

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) TECHNOLOGY, SPECIAL CLOTHING, INSTRUMENTS, BOOKS, OR OTHER ITEMS RELATING TO A CHILD’S HOBBIES AND INTERESTS;

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

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

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

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

(C) IF A CHILD WAS RECEIVING U.S. DEPARTMENT OF VETERANS AFFAIRS BENEFITS, SUPPLEMENTAL SECURITY INCOME, OR SOCIAL SECURITY BENEFITS BEFORE ENTERING THE DEPARTMENT’S CUSTODY, OR IF THE DEPARTMENT APPLIES FOR BENEFITS ON BEHALF OF THE CHILD, THE DEPARTMENT SHALL:

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

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

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

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

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

[(1)] (I) 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;

[(2)] (II) 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) AND (IV)** of this [subsection, as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **(VII) WHEN THE CHILD HAS ATTAINED THE AGE OF 16 YEARS AND**
22 **6 MONTHS, PROVIDE THE CHILD WITH INFORMATION REGARDING:**

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

24 **2. TRANSITION PLANS;**

25 **3. WHEN THE BENEFITS ARE SCHEDULED TO END; AND**

26 **4. ELIGIBILITY FOR BENEFITS AFTER LEAVING THE**
27 **CARE OF THE DEPARTMENT.**

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

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

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;**

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

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.

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

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

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

3 (ii) information regarding all the child's assets and resources,
4 including the child's benefits, insurance, cash assets, trust accounts, earnings, and other
5 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.