H. R. 5737

To ensure that foster children are able to use their Social Security and Supplemental Security Income benefits to address their needs and improve their lives.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2016

Mr. DANNY K. DAVIS of Illinois (for himself, Mr. LEWIS, Mr. McDERMOTT, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To ensure that foster children are able to use their Social Security and Supplemental Security Income benefits to address their needs and improve their lives.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Foster Youth Resources to Promote Self-Sufficiency Act”.
SEC. 2. LIMITATION ON USE OF SOCIAL SECURITY OR SUPPLEMENTAL SECURITY INCOME BENEFITS PAID TO REPRESENTATIVE PAYEES ON BEHALF OF FOSTER CHILDREN FOR STATE COSTS.

(a) Amendments to Title II.—Section 205(j)(9) of the Social Security Act (42 U.S.C. 405(j)(9)) is amended—

(1) by inserting ``(A)'' after ``(9)''; and

(2) by adding at the end the following:

``(B)(i) A State or local government agency serving in any State as a representative payee under this subsection with respect an individual who is in foster care under the responsibility of the State shall not use any benefits paid to the representative payee pursuant to paragraph (1) of this subsection to reimburse the State for—

``(I) foster care maintenance payments made pursuant to section 472, or

``(II) other payments made by the State or political subdivision of the State to cover any other cost or expense for an individual who is in foster care under the responsibility of the State.

``(ii) An expense described in paragraph (4)(A)(i) of this subsection or section 1631(a)(2)(D) shall not be considered a cost or expense for purposes of clause (i) of this subparagraph.''.

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(b) AMENDMENTS TO TITLE XVI.—Section 1631(a)(2)(A)(iv) of such Act (42 U.S.C. 1383(a)(2)(A)(iv)) is amended—

(1) by inserting “(I)” after “(iv)”;

(2) by adding “and” at the end; and

(3) by adding after and below the end the following:

“(II) A State or local government agency serving in any State as a representative payee under this subsection with respect an eligible individual who is in foster care under the responsibility of the State shall not use any benefits paid to the representative payee pursuant to clause (ii) of this subparagraph to reimburse the State for—

“(aa) foster care maintenance payments made pursuant to section 472; or

“(bb) other payments made by a State or political subdivision of a State to cover any other cost or expense for an individual who is in foster care under the responsibility of the State.

“(III) An expense described in subparagraph (D) of this paragraph or section 205(j)(4)(A)(i) shall not be considered a cost or expense for purposes of subclause (II) of this clause.”.
SEC. 3. SCREENING OF FOSTER CHILDREN FOR ELIGIBILITY FOR SOCIAL SECURITY AND SUPPLEMENTAL SECURITY INCOME BENEFITS.

(a) State Plan Requirement.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking “and” at the end of paragraph (34);

(2) by striking the period at the end of paragraph (35) and inserting “; and”;

(3) by adding at the end the following:

“(36) provides that, not later than the beginning of the first calendar quarter that begins after the 3-year period that begins with the date of the enactment of this paragraph, the State agency referred to in paragraph (2) of this subsection shall—

“(A) develop and implement procedures to ensure that, within 60 days after the status of a child who is in foster care under the responsibility of the State is first reviewed pursuant to section 475(5)(B), and after any material change in the circumstances of the child that could affect the potential eligibility of the child for such benefits, the child is screened to determine the potential eligibility of the child for benefits under title II and for supplemental security income benefits under title XVI;
“(B) if the screening results in a determination that the child is potentially eligible for any of such benefits—

“(i) provide the child with assistance in applying for, and (if necessary) appealing any decisions made with respect to, the benefits; and

“(ii) if there is no other suitable candidate available, apply to become the representative payee for the child with respect to the benefits; and

“(C) develop and implement procedures to ensure that any such child who is potentially eligible for, or is a recipient of, benefits under title II or supplemental security income benefits under title XVI, is assisted with applying for such benefits not later than 120 days (or, if the child has attained 17 years of age, 1 year) before the child exits foster care.”.

(b) GAO STUDY.—

(1) IN GENERAL.—Within 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a study to determine whether the States have substantially
complied with the amendments made by this section, including specifically whether the States have—

(A) established successful procedures that screen all foster children under the responsibility of the States for their potential eligibility for benefits under title II of the Social Security Act and for supplemental security income benefits under title XVI of such Act;

(B) provided all such potentially eligible foster children assistance in applying for, and appealing decisions made with respect to, the benefits; and

(C) implemented procedures to identify suitable nongovernmental candidates to serve as representative payees for children in foster care with respect to the benefits.

(2) REPORT TO THE CONGRESS.—Within 1 year after completing the study required by paragraph (1), the Comptroller General shall submit to the Congress a written report that contains the results of the study.
SEC. 4. NOTICE TO ATTORNEY OR GUARDIAN AD LITEM FOR FOSTER CHILD OF DETERMINATION TO PAY SOCIAL SECURITY OR SUPPLEMENTAL SECURITY INCOME BENEFITS TO REPRESENTATIVE PAYEE.

(a) Amendment to Title II.—Section 205(j)(2)(E)(ii) of the Social Security Act (42 U.S.C. 405(j)(2)(E)(ii)) is amended by inserting “, except that, in the case of an individual who is in foster care under the responsibility of a State or in a legal guardianship, such notice shall also be provided to the attorney or guardian ad litem appointed to represent the individual pursuant to section 106(b)(2)(B)(xiii) of the Child Abuse Prevention and Treatment Act and, if the individual has attained 14 years of age, to the individual” before the period.

(b) Amendment to Title XVI.—Section 1631(a)(2)(B)(xii) of such Act (42 U.S.C. 1383(a)(2)(B)(xii)) is amended by inserting “, except that, in the case of an individual who is in foster care under the responsibility of a State or in a legal guardianship, such notice shall also be provided to the attorney or guardian ad litem appointed to represent the individual pursuant to section 106(b)(2)(B)(xiii) of the Child Abuse Prevention and Treatment Act and, if the individual has
• attained 14 years of age, to the individual” before the pe-
period.

SEC. 5. MANAGEMENT OF SOCIAL SECURITY AND SUPPLE-
MENTAL SECURITY INCOME BENEFITS FOR
FOSTER CHILDREN.

(a) PLAN FOR ACHIEVING SELF-SUPPORT.—Section
471(a) of the Social Security Act (42 U.S.C. 671(a)), as
amended by section 3(a) of this Act, is amended—

(1) by striking “and” at the end of paragraph
(35);

(2) by striking the period at the end of para-
graph (36) and inserting “; and”; and

(3) by adding at the end the following:
“(37) provides that, with respect to each child
in foster care under the responsibility of the State
and on whose behalf the State receives benefits
under title II or supplemental security income bene-
fits under title XVI, the State agency shall—

“(A) develop a plan, developed specifically
for the child, which is designed to best meet the
current and future needs of the individual and
enable the child to achieve self-support after
leaving foster care, in accordance with the fol-
lowing:
“(i)(I) The plan shall set forth a strategy to conserve benefits not necessary for the immediate needs of the child, determined as provided for pursuant to clause (ii) of this subparagraph, in a manner that best meets the future needs and educational and employment interests of the child, and for the placement of any such benefits in—

“(aa) an account of the type described in section 1631(a)(2)(F) of this Act;

“(bb) an ABLE account established under section 529A of the Internal Revenue Code of 1986;

“(cc) an individual development account established pursuant to Federal or State law; or

“(dd) such other account in which benefits for the child may be conserved in a manner that the State determines, consistent with this paragraph, is in the best interests of the child.
“(II) The plan shall provide for a determination as to whether the child has immediate needs for which the benefits should be used to serve the best interests of the child consistent with sections 205(j)(10)(B) and 1631(a)(2)(A)(iv)(II).

“(III) The plan shall provide for a determination of any additional assets to which the child may be entitled, including civil judgments, inheritances, or earnings, and shall provide for the assets to be conserved as part of the plan as described in clause (i).

“(IV) Any funds conserved in accordance with the plan shall be used to supplement and not supplant any other Federal funds or programs that may be available for the benefit of the child.

“(V) The plan shall provide that any assets set aside under the plan shall be conserved and inaccessible to the child (except for a use of funds described in items (aa) through (gg) of section 1631(a)(2)(F)(ii)(II), or for another use approved by the Secretary as being in the
best interests of the child), and placed in
an account described in clause (i) of this
subparagraph, until the later of the date
the child attains 18 years of age or ceases
to be under the responsibility of the State.

“(ii) The State agency shall—

“(I) develop and implement the
plan in collaboration with the child
(on an age-appropriate basis), the so-
cial worker for the child, the person
acting as the representative payee for
the child pursuant to section 205(j) or
1631(a)(2) of this Act, and the attor-
ney or guardian ad litem appointed to
represent the child pursuant to sec-
tion 106(b)(2)(B)(xiii) of the Child
Abuse Prevention and Treatment Act;
and

“(II) in developing and imple-
menting the plan, make reasonable ef-
forts to seek input from the parents
and caretakers of the child.

“(iii)(I) Within 60 days after the sta-
tus of the child is first reviewed pursuant
to section 475(5)(B), the State agency shall complete the plan.

“(II) The State agency shall ensure that each subsequent such review of such status shall include consideration of an updated version of the plan and a report on the progress made in implementing the plan.

“(iv)(I) Not later than 30 days before the status of the child is first reviewed pursuant to section 475(5)(B) of this Act after completion of the plan, the State agency shall provide a copy of the plan to the attorney or guardian ad litem appointed to represent the child pursuant to section 106(b)(2)(B)(xiii) of the Child Abuse Prevention and Treatment Act.

“(II) Not later than 30 days before each subsequent such review, the State agency shall provide an updated copy of the plan to the attorney or guardian ad litem so appointed.

“(v)(I) The child may request the plan to be modified in a review of the status of the child pursuant to section
475(5)(B), in a separate hearing, or in a
permanency hearing pursuant to section
475(5)(C).

“(II) The plan shall not be treated, in
any administrative or judicial review pro-
cceeding, as meeting the requirements of
this paragraph with respect to a child un-
less the plan is determined by the reviewer
to be the best available means of meeting
the current and future needs and edu-
cational and employment interests of the
child;

“(B) assist the child in developing a plan
to manage the benefits so as to meet the cur-
rent and future needs of the child; and

“(C) provide the child financial literacy
training, including regarding budgeting, saving,
investing, managing credit, student loans, con-
sumer debt and installment purchasing (includ-
ing credit scoring, managing credit debt, and
completing a loan application), banking (includ-
ing balancing a checkbook, opening a deposit
account, and the use of interest rates), State
and Federal income taxation, personal insur-
ance policies, identity theft security, and home
ownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending).”.

(b) **Provisions Relating to Representative Payees.**—

(1) **Amendments to Title II.**—Section 205(j) of such Act (42 U.S.C. 405(j)) (as amended by the preceding provisions of this Act) is amended further—

(A) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (11), respectively; and

(B) by inserting after paragraph (7) the following new paragraph:

“(8) A representative payee who is a State shall manage the benefits paid to the representative payee under paragraph (1) on behalf of an individual who is in foster care under the responsibility of the State, in accordance with the plan developed for the child pursuant to section 471(a)(37).”.

(2) **Amendment to Title XVI.**—Section 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is amended by adding at the end the following:
“(J) A representative payee who is a State shall manage the benefits paid to the representative payee under subparagraph (A)(ii) of this paragraph on behalf of an individual who is in foster care under the responsibility of the State, in accordance with the plan developed for the child pursuant to section 471(a)(37).”.

(e) Exclusion From Resources Under the SSI Program.—Section 1613(a) of such Act (42 U.S.C. 1382b(a)) is amended—

(1) by striking “and” at the end of paragraph (16);

(2) by striking the period at the end of paragraph (17) and inserting “; and”; and

(3) by inserting after paragraph (17) the following:

“(18) any assets managed on behalf of an eligible individual in accordance with a plan developed for the individual pursuant to section 471(a)(37).”.

SEC. 6. SUPPORT AND MAINTENANCE FURNISHED IN CASH OR IN KIND DISREGARDED IN DETERMINING INCOME OF FOSTER CHILDREN UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Section 1612(a)(2)(A) of the Social Security Act (42 U.S.C. 1382a(a)(2)(A)) is amended—
(1) by striking “and” at the end of clause (ii); and

(2) by inserting “, and (iv) clause (i) shall not apply in the case of a child who is in foster care under the responsibility of a State” before the last semicolon.

SEC. 7. TECHNICAL ASSISTANCE FOR CHILD WELFARE AGENCIES.

(a) IN GENERAL.—On request of a State agency responsible for administering, or supervising the administration of, a State program authorized by part E of title IV of the Social Security Act, the Secretary of Health and Human Services shall provide the State agency with technical assistance in carrying out the amendments made by this Act, including guidance for informing non-State representative payees of children in foster care under the responsibility of the State who are recipients of benefits under title II of such Act or supplemental security income benefits under title XVI of such Act of the availability of appropriate savings vehicles for any part of the benefits not required to meet the immediate needs of the children.

(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $4,500,000 for fiscal year 2017,
and such sums as may be necessary for each of fiscal years
2018 through 2022.

SEC. 8. EFFECTIVE DATES.

(a) In General.—Except as provided in subsection (b) of this section, the amendments made by this Act (other than by section 3(a)) shall apply to benefits payable for months beginning after the date of the enactment of this Act.

(b) State Plan Requirements Relating to Plans for Achieving Self-Support.—

(1) In General.—The amendments made by section 5(a) of this Act shall take effect on the first day of the first calendar quarter beginning after the date of the enactment of this Act, and shall apply to payments under part E of title IV of the Social Security Act for calendar quarters beginning after such first day.

(2) Delay permitted if State legislation required.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan approved under part E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by section 5(a) of this Act, the plan shall not be re-
regarded as failing to meet any of the additional re-
quirements before the first day of the first calendar
quarter beginning after the first regular session of
the State legislature that begins after the date of the
enactment of this Act. If the State has a 2-year leg-
islative session, each year of the session is deemed
to be a separate regular session of the State legisla-
ture.