

SUBSTITUTE FOR
SENATE BILL NO. 1028

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending sections 1 and 6 (MCL 400.1 and 400.6), as amended by
1995 PA 223.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A department of state government is created that
2 shall be known and designated as the ~~family independence agency,~~
3 **DEPARTMENT OF HUMAN SERVICES** and that shall possess the powers
4 granted and perform the duties imposed in this act. The ~~family~~
5 ~~independence agency~~ **DEPARTMENT** shall consist of a director and the
6 assistants and employees appointed or employed in the ~~family~~
7 ~~independence agency~~ **DEPARTMENT**.

8 (2) The ~~family independence agency~~ **DEPARTMENT** is responsible
9 for the operation and supervision of the institutions and

1 facilities established within the ~~family independence agency~~
2 **DEPARTMENT**. The institutions and facilities may be operated on a
3 coeducational basis. The ~~family independence agency~~ **DEPARTMENT**
4 shall make and enforce its own rules, not inconsistent with the law
5 governing the institutions or facilities under its control,
6 respecting the conduct of the institutions and facilities,
7 discipline in the institutions and facilities, the care of
8 property, and the welfare of the residents.

9 (3) The ~~family independence agency shall be~~ **DEPARTMENT IS**,
10 in all respects, the legal successor to the powers, duties, and
11 responsibilities of the juvenile institute commission.

12 (4) A reference in this act to "the state department of social
13 services", "the state department", ~~or~~ "department", ~~means~~ **OR**
14 "the family independence agency" **MEANS THE DEPARTMENT OF HUMAN**
15 **SERVICES**.

16 (5) **A RULE PROMULGATED UNDER THIS ACT OR AN EXCEPTION TO A**
17 **RULE PROMULGATED UNDER THIS ACT SHALL NOT DISCRIMINATE IN FAVOR OF**
18 **OR AGAINST ANY PROVIDER, FACILITY, OR EMPLOYER LICENSED UNDER THIS**
19 **ACT BASED ON THE PRESENCE OF, OR LACK OF, A COLLECTIVE BARGAINING**
20 **AGREEMENT WITH EMPLOYEES, NOR SHALL COLLECTIVE BARGAINING STATUS,**
21 **LEVEL OF WAGES, OR FRINGE BENEFITS BE USED TO DEMONSTRATE OR EXCUSE**
22 **COMPLIANCE WITH STATE LICENSING OR REGULATORY STANDARDS OR**
23 **REQUIREMENTS**.

24 Sec. 6. (1) The ~~family independence agency~~ **DEPARTMENT** may
25 promulgate all rules necessary or desirable for the administration
26 of programs under this act. Rules shall be promulgated under the
27 administrative procedures act of 1969, ~~Act No. 306 of the Public~~

1 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
2 ~~Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328. Beginning 2~~
3 ~~years after the effective date of subsection (2), if the Michigan~~
4 ~~supreme court rules that sections 45 and 46 of Act No. 306 of the~~
5 ~~Public Acts of 1969, being sections 24.245 and 24.246 of the~~
6 ~~Michigan Compiled Laws, are unconstitutional and a statute~~
7 ~~requiring legislative review of administrative rules is not enacted~~
8 ~~within 90 days after the Michigan supreme court ruling, this~~
9 ~~subsection does not apply.~~

10 (2) The ~~family independence agency~~ **DEPARTMENT** may develop
11 regulations to implement the goals and principles of assistance
12 programs created under this act, including all standards and
13 policies related to applicants and recipients that are necessary or
14 desirable to administer the programs. These regulations are
15 effective and binding on all those affected by the assistance
16 programs. Except for policies described in subsections (3) and (4),
17 regulations described in this subsection, setting standards and
18 policies necessary or desirable to administer the programs, are
19 exempt until ~~the expiration of 12 months after the effective date~~
20 ~~of this subsection~~ **MARCH 28, 1997** from the rule promulgation
21 requirements of the administrative procedures act of 1969, ~~Act No.~~
22 ~~306 of the Public Acts of 1969, being sections 24.201 to 24.328 of~~
23 ~~the Michigan Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328.~~ Upon
24 ~~the expiration of 12 months after the effective date of this~~
25 ~~subsection~~ **MARCH 28, 1997**, regulations described in this
26 subsection are not effective and binding unless processed as
27 emergency rules under section 48 of ~~Act No. 306 of the Public Acts~~

1 ~~of 1969, being section 24.248 of the Michigan Compiled Laws~~ **THE**
2 **ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.248,** or
3 promulgated in accordance with ~~Act No. 306 of the Public Acts of~~
4 ~~1969~~ **THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL**
5 **24.201 TO 24.328.**

6 (3) The ~~family independence agency~~ **DEPARTMENT** may develop
7 policies to establish income and asset limits, types of income and
8 assets to be considered for eligibility, and payment standards for
9 assistance programs administered under this act. Policies developed
10 under this subsection are effective and binding on all those
11 affected by the assistance programs. Policies described in this
12 subsection are exempt from the rule promulgation requirements of
13 ~~Act No. 306 of the Public Acts of 1969~~ **THE ADMINISTRATIVE**
14 **PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.** Not less
15 than 30 days before policies developed under this subsection are
16 implemented, they shall be submitted to the senate and house
17 standing committees and appropriation subcommittees with oversight
18 of human services.

19 (4) The ~~family independence agency~~ **DEPARTMENT** may develop
20 policies to implement requirements that are mandated by federal
21 statute or regulations as a condition of receipt of federal funds.
22 Policies developed under this subsection are effective and binding
23 on all those affected by the programs. Policies described in this
24 subsection are exempt from the rule promulgation requirements of
25 ~~Act No. 306 of the Public Acts of 1969~~ **THE ADMINISTRATIVE**
26 **PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328.**

27 (5) All rules, regulations, and policies established by the

1 ~~family independence agency~~ **DEPARTMENT** shall be in writing, shall
2 be provided to the legislature, and shall be made available for
3 inspection by any member of the public at all **DEPARTMENT** offices
4 ~~of the family independence agency~~ during regular business hours.

5 (6) Until ~~the expiration of 12 months after the effective~~
6 ~~date of this subsection~~ **MARCH 28, 1997**, a bipartisan task force of
7 legislators appointed in the same manner as members are appointed
8 to standing committees of the legislature shall meet regularly with
9 the ~~family independence agency~~ **DEPARTMENT** to review proposed
10 policies and regulations for the family independence program.
11 Meetings of the bipartisan task force are subject to the open
12 meetings act, ~~Act No. 267 of the Public Acts of 1976, being~~
13 ~~sections 15.261 to 15.275 of the Michigan Compiled Laws~~ **1976 PA**
14 **267, MCL 15.261 TO 15.275.**

15 (7) Subsection (2) does not apply to standards and policies
16 related to the providers of services ~~which~~ **THAT** have a written
17 contractual relationship or are an enrolled medicaid provider with
18 the ~~family independence agency~~ **DEPARTMENT**.

19 (8) **A RULE PROMULGATED UNDER THIS ACT OR AN EXCEPTION TO A**
20 **RULE PROMULGATED UNDER THIS ACT SHALL NOT DISCRIMINATE IN FAVOR OF**
21 **OR AGAINST ANY PROVIDER, FACILITY, OR EMPLOYER LICENSED UNDER THIS**
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