

# ENSURING FAMILIES RECEIVE CHILD SUPPORT PAYMENTS

## Child Support Policy Fact Sheet

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## Introduction

Putting child support dollars in families' hands results in more income for families and helps them cover essentials like children's food, clothes, and school supplies. States can direct that money to families at home, rather than to the federal government. Family pass-through and distribution policies incentivize noncustodial fathers to pay through the formal child support program and can increase federal incentive payments by improving child support program performance.<sup>1</sup>

This fact sheet is part of the **Centering Child Well-Being in Child Support Policy** series produced by Ascend at the Aspen Institute and Good+Foundation to highlight examples of states adopting more pragmatic and family-centered child support policies. The fact sheet offers examples of state policies that expand child support payments paid to families by electing federal pass-through and distribution options.

## What the Research Shows

Custodial families have more income when child support payments are passed through to them and disregarded in determining cash assistance under the Temporary Assistance for Needy Families (TANF) program. More noncustodial fathers pay child support, and they pay more, when it is passed through and disregarded. Fathers are also more willing to establish the paternity of their children. Higher disregard amounts result in increases in cases with paternity established, paying cases, and child support payments.<sup>2</sup> In Wisconsin, screened-in child maltreatment reports decreased when child support payments were passed through and disregarded, suggesting a lower risk of child maltreatment.<sup>3</sup>

In 2007, the Urban Institute determined that if all states passed through and disregarded \$100 of collected child support for families with one child and \$200 for families with two or more children while participating in TANF, families would receive 65 percent of the child support collected. In addition, support payments from noncustodial parents would increase in response to the policy, increasing the number of families with collections by 9 percent. The average amount of child support received by families would more than double, and the support payments would total 5 percent of the income of those families with a collection. If states passed through all of the child support to families receiving TANF, child support would represent 8 percent of family income.<sup>4</sup>

## What Isn't Working

Not all children receive the child support paid by their noncustodial fathers. Families participating in the TANF program must sign over their child support rights to the state to pay back cash assistance.<sup>5</sup> In 2021, states collected \$29.5

billion in child support, and while most of that money was paid to families, states held back \$1.4 billion. Even when families no longer receive TANF cash assistance, states keep some of their child support payments. Although state policies vary, almost two-thirds of child support payments kept by states to reimburse TANF were made for families who no longer received TANF.<sup>6</sup>

These retained child support payments are treated as government revenues and shared with the federal government. States use their share of revenues to fund the TANF program, child support program, and other government services. Cost recovery policies divert the payments made by noncustodial fathers to support their children and reduce the income of custodial families who need it to help cover their children's basic needs.

## Why It Matters to Families

Cost recovery policies impact families with some of the lowest incomes—families who receive TANF or used to receive it.<sup>7</sup> When states treat support paid by noncustodial fathers for their children as government revenues, they are less likely to comply with their child support orders. Although noncustodial fathers are told that their children need their financial support, they often know that their child support payments will be kept by the state and will not go to their children. Because their children do not receive their support payments, noncustodial fathers sometimes pay out of both pockets—making some payments to the state and some informal support to their children. Some fathers may decide to stay away from formal employment to avoid wage withholding that will not benefit their children. This leads to nonpayment and debt, which can increase conflict between the parents and reduce father-child contact.<sup>8</sup>

## Why It Matters to States

TANF cost recovery policies send a mixed message about the importance of supporting children, contribute to distrust and avoidance of the child support program, and undercut the program's family-centered goals.<sup>9</sup> Cost recovery policies fuel resentment against the child support program, making it harder to collect child support. They increase state establishment and enforcement costs, and negatively impact federal incentive funding by depressing paternity and collection rates. Although cost recovery policies produce state revenues, they are very expensive to maintain—costing as much as 6 to 8 percent of total child support program expenditures.<sup>10</sup>

States with smaller TANF caseloads and higher federal Medicaid reimbursement rates should take a particularly close look at the economics of retaining collections. States share retained collections with the federal government according to each state's Federal Medical Assistance Percentage (FMAP).<sup>11</sup>

States with higher rates must send back a larger share to the federal government. In 2023, nine states have regular FMAP rates above 70 percent, meaning these states pay the federal government more than 70 percent of retained collections.<sup>12</sup>

## A Better Way to Do Business

Putting child support dollars in families' hands results in more income for families and helps them cover essentials like children's food, clothes, and school supplies. Family pass-through and distribution policies remove a disincentive for noncustodial fathers to pay through the formal child support program and can increase federal incentive payments by improving child support program performance. By electing federal options provided to states, states can leverage the federal share of support for families at home, rather than sending it to the federal government. States may also count the state share of child support passed through to families receiving assistance toward their TANF Maintenance of Effort (MOE) requirement.<sup>13</sup>

A state goal of 100 percent family distribution is achievable and affordable. Because TANF cost recovery now plays a much more limited role in the child support program and contributes far less revenue to state budgets, it is more feasible and cost-effective than in the past for states to forego child support revenues and replace needed program funding with general funds. Child support revenues from retained collections are half of what they were even a decade ago. Whenever a state pays state-assigned support to families, whether through a pass-through or distribution, the federal share is waived by law with only one exception—a federal waiver limit on support passed through to families who currently receive TANF.

A phased approach can ease the impact on the state budget when child support payments are redirected to families. Several states are mapping out a phased approach to expanding family payments. This approach takes advantage of flexible federal options, including the waived federal share of support. A particularly good time to reassess family distribution policies is during planning for a child support computer system replacement or major enhancement project.

This is a dynamic time for state child support programs. States have the opportunity to realign the mission of the child support program to support families and improve performance, leverage the federal share to increase family income, reduce program complexity and long-term systems and operational costs, and make child support payment more meaningful for fathers and families. Because family distribution policies increase family income and

therefore can affect family eligibility for other family-serving programs, it is important to bring these programs to the table.

Section 1 of this fact sheet describes the most robust state pass-through and disregard policies that benefit families currently receiving TANF cash assistance. Three states—Colorado, Michigan, and Minnesota—pass through all current support paid on a monthly basis (although with different disregard policies).

Section 2 identifies ten states that have adopted family-first distribution rules for families no longer receiving TANF.

Section 3 describes the set of child support distribution options available under federal law that, if taken together, would result in 100 percent of child support being paid to families. California and Illinois are the first states to adopt new laws that will direct 100 percent of child support payments to families currently and formerly receiving TANF.

State pass-through and distribution policies are tracked in the *Intergovernmental Reference Guide* (IRG) on the federal Office of Child Support Enforcement (OCSE) website.

## 1. TANF Pass-Through

Under federal law, states have the authority to set their own TANF pass-through and disregard policies. Two separate policies are involved: (1) the pass through, which is the amount of state-assigned child support paid to families, and not kept by the state, and (2) the disregard, which is the amount of child support income excluded in determining eligibility for and the amount of TANF cash assistance.

States have the authority under federal law to pass through and disregard all support payments, including current support and arrears collections, with no dollar limit, to families who currently receive TANF. States may pass through and disregard any amount of current support payments, arrears collections, or both. If a state decides to pass through and disregard support for families receiving TANF, the state no longer has to pay the federal share on amounts up to \$100 disregarded for one child and \$200 disregarded for two or more children (“\$100/200 federal waiver limit”).<sup>14</sup>

More than half of states pass through and disregard at least some child support to families receiving TANF. While most states limit their pass-through policy to current support, some states, such as Wisconsin, pass through a share of both current support and arrears payments. States have the flexibility to pay the pass-through amount either through the

child support program, such as Colorado, or through the TANF program, such as Montana.<sup>15</sup>

- + **Colorado** and **Michigan** pass through and disregard all current support.<sup>16</sup>
- + **Minnesota** passes through all current support but limits its disregard to \$100 for one child and \$200 for two or more children.<sup>17</sup>
- + **Wisconsin** passes through and disregards 75 percent of current support and arrears.<sup>18</sup>
- + 9 states (**California, Illinois, Maryland, New Jersey, New Mexico, New York, Pennsylvania, West Virginia** and **Wyoming**) pass through and disregard up to \$100 for one child and \$200 for two or more children. West Virginia also provides a \$25 supplemental TANF benefit when child support is collected.<sup>19</sup>
- + The **District of Columbia** passes through and disregards \$150.<sup>20</sup>
- + **Virginia** passes through and disregards \$100, regardless of family size, and also provides a supplemental TANF benefit of up to \$100 when child support is collected.<sup>21</sup>
- + **Oregon** passes through and disregards \$50 for one child and up to \$200 for additional children, while **Washington State** passes through and disregards \$50 for one child and \$100 for two or more children.<sup>22</sup>
- + **Montana** provides a \$100 supplemental TANF benefit when support is collected.<sup>23</sup>
- + **Texas** passes through and disregards \$75, regardless of family size.<sup>24</sup>
- + 5 states (**Delaware, Georgia, Maine, South Carolina, and Tennessee**) pay child support to families through traditional fill-the-gap policies, a budgeting mechanism that supplements benefit levels with child support income up to the state's TANF standard of need.<sup>25</sup>
- + 8 states and territories pass through and disregard \$50.<sup>26</sup>

States that effectively publicize policy changes may be able to improve the behavioral responses of fathers and mothers toward the new policy and increase child support payments. Studies of states implementing expanded pass-through policies have consistently found that many noncustodial fathers did not know that their child support payments were being passed through to their custodial families, and custodial mothers were confused about the reason for higher payments.<sup>27</sup> One state taking extra steps to educate parents is **California**, which produced and publicized a video clearly explaining the expanded pass-through policy change.<sup>28</sup>

+ **COLORADO**<sup>29</sup>



The Colorado legislature enacted a full TANF pass-through and disregard of current support payments, which was implemented by the state in 2017. Under the policy, the Department of Human Services passes through all monthly child support payments to families receiving cash assistance. The state keeps arrears collections. The child support program's Family Support Registry distributes the passed through child support amounts to the family based on the distribution option selected by the family. This can include direct deposit, debit card, or check.

To pay for the policy, the Colorado General Assembly appropriates general fund dollars each year to cover the federal share and backfill half of county revenues (the counties receive 50 percent of all dollars passed through). Colorado has a 50 percent FMAP, which means that the federal share is equal to half of the assigned collections above \$100 for one child or \$200 for two or more children. Under the pass-through policy, the federal share averages about 23 percent of the total amount of support paid to families receiving cash assistance.

A little over 3,000 families receive pass-through payments of \$167 on average each month, increasing the TANF benefit amount by 33 percent for a single mother with two children. For the first two years after implementation, families received \$11.7 million more than they did before the pass-through policy was implemented. A recent study commissioned by the Colorado Department of Human Services found that child support payments increased by 4.4 percent and cases with collections increased by 2.2 percent as a result of the policy. Total monthly collections made in current assistance cases rose 76 percent and established cases rose 13 percent during the first 18 months following implementation.<sup>30</sup>

+ **MINNESOTA**<sup>31</sup>



Twenty years ago, the Minnesota legislature adopted a full TANF pass-through of current child support payments, implemented in 2001. The original legislation counted child support income in



calculating TANF benefits.<sup>32</sup> In 2014, the legislature amended the law to adopt a disregard of \$100 for one child and \$200 for two or more children. This means that families receive their full monthly child support payment. For payments up to \$100 for one child and \$200 for two or more children, families also receive full TANF benefits. However, any amount passed through above the \$100 and \$200 is counted as income in the TANF program, reducing TANF benefits. The state keeps arrears collections. The Child Support Payment Center distributes the passed through amount to the family's debit card or bank account. The Minnesota legislature pays for the disregard policy through a state appropriation.

In 2019, 9,623 cases received at least one pass-through payment, averaging \$1,041 in 2019. The 2019 median amount was \$556. Between 2015 and 2016, state collections in current assistance cases increased 48 percent: In 2015, the state collected \$11 million in current assistance cases, and in 2016 it collected \$16.3 million. During the same period, collections per case in current assistance cases increased by 42 percent.<sup>33</sup> Minnesota has a 50 percent FMAP and pays the federal government half of collections above the \$100 and \$200 amounts.

## 2. Paying Tax Offset Collections to Families

Beginning with the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Congress adopted “family-first” distribution to increase support payments to families no longer receiving TANF cash assistance. The Deficit Reduction Act of 2005 (DRA) provided states with additional flexibility to pay more or all support to families who receive or used to receive TANF.<sup>34</sup>

When families receive TANF, child support that becomes due during the assistance period is assigned to states. States may either keep the assigned support payments or pass some or all of it through to families. The basic distribution rule is that current support has priority over arrears, and collections are applied to current support obligations first. In addition, state-assigned arrears have priority over arrears owed to the family before receiving TANF. If there is money left after paying current support, it is used to pay state-assigned arrears first, then family-owed arrears.

Once families no longer receive TANF, distribution priorities are flipped. Families who formerly received TANF receive most of the child support



collected on their behalf. First, collections are used to pay current support to families. Remaining child support collections are then applied to family-owed arrears. If there is money left, it is then kept to pay state-owed arrears.

However, PRWORA made one exception to this family-first distribution rule, which is called “PRWORA distribution.” The exception is that states keep federal tax offset collections to pay off state-assigned arrears first. Tax offset collections are the collections that the IRS deducts from federal tax refunds owed to noncustodial fathers when they are behind on child support payments. The tax offset exception applies to families who currently and formerly received TANF. Under the exception:

- + If a family is receiving TANF, federal tax offset collections are applied first to state-assigned arrears, then to family-owed arrears. They are not used to pay current support.
- + If a family is no longer receiving TANF, federal tax offset collections are applied in the same way—first to state-assigned arrears, then to family-owed arrears.

The DRA eliminated the federal tax offset exception, but allowed states to keep the old PRWORA exception if they elected it in their state plans.<sup>35</sup> Under DRA distribution, collections made through a federal tax offset are distributed like any other type of collection:

- + If a family is receiving TANF, federal tax offset collections are applied first to current support, then to state-owed arrears, then to family-owed arrears.
- + If a family is no longer receiving TANF, federal tax offset collections are applied first to current support, then to family-owed arrears, then to state-owed arrears.

Because DRA distribution eliminates the special treatment for federal tax offset collections, it increases current support and arrears payments to families who no longer receive TANF. In addition, it increases payments to families currently receiving TANF in those in states with a TANF pass-through policy. States electing DRA distribution do not owe any federal share on the additional support paid to families, except for support passed through and disregarded over \$100/200 for families receiving TANF.

Ten states and territories – **Alaska, California, Maryland, New Mexico, Pennsylvania, Puerto Rico, Rhode Island, Vermont, West Virginia,** and **Wyoming** – have elected DRA distribution to prioritize family payments.<sup>36</sup> The remaining states have elected PRWORA distribution, which means they retain federal tax offset collections to pay state-owed arrears first. A few states electing PRWORA distribution then pass through the state-assigned collections to families.

### 3. Paying 100 Percent of Child Support to All Families

Through a set of options, the DRA gives states the flexibility to move incrementally toward paying all child support collections to families—those who currently receive TANF and those who used to receive it. Taken together, the set of federal options allow states to pay families every dollar they collect, and in that way, finally end the practice of keeping child support payments to pay back TANF cash assistance.

The set of state options includes:

- + Passing through any amount of current support and arrears to families receiving TANF, and determining the disregard amount,<sup>37</sup>
- + Passing through any amount of assigned collections to families who no longer receive TANF,<sup>38</sup>
- + Electing DRA distribution to treat federal tax offset collections like other collections, and<sup>39</sup>
- + Eliminating older assignments.<sup>40</sup>

States may adopt a combination of options to expand payments to families. For example, states may pass through support to families currently receiving TANF and to families who formerly received it. It may combine DRA distribution of federal tax offset collections with a pass through of remaining state-assigned collections or adopt a pass-through as an alternative to DRA distribution. With a pass-through, the state maintains its support assignment, but pays the collections to families. States have the flexibility to define the type and amount of a pass-through, and can reduce state-assigned debts. Passing through support to families reduces the unreimbursed assistance balance (“URA”) that determines the maximum amount of support a state may keep to reimburse assistance.<sup>41</sup>

For example, **Wisconsin** elected PRWORA (state-first) distribution, but passes through 100 percent of assigned support to families formerly receiving TANF. On the other hand, **Wyoming**, which elected DRA (family-

first) distribution, will begin later in 2023 to pass through remaining state-assigned collections to families who formerly received TANF. Under federal law, states do not owe any federal share on support payments distributed or passed through to families no longer receiving TANF.

States also have options to cancel certain old assignments made before 2009. Typically, the support assigned in these cases is uncollectible but still carried on the books, hurting state performance numbers. Half of states have cancelled old assignments.<sup>42</sup>

**Wisconsin** has implemented the most expansive family payment policy to date, passing through 75 percent of current support and arrears to families currently receiving TANF and 100 percent of state-assigned support to families who formerly received it.<sup>43</sup> Recently, **California** and **Illinois** passed legislation to pay 100 percent of support to families currently and formerly receiving TANF.

When its new law is implemented, Illinois will pass through and disregard all state-assigned support collected after January 1, 2023 to families currently receiving TANF and pass through all support to families formerly receiving TANF. Currently, the state passes through and disregards \$100/200 of support to families who receive TANF, and elected PRWORA distribution of federal tax offset collections. The state is undertaking a major systems modernization project that includes implementation of the new law.<sup>44</sup>

California is taking a phased approach toward achieving 100 percent family payments. In 2020, California implemented DRA family-first distribution to direct federal tax offset collections to families first through an executive order, which was codified in state statute in 2021. Effective January 1, 2022, California adopted a \$100/200 pass-through and disregard for those families currently receiving TANF. The approved state budget for 2022-2023 authorizes a pass through of all remaining child support collections to families currently and formerly receiving TANF in 2025.<sup>45</sup>

**Maryland, Michigan, and Wyoming** also used a phased approach to expand family payments. Wyoming implemented a \$100/200 pass-through and DRA distribution in 2021, followed by a pass-through of remaining support to families who formerly received TANF planned for 2023. Maryland adopted a \$100/200 pass-through in 2020, then implemented DRA distribution in 2022. Michigan implemented a \$100/200 TANF pass-through in 2020, and then expanded its policy to pass through all current support to families receiving TANF effective on January 1, 2023.

**New Mexico, Pennsylvania, and West Virginia** are other examples of states that expanded family payments by combining a \$100/200 pass-through with DRA distribution.

When 100 percent of support is paid to families, states can expect substantial savings attributable to better performance, reduced systems and operational costs, and better outcomes for families.

## Appendix

<sup>1</sup> Both fathers and mothers living apart from their children are legally responsible for paying child support, regardless of gender. Although the focus of this fact sheet is on noncustodial fathers, gender-neutral terms are used to accurately describe specific research findings and state policies. This fact sheet is authored by Vicki Turetsky, Esq., former federal Office of Child Support Enforcement (OCSE) commissioner. She was closely involved in the development of the child support distribution provisions of the Deficit Reduction Act of 2005.

<sup>2</sup> Michael Martinez-Schiferi, Tom Zolot and Larry Desbien, *Poster Paper: Effects of Child Support Pass through on Colorado Families in Need*, Colorado Department of Human Services, 2019; Tom Zolot, *Pass-Through: Direct Support for Children*, Final Presentation, 2019; Kye Lippold, Austin Nichols, and Elaine Sorensen, *Evaluation of the \$150 Child Support Pass-Through and Disregard Policy in the District of Columbia*, Urban Institute, 2010; Laura Wheaton and Elaine Sorensen, *The Potential Impact of Increasing Child Support Payments to TANF Families*, Urban Institute, 2007; Maria Cancian, Daniel R. Meyer, and Jennifer Roff, *Testing New Ways to Increase the Economic Well-Being of Single-Parent Families: The Effects of Child Support Policies on Welfare Participants*, Institute for Research on Poverty, University of Wisconsin-Madison, 2007; Laura Wheaton and Elaine Sorensen, *Benefits and Costs of Increased Child Support Distribution to Current and Former Welfare Recipients*, Urban Institute, 2005; Jane C. Venohr, David Price, Laurie Davis Van Wert, and Christa M. Anders, *Child Support Passthrough in Minnesota: A Process and Outcomes Evaluation*, Policy Studies, Inc., 2002.

<sup>3</sup> Maria Cancian, Kristen Shook Slack, and Mi You Yang, *The Effect of Family Income on Risk of Child Maltreatment*, Institute for Research on Poverty, University of Wisconsin-Madison, 2010.

<sup>4</sup> Laura Wheaton and Elaine Sorensen, *The Potential Impact of Increasing Child Support Payments to TANF Families*, Urban Institute, 2007.

<sup>5</sup> Families must assign to the state their rights to child support that accrue during the assistance period (not exceeding the total amount of assistance paid to the family) as a condition of assistance. 42 U.S.C. § 608(a)(3). States also have a claim to child support collected on behalf of children receiving foster care maintenance payments under title IV-E of the Social Security Act. 42 U.S.C. §§ 671(a)(17) and 657(e). Under federal policy, states may only use child support to repay "assistance paid to the family," that is, provided "in the form of money payments in cash, checks, or warrants immediately redeemable at par to eligible families" under a state plan approved under titles IV-A or IV-E. For example, states may not use child support to pay back childcare vouchers or third-party payments paid for with TANF funds or the cost of foster care other than title IV-E foster care maintenance payments. OCSE, *Definition of "Assistance Paid to the Family" for Child Support Enforcement Collection Purposes*, OCSE-AT-99-10 (Sept. 15, 1999).

<sup>6</sup> Of the \$1.4 billion in cost recovery dollars collected and retained in 2021, \$489 million were collected in current TANF cases and \$893 million were collected in former TANF cases. OCSE, *Preliminary Report FY 2021* (table P-1).

<sup>7</sup> Federal law mandates cost recovery when a foster care agency refers a child receiving title IV-E-funded foster care maintenance payments to the child support agency for services. 42 U.S.C. §§ 654(4); 657(e). For recent changes in federal policy that authorize states to limit referral of foster care cases to the child support program, thereby reducing cost recovery under title IV-E of the Social Security Act, see OCSE-DCL-22-06 (July 29, 2022); Children's Bureau, *Child Welfare Policy Manual*, § 8.4C (June 8, 2022). See Diana Azevedo-McCaffrey, *States Should Use New Guidance to Stop Charging Parents for Foster Care, Prioritize Family Reunification*, Center on Budget and Policy Priorities, 2022.

<sup>8</sup> Maureen R. Waller, Allison Dwyer Emory, and Elise Paul, "Money, Time, or Something Else? Measuring Noncustodial Fathers' Informal and In-Kind Contributions," 39 *Journal of Family Issues* 3612-3640, 2018; Kimberly Turner and Maureen Waller, "Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement with Children," *Journal of Marriage and Family*, vol. 79, 2017; David Pate, "Fathers of Children in W-2", in Maria Cancian, Emma Caspar, and Daniel R. Meyer, *W-2 Families in W-2 Child Support Demonstration Evaluation: Reports on Nonexperimental Analyses*, Institute for Research on Poverty, University of Wisconsin-Madison, 2002; Maureen Waller and Robert Plotnick, "Effective Child Support Policy for Low Income Families: Evidence from Street Level Research," *Journal of Policy Analysis and Management*, 20(1): 89-110, 2001; Frank F. Furstenberg, Jr., Kay E. Sherwood, and Mercer L. Sullivan, *Caring and Paying: What Fathers and Mothers Say About Child Support*, MDRC, 1992.

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<sup>9</sup> Dan Bloom and Kay Sherwood, *Matching Opportunities to Obligations: Lessons for Child Support Reform from the Parents' Fair Share Pilot Phase*, MDRC, 1994.

<sup>10</sup> Paul Legler and Vicki Turetsky, *More Child Support Dollars to Kids: Using New State Flexibility in Child Support Pass-Through and Distribution Rules to Benefit Government and Families*, Policy Studies, Inc. and Center for Law and Social Policy, 2006 (footnote xvi).

<sup>11</sup> 42 U.S.C. §§657(a)(3) and (c).

<sup>12</sup> In 2021, the federal government received \$868 million and states kept \$514 million in TANF cost recovery dollars. OCSE, *Preliminary Report FY 2021* (table P-1); *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, 2019 Through September 30, 2020*, U.S. Department of Health and Human Services, 83 Fed. Reg. 61157 (Nov. 28, 2018).

<sup>13</sup> The state share of assigned collections passed through to families receiving TANF is considered to be cash assistance and treated as a "qualified state expenditure" under 42 U.S.C. § 609(a)(7)(B)(i)(aa). OCSE, *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).

<sup>14</sup> 42 U.S.C. § 657(a)(1) and (6)(B); OCSE-AT-07-05.

<sup>15</sup> See OCSE, IRG.

<sup>16</sup> Colo. Rev. Stat. § 26-2-108(1)(b); *Michigan IV-D Child Support Manual* § 5.40, no. 7.1.3 (eff. Jan. 1, 2023); Michigan Department of Health and Human Services press release issued Dec. 21, 2022.

<sup>17</sup> Minn. Stat. §§ 256.741, subd. 2a(a); 256P.06, subd. 3.

<sup>18</sup> Wis. Stat. Ann. § 49.145(2)(s); *Wisconsin Works (W-2) Manual*, chapt. 15.1.2.

<sup>19</sup> Cal. Fam. Code § 17504; ILCS 5/4-1.6; Md. Hum. Ser. Code § 5-310; N.J. Stat. § 44:10-49; N.Y. Social Services Law § 111c(2)(d); N.M. Stat. Ann. § 27-2B(1)(b); N.M.A.C. §§ 8.50.125.13, and 8.102.520 (implemented Jan. 1, 2023); New Mexico Human Services Department press release issued Jan. 9, 2023; Penn. Stat., title 23, § 4374(c); *Pennsylvania Cash Assistance Handbook, Appendix A*; WV Code §§ 9-9-6(3); 48-18-113; W. Va. Code R. § 97-7-9; West Virginia FY 2018 State Plan for Temporary Assistance for Needy Families.

<sup>20</sup> D.C. Stat. § 4-205-19.

<sup>21</sup> *Virginia TANF Guidance Manual* § 304.4.

<sup>22</sup> Or. Rev. Stat. § 412.007(3); Wash. Rev. Code § 26.23.035(4); Legislation to pass through current support and arrears has been introduced this session in Washington (H.B. 1652), while legislation to pass through and disregard current support has been introduced in Oregon (SB 186) and Nebraska (LB 233).

<sup>23</sup> Mont. Code Ann. § 53-4-260.

<sup>24</sup> Tex. Admin. Code tit. 1, Part 15, § 372.404(4).

<sup>25</sup> Delaware and Maine provide a \$50 pass-through and disregard, in addition to family distribution of child support collections used to fill the gap.

<sup>26</sup> States and territories with a \$50 pass-through and disregard policy include: Alaska, Connecticut, Delaware (in addition to a fill-the-gap policy), Maine (in addition to a fill-the-gap policy), Massachusetts, Puerto Rico, Rhode Island, and Vermont.

<sup>27</sup> E.g., Lippold, Nichols, and Sorensen, 2010.

<sup>28</sup> California Department of Child Support Services, "What is the 2022 Pass-Through Increase?" <https://www.youtube.com/watch?v=QVoVA7Pdeac>.

<sup>29</sup> Colo. Rev. Stat., title 26, Human Services Code § 26-2-111(3)(a)(V); 9 C.C.R. 2503-6, Income Maintenance, Vol. 3, 3.605.3(E).

<sup>30</sup> Michael Martinez-Schiferi, Tom Zolot and Larry Desbien, *Poster Paper: Effects of Child Support Pass through on Colorado Families in Need*, Colorado Department of Human Services, 2019; Tom Zolot, *Pass-Through: Direct Support for Children*, Final Presentation, 2019.

<sup>31</sup> Minn. Stat. §§ 256J.21, subd. 2(49); 256J.33, subd. 4(5); 256P.06, subd. 3(xvi).

<sup>32</sup> Venohr, et al., 2002.

<sup>33</sup> Office of Child Support Enforcement, *Preliminary Report FY 2018* (tables P-6 and P-55).

<sup>34</sup> 42 U.S.C. § 657(a)(2) and (6), (b)(b), 654(34); OCSE-AT-09-03, *Assignment of Support Rights and Distribution of Child Support Collections under the DRA of 2005* (July 28, 2009); OCSE-AT-07-05.; Legler and Turetsky, 2006. This statutory flexibility does not apply to collections made in cases of children receiving foster care maintenance payments. Federal law mandates cost recovery in these cases. 42 U.S.C. § 657(e).

<sup>35</sup> The current statute, 42 U.S.C. § 657(a)(2), does not contain a federal tax offset exception. The only place the federal tax offset exception appears is in a legislative note to the DRA legislation referring to the earlier provision enacted in PRWORA. Federal law requires states to elect either "DRA distribution" or "PRWORA distribution" in their state plans. 42 U.S.C. § 654(34); OCSE-AT-09-03; OCSE-AT-07-05.

<sup>36</sup> Maryland and New Mexico implemented DRA distribution in 2022. N.M.H.S. § 8.50.125.12.

<sup>37</sup> 42 U.S.C. § 657(a)(1) and (6)(B).

<sup>38</sup> 42 U.S.C. § 657(a)(6)(A).

<sup>39</sup> 42 U.S.C. § 654(34).

<sup>40</sup> The DRA narrowed the scope of assignment to support owed during the assistance period, eliminating assignment of support owed before the family began receiving assistance, called "pre-assistance" assignment. States have options under the DRA to cancel pre-1996 assignments and pre-2009 pre-assistance assignments. 42 U.S.C. § 657(b); OCSE-AT-07-05.

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<sup>41</sup> States may keep the lower of the cumulative child support obligations or the URA balance amount. In other words, states cannot keep more than the assigned child support obligation amount, even if the assistance paid out has not been fully reimbursed. OCSE, *Instructions for the Distribution of Child Support Under Section 457 of the Social Security Act*, OCSE-AT-97-17 (Oct. 21, 1997).

<sup>42</sup> Ten states responding to our survey reported that they had cancelled old assignments (Colorado, Indiana, Iowa, New Hampshire, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, and Vermont), while 17 additional states and territories reported to the Intergovernmental Reference Guide (IRG) maintained by OCSE that they had cancelled old assignments (Alaska, Arkansas, Connecticut, Florida, Hawaii, Kansas, Massachusetts, Minnesota, Mississippi, New Jersey, North Dakota, Puerto Rico, Rhode Island, Virgin Islands, West Virginia, Wisconsin).

<sup>43</sup> Wis. Stat. Ann. §§ 49.1459(2)(s); 49.1452 ("paid to an individual applying for or receiving W2"); Wisconsin Department of Children and Families, *Wisconsin Works (W-2) Manual*, chapter 15.1.2.

<sup>44</sup> Supplemental Budget Implementation Bill, Ill. S.B. 1720 (Pub. Act 102-1115), p. 55, signed by the governor on Jan. 9, 2023.

<sup>45</sup> Cal. Fam. Code § 17504, as amended by Stats 202, chapter 11 (AB79), effective June 29, 2020 and implemented Jan. 1, 2022. Effective May 1, 2020, California implemented DRA distribution. The pass-through in the approved budget is subject to a fiscal contingency trigger in spring of 2024. *Floor Report of the 2022-2023 Budget* (June 29, 2022), pp. 37-38.