Contact: Dominic Slowey
Slowey/McManus Comm.
dslowey@sloweymcmanus.com
781-710-0014

News Release
Embargoed for 12:01 a.m.
March 16th, 2011

Report: States Confiscate Benefits of Foster Children; Many Left Destitute as They "Age Out" of Care

Inadequate Safeguards Also Expose Foster Children to Identity Theft

Legislation Filed in Congress to Stop the "Fleecing" and Better Protect Identities

Washington, DC, March 16, 2011 – States across the country regularly confiscate the assets of foster children, including Social Security survivor and disability benefits - all but ensuring these youths' failure as they "age out" of the foster care system at age 18, according to a new report released today.

In addition, many foster children are becoming the victims of identity theft, as their social security numbers pass through the hands of numerous agencies and individuals throughout their time in the system, according to the report.

The report, authored by **The Children's Advocacy Institute** at the **University of San Diego School of Law (CAI)** and **First Star,** documents how states intercept close to $200 million in benefits that rightfully belong to foster children. These assets include Social Security benefits earned by deceased family members (also known as Old Age Survivors & Disability Insurance or OASDI) and Supplemental Security Income (SSI) disability benefits. States apply for the benefits – many times without informing the children -- then intercept the funds to reimburse themselves for the cost of foster care services those agencies are legally obligated to provide.

The report, entitled **"The Fleecing of Foster Children: How We Confiscate Their Assets and Undermine Their Financial Security,"** was released at a congressional briefing on Capitol Hill today. It describes in detail how many of the young victims end up homeless and without resources as state after state confiscate their personal assets, and unscrupulous people steal their identities. Child advocates believe the problem will only get worse as more states address their budget problems.

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“Parents don’t charge their children for food, clothing and shelter, and states shouldn’t charge foster children either,” said Robert C. Fellmeth, CAI Executive Director. “States are breaking their commitment to foster children by this practice of confiscating benefits and assets and applying the money toward their support.”

Legislation being filed by U.S. Reps. Fortney “Pete” Stark (D-CA) and Jim Langevin (D-RI) - and endorsed in the report - would prevent states from redirecting these funds, and would better protect foster children from identity theft.

"This report makes it clear that child welfare agencies regularly act contrary to the best interests of the children they are charged with protecting,” Rep. Stark said. “Rather than making children pay for their own care, we should be ensuring they leave care with a chance to succeed. I will soon introduce legislation that will end the confiscation of foster children's Social Security benefits and guarantee that those benefits are used to serve the child's best interests."

Rep. Langevin said: “It is certainly disturbing, but, unfortunately, not surprising to read in this report that the system is failing our foster youth. Thanks to the hard work of Children’s Advocacy Institute and First Star in painting a clear picture of these failings, Congressman Stark and I have an important opportunity to finally put appropriate safeguards in place that allow foster children to receive the benefits that are rightly theirs. I am proud to sponsor the Foster Youth Financial Security Act to protect foster youth from identity theft, provide the necessary tools for a successful transition to adulthood, and ensure they have a financially secure future.”

Each year, about 30,000 of the nation’s 500,000 foster children turn 18 and become legally emancipated. The rates of homelessness, educational failure and unemployment among these foster alumni far outstrip rates for other youths.

“Foster children are removed from their homes by the state for their own protection, supplanting parental authority,” Fellmeth said. “For the states to turn around and punish them by taking the children’s own money and leaving them destitute when they age out of the system is a violation of these vulnerable kids who need support to stand on their own.”

The report noted that a 2003 Supreme Court ruling opened the door for states to apply for foster children’s survivor and disability benefits and use the funds to reimburse themselves, but advocates have opened new legal challenges, believing the 2003 ruling did not address the broader legal and constitutional issues in the case.

The report cites a 2009 study by the Annie E. Casey Foundation that found states collect close to $200 million in these federal benefits.

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The cost of young people aging out of the foster care system each year who can't function properly on their own is approximately $5.7 billion, in the form of lost earnings (and thus lost tax revenues), criminal justice system expenditures, and government cash assistance and health programs. On an individual level, each foster youth who drops out of high school costs the public sector $209,100 over a lifetime due to lost wages and greater need for public support services.

"The system is failing foster children," said Peter Samuelson, co-founder and Chairman of First Star. "The damage these children suffer by having no assets after foster care ends up costing society substantially more than the confiscation of their small funds. They depend entirely on the courts and state officials, and they have no place else to turn."

The report also highlights the growing problem of identity theft of foster children, and includes individual stories of foster children who discover that, although they have never applied for loans or credit, they have defaulted on credit cards, car loans and student loans.

Jaleesa Suell, 21, a George Washington University student who was in foster care in California, described her ordeal when she discovered someone had ruined her credit by stealing her social security number and defaulting on loans. She is now unable to obtain a student credit card and build a credit history that will enable her to rent an apartment or acquire a car loan.

The CAI and First Star report recommends passage of two federal bills that would give children the start they need to find a home, or begin college, and live independently once they are ineligible for foster care at age 18. These two bills, which would result in long-term revenue savings, would end the confiscation of their existing assets, and require states to inform these children that they may have assets.

The **Foster Children Self-Support Act** would ensure that foster children are able to use their Social Security and Supplemental Security Income benefits to address their needs, improve their lives and create a basic safety net when they age out of foster care. Key provisions would:

- Restrict state agencies from using a child's benefits as a general revenue source;
- Exclude conserved funds as well as personal earnings, inherited assets, and civil judgments from the $2,000 resource limit under the SSI program;
- Require that all foster children be screened for OASDI and SSI eligibility while in care, and require child welfare agencies to notify the child's attorney and/or guardian;
- Develop and implement a "Plan for Achieving Self Support" that is specific to each child receiving Social Security benefits;
- Create an Individual Development Account (IDA) for each child receiving benefits, so that these Social Security assets would be conserved to assist the youth in obtaining housing, education, or job training after emancipation from foster care.

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The **Foster Youth Financial Security Act** would require that states assist children in foster care in making the transition to independent living by redressing identity theft or credit fraud issues.

The legislation would:
- Ensure that youths transitioning out of care have basic documents and tools for achieving independence;
- Protect against identity theft and credit fraud by requiring that foster care agencies review the credit reports of all foster children, and take action to clear them if there is an inaccuracy, prior to leaving care;
- End the use of a child's Social Security number as an identifier.

The bill would also ensure that youths leave foster care with the documents they need, and require agencies to help them apply for state benefits and financial aid, educate them about obtaining health and auto insurance, and provide them and any interested caretakers with financial literacy courses.

Both bills died in the House Ways & Means Committee last year, but are being reintroduced this session.

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About The Children's Advocacy Institute
The Children's Advocacy Institute, of the University of San Diego School of Law, works to improve the health, safety, and well being of children. In addition to its academic component, CAI engages in regulatory and legislative advocacy, impact litigation and public education in order to ensure that children's interests are represented effectively whenever and wherever government makes policy and budget decisions that will impact them. Visit www.caichildlaw.org.

About First Star
First Star is a national 501(c)(3) non-profit that improves the lives of America's abused and neglected children by strengthening their rights, illuminating systemic failures, and igniting reform to correct them. We pursue our mission through research, public engagement, policy advocacy, and litigation. Visit www.firststar.org.