

AMENDED IN ASSEMBLY APRIL 20, 2005

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1633

Introduced by Assembly Member Evans

February 22, 2005

An act to amend Section 11403 of, and to add Chapter 6.2 (commencing with Section 13750) to Part 3 of Division 9 of, the Welfare and Institutions Code, relating to foster children, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1633, as amended, Evans. Foster children: high school: social security assistance.

(1) Existing law permits a child who is in foster care and receiving aid pursuant to the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, who is attending high school or the equivalent level of vocational or technical training on a full-time basis prior to his or her 18th birthday, to continue to receive aid following his or her 18th birthday, if the child continues to reside in foster care placement, remains otherwise eligible for AFDC-FC payments, and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis and if the child may reasonably be expected to complete the educational or training program before his or her 19th birthday.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county costs under the CalWORKs program, which includes the AFDC-FC program.

This bill would extend the opportunity to remain in foster care placement beyond the age of 18 years to a foster child who is pursuing a high school equivalency certificate. By extending AFDC-FC benefits to additional recipients, this bill would ~~make an appropriation, and would~~ increase the duties of counties administering the program, thus imposing a state-mandated local program. *The bill would declare that no appropriation would be made pursuant to the existing continuous appropriation for purposes of implementing these provisions.*

This bill would also declare the intent of the Legislature to enact legislation relating to educational opportunities and resources for foster youth, including to provide for designated education and information for judges, lawyers, and the Legislature, and to require foster youth to be informed of their education rights.

(2) Existing law provides for the placement of certain children in foster care under the custody of the State Department of Social Services. Existing law, the federal Social Security Act, provides for benefits for eligible beneficiaries, including survivorship benefits and supplemental security income benefits for, among others, blind and disabled children. The act authorizes a person or entity to be appointed as a representative payee for a beneficiary who cannot manage or direct the management of his or her money.

This bill would require the department to ~~establish and maintain a social security and supplemental security income assistance program~~ *for convene a workgroup to develop best practice guidelines for county welfare departments to assist eligible children who are in the state's or a county's custody and are qualified under the bill in obtaining federal social security and supplemental security income benefits. The bill would require these guidelines to be established by December 31, 2006, and would establish the required contents of the guidelines.* The bill would require the department to require each county to, among other duties, assist in the application process for an eligible foster child, and would require the county to apply to be appointed the child's representative payee when no other appropriate party is available to serve. It would further require the county to establish a maintenance account and a dedicated account for each child, to contain proceeds from social security and supplemental security income benefits, each of which would only be used for the purposes set forth in the bill. The bill would require the county to reserve *a portion of* a child's social security benefits for 90 days prior

to his or her 18th birthday, and to transfer those benefits to the child to assist in the transfer to self-sufficient living. ~~The bill would require the department to make an annual report containing designated information relating to the program, and to make the report available to the public. The bill would require the county to annually review a minimum of 5 counties to ensure compliance with the bill.~~

By increasing county duties, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) (1) Children and youth in foster care are more likely to
4 have more significant emotional and behavioral health problems,
5 developmental disabilities or delays, or chronic health conditions
6 than other children.

7 (2) Assisting eligible children in securing federal social
8 security benefits, or Supplemental Security Income/State
9 Supplementary Payment (SSI/SSP) benefits, is a cost-effective
10 method to improve the lives of many children and youth in state
11 custody and to improve their chances of returning to a safe and
12 stable home.

13 (3) Disabled children face special barriers when transitioning
14 from state care and custody.

15 (4) Federal financial benefits can be an important source of
16 support for these children. These benefits also can serve as a
17 buffer as children transition from state care and custody.

18 (5) Many children in foster care go without social security or
19 SSI/SSP benefits for which they are eligible because no one is

1 available to assist them with the application process. Only a
2 small percentage of the children in California that receive
3 SSI/SSP benefits also receive child welfare services, and many
4 more children in the state's care are likely eligible for social
5 security or SSI/SSP benefits.

6 (6) For those children who leave state custody at 18 years of
7 age, social security benefits serve as an important resource in
8 making the transition out of the state's custody.

9 (b) It is also the intent of the Legislature to enact legislation to
10 do all of the following:

11 (1) Provide for the education of judges and lawyers who have
12 contact with foster youth, regarding the importance of education
13 to these youth, including the law that permits a foster child to
14 remain in placement until his or her 19th birthday in order to
15 complete high school.

16 (2) Require appropriate state and local entities to provide
17 information to the Legislature regarding the number of foster
18 youth who do not graduate from high school, and the
19 impediments to high school graduation that face foster youth
20 after emancipation.

21 (3) Provide for procedures for informing foster youth of their
22 education rights and available resources, so that they will be
23 better able to advocate for their own needs.

24 SEC. 2. Section 11403 of the Welfare and Institutions Code is
25 amended to read:

26 11403. A child who is in foster care and receiving aid
27 pursuant to this chapter and who is attending high school or the
28 equivalent level of vocational or technical training on a full-time
29 basis, or who is in the process of pursuing a high school
30 equivalency certificate, prior to his or her 18th birthday, may
31 continue to receive aid following his or her 18th birthday so long
32 as the child continues to reside in foster care placement, remains
33 otherwise eligible for AFDC-FC payments, and continues to
34 attend high school or the equivalent level of vocational or
35 technical training on a full-time basis, or continues to pursue a
36 high school equivalency certificate, and the child may reasonably
37 be expected to complete the educational or training program or to
38 receive a high school equivalency certificate, before his or her
39 19th birthday. Aid shall be provided ~~such~~ to an individual
40 pursuant to this section provided both the individual and the

1 agency responsible for the foster care placement have signed a
2 mutual agreement, if the individual is capable of making an
3 informed agreement, which documents the continued need for
4 out-of-home placement.

5 SEC. 3. Chapter 6.2 (commencing with Section 13750) is
6 added to Part 3 of Division 9 of the Welfare and Institutions
7 Code, to read:

8

9

CHAPTER 6.2. FOSTER CARE SOCIAL SECURITY AND
10 SUPPLEMENTAL SECURITY INCOME ASSISTANCE PROGRAM

11

12 13750. This chapter shall be known, and may be cited, as the
13 Foster Care Social Security and Supplemental Security Income
14 Assistance Program.

15 ~~13752. The State Department of Social Services shall~~
16 ~~establish and maintain a social security and supplemental~~
17 ~~security income assistance program to ensure that all children~~
18 ~~residing in the state's or a county's custody who are eligible for~~
19 ~~benefits under Title II of the federal Social Security Act, pursuant~~
20 ~~to 42 U.S.C. Section 402 et seq. (social security benefits) and~~
21 ~~Title XVI of the Social Security Act, pursuant to 42 U.S.C.~~
22 ~~Section 1381 (supplemental security income benefits) receive all~~
23 ~~federal benefits for which they are eligible. The department shall~~
24 ~~require each county welfare department to do all of the~~
25 ~~following:~~

26 (a) ~~Conduct disability screenings at the earliest possible date~~
27 ~~for all children in the custody of the county who are anticipated~~
28 ~~to remain in the county's custody for six months or longer for~~
29 ~~eligibility for social security and Supplemental Security~~
30 ~~Income/State Supplemental Payment (SSI/SSP) benefits. All~~
31 ~~children who have actually remained in the county's continuous~~
32 ~~custody for six months shall be screened no later than the seventh~~
33 ~~month of placement.~~

34 (b) ~~Apply for and assist in the application process for social~~
35 ~~security and SSI/SSP benefits for each child who, pursuant to the~~
36 ~~disability screening, is likely to be determined eligible for~~
37 ~~benefits.~~

38 (c) ~~Request reconsideration and appeal adverse decisions~~
39 ~~where appropriate.~~

1 13752. *The State Department of Social Services shall convene*
2 *a workgroup comprised of the County Welfare Directors*
3 *Association, county welfare directors, child advocacy*
4 *organizations, current and former foster youth and other relevant*
5 *stakeholders, as determined by the department, to develop best*
6 *practice guidelines for county welfare departments to assist*
7 *children residing in the state's or a county's custody who are*
8 *eligible for benefits under Title II of the federal Social Security*
9 *Act, pursuant to 42 U.S.C. Section 402 et seq. (social security*
10 *benefits) and Title XVI of the Social Security Act, pursuant to 42*
11 *U.S.C. Section 1381 (supplemental security income benefits) in*
12 *receiving all federal benefits for which they are eligible. The*
13 *guidelines shall be established by December 31, 2006, and shall*
14 *include, but not be limited to, establishing procedures for all of*
15 *the following:*

16 (a) *Determining the time and manner for conducting disability*
17 *screenings for children in the custody of the county who may be*
18 *eligible for social security or supplemental security income/State*
19 *Supplementary Payment (SSI/SSP) benefits.*

20 (b) *Assisting in the application process for social security and*
21 *SSI/SSP benefits for each child who, pursuant to the disability*
22 *screening, is likely to be determined eligible for benefits.*

23 (c) *Requesting reconsideration and appealing adverse*
24 *decisions where appropriate.*

25 (d) *Informing parents and caretakers, at the time the child*
26 *leaves foster care, of potential eligibility for social security or*
27 *SSI/SSP benefits for any child not receiving benefits but who may*
28 *be eligible upon application for those benefits.*

29 (e) *Maximizing the amount federal benefits received for the*
30 *current maintenance of children in the county's custody.*

31 13754. *The county shall apply to be appointed representative*
32 *payee on behalf of a child beneficiary in its custody when no*
33 *other appropriate party is available to serve. In its capacity as*
34 *representative payee, the county shall do all of the following:*

35 (a) *Establish a no-cost, interest-bearing maintenance account*
36 *for each child in the department's custody for whom the*
37 *department serves as representative payee. Interest earned shall*
38 *be credited to the account. The county shall keep an itemized*
39 *current account, in the manner required by federal law, of all*
40 *income and expense items for each child's maintenance account.*

1 (b) Establish procedures for disbursing money from the
2 accounts, including disbursing the net balance to the beneficiary
3 upon release from care. The county shall use social security and
4 SSI/SSP benefits only for the following purposes:

5 (1) For the use and benefit of the child.

6 (2) For purposes determined by the county to be in the child's
7 best interest.

8 ~~(3) In accordance with an assessment of the child's individual
9 needs, provided that each child beneficiary shall receive a
10 personal allowance of at least thirty dollars (\$30) each month for
11 the child's personal use.~~

12 (c) Establish and maintain a dedicated account in a financial
13 institution for past-due monthly benefits that exceed six times the
14 maximum monthly benefit payable, in accordance with federal
15 law. The representative payee may deposit into the account
16 established under this section any other funds representing past
17 due benefits to the eligible individual, provided that the amount
18 of the past due benefits is equal to or exceeds the maximum
19 monthly benefit payable. Funds from the dedicated account shall
20 not be used for basic maintenance costs. The use of funds from
21 the dedicated account must be for the benefit of the child and are
22 limited to expenditures for the following purposes:

23 (1) Medical treatment.

24 (2) Education or job skills training.

25 (3) Personal needs assistance.

26 (4) Special equipment.

27 (5) Housing modification.

28 (6) Therapy or rehabilitation.

29 (7) Other items or services, deemed appropriate by the Social
30 Security Administration.

31 (d) Beginning at least 90 days prior to a custodial child's 18th
32 birthday, or anticipated date of custody determination, the county
33 shall reserve the child's social security and SSI/SSP benefits, *in*
34 *an amount not to exceed the federal SSI resource limit*, in lieu of
35 reimbursing the county and state for care and maintenance.
36 Reserved benefits shall be transferred to the child to assist in his
37 or her transition to self-sufficient living upon leaving foster care.

38 ~~13756. The department shall annually report on the Foster
39 Care Social Security and Supplemental Security Income~~

1 ~~Assistance Program and make its report available to the public.~~
2 ~~The report shall include the following:~~
3 ~~(a) The number of children in each county's custody.~~
4 ~~(b) The number of children that each county screened pursuant~~
5 ~~to subdivision (a) of Section 13752.~~
6 ~~(c) The number of children likely to be determined eligible for~~
7 ~~benefits pursuant to subdivision (b) of Section 13752.~~
8 ~~(d) The number of children approved for social security or~~
9 ~~SSI/SSP benefits as a result of the counties' assistance pursuant~~
10 ~~to subdivision (b) of Section 13752.~~
11 ~~(e) The number of children denied social security or SSI/SSP~~
12 ~~benefits for whom the counties provided assistance, pursuant to~~
13 ~~subdivision (b) of Section 13752.~~
14 ~~(f) The number of children for whom each county serves as~~
15 ~~representative payee, and the number of children in each~~
16 ~~county's custody that have a representative payee other than the~~
17 ~~county.~~
18 ~~(g) The number of children who emancipated from foster care~~
19 ~~with reserved benefits.~~
20 ~~(h) Any other information or recommendations deemed~~
21 ~~appropriate by the department.~~
22 ~~13757. The department shall annually review a minimum of~~
23 ~~five counties, consisting of at least one small, medium, and large~~
24 ~~county, to ensure compliance with the requirements of Section~~
25 ~~13754 and to ensure that the counties' practice in maintaining the~~
26 ~~accounts required in Section 13754 are consistent with~~
27 ~~commonly accepted accounting principles. The department shall~~
28 ~~make its findings available to the public.~~
29 *SEC. 4. No appropriation pursuant to Section 15200 of the*
30 *Welfare and Institutions Code shall be made for purposes of*
31 *implementing this act.*
32 ~~SEC. 4.~~
33 *SEC. 5. If the Commission on State Mandates determines that*
34 *this act contains costs mandated by the state, reimbursement to*
35 *local agencies and school districts for those costs shall be made*
36 *pursuant to Part 7 (commencing with Section 17500) of Division*
37 *4 of Title 2 of the Government Code.*