

Senate Bill 1505

A bill to amend 1939 PA 280, entitled  
"The social welfare act,"  
by amending sections 115f, 115g, 115i, 115j, 115/, and 115m  
(MCL 400.115f, 400.115g, 400.115i, 400.115j, 400.115/, and  
400.115m), section 115f as amended by 1998 PA 22, section 115g as  
amended and sections 115i and 115/ as added by 1994 PA 238, sec-  
tion 115j as amended by 2000 PA 61, and section 115m as added by  
1994 PA 207, and by adding sections 115r and 115s.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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

2   ~~115m~~ 115s:

3       (a) "Adoptee" means the child who is to be adopted or who is  
4   adopted.

5       (b) "ADOPTION ASSISTANCE" MEANS A SUPPORT SUBSIDY OR MEDICAL  
6   ASSISTANCE, OR BOTH.

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1 (C) "ADOPTION ASSISTANCE AGREEMENT" MEANS AN AGREEMENT  
2 BETWEEN THE DEPARTMENT AND AN ADOPTIVE PARENT REGARDING ADOPTION  
3 ASSISTANCE.

4 (D) ~~(b)~~ "Adoption code" means the Michigan adoption code,  
5 chapter X of THE PROBATE CODE OF 1939, 1939 PA 288, MCL 710.21 to  
6 710.70.

7 ~~(c) "Adoption subsidy" means a support subsidy or a medical~~  
8 ~~subsidy or both.~~

9 (E) ~~(d)~~ "Adoptive parent" means the parent or parents who  
10 adopt a child ~~pursuant to~~ UNDER the adoption code.

11 ~~(e) "Agreement" means an adoption assistance agreement~~  
12 ~~between the department and the adoptive parent.~~

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

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

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

21 (i) The child cannot or should not be returned to the home  
22 of the child's parents.

23 (ii) A specific factor or condition, OR A COMBINATION OF  
24 FACTORS AND CONDITIONS, exists with respect to the child so that  
25 it is reasonable to conclude that the child cannot be placed with  
26 an adoptive parent without ~~an adoption subsidy~~ PROVIDING  
27 ADOPTION ASSISTANCE under this act. The factors or conditions to

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1 be considered MAY include ethnic OR FAMILY background, age,  
2 membership in a minority or sibling group, medical condition,  
3 physical, mental, or emotional disability, or length of time the  
4 child has been waiting for an adoptive home.

5 (iii) A reasonable but unsuccessful effort was made to place  
6 the adoptee with AN appropriate adoptive ~~parents~~ PARENT without  
7 providing ~~an adoption subsidy~~ ADOPTION ASSISTANCE under this  
8 act or a prospective placement is the only placement in the best  
9 interest of the child.

10 (I) "COMPACT" MEANS THE INTERSTATE COMPACT ON ADOPTION AND  
11 MEDICAL ASSISTANCE AS ENACTED IN SECTIONS 115R AND 115S.

12 (J) ~~(i)~~ "Court" means the ~~juvenile division of the pro-~~  
13 ~~bate court in this state~~ FAMILY DIVISION OF CIRCUIT COURT.

14 (K) ~~(j)~~ "Department" means the family independence  
15 agency.

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

20 (M) "MEDICAL ASSISTANCE" MEANS THE FEDERALLY AIDED MEDICAL  
21 ASSISTANCE PROGRAM UNDER TITLE XIX OF THE SOCIAL SECURITY ACT,  
22 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396 TO 1396f, 1396g-1 TO  
23 1396r-6 AND 1396r-8 TO 1396v.

24 (N) ~~(l)~~ "Medical subsidy" means payment for medical, sur-  
25 gical, hospital, and related expenses necessitated by a specified  
26 physical, mental, or emotional condition of a child who has been  
27 placed for adoption.

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1           (O) "MEDICAL SUBSIDY AGREEMENT" MEANS AN AGREEMENT BETWEEN  
2 THE DEPARTMENT AND AN ADOPTIVE PARENT REGARDING A MEDICAL  
3 SUBSIDY.

4           (P) ~~-(m)-~~ "Nonrecurring adoption expenses" means reasonable  
5 and necessary adoption fees, court costs, attorney fees, and  
6 other expenses that are directly related to the legal adoption of  
7 a child with special needs. Nonrecurring adoption expenses do  
8 not include costs or expenses incurred in violation of state or  
9 federal law or that have been reimbursed from other sources or  
10 funds.

11           (Q) ~~-(n)-~~ "Other expenses that are directly related to the  
12 legal adoption of a child with special needs" means adoption  
13 costs incurred by or on behalf of the adoptive parent and for  
14 which the adoptive parent carries the ultimate liability for pay-  
15 ment, including the adoption study, health and psychological  
16 examinations, supervision of the placement before adoption, and  
17 transportation and reasonable costs of lodging and food for the  
18 child or adoptive parent if necessary to complete the adoption or  
19 placement process.

20           (R) "PARTY STATE" MEANS A STATE THAT BECOMES A PARTY TO THE  
21 INTERSTATE COMPACT ON ADOPTION AND MEDICAL ASSISTANCE.

22           (S) "RESIDENCE STATE" MEANS THE STATE IN WHICH THE CHILD IS  
23 A RESIDENT BY VIRTUE OF THE ADOPTIVE PARENT'S RESIDENCY.

24           (T) "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT  
25 OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE VIRGIN ISLANDS,  
26 GUAM, THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, OR A  
27 TERRITORY OR POSSESSION OF THE UNITED STATES.

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1 (U) ~~(o)~~ "Support subsidy" means payment for support of a  
2 child who has been placed for adoption.

3 Sec. 115g. (1) The department may pay a support subsidy to  
4 ~~the~~ AN adoptive parent ~~or parents~~ of an adoptee who is placed  
5 in the home of the adoptive parent ~~or parents pursuant to~~ UNDER  
6 the adoption code or under the adoption laws of ~~any other~~  
7 ANOTHER state or a tribal government, if all of the following  
8 requirements are met:

9 (a) The department has certified that the adoptee is eligi-  
10 ble for a support subsidy, based on ~~both~~ ALL of the following:

11 (i) ~~A reasonable but unsuccessful effort was made to place~~  
12 ~~the adoptee with an appropriate adoptive parent or parents with-~~  
13 ~~out providing an adoption subsidy under this act or a prospective~~  
14 ~~placement is the only placement in the best interest of the child~~  
15 ~~and the adoptive parent or parents are requesting~~ THE ADOPTEE IS  
16 A CHILD WITH SPECIAL NEEDS.

17 (ii) AN ADOPTIVE PARENT REQUESTS a support subsidy.

18 (iii) ~~(ii)~~ The adoptee ~~was~~ IS in foster care ~~for not~~  
19 ~~less than 4 months before certification for~~ AT THE TIME THE  
20 DEPARTMENT CERTIFIES the support subsidy.

21 (b) Certification ~~was~~ IS made before the adoptee's eigh-  
22 teenth birthday.

23 (c) Certification ~~was~~ IS made before the petition for  
24 adoption ~~was~~ IS filed.

25 (d) The adoptive parent ~~or parents request~~ REQUESTS the  
26 support subsidy not later than the date of confirmation of the  
27 adoption.

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1           (2) The department shall determine ~~the amount of~~  
2 ELIGIBILITY FOR the support subsidy without regard to the income  
3 of the adoptive parent or parents. The amount shall ~~not exceed~~  
4 BE EQUAL TO the family foster care rate, INCLUDING THE DIFFICULTY  
5 OF CARE RATE, that was paid for the adoptee while the adoptee was  
6 in FAMILY foster care, except that the amount shall be increased  
7 to reflect increases made in the STANDARD AGE APPROPRIATE foster  
8 care rate paid by the department. ~~The amount shall not be less~~  
9 ~~than the intensive care rate that was paid for the adoptee while~~  
10 ~~in foster care.~~

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

14           Sec. 115i. (1) If ~~the adoptive subsidy~~ ADOPTION  
15 ASSISTANCE is to be paid, the department and the adoptive parent  
16 or parents shall enter into an ADOPTION ASSISTANCE agreement cov-  
17 ering all of the following:

18           (a) The DURATION OF THE adoption ~~subsidy~~ ASSISTANCE to be  
19 paid.

20           (b) The amount to be paid ~~, if known with certainty~~ AND,  
21 IF APPROPRIATE, ELIGIBILITY FOR MEDICAL ASSISTANCE.

22           ~~(c) The identity of the physical, mental, or emotional con-~~  
23 ~~dition that is covered by a medical subsidy.~~

24           (C) ~~(d)~~ Conditions for continued payment of the adoption  
25 ~~subsidy~~ ASSISTANCE as established by statute.

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1 (2) IF MEDICAL SUBSIDY ELIGIBILITY IS CERTIFIED, THE  
2 DEPARTMENT AND THE ADOPTIVE PARENT SHALL ENTER INTO A MEDICAL  
3 SUBSIDY AGREEMENT COVERING ALL OF THE FOLLOWING:

4 (A) IDENTIFICATION OF THE PHYSICAL, MENTAL, OR EMOTIONAL  
5 CONDITION COVERED BY THE MEDICAL SUBSIDY.

6 (B) THE DURATION OF THE MEDICAL SUBSIDY AGREEMENT.

7 (C) CONDITIONS FOR CONTINUED ELIGIBILITY FOR THE MEDICAL  
8 SUBSIDY AS ESTABLISHED BY STATUTE.

9 (3) ~~-(2)-~~ The department shall give a copy of the ADOPTION  
10 ASSISTANCE AGREEMENT OR MEDICAL SUBSIDY agreement, OR BOTH, to  
11 the adoptive parent or parents.

12 (4) ~~-(3)-~~ Unless the medical condition of the adoptee no  
13 longer exists, or an event described in section 115j has  
14 occurred, as indicated in a report filed under subsection ~~-(5)-~~  
15 (6) or as otherwise determined by the department, the department  
16 shall not modify or discontinue ~~an adoption~~ A MEDICAL subsidy.

17 (5) ~~-(4)-~~ An adoption ~~subsidy~~ ASSISTANCE AGREEMENT OR MED-  
18 ICAL SUBSIDY AGREEMENT does not affect the legal status of the  
19 adoptee or the legal rights and responsibilities of the adoptive  
20 parent or parents.

21 (6) ~~-(5)-~~ The adoptive parent or parents shall file a veri-  
22 fied report with the department at least once each year as to the  
23 location of the adoptee and other matters relating to the con-  
24 tinuing eligibility of the adoptee for ~~an adoption subsidy~~  
25 ADOPTION ASSISTANCE OR A MEDICAL SUBSIDY, OR BOTH. ~~The report~~  
26 ~~shall not contain information concerning the financial condition~~  
27 ~~of the adoptive parent or parents.~~

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1       Sec. 115j. (1) ~~An adoption subsidy~~ ADOPTION ASSISTANCE OR  
2 A MEDICAL SUBSIDY, OR BOTH, shall continue until 1 of the follow-  
3 ing occurs:

4       (a) The adoptee becomes 18 years of age.

5       (b) The adoptee is emancipated.

6       (c) The adoptee dies.

7       (d) The adoption is terminated.

8       (e) A determination of ineligibility is made by the  
9 department.

10       (2) If sufficient ~~funds are~~ MONEY IS appropriated, the  
11 department may continue ~~an adoption subsidy~~ ADOPTION ASSISTANCE  
12 OR A MEDICAL SUBSIDY, OR BOTH, for an adoptee under 21 years of  
13 age if the department determines that the adoptee is a student  
14 regularly attending a high school, college, university, or voca-  
15 tional school in pursuance of a course of study leading to a high  
16 school diploma, college degree, or gainful employment.

17       (3) ~~An adoption subsidy~~ ADOPTION ASSISTANCE AND A MEDICAL  
18 SUBSIDY shall continue even if the adoptive parent ~~or parents~~  
19 ~~leave~~ LEAVES the state.

20       (4) An adoption support subsidy shall continue during a  
21 period in which the adoptee is removed FOR DELINQUENCY from his  
22 or her home as a temporary court ward BASED ON PROCEEDINGS UNDER  
23 SECTION 2(A) OF CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA  
24 288, MCL 712A.2.

25       (5) Upon the death of the adoptive parent, the department  
26 shall continue making ~~adoption~~ SUPPORT subsidy payments OR  
27 CONTINUE MEDICAL SUBSIDY ELIGIBILITY, OR BOTH, to the guardian of

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1 the adoptee if a guardian is appointed as provided in section  
2 5202 or 5204 of the estates and protected individuals code, 1998  
3 PA 386, MCL 700.5202 and 700.5204.

4 Sec. 115/. (1) The department shall enter into an agreement  
5 with the adoptive parent or parents of a child with special needs  
6 ~~pursuant to~~ UNDER this section for the payment of nonrecurring  
7 adoption expenses incurred by or on behalf of the adoptive parent  
8 or parents. The agreement may be a separate document or part of  
9 an ADOPTION ASSISTANCE agreement ~~for adoption subsidies pursuant~~  
10 ~~to~~ UNDER section 115i. The agreement UNDER THIS SECTION shall  
11 indicate the nature and amount of nonrecurring adoption expenses  
12 to be paid by the department, which shall not exceed \$2,000.00  
13 for each adoptive placement meeting the requirements of this  
14 section. The department shall make payment ~~pursuant to~~ AS PRO-  
15 VIDED IN the agreement.

16 (2) ~~Except as provided in subsection (3), the~~ AN agreement  
17 UNDER THIS SECTION shall be signed at or before entry of an order  
18 of adoption ~~pursuant to~~ UNDER the adoption code. Claims for  
19 payment shall be filed with the department within 2 years after  
20 entry of the order of adoption.

21 ~~-(3) If the order of adoption was entered on or after~~  
22 ~~June 15, 1989, but not later than June 26, 1991, an adoptive~~  
23 ~~parent or parents seeking payment of nonrecurring adoption~~  
24 ~~expenses must enter into an agreement with the department and~~  
25 ~~file a claim for payment within 2 years after entry of the order~~  
26 ~~of adoption.~~

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1       (3) ~~-(4)-~~ The department shall take all actions necessary  
2 and appropriate to notify potential claimants under this section,  
3 including compliance with federal regulations.

4       Sec. 115m. (1) The department shall prepare and distribute  
5 to adoption facilitators and other interested persons a pamphlet  
6 describing the adoption process and the adoption ~~subsidy program~~  
7 ~~established pursuant to sections 115f to 115/~~ ASSISTANCE AND  
8 MEDICAL SUBSIDY PROGRAMS ESTABLISHED UNDER SECTIONS 115F TO  
9 115S. The state department shall provide a copy of the pamphlet  
10 to each prospective adoptive parent before placing a child with  
11 that parent.

12       (2) The description of the adoption process required under  
13 subsection (1) shall include at least all of the following:

14       (a) The steps that must be taken under the adoption code to  
15 complete an adoption, and a description of all of the options  
16 available during the process.

17       (b) A description of the services that are typically avail-  
18 able from each type of adoption facilitator.

19       (c) Recommended questions for a biological parent or pro-  
20 spective adoptive parent to ask an adoption facilitator before  
21 engaging that adoption facilitator's services.

22       (d) A list of the rights and responsibilities of biological  
23 parents and prospective adoptive parents.

24       (e) A description of the information services available to  
25 biological and prospective adoptive parents including, but not  
26 limited to, all of the following:

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1 (i) The registry of adoptive homes established and  
2 maintained by the department ~~pursuant to~~ UNDER section ~~7~~ 8 of  
3 the foster care and adoption services act, 1994 PA 203,  
4 MCL 722.958.

5 (ii) The directory of children produced ~~pursuant to~~ UNDER  
6 section ~~7~~ 8 of the foster care and adoption services act, 1994  
7 PA 203, MCL 722.958.

8 (iii) The public information forms maintained by the depart-  
9 ment pursuant to section 14d of ~~Act No. 116 of the Public Acts~~  
10 ~~of 1973, being section 722.144d of the Michigan Compiled Laws~~  
11 1973 PA 116, MCL 722.124D.

12 (f) A statement about the existence of the children's  
13 ombudsman and its authority as an investigative body.

14 (g) A statement about the importance and availability of  
15 counseling for all parties to an adoption and that a prospective  
16 adoptive parent must pay for counseling for a birth parent or  
17 guardian unless the birth parent or guardian waives the  
18 counseling.

19 SEC. 115R. (1) SECTIONS 115R AND 115S SHALL BE KNOWN AND  
20 MAY BE CITED AS THE "INTERSTATE COMPACT ON ADOPTION AND MEDICAL  
21 ASSISTANCE".

22 (2) BY THE ENACTMENT OF SECTIONS 115R AND 115S, THIS STATE  
23 BECOMES A PARTY STATE.

24 (3) SECTIONS 115R AND 115S SHALL BE LIBERALLY CONSTRUED TO  
25 ACCOMPLISH ALL OF THE FOLLOWING:

26 (A) STRENGTHEN PROTECTIONS FOR EACH ADOPTEE WHO IS A CHILD  
27 WITH SPECIAL NEEDS ON BEHALF OF WHOM A PARTY STATE COMMITS TO PAY

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1 ADOPTION ASSISTANCE WHEN THAT CHILD'S RESIDENCE STATE IS A STATE  
2 OTHER THAN THE STATE COMMITTED TO PROVIDE THE ADOPTION  
3 ASSISTANCE.

4 (B) PROVIDE SUBSTANTIVE ASSURANCES AND OPERATING PROCEDURES  
5 THAT PROMOTE THE DELIVERY OF MEDICAL ASSISTANCE AND OTHER SERV-  
6 ICES TO A CHILD ON AN INTERSTATE BASIS THROUGH MEDICAL ASSISTANCE  
7 PROGRAMS ESTABLISHED BY THE LAWS OF EACH STATE THAT IS A PARTY TO  
8 THE COMPACT.

9 SEC. 115S. (1) THE FAMILY INDEPENDENCE AGENCY IS AUTHORIZED  
10 TO NEGOTIATE AND ENTER INTO INTERSTATE COMPACTS WITH AGENCIES OF  
11 OTHER STATES FOR THE PROVISION OF ADOPTION ASSISTANCE FOR AN  
12 ADOPTEE WHO IS A CHILD WITH SPECIAL NEEDS, WHO MOVES INTO OR OUT  
13 OF THIS STATE, AND ON BEHALF OF WHOM ADOPTION ASSISTANCE IS BEING  
14 PROVIDED BY THIS STATE OR ANOTHER STATE PARTY TO SUCH A COMPACT.

15 (2) WHEN A COMPACT IS SO ENTERED INTO AND FOR AS LONG AS IT  
16 REMAINS IN FORCE, THE COMPACT HAS THE FORCE AND EFFECT OF LAW.

17 (3) A COMPACT AUTHORIZED UNDER THIS ACT MUST INCLUDE:

18 (A) A PROVISION MAKING IT AVAILABLE FOR JOINDER BY ALL  
19 STATES.

20 (B) A PROVISION OR PROVISIONS FOR WITHDRAWAL FROM THE COM-  
21 PACT UPON WRITTEN NOTICE TO THE PARTIES, BUT WITH A PERIOD OF 1  
22 YEAR BETWEEN THE DATE OF THE NOTICE AND EFFECTIVE DATE OF THE  
23 WITHDRAWAL.

24 (C) A REQUIREMENT THAT THE PROTECTIONS UNDER THE COMPACT  
25 CONTINUE IN FORCE FOR THE DURATION OF THE ADOPTION ASSISTANCE AND  
26 ARE APPLICABLE TO ALL CHILDREN AND THEIR ADOPTIVE PARENTS WHO ON  
27 THE EFFECTIVE DATE OF THE WITHDRAWAL ARE RECEIVING ADOPTION

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1 ASSISTANCE FROM A PARTY STATE OTHER THAN THE ONE IN WHICH THEY  
2 ARE RESIDENT AND HAVE THEIR PRINCIPAL PLACE OF ABODE.

3 (D) A REQUIREMENT THAT EACH INSTANCE OF ADOPTION ASSISTANCE  
4 TO WHICH THE COMPACT APPLIES BE COVERED BY AN ADOPTION ASSISTANCE  
5 AGREEMENT IN WRITING BETWEEN THE ADOPTIVE PARENTS AND THE STATE  
6 CHILD WELFARE AGENCY OF THE STATE THAT UNDERTAKES TO PROVIDE THE  
7 ADOPTION ASSISTANCE. AN AGREEMENT REQUIRED BY THIS SUBDIVISION  
8 SHALL BE EXPRESSLY FOR THE BENEFIT OF THE ADOPTED CHILD AND BE  
9 ENFORCEABLE BY THE ADOPTIVE PARENTS AND THE STATE AGENCY PROVID-  
10 ING THE ADOPTION ASSISTANCE.

11 (E) OTHER PROVISIONS AS MAY BE APPROPRIATE TO IMPLEMENT THE  
12 PROPER ADMINISTRATION OF THE COMPACT.