

LFC Requester:	
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov
(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original Amendment
Correction Substitute

Date Prepared: 2025-02-06
Bill No: SB283

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
0	0		
0	0		

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0		

ESTIMATED ADDITIONAL OPERATION BUDGET (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	508.8	498.3	1,007.1	Recurring	General Fund

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

If enacted, this bill requires the Children, Youth, and Families Department (CYFD) to apply for federal benefits for youth that are in their custody. CYFD will either identify who the representative payee is to work with them regarding the management of the youth's federal benefits or act as the child's representative payee. This bill also outlines what the duties of the department will be when acting as the representative payee. Details include:

- * Within 60 days of the youth coming into CYFD custody and annually thereafter, CYFD is required to determine if a youth is receiving or is eligible to receive federal benefits.
- * If the youth is already receiving federal benefits, the department must, together with the youth, consult with the child's attorney; the child's custodian; the child's guardian; the child's guardian ad litem; or the child's Indian tribe, if the child is known to be an Indian child to identify the child's representative. If no candidate is available, the department must apply to become the representative payee.
- * If the child is eligible for federal benefits and is in CYFD custody, the department must apply for those benefits on behalf of the youth and apply to become the representative payee if no other candidate is available.
- * If the department serves as the representative payee, it must establish an account to use and conserve the youth's federal benefits and use those funds in the youth best interests for any unmet needs and future needs as allowed by the funding source. On an annual basis, the department must determine if another candidate can assume the role of representative payee for the youth.
- * The department must also report any: use of, denial of, overpayment and annual accounting as to the use of federal benefits to the child's attorney; the child's custodian; the child's guardian; the child's guardian ad litem; or the child's Indian tribe, if the child is known to be an Indian child.
- * Before the youth leave the custody of the department, CYFD must, through the

child's transition plan, provide the youth with financial literacy education and planning tools to assist the youth with managing the conserved benefits.

- * The department cannot use the youth's federal benefits to pay for or reimburse the department for any cost of their care. CYFD can only use the benefits to pay for any unmet needs for the youth that are allowable by the funding source and beyond what the department must pay for.
- * When the youth is no longer in the department's legal custody, the department must release any remaining funds to the youth if they are at least 18 years old or emancipated or release the funds to the child's parent or guardian if the youth is younger than 18 or not emancipated.
- * After September 1, 2026, the department must submit a report to the legislative health and human services committee that includes the number of children in its custody that receive federal benefits, the type of federal benefit, the manner they are conserved, and the amount used and conserved.

FISCAL IMPLICATIONS

To comply with the bill's requirements, CYFD would likely require:

- * Three additional FTEs (Full-Time Employees) to manage oversight, compliance, and alternative payee processes plus an increased legal contract to accommodate assessing every child for eligibility for benefits on an annual basis and completing the applications and appeals.
- * Increased funding to develop, implement, and maintain new financial tracking and reporting systems.

SIGNIFICANT ISSUES

The bill does not differentiate between Supplemental Security Income (SSI), which is based on a child's disability, and Retirement, Survivors, and Disability Insurance (RSDI), which, for CYFD's purposes, refers to survivor's benefits. This bill fails to make this distinction. The bill fails to define key terms, including:

- * "Beneficiary"
- * "Benefit"

If enacted, the bill would create significant operational challenges that must be addressed to ensure CYFD's compliance with federal regulations.

The department is typically assigned as the representative payee for federal benefits once funding sources are notified that a youth is in CYFD custody. The section states that CYFD can only be the representative payee “provided that no other candidate is available.”

- * The bill does not establish a clear process for an alternative payee/candidate to apply and assume this role while ensuring compliance with federal requirements for monitoring and reporting fund usage.
- * To comply, CYFD would need to develop an entirely new process that allows an alternative payee to manage the funds while still enabling CYFD to fulfill its oversight responsibilities.
- * CYFD cannot legally provide guidance and support to third parties, i.e., the alternative payee, regarding compliance with federal regulations, as it would constitute legal advice that CYFD is not authorized to give.
- * The creation of an account to manage these funds would be the responsibility of the alternative payee, who may lack the necessary knowledge or experience.

Without clear definitions and a structured implementation plan, the bill could introduce legal and administrative conflicts that hinder the department’s ability to carry out its duties.

Section 4, Paragraph E: Dedicated Funds

This section of the bill fails to account for Dedicated Funds, which are lump-sum back payments issued when a child is approved for SSI benefits.

- * The SSI application and approval process can be lengthy, and benefits are typically retroactive to the application date.
- * Once approved, these back payments (Dedicated Funds) are distributed to the representative payee and must be reserved and used in strict compliance with Title XVI of the Social Security Act.
- * The bill does not address how CYFD would manage overpayments received from the Social Security Administration, which the department has no control over.

Section 5: Prohibited Use of Federal Benefits

If enacted, this section would have direct fiscal consequences for both CYFD and the children receiving SSI benefits.

- * Currently, payments are applied toward the child’s foster care maintenance, allowing them to receive the maximum benefit of \$967 per month because CYFD (the state) does not provide additional assistance using state general funds.

PERFORMANCE IMPLICATIONS

SSA selects the Representative Payee based on the child's guardian. While anyone can apply to be a payee, SSA typically grants CYFD this role when the child is in state custody. If another party, such as a grandparent, wishes to be the Representative Payee, they must apply to SSA. If approved, SSA transfers payment responsibility to the new payee, and CYFD loses control over the funds. CYFD would not oversee how the funds are spent once a new payee is appointed. If SSA grants payee status to another individual (e.g., a family member), CYFD loses oversight, which may lead to misuse or misallocation of funds.

ADMINISTRATIVE IMPLICATIONS

If enacted, the bill would require the department to modify its current procedures to attempt to meet the requirements of this bill. However, doing so would create conflicts with federal regulations and create legal implications for the department when an alternative candidate serves as the representative payee and the youth is in CFYD custody.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

The department currently has a process in place to identify both Supplemental Security Income (SSI) and Retirement, Survivors, and Disability Insurance (RSDI). When a child comes into custody of the department, Title IV-E eligibility is conducted on each child; the eligibility determination process includes a review of the Social Security SOL Q system to determine if social security benefits are received. Currently the timeline for determining IV-E eligibility is 90 days of entering into custody. This would shorten the IV-E eligibility determination time frame, or the department would have to develop another process and timeframe for Social Security benefits outside of the IV-E determination process.

ALTERNATIVES

The department's current process complies with RSDI federal regulations. The only addition that CYFD would need to add is the annual reporting and financial skill building detailed in the bill.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The department's current process complies with RSDI federal regulations. The only addition that CYFD does not do but can add its process is the annual reporting and financial skill building as outlined in the bill. As written, the bill creates significant administrative, legal, and fiscal challenges that CYFD would need to resolve. The lack of clear definitions and an implementation plan for alternative payees creates major barriers to compliance, while the fiscal impact on SSI benefits could result in increased costs to the state and potential loss of Medicaid coverage for affected children.

AMENDMENTS

None.