

SENATE BILL No. 67

January 25, 2005, Introduced by Senators JELINEK, ALLEN and GOSCHKA and referred to the Committee on Families and Human Services.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 6, 41, 57, and 57a (MCL 400.6, 400.41, 400.57, and 400.57a), section 6 as amended and section 57 as added by 1995 PA 223 and section 57a as amended by 1999 PA 26.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 6. (1) The family independence agency may promulgate all
2 rules necessary or desirable for the administration of programs
3 under this act. Rules shall be promulgated under the administrative
4 procedures act of 1969, ~~Act No. 306 of the Public Acts of 1969,~~
5 ~~being sections 24.201 to 24.328 of the Michigan Compiled Laws.~~
6 ~~Beginning 2 years after the effective date of subsection (2), if~~

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

7 (2) The family independence agency may develop regulations to
8 implement the goals and principles of assistance programs created
9 under this act, including all standards and policies related to
10 applicants and recipients that are necessary or desirable to
11 administer the programs. ~~These regulations are effective and~~
12 ~~binding on all those affected by the assistance programs. Except~~
13 ~~for policies described in subsections (3) and (4), regulations~~
14 ~~described in this subsection, setting standards and policies~~
15 ~~necessary or desirable to administer the programs, are exempt until~~
16 ~~the expiration of 12 months after the effective date of this~~
17 ~~subsection from the rule promulgation requirements of the~~
18 ~~administrative procedures act of 1969, Act No. 306 of the Public~~
19 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
20 ~~Compiled Laws. Upon the expiration of 12 months after the effective~~
21 ~~date of this subsection, regulations described in this subsection~~
22 ~~are not effective and binding unless processed as emergency rules~~
23 ~~under section 48 of Act No. 306 of the Public Acts of 1969, being~~
24 ~~section 24.248 of the Michigan Compiled Laws, or promulgated in~~
25 ~~accordance with Act No. 306 of the Public Acts of 1969.~~

26 (3) The family independence agency may develop policies to
27 establish income and asset limits, types of income and assets to be

1 considered for eligibility, and payment standards for assistance
2 programs administered under this act. Policies developed under this
3 subsection are effective and binding on all those affected by the
4 assistance programs. **FOR AN ADULT WHO IS UNABLE TO LIVE WITHOUT**
5 **ASSISTANCE DUE TO PHYSICAL OR MENTAL DISABILITY AND WHO DOES NOT**
6 **LIVE IN A HEALTH FACILITY OR AGENCY AS DEFINED IN SECTION 20106 OR**
7 **RULES PROMULGATED UNDER SECTION 20115 OF THE PUBLIC HEALTH CODE,**
8 **1978 PA 368, MCL 333.20106 AND 333.20115, A POLICY ESTABLISHING**
9 **INCOME AND ASSET LIMITS DEVELOPED UNDER THIS SUBSECTION SHALL**
10 **CONSIDER ONLY THAT ADULT'S INCOME AND ASSETS IN DETERMINING**
11 **ELIGIBILITY.** Policies described in this subsection are exempt from
12 the rule promulgation requirements of ~~Act No. 306 of the Public~~
13 ~~Acts of 1969~~ **THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA**
14 **306, MCL 24.201 TO 24.328.** Not less than 30 days before policies
15 developed under this subsection are implemented, they shall be
16 submitted to the senate and house standing committees and
17 appropriation subcommittees with oversight of human services.

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

26 (5) All rules, regulations, and policies established by the
27 family independence agency shall be in writing, shall be provided

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

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

13 (6) ~~—(7)~~ Subsection (2) does not apply to standards and
 14 policies related to ~~the providers~~ **A PROVIDER** of services ~~which~~
 15 ~~have~~ **THAT HAS** a written contractual relationship or ~~are~~ **THAT IS**
 16 an enrolled medicaid provider with the family independence agency.

17 Sec. 41. If at any time after approval of a grant of
 18 assistance the recipient ~~—~~ or, **EXCEPT AS PROVIDED IN THIS**
 19 **SECTION**, the spouse of the recipient ~~—~~ becomes possessed of any
 20 property or income of which the county ~~department of social~~
 21 ~~welfare~~ **FAMILY INDEPENDENCE AGENCY** has no knowledge, it shall be
 22 the duty of the recipient to notify ~~said~~ **THAT** county department,
 23 ~~of social welfare~~ which shall report and make recommendations to
 24 the state department, which in turn may cancel, suspend, or alter
 25 the certificate of allowance. **THIS SECTION DOES NOT APPLY TO THE**
 26 **SPOUSE OF AN ADULT WHO IS UNABLE TO LIVE WITHOUT ASSISTANCE DUE TO**
 27 **PHYSICAL OR MENTAL DISABILITY AND WHO DOES NOT LIVE IN A HEALTH**

1 FACILITY OR AGENCY AS DEFINED IN SECTION 20106 OR RULES PROMULGATED
2 UNDER SECTION 20115 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
3 333.20106 AND 333.20115.

4 Sec. 57. (1) As used in this section and sections 57a to ~~57g~~
5 57l:

6 (a) "Adult-supervised household" means either of the
7 following:

8 (i) The place of residence of a parent, stepparent, or legal
9 guardian of a minor parent.

10 (ii) A living arrangement not described in subparagraph (i) that
11 the family independence agency approves as a family setting that
12 provides care and control of a minor parent and his or her child
13 and supportive services including, but not limited to, counseling,
14 guidance, or supervision.

15 (b) "Caretaker" means an individual who is acting as parent
16 for a child in the absence or because of the disability of the
17 child's parent or stepparent and who is the child's legal guardian,
18 grandparent, great grandparent, great-great grandparent, sibling,
19 stepsibling, aunt, great aunt, great-great aunt, uncle, great
20 uncle, great-great uncle, nephew, niece, first cousin, or first
21 cousin once-removed, a spouse of ~~any~~ A person listed above, a
22 parent of the putative father, or an unrelated individual aged 21
23 or older whose appointment as legal guardian of the child is
24 pending.

25 (c) "Child" means an individual who is not emancipated under
26 ~~Act No. 293 of the Public Acts of 1968, being sections 722.1 to~~
27 ~~722.6 of the Michigan Compiled Laws— 1968 PA 293, MCL 722.1 TO~~

1 722.6, who lives with a parent or caretaker, and who is either of
2 the following:

3 (i) Under the age of 18.

4 (ii) Age 18 or 19, a full-time high school student, and
5 reasonably expected to graduate from high school before the age of
6 20.

7 (d) "Family" means 1 or more of the following:

8 (i) A household consisting of a child and either of the
9 following:

10 (A) A parent or stepparent of the child.

11 (B) A caretaker of the child.

12 (ii) A pregnant woman.

13 (iii) A parent of a child in foster care.

14 (iv) **AN ADULT WHO IS UNABLE TO LIVE WITHOUT ASSISTANCE DUE TO**
15 **PHYSICAL OR MENTAL DISABILITY AND WHO DOES NOT LIVE IN A HEALTH**
16 **FACILITY OR AGENCY AS DEFINED IN SECTION 20106 OR RULES PROMULGATED**
17 **UNDER SECTION 20115 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL**
18 **333.20106 AND 333.20115.**

19 (e) "Family independence assistance" means financial
20 assistance provided to a family under the family independence
21 program.

22 (f) "Family independence assistance group" means all those
23 members of a program group who receive family independence
24 assistance.

25 (g) "Family independence program" means the program of
26 financial assistance established under section 57a.

27 (h) "Minor parent" means an individual under the age of 18 who

1 is not emancipated under ~~Act No. 293 of the Public Acts of 1968~~
2 **1968 PA 293, MCL 722.1 TO 722.6**, and who is either the biological
3 parent of a child living in the same household or a pregnant woman.

4 (i) "Payment standard" means the standard upon which family
5 independence program benefits are based if the family independence
6 assistance group has no net income.

7 (j) "Program group" means a family and all those individuals
8 living with a family whose income and assets are considered for
9 purposes of determining financial eligibility for family
10 independence assistance.

11 (k) "Recipient" means an individual receiving family
12 independence assistance.

13 (l) "Social contract" means a document described in section 57e
14 that is executed by a family in return for the receipt of family
15 independence assistance.

16 (m) "Substance abuse" means that term as defined in section
17 6107 of the public health code, ~~Act No. 368 of the Public Acts of~~
18 ~~1978, being section 333.6107 of the Michigan Compiled Laws~~ **1978 PA**
19 **368, MCL 333.6107**.

20 (n) "Substance abuse treatment" means outpatient or inpatient
21 services or participation in alcoholics anonymous or a similar
22 program.

23 (o) "Work first" means the program of employment and training
24 administered by the Michigan ~~jobs commission~~ **DEPARTMENT OF CAREER**
25 **DEVELOPMENT** for applicants and recipients of family independence
26 assistance.

27 (2) A reference in this act to "aid to dependent children" or

1 "aid to families with dependent children" means "family
2 independence assistance".

3 Sec. 57a. (1) The family independence agency shall establish
4 and administer the family independence program to provide
5 assistance to families who are making efforts to achieve
6 independence.

7 (2) The family independence agency shall administer the family
8 independence program to accomplish all of the following:

9 (a) Provide financial support to eligible families while they
10 pursue self-improvement activities and engage in efforts to become
11 financially independent.

12 (b) Ensure that recipients who are minor parents live in
13 adult-supervised households in order to reduce long-term dependency
14 on financial assistance.

15 (c) Assist families in determining and overcoming the barriers
16 preventing them from achieving financial independence.

17 (d) Ensure that families pursue other sources of support
18 available to them.

19 (3) ~~The~~ **SUBJECT TO SUBSECTION (4), THE** family independence
20 agency shall establish income and asset levels for eligibility,
21 types of income and assets to be considered in making eligibility
22 determinations, payment standards, composition of the program group
23 and the family independence assistance group, program budgeting and
24 accounting methods, and client reporting requirements to meet the
25 following goals:

26 (a) Efficient, fair, cost-effective administration of the
27 family independence program.

1 (b) Provision of family independence assistance to families
2 willing to work toward eventual self-sufficiency.

3 (4) **IN DETERMINING WHETHER AN ADULT WHO IS UNABLE TO LIVE**
4 **WITHOUT ASSISTANCE DUE TO PHYSICAL OR MENTAL DISABILITY AND WHO**
5 **DOES NOT LIVE IN A HEALTH FACILITY OR AGENCY AS DEFINED IN SECTION**
6 **20106 OR RULES PROMULGATED UNDER SECTION 20115 OF THE PUBLIC HEALTH**
7 **CODE, 1978 PA 368, MCL 333.20106 AND 333.20115, MEETS THE INCOME**
8 **AND ASSET LEVELS REQUIREMENT ESTABLISHED UNDER SUBSECTION (3), THE**
9 **FAMILY INDEPENDENCE AGENCY SHALL CONSIDER ONLY THAT ADULT'S INCOME**
10 **AND ASSETS.**

11 (5) ~~-(4)-~~ Not later than October 1, 2001, the family
12 independence agency shall implement an automated finger imaging
13 system designed to prevent an individual from receiving cash
14 assistance, food stamps, or both under more than 1 name. Beginning
15 at the effective date of the establishment and implementation of
16 the finger imaging system, an individual applying for cash
17 assistance, food stamps, or both must provide the family
18 independence agency with an automated finger image or images as a
19 condition of eligibility. Finger imaging obtained ~~pursuant to~~ **IN**
20 **ACCORDANCE WITH** this subsection shall be used only for the purposes
21 of reducing fraud in obtaining public benefits or assistance under
22 this act.

23 (6) ~~-(5)-~~ The family independence agency shall establish the
24 automated finger image system that, at a minimum, includes the
25 following:

26 (a) Confidentiality of the automated finger image records
27 taken ~~pursuant to~~ **IN ACCORDANCE WITH** this section.

1 (b) A system for administrative appeal of a matter relating to
2 the taking or verification of an individual's automated finger
3 image.

4 (c) A requirement to exempt children from providing the
5 automated finger image unless there is a reasonable suspicion that
6 the family group is committing fraud. For the purpose of this
7 subdivision, "family group" means a family and all those
8 individuals living with a family who apply for or receive cash
9 assistance, food stamps, or both.

10 (d) A requirement to exempt individuals from whom the
11 automated finger image technology is unable to obtain an accurate
12 finger image.

13 (e) A requirement to exempt patients placed in nursing homes
14 from providing the automated finger image.

15 (f) In addition to the population groups named in subdivisions
16 (c), (d), and (e), authority to exempt certain other population
17 groups from providing the automated finger image including, but not
18 limited to, homebound recipients.

19 (7) ~~—(6)—~~ The family independence agency shall remove an
20 individual's finger image from the department's file if the
21 individual has not received benefits or assistance from the family
22 independence agency within the previous 12 months.

23 (8) ~~—(7)—~~ The family independence agency may negotiate and
24 enter into a compact or reciprocal agreement with another state
25 department, the federal government, an agency of the federal
26 government, or an agency of another state for the purpose of
27 implementing and administering the finger imaging provisions of

1 this section as long as the compact or reciprocal agreement is not
2 inconsistent with the limitations of use and access contained in
3 subsection ~~—(4)—~~ (5).

4 (9) ~~—(8)—~~ The family independence agency shall conduct semi-
5 annual security reviews to monitor the automated finger imaging
6 system to insure that all of the following occur:

7 (a) All records maintained as part of the system are accurate
8 and complete.

9 (b) Effective software and hardware designs have been
10 instituted with security features to prevent unauthorized access to
11 records.

12 (c) Access to record information is restricted to authorized
13 personnel.

14 (d) System and operational programs are used that will
15 prohibit inquiry, record updates, or destruction of records from a
16 terminal other than automated finger imaging system terminals that
17 are designated to permit inquiry, record updates, or destruction of
18 records.

19 (e) System and operational programs are used to detect and
20 report all unauthorized attempts to penetrate an automated finger
21 imaging system, program, or file.

22 (10) ~~—(9)—~~ Beginning December 31 of the first year the
23 automated finger imaging system has been fully implemented, the
24 family independence agency shall compile and report annually to the
25 senate and house committees having jurisdiction over family
26 independence agency matters the following information concerning
27 the operation of the automated finger imaging system:

1 (a) An analysis of the costs and savings of the system
2 including, but not limited to, administrative costs, operation
3 costs, and actual savings due to confirmed fraud and fraud
4 deterrence.

5 (b) The number of individuals who have applied for assistance
6 under more than 1 name.

7 (c) The number of individuals refusing to provide a finger
8 image and the reasons for the refusal.

9 (d) A detailed summary of the results of reviews required by
10 subsection ~~(8)~~ (9).

11 (11) ~~(10)~~ Except as necessary to carry out a compact or
12 agreement under subsection ~~(7)~~ (8) or unless otherwise required
13 by law, the family independence agency shall not sell, transfer, or
14 release information identifying an individual named in the
15 automated finger imaging system record to a third person,
16 including, but not limited to, another state department or agency.

17 (12) ~~(11)~~ A person shall not disclose information from the
18 automated finger imaging system record in a manner that is not
19 authorized by law or rule. A violation of this subsection is a
20 misdemeanor punishable by imprisonment for not more than 93 days or
21 a fine of not more than \$500.00, or both.

22 (13) ~~(12)~~ At the time an individual applies for cash
23 assistance, food stamps, or both, the family independence agency
24 shall inform the individual of all of the following:

25 (a) The requirement to allow the department to take a finger
26 image from the individual.

27 (b) The fact that the finger image may be compared to the

1 finger images of other benefit recipients to prevent duplicate
2 participation.

3 (c) The fact that the department is prohibited by law from
4 using the finger image for a different purpose.