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Testimony in Support of HB 575
Family Law—Protecting the Resources of Children in State Custody

TO: Hon. Joe Vallario, Chair, and Members of the Judiciary Committee
FROM: Amy Harfeld, National Policy Director of the Children's Advocacy Institute
DATE: February 16, 2015

I. BACKGROUND

The Children's Advocacy Institute (CAI) was founded in 1989 as part of the Center for Public Interest Law at the University of San Diego (USD) School of Law. CAI's goal is to ensure that children's interests are represented effectively whenever and wherever government makes policy and budget decisions that will impact them. CAI has been actively involved in advocacy and research to improve services to foster youth in care and transitioning out of care. In my role at CAI, I contributed to the landmark national report "*The Fleecing of Foster Children: How we Confiscate their Assets and Undermine Their Financial Security.*"¹ We have led the charge to introduce federal legislation addressing the same issue as this bill.² CAI is pleased to see Maryland take a leadership role through the reintroduction of this bill, and applaud the state's effort to provide its foster youth with better chances for achieving independence and security as adults. We appreciate the opportunity to provide testimony as you consider this bill.

As far as my own background, I grew up and currently reside in Maryland. I came to this work after serving as a Teach for America Corps member in an under-resourced urban school. I became interested in child welfare after reporting and testifying in several child welfare cases. I served for years as a state and agency attorney, bringing abuse and neglect cases, so I have a grounded inside understanding of the system along with its burdens and challenges. I have also served as an attorney for maltreated children themselves as well as worked to advocate for parents trying to get their children out of the system. I have the benefit of having worked on each side of this issue and am grateful for my balanced perspective. After litigating on all sides of child welfare, I moved into national policy work in this arena which I have been doing since 2007. I partner closely with all of the national child welfare, foster care, and children's advocacy coalitions and networks around the country.

II. CORE ARGUMENTS IN FAVOR OF HB 575 FROM A NATIONAL PERSPECTIVE

Across the nation, state child welfare agencies routinely intercept Social Security benefits from eligible foster children and automatically use those benefits to reimburse themselves for the children's cost of foster care, a cost which is already their duty to bear. States proceed with this without conducting the requisite case-by-case analysis and determination that is needed to identify the best use of the funds for each individual child beneficiary. They also largely proceed without fulfilling the Social Security Administration's requirement of due diligence to identify the best party to serve as representative payee and simply default to appointing themselves in this role. Agencies refuse, or claim that they cannot afford to acknowledge that the interests of many youth would best be served by the conservation of all or some of their benefits for the youth's use during the difficult transitional years following their exit from foster care. In so doing, these agencies are adding to

¹ The Children's Advocacy Institute and First Star. *The Fleecing of Foster Children: How We Confiscate their Assets and Undermine Their Financial Security.* (2011) Available online at: http://www.caichildlaw.org/Misc/Fleecing_Report_Final_HR.pdf.

² <http://www.gpo.gov/fdsys/pkg/BILLS-111hr6192ih/pdf/BILLS-111hr6192ih.pdf>

the barriers that these youth already face when attempting to attain financial security and independence after leaving care. The U.S. Department of Health and Human Services *just this week* released a study outlining the many financial barriers that this population faces.³

- From a national perspective, this interception of foster children's Social Security benefits continues to be a factor in precluding the financial security and independence of youth in care and leaving care.
- From an educational and employment standpoint, it is prudent to facilitate providing the means to procuring educational credentials that will lead to increased lifetime earnings and decreased reliance on public benefits, as was recently cited in a report from the U.S. Department on Health and Human Services.⁴ These funds, if preserved as partially required in this bill, would help in accomplishing this.
- From a basic ethical standpoint, it is wrong to intercept and pocket the assets of children who have already been hurt and victimized by their parents, and whose care states are already obligated to pay for. It is, in the barest terms, taking legitimate federal funds from a vulnerable population who has little ability to recognize the injustice or speak out against it.
- From a financial point of view, it is shortsighted for states to pocket these funds now knowing that the state will pay *many times* more for the child in a variety of public benefits when they age out with no nest egg to cover their basic reasonable financial needs during their first months and years on their own.
- From a practical perspective, this bill not only cuts back on this unsavory practice, but also sets in place planning tools to plan for the best use of these and other assets in either PASS or IDA mechanisms where the money will be sure to be utilized for important transitional needs such as education, housing, health care, transportation, etc.
- This bill makes sense from all of these points of view. It is the right thing to do for Maryland's foster children, and for the state.

III. PUBLIC POLICY CONSIDERATIONS

How old were you or your children when complete financial self-sufficiency was achieved? Studies reveal that the average young adult in the US receives significant financial assistance from his or her parents well beyond age 18; the bulk of such assistance tapers off after age 26.⁵ In 2010 dollars, the average youth received \$47,500 in financial support from his or her parents from ages 18-26 — in the form of food, housing, education, health expenses, and direct cash assistance,⁶ while foster youth are expected to attain self-sufficiency with just a fraction of the resources that it takes their peers to do so. This bill would serve to begin to narrow this gap so that this small sector of foster youth have access to a very modest cushion as they venture into the world as adults.

Think again about how each of you would plan for your child's future... Most parents try to imbue the value of savings in their children. Yet foster children who are eligible for SSI benefits because of a qualifying disability are not allowed to accumulate resources that exceed \$2,000 — a figure that has been in place since 1989 and is not indexed for inflation. This includes income they may have earned through jobs or from gifts or benefits. While some mechanisms allow for the accumulation of assets beyond the \$2,000 cap, those vehicles carry their own restrictions and can be burdensome for foster youth to create and maintain. This bill includes an important planning provision to prevent this asset cap from minimizing the nest egg that Maryland's foster youth may be permitted to preserve for their futures. This just makes sense.

³ http://www.acf.hhs.gov/sites/default/files/opre/chafee_asset_brief_final_to_opre_012015.pdf.

⁴ http://www.acf.hhs.gov/sites/default/files/opre/chafee_education_brief_final_to_opre_012015.pdf.

⁵ Anna Bahney, *The Bank of Mom and Dad*, THE NEW YORK TIMES (April 20, 2006), available online at <http://www.nytimes.com/2006/04/20/fashion/thursdaystyles/20money.html?pagewanted=1&ei=5088&en=669a8061de85feb0&ex=1303185600>.

⁶ Schoeni, Robert F. and Ross, Karen E. *Chapter 12: Material Assistance Received From Families During Transition to Adulthood*, ON THE FRONTIER TO ADULTHOOD: THEORY, RESEARCH AND PUBLIC POLICY, edited by Richard A. Settersten, Jr., Frank F. Furstenberg, Jr., and Rubén G. Rumbaut (2004). Note that the dollar figure in the study is \$38,340 in 2001 dollars, which equates to \$47,449 in 2010 dollars using the inflation calculator provided by the United States Department of Labor Bureau of Labor Statistics website at www.bls.gov/data/inflation_calculator.htm.

IV. ALLOWING THE STATUS QUO TO CONTINUE

So, what do we know about how these youth are faring under current practice? The most recent research tells us the following:

Educational attainment. Although most foster youth express a desire to attend college, only about 3% earn four-year degrees.

Employment. By age 24, less than half of foster care alumni are employed — and they earn less than half, on average, than their peers with no history of foster care.

Housing/homelessness. By age 24, 37% of foster care alumni experienced homelessness of some sort.

Health outcomes. Many experience chronic health problems as a result of the abuse and neglect they endured. Up to 85% of foster youth experience mental health issues.

Cost. A national study estimates the economic burden of each child abuse and neglect case as of 2012 at \$210,012 per child in 2010 dollars, including long-term health care, lost productivity, child welfare, criminal justice and special education costs.⁷

These issues of education, employment, housing, health, and credit are intertwined. Because most foster care alumni lack the social and familial safety net their peers with no history of foster care enjoy, their challenges in these areas can easily spiral into a lifetime of poverty. **Adding up to staggering costs for states. One national analysis estimated that the cost of each annual cohort of youth aging out of the foster care system is approximately \$5.7 billion.** These costs come in the form of lost earnings (and thus lost revenues), criminal justice expenditures, unplanned pregnancies, medical expenses, mental health treatment, food stamps, and other public benefits.⁸ **On an individual level, each foster youth who drops out of high school is estimated to cost the public sector \$209,100 over a lifetime due to lost wages and greater need for public support.**⁹ How does this figure compare to the sliver of revenue the Department will argue they will miss out on without this funding stream?

Attention to this issue is only growing over recent years. New reports are coming out all the time, from the two federal studies commissioned and released by DHHS in the last several months, to another one put out in the last month or so by the American Policy Youth Forum entitled, “Creating Access to Opportunities for Youth in Transition from Foster Care.”¹⁰

Responsible parents give their children the tools, framework and knowledge they need to achieve financial security — we must give that same foundation to our foster children, as they *are* our children. This laudable Maryland bill takes an important first step in acknowledging the injustice of this practice and to move towards helping support the financial security of the youth in its care. This bill represents a step forward, though it has been substantially scaled back from last year’s version. We at the Children’s Advocacy Institute believe that in the interest of justice and in respect of federal legislative intent, no less than 100% of these assets should be preserved for the child’s needs beyond basic care and maintenance or for future use after leaving care. Even as is, the bill’s success could serve as a beacon for other state and federal legislative efforts to recognize the injustice of allowing this practice to continue unchecked and recognize our responsibility to ensure greater self-sufficiency for this vulnerable population. Not only is it our ethical imperative to do so — it is a sound investment that will save Maryland tens of millions of state dollars down the road.

⁷ <http://www.preventchildabusenc.org/?fuseaction=cms.page&id=1106>.

⁸ Cutler Consulting, *Cost Avoidance: Bolstering the Economic Case for Investing in Youth Aging Out of Foster Care* (St. Louis, MO: Jim Casey Youth Opportunities Initiative, 2009) at 1.

⁹ Henry Levin, Clive Belfield, Peter Muennig, and Cecilia Rouse, *The Costs and Benefits of an Excellent Education for All of America’s Children* (New York: Columbia University, Teachers College, January 2007), available at www.cbcse.org/media/download_gallery/Leeds_Report_Final_Jan2007.pdf; see also National Governors Association Center for Best Practices, *The Transition to Adulthood: How States Can Support Older Youth in Foster Care* (Dec. 2010) at 8 (available at <http://www.nga.org/Files/pdf/1012FOSTERCARE.PDF>).

¹⁰ <http://www.aypf.org/wp-content/uploads/2014/12/2014-AYPF-Foster-Care-Issue-Brief2.pdf>.