

STATE OF NEW YORK

8036--A

2025-2026 Regular Sessions

IN ASSEMBLY

April 22, 2025

Introduced by M. of A. HEVESI, BORES -- read once and referred to the Committee on Social Services -- recommitted to the Committee on Social Services in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to requiring commissioners of local social services districts to screen, apply for, and use and conserve retirement, survivors and disability insurance, supplemental security income, veterans' and other federal social security benefits on behalf of certain children

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 6 of section 398 of the social services law is
2 amended by adding three new paragraphs (q), (r) and (s) to read as
3 follows:

4 (q) For all children in foster care, a commissioner shall: (i) Screen
5 for potential eligibility for retirement, survivors and disability
6 insurance, supplemental security income, veterans', or any other federal
7 social security benefits and apply for such benefits on behalf of any
8 child determined to be potentially eligible within sixty days of such
9 child entering foster care.

10 (ii) Rescreen all children in foster care annually for eligibility for
11 all federal benefits, and within thirty days of receipt of any new
12 information tending to indicate that a child may be eligible for bene-
13 fits and apply for such benefits on behalf of any such child within
14 sixty days of the determination of such potential eligibility.

15 (iii) Provide notice to a child, such child's attorney, and such
16 child's parent or parents or legal guardian or guardians of any applica-
17 tion, decision, communication, or appeal related to such child's retire-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ment, survivors and disability insurance, supplemental security income,
2 veterans' or any other federal social security benefits.

3 (iv) For each child the commissioner determines may potentially be
4 eligible for benefits, identify an appropriate representative payee, in
5 cooperation with such child, such child's family, and the attorney for
6 such child, pursuant to the established categories of preferred payees
7 in 20 C.F.R. §§ 404.2021 and 416.621. The commissioner shall seek to be
8 appointed as the representative payee only when there is no other appro-
9 priate preferred payee available who agrees to use and preserve the
10 benefits in the interest of a child.

11 (r) For each child for whom a commissioner is appointed to serve as
12 the representative payee, such commissioner shall: (i) Meet regularly
13 with any child who is developmentally able to participate in financial
14 planning and such child's attorney to develop a plan to use and conserve
15 the benefits.

16 (ii) Use the payments to meet the child's specific immediate unmet
17 needs, as determined in cooperation with such child, such child's care-
18 taker, and such child's attorney. Benefits may be used to meet such
19 child's needs for goods or services not provided through the foster care
20 system and that are not covered by such child's health insurance,
21 including but not limited to, disability aids, school tuition, a car, or
22 tools of the trade for employed youth.

23 (iii) Monitor the federal and state asset limitations on federal bene-
24 fits, and deposit any benefits that are subject to such asset limitation
25 and are not used to meet the child's immediate needs in a special needs
26 trust, a pooled special needs trust, an achieving a better life experi-
27 ence (ABLE) account under 26 U.S. Code § 529A, or other trust account or
28 legal mechanism that will allow a child to save in excess of any federal
29 and state asset limitations, in accordance with 20 C.F.R. § 416.645.

30 (iv) Provide the child and the attorney for such child with an annual
31 accounting of the use or conservation of such child's benefits.

32 (v) Upon discharge from foster care, transfer all conserved funds to
33 the new representative payee or the child, as appropriate.

34 (vi) Decline to use a child's benefits to reimburse the local social
35 services district for the costs associated with maintaining any child in
36 the care and custody or the custody and guardianship of the commission-
37 er, including the administrative costs associated with foster care.

38 (s) The commissioner shall: (i) Provide all representative payees and
39 beneficiaries with information about what is legally required under law
40 regarding the use and conservation of federal benefits.

41 (ii) Assist any child who may qualify to be their own payee in
42 completing an application to become the payee for such child's benefits.

43 (iii) Assist any child who needs to be re-certified to remain eligible
44 for a benefit after reaching the age of majority to be re-certified far
45 enough in advance of such child reaching the age of majority to avoid a
46 gap in the provision of such benefit.

47 (iv) For any child who the commissioner anticipates will be discharged
48 from care within three months, and who is not able to serve as such
49 child's own representative payee, identify an appropriate representative
50 payee, in cooperation with such child, such child's family, and the
51 attorney for such child, pursuant to the established categories of
52 preferred payees in 20 C.F.R. §§ 404.2021 and 416.621, and assist the
53 identified individual in processing an application to become the repre-
54 sentative payee.

55 (v) Provide at least five hours of developmentally appropriate finan-
56 cial literacy and skill building annually for all children age fourteen

1 or older eligible for or in receipt of such benefits, and for all family
2 members who will serve as a representative payee for a child. Such
3 training shall include skill building around proper use and conservation
4 of benefits, including the use of specialized accounts enumerated in
5 subparagraph (iii) of paragraph (r) of this subdivision.

6 § 2. This act shall take effect on the one hundred eightieth day after
7 it shall have become a law. Effective immediately, the addition, amend-
8 ment and/or repeal of any rule or regulation necessary for the implemen-
9 tation of this act on its effective date are authorized to be made and
10 completed on or before such effective date.