality that the members of Long's household were one financial unit; it simply found that the law didn't give any weight to this reality. Statements of this view are common in the cases and the statutes. Yet in truth the prevailing legal rule is more nuanced than suggested by this common case language. The power of the reality sometimes cannot avoid intruding.

For example, the common law requires stepparents to support and educate stepchildren living with them.⁵ One compilation (Morgan, 1999) found this common law rule effectively codified in twenty states that imposed a general stepparent support obligation.⁶ There are also "family expense statutes" that effectively continue this rule because they allow creditors to reach stepparents for goods or services provided to stepchildren living with them.⁷ Of course, there are few reported cases involving such suits by creditors seeking payment for necessities. The stepparent support duty normally ends with the parties' divorce, when children typically remain with their legal parent and thus no longer live with the stepparent. But even if rarely enforced, the legal expectation that stepparents will contribute to the support of children living with them does suggest something about what people believe is right, as well as about what is economically inevitable. That belief, for example, may explain, at least in part, why states look to stepparent income in determining eligibility for public benefits⁸ and why public colleges consider stepparent income in awarding need-based financial aid⁹. Of course, one can believe a stepparent ought to contribute to his stepchildren's support without believing the stepfather's contribution excuses the legal father from his support obligations. So the usual child support rule excluding the income of a stepparent from the support calculation may have less to do with people's view of the stepparent obligations than it does with ensuring that the legal father is not let off the hook.¹⁰

If the binary view of parental obligations were relaxed, one could compromise by allowing consideration of stepfather income to reduce but not replace the legal father's support obligation, thus recognizing stepparent support without excusing the legal father's obligation. During the era of discretionary adjudication in the United Kingdom, before it also adopted guidelines, judges could take stepparent income into account, and they sometimes did (Eekelaar, 1991). Some states also do it in particular circumstances, even if they do not characterize their actions in this way. One example arises in the application of income-imputation rules. When calculating support, virtually all states will impute income to a parent regarded as shirking employment, but not to a parent whose decision to reduce working hours is considered reasonable in light of all the circumstances (as where reduced employment is thought necessary to care for a young or disabled child) (Morgan, 2000a; 2000b; 2003). What then of the case in which a remarried custodial mother, for example, reduces her working hours, perhaps to zero, because she can now rely on her new husband's income? In calculating the father's support obligation, should the court impute the foregone income to the mother (thus maintaining the father's support obligation) or should it accept her actual reduced income as her income (thus increasing the father's support obligation)? Some states, such as New Hampshire and California, impute a full-time income to this mother.¹¹ They do not deny that it is reasonable for her to take her new husband's income into account in deciding on her working hours; they simply believe that her reasonable decision to reduce her income does not, in this case, justify an increase in the father's support payments. This conclusion necessarily accepts the stepfather's contribution to the children's support as an appropriate factor to consider in fixing the father's support obligation. Such rules acknowledge the reality that the new family is one economic unit.

Some states allow courts to take stepparent income into account in a broader array of cases. They allow judges to consider stepparent income in deciding whether to deviate from the guideline amounts. New Hampshire, for example, in addition to the previously-noted rule imputing a full-time income to the remarried mother, also permits the court, in deciding whether to deviate from the guidelines, to consider "the economic consequences of the presence of stepparents" (N.H. Rev. Stat. Ann. § 458-C:5(I)(c), (2014)). The New Hampshire Supreme Court has held (*In re Barrett*, 2004) that such deviations are not limited to the cases addressed by the statute involving remarried custodial parents who are underemployed. Connecticut also endorses such treatment of the presence of stepparents. (Conn. Gen. Stat. Ann. § 46b-86(b), (2014)). Louisiana goes further, allowing the court to consider as income "the benefits a party derives from expense-sharing . . . to the extent such income is used directly to reduce the cost of a party's actual expenses" (La. Rev. Stat. Ann. § 9:315(C)(5)(c), (2014)) Idaho also allows consideration of such expense sharing benefits, but only if "compelling reasons exist" Idaho Code Ann. § 32-706(1)(b), 2014).

It is fair, then, to conclude that despite the general understanding that stepparent income is excluded from support calculations, many states make exceptions and qualifications, reflecting ambivalence about the basic rule. Do citizens share this ambivalence? Are they prepared to count stepparent income in at least some cases? If so, how much? Those are one set of questions we sought to shed light on through the data we describe in this article. (Note that the new spouse of a support obligor with whom the children do not usually live is not a stepparent because the children do not "reside" with him. For that and other reasons, the question of whether support rules should treat the new spouse of the obligor and the primary custodian symmetrically is a complicated question, which this study does not address. See Ellman and Ellman, 2008, p. 159.)

We also sought to shed light on citizen understandings of the unconditional nature of the parental support obligation. Our particular interest was whether citizens believed the support obligation was dependent, in whole or part, on the opportunity to maintain a relationship with the child. In all states the normal legal rule is that the custodial parent has an obligation to allow the other parent access to the child, and the noncustodial parent has an obligation to pay child support, and that neither obligation depends on the other. So a parent charged with failing to pay support cannot defend by showing the other parent denied him access, and a parent charged with denying the other parent access cannot defend by showing the other parent failed to pay support (Ellman, 2004; Czapanskiy, 1989).

Yet there is reason to believe that hard and fast rules separating the right of access and the duty of support are inconsistent with the views of parents engaged in such disputes. A study of couples participating in programs for parents in visitation disputes (Pearson & Anhalt, 1994) found that seventy-six percent of the mothers, and sixty-four percent of the fathers, believed the issues of visitation and support should be considered together. Similarly, Braver and O'Connell (1998) found statistical correlations between the two actions among recently divorced couples. Moreover, the law is not quite as clear on this point as it might seem. While all states deny support obligors the "self-help" remedy of reducing support payments on their own, when the other parent denies them access, a few allow their courts to adjust a support orders prospectively on the obligor's petition, as a last-resort remedy when dealing with a recalcitrant custodial parent unresponsive to other efforts at compelling her cooperation with the visitation plan.¹² And the universal rule that the duty to pay support, and the right of access to a child, both follow from parental status, connects them with one another as a practical matter. Courts cannot normally deny visitation rights to a noncustodial parent who complies with the support order,¹³ because

meeting his support obligations is normally sufficient to maintain the obligor's parental status, and even parents who are poor candidates for primary custody are presumptively entitled to visitation.¹⁴ But a parent who chronically fails to comply with a support order may on that ground have his parental rights terminated, which also ends his legal right of access to his child.¹⁵ Conversely, a court's termination of a parent's "rights" not only ends the former parent's right of access to the child, but in most states also ends that former parent's duty to support the child.¹⁶ Access and support are thus tied together because they both depend on parental status.

So as with the rule on stepparent income, the law is in fact ambivalent about whether the duty of support for a child depends on having the access to that child necessary to maintain an actual relationship, and most divorced parents themselves may see the issues as connected. We sought to make a more systematic inquiry into the views of citizens on this point. In doing so, however, we chose to avoid asking our respondents about cases involving recalcitrant custodial parents. One might believe it appropriate to impose a financial penalty on the recalcitrant custodial parent who for no good reason intentionally defies a court order protecting the other parent's right of access, but whether the custodial parent was a wrongdoer deserving punishment was not the question we wished to ask. We wanted instead to learn whether people believed that the duty of support should be dependent, in whole or part, on the opportunity to see a child often enough to establish or maintain a parental relationship.

We therefore asked our respondents about a different, but certainly quite common fact pattern that did not involve maternal conduct some might think blameworthy: the custodial parent who moves with the child to a place far enough from the support obligor to place significant burdens on his ability to maintain his relationship with the child. (Clearly, not every

move will seriously disrupt the paternal relationship, but our interest was only in those that do.) There are a variety of reasons potentially motivating such moves, but at least some are clearly reasonable and offer no basis for punishing or disadvantaging the custodial parent. But even a perfectly reasonable move may impose a significant burden on the support obligor's opportunity to see or maintain a meaningful relationship with his child. That is the situation we wished to ask about. If citizens believe the duty of support depends in part on that opportunity to maintain the parental relationship, their resolution of these support cases should reflect that.

In sum, it is usually said that child support rules do not allow the reduction or elimination of the support obligation on account of either the custodial parent's remarriage, or the custodial parent's move to a distant location that burdens the support obligor's ability to maintain a relationship with the child. Yet at the same time, some features of the law do recognize, if only by implication, the potential relevance of the mother's remarriage in the support calculation, while other features recognize the necessary conceptual connection between support for, and access to, the child, as both follow from their common basis in parental status. Economic realities and the expectations of separated parents are also in tension with these standard support rules. We therefore sought to understand whether or not citizens generally believe these rules should be revised.

Our design asks lay citizens to decide child support cases in which facts about remarriage and relocation are systematically varied. Our respondents are told to set the amount they believe right, not the amount they might guess the law would require. We then infer their preferred rules from the pattern of their case decisions, in a process akin to inferring a common law rule from a pattern of judicial decisions¹⁷. So while we ask respondents to decide cases, our purpose is not to model judicial decision-making. Our purpose is instead to use the citizens' case decisions to

uncover the rules they implicitly favor for deciding such cases, so that we can compare them to the legal rules actually in place. Our interest, in other words, was in learning the rules citizens in fact apply when they decide cases, not the rules they might say they favor in the abstract. We did supplement our questions about cases with selected attitude questions logically relevant to them, and we explore that relationship as well. That is not the primary focus of this study, however, as it was in an earlier one (Ellman, Braver, and MacCoun, 2012).

Method

A. *Participants.* The participants were citizens of Pima County (Tucson), Arizona, who were called to and awaiting potential jury service. The county summons potential jurors randomly from a comprehensive list of all adult citizens residing in the county. Very few are excused (unlike in many other jurisdictions), and the Jury Commissioner is exceptionally effective at securing compliance; thus, of those summoned, over 90% eventually appear. Potential jurors often have to wait more than an hour to be called to a jury; during that wait, our research assistant requested that “as long as they were there anyway” they could voluntarily assist the researchers and the court by participating in a “university-based” survey about child support. Generally in our studies, about 2/3 accept the invitation (Ellman, Braver & MacCoun, 2009), and in this study, a similar proportion, over 350, did so.

B. *Survey.* The survey we presented the jurors had three parts. Part I contained 15 hypothetical child support cases (“vignettes”) they were asked to decide. The cases were introduced with this language:

This survey is about child support. When a couple with children does not live together, the children will usually live more of the time with one parent than the other. In this situation, courts routinely order that child support (payments to help support the children) be paid *to* the parent with whom the children live most of the time, *by* the other parent.

In all of the following stories, you should assume that there is one child, a 9 year-old son, who lives mostly with Mom. We want to know the amount of child support, if any, that

you think Dad should be required to pay Mom every month to help support the child, all things considered. There is no right or wrong answer; just tell us what *you* think is right.

Try to imagine yourself as the judge in each of the following cases. Picture yourself sitting on the bench in a courtroom trying to best decide the amount of child support, if any, you should order. To do so, you might try putting yourself in the shoes of Mom, Dad, their child, or all three of them, or imagine a loved one in that position.

Next, the identical “baseline” case was presented to all participants. The case was described as follows:

Mom's monthly take-home pay is \$3,000 a month, and Dad's is \$6,000. They all live in Tucson. The son lives mostly with Mom, but Dad sees him often, and the son frequently stays with Dad overnight. How much child support, if any, should Dad be required to pay Mom every month, all things considered?

\$_____per month

Note that the last sentence asked: “How much child support, *if any*, should Dad be required to pay” (emphasis added). It was for our respondents to decide whether any child support payments should be required at all, but if they believed they should be, they were asked to tell us “how much”.

The subsequent 14 cases requested the participant to imagine that child support was in fact set at the amount they had specified in the first baseline question, but that family circumstances had changed a year later¹⁸. The question was whether and how each respondent would adjust the support amount in response to the new circumstance described in each of these 14 cases. The same language preceded each of the 14 changed-circumstance cases:

Assume that ALL the following families *begin* just like the family in Question 1. However, in each of these families, there are new events that might, or might not, be a reason to change the amount of the child support award. We want to know, in each case, what *you* believe the child support award should be *after* the new event—whether it is the same amount you indicated [for the baseline question], or some different amount.

Thirteen of these 14 involved the mother’s move, remarriage, or both. When the mother moved, it was always from Tucson, the marital home, to Boston—obviously a considerable

distance. All the vignettes that involved relocation, whether alone or in combination with remarriage, specified that Dad didn't "want Mom to move because the move would reduce his time with his son and make it harder to keep a close relationship with him", because the father "couldn't move to Boston because he has no job prospects there. Despite Dad's objections Mom moves to Boston with the son".

Relocation disputes frequently focus on the reason for the custodial parent's relocation. Sometimes, of course, the mother's remarriage is itself the occasion for her relocation, and this was one of our variations ("Her new husband lives and works in Boston.") A relocating mother who has not remarried may have various reasons for moving that might seem more or less weighty. We asked about three: to be near her closest friend, who has become disabled; because she prefers the Boston climate and being closer to the ocean; or for a better job (paying \$7,000 a month rather than \$3,000);. For the latter case, we needed to add the 14th variation, in which she receives the same pay increase without moving, to tease apart the effect of the move from the effect of the raise.

The financial impact of remarriage (and thus its arguable relevance to child support amounts), obviously depends on the new husband's income. The mother can marry a man who earns more or less than the father, and we asked about one example of each (\$4,000 and \$10,000 a month, compared to the father's \$6,000). In addition, the mother's own income may or may not change with her remarriage. We asked about a case in which her income did not change, and about two cases in which she reduced her income after marrying a man earning \$10,000 a month. In one "her new husband's income allows Mom to shift to part-time work" with the result that her income drops from \$3,000 to \$1,500, while in the other she quits work altogether after having a new child with her new husband. (Both these cases involved remarriage but not relocation.)

The following example of one of our variants (the case in which the mother relocates to Boston to marry a high-earning husband) illustrates the language we used in the variants:

Imagine child support was really set at the amount you answered for [the baseline question]. But a year later, Mom remarries. Her new husband lives and works in Boston. Dad doesn't want Mom to move because the move would reduce his time with his son and make it harder to keep a close relationship with him. Dad can't move to Boston because he has no job prospects there. Despite Dad's objections Mom moves to Boston with the son, and her employer is able to transfer her there at the same take-home pay she had in Tucson, \$3,000 a month. Mom's new husband earns \$10,000 a month in take-home pay, so Mom and her new husband now earn \$13,000 combined. Dad's take-home pay remains at \$6,000 a month. How much child support, if any, should Dad now be required to pay Mom every month? You can indicate the same amount as in any other question (including [the baseline question]), or a different amount, whatever you believe is right, all things considered.

\$_____per month

Table 1 (which also presents results we discuss below) shows all 14 variants we asked about. Every participant judged every one of these 14 changed circumstance scenarios (i.e., repeated measured design), as well as the baseline case. While the baseline case was always presented first, the 14 variants identified in this table were presented in 12 different counterbalanced orders to eliminate the impact of order effects on the results. All results that we report here are aggregated over these 12 orders.

Part II contained a set of Likert-type (strongly disagree=1 to strongly agree=7) items.

They were prefaced as follows:

In all of the following statements, you should assume that the children live mostly with the mother, the father sees them often, and they frequently stay with the father overnight. So the FATHER is the parent who would (possibly) pay child support to the MOTHER.

More about their content will be described in the Results section.

Part III contained a set of demographic items asking for respondent gender, marital and divorce status, income, age, parental status, political affiliation, political outlook, and experience in the child support system.

Results

A. Baseline case. Every respondent was first presented with the baseline case. The mean support amount for the baseline case, across all respondents¹⁹, was \$958 (SD=\$599). Replicating what we have found in past investigations (Ellman, Braver & MacCoun, 2009; Braver, Ellman & MacCoun, 2014) this judgment differed significantly for male (M=\$825) vs female (M=\$1,074) respondents, $t(182)=2.87$, $p<.01$.²⁰ The only other demographic factor to significantly relate to this baseline award was participant's education: more highly educated respondents awarded more, $r(177)=.24$, $p=.002$. This impact of education, and the lack of impact of all other tested demographics, also replicated earlier results (Ellman Braver & MacCoun).

B. Changed circumstance cases. Table 1 groups the vignettes by the main aspect of the changed circumstance: raise in mother's income, but no move or remarriage; move; remarriage; and move combined with remarriage. (While the vignettes are grouped logically for presentation here, recall they were presented in one of 12 different orders to each respondent.) Column A shows the overall mean reduction (and its standard deviation in parenthesis) for each vignette, across all respondents (including those who would not reduce it at all.) These reductions were calculated by subtracting each response from that same respondent's individual baseline award; the numbers reported in Column A are thus the means of those differences.²¹ This method allows one to observe the effect of each new circumstance on the baseline award. The mean reductions (from the \$958 mean award in the baseline case) ranged from \$147 (Vignette 3) to \$512 per month (Vignette 14). The overall reduction was significantly greater than zero for every vignette, tested separately. Thus, for example, the average reduction of \$292 when the mother's salary more than doubled (Vignette 1) was a highly significant reduction, as were the smaller reductions of \$169 (Vignette 2) and \$147 (Vignette 3) for the mother's relocation to Boston

without remarriage.

As noted above, there was a great deal of variability in the support awards our respondents made in the baseline case ($SD=\$599$), and there is also substantial variability in the amount by which they reduce the awards for each of the 14 cases presenting a changed circumstance.²² Such variability is common when respondents are asked to make quantity judgments for which they have little frame of reference, such as casualties in war, corporate earnings, career at-bats in baseball, or the weight of various objects (Tversky & Kahneman, 1974). We noted similar variability in the child support judgments our respondents made in our earlier studies (Ellman, Braver & MacCoun, 2009). At the same time, we then observed less variability in their relative judgments: if the first number they provide is a guess that varies greatly across respondents, the adjustments they make to that initial value, in response to factual changes in later questions, is more predictable. The same pattern occurs in the present study. The average correlation of a respondent's baseline award with the amount by which the respondent reduced the award in the changed circumstances cases was .54. Thus, the higher a respondent set the baseline award, the greater, on average, was the reduction in the award when circumstances changed. The reductions were also even more highly correlated with each other. The average inter-Vignette correlation was .69; they ranged from .48 to .95. Thus the larger the reduction a respondent supported for one scenario, the larger was the reduction he or she favored in the other scenarios.²³ As a general rule, any two mean reductions shown in Table 1 are significantly different from one another whenever they differ by more than \$75 (by matched t-tests, considering the repeated measures aspect of the design)²⁴.

Our further presentation of the results focuses on the differences between vignettes, not only in their respective mean reductions, but also in their respective percentages of respondents

who favored any reduction at all in support amount. Column B of Table 1 shows that percentage for each vignette. These two measures—mean reduction, and proportion who reduce -- are obviously related: other things being equal (as it turns out they largely are), the mean reduction declines as the proportion who make no reduction rises. The remaining Columns of Table 1 present information on gender differences in these measures. Thus Columns C and D report the mean reduction for females and males separately. (Since, as reported above, the reductions are highly correlated with the baseline judgment a respondent gives, and since, in turn, respondent gender impacts the baseline, the amounts in Columns C and D are *adjusted means*, adjusted for the baseline value each provides, treated as a covariate.) Columns E and F report the percentage of females and males, respectively, who favor a lower support amount for that vignette than they favored in their baseline judgment. If there is no entry in Columns C, D, E, and F, the difference between the genders is not significant.

Before examining the patterns of results for particular groups of vignettes, we note first an aspect of our results that apply throughout and thus affect the overall pattern: There was no significant interaction of respondent gender with changes in the income of the mother on the dollar amount of reduction, for any vignette.²⁵ That result replicates our prior findings (Ellman, Braver & MacCoun, 2009; Braver, Ellman & MacCoun, 2014).²⁶ Thus, the fact that there is no difference in the mean reductions favored by male and female respondents in Vignettes 1 and 4 (in which the mother's income rises) can be understood as simply a further example of this consistent pattern. By contrast, gender differences in mean reductions do sometimes appear in vignettes that combine increased maternal income with moves or remarriage. These features of the data are discussed further below.

With these preliminaries addressed, we go on to three main findings revealed by the data

in Table 1. While we necessarily state each one separately, it must be kept in mind that some changes in vignette facts may or may not affect respondents' support judgments, depending upon whether it is combined with a different change in circumstance. The findings must therefore be considered as a whole. In the discussion section we address the overall pattern.

- 1. Custodial Mother's Relocation: Moves alone, unaccompanied by either changes in income, or remarriage, do not affect most respondents' support judgments, but they do matter to a substantial minority.***

If one looks at Column B of Table 1, Vignettes 2 and 3, the only ones that involve moves alone, without other changes, stand out because only a third of our respondents reduced the award, the lowest proportion for any vignette. The overall mean reduction for Vignettes 2 and 3 (Column A) was correspondingly, and significantly, lower than in any other vignette (though the reduction was still highly significantly greater than a zero, as previously noted). Moreover, the absence of any entry for Columns C, D, E and F indicates no difference in how male and female respondents judged these vignettes, and even the size of the reductions favored by those who do reduce (not shown in the Table) is small relative to the equivalent measure for all other vignettes. There thus seems a rather strong consensus that these two vignettes present the weakest case, among all those we asked about, for reducing support. What they have in common is that they are the only vignettes involving relocation alone, without either remarriage or a change in the mother's income.

Note also that the mean reductions in Vignettes 2 and 3 do not differ significantly from one another, even though one (2) was intended to represent a relatively frivolous reason for the move ("because she likes living near the ocean and prefers a cooler climate") while the other (3) an arguably better reason ("because her closest friend, who lives there, becomes disabled"). So it seems that the reason for the move does not much affect our respondents' judgments. Of course, we asked about only two reasons. Perhaps, for example, the result might have been different had

the vignette stated the mother was moving to Boston for the purpose of thwarting Dad's contact with the children. But at least when there is no such attribution of maternal blame, it seems most of our respondents do not reduce support for a move alone, even when the move is opposed by the father who plausibly believes it will make it difficult for him to maintain his relationship with their child.

2. Remarriage of Custodial Mother: Remarriage (without relocation) leads to reductions in child support for most men and many women, and to even greater reductions when the mother's new husband earns more.

Our respondents considered six vignettes (numbers 5 through 10) involving remarriage without relocation. Four of them included additional complicating changes in the mother's income as well, but Vignettes 5 and 6 kept the mother's income unchanged from the baseline case, at \$3,000, and are thus the only vignettes in which remarriage was the only change. In Vignette 5 her new husband earned \$4,000, and in Vignette 6 he earned \$10,000. In both cases, the mean reductions were large and significant, and reductions were favored by a majority or near majority of participants. While Vignettes 9 and 10 also include the complication of the mother's increases in earnings to \$7000 from \$3000, we can tease out the effect of the remarriage by comparing them not to the baseline but to Vignette 1, which involves a mother with the same rise in income who did not remarry. Both the mean reduction, and the percent reducing are significantly higher (Vignette 9, 65%; Vignette 10, 64% vs Vignette 1's 56%, both differences $p < .002$, by McNemar's test of the difference in repeated measures proportions) when the higher-earning mother remarries than when she does not, just as with the lower-earning mother in the baseline.

Does it matter how much money the new husband earns? For the lower-earning mother one can see it does, because the mean reduction was significantly higher when the new husband earned more (Vignette 6, where he earned \$10,000/month, as compared to 5, where he took

home \$4,000/month), as was the percentage reducing (46% vs 55%, $p < .001$, by McNemar's 1947 test of the difference in repeated measures proportions). For the higher-earning mother, the new husband's income was not important: neither the mean reduction (\$414) nor the percentage reducing (65%) in Vignette 9 is significantly different than in Vignette 10 (\$439 and 64%, respectively). We obviously do not know whether more extreme values for the new husband's income would have mattered for the higher-earning mother, but it does appear that within more typical middle class income ranges, the amount of her new husband's income does not matter much if the mother has healthy earnings herself—even though the fact of her remarriage still *does* matter, as we saw. This may suggest that remarriage affects our respondents' judgments for two distinct reasons, financial and social: at lower maternal incomes both matter, so the effect of remarriage is greater when the new husband earns more, but when maternal income is higher, differences in her new husband's income are less important than the social impact of her remarriage, which is the same in both remarriage cases.

What if the remarriage is combined with a *reduction* in the mother's income? Our respondents reduce the child support level for the mother who *reduces* her income after her remarriage to a high earner in Vignettes 7 (reducing to half-time work and income) and 8 (quitting her job for a new baby). How could the mother receive less child support because her income went *down*? In the great majority of states that take the mother's income into account, a lower-earning mother of course receives *more* child support, not less. It is also true, however, as noted above, that most states have child support rules imputing *voluntarily* foregone income to the parent (obligor or obligee) who *chose* to earn less (or nothing).²⁷ Such a rule prevents any increase in support for the obligee who voluntarily reduces income, but it does not reduce it (Ellman, 2010). So by reducing it, our respondents go further than income-imputation rules alone

require, apparently because they believe remarriage matters as an additional factor: income imputation prevents any increase, and the added remarriage then yields a reduction. Note that the mother in Vignette 8 quits her job to care for a new baby. While courts often decline to impute income to mothers who reduce their work to care for very young children of the dissolved marriage, the Vignette 8 mother quits work to care for a child of her *new* marriage, and some courts have imputed income to her in that kind of case.²⁸ But in sum, these two vignettes add to the sense that our respondents care about remarriage and especially about remarriage to a high earner.

But Table 1 also reveals the important impact of respondent gender on these numbers. Much higher proportions of men than women reduce support in *all* the remarriage cases (Vignettes 5 through 10, Columns E & F), and the overall mean reduction for males is significantly greater than for females (Columns C & D). And while significantly more respondents, male and female, reduce support for the higher income new husband (so both genders, on average, take the new husband's income into account) new husband's income has more impact on male respondents. Looking at Vignettes 5 and 6, the two simple remarriage cases with no other changes, lets us compare the impact of a low- and high-earning new husband. Raising the new husband's income increases the mean reduction for men (from \$317 to \$460) significantly more than for women (from \$180 to \$243). Indeed, for women the difference in support amount, between the two husbands, is not significant.²⁹ Another way to look at this phenomenon is to compare Vignettes 1 and 5: the mother's household income increases by \$4,000 in both, but in 1 the increase all comes from her own raise, while in 5 it's all from her new husband's income. The proportions of males who reduce in Vignettes 1 and 5 are not significantly different (65% v. 60%, $p=.42$, by McNemar's test), but the difference in the

proportions of females who reduce (48% for a \$4,000 raise, 34% when she marries a man earning \$4,000) is ($p=.017$ by McNemar's test). So on average women are sensitive to the source of the increase in the mother's household income, but men are not.

Why does remarriage have less impact on women than men? We can get some further insight into this question by looking at our respondents' ratings of a number of agree-disagree statements of general attitudes (Likerts) about custodial mother remarriage³⁰. Table 2 contains the exact wording of these Likert items and the overall results for each one. It also shows the means for male and female respondents, except for the first Likert in which the gender difference was not significant. There are only two items for which the mean rating over *all* respondents was significantly different than a neutral 4. Respondents *agreed* rather strongly (5.25, Likert 1) that stepfathers should help with the expenses of stepchildren living with them, and they disagreed about as strongly (2.84, Likert 3) with the statement that we should not expect stepfathers to contribute to their stepchildren's support. Perhaps surprisingly, that disagreement was even stronger among men (2.44) than among women (3.36). So it appears that respondents generally, but men especially, believe that stepfathers *should* support their stepchildren, which is different from simply recognizing the reality that such support is unavoidable as a practical matter. One might think that those who believe stepfathers should support their children would also believe that remarriage should lower the father's support obligation. In that case, one would expect remarriage to affect support judgments for both genders, but with a stronger impact on the judgments of men. And as we have just seen, that is, as a general matter, what the results in the vignettes showed.

Note further, however, that while the *overall* means on remaining items (Likerts 2, 4, 5, and 6) were not significantly different than a neutral 4, this overall result is misleading: when we

examine the responses of men and women separately, we find that *neither* group is, on average, neutral. Rather, men and women have clear but opposite views of relatively equivalent strength, thus canceling one another out. Men agreed, but women disagreed, with statements reducing child support if the mother remarried and the child benefitted from her new husband's income, or the new husband had a "good" income, or earned more than the father. The particularly strong view of men that stepfathers should support their stepchildren is obviously consistent with their view that the father's support obligation should be reduced in these vignettes. The milder support women give to the view that stepfathers should support their children is not sufficient, apparently, to lead them to the conclusion that the father's support may therefore be reduced.

Could one predict respondents' resolution of the cases from their judgments in the Likerts? To answer that question, we averaged scores on the Likert items that asked about the impact of the mother's remarriage on the father's support obligation (2, 4, 5, and 6 in Table 2). This average formed an "attitude toward new spouse income" scale³¹. The last column of Table 2 shows that male participants had significantly higher scores on each of these items, and so of course their mean score on this scale is also higher (male mean=4.52; female mean= 3.33, $t(185)=4.15, p<.01$). Table 3 displays the correlations between this scale score and the respondents' answers in cases in which the mother remarries (Vignettes 5-14). The first column of Table 3 (labeled "did respondent favor reducing child support?") shows large correlations between the scale score and the respondent's decision to reduce, with the highly significant r 's ranging from .48 to .69.³² The second column (labeled "Amount of Child Support Reduction") shows a significant but only modest positive relationship between a respondent's scale score and the *amount* of the support reduction a respondent favored. The large variability, overall, in the amounts by which respondents reduced support presumably lowered the magnitude of this

relationship. But what's clear from these results is that the respondents who expressed the strongest support in the Likerts for lowering support amounts when the mother remarried also lowered them most consistently when resolving vignette cases. Indeed, scores on the new-spouse income Likert scale accounted for more than 10 times as much variance (in respondents' decision on whether to lower child support) than did respondent gender.³³

3. *Custodial Mother's Relocation Combined With Remarriage or Raise: Moves do lead respondents to reduce child support when the relocating spouse also remarries or gets a raise.*

Finding 1 concludes that relocation alone does not affect the support judgment of most respondents. Yet if moves alone do not matter, moves in the context of other changes in circumstances do. For example, comparing Vignettes 1 and 4 shows that an increase in the mother's income yields a significantly larger mean reduction (to \$368 from \$292), and a larger percentage reducing (to 66% from 56%, $p < .001$, by McNemar's test), when it is combined with a move (4) than when it is not (1). Similarly, remarriage to a new husband yields a significantly larger mean reduction and a larger percentage reducing when the mother also moves, whether the new husband earns \$4,000 (mean rises to \$351 from \$244; the percent who reduce goes to 62% from 46%) or \$7,000 (to \$439 from \$344, and to 67% from 55%). Note as well that the gender difference seen in the remarriage vignettes partially disappears in the four vignettes (11-14) that combine remarriage with a move. As Table 1 shows, the proportion of male and female respondents who reduce their awards is not different in any of the four, and the mean reduction for men is significantly more than for women only in the two vignettes involving the new husband with a high income. That is consistent with the observation we already made, in the discussion of Finding 2, that female respondents are less sensitive than male respondents to the income of the mother's new husband.

Figure 1 pulls out the six vignettes in which there is no change in the mother's income, but only moves, remarriage, and moves combined with remarriage. They are arrayed from the lowest to the highest mean reduction and the lowest to the highest percentage of respondents reducing. It shows visually how both measures increase as we go from moves alone through remarriage to the combination of the two.

Thus moves do matter in the overall pattern of results, and because a custodial parent's move commonly occurs, in fact, in combination with her remarriage, or a change in her income, the effect of moves on the overall pattern is important. The interesting question, which we address further in the discussion, is why moves matter when combined with the mother's raise or remarriage, but not when alone.

These data may suggest that our respondents appreciate that both moves and remarriage have social as well as financial effects, and while the social impact of moves alone may not motivate most respondents to adjust support levels, moves may enhance remarriage's perceived social impact. We explore this possibility further in the discussion.

DISCUSSION

This study found that our respondents generally, but males especially, believe the custodial parent's remarriage matters in setting the father's support obligations. We also know that the financial impact of the remarriage is one reason respondents believe remarriage matters, because for the lower-income mother, when the new husband has a higher income the proportion of respondents who reduce the support amount, and the mean amount of their reduction, is also higher. This is true for both men and women, even though men are more inclined than women, for any given remarriage vignette, to reduce support. That seems to be because women distinguish, more than men, between additional income the mother herself brings to her household, and the additional income brought by her new spouse. We might surmise that women believe a mother has less control over her new husband's earnings over her own. Her own earnings may thus seem (to our female respondents) a more reliable source of benefit to her or her children than her new husband's earnings, which they therefore discount.

Yet our respondents also adjusted support in the case of the high-income mother's remarriage, but in that case the amount of the new husband's earnings did not affect their judgment. We suggested this result may provide evidence that our respondents see remarriage as having a social impact as well as a financial one. That is, even if the mother's income is high enough that the remarriage does not have an important financial impact, it still matters socially. A new husband who lives with the child will normally interact with that child regularly, quite possibly more than the father himself. It may then seem natural for the new husband to assume a paternal role, and financial support is part of that role. We know that men and women both believe the new husband should help support his stepchildren, but men do more so, and our Likert items suggest this gender difference is related to the greater inclination of men to favor

reduced paternal support obligation when the mother remarries. The impact that moves have on our respondents' views also tells us something about the social impact of remarriage. Our respondents did not think an unmarried mother's cross-country move alone mattered very much, yet that same move mattered a great deal when the mother had also remarried. A considerably higher proportion of respondents reduce support for the remarried mother who also relocates, than for one who does not, and the mean reduction is also higher. This is true whether the remarriage is to the lower or the higher earning husband. Something other than remarriage's financial impact is needed to explain this result, because there is no difference between the cases in the remarriage's financial impact.

The most obvious explanation is that the social impact of both remarriage and relocation are enhanced when they are combined. The mother's new husband is likely to loom much larger in the life of a nine-year boy (the child in all our vignettes) than does the father who lives on the other side of the country. The psychology of blended families is of course complex, and they will not all operate similarly, or well. But especially if the mother encourages and facilitates her new husband assuming a paternal role, as she well may, he has a real chance of succeeding. That will often make it more difficult for the father to maintain his importance in the child's life, adding to the real barriers created by a move alone. The second husband is on the scene, with a day-to-day presence; the father is not. When the mother moves but does not remarry, no competing father figure complicates the efforts of the motivated father to maintain the importance of his paternal relationship. When the mother remarries but does not move, the motivated father may be able to arrange a parenting schedule that ensures his continued importance in his son's life. But when the mother both moves and remarries, and such a schedule is impossible, things change. The many opportunities for the child to connect with the new husband, informally and spontaneously,

create the possibility of paternal relationship that can reduce the urgency for the child of maintaining all the aspects of the one he had.

Of course, the preceding is all speculative musing that will be more relevant for some families than others. But it surely seems plausible that many of our respondents would also have a greater sense in the move-and-remarriage vignettes, than in any others, that the social reality of the child's family has changed along with the financial reality, and that this change is relevant to the original father's support obligations. This explanation for the importance of remarriage, and the even greater importance of the move-remarriage combination, implies that our respondents have doubts about both the binary and the unconditional nature of the support obligation that exist in the formal law. As for the binary principle, they may not think the child has two fathers in conventional sense, but they do think he has two men who are responsible for him, along with the mother, and they are willing for the child support regime applied to the legal father to take account of the new father figure as well. The binary principle—you are either the parent who is entirely responsible for the child, or a non-parent with no responsibility at all—cannot really be reconciled with our respondents' decisions.

Their views about the unconditional nature of parental obligation is more complex, and in understanding that it is important we not forget the reluctance of most of our respondents to adjust the support amount for a move alone. The key difference from the remarriage case, one might guess, is that for the move alone, there is no new father figure on the scene who might pick up the slack left by excusing any part of the legal father's support obligation (in recognition of the burden the move puts on his paternal relationship with the child). So the unconditionality principle prevails in that move-alone situation because most of our respondents would rather deny the father any discount in his support obligation, even if his relationship with his child is

compromised through no fault of his, than allow a discount that no one else will make up. They don't, in other words, want to reduce the total support provided the child from all sources. This interpretation is strengthened by comparing the results in Vignette 4 to the two move-alone vignettes, 2 and 3, as well as to Vignette 1. Most of our respondents reduce support when the mother's income rises from \$3,000 to \$7,000, with no other change (Vignette 1), but their mean reduction is significantly greater when she gets the same raise and also moves (Vignette 4). The relocation and raise combination also produces dramatically more support for reduced child support than do moves without raise (Vignettes 2 and 3), but the first comparison tells us that raise is not the full explanation for the difference—if it was, then the raise should have the same result whether or not there was also a move. So the move matters when there is also a raise, even though it didn't matter much without one. One can interpret this result as echoing the explanation for why moves matter when combined with remarriage. Both combinations show our respondents *are* prepared to soften the unconditional nature of the support obligation when the father's parental relationship is compromised through no fault of his own. But they are only willing to do that when another actor is available who can pick up the slack—the new husband in the remarriage cases, or the newly enriched mother who has had a large raise. The unconditionality principle needs to be honored, our respondents seem to say, when necessary to protect the child's interest in avoiding a serious decline in support, but might be relaxed when other, additional sources of support become available.

Our male and female respondents did not always agree, of course: in this study as in all prior ones, the women generally preferred higher support amounts than the men, largely because of their greater responsiveness to increases in the father's income. And this study also found that the women were more reluctant than the men to credit the father's concerns with maintaining his

parental relationship in the face of remarriage. Yet on the key points just examined, the gender differences were much less important. Men and women largely agreed on the vignettes combining moves with remarriage or a raise.

So our respondents favor support rules with more nuance than found in the typical state guideline. All law-making requires a choice between flexibility and certainty, and in many cases there are reasons why certainty is more important, and flexibility may even be problematic. Age rules are one obvious example. Should the law say that one may vote when one is mature enough to consider one's choices seriously, or should we just set an arbitrary age, like 18 (or 21, as it was not so long ago). Should drinking be limited by individual assessments of maturity or by a simple age rule? We opt for an inflexible age rule in both cases, for good reason. The administrative complications of enforcing a drinking rule requiring individual assessments in each case are far too great to justify. Nor are we much concerned with the potential unfairness from an age-based drinking rule that excludes mature twenty-year olds but allows alcohol access to those who are immature but twenty-one. Individual assessments in voting eligibility would not only be administratively burdensome, they would invite discriminatory or partisan manipulations that would cast doubts on the integrity of the voting system. That is why American law, for example, now restricts the imposition of literacy tests for voting, once common, especially in the south.³⁴ So in that case the flexible rule presents greater risks of unfairness than does an inflexible categorical rule based on age.

The traditional family law rules imposing an unconditional support obligation on parents, and no support obligation on anyone else, are akin to these age-based rules. Our respondents seem prepared to relax them both by allowing some consideration of particular circumstances in which the support obligation may not be entirely unconditional, in part because it may be shared

with a non-parent. Yet the law of child support has moved in the opposite direction over the past three decades, in the sense that it limited trial court discretion and embraced formulaic guidelines. But during the same time period over which those reforms took place, the variety of family arrangements has increased, as has the proportion of families that are “blended”, combining stepparents and step-siblings. That means that the mechanical categorical rules excluding any consideration of stepparents have greater potential today, than they once did, to work injustice in particular cases. And in fact, the law of many states has moved toward recognizing the claims of “psychological parents” who were traditionally not legal parents to *parenting time* with “their” children (Ellman, 2010, p. 737-749). The results of this study suggest it may be time to consider similar changes on the child support side of those cases. Our respondents, in any event, appear to appreciate that remarriage provides an occasion for recognizing, at least in some cases, that a stepparent may share the parent’s support burden. And they would relax the unconditional imposition of a parent’s support obligation when that parent is deprived of the opportunity to maintain a full relationship with the child, when doing so would not cause financial stress for the child. In both respects, it would seem our respondents prefer rules that are more responsive to modern conditions than are the traditional child support rules.

In sum, then, a child support guideline more consistent than current law with the views of most of our respondents’ would lower the support level when the mother remarried, but especially when the mother also moved with her new husband to a location that places a real burden on the father’s ability to maintain his paternal relationship. In either scenario, it would lower the amount more when the mother, or the new husband, earned more—when the reduction in the support amount would be covered, in effect, by the additional income of the mother or her new husband. Like any guideline support amount, this adjustment would not necessarily apply in

every case. It would instead be a presumption a judge could decline to follow in a particular case presenting additional facts that made the guideline adjustment inapt. Some actual cases would undoubtedly present additional facts, beyond those our vignettes contained, that are arguably relevant in setting the support amount. But that is true for the guidelines generally, not just in cases involving moves and remarriage.

One way to write a guideline that takes the new husband's income into account is to impute some portion of his income to the mother, in addition to whatever income she has of her own. But what portion? Some constant proportion across all cases would likely be too blunt an instrument. Our respondents distinguished some remarriage cases from others. They reduced the support amount more, on average, when the mother earned more, and also when the mother moved cross-country in addition to remarrying. And moves without remarriage mattered if the mother's income also went up but not (to most respondents) if it didn't. So one can't rule out the possibility that our respondents would have reduced the support amount less, or not at all, for remarrying or relocating mothers who earned less than any we asked about. We also did not vary the husband's income across any of the cases we put to them, so we can only speculate about the impact changes in paternal income might have had on the adjustments they would favor for moves or remarriage. Designing a guideline requires more than one policy choice; how to handle moves or remarriage cannot be decided in isolation from the other choices one makes. Ultimately, then, the degree of adjustment that should be made for moves or remarriage in this diversity of cases depends in part on how one resolves larger questions of guideline design.

For example, in earlier papers we found that our respondents favor smaller support amounts when the parents were unmarried, and smaller amounts yet when the parents never had any relationship at all apart from their single sexual connection (Ellman & Braver, 2011; 2012).

But as we explained in those papers, a simple reduction from a state's current support amounts for unmarried or "no-relationship" parents would not accurately implement our respondents' views. First, marital status not only had a main effect but also interacted with paternal income, so that our respondents reduced support for the unmarried proportionately more when the father earned more. Second, one had to keep in mind that our respondents' preferred support amounts in married-parent cases were higher than the typical current guideline for cases of lower maternal income or higher paternal income. The adjustment they made for the unmarried did *not* bring their favored amounts below current guidelines. It was rather that their increase over current guideline amounts that they favor was smaller when the respondents' were not married. Third, while the amounts favored by our respondents for no-relationship parents were lower yet, especially at higher paternal incomes, the effect was primarily to remove the increase over a typical current guideline, not to provide a lower support amount.

The current study, unlike our previous study of child support in nonmarital relationships, did not present respondents with an array of parental incomes for each changed circumstance, and it is therefore not possible for us to tell just how the adjustments they would make would vary as paternal and maternal incomes rise or fall. So we cannot offer precise recommendations for just how to adjust guideline amounts to take account of moves or remarriage. But we can say that citizens favor guidelines that would often adjust support amounts to take account of the custodial parent's remarriage, or of moves to a distant location, as one part of a larger set of guideline reforms³⁵.

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Table 1. The 14 changed circumstance vignettes: mean reduction from baseline (standard deviations in parentheses) and percent reducing their award. Father earns \$6,000 in all cases; mother earns \$3,000 before any raise. Breakdown by respondent gender omitted when judgments of males and females do not differ significantly. Where shown, difference is significant ($p < .05$).

	A. Mean Reduction in Child Support (SD)	B. Percent of all respondents awarding less	C. Mean reduction females (adjusted for baseline)	D. Mean reduction males (adjusted for baseline)	E. Percent females awarding less	F. Percent males awarding less
CP RAISE						
1. Mother income raised to \$7000	\$292 (\$368)	56%			48%	65%
RELOCATION						
2. Moved to Boston for ocean and climate	\$169 (\$363)	36%				
3. Moved to Boston near disabled friend	\$147 (\$377)	35%				
4. Moved to Boston for raise to \$7000	\$368 (\$432)	66%				
REMARRIAGE						
5. Spouse earns \$4000	\$244 (\$391)	46%	\$180	\$317	34%	60%
6. Spouse earns \$10,000	\$344 (\$428)	55%	\$243	\$460	45%	68%
7. Spouse earns \$10,000, she goes part-time \$1500	\$318 (\$456)	55%	\$218	\$432	45%	67%
8. Spouse earns \$10,000, she has new baby, quits job	\$327 (\$465)	53%	\$227	\$440	42%	66%
9. Spouse earns \$4000, she gets raise to \$7000	\$414 (\$475)	65%	\$327	\$512	55%	76%
10. Spouse earns \$10,000, she gets raise to \$7000	\$439 (\$503)	64%	\$359	\$530	56%	74%
REMARRIAGE AND RELOCATION						
11. Moves to Boston, spouse earns \$4000	\$351 (\$454)	62%				
12. Moves to Boston, spouse earns \$4000, she gets raise to \$7000	\$456 (\$472)	70%				
13. Moves to Boston, spouse earns \$10,000	\$439 (\$475)	67%	\$363	\$524		
14. Moves to Boston, spouse earns \$10000, she gets raise to \$7000	\$512 (\$503)	74%	\$439	\$593		

Table 2. Likert items concerning changed circumstances in child support: Means, SDs, and female-male respondent mean differences.

Text of Likert Item	Overall Mean	SD	t (Testing Null M=4)	p	Average View Over All R's	Female R's Mean	Male R's Mean	Gender Difference (where significant)
1. A husband should help, if he can, with expenses for his wife's minor children from her first marriage, when the children are living with them	5.25	1.85	10.39	.00	agree			
2. A father should not have to pay as much child support if the mother has a new husband with a good income, as he had to pay when the mother was single	4.21	2.38	1.34	.18	neutral	3.52	4.79	males agree more
3. A man who marries a woman with children from her first marriage shouldn't be expected to contribute to the children's support, even though the children live with them	2.84	1.98	-8.74	.00	disagree	3.36	2.44	males agree less
4. A father should not have to pay as much child support if the mother has a new husband who earns more than the father, as he had to pay when the mother was single	3.82	2.27	-1.16	.25	neutral	3.18	4.55	males agree more
5. A father should not have to pay as much child support if the child benefits from the mother's new marriage to a man with a good income, as he had to pay when the mother was single	3.81	2.22	-1.24	.22	neutral	3.27	4.36	males agree more
6. A father should have to pay the same amount of child support after the mother marries a man with a good income, as he had to pay when the mother was single	4.16	2.30	0.97	.33	neutral	4.65	3.61	males agree less

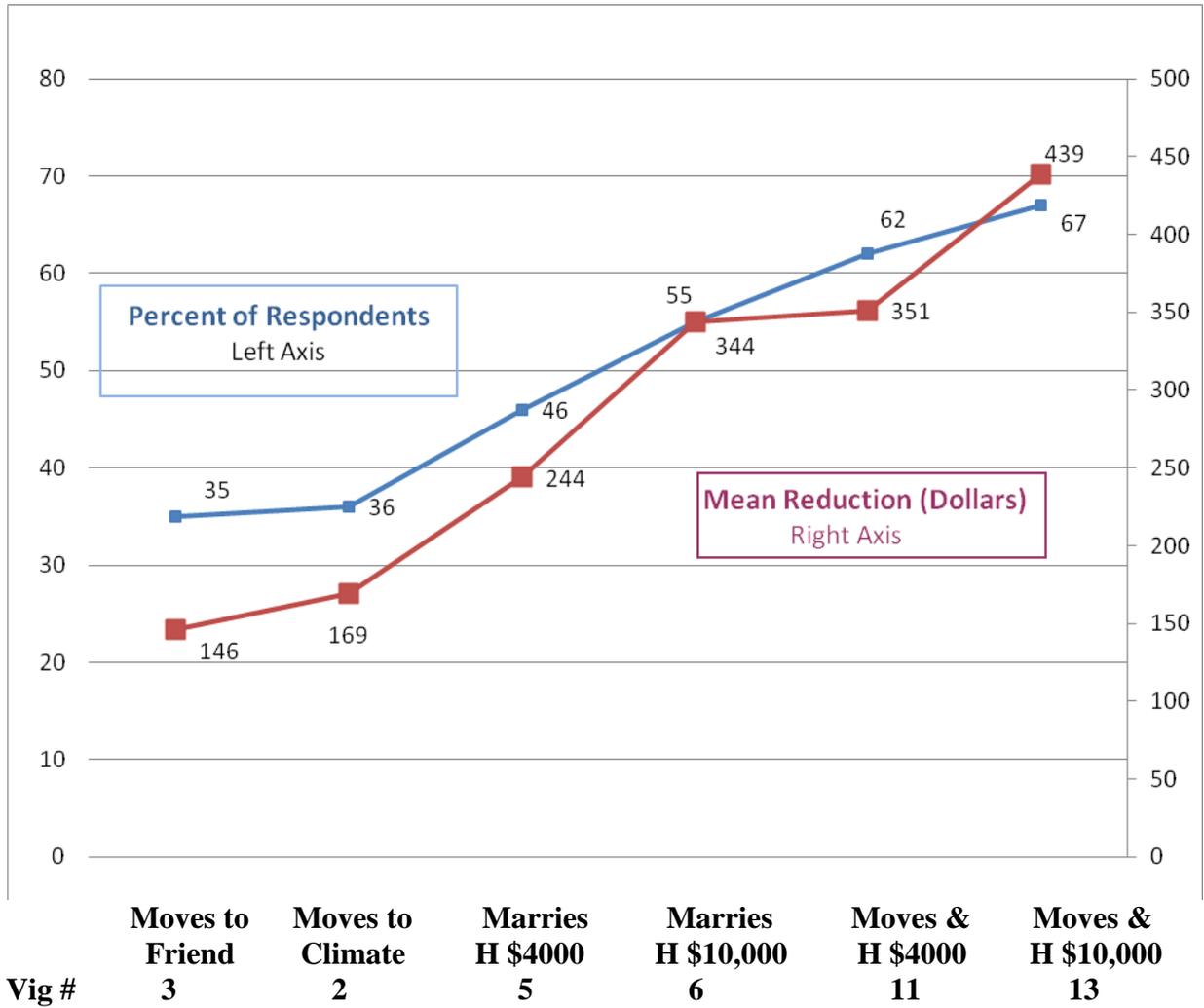
Table 3. Correlation Coefficient of Respondent's Likert Scores On Items Concerning A New Spouse, With Whether, and How Much, the Respondent Reduced Support Amounts in Cases Involving Mother's Remarriage

Changed Circumstance Case	Did Respondent Favor Reducing Child Support?	Amount of Child Support Reduction
5. Spouse earns \$4000	.62**	.26**
6. Spouse earns \$10,000	.69**	.37**
7. Spouse earns \$10,000, she goes part-time \$1500	.62**	.35**
8. Spouse earns \$10,000, she has new baby, quits job	.65**	.35**
9. Spouse earns \$4000, she gets raise to \$7000	.56**	.22**
10. Spouse earns \$10,000, she gets raise to \$7000	.57**	.25**
11. Moves to Boston, spouse earns \$4000	.55**	.26**
12. Moves to Boston, spouse earns \$4000, she gets raise to \$7000	.48**	.21**
13. Moves to Boston, spouse earns \$10,000	.50**	.17*
14. Moves to Boston, spouse earns \$10000, she gets raise to \$7000	.49**	.19**

* Correlation is significant at the .05 level (2-tailed).

** Correlation is significant at the .01 level (2-tailed)

Figure One. Relocation and Remarriage without changes in mother’s income.



Footnotes

¹ See, e.g., See, e.g., ARIZ. REV. STAT. § 25 - 320(2)(D) (2004); N.J. R. PRAC. app. IX-B(1) (2005) (See (f) in the “Instructions for Determining Income: Types of Income Excluded from Gross Income” section) (excluding “income from other household members (e.g., step-parents, grandparents, current spouse) who are not legally responsible for the support of the child for whom support is being established.”); MINN. STAT. ANN. § 518.551(5) (West 2005) (current version at § 518A.28 (2006)) (excluding a stepparent’s income from the “net income” calculation on which support payments are partially based); N.M. STAT. ANN. § 40–4-11.1(C)(1) (West 2005) (providing that “[t]he gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after remarriage. . . .”); UTAH CODE ANN. § 78-45-7.4 (2002) (excluding stepparent income from the “adjusted gross income” calculation on which the state bases child support payments); WASH. REV. CODE ANN. § 26.19.071(1) (West 2005) (requiring disclosure of all household income but using “[o]nly the income of the parents of the children whose support is at issue . . . for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.”)

²The general rule that visitation access does not affect the support obligation has been applied even where the custodial parent has wrongfully interfered with the obligor’s access, much less where the reduced visitation arises from choices of the custodial parent that are lawful..

³In part for ease of exposition, we generally employ the masculine pronoun when referring to the support obligor and the feminine when referring to the custodial parent. It is also true that the support obligors among our respondents were overwhelmingly male, and the parents to whom support was paid overwhelmingly female. We certainly understand, however, that this is not true in every case, and do not mean to imply otherwise. We have in fact explored in prior work (Braver, Ellman & MacCoun, 2014) whether our respondents' answers would change if the genders of the obligor and custodial parent were reversed; we found they did not.

⁴An additional 20 percent has moved from a different county in the same state. The figures were a bit less in 2010, perhaps because of the recession. Ihrke and Fabe (2012) at Figure 2.

⁵*See, e.g., Van Dyke v. Thompson*, 630 P.2d 420 (Wash. 1981). The common law duty applies to any stepparent who acts in loco parentis toward the child, a requirement that is almost always fulfilled by the stepparent voluntarily accepting the child into his home. Decisions grounded on this common law doctrine include *Harris v. Lyon*, 140 P. 825 (Ariz. 1914); *State v. Smith*, 485 S.W.2d 461 (Mo. Ct. App. 1972) (holding that the position stepparent assumes for himself determines if he stands in loco parentis, and if he voluntarily receives a child into his family and treats him or her as a member thereof, he may be said to be standing in place of natural parent); *Schneider v. Schneider*, 52 A.2d 564 (N.J. Ch. 1947) (holding that if the stepfather voluntarily accepts into his family a child of his wife by a former husband and assumes the obligations of a parent); and *Palmer v. Harrold*, 656 N.E.2d 708 (Ohio Ct. App. 1995) (holding that the stepparent is liable for support of stepchild during marriage to natural parent under doctrine of in loco parentis).

⁶Provisions concerning the duty of a stepparent to support a stepchild are typically found in different portions of the statutes than are the child support guidelines. Child support guideline provisions that exclude stepparent support obligations prevail over these statutes when the question is whether a court may require the stepparent to provide support in a case governed by the guidelines. See, e.g., *Harmon v. Dep't of Soc. & Health Servs.*, 951 P.2d 770 (Wash. 1998).

⁷See, e.g., Wash. Rev. Code Ann. § 26.16.205 (2014) ("The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both spouses or both domestic partners, or either of them, and they may be sued jointly or separately. When a petition for dissolution of marriage or a petition for legal separation is filed, the court may, upon motion of the stepparent, terminate the obligation to support the stepchildren. The obligation to support stepchildren shall cease upon the entry of a decree of dissolution, decree of legal separation, or death."); see also Del. Code Ann. tit. 13, § 501(b) (2014) (expanding duty to include cohabiters if natural parent is not supporting); Mont. Code Ann. § 40-6-217 (2014); N.D. Cent. Code Ann. § 14-09-09 (2014).

⁸See, e.g., Cal. Welf. & Inst. Code § 11008.14 (West 2005) ("The income of the natural or adoptive parent, and the spouse of the natural or adoptive parent, and the sibling of an eligible child, living in the same home with an eligible child shall be considered available, in addition to the income of an applicant for or recipient of aid . . . for purposes of eligibility determination and grant computation."); N.J. Stat. Ann. § 44:10-36 (West 2014) ("A parent who is eligible for benefits who is married to a person who is not the parent of one or more of the eligible parent's children shall not be eligible for benefits if the household income exceeds the income eligibility standard."). In the federal system, the same is true of social security disability benefits:

remarriage and resulting income may reduce or eliminate a recipient's benefits. 42 U.S.C.A. § 402(b)(1)(H), (K) (West 2014). Some states' welfare systems incorporate these concepts into their definitions of income or eligibility. See, e.g., N.H. Rev. Stat. Ann. § 167:4(I)(a) (2002) ("In the determination of sufficiency of income and resources, [the fact finder] may disregard such income and resources as may be permitted by the Social Security Act of the United States").

⁹The FAFSA (Free Application for Student Financial Aid) form, available at <https://fafsa.ed.gov/>, is used virtually universally for public colleges and universities to calculate students' "financial need" for scholarships and loans, and instructs that "if your parents are divorced or separated, answer the questions about the parent you lived with more during the past 12 months....*If this parent is remarried as of today*, answer the questions on the rest of this form about that *parent and the person whom your parent married (your stepparent)*" (p. 6; emphasis added). Thus, in seeking college financial aid, stepfathers, but not fathers, are assumed to be those responsible for financial support

¹⁰We do not examine in this paper the further complication that may arise if the stepfather has children from an earlier relationship for whom he must make support payments. We note, however, that in calculating a father's support obligation, state child support guidelines routinely reduce his income by the amount of his support obligations to other children. E.g., Arizona Child Support Guidelines 6(B) ("The court-ordered amount of child support for children of other relationships, if actually being paid, shall be deducted from the gross income of the parent paying that child support. Court-ordered arrearage payments shall not be included as an adjustment to gross income.")

¹¹See N.H. Rev. Stat. Ann. § 458-C:2(IV)(b) (Supp. 2014) (providing that a stepparent's income "shall not be considered as gross income to the parent unless the parent resigns from or

refuses employment or is voluntarily unemployed or underemployed"); Cal. Fam. Code § 4057.5 (West 2014) (providing for the same result, but as a particular application of a more general provision that permits courts to consider the income of the spouse or nonmarital partner of either parent in "extraordinary" cases in which excluding it would lead to extreme hardship on the child subject to the order).

¹²E.g., *Marriage of Boswell*, 171 Cal.Rptr.3d 100 (App. 2014) (mother's concealment of a child for 15 years estopped her from enforcing child support judgment); *Kershaw v. Kershaw*, 701 N.Y.S.2d 739 (App. Div. 2000); *Tibaldi v. Meehan*, 676 N.Y.S.2d 607 (App. Div. 1998). This position has been adopted by the American Law Institute in the Principles of the Law of Family Dissolution, § 3.21(3) ("[i]f a parent persistently interferes with a support obligor's access to the child, the court may modify the child-support obligation.")

¹³E.g., 750 Ill.Comp.Stat. 5/607 (a) (2014) (parent not granted custody "is entitled to reasonable visitation rights unless the court finds . . . that visitation would endanger seriously the child's physical, mental, moral or emotional health"); Cal. Fam. Code § 3100(a) (2014) (visitation may be denied only if it is shown to be "detrimental to the best interests of the child"); *Smith v. Smith*, 869 S.W.2d 55, 57 (Ky. Ct. App. 1994) (reversing trial court for denying visitation to a father incarcerated for murder, kidnapping and robbery, without first finding, on the basis of a hearing, that visitation would endanger the child). In a sample of 485 divorces decrees filed in one Massachusetts county over a three year-period, only nine failed to grant the visitation rights to the noncustodial parent. Phear et al., (1983).

¹⁴Obviously, paying support will not prevent the termination of an individual's parental rights if that parent is guilty of truly egregious and harmful conduct toward the child.

¹⁵Although chronic nonsupport might be a ground for termination in any case, it appears to be relied upon primarily where the question is whether to allow adoption by a stepfather over the father's objection. In these cases, of course, termination allows the law to substitute a new legal father whose support may be more reliable. *E.g.*, Cal. Fam. Code § 8604 (2014) (non-custodial parent's failure to provide support for one year is grounds for terminating his rights by allowing adoption by stepparent without his consent); *In re Martyn*, 411 N.W.2d 743, 747 (Mich. Ct. App. 1987) (stepfather may adopt over father's objection where father had not paid support).

¹⁶*E.g.*, *County of Orange v. Rosales*, 121 Cal. Rptr. 2d 788 (Ct. App. 2002); *Ventura County v. Gonzales*, 106 Cal. Rptr. 2d 461, 465 (Ct. App. 2001) (termination of unwed father's rights also terminated his support obligation, so the county could not collect from him). The termination of parental rights not only ends the terminated parents' right to see the child, but also allows the child's adoption by another person without the consent of the terminated parent. *Id.* at 464. Some states do not formally terminate the obligation of support until such an adoption has taken place.

¹⁷This method is sometimes called the "revealed preferences" approach (Wong, 1978). A substantial social psychological literature (e.g., Nisbett & Wilson, 1977; Pronin, 2009) documents that it more validly indicates the implicit rules people use in cognition than asking them to simply report or introspect about their rules.

¹⁸As of 2007, federal law required all states must review a support order at either parent's request, and if the custodial parents is on Temporary Assistance for Needy Families (TANF), a review must be conducted triennially whether or not a parent requests it. 42 U.S.C. § 666(a)(10)(A)(i); 45 C.F.R. § 303.8

¹⁹As will become clear, respondents' gender figures prominently in the results, but not all respondents reported their gender. This was largely because about 100 of them were called to a jury or excused for lunch before they completed the survey, and demographic questions were always the survey's last section. To maintain consistency in descriptive statistics such as this one (respondent overall mean), we do not include the partial (i.e. vignette) results from these respondents in any data we report here. Additional analyses (not shown) found no significant differences between the ~200 who reported gender (whose responses are analyzed here) and those who did not.

²⁰Of the 100 females, 96 had never *paid* child support, and of the 4 who had, 3 had also received it. 27 had received it in all. Of the 87 males, 84 had never *received* it, and none of the 3 who did ever had to pay it. 15 had paid it in all. The 4 females who had paid child support, and the 3 males who had received it, were both omitted in the preceding calculation. The males and females can each be divided further into those with and without personal experience in the child support system; the two female groups are significantly different from one another and the two male groups nearly so. The mean support amount for each group, in descending order, was: females to whom a court had ordered child support be paid (M=\$1293); females with no such experience (M=\$997, $t(91)=1.99$, $p=.05$); males who had never been ordered to pay child support (M=\$877); and males who had (M=\$613, $t(80)$, $p=.08$).

It might have been interesting to break out male payers vs non-payers, and female recipients and non-recipients, in all the vignettes, rather than just the baseline. However, the N's are too low to yield consistently meaningful results.

²¹Some states include the amount of time the child spends with the noncustodial parent in their guideline formula. In those states (which include Arizona, the respondents' home), the father's reduced time with the child presumptively increases his support obligation, on the logic that the mother who has the child for more time spends more money on him. Some respondents might have applied this logic to increase their support amount when the mother moved away. That could be one reason why 5.5% of our respondents specified a higher award in Vignettes 2 and 3 (in which nothing changed but the mother's move) than they had in the baseline vignette. Over all the remaining vignettes, only 1% of the judgments raised the support over the respondent's baseline. This minimal rate could have resulted from respondent error. Recall that respondents were not asked directly whether they wished to change their baseline support award; they were simply asked to indicate the support award they believed the law should make in each vignette, and the sequence in which the vignettes were put varied across respondents and followed no consistent pattern. Under these circumstances, it is plausible to think that, when answering a question about a later vignette, a few participants simply lost track of the amount they had previously chosen for the baseline, and did not look back at their earlier response to check. Nonetheless, all responses, including these increases, were included in calculating the average decreases shown in Column A of Table 1.

²²The variability in the child support amounts our respondents favored in each of the changed circumstances cases was approximately the same as in the baseline case. We do not report those amounts here, however, because we instead focus on the difference between the amount a respondent favors in each changed circumstance and that respondent's baseline

amount. The variability in this relative measure was necessarily a bit smaller than in the full amount of the child support respondents favored, but it was still substantial.

²³Variation among respondents in the mean difference in support level between a vignette and the baseline case is a product in part of differences among respondents in the overall scale they each employ, rather than differences in their evaluation of the support level called for given the new circumstances set out in the new vignette. Comparisons of the mean amount, between vignettes, inherently controls for that scale difference, however. The fact that the average reduction in Vignette Y is significantly less than the average reduction in Vignette Z thus provides good evidence that our respondents believe that the circumstances in Z justify reducing support more than do the circumstances in Y. That kind of comparison can be made between any two mean values in Column A.

²⁴Given the large number of significance tests performed, concerns about spurious findings due to “multiple bites at the apple” become relevant. To guard against this possibility, authorities (e.g., Maxwell, 1980) recommend the Bonferroni approach, in which a much smaller p-value than .05 is required to declare a difference as significant. In general, differences among means in Column A exceeding \$75 have $p < .001$. Thus, even with the Bonferroni correction, the differences remain significant.

²⁵As Table 1 indicates, a significantly higher proportion of men (65%) than women (48%) reduced support levels in Vignette 1. Mean reductions for men and women were not different, however, because those women who did reduce support levels did so by a significantly larger amount (\$593) than did the men who reduced (\$461). We previously noted that women set support higher in the baseline case, and that higher support levels in the baseline case are

associated with higher reductions in later cases. An analysis of covariance (not shown) finds that women's higher baseline amount explains all of this difference in Vignette 1 between male and female reducers..

²⁶The earlier studies did find an interaction between paternal income and respondent gender; that interaction was the reason why women favored higher support amounts, on average, than did men. This study, of course, did not vary paternal income across the vignettes.

²⁷See Ellman, et al. (2010), n. 1, at 544-46.

²⁸See, e.g., *Kestner v. Clark*, 182 P.3d 1117 (Alaska 2008) (income imputed to mother who left work to care for children of new marriage, even though the applicable rule "forbids imputation of income to a parent who is caring for very young children *of the marriage*" (emphasis added). The presumable reason for the distinction is that imputation is necessary when the newborn is the new husband's child because we would otherwise effectively increase her first husband's support payments to subsidize her care for the child of her second husband, a child for whom her first husband has no legal responsibility.

²⁹It is also true that a significantly greater proportion of females as well as males reduce the support level for the higher-earning husband, and that this increase in proportion who reduce is not significantly higher for males than for females. The proportion of males who reduce support on account of remarriage increases from 60% to 68% ($p=.012$, by McNemar's test), when the new husband earns \$10,000 rather than \$4,000; for females it goes from 34% to 45% ($p=.002$, by McNemar's test). The 8% increase for male respondents is not significantly different than the 11% for female respondents. So while more women and more men reduce support when the new husband is a higher earner, the men reduce, on average, by a greater amount.

³⁰Unfortunately, none of the Likerts involved attitudes about how relocation might or might not affect child support.

³¹Item 6 was reverse coded. Inclusion of the other Likerts related to remarriage lowered the resulting coefficient alpha, which customarily leads to recommendations that they not be included in the composite. The four item scale had excellent reliability: coefficient alpha= .90.

³²Whereas it might have been surmised, based on what was reported above, that it was mainly male respondents who scored high on the scale, and accordingly chose a decrease in child support when the mother remarried, this is an oversimplification. There was considerable variability within the genders on both the scale and their tendency to reduce child support.

³³Table 2 also shows two other Likert items (1 and 3) that are about the *stepfather's obligation to the child*, rather than about the effect of the stepfather's presence on the father's obligation. We also calculated the mean value for each respondent's answer to these two Likerts, and examined the relationship of this mean to respondents' vignette decisions. In nearly half the vignettes the correlation was not significant, and even when significant it was small, peaking at .23. Of course, some who do not believe stepfathers should be required to support their stepchildren might also believe that as a practical matter they cannot avoid doing so, and that their unavoidable support should be taken into account in fixing the father's obligation. Indeed, the vignette results suggest this is the case (because most respondents favor reductions when the mother remarries). If many who would not require stepfather support nonetheless assume it is normally present, we might not expect them to decide cases very differently from those who believe stepfathers should support their children.

³⁴“Southern states abandoned the literacy test only when forced to do so by federal legislation in the 1960s. The Civil Rights Act of 1964 provided that literacy tests used as a qualification for voting in federal elections be administered wholly in writing and only to persons who had completed six years of formal education. The Voting Rights Act of 1965 suspended the use of literacy tests in all states or political subdivisions in which less than 50 percent of voting-age residents were registered as of November 1, 1964, or had voted in the 1964 presidential election. In a series of cases, the Supreme Court of the United States upheld the legislation and restricted the use of literacy tests for non-English-speaking citizens, *Katzenbach v. Morgan*.” Wikipedia, http://en.wikipedia.org/wiki/Literacy_test#Voting, visited 10/23/14.

³⁵Once one decides on the basic policies guiding the design of support schedule, it is quite possible to write guidelines that produce specific recommendations that take account of remarriage. The recommendation of the American Law Institute provide an example, see their *PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS* (2002). Their approach is too complex to summarize in this paper, although a good overall view can be found in Blumberg (1999). In sum, they favor higher support amounts than current law for cases in which the custodial parent income is noticeably less than the other parent's, but they effectively phase out such proposed increases when the custodial parent remarries,, eliminating them entirely for equal-earning parents