
SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Anna M. Caballero, Chair

2021 - 2022 Regular

Bill No: SB 854
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Version: 4/6/22 Amended
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Hearing Date: 4/20/22
Tax Levy: No
Fiscal: Yes

HOPE, OPPORTUNITY, PERSEVERANCE, AND EMPOWERMENT (HOPE) FOR CHILDREN ACT OF 2022

Creates the Hope Account Program and the CalSurvivor Benefit Program for certain children.

Background

Income. Generally, all income is taxable in the state unless specifically excluded under current law. This includes wages, alimony, interest and dividends and in some cases, grants or other cash aid.

Tax expenditures. California law allows various income tax credits, deductions, exemptions, and exclusions. The Legislature enacts such tax incentives either to compensate taxpayers for incurring certain expenses, such as child adoption, or to influence certain behavior, such as charitable giving. The Legislature uses tax incentives to encourage taxpayers to do something that but for the tax credit, they would otherwise not do. The Department of Finance is required annually to publish a list of state tax expenditures, currently totaling around \$81.1 billion per year.

Federal and state EITC. Existing federal and state law allows eligible individuals a refundable Earned Income Tax Credit (EITC). A refundable credit allows for the excess of the credit over the taxpayer's tax liability to be refunded to the taxpayer. The EITC is a percentage of the taxpayer's earned income and phases out as income increases. To be eligible for the EITC, the taxpayer must have a principal place of residence in the U.S (in California for the California credit) for more than half of the taxable year, and not be a dependent of another taxpayer.

In California, to qualify for the CalEITC a taxpayer must have earned income in the 2021 taxable year of at least \$1 and below \$30,000 regardless of your filing status or number of qualifying children. Additionally, the taxpayer must not have investment income that exceeds \$4,053 in 2021 to receive the state credit. To receive the federal credit, the investment income must be less than \$10,000 in 2021.

COVID-19 pandemic. The COVID-19 pandemic, also known as the coronavirus pandemic, is an ongoing, widespread outbreak of the disease caused by a strain of the coronavirus. This severe, acute respiratory syndrome was first identified in Wuhan, China in late December 2019. The first cases in the United States occurred in early 2020 and the first California case was

confirmed in late January of 2020. According to the state's COVID-19 dashboard¹ as of April 13, 2022, there have been 88,748 deaths related to COVID-19 in the state. According to the Center for Disease Control (CDC), as of April 12, 2022 there have been 983,237 COVID-19 related deaths in the United States. Further, a CDC study² reports that “from April 1, 2020 through June 30, 2021, more than 140,000 children under age 18 in the United States lost a parent, custodial grandparent, or grandparent caregiver who provided the child's home and basic needs. Overall, the study shows that approximately 1 out of 500 children in the United States has experienced COVID-19-associated orphanhood or death of a grandparent caregiver. There were racial, ethnic, and geographic disparities in COVID-19-associated death of caregivers: children of racial and ethnic minorities accounted for 65% of those who lost a primary caregiver due to the pandemic.”

Foster youth. Foster care, established in California under the Department of Social Services, is a temporary living situation for kids whose parents are unable to care for them for a variety of reasons. While in foster care, children may live with relatives, foster families, or in group facilities. According to the 2022 Children Now report card³, there are over 60,000 foster children in California.

Federal Social Security OASDI program. The old-age, survivors, and disability insurance program (OASDI) is a federal program established under the Social Security Administration. This program provides financial payments, and in some cases insurance, for individuals that qualify. Within this program is the Child's Insurance Benefits (CIB) program to provide eligible children with benefits when one or both parents become disabled, retires, or dies. Children become eligible for these payments as long as the child is unmarried and either:

- Younger than 18 years of age;
- Between the ages of 18 or 19 and a full-time high school student; or
- Is older than 18 with a disability that began before age 22.

To receive benefits, the child must have a parent who is disabled or retired and entitled to Social Security benefits or a parent who died after having worked long enough in a job where they paid Social Security taxes.

These benefits are not available to foster youth or to those children whose parents did not work enough hours or time to qualify for OASDI benefits.

Seeking to provide aid to children that lost their parents to COVID-19 and foster youth, the author wants to establish a state funded trust fund for these children and provide survivor benefits for those children whose parent is deceased and did not qualify for OASDI. Further, the author wants to ensure that any payments made from these accounts do not count towards income when determining the EITC or other aid that may otherwise be available.

Proposed Law

¹ <https://covid19.ca.gov/state-dashboard/>

² <https://www.cdc.gov/media/releases/2021/p1007-covid-19-orphaned-children.html>

³ [2022 California Children's Report Card – Children Now](#)

Senate Bill 854 creates the Hope, Opportunity, Perseverance, and Empowerment (HOPE) Account Program and the CalSurvivors programs.

HOPE Account Program. The HOPE Account Program is established in and administered by the State Treasurer, to provide eligible children with a state funded trust account. The program would provide an initial payment of \$4,000 for children under 10 years of age and \$8,000 for children 10 years of age or older. The bill requires that the Treasurer make an annual deposit of an unspecified amount by January 1 or each subsequent year until the child is 18 years old.

The bill defines “eligible children” as a minor resident of California who is under the age of 18 and meets one either of the following:

- Their parent or guardian died and the cause of death for the parent or guardian is listed as COVID-19 on their death certificate or they die as a consequence of having long-term COVID-19 and the minor’s family household income (considering the income prior to death of the parent) is at or below the income that would make the child eligible for Medi-Cal benefits or the state medium income for the previous year, whichever is more.
- Has been adjudged a dependent child of the juvenile court, pursuant to existing law under Welfare and Institutions Code, who has:
 - Been subject to a foster care order and;
 - has been in foster care for at least 12 months;
 - that the court has determined is not likely to be able to return to the home of their parent or legal guardian, and;
 - that the court has made an order for adoption, tribal customary adoption, legal guardianship, placement with a fit and willing relative, or another planned permanent living arrangement.

The measure allows a HOPE Account Program enrollee to withdraw or transfer funds from their HOPE trust account on or after their 18th birthday, or for non-minor dependents, on and after their 21st birthday or upon exit from foster care if prior to 21 years of age.

Personal Income Tax. SB 854 specifies that, starting in tax year 2023, gross income does not include any payments made to or interest earned on funds deposited into a HOPE Account and those amounts should not be considered earned income for purposes of CalEITC eligibility.

Implementation. The bill requires the State Treasurer to convene a workgroup, on or before February 15, 2023, to advise the State Treasurer on program design, which includes representatives from the California Health and Human Services Agency (CHHS), the California DSS), the California Department of Public Health (CDPH), the Department of Corrections and Rehabilitation (CDCR), representatives of the Legislature, community stakeholders, representatives of county human services agencies, and the exclusive representatives of county child welfare workers.

The measure specifies that the State Treasurer must maintain a publicly available internet website where people may apply for the HOPE Account Program, program enrollees may have password protected online access to view information about the HOPE trust fund account’s growth and value, and eligible children who have reached 18 years of age may be connected to banking services and financial literacy resources, made available through the Department of Financial Protection and Innovation.

The bill requires CHHS, in collaboration with the State Treasurer and other stakeholders, and DSS, in consultation with the County Welfare Directors Association of California, to provide various reports and outreach efforts, as specified. This bill also tasks CHHS with reporting to the Legislature by March 1, 2023 how the HOPE Account Program can be expanded to include all children born into low-income circumstances and how the state might assess the funding needed to do that.

The measure specifies that, to the extent permitted by federal law, funds deposited and investment returns accrued in HOPE trust fund accounts not be considered as income or assets when determining eligibility and benefit amount for any means-tested program, until the eligible child reaches the age of 18, or in the case of a non-minor dependent 21. When the funds are disbursed to the eligible child, the distribution of the funds shall be considered a lump-sum payment and the balance shall be counted to any extent that the balance of any savings account is counted as income or an asset in a program.

SB 854 prevents the funds deposited and investment returns accrued in a HOPE trust fund account paid to an eligible child from being subject to any money judgment or Franchise Tax Board intercept.

California Survivor Benefit Program. SB 854 requires DSS to establish and oversee the CalSurvivor Program, a county administered program, to provide cash assistance for a minor who is a California resident with a deceased parent, who was also a California resident upon their death, when the minor is not eligible for survivor benefits under the federal OASDI program, as provided.

The measure specifies administrative components for DSS to administer including determining eligibility, amount of benefits provided, documentation required and overseeing county advocacy programs. The bill requires DSS to report to the Legislature by July 1, 2025, on the outcomes of the CalSurvivor Program and the associated advocacy programs, including the numbers of cases that were approved for benefit in each program, disaggregated by county.

The bill requires DSS to adopt regulations to implement the CalSurvivors Program no later than July 1, 2025 and allows for the use of emergency regulations to implement the program. The bill specifies that the CalSurvivor program must be operative on July 1, 2023, and makes implementation subject to an appropriation by the Legislature for these purposes or a provision of federal funds or private funds for these purposes.

Lastly, the measure makes legislative findings and declarations furthering its intent and purposes.

State Revenue Impact

Pending.

Comments

1. Purpose of the bill. According to the author, “SB 854 aims to meet the immediate needs faced by children whose parent or guardian has died, when federal survivor benefits are not available, and establish a Hope Account to address lifelong losses to wealth building children whose parents died of the COVID-19 virus or who have been permanently placed in the foster

system. The bill will also give California more tools to address the persistent, growing and racially charged wealth gap and confront the issue of intergenerational poverty. At a time when California has immense wealth, we can afford to ensure that children who have suffered an inconceivable loss will be comforted knowing they'll have a little help at a time when they no longer have parents to rely on."

2. Tradeoffs. Existing tax law provides various credits, deductions, exclusions, and exemptions for taxpayers. Since the Legislature enacts these items to accomplish some governmental purpose and have a cost — in the form of foregone revenues — state law refers to them as "tax expenditures." This bill would create a new tax expenditure which will result in less General Fund revenue by offering an income exclusion. Without General Fund revenue, the state has less funding to pay for important public services such as education and public safety. As a result, the state will have to reduce spending or increase taxes to match the foregone revenue resulting from SB 854's income exclusion. The Committee may wish to consider whether SB 854's potential benefits for those that lost a parent to COVID-19 and foster youth is worth the spending cuts or tax increases.

3. No conformity. The bill creates an income exclusion for income that would not be allowed at the federal level. As a result, taxpayers would have to include the same income for federal purposes that they would exclude for state purposes, which can create confusion for taxpayers.

4. Why only COVID-19? The negative impacts of the COVID-19 pandemic will be felt for years, especially for those that lost a loved one or parent. The December 2021 study⁴ published by the American Academy of Pediatrics titled, "COVID-19 Orphanhood and Caregiver Death in the United States," notes, "We found substantial disparities in distributions of COVID-19–associated death of parents and caregivers across racial and ethnic groups. Children losing caregivers to COVID-19 need care and safe, stable, and nurturing families with economic support, quality child care, and evidence-based parenting support programs. There is an urgent need to mount an evidence-based comprehensive response focused on those children at greatest risk in the states most affected." According to an article by Alternative Family Services⁵, almost 31 percent of foster youth experience homelessness in California. Unfortunately, children lose both of their parents daily in the US from many ways other than as a result of COVID-19. Additionally, according to 2019 Census data, there are more than 1.3 million children living in poverty in California. The Committee may wish to consider if it may be appropriate to extend the programs created in the bill to all orphans and all children living in poverty in California.

5. Fill in the blanks. The bill would require an unspecified amount of money to be deposited into HOPE accounts, as specified. Further, the bill requires counties with an unspecified number of residents to establish an advocacy program for the CalSurvivor program. The Committee may wish to consider amending SB 854 to specify the amount of money to be deposited in these accounts.

6. What about the YCTC? The bill states that the income and interest received from a HOPE account does not count as earned income for purposes of calculating a CalEITC. However, the bill lacks language to specify that the same should apply for the Young Child Tax Credit

⁴ <https://publications.aap.org/pediatrics/article/148/6/e2021053760/183446/COVID-19-Associated-Orphanhood-and-Caregiver-Death>

⁵ [35 Foster Youth Homelessness Statistics You Should Know – Alternative Family Services \(afs4kids.org\)](https://www.afs4kids.org/35-Foster-Youth-Homelessness-Statistics-You-Should-Know)

(YCTC). Because many individuals that qualify for the EITC also qualify for the YCTC, the Committee may wish to consider whether to include the same exemption for the YCTC.

7. Technicals. Committee staff recommends the following technical amendments:

- On page 5, line 31, after “any” strike “investment returns” and after “accrued” insert “interest”
- On page 5, line 38, after “any” strike “investment returns” and after “accrued” insert “interest”
- On page 6, line 29, after “state” strike “medium” and insert “median”

Support and Opposition (4/18/22)

Support:

Agee Global Solutions, LLC
 California Alliance of Child and Family Services
 California Asset Building Coalition
 California Association of Food Banks
 California Court Appointed Special Advocate Association
 California Immigrant Policy Center
 California Latinas for Reproductive Justice
 California Tribal Families Coalition
 California Women's Law Center
 California Youth Connection (CYC)
 Cambri Guest
 Casa Pacifica Centers for Children & Families
 Causes to Care About
 Children Now
 Children's Defense Fund-california
 City of San Jose
 Coalition of California Welfare Rights Organizations
 Courage California
 Covid Survivors for Change
 Dolores Huerta Foundation
 End Poverty in California (EPIC)
 Equal Rights Advocates

First 5 California
 Fresno Economic Opportunities Commission
 Friends Committee on Legislation of California
 Golden State Opportunity
 Grace Institute - End Child Poverty in Ca
 Helpline Youth Counseling, INC.
 Jewish Public Affairs Committee
 John Burton Advocates for Youth
 Marked by Covid
 National Association of Social Workers, California Chapter
 National Council of Jewish Women CA
 National Council of Jewish Women-california
 Parent Voices California
 Prosperity Now
 San Francisco-marin Food Bank
 St. John's Community Health
 The Children's Partnership
 Unbox
 Women Lawyers of Sacramento
 Women's Foundation California
 50 Acterra Action for A Healthy Planet
 1 Individual

Opposition:

1 Individual

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