

110TH CONGRESS
1ST SESSION

H. R. 1104

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

FEBRUARY 15, 2007

Mr. STARK (for himself, Mr. McDERMOTT, Mr. GEORGE MILLER of California, Ms. BORDALLO, Mr. GRIJALVA, Mrs. CAPPS, Ms. WOOLSEY, and Ms. DELAURO) 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 “Foster Children Self-
5 Support Act”.

1 **SEC. 2. BAN ON USE OF SOCIAL SECURITY OR SUPPLE-**
2 **MENTAL SECURITY INCOME BENEFITS PAID**
3 **TO REPRESENTATIVE PAYEES ON BEHALF OF**
4 **FOSTER CHILDREN FOR STATE COSTS.**

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

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

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

10 “(B)(i) A representative payee shall not use any ben-
11 efits paid to the representative payee pursuant to para-
12 graph (1) to reimburse a State for—

13 “(I) foster care maintenance payments made
14 pursuant to section 472, or

15 “(II) other payments made by a State or polit-
16 ical subdivision of a State to cover maintenance ex-
17 penses for an individual who is in foster care under
18 the responsibility of the State.

19 “(ii) A fee charged in accordance with paragraph
20 (4)(A)(i) or section 1631(a)(2)(D) shall not be considered
21 a maintenance expense for purposes of clause (i) of this
22 subparagraph.”.

23 (b) AMENDMENTS TO TITLE XVI.—Section
24 1631(a)(2)(A)(iv) of such Act (42 U.S.C.
25 1383(a)(2)(A)(iv)) is amended—

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

1 (2) by adding “and” at the end; and

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

4 “(II) A representative payee of an individual or eligi-
5 ble spouse shall not use any benefits paid to the represent-
6 ative payee pursuant to clause (ii) of this subparagraph
7 to reimburse a State for—

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

10 “(bb) other payments made by a State or polit-
11 ical subdivision of a State to cover maintenance ex-
12 penses for an individual who is in foster care under
13 the responsibility of the State.

14 “(III) A fee charged in accordance with subpara-
15 graph (D) of this paragraph or section 205(j)(4)(A)(i)
16 shall not be considered a maintenance expense for pur-
17 poses of subclause (II) of this clause.”.

18 **SEC. 3. SCREENING OF FOSTER CHILDREN FOR ELIGI-**
19 **BILITY FOR SOCIAL SECURITY AND SUPPLE-**
20 **MENTAL SECURITY INCOME BENEFITS.**

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

23 (1) by striking “and” at the end of paragraph
24 (26);

1 (2) by striking the period at the end of para-
2 graph (27) and inserting “; and”; and

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

4 “(28) provides that, not later than the begin-
5 ning of the 1st calendar quarter that begins after
6 the 3-year period that begins with the date of the
7 enactment of this paragraph, the State agency re-
8 ferred to in paragraph (2) of this subsection shall—

9 “(A) develop and implement procedures to
10 ensure that, within 60 days after the status of
11 a child who is in foster care under the responsi-
12 bility of the State is first reviewed pursuant to
13 section 475(5)(B), the child is screened to de-
14 termine the potential eligibility of the child for
15 benefits under title II and for supplemental se-
16 curity income benefits under title XVI; and

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

20 “(i) provide the child with assistance
21 in applying for, and (if necessary) appeal-
22 ing any decisions made with respect to, the
23 benefits; and

24 “(ii) if there is no other suitable can-
25 didate available, apply to become the rep-

1 representative payee for the child with respect
2 to the benefits.”.

3 (b) GAO STUDY.—

4 (1) IN GENERAL.—Within 6 years after the
5 date of the enactment of this Act, the Comptroller
6 General of the United States shall conduct a study
7 to determine whether the States have substantially
8 complied with the amendments made by this section,
9 including specifically whether the States have—

10 (A) established successful procedures that
11 screen all foster children under the responsi-
12 bility of the States for their potential eligibility
13 for benefits under title II of the Social Security
14 Act and for supplemental security income bene-
15 fits under title XVI of such Act;

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

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

24 (2) REPORT TO THE CONGRESS.—Within 1 year
25 after completing the study required by paragraph

1 (1), the Comptroller General shall submit to the
2 Congress a written report that contains the results
3 of the study.

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

9 (a) AMENDMENT TO TITLE II.—Section
10 205(j)(2)(E)(ii) of the Social Security Act (42 U.S.C.
11 405(j)(2)(E)(ii)) is amended by inserting “, except that,
12 in the case of an individual who is in foster care under
13 the responsibility of a State, such notice shall also be pro-
14 vided to the attorney or guardian ad litem appointed to
15 represent the individual pursuant to section
16 106(b)(2)(A)(xiii) of the Child Abuse Prevention and
17 Treatment Act” before the period.

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

1 106(b)(2)(A)(xiii) of the Child Abuse Prevention and
2 Treatment Act” before the period.

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 (27);

11 (2) by striking the period at the end of para-
12 graph (28) and inserting “; and”; and

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

14 “(29) provides that, with respect to each child
15 in foster care under the responsibility of the State
16 who is a recipient of benefits under title II or sup-
17 plemental security income benefits under title XVI,
18 the State agency shall develop a plan, developed spe-
19 cifically for the child, which is designed to best meet
20 the current and future needs of the individual and
21 enable the child to achieve self-support after leaving
22 foster care, in accordance with the following:

23 “(A)(i) The plan shall set forth a strategy
24 to conserve benefits not necessary for the imme-
25 diate needs of the child, determined as provided

1 for pursuant to clause (ii) of this subparagraph,
2 in a manner that best meets the future needs
3 and educational and employment interests of
4 the child.

5 “(ii) The plan shall provide for a deter-
6 mination as to whether the child has immediate
7 needs for which the benefits should be used
8 consistent with sections 205(j)(10)(B)
9 and 1631(a)(2)(A)(iv)(II).

10 “(iii) The plan shall provide that, if the
11 child ceases to be under the responsibility of the
12 State, any assets set aside under the plan shall
13 be conserved and inaccessible to the child, ex-
14 cept for a use of funds described in item (aa)
15 through (gg) of section 1631(a)(2)(F)(ii)(II) of
16 this Act, or for another use approved by the
17 Secretary as being in the best interests of the
18 child, until the child attains 18 years of age at
19 which time any assets subject to the plan shall
20 be distributed to the child.

21 “(B) The State agency shall—

22 “(i) develop and implement the plan
23 in collaboration with the child (on an age-
24 appropriate basis), the social worker for
25 the child, the person acting as the rep-

1 representative payee for the child pursuant to
2 section 205(j) or 1631(a)(2) of this Act,
3 and the attorney or guardian ad litem ap-
4 pointed to represent the child pursuant to
5 section 106(b)(2)(A)(xiii) of the Child
6 Abuse Prevention and Treatment Act; and

7 “(ii) in developing and implementing
8 the plan, make reasonable efforts to seek
9 input from the parents and caretakers of
10 the child.

11 “(C)(i) Within 60 days after the status of
12 the child is first reviewed pursuant to section
13 475(5)(B), the State agency shall complete the
14 plan.

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

20 “(D)(i) Not later than 30 days before the
21 status of the child is first reviewed pursuant to
22 section 475(5)(B) of this Act after completion
23 of the plan, the State agency shall provide a
24 copy of the plan to the attorney or guardian ad
25 litem appointed to represent the child pursuant

1 to section 106(b)(2)(A)(xiii) of the Child Abuse
2 Prevention and Treatment Act.

3 “(ii) Not later than 30 days before each
4 subsequent such review, the State agency shall
5 provide an updated copy of the plan to the at-
6 torney or guardian ad litem so appointed.

7 “(E)(i) The child may request the plan to
8 be modified in a review of the status of the
9 child pursuant to section 475(5)(B), in a sepa-
10 rate hearing, or in a permanency hearing pur-
11 suant to section 475(5)(C).

12 “(ii) The plan shall not be treated, in any
13 administrative or judicial review proceeding, as
14 meeting the requirements of this paragraph
15 with respect to a child unless the plan is deter-
16 mined by the reviewer to be the best available
17 means of meeting the current and future needs
18 and educational and employment interests of
19 the child.”.

20 (b) PROVISIONS RELATING TO REPRESENTATIVE
21 PAYEES.—

22 (1) AMENDMENTS TO TITLE II.—Section 205(j)
23 of such Act (42 U.S.C. 405(j)) (as amended by the
24 preceding provisions of this Act) is amended fur-
25 ther—

1 (A) by redesignating paragraphs (8), (9),
2 and (10) as paragraphs (9), (10), and (11),
3 repectively; and

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

6 “(8) A representative payee shall manage the benefits
7 paid to the representative payee under paragraph (1) on
8 behalf of an individual who is in foster care under the re-
9 sponsibility of a State, in accordance with the plan devel-
10 oped for the child pursuant to section 471(a)(26).”.

11 (2) AMENDMENT TO TITLE XVI.—Section
12 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
13 amended by adding at the end the following:

14 “(J) A representative payee shall manage the benefits
15 paid to the representative payee under subparagraph
16 (A)(ii) of this paragraph on behalf of an individual who
17 is in foster care under the responsibility of a State, in ac-
18 cordance with the plan developed for the child pursuant
19 to section 471(a)(26).”.

20 (c) EXCLUSION FROM RESOURCES UNDER THE SSI
21 PROGRAM.—Section 1613(a) of such Act (42 U.S.C.
22 1382b(a)) is amended—

23 (1) by striking “and” at the end of paragraph
24 (14);

1 (2) by striking the period at the end of para-
2 graph (15) and inserting “; and”; and

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

5 “(16) any assets managed on behalf of an eligi-
6 ble individual in accordance with a plan developed
7 for the individual pursuant to section 471(a)(26).”.

8 **SEC. 6. SUPPORT AND MAINTENANCE FURNISHED IN CASH**
9 **OR IN KIND DISREGARDED IN DETERMINING**
10 **INCOME OF FOSTER CHILDREN UNDER THE**
11 **SUPPLEMENTAL SECURITY INCOME PRO-**
12 **GRAM.**

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

15 (1) by striking “and” at the end of clause (ii);
16 and

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

21 **SEC. 7. EFFECTIVE DATES.**

22 (a) IN GENERAL.—Except as provided in subsection
23 (b) of this section, the amendments made by this Act
24 (other than by section 3(a)) shall apply to benefits payable

1 for months beginning after the date of the enactment of
2 this Act.

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

5 (1) IN GENERAL.—The amendments made by
6 section 5(a) of this Act shall take effect on the 1st
7 day of the 1st calendar quarter beginning after the
8 date of the enactment of this Act, and shall apply
9 to payments under part E of title IV of the Social
10 Security Act for calendar quarters beginning after
11 such 1st day.

12 (2) DELAY PERMITTED IF STATE LEGISLATION
13 REQUIRED.—If the Secretary of Health and Human
14 Services determines that State legislation (other
15 than legislation appropriating funds) is required in
16 order for a State plan approved under part E of title
17 IV of the Social Security Act to meet the additional
18 requirements imposed by the amendments made by
19 section 5(a) of this Act, the plan shall not be re-
20 garded as failing to meet any of the additional re-
21 quirements before the 1st day of the 1st calendar
22 quarter beginning after the first regular session of
23 the State legislature that begins after the date of the
24 enactment of this Act. If the State has a 2-year leg-
25 islative session, each year of the session is deemed

1 to be a separate regular session of the State legisla-
2 ture.

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