

Fordham Law School

FLASH: The Fordham Law Archive of Scholarship and History

Faculty Scholarship

2019

Early Childhood Development and the Replication of Poverty

Clare Huntington

Fordham University School of Law, chuntington@law.fordham.edu

Follow this and additional works at: https://ir.lawnet.fordham.edu/faculty_scholarship



Part of the [Law Commons](#)

Recommended Citation

Clare Huntington, *Early Childhood Development and the Replication of Poverty* 130 (2019)

Available at: https://ir.lawnet.fordham.edu/faculty_scholarship/1067

This Article is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

6

Early Childhood Development and the Replication of Poverty

Clare Huntington

INTRODUCTION

Traditional understandings of federalism – especially around experimentalism – suggest that states are likely to take varying approaches to important policy questions, particularly in areas as sensitive as family law. And indeed, there are patterns of convergence and divergence in state approaches to supporting early childhood development. Surprisingly, however, the divergences do not always follow predictable political lines. These similarities and differences raise a puzzle that deserves attention by scholars and advocates.

In the United States, differences in early childhood play a key role in replicating poverty. Clear evidence establishes that child development in the first five years of life lays essential groundwork for future learning and the acquisition of life skills. In today's economy, educational achievement is strongly correlated with adult earnings, but children from low-income families begin school at a significant disadvantage. Differences in early childhood explain much of the income-based achievement gap in education. And disadvantage during early childhood has a particularly pernicious effect on boys' academic achievement. Early interventions can make a difference for all children, but these interventions must start early. And they must involve both parents and children because one of the central insights of the literature on early childhood development is that children do not develop in a vacuum. Instead, child development is dependent on the relationship between a parent or other long-term caregiver and a child.

As compared with other wealthy countries, the United States makes limited investments in families with young children. Indeed, the level of public investment in children from birth to age three is inversely related to the importance of this period for child development. Public investments are highest for school-age

children and lowest for children from birth to age three.¹ Investments for children from three to five fall in between. Many wealthy countries mediate the impact of poverty on child development by providing universal health care, including prenatal care, home visiting for new parents, heavily subsidized child care and preschool, and, most fundamentally, a child allowance, which ensures families have money to care for children. The United States does offer prenatal care and health care to virtually all low- and moderate-income citizens, as well as some food assistance and income support, largely through the Earned Income Tax Credit (EITC). But in most other areas, including housing, child care, preschool, and basic income guarantees, government support for families falls far short of the need.² Additionally, the support available to noncitizen families, especially undocumented individuals, is far more limited.

Numerous scholars and advocates have called for greater investments in families – and early childhood in particular – but rather than revisiting these arguments, this chapter takes a different tack, exploring the investments that *are* made and focusing in particular on the web of funding across levels of government. As this chapter describes, the bulk of money available to support child development from the prenatal period until age three comes from the federal government, and there is fairly limited variation in how this money is spent across the states. For the period from age three until entrance to kindergarten, the federal government and states largely share the cost of supporting early childhood development, leading to significant differences among the states, particularly in access to preschool for three- and four-year-olds. This chapter explores these funding differences, emphasizing the political economy of state choices and noting that, perhaps surprisingly, some red states are making a substantial effort to invest in early childhood education, especially for four-year-olds. The chapter closes with insights for both advocates and scholars.

EARLY CHILDHOOD DEVELOPMENT

Since the beginning of the twentieth century, scholars have identified and explored the importance of early childhood development. In the 1920s, the psychologist Jean

¹ Sara Edelstein et al., *How Do Public Investments in Children Vary with Age? A Kids' Share Analysis of Expenditures in 2008 and 2011 by Age Group*, URBAN INSTITUTE at 5 (Oct. 2012), www.urban.org/sites/default/files/publication/25911/412676-How-Do-Public-Investments-in-Children-Vary-with-Age-A-Kids-Share-Analysis-of-Expenditures-in-and-by-Age-Group.PDF (estimating investments from outlays and tax expenditures).

² The underlying assumption in the United States is that families can and should care for themselves with limited governmental support. For a description of this neoliberal approach to family policies and its historical roots, see Maxine Eichner, *The Privatized American Family*, 93 NOTRE DAME L. REV. 213, 252–59 (2017). For an argument about why the state should support families, see MAXINE EICHNER, *THE SUPPORTIVE STATE* (2010).

Piaget posited a theory of cognitive development that recognized various stages, beginning at birth.³ In the 1950s, the psychoanalyst Erik Erikson followed this model, also positing a theory of development beginning at birth and extending through the life course with distinct phases, each requiring the resolution of a particular crisis or tension.⁴ By the 1960s, psychologists began studying the impact of early experiences on intelligence, challenging the belief that cognitive differences are innate.⁵ The findings of these researchers led to the creation of early childhood development programs, including a pilot program that ultimately inspired Head Start.⁶ These programs, in turn, led to more studies establishing the benefits of early childhood education.⁷ In the 1970s, scholars began to look broadly at a child's environment. One of the most influential scholars, Urie Bronfenbrenner, posited that child development occurs in nested, interacting systems, including psychological, social, cultural, economic, and political systems, all which interact to shape child development.⁸ More recently, neuroscientists have added an important layer of understanding to child development, documenting the neuroscientific basis for many of the insights first articulated by psychologists.⁹

This research has generated two key insights about early childhood development. First, child development begins early – during the prenatal period – and is critical for future learning, as illustrated by the neuroscientific evidence on brain development.¹⁰ Beginning in the prenatal period and lasting for several years, brain cells form circuits. The neural circuits that are used repeatedly grow stronger, but those that are not used regularly die off. These neural circuits are critical to language, emotions, logic, memory, motor skills, and behavioral control. The basic neural circuitry for vision and hearing develops shortly before and soon after birth, and the circuits used for language and speech production peak before age one. The higher level circuits used for cognitive functions develop throughout the first several years

³ ROBERT SIEGLER ET AL., *HOW CHILDREN DEVELOP* 130–31 (3d ed. 2011) (describing Piaget's theories).

⁴ ERIK H. ERIKSON, *CHILDHOOD AND SOCIETY* 219–34 (1950); ERIK H. ERIKSON, *GROWTH AND CRISES OF THE HEALTHY PERSONALITY*, in *IDENTITY AND THE LIFE CYCLE: SELECTED PAPERS*, 1 *PSYCHOL. ISSUES* 50, 50–88 (George S. Klein ed., 1959).

⁵ See e.g., BENJAMIN S. BLOOM, *STABILITY AND CHANGE IN HUMAN CHARACTERISTICS* 68–76, 88–89 (1964); J. MCVICKER HUNT, *INTELLIGENCE AND EXPERIENCE* 3–4, 6–7, 10, 65–66, 362–63 (1961).

⁶ See generally Bettye M. Caldwell & Julius B. Richmond, *Programmed Day Care for the Very Young Child – A Preliminary Report*, 26 *J. MARRIAGE & FAM.* 481, 482–85 (1964) (describing work on developing an early childhood development program focused on education).

⁷ See SIEGLER ET AL., *supra* note 3, at 318–19 (describing these studies); L. ALAN SROUFE ET AL., *THE DEVELOPMENT OF THE PERSON: THE MINNESOTA STUDY OF RISK AND ADAPTATION FROM BIRTH TO ADULTHOOD* (2005) (describing a longitudinal study that also began in the 1970s).

⁸ See URIE BRONFENBRENNER, *THE ECOLOGY OF HUMAN DEVELOPMENT: EXPERIMENTS BY NATURE AND DESIGN* 3–4, 21–22 (1979).

⁹ For an accessible summary of this research, see CENTER ON THE DEVELOPING CHILD AT HARVARD UNIVERSITY, <https://developingchild.harvard.edu/>.

¹⁰ For the basis for this summary, see *id.*

of life. Executive functions – generally understood as the ability to hold information in the short term, ignore distractions, and switch gears between contexts and priorities – are developed from birth through late adolescence, with a particular emphasis on development from age three to five.

Second, early childhood development is relational, turning on the interaction between a child and a parent or other caregiver. The neural circuits for communication, language, and social skills are developed through repeated exchanges between a parent and child, with the child babbling, for example, and the adult responding in kind. When a child begins speaking, this, too, turns on a child speaking and interacting with parents and other caregivers. A child's psychosocial development also occurs through the adult-child relationship. Very young children attach to their primary caregiver, looking to this person when in danger or need. A secure attachment encourages a child to explore the child's surroundings. It also helps a child develop a sense of self-efficacy, with the child confident that the child can turn to the parent for needed help. Securely attached children thus learn to regulate their own emotions and solve problems. Finally, through responsive interactions, a child develops basic social intelligence, learning how to read the emotions of another person.

The evidence on maternal depression illustrates the relational nature of early childhood development. Instead of engaging in repeated, responsive exchanges with her baby, a clinically depressed mother typically is either hostile and aggressive to her children or withdrawn and disengaged.¹¹ Both forms of parent-infant interaction have a negative impact on the child's brain development, with brain scans showing that infants and toddlers with depressed mothers have similar patterns of brain activity as depressed adults.¹² Further, maternal depression is both widespread and strongly correlated with poverty. One study of mothers with nine-month-old children found that 10 percent of the women with income levels over 200 percent of the poverty level were severely depressed as compared with 25 percent of the women living below the poverty level.¹³

Despite this widespread and growing knowledge about early childhood development, much remains unknown and the evidence is still developing.¹⁴ Moreover, the precise relationship between early experiences and later outcomes is complex and

¹¹ See NAT'L SCI. COUNCIL ON THE DEVELOPING CHILD, *Maternal Depression Can Undermine the Development of Young Children* 3 (Ctr. on the Developing Child at Harv. Univ, Working Paper No. 8, 2009), http://developingchild.harvard.edu/index.php/resources/reports_and_working_papers/working_papers/wp8/.

¹² See *id.* at 3–4.

¹³ See *id.* at 1–2 (citing calculations using the Early Childhood Longitudinal Study, Birth Cohort 9-month restricted use data).

¹⁴ See Jay Belsky, Opinion, *The Downside of Resilience*, N.Y. TIMES (Nov. 28, 2014), www.nytimes.com/2014/11/30/opinion/sunday/the-downside-of-resilience.html (explaining that “some children are more affected by their developmental experiences – from harsh punishment to high-quality day care – than others” but noting that the reasons are not well known).

not fully understood.¹⁵ Indeed, child development is a dynamic process, with a child influenced by numerous, often interacting, forces. Some factors, such as exposure to lead paint, directly influence a child; other factors, such as parental education, indirectly influence a child by affecting parenting; and still other factors, such as poverty, have both a direct and an indirect influence.¹⁶ Without overly simplifying the literature, it is possible to draw broad conclusions about the impact of early childhood experiences on life outcomes, as the next section describes.

RELATIONSHIP BETWEEN EARLY CHILDHOOD DEVELOPMENT AND POVERTY

Given the importance of early childhood development to learning and the acquisition of skills, it is unsurprising that disadvantages during early childhood have lifelong ramifications.¹⁷ Numerous factors help explain why children from low-income families tend to be low-income adults. These factors include living in racially and economically segregated neighborhoods,¹⁸ attending inadequate schools,¹⁹ and growing up in poor neighborhoods with few resources,²⁰ but a critical factor is disadvantage during early childhood. Infants from different socioeconomic backgrounds display, on average, similar levels of cognitive ability, but as early as 18

¹⁵ See L. Alan Sroufe et al., *Implications of Attachment Theory for Developmental Psychopathology*, 11 DEV. & PSYCHOPATHOLOGY 1, 2–6 (1999) (describing the now dominant understanding of child development – that genetics, early experiences, environment, and relationships all interact in a highly complex and mutually influencing fashion and that all the causal pathways are not fully understood). For a particularly accessible summary, see Jeanne Brooks-Gunn & Lisa B. Markman, *The Contribution of Parenting to Ethnic and Racial Gaps in School Readiness*, 15 FUTURE CHILD. 139, 143–47 (2005).

¹⁶ See Sroufe et al., *supra* note 15.

¹⁷ See NAT'L RESEARCH COUNCIL & INST. OF MED., COMM. ON INTEGRATING THE SCI. OF EARLY CHILDHOOD DEV., FROM NEURONS TO NEIGHBORHOODS: THE SCIENCE OF EARLY CHILDHOOD DEVELOPMENT 125 (Jack P. Shonkoff & Deborah A. Phillips eds., 2000) (citations omitted) (surveying the literature and concluding that “[o]ne of the most significant insights about educational attainment in recent years is that educational outcomes in adolescence and even beyond can be traced back to academic skills at school entry. Academic skills at school entry can, in turn, be traced to capabilities seen during the preschool years and the experiences in and out of the home that foster their development.”). Julia B. Isaacs, Brookings Inst., *Starting School at a Disadvantage: The School Readiness of Poor Children*, SOC. GENOME PROJECT, Mar. 2012, at 1 (discussing reasons why children from low-income families start school at a disadvantage as well as programs to combat this problem).

¹⁸ Raj Chetty et al., *Where Is the Land of Opportunity? The Geography of Intergenerational Mobility in the United States*, 129 Q. J. ECON. 1553, 1557, 1608–11 (2014).

¹⁹ See Joseph G. Altonji & Richard K. Mansfield, *The Role of Family, School, and Community Characteristics in Inequality in Education and Labor-Market Outcomes*, in WHITHER OPPORTUNITY? RISING INEQUALITY, SCHOOLS, AND CHILDREN'S LIFE CHANCES, 339, 339–40 (Greg J. Duncan & Richard J. Murnane eds., 2011).

²⁰ Raj Chetty et al., *Childhood Environment and Gender Gaps in Adulthood*, 106 AM. ECON. REV. (PAPERS & PROC.) 282, 282, 284, 287 (2016); Chetty et al., *Where Is the Land of Opportunity?*, *supra* note 18, at 1610–11.

months, researchers can detect a divergence.²¹ By the start of kindergarten, children from lower socioeconomic backgrounds, as compared with their peers in more economically advantaged homes, score much lower on tests of cognitive ability and on measures of noncognitive abilities, such as the capacity to self-regulate, get along with peers, listen, and focus.²² The differences can be significant, with some children entering kindergarten using the vocabulary of a 21-month-old and others using the vocabulary of a 10-year-old.²³ This gap in school readiness predicts much of a child's subsequent school achievement.²⁴

A significant portion of the difference in school readiness is attributable to the home environment.²⁵ One review of parenting studies found that approximately one-third to one-half of the gap in school readiness can be attributed to parenting differences.²⁶ The underlying studies measured various aspects of parenting during early childhood, including nurturance and discipline, but the most salient factor affecting school readiness was language use – whether parents spoke and read to their children.²⁷ Other factors, particularly economic resources, also influence school readiness, but again, the salient window is early childhood. Studies have found that low socioeconomic status during early childhood predicts educational achievement more than low socioeconomic status during the school-age years.²⁸ Further, the impact of early disadvantage is particularly acute for boys: comparing different-sex children with the same mother, boys show significantly lower rates of kindergarten readiness than girls.²⁹ When a child begins school, it is possible to

²¹ See NAT'L RESEARCH COUNCIL & INST. OF MED., *supra* note 17, at 137.

²² See EMMA GARCÍA, ECON. POLICY INST., *INEQUALITIES AT THE STARTING GATE: COGNITIVE AND NONCOGNITIVE SKILLS GAPS BETWEEN 2010–2011 KINDERGARTEN CLASSMATES* 15–17, 20 (2015); NAT'L RESEARCH COUNCIL & INST. OF MED., *supra* note 17, at 149.

²³ See NAT'L RESEARCH COUNCIL & INST. MED., *supra* note 17, at 138–39.

²⁴ See *id.* at 125, 138–39, 149 (discussing multiple studies making this finding as it relates to both cognitive abilities and skills such as self-regulation). See generally Greg J. Duncan & Katherine A. Magnuson, *Can Family Socioeconomic Resources Account for Racial and Ethnic Test Score Gaps?*, 15 *FUTURE CHILD*. 35 (2005) (discussing the aspects of parental socioeconomic status that appear to account for racial and ethnic school readiness gaps).

²⁵ See NAT'L RESEARCH COUNCIL & INST. MED., *supra* note 17, at 157 (“[T]he home environment accounts for the lion’s share of the variation in what young children know and are ready to learn when they enter kindergarten.”).

²⁶ See Brooks-Gunn & Markman, *supra* note 15, at 139, 150–51. For an extended exploration of the relationship between parenting during early childhood and life outcomes, see CLARE HUNTINGTON, *FAILURE TO FLOURISH: HOW LAW UNDERMINES FAMILY RELATIONSHIPS* 7–10, 15–22, 145–46, 149–52, 159–64 (2014).

²⁷ See Brooks-Gunn & Markman, *supra* note 15, at 139, 147–50.

²⁸ See NAT'L RESEARCH COUNCIL & INST. MED., *supra* note 17, at 159.

²⁹ One study tracked a million children born in Florida between 1992 and 2002. See David Autor et al., *Family Disadvantage and the Gender Gap in Behavioral and Educational Outcomes*, Institute for Policy Research Northwestern University Working Papers Series 8–10 (2015), www.ipr.northwestern.edu/publications/docs/workingpapers/2015/IPR-WP-15-16.pdf. The study examined family disadvantage, as defined by income, maternal education, and family structure. Contrasting different-sex children born to the same mother, the study found that boys, as compared with their female siblings, had similar birth outcomes (birth weight, APGAR scores,

remediate some of the school readiness gap, and school readiness does not predict all later achievement,³⁰ but there is no question that early childhood has a profound and lasting effect on learning and the acquisition of skills.

Educational achievement matters because of the strong correlation between education and higher earnings. This relationship reflects the bifurcation of the American economy into high-skill occupations and low-skill service jobs, with a sharp reduction in manufacturing and operative jobs that pay a decent wage.³¹ Income differences based on educational achievement are significant: in 2016, the median earnings for young adults (aged 25–34) working full-time were \$50,000 for those with a bachelor’s degree, \$31,800 for those with a high school diploma or the equivalent, and \$25,400 for those who did not complete high school.³² Additionally, with each level of educational attainment, young people are more likely to work full-time.³³

In sum, differences in early childhood affect school readiness and success in school, and academic achievement, in turn, affects adult earnings. As the next section describes, it is possible to promote early childhood development with targeted public investments and supports, leading to lifelong benefits for both children and society.

EFFECTIVE INTERVENTIONS

The first attempts to foster early childhood development focused on preschool programs, and for good reason. There is clear evidence that quality early childhood education programs, which typically start at age three or four, have a lasting, positive

and so on), but over time, a gender gap appeared. The boys were less ready to begin kindergarten, had lower test scores, lower high school graduation rates, and higher rates of committing serious crimes as a minor, among other differences. *See id.* at 13–28. Moreover, the greater the family disadvantage, the greater the gender gap in boy-girl outcomes. *See id.* at 18. The study considered whether neighborhood and school environments might differentially affect boys and girls and thus explain the gender gap, but the study concluded that these factors explained only part of the gap and that family influence appears to be the primary factor. *See id.* at 31–32. The study did not track whether mothers spend more time with female children than male children, or whether boys are more sensitive to father absence. For a study documenting the effects of high-poverty, disadvantaged neighborhoods on boys relative to girls, and finding a significant difference, see Chetty et al., *Childhood Environment and Gender Gaps in Adulthood*, *supra* note 20, at 282, 287.

³⁰ *See id.* at 125. New research is showing that late adolescence is another sensitive period of brain development, offering an opportunity to correct earlier deficits. *See* LAURENCE STEINBERG, *AGE OF OPPORTUNITY: LESSONS FROM THE NEW SCIENCE OF ADOLESCENCE* 8–45 (2014); *see also* CAROL S. DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* 7 (2007) (explaining that cognitive ability is not fixed, and in the “growth mindset,” people believe that their “basic qualities are things [they] can cultivate through [their] efforts”).

³¹ *See* DAVID AUTOR, *CTR. FOR AM. PROGRESS, THE POLARIZATION OF JOB OPPORTUNITIES IN THE U.S. LABOR MARKET* 5–6 (2010).

³² *See* NAT’L CTR. EDUC. STATISTICS, *ANNUAL EARNINGS OF YOUNG ADULTS*, https://nces.ed.gov/programs/coe/indicator_cba.asp.

³³ *See id.*

impact on both educational achievement and adult outcomes.³⁴ Numerous studies have established that these programs reduce the use of special education and grade repetition and improve educational outcomes, including an increased likelihood that the participants will attend a four-year college.³⁵ Beyond educational achievement, the programs foster social-emotional development, reduce rates of teen and adult incarceration, reduce rates of teen pregnancy, improve skilled-employment rates, and improve earnings as adults.³⁶ Critics of these programs contend that cognitive benefits fade over time, but there is solid evidence that even if some academic achievement benefits do weaken, the programs have a long-lasting positive impact on educational progress and attainment overall as well as positive adult outcomes.³⁷ These long-term benefits are not limited to small, demonstration programs but are also found in large-scale programs run in multiple locations.³⁸

More recently, research has shown the importance of fostering early childhood development long before a child reaches preschool and focusing on the relationship between parents and children.³⁹ Beginning with pregnancy, prenatal care lays the basic foundation for child development because it reduces the risks of preterm delivery and low-birthweight infants.⁴⁰ Low birthweight, in turn, is associated with long-term health consequences and intellectual and developmental disabilities.⁴¹

³⁴ See LYNN A. KAROLY, M. REBECCA KILBURN & JILL S. CANNON, EARLY CHILDHOOD INTERVENTIONS: PROVEN RESULTS, FUTURE PROMISE 55–78, 128–29 (2005); Katherine A. Magnuson & Jane Waldfogel, *Early Childhood Care and Education: Effects on Ethnic and Racial Gaps in School Readiness*, 15 FUTURE CHILD. 169, 171, 173–75 (2005).

³⁵ See, e.g., KAROLY, KILBURN & CANNON, *supra* note 34, at 55–78, 128–29; MICHAEL PUMA ET AL., U.S. DEP'T HEALTH & HUMAN SERVS., ADMIN. FOR CHILDREN AND FAMILIES, HEAD START IMPACT STUDY FINAL REPORT: EXECUTIVE SUMMARY IV–V, xxv (2010); ECONOMIC OPPORTUNITY INST., THE LINK BETWEEN EARLY CHILDHOOD EDUCATION AND CRIME AND VIOLENCE REDUCTION, www.eoionline.org/early_learning/fact_sheets/ELCLinkCrimeReduction-Jul02.pdf; Kenneth A. Dodge et al., *Impact of North Carolina's Early Childhood Programs and Policies on Educational Outcomes in Elementary School*, 88 CHILD DEVELOPMENT 996, 1010–11 (2016).

³⁶ See previous note for a discussion of these findings.

³⁷ See KAROLY, KILBURN & CANNON, *supra* note 34, at 128.

³⁸ See *id.* at 114–15.

³⁹ See James Heckman et al., *The Life-Cycle Benefits of an Influential Early Childhood Program* 1–6 (Nat'l Bureau of Econ. Research, Working Paper No. 22993, 2016), <http://heckmanequation.org/content/resource/lifecycle-benefits-influential-early-childhoodprogram>. Policy makers have begun to embrace the critical importance of working with both parents and children. Often called the 2Gen approach, this model is designed to work with both children and their parents to address the entire family's educational and economic needs. See also US Dept. of Education, *2Gen Tools to Help Children & Families Thrive, A Resource for Staff Implementing Federal, State, and Local Programs Serving Children and Families* (2017), www2.ed.gov/about/inits/ed/earlylearning/files/2017/2gen-toolkit-resource-for-staff-and-families.pdf.

⁴⁰ See *Pregnancy and Prenatal Care*, THE CENTERS FOR DISEASE CONTROL AND PREVENTION (Sept. 15, 2017), www.cdc.gov/healthcommunication/toolstemplates/entertainment/tips/PregnancyPrenatalCare.html.

⁴¹ See *Low Birthweight*, MARCH OF DIMES (Mar. 2018), www.marchofdimers.org/complications/low-birthweight.aspx.

In the first two years of life, home-visiting programs improve child health, decrease the rate of maternal depression, and help parents learn the skills needed to care for their children. These home visits focus on both children and parents, helping parents achieve economic stability and fostering attentive parenting and beneficial practices, such as reading with a child.⁴² Research shows that home visiting leads to numerous and significant benefits, including improved school readiness of children, a reduction in behavioral problems and cognitive deficits for children, lower rates of maternal depression, and higher rates of paternal involvement and maternal employment.⁴³

A slew of other interventions – again, starting early and focusing on the parent-child interaction – have been shown to improve child outcomes. There is considerable research on the use of text messaging, for example, to encourage positive and enriching interactions between parents and preschool children. These interventions have led to considerable gains in school readiness and parental engagement.⁴⁴

Although generally not undertaken in the United States, a truly robust effort to foster early childhood development would focus on the multiple forces influencing the parent-child relationship. When a parent works multiple jobs, has to commute by unreliable and inefficient public transportation, has to move multiple times because of unaffordable and low-quality housing, and earns a meager wage with limited benefits, it is much harder to provide children with the responsive relationships needed for early childhood development. Thus, a truly comprehensive effort to foster early childhood development would address income and employment, housing stability, and transportation, among other critical factors that shape family life.

Given the high stakes of early childhood development, as well as the clear benefits of interventions during this period, the question is how federalism influences these kinds of investments. As the next section describes, the federal government provides the bulk of funding for children from the prenatal period until age three, and thus there are fewer state-level differences in these investments, although some certainly exist. By contrast, where states are making significant investments in early childhood development, particularly with preschool, there is considerable variation around the country, but not always along predictable political lines.

⁴² See NATIONAL HOME VISITING RESOURCE CENTER, 2017 HOME VISITING YEARBOOK 9–11 (James Bell Associates & Urban Institute, 2017), www.jbassoc.com/wp-content/uploads/2018/03/2017-Home-Visiting-Yearbook.pdf.

⁴³ See Harriet J. Kitzman et al., *Enduring Effects of Prenatal and Infancy Home Visiting by Nurses on Children: Age-12 Follow-Up of a Randomized Trial*, 164 ARCHIVES PEDIATRIC ADOLESCENT MED. 412 (2010); David L. Olds et al., *Effects of Home Visits by Paraprofessionals and by Nurses: Age-Four Follow-Up of a Randomized Trial*, 114 PEDIATRICS 1560 (2004). For an overview of the research on the model program, see *Proven Effective through Extensive Research*, NURSE FAMILY PARTNERSHIP, www.nursefamilypartnership.org/about/proven-results/.

⁴⁴ See Benjamin N. York et al., *One Step at a Time: The Effects of an Early Literacy Text Messaging Program for Parents of Preschoolers*, 53 J. HUM. RESOURCES 3 (2018).

FUNDING FOR EARLY CHILDHOOD DEVELOPMENT

Public investments in children are highest during the period from kindergarten through 12th grade and lowest from birth to age three.⁴⁵ Combining a wide range of public expenditures – on education, income security, health care, nutrition, housing, and social services – one calculation shows that for every public dollar spent supporting the development and education of children from birth to age 18, only seven cents is spent on children from birth to age three, and twenty-five cents is spent on children aged three to five.⁴⁶ These differences can also be captured in calculations of annual, per-child spending: the public invests \$720 per child aged zero to two, \$2,689 per child aged three to five, and \$10,799 per child aged six to eighteen.⁴⁷

Further, the source of funds varies greatly depending on the age of the child. The federal government provides the bulk of funds for children from birth to age three, primarily in form of health care, income supports, food assistance, and housing subsidies.⁴⁸ These supports continue as the child ages, but education becomes the primary investment in children, with the federal and state governments roughly splitting the cost of educating children aged three to five,⁴⁹ and state and local governments shouldering most of the cost of educating children from kindergarten through 12th grade.⁵⁰

Beyond this basic overview, the web of funding for early childhood development is a complex mix of federal, state, and local investments. And there is a wide variation among states and localities for some kinds of public investments, particularly preschool, but not for others, notably health care for pregnant women and young children.⁵¹ To understand the degree of public investment in early childhood development, appreciate the breakdown among federal, state, and local

⁴⁵ See Edelstein et al., *supra* note 1, at 5 (noting that the “federal estimates include tax expenditures – that is, reductions in taxes as a result of child-oriented tax provisions – in addition to direct spending from federal programs, also known as outlays”).

⁴⁶ See Charles Bruner, *Early Learning Left Out, Building an Early-Learning System to Secure America's Future*, CHILD & FAMILY POLICY CENTER at 5 (Oct. 2013), <https://files.eric.ed.gov/fulltext/ED558052.pdf>.

⁴⁷ See *id.*

⁴⁸ See Edelstein et al., *supra* note 1, at 5.

⁴⁹ See *id.*

⁵⁰ States contribute approximately 47 percent of the total funding, localities contribute 40–50 percent, and the federal government contributes only 7–10 percent. See Am. Speech-Language-Hearing Ass'n, *Overview of Funding for Pre-K-12 Education* (2018), www.asha.org/Advocacy/schoolfundadv/Overview-of-Funding-For-Pre-K-12-Education/; Wong, Kenneth, *Can the States Address the Equity and Innovation? Rethinking the State's Fiscal Role in Public Education* GOV'T FIN. R. (Oct. 2001). The federal funds are largely from Title I of the Elementary and Secondary Education Act, which provides funding for schools with a high percentage of children from low-income families.

⁵¹ For a good resource tracking state investments in a variety of 0–5 programs and supports, see NAT'L CONFERENCE OF STATE LEGISLATURE, *EARLY CARE AND EDUCATION STATE BUDGET*

governments, and identify the variation among states and localities, it is helpful to describe some of the major investments chronologically, from fetal development until kindergarten.

Beginning with prenatal care, the federal government provides funding to states through Medicaid and the Children's Health Insurance Program (CHIP), which covers pregnant women who exceed the income eligibility requirement for Medicaid.⁵² Both programs require state matching funds, although the rate differs depending on numerous state-specific criteria.⁵³ These programs – particularly Medicaid – are a major source of funding, with Medicaid covering half of all births in the United States.⁵⁴ The combination of Medicaid and CHIP ensures that nearly all pregnant women have access to prenatal care.⁵⁵

Moving to the period between birth and entry into preschool, again Medicaid and CHIP are the primary source of funds for health care for low- and moderate-income children. The two programs pay for health care critical to child development, including well-child visits, services to address developmental delays, and screening and treatment for a wide range of disabilities and medical conditions. Combining spending on prenatal care and health care for children from birth to age three, in fiscal year 2016, the federal government spent \$34 billion in Medicaid funds and \$2 billion in CHIP funds.⁵⁶ Medicaid covers 28 million children and CHIP an additional eight million children.⁵⁷

ACTIONS FY 2017 (Apr. 2017), www.ncsl.org/research/human-services/early-care-and-education-state-budget-actions-fy-2017.aspx.

⁵² See GEORGETOWN UNIV. HEALTH POLICY INST., CENTER FOR CHILDREN AND FAMILIES, CHILDREN'S HEALTH INSURANCE PROGRAM (2017).

⁵³ For a description of the state matching requirements under Medicaid and CHIP, see *Understanding How States Access the ACA Enhanced Medicaid Match Rates*, KAISER FAMILY FOUND. (Sept. 2014), www.kff.org/medicaid/issue-brief/understanding-how-states-access-the-aca-enhanced-medicaid-match-rates/ (describing the statutory formula for determining state matches under Medicaid, which depends on numerous factors and ranges from a floor of 50 percent to 73 percent, although states that expanded coverage under the Affordable Care Act were given further subsidies; and further describing the state match requirement under CHIP).

⁵⁴ See Charles Bruner and Kay Johnson, *Federal Spending on Prenatal to Three: Developing a Public Response to Improving Developmental Trajectories and Preventing Inequities*, CENTER FOR THE STUDY OF SOCIAL POLICY at 22 (Mar. 2018), www.cssp.org/publications/documents/Federal-Spending-Prenatal-to-Three.pdf.

⁵⁵ See *id.* at 4. For a discussion of prenatal care for undocumented immigrants, who are not eligible for Medicaid, see *Health Coverage of Immigrants*, KAISER FAMILY FOUND. (Dec. 13, 2017), www.kff.org/disparities-policy/fact-sheet/health-coverage-of-immigrants/ ("Since 2002, states have had the option to provide prenatal care to women regardless of immigration status by extending CHIP coverage to the unborn child. In addition, some states have state-funded health programs that provide coverage to some groups of immigrants regardless of immigration status. There are also some locally-funded programs that provide coverage or assistance without regard to immigration status.").

⁵⁶ See Bruner & Johnson, *supra* note 54, at 22.

⁵⁷ See *id.*

Another major source of funding for services for children in the first three years of life is Title V Maternal and Child Health block grants, enacted in 1935 as part of the Social Security Act. Title V block grants provide funds to state public health agencies for a broad range of activities, such as increased access to services to prevent, assess, diagnose, and treat a range of conditions in children, with a particular emphasis on children with special needs. States are required to match every \$4 in federal funds with \$3 in state funds, but most states allocate more funding than the minimum and also draw on local and private funds. As might be expected, blue states invest heavily in this program, but many red states do as well, including Alabama, Arkansas, Kentucky, Georgia, South Carolina, Tennessee, and Utah.⁵⁸ In a recent year, the Title V program served 2.6 million pregnant women, 3.8 million infants, and 3.5 million toddlers, although these numbers include those who do not receive direct services.⁵⁹

Other major forms of public investment in children from birth to age three include income supports, food assistance, housing subsidies, and child care subsidies.⁶⁰ In fiscal year 2016, the federal government invested \$16 billion in the EITC and the refundable Child Tax Credit (CTC), reaching 7.4 million children under age three.⁶¹ Twenty-nine states have a state-level EITC, although the amount varies widely by state.⁶² The federal government spent more than \$13 billion on food assistance, both through the Supplemental Nutrition Assistance Program (SNAP) and the Women, Infants and Children program.⁶³ The federal government spent \$2 billion on various housing subsidies (excluding low-income housing tax credits, available to developers) serving 540,000 children under age three.⁶⁴ And through numerous block grants and programs, as well as the nonrefundable Child and Dependent Care Tax Credit, the federal government provided child care subsidies for 407,000 children under the age of three, with a total investment of \$4.2 billion.⁶⁵

⁵⁸ In fiscal year 2015, the federal government spent \$526 million, but the combined expenditures from all levels of government and for all children (not limited to 0–3) was \$6.3 billion. See U.S. Dep’t Health & Human Servs., Maternal and Child Health, Explore the Title V Federal-State Partnership, <https://mchb.tvisdata.hrsa.gov/>; see Bruner & Johnson, *supra* note 54, at 23.

⁵⁹ See Bruner & Johnson, *supra* note 54, at 23.

⁶⁰ This chapter does not describe all of the supports available to families. There are other, smaller programs as well, such as Part C of the Individuals with Disabilities Education Act (IDEA), also known as the Early Disabilities Intervention Program for Infants and Toddlers with Disabilities. This funding provides grants to states for services for infants and toddlers with developmental delays or physical or mental conditions that might lead to developmental delays. See *id.* at 4.

⁶¹ See *id.* at 4. In contrast to these two major programs, cash assistance under the Temporary Assistance to Needy Families Act was only \$800 million in 2016 and cash assistance under the Supplemental Security Income program was \$849 million. See *id.*

⁶² For details on these variations, see *Tax Credits for Working Families: Earned Income Tax Credit*, NATIONAL CONFERENCE OF STATE LEGISLATURES (Apr. 2018), www.ncsl.org/research/labor-and-employment/earned-income-tax-credits-for-working-families.aspx.

⁶³ See Bruner & Johnson, *supra* note 54, at 4.

⁶⁴ See *id.* at 22, 50.

⁶⁵ See *id.* at 32–33, 48.

Some of these investments serve a high percentage of low-income children, but other investments fall far short. Medicaid and CHIP, for example, are entitlements, with relatively generous eligibility thresholds for children and pregnant women – a national median of 200 percent of the poverty level for pregnant women and higher for children.⁶⁶ Similarly, the federal EITC and the refundable CTC, combined, reach 90 percent of all eligible families.⁶⁷ Other supports, however, most notably housing assistance and child care subsidies, do not begin to satisfy the demand for these supports. Looking at the US population as a whole, housing supports reach only 5 percent of all families, and child care subsidies are available for only 3.4 percent of all children from birth to age three.⁶⁸

There is relatively limited state-level variation in access to these federal supports. For Medicaid and CHIP, for example, the eligibility thresholds for children are quite similar around the country.⁶⁹ Similarly, food assistance through SNAP has some state-level variation, but there is not a wide divergence.⁷⁰

In general, then, when the federal government provides much of the funding, and when children are the direct beneficiaries, there is less variation among the states. By contrast, when states make the investments, there is much more variation. State-level EITCs, for example, vary widely by state. In California, the state pays 85 percent of the amount of the federal tax credit, nearly doubling the total amount for eligible families (although California limits eligibility to lower-income families), whereas Louisiana pays only 3.5 percent of the amount of the federal tax credit.⁷¹ These differences tend to follow predictable political divides, with red states providing either no program or only a very limited state-level EITC.⁷²

Even with federal programs, such as Medicaid, when the beneficiaries are adults, there is much greater state-level variation. Eligibility thresholds for adults under Medicaid vary widely by state, with the variation running along political lines, and red states covering fewer adults.⁷³ This variation affects children. For example, one critical intervention in the period from birth to age three is treatment for parents suffering from depression and other mental health concerns. Medicaid covers behavioral health services including outpatient services, inpatient services,

⁶⁶ See *Where Are States Today? Medicaid and CHIP Eligibility Levels for Children, Pregnant Women, and Adults*, KAISER FAMILY FOUND. (Mar. 2018), www.kff.org/medicaid/fact-sheet/where-are-states-today-medicaid-and-chip/; Bruner & Johnson, *supra* note 54, at 23–24.

⁶⁷ See Bruner & Johnson, *supra* note 54, at 15.

⁶⁸ See *id.* at 4.

⁶⁹ See *Where Are States Today?*, KAISER FAMILY FOUND., *supra* note 66.

⁷⁰ See *A Closer Look at Who Benefits from SNAP: State-by-State Fact Sheets*, CENTER ON BUDGET AND POLICY PRIORITIES (Mar. 2018), www.cbpp.org/research/a-closer-look-at-who-benefits-from-snap-state-by-state-fact-sheets

⁷¹ See Catlin Nehako & Lexin Cai, *Tax Credits for Working Families: Earned Income Tax Credit*, NAT'L CONFERENCE OF STATE LEGISLATURES (Apr. 2018), www.ncsl.org/research/labor-and-employment/earned-income-tax-credits-for-working-families.aspx.

⁷² See *id.*

⁷³ See *Where Are States Today?*, KAISER FAMILY FOUND., *supra* note 66.

psychiatric medication and substance abuse, and home and community-based services.⁷⁴ States also have the option to include nonclinical behavior health services such as peer support and community residential services.⁷⁵ In states with greater coverage, then, children benefit because more parents have access to mental health services.

It is worth considering one program – home visiting – in greater detail, partly because of the exceptionally strong evidence base for the intervention and partly because it is one investment in the first three years of life that began with state-level efforts. Beginning in the 1990s, states started home-visiting programs, but in 2010, as part of the Affordable Care Act, Congress created the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV). This program funds evidence-based, home-visiting programs. States are not required to provide matching funds, but they cannot replace existing state-level investments with federal funds. In 2017, with \$342 million in federal funding,⁷⁶ the MIECHV reached more than 156,000 families in 27 percent of the counties in the United States, serving predominantly low-income families.⁷⁷ Including state funding, 301,000 families were served through home-visiting programs.⁷⁸

Despite this influx of federal funding, home-visiting programs still reach only a tiny fraction of the families who would benefit,⁷⁹ although the investments in home visiting do not necessarily run along red-blue lines. With one exception, no state serves more than 5 percent of the families who would benefit from home visiting.⁸⁰ On the high end, home-visiting programs serve 5 percent of the targeted families in

⁷⁴ See *Medicaid's Role in Financing Behavioral Health Services for Low-Income Individuals*, KAISER FAMILY FOUND. (June 2017), www.kff.org/medicaid/issue-brief/medicaids-role-in-financing-behavioral-health-services-for-low-income-individuals/.

⁷⁵ See *id.*

⁷⁶ See U.S. HEALTH RESOURCES & SERVS. ADMIN., MATERNAL, INFANT, AND EARLY CHILDHOOD HOME VISITING PROGRAM FY 2017 FORMULA FUNDING AWARDS (Sept. 2017), <https://mchb.hrsa.gov/maternal-child-health-initiatives/home-visiting/fy17-home-visiting-awards>.

⁷⁷ See U.S. HEALTH RESOURCES & SERVS. ADMIN., HOME VISITING (Apr. 2018), <https://mchb.hrsa.gov/sites/default/files/mchb/MaternalChildHealthInitiatives/HomeVisiting/pdf/home-visiting-infographic-2017.pdf>. States are also permitted to use funds from a variety of other federal sources, such as Title V of the Maternal and Child Health Block Grant Program and Medicaid, to fund home-visiting programs. For a helpful overview of state investments in home-visiting programs, including for some states the breakdown of federal versus state funding, see *id.*

⁷⁸ See NATIONAL HOME VISITING RESOURCE CENTER, DATA SUPPLEMENT 2017 HOME VISITING YEARBOOK (2018), www.nhvc.org/wp-content/uploads/NHVC_Data-Supplement-Summary_FINAL.pdf (the figure in the text is for visits during 2016).

⁷⁹ See *id.* (defining families who would benefit from home visiting as families who meet one or more of the target criteria, including a parent who is low-income, has limited education, or is parenting alone).

⁸⁰ The percentages in the text were calculated using National Home Visiting Resource Center, *Home Visiting by State* (2018), www.nhvc.org/explore-research-and-data/hv-by-state/. For an overview of investments by states, see NATIONAL HOME VISITING RESOURCE CENTER, *supra* note 42, at 193–237.

Kansas, 4.3 percent in Kentucky, and 3.7 percent in Rhode Island; and on the low end, home-visiting programs serve 0.7 percent of the targeted families in California, 0.5 percent of families in Georgia, and 0.3 percent in Nevada. Missouri is the outlier, although that state serves only 9.5 percent of the families who would benefit from home visiting.

Turning to public investments in preschool, there is significant divergence in state spending, but it does not run along a predictable red-blue political divide. The baseline is the federal investment – \$9.2 billion in fiscal year 2016, serving 1.1 million children in Head Start programs.⁸¹ With Head Start funding, the federal government pays 80 percent of the cost of running a Head Start program, with the remainder provided by states, localities, or private entities. The federal government also invests in preschool through the Preschool Development Grant – \$230 million in fiscal year 2016 – which helps expand access to and improve the quality of prekindergarten programs for low-income children.⁸²

Beyond these federal funds, which have not increased recently, many states now make considerable investments in preschool, mostly for four-year-olds. State funding for preschool rose 47 percent between 2012 and 2017,⁸³ with a total investment of \$7.4 billion annually.⁸⁴ As a result of the federal funding and increased state funding, 44 percent of all four-year-olds in the 2016–17 academic year were enrolled in preschool.⁸⁵

These national numbers, however, mask significant state variations, and the variations decidedly do not follow the red-blue divide.⁸⁶ Consider the 2016–17 enrollment figures. Five states (including the District of Columbia) enrolled more than 80 percent of four-year-olds in a program that receives state or federal funds: DC (88 percent), Florida (87 percent), Oklahoma (84 percent), Vermont (84 percent), and Wisconsin (80 percent).⁸⁷ An additional eight states enrolled at least 50 percent of four-year-olds in a program that receives state or federal funds: Iowa (69 percent),

⁸¹ See NATIONAL HOME VISITING RESOURCE CENTER, *State Profile- Missouri* (2018), www.nhvtc.org/wp-content/uploads/DS-MO-Profile.pdf.

⁸² See Emily Parker et al., Educ. Comm'n of the States, *State Pre-K Funding for 2015–16 Fiscal Year: National Trends in State Preschool Funding 2* (Jan. 2016), www.ecs.org/wp-content/uploads/01252016_Prek-K_Funding_report-4.pdf.

⁸³ See Louisa Diffey et al., *State Pre-K Funding 2016–17 Fiscal Year: Trends and Opportunities*, EDUC. COMM'N OF THE STATES 1 (Jan. 2017), www.ecs.org/wp-content/uploads/State-Pre-K-Funding-2016-17-Fiscal-Year-Trends-and-opportunities-1.pdf.

⁸⁴ See *id.* at 9.

⁸⁵ See Allison H. Friedman-Krauss et al., *The State of Preschool 2017*, NAT'L INST. FOR EARLY EDUC. RESEARCH at 26 (2018), <http://nieer.org/wp-content/uploads/2018/05/State-of-Preschool-2017-Full.5.15.pdf>.

⁸⁶ States have long diverged in their use of Head Start funds, and thus a variation already existed, see W. Steven Barnett & Allison Friedman-Krauss, *State(s) of Head Start*, THE NAT'L INST. FOR EARLY EDUC. RES. 28, 31 (2016), http://nieer.org/wp-content/uploads/2016/12/HS_Full_Reduced.pdf, but with some states making enormous new investments, the differences are even starker.

⁸⁷ See Friedman-Krauss et al., *supra* note 85, at 26.

West Virginia (67 percent), Georgia (64 percent), New York (60 percent), Texas (59 percent), New Mexico (55 percent), Arkansas (50 percent), and South Carolina (50 percent). Some of these states have made enormous enrollment increases since 2002. Florida, for example, increased enrollment by 77 percentage points, Vermont by 67 percentage points, and Iowa by 59 percentage points.⁸⁸ Some states, however, enrolled very few four-year-olds in a program that receives state or federal funds: Minnesota (20 percent), Washington (19 percent), Massachusetts (18 percent), Missouri (18 percent), Indiana (16 percent), Nevada (15 percent), Hawaii (14 percent), New Hampshire (14 percent), Idaho (13 percent), and Utah (12 percent). And seven states have no dedicated state funding for preschool: Idaho, Montana, New Hampshire, North Dakota, South Dakota, Utah, and Wyoming.⁸⁹

Turning to preschool for three-year-olds, nationally, federal and state investments in preschool programs reached only 16 percent of all three-year-olds in the 2016–17 academic year, but again there is considerable variation at the state level. The District of Columbia and Vermont each enrolled 66 percent of three-year-olds, Arkansas enrolled 35 percent, Illinois enrolled 30 percent, New Jersey enrolled 29 percent, Mississippi enrolled 28 percent, New Mexico enrolled 22 percent, and Kentucky, Louisiana, and West Virginia each enrolled 20 percent.⁹⁰ These states stand in contrast to the 38 states that enrolled fewer than 10 percent of their three-year-olds.⁹¹

Finally, there is also variation in the quality of the programs and the amount states spend per pupil. When it comes to meeting quality standards, the list is mixed politically. The four states that met all the quality benchmarks in 2017 were Alabama, Mississippi, Rhode Island, and West Virginia, followed closely by Arkansas, Kentucky, Maine, Michigan, New Mexico, North Carolina, Oklahoma, Tennessee, Washington, Louisiana, and Oregon.⁹² By contrast, the spending variations more closely reflect the traditional red-blue divide. At the top of the list, the District of Columbia spends \$17,000 per student, followed by New Jersey (\$12,200), Oregon (\$9,500), Washington (\$8,200), Connecticut (\$7,800), Delaware (\$7,400), and Pennsylvania (\$7,300).⁹³ Close to the bottom of the list, Florida, which has exceptionally high enrollments, spends only \$2,300 per student, Mississippi (\$2,400), Nevada (\$2,600), and South Carolina (\$3,000).⁹⁴ But other red states, such as West Virginia, ranked higher, spending \$6,500 per student and ranking 10th in the nation.⁹⁵

⁸⁸ See *id.* at 25.

⁸⁹ See *id.* at 9.

⁹⁰ See *id.* at 26.

⁹¹ See *id.*

⁹² See *id.* at 10.

⁹³ See *id.* at 29.

⁹⁴ See *id.*

⁹⁵ See *id.*

At the local level, some cities are adopting universal prekindergarten programs. For example, New York City's universal prekindergarten program, Pre-K for All, was offered for the first time during the 2014–15 school year.⁹⁶ The program provides all four-year-olds a full week of full or half days, from September to June. Some locations offer extended hours, dual language programs, and transportation for children with disabilities. The city is making a particular push to enroll low-income children, English language learners, and children from families impacted by incarceration.⁹⁷ Chicago is beginning a universal prekindergarten program in the 2018–19 school year, with plans for full implementation by 2021. In the first phase, the city is prioritizing low-income children.⁹⁸ And Memphis is in the planning process for a universal prekindergarten program, aiming for full implementation by 2022.⁹⁹

INSIGHTS FOR ADVOCATES AND SCHOLARS, AND QUESTIONS FOR FUTURE RESEARCH

As the preceding description illustrates, the starkest difference among states is the level of support for preschool. As noted, these differences do not track the traditional red-blue political divide. Mississippi enrolls far more three- and four-year-olds in preschool than Massachusetts – 28 percent and 36 percent, as compared with 14 percent and 18 percent, respectively. Some deep red states – notably, Oklahoma and West Virginia – are national leaders in enrollment and also rank high for both quality and per-pupil spending.¹⁰⁰ And other red states, such as Alabama, have both increased enrollment and maintained high-quality standards.

It is worth considering Oklahoma in greater detail. In 1998, Oklahoma adopted a goal of universal access to state-funded preschool for four-year-olds, funding

⁹⁶ See CTR. STUDY CHILD CARE EMPLOYMENT, UNIV. CALIFORNIA, BERKELEY & NAT'L INSTIT. EARLY EDU. RES., *New York Pre-K for All* (2018), http://csce.berkeley.edu/files/2017/10/Pre-K-Parity_NewYorkCity.pdf

⁹⁷ See NYC DEP'T EDUC., *Pre-Kindergarten* (2018), <http://schools.nyc.gov/ChoicesEnrollment/PreK/default.htm>.

⁹⁸ See *Mayor Emanuel Announces Plan to Make Full Day Four-Year-Old Pre-Kindergarten Universal*, Office of the Mayor, City of Chicago, Mayor's Press Office (2018), www.cityofchicago.org/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2018/May/053018_UniversalPreK.pdf.

⁹⁹ See *Remarks for Pre-K Plan Announcement*, City of Memphis, Office of Mayor Jim Strickland (2018), www.memphistn.gov/UserFiles/Servers/Server_11150732/File/Gov/Executive%20Division/Office%20of%20Communications/031718%20Strickland%20Remarks.pdf; *Ordinance No. 5685: An Ordinance to Create a Pre-K Education Special Fund*, City of Memphis, Office of Mayor Jim Strickland (2018), https://memphistn.gov/UserFiles/Servers/Server_11150732/File/Ordinance%205685.pdf.

¹⁰⁰ See Friedman-Krauss et al. *supra* note 85, at 10 (showing that both Oklahoma and West Virginia met nine and ten of the current quality standards, respectively; further West Virginia ranks sixth in the nation for spending on preschool and Oklahoma ranks thirteenth).

prekindergarten as an additional grade of school.¹⁰¹ Oklahoma's support of early childhood development does not stop with prekindergarten. Among other programs, the state created the Oklahoma Early Childhood Program in 2006, focused on children from birth to age three. This program addresses both quality and access to preschool for the first three years of life; it also adopts a two-generation approach, working with parents to foster economic independence.¹⁰² Further, Oklahoma offers a program called SoonerStart, which serves the needs of developmentally delayed infants and toddlers and is a collaborative program, working with parents and other caregivers.¹⁰³ Finally, Oklahoma City has implemented the Educare program, which serves children from birth to age five who are at risk for school failure.¹⁰⁴ Educare provides a range of services, including year-round, full-day care and mental health services for children and families.¹⁰⁵

These state variations raise a series of questions, outlined here and worthy of considerably more research.

To begin, are the state-level preschool investments part of a broader antipoverty strategy? There are numerous factors to look at, and the answer may differ with each state. In Oklahoma, for example, despite the investments in early childhood development, the state did not expand Medicaid under the Affordable Care Act, and it has only a small, nonrefundable state-level EITC. West Virginia is one of the few red states that did expand Medicaid, enrolling 166,000 people under the expansion,¹⁰⁶ but it does not have a state-level EITC.

What is driving the state-level investments in preschool in states that do not typically provide robust social welfare programs? Mississippi and Massachusetts, for example, offer sharp contrasts. Under Temporary Assistance for Needy Families, the maximum benefit in Mississippi is \$170 per month as compared with \$618 in Massachusetts.¹⁰⁷ But, as previously noted, Mississippi enrolls 36 percent of all four-year-olds in state- or federally funded preschool as compared with Massachusetts at 18 percent.¹⁰⁸ The differential may be rooted in the child poverty rate in each state

¹⁰¹ See Janet Barresi, Okla. State Dept. Educ., *A Look at Oklahoma's Early Childhood Education Programs* (2011), <http://ok.gov/sde/sites/ok.gov.sde/files/Early%20Childhood%20Programs.pdf>.

¹⁰² See Okla. State Dept. of Educ., *Early Childhood Fast Facts 2017*, <http://sde.ok.gov/sde/sites/ok.gov.sde/files/documents/files/Early%20Childhood%20Fast%20Facts%202017.pdf>.

¹⁰³ See *id.*

¹⁰⁴ See OKLA. CITY EDUCARE, *Who We Are*, <http://okceducare.org/who-we-are/facts-and-figures/>.

¹⁰⁵ See *id.*

¹⁰⁶ See Louise Norris, *West Virginia and the ACA's Medicaid Expansion*, HEALTHINSURANCE.ORG, Mar. 26, 2018, www.healthinsurance.org/west-virginia-medicaid/. W. Va. Dept. of Health & Human Res. (WV_DHHR). "165,917 West Virginians Are Enrolled in Medicaid Expansion as of Monday, March 26, 2018." 26 Mar. 2018, 6:46 A.M. Tweet.

¹⁰⁷ See GENE FALK, CONG. RESEARCH SERV., RL 32760, *THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) BLOCK GRANT: RESPONSES TO FREQUENTLY ASKED QUESTIONS 10* (2016).

¹⁰⁸ See Friedman-Krauss et al. *supra* note 85, at 26.

(the child poverty rate in Mississippi is 31 percent as compared with 13 percent in Massachusetts¹⁰⁹), but there are surely other explanations as well.¹¹⁰

What is the rhetoric of early childhood development and state funding? Some red states frame early childhood development as common sense policy, not as a political issue. In Oklahoma, for example, local leaders say “[t]his isn’t a liberal issue. . . . This is investing in our kids, in our future. It’s a no-brainer.”¹¹¹ In Florida, which amended its state constitution in 2002 to require prekindergarten access for four-year-olds¹¹² and now enrolls 87 percent of all four-year-olds, Governor Rick Scott, a Republican, stated that “[f]amilies want their children to have high-quality educational opportunities and research shows a good education begins early. That is why investing \$1.1 billion in early childhood education is so important for our state. I am committed to continued support for early learning, and making sure Florida remains number one in the nation for access to prekindergarten.”¹¹³

How can advocates and policy makers in other states learn from these success stories? There is a rational economic argument to be made for investments in early childhood development because interventions during the first several years of life are more cost effective than interventions during the school years and far more cost effective than programs for adults, such as job training initiatives.¹¹⁴ Similarly, to the extent the greater political support for preschool turns on research showing the importance of early childhood development generally and preschool in particular, this research may have made the issue of government support less contentious. But there is still far more to be understood about how states, especially red states, have overcome partisan opposition to public investments. Alabama, for example, has had sustained political support for both broad access and high-quality preschool, leading to substantial gains in that state on both fronts.¹¹⁵ The question for further research is what created and sustained this political support.

Relatedly, can this political momentum transfer to other kinds of supportive efforts and programs? Rational arguments about costs and benefits, and research showing profound impacts, often are not enough to win support for effective programs. One insight from the success with preschool is that it may be easier to garner widespread

¹⁰⁹ See *Child Poverty Rates Increased during the Great Recession*, NAT’L CONFERENCE OF STATE LEGISLATURES, www.ncsl.org/research/human-services/child-poverty-rates.aspx.

¹¹⁰ Sometimes investments are a result of a court order. See Michael A. Rebell, *Right to Comprehensive Educational Opportunity*, 47 HARV. C.R.-C.L. L. REV. 47, 82–89 (2012).

¹¹¹ Nicholas Kristof, *Oklahoma! Where the Kids Learn Early*, N.Y. TIMES (Nov. 9, 2013), www.nytimes.com/2013/11/10/opinion/sunday/kristof-oklahoma-where-the-kids-learn-early.html (quoting Skip Steele, Republican Tulsa City Council member).

¹¹² FLA. CONST. art. IX, § 1, cl. b (amended 2002).

¹¹³ *Governor Rick Scott Highlights Early Learning Funding in Miami*, RICK SCOTT: 45TH GOVERNOR FLA., www.flgov.com/gov-rick-scott-highlights-early-learning-funding-in-miami.

¹¹⁴ See JAMES J. HECKMAN, *GIVING KIDS A FAIR CHANCE* 3–41, 125–32 (2013).

¹¹⁵ See Friedman-Krauss et al. *supra* note 85, at 23.

support for programs that do not rely on parents. Given the antipathy for poor adults, it is not surprising that states are investing in programs that help children directly rather than programs that work through parents, although home-visiting programs are a step in the right direction. Similarly, cash transfers are still anathema to much of the country, and thus programs that provide direct services, whether it is health care or preschool, stand to earn far more support than, say, a child allowance. Additionally, preschool may be popular because it is less intrusive, particularly because it is voluntary. In short, there may be limitations to building on the success of preschool.

What are the trade-offs in terms of policy but also politics? Oklahoma may be investing in preschool, but its support of K–12 education is flagging, down nearly 16 percent in the last decade.¹¹⁶ West Virginia is somewhat better, increasing its state support of K–12 education by nearly 4 percent in the same period,¹¹⁷ and the public spending per pupil in the state places it 15th in the country, as compared with Oklahoma, which is 45th in the country.¹¹⁸ But both states pay their teachers a pittance as compared with other states: the average salary for public schools teachers in Oklahoma is \$45,300 (50th in the country), and in West Virginia is \$45,600 (49th in the country).¹¹⁹ This is low even as compared with other rural states, such as Kansas, which ranks 4th in the country and Nebraska, which ranks 21st.¹²⁰ Thus, just as the support for preschool may not be a foundation for other antipoverty efforts, it would be helpful to know whether the investments in preschool are at the cost of broader investments in education.

Finally, what are the dangers in calling for additional support for early childhood development? The emphasis on this developmental period and, particularly the prenatal period, can lead to interventions that interfere with autonomy and bodily integrity. As described previously, the neuroscience that underscores the importance of early childhood development also shows that cognitive development begins prenatally. This could lead to the kinds of interventions that severely limit women's autonomy and privacy. In some states, for example, it is a crime to expose a fetus to a narcotic or a controlled substance,¹²¹ and women who have been using such substances have been put in rehabilitation centers for the duration of their pregnancy (or longer)¹²²

¹¹⁶ See Michael Leachman et al., *A Punishing Decade for School Funding*, CENTER ON BUDGET AND POLICY PRIORITIES (Nov. 2017), www.cbpp.org/research/state-budget-and-tax/a-punishing-decade-for-school-funding.

¹¹⁷ See *id.*

¹¹⁸ See *id.*

¹¹⁹ See *id.*

¹²⁰ See *id.*

¹²¹ See, e.g., TENN. CODE ANN. § 39–13–107(c)(2) (2015).

¹²² See Stephanie Chen, *Pregnant and Addicted, Mothers Find Hope*, CNN (Oct. 24, 2009, 10:39 AM), www.cnn.com/2009/CRIME/10/24/pregnant.addicts/index.html (describing a rehabilitation program for pregnant women and new mothers; some women go voluntarily and some are sent by the state).

or prosecuted after the baby is born.¹²³ More broadly, supportive programs for low-income families often come with intrusive strings attached,¹²⁴ thus, it is critical to track whether the investments in early childhood development follow this trend.

CONCLUSION

Overwhelming evidence establishes the acute importance of the first five years of life for human development. Public investments in this period can have profound and lasting impacts on both individuals and society. As this chapter has shown, when the federal government invests in early childhood, as it does for the prenatal period until age three, there is more convergence at the state level, with most states offering basic support, at least for children, if not their parents. By contrast, when states take the lead in making public investments, there is a much greater divergence in public investments. This divergence, however, does not always follow predictable political lines, and there is a particularly interesting story to understand about the high level of red-state support for preschool.

The investments in preschool are certainly welcome and provide some basis for cautious optimism about a broader antipoverty program aimed at early childhood. As the evidence of the cost-effectiveness of these programs builds, the investments may help persuade the public of the importance of fostering early childhood development, which could lead to ever-earlier supports. This must include investments in the whole family, and especially parents, who are the linchpin in early childhood development.

¹²³ See *Hicks v. State*, 153 So. 3d 53, 54 (Ala. 2014) (upholding conviction of a mother charged with chemical endangerment for exposing a fetus to a controlled substance); *State v. McKnight*, 576 S.E.2d 168, 171, 174–75 (S.C. 2003) (upholding conviction of a mother charged with homicide by child abuse for exposing a fetus to cocaine in violation of South Carolina law, which the Court interpreted as applying both to born and unborn children).

¹²⁴ See, e.g., Wendy A. Bach, *The Hyperregulatory State: Women, Race, Poverty, and Support*, 25 YALE J. L. & FEMINISM 317, 318–20 (2014) (describing this phenomenon); Khiara M. Bridges, *Towards a Theory of State Visibility: Race, Poverty, and Equal Protection*, 19 COLUM. J. GENDER & L. 965, 971–78 (2010) (describing the intrusive conditions attached to a program designed to promote prenatal health).