



## CENTER FOR FAMILY POLICY AND PRACTICE

### POLICY BRIEFING

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#### **Important Things to Know Regarding DACA**

On September 5, the Trump administration announced its plans to end the Deferred Action for Childhood Arrivals (DACA) program in six months unless Congress passes legislation that would establish legal status for persons who arrived in the US as children (also known as “dreamers”). The [National Immigration Law Center](#) (NILC) has prepared a list of the most important things to know, given this announcement. This plan is still not fixed and is likely to change in the coming months. NILC will be a good resource for updates on policy and information related to DACA. According to their most recent DACA update:

- DACA and work permits (employment authorization documents) will remain valid until their expiration date. To determine when a DACA and work permit expire, the I-795 Approval Notice and the bottom of an employment authorization document (EAD) should be checked.
- No new DACA applications will be accepted. US Citizenship and Immigration Services (USCIS) will not accept or process first-time applications for DACA after September 5, 2017.
- For persons who already have DACA status and want to renew it: DACA issuances and work permits that expire between now and March 5, 2018, must be submitted for renewal by October 5, 2017. For those with a work permit that will expire between now and March 5, 2018 and who want to renew it, application for a two-year renewal of DACA must be made by October 5, 2017.
- Advance parole to travel abroad is no longer available. The US Department of Homeland Security (DHS) will no longer grant DACA recipients permission to

travel abroad through advance parole. Any pending applications for advance parole will not be processed, and DHS will refund any associated fees.

- Persons with any specific questions about their immigration case and options for relief should speak to a lawyer or a Board of Immigration Appeals (BIA)-accredited representative, but not to a “notario,” as soon as possible. The site [www.adminrelief.org](http://www.adminrelief.org) offers affordable and trustworthy access to legal advice. For questions and concerns about employment, homeownership, car ownership, driver’s licenses, or tuition, the center’s websites will provide additional information in the next few weeks on these topics, explaining how they could be affected by a termination of DACA.
- It is important to keep a copy of a DACA work permit in one’s wallet at all times, and to be particularly careful with all documents, because they are the fastest way to prove that one has been granted DACA. ICE or Customs and Border Protection should not be trusted to look up this information in their system.

To engage in action to support DACA, the center suggests calling members of Congress at 888-542-8298 to urge them to defend and fight for DACA; taking part in marches, actions, and vigils that are going on throughout the country, and learning about them by registering at [defendDACA.com](http://defendDACA.com) for upcoming events; and by sharing why DACA is important with others through social media, for example.

#### **Reforms to Georgia’s Sentencing Laws Result in Drop in Prison Population**

A bill that passed in May 2012 in Georgia seeks to address the state’s rising prison population and its status

as the state with the highest incarceration rate. In order to address the growth in its prison population, an analysis was completed, which determined that the high rate was in part because of factors such as high rates of incarcerating people evaluated as “low risk,” few alternatives to incarceration, and insufficient resources to supervise people on probation and parole. Growth in the prison population was leading to a growing backlog of people being housed in local jails awaiting placement at a state prison facility. The bill provided for several policy changes, including revising felony thresholds and sentencing structures for drug and property crimes to focus prison space on the most serious offenses, strengthening probation and alternative sentencing options, relieving local jail crowding, and improving performance measurement systems.

A recent analysis of the reforms since their first implementation in July 2012 by the [Urban Institute](http://UrbanInstitute.org) looked at the changes to sentencing and classification for burglary, theft, shoplifting, forgery, fraud, and drug possession. The report made the following key findings:

- Overall commitments to both prison and probation declined by 10 percent in the period from 2012 to 2015. Prison commitments fell 13 percent, and probation commitments fell 9 percent during this period. The fact that both rates fell

suggests that the reforms extended beyond shifting a certain number of would-be prison admissions to probation.

- Sentence lengths for people sentenced to prison as well as those placed on probation also declined after implementation of the reforms. The largest decreases were among those charged with burglary and drug possession, the offenses with the highest number of admissions each year.
- Fewer people remained in prison after one, two, and three years for each post-reform admission group compared with the 2012 (pre-reform) admission group. Similar trends held for people on probation.
- Other studies of the reforms have found that the share of the prison population convicted of the most serious offenses rose from 58 percent in 2009 to 67 percent in 2017. The jail backlog has fallen 84 percent from a high of 5,338 in March 2009 to just 818 in January 2016.

**GAO Report Identifies Confusing Array of Eligibility Requirements Among Low-Income Assistance Programs**

The wide variety in the eligibility requirements of

federal programs providing assistance to millions of individuals, families, or households whose incomes fall below defined levels has led to a confusing mix of financial and nonfinancial eligibility rules that are difficult and burdensome for applicants to navigate. For program staff, the separate eligibility rules mean that they must stay current with each program and apply different rules to applicants for different programs.

In response to a request from the Senate Committee on the Budget, the [Government Accountability Office \(GAO\) recently completed a report](#) that examined eligibility rules and benefits for low-income programs. The six programs included in the examination were: the Earned Income Tax Credit (EITC), Medicaid, the Housing Choice Voucher program, Supplemental Nutrition Assistance Program (SNAP), Supplemental Security Income (SSI), and Temporary Assistance for Needy Families (TANF). The selected federal programs have varying purposes and are designed to target different segments of the low-income population. There are some factors commonly considered by the programs to determine eligibility, including how much income the applicant has (both earned, such as wages, and unearned, such as income from other public benefit programs), and for some programs, the applicant's assets. Some additional nonfinancial factors may be taken into consideration to assess applicant eligibility, such as whether the applicant has a dependent child, a disability, or is working. The selected federal programs vary with regard to target populations, rules for counting income and assets, and benefits. The programs target a range of low-income populations, including people who are elderly or disabled or those with dependent children, and some require work. The report's key findings include:

- The programs differ widely in how income is counted and how much income applicants are allowed to have and still be eligible. The variations affect whose

income is counted, what income is and is not counted, whether expenses are deducted from income, and how much income applicants may have and still be eligible.

- While programs may use similar terminology, there is no single definition of “family” or “household” used across these low-income programs. In some programs, the applicant unit differs from whose income is counted when determining financial eligibility. For example, in SSI, while the applicant is typically an individual, the income of the applicant’s parent or spouse may be considered when determining eligibility, if that person is living in the applicant’s household.
- The programs also differ in how they treat earned income in determining eligibility. For TANF, the treatment of earned income is determined at the state level and varies widely across states.
- Eligibility rules related to unearned income add to the confusion. For example, TANF benefits are counted as income when determining SNAP eligibility but not counted as income when determining Medicaid eligibility. The cash benefit received from the refunded portion of EITC, however, is not counted as income when determining eligibility for any of the other selected programs. Of those who received a benefit from one of nine major federally funded low-income programs, an estimated 41 percent received benefits from one program and an estimated 27 percent received benefits from two programs. The remaining families received benefits from three or more programs.
- Some programs set limits on the assets that an individual or family may have in order to be eligible for the program, while others do not. In addition, asset limits vary by state. In recent years, some states have moved away from having asset limits for certain low-income programs. In TANF, asset limits are determined by the state, and as of August 2016, 8 states did not have asset limits, while 43 states had set varying limits on assets.
- Average monthly benefits for selected programs range from \$258 to \$626, and vary by annual adjustment. EITC, SSI, and SNAP adjust benefits for inflation, while the amount of a Housing Choice Voucher is adjusted in response to changes in area rental costs. TANF benefits for families are not automatically adjusted for inflation by the states and have lost considerable value in terms of their purchasing power over time.

**Report Identifies Multiple Implications of Medicaid Work Requirements**

A [Kaiser Family Foundation report](#) looks at the implications of conditioning Medicaid eligibility on

satisfying a work requirement, drawing on state experience with TANF enrollees subject to a work requirement over the past two decades and data about work and the role of health coverage among Medicaid enrollees today. The Trump administration released an anticipated letter to state governors in March stating that that it will use its Section 1115 (federal waiver) authority to approve state proposals that would require participation in approved activities, such as employment, job search, or job training programs, for a certain number of hours per

week to receive health coverage under the Medicaid program. Because the TANF program is based on a strict work requirement, the report compares outcomes of this provision to the potential outcomes of a similar requirement in the Medicaid program, finding the following:

- TANF enrollees work regardless of whether they are required to do so, suggesting that a work requirement has little impact on increasing employment over the long term. After five years, enrollees who were not required to work were just as likely or even more likely to be working compared to those who were subject to a work requirement, suggesting that a work requirement is not predictive of employment.
- TANF enrollees who were required to participate in a work program had incomes comparable to those who were not required to do so. Those who worked had often replaced their cash assistance and food stamp dollars with dollars from earnings, but work had not lifted them out of poverty or increased their income relative to what they had received from TANF and food stamps.
- Many individuals who were not able to work faced significant employment barriers that work requirements do not address. These barriers include physical and mental health conditions, addiction, low educational attainment, limited work experience, criminal histories that impede hiring, domestic violence, and lack of affordable, reliable childcare. Most Medicaid adults who are not working report a major impediment in their ability to work or another responsibility that keeps them from working.
- The TANF work requirement has created some unintended consequences, one of which is that it is a substantial administrative burden on state agencies.
- The work requirement may adversely affect enrollees who are likely eligible for an exemption based on a disability but had not obtained one.
- The Medicaid program is less equipped than TANF to provide employment services that could meet the need of a clientele with many employment barriers. While TANF spending on work activities and supports is critiqued by some as too low, it exceeds estimates of state Medicaid program spending to implement a work requirement.
- Because many Medicaid enrollees already are working, a work requirement is anticipated to have a small impact on increasing employment. Among Medicaid enrollees, nearly 6 in 10 nonelderly adults are working, without being required to do so as a condition of coverage.
- A work requirement will not reduce the need for health coverage through Medicaid because many of the jobs held by Medicaid enrollees do not offer health insurance.

**Update on TANF at 20 Years Shows Many Shortcomings**

[The Center on Budget and Policy Priorities](#) has created an updated chart book on the Temporary Assistance for Needy Families (TANF) program at its 20-year mark. TANF provides states with a

fixed block grant in exchange for greater flexibility in how they use the funds and puts time limits on cash benefits, as well as making states accountable for engaging most cash assistance recipients in work or work-related activities. According to the update:

- Over the last 20 years, the national TANF average monthly caseload has fallen by almost two-thirds, from 4.4 million families in 1996 to 1.5 million families in 2015, even as poverty and deep poverty have worsened. When TANF was enacted, 68 families received assistance for every 100 families in poverty; by 2015, just 23 families were receiving assistance for every 100 families in poverty.
- In the median state in 2017, a family of three received \$429 per month; in 14 states in the same year, such a family received less than \$300. TANF benefits are below two-thirds of the federal poverty line in all 50 states and the District of Columbia and are at or below 20 percent of the poverty line in 18 states. In the vast majority of states, TANF cash benefits today are worth at least 20 percent less today than they were in 1996.
- States spent only 7 percent of their state and federal TANF funds on work activities in 2015, and 3 percent on work supports and supportive services like transportation. Ten states spent less than 5 percent of their funds on work activities and work supports/supportive services combined. States spent 17 percent of their state and federal TANF funds on child care, with ten states spending less than 3 percent. States used 31 percent of their funds for other state services. In doing so, states are diverting TANF dollars to existing state services instead of funding the core TANF purposes of supporting work for parents and meeting basic needs of poor children.
- The employment rate for never-married mothers is now only slightly higher than when welfare reform was enacted 20 years ago. This suggests that the economy and low education levels are now the causes of limited employment among never-married mothers. A recent [study from the University of Chicago](#) found that welfare reform accounted for just 13 percent of the total rise in employment among single mothers in the 1990s. The Earned Income Tax Credit (EITC), which was expanded in 1990 and 1993, and the economy accounted for 34 percent and 21 percent of the increase, respectively.
- In 1997, the TANF block grant amount that states received per poor child ranged from \$332 in Arkansas to more than \$2,000 in Alaska, Connecticut, New York, Rhode Island, and Vermont. Between 1997 and 2015, the block grant lost 34 percent of its value nationwide on a per-poor-child basis. But some states have fared substantially worse than others: five states have had

the value of their TANF block grant drop by more than 50% in the period, and Nevada's block grant lost almost 70% of its value.

- The share of children living in deep poverty (defined as living in families with incomes below half the poverty line) has increased since welfare reform was implemented, and research suggests that the loss of TANF benefits contributed to that growth. TANF benefits are too low to lift many families out of poverty.

## State Policy and Practice

- A **Massachusetts** conference committee [eliminated \\$2 million in funding for the state's legal assistance program](#) that had been included in the state budget proposal, despite earlier support for the funding from the state House and Senate. Massachusetts Governor Charlie Baker is being called upon by legal aid advocates to restore the funding. Legal aid funds are distributed to 14 programs that assist people with legal issues related to "housing, employment, classroom accommodations for children with disabilities, and conflicts related to child support and custody, divorce, and domestic violence," according to the Massachusetts Legal Assistance Corporation. Eligible residents have incomes below 125 percent of the federal poverty level, or an annual income of \$30,750 for a family of four.
- A pilot program in Westchester County, **New York** is providing multiple services to noncustodial parents who are behind in child support payments. The program, the [Responsible Employed Active Loving \(R.E.A.L.\) Parenting Pilot for Stronger Families](#), allows noncustodial parents to eliminate most of the debt they owe to the county government (but not to their families). The program's first 25 volunteers, all of whom are unemployed fathers whose children receive public assistance from the state, have child support debt between \$2,000 and \$80,000. The fathers signed on to take 40 hours of classes over 10 weeks on a range of topics, from financial management to parenting to career counseling. At the end of the 40 hours, the county reduces participants' debt to the county by 25 percent. If the fathers find a job and keep it for 90 days, they can get their county debt reduced another 25 percent. And if they keep up with their current child support payments for an entire year, they can get the debt reduced to \$500. Almost 75% of the first participants have qualified to have their debt reduced. In addition to debt forgiveness, the program incorporates intensive case management and seeks to encourage stronger relationships between parents and their children.
- A [commission in Kent County, Michigan](#) has made a lengthy review of the county's child support enforcement system, and recently issued a report with recommendations to make wide-ranging changes to the county's enforcement practices that have been unanimously supported by the county's Board of Commissioners. The county began wrestling with issues with its enforcement

after attempting to serve 3,500 outstanding bench warrants that left approximately 6,000 children without court-ordered financial support from the parents because of the parent's incarceration. There were also concerns that the stepped-up enforcement had a disproportionate impact on African American men in the community. In the period of review by the commission, a moratorium on child support enforcement has been put into place.

- White County, **Tennessee** Judge Sam Benningfield has withdrawn a [controversial order offering reduced jail time to inmates who volunteered for sterilization](#) procedures. Benningfield's order, originally issued in May, promised inmates in the county 30-day credits toward their sentences if they received vasectomies or birth control implants. Benningfield stated that his hope was to break a "vicious cycle" of repeat drug offenders who could not find jobs or afford child support appearing in his courtroom. Local news station [NewsChannel 5](#) reports that during the roughly two months the order was in place, 32 women received implants of the hormone device Nexplanon, and 38 men signed up to receive vasectomies.

The plan drew national attention and a wave of criticism from health officials, prosecutors and civil rights attorneys. The American Civil Liberties Union of Tennessee also voiced opposition to the order, saying in a statement, "Though the program was technically 'voluntary,' spending even a few days in jail can lead to the loss of jobs, child custody, housing and vehicles. To the individual faced with these collateral consequences of time spent behind bars, a choice between sterilization or contraception and a reduced jail sentence is not much of a choice at all. The judge's order crossed a constitutional line and we are pleased that he rescinded it."

- A new report on **Wisconsin** from [the Wisconsin Budget Project and COWS](#) at UW Madison describes the extent to which, despite income gains in the state in recent years, nearly all of the gains have been concentrated among the wealthiest residents, while for most Wisconsin families, economic advancement has become more difficult regardless of the amount of work they do. Among the report's findings:
  - The share of income going to the top 1% in Wisconsin has more than doubled since the 1970s. In 2014, \$1 out of every \$6 of income in the state went to the top 1% of earners.
  - Between 2009 and 2014, the incomes of the top 1% rose by 17%, while all other incomes rose just 9% on average. Over the last 45 years, nearly three-fifths of state's total income growth has been claimed by the top 1%.
  - Between 1979 and 2014, the average income of the top 1% in Wisconsin grew by more than 130%, while the average income of the remaining 99% grew by only 9%.

## Of Note

- [Scott Lekan](#) has been appointed the new Commissioner for the Department of Health and Human Services Office of Child Support Enforcement (OCSE). Mr. Lekan was most recently a Business Development Manager for Informatix Inc. He also previously served as the Arizona Department of Economic Security, Division of Aging & Adult Services Assistant Director, and was the IV-D Director for the Division of Child Support Services for the Arizona Department of Economic Security until June 2016. Prior to these positions, Lekan had a career in law enforcement. He was patrol commander and lieutenant in the Peoria, Arizona police department, and before that, he was a sergeant in the Glendale, Arizona police department. Lekan holds a BS in Criminal Justice from Northern Arizona University, and an MBA from California Pacific University.
- With encouragement from the Trump administration, an increasing number of states are expected to make work requirements a condition of receiving food stamps (SNAP). According to an [Opposing Views report](#), on January 1, Alabama reintroduced work requirements for Able-Bodied Adults Without Dependents (ABAWDs) in 13 counties. By May, the number of SNAP enrollees in those counties had dropped by 85 percent. In Georgia, able-bodied SNAP recipients in 21 counties were given until April 1 to find gainful employment or lose their food stamp benefits. By May 24, the number of ABAWD enrollees in those counties had dropped by 62 percent, according to the Atlanta Journal-Constitution. There is no clear data on whether the adults who left these state programs found work.

While the drop in SNAP enrollment means that former enrollees are now without a key resource (food), some conservative governors and state legislators see the drop in itself as a basis on which to follow through on proposed cuts to the program. The Trump administration's budget proposal for fiscal year 2018 proposes \$191 billion in cuts to the SNAP program over the course of ten years.

In addition to the consequences of cuts and work requirements on enrollment, a recent analysis by AlixPartners found that the cuts could also have negative consequences for the private sector. The report estimates that the retail industry would lose \$70.7 billion in profits as a result of lowered spending on food. "For about every dollar of benefit reduction or spending, there's about a 37-cent loss in grocery sales," managing director Ted Stenger of AlixPartners reported.

- Three recent cases demonstrate the capacity for inhumane and/or unjust treatment that can occur when a parent becomes behind in child support payments.

- An [Indiana mother sued the Indiana Family and Social Services Administration](#) after receiving a sentence of 150 weeks in prison for civil contempt because she was in arrears on child support payments to the guardian of two of her three children. Carroll Circuit Judge Benjamin A. Diener had sentenced Brandis McCollum to serve almost three years on work release even though McCollum had not been criminally charged. McCollum owed \$15,296 in child support. She had not made a child support payment for a year, but she told the court she had just started a full-time job paying \$7.50 an hour, and had been promised another part-time job. Diener reasoned that because McCollum was 150 weeks in arrears on child support, her sentence should be that amount of time in prison, on work release. His order said she could end the sentence by paying half of the total child support she owed. The Indiana Court of Appeals reversed the ruling in strong terms, noting, “We find it inconceivable that a court could properly sanction a defendant in a civil contempt proceeding, where the defendant has lesser constitutional protections, with a longer prison sentence than the maximum they could receive if charged criminally with all of a criminal proceeding’s constitutional protections.”
- A [Knoxville, Tennessee sheriff’s office is the subject of a lawsuit](#) by a mother whose son died while pleading for medical attention for an infection. According to the lawsuit, Benny Pemberton, 41, was taken into custody on July 6, 2016, on a warrant for failure to pay child support. Soon after, an infection from the cut in his left foot spread through his body and he begged staff for help. When he was ignored, other inmates tried to get help; tired of hearing his complaints, staff placed him in “the Hole,” an isolation cell, for one week.

The lawsuit also claims that by July 20, Pemberton was found lying naked and comatose on a cell floor in his own excrement and urine. His hands and fingers showed signs of gangrene and his body was covered with abscesses, cuts, bruises and abrasions. A deputy found him unconscious in the cell. After debating what help to get him, authorities ultimately called a doctor who advised them to take Pemberton to the hospital. The lawsuit claims that some personnel tried to cover up the truth behind the inmate's deteriorating condition. Pemberton died on the afternoon of July 20.

- Despite a paternity test that proved he was not the father of a teenage girl he had met just once, [Gabriel Cornejo, of Cypress, Texas, is still being held liable for \\$65,000 in unpaid child support](#) on her behalf. A Texas court has sided with the girl’s mother, who says he is responsible for the support because he did not contest the paternity suit when she first submitted it in 2003, and because he had received but ignored a subpoena. He also had not fought early on when some child support was taken from his paycheck. Cornejo claims he never received a subpoena and was not aware about the claim until last year.

- [The Southern Poverty Law Center \(SPLC\)](#) has filed a complaint with the Louisiana Department of Insurance claiming that several New Orleans bail bond companies, along with their insurance underwriters, have collectively cheated tens of thousands of poor people and their families out of millions of dollars. Poor defendants have been overcharged nearly \$5 million over the last 12 years, in violation of state law, according to the complaint. An SPLC investigation found that at least 21 bail bond companies in New Orleans, and the associated insurance companies, routinely charged an additional percent of the face value of the bond imposed by a judge, resulting in estimated overcharges to felony defendants that averaged \$100 per bail bond. Over the past 12 years, nearly 50,000 people in New Orleans were affected by the overcharges, according to SPLC estimates. “The amount these companies overcharged their victims is staggering,” said Micah West, staff attorney for the SPLC. “Many defendants could have used that money to pay for rent, utilities, child care or other basic necessities but instead were forced to pad these companies’ bottom lines.”