

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.

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

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

20 (2) HOUSING EXPENSES IF A CHILD IS PREPARING TO LEAVE THE
21 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.



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

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 (C) 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:

(2) APPLY TO BECOME THE REPRESENTATIVE PAYEE ONLY IF NO
OTHER SUITABLE CANDIDATE IS AVAILABLE; AND

22 (3) DOCUMENT ALL EFFORTS TO LOCATE A SUITABLE CANDIDATE.

23 (D) THE DEPARTMENT PERIODICALLY SHALL REVIEW WHETHER A PERSON
24 OTHER THAN THE DEPARTMENT IS AVAILABLE TO APPLY TO ASSUME THE ROLE OF
25 REPRESENTATIVE PAYEE UNDER SUBSECTION (B) OF THIS SECTION IF THE PERSON
26 COULD BETTER SERVE THE BEST INTEREST OF THE CHILD

27 **(c) (E) (1)** Consistent with federal law, when the Department serves as the
28 representative payee or in any other fiduciary capacity for a child receiving [Veterans
29 Administration] **U.S. DEPARTMENT OF VETERANS AFFAIRS** benefits, Supplemental
30 Security Income or Social Security benefits the Department shall:

1 otherwise provided by the Department or conserving the benefits for the child's reasonably
2 foreseeable future needs;

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

8 (i) from age 14 through age 15, at least 40%;
9 (ii) from age 16 through age 17, at least 80%; and
10 (iii) from age 18 through age 20, 100%]

11 PARAGRAPH;

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

18 [(4)] (IV) appropriately monitor any federal asset or resource limits for the
19 benefits and ensure that the child's best interest is served by using or conserving the
20 benefits in a way that avoids violating any federal asset or resource limits that would affect
21 the child's eligibility to receive the benefits, including:

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

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

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

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

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

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

(VII) WHEN THE CHILD HAS ATTAINED THE AGE OF 16 YEARS AND
6 MONTHS, PROVIDE THE CHILD WITH INFORMATION REGARDING:

23. **1. ACCESSING, USING, AND MAINTAINING BENEFITS;**

2. TRANSITION PLANS;

3. WHEN THE BENEFITS ARE SCHEDULED TO END; AND

4 (F) THE DEPARTMENT SHALL:

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

12 (3) APPLY FOR BENEFITS ON BEHALF OF THE CHILD, IF THE
13 DEPARTMENT DETERMINES THAT A CHILD MIGHT BE ELIGIBLE FOR THE BENEFITS.

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

16 (i) any application for [Veterans Administration] U.S.
17 **DEPARTMENT OF VETERANS AFFAIRS** benefits, Supplemental Security Income, or
18 Social Security benefits made on the child's behalf or any application to become
19 representative payee for those benefits on the child's behalf;

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

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

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

6 [(e)] (H) This section may not be construed to affect any additional notice
7 required by a State court.

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