

## HOUSE BILL No. 2552

By Committee on Child Welfare and Foster Care

Requested by John Monroe on behalf of the Center for the Rights of Abused  
Children

1-18

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1 AN ACT concerning children and minors; relating to the secretary for  
2 children and families; prohibiting the secretary from using federal  
3 benefits received by a child in need of care for the care and custody of  
4 the child; requiring the secretary to create accounts for children  
5 receiving federal benefits; directing the use of the benefits to be for the  
6 best interests of the child; amending K.S.A. 38-2216 and repealing the  
7 existing section.  
8

9 *Be it enacted by the Legislature of the State of Kansas:*

10 Sec. 1. K.S.A. 38-2216 is hereby amended to read as follows: 38-  
11 2216. (a) *How paid.* (1) If a child alleged or adjudged to be a child in need  
12 of care is not eligible for assistance under K.S.A. 39-709, and amendments  
13 thereto, expenses for the care and custody of the child shall be paid out of  
14 the general fund of the county in which the proceedings are brought. For  
15 the purpose of this section, a child who is a nonresident of the state of  
16 Kansas or whose residence is unknown shall have residence in the county  
17 where the proceedings are instituted.

18 (2) When a law enforcement officer has taken a child into custody as  
19 authorized by ~~subsection (b) of~~ K.S.A. 38-2231(b), and amendments  
20 thereto, and delivered the child to a person or facility designated by the  
21 secretary or when custody of a child is awarded to the secretary, the  
22 expenses of the care and custody of the child may be paid by the secretary,  
23 even though the child does not meet the eligibility standards of K.S.A. 39-  
24 709, and amendments thereto.

25 (3) When the custody of a child is awarded to the secretary, the  
26 expenses of the care and custody of the child shall not be paid out of the  
27 county general fund.

28 (4) Nothing in this section shall be construed to mean that any person  
29 shall be relieved of legal responsibility to support a child.

30 (b) *Reimbursement to county general fund.* (1) When expenses for the  
31 care and custody of a child alleged or adjudged to be a child in need of  
32 care have been paid out of the county general fund, the court may fix a  
33 time and place for hearing on the question of requiring payment or  
34 reimbursement of all or part of the expenses by a person who by law is

1 liable to maintain, care for or support the child.

2 (2) The court, after notice to the person who by law is liable to  
3 maintain, care for or support the child, may hear and dispose of the matter  
4 and may enter an order relating to payment of expenses for care and  
5 custody of the child. If the person willfully fails or refuses to pay the sum,  
6 the person may be adjudged in contempt of court and punished  
7 accordingly.

8 (3) The county may bring a separate action against a person who by  
9 law is liable to maintain, care for or support a child alleged or adjudged to  
10 be a child in need of care for the reimbursement of expenses paid out of  
11 the county general fund for the care and custody of the child.

12 (c) *Reimbursement to secretary.* (1) When expenses for the care and  
13 custody of a child alleged or adjudged to be a child in need of care have  
14 been paid by the secretary, the secretary may recover the expenses  
15 pursuant to K.S.A. 39-709, 39-718b or 39-755, and amendments thereto,  
16 or as otherwise provided by law, from any person who by law is liable to  
17 maintain, care for or support the child.

18 (2) The secretary shall have the power to compromise and settle any  
19 claim due or any amount claimed to be due to the secretary from any  
20 person who by law is liable to maintain, care for or support the child.

21 (d) *Federal benefits.* (1) *The secretary shall determine whether a*  
22 *child adjudged to be a child in need of care is eligible for benefits*  
23 *administered by the social security administration, the railroad retirement*  
24 *board or the veterans administration within 60 days of the adjudication. If*  
25 *the child is eligible, the secretary shall apply for benefits.*

26 (2) *If a child in custody of the secretary receives benefits*  
27 *administered by the social security administration, the railroad retirement*  
28 *board or the veterans administration, the court shall appoint a*  
29 *representative payee in accordance with 20 C.F.R. §§ 404.2021 and*  
30 *416.621. If the court appoints the secretary as the representative payee,*  
31 *the secretary:*

32 (A) *Shall not use the benefits to pay or reimburse for the care and*  
33 *custody of the child;*

34 (B) *may use the benefits for the child's unmet needs beyond the care*  
35 *and custody of the child provided by the secretary;*

36 (C) *shall establish an account and credit the benefits to such account*  
37 *for the child's best interests for current unmet needs beyond the care and*  
38 *custody of the child provided by the secretary and future need. The type of*  
39 *account may be one of the following:*

40 (i) *A special needs trust;*

41 (ii) *a pooled special needs trust;*

42 (iii) *an achieving a better life experience account established and*  
43 *administered pursuant to K.S.A. 75-651 et seq., and amendments thereto,*

1 *and section 529A of the federal internal revenue code of 1986; or*  
2 *(iv) any other trust account that shall not interfere with security or*  
3 *asset limitations for eligibility for any federal or state administered benefit*  
4 *program;*

5 *(D) shall provide an annual accounting of the account to the child,*  
6 *child's parent, if parental rights have not been terminated, the child's*  
7 *guardian or legal representative;*

8 *(E) shall notify and consult with the child, the child's parent, if*  
9 *parental rights have not been terminated, child's guardian and legal*  
10 *representative of any denial of benefits and whether the secretary shall*  
11 *appeal the denial of benefits; and*

12 *(F) shall release any remaining benefits to the child or the child's*  
13 *guardian when the court's jurisdiction over the child ceases pursuant to*  
14 *K.S.A. 38-2203, and amendments thereto.*

15 *(3) As used in this subsection, "unmet needs" means the needs of a*  
16 *child that the secretary is not required by law to provide financial support,*  
17 *such as maintenance costs, as defined by 42 U.S.C. § 675, including:*

18 *(A) Tuition, tutoring and training, including application fees, book,*  
19 *equipment or testing;*

20 *(B) transportation for work, training, education or to maintain family*  
21 *connections;*

22 *(C) if the child is preparing to leave custody of the secretary due to*  
23 *age, housing expenses; and*

24 *(D) items related to a child's hobbies and interests, including*  
25 *technology, special clothing, instruments, books or other equipment.*

26 Sec. 2. K.S.A. 38-2216 is hereby repealed.

27 Sec. 3. This act shall take effect and be in force from and after its  
28 publication in the statute book.