

Minors in State Custody Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Doug Fiefia

Senate Sponsor:

LONG TITLE**General Description:**

This bill addresses the use of federal benefits for minors in the custody of the Department of Health and Human Services.

Highlighted Provisions:

This bill:

- modifies the percentage of a minor's federal benefit that the department may use.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

80-2-504, as enacted by Laws of Utah 2025, Chapter 110

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

Section 1. Section **80-2-504** is amended 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 program 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)(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.

(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.

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

(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.

(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:

- 65 (i) a 529 savings account, as that term is defined in Section 35A-9-601;
66 (ii) a special needs trust; or
67 (iii) another type of tax-advantaged account that the department can administer in
68 compliance with the requirements described in Subsection (4)(d).
- 69 (d) The department shall administer each minor beneficiary's account:
70 (i) in the best interest of the minor beneficiary for whom the account is established;
71 (ii) in accordance with the provisions of this section;
72 (iii) consistent with the department's fiduciary duties; and
73 (iv) in a manner that does not interfere with asset limitations for any state or federal
74 benefit program for which the minor beneficiary is or may be eligible.
- 75 (e) As permitted by, and unless otherwise required by the source of the benefit:
76 (i) the department may expend up to ~~[75%]~~ 25% of a federal benefit deposited into a
77 minor beneficiary's account established ~~[pursuant to]~~ in accordance with
78 Subsection (4)(a) for maintenance costs; and
79 (ii) the department shall conserve or invest the balance of a minor beneficiary's
80 federal benefit that is not expended for maintenance costs.
- 81 (f) The department shall provide an annual statement to each minor beneficiary and the
82 minor beneficiary's guardian ad litem, if applicable, detailing each receipt and
83 disbursement involving funds deposited on the minor beneficiary's behalf.
- 84 (5)(a) Unless otherwise directed by the source of the benefit, the department shall
85 transfer a minor beneficiary's account to the minor, the minor's parent or guardian, a
86 successor payee, or otherwise as required by the source of the balance, when the
87 department's custody over the minor is terminated.
- 88 (b) When transferring an account ~~[pursuant to]~~ in accordance with Subsection (5)(a), the
89 department shall seek to and take all necessary steps to transfer the minor
90 beneficiary's account directly to the minor, the minor's parent or guardian, including
91 requesting any necessary authorization for the direct transfer from the source of the
92 benefit.
- 93 (c) At the time the department transfers the minor beneficiary's account ~~[pursuant to]~~ in
94 accordance with Subsection (5)(a), the department shall offer financial literacy
95 training to the minor or the successor payee.
- 96 (d) The department may work with other state agencies, departments, or offices to
97 provide the training described in Subsection (5)(c).
- 98 (6) The department shall make rules in accordance with Title 63G, Chapter 3, Utah

99 Administrative Rulemaking Act, to implement the requirements of this section and to
100 provide for the accounting and protection of federal benefits for minor beneficiaries in
101 the division's custody, including:

- 102 (a) criteria for the preservation and disbursement of a minor beneficiary's federal
103 benefits;
- 104 (b) defining what constitutes good cause for the use of an account other than an ABLE
105 account, as described in Subsection (4)(b);
- 106 (c) safeguards to prevent the mismanagement of and protect against theft, loss, or
107 misappropriation of minor beneficiary's federal benefits; and
- 108 (d) policies and procedures to ensure compliance with federal regulations.

109 (7) On or before September 1 each year, the department shall provide a report to the Health
110 and Human Services Interim Committee that includes, for the preceding fiscal year:

- 111 (a) the number of minor beneficiaries in the custody of the department who received
112 federal benefits;
- 113 (b) the types of federal benefits received by minor beneficiaries in the custody of the
114 department;
- 115 (c) a description of the department's policies or procedures for managing minor
116 beneficiaries' federal benefits in accordance with the requirements of this section; and
- 117 (d) the total amount of federal benefits received and expended on behalf of minor
118 beneficiaries in the custody of the department.

119 Section 2. **Effective Date.**

120 This bill takes effect on May 6, 2026.