

AMENDED IN ASSEMBLY MAY 27, 2005
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, *to add Section 11401.6 to*, 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.

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 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 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.

This bill would require the county to inform the Social Security Administration of the foster care status of a child who is receiving designated federal benefits, and to apply to become the child's representative payee during the time the child is placed in foster care. It would also require a county to provide information regarding certain federal requirements when a foster youth who is receiving SSI payments is approaching his or her 18th birthday.

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: majority. Appropriation: 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.

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

4 (5) Many children in foster care go without social security or
5 SSI/SSP benefits for which they are eligible because no one is
6 available to assist them with the application process. Only a
7 small percentage of the children in California that receive
8 SSI/SSP benefits also receive child welfare services, and many
9 more children in the state's care are likely eligible for social
10 security or SSI/SSP benefits.

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

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

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

21 (2) Require appropriate state and local entities to provide
22 information to the Legislature regarding the number of foster
23 youth who do not graduate from high school, and the
24 impediments to high school graduation that face foster youth
25 after emancipation.

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

29 *SEC. 2. Section 11401.6 is added to the Welfare and*
30 *Institutions Code, to read:*

31 *11401.6. At the time of determining eligibility for AFDC-FC*
32 *payments, the county shall also determine whether the child is*
33 *currently in receipt of benefits pursuant to Title II or Title XVI of*
34 *the Social Security Act. If so, the county shall apply to become*
35 *the child's representative payee, as appropriate, during the time*
36 *the child is placed in foster care.*

37 ~~SEC. 2.—~~

38 *SEC. 3. Section 11403 of the Welfare and Institutions Code is*
39 *amended to read:*

1 11403. A child who is in foster care and receiving aid
2 pursuant to this chapter and who is attending high school or the
3 equivalent level of vocational or technical training on a full-time
4 basis, or who is in the process of pursuing a high school
5 equivalency certificate, prior to his or her 18th birthday, may
6 continue to receive aid following his or her 18th birthday so long
7 as the child continues to reside in foster care placement, remains
8 otherwise eligible for AFDC-FC payments, and continues to
9 attend high school or the equivalent level of vocational or
10 technical training on a full-time basis, or continues to pursue a
11 high school equivalency certificate, and the child may reasonably
12 be expected to complete the educational or training program or to
13 receive a high school equivalency certificate, before his or her
14 19th birthday. Aid shall be provided to an individual pursuant to
15 this section provided both the individual and the agency
16 responsible for the foster care placement have signed a mutual
17 agreement, if the individual is capable of making an informed
18 agreement, which documents the continued need for out-of-home
19 placement.

20 ~~SEC. 3.—~~

21 *SEC. 4.* Chapter 6.2 (commencing with Section 13750) is
22 added to Part 3 of Division 9 of the Welfare and Institutions
23 Code, to read:

24

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

27

28 13750. This chapter shall be known, and may be cited, as the
29 Foster Care Social Security and Supplemental Security Income
30 Assistance Program.

31 13752. The State Department of Social Services shall
32 convene a workgroup comprised of the County Welfare Directors
33 Association, county welfare directors, child advocacy
34 organizations, current and former foster youth and other relevant
35 stakeholders, as determined by the department, to develop best
36 practice guidelines for county welfare departments to assist
37 children residing in the state's or a county's custody who are
38 eligible for benefits under Title II of the federal Social Security
39 Act, pursuant to ~~42 U.S.C. Section 402 et seq.~~ *Section 402 et seq.*
40 *of Title 42 of the United States Code* (social security benefits)

1 and Title XVI of the Social Security Act, pursuant to ~~42 U.S.C.~~
2 ~~Section 1381~~ *Section 1381 of Title 42 of the United States Code*
3 (supplemental security income benefits) in receiving all federal
4 benefits for which they are eligible. The guidelines shall be
5 established by December 31, 2006, and shall include, but not be
6 limited to, establishing procedures for all of the following:

7 (a) Determining the time and manner for conducting disability
8 screenings for children in the custody of the county who may be
9 eligible for social security or Supplemental Security
10 Income/State Supplementary Payment (SSI/SSP) benefits.

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

14 (c) Requesting reconsideration and appealing adverse
15 decisions where appropriate.

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

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

22 *13753. When a foster youth who is receiving SSI payments is*
23 *approaching his or her 18th birthday, the county shall do all of*
24 *the following:*

25 (a) *Provide information to the youth regarding the federal*
26 *requirement that the youth establish continuing disability as an*
27 *adult, if necessary, in order for SSI benefits to continue beyond*
28 *his or her 18th birthday.*

29 (b) *Provide information to the youth regarding the process for*
30 *becoming his or her own payee, or designating an appropriate*
31 *representative payee if benefits continue beyond his or her 18th*
32 *birthday.*

33 (c) *Assist the youth, as appropriate, in fulfilling the*
34 *requirements of subdivisions (a) and (b).*

35 13754. The county shall apply to be appointed representative
36 payee on behalf of a child beneficiary in its custody when no
37 other appropriate party is available to serve. In its capacity as
38 representative payee, the county shall do all of the following:

39 (a) Establish a no-cost, interest-bearing maintenance account
40 for each child in the department's custody for whom the

1 department serves as representative payee. Interest earned shall
2 be credited to the account. The county shall keep an itemized
3 current account, in the manner required by federal law, of all
4 income and expense items for each child's maintenance account.

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

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

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

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.

1 ~~SEC. 4.—~~

2 *SEC. 5.* No appropriation pursuant to Section 15200 of the
3 Welfare and Institutions Code shall be made for purposes of
4 implementing this act.

5 ~~SEC. 5.—~~

6 *SEC. 6.* If the Commission on State Mandates determines that
7 this act contains costs mandated by the state, reimbursement to
8 local agencies and school districts for those costs shall be made
9 pursuant to Part 7 (commencing with Section 17500) of Division
10 4 of Title 2 of the Government Code.

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