

HOUSE BILL No. 5289

October 24, 1991, Introduced by Rep. Joe Young, Jr. and referred to the Committee on Judiciary.

A bill to amend section 115f of Act No. 280 of the Public Acts of 1939, entitled as amended "The social welfare act," as added by Act No. 292 of the Public Acts of 1980, being section 400.115f of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 115f of Act No. 280 of the Public Acts
2 of 1939, as added by Act No. 292 of the Public Acts of 1980,
3 being section 400.115f of the Michigan Compiled Laws, is amended
4 to read as follows:

5 Sec. 115f. (1) As used in this section:

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

1 (b) "Certification" means a determination of eligibility by
2 the office that an adoptee is eligible for a support or medical
3 subsidy or both.

4 (c) "Medical subsidy" means payment for medical, surgical,
5 hospital, and related expenses necessitated by a specified physi-
6 cal, mental, or emotional condition of a child who has been
7 placed for adoption.

8 (d) "Support subsidy" means payment for support of a child
9 who has been placed for adoption.

10 (2) When a child who is certified eligible for subsidy is
11 placed for adoption in a home pursuant to chapter 10 of Act No.
12 288 of the Public Acts of 1939, as amended, being sections 710.21
13 to 710.70 of the Michigan Compiled Laws, the office may pay to
14 the adopting parent or parents either or both of the following
15 adoption subsidies:

16 (a) A support subsidy for an adoptee certified eligible for
17 a support subsidy. The minimum requirements for certification
18 for a support subsidy are:

19 (i) The adoptee was in foster care for not less than 4
20 months before certification.

21 (ii) A reasonable effort has failed to identify a person
22 qualified and willing to adopt without subsidy; or a prospective
23 placement is the only placement in the best interest of the child
24 and the family is unwilling to adopt without subsidy.

25 (iii) Certification for a support subsidy has been made by
26 the office before the petition for adoption.

1 (b) A medical subsidy for specified medical, surgical,
2 hospital, and related expenses for an adoptee certified eligible
3 for a medical subsidy. The minimum requirements for certifica-
4 tion for a medical subsidy are that the expenses to be covered by
5 the medical subsidy are necessitated by a physical, mental, or
6 emotional condition of the adoptee which existed or the cause of
7 which existed before the adoption petition was filed or certifi-
8 cation was established, whichever occurred first.

9 (3) The office shall make the payment of an adoption
10 subsidy, without respect to the income of the adopting parent or
11 parents, if the following conditions apply:

12 (a) The adoptee is certified by the office as being eligible
13 for a subsidy.

14 (b) The adopting parent or parents request a subsidy of the
15 office. The request for a support subsidy shall be made not
16 later than the date of confirmation of the adoption. The request
17 for a medical subsidy may be made any time after the petition for
18 adoption is filed.

19 (c) The support subsidy does not exceed the family foster
20 care rate which was paid for the same adoptee. Support subsidy
21 payments shall be subject to increases made in the foster care
22 rate paid by the office.

23 (d) The office and the adopting parent or parents enter into
24 a contract setting forth: the subsidy to be paid; the amount to
25 be paid, if known with certainty; the identity of the physical,
26 mental, or emotional condition that is covered by a medical
27 subsidy; and conditions for continued payment of the subsidy as

1 established by statute. The adopting parent or parents shall
2 receive a copy of the contract.

3 (e) All other available public money is used before payment
4 of a medical subsidy is made.

5 (f) The adopting parent or parents ~~file~~ OR THE GUARDIAN
6 FILES a verified report with the office at least once each year
7 as to the location of the adoptee and other matters relating to
8 the continuing eligibility of the adoptee for a subsidy. The
9 report shall not contain information concerning the financial
10 condition of the adopting parent or parents OR THE GUARDIAN.

11 (4) UPON THE DEATH OF BOTH OF THE ADOPTIVE PARENTS WHO HAVE
12 SIGNED THE ADOPTION SUBSIDY CONTRACT REQUIRED UNDER
13 SUBSECTION (3)(D), OR IF THERE IS ONLY 1 ADOPTIVE PARENT AND THAT
14 PARENT HAS SIGNED THE ADOPTION SUBSIDY CONTRACT, UPON THE DEATH
15 OF THAT PARENT, THE ADOPTION SUBSIDY PAYMENTS SHALL CONTINUE TO
16 THE GUARDIAN OF THE ADOPTEE IF A GUARDIAN IS APPOINTED UNDER
17 SECTION 422 OR 424 OF THE REVISED PROBATE CODE, ACT NO. 642 OF
18 THE PUBLIC ACTS OF 1978, BEING SECTIONS 700.422 AND 700.424 OF
19 THE MICHIGAN COMPILED LAWS. An adoption subsidy shall continue
20 until 1 of the following occurs:

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

22 (b) The adoptee is emancipated.

23 (c) The adoptee dies.

24 (d) The adoption is terminated.

25 (e) A determination of ineligibility is made by the office.

26 (5) If sufficient funds are appropriated, the office may
27 continue a subsidy for an adoptee under 21 years of age if the

1 office determines that the adoptee is a student regularly
2 attending a high school, college, university, or a course of
3 vocational training in pursuance of a course of study leading to
4 a high school diploma, college degree, or gainful employment.

5 (6) The office may modify or discontinue an adoption subsidy
6 on the basis of changed conditions as indicated in a report filed
7 under subsection (3)(f) or other information received by the
8 office.

9 (7) An adoptee, the adoptee's guardian, or the adopting
10 parent or parents have the right to appeal a determination of the
11 office made under this section. The appeal shall be conducted
12 pursuant to THE ADMINISTRATIVE PROCEDURES ACT OF 1969, Act No.
13 306 of the Public Acts of 1969, as amended, being sections 24.201
14 to ~~24.315~~ 24.328 of the Michigan Compiled Laws. An adoptee,
15 the adoptee's guardian, or the adopting parent or parents have
16 the right to appeal a final determination of the office pursuant
17 to sections 101 to 106 of Act No. 306 of the Public Acts of
18 1969, as amended, being sections 24.301 to 24.306 of the Michigan
19 Compiled Laws, except that the appeal shall be heard:

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 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 (8) The office shall notify the adoptee and the adopting
27 parent or parents of their right of appeal under subsection (7).

1 (9) An adoption subsidy shall continue even if the adopting
2 parent or parents ~~leave~~ OR THE GUARDIAN LEAVES the state.

3 (10) An adoption subsidy shall not affect the legal status
4 of the adoptee nor the legal rights and responsibilities of the
5 adoptive parent or parents OR THE GUARDIAN.

6 (11) An adopting parent or parents receiving a subsidy under
7 former section 13a or 48 of chapter 10 of Act No. 288 of the
8 Public Acts of 1939 shall continue to receive a subsidy for which
9 they qualified under those sections and shall have an opportunity
10 to request a modification of the subsidy to conform with subsec-
11 tion (2)(b) or (5) of this section or both. A modification in
12 the subsidy shall not take effect until the date the request is
13 approved by the office. An adopting parent or parents who are
14 not receiving a subsidy under subsection (2)(b) on the effective
15 date of this section may request the subsidy, and the office
16 shall pay the subsidy effective on the date the request is
17 approved by the office. A payment authorized by this subsection
18 shall not be retroactive.

19 (12) The department, in conjunction with the office, shall
20 promulgate rules regarding this section.