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MARRIAGE PENALTIES IN THE MODERN SOCIAL- WELFARE STATE

Douglas J. Besharov and Neil Gilbert

EXECUTIVE SUMMARY

Marriage rates are down in the United States. Indeed, they are down throughout almost all of the West. For years, analysts have criticized tax and safety-net penalties for marriage, which they fear have contributed to this trend. After a number of ameliorative adjustments to the tax code in the 1990s and early 2000s, interest waned, partly because doing more seemed too expensive and technically challenging. At the time, little attention was paid to the marriage penalties (or bonuses) embedded in means-tested social-welfare benefits.

This analysis addresses the growing problem of marriage penalties created by the increased size and coverage of means-tested social-welfare benefits. Depending on the relationship between cohabiters (whether or not they have children in common and whether or not they share food or utility expenses) and their combined and relative earnings, getting married can result in bonuses of as much as 11 percent of their combined income or penalties of more than

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about 32 percent of their combined income. For example, in Arkansas (one of the states with the highest marriage penalties) if a nonparent marries a parent with two children, and they have a 50/50 split of \$40,000 in combined earnings (counting benefits, a total income of \$41,892), they would lose approximately \$13,248 in annual means-tested benefits, or 32 percent of total household income.¹

Importantly, these penalties can be avoided by cohabiters who fail to disclose to authorities either that they are biological parents of the children in the household or that they share food and utility costs, a key point to which we will return.

The future of marriage is of concern not just due to nostalgia for the “good old days.” Analysts on both the left and the right believe that, all things being equal, getting and staying married is the most effective way to avoid poverty and the best way to raise children. For example, research by a team of economists from Harvard and the University of California at Berkeley suggests the fraction of children in single-parent families is the strongest and most robust predictor of upward mobility – even more than minority-group affiliation.²

However, all things are rarely equal. A heavy-handed effort to promote marriage would not be in the best interests of many

1. Unless otherwise indicated, all dollar figures are in 2014 dollars

2. Raj Chetty, Nathaniel Hendren, Patrick Kline and Emmanuel Saez, “Where Is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States,” National Bureau of Economic Research Working Paper 19843 (January 2014).

couples or their children. A strong marriage-promotion policy could be offensive to couples who do not wish to marry or can't do so. It also could be offensive to those who advocate women's complete economic freedom from men. Moreover, a serious attempt at such social engineering could cause a host of unintended consequences and some serious mischief.

Thus, while marriage in general is a social good, the prudent policy for government (as opposed to civil society) is neutrality. That is, government should get out of the way of marriage by minimizing marriage penalties. The issue is not how government policies could be used to encourage marriage, but rather, how policies might be modified to "neutralize" their potentially negative effects on decisions to marry.

In addressing this issue, we will estimate the marriage penalties currently embedded in the U.S. tax code and, especially, in means-tested social-welfare programs; examine the implications of these penalties in the changing context of modern marriage and cohabitation; and analyze various options for limiting their potentially negative consequences.

We believe most people know what is best for themselves (at least better than does government), and we think it best to let the future of marriage rest on the individual decisions of millions of American couples. That is why we are concerned about marriage penalties embedded in the U.S. tax code and, especially, in means-tested social-welfare programs.

A note on terminology: For readability only, this report adopts the usage that the cohabiter with the higher income is a male (because that is by far the more common situation) and that the mother of the children is the recipient of means-tested benefits. Nevertheless, we recognize that, in an increasing number of situations, that will not be the case and that in an increasing number of cases, the cohabiters, even in households with children, will be of the same sex.

A note on the Additional Child Tax Credit (ACTC) and the Earned Income Tax Credit (EITC): Some consider both of these programs to be tax adjustments because they are in the tax code; are administered by the Internal Revenue Service (IRS); and are distributed through the tax-filing process. Others consider them social programs because they are means-tested and provide cash assistance to recipients. Because of their dual nature, we mention them in both the "taxing marriage" and "means-tested benefits" sections below. In reporting the calculations of marriage penalties, we count them only once.

THE DECLINE OF MARRIAGE

It is timely to revisit the issue of marriage penalties for several reasons, not least of which is that over the last several

decades, marriage rates have continued to fall. In the United States, between 1980 and 2012, the proportion of women aged 40 to 44 who had never been married almost tripled, rising from 4.8 percent to 13.8 percent.³ (It is too soon to tell what long-term impact the nationwide legalization of same-sex marriage will have on marriage rates.)

Remarriage rates (marriages after divorce or death of a spouse) have declined even more. Between 1990 and 2011, remarriage rates for younger cohorts declined significantly. For those aged 20-24, they declined from 237.5 per 1,000 previously married to 109.5, or about 54 percent. For those aged 25-34, they declined from 171.9 per 1,000 previously married to 102.5, or about 40 percent. And for all individuals aged 18 and older, they declined 40 percent, from about 50 per 1,000 previously marrieds to about 29.4 per 1,000.⁴

Similar declines in marriage have occurred across the Western world. Here is a sampling using never-married rates for women aged 40 to 44:

- Australia (from 5 percent in 1986 to 15.6 percent in 2006);
- Austria (from 8.2 percent in 1981 to 20.5 percent in 2011);
- Brazil (from 9 percent in 1980 to 33.8 percent in 2010);
- Denmark (from 5.7 percent in 1985 to 21.8 percent in 2011);
- France (from 7.5 percent in 1985 to 27.9 percent in 2009);
- Germany (6.4 percent in 1990 to 24.1 percent in 2011);
- Hong Kong (from 2.7 percent in 1981 to 16.5 percent in 2006);
- Japan (from 4.9 percent in 1985 to 17.4 percent in 2010);
- Norway (from 6.1 percent in 1986 to 27.8 percent in 2010); and
- The United Kingdom (from 5.6 percent in 1981 to 22 percent in 2009).⁵

3.1 U.S. Census Bureau, *Marital Status and Living Arrangements*: March 1980 (Washington, D.C.: U.S. Census Bureau, October 1981), <https://www.census.gov/prod/1/pop/p20-365.pdf> (accessed Aug. 14, 2014); and U.S. Census Bureau, *Statistical Abstract of the United States: 2012* (Suitland, MD: U.S. Census Bureau, 2013), 840, <https://www.census.gov/compendia/statab/2012/tables/12s1336.pdf> (accessed April 28, 2014).

4. Susan L. Brown and I-Fen Lin, *Age Variation in the Remarriage Rate, 1990-2011* (Bowling Green, Ohio: National Center for Family and Marriage Research, 2013), <https://www.bgsu.edu/content/dam/BGSU/college-of-arts-and-sciences/NCFMR/documents/FP/FP-13-17.pdf> (accessed Aug. 15, 2014).

5. United Nations, Department of Economic and Social Affairs, Population Division, "World Marriage Data 2012," <http://www.un.org/esa/population/publications/WMD2012/MainFrame.html> (accessed Aug. 19, 2014).

The global breadth of marriage's decline suggests seismic changes in social attitudes toward marriage and in the "gains" to marrying (financial, psychic and otherwise) for many couples. Experts point to various factors, including more relaxed social mores about extramarital sex and the normative acceptance of cohabitation; women's greater work opportunities (combined with declining male earnings and employment); advanced contraceptive technology; and an evolving view that marriage should be the "capstone" of life decisions. That is, that Americans are expecting more from marriage⁶ and hence, are less willing to compromise on the choice of a spouse.⁷

Most of these factors are well-beyond the appropriate or practical reach of government policy. Indeed, many people see them as positive developments, whether or not they like their side effects on modern marriages. But the often-large financial penalties for getting married in the tax code and in various means-tested programs are another matter. At least in the United States, economic factors seem to play a large part. As Adam Looney and Michael Greenstone note: "the U.S. decline is far more pronounced among middle- and lower-income groups."⁸

For men ages 30-50 in the top 10 percent of annual earnings—a group that saw real earnings increases over time—83 percent are married today, down modestly from about 95 percent in 1970. For the median male worker (who experienced a decline in earnings of roughly 28 percent), only 64 percent are married today, down from 91 percent 40 years ago. And at the bottom 25th percentile of earnings, where earnings have fallen by 60 percent, half of men are married, compared with 86 percent in 1970.

The decline is also more pronounced among minority groups. Between 1960 and 2011, the proportion of black adults aged 18 and older who were married declined by 50 percent and

the proportion of married Hispanic adults declined by 35 percent, compared to a 25 percent decline for whites.⁹

These income- and minority-group-based differences are reflected in nonmarital birth rates. David Ellwood and Christopher Jencks describe the trend between 1965 and 2000:

At least among women 25-34, the changes in single parenthood have not occurred uniformly, nor have they been confined to only the most disadvantaged. Overall it appears that women in the lower 2/3s of the education distribution have become far more likely to become single parents in the past 35 years, while women in the top 1/3 have seen very little change.¹⁰

In 1970, unmarried mothers accounted for 38 percent of births to black women, compared to 6 percent of white births. By 2011, the figures had risen to 72 percent and 29 percent, respectively. The rate of births to unmarried Hispanic women increased from below 40 percent in the early 1970s to 53 percent in 2011.¹¹

TAXING MARRIAGE

Gary Becker's classic application of rational choice to family life posits that decisions to marry are influenced, to at least some degree, by an implicit (and sometimes explicit) form of benefit/cost analysis.¹² Until recently, for most people, the matrimonial benefits of daily companionship, emotional and physical intimacy and joint child-rearing, along with the financial economies of a common household, were not available outside of marriage.

The psychic benefits of marriage stem from the comfort of daily companionship, emotional and physical intimacy and having children. An important question, explored below, is whether at least some of these psychic benefits have become less important because of the easy availability of cohabitation as an alternative to formal marriage.

The financial benefits of marriage derive from sharing food, lodging, appliances and other economies that arise in combining the resources of two single households. This is particularly true if only one of the two spouses worked, or if both worked but one earned substantially less than the other.

6. Kay Hymowitz, Jason S. Carroll, W. Bradford Wilcox, and Kelleen Kaye, *Knot Yet: The Benefits and Costs of Delayed Marriage in America* (Charlottesville, Va.: National Marriage Project, 2013), 4, <http://nationalmarriageproject.org/wp-content/uploads/2013/03/KnotYet-FinalForWeb.pdf> (accessed Aug. 14, 2014), stating: "Americans of all classes are postponing marriage to their late twenties and thirties for two main reasons, one economic and the other cultural. Young adults are taking longer to finish their education and stabilize their work lives. Culturally, young adults have increasingly come to see marriage as a 'capstone' rather than a 'cornerstone'—that is, something they do after they have all their other ducks in a row, rather than a foundation for launching into adulthood and parenthood."

7. Andrew J. Cherlin, "The Deinstitutionalization of American Marriage," *Journal of Marriage and Family* 848-861, http://ccutronea.public.iastate.edu/psych592a/articles/Cherlin_2004.pdf (accessed Aug. 15, 2014); Kay Hymowitz, Jason S. Carroll, W. Bradford Wilcox, and Kelleen Kaye, *Knot Yet: The Benefits and Costs of Delayed Marriage in America* (Charlottesville, Va.: National Marriage Project, 2013), <http://nationalmarriageproject.org/wp-content/uploads/2013/03/KnotYet-FinalForWeb.pdf> (accessed Aug. 14, 2014).

8. Adam Looney and Michael Greenstone, *The Marriage Gap: The Impact of Economic and Technological Change on Marriage Rates* (Washington, D.C.: Hamilton Project, February 2012), 3, http://www.hamiltonproject.org/files/downloads_and_links/020312_jobs_greenstone_looney.pdf (accessed Aug. 18, 2014).

9. Pew Research Center, *King's Dream Remains an Elusive Goal; Many Americans See Racial Disparities*, (Aug. 22, 2013), http://www.pewsocialtrends.org/files/2013/08/final_full_report_racial_disparities.pdf accessed 4/11/15

10. David T. Ellwood and Christopher Jencks, *The Growing Differences in Family Structure: What Do We Know? Where Do We Look for Answers?* (Cambridge, Mass.: Harvard University, August 2001), <http://www.russellsage.org/sites/all/files/u4/Ellwood%26Jencks.pdf> (accessed Aug. 13, 2014).

11. Pew Research Center, op.cit.

12. Gary Becker, *A Treatise on the Family*, (Cambridge: Harvard University Press, 1981).

Although couples might generally anticipate these psychic and financial advantages of marriage, the total dollar value of these benefits defies simple calculation. For example, unlike economic gains and losses, which might be compared in dollars, “psychic income,” as Becker labels it, is without a common metric.

For present purposes, we need not explore these intensely subjective and personal decisions and the many reasons people have for not marrying. This paper documents an additional cost faced by many couples contemplating marriage: first, the financial penalties embedded in the tax code, and then, in various means-tested programs.

The U.S. income tax penalizes marriage because the income thresholds for married couples are not double those for individual filers. This exposes married couples to higher marginal tax rates (after the 15 percent tax bracket). Additional taxes—such as the Net Investment Income Tax and the Additional Medicare Tax—kick in at lower income levels than when the couple were individual filers. The Alternative Minimum Tax penalizes marriage, because it begins to reduce exemptions and phase-outs at lower income levels for married couples than for individual filers. Deductions for net capital losses penalize marriage because an unmarried couple can claim two net capital loss deductions, while a married couple can only claim one, representing a loss of up to \$3,000.¹³

The age of the prospective couple also matters. The Social Security Survivors Benefits program penalizes those under age 60 who remarry after a spouse’s or former spouse’s death. Widows and widowers who remarry before they turn 60 are ineligible to receive Survivor’s Benefits when they reach retirement age. If they remarry after they reach age 60, they remain eligible to receive their full benefit at retirement. Additionally, Social Security benefits, which are taxed if income plus one-half of benefits exceeds certain thresholds, expose married couples to higher taxation of benefits at lower income levels than when they were individual filers.¹⁴

13. Floyd W. Carpenter, Dennis R. Lassila and L. Murphy Smith, “The Federal Government’s War on Marriage AKA the Marriage Penalty Tax: Unfair to Individuals and Harmful to Society,” *Journal of Legal, Ethical and Regulatory Issues* 16, no. 2 (2013); Internal Revenue Service, “Questions and Answers on the Net Investment Income Tax,” <http://www.irs.gov/uac/Newsroom/Net-Investment-Income-Tax-FAQs> (accessed Aug. 13, 2014); and Internal Revenue Service, “Questions and Answers for the Additional Medicare Tax,” <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Questions-and-Answers-for-the-Additional-Medicare-Tax> (accessed Aug. 13, 2014).

14. A.J. Cataldo II, and Kevin Flynn, “The Resurrection of the Marriage Tax: Where We Have Been and Where We Are Going,” in *NABET Northeastern Association of Business, Economics, and Technology: Proceedings of the 36th Annual Meeting October 25 & 16, 2013*, ed. Jerry D. Bellolito and Cori Myers (Philadelphia: NABET, 2013), 6, <http://www.nabet.us/proceedings-archive/NABET-Proceedings-2013.pdf> (accessed Aug. 14, 2014); and Floyd W. Carpenter, Dennis R. Lassila and L. Murphy Smith, “The Federal Government’s War on Marriage AKA the Marriage Penalty Tax: Unfair to Individuals and Harmful to Society,” *Journal of Legal, Ethical and Regulatory Issues* 16, no. 2 (2013): 112.

These are but two examples of the complex and interacting provisions of the tax code. Whether a couple is subject to a marriage penalty or a marriage bonus varies widely and generally depends on each party’s relative income and how much they earn in total. At the turn of the century, a number of researchers sought to estimate the penalties and benefits embedded in the U.S. tax code. For example, Alex Roberts and David Blankenhorn, leading figures on the topic, estimated that, in the early 2000s, about 45 percent of married couples experienced a financial penalty, about 45 percent received a financial bonus and about 10 percent were unaffected.¹⁵ They based their estimate on a close reading of various studies, but they were unable to estimate the actual size of marriage penalties and marriage bonuses. Accurately quantifying marriage penalties requires an analysis of the cumulative impact of dozens, and perhaps hundreds, of provisions (some penalizing marriage and others rewarding it) whose actual impact is determined by constantly shifting behaviors that are the result of shifting mores, rising or falling earnings, and the simple aging of populations.

Other studies examined the costs of marriage by calculating the financial benefits of divorce. For example, Stacy Dickert-Conlin and Scott Houser used the 1990 Survey of Income and Program Participation to calculate the increase in income from taxes and transfers that a couple would receive if they separated. They found the “net gain to separating for the median poor family in our sample [of married couples] exceeds 16 percent of income.”¹⁶

More recently, a 2015 New York Times article reported on Center on Budget and Policy Priorities/Tax Foundation calculations (only for the effects of the tax code) that show childless couples at either end of the income distribution are more likely to face penalties upon marrying, while childless couples in the middle of the income distribution are more likely to face marriage bonuses. Couples with children almost universally face marriage penalties (as high as 7.5 percent of income) except at the very bottom of the income distribution (with incomes up to about \$17,000 per year) because of the reduced value of the Additional Child Tax Credit and the Earned Income Tax Credit upon marriage.¹⁷

Thus, one could say the tax code is roughly neutral, with about the same number of winners as losers. But that is on average. What about individual couples? When two people

15. Alex Roberts and David Blankenhorn, *The Other Marriage Penalty: A New Proposal to Eliminate the Marriage Penalty for Low-Income Americans* (New York: The Institute for American Values, 2006), <http://americanvalues.org/catalog/pdfs/researchbrief3.pdf> (accessed Aug. 14, 2014).

16. Stacy Dickert-Conlin and Scott Houser, “Taxes and Transfers: A New Look at the Marriage Penalty,” *National Tax Journal* 51, no. 2 (June 1998): 195–217.

17. Amanda Cox, “Tax Day: Are You Receiving a Marriage Penalty or Bonus?” *New York Times*, April 15, 2015, http://www.nytimes.com/interactive/2015/04/16/upshot/marriage-penalty-couples-income.html?_r=0&abt=0002&abg=0 (accessed June 4, 2015).

are considering marriage, how significant are these penalties (and bonuses)? Their impact on decisions to marry is a matter of conjecture, partly because this is an emotionally and socially packed decision; partly because there are so many variations in marriage penalties/marriage bonus scenarios; and partly because statistical estimation practices have difficulty modeling their impact on future decisions.

James Alm, Stacy Dickert-Conlin and Leslie Whittington used data from the Panel Survey of Income Dynamics (PSID) from 1968 to 1992 and found that the “probability of marriage falls as the marriage penalty increases.” At the mean values of the variables, a 10 percent rise in the marriage penalty leads to a 2.3 percent reduction in the possibility of first marriage, while at the level of the maximum tax penalty, a 10 percent rise in the marriage penalty leads to a 12.5 percent fall in the probability of first marriage.¹⁸ In a similar vein, Hayley Fisher found that controlling for such characteristics as age, race, education and children, a \$1,000 increase in the marriage penalty was associated, on average, with a 1.7 percent decline in the probability of marriage.¹⁹

In addition to recent fixes,²⁰ the possible disincentive effects of the tax code’s marriage penalties are probably muted because they are so difficult to estimate.²¹ For a particular couple to know where it falls on the spectrum of penalties and bonuses in the tax code often requires an accountant.

18. James Alm, Stacy Dickert-Conlin and Leslie A. Whittington, “Policy Watch: The Marriage Penalty,” *Journal of Economic Perspectives* 13, no. 3 (Summer 1999): 200, file:///C:/Users/Calls/Downloads/13030193.pdf (accessed Aug. 25, 2014).

19. Hayley Fisher, “Marriage Penalties, Marriage, and Cohabitation,” (working paper, School of Economics, University of Sydney, Sydney, Australia, 2011).

20. Lin and Tong reviewed the 2007 income tax returns of cohabiting couples, an easily studied but admittedly selective subset of those that might be affected by marriage penalties. If they married, about 48 percent of cohabiting couples would have suffered a marriage penalty, with an average penalty of \$1,657. This includes decreases in the percent receiving the Additional Child Tax Credit (a 12 percentage point decrease, from 46 percent to 34 percent); the Child and Dependent Care Credit (a 2 percentage point decrease, from 17 percent to 15 percent); and the Earned Income Tax Credit (EITC) (with children, a 39 percentage point decrease, from 71 percent to 32 percent, and without children, a 9 percentage point decrease, from 11 percent to 2 percent). Lin and Tong also found that, on average, 38 percent of cohabiting couples would have received a marriage bonus, averaging \$914 (Emily Y. Lin and Patricia K. Tong, “Marriage and Taxes: What Can We Learn from Tax Returns Filed by Cohabiting Couples?,” *National Tax Journal* 65, no. 4 [2012]).

21. Writing in 2005, Acs and Maag used nationally representative data from the 2002 National Survey of America’s Families to project the marriage penalties and bonuses that cohabiting couples with incomes below 200 percent of the federal poverty level would face in 2003 and 2008. (They limited their analysis to taxes and TANF, and no other means-tested programs.) They found that between 2003 and 2008, fewer low-income couples would experience marriage penalties (a decline from 21.5 percent in 2003 to 10.5 percent in 2008) and more low-income couples would experience a marriage bonus (an increase from 63.3 percent in 2003 to 74.7 percent in 2008). Among low-income couples, the average marriage penalty would increase from \$1,428 in 2003 to \$1,742 in 2008, due to loss of non-EITC credits. The average marriage bonus would increase from \$1,949 in 2003 to \$2,423 in 2008, due to the larger EITC and Child Tax Credit under 2008 law. Marriage bonuses most frequently occur when one parent with little or no earnings marries a non-parent partner with modest earnings. Acs and Maag estimated the maximum loss in TANF benefits when a cohabiting couple marries to be \$2,096 for 2008 (Gregory Acs and Elaine Maag, “Irreconcilable Differences? The Conflict between Marriage Promotion Initiative for Cohabiting Couples with Children and Marriage Penalties in Tax and Transfer Programs,” *New Federalism* B, no. B-66 (2005), http://www.urban.org/UploadedPDF/311162_B-66.pdf [accessed Aug. 14, 2014]).

Moreover, the situation can change with rising or falling income and, of course, the birth of children.

Thus, to the extent that couples employ cost-benefit analysis in thinking about marriage, they are faced on one side with imperfect knowledge of the psychic rewards of marriage and on the other with complex financial calculations required to estimate the full financial implications of marriage. Even with a rough estimate of these penalties, the huge uncertainty about how to appraise the potential benefits of marriage make it essentially unfeasible to determine if the decision would yield a net gain. The same is not true for means-tested social-welfare benefits, which potentially have a much greater effect in discouraging marriage and in encouraging low- and middle-income couples to cohabit.

EXPANDING MEANS-TESTED BENEFITS

Social-welfare spending in the United States involves a broad array of benefits that has increased vastly since the 1950s. Federal spending on these benefits climbed from \$30 billion in 1963 to \$2.3 trillion in 2011.²² Per capita, these transfers rose from about \$1,168 to \$7,000 for every living American.

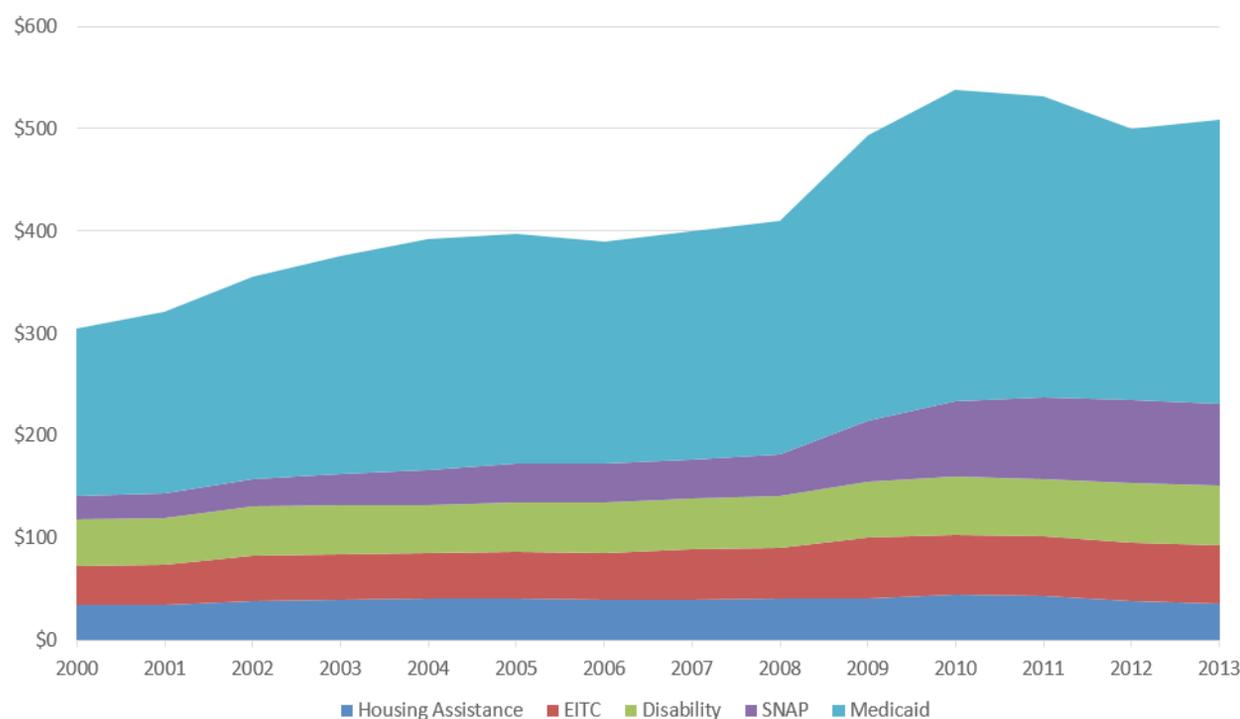
Some of these benefits – such as, by size, Social Security, Medicare, disability and unemployment insurance – are distributed across the board, largely without regard to current versus past income, although they may be taxed. However, others are designed expressly to assist low-income people; by size, major means-tested programs include Medicaid; the Supplemental Nutrition Assistance Program (SNAP); Temporary Assistance to Needy Families (TANF); child-care subsidies through the Child Care and Development Fund (CCDF); school meals; and the Low Income Home Energy Assistance Program (LIHEAP).

Adjusting for inflation, federal spending on the nine largest means-tested programs climbed from about \$77.6 billion in 1968 to about \$658 billion in 2011, an increase of about 748 percent. This growth was seen during a period when the U.S. population grew by only about 56 percent.²³ Spending increases accelerated in response to the 2008 financial crisis and 2007-2009 recession, with spending on these means-tested programs increasing by 15 percent between 2008 and

22. *Economic Report of the President*, February 2012, Table B-29, p. 353.

23. Karen Spar, *Cash and Noncash Benefits for Persons with Limited Income: Eligibility Rules, Recipient and Expenditure Data, FY 2002-2004*, Congressional Research Service Report RL 33340 (March 27, 2006); and Congressional Research Service, *Spending for Federal Benefits and Services for People with Low Income, FY2008- FY2011: An Update of Table B-1 from CRS Report R41625, Modified to Remove Programs for Veterans* (Washington, DC: Congressional Research Service, October 2012), http://www.budget.senate.gov/republican/public/index.cfm/files/serve/?File_id=0f87b42d-f182-4b3d-8ae2-fa8ac8a8edad (accessed June 15, 2015).

FIGURE I: FEDERAL EXPENDITURES ON LARGEST MEANS-TESTED PROGRAMS (\$1B)



Sources: Social Security Administration; U.S. Department of Agriculture; U.S. Department of Health and Human Services, Administration for Children and Families; and U.S. Department of Labor, Employment and Training Administration¹

1. Social Security Administration, "Disabled Worker, Spouse of Disabled Worker, Child of Disabled Worker," <http://www.ssa.gov/cgi-bin/currentpay.cgi> (accessed June 24, 2015); U.S. Department of Agriculture, "Supplemental Nutrition Assistance Program participation and costs," <http://www.fns.usda.gov/pd/SNAPsummary.htm> (accessed June 24, 2015); U.S. Department of Health and Human Services, Administration for Children and Families, *TANF: Total Number of Families Fiscal and Calendar Year 2013* (Washington, D.C.: U.S. Department of Health and Human Services, 2014); and U.S. Department of Labor, Employment and Training Administration, "Unemployment Insurance data summary," <http://workforcesecurity.doleta.gov/unemploy/content/data.asp> (accessed June 24, 2015).

2009, from \$530 billion to \$608 billion.²⁴ This social spending clearly cushioned the impact of the recession on low-income people. For example, funding for SNAP/food stamps tripled from \$27.6 billion in 2007 to \$81 billion in 2013.²⁵ As seen in Figure 1, spending on five of the largest means-tested programs amounted to about \$513 billion in 2013.²⁶

Historically, low-income couples have faced especially onerous marriage penalties, because most safety-net benefits are means-tested (with steep phase-out rates or even cliffs).

24. Congressional Research Service, *Low-Income Assistance Programs: Trends in Federal Spending* (Washington, D.C.: Congressional Research Service, June 2012), http://greenbook.waysandmeans.house.gov/sites/greenbook.waysandmeans.house.gov/files/2012/documents/RL41823_gb.pdf (accessed June 15, 2015).

25. U.S. Department of Agriculture, Food and Nutrition Service, "Supplemental Nutrition Assistance Program: Monthly Data," <http://www.fns.usda.gov/sites/default/files/pd/34SNAPmonthly.pdf> (accessed June 1, 2015). SNAP Monthly Data, <http://www.fns.usda.gov/pd/34SNAPmonthly.htm> (accessed Dec. 1, 2011); Congressional Research Service, *Spending for Federal Benefits and Services for People with Low Income: FY 2008-FY 2011* (Washington, D.C.: Congressional Research Services, October 2012), http://www.budget.senate.gov/republican/public/index.cfm/files/serve/?File_id=0f87b42d-f182-4b3d-8ae2-fa8ac8a8edad (accessed June 1, 2015).

26. Gene Falk, *Low-Income Assistance Programs: Trends in Federal Spending* (Washington, D.C.: Congressional Research Service, May 2014), http://digital.library.unt.edu/ark:/67531/metadc306562/m1/1/high_res_d/R41823_2014May07.pdf (accessed June 30, 2015).

Marriage easily could reduce or end the benefits of a single parent with children. Writing in 1999, Eugene Steuerle estimated that, if two low-income workers (a single mother earning \$10,000 a year and a male earning \$20,000 a year were to marry, their combined income could fall by almost 30 percent, or \$9,000, due to loss of means-tested benefits.²⁷

More recent expansions of safety-net programs to more middle-income households has extended the reach of marriage penalties to many more Americans. For a family of four, Medicaid eligibility now can reach as high as \$92,150 in one state;²⁸ child-care subsidies reach as high as \$71,436

27. Eugene Steuerle, "Valuing Marital Commitment: The Radical Restructuring of Our Tax and Transfer System," *The Responsive Community* 2, no. 9 (1999), <http://www.urban.org/publications/1000200.html> (accessed Aug. 15, 2014).

28. Henry J. Kaiser Family Foundation, "Medicaid and CHIP Income Eligibility Limits for Children as a Percent of the Federal Poverty Level," <http://kff.org/health-reform/state-indicator/medicaid-and-chip-income-eligibility-limits-for-children-as-a-percent-of-the-federal-poverty-level/> (accessed June 19, 2015).

in one state;²⁹ the EITC reaches \$53,267;³⁰ and SNAP reaches \$31,008.³¹

It's difficult to track all the marriage penalties that are created, usually inadvertently, as they can appear in the most unexpected places. For example, the Affordable Care Act (ACA) provides subsidies for health-insurance premiums purchased through state insurance exchanges for households with incomes between 133 percent and 400 percent of the poverty line. The subsidies are on a sliding scale so that, for each additional dollar earned, households are required to pay a higher percentage of their income for health insurance. Between 300 and 400 percent of the poverty line (for a family of three, that's between \$59,370 and \$79,160), the subsidy is flat at 9.5 percent of a household's income. Two unmarried individuals may separately qualify for subsidized insurance (even if cohabiting). But upon marriage, their combined income may reduce their subsidies or disqualify them from receiving subsidies entirely. Couples with very uneven incomes can lose \$3,486 in subsidies upon marriage.³²

Then there is the ACA's so-called "family glitch," where spouses who qualify for subsidized health insurance based on their own income are denied subsidies (again, up to 400 percent of poverty) because they married someone who has employer-sponsored insurance that allows for inclusion of dependents, regardless of how much the dependent's coverage would cost.³³ (The subsidy is not denied if the couple were cohabiting and the partner was not eligible for the employer-sponsored insurance.)

29. Sarah Minton and Christin Durham, *Child Care Subsidies: Who's Eligible Varies by State* (Washington, DC: Urban Institute, November 2012), <http://www.urban.org/urban-wire/child-care-subsidies-whos-eligible-varies-state> (accessed June 24, 2015).

30. Internal Revenue Service, "2015 EITC Income Limits, Maximum Credit Amounts and Tax Law Updates," <http://www.irs.gov/Credits-&-Deductions/Individuals/Earned-Income-Tax-Credit/EITC-Income-Limits-Maximum-Credit-Amounts-Next-Year> (accessed June 24, 2015).

31. U.S. Department of Agriculture, "Supplemental Nutrition Assistance Program (SNAP): Eligibility," <http://www.fns.usda.gov/snap/eligibility> (accessed June 24, 2015).

32. The value of the tax credit is based on household income and decreases in value as household income increases. U.S. House of Representatives, *Examining Obamacare's Hidden Marriage Penalty and Its Impact on the Deficit: Hearing Before the Subcommittee on Health Care, District of Columbia, Census and the National Archives of the Committee on Oversight and Government Reform* (Washington, D.C.: U.S. Government Printing Office, 2012), <http://www.gpo.gov/fdsys/pkg/CHRG-112hrg71981/pdf/CHRG-112hrg71981.pdf> (accessed June 27, 2014); and Office of the Assistant Secretary for Planning and Evaluation, "Health Insurance Marketplace Premiums for 2014," http://aspe.hhs.gov/health/reports/2013/marketplacepremiums/ib_marketplace_premiums.cfm (accessed Aug. 25, 2014).

33. Ken Jacobs, Dave Graham-Squire, Dylan H. Roby, Gerald F. Kominski, Christina M. Kinane, Jack Needleman, Greg Watson and Daphna Gans, *Proposed Regulations Could Limit Access to Affordable Health Coverage for Workers' Children and Family Members* (Berkeley, Calif.: Center for Labor Research and Education, December 2011), http://laborcenter.berkeley.edu/pdf/2011/Proposed_Regulations11.pdf (accessed Aug. 25, 2014).

MEANS-TESTED AMBIGUITIES

In calculating taxes and refunds, the tax code considers unmarried people, whether living alone or cohabiting and whether biological parents or not, as individual tax units. Married couples³⁴ may file as individuals or file jointly; cohabiters cannot do so, although they can file as head of household. As we have seen, various credits and other provisions often result in a financial bonus to couples that marry. With the exception of certain circumstances under the EITC and ACTC (which some consider means-tested transfers rather than tax provisions), means-tested transfers are, at best, neutral and usually penalize marriage. The effects are quite palpable to the couple.³⁵

The major means-tested programs determine eligibility by counting the income of either (1) the "family unit" (individuals related by blood, marriage or adoption) or, as far as we can tell, in only four circumstances, (2) the "economic unit" (individuals who share resources to purchase food or electricity).

For those means-tested programs that determine eligibility by counting the income of only the family unit, the income of a cohabiter is not counted unless the cohabiter is the parent of the child (or children) in the family and the authorities know that he is in the household. If the income of the parental cohabiter is being counted, then there is no penalty (loss of benefits) should the couple marry. For nonparent cohabiters, because their incomes are not counted, the couple would face marriage penalties (loss of benefits) if they were to marry. The major means-tested programs in this category are child-care vouchers, Section 8 housing-choice vouchers, Medicaid and TANF.³⁶

As far as we can determine, no federal means-tested programs determine eligibility by simply counting the combined income of everyone in the "household unit" (all individuals living in the same housing unit), which would include the income of nonparent cohabiters (but excluding live-in boarders). We can think of at least three reasons why this is: the recentness of high levels of cohabitation, a disinclination to intrude on the privacy of benefit recipients and a concern that the cohabitation may not include any real sharing of financial resources. (The evidence indicates that, just as financial sharing varies among

34. Couples that are considered married by operation of a state's common-law marriage rule are, for all intents and purposes, married.

35. Maag and Acs, stating: "If the cohabiting partner has little to no income and cannot qualify for transfer benefits on his own (perhaps because he has no children), it is possible that upon marriage transfer benefits could rise as the larger family demonstrates greater need, leading to a marriage bonus." Elaine Maag and Gregory Acs, *The Financial Consequences of Marriage for Cohabiting Couples with Children* (Washington, DC: Urban Institute, May 2015), 3.

36. In five states, the income of other adults in the households are counted when determining TANF benefits.

TABLE I: WHEN MEANS-TESTED PROGRAMS COUNT A COHABITER'S INCOME

Program	Biological parent	Economic unit
ACTC	No	No
CCDF	Yes	No
EITC	No	No
LIHEAP	Yes	Yes
Medicaid/ACA	Yes	No
Section 8	Yes	No
School meals	Yes	Yes
SNAP	Yes	Yes
TANF	Yes	In 5 states
WIC	Yes	Yes

SOURCES: Office of Planning, Research and Evaluation, U.S. Department of Health and Human Services; Congressional Research Service; Centers for Medicare and Medicaid Services; U.S. Department of Housing and Urban Development; U.S. Department of Agriculture; U.S. Department of Agriculture, Food and Nutrition Service; Douglas J. Besharov and Douglas M. Call.¹

1. CCDF: Sarah Minton, Christin Durham and Linda Giannarelli, *The CCDF Policies Database Book of Tables: Key Cross-State Variations in CCDF Policies as of October 1, 2013* (Washington, D.C.: Office of Planning, Research and Evaluation, U.S. Department of Health and Human Services, 2014), http://www.acf.hhs.gov/sites/default/files/opre/ccdf_final_2.pdf (accessed May 27, 2015); LIHEAP: Libby Perl, *LIHEAP: Program and Funding* (Washington, D.C.: Congressional Research Service, July 2013), <http://neada.org/wp-content/uploads/2013/08/CRSLIHEAPProgramRL318651.pdf> (accessed May 27, 2015); Medicaid/ACA: Centers for Medicare and Medicaid Services, *Medicaid and CHIP in 2014: A Seamless Path to Affordable Coverage* (Woodlawn, Md.: Centers for Medicare and Medicaid Services, 2014), <http://medicaid.gov/State-Resource-Center/Downloads/3-29-12-Eligibility-Webinar-Slides.pdf> (accessed May 27, 2015); Section 8: U.S. Department of Housing and Urban Development, *Housing Choice Voucher Program Guidebook* (Washington, D.C.: U.S. Department of Housing and Urban Development, 2014), http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/programs/hcv/forms/guidebook (accessed May 27, 2015); School meals: U.S. Department of Agriculture, *Eligibility Manual for School Meals: Determining and Verifying Eligibility* (Alexandria, Va.: U.S. Department of Agriculture, August 2014), <http://www.fns.usda.gov/sites/default/files/cn/EliMan.pdf> (accessed May 28, 2015); SNAP: Kelsey Farson Gray, *Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2013* (Alexandria, Va.: U.S. Department of Agriculture, Food and Nutrition Service, Office of Policy Support, 2014); <http://www.fns.usda.gov/sites/default/files/ops/Characteristics2013.pdf> (accessed May 28, 2015); TANF: Erika Huber, David Kassabian and Elissa Cohen, *Welfare Rules Databook: State TANF Policies as of July 2013* (Washington, D.C.: Office of Planning, Research and Evaluation, Administration for Children and Families, US Department of Health and Human Services, 2014); WIC: Douglas J. Besharov and Douglas M. Call, *The Expansion of WIC Eligibility and Enrollment: Good Intentions, Uncontrolled Local Discretion and Compliant Federal Reminiscent* (College Park, Md.: Welfare Reform Academy, 2009), http://welfareacademy.org/pubs/foodassist/The_Expansion_of_WIC_Eligibility_and_Enrollment_09_0305A.pdf (accessed May 28, 2015).

married couples, so too does it vary among cohabiters, but at a much lower average level.³⁷

At least four programs count the income of nonparent cohabiters, but only if it is established that they contribute to the household's resources in specified ways: for example, by assisting with the purchase of food and the preparation of meals or contributing to the payment of utilities. If the

37. Kurt Bauman, *Shifting Family Definitions: The Effect of Cohabitation and the Other Nonfamily Household Relationships on Measures of Poverty*, (Washington, D.C.: U.S. Census Bureau, 1997); and Anne E. Winkler, "Economic Decision-making by Cohabitors: Findings Regarding Income Pooling," *Applied Economics* 29 (1997): 1079-1090.

income of these nonparent cohabiters is already counted, the couple would not face a loss in benefits should they marry. If the income is not counted, they would face a loss of benefits at marriage. The major means-tested programs in this category are SNAP, the Special Supplemental Nutrition Program for Women, Infants and Children (WIC), school meals and LIHEAP. (See Table 1.)

As far as we can tell, the most recent comprehensive studies of marriage penalties are more than a decade old and do not focus on cohabitating couples.³⁸ Hence, with the assistance of the R Street Institute, we asked the Urban Institute to estimate the impact of getting married on taxes and means-tested benefits, as applied to six income/marriage scenarios broadly representative of major subgroups of cohabitating couples in the population. (By using already cohabiting couples, we avoided the need to create synthetic couples.) We did not attempt to estimate the impact of marriage penalties on actual decision-making, because of difficulties in modeling the marriage market that must take into account all the other factors that might affect decisions to marry or not marry.

For this analysis, Maag and Acs of the Urban Institute used the institute's newly updated Net Income Change Calculator (NICC) database of national and state tax and social-welfare rules for all 50 states and the District of Columbia. The database includes payroll and income taxes and various tax credits, as well as safety-net programs such as TANF, SNAP, Section 8, WIC and CCDF child-care subsidies. (Because the NICC is not used to calculate the effects of marriage on coverage under Medicaid and the ACA, its estimates may understate marriage penalties and bonuses.) Finally, because of data limits, only federal programs were analyzed.

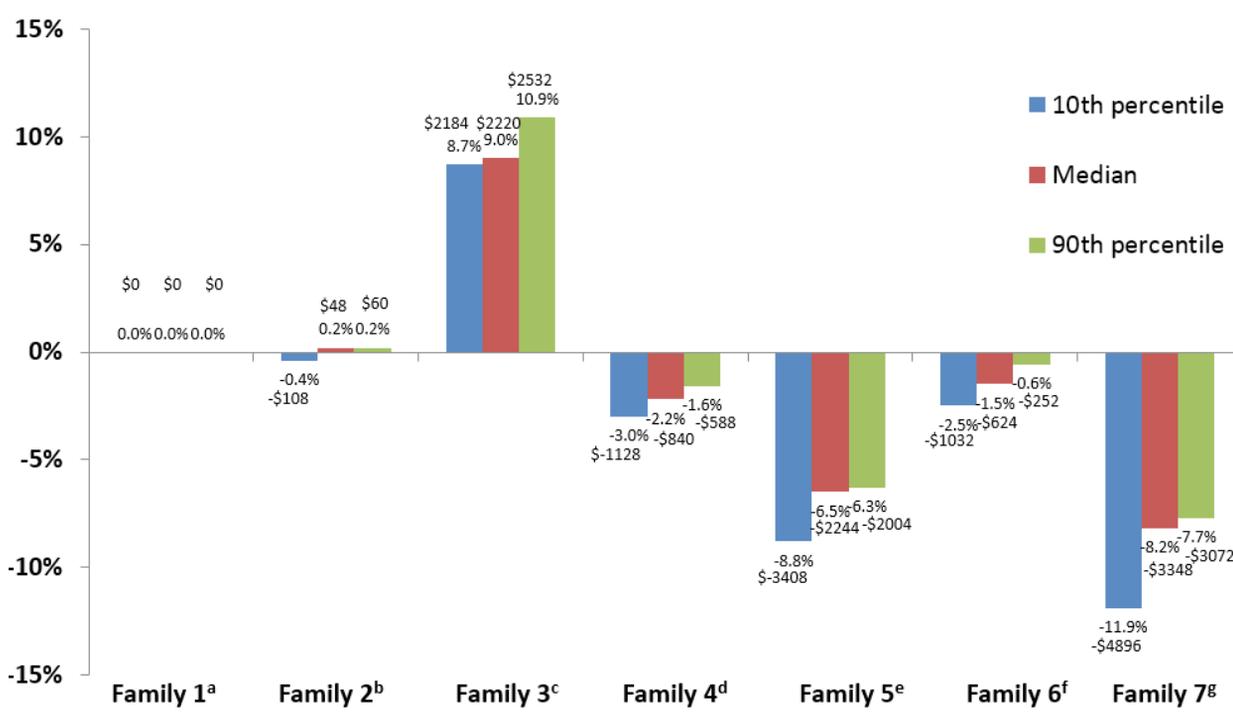
Maag and Acs identified six scenarios involving hypothetical cohabiting parents with children at four levels of earnings – \$10,000, \$20,000, \$40,000 and \$50,000 – and with specified variations in the split of earnings between the partners. Because local taxation and the rules governing means-tested benefits vary from state to state (for example, in child-care assistance), the authors report on the marriage penalties and bonuses for states at the 10th, 50th and 90th percentiles of the distribution, as well as the percent change in earnings.³⁹

For our analysis, we use (1) the marriage penalties and bonuses as detailed in Acs and Maag's report, (2) unpublished NICC tables from Acs and Maag that detail the couples' overall household disposable income (including both

38. For example, Adam Carasso and C. Eugene Steuerle, "The Hefty Penalty on Marriage Facing Many Households with Children," *The Future of Children* 15, no. 2 (2005), http://futureofchildren.org/futureofchildren/publications/docs/15_02_09.pdf (accessed Aug. 15, 2014).

39. Elaine Maag and Gregory Acs, *The Financial Consequences of Marriage for Cohabiting Couples with Children* (Washington, DC: Urban Institute, May 2015).

FIGURE 2: 2012 MARRIAGE BONUSES AND PENALTIES BY FAMILY TYPE (% FAMILY INCOME)



Notes:
 A. Annual earnings are \$10,000, one earner.
 B. Annual earnings are \$20,000. Earnings are split between partners 80 percent/20 percent.
 C. Annual earnings are \$20,000. Each member earns 50 percent.
 D. Annual earnings are \$40,000. Earnings are split between partners 80 percent/20 percent.
 E. Annual earnings are \$40,000. Each member earns 50 percent.
 F. Annual earnings are \$50,000. Earnings are split between partners 80 percent/20 percent.
 G. Annual earnings are \$50,000. Each member earns 50 percent.

SOURCE: Urban Institute

taxes and means-tested transfers) in order to calculate marriage penalties and bonuses as a percent of income, and (3) our own calculations from the NICC for some additional marriage penalty/bonus scenarios not addressed by Acs and Maag (described in more detail below).

As expected, key issues were the combined and relative incomes of the prospective spouses. Assuming that parent cohabiters accurately reported the relationship before marriage, the effect of marriage on the disposable income of a couple ranges from a marriage bonus of as high as 11 percent of disposable income to a penalty of as high as 12 percent of disposable income, depending on the total income and the division of earnings among the couple. (See Figure 2.)

When the cohabiters are the biological parents, Acs and Maag find that the Additional Child Tax Credit and the Earned Income Tax Credit have the largest effect on creating either marriage penalties or bonuses. Using Acs and Maag’s unpublished income data from the NICC, we find that the effect on these cohabiting couples with two children and

combined earnings of \$20,000 a year⁴⁰ can range from a small marriage penalty of about 0.2 percent of disposable income (\$108) to a marriage bonus of about 11 percent (\$2,532) of disposable income (taking into account both taxes and transfers), depending on the state and how earnings are divided among the couple. The opposite is true for cohabiting parents with higher earnings: cohabiting parents with two children with combined earnings of \$40,000 or \$50,000 a year⁴¹ face marriage penalties that range in size from about 2 percent of disposable income to about 12 percent of disposable income (again, taking into account both taxes and means-tested transfers), depending on the state and how earnings are divided among the couple. These estimates do not include the potential impact on Medicaid and ACA benefits, so they are probably an underestimate.

40. Counting means-tested benefits, the combined income of these couples ranges from \$23,316 to \$30,540, depending on the state and how earnings are divided among the couple.

41. Counting means-tested benefits, the combined income of couples with combined earnings of \$40,000 ranges from \$32,040 to \$38,868. For couples with combined earnings of \$50,000, combined income ranges from \$39,672 to \$41,040, depending on the state and how earnings are divided among the couple.

TABLE 2: PENALTIES AND BONUSES FOR COHABITERS WHO MARRY

Earnings		Rule-following biological parents						Non-biological cohabiters					
Total (\$)	Split (%)	10th		Median		90th		10th		Median		90th	
		(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)	(\$)	(%)
10,000	100/0	0	0	0	0	0	0	-5,016	-17.9	-3,396	-12.1	-1,824	-7.1
20,000	80/20	-108	-0.4	48	0.2	60	0.2	-8,902	-24.2	-6,699	-18.5	-4,152	-12.6
20,000	50/50	2,184	8.7	2,220	9.0	2,532	10.9	-7,733	-22.7	-3,842	-11	-1,784	7.2
40,000	80/20	-1,128	-3.0	-840	-2.2	-588	-1.6	-11,364	-22.7	-8,208	-18.8	-5,544	-13.3
40,000	50/50	-3,408	-8.8	-2,244	-6.5	-2,004	-6.3	-13,248	-31.6	-10,140	-24.5	-8,004	-17.4
50,000	80/20	-1,032	-2.5	-624	-1.5	-252	-0.6	-14,148	-25.1	-11,400	-21.6	-6,960	-14.5
50,000	50/50	-4,896	-11.9	-3,348	-8.2	-3,072	-7.7	-14,504	-28.7	-11,124	-23.3	-6,960	-16.4

Note: Total household income includes means-tested benefits

Source: Urban Institute and authors' calculations using the Urban Institute's Net Income Change Calculator*

*Total household income includes means-tested benefits

In all their scenarios, Maag and Acs assume both cohabiters are biological parents of all children in the household and that “the rules for transfer programs are followed.”⁴² But what if one of the cohabiters is not the parent of all or some of the children or the cohabiter’s status is misreported to the authorities (or they don’t ask)? Then, the financial penalties for marrying are much greater.

Maag and Acs modeled one such scenario for cohabiting couples in Kansas. They find a Kansas cohabiting couple with combined earnings of \$20,000 and a 50/50 earnings split (taking into account taxes and means-tested benefits, a total combined disposable income of about \$34,814) would lose about 11 percent (\$3,800) in income if they were to marry. Couples with an 80/20 earnings split (taking into account taxes and means-tested benefits, a total combined income of about \$36,162) could lose about 19 percent of disposable income if they were to marry (\$6,700), most from means-tested benefits. More specifically, Maag and Acs note: “they would lose about \$1,400 from TANF, \$900 from SNAP, and \$4,100 from child care; the family’s WIC benefits would be largely unaffected.”⁴³

Our own estimates (See Table 2), also using the Urban Institute’s NICC, show that cohabiting couples with earnings of \$40,000⁴⁴ who are not both biological parents or who do not tell the authorities face marriage penalties that range from a low about 13 percent to a high of about 32 percent of income

(between \$5,544 and \$13,248) and couples with earnings of \$50,000⁴⁵ face marriage penalties that range from about 15 percent to about 25 percent of income (between \$6,960 and \$14,148), depending on the state and the division of earnings. Both our estimates and Maag and Acs’ estimates do not include Medicaid or the Affordable Care Act.⁴⁶

To summarize, if the cohabiter is not a biological parent of all the children or if parental status is either not known or ignored by the authorities, the financial cost of marriage can be quite high. Consequently:

1. Biological parents who are cohabitating have a big incentive for not making their presence known to the authorities and for not getting married, and
2. Nonparent cohabiters have big incentives for not getting married and also for not contributing to the household finances, at least not in ways easily detected by the authorities.

In both situations, cohabiters are able to enjoy the essential benefits of joint household production without facing the possibility of losing means-tested benefits. Besides creating a palpable disincentive to marriage, the results are also serious vertical and horizontal inequities compared to the treatment of married couples with children.

Of course, there are other reasons for not telling the authorities about cohabitation or its details. These relationships are often unstable and short-term. Why report if you think the cohabiter male might move out? Why report if off-the-books

42. These rules apply to the couple reporting that they are both biological parents; the rules about reporting resource sharing only apply to non-biological cohabiters. Elaine Maag and Gregory Acs, *The Financial Consequences of Marriage for Cohabiting Couples with Children* (Washington, DC: Urban Institute, May 2015), 18.

43. Elaine Maag and Gregory Acs, *The Financial Consequences of Marriage for Cohabiting Couples with Children* (Washington, DC: Urban Institute, May 2015).

44. Counting taxes and means-tested benefits, the combined disposable income of these couples ranges from \$35,376 to \$45,972, depending on the state and how earnings are divided among the couple.

45. Counting taxes and means-tested benefits, the combined disposable income of these couples ranges from \$47,892 to \$56,460, depending on the state and how earnings are divided among the couple.

46. Author’s calculations using the Urban Institute’s Net Income Change Calculator

income is unpredictable? Given the hassle of applying, losing and reapplying for benefits, there is added incentive to not report conditions that might be temporary.

At the same time, there is a considerable amount of bureaucratic discretion in the rigor with which eligibility requirements are applied at the state level. With open-ended federally funded programs, the states have little reason to inhibit eligibility for social benefits through the stiff application of requirements. Additionally, there is the issue of recipient privacy and the view that the state does not belong in our kitchens rummaging through the refrigerator.

How probable is such nonreporting, misreporting or misreporting? Research suggests that data on social transfers are often unreliable, with benefits usually underreported. It is well-documented that, under the older Aid to Families with Dependent Children program (AFDC), a significant proportion of welfare recipients regularly worked for pay that was not reported.⁴⁷ Indeed, there is also substantial evidence that the income of cohabiters, specifically, is often not counted when determining eligibility for programs such as SNAP, WIC and school meals. As Besharov and Douglas M. Call demonstrated:

For example, while one national survey sponsored by the U.S. Department of Agriculture showed that, in 1998, about 15 percent of WIC households included adults other than the mother, Census Bureau data reported in 2001 that nearly one-third of WIC households contained an additional adult.⁴⁸ If those estimates are applied to the number of households receiving WIC in 2001, the estimate of the number of WIC households with other adults ranges from 547,000 to 1.2 million, a difference of about 658,000 households⁴⁹

This explains a Moran Co. analysis of the Survey of Income and Program Participation (SIPP) that found 2012 WIC

47. In a study of welfare recipients in Illinois between 1988 and 1990, Edin and Jencks found that almost 80 percent of their sample worked (in both legal and illegal activities) without reporting their income. Kathryn Edin and Christopher Jencks, "Welfare" in Christopher Jencks, *Rethinking Social Policy*, (Cambridge: Harvard University Press, 1992), pp.204-236. Other studies reveal significant employment rates, though not quite as high as in Edin and Jencks. For example Maureen Marcenko and Jay Fagan, "Welfare to Work: What are the Obstacles," *Journal of Sociology and Social Welfare*, 70:3 (1996) report 27 percent; Dave O'Neill and June O' Neill, *Lessons for Welfare Reform: An Analysis of the AFDC Caseload and Past Welfare-to-Work Programs* (Kalamazoo, Mich.: W.E. Upjohn Institute for Employment Research, 1997) report 49.4 percent and Kathleen Harris, "Work and Welfare Among Single Mothers in Poverty," *American Journal of Sociology* 99:2 (1993) reports 51 percent. Kathryn Edin and Laura Lein, "Work, Welfare, and Single Mothers' Economic Survival Strategies," *American Sociological Review* 62:2 (1997) provide further evidence of unreported work ranging from 32 percent to 52 percent of welfare mothers in four cities.

48. Douglas J. Besharov and Douglas M. Call, *The Expansion of WIC Eligibility and Enrollment: Good Intentions, Uncontrolled Local Discretion and Complaint Federal Officials* (College Park, Md.: Welfare Reform Academy, 2009), http://welfareacademy.org/pubs/foodassist/The_expansion_of_WIC_eligibility_and_enrollment_09_0305A.pdf (accessed June 19, 2015)

49. Because the number of households receiving WIC is not available in the official data, we assume there are two WIC participants per WIC household.

household incomes were over the income-eligibility threshold for 18 percent of infants, 21 percent of children and 29 percent of women.⁵⁰

COHABITATION INSTEAD OF MARRIAGE

How serious a problem are these penalties? Clearly, many couples are choosing cohabitation over marriage. Still, more research is needed on how many cohabiting parents fall under them. It seems reasonable to presume their size and visibility will have an effect.

As a 1997 Congressional Budget Office (CBO) report notes:

"The potential loss of means-tested benefits that many low-income mothers receive may be much more important [than losses from the tax code]. If marriage disqualifies a family for food stamps, housing assistance and Medicaid benefits, the dollar cost is substantial. Especially in communities in which unmarried mothers are common, those costs could well outweigh other factors and generate significant disincentives to marry."⁵¹

Over the years, many studies have been conducted on the effect of the old AFDC program on marriage and out-of-wedlock births. Writing in 1998 for the National Academy of Sciences, Robert Moffitt reviewed the findings of 68 studies on the effect of welfare on marriage and fertility. He concluded that, although there is a consensus that the AFDC program had a negative effect on marriage, there was "considerable uncertainty surrounding this consensus because a significant minority of the studies finds no effect at all, because the magnitudes of the estimated effects vary widely, and because there are puzzling and unexplained differences across the studies by race and methodological approach."⁵²

There is no reason to revisit the merits of the various individual studies that are cited by Moffitt. For present purposes, it is sufficient to note that they were analyzing the effect of only one program on a population already less likely to marry. As we have seen, many means-tested programs now reach to couples with higher incomes who, in the past, were more likely to marry.

50. Moran Co., *Eligibility of WIC Participants as Measured in the SIPP* (Arlington, Va.: Moran Co., March 2014).

51. Congressional Budget Office, *For Better or for Worse: Marriage and the Federal Income Tax* (Washington, D.C.: Congressional Budget Office, June 1997), 12, <http://www.cbo.gov/sites/default/files/marriage.pdf> (accessed May 29, 2015).

52. Robert A. Moffitt, "The Effect of Welfare on Marriage and Fertility" in *Welfare, The Family, And Reproductive Behavior: Research Perspectives* (Washington, D.C.: National Academy Press, 1998), 50, <http://www.ncbi.nlm.nih.gov/books/NBK230345/> (accessed June 26, 2015).

Given the expansion of the American safety-net benefits to these couples, the possible marriage penalties take on added immediacy, because the social context for marital decision making has changed dramatically with the emergence of new norms around family life. The sharp reduction in stigma over nonmarital sex and cohabitation have given birth to new norms about family life. Marriage is no longer a compelling prerequisite to obtain the psychic benefits of companionship, intimacy and children or the economic benefits of a combined household. As David Popenoe observes, “non-marital cohabitation has become a normal part of the life course in the eyes of more than half of young singles in America.”⁵³

Thus, we hypothesize that the real effect of marriage penalties is on the decision to move to and continue in cohabitation, instead of marrying, not on the decision to move from living singly to marriage. The decision to cohabit rather than marry exists in the social context where marriage is no longer necessary to obtain intimacy. There are surely many factors involved in the growth of cohabitation, but it is difficult to review the tax and social-welfare benefits and losses summarized above without thinking they must at least contribute to the trend. In fact, it is only a small exaggeration to think that, as Steuerle writes: “Cohabiting or not getting married has become the tax shelter of the poor.”⁵⁴

Indeed, the decline in marriage has been accompanied by a dramatic growth in cohabitation. The percent of all U.S. couples who are cohabiting climbed from 1.1 percent in 1960 to 5.1 percent in 1995 to 11.6 percent in 2011.⁵⁵ (Historical estimates of cohabitation did not pay much attention to same-sex relationships, as reflected in the acronym POSSLQ for the Census Bureau measure of “persons of the opposite sex sharing living quarters.”)⁵⁶ Between 1996 and 2014, unmarried cohabiting couples with children, as a percent of all U.S. families with children, increased from 3.6 percent to 8.9 percent.⁵⁷

The supposition that marriage penalties have an impact on decisions to marry gains credence from the simple fact that marriage rates are highest among higher-income groups that

are less affected by them and for whom such penalties represent a smaller proportion of total income.

Steuerle also expressed concern that, although factors other than marriage penalties impact whether a couple marries, if the penalties persist and expand over time, a “group effect” could take hold, as some who responded negatively to the financial penalties begin to influence others.⁵⁸ These group or community effects could be substantial.

Marriage penalties under means-tested programs tend to be more common for African-Americans than whites, because they are more likely to have low incomes. Using the National Longitudinal Survey of Youth (NLSY) for the period 1988 to 1993, Besharov and Tim Sullivan found that “black single mothers are 50 percent more likely than white ones to face a marriage penalty that exceeds 10 percent of their income (46 percent versus 31 percent).” They hypothesize that these more prevalent penalties could have an effect on the attitudes of African-Americans toward marriage and cohabitation, writing that “if marriage is penalized by the welfare system, and a large enough portion of the community feels the bite, then rearing children outside of wedlock could more easily become the norm.”⁵⁹

EUROPEAN RESPONSES

Cohabitation rates in Europe are much higher than in the United States. In most Western and Northern European countries, cohabitation rates started higher and have continued to grow. Between 1995 and 2010, the proportion of cohabiting couples has grown in France from 13.6 percent to 24.4 percent; in Germany, from 8.2 percent to 12.8 percent; in the Netherlands, from 13.1 percent to 20 percent; in Sweden, from 23.0 percent to 25.0 percent; and from 10.1 to 15.5 percent in the United Kingdom.⁶⁰ In 2010, more than 40 percent of births in France, Norway and Sweden were to women in

53. David Popenoe, *Cohabitation, Marriage and Child Well-Being: A Cross-National Perspective* (New Brunswick, N.J.: National Marriage Project, 2008), <http://www.smartmarriages.com/uploaded/Cohabitation.Report.Popenoe.08.pdf> (accessed August 26, 2014).

54. C. Eugene Steuerle, “The Widespread Prevalence of Marriage Penalties: Testimony before the Subcommittee on the District of Columbia, Committee on Appropriations, U.S. Senate,” (2006), 8, http://www.urban.org/UploadedPDF/900952_Steuerle_050306.pdf (accessed June 26, 2014).

55. Heritage Foundation, “Nearly 12 Percent of Couples Living Together are Unmarried,” <http://www.familyfacts.org/charts/110/nearly-12-percent-of-couples-living-together-are-unmarried> (accessed June 24, 2015).

56. Lynne M. Casper, Philip N. Cohen and Tavia Simmons, “How Does POSSLQ Measure Up? Historical Estimates of Cohabitation,” *Population Division Working Paper No. 36*. U.S. Bureau of the Census Washington, D.C. 20233-8800 (May 1999).

57. U.S. Census Bureau, “Families and Living Arrangements: Historical Time Series,” <https://www.census.gov/hhes/families/data/historical.html> (accessed June 24, 2015).

58. C. Eugene Steuerle, “The Widespread Prevalence of Marriage Penalties: Testimony before the Subcommittee on the District of Columbia, Committee on Appropriations, United States Senate,” (2006), 8, http://www.urban.org/UploadedPDF/900952_Steuerle_050306.pdf (accessed June 26, 2014).

59. Douglas J. Besharov and Tim Sullivan, “Welfare Reform and Marriage,” *The Public Interest* (October 1996), 7, <http://www.aei.org/article/society-and-culture/poverty/welfare-reform-and-marriage/> (accessed Aug. 13, 2014).

60. David Popenoe, *Cohabitation, Marriage and Child Well-Being: A Cross-National Perspective* (New Brunswick, N.J.: National Marriage Project, 2008), <http://www.smartmarriages.com/uploaded/Cohabitation.Report.Popenoe.08.pdf> (accessed Aug. 26, 2014); Organisation for Economic Co-operation and Development, *Cohabitation Rate and Prevalence of Other Forms of Partnership* (Paris: Organisation for Economic Co-operation and Development, January 2013), http://www.oecd.org/social/soc/SF3_3_Cohabitation_rate_and_prevalence_of_other_forms_of_partnership_Jan2013.pdf (accessed Aug. 14, 2014); and United Nations Economic Commission for Europe, “Private Households by Measurement, Household Type, Country and Year,” http://w3.unece.org/pxweb/database/STAT/30-GE/02-Families_households/?lang=1 (accessed Aug. 26, 2014).

cohabiting relationships,⁶¹ compared to 25 percent in the United States.⁶²

In large parts of Europe, formal marriage has fallen out of favor with a huge proportion of the current generation. The normative acceptance of this shift away from the traditional commitment of marriage is reflected by the long-term cohabitations of such popular political figures as Segolene Royal, the French Socialist Party's 2007 presidential candidate, and François Hollande, the party's leader, who lived together for 25 years; and Defense Minister Michèle Alliot-Marie, who is in a long-term relationship with a member of the National Assembly.

Since European countries have been dealing with a more pronounced normative shift toward cohabitation for a longer period than the United States, it may be informative to examine their efforts to address some of the issues raised by this development.

Many European countries have passed laws concerning the rights and obligations of cohabitants in relation to income tax, health insurance, financial maintenance, social security, residence permits and acquisition of citizenship during the union; the treatment of household goods, assets, alimony and debts upon the dissolution of cohabitation; the rights after a partner's death to remain in their apartment and receive inheritance and survivor's pensions; and cohabitating fathers' rights in regard to joint custody and the child's family name.

At least two countries – the Netherlands and France – have instituted “registered partnerships,” a special type of cohabitation that is treated under the law more like marriage than unregistered cohabitation. Cohabitants can choose whether to register their union or remain unregistered.⁶³ (In some countries, these provisions have apparently been added as a way to recognize same-sex unions.)⁶⁴

According to Brienna Perelli-Harris and Nora Sánchez Gassen, most European countries now base their means-tested social welfare transfers on household income, which assumes that both married and cohabiting partners will

support each other in times of need.⁶⁵ A driving concept has been the harmonization of marriage and cohabitation, so that married couples and cohabiting couples are treated equitably by the state.

There is also an appreciation that it can be unfair to apply the same measure of household income to cohabiting as to married couples because it is more likely that cohabiting couples' earnings are not being shared as equally. In addition, cohabiters with secondary earnings, who might otherwise qualify for means-tested benefits, would be thus deprived of additional support by the government's overgeneralized assumption that household income is being shared as if they were married. Consequently, further requirements are imposed to make it more likely that resource sharing is more or less akin to marriage.

- *Denmark*: if both cohabiters are 25 or older, have a shared residence and have either a child or some other indicator that they are a couple, such as a joint bank account or a shared mortgage.⁶⁶
- *France*: in addition to registered cohabitations, cohabiting couple are included when determining Revenu de solidarité active (RSA) social-assistance eligibility if they are living in the same residence and seem to be living a “common life.”⁶⁷
- *Germany*: if living in a marriage-like relationship, which is more than just living together and sharing resources; the couple are expected to have a sexual relationship in a mutually exclusive union that is intended to last and is characterized by mutual support. In putting this definition into use, administrators consider the length of the relationship, presence of children and shared finances.⁶⁸
- *United Kingdom*: guidelines for public officials who determine if partners are living together as a married couple (LTAMC) advise looking at various dimensions of the relationship, including: “mutual

61. Brienna Perelli-Harris and Nora Sánchez Gassen, “How Similar Are Cohabitation and Marriage? Legal Approaches to Cohabitation across Western Europe,” *Population and Development Review* 38, no. 3 (September 2012): 435–467.

62. National Center for Marriage and Family Research, *Unmarried Births to Cohabiting and Single Mothers, 2005-2010* (Bowling Green, Ohio: National Center for Marriage and Family Research, June 2012), <https://www.bgsu.edu/content/dam/BGSU/college-of-arts-and->

63. Brienna Perelli-Harris and Nora Sánchez Gassen, “How Similar Are Cohabitation and Marriage? Legal Approaches to Cohabitation across Western Europe,” *Population and Development Review* 38, no. 3 (September 2012): 435–467.

64. Brienna Perelli-Harris and Nora Sánchez Gassen, “How Similar Are Cohabitation and Marriage? Legal Approaches to Cohabitation across Western Europe,” *Population and Development Review* 38, no. 3 (September 2012): 435–467.

65. Brienna Perelli-Harris and Nora Sánchez Gassen, “How Similar Are Cohabitation and Marriage? Legal Approaches to Cohabitation across Western Europe,” *Population and Development Review* 38, no. 3 (September 2012): 435–467.

66. Beskaeftigelsesministeriet, “Agreement on the Reform of the Social Assistance System,” http://bm.dk/da/Aktuelt/Politiske_aftaler/Aftale_om_en_reform_af_kontanthjaelppssystemet.aspx (accessed April 28, 2014); and Slagelse Kommune, “New Reform of Welfare in Force from 1 January 2014,” <https://www.slagelse.dk/borger/oekonomisk-hjaelp/kontanthjaelp/ny-reform-om-kontanthjaelp-gaeldende-fra-1-januar-2014> (accessed April 28, 2014).

67. CAP Marriage, “Comparing Marriage-Cohabitation-PACS,” http://www.marriage-civil.org/?page_id=907 (accessed Aug. 14, 2014).

68. Ilona Ostner, “Cohabitation in Germany—Rules, Reality and Public Discourses,” *International Journal of Law, Policy and the Family* 15, no. 1 (2001): 88–101.

love, faithfulness, public acknowledgment, sexual relations, shared surname, children, endurance, stability, interdependence [and] devotion.”⁶⁹

Lastly, the subjectivity of some of these criteria leave much room for the exercise of bureaucratic discretion, intrusive questioning and surveillance, which do not enter into eligibility determinations for married couples. The vagueness of the definition allows greater latitude for cohabiting partners to deny the relationship. For example, researchers have observed that “cohabiters may be able to conceal their relationship in order to receive welfare or unemployment benefits, a practice that has been suggested for eastern Germany.”⁷⁰ At the same time, making an independent assessment would require a level of surveillance that would be unpalatable to most Americans (and reminiscent of the man-in-the-house rules of the older welfare system).

CONCLUSIONS

Over many years, substantial progress has been made in reducing marriage penalties in the tax code. On average, it seems today to be essentially neutral, with about as many winners as losers (unless one considers the EITC and ACTC as tax provisions). The same is not true for various means-tested social-welfare benefits. When a low-income working parent (receiving substantial benefits) marries someone with a higher income, there are predictable and sometimes large penalties imposed by programs like Medicaid, EITC, ACTC, Section 8, TANF (except in five states) and child-care vouchers.

Although the penalties imposed by these programs can form a serious financial disincentive to marriage for couples living separately, they are offset by the financial, social and emotional incentives for such couples to get married and combine their resources under one roof. However, couples who already cohabit already enjoy the economies of scale and the socio-emotional benefits of living under one roof. In these cases, the loss of social-welfare benefits can represent costly financial disincentives to marriage.

In theory, means-tested programs are marriage-neutral for many cohabiters, because they putatively count the income of biological parents and, for nutrition and energy programs, couples who share household expenses. However, that assumes the authorities have an accurate understanding of cohabiters’ status. There is substantial evidence that they often do not.

69. Department for Work and Pensions “Chapter 11 - Living Together as a Married Couple” in *Decision Makers Guide*, vol. 3 (London: HMSO, 2013), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/337399/dmgch11.Pdf.

70. Brienna Perelli-Harris and Nora Sánchez Gassen, “How Similar Are Cohabitation and Marriage? Legal Approaches to Cohabitation across Western Europe,” *Population and Development Review* 38, no. 3 (September 2012): 464.

Unlike marriage, there is no official record to establish the status of cohabitation. The result is that many more cohabiting couples than might be assumed face marriage penalties. Coupled with the easy option of cohabitation instead of marriage, the situation hardly seems marriage-friendly. In addition, while unmarried, many of these cohabiting couples receive means-tested government assistance, even while married couples with lower incomes do not.

Given the practical, financial, political and normative impediments to change, doing nothing might be the best or, at least, the likeliest course. Yet the current system encourages cohabitation (or continued cohabitation) at the cost of marriage, while also creating vertical and horizontal inequities that long have been deemed unacceptable in the tax code. A cohabiting household with higher combined income may pay less taxes than a married household with a lower income, while households with the exact same income are treated differently, simply because one couple is cohabiting and the other is married. Moreover, the easy misreporting of status creates a moral hazard that seems to breed contempt for law and discourages the development of strong ties between the cohabiters.

There is a high degree of inconsistency in the enforcement of legal requirements that parent cohabiters and those helping with food and utilities have their incomes counted for the determination of benefits. Among the reasons for this are that it is often difficult for social-services workers to determine the status, length and stability of cohabitation, and there is no fiscal incentive for states to limit federal benefits to low-income residents.

One option would be to enforce existing rules. One could go further and treat all cohabiting households (whether or not they are both the biological parents) as potential economic units for all means-tested benefits. A default rule could be adopted that all couples cohabiting for longer than a set period of time (perhaps one or two years) are automatically treated as economic units. Those that are, in fact, not sharing expenses could be given an opportunity to apply for an exception by submitting evidence, such as separate checks for three months payment of rent and food. Shifting to a household unit standard would reduce the marriage penalty for cohabiters, but raise the cost of cohabitation and perhaps discourage even more biological parents from trying to form a family.

As described above, various versions of such rules are used by many European countries. Although little has been written about their implementation or impact, they seem to require a high degree of surveillance. For example, Danish, French and German agencies check for joint mortgages and

bank accounts and some countries (such as the Netherlands) apparently make home visits.⁷¹

Thus, to be effective, more rigorous enforcement of the rules might start to mirror the discredited “man-in-the-house” rules of pre-1965 welfare programs (to which some European countries have turned) and could enmesh social-services agencies in endless arguments about household economics. It is possible that technological advancements since the 1960s could make it possible to employ less intrusive methods, such as the computerized identification of household residents by linking social security numbers and addresses. This seems unlikely and equally intrusive.

Since a major problem is the suddenness of benefits cutoffs, one could consider consolidating or coordinating the major means-tested programs and removing benefit cliffs. Marriage bonuses and penalties are a result of the sometimes high marginal tax rates generated from the cumulative phase-ins and phase-outs of various means-tested programs. Because each program has a different phase-in or phase-out rate, the cumulative magnitude of the marginal tax rates varies along the income distribution, so that an increase in a couple’s income could generate either a bonus or a penalty depending on their starting income.

Aggravating conditions are sudden cliffs, which create a total loss of benefits in some means-tested programs (Medicaid, child-care vouchers, WIC and housing benefits). For these programs, benefits do not phase-out, but instead continue unchanged as income rises and then suddenly terminate entirely if income exceeds the eligibility threshold by even one dollar.

The United Kingdom attempted to ameliorate similarly high marginal tax rates by consolidating its tax credits, cash welfare, disability benefits and housing assistance into one benefit called the Universal Credit. The idea was to create a single and less steep phase-out rate for recipients, thus reducing marginal tax rates. (At this writing, implementation has proven to be a greater challenge than its planners expected.)⁷² Although politically unlikely, a similar consolidation or at least coordination of U.S. means-tested benefits has been proposed by many analysts as a way to encourage work, as well as marriage.⁷³

Most promising might be to adopt the tax code’s approach to marital income, which is designed not to discourage marriage. By allowing married couples to file jointly, the tax code gives many couples a financial incentive to marry or at least softens the impact of the tax code’s progressively higher rates for many higher-income households.

The same could be done for means-tested social-welfare transfers. As in the tax code, that would not mean ignoring all of a cohabiting household’s higher income. Rather, an adjustment could be made to reflect society’s interest in stable family arrangements. To reduce costs and to prevent abuse, this special treatment might be provided for only a transition period.

This is not a novel idea. Marriage penalties under the old AFDC program were enough of a concern before the enactment of TANF that at least three states used AFDC waivers to reduce the loss of benefits due to marriage. These reforms were termed “wedfare” or “bridefare.”

- In 1992, New Jersey passed legislation that allowed women who were receiving AFDC and who then married men who were not the fathers of their children to continue to receive the children’s portion of their AFDC benefits up to a household income of 150 percent of the poverty line (with the husbands’ earnings disregarded in the calculation of benefits).⁷⁴ This policy is still in effect, but we could find no information on its consequences.⁷⁵
- In 1994, Wisconsin implemented a demonstration project in four counties that provided a marriage bonus for AFDC recipients under age 20 by increasing the earnings disregard if the women lived with the biological fathers of their children or if they married a man who was not the father.⁷⁶ The demonstration terminated with the adoption of Wisconsin’s version of welfare reform.⁷⁷

74. Malinda Orlin, “State Welfare Reforms: Typology and Analysis,” *Journal of Sociology and Social Welfare* 21, no. 4 (December 1994): 29–40, <http://scholarworks.wmich.edu/cgi/viewcontent.cgi?article=2188&context=jssw> (accessed May 28, 2015).

75. David Kassabian, Erika Huber, Elissa Cohen, and Linda Giannarelli, *Welfare Rules Databook: State TANF Policies as of July 2012* (Washington, D.C.: Urban Institute: November 2013), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/412973-Welfare-Rules-Databook-State-TANF-Policies-as-of-July--.PDF> (accessed June 30, 2015).

76. Douglas J. Besharov, *Go Slow on the New Paternalism* (Washington, DC: American Enterprise Institute, January 1992), http://www.welfareacademy.org/pubs/welfare/goslow_9201.pdf (accessed May 28, 2015); and Pamela K. Wald, *Bringing Welfare State Theories to the States: How Ideas, Actors, and State Structures Affect Welfare Reform Trajectories in Minnesota and Wisconsin* (Minneapolis, Minn.: University of Minnesota, 2008); and Michael Wiseman, *State Strategies for Welfare Reform: The Wisconsin Story* (Madison, Wis.: Institute for Research on Poverty, 1995), <http://www.irp.wisc.edu/publications/dps/pdfs/dp106695.pdf> (accessed May 28, 2015).

77. Irving Piliavin, Amy Dworsky and Mark E. Courtney, *What Happens to Families Under W-2 in Milwaukee, Wisconsin? Report from Wave 2 of the Milwaukee TANF Applicant Study* (Chicago: Chapin Hall Center for Children, September 2003), <http://www.irp.wisc.edu/research/welreform/pdfs/w2milw-wav2.pdf> (accessed June 30, 2015).

71. Personal communication with Chris de Neubourg, September 30, 2014.

72. See National Audit Office, *Universal Credit: Progress Update* (London: National Audit Office, November 2014), <http://www.nao.org.uk/wp-content/uploads/2014/11/Universal-Credit-progress-update.pdf> (accessed Aug. 11, 2015).

73. C. Eugene Steuerle, “Marginal Tax Rates and 21st Century Social Welfare Reform,” (testimony, U.S. House of Representatives, Committee on Ways and Means, June 25, 2015), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000275-Marginal-Tax-Rates-and-21st-Century-Social-Welfare-Reform.pdf> (accessed June 30, 2015).

- In 1995, California implemented a demonstration project that provided one year of transitional Medicaid benefits to women who had been receiving AFDC but were no longer income-eligible because they married (either the fathers of their children or other men). The demonstration project ended in 1999.⁷⁸

Nothing ever came from these initial attempts to soften the marriage penalties in the old AFDC program because, with the enactment of the TANF welfare reform, caseloads fell in all states, mooting the issue. With the expansions of other

means-tested programs described above, it is time to reconsider such efforts.

We have deliberately held back from calling this a recommendation, because more research is needed to see how widely current marriage penalties (and bonuses) may affect decisions to marry. Moreover, the details and implications of the idea need more study.

We hope that our contribution is to highlight how the penalties embedded in means-tested social-welfare programs have grown at a time when norms about cohabitation and marriage have also been changing, so that they have become more potent disincentives to marriage.

This leads to one last point. We are struck by how thoughtlessly marriage penalties are created in contemporary programs and how difficult they are to undo. The benefit cliffs in child-care programs and, more recently, in the ACA may facilitate administration, but at a real cost to wise policy-making. In the face of changing marriage and family norms, social-welfare programs have to be planned with even greater care.

Our proposal is meant to illuminate the issues involved and to point to a possible solution. But any solution would be very expensive to implement and might lead to many unintended consequences. Thus, for now, we hope this paper opens a dialogue about what might be done to reduce marriage penalties in the expanding American welfare state, recognizing that there are no easy answers.

ABOUT THE AUTHORS

Douglas J. Besharov is the Norman and Florence Brody Professor at the University of Maryland School of Public Policy and an associate fellow of the R Street Institute.

At Maryland, Douglas teaches courses on poverty, welfare, children and families, policy analysis, program evaluation and performance management. He directs the university's Welfare Reform Academy and the Center for International Policy Exchanges. He is also a senior fellow at the Atlantic Council, where he leads a program on international policy exchanges.

Previously, he was a resident scholar at the American Enterprise Institute for Public Policy Research in Washington from 1985 to 2009. During 2008, he served as president of the Association for Public Policy Analysis and Management and subsequently as APPAM's International Conference Coordinator.

Earlier in his career, Douglas was the first director of the U.S. National Center on Child Abuse and Neglect, serving in that post from 1975 to 1979.

He is the author of 18 books, including "Recognizing Child Abuse: A Guide for the Concerned," which was designed to help professionals and laypersons identify and report suspected child abuse. He also has written more than 250 articles, appearing in such publications as *The Los Angeles Times*, *The New York Times*, *The Wall Street Journal* and *The Washington Post*.

Neil Gilbert is the Milton and Gertrude Chernin Professor of Social Welfare and Social Services at the University of California at Berkeley and an associate fellow of the R Street Institute.

Neil is also co-director of the Center for Child and Youth Policy and director of the Center for Comparative Family Welfare and Poverty Research. He served as the school's acting dean from 1994 to 1996, in addition to a five-year stint as chair of the doctoral program. He has also served vice-chair and chair of the Berkeley Senate Faculty's Graduate Council

He previously was a senior research fellow for the United Nations Research Institute for Social Development in Geneva. He has received two Fulbright Research Fellowships, serving as a visiting scholar at the London School of Economics and Political Science and the University of Stockholm Social Research Institute. He also served as a visiting scholar at the International Social Security Association in Geneva and at Oxford University's Department of Social Policy.

In 1987, he was awarded the University of Pittsburgh Bicentennial Medallion of Distinction. In 2000, he was voted teacher of the year at the University of California at Berkeley School of Social Welfare.

Neil is the author of 30 books, including "Capitalism and the Welfare State," published by Yale University Press, which was a *New York Times* notable book. His most recent book, "A Mother's Work: How Feminism, the Market and Policy Shape Family Life," also from Yale University Press, was an *Atlantic* selection and a *Society* notable book.

He is also the author of more than 100 articles, which have appeared in such publications as *The Wall Street Journal*, *The Public Interest*, *Society*, *Commentary* and leading academic journals.

78. State of California, Health and Human Services, "Four Month Continuing Eligibility, Transitional Medi-Cal, and Wedfare," (memo, State of California, Health and Human Services, Sacramento, CA, May 14, 2004), <http://www.dhcs.ca.gov/services/medi-cal/eligibility/Documents/c288.pdf> (accessed May 28, 2015).