

Act No. 648
Public Acts of 2002
Approved by the Governor
December 22, 2002
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**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Senator Hammerstrom

ENROLLED SENATE BILL No. 1505

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 115f, 115g, 115i, 115j, 115l, and 115m (MCL 400.115f, 400.115g, 400.115i, 400.115j, 400.115l, and 400.115m), section 115f as amended by 1998 PA 22, section 115g as amended and sections 115i and 115l as added by 1994 PA 238, section 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:

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) 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 1396f, 1396g-1 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) "Residence state" means the state in which the child is a resident by virtue of the adoptive parent's residency.

(t) "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.

(u) "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 eligible for a support subsidy, based on all of the following:

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

(ii) An adoptive parent requests a support subsidy.

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

(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. 115i. (1) If adoption assistance is to be paid, the department and the adoptive parent or parents shall enter into an adoption assistance agreement covering all of the following:

- (a) The duration of the adoption assistance to be paid.
- (b) The amount to be paid and, if appropriate, eligibility for medical assistance.
- (c) Conditions for continued payment of the adoption assistance as established by statute.

(2) If medical subsidy eligibility is certified, the department and the adoptive parent shall enter into a medical subsidy agreement covering all of the following:

- (a) Identification of the physical, mental, or emotional condition covered by the medical subsidy.
- (b) The duration of the medical subsidy agreement.
- (c) Conditions for continued eligibility for the medical subsidy as established by statute.

(3) The department shall give a copy of the adoption assistance agreement or medical subsidy agreement, or both, to the adoptive parent or parents.

(4) Unless the medical condition of the adoptee no longer exists, or an event described in section 115j has occurred, as indicated in a report filed under subsection (6) or as otherwise determined by the department, the department shall not modify or discontinue a medical subsidy.

(5) An adoption assistance agreement or medical subsidy agreement does not affect the legal status of the adoptee or the legal rights and responsibilities of the adoptive parent or parents.

(6) The adoptive parent or parents shall file a verified report with the department at least once each year as to the location of the adoptee and other matters relating to the continuing eligibility of the adoptee for adoption assistance or a medical subsidy, or both.

Sec. 115j. (1) Adoption assistance or a medical subsidy, or both, shall continue until 1 of the following occurs:

- (a) The adoptee becomes 18 years of age.
- (b) The adoptee is emancipated.
- (c) The adoptee dies.
- (d) The adoption is terminated.
- (e) A determination of ineligibility is made by the department.

(2) If sufficient money is appropriated, the department may continue adoption assistance or a medical subsidy, or both, for an adoptee under 21 years of age if the department determines that the adoptee is a student regularly attending a high school, college, university, or vocational school in pursuance of a course of study leading to a high school diploma, college degree, or gainful employment.

(3) Adoption assistance and a medical subsidy shall continue even if the adoptive parent leaves the state.

(4) An adoption support subsidy shall continue during a period in which the adoptee is removed for delinquency from his or her home as a temporary court ward based on proceedings under section 2(a) of chapter XIA of the probate code of 1939, 1939 PA 288, MCL 712A.2.

(5) Upon the death of the adoptive parent, the department shall continue making support subsidy payments or continue medical subsidy eligibility, or both, to the guardian of the adoptee if a guardian is appointed as provided in section 5202 or 5204 of the estates and protected individuals code, 1998 PA 386, MCL 700.5202 and 700.5204.

Sec. 115l. (1) The department shall enter into an agreement with the adoptive parent or parents of a child with special needs under this section for the payment of nonrecurring adoption expenses incurred by or on behalf of the adoptive parent or parents. The agreement may be a separate document or part of an adoption assistance agreement under section 115i. The agreement under this section shall indicate the nature and amount of nonrecurring adoption expenses to be paid by the department, which shall not exceed \$2,000.00 for each adoptive placement meeting the requirements of this section. The department shall make payment as provided in the agreement.

(2) An agreement under this section shall be signed at or before entry of an order of adoption under the adoption code. Claims for payment shall be filed with the department within 2 years after entry of the order of adoption.

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

Sec. 115m. (1) The department shall prepare and distribute to adoption facilitators and other interested persons a pamphlet describing the adoption process and the adoption assistance and medical subsidy programs established under sections 115f to 115s. The state department shall provide a copy of the pamphlet to each prospective adoptive parent before placing a child with that parent.

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

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

(b) A description of the services that are typically available from each type of adoption facilitator.

(c) Recommended questions for a biological parent or prospective adoptive parent to ask an adoption facilitator before engaging that adoption facilitator's services.

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

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

(i) The registry of adoptive homes established and maintained by the department under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(ii) The directory of children produced under section 8 of the foster care and adoption services act, 1994 PA 203, MCL 722.958.

(iii) The public information forms maintained by the department pursuant to section 14d of 1973 PA 116, MCL 722.124d.

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

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

Sec. 115r. (1) Sections 115r and 115s shall be known and may be cited as the "interstate compact on adoption and medical assistance".

(2) By the enactment of sections 115r and 115s, this state becomes a party state.

(3) Sections 115r and 115s shall be liberally construed to accomplish all of the following:

(a) Strengthen protections for each adoptee who is a child with special needs on behalf of whom a party state commits to pay adoption assistance when that child's residence state is a state other than the state committed to provide the adoption assistance.

(b) Provide substantive assurances and operating procedures that promote the delivery of medical assistance and other services to a child on an interstate basis through medical assistance programs established by the laws of each state that is a party to the compact.

Sec. 115s. (1) The family independence agency is authorized to negotiate and enter into interstate compacts with agencies of other states for the provision of adoption assistance for an adoptee who is a child with special needs, who moves into or out of this state, and on behalf of whom adoption assistance is being provided by this state or another state party to such a compact.

(2) When a compact is so entered into and for as long as it remains in force, the compact has the force and effect of law.

(3) A compact authorized under this act must include:

(a) A provision making it available for joinder by all states.

(b) A provision or provisions for withdrawal from the compact upon written notice to the parties, but with a period of 1 year between the date of the notice and effective date of the withdrawal.

(c) A requirement that the protections under the compact continue in force for the duration of the adoption assistance and are applicable to all children and their adoptive parents who on the effective date of the withdrawal are receiving adoption assistance from a party state other than the one in which they are resident and have their principal place of abode.

(d) A requirement that each instance of adoption assistance to which the compact applies be covered by an adoption assistance agreement in writing between the adoptive parents and the state child welfare agency of the state that undertakes to provide the adoption assistance. An agreement required by this subdivision shall be expressly for the benefit of the adopted child and be enforceable by the adoptive parents and the state agency providing the adoption assistance.

(e) Other provisions as may be appropriate to implement the proper administration of the compact.

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate.

Sam E. Randall

Clerk of the House of Representatives.

Approved _____

Governor.