



August 18, 2021

Honorable Ron Wyden
Honorable Christopher Van Hollen
United State Senate
Washington, D.C.

Re: Strengthening Families for Success Act

Dear Senator Wyden and Senator Van Hollen:

The National Child Support Enforcement Association (NCSEA) has considered the Strengthening Families for Success Act (Act) introduced in 2020 (S.4844; H.R.8704). Because reintroduction is expected, NCSEA submits the following comments for consideration in finalizing the Act for the 117th Congress.

NCSEA supports many of the provisions of the Act as beneficial to the child support program. There are some mandates in the Act, however, that NCSEA believes would be more effective as state options until further research is conducted. In addition, NCSEA asks that additional provisions be considered with regard to Title IV-E foster care referrals in order to further strengthen American families.

Specifically, NCSEA:

- Supports the reauthorization and expansion of the Healthy Marriage Promotion and Responsible Fatherhood Grants (Title I).
- Supports improving resources for domestic violence intervention and family strengthening (Title II).
- Takes no position on the pilot program for parents participating in a healthy marriage or responsible fatherhood program (Title III).
- Supports the parenting time services pilot program (Title IV).
- Recommends that the Child Support Pass-Through Program Improvements Provisions (Title V) be amended as follows:
 - Provide a state option for adopting the pass-through child support provisions for families currently receiving Temporary Assistance for Needy Families (TANF).
 - Provide a state option for adopting the pass-through child support provisions for former TANF families.





- Provide a state option for adopting the child support distribution method identified in the Deficit Reduction Act.
- For states exercising the option to adopt the pass-through child support provisions for current and former TANF families, provide the 90-10% federal financial participation for system modernization and additional funding to match the revenue loss to that state.
- For states exercising the option to adopt the distribution method circumscribed by the Deficit Reduction Act, provide the 90-10% federal financial participation for system modernization and additional funding to match the revenue loss to that state.
- Add a provision providing that Title IV-E referrals to the child support agency occur when there is a formal reunification plan only when in the best interest of the child.
- Add a provision for a federal-state workgroup to study the Title IV-E referral process.
- Supports the ban on recovery of Medicaid costs for births in the Child Support Pass-Through Program Improvements Provisions (Title V).
- Supports the Program Flexibility During the Covid-19 Pandemic (Title VI).

I. TANF Cost-Recovery Provisions in Title V

A. Introduction

As introduced last year, Title V of the Act includes provisions that would phase out Title IV-A cost recovery and require the pass-through of all current support and arrearage payments collected by a state to families who currently and formerly received TANF. It also requires a disregard of current support collected in determining TANF eligibility and benefit levels.

As resolved by the NCSEA Board of Directors in April 2021, NCSEA strongly supports changes to federal law to promote expansion of state pass-through and disregard policies.¹ NCSEA recognizes that families—and state child support programs—stand to benefit from the adoption of more generous child support pass-through and disregard policies. However, NCSEA prefers a state option to a federal mandate of this policy. NCSEA urges Congress to provide additional financial incentives to allow most states to undertake the significant distribution policy changes and to achieve the policy goals of the legislation without negatively affecting other aspects of the child support program or other state services. To date, the prospective fiscal impact on state budgets has presented a barrier for nearly all states, preventing them from moving forward with the existing options to increase the amount of child support passed through to families.

¹ https://www.ncsea.org/wp-content/uploads/2021/04/Resolution-For-Child-Support-Funding_2021.pdf





B. Expanded Pass-Through and Disregard is Beneficial to Families

NCSEA recognizes that families—and state child support programs—stand to benefit in both tangible and intangible ways from the adoption of more generous child support pass-through and disregard policies. Passed-through support supplements the cash grant for families receiving public assistance and may ultimately help them become economically self-sufficient more quickly and permanently. In this way, the support payments play an important role in achieving government savings through public assistance cost avoidance. Research evidence also demonstrates that:

- Pass-through and disregard policies increase the percentage of child support cases with payments, the amount or percentage paid, and increase the percentage of cases with paternity established;²
- Pass-through and disregard policies increase custodial parents' willingness to cooperate with their TANF program, reduce families' need for other public assistance programs,³ and reduce the risk of children entering the child welfare system;⁴ and
- Ultimately, the increased child support income to families improves child outcomes, such as child's educational attainment, reduces risk of juvenile delinquency, and increases expenditures in the local economy.⁵

On a broader level, state child support programs benefit from pass-through and distribution policies that are more closely aligned with the mission of promoting familial self-sufficiency. Eliminating cost recovery would vastly simplify the administration of the program, reducing significant administrative and system costs over the long term, raising efficiency, and increasing effectiveness for the program's primary mission.

² References: Lippold, Kyle, et al. (November 2010). *Evaluation of the \$150 Child Support Pass-Through and Disregard Policy in the District of Columbia*. Urban Institute, DC: Washington; Cancian, Maria, Meyer, Daniel, and Caspar, Emma. (2008) "Welfare and Child Support: Complements, Not Substitutes." *Journal of Public Policy Analysis and Management*. Vol. 27, No. 2. pp. 354-375; Meyer, Daniel R., and Maria Cancian. (2001.) *W-2 Child Support Demonstration Evaluation, Phase 1: Final Report, Volume I: Effects of the Experiment*. Report to the Wisconsin Department of Workforce Development. University of Wisconsin–Madison, Institute for Research on Poverty; and Zoloff, Tom. (May 2019). *Pass-Through Direct Support for Children*. Colorado Department of Human Services Webinar. Retrieved from: <https://www.youtube.com/watch?v=uBEIXaOKXZs>.]

³ Wheaton, Laura, and Sorensen, Elaine. (2008) *The potential impact of increasing child support payments to TANF families*. [online] Urban Institute Report. Available: http://www.urban.org/UploadedPDF/411595_child_support.pdf

⁴ Cancian, Maria; Slack, Kristen; and Young, Mi. (August 2010). "The Effect of Family Income on Risk of Child Maltreatment," *Institute for Research on Poverty Discussion Paper 1385-10*, WI: Madison.

⁵ Many of these findings are documented in this quasi-literature review provided on the federal Office of Child Support Enforcement website. (U.S. Department of Health and Human Services Federal Office of Child Support Enforcement (Dec. 2016). "The Child Support Program is A Good Investment." *The Story Behind the Numbers*. Retrieved from https://www.acf.hhs.gov/sites/default/files/programs/css/sbtn_csp_is_a_good_investment.pdf)





C. Diversity of State Programs and Funding Structures

Given the diversity of child support program funding structures as well as TANF and child support policy across states, a federal mandate would have widely varying impacts across states. Many states would sustain a fiscal impact that would be detrimental to the child support program and the families

In FY 2019, the state share of retained collections was \$487 million, equivalent to 20 percent of the state share of child support administrative funding in that year. Some states provide the state share of recovered TANF funds to the TANF agency to offset TANF expenditures, while other states deposit it in the state's general fund.

Many states, however, use the retained collections as a source of state funding for their child support program, drawing federal matching funds that triple the value of the recoveries. For that group of states especially, the loss of TANF recoveries means that either the state legislature must backfill the lost revenue or the child support program will be forced to operate on significantly reduced funding leading to harmful impacts on program services and poorer outcomes for families.

There is also wide variation in the extent to which states have acted on existing pass-through and disregard options currently in federal law. As of May 2020, half of states, and the District of Columbia and Puerto Rico, pass through some or all child support without reducing the family's cash assistance grant. And under the TANF block grant, states have wide latitude to set TANF income criteria and benefits levels.⁶ A state option allows states discretion to develop a pass-through and disregard policy that is congruent with its TANF program.

D. Provide for Additional Funding to Support Greater Adoption of State Option

To date, for most states the prospective fiscal impact on state budgets has presented an insurmountable barrier to moving forward with the existing options to increase the amount of support passed through to families. NCSEA acknowledges and appreciates that S. 4844 provides some fiscal relief to states by forgoing the federal share of retained collections as well as temporarily increasing to 90 percent the federal financial participation (FFP) on states' costs to adapt their systems for the changes in distribution. This 90 percent FFP is critical because the proposed policy changes will require extensive programming of automated systems to implement distribution policy changes. NCSEA believes that a state option with more incentives will allow most states to undertake the significant distribution policy changes and achieve the policy goals of the legislation without negatively affecting other aspects of the child support program or other state services.

In addition to the 90 percent FFP, to support wider state adoption of more generous pass-through and disregard policies and to mitigate unintended consequences, NCSEA urges Congress to provide additional funding to offset the considerable loss in state revenue resulting

⁶ Fishman, Michael, E. et al. (Sept. 1999.) *State Financing of Child Support Enforcement Programs: Final Report*. Contract Number 0100-96-0011. Prepared for Assistant Secretary for Planning and Evaluation and Office of Child Support Enforcement, Department of Health and Human Services, Figure 17, page 16. Retrieved from <https://mefassociates.com/wordpress/wp-content/uploads/2015/07/State-Financing-of-Child-Support.pdf>





from such policies. NCSEA encourages Congress to consider backfilling the loss of state IV-A recoveries to help states manage the negative revenue impact on state child support programs and state services.

States would be further incentivized to adopt pass-through and disregard policies that benefit families by increasing federal child support performance incentive funding and conditioning the award of additional funds on expansion of state pass-through policies. NCSEA also encourages allowing states to pilot expanded pass-through and disregard policies and to defray the loss of state-retained collections with Section 1115 waivers. Finally, expanding allowable IV-D program expenditures to include employment services for noncustodial parents would also help states expand services in such a way as to strengthen the program.

E. States Should Have the Option and Funding Necessary to Adopt the Distribution Method Provided by the Deficit Reduction Act

As introduced in 2020, the Act proposes to repeal 42 USC 654(34). Subsection 34 was one of many child support provisions in the Deficit Reduction Act (DRA) of 2005. DRA included several provisions expanding amounts of support paid to families instead of being retained. Yet, it also gave states an election to retain the distribution provided by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA distribution), which primarily impacted distribution of federal income tax refund offsets.

The treatment of federal tax refund offset collections is the key difference between the DRA and PRWORA distribution rules. Under PRWORA distribution, federal tax refund offset collections must be distributed to arrears only and must be applied first to any arrears owed to the state to reimburse public assistance. This means that for both current TANF and former TANF assistance cases, federal tax refund offset collections must first be applied to arrears assigned to the State with any remainder paid to the family.

For states electing to follow DRA distribution, federal tax refund offset collections must be distributed in the same manner as any other collection. This means that in former-assistance cases, collections must be applied first to current support, but then to family arrears before assigned arrears may be paid. In current TANF assistance cases, federal tax refund offset collections (FTRO) must also be applied first to current support, but then to assigned arrears and last to any family arrears.

As identified in the following chart, PRWORA distribution of federal tax refund offset collections is unique because it prioritizes the application of collections to assigned arrears before applying collections to family arrears and is never applied to current support.





Distribution Election	PRWORA Distribution of NON-FTRO collections		PRWORA Distribution of FTRO collections		DRA Distribution of NON-FTRO collections		DRA Distribution of FTRO collections	
Case Type	TANF	Former TANF	TANF	Former TANF	TANF	Former TANF	TANF	Former TANF
Distribution Priority	1. Current (retained)	1. Current (Family)	1. Assigned arrears	1. Assigned arrears	1. Current (retained)	1. Current (Family)	1. Current (retained)	1. Current (Family)
	2. Assigned arrears	2. Family arrears	2. Family arrears	2. Family arrears	2. Assigned arrears	2. Family arrears	2. Assigned arrears	2. Family arrears
	3. Family arrears	3. Assigned arrears			3. Family arrears	3. Assigned arrears	3. Family arrears	3. Assigned arrears

In late summer 2020, as revealed in a survey conducted by the National Council of Child Support Directors, 49 of the 54 states and territories use PRWORA distribution. Therefore, almost every state and territory will have to implement a new distribution method.

The Act provides that system changes to implement this new requirement would be eligible for a generous 90-10% federal match. However, in addition to the significant cost of the systems change, 50 of the 54 states will encounter lost revenue from tax offsets no longer being applied to assigned arrears owed to the state.

NCSEA recognizes the benefit of DRA distribution to families. But due to the enormous impact the change would have almost every state, NCSEA urges that the method of distribution under PRWORA remain a state option. Like a TANF cost recovery option, NCSEA believes that programs recognize the benefit to families and generous systems funding combined with funds to offset lost revenue would be a significant incentive for most states to change to DRA distribution.

In addition, federal law provides that states may delay distribution of offsets that occur as a result of a joint tax return for six months or until the “injured spouse” claims a share of the refund, whichever occurs first. States may be more likely to adopt DRA distribution rules if the law could be clarified that distribution is based on the month that the funds are disbursed by the state rather than the month when the offset occurs. This clarity in the “date of collection” for the purposes of distributing tax refund offset collections would make administration of the program more efficient. Although the disbursement of the collection to current support will be delayed, states can continue to collect current support for the month the offset occurs utilizing other measures, such as through income withholding. An offset collection shortly before the April 15th filing deadline, for example, cannot help the family meet its needs for the “current” month of April if the collection is not disbursed until up to six months later. NCSEA believes the lack of clarity in current law in this situation is one of the reasons more states have not adopted the distribution rules in current law.

II. Foster Care Provisions in Title V

NCSEA strongly supports the inclusion of foster care provisions in the Act. As explained in NCSEA’s [resolution](#) on foster care, some studies have suggested that certain referrals to the IV-





D program actually prolong the period of time a child spends in a foster care placement and add, rather than recoup, program costs. Further, many foster care referrals are not cost effective, particularly against a struggling intact family⁷ or a former custodial parent (“removal parent”) with whom reunification is planned. Eliminating referrals from removal parents seeking to reunify with the child would help to keep financial resources in the home and be consistent with the draft legislation’s aim to reduce the recovery mission of the child support program.

As noted in the NCSEA Resolution, NCSEA believes foster care referrals from the Title IV-E program to the Title IV-D child support program should be guided by the best interests of the child. The best interests standard will frequently lead to avoidance of referrals or closure of cases against intact families and removal parents so long as reunification remains a reasonable goal (and assuming legal parentage has already been established). In many ways, the authority to make referrals selectively already exists at the state level, but could be encouraged further under the Act. Single removal parents are in a similar situation as two-parent intact families when reunification is still a goal and the parent(s) need all available funds to work toward reunification. When reunification is no longer a realistic goal, the situation of the referral parent(s) is similar to a parent who owes child support from a divorce or other proceeding prior to the child’s placement in foster care and a referral to the child support program could be considered.

The Act suggests a study and report by the Government Accountability Office (GAO), but NCSEA feels such a study would be more productive if conducted by a joint federal-state workgroup of representatives from the IV-E and IV-D programs. This joint federal-state workgroup of subject matter experts could develop badly needed recommendations on referral criteria (in more depth than addressed here), the desirability and feasibility of child savings accounts, data sharing, and other issues concerning the most effective means of coordinating between the IV-D and IV-E programs. Such an approach would still yield an informative and much-needed policy- and procedurally-oriented report, but leverage the existing expertise of program professionals at the federal and state level. After recommendations are implemented, it may be desirable at that point to have a GAO study to assess the implementation status and effectiveness of the recommended changes.

NCSEA also suggests that consideration of child saving accounts be assigned to the workgroup for further analysis. As with other portions of Act, NCSEA strongly supports states revisiting their historic approach to retained collections in foster care cases. The creation of savings accounts for a child in foster care has a lot of potential for the long-term best interests of the child, but also creates several challenges such as ownership of the account, accrual of interest, income tax responsibilities for the account holder or child, and potential implications of turning over potentially large sums of money to a child as soon as he or she turns 18. In addition, child support agencies are required to distribute funds quickly and usually distribute funds within one business day of receiving the collection. NCSEA feels creation and management of these savings accounts for children receiving services from the IV-E program would be better placed

⁷ NCSEA interprets the phrase “intact family” to mean that the legal parentage of both parents in the family has already been established. If not, NCSEA suggests a limited referral would be appropriate to establish parentage for the child to help clarify the role of each parent in future decisions for the child and confirm the child’s opportunities for inheritance, dependent’s benefits, learning about family medical history, and other benefits from identifying the child’s extended family.





with the IV-E program rather than the IV-D program, as appears to be proposed in the draft legislation.

III. Conclusion

NCSEA appreciates the opportunity to comment and the interest and effort by Congress to strengthen the child support program and the services it provides to families and children. NCSEA encourages Congress to consider these comments in finalizing the provisions in the Act for reintroduction in the 117th Congress.

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