



131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative Document

No. 2078

H.P. 1337

House of Representatives, December 22, 2023

**An Act to Increase Participation by the Department of Health and
Human Services Regarding Federal Benefits for Which Children in
the Custody of the Department Are Eligible**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 20, 2023. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in black ink, reading "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ROEDER of Bangor.
Cosponsored by Representative: SUPICA of Bangor.

1 **Emergency preamble.** Whereas, acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** certain federal benefits that children in the custody of the Department of
4 Health and Human Services are eligible for have not been applied for by the department;
5 and

6 **Whereas,** those federal benefits can potentially change a child's life; and

7 **Whereas,** this legislation must take effect before the expiration of the 90-day period
8 so those federal benefits can be applied for as soon as possible; and

9 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
10 the meaning of the Constitution of Maine and require the following legislation as
11 immediately necessary for the preservation of the public peace, health and safety; now,
12 therefore,

13 **Be it enacted by the People of the State of Maine as follows:**

14 **Sec. 1. 22 MRSA §4069** is enacted to read:

15 **§4069. Department application for and administration of certain federal benefits**

16 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
17 following terms have the following meanings.

18 A. "Federal benefit" means a benefit administered by the United States Social Security
19 Administration or the United States Department of Veterans Affairs.

20 B. "Special-needs trust" has the same meaning as in Title 18-B, section 1212,
21 subsection 1, paragraph D.

22 **2. Determination of eligibility.** The department shall determine whether a child in
23 the custody of the department is eligible for a federal benefit. If the department determines
24 the child is eligible for a federal benefit, the department shall apply for the federal benefit
25 on behalf of the child. The department shall notify the child, the child's attorney or guardian
26 ad litem and the child's parents or legal guardians of the application for the federal benefit.

27 **3. Representative payee.** The department shall determine the representative payee to
28 receive the federal benefit of a child under subsection 2 in accordance with federal
29 regulations regarding appointment of representative payees. If the department is serving
30 as the representative payee, the department:

31 A. May not use the child's federal benefit to pay for or reimburse the department or
32 the State for any of the costs of the child's care;

33 B. May use the child's federal benefit for the child's unmet needs beyond what the
34 department is required to pay;

35 C. If appropriate, shall establish a special-needs trust to use and conserve the child's
36 federal benefit in a manner that is consistent with federal and state requirements for
37 special-needs trusts and in a manner that avoids federal and state asset and resource
38 limits;

39 D. Shall provide an annual accounting of the child's federal benefit to the child, the
40 child's attorney or guardian ad litem and the child's parents or legal guardians; and

1 E. Shall periodically provide the child with financial literacy training and support,
2 including information regarding the availability and use of funds conserved for the
3 child in accordance with this section. The training must begin before the child attains
4 14 years of age or, if the child is not in the custody of the department before the child
5 attains 14 years of age, as soon as practicable.

6 **4. Training.** The department shall provide financial training to department staff who
7 implement this section and to all representative payees under subsection 3. The training
8 must include information regarding fiduciary obligations of representative payees, ways to
9 preserve federal benefit eligibility, ways to plan and budget for unmet current needs and
10 foreseeable future needs of the child receiving federal benefits and ways to ensure required
11 accounting is submitted to the United States Social Security Administration and the United
12 States Department of Veterans Affairs.

13 **5. Rules.** The department shall adopt rules implementing this section. Rules adopted
14 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,
15 subchapter 2-A.

16 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
17 takes effect when approved.

18 SUMMARY

19 This bill requires the Department of Health and Human Services to determine whether
20 a child in the custody of the department is eligible for benefits administered by the United
21 States Social Security Administration or the United States Department of Veterans Affairs.
22 If the department determines the child is eligible for a federal benefit, the department is
23 required to apply for the federal benefit on behalf of the child. It also requires the
24 department to provide training to children receiving a federal benefit, department staff and
25 representative payees who receive the federal benefit on behalf of a child.