

LEGISLATURE OF NEBRASKA  
ONE HUNDRED NINTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 275**

Introduced by Hunt, 8.

Read first time January 15, 2025

Committee:

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

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

1           **Section 1.** Section 43-907, Revised Statutes Cumulative Supplement,  
2 2024, is amended to read:

3           43-907 (1) Unless a guardian shall have been appointed by a court of  
4 competent jurisdiction, the Department of Health and Human Services shall  
5 take custody of, and exercise general control over, assets owned by  
6 children under the charge of the department.

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

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

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

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

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

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

23           (3)(a) The department shall screen all children under its charge for  
24 social security benefit eligibility within sixty days after the date the  
25 child enters its charge.

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

30           (ii) The department shall provide written notice to the child, using  
31 age-appropriate language, and the child's guardian ad litem of all

1 benefit eligibility determinations from the Social Security  
2 Administration, including benefit approval, denial, and appeal outcomes,  
3 within ten calendar days of the date the department is notified of such  
4 eligibility determination.

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

11 (iv) If the department is appointed to serve as the child's  
12 representative payee, the department shall provide written notice to the  
13 child within ten calendar days of the date the department is notified of  
14 such appointment, using age-appropriate language, and the child's  
15 guardian ad litem, of such appointment, the child's right to appeal the  
16 appointment, and the deadline for such appeal.

17 (c) If the department determines a child is ineligible for social  
18 security benefits or the child is deemed ineligible for benefits by the  
19 Social Security Administration, the department shall re-screen such child  
20 annually for eligibility.

21 (4) (2) When the Department of Health and Human Services serves as  
22 representative payee for a child beneficiary of social security benefits,  
23 the department shall provide:

24 (a) ~~Written notice~~ Notice to the child beneficiary, using ~~in an~~ age-  
25 appropriate ~~language~~ manner, and the child's guardian ad litem, that the  
26 department is acting as the child's representative payee for the purposes  
27 of receiving social security ~~benefit payments~~ benefits, within thirty  
28 days after receiving the first social security benefit payment on behalf  
29 of the child beneficiary. The notice shall include the following  
30 information: ÷

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

1 the amount received;

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

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

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

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

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

19 (b) ~~Written notice~~ Notice to the juvenile court, at ~~each every~~  
20 review hearing ~~for regarding~~ the child beneficiary after ~~January 1, 2023,~~  
21 regarding the department's receipt and conservation of the child's social  
22 security benefits, ~~which that~~ shall include:

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

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

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

1 hearing; and

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

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

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

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

12 (a) Manage, use, and conserve the social security benefit payments  
13 consistent with federal law and this section, for the use and benefit of  
14 the child beneficiary, and in the child beneficiary's best interest. This  
15 includes using social security benefit payments for the child  
16 beneficiary's care only when other funding is not available and  
17 conserving social security benefit payments for the child beneficiary's  
18 reasonably foreseeable and if appropriate, expressed, future needs;

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

23 (c) Manage such benefit payments in a manner that avoids exceeding  
24 the federal social security asset and resource limits, including holding  
25 benefit payments in the established trust account and in accounts and  
26 programs not counted toward such limits, so as to conserve funds without  
27 exceeding such limits. Such accounts and programs include, but are not  
28 limited to, (i) a plan for achieving self-support as described in section  
29 68-1007, (ii) an achieving a better life experience account as described  
30 in sections 77-1401 to 77-1409, (iii) an individual development account  
31 as described in 45 C.F.R. 263.20, (iv) a special needs trust as defined

1 in section 30-4513, and (v) a dedicated account for social security back  
2 payments;

3 (d) Conserve a minimum amount of social security benefit payments  
4 received on behalf of a child beneficiary, which shall not be used to  
5 reimburse the state for the cost of care, in the following percentages:  
6 (i) For child beneficiaries fourteen years of age or older, no less than  
7 forty percent; (ii) for child beneficiaries sixteen years of age or  
8 older, no less than sixty percent; (iii) for child beneficiaries  
9 seventeen years of age or older, no less than eighty percent; and (iv)  
10 for child beneficiaries eighteen years of age or older, one hundred  
11 percent;

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

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

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

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

1 interest of the child beneficiary;

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

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

13 (7) When a child beneficiary exits the department's charge, the  
14 department shall provide written notice to such child beneficiary using  
15 age-appropriate language, and if applicable, the child's parent,  
16 guardian, or custodian that:

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

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

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

31 (9) ~~(3)~~ On or before October 1, ~~2026~~ 2023, the Department of Health

1 and Human Services shall adopt and promulgate rules and regulations to  
2 carry out subsections (2) through (8) ~~subsection (2)~~ of this section  
3 consistent with federal requirements regarding representative payees for  
4 social security beneficiaries.

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