

HOUSE BILL NO. 5025

June 16, 2021, Introduced by Rep. Hornberger and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1994 PA 203, entitled
"Foster care and adoption services act,"
(MCL 722.951 to 722.960) by adding section 8e.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **Sec. 8e. (1) This section applies to children in foster care.**
2 **(2) When applying for benefits under this section for a child**
3 **in foster care, the department shall, in cooperation with the**
4 **child's attorney, identify a representative payee or fiduciary in**

1 accordance with the requirements of 20 CFR 404.2021 and 416.621.

2 (3) Consistent with federal law, when the department serves as
3 the representative payee or in any other fiduciary capacity for a
4 child receiving Veterans Administration benefits, federal
5 Supplemental Security Income, or Social Security benefits, the
6 department shall do the following:

7 (a) Use or conserve the benefits in the child's best
8 interests, including using the benefits for services for special
9 needs not otherwise provided by the department or conserving the
10 benefits for the child's reasonably foreseeable future needs.

11 (b) Ensure that when the child attains the age of 14 years and
12 until the department no longer serves as the representative payee
13 or fiduciary, a minimum percentage of the child's benefits is not
14 used to reimburse the state for the cost of care for the child and
15 is used or conserved in accordance with subdivisions (c) and (d),
16 as follows:

17 (i) From age 14 through age 15, at least 40%.

18 (ii) From age 16 through age 17, at least 80%.

19 (iii) From age 18 through age 20, 100%.

20 (c) For the child's benefits or resources that are below or
21 not subject to any federal asset or resource limit, exercise
22 discretion in accordance with federal law and in the best interests
23 of the child to conserve the funds or use the funds for services
24 for special needs not otherwise provided by the department,
25 including choosing 1 or more of the options listed under
26 subdivision (d).

27 (d) Appropriately monitor any federal asset or resource limits
28 for the benefits and ensure that the child's best interests are
29 served by using or conserving the benefits in a way that avoids

1 violating any federal asset or resource limits that would affect
2 the child's eligibility to receive the benefits, including the
3 following:

4 (i) Applying to the Social Security Administration to establish
5 a plan for achieving self-support (PASS) account for the child
6 under the social security act, 42 USC 301 to 1397mm, and
7 determining whether it is in the best interests of the child to
8 conserve all or part of the benefits in the PASS account.

9 (ii) Establishing a plan under section 529a of the internal
10 revenue code of 1986, 26 USC 501, for the child and conserving the
11 child's benefits in that account in a manner that appropriately
12 avoids any federal asset or resource limits.

13 (iii) Establishing an individual development account for the
14 child and conserving the child's benefits in that account in a
15 manner that appropriately avoids any federal asset or resource
16 limits.

17 (iv) Establishing a special needs trust for the child and
18 conserving the child's benefits in the trust in a manner that is
19 consistent with federal requirements for special needs trusts and
20 that appropriately avoids any federal asset or resource limits.

21 (v) If the department determines that using the benefits for
22 services for current special needs not already provided by the
23 department is in the best interests of the child, using the
24 benefits for those services.

25 (vi) If federal law requires certain back payments of benefits
26 to be placed in a dedicated account, complying with the
27 requirements for dedicated accounts under 20 CFR 416.640(e).

28 (vii) Applying any other exclusions from federal asset or
29 resource limits available under federal law and using or conserving

1 the child's benefits in a manner that appropriately avoids any
2 federal asset or resource limits.

3 (e) Provide an annual accounting to the child and the child's
4 attorney of how the child's resources, including Veterans
5 Administration benefits, Supplemental Security Income, and Social
6 Security benefits, have been used or conserved in accordance with
7 this section.

8 (f) Provide the child with financial literacy training when
9 the child has attained the age of 14 years.

10 (4) The department shall immediately notify the child through
11 the child's attorney of any of the following:

12 (a) An application for Veterans Administration benefits,
13 Supplemental Security Income, or Social Security benefits made on
14 the child's behalf or any application to become representative
15 payee for those benefits on the child's behalf.

16 (b) A decision or communication from the Veterans
17 Administration or the Social Security Administration regarding an
18 application for benefits described under subdivision (a).

19 (c) An appeal or other action requested by the department
20 regarding an application for benefits described under subdivision
21 (a).

22 (5) When the department serves as the representative payee or
23 otherwise receives Veterans Administration benefits, Supplemental
24 Security Income, or Social Security benefits on the child's behalf,
25 the department must provide notice to the child through the child's
26 attorney of the following before each juvenile court hearing
27 regarding the child:

28 (a) The date and the amount of benefit funds received on the
29 child's behalf since any previous notification to the child's

1 attorney.

2 (b) Information regarding all of the child's assets and
3 resources, including the child's benefits, insurance, cash assets,
4 trust accounts, earnings, and other resources.

5 (6) This section does not affect any additional notice
6 required by a state court.