# REIMBURSEMENT OF LEGAL COSTS OF FOSTER PARENTS
# Act 33 of 1980

AN ACT to provide for the reimbursement of certain legal costs of foster parents; to provide for the recognition and nonrecognition of certain causes of action against foster parents and legal guardians; and to prescribe powers and duties of the department of social services.

**History:** 1980, Act 33, Imd. Eff. Mar. 11, 1980;—Am. 1988, Act 233, Eff. Aug. 1, 1988.

*The People of the State of Michigan enact:*

## 722.161 Reimbursement of certain legal costs of foster parents; conditions.

Sec. 1. (1) The department of social services may reimburse a foster parent for the costs of legal counsel when an action is commenced against the foster parent for injury or damage which is sustained or which is alleged to have been sustained by, or which resulted from or which is alleged to have resulted from the action of, a foster child during the time when the foster parent was acting within the scope of his or her authority as a foster parent. This subsection does not apply to an administrative hearing or judicial review under Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

(2) The department of social services shall not reimburse a foster parent as provided in subsection (1), unless the department is satisfied that all of the following apply:

(a) The foster parent is licensed under Act No. 116 of the Public Acts of 1973, as amended, being sections 722.111 to 722.128 of the Michigan Compiled Laws.

(b) If the action is a civil action, a judgment for damages is not awarded against the foster parent as a result of the action.

(c) If the action is a criminal action, the foster parent is not convicted, does not plead nolo contendere, or is not found guilty but mentally ill or not guilty by reason of insanity as a result of the action.

**History:** 1980, Act 33, Imd. Eff. Mar. 11, 1980.

## 722.162 Defenses; liability.

Sec. 2. (1) This act shall not be construed to defeat, deny, or diminish a defense otherwise available to a foster parent or to a foster child in another action.

(2) The reimbursement of a foster parent under this act shall not impose any liability on the department of social services or a foster parent.

**History:** 1980, Act 33, Imd. Eff. Mar. 11, 1980.

## 722.163 Action against foster parent or legal guardian for injuries; "legal guardian" defined.

Sec. 3. (1) A foster child may maintain an action against his or her foster parent who is licensed under Act No. 116 of the Public Acts of 1973, being sections 722.111 to 722.128 of the Michigan Compiled Laws, and a child may maintain an action against his or her legal guardian for injuries suffered as a result of the alleged ordinary negligence of the foster parent or legal guardian except in either of the following instances:

(a) If the alleged negligent act involves an exercise of reasonable parental authority over the child.

(b) If the alleged negligent act involves an exercise of reasonable parental discretion with respect to the provision of food, clothing, housing, medical and dental services, and other care.

(2) As used in this section, "legal guardian" means a person appointed by a court of competent jurisdiction to exercise care and custody decisions over a minor.

**History:** Add. 1988, Act 233, Eff. Aug. 1, 1988.

**Compiler's note:** Section 3 of Act 233 of 1988 provides: "This amendatory act shall apply to causes of action occurring on or after August 1, 1988."

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