

.....
(Original Signature of Member)

111TH CONGRESS
2D SESSION

H. R. _____

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.

IN THE HOUSE OF REPRESENTATIVES

Mr. STARK (for himself and Mr. LANGEVIN) introduced the following bill;
which was referred to the Committee on _____

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 “Foster Children Self-
5 Support 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.—

7 (1) EXCEPTION TO PROHIBITION ON ASSIGN-
8 MENTS, ETC.—Section 207 of the Social Security
9 Act (42 U.S.C. 407) is amended by adding at the
10 end the following:

11 “(d) Subsection (a) of this section shall not apply to
12 a payment made by a representative payee to reimburse
13 a State as described in section 205(j)(9)(B)(i), but only
14 to the extent that the payment is—

15 “(1) not prohibited by section 205(j)(9)(B)(i);
16 and

17 “(2) made available, distributed, and applied in
18 accordance with section 205(j)(9)(B)(iii).”.

19 (2) LIMITATION ON USE OF SOCIAL SECURITY
20 BENEFITS.—Section 205(j)(9) of such Act (42
21 U.S.C. 405(j)(9)) is amended—

22 (A) by inserting “(A)” after “(9)”; and

23 (B) by adding at the end the following:

24 “(B)(i) A State or local government agency serving
25 in any State as a representative payee under this sub-
26 section with respect an individual who is in foster care

1 under the responsibility of the State shall not use any (or,
2 if the individual has not attained 14 years of age, more
3 than 50 percent of any) benefits paid to the representative
4 payee pursuant to paragraph (1) of this subsection to re-
5 imburse the State for—

6 “(I) foster care maintenance payments made
7 pursuant to section 472, or

8 “(II) other payments made by the State or po-
9 litical subdivision of the State to cover any other
10 cost or expense for an individual who is in foster
11 care under the responsibility of the State.

12 “(ii) An expense described in paragraph (4)(A)(i) of
13 this subsection or section 1631(a)(2)(D) shall not be con-
14 sidered a cost or expense for purposes of clause (i) of this
15 subparagraph.

16 “(iii) In any case in which the State or local govern-
17 ment agency referred to in clause (i) determines that any
18 portion of such individual’s benefit under this title which
19 is held by such agency in accordance with this subsection
20 would be available under the provisions of this subsection
21 (other than this clause) to reimburse government costs in
22 connection with such foster care, any amount of such por-
23 tion of such benefit shall be available for such reimburse-
24 ment only to the extent that such amount is made avail-
25 able to supplement, and not to replace, any amounts oth-

1 erwise available from non-Federal sources to meet such
2 government costs. Any amount of such reimbursement
3 shall not be distributed into the general funds of the agen-
4 cy or the State or local government and may be applied
5 only so as to increase funding for foster care services pro-
6 vided by the State or local government.”.

7 (b) AMENDMENTS TO TITLE XVI.—

8 (1) APPLICABILITY OF TITLE II EXCEPTION TO
9 PROHIBITION ON ASSIGNMENTS, ETC.—Section
10 1631(d)(1) of such Act (42 U.S.C. 1383(d)(1)) is
11 amended by inserting “, except that section 207(d)
12 shall be applied by substituting ‘section 207’ for
13 ‘this section’, by substituting ‘subsection
14 (a)(2)(A)(iv)(II) of this section’ for ‘205(j)(9)(B)(i)’
15 each place it appears, and by substituting ‘sub-
16 section (a)(2)(A)(iv)(IV) of this section’ for
17 ‘205(j)(9)(B)(iii)’” before the period.

18 (2) LIMITATION ON USE OF SSI BENEFITS.—
19 Section 1631(a)(2)(A)(iv) of such Act (42 U.S.C.
20 1383(a)(2)(A)(iv)) is amended—

21 (A) by inserting “(I)” after “(iv)”;

22 (B) by adding “and” at the end; and

23 (C) by adding after and below the end the
24 following:

1 “(II) A State or local government agency serving in
2 any State as a representative payee under this subsection
3 with respect an eligible individual who is in foster care
4 under the responsibility of the State shall not use any (or,
5 if the individual has not attained 14 years of age, more
6 than 50 percent of any) benefits paid to the representative
7 payee pursuant to pursuant to clause (ii) of this subpara-
8 graph to reimburse the State for—

9 “(aa) foster care maintenance payments made
10 pursuant to section 472; or

11 “(bb) other payments made by a State or polit-
12 ical subdivision of a State to cover any other cost or
13 expense for an individual who is in foster care under
14 the responsibility of the State.

15 “(III) An expense described in subparagraph (D) of
16 this paragraph or section 205(j)(4)(A)(i) shall not be con-
17 sidered a cost or expense for purposes of subclause (II)
18 of this clause.

19 “(IV) In any case in which the State or local govern-
20 ment agency referred to in subclause (II) determines that
21 any portion of such individual’s benefit under this title
22 which is held by the agency in accordance with this para-
23 graph would be available under the provisions of this para-
24 graph (other than this subclause) to reimburse govern-
25 ment costs in connection with the foster care, any amount

1 of the portion of the benefit shall be available for such
2 reimbursement only to the extent that the amount is made
3 available to supplement, and not to replace, any amounts
4 otherwise available from non-Federal sources to meet the
5 government costs. Any amount of the reimbursement shall
6 not be distributed into the general funds of the agency
7 or the State or local government and may be applied only
8 so as to increase funding for foster care services provided
9 by the State or local government.”.

10 **SEC. 3. SCREENING OF FOSTER CHILDREN FOR ELIGI-**
11 **BILITY FOR SOCIAL SECURITY AND SUPPLE-**
12 **MENTAL SECURITY INCOME BENEFITS.**

13 (a) STATE PLAN REQUIREMENT.—Section 471(a) of
14 the Social Security Act (42 U.S.C. 671(a)) is amended—

15 (1) by striking “and” at the end of paragraph
16 (32);

17 (2) by striking the period at the end of para-
18 graph (33) and inserting “; and”; and

19 (3) by adding at the end the following:

20 “(34) provides that, not later than the begin-
21 ning of the 1st calendar quarter that begins after
22 the 3-year period that begins with the date of the
23 enactment of this paragraph, the State agency re-
24 ferred to in paragraph (2) of this subsection shall—

1 “(A) develop and implement procedures to
2 ensure that, within 60 days after the status of
3 a child who is in foster care under the responsi-
4 bility of the State is first reviewed pursuant to
5 section 475(5)(B), and after any material
6 change in the circumstances of the child that
7 could affect the potential eligibility of the child
8 for such benefits, the child is screened to deter-
9 mine the potential eligibility of the child for
10 benefits under title II and for supplemental se-
11 curity income benefits under title XVI;

12 “(B) if the screening results in a deter-
13 mination that the child is potentially eligible for
14 any of such benefits—

15 “(i) provide the child with assistance
16 in applying for, and (if necessary) appeal-
17 ing any decisions made with respect to, the
18 benefits; and

19 “(ii) if there is no other suitable can-
20 didate available, apply to become the rep-
21 resentative payee for the child with respect
22 to the benefits; and

23 “(C) develop and implement procedures to
24 ensure that any such child who is potentially el-
25 igible for, or is a recipient of, benefits under

1 title II or supplemental security income benefits
2 under title XVI, is assisted with applying for
3 such benefits 90 days before the child exits fos-
4 ter care.”.

5 (b) GAO STUDY.—

6 (1) IN GENERAL.—Within 6 years after the
7 date of the enactment of this Act, the Comptroller
8 General of the United States shall conduct a study
9 to determine whether the States have substantially
10 complied with the amendments made by this section,
11 including specifically whether the States have—

12 (A) established successful procedures that
13 screen all foster children under the responsi-
14 bility of the States for their potential eligibility
15 for benefits under title II of the Social Security
16 Act and for supplemental security income bene-
17 fits under title XVI of such Act;

18 (B) provided all such potentially eligible
19 foster children assistance in applying for, and
20 appealing decisions made with respect to, the
21 benefits; and

22 (C) implemented procedures to identify
23 suitable nongovernmental candidates to serve as
24 representative payees for children in foster care
25 with respect to the benefits.

1 (2) REPORT TO THE CONGRESS.—Within 1 year
2 after completing the study required by paragraph
3 (1), the Comptroller General shall submit to the
4 Congress a written report that contains the results
5 of the study.

6 **SEC. 4. NOTICE TO ATTORNEY OR GUARDIAN AD LITEM**
7 **FOR FOSTER CHILD OF DETERMINATION TO**
8 **PAY SOCIAL SECURITY OR SUPPLEMENTAL**
9 **SECURITY INCOME BENEFITS TO REP-**
10 **RESENTATIVE PAYEE.**

11 (a) AMENDMENT TO TITLE II.—Section
12 205(j)(2)(E)(ii) of the Social Security Act (42 U.S.C.
13 405(j)(2)(E)(ii)) is amended by inserting “, except that,
14 in the case of an individual who is in foster care under
15 the responsibility of a State, such notice shall also be pro-
16 vided to the attorney or guardian ad litem appointed to
17 represent the individual pursuant to section
18 106(b)(2)(A)(xiii) of the Child Abuse Prevention and
19 Treatment Act and, if the individual has attained 14 years
20 of age, to the individual” before the period.

21 (b) AMENDMENT TO TITLE XVI.—Section
22 1631(a)(2)(B)(xii) of such Act (42 U.S.C.
23 1383(a)(2)(B)(xii)) is amended by inserting “, except that,
24 in the case of an individual who is in foster care under
25 the responsibility of a State, such notice shall also be pro-

1 vided to the attorney or guardian ad litem appointed to
2 represent the individual pursuant to section
3 106(b)(2)(A)(xiii) of the Child Abuse Prevention and
4 Treatment Act and, if the individual has attained 14 years
5 of age, to the individual” before the period.

6 **SEC. 5. MANAGEMENT OF SOCIAL SECURITY AND SUPPLE-**
7 **MENTAL SECURITY INCOME BENEFITS FOR**
8 **FOSTER CHILDREN.**

9 (a) PLAN FOR ACHIEVING SELF-SUPPORT.—Section
10 471(a) of the Social Security Act (42 U.S.C. 671(a)), as
11 amended by section 3(a) of this Act, is amended—

12 (1) by striking “and” at the end of paragraph
13 (33);

14 (2) by striking the period at the end of para-
15 graph (34) and inserting “; and”; and

16 (3) by adding at the end the following:

17 “(35) provides that, with respect to each child
18 in foster care under the responsibility of the State
19 who is a recipient of benefits under title II or sup-
20 plemental security income benefits under title XVI,
21 the State agency shall develop a plan, developed spe-
22 cifically for the child, which is designed to best meet
23 the current and future needs of the individual and
24 enable the child to achieve self-support after leaving
25 foster care, in accordance with the following:

1 “(A)(i) The plan shall set forth a strategy
2 to conserve benefits not necessary for the imme-
3 diate needs of the child, determined as provided
4 for pursuant to clause (ii) of this subparagraph,
5 in a manner that best meets the future needs
6 and educational and employment interests of
7 the child, and for the placement of any such
8 benefits in an account of the type described in
9 section 1631(a)(2)(F) of this Act, or an account
10 established by the State under section 477 of
11 this Act.

12 “(ii) The plan shall provide for a deter-
13 mination as to whether the child has immediate
14 needs for which the benefits should be used
15 consistent with sections 205(j)(10)(B) and
16 1631(a)(2)(A)(iv)(II).

17 “(iii) The plan shall provide for a deter-
18 mination of any additional assets to which the
19 child may be entitled, including civil judgments,
20 inheritances, or earnings, and shall provide for
21 the assets to be conserved as described in clause
22 (i) of this subparagraph.

23 “(iv) Any funds conserved in accordance
24 with the plan shall be used to supplement and
25 not supplant any other Federal funds or pro-

1 grams that may be available for the benefit of
2 the child.

3 “(v) The plan shall provide that any assets
4 set aside under the plan shall be conserved and
5 inaccessible to the child (except for a use of
6 funds described in item (aa) through (gg) of
7 section 1631(a)(2)(F)(ii)(II) of this Act, or for
8 another use approved by the Secretary as being
9 in the best interests of the child), and placed in
10 the account described in clause (i) of this sub-
11 paragraph, until the later of the date the child
12 attains 18 years of age or ceases to be under
13 the responsibility of the State, at which time
14 any assets subject to the plan shall be acces-
15 sible to the child to—

16 “(I) secure and maintain stable hous-
17 ing;

18 “(II) pursue educational opportuni-
19 ties, including job training, vocational
20 training, or obtain a professional license;

21 “(III) purchase a vehicle;

22 “(IV) operate a business;

23 “(V) pay for employment-related
24 costs, including the cost of uniforms, insur-

1 ance, licenses, or complying with licensing
2 requirements;

3 “(VI) pay for medical or health-re-
4 lated expenses; or

5 “(VII) pay for any expenses reason-
6 ably expected to assist the child in becom-
7 ing self-sufficient.

8 “(B) The State agency shall—

9 “(i) develop and implement the plan
10 in collaboration with the child (on an age-
11 appropriate basis), the social worker for
12 the child, the person acting as the rep-
13 resentative payee for the child pursuant to
14 section 205(j) or 1631(a)(2) of this Act,
15 and the attorney or guardian ad litem ap-
16 pointed to represent the child pursuant to
17 section 106(b)(2)(A)(xiii) of the Child
18 Abuse Prevention and Treatment Act; and

19 “(ii) in developing and implementing
20 the plan, make reasonable efforts to seek
21 input from the parents and caretakers of
22 the child.

23 “(C)(i) Within 60 days after the status of
24 the child is first reviewed pursuant to section

1 475(5)(B), the State agency shall complete the
2 plan.

3 “(ii) The State agency shall ensure that
4 each subsequent such review of such status
5 shall include consideration of an updated
6 version of the plan and a report on the progress
7 made in implementing the plan.

8 “(D)(i) Not later than 30 days before the
9 status of the child is first reviewed pursuant to
10 section 475(5)(B) of this Act after completion
11 of the plan, the State agency shall provide a
12 copy of the plan to the attorney or guardian ad
13 litem appointed to represent the child pursuant
14 to section 106(b)(2)(A)(xiii) of the Child Abuse
15 Prevention and Treatment Act.

16 “(ii) Not later than 30 days before each
17 subsequent such review, the State agency shall
18 provide an updated copy of the plan to the at-
19 torney or guardian ad litem so appointed.

20 “(E)(i) The child may request the plan to
21 be modified in a review of the status of the
22 child pursuant to section 475(5)(B), in a sepa-
23 rate hearing, or in a permanency hearing pur-
24 suant to section 475(5)(C).

1 “(ii) The plan shall not be treated, in any
2 administrative or judicial review proceeding, as
3 meeting the requirements of this paragraph
4 with respect to a child unless the plan is deter-
5 mined by the reviewer to be the best available
6 means of meeting the current and future needs
7 and educational and employment interests of
8 the child.”.

9 (b) PROVISIONS RELATING TO REPRESENTATIVE
10 PAYEES.—

11 (1) AMENDMENTS TO TITLE II.—Section 205(j)
12 of such Act (42 U.S.C. 405(j)) (as amended by the
13 preceding provisions of this Act) is amended fur-
14 ther—

15 (A) by redesignating paragraphs (8), (9),
16 and (10) as paragraphs (9), (10), and (11), re-
17 spectively; and

18 (B) by inserting after paragraph (7) the
19 following new paragraph:

20 “(8) A representative payee shall manage the benefits
21 paid to the representative payee under paragraph (1) on
22 behalf of an individual who is in foster care under the re-
23 sponsibility of a State, in accordance with the plan devel-
24 oped for the child pursuant to section 471(a)(35).”.

1 (2) AMENDMENT TO TITLE XVI.—Section
2 1631(a)(2) of such Act (42 U.S.C. 1383(a)(2)) is
3 amended by adding at the end the following:

4 “(J) A representative payee shall manage the benefits
5 paid to the representative payee under subparagraph
6 (A)(ii) of this paragraph on behalf of an individual who
7 is in foster care under the responsibility of a State, in ac-
8 cordance with the plan developed for the child pursuant
9 to section 471(a)(35).”.

10 (c) EXCLUSION FROM RESOURCES UNDER THE SSI
11 PROGRAM.—Section 1613(a) of such Act (42 U.S.C.
12 1382b(a)) is amended—

13 (1) by striking “and” at the end of paragraph
14 (14);

15 (2) by striking the period at the end of para-
16 graph (15) and inserting “; and”; and

17 (3) by inserting after paragraph (15) the fol-
18 lowing:

19 “(16) any assets managed on behalf of an eligi-
20 ble individual in accordance with a plan developed
21 for the individual pursuant to section 471(a)(35).”.

1 **SEC. 6. SUPPORT AND MAINTENANCE FURNISHED IN CASH**
2 **OR IN KIND DISREGARDED IN DETERMINING**
3 **INCOME OF FOSTER CHILDREN UNDER THE**
4 **SUPPLEMENTAL SECURITY INCOME PRO-**
5 **GRAM.**

6 Section 1612(a)(2)(A) of the Social Security Act (42
7 U.S.C. 1382a(a)(2)(A)) is amended—

8 (1) by striking “and” at the end of clause (ii);
9 and

10 (2) by inserting “, and (iv) clause (i) shall not
11 apply in the case of a child who is in foster care
12 under the responsibility of a State” before the last
13 semicolon.

14 **SEC. 7. TECHNICAL ASSISTANCE FOR CHILD WELFARE**
15 **AGENCIES.**

16 (a) **IN GENERAL.**—On request of a State agency re-
17 sponsible for administering, or supervising the administra-
18 tion of, a State program authorized by part E of title IV
19 of the Social Security Act, the Secretary of Health and
20 Human Services shall provide the State agency with tech-
21 nical assistance in carrying out the amendments made by
22 this Act.

23 (b) **LIMITATIONS ON AUTHORIZATION OF APPRO-**
24 **PRIATIONS.**—To carry out this section, there are author-
25 ized to be appropriated \$4,500,000 for fiscal year 2013,

1 and such sums as may be necessary for each of fiscal years
2 2014 through 2018.

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 1st
13 day of the 1st 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 1st 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 1st day of the 1st 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.