

Testimony HB 768:SB 658 - 2026 - Daniel Hatcher.pdf

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Position: FAV

TESTIMONY IN SUPPORT OF HB 768/SB 658:**Department of Human Services – Benefits for Children in Custody – Alterations**

TO: Hon. William C. Smith, Jr., Chair, and members of the Senate Judicial Proceedings Committee

FROM: Daniel L. Hatcher, Professor of Law, University of Baltimore School of Law

DATE: April 2, 2026

RE: HB 768/SB 658 – Support

Dear Chairman Smith and members of the Committee:

Thank you for the opportunity to present testimony in support of HB 768/SB 658 (as amended). I have been a law professor at the University of Baltimore since 2004, including teaching the Civil Advocacy Clinic where students represent low-income clients. My research has received national attention, focusing on improving programs and policies for vulnerable children and impoverished adults—including extensive research regarding foster children’s Social Security Benefits. Prior to UB, I was an assistant director of advocacy and also staff attorney at the Legal Aid Bureau, representing adults in all areas of poverty law and representing children in foster care. I was also a senior staff attorney for the Children’s Defense Fund.

HB 768/SB 658 is needed to protect foster children’s resources. My scholarship first exposed the harmful practice of foster care agencies taking children’s resources, and I have conducted [research regarding the issues addressed in this bill for over twenty years.](#)¹ Maryland’s foster care agencies (overseen by DHS) were created to serve and protect the best interests of vulnerable children. Unfortunately, the agencies have been subverting that purpose, taking foster children’s resources and requiring the children to pay for their own care. For help in taking the children’s funds, the agencies have worked with a private contractor, Maximus, Inc., who in a contract document referred to foster youth as a [“revenue generating mechanism.”](#)

HB 768/SB 658 will help stop the harm to foster children. Foster care agencies have been searching for children who may be disabled or have deceased parents and therefore potentially eligible for SSI or survivor benefits. The agencies apply on the children’s behalf and then take

¹ E.g, Daniel L. Hatcher, [Foster Children Paying for Foster Care](#), 27 Cardozo L. Rev. 1797 (2006); [Purpose vs. Power: Parens Patriae and Agency Self-Interest](#), 42 N. Mex. L. Rev. 159 (2012); [Stop Foster Care Agencies from Taking Children’s Resources](#), 71 Florida Law Rev. Forum 104 (2019).; Daniel L. Hatcher, THE POVERTY INDUSTRY: THE EXPLOITATION OF AMERICA’S MOST VULNERABLE CITIZENS (NYU Press, 2016); Daniel L. Hatcher, INJUSTICE, INC: HOW AMERICA’S JUSTICE SYSTEM COMMODOFIES CHILDREN AND THE POOR (UC Press, 2023).

control of the funds by applying to become the children's representative payee. Then, although the agencies' core purpose is to serve and promote the welfare of children, the agencies divert the children's money to government revenue rather than using the funds for the children's individualized needs and best interests as intended. The agency rationale is to pay back the cost of foster care, but children have no legal obligation to pay for their own care. Disabled children desperately needing more help are denied assistance from their own funds. Foster children traumatized by their parents' deaths are then deprived of their survivor benefits, stopping the children from using their own money to help themselves and stripping the children of the invaluable emotional connection the benefits could have provided to their deceased parents.

Despite years of agency opposition to stopping the practice, Maryland became the first state to begin protecting foster children's Social Security and VA benefits through 2018 legislation, but the legislation unfortunately only protected benefits starting at age 14. Although DHS has always had the authority to protect all children's resources, the agency has continued to take part of the benefits of children over 14, and all the benefits of children under 14.

Now, most other states have taken steps towards protecting all foster children's resources through legislation—and [Kansas](#) stopped the takings through executive order. *Also, at the federal level, the encouragement of states to protect foster children's benefits has been bipartisan—by both the [last administration](#) and the [current administration](#).*

HB 768/SB 658 should have a zero fiscal note and result in state savings. Now, with amendments, the fiscal note should be minimal or zero. Further, foster children's Social Security and VA benefits belong to the children. Thus, if the state agency intended to protect children stops inappropriately taking the children's resources, such corrective action should not result in a fiscal note because the money never belonged to the state agency. Also, by foster children having access to their own funds to help in the transition out of care, state savings will result because the children will be more likely to succeed in the transition to adulthood—working and paying more taxes, and with reduced need for public assistance and reduced interaction with the criminal justice system.

I therefore submit this testimony in support of HB 768/SB 658 and respectfully request a favorable report.

CAI Support Letter_HB 768_JPC.pdf

Uploaded by: Elisa Weichel

Position: FAV



CHILDREN'S ADVOCACY INSTITUTE

5998 Alcalá Park | San Diego, CA 92110-2492

San Diego Office: (619) 260-4806

Sacramento Office: (916) 844-5646

Washington, DC Office: (917) 371-5191

www.sandiego.edu/cai | info@caichildlaw.org

The Hon. William C. Smith, Jr.
Chair, Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

March 31, 2026

Re: Written Testimony of the Children's Advocacy Institute In Support of House Bill 768 Department of Human Services – Benefits for Children in Custody – Alterations

Senate Judicial Proceedings Committee April 2, 2026

Position: Favorable

Dear Chair Smith and Members of the Senate Judicial Proceedings Committee,

The Children's Advocacy Institute (CAI) respectfully submits this testimony in support of House Bill 768. CAI is a national organization based at the University of San Diego School of Law. For over three decades, we have been dedicated to improving outcomes for vulnerable children, with a particular focus on children in foster care. We have spent years working at the intersection of child welfare law, Social Security policy, and federal benefits to ensure that foster youth receive the protections and resources they are owed. Our Campaign to Preserve Foster Youth Benefits has partnered with advocates, legislators, state leaders, and youth with lived experience to advance reforms in 38 states.

The Problem. Across the country and in Maryland state child welfare agencies have engaged in a deeply troubling practice: applying for federal benefits, including Social Security survivor benefits, Supplemental Security Income (SSI), and Veterans Affairs benefits, on behalf of foster children, and then using those funds to reimburse the state for the cost of care rather than saving or spending the funds for the child's direct benefit. These benefits belong to children because they are disabled, or because a parent has died, become disabled, or served in the military. Yet when the child welfare agency serves as representative payee, the child often never sees a penny of their own money.

The consequences are severe. Foster youth already face disproportionately high rates of homelessness, unemployment, and involvement with the criminal justice system after aging out of care. For those who are disabled or orphaned, these federal benefits represent a critical lifeline during the transition to adulthood. When the state diverts those resources, it makes an already precarious transition exponentially harder. As one former foster youth put it upon learning that her savings had been frozen so the agency could continue collecting her SSI: "Wait, so the state froze my savings account so I could keep getting a benefit I never knew about and never saw a penny of?"

This issue has drawn broad bipartisan attention. The Assistant Secretary for the Administration for Children and Families, Alex Adams, ended the diversion of foster children's Social Security survivor benefits in his home state of Idaho and has since called upon 39 Governors, including Maryland's, to do the same, characterizing the practice as a "100% tax on orphans."

Maryland was a national trailblazer in 2018 when it became the first state to establish partial protections for foster youth's federal benefits. The landscape has shifted dramatically since then, however, and states across the country and across the political divide have gone far beyond what Maryland initially did and are moving to end the practice entirely. It is time for Maryland to finish the job it started.

How House Bill 768 Addresses the Problem. HB 768, as amended and passed by the House of Delegates, takes a phased approach that advances urgently needed reforms.

Beginning October 1, 2026, the bill requires the Department of Human Services to proactively screen every child entering care for potential eligibility for VA benefits, SSI, and Social Security benefits — within 60 days of the child entering care. Critically, this screening obligation is not a one-time event. The Department must also re-screen within 60 days after the child's attorney provides notice of a material change in circumstances likely to affect eligibility, as well as within 60 days of the child attaining certain specified ages. If the Department determines a child may be eligible, it must apply for benefits on the child's behalf. This ensures that children who are entitled to benefits actually receive them. This is a fundamental prerequisite to protecting vital benefits.

Beginning July 1, 2027, the bill takes the essential next step: requiring the Department to conserve any federal benefits received on behalf of a child in its custody. This provision will ensure that these benefits are preserved for the children to whom they belong, not used to offset the state's cost of providing care it is already obligated to provide. Although we believe this change should take effect immediately, this delayed approach sets the stage for success.

Conclusion. The child welfare system exists to protect and serve the best interests of vulnerable children — not to treat them as a revenue source. HB 768, as amended, takes a meaningful and responsible approach to ending this practice in Maryland and ensuring that foster youth leave care with the financial resources they need and deserve. We respectfully urge a favorable report.

Respectfully submitted,



Amy Harfeld
National Policy Director, Children's Advocacy Institute
University of San Diego School of Law

CROSSOVER HB 768 FAV - Benefits for Children in Cu

Uploaded by: Hayley Lichterman

Position: FAV



NATASHA M. DARTIGUE
PUBLIC DEFENDER

KEITH A. LOTRIDGE
DEPUTY PUBLIC DEFENDER

ELIZABETH HILLIARD
DIRECTOR OF GOVERNMENT RELATIONS

POSITION ON PROPOSED LEGISLATION

BILL: House Bill 768

Department of Human Services - Benefits for Children in Custody - Alterations

FROM: Maryland Office of the Public Defender

POSITION: Favorable

DATE: 4/2/26

The Maryland Office of the Public Defender (OPD) respectfully requests that the Committee issue a favorable report on **House Bill 768** which revises the responsibilities of the Department of Human Services (DHS or “the Department”) when serving as representative payee and fiduciary for children committed to its custody. **It requires DHS to use those benefits in the child’s best interests to meet current unmet needs.**

This testimony is provided by OPD’s Parental Defense Division (PDD) which represents parents and legal guardians from all 24 counties in Maryland who have experienced, or are at risk of, having children separated from their parents by an arm of the government. Our multidisciplinary legal team—composed of dedicated attorneys, experienced social workers, and parent advocates with lived-experience in the DHS system—ensures that families receive high-quality legal representation during their Child in Need of Assistance (CINA) and Termination of Parental Rights (TPR) cases.

Under current Maryland practice, when a child in foster care is eligible for Social Security or survivor benefits, the Department may apply to serve as the child’s representative payee. In that role, the Department can use the child’s federal benefits to reimburse itself for foster care costs, rather than reserving those funds to address the individual child’s needs. House Bill 768 addresses several significant concerns arising from that practice.

Ending the “Foster Care Tax.”

As noted in national reporting and Congressional Research Service analysis, children who receive Social Security or survivor benefits are often the only children required to contribute their own income toward the cost of their foster care.¹ In effect, orphaned children and children

¹ Congressional Research Service, *Children in Foster Care and Social Security Administration Benefits: Frequently Asked Questions*, CRS Report R46975, at *Pros and Cons for the Use of SSI/Social Security Benefits by Child Welfare Agencies* section, page 33, (Nov. 18, 2021) (available at, <https://www.congress.gov/crs-product/R46975>), (noting that proponents of reserving SSI/Social Security benefits for children argue that applying those benefits solely to reimburse foster care costs “amounts to asking children to pay for their own stay in foster care”).

with significant disabilities subsidize the system responsible for their protection. House Bill 768 ends that inequitable practice.

Prioritizing Unmet Needs.

The bill defines “unmet needs” to include specialized medical equipment, assistive technology, educational supports, extracurricular activities, and tuition. These are not luxuries; they are critical supports that allow children to develop academically, socially, and emotionally. Directing benefits toward these needs ensures that the funds are used to enhance the child’s well-being, not merely to offset governmental expenditures.

Building a Financial Foundation for Independence.

Youth aging out of foster care frequently face a steep financial cliff. Conserving benefits for the child’s best interest creates a modest but meaningful financial cushion, funds that can be used for a security deposit, transportation, tools for employment, or post-secondary training. Preserving these resources also reduces the risk of homelessness and instability during the transition to adulthood.

Strengthening Fiduciary Accountability.

House Bill 768 reinforces the Department’s fiduciary obligations. It requires the Department to first consider whether a suitable relative or trusted adult can serve as representative payee before the Department assumes that role itself. This reduces the inherent conflict that arises when the same entity responsible for a child’s care also controls and expends the child’s income.

Conclusion

Social Security and survivor benefits are earned entitlements that belong to the child. House Bill 768 ensures those funds are used for the child’s present well-being and future stability. It is a measured reform grounded in fairness, fiduciary integrity, and Maryland’s commitment to protecting its most vulnerable children.

For these reasons we urge the Committee to issue a favorable report on House Bill 768.

Submitted by: Maryland Office of the Public Defender, Government Relations Division.

Authored by: Hayley Lichterman, hayley.lichterman@maryland.gov

2026 HB768 Federal Benefits Foster Care SPONSOR Te

Uploaded by: Karen Simpson

Position: FAV

KAREN SIMPSON
Legislative District 3
Frederick County

Judiciary Committee
Chair
Family Law Subcommittee



The Maryland House of Delegates
6 Bladen Street, Room 221
Annapolis, Maryland 21401
410-841-3436
800-492-7122 Ext. 3436
Karen.Simpson@house.maryland.gov

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

**HB768 – Department of Human Services – Benefits for Children in Custody – Alterations
Favorable Testimony**

Hearing on 4/02/2026 at 1 PM – Judicial Proceedings

Problem Addressed by HB768

HB768 – Department of Human Services – Benefits for Children in Custody – Alterations ensures that federal benefits intended for children in state custody are used to directly support their needs and future stability rather than reimbursing state expenses.

HB768 stops the Maryland Department of Human Services from holding these funds to compensate the state for caring for them.

HB 768 ensures orphaned or disabled children in foster care eligible for federal benefits receive their SSI benefits.

The delay in implementation to June 30, 2027, reduces the fiscal note to less than \$100,000.

We have worked with our sponsors, the Department of Human Services, and advocates to ensure this bill supports our youth and has clear language to support their needs.

For these reasons, I respectfully urge a favorable report on HB 768.

Respectfully Yours,

A handwritten signature in blue ink, appearing to read "Karen Simpson".

Delegate Karen Simpson

District 3 - Frederick

NASW Maryland - 2026 HB 768 FAV - Benefits for Chi

Uploaded by: Karessa Proctor

Position: FAV



**Testimony Before the Senate Judicial Proceedings Committee
April 2, 2026**

**House Bill 768:
Department of Human Services - Benefits for Children in Custody - Alterations
SUPPORT as Amended**

The National Association of Social Workers – Maryland Chapter represents over 3,000 social workers statewide. We support House Bill 768 as amended, as it would help ensure that youth exiting care do not face these preventable barriers without the financial resources intended for their protection.

We are grateful that Maryland led the country in 2018 and became the first state to establish protections for foster youths' federal benefits. Current law, however, does not fully protect all foster youth benefits, and instead only requires the conservation of a percentage of the benefits starting at age 14. Since its groundbreaking 2018 enactment, Maryland has fallen behind as several states across the country, including Arizona, Kansas, Massachusetts, Missouri, Nevada, New Jersey, New Mexico, Ohio, Oregon, and Washington DC, have ended this practice in full.

House Bill 768 would put Maryland back on top on this issue by ensuring that no federal benefits belonging to eligible foster youth are used to offset the state's obligations to pay for their care and are instead safeguarded for each beneficiary's current or future unmet needs. If enacted, the bill would convey a clear message that the practice of taking foster youth's benefits in any amount is antithetical to the best interests of these children.

As a person who spent most of my youth in foster care, I know first hand how this will benefit you people in this system. House Bill 768 is not merely a policy adjustment—it is a moral correction. Like many foster youths, I was expected to overcome documented trauma, mental health challenges, and systemic instability entirely on my own. I cannot help but ask: How much suffering could have been prevented if those resources had followed me into adulthood?

Transitioning out of foster care is often marked by isolation, instability, and complexity. The moment youth exit care, the paid supports disappear. During college, I experienced homelessness because I had nowhere to go during academic breaks. I nearly did not complete my undergraduate degree due to profound depression and isolation. I needed stability and support—someone to help hold me up—but instead, I felt discarded and left to navigate adulthood alone. I incurred significant debt to secure housing, a burden I continue to carry today. That debt became yet another barrier to long-term stability.

I entered foster care at three years old due to abuse, and aged out at twenty-one. I moved through multiple placements and experienced more abuse while in care. As a young child, I was placed in "treatment foster care" due to the severity of my trauma. I was required to attend therapy, prescribed

psychotropic medications, and received special education services. Despite this extensive system involvement, the responsibility for a successful transition rested entirely on me.

Access to federal benefits for which many foster youth qualify—such as Supplemental Security Income (SSI)—could have meaningfully changed my trajectory. Under the Social Security Administration’s definition, a child under 18 is considered disabled if they have a medically determinable physical or mental impairment (including emotional or learning problems) that results in marked and severe functional limitations and is expected to last at least 12 months or result in death. This definition applies to a significant number of foster youth. It applied to me. Yet, I exited care without the benefit of financial resources that my documented trauma and diagnoses could have generated to support my well-being and transition.

Had those funds been preserved for my benefit, I could have accessed opportunities that were financially out of reach—certain extracurricular activities, enrichment experiences, and milestone experiences. More importantly, those resources could have provided housing stability, educational support, and a financial cushion during the vulnerable years of early adulthood.

If the child welfare system assumes the authority to determine whether families are fit to care for their children—if it takes on the responsibility to ensure safety, permanency, and well-being—then it must also assume responsibility for ensuring healthy development, ongoing wellness, and a supported transition into adulthood. To do otherwise is neglectful and irresponsible. We cannot continue to document poor outcomes for former foster youth while declining to implement available, federally supported solutions.

House Bill 768 represents such a solution. It aligns with Maryland’s broader commitments to improving outcomes for youth in out-of-home care and strengthening reunification efforts by ensuring families and young people have access to critical financial supports. For youth who have lost a parent and must navigate both grief and the compounded trauma of foster care, the least we can do is ensure that financial resources intended for their support are preserved to stabilize and empower them as they matriculate through life without parental backing.

As a person with lived-experience and a licensed clinical social worker, I strongly support House Bill 768 and its potential benefits for current foster youth, transitioning youth, and alumni of care. The effects of foster care do not disappear upon exit; they leave a lasting imprint. Through House Bill 768, Maryland has an opportunity to shape that imprint into one of dignity, stability, and intentional investment rather than prolonged hardship.

On behalf of NASW Maryland, I respectfully urge a favorable report.

Respectfully submitted,
Arielle Skinner, LCSW-C

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Uploaded by: Leslie Margolis

Position: FAV



Empowering People to Lead Systemic Change

1500 Union Ave., Suite 2000, Baltimore, MD 21211
Phone: 410-727-6352 | Fax: 410-727-6389
DisabilityRightsMD.org

SENATE JUDICIAL PROCEEDINGS COMMITTEE

**HOUSE BILL 768: Department of Human Services—Benefits for Children in Custody--
Alterations
April 2, 2026**

POSITION: SUPPORT AS AMENDED

Disability Rights Maryland (DRM), a non-profit legal advocacy organization, is the federally-mandated Protection and Advocacy agency for the State of Maryland, charged with defending and advancing the rights of individuals with disabilities. For more than 40 years, DRM has represented Maryland children, youth, and adults with disabilities, including, for approximately 15 years, children with disabilities in Child in Need of Assistance (CINA) proceedings in juvenile courts throughout the state. DRM continues to represent foster children in individual education cases and systemic litigation and provides support to CINA attorneys who seek DRM's expertise in complex disability-related matters. We are pleased to support House Bill 768 as amended, which will ensure that foster children who receive federal benefits such as Supplemental Security Income (SSI), will no longer have to give up a portion of their benefits to offset the cost of their care.

In 2018, Maryland became the first state in the country to take steps to protect federal benefits that belong to eligible children in foster care, requiring that benefits be conserved for the future or used to pay for unmet needs the local department of social services was not required to pay for. However, the 2018 law did not fully prohibit the practice of using a child's benefits to offset the cost of their care; the law required the Department of Human Services to save a certain percentage of the funds belonging to foster youth aged 14 and older. In the time since the law was enacted, other states have surpassed Maryland by prohibiting the use of benefits to offset costs of care and by implementing other protections.

House Bill 768 will move Maryland to the forefront again by prohibiting use of federal benefits—benefits that belong to the child—to pay for their foster care and by requiring the local department of social services to frequently try to find an individual who can serve as the child's representative payee so the department does not serve in that role. These protections are especially important for children with disabilities, many of whom will have a lifelong need for care, equipment, or supports and services funded in part or in whole by their benefits. Prohibiting the Department of Human Services from taking any benefits and instead allowing the complete benefits payment to be used for otherwise unmet needs while children are in

Disability Rights Maryland Testimony: House Bill 768, Page Two

foster care, and/or to conserve benefits through an ABLE account or a special needs trust is consistent with the duty of the Department of Human Services to appropriately care for and protect the children in its care. Children, particularly those with disabilities, do not choose to enter the foster care system, and they should not be required to pay for any part of the care provided to them by their local department of social services. House Bill 768 rights a longstanding wrong, and for these reasons, DRM strongly supports the bill as amended and urges a favorable report.

Contact: Leslie Seid Margolis at lesliem@disabilityrightsmd.org or 443-692-2505.

HB 768 - SWASC - FY Benefits - XF - FAV.pdf

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Position: FAV

TESTIMONY IN SUPPORT OF HOUSE BILL 768

Department of Human Services - Benefits for Children in Custody - Alterations

Senate Judicial Proceedings Committee

April 2, 2026

Social Work Advocates for Social Change supports HB 768, which will support children in foster care by ensuring that federal entitlements from the Veterans Administration and the Social Security Administration are used for their intended purpose, meeting the needs of the recipient, and aiding their transition to living independently as young adults. SWASC is agreeable to HB 768 as amended by the House, which delays implementation of parts of the legislation until June 30, 2027.

Foster care youth are highly vulnerable and more likely to experience homelessness, incarceration, and challenges with education and employment. Nearly a third of young people who age out of the foster care system experience homelessness by age 21.¹ Young people who have been in foster care are far less likely to graduate high school by age 21 than members of the general population. Foster care youth are more than 25 times more likely to be incarcerated by age 21.² Those with disabilities face challenges that go well beyond their medical needs, such as 37% lower earning potential for disabled individuals with a high school education compared to their non-disabled peers.³ Without stable employment, adequate income, and opportunities for higher education, former foster youth are more likely to need state-funded safety-net programs to meet their basic needs.⁴

HB 768 supports the best interests of youth in the care of the state of Maryland by allocating all the resources they are entitled to, going towards their unmet needs, and assisting their transitions out of state custody. Current Maryland law places some limits on diverting children's disability and survivor benefits for foster care expenses – but there are no protections for children under age 14, and the state can take as much as 60% from many older foster children.⁵ HB 768 ensures that all foster children are entitled to keep their full benefits for needs that DHS is not already legally obligated to cover. The bill also establishes the department's responsibility to investigate eligibility of and apply for potential benefits for the youth in their custody, reduces the practice of DHS serving as children's legal representative for these payments – a problematic conflict of interest – and helps children plan and save for future needs. Moving towards providing youth full access to their benefits will increase their ability to afford housing, education, and other necessities as they transition out of foster care, bolstering their economic security and the economic security of our State.

HB 768 rectifies a long-standing backwards practice that allows the state to "charge" some children who have survivor or disability benefits for their foster care services, whereas foster children who do not have access to these benefits aren't required to "pay". Our vulnerable young people need resources to navigate challenges arising from trauma and mental health struggles caused by abuse, neglect, or a parent's death, and other disabilities. It



For more information, please contact
Kate Rhudy
umswasc@gmail.com

is Maryland's obligation as a state to cover the full cost of our foster care system without relying on syphoning federal benefits away from vulnerable youth to fill gaps in our state's budget.

Maryland is falling behind other states that have moved to protect the benefits of foster youth. Although Maryland was an early leader in this area, enacting the nation's first restrictions on taking disability and survivor benefits from foster children in 2018, nine states and the District of Columbia have since enacted comprehensive protections.⁶ It is time for Maryland to implement further reforms to protect some of our state's most vulnerable individuals. These, often federal, benefits are for the individuals deemed eligible and therefore entitled, not for the state.

Social Work Advocates for Social Change urges a favorable report on HB 768.

Social Work Advocates for Social Change is a coalition of MSW students at the University of Maryland School of Social Work that seeks to promote equity and justice through public policy and to engage the communities impacted by public policy in the policymaking process.

¹ Kelly, P. (2020). Risk and protective factors contributing to homelessness among foster care youth: An analysis of the National Youth in Transition Database. Child Welfare League of America, p. 4. <https://doi.org/10.1016/j.chilyouth.2019.104589>

² The Annie E. Casey Foundation (2019) Future savings: The economic potential of successful transitions from foster care to adulthood, pp. 8,11. <https://assets.aecf.org/m/resourcedoc/aecf-futuresavings-2019.pdf>

³ Yin, M., Shaewitz, D., & Megra, M. (2014). *An uneven playing field: The lack of equal pay for people with disabilities*. American Institutes for Research, p.4. <https://www.air.org/resource/report/uneven-playing-field-lack-equal-pay-people-disabilities>

⁴ Dworsky, A., Gitlow, E., Horwitz, B., & Samuels, G. M. (2019). Missed opportunities: Pathways from foster care to youth homelessness in America. Chicago, IL: Chapin Hall at the University of Chicago.

⁵ Md. Code, Fam. Law § 5-527.

⁶ Child Civil Advocacy Institute. (2024). *Foster care or foster con? Preserving the federal benefits of America's most vulnerable children: An evaluation of all 50 states and the District of Columbia*. University of San Diego School of Law, p.3; updated state legislative details at <https://www.sandiego.edu/cai/advocacy/youth-benefits/>

SB0768 CPMC FAVA JPR.pdf

Uploaded by: Diana Philip

Position: FWA

THE COALITION TO PROTECT MARYLAND'S CHILDREN

Our Mission: To combine and amplify the power of organizations and citizens working together to keep children safe from abuse and neglect. We strive to secure budgetary and public policy resources to make meaningful and measurable improvements in safety, permanence, and wellbeing.



HB0768 - Department of Human Services - Benefits for Children in Custody - Alterations

Senate Judicial Proceedings Committee

April 2, 2026

Position: SUPPORT with amendment

The Coalition to Protect Maryland's Children is a consortium of organizations and individuals formed in 1992 who are concerned about the care of Maryland's most vulnerable children and work together to educate and promote meaningful child welfare reform. **CPMC urges a favorable report with amendment on HB0768 - Department of Human Services - Benefits for Children in Custody - Alterations.**

As many of our coalition members have dedicated their careers to safeguarding the rights of children, we are familiar with the growing concern of how best to safeguard all eligible federal benefits for foster care children in Maryland's system. Although our state was the first one in 2018 to establish protections for foster youths' federal benefits, our current law does not fully protect all foster youth benefits, and instead only requires the conservation of a percentage of the benefits starting at age 14.

HB0768 will ensure that no federal benefits belonging to eligible foster youth are used to offset the state's obligations to pay for their care and are instead safeguarded for each beneficiary's current or future unmet needs. The bill would also make other important changes related to screening and application for these benefits and the conservation and/or use of the funds to meet the beneficiary's unmet needs, among other things. If enacted, the bill would convey a clear message that the practice of taking foster youth's benefits in any amount is antithetical to the best interests of these children. However, because the bill has been heavily amended, we want to ensure that the legislative intent remains clear on parameters in conserving and using the funds. Below is our recommended friendly amendment which we believe the bill sponsor has accepted.

Ensuring that foster youth leave Maryland's care with the resources intended for them would beneficially impact their transition into adulthood and self-sufficiency. We look forward to the passage of this legislation and its forthcoming implementation. It is for these reasons that the CMPC **urges a favorable report with amendment on HB0768 - Department of Human Services - Benefits for Children in Custody - Alterations.**¹

¹ Members of CPMC represented by this written testimony include – the American Academy of Pediatrics - Maryland Chapter, Child Justice, Center for Hope, Citizen's Review Board for Children, Court Appointed Special Advocates (CASA - Baltimore County), The Family Tree, Maryland Association of Resources for Families and Youth (MARFY), Maryland Children's Alliance, Maryland Coalition Against Sexual Assault, Maryland Legal Aid, Maryland Network Against Domestic Violence, National Association of Social Workers – MD (NASW), the State Council on Child Abuse & Neglect (SCCAN), and individual members of the coalition.

The Coalition to Protect Maryland's Children

www.protectmarylandschildren.org admin@protectmarylandschildren.org

1014 W 36th Street, Suite 103, Baltimore, MD 21211

THE DEPARTMENT SHALL NOT USE THE CHILD'S BENEFITS TO REIMBURSE THE STATE FOR THE COST OF CARE.

Page 12, line 28 as a new 5-527.1(D)(8)

HB768- Maryland Legal Aid - FAV260402 Written Test

Uploaded by: Erica LeMon

Position: FWA



**HB768 - Family Law - Department of Human Services - Benefits for Children in Custody -
Alterations
April 2, 2026**

Position: FAVORABLE WITH AMENDMENTS

*Maryland Legal Aid submits written and oral testimony on HB0768 at the request of its sponsor,
Delegate Karen Simpson.*

Maryland Legal Aid asks that the Committee report **favorably with amendments** on HB0768, which alters the Department of Human Services (DHS)'s responsibilities as representative payee and fiduciary for certain children in foster care. It also requires DHS to use children's benefits in a manner consistent with the best interests of the child and their unmet, uncovered needs. There is one essential amendment to HB768, however, that should be made to ensure that HB768 fulfills its intent, by ensuring that the funds belonging to the child are not used to reimburse DHS for the cost of their care.

Maryland Legal Aid serves residents in each of Maryland's 24 jurisdictions, providing free legal services to the State's low-income and vulnerable residents in a range of civil legal matters. Maryland Legal Aid is Maryland's largest civil non-profit law firm, representing vulnerable young people in Child in Need of Assistance (CINA) matters across the State. This proposed legislation, if properly amended, will be an important measure to provide financial support and stability to children and young people exiting foster care to adulthood.

Maryland Legal Aid's staff represent thousands of children in CINA and Guardianship ("TPR") proceedings throughout the state. Our attorneys represent children from infancy to young adulthood continuously, while under the jurisdiction of the juvenile court, including when the youth transitions from foster care to adulthood. As a result of its extensive work in the field, Maryland Legal Aid has expertise in matters concerning child welfare and children in foster care.

The purpose of HB 768 is to amend Maryland Family Law § 5-527.1 to clarify DHS' obligations with respect to federal benefits belonging to children in foster care. It requires consultation with the child's attorney in selecting a representative payee, limits the use of a child's funds exclusively to unmet needs beyond what DHS or medical insurance must provide, and ensures that any remaining funds are conserved until the child exits foster care.

The clear and longstanding intent of this statutory framework is to ensure that children, not DHS, benefit materially from their own federal income. As originally introduced, HB 768 advanced that goal explicitly. The bill required DHS to conserve all federal benefits received on behalf of a child, and it categorically prohibited the use of those benefits to reimburse the State for the cost of care. That formulation squarely aligned with the statute's purpose: to protect children's assets and promote their long-term stability and transition to adulthood.

As amended, HB 768 now operates in two phases, with the second phase delayed until fiscal year 2027. In the second phase, HB768 omits a provision that is necessary to ensure that the intent of the bill is effectuated. The amended bill no longer explicitly prohibits DHS from using a child's federal benefits to reimburse itself for foster care costs. This omission of an explicit prohibition on the Department using the child's benefits to reimburse itself places the core intent of the legislation at serious risk.

Current law already establishes minimum conservation requirements for federal benefits received on behalf of children in foster care. Family Law § 5-527.1(c)(2) provides that, beginning at age 14, a "minimum percentage of the child's benefits are not used to reimburse the State for the costs of care," specifying conservation floors of 40% for ages 14–15 and 80% for ages 16–17. Md. Code Ann., Fam. Law § 5-527.1(c)(2)(i)–(ii). The statute is explicit that these percentages are minimums, not caps.

The statute further directs that, for benefits not constrained by federal asset limits, DHS must "exercise discretion ... in the best interest of the child to conserve the funds or use the funds for services for special needs not otherwise provided by the [DHS]." Md. Code Ann., Fam. Law § 5-527.1(c)(3). In short, the General Assembly affirmatively gave DHS discretion to conserve more than the statutory minimum. Despite this discretion, DHS has chosen a different course. On October 1, 2018, immediately following the enactment of § 5-527.1, DHS issued Policy SSA/CW #19-6, entitled Protecting the Resources of Children in Custody.

That policy states unequivocally: "As the representative payee for children in foster care, DHS/LDSS has determined that it is generally in the best interests of the child to use federal benefits received to pay for the child's cost of care."¹ As implemented statewide, this policy effectively treats the statutory minimum conservation levels as the maximum amount DHS will conserve, and authorizes DHS to take every remaining dollar permitted by statute to reimburse itself for foster care costs. Nothing in Family Law § 5-527.1 requires that outcome. To the contrary, the statute limits recoupment only by requiring that a minimum portion of a child's benefits "are not used to reimburse the State."²

By removing language that prohibits DHS from using children's federal benefits to reimburse itself, the amended version of HB 768 could be read to leave intact the precise practice the bill was designed to address. Without that explicit prohibition, DHS policy, not legislative intent, might continue to govern, and children in foster care may continue to lose their federal income to State recoupment. As a result, the amended bill risks codifying the problem rather than solving it. The absence of clear statutory language barring reimbursement invites continued diversion of children's federal benefits and undermines the Legislature's commitment to helping foster youth build financial stability for adulthood.

¹ Md. Dep't of Human Servs., SSA/CW #19-6, at 2 (Oct. 1, 2018).

² Md. Code Ann., Fam. Law § 5-527.1(c)(2).

Given that the intent of HB 768 is to ensure that children in foster care receive and retain their federal benefits, the bill should be amended to explicitly prohibit DHS from using those benefits to reimburse itself for the cost of care. Without that language, the statute will remain subject to an administrative interpretation that prioritizes Department reimbursement over children's futures, an outcome that is neither required by law nor consistent with the purpose of Family Law § 5-527.1.

Given the current published policy and practice of DHS of taking all funds of the youth up to the statutory limit to reimburse itself for the cost of care, the omission of this language restricting the ability of DHS to use the funds of the child to reimburse itself for the cost of care could jeopardize not only the intent of the Bill, but also the conservation of benefits for youth secured by the original enactment of Family Law § 5-527.1. DHS's published policy suggests that without the statutory limit, DHS may seek to use all of the youth's funds to reimburse itself for the cost of care. Therefore, we strongly urge passage of HB768, with an amendment such that Section 2 includes a provision that [DHS] shall not use the child's benefits to reimburse the State for the cost of care.

The challenges facing youth who exit foster care without permanent family connections are well-documented. Studies show that 22% to 30% of former foster youth experience homelessness during their transition to adulthood, compared to an estimated 4% lifetime prevalence among the general population. Additionally, one in five youth formerly in foster care have not earned a high-school diploma, vocational certificate, or license by age 21, according to the KIDS COUNT® Data Center.³ By age 26, the earnings of youth aging out of foster care are 50% lower, and their employment rates 20% lower, than similarly educated peers.⁴ These statistics highlight the significant barriers confronting these young adults and underscore the importance of preserving and appropriately using their financial resources.

Given these substantial challenges, ensuring that foster youth's benefits are used for their present unmet needs, or conserved for their future, is not only fiscally responsible but essential to supporting their long-term stability, development, and success as independent adults. Strengthening the conservation of foster youth's federal benefits is fiscally responsible, promoting stability and self-sufficiency for youth transitioning from foster care. Youth who exit foster care with greater financial stability are better positioned to achieve economic self-sufficiency in adulthood and are less likely to need to rely on public benefits.⁵

³ Annie E. Casey Found., What Happens to Youth Aging Out of Foster Care (Feb. 25, 2025), <https://www.aecf.org/blog/what-happens-to-youth-aging-out-of-foster-care>.

⁴ Anthony Bald, Joseph J. Doyle Jr., Max Gross & Brian A. Jacob, Economics of Foster Care, 36 J. Econ. Persp. 223 (2022).

⁵ Mark E. Courtney et al., Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26, at 10–12, 48–50 (Chapin Hall at the Univ. of Chi. 2011), <https://www.chapinhall.org/research/midwest-evaluation-of-the-adult-functioning-of-former-foster-youth/>.

Commented [KG1]: Can you add a sentence or two elsewhere in here about why this is the fiscally responsible course? I assume there is a point to be made -- in addition to the excellent point in the preceding paragraph about the challenges youth exiting foster care face, -- about how allowing these youth to have some financial support at the start of adulthood likely means less reliance on future financial social supports?

Maryland Legal Aid urges the Committee to issue a FAVORABLE WITH AMENDMENTS report on House Bill 768 and urge its ultimate passage. If you have any questions, please contact: Erica I. LeMon, Advocacy Director for Children's Rights at elemon@mdlabor.org (410) 951-7648 or (410) 935-0937.

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Uploaded by: Gloria Brown-Burnett

Position: INFO



DEPARTMENT OF HUMAN SERVICES

Wes Moore, Governor · Aruna Miller, Lt. Governor · Stacy L. Rodgers, Acting Secretary

April 2, 2026

The Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
2 East Miller Senate Office Building
Annapolis, Maryland 21401

RE: TESTIMONY ON HB 768 - DEPARTMENT OF HUMAN SERVICES - BENEFITS FOR CHILDREN IN CUSTODY - ALTERATIONS - POSITION: INFORMATION

Dear Chair Smith and Members of the Judicial Proceedings Committee:

The Maryland Department of Human Services (DHS) thanks the Committee for its consideration and respectfully submits information for the Committee's consideration on House Bill 768 (HB 768).

With offices in every one of Maryland's jurisdictions, DHS provides preventive and supportive services, economic assistance, and meaningful connections to employment development and career opportunities to help Marylanders reach their full potential. Our Social Services Administration implements the Out-of-Home Care program (OOH), which is affected by HB 768. HB 768 would require the state to conserve all federal benefits on behalf of youth in our care and custody, rather than using a portion of those funds to reimburse the state for the cost of their care. HB 768 would also require the Department to provide training for youth as they approach adulthood on how to access their conserved benefits in savings, when their benefits are set to expire, and what benefits they are eligible for after they leave care.

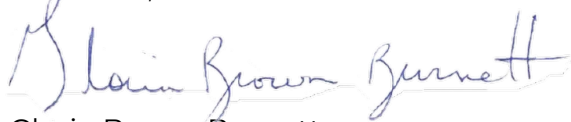
Maryland was the first state in the country to set aside supplemental security income (SSI) and other federal benefits on behalf of youth in our care, and conserve those resources for them until they leave our care. Since the passage of [House Bill 524 in 2018](#), youth in care aged 14-15 have 40% of benefits conserved, youth aged 16-17 have 80% of benefits conserved, and youth aged 18-20 have 100% of benefits conserved. The remaining benefit amounts reimburse the state for their cost of care. After Maryland led the country on conserving foster youths' federal benefits, nine states and Washington D.C. enacted reforms conserving 100% of foster youths' Social Security

benefits.¹ HB 768 would change the amount conserved on behalf of youth in our care to 100%, irrespective of the age of the youth or the source of the federal benefit.

While DHS appreciates every effort to improve outcomes for youth in our care, given the significant uncertainty in federal policy and the escalating fiscal shortfalls forecasted through Fiscal Year 2028, the Department urges caution against legislation that increases expenditures or diverts revenue without sustainable funding offsets. In light of the current fiscal crisis, the State must remain disciplined and strategic in its funding decisions to protect essential services for all Marylanders.

We appreciate the opportunity to provide information to the Committee for consideration during your deliberations. If you require additional information, please contact Justin Hayes, Acting Director of Government Affairs, at justin.hayes1@maryland.gov.

In service,

A handwritten signature in blue ink that reads "Gloria Brown-Burnett". The signature is written in a cursive style with a large initial "G".

Gloria Brown-Burnett
Interim Secretary

¹ <https://www.sandiego.edu/cai/advocacy/youth-benefits/state.php>