

ENGROSSED LEGISLATIVE BILL 275

Introduced by Hunt, 8; Conrad, 46.

A BILL FOR AN ACT relating to state wards; to amend section 43-907, Revised Statutes Cumulative Supplement, 2024; to require the Department of Health and Human Services to screen children under its charge for social security benefit eligibility; to require the department to manage social security benefit payments for child beneficiaries as prescribed; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 43-907, Revised Statutes Cumulative Supplement, 2024, is amended to read:

43-907 (1) Unless a guardian shall have been appointed by a court of competent jurisdiction, the Department of Health and Human Services shall take custody of, and exercise general control over, assets owned by children under the charge of the department.

(2) Except as provided in subsections (3) through (7) of this section:

(a) Children owning assets shall at all times pay for personal items;

(b) Assets over and above a maximum of one thousand dollars and current income shall be available for reimbursement to the state for the cost of care;

(c) Assets may be deposited in a checking account, invested in United States bonds, or deposited in a savings account insured by the United States Government;

(d) All income received from the investment or deposit of assets shall be credited to the individual child whose assets are invested or deposited; and

(e) The department shall make and maintain detailed records showing all receipts, investments, and expenditures of assets owned by children under the charge of the department.

(3)(a) The department shall screen each child under its charge for social security benefit eligibility within sixty days after the date the child enters

its charge.

(b)(i) If the department determines that a child may be eligible for social security benefits, it shall submit an application for such benefits on behalf of the child and, if necessary and in the child's best interest, appeal a denied application.

(ii) The department shall provide written notice to the child, using age-appropriate language, the child's guardian ad litem, and the child's parents, of all benefit eligibility determinations from the Social Security Administration, including benefit approval, denial, and appeal outcomes, within ten calendar days after the date the department is notified of such eligibility determination.

(iii) If the child is approved to receive social security benefits, within ten calendar days after the date the department is notified of the approval, the department shall provide written notice to the child, using age-appropriate language, the child's guardian ad litem, and the child's parents, that adults known to the child may apply to be the child's representative payee for the purposes of receiving social security benefit payments.

(iv) If the department is appointed to serve as the child's representative payee, within ten calendar days after the date the department is notified of such appointment, the department shall provide written notice to the child, using age-appropriate language, the child's guardian ad litem, and the child's parents, of such appointment, the child's and the child's parents' rights to appeal the appointment, and the deadline for such appeals.

(4) When the Department of Health and Human Services serves as representative payee for a child beneficiary of social security benefits, the department shall provide:

(a) Written notice to the child beneficiary, using age-appropriate language, the child's guardian ad litem, and the child's parents that the department is acting as the child's representative payee for the purposes of receiving social security benefit payments, within thirty days after receiving the first social security benefit payment on behalf of the child beneficiary.

The notice shall include the following information:

(i) The department received the social security benefit payment and the amount received;

(ii) The department has created a trust account to hold such benefit payments;

(iii) Such benefit payments shall be used and conserved in accordance with federal law and this section, and any unspent or conserved funds shall be sent to the child beneficiary when the child beneficiary leaves the department's charge;

(iv) The child beneficiary may request access to such benefit payments for personal use through the department and the process for submitting such a request;

(v) A child beneficiary fourteen years of age or older may request through the juvenile court that such benefit payments be used or conserved in a specified manner; and

(vi) The child beneficiary, the child's guardian ad litem, the child's attorney, or the child's parents may request all accounting records the department maintains relating to the child beneficiary's social security benefit payments and the process for submitting such a request;

(b) Written notice to the juvenile court, at each review hearing for the child beneficiary, regarding the department's receipt and conservation of the child's social security benefits, which shall include:

(i) The total amount of social security benefit payment funds the department has received on behalf of the child beneficiary as of the date of the review hearing;

(ii) The total amount of social security benefit payment funds received on behalf of the child beneficiary that are currently conserved or unspent as of the date of the review hearing; and

(iii) The total amount of social security benefit payment funds spent on behalf of the child beneficiary as of the date of the review hearing, including itemized expenditures since the previous review hearing; and

(c) All accounting records regarding the department's receipt, use, and conservation of the child's social security benefit payments, to the child beneficiary, the child's guardian ad litem or attorney, or the child's parent upon:

(i) Request by the child beneficiary, the child's guardian ad litem or attorney, or the child's parent; and

(ii) Termination of the department's role as the child beneficiary's representative payee.

(5) When the department serves as representative payee for a child beneficiary of social security benefit payments, it shall:

(a) Manage, use, and conserve the social security benefit payments consistent with federal law and this section, for the use and benefit of the child beneficiary, and in the child beneficiary's best interest. This includes conserving social security benefit payments for the child beneficiary's reasonably foreseeable and if appropriate, expressed, future needs;

(b) Hold all social security benefit payments received on behalf of a child beneficiary separate and apart from the department's funds, and except as provided in subdivision (5)(c) of this section, in a trust account established and maintained for the child beneficiary;

(c) Manage such benefit payments in a manner that avoids exceeding the federal social security asset and resource limits, including holding benefit payments in the established trust account and in accounts and programs not counted toward such limits, so as to conserve funds without exceeding such limits. Such accounts and programs include, but are not limited to, (i) a plan for achieving self-support as described in section 68-1007, (ii) an achieving a better life experience account as described in sections 77-1401 to 77-1409, (iii) an individual development account as described in 45 C.F.R. 263.20, (iv) a special-needs trust as defined in section 30-4513, and (v) a dedicated account for social security back payments;

(d) Conserve a minimum amount of social security benefit payments received on behalf of a child beneficiary, which shall not be used to reimburse the

state for the cost of care, in the following percentages: (i) For child beneficiaries fourteen years of age or older, no less than twenty percent; (ii) for child beneficiaries sixteen years of age or older, no less than thirty percent; (iii) for child beneficiaries seventeen years of age or older, no less than forty percent; and (iv) for child beneficiaries eighteen years of age or older, fifty percent; and

(e) Reimburse such funds with subsequent social security benefit payments and such payments shall not be available to reimburse the department for the child beneficiary's care if, pursuant to a request by the child beneficiary, funds from social security payments are disbursed from an established trust account or any other account or program maintained by the department for the child beneficiary.

(6) If the department serves as representative payee for a child beneficiary of social security benefits fourteen years of age or older, such child beneficiary shall:

(a) Be consulted by the department no less than every six months regarding the child beneficiary's current and reasonably foreseeable future needs so that the child beneficiary's social security benefit payments are spent and conserved in a manner that supports the child beneficiary's needs and best interests;

(b) Have the right to request through the juvenile court, that the child beneficiary's social security benefit payments be used or conserved for current or reasonably foreseeable future needs in a manner that is different from the department's use and conservation of such payments. Such request shall be granted if it is determined to be in the best interest of the child beneficiary;

(c) Be informed in writing, at least six months prior to exiting the department's charge, of the process for continuing to receive social security benefit payments, the applicable federal asset and resource limits, and the process for using and conserving benefit payments to comply with such limits, including funds in accounts and programs that do not count toward such limits;

and

(d) At least six months prior to exiting the department's charge, have an application submitted on behalf of the child beneficiary, or receive assistance in submitting an application, for renewed or new social security benefits for which the child beneficiary may be eligible if necessary for the child beneficiary to continue receiving benefits.

(7) When a child beneficiary exits the department's charge, the department shall provide written notice to such child beneficiary using age-appropriate language, and if applicable, the child's parents or guardians, that:

(a) The child beneficiary has the right to receive unspent or conserved social security benefit payments, the amount of unspent or conserved benefits the child beneficiary is expected to receive, that such payments will be disbursed from the Social Security Administration, and contact information for the Social Security Administration; and

(b) The department is no longer acting as the child beneficiary's representative payee and if the child beneficiary is younger than eighteen years of age, an adult known to the child may apply to be a representative payee through the Social Security Administration to ensure continued receipt of the child's social security benefit payments.

(8) On or before October 1, 2026, the department shall create a publicly available form for child beneficiaries under the department's charge to request access to social security benefit payments for personal use.

(9) On or before October 1, 2026, the Department of Health and Human Services shall adopt and promulgate rules and regulations to carry out subsections (2) through (8) of this section consistent with federal requirements regarding representative payees for social security beneficiaries.

(10) The department shall seek to maximize federal Title IV-E funding prior to utilizing General Funds for costs associated with implementation of this section.

Sec. 2. Original section 43-907, Revised Statutes Cumulative Supplement, 2024, is repealed.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 275 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR