



Memorandum in Support

COMMITTEE ON CHILDREN AND THE LAW

Children #5

March 30, 2026

S. 7778

By: Senator Brisport

A. 8036

By: M. of A. Hevesi

Senate Committee: Children and Families

Assembly Committee: Social Services

Effective Date: Immediately

AN ACT to amend the social services law to require Local Social Services Departments to use and conserve federal benefits on behalf of children in foster care.

LAW AND SECTION REFERRED TO: Subdivision 6 of section 398 of the social services law is amended by adding three new paragraphs (q), (r) and (s)

THE COMMITTEE ON CHILDREN AND THE LAW
SUPPORTS THIS LEGISLATION

The New York State Bar Association’ Committee on Children and the Law supports the passage of the Economic Justice for Kids in Foster Care Act [A.8036/S.7778]. This important bill would ensure that children in foster care who are entitled to receive federal Old-Age, Survivors and Disability Insurance program (also known as “Survivors benefits”) or Supplemental Security Income (also known as “Disability benefits”) actually collect this essential assistance, and that it is used to meet their needs while in foster care, or conserved for their benefit and use after leaving foster care.

In New York State, many children in the foster care system are Black and brown children from poor communities.¹ For decades, Local Social Services Districts (LSSDs) in New York State, and across the country, have screened, applied for, and kept federal benefits belonging to disabled children and children who have lost a parent who are placed into foster care. The result has been deeply unjust. No other children in foster care are required to cede their income or assets to the LSSD – no matter what the source of those funds.

¹ In 2024, over 60% of youth in the foster care system in New York State were Black or Hispanic. See New York State Data through the Administration for Children and Families, available at <https://cwoutcomes.acf.hhs.gov/cwodatasite/byState/new-york/>.

Opinions expressed are those of the Section/Committee preparing this memorandum and do not represent those of the New York State Bar Association unless and until they have been adopted by its House of Delegates or Executive Committee.

Federal Survivors Benefits were created to make children who survive their parents more economically whole, as the loss of a parent is one of the most devastating economic, as well as emotional, events that can impact a child. Federal Disability Benefits were created specifically to help people, including children, pay for their unmet needs – as the cost of having a disability is high and often unpredictable – and to offset any difficulties they might have in obtaining and maintaining employment. Children and youth who have disabilities and those who have lost a parent often have unique and pressing needs, and Social Security Assistance benefits should be used to help meet those heightened needs, as they were specifically designed to do.

Instead, Local Social Security Districts in New York State have collected the benefits of children in their care and used those benefits to pay for the cost of foster care generally. This bill will require Local Social Services Departments (“LSSD”) to take the following steps on behalf of all children in foster care:

- Screen all children who enter foster care for federal benefits eligibility, apply for any child who may be eligible, and provide notice to the child, Attorney for the Child (AFC) and parents/guardians about any action taken on behalf of a child;
- Work with the child, AFC, and family to identify the most appropriate person to manage the money for the child, and to permit the LSSD to serve in that role only where there is no other viable family or kin alternative;
- Where the LSSD manages the money on behalf of the child, requiring the LSSD to use federal benefits to provide services and supports for the individual child to address any needs not covered by foster care funding, and mandating LSSD to conserve the rest of the funds for the individual child’s future.

By providing children in foster care access to their own money, this bill would create a financial safety net, helping to prevent children from being pulled into the juvenile and criminal systems, as well as from returning to the foster care system either as children or as parents. It would also help stabilize families to hasten reunification and reduce future family separation. Equity and fairness require that all eligible children receive their own benefits despite their placement within the system. This bill is an important step to enhance racial and economic justice by ensuring that the foster care system is not subsidized by disabled and orphaned children, and that those children have their needs met within and after their foster care placements.

Based on the foregoing, NYSBA’s Committee on Children and the Law **SUPPORTS** this legislation.