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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN,  
YOUTH AND FAMILIES

Introduced By: Representatives Casimiro, Chippendale, Roberts, Casey, and Noret

Date Introduced: May 03, 2024

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 42-72 of the General Laws entitled "Department of Children, Youth  
2 and Families" is hereby amended by adding thereto the following section:

3           **42-72-37. Application for social security benefits, supplemental security income, and**  
4 **veterans benefits.**

5           (a) Definitions. For the purposes of this section:

6           (1) "Benefits" means social security benefits, supplemental security income, veterans  
7 benefits, and railroad retirement benefits; and

8           (2) "Youth's attorney" and "guardian ad litem" means the person appointed as the youth's  
9 attorney or guardian ad litem in the proceeding in which the department is appointed as the youth's  
10 guardian or custodian.

11           (b) Application for benefits.

12           (1) Upon receiving temporary custody or guardianship of a youth in care, the department  
13 shall assess the youth to determine whether the youth may be eligible for benefits. If, after the  
14 assessment, the department determines that the youth may be eligible for benefits, the department  
15 shall ensure that an application is filed on behalf of the youth. The department shall prescribe by  
16 rules and regulations how it will review cases of youth in care at regular intervals to determine  
17 whether the youth may have become eligible for benefits after the initial assessment. The  
18 department shall make reasonable efforts to encourage youth in care over the age of eighteen (18)

1 who are likely eligible for benefits to cooperate with the application process and to assist youth  
2 with the application process.

3 (2) When applying for benefits under this section for a youth in care the department shall  
4 identify a representative payee in accordance with the requirements of 20 CFR 404.2021 and  
5 416.621. If the department is seeking to be appointed as the youth's representative payee, the  
6 department shall consider input, if provided, from the youth's attorney and guardian ad litem  
7 regarding whether another representative payee, consistent with the requirements of 20 CFR  
8 404.2021 and 416.621, is available. If the department serves as the representative payee for a youth  
9 over the age of eighteen (18), the department shall request a court order, as described in subsection  
10 (d) of this section.

11 (c) Notifications. The department shall immediately notify a youth over the age of sixteen  
12 (16), the youth's attorney and guardian ad litem, and the youth's parent or legal guardian or another  
13 responsible adult of:

14 (1) Any application for or any application to become representative payee for benefits on  
15 behalf of a youth in care;

16 (2) Any communications from the Social Security Administration, the U.S. Department of  
17 Veterans Affairs, or the Railroad Retirement Board pertaining to the acceptance or denial of  
18 benefits or the selection of a representative payee; and

19 (3) Any appeal or other action requested by the department regarding an application for  
20 benefits.

21 (d) Use of benefits. Consistent with federal law, when the department serves as the  
22 representative payee for a youth receiving benefits and receives benefits on the youth's behalf, the  
23 department shall:

24 (1) Beginning January 1, 2025, except as provided in a request for the disbursement of  
25 funds pursuant to subsection (f)(4) of this section, ensure that when the youth attains the age of  
26 fourteen (14) years and until the department no longer serves as the representative payee, a  
27 minimum percentage of the youth's supplemental security income benefits are conserved in  
28 accordance with subsection (d)(4) of this section as follows:

29 (i) From the age of fourteen (14) through the age of fifteen (15), at least forty percent  
30 (40%).

31 (ii) From the age of sixteen (16) through the age of seventeen (17), at least eighty percent  
32 (80%).

33 (iii) From the age of eighteen (18) through the age of twenty (20), one hundred percent  
34 (100%), when a court order has been entered expressly allowing the department to have the

1 authority to establish and serve as an authorized agent of the youth over the age of eighteen (18)  
2 with respect to an account established in accordance with subsection (d)(4) of this section.

3 (2) Beginning July 1, 2025, except as provided in a request for the disbursement of funds  
4 pursuant to subsection (f)(4) of this section, ensure that when the youth attains the age of fourteen  
5 (14) years and until the department no longer serves as the representative payee, a minimum  
6 percentage of the youth's social security benefits, veterans benefits, or railroad retirement benefits  
7 benefits are conserved in accordance with subsection (d)(4) of this section as follows:

8 (i) From the age of fourteen (14) through the age of fifteen (15), at least forty percent  
9 (40%).

10 (ii) From the age of sixteen (16) through the age of seventeen (17), at least eighty percent  
11 (80%).

12 (iii) From the age of eighteen (18) through the age of twenty (20), one hundred percent  
13 (100%), when a court order has been entered expressly allowing the department to have the  
14 authority to establish and serve as an authorized agent of the youth over the age of eighteen (18)  
15 with respect to an account established in accordance with subsection (d)(4) of this section.

16 (3) Exercise discretion in accordance with federal law and in the best interests of the youth  
17 when making decisions to use or conserve the youth's benefits that are less than or not subject to  
18 asset or resource limits under federal law, including using the benefits to address the youth's special  
19 needs and conserving the benefits for the youth's reasonably foreseeable future needs .

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

24 (i) Applying to the Social Security Administration to establish a Plan to Achieve Self-  
25 Support (PASS) Account for the youth under the Social Security Act and determining whether it is  
26 in the best interest of the youth to conserve all or parts of the benefits in the PASS account;

27 (ii) Establishing a 529 plan for the youth and conserving the youth's benefits in that account  
28 in a manner that appropriately avoids any federal asset or resource limits;

29 (iii) Establishing an individual development account for the youth and conserving the  
30 youth's benefits in that account in a manner that appropriately avoids any federal asset or resource  
31 limits;

32 (iv) Establishing an ABLE account authorized by Section 529A of the Internal Revenue  
33 Code of 1986 for the youth and conserving the youth's benefits in that account in a manner that  
34 appropriately avoids any federal asset or resource limits;

1           (v) Establishing a Social Security Plan to Achieve Self-Support account for the youth and  
2 conserving the youth's benefits in a manner that appropriately avoids any federal asset or resource  
3 limits;

4           (vi) Establishing a special needs trust for the youth and conserving the youth's benefits in  
5 the trust in a manner that is consistent with federal requirements for special needs trusts and that  
6 appropriately avoids any federal asset or resource limits;

7           (vii) If the department determines that using the benefits for services for current special  
8 needs not already provided by the department is in the best interest of the youth, using the benefits  
9 for those services;

10           (viii) If federal law requires certain back payments of benefits to be placed in a dedicated  
11 account, complying with the requirements for dedicated accounts under 20 CFR 416.640(e); and

12           (ix) Applying any other exclusions from federal asset or resource limits available under  
13 federal law and using or conserving the youth's benefits in a manner that appropriately avoids any  
14 federal asset or resource limits.

15           (e) By January 1, 2026, the department shall provide a report to the general assembly  
16 regarding youth in care who receive benefits who are not subject to this section. The report shall  
17 discuss a goal of expanding conservation of children's benefits to all benefits of all children of any  
18 age for whom the department serves as representative payee. The report shall include a description  
19 of any identified obstacles, steps to be taken to address the obstacles, and a description of any need  
20 for statutory, rule, regulation, or procedural changes.

21           (f) Accounting. The department shall provide an annual accounting to the youth's attorney  
22 and guardian ad litem of how the youth's benefits have been used and conserved. In addition, within  
23 ten (10) business days of a request from a youth or the youth's attorney and guardian ad litem, the  
24 department shall provide an accounting to the youth of how the youth's benefits have been used  
25 and conserved. The accounting shall include:

26           (1) The amount of benefits received on the youth's behalf since the most recent accounting  
27 and the date the benefits were received.

28           (2) Information regarding the youth's benefits and resources, including the youth's benefits,  
29 insurance, cash assets, trust accounts, earnings, and other resources.

30           (3) An accounting of the disbursement of benefit funds, including the date, amount,  
31 identification of payee, and purpose.

32           (4) Information regarding each request by the youth, the youth's attorney and guardian ad  
33 litem, or the youth's caregiver for disbursement of funds and a statement regarding the reason for  
34 not granting the request if the request was denied.

1 When the department's guardianship of the youth is being terminated, the department shall  
2 provide:

3 (i) A final accounting to the Social Security Administration, to the youth's attorney and  
4 guardian ad litem, and to either the person or persons who will assume guardianship of the youth  
5 or who is in the process of adopting the youth, if the youth is under eighteen (18), or to the youth,  
6 if the youth is over eighteen (18); and

7 (ii) Information to the parent, guardian, or youth regarding how to apply to become the  
8 representative payee. The department shall adopt rules and regulations to ensure that the  
9 representative payee transitions occur in a timely and appropriate manner.

10 (g) Financial literacy. The department shall provide the youth with financial literacy  
11 training and support, including specific information regarding the existence, availability, and use  
12 of funds conserved for the youth in accordance with this subsection, beginning by age fourteen  
13 (14). The literacy program and support services shall be developed in consultation with input from  
14 the department's statewide speak advisory board.

15 (h) Adoption of rules and regulations. The department shall adopt rules and regulations to  
16 implement the provisions of this section by October 1, 2024.

17 (i) Reporting.

18 No later than January 1, 2027, the department shall file a report with the general assembly  
19 providing the following information for state fiscal years 2025 and 2026 and annually beginning  
20 January 1, 2028, for the preceding fiscal year:

21 (1) The number of youth entering care.

22 (2) The number of youth entering care receiving each of the following types of benefits:  
23 social security benefits, supplemental security income, veterans benefits, and/or railroad retirement  
24 benefits.

25 (3) The number of youth entering care for whom the department filed an application for  
26 each of the following types of benefits: social security benefits, supplemental security income,  
27 veterans benefits, and/or railroad retirement benefits.

28 (4) The number of youth entering care who were awarded each of the following types of  
29 benefits based on an application filed by the department: social security benefits, supplemental  
30 security income, veterans benefits, and/or railroad retirement benefits.

31 (j) Annually beginning January 1, 2027, the department shall file a report with the general  
32 assembly with the following information regarding the preceding fiscal year:

33 (1) The number of conserved accounts established and maintained for youth in care;

34 (2) The average amount conserved by age group; and

1            [\(3\) The total amount conserved by age group.](#)

2            SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN,  
YOUTH AND FAMILIES

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1           This act would require the department of children, youth and families (DCYF) to establish  
2 segregated savings accounts for a foster care child receiving social security benefits, supplemental  
3 security income, veterans benefits or railroad retirement benefits, which payments would be exempt  
4 from the asset limits in order to manage the accounts and keep the child eligible for future benefits.

5           This act would take effect upon passage.

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