

CHAPTER 275

CHILDREN AND DOMESTIC MATTERS

HOUSE BILL 26-1347

BY REPRESENTATIVE(S) Gilchrist and Brown, Camacho, Clifford, Froelich, Stewart R., Willford, Bacon, Boesenecker, Bradley, Carter, Duran, English, Jackson, Joseph, Keltie, Lieder, Lindsay, McCormick, Nguyen, Phillips, Ricks, Rutinel, Sirota, Smith, Stewart K., Story, Weinberg, McCluskie;
also SENATOR(S) Daugherty and Ball, Amabile, Benavidez, Cutter, Exum, Gonzales J., Jodeh, Kipp, Lindstedt, Wallace, Weissman, Coleman.

AN ACT**CONCERNING CHANGING PRACTICES RELATED TO FEDERAL BENEFITS FOR YOUTH IN FOSTER CARE.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 19-7-105, **amend** (1)(b) introductory portion, (2), (3)(b), (3)(c), (3)(d), (3)(e), (3)(f), (4), (5)(a) introductory portion, (5)(a)(III), (5)(b), (6)(a)(I), (6)(a)(II), (6)(a)(III), (8) introductory portion, (8)(b), (8)(c), (8)(h), and (9); and **add** (1)(d), (3)(a.5), (3)(c.5), (5)(a)(II.5), and (8)(a.5) as follows:

19-7-105. Federal benefits for children and youth in foster care - rules - legislative intent - legislative declaration - definitions.

(1) (b) The general assembly further declares its intent to ensure that ALL federal benefits, INCLUDING SURVIVOR BENEFITS AND DISABILITY BENEFITS, provided to children or youth in foster care are set aside specifically for the use of individual children or youth in foster care, thereby:

(d) WITH RESPECT TO FEDERAL SUPPLEMENTAL SECURITY INCOME BENEFITS FOR WHICH A CHILD OR YOUTH MAY QUALIFY BASED ON DISABILITY, IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT:

(I) ALL CHILDREN AND YOUTH ENTERING THE FOSTER CARE SYSTEM BE SCREENED FOR POTENTIAL ELIGIBILITY FOR FEDERAL BENEFITS, INCLUDING FEDERAL SUPPLEMENTAL SECURITY INCOME;

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(II) TRANSPARENCY REGARDING HOW FEDERAL SUPPLEMENTAL SECURITY INCOME IS BEING SPENT AND MANAGED ON BEHALF OF CHILDREN AND YOUTH IN THE FOSTER CARE SYSTEM BE INCREASED; AND

(III) WITH SUPPORT FROM THE STATE DEPARTMENT, COUNTY DEPARTMENTS IMPROVE THEIR CAPACITY AND CAPITALIZE ON COMMUNITY RESOURCES TO APPLY FOR AND MANAGE FEDERAL SUPPLEMENTAL SECURITY INCOME ON BEHALF OF CHILDREN AND YOUTH IN THE FOSTER CARE SYSTEM.

(2) As used in this section, unless the context otherwise requires:

(a) "COST OF CARE" HAS THE MEANING SET FORTH IN SECTION 19-1-103.

(b) "FEDERAL SUPPLEMENTAL SECURITY INCOME" MEANS BENEFITS AUTHORIZED PURSUANT TO TITLE XVI OF THE FEDERAL "SOCIAL SECURITY ACT", 42 U.S.C. SEC. 1381 ET SEQ.

(c) "Federal survivor benefits" means survivor benefits that are administered by the United States social security administration, veterans benefits administration, or the railroad retirement board and that are based on the eligibility of an insured parent.

(d) "Interested party" means a child or youth; the child's or youth's counsel for youth; a parent and the parent's counsel, unless parental rights have been terminated or there is a court order restricting access; the individual with whom the child or youth is currently placed; the guardian ad litem; or other party who may have information about the child's or youth's eligibility for or receipt of federal survivor benefits or federal supplemental security income.

(3)(a.5)(I) BEGINNING ON OR BEFORE JULY 1, 2028, IF THE COUNTY DEPARTMENT IS GRANTED CUSTODY OF OR AUTHORITY FOR OUT-OF-HOME PLACEMENT OF A CHILD OR YOUTH WHO IS UNDER SIX YEARS OLD, THE COUNTY DEPARTMENT SHALL REFER THE CHILD OR YOUTH TO THE APPROPRIATE STATE OR LOCAL AGENCY FOR DEVELOPMENTAL SCREENING WITHIN FORTY-FIVE DAYS AFTER THE CHILD'S OR YOUTH'S OUT-OF-HOME PLACEMENT. IF THE CHILD OR YOUTH IS SIX YEARS OLD OR OLDER, THE INITIAL MEDICAL INTAKE MUST INCLUDE AN EVALUATION OF THE CHILD'S OR YOUTH'S POTENTIAL GROWTH OR DEVELOPMENT ISSUES, PHYSICAL OR BEHAVIORAL HEALTH ISSUES, AND OTHER FACTORS OR CONDITIONS RELEVANT TO WHETHER THE CHILD OR YOUTH MEETS THE REQUIREMENTS FOR FEDERAL SUPPLEMENTAL SECURITY INCOME.

(II) IF THE COUNTY DEPARTMENT DETERMINES THAT A CHILD OR YOUTH MAY BE ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME AND THE UNITED STATES SOCIAL SECURITY ADMINISTRATION IS ACCEPTING APPLICATIONS FOR FEDERAL SUPPLEMENTAL SECURITY INCOME, THE COUNTY DEPARTMENT SHALL INITIATE THE APPLICATION PROCESS PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION WITHIN FORTY-FIVE DAYS AFTER RECEIVING:

(A) THE INFORMATION FROM A SCREENING DESCRIBED IN SUBSECTION (3)(a.5)(I) OF THIS SECTION THAT THE COUNTY DEPARTMENT USED TO DETERMINE THE CHILD

OR YOUTH MAY BE ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME; AND

(B) THE DOCUMENTATION NECESSARY TO COMPLETE AN APPLICATION FOR FEDERAL SUPPLEMENTAL SECURITY INCOME ON BEHALF OF THE CHILD OR YOUTH.

(III) WHEN A CHILD IS ENROLLED IN THE CHILDREN'S HABILITATION RESIDENTIAL PROGRAM WAIVER ESTABLISHED PURSUANT TO SECTION 25.5-6-903 (4), THE COUNTY DEPARTMENT SHALL APPLY FOR FEDERAL SUPPLEMENTAL SECURITY INCOME ON BEHALF OF THE CHILD IF AN APPLICATION FOR FEDERAL SUPPLEMENTAL SECURITY INCOME HAS NOT ALREADY BEEN SUBMITTED ON THE CHILD'S BEHALF OR THE CHILD HAS COUNTABLE RESOURCES THAT EXCEED THE THRESHOLD ESTABLISHED BY THE UNITED STATES SOCIAL SECURITY ADMINISTRATION.

(b) Beginning on or before July 1, 2027, if a county department makes an initial determination that the child or youth is not likely to be eligible for federal survivor benefits OR, BEGINNING ON OR BEFORE JULY 1, 2028, IF A COUNTY DEPARTMENT MAKES AN INITIAL DETERMINATION THAT THE CHILD OR YOUTH IS NOT LIKELY TO BE ELIGIBLE FOR FEDERAL SUPPLEMENTAL SECURITY INCOME, the county department shall ~~annually~~ review the case of the child or youth WHEN THE COUNTY DEPARTMENT RECEIVES NEW, RELEVANT INFORMATION, BUT AT LEAST ANNUALLY AS PART OF THE CHILD'S OR YOUTH'S ANNUAL MEDICAL EXAM, to determine whether circumstances have changed to make the child or youth POTENTIALLY eligible for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME.

(c) In conducting an initial benefit eligibility determination or an annual review pursuant to this subsection (3), the county department shall consult with interested parties as necessary to assess the child's or youth's eligibility for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME and to determine, in accordance with applicable federal law, the most likely, appropriate representative payee or fiduciary.

(c.5) (I) THE COUNTY DEPARTMENT MUST DOCUMENT WHY A CHILD OR YOUTH IS NOT REASONABLY EXPECTED TO MEET THE ELIGIBILITY CRITERIA FOR FEDERAL SUPPLEMENTAL SECURITY INCOME IF:

(A) THE COUNTY DEPARTMENT MAKES AN INITIAL OR SUBSEQUENT DETERMINATION PURSUANT TO THIS SUBSECTION (3) THAT THE CHILD OR YOUTH IS NOT LIKELY TO BE ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME; AND

(B) THE COUNTY DEPARTMENT IDENTIFIES A CHILD OR YOUTH AS HAVING A DISABILITY FOR THE PURPOSES OF COMPLIANCE WITH APPLICABLE STATE OR FEDERAL REPORTING REQUIREMENTS, INCLUDING REPORTING REQUIRED PURSUANT TO SECTION 26-5-119 OR 45 CFR 1355.44.

(II) IF THE COUNTY DEPARTMENT MAKES AN INITIAL OR SUBSEQUENT DETERMINATION PURSUANT TO THIS SUBSECTION (3) THAT A CHILD OR YOUTH IS LIKELY TO BE ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME, THE COUNTY DEPARTMENT MUST IDENTIFY THE CHILD OR YOUTH AS HAVING A DISABILITY FOR THE PURPOSES OF COMPLIANCE WITH APPLICABLE STATE OR FEDERAL

REPORTING REQUIREMENTS, INCLUDING REPORTING REQUIRED PURSUANT TO SECTION 26-5-119 OR 45 CFR 1355.44.

(d) If the county department determines that the child or youth may be eligible to receive federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME and that the county department is, CONSISTENT WITH THE PREFERRED REPRESENTATIVE PAYEE ORDER OF SELECTION IN FEDERAL LAW OR RULE, the most appropriate representative payee or fiduciary, then the county department shall, in compliance with all applicable federal rules and regulations, apply for the federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME on behalf of the child or youth. If the county department determines that the child or youth may be eligible for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME but that the county department is not the most appropriate representative payee or fiduciary, the county department shall provide information to the prospective representative payee or fiduciary that the county department has identified about how to apply for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME on behalf of the child or youth and how to become the child's or youth's representative payee or fiduciary.

(e) Following a denial of federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME or other adverse benefit eligibility determination, the county department shall consult with interested parties and determine whether there are grounds to appeal. If there are grounds to appeal AND THE COUNTY DEPARTMENT WAS THE ORIGINAL APPLICANT, the county department shall appeal the denial or adverse determination.

(f) If a child or youth in noncertified kinship care may be eligible for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME, the county department shall provide the noncertified kinship caregiver with information about how to apply for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME on behalf of the child or youth.

(4) If the county department becomes the representative payee or fiduciary for a child's or youth's federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME, the county department shall annually reassess, in consultation with interested parties, whether a candidate other than the county department would be a preferable representative payee or fiduciary. IF LEGAL CUSTODY OF THE CHILD OR YOUTH IS TRANSFERRING FROM THE COUNTY DEPARTMENT TO ANOTHER INDIVIDUAL, THE COUNTY DEPARTMENT SHALL REASSESS, IN CONSULTATION WITH INTERESTED PARTIES, THE DESIGNATION OF THE REPRESENTATIVE PAYEE OR FIDUCIARY. A DECISION REGARDING THE MOST APPROPRIATE REPRESENTATIVE PAYEE OR FIDUCIARY MUST BE CONSISTENT WITH THE PREFERRED REPRESENTATIVE PAYEE ORDER OF SELECTION IN FEDERAL LAW OR RULE.

(5) (a) Beginning on or before July 1, 2027, IN THE CASE OF FEDERAL SURVIVOR BENEFITS, AND BEGINNING ON OR BEFORE JULY 1, 2028, IN THE CASE OF FEDERAL SUPPLEMENTAL SECURITY INCOME, if a county department is the representative payee or fiduciary for a child or youth, the county department shall:

(II.5) IF A CHILD OR YOUTH IS RECEIVING FEDERAL SUPPLEMENTAL SECURITY INCOME, DOCUMENT IN THE STATE AUTOMATED CASE MANAGEMENT SYSTEM ALL

EXPENDITURES, INCLUDING, BUT NOT LIMITED TO, EXPENDITURES FROM FEDERAL SUPPLEMENTAL SECURITY INCOME, MADE ON BEHALF OF THE CHILD OR YOUTH BY NEED TYPE AND FUNDING SOURCE. IF THE COUNTY DEPARTMENT IS THE REPRESENTATIVE PAYEE OR FIDUCIARY, THE COUNTY DEPARTMENT MUST COMPLY WITH FEDERAL LAW AND RULES REGARDING MEETING WITH THE CHILD OR YOUTH AND INTERESTED PARTIES TO DETERMINE THE CHILD'S OR YOUTH'S REASONABLE AND FORESEEABLE NEEDS.

(III) Provide an annual accounting of the accumulation of the child's or youth's federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME to the child or youth and the legal representative of the child or youth. IF THE CHILD OR YOUTH RECEIVES FEDERAL SUPPLEMENTAL SECURITY INCOME, THE COUNTY DEPARTMENT SHALL PROVIDE THE CHILD OR YOUTH AND THE LEGAL REPRESENTATIVE OF THE CHILD OR YOUTH WITH AN ANNUAL ACCOUNTING OF THE EXPENDITURES DOCUMENTED PURSUANT TO SUBSECTION (5)(a)(II.5) OF THIS SECTION. COUNTY DEPARTMENT PERSONNEL SHALL ANNUALLY SHARE THE ACCOUNTING INFORMATION WITH THE CHILD OR YOUTH AND THE LEGAL REPRESENTATIVE OF THE CHILD OR YOUTH. The annual accounting information must include:

(A) The amount and source of federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME collected by the county department and, IF APPLICABLE, THE AMOUNT credited to ~~the~~ EACH account maintained on behalf of the child or youth;

(B) The balance of ~~the~~ EACH account maintained on behalf of the child or youth; ~~and~~

(C) Information regarding the child's or youth's accounts and earnings related to those accounts, if applicable, and any additional assets and resources, including benefits, insurance, cash assets, trust accounts, and earnings, if the assets or resources are controlled by the county department; AND

(D) FOR A CHILD OR YOUTH RECEIVING FEDERAL SUPPLEMENTAL SECURITY INCOME, INFORMATION ABOUT THE EXPENDITURES MADE ON BEHALF OF THE CHILD OR YOUTH BY NEED TYPE AND FUNDING SOURCE.

(b) If a county department is not the representative payee or fiduciary for a child's or youth's federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME, the county department is not responsible for establishing or maintaining an account for deposit of the federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME of the child or youth or providing related accounting information pursuant to subsection (5)(a) of this section.

(6) (a) The county department shall provide timely, developmentally appropriate notice to the parties, unless prevented by a court order, of:

(I) Submission of an application for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME on behalf of a child or youth;

(II) Submission of a request for the county department to become the representative payee or fiduciary for the child's or youth's federal survivor benefits

OR FEDERAL SUPPLEMENTAL SECURITY INCOME and identification of the representative payee or fiduciary ultimately selected;

(III) Receipt by the county department of a federal agency's decision regarding federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME, including denial, termination, or reduction of federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME;

(8) On or before January 1, 2027, IN THE CASE OF FEDERAL SURVIVOR BENEFITS, AND BEGINNING ON OR BEFORE JANUARY 1, 2028, IN THE CASE OF FEDERAL SUPPLEMENTAL SECURITY INCOME, the STATE department, ~~of human services~~, in consultation with interested stakeholders, including, but not limited to, county departments, organizations that advocate on behalf of youth in foster care, organizations that represent court-appointed special advocates, organizations that advocate on behalf of disability rights, the office of respondent parents' counsel, and the office of the child's representative, shall adopt rules consistent with applicable state and federal law for the implementation of this section. The rules must include guidance to the county departments on:

(a.5) SCREENING PROCESSES FOR IDENTIFYING WHETHER A CHILD OR YOUTH IS ALREADY RECEIVING FEDERAL SUPPLEMENTAL SECURITY INCOME OR MAY BE ELIGIBLE TO RECEIVE FEDERAL SUPPLEMENTAL SECURITY INCOME AND SCREENING PROCESSES FOR SUBSEQUENT ANNUAL ELIGIBILITY REVIEWS.

(b) Best practices for consulting with the child or youth or other interested parties who may have information about the child's or youth's receipt of or eligibility for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME;

(c) The application process for federal survivor benefits OR FEDERAL SUPPLEMENTAL SECURITY INCOME for each child or youth, who, pursuant to screening, is likely to be determined eligible; ~~for federal survivor benefits~~;

(h) Specifications for providing required notices regarding federal survivor benefit OR FEDERAL SUPPLEMENTAL SECURITY INCOME applications, applications for a county department to become a representative payee or fiduciary, receipt of decisions regarding ~~federal survivor benefit~~ eligibility, appeals of denials, and establishment of accounts; and

(9) (a) The department of human services shall provide ONGOING technical assistance and guidance to the county departments about how the county departments: ~~shall address saving federal survivor benefits in the best interests of a child or youth~~.

(I) APPLY FOR FEDERAL SURVIVOR BENEFITS OR FEDERAL SUPPLEMENTAL SECURITY INCOME ON BEHALF OF A CHILD OR YOUTH;

(II) STREAMLINE DISABILITY SCREENING PROCESSES TO ENSURE THAT COUNTY DEPARTMENTS ACCURATELY IDENTIFY A CHILD OR YOUTH WITH A DISABILITY IN ACCORDANCE WITH STATE AND FEDERAL REPORTING REQUIREMENTS AND ELIGIBILITY REQUIREMENTS FOR STATE MEDICAL ASSISTANCE PROGRAM WAIVERS AND FEDERAL SUPPLEMENTAL SECURITY INCOME;

(III) CAPITALIZE ON COMMUNITY RESOURCES, INCLUDING BENEFIT PLANNERS, IN FEDERAL SUPPLEMENTAL SECURITY INCOME APPLICATION, BENEFIT MANAGEMENT, AND PLANNING ON BEHALF OF A CHILD OR YOUTH;

(IV) MINIMIZE COUNTY DEPARTMENT RISK IN ESTABLISHING AND MAINTAINING AN ACCOUNT ON BEHALF OF A CHILD OR YOUTH PURSUANT TO THIS ARTICLE 7; AND

(V) ADDRESS SAVING FEDERAL SURVIVOR BENEFITS IN THE BEST INTERESTS OF A CHILD OR YOUTH.

(b) IN PROVIDING THE TECHNICAL ASSISTANCE AND GUIDANCE REQUIRED PURSUANT TO THIS SUBSECTION (9), THE STATE DEPARTMENT SHALL MAXIMIZE EFFICIENCIES BY COORDINATING STAFF SUPPORT FOR BOTH FEDERAL SURVIVOR BENEFITS AND FEDERAL SUPPLEMENTAL SECURITY INCOME OBTAINED PURSUANT TO THIS SECTION.

SECTION 2. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 12, 2026, if adjournment sine die is on May 13, 2026); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 1, 2026