

FOSTER CARE AND ADOPTION SERVICES ACT
Act 203 of 1994

AN ACT to establish certain standards for foster care and adoption services for children and their families; and to prescribe powers and duties of certain state agencies and departments and adoption facilitators.

History: 1994, Act 203, Eff. Jan. 1, 1995.

The People of the State of Michigan enact:

722.951 Short title.

Sec. 1. This act shall be known and may be cited as the “foster care and adoption services act”.

History: 1994, Act 203, Eff. Jan. 1, 1995.

722.952 Definitions.

Sec. 2. As used in this act:

- (a) “Adoptee” means a child who is to be adopted or who is adopted.
- (b) “Adoption attorney” means that term as defined in section 22 of the adoption code, MCL 710.22.
- (c) “Adoption code” means the Michigan adoption code, chapter X of 1939 PA 288, MCL 710.21 to 710.70.
- (d) “Adoption facilitator” means a child placing agency or an adoption attorney.
- (e) “Adoptive parent” means the parent or parents who adopt a child in accordance with the adoption code.
- (f) “Agency placement” means that term as defined in section 22 of the adoption code, MCL 710.22.
- (g) “Child placing agency” means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (h) “Department” means the family independence agency.
- (i) “Direct placement” means that term as defined in section 22 of the adoption code, MCL 710.22.
- (j) “Foster care” means a child's placement 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.
- (k) “Preplacement assessment” means an assessment of a prospective adoptive parent as described in section 23f of the adoption code, MCL 710.23f.
- (l) “Supervising agency” means the department if a child is placed in the department's care for foster care, or a child placing agency in whose care a child is placed for foster care.

History: 1994, Act 203, Eff. Jan. 1, 1995;—Am. 1997, Act 172, Eff. Mar. 31, 1998.

722.953 Purpose of act.

Sec. 3. The purposes of this act are all of the following:

- (a) To assist foster parents to provide a stable, loving family environment for children who are placed outside of their homes on a temporary basis.
- (b) To help eliminate barriers to the adoption of children and to promote the provision of a stable and loving family environment to children who are without permanent families.
- (c) To promote the well-being and safety of all children who receive foster care or are adopted under the laws of this state.
- (d) To protect and assist prospective adoptive families as they negotiate the adoption process.
- (e) To regulate child placing agencies who certify foster parents and serve adoptees and adoptive families in this state.
- (f) To regulate adoption attorneys who facilitate direct placement adoptions.

History: 1994, Act 203, Eff. Jan. 1, 1995.

722.954 Licensure as foster parent; orientation as condition to certification; written information to be provided foster parents before placement; confidentiality.

Sec. 4. (1) Before certifying an individual for licensure as a foster parent, a child placing agency shall conduct an orientation designed to ensure the individual's understanding of the purposes of foster care, including the temporary nature of foster care and the ultimate goal of returning the child to his or her permanent family or preparing the child for adoption.

(2) Before placing a child with foster parents, a child placing agency shall provide the foster parents with written information including all of the following:

- (a) Any history of abuse or neglect of the child.
- (b) All known emotional and psychological problems of the child.
- (c) All behavior problems of the child that might present any risk to the foster family.

(d) Any other information necessary to enable the foster family to provide a stable, safe, and healthy environment for the foster child and for other members of the foster family.

(3) The child placing agency shall explain to the foster parents that the information provided under subsection (2) about the child and the child's family is confidential.

History: 1994, Act 203, Eff. Jan. 1, 1995.

722.954a Placement of child in supervising agency's care; determination of placement with relative; notification; special consideration and preference to child's relative; documentation of decision; review hearing.

Sec. 4a. (1) If a child has been placed in a supervising agency's care under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, the supervising agency shall comply with this section and sections 4b and 4c.

(2) Upon removal, as part of a child's initial case service plan as required by rules promulgated under 1973 PA 116, MCL 722.111 to 722.128, and by section 18f of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.18f, the supervising agency shall, within 30 days, identify, locate, notify, and consult with relatives to determine placement with a fit and appropriate relative who would meet the child's developmental, emotional, and physical needs.

(3) The notification of relatives required in subsection (2) shall do all of the following:

(a) Specify that the child has been removed from the custody of the child's parent.

(b) Explain the options the relative has to participate in the care and placement of the child, including any option that may be lost by failing to respond to the notification.

(c) Describe the requirements and benefits, including the amount of monetary benefits, of becoming a licensed foster family home.

(d) Describe how the relative may subsequently enter into an agreement with the department for guardianship assistance.

(4) Not more than 90 days after the child's removal from his or her home, the supervising agency shall do all of the following:

(a) Make a placement decision and document in writing the reason for the decision.

(b) Provide written notice of the decision and the reasons for the placement decision to the child's attorney, guardian, guardian ad litem, mother, and father; the attorneys for the child's mother and father; each relative who expresses an interest in caring for the child; the child if the child is old enough to be able to express an opinion regarding placement; and the prosecutor.

(5) Before determining placement of a child in its care, a supervising agency shall give special consideration and preference to a child's relative or relatives who are willing to care for the child, are fit to do so, and would meet the child's developmental, emotional, and physical needs. The supervising agency's placement decision shall be made in the best interests of the child.

(6) A person who receives a written decision described in subsection (4) may request in writing, within 5 days, documentation of the reasons for the decision, and if the person does not agree with the placement decision, he or she may request that the child's attorney review the decision to determine if the decision is in the child's best interest. If the child's attorney determines the decision is not in the child's best interest, within 14 days after the date of the written decision the attorney shall petition the court that placed the child out of the child's home for a review hearing. The court shall commence the review hearing not more than 7 days after the date of the attorney's petition and shall hold the hearing on the record.

History: Add. 1997, Act 172, Eff. Mar. 31, 1998;—Am. 2010, Act 265, Imd. Eff. Dec. 14, 2010.

722.954b Permanent placement; 12-month goal; inclusion in directory of children; in-home visits.

Sec. 4b. (1) A supervising agency shall strive to achieve a permanent placement for each child in its care, including either a safe return to the child's home or implementation of a permanency plan, no more than 12 months after the child is removed from his or her home. This 12-month goal shall not be extended or delayed for reasons such as a change or transfer of staff or worker at the supervising agency.

(2) If an adoptive family for a child has not been identified within 90 days after entry of an order of termination of parental rights, the supervising agency shall submit the necessary information for inclusion of the child in the directory of children described in section 8.

(3) The supervising agency shall require that its worker make monthly visits to the home or facility in which each child is placed. The supervising agency shall also require its worker to monitor and assess in-home visitation between the child and his or her parents. To ensure the occurrence of in-home visits required under this subsection, the supervising agency shall institute a flexible schedule to provide a number

of hours outside of the traditional workday to accommodate the schedules of the individuals involved.

History: Add. 1997, Act 172, Eff. Mar. 31, 1998.

722.954c Release of child's medical records; medical passport; contents; transfer; performance of assessment or psychological evaluation; medical examination.

Sec. 4c. (1) The supervising agency shall obtain from the parent, guardian, or custodian of each child who is placed in its care the name and address of the child's medical provider and a signed document for the release of the child's medical records. The supervising agency shall require that a child's medical provider remain constant while the child is in foster care, unless the child's current primary medical provider is a managed care health plan or unless doing so would create an unreasonable burden for the relative, foster parent, or other custodian.

(2) The supervising agency shall develop a medical passport for each child who comes under its care. The medical passport shall contain all of the following:

- (a) All medical information required by policy or law to be provided to foster parents.
- (b) Basic medical history.
- (c) A record of all immunizations.
- (d) Any other information concerning the child's physical and mental health.

(3) Each foster care worker who transfers a child's medical passport to another foster care worker shall sign and date the passport, verifying that he or she has sought and obtained the necessary information required under subsection (2) and any additional information required under department policy. The supervising agency shall provide a copy of each medical passport and updates as required by the department for maintenance in a central location.

(4) If a child under the care of a supervising agency has suffered sexual abuse, serious physical abuse, or mental illness, the supervising agency shall have an experienced and licensed mental health professional as defined under MCL 330.1100b(14)(a) or (b) or a social worker certified under section 1606 of the occupational code, 1980 PA 299, MCL 339.1606, who is trained in children's psychological assessments perform an assessment or psychological evaluation of the child. The costs of the assessment or evaluation shall be borne by the supervising agency. This subsection applies only to a child who is made a state ward on or after the effective date of the amendatory act that added this section.

(5) A child's supervising agency shall ensure that the child receives a medical examination when the child is first placed in foster care. One objective of this examination is to provide a record of the child's medical and physical status upon entry into foster care.

History: Add. 1997, Act 172, Eff. Mar. 31, 1998.

722.954d Annual report card.

Sec. 4d. The department shall publish an annual report card for each supervising agency that evaluates the achievements of that agency in obtaining permanency for children and making recommendations for the removal of barriers to permanency.

History: Add. 1997, Act 172, Eff. Mar. 31, 1998.

722.955 Registration of attorney with children's ombudsman; filing of compliance; reregistration; request for removal.

Sec. 5. Before providing services in a direct placement adoption as provided under the adoption code, an attorney shall register with the children's ombudsman by filing with the children's ombudsman a verified statement that the attorney is in compliance with all the requirements for an adoption attorney prescribed by section 22 of the adoption code, being section 710.22 of the Michigan Compiled Laws. An attorney who wishes to continue providing adoption services shall reregister with the children's ombudsman as provided in this section at least once every 5 years. An adoption attorney may request to be removed from the registry at any time.

History: 1994, Act 203, Eff. Jan. 1, 1995.

722.956 Adoption facilitator; duties; cost.

Sec. 6. (1) An adoption facilitator shall do all of the following:

(a) Provide a client with needed services related to adoption, including postadoption services, or make referrals to available resources in the community. The adoption facilitator shall emphasize the importance and availability of counseling for all parties to an adoption and explain that the prospective adoptive parent is required to pay for counseling for the birth parent or guardian unless the birth parent or guardian waives the counseling.

(b) Provide each individual who inquires about services with the pamphlet describing the adoption process prepared by the department under section 115m of the social welfare act, 1939 PA 280, MCL 400.115m. When providing services to an adoption client, the adoption facilitator shall review the pamphlet with the client and make sure the client understands the various alternatives that are available in the adoption process and how to get access to all of the following:

(i) The directory of children produced by the department under section 8.

(ii) The information contained in the registry of adoptive homes maintained by the department under section 8.

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

(c) Prepare and provide to each individual who inquires about services a written document that includes all of the following information:

(i) Types of adoptions the adoption facilitator handles.

(ii) A description of the services that the adoption facilitator provides.

(iii) A description of services that are available by referral.

(iv) Eligibility requirements the adoption facilitator has for adoptive families, if any.

(v) If the adoption facilitator is a child placing agency, the procedure used, or range of options the agency offers, for selecting a prospective adoptive parent for a child, including the role of the child's parent or guardian in the selection process.

(vi) The extent to which the adoption facilitator permits or encourages the exchange of identifying information or contact between biological and adoptive parents.

(vii) A description of postfinalization services that the adoption facilitator provides, if any.

(viii) A schedule of all fees that the adoption facilitator charges for adoption services.

(ix) A statement that each party to an adoption has a right to independent representation by an attorney and that 1 attorney may not represent both the biological parents or guardian and the prospective adoptive parents.

(d) Insure that each prospective adoptive parent completes an orientation program consistent with requirements for orientation programs developed under administrative rules by the department.

(e) Provide a prospective adoptive parent with written copies, other than those portions made confidential by state or federal law, of all of the following regarding the prospective adoptee:

(i) If not already provided under section 27 of chapter 10 of 1939 PA 288, MCL 710.27, the adoptee's nonidentifying information as listed and described by section 27(1) and (2) of chapter X of 1939 PA 288, MCL 710.27.

(ii) The petition or petitions that resulted in each placement of the child.

(iii) Initial and all updated case service plans concerning the child that were compiled during each foster care placement, whether in foster care, adoption, or otherwise.

(f) No later than the time of the preadoptive or adoptive placement, prepare and provide to the prospective adoptive parent written verification that all of the information described in subdivision (e) has been provided to the prospective adoptive parent.

(g) Not later than the time of the adoptee's preadoptive placement with the prospective adoptive parent, hold a conference with the prospective adoptive parent and do all of the following during that conference:

(i) Review and discuss the information provided to the prospective adoptive parent under subdivision (e).

(ii) Disclose to the prospective adoptive parent all other information known by or available to the adoption facilitator regarding the adoptee's medical and psychological needs.

(iii) Prepare and provide to the prospective adoptive parent a list of the adoptee's medical and psychological needs that are identified and discussed during the conference.

(iv) Prepare written verification for the signatures of the adoption facilitator and the prospective adoptive parent that the conference was held as required by this subdivision, and provide a copy of this written verification to the prospective adoptive parent.

(2) The information required under subsection (1) shall be provided without cost to the biological parent or guardian or prospective adoptive parent.

History: 1994, Act 203, Eff. Jan. 1, 1995;—Am. 1998, Act 495, Eff. Mar. 1, 1999.

722.957 Adoption facilitator; placement based on age, race, religious affiliation, disability, or income level; participation of parent or guardian in selection of adoptive parent.

Sec. 7. (1) Except as provided in subsection (2), an adoption facilitator shall not refuse to provide services to a potential adoptive parent based solely on age, race, religious affiliation, disability, or income level. A child placing agency shall not make placement decisions based solely on age, race, religious affiliation, disability, or income level.

(2) Subsection (1), as related to religious affiliation, does not apply to a private child placing agency operated, supervised, or controlled by a religious institution or organization that limits services or gives preference to an applicant of the same religion.

(3) In an adoption in which a parent or guardian selects or participates in the selection of the adoptive parent, an adoption facilitator shall allow the parent or guardian the option of selecting from the adoption facilitator's entire pool of potential adoptive parents who have been determined suitable to be adoptive parents of adoptees.

History: 1994, Act 203, Eff. Jan. 1, 1995.

722.958 Rules; training; directory of children available for adoption; registry of adoptive homes; fee for maintaining directory information; foster parent resource centers; pilot project; report.

Sec. 8. (1) The department shall promulgate rules under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, to ensure the comprehensive, high-quality training of foster care and adoption workers. It shall consult and may contract with colleges and universities, child placing agencies, and professional organizations for the design and implementation of the training. The training shall stress cultural sensitivity, interagency cooperation, and respect for individuals and families.

(2) The department shall produce or contract with another person to produce a directory of children under the jurisdiction of the department who are available for adoption. The department shall make copies available throughout the state to ensure that interested individuals have reasonable access to the directory.

(3) The department shall establish and maintain a registry of adoptive homes to be used as a central clearinghouse for information about prospective adoptive parents. The department shall accept information from a prospective adoptive parent who has received a preplacement assessment with a finding that the individual is suitable to be the parent of an adoptee. The information shall be filed in a form and manner that will permit it to be readily accessible to biological parents or child placing agencies seeking adoptive homes for children. The department shall charge a prospective adoptive parent an initial fee of \$100.00 for maintaining the information in the registry and a renewal fee of \$50.00 for each year the prospective adoptive parent remains in the registry. The department shall provide information in the registry without charge to biological parents or child placing agencies who request it.

(4) The department may establish as pilot projects foster parent resource centers. Each resource center shall provide at least support for and coordination of respite care and assistance to foster parents in obtaining day care. Resource center staff shall pursue other activities designed to promote permanency for children, particularly children with special needs, such as support aimed at retaining foster parents. The department may fund the pilot foster parent resource centers using money appropriated to the department for the current fiscal year. After the pilot project has been in operation for 2 years, the department shall evaluate the pilot project on its organization, effectiveness, and success. The department shall report the results of this evaluation to the legislature, including in the report the number of foster parents who utilized the particular resource center and the top 10 concerns raised by those foster parents and how those concerns were handled.

History: 1994, Act 203, Eff. Jan. 1, 1995;—Am. 2002, Act 646, Imd. Eff. Dec. 23, 2002.

722.959 Effective date.

Sec. 9. This act shall take effect January 1, 1995.

History: 1994, Act 203, Eff. Jan. 1, 1995.

722.960 Conditional effective date.

Sec. 10. This act shall not take effect unless all of the following bills of the 87th Legislature are enacted into law:

- (a) Senate Bill No. 299.
- (b) Senate Bill No. 721.
- (c) Senate Bill No. 723.
- (d) Senate Bill No. 724.
- (e) Senate Bill No. 725.
- (f) House Bill No. 4201.
- (g) House Bill No. 4428.
- (h) House Bill No. 4614.
- (i) House Bill No. 4638.

History: 1994, Act 203, Eff. Jan. 1, 1995.