

Foster Children Self Support Act- Draft Discussion Summary

An estimated 30,000 children in foster care receive Social Security benefits due to a disability (SSI under Title XVI of the Social Security Act) or because they have lost one or both of their parents (OASDI under Title II of the SS Act). Child welfare agencies typically serve as the representative payee for these children's benefits. Although only 7% of foster children actually receive some form of Social Security benefits, CRS has estimated that up to 20% of foster children may have a mental or physical disability severe enough to qualify them for benefits. These benefits are an entitlement that belong to the child recipient and should be used to meet the child's individual needs.

The Foster Children Self Support Act (FCSSA) would invest in foster children with disabilities and those who have lost one or both of their parents by requiring that a child's Social Security benefits be used for the child's immediate and future needs, not as general revenue source for the state. The legislation would provide that some or all of a child's benefits are set-aside into a trust account for the child to access when they leave care to pay for things such as education, housing, and job training. The legislation would also end barriers in federal law that make it difficult for foster youth receiving Social Security benefits to continue receiving benefits when they transition out of the child welfare system.

Many foster youth are victims of identity theft due to the high number of people that have access to their personal information. Studies have found that nearly half of foster children in California have been victims of identity theft. The FCCSA would ensure that all foster youth emancipate from care with a clean credit history by requiring credit checks and a referral to a credit counselor.

The major provisions include the following:

I. Use of OASDI Survivor's Benefits

When the child welfare agency becomes the representative payee for a child's Title II benefits, the FCSSA would require a full set-aside of a child's Title II benefits into a dedicated trust account, except to provide for the special needs of the child that are not paid for by the foster care agency. The youth could access conserved funds when they leave care in order to pay for things such as education, housing, and health care.

II. Use of SSI Benefits

When the child welfare agency becomes the representative payee for a child's Title XVI benefits (SSI), the FCSSA would require the child's benefits to be used in the child's best interest, including for the child's immediate and future needs, not as a general revenue source. An individualized spending plan (Plan for Achieving Self Support) would be developed in consultation with the child and the child's advocate(s). Social Security funds could only supplement, not supplant, a state's spending on child welfare. Any benefits that are not needed for the child's immediate needs not already provided by the child welfare agency would be set aside into a

dedicated account that the child could access for specific purposes when they age out of care.

III. Agency Responsibilities

The agency would be required to screen all foster children for Social Security benefit eligibility and assist potentially eligible children with the application process. The agency must notify all interested parties, including the child's attorney or guardian ad litem, if the child becomes eligible for Social Security benefits.

IV. Trust Accounts

The FCSSA would establish a trust account for each child who is eligible for OASDI or SSI benefits. In the case of an OASDI-eligible child, all funds would be deposited into the trust account.

For an SSI-eligible child, funds would be deposited in accordance with the Plan for Achieving Self Support, with a minimum of x% being deposited into the trust account. When the child's permanency plan indicates that neither adoption nor kin guardianship are options, then the full benefit amount **{Or at a specific age}** shall be deposited into the trust account.

V. Asset Limit

The current asset/resource limit for SSI beneficiaries is \$2,000. The FCSSA would exempt resources placed into the trust accounts from this limit.

VI. Assistance Gap

Many foster youth with disabilities experience an assistance gap when they emancipate from the system. This gap is caused by different eligibility criteria for individuals older than 18 as well as by application processing delays and other bureaucratic hurdles. The FCSSA would solve this problem by expanding the early application process for foster youth with disabilities to apply for SSI upon reaching the age of 17. Youth with unresolved SSI claims upon reaching the age of 18 would continue to receive benefits and experience no gap in assistance until a final eligibility determination has been made.

VII. Financial Security

Foster youth are disproportionately victims of identity theft. The FCSSA would implement mandatory credit checks for foster youth once a year from age 16 until emancipation to ensure that they are leaving care with a clean financial slate. If a breach is found, the child welfare agency must make a referral to a pre-approved counseling organization for victims of identity theft.

When credit check is first undertaken, foster youth will be offered money management training (linked through Chafee Life Skills or other program). Completion is mandatory before an individual receives access to the trust account.

VIII. Reports

The FCSSA mandates a GAO report examining the extent of the assistance gap and the effectiveness of the remedies contained in the legislation. The GAO would also be charged with examining the compliance of states in meeting the mandates of the legislation.