

115TH CONGRESS  
2D SESSION

# H. R. 7296

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

DECEMBER 13, 2018

Mr. DANNY K. DAVIS of Illinois (for himself, Mr. LEWIS of Georgia, 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 “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 to 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 to 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 (10), (11), and (12) as paragraphs (9), (10),  
13 (11), (12), and (13), respectively; 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 2018,

1 and such sums as may be necessary for each of fiscal years  
2 2019 through 2023.

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.

○