



HB 2559: End State Seizure of Foster Children's Federal Benefits



HB 2559 Will End the Harmful Practice of "Benefits Mining"

Children's Action Alliance strongly supports HB 2559 which will end the harmful practice of "benefits mining" for Arizona's foster children. Nationwide and in Arizona, roughly 5% of all children and youth in foster care qualify for Social Security Administration disability and survivor benefits. They qualify for these benefits because they are disabled or have lost their parents. **Most foster children never see these benefits, or even know that are receiving them. That is because the Arizona Department of Child Safety intercepts the funds and applies them to the costs of the child's own foster care.** HB 2559 will end the practice of benefits mining in Arizona's child welfare system by preventing the state from using children's benefits to cover the cost of their own care while in DCS custody. Instead, the bill requires that those benefits be saved for the children's own use when they leave foster care.

Current Practice Turns Foster Children's Federal Benefits into State Revenue

Like many states, Arizona routinely screens incoming foster youth for their eligibility for federal benefits provided by the Social Security Administration. Children are eligible for these benefits because they are disabled or because their parents have died. If a child is deemed eligible, DCS automatically applies for the benefit on behalf of the foster child and applies to be the child's "representative payee" allowing DCS to receive the funds directly. The state then uses those funds to offset the cost of the child's own foster care. The problems with current practice are many:

1. Often, DCS applies for benefits and/or to be the child's representative payee **without adequate notice** to the child, the guardian, or attorney.
2. **State agencies are supposed to be the representative payee of last resort.** SSA policy directives provide a ranked list of preferences for representative payees. State agencies come last out of seven other possible categories of representative payees.
3. Representative payees have a fiduciary duty to manage and spend the benefits only for the use and benefit of the beneficiary. If the funds are not needed for the beneficiary's current maintenance, the representative payee must conserve or invest the funds on behalf of the beneficiary. **DCS does not use or save the funds for individual beneficiaries' use. Rather, the funds are turned into a state revenue source.** This happens even though DCS is obligated to provide for all children in its custody, regardless of what benefit the children may be eligible for or receive.



HB 2559 Will Protect Foster Children's Federal Benefits

HB 2559 will protect foster children's federal benefits by ending the practice of benefits mining in Arizona's child welfare system. The bill:

1. Requires DCS to **provide notice** to the child, their guardian, and their attorney anytime it applies for benefits on behalf of the child or applies to be a representative payee.
2. Requires DCS to **consult with the child and their team about who is best suited to act as the representative payee.**
3. Prevents DCS from using children's federal benefits to pay for the cost of their own care while in DCS custody and **requires that the benefits be accounted for, protected, and saved for the children's own use when they exit foster care.**

Fiscal Impact

In State Fiscal Year 2022, DCS seized an average of \$764 a month from nearly 700 foster children, totaling \$6.25M in revenue. DCS has estimated it will require an additional appropriation of approximately \$4M to offset reduced state revenues associated with this practice.¹ **While these funds represent a tiny fraction of DCS's budget, for a child who has experienced foster care they represent the ability to pay for college, a car, a house, or even food and other necessities. For a young adult who may not have another safety net after aging out of care, these funds can be the difference between surviving and thriving.**

¹ During testimony before the House Health and Services Committee on February 13, 2023, DCS has estimated it would require \$3-4M from the General Fund to replace lost revenues and an additional \$206,000 for three full-time staff positions to administer the funds on behalf of foster children.