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BILL ANALYSIS



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House Bill 4769 (as reported without amendment)  
Sponsor: Representative Virgil Smith  
House Committee: Family and Children Services  
Senate Committee: Families and Human Services

Date Completed: 5-24-04

### **RATIONALE**

It has been suggested that provisions related to foster care payments and support rights should be included in Michigan's Social Welfare Act to bring it into conformity with applicable Federal law, which is found in Titles IV-D and IV-E of the Social Security Act. Under Title IV-E, a state plan for foster care must include a provision for making foster care maintenance payments payable to a foster care provider on behalf of a child who otherwise would qualify for Federal assistance (42 USC 672). These payments cover the cost of purchasing and providing food, clothing, daily supervision, school supplies, personal incidentals, liability insurance for the child, and reasonable travel to and from the child's home for visitation.

Additionally, in cases in which a family receives assistance from the state, Title IV-D of the Act requires that the state pay to the Federal government its share of the amount of support collected, and retain or distribute the state's share of the amount of support collected (42 USC 657). Any amount of child support collected by the state on behalf of a child for whom the state is making foster care maintenance payments under Title IV-E, is to be retained by the state as reimbursement for the payments. To the extent that the amount collected exceeds the foster care maintenance payments, the amount collected must be paid to the public agency responsible for supervising the placement, to serve the child's best interests.

### **CONTENT**

**The bill would amend the Social Welfare Act to do the following:**

- **Assign to the Family Independence Agency (FIA) rights to support payable on behalf of a child for whom the FIA was making State- or Federally funded foster care maintenance payments.**
- **Limit what the FIA must certify before paying a support subsidy to an adoptive parent.**
- **Delete a requirement that the Office of Children and Youth Services not spend more than 20% of the money appropriated from the Child Care Fund for early intervention to treat problems of delinquency and neglect and expedite a child's return to his or her home.**
- **Define the term "placement".**

The bill is described below in further detail.

#### Support Rights

Under the bill, all rights to current, past due, and future support payable on behalf of a child committed to or under the supervision of the FIA and for whom the FIA was making State- or Federally funded foster care maintenance payments would be assigned to the FIA while the child was receiving or benefiting from those payments. When the FIA ceased making payments for the child, the assignment of current and future support rights to the FIA would cease, and the maximum amount of support the FIA could retain to reimburse the State, the

Federal government, or both for the cost of care could not exceed the amount of payments made from State and/or Federal money.

### Support Subsidy

The Act allows the FIA to pay a support subsidy to an adoptive parent of an adoptee who is placed in the adoptive parent's home under the Michigan Adoption Code or the adoption laws of another state or tribal government, if the FIA has certified that the adoptee is a child with special needs, that an adoptive parent requests a subsidy, and that the adoptee is in foster care when the FIA certifies the subsidy. Under the bill, the FIA simply would have to certify that the adoptee was a child with special needs.

The bill also would revise the term "child with special needs". Currently, the term means an individual under 18 years old for whom the State has made certain determinations, including that the child cannot or should not be returned to the home of his or her parents. The bill would require the State to determine that there was a specific judicial finding that the child could not or should not return to his or her parents' home.

### Child Care Fund

The Act provides that, for early intervention to treat problems of delinquency and neglect within a child's home and to expedite the child's return to his or her home, the Office of Children and Youth Services may spend money from the Child Care Fund or other sources authorized in legislative appropriations for new or expanded programs, if the Office determines that the programs are alternatives to out-of-home institutional or foster care. Currently, the Office may not spend more than 20% of the money appropriated to the Child Care Fund for these purposes. The bill would delete the 20% limit.

### Definition of Placement

Under the bill, the term "placement" would mean a placement or commitment, including the necessity of removing the child from his or her parental home, as approved by the court under an order of disposition issued

under Section 18(1)(c) or (d) of the juvenile code.

This definition would apply to sections of the Act pertaining to adoption support subsidies, juvenile residential care providers, juvenile facility advisory boards, field investigations, and the Interstate Compact on Adoption and Medical Assistance (MCL 400.115f-400.115s).

(Under Section 18(1)(c) of the juvenile code, the court may order placement of the following individuals in a suitable foster care home subject to the court's supervision:

- A juvenile under 17 who has violated a municipal ordinance or State or Federal law; has run away from home; has been repeatedly disobedient to his or her parents or legal guardian; or has been repeatedly truant or insubordinate at school.
- A minor who is the respondent of a personal protection order or foreign protection order proceeding.
- A minor whose parent or legal guardian neglects or refuses to provide proper or necessary support, education, medical, surgical, or other necessary care; whose home or environment is unfit to live in; whose parent has failed to comply with a court-structured plan; or, in certain cases, whose parent has failed to support or assist or regularly communicate with the juvenile for at least two years.

Under Section 18(1)(d), the court may order placement of a juvenile in or commit the juvenile to an approved or licensed private institution or agency for the care of juveniles of similar age, sex, and characteristics.)

MCL 400.115b et al.

### **ARGUMENTS**

*(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)*

### **Supporting Argument**

The bill would codify current FIA practices and mirror the Federal law, which would result in overall improvements to the foster care structure. Reimbursement for foster care payments provides the FIA with flexibility in responding to foster care issues.

Reportedly, the use of in-home placements has resulted in savings to counties, as well. The bill also would facilitate the effective delivery of prevention services by removing the 20% cap on expenditures from the Child Care Fund.

Legislative Analyst: Julie Koval

### **FISCAL IMPACT**

It appears that the bill would have no fiscal impact on the FIA. The bill would allow for accrued and current support payments to offset Federal and State portions of foster care maintenance payments, but at this time, it is uncertain what the impact of that might be.

The bill would have no fiscal impact on the Judiciary.

Fiscal Analyst: Constance Cole  
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.