



October 2, 2023

The Honorable Robyn K. Kennedy  
Senate Chair, Joint Committee on Children,  
Families, and Persons with Disabilities

The Honorable Jay D. Livingstone  
House Chair, Joint Committee on Children,  
Families, and Persons with Disabilities

Dear Chair Kennedy, Chair Livingstone, Vice Chairs, and Committee members,

The Children's League of Massachusetts (CLM) is a statewide non-profit association of almost 60 private and public organizations that collectively advocate for the availability, accessibility, and quality of services that are in the best interest of the Commonwealth's children, youth, and families.

We are writing **in support of "An Act Protecting benefits owed to foster children"** (H.157/S.65). Our Task Forces and Coalitions, particularly for Foster Care and Transition Age Youth, and members with lived experience believe this bill is critical to enhancing the rights of children in the child welfare system and to ensuring youth who are exiting state care without permanency have all the support they need for success.

Currently, almost 1,250 children and young adults in DCF custody receive Social Security Administration (SSA) benefits due to a disability or death of a loved one.<sup>1</sup> However, DCF, at the direction of the Massachusetts Administration and Finance, siphons about 90% of the children's benefits into the Commonwealth's General Fund.<sup>2</sup> While it's a great loss to the children, it directs only about \$5.5 million in the General Fund annually.<sup>3</sup> This bill corrects this exploitative practice by prohibiting DCF from depositing these SSA benefits into the General Fund and not using such funds to pay for items or activities the state is required to provide to all foster children. The state can best help children receiving benefits by directing the money into an appropriate account that can be used to support their personal needs to the fullest extent, including when they age out of the system.

This legislation brings Massachusetts in line with other jurisdictions that have ended the predatory practice of seizing SSA benefits from children who enter foster care. The bill is complimented by requiring DCF to provide ongoing financial literacy training and support to children in DCF custody. It

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<sup>1</sup> Based on response provided by DCF, supplied in response to DLC public records request (on file with Disability Law Center, available upon request)

<sup>2</sup> See 110 C.M.R. 4.05 (2023).

<sup>3</sup> Monthly reports furnished by DCF contractor PCG for Jan. 2022 - Nov. 2022, supplied in response to DLC public records request (on file with Disability Law Center, available upon request).

also ensures children in DCF custody have appropriately applied for and received any such benefits they are entitled to in a timely fashion – a practice that is not yet required. Further, it rectifies the current practice of the Department sending conserved funds back to the Social Security Administration after a placement ends.

In January 2023, DCF's regulation 110 CMR 4.05 changed from "shall" take 90% of benefits to "may" take 90% creating a window for righting this wrong that will not contradict a statute. This legislation draws upon best practices adopted in other states. The following further details some of the enhancements this legislation requires, and which states have similar policies:

- Establish a personal needs account (savings or other) to conserve the balance of children's benefits to help with transitions into adulthood and independent living (sets bar at a minimum of 10% of benefits whereas 10% is the current maximum allowance, along with additional antiquated limits to the children's benefits)
  - *Illinois and Maryland require the child protection agency to conserve an increasing percentage of benefits for the child as the child grows older*
- Require DCF to screen children for SSI/RSDI benefit eligibility within sixty days of the child being committed to custody
  - *akin to Illinois and Washington, D.C.*
- Notify children, their legal representatives, and their guardians when the Department applies for benefits or to be the child's representative payee and to consider preferences for other representative payees per federal regulations
  - *similar in Illinois, Maryland, Nebraska, and Washington, D.C.*
- Maintain detailed accounting of a child's benefits and provide a quarterly report to the child and their representatives when DCF serves as representative payee
  - *Nebraska, Illinois, and Washington D.C. require regular accounting of a child's benefits*

Massachusetts needs to protect the most vulnerable children in our state by preserving their benefits just as other states and jurisdictions have done and are doing. Connecticut, Hawaii and Washington, D.C have already prohibited their child protection agencies from using Social Security benefits to reimburse themselves for a child's care and require benefits be placed in a savings account for the child. New York City, Los Angeles County, and Philadelphia passed similar legislation or resolutions as well. To not do so here in Massachusetts is simply a moral failing.

These funds give youth with disabilities and those who have lost a loved one a fighting chance at overcoming the great hurdles in their way. Youth that age out of the system are at risk of

homelessness, incarceration, further trauma, and barriers to education and employment. Our experts have seen that cash assistance for transition age youth is overwhelmingly applied to education and housing.

Transition-age youth's poor educational and employment outcomes are part of this mountain of obstacles to stable entry into adulthood. Many become incarcerated and they are at risk of substance abuse as well.

- more than a quarter had not finished high school or gotten a GED at age 21;
- nearly half did not have full or part-time employment at age 21;
- 15 percent had been recently incarcerated at age 19; and
- 10 percent had been recently referred for substance use treatment at age 21

These percentages amount to thousands of kids. Approximately 20,000 youth age-out of foster care nationally each year without positive familial support or any family connection at all<sup>4</sup>. And of course, particularly now during the housing crisis we are experiencing, a history of foster care will correlate with becoming homeless at an earlier age and remaining homeless for a longer period.<sup>5</sup> Youth experiencing homelessness are at higher risk of being victimized or arrested and cannot focus on education or employment. The National Law Center on Homelessness and Poverty estimates that 5,000 unaccompanied youth die each year as a result of assault, illness, or suicide<sup>6</sup>. The dire homelessness statistics for this population includes the following<sup>7</sup>:

- Within 18 months of emancipation 40-50% of foster youth become homeless
- 30-50% of the homeless population (ages 18-24) spent time in foster care
- 65% of youth leaving foster care need immediate housing upon discharge.

These transition age youth do not have the family structure that most young adults need for appropriate stability transitioning to adulthood. This is a major problem affecting so many individuals. Why wouldn't the Commonwealth do everything in its power to counterbalance the loss of family and associated risks? Ultimately, preventing issues of homelessness, incarceration, etc. is much less expensive for governments. These youth are already legally entitled to these funds that can better equip them and the government to address their needs and transitions.

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<sup>4</sup> Annie E. Casey Foundation, Youth in Transition Aging Out, [website](#); Foster Care and Homelessness, Fostering Change Network, Shaquita O'Neal, Foster Focus 2020, Volume 5 Issue 3

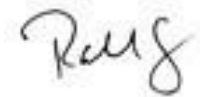
<sup>5</sup> More Than Words, Our Issues, [website](#).

<sup>6</sup> National Law Center on Homelessness and Poverty. "Legal Tools to End Homelessness." 2004, p. 3. Available: <http://www.nlchp.org/content/pubs/youth%20Legal%20Tools.pdf>

<sup>7</sup> Foster Care and Homelessness, Fostering Change Network, Shaquita O'Neal, Foster Focus 2020, Volume 5 Issue 3

This bill battles against the dire circumstances faced by children in foster care currently entitled to SSA benefits that are being stripped from them. The state needs to stop making children pay for the cost of their own foster care when it has chosen to take responsibility for them. This practice is especially heinous because these children's circumstances qualify them for SSA funding funds, which are meant to support their care and well-being for both the short and long-term. In summary, the legislation accomplishes the following important goals: (1) stop taking benefits from foster children; (2) support responsible caregivers to act as representative payees; (3) help children to leave foster care with financial support; and (4) ensure transparency for children, their guardians, and their legal representatives when their benefits are at stake. We ask that you support our vulnerable children who have entered the foster care system by voting this bill out of committee and working diligently for its passage without delay.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rachel'.

Rachel Gwaltney  
Executive Director  
Children's League of Massachusetts

**Supporting Members of the Children's League**

18 Degrees  
Brandon School and Residential Treatment Center, Inc.  
Communities for People  
Citizens for Juvenile Justice  
Devereux Advanced Behavioral Health  
Fall River Deaconess Home  
Family Continuity  
Gándara Center  
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Justice Resource Institute  
Massachusetts Adoption Resource Exchange  
Plummer Youth Promise  
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The Home for Little Wanderers, Inc.  
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