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SJR-8 Social Security Disability Insurance: disabled adult child benefit. (2021-2022)

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Senate Joint Resolution No. 8

CHAPTER 155

Relative to Social Security Disability Insurance.

[Filed with Secretary of State August 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SJR 8, 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

WHEREAS, An individual with a physical or mental condition that arose before 22 years of age, and that very seriously limits the person's ability to engage in substantial employment activity, may qualify for the childhood disability benefit through the social security earnings record of a retired, disabled, or deceased parent; and

WHEREAS, This benefit provides funds and insurance coverage that provide critical support for many disabled children; and

WHEREAS, Children with disabilities receiving the childhood disability benefit may continue to be covered into adulthood as adult disabled children if they still qualify as disabled under the social security disability standards after reaching adulthood; and

WHEREAS, The childhood disability benefit for adult disabled children is also known as the disabled adult child (DAC) benefit, and an adult whose disability arose before 22 years of age may receive the DAC childhood disability benefit through their retired, disabled, or deceased parents' social security earnings record; and

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

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

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

WHEREAS, Because recipients of the DAC benefit who marry may only continue to receive their benefits if they marry an individual who is also receiving the DAC benefit, Social Security Disability Insurance (SSDI), or certain other categories of social

security benefits, this policy creates a substantial barrier to marriage for younger interabled couples; and
WHEREAS, The federal Social Security Act and policy currently provide that individuals who receive DAC may lose their access to Medicaid, operated as Medi-Cal in California, if they are deemed to have certain assets or income; and

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

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

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

WHEREAS, SSDI recipients who receive benefits on their own work record do not face termination of coverage upon marriage, yet DAC benefit recipients do face termination of coverage upon marriage; and

WHEREAS, Many DAC benefit recipients participate or have participated in the workforce and pay or have paid social security and Medicare payroll taxes, but there is a lack of clear public guidance from the federal Social Security Administration regarding whether and how DAC benefit recipients can leave the DAC program and begin receiving SSDI benefits on their own work records so that they do not face termination of coverage upon marriage; and

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

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

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

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

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

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

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, and to the author for appropriate distribution.