



HOUSE BILL No. 4107

February 2, 1993, Introduced by Reps. DeLange, Gnodtke, Bullard, Gernaat, Shugars and Dalman and referred to the Committee on Human Services and Children.

A bill to amend Act No. 280 of the Public Acts of 1939,
entitled as amended

"The social welfare act,"

as amended, being sections 400.1 to 400.119b of the Michigan
Compiled Laws, by adding sections 107a, 107b, and 107c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 280 of the Public Acts of 1939, as
2 amended, being sections 400.1 to 400.119b of the Michigan
3 Compiled Laws, is amended by adding sections 107a, 107b, and 107c
4 to read as follows:

5 SEC. 107A. AS USED IN THIS SECTION AND SECTIONS 107B AND
6 107C:

1 (A) "DISABLED" MEANS THAT TERM AS USED IN TITLE XVI OF THE
2 SOCIAL SECURITY ACT, CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1381 TO
3 1381j AND 1383 TO 1383d.

4 (B) "INSTITUTION" MEANS A STATE LICENSED OR APPROVED HOSPI-
5 TAL LONG-TERM CARE UNIT, NURSING HOME, MEDICAL CARE FACILITY, OR
6 OTHER FACILITY OR IDENTIFIABLE UNIT OF A FACILITY CERTIFIED AS
7 MEETING ESTABLISHED STANDARDS FOR A NURSING HOME OR HOSPITAL
8 LONG-TERM CARE UNIT IN ACCORDANCE WITH THE LAWS OF THIS STATE.

9 (C) "LONG-TERM CARE" MEANS CARE THAT EXCEEDS OR IS PROJECTED
10 TO EXCEED 30 DAYS.

11 (D) "RECIPIENT" MEANS A PERSON WHO RECEIVES MEDICAL ASSIST-
12 ANCE UNDER THIS ACT.

13 SEC. 107B. (1) THE STATE DEPARTMENT SHALL ESTABLISH AN
14 ESTATE RECOVERY PROGRAM TO RECOVER PAYMENTS PROPERLY MADE AFTER
15 THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT ADDED THIS SECTION
16 FOR MEDICAL ASSISTANCE ON BEHALF OF A RECIPIENT WHO IS 1 OR BOTH
17 OF THE FOLLOWING:

18 (A) AN INSTITUTIONALIZED INDIVIDUAL DESCRIBED IN SECTION
19 1917(a)(1)(B) OF TITLE XIX OF THE SOCIAL SECURITY ACT,
20 CHAPTER 531, 49 STAT. 620, 42 U.S.C. 1396p.

21 (B) AN INDIVIDUAL WHO WAS 65 YEARS OF AGE OR OLDER WHEN HE
22 OR SHE RECEIVED ASSISTANCE.

23 (2) SUBJECT TO SUBSECTIONS (5) AND (6), THE STATE DEPARTMENT
24 SHALL RECOVER FROM THE ESTATE OF A RECIPIENT DESCRIBED IN
25 SUBSECTION (1), OR FROM THE SPOUSE OF THE RECIPIENT, THE AMOUNT
26 OF MEDICAL ASSISTANCE PAID ON BEHALF OF THE RECIPIENT.

1 (3) THE AMOUNT OF MEDICAL ASSISTANCE PAID ON BEHALF OF A
2 RECIPIENT DESCRIBED IN SUBSECTION (1) IS A CLAIM AGAINST THE
3 ESTATE OF A RECIPIENT WHO IS DECEASED OR AGAINST THE ESTATE OF A
4 DECEASED SPOUSE WHO SURVIVED THE RECIPIENT. THE CLAIM IS A PRI-
5 ORITY CLAIM UNDER SECTION 715(1)(E) OR, TO THE EXTENT THE PAY-
6 MENTS WERE MADE FOR THE LAST ILLNESS OF THE RECIPIENT, UNDER SEC-
7 TION 715(1)(D) OF THE REVISED PROBATE CODE, ACT NO. 642 OF THE
8 PUBLIC ACTS OF 1978, BEING SECTION 700.715 OF THE MICHIGAN
9 COMPILED LAWS.

10 (4) THE AMOUNT OF MEDICAL ASSISTANCE PAID ON BEHALF OF A
11 RECIPIENT DESCRIBED IN SUBSECTION (1) IS A PRIORITY CLAIM UNDER
12 SECTION 488(4)(B) OF THE REVISED PROBATE CODE, ACT NO. 642 OF THE
13 PUBLIC ACTS OF 1978, BEING SECTION 700.488 OF THE MICHIGAN
14 COMPILED LAWS, AGAINST THE RECIPIENT'S ESTATE IN A CONSERVATOR-
15 SHIP PROCEEDING.

16 (5) AN ADJUSTMENT OR RECOVERY UNDER THIS SECTION OF MEDICAL
17 ASSISTANCE PROPERLY PAID ON BEHALF OF A RECIPIENT DESCRIBED IN
18 SUBSECTION (1) SHALL BE MADE ONLY AT THE TIME THE RECIPIENT HAS
19 NO SURVIVING SPOUSE AND NO SURVIVING CHILD WHO IS UNDER THE AGE
20 OF 21 YEARS, BLIND, OR DISABLED.

21 (6) THE STATE DEPARTMENT MAY POSTPONE OR WAIVE RECOVERY
22 UNDER THIS SECTION IF IT DETERMINES THAT RECOVERY WOULD CREATE AN
23 UNDUE HARDSHIP FOR THE FAMILY OF THE RECIPIENT.

24 SEC. 107C. (1) THE STATE DEPARTMENT SHALL IMPOSE A LIEN ON
25 THE REAL PROPERTY OF A RECIPIENT PRIOR TO HIS OR HER DEATH TO
26 SECURE AMOUNTS PROPERLY PAID OR TO BE PAID FOR MEDICAL ASSISTANCE
27 ON BEHALF OF THE RECIPIENT IF ALL OF THE FOLLOWING ARE TRUE:

1 (A) THE RECIPIENT IS IN AN INSTITUTION, AND THE STATE
2 DEPARTMENT DETERMINES, AFTER NOTICE AND THE OPPORTUNITY FOR A
3 HEARING, THAT THE RECIPIENT CANNOT REASONABLY BE EXPECTED TO BE
4 DISCHARGED FROM THE INSTITUTION AND TO RETURN HOME.

5 (B) NONE OF THE FOLLOWING PERSONS ARE LAWFULLY RESIDING IN
6 THE HOME:

7 (i) THE SPOUSE OF THE RECIPIENT.

8 (ii) A CHILD OF THE RECIPIENT WHO IS UNDER THE AGE OF 21
9 YEARS, BLIND, OR DISABLED.

10 (iii) A SIBLING OF THE RECIPIENT WHO HAS AN EQUITY INTEREST
11 IN THE HOME AND WAS RESIDING IN THE HOME FOR AT LEAST THE 1 YEAR
12 IMMEDIATELY PRECEDING THE DATE THE RECIPIENT WAS ADMITTED TO THE
13 INSTITUTION.

14 (2) A LIEN IMPOSED UNDER THIS SECTION IS DISSOLVED IF THE
15 RECIPIENT IS DISCHARGED FROM THE INSTITUTION AND RETURNS HOME.

16 (3) THE STATE DEPARTMENT SHALL INSTITUTE PROCEEDINGS TO
17 FORECLOSE A LIEN IMPOSED PURSUANT TO THIS SECTION ONLY AT A TIME
18 WHEN BOTH OF THE FOLLOWING ARE TRUE:

19 (A) THE RECIPIENT IS NOT SURVIVED BY A SPOUSE OR BY A CHILD
20 WHO IS UNDER THE AGE OF 21 YEARS, BLIND, OR DISABLED.

21 (B) NONE OF THE FOLLOWING PERSONS ARE LAWFULLY RESIDING IN
22 THE RECIPIENT'S HOME:

23 (i) A SIBLING WHO WAS RESIDING CONTINUOUSLY IN THE HOME FOR
24 A PERIOD OF AT LEAST THE 1 YEAR IMMEDIATELY PRECEDING THE DATE
25 THE RECIPIENT WAS ADMITTED TO THE INSTITUTION.

26 (ii) A SON OR DAUGHTER OF THE RECIPIENT WHO WAS RESIDING
27 CONTINUOUSLY IN THE HOME FOR A PERIOD OF AT LEAST THE 2 YEARS

1 IMMEDIATELY PRECEDING THE DATE THE RECIPIENT WAS ADMITTED TO THE
2 INSTITUTION AND WHO ESTABLISHES TO THE STATE DEPARTMENT'S SATIS-
3 FACTION THAT HE OR SHE PROVIDED CARE TO THE RECIPIENT THAT PER-
4 MITTED THE RECIPIENT TO RESIDE AT HOME RATHER THAN IN AN
5 INSTITUTION.

6 (4) THE STATE DEPARTMENT MAY POSTPONE OR WAIVE RECOVERY
7 UNDER THIS SECTION IF IT DETERMINES THAT RECOVERY WOULD CREATE AN
8 UNDUE HARDSHIP FOR THE FAMILY OF THE RECIPIENT.