

114TH CONGRESS
2D SESSION

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.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Foster
5 Youth Resources to Promote Self-Sufficiency Act”.

1 **SEC. 2. LIMITATION ON USE OF SOCIAL SECURITY OR SUP-**
2 **PLEMENTAL SECURITY INCOME BENEFITS**
3 **PAID TO REPRESENTATIVE PAYEES ON BE-**
4 **HALF OF FOSTER CHILDREN FOR STATE**
5 **COSTS.**

6 (a) AMENDMENTS TO TITLE II.—Section 205(j)(9)
7 of the Social Security Act (42 U.S.C. 405(j)(9)) is amend-
8 ed—

9 (1) by inserting “(A)” after “(9)”; and

10 (2) by adding at the end the following:

11 “(B)(i) A State or local government agency serving
12 in any State as a representative payee under this sub-
13 section with respect an individual who is in foster care
14 under the responsibility of the State shall not use any ben-
15 efits paid to the representative payee pursuant to para-
16 graph (1) of this subsection to reimburse the State for—

17 “(I) foster care maintenance payments made
18 pursuant to section 472, or

19 “(II) other payments made by the State or po-
20 litical subdivision of the State to cover any other
21 cost or expense for an individual who is in foster
22 care under the responsibility of the State.

23 “(ii) An expense described in paragraph (4)(A)(i) of
24 this subsection or section 1631(a)(2)(D) shall not be con-
25 sidered a cost or expense for purposes of clause (i) of this
26 subparagraph.”.

1 (b) AMENDMENTS TO TITLE XVI.—Section
2 1631(a)(2)(A)(iv) of such Act (42 U.S.C.
3 1383(a)(2)(A)(iv)) is amended—

4 (1) by inserting “(I)” after “(iv)”;

5 (2) by adding “and” at the end; and

6 (3) by adding after and below the end the fol-
7 lowing:

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

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

16 “(bb) other payments made by a State or polit-
17 ical subdivision of a State to cover any other cost or
18 expense for an individual who is in foster care under
19 the responsibility of the State.

20 “(III) An expense described in subparagraph (D) of
21 this paragraph or section 205(j)(4)(A)(i) shall not be con-
22 sidered a cost or expense for purposes of subclause (II)
23 of this clause.”.

1 **SEC. 3. SCREENING OF FOSTER CHILDREN FOR ELIGI-**
2 **BILITY FOR SOCIAL SECURITY AND SUPPLE-**
3 **MENTAL SECURITY INCOME BENEFITS.**

4 (a) STATE PLAN REQUIREMENT.—Section 471(a) of
5 the Social Security Act (42 U.S.C. 671(a)) is amended—

6 (1) by striking “and” at the end of paragraph
7 (34);

8 (2) by striking the period at the end of para-
9 graph (35) and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(36) provides that, not later than the begin-
12 ning of the first calendar quarter that begins after
13 the 3-year period that begins with the date of the
14 enactment of this paragraph, the State agency re-
15 ferred to in paragraph (2) of this subsection shall—

16 “(A) develop and implement procedures to
17 ensure that, within 60 days after the status of
18 a child who is in foster care under the responsi-
19 bility of the State is first reviewed pursuant to
20 section 475(5)(B), and after any material
21 change in the circumstances of the child that
22 could affect the potential eligibility of the child
23 for such benefits, the child is screened to deter-
24 mine the potential eligibility of the child for
25 benefits under title II and for supplemental se-
26 curity income benefits under title XVI;

1 “(B) if the screening results in a deter-
2 mination that the child is potentially eligible for
3 any of such benefits—

4 “(i) provide the child with assistance
5 in applying for, and (if necessary) appeal-
6 ing any decisions made with respect to, the
7 benefits; and

8 “(ii) if there is no other suitable can-
9 didate available, apply to become the rep-
10 resentative payee for the child with respect
11 to the benefits; and

12 “(C) develop and implement procedures to
13 ensure that any such child who is potentially el-
14 igible for, or is a recipient of, benefits under
15 title II or supplemental security income benefits
16 under title XVI, is assisted with applying for
17 such benefits not later than 120 days (or, if the
18 child has attained 17 years of age, 1 year) be-
19 fore the child exits foster care.”.

20 (b) GAO STUDY.—

21 (1) IN GENERAL.—Within 4 years after the
22 date of the enactment of this Act, the Comptroller
23 General of the United States shall conduct a study
24 to determine whether the States have substantially

1 complied with the amendments made by this section,
2 including specifically whether the States have—

3 (A) established successful procedures that
4 screen all foster children under the responsi-
5 bility of the States for their potential eligibility
6 for benefits under title II of the Social Security
7 Act and for supplemental security income bene-
8 fits under title XVI of such Act;

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

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

17 (2) REPORT TO THE CONGRESS.—Within 1 year
18 after completing the study required by paragraph
19 (1), the Comptroller General shall submit to the
20 Congress a written report that contains the results
21 of the study.

1 **SEC. 4. NOTICE TO ATTORNEY OR GUARDIAN AD LITEM**
2 **FOR FOSTER CHILD OF DETERMINATION TO**
3 **PAY SOCIAL SECURITY OR SUPPLEMENTAL**
4 **SECURITY INCOME BENEFITS TO REP-**
5 **RESENTATIVE PAYEE.**

6 (a) AMENDMENT TO TITLE II.—Section
7 205(j)(2)(E)(ii) of the Social Security Act (42 U.S.C.
8 405(j)(2)(E)(ii)) is amended by inserting “, except that,
9 in the case of an individual who is in foster care under
10 the responsibility of a State or in a legal guardianship,
11 such notice shall also be provided to the attorney or guard-
12 ian ad litem appointed to represent the individual pursu-
13 ant to section 106(b)(2)(B)(xiii) of the Child Abuse Pre-
14 vention and Treatment Act and, if the individual has at-
15 tained 14 years of age, to the individual” before the pe-
16 riod.

17 (b) AMENDMENT TO TITLE XVI.—Section
18 1631(a)(2)(B)(xii) of such Act (42 U.S.C.
19 1383(a)(2)(B)(xii)) is amended by inserting “, except
20 that, in the case of an individual who is in foster care
21 under the responsibility of a State or in a legal guardian-
22 ship, such notice shall also be provided to the attorney
23 or guardian ad litem appointed to represent the individual
24 pursuant to section 106(b)(2)(B)(xiii) of the Child Abuse
25 Prevention and Treatment Act and, if the individual has

1 attained 14 years of age, to the individual” before the pe-
2 riod.

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

6 (a) PLAN FOR ACHIEVING SELF-SUPPORT.—Section
7 471(a) of the Social Security Act (42 U.S.C. 671(a)), as
8 amended by section 3(a) of this Act, is amended—

9 (1) by striking “and” at the end of paragraph
10 (35);

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

13 (3) by adding at the end the following:

14 “(37) provides that, with respect to each child
15 in foster care under the responsibility of the State
16 and on whose behalf the State receives benefits
17 under title II or supplemental security income bene-
18 fits under title XVI, the State agency shall—

19 “(A) develop a plan, developed specifically
20 for the child, which is designed to best meet the
21 current and future needs of the individual and
22 enable the child to achieve self-support after
23 leaving foster care, in accordance with the fol-
24 lowing:

1 “(i)(I) The plan shall set forth a
2 strategy to conserve benefits not necessary
3 for the immediate needs of the child, deter-
4 mined as provided for pursuant to clause
5 (ii) of this subparagraph, in a manner that
6 best meets the future needs and edu-
7 cational and employment interests of the
8 child, and for the placement of any such
9 benefits in—

10 “(aa) an account of the type de-
11 scribed in section 1631(a)(2)(F) of
12 this Act;

13 “(bb) an ABLE account estab-
14 lished under section 529A of the In-
15 ternal Revenue Code of 1986;

16 “(cc) an individual development
17 account established pursuant to Fed-
18 eral or State law; or

19 “(dd) such other account in
20 which benefits for the child may be
21 conserved in a manner that the State
22 determines, consistent with this para-
23 graph, is in the best interests of the
24 child.

1 “(II) The plan shall provide for a de-
2 termination as to whether the child has im-
3 mediate needs for which the benefits
4 should be used to serve the best interests
5 of the child consistent with sections
6 205(j)(10)(B) and 1631(a)(2)(A)(iv)(II).

7 “(III) The plan shall provide for a de-
8 termination of any additional assets to
9 which the child may be entitled, including
10 civil judgments, inheritances, or earnings,
11 and shall provide for the assets to be con-
12 served as part of the plan as described in
13 clause (i).

14 “(IV) Any funds conserved in accord-
15 ance with the plan shall be used to supple-
16 ment and not supplant any other Federal
17 funds or programs that may be available
18 for the benefit of the child.

19 “(V) The plan shall provide that any
20 assets set aside under the plan shall be
21 conserved and inaccessible to the child (ex-
22 cept for a use of funds described in items
23 (aa) through (gg) of section
24 1631(a)(2)(F)(ii)(II), or for another use
25 approved by the Secretary as being in the

1 best interests of the child), and placed in
2 an account described in clause (i) of this
3 subparagraph, until the later of the date
4 the child attains 18 years of age or ceases
5 to be under the responsibility of the State.

6 “(ii) The State agency shall—

7 “(I) develop and implement the
8 plan in collaboration with the child
9 (on an age-appropriate basis), the so-
10 cial worker for the child, the person
11 acting as the representative payee for
12 the child pursuant to section 205(j) or
13 1631(a)(2) of this Act, and the attor-
14 ney or guardian ad litem appointed to
15 represent the child pursuant to sec-
16 tion 106(b)(2)(B)(xiii) of the Child
17 Abuse Prevention and Treatment Act;
18 and

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

23 “(iii)(I) Within 60 days after the sta-
24 tus of the child is first reviewed pursuant

1 to section 475(5)(B), the State agency
2 shall complete the plan.

3 “(II) The State agency shall ensure
4 that each subsequent such review of such
5 status shall include consideration of an up-
6 dated version of the plan and a report on
7 the progress made in implementing the
8 plan.

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

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

23 “(v)(I) The child may request the
24 plan to be modified in a review of the sta-
25 tus of the child pursuant to section

1 475(5)(B), in a separate hearing, or in a
2 permanency hearing pursuant to section
3 475(5)(C).

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

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

16 “(C) provide the child financial literacy
17 training, including regarding budgeting, saving,
18 investing, managing credit, student loans, con-
19 sumer debt and installment purchasing (includ-
20 ing credit scoring, managing credit debt, and
21 completing a loan application), banking (includ-
22 ing balancing a checkbook, opening a deposit
23 account, and the use of interest rates), State
24 and Federal income taxation, personal insur-
25 ance policies, identity theft security, and home

1 ownership (including the basic process of ob-
2 taining a mortgage and the concepts of fixed
3 and adjustable rate mortgages, subprime loans,
4 and predatory lending).”.

5 (b) PROVISIONS RELATING TO REPRESENTATIVE
6 PAYEES.—

7 (1) AMENDMENTS TO TITLE II.—Section 205(j)
8 of such Act (42 U.S.C. 405(j)) (as amended by the
9 preceding provisions of this Act) is amended fur-
10 ther—

11 (A) by redesignating paragraphs (8), (9),
12 and (10) as paragraphs (9), (10), and (11), re-
13 spectively; and

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

16 “(8) A representative payee who is a State shall man-
17 age the benefits paid to the representative payee under
18 paragraph (1) on behalf of an individual who is in foster
19 care under the responsibility of the State, in accordance
20 with the plan developed for the child pursuant to section
21 471(a)(37).”.

22 (2) AMENDMENT TO TITLE XVI.—Section
23 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
24 amended by adding at the end the following:

1 “(J) A representative payee who is a State shall man-
 2 age the benefits paid to the representative payee under
 3 subparagraph (A)(ii) of this paragraph on behalf of an in-
 4 dividual who is in foster care under the responsibility of
 5 the State, in accordance with the plan developed for the
 6 child pursuant to section 471(a)(37).”.

7 (c) EXCLUSION FROM RESOURCES UNDER THE SSI
 8 PROGRAM.—Section 1613(a) of such Act (42 U.S.C.
 9 1382b(a)) is amended—

10 (1) by striking “and” at the end of paragraph
 11 (16);

12 (2) by striking the period at the end of para-
 13 graph (17) and inserting “; and”; and

14 (3) by inserting after paragraph (17) the fol-
 15 lowing:

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

19 **SEC. 6. SUPPORT AND MAINTENANCE FURNISHED IN CASH**
 20 **OR IN KIND DISREGARDED IN DETERMINING**
 21 **INCOME OF FOSTER CHILDREN UNDER THE**
 22 **SUPPLEMENTAL SECURITY INCOME PRO-**
 23 **GRAM.**

24 Section 1612(a)(2)(A) of the Social Security Act (42
 25 U.S.C. 1382a(a)(2)(A)) is amended—

1 (1) by striking “and” at the end of clause (ii);
2 and
3 (2) by inserting “, and (iv) clause (i) shall not
4 apply in the case of a child who is in foster care
5 under the responsibility of a State” before the last
6 semicolon.

7 **SEC. 7. TECHNICAL ASSISTANCE FOR CHILD WELFARE**
8 **AGENCIES.**

9 (a) IN GENERAL.—On request of a State agency re-
10 sponsible for administering, or supervising the administra-
11 tion of, a State program authorized by part E of title IV
12 of the Social Security Act, the Secretary of Health and
13 Human Services shall provide the State agency with tech-
14 nical assistance in carrying out the amendments made by
15 this Act, including guidance for informing non-State rep-
16 resentative payees of children in foster care under the re-
17 sponsibility of the State who are recipients of benefits
18 under title II of such Act or supplemental security income
19 benefits under title XVI of such Act of the availability of
20 appropriate savings vehicles for any part of the benefits
21 not required to meet the immediate needs of the children.

22 (b) LIMITATIONS ON AUTHORIZATION OF APPRO-
23 PRIATIONS.—To carry out this section, there are author-
24 ized to be appropriated \$4,500,000 for fiscal year 2017,

1 and such sums as may be necessary for each of fiscal years
2 2018 through 2022.

3 **SEC. 8. EFFECTIVE DATES.**

4 (a) IN GENERAL.—Except as provided in subsection
5 (b) of this section, the amendments made by this Act
6 (other than by section 3(a)) shall apply to benefits payable
7 for months beginning after the date of the enactment of
8 this Act.

9 (b) STATE PLAN REQUIREMENTS RELATING TO
10 PLANS FOR ACHIEVING SELF-SUPPORT.—

11 (1) IN GENERAL.—The amendments made by
12 section 5(a) of this Act shall take effect on the first
13 day of the first calendar quarter beginning after the
14 date of the enactment of this Act, and shall apply
15 to payments under part E of title IV of the Social
16 Security Act for calendar quarters beginning after
17 such first day.

18 (2) DELAY PERMITTED IF STATE LEGISLATION
19 REQUIRED.—If the Secretary of Health and Human
20 Services determines that State legislation (other
21 than legislation appropriating funds) is required in
22 order for a State plan approved under part E of title
23 IV of the Social Security Act to meet the additional
24 requirements imposed by the amendments made by
25 section 5(a) of this Act, the plan shall not be re-

1 garded as failing to meet any of the additional re-
2 quirements before the first day of the first calendar
3 quarter beginning after the first regular session of
4 the State legislature that begins after the date of the
5 enactment of this Act. If the State has a 2-year leg-
6 islative session, each year of the session is deemed
7 to be a separate regular session of the State legisla-
8 ture.

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