

Written Testimony in Support of HB 661

Before the New Hampshire House Children and Family Law Committee

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Chairperson and Members of the Committee:

I serve as the National Policy Director for the Children's Advocacy Institute (CAI) at the University of San Diego School of Law. I have been a child welfare attorney and advocate for over 20 years, and have extensive subject matter expertise regarding conserving assets of foster youth with disabilities and who have lost a parent. I am grateful for the opportunity to submit testimony in strong support of HB 661, a crucial bill that will protect the Social Security Disability and Survivors benefits of the state's foster children from the self-serving overreach of the New Hampshire Department of Health and Human Services (DHHS).

For decades, child welfare agencies across the country and in New Hampshire have applied for and received federal benefits on behalf of foster youth, without ever notifying the children, their parents, or their legal representatives. These funds—intended to support the child's unmet unique needs while in care and to soften the transition into adulthood—are then taken by the Department to reimburse them for the cost of that child's foster care, despite the state's independent legal obligation to cover that cost. None of us would agree to foot the bill for a service we were involuntarily subjected to, and for which the federal government has clearly stated is the state's fiscal obligation. As outlined in the Children's Advocacy Institute's *Foster Care or Foster Con?* report, this practice is widespread and deeply problematic, resulting in significant financial insecurity for some of the most vulnerable children. Not only does the practice fly in the face of basic due process and equal protection, it exemplifies the massive overstepping of state government into the private accounts and assets of children in New Hampshire. This overreach ultimately hurts us all- the children who age out into homelessness rather than being safely housed, and the taxpayers who end up on the line to provide exponentially more expensive public services down the road.

But states across the country and political spectrum have stepped up in overwhelming numbers to limit or end the practice. To date, 30 states and jurisdictions have taken some form of action to preserve the federal benefits of foster youth. [Arizona](#) and [Washington D.C.](#) passed comprehensive legislation covering each of the elements of a model law. [Oregon](#) requires that all benefits be conserved for the child. [Kansas](#) reversed its policy in a January 2025 Executive Order from the Governor. [Massachusetts](#) stopped taking all benefits as of 2024. To varying degrees,

legislative or policy reform has also been *enacted* in [Alaska](#) (pending appeal), [California](#), [Colorado](#), [Connecticut](#), [Florida](#), [Hawaii](#), [Illinois](#), [Kansas](#), [Maryland](#), [Minnesota](#), [Nebraska](#), [New Hampshire](#), [New Jersey](#), and [Washington](#), as well as in [New York City](#), [Philadelphia](#), and [Los Angeles](#). States that have *attempted* to advance legislation include [Iowa](#), [Pennsylvania](#), and [Tennessee](#). Many of these states plan to reintroduce their bills. States with *pending* legislation include [Hawaii](#), [Maine](#), [Massachusetts](#), [Michigan](#), [Minnesota](#), [Missouri](#), [Nebraska](#), [New Hampshire](#), [New Jersey](#), [New Mexico](#), [Oregon](#), [Rhode Island](#), [Texas HB 966](#) / [SB 577](#), [Utah](#), [Virginia](#), and [Washington](#).

The Need for HB 661

HB 661 ensures that when DHHS serves as the representative payee for a child's federal benefits, it does so in a manner that truly serves the child's best interests. Specifically, the bill requires that:

- 1. DHHS Identify and Apply for Benefits on Behalf of Eligible Youth:** Within 60 days of a child entering foster care, DHHS must determine whether the child is eligible for federal benefits and apply accordingly. This provision ensures that eligible children receive the support they are entitled to, rather than missing out due to administrative oversight.
- 2. DHHS Act as Representative Payee Only When No Suitable Alternative Exists:** The bill mandates that DHHS first explore whether a trusted relative, guardian, or other appropriate adult can serve as the child's representative payee. This prevents unnecessary state control over the child's funds, and the appearance of fiduciary conflict between the Department's duty to its own priorities and the best interests of the child.
- 3. Strict Prohibitions on Using a Child's Benefits to Pay for Foster Care:** HB 661 explicitly prohibits DHHS from using a child's Social Security or Veterans benefits to offset the cost of foster care. Instead, these funds must be used for the child's unmet needs or saved for future use in an appropriate account, such as an ABLE account or a special needs trust.
- 4. Transparency and Accountability:** The bill establishes clear notification and reporting requirements to ensure that children, their legal representatives, and caregivers are informed of their benefits and how they are being used.

The Devastating Impact of Diverted Benefits

Antonio L.J., a former foster youth, put it bluntly: *"I never imagined that the very system meant to support me was quietly taking what was rightfully mine."* The Think of Us Foster Care Benefits Survey recently collected several first-hand accounts from former foster youth,

revealing the devastating impact of benefit seizure. One young respondent expressed their frustration, stating, *“I was homeless and bounced around a bit...I had to choose between continuing my education in college and working to make enough money just to get by.”*

Another put it this way, *“That financial independence would’ve given me the support I needed to be self-sufficient. I would’ve been able to continue my education, without interruption, and surely be further than I am now.”* These stories are consistent with what we hear from former foster youth—losing their benefits left them struggling to meet basic needs and build a stable future.

These devastating experiences are far too common. Studies show that foster youth are significantly more likely than their peers to experience homelessness, unemployment, and financial instability. Preserving the benefits of these vulnerable youth would provide a critical safety net to help them transition successfully towards self-sufficiency and independence.

A Proven Model for Reform

Other states, including Arizona, Washington DC, Kansas, and Massachusetts have ended this exploitative practice. HB 661 builds on these successful models, ensuring that New Hampshire’s policies align with federal law and rules, and best practices in child welfare.

Conclusion

Now it is New Hampshire’s turn to take a stand against this unconscionable government overreach that has left so many of our state’s vulnerable children penniless and without access to their own private assets to make a better life for themselves. HB 661 will get the state on the right side of this issue and demonstrate to other states that when we protect the rights and assets of foster children, we all win. More importantly, it ensures that foster youth have the resources they need to transition into adulthood and thrive, just as every parent wants for their child.

Thank you for your time and consideration.

-Amy Harfeld

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