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September 3, 2024

The Honorable Gavin Newsom
Governor of the State of California
State Capitol, Suite 1173
Sacramento, CA 95814

RE: AB 2906 (BRYAN): CO-SPONSORSHIP AND REQUEST FOR SIGNATURE

Dear Governor Newsom:

Should we secretly take the money of abused and neglected children living under our care, when such traumatized children will inevitably and urgently need their money to avoid homelessness while still in their late teens or early twenties?

No, we should not. As a *Newsweek* headline in December of 2023 rightly observed:

Government Taking Social Security Payments From Children Sparks Fury¹

Los Angeles and San Diego Counties have announced plans to end the indefensible *status quo*. The rest of the State should follow. The Children's Advocacy Institute at the University of San Diego School of Law, which has sought to advance the well-being of California's children through legal education, advocacy, and litigation for over 30 years, is honored to co-sponsor AB 2906 (Bryan) and respectfully asks that you sign the measure, one slimmed down from the similar bill presented to you last year.

OUR CURRENT POLICY EXACERBATES OUR HOMELESS CHALLENGES

Secretly intercepting the property of abused and neglected children entrusted to our care is not only immoral. When the state is spending vast sums – many billions – to address homelessness,² it is also senseless to do this. By secretly intercepting and taking money from children who we know we are kicking out at 18 years of age to fend for themselves, who we also know suffer homelessness at rates far exceeding the general population, instead of preserving their money to pay for housing, we are literally choosing to cause more homelessness among our own children.

¹ <https://www.newsweek.com/government-taking-social-security-payments-children-sparks-fury-1856100> Few child welfare issues in recent years have been the subject of as much press coverage as the issue addressed by AB 2906. For examples of the state and national press coverage, see Exhibit A, attached.

² "Governor Newsom has advanced a multi-year \$15.3 billion plan to address homelessness – more than ever before in state history" <https://www.gov.ca.gov/2024/01/10/2024-25-state-budget-proposal-protects-core-priorities-and-ensures-fiscal-stability/#:~:text=This%20budget%20proposal%20maintains%20billions,KEEPING%20CALIFORNIANS%20SAFE.>

Around 4,000 young people “age out” of the California foster care system each year. Most of these youth lack family or other support networks to assist them, and many have not yet acquired the life skills necessary to become self-sufficient. According to one study, between 31 and 46% of former foster youth had been homeless at least once by the age of 26.”³ As the most recent Chapin Hall survey of California youth concluded:

Among all [survey] participants, more than a quarter of youth reported being homeless (i.e., slept in a homeless shelter or in a place where people were not meant to sleep, because they had no place to stay) for at least one night since their last interview. Among youth who had been homeless since their last interview, about a third had only been homeless one time, while about a third had been homeless five times or more. More than half of youth who had been homeless said their longest episode of homelessness since their last interview was longer than a month. Among those who had been homeless, close to three-fifths were homeless for more than 30 days in total since their last interview.⁴

These are the children we are taking money from – secretly. Neither logic nor morality supports such a policy, *especially when we are spending fantastic amounts of money to address the very homelessness this immoral policy exacerbates.*

LEGAL BACKGROUND

Current and former foster youth may be eligible for one or more federal Social Security Administration (SSA) Benefits programs, including Supplemental Security Income for individuals with disabilities and Social Security Survivor benefits for children and youth with a deceased parent. For these particularly vulnerable youth, SSA benefits could offer an economic safety net during and after their time in foster care.

Although California has made significant efforts to link transition aged youth in foster care to SSA benefits, there is no requirement in state law for counties to regularly update the court, the youth themselves, or court-appointed counsel about the status of an SSA benefits application or how SSA benefits — the youth’s personal funds — are used. In practice, youth often *never learn* that they were eligible for SSA benefits during or after their time in foster care, that the county was actually receiving benefits on their behalf, or how their benefits were spent. Although there are several different types of savings accounts and trusts that could be established to ensure that SSA benefits are spent or conserved to address a youth’s current unmet needs or future needs, youth in foster care typically are not informed about these options. As a result of that lack of knowledge and information sharing, this critical avenue of long-term support for children who have placed their trust in us may be lost, all, possibly, without the knowledge or consent of the child, the judge, or the child’s attorney.

³ <https://pubmed.ncbi.nlm.nih.gov/24148065/>

⁴ Findings from the California Youth Transitions to Adulthood Study (CalYOUTH): Conditions of Youth at Age 23 chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.chapinhall.org/wp-content/uploads/CY_YT_RE0518_1.pdf

AB 2906 (Bryan)

Reduced and streamlined from last year's AB 1512 to address your veto message, AB 2906 would mainly do three things:

1. Require that the attorney for the child be notified if there is an effort to intercept and take the child's money.
2. Require counties to abide by representative payee best practices if they are appointed as representative payee instead of, for example, a relative or mentor.
3. Require that such money be conserved for the benefit of the child.

Many states and localities have already taken or are taking action to cease the harmful practices addressed by this bill.⁵ It is, respectfully, the perfect time for California to join their ranks and be a national leader and voice for these children who are entirely dependent upon the powerful to be their champions. For these reasons, we respectfully implore your support for fair treatment of abused and neglected children who are entirely at the hands and mercy of the State by signing AB 2906 (Bryan).

Sincerely,



Ed Howard
Senior Counsel, Children's Advocacy Institute

Exhibit A attached

⁵ [Arizona](#) law, passed in June 19, 2023, requires prompt screening/application for benefits; adequate notice to the child, parent/guardian, and attorney; establishment of proper accounts to use and conserve the child's benefits; requirement to use the child's federal benefits only for the child's unmet needs beyond what DCS is obligated; and financial literacy training. [Washington DC's](#) Preserving Our Kids' Equity Through Trusts (POKETT) Act, effective March 2023, provides local funding for the cost of care of foster and disabled children to enable these children to leave care with their Social Security benefits still available. It also requires the Child and Family Services Agency to conserve children's benefits in accounts that avoid transgressing federal resource limitations, creating a nest egg for when children leave care. [Oregon](#) On July 31, 2023, Oregon enacted legislation which prohibits public bodies from seizing foster children's benefits, or any other assets, to offset maintenance costs. The Department must establish appropriate accounts to conserve benefits, and fulfill all fiduciary obligations in administering them. [Connecticut](#) enacted a bill in 2022 providing that no foster youth's SSDI benefits shall be utilized by the Department of Children and Families to offset the cost of such child or youth's care. [Illinois](#) reform, enacted in 2022, requires screening/application for Social Security and Veterans benefits, requires notice to a child (over 16) as well as their parent and attorney/GAL, accounting reports to the child's GAL/attorney, and provides financial literacy training for youth beneficiaries. [Maryland](#) passed the first state reform bill in 2018, which requires notice, accounting, progressive conservation of benefits in exempt accounts when appropriate starting when a child is 14, for services for special needs not otherwise provided by the Department. [Nebraska](#) enacted a new law in April 2022, requiring notice to child and child's guardian ad litem, regular accounting for benefits, and adherence to SSA representative payee requirements. However, the measure also retains state law requiring that a foster child's assets over \$1,000 and current income be available for reimbursement to the state for the cost of care, and contains no provision about screening/application, or conservation of benefits. [New York City's](#) Administration for Children's Services (ACS) announced the Child-Centric Social Security Benefits Plan in December 2021, acknowledging the harm caused by taking foster children's benefits and committing to ending the practice. They stopped taking RSDI survivor benefits in 2022. [Philadelphia](#) In Sept. 2022, the Philadelphia City Council enacted new provisions authorizing the Department to promptly screen and apply for benefits, provide notice and annual reporting to the child and child's attorney, conserve and use benefits in accordance with asset limits for unmet current and future needs, and ensure benefits are *not* used to offset the cost of care. [Washington](#), [Minnesota](#), and [New Hampshire](#) recently passed bills to lay the groundwork for subsequent reform, and other states have bills that are [currently pending](#).

Exhibit A

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