
Updated July 12, 2024

Understanding TANF Cost Recovery in the Child Support Program

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Many children and their custodial parents receive child support payments from non-custodial parents to help cover child-rearing costs.² Child support can be a significant source of family income for families struggling to make ends meet. That is especially true for families receiving cash payments from the Temporary Assistance for Needy Families (TANF) program, who receive benefits that still leave them at or below 60 percent of the federal poverty level in *every* state.³

However, child support payments often do not reach families participating in TANF. And even after they leave TANF, states still keep some of their child support payments. State child support policies typically prioritize reimbursing the state and federal government for TANF cash payments provided to families during times of need, rather than directing payments to the children for whom they are intended. States have policy options to direct more child support payments to families who receive or used to receive TANF assistance, but only half of states have chosen to exercise any of those options.

Families, not states, should receive the child support payments made by non-custodial parents for their children. The goal is to pay *all* child support to families who receive or previously received TANF — including both monthly support and past-due support. Federal law gives states the flexibility to achieve this goal by combining policy options that direct more child support payments to families and decrease payments kept by the state. States have two key decisions to consider regarding how they direct, or do not direct, child support to families. The first is whether to enact “pass-through” policies that ensure child support payments are directed to families. The second decision is whether to adopt family-first distribution of child support collected through the federal tax system, a state option known as “DRA distribution” under the Deficit Reduction Act of 2005 (DRA).

In this paper, we explain these terms and decision points, and discuss the history, rules, and mechanics of using child support to reimburse TANF cash assistance. We focus on families receiving TANF cash assistance and who formerly received TANF cash assistance and outline how the child support and TANF programs intersect and operate, with a focus on the cost recovery process.⁴

Through understanding the rules and mechanics related to TANF cost recovery in the child support program, policymakers, family advocates, and other stakeholders can explore the full range of policy opportunities and pursue policy changes at the state level that direct more child support to families. (A future paper will make the case for states to increase family resources, improve child and family well-being, and promote equity by paying all child support to families.)

Below, we discuss the following key child support payment rules and mechanics:

- The state’s legal claim to child support payments, or “assignment,” for families who receive or previously received TANF cash assistance;
- The order in which child support payments are “distributed,” or allocated, to the various parties with legal claims to child support (namely custodial families) and to the state under an assignment; and
- State options for directing collected child support to families and the differences between these options.

Receiving Child Support Is Critical to Family Well-Being

Among custodial families with incomes below the federal poverty level, child support represents, on average, 41 percent of their income when received. The share is even larger for custodial families living below 50 percent of the federal poverty level, with child support making up 65 percent of their income when received.⁵

More child support payments can help families cover essentials like rent, utilities, food, school supplies, and children’s clothing.⁶ Regular child support payments can also promote financial stability by serving as a long-term stream of consistent cash income that custodial parents can rely on to meet their children’s needs.⁷ Further, research shows that receiving child support payments can promote positive outcomes for children and families, including increased parental involvement among non-custodial parents and better child developmental outcomes.⁸

Families enter the child support program through two separate and unequal routes. One route is voluntary. Custodial parents, regardless of income, can choose to apply for child support services for a small fee in order to establish and enforce child support orders. Families entering the program this way keep child support payments collected on their behalf.

Through the other route, however, custodial families who receive TANF cash assistance are required to participate in the child support program as a condition of receiving cash assistance, regardless of whether they want child support services. This participation requirement is called “cooperation.”⁹ Failure to cooperate with the child support program results in at least a 25 percent reduction in the amount of cash assistance provided to the family. In fact, some states do not provide any cash assistance at all to families if they fail to cooperate.¹⁰

Custodial families participating in TANF often do not receive any of the material or social benefits from child support payments. Instead, they are forced to relinquish their legal rights to child support income, which, if they received it, could help lessen their financial precarity. As a condition of receiving cash assistance, they are required to transfer their rights to child support payments to the state through a legal mechanism called “assignment.”¹¹ The child support collected on their

behalf is then kept by the state and split with the federal government as repayment for TANF cash payments made to a family. This policy is known as “cost recovery.”¹² Cost recovery policies predate the child support program and are based on the idea that non-custodial parents should repay the state for public assistance their children receive.

In practice, this means that when a non-custodial parent pays child support for a child receiving TANF cash assistance, the money may be claimed by the state and treated as government revenues instead of being given to the custodial family. Even when a family no longer receives TANF cash assistance, the state may continue to keep some child support payments owed during the time the family received TANF benefits, typically when support is collected through a non-custodial parent’s federal tax refund. Child support payment distribution rules are explained in more detail in the following sections.

Cost recovery policies deprive struggling families of a vital source of income to make ends meet. These policies impact custodial families participating in TANF — households that are generally headed by women with low incomes, and, to a disproportionate extent, women of color. The unfairness of these policies can land particularly hard on Black women, who have worked hard to provide for themselves and their families — despite long-standing structural racism and sexism in the labor market that have severely limited their employment prospects and depressed their wages.¹³

Cost Recovery Policies Predate the Child Support Program

Congress established the federal child support program in 1975 under title IV-D of the Social Security Act to expand and improve child support enforcement laws and processes then available in states and to create the federal Office of Child Support Enforcement.¹⁴ Title IV-D had two legislative purposes: to recover the costs of cash assistance under the Aid to Families with Dependent Children (AFDC) program — TANF’s predecessor — and to avoid the need for cash assistance by increasing custodial families’ child support income.

The child support program established through title IV-D has a complicated history. Women’s rights and anti-poverty advocates championed its creation. It was largely a response to rising divorce rates among white middle-class families, large income disparities between divorced men and women, and high poverty rates among predominantly white mothers who were previously considered to be middle class and who shouldered most child-rearing responsibilities and costs following divorce.¹⁵ The legislative history of title IV-D also reflected concerns over the growing number of children born to unmarried parents, and the view that children have a right to know who their parents are, to establish parentage, and to receive child support. In a number of ways, title IV-D challenged traditional ideas about gender roles, marriage, and family structure more prominent at the time.

Yet the child support program also was established to recover cash assistance costs. The cost recovery policies incorporated into the TANF program are deeply rooted in what were named “bastardy” and “poor relief” laws, which reflected certain attitudes and assumptions about people experiencing poverty in the 19th century. One such assumption was that individuals are to blame for their circumstances and should be held personally responsible for them, rather than considering the many structural causes of poverty. Under this view, government assistance should be granted grudgingly — if at all. Most poor relief laws included definitions of who was legally entitled to public assistance. Notably, those entitled to relief usually had to be white and unable to work.¹⁶

Poor relief laws treated public assistance as a loan or debt that could be collected through a legal action brought by the county against the recipient, while bastardy laws, initially criminal in nature, required the mother of a child born outside of marriage to identify the father so the court could establish paternity and order support for the maintenance and education of the child.¹⁷ Poor relief and criminal bastardy laws were also used to force both children and parents into indentured labor in exchange for public assistance. Some Southern states maintained these laws into the 20th century as a racialized system of social control targeting Black families that prevented them from earning wages for their labor and escaping poverty.¹⁸

Initially, child support services funded under title IV-D were only available to custodial families receiving AFDC. These families were required to participate in the child support program and to sign over their rights to child support to the state in exchange for receiving cash assistance.¹⁹ In 1984, however, Congress required states to allow custodial parents to apply for child support services even if they did not receive AFDC.²⁰ At the same time, federal law retained the cooperation and assignment requirements for custodial families receiving AFDC.

The policies that guide cost recovery for current and former TANF recipients today reflect policies that were enacted through the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) — the law that created TANF — and the Deficit Reduction Act of 2005 (DRA), which also reauthorized and made significant changes to TANF. These laws narrowed TANF assignment policies, expanded the rules that prioritize payment of child support to families (known as “family-first distribution”), and increased state flexibility to direct more child support to TANF families.

More than 60 percent of all custodial parents in the U.S. now participate in the child support program.²¹ About half of custodial parents participating in the program currently receive or previously received TANF cash assistance, while half never received cash assistance. Although federal child support services are available to all regardless of income, custodial parents with limited incomes are more likely to participate than custodial parents with higher incomes.²² Most custodial parents participating in the child support program have family incomes at or below the federal poverty line.

Parents who hire private attorneys to represent them in a divorce proceeding or otherwise obtain child support orders are not part of the federal child support program unless they later apply for program services to enforce their orders. Non-custodial parents also may apply for child support services, for example, to legally establish their parentage or to adjust their support order.²³

Establishing, Enforcing, and Collecting on Child Support Orders

The legal obligation of non-custodial parents to pay child support is created through the establishment of a child support order. Depending on the state, a court or administrative agency sets a monthly support obligation amount as part of a child support order calculated according to state child support guidelines. State guidelines require order amounts to be based on parental earnings, income, and other evidence of ability to pay.²⁴

In all but a handful of states, child support orders account for the income of both parents. The amount of support payable every month is called “current support.” If a non-custodial parent falls behind in payments, the past due amount accrues as debt, often called “arrear.” Arrear may be

owed to a family or the state depending upon whether the support was due during the TANF assistance period. More than 80 percent of program arrears are owed to families, while less than 20 percent are assigned and owed to states.²⁵

Arrears owed to the state under an assignment are often referred to as “state debt.” In half of states, child support arrears, whether owed to the family or state, accrue government-imposed interest.²⁶ The state debt includes any added interest, fees, and costs.²⁷ States have full authority under federal law to reduce, forgive, or write off state debt, without owing a federal share, and most states have state debt-reduction programs or procedures.²⁸ However, only custodial parents can forgive arrears (including interest) owed to them.

Almost all income sources, as well as assets, are legally subject to child support enforcement, including wages, federal and state income tax refunds, unemployment insurance, worker’s compensation, Social Security benefits under title II of the Social Security Act, insurance settlements, and funds held in a bank account.²⁹ Most child support payments are collected on time through automatic payroll and other income withholding — a process similar to withholding income taxes.³⁰ Payroll withholding is required for all non-custodial parents who owe child support, whether or not the parent is behind on payments.³¹

When non-custodial parents fall behind on their payments, the child support agency can collect arrears through a variety of enforcement mechanisms, including garnishments, deducting or “offsetting” federal and state income tax refunds, bank account liens, credit bureau reporting, driver’s license suspension, and incarceration.³² Child support payments are initially sent to a state payment processing center (sometimes called a state disbursement unit) for accounting and disbursement.³³

States retain and allocate collections assigned by families participating in TANF based on state distribution and pass-through policies. In 2022, states and the federal government kept two-thirds of assigned collections made on behalf of children receiving TANF assistance to reimburse cash assistance costs, while the remaining third was paid to custodial families during the assistance period.

Amounts retained as assistance reimbursement are shared with the federal government according to a state’s Federal Medical Assistance Percentage (FMAP). FMAP rates are used to determine the amount of federal matching funds for state expenditures for Medicaid and certain other programs. They are calculated by the U.S. Department of Health and Human Services each year by comparing each state’s per capita income relative to U.S. per capita income. States with lower per capita incomes have higher FMAP rates, meaning the federal government contributes a higher share of matching funds for state Medicaid expenditures.³⁴ As a result, states with higher FMAPs must send back a larger share of child support collections to the federal treasury to reimburse the federal share of cash assistance costs.³⁵

Understanding Child Support Assignments

Child support assignment and distribution policies address two questions. “Assignment” policies answer the question: “Does the state have a legal claim to the child support payment?” When the rights to support payments are assigned to the state, “distribution” policies answer the question: “Is the state’s or family’s claim to the payment paid first?”³⁶

The TANF assignment requirement establishes the state's legal claim to child support payments to reimburse the government for cash assistance payments made to the family.³⁷ In order to receive TANF cash assistance, custodial families must participate in the child support program and “assign,” or sign over to the state their rights to child support payments owed during the period they receive cash benefits from TANF.³⁸

Without an assignment, the state does not have the right to keep child support payments. Support payments that become due before or after a family receives TANF are not assigned, and instead are owed to the family. However, support payments that become due during the assistance period are permanently assigned and remain owed to the state even after the family leaves TANF.

Before the DRA was enacted in 2006, families receiving TANF were required to assign the rights to support owed to them before an assistance period, as well as during the assistance period. This policy was called “pre-assistance” assignment.³⁹ This broad assignment requirement meant that states could keep considerably more support to reimburse assistance, while families ended up with less support.⁴⁰

However, the DRA narrowed the scope of assignment to support owed during the assistance period and eliminated pre-assistance assignment. But the change in the law was prospective — it applies only to assignments entered into by October 1, 2009.⁴¹ This means that the old pre-assistance assignments that families entered into before the implementation date are still legally valid. The DRA addresses this by giving states two options: one option allows states to cancel pre-assistance assignments entered into before that date. The other option allows states to cancel all assignments of any type entered into before October 1, 1997 (before PRWORA distribution rules were enacted).⁴² When a state cancels old assignments, the state's claims to the assigned child support payments are extinguished, and no federal share is owed.⁴³

States may only keep the amount of support payments due under the child support order and assigned to the state. In addition, a state may only retain assigned support to reimburse TANF cash assistance — that is, assistance “paid to the family” in the form of “money payments in cash, checks, or warrants immediately redeemable at par.”⁴⁴ For example, the state may not keep child support to repay child care vouchers even when it is considered assistance from the state.

States keep a tab of the amount of cash assistance paid to a family, called the “Unreimbursed Assistance” (URA) balance, which establishes the maximum amount of reimbursement a state may seek. The URA balance accounts for all cash payments made to a family, but the state may only collect reimbursement for months in which a child support order is in place. Child support payments kept by the state reduces the URA balance dollar for dollar. The URA balance includes the cumulative amount of cash assistance paid during all assistance periods.⁴⁵

In addition, states may not keep child support as reimbursement for TANF payments received before a child support order is in place or keep more than the amount due under the child support order. This is because the state only has a legal right to the amount of child support that has been assigned to it. The assignment law does not impose a general obligation on non-custodial parents to repay the entire amount of assistance paid to the custodial families. For example, if a custodial family receives \$400 in cash assistance per month for ten months, the beginning URA balance is \$4,000. However, if the child support order is not established until the fifth month and the non-custodial parent is ordered to pay \$200 per month, the state may only keep the assigned child support amount

of \$1,000 (five months at \$200 per month). In other words, the state's right to keep child support payments is limited to the lesser of the URA balance or the cumulative support obligation.⁴⁶

Understanding Child Support Distribution Policies

Child support “distribution” rules govern how state child support programs allocate child support collections between families and the state when a family is receiving or has received TANF cash assistance.⁴⁷ Distribution rules prioritize state or family claims to payment and establish the order in which multiple claims are paid.⁴⁸ Because support collections usually are not large enough to pay off both state and family arrears, the order of distribution dictates which claim to the support is paid first. When assigned support is not paid on time and becomes overdue during the assistance period, the accrued arrears are owed to the state and treated as state debt. When arrears have accrued before or after the assistance period, they are owed to families.

Congress has twice narrowed TANF cost recovery policies and expanded the rules that prioritize payment of child support to families, known as “family-first” distribution — through PRWORA and the DRA. Under current law, states may elect either “PRWORA distribution” or “DRA distribution” in their IV-D state plans.⁴⁹ (See Figure 1.) DRA distribution maximizes family-first allocation of payments and provides states with more options to pay child support to families.

PRWORA established two general rules for distributing child support payments: 1) collected support is allocated to pay current monthly support before arrears, regardless of the family's TANF status; and 2) arrears that have been assigned to the state are paid first while families receive TANF, but arrears owed to the family are paid first once families stop receiving assistance.⁵⁰ These rules mean that when a family is receiving TANF, the state may keep assigned monthly support and arrears payments until the state is paid off. After a family leaves TANF, however, the rule is flipped. The family receives monthly child support payments and any arrears owed to them before the state debt is paid.

Under the general distribution rules adopted in PRWORA, the payment order in child support cases for families who formerly received TANF is sometimes referred to as family-first distribution. This is because when a family no longer receives TANF, monthly support and family arrears are paid before state debt. In other words, families are first in line for payment every time a state makes a collection when the family is no longer receiving TANF. The state debt amount does not change, but paying it off is given less priority than payments owed to families. States do not owe the federal government a share of any support distributed to families, because it is not assigned to the state.

However, PRWORA created a special rule for support collected through a federal tax offset. The IRS collects child support arrears certified by a state by offsetting child support payments owed to them from federal tax refunds and refundable credits, including the Earned Income Tax Credit (EITC). Under this special distribution rule known as the “federal tax offset exception,” states distribute federal tax offset collections to: (1) arrears, not current support, and (2) state-assigned arrears before family arrears, even when a family no longer receives TANF.⁵¹

In other words, under the special rule, a payment collected through a federal tax offset is applied to arrears only, and none of the payment is distributed to current support. A payment collected through a federal tax offset is the only type of payment that is not distributed to current support (the special rule applies only to federal tax offsets and does not apply to state tax offsets). The historical

reason for the tax offset exception is that Congress sought to blunt the fiscal impact on states when it adopted family-first distribution rules in 1996.

The DRA gives states the option to eliminate the special distribution rule for federal tax offsets.⁵² DRA distribution means that the state applies family-first distribution to federal tax offset collections in the same way that it distributes every other type of collection: the state allocates child support collected through a federal tax offset first to current support in all cases, whether it's for a family currently or formerly receiving TANF. So far, eight states and Puerto Rico have adopted DRA distribution while the remaining states and Washington D.C. have PRWORA distribution.⁵³

When a state distributes a federal tax offset collection to a family currently receiving TANF using DRA distribution rules, the current support is distributed first. However, since current support is assigned, it is kept by the state. For families who no longer receive TANF, current support is not assigned but instead is paid to the families. In the case of support distributed to former TANF families, the state does not owe a federal share because the support is not assigned.

After distributing current support to families, the state follows the general distribution rule for paying arrears. In a case involving a family currently receiving TANF, the state distributes the remaining offset collection first to arrears assigned to the state, then to family arrears. In a former assistance case, the state applies family-first distribution to allocate the remaining collection first to family arrears, then to state debt.

Even states that elect DRA distribution keep some collections that apply to arrears assigned during the assistance period unless the state passes them through to families. Under DRA distribution, family arrears are paid first, but once family arrears are paid off, state debt is next in line for payment, regardless of the collection source. However, states that elect PRWORA distribution rules keep more collections because state-assigned arrears have payment priority whenever a state collects through a federal tax offset.

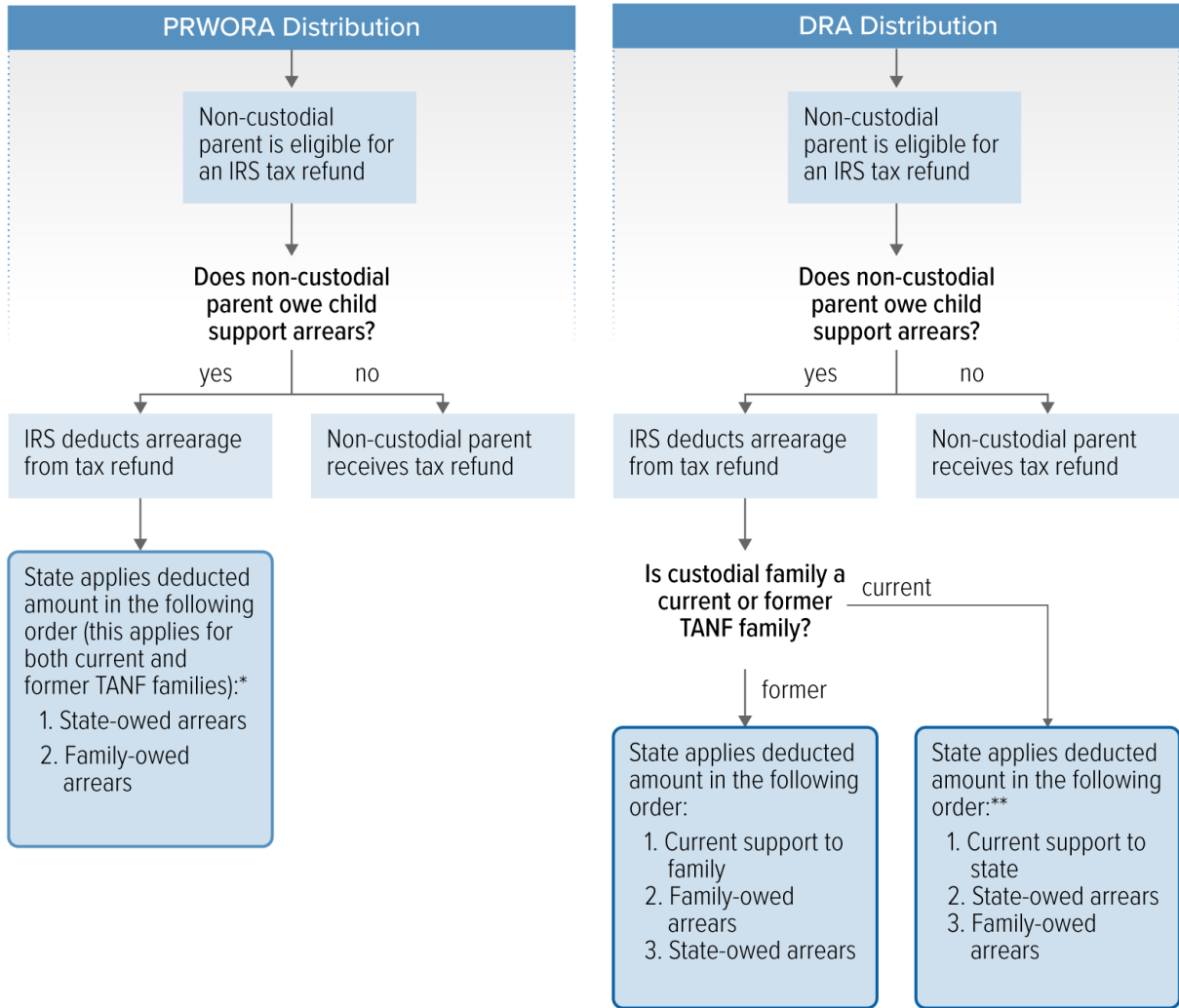
Due to the order in which collected child support is distributed, most of the child support paid on behalf of families currently receiving TANF cash assistance is retained by the state.⁵⁴ On the other hand, most of the support collected for families who previously received TANF is distributed to those families. In 2022, 91 percent of the collections made on behalf of families who no longer receive assistance were paid to the families.⁵⁵ The remaining 9 percent retained by states was primarily collected through federal tax offsets.

But because there are more than five times as many former assistance cases as there are current assistance cases (including TANF and IV-E foster care cases), almost two-thirds of total child support payments retained to reimburse assistance are collected in former assistance cases.

FIGURE 1

How Do Child Support Distribution Policies Work?

Understanding the two options states have to distribute child support collected from tax offsets to current and former TANF families



*Under PRWORA distribution, a current TANF family could receive assigned child support collected from a federal tax offset if a state has adopted a policy to pass through child support arrears.

**Under DRA distribution, a current TANF family could receive child support if a state has adopted a policy to pass through some amount of current support, which is the most typical state pass-through policy.

Note: PRWORA = Personal Responsibility and Work Opportunity Reconciliation Act. DRA = Deficit Reduction Act of 2005.

Source: CBPP analysis

Passing Through Support for Families

More than half of states have elected to pay families some of the child support payments that have been assigned to the state instead of keeping them as state revenues. This is called a “pass-through” policy. All child support that is “passed through” to families, whether they are currently receiving or formerly received TANF assistance, is assigned to the state. However, some states have elected to pay assigned support payments to the families rather than keep them as state revenues, i.e., the state has passed through these assigned payments to families. Implementation of a pass-through policy allows current and former TANF families to receive more support and to have a clearer sense of the financial contributions made by non-custodial parents. (See Figure 2.)

Generally, states also implement a separate policy to “disregard” any support passed through to a family receiving TANF when determining their TANF eligibility and benefit amount. Implementing a disregard policy ensures that receiving child support won’t impact families’ TANF eligibility or decrease the amount of cash benefits they receive each month. For families to benefit financially from the child support collected under an assignment, the state must both pass through the support and disregard it so cash benefits aren’t reduced dollar-for-dollar.

Under the DRA, states may pass through any amount of assigned support in current or former TANF cases. The DRA also includes a full waiver of the federal share of support passed through to families who formerly received TANF. This means the state does not owe the federal government a share of support passed through in former assistance cases. But it only includes a partial waiver of the federal share in the cases of families who currently receive TANF. By law, the federal share is waived up to \$100 for one child and \$200 for two or more children passed through in a month to families currently receiving TANF — but only if the amount also is disregarded in determining their TANF eligibility and benefit amounts.⁵⁶

There is a difference between “distributing” and “passing through” support to families. Family distribution means prioritizing payment of support that is legally owed to families — paying family claims before state claims to support. Passing through support, on the other hand, means paying support to families that is assigned to the state. This happens when the state has decided as a matter of policy to redirect the assigned support to families and relinquish the revenues.

Assigned support payments, whether kept by the state or passed through by the state to families, reduce the URA balance. In other words, the reduction occurs when support is passed through to a family currently or previously receiving TANF, just as it would be if the state keeps the money.⁵⁷ States also may count the state share of support passed through and disregarded for families currently receiving assistance toward their TANF maintenance of effort (MOE) obligation, since the state is using state funds to increase cash payments to families.⁵⁸

Before PRWORA was enacted, states were required to pass through the first \$50 of monthly current support to families receiving assistance and to disregard that amount in determining their AFDC eligibility and benefit amounts. PRWORA eliminated the \$50 mandatory pass through and disregard required in AFDC. Instead, the federal law gave each state the flexibility to pass through and disregard any amount of child support to families while they received cash assistance under TANF. However, PRWORA required states to pay a federal share of support regardless of their pass-through policy. The DRA enacted a limited waiver of the federal share, up to \$100 for one child and \$200 for two or more children.

Regardless of a state's policy decision, however, the state was required to pay a federal share on the entire amount of collected support assigned to the state. Consequently, half of states stopped passing through support to families receiving TANF. Currently, 22 states do not pass through any amount of support. PRWORA also allowed states with AFDC fill-the-gap budgeting to maintain this form of budgeting in their TANF programs. (Fill-the-gap budgeting means that certain kinds of income do not count against a family's TANF benefit until their income reaches a certain level. This is described more in the endnote.) Five states use fill-the-gap budgeting, which results in a significant share of child support being distributed to families receiving TANF.⁵⁹

When a state elects the DRA option, the only way to increase child support payments to families currently receiving TANF is to pass through assigned support. That's because for families receiving TANF, the state has the legal right to their current support and arrears under the assignment, and the payments are distributed to the state. As a result, the DRA's family-first distribution alone does not increase child support payments to families receiving TANF; it must be paired with a pass-through policy. However, DRA ordering rules require that federal tax offset collections, like other payments, be distributed first to current support before distributing them to arrears, increasing the amount attributed to current support.

By adopting a pass-through of current support assigned to the state in combination with DRA distribution, states can pass through that portion of a tax offset collection distributed as current support, substantially increasing the amount of support available to families while receiving TANF. (Similarly, families would receive that portion of tax offset collections distributed to arrears when states pass through arrears owed to the state to families.)

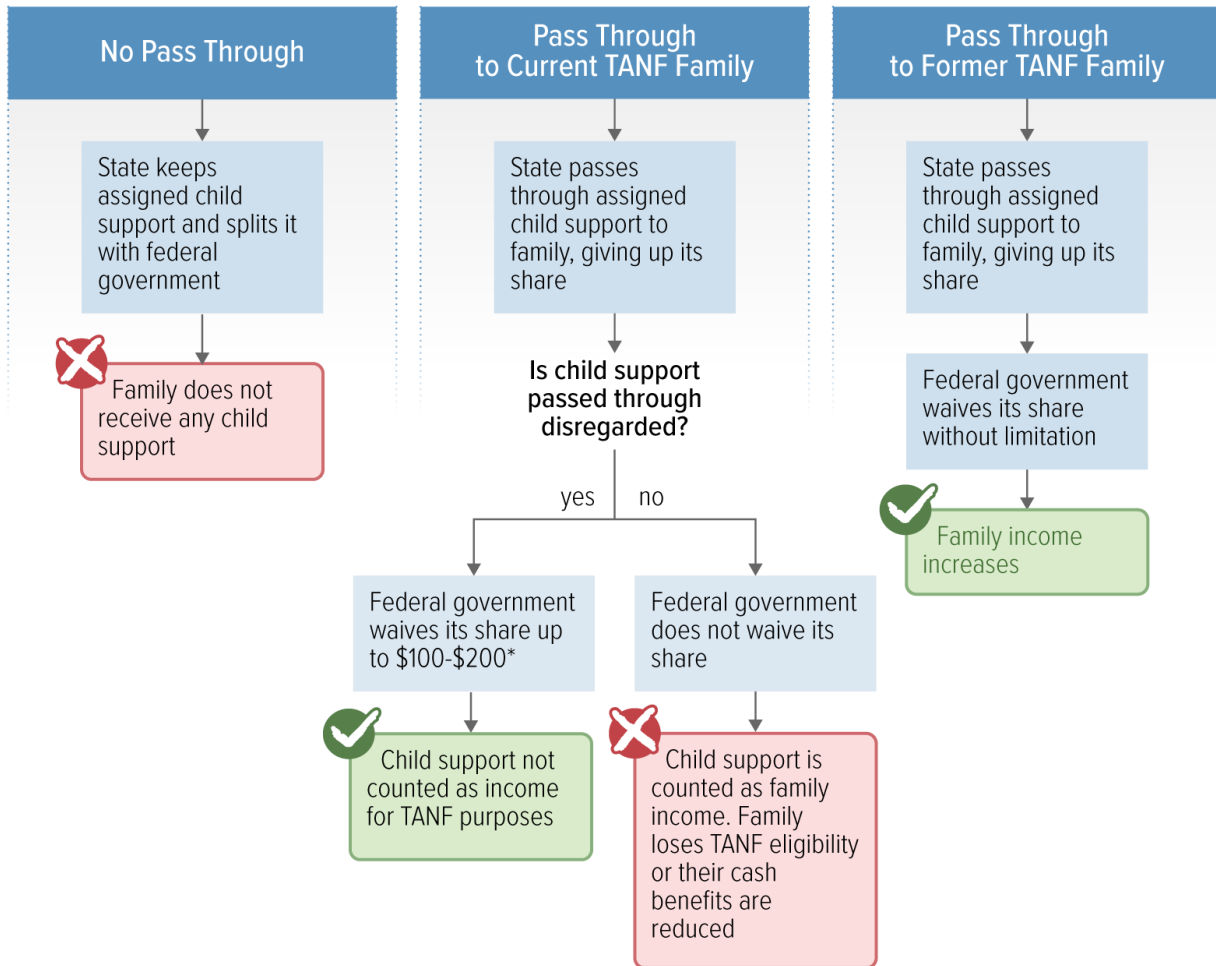
Most collected child support is distributed to families who previously received TANF because they have payment priority under PRWORA family-first distribution rules. That is, they receive both current support and arrears owed to the family before any state debt is paid. However, the DRA provides states with two options for directing the remaining support to former TANF families that would otherwise be applied to state debt. First, states have the option to elect DRA distribution — that is, to apply family-first distribution to federal tax offset collections, so that the offsets are applied to current support and arrears owed to the family before state debt.

Second, states may pass through any amount of assigned support to families who currently receive or formerly received TANF. Just as states may adopt a pass-through policy for current TANF families, they also may adopt a pass-through policy for former TANF families in combination with or as an alternative to DRA family-first distribution of federal tax offset collections. Although the support is assigned and therefore belongs to the state, the state may decide as a matter of policy to redirect the assigned support to families.

By combining DRA options, states can pay all support payments to families. States can accomplish this through two alternative strategies. First, they may elect DRA distribution to prioritize family distribution of federal tax offset collections, and then pass through remaining assigned collections, so that all collections are paid to families. Alternatively, states may keep PRWORA distribution rules but still pass through any or all assigned support, including tax offset collections, to families. Both strategies can result in *all* collections going to current and former TANF families.

FIGURE 2

How Does A Pass-Through For Current and Former TANF Families Work?



*Up to \$100 for one child, \$200 for two or more children.

Source: CBPP analysis

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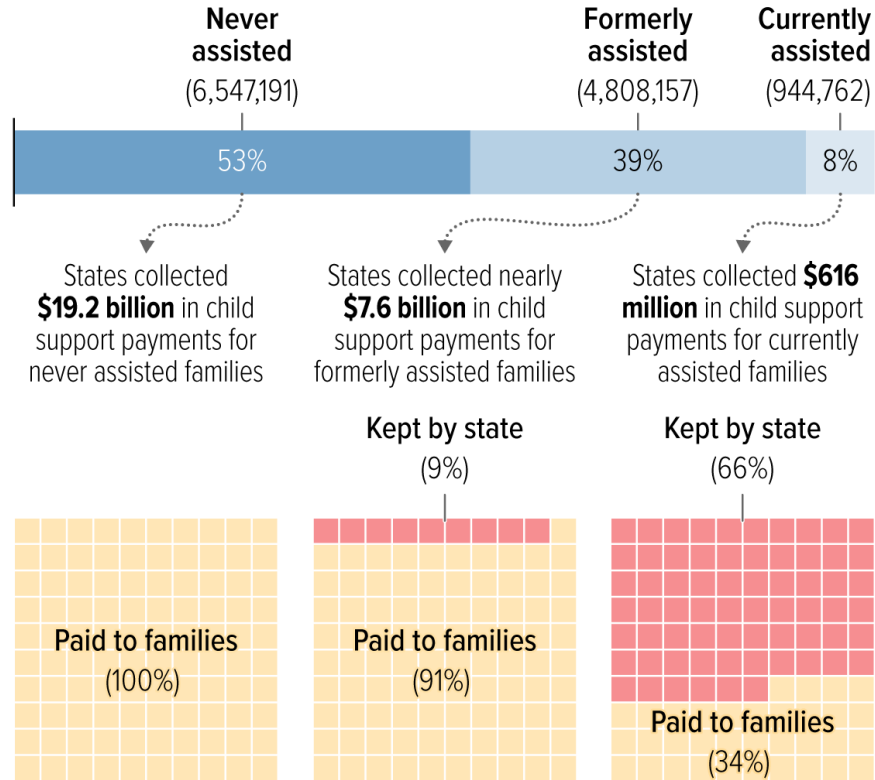
Child Support Caseloads and Collection Trends

More than half of child support cases involve families who applied for child support services on their own and are not subject to the TANF assignment requirement.⁶⁰ In 2022, 53 percent of total child support cases involved families who never received cash assistance through the TANF or IV-E funded foster care programs, while 39 percent previously received assistance, and 8 percent involved families currently receiving assistance.⁶¹

FIGURE 3

States Withheld \$1.1 Billion in Child Support as Cost Recovery in 2022

Total Child Support Program Caseload in 2022: 12,300,110



Notes: Never assisted=The percentage of cases involving families who have not received TANF or Foster Case Maintenance Payments and are not impacted by cost recovery policies. Formerly assisted=The percentage of cases involving families who formerly received TANF or Foster Care Maintenance Payments. Currently assisted=The percentage of cases involving families currently receiving TANF or Foster Care Maintenance Payments.

Source: Office of Child Support Enforcement, "Preliminary Data Report FY 2022," Tables P-1,

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The child support program collected more than \$27 billion in 2022. Most of these dollars were collected for families who never participated in TANF. States collected \$8.2 billion for families with current and former assistance cases — those potentially subject to cost recovery: \$616 million in current assistance cases and nearly \$7.6 billion in former assistance cases.⁶² Of the \$8.2 billion in combined collections made in current and former assistance cases, states kept \$1.1 billion as assistance reimbursement. That's 4 percent of total program collections, but 13 percent of combined collections made in current and former assistance cases. States kept two-thirds (66 percent) of the support collected in current assistance cases to reimburse cash assistance. By comparison, states kept 9 percent of the support collected in former assistance cases as assistance reimbursement.⁶³

However, since there are significantly more former assistance cases than current assistance cases, most of the cost recovery dollars kept by the child support program are collected in former assistance cases. Of the total \$1.1 billion kept as assistance reimbursement, \$667 million (62 percent) were collected in former assistance cases, while \$404 million (38 percent) were collected in current assistance cases.⁶⁴ The amount of assistance reimbursement has declined over the past two decades, primarily due to falling TANF caseloads. Expanded family distribution policies also have reduced the amount of reimbursement kept by states.

Child support payments kept to reimburse assistance are split between federal and state governments. Of the \$1.1 billion, states kept \$400 million (37 percent) and the federal government received \$670 million (63 percent).⁶⁵ Cost recovery dollars are treated as government revenues that may be spent for any public purpose. Some states use child support funds to help pay for their TANF or child support programs, while others use the funds as general revenues. The federal share of support is sent to the federal treasury and treated as general revenues.

Although these are relatively small (and diminishing) amounts of funding for states and the federal government, the same isn't true for families — receiving their child support payments (and having those payments disregarded from their TANF benefit calculation) would provide them with a valuable income source to afford basic necessities. While states spend a total of \$19 billion on their TANF programs, only about \$7 billion or 23 percent of total TANF spending goes to cash assistance paid directly to families.⁶⁶ An additional \$1 billion would be a significant amount of money in families' pockets. Instead of sending most of the child support payments to the federal government, states have options to give them to the families they are intended for.

Appendix Table I

TABLE 1

Glossary of Key Terms for Child Support Assignment and Distribution

Key Term	Definition
Arrears or Arrearage	Past-due, unpaid child support owed by the non-custodial parent, also known as child support debt. Arrears may be owed to the family or the state. Assigned arrears owed to the state is often called state debt.
Assignment	Transferring legal rights to another party. In the child support context, it refers to transferring rights to child support to a state or tribe as a condition of receiving cash assistance. Assignment establishes a state’s legal claim to child support payments.
Assistance paid to the family	Assistance under the state program, funded under part A of the Social Security Act, is provided in the form of money payments. States may only retain child support payments in current and former TANF cases to reimburse assistance that is “paid to the family,” that is, cash or cash-like assistance.
Current assistance case	The child support case of a family or child receiving (1) assistance under the state program funded under part A; and (2) foster care maintenance payments under the state plan approved under part E of the Social Security Act. A state may retain assigned child support according to IV-D distribution rules but may not retain support to reimburse other forms of public assistance. (However, assigned medical support specifically designated in a child support order may be retained to reimburse Medicaid.)
Child support guidelines	A standard formula adopted in each state for setting child support obligations based on parental earnings, income, and other evidence of ability to pay. State guidelines include a set of policies and numeric scale. Almost all states consider the incomes of both parents in setting support orders. Child support guidelines may be established by the state legislature, court, administrative agency, or independent commission.
Child support order	A written order established by a legal process setting: (1) the amount of financial support that is to be provided by a parent for the support of children; and (2) the responsibility to provide for child health care coverage (such as private insurance, Medicaid, or CHIP)

TABLE 1

Glossary of Key Terms for Child Support Assignment and Distribution

Key Term	Definition
	or cash medical support to reimburse children’s out-of-pocket health care costs.
Current support	The amount of support due every month under the child support order.
Custodial parent or party	The parent or caregiver who a child lives with most of the time, who is primarily responsible for a child’s day-to-day supervision and care, and who is eligible for child support because the parent lives elsewhere. In a child support context, a custodial parent is sometimes referred to as an obligee, resident parent, parent who receives child support payments, or receiving parent.
Child support or IV-D agency	The state, local, or tribal agency designated to administer federal funds under the IV-D of the Social Security Act to locate non-custodial parents; establish paternity; establish, enforce, and modify child support and medical support orders; and collect and distribute child support money. In some states, the IV-D agency also administers federal Access and Visitation funds.
Child support pass through	State payment of part or all of an assigned child support collection to a family with a current or former assistance case, instead of keeping the funds to reimburse the state and federal government.
Disregard	A TANF policy under which some or all passed-through child support is excluded from income in determining eligibility and calculating benefits.
Disbursement	The process a state uses to receive and send out collected child support payments to custodial parents or a state. A state payment processing center or centralized disbursement unit tracks payments and disburses child support funds (typically to a debit card).
Distribution	The allocation of child support payments under a set of ordering rules that determine how child support payments are divided among multiple families and between families and the state.
DRA distribution	The Deficit Reduction Act of 2005 eliminated the federal tax offset exception to family-first distribution rules. DRA distribution means that federal tax offsets are distributed like any other collection – first to current support in every case, then to arrears. In former assistance cases, payment of family arrears is prioritized over state debt. States must elect either DRA

TABLE 1

Glossary of Key Terms for Child Support Assignment and Distribution

Key Term	Definition
	distribution or PRWORA distribution in their IV-D state plans.
Family-first distribution	A term applied to payment ordering rules for collections in former TANF assistance cases established under PRWORA. Family-first distribution rules prioritize family claims before state claims to a payment, specifically by distributing support first to current support paid to families and then to arrears owed to families before paying state debt.
Federal tax offset	A method of collecting child support whereby the IRS deducts or offsets child support arrears from federal tax refunds owed to non-custodial parents, including the Earned Income Tax Credit. Sometimes, an offset is called an “intercept.” Federal tax offsets are prioritized over other non-tax debts under the Internal Revenue Code and are treated as an exception to family-first distribution rules. A significant portion of arrears are collected through federal tax offsets.
Former assistance case	The child support case of a family or child who sometime in the past received (1) assistance under the state program funded under Part A; and (2) foster care maintenance payments under the state plan approved under part E of the Social Security Act.
Income withholding, wage withholding, or payroll withholding	Recurring child support deductions from wages or other regular income payments. Income withholding is the primary way child support is collected. Income withholding is different from garnishment. “Income withholding” applies automatically, like payroll tax deductions, and is required by 42 U.S.C. §666(b). “Garnishment” is a state legal remedy to withhold arrears from income.
Never assistance case	The child support case of a family who has not received cash assistance or assigned support to reimburse assistance under the state program funded under part A or foster care maintenance payments under part E of the Social Security Act. Unless a family has a current or former assistance case, child support must be distributed to the family and may not be retained by a state.
Non-custodial parent	A parent who lives apart from their children or does not have primary physical custody of them. A non-custodial parent is legally required to pay a monthly payment of child support to the custodial parent under a child

TABLE 1

Glossary of Key Terms for Child Support Assignment and Distribution

Key Term	Definition
	support order. In the child support context, a non-custodial parent is sometimes referred to as an obligor, non-resident parent, parent who pays child support, or paying parent.
Pass-through	An assigned support collection (either current support or arrears) in a current or former assistance case that a state elects to pay to the family rather than retain to reimburse assistance. Assigned support passed through to the family reduces the unreimbursed assistance balance.
PRWORA distribution	The Personal Responsibility and Work Opportunity Reconciliation Act created a federal tax offset exception to family-first distribution rules. Under the exception, collections made through a federal tax offset are only distributed to arrears and not distributed to current support. In addition, payment of state debt with federal tax offset collections has priority in both current and former TANF assistance cases.
Retained collections	Assigned support payments held back by states to reimburse cash assistance paid to families through the TANF or IV-E-funded foster care program pursuant to state distribution and pass-through policies authorized by 42 U.S.C. § 657.
Unreimbursed assistance (URA)	The cumulative amount of cash assistance paid to a family for all months that has not been repaid by assigned support collections. The amount of cash assistance paid to a family that a state may recover through the IV-D program is limited by the assigned support obligation.

Sources: Office of Child Support Enforcement, “Glossary of Common Child Support Terms,” 2013; “Instructions for the Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act, OCSE-AT-07-05, July 11, 2007; “Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act, OCSE-AT-97-17, November 26, 1997.

¹ Vicki Turetsky is an independent consultant and former Commissioner of the Office of Child Support Services (OCSS) during the Obama Administration.

² In order to receive child support, a child must have a parent who lives in a separate household. A “custodial parent” lives with the child most of the time and typically has the primary responsibility for the daily care. The “non-custodial parent” lives apart from the child and is responsible for paying child support to the custodial parent to help pay for the cost of raising the child. Custodial and non-custodial parents often share legal and/or physical custody and caregiving responsibilities, and some states have replaced these terms with “paying parent” and “receiving parent” or similar terms.

Child support orders are based on the income of both parents in most states, and financial support is considered a shared responsibility. Both custodial and non-custodial parents are eligible for child support services. 42 U.S.C. § 654(4).

³ Gina Azito Thompson, Diana Azevedo-McCaffrey, and Da'Shon Carr, "Increases in TANF Cash Benefit Levels Are Critical to Help Families Meet Rising Costs," CBPP, February 2, 2023, <https://www.cbpp.org/research/income-security/increases-in-tanf-cash-benefit-levels-are-critical-to-help-families-meet-0>.

⁴ In addition to the cost recovery process, there are other aspects of the child support program that impact TANF recipients' experiences. These include the TANF requirement for them to participate in and cooperate with the child program, which is both a mechanism to facilitate TANF cost recovery and a policy to require TANF recipients to maximize their personal income (similar to work participation requirements). In addition, there are several policies that influence a non-custodial parent's experience with the child support program, which can directly impact regularity of child support payments, employment, and family relationships, including unrealistically high support orders, the accumulation of unmanageable child support debt, and debt-driven enforcement mechanisms, particularly incarceration and driver's license suspension. See Vicki Turetsky, "An Evidence-Based Approach to Child Support" toolkit, Ascend at the Aspen Institute and Good+Foundation, February 2023, <https://ascend.aspeninstitute.org/an-evidence-based-approach-to-child-support/>.

⁵ Elaine Sorensen, "Child Support is a Good Investment," Office of Child Support Enforcement, December 2016, https://www.acf.hhs.gov/sites/default/files/documents/ocse/sbtn_csp_is_a_good_investment.pdf.

⁶ Vicki Turetsky, "Ensuring Families Receive All Child Support Payments," An Evidence-Based Approach to Child Support toolkit, Ascend at the Aspen Institute and Good+Foundation, February 2023, <https://ascend-resources.aspeninstitute.org/resources/child-support-policy-fact-sheet-paying-support-to-families/>.

⁷ The federal Office of Child Support Enforcement has placed a priority of obtaining consistent support payments for families across several administrations. This emphasis on developing regular, on-time payments represents a shift away from the focus on collecting child support debt contained in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). 81 FR 93492, "Flexibility, Modernization in Child Support Enforcement Programs," 93492, December 20, 2016 (final rules); Office of Child Support Enforcement, "National Child Support Strategic Plan for 2015-2019," https://www.acf.hhs.gov/sites/default/files/documents/ocse/national_child_support_strategic_plan_2015_2019.pdf; Office of Child Support Enforcement, "National Child Support Enforcement Strategic Plan FY 2005-2009," <https://www.acf.hhs.gov/archive/css/training-technical-assistance/national-child-support-enforcement-strategic-plan-fy2005>.

⁸ Elizabeth Peters *et al.*, "Legislating Love: The Effect of Child Support and Welfare Policies on Father-child Contact," *Review of Economics of the Household*, Vol. 2, September 2004, <https://doi.org/10.1007/s11150-004-5647-5>; Virginia Knox, "The Effects of Child Support Payments on Development Outcomes for Elementary School-Age Children," *Journal of Human Resources*, Vol. 31, No. 4, 1996, <https://doi.org/10.2307/146148>; Gerry L. White, Leon Banks, and Harold E. Briggs, "The Effects of Child Support Payment Factors on Satisfaction With Levels of Parental Involvement by Noncustodial Fathers," *Research on Social Work Practice*, Vol. 31, No. 8, April 26, 2021, <https://doi.org/10.1177/10497315211004744>.

⁹ 42 U.S.C. §§ 608(a)(2); 42 U.S.C. § 654(29).

¹⁰ There are good cause and other exemptions defined by states, such as in the case of domestic violence. Depending on the state, good cause waivers may be granted by both the TANF and child support agencies. 42 U.S.C. § 654(29)(A); 45 C.F.R. §§ 260.51. A child support case referred by the TANF agency to the child support agency also may be closed when there is a risk of harm, or the case was inappropriately referred. 45 C.F.R. § 303.11(b)(6)(iii), (14) and (20). However, these waivers are often difficult for families to obtain. Office of Child Support Enforcement, "Domestic Violence Resources, Training, and Collaboration," OCSE-IM-22-04, October 28, 2022, <https://www.acf.hhs.gov/css/policy-guidance/domestic-violence-resources-training-and-collaboration>; Office of Child Support Enforcement, "Model Procedures for Domestic Violence Cases," OCSE-IM-19-06, August 21, 2019, <https://www.acf.hhs.gov/css/policy-guidance/model-procedures-domestic-violence-cases>. For a more detailed explanation of TANF and child support good cause waiver provisions, see Susan Notar and Vicki Turetsky, "Models for Safe Child Support Enforcement," *Journal of Gender, Social Policy & the Law*, Vol. 8:3, pp. 657-716, 2000, <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1144&context=jgspl>.

¹¹ 42 U.S.C. § 608(a)(3).

¹² This brief focuses on TANF cost recovery. However, separate cost recovery policies also apply to Medicaid and IV-E-funded foster care maintenance payments. Federal law requires child support cooperation by custodial parents receiving TANF, IV-E-funded foster care maintenance payments, and Medicaid, and allows states to require cooperation by custodial parents receiving SNAP. 42 U.S.C. §§ 608(a)(2); 654(29); 671(a) 42 C.F.R. § 433.147; 42 U.S.C. § 671(a)(17); Children’s Bureau, “Child Welfare Policy Manual,” 8.4C; OCSE-IM-14-01, 42 C.F.R. § 433.147. Child support paid on behalf of children receiving IV-E-funded foster care maintenance payments is subject to assignment in “appropriate” cases. 42 U.S.C. § 671(a)(17). However, child support assignment to reimburse Medicaid costs is limited to medical support payments designated in a support order and does not apply to regular child support payments. 42 C.F.R. § 433.145; 45 C.F.R. §§ 302.50(e); 303.31.

¹³ Rakesh Kochhar, “The Enduring Grip of the Gender Pay Gap,” Pew Research Center, March 1, 2023, <https://www.pewresearch.org/social-trends/2023/03/01/the-enduring-grip-of-the-gender-pay-gap/>; Marina Zhavoronkova, Rose Khattar, Mathew Brady, “Occupational Segregation in America,” Center for American Progress, March 29, 2022, <https://www.americanprogress.org/article/occupational-segregation-in-america/>.

¹⁴ Until Congress established the national child support program under title IV-D, child support was considered a private family law matter, except for cost recovery legal actions pursued by the county attorney against the non-custodial parents of children receiving AFDC. Generally, child support was resolved as part of a divorce proceeding. At that time, most states did not have child support guidelines for establishing orders that were consistent across cases, were predictably based on the ability of a non-custodial father to pay the obligation amount, and provided for ongoing payment obligations. Non-custodial fathers of children receiving AFDC often received higher obligation amounts than better-off non-custodial fathers, who were sometimes ordered to repay AFDC benefits in full. Moderate- and high-income non-custodial fathers sometimes offered a one-time lump sum financial settlement in lieu of monthly child support payments required through the child’s minority. Once a support obligation was established, the financial burden to pursue enforcement proceedings fell to the custodial parent, while effective enforcement mechanisms were lacking. For children born to unmarried parents, the procedures for establishing a legal father were a cumbersome and costly first step in obtaining a child support order, with some states requiring jury trials to establish paternity. See Irwin Garfinkel, Daniel R. Meyer, and Sara S. McLanahan, “A Brief History of Child Support Policies in the United States,” 14-30 in Irwin Garfinkel, Sara S. McLanahan, Daniel R. Meyer, and Judith A. Seltzer, eds., *Fathers Under Fire: The Revolution in Child Support Enforcement*, New York, NY: Russell Sage Foundation, 1998.

¹⁵ Carmen Solomon-Fears, “The Child Support Enforcement Program: A Legislative History,” Congressional Research Service, 2016, <https://crsreports.congress.gov/product/pdf/R/R44423/4>; Nan D. Hunter, “Child Support Law and Policy: The Systematic Imposition of Costs on Women,” Georgetown University Law Center, 1983, <https://core.ac.uk/download/pdf/70375619.pdf>; S. Rep. No. 93-1356, 42-44, December 14, 1974 (conference report accompanying H.R. 17045, the Social Services Amendments of 1974, P.L. 93-247), <https://www.fordlibrarymuseum.gov/library/document/0055/12006489.pdf>; M.P. Winston and T. Forsher, “Nonsupport of Legitimate Children by Affluent Fathers as a Cause of Poverty and Welfare Dependence,” RAND Corp., 1974, <https://www.rand.org/pubs/papers/P4665-1.html>.

¹⁶ William P. Quigley, “The Quicksands of The Poor Law: Poor Relief Legislation in a Growing Nation, 1970-1920,” *Northern Illinois University Law Review*, Vol. 18, No. 1, 1997, <https://huskiecommons.lib.niu.edu/cgi/viewcontent.cgi?article=1468&context=niulr>.

¹⁷ Daniel L. Hatcher, “Child Support Harming Children: Subordinating the Best Interests of Children to the Fiscal Interests of the State,” *Wake Forest Law Review*, Vol. 42, pp. 1029-1086, <https://deliverypdf.ssrn.com/delivery.php?ID=458117106069068080116099085104080118051053051021058043068126072104101115011076093102036054032126054012052114026027095101078013038007053017081068020113012029092076059059048092110101004005107084028070114095121124085070021103127120121112100078066121003&EXT=pd&INDEX=TRUE>; Larry Cata Backer, “Medieval Poor Law in Twentieth Century America: Looking Back Towards a General Theory of Modern American Poor Relief,” *Case Western Reserve Law Review*, Vol. 44(3), 1994, <https://scholarlycommons.law.case.edu/cgi/viewcontent.cgi?article=2675&context=caselrev>; David C. Baldus, “Welfare as a Loan: An Empirical Study of the Recovery of Public Assistance Payments in the United States,” *Stanford Law Review*, Vol. 25(2), pp. 123-250 (1973), <https://www.jstor.org/stable/1227967>; Thomas A. Wadden, Jr., “Note: Criminal Law—North Carolina Bastardy Statute—Support of Illegitimate Children,” *North Carolina Law Review*, Vol. 26(3), pp. 305-309; 1948,

<https://scholarship.law.unc.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=5562&context=nclr>; W. Logan MacCoy, Law of Pennsylvania Relating to Illegitimacy, *Journal of Criminal Law and Criminology*, Vol. 7(4), 1917, <https://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1473&context=jclc>; W.R. Vance, “The Parent’s Liability for Necessaries Furnished for His Minor Child,” *Virginia Law Register*, Vol. VI(9), 1901, <https://www.jstor.org/stable/1098948>.

¹⁸ Under common law, fathers had the duty to support their children, although private child support payment laws did not come into general effect until the late nineteenth century. Third-party creditors, including counties, providing “necessaries” to children and their mothers could sue fathers for reimbursement. In the 19th century, counties established poor houses and county work farms as a form of poor relief. Indigent adults and children born to unmarried parents who were committed to the county’s custody could be “bound out” for their labor. For a discussion of the racialized application of bastardy laws, see Kaaryn Gustafson, “On the History and Impact of Bastardy Laws” (podcast), Irvine School of Law, University of California, <https://www.law.uci.edu/podcast/episode4.html>.

¹⁹ In 1980, states were authorized to receive federal funding to provide child support services to custodial families who did not receive AFDC. In 1984, states were required to provide equal services to non-AFDC families. Congressional Research Service, *The Child Support Enforcement Program: A Legislative History*, 2016, https://www.everycrsreport.com/files/20160321_R44423_7c7c042b8038f53dcc732fb77538a7924e1cfe14.pdf; Committee On Ways And Means, United States House of Representatives, “Child Support Enforcement Legislative History,” 2012, <https://greenbook-waysandmeans.house.gov/2012-green-book/child-support-enforcement-cover-page/legislative-history>.

²⁰ Custodial parents are not required to participate in the child support program once they stop receiving TANF assistance. However, they may continue receiving services without filing an application or paying fees. Even if they decide to terminate child support services, the support owed during the assistance period remains permanently assigned to the state, and an “arrear-only” case remains open until the state has collected assigned arrears, writes off the assigned debt, or closes the case under limited case closure rules. 42 U.S.C. §§ 654(6)(B); 45 C.F.R. § 302.33(a); 303.11.

²¹ According to 2018 Current Population Survey-Child Support Supplement data (CPS-CSS) conducted by the U.S. Census Bureau, 62 percent of custodial parents participate in the program, while 38 percent do not. Elaine Sorensen, “Characteristics of Custodial Parents and Their Children,” Office of Child Support Enforcement, 2021, https://www.acf.hhs.gov/sites/default/files/documents/ocse/characteristics_cps_and_their_children.pdf.

²² According to 2018 CPS-CSS data, 61 percent of children in custodial families receiving child support services have incomes below 200 percent of the federal poverty level, compared to 23 percent of children in custodial families receiving child support services with incomes at or above 300 percent of the poverty level. Among children in custodial families who are eligible for child support services but are not receiving them, 49 percent have incomes below 200 percent of poverty, compared to 35 percent with incomes at or above 300 percent of the poverty level. Sorensen, 2021, op. cit.

²³ 45 C.F.R. §§ 303.8; 302.33(a)(6).

²⁴ 45 C.F.R. § 303.56(c). See Vicki Turetsky, “Setting Realistic and Accurate Child Support Orders,” An Evidence-Based Approach to Child Support toolkit, Ascend at the Aspen Institute and Good+Foundation, February 2023, <https://ascend-resources.aspeninstitute.org/resources/setting-realistic-and-accurate-child-support-orders/>.

²⁵ Office of Child Support Enforcement, “Preliminary Report FY 2022,” Table P-89, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf.

²⁶ Daniel R. Meyer and Quentin H. Riser, “Slowing the ‘vicious cycle’: Reducing the interest rate on child support arrears,” *Children and Youth Services Review*, Vol. 144, January 2023, <https://www.sciencedirect.com/science/article/pii/S0190740922003486>; Jessica Pearson and Rachel Wildfeuer, “Policies and Programs Affecting Fathers: A State-by-State Report,” Fatherhood Research & Practice Network, 2022, <https://www.frpn.org/asset/policies-and-programs-affecting-fathers-state-state-report-combined-pdf>.

²⁷ 42 U.S.C. § 654(6); 45 C.F.R. § 302.33 (c), (d), and (e).

²⁸ Because states do not owe a federal share on assigned support until it is collected, they do not incur a financial obligation to the federal government if they write off uncollected state debt. Office of Child Support Enforcement, “Family and State Benefits of Debt Compromise,” OCSE-IM-22-03, August 18, 2022,

<https://www.acf.hhs.gov/css/policy-guidance/family-and-state-benefits-debt-compromise>; Office of Child Support Enforcement, “State Program Flexibility with Respect to Low-Income Obligor,” OCSE-AT-03, September 14, 2000. For information on state child support debt reduction policies, see Vicki Turetsky, “Implementing Sensible Debt Reduction Strategies,” An Evidence-Based Approach to Child Support toolkit, Ascend at Aspen Institute and Good+Foundation, Rev. Feb. 2023, <https://ascend.aspeninstitute.org/an-evidence-based-approach-to-child-support/>; Office of State Child Support Enforcement, “State Child Support Agencies with Debt Compromise Policies” (undated) (state-by-state), <https://www.acf.hhs.gov/css/map/state-child-support-agencies-debt-compromise-policies>; Office of Child Support Enforcement, “State Program Flexibility with Respect to Low-Income Obligor,” OCSE-AT-03, September 14, 2000.

²⁹ 42 U.S.C. § 664; 666; 45 C.F.R. § 302.60. Federal law exempts SSI, and many state exempt certain means-tested benefits. 45 C.F.R. § 307.11.

³⁰ 42 U.S.C. § 666(a)(1) and (b).

³¹ 42 U.S.C. § 666(b).

³² 42 U.S.C. §§ 654; 666(a).

³³ 42 U.S.C. § 654B.

³⁴ 42 U.S.C. §657(c). Like Medicaid, AFDC was funded through federal matching funds based on the state’s FMAP rate. Even though TANF is funded through a federal block grant, rather than matching funds based on the FMAP, the child support program continues to use the FMAP to calculate the federal share of assigned child support.

³⁵ Normally, states overall keep 44 percent and the federal government receives 56 percent of collections retained as assistance reimbursement, although each state’s FMAP varies. However, in federal fiscal year 2022, states overall kept 37 percent and the federal government received 63 percent of assistance reimbursement. Office of Child Support Enforcement, “Preliminary Data Report FY 2022,” Tables P-1, P-14, and P-15. This is because Congress temporarily increased the FMAP in response to the COVID-19 pandemic as part of the Families First Coronavirus Response Act (FFCRA), P.L. No. 116-127 (signed into law on March 31, 2020), as amended by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), P.L. 116-136 (signed into law on March 27, 2020). Enhanced rates apply to the federal share of retained support collected between 2020 and 2023, meaning that states are required to send back a higher percentage of retained collections to the federal government during this period. An enhanced FMAP was in effect in 2020, 2021, and 2022, with the rate gradually decreasing during 2023 and ending on Jan. 1, 2024 (so that a higher FMAP will apply the first quarter of federal fiscal year 2024 and the regular rate will apply for the remaining three quarters). In 2022, 31 states, including the District of Columbia, had rates at or above 70 percent because the FFCRA enhanced rates were in effect. In federal fiscal year 2024, states with a regular FMAP at or above 70 percent include Alabama, Arkansas, Kentucky, Mississippi, New Mexico, and West Virginia. Additional states will have an adjusted FMAP at or above 70 percent in 2024 because the first quarter of 2024 will be calculated at a higher rate. U.S. Department of Health and Human Services, “Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children’s Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2023 Through September 30, 2024,” 87 FR 74429, December 5, 2022, <https://www.federalregister.gov/documents/2022/12/05/2022-26390/federal-financial-participation-in-state-assistance-expenditures-federal-matching-shares-for>; U.S. Department of Health and Human Services, “Federal Financial Participation in State Assistance Expenditures; Federal Matching Shares for Medicaid, the Children’s Health Insurance Program, and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 2021 Through September 30, 2022,” 85 FR 76586, November 30, 2020, <https://www.federalregister.gov/documents/2020/11/30/2020-26387/federal-financial-participation-in-state-assistance-expenditures-federal-matching-shares-for>; OCSS, [Frequently Asked Questions For Child Support Programs \(as of Feb. 10, 2021\)](https://www.acf.hhs.gov/css/covid-19-faqs-child-support-programs), <https://www.acf.hhs.gov/css/covid-19-faqs-child-support-programs>.

³⁶ States also distribute support payments among multiple families of a non-custodial parent. See, e.g., Maria Cancian, Daniel R. Meyer, and Steven Cook, Changes in the Incidence of Complex Families and the Implications for Child Support Orders, Institute for Research on Poverty, University of Wisconsin-Madison, 2017 and earlier related studies, <https://www.irp.wisc.edu/resource/changes-in-the-incidence-of-complex-families-and-the-implications-for-child-support-orders/>.

³⁷ Assignment is a TANF eligibility requirement under title IV-A. 42 U.S.C. § 608(a)(3).

³⁸ Federal law does not authorize the use of the IV-D funded child support program resources to reimburse SNAP, child care, or other public assistance benefits, including state-funded cash assistance, except for TANF, IV-E-funded Foster Care Maintenance Payments, and Medicaid. 45 C.F.R. § 302.38; Office of Family Assistance and Office of Child Support Enforcement, “Questions and Responses on Coordination Between the TANF and the Child Support Enforcement Program,” TANF-ACF-ACF-PI-2007-02 and OCSE-AT-2007-02, May 18, 2007, <https://www.acf.hhs.gov/css/policy-guidance/coordination-between-tanf-and-cse-programs-deficit-reduction-act-2005>; Office of Child Support Enforcement, “Referrals, Location, Applications, and Electronic Interface Between Child Welfare and Child Support,” OCSE-IM-07-06, September 10, 2007, <https://www.acf.hhs.gov/css/policy-guidance/referrals-location-applications-and-electronic-interface-between-child-welfare>.

³⁹ During-assistance assignments are considered “permanent,” that is, state claims to support owed during the assistance period remain in effect after families leave TANF. Before PRWORA, pre-assistance assignments were also permanent. PRWORA limited the legal effect of pre-assistance assignments, making them “temporary” during the assistance period and “conditional” after the assistance period. As long as families were receiving TANF, states could keep support collections owed both before and during the assistance period. However, once families left TANF, the right to keep support owed before the assistance period reverted to the families, with one condition. The condition was that states could claim pre-assistance support collected through federal tax offsets. The DRA prospectively eliminated pre-assistance assignments altogether, eliminating “temporary” and “conditional” assignments. This means that under existing law, states may only claim support owed during the assistance period except in those older cases with pre-assistance assignments entered into before the DRA was enacted. For example, although this situation is not typical, if a family stopped receiving TANF but later reapplied for assistance, the support owed between the two assistance periods was treated as pre-assistance support and was covered by the new “pre-assistance” assignment. Even if the family had been receiving child support during the interim, the right to the support temporarily reverted to the state during the second assistance period and remained “conditionally” assigned, so that even after the second assistance period ended, a state could retain support collected through a federal tax offset.

For a more detailed explanation of PRWORA rules, see Vicki Turetsky, “In Everybody’s Best Interests: Why Reforming Child Support Distribution Makes Sense for Government and Families,” Center for Law and Social Policy (CLASP), 2005, <https://www.clasp.org/wp-content/uploads/2022/01/0241.pdf>. For a description of DRA rules, see Paul Legler and Vicki Turetsky, “More Child Support Dollars to Kids: Using New Flexibility in Child Support Pass-Through and Distribution Rules to Benefit Government and Families,” CLASP and Policy Studies, Inc., 2006, <https://www.clasp.org/publications/report/brief/more-child-support-dollars-kids-using-new-state-flexibility-child-support/>.

⁴⁰ For example, a non-custodial parent might owe \$5,000 in arrears at the time the custodial parent applies for TANF. Before the DRA, the custodial parent was required to assign all rights to support, including the \$5,000 in arrears owed before the assistance period (called “pre-assistance assignment”) and the \$2,000 in additional support owed during the assistance period (called “during-assistance assignment”). If the custodial family then received \$4,000 in TANF payments, the state could retain up to \$4,000, including \$2,000 in support due during the assistance period plus \$2,000 in support owed before the assistance period. Although the non-custodial parent owed \$7,000 in assigned pre-assistance and during-assistance arrears, the state can only keep up to the amount of assistance paid out, or \$4,000.

⁴¹ The DRA also provided states with an option to implement the changed assignment rules a year early, on October 1, 2008.

⁴² 42 U.S.C. § 657(b)(1) and (2); Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>. <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

⁴³ Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

⁴⁴ Office of Child Support Enforcement, “Definition of ‘Assistance Paid to the Family’ for Child Support Enforcement Collection Purposes,” OCSE-AT-99-10, September 15, 1999, <https://www.acf.hhs.gov/css/policy-guidance/definition-assistance-paid-family-child-support-enforcement-collection-purposes>; Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

⁴⁵ At the end of the assistance period, the URA balance is reconciled with the cumulative amount of child support retained by the state to determine whether any remaining support is due to the family. While the amounts of assistance paid to families and the amounts of child support kept by states to reimburse assistance are separately accounted for, the balances are reconciled only after a custodial family leaves TANF, rather than reconciled month by month, as was the case in AFDC. 42 U.S.C. § 608(a)(3); Office of Child Support Enforcement, “Definition of ‘Assistance Paid to the Family’ for Child Support Enforcement Collection Purposes, OCSE-AT-99-10, September 15, 1999, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-definition-assistance-paid-family>); Office of Child Support Enforcement, “Instructions for the Distribution of Child Support, Definition of Assistance Paid to the Family,” OCSE-AT-98-24, August 19, 1998, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-definition-assistance-paid-family>; Office of Child Support Enforcement, “Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act,” OCSE-AT-97-17, October 21, 1997, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-under-section-457-social-security-act>.

⁴⁶ Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>; Office of Child Support Enforcement, “Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act,” OCSE-AT-97-17, October 21, 1997, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-under-section-457-social-security-act>.

⁴⁷ Distribution rules are included in title IV-D of the Social Security Act. 42 U.S.C. § 657 determines whether a collection will be applied to the state or family claims. Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

⁴⁸ Separate distribution issues are raised in allocating support when the non-custodial parent has more than one support order, which are not discussed in this paper.

⁴⁹ 42 U.S.C. § 654(34); Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

⁵⁰ 42 U.S.C. § 657(a); Office of Child Support Enforcement, “Instructions for the Distribution of Child Support, Definition of Assistance Paid to the Family,” OCSE-AT-98-24, August 19, 1998, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-definition-assistance-paid-family> (Definition of Assistance Paid to the Family was superseded by “Definition of ‘Assistance Period to the Family’ for Child Support Enforcement Collection Purposes, OCSE-AT-99-10, September 15, 1999, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-definition-assistance-paid-family>); Office of Child Support Enforcement, “Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act,” OCSE-AT-97-17, October 21, 1997, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-under-section-457-social-security-act>.

⁵¹ 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.

⁵² 42 U.S.C. § 654(34).

⁵³ Alaska, California, Maryland, New Mexico, Pennsylvania, Vermont, West Virginia, Wyoming, and Puerto Rico have adopted DRA distribution while the remaining states and Washington D.C. have PRWORA distribution.

⁵⁴ 42 U.S.C. § 657(a)(1). States reported that they passed through 16 percent of current assistance collections in fiscal year 2022. In addition, states collect “excess payments” during the TANF assistance period, which states are not allowed to keep. Excess payments represent an additional 17 percent of current assistance collections. These excess payments are distributed to families receiving TANF and counted as income in the TANF program, or used to meet the day-to-day needs of children receiving IV-E funded foster care maintenance payments (rather than used as reimbursement.)

⁵⁵ Office of Child Support Enforcement, “Preliminary Report FY 2022,” Tables P-1, P-4, P-7, <https://www.acf.hhs.gov/css/policy-guidance/fy-2022-preliminary-data-report-and-tables>.

⁵⁶ 42 U.S.C. § 657(a)(6)(B)(i)(III); Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>.

⁵⁷ Office of Child Support Enforcement, Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act (October 21, 1997), OCSE-AT-97-17, July 11, 2007.

⁵⁸ Office of Child Support Enforcement, “Assignment and Distribution of Child Support Under Sections 408(a)(3) and 457 of the Social Security Act,” OCSE-AT-07-05, July 11, 2007, <https://www.acf.hhs.gov/css/policy-guidance/assignment-and-distribution-child-support-under-sections-408a3-and-457-social>. Each year, states are required to meet a maintenance-of-effort obligation under the TANF block grant or face a fiscal penalty. (The statute refers to this spending as “qualified state expenditures” but common usage is “state MOE.”) Each state’s MOE amount is based on its historical spending, defined as its 1994 financial contribution to AFDC and related work programs. To meet its MOE obligation, a state must report spending at least 80 percent of this historical spending level; this minimum share falls to 75 percent for any year in which a state meets its TANF work participation rate requirement; Aditi Shrivastava, “Policy Brief: To Strengthen Economic Security and Advance Equity, States Should Invest More TANF Dollars in Basic Assistance,” CBPP, March 8, 2023, <https://www.cbpp.org/research/income-security/to-strengthen-economic-security-and-advance-equity-states-should-invest>.

⁵⁹ Delaware, Georgia, Maine, South Carolina, and Tennessee elected to carry over fill-the-gap budgeting into their TANF programs that was in effect before PRWORA under a grandfather clause contained in 42 U.S.C. § 657(d). Additional states may not adopt fill-the-gap distribution in current assistance cases. In fill-the-gap budgeting, states set a TANF standard of need but a lower TANF benefit payment level. The state then fills the resulting “gap” between need and payment levels with child support or other income such as earnings. In fill-the-gap states, child support is distributed, rather than passed through, to families currently receiving TANF. In addition, two states (Delaware and Maine) pass through up to an additional \$50 per month to TANF families. Office of Child Support Enforcement, Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act, July 11, 2007, OCSE-AT-97-17, <https://www.acf.hhs.gov/css/policy-guidance/instructions-distribution-child-support-under-section-457-social-security-act>.

⁶⁰ Although custodial families who participate in Medicaid are required to assign to the state medical support paid under a separately designated medical support order, Medicaid families may choose to collect regular cash child support payments through the child support program, and the collected child support is paid to the families and not assigned to the state. In 2022, states collected and distributed \$9.4 billion in regular cash support to families receiving Medicaid. States also collected \$648 million in designated medical support, some of which was distributed to families to pay for children’s health care needs, and some of which was distributed to the Medicaid program as reimbursement. Office of Child Support Enforcement, “Preliminary Report FY 2022,” Table P-2, P-52, P-55, P-56, and P-57, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf.

⁶¹ Office of Child Support Enforcement, “Preliminary Report FY 2022,” Table P-2, P-52, P-55, P-56, and P-57, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf.

⁶² Sixty-eight percent of total program collections were made on behalf of families who never received assistance, while 30 percent were made on behalf of families who formerly received assistance; just 2 percent were made on behalf of

families currently receiving assistance. Office of Child Support Enforcement, “Preliminary Data Report FY 2022,” Tables P-1, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf.

⁶³ The child support program collected \$27.4 billion in fiscal year 2022. 70 percent, or \$19.2 billion, were paid to families who never received assistance. (More than half of these never-assistance collections were paid to families receiving Medicaid, but not cash assistance.) The program collected \$616 million on behalf of current assistance families and \$7.6 billion on behalf of former assistance families. Office of Child Support Enforcement, “Preliminary Data Report FY 2022,” Tables P-1, P-4, P-6, P-7, P-8, and P-9, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf; In addition, nearly all collections not kept to reimburse assistance are paid to families or foster care agencies and used for the day-to-day needs of the children for whom the support was collected. In current assistance cases, 65.6 percent of collections are kept as assistance reimbursement, 17.3 percent are distributed to families or foster care agencies and used for children’s needs, 15.6 percent are passed through to families, and 1.5 percent are medical support collections. In former assistance cases, 8.8 percent are kept as assistance reimbursement, 89.2 percent are distributed to families or foster care agencies and used for children’s needs, 0.1 percent are passed through to families, and 1.9 percent are medical support collections. Most medical support collections are distributed to families, but some are kept to reimburse Medicaid costs. A negligible amount of collections in current and former IV-E foster care cases are kept as fees. Office of Child Support Enforcement, Preliminary Data Report FY 2022, table P-1, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf.

⁶⁴ Office of Child Support Enforcement, “Preliminary Data Report FY 2022,” Table P-1, P-2, P-52, P-55, P-56, and P-57, https://www.acf.hhs.gov/sites/default/files/documents/ocse/fy_2022_preliminary_report.pdf.

⁶⁵ Fiscal years 2020 and 2021 were atypical collection years. Collections increased substantially due to IRS tax offsets of the first round of COVID-19 individual economic recovery payments included in the CARES Act. Subsequent payments were exempted from child support tax offsets by the American Rescue Plan Act of 2021 (ARPA), P.L. 117-2 (signed into law on March 11, 2021).

⁶⁶ Shrivastava, *op. cit.*