

Introduced by Senator Caballero

July 8, 2021

Senate Joint Resolution No. 8—Relative to Social Security Disability Insurance.

LEGISLATIVE COUNSEL’S DIGEST

SJR 8, as introduced, Caballero. Social Security Disability Insurance: disabled adult child benefit.

This measure would urge the President and the Congress of the United States to amend specified provisions of the federal Social Security Act to allow recipients of disabled adult child benefits under the act to continue to receive those benefits upon marriage.

Fiscal committee: no.

- 1 WHEREAS, An individual with a physical or mental condition
- 2 that arose before 22 years of age, and that very seriously limits the
- 3 person’s ability to engage in substantial employment activity, may
- 4 qualify for the childhood disability benefit through the social
- 5 security earnings record of a retired, disabled, or deceased parent;
- 6 and
- 7 WHEREAS, This benefit provides funds and insurance coverage
- 8 that provide critical support for many disabled children; and
- 9 WHEREAS, Children with disabilities receiving the childhood
- 10 disability benefit may continue to be covered into adulthood as
- 11 adult disabled children if they still qualify as disabled under the
- 12 social security disability standards after reaching adulthood; and
- 13 WHEREAS, The childhood disability benefit for adult disabled
- 14 children is also known as the disabled adult child (DAC) benefit,
- 15 and an adult whose disability arose before 22 years of age may

1 receive the DAC childhood disability benefit through their retired,
2 disabled, or deceased parents' social security earnings record; and

3 WHEREAS, The DAC benefit provides funds to cover basic
4 living expenses and health insurance coverage that is critical for
5 disabled adult children, as it covers necessary, and often costly,
6 medical care needed to live with a disability; and

7 WHEREAS, For adults who have been disabled from a young
8 age and receive the DAC benefit, access to health insurance
9 coverage through the federal Medicare and Medicaid programs
10 continues to be vital, because other types of insurance do not cover
11 the necessary medical services, personal attendant care, durable
12 medical equipment, therapies, and other services that are often
13 required for individuals with significant disabilities; and

14 WHEREAS, Under the federal Social Security Act and policy,
15 recipients of the DAC benefit have their benefits terminated upon
16 marriage, unless an exception applies; and

17 WHEREAS, Because recipients of the DAC benefit who marry
18 may only continue to receive their benefits if they marry an
19 individual who is also receiving the DAC benefit, Social Security
20 Disability Insurance (SSDI), or certain other categories of social
21 security benefits, this policy creates a substantial barrier to marriage
22 for younger interabled couples; and

23 WHEREAS, The federal Social Security Act and policy currently
24 provide that individuals who receive DAC may lose their access
25 to Medicaid, operated as Medi-Cal in California, if they are deemed
26 to have certain assets or income; and

27 WHEREAS, Loss of DAC benefits, including Medicare and
28 access to Medi-Cal, is simply not an option for most disabled
29 adults, as they depend on their insurance coverage to survive; and

30 WHEREAS, Many DAC benefit recipients do not marry their
31 life partners because they cannot survive without their benefits,
32 and are therefore unable to enjoy the fundamental right to marry
33 and are unable to exercise their religious beliefs with regard to
34 marriage; and

35 WHEREAS, Individuals who are disabled later in life after
36 participating in the workforce, potentially for as few as one and
37 one-half years of work, may be eligible to receive SSDI; and

38 WHEREAS, SSDI recipients who receive benefits on their own
39 work record do not face termination of coverage upon marriage,

1 yet DAC benefit recipients do face termination of coverage upon
2 marriage; and

3 WHEREAS, Many DAC benefit recipients participate or have
4 participated in the workforce and pay or have paid social security
5 and Medicare payroll taxes. However, due to flaws within current
6 policy, these individuals are not allowed to receive SSDI benefits
7 on their own record once they choose to receive the DAC benefits.
8 Thus, recipients of the DAC benefit may face substantially
9 inadequate support compared to someone disabled later in life that
10 receives SSDI based on their own work record; and

11 WHEREAS, The discrepancy in the treatment of marriage on
12 benefits between adults who are disabled as children versus those
13 who become disabled as adults and who have had the opportunity
14 to participate in the workforce for at least one and one-half years
15 prior to developing a disability, is plainly unequal treatment; and

16 WHEREAS, Articles 3, 5, and 7 of the United Nations
17 Convention on the Rights of Persons with Disabilities recognizes
18 that all persons are equal under the law and that individuals with
19 disabilities should be guaranteed equal protections of the laws
20 without discrimination; and

21 WHEREAS, Article 23 of the United Nations Convention on
22 the Rights of Persons with Disabilities speaks clearly to the fact
23 that the freedom of people with disabilities to marry and form
24 families is an issue of fundamental human rights; and

25 WHEREAS, Adults who were disabled as children should have
26 the right to marry whomever they wish without having their DAC
27 benefits terminated; now, therefore, be it

28 *Resolved by the Senate and the Assembly of the State of*
29 *California, jointly,* That the Legislature denounces the inequality
30 and discriminatory treatment of adults receiving DAC benefits in
31 reference to their termination of benefits upon marriage; and be it
32 further

33 *Resolved,* That the Legislature urges the President and Congress
34 of the United States to amend Section 402(d)(1) of Title 42 of the
35 United State Codes and any other necessary statutes to allow
36 recipients of DAC benefits to continue to receive those benefits
37 upon marriage; and be it further

38 *Resolved,* That the Secretary of the Senate transmit copies of
39 this resolution to the President and Vice President of the United
40 States, to the Speaker of the House of Representatives, to the

- 1 Majority Leader of the Senate, to each Senator and Representative
- 2 from California in the Congress of the United States, and to the
- 3 author for appropriate distribution.