



The Honorable Holly J. Mitchell
Chair, Senate Budget Cmte
California State Senate
Sacramento, CA 95814

The Honorable Phil Ting
Chair, Assembly Budget Cmte
California State Assembly
Sacramento, CA 95814

The Honorable Richard Pan
Chair, Senate Budget Cmte Sub 3
California State Senate
Sacramento, CA 95814

The Honorable Dr. Joaquin Arambula
Chair, Assembly Budget Cmte Sub 1
California State Assembly
Sacramento, CA 95814

RE: Budget Request on Child Support Pass-through, Payments and Collections

Dear Budget Leaders,

Our organizations are writing to request consideration of the following Budget Act of 2020-21 investments. Through these requests, we seek to change State policy on child support pass-through, payments and collections to better support low-income children and their families and reduce child poverty in California.

Stop redirecting low-income families' child support payments to repay the cost of CalWORKs and Medi-Cal. Undo the harm this bad policy has caused, and ensure 100% of parents' child support payments go where they belong: to children. Last year, more than 260,000 children living in poverty in California – the large majority of whom are children of color - had part of their child support payment intercepted to repay the cost of health and basic needs assistance. An additional 650,000 parents may still be repaying the cost of public assistance received by a child's custodial family.¹

While California cannot change the 1975 federal law that requires single parents who sign up for public benefits to sign over the rights to their child support payments to the government, we can change how we implement it. Under this federal law, two different types of child support systems were created: 1) a private system under which payments go to children and families without any government intervention, and 2) a public system under which payments go mostly to government to reimburse the cost of providing health and basic needs assistance. The latter exclusively includes poor children and families. California has chosen to implement this policy by keeping all but \$50 of child support payments made to a family when a child receives aid through the California Work Opportunity and Responsibility to Kids (CalWORKs) program, Medi-Cal, and in some cases Foster Care.

Last fiscal year, the state of California collected \$410 million on behalf of low-income children who currently or previously received CalWORKs. Nearly 90% of their child support payments - \$368 million- were redirected to pay back the government for the cost of

¹ Comparative Data for Managing Program Performance Federal Fiscal Year 2018." California Department of Child Support Services, February 2019. Tables 2.1
<http://www.childsup.ca.gov/portals/0/resources/docs/reports/2018/fffy2018performancedata.pdf>

public benefits.² In a state with one of the highest child poverty rates, these policies take valuable resources from low-income children. Redirecting parents' child support payments to pay back the cost of public benefits also diminishes the impact of California's considerable efforts to reduce child poverty. Although the state has increased CalWORKs grants by 25%, low-income parents pay back those benefits through their child support payments. To pay back the cost of these benefits, parents' tax returns- including federal and California EITC payments- are intercepted, reducing the impact of these benefits intended to support children.

This is a racial justice issue as these policies disproportionately strip resources from children of color and the families and communities in which they live. Due to generations of disinvestment and systemic barriers, children of color are more than three times as likely as white children to receive Temporary Assistance to Needy Families (TANF), and therefore are more likely to have their payments intercepted. More than two-thirds of the children impacted by these policies are children of color.³

Redirecting low-income families' child support payments has more than just a financial impact. In addition to taking away needed resources, research shows these policies create conflict in families, as the custodial parent does not know how much the other parent is actually contributing.⁴ It drives non-custodial parents into unemployment and the underground economy, the latter so that they can send more of their earnings directly to their children.⁵ Studies show that the accrual of child support debt creates a barrier to engaging with their family, and results in noncustodial parents having less contact with their children.⁶

The good news is that, while state lawmakers can't change federal child support laws, we can change how we implement them. Across the country, states are working to put children at the center of their child support policies. Colorado became the first state to pass through 100% of parents' child support payments through to their children, and saw payments increase 63%.⁷ Parents paid more, because they knew the money was going where it should: to their children. California has a chance to right this backward policy, and better support low-income families of color. We are requesting that all the payment made on behalf of a child be passed through to the family.

End double counting of child support payment made in the CalWORKs Program. Earlier this year, in *Christensen v. Lightbourne*, 7 Cal.5th 761, 776-77 (2019), the California Supreme Court recently upheld the legality of a current Department of Social Services policy to count child support order paid as countable gross income in the CalWORKs

² Analysis of Proposed Increase in State Funding for Local Child Support Agencies. California Legislative Analyst's Office. <https://lao.ca.gov/Publications/Report/3989>

³ "The Payback Problem: How taking parents' child support payments to pay back the cost of public assistance harms low-income children and families." April 2019.

⁴ "The Payback Problem: How taking parents' child support payments to pay back the cost of public assistance harms low-income children and families." April 2019.

⁵ Ibid

⁶ Indebted Relationships: Child Support Arrears and Nonresident Fathers' Involvement with Children

⁷ "The Payback Problem: How taking parents' child support payments to pay back the cost of public assistance harms low-income children and families." April 2019.

household that made the payment (in addition to the household that received the benefit). At the same time the Court emphasized that the policy was not statutorily mandated but rather enacted and maintained as a matter of the Department's discretion. The Court acknowledged that "counting money paid under the child support scheme as income to the paying family under CalWORKs, thereby rendering children in the paying family ineligible for CalWORKs aid, risks undermining the programs' shared goals of supporting and prioritizing all children (Citation: *Id.* at 776)." The Supreme Court further concluded that the plaintiff's "arguments are not without force, and the exclusion she urges may have merit as a matter of policy." We ask budget actors to recognize that merit and exclude child support actually paid to another family as income available to the family of the paying parent. That would bring the Department's policies in line with, among other programs, CalFresh and Medi-Cal.⁸ And perhaps most importantly, treatment of garnished child support would then be the same as how it is treated under the family child support laws.

Stop charging 10 percent interest on debt owed to repay the cost of low-income children's public assistance. When a parent misses a payment, penalties quickly set in. In California, parents are charged 10 percent interest on the debt they owe to pay back the cost of public benefits. No interest rate is federally required. California imposes one of the highest interest rates in the country – a rate higher than the rates in Texas, Virginia, and Mississippi.⁹ Meanwhile, other states, such as New Jersey, have effectively set its interest rates to zero. Research shows that the noncustodial parents required to pay back public assistance are usually low-income and disproportionately from communities of color, and the 10 percent interest rate creates yet another systemic barrier to their achieving economic security.¹⁰ We are requesting the State stop charging interest on the debt that parents owe to repay the cost of public assistance.

Eliminate uncollectible debt owed to repay the cost of public assistance, and prioritize debt owed to families. Right now, California noncustodial parents owe more than \$7 billion in debt to repay the cost of public benefits.¹¹ Research shows that ninety-five percent of this debt is owed by someone who is very poor, with old debt, or who lives out of state, making the debt incredibly difficult and costly to collect.¹² The median income of a parent paying back this debt is less than \$15,000 a year.¹³

If the Department could lower public assistance payback debt, it would lift a formidable economic burden off of hundreds of thousands of low-income parents of color in California. An Urban Institute evaluation of a pilot in San Francisco found that parents who are relieved of their public assistance debt made more consistent and timely payments, children received more financial support, parents' employment barriers were

⁸ Manual of Policies and Procedures 63-502.2(p) and 22 California Code of Regulations §50554

⁹ "The Payback Problem: How taking parents' child support payments to pay back the cost of public assistance harms low-income children and families." April 2019.

¹⁰ *Ibid*

¹¹ Office of Child Support Enforcement FY 2018 Preliminary Data Report. Table P-89

¹² Examining Child support Arrears in California. The Urban Institute. March 2003.

¹³ "The Payback Problem: How taking parents' child support payments to pay back the cost of public assistance harms low-income children and families." April 2019.

reduced, their housing and credit scores improved, and their relationships with their children improved.¹⁴

The current debt relief programs are out of reach for the most disenfranchised people. We are requesting that California provide for automatic relief of state-owed debt for categories of people who are federally eligible for this relief and whose sole source of income is uncollectable.

Make Reforms Necessary to Implement the Quadrennial Review. Every four years, states are required to conduct a “quadrennial review” in order to maintain federal funding of child support programs under Title IV-D of the Social Security Act. This process is currently being finalized and the findings from the review may result in recommendations to the legislature and the Governor regarding the child support guidelines in California State, including recommendations for legislative action if necessary. We anticipate some of the changes that will be necessary, pursuant to the quadrennial review, will be helpful to reduce harm to families with a child support order due to poverty. This includes changes to driver’s license suspension, incarceration, and setting right-sized orders. We urge budget leaders to include advocates in preparing any budget proposals related to the quadrennial review.

Thank You for Your Consideration

We know that the legislature shares our goal of making California a state where all people regardless of race or income are treated fairly and with respect and dignity. We believe the reforms proposed will help achieve these goals. We look forward to working with you in the months ahead to ensure that these provisions are included in the Budget Act of 2020-21 and thank you for your consideration.

Sincerely,

Manuel Galindo, A New Way of Life
Ken Oliver, All of Us or None
Marc Philpart, Alliance for Boys and Men of Color
Esteban Nuñez, Anti Recidivism Coalition
Sabrina Hamm, California Asset Building Coalition
Alicia Lewis, Center for Employment Opportunity
Shimica Gaskins, Children’s Defense Fund California
Heather McCulloch, Closing the Women’s Wealth Gap
Kevin Aslanian, Coalition of California Welfare Rights Organization
Sara Shortt, Community Housing Partnership
Asher Waite-Jones, East Bay Community Law Center
Ashley Rojas, Fresno Barrios Unidos
Peter Edelman, Georgetown Law Center, Author of “Not a Crime to be Poor.”
Alan-Michael Graves, Good+ Foundation – Fatherhood Initiative
Ronnell Hampton, Growing Greatness
Donna Harati, Homeboy Industries

¹⁴ Relief from Government-Owed Child Support Debt and Its Effect on Parents and Children. The Urban Institute. August 2019.

Jhumpa Bhattacharya, Insight Center for Community and Economic Development
Desiree Nguyen Orth, Justice & Diversity Center, Bar Association of San Francisco
Danica Rodarmel, Lawyers' Committee for Civil Rights
Ken Oliver, Legal Services for Prisoners with Children
Solana Rice, Liberation in a Generation
Mindy Garland, Los Angeles Black Worker Center
Autumn McDonald, New America California
Lewis Brown, PolicyLink
Megan Joseph, Rise Together Bay Area
Katherin Katcher, Root & Rebound
Jane Fischberg, Rubicon Programs
Ryan Berryman, San Bernardino Fatherhood
Anne Stuhldreher and Christa Brown, San Francisco Financial Justice Project
City and County of San Francisco
Jacob Dumez, San Francisco Office of Financial Empowerment
Jamie Austin and Jacob Leos-Urbel, Tipping Point Community
Elena Chávez Quezada, The San Francisco Foundation
Chris Iglesias, The Unity Council
Sereeta Reid, Time for Change Foundation
Anne Marks, Youth ALIVE!
Anthony Robles, Youth Justice Coalition LA
Jess Bartholow, Western Center on Law and Poverty

CC: Honorable Toni Atkins, President Pro-Tempore of the California State Senate
Honorable Anthony Rendon, Speaker of the California State Assembly
Members of the 2019-20 Budget Committee
Ann O'Leary, Chief of Staff, Office of the Governor
Michael Wilkening, Secretary, California Health and Human Services Agency
David Kilgore, Director, California Department of Child Support Services
Anthony Williams, Office of the Governor
Tam Ma, Office of the Governor
Ryan Anderson, Legislative Analyst Office
Jackie Barocio, Legislative Analyst Office
Gary Slossberg, California Judicial Council
Cathy Senderling-McDonald, County Welfare Directors Association of California
Justin Garrett, California State Association of Counties
Greg Wilson, Executive Director, Child Support Directors Association
Adam Dorsey, Department of Finance
Renita Polk, Senate Budget Subcommittee on Health and Human Services
Rebecca Hamilton, Senate Budget Subcommittee on Health and Human Services
Cyndi Hillery, Human Services Consultant, Assembly Republican Caucus
Renita Polk, Senate Budget Consultant for Health & Human Svcs
Mareva Brown, Policy Consultant for the Senate President pro Tempore Toni Atkins
Rebecca Hamilton, Senate Republican Budget Consultant, Health & Human Svcs
Luan Huynh, Senate Budget Consultant, Chair Budget Committee
Nicole Vazquez, Assembly Budget Consultant, Health and Human Services,
Gail Gronert, Human Services Consultant, Assembly Speaker Anthony Rendon