

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.

Existing

(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.

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 eligible children who are in the ~~department's state's or a county's~~ custody and are qualified under the bill. 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 ~~department~~ county to establish a maintenance account and a dedicated account for each child, to contain proceeds from ~~Social Security Act~~ 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 ~~department~~ county to reserve 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 ~~independent~~ self-sufficient living. The bill would require the department to ~~make findings and recommendations regarding establishing eligibility for social security benefits for children under the state's care~~ 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: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: yes. State-mandated local program: ~~no~~-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 ~~(b)~~

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

14 ~~(c)~~

15 (3) Disabled children—~~may~~ face special barriers when
16 transitioning from state care and custody.

17 ~~(d)~~

18 (4) Federal financial benefits can be an important source of
19 support for these children.—~~They~~ *These benefits* also can serve as
20 a buffer as children transition from state care and custody.

21 ~~(e)~~

22 (5) Many children in foster care go without social security *or*
23 *SSI/SSP* benefits for which they are eligible because no one is
24 available to assist them with the application process. Only a
25 small percentage of the children in California that receive

1 SSI/SSP benefits also receive child welfare services, and many
2 more children in the state's care are likely eligible for social
3 security *or SSI/SSP* benefits.

4 ~~(f)~~

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

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

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

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

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

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

25 11403. A child who is in foster care and receiving aid
26 pursuant to this chapter and who is attending high school or the
27 equivalent level of vocational or technical training on a full-time
28 basis, *or who is in the process of pursuing a high school*
29 *equivalency certificate*, prior to his or her 18th birthday, may
30 continue to receive aid following his or her 18th birthday so long
31 as the child continues to reside in foster care placement, remains
32 otherwise eligible for AFDC-FC payments, and continues to
33 attend high school or the equivalent level of vocational or
34 technical training on a full-time basis, *or continues to pursue a*
35 *high school equivalency certificate*, and the child may reasonably
36 be expected to complete the educational or training program *or to*
37 *receive a high school equivalency certificate*, before his or her
38 19th birthday. Aid shall be provided such an individual pursuant
39 to this section provided both the individual and the agency
40 responsible for the foster care placement have signed a mutual

1 agreement, if the individual is capable of making an informed
2 agreement, which documents the continued need for out-of-home
3 placement.

4 ~~SEC. 2.~~

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
SUPPLEMENTAL SECURITY INCOME ASSISTANCE PROGRAM

10

11

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

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

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

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

39 *(c) Request reconsideration and appeal adverse decisions*
40 *where appropriate.*

1 13754. *The county shall apply to be appointed representative*
2 *payee on behalf of a child beneficiary in its custody when no*
3 *other appropriate party is available to serve. In its capacity as*
4 *representative payee, the county shall do all of the following:*

5 *(a) Establish a no-cost, interest-bearing maintenance account*
6 *for each child in the department's custody for whom the*
7 *department serves as representative payee. Interest earned shall*
8 *be credited to the account. The county shall keep an itemized*
9 *current account of all income and expense items for each child's*
10 *maintenance account.*

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

15 *(1) For the use and benefit of the child.*

16 *(2) For purposes determined by the county to be in the child's*
17 *best interest.*

18 *(3) In accordance with an assessment of the child's individual*
19 *needs, provided that each child beneficiary shall receive a*
20 *personal allowance of at least thirty dollars (\$30) each month for*
21 *the child's personal use.*

22 *(c) Establish and maintain a dedicated account in a financial*
23 *institution for past-due monthly benefits that exceed six times the*
24 *maximum monthly benefit payable, in accordance with federal*
25 *law. The representative payee may deposit into the account*
26 *established under this section any other funds representing past*
27 *due benefits to the eligible individual, provided that the amount*
28 *of the past due benefits is equal to or exceeds the maximum*
29 *monthly benefit payable. Funds from the dedicated account shall*
30 *not be used for basic maintenance costs. The use of funds from*
31 *the dedicated account must be for the benefit of the child and are*
32 *limited to expenditures for the following purposes:*

33 *(1) Medical treatment.*

34 *(2) Education or job skills training.*

35 *(3) Personal needs assistance.*

36 *(4) Special equipment.*

37 *(5) Housing modification.*

38 *(6) Therapy or rehabilitation.*

39 *(7) Other items or services, deemed appropriate by the Social*
40 *Security Administration.*

1 (d) Beginning at least 90 days prior to a custodial child's 18th
2 birthday, or anticipated date of custody determination, the
3 county shall reserve the child's social security and SSI/SSP
4 benefits in lieu of reimbursing the county and state for care and
5 maintenance. Reserved benefits shall be transferred to the child
6 to assist in his or her transition to self-sufficient living upon
7 leaving foster care.

8 13756. The department shall annually report on the Foster
9 Care Social Security and Supplemental Security Income
10 Assistance Program and make its report available to the public.
11 The report shall include the following:

12 (a) The number of children in each county's custody.

13 (b) The number of children that each county screened
14 pursuant to subdivision (a) of Section 13752.

15 (c) The number of children likely to be determined eligible for
16 benefits pursuant to subdivision (b) of Section 13752.

17 (d) The number of children approved for social security or
18 SSI/SSP benefits as a result of the counties' assistance pursuant
19 to subdivision (b) of Section 13752.

20 (e) The number of children denied social security or SSI/SSP
21 benefits for whom the counties provided assistance, pursuant to
22 subdivision (b) of Section 13752.

23 (f) The number of children for whom each county serves as
24 representative payee, and the number of children in each
25 county's custody that have a representative payee other than the
26 county.

27 (g) The number of children who emancipated from foster care
28 with reserved benefits.

29 (h) Any other information or recommendations deemed
30 appropriate by the department.

31 13757. The department shall annually review a minimum of
32 five counties, consisting of at least one small, medium, and large
33 county, to ensure compliance with the requirements of Section
34 13754 and to ensure that the counties' practice in maintaining
35 the accounts required in Section 13754 are consistent with
36 commonly accepted accounting principles. The department shall
37 make its findings available to the public.

38 SEC. 4. If the Commission on State Mandates determines that
39 this act contains costs mandated by the state, reimbursement to
40 local agencies and school districts for those costs shall be made

1 pursuant to Part 7 (commencing with Section 17500) of Division
2 4 of Title 2 of the Government Code.

3 ~~Foster Care Social Security Assistance Program.~~

4 ~~13752. The State Department of Social Services shall~~
5 ~~establish and maintain a social security assistance program to~~
6 ~~ensure that all children residing in the department's custody who~~
7 ~~are eligible for social security benefits apply for and receive all~~
8 ~~benefits available to them. The department shall do all of the~~
9 ~~following:~~

10 ~~(a) Screen all children in the custody of the department for~~
11 ~~eligibility for social security supplemental security income and~~
12 ~~social security survivor's benefits. Each child shall be screened~~
13 ~~within six months of entering the department's custody.~~

14 ~~(b) Assist in the application process for supplemental security~~
15 ~~income and survivor's benefits for each child who is determined~~
16 ~~pursuant to the screening process to be likely to be eligible for~~
17 ~~benefits.~~

18 ~~(c) Request reconsideration and appeal adverse decisions~~
19 ~~where appropriate.~~

20 ~~13754. The department shall apply to be appointed~~
21 ~~representative payee on behalf of a child beneficiary in its~~
22 ~~custody when no other appropriate party is available to serve. In~~
23 ~~its capacity as representative payee, the department shall do all of~~
24 ~~the following:~~

25 ~~(a) Establish a no-cost, interest-bearing maintenance account~~
26 ~~for each child in the department's custody for whom the~~
27 ~~department serves as representative payee. Interest earned shall~~
28 ~~be credited to the account. The department shall keep an itemized~~
29 ~~current account of all income and expense items for each child's~~
30 ~~maintenance account.~~

31 ~~(b) Establish procedures for disbursing money from the~~
32 ~~accounts, including disbursing the net balance to the beneficiary~~
33 ~~upon release from care. The department shall use social security~~
34 ~~benefits only for the following purposes:~~

35 ~~(1) For the use and benefit of the child.~~

36 ~~(2) For purposes determined by the department to be in the~~
37 ~~child's best interest.~~

38 ~~(3) In accordance with an assessment of the child's individual~~
39 ~~needs, provided that each child beneficiary shall receive a~~

1 personal allowance of at least thirty dollars (\$30) each month for
2 the child's personal use.

3 ~~(e) Establish and maintain a dedicated account in a financial~~
4 ~~institution for certain past-due benefit payments, in accordance~~
5 ~~with federal law. Only past-due benefits and certain subsequent~~
6 ~~SSI payments that reconcile past underpayments shall be~~
7 ~~deposited into the account. Funds from the dedicated account~~
8 ~~shall not be used for basic maintenance costs. The use of funds~~
9 ~~from the dedicated account must be for the benefit of the child~~
10 ~~and are limited to expenditures for the following:~~

- 11 ~~(1) Medical treatment.~~
- 12 ~~(2) Education or job skills training.~~
- 13 ~~(3) Personal needs assistance.~~
- 14 ~~(4) Special equipment.~~
- 15 ~~(5) Housing modification.~~
- 16 ~~(6) Therapy or rehabilitation.~~
- 17 ~~(7) Other items or services, provided the Social Security~~
18 ~~Administration determines the other services are appropriate.~~

19 ~~(d) Beginning at least 90 days prior to a custodial child's 18th~~
20 ~~birthday, the department shall conserve the child's social security~~
21 ~~benefits in lieu of reimbursing the department for care and~~
22 ~~maintenance. Conserved benefits shall be transferred to the child~~
23 ~~to assist in his or her transition to self-sufficient living.~~

24 ~~13756. The department shall annually evaluate and make~~
25 ~~public its findings and recommendations regarding establishing~~
26 ~~eligibility for social security benefits for children in the~~
27 ~~department's care. Evaluations pursuant to this section shall~~
28 ~~include all of the following:~~

29 ~~(a) The number of children in the department's custody with~~
30 ~~developmental disabilities or delays, behavioral, or emotional~~
31 ~~health problems or chronic health conditions.~~

32 ~~(b) The number of children for whom the department serves as~~
33 ~~representative payee, and the number of children in the~~
34 ~~department's custody that have a representative payee other than~~
35 ~~the department.~~

36 ~~(c) The purposes for which social security benefits were~~
37 ~~disbursed from each account for which the department has been~~
38 ~~appointed the representative payee.~~

39 ~~(d) The number and percentage of children determined to be~~
40 ~~eligible for SSI who are emancipated from foster care.~~

1 ~~(e) The total amount of money collected by the department in~~
2 ~~social security benefits for children in the state's custody.~~
3 ~~13758. For purposes of this chapter, social security benefits~~
4 ~~also include SSI/SSP benefits.~~

O