

111<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 6192

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.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 23, 2010

Mr. STARK (for himself and Mr. LANGEVIN) introduced the following bill;  
which was referred to the Committee on Ways and Means

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## 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. 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.—

7 (1) EXCEPTION TO PROHIBITION ON ASSIGN-  
8 MENTS, ETC.—Section 207 of the Social Security  
9 Act (42 U.S.C. 407) is amended by adding at the  
10 end the following:

11 “(d) Subsection (a) of this section shall not apply to  
12 a payment made by a representative payee to reimburse  
13 a State as described in section 205(j)(9)(B)(i), but only  
14 to the extent that the payment is—

15 “(1) not prohibited by section 205(j)(9)(B)(i);

16 and

17 “(2) made available, distributed, and applied in  
18 accordance with section 205(j)(9)(B)(iii).”.

19 (2) LIMITATION ON USE OF SOCIAL SECURITY  
20 BENEFITS.—Section 205(j)(9) of such Act (42  
21 U.S.C. 405(j)(9)) is amended—

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

23 (B) by adding at the end the following:

24 “(B)(i) A State or local government agency serving  
25 in any State as a representative payee under this sub-  
26 section with respect an individual who is in foster care

1 under the responsibility of the State shall not use any (or,  
2 if the individual has not attained 14 years of age, more  
3 than 50 percent of any) benefits paid to the representative  
4 payee pursuant to paragraph (1) of this subsection to re-  
5 imburse the State for—

6           “(I) foster care maintenance payments made  
7           pursuant to section 472, or

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

12          “(ii) An expense described in paragraph (4)(A)(i) of  
13          this subsection or section 1631(a)(2)(D) shall not be con-  
14          sidered a cost or expense for purposes of clause (i) of this  
15          subparagraph.

16          “(iii) In any case in which the State or local govern-  
17          ment agency referred to in clause (i) determines that any  
18          portion of such individual’s benefit under this title which  
19          is held by such agency in accordance with this subsection  
20          would be available under the provisions of this subsection  
21          (other than this clause) to reimburse government costs in  
22          connection with such foster care, any amount of such por-  
23          tion of such benefit shall be available for such reimburse-  
24          ment only to the extent that such amount is made avail-  
25          able to supplement, and not to replace, any amounts oth-

1 erwise available from non-Federal sources to meet such  
2 government costs. Any amount of such reimbursement  
3 shall not be distributed into the general funds of the agen-  
4 cy or the State or local government and may be applied  
5 only so as to increase funding for foster care services pro-  
6 vided by the State or local government.”.

7 (b) AMENDMENTS TO TITLE XVI.—

8 (1) APPLICABILITY OF TITLE II EXCEPTION TO  
9 PROHIBITION ON ASSIGNMENTS, ETC.—Section  
10 1631(d)(1) of such Act (42 U.S.C. 1383(d)(1)) is  
11 amended by inserting “, except that section 207(d)  
12 shall be applied by substituting ‘section 207’ for  
13 ‘this section’, by substituting ‘subsection  
14 (a)(2)(A)(iv)(II) of this section’ for ‘205(j)(9)(B)(i)’  
15 each place it appears, and by substituting ‘sub-  
16 section (a)(2)(A)(iv)(IV) of this section’ for  
17 ‘205(j)(9)(B)(iii)’” before the period.

18 (2) LIMITATION ON USE OF SSI BENEFITS.—  
19 Section 1631(a)(2)(A)(iv) of such Act (42 U.S.C.  
20 1383(a)(2)(A)(iv)) is amended—

21 (A) by inserting “(I)” after “(iv)”;

22 (B) by adding “and” at the end; and

23 (C) by adding after and below the end the  
24 following:

1       “(II) A State or local government agency serving in  
2 any State as a representative payee under this subsection  
3 with respect an eligible individual who is in foster care  
4 under the responsibility of the State shall not use any (or,  
5 if the individual has not attained 14 years of age, more  
6 than 50 percent of any) benefits paid to the representative  
7 payee pursuant to pursuant to clause (ii) of this subpara-  
8 graph to reimburse the State for—

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

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

15       “(III) An expense described in subparagraph (D) of  
16 this paragraph or section 205(j)(4)(A)(i) shall not be con-  
17 sidered a cost or expense for purposes of subclause (II)  
18 of this clause.

19       “(IV) In any case in which the State or local govern-  
20 ment agency referred to in subclause (II) determines that  
21 any portion of such individual’s benefit under this title  
22 which is held by the agency in accordance with this para-  
23 graph would be available under the provisions of this para-  
24 graph (other than this subclause) to reimburse govern-  
25 ment costs in connection with the foster care, any amount

1 of the portion of the benefit shall be available for such  
2 reimbursement only to the extent that the amount is made  
3 available to supplement, and not to replace, any amounts  
4 otherwise available from non-Federal sources to meet the  
5 government costs. Any amount of the reimbursement shall  
6 not be distributed into the general funds of the agency  
7 or the State or local government and may be applied only  
8 so as to increase funding for foster care services provided  
9 by the State or local government.”.

10 **SEC. 3. SCREENING OF FOSTER CHILDREN FOR ELIGI-**  
11 **BILITY FOR SOCIAL SECURITY AND SUPPLE-**  
12 **MENTAL SECURITY INCOME BENEFITS.**

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

15 (1) by striking “and” at the end of paragraph  
16 (32);

17 (2) by striking the period at the end of para-  
18 graph (33) and inserting “; and”; and

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

20 “(34) provides that, not later than the begin-  
21 ning of the 1st calendar quarter that begins after  
22 the 3-year period that begins with the date of the  
23 enactment of this paragraph, the State agency re-  
24 ferred to in paragraph (2) of this subsection shall—

1           “(A) develop and implement procedures to  
2 ensure that, within 60 days after the status of  
3 a child who is in foster care under the responsi-  
4 bility of the State is first reviewed pursuant to  
5 section 475(5)(B), and after any material  
6 change in the circumstances of the child that  
7 could affect the potential eligibility of the child  
8 for such benefits, the child is screened to deter-  
9 mine the potential eligibility of the child for  
10 benefits under title II and for supplemental se-  
11 curity income benefits under title XVI;

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

15                   “(i) provide the child with assistance  
16 in applying for, and (if necessary) appeal-  
17 ing any decisions made with respect to, the  
18 benefits; and

19                   “(ii) if there is no other suitable can-  
20 didate available, apply to become the rep-  
21 resentative payee for the child with respect  
22 to the benefits; and

23           “(C) develop and implement procedures to  
24 ensure that any such child who is potentially el-  
25 igible for, or is a recipient of, benefits under

1 title II or supplemental security income benefits  
2 under title XVI, is assisted with applying for  
3 such benefits 90 days before the child exits fos-  
4 ter care.”.

5 (b) GAO STUDY.—

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

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

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

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



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

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

11           (a) AMENDMENT TO TITLE II.—Section  
12 205(j)(2)(E)(ii) of the Social Security Act (42 U.S.C.  
13 405(j)(2)(E)(ii)) is amended by inserting “, except that,  
14 in the case of an individual who is in foster care under  
15 the responsibility of a State, such notice shall also be pro-  
16 vided to the attorney or guardian ad litem appointed to  
17 represent the individual pursuant to section  
18 106(b)(2)(A)(xiii) of the Child Abuse Prevention and  
19 Treatment Act and, if the individual has attained 14 years  
20 of age, to the individual” before the period.

21           (b) AMENDMENT TO TITLE XVI.—Section  
22 1631(a)(2)(B)(xii) of such Act (42 U.S.C.  
23 1383(a)(2)(B)(xii)) is amended by inserting “, except that,  
24 in the case of an individual who is in foster care under  
25 the responsibility of a State, such notice shall also be pro-

1 vided to the attorney or guardian ad litem appointed to  
2 represent the individual pursuant to section  
3 106(b)(2)(A)(xiii) of the Child Abuse Prevention and  
4 Treatment Act and, if the individual has attained 14 years  
5 of age, to the individual” before the period.

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

9 (a) PLAN FOR ACHIEVING SELF-SUPPORT.—Section  
10 471(a) of the Social Security Act (42 U.S.C. 671(a)), as  
11 amended by section 3(a) of this Act, is amended—

12 (1) by striking “and” at the end of paragraph  
13 (33);

14 (2) by striking the period at the end of para-  
15 graph (34) and inserting “; and”; and

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

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

1           “(A)(i) The plan shall set forth a strategy  
2 to conserve benefits not necessary for the imme-  
3 diate needs of the child, determined as provided  
4 for pursuant to clause (ii) of this subparagraph,  
5 in a manner that best meets the future needs  
6 and educational and employment interests of  
7 the child, and for the placement of any such  
8 benefits in an account of the type described in  
9 section 1631(a)(2)(F) of this Act, or an account  
10 established by the State under section 477 of  
11 this Act.

12           “(ii) The plan shall provide for a deter-  
13 mination as to whether the child has immediate  
14 needs for which the benefits should be used  
15 consistent with sections 205(j)(10)(B) and  
16 1631(a)(2)(A)(iv)(II).

17           “(iii) The plan shall provide for a deter-  
18 mination of any additional assets to which the  
19 child may be entitled, including civil judgments,  
20 inheritances, or earnings, and shall provide for  
21 the assets to be conserved as described in clause  
22 (i) of this subparagraph.

23           “(iv) Any funds conserved in accordance  
24 with the plan shall be used to supplement and  
25 not supplant any other Federal funds or pro-

1           grams that may be available for the benefit of  
2           the child.

3           “(v) The plan shall provide that any assets  
4           set aside under the plan shall be conserved and  
5           inaccessible to the child (except for a use of  
6           funds described in item (aa) through (gg) of  
7           section 1631(a)(2)(F)(ii)(II) of this Act, or for  
8           another use approved by the Secretary as being  
9           in the best interests of the child), and placed in  
10          the account described in clause (i) of this sub-  
11          paragraph, until the later of the date the child  
12          attains 18 years of age or ceases to be under  
13          the responsibility of the State, at which time  
14          any assets subject to the plan shall be acces-  
15          sible to the child to—

16                 “(I) secure and maintain stable hous-  
17                 ing;

18                 “(II) pursue educational opportuni-  
19                 ties, including job training, vocational  
20                 training, or obtain a professional license;

21                 “(III) purchase a vehicle;

22                 “(IV) operate a business;

23                 “(V) pay for employment-related  
24                 costs, including the cost of uniforms, insur-

1           ance, licenses, or complying with licensing  
2           requirements;

3           “**(VI)** pay for medical or health-re-  
4           lated expenses; or

5           “**(VII)** pay for any expenses reason-  
6           ably expected to assist the child in becom-  
7           ing self-sufficient.

8           “**(B)** The State agency shall—

9           “**(i)** develop and implement the plan  
10          in collaboration with the child (on an age-  
11          appropriate basis), the social worker for  
12          the child, the person acting as the rep-  
13          resentative payee for the child pursuant to  
14          section 205(j) or 1631(a)(2) of this Act,  
15          and the attorney or guardian ad litem ap-  
16          pointed to represent the child pursuant to  
17          section 106(b)(2)(A)(xiii) of the Child  
18          Abuse Prevention and Treatment Act; and

19          “**(ii)** in developing and implementing  
20          the plan, make reasonable efforts to seek  
21          input from the parents and caretakers of  
22          the child.

23          “**(C)(i)** Within 60 days after the status of  
24          the child is first reviewed pursuant to section

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

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

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

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

20 “(E)(i) The child may request the plan to  
21 be modified in a review of the status of the  
22 child pursuant to section 475(5)(B), in a sepa-  
23 rate hearing, or in a permanency hearing pur-  
24 suant to section 475(5)(C).

1           “(ii) The plan shall not be treated, in any  
2           administrative or judicial review proceeding, as  
3           meeting the requirements of this paragraph  
4           with respect to a child unless the plan is deter-  
5           mined by the reviewer to be the best available  
6           means of meeting the current and future needs  
7           and educational and employment interests of  
8           the child.”.

9           (b) PROVISIONS RELATING TO REPRESENTATIVE  
10 PAYEES.—

11           (1) AMENDMENTS TO TITLE II.—Section 205(j)  
12           of such Act (42 U.S.C. 405(j)) (as amended by the  
13           preceding provisions of this Act) is amended fur-  
14           ther—

15                   (A) by redesignating paragraphs (8), (9),  
16                   and (10) as paragraphs (9), (10), and (11), re-  
17                   spectively; and

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

20           “(8) A representative payee shall manage the benefits  
21           paid to the representative payee under paragraph (1) on  
22           behalf of an individual who is in foster care under the re-  
23           sponsibility of a State, in accordance with the plan devel-  
24           oped for the child pursuant to section 471(a)(35).”.

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

4           “(J) A representative payee shall manage the benefits  
5           paid to the representative payee under subparagraph  
6           (A)(ii) of this paragraph on behalf of an individual who  
7           is in foster care under the responsibility of a State, in ac-  
8           cordance with the plan developed for the child pursuant  
9           to section 471(a)(35).”.

10          (c) EXCLUSION FROM RESOURCES UNDER THE SSI  
11          PROGRAM.—Section 1613(a) of such Act (42 U.S.C.  
12          1382b(a)) is amended—

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

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

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

19               “(16) any assets managed on behalf of an eligi-  
20               ble individual in accordance with a plan developed  
21               for the individual pursuant to section 471(a)(35).”.



1 **SEC. 6. SUPPORT AND MAINTENANCE FURNISHED IN CASH**  
2 **OR IN KIND DISREGARDED IN DETERMINING**  
3 **INCOME OF FOSTER CHILDREN UNDER THE**  
4 **SUPPLEMENTAL SECURITY INCOME PRO-**  
5 **GRAM.**

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

8 (1) by striking “and” at the end of clause (ii);  
9 and

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

14 **SEC. 7. TECHNICAL ASSISTANCE FOR CHILD WELFARE**  
15 **AGENCIES.**

16 (a) **IN GENERAL.**—On request of a State agency re-  
17 sponsible for administering, or supervising the administra-  
18 tion of, a State program authorized by part E of title IV  
19 of the Social Security Act, the Secretary of Health and  
20 Human Services shall provide the State agency with tech-  
21 nical assistance in carrying out the amendments made by  
22 this Act.

23 (b) **LIMITATIONS ON AUTHORIZATION OF APPRO-**  
24 **PRIATIONS.**—To carry out this section, there are author-  
25 ized to be appropriated \$4,500,000 for fiscal year 2013,

1 and such sums as may be necessary for each of fiscal years  
2 2014 through 2018.

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 1st  
13 day of the 1st 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 1st 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 1st day of the 1st 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.

○