

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN ASSEMBLY MAY 27, 2005

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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 *and disability* benefits and supplemental security income (SSI) 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. *Existing law also provides for state supplemental payments (SSP) in supplementation of SSI benefits.*

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 workgroup to make recommendations to the department, by December 31, 2006, regarding the feasibility and cost-effectiveness of reserving a designated amount of foster children's social security and SSI/SSP benefits in lieu of reimbursing the county and the state for care and maintenance, and, in making those recommendations, to consider that the reserved benefits would be for the purpose of assisting the foster child 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.

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

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

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

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

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

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

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

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

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

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

11401.6. At the time of determining eligibility for AFDC-FC payments, the county shall also determine whether the child is

1 currently in receipt of benefits pursuant to Title II or Title XVI of
2 the Social Security Act. If so, the county shall apply to become
3 the child's representative payee, as appropriate, during the time
4 the child is placed in foster care.

5 SEC. 3. Section 11403 of the Welfare and Institutions Code is
6 amended to read:

7 11403. A child who is in foster care and receiving aid
8 pursuant to this chapter and who is attending high school or the
9 equivalent level of vocational or technical training on a full-time
10 basis, or who is in the process of pursuing a high school
11 equivalency certificate, prior to his or her 18th birthday, may
12 continue to receive aid following his or her 18th birthday so long
13 as the child continues to reside in foster care placement, remains
14 otherwise eligible for AFDC-FC payments, and continues to
15 attend high school or the equivalent level of vocational or
16 technical training on a full-time basis, or continues to pursue a
17 high school equivalency certificate, and the child may reasonably
18 be expected to complete the educational or training program or to
19 receive a high school equivalency certificate, before his or her
20 19th birthday. Aid shall be provided to an individual pursuant to
21 this section provided both the individual and the agency
22 responsible for the foster care placement have signed a mutual
23 agreement, if the individual is capable of making an informed
24 agreement, which documents the continued need for out-of-home
25 placement.

26 SEC. 4. Chapter 6.2 (commencing with Section 13750) is
27 added to Part 3 of Division 9 of the Welfare and Institutions
28 Code, to read:

29
30 CHAPTER 6.2. FOSTER CARE SOCIAL SECURITY AND
31 SUPPLEMENTAL SECURITY INCOME ASSISTANCE PROGRAM
32

33 13750. This chapter shall be known, and may be cited, as the
34 Foster Care Social Security and Supplemental Security Income
35 Assistance Program.

36 13752. The State Department of Social Services shall
37 convene a workgroup comprised of the County Welfare Directors
38 Association, county welfare directors, child advocacy
39 organizations, current and former foster youth and other relevant
40 stakeholders, as determined by the department, to develop best

1 practice guidelines for county welfare departments to assist
2 children residing in the state's or a county's custody who are
3 eligible for benefits under Title II of the federal Social Security
4 Act, pursuant to Section 402 et seq. of Title 42 of the United
5 States Code (social security benefits) and Title XVI of the Social
6 Security Act, pursuant to Section 1381 of Title 42 of the United
7 States Code (supplemental security income benefits) in receiving
8 all federal benefits for which they are eligible. The guidelines
9 shall be established by December 31, 2006, and shall include, but
10 not be limited to, establishing procedures for all of the following:

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

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

18 (c) Requesting reconsideration and appealing adverse
19 decisions where appropriate.

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

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

26 13753. When a foster youth who is receiving SSI payments is
27 approaching his or her 18th birthday, the county shall do all of
28 the following:

29 (a) Provide information to the youth regarding the federal
30 requirement that the youth establish continuing disability as an
31 adult, if necessary, in order for SSI benefits to continue beyond
32 his or her 18th birthday.

33 (b) Provide information to the youth regarding the process for
34 becoming his or her own payee, or designating an appropriate
35 representative payee if benefits continue beyond his or her 18th
36 birthday.

37 (c) Assist the youth, as appropriate, in fulfilling the
38 requirements of subdivisions (a) and (b).

39 13754. The county shall apply to be appointed representative
40 payee on behalf of a child beneficiary in its custody when no

1 other appropriate party is available to serve. In its capacity as
2 representative payee, the county shall do all of the following:

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

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

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

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

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

27 (1) Medical treatment.

28 (2) Education or job skills training.

29 (3) Personal needs assistance.

30 (4) Special equipment.

31 (5) Housing modification.

32 (6) Therapy or rehabilitation.

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

35 ~~(d) Beginning at least 90 days prior to a custodial child's 18th~~
36 ~~birthday, or anticipated date of custody determination, the county~~
37 ~~shall reserve the child's social security and SSI/SSP benefits, in~~
38 ~~an amount not to exceed the federal SSI resource limit, in lieu of~~
39 ~~reimbursing the county and state for care and maintenance.~~

~~Reserved benefits shall be transferred to the child to assist in his or her transition to self-sufficient living upon leaving foster care.~~

13756. The workgroup convened pursuant to Section 13752 shall also make recommendations, by December 31, 2006, regarding the feasibility and cost-effectiveness of reserving an amount, not to exceed the federal SSI resource limit, of foster children's social security and SSI/SSP benefits in lieu of reimbursing the county and the state for care and maintenance. In making its recommendations, the workgroup shall consider that the reserved benefits are for the purpose of assisting the child in his or her transition to self-sufficient living upon leaving foster care.

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

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