

1 SENATE BILL 283

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

4 Heather Berghmans and Crystal Brantley and Katy M. Duhigg
5 and Nicole Tobiassen and Marianna Anaya
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10 AN ACT

11 RELATING TO CHILDREN; REQUIRING THE CHILDREN, YOUTH AND
12 FAMILIES DEPARTMENT TO DETERMINE FEDERAL BENEFITS ELIGIBILITY
13 FOR CHILDREN IN ITS CUSTODY, APPLY FOR FEDERAL BENEFITS AND
14 EITHER ACT AS THE CHILD'S REPRESENTATIVE PAYEE OR DETERMINE AN
15 APPROPRIATE ALTERNATIVE; SETTING FORTH THE DEPARTMENT'S
16 OBLIGATIONS WHEN ACTING AS THE CHILD'S REPRESENTATIVE PAYEE;
17 PROHIBITING THE USE OF FEDERAL BENEFITS TO PAY THE DEPARTMENT
18 FOR THE CHILD'S CARE; REQUIRING THE DEPARTMENT TO PROVIDE
19 FINANCIAL LITERACY AND PLANNING TOOLS; SETTING FORTH PROVISIONS
20 FOR THE RELEASE OF FEDERAL BENEFITS PROVIDED TO CHILDREN IN
21 LEGAL CUSTODY OF THE STATE.
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23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

24 SECTION 1. A new section of the Children's Code is
25 enacted to read:

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1 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the
2 "Federal Benefits for Children in State Custody Act"."

3 SECTION 2. A new section of the Children's Code is
4 enacted to read:

5 "[NEW MATERIAL] DEFINITION.--As used in the Federal
6 Benefits for Children in State Custody Act, "representative
7 payee" means a person appointed by a federal agency to manage
8 the benefits the federal agency provides to a child."

9 SECTION 3. A new section of the Children's Code is
10 enacted to read:

11 "[NEW MATERIAL] FEDERAL BENEFITS PROVIDED TO CHILDREN IN
12 THE LEGAL CUSTODY OF THE DEPARTMENT--ELIGIBILITY
13 DETERMINATIONS.--

14 A. Within sixty days after a child enters the
15 department's legal custody, and annually thereafter, the
16 department shall determine whether the child is currently
17 receiving or is eligible to receive federal benefits.

18 B. If it is determined that a child in the legal
19 custody of the department is already receiving federal
20 benefits, the department shall:

21 (1) in consultation with the child and the
22 following individuals, identify the child's representative
23 payee: the child's attorney; the child's custodian; the
24 child's guardian; the child's guardian ad litem; or the child's
25 Indian tribe, if the child is known to be an Indian child; or

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1 (2) apply to become the child's representative
2 payee; provided that no other candidate is available.

3 C. If the department determines that a child is
4 eligible for benefits administered by the federal government,
5 the department shall apply:

6 (1) for those benefits on behalf of the child;
7 and

8 (2) to become the child's representative payee
9 if no other candidate is available."

10 SECTION 4. A new section of the Children's Code is
11 enacted to read:

12 "[NEW MATERIAL] FEDERAL BENEFITS PROVIDED TO CHILDREN IN
13 THE LEGAL CUSTODY OF THE DEPARTMENT--OBLIGATIONS OF THE
14 DEPARTMENT WHEN ACTING AS THE REPRESENTATIVE PAYEE.--If the
15 department becomes the representative payee of a child in the
16 legal custody of the department, the department shall:

17 A. establish an appropriate account to use and
18 conserve the child's federal benefits, in the child's best
19 interest, for current unmet needs and future needs pursuant to
20 the requirements of the funding source and any applicable asset
21 and resource limits;

22 B. annually determine whether a person, other than
23 the department, is available to assume the role of
24 representative payee and could better serve in that role, in
25 the child's best interest;

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1 C. notify the child and the following individuals
2 of any application, decision or appeal related to a child's
3 federal benefits: the child's attorney; the child's custodian;
4 the child's guardian; the child's guardian ad litem; or the
5 child's Indian tribe, if the child is known to be an Indian
6 child. In providing notice of any denial of benefits, the
7 department shall consult with the child's attorney and appeal
8 the denial if it is in the child's best interest;

9 D. provide an annual accounting as to the use,
10 application or conservation of the child's federal benefits to
11 the child and the following individuals: the child's attorney;
12 the child's custodian; the child's guardian; the child's
13 guardian ad litem; or the child's Indian tribe, if the child is
14 known to be an Indian child;

15 E. avoid receiving overpayment of federal benefits
16 and pay any discovered overpayment to the appropriate federal
17 agency; and

18 F. before the child leaves the custody of the
19 department, provide the child with financial literacy and
20 planning tools to assist the child in aligning conserved
21 benefits with the child's transition plan."

22 SECTION 5. A new section of the Children's Code is
23 enacted to read:

24 "[NEW MATERIAL] PROHIBITED USE OF FEDERAL BENEFITS.--If
25 the department is the child's representative payee, the

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1 department shall not use a child's federal benefits to pay for
2 or reimburse the department for any of the costs of the child's
3 care; however, the department may use those benefits to pay for
4 the child's unmet needs beyond what the department is obligated
5 or required or has agreed to pay."

6 SECTION 6. A new section of the Children's Code is
7 enacted to read:

8 "[NEW MATERIAL] RELEASE OF REMAINING FEDERAL BENEFIT FUNDS
9 UPON TERMINATION OF LEGAL CUSTODY.--If the department is the
10 child's representative payee, upon termination of the
11 department's legal custody of a child, the department shall
12 release any remaining funds to the child's credit pursuant to
13 the requirements of the funding source. In the absence of any
14 requirements, the department shall release the funds to:

15 A. the child, if the child is at least eighteen
16 years old or emancipated; or

17 B. the child's parent or guardian, if the child is
18 younger than eighteen years old or not emancipated."

19 SECTION 7. A new section of the Children's Code is
20 enacted to read:

21 "[NEW MATERIAL] REPORTING.--Beginning September 1, 2026
22 and annually thereafter, the department shall submit a report
23 to the legislative health and human services committee that
24 includes:

25 A. the number of children in its custody who

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- 1 receive federal benefits;
- 2 B. the type of federal benefits;
- 3 C. the manner in which those benefits are
- 4 conserved; and
- 5 D. the amounts of federal benefits used and
- 6 conserved."