

HOUSE BILL No. 4769

May 28, 2003, Introduced by Reps. Smith, Condino, Lipsey, Voorhees and Vander Veen and referred to the Committee on Judiciary.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 115b, 115f, 115g, and 117e (MCL 400.115b, 400.115f, 400.115g, and 400.117e), section 115b as amended by 1998 PA 516, sections 115f and 115g as amended by 2002 PA 648, and section 117e as amended by 1983 PA 222.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 115b. (1) The department shall assume responsibility
2 for all children committed to it by the juvenile division of the
3 probate court, the family division of circuit court, or the court
4 of general criminal jurisdiction under the youth rehabilitation
5 services act, 1974 PA 150, MCL 803.301 to 803.309, and 1935
6 PA 220, MCL 400.201 to 400.214. The department may provide
7 institutional care, supervision in the community, boarding care,
8 halfway house care, and other children and youth services and

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1 programs necessary to meet the needs of those children or may
2 obtain appropriate services from other state agencies, local
3 public agencies, or private agencies, subject to section 115o.
4 If the program of another state agency is considered to best
5 serve the needs of the child, the other state agency shall give
6 priority to the child.

7 (2) The department shall study and act upon a request for
8 service as to, or a report received of, neglect, exploitation,
9 abuse, cruelty, or abandonment of a child by a parent, guardian,
10 custodian, or person serving in loco parentis, or a report
11 concerning a child in need of protection. On the basis of the
12 findings of the study, the department shall assure, if necessary,
13 the provision of appropriate social services to the child,
14 parent, guardian, custodian, or person serving in loco parentis,
15 to reinforce and supplement the parental capabilities, so that
16 the behavior or situation causing the problem is corrected or the
17 child is otherwise protected. In assuring the provision of
18 services and providing the services, the department shall
19 encourage participation by other existing governmental units or
20 licensed agencies and may contract with those agencies for the
21 purchase of any service within the scope of this subsection. The
22 department shall initiate action in an appropriate court if the
23 conduct of a parent, guardian, or custodian requires. The
24 department shall promulgate rules necessary for implementing the
25 services authorized in this subsection. The rules shall include
26 provision for local citizen participation in the program to
27 assure local understanding, coordination, and cooperative action

1 with other community resources. In the provision of services,
2 there shall be maximum utilization of other public, private, and
3 voluntary resources available within a community.

4 (3) ~~When~~ **If** an agency or organization proposes to place
5 for adoption, with a person domiciled in this state, a child who
6 is a citizen of or resides in ~~—~~ a country other than the United
7 States or Canada, the department shall conduct, within 180 days
8 after receipt of the request from the agency or organization, the
9 investigation prescribed by section 46 of chapter X of **the**
10 **probate code of 1939**, 1939 PA 288, MCL 710.46. In a county in
11 which the department determines it to be more feasible both
12 geographically and economically, the department may purchase the
13 adoption services up to the actual cost of providing those
14 services. The department shall charge parent fees prescribed by
15 the legislature.

16 (4) The office ~~shall be~~ **is** responsible for the
17 development, interpretation, and dissemination of policy
18 regarding departmental investigations requested or ordered by the
19 probate court **or the family division of circuit court** under
20 section 55(h) and the provision of foster care services
21 authorized by this act. Foster care services shall include
22 foster care of state wards, aid to dependent children foster
23 care, foster care of wards of the family division of circuit
24 court placed under the care and supervision of the department by
25 order of the court, and voluntary parental placement of children
26 in foster care.

27 (5) **All rights to current, past due, and future support**

1 payable on behalf of a child committed to or under the
2 supervision of the department and for whom the department is
3 making state or federally funded foster care maintenance payments
4 are assigned to the department while the child is receiving or
5 benefiting from those payments. When the department ceases
6 making foster care maintenance payments for the child, both of
7 the following apply:

8 (a) Past due support that accrued under the assignment
9 remains assigned to the department.

10 (b) The assignment of current and future support rights to
11 the department ceases.

12 (6) The maximum amount of support the department may retain
13 to reimburse the state, the federal government, or both for the
14 cost of care shall not exceed the amount of foster care
15 maintenance payments made from state or federal money, or both.

16 Sec. 115f. As used in this section and sections 115g to
17 115s:

18 (a) "Adoptee" means the child who is to be adopted or who is
19 adopted.

20 (b) "Adoption assistance" means a support subsidy or medical
21 assistance, or both.

22 (c) "Adoption assistance agreement" means an agreement
23 between the department and an adoptive parent regarding adoption
24 assistance.

25 (d) "Adoption code" means the Michigan adoption code, chapter
26 X of the probate code of 1939, 1939 PA 288, MCL 710.21 to
27 710.70.

1 (e) "Adoptive parent" means the parent or parents who adopt a
2 child under the adoption code.

3 (f) "Certification" means a determination of eligibility by
4 the department that an adoptee is eligible for a support subsidy
5 or a medical subsidy or both.

6 (g) "Child placing agency" means that term as defined in
7 section 1 of 1973 PA 116, MCL 722.111.

8 (h) "Child with special needs" means an individual under the
9 age of 18 years for whom the state has determined all of the
10 following:

11 (i) ~~The~~ **There is a specific judicial finding that the** child
12 cannot or should not be returned to the home of the child's
13 parents.

14 (ii) A specific factor or condition, or a combination of
15 factors and conditions, exists with respect to the child so that
16 it is reasonable to conclude that the child cannot be placed with
17 an adoptive parent without providing adoption assistance under
18 this act. The factors or conditions to be considered may include
19 ethnic or family background, age, membership in a minority or
20 sibling group, medical condition, physical, mental, or emotional
21 disability, or length of time the child has been waiting for an
22 adoptive home.

23 (iii) A reasonable but unsuccessful effort was made to place
24 the adoptee with an appropriate adoptive parent without providing
25 adoption assistance under this act or a prospective placement is
26 the only placement in the best interest of the child.

27 (i) "Compact" means the interstate compact on adoption and

1 medical assistance as enacted in sections 115r and 115s.

2 (j) "Court" means the family division of circuit court.

3 (k) "Department" means the family independence agency.

4 (l) "Foster care" means placement of a child outside the
5 child's parental home by and under the supervision of a child
6 placing agency, the court, the department, or the department of
7 community health.

8 (m) "Medical assistance" means the federally aided medical
9 assistance program under title XIX of the social security act,
10 chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to ~~1396f, 1396g-1 to~~
11 1396r-6 and 1396r-8 to 1396v.

12 (n) "Medical subsidy" means payment for medical, surgical,
13 hospital, and related expenses necessitated by a specified
14 physical, mental, or emotional condition of a child who has been
15 placed for adoption.

16 (o) "Medical subsidy agreement" means an agreement between
17 the department and an adoptive parent regarding a medical
18 subsidy.

19 (p) "Nonrecurring adoption expenses" means reasonable and
20 necessary adoption fees, court costs, attorney fees, and other
21 expenses that are directly related to the legal adoption of a
22 child with special needs. Nonrecurring adoption expenses do not
23 include costs or expenses incurred in violation of state or
24 federal law or that have been reimbursed from other sources or
25 funds.

26 (q) "Other expenses that are directly related to the legal
27 adoption of a child with special needs" means adoption costs

1 incurred by or on behalf of the adoptive parent and for which the
2 adoptive parent carries the ultimate liability for payment,
3 including the adoption study, health and psychological
4 examinations, supervision of the placement before adoption, and
5 transportation and reasonable costs of lodging and food for the
6 child or adoptive parent if necessary to complete the adoption or
7 placement process.

8 (r) "Party state" means a state that becomes a party to the
9 interstate compact on adoption and medical assistance.

10 (s) "Placement" means a placement or commitment, including
11 the necessity of removing the child from his or her parental
12 home, as approved by the court under an order of disposition
13 issued under section 18(1)(c) or (d) of chapter XIIA of the
14 probate code of 1939, 1939 PA 288, MCL 712A.18.

15 (t) ~~(s)~~ "Residence state" means the state in which the
16 child is a resident by virtue of the adoptive parent's
17 residency.

18 (u) ~~(t)~~ "State" means a state of the United States, the
19 District of Columbia, the Commonwealth of Puerto Rico, the Virgin
20 Islands, Guam, the Commonwealth of the Northern Mariana Islands,
21 or a territory or possession of the United States.

22 (v) ~~(u)~~ "Support subsidy" means payment for support of a
23 child who has been placed for adoption.

24 Sec. 115g. (1) The department may pay a support subsidy to
25 an adoptive parent of an adoptee who is placed in the home of the
26 adoptive parent under the adoption code or under the adoption
27 laws of another state or a tribal government, if all of the

1 following requirements are met:

2 (a) The department has certified that the adoptee is
3 ~~eligible for a support subsidy, based on all of the following:~~

4 ~~(i) The adoptee is a child with special needs.~~

5 ~~(ii) An adoptive parent requests a support subsidy.~~

6 ~~(iii) The adoptee is in foster care at the time the
7 department certifies the support subsidy.~~

8 (b) Certification is made before the adoptee's eighteenth
9 birthday.

10 (c) Certification is made before the petition for adoption is
11 filed.

12 (d) The adoptive parent requests the support subsidy not
13 later than the date of confirmation of the adoption.

14 (2) The department shall determine eligibility for the
15 support subsidy without regard to the income of the adoptive
16 parent or parents. The amount shall be equal to the family
17 foster care rate, including the difficulty of care rate, that was
18 paid for the adoptee while the adoptee was in family foster care,
19 except that the amount shall be increased to reflect increases
20 made in the standard age appropriate foster care rate paid by the
21 department.

22 (3) The department shall complete the certification process
23 within 30 days after it receives a request for a support
24 subsidy.

25 Sec. 117e. (1) A county having a population of less than
26 75,000 ~~shall be~~ **is** eligible to receive an annual basic grant of
27 state ~~funds amounting to~~ **money of** \$15,000.00.

1 (2) To be eligible to receive state financial support under
2 subsection (1), a county shall meet the requirements of this
3 act. A county shall not be required to contribute matching funds
4 to receive state financial support under subsection (1).

5 (3) A basic grant may be used only to supplement added
6 juvenile justice service costs and shall not be used to replace
7 county money currently being expended on juvenile justice
8 services.

9 (4) The office shall establish qualifying criteria for
10 awarding the basic grants and may specify conditions for each
11 grant.

12 (5) To provide for early intervention to treat problems of
13 delinquency and neglect within the child's home and to expedite a
14 child's return to his or her home, the office may expend ~~funds~~
15 **money** from the child care fund ~~, not to exceed 20% of the moneys~~
16 ~~appropriated,~~ or from other sources authorized in legislative
17 appropriations for new or expanded programs, if the office
18 determines that the programs are alternatives to out-of-home
19 institutional or foster care. The office shall establish
20 criteria for the approval of expenditures made under this
21 subsection. The office shall submit to the legislature and the
22 governor a report summarizing and evaluating the implementation
23 of this subsection and containing recommendations for its future
24 use.