

HB0768/413829/1

BY: Appropriations Committee

AMENDMENTS TO HOUSE BILL 768
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 5, after “Department;” insert “requiring the Secretary of Human Services to establish and maintain a foster youth savings program to conserve additional resources to assist youth in transitioning to independence, subject to the availability of funds;”; and after line 11, insert:

“BY repealing and reenacting, with amendments,

Article - Family Law

Section 5-527.1

Annotated Code of Maryland

(2019 Replacement Volume and 2025 Supplement)

(As enacted by Section 1 of this Act)”.

AMENDMENT NO. 2

On pages 1 through 6, strike in their entirety the lines beginning with line 16 on page 1 through line 7 on page 6, inclusive, and substitute:

“(a) This section applies to children committed to the custody of the Department.

(b) When applying for benefits under this section for a child in the Department’s custody, the Department shall, in cooperation with the child’s attorney, identify a representative payee or fiduciary in accordance with the requirements of 20 C.F.R. §§ 404.2021 and 416.621.

(c) Consistent with federal law, when the Department serves as the representative payee or in any other fiduciary capacity for a child receiving [Veterans

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Administration] U.S. DEPARTMENT OF VETERANS AFFAIRS benefits, Supplemental Security Income, or Social Security benefits, the Department shall:

(1) use or conserve the benefits in the child's best interest, including using the benefits for services for special needs not otherwise provided by the Department or conserving the benefits for the child's reasonably foreseeable future needs;

(2) ensure that when the child attains the age of 14 years and until the Department no longer serves as the representative payee or fiduciary, a minimum percentage of the child's benefits are not used to reimburse the State for the costs of care for the child and are used or conserved in accordance with items (3) and (4) of this subsection, as follows:

(i) from age 14 through age 15, at least 40%;

(ii) from age 16 through age 17, at least 80%; and

(iii) from age 18 through age 20, 100%;

(3) for the child's benefits or resources that are below or not subject to any federal asset or resource limit, exercise discretion in accordance with federal law and in the best interest of the child to conserve the funds or use the funds for services for special needs not otherwise provided by the Department, including choosing one or more of the options listed under item (4) of this subsection;

(4) appropriately monitor any federal asset or resource limits for the benefits and ensure that the child's best interest is served by using or conserving the benefits in a way that avoids violating any federal asset or resource limits that would affect the child's eligibility to receive the benefits, including:

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(i) applying to the Social Security Administration to establish a Plan for Achieving Self-Support (PASS) account for the child under the Social Security Act and determining whether it is in the best interest of the child to conserve all or part of the benefits in the PASS account;

(ii) establishing a 529A plan for the child and conserving the child's benefits in that account in a manner that appropriately avoids any federal asset or resource limits;

(iii) establishing an individual development account for the child and conserving the child's benefits in that account in a manner that appropriately avoids any federal asset or resource limits;

(iv) establishing a special needs trust for the child and conserving the child's benefits in the trust in a manner that is consistent with federal requirements for special needs trusts and that appropriately avoids any federal asset or resource limits;

(v) if the Department determines that using the benefits for services for current special needs not already provided by the Department is in the best interests of the child, using the benefits for those services;

(vi) if federal law requires certain back payments of benefits to be placed in a dedicated account, complying with the requirements for dedicated accounts under 20 C.F.R. § 416.640(e); and

(vii) applying any other exclusions from federal asset or resource limits available under federal law and using or conserving the child's benefits in a manner that appropriately avoids any federal asset or resource limits;

(5) provide an annual accounting to the child and the child's attorney of how the child's resources, including [Veterans Administration] U.S. DEPARTMENT OF

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VETERANS AFFAIRS benefits, Supplemental Security Income, and Social Security benefits, have been used or conserved in accordance with this section; [and]

(6) provide the child with financial literacy training when the child has attained the age of 14 years; AND

(7) BEGINNING WHEN THE CHILD HAS ATTAINED THE AGE OF 16 YEARS, PROVIDE THE CHILD, IF APPLICABLE, WITH INFORMATION REGARDING:

(I) ACCESSING, USING, AND MAINTAINING BENEFITS;

(II) TRANSITION PLANS;

(III) WHEN THE BENEFITS ARE SCHEDULED TO END; AND

(IV) ELIGIBILITY FOR BENEFITS AFTER LEAVING THE CARE OF THE DEPARTMENT.

(D) THE DEPARTMENT SHALL:

(1) DETERMINE THE ELIGIBILITY FOR U.S. DEPARTMENT OF VETERANS AFFAIRS BENEFITS, SUPPLEMENTAL SOCIAL SECURITY INCOME, AND SOCIAL SECURITY BENEFITS OF A CHILD WHO IS PLACED IN THE CARE AND CUSTODY OF THE DEPARTMENT WITHIN 60 DAYS:

(I) AFTER THE CHILD ENTERS THE CARE AND CUSTODY OF THE DEPARTMENT;

(II) AFTER THE DEPARTMENT RECEIVES NOTICE FROM THE CHILD'S ATTORNEY OF A MATERIAL CHANGE OF CIRCUMSTANCES THAT IS LIKELY TO AFFECT THE CHILD'S ELIGIBILITY FOR BENEFITS;

(III) AFTER THE CHILD REACHES THE AGE OF 17 YEARS AND 6 MONTHS; AND

(IV) AFTER THE CHILD REACHES THE AGE OF 20 YEARS AND 6 MONTHS;

(2) APPLY FOR BENEFITS ON BEHALF OF THE CHILD, IF THE DEPARTMENT DETERMINES THAT A CHILD MIGHT BE ELIGIBLE FOR ANY BENEFITS; AND

(3) IF THE DEPARTMENT IS IDENTIFIED AS THE REPRESENTATIVE PAYEE UNDER SUBSECTION (B) OF THIS SECTION, APPLY TO SERVE AS REPRESENTATIVE PAYEE.

[(d)] (E) (1) The Department shall immediately notify the child through the child's attorney of:

(i) any application for [Veterans Administration] U.S. DEPARTMENT OF VETERANS AFFAIRS benefits, Supplemental Security Income, or Social Security benefits made on the child's behalf or any application to become representative payee for those benefits on the child's behalf;

(ii) any decisions or communications from the [Veterans Administration] U.S. DEPARTMENT OF VETERANS AFFAIRS or the Social Security Administration regarding an application for benefits described under item (i) of this paragraph; and

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(iii) any appeal or other action requested by the Department regarding an application for benefits described under item (i) of this paragraph.

(2) IF THE BENEFITS UNDER PARAGRAPH (1)(I) OF THIS SUBSECTION ARE DENIED AND THE DEPARTMENT DETERMINES AN APPEAL IS IN THE BEST INTEREST OF THE CHILD, THE DEPARTMENT SHALL CONSULT WITH THE CHILD'S ATTORNEY TO DETERMINE WHETHER TO APPEAL THE DENIAL.

(3) When the Department serves as the representative payee or otherwise receives [Veterans Administration] U.S. DEPARTMENT OF VETERANS AFFAIRS benefits, Supplemental Security Income, or Social Security benefits on the child's behalf, the Department shall provide notice to the child through the child's attorney of the following before each juvenile court hearing regarding the child:

(i) the dates and the amount of benefit funds received on the child's behalf since any prior notification to the child's attorney; and

(ii) information regarding all the child's assets and resources, including the child's benefits, insurance, cash assets, trust accounts, earnings, and other resources.

(F) SUBJECT TO THE AVAILABILITY OF FUNDS, THE SECRETARY SHALL ESTABLISH AND MAINTAIN A FOSTER YOUTH SAVINGS PROGRAM TO CONSERVE ADDITIONAL RESOURCES TO ASSIST YOUTH IN TRANSITIONING TO INDEPENDENCE.

(G) THE SECRETARY SHALL ADOPT REGULATIONS AND POLICIES TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

[(e)] (H) This section may not be construed to affect any additional notice required by a State court.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Family Law

5-527.1.

(a) This section applies to children committed to the custody of the Department.

[(b) When applying for benefits under this section for a child in the Department's custody, the Department shall, in cooperation with the child's attorney, identify a representative payee or fiduciary in accordance with the requirements of 20 C.F.R. §§ 404.2021 and 416.621.]

(B) IF A CHILD WAS RECEIVING U.S. DEPARTMENT OF VETERANS AFFAIRS BENEFITS, SUPPLEMENTAL SECURITY INCOME, OR SOCIAL SECURITY BENEFITS BEFORE ENTERING THE DEPARTMENT'S CUSTODY, OR IF THE DEPARTMENT APPLIES FOR BENEFITS ON BEHALF OF THE CHILD, THE DEPARTMENT SHALL:

(1) ATTEMPT TO IDENTIFY, IN CONSULTATION WITH THE CHILD'S ATTORNEY, AN APPROPRIATE REPRESENTATIVE PAYEE IN ACCORDANCE WITH THE REQUIREMENTS OF 20 C.F.R. §§ 404.2021 AND 416.621;

(2) IF THE DEPARTMENT IS IDENTIFIED, APPLY TO BECOME THE REPRESENTATIVE PAYEE; AND

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(3) DOCUMENT ALL EFFORTS TO LOCATE AN APPROPRIATE REPRESENTATIVE PAYEE.

(C) IF A CHILD IS IN THE CUSTODY OF THE DEPARTMENT AND IS RECEIVING U.S. DEPARTMENT OF VETERANS AFFAIRS BENEFITS, SUPPLEMENTAL SECURITY INCOME, OR SOCIAL SECURITY BENEFITS, AFTER A CHANGE TO A CHILD'S PERMANENCY PLAN, THE DEPARTMENT SHALL:

(1) REVIEW THE IDENTIFICATION OF THE REPRESENTATIVE PAYEE UNDER SUBSECTION (B) OF THIS SECTION IN CONSULTATION WITH THE CHILD'S ATTORNEY; AND

(2) IF APPLICABLE, APPLY FOR A CHANGE TO THE REPRESENTATIVE PAYEE.

[(c)] (D) Consistent with federal law, when the Department serves as the representative payee or in any other fiduciary capacity for a child receiving U.S. Department of Veterans Affairs benefits, Supplemental Security Income, or Social Security benefits, the Department shall:

(1) CONSERVE ANY FEDERAL BENEFITS RECEIVED ON BEHALF OF THE CHILD;

(2) [use or] conserve the benefits in the child's best interest, including using the benefits for services for special needs not otherwise provided by the Department or conserving the benefits for the child's reasonably foreseeable future needs;

[(2) ensure that when the child attains the age of 14 years and until the Department no longer serves as the representative payee or fiduciary, a minimum

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percentage of the child's benefits are not used to reimburse the State for the costs of care for the child and are used or conserved in accordance with items (3) and (4) of this subsection, as follows:

- (i) from age 14 through age 15, at least 40%;
- (ii) from age 16 through age 17, at least 80%; and
- (iii) from age 18 through age 20, 100%;]

(3) for the child's benefits or resources that are below or not subject to any federal asset or resource limit, exercise discretion in accordance with federal law and in the best interest of the child to [conserve the funds or] use the funds [for services for special needs not otherwise provided by the Department] **OR CONSERVE THE FUNDS, including BY choosing one or more of the options listed under item (4) of this subsection;**

(4) appropriately monitor any federal asset or resource limits for the benefits and ensure that the child's best interest is served by using or conserving the benefits in a way that avoids violating any federal asset or resource limits that would affect the child's eligibility to receive the benefits, including:

(i) applying to the Social Security Administration to establish a Plan for Achieving Self-Support (PASS) account for the child under the Social Security Act and determining whether it is in the best interest of the child to conserve all or part of the benefits in the PASS account;

(ii) establishing a 529A plan for the child and conserving the child's benefits in that account in a manner that appropriately avoids any federal asset or resource limits;

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(iii) establishing an individual development account for the child and conserving the child's benefits in that account in a manner that appropriately avoids any federal asset or resource limits;

(iv) establishing a special needs trust for the child and conserving the child's benefits in the trust in a manner that is consistent with federal requirements for special needs trusts and that appropriately avoids any federal asset or resource limits;

(v) if the Department determines that using the benefits for services for current special needs not already provided by the Department is in the best interests of the child, using the benefits for those services;

(vi) if federal law requires certain back payments of benefits to be placed in a dedicated account, complying with the requirements for dedicated accounts under 20 C.F.R. § 416.640(e); and

(vii) applying any other exclusions from federal asset or resource limits available under federal law and using or conserving the child's benefits in a manner that appropriately avoids any federal asset or resource limits;

(5) provide an annual accounting to the child and the child's attorney of how the child's resources, including U.S. Department of Veterans Affairs benefits, Supplemental Security Income, and Social Security benefits, have been used or conserved in accordance with this section;

(6) provide the child with financial literacy training when the child has attained the age of 14 years; and

(7) beginning when the child has attained the age of 16 years, provide the child, if applicable, with information regarding;

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(i) accessing, using, and maintaining benefits;
(ii) transition plans;
(iii) when the benefits are scheduled to end; and
(iv) eligibility for benefits after leaving the care of the
Department.

[(d)] (E) The Department shall:

(1) determine the eligibility for U.S. Department of Veterans Affairs
benefits, Supplemental Social Security Income, and Social Security benefits of a child
who is placed in the care and custody of the Department within 60 days:

(i) after the child enters the care and custody of the Department;
(ii) after the Department receives notice from the child's attorney
of a material change of circumstances that is likely to affect the child's eligibility for
benefits;

(iii) after the child reaches the age of 17 years and 6 months; and

(iv) after the child reaches the age of 20 years and 6 months;

(2) apply for benefits on behalf of the child, if the Department
determines that a child might be eligible for any benefits; and

(3) if the Department is identified as the representative payee under
subsection (b) of this section, apply to serve as representative payee.

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[(e)] (F) (1) The Department shall immediately notify the child through the child's attorney of:

(i) any application for U.S. Department of Veterans Affairs benefits, Supplemental Security Income, or Social Security benefits made on the child's behalf or any application to become representative payee for those benefits on the child's behalf;

(ii) any decisions or communications from the U.S. Department of Veterans Affairs or the Social Security Administration regarding an application for benefits described under item (i) of this paragraph; and

(iii) any appeal or other action requested by the Department regarding an application for benefits described under item (i) of this paragraph.

(2) If the benefits under paragraph (1)(i) of this subsection are denied and the Department determines an appeal is in the best interest of the child, the Department shall consult with the child's attorney to determine whether to appeal the denial.

(3) When the Department serves as the representative payee or otherwise receives U.S. Department of Veterans Affairs benefits, Supplemental Security Income, or Social Security benefits on the child's behalf, the Department shall provide notice to the child through the child's attorney of the following before each juvenile court hearing regarding the child:

(i) the dates and the amount of benefit funds received on the child's behalf since any prior notification to the child's attorney; and

(ii) information regarding all the child's assets and resources, including the child's benefits, insurance, cash assets, trust accounts, earnings, and other resources.

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[(f)] (G) Subject to the availability of funds, the Secretary shall establish and maintain a foster youth savings program to conserve additional resources to assist youth in transitioning to independence.

[(g)] (H) The Secretary shall adopt regulations and policies to implement the provisions of this section.

[(h)] (I) This section may not be construed to affect any additional notice required by a State court.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take effect July 1, 2027.”.

On page 6, in line 8, strike “2.” and substitute “4.”; in the same line, after “That” insert “, except as provided in Section 3 of this Act,”; and in line 9, after the period insert “Section 1 of this Act shall remain effective for a period of 9 months and, at the end of June 30, 2027, Section 1 of this Act, with no further action required by the General Assembly, shall be abrogated and of no further force and effect.”.