



# HOUSE BILL No. 4299

February 17, 1993, Introduced by Reps. Hill, London, Kukuk, Kaza and Horton and referred to the Committee on Human Services and Children.

A bill to amend section 9 of Act No. 280 of the Public Acts of 1939, entitled as amended

"The social welfare act,"

as amended by Act No. 131 of the Public Acts of 1982, being section 400.9 of the Michigan Compiled Laws; and to add section 43a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 9 of Act No. 280 of the Public Acts of  
2 1939, as amended by Act No. 131 of the Public Acts of 1982, being  
3 section 400.9 of the Michigan Compiled Laws, is amended and sec-  
4 tion 43a is added to read as follows:

5 Sec. 9. (1) Pursuant to THE ADMINISTRATIVE PROCEDURES ACT  
6 OF 1969, Act No. 306 of the Public Acts of 1969, as amended,  
7 being sections 24.201 to ~~24.315~~ 24.328 of the Michigan Compiled  
8 Laws, the director shall promulgate rules for the conduct of

1 hearings within the state department. The rules shall provide  
2 adequate procedure for a fair hearing of appeals and complaints,  
3 when requested in writing by THE STATE DEPARTMENT OR BY an appli-  
4 cant for or recipient of, OR FORMER RECIPIENT OF, assistance or  
5 service, financed in whole or in part by STATE OR federal funds.  
6 Hearings shall be conducted by agents designated by the  
7 director. The director may appoint a hearing authority to decide  
8 these cases. The hearing authority shall be vested with the  
9 powers and duties of the director to hold and decide hearings.  
10 ~~The decisions in these cases shall be binding upon each county~~  
11 ~~or district department of social services involved and shall be~~  
12 ~~complied with by that department.~~ The director may also upon his  
13 or her own motion — review a decision of a county or district  
14 department with respect to the granting of assistance financed in  
15 whole or in part by STATE OR federal funds, and may consider and  
16 pass upon an application for assistance ~~which~~ THAT has not been  
17 acted upon by the county or district department within a reason-  
18 able time.

19 (2) Irrespective of funding source, the state department may  
20 be represented in any hearing held pursuant to subsection (1) by  
21 a duly authorized employee or agent of the state department.

22 (3) A hearing held pursuant to this section shall be held as  
23 prescribed in THE OPEN MEETINGS ACT, Act No. 267 of the Public  
24 Acts of 1976, as amended, BEING SECTIONS 15.261 TO 15.275 OF THE  
25 MICHIGAN COMPILED LAWS.

26 SEC. 43A. (1) AS USED IN THIS SECTION:

1 (A) "OVERPAYMENT" MEANS THE DIFFERENCE BETWEEN THE AMOUNT OF  
2 ASSISTANCE TO WHICH AN INDIVIDUAL IS ENTITLED UNDER THIS ACT AND  
3 THE AMOUNT OF ASSISTANCE ACTUALLY RECEIVED BY THAT INDIVIDUAL.

4 (B) "PUBLIC ASSISTANCE RECIPIENT" MEANS AN INDIVIDUAL WHO IS  
5 RECEIVING, OR WHO DID RECEIVE, ASSISTANCE UNDER THIS ACT.

6 (2) THE STATE DEPARTMENT SHALL TAKE ALL NECESSARY STEPS TO  
7 RECOVER AN OVERPAYMENT MADE TO A PUBLIC ASSISTANCE RECIPIENT,  
8 INCLUDING, BUT NOT LIMITED TO, ADMINISTRATIVE ACTION OR ACTION IN  
9 A COURT OF COMPETENT JURISDICTION. PROCEDURES FOR THE RECOVERY  
10 OF OVERPAYMENTS MADE UNDER FEDERALLY ASSISTED PROGRAMS SHALL BE  
11 CONSISTENT WITH FEDERAL LAW AND REGULATIONS.

12 (3) THIS SECTION DOES NOT LIMIT OR PREVENT THE CRIMINAL  
13 PROSECUTION OF AN INDIVIDUAL WHO HAS RECEIVED AN OVERPAYMENT AS A  
14 RESULT OF FRAUD OR OTHER CRIMINAL ACT.

15 (4) IN THE CASE OF AN INDIVIDUAL WHO IS NO LONGER A PUBLIC  
16 ASSISTANCE RECIPIENT, THE STATE DEPARTMENT MAY WAIVE RECOVERY OF  
17 AN OVERPAYMENT IF THE COST OF RECOVERY IS EQUAL TO OR GREATER  
18 THAN THE AMOUNT OF THE OVERPAYMENT OR IF THE ERROR WAS MADE BY  
19 THE DEPARTMENT. EXCEPT AS PROHIBITED BY FEDERAL LAW OR REGULA-  
20 TION, THE STATE DEPARTMENT MAY WAIVE RECOVERY OF AN OVERPAYMENT  
21 IF THE RECOVERY WOULD RESULT IN UNDUE HARDSHIP TO THE PUBLIC  
22 ASSISTANCE RECIPIENT, AS DETERMINED BY THE STATE DEPARTMENT.

23 (5) THE STATE DEPARTMENT SHALL REPORT ANNUALLY TO THE LEGIS-  
24 LATURE ON THE COST EFFECTIVENESS OF THE RECOVERY OF OVERPAYMENTS  
25 DESCRIBED IN THIS SECTION.