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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2467

03/02/2023 Authored by Hanson, J.; Norris and Lillie
The bill was read for the first time and referred to the Committee on Children and Families Finance and Policy

1.1 A bill for an act
1.2 relating to human services; establishing a trust for current and recent foster children
1.3 receiving benefits and other income; requiring a report; appropriating money;
1.4 amending Minnesota Statutes 2022, section 256N.26, subdivision 12; proposing
1.5 coding for new law in Minnesota Statutes, chapter 256N.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2022, section 256N.26, subdivision 12, is amended to read:

1.8 Subd. 12. Treatment of Supplemental Security Income. If a child placed in foster
1.9 care receives benefits through Supplemental Security Income (SSI) at the time of foster
1.10 care placement or subsequent to placement in foster care, the financially responsible agency
1.11 may apply to be the payee for the child for the duration of the child's placement in foster
1.12 care. If a child continues to be eligible for SSI Supplemental Security Income benefits after
1.13 finalization of the adoption or transfer of permanent legal and physical custody and is
1.14 determined to be eligible for a payment under Northstar Care for Children, a permanent
1.15 caregiver may choose to receive payment from both programs simultaneously. The permanent
1.16 caregiver is responsible to report the amount of the payment to the Social Security
1.17 Administration and the SSI Supplemental Security Income payment will be reduced as
1.18 required by the Social Security Administration.

1.19 Sec. 2. [256N.262] FOSTER CHILDREN BENEFITS TRUST.

1.20 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.21 the meanings given.

1.22 (b) "Beneficiary" means a current or former child in foster care who is or was entitled
1.23 to cash benefits.

2.1 (c) "Cash benefits" means all sources of income a child in foster care is entitled to,
2.2 including death benefits; survivor benefits; crime victim impact payments; federal cash
2.3 benefits from programs administered by the Social Security Administration, including from
2.4 the Supplemental Security Income and the Retirement, Survivors, Disability Insurance
2.5 programs; and any other eligible income as determined by the Office of the Foster Youth
2.6 Ombudsperson.

2.7 Subd. 2. **Establishment.** (a) The foster children benefits trust is established. The trust
2.8 must be funded by appropriations to the Office of the Foster Youth Ombudsperson to
2.9 compensate beneficiaries for cash benefits taken by a financially responsible agency to pay
2.10 for the beneficiaries' care. The trust must be managed to ensure the stability and growth of
2.11 the trust.

2.12 (b) All assets of the trust are held in trust for the exclusive benefit of beneficiaries. Assets
2.13 must be held in a separate account in the state treasury to be known as the foster children
2.14 benefits trust account or in accounts with the third-party provider selected pursuant to
2.15 subdivision 9.

2.16 Subd. 3. **Requirements of financially responsible agencies.** (a) A financially responsible
2.17 agency must assess whether each child the agency is responsible for is eligible to receive
2.18 any cash benefits as soon as the custody of the child is transferred to a child placing agency
2.19 or responsible social services agency pursuant to section 260C.201, subdivision 1, or the
2.20 child is otherwise transferred to the state.

2.21 (b) If a child placed in foster care is eligible to receive cash benefits, the financially
2.22 responsible agency must:

2.23 (1) apply to be the payee for the child for the duration of the child's placement in foster
2.24 care;

2.25 (2) no less frequently than annually, notify the Office of the Foster Youth Ombudsperson
2.26 of all cash benefits received for each beneficiary along with documentation identifying the
2.27 beneficiary and amounts received for the child;

2.28 (3) notify each beneficiary above the age of 18 that the beneficiary may be entitled to
2.29 disbursements pursuant to the foster children benefits trust and inform the child how to
2.30 contact the commissioner of human services about the trust; and

2.31 (4) retain all documentation related to cash benefits received for a beneficiary for at least
2.32 five years after the agency is no longer the beneficiary's financially responsible agency.

3.1 (c) The financially responsible agency is liable to a beneficiary for any benefit payment
3.2 that the agency receives as payee for a beneficiary and that is not included in the
3.3 documentation sent to the Office of the Foster Youth Ombudsperson as required by this
3.4 subdivision.

3.5 Subd. 4. **Deposits.** The Office of the Foster Youth Ombudsperson shall deposit an amount
3.6 equal to the cash benefits received by a financially responsible agency in a separate account
3.7 for each beneficiary.

3.8 Subd. 5. **Ombudsperson's duties.** (a) The Office of the Foster Youth Ombudsperson
3.9 shall keep a record of the amounts deposited pursuant to subdivision 4 and all disbursements
3.10 for each beneficiary's account.

3.11 (b) The Office of the Foster Youth Ombudsperson shall determine annually the annual
3.12 interest earnings of the trust, which include realized capital gains and losses.

3.13 (c) The Office of the Foster Youth Ombudsperson shall apportion any annual capital
3.14 gains earnings to the separate beneficiaries' accounts. The rate to be used in this
3.15 apportionment, computed to the last full quarter percent, must be determined by dividing
3.16 the capital gains earnings by the total invested assets of the trust.

3.17 (d) For each beneficiary between the ages of 14 and 18, the Office of the Foster Youth
3.18 Ombudsperson must notify the beneficiary of the amount of cash benefits received on the
3.19 beneficiary's behalf in the prior calendar year and the tax implications of those benefits by
3.20 February 1 each year.

3.21 (e) Account owner data, account data, and data on beneficiaries of accounts are private
3.22 data on individuals or nonpublic data as defined in section 13.02.

3.23 Subd. 6. **Account protections.** (a) Trust assets are not subject to claims by creditors of
3.24 the state, are not part of the general fund, and are not subject to appropriation by the state.

3.25 (b) Trust assets may not be used as collateral, as a part of a structured settlement, or in
3.26 any way contracted to be paid to anyone who is not the beneficiary.

3.27 (c) Trust assets are not subject to seizure or garnishment as assets or income of the
3.28 beneficiary.

3.29 Subd. 7. **Reports.** (a) By December 1, 2024, the Office of the Foster Youth
3.30 Ombudsperson shall submit a report to the legislative committees with jurisdiction over
3.31 human services on the potential tax and state and federal benefit impacts of the trust and
3.32 disbursements on beneficiaries and include recommendations on how best to minimize any
3.33 increased tax burden or benefit reduction due to the trust.

4.1 (b) By December 1 of each year, the Office of the Foster Youth Ombudsperson shall
4.2 submit a report to the legislative committees with jurisdiction over foster youth on the cost
4.3 of depositing into the trust pursuant to subdivision 4 and a projection for future costs.

4.4 Subd. 8. **Disbursements.** (a) Once a beneficiary has reached 18 years of age, the Office
4.5 of the Foster Youth Ombudsperson shall disburse \$10,000 or the total amount remaining
4.6 in the beneficiary's account, whichever is greater, every year to the beneficiary until the
4.7 beneficiary's account is depleted.

4.8 (b) With each disbursement, the Office of the Foster Youth Ombudsperson shall include
4.9 information about the potential tax and benefits consequences of the disbursement.

4.10 (c) On petition of a minor beneficiary who is 14 years of age or older, a court may order
4.11 the Office of the Foster Youth Ombudsperson to deliver or pay to the beneficiary or expend
4.12 for the beneficiary's benefit the amount of the beneficiary's trust account as the court
4.13 considers advisable for the use and benefit of the beneficiary.

4.14 Subd. 9. **Administration.** The Office of the Foster Youth Ombudsperson shall administer
4.15 the program pursuant to this section. The Office of the Foster Youth Ombudsperson may
4.16 contract with one or more third parties to carry out some or all of these administrative duties,
4.17 including managing the assets of the trust and ensuring that records are maintained.

4.18 Subd. 10. **Repayment program.** (a) No later than January 1, 2025, the Office of the
4.19 Foster Youth Ombudsperson must identify every person for whom a financially responsible
4.20 agency received cash benefits as the person's representative payee between August 1, 1973,
4.21 and July 31, 2023, and the amount of money diverted to the financially responsible agency
4.22 during that time. The Office of the Foster Youth Ombudsperson must attempt to notify
4.23 every individual identified in this paragraph of the individual's potential eligibility for
4.24 repayment pursuant to this subdivision no later than July 1, 2025.

4.25 (b) No later than January 1, 2026, the Office of the Foster Youth Ombudsperson must
4.26 begin accepting applications for individuals described in paragraph (a) to receive
4.27 compensation for cash benefits diverted to the individual's financially responsible agency
4.28 between August 1, 1973, and July 31, 2023. The Office of the Foster Youth Ombudsperson
4.29 must develop a system to process the applications and approve all applications that can
4.30 show that the applicant had cash benefits diverted to a financially responsible agency between
4.31 August 1, 1973, and July 31, 2023.

4.32 (c) For every beneficiary already enrolled in the foster youth benefits trust that the Office
4.33 of the Foster Youth Ombudsperson determines had cash benefits diverted to a financially
4.34 responsible agency between August 1, 1973, and July 31, 2023, the Office of the Foster

5.1 Youth Ombudsperson must deposit an amount equal to the cash benefits diverted to a
 5.2 financially responsible agency between August 1, 1973, and July 31, 2023, into the
 5.3 beneficiary's trust account. The Office of the Foster Youth Ombudsperson must screen
 5.4 beneficiaries for eligibility under this paragraph automatically without requiring an
 5.5 application from the beneficiaries.

5.6 (d) For every applicant under paragraph (b) who is not already enrolled in the foster
 5.7 youth benefits trust, the Office of the Foster Youth Ombudsperson must directly award the
 5.8 applicant an amount equal to the cash benefits diverted to a financially responsible agency
 5.9 between August 1, 1973, and July 31, 2023.

5.10 (e) No later than January 31, 2025, the Office of the Foster Youth Ombudsperson must
 5.11 issue a report to the chairs and ranking minority members of the legislative committees with
 5.12 jurisdiction over foster youth.

5.13 Subd. 11. **Rulemaking authority.** The Office of the Foster Youth Ombudsperson is
 5.14 authorized, subject to the provisions of chapter 14, to make rules necessary to the operation
 5.15 of the foster youth benefits trust and repayment program and to aid in performing its
 5.16 administrative duties and ensuring an equitable result for beneficiaries and former foster
 5.17 youths.

5.18 Sec. 3. **APPROPRIATIONS; FOSTER YOUTH BENEFITS TRUST AND**
 5.19 **REPAYMENT PROGRAM.**

5.20 Subdivision 1. **Foster youth benefits trust.** (a) \$..... in fiscal year 2024 and \$..... in
 5.21 fiscal year 2025 are appropriated from the general fund to the Office of the Foster Youth
 5.22 Ombudsperson for the purposes of the foster youth benefits trust under Minnesota Statutes,
 5.23 section 256N.262.

5.24 (b) The Office of the Foster Youth Ombudsperson may use the appropriations in this
 5.25 section to hire up to two full-time equivalent staff members to administer the foster youth
 5.26 benefits trust and repayment program.

5.27 Subd. 2. **Repayment program.** (a) \$..... in fiscal year 2024 is appropriated from the
 5.28 general fund to the Office of the Foster Youth Ombudsperson to identify:

5.29 (1) current and former individuals in foster care for whom a financially responsible
 5.30 agency received cash benefits as the person's representative payee between January 1, 2013,
 5.31 and July 31, 2023;

5.32 (2) the amount of money diverted away from each individual; and

6.1 (3) the projected cost of repaying individuals formerly in foster care pursuant to
6.2 Minnesota Statutes, section 256N.262, subdivision 10.

6.3 (b) Any unspent amount in fiscal year 2024 does not cancel and is carried over to fiscal
6.4 year 2025.