

STATE OF MICHIGAN
89TH LEGISLATURE
REGULAR SESSION OF 1998

Introduced by Senator Cisky

ENROLLED SENATE BILL No. 1185

AN ACT to allow counties to authorize acceptance of certain juveniles committed to their care and responsibility; to prescribe the procedure and effect of that authorization; and to prescribe powers, duties, and obligations of those counties.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the "county juvenile agency act".

Sec. 2. As used in this act:

(a) "County juvenile agency" means a county that has approved a resolution in accordance with section 3.

(b) "County juvenile agency services" means that term as defined in section 117a of the social welfare act, 1939 PA 280, MCL 400.117a.

(c) "Juvenile" means an individual who is any of the following:

(i) Within or likely to come within the jurisdiction of the court for the county under section 2(a) or (d) of chapter XIIIA of 1939 PA 288, MCL 712A.2.

(ii) Within the jurisdiction of the circuit court in the county under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606.

(d) "Juvenile justice service" means that term as defined in section 117a of the social welfare act, 1939 PA 280, MCL 400.117a.

(e) "Public ward" means that term as defined in section 2 of the youth rehabilitation services act, 1974 PA 150, MCL 803.302.

Sec. 3. (1) A majority of the board of commissioners of a county may approve a resolution authorizing the county to become a county juvenile agency.

(2) Subject to subsection (3), the county shall become a county juvenile agency on October 1 following adoption of the resolution.

(3) A resolution under this section is not effective until the county and the state enter into a written agreement containing all of the following:

(a) Outcome criteria and reporting requirements necessary to comply with all applicable federal regulations.

(b) An agreement that any federal penalty related to the county juvenile agency's failure to meet the outcome criteria and reporting requirements necessary to comply with applicable federal regulations are the county's obligation.

(c) Authorization for the state to offset the federal penalties described in subdivision (b) against amounts due to the county from distributions of the county block grant authorized under section 117a(4)(b) of the social welfare act, 1939 PA 280, MCL 400.117a.

(4) Becoming a county juvenile agency under this act constitutes an exercise of the county's option to provide a new activity or service or to increase the level of activity or service offered beyond that required by existing law as of the effective date on which the county becomes a county juvenile agency, as the elements of that option are defined by 1979 PA 101, MCL 21.231 to 21.244, and a voluntary acceptance by the county of all expenses and capital improvements initiated and approved by the county that may result from becoming a county juvenile agency. This subsection applies only for the period during which the county is a county juvenile agency.

Sec. 4. (1) A majority of the board of commissioners who approved a resolution under section 3 may revoke it by a subsequent resolution adopted before December 31.

(2) Except as otherwise provided, revocation is effective October 1 of the next year. If a county revokes authorization within 5 years after it becomes a county juvenile agency under section 3, the revocation is not effective until the earlier of the following:

(a) October 1 of the fifth year after the year in which the county became a county juvenile agency.

(b) October 1 of the state fiscal year for which the state fails to appropriate the amount required to be distributed to the county under the social welfare act, 1939 PA 280, MCL 400.1 to 400.119b, and for which a loan has not been authorized for the deficiency under the emergency municipal loan act, 1980 PA 243, MCL 141.931 to 141.942, on terms acceptable to the county.

(3) The county shall cease to be a county juvenile agency on the effective date of the resolution.

Sec. 5. (1) The board of commissioners of a county that has adopted a charter under 1966 PA 293, MCL 45.501 to 45.521, shall not proceed under section 3 or 4 unless requested by the county executive or chief administrative officer.

(2) The board of commissioners of a county that has adopted an optional unified form of county government under 1973 PA 139, MCL 45.551 to 45.573, shall not proceed under section 3 or 4 unless requested by the county executive or county manager.

Sec. 6. This act does not apply to a county unless that county is eligible for a transfer of title IV-E funds from the state under the waiver granted in 1997 by the United States department of health and human services for part 3 of the family independence agency's request under the child welfare demonstration project.

Sec. 7. (1) A county juvenile agency shall provide or contract for provision of all of the following:

(a) An effective program of supervision and care for juveniles committed to the county juvenile agency by the family division of circuit court or court of general criminal jurisdiction.

(b) Appropriate county juvenile agency services.

(c) Appropriate services and facilities necessary for public wards it is responsible for.

(2) A county juvenile agency may do any of the following:

(a) Operate training schools or programs, halfway houses, youth camps, diagnostic centers, detention facilities, short-term treatment centers, group homes, or other facilities.

(b) Provide institutional care, boarding care, halfway house care, supervision in the community, or other juvenile programs or services.

(c) Obtain appropriate services from state, local, or private agencies, if those services meet all applicable state and local government licensing standards.

(d) Provide appropriate juvenile justice services to any juvenile.

(3) Except as otherwise provided, a county juvenile agency shall pay the providers of services or materials for which it has contracted within 45 days after receiving a request for payment as provided in the contract.

(4) A county juvenile agency shall negotiate with providers for prepayment contract clauses that do not exceed 33%.

(5) Unless a county juvenile agency has negotiated a different prepayment contract clause as provided in subsection (4), payments for residential care services shall be not less than 1/4 of the anticipated total cost when care is first provided, not less than 1/4 of the anticipated total cost when 1/3 of the care is provided, not less than 1/4 of the anticipated total cost when 2/3 of the care is provided, and the balance owed when care is completed.

(6) If 1 or more appropriate juvenile residential care providers located or doing business in this state have bed space available, a county juvenile agency shall use that space rather than a space available by a provider located or doing business in another state. This requirement does not apply if the provider located or doing business in another state offers a specialized program that is not available in this state.

(7) A county juvenile agency shall not use religion, race, color, national origin, or sex as a criterion for discriminating against or granting preferential treatment in contracting with providers.

Sec. 8. A county shall maintain the account for the county juvenile agency's block grant under section 117a of the social welfare act, 1939 PA 280, MCL 400.117a, separately from all other accounts of the county's funds. Expenditures of those funds shall be shown as separate line items or appropriations in the county's budget.

Sec. 9. An annual state audit shall be conducted of all state money provided to a county for programs under this act as a county juvenile agency to insure the funds are expended as provided by law.

Sec. 10. When a county becomes a county juvenile agency as provided in section 3, public wards and juveniles transferred to the county juvenile agency's responsibility shall remain in their existing placements, under the same terms and conditions, until the court approves a change in placement.

Sec. 10a. If the county assumes the operation of any facility operated by the family independence agency, the county shall be a successor employer. Employees under a successor employer agreement shall not be placed in any worse position with respect to worker's compensation, pension, seniority, wages, sick leave, vacation, health and welfare insurance, or any other terms and conditions of employment that the employee enjoyed as a family independence agency employee. This provision shall also apply if the county leases such a facility to a private agency or a public agency other than the state.

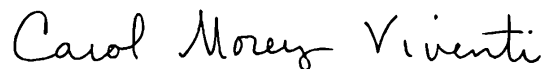
Sec. 10b. The family independence agency shall adopt a plan to aid employees of the family independence agency not described in section 10a who are negatively impacted as a result of this act. The plan shall be developed in conjunction with employee collective bargaining units and shall address and recommend remedies for displaced employees including, but not limited to, interdepartmental transfers, intradepartmental transfers, employee retraining, appropriate severance packages, and job placement aid. The plan, including the recommendations, shall be submitted to the house and senate appropriations committees, the state employer, and the affected collective bargaining units no later than September 1, 1999.

Sec. 11. A county becoming a county juvenile agency in accordance with this act does not affect existing agreements between the family independence agency and private providers, which are guaranteed enforceable at the per diem rates as of the effective date of this act. This section shall not limit the powers and authority granted under this act to a county juvenile agency, including the discretion to select and contract with providers of juvenile residential care.

Enacting section 1. This act does not take effect unless all of the following bills of the 89th Legislature are enacted into law:

- (a) Senate Bill No. 1183.
- (b) Senate Bill No. 1184.
- (c) Senate Bill No. 1186.
- (d) Senate Bill No. 1187.
- (e) Senate Bill No. 1196.
- (f) Senate Bill No. 1197.

This act is ordered to take immediate effect.



Secretary of the Senate.



Clerk of the House of Representatives.

Approved _____

Governor.