

Department of Legislative Services
 Maryland General Assembly
 2026 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 768
 Appropriations

(Delegates Simpson and Shetty)

Judicial Proceedings

Department of Human Services - Benefits for Children in Custody - Alterations

This bill alters requirements for the Department of Human Services (DHS) regarding benefits for children in its care and custody. Subject to the availability of funds, the Secretary of Human Services must establish and maintain a foster youth savings program. Within 60 days after a child enters the care of DHS, and at other specified intervals, DHS must determine the child’s eligibility and, as appropriate, apply for U.S. Department of Veteran’ Affairs (VA) benefits, Social Security Income (SSI), and Social Security benefits. Effective July 1, 2027, the bill alters the responsibilities of DHS when serving as a representative payee and requires DHS to conserve any federal benefits received on behalf of a child. The bill also makes technical changes.

Fiscal Summary

State Effect: DHS general fund expenditures increase by \$70,800 in FY 2027 for staff, and by \$739,100 in FY 2028 for additional administrative and ongoing staff costs. Federal fund revenues increase by an estimated \$263,000 beginning in FY 2028 to reflect additional Tile IV-E reimbursement for administrative costs. Special fund revenues available to DHS to cover a child’s total cost of care are reduced, as discussed below.

(in dollars)	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
FF Revenue	\$0	\$263,000	\$263,000	\$263,000	\$263,000
GF Expenditure	\$70,800	\$739,100	\$611,900	\$615,900	\$619,800
Net Effect	(\$70,800)	(\$476,100)	(\$348,900)	(\$352,900)	(\$356,800)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary:

Information About Benefits to be Provided to Children at Age 16

When DHS serves as the representative payee for a child receiving VA, SSI, or Social Security benefits, when the child reaches age 16, DHS must provide the child, if applicable, with information regarding (1) accessing, using, and maintaining benefits; (2) transition plans; (3) when the benefits are scheduled to end; and (4) eligibility for benefits after leaving the care of DHS. These requirements take effect October 1, 2026.

Determination of Eligibility for Benefits

DHS must determine a child's eligibility for VA, SSI, and Social Security benefits within 60 days:

- after the child enters the care and custody of DHS;
- after DHS receives notice from the child's attorney of a material change of circumstances that is likely to affect the child's eligibility for benefits;
- after the child reaches age 17 and 6 months; and
- after the child reaches age 20 and 6 months.

DHS must apply for benefits on behalf of the child if DHS determines that a child may be eligible for any benefits. If DHS is identified as the representative payee, DHS must apply to serve as representative payee. These requirements take effect October 1, 2026.

If VA, SSI, or Social Security benefits are denied and DHS determines an appeal is in the best interest of the child, DHS must consult with the child's attorney to determine whether to appeal the denial. This requirement takes effect October 1, 2026.

Foster Youth Savings Program

Subject to the availability of funds, the Secretary of Human Services must establish and maintain a foster youth savings program to conserve additional resources to assist youth in transitioning to independence. This requirement takes effect October 1, 2026.

Representative Payee

If a child was receiving VA, SSI, or Social Security benefits before entering DHS custody, or if DHS applies for benefits on behalf of the child, DHS must (1) attempt to identify, in

consultation with the child's attorney, an appropriate representative payee in accordance with specified federal regulations; (2) if DHS is identified, apply to become the representative payee; and (3) document all efforts to locate an appropriate payee.

If a child in DHS custody is receiving VA, SSI, or Social Security benefits, after a change to a child's permanency plan, DHS must (1) review the identification of the representative payee in consultation with the child's attorney and (2) if applicable, apply for a change to the representative payee.

These requirements take effect July 1, 2027.

Conservation of Benefits

The specifies that DHS, when it serves as representative payee for VA, SSI, or Social Security benefits, must conserve any federal benefits received on behalf of the child. The bill also repeals the minimum percentage requirements for a child's federal benefits that are not to be used to reimburse the State for specified costs of care.

For the child's benefits or resources that are below or not subject to any federal asset or resource limit, DHS may continue to use the funds or conserve the funds, including by choosing one or more options under current law.

These requirements take effect July 1, 2027.

Current Law: DHS must establish a program of out-of-home placement for minor children (1) who are placed in the custody of a local department, for a period of up to 180 days, by a parent or legal guardian under a voluntary placement agreement; (2) who are abused, abandoned, neglected, or dependent, if a juvenile court has determined that continued residence in the child's home is contrary to the child's welfare and has committed the child to the custody or guardianship of a local department; or (3) who, with the approval of DHS, are placed in an out-of-home placement by a local department under a voluntary placement agreement regarding a child with a developmental disability or a mental illness, as specified. An out-of-home placement may include family foster care, group and residential care, kinship care, and a treatment foster care home.

The public foster care system is funded by the State and the federal government under Title IV-E of the Social Security Act. Generally, foster care maintenance payments are payments made on behalf of a child eligible for Title IV-E foster care to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation.

Benefits for Children in State Custody

Consistent with federal law, when applying for specified benefits for a child in its custody, DHS must, in cooperation with the child's attorney, identify a representative payee or fiduciary. When DHS serves as the representative payee or in any other fiduciary capacity for a child receiving VA benefits, SSI, or Social Security benefits, DHS must:

- use the benefits or conserve the benefits in the child's best interest, including using the benefits for services for special needs not otherwise provided by DHS or conserving the benefits for the child's reasonably foreseeable future needs; and
- ensure that when the child attains the age of 14, and until DHS no longer serves as the representative payee or fiduciary, the child's benefits are not used to reimburse the State for the costs of care and are instead conserved, as follows: (1) from age 14 through age 15, at least 40% of benefits may not be used to reimburse the State; (2) from age 16 through age 17, at least 80% of benefits may not be used; and (3) from age 18 through age 20, no benefits may be used for State reimbursements.

DHS must 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. DHS must exercise discretion, for benefits or resources below or not subject to any federal asset or resource limit, to conserve or use the funds for services for special needs not otherwise provided by DHS. These options include:

- applying to the Social Security Administration (SSA) to establish a Plan for Achieving Self-Support account for the child and determining whether it is in the best interest of the child to conserve all or part of the benefits in the account;
- establishing an individual development account or a 529A plan for the child and conserving the child's benefits within the accounts in a manner that appropriately avoids any federal asset or resource limits;
- establishing a special needs trust for the child and conserving the child's benefits in the trust in a manner that appropriately avoids any federal asset or resource limits; and
- 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.

DHS must also provide an annual accounting to the child and the child's attorney of how the child's resources have been used or conserved and provide the child with financial literacy training when the child reaches age 14. DHS must immediately notify the child, through the child's attorney, of (1) any application for VA benefits, SSI, 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; (2) any decisions or communications from the VA or SSA regarding an application for benefits; and (3) any appeal or other action requested by DHS regarding an application for benefits.

When DHS serves as the representative payee or otherwise receives VA benefits, SSI, or Social Security benefits on the child's behalf, DHS must provide notice to the child, through the child's attorney, of the following before each juvenile court hearing regarding the child: (1) the dates and the amount of benefit funds received on the child's behalf since any prior notification to the child's attorney; and (2) information regarding all of the child's assets and resources, including the child's benefits, insurance, cash assets, trust accounts, earnings, and other resources.

State Fiscal Effect:

Conservation of Federal Benefits

Beginning in fiscal 2028, the bill requires a child's federal benefits to be conserved on behalf of the child, rather than permitting a portion of the benefits to be used toward the child's total cost of care. Thus, special fund revenues that have in the past been designated as available for cost of care are no longer available for that use. Instead, the revenues may only be conserved on behalf of the child.

In fiscal 2024, there were 3,652 children in foster care, of which 5.15% entered foster care receiving federal benefits, and 2% were identified as eligible for federal benefits. DHS advises that 205 of these children had a portion of their federal benefits applied toward the total cost of their care (ranging from 20% to 100% based on the child's age). The amount of federal benefits applied to the total cost of care was \$557,735 in fiscal 2024. Thus, under the bill, approximately \$557,735 in federal benefits may only be conserved on behalf of the child. Funds cannot be used by DHS toward the child's total cost of care.

Although not explicitly required under the bill, to the extent that DHS must backfill for these federal benefits with general funds, general fund expenditures increase significantly beginning in fiscal 2028. DHS advises that in the absence of these funds, the standard of care would decrease for all children receiving federal benefits.

Personnel and Programming Costs

Under the bill, beginning October 1, 2026, DHS must, within 60 days after a child enters its care and at other specified intervals, determine the child's eligibility and, as appropriate, apply for VA benefits, SSI, and Social Security benefits.

Thus, DHS general fund expenditures increase by \$70,836 in fiscal 2027, which accounts for the October 1, 2026 effective date of these provisions. This estimate reflects the cost of hiring one human services specialist to determine eligibility for and apply for specified federal benefits. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Position	1.0
Salary and Fringe Benefits	\$61,695
Other Operating Expenses	<u>9,141</u>
Total FY 2027 Personnel Expenditures	\$70,836

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

DHS further advises that one-time updates to the Child, Juvenile, and Adult Management System are also required to track federal benefits. Thus, DHS general fund expenditures increase by an additional \$131,040 in fiscal 2028 only.

Consultation Costs

Beginning in fiscal 2028, the bill requires DHS to consult with a child’s attorney to identify a representative payee for children receiving federal benefits before entering DHS custody. DHS must also review and, if applicable, apply for a change to the representative payee after change to a child’s permanency plan. DHS advises that these requirements create an additional administrative burden for the department. DHS estimates that general fund expenditures increase by approximately \$526,000 annually beginning in fiscal 2028 to serve approximately 260 children.

Title IV-E administrative costs for foster care, which include case management, eligibility determination, legal representation, and recruitment, are generally reimbursed at a 50% federal matching rate. Therefore, federal fund revenues by approximately \$263,000 annually beginning in fiscal 2028.

Additional Effects

The bill also requires the Secretary, subject to the availability of funds, to establish and maintain a foster youth savings program to conserve additional resources to assist youth in transitioning to independence. This analysis does not reflect the potential cost to establish or maintain such a program.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 658 (Senator West, *et al.*) - Judicial Proceedings.

Information Source(s): Judiciary (Administrative Office of the Courts); Department of Human Services; Department of Legislative Services

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