

## ADOPTION SUBSIDIES

House Bill 4036 as enrolled  
Second Analysis (8-18-94)

Sponsor: Rep. Joseph Young, Jr.  
House Committee: Judiciary  
Senate Committee: Family Law, Mental  
Health, and Corrections

### ***THE APPARENT PROBLEM:***

Many children in need of adoption are difficult to place because of various factors, such as age, health, or ethnic background. These children, which the law calls children with "special needs," can sometimes be placed if prospective adoptive parents can receive assistance with the expenses of caring for the child. State law provides for support and medical subsidies for such adoptions, but does not provide for the continuation of a subsidy in the event of the death of the adoptive parents. Because of the sometimes substantial financial burden that a child with special needs can present, some adoptive parents have experienced difficulty in finding people willing to be named guardians in the event of the parents' death. Thus, if the parents die, the child could be returned to the child welfare system, which would be contrary to the child's need for a stable home and more expensive for the state. To resolve this problem, it has been proposed to allow adoption subsidies to be paid to guardians in the event of the death of the adoptive parents.

In addition, the subsidy law has been criticized on a number of other points. For one thing, it is written in language that often is unclear or unnecessarily complex. More importantly, however, it makes what many believe are unfair demands on adoptive parents. For example, it does not provide for the continuation of an adoption subsidy while a delinquent child is temporarily removed from the home as a temporary court ward; when this happens, adoptive parents may find themselves facing costs of court-ordered placement at the same time they are experiencing a suspension of their adoption subsidy. In a related matter, the law conditions support subsidy eligibility on adoptive parents being unwilling to adopt without a subsidy. As a result, parents who felt themselves willing, but financially unable to adopt without a subsidy, were faced with the uncomfortable and somewhat insulting requirement of signing a form declaring

themselves to be unwilling to adopt without a subsidy. Finally, the subsidy fails to reflect existing practice in a number of ways. For example, it does not provide for subsidies for otherwise eligible children who are placed through tribal courts, although the Department of Social Services (DSS) has been providing subsidies for such children. Revisions have been proposed to meet these and other concerns.

### ***THE CONTENT OF THE BILL:***

The bill would amend the Social Welfare Act to do the following, among other things, with regard to adoption subsidies:

**\*\* Provide for the continuation of an adoption subsidy following the death of the adoptive parent(s). Subsidy payments would be made to a guardian appointed under the Revised Probate Code.**

**\*\* Provide for continuation of a support subsidy during a period in which the adoptee was removed from his or her home as a temporary court ward.**

**\*\* Condition support subsidy eligibility in part on whether prospective adoptive parents were requesting a support subsidy, rather than on whether the prospective parents were unwilling to adopt without a subsidy.**

**\*\* Include otherwise eligible children placed by tribal courts among those eligible for support and medical subsidies. (According to the DSS, this is consistent with current practice.)**

**\*\* Delete a provision allowing support subsidies to be less than the applicable intensive foster care rates when financial constraints required a reduction in all medical and support subsidies.**

**\*\* Specify that the DSS may not give preferential treatment to medical subsidy requests made before confirmation of an adoption, but must allocate funds based on a child's need for the subsidy. (According to the DSS, this is consistent with current practice.)**

**\*\* Explicitly bar modification or discontinuation of an adoption subsidy unless the adoptee's medical condition no longer existed, or unless one of several certain terminating events (such as the adoptee turning age 18) had occurred.**

**\*\* Specify that an adoption subsidy would not affect the legal status of the adoptee or the legal rights and responsibilities of the adoptive parent or parents.**

The bill could not take effect unless Senate Bill 725 also was enacted.

MCL 400.115f et al.

### ***FISCAL IMPLICATIONS:***

The Senate Fiscal Agency has reported that by extending support subsidies after the death of adoptive parents, the bill should slightly increase state spending; increases were estimated to be less than \$20,000 per year. (3-15-94)

### ***ARGUMENTS:***

#### ***For:***

Although it is rare for a child to be orphaned by the death of his or her adoptive parents, it does occasionally happen. The blow can fall doubly hard on the child when the lack of any willing guardians means that the child goes into foster or institutional care. Adoptive parents of children with special needs, who are those who receive adoption subsidies, have sometimes had problems finding people willing to be named guardians. Because an adoption subsidy cannot be paid to the guardian, a person who was willing to provide a loving home for the child would also have to be able to shoulder the sometimes substantial financial burden that a child with special needs can present; obviously, this is not always possible. The bill would solve this problem by extending adoption subsidy payments to guardians in the event of the adoptive parents' deaths. The bill would benefit not only the best interests of the child, who would be kept out the child welfare system, but also those of the state, which would save money by paying an adoption subsidy instead of supporting the child in the

system. In addition, adoptive parents could gain the peace of mind that comes with knowing their children will be properly cared for in the event of their deaths.

#### ***Against:***

A large portion of the state's support subsidy caseload is federally subsidized. Federal subsidy money cannot be paid to a child or his or her caretaker upon the death of the adoptive parents; thus the state would have to shoulder the full cost of the bill's proposal.

#### ***Response:***

The DSS estimates that no more than two or three children at a time would come under the bill. Any increased costs would be more than justified by the substantial benefits to those few children; in any event, subsidy payments would be less than the cost of providing foster or institutional care, which without the bill could be the only alternative. Further, the House has urged Congress to continue federal support subsidies for special needs children after the adoptive parents die; perhaps federal money will be available in the future.

#### ***For:***

The bill would correct a number of deficiencies of the adoption subsidy law. Under the bill, current practices such as providing subsidies for children placed by tribal courts would be sanctioned, adoptive parents would no longer be faced with the double burden of enduring a suspension of the adoption subsidy while paying for court-ordered delinquency placement, and prospective adoptive parents would no longer have to declare themselves "unwilling" to adopt without a support subsidy in order to qualify for a support subsidy. The various changes proposed by the bill would update and clarify the law, and make it more fair.