

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 275

FINAL READING

Introduced by Hunt, 8; Conrad, 46.

Read first time January 15, 2025

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to state wards; to amend section 43-907,
- 2 Revised Statutes Cumulative Supplement, 2024; to require the
- 3 Department of Health and Human Services to screen children under its
- 4 charge for social security benefit eligibility; to require the
- 5 department to manage social security benefit payments for child
- 6 beneficiaries as prescribed; and to repeal the original section.
- 7 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Section 43-907, Revised Statutes Cumulative Supplement,
2 2024, is amended to read:

3 43-907 (1) Unless a guardian shall have been appointed by a court of
4 competent jurisdiction, the Department of Health and Human Services shall
5 take custody of, and exercise general control over, assets owned by
6 children under the charge of the department.

7 (2) Except as provided in subsections (3) through (7) of this
8 section:

9 (a) Children owning assets shall at all times pay for personal
10 items; -

11 (b) Assets over and above a maximum of one thousand dollars and
12 current income shall be available for reimbursement to the state for the
13 cost of care; -

14 (c) Assets may be deposited in a checking account, invested in
15 United States bonds, or deposited in a savings account insured by the
16 United States Government; -

17 (d) All income received from the investment or deposit of assets
18 shall be credited to the individual child whose assets are ~~were~~ invested
19 or deposited; and -

20 (e) The department shall make and maintain detailed records showing
21 all receipts, investments, and expenditures of assets owned by children
22 under the charge of the department.

23 (3)(a) The department shall screen each child under its charge for
24 social security benefit eligibility within sixty days after the date the
25 child enters its charge.

26 (b)(i) If the department determines that a child may be eligible for
27 social security benefits, it shall submit an application for such
28 benefits on behalf of the child and, if necessary and in the child's best
29 interest, appeal a denied application.

30 (ii) The department shall provide written notice to the child, using
31 age-appropriate language, the child's guardian ad litem, and the child's

1 parents, of all benefit eligibility determinations from the Social
2 Security Administration, including benefit approval, denial, and appeal
3 outcomes, within ten calendar days after the date the department is
4 notified of such eligibility determination.

5 (iii) If the child is approved to receive social security benefits,
6 within ten calendar days after the date the department is notified of the
7 approval, the department shall provide written notice to the child, using
8 age-appropriate language, the child's guardian ad litem, and the child's
9 parents, that adults known to the child may apply to be the child's
10 representative payee for the purposes of receiving social security
11 benefit payments.

12 (iv) If the department is appointed to serve as the child's
13 representative payee, within ten calendar days after the date the
14 department is notified of such appointment, the department shall provide
15 written notice to the child, using age-appropriate language, the child's
16 guardian ad litem, and the child's parents, of such appointment, the
17 child's and the child's parents' rights to appeal the appointment, and
18 the deadline for such appeals.

19 (4) {2} When the Department of Health and Human Services serves as
20 representative payee for a child beneficiary of social security benefits,
21 the department shall provide:

22 (a) ~~Written notice~~ Notice to the child beneficiary, using in an age-
23 appropriate language manner, and the child's guardian ad litem, and the
24 child's parents that the department is acting as the child's
25 representative payee for the purposes of receiving social security
26 benefit payments benefits, within thirty days after receiving the first
27 social security benefit payment on behalf of the child beneficiary. The
28 notice shall include the following information: ÷

29 (i) The department received the social security benefit payment and
30 the amount received;

31 (ii) The department has created a trust account to hold such benefit

1 payments;

2 (iii) Such benefit payments shall be used and conserved in
3 accordance with federal law and this section, and any unspent or
4 conserved funds shall be sent to the child beneficiary when the child
5 beneficiary leaves the department's charge;

6 (iv) The child beneficiary may request access to such benefit
7 payments for personal use through the department and the process for
8 submitting such a request;

9 (v) A child beneficiary fourteen years of age or older may request
10 through the juvenile court that such benefit payments be used or
11 conserved in a specified manner; and

12 (vi) The child beneficiary, the child's guardian ad litem, the
13 child's attorney, or the child's parents may request all accounting
14 records the department maintains relating to the child beneficiary's
15 social security benefit payments and the process for submitting such a
16 request;

17 (b) Written notice ~~Notice~~ to the juvenile court, at each every
18 review hearing for regarding the child beneficiary after January 1, 2023,
19 regarding the department's receipt and conservation of the child's social
20 security benefits, which that shall include:

21 (i) The total amount of social security benefit payment funds the
22 department has received on behalf of the child beneficiary as of the date
23 of the review hearing; and

24 (ii) The total amount of social security benefit payment funds
25 received on behalf of the child beneficiary that are currently conserved
26 or unspent as of the date of the review hearing; and

27 (iii) The total amount of social security benefit payment funds
28 spent on behalf of the child beneficiary as of the date of the review
29 hearing, including itemized expenditures since the previous review
30 hearing; and

31 (c) All accounting records regarding the department's receipt, use,

1 and conservation of the child's social security benefit payments
2 benefits, to the child beneficiary, the child's guardian ad litem or
3 attorney, or the child's parent upon:

4 (i) Request by ~~from~~ the child beneficiary, the child's guardian ad
5 litem or attorney, or the child's parent; and

6 (ii) Termination of the department's role as the child beneficiary's
7 representative payee.

8 (5) When the department serves as representative payee for a child
9 beneficiary of social security benefit payments, it shall:

10 (a) Manage, use, and conserve the social security benefit payments
11 consistent with federal law and this section, for the use and benefit of
12 the child beneficiary, and in the child beneficiary's best interest. This
13 includes conserving social security benefit payments for the child
14 beneficiary's reasonably foreseeable and if appropriate, expressed,
15 future needs;

16 (b) Hold all social security benefit payments received on behalf of
17 a child beneficiary separate and apart from the department's funds, and
18 except as provided in subdivision (5)(c) of this section, in a trust
19 account established and maintained for the child beneficiary;

20 (c) Manage such benefit payments in a manner that avoids exceeding
21 the federal social security asset and resource limits, including holding
22 benefit payments in the established trust account and in accounts and
23 programs not counted toward such limits, so as to conserve funds without
24 exceeding such limits. Such accounts and programs include, but are not
25 limited to, (i) a plan for achieving self-support as described in section
26 68-1007, (ii) an achieving a better life experience account as described
27 in sections 77-1401 to 77-1409, (iii) an individual development account
28 as described in 45 C.F.R. 263.20, (iv) a special-needs trust as defined
29 in section 30-4513, and (v) a dedicated account for social security back
30 payments;

31 (d) Conserve a minimum amount of social security benefit payments

1 received on behalf of a child beneficiary, which shall not be used to
2 reimburse the state for the cost of care, in the following percentages:
3 (i) For child beneficiaries fourteen years of age or older, no less than
4 twenty percent; (ii) for child beneficiaries sixteen years of age or
5 older, no less than thirty percent; (iii) for child beneficiaries
6 seventeen years of age or older, no less than forty percent; and (iv) for
7 child beneficiaries eighteen years of age or older, fifty percent; and

8 (e) Reimburse such funds with subsequent social security benefit
9 payments and such payments shall not be available to reimburse the
10 department for the child beneficiary's care if, pursuant to a request by
11 the child beneficiary, funds from social security payments are disbursed
12 from an established trust account or any other account or program
13 maintained by the department for the child beneficiary.

14 (6) If the department serves as representative payee for a child
15 beneficiary of social security benefits fourteen years of age or older,
16 such child beneficiary shall:

17 (a) Be consulted by the department no less than every six months
18 regarding the child beneficiary's current and reasonably foreseeable
19 future needs so that the child beneficiary's social security benefit
20 payments are spent and conserved in a manner that supports the child
21 beneficiary's needs and best interests;

22 (b) Have the right to request through the juvenile court, that the
23 child beneficiary's social security benefit payments be used or conserved
24 for current or reasonably foreseeable future needs in a manner that is
25 different from the department's use and conservation of such payments.
26 Such request shall be granted if it is determined to be in the best
27 interest of the child beneficiary;

28 (c) Be informed in writing, at least six months prior to exiting the
29 department's charge, of the process for continuing to receive social
30 security benefit payments, the applicable federal asset and resource
31 limits, and the process for using and conserving benefit payments to

1 comply with such limits, including funds in accounts and programs that do
2 not count toward such limits; and

3 (d) At least six months prior to exiting the department's charge,
4 have an application submitted on behalf of the child beneficiary, or
5 receive assistance in submitting an application, for renewed or new
6 social security benefits for which the child beneficiary may be eligible
7 if necessary for the child beneficiary to continue receiving benefits.

8 (7) When a child beneficiary exits the department's charge, the
9 department shall provide written notice to such child beneficiary using
10 age-appropriate language, and if applicable, the child's parents or
11 guardians, that:

12 (a) The child beneficiary has the right to receive unspent or
13 conserved social security benefit payments, the amount of unspent or
14 conserved benefits the child beneficiary is expected to receive, that
15 such payments will be disbursed from the Social Security Administration,
16 and contact information for the Social Security Administration; and

17 (b) The department is no longer acting as the child beneficiary's
18 representative payee and if the child beneficiary is younger than
19 eighteen years of age, an adult known to the child may apply to be a
20 representative payee through the Social Security Administration to ensure
21 continued receipt of the child's social security benefit payments.

22 (8) On or before October 1, 2026, the department shall create a
23 publicly available form for child beneficiaries under the department's
24 charge to request access to social security benefit payments for personal
25 use.

26 (9) ~~(3)~~ On or before October 1, 2026 2023, the Department of Health
27 and Human Services shall adopt and promulgate rules and regulations to
28 carry out subsections (2) through (8) ~~subsection (2)~~ of this section
29 consistent with federal requirements regarding representative payees for
30 social security beneficiaries.

31 (10) The department shall seek to maximize federal Title IV-E

1 funding prior to utilizing General Funds for costs associated with
2 implementation of this section.

3 **Sec. 2.** Original section 43-907, Revised Statutes Cumulative
4 Supplement, 2024, is repealed.