

KAREN SIMPSON
Legislative District 3
Frederick County

Judiciary Committee
Chair
Family Law Subcommittee



The Maryland House of Delegates
6 Bladen Street, Room 221
Annapolis, Maryland 21401
410-841-3436
800-492-7122 Ext. 3436
Karen.Simpson@house.maryland.gov

THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

TO: Chair Barnes, Vice Chair Kaiser, and Members of the Appropriations Committee

FROM: Karen Simpson, Delegate, Frederick – District 3

Favorable with Amendment:

HB768 – Department of Human Services – Benefits for Children in Custody – Alterations

Hearing on 3/10/2026 at 1 PM - Appropriations

HB 768 – Department of Human Services – Benefits for Children in Custody – Alterations strengthens protections for children in Maryland’s foster care system by ensuring that federal benefits are used to support them.

HB768 with amendments requires the Department of Human Services (DHS) to determine when a child in the custody of the department is eligible and as appropriate, apply for, and serve as the representative payee for a child in their care receiving U.S. Department of Veteran’s Affairs (VA) benefits, Supplemental Security Income (SSI), or Social Security benefits.

The child’s benefits are *not* to be used to reimburse the State for costs of care. The benefits are conserved in the child’s best interests for the child when they reach adulthood and leave care.

The bill also requires the Department to prioritize identifying another suitable representative payee before serving in that role itself.

HB 768 strengthens oversight and transparency by requiring the Department to determine a child’s eligibility for federal benefits within 60 days of entering care and annually thereafter, apply for benefits when appropriate, and provide regular information to children and their attorneys regarding benefit use and eligibility. The bill also requires that youth approaching adulthood receive guidance on accessing and maintaining benefits, transition planning, and post-care eligibility to support their independence.

Overall, HB 768 ensures that federal benefits intended for children in state custody are used to directly support their needs and future stability rather than reimbursing state expenses.

For these reasons, I respectfully urge a favorable report with amendments on HB 768.

SPONSOR Amended Bill

HOUSE BILL 768

D4

6lr2852
CF 6lr2855

By: **Delegates Simpson and Shetty** Introduced and
read first time: February 4, 2026 Assigned to:
Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Department of Human Services – Benefits for Children in Custody – Alterations**

3 FOR the purpose of altering certain provisions relating to the responsibilities of the
4 Department of Human Services as representative payee and fiduciary for certain
5 children committed to the custody of the Department; and generally relating to
6 children in the custody of the Department of Human Services.

7 BY repealing and reenacting, with amendments,
8 Article – Family Law
9 Section 5-527.1
10 Annotated Code of Maryland
11 (2019 Replacement Volume and 2025 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Family Law**

15 5-527.1.

(a) ~~IN THIS SECTION, “UNMET NEEDS” MEANS NEEDS BEYOND THOSE THAT
THE DEPARTMENT IS REQUIRED OR AGREES TO PAY, INCLUDING:~~

~~(1) ADDITIONAL SERVICES, RESOURCES, OR EQUIPMENT RELATED TO
A CHILD’S DISABILITY;~~

~~(2) HOUSING EXPENSES IF A CHILD IS PREPARING TO LEAVE THE
CUSTODY OF THE DEPARTMENT FOR REASONS RELATED TO THE CHILD’S AGE;~~

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
(brackets) indicate matter deleted from existing law 1100 / 00

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1 ~~(3) TECHNOLOGY, SPECIAL CLOTHING, INSTRUMENTS, BOOKS, OR~~
2 ~~OTHER ITEMS RELATING TO A CHILD'S HOBBIES AND INTERESTS;~~

3 ~~(4) TRANSPORTATION EXPENSES NOT OTHERWISE PAID BY THE~~
4 ~~DEPARTMENT; AND~~

5 ~~(5) TUITION, TUTORING, OR TRAINING, INCLUDING APPLICATION~~
6 ~~FEES, BOOKS, EQUIPMENT, AND TESTING.~~

7 ~~(B)~~ This section applies to children committed to the custody of the Department.

8 [(b) When applying for benefits under this section for a child in the Department's
9 custody, the Department shall, in cooperation with the child's attorney, identify a
10 representative payee or fiduciary in accordance with the requirements of 20 C.F.R. §§
11 404.2021 and 416.621.]

12 ~~(B)~~ IF A CHILD WAS RECEIVING U.S. DEPARTMENT OF VETERANS AFFAIRS
13 BENEFITS, SUPPLEMENTAL SECURITY INCOME, OR SOCIAL SECURITY BENEFITS
14 BEFORE ENTERING THE DEPARTMENT'S CUSTODY, OR IF THE DEPARTMENT
15 APPLIES FOR BENEFITS ON BEHALF OF THE CHILD, THE DEPARTMENT SHALL:

16 (1) ATTEMPT TO IDENTIFY, IN CONSULTATION WITH ~~THE CHILD AND~~
17 ~~THE CHILD'S GUARDIAN AD LITEM OR ATTORNEY,~~ AN APPROPRIATE
18 REPRESENTATIVE PAYEE IN ACCORDANCE WITH THE REQUIREMENTS OF 20 C.F.R.
19 §§ 404.2021 AND 416.621;

20 (2) IF THE DEPARTMENT IS SO IDENTIFIED, APPLY TO BECOME THE
REPRESENTATIVE PAYEE ONLY IF NO OTHER SUITABLE CANDIDATE IS AVAILABLE; AND

21 (3) DOCUMENT ALL EFFORTS TO LOCATE AN SUITABLE CANDIDATE APPROPRIATE
REPRESENTATIVE PAYEE.

(C) FOR A CHILD WHO IS IN THE DEPARTMENT'S CUSTODY AND WHO IS RECEIVING U.S. DEPARTMENT OF VETERANS AFFAIRS BENEFITS, SUPPLEMENTAL SECURITY INCOME, OR SOCIAL SECURITY BENEFITS, THE DEPARTMENT PERIODICALLY SHALL, UPON A CHANGE IN THE CHILD'S PERMANENCY PLAN, REVIEW THE IDENTIFICATION OF THE WHETHER A PERSON OTHER THAN THE DEPARTMENT IS AVAILABLE TO APPLY TO ASSUME THE ROLE OF REPRESENTATIVE PAYEE UNDER SUBSECTION (B) OF THIS SECTION IN CONSULTATION WITH THE CHILD'S ATTORNEY AND, IF APPLICABLE, TO APPLY FOR A CHANGE TO THE REPRESENTATIVE PAYEE IF THE PERSON COULD BETTER SERVE THE BEST INTEREST OF THE CHILD.

22 [(c)] (D) (1) Consistent with federal law, when the Department serves as the
23 representative payee or in any other fiduciary capacity for a child receiving [Veterans
24 Administration] U.S. DEPARTMENT OF VETERANS AFFAIRS benefits, Supplemental

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25 Security Income, or Social Security benefits, the Department shall:

26 ~~[(1)]~~ **(I) CONSERVE ANY FEDERAL BENEFITS RECEIVED ON BEHALF**
27 **OF THE CHILD;**

28 ~~(II) EXCEPT AS PROVIDED IN SUBPARAGRAPH (1) OF THIS PARAGRAPH, USE~~
~~THE BENEFITS FOR THE CHILD'S CURRENT UNMET NEEDS IN ACCORDANCE WITH~~
~~ITEM (IV) 4 OF THIS PARAGRAPH~~ or conserve the benefits in the child's best interest,
including using the benefits for services for special needs not otherwise provided by
the Department or conserving the benefits for the child's reasonably foreseeable
future needs;

1 ~~[(2)]~~ ~~(II)~~ **(III) EXCEPT AS PROVIDED IN SUBPARAGRAPH (1) OF THIS**
PARAGRAPH, ensure that when the child ~~[attains the age of 14 years]~~ **ENTERS THE**
CARE OF THE DEPARTMENT and until the Department no longer serves as the
representative payee or fiduciary, ~~[a minimum percentage of]~~ the child's benefits
are not used to reimburse the State for the costs of care for the child and are used or
conserved in accordance with items ~~[(3) and (4)]~~ **(III) (IV) AND (IV) (V)** of this
subsection, as follows:

2 (i) from age 14 through age 15, at least 40%;

3 (ii) from age 16 through age 17, at least 80%; and

4 (iii) ~~from age 18 through age 20, 100%]~~ **PARAGRAPH;**

5 ~~[(3)]~~ ~~(III)~~ **(IV)** for the child's benefits or resources that are below or not subject
6 to any federal asset or resource limit, exercise discretion in accordance with federal law and
7 in the best interest of the child to ~~[conserve the funds or]~~ use the funds for ~~[services for~~
8 ~~special needs not otherwise provided by the Department]~~ **THE CHILD'S CURRENT UNMET**
9 **NEEDS IN ACCORDANCE WITH ITEM (IV) 5 OF THIS PARAGRAPH OR CONSERVE THE**
10 **FUNDS,** including **BY** choosing one or more of the options listed under item ~~[(4)]~~ **(IV)** of this
11 ~~[subsection]~~ **PARAGRAPH;**

12 ~~[(4)]~~ ~~(IV)~~ **(V)** appropriately monitor any federal asset or resource limits for the
13 benefits and ensure that the child's best interest is served by using or conserving the
14 benefits in a way that avoids violating any federal asset or resource limits that would affect
15 the child's eligibility to receive the benefits, including:

16 ~~[(i)]~~ **1.** applying to the Social Security Administration to establish
17 a Plan for Achieving Self-Support (PASS) account for the child under the Social Security
18 Act and determining whether it is in the best interest of the child to conserve all or part of
19 the benefits in the PASS account;

20 ~~[(ii)]~~ **2.** establishing a 529A plan for the child and conserving the
21 child's benefits in that account in a manner that appropriately avoids any federal asset or
22 resource limits;

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23 [(iii)] 3. establishing an individual development account for the
24 child and conserving the child's benefits in that account in a manner that appropriately
25 avoids any federal asset or resource limits;

26 [(iv)] 4. establishing a special needs trust for the child and
27 conserving the child's benefits in the trust in a manner that is consistent with federal
28 requirements for special needs trusts and that appropriately avoids any federal asset or
29 resource limits;

[(v)] 5. if the Department determines that using the benefits for services
1 for current special needs not already provided by the Department is in the best interests of
2 the child, using the benefits for those services;}

~~3 _____ 5. USING THE BENEFITS IN A MANNER THAT IS IN THE
4 BEST INTEREST OF THE CHILD FOR THE CHILD'S CURRENT UNMET NEEDS, AS
5 DETERMINED IN CONSULTATION WITH THE CHILD AND THE ATTORNEY FOR THE
6 CHILD, FOR COSTS NOT PAID BY THE DEPARTMENT AS PART OF THE CHILD'S CARE
7 OR BY THE HEALTH INSURANCE OF THE CHILD;~~

8 [(vi)] 6. if federal law requires certain back payments of benefits
9 to be placed in a dedicated account, complying with the requirements for dedicated accounts
10 under 20 C.F.R. § 416.640(e); and

11 [(vii)] 7. applying any other exclusions from federal asset or
12 resource limits available under federal law and using or conserving the child's benefits in
13 a manner that appropriately avoids any federal asset or resource limits;

14 [(5)] (v) provide an annual accounting to the child and the child's
15 attorney of how the child's resources, including [Veterans Administration] U.S.
16 DEPARTMENT OF VETERANS AFFAIRS benefits, Supplemental Security Income, and
17 Social Security benefits, have been used or conserved in accordance with this section; [and]

18 [(6)] (vi) provide the child with financial literacy training when the child
19 has attained the age of 14 years; AND

20 (vii) **BEGINNING** WHEN THE CHILD HAS ATTAINED THE AGE OF 16 YEARS
21 **AND**
~~21 6 MONTHS, PROVIDE THE CHILD WITH INFORMATION, IF APPLICABLE, REGARDING:~~

- 22 1. **ACCESSING, USING, AND MAINTAINING BENEFITS;**
- 23 2. **TRANSITION PLANS;**
- 24 3. **WHEN THE BENEFITS ARE SCHEDULED TO END; AND**
- 25 4. **ELIGIBILITY FOR BENEFITS AFTER LEAVING THE**
26 **CARE OF THE DEPARTMENT.**

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27 ~~(2) (i) A BENEFICIARY WHO IS AT LEAST 18 YEARS OLD MAY~~
28 ~~REQUEST THE COURT TO ALLOW THE BENEFICIARY'S BENEFITS TO BE USED FOR~~
29 ~~CURRENT UNMET NEEDS.~~

~~(ii) IF THE COURT DETERMINES THAT IT IS IN THE BEST~~
1 ~~INTEREST OF THE BENEFICIARY TO USE THE BENEFITS FOR CURRENT UNMET~~
2 ~~NEEDS, THE COURT SHALL GRANT A REQUEST MADE UNDER THIS PARAGRAPH.~~

3 (E) THE DEPARTMENT SHALL:

~~(1) WITHIN 60 DAYS AFTER A CHILD ENTERS THE CARE OF THE~~
~~DEPARTMENT, AND EACH YEAR THEREAFTER, DETERMINE THE CHILD'S~~
~~ELIGIBILITY FOR U.S. DEPARTMENT OF VETERANS AFFAIRS BENEFITS,~~
~~SUPPLEMENTAL SOCIAL SECURITY INCOME, AND SOCIAL SECURITY BENEFITS;~~

30 (1) DETERMINE THE ELIGIBILITY OF A CHILD IN NEED OF ASSISTANCE
WHO IS PLACED IN THE DEPARTMENT'S CARE AND CUSTODY TO RECEIVE U.S.
DEPARTMENT OF VETERANS AFFAIRS BENEFITS, SUPPLEMENTAL SOCIAL SECURITY
INCOME, AND SOCIAL SECURITY BENEFITS WITHIN 60 DAYS:

1
2 (i) AFTER THE CHILD IS PLACED IN THE DEPARTMENT'S CARE AND
CUSTODY;

3 (ii) AFTER NOTICE RECEIVED FROM THE CHILD'S ATTORNEY OF A MATERIAL
CHANGE OF CIRCUMSTANCES THAT IS LIKELY TO HAVE AFFECTED THE CHILD'S ELIGIBILITY FOR
BENEFITS;

4
5 (iii) AFTER THE CHILD REACHES THE AGE OF 17 YEARS AND SIX
MONTHS; AND

6
7 (iv) AFTER THE CHILD REACHES THE AGE OF 20 YEARS AND SIX MONTHS.

8 ~~(2) SEEK COVERAGE FOR THE COST OF THE SCREENING REQUIRED~~
9 ~~UNDER ITEM (1) OF THIS SUBSECTION THROUGH THE EARLY AND PERIODIC~~
10 ~~SCREENING, DIAGNOSTIC, AND TREATMENT BENEFIT; AND~~

11 ~~(3) (2) APPLY FOR BENEFITS ON BEHALF OF THE CHILD, IF THE~~
12 ~~DEPARTMENT DETERMINES THAT A CHILD MIGHT BE ELIGIBLE FOR THE NEW BENEFITS AND THE~~
DEPARTMENT IS IDENTIFIED AS THE REPRESENTATIVE PAYEE UNDER SUBSECTION
(B) OF THIS SECTION, APPLY TO SERVE AS REPRESENTATIVE PAYEE.

13 [(d)] (F) (1) The Department shall immediately notify the child through the
14 child's attorney of:

15 (i) any application for [Veterans Administration] U.S.
16 DEPARTMENT OF VETERANS AFFAIRS benefits, Supplemental Security Income, or

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17 Social Security benefits made on the child's behalf or any application to become
18 representative payee for those benefits on the child's behalf;

19 (ii) any decisions or communications from the [Veterans
20 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** or the Social Security
21 Administration regarding an application for benefits described under item (j) of this
22 paragraph; and

23 (iii) any appeal or other action requested by the Department
24 regarding an application for benefits described under item (i) of this paragraph.

25 (2) **IF THE BENEFITS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION**
26 **ARE DENIED AND THE DEPARTMENT DETERMINES AN APPEAL IS IN THE BEST**
27 **INTEREST OF THE CHILD, THE DEPARTMENT SHALL CONSULT WITH THE CHILD'S**
28 **ATTORNEY AND APPEAL THE DENIAL TO DETERMINE WHETHER TO APPEAL THE DENIAL.**

29 (3) When the Department serves as the representative payee or otherwise
30 receives [Veterans Administration] U.S. DEPARTMENT OF VETERANS AFFAIRS
31 benefits, Supplemental Security Income, or Social Security benefits on the child's behalf,
32 the Department shall provide notice to the child through the child's attorney of the
33 following before each juvenile court hearing regarding the child:

(i) the dates and the amount of benefit funds received on the child's
1 behalf since any prior notification to the child's attorney; and

2 (ii) information regarding all the child's assets and resources,
3 including the child's benefits, insurance, cash assets, trust accounts, earnings, and other
4 Resources.

(G) THE SECRETARY OF HUMAN SERVICES SHALL ESTABLISH AND
MAINTAIN A FOSTER YOUTH SAVINGS PROGRAM TO CONSERVE ADDITIONAL RESOURCES
TO ASSIST YOUTH IN TRANSITIONING TO INDEPENDENCE, SUBJECT TO THE AVAILABILITY
OF FUNDS.

(H) THE SECRETARY OF HUMAN SERVICES SHALL ADOPT
REGULATIONS AND POLICIES TO IMPLEMENT THE PROVISIONS OF THIS
SECTION.

5 ~~[(e)]~~ **(I)** This section may not be construed to affect any additional notice
6 required by a State court.

7 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 October 1, 2026.