

**Council of the District of Columbia  
COMMITTEE ON HUMAN SERVICES  
AGENDA AND WITNESS LIST  
1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004**

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**COUNCILMEMBER BRIANNE K. NADEAU, CHAIRPERSON  
COMMITTEE ON HUMAN SERVICES**

**ANNOUNCES A PUBLIC HEARING ON**

**B24-0857, THE “PRESERVING OUR KIDS’ EQUITY  
THROUGH TRUSTS (POKETT) AMENDMENT ACT OF 2022”**

**AND**

**B24-0941, THE “FOSTERING STABLE  
HOUSING OPPORTUNITIES AMENDMENT ACT OF 2022”**

**Thursday, September 22, 2022**

**1 p.m.**

**-or-**

**Immediately following the 10:00 a.m. public oversight roundtable on  
“The District of Columbia’s Community Services Block Grant Program”**

**Virtual Public Hearing via Zoom**

**Streamed live at <https://www.brianneknadeau.com>**

- I. CALL TO ORDER**
- II. OPENING REMARKS**
- III. WITNESS TESTIMONY**

*Public Witnesses*

1. Tami Weerasingha-Cote, Supervising Policy Attorney, Children’s Law Center
2. Marja Plater, John E. Nolan Youth Justice Counsel, Washington Lawyers' Committee for Civil Rights and Urban Affairs
3. Ruth Ann White, Executive Director, National Center for Housing and Child Welfare

4. Toni Reynolds-Criner
5. Melody Webb, Executive Director, Mother's Outreach Network
6. Ashley Strange
7. Donna Flenory, President of the Board, Foster and Adoptive Parent Advocacy Center
8. Daniel Hatcher, Professor of Law, University of Baltimore School of Law
9. Amy C. Harfeld, National Policy Director, Children's Advocacy Institute
10. Kymberly Holmes
11. Marla Spindel, Executive Director, D.C. KinCare Alliance

*Advisory Neighborhood Commission Witnesses*

1. Salim Adofo, Chairperson, ANC 8C07, Chair, ANC 8C

*Government Witnesses*

1. Natalie Craver, Deputy Director, Office of Community Partnerships, Child and Family Services Agency
2. Nicole K. Gilbert, Deputy Director, Office of Well Being, Child and Family Services Agency
3. Lathasha Tomlin, Kinship Services Division, Child and Family Services Agency

**IV. ADJOURNMENT**

Testimony for  
B24-0857, the “Preserving Our Kids’ Equity Through Trusts (POKETT)  
Amendment Act of 2022”  
September 22, 2022

Good Afternoon Chairperson and members of the Committee,

My name is Ashley Strange and I am the Program Manager for the Preparing Youth for Adulthood Program (PYA) at CASA for Children of DC. PYA works with transitioning age youth to help them gain independent skills that they can transfer over into adulthood. PYA was founded to address the need of foster youth aging out without the necessary skills needed to live successful adult lives. If you have a foster youth ages 14-20 that would benefit from our services, please email [PYA@casadc.org](mailto:PYA@casadc.org) to make a referral to our program.

Today I will be providing brief testimony on POKETT Act of 2022. I am in complete support of this bill. This piece of legislation is a critical step forward in ensuring that DC’s most vulnerable population is protected from losing their rightful benefits and from the possibility of accruing debt at no fault of their own.

Youth have aged out in the past owing large sums of money to the Social Security Administration due to failure to properly report the income status of youth. This legislation is deeply important to me because of my own experiences dealing with this issue when I aged out of care with overpayments. I am elated to see that this bill would require the agency to be responsible for overpayments that occur while the child is under their care.

I believe the following recommendations would help strengthen the bill.

- **Recommendation 1:** Ensure that the agency is updating the income status of youth, who receive Social Security benefits, with the Social Security Administration whenever their status changes. This will help in preventing overpayments from occurring.
  
- **Recommendation 2:** A 2010 Social Security Administration policy change allowed for youth in foster care to apply for benefits 60 days prior to them aging out. Processing these applications can take time. It is my understanding that not all youth are screened for Social Security benefits upon entering foster care. For those not screened, I recommend that the agency help youth apply for benefits 120 days prior to aging out.

Thank you for your time today. I look forward to any questions you may have.



**Foster & Adoptive Parent Advocacy Center**  
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**TESTIMONY**  
**DISTRICT OF COLUMBIA COUNCIL'S COMMITTEE ON HUMAN SERVICES**  
**Preserving Our Kids Equity Through Trusts Amendment Act of 2022**

**September 22, 2022**

Good day Chairperson Nadeau and council members of the Committee on Human Services.

My name is Donna Flenory. I am a veteran CFSA foster parent of 22 years and the Chairperson of the Board of Directors for the Foster and Adoptive Parent Advocacy Center (FAPAC).

FAPAC supports the POKETT bill, and is thrilled that Washington, DC will follow other states who have taken the initiative to ensure that youth in foster care receive their Social Security benefits, which is federal law. Being a valued partner of CFSA, we are also glad that local funds will be used to replace the shortage that this bill might create for the child welfare agency so that services to youth and families are not diminished. We are also glad to see that the bill includes a financial literacy component and collaboration with the youth so that they are putting the funds to the best use.

In our nation, 20,000 youth age out of the foster care system annually. Within four years of aging out, 50% have no earnings and those who do, make an average annual income of \$7,500 a year. These social security benefits are crucial for creating a nest egg, buying a car, supporting their children, starting a business, paying for college or career education, and securing safe and stable housing. We know that if we are successful in bringing these young adults out of poverty that they are more likely to succeed in life and avoid repeating a cycle of abuse and neglect. This bill does just that for those who are entitled to their social security benefits.



## Foster & Adoptive Parent Advocacy Center

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To demonstrate how exactly this bill would help youth aging out of foster care, I will share a story with you about my experience as a foster parent to a now young woman.

Again, FAPAC supports this bill, and we remain a steadfast partner with CFSA in supporting and advocating for children and families in care.

*Donna Flenory*

Board President, FAPAC

**Testimony in Support of B24-0857  
The “Preserving our Kids’ Equity Through Trusts Amendment Act of 2022”**

**TO:** Councilmember Brianne K. Nadeau, Chairperson, Council of the District of Columbia, Committee on Human Services  
**FROM:** Daniel Hatcher, Professor of Law, University of Baltimore School of Law  
**RE:** B24-0857 - Support  
**DATE:** September 22, 2022

**Dear Chairperson Nadeau and members of the Committee on Human Services:**

Thank you for the opportunity to present testimony in support of Bill No. B24-0855. I am a law professor and frequently cited about issues of poverty law, including the specific issue of foster children’s Social Security benefits. I have taught the University of Baltimore School of Law’s Civil Advocacy Clinic since 2004 in which students represent low-income clients. I previously served as a legal aid attorney, including representing children in foster-care proceedings, and also served as a senior staff attorney for the Children’s Defense Fund. I have engaged in legal advocacy and testified before Congress and numerous state-level legislative committees regarding the issues addressed in this bill, I have written extensively in these areas,<sup>1</sup> and my research has formed the foundation of several news investigations across the country.

**I applaud your leadership in sponsoring this crucially needed bill to protect foster children’s Social Security benefits in the District of Columbia.** This legislation will stop the harmful practice in which the child welfare agency searches for children who are disabled or have deceased parents and then takes their survivor and disability benefits, so that the children often age out of care penniless. Foster youth face daunting statistics, and this bill will help youth use their own resources to help themselves as they struggle to leave foster care and strive for self-sufficiency.

**This bill is consistent with federal and D.C. law and is necessary to correct past practices in which the child welfare agency has violated its fiduciary obligation and that harm foster youth.** The child welfare agency’s practices of appropriating children’s SSI and OASDI benefits is a clear violation of their fiduciary obligations under District of Columbia law in their role as the foster care agency guardians of children in their care. Further, the agency’s practices conflict with their *additional* fiduciary role under federal law as representative payees.

This bill is consistent with Federal law that requires representative payees to exercise discretion to use a child’s social security benefits in the child’s best interests. Although federal

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<sup>1</sup> See, e.g., *The Poverty Industry: The Exploitation of America’s Most Vulnerable Citizens*, NYU Press (June 21, 2016); Book Chapter, *States Diverting Funds from the Poor*, in *Holes in the Safety Net: Federalism and Poverty* (Ezra Rosser, ed., Cambridge University Press 2019); *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).

regulation indicates a payee can use the funds for current maintenance needs not already provided, when such current maintenance needs are already met (such as when care is required to be paid for by the city for foster care services) the child's benefits should be used for other reasonably foreseeable needs or conserved for future needs.<sup>2</sup> Because the beneficiary's best interest is paramount, the representative payee's fiscal self-interests cannot be considered.<sup>3</sup> Foster children do not have a debt obligation to pay for their own care. Rather, federal law requires state/city child welfare agencies to provide and pay for the current maintenance costs of foster children.<sup>4</sup>

This bill is also consistent with D.C. law, which recognizes the fiduciary role of the child welfare agency, including the purpose of "Safeguarding the rights and protecting the welfare of children . . ." Code of the District of Columbia, § 4-1303.01a. D.C. also enacted a "Bill of Rights" for youth in foster care, that explicitly includes a section provided to youth titled "Your belongings and money," with the explanation that foster youth have the right to take their property and money (which includes SSI and OASDI) with them upon leaving care. (District of Columbia Bill of Rights for Children and Youth in Foster Care).

**Testimony provided by the child welfare agency in opposition to this bill is concerning and incorrect.** The agency's testimony in opposition is contrary to the agency's reason for existing—to protect the welfare and best interests of youth in need of assistance. The agency's testimony that it "does not have the requisite knowledge or expertise in these areas" is also concerning, because the agency has long sought control over children's funds as representative payee and this bill simply ensures they do so in the children's best interests. The agency exists to protect children's interests, not take their money.

This bill will help foster children help themselves, by using their available resources in ways that serve their current unmet specialized needs and that assist in their difficult future struggle for independence as they leave foster care. I therefore fully support this legislation and urge a positive vote from this Committee.

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<sup>2</sup> See, POMS GN 00602.001 (Use of Benefits) ("A payee must use benefits to provide for the beneficiary's current needs such as food, clothing, housing, medical care and personal comfort items, or for reasonably foreseeable needs. *If not needed for these purposes... the payee must conserve or invest benefits on behalf of the beneficiary...*")(emphasis added). See also, POMS GN 00602.001 (Payee Responsibilities and Duties)("The representative payee responsibilities and duties are to: • *meet with the beneficiary on a regular basis to ascertain his or her current and foreseeable needs;* • *use funds in the beneficiary's best interest;* • *conserve benefits not needed for the beneficiary's current needs . . .*")(emphasis added).

<sup>3</sup> POMS GN 00602.001 (Use of Benefits) (directing Social Security Administration staff to ensure that "*the payee understands the fiduciary nature of the relationship, and that benefits belong to the beneficiary and are not the property of the payee.*")(emphasis added).

<sup>4</sup> Title IV-E of the Social Security Act mandates that states "*shall make foster care maintenance payments on behalf of each child...*" 42 U.S.C. § 672(a)(1) (emphasis added). The foster care maintenance payments must include "payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance... and reasonable travel...." 42 U.S.C. § 675(4)(A). See also, *Washington State Dep't of Social & Health Services v. Guardianship Estate of Keffeler*, 537 U.S. 371, 382 (2003)(recognizing child welfare agencies are not creditors of foster children because foster children owe no debt for their own care).

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### *Testimony in Support of B24-0857* *“Preserving Our Kids’ Equity Through Trusts (POKETT) Amendment Act of 2022*

**TO:** Council of the District of Columbia, Committee on Human Services  
**FROM:** Amy Harfeld, National Policy Director, Children’s Advocacy Institute  
**DATE:** September 16, 2022

Good morning and thank you for having me here today.

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 both in California and nationally.

I am here to express fervent support for the POKETT Act, related to the screening, application, and proper use of the federal benefits of foster youth.

I have been engaged in efforts to preserve the federal benefits of foster youth for close to 20 years, when I had a 17-year-old client, Jasmine, who I was helping emancipate early from foster care. She had already been accepted into college with a partial scholarship and had worked at her uncle’s deli for several years, saving nearly \$13,000 for school. When she went to withdraw her tuition deposit, she was told by the bank that her account had been frozen, and emptied of all but \$2000 of her savings. She wanted my help getting it back. After some research, I learned that the foster care agency had applied for disability benefits on Jasmine’s behalf when she entered care- without ever informing her or her attorney- had appointed itself to receive the checks, and had deposited every last dollar of her benefits in their own account to reimburse themselves for the cost of her care. Even worse, they had indeed seized all but \$2000 of her savings in order to preserve



her eligibility for these SSI benefits which she never knew about or benefitted from. She was shocked and devastated to learn that the very agency that was supposed to protect and look out for her had been taking her money behind her back, and that I would not be able to get it back for her. She was not able to make her tuition deposit. She deferred enrollment in college and began looking for alternate housing, as she would not be able to move into the dorms as planned.

Across the nation, child welfare agencies routinely apply for and intercept Social Security benefits, Veteran's survivor 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 their duty to bear under federal and D.C. law. This often happens with no notice to either the children or their attorneys. This unethical practice decreases chances for foster youth to achieve economic self-sufficiency and achieve their goals. Charging children for their own foster care is not only contrary to the law, it is contrary to the best interests of the very children our child welfare system was created to support.

Just imagine in the context of your family and loved ones learning that a public agency had applied for and pocketed your insurance benefits or public entitlement dollars without your knowledge. For years. It is an outrageous scenario to contemplate.

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. Adoption of this bill will begin to close at least the economic portion of this gap for some of the most vulnerable foster youth- those with disabilities and those who have lost one or both parents- as they leave care to make it on their own.

Parents work hard to set their children up for success. When the state acts as the legal parent of foster children, it should work towards, not undermine, that same goal. Not only will passing this bill help to better set the District's foster youth up for success — it will mark the most ambitious and comprehensive solution to the problem yet, and serve as an example for states around the country and ultimately Congress to follow.

I want to commend Councilwoman Nadeau and the remarkable staff for their dedication to this issue, for strategically crafting such a strong bill, and for helping to create more stable futures and brighter opportunities for foster youth today and into the future.

Thank you for your time.

KYMBERLY HOLMES

PUBLIC WITNESS

September 22, 2022

Good afternoon Councilmember Nadeau and members of the Committee. My name is Kymberly Holmes and I am a resident of Ward 8 and relative caregiver to my 9-year-old niece. I am also a proud member of the DC KinCare Alliance Community Board.

I first enrolled in the DC Close Relative Caregiver Program in November 2019. The subsidy helped me to pay for the costs of raising my young niece, especially since I lost my job due to the pandemic and was receiving unemployment benefits up until early this year. Then, in March 2022, I got a new job. That income, combined with the caregiver subsidy, finally created some stability for me and my niece.

I submitted my yearly recertification application on August 16<sup>th</sup>, but received a letter from CFSA informing me that my subsidy was terminated immediately because they determined my income over the next 12 months would be over the income limit.

CFSA terminated me without advance notice and before my annual recertification year was up in November. This is unfair as I was already approved for that year and will not make over the income limit for the whole recertification year. I also will not make over the limit for all of calendar year 2022. And in the future, just because I got a good paying job, I will be punished because I will make less money without the subsidy than I would with a lower paying job where I would still be able to get the subsidy. This is not the case for foster parents who take care of children, and we should all be treated the same way.

This all happened right before my niece had to return to school. This is also the first school year that my niece will not be required to wear a uniform to school, so I had to purchase all new clothes for her to be able to attend school. I had to do all of this without the Caregiver Subsidy money.

I believe that the CRCP is a great program that provides necessary support to relatives and other caregivers who step up to care for children who are not their own. However, it needs to be run in a way that is fair and helps caregivers and does not harm them.

Thank you.



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**Testimony Before the Council of the District of Columbia**

**Committee on Human Services**

**Public Hearing:**

**B24-0857: Preserving Our Kids' Equity Through Trusts (POKETT)  
Amendment Act of 2022**

**September 22, 2022 1:00 p.m.**

**Marla Spindel**

**Executive Director, DC KinCare Alliance**

Good morning Chairperson Nadeau and Members of the Committee on Human Services. My name is Marla Spindel, and I am the Executive Director of DC KinCare Alliance. Our mission is to support the legal, financial, and related service needs of relative caregivers who step up to raise children in their extended families in times of crisis when the children's parents are not able to care for them due to COVID-19, mental health and substance use disorders, incarceration, death, abuse and neglect, and/or deportation.

I am pleased to testify today in support of the "Preserving Our Kids' Equity Through Trusts (POKETT) Amendment Act of 2022," which among other things, will ensure that the purposes of the Grandparent Caregiver Program ("GCP") and Close Relative Caregiver Program ("CRCP") are fully achieved.

Specifically, the Act would ensure that relatives approved for the GCP and CRCP subsidies receive the full monthly amount retroactive back to the date of application. Currently, relatives who apply for the subsidy often have to wait three to six months before they receive a subsidy card that only includes an amount equal to at most one-month and often only a partial-month subsidy. Typically this waiting period is no fault of the relative, but is due to processing glitches, agency bureaucratic hurdles, and wait times for the bank to finally issue and send the card to the agency. This Act would help to make whole relatives who have waited patiently for the subsidy due to the agency's inability to process their applications in a timely manner.

To address some of these same issues regarding timeliness of application processing as well as reasonable notification to applicants if they are to be terminated from the program, we are asking the Committee to consider additional amendments that would be consistent with requirements for TANF, SNAP and other public assistance programs. Specifically, we recommend that the Act include the same 45-day application processing timeframe already applicable to other public assistance programs (*see* D.C. Code § 4-205.26), and the same 15-

day notice requirement for terminations from the program as is applicable to other public assistance programs (*see* D.C. Code § 4-205.55).

We further ask the Council to consider a technical amendment to the current DC law's GCP and CRCP eligibility requirements to ensure they are calculated appropriately and fairly. Under current law, the applicant is eligible for the programs if their "household income is under 200 percent of the federally-defined poverty level." D.C. Code §§ 4-251.03(a)(5) and 4-251.23(a)(5). The law does not specify whether this amount should be calculated on a daily, weekly, monthly, or yearly basis. While we understand the agency typically calculates household income annually, there is no such requirement in the law and, indeed, the subsidy agreements applicants are required to sign state that they have been determined eligible based on their weekly income being under 200 percent of FPL. Accordingly, gig workers, contractors or seasonal workers could be unfairly determined ineligible, even though their annual income would be below 200 percent of FPL. To ensure this does not occur, the DC Council should amend the law to add the word "annual" before the word "household." We also recommend that the current law include language similar to Bill 24-0489: "Expanding Fee Waivers for Low-Income Litigants Act of 2021" to ensure the agency makes all efforts to determine and/or resolve any doubt about eligibility in favor of the applicant.

Finally, to address inflation and the escalating costs of raising a child in DC, we would like the Council to consider a change to the eligibility limits as well as the subsidy amounts. With respect to the eligibility limits, we request that the Council implement a stepped approach to eligibility such that a caregiver would not be terminated from the program when they obtain a job or a better paying job that would push them just over the income limit. In this regard, we recommend a stepped income approach that allows for partial subsidy eligibility, such as the following: 200%-249% of FPL =  $\frac{3}{4}$  subsidy; 250%-299% of FPL =  $\frac{1}{2}$  subsidy; and 300%-349% of FPL =  $\frac{1}{4}$  subsidy. We note that even at 300% of FPL,

a family in DC is still poor and has a difficult time making ends meet as FPL does not account for different cost of living standards in different jurisdictions. It is important to note that even though informal kinship caregivers are caring for many children who would otherwise enter the foster care system, they are not entitled to the foster care subsidy, which does not have any income eligibility requirements.

Regarding the GCP and CRCP subsidy rates, we remind the Council that the GCP rate was originally set at 95% of the foster care rate, but later reduced to only 66% in 2010 as a result of the 2008 recession and subsequent austerity budgets. Today, DC is in a position to be able to ensure the subsidy rates are commensurate with the foster care rate.

As DC relies more heavily on relatives to raise children outside of the foster care system, it should work to ensure the safety and stability of these kinship families. DC's relative caregivers are primarily women of color who live in Wards 7 and 8. Most live at the economic margins of our society, even before they are called upon to raise a relative child. Many report a significant disability. The children who come into their care arrive with nothing but the clothes on their back and the relative caregivers have to scramble to buy food, clothing, shoes, toiletries, bedding and even a bed. The up-front costs of having a child come into their homes unexpectedly are great and our kinship caregivers do not have savings or other resources available to cover these costs. Often, they wind up falling further into poverty, with no money to pay for rent, food, heat, water, or electricity.

We know that there are devastating impacts for children growing up in poverty.<sup>1</sup> Advancements in neuroscience have made it possible to demonstrate that poverty disrupts the developing brain architecture, which leads to significantly lower educational achievement, earnings, and overall health, as well as a disproportionately higher rate of developmental

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<sup>1</sup> Toxic Stress Key Concepts,” Harvard University Center on the Developing Child.  
<http://developingchild.harvard.edu/science/key-concepts/toxic-stress/>.

delays and learning disabilities.<sup>2</sup> And, research has found that there is a “dose-response” pattern, such that outcomes are worse the longer children are exposed to poverty.<sup>3</sup> These studies posit that interventions aimed at increasing the income of families with children can alter the link between childhood poverty and deficits in cognition and academic achievement. You can make this a reality by taking action to ensure the purposes of the GCP and CRCP subsidies are fully met.

Thank you for the opportunity to testify today. I am happy to answer any questions.

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<sup>2</sup> Perry Firth, “Homelessness and Academic Achievement: The Impact of Childhood Stress on School Achievement,” Firesteel: The Network of Washington YWCAs Washington. (September 8, 2014). <http://firesteelwa.org/2014/09/homelessness-and-academic-achievement-the-impact-of-childhood-stress-on-school-performance/>

<sup>3</sup> Hair NL, Hanson JL, Wolfe BL, Pollak SD. Association of Child Poverty, Brain Development, and Academic Achievement. *JAMA Pediatr.* 2015;169(9):822–829. doi:10.1001/jamapediatrics.2015.1475. <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2381542>.



**GOVERNMENT OF THE DISTRICT  
OF COLUMBIA  
Child and Family Services Agency**



**Public Hearing on  
B24-0941, The “Fostering Stable  
Housing Opportunities Amendment Act of 2022”**

Testimony of  
**Natalie Craver**  
Deputy Director  
Office of Community Partnerships

Before the  
Committee on Human Services  
Councilmember Brianne K. Nadeau, Chairperson

Council of the District of Columbia  
John A. Wilson Building,  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Thursday, September 22, 2022  
1 p.m.  
Virtual Public Hearing via Zoom  
Streamed live at <https://www.brianneknadeau.com>

Good afternoon, Chairperson Nadeau and members of the Committee on Human Services. I am Natalie Craver, Deputy Director of the Office of Community Partnerships at the DC Child and Family Services Agency (CFSA). Thank you for the opportunity to speak with you today about the available housing opportunities for youth exiting foster care in the District and to share some updates on CFSA's work to provide the most appropriate and supportive housing resources to meet youth's needs.

CFSA partners with the DC Housing Authority (DCHA) and the homeless services Continuum of Care (CoC) to implement a coordinated approach to accessing and utilizing US Department of Housing and Urban Development (HUD)-funded Family Unification Program (FUP) vouchers for youth and families. Through my testimony today, I will provide insight into CFSA's substantive work to ensure that youth do not exit foster care to homelessness and clarify why there is not a need for Bill 24-0941, "Fostering Stable Housing Opportunities Amendment Act of 2022," as CFSA and DCHA are already doing the stated work to support youth's ongoing access to Fostering Youth to Independence Initiative (FYI) vouchers.

On July 13, 2022, a press release issued by Chairperson Nadeau introducing the Fostering Stable Housing Opportunities Act of 2022 stated,

*"...youth aging out in the District are just as likely to be homeless immediately upon leaving care as they are to be living on their own. These are the outcomes of a child welfare system that, rather than preparing youth to live independently, often refers them into the homelessness Continuum of Care ..."*

CFSA believes that all children, youth, and young adults deserve a family. We strive every day to ensure that they are a part of families who are unconditionally committed to their success. We believe the best way for young adults to enjoy long term stability and thrive into

adulthood is to be surrounded by family and build lifelong supports. According to the PEW Research Center, in July 2020 in the United States, 52% of young adults ages 18 to 29 resided with one or both of their parents. Taking into consideration the high cost of living and shortage of affordable housing in the District, it is more important now than ever for the city's child welfare system to focus on achieving permanency for all children and youth before adulthood.

Permanency is the greatest support CFSA can provide, but when it cannot be achieved before a child turns 21, CFSA, through our Office of Youth Empowerment, works to ensure each youth has a clear and specific plan for housing and economic stability and mobility, as well as the educational and concrete resources to thrive independent of foster care. This work starts when a youth turns 18 and lasts until they leave our care. Every youth exiting care has a written housing plan within six months of their 21<sup>st</sup> birthday, and that housing plan is reviewed monthly by CFSA's program staff and management. In the rare instances where youth are either in abscondence or are incarcerated on their 21<sup>st</sup> birthday, the services provided by the CoC ensure they still have access to an important social safety net even when youth are unwilling or unable to work with CFSA to facilitate a plan.

CFSA understands the intent behind the legislation and fundamentally agrees with the premise that no youth should exit foster care to homelessness. Safe and affordable housing is foundational to both youth and family stability. While we agree that FUP and FYI are critical resources for many young adults and families, our experience informs a belief that a voucher is not the appropriate resource for every youth who exits care. An array of housing

opportunities is essential to addressing the diverse needs of the youth we support in their transitions to independent living. We have seen in practice that older youth often fare better if we can help identify supportive family with whom they can live versus expecting that they live independently immediately upon exiting care. Making this assessment is unique for each youth and is bolstered by working with youth to understand not only their network of family, friends, and lifelong connections but also their goals and what *they* need to feel safe and secure in a living situation.

The same press release also stated:

*“... This legislation requires CFSA to do its part to make FYI vouchers a reality—and the norm—for youth leaving care. The Agency would be required to do everything in its power, including a list of enumerated actions taken directly from the HUD Notice establishing FYI, to secure FYI vouchers for eligible older youth.”*

I would like to provide some important context and background regarding the District’s allocation of FUP and FYI vouchers and share CFSA’s efforts to bring FYI vouchers into our array. As the District’s Public Housing Authority (PHA), DCHA has been awarded 421 FUP vouchers in total. 373 of these vouchers were awarded before 2008. 48 additional vouchers were recently awarded in Fiscal Year 2019 in what is called the “2017/2018” allocation.<sup>1 2</sup> CFSA, DCHA, and the CoC—all parties to our memorandum of understanding (MOU) to apply for the 2017/2018 allocation—have been working together to establish and maintain a fair and unbiased process and parameters by which youth and families are selected to apply for a FUP voucher. Each week, CFSA uses weekly Housing Review Committee (HRC) meetings, comprising CFSA leadership, management, and the relevant direct service staff, to

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<sup>1</sup> [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/family](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/family)

<sup>2</sup> <https://archives.hud.gov/news/2018/pr18-139.cfm>

review all known youth and families in need of housing assistance. The HRC recommends the most appropriate housing resource for each youth or family within one week of the application's review.

CFSA is working steadily with DCHA to expeditiously utilize our existing allocation of FUP vouchers and, at this time, FUP vouchers are still available for use by both youth and families. Until CFSA has utilized, meaning leased and not just recommended youth or deemed eligible, 90% of our current allocation of FUP vouchers, DCHA will not qualify to apply for competitive or noncompetitive FUP/FYI vouchers from HUD. The non-competitive FYI vouchers and Fostering Safe and Stable Housing Opportunities (FSHO) amendments to the Consolidated Appropriations Act of 2021 are exciting, and CFSA looks forward to being able to access this, functionally, unlimited resource for youth exiting foster care for up to five years. That said, while we currently do have FUP resources available, and continue to recommend youth, and families, as appropriate, we are also actively working with DCHA and the CoC to update our existing FUP MOU to support applying for non-competitive FYI vouchers<sup>3</sup> in the future. In addition, we meet with DCHA on a monthly basis to review the status of all families and youth who have been recommended for FUP. We continue to analyze and refine our processes in collaboration with our partners to ensure we are supporting youth to access, utilize, and take advantage of the supportive services made available through the FUP and FYI vouchers.

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<sup>3</sup> [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/fyi](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/fyi)

As always, we appreciate the Council's support for the District's most vulnerable children, youth, and families and its efforts to ensure that youth do not exit foster care to homelessness. We are confident in our partnership and work with DCHA and the CoC, and we are well on our way to accessing FYI vouchers to be utilized by all youth whose needs would be best met by the FYI voucher. Thank you for your attention today. I am happy to answer any questions you have.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Child and Family Services Agency**



**Public Hearing on  
B24-0857, the “Preserving Our Kids’ Equity  
Through Trusts (POKETT) Amendment Act of 2022”**

Testimony of  
**Nicole K. Gilbert**  
Deputy Director of the Office of Well Being

Before the  
Committee on Human Services  
Councilmember Brianne K. Nadeau, Chairperson

Council of the District of Columbia  
John A. Wilson Building,  
1350 Pennsylvania Avenue, NW  
Washington, D.C. 20004

Thursday, September 22, 2022  
1 p.m.  
Virtual Public Hearing via Zoom  
Streamed live at <https://www.brianneknadeau.com>

## **Introduction**

Good morning, Chairperson Nadeau, Councilmembers, and staff. My name is Nicole Gilbert, Deputy Director for the Office of Well Being for the DC Child and Family Services Agency (CFSA). Thank you for the opportunity to testify before you today on B24-0857, the “Preserving Our Kids’ Equity Through Trusts Amendment (POCKETT) Act of 2022”.

Today’s testimony will focus on the newly created sections of law that would require CFSA to conserve children’s federal benefits. CFSA has no concerns with the amendments to the Grandparent Caregivers Program (GCP) and Close Relative Caregivers Program (CRCP). We support the move to make the CRCP permanent. However, CFSA recommends that the GCP and CRCP programs are combined into one and renamed the District’s Relative Caregiver Program. Accompanying me is Latasha Tomlin, Kinship Program Manager, who will answer any GCP and CRCP questions. Overall, though, CFSA does not support this bill as we have serious concerns with the trusts portion of the proposed legislation.

## **Current Agency Practice**

CFSA appreciates the Council’s efforts to provide a safety net and conserve Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits for youth in the District’s care. As you know, CFSA has a representative payee program comprising one staff member who is dedicated to ensuring that youth eligible to receive SSI and SSDI benefits have appropriate information for the Social Security Administration (SSA) to determine if benefits are approved, and if CFSA can serve as the payee on behalf of the youth. If CFSA is approved as the



payee, the funds are used to supplement board and care while the youth is in foster care. The funds for each youth are deposited in a Special Purpose Revenue (SPR) account; and they are tracked by the youth's identifying information. When a youth exits care, unused funds are returned to SSA for processing to ensure there is no overpayment, which allows the youth to continue to receive and to maximize their eligible benefits upon leaving care. In preparation of the youth's transition from foster care, CFSA educates and supports the youth and/or the youth's family on the process of how to apply for SSI or SSDI benefits; and how to apply to serve as the payee, a role that is solely approved by SSA.

### **CFSA's Position on the Proposed Legislation**

Although CFSA understands the Council's intended purpose for the legislation, the agency does not support it as written; there are several concerns regarding the bill:

**1. Establishing Tax Advantaged Accounts:** The proposed legislation requires CFSA to monitor and conserve child/youth SSI/SSDI benefits in a tax-advantaged account. It states that CFSA shall, "[m]onitor any federal asset or resource limits for the benefits and ensure that the child's best interest is served by conserving the benefits in a way that avoids violating or exceeding any federal asset or resource limits that would affect the child's eligibility to receive the benefits" which may include applying for and/or establishing various accounts on the child's behalf such as a Plan for Achieving Self-Support (PASS) account, a 529A college plan, an individual development account, and/or a Special Needs Trust.

The legislation as written also states specifically, that “when serving as the child’s representative payee, the Agency shall take care to avoid the overpayment of any benefits administered by the Social Security Administration. Should the Agency discover, at any time, that overpayment to a child who is or was in the Agency’s care occurred while the child was in the Agency’s care, the Agency shall either make payment in the full amount of the overpayment to the appropriate federal entity or file a Request for Waiver of Overpayment Recovery and any necessary appeal or Request for Reconsideration with the appropriate federal entity.”

CFSA does not have the requisite knowledge and expertise in these areas. The complexities and nuances of managing these accounts for our clients would pose a liability risk to the agency if the conserved funds result in adverse action regarding benefit eligibility when youth exit care. Many of the accounts referenced by the proposed legislation have different federal requirements that are out of CFSA’s control and could lead to financial consequences for youth eligible for SSI or SSDI.

This task requires a higher level of expertise, such as that of a certified financial analyst who is better equipped to maintain accurate financial records; comply with laws and regulations as they change; protect the assets of the youth; and facilitate advanced financial decision making, when warranted. A certified financial analyst would also significantly reduce the likelihood of a youth receiving overpayment or the agency being out of compliance with federal law which could jeopardize benefits or delay future payments.

## **2. Grant Support for Training of Youth, SSA Representative Payees, and Fiduciaries:**

CFSA will be required “to award a grant in the amount of \$50,000 to a community-based organization for the purpose of offering financial literacy and financial management training and skills building to all children, parents, guardians, and adoptive parents gaining access to funds conserved by the Agency.”

CFSA would like to reiterate the significance of acquiring an organization with a financial focus and background in managing tax advantage accounts and associated tax implications. The grantee will need to be experienced in educating clients not only on financial literacy and financial management training and skills building but also on how to build personal portfolios. The grantee will also need to begin an introduction into basic investment strategies based on the objective or needs of the client.

**3. Financial Post-Permanency Planning:** The proposed legislation requires CFSA, “upon a child’s exit from foster care, the agency shall collaborate with the child; the child’s attorney, if the child is to be reunited with the child’s parents and guardians, the child’s parents or guardians; and, if the child is to be adopted, the child’s adoptive parents, to develop a written plan in the best interest of the child for the future use and control of funds conserved” in accordance with the Act. The Agency will also be required to initiate the revision of any plans that conflict with policies or requirements of the Social Security Administration that will result in inconsistent action with the developed plan as written. This is not CFSA’s area of expertise and there may be potential unforeseen monetary implications.

## **Summary of Opposition**

To summarize our concerns, the proposed legislation does not address the income tax and financial implications for youth and families once they begin to withdraw funds from the tax advantaged accounts. Although the accounts provide a temporary shield; when youth and families withdraw funds, for some, these monies will count as income. This raises the likelihood that future benefits, financial and medical could be impacted. Lastly, this proposed legislation requires CFSA's involvement in matters that are outside of CFSA's knowledge, expertise, and control. Given these limitations, the agency believes that youth will be better serviced by another organization.

## **Resource Needs**

In the event the proposed legislation is passed as written, CFSA would need the following resources to implement the new law:

1. A full-time program specialist to help educate, coordinate, and support our in-home families; distribute and manage the grant to a community-based provider; and serve as a representative on the post-case benefit planning team in partnership with a financial analyst.
2. A full-time financial federal analyst to manage and oversee the tax-advantaged accounts and to monitor for possible tax implications, overpayment, and the appeals process to SSA, as needed.
3. Restoration of the annual CFSA operating budget in the amount of one million dollars to offset the loss of SSI and SSDI funds that are used to aid in the care of foster youth.

The proposed staff additions will be instrumental in ensuring that every youth who is entitled to SSI or SSDI benefits is serviced under this new effort.

## **Conclusion**

In conclusion, CFSA remains steadfast in our overall opposition to this legislation. If it were to move forward, we would request that Council provide the supports to CFSA needed to navigate the complicated financial rules governing these trusts or place this task within an agency better suited to this financial work. A high functioning financial management organization will decrease the likelihood of unforeseen consequences that may negatively impact our youth and their families. It is our hope that the Council will continue to support the mission of CFSA, and the work of the agency as intended. CFSA represents expertise in safety, prevention, permanence, and well-being; and it is our request that the Council identifies another entity to spearhead the implementation of this legislative effort.

Thank you for the opportunity to testify before you. I am happy to answer any questions you may have at this time.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
Child and Family Services Agency



OFFICE OF THE DIRECTOR

September 20, 2022

The Honorable Brianne K. Nadeau  
Chairperson, Committee on Human Services  
Council of the District of Columbia  
John A. Wilson Building  
1350 Pennsylvania Avenue N.W., Suite 102  
Washington, D.C. 20004

Dear Councilmember Nadeau:

Thank you for giving me the opportunity to respond to the most recent draft of the “Preserving Our Kids’ Equity Through Trusts Amendment Act of 2022” (POKETT) which if enacted, will amend the Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.01 et seq.). POKETT requires the Child and Family Services Agency (CFSA) to conserve Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI) benefits of foster youth in tax-advantaged accounts that avoid transgressing federal asset limitations that could threaten their benefit eligibility upon exiting foster care. The bill also proposes amendments to the Grandparent Caregivers Pilot Program Establishment Act of 2005 and the Close Relative Caregiver Subsidy Pilot Program Establishment Amendment Act of 2019.

Regarding the Grandparent Caregivers Program (GCP) and Close Relative Caregivers Program (CRCP), CFSA supports the move to make the CRCP permanent. However, to ensure efficiency we recommend expanding the eligibility relationship criteria to be inclusive of grandparents and other relatives by combining the GCP and CRCP programs into one program and renaming it the District’s Relative Caregiver Program. This can be done by combining both budgets.

Regarding POKETT, as you know, CFSA has a representative payee program comprising of one staff member who is dedicated to ensuring that youth eligible to receive SSI and SSDI benefits have appropriate information for the Social Security Administration (SSA) to determine if benefits are approved, and if CFSA can serve as the payee on behalf of the youth. If CFSA is approved as the payee, the funds are used to supplement board and care while the youth is in foster care. The funds for each youth are deposited in a Special Purpose Revenue (SPR) account; and they are tracked by the youth’s identifying information. When a youth exits care, unused

funds are returned to SSA for processing to ensure there is no overpayment, which allows the youth to continue to receive and to maximize their eligible benefits upon leaving care. In preparation of the youth's transition from foster care, CFSA educates and supports the youth and/or the youth's family on the process of how to apply for SSI or SSDI benefits; and how to apply to serve as the payee, a role that is solely approved by SSA.

Although CFSA understands the Council's intended purpose for the legislation, the agency does not support it as written. I have outlined CFSA's concerns as follows:

**1. Establishing Tax Advantaged Accounts:** CFSA does not have the requisite knowledge and expertise to monitor and conserve child/youth SSI/SSDI benefits in tax-advantaged accounts to ensure youth are not subjected to an overpayment of any benefits administered by the Social Security Administration. The complexities and nuances of managing these accounts for our clients would pose a liability risk to the agency and the District of Columbia if the conserved funds result in adverse action regarding benefit eligibility when youth exit care. Many of the accounts referenced by the proposed legislation have different federal requirements that are out of CFSA's control which could lead to financial consequences for youth eligible for SSI or SSDI.

This task requires a higher level of expertise, such as that of a certified financial analyst who is better equipped to maintain accurate financial records; comply with laws and regulations as they change; protect the assets of the youth; and facilitate advanced financial decision making, when warranted. A certified financial analyst would also significantly reduce the likelihood of a youth receiving overpayment or the agency being out of compliance with federal law which could jeopardize benefits or delay future payments.

**2. Grant Support for Training of Youth, SSA Representative Payees, and Fiduciaries:**

CFSA will be required "to award a grant in the amount of \$50,000 to a community-based organization for the purpose of offering financial literacy and financial management training and skills building to all children, parents, guardians, and adoptive parents gaining access to funds conserved by the Agency."

CFSA would like to reiterate the significance of acquiring an organization with a financial focus and background in managing tax advantage accounts and associated tax implications. The grantee will need to be experienced in educating clients not only on financial literacy and financial management training and skills building but also on how to build personal portfolios. The grantee will also need to begin with an introduction into basic investment strategies based on the objective or needs of the client.

**3. Financial Post-Permanency Planning:** The proposed legislation requires CFSA, "upon a child's exit from foster care, the agency shall collaborate with the child; the child's attorney, if the child is to be reunited with the child's parents and guardians, the child's parents or guardians; and, if the child is to be adopted, the child's adoptive parents, to develop a written plan in the best interest of the child for the future use and control of funds conserved" in accordance with the Act. The Agency will also be required to initiate the revision of any plans that conflict with policies or requirements of the Social Security Administration that will result in inconsistent action with the developed plan as written. Additionally, the financial post-permanency planning provisions allow the child; adoptive parents; or child's parents or guardian's preference to prevail if there is a disagreement regarding the future use and control of the funds as outlined in the child's plan.

CFSA is not an expert in the area of financial post-permanency planning so there may be potential unforeseen monetary implications that would be outside of CFSA's control. We are also concerned that the proposed legislation does not address the income tax and financial implications for youth and families once they begin to withdraw funds from the tax advantaged accounts. Although the accounts provide a temporary shield; when youth and families withdraw funds, for some, these monies will count as income. This raises the likelihood that future benefits, financial and medical, could be adversely impacted. Given these financial intricacies, the agency believes that youth will be better serviced by an organization that specializes in these matters.

In the event, however, the proposed legislation is passed as written, CFSA would need the following resources to implement the new law:

1. A full-time program specialist to help educate, coordinate, and support our in-home families; distribute and manage the grant to a community-based provider; and serve as a representative on the post-case benefit planning team in partnership with a financial analyst.
2. A full-time financial federal analyst to manage and oversee the tax-advantaged accounts and to monitor for possible tax implications, overpayment, and the appeals process to SSA, as needed.
3. Restoration of the annual CFSA operating budget in the amount of one million dollars to offset the loss of SSI and SSDI funds that are used to aid in the care of foster youth.

The proposed staff additions will be instrumental in ensuring that every youth who is entitled to SSI or SSDI benefits is serviced under this new effort.

In conclusion, although CFSA appreciates the Council's efforts to provide a safety net for foster youth, for the reasons addressed above we remain steadfast in our overall opposition to this legislation. If it were to move forward, we would request that Council provide the supports to CFSA needed to navigate the complicated financial rules governing these trusts or place this task within an agency better suited to spearhead the implementation of this legislative effort and to conduct this important financial work. Placing these tasks within a high functioning financial management organization will decrease the likelihood of unforeseen consequences that may negatively impact our youth and their families.

Thank you again for giving us the opportunity to raise our concerns with you and your staff. If you have any additional questions, please contact CFSA's General Counsel, Nina Jones, at [nina.jones@dc.gov](mailto:nina.jones@dc.gov) or (202) 409-2790.

Regards,

*Robert L. Matthews*

Robert L. Matthews  
Director  
Child and Family Services Agency