

# 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

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.