



CENTER FOR THE RIGHTS
OF ABUSED CHILDREN

Dear Colleague:

Through our work with children, we learned that states throughout the country proactively apply for federal benefits on behalf of eligible children and then keep it, considering it a reimbursement for the child's care.

In 2023, the Center worked with the Arizona governor and legislature to enact a first-of-its-kind model act that limits the use of a child's benefits and ensures the state child welfare agency properly screens for eligibility, applies for federal benefits, and works collaboratively to find an appropriate fiduciary to manage the funds.

We are encouraged by your interest in passing the Arizona model act. To help you in this process, we assembled a toolkit for you to set up your campaign to end this unjust practice. The toolkit includes:

1. Overview of Federal Benefits
2. The Arizona Model Act
3. One-Pager for Policymakers
4. Sample Legislative Testimony
5. Sample Letter to Legislators
6. Sample Letter to the Governor to Sign Legislation
7. Sample Press Release
8. Sample Social Media Posts
9. Sample Op-Ed

We want to see you succeed, and we are happy to help you adapt these materials to improve the lives of abused and neglected children in your state or territory. Good luck, and please feel free to contact the Center at hello@thecenterforchildren.org or 602-710-1135.

Warmly,

A handwritten signature in black ink that reads "Kendall Seal".

Kendall Seal
VP of Policy



PROTECTING AND PRESERVING CHILDREN'S FEDERAL BENEFITS

EXECUTIVE SUMMARY

Every year, tens of thousands of children enter foster care eligible for federal disability or survivor benefits. Shamefully, states across the country take foster children's social security and veterans' benefits and use the funds to reimburse themselves for caring for the abused children in their custody. After being removed from their homes, this practice forces some children to pay for their own cost of care. Additionally, this practice depletes a resource that could meet crucial needs child welfare agencies are unwilling to cover or be a significant support for youth who are exiting care and transitioning into adulthood without familial support.

In 2023, the Center for the Rights of Abused Children fought to end the theft of children's federal benefits, preserving those funds in the best interest of the child. In this toolkit, policymakers will learn essential elements of legislation to stop this insidious practice in their own states and practical pointers from the Arizona model reform.

KEY TAKEAWAYS

Every year, more than 200,000 abused children enter foster care.¹ It is estimated that 10-20% of those youth could be eligible for various federal benefits ranging from Social Security to veteran benefits.²

In state fiscal year 2020, forty-two states reported using \$251 million in Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Social Security Survivor's Benefits (SSSB), Veteran's Administration funds (VA), and child support, to reimburse themselves for the cost of a child's care.³

Children's federal benefits represent less than 3% of funds expended by state child welfare systems.⁴ These federal benefits represent only a small portion of states' child welfare financing but could be a tremendous resource to meet the unmet needs of children in care and those exiting care or transitioning into adulthood.



CRITICAL ELEMENTS OF REFORM

To protect the rights of children, state legislatures should enact a law that:

1. Requires the state to regularly screen every child in foster care to determine if they are eligible for federal and state benefits.
2. Mandates that the state apply on behalf of the child for any federal and state benefits for which the child may be eligible.
3. Ensures that a child and the child's legal representative receive proper and timely notice of any application for federal benefits, the results of the application, and any appeal of a denial of such benefits that could be or is filed on behalf of the child.
4. Prohibits the state's child welfare agency from using the funds to pay for the cost of caring for the child in foster care.
5. Requires the state to conserve the child's benefits consistent with the best interest of the child in protected accounts that avoid asset limitations for federal and state programs.
6. Limits any permissible use of the child's federal benefits to current unmet needs that the state is either not required, or is unwilling, to pay.
7. Mandates periodic accounting to the child, the child's attorney, and the child's parent or guardian regarding the conservation and use of a child's benefits and monitors third-party fiduciaries while the child is in care.
8. Requires the state to work with the child and the appropriate federal agency to return the money to the child or another fiduciary once the child exits care.
9. Provides a child aging out of care with training covering financial literacy and maintaining benefit eligibility.

INTRODUCTION

Through an investigation by the Marshall Project and NPR, the nation learned that child welfare agencies were taking children's federal disability and survivor benefits to reimburse itself for the cost of caring for abused children. After being ripped from their homes, these children were being forced to use their benefits to unknowingly pay for their own care. Stories began to surface of children who had no idea that the child welfare system had been stealing from them, sometimes thousands of dollars over several years. One of those former foster youth, now a child welfare advocate, quipped, "If foster care was a service I was being charged for, I want a refund."⁵

Generally, parents have a duty to meet the basic needs of their children. In cases where parents become abusive and the state intervenes to protect the children, removing the children from their homes, the state must assume the responsibility for the care and maintenance of each child's health, safety, and welfare. This includes financial responsibility.



Benefits administered by federal agencies, such as the Department of Veterans Affairs, Social Security Administration, and the Railroad Retirement Board, can be valuable resources for children in foster care. These resources belong to the child¹ and can help cover the costs of necessary services and supports for children with a disability or provide additional assistance for children who have experienced the loss and support of a loved one due to an untimely death.

States can better support these children by fulfilling their obligation to provide for and protect them without resorting to benefit theft. Rather, child welfare agencies and state legislatures can work to fund systems sufficiently to meet the basic needs of all children in state care while preserving federal benefits in the best interest of the child and using them only when necessary to meet children’s otherwise unmet needs. Ending benefit theft can help every child get the services they need and a better start in life.

BACKGROUND

General Background

According to *Child Trends*, “[f]orty-two states ...[took] \$251 million in third-party income to offset child welfare agency costs for child welfare services/activities in SFY 2020.”⁶ “Third-party income” includes “Supplemental Security Income (SSI), Social Security Disability Insurance, Social Security Survivor’s Benefits, [and] Veteran’s Administration funds.”⁷

The Marshall Project recently found that child welfare agencies in nearly all states routinely apply for and then steal foster children’s federal benefits, reimbursing themselves for the cost of the child’s care.⁸ According to the Marshall Project, in 2018, more than \$165 million worth of benefits were taken from foster children throughout the country.⁹

While repugnant, taking children’s benefits to pad bureaucracies’ budgets is considered legal. States may use a child’s federal benefits to pay for the child’s cost of care – costs that they must cover for other children. For example, states can use a child’s federal benefits for maintenance expenses like “food, clothing, shelter, medical care, and personal comfort items.”¹⁰

A Child’s Federal Benefits as a Percentage of States’ Child Welfare Financing Profile

Federal benefits paid to children comprise a relatively small portion of bureaucratic revenue. According to a 2020 survey, the revenue collected by child welfare systems from third-party sources such as children’s SSA and VA benefits account for a national average of 3% of child welfare financing.¹¹

¹ The Social Security Administration (SSA) recognizes a statutorily created property interest in SSDI and SSI. The SSA states, “[a]n individual’s interest in continuing to receive Social Security or Supplemental Security Income benefits constitutes a statutorily created “property” interest. The Fifth Amendment protects that interest.” Soc. Sec. Adm., DI 40515.001 *Program Operations Manual System, Due Process*, (Effective Dates: 2/26/2010 – present).



Although small, the lost revenue may not be insignificant. States can and should work collaboratively across all branches of government to fully fund their child welfare systems. Ending benefit theft can mean millions in lost revenue. As states have begun to end this practice, they have had to work with lawmakers and stakeholders to identify potential sources of additional revenue, including requests to the legislature for general fund appropriations and tapping into Title IV-E of the Social Security Act for administrative costs. Through creativity and discipline, states can ensure sufficient funding while multiplying the value of children’s federal benefits in the lives of the children.

By allowing federal and state benefits to remain with and be used by the child, these funds can more directly impact children for whom they were intended, satisfying the unique, unmet needs of children who have a disability, prematurely lost a parent, or will be exiting care and transitioning into adulthood. For example, the SSI program provides monthly payments to children who satisfy certain eligibility requirements related to disability, income, and resources. Over time, SSI benefits can accumulate to several thousand dollars, especially for children who spend several years in foster care.ⁱⁱ That is thousands of dollars that could be used on extracurricular activities to build character and social-emotional skills, to provide unique special education needs crucial to development and learning, or even to help youth transitioning out of care establish independence, secure housing, and pursue vocational training or higher education. All of these uses can help mitigate the adverse experiences too frequently observed among youth who age out of foster care.¹²

The Broader Movement to End Federal Benefit Theft

Cities like New York City, Philadelphia, and Washington D.C. have prohibited this practice. Several states have attempted to limit this to some degree as well. However, Arizona led the way with the first statewide law to comprehensively address the practice of child welfare agencies taking children’s benefits. Oregon followed closely behind, enacting a state law.¹³ New Mexico joined states prohibiting this practice through administrative action. Every state should follow suit, ending the practice of benefit theft.

ARIZONA CASE STUDY

The Extent of Arizona’s Use of Children’s Federal Benefit

According to the Marshall Project, in 2018, \$5.72 million worth of benefits were taken from foster children in Arizona.¹⁴ This data is similarly accounted for in a line of the state’s child welfare budget.

ⁱⁱ In 2023, the maximum amount of SSI for eligible individuals was more than \$914 per month. United States Social Security Administration, SSI Federal Payment Amounts for 2023, <https://www.ssa.gov/OACT/COLA/SSI.html>.



The Department of Child Safety (DCS) maintains the “Client Trust Fund” – a fund containing revenue from SSA, VA, and other benefits payable to a child in the agency’s care, custody, or control. The purpose of this fund is to defray the costs of care and services expended for the child’s benefit, welfare, and best interest.¹⁵ In state fiscal year (SFY) 2020, the year-end fund balance exceeded \$6.4 million, with expenditures amounting to more than \$3.6 million.¹⁶ By the end of SFY 2021, the fund balance had grown to more than \$11 million while expenditures dropped to just over 448,000.¹⁷

Arizona Model Reform

In 2023, the Center for the Rights of Abused Children led a coalition of other organizations in a bipartisan effort to end the practice of taking children’s federal benefits to pay for the child’s care.¹⁸ Essential elements of the Arizona model include:

1. Mandatory screening for eligibility.
2. Compulsory application of benefits on behalf of a child in care.
3. A process for identifying an appropriate fiduciary, using DCS only as a last resort.
4. Limitations on using a child’s benefits, accounting for expenditures, and a requirement to conserve benefits in the child’s best interest.
5. Mandatory notice regarding benefit applications and determinations.
6. A process for returning benefits to a child upon exiting care.

Screening

The Arizona model included a mandatory screening to determine if a child is receiving or may be eligible for federal benefits as a child entered care. Specifically, the bill required DCS to screen all children currently in care and all those who subsequently enter care to determine if the child is receiving or may be eligible for federal benefits administered by the Social Security and Veterans Administration. By law, this screening must occur within 60 days of a child entering care. Then, every year following the initial assessment, DCS reviews their cases to determine if a child may have become eligible for federal benefits.

Application

The Arizona model requires DCS to apply for SSA and VA benefits for which a child is or might be eligible on behalf of the child.

Identifying an Appropriate Fiduciary

The Arizona model requires identifying an appropriate fiduciary in collaboration with the child’s attorney. The bill further provides that DCS should serve as a representative payee only as a last resort when no suitable alternative candidate is available.



Limit Use and Require Conservation of Benefits

This section is crucial to the administration of children's federal benefits. While SSA encourages using a child's federal benefits for maintenance costs, Arizona requires additional protection. When DCS serves as the representative payee, it must meet codified standards. These standards include:

1. Prohibiting the use of a child's federal benefits, savings, or assets that belong to the child to pay for or reimburse the agency for any costs for the child's care.
2. Limiting the use of a child's federal benefits for the child's unmet needs – those expenses or needs that the state is not otherwise obligated, required, or has agreed to pay.
3. Establishing appropriate accounts for a child's benefits in a manner consistent with federal and state asset and resource limits. Proper accounts include a special needs trust, a pooled special needs trust, an achieving a better life experience account (529A account), or another trust account that will not interfere with asset limitations for any other benefit program.
4. Accounting for using, applying, or conserving the child's benefits. This annual accounting will be provided to the child, the child's attorney, and the child's parent or guardian.
5. Periodically reviewing for another representative payee, other than DCS, that could assume the role and better serve the child's best interests.

Due Process Notice

The Arizona model requires DCS to provide the child, the child's parent or guardian, the child's current placement, and the child's attorney with notice regarding any application, decision, or appeal concerning a child's federal benefits. This includes working with the child's attorney to file an appeal if doing so would be in the child's best interest.

Returning the balance

The bill requires DCS to appropriately release the child's benefits once the child leaves care. The fund balances should be released according to applicable benefit laws. Absent any other requirement, benefits that have been conserved for the child should be released to a child who has attained 18 years of age or to a responsible party if the child is still an unemancipated minor.

Ongoing Implementation Considerations

In Arizona, DCS began working with stakeholders to operationalize the legislation before the law's effective date. The Center helped focus this discussion on:

- Immediately ending the use of foster youth benefits and beginning to account for any benefits within its control and possession.
- Identifying resources to help cover the lost revenue from children's benefits and the cost of implementing and administering the legislation – including tapping into other federal revenue, such as Title IV-E of the Social Security Act.
- Revising existing policies and procedures that conflict with the new law.



- Ensuring that DCS is conducting annual screenings for *all* federal or state benefits for which the child may be eligible.
- Developing a process for determining which benefits will best meet a child’s current and future needs and a plan for assisting children near transition into adulthood to maintain federal benefits.
- Ensuring DCS properly and sufficiently notifies children of any application, appeal, communication, or transaction involving their benefits.
- Engaging youth in planning for using and conserving funds in an age-appropriate manner.
- Developing policies and practices for identifying current unmet needs and conserving funds with consideration for asset limits for all benefit programs, including education training vouchers, Pell grants, and tuition waivers.
- Providing youth with financial counseling and training for accessing, using, and managing federal benefits.
- Developing and providing staff training and community outreach.

POLICY RECOMMENDATIONS

State Reform

States across the country can follow Arizona’s lead and end the practice of forcing a child to pay for the child’s own care. As previously outlined, state reforms should, at a minimum, include the following critical elements:

1. Timely screening for eligibility for state and federal benefits upon a child entering care and every year thereafter;
2. Mandatory application for benefits on behalf of the child;
3. Notice to the child, the child’s legal representative, and the child’s parent/guardian (if their rights have not been terminated);
4. Prohibition against using the child’s benefits to reimburse the cost of care;
5. Provisions for conserving funds in the best interest of the child;
6. Management of funds in protected accounts that avoid state and federal asset limitations;
7. Narrowly defining permissible uses of a child’s benefits for current unmet needs beyond what the child welfare agency is required or willing to pay;
8. Periodic accounting to the child, the child’s legal representative, and the child’s parent or guardian (if those rights have not been terminated), and monitoring for third-party fiduciaries while the child is in care;
9. Procedures for returning benefits to the child or another fiduciary; and
10. Financial literacy training for teens who are approaching the transition into adulthood that will help them maintain eligibility and teach them how to use and manage their funds in their own best interest.



CONCLUSION

States must stop using children’s federal benefits administered by the Social Security Administration, the Department of Veterans Affairs, and the Railroad Retirement Board to pad child welfare system budgets. When states assume the custody and care of a child, the state should be responsible for the cost of caring for and maintaining the child’s health, safety, and welfare. The benefits taken from children are a small portion of state child welfare financing but could be a significant resource for satisfying children’s unmet needs and achieving stability. States should ensure that their child welfare agencies conduct timely screening for children’s eligibility for federal benefits, apply for those benefits on behalf of eligible children in care, prohibit the use of those funds for the maintenance costs of care, and conserve funds in the best interest of the child.

¹ U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau, *The AFCARS Report*, (June 28, 2022), 1, available at <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf>.

² Amy Harfeld, *Five Steps to Ensure Your Clients Are Benefitting from Their Federal Benefits*, American Bar Association, (June 21, 2022), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2022/five-steps-to-ensure-your-clients-are-benefitting-from-their-federal-benefits/>.

³ Kristina Rosinsky, Megan Fischer, and Maggie Haas, *Child Welfare Financing SFY 2020: A survey of federal, state, and local expenditures*, Child Trends (May 2023), 52, https://cms.childtrends.org/wp-content/uploads/2023/04/ChildWelfareFinancingReport_ChildTrends_May2023.pdf.

⁴ *Id.* at 107.

⁵ Children’s Advocacy Institute, *Preserving Federal Benefits of Foster Youth*, University of San Diego, (quoting Ian Marx), (accessed 9/12/23), <https://www.sandiego.edu/cai/advocacy/youth-benefits/>.

⁶ Rosinsky, Fischer, and Haas, *Child Welfare Financing SFY 2020*, 52.

⁷ *Id.*

⁸ Michelle Pitcher, Weihua Li, and David Eads, *These States Take Money Meant for Foster Children*, The Marshall Project (May 2021), <https://www.themarshallproject.org/2021/05/17/these-states-take-money-meant-for-foster-children>.

⁹ Eli Hager and Joseph Shapiro, *Meet Malerie, Tristen, Katrina, Alex, Ethan, and Mateo*, The Marshall Project (May 2021), <https://www.themarshallproject.org/2021/04/22/foster-care-agencies-take-thousands-of-dollars-owed-to-kids-most-children-have-no-idea>.

¹⁰ U.S. Social Security Administration and U.S. Administration for Children and Families, *Reminders to State and Title IV-E Agencies About the Social Security Representative Payee Program and the Title IV-E Federal Foster Care Program*, August 17, 2023.

¹¹ Rosinsky, Fischer, and Haas, *Child Welfare Financing SFY 2020*, 107.

¹² National Foster Youth Institute, *Aging Out of Foster Care*, (accessed Oct. 26, 2023) <https://nfyi.org/51-useful-aging-out-of-foster-care-statistics-social-race-media/#:~:text=More%20than%2023%2C000%20children%20will,by%20the%20age%20of%2024>.

¹³ S.B. 556, Oregon Senate, 82nd Oregon Legislative Assembly, Reg. Sess. (2023), <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB556>. <https://olis.oregonlegislature.gov/liz/2023R1/Downloads/MeasureDocument/SB556>.

¹⁴ Michelle Pitcher, Weihua Li, and David Eads, *These States Take Money Meant for Foster Children*, <https://www.themarshallproject.org/2021/05/17/these-states-take-money-meant-for-foster-children>.

¹⁵ Arizona Joint Legislative Budget Committee, *FY 2022 Baseline Book – Department of Child Safety*, 82, <https://azjlb.gov/22baseline/dcs.pdf>.

¹⁶ *Id.*

¹⁷ Arizona Joint Legislative Budget Committee, *FY 2023 Baseline Book – Department of Child Safety*, 88, <https://www.azjlb.gov/23baseline/dcs.pdf>.

¹⁸ H.B. 2559, Arizona House of Representatives, 56th Legislature, First Reg. Sess. (2023), <https://www.azleg.gov/legtext/56leg/1R/laws/0177.pdf>.

¹⁹ Protecting Foster Youth Resources to Promote Self-Sufficiency Act, H.R. 9654, 117th Cong. (2021-2022).

Arizona Model Legislation

House Engrossed

DCS; federal benefits; dependent children.

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

CHAPTER 177

HOUSE BILL 2559

AN ACT

AMENDING SECTION 8-453, ARIZONA REVISED STATUTES; AMENDING TITLE 8, CHAPTER 4, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 8-468; RELATING TO CHILD WELFARE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-453, Arizona Revised Statutes, is amended to
3 read:

4 8-453. Powers and duties

5 A. The director shall:

6 1. Carry out the purposes of the department prescribed in section
7 8-451.

8 2. Provide transparency by being open and accountable to the public
9 for the actions of the department.

10 3. Develop a data system that enables persons and entities that are
11 charged with a responsibility relating to child safety to access all
12 relevant information relating to an abused, neglected or abandoned child
13 as provided by law.

14 4. Subject to title 41, chapter 4, article 4 and, as applicable,
15 articles 5 and 6, employ deputy directors and other key personnel based on
16 qualifications that are prescribed by the director.

17 5. Adopt rules to implement the purposes of the department and the
18 duties and powers of the director.

19 6. Petition, as necessary to implement the case plan established
20 under section 8-824 or 8-845, for the appointment of a guardian or a
21 temporary guardian under title 14, chapter 5 for children who are in **THE**
22 custody of the department pursuant to court order. Persons applying to be
23 guardians or temporary guardians under this section shall be
24 fingerprinted. A foster parent or certified adoptive parent already
25 fingerprinted is not required to be fingerprinted again, if the foster
26 parent or certified adoptive parent is the person applying to be the
27 guardian or temporary guardian.

28 7. Cooperate with other agencies of this state, county and
29 municipal agencies, faith-based organizations and community social
30 services agencies, if available, to achieve the purposes of this chapter.

31 8. Exchange information, including case specific information, and
32 cooperate with the department of economic security for the administration
33 of the department of economic security's programs.

34 9. Administer child welfare activities, including:

35 (a) Cross-jurisdictional placements pursuant to section 8-548.

36 (b) Providing the cost of care of:

37 (i) Children who are in temporary custody, are the subject of a
38 dependency petition or are adjudicated by the court as dependent and who
39 are in out-of-home placement, except state institutions.

40 (ii) Children who are voluntarily placed in out-of-home placement
41 pursuant to section 8-806.

42 (iii) Children who are the subject of a dependency petition or are
43 adjudicated dependent and who are in the custody of the department and
44 ordered by the court pursuant to section 8-845 to reside in an independent
45 living program pursuant to section 8-521.

- 1 (c) Providing services for children placed in adoption.
2 10. Formulate policies, plans and programs to effectuate the
3 missions and purposes of the department.
4 11. Make contracts and incur obligations within the general scope
5 of the department's activities and operations subject to the availability
6 of funds.
7 12. Coordinate with, contract with or assist other departments,
8 agencies and institutions of this state and local and federal governments
9 in the furtherance of the department's purposes, objectives and programs.
10 13. Accept and disburse grants, matching funds and direct payments
11 from public or private agencies for the conduct of programs that are
12 consistent with the overall purposes and objectives of the department.
13 14. Collect monies owed to the department.
14 15. Act as an agent of the federal government in furtherance of any
15 functions of the department.
16 16. Carry on research and compile statistics relating to the child
17 welfare program throughout this state, including all phases of dependency.
18 17. Cooperate with the superior court in all matters related to
19 this title and title 13.
20 18. Provide the cost of care and transitional independent living
21 services for a person under twenty-one years of age pursuant to section
22 8-521.01.
23 19. Ensure that all criminal conduct allegations and reports of
24 imminent risk of harm are investigated.
25 20. Ensure the department's compliance with the Indian child
26 welfare act of 1978 (P.L. 95-608; 92 Stat. 3069; 25 United States Code
27 sections 1901 through 1963).
28 21. Strengthen relationships with tribal child protection agencies
29 or programs.
30 B. The director may:
31 1. Take administrative action to improve the efficiency of the
32 department.
33 2. Contract with a private entity to provide any functions or
34 services pursuant to this title.
35 3. Apply for, accept, receive and expend public and private gifts
36 or grants of money or property on the terms and conditions as may be
37 imposed by the donor and for any purpose provided for by this title.
38 4. Reimburse department volunteers, designated by the director, for
39 expenses in transporting clients of the department on official business.
40 Volunteers reimbursed for expenses are not eligible for workers'
41 compensation under title 23, chapter 6.
42 C. The department shall administer individual and family services,
43 including sections on services to children and youth and other related
44 functions in furtherance of social service programs under the social
45 security act, as amended, title IV, parts B and E, grants to states for

1 aid and services to needy families with children and for child-welfare
2 services, title XX, grants to states for services and other related
3 federal acts and titles.

4 ~~D. If the department has responsibility for the care, custody or~~
5 ~~control of a child or is paying the cost of care for a child, the~~
6 ~~department may serve as representative payee to receive and administer~~
7 ~~social security and veterans administration benefits and other benefits~~
8 ~~payable to the child. Notwithstanding any law to the contrary, the~~
9 ~~department:~~

10 ~~1. Shall deposit, pursuant to sections 35-146 and 35-147, any~~
11 ~~monies it receives to be retained separate and apart from the state~~
12 ~~general fund on the books of the department of administration.~~

13 ~~2. May use these monies to defray the cost of care and services~~
14 ~~expended by the department for the benefit, welfare and best interests of~~
15 ~~the child and invest any of the monies that the director determines are~~
16 ~~not necessary for immediate use.~~

17 ~~3. Shall maintain separate records to account for the receipt,~~
18 ~~investment and disposition of monies received for each child.~~

19 ~~4. On termination of the department's responsibility for the child,~~
20 ~~shall release any monies remaining to the child's credit pursuant to the~~
21 ~~requirements of the funding source or, in the absence of any requirements,~~
22 ~~shall release the remaining monies to:~~

23 ~~(a) The child, if the child is at least eighteen years of age or is~~
24 ~~emancipated.~~

25 ~~(b) The person who is responsible for the child if the child is a~~
26 ~~minor and not emancipated.~~

27 ~~E. Subsection D of this section does not apply to benefits that are~~
28 ~~payable to or for the benefit of a child receiving services under title~~
29 ~~36.~~

30 ~~F. D.~~ Notwithstanding any other law, a state or local governmental
31 agency or a private entity is not subject to civil liability for the
32 disclosure of information that is made in good faith to the department
33 pursuant to this section.

34 ~~G. E.~~ Notwithstanding section 41-192, the department may employ
35 legal counsel to provide legal advice to the director. The attorney
36 general shall represent the department in any administrative or judicial
37 proceeding pursuant to title 41, chapter 1, article 5.

38 ~~H. F.~~ The total amount of state monies that may be spent in any
39 fiscal year by the department for foster care as provided in subsection A,
40 paragraph 9, subdivision (b) of this section may not exceed the amount
41 appropriated or authorized by section 35-173 for that purpose. This
42 section does not impose a duty on an officer, agent or employee of this
43 state to discharge a responsibility or ~~to~~ create any right in a person or
44 group if the discharge or right would require an expenditure of state

1 monies in excess of the expenditure authorized by legislative
2 appropriation for that specific purpose.

3 Sec. 2. Title 8, chapter 4, article 1, Arizona Revised Statutes, is
4 amended by adding section 8-468, to read:

5 8-468. Federal benefits; dependent children; application;
6 prohibition; accounting; notice; annual review

7 A. FOR ALL CHILDREN IN THE CARE OF THE DEPARTMENT OF CHILD SAFETY,
8 THE DEPARTMENT OF CHILD SAFETY SHALL DETERMINE WHETHER EACH CHILD IS
9 RECEIVING OR ELIGIBLE FOR BENEFITS ADMINISTERED BY THE SOCIAL SECURITY
10 ADMINISTRATION OR THE VETERANS ADMINISTRATION WITHIN SIXTY DAYS AFTER THE
11 CHILD ENTERS THE DEPARTMENT'S CARE. IF THE DEPARTMENT OF CHILD SAFETY
12 DETERMINES THAT A CHILD IS ELIGIBLE OR MAY BE ELIGIBLE FOR FEDERAL
13 BENEFITS, THE DEPARTMENT OF CHILD SAFETY SHALL APPLY FOR THE BENEFITS ON
14 BEHALF OF THE CHILD.

15 B. IF A CHILD IS ALREADY RECEIVING BENEFITS BEFORE ENTERING THE
16 DEPARTMENT'S CARE OR IF THE DEPARTMENT APPLIES FOR BENEFITS ON BEHALF OF
17 THE CHILD, THE DEPARTMENT SHALL IDENTIFY, IN CONSULTATION WITH THE CHILD
18 AND THE CHILD'S ATTORNEY, A REPRESENTATIVE PAYEE IN ACCORDANCE WITH 20
19 CODE OF FEDERAL REGULATIONS SECTIONS 404.2021 AND 416.621 AND SHALL APPLY
20 TO BECOME THE REPRESENTATIVE PAYEE ONLY IF NO OTHER SUITABLE CANDIDATE IS
21 AVAILABLE. IF THE DEPARTMENT OF CHILD SAFETY IS APPOINTED TO SERVE AS THE
22 REPRESENTATIVE PAYEE, THE DEPARTMENT:

23 1. MAY NOT USE THE CHILD'S FEDERAL BENEFITS, OTHER BENEFITS,
24 SAVINGS OR ASSETS TO PAY FOR OR TO REIMBURSE THE DEPARTMENT OF CHILD
25 SAFETY OR THIS STATE FOR ANY OF THE COSTS OF THE CHILD'S CARE.

26 2. MAY USE THE CHILD'S FEDERAL BENEFITS FOR THE CHILD'S UNMET NEEDS
27 BEYOND WHAT THE DEPARTMENT OF CHILD SAFETY IS OBLIGATED, REQUIRED OR
28 AGREES TO PAY.

29 3. SHALL ESTABLISH AN APPROPRIATE ACCOUNT TO USE AND CONSERVE THE
30 CHILD'S BENEFITS IN THE CHILD'S BEST INTEREST FOR CURRENT UNMET NEEDS AND
31 FUTURE NEEDS IN A MANNER CONSISTENT WITH FEDERAL AND STATE ASSET AND
32 RESOURCE LIMITS. THE ACCOUNT MAY INCLUDE ANY OF THE FOLLOWING:

33 (a) A SPECIAL NEEDS TRUST.

34 (b) A POOLED SPECIAL NEEDS TRUST.

35 (c) AN ACHIEVING A BETTER LIFE EXPERIENCE ACCOUNT ESTABLISHED
36 PURSUANT TO SECTION 529A OF THE INTERNAL REVENUE CODE.

37 (d) ANY OTHER TRUST ACCOUNT DETERMINED NOT TO INTERFERE WITH SOCIAL
38 SECURITY OR ASSET LIMITATIONS FOR ANY OTHER BENEFIT PROGRAM.

39 4. IN ADDITION TO THE REQUIREMENTS OF SECTION 14-9115, SHALL
40 PROVIDE AN ANNUAL ACCOUNTING AS TO THE USE, APPLICATION OR CONSERVATION OF
41 THE CHILD'S FEDERAL BENEFITS TO THE CHILD, THE CHILD'S ATTORNEY AND THE
42 CHILD'S PARENTS OR GUARDIANS.

43 5. SHALL PERIODICALLY REVIEW IF SOMEONE OTHER THAN THE DEPARTMENT
44 IS AVAILABLE TO APPLY TO ASSUME THE ROLE OF REPRESENTATIVE PAYEE AND COULD
45 BETTER SERVE IN THAT ROLE IN THE CHILD'S BEST INTERESTS.

1 C. THE DEPARTMENT OF CHILD SAFETY SHALL NOTIFY THE CHILD, THE
2 CHILD'S PARENTS, UNLESS PARENTAL RIGHTS HAVE BEEN TERMINATED, THE CHILD'S
3 GUARDIAN, THE CHILD'S CURRENT PLACEMENT AND THE CHILD'S ATTORNEY OF ANY
4 APPLICATION, DECISION OR APPEAL RELATED TO A CHILD'S FEDERAL BENEFITS. IN
5 PROVIDING NOTICE OF ANY DENIAL OF BENEFITS, THE DEPARTMENT SHALL CONSULT
6 WITH THE CHILD'S ATTORNEY AND APPEAL THE DENIAL IF IT IS IN THE CHILD'S
7 BEST INTERESTS.

8 D. THE DEPARTMENT SHALL ANNUALLY REVIEW CASES OF CHILDREN IN THE
9 DEPARTMENT'S CARE TO DETERMINE WHETHER A CHILD MAY HAVE BECOME ELIGIBLE
10 FOR BENEFITS AFTER THE DEPARTMENT'S INITIAL ASSESSMENT.

11 E. NOTWITHSTANDING ANY OTHER LAW, ON TERMINATION OF THE
12 DEPARTMENT'S RESPONSIBILITY FOR THE CHILD, THE DEPARTMENT SHALL RELEASE
13 ANY MONIES REMAINING TO THE CHILD'S CREDIT PURSUANT TO THE REQUIREMENTS OF
14 THE FUNDING SOURCE OR, IN THE ABSENCE OF ANY REQUIREMENTS, SHALL RELEASE
15 THE REMAINING MONIES TO:

16 1. THE CHILD, IF THE CHILD IS AT LEAST EIGHTEEN YEARS OF AGE OR IS
17 EMANCIPATED.

18 2. THE PERSON WHO IS RESPONSIBLE FOR THE CHILD IF THE CHILD IS A
19 MINOR AND NOT EMANCIPATED.

APPROVED BY THE GOVERNOR JUNE 19, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2023.



BUILDING ECONOMIC SECURITY FOR FOSTER YOUTH BY PROTECTING AND PRESERVING THEIR FEDERAL BENEFITS

An estimated 10%-20% of children in foster care qualify for federal social security, disability, or veterans' benefits. This money is the child's property under federal law. Yet it is common practice for state foster care agencies to confiscate these funds — without notice to the children — and to use those dollars to reimburse itself for the cost of foster care instead of using it for otherwise unmet needs or saving it for the future. In 2018, state agencies nationally netted approximately \$165 million.

[State] is no exception. [State]'s Child Safety Department collects over [insert amount] in federal benefits on behalf of kids in foster care each year with no transparency as to how those funds are stewarded. Children in foster care should not be made to pay for their own care. [State] must make it clear that child welfare agencies may not use a child's federal benefits to reimburse itself for the cost of foster care.

This timely legislation ensures that federal benefits received by the state are used for the child's current, unmet needs or saved for future use.

THIS BILL

Requires [Your State Agency] to ascertain whether each foster child is already receiving or is eligible for federal benefits.

If a child qualifies, ensures [Your State Agency] applies for those benefits on the child's behalf.

Requires [Your State Agency] to provide notice to the child, his or her attorney, and parents or guardians of the application so that they can participate in the choice of a fiduciary to manage the funds.

Prevents [State Agency] from using the funds to pay for care that the state is obligated to provide when the agency is appointed to steward the child's benefits.

Ensures [Your State Agency] looks out for the child's best interest by saving the benefits in a trust account that avoids violating or exceeding any federal and state asset or resource limits that would otherwise prevent the child from continuing to receive the benefits.

Provides for an annual accounting of the [Your State Agency's] use, application, or conservation of the child's federal benefits.



CENTER FOR THE RIGHTS
OF ABUSED CHILDREN

SAMPLE TESTIMONY

For all children in the care of the Department of Child Safety (DCS), DCS is required to determine whether each child is eligible for benefits administered by the federal Social Security Administration or the U.S. Department of Veterans Affairs. If DCS determines that a child is eligible for federal benefits, DCS is required to apply for the benefits on behalf of the child. Establishes requirements for the use of the child's federal benefits.

DELIVERED IN-PERSON

Tim Keller, Senior Vice President and Legal Director
The Center for the Rights of Abused Children

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

Monday, February 13, 2023
[Archived Video Recording](#)

Chairman Montenegro, Representative Jones, Members of the Committee:

My name is Tim Keller, and I serve as the Senior Vice President and Legal Director for The Center for the Rights of Abused Children, where I oversee The Center's pro bono Children's Law Clinic. Our mission is to protect children, change laws, and inspire people - to ensure every abused child has a bright future.

Our Law Clinic helps foster children and their families one-on-one in their court cases and provides free legal assistance to children, bio parents, foster parents, and kinship placements across the state.

Last fall, at a conference for attorneys who represent children in foster care, I met Ian Marx, a law student at the Emory School of Law.

When Ian was 11 years old, he lost his mother and his father was arrested for a serious crime. He had no relatives to care for him and he was placed in foster care—where he stayed until he aged out of the system.

Ian did not choose to be in foster care. He said that in the midst of his grief, he was terrified of living with strangers, anxious about how he would survive, and felt utterly alone. He is haunted by trauma to this day.

But he had one source of hope. His Mom served honorably in the U.S. Navy and Ian was eligible for survivor benefits through both the Veterans Administration and Social Security.

(continued)



He had hoped those funds would help him through college. He had hoped those dollars might help him secure safe housing, stable transportation, and do what he called “normal things” like go on school trips and participate in extracurricular activities.

But he never saw a dime of those funds. That is because, as he learned when he turned 18 and exited foster care, the very system that was supposed to be helping him had been stealing from him the whole time.

The state’s child welfare agency, without Ian’s knowledge, had applied for his federal benefits on his behalf, received those benefits for years, and used those benefits to reimburse itself for Ian’s time in foster care.

Ian, who has become a champion to change this practice nationwide, quipped, “If I was paying for my time in foster care, I want a refund.”

The bill in front of this committee will protect children like Ian from experiencing what he experienced.

HOUSE BILL 2559:

- ensures that the Department of Child Safety properly screens children for eligibility and applies for federal benefits;
- works collaboratively with the child and the child’s attorney to find an appropriate fiduciary to manage the funds, a position known under federal law as a “representative payee”;
- and in those circumstances where DCS becomes the representative payee, this bill requires DCS to only spend the child’s funds to meet current, otherwise unmet needs, and requires DCS to conserve the balance of those funds for the youth’s future needs.

Thank you for your time and attention. I would be happy to answer any questions that members of the committee may have for me.



CENTER FOR THE RIGHTS
OF ABUSED CHILDREN

SAMPLE LETTER TO LEGISLATORS

May 5, 2023

The Honorable Chris Holden, Chair
Assembly Committee on Appropriations
1021 O Street, Room 5650
Sacramento, CA 95814

Re: AB 1512 (Bryan) Preserving Social Security Administration Benefits for Foster Youth – SUPPORT

Dear Assemblymember Holden:

On behalf of the Center for the Rights of Abused Children (Center), I write in support of AB 1512 (Bryan). This critical initiative protects and preserves federal benefits that belong to the child by requiring counties to properly screen for eligibility, apply for the benefits on behalf of the child, and direct, spend, and conserve the child's benefits – using them only when necessary to meet the child's current unmet needs and future needs rather than using the funds to pay for the cost of the child's foster care placement.

The Center works to ensure every abused child has a bright future. We do this through two programs that work to inspire change and protect the rights of abused children. First, we work with policymakers in our home state of Arizona and other states nationwide to change laws, policies, and practices. Second, we operate a *pro bono* Children's Law Clinic that provides free legal assistance to children, bio parents, foster parents, and kinship placements across Arizona.

Through our work, we learned that states use children's federal social security benefits to reimburse themselves for their care. One young man shared his personal experience, a compelling anecdote that conveys the need to eliminate this practice.

When he was 11 years old, this young man's mother died, and his father was arrested for a serious crime. He had no relatives to care for him, so he was placed in foster care until he aged out of the system. He said that amid his grief, he was terrified of living with strangers, anxious about survival, and felt utterly alone. He is haunted by trauma to this day.

However, he had one source of hope. His mother served honorably in the U.S. Navy, making him eligible for survivor benefits through the Veterans Administration and Social Security. He hoped those funds would help him through college, secure safe housing, find reliable transportation, and do "normal things" like going on school trips and participating in extracurricular activities. Unfortunately, he never saw a dime of those funds.

When he turned 18 and exited foster care, he learned the system that was supposed to be helping him had been stealing from him the whole time. The state's child welfare agency, without his knowledge, applied for his federal benefits, received them for years, and used them to reimburse itself for his time in foster care.



CENTER FOR THE RIGHTS
OF ABUSED CHILDREN

AB 1512 will help protect California youth in foster care who, like this young man, may be eligible for one or more federal benefits programs like Supplemental Security Income (SSI) for individuals with disabilities and Social Security Survivor benefits. For these vulnerable youth in care, access to their benefits could mean the difference between being unhoused and stable housing, between food insecurity or a full refrigerator, and between unemployment or transportation to work and school.

We help push for legislative changes to remedy this injustice. Arizona is one of over a dozen states that have initiated legislation or policy changes. We urge California to be a leader on this issue by passing AB 1512, ensuring that youth in foster care can access those critical federal funds by requiring counties to:

- Screen and apply for SSA benefits for youth in a timely manner upon entering care;
- Notify the youth and others, such as the child's attorney, about the status of their application and benefits;
- Identify and propose caring adults in the youth's life who could serve as the representative payee; and
- Use the child's social security benefits in the best interest of the child for current unmet needs and/or conserve remaining funds in appropriate accounts for the child's future use.

For these reasons, we support AB 1512 (Bryan) and respectfully request your support for the bill. Thank you for your service to the residents of California and for your support of children in foster care.

Warmly,

Darcy Olsen
CEO

William E. Morris Institute for Justice

3707 North Seventh Street, Suite 300, Phoenix, AZ 85014-5014

Phone 602-252-3432

Fax 602-257-8138

June 13, 2023

The Honorable Katie Hobbs
Governor of Arizona
1700 West Washington Street
Phoenix, Arizona 85007

Re: Request to Sign House Bill 2559

Dear Governor Hobbs:

The William E. Morris Institute for Justice (“MIJ”), the Arizona Center for Law in the Public Interest (“ACLPI”), and the Arizona Center for Disability Law (“ACDL”) strongly urge you to sign House Bill 2559 (“HB 2559”). We prioritize advocacy to protect life-stabilizing public benefits for the foster youth community, including ensuring that foster care youths’ federal benefits like social security are protected and maintained to be utilized by the youth.

We write this letter in support of HB 2559 and ask that you sign the bill into law. HB 2559 (and its mirror bill SB 1430) enjoyed broad bipartisan support during the legislative process.¹ As we discuss below, HB 2559 prohibits the Arizona Department of Child Safety (“DCS”) from using foster care youths’ federal benefits to pay for the cost of their care while in DCS’s custody. **HB 2559 is a landmark bill showing Arizona’s leadership on a critical problem affecting foster youth throughout the United States. The bill serves as a monumental step forward to helping Arizona foster care youth succeed after they age out of DCS’s care.**

¹ In each committee hearing and on the Senate floor, the bills received unanimous bipartisan support. Democrats’ opposition to HB 2559 on third read in the House was not a reflection of concerns with the policy in the bill but was a vote in protest of the position House leadership was taking on criteria for advancing Democrat-sponsored bills. Democrats voted against all bills that day, including bills that were sponsored by members of their caucus.

I. DCS's Use of Foster Care Youths' Federal Benefits Harms Children in its Care

Roughly 10 percent of foster youth in the United States are entitled to Supplemental Security Income ("SSI") or Old Age, Survivors, and Disability Insurance ("OASDI") benefits.² These are children who have disabilities or have tragically lost their parents. Most of these youth, however, never see their benefits or even know that they are receiving benefits. Many states, including Arizona, routinely screen incoming foster youth for their benefit eligibility without adequate notice to the child.³ If a child is deemed eligible for benefits, the state agency automatically applies for the benefits with the Social Security Administration ("SSA").

The state agency also applies to be the child's representative payee, to receive benefits on the child's behalf.⁴ Under Governor Ducey's administration, DCS maintained that "SSA requires DCS to become the payee on all initial claims."⁵ This simply is not true. SSA policy directives provide clear direction on preference for representative payees, ranking state agencies last out of seven other possible categories of representative payees, other than a catch-all category. Here are the SSA representative payee preference categories, in order of priority in SSA's directives:

1. Natural or adoptive parent who has custody of the beneficiary; legal guardian;
2. Natural or adoptive parent who does not have custody of the beneficiary, but is contributing toward the beneficiary's support and is demonstrating strong concern for the beneficiary's well-being;

² Eli Hager and Joseph Shapiro, *Foster Care Agencies Take Millions of Dollars Owed to Kids. Most Children Have No Idea.*, The Marshall Project, May 17, 2021, <https://www.themarshallproject.org/2021/04/22/foster-care-agencies-take-thousands-of-dollars-owed-to-kids-most-children-have-no-idea>.

³ Amy Harfeld, *Who is Benefiting from Your Clients' Benefits? Preserving the Social Security Disability and Survivor Benefits of Youth in Foster Care*, National Association of Counsel for Children (NACC), Vol. 43, No. 04, Winter 2021, https://www.sandiego.edu/cai/documents/2021_4304_WhoIsBenefitting.pdf.

⁴ *Id.*

⁵ DCS Policy, SSA Benefits Unit. DCS provided this policy to MIJ pursuant to a public records request, dated July 20, 2022.

3. Natural or adoptive parent who does not have custody of the beneficiary and is not contributing toward the beneficiary's support but is demonstrating strong concern for the beneficiary's well-being;
4. Relative who has custody of the beneficiary; stepparent who has custody of the beneficiary;
5. Relative who does not have custody of the beneficiary but is contributing toward the beneficiary's support and is demonstrating strong concern for the beneficiary's well-being;
6. Relative who does not have custody of the beneficiary but is demonstrating strong concern for the beneficiary's well-being; close friend who does not have custody of the beneficiary but is demonstrating strong concern for the beneficiary's well-being;
7. Social service agency; custodial institution;
8. Any person or organization not listed in this chart who shows concern for the beneficiary, is suitable, able, and willing to act as payee.⁶

As representative payee, a state agency has a fiduciary duty to manage and spend the benefits “only for the use and the benefit of the beneficiary” determined “to be in the best interests of the beneficiary.”⁷ If the funds are not needed for the beneficiary's current maintenance, the representative payee, as a fiduciary, must conserve or invest the benefits on behalf of the beneficiary.⁸ This means that representative payees can save the funds for the child to pay for college, a car, a house, or even food when they age out of foster care. **For a young adult who may not have another safety net when they leave foster care, these funds can make the difference between struggling or thriving in the real world.**⁹

⁶ Social Security Administration, *Program Operations Manual System (POMS): GN 00502.105 Preferred Representative Payee Order of Selection Charts*, <https://secure.ssa.gov/poms.NSF/lrx/0200502105>.

⁷ 20 C.F.R. §§ 404.2035(a), 416.635(a).

⁸ 20 C.F.R. § 416.645.

⁹ Approximately 43 percent of former foster care youth experience homelessness by age 21. See Medicaid and CHIP Learning Collaboratives, *Ensuring Continuity of Coverage for Foster Youth Aging Out of Foster Care and Young Adults Eligible for the Former Foster Care Group* (Sept. 9, 2019),

DCS does not use or conserve the funds for individual beneficiaries' use. Rather, these monies are turned into a state funding source. This happens even though DCS is obligated to provide for *all* children in its custody, regardless of what benefits the children may receive or for which they may be eligible.¹⁰

Under Governor Ducey's administration, DCS chose to offset 100% of the cost it incurred caring for foster youth from social security benefits.¹¹ DCS is supposed to send any unused funds back to SSA, but that has rarely happened because there usually are no funds left over. Further, foster care youth almost never receive an individual accounting of how their funds were expended, even in the rare cases when the youth know they are receiving benefits and specifically request an accounting. None of this is in the foster youths' best interests.

II. DCS's Past Practices Have Been Unlawful

DCS's practices described above violate the due process and equal protection rights of the foster care youth who receive social security benefits.

Social Security benefits are a protected property interest and are subject to constitutionally protected procedural due process.¹² This means that notice to the recipient is required before a governmental entity, either state or federal, takes the benefits away.¹³ At a minimum, due process requires the state to notify the youth in writing that the youth is receiving benefits or that the youth is eligible for benefits, and that the state is attempting to be appointed to as the youth's representative payee.

DCS policy states that it requires its workers to reach out to the youth's case manager to "let them know we will be contacting them" and "to get the necessary forms filled out"¹⁴ However, DCS has never provided written notice to the youth that they are

<https://www.medicaid.gov/state-resource-center/mac-learning-collaboratives/downloads/foster-care-ensuring-coverage-continuity.pdf>.

¹⁰ Federal law under Title VI-E requires states to cover "foster care maintenance payments" for each child in foster care using state funds. 42 U.S.C. § 6729(a). A.R.S. § 8-453(A)(9)(b) also obligates the state to provide the cost of care of children in its custody.

¹¹ Information from DCS's response to MIJ's June 7, 2022 public records request (email, dated July 20, 2022).

¹² *Goldberg v. Kelly*, 397 U.S. 254 (1970).

¹³ *Id.*

¹⁴ DCS Policy, SSA Benefits Unit. DCS provided this policy to MIJ pursuant to a public records request, dated July 20, 2022.

receiving or are eligible for benefits, that there are several categories of preferred representative payees, or that DCS is attempting to become the youth's representative payee. Many youth age out of foster care not knowing that they were receiving federal benefits at all.

DCS's practices have violated the equal protection clause of the 14th Amendment because it treats youth receiving social security benefits differently for other youth in its custody. To our knowledge, DCS does not screen and take for its use other types of benefits, money, funds in financial or trust accounts, or other financial resources from youth in its custody. DCS has an entire unit, called the "SSA Benefits Unit," whose sole purpose is to screen incoming youth for their eligibility for federal benefits and to apply for DCS to be the youths' representative payee. DCS has no other unit similarly dedicated to mining and taking youths' money. Further, as explained above, DCS is obligated to provide for *all* children in its custody, no matter their financial background or potential.¹⁵

III. HB 2559 Will Protect Youth and Their Benefits

DCS's unlawful practices have been harmful to the youth that the agency serves. HB 2559 will ensure that DCS no longer takes foster youths' federal benefits and require the agency to protect those benefits for use after the youth leave DCS's custody.

First, HB 2559 requires DCS to provide notice to the child, their guardian, and their attorney anytime it applies for benefits on behalf of the child or applies to be representative payee. Second, the bill also requires DCS to consult with the child and their team on who may be the best representative payee for the child. Third, the bill prevents DCS from using the youths' federal benefits to pay for the cost of their own care while in DCS's custody and requires DCS to protect and save the youth's benefits. Finally, the bill ensures that DCS must provide a detailed accounting to the child and their team of their benefits.

The bill's provisions are simple protections that mostly strive to provide the youth with adequate notice and documentation of their federal benefits. Although seemingly basic safeguards, the requirements in HB 2559 will help foster care youth when they make their way in the world.

¹⁵ Federal law under Title VI-E requires states to cover "foster care maintenance payments" for each child in foster care using state funds. 42 U.S.C. § 6729(a). A.R.S. § 8-453(A)(9)(b) also obligates the state to provide the cost of care of children in its custody.

The Honorable Katie Hobbs
June 13, 2023
Page 6

Conclusion

HB 2559 protects foster care youth and helps ensure they start out in the real world in the best position possible with the financial benefits to which they were uniquely entitled. The bill ensures equal protection of the law for foster youth with disabilities and foster youth who have suffered the trauma of losing their parents. It is time for Arizona to do the right thing to protect the rights of vulnerable foster youth and to provide for their economic security.

For the above reasons, MIJ, ACLPI, and ACDL request that you sign HB 2559 into law. We thank you for your consideration and look forward to working with your administration on implementation of this important law and other policies that promote the welfare of the children and adolescents in Arizona's care.

Sincerely,

/s/ Brenda Muñoz Furnish

/s/ M.J. Simpson

/s/ Drew Schaffer

William E. Morris Institute for Justice

/s/ Anne Ronan

Arizona Center for Law in the Public Interest

/s/ J.J. Rico

Arizona Center for Disability Law

Sample Press Release



CENTER FOR THE RIGHTS
OF ABUSED CHILDREN

FOR IMMEDIATE RELEASE
June 19, 2023

Aimee Jolley
Center for the Rights of Abused Children
aimee@thecenterforchildren.org
(602) 689-4052

Arizona Governor Katie Hobbs signs first comprehensive state law in the nation to protect foster children's federal social security, disability, and veteran survivor benefits

Phoenix, Ariz. - Today, Arizona Governor Katie Hobbs put a stop to the Department of Child Safety's practice of taking foster children's federal social security, disability, or veteran survivor benefits. With the Governor's signature, House Bill 2559 becomes law. The bill, sponsored by Representative Steve Montenegro, along with a companion bill sponsored by Senator Justine Wadsack, guarantees DCS will properly steward and save these funds for the children.

An estimated [10-20%](#) of children in foster care qualify for federal social security, disability, or veteran survivor benefits. Prior to this change, DCS took [approximately \\$6 million in federal benefits](#) from kids in foster care each year and used those "monies to defray the cost of care and services expended by the department."

DCS will continue to screen for eligibility and apply for federal benefits on behalf of children in its care. However, DCS is now required to collaborate with the child and the child's attorney to find a fiduciary to manage the funds until the child turns 18. If DCS is acting as the fiduciary, it requires them to conserve the child's benefits in a savings or trust account while still permitting DCS to spend the funds in the child's best interests when there are costs the agency is not required to meet, such as expenses above the maximum rate for special allowances that cover books, educational expenses, emergency clothing, and special needs. DCS is also required to provide an annual report to increase transparency and accountability.

"Preserving youth benefits is so important to young people who age out of the system without a family to help them transition into life. These funds will help young people pay for housing, transportation, education, and other essential needs that we couldn't fulfill by ourselves. Other states and the federal government need to follow Arizona's lead," said Ian Marx, child welfare advocate and former youth in foster care.

Arizona's policy fix is the most comprehensive state law passed to safeguard the federal benefits to which these children are entitled. To date, only Washington D.C. and the City of Philadelphia have enacted similar policies. Arizona thus leads the way as Massachusetts, Oregon, and Washington state consider similar bills.

"These laws will change lives, especially for youth aging out of foster care without a family," said Darcy Olsen, CEO of the Center for the Rights of Abused Children. "Like any other children, children in foster care will now receive the federal social security, disability, or veteran survivor benefits to which they are entitled."

###

About the Center for The Rights of Abused Children: Our mission is to protect children, change laws, and inspire people - to ensure every abused child has a bright future. Join our life-saving work to end violence against children at thecenterforchildren.org

Contact: Aimee Jolley at (602) 689-4052 or aimee@thecenterforchildren.org or Lindsay Hansen at (480) 205-6195 or lindsay@ldhconsulting.net.



SAMPLE SOCIAL MEDIA

HIGHLIGHTING BIG WINS

Post Sample 1

VICTORY!

Both the Arizona House and Senate passed SB 1186! Governor Katie Hobbs, please sign this bill giving Arizona children in foster care and parents significant enforceable rights.

“These laws will change lives. Ensuring all people involved in foster care have meaningful rights and a mechanism to enforce their rights will improve outcomes for kids and hold the child welfare system accountable,” said Darcy Olsen, CEO of the Center for the Rights of Abused Children.

Read SB 1186: <http://ow.ly/UGsa50OavHP>

Post Sample 2

@GovernorHobbs just signed crucial legislation to protect and preserve children in foster care’s social security and survivor benefits. Now approximately \$6 million in federal benefits will go to children in foster care e year rather than to the government.

OUR TEAM

Post Sample 3

Tim Keller, SVP and Legal Director of the Center for the Rights of Abused Children, advocates for HB 2559 - a bill currently in the Arizona Legislature that would stop the AZ Department of Child Safety from taking survivor benefits from children in foster care. Our bill should hit Governor Katie Hobbs desk soon, giving her the opportunity to protect Arizona’s children in foster care and give them a greater likelihood for safety, security, and success.

Post Sample 4

Our Senior VP and Legal Director, Tim Keller, testified on SB 1430 to stop the AZ Department of Child Safety from stealing \$6 million in social security benefits which children in foster care are entitled to due to disability or being the survivor of a veteran. Watch Tim’s Testimony (2:59:50) <https://tinyurl.com/ypas6s6w>

1


Center for the Rights of Abused Children
May 16 · 🌐

👏👏 VICTORY! 🙌🙌

Both the Arizona House and Senate passed SB 1186! Governor Katie Hobbs, please sign this bill giving Arizona children in foster care and parents significant enforceable rights.

“These laws will change lives. Ensuring all people involved in foster care have meaningful rights and a mechanism to enforce their rights will improve outcomes for kids and hold the child welfare system accountable,” said Darcy Olsen, CEO of the Center for the Rights of Abused Children.

Read SB 1186: <http://ow.ly/UGsa50OavHP>



2

Center for the Rights of Abused Children
Jun 20 · 🌐

👏 Governor Katie Hobbs just signed AZ HB 2559 to protect and preserve children in foster care’s social security and survivor benefits. Now approximately \$6 million in federal benefits will go to children in foster care each year rather than to the government. 🙌🙌


Read HB 2559: <https://tinyurl.com/3scveter>



3

Center for the Rights of Abused Children
Mar 15 · 🌐

Tim Keller, SVP and Legal Director of the Center for the Rights of Abused Children, advocates for HB 2559 - a bill currently in the Arizona Legislature that would stop the AZ Department of Child Safety from taking survivor benefits from children in foster care. Our bill should hit Governor Katie Hobbs desk soon, giving her the opportunity to protect Arizona’s children in foster care and give them a greater likelihood for safety, security, and success.




bizjournals.com
My View: Gov. Hobbs must protect and preserve foster children’s survivor benefits...

4

Center for the Rights of Abused Children
Feb 28 · 🌐

Our Senior VP and Legal Director, Tim Keller, testified on SB 1430 to stop the AZ Department of Child Safety from stealing \$6 million in social security benefits which children in foster care are entitled to due to disability or being the survivor of a veteran. Watch Tim’s Testimony (2:59:50): <https://tinyurl.com/ypas6s6w>





THANKING OUR SUPPORTERS

Post Sample 5

Thank you to Sen. Justine Wadsack and Rep. Steve Montenegro for standing up for children in foster care and championing our legislation to protect and preserve children in foster care’s social security and survivor benefits in the #azleg.

Post Sample 6

Thank you to @Governor Hobbs for fighting for children in foster care and signing our legislation to protect and preserve children in foster care’s social security and survivor benefits. “Like any other children, children in foster care will now receive the social security, disability, and veteran’s benefits to which they are entitled.” @DarcyOlsen

EDUCATING FOLLOWERS

Post Sample 7

What will SB 186 do for children in foster care?
Mandate the Missouri Department of Social Services:

- ✓ Immediately search for and place children with relatives them
- ✓ Prioritize a child’s placement to improve lifelong well-being
- ✓ Report and continuously search for children who disappear from care, and better invest in prevention

Read SB 186: <http://ow.ly/E0L650OmIhC>

Post Sample 8


Current law gives several rights to the 11k+ children in foster care but refuses to allow them to enforce it.

SB 1186 fixes this by:

1. Expanding statutory recognition of rights that belong to children in foster care and parents
2. Making the rights legally enforceable without creating a backlog on judicial dockets

Read SB 1186: <http://ow.ly/Uzkn50OaBgZ>

5

 Center for the Rights of Abused Children
Jun 20 · 🌐

Thank you, Arizona Rep. [Steve Montenegro](#) and [AZ Senator Justine Wadsack](#), for championing legislation to ensure children in foster care receive the social security and survivor benefits to which they are entitled.

Read HB 2559: <https://tinyurl.com/mr2dZp5d>



6


 Center for the Rights of Abused Children
May 9 · 🌐

👏 Thank you to Arizona Governor [Katie Hobbs](#) for fighting for children in foster care and signing legislation that begins to close the achievement gap for some of Arizona’s most vulnerable children. “With this legislation, children in foster care will receive immediate decisions regarding their education and reduce the frequency of forced school transfers,” said [Darcy Olsen](#), CEO of the Center for the Rights of Abused Children.

Read SB 1205: <http://ow.ly/xFr750NXtkC>



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 Center for the Rights of Abused Children
May 12 · 🌐

What will SB 186 do for children in foster care?

Mandate the [Missouri Department of Social Services](#):

- ✓ Immediately search for and place children with relatives
- ✓ Prioritize a child’s placement to improve lifelong well-being
- ✓ Report and continuously search for children who disappear from care, and better invest in prevention

Read SB 186: <http://ow.ly/E0L650OmIhC>



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 Center for the Rights of Abused Children
May 16 · 🌐

Current law gives several rights to the 11k+ children in foster care but refuses to allow them to enforce it.

SB 1186 fixes this by:

- 1 Expanding statutory recognition of rights that belong to children in foster care and parents
- 2 Making the rights legally enforceable without creating a backlog on judicial dockets

Read SB 1186: <http://ow.ly/Uzkn50OaBgZ>





QUOTES FROM EXPERTS


Post Sample 9

In our public policy work, we center the voices of youth in foster care.

“Preserving youth benefits is so important to young people who age out of the system without a family to help them transition into life. These funds will help young people pay for housing, transportation, education, and other essential needs that we couldn’t fulfill by ourselves. Other states and the federal government need to follow Arizona’s lead,” said Ian Marx, child welfare advocate and former youth in foster care.

Read more from Ian: <https://tinyurl.com/2kuub8af>

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 Center for the Rights of Abused Children

Jun 22 · 🌐

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SAMPLE NATIONAL OP-ED

Congress should protect foster children's Social Security benefits

BY DAN LIPS AND TIM KELLER, OPINION CONTRIBUTORS - 03/18/22 3:00 PM ET

Last week, New York City announced that it would change its policy of taking foster children's Social Security benefits to pay for their care. Instead, funds owed to youth in state care will be saved in an account that they can access when they become adults and leave the child welfare system.

"This is their money and they deserve to use it as they see fit," reasoned Jess Dannhauser, the commissioner of the city's Administration for Children's Services.

The Philadelphia City Council is considering a similar change.

Teenagers who age out of foster care face many challenges. They must navigate the difficult transition to independence in adulthood while lacking the social safety net that many teens take for granted. These young adults don't have parents to call to ask for help when the rent is due, the refrigerator is empty, or the cell phone company threatens to shut off service.

Statistics show that former foster youth are more likely than their peers to become homeless, incarcerated, or human trafficked.

But in most states, child welfare agencies make foster children's lives even harder by taking Social Security benefits. Under federal law, many foster children are owed survivor benefits if their parents died. Foster children who are disabled are eligible to receive Supplemental Security Income, which can amount to more than \$800 per month.

A 2021 review by the Marshall Project and NPR determined that child welfare agencies in 36 states routinely apply to the Social Security Administration to become the foster child's financial representative and take their benefits. The Government Accountability Office found that child welfare agencies were the "representative payee" for 81 percent of the foster children receiving Social Security benefits in states that were reporting data.

How much are child welfare agencies taking from foster children? Nearly \$180 million annually.

In a 2003 decision, the Supreme Court ruled that child welfare agencies were allowed to apply for and use foster children's Social Security benefits.

Child welfare agencies and others who defend this practice argue that using a child's Social Security benefits to support their care is consistent with the purpose of survivor or disability benefits. They also reason that states would stop applying for foster children's Social Security benefits if they no longer had a financial incentive to do so.



But state child welfare agencies already receive more than \$12 billion in federal funding for child welfare. And they currently have other sources of federal aid that they can tap into if needed. Through the American Rescue Plan, states and local governments received an extra \$350 billion in aid that can be used to “maintain vital public services.” In fact, state and local governments are “flush with cash,” according to the Committee for a Responsible Federal Budget.

It’s also unclear why states and child welfare agencies would stop applying for foster children’s Social Security benefits if they were no longer receiving the money. State lawmakers and child welfare leaders could require that caseworkers review whether foster children may be eligible and help them apply for their Social Security benefits.

In 2016, Rep. Danny Davis (D-Ill.) introduced a bill, the “Protecting Foster Youth Resources to Promote Self-Sufficiency Act,” which would have prohibited state or local government agencies from using Social Security survivor or disability benefits to reimburse the state for providing foster care. But the legislation was not passed.

With more cities considering ending this practice, it’s time for Congress to act. Foster children already face too many disadvantages. Lawmakers shouldn’t allow child welfare agencies to take their Social Security benefits.

Dan Lips is a visiting fellow with the Foundation for Research on Equal Opportunity. Tim Keller is Senior Vice President and Legal Director with the Center for the Rights of Abused Children.