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**Before the Committee on the Judiciary and Public Safety
Council of the District of Columbia**

**Performance Oversight Hearing Regarding the Office of the Attorney General
for the District of Columbia**

February 9, 2026

Legal Aid DC¹ submits the following testimony regarding the performance of the Child Support Services Division (CSSD) of the Office of the Attorney General (OAG). CSSD is tasked with initiating child support cases, establishing and enforcing support orders, and collecting child support for families who request CSSD's assistance or who are required to engage with CSSD as a condition of their receipt of Temporary Assistance for Needy Families (TANF) funds. Legal Aid DC has worked closely with CSSD for several years, communicating and collaborating on individual cases as well as systemic advocacy efforts. We continue to litigate both with and against attorneys from OAG/CSSD via the Child Support Resource Center (CSRC), one of our courthouse offices where we assist otherwise unrepresented litigants. Although we frequently oppose CSSD in individual cases, we unreservedly share CSSD's goal of reducing poverty among District children.

Over the past several years, our relationship with CSSD has been collaborative and productive. We continue to maintain standing bi-monthly meetings with the leadership of CSSD to discuss issues arising in court, ideas for policy reform, and new ways we can jointly serve low-income residents of DC and increase access to justice. We are

¹ Legal Aid DC is the oldest and largest general civil legal services program in the District of Columbia. The largest part of our work is comprised of individual representation in housing, domestic violence/family, public benefits, and consumer law. We also work on immigration law matters and help individuals with the collateral consequences of their involvement with the criminal legal system. From the experiences of our clients, we identify opportunities for court and law reform, public policy advocacy, and systemic litigation. For more information, visit www.LegalAidDC.org.

especially appreciative of Attorney General Brian Schwalb for dedicating the time of his senior staff to participate in the meetings between Legal Aid and CSSD, and we note that this involvement has greatly increased the efficacy and productivity of our discussions.

Since 2012, we have testified before the Council annually regarding CSSD's performance, areas of concern, and ways in which we hope to collaborate with the agency in support of our goal of a better-functioning child support system in the District. Many perennial challenges CSSD faces stem from its structure as a debt-collection agency whose goal is to collect funds to nominally pay the government back for benefits a family receives, with the collections going primarily to fund further collection effects rather than the family.² CSSD's function as a debt-collection agency and the problems that result are not directly the fault of Attorney General Schwalb or agency leadership. In fact, these issues can best – and perhaps only – be remedied by legislative reform to eliminate our outdated “cost-recovery” model. We thank the AG for recognizing this and proposing reforms that will shift DC away from this harmful system to one that actually supports children.

We use our testimony this year to highlight this incredible opportunity for the Council to update District laws and structurally refocus CSSD to *support children*: passing the Child Support Improvement Amendment Act of 2026, which would increase financial support for District children and families. We also use our testimony this year to encourage Attorney General Schwalb to continue to make internal policy changes within CSSD that would have an immediate impact on child support obligors' ability to pay child support debt.

OAG Should Continue Modernizing the District's Child Support System to Increase Financial Support for District Children and Families

The District of Columbia's child support system serves as a key resource for financial support for many District families. But for low-income families, the District's current child support system – referred to as a “cost recovery” system – unfortunately largely functions as a debt collection system. This type of child support model is failing our low-income families as it forces parents, who are often experiencing financial instability themselves, to make child support payments to the government when a family receives TANF.

When a parent makes a child support payment while the family is receiving TANF, little of the money collected is provided to financially support the children. In fact, only a limited portion of child support payments, referred to as a “pass-through,” goes to the family and only in limited circumstances. If a payment is late or collected through a tax intercept, it *never* gets to the family; the government allocates that child support money to itself. At

the same time, this system creates an adversarial dynamic between parents and the government, which frequently fosters mistrust and frustration. The District's current child support system does not serve as an ally to our vulnerable families, but rather positions them as debt collectors, as they must aid the government's efforts to establish a child support order. If families receiving TANF do not agree to cooperate with child support collections efforts, they face TANF sanctions.

The District should modernize its child support collection policies to better serve our vulnerable families. Our current model is well overdue for widespread change, and is inconsistent with the values that the Office of the Attorney General for the District of Columbia promotes elsewhere: in the main, helping to ensure that families can raise healthy and hopeful children.² It is also outdated and incongruent with modern federal policies that incentivize more financial support for children. The District has not taken advantage of modern federal policies that encourage states to pass through more money to families receiving TANF.³ Many other states have already shifted to a "family first" model allowing for more money collected through their child support agency to go to their vulnerable families. It is time for the District to join that change, and in fact, reach further and establish itself as a leader by shifting to a "supporting children" model. A "supporting children" model would ensure that families in need of support receive all the money collected through our child support system on their behalf.

Attorney General Schwalb's proposal of the Child Support Improvement Amendment Act – co-introduced by Councilmembers Pinto, Frumin, Allen, Parker, Felder, Lewis George, Henderson, and Nadeau – has come at a critical time for District residents. The Child Support Improvement Amendment Act would ensure that all child support payments go directly to the children and families they are intended to support. This Act will build on the increase to the pass-through to \$200 that was passed as part of the FY26 Budget Support Act to transform our current child support system into a system that is more aligned with a "supporting children" model by mandating that the District pass through all-state assigned child support arrears to families who currently and previously received TANF.

Attorney General Schwalb's reforms included in the Child Support Improvement Amendment Act align with the legislative proposals that our office has advocated for

² Attorney General Schwalb's Four Pillars: Prioritizing Public Safety and Hopeful Kids | by DC Attorney General Brian Schwalb, available at <https://medium.com/@dcattorneygeneral/attorney-general-schwalbs-four-pillarsprioritizing-public-safety-and-hopeful-kids-65d80af1d43d>.

³ Legal Aid DC, Memorandum, Modernizing the District's Child Support Policies to Support Children, (2024).

throughout the years; we believe these reforms will better serve District children and families. Again, we commend Attorney General Schwalb for his leadership and his vision to take the District's child support system in a new direction to become more modernized to improve financial support and outcomes for District children and families.

OAG Should Continue Modernizing the District's Child Support System Concerning the District's Law on the Statute of Limitations

The District's statute of limitations as applied to child support judgments – known as “arrears” -- is complex and overly burdensome for our District residents and needs reform. When a non-custodial parent falls behind on a child support payment, that missed payment, in part or in whole, becomes an arrear. In the District, each unpaid child support payment becomes its own money judgment.⁴ Each judgment is enforceable for a period of 12 years from the date when the unpaid payment became due.⁵ The unpaid judgments may be revived within the 12-year period of enforceability that would result in a new judgment with its own 12-year enforceability period.⁶

It is a common occurrence for unpaid child support arrears to remain in balance until and long after 12 years after the youngest child in the case becomes an adult and the order ends. Child support orders end by operation of law when the youngest child reaches emancipation at age 21. If the non-custodial parent accrued an arrear during the last month that the child support order was current, that most recent arrear is enforceable until the youngest child is 33 years old.

However, our current statute of limitations is not automatic; it is an affirmative defense. The non-custodial parent is permitted to raise the statute of limitations as a defense against paying back arrears that are more than 12 years old even if it is unequivocal that the non-custodial parent does in fact owe the alleged amount. The non-custodial parent has the burden of proving that the statute of limitations applies, prohibiting the future collection of arrears. This system requires non-custodial parents, who are not usually attorneys, to navigate a complex legal system. The custodial parent must first know that a statute of limitations exists on child support arrears and to understand how to assert it in their case and defend it in court.

Our office has seen too often how the current statute of limitations unreasonably burdens non-custodial parents and exposes them to financial hardship. Financial interceptions that offset child support arrears, and other enforcement actions, are used

⁴ D.C. Code § 46-204(b)

⁵ D.C. Code § 15-101(a)(2)

⁶ D.C. Code § 15-101(b).

against non-custodial parents without regard to the statute of limitations. Even if all arrears are more than 12 years old and are no longer enforceable, CSSD or the custodial parent can take actions to enforce and collect them as long as they are still “on the books.” Our office has witnessed enforcement actions on arrears that are well beyond their period of enforceability, including: driver license suspensions, interception of federal tax refunds, seizures of bank accounts, garnishment of Social Security retirement, and even contempt matters in court that often lead to incarceration of non-custodial parents. During the COVID-19 pandemic, we witnessed the interception of some eligible COVID-19 stimulus payments meant for non-custodial parents. Many of these interceptions went to offset child support arrears in matters that had been stagnant for years without any involvement with CSSD enforcement or the court. And for many non-custodial parents, the interception served as a new notice that they had a child support arrears balance at that point.

Recently, our office represented a non-custodial parent faced with a motion to modify child support filed by the custodial parent. Both children at issue in that case were adults; the child support order had terminated by operation of law at least five years prior. At the time, the non-custodial parent had stable employment, and their child support payment was manageable. The non-custodial parent became aware of the statute of limitations defense for the first time after meeting with our office through the CSRC. We represented the non-custodial parent and asserted the statute of limitations defense to the enforcement of the arrears and modification of the repayment amount. OAG was involved in the matter as they initiated the case on behalf of the custodial parent 20 years prior, but as it was not a TANF case, all arrears were owed to the custodial parent. The court ordered the government to conduct an audit, which revealed that all arrears remaining in balance were beyond their period of enforceability per the statute of limitations, having been accumulated more than a decade prior to the hearing. At the next hearing, the court vacated the arrears balance. If the non-custodial parent did not connect with counsel, it is likely that they would be forced to continue making payments towards those arrears.

The District’s current statute of limitations structure also negatively impacts custodial parents. As stated above, each unpaid child support payment becomes its own money judgment with its own 12-year period of enforceability. That means that if an order started at birth and went unpaid, the first month’s payment would reach the 12-year limit when the child turned twelve – still a child, and still very much in need of support. And another judgment would reach the limit each month thereafter. Under our current law,

the custodial parent can move to revive child support arrears, but they must do so within the 12-year statutory period.⁷

The revival procedures place custodial parents in a similarly disadvantaged position as non-custodial parents. Requests for revival are affirmative actions and not automatic. That means that custodial parents must first be aware that the child support arrears owed to them are subject to a statute of limitations and that they can be revived; they must have kept careful track of the limitations period for each unpaid monthly judgment (of which there could be hundreds); and they must know and how to file a motion within the 12-year statutory period. If any of these are missed, the right to revive is forfeited. The custodial parent also has the burden of asserting what arrears should be revived and the specified amount, and the burden to contest any amount the court decides is appropriate. Yet again, the current system forces the custodial parents, who are also not usually attorneys, to navigate a complex set of laws or lose the ability to collect child support while their children are still children.

The reforms reflected in the Child Support Improvement Amendment Act would balance the rights and obligations of custodial and non-custodial parents concerning the statute of limitations and revival of arrears. The Act seeks to set the statute of limitations on child support enforcement actions to 5 years after the date of the emancipation of the youngest child subject to the child support order, which is when the youngest child will be 26 years old. During the pendency of the case, and until 5 years from the date of the youngest child's emancipation, all of the arrears would remain enforceable. The need to revive arrears to maintain enforceability during childhood would be eliminated. And when the youngest child turns 26 years old, the arrears should automatically cease to have any further effect and be wiped from the books.

This reform considers the rights of custodial parents to enforce arrears owed to them without the burden of knowing when and how to file for revival. It also considers the obligation of the non-custodial parent to support young children and repay their debt while removing the burden of knowing how and when to request vacatur of old arrears. This statute of limitations and enforceability reform is a critical change for our District families.

OAG Should use its Internal Policy Discretion to Create Impactful Change for District Residents and Families

⁷ See, Mayo v. Mayo, 508 A.2d 114 (D.C. 1986)

There remain areas within Attorney General Schwalb's immediate reach on which internal policy change would have a significant impact. OAG can continue to use its discretion in two distinct areas within their internal policies to further support our District residents: (1) OAG should waive debts that it cannot collect due to the current statute of limitations; and (2) OAG should not collect arrears that accrued during incarceration.

OAG should exercise its discretionary authority to eliminate any debt that is beyond the statute of limitations

While only a custodial parent can forgive arrears owed to them, OAG has authority to reduce, forgive, or write off state debt, without owing to the federal share.⁸ OAG should use this authority to wipe out the books for any debt that is beyond the statute of limitations for enforcement.

It is unlikely that OAG will be able to collect all the debt owed as most of it is unenforceable. As of January 2024, non-custodial parents owed the District \$53.8 million in arrears, and \$32 million of the balance accrued before January 1, 2012.⁹ That means that 59% of the arrears on the books are unenforceable against non-custodial parents. As stated above, each unpaid child support payment becomes its own money judgment that is enforceable for only 12 years from the date of accrual. After 12 years, that debt is unenforceable and is time-barred for collection. However, the statute of limitation is an affirmative defense, and enforcement actions, including administrative actions like tax refund interceptions, may be utilized against non-custodial parents in an effort to collect the overdue debt until non-custodial parents raises the defense and the court issues an order vacating the arrears.

We encourage Attorney General Schwalb to use his immediate authority to create internal policies to stop any efforts to collect arrears that are no longer enforceable per the statute of limitations. Such actions would release operational burdens on OAG resources and would better protect non-custodial parents from unfair enforcement actions.

OAG should exercise its discretionary authority to eliminate any debt that is accumulated when the non-custodial parent was incarcerated for 30 days or more

⁸ 42 U.S.C. § 604 and 45 C.F.R. § 263

⁹ OAG's oversight response for the FY23-24 Performance Oversight Hearing, Question #69. The amount owed as of January 12, 2015 was \$53,831,555, of which \$31,723,810 accrued before January 2012.

Under District laws, a child support obligor who is subject to incarceration for 30 days or more is permitted to file a motion requesting that the Court modify or suspend their current child support obligation.¹⁰ In fact, at all sentencing proceedings (or probation revocation proceedings) resulting in a sentence of more than 30 days, the court is required to inquire if the defendant is a child support obligor and advise them of their right to file a motion to modify.¹¹ However, many obligors are not notified of their rights and obligations at sentencing, while others are receiving notice well after countless arrears have already accumulated. Some District obligors are also not given notice at all when they are sentenced outside of the District.

Similar to the statute of limitations, an obligor's opportunity to modify or suspend child support during incarceration is not automatic. The criminal court is only required to notify the obligor of their right to request a modification or suspension; it does not suspend the child support order. The child support obligor must formally request a modification or change in their order by filing a *pro se* motion with the court or finding counsel to file a motion on their behalf.

Many formerly incarcerated child support obligors often reenter our community facing insurmountable child support debts. When an obligor does not move to modify or suspend their support order during incarceration, child support arrears accumulate, often when they cannot pay their child support order. Many child support obligors face a daunting reality after their release when they formally file a motion to modify or suspend child support for the period of incarceration and are notified that the law prohibits that modification. Under the Bradley Amendment of 1986, the federal law requires that states treat past-due child support as a final, non-modifiable judgment.¹² The Bradley Amendment prohibits retroactive reduction of child support and arrears, even if a parent has a legitimate reason such as involuntary decreases in income. The court is only permitted to grant modifications to the date of filing.¹³ The court is prohibited from modifying or suspending child support order if it finds that the child support obligor has the ability to pay support while incarcerated, which is a rare occurrence, and if the reason for the incarceration is a result of a civil contempt matter for non-payment.

Here is how this works on a practical level: let's say a child support obligor was ordered to pay \$500 per month and is sentenced to 1 year of incarceration, and they did not pursue modification or suspension of their child support order. After 1 year of incarceration, the obligor would owe at least \$6,000 in unpaid arrears as soon as they reenter our community. The child support obligor is at a significant disadvantage. Their

¹⁰ See, D.C. Code § 23-112

¹¹ D.C. Code § 23-112(a)

¹² 42 U.S.C. § 666(a)(9)(C)

¹³ D.C. Code § 46-204(c)

job prospects are lower because of their criminal record, and their time away from the workforce also impacts their marketability. If they cannot secure employment in a reasonable time, they are at risk of administrative enforcement actions from CSSD (e.g., driver license suspension, tax interception, etc.) and judicial enforcement actions (civil contempt that carry the penalty of incarceration). All likely enforcement actions make it nearly impossible to secure stable employment and create a cycle of incarceration and poverty for child support obligors.

OAG has full authority to forgive or write off state debt at a nominal rate, and they should use that authority to aid formerly incarcerated obligors. This is a particularly crucial issue for Attorney General Schwalb can address for District residents. As a result of our lack of statehood, our residents are forced to serve their time in Federal Bureau of Prisons facilities across the country and have difficulty filing their own motions or reaching legal services providers to retain assistance. In addition, given the transient nature of the DC/Maryland/Virginia area, it is common that a District resident is arrested in Maryland or Virginia where they are often not given a notice about modifying their child support order and face difficulty connecting with legal services.

We also encourage Attorney General Schwalb to use his broader authority to propose legislation to reform our child support system for incarcerated obligations. Ideally, that legislation would implement an automatic presumption initiating a suspension of child support obligations by operation of law for those facing incarceration. The presumption would apply when obligors are facing imprisonment, including pre-trial detention and civil detention, for more than 30 days. The automatic presumption triggered by operation of law would allow a child support obligor to modify their child support order back to the date of their incarceration to recalculate arrears. The automatic presumption would serve as the file date for the modification to avoid any Bradley Amendment issues.

Conclusion

The Child Support Improvement Amendment Act would improve the lives of our lowest income families who rely on government cash assistance to support their children. While we applaud Attorney General Schwalb for proposing this major systemic change, we also encourage him to utilize his immediate power to effectuate change using CSSD's internal policies that would better serve District residents and how government arrears are managed. Legal Aid DC appreciates the opportunity to share our perspectives and are grateful for OAG's continued collaboration with our office to make system and operational changes. We hope our feedback today will lead to a brighter, more financially secure future for District families.