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

**Public Hearing Regarding: Bill 26-0572
“Child Support Improvement Amendment Act of 2026”**

March 18, 2026

Legal Aid¹ submits the following testimony regarding Bill 26-0572, the Child Support Improvement Amendment Act of 2026. Legal Aid DC strongly supports this bill and applauds Attorney General Brian Schwalb for his leadership in spearheading this reform to refocus the District’s child support system on supporting children, and Chairperson

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.

Pinto and the seven other members of this Council who co-introduced and are advancing it: Councilmembers Frumin, Allen, Felder, Henderson, Lewis George, Nadeau, and Parker.

Since 2011, Legal Aid DC has operated the Child Support Resource Center (CSRC), a courthouse office where we assist otherwise unrepresented litigants. We represent either side in child support matters: custodial parents who are seeking child support or are forced to cooperate with a child support case brought by the District because of their Temporary Assistance for Needy Families (TANF) benefits; or non-custodial parents, who are almost always unrepresented and litigating against the Office of the Attorney General. Fifteen years of daily presence at the courthouse and in these cases has given us a unique and deeply nuanced perspective on how the District's child support system works and how – and why – it doesn't. We come to this conversation focused on the equity of the system overall and particularly for families living in poverty.

The Child Support Improvement Amendment Act includes key pieces that will create a more effective and fair child support system in the District: a phased-in full pass-through of all child support to families who are receiving, or have received, TANF and clear limits on how long past due child support remains debt. Legal Aid supports these provisions in the bill and urges the Council to pass them. We also ask that the Council use this opportunity to modernize the child support system in a way that truly puts children first by: (1) automatically suspending child support orders for people who cannot pay because they are incarcerated or detained; (2) distributing intercepted federal tax refunds to pay child support arrears to the family before the government; (3) limiting the suspension of driver's licenses as a child support debt collection tool; (4) expanding the reasons a parent on TANF can ask the District not to seek child support from the other parent; and (5) requiring old child support debts be wiped from the books.

I. The Council Should Enact the Full Pass-Through of All Child Support to the Families of Children Currently or Formerly on TANF

The Child Support Improvement Act can revolutionize our child support system by ensuring that *all* child support payments go to the child. When it comes to our city's poorest children, our "child support system" is a misnomer. Every year in the District, millions of dollars in child support payments never reach the children they're meant to help. When a parent pays child support for a child whose family is receiving or once received TANF, most of that money is intercepted by the government to ostensibly "reimburse" the cost of distributing TANF benefits. Half of the intercepted funds go to the national Treasury, and half goes to the DC government. Notably, in DC the intercepted money does not expand or fund TANF benefits at all but instead funds further debt collection efforts by DC's child support agency, the Child Support Services

Division (CSSD) of the Office of the Attorney General. This practice – known as child support cost recovery – is a holdover from policies created nearly fifty years ago that nearly half of states no longer use. It is economically inefficient, socially harmful, and racially unjust. The current bill will end this outdated system by enacting a full pass-through of all child support payments, ensuring that 100% of child support payments reach the children for whom they are intended. The Council also has an opportunity to further make DC a “family-first” jurisdiction by distributing child support collections to family-owed arrears before government child support debts.

A. The History: Cost Recovery and the Assignment of Rights

The practice of diverting child support payments from families to the government began during the federal Aid to Families with Dependent Children (AFDC) era of the mid-20th century. As the demographics of public assistance shifted in the 1960s and 1970s – from predominantly white widowed mothers to unmarried Black mothers in urban areas – political support for welfare eroded. In response, Congress reframed welfare as dependency rather than need and sought to recoup its costs.

Beginning in 1975, federal law required applicants for cash assistance to “assign” their rights to child support to the state as a condition of eligibility. Any support collected from a non-custodial parent would “reimburse” federal and state governments, with only a small portion – if any – reaching the child. This system transformed child support enforcement from a child-centered program into the revenue collection operation it is today in which poor families are forced to sign away their children’s right to support to accept the limited income assistance of our social safety net. This system has perpetuated a cycle of control and extraction that continues to this day.

B. The Harms of Cost Recovery in DC

The District’s current system still reflects that outdated logic. Despite adopting an at-the-time progressive \$150 pass-through in 2006 – increased for the first time last year to \$200 – the District’s system is still fundamentally focused on debt collection for the government’s benefit. Families only receive the up-to-\$200 pass-through amount when a child support payment is made on time, for a current child support obligation, for a family currently on TANF. Missed payments become a debt – known as arrears – owed entirely to the government; families never receive a dollar. So if a non-custodial parent with a \$500 order missed his February payment but pays double (\$1,000) in March to catch up, the family only receives \$200 of the \$1,000 he paid. The rest is split 50-50 between the District and the federal government. That remaining \$800 is money taken directly from children who need it most.

The result is twofold harm. Families already living in poverty lose much-needed income, and non-custodial parents lose faith in a system that diverts their payments away from their children. This reduces compliance, fosters resentment, and weakens family connections.

C. The Impact on Child Poverty and Well-Being

Decades of research show that child support is one of the most effective tools for reducing child poverty, particularly among families with low incomes. For those poor, single-parent households who receive it, child support can make up as much as a third of total income.² When those payments actually reach families, they can have measurable effects: reduced material hardship, increased food security, and improved children’s health and education outcomes. Even a small amount of additional income can make a big difference for families who are struggling: it could cover an abnormally high utility bill after a particularly cold winter or pay for a new pair of shoes for growing feet.

States that have adopted more generous pass-through policies – including Wisconsin, Colorado, and Minnesota – have reported decreased child poverty rates, improved child well-being, and increased child support compliance.³

D. Strengthening Family Dynamics and Parental Engagement

Full pass-through also improves family relationships and non-custodial parent engagement. When non-custodial parents know their payments go directly to their children, they are more likely to pay consistently and remain involved.⁴ Wisconsin’s full

² See Sorenson, Elaine, *Child Support Plays an Increasingly Important Role for Poor Custodial Parents* (Urban Inst. 2010), <https://www.urban.org/sites/default/files/publication/29421/412272-Child-Support-Plays-an-Increasingly-Important-Role-for-Poor-Custodial-Families.PDF>.

³ Maria Cancian et al., *Welfare and Child Support: Complements, Not Substitutes*, 27 *Journal of Policy Analysis and Management* 354–375 (2008). Minn. Dep’t of Hum. Servs. Child Support Enforcement Div., *Child Support Passthrough in Minnesota: A Process and Outcomes Evaluation*, (2002), <https://www.leg.mn.gov/docs/2005/other/050408.pdf>. Thomas Zolot et al., *Dollar for Dollar: Why the Child Support Pass-Through Makes Sense*, 78 *Policy & Practice* 5-39 (2020).

⁴ Lisa Klein Vogel, “Barriers to Meeting Formal Child Support Obligations: Noncustodial Father Perspectives,” *Children and Youth Services Review*, Vol. 110, No. 2, March 2020, https://www.researchgate.net/publication/338554399_Barriers_to_Meeting_Formal_Child_Support_Obligations_Noncustodial_Father_Perspectives.

pass-through demonstration increased both payment compliance and contact between fathers and their children.⁵ In addition, non-custodial parents report greater trust in the process, improved relationships with their children, and less conflict with the custodial parent.

Conversely, when families see child support payments intercepted by the government, non-custodial parents are less motivated to pay. Cost recovery turns an act of parental responsibility into a financial transaction that benefits no one. Full pass-through restores a sense of shared purpose and dignity, especially for fathers who often feel erased by a punitive enforcement system. This builds long-term stability, cooperation, and emotional security for children.

E. A Racial Justice Imperative

Ending child support cost recovery is also a moral and racial justice necessity. In DC, the TANF population is overwhelmingly Black – more than 90% of adult recipients. Child support cost recovery operates as yet another mechanism that drains resources from communities already burdened by historical discrimination in employment, housing, and wealth accumulation. These practices are rooted in the same racialized logic that shaped earlier welfare policies – reinforcing stereotypes of dependency and “deadbeat dads.” By extracting financial resources from Black families and communities and redirecting them to a government agency under the guise of fiscal accountability, this system effectively redlines child support.

A full pass-through policy would not only rectify this injustice but would also advance DC’s racial equity goals by allowing families – especially Black families – to retain the autonomy that government policies historically denied them and to keep their money where it belongs – within the family and community.

F. The Council Should Add Additional Provisions That Federal Policy Incentivizes

The federal Office of Child Support Services (OCSS) has clarified that states have broad discretion under the Deficit Reduction Act of 2005 to increase their “pass-through and disregard” amounts, and current federal matching rules no longer penalize jurisdictions that choose to do so. According to OCSS, the goal of modern child support policy is not

⁵ Maria Cancian, Daniel R. Meyer, and Emma Caspar, “Welfare and Child Support: Complements, Not Substitutes.” *Journal of Policy Analysis and Management*, Vol. 27, No. 2, 354-375, 2008, [https://users.ssc.wisc.edu/~gwallace/Papers/Cancian,%20Meyer,%20and%20Caspar%20\(2008\).pdf](https://users.ssc.wisc.edu/~gwallace/Papers/Cancian,%20Meyer,%20and%20Caspar%20(2008).pdf).

simply to collect money but to strengthen family stability and child well-being by ensuring that payments reach children promptly. Congressional research and agency testimony confirm this direction: the federal emphasis is shifting from revenue collection to family engagement and poverty reduction.⁶

Federal law explicitly enables and incentivizes states and the District to adopt “family-first” policies and to go further to ensure that both ongoing and past-due child support payments are delivered to families rather than retained by government agencies.⁷ As a result, the District can direct all child support to our city’s poorest families at a subsidized cost.⁸ This makes adoption of a full pass-through a cost-effective anti-child poverty measure that would align squarely with federal priorities promoting child-centered support practices nationwide.

G. Family-First Distribution

A key feature of the federal “families first” child support policies is the option to prioritize payment to families of the arrears owed to them. DC’s distribution scheme has not been updated since the adoption of the cost-recovery model. When it comes to tax intercepts – a major support enforcement mechanism – DC prioritizes the payment of arrears owed to the District over the payment of family arrears. That means that, when some child support debt is owed to the District for a period that a family received TANF and some child support debt is owed to the family for a period when they were not, the District is using tax intercept collections to pay itself back first. If the amount intercepted from a tax refund does not exceed the amount of arrears owed to the District, the family gets nothing.

⁶ Jessica Tollestrup, *Strengthening the Child Support Program: Status, Challenges, and Opportunities for Modernization*, Every CSR Report (Jan. 21, 2026), <https://www.everycrsreport.com/reports/TE10120.html>.

Mathew Lyons et al., *A Whole Family Approach to Child Support in Federal Policymaking*, American Public Human Services Association (Oct. 22, 2024), <https://aphsa.org/resources/a-whole-family-approach-to-child-support-in-federal-policymaking-thecatalyst/>.

⁷ Turetsky, Vicki, and Diana Azevedo-McGaffrey, *Understanding TANF Cost Recovery in the Child Support Program*, (Center for Budget and Policy Priorities, July 12, 2024), <https://www.cbpp.org/research/income-security/understanding-tanf-cost-recovery-in-the-child-support-program>.

⁸ We direct the Council to our attached memo for further explanation.

As part of this reform, the District should elect to distribute tax intercepts according to the priority scheme established under the federal Deficit Reduction Act of 2005 (DRA). Under the DRA “family-first” distribution rule, tax intercepts collected after a family leaves TANF are applied first to the current order amount, then to satisfy any arrears owed to the family, ensuring that parents and children – not government budgets – benefit from those payments before any government arrears are paid. Once our full pass-through is fully implemented, families will receive all support collected regardless of the mechanism. Experiences from other states suggest that a simultaneous shift to DRA distribution would streamline that process, however, reducing up-front programming costs and longer-term administrative costs to the agency. Were an earlier implementation of DRA distribution technologically feasible, adopting it would get more child support dollars to families in the period before the full-pass through takes effect.

Moreover, retaining our government-first scheme is fundamentally inconsistent with the goal of this legislation. By aligning our distribution order for all collections with both federal policy and our own shift away from cost-recovery, DC would reinforce its commitment to a modern, equitable child support program that advances family stability and economic self-sufficiency.

H. The Critical Role of Technology in Implementing the Full Pass-Through

To realize the full pass-through (and DRA distribution, should the Council opt to add that), the District must ensure that CSSD’s upcoming computer system upgrade for child support enforcement is programmed from the outset to support full pass-through and disregard functionality. The timing of this policy upgrade conveniently aligns with the ongoing efforts to upgrade CSSD’s computer system, known as DCSES Modernization. Enacting the full pass-through now will allow OAG to deliberately engineer the new system to implement this policy as soon as it comes online. Without this built-in capacity, even a well-designed policy risks being delayed, inconsistently applied, or administratively unworkable.

While we are eager to see the full pass-through take effect, we understand that making the fundamental system changes required for the full pass-through in CSSD’s current child support technology would be inefficient and cost prohibitive. Instead, the Council should ensure that the full pass-through is embedded in the architecture of the new system from its inception. The new infrastructure must be built to guarantee that, when a non-custodial parent pays support, the payment flow and accounting systems reflect this updated policy and goal for all funds to go to the family. This will set DC up for a fairer future.

We ask that the Council ensure that CSSD and its IT vendor configure the new system to include the full pass-through and disregard functionality so that the new policy can be rolled out with the new system coming online. The goal is for implementation to be seamless, automatic, and transparent. Payments will be correctly routed to families without manual adjustments, reducing staff workload, errors, administrative dispute resolution, and requests for judicial intervention.

DC's policy modernization will mean little if the technology implementing it is not timely brought online. DCSSES Modernization is a complex, involved process, but it is also a critical one that, with the passage of this Act, will deliver the promise of this tremendous policy reform. We ask the Council to set a target timeline for when Modernization should be complete and the full pass-through can take effect. A goal for implementation is essential to keep the momentum towards this critical change and allow the Council to monitor progress. Ensuring that full pass-through capability is built into the system on a realistic yet ambitious timeline is the only way to guarantee that the District's laws, values, and technology move forward together.

II. The Council Should Restructure and Simplify the Period of Enforceability for Child Support Debt to Allow and Promote Collection During Childhood

The Child Support Improvement Act simplifies the period of enforceability for unpaid child support judgments. We support this change. DC's current child support law is complex and confusing. Neither parents who receive support nor those who pay it can keep track of when child support debts – known as arrears – pass the period of enforceability.

Under District law, each individual child support obligation that goes unpaid becomes its own money judgment subject to the 12-year statute of limitations in DC Code § 15-101.⁹ Unless the District or the custodial parent files a motion for revival within that time period, after 12 years, the judgment has no further operation.¹⁰ Since each unpaid monthly amount becomes its own money judgment, the statute of limitations of twelve years affects each debt in sequence, with one debt at a time reaching the limit of enforceability month by month until all unpaid support is no longer enforceable.

To illustrate this model, imagine a child support order starting when a child is one year old and continuing until age 21, or 20 years of child support. In that case, if no payments

⁹ See D.C. Code § 46-204(b); D.C. Code § 15-101; see *Sollars v. Cully*, 904 A.2d 373 (D.C. 2006).

¹⁰ See DC Code § 15103.

were made, there would be *two hundred and forty* separate money judgments, and therefore two hundred and forty separate periods of enforceability. The first judgment would reach its twelve-year statutory limit when the child is only 13 years old. The last judgment that became due just before the child turns 21 (or earlier, if the child emancipates before 21) would reach the 12-year limit when the child is 33 years old.

The bill solves this issue by creating a simplified period of enforceability: all arrears remain enforceable until 5 years after the youngest child emancipates when they turn 21 (meaning, until the youngest child turns 26). This simplified period will be easier for everyone involved to understand and track. The child support recipient knows that they have a single, definite point by which to attempt collection of all unpaid support, and the payor does not have to keep track of potentially hundreds of different judgments and when each one expires.

Legal Aid represents both custodial and non-custodial parents; therefore, we recognize the importance of enacting policies that balance and protect the interests of all those involved in the child support process – custodial parents, non-custodial parents, and, most importantly, children. For children living in poverty, it is crucial that child support be collected in a timely fashion so that they have the resources they need to thrive. When parents receive child support for children in their care, they can mitigate the effects of poverty or prevent or potentially lift children out of poverty entirely.

Many non-custodial parents we meet also live in poverty, and under current law, child support arrearages often present them with significant hardships. These arrearages and the resulting hardships often persist after the children are no longer minors. Hardships include suspension of driver's licenses, which may affect employment prospects in an increasingly gig-based economy, negative impacts on credit, which affect borrowing and the accrual of equity and employment opportunities, and the threat of jail time through civil contempt.

The District's policies should incentivize collection of child support while children are still minors, when they need it most. However, when these same children are well into adulthood and no longer in the care of either parent, after-the-fact collection does not have the same benefit to children and may cause harm to obligors who are themselves struggling to stay afloat financially. Critically, the bill ensures that arrears do not expire while children are still children. The goal of child support is and should be to support children. Yet under the current law, a custodial parent could not enforce unpaid child support for their 18-year-old that became due when the child was 6 years old. Legal Aid clients are often surprised and frustrated to learn that they could no longer collect all the unpaid child support for their children who remain children. The Child Support

Improvement Act would ensure that parents can collect support while their children will benefit directly, and into their young adulthood, when many children still rely on their parents for supplemental support.

III. The Council Should Consider Additional Provisions to Modernize the Child Support System

Legal Aid strongly supports the Child Support Improvement Act's progress to a full pass-through and simplified period of enforceability. We urge the Council to take this opportunity to truly modernize the District's child support system by adding additional provisions in the Child Support Improvement Act, many of which will not cost the District any money. We propose amending the bill to:

- Clarify that the statute of limitations operates by law, not as an affirmative defense;
- Bar the revival of child support arrears; erase unenforceable arrears from the books;
- Automatically suspend child support obligations when a parent is incarcerated or otherwise detained;
- Exempt non-custodial parents from drivers' license suspension for child support arrears; and
- Expand the available bases and simplify the process for good cause waivers for TANF noncooperation.

A. The Council Should Clarify in the Act that the Statute of Limitations Applies as a Matter of Law

As written, the Act does not clearly state that the new simplified period of enforceability (also referred to as statute of limitations) applies as a legal limit on enforcement rather than an affirmative defense. We urge the Council to clarify its intent that this new period of enforceability applies automatically by operation to law to limit any collection or enforcement after the expanded period ends.

DC Courts have interpreted the current statute of limitations on money judgments as an affirmative defense.¹¹ Under current law, therefore, someone *can* continue to collect child support arrears well past the 12-year limit on a particular judgment unless the non-custodial parent obligor raises the statute of limitations as an affirmative defense.

Legal Aid has testified over the years about how problematic this structure is for low-income non-custodial parents, who end up facing enforcement actions well into their old age. The average District resident has no idea this defense is available to them should they say the magic words. CSSD has been able to continue administrative and judicial enforcement actions (up to and including requests that a non-custodial parent be jailed) for arrears that have all passed the twelve-year statutory period, likely because the parent was not aware they could raise the statute of limitations as a defense.

Given the Act's changes to the period of enforceability and that most non-custodial parents are unrepresented when faced with a child support enforcement action, it makes sense to have the statute of limitations operate by law rather than as an affirmative defense. Legal Aid has met many DC residents who worked hard to save for their retirement only to find that, when they retire, the government begins garnishing their social security retirement to pay for child support arrears. Legal Aid recently assisted a client in his 70s whose Social Security checks were garnished to pay for child support arrears for his then 48-year-old daughter. The District collected thousands of dollars of the client's limited income in the time since the last of his arrears passed the statute of limitations in 2009, and garnishments continued each month. The garnishment only stopped when Legal Aid asserted his affirmative defense in a motion before the Court.

Child support arrears should not follow non-custodial parents into old age. Yet non-custodial parents regularly face enforcement actions when all arrears have expired. Those who do not receive legal advice are unlikely to know that they can point to the statute of limitations as an affirmative defense

In one of our cases, a client's child tragically passed away at the age of 11 in 2002. At the time of the child's passing, the client was behind on child support payments. Eighteen years later (6 years after the statute of limitations expired), the client needed his incoming Covid-19 stimulus check, only to have it seized for child support arrears. In 2024, then 22 years after the tragic death of his child, DC suspended the client's license for nonpayment of child support. The client had to pay a \$98 fee to reinstate his license. If Legal Aid did not assert the statute of limitations defense on his behalf, this client would have continued to endure needless trauma as the government continued to collect on the tens of thousands in arrears on a deceased child for the foreseeable future.

¹¹ See *Mayo v. Mayo*, 508 A.2d 114, 115 (D.C. 1986).

Unjustified damage like this will continue if the Council does not clarify in the Act that the new statute of limitations operates as a matter of law.

Many non-custodial parents who owe arrears do so because they mistakenly failed to file a motion to modify their orders when they were incarcerated or lost employment. Others have arrears that accrued under an order that imputed income to them that they were never able to achieve. Due to TANF assignment of rights and the cost recovery model, much of the arrears are owed to the District, meaning that the money collected never reaches the family or child but is instead split between DC's child enforcement agency and the federal treasury. As of January 2024, non-custodial parents owed \$53.8 million to the District in unpaid arrears.¹² Of that, \$32 million, or nearly 60 percent, is outside the statute of limitations.¹³ Because the non-custodial parent in each of these arrears-only cases has failed to assert the protective defense of the statute of limitations, the District continues to attempt to collect these arrears.

Clarifying that the new period of enforceability applies by operation of law will ensure that unrepresented non-custodial parents receive the protection intended by a limit on enforcement. The burden should be on the institutional player (CSSD) to know and apply the law rather than on an individual resident. Automatic application of the period of enforcement would improve efficiency, as it would eliminate enforcement efforts or contempt proceedings on expired arrears, and allow the agency to automatically adjust its arrears balance upon the expiration of the time limit on enforcement.

Similarly, restructuring the period of enforceability to preserve all arrears until 26 while making that deadline a hard and automatic limit on enforcement promotes and incentivizes earlier enforcement. This would benefit children, who would be more likely to receive support while they are still minors, if more diligent enforcement action is taken.

B. The Council Should Clarify in the Act that Child Support Arrears Outside of the Statute of Limitations Are Not Subject to Revival

As drafted, the Act is unclear whether child support arrears subject to the new period of enforceability are subject to possible revival. The Council should clarify that child support arrears are not revivable.

¹² See 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. This total only accounts for the amount owed to the District and not to custodial parents. The actual amount of total arrears still owed across both TANF and non-TANF cases is necessarily much higher than \$32 million.

¹³ See *id.*

Under current law, money judgments may be “revived” for a second 12-year period of collection if the request is made to the court before the judgment reaches the 12-year expiry.¹⁴ As each individual monthly child support payment expires 12 years after it was due, revival currently requires some diligence on the part of custodial parents and the government. But with a single expiration date, the Act leaves non-custodial parents more vulnerable to wholesale revival of decades’ worth of arrears, leaving them in a far worse position than they are under the law as it currently exists, thereby greatly increasing the chances of holding elderly obligors in debt. A custodial parent and/or the government could readily revive 21+ years of arrears all at once when a “child” nears age 26, then again when the “child” nears 38, then again near 50, and so on. This would contravene the intent of having a set period of enforceability on child support debt. Without clarifying that revival is not possible for child support, the Act loses the benefit of a firm end date upon the youngest child turning 26. The purpose of this Act is to ensure support is given to children while they are still children, and to set a clear demarcation of enforceability that everyone understands. Keeping revivability of child support judgments as an option threatens these goals.

Barring revival of arrears past the new expanded period of enforceability would require that child support orders be enforced while children are still young, and that long-forgotten orders cannot be revived once children are well into adulthood. We ask that the Council add language to clarify that child support judgments under the new period of enforcement are not subject to revival. Doing so will strike a more appropriate balance between the needs of the parties, maximizing what can be collected prior to a child’s 26th birthday, while providing appropriate safeguards against action to collect long after the period when the child would benefit.

C. The Council Should Waive Outdated Arrears from the District’s Books

This District has the authority to forgive or write off state debt,¹⁵ and the District should exercise this authority by eliminating all child support arrears owed to the government that are beyond the statute of limitations.

¹⁴ See DC Code § 15-103.

¹⁵ States have the authority to reduce, forgive, or write off state debt, without owing a federal share. The District cannot waive debt owed to custodial parents; but it does have the authority to waive its own debt. See 42 U.S.C. § 604; 45 C.F.R. § 263; “[U]nder certain circumstances, it is permissible to use federal TANF, [...] or state MOE funds to pay a benefit to a non-custodial parent to reduce or pay off child support arrearages owed to the family. While the state may also waive debt owed to the state, the state may

As explained, child support arrears well beyond the statute of limitations remain “on the books,” and the non-custodial parent is subject to administrative (*i.e.*, tax intercept, garnishment of wages or Social Security benefits, driver’s license suspension, etc.) and judicial (civil contempt) enforcement actions until they raise the affirmative defense. The District should cancel child support arrears that are past the 12-year statute of limitations on enforcement. The District should also cancel debts on a rolling basis for child support orders entered before this Act’s enactment once they pass the period of enforceability. These two actions will remediate the harmful impact of the current 12-year statute of limitations being an affirmative defense. District residents should not suffer from unfairly held and outdated arrears simply because they were unlucky enough to have an order entered before this Act goes into effect. Unless the District cancels these debts, DC residents will continue to suffer from debt that is not legally collectible, and the District will waste time and money attempting to collect on this expired debt.

D. The Council Should Amend the Act to Automatically Suspend Child Support Obligations During Incarceration

We urge the Council to add to the legislation an automatic suspension of child support while an obligor is incarcerated. Though the District’s current law demonstrates an intended desire to suspend child support obligations during incarceration the law falls short from allowing this to happen in practice by forcing obligors themselves to file a motion with the court requesting this relief. The Council should instead seize this opportunity and follow in the footsteps of several other states to make this relief automatic.

not reimburse itself for the waived debt through TANF funds or count a waiver of debt owed to the state as a MOE expenditure [...] [t]he federal fiscal interest in arrears does not arise until a collection is made; thus, no federal share is owed on uncollected arrearages, whether or not they are waived.” U.S. Dep’t of Health and Human Services, Office of Child Support Services, Dear Colleague Letter, [https://www.hhs.gov/guidance/document/questions-and-answers-about-allowable-uses-tanf-funds](https://www.acf.hhs.gov/archive/css/policy-guidance/tanf-emergency-fund-non-custodial-parents#:~:text=Yes%2C%20under%20certain%20circumstances%2C%20it,state%20as%20a%20MOE%20expenditure. U.S; Dep’t of Health and Human Services, Questions and Answers about allowable uses of TANF funds, Q21A21, <a href=); Vicky Turetsky & Diana Azevedo-McCaffrey, Understanding TANF Cost Recovery in the Child Support Program (July 12, 2024), <https://www.cbpp.org/research/income-security/understanding-tanf-cost-recovery-in-the-child-support-program>.

Current DC law allows for child support obligors who are subject to imprisonment for 30 days or more to file a motion requesting that the court modify or suspend their child support obligations during their incarceration.¹⁶ Child support obligors are required to be notified of this right/obligation at their sentencing hearings, but many are not notified, and for many others, notice at a sentencing hearing is too late due to long periods of pre-trial detention, or simply not applicable as they could have been sentenced outside of the District. Amending the Act to provide for automatic suspension of child support obligations while incarcerated will help to solve this issue.

However, many child support obligors who are imprisoned are not aware of this right/obligation to suspend their orders. When an obligor does not move to modify/suspend their child support order during incarceration, child support arrears accumulate during a time when they do not have an ability to pay their child support order. Federal law prohibits retroactive modification when the obligor is later released from incarceration.¹⁷ The recently returning community member is then burdened with mounting child support debt, which research shows pushes obligors into further noncompliance as it discourages parents from working in the formal economy and paying their child support.¹⁸ Those unjustly accumulated arrears are then enforced by the District.

The practical impact of this issue is that a child support obligor who is incarcerated but does not have their child support order suspended faces significant arrears when they are released from incarceration – a tragic reality we see repeatedly in our direct client work.

For example, Legal Aid represented an individual who had a \$434/month child support order issued against him calculated based on minimum wage income. However, the client was then incarcerated several states away for several years without his order being suspended. Even with an order calculated at just minimum wage, he was accumulating child support arrears at a rate of nearly \$1,000 every 2 months. When he was released, he recalled his bus money to travel home being garnished for child support. The accumulation of significant arrears while incarcerated made reentry into his community

¹⁶ D.C. Code § 23-112.

¹⁷ National Conference of State Legislatures, *Child Support and Incarceration* (Feb. 1, 2022), <https://www.ncsl.org/human-services/child-support-and-incarceration>.

¹⁸ Maria Cancian, Carolyn Heinrich, and Yiyoon Chung, *Does Debt Discourage Employment and Payment of Child Support? Evidence from a Natural Experiment*, Institute for Research on Poverty, 2009.

even more difficult as he faced any number of additional enforcement actions against him such as driver's license suspension, tax intercepts, involuntary garnishments, and others, not the least of which being further incarceration for nonpayment of child support.

This is a particularly crucial issue to address for District residents. DC's lack of statehood means that our community members who are incarcerated due to criminal cases in the District are sent to serve their time in Bureau of Prisons (BOP) facilities across the country.¹⁹ This makes it particularly difficult for District residents to reach legal services providers for assistance with filing motions to suspend their child support orders. For District residents housed at the DC Jail, under current law they would not be informed of their right to request a suspension of their child support until they are at sentencing. However, many District residents are held at the DC Jail for extended periods of time, many prior to sentencing, with 24 percent of women and 44 percent of men in DC Department of Corrections custody in 2025 being held for more than 6 months.²⁰ In FY2025 alone, there was a total average daily population of 1,968 people held in DC Department of Corrections (DOC) custody, and in 2022 more than 2,200 DC "offenders" were in BOP custody across the country.²¹ Even if only half of those incarcerated DC community members are parents, that would amount to over 2,000 families who could benefit greatly from this legislation.

Furthermore, the transient nature of the region means that District residents are commonly subject to incarceration from criminal charges that stem from Maryland and Virginia, meaning that they could have DC child support orders but are incarcerated in another jurisdiction and are not notified of their ability to suspend their child support obligation under the current law. Automatic suspension legislation targets all of these specific, localized concerns by suspending child support orders for *any* type of imprisonment that exceeds 15 days.

¹⁹ As of 2022, over 2,200 DC "offenders" were being held in BOP facilities across the country. Processing through D.C.'s criminal justice system: Agencies, roles, and jurisdiction, D.C. Policy Center (Mar. 2, 2023), <https://www.dcpolicycenter.org/publications/criminal-justice-agencies-jurisdiction/>.

²⁰ 26.05 percent of men and 13.6 percent of women in DC DOC custody in 2025 have been held for over a year. Reena Chakraborty, PowerPoint Presentation, (Apr. 29, 2025), <https://doc.dc.gov/sites/default/files/dc/sites/doc/publication/attachments/DC%20Department%20of%20Corrections%20Facts%20and%20Figures%20April%202025.pdf>.

²¹ *Id.*

Automatic suspension largely resolves this issue. Thirty-five states already have statutes that suspend or modify child support during an obligor's incarceration.²² Thirteen of these states do so through an automatic suspension of child support, offering models on how this could be implemented in the District. We are willing and eager to work with the Council and OAG to determine how to best implement an automatic suspension.

An amendment promulgating an automatic suspension must include language that is simple and clear and is equitable to both child support obligors and custodial parents receiving support. We generally propose that any language includes that imprisonment, including pre-trial detention and civil detention, in excess of 15 days triggers an automatic presumption that a child support order be suspended for the duration of the obligor's imprisonment *and* for 6 months or 180 days after release. This presumption means that incarcerated obligors could, upon completion of their sentence, modify their child support order back to the date of incarceration to recalculate arrears owed.

We also propose language that creates a carveout for a suspended child support order to be rendered void and kept in effect during periods of incarceration if, in rare instances, there is a demonstration that the child support obligor has an ability to pay during their incarceration. Importantly, we also believe that this model of automatic suspension is the most efficient solution for the Court and for the Child Support Services Division as it would allow them to take appropriate action without the need for prolonged litigation.

E. The Council Should Amend the Act to Exempt Low-Income Parents from Driver's License Suspension to Spur on Child Support Payments

We urge the Council to halt the practice of suspending driver's licenses and car registrations for low-income parents as a tool to spur compliance with child support orders. Presently, the District can suspend a parent's driver's license when the parent is working and owes child support equal to 60 days of support payments. As a condition of child support funding, federal law requires jurisdictions to have procedures under which they can suspend driver's "as appropriate" to promote compliance with child support obligations.²³ The Council can and should amend the Code to state that it is not appropriate to suspend driver's licenses for parents who are at or below 250% of the federal poverty line, when the suspension will hurt, rather than help, the family.

²² National Conference of State Legislatures, *Child Support and Incarceration* (Feb. 1, 2022), <https://www.ncsl.org/human-services/child-support-and-incarceration>.

²³ 42 U.S.C. 666(a)(16).

A driver's license is a core need for many District residents to go about their daily lives: to go to work, to care for children, and to go to appointments or handle emergencies. Data from other jurisdictions confirms that driver's license suspension as a tool for collections directly harms low-income individuals, causing job loss and making it harder to find work.²⁴ Concerningly, individuals who were able to find jobs following driver's license suspension reported earning less income.²⁵ Moreover, driver's license suspension disproportionately impacts low-income individuals and people of color, keeping them in the cycle of poverty.²⁶ Low-income individuals who have suspended licenses are then also forced to make the difficult choice to drive with a suspended license to take care of critical life tasks, risking criminal consequences that also have a disproportionate impact on people living in poverty and people in color.²⁷

²⁴ For example, a study in New Jersey found that among more than 300 individuals, 40% were unable to keep their jobs after their licenses were suspended, with low-income individuals more far more likely to lose their jobs and approximately one-fifth of the sample unable to obtain a new job after losing one. Jon A. Carnegie et al., *Driver's License Suspensions, Impacts and Fairness Study*, N.J. Dep't Transp. (Aug. 2007), https://vtc.rutgers.edu/wp-content/uploads/2014/04/MVC-DL-Suspension-Study-Final-Report-Vol1_9-13-07_.pdf. Data out of Phoenix, Arizona, similarly demonstrates loss of jobs and income as a direct result of drivers license suspensions. *The City of Phoenix Municipal Court's Compliance Assistance Program, 2016: An Economic Assessment*, L. William Seidman Research Institute 19, 22 (June 2, 2017), <https://finesandfeesjusticecenter.org/wp-content/uploads/2018/11/Phoenix-license-restoration-pilot-THE-CITY-OF-PHOENIX-MUNICIPAL-COURT%E2%80%99S-COMPLIANCE-ASSISTANCE-PROGRAM.pdf>. Data from New York shows that suspensions for failure to pay child support is likely to be concentrated in marginalized and minority communities. Maureen R. Waller, et. al., "Predation and the Disproportionate Risk of Driver's License Suspensions in Economically and Racially Marginalized Communities." *Socius: Sociological Research for a Dynamic World*, 10 (2024) available at <https://doi.org/10.1177/23780231241234632>.

²⁵ City of Phoenix, *supra* note 24 (finding that the median income loss for individuals whose drivers licenses were suspended was \$36,800 in 2007).

²⁶ Waller, *supra* note 24 at 10 (finding that statistical analysis revealed that socioeconomic disadvantage and racial/ethnic composition were strongly predictive of more suspensions and more individuals with multiple suspensions over the year 2017 in New York).

²⁷ *Id.* at 7-10.

The Council has previously recognized that license suspensions based on unpaid civil debt, like child support, often cause severe hardships on low-income District residents. For example, the Council passed D.C. Law 22-175, The Traffic and Parking Ticket Penalty Amendment Act of 2018, and DC Law 22-236, The Driver's License Revocation Fairness Amendment Act of 2018. These laws repealed the District's ability to suspend a person's driver's license for failure to pay parking tickets, traffic tickets, or court debt, and, repealed creditors' ability to use driver's license suspension as a tool to obtain payment of judgments in private civil cases respectively. These laws came out of a recognition that "suspending a person's driver's license and registration can have a devastating impact on their livelihood, especially in cases in which a person must operate a motor vehicle to earn a living," and "the loss of employment makes paying [debt] almost impossible."²⁸ The Council should extend this logic to determine that suspension of a low-income person's driver's license as a result of child support debt creates identical barriers and restrictions that harm them and make repaying their debt difficult.

Other jurisdictions have already codified similar legislation exempting low-income drivers from license suspension. Maryland, for example, passed House Bill 681, Child Support – Driver's License Suspension for Arrearages and Court Orders, in 2025, which created an exemption for low-income parents to avoid license suspension as an enforcement mechanism for owed child support.²⁹ The Maryland law was created with an understanding that suspending driver's licenses is not appropriate when it will hurt a family, rather than help it. Maine, Missouri, Montana, and New York all have similar provisions codified that stop drivers' license suspensions for child support arrears upon a showing of financial hardship.³⁰

Legal Aid proposes the Council add the following provisions to the Act:

²⁸ Committee Report on Bill 22-204, The Traffic and Parking Ticket Penalty Amendment Act of 2018. (June 26, 2018), https://lirms.dccouncil.gov/downloads/LIMS/37705/Committee_Report/B22-0204-CommitteeReport1.pdf?id=62299.

²⁹ Child Support - Driver's License Suspension for Arrearages and Court Orders, MD HB0681, Maryland Legislature, Legislation, HB0681 (Mar. 19, 2026), <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/hb0681?ys=2025RS>.

³⁰ License Restrictions for Failure to Pay Child Support, National Conference of State Legislatures, <https://www.ncsl.org/human-services/license-restrictions-for-failure-to-pay-child-support> Other states, including Illinois, Louisiana, Minnesota, South Carolina, South Dakota, and West Virginia permit individuals to have limited drivers' licenses to be able to attend work, despite the child support arrears. *Id.*

- (1) Define a low-income parent as a parent who is either receiving a means-tested benefit (including Medicaid) or whose income is at or below 250% of the federal poverty level;
- (2) Exempt low-income parents from the compliance mechanism of suspending drivers' licenses and car registrations;
- (3) Require CSSD to confirm that a parent is not a low-income parent before suspending a driver's license or refusing to renew a driver's license or car registration;
- (4) Provide at least 90 days' notice for a parent to comply with their child support obligation or challenge the suspension; and
- (5) Permit low-income parents with currently suspended licenses to challenge those suspensions upon the passage of this bill, as they are low-income.

These changes will enable more non-custodial parents to work and support their children. Legal Aid clients have directly experienced the harm of their driver's licenses being suspended for failing to pay child support. Our client Mr. G, for example, is a disabled man who was unable to keep up with child support after he became disabled at work, but before the child support order was modified. He needs his license to get to doctor's appointments for critical medical care, and suspension of his driver's license risks horrendous consequences to his health. Another client, Mr. L, found out his license was suspended after he was rejected from a job because the background check indicated the suspension. He struggled to find work because his license was suspended, and he had been without work so long that the \$98 fee to reinstate his license was burdensome. We have also seen parents struggle to be active in their children's lives when they cannot drive. Given these harms, the Council should amend the Act to exempt low-income parents from having their licenses suspended and keeping them in the cycle of poverty.

F. The Council Should Expand the Bases of TANF Good Cause Exemptions, as Current Law Does Not Serve District Families

As District Law currently stands, when a family receives TANF, the custodial parent must assign their right to receive child support over to the government. As part of that assignment of rights, custodial parents are required to cooperate with CSSD's pursuit of

child support against a non-custodial parent.³¹ This “cooperation” may involve sharing information about the known or purported non-custodial parent to allow the government to establish parentage, locate the individual, and file a child support case against them. The custodial parent is then required to also participate in that litigation, including providing updated information about the child’s needs and personal information about the family.

If the custodial parent chooses not to cooperate, they lose 25% of their TANF benefits as a federally-mandated sanction. That sanction equals \$200 from a total benefit amount of \$803 for a family with a custodial parent and two children, leaving that family with only \$600 on which to subsist for the month. That is a severe punishment harming not only the parent who makes the decision not to cooperate but also the children in the household.

Federal and District law recognize exemptions to TANF cooperation requirement in certain circumstances.³² Historically, the District has only allowed custodial parents to ask for and receive a waiver for good cause not to cooperate with this litigation under limited circumstances,³³ including:

- Efforts to cooperate are reasonably anticipated to result in physical, sexual, or emotional harm to the parent, child, or a member of the household (in other words, there is a fear of retaliatory domestic violence);
- Where the child was conceived as a result of incest or sexual assault; and
- Situations where adoption proceedings are pending or being considered.

Domestic violence is a very real concern, and we are grateful that it is recognized as a valid reason not to cooperate. Legal Aid has many clients who fear that initiating a support case will trigger violence from their co-parent. This is because, fundamentally, DC residents are unaware of the assignment of rights at the core of DC’s cost recovery system of child support. Non-custodial parents brought to court for a child support case generally assume, often erroneously, that the case was initiated at the request of the custodial parent. That dynamic is why custodial parents who are survivors of domestic violence fear a resurgence of violence. It can also be why a case can prompt parental

³¹ D.C. Code § 4-217.08.

³² D.C. Code § 4-217.09; Social Security Act Section 454 (29)(A); 45 CFR § 260.52; DCRGS 29-1708 – 1715.

³³ DCRGS 29-1709.

discord that falls short of violence but is nonetheless disruptive to a family's functioning and a child's best interest.

G. Rethinking Good Cause Bases for Non-Cooperation

While the risk of harm to the parent or child is an exceedingly valid reason for not wanting a child support case, it is far from the only one. The limited circumstances recognized currently as creating "good cause" for non-cooperation do not go far enough to support the diverse spectrum of DC families relying on TANF. The reality is that custodial parents are often dealing with complex family dynamics and have good reasons for not wanting to pursue child support beyond fear of physical or emotional harm. These families should also have their valid reasons recognized as "good cause" rather than face the choice of terminating their benefits or enduring TANF sanctions of 25% of the benefit amount.

Non-custodial parents may themselves be facing economic instability and a child support case could interfere with that parent's ability to care for themselves and their family. This can lead to deepening family divides and conflict. Most litigation is adversarial and does not serve to strengthen relationships between parents and children who are already estranged, for whatever reason. Relationships that are tenuous to begin with can be severely disrupted by the opening and pursuit of a child support case. The child support case could harm an existing relationship between the non-custodial parent and the child or discourage one from forming.

Moreover, our current laws also do not consider the myriad other ways in which a non-custodial parent may be contributing to a child's life – for example, assistance with childcare or transportation – which can be just as meaningful to the custodial parent. A child support case could end these alternate forms of support. Child support litigation also requires time and presence at hearings for both parents. Parents who are forced to participate in cases are often being pulled away from focusing on other critical priorities for their family, including looking for or maintaining employment and caring for their children.

Consistent with the shift away from a cost recovery system of child support, District families should have the right to decide for themselves what is best for their family. Facing the prospect of unwanted but forced litigation, some parents may choose to terminate their TANF benefits to avoid having to cooperate with child support orders. Their children suffer from the lack of TANF income, minimal though it may be. Parents should not be made to decide between their children's best interests and essential safety net support.

DC's current laws and regulations allowing families to obtain good cause waivers for non-cooperation are also logistically problematic. The processes are ambiguous, inconsistent, and unduly burdensome on custodial parents when they are already balancing childcare, family care, employment, job searching, and more. Even for domestic violence survivors who should qualify for good cause exemptions under our existing law, the process is burdensome and not trauma-informed. Legal Aid has clients who more than met the requirements for a good cause exemption based on a history of domestic violence and a fear of future harm who were unaware of the existence of the exemption option. We've also encountered survivors who could not navigate the good cause process on their own, others who were told they had to provide more proof than is required by law, and still others who were sanctioned despite having raised concerns about violence. Ultimately, several clients have needed our representation to navigate this process. No survivor should have to go through such a retraumatizing experience.

H. Proposed Changes to Better Serve Families

While federal law does require cooperation and requires at least a 25% sanction for non-cooperation, the District has the authority and the opportunity to implement its own reasons for good cause exemptions to the requirement. This authority is granted in Section 454 (29)(A) of the Social Security Act, which provides that the State (in this case DC) may establish good cause and other exceptions to the TANF cooperation requirement by taking into account the best interests of the child.

The Council can amend the law on good cause waivers to better support families in two ways: expanding the reasons a parent can seek a good cause waiver to the TANF cooperation requirement; and clearly articulating and simplifying the process for requesting and obtaining a good cause waiver.

I. Expanding Good Cause Bases for Non-Cooperation

In addition to the existing reasons to obtain a good cause waiver to the TANF child support cooperation requirement, we propose that the Council include the following as bases:

- (1) The applicant or recipient is not the parent of the child for whom benefits are sought or obtained or other children in the household;
- (2) Efforts to cooperate are not in the best interests of the child for whom benefits are sought or obtained, as determined by the applicant;
- (3) Efforts to cooperate are reasonably anticipated to result in a breakdown in the co-parenting relationship, including, but not limited to discouraging the

non-custodial parent or other relatives of the child from maintaining a relationship with the child or providing emotional or other support;

- (4) Efforts to cooperate are reasonably anticipated to result in harm to the relationship between the non-custodial parent and the child for whom assistance is claimed; and
- (5) Efforts to cooperate are reasonably anticipated to result in physical, sexual or emotional harm to the child for whom assistance is claimed, the applicant or recipient, a household member of the applicant or recipient, or an immediate family member of the applicant or recipient (defined as a parent, spouse, sibling or child).

J. A Clearer and Simpler Process for Good Cause Waivers

The current process for obtaining a good cause waiver is also opaque. Most parents do not receive any notice about the availability of the good cause waiver or guidance or support on how or when to initiate a request for a good cause waiver. It is also not always clear who reviews or approves the requests, what information is considered sufficient, how or when parents will learn whether they were approved or denied, or what options families have if they disagree with a decision. Some of the answers to these questions are buried within complex regulations that are not easily accessed or understood.

This process is further complicated by the fact that families must interact with multiple District agencies to obtain a good cause waiver. While the Department of Human Services (DHS) administers TANF benefits and ultimately enforces sanctions, CSSD determines whether someone qualifies for a good cause waiver. Even to those of us working in these fields daily, it is unclear how the processes unfold within and between families, DHS, and CSSD. For some parents in DC, the time between application for TANF benefits and the opening of a child support case may be months or years. Within our client community, we have seen a wide range of timings from a few months after a child's birth to years before a child support case is initiated.

The Council can address these issues with additional language in the Act that clearly lays out the expectations for custodial parents, DHS, and CSSD, including who is to do what and when and what rights families have throughout that process. Specifically, we suggest including:

- Affirmative obligations on DHS to inform recipients of their rights;
- Codifying clear timelines for DHS to share information with CSSD about good cause waiver requests;

- Establishing a specific deadline of 30 days for CSSD to grant or deny a good cause waiver request;
- Requiring CSSD to provide written notice of their decisions, what next steps the family can take if they are denied (including stopping TANF, appealing, or proceeding with sanctions); and
- A description of CSSD's duty to communicate their decision to DHS, including clear directives to develop procedures for information sharing and make those procedures public, and set deadlines for CSSD & DHS to process requests.

Our government should work for the people. Administrative processes should not be a barrier, but a doorway to families receiving benefits in the District. Custodial parents who apply for and receive TANF face enough daily challenges. Our current law robs parents of their agency at a time when many families are at their most vulnerable. District laws should not create additional barriers in service of an antiquated and paternalistic model. Our collective goal should be to see families and children thrive. Our proposals lay the groundwork for ensuring parents have the right to make decisions to do just that. We urge the Council to use the opportunity of the Child Support Improvement Amendment Act to additionally expand the bases upon which a parent receiving TANF can opt not to cooperate without fear of sanction.

Conclusion

The purpose of child support is to support children – not to fund government debt collection efforts. Every dollar paid by a parent should belong to that child. Full pass-through of child support for TANF and former TANF families is a concrete way for DC to reduce child poverty, strengthen families, and advance racial equity. The shift to a full pass-through is a truly significant reform that will directly impact tens of thousands of families in DC. This is tremendous. But the Council could – and should – do more.

The Child Support Improvement Act of 2026 is an opportunity for the Council to remediate additional harmful aspects of the District child support system. We urge you to do so by expanding the bill to: clarify that the statute of limitations operates by law, not as an affirmative defense; bar the revival of child support arrears; erase unenforceable arrears from the books; automatically suspend child support obligations when a parent is incarcerated or otherwise detained; exempt non-custodial parents from drivers' license suspension for child support arrears; and expand the available bases and simplify the process for good cause waivers for TANF noncooperation. We look forward to

continuing our collaboration with OAG and the Council to create a fairer and more just child support system in the District.

Modernizing the District's Child Support Policies to Support Children



Updated March 2026

INTRODUCTION

The District of Columbia’s child support system obtains important financial support for many District families, but it is failing some of the District’s poorest families. For these families, the child support system functions largely as a debt collection operation, the goal of which is to force low-income parents to pay the government back for public benefits they received.

This kind of child support system, referred to as a “cost recovery” system, is inconsistent with the values that the District of Columbia promotes elsewhere—helping to ensure that families can raise healthy and hopeful children.¹ This type of system is also out of step with modern federal policy and the trends in many progressive states—toward more financial support for children.

At bottom, the cost recovery system does little to address the financial circumstances of the District’s most vulnerable children because very little of the money collected is provided to support them. At the same time, the system pits the government against these vulnerable families, many of whom view child support workers not as allies helping them financially support their children, but rather as debt collection agents forcing them to help collect a debt owed to the government at pain of losing the limited cash assistance they receive.

The District can and should modernize its child support collection policies to provide more—and ideally all—of the money it collects through the child support system to the low-income families who need it to support their children. Because of federal policies designed to encourage states to do this—incentives the District has not taken full advantage of—the cost of many these reforms would be shared with the federal government. Many states have already chosen to take advantage of these new federal policies and replaced the cost-recovery model with a “family first” model that ensures that families in need of support receive child support collections before those collections are used to pay the government.

The District can not only follow these jurisdictions, but lead the nation alongside Illinois by providing child support payments exclusively to families to support children—a “supporting children” model of child support that transcends both the outdated cost-recovery model and the family-first model. These reforms are cost effective—of the more than \$48 million in child support that OAG collected in Fiscal Year 2023, only \$5 million is used for cost recovery.²

¹ Attorney General Brian Schwalb, *Attorney General Schwalb’s Four Pillars: Prioritizing Public Safety and Hopeful Kids*, Medium (Jan. 19, 2023), <https://medium.com/@dcattorneygeneral/attorney-general-schwalbs-four-pillars-prioritizing-public-safety-and-hopeful-kids-65d80af1d43d>.

² Office of the Attorney General for the District of Columbia, *OAG Responses for FY23-24 Performance Oversight Hearing*, Council Hearing and Meetings (Feb. 28, 2024), <https://lims.dccouncil.gov/Hearings/hearings/264>, Question

Additionally, by increasing incentives to cooperate with child support collection efforts, the District likely will see cost savings. Regardless, the District can and should find alternative ways to fund its child support system and instead pass these dollars on to families to support the District's most vulnerable children, which in turn will pay dividends well into the future. The families these policies affect are the poorest in the District, and their children need resources to help them thrive. Money we spend now to support them is an investment in the District's future. Ultimately, providing this money to District families will result in a more effective and more equitable child support collection system, and will help improve outcomes for District children.

BACKGROUND

The Cost Recovery Model: How Child Support Currently Operates for the District's Poorest Families & the Need for Additional Support

The federal child support program was created in 1975, when Congress enacted Title IV-D of the Social Security Act (Title IV-D). Title IV-D had two main purposes: to recover the costs of cash assistance, often referred to as "welfare," that was paid to the custodial parent who is owed child support, and to reduce the need for cash assistance by increasing custodial families' child support income.³ To participate in the federal program that provides cash assistance to families, states must establish a local agency to administer the federal child support program.⁴ OAG's Child Support Services Division (CSSD) is the District's IV-D agency.

OAG operates under the cost-recovery model of child support collections. For families who currently receive or who once received welfare benefits, OAG collects child support to pay the District and the federal government back for the cash assistance—now called Temporary Assistance to Needy Families, or TANF—that was provided to the families. But the dollars the District collects are not used to create or bolster social welfare programs for low-income families; instead, these monies further fund CSSD's collection efforts.⁵

Here is how it works: under federal law, a family applying for TANF must agree to help the government collect child support from a non-custodial parent, and to assign their rights to this

#26 (OAG collected \$48,292,748 in child support payments in FY23); Question #67 (OAG directed \$2,287,056 in child support collections to the federal government in FY23); and Question #70 (\$2,740,279 of OAG's FY23 budget came from child support collections)

³ Vicki Turetsky & Diana Azevedo-McCaffrey, *Understanding TANF Cost Recovery in the Child Support Program*, Center on Budget and Policy Priorities (July 12, 2024), <https://www.cbpp.org/research/income-security/understanding-tanf-cost-recovery-in-the-child-support-program>.

⁴ 42 U.S.C. § 602(a)(2).

⁵ D.C. Code § 46-226.01.

child support over to the government.⁶ While a custodial parent is receiving TANF, OAG requires the custodial parent to help collect the child support that has been assigned to the government, most of which the government keeps ostensibly as repayment for the TANF benefits. The District splits the collections with the federal government according to a rate set by the federal government (in the District's case, now, 50-50).⁷

CSSD's caseload, then, is comprised of two different kinds of cases: (1) cases on behalf of custodial families who have not received TANF and who have voluntarily sought the District's help in collecting child support from the non-custodial parent, and (2) cases in which the District is trying to collect child support for itself as a result of TANF benefits paid to the custodial family. The reforms proposed in this memo focus exclusively on this second category, which CSSD refers to as "TANF cases" or "IV-D cases."

The families involved in TANF cases did not seek the government's help to collect child support—their participation in the child support program is compulsory and often runs counter to their interests. Indeed, it is often very challenging for CSSD to get families in TANF cases to participate in the program. To understand why, it is helpful to consider how this often works in practice, using the example of a typical family—a single mother receiving TANF benefits. This mother is required to tell CSSD who the father of her children is, provide information to help CSSD locate him, and participate in the court process to establish and enforce a child support order so the government can collect from him. To do this, CSSD brings the father to court—often repeatedly—to establish and enforce a child support order, and may take actions like garnishing his wages, suspending his driver's license, reporting him to a credit bureau, or seeking a bench warrant for his arrest. For the most part, these fathers are themselves very low income. While some are avoiding paying child support, many simply do not have the money to consistently pay, and some are providing informal financial support directly. Often the father does not understand that the mother is being forced to seek and enforce the child support order. Some of these fathers get angry with the mother, adding tension to the family and, in the worst cases, violence. Any informal support the father was providing often stops, either because he is angry or because the government is taking the money he was providing to support his children. And to the extent CSSD does collect any money, very little of it is given to the mother. **In this way, CSSD's efforts may mean the mother gets less financial support from the father than**

⁶ 42 U.S.C. §§ 608(a)(2), 608(a)(3).

⁷ During the Coronavirus Disease 2019 (COVID-19) public health emergency period, the Family First Coronavirus Response Act (FFCRA; P.L. 116-127) increased the District's rate by 6.2%. The enhanced rate has been phasing out since April 2023. In FY23, the District's rate was 56.2%. On January 1, 2024, the District's rate returned to 50%.

before CSSD got involved.⁸ Additionally, the fact that the government keeps the money it collects may make less likely the father will make payments; research indicates that, when non-custodial parents know any money they pay will not get to their children, they may be less likely to make child support payments.⁹

The District is not required to operate its child support system this way, and, indeed, it is missing out on federal incentives to provide more child support collections to families. While families must assign their child support payments to the government as a condition of receiving TANF, federal law no longer requires the District to keep (and split with the federal government) the money it collects. To the contrary, states can give the money to families, provided they pay the federal government its share of the money collected. But as discussed in more detail below, modern federal policy contains exceptions to even this requirement: to incentivize states to give more of the money to families, the federal government will waive its share of much of the money collected and does not require states to try to collect debt owed to the government. **The District is not taking full advantage of these policies.**

Critically, children in families who are receiving, or who once received, TANF, still need financial support from both parents. These are the poorest families in the District. To be eligible for TANF benefits, a family of four must make less than about \$13,700 per year.¹⁰ The maximum TANF benefit a family of four can receive is only about \$11,000 per year.¹¹ The federal poverty level for a family of four in the District in 2026 is \$33,000.¹² In other words, TANF benefits provide a temporary income that is still only 35% of the federal poverty level. **Providing financial support—even a modest amount—to families living in poverty can help improve outcomes for children and, in turn, the District.** Research demonstrates increasing the income of families

⁸ Lenna Nepomnyaschy & Irwin Garfinkel, Child Support Enforcement and Fathers' Contributions to Their Nonmarital Children, 84 *Soc. Serv. Rev.* 341-380 (2010).

⁹ Kye Lippold et al., *Evaluation of the \$150 Child Support Pass-Through and Disregard Policy in the District of Columbia*, The Urban Institute (Nov. 11, 2010), <https://www.urban.org/sites/default/files/publication/23436/412779-Evaluation-of-the-Child-Support-Pass-Through-and-Disregard-Policy-in-the-District-of-Columbia.PDF>. . See also, e.g., Colorado Department of Human Services, *Evaluating the Effect of Colorado's Full Child Support Pass-Through Policy*, <https://drive.google.com/file/d/1lh2NsnwZP27eoZEjOPpHtUKMs2qOUW65/view>; The Center for Law and Social Policy, *Policy Brief: More Child Support Dollars to Kids: Using New State Flexibility in Child Support Pass-Through and Distribution Rules to Benefit Government and Families* (July 2006), <https://www.clasp.org/wp-content/uploads/2022/01/0305.pdf>.

¹⁰ D.C. Dep't of Human Servs., *Temporary Cash Assistance for Needy Families*, <https://dhs.dc.gov/service/tanf-district-families>.

¹¹ *Id.*

¹² U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, 2026, *Poverty Guidelines for the 48 Contiguous States and the District of Columbia*, <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines>.

living in poverty can reduce childhood neglect,¹³ improve childhood brain development,¹⁴ and reduce delinquency, particularly serious delinquency.¹⁵

II. Pass-Through, Disregard, and Distribution: Federal Policy Changes Incentivizing Increased Support for Families

Over the years, federal policy has fluctuated regarding how much of the money collected to recoup welfare benefits the government can or must keep and how much it can provide to families. The policies in place today were enacted through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), sometimes referred to as “welfare reform,” and the Deficit Reduction Act of 2005 (DRA).

Under these policies, there are two general areas of decision-making for states regarding repayment of TANF benefits through child support collections: (1) how much of each child support payment the state collects is given—or passed-through—to a family who is receiving or who once received TANF, and (2) the order in which collected child support payments are distributed—to the family or to the government—when child support or unpaid child support debt—called arrears—is owed to both the family and the government and the collection is insufficient to satisfy both.

A quick note on arrears: Any support payments that become due during the time a family is receiving TANF are permanently assigned to the government and, if not timely paid, are treated as debt to the state—called “state-assigned arrears.” If the non-custodial parent does not pay child support on time, the missed payment is added to the arrears that are owed to the government. When a family is no longer receiving TANF benefits, and a non-custodial parent does not meet the child support order, then those arrears are owed to the family. These categories of arrears are treated differently for some purposes, as described in more detail below.

A. Pass Through & Disregard

On the first area of decision-making—how much child support is passed to families—the District was once on the forefront of ensuring that child support collections benefited families to the maximum extent possible, but federal law has become more generous to families and the District

¹³ C. Anderson et al., Family and Child Well-Being System: Economic and Concrete Supports as a Core Component, Chapin Hall at the University of Chicago (Apr. 2022), <https://www.chapinhall.org/wp-content/uploads/Economic-Supports-deck.pdf>.

¹⁴ Sonya V. Troller-Renfree et al., *The Impact of a Poverty Reduction Intervention on Infant Brain Activity*, 119 Proc. Nat’l Acad. Sci. U.S.A. e2115649119 (2022).

¹⁵ Roderik Rekker et al., *Moving in and Out of Poverty: The Within-Individual Association Between Socioeconomic Status and Juvenile Delinquency*, 10 PLoS One (2015).

has not kept up. Understanding this requires a brief explanation of how federal law has affected this issue.

Before PRWORA was enacted in 1996, the federal government required states to “pass through” to families the first \$50 in child support received each month. The cost of this pass through was shared between the state and federal government according to the rate set by Congress (as discussed above, now, 50-50 in the District’s case). So, for example, in a state like the District, the \$50 pass through to a family would only cost the state \$25, because the federal government waived its 50% share of that \$50. States could pass through more than the \$50, but they would bear the full amount of the added cost because they would have to reimburse the federal government for its full share. (So, if a state like the District had decided to pass through \$100, it would have to pay the federal government \$25 for the federal government’s share of the additional \$50 pass through). During this era, the District maintained a \$50 pass through as required, but did not include a discretionary increase.

Congress enacted PRWORA in 1996 as part of a federal effort to “end welfare as we know it.”¹⁶ PRWORA abolished Aid to Families with Dependent Children (AFDC), which had been in place since 1935, and replaced it with TANF. It also abolished the mandatory \$50 per month pass-through. States were given the option to continue a pass-through policy, but the federal government stopped sharing the cost. This meant that, if a state continued the \$50 per month pass-through, it had to pay the federal government its share of each \$50 passed through to a family. In this environment, most states, including the District, discontinued the \$50 pass-through.

In 2005, the District enacted a \$150 per month pass-through policy, which went into effect in April 2006.¹⁷ Under this policy, when CSSD collected child support for a family receiving TANF, up to \$150 of each month’s payment went to the custodial parent. If the order was less than \$150, or if the non-custodial parent paid less than \$150, the custodial parent received the full lesser amount.¹⁸ The custodial parent received up to \$150 in child support in addition to any

¹⁶ William J. Clinton, statement by the president at the signing ceremony for P.L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, August 22, 1996, available at <http://www.pub.whitehouse.gov/urires/l2R?urn:pdi://oma.eop.gov.us/1996/8/22/4.text.1>.

¹⁷ D.C. Code § 4–205.19(c)(5).

¹⁸ The pass-through policy only applies to payments that are made on time in the month they are due. If a payment is late, it is treated as arrears and is not subject to the pass-through policy. D.C. Code § 4–205.19(c)(5).

TANF benefits they otherwise received.¹⁹ The District’s policy was at its most progressive—when compared to the rest of the nation and federal policy—at this time.

However, in January 2006, Congress passed the Deficit Reduction Act, which included incentives for states to pass more child support to families. Under the DRA, the federal government will waive its share of any pass through of monthly payments to families receiving TANF benefits up to \$100 for families with one child and up to \$200 for families with two or more children.²⁰ For ten years, the District passed through slightly more than the federal waiver amount for families with one child, but missed out on the opportunity to provide additional support to larger families by sharing the cost of the additional pass-through with the federal government.

Last year, as part of the Budget Support Act, the District increased its pass-through amount to \$200 for all families.²¹ This amount remains limited by the current support obligation and the amount actually paid on time in the month it is due: the family receives either amount or \$200, whichever is lowest. The amount of the passed through child support is disregarded in calculating a family’s TANF benefits²².

These pass-through policies, however, apply to payments made while a family is receiving TANF. Federal policy is even more generous on incentivizing pass through of money collected for families that no longer receive TANF. The federal government will waive its *entire share* of state-assigned arrears that are given to families in these “former assistance” cases.²³ That is, if a non-custodial parent did not make a timely child support payment during a time when the custodial parent was receiving TANF benefits but pays it after the family is no longer receiving TANF, the state can pass the full amount of those arrears on to the custodial parent and owe nothing to the federal government.

B. Distribution

The second issue for a state to decide is distribution—the question as to the order in which child support dollars are paid out. A non-custodial parent can owe money to one or all of three pots:

¹⁹ As a condition of waiving the federal share of passed-through dollars, federal law requires that these amounts be “disregarded” for purposes of calculating a family’s eligibility for benefits and the amount of those benefits. That means that a family’s benefits are unaffected by receipt of passed-through child support dollars. The District’s policies reflect this requirement: amounts passed through are disregarded, and preserving this policy is critical to ensuring that additional child support that is passed through is in fact additional support, instead of a replacement of other dollars that the family would receive.

²⁰ 42 U.S.C. § 657(a)(6)(B).

²¹ D.C. Code § 4–205.19(c)(5); L26-0055 (effective Dec. 6, 2025).

²² Fiscal Year 2026 Budget Support Act of 2025, B26-0265, 26th Council, at 89 (D.C. 2025).

²³ 42 U.S.C. § 657(a)(6)(A).

(1) a current support order (which itself may include payments to the state because of the above-discussed assignment and pass-through policies); (2) arrears owed to the custodial parent (for times where the custodial parent was not receiving TANF benefits but was entitled to support that was not paid timely, or where the amount owed in support was above the total TANF benefits paid to the family); and (3) arrears owed to the government (payments owed for time periods when the custodial parent was receiving TANF that were not made timely, up to the amount of TANF benefits paid to the family).

The federal government provides flexibility to states in deciding its distribution rules—they can elect to use the older “PRWORA distribution” rules, which prioritize payments to states, or the newer “DRA distribution” rules, which prioritizes payments to families.²⁴ **The District has continued to elect PRWORA distribution in part because the District has not updated its policies since the DRA was passed.**

Under both PRWORA and DRA distribution, any child support payments collected by any means other than tax intercept are first used to pay current monthly support, regardless of the family’s TANF status. As discussed above, however, under the District’s current policy, if the family is receiving TANF, only the pass-through amount will go to the family and the rest will go to the government to fund the child support system. After the current support order is satisfied, distribution turns on whether the family is currently receiving TANF (current-assistance families) or the family is no longer receiving TANF (former-assistance families). For current-assistance families, monies collected beyond the pass-through amount on the current-assistance order go first to pay the government for arrears owed. Only after those are fully satisfied do any surplus collections reach the family for arrears owed to them. For former-assistance families, in addition to the current monthly support, the family will get any arrears owed to it before any surplus collections are used to pay state debt. The state debt amount remains owed but paying it off is given less priority than payments owed to families. In all cases, under current policy, CSSD does not pass through to families any of the dollars that are collected for state-assigned arrears and instead splits these with the federal government.

There are, however, significant differences between the PRWORA and DRA distribution models when child support is collected by the IRS through intercepted federal tax refunds and refundable credits, like the Earned Income Tax Credit or the COVID stimulus payments. Under PRWORA, this money is treated differently than money CSSD collects by other means. These collections go *first* to arrears, not current support, and state-assigned arrears are paid before

²⁴ 42 U.S.C. § 654(34); *Assignment of Support Rights and Distribution of Child Support Collections under the DRA of 2005*, Office of Child Support Enforcement (July 28, 2009), <https://acf.gov/archive/css/policy-guidance/assignment-support-rights-and-distribution-child-support-collections>.

family arrears, even when a family no longer receives TANF. In other words, **District policy puts families at the end of the line for receiving money collected via tax intercept, even if they have a current child support order and are not receiving TANF.** Under DRA distribution, however, the state distributes IRS tax intercepts the same way it distributes any other money it collects: it goes first to current support, regardless of whether the family receives TANF, then to arrears.

The government's policies on arrears and tax intercepts have more financial impact than do its policies on the amount of support that is passed through to families while they are receiving TANF, for several reasons. First, families receive TANF for a relatively short period of time, so there are many more former-assistance families than current-assistance families. Second, because the non-custodial parents of children receiving TANF are typically themselves very low-income, they commonly cannot make the full amount of a child support order and thus most of the child support owed during this time accrues as arrears. And, because these cases last until all money is collected, most of the lifespan of a case—and the time in which most money is collected—likely occurs after the family no longer receives TANF. The policy impacts of making changes to arrears policies for former-assistance families and tax interceptions—discussed in Sections II and III below—will have the greatest financial impact for the largest number of families (and in the former case, is subsidized by the federal government).

RECOMMENDATIONS

I. The District Should Pass Through All Payments for State-Assigned Arrears to Families who no Longer Receive TANF.

At the forefront, Illinois²⁵ passes through and disregards all collections (current assistance and arrears) to current and former assistance families. Maryland passed a law to do the same that

²⁵ 305 ILCS § 5/4-1.6 (as amended by Pub. Act 102-1115 § 5-36).

will take full effect in 2031.^{26,27} Three more states—Colorado,²⁸ Michigan,²⁹ and Washington,³⁰ pass through all the current child support they collect to current assistance families.³¹ Minnesota passes through all collections to current assistance families, but only disregards up to \$100 for a one child family and \$200 for a two-child family.³²

The District is among 32 states plus Puerto Rico that pass through some child support to TANF participants.³³ In addition to the five states that pass through 100% of current support (one of which also passes through arrears) to families receiving TANF, eight states—California, Maryland, New Jersey, New Mexico, New York, Pennsylvania, West Virginia, and Wyoming—pass through \$100

Providing this child support to children will improve childhood outcomes. It may also increase – rather than undermine – faith in the government, as well as the amount of child support collected, compounding the benefit to District children.

²⁶ Maryland House Bill 0881/ Senate Bill 0703 (2025 Regular Session).

²⁷ H.B. 881, 2025 Leg., Reg. Sess. (Md. 2025).

²⁸ Colo. Rev. Stat. §§ 26-2-108(1)(b) (enacted 2015 & implemented Apr. 1, 2017); 26-2-111(3)(a)(V); 9 C.C.R. § 2503-6-3.605.5. Child support income is disregarded in calculating TANF benefits, but considered in determining eligibility.

²⁹ Mich. Dep't of Health and Human Servs., *Michigan IV-D Child Support Manual*, Ch. 5 § 5.40, 7.1.3, <https://dhhs.michigan.gov/ChildSupport/policy/Documents/5.40.pdf>.

³⁰ RCW § 26.23.035(4) (If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2024, in the omnibus appropriations act, this act is null and void); The required appropriations were made, and the law will be in effect beginning in January 2026. See Engrossed Substitute Senate Bill 5950, <https://fiscal.wa.gov/statebudgets/2024proposals/Documents/co/5950-S.SL.pdf>.

³¹ Colo. Rev. Stat. §§ 26-2-108(1)(b) (enacted 2015 and implemented April 1, 2017); 26-2-111(3)(a)(V); 9 C.C.R. § 2503-6-3.605.5.

³² Minnesota State Plan, Temporary Assistance for Needy Families Program, <https://wioaplans.ed.gov/node/67666>. (“Up to \$100 in child support payments for a family with one child, and up to \$200 for a family with two or more children is excluded from unearned income budgets when calculating a household’s income for benefit determination.”).

³³ See National Conference of State Legislatures, *Child Support Pass-Through and Disregard Policies for Public Assistance Recipients* (May 30, 2023). [https://www.ncsl.org/human-services/child-support-pass-through-and-disregard-policies-for-public-assistance-recipients#:~:text=Colorado%20is%20the%20first%20state,for%20purposes%20of%20TANF%20eligibility](https://www.ncsl.org/human-services/child-support-pass-through-and-disregard-policies-for-public-assistance-recipients#:~:text=Colorado%20is%20the%20first%20state,for%20purposes%20of%20TANF%20eligibility;); Nick Gwyn, Center for Budget and Policy Priorities, Opportunities to Deliver Critical Child Support Reforms: Testimony before the House Ways and Means Subcommittee on Work and Welfare, Appendix 1 (January 21, 2026) <https://www.cbpp.org/research/income-security/opportunities-to-deliver-critical-child-support-reforms>.

for one child and \$200 for two or more children (essentially tracking the federal incentives).³⁴

It is important that the District pass through not only all of the money that would go toward a current support order but also all of the money that would go to arrears. Under current policy, no matter how much money CSSD collects for a family receiving TANF in a month, nothing above the pass-through amount gets to the family if there are state-owed arrears, which there almost always are. Although non-custodial parents typically do not pay more than they owe in each month, sometimes they do. This happens most often where a non-custodial parent receives a lump sum of money, for example after getting retroactively approved for Social Security Disability Income or receiving a civil settlement amount, which is garnished. When this happens, the custodial family will only get the single pass-through amount of \$200. For a custodial parent who is receiving TANF, this feels particularly unjust—they are living well below the poverty line and are owed child support. The non-custodial parent finally pays some of it—sometimes the only money they will pay all year—and the custodial parent only receives \$200.

The cost of this reform in the District would be relatively modest: likely much less than \$5 million per year. That is because, in fiscal year 2023, the government’s share of all child support collected was approximately \$5 million, including collections of state-assigned arrears in former-assistance cases and through tax intercepts, which would not be implicated by this pass-through policy and which likely account for most of the collections. The benefit to these families, on the other hand—and ultimately to the District—would be profound. For example, research demonstrates passing through all child support to parents receiving TANF reduces the likelihood of child mistreatment and that even a modest increase in child support payments—averaging \$100 per year—results in a decrease in substantiated maltreatment reports.³⁵ Providing this money to families also may increase cooperation with and increase trust with District government.

And even these costs may be partially offset: a growing body of research demonstrates that increased pass-through policies make it easier to collect more child support because custodial parents are more willing to cooperate in trying to collect money and non-custodial parents are more willing to pay. Indeed, a study of the District’s \$150 pass-through found that it resulted in an increased likelihood of payment and higher payment amounts by non-custodial parents. It found that, three years after enactment of the pass-through, non-custodial parents paid almost 11% more in child support and were about 3% more likely to pay child support. But the results were even stronger for families who entered the child support system after the policy was

³⁴ *Id.*

³⁵ Chapin Hall at the University of Chicago, *A Key Connection: Economic Stability and Family Well-being*, <https://www.chapinhall.org/project/a-key-connection-economic-stability-and-family-well-being/>.

enacted. For these families, the non-custodial parent paid almost 20% more in child support and were about 7% more likely to pay.³⁶

Children in families receiving TANF are living well below the poverty line. Forcing them to pay the government back for the small amount of government assistance they receive using funds that are meant to help ensure their children have a safe place to live and enough to eat is wrong. It also is unwise in the long term—it is much less expensive to ensure children have their basic needs met when they are young than to address the consequences of deprivation when they are older. Providing this child support to children will improve childhood outcomes. It may also increase—rather than undermine—faith in the government, as well as the amount of child support collected, compounding the benefit to District children.

II. The District Should Pass Through All Payments for State-Assigned Arrears to Families who no Longer Receive TANF.

As discussed above, under current policy, when state-assigned arrears have been accrued—that is, a non-custodial parent did not make on-time child support payments for the full amount of a child support order while the custodial parent was receiving TANF benefits—any payments made in excess of a current child support order and arrears owed to families go to the government and split 50-50 by the District and federal governments.

The District is missing an opportunity to provide federally subsidized support to the District’s poorest families. As noted above, the federal government will waive its 50% share of all monies that it would have received from collections on state-owed arrears in former assistance cases. So, if the District passed through all of these funds to families that were previously receiving TANF, the cost essentially will be subsidized by the federal government. Five states do

³⁶ Evaluation of the \$150 Child Support Pass-Through and Disregard Policy in the District of Columbia. See also, e.g., Colorado Department of Human Services, *Evaluating the Effect of Colorado’s Full Child Support Pass-Through Policy*, <https://drive.google.com/file/d/1lh2NsnwZP27eoZEjOPpHtUKMs2qOUW65/view>; The Center for Law and Social Policy, Policy Brief: More Child Support Dollars to Kids: Using New State Flexibility in Child Support Pass-Through and Distribution Rules to Benefit Government and Families (July 2006), <https://www.clasp.org/wp-content/uploads/2022/01/0305.pdf>.

this: California,³⁷ Illinois,³⁸ New Mexico,³⁹ Wisconsin,⁴⁰ and Wyoming,⁴¹ with Massachusetts⁴² set to join them soon.⁴³

Providing these federally subsidized amounts to families that no longer receive TANF is important to addressing childhood poverty. Much of the child support owed to families remains unpaid while the family is receiving TANF because the non-custodial parent is also living in poverty. This state-assigned debt is more likely to be collected later, as the non-custodial parent ages and gains more regular employment, by which point the custodial parent is likely no longer receiving TANF—perhaps because as the children have reached school-age, allowing the custodial parent to also obtain employment. Still, these former assistance families are generally still living paycheck to paycheck without financial security. Providing this unpaid child support collected as arrears can make an enormous difference in the lives of these families, and the federal government will pay for half the cost of this important support.

III. The District Should Ensure that Child Support Collected Through IRS Tax Intercepts is Paid to Families.

As discussed above, for monies collected through IRS tax intercepts, the District currently utilizes PRWORA distribution, which means that these intercepts are used to pay state-assigned arrears first, before current support owed and family-assigned arrears. But the District can elect between the existing model and DRA distribution rules—which prioritize families—in determining how it treats IRS collections.⁴⁴ Switching to DRA distribution without changing pass-through policies would have a modest effect for families currently receiving TANF—they would receive only the pass-through amount of \$200. But the change would have a significant effect on families who are no longer receiving TANF, of which there are a far greater number—any money collected

³⁷ Cal. Code. FAM § 17504.2.

³⁸ 305 ILCS § 5/4-1.6 (as amended by Pub. Act 102-1115 § 5-36).

³⁹ N.M. Code R. § 8.50.125.11(E)(3) (effective Jan. 23, 2023).

⁴⁰ Wis. Stat. Ann. §§ 49.145(2)(s); Wisconsin Department of Children and Families, *Wisconsin Works (W-2) Manual*, <https://dcf.wisconsin.gov/manuals/w-2-manual/Production/default.htm>.

⁴¹ Wyoming Child Support Program, *Child Support Program Policy Manual*, ch. 14.4 (As of April 26, 2024) (noting that the language is not explicit in the manual, but we have been assured that the change was made).

⁴² 106 Mass. Code Regs. 705.900.

⁴³ Massachusetts Department of Transitional Assistance, Related Benefits, https://www.mass.gov/files/documents/2017/09/12/106cmr705.pdf?_ga=2.78914647.2141780375.1590621438-194961122.1590621438.

⁴⁴ The PRWORA tax offset exception originally codified in 42 U.S.C. § 657(a) was superseded by the language in the DRA, which eliminated the exception but allowed states to elect continuing PRWORA distribution rules. The only statutory reference to PRWORA distribution is 42 U.S.C. § 654(34), the state plan election provision.

through a tax offset would go to pay the full amount of the current support order and then to any arrears owed to the family.

In practice, this can have a significant effect on District families. In cases in which a non-custodial parent is not making voluntary payments and wage withholding was not successful, the government can sometimes collect the debt by intercepting a tax refund. In cases like these, the tax intercept is often the only payment the non-custodial parent makes all year. But, because the District has chosen PRWORA distribution, if there are state-assigned arrears from a time the custodial parents was receiving TANF, the custodial family would get nothing—the entire collection would instead be used to fund the child support collections system.

So far, nine states and Puerto Rico have adopted DRA distribution: Alaska, California, Maryland, Massachusetts, New Mexico, Pennsylvania, Vermont, West Virginia, and Wyoming.⁴⁵ The District should join this group.

IV. The District Should Waive Debts that it Cannot Collect Due to the Statute of Limitations.

As explained above, if a non-custodial parent falls behind in child support payments, the past due amount accrues as arrears, which may be owed to a family or the government depending upon whether the support was due during the period when the family was receiving TANF. Only a custodial parent can forgive arrears owed to them. But states have the authority to reduce, forgive, or write off state debt, without owing a federal share.⁴⁶ **The District should exercise**

⁴⁵ NCSEA, *Quick Facts: Child Support Assignment, Pass-Through, and Distribution for Families receiving Public Assistance* (June 2022), https://www.ncsea.org/wp-content/uploads/2022/07/Quick-Facts-Child-Support-Assignment-PassThrough-Distribution_2022.pdf.

⁴⁶ See 42 U.S.C. § 604; 45 C.F.R. § 263; “[U]nder certain circumstances, it is permissible to use federal TANF, [...] or state MOE funds to pay a benefit to a noncustodial parent to reduce or pay off child support arrearages owed to the family. While the state may also waive debt owed to the state, the state may not reimburse itself for the waived debt through TANF funds or count a waiver of debt owed to the state as a MOE expenditure [...] [t]he federal fiscal interest in arrears does not arise until a collection is made; thus, no federal share is owed on uncollected arrearages, whether or not they are waived.” U.S. Dep’t of Health and Human Services, Office of Child Support Services, Dear Colleague Letter, [https://www.hhs.gov/guidance/document/questions-and-answers-about-allowable-uses-tanf-funds](https://www.acf.hhs.gov/archive/css/policy-guidance/tanf-emergency-fund-noncustodial-parents#:~:text=Yes%2C%20under%20certain%20circumstances%2C%20it,state%20as%20a%20MOE%20expenditure.U.S; Dep’t of Health and Human Services, <i>Questions and Answers about allowable uses of TANF funds</i>, Q21A21, <a href=); Vicky Turetsky & Diana Azevedo-McCaffrey, *Understanding TANF Cost Recovery in the Child Support Program* (Jan. 3, 2024), <https://www.cbpp.org/research/income-security/understanding-tanf-cost-recovery-in-the-child-support-program#:~:text=The%20state%20debt%20includes%20any%20added%20interest%2C,federal%20law%20to%20reduce%2C%20forgive%2C%20or%20write>.

this authority by eliminating any debt that is beyond the statute of limitations for enforcement.

As of January 2024, non-custodial parents owe the District about \$53.8 million in arrears, about \$32 million of which accrued before January 1, 2012.⁴⁷ There is very little chance the District ever will collect most of that debt, for a host of practical reasons (including that many of the obligors are simply too low income),⁴⁸ and because the debt likely would be unenforceable if challenged as barred by the statute of limitations.

Under District law, each unpaid individual child support payment becomes its own money judgment subject to a twelve year statute of limitations for its enforcement.⁴⁹ Unless the District or the custodial parent filed a motion for revival within that time period, after twelve years, the judgment has no further operation or effect.⁵⁰ Since each unpaid monthly amount becomes its own money judgment, the twelve years affects each debt in sequence, with one falling off the cliff of enforceability month by month until all unpaid support is no longer enforceable. However, the statute of limitations is an affirmative defense, leaving it to unrepresented obligors to raise it. As a practical matter, the arrears debt remains on the books and is subject to administrative (i.e., tax intercept, garnishment of wages or Social Security benefits, driver’s license suspension, etc.) and judicial (civil contempt) enforcement actions until it is raised. And the parent owing this outdated debt remains saddled with it into old age.

The District should cancel arrears owed to the government for TANF benefits that are well past the twelve-year statute of limitations on enforcement, particularly where the children the payments were meant to benefit are well into adulthood. California already does this, freeing non-custodial obligors from the burden of debt that the state deems “uncollectible.”⁵¹ The District could do this by cancelling government owed arrears in cases in which the youngest child is over the age of 33—twelve years past the age of 21, when the support obligation terminates under District law. At that point, all of the individual judgments are past the twelve-

⁴⁷ 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.

⁴⁸ U.S. Department of Health and Human Services, Office of Child Support Services, *Family and State Benefits of Debt Compromise* (August 2022), <https://www.acf.hhs.gov/css/policy-guidance/family-and-state-benefits-debt-compromise>.

⁴⁹ D.C. Code § 46-204(b); D.C. Code § 15-101; see *Sollars v. Cully*, 904 A.2d 373 (D.C. 2006).

⁵⁰ See *Mayo v. Mayo*, 508 A.2d 114, 115 (D.C. 1986).

⁵¹ See Cali. Fam. Code § 17400.

year period allowed for their collection. Vacating them would stop any further enforcement actions in those cases, like garnishing an obligor's Social Security disability or retirement income or seeking to jail an elderly parent for debt that accrued decades earlier. Moreover, the children at issue are far past their minority and no longer stand to benefit from any distributions of long

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overdue support. Finally, removing the damaging debt hanging over so many low-income child support obligors, damaging their credit and hindering their efforts to work as they age, would be a meaningful step towards ameliorating the harm incurred during the decades in which the District operated its child support program as a cost-recovery system. Wiping out this debt would also improve the District's arrearage-collection performance level, which is one of the performance measures reported to the federal child support agency.⁵²

V. The District Should Make All These Reforms at Once, Rather than Incrementally.

Implementing all the reforms in this memo will significantly simplify the District's child support collection system, itself yielding several important results. First, it will provide needed transparency to custodial and non-custodial parents. Under current policy, non-custodial parents often have no idea how much—if any—of the money they are paying is reaching their children. They do not have insight into the complicated accounting that places payments into pass-throughs, current support payments, and arrears, sometimes all in the same month. For their part, custodial parents often have no insight into how much a custodial parent has paid, because they only receive the pass-through amount or nothing at all. Or sometimes they do know that a non-custodial parent paid a large amount and do not understand why they received only a smaller sum, despite not having received previous payments. This breeds distrust between parents—to the detriment of their children—and between parents and the government. Increasing the pass-through amount, or passing through only current support, will increase support for families, but will not solve this problem. Passing through all the collections to families is the only way to eliminate this confusion and provide transparency.

⁵² 45 C.F.R. § 305.2(a)(2).

Next, each of these reforms is important, but implementing all of them is necessary to reach all impacted families. For example, switching to DRA distribution will help former assistance families, but will have little effect on families receiving TANF, unless the pass-through also is increased. Similarly, increasing the pass-through will have no effect on former-TANF families. For these families, switching to DRA distribution of tax intercepts and passing through state-assigned arrears are the only ways to ensure they receive more child support.

Finally, implementing all these reforms now, while the District is modernizing its child support collection software system, means these policy changes can be built into the new system as it is being created. A simplified child support system, in which all money collected is distributed or passed through to families, may also be less expensive to build and administer. Adopting an incremental approach, on the other hand, means creating and administering a more complicated system, which then must be modified as policy changes are adopted. These policy changes also will require multiple iterations of training of child support staff, and education of parents, adding to these costs.

CONCLUSION

Originally established largely to reduce welfare costs, the federal child support program is now aimed at lifting families out of poverty. But the District has not updated its child support policies to reflect this modern view. The District has fallen behind other progressive jurisdictions and federal policy, and its approach does not advance the mission of ensuring opportunity for the District's most vulnerable youth, advancing equity, and addressing the root causes of delinquency. Instead, the District's cost-recovery child support system damages families, undermines trust in government, increases family conflict, and betrays the District's children—and all for so little gain. **The District could make every reform proposed in this memo for approximately \$5 million dollars a year—the total government share of child support collected in fiscal year 2023.** At the very least, the District should take advantage of federal financial incentives to make cost-effective changes to its child support collection policies that will change outcomes for some of the District's most vulnerable children. Doing so will ensure that collections from the child support system support children.

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