Children's Advocacy Institute

University of San Diego
SCHOOL OF LAW

University of San Diego School of Law
5998 Alcalá Park / San Diego, CA 92110
(619) 260-4806 / (619) 260-4753 (Fax)

1043 57th Street
Sacramento, CA 95819 / (916) 844-5646

727 15th Street, NW, 12th Floor
Washington, DC 20005 / (917) 371-5191

Reply to: □ San Diego □ Sacramento □ Washington
info@caichildlaw.org / www.caichildlaw.org

Testimony to Washington Senate Human Services Committee Supporting SB5488 January 28, 2025

My name is Amy Harfeld and I serve as the National Policy Director for the Children's Advocacy Institute, at the University of San Diego School of Law. For decades, we have led a multifaceted campaign to ensure that foster youth who are eligible for federal benefits such as Social Security Survivor's or Disability are promptly secured, and used or conserved according to federal law and guidance to benefit the child. Over the last several years, we have helped advocates, legislators, and youth advance legislative and policy reforms from coast to coast, in the courts, through trainings, rule changes, and education.

Imagine for a moment learning that a public agency had applied for and pocketed your insurance benefits or retirement savings without your knowledge or consent. For years. And with no opportunity to go back and challenge the taking or recover the money. It is an outrageous scenario to contemplate. In many states, including Washington, this is happening right now. DCYF routinely applies for and intercepts the federal benefits of eligible foster children and uses the money for itself to offset foster care expenses, rather than for the child's individual current and future unmet needs. Federal law clearly directs child welfare agencies to pay the tab for each child in foster care. If this were not already alarming, it should be noted that at no time during the process is the child or their family or attorney informed about these benefits or consulted about their use.

Charging children for their own care makes no more sense than charging parents for their child's time in care-- a policy reform which Washington has stopped. Taking the benefits of these particularly vulnerable youth while the state pays the tab for all other foster children is contrary to basic principles of equity, due process, and equal protection, as well as to the best interests of the very children DCYF exists to protect. This policy leads to homelessness, multi-generational child welfare involvement, and other undesirable and costly outcomes.

Washington was one of the states who became engaged in this issue early, and with the support of the Governor, the agency, advocates, academics, attorneys, youth, and others. Yet, the state has thus far failed to pass any reforms to stop or limit this practice while dozens of other states have passed and are now implementing youth-centered policies that protect the rights, the assets, and the futures of these beneficiaries in foster care. In an April 2024 report card my organization published grading the policies of every state vis-a-vis foster children's federal benefits, Washington earned a "C" grade. In addition, Washington is out of compliance with a 2018 federal law requiring states to enter into data sharing agreements with SSA for purposes of quantifying the problem.

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, and Philadelphia. States that have attempted to advance legislation (and plan to reintroduce) include Iowa, New Mexico, 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, Rhode Island, Texas, Utah, Virginia, and Washington.

These many other states-- red, blue, and purple-- have found a variety of ways to fund these reforms and are working hard on implementation. Both SSA and ACF have issued strong guidance encouraging states to review and reform their policies and offering support in doing so.

Parents work hard to set their children up for success. When Washington acts as the legal parent of foster children, it should work towards that same goal. DCYF should be commended for its principled partnership in advancing this measure and urged to act with due haste in implementation. Thousands of vulnerable foster children are counting on you.

Thank you for your consideration of SB5488, and please contact me with any questions.