

Doug Fiefia proposes the following substitute bill:

Minors in State Custody Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Fiefia

Senate Sponsor:

LONG TITLE

General Description:

This bill addresses federal benefits for minors who are in the custody of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Department of Health and Human Services (department) to evaluate whether a minor in the custody of the department is receiving or is eligible to receive federal benefits;
- provides that, as appropriate, the department shall apply for federal benefits on behalf of a minor in the custody of the department, and may accept appointment as the representative payee for a minor's federal benefits;
- provides accounting, reporting, and administrative requirements for the department concerning a federal benefit provided to a minor in the custody of the department;
- requires the department to offer financial literacy training for a minor who received a federal benefit while in the custody of the department, or for a successor representative payee;
- grants rulemaking authority to the department relating to the administration of federal benefits for minors in the custody of the department;
- requires the department to report annually to the Health and Human Services Interim Committee regarding federal benefits received on behalf of minors in the custody of the department; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

80-2-504, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **80-2-504** is enacted to read:

80-2-504 . Definitions -- Federal benefits for minors in the custody of the department -- Financial training -- Rulemaking -- Reporting.

(1) As used in this section:

- (a) "Custody of the department" means the legal custody of the department.
- (b) "Department" means the same as that term is defined in Section 80-1-102, or one of the department's divisions, offices, or institutions.
- (c) "Federal benefit" means a benefit administered by the United States Social Security Administration, the United States Department of Veterans Affairs, or the United States Railroad Retirement Board.
- (d) "Maintenance cost" means a payment to a foster parent, kin, or other caregiver for the costs of providing a minor with food, clothing, housing, daily supervision, personal incidentals, and transportation.
- (e) "Minor beneficiary" means a minor:
 - (i) who is in the legal custody of the department; and
 - (ii) for whom the department receives or manages a federal benefit.
- (f) "Representative payee" means a person appointed by a federal agency to manage a benefit the federal agency provides to a minor.

- (2)(a) Within 60 days after a minor is placed in the custody of the department, the department shall determine whether the minor is receiving or may be eligible for any federal benefit.
- (b) If the department determines that a minor in the custody of the department is eligible or may be eligible for a federal benefit, the department shall apply for the benefit on the minor's behalf.
- (c) After any material change in the circumstances of a minor in the custody of the department that could affect the minor's potential eligibility for federal benefits, the department shall reevaluate whether the minor may be eligible for any federal benefit

and, if the department determines that the minor is eligible or may be eligible for a federal benefit, the department shall apply for the benefit on the minor's behalf.

(3)(a) The department shall apply to become and may accept an appointment to serve as the representative payee for a minor in the custody of the department.

(b) For a minor in the custody of the department for whom the department has been appointed as the representative payee, the department shall annually review whether it is in the best interest of the minor for someone other than the department to apply to assume the role of the minor's representative payee.

(4)(a) For each minor in the custody of the department on whose behalf the department receives or manages a federal benefit, the department shall establish a separate account into which the benefit shall be deposited.

(b) For each minor's account, the department shall determine the type of account that will best preserve the minor's benefit, which may include:

(i) a 529 savings account, as that term is defined in Section 35A-9-601;

(ii) an Achieving a Better Life Experience (ABLE) account;

(iii) a special needs trust; or

(iv) another type of tax-advantaged account that the department can administer in compliance with the requirements described in Subsection (4)(c).

(c) The department shall administer each minor's account:

(i) in the best interest of the minor for whom the account is established;

(ii) in accordance with the provisions of this section;

(iii) consistent with the department's fiduciary duties; and

(iv) in a manner that does not interfere with asset limitations for any state or federal benefit program for which the minor is or may be eligible.

(d) As permitted by, and unless otherwise required by the source of the benefit:

(i) the department may expend up to 50% of a federal benefit deposited into a minor's account established pursuant to Subsection (4)(a) for maintenance costs; and

(ii) the department shall conserve or invest the balance of a minor's federal benefit that is not expended for maintenance costs.

(e) The department shall pay maintenance costs that are not covered by expenditures permitted under Subsection (4)(d)(i) with the department's existing budgets.

(f) The department shall provide an annual statement to each minor and the minor's guardian ad litem, if applicable, detailing each receipt and disbursement involving funds deposited on the minor's behalf.

- (5)(a) Unless otherwise directed by the source of the balance, the department shall transfer the balance of a minor's account to the minor, the minor's parent or guardian, a successor payee, or otherwise as required by the source of the balance, at the earlier of:
- (i) when the department's custody over the minor is terminated; or
 - (ii) when the minor turns 18 years old.
- (b) At the time the department transfers the balance of a minor's account pursuant to Subsection (5)(a), the department shall offer financial literacy training to the minor or the successor payee.
- (c) The department may work with other state agencies, departments, or offices to provide the training described in Subsection (5)(b).
- (6) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the requirements of this section and to provide for the accounting and protection of federal benefits for minors in the division's custody, including:
- (a) criteria for the preservation and disbursement of a minor's federal benefits;
 - (b) safeguards to prevent the mismanagement of and protect against theft, loss, or misappropriation of minor's federal benefits; and
 - (c) policies and procedures to ensure compliance with federal regulations.
- (7) On or before September 1 each year, the department shall provide a report to the Health and Human Services Interim Committee that includes, for the preceding fiscal year:
- (a) the number of minors in the custody of the department who received federal benefits;
 - (b) the types of federal benefits received by minors in the custody of the department;
 - (c) a description of the department's policies or procedures for managing minors' federal benefits in accordance with the requirements of this section; and
 - (d) the total amount of federal benefits received and expended on behalf of minors in the custody of the department.

Section 2. Effective Date.

This bill takes effect on May 7, 2025.