

Act No. 193  
Public Acts of 2004  
Approved by the Governor  
July 8, 2004  
Filed with the Secretary of State  
July 8, 2004  
EFFECTIVE DATE: July 8, 2004

**STATE OF MICHIGAN  
92ND LEGISLATURE  
REGULAR SESSION OF 2004**

**Introduced by Reps. Smith, Condino, Lipsey, Voorhees and Vander Veen**

# **ENROLLED HOUSE BILL No. 4769**

AN ACT to amend 1939 PA 280, entitled "An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates," 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:*

Sec. 115b. (1) The department shall assume responsibility for all children committed to it by the juvenile division of the probate court, the family division of circuit court, or the court of general criminal jurisdiction under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309, and 1935 PA 220, MCL 400.201 to 400.214. The department may provide institutional care, supervision in the community, boarding care, halfway house care, and other children and youth services and programs necessary to meet the needs of those children or may obtain appropriate services from other state agencies, local public agencies, or private agencies, subject to section 115o. If the program of another state agency is considered to best serve the needs of the child, the other state agency shall give priority to the child.

(2) The department shall study and act upon a request for service as to, or a report received of, neglect, exploitation, abuse, cruelty, or abandonment of a child by a parent, guardian, custodian, or person serving in loco parentis, or a report concerning a child in need of protection. On the basis of the findings of the study, the department shall assure, if necessary, the provision of appropriate social services to the child, parent, guardian, custodian, or person serving in loco

parentis, to reinforce and supplement the parental capabilities, so that the behavior or situation causing the problem is corrected or the child is otherwise protected. In assuring the provision of services and providing the services, the department shall encourage participation by other existing governmental units or licensed agencies and may contract with those agencies for the purchase of any service within the scope of this subsection. The department shall initiate action in an appropriate court if the conduct of a parent, guardian, or custodian requires. The department shall promulgate rules necessary for implementing the services authorized in this subsection. The rules shall include provision for local citizen participation in the program to assure local understanding, coordination, and cooperative action with other community resources. In the provision of services, there shall be maximum utilization of other public, private, and voluntary resources available within a community.

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

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

(5) All rights to current, past due, and future support payable on behalf of a child committed to or under the supervision of the department and for whom the department is making state or federally funded foster care maintenance payments are assigned to the department while the child is receiving or benefiting from those payments. When the department ceases making foster care maintenance payments for the child, both of the following apply:

- (a) Past due support that accrued under the assignment remains assigned to the department.
- (b) The assignment of current and future support rights to the department ceases.

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

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

- (a) "Adoptee" means the child who is to be adopted or who is adopted.
- (b) "Adoption assistance" means a support subsidy or medical assistance, or both.
- (c) "Adoption assistance agreement" means an agreement between the department and an adoptive parent regarding adoption assistance.
- (d) "Adoption code" means the Michigan adoption code, chapter X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70.
- (e) "Adoptive parent" means the parent or parents who adopt a child under the adoption code.
- (f) "Certification" means a determination of eligibility by the department that an adoptee is eligible for a support subsidy or a medical subsidy or both.
- (g) "Child placing agency" means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (h) "Child with special needs" means an individual under the age of 18 years for whom the state has determined all of the following:
  - (i) There is a specific judicial finding that the child cannot or should not be returned to the home of the child's parents.
  - (ii) A specific factor or condition, or a combination of factors and conditions, exists with respect to the child so that it is reasonable to conclude that the child cannot be placed with an adoptive parent without providing adoption assistance under this act. The factors or conditions to be considered may include ethnic or family background, age, membership in a minority or sibling group, medical condition, physical, mental, or emotional disability, or length of time the child has been waiting for an adoptive home.
  - (iii) A reasonable but unsuccessful effort was made to place the adoptee with an appropriate adoptive parent without providing adoption assistance under this act or a prospective placement is the only placement in the best interest of the child.
- (i) "Compact" means the interstate compact on adoption and medical assistance as enacted in sections 115r and 115s.
- (j) "Court" means the family division of circuit court.
- (k) "Department" means the family independence agency.

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

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

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

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

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

(q) "Other expenses that are directly related to the legal adoption of a child with special needs" means adoption costs incurred by or on behalf of the adoptive parent and for which the adoptive parent carries the ultimate liability for payment, including the adoption study, health and psychological examinations, supervision of the placement before adoption, and transportation and reasonable costs of lodging and food for the child or adoptive parent if necessary to complete the adoption or placement process.

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

(s) "Placement" means 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 chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.18.

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

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

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

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

(a) The department has certified that the adoptee is a child with special needs.

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

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

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

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

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

Sec. 117e. (1) A county having a population of less than 75,000 is eligible to receive an annual basic grant of state money of \$15,000.00.

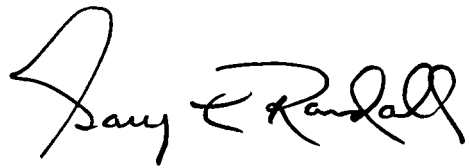
(2) To be eligible to receive state financial support under subsection (1), a county shall meet the requirements of this act. A county shall not be required to contribute matching funds to receive state financial support under subsection (1).

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

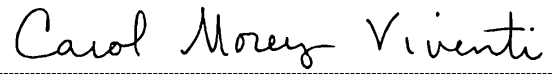
(4) The office shall establish qualifying criteria for awarding the basic grants and may specify conditions for each grant.

(5) To provide for early intervention to treat problems of delinquency and neglect within the child's home and to expedite a child's return to his or her home, the office may expend money from the child care fund or from 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. The office shall establish criteria for the approval of expenditures made under this subsection. The office shall submit to the legislature and the governor a report summarizing and evaluating the implementation of this subsection and containing recommendations for its future use.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved .....

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Governor