

HOUSE BILL No. 5936

April 23, 2002, Introduced by Reps. Jelinek, Raczkowski, Jacobs, Vander Veen, Stewart, Bovin, Pappageorge, Bogardus, Richardville, Voorhees, Plakas, Lipsey, Birkholz, Waters, Quarles and Meyer and referred to the Committee on Family and Children 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
2 all rules necessary or desirable for the administration of pro-
3 grams under this act. Rules shall be promulgated under the
4 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
5 ~~Acts of 1969, being sections 24.201 to 24.328 of the Michigan~~
6 ~~Compiled Laws. Beginning 2 years after the effective date of~~
7 ~~subsection (2), if the Michigan supreme court rules that sections~~
8 ~~45 and 46 of Act No. 306 of the Public Acts of 1969, being~~
9 ~~sections 24.245 and 24.246 of the Michigan Compiled Laws, are~~

1 ~~unconstitutional and a statute requiring legislative review of~~
2 ~~administrative rules is not enacted within 90 days after the~~
3 ~~Michigan supreme court ruling, this subsection does not apply~~
4 ~~1969 PA 306, MCL 24.201 TO 24.328.~~

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

24 (3) The family independence agency may develop policies to
25 establish income and asset limits, types of income and assets to
26 be considered for eligibility, and payment standards for
27 assistance programs administered under this act. Policies

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

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

25 (5) All rules, regulations, and policies established by the
26 family independence agency shall be in writing, shall be provided
27 to the legislature, and shall be made available for inspection by

1 any member of the public at all offices of the family
2 independence agency during regular business hours.

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

12 (6) ~~-(7)~~ Subsection (2) does not apply to standards and
13 policies related to ~~the providers~~ A PROVIDER of services ~~which~~
14 ~~have~~ THAT HAS a written contractual relationship or ~~are~~ THAT
15 IS an enrolled medicaid provider with the family independence
16 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
23 department, ~~of social welfare~~ which shall report and make rec-
24 ommendations to the state department, which in turn may cancel,
25 suspend, or alter the certificate of allowance. THIS SECTION
26 DOES NOT APPLY TO THE SPOUSE OF AN ADULT WHO IS UNABLE TO LIVE
27 WITHOUT ASSISTANCE DUE TO PHYSICAL OR MENTAL DISABILITY AND WHO

1 DOES NOT LIVE IN A HEALTH FACILITY OR AGENCY AS DEFINED IN
2 SECTION 20106 OR UNDER SECTION 20115 OF THE PUBLIC HEALTH CODE,
3 1978 PA 368, MCL 333.20106 AND 333.20115.

4 Sec. 57. (1) As used in this section and sections 57a to
5 ~~57g~~ 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)
11 that the family independence agency approves as a family setting
12 that provides care and control of a minor parent and his or her
13 child and supportive services including, but not limited to,
14 counseling, 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 guardi-
18 an, grandparent, great grandparent, great-great grandparent, sib-
19 ling, stepsibling, aunt, great aunt, great-great aunt, uncle,
20 great uncle, great-great uncle, nephew, niece, first cousin, or
21 first cousin once-removed, a spouse of ~~any~~ A person listed
22 above, a parent of the putative father, or an unrelated individ-
23 ual aged 21 or older whose appointment as legal guardian of the
24 child is 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 rea-
5 sonably 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
15 TO PHYSICAL OR MENTAL DISABILITY AND WHO DOES NOT LIVE IN A
16 HEALTH FACILITY OR AGENCY AS DEFINED IN SECTION 20106 OR UNDER
17 SECTION 20115 OF THE PUBLIC HEALTH CODE, 1978 PA 368, MCL
18 333.20106 AND 333.20115.

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

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

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

26 (h) "Minor parent" means an individual under the age of 18
27 who is not emancipated under ~~Act No. 293 of the Public Acts of~~

1 ~~1968~~ 1968 PA 293, MCL 722.1 TO 722.6, and who is either the
2 biological parent of a child living in the same household or a
3 pregnant woman.

4 (i) "Payment standard" means the standard upon which family
5 independence program benefits are based if the family indepen-
6 dence 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 indepen-
10 dence assistance.

11 (k) "Recipient" means an individual receiving family inde-
12 pendence assistance.

13 (l) "Social contract" means a document described in section
14 57e that is executed by a family in return for the receipt of
15 family 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~~
18 ~~of 1978, being section 333.6107 of the Michigan Compiled Laws~~
19 1978 PA 368, MCL 333.6107.

20 (n) "Substance abuse treatment" means outpatient or inpa-
21 tient services or participation in alcoholics anonymous or a sim-
22 ilar program.

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

1 (2) A reference in this act to "aid to dependent children"
2 or "aid to families with dependent children" means "family
3 independence assistance".

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

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

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

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

16 (c) Assist families in determining and overcoming the barri-
17 ers preventing them from achieving financial independence.

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

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

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

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

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

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

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

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

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

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

12 (d) A requirement to exempt individuals from whom the auto-
13 mated finger image technology is unable to obtain an accurate
14 finger image.

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

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

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

25 (8) ~~-(7)-~~ The family independence agency may negotiate and
26 enter into a compact or reciprocal agreement with another state
27 department, the federal government, an agency of the federal

1 government, or an agency of another state for the purpose of
2 implementing and administering the finger imaging provisions of
3 this section as long as the compact or reciprocal agreement is
4 not inconsistent with the limitations of use and access contained
5 in subsection ~~(4)~~ (5).

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

9 (a) All records maintained as part of the system are accu-
10 rate and complete.

11 (b) Effective software and hardware designs have been insti-
12 tuted with security features to prevent unauthorized access to
13 records.

14 (c) Access to record information is restricted to authorized
15 personnel.

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

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

24 (10) ~~(9)~~ Beginning December 31 of the first year the auto-
25 mated finger imaging system has been fully implemented, the
26 family independence agency shall compile and report annually to
27 the senate and house committees having jurisdiction over family

1 independence agency matters the following information concerning
2 the operation of the automated finger imaging system:

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

7 (b) The number of individuals who have applied for assist-
8 ance under more than 1 name.

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

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

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

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

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

1 (a) The requirement to allow the department to take a finger
2 image from the individual.

3 (b) The fact that the finger image may be compared to the
4 finger images of other benefit recipients to prevent duplicate
5 participation.

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