

**H.R. 4678, THE CHILD SUPPORT DISTRIBUTION ACT,  
INCLUDES SIGNIFICANT CHILD SUPPORT CHANGES  
BENEFITTING LOW-INCOME CHILDREN**

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**A Brief Explanation**

H.R. 4678, the Child Support Distribution Act of 2000, passed the House of Representatives on September 7 by an overwhelming vote of 405 to 18. The bill would help poor children escape poverty, strengthen families, and build on and enhance welfare reform. It would do so primarily by making significant improvements in the child support system. The bill also includes a somewhat improved version of the fatherhood provisions in the Fathers Count Act of 1999 (H.R. 3073), which passed the House last November.

The bill's child support changes would allow substantially more of the child support collected from non-custodial parents, the majority of whom are fathers,<sup>1</sup> to reach the children on whose behalf these payments are made. When fully implemented, this bill would increase income to children and their custodial parents by more than \$1 billion per year, according to calculations based on Congressional Budget Office (CBO) estimates.

**Child Support Provisions**

H.R. 4678 would improve the interaction of child support and welfare by eliminating an important exception to the "on/off rule" that was adopted as a part of welfare reform in 1996. When custodial parents apply for welfare assistance, they must assign to the state their rights to child support collected on their behalf; according to the on/off rule, the state government has first claim to child support payments when the family is on welfare, and the family has first claim to support payments when the family is off welfare.<sup>2</sup> H.R. 4678 does not change this basic policy. In a sense, it completes the shift to this policy by eliminating exceptions to the on/off rule.

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<sup>1</sup> In this paper, we use gender specific language when referring to noncustodial parents as fathers and custodial parents as mothers because the overwhelming majority of non-custodial parents are men, while most custodial parents are women. The fatherhood provisions in this bill would apply to non-custodial parents who are women.

<sup>2</sup> For a more detailed explanation of the on/off rule and other assignment issues, see Vicki Turetsky, *What If All the Money Came Home?* Center for Law and Social Policy, June, 2000 and Marilyn Ray Smith, *More Money for Welfare Moms: Simplify the Distribution Rules*, presented at a Congressional Seminar for the U.S. House of Representatives Subcommittee on Human Resources sponsored by the American Enterprise Institute and the Brookings Institution on October 22, 1999.

Under current law, the on/off rule does not apply to child support collected by intercepting the federal tax refunds of non-custodial parents. Support collected by this method is always applied first to debt owed to the state, even if the family has left (or is “off”) welfare. (The debt owed to the state is the amount of child support that the non-custodial parent did not pay while the custodial family was receiving cash welfare assistance. Debt owed to the family is generally child support that was unpaid during periods when the custodial family was *not* receiving welfare.) Today, the child support payments collected by intercepting tax refunds are used to repay debts owed to custodial families only after the debt to the state has been completely repaid. Under H.R. 4678, this exception to the on/off rule would be eliminated; after leaving welfare, the family would have first claim on child support collected by intercepting tax refunds.

The tax refund intercept exception involves a significant amount of money. In fiscal year 1998, almost \$700 million was collected by intercepting tax refunds on behalf of families receiving welfare; the average size of these collections was \$923 per TANF family.<sup>3</sup> Under H.R. 4678, once families leave welfare, such collections would be used first to repay debts owed to families, thereby helping these families stay off welfare by providing additional resources to them at a time when they are likely to be vulnerable to economic hardship.<sup>4</sup>

H.R. 4678 also would eliminate a second exception to the on/off rule, by discontinuing assignment to the state of “pre-assistance arrears.” Depending on when the family applied for welfare, the family may have been required to assign to the state the rights not only to child support owed while the family received cash assistance but also the rights to child support arrearages that accrued before the family applied for welfare (pre-assistance arrears).<sup>5</sup> Under

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<sup>3</sup> *Child Support Enforcement Twenty-Third Annual Report to Congress*, Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services, January, 2000, and U.S. Health and Human Services Press Release, January 27, 2000.

<sup>4</sup> Pamela Loprest, *Families Who Left Welfare: Who Are They and How Are They Doing?* The Urban Institute, 1999.

<sup>5</sup> If a family applied for welfare before October 1, 1997, the pre-assistance arrears are permanently assigned to the state. If the assignment was made after 1997, pre-assistance arrears are owed to the family once the family leaves

H.R. 4678, current child support owed by the family during the period the family receives assistance would continue to be assigned to the state, but pre-assistance arrears would not be. This would ensure that families are repaid the child support debt that accrued before they started receiving welfare.<sup>6</sup>

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welfare unless the state collects those arrearages while the family is on welfare.

<sup>6</sup> See Vicki Turetsky, *Assignment and Distribution of Child Support, Comparison of Current Law, Title I of H.R. 4678, and S. 1036*, Center for Law and Social Policy, September, 2000. Available online at [www.clasp.org](http://www.clasp.org).

H.R. 4678 would dramatically simplify rules governing the assignment and distribution of child support payments. According to the National Governors' Association, "The complexity of current child support distribution rules creates a costly administrative burden for both states and the federal government. Governors believe that easing this extensive burden through some type of simplification may allow a greater share of time and resources to be focused on improving the economic security of families."<sup>7</sup> The current rules are expensive to administer and difficult for child support staff to explain. They are also difficult for both custodial and non-custodial parents to understand.<sup>8</sup>

Another important change the bill makes would create a financial incentive for states to allow families to benefit from child support paid on their behalf while they are recipients of cash assistance through the Temporary Assistance for Needy Families (TANF) program. Under the current system, children generally do not benefit from child support paid on their behalf if they live in a family that is receiving cash assistance. In the majority of states, the government retains *all* child support paid on behalf of families receiving welfare. In these cases, all child support payments that a non-custodial father makes are retained by the government, and none of his payments benefit his children. From the perspective of the fathers — and their children — this is effectively a 100 percent tax rate on the father's child support payments. In 1998, states collected \$2.6 billion in child support for children in families receiving public assistance and passed along only \$282 million — less than 11 percent of it — to the families and children for whom the money was intended.

Both custodial and non-custodial parents can be discouraged and frustrated when their child support payments yield no benefits for their children. In general, the government should provide economic incentives rather than disincentives for activities — such as payment of child support — that it wishes to encourage. H.R. 4678 would give the states the flexibility to change these policies so states could lower the effective tax rate on child support payments and ensure that all children in the state benefit to some degree when their fathers pay child support. A few states have adopted policies that allow families receiving assistance to benefit from child support paid on their behalf. Evaluations are underway, and while it is too early to assess the full impact

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<sup>7</sup> NGA's published position regarding child support financing. Available online at <http://www.nga.org/106Congress/ChildSupport.asp>.

<sup>8</sup> Marilyn Ray Smith, *More Money for Welfare Moms: Simplify the Distribution Rules*, presented at a Congressional Seminar for the U.S. House of Representatives Subcommittee on Human Resources sponsored by the American Enterprise Institute and the Brookings Institution on October 22, 1999.

of these policies, preliminary results are encouraging. In Wisconsin, families receiving all of the child support paid on their behalf more were likely to leave welfare.

### Summary of the Provisions in H.R. 4678

Changes assignment and distribution rules so children in custodial families benefit more from child support paid by fathers. When families leave welfare, all child support collections used to pay off arrearages will be used to repay debts owed to families first before they are used to repay debt owed to the government. The bill also gives states the option of distributing to custodial families that are receiving welfare more of the child support payments made on behalf of children in these families. If the bill is enacted, custodial families and children will eventually receive over \$1 billion per year in additional income according to Congressional Budget Office calculations.

Simplifies state child support systems by streamlining the rules governing assignment and distribution of child support payments. The current system of assignment and distribution is overly complex, poorly understood by parents, causes computer snarls, and forces states to incur extensive administrative costs.

Provides monies through a competitive grant process to innovative fatherhood programs so they can provide needed services to low-income non-custodial parents to help them support and raise their children.

Requires states to review child support orders enforced by the state program every three years, using a simplified process. Reviews of child support orders ensure that child support orders match the current income of non-custodial parents. Although many non-custodial parents may have low earnings when a child is born, their earning power often increases as the child grows older. Reviewing these orders, and increasing them when appropriate, can increase child well-being and help families to stay off of welfare. In addition, reviewing orders may help the government avoid some costs by reducing families' need for food stamps, Medicaid, or other benefits after leaving welfare.

Strengthens specific child support enforcement tools. These provisions would lower the amount of child support arrearages that trigger a passport denial from \$5,000 to \$2,500 and expand the tax refund intercept program to collect child support debts for children who are no longer minors.

Prohibits the recovery of Medicaid-related birthing costs from low-income non-custodial parents. Under current law, at the time that the child support order is initially set, some states may seek to recoup prenatal, birthing, and newborn care costs paid by Medicaid. There is some evidence that this practice causes mother to forego prenatal care. This practice may also discourage voluntary paternity establishment.

Requests a GAO report on the activities of private child support enforcement agencies and permits demonstration projects to determine the extent to which public agencies other than the child support agency can assist in establishing and collecting child support orders.

## Financing of the Child Support Provisions

If H.R. 4678 is enacted, over the next ten years, families will receive \$7 billion more of the child support paid on their behalf than under current law, according to projections by the Congressional Budget Office. Roughly \$6 billion of this \$7 billion comes from the assignment and distribution provisions described above, which are contained in Title I of the bill.

<b>Total Additional Support Benefitting Families Over 10 Years Under H.R. 4678 (in Millions of Dollars)</b>	
Title I	\$6,043
Federal Share	\$3,288
State Share	\$2,755
Title II	\$889
<b>Total</b>	<b>\$6,932</b>

The federal and state governments will share the cost of implementing these important changes to the child support system. Under current law, when states collect and retain child support on behalf of mothers who have assigned their child support rights to the state, the states are required to send a portion of these retained collections to the federal government. The rest of the collections retained by the state are unrestricted state revenues. The main cost of the bill to federal and state governments is in the form of foregone revenue. As noted above, H.R. 4678 would require states to send child support collected by intercepting non-custodial parents'

federal tax refunds to the custodial families first, once these families are off welfare. As a result, both the federal and state governments would retain a smaller proportion of child support collected on behalf of former welfare families. The federal government would bear more than half of the cost of these changes. The total federal cost of the legislation is \$1.3 billion over five years and \$4.9 billion over ten years.

For states, H.R. 4678 mitigates the costs of implementing these changes in two ways. First, the assignment and distribution provisions in Title I do not become mandatory until October 1, 2005, although states have the option of implementing them sooner. Second, the bill cushions states' loss of child support collection funds by giving states new authority to use TANF or MOE (maintenance-of-effort) dollars to cover the cost of sending additional child support collections to families. This provision would allow states that have unused TANF or MOE dollars to use these dollars to cover the cost of sending additional money to families as required by H.R. 4678, while not changing the way in which states spend the child support dollars they retain under current law.

Some states that currently use the child support dollars they retain to pay for the operation of their child support programs are concerned that their budgets would be adversely affected under H.R. 4678 because they would lose federal matching funds in addition to foregone child support collections. Under current law, the federal government matches states' expenditures on their child support programs. Some

states may fear that they will lose these matching funds because they will have to forward some these retained collections to custodial families under H.R. 4678 instead of using them to fund their child support programs and draw down the federal match. However, this need not be the case. If states elect to use TANF or MOE funds to cover the cost of sending additional dollars to families as required by H.R. 4678, they could continue to use the retained dollars as they do now to fund their child support programs and draw down federal matching funds.

For example, assume a state obtains \$10 million from child support collections that are secured through the federal tax refund intercept program and are owed to families that are former welfare recipients. Also assume the state currently sends 70 percent of these collections to the federal government. (The proportion of these funds that goes to the federal government equals a state's federal Medicaid matching rate, which ranges from 50 percent to 77 percent depending on the state.) Under current law, that state would have to send \$7 million (70 percent of the collections) to the federal government and could use its share of the collections (\$3 million, or 30 percent) to fund its child support enforcement program. The federal government would match this \$3 million in child support enforcement expenditures with an additional \$5.8 million. (The federal government provides a 66 percent match for the cost of operating a state child support program, in this example \$5.8 million out of \$8.8 million.)

Under H.R. 4678, the state would be required to send the \$10 million in retained collections to families that have left welfare. The state could use federal TANF dollars or state MOE dollars to cover the \$3 million owed to families that, under current law, could go to the state. States that elect this option could then continue to spend \$3 million of retained collections on its child support program, thereby entitling the state to the same \$5.8 million in federal matching funds for child support enforcement that it currently receives. Essentially, the \$10 million going to the families would consist of \$7 million in federal tax refund collections (the amount of the intercepted dollars the state would no longer have to send to the federal government) and \$3 million in TANF or MOE funds.

Thus, if the state has sufficient unspent funds from its federal TANF block grant to cover the remaining amount owed to families (in this example, \$3 million), then complying with the child support provisions in H.R. 4678 would not require any additional state dollars. Of course, the state could have used the TANF dollars somewhere else, and if the state has already obligated all of its TANF funds, the state will have to find some additional dollars to pay the families by October 1, 2005. But it is not unreasonable for states to bear a portion of the cost of such an important policy change.

Moreover, it is likely that the federal government will provide additional funds to states through the Child Care Development Block Grant. The pending Labor-HHS-Education appropriations agreement for fiscal year 2001 provides \$818 million in additional funding. These additional funds could alleviate some of the current demand



on TANF block grant funds to help meet the child care expenses of low-income families.

Finally, slightly under \$1 billion of the total additional amount going to families over the next 10 years would come from Title II of the bill, which requires states to review child support orders enforced by the state program every three years, using a simplified process. CBO projections assume that these review-and-modification provisions will result in larger child support orders and more money going to families.

### **Fatherhood Provisions**

The fatherhood provisions in the bill would provide funding to community-based and state programs working directly with low-income non-custodial parents. These funds would be provided on a competitive basis to encourage the child support agency, the TANF program, workforce development organizations, and community-based organizations to work together in delivering a variety of services to non-custodial parents.

The goal of these services for non-custodial parents would be to increase the employment rates of such parents, encourage them to become more involved in the lives of their children, assist these parents in meeting their parental responsibilities, and promote marriage. It should be noted that the bill defines the goal of marriage promotion broadly. Under this bill, grant applicants can satisfy the marriage promotion requirement by providing a variety of services designed to make non-custodial parents better potential marriage partners, such as employment programs or other services that help build relationships between fathers, their partners, and their children in a safe way.

H.R. 4678 includes three additional \$5 million grants. The first would be awarded to a nationally-recognized nonprofit fatherhood organization to run a media campaign that encourages responsible fatherhood, develop a national clearinghouse of information regarding media campaigns and fatherhood programs, and develop and distribute related materials, including information on domestic violence and child abuse prevention. Two additional grants would be awarded to nationally recognized nonprofit fatherhood organizations operating in multiple cities.

There is much we need to learn about how government policies should be structured to be effective in assisting low-income non-custodial parents to become more-responsible fathers, secure and retain employment, and pay child support. Given the relatively small amount of federal funds available for fatherhood programs, there are essentially two ways to disburse the funds: 1) to provide funds to all states, which in turn would fund a broad array of fatherhood programs; or 2) to provide substantially more federal funds directly to a much smaller set of selected fatherhood programs that are the most innovative and have successfully integrated child support and employment programs in their local communities. The latter approach, which H.R. 4678 adopts, is preferable because it provides sufficient funds in selected localities to implement

different approaches on a large enough scale to permit evaluation. This will enable other localities, as well as federal and state policymakers, to learn what works and what does not.

## **Summary**

H.R. 4678 includes a number of complementary provisions that are beneficial to low-income children, families, and non-custodial parents. H.R. 4678 has broad support and passed overwhelmingly in the House. This bill represents an opportunity for this Congress to enact a policy change that would have a positive and substantive impact on poor families and children.

The responsible-fatherhood provisions in the bill are intended to help low-income fathers improve their capacity to support their children financially and emotionally. In addition, the changes the bill makes in the child support system would allow a larger portion of the child support that low-income fathers pay to benefit their children. The child support provisions represent an investment in stronger families and should reduce poverty among children, help low-income non-custodial parents receive services that lead to increased employment and earnings, and strengthen children's ties with their fathers, who will be better able to see the result of their hard-earned contributions when they make child support payments.