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I figured if they was to pursue child support from him, he really would come at me in a violent way. I know him like a book. He’s just looking for a reason. He was just waiting for a reason to come at me in some kind of way. He even threatened to kill me and bury me on the side of my sister. So I take things like that serious . . . . I just told her [the caseworker] I didn’t want them pursuing child support.

— Patsy, TANF recipient

I don’t want anything from him . . . . I don’t want his money. I just want him to leave me and my children the hell alone.

— Bonnie, a domestic violence shelter resident

Sometimes the system starts to take on the face of my batterer.

— Sylvia, a domestic violence shelter resident

I. INTRODUCTION

The threat of poverty presents a formidable barrier for many low-
income women who are seeking to leave their abusive partners. Within this group of women, women who are mothers often worry that they will not be able to support themselves and their children without the financial help of their children's father. Among women who are able to work outside their homes, many are not able to make enough money in their jobs to keep them and their children out of poverty or homelessness. In a domestic violence survivor’s transition to economic independence and self-sufficiency, child support payments and welfare payments in the form of Temporary Assistance for Needy Families (TANF) often play a major role. Yet access to both child support and TANF can be perilous for women who are experiencing or have experienced domestic violence at the hands of their children's father, as testimony from the above women illustrates.

For low-income women and their children who are survivors of domestic violence, the political and legal landscape at the federal level worsened with the enactment in 1996 of the Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Act). In addition to tightening work requirements for welfare recipients and permitting states to set lifetime limits on an individual’s ability to receive welfare assistance, the Welfare Act increased penalties for mothers who fail to cooperate with states’ efforts to obtain child support payments from their children’s father. As described in greater detail below, if mothers do not cooperate with their state, they and their families may not be eligible for TANF or may face sanctions from the state.

For victims of domestic violence who do cooperate, this threshold requirement for TANF benefits means—in effect—that many victims face financial or legal retaliation from their abusers. In the context of a relationship where abuse has been present, this retaliation may take the

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4. In addition to anecdotal evidence available from multiple domestic legal services providers in D.C. and throughout the country, see, for example, Barbara Ehrenreich, Nickel and Dime: On (Not) Getting By in America 11-49 (2001) (describing Ehrenreich’s recent economic experience of low-wage waitressing and housekeeping in Florida, as well as that of her co-workers); Mary Ann Dutton et al., Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered immigrant Latinas: Legal and Policy Implications, 7 GEO. J. ON POVERTY L. & POL'y 245 (2000) (illustrating that the median income for employed immigrant women in Washington, D.C. was less than $9,000 per year in 1992). Nearly all homeless women have experienced severe physical violence or sexual assault during their lifetimes according to research conducted in one state. See Martha F. Davis, The Economics of Abuse: How Violence Perpetuates Women’s Poverty, in BATTERED WOMEN, CHILDREN, AND WELFARE REFORM: THE TIES THAT BIND 17, 25 (Ruth Brandwein ed., 1999) (citing E.L. Bassuk et al., Single Mothers and Welfare, 275 SCI. AM. 60, 60-67 (1996), which found a violence rate of 92% for homeless women in Massachusetts).

5. See Davis, supra note 4, at 17-18 (noting cases of women who relied on public assistance during their escape from their batterers).


7. For a more detailed discussion of these dynamics in the context of child support, see infra notes 28-45 and accompanying text.
form of renewed violence against the victim, legal complaints for custody of children in common, or legal requests for modification of previously court-ordered custody or visitation. Because of a batterer's desire to control his former partner, his contact with her in a courtroom setting could result in renewed violence against her. Paradoxically, therefore, many low-income victims of domestic violence who are leaving or who have already left their abusers often must choose between poverty and increased violence for themselves and their children at their abusers' hands.

Two exemptions exist under current TANF law for women who are experiencing or have experienced domestic violence. To ameliorate the effects of TANF's child support cooperation provisions and other changes such as the time limits and work requirements for domestic violence victims, advocates against domestic violence and their supporters in Congress added a Family Violence Amendment to the Welfare Act just before it passed. When adopted by a state, the enacted Family Violence Option (FVO) requires a state's TANF agency to screen applicants for domestic violence and permits the agency to waive the child support cooperation requirement and other TANF requirements. A similar waiver, known as the "good cause waiver," was already available to all states under the former AFDC program and was amended under TANF. The existing good cause waiver permits a state child support agency to waive a mother's child support cooperation requirement if the agency finds good cause under federal and state guidelines. Along with other reasons, good cause may include domestic violence.

Under current federal law, implementation of both the FVO and good cause waiver is left largely to the respective state administrative agencies. Some research and anecdotal evidence has found that many of the states that are implementing these waivers have not done so in a manner that adequately reflects or protects the interests of survivors of domestic violence. Especially significant in this regard is many states' failure to use the new FVO as a way of waiving child support cooperation requirements for victims who might seek such an exemption and most states' failure to coordinate their FVO with their child support enforcement system's existing good cause waiver. In addition, many victims of domestic violence in many states remain unaware of either waiver, and women are not using the provisions in proportion to their anticipated need.

8. See, e.g., Davis, supra note 4, at 23-25.
10. See NOW Legal Defense and Education Fund, Family Violence Option: State-by-State Summary (2002), http://www.nowldef.org/html/issues/wel/FVO_statebystate.pdf (listing thirty-nine states that have formally adopted the FVO, with a total of twenty-four that have used the FVO explicitly to waive child support cooperation requirements).
11. JESSICA PEARSON ET AL., MASSACHUSETTS DOMESTIC VIOLENCE AND WELFARE
conglomeration of barriers means that victims of domestic violence are currently not reaping the benefits that Congress intended in passing these federal laws. In effect, these federal waivers are not being fully implemented at the state level.

In line with existing research, practice, and advocacy in the domestic violence and child support fields, this article demonstrates that in order for implementation of the federal child support waivers to occur for the full benefit of domestic violence survivors, states need to coordinate their FVO implementation with the existing child support good cause waiver and need to improve usage of both waivers to waive child support cooperation requirements for those victims who seek TANF. The article argues that advocates against domestic violence can play and have played a vital role at the state and local levels in ensuring that domestic violence survivors who are seeking access to child support and TANF know about the waivers and that administering agencies provide this information in an accessible manner.12 The voices of state and local advocates against domestic violence – whether legal services providers, state coalitions, shelters, social services providers, researchers, or others – are essential to improving

12. Because TANF is up for reauthorization, advocates at the federal level have drafted federal legislation that is more favorable than current law to women who have experienced domestic or sexual violence. See Building Secure and Healthy Families Act of 2002, S. 2876, 107th Cong. §§ 5, 7 (2002) (introduced Aug. 1, 2002, by Sen. Patty Murray (D-Wash.)) (among other amendments to the 1996 welfare law, requires states to certify how they will adequately inform individuals of program requirements, confidentiality procedures, good cause exceptions, and waivers; requires states to certify how they will waive without time limit any program requirement that makes it more difficult for an individual to escape domestic violence; clarifies requirements for agency verification of domestic violence; requires agency caseworker training in the nature and dynamics of domestic violence; requires states to provide statistics on waivers granted under the program; and eliminates full-family sanctions). This bill has not been re-introduced in the Senate during the 108th Congress.


Because federal reauthorization legislation is pending and because state and local domestic violence legal and social services providers and advocates continue to assist victims of domestic violence with or without new federal legislation, this article focuses on the role of state and local advocates in preventing domestic violence through the existing child support system.
access to child support and TANF for battered women and making access to these resources safe for them and their children.

Part II of this article explains in more detail TANF’s child support cooperation requirements and elaborates on the dangers that the law poses for survivors of domestic violence. The section also describes the federal Family Violence Option and child support good cause waivers. Part III describes how the District of Columbia, Massachusetts, and Rhode Island are implementing the FVO and child support waivers and the role that advocates against domestic violence in these jurisdictions are playing in improving implementation. The article concludes by suggesting that state administrative agencies cooperate with state and local advocates against domestic violence as the agencies continue to implement their TANF programs.

II. CHILD SUPPORT WAIVERS UNDER TANF: FAMILY VIOLENCE OPTION AND GOOD CAUSE

With the overarching goals of providing flexibility to states, reducing welfare caseloads, promoting marriage, and reducing out-of-wedlock pregnancies, the 1996 Welfare Act abolished the program of Aid to Families with Dependent Children (AFDC), known as welfare, and replaced it with a program of block grants to the states, called Temporary Assistance for Needy Families (TANF). Under the 1996 Welfare Act, states are permitted to establish a time limit for receipt of public assistance of up to five years of the life of an individual. After two years of cash assistance, a recipient is required by law to work. In addition to time limits and the work requirement, as a condition of TANF eligibility the law requires a single mother applying for TANF to assign her right to child support to the state. The law also requires her to cooperate with the state in identifying and locating the father of her children so that the state may pursue child support from him in her place.

A. CHILD SUPPORT COOPERATION UNDER TANF

The TANF child support cooperation requirements partially resemble the previous cooperation requirements under AFDC. Under AFDC, a custodial parent was required to assign her right to collect child support to the state as a condition of eligibility (a significant majority of custodial parents on AFDC were women). The state relied on this assignment in pursuing its claim for child support from the non-custodial parent (most often the father). The assignment of this right to the state was designed to

14. Id. § 608(a)(7).
15. Id. § 602(a)(1)(A)(ii).
16. Id. § 608(a)(3).
17. Id. § 608(a)(2).
help the state recoup its provision of public assistance to the mother. A second eligibility requirement for the mother was cooperation with the state child support agency in locating the father, establishing paternity, and obtaining, modifying, and enforcing the support order as necessary. If a mother failed to cooperate, she would not receive her portion of the family’s AFDC grant, and the AFDC payment would instead go to a third party on behalf of her children. Under AFDC, many states had “pass-through” provisions that allowed a cooperating mother to retain a nominal amount of the child support (e.g., $50 in D.C.) as an incentive to cooperate with the state.

More specifically for the AFDC applicant mother, the federal requirements meant that she had to do the following: (1) provide whatever information she had to the welfare agency or claim that she did not have any relevant information; (2) attend conferences at child support agencies; (3) subject herself and her child to any genetic testing for paternity that was ordered by the court or administrative agency; (4) appear at any court or administrative hearings; and (5) turn over to the state child support agency any payments that she received directly from the father. Despite these relatively stringent requirements, in practice state welfare agencies did not always enforce all of these obligations if the mother said that she did not know the father’s location.

Under TANF, child support enforcement requirements have become even more stringent, both statutorily and in practice. While under AFDC the state welfare agency made cooperation determinations along with many other determinations related to a recipient’s receipt of public assistance, under TANF the law vests the state child support agency – a discrete agency with a single-minded purpose – with this authority. The TANF agency remains the agency that is ultimately responsible for sanctioning the family if the child support agency establishes that the mother is not cooperating. In practice, to “cooperate” under TANF means that the mother makes a “good faith effort” to do the following: (1) provide the state with information about the father; (2) appear at interviews, hearings, and legal proceedings; and (3) subject herself and her child to genetic tests to establish paternity, if necessary. The minimum federal requirement for cooperation is that the mother provide the father’s name and any other identifying information that the state deems appropriate; states are

19. Id. at 61-62.
22. Roberts, supra note 18, at 65.
otherwise free to establish any additional standards about what information the mother is required to provide about the father.23

Depending on the state, if a mother does not cooperate with the state, she may be sanctioned by partial or full loss of TANF benefits for herself and her entire family.24 In practice, very few states automatically deny eligibility for TANF applicants if they fail to provide a specific piece of information about the father.25 However, most states mandate some form of penalty when non-cooperation is established — ranging from the minimum, federally mandated 25% reduction of the entire family’s benefits, to complete ineligibility for the whole family, with mixed forms of graduated sanctions in between in some states.26 Indeed, if the state TANF agency fails to enforce the child support agency’s determination that the mother failed to cooperate, then the federal government must reduce the state’s entire TANF funding by up to 5%.27 These aggressive federal provisions urge states to pass along their own compliance burden to the women who are forced to cooperate with the state agency as a result of their TANF eligibility.

B. DANGERS FOR MOTHERS WHO ARE EXPERIENCING OR HAVE EXPERIENCED DOMESTIC VIOLENCE

Research and practice both demonstrate that child support is often a vital economic resource for mothers who are experiencing or have experienced domestic violence at the hands of their children’s father — especially for mothers who are already economically vulnerable. With public assistance an unreliable and temporary resource given federal time limits and work requirements, and low-wage jobs providing an incomplete part of the economic package for low-income families, child support is a major economic resource for a woman with children.28 For a victim of domestic violence who is just entering the TANF program, child support is often a necessary component of the total resources that she seeks in her attempt to leave her abuser and survive without him.29 One study has shown that on average child support represents over a quarter of the family

23. Id.
24. Notar & Turetsky, supra note 21, at 678-79. Under AFDC, only the individual mother was sanctioned for failure to cooperate. Id. at 679.
26. Id.
29. See Roberts, supra note 18, at 60-61; Notar & Turetsky, supra note 21, at 659 (noting that often battered women need child support after leaving their abuser since government aid is insecure).
budget for poor children who receive support, and that under ideal conditions, fully paid child support would contribute an additional average of just under $3,000 per year per family for families on public assistance that are headed by single mothers. In addition, for a woman who has experienced violence at the hands of her children’s father, enforcing his child support obligation may have symbolic significance, representing his accountability to her and her children. Whatever the reason, significant proportions of TANF applicants who have experienced domestic violence say that they want to pursue child support from their children’s father.

However, as advocates against domestic violence have argued and as research has demonstrated, mothers who have experienced domestic violence at the hands of their children’s father often face particular risks in entering the child support system. These risks include informing the abusive father of the mother’s location and enabling legal retaliation against the mother for pursuing support. Many battered women move within their state or out of state to escape their abusers or stay in battered women’s shelters; informing the batterer of a woman’s location through mandated cooperation easily could thwart her efforts to escape the abuser. Legal retaliation may include renewed litigation against the mother, leading to custody or visitation awards for the father that would put the mother and her children at risk. Increased contact with the father could result in


31. See Roberts, supra note 18, at 60; Notar & Turetsky, supra note 21, at 664 (noting victims’ reluctance to allow abusers to escape financial responsibility).

32. About 50% of battered welfare applicants in Massachusetts (who disclosed domestic abuse and foresaw future abuse), 65% of battered welfare applicants in Minnesota, and 93% of battered welfare applicants in Colorado wanted to pursue child support, according to research presented at the October 2001 Trapped By Poverty/Trapped by Abuse Conference at the University of Michigan School of Social Work. Jessica Pearson et al., Abstract, New Approaches to Self-Sufficiency and Safety in Public Assistance and Child Support Agencies: Preliminary Findings from Three Demonstration Projects, at http://www.ssw.umich.edu/trapped/conference.html (2001); see also Ruth A. Brandwein, Family Violence and Social Policy: Welfare “Reform” and Beyond, in BATTERED WOMEN, CHILDREN, AND WELFARE REFORM: THE TIES THAT BIND, supra note 4, at 147, 155, 162-63 (noting that many abused women want the child’s father held financially responsible).


34. Notar & Turetsky, supra note 21, at 659; see also Davis, supra note 4, at 23-24 (noting that in some instances abused women will forgo seeking child support to avoid contact with their abuser); Lein et al., supra note 1, at 201-04.

35. See RAPHAEL & TOLMAN, supra note 33, at 37; Imperial, supra note 2, at 20 (citing results of focus group discussion with domestic violence shelter residents about TANF paternity establishment and child support cooperation requirements).
renewed violence against the mother in courtroom proceedings, visitation, or other court-ordered arrangements.\textsuperscript{36} Non-custodial abusers often also threaten their children’s mother with violence against the children or with child kidnapping.\textsuperscript{37}

In the context of a relationship where domestic abuse is or has been present, providing an abusive man with information about the location of his former partner and giving him an opportunity to contact her or retaliate against her in a legal setting ignores the dynamics of power and control that are at the center of patterns of domestic violence. The power and control theory of domestic violence explains that the use of violence in an intimate relationship is always a choice. In many parts of the U.S. today one still can make the choice to resort to abuse to meet one’s needs with little or no consequences.\textsuperscript{38} Perpetrators of domestic violence use patterns of physical and/or sexual violence, isolation, intimidation, threats, and emotional and economic abuse to gain power and control.\textsuperscript{39} Scholars have compared the psychological trauma that survivors of extended domestic violence experience to the experience of war veterans and prisoners of war.\textsuperscript{40} Batterers often successfully externalize blame for the abuse onto the victim.\textsuperscript{41} Violence usually escalates once it has occurred and often becomes more severe and more frequent as it is repeated.\textsuperscript{42}

Retaliation in the context of domestic violence also may include forms of “financial warfare” against a mother who pursues a divorce or child support action – for example, withdrawing all funds from a joint bank account or prolonging divorce or custody litigation to drain her of financial resources if she is not already financially exhausted.\textsuperscript{43} Abusive fathers with outstanding child support enforcement orders typically are subject to garnishment of wages, tax intercepts, and attachment of unemployment and workers compensation benefits, among other collection mechanisms. Regardless of their success, these procedures may provoke an abuser’s rage against the mother,\textsuperscript{44} which could lead to any number of irrational, unpredictably violent behaviors against her if the abuser knows where she is. Perhaps most critically, stringent paternity establishment and

\textsuperscript{36} Jessica Pearson et al., \textit{Child Support and Domestic Violence: The Victims Speak Out}, 5 \textit{VIOLENCE AGAINST WOMEN} 427, 428 (1999). \textit{See generally RAPHAEL \& TOLMAN, supra note 33.}

\textsuperscript{37} Notar \& Turetsky, \textit{supra note 21}, at 659.

\textsuperscript{38} \textit{See, e.g.}, Epstein, \textit{supra note 28}, at 39-44.


\textsuperscript{40} Leni Marin, \textit{Identifying Battered Immigrant Women, in DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN} 1, 9 (Deeana L. Jang et al. eds., 2d ed. 1997); Epstein, \textit{supra note 28}, at 40-41.

\textsuperscript{41} Marin, \textit{supra note 40}, at 9.

\textsuperscript{42} \textit{Id.} at 11; Epstein, \textit{supra note 28}, at 7.

\textsuperscript{43} Davis, \textit{supra note 4}, at 24.

\textsuperscript{44} Pearson et al., \textit{supra note 36}, at 428-29.
cooperation requirements restrict a woman’s ability to rely on her own knowledge of the likelihood of future violence and manipulation in making decisions about whether or not to pursue child support.45

C. STATUTORY EXCEPTIONS TO THE CHILD SUPPORT COOPERATION REQUIREMENT

Under current federal law, two exceptions exist on which victims of domestic violence and their advocates may rely in seeking exemption from TANF’s paternity establishment and child support cooperation requirements. The first and more established system is the waiver for good cause that the state TANF agency may provide to domestic violence victims if victims disclose violence. Depending on the state, good cause reasons often are not restricted to the experience of domestic violence and may include many other limiting circumstances, including those that constituted the now-repealed federal definition of good cause under AFDC. As implemented by various states under TANF, these broader reasons for a good cause exception often include: (1) reasonably anticipated physical or emotional harm to the mother or child; (2) conception of the child through forcible rape or incest; (3) pending adoption proceedings involving the child; or (4) the mother’s cooperation with the social worker in a determination as to whether the child ought to be placed for adoption.46 The second and newer waiver system is the Family Violence Option that was enacted for the first time in 1996 as part of the Welfare Act. For those states that adopt it, the FVO permits the state to waive child support cooperation requirements among the other TANF requirements such as work and time limits if the state finds good cause.47

1. Waiver for Good Cause

Under the previous AFDC system, before requiring a mother’s cooperation with child support enforcement the AFDC caseworker was supposed to provide written notice to the mother about the good cause exception. The federally prescribed notice was required to contain an explanation of the cooperation requirement for AFDC eligibility, the kind of information that was required for the mother to make a claim for good cause, that the standard for evaluating a mother’s good cause claim was “the best interests of the child,” and that if she was not granted a good cause waiver, the mother would be required to cooperate or else lose part of her AFDC grant. In practice, however, AFDC workers typically provided the written notice without providing any verbal explanation of the waiver,

46. Roberts, supra note 18, at 62 (citing 45 C.F.R. § 232.40 (1996)).
47. 42 U.S.C. § 602(a)(7) (2003); Roberts, supra note 18, at 66.
so the possibility of obtaining a good cause exemption was lost in the shuffle of paperwork accompanying the mother’s application for benefits.48 This lack of notice may explain why so few good cause waivers were granted under the previous system, despite the high number of domestic violence cases among mothers who were receiving public assistance.49 Another likely explanation is that mothers who feared retaliation at the hands of their children’s father may simply have signed the permitted attestation saying that they did not have any information on the father’s whereabouts.50

Unlike AFDC, the TANF statute provides no definition of good cause or standards for evaluating good cause claims. Rather, states are free to adopt their own definitions and standards of proof, so long as the “best interests of the child” govern the definition. States are also permitted to adopt their own additional exceptions to cooperation. Indeed, federal law currently provides no requirements for notice either about good cause or about cooperation; no requirements for standards governing the evaluation of claims other than the general best interests of the child; no standards of proof for waiver applicants; and no guidance on how a state should coordinate the TANF agency’s good cause determination with the child support agency’s cooperation determination.51 Thus states were left to interpret all of these procedures when developing their TANF implementation plans.52

2. Waiver Under the Family Violence Option

States may rely on the federal Family Violence Option in developing their respective TANF implementation plans. The FVO permits states to screen TANF cases for domestic violence, safeguard battered applicants’ confidentiality, and refer battered individuals to counseling and supportive services. States may also use the FVO to waive other TANF requirements such as residency requirements, child support cooperation, time limits, work requirements, and family cap provisions if they make good cause determinations to do so.53 A state may apply the FVO waiver where it determines that requiring individuals to comply with any of the TANF requirements “would make it more difficult for individuals receiving assistance [under TANF] to escape domestic violence or unfairly penalize such individuals who are or have been victimized by such violence, or individuals who are at risk of further domestic violence.”54

49. Id. at 63-64.
50. Id. at 64.
52. See Roberts, supra note 18, at 66.
states (thirty-nine) and D.C. have implemented the FVO, although fewer states (twenty-four) have used it to waive the child support cooperation requirements. 55 States are continuing to implement their TANF and FVO programs, the substance of which may vary dramatically from state to state.

D. LIMITED INTERACTION OF THE TWO SYSTEMS TO PREVENT DOMESTIC VIOLENCE

In those states that have used the FVO to waive TANF child support cooperation requirements, 56 researchers and advocates have noted states’ limited integration of the FVO provisions related to child support enforcement with the existing, albeit significantly amended, good cause waiver. 57 First, from the perspective of those who have researched state child support changes under TANF, several systemic barriers have emerged. Many child support agencies integrating their existing good cause procedures with the new FVO waiver may face barriers that hinder their ability to manage domestic violence cases in a manner that advocates against domestic violence are likely to find adequate. For example, as emerging research and practice suggest, if the child support agency alone manages the child support waiver portion of FVO implementation in conjunction with its existing good cause process, as in New Jersey, there may be no guarantee that women will be assessed by a caseworker trained in the dynamics of domestic violence, and information obtained by the TANF agency that is relevant to a good cause determination may not reach the child support agency. 58 More generally, the individualized screening and casework that domestic violence cases often require may be incompatible with current trends in the child support enforcement system towards greater automation and decreased attention among child support workers to individual cases – due largely to huge caseloads and backlogs in the system. 59 Any approach to integration that seeks to involve the child support system will face these issues.

However, if the TANF agency alone becomes the central location for managing not only FVO procedures but also child support good cause screening for domestic violence, as has occurred in Kansas, then women seeking child support who are not on TANF (whether because they are

56. See NOW Legal Defense and Education Fund, supra note 10 (listing twenty-four states that are using the FVO to waive child support cooperation requirements).
57. See Notar & Turetsky, supra note 21, at 684-85 (discussing the difficulties of keeping the old standards and adopting the new standards); Raphael & Haennicke, supra note 55, at 16.
58. Notar & Turetsky, supra note 21, at 687-88.
59. Turetsky, supra note 20.
former TANF clients or simply ineligible) may not learn about the potential dangers and advantages of becoming or remaining involved in the child support enforcement system. In addition, workers and administrators in the child support agency itself may not have the opportunity to learn about the issues facing domestic violence victims. Indeed, most state FVO procedures administered by TANF agencies that researchers have examined do not include any discussion of the potential dangers or advantages of paternity establishment and child support enforcement. More generally, TANF agencies administering the FVO may be doing so in a limited manner overall, as critics from women’s rights organizations, legal services organizations, and the research community have suggested specifically in New York City and Texas—never mind paying special attention to the child support issue.

In addition to specific problems with FVO implementation, many welfare departments have an unfortunate history of lack of attention to the problems that battered women face in gaining access to benefits or employment—a history that is not new under TANF. Agencies’ historical lack of attention to or training in the dynamics of domestic violence may mean that victims are too suspicious of the agency to disclose abuse, which is required to get an FVO waiver, and that once they disclose abuse the case worker may handle the situation in a manner that could be harmful to the woman. According to advocates in the domestic violence movement and child support researchers, many child support agencies share a similar history with regard to use, or lack thereof, of the older good cause waiver for domestic violence victims.

Under both a child support-centered and a TANF-centered model, abuse victims may face specific dangers in cooperating with the child support system. Nonetheless, support payments remain a major economic resource for battered women, a point on which there is little disagreement among advocates and researchers in the domestic violence, welfare, and

60. Notar & Turetsky, supra note 21, at 686-87.
61. Id.
63. See Lein, supra note 1, at 203-04 (describing and analyzing FVO procedures used by Texas TANF agency); Hearn, supra note 9 (joint project of NOW Legal Defense and Educational Fund; Legal Aid Society of New York, Civil Division; Women, Welfare and Abuse Task Force; and Urban Justice Center).
65. See Cole & Buel, supra note 45, at 320.
child support communities. For this reason, states should take women’s safety seriously not only by giving notice of and granting waivers to victims who seek them, but also by making child support a safely available resource for those victims who choose to pursue it despite their experience of abuse in the relationship. For example, researchers have identified and described a range of “yellow light” procedures that are designed to address some of the safety issues raised by automated child support enforcement that some states are pursuing. The challenge remains, however, for most state and local administrative agencies to fully integrate domestic violence prevention into their child support enforcement systems pursuant to existing federal and state legislation and regulations. Some successful integration efforts appear to be developing.

III. INTEGRATING DOMESTIC VIOLENCE PREVENTION INTO TANF CHILD SUPPORT ENFORCEMENT: ADVOCACY AND ADMINISTRATION IN RHODE ISLAND, MASSACHUSETTS, AND THE DISTRICT OF COLUMBIA

A few jurisdictions, including Rhode Island, Massachusetts, and the District of Columbia, have made progress on improving integration between child support enforcement efforts and domestic violence screening under the FVO and TANF. These jurisdictions, or advocates within them, continue to seek stronger implementation of domestic violence protections for women seeking child support. It may be no coincidence that these programs have directly involved advocates or coalitions against domestic violence in their implementation processes – whether at the initiative of advocates themselves (as in D.C.) or at the initiative of the federal or state agency (as in Massachusetts and Rhode Island). This section provides an overview of these three programs with an emphasis on the response, involvement, and criticisms of advocates against domestic violence in each of these jurisdictions.

A. RHODE ISLAND

Under its Family Violence Option Advocacy Program, initiated in 1998 by a grant from the state Department of Human Services to the Rhode Island Coalition Against Domestic Violence (Coalition), Rhode Island contracted with the Coalition to administer its FVO. The Coalition then

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67. See Cole & Buel, supra note 45, at 324 (indicating that many women who were either working or on welfare relied on support payments from the father of their children); Epstein, supra note 28, at 11; see also supra notes 28-32 and accompanying text.
69. A comprehensive review of all jurisdictions that may be successfully integrating child support enforcement with domestic violence prevention under the TANF Family Violence Option is beyond the scope of this paper.
70. Raphael & Haenmcke, supra note 55, at 29, app. B, Rhode Island (describing the Rhode Island program); see also R.I. GEN. LAWS § 40-5.1-46 (2001) (Rhode Island’s FVO
sub-contracted with one of its member agencies, the Women’s Center of Rhode Island, a domestic violence shelter and service provider, to carry out assessments, counseling, safety planning, lay court advocacy, and other services.\textsuperscript{71} Since its inception, the program has served nearly 800 battered women in the state.\textsuperscript{72} All state TANF offices\textsuperscript{73} and, more recently, all state child support offices,\textsuperscript{74} refer cases to the project. The state TANF agency has developed a consolidated written notice to recipients that provides information about recipients’ ability to waive child support cooperation requirements both under the FVO and under the good cause waiver, and the notice explains the procedures for applying for the exemptions.\textsuperscript{75} If a TANF client expresses concern with meeting the child support cooperation and other TANF requirements because of domestic violence, an eligibility technician at the state agency either relies on the existing child support good cause procedure to assist the woman or refers her to the Women’s Center’s FVO advocacy program.\textsuperscript{76} If a TANF client is referred to the Women’s Center’s advocacy program, the Center’s caseworkers offer the client relief under either the good cause procedure or the FVO; the Center’s assistance in the form of comprehensive support services is the same under either procedure.\textsuperscript{77} According to one woman who used a Rhode Island FVO waiver and the Center’s services, “It got me through the winter financially and emotionally because my children were having a difficult time and I had to physically be there for them.”\textsuperscript{78}

According to the Coalition, advantages of the program include the knowledge and experience that staff at the Women’s Center have in working with victims of domestic violence, as well as improved communication with the Department of Human Services and access to
some of that agency's resources.\textsuperscript{79} Under the grant, the Coalition meets monthly with the agency and has developed a close working relationship with agency officials.\textsuperscript{80} Agency staff have facilitated communication with the advocates and have assisted them with gaining access to resources at the TANF office that have been helpful in working with victim clients, such as separate interview rooms and meeting space.\textsuperscript{81}

More recently under the program, the Coalition has conducted joint trainings with the child support staff about the Women's Center program and has developed a strong relationship with the child support enforcement office.\textsuperscript{82} For example, when advocates expressed concern about the court system's lack of confidentiality procedures in support cases involving violence, the head of the child support agency stepped-in to ensure that the court developed a victim confidentiality policy, including the placement of a family violence indicator on all child support case files involving violence, a measure that is comparable to the family violence indicator placed on TANF case files involving violence.\textsuperscript{83} In addition, child support eligibility technicians and TANF caseworkers recently received a three-and-a-half-hour cross-training on the nature and dynamics of domestic violence, FVO procedures, and clarification of the child support good cause procedure.\textsuperscript{84} Further trainings are being planned for the clerical staff and interpreter staff.\textsuperscript{85}

The Coalition also has noted some continued barriers to fully implementing its program. The Coalition remains concerned that not all TANF recipients in the state actually receive information about the Women's Center, about waivers and other protections that are available for work and child support requirements, or about services to which victims can gain access.\textsuperscript{86} Still needed are outreach to all communities in the state to ensure equal access to services, development of domestic violence services for families receiving non-cash assistance such as Medicaid and Food Stamps, and ongoing program evaluation.\textsuperscript{87} While direct communication between advocates and the TANF and child support agencies has proven successful, the coalition has noted that more direct coordination is needed between the two agencies.\textsuperscript{88} From the perspective of the child support agency, the greatest obstacles to improving this communication are the necessary computer system changes that are under

\begin{thebibliography}{88}
\bibitem{79} See Telephone Interview with Patricia Loomis, \textit{supra} note 71.
\bibitem{80} See id.
\bibitem{81} See id.
\bibitem{82} See id.
\bibitem{83} See id.; see also Telephone Interview with Sharon Santilli, \textit{supra} note 74.
\bibitem{84} See E-mail from Patricia Loomis, \textit{supra} note 76.
\bibitem{85} See id.
\bibitem{86} See Rhode Island Coalition Against Domestic Violence, \textit{supra} note 71.
\bibitem{87} See id.
\bibitem{88} See Telephone Interview with Patricia Loomis, \textit{supra} note 71.
\end{thebibliography}
B. MASSACHUSETTS

As a result of research and demonstration funding awarded to the Massachusetts Child Support Enforcement Office in September 1997 by the federal Office of Child Support Enforcement, together with continued state funding and support since the termination of the federal demonstration project, Massachusetts has been the focus of recent research and programming on the connections between domestic violence, child support, and implementation of the 1996 Welfare Act.89 As described in the evaluation that was funded under the federal grant, the initial federal demonstration effort was designed to improve the state’s child support enforcement rates and, simultaneously, to understand and address the needs of domestic violence victims in the child support and TANF systems.90 In response to the 1996 Welfare Act, Massachusetts adopted the federal FVO with respect to the new work requirement, time limit, and family cap provisions.92 Apart from the child support demonstration grant, the state also received a federal grant to conduct cross-agency training on domestic violence for caseworkers, which the state used to help implement TANF and the FVO.93 With the demonstration funding, Massachusetts hired four domestic violence specialists who were placed at TANF agency locations, in line with findings from the Governor’s Commission on Domestic Violence, to provide direct services to applicants who were experiencing domestic violence and to assist regular agency caseworkers as resources on the issue.94 The child support agency hired an attorney to specialize in domestic violence issues in that agency.95

As the evaluation suggests, the Massachusetts model demonstrates the state’s strong commitment to addressing the issue of domestic violence in its TANF and child support systems. By enabling the state’s domestic violence specialists to assist victims, both the TANF and child support agencies view themselves as prioritizing victim safety.96 Significant cooperation between the state TANF and child support agencies has arisen as a combined result of ongoing efforts by advocates against domestic violence, the state’s commitment to the issue, and the funding that enabled

89. See Telephone Interview with Sharon Santilli, supra note 74.
90. See JESSICA PEARSON ET AL., MASSACHUSETTS DOMESTIC VIOLENCE AND WELFARE REFORM, supra note 11, at 2, 87.
91. Id. at 2.
92. Id. at 11.
93. Id.
94. Id. at 15.
95. See id. at 90.
96. See JESSICA PEARSON ET AL., MASSACHUSETTS DOMESTIC VIOLENCE AND WELFARE REFORM, supra note 11, at 88-90.
the demonstration program and subsequent continuation efforts.97

A salient finding of the Massachusetts evaluation is the interest that an unexpected number of victims expressed in pursuing child support from an abusive former partner, despite the history of abuse that victims and their children may have suffered at the abusers’ hands.98 The evaluation distinguished between the victims who had experienced violence within the past twelve months or currently feared harm — who expressed serious concerns with pursuing child support — and victims with more distant violence — who wanted to pursue child support.99 Although the evaluation concludes that applicants who do seek child support waivers “should be accorded both help with the application process and prompt and sympathetic action,”100 this conclusion is secondary to the conclusion that since most victims want child support, agencies must develop protocols to ensure safety during the process. A potential danger of such a conclusion is that victims of domestic violence and agencies are encouraged to define victims’ experiences of abuse narrowly as a result of TANF’s limitations at the federal level.

C. DISTRICT OF COLUMBIA

Similarly to Rhode Island and Massachusetts, advocates in the District of Columbia have been directly involved in implementation of the FVO and improvement of child support policies to the benefit of D.C. victims. However, in practice the District’s system is more complicated than the other jurisdictions’ because D.C. maintains different waiver systems for TANF work requirements (FVO) and child support cooperation requirements (good cause). Under the District’s FVO, TANF recipients experiencing domestic violence are exempt only from TANF work requirements, not child support cooperation.101

As part of the TANF preliminary intake process, caseworkers in the Department of Human Services ask each TANF applicant to identify barriers to employment, including domestic violence. If the application discloses domestic violence, the applicant is informed of the FVO waiver.102 Caseworkers also give TANF applicants notice informing them of child support cooperation requirements and their right to a good cause exemption.103 In the past, if applicants sought a FVO exemption to the work requirements they were referred by contract to Women Empowered

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97. Id. at 88.
98. Id. at vii, 101.
99. Id. at 101-02.
100. Id. at 109.
103. See id.; Telephone Interview with Susana SáCouto, Esq., Managing Attorney, Women Empowered Against Violence (Nov. 21, 2001).
Against Violence (WEAVE), a local domestic violence legal and social services provider, for a screening interview and in-depth assessment. After conducting the screening and assessment, WEAVE would contact the TANF agency in writing to request a work exemption or modification. Recently, another agency replaced WEAVE as the Department’s FVO contractor. Although the subsequent contractor, EFFORTS, Inc., has a domestic violence social services program, the organization focuses primarily on the prevention and treatment of substance abuse.

The District has not incorporated child support cooperation requirements into its FVO and relies solely on the existing good cause waiver to exempt victims from cooperation requirements. For this reason, legal advocates against domestic violence have worked in conjunction with the child support and TANF agencies to develop special protocols for handling domestic violence cases in the child support system in response to the federal TANF changes. When applicants apply for TANF, part of their interview includes written and oral notice of the good cause waiver. If a TANF applicant requests a good cause waiver, the Department of Human Services (DHS) sends this information to the Child Support Enforcement Division (CSED). If CSED grants a good cause waiver for domestic violence reasons, then, as in Rhode Island and Massachusetts, a family violence flag is placed on the woman’s child support case file. Without such an indicator, CSED initiates its automated paternity establishment and child support enforcement process on behalf of the woman’s children.

D.C. advocates against domestic violence were actively involved both in furnishing DHS with early drafts of implementing regulations for the FVO and in monitoring the city’s compliance with the regulations. In fact, DHS used some of the advocates’ original language verbatim in the final regulations. Domestic violence legal services attorneys made presentations to DHS on the issue, briefed the mayor’s transition team, and trained other D.C. attorneys on the FVO. Partly as a result of their work, advocates were invited to participate in the city’s FVO working group, otherwise composed solely of CSED, DHS, and court officials.
Advocates also urged the D.C. Superior Court to adopt confidentiality procedures for child support cases involving domestic violence; as a result, the court recently issued an administrative order to address this issue.\textsuperscript{114}

Because of advocates’ pressure, the city sped up its implementation process.\textsuperscript{115} Similarly to the Rhode Island and Massachusetts programs, other advantages of advocates’ involvement include the substantive knowledge and training that advocates bring to program implementation and improved communication between advocates and the agencies.\textsuperscript{116}

However, advocates have also noted room for improvement. Although DHS provides notice of both the FVO and the child support good cause waiver to victims, and although advocates tried their best to simplify the language for both of these waivers, the official notice that TANF applicants receive was the result of a compromise with the agency and is still about six pages long, in fine print, and in language that is difficult to understand.\textsuperscript{117} The notice is not translated into languages other than English.\textsuperscript{118} Advocates are currently working to improve the good cause notice.\textsuperscript{119} Advocates are also concerned that disproportionately few TANF recipients have applied for FVO exemption despite the fact that about 20% of women welfare recipients experience domestic violence.\textsuperscript{120}

D. ADVANTAGES AND DISADVANTAGES OF ADVOCATES’ INVOLVEMENT

As discussed by researchers and as seems clear from advocates’ experiences, there are distinct advantages to an FVO implementation approach that delegates significant responsibility to advocates in the domestic violence community (whether intentionally or by default). In sum, these advantages include the following: Comprehensive services for victims; the provision of services by those with thorough experience in the dynamics of domestic violence; the likelihood that women will receive better information and advice than they could expect from the TANF or child support agencies alone; the need for less training for agency staff; and perhaps greater confidence on the part of the agency that the state is handling implementation competently.\textsuperscript{121} As activists, domestic violence advocates can put the necessary pressure on agencies that otherwise may drag their feet on particular issues or remain unaware of them altogether –

\begin{itemize}
\item \textsuperscript{105} See Telephone Interview with Susana SáCouto, supra note 105.
\item \textsuperscript{114} See Telephone Interview with Susana SáCouto, supra note 105.
\item \textsuperscript{115} See Blum, supra note 11, at 2.
\item \textsuperscript{116} See Telephone Interview with Susana SáCouto, supra note 105.
\item \textsuperscript{117} See id.
\item \textsuperscript{118} See id.
\item \textsuperscript{119} See id.
\item \textsuperscript{120} See Blum, supra note 11, at 2; Telephone Interview with Susana SáCouto, supra note 105.
\item \textsuperscript{121} See Notar & Turetsky, supra note 21, at 689 (discussing advantages of an “advocate contract model” in child support enforcement).
\end{itemize}
whether issuance of the FVO implementing regulation itself, as in D.C., or establishment of new confidentiality procedures in the court system, as in all of the above jurisdictions. As practitioners with a specialized knowledge base, advocates also may be appreciated and respected by the agencies for their background and may be included in dialogues with the agencies, resulting in better long-term communication for both parties.

Disadvantages also abound, particularly in a system such as the District’s, where advocates pushed the agencies to implement the FVO of their own motivation. Dealing day-to-day with an unresponsive and bureaucratic system that has a long history of inattention to the barriers faced by domestic violence survivors eventually can result in advocates’ disengagement from the reform process. With sufficient resources however, as in Massachusetts and Rhode Island – where the child support or TANF agencies themselves sought advocates’ input and have provided advocates with the funding to remain involved in a meaningful way – advocates’ experience may be notably different. But even in Rhode Island, without adequate funding the already strained resources of the Women’s Center would be stretched even further since the Center works with its clients on many domestic violence issues other than the FVO.

In addition to the strain on limited local resources, information on the child support process and good cause waiver may slip through the cracks in jurisdictions focused only on advocacy around the FVO. In Rhode Island, the domestic violence resources in the state are focused on the FVO and child support concerns within TANF, but not on the relevance of the good cause waiver for all other women who may be eligible for child support. In D.C., the city has not even fully integrated the two processes, and again, the focus of domestic violence advocates has been more on the FVO and less on the good cause waiver. Massachusetts has been successful in negotiating cooperation between the TANF and child support agencies; unlike Rhode Island and D.C., however, which have relied on service providers to conduct screenings, the Massachusetts agencies are not equipped to deal comprehensively with the full range of issues that victims face beyond child support and TANF. Finally, advocates or specialists in all cases may be caught in a middle position between their clients and the agencies from which they are receiving funding or contract authority (as in D.C. and Rhode Island) or employment (as in Massachusetts). Such an arrangement may threaten advocates’ loyalty to their individual clients or may encourage advocates to avoid systemic reform efforts altogether.

122. See Telephone Interview with Susana SáCouto, supra note 105.
123. See Telephone Interview with Patricia Loomis, supra note 71.
124. See Notar & Turetsky, supra note 21, at 689.
IV. CONCLUSION

It may be no coincidence that some of the jurisdictions where advocates against domestic violence seem partially pleased with victims' access to the FVO or good cause waivers have involved many of these same domestic violence advocates in the process of implementation. Given the advantages and disadvantages of FVO and good cause implementation in Massachusetts, Rhode Island, and D.C., it appears that battered women with child support issues are safer under TANF, at least temporarily, in jurisdictions where advocates have been so involved. While these jurisdictional models have their share of drawbacks, these examples represent some preliminary successes on behalf of battered women and their advocates in TANF and child support implementation. Even in these examples, not only do state and local administrative agency staff need ongoing and competent cross-training in the nature and dynamics of domestic violence and the importance of measures such as the FVO, the good cause waiver, and "yellow light" safety options, but agencies need to communicate better with each other regarding domestic violence prevention in the bureaucratic TANF and child support enforcement systems.

In order to continue any of these working models and in order to develop additional improvements, continued and increased funding will be needed, both at the state and federal levels, to ensure that battered women do not fall through the gaps in what remains of our country's social safety net. Ongoing research and data collection are needed to ensure that advocates know what other states are doing, what is working to the advantage of battered women, and what has failed.

Given the current political environment, particularly at the federal level, it is important to remember that state and local advocates and agencies can and must continue to play a vital role in implementing existing legislation to the advantage of battered women, despite limited resources and other constraints. Indeed, many of the problems that state and local advocates now face in the child support system existed before TANF and were not addressed by state agencies under AFDC either. In other words, regardless of shifting changes in federal legislation, state and local agencies - and the advocates that push them - have had, and still have, plenty to do to help domestic violence victims.

Nonetheless, although state and local coalitions against domestic violence, domestic violence legal services providers, and other advocates and service providers can play important roles, particularly in communicating about the substance of new laws and regulations, their influence will be limited as long as educational and systemic barriers remain at the state and federal level. The best solution - a continuous, federal one - would require states to cooperate with domestic violence service providers, as in Massachusetts and Rhode Island, in implementing
programs that effect survivors of domestic violence and would provide the necessary federal funding and other resources for them to do so. In the long run, patchwork protections for battered women and their children do not keep them safe.