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Senate Bill 18 (as passed by the Senate)
Sponsor: Senator Jeff Irwin
Committee: Housing and Human Services

Date Completed: 7-3-25

RATIONALE

According to testimony before the Senate Committee on Housing and Human Services, approximately 600 children enter the foster system each year with State and Federal benefits, assets, or income. This may include disability benefits, Social Security benefits from a deceased parent, or veteran benefits from a deceased parent. Currently, the Department of Health and Human Services (DHHS) seizes these funds to defray the cost of that child's care. In 2023, this amounted to \$3.2 million in confiscated funds.¹ Children in foster care often struggle financially after leaving the system. Foster children may lack family to guide and support them in times of financial insecurity. They also may lack financial knowledge and may have missed milestones, like the opening of a bank account or credit card.² Such obstacles may lead to poor outcomes. According to the Kids Count Data Center, 33% of former foster children aged 21 had reported experiencing homelessness in the past two years.³ According to the National Foster Youth Institute, only 50% of former foster children find gainful employment by the age of 24.⁴ Foster children who age out of the system also have a lower chance of obtaining a college degree than children who were not placed in the system.⁵ Some contend that allowing children to retain assets would reduce these negative outcomes. As such, it has been suggested that the DHHS's practice be discontinued to allow a child in foster care with State or Federal benefits, assets, or income, to retain those funds for the child's use.

CONTENT

The bill would amend the Foster Care and Adoption Services Act to do the following:

- Require the DHHS, at its discretion, to secure and screen a child in foster care for potential eligibility for State and Federal benefits within 90 days of the child entering foster care and annually if a child remained in foster care.**
- Require the DHHS to consult with the parents or guardian ad litem of a child in foster care to make decisions regarding State or Federal benefits for the child's best interest.**

¹ House Fiscal Agency, Introduced Summary of House Bill 4694, 11-9-23. Available on the Michigan Legislature website: <https://www.legislature.mi.gov/>.

² Weybright, Scott, "Study finds foster youth lack critical financial skills", *Washington State University Insider*, March 24, 2021.

³ "Youth transitioning out of foster care: Experienced homelessness in the past two years in Michigan", Kids Count Data Center, the Annie E. Casey Foundation. Retrieved 6-13-25. <https://datacenter.aecf.org/data/tables/10857-youth-transitioning-out-of-foster-care-experienced-homelessness-in-the-past-two-years?loc=1&loct=2#detailed/2/24/true/1698,1697/6259/21108>.

⁴ "51 Useful Aging Out of Foster Care Statistics", National Foster Youth Institute. Retrieved on 6-11-25. <https://nfyi.org/51-useful-aging-out-of-foster-care-statistics-social-race-media/>.

⁵ *Id.*

- **Prohibit the State from using a child in foster care's State or Federal benefits, assets, or income as reimbursement for the care of that child.**
- **Prescribe how the DHHS could conserve or use a child's State or Federal benefits.**
- **Require the DHHS to conserve and monitor any benefits of a child in foster care for whom the DHHS served as a representative payee or fiduciary until the DHHS no longer served as a payee or fiduciary.**
- **Require the DHHS to notify a child in foster care, through the child's guardian ad litem, of an application for or change in status of any Federal benefits pertaining to the child.**
- **Require the DHHS to provide a child 14 years of age or older in foster care with financial literacy training consistent with the needs of that child.**
- **Require the DHHS to notify a child, through the child's guardian ad litem, of information about the child's assets before each permanency planning hearing regarding the child if the DHHS served as a representative payee or fiduciary.**
- **Require the DHHS to facilitate the transfer of assets to the child upon adulthood and specify how the assets would have to be disbursed if the child were discharged from or died in foster care.**
- **Require the DHHS, or a guardian ad litem if appointed, to file timely appeals to a denial, overpayment, or cessation of State or Federal benefits on behalf of a child in foster care.**

The bill would take effect October 1, 2026.

Under the bill, the DHHS would have to do the following:

- At the DHHS' discretion, screen a child in foster care for potential eligibility for State or Federal benefits within 90 days after the child entered foster care, and annually if the child remained in foster care.
- As appropriate, consult with the parents or guardian ad litem, if one had been appointed, of a child in foster care to make decisions regarding State and Federal benefits in the best interest of the child.
- Using information collected as described above, apply for State and Federal benefits for which a child in foster care could be eligible and was not already receiving as appropriate for the child's best interest.

"Federal benefits" would mean Social Security benefits and United States Department of Veterans Affairs benefits. "State benefits" would mean State supplemental payments for recipients of Federal supplemental security income.

Except as otherwise provided below, the State could not use payments from State or Federal benefits of a child in foster care, or any other assets or income that the child had earned, owned, or received, as reimbursement for the cost of care for the child. The DHHS could, after appropriate consultation with the child in foster care's parents or guardian ad litem, if one had been appointed, do either of the following if it determined that it was in the child's best interests:

- Use the child's State or Federal benefits for special needs services for the child that were not otherwise provided by the DHHS.
- Conserve the State or Federal benefits for reasonably foreseeable future special needs services for the child.

If the DHHS applied for State or Federal benefits for a child in foster care, the DHHS, in cooperation with the child's guardian ad litem if one had been appointed, would have to do either of the following:

- Provide information to assist payors of State or Federal benefits in identifying an appropriate representative payee or fiduciary in accordance with the requirements of Federal law.⁶
- Serve as the representative payee, if designated by a payor of the State or Federal benefits, or a fiduciary for the child in foster care if payments could not be made as described above.

Consistent with Federal law, if the DHHS served as the representative payee or in any other fiduciary capacity for a child in foster care that received State or Federal benefits, the DHHS would have to do all the following until the DHHS no longer served as the representative payee or fiduciary:

- Conserve the State or Federal benefits in the child's best interests or use the benefits as authorized for special needs services for the child as described above.
- Subject to the DHHS' authorized uses of State or Federal benefits, appropriately monitor any State or Federal asset or resource limits for the benefits and ensure that the child's best interests were served by using or conserving the Federal benefits in a way that avoided violating any State or Federal asset or resource limits that would affect the child's eligibility to receive the benefits.
- Provide an annual accounting to the child and the child's guardian ad litem, if one had been appointed, of how the child's State or Federal benefits had been used or conserved in accordance with the bill's provisions.

The DHHS would have to immediately notify a child in foster care, through the child's guardian ad litem if one had been appointed, of any of the following:

- An application for State or Federal benefits made on the child's behalf or any application to become representative payee for Federal benefits on the child's behalf.
- A decision or communication from the State or Federal government regarding an application for benefits made on the child's behalf or any application to become representative payee for benefits on the child's behalf.
- An appeal or other action requested by the DHHS regarding an application for State or Federal benefits made on the child's behalf or any application to become representative payee for benefits on the child's behalf.

If the DHHS served as the representative payee or otherwise received unqualified benefits on behalf of a child in foster care, the DHHS would have to provide notice to the child, through the child's guardian ad litem if one had been appointed, of all the following before each permanency planning hearing regarding the child:

- The amount of State or Federal benefits received on the child's behalf since any previous notification to the child's guardian ad litem, if one had been appointed, and the date of each receipt.
- Information regarding the disposition of funds received on the child's behalf including an accounting of any funds disbursed or expended and the balance of any deposit or trust accounts.

⁶ Generally, 20 CFR 404.2021 and 416.621 establish categories and preferences for selecting a representative payee.

Additionally, the DHHS would have to facilitate the transfer of any assets or income that the child had earned, owned, or received to the child when the child was discharged from foster care or reached the age of 18, whichever was sooner. The DHHS would have to assist the child in nominating a representative payee for consideration by a payor of State or Federal benefits, if applicable. If the child died while in foster care, the DHHS would have to facilitate the transfer of any of the child's assets or income to the child's heirs. If the child were discharged from foster care into the care of a parent, guardian, or conservator, the DHHS would have to facilitate the transfer of any assets or income to the child's parent, guardian, or conservator to be managed for the benefit of the child. The bill would specify that the DHHS' responsibilities described above would only apply to funds for which the DHHS was the payee or fiduciary.

As appropriate, the DHHS or the child in foster care's guardian ad litem, if one had been appointed, would have to file timely appeals to a denial, overpayment, or cessation of State or Federal benefits on behalf of a child in foster care. A transfer of assets could only be made in accordance with rules promulgated by the United States Social Security Administration. The bill would specify that the provisions described above would not affect any additional notice required by a State court.

Finally, the bill would require the DHHS to provide a child in foster care with financial literacy training if the child were at least 14 years old and able to receive the training.

Proposed MCL 722.958f

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a reintroduction of Senate Bill 872 of the 2023-2024 Legislative Session. Senate Bill 872 passed the Senate and was reported from the House Committee on Families, Children, and Seniors but received no further action.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Allowing foster youth to retain their own assets could improve outcomes. Testimony before the Senate Committee on Housing and Human Services indicates that funding seized by the State could instead be used to launch former foster children into successful adult lives. Retirement, veteran, and disability benefits paid to a child could pay a downpayment on a car used to travel to interviews, to make a deposit on college tuition, and more. A child still in the foster system could use the child's assets to pay for medical expenses not covered by health insurance. Additionally, a child who was placed in foster care because of a family unable to afford that child's needs could return to the child's family of origin with additional revenue, stabilizing the household. Allowing foster youth to retain benefits also could help those with a disabling impairment transition to adulthood. According to testimony before the Senate Committee on Housing and Human Services, the standards for disability certification for children (under 18) and adults (18 or older) differ. As a result, young adults must certify their disability at age 18. Young adults with previous certification experience may find the transition easier, as past medical or benefit records and more may be used to certify their disabling impairment. Under the current system, children may not have access to these records because the DHHS applies for and receives benefits on their behalf, often without notification. Allowing foster youth to retain their assets also would give them medical and benefit records that could be used to access adult disability benefits. Overall, foster youth and former foster youth, regardless of impairment, could benefit from the retention of assets.

Supporting Argument

Foster children should not be obligated to pay for their own care. Testimony before the Senate Committee on Housing and Human Services during the 2023-2024 Legislative Session indicates that foster children receive the same level of care, whether or not they enter the system with assets. Despite this, the DHHS seizes foster youths' assets to pay for that care, while providing it to other foster children free of charge. This is not fair to foster youth. When the State assumes responsibility of a child, the State should pay for that child's care. All foster youths should have access to free, quality care, regardless of their portfolios.

Additionally, the DHHS' practice is unethical. Individuals pay into retirement systems, through pay contributions or service, to ensure that their dependents are taken care of upon retirement, disability, or death. In fact, testimony before the Senate Committee on Housing and Human Services indicates that the Social Security Administration recommends that a child's relative or guardian serve as that child's benefit payee, which are standards that the DHHS does not fit. Even the DHHS recognizes that it is the improper recipient of benefits, pledging to end this practice, according to testimony submitted to the Senate Committee on Housing and Human Services. The funds seized by the DHHS belong to Michigan workers and their dependents. The bill would ensure they were paid to the rightful recipients.

Lastly, the bill could create a more sustainable funding structure for the State's foster care system. Most of the assets and benefits seized by the State to pay for foster youths' care result from Federal programs and initiatives. If the Federal government were to roll back these programs or initiatives, the DHHS would face a shortfall in foster care funding. By returning funds to foster youth, the bill would require the DHHS to seek different, potentially more stable, sources of funding. Overall, the bill would return fairness to the foster care system.

Supporting Arguments

The bill would ultimately result in cost savings for the State. Upon aging out of the foster care system, many foster children struggle to make ends meet. They may rely on public assistance programs, such as temporary food assistance, temporary heat and utility assistance, or Medicaid. They also may end up incarcerated. According to the Kids Count Data Center, 25% of former foster children aged 21 reported that they had been incarcerated in the past two years.⁷

In Michigan, the annual per-person cost of imprisonment ranges from \$34,000 to \$48,000 depending on security level.⁸ The bill could reduce the number of former foster children incarcerated and the costs associated with them. By allowing foster youths to retain assets, the State could see a reduction in public assistance claims and imprisonments and an increase in associated savings that would offset the loss of DHHS revenue.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have a negative fiscal impact on the State and local governments. The bill would prevent the DHHS from collecting Federal benefits, unqualified benefits, assets, or income of foster care youth and using the funds to offset the costs of their care.

⁷ "Youth transitioning out of foster care: Incarcerated in the past two years in Michigan", Kids Count Data Center, the Annie E. Casey Foundation. Retrieved 6-13-25.

<https://datacenter.aecf.org/data/tables/10865-youth-transitioning-out-of-foster-care-incarcerated-in-the-past-two-years?loc=1&loct=2#detailed/2/24/true/1698,1697/6259/21124>.

⁸ "A Second Look at Long-Term Imprisonment in Michigan", *The Sentencing Project*, February 23, 2023.

The Fiscal Year (FY) 2024-2025 authorization for this is \$3.6 million, of which about \$500,000 goes to local governments, so up to that amount in lost revenue would have to be replaced by General Fund/General Purpose. The Governor's proposed FY 2025-2026 budget includes a \$3.5 million General Fund/General Purpose appropriation to offset the cost.

Fiscal Analyst: Jaymie Tibbits

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.