

SENATE No. 105

The Commonwealth of Massachusetts

PRESENTED BY:

Joanne M. Comerford

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act protecting benefits owed to foster children.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joanne M. Comerford</i>	<i>Hampshire, Franklin and Worcester</i>	
<i>Lydia Edwards</i>	<i>Third Suffolk</i>	<i>5/21/2025</i>
<i>Nick Collins</i>	<i>First Suffolk</i>	<i>11/18/2025</i>

SENATE No. 105

By Ms. Comerford, a petition (accompanied by bill, Senate, No. 105) of Joanne M. Comerford for legislation to protect benefits owed to foster children. Children, Families and Persons with Disabilities.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 65 OF 2023-2024.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Fourth General Court
(2025-2026)

An Act protecting benefits owed to foster children.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 21 of chapter 119 of the General Laws, as appearing in the 2022
2 Official Edition, is hereby amended by inserting after the definition of “Appropriate Services”
3 the following definition:-

4 “Benefits”, benefits under Title XVI of the Social Security Act, also referred to as
5 “Supplemental Security Income” or “SSI”; benefits under Title II of the Social Security Act, also
6 referred to as “Retirement, Survivors or Disability Insurance Benefits” or “RSDI”; or other
7 federal benefits.

8 SECTION 2. Section 21 of chapter 119, as so appearing, is hereby further amended by
9 inserting after the definition of “Relative” the following definition:-

“Representative Payee or Fiduciary”, any person or entity designated to receive benefits for a minor child under the agency rules governing such benefits.

SECTION 3. Section 23 of chapter 119, as so appearing, is hereby amended by inserting after subsection (i) the following subsection:-

(j) The department shall comply with section 23D, by providing benefit management services to children and young adults in the department’s care, custody, or responsibility, including eligibility screening, representative payee or fiduciary assistance, notice, benefits accounting, conservation of benefits and other services relative to benefits.

SECTION 4. Chapter 119 of the General Laws is hereby amended by inserting after section 23C the following section:-

Section 23D. (a) When a child is placed in foster care under a voluntary placement agreement or court-ordered custody, the department shall make all reasonable efforts to identify within 60 days of the child being committed to custody of the department whether the child is already receiving or may be eligible to receive benefits. In reviewing eligibility, the department shall consult with the parents and others who may have information about the child’s eligibility. If the department determines, or has cause to believe, that the child may be eligible for benefits, it shall apply for benefits on the child’s behalf. If the agency administering such benefits denies the application, the department may appeal the decision. The department shall review cases of children in foster care annually to determine whether the child may have become eligible for benefits after the initial assessment. DCF will only seek federal foster care reimbursement for a child if such reimbursement will not impact the child’s eligibility for benefits or the amount of benefits.

(b) If the child is already receiving benefits prior to entering department custody, the department may apply to be the child's representative payee or fiduciary. If the department is applying for benefits for the child, the department may also apply to be the representative payee or fiduciary. Where the goal is reunification, the department shall consider whether applying to become the child's representative payee or fiduciary will undermine the goal of reunification and be contrary to the child's best interests.

(c) The department shall provide timely notice for each of the following events:

(i) The department submits an application for benefits;

(ii) The department submits a request to become the child's representative payee;

(iii) the department receives notice of the agency's decision regarding benefits including denial, termination or reduction in benefits;

(iv) the department decides whether or not to appeal an adverse determination, including the outcome of any appeal filed; and

(v) the department receives notice of an eligibility redetermination.

Notice shall be provided to counsel for the child, as well as counsel for the parent or parents or legal guardian or guardians, except that no notice shall be provided to a parent for whom a decree to dispense with consent to adoption has been entered under paragraph 4 of section 26 of chapter 119.

The notice provisions of this section 23D of chapter 119 of the General Laws shall go into effect 18 months after the enactment of this act. Until the effective implementation date, the

department shall make best efforts to ensure compliance with the notice requirements of section 23D of chapter 119 of the General Laws.

(d) When the department is the child's representative payee or fiduciary, it shall maintain an accounting of the child's benefits, and shall make available to child's counsel current accounting information electronically or by other means. The accounting information shall include (1) the amount and source of benefits collected by the department and credited to any account maintained on behalf of the child; (2) the balance of any account maintained on behalf of the child; (3) any amounts deducted by the department and the reasons for the deductions; and (4) information regarding all the child's assets and resources, including benefits, insurance, cash assets, trust accounts, and earnings if such assets or resources are controlled by the department. The department shall provide such accounting information to the court at permanency hearings, at other court proceedings, as necessary, or upon request.

(e) If the department is the child's representative payee or fiduciary, the Department shall not use such benefits to reimburse the Commonwealth for the child's placement in foster care. If the child is receiving SSI benefits, the department shall ensure that any funds retained on the child's behalf are kept in a manner that does not exceed any federal asset or resource limit that would affect the child's eligibility to continue receiving SSI benefits. Benefits held by the department as a representative payee or fiduciary may be spent on the child's unmet needs, which would not ordinarily be funded by another source, subject to program rules for the use of such benefits, or otherwise conserved for the child. Any funds administered for SSI recipients above the federal asset or resource limits shall be conserved in an Achieving a Better Life Experience (ABLE) account, authorized by Section 529A of the Internal Revenue Code of 1986, or another account for the child determined not to interfere with federal asset or resource limits

for any other federal means-tested benefit program. If the child is not receiving SSI or other federal means-tested benefits with an asset or resource limit, the department shall place excess funds in an interest-bearing account or other savings or investment vehicle for the benefit of the child. If the department is the child's representative payee or fiduciary and receives retroactive benefits for the child, those funds shall be kept as required by the program rules of the agency administering such benefits.

(f) The department shall take steps to conserve the benefits of children receiving benefits under this paragraph to assist them in the transition to adulthood and living independently. The department shall establish accounts as specified in subsection (e) in conserving a child's benefits. The department shall work actively with the agency administering such benefits and the child to ensure that when the child leaves foster care, becomes eligible for direct payment, or another representative payee is identified, all payments of benefits or conserved funds shall be (1) returned to the agency following program rules; or (2) upon agreement by the agency, if necessary, transferred to the child or to a new representative payee or fiduciary.

(g) The department shall provide the child with ongoing financial information regarding the eligibility for benefits, as well as the existence, amount, availability, use, and limitations of funds conserved for the child, beginning at 14 years of age and tailored to the individual child. For youth ages 17 of age or older, financial information shall also include basic assistance with understanding budgeting and money management, checking and savings accounts, tailored to the individual child.

(h) The department shall provide the child with ongoing financial literacy training and support, beginning at 14 years of age and tailored to the individual child. This program may

include, but need not be limited to, topics such as: budgeting; money management; informed decision-making; banking, checking and savings accounts; credit card counseling; managing debt; planning for financial security and stability; financing post-secondary education or training; long term asset-building; and community and agency services. Financial literacy resources concerning the use of conserved funds shall also be made available to all parents, guardians, and adoptive parents gaining access to funds conserved by the department. The financial literacy requirements set forth in M.G.L. c. 119, Sec 23D(h) shall go into effect 18 months after the enactment of this act. Until the effective implementation date, the department shall make best efforts to ensure compliance with the financial literacy requirements set forth in this paragraph.

(i) The department shall provide an annual report to the house and senate committees on ways and means, the committee on children, families and persons with disabilities, the clerks of the house and the senate and the secretary of the executive office of administration and finance, not later than December 31; provided, the report shall set forth: (1) the numbers of children in the department's care and custody receiving benefits for which the department is the representative payee or fiduciary; (2) the numbers of children in the department's care or custody who are receiving SSI, RSDI or other federal benefits; (3) the amount of benefits being conserved by the department; and (4) the number and type of accounts established by the department on behalf of such children.

(j) To the extent such data is available, the report shall also set forth the numbers of children in the department's care or custody, (1) who were screened for eligibility for benefits; and whether such screening occurred within 60 days of being committed to the department's custody, and if not, the date of the screening and reasons for the delay; (2) who were already receiving benefits after screening; and (3) for whom the department submitted applications for

120 benefits, by type of application, and the outcome of those applications, including the number of
121 appeals filed; providing however, that if such data is not available, the department shall provide
122 information to such committees as to its ongoing efforts to be able to gather and report upon such
123 information.

124 (k) In administering the benefits of young adults ages 18 to 22 for whom the department
125 is acting as a representative payee or fiduciary, the department shall comply with the
126 requirements for children under subsections (a) through (j). The department shall continue to
127 provide financial literacy training under paragraph (h) to young adults who become eligible for
128 direct payment of benefits and continue to receive young adult services from the department.

129 SECTION 5. Not later than 90 days after the effective date of this act, the secretary of the
130 executive office of health and human services shall promulgate regulations as necessary to
131 implement section 23D of chapter 119 of the General Laws, as inserted by this act. The notice
132 provisions of this section 23D of chapter 119 of the General Laws shall go into effect 18 months
133 after the enactment of this act. Until the effective implementation date, the department shall
134 make best efforts to ensure compliance with the notice requirements of section 23D of chapter
135 119 of the General Laws. The financial literacy requirements set forth in subsection (h) of
136 section 23D of chapter 119 shall go into effect 18 months after the enactment of this act. Until
137 the effective implementation date, the department shall make best efforts to ensure compliance
138 with the financial literacy requirements set forth in said subsection (h).