

# HB0302S03 compared with HB0302S02

~~{Omitted text}~~ shows text that was in HB0302S02 but was omitted in HB0302S03  
inserted text shows text that was not in HB0302S02 but was inserted into HB0302S03

**DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.**

1

Minors in State Custody Amendments  
2025 GENERAL SESSION  
STATE OF UTAH  
Chief Sponsor: Doug Fiefia  
Senate Sponsor:Todd Weiler

2

3LONG TITLE

4General Description:

5This bill addresses federal benefits for minors who are in the custody of the Department of

6Health and Human Services.

7Highlighted Provisions:

8This bill:

9▸ defines terms;

10▸ requires the Department of Health and Human Services (department) to apply for a Medicaid

waiver to ensure that minors in the custody of the department who receive federal benefits will maintain

resource-eligibility for Medicaid;

13▸ requires the department to evaluate whether a minor in the custody of the department is receiving

or is eligible to receive federal benefits;

15▸ provides that, as appropriate, the department shall apply for federal benefits on behalf of a minor

in the custody of the department, and may accept appointment as the representative payee for a minor's

federal benefits;

18▸

HB0302S02

## HB0302S02 compared with HB0302S03

provides accounting, reporting, and administrative requirements for the department concerning a federal benefit provided to a minor in the custody of the department;

▸ requires the department to offer financial literacy training for a minor who received a federal benefit while in the custody of the department, or for a successor representative payee;

▸ grants rulemaking authority to the department relating to the administration of federal benefits for minors in the custody of the department;

▸ requires the department to report annually to the Health and Human Services Interim Committee regarding federal benefits received on behalf of minors in the custody of the department; and

▸ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### ENACTS:

**26B-3-231** , Utah Code Annotated 1953 , Utah Code Annotated 1953

**80-2-504** , Utah Code Annotated 1953 , Utah Code Annotated 1953

---

*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **1** is enacted to read:

**26B-3-231. Medicaid waiver for minor beneficiaries.**

(1) As used in this section:

(a) "ABLE account" means the same as that term is defined in Section 80-2-504.

(b) "Federal benefit" means the same as that term is defined in Section 80-2-504.

(c) "Minor beneficiary" means the same as that term is defined in Section 80-2-504.

(d) "Qualified minor" means a minor beneficiary who is not eligible for an ABLE account or other account that would allow the funds in the account to be disregarded for the purpose of determining resource-eligibility for Medicaid.

(2) On or before January 1, 2026, the department shall apply for a Medicaid waiver or state plan amendment to:

(a) {~~allow the disqualification of~~} disregard a qualified minor's federal benefit for the purpose of determining resource-eligibility for Medicaid; or

## HB0302S02 compared with HB0302S03

(b) increase the resource-eligibility limit for qualified minors to an amount that would allow qualified minors to remain resource-eligible for Medicaid while also continuing to receive federal benefits.

Section 2. Section 2 is enacted to read:

**80-2-504. Definitions -- Federal benefits for minors in the custody of the department --  
Financial training -- Rulemaking -- Reporting.**

(1) As used in this section:

(a) "ABLE account" means an Achieving a Better Life Experience account.

(b) "Custody of the department" means the legal custody of the department.

(c) "Department" means the same as that term is defined in Section 80-1-102, or one of the department's divisions, offices, or institutions.

(d) "Federal benefit" means a benefit administered by the United States Social Security Administration, the United States Department of Veterans Affairs, or the United States Railroad Retirement Board.

(e) "Maintenance cost" means a payment to a foster parent, kin, or other caregiver for the costs of providing a minor with food, clothing, housing, daily supervision, personal incidentals, and transportation.

(f) "Minor beneficiary" means a minor:

(i) who is in the legal custody of the department; and

(ii) for whom the department receives or manages a federal benefit.

(g) "Representative payee" means a person appointed by a federal agency to manage a benefit the federal agency provides to a minor.

(2)

(a) Within 60 days after a minor is placed in the custody of the department, the department shall determine whether the minor is receiving or may be eligible for any federal benefit.

(b) If the department determines that a minor in the custody of the department is eligible or may be eligible for a federal benefit, the department shall apply for the benefit on the minor's behalf.

(c) After any material change in the circumstances of a minor in the custody of the department that could affect the minor's potential eligibility for federal benefits, the department shall reevaluate whether the minor may be eligible for any federal benefit and, if the department determines that the minor is eligible or may be eligible for a federal benefit, the department shall apply for the benefit on the minor's behalf.

(3)

## HB0302S02 compared with HB0302S03

(a) The department shall apply to become and may accept an appointment to serve as the representative payee for a minor in the custody of the department.

87 (b) For a minor beneficiary in the custody of the department for whom the department has been appointed as the representative payee, the department shall annually review whether it is in the best interest of the minor beneficiary for someone other than the department to apply to assume the role of representative payee.

91 (4)

(a) The department shall establish a separate account for each minor beneficiary into which the minor beneficiary's benefit shall be deposited.

93 (b) Unless good cause, as defined in rules adopted in accordance with Subsection (6), exists to use a different type of account, if a minor beneficiary is eligible for an ABLE account the department shall use an ABLE account as the account into which the minor beneficiary's benefit shall be deposited.

97 (c) If good cause exists to not use an ABLE account for a minor beneficiary, or if a minor beneficiary is not eligible for an ABLE account, the department shall determine and use the type of account that will best preserve the minor beneficiary's benefit, which may include:

101 (i) a 529 savings account, as that term is defined in Section 35A-9-601;

102 (ii) a special needs trust; or

103 (iii) another type of tax-advantaged account that the department can administer in compliance with the requirements described in Subsection (4)(d).

105 (d) The department shall administer each minor beneficiary's account:

106 (i) in the best interest of the minor beneficiary for whom the account is established;

107 (ii) in accordance with the provisions of this section;

108 (iii) consistent with the department's fiduciary duties; and

109 (iv) in a manner that does not interfere with asset limitations for any state or federal benefit program for which the minor beneficiary is or may be eligible.

111 (e) As permitted by, and unless otherwise required by the source of the benefit:

112 (i) the department may expend up to {50} ~~50~~ 75% of a federal benefit deposited into a minor beneficiary's account established pursuant to Subsection (4)(a) for maintenance costs; and

115 (ii) the department shall conserve or invest the balance of a minor beneficiary's federal benefit that is not expended for maintenance costs.

## HB0302S02 compared with HB0302S03

- 117 {~~(f)~~ {~~The department shall pay maintenance costs that are not covered by expenditures permitted under~~  
Subsection (4)(e)(i) with the department's existing budgets.}}
- 119 {(g)} (f) The department shall provide an annual statement to each minor beneficiary and the minor  
beneficiary's guardian ad litem, if applicable, detailing each receipt and disbursement involving  
funds deposited on the minor beneficiary's behalf.
- 122 (5)
- (a) Unless otherwise directed by the source of the benefit, the department shall transfer a minor  
beneficiary's account to the minor, the minor's parent or guardian, a successor payee, or otherwise as  
required by the source of the balance, when the department's custody over the minor is terminated.
- 126 (b) When transferring an account pursuant to Subsection (5)(a), the department shall seek to and take all  
necessary steps to transfer the minor beneficiary's account directly to the minor, the minor's parent  
or guardian, including requesting any necessary authorization for the direct transfer from the source  
of the benefit.
- 130 (c) At the time the department transfers the minor beneficiary's account pursuant to Subsection (5)(a),  
the department shall offer financial literacy training to the minor or the successor payee.
- 133 (d) The department may work with other state agencies, departments, or offices to provide the training  
described in Subsection (5)(c).
- 135 (6) The department shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative  
Rulemaking Act, to implement the requirements of this section and to provide for the accounting  
and protection of federal benefits for minor beneficiaries in the division's custody, including:
- 139 (a) criteria for the preservation and disbursement of a minor beneficiary's federal benefits;
- 141 (b) defining what constitutes good cause for the use of an account other than an ABLE account, as  
described in Subsection (4)(b);
- 143 (c) safeguards to prevent the mismanagement of and protect against theft, loss, or misappropriation of  
minor beneficiary's federal benefits; and
- 145 (d) policies and procedures to ensure compliance with federal regulations.
- 146 (7) On or before September 1 each year, the department shall provide a report to the Health and Human  
Services Interim Committee that includes, for the preceding fiscal year:
- 148 (a) the number of minor beneficiaries in the custody of the department who received federal benefits;
- 150 (b) the types of federal benefits received by minor beneficiaries in the custody of the department;
- 152

## HB0302S02 compared with HB0302S03

(c) a description of the department's policies or procedures for managing minor beneficiaries' federal benefits in accordance with the requirements of this section; and

154 (d) the total amount of federal benefits received and expended on behalf of minor beneficiaries in the custody of the department.

154 Section 3. **Effective date.**

This bill takes effect on {~~May 7,~~ July 1, 2025.

2-28-25 11:08 AM