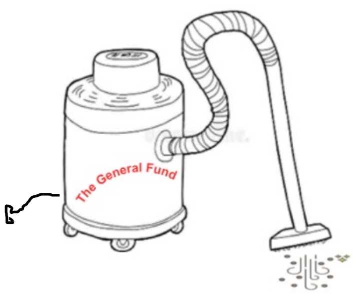
AN ACT PROTECTING BENEFITS OWED TO FOSTER CHILDREN

(H. 157, S. 65)

SPONSORS: Representative Farley-Bouvier, Senator Comerford

THE PROBLEM: Yearly, almost 1,250 children and young adults in DCF custody receive Social Security benefits due to a disability or surviving the death of a loved one.([1]) However, **DCF siphons about 90% of the children's benefits into the Commonwealth's General Fund.([2])** This amounts to just under $500,000 per month or over $5.5 million dollars per year.([3])



About $500K per month, or $5.5 million dollars per year in Social Security Administration benefits of foster youth *are taken for the General Fund.*

Without these funds, **youth that age out of the system are at risk of homelessness, incarceration, and further trauma**. In 2015, for transition-age foster youth in MA:

- more than a quarter **had not finished high school or gotten a GED** at age 21;
- nearly half **did not have full or part-time employment** at age 21;
- more than a third **had experienced homelessness** at age 21;
- 15 percent **had been recently incarcerated** at age 19; and
- 10 percent **had been recently referred for substance use treatment** at age 21.

We need to: 1) **stop taking benefits from foster children**; 2) **support responsible caregivers able to act as representative payees**; 3) **help children to leave foster care with financial support**; and 4) **ensure transparency for children**, their guardians, and their legal representatives when their benefits are at stake.

THE SOLUTION: ***An Act Protecting Benefits Owed to Foster Children.*** This act draws upon legislation adopted in other jurisdictions to protect the benefits of youth in DCF custody in MA.

These reforms include:

- **Prohibiting** DCF from depositing the SSA benefits of foster youth into the General Fund. (DCF would also be prohibited from using SSI/RSDI benefits to offset costs of providing foster care, costs that DCF is already obligated to pay under federal and state law);
- **Conserving** a minimum of 10% of benefits into a personal needs account for the child;

[1]: Based on response provided by DCF, supplied in response to DLC public records request (on file with Disability Law Center, available upon request).
[2]: See 110 C.M.R. § 4.05 (2023).
[3]: Calculated from monthly reports furnished by DCF contractor PCG for Jan. 2022 - Nov. 2022, supplied in response to DLC public records request (on file with Disability Law Center, available upon request).

- **Establishing** savings or other accounts to conserve the balance of children's benefits, so that they can successfully transition into adulthood and independent living;
- **Providing** ongoing financial literacy training and support to children in DCF custody;
- **Requiring** DCF to screen children for SSI/RSDI benefit eligibility within sixty days of the child being committed to custody;
- **Requiring** DCF to consider preferences for other representative payees per federal regulations;
- **Requiring** DCF to notify children; their legal representatives; and their guardians when the Department applies for benefits or to be the child's representative payee; and
- **Requiring** DCF to maintain detailed accounting of a child's benefits, and to provide a quarterly report to the child and their representatives when DCF serves as representative payee.

Passing this bill would ensure that children **receive the benefits that they are legally entitled to** and **support financial independence** for transition-age youth and their caregivers.

Other jurisdictions have prohibited or regulated similar practices of child welfare agencies. These include, but are not limited to the following:

- Laws in Connecticut, Hawaii and Washington, D.C. **prohibit the child protection agency from using Social Security benefits to reimburse itself** for the child's care and **require benefits be placed in a savings account** for the child.
- Illinois and Washington, D.C. **require the agency to screen children for benefit eligibility**.
- Illinois and Maryland require the child protection agency **to conserve an increasing percentage of benefits for the child** as the child grows older.
- Illinois, Maryland and Washington, D.C. require the child protection agency to **give notice to children of applications for benefits, applications to be representative payee, and communications from the relevant agency.** Nebraska and Illinois also require **notices to the child and their legal representative**.
- Nebraska, Illinois, and Washington D.C. require **regular accounting of a child's benefits**.
- New York City announced last year it will **stop taking children's Social Security benefits and will place the funds in saving accounts** for foster children. Los Angeles County passed a resolution requiring **Social Security benefits be placed in a saving account** for the child when they leave care. Philadelphia enacted legislation to **prohibit the city from using the child's benefits to reimburse the city** or county for the child's care and **requires the agency to use or conserve benefits**.

Foster youth in Massachusetts deserve no less.

For more information,
Please read: https://www.npr.org/series/1078304434/the-hidden-bill-for-foster-care

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