

1 SENATE BILL 333

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

3 INTRODUCED BY

4 Michael Padilla

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10 AN ACT

11 RELATING TO CHILDREN; ENACTING THE CHILDREN'S BENEFITS ACCOUNT
12 ACT; PROVIDING FOR THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT
13 TO BE APPOINTED AS THE REPRESENTATIVE PAYEE TO MANAGE AND
14 MAINTAIN THE RETIREMENT, SURVIVORS AND DISABILITY INSURANCE
15 FUNDS OF CHILDREN IN THE DEPARTMENT'S CUSTODY; PROVIDING FOR
16 THE ESTABLISHMENT OF BENEFITS ACCOUNTS FOR BENEFICIARIES;
17 PROVIDING DEPARTMENT DUTIES TO MANAGE BENEFITS ACCOUNTS ON
18 BEHALF OF BENEFICIARIES; PROVIDING DEFINITIONS; PROVIDING FOR
19 ACCOUNT CLOSURES AND DISBURSEMENTS; PROVIDING FOR
20 CONFIDENTIALITY; PROVIDING FOR RULE ADOPTION.

21
22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

25 "[NEW MATERIAL] SHORT TITLE.--This act may be cited as the

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1 "Children's Benefits Account Act"."

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

4 "[NEW MATERIAL] DEFINITIONS.--As used in the Children's
5 Benefits Account Act:

6 A. "beneficiary" means a child in the custody of
7 the department who receives a monthly benefit from the federal
8 social security administration pursuant to Title II of the
9 federal Social Security Act;

10 B. "benefit" means the retirement, survivor and
11 disability insurance funds paid monthly to a beneficiary
12 pursuant to Title II of the federal Social Security Act;

13 C. "benefits account" means an account established
14 by the department into which a beneficiary's monthly benefit is
15 deposited and maintained by the department on behalf of the
16 beneficiary;

17 D. "eligible beneficiary" means a child in the
18 custody of the department who is not a beneficiary but is
19 identified by the department as eligible to receive benefits
20 from the federal social security administration pursuant to
21 Title II of the federal Social Security Act; and

22 E. "representative payee" means the person or
23 entity appointed by the federal social security administration
24 to receive and manage the benefits of a beneficiary who is
25 unable to manage those benefits or any of the beneficiary's own

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1 finances."

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

4 "[NEW MATERIAL] FEDERAL SOCIAL SECURITY BENEFITS--
5 BENEFICIARY--ELIGIBLE BENEFICIARY--DEPARTMENT REPRESENTATIVE
6 PAYEE APPOINTMENT.--

7 A. The department shall take the steps necessary to
8 be appointed as the representative payee by the federal social
9 security administration for each child in the department's
10 custody who is a beneficiary or an eligible beneficiary.

11 B. If a child in the department's custody is a
12 beneficiary, the department shall request to be appointed as
13 the beneficiary's representative payee by application to the
14 federal social security administration, including providing a
15 plan indicating how the beneficiary's funds will be used to
16 meet the beneficiary's needs, as well as any other supportive
17 information necessary or appropriate.

18 C. If a child in the department's custody is an
19 eligible beneficiary, the department shall apply to the federal
20 social security administration for benefits on behalf of that
21 child and shall at that same time apply to be appointed as the
22 child's representative payee, including providing a plan
23 indicating how the beneficiary's funds will be used to meet the
24 beneficiary's needs, as well as any other supportive
25 information necessary or appropriate.

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1 D. Within thirty days of being appointed as a
2 representative payee, the department shall provide notice of
3 the appointment to the beneficiary and the beneficiary's parent
4 or guardian."

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

7 "[NEW MATERIAL] BENEFICIARY FUNDS--BENEFITS ACCOUNT--
8 DEPARTMENT MANAGEMENT--DUTIES--ACCOUNTING.--

9 A. The department shall establish a no-cost
10 benefits account at a financial institution in this state for
11 each beneficiary for whom the department is appointed as
12 representative payee. If a beneficiary for whom the department
13 is a representative payee has funds from benefits credited to
14 the beneficiary in another account established prior to the
15 department being appointed as representative payee, those funds
16 shall be transferred to the department for deposit into the
17 beneficiary's benefits account along with any lump-sum
18 retroactive benefits due and paid on behalf of the beneficiary.

19 B. Each benefit payment received by the department
20 on behalf of a beneficiary shall be deposited into the
21 beneficiary's benefits account as established pursuant to
22 Subsection A of this section, and the department shall
23 administer, maintain and manage the benefits account only to
24 the benefit of that beneficiary.

25 C. In administering and managing benefits accounts,
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1 the department shall:

2 (1) maintain an internal system whereby each
3 beneficiary's benefits account is tracked and maintained as
4 separate and distinct from any other beneficiary's benefits
5 account;

6 (2) provide a process by which the beneficiary
7 of a benefits account or the parent or guardian of that
8 beneficiary may request an accounting of the beneficiary's
9 benefits account;

10 (3) create an annual statement for each
11 benefits account that includes an accounting of all deposits
12 and disbursements from the account and provide the annual
13 statement to each beneficiary and each beneficiary's parent or
14 legal guardian; and

15 (4) update the permanency plan as needed of a
16 beneficiary to indicate that the child is receiving benefits as
17 a beneficiary and the department is the beneficiary's
18 representative payee."

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

21 "[NEW MATERIAL] BENEFICIARY--AGE SEVENTEEN--OTHER EVENTS
22 IMPACTING BENEFITS ACCOUNT--ACCOUNT CLOSURE--DEPARTMENT
23 ASSISTANCE.--

24 A. For a beneficiary who has reached the age of
25 seventeen and is receiving benefits, the department shall

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1 determine whether, upon turning eighteen years of age, the
2 beneficiary will require a representative payee to assist in
3 managing the beneficiary's benefits as follows:

4 (1) if the department determines that the
5 beneficiary requires a representative payee, the department
6 shall identify an appropriate representative payee, who shall
7 comply with the representative payee responsibilities set forth
8 in 20 CFR Section 404.2035, as amended; and

9 (2) if the department determines that the
10 beneficiary does not require a representative payee, the
11 department shall provide assistance to the beneficiary with
12 managing the beneficiary's benefits. The assistance may
13 include education about maintaining eligibility for benefits
14 and establishing and maintaining a bank account for purposes of
15 electronic direct deposit of benefits.

16 B. The department shall disburse any remaining
17 funds in a beneficiary's benefits account as permitted by
18 federal guidelines and rules adopted by the department when a
19 beneficiary is no longer in the custody of the department
20 because the beneficiary:

21 (1) has aged out of foster care;

22 (2) is reunited with the beneficiary's family;

23 or

24 (3) is legally granted a permanent guardian or
25 adoptive parent.

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1 C. A benefits account from which the department has
2 disbursed the remaining funds as provided in Subsection B of
3 this section shall be closed and the department shall provide
4 the beneficiary and, if the beneficiary is younger than
5 eighteen years of age, the beneficiary's parent or guardian
6 with an audited closing statement of the benefits account."

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

9 "[NEW MATERIAL] BENEFITS ACCOUNTS--CONFIDENTIALITY.--
10 Benefits accounts shall be confidential. Account balances and
11 activities in a benefits account shall only be disclosed to the
12 beneficiary, to the beneficiary's parent or guardian, to a
13 court-appointed guardian ad litem, to the beneficiary's youth
14 attorney or by order of a court of competent jurisdiction."

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

17 "[NEW MATERIAL] LIMITATION OF DEPARTMENT LIABILITY.--The
18 department shall not be liable for any delays by the federal
19 social security administration in processing and disbursing a
20 beneficiary's benefits and shall not be required to take steps
21 to recoup losses as a result of those delays. The department
22 shall be responsible for maintaining and managing only the
23 benefits received by the department on behalf of a beneficiary
24 during the time that the department is the beneficiary's
25 representative payee."

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SECTION 8. A new section of the Children's Code is enacted to read:

"[NEW MATERIAL] RULES--DEPARTMENT OF FINANCE AND ADMINISTRATION POLICIES--PROMULGATION AND ADOPTION.--By October 1, 2025, the department shall, in collaboration with the department of finance and administration, adopt rules in accordance with the State Rules Act for the implementation and administration of the provisions of the Children's Benefits Account Act."

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.