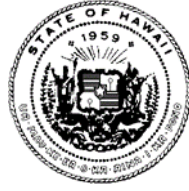


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



CATHY BETTS
DIRECTOR
KA LUNA HO'OKELE

JOSEPH CAMPOS II
DEPUTY DIRECTOR
KA HOPE LUNA HO'OKELE

STATE OF HAWAII
KA MOKU'ĀINA O HAWAI'I
DEPARTMENT OF HUMAN SERVICES
KA 'OIHANA MĀLAMA LAWELAWE KANAKA
Office of the Director
P. O. Box 339
Honolulu, Hawaii 96809-0339

April 12, 2023

TO: The Honorable Representative John M. Mizuno, Chair
Committee on Human Services

FROM: Cathy Betts, Director

SUBJECT: [SCR 51](#) – SENATE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF HUMAN SERVICES TO IMMEDIATELY CEASE INTERCEPTING SOCIAL SECURITY PAYMENTS FOR CHILDREN IN FOSTER CARE.

Hearing: April 13, 2023, 9:15 am
Conference Room 329 & Via videoconference, State Capitol

DEPARTMENT'S POSITION: The Department of Human Services (DHS) appreciates the intent of the resolution and offers comments.

PURPOSE: This resolution requests the Department of Human Services to immediately cease intercepting Social Security Administration (SSA) payments for children in foster care and deposit Social Security payments for foster children into savings accounts that may be accessed by foster children when they return to their families are adopted, or age out of foster care.

DHS appreciates the Legislature's commitment to supporting children in foster care and to investing in the Child Welfare Services Branch (CWS) and the broader community of care.

For the Legislature's information, DHS started to address this issue in response to House Concurrent Resolutions 117 HD1/House Resolution 17 HD1 (2022), which made similar requests.

However, DHS requests the Legislature's support for a recurring general fund appropriation of \$500,000 to increase foster board payments. This budget request is to make

up for those SSA benefits that are no longer intercepted and to improve support for children with complex needs. CWS cannot claim federal foster care board reimbursements for children and youth in foster care who receive Social Security benefits. Without SSA reimbursements, State funds must be used to pay for monthly foster board payments. The budget request is in [GM1](#),¹ page 33, program ID HMS 303.

Additionally, DHS has a process to conserve the Social Security monies, including Retirement, Survivors, Disability Insurance (RSDI), and Supplemental Security Income (SSI) benefits for children in CWS care. As required by federal regulation, when a child exits foster care, any money in the State's trust account is returned to the local SSA Office, and the SSA distributes the funds. If the child is an adult, the SSA distributes it to the individual. If the child is a minor when they exit foster care or if the existing individual is an adult with a disability requiring a representative payee, the family or responsible adult resume payments from the SSA. The new responsible adult (i.e., adoptive parent, legal guardian, biological parent) must apply to become the new representative payee for the child or disabled adult to access the funds. CWS staff works with the assigned social worker and social services assistant to forward to the new responsible adult-representative payee to provide information to contact their local SSA office.

Thank you for the opportunity to provide additional comments.

¹ Note that the Department's initial budget request for additional funds was not included in the "steady state budget."

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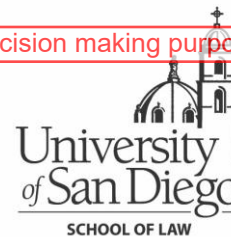
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LATE Testimony submitted late may not be considered by the Committee for decision making purposes.



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Testimony in Support of SCR 51: Requesting the Department of Human Services to Immediately Cease Intercepting Social Security Payments for Children in Foster Care

TO: Hawaii State Legislature
FROM: Amy Harfeld, National Policy Director, Children's Advocacy Institute
DATE: April 13, 2023

My name is Amy Harfeld and I serve as the National Policy Director for a children's rights nonprofit, the Children's Advocacy Institute, based at the University of San Diego School of Law. We work to strengthen the rights of vulnerable youth, children in and aging out of foster care and to increase accountability within child welfare systems. I have been a child welfare attorney and advocate for over 20 years, representing foster care agencies, children, parents, and advancing policy reform at the local, state, and federal levels.

I write to express support for SCR 51 calling for the Department of Human Services to immediately cease intercepting the Social Security benefits of Hawaii's foster youth.

I have been engaged in efforts to protect the rights and interests of foster youth receiving federal disability and survivors benefits since representing an impacted 17-year-old client at Legal Aid 20 years ago. When I uncovered this alarming practice and let my client know that the state had indeed taken every last dollar of her benefits in secret for years, and that I would not be able to get her money back, she and I were both shocked. She was devastated to learn that the very agency that was supposed to protect had been taking her money behind her back and was discharging her from care with none of her assets. As an officer of the law, I was disgusted to uncover this ethically bankrupt practice.

In Hawaii and other states, child welfare agencies routinely apply for and intercept Social Security benefits and other assets from eligible foster children and use those benefits to reimburse themselves for the cost of foster care — a cost which is already an explicit obligation under federal and state law. This happens in most cases with no notice to either the children or their attorney/GAL. Pocketing these

kids' benefits decreases their chances to achieve economic self-sufficiency and increases the likelihood that impacted youth will require other forms of public support down the road. Charging disabled and orphaned youth for their own care without notice while the state pays the tab for all other foster children offends the most basic Constitutional promises of due process and equal protection, and is contrary to the best interests of the very children the agency exists to support.

I was relieved and encouraged that on March 16th, Kathy Betts, Director of Hawaii Department of Human Services, [testified](#) that *"For the Legislature's information, DHS immediately ceased intercepting Social Security payments for children in foster care in response to House Concurrent Resolutions 117 HD1/House Resolution 17 HD1 (2022) that made similar requests."* Without explanation, the agency then backtracked when further inquiries were made saying that this was not correct and they are still using children's benefits for foster board reimbursement. The Department of Human Services should be held to account for following through with their assurances and supported to ensure that they are able to protect the rights and assets of the state's foster youth with due haste.

The average age of self-sufficiency in the U.S. is 26. One study revealed that the *average* American youth received \$47,500 in financial support from his or her parents between the ages of 18-26 — in the form of food, housing, education, health expenses, and direct cash assistance. Yet foster youth are expected to attain self-sufficiency with a tiny fraction of these resources and little to none of the adult support enjoyed by their peers. Disabled and orphaned foster youth face yet additional challenges, especially with the incredibly high cost of living in the state.

Hawaii Now helped bring awareness to this last year in their story, [Growing push seeks to prevent the state from taking millions in benefits from foster kids](#) (4/28/22). Shortly after, a resolution similar to SCR 51 was passed.

In reintroducing this resolution now, Hawaii joins a growing chorus of states across the country who have acknowledged that this practice is unjust, and promotes poor outcomes for youth and ultimately for the state itself. After a groundbreaking investigative series published by NPR and the Marshall Project, new law or policy has been adopted in states across the country including [Nebraska](#), [Connecticut](#), [Illinois](#), [New York City](#), [Philadelphia](#), [Los Angeles](#) and [Washington D.C.](#) and is pending in [California](#), [Washington](#), [Massachusetts](#), [Texas](#), [Arizona](#), [Alaska](#), and [Oregon](#) (which has a bill preserving all benefits and other assets and a partner bill providing for a retroactive [refund](#) of benefits. Several of these changes have been voluntarily proposed or endorsed by agencies who realize they have been acting contrary to their very mission, which is what we believed had happened in Hawaii.

A group of bipartisan Congressional leaders emphasized in 2021 that we must, "[...] *make sure all foster youth receive and benefit from all SSA benefits for which they qualify and that benefits follow the child. [] The data we have suggests that the SSA benefits are not always being used as intended, in the youth's best interest. We are specifically concerned [] about reports that benefits are being used to help state budgets instead of children*"

Not only should Hawaii correct this ill-conceived avenue to help fund its child welfare system off the backs of the very children it is charged to protect, but should recognize that failing to do so could

create much greater liabilities for the state. Just last month, [San Diego County](#) was sued for perpetuating this state-sanctioned fleecing of Hawaii's most vulnerable youth, and I helped draft a brief now pending before the [Alaska Supreme Court](#).

Parents work hard to set their children up for success. When Hawaii serves as the legal parent of abused and neglected children in care, it should work towards, not undermine, that same goal. This resolution will begin the process of ensuring youth's due process rights are protected and sets up a scenario where disabled and orphaned foster youth can actually benefit from their benefits and begin with some security on their journey ahead.

SCR-51

Submitted on: 4/13/2023 5:15:58 AM

Testimony for HUS on 4/13/2023 9:15:00 AM

Submitted By	Organization	Testifier Position	Testify
Oulu Noonan	Individual	Support	Remotely Via Zoom

Comments:

I am speaking in support of SCR51. As a former foster youth who had \$51,840 of social security benefits stolen from me, leaving me with no way to transition into adulthood or climb out of poverty, I find it repulsive and harmful for any child welfare system to take money from current and former foster youth. In addition to this, I implor leaders to consider repaying all former foster youth of funds that have already been taken from them. It is not okay to take money from people who don't even have the privilege of a family to rely on. You are responsible for the stability and care that foster youth receive. Taking money is abusive. If a bio parent did the same thing they would be accused of economic abuse and harm. Why does the state get to do this?