

ONE HUNDRED SEVENTH LEGISLATURE - SECOND SESSION - 2022
COMMITTEE STATEMENT
LB932

Hearing Date: Friday January 28, 2022
Committee On: Health and Human Services
Introducer: Hunt
One Liner: Authorize the Department of Health and Human Services to screen children for social security benefit eligibility

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 6 Senators Arch, Cavanaugh, M., Day, Murman, Walz, Williams
Nay:
Absent:
Present Not Voting: 1 Senator Hansen, B.

Oral Testimony:

Proponents:
Senator Megan Hunt
Allison Derr
Aubrey Mancuso

Representing:
District 8
Nebraska Appleseed
Voices for Children in Nebraska

Opponents:
Stephanie Beasley

Representing:
Department of Health and Human Services

Neutral:
Laura Opfer

Representing:
Nebraska Children's Commission

Summary of purpose and/or changes:

LB 932 would provide requirements for the Department of Health and Human Services' screening, receipt, use, and conservation of social security benefits received by the department as representative payee on behalf of children under the department's charge.

LB 932 would change the amount of a child's assets which is available for reimbursement to the state for the cost of care from assets over and above \$1,000.00 to over \$2,000, including accrued interest. (Sec. 1, page 2, lines 7-11.)

LB 932 would require the Department of Health and Human Services (DHHS) to screen children under its charge for eligibility of receipt of social security benefits within 60 days of entering the department's custody. If the department determines the child is likely eligible for receipt of one or more types of social security benefits, it is required to complete and submit an application for such benefits on behalf of the child. (Sec. 3, page 2, lines 23-31.) If necessary, DHHS must participate in the appeal process on behalf of the child. (Sec. 3, page 3, lines 1-6.) If, as a result of the initial screening, DHHS determines a child is unlikely to be eligible for benefits, but subsequently has reason to believe the child may be

eligible, DHHS must submit an application for benefits in a timely manner. (Sec. 3, page 4, lines 7-12.)

Before reviewing a child's medical records for purposes of determining social security eligibility, LB 932 would require the department to receive written and informed consent from the child's guardian ad litem (if the child is under 14) or from the child in the presence of the guardian ad litem (if the child is 14 or older). (Sec. 3, page 3, lines 13-21.)

LB 932 would authorize the department to apply to be and accept appointment as a representative payee for a child beneficiary of social security benefits under its charge. When the department serves as the representative payee, or in any other fiduciary capacity, LB 932 would require the department to:

- Use or conserve the social security benefits for the use and benefit of the child in the child's best interest;
- Hold such benefits separate and apart from the department's funds;
- Establish and maintain an interest-bearing trust account on behalf of each child beneficiary;
- Use and conserve the funds in the child's best interest and in a manner that avoids violating federal asset or resource limits, including using such funds that are above federal asset limits for the child's needs or for services when funding is not otherwise available or conserving such funds within accounts and programs not subject to federal asset limits on behalf of the child;
- Appropriately monitor and maintain all accounts and programs holding any social security benefits in a way that avoids violating any federal asset or resource limits so as to maintain the child's eligibility to receive social security benefits;
- Conserve a minimum percentage of social security benefits for each child beneficiary 14 and older that are not to be used to reimburse the state for the cost of care as follows:
 - At least 40% from 14 to 15,
 - At least 80% from 16 to 17,
 - 100% from 18 to 21;
- Maintain an itemized and current account record for each child beneficiary and account for the receipt, use, and conservation of social security benefits on the child's behalf.

(Sec. 3, page 3, lines 22-31, page 4, lines 1-31, page 5, lines 1-7.)

Additionally, LB 932 provides that a child beneficiary or any other party to the child's juvenile court case has the right to request access to funds kept in the child's interest-bearing trust account for the child beneficiary's personal use. The department must grant such a request if the use would be in the child's best interest. If funds from the child's account are spent in this manner, the account must be reimbursed up to the federal limit with subsequently received social security benefits. The requestor may appeal the denial of such a request in accordance with the provisions of the Administrative Procedure Act. (Sec. 4, page 5, lines 8-22.)

LB 932 would require the department, immediately upon receipt of the first benefit payment, to inform the child and the child's beneficiary of the child's right and the right of any other party to the child's juvenile court case to request access to such social security benefits for the child's personal use. (Sec. 6, page 6, lines 12-22.)

LB 932 would require DHHS to notify the child and such child's guardian ad litem of the eligibility screening process, any application for social security benefits submitted on the child's behalf, any decisions or communications from the Social Security Administration, any appeal or action requested by DHHS, any application by DHHS to become the representative payee, the appointment of the department as the child's representative payee, and the child's right to appeal such appointment to the Social Security Administration. (Sec. 5, page 5, lines 23-31, page 6, lines 1-11.)

Additionally, LB 932 would require DHHS to provide notice and accounting to the juvenile court at every review hearing regarding the department's receipt, use, and conservation of the child's social security benefits. (Sec. 6, page 6, lines 23-31, page 7, lines 1-4.)

Finally, under LB 932, the DHHS would be required to provide all accounting records regarding the department's receipt, use, and conservation of the child's social security benefits upon (1) request of the child, the child's guardian ad litem or attorney, or the child's parent, and (2) upon termination of the department's role as the child beneficiary's representative payee. (Sec. 7, page 7, lines 5-14.)

Explanation of amendments:

AM 2241 strikes the original sections and becomes the bill. Like the green copy, the amendment provides for notice and accounting when DHHS serves as the representative payee for social security benefits. The amendment does not include the provisions requiring DHHS to conserve the funds.

AM 2241 provides that when DHHS serves as the representative payee for a child beneficiary of social security benefits, it must provide:

Immediate notice to the child beneficiary, in an age-appropriate manner, and the child's guardian ad litem, of (i) the department's receipt of the child's first payment of social security benefits, including the amount received, and (ii) where the payment was deposited;

Notice and accounting to the juvenile court on a biannual basis beginning January 1, 2023, regarding the department's receipt, use, and conservation of the child's social security benefits.

Additionally, upon request from the child, their guardian ad litem or attorney, or parent-and upon termination of the department's role as the child beneficiary's representative payee-DHHS must provide all accounting records regarding its receipt, use, and conservation of the child's social security benefits.

John Arch, Chairperson