**Resolution to Exclude Offset of Past-Due Child Support from Individual COVID-19 Stimulus Payments**

**Introduction**

The impact of the COVID-19 crisis on the child support program and the families it serves is wide-ranging. The child support program supports a balanced approach by looking at the whole family with a goal of preserving self-sufficiency for both parents.

On March 20, 2020, Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which provides emergency assistance and health care response for individuals, families, and businesses affected by the 2020 coronavirus pandemic. One important component of the CARES Act provides for $1,200 to be given to individual citizens within certain income limits as a stimulus payment. While the CARES Act excluded such stimulus payments from offset for certain debts owed to the government under subsections (d),(e), and (f) of Section 6402 of the Internal Revenue Code of 1986 (IRC), the Act did not similarly exclude stimulus payments from offset for past-due child support under subsection (c) of IRC Section 6402.

Most state and tribal child support programs understood the purpose of the payment was to provide immediate and necessary relief to individuals who may have been impacted by the COVID-19 pandemic. They preferred that the stimulus payment be paid to each parent without being offset for past-due support, as the self-sufficiency of both parents was the immediate focus. However, there was limited opportunity to share that perspective with Congress prior to the enactment of the CARES Act.

**Background**

Congress may have elected not to exclude past-due child support from offset in the CARES Act because of the perception that the support would go to parents and children owed support. But unfortunately, under current child support distribution laws, arrears taken through the federal tax offset program often go to government-owed debt—and not parents and children.

Prior to the Deficit Reduction Act of 2005 (DRA), federal tax refund offsets were applied first to any state-assigned debt. Under the DRA, states were authorized to elect between pre-DRA distribution or disbursing federal tax refund offsets like any other child support collection to current support, then to any past-due support owed to the family, and lastly to any state-assigned debt. See 42 USC section 657(a)(2)(b) (as amended by the DRA); 42 USC section 654(34) (states can elect between pre-DRA and post-DRA distribution). For operational reasons related to refunds connected to joint tax returns, the vast majority of states have not elected to distribute federal tax refunds under the DRA, and thus continue to apply such refunds to any state-assigned debt before past-due support owed to the family.

In FFY 2018, a total of $1.64 billion was collected through federal tax refund offset, out of a total of $7.75 billion collected towards arrears from all sources. [OCSE Preliminary Data Report](https://www.acf.hhs.gov/sites/default/files/programs/css/fy_2018_preliminary_data_report.pdf) FY 2018 Table P-29, Table P-86. Of the $114.70 billion owed in past-due support, 21.16% ($24.27 billion) was state-assigned debt. Approximately 16%-20% of federal tax refund offsets were applied to state-assigned debt, totaling roughly $280 million in FFY 2018. Id. at Table P-98. There was a total of 1.2 million tax refund offsets in Calendar Year 2018, out of 7.4 million cases submitted for offset, with an average offset collection of $1,445. Table P-98; Table P-103. Over 30% of the cases submitted for offset involved state-assigned debt.

With the broad eligibility for stimulus payments under the CARES Act, and the possibility that the offset will be applied to payments that include $500 additional amounts for dependents or an additional $1,200 in a joint return, it would be easy to estimate six times the usual number of offsets (compared to 2018 where 7.4 million cases led to 1.2 million offsets) and a potential 50% increase in the portion applied to assigned debt (30% of cases submitted with assigned debt compared to 16-20% of cases receiving an offset in 2018). This could amount to **$1.7 billion to $2.5 billion** in CARES Act stimulus payments being offset and applied to reimburse the state and federal government for assigned support arrearages rather than being disbursed to families or paid directly to parents who owe child support to support themselves.

**THEREFORE, NCSEA resolves to urge Congress to:**

Exclude any future COVID-19 related stimulus payments from offset for past-due child support until Congress determines that parents who owe past-due support have enough employment opportunities to be self-sufficient without a stimulus payment.

**Adopted by the NCSEA Board of Directors on April ##, 2020**