



Advocates for Children and Youth is a statewide non-profit focused on improving the lives and experiences of Maryland's children through policy change and program improvement. We champion solutions to child welfare, education, health, and juvenile justice issues, positioning us to influence the full spectrum of youth experiences. This multi-issue platform helps us to improve the entirety of children's worlds—the systems they touch, the people they interact with, and the environment where they live.

Testimony before the Finance Committee

In SUPPORT

Senate Bill 442- Family Law- Protecting the Resources of Children in State Custody

**Melissa Rock, Child Welfare Director, Advocates for Children and Youth
February 22, 2017**

Thank you for the opportunity to provide testimony on Senate Bill 442– Family Law- Protecting the Resources of Children in State Custody. Advocates for Children and Youth (ACY) supports this bill. **SB 442 is substantively identical to SB 524 from 2015, which passed both the Judicial Proceedings Committee and the entire Senate unanimously.** There are technical changes based on feedback from the Social Security Administration.

Currently, the Department of Human Resources (DHR) is applying for federal benefits, such as Social Security Disability (SSI) and Social Security Survivor (OASDI) benefits, for abused and neglected children who are living in foster homes, group homes, or residential mental health treatment centers. However, rather than using that child's benefits for additional services for that child, they are using the money to reimburse the state for the cost of their placement.

SB 442 Supports the Foster Child's Best Interests

Federal law clearly requires that a representative payee use these benefits in the child's best interests. According to the Social Security Program Operations Manual System (POMS) GN 00602.001 and 20 CFR 404.2035 - .2045, the representative payee has a "responsibility to use the benefits received on behalf of a beneficiary only for the use and benefit of the beneficiary." Additionally, a representative payee is required to "use the benefits to provide for the beneficiary's current needs...or for the reasonably foreseeable needs." If the funds are "not needed for these purposes...the payee must conserve or invest the benefits on behalf of the beneficiary." Saving a foster youth's benefits for them to access upon aging out of the child welfare system is consistent with federal law. In *Washington State Department of Social and Health Services v. Guardianship Estate of Keffeler*, 537 U.S.371, 379 (2003), the Court recognized that there

have been instances “in which the department has forgone reimbursement for foster care to conserve a child’s resources for expenses anticipated on impending emancipation.”

In compliance with federal law, SB 442 requires DHR to use a foster child's benefits in that child's best interest. Rather than merely using this money to replace state funds with federal funds, for older foster youth who are nearing their transition out of care to independence, a portion of the money would be put into savings for when they exit care. SB 442 requires that this money be placed into an Individual Development Account (IDA), a special needs trust, a Program for Achieving Self Support (PASS) account, or a 529A ABLE account the young person to access as he or she is transitioning out of foster care. In a letter to former Secretary Malhotra, **the Social Security Administration has affirmed that ABLE accounts would be a viable savings mechanism for the benefits, as would special needs trusts.** The average amounts of money that would be placed into savings for the foster youth, in SB 442 is as follows:

	Social Security Disability: \$3,686¹	Social Security Survivor: \$2,977²
Age 14: 40%	\$1,474.40	\$1,190.80
Age 15: 40%	\$1,474.40	\$1,190.80
Age 16: 80%	\$2,948.80	\$2,381.60
Age 17: 80%	\$2,948.80	\$2,381.60
Age 18: 100%	\$3,686	\$2,977
Age 19: 100%	\$3,686	\$2,977
Age 20: 100%	\$3,686	\$2,977
Total Savings 14-20:	\$19,904.40	\$16,075.80

Preparing foster youth to live successful, stable, and independent adult lives upon leaving the child welfare system is essential and certainly in their best interest. While we do not have much data to depict specific, long-term outcomes for Maryland’s foster youth when they leave care, we do know that, nationally, the outcomes are abysmal. In the Midwest study, the largest study to assess outcomes of youth who had aged out of foster care, the 720 youth interviewed at age 26 showed the following outcomes:³

- 76.5% (254) of women and 47.6% (119) of men were receiving means tested benefits.
- 19.9% (118) had no high school diploma or GED at age 26

¹On p. 2 of DHR's 10/15/2014 letter in response to the 2014 Joint Chairman's Report- Foster Child Survivor and Disability Benefit Report, they state that the \$3,686 is the average per child FY 2014 Disability Benefit.

² On p. 2 of DHR's 10/15/2014 letter in response to the 2014 Joint Chairman's Report- Foster Child Survivor and Disability Benefit Report, they state that the \$2,977 is the average per child FY 2014 Survivor Benefit.

³ “Midwest evaluation of the adult functioning of former foster youth: Outcomes at age 26”. Chicago, IL: Chapin Hall at the University of Chicago, p. 12, 20, 28, 46, & 44.

- Only 2.5% (15) had a 4 year degree; 4.4% (26) had a 2 year degree
- 46.8 % (279) were unemployed (About half worked in the past year and half had last worked more than a year ago.)
- 50% reported experiencing homelessness more than once

There is a tragically close relationship between homelessness and foster care involvement. **In the 2015 Youth Reach count of homeless youth in Maryland, 22% of the unaccompanied homeless youth had been in foster care.**⁴ This is even higher than the national data which shows that foster youth who have aged out of foster care have a 1 in 11 chance of experiencing homelessness (compared to 1 in 194 for someone in the general U.S. population).⁵

Maryland currently has 4,542 abused and neglected children living in out-of-home placements.⁶ In 2016, 454 youth had aged out of the system.⁷ Much like their peers from the Midwest study, most of these 21 year olds don't have any stable adults in their life to rely on; few, if any, have completed their college education; and some haven't even completed their high school education. Almost none of these youth have any savings. If even a fraction of these youth had their SSI saved in an account for them to access when they left foster care, they would have the additional financial resources to ensure that their outcomes are not so grim.

Foster Children Receiving SSI & OASDI Are Especially Vulnerable

To be eligible for SSI benefits, a child must be blind or severely disabled.⁸ This is further defined as "a physical or mental impairment that results in 'marked and severe functional limitations' (*internal citations omitted*)."⁹ The ability for these young people to work and receive an income sufficient to support themselves is limited, which makes it all that more important to save this money for them for when they are no longer in the state's care and custody.

⁴ The Institute for Innovation & Implementation, University of Maryland School of Social Work for the Maryland Department of Housing & Community Development and the Youth REACH MD Steering Committee, "Maryland's First Unaccompanied Homeless Youth & Young Adult Count: Findings from Youth REACH MD Phase 2," (March 2016) p. 17. (The Youth Reach Survey was not statewide, but included Anne Arundel County, Baltimore County, Baltimore City, Prince George's County, Somerset County, and Washington County, Wicomico County, and Worcester County.

⁵ "The state of homelessness in America 2012," Washington, DC: National Alliance to End Homelessness, Homelessness Research Institute (2012), p. 5.

⁶ <http://datacenter.kidscount.org/data/tables/7707-out-of-home-placement-total?loc=22&loct=2#detailed/2/any/false/870,573,869,36/4491,4492,4493,4494,4495,4496,4497,4498,4499,4500,4501,4502/14878>

⁷ <http://datacenter.kidscount.org/data/tables/7718-aged-out?loc=22&loct=2#detailed/2/any/false/870,573,869,36/4491,4492,4493,4494,4495,4496,4497,4498,4499,4500,4501,4502,4879/14889>

⁸ Congressional Research Service, "Child Welfare: Social Security and Supplemental Security Income (SSI) Benefits for Children in Foster Care," September 28, 2012, p. 8.

⁹ Id.

The youth who are eligible for OASDI are receiving those benefits from the wages of their deceased parents. These young people don't have the benefit of their parents as resources when they are becoming self-sufficient adults. If DHR is permitted to continue using a foster youth's benefits to reimburse itself for the cost of the youth's foster care placements, not only will these young people not have their parents, but they won't have any savings either.

The Fiscal Note Overstates the Cost

While SB 442 has never been heard here in the Finance Committee, it is the 4th consecutive year this legislation has been introduced. While there have been slight alterations to the bill each year, it has been substantively the same. Unfortunately, in spite of that, there has never been an accurate fiscal note. This year's fiscal note is especially problematic since DHR did not provide the Department of Legislative Services the information they requested.

- The fiscal note does not take into account that **DHR will still have all the Social Security Survivor, Social Security Disability, and any other federal benefits for the foster youth ages 13 and under.**
- The fiscal note does not even take into account that for foster youth ages 14-17, DHR will still have part of the benefits.
- Contrary to the implication in the fiscal note, SB 442 does not require DHR to make applications for Social Security benefits for any additional foster youth. DHR already contracts with Maximus to apply for social security benefits for foster youth. SB 442 simply restricts how that money can be used for a small fraction of youth in DHR's care and custody.
- While it is difficult to quantify, the fiscal note does not take into account ultimate savings for the state of improved outcomes for these foster youth by having this money saved for when they transition out of foster care. They will be able to pursue higher education degrees and increase their earning potential. It will be easier for them to pay for stable housing, and prevent them from becoming homeless. They will be better equipped to become productive members of our communities.

We urge this committee to issue a favorable report on SB 442, so that older foster youth with disabilities receive more services to meet their needs and more of our foster youth leave foster care with savings and better equipped to support themselves and make a successful transition to adulthood.