

# Enrolled Senate Bill 556

Sponsored by Senator GELSER BLOUIN, Representatives DEXTER, REYNOLDS; Senator PATTERSON, Representatives BYNUM, GRAYBER (at the request of Oulu Noonan) (Pre-session filed.)

CHAPTER .....

AN ACT

Relating to management of resources for benefit of persons in custody of Department of Human Services; creating new provisions; amending ORS 419B.373; and declaring an emergency.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** (1) As used in this section:

(a) “Child” means a ward, as defined in ORS 419A.004, in the custody of the Department of Human Services under ORS 419B.337.

(b) “Maintenance cost” means a payment to a foster parent or relative caregiver for the costs of providing a child with food, clothing, housing, daily supervision, personal incidentals and transportation.

(2) Except for moneys received pursuant to a child support order or as otherwise specifically required by federal or state law, court order or other legal instrument, the department may not use any funds, benefits, payments, proceeds, settlements, awards, inheritances, wages or any other moneys received by the department on behalf of a child for the purpose of maintenance costs.

**SECTION 2.** Section 1 of this 2023 Act is amended to read:

**Sec. 1.** (1) As used in this section:

(a) “Child” means a ward, as defined in ORS 419A.004, in the custody of the Department of Human Services under ORS 419B.337.

(b) “Maintenance cost” means a payment to a foster parent or relative caregiver for the costs of providing a child with food, clothing, housing, daily supervision, personal incidentals and transportation.

(2) Except for moneys received pursuant to a child support order or as otherwise specifically required by federal or state law, court order or other legal instrument, the department may not use any funds, benefits, payments, proceeds, settlements, awards, inheritances, wages or any other moneys received by the department on behalf of a child for the purpose of maintenance costs.

**(3)(a) The department shall establish separate accounts for each child for whom the department will receive any funds, benefits, payments, proceeds, settlements, awards, inheritances, wages or any other moneys.**

**(b) The department shall, in collaboration with the State Treasurer, administer each separate account established under this subsection consistent with the department’s fiduciary duties, in the best interest of the child for whom the separate account is estab-**

lished and in compliance with any applicable state or federal law, court order or other legal instrument.

(c) The department may make distributions from a separate account for expenditures related to the personal needs of the child, including:

(A) Tuition, tutoring and training, including the costs of application fees, books, equipment and testing;

(B) Transportation to work or training or to maintain family connections;

(C) Travel for educational purposes;

(D) Expenses related to the child's transition into adulthood, including first and last months' rent, housing application fees and one-time purchases by the child of essential household supplies, including furniture, kitchen equipment, linens and cleaning supplies;

(E) Technology, including the purchase of a computer, needed to advance the child's skills in school, work or independence or to maintain connections with siblings;

(F) Clothing or supplies for special events typical for a person of the child's age and culture; and

(G) Instruments, books, supplies, fees and equipment to support the child in pursuing hobbies, sports, the arts and other special skills.

(d) Except as required by state or federal law or as specifically provided in paragraph (c) of this subsection, the department may not make distributions from a child's separate account for expenses related to the duties of a legal custodian as described in ORS 419B.373 (1), (2) or (3).

(4) Unless otherwise prohibited by state or federal law, at the request of the child or the child's attorney or representative, the department may:

(a) Direct that any moneys described in subsection (3) of this section that would be received by the department on behalf of the child instead be paid directly into a trust account, or subaccount of a trust account, that is established by the department under ORS 430.195 for the purpose of receiving moneys payable to the child and that earns interest for the benefit of the child; or

(b) Distribute any moneys described in subsection (3) of this section that are held by the department for the child to any of the following privately held accounts established for the sole benefit of the child:

(A) An Oregon Uniform Transfers to Minors Act account under ORS 126.805 to 126.886 that delays transfer of the custodial property until the child attains 25 years of age;

(B) An account established under ORS 178.335 within the Oregon 529 Savings Network in the name of the child;

(C) An ABLE account established under ORS 178.380 with the child named as the designated beneficiary;

(D) A trust established under ORS chapter 130, if the trust names the child as the sole beneficiary and appoints an independent, qualified trustee; or

(E) Any other privately held account described by the department by rule.

(5) Nothing in this section requires the department or the State Treasurer to establish or coordinate the establishment of, or, except as required by state or federal law, monitor or verify the viability of an account described in subsection (4)(b) of this section.

(6) The department shall adopt rules to carry out the provisions of this section.

**SECTION 3.** ORS 419B.373 is amended to read:

419B.373. A person, agency or institution having legal custody of a ward has the following duties and authority:

(1) To have physical custody and control of the ward.

(2) To supply the ward with food, clothing, shelter and incidental necessities.

(3) To provide the ward with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward, and, in an emergency where the ward's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(5) To make such reports and to supply such information to the court as the court may from time to time require.

(6) To apply for any Social Security benefits, public assistance or medical assistance, as defined in ORS 414.025, to which the ward is otherwise entitled and, **subject to section 1 of this 2023 Act**, to use the benefits or assistance to provide for the care of the ward.

**SECTION 4. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (5), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, for child welfare programs, is increased by \$270,797 for child in care maintenance costs.**

**SECTION 5. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 3 (5), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from federal funds, excluding federal funds described in section 2, chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), collected or received by the Department of Human Services, for child welfare programs, is increased by \$117,722 for child in care maintenance costs.**

**SECTION 6. Notwithstanding any other law limiting expenditures, the limitation on expenditures established by section 2 (5), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, as the maximum limit for payment of expenses from fees, moneys or other revenues, including Miscellaneous Receipts and Medicare receipts and including federal funds for indirect cost recovery, Social Security Supplemental Security Income recoveries and the Child Care and Development Fund, but excluding lottery funds and federal funds not described in section 2, chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), collected or received by the Department of Human Services for child welfare programs is decreased by \$388,519.**

**SECTION 7. Notwithstanding any other provision of law, the General Fund appropriation made to the Department of Human Services by section 1 (7), chapter \_\_, Oregon Laws 2023 (Enrolled House Bill 5026), for the biennium beginning July 1, 2023, for intellectual/developmental disabilities programs, is increased by \$193,572 for child in care maintenance costs.**

**SECTION 8. (1) The amendments to section 1 of this 2023 Act by section 2 of this 2023 Act become operative on January 1, 2024.**

**(2) The Department of Human Services and the State Treasurer may take any action before the operative date specified in subsection (1) of this section that is necessary for the department and the State Treasurer to carry out the provisions of the amendments to section 1 of this 2023 Act by section 2 of this 2023 Act on or after the operative date specified in subsection (1) of this section.**

**SECTION 9. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.**

**Passed by Senate June 20, 2023**

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

**Passed by House June 22, 2023**

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Dan Rayfield, Speaker of House

**Received by Governor:**

.....M,....., 2023

**Approved:**

.....M,....., 2023

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Tina Kotek, Governor

**Filed in Office of Secretary of State:**

.....M,....., 2023

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Secretary of State