

LFC Requester:	Allegra Hernandez
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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}

Date Prepared: 2025.02.12 *Check all that apply:*
Bill Number: SB 333 Original Correction
 Amendment Substitute

Sponsor: Michael Padilla **Agency Name and Code** OFRA 68000
Short Title: Children's Benefit Account **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
0	0	0	n/a	n/a

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

This bill would create an entirely new section of the Children's Code concerning the receipt of Social Security (SS) benefits directed to a child or youth based on their parent's retirement, their parent's death, or the child's own disability.

Section 1: title of the new section of the Children's Code.

Section 2: definitions.

Section 3: details about how the law will work.

- a. CYFD is required to take the steps necessary to be appointed the representative payee for a child in the department's custody.
- b. Directions to CYFD about how to go about becoming a representative payee for a child in the department's custody who is already a beneficiary for SS payments.
- c. Directions to CYFD about how to go about becoming a representative payee for a child in the department's custody who is eligible to be a beneficiary for SS payments.
- d. Notice requirements to the child beneficiary and their parent or guardian.

Section 4: details about how the bank accounts for the child beneficiary will work

- a. No-cost account at a bank within New Mexico for each child beneficiary.
- b. Deposits to the no-cost account. Funds to be used only for the benefit of the child.
- c. CYFD's obligation to track each account; provide a method for beneficiary child or their parent or guardian to request an accounting of the funds; create annual statements for each account and provide the statements to the beneficiary and their parent or guardian.
- d. Update the child beneficiary's permanency plan as needed to reflect the child's status as a beneficiary and the department's role as representative payee.

Section 5: addresses situations in which a youth turning eighteen (18) may need a representative payee to assist in managing their benefits.

- a. If assistance is needed, CYFD shall identify an appropriate representative payee. If assistance is not needed, CYFD will provide assistance to the youth for managing their benefits once they turn 18.
- b. Once a child or youth is no longer in CYFD custody, it shall disburse funds in accordance with federal guidelines.
- c. After an account is closed, CYFD will provide an audited closing statement to the beneficiary, if over age 18, or to the beneficiary's parents.

Section 6: Benefits accounts are confidential. Information to be disclosed only to the beneficiary, their parent or guardian, the child or youth's GAL or attorney, or by order of the court.

Section 7: CYFD is not liable for any delays by the Social Security Administration in processing or disbursing a child's benefits.

Section 8: directs CYFD and DFA to adopt rules for the implementation and administration of this new section to the Children's Code.

Section 9: effective date.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

Section 3a. Child/youth beneficiaries of SS benefits is not typical but neither is it rare. Currently, there is no clear/standard information given to caseworkers about what to do if a child or youth in CYFD custody is receiving or may be entitled to receive SS benefits. As a result, some children/youths are having their benefits transferred to CYFD as the representative payee, and some are not. Having clear directions to the caseworkers of what to do, and how to proceed in such situations, is an excellent way to support young people in state custody.

OFRA knows of at least one youth in custody whose mother refuses to make those funds available to the youth, who was using the money to purchase a cell phone and then pay the monthly charges for it. When the OFRA attorney brought this to CYFD's attention and asked the department to become the youth's representative payee, they said they did not know how to do that, or how to prevent the mother from misappropriating the funds.

Providing clear direction to CYFD would help front-line workers identify this need and ensure that the funds due to children and youths in custody are secured properly. This would benefit the children in CYFD custody entitled to receive such benefits.

Section 7. Does not address liability of CYFD if it fails to secure a child's benefits or fails to become the child's representative payee when it knew or should have know of a child's entitlement to benefits or that the child was already receiving benefits.

PERFORMANCE IMPLICATIONS

None

ADMINISTRATIVE IMPLICATIONS

Minimal. CYFD is already performing this task for children and youths in its custody, albeit inconsistently. OFRA does not know if individual caseworkers shoulder this responsibility or if there is a designated individual or office within CYFD that does it. Because the issue is atypical, it might make sense for a designated individual or office within CYFD to take on the task so that a certain level of expertise can be developed and maintained.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

Page 2, ln. 10 – “and” should be “or.”

OTHER SUBSTANTIVE ISSUES

Would the no-cost accounts bear interest?

Who would have access to the funds, and for what purpose?

The bill should clarify that CYFD should not be able to access the beneficiary's funds for general expenses, child's education, unusual medical costs, or the hobbies/activities of the child.

Would the child or youth have access to the funds for any purpose?

Would a child's access to the funds depend on their age (e.g., under 14, no; 14 and older, yes)?

Has the legislature consulted with a Social Security practitioner or the Social Security Administration to ensure that all definitions are in line with those used by the SSA?

ALTERNATIVES

None identified.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Continued inconsistency within CYFD amongst caseworkers of identifying such situations and taking appropriate actions to safeguard the funds due to a child or youth in CYFD custody.

AMENDMENTS

Other than the one word-change set out in Technical Issues, above, none suggested.