



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 18 (as introduced 1-22-25)
Sponsor: Senator Jeff Irwin
Committee: Housing and Human Services

(Senate-passed version)

Date Completed: 2-21-25

INTRODUCTION

The bill would prohibit the State from using a foster care child's Social Security benefits, United States Department of Veteran's Affairs benefits, and specific State benefits as reimbursement for cost of care for the child. The bill would allow the Department of Health and Human Services (DHHS) to use or conserve these Federal or State benefits for special needs services if the DHHS determined it was in the child's best interest. Additionally, the DHHS would have to screen for and secure all available income and funds for each child in foster care within 90 days of a child entering foster care and annually so long as a child was in foster care. The bill would require the DHHS, if serving as a representative payee or fiduciary for a child in foster care, to provide to the child certain information about the status of an application for benefits or the current amount of benefits and assets. Also, the bill would specify how the DHHS would have to facilitate the transfer of a foster child's assets or income.

The bill would take effect October 1, 2026.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a reintroduction of Senate Bill 872 of the 2023-2024 Legislative Session. Senate Bill 872 passed the Senate and was reported from the House Committee on Families, Children and Seniors but received no further action.

FISCAL IMPACT

The bill would have a negative fiscal impact on the State and local governments. The bill would prevent the DHHS from collecting Federal benefits, unqualified benefits, assets, or income of foster care youth and using the funds to offset the costs of their care. The Fiscal Year (FY) 2024-2025 authorization for this is \$3.6 million, of which about \$500,000 goes to local governments, so up to that amount in lost revenue would have to be replaced by General Fund/General Purpose. The Governor's proposed FY 2025-2026 budget includes a \$3.5 million General Fund/General Purpose appropriation to offset the cost.

Proposed MCL 722.958f

Legislative Analyst: Eleni Lionas
Fiscal Analyst: Jaymie Tibbits

CONTENT

The bill would amend the Foster Care and Adoption Services Act to do the following:

- Require the DHHS, at its discretion, to secure and screen a child in foster care for potential eligibility for State and Federal benefits within 90 days of the child entering foster care and annually if a child remained in foster care.**
- Require the DHHS to consult with the parents or guardian ad litem of a child in foster care to make decisions regarding State or Federal benefits for the child's best interest.**
- Prohibit the State from using a child in foster care's State or Federal benefits, assets, or income as reimbursement for the care of that child.**
- Prescribe how the DHHS could conserve or use a child's State or Federal benefits.**
- Require the DHHS to conserve and monitor any benefits of a child in foster care for whom the DHHS served as a representative payee or fiduciary until the DHHS no longer served as a payee or fiduciary.**
- Require the DHHS to notify a child in foster care, through the child's guardian ad litem, of an application for or change in status of any Federal benefits pertaining to the child.**
- Require the DHHS to provide a child 14 years of age or older in foster care with financial literacy training consistent with the needs of that child.**
- Require the DHHS to notify a child, through the child's guardian ad litem, of information about the child's assets before each permanency planning hearing regarding the child if the DHHS served as a representative payee or fiduciary.**
- Require the DHHS to facilitate the transfer of assets to the child upon adulthood and specify how the assets would have to be disbursed if the child were discharged from or died in foster care.**
- Require the DHHS, or a guardian ad litem if appointed, to file timely appeals to a denial, overpayment, or cessation of State or Federal benefits on behalf of a child in foster care.**

Under the bill, the DHHS would have to do the following:

- At the DHHS' discretion, screen a child in foster care for potential eligibility for State or Federal benefits within 90 days after the child entered foster care, and annually if the child remained in foster care.
- As appropriate, consult with the parents or guardian ad litem, if one had been appointed, of a child in foster care to make decisions regarding State and Federal benefits in the best interest of the child.
- Using information collected as described above, apply for State and Federal benefits for which a child in foster care could be eligible and was not already receiving as appropriate for the child's best interest.

"Federal benefits" would mean Social Security benefits and United States Department of Veterans Affairs benefits. "State benefits" would mean State supplemental payments for recipients of Federal supplemental security income.

Except as otherwise provided below, the State could not use payments from State or Federal benefits of a child in foster care, or any other assets or income that the child had earned, owned, or received, as reimbursement for the cost of care for the child. The DHHS could, after appropriate consultation with the child in foster care's parents or guardian ad litem, if one had been appointed, do either of the following if it determined that it was in the child's best interests:

- Use the child's State or Federal benefits for special needs services for the child that were not otherwise provided by the DHHS.
- Conserve the State or Federal benefits for reasonably foreseeable future special needs services for the child.

If the DHHS applied for State or Federal benefits for a child in foster care, the DHHS, in cooperation with the child's guardian ad litem if one had been appointed, would have to do either of the following:

- Provide information to assist payors of State or Federal benefits in identifying an appropriate representative payee or fiduciary in accordance with the requirements of Federal law.¹
- Serve as the representative payee, if designated by a payor of the State or Federal benefits, or a fiduciary for the child in foster care if payments could not be made as described above.

Consistent with Federal law, if the DHHS served as the representative payee or in any other fiduciary capacity for a child in foster care that received State or Federal benefits, the DHHS would have to do all the following until the DHHS no longer served as the representative payee or fiduciary:

- Conserve the State or Federal benefits in the child's best interests or use the benefits as authorized for special needs services for the child as described above.
- Subject to the DHHS' authorized uses of State or Federal benefits, appropriately monitor any State or Federal asset or resource limits for the benefits and ensure that the child's best interests were served by using or conserving the Federal benefits in a way that avoided violating any State or Federal asset or resource limits that would affect the child's eligibility to receive the benefits.
- Provide an annual accounting to the child and the child's guardian ad litem, if one had been appointed, of how the child's State or Federal benefits had been used or conserved in accordance with the bill's provisions.

The DHHS would have to immediately notify a child in foster care, through the child's guardian ad litem if one had been appointed, of any of the following:

- An application for State or Federal benefits made on the child's behalf or any application to become representative payee for Federal benefits on the child's behalf.
- A decision or communication from the State or Federal government regarding an application for benefits made on the child's behalf or any application to become representative payee for benefits on the child's behalf.
- An appeal or other action requested by the DHHS regarding an application for State or Federal benefits made on the child's behalf or any application to become representative payee for benefits on the child's behalf.

If the DHHS served as the representative payee or otherwise received unqualified benefits on behalf of a child in foster care, the DHHS would have to provide notice to the child, through the child's guardian ad litem if one had been appointed, of all the following before each permanency planning hearing regarding the child:

¹ Generally, 20 CFR 404.2021 and 416.621 establish categories and preferences for selecting a representative payee.

- The amount of State or Federal benefits received on the child's behalf since any previous notification to the child's guardian ad litem, if one had been appointed, and the date of each receipt.
- Information regarding the disposition of funds received on the child's behalf including an accounting of any funds disbursed or expended and the balance of any deposit or trust accounts.

Additionally, the DHHS would have to facilitate the transfer of any assets or income that the child had earned, owned, or received to the child when the child was discharged from foster care or reached the age of 18, whichever was sooner. The DHHS would have to assist the child in nominating a representative payee for consideration by a payor of State or Federal benefits, if applicable. If the child died while in foster care, the DHHS would have to facilitate the transfer of any of the child's assets or income to the child's heirs. If the child were discharged from foster care into the care of a parent, guardian, or conservator, the DHHS would have to facilitate the transfer of any assets or income to the child's parent, guardian, or conservator to be managed for the benefit of the child. The bill would specify that the DHHS' responsibilities described above would only apply to funds for which the DHHS was the payee or fiduciary.

As appropriate, the DHHS or the child in foster care's guardian ad litem, if one had been appointed, would have to file timely appeals to a denial, overpayment, or cessation of State or Federal benefits on behalf of a child in foster care. A transfer of assets could only be made in accordance with rules promulgated by the United States Social Security Administration. The bill would specify that the provisions described above would not affect any additional notice required by a State court.

Finally, the bill would require the DHHS to provide a child in foster care with financial literacy training if the child were at least 14 years old and able to receive the training.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.