



SENATE BILL No. 722

June 30, 1993, Introduced by Senators WELBORN, DINGELL, GEAKE, CISKY, DILLINGHAM, GOUGEON, MC MANUS, WARTNER, DE GROW, PRIDNIA, HONIGMAN, GAST, HOFFMAN, ARTHURHULTZ and HART and referred to the Committee on Family Law, Criminal Law, and Corrections.

A bill to provide adoption services for children and their families; to provide for an adoption subsidy program; to prescribe powers and duties of certain state agencies and departments and child placing agencies; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

CHAPTER 1. GENERAL PROVISIONS

Sec. 1. This act shall be known and may be cited as the "adoption services act".

Sec. 2. (1) As used in this act:

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

(b) "Adoption code" means chapter X of Act No. 288 of the Public Acts of 1939, being sections 710.21 to 710.70 of the Michigan Compiled Laws.

1 (c) "Adoption subsidy" means a support subsidy or a medical
2 subsidy or both.

3 (d) "Adoptive parent" means the parent or parents who adopt
4 a child pursuant to the adoption code.

5 (e) "Agreement" means an adoption assistance agreement
6 between the department and the adoptive parent.

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

10 (g) "Child placing agency" means that term as defined in
11 section 1 of Act No. 116 of the Public Acts of 1973, being sec-
12 tion 722.111 of the Michigan Compiled Laws.

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

16 (i) The child cannot or should not be returned to the home
17 of the child's parents.

18 (ii) A specific factor or condition exists with respect to
19 the child so that it is reasonable to conclude that the child
20 cannot be placed with an adoptive parent without an adoption sub-
21 sidy under this act. The factors or conditions to be considered
22 include ethnic background, age, membership in a minority or sib-
23 ling group, medical condition, physical, mental, or emotional
24 handicap, or length of time the child has been waiting for an
25 adoptive home.

26 (iii) A reasonable but unsuccessful effort was made to place
27 the adoptee with appropriate adoptive parents without providing

1 an adoption subsidy under this act or a prospective placement is
2 the only placement in the best interest of the child.

3 (i) "Court" means the juvenile division of the probate court
4 in this state.

5 (j) "Department" means the department of social services.

6 (k) "Foster care" means placement of a child outside the
7 child's parental home by and under the supervision of a child
8 placing agency, the court, the department, or the department of
9 mental health.

10 (l) "Medical subsidy" means payment for medical, surgical,
11 hospital, and related expenses necessitated by a specified physi-
12 cal, mental, or emotional condition of a child who has been
13 placed for adoption.

14 (m) "Nonrecurring adoption expenses" means reasonable and
15 necessary adoption fees, court costs, attorney fees, and other
16 expenses that are directly related to the legal adoption of a
17 child with special needs. Nonrecurring adoption expenses do not
18 include costs or expenses incurred in violation of state or fed-
19 eral law or that have been reimbursed from other sources or
20 funds.

21 (n) "Other expenses that are directly related to the legal
22 adoption of a child with special needs" means adoption costs
23 incurred by or on behalf of the adoptive parent and for which the
24 adoptive parent carries the ultimate liability for payment,
25 including the adoption study, health and psychological examina-
26 tions, supervision of the placement before adoption, and
27 transportation and reasonable costs of lodging and food for the

1 child or adoptive parent if necessary to complete the adoption or
2 placement process.

3 (o) "Statement of fees" means a written statement that item-
4 izes the fees for adoption services according to the list of uni-
5 form service components developed pursuant to section 13.

6 (p) "Support subsidy" means payment for support of a child
7 who has been placed for adoption.

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

9 (a) To facilitate the elimination of barriers to the adop-
10 tion of children and to promote the provision of a stable and
11 loving family environment to children who are without permanent
12 families.

13 (b) To ensure the well-being and safety of all children who
14 are adopted under the laws of this state.

15 (c) To protect and assist prospective adoptive families as
16 they negotiate the adoption process.

17 (d) To regulate child placing agencies who serve adoptees
18 and adoptive families in this state.

19 (e) To facilitate the development of a uniform, reasonable
20 fee structure for all adoption services.

21 CHAPTER 2. ADOPTION SUBSIDIES

22 Sec. 4. (1) The department may pay a support subsidy to the
23 adoptive parent or parents of an adoptee who is placed in the
24 home of the adoptive parent or parents pursuant to the adoption
25 code or under the adoption laws of any other state or a tribal
26 government, if all of the following requirements are met:

1 (a) A reasonable but unsuccessful effort was made to place
2 the adoptee with appropriate adoptive parents without providing
3 an adoption subsidy under this act or a prospective placement is
4 the only placement in the best interest of the child and the
5 family is requesting a support subsidy.

6 (b) The adoptee was in foster care for not less than 4
7 months before certification for the support subsidy.

8 (c) Certification was made before the adoptee's eighteenth
9 birthday.

10 (d) Certification was made before the petition for adoption
11 was filed.

12 (e) The adoptive parent requests the support subsidy not
13 later than the date of confirmation of the adoption.

14 (2) The department shall determine the amount of the support
15 subsidy without regard to the income of the adoptive parent or
16 parents. The amount shall not exceed the family foster care rate
17 that was paid for the adoptee while the adoptee was in foster
18 care, except that the amount shall be increased to reflect
19 increases made in the foster care rate paid by the department.
20 The amount shall not be less than the intensive care rate that
21 was paid for the adoptee while in foster care.

22 (3) The department shall complete the certification process
23 within 30 days after it receives a request from an adoptive
24 parent.

25 Sec. 5. (1) The department may pay a medical subsidy to the
26 adoptive parent of an adoptee who is placed for adoption in the
27 home of the adoptive parent pursuant to the adoption code or the

1 laws of any other state or a tribal government, if all of the
2 following requirements are met:

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

8 (b) The adoptee was in foster care at the time the petition
9 for adoption was filed. This subdivision does not apply to adop-
10 tions confirmed before June 28, 1992.

11 (c) Certification was made before the adoptee's eighteenth
12 birthday.

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

23 (3) The adoptive parent may request a medical subsidy before
24 or after the confirmation of the adoption. A medical subsidy
25 requested after the adoptee is placed in adoption is effective
26 the date the request is received by the department if the
27 necessary documentation for certification is received within 90

1 days after the request is made. In allocating available funding
2 for medical subsidies, the department shall not give preferential
3 treatment to requests that are made before the confirmation of an
4 adoption, but shall allocate funds based on a child's need for
5 the subsidy.

6 (4) Payment of a medical subsidy for treatment of a mental
7 or emotional condition is limited to outpatient treatment unless
8 1 or more of the following apply:

9 (a) Certification for the medical subsidy was made before
10 the adoption confirmation date.

11 (b) The adoptee was placed in foster care by the court pur-
12 suant to section 18(d) or (e) of chapter XIIA of Act No. 288 of
13 the Public Acts of 1939, being section 712A.18 of the Michigan
14 Compiled Laws, before the petition for adoption was filed.

15 (c) The adoptee was certified for a support subsidy.

16 Sec. 6. (1) The department and the adoptive parent shall
17 enter into an agreement covering all of the following:

18 (a) The support subsidy or medical subsidy to be paid.

19 (b) The amount to be paid, if known with certainty.

20 (c) The identity of the physical, mental, or emotional con-
21 dition that is covered by a medical subsidy.

22 (d) Conditions for continued payment of the subsidy as
23 established by statute.

24 (2) The adoptive parent shall receive a copy of the
25 agreement.

26 (3) Unless the medical condition of the adoptee no longer
27 exists, or an event described in section 8 has occurred, as

1 indicated in a report filed under section 7 or as otherwise
2 determined by the department, the department shall not modify or
3 discontinue an adoption subsidy.

4 (4) An adoption subsidy does not affect the legal status of
5 the adoptee or the legal rights and responsibilities of the adop-
6 tive parent.

7 Sec. 7. The adoptive parent shall file a verified report
8 with the department at least once each year as to the location of
9 the adoptee and other matters relating to the continuing eligi-
10 bility of the adoptee for an adoption subsidy. The report shall
11 not contain information concerning the financial condition of the
12 adoptive parent.

13 Sec. 8. (1) An adoption subsidy shall continue until 1 of
14 the following occurs:

15 (a) The adoptee becomes 18 years of age.

16 (b) The adoptee is emancipated.

17 (c) The adoptee dies.

18 (d) The adoption is terminated.

19 (e) A determination of ineligibility is made by the
20 department.

21 (2) If sufficient funds are appropriated, the department may
22 continue an adoption subsidy for an adoptee under 21 years of age
23 if the department determines that the adoptee is a student regu-
24 larly attending a high school, college, university, or vocational
25 school in pursuance of a course of study leading to a high school
26 diploma, college degree, or gainful employment.

1 (3) An adoption subsidy shall continue even if the adoptive
2 parent leaves the state.

3 (4) An adoption support subsidy shall continue during a
4 period in which the adoptee is removed from his or her home as a
5 temporary court ward.

6 (5) Upon the death of the adoptive parent, the department
7 shall continue making adoption subsidy payments to the guardian
8 of the adoptee if a guardian is appointed under section 422 or
9 424 of the revised probate code, Act No. 642 of the Public Acts
10 of 1978, being sections 700.422 and 700.424 of the Michigan
11 Compiled Laws.

12 Sec. 9. (1) An adoptee, the adoptee's guardian, or the
13 adoptive parent may appeal a determination of the department made
14 under this act. The appeal shall be conducted pursuant to the
15 administrative procedures act of 1969, Act No. 306 of the Public
16 Acts of 1969, being sections 24.201 to 24.328 of the Michigan
17 Compiled Laws. An appeal brought pursuant to chapter 6 of Act
18 No. 306 of the Public Acts of 1969, being sections 24.301 to
19 24.306 of the Michigan Compiled Laws, shall be heard as follows:

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

23 (b) In the case of an adoptee not residing in this state, by
24 the probate court for the county in which the petition for adop-
25 tion was filed.

26 (2) The department shall notify the adoptee and the adoptive
27 parent of their rights of appeal under this section.

1 Sec. 10. (1) The department shall enter into an agreement
2 with an adoptive parent of a child with special needs pursuant to
3 this section for the payment of nonrecurring adoption expenses
4 incurred by or on behalf of the adoptive parent. The agreement
5 may be a separate document or part of an agreement for adoption
6 subsidies pursuant to section 6. The agreement shall indicate
7 the nature and amount of nonrecurring adoption expenses to be
8 paid by the department, which shall not exceed \$2,000.00 for each
9 adoptive placement meeting the requirements of this section. The
10 department shall make payment pursuant to the agreement.

11 (2) Except as provided in subsection (3), the agreement
12 shall be signed at or before entry of an order of adoption pursu-
13 ant to the adoption code. Claims for payment shall be filed with
14 the department within 2 years after entry of the order of
15 adoption.

16 (3) If the order of adoption was entered on or after
17 June 15, 1989, but not later than June 26, 1991, an adoptive
18 parent seeking payment of nonrecurring adoption expenses must
19 enter into an agreement with the department and file a claim for
20 payment within 2 years after entry of the order of adoption.

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

24 CHAPTER 3. CHILD PLACING AGENCIES

25 Sec. 11. A child placing agency shall do all of the
26 following:

1 (a) Comply with staffing ratios as set forth in rules of the
2 department.

3 (b) Provide clients with all needed services related to
4 adoption or make referrals to available resources in the
5 community.

6 (c) Prepare and distribute to each parent or prospective
7 adoptive parent, at or before the first meeting with that parent,
8 a written statement describing its policies and procedures
9 including, but not limited to, all of the following:

10 (i) A description of all of the services that the agency
11 provides, including pre-adoption and post-adoption services.

12 (ii) The agency's policy on open adoption, and the range of
13 options the agency offers to parents and adoptive parents.

14 (iii) The extent to which the agency permits a parent to
15 participate in the selection of an adoptive parent in an agency
16 adoption.

17 (d) Distribute a statement of fees to each prospective adop-
18 tive parent at or before the first meeting with that parent.

19 (e) Request payment for services only pursuant to an item-
20 ized statement describing each service performed, using the list
21 of uniform service components prepared by the department pursuant
22 to section 13.

23 (f) Before placing children with special needs with foster
24 parents or a prospective adoptive parent, provide the foster par-
25 ents or prospective adoptive parent with written information
26 including all of the following:

1 (i) Any history of abuse to which the child has been
2 subject.

3 (ii) All known emotional and psychological problems of the
4 child.

5 (iii) All behavior problems that might present any risk to
6 the foster or adoptive family.

7 (iv) Any other information necessary to enable the foster or
8 adoptive family to provide a stable, safe, and healthy environ-
9 ment for the foster child or adoptee and for other members of the
10 foster or adoptive family.

11 (g) Distribute to each prospective adoptive parent a pam-
12 phlet describing the adoption subsidy program provided by the
13 department.

14 CHAPTER 4. DEPARTMENT OF SOCIAL SERVICES

15 Sec. 13. After consulting with child placing agencies,
16 attorneys, and the state court administrator's office, the
17 department shall prepare and distribute a list of uniform service
18 components to be used by child placing agencies and other adop-
19 tion facilitators in preparing the statement of fees required
20 under section 11 and section 54 of the adoption code. The
21 department shall also develop a schedule of reasonable costs for
22 each of the uniform service components for use by the court in
23 approving fees under section 54(7) of the adoption code. The
24 department shall collect data from the court on all approved fees
25 and shall update and adjust the schedule of reasonable costs on a
26 periodic basis.

1 Sec. 14. The department shall promulgate rules pursuant to
2 the administrative procedures act of 1969, Act No. 306 of the
3 Public Acts of 1969, being sections 24.201 to 24.328 of the
4 Michigan Compiled Laws, to ensure the comprehensive, high-quality
5 training of foster care and adoption workers. It shall consult
6 and may contract with colleges and universities, child placing
7 agencies, and professional organizations for the design and
8 implementation of the training. The training shall stress cul-
9 tural sensitivity, interagency cooperation, and respect for indi-
10 viduals and families.

11 CHAPTER 5. REPEAL AND TIE BARS

12 Sec. 15. Sections 115f and 115g of the social welfare act,
13 Act No. 280 of the Public Acts of 1939, being sections 400.115f
14 and 400.115g of the Michigan Compiled Laws, are repealed.

15 Sec. 16. This act shall not take effect unless all of the
16 following bills of the 87th Legislature are enacted into law:

17 (a) Senate Bill No. 299.

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19 (b) Senate Bill No. 721.

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21 (c) Senate Bill No. 723.

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23 (d) Senate Bill No. 724.

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25 (e) Senate Bill No. 725.

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- 1 (f) Senate Bill No. _____ or House Bill No. _____ (request
2 no. 01175'93).
- 3 (g) Senate Bill No. _____ or House Bill No. _____ (request
4 no. 01176'93).
- 5 (h) Senate Bill No. _____ or House Bill No. _____ (request
6 no. 01177'93).
- 7 (i) Senate Bill No. _____ or House Bill No. _____ (request
8 no. 01180'93).
- 9 (j) Senate Bill No. _____ or House Bill No. _____ (request
10 no. 01181'93).
- 11 (k) Senate Bill No. _____ or House Bill No. _____ (request
12 no. 01182'93).