

Congress of the United States
Washington, DC 20515

May 24, 2021

The Honorable Mark Takano
Chairwoman
Committee on Veterans' Affairs
B234 Longworth House Office Building
Washington, DC 20515

The Honorable Mike Bost
Ranking Member
Committee on Veterans' Affairs
3460 O'Neill House Office Building
Washington, DC 20515

Dear Chairwoman Takano and Ranking Member Bost:

Thank you for the opportunity to provide written testimony about a concerning practice related to the survivor benefits of children of Veterans. Specifically, we want to alert the Committee that child welfare agencies in many states are taking the Veterans' survivor benefits of youth in foster care to supplant existing financial obligations of the state to care for the youth rather than conserving these funds for the youths' current or future needs. This practice likely contradicts the expectations of the Veteran parents and amounts to charging the surviving children of Veterans for their own room and board, an obligation not imposed on other children in foster care. We are working to stop this practice at the federal level, and we hope that the Committee will join us in protecting these benefits for the children of Veterans.

For decades, states have used their roles as guardians of children in foster care to take the children's Social Security and Supplemental Security Income benefits to reimburse themselves for costs they are required under law to pay rather than preserving these funds for the youth. This practice includes taking the death benefits from the children of Veterans. National Public Radio and the Marshall Project just completed a three-part series on this practice.¹ Prior to that, the book, [The Poverty Industry: The Exploitation of America's Most Vulnerable Citizens](#), by the University of Baltimore law professor, Daniel Hatcher, detailed the scope and impact of benefits taken from abused, neglected, disabled, and orphaned children. Egregiously, states often do not provide notice to the youth or their adults (e.g., attorneys, guardians ad litem, CASA advocates, relatives) that they are using these limited benefits to offset the states' costs. We also understand that states may be taking these benefits even when the youth are living with relative caregivers.

Unfortunately, the data on this practice is very limited. Based on research by the Congressional Research Service, recent Social Security data, and investigations by Professor Hatcher, we believe that states take hundreds of millions in Social Security and Supplemental Security Income benefits annually from foster youth. Given the lack of data to understand these practices, in 2018, Congress improved transparency by requiring the Social Security Administration and state child welfare entities to share data so that we could know how many foster youth are affected and the amount of benefits received. Given the complexity of connecting the two data systems, we currently have information from only 13 states. Although helpful, these data fail to capture the full scope of practice. Ultimately, our goal is to enact legislation to stop this practice by states and to require states to fulfill their fiduciary obligations and preserve these benefits for

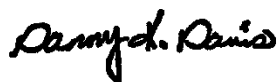
the current or future needs of the foster youth based on a case-by-case analysis of what is best for each child.

We know that states take Veterans' benefits of foster youth in their care; however, we lack reliable data about the scope of the practice. The new connected data system between Social Security and state child welfare entities does not capture Veterans' benefits. Although the non-profit organization, Child Trends, conducts a voluntary survey of state child welfare financing that includes a question about the use of Veterans' benefits to offset state costs, the self-report data is very limited and many states report that they are unable to provide the Veterans' data.

The Veterans' Committee could take three actions to improve understanding and limit the practice of how states use Veterans' benefits that belong to children. First, to quickly obtain an understanding of the state practice of taking Veterans' benefits from foster youth, the Committee could work with the Department of Veterans Affairs to use their oversight authority to survey states about this practice, collecting information about the number of youth for whom the states take benefits and the amount of benefits taken over time. This information could help direct further Committee action. Second, the Committee working with the Department of Veterans Affairs and the Department of Health and Human Services could direct state child welfare entities to notice the adults connected to the youth (and to the youth themselves if they are older than 14) that the state has applied for benefits, if the state is receiving the benefits, the amount of benefits used to date, how the money was/is being spent in the best interest of the youth, and how the adult or youth can appeal to be the fiduciary of the benefits instead. Third, the Committee could enact legislation prohibiting the practice of states using Veterans' benefits to offset their costs of care and require government guardians to conserve these benefits in appropriate accounts for future use by the youth.

We thank you for your time, and we look forward to working with the Committee to protect the Veterans' benefits of children who lost their parents.

Sincerely,



Danny K. Davis
Member of Congress



Jamie Raskin
Member of Congress

ⁱ <https://www.npr.org/2021/04/22/988806806/state-foster-care-agencies-take-millions-of-dollars-owed-to-children-in-their-ca>; <https://www.npr.org/2021/04/28/991503850/consultants-help-states-find-and-keep-money-that-should-go-to-foster-kids>; and <https://www.npr.org/2021/05/03/992993650/movement-grows-for-states-to-give-back-federal-funds-owed-to-foster-children>.