

Testimony of Melissa Hackett
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In Support of LD 52, An Act to Increase Participation by the Department of Health and Human Services Regarding Federal Benefits for Which Children in the Custody of the Department Are Eligible

Senator Ingwersen, Representative Meyer, and esteemed members of the Health and Human Services Committee. My name is Melissa Hackett. I am a policy associate with the Maine Children's Alliance, which serves as the backbone organization for the Maine Child Welfare Action Network, where I am the coordinator. I am testifying in both capacities today in support of this legislation.

In 2021, a Marshall Project report¹ revealed that most states were employing the practice of screening youth coming into state custody for eligibility for federal survivor and disability benefits. The reporting found that states were then applying to be the representative payee and using the child's benefits to pay for the cost of their foster care. More recent reporting² has shown that action has been or is being taken in multiple jurisdictions to limit this practice and move to preserve these benefits for youth.

The transition to adulthood is an important and often challenging phase for young people, but youth aging out of foster care often experience this without the support of stable, permanent adult relationships, and the resources that can come with that. Data³ shows that this group of young people experience significant challenges during this transitional period, across a variety of issues, including successful high school completion, stable housing, justice involvement, early parenthood, and employment. If the survivor and disability benefits of young people in state custody were preserved in trust, rather than spent to cover the cost of their care, those resources could represent an important financial support to young people during a critical time in their lives.

This bill seeks to establish a process to ensure the state reserves these benefits in trust, rather than spending them on the cost of foster care. The legislation also includes important provisions related to communication and education to young people of these benefits. All too often, we have heard from young people that they were unaware that the state was applying for and utilizing benefits on their behalf. These decisions have long-term consequences for young people, and it is critical they are meaningfully engaged in the decision-making process around these resources which have been applied for on their behalf.

I would also bring to the committee's attention a recent letter⁴ from the federal Administration for Children and Families, clarifying guidance to states on the application for and use of these funds. It includes specific details related to how states could identify alternative representative payees (it's preferred if it's a friend or family member, versus a state agency) and hold benefits in trust on behalf of the young person (through Achieving a Better Life Experience⁵ (ABLE accounts), without impacting eligibility for other benefits. The letter notes that "CB [Children's Bureau] encourages title IV-E agencies to consider using all of the tools at their disposal when conserving youth's federal benefits... as it can be invaluable as that youth enters adulthood."

When children and youth come into the care and custody of the state, they rely on a state agency and the individuals working within it to act in their best interests. For most, this means the state and federal government bear the cost of their care. But for young people who are eligible for federal disability and survivor benefits, the state is using funds on behalf of the young person to pay for that care. While this is technically appropriate, it raises important questions about fairness and what is in fact in the best interest of young people in the state's custody. For most, these are resources that would be invaluable in their transition to adulthood, buffering against what is otherwise a very steep climb to success after the adversity they have faced in their youth. Through these proposed changes, we can do better by these young people, to ensure they have the best chance of achieving success into adulthood.

Thank you.

1. The Marshall Project. These States Take Money Meant for Foster Children.

<https://www.themarshallproject.org/2021/05/17/these-states-take-money-meant-for-foster-children>.

2. NPR. These kids used to get the bill for their foster care. Now that's changing.

<https://www.npr.org/2023/09/12/1197610205/foster-care-social-security-benefits>.

3. The Annie E. Casey Foundation. Child Welfare and Foster Care Statistics.

<https://www.aecf.org/blog/child-welfare-and-foster-care-statistics>.

4. Administration for Children and Families. Reminders to State and Tribal Title IV-E agencies about the Social Security Representative Payee Program and the Title IVE Federal Foster Care Program.

<https://www.acf.hhs.gov/sites/default/files/documents/cb/ssa-hhs-joint-letter.pdf>.

5. Social Security. Payee and ABLE Accounts. https://www.ssa.gov/payee/able_accounts.htm.