

HOUSE BILL No. 4079

January 13, 2011, Introduced by Rep. Slavens and referred to the Committee on Families, Children, and Seniors.

A bill to amend 1939 PA 280, entitled "The social welfare act," by amending sections 115f, 115h, and 115k (MCL 400.115f, 400.115h, and 400.115k), section 115f as amended by 2004 PA 193 and sections 115h and 115k as added by 1994 PA 238.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

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

4 (b) "Adoption assistance" means a support subsidy, ~~or~~ medical
5 assistance, ~~or both~~ **REIMBURSEMENT OF NONRECURRING ADOPTION**
6 **EXPENSES, OR ALL OF THESE.**

7 (c) "Adoption assistance agreement" means an agreement between
8 the department and an adoptive parent regarding adoption

1 assistance.

2 (d) "Adoption code" means the Michigan adoption code, chapter
3 X of the probate code, ~~of 1939, 1939 PA 288,~~ MCL 710.21 to 710.70.

4 (e) "Adoptive parent" means the parent or parents who adopt a
5 child under the adoption code.

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

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

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

14 (i) There is a specific judicial finding that the child cannot
15 or should not be returned to the home of the child's parents.

16 (ii) A specific factor or condition, or a combination of
17 factors and conditions, exists with respect to the child so that it
18 is reasonable to conclude that the child cannot be placed with an
19 adoptive parent without providing adoption assistance under this
20 act. The factors or conditions to be considered may include ethnic
21 or family background, age, membership in a minority or sibling
22 group, medical condition, physical, mental, or emotional
23 disability, or length of time the child has been waiting for an
24 adoptive home.

25 (iii) A reasonable but unsuccessful effort was made to place the
26 adoptee with an appropriate adoptive parent without providing
27 adoption assistance under this act or a prospective placement is

1 the only placement in the best interest of the child.

2 (i) "Compact" means the interstate compact on adoption and
3 medical assistance as enacted in sections 115r and 115s.

4 (j) "Court" means the family division of circuit court.

5 (k) "Department" means the ~~family independence agency~~

6 **DEPARTMENT OF HUMAN SERVICES.**

7 (l) "Foster care" means placement **BY A COURT UNDER SECTION 2(B)**
8 **OF CHAPTER XIIIA OF THE PROBATE CODE, MCL 712A.2,** of a child outside
9 the child's parental home by and under the supervision of a child
10 placing agency, the court, the department, or the department of
11 community health.

12 (m) "Medical assistance" means the federally aided medical
13 assistance program under title XIX. ~~of the social security act,~~
14 ~~chapter 531, 49 Stat. 620, 42 U.S.C. 1396 to 1396r 6 and 1396r 8 to~~
15 ~~1396v.~~

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

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

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

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

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

12 (s) "Placement" means a placement or commitment, including the
13 necessity of removing the child from his or her parental home, as
14 approved by the court under an order of disposition issued under
15 ~~section 18(1)(c) or (d) of chapter XIIIA of the probate code, of~~
16 ~~1939, 1939 PA 288, MCL 712A.18-712A.32.~~

17 (T) **"PROBATE CODE" MEANS THE PROBATE CODE OF 1939, 1939 PA**
18 **288, MCL 710.21 TO 712A.32.**

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

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

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

27 Sec. 115h. (1) The department may pay a medical subsidy to the

1 adoptive parent or parents of an adoptee who is placed for adoption
2 in the home of the adoptive parent or parents ~~pursuant to~~ **UNDER** the
3 adoption code or the laws of any other state or a tribal
4 government, if all of the following requirements are met:

5 (a) The expenses to be covered by the medical subsidy are
6 necessitated by a physical, mental, or emotional condition of the
7 adoptee that existed or the cause of which existed before the
8 adoption ~~petition was filed~~ **CONFIRMED** or certification was
9 established, whichever occurred first.

10 (b) The adoptee was ~~in foster care at the time the petition~~
11 ~~for adoption was filed. This subdivision does not apply to~~
12 ~~adoptions confirmed pursuant to the adoption code before June 28,~~
13 ~~1992~~ **DETERMINED ELIGIBLE FOR ADOPTION SUPPORT SUBSIDY AS DESCRIBED**
14 **IN SECTION 115G OR WAS IN FOSTER CARE UNDER SECTION 2(B) OF CHAPTER**
15 **XIIA OF THE PROBATE CODE, MCL 712A.2, AT THE TIME THE PETITION FOR**
16 **ADOPTION WAS FILED.**

17 (c) Certification was made before the adoptee's eighteenth
18 birthday.

19 (2) The department shall determine the amount of the medical
20 subsidy without respect to the income of the adoptive parent or
21 parents. The department shall not pay a medical subsidy until all
22 other available public money and third party payment is used. For
23 purposes of this subsection, third party payment is available if an
24 adoptive parent has an option, at or after the time of
25 certification, to obtain from the parent's employer health coverage
26 for the child, with or without cost to the adoptive parent. The
27 department may waive this subsection in cases of undue hardship.

1 (3) The adoptive parent or parents may request a medical
 2 subsidy before or after the confirmation of the adoption. A medical
 3 subsidy requested after the adoptee is placed in adoption is
 4 effective the date the request is received by the department if the
 5 necessary documentation for certification is received within 90
 6 days after the request is made. In allocating available funding for
 7 medical subsidies, the department shall not give preferential
 8 treatment to requests that are made before the confirmation of an
 9 adoption, but shall allocate funds based on a child's need for the
 10 subsidy.

11 (4) Payment of a medical subsidy for treatment of a mental or
 12 emotional condition is limited to outpatient treatment unless 1 or
 13 more of the following apply:

14 ~~—— (a) Certification for the medical subsidy was made before the~~
 15 ~~adoption confirmation date.~~

16 **(A)** ~~(b) The adoptee was placed in foster care by the court~~
 17 ~~pursuant to section 18(1)(d) or (e) of chapter XIII A of Act No. 288~~
 18 ~~of the Public Acts of 1939, being section 712A.18 of the Michigan~~
 19 ~~Compiled Laws, before~~ **UNDER SECTION 2(B) OF CHAPTER XIII A OF THE**
 20 **PROBATE CODE, MCL 712A.2, AT THE TIME** the petition for adoption was
 21 filed.

22 **(B)** ~~(e) The adoptee was certified for a support subsidy.~~

23 Sec. 115k. (1) An **ADOPTION ASSISTANCE OR MEDICAL SUBSIDY**
 24 **APPLICANT, A PREADOPTIVE PARENT OR PARENTS WITH WHOM A CHILD HAS**
 25 **BEEN PLACED UNDER SECTION 51 OF THE ADOPTION CODE, MCL 710.51, AN**
 26 ~~adoptee, the~~ **AN** adoptee's guardian, or ~~the~~ **AN** adoptive parent or
 27 parents may appeal a determination of the department made under

1 this act. The appeal shall be conducted ~~pursuant~~ **ACCORDING** to the
2 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
3 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
4 ~~Compiled Laws 1969 PA 306, MCL 24.201 TO 24.328.~~ An appeal brought
5 ~~pursuant to~~ **UNDER** chapter 6 of ~~Act No. 306 of the Public Acts of~~
6 ~~1969, being sections 24.301 to 24.306 of the Michigan Compiled Laws~~
7 **THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.301**
8 **TO 24.306,** shall be heard as follows:

9 (a) In the case of an adoptee residing in this state, by the
10 probate court for the county in which the petition for adoption was
11 filed or the county in which the adoptee is found.

12 (b) In the case of an adoptee not residing in this state, by
13 the probate court for the county in which the petition for adoption
14 was filed.

15 (2) The department shall notify the ~~adoptee and the adoptive~~
16 ~~parent or parents~~ **INDIVIDUALS IDENTIFIED IN SUBSECTION (1)** of their
17 rights of appeal under this section.