

1 AN ACT

2 RELATING TO CHILDREN; REQUIRING THE CHILDREN, YOUTH AND
3 FAMILIES DEPARTMENT TO DETERMINE FEDERAL BENEFITS ELIGIBILITY
4 FOR CHILDREN IN ITS CUSTODY, APPLY FOR FEDERAL BENEFITS AND
5 EITHER ACT AS THE CHILD'S REPRESENTATIVE PAYEE OR DETERMINE
6 AN APPROPRIATE ALTERNATIVE; SETTING FORTH THE DEPARTMENT'S
7 OBLIGATIONS WHEN ACTING AS THE CHILD'S REPRESENTATIVE PAYEE;
8 PROHIBITING THE USE OF FEDERAL BENEFITS TO PAY THE DEPARTMENT
9 FOR THE CHILD'S CARE; REQUIRING THE DEPARTMENT TO PROVIDE
10 FINANCIAL LITERACY AND PLANNING TOOLS; SETTING FORTH
11 PROVISIONS FOR THE RELEASE OF FEDERAL BENEFITS PROVIDED TO
12 CHILDREN IN LEGAL CUSTODY OF THE STATE.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. A new section of the Children's Code is
16 enacted to read:

17 "SHORT TITLE.--This act may be cited as the "Federal
18 Benefits for Children in State Custody Act"."

19 SECTION 2. A new section of the Children's Code is
20 enacted to read:

21 "DEFINITION.--As used in the Federal Benefits for
22 Children in State Custody Act, "Representative Payee" means a
23 person appointed by a federal agency to manage the benefits
24 the federal agency provides to a child."

25 SECTION 3. A new section of the Children's Code is

1 enacted to read:

2 "FEDERAL BENEFITS PROVIDED TO CHILDREN IN THE LEGAL
3 CUSTODY OF THE DEPARTMENT--ELIGIBILITY DETERMINATIONS.--

4 A. Within sixty days after a child enters the
5 department's legal custody, and annually thereafter, the
6 department shall determine whether the child is currently
7 receiving or is eligible to receive federal benefits.

8 B. If it is determined that a child in the legal
9 custody of the department is already receiving federal
10 benefits, the department shall:

11 (1) in consultation with the child and the
12 following individuals, identify the child's representative
13 payee: the child's attorney; the child's custodian; the
14 child's guardian; the child's guardian ad litem; or the
15 child's Indian tribe, if the child is known to be an Indian
16 child; or

17 (2) apply to become the child's
18 representative payee; provided that no other candidate is
19 available.

20 C. If the department determines that a child is
21 eligible for benefits administered by the federal government,
22 the department shall apply:

23 (1) for those benefits on behalf of the
24 child; and

25 (2) to become the child's representative

1 payee if no other candidate is available."

2 SECTION 4. A new section of the Children's Code is
3 enacted to read:

4 "FEDERAL BENEFITS PROVIDED TO CHILDREN IN THE LEGAL
5 CUSTODY OF THE DEPARTMENT--OBLIGATIONS OF THE DEPARTMENT WHEN
6 ACTING AS THE REPRESENTATIVE PAYEE.--If the department
7 becomes the representative payee of a child in the legal
8 custody of the department, the department shall:

9 A. establish an appropriate account to use and
10 conserve the child's federal benefits, in the child's best
11 interest, for current unmet needs and future needs pursuant
12 to the requirements of the funding source and any applicable
13 asset and resource limits;

14 B. annually determine whether a person, other than
15 the department, is available to assume the role of
16 representative payee and could better serve in that role, in
17 the child's best interest;

18 C. notify the child and the following individuals
19 of any application, decision or appeal related to a child's
20 federal benefits: the child's attorney; the child's
21 custodian; the child's guardian; the child's guardian ad
22 litem; or the child's Indian tribe, if the child is known to
23 be an Indian child. In providing notice of any denial of
24 benefits, the department shall consult with the child's
25 attorney and appeal the denial if it is in the child's best

1 interest;

2 D. provide an annual accounting as to the use,
3 application or conservation of the child's federal benefits
4 to the child and the following individuals: the child's
5 attorney; the child's custodian; the child's guardian; the
6 child's guardian ad litem; or the child's Indian tribe, if
7 the child is known to be an Indian child;

8 E. avoid receiving overpayment of federal benefits
9 and pay any discovered overpayment to the appropriate federal
10 agency; and

11 F. before the child leaves the custody of the
12 department, provide the child with financial literacy and
13 planning tools to assist the child in aligning conserved
14 benefits with the child's transition plan."

15 SECTION 5. A new section of the Children's Code is
16 enacted to read:

17 "PROHIBITED USE OF FEDERAL BENEFITS.--If the department
18 is the child's representative payee, the department shall not
19 use a child's federal benefits to pay for or reimburse the
20 department for any of the costs of the child's care; however,
21 the department may use those benefits to pay for the child's
22 unmet needs beyond what the department is obligated or
23 required or has agreed to pay."

24 SECTION 6. A new section of the Children's Code is
25 enacted to read:

1 "RELEASE OF REMAINING FEDERAL BENEFIT FUNDS UPON
2 TERMINATION OF LEGAL CUSTODY.--If the department is the
3 child's representative payee, upon termination of the
4 department's legal custody of a child, the department shall
5 release any remaining funds to the child's credit pursuant to
6 the requirements of the funding source. In the absence of
7 any requirements, the department shall release the funds to:

8 A. the child, if the child is at least eighteen
9 years old or emancipated; or

10 B. the child's parent or guardian, if the child
11 is younger than eighteen years old or not emancipated."

12 SECTION 7. A new section of the Children's Code is
13 enacted to read:

14 "REPORTING.--Beginning September 1, 2026 and annually
15 thereafter, the department shall submit a report to the
16 legislative health and human services committee that
17 includes:

18 A. the number of children in its custody who
19 receive federal benefits;

20 B. the type of federal benefits;

21 C. the manner in which those benefits are
22 conserved; and

23 D. the amounts of federal benefits used and
24 conserved."
