

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

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*and*

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**SECTION I: GENERAL INFORMATION**

*Check all that apply:*

**Original**  **Amendment**  
**Correction**  **Substitute**

**Date Prepared:** 2024-01-25

**Bill No:** HB254

**Sponsor(s)** Tara Jaramillo  
: Eleanor Chávez  
Harry Garcia  
Charlotte Little  
Natalie Figueroa

**Agency Name** CYFD 69000  
**and Code**  
**Number:**

**Person Writing** Milissa Soto  
**Analysis:**

**Short** CYFD & FEDERAL  
**Title:** BENEFITS

**Phone:** 5052578759

**Email:** Milissa.soto@cyfd.nm.gov

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
\$0	\$0		

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
\$0	\$0	\$0		

**ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>	\$0	\$198.5	\$198.5	\$397.0	Recurring	General Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation

Act:

**SECTION III: NARRATIVE**

**BILL SUMMARY**

This bill adds the following four new sections to the Children's Code:

- \* the short title "Federal Benefits for Children in State Custody";
- \* "Federal Benefits Provided to Children in the Legal Custody of the Department—Eligibility Determinations;
- \* Federal Benefits provided to Children in the legal custody of the Department--Obligations of the Department when acting as the representative payee; and
- \* Prohibited Use of Federal Benefits.

The bill also includes two additional sections one of which defines "representative payee" and the other which requires an annual submission of a report to the legislative health and human services committee.

Further the bill sets forth the obligation of the Department to apply for federal benefits, act as a child's representative payee or designate an alternative and prohibits the use of federal benefits to pay the department for the child's care. Within 60 days of a child entering custody the department determines whether a child is currently receiving or is eligible for benefits. If the child is receiving benefits, then the department as the representative payee consults with the child's attorney, custodian, guardian, guardian ad litem or child's tribe. If the child is not receiving benefits and may be eligible, the department will apply for such benefits, provided no other candidate is available. As representative payee the department will conserve federal benefits for the child's unmet current and future needs pursuant to the requirements of the funding source and applicable asset and resource limits. The bill also requires the department to annually determine if another person other than the department could serve in the role of representative payee, provide an annual accounting, and notify the child's custodian, guardian, child's attorney, the guardian ad litem, or child Tribe. The bill also requires the department to avoid receiving over-payments and prohibits the department as the child's

representative payee to reimburse itself for cost of the child's care and support.

Lastly the bill requires the department as the representative payee to release any remaining funding to the child upon termination of legal custody pursuant to the requirements of the funding source, include for youth who reach age eighteen and emancipate from custody. The department will be required to submit a report to the legislative health and human services committee that includes the number of child receiving federal benefits, the type of benefit, the manner in which those benefits are conserved, and the amounts of federal benefits used and conserved.

### **FISCAL IMPLICATIONS**

CYFD needs two FTE for accurate reporting for each child. One FTE would be in Protective Services and one FTE in Administrative Services Division. These FTE would be funded with general fund and would cost the department \$193.5 thousand in salary and benefits and \$5.0 thousand in overhead costs for a total of \$198.5 thousand.

### **SIGNIFICANT ISSUES**

This bill seeks to enshrine in law a CYFD policy change that went into effect in September 2023.

The bill refers generally to "federal benefits" which can more accurately be described as Social Security Administration ("SSA") benefits applicable to children and youth in state custody. Additionally, there needs to be a distinction between the use and conservation of Supplemental Security Income ("SSI") versus Retirement, Survivor, and Disability Insurance ("RSDI"). These are different types of Social Security benefits that are expended and conserved differently according to the Social Security Administration. RSDI benefits are subject to a \$2,000 monetary cap. Accordingly, they must be utilized for the benefit of the child, in order to ensure the maximum benefit for the child or youth continues.

Finally, the Department cannot control potential overpayments made by the SSA. In the event overpayments occur, the Department returns those funds to the SSA if the Department is the representative payee and to the new representative payee if one is designated. The SSA has sole authority to determine who is the representative payee.

### **PERFORMANCE IMPLICATIONS**

To meet the additional reporting requirements of the bill, additional FTE will be needed to support staff in tracking and reporting.

### **ADMINISTRATIVE IMPLICATIONS**

The department will need to ensure that the requirements of the bill are adequately enshrined in the department's policies and procedures.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

None.

### **TECHNICAL ISSUES**

None.

### **OTHER SUBSTANTIVE ISSUES**

None.

### **ALTERNATIVES**

None.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

There will be no consequences if this bill is not enacted. CYFD made this change in September 2023 by implementing the changes enshrined in this bill.

### **AMENDMENTS**

Replace the general term "federal benefits" with the term "SSA benefits".

Remove the requirement that CYFD prevent overpayment of SSA benefits because those payments are outside of the control of the Department.