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**BILL ANALYSIS**



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House Bills 5353 (Substitute H-1) and 5354 (Substitute H-1)  
Sponsor: Representative Jack A. Horton (H.B. 5353)  
Representative Alan L. Cropsey (H.B. 5354)  
House Committee: Human Services  
Senate Committee: Families, Mental Health and Human Service

Date Completed: 11-27-95

**SUMMARY OF HOUSE BILLS 5353 (Substitute H-1) and 5354 (Substitute H-1) as passed by the House:**

**House Bill 5353 (H-1) would amend the Social Welfare Act to:**

- Change references to the "state department of social services" to the "family independence agency" and require the Agency to establish and administer the Family Independence Program, which would replace the current Aid to Dependent Children Program.
- Specify the eligibility criteria for the independence assistance program, including a requirement that a minor parent and his or her child live in an adult-supervised household.
- Require each family that received family independence assistance to enter into a social contract outlining the family's responsibilities, including participation in a Work First employment and training program.
- Provide for exemptions from the Work First requirements for certain assistance recipients.
- Provide for the development of penalties for fraud or failure to comply with the social contract.
- Provide for the establishment of assistance pilot projects.
- Specify the types of rules, regulations, and policies that the Family Independence Agency could develop, and provide that policies necessary to administer the assistance programs would be exempt from statutory rule promulgation requirements for 12 months.

- Specify that the Social Welfare Act would have to be read in conjunction with the annual appropriation act for the Family Independence Agency.
- Change references to the "county department of social services" to the "county family independence agency" and change references to the "county social services board" to the "county family independence agency board".
- Repeal provisions of the Social Welfare Act that pertain to financial reports from aid recipients; employment skills and training for General Assistance recipients; aid to dependent children; the definition of "dependent child"; job placement services; and the social welfare training program.

**House Bill 5354 (H-1) would amend the Administrative Procedures Act to exempt from that Act's definition of "rule" certain policies and regulations developed by the Family Independence Agency.**

The bills are tie-barred to each other. Following is a more detailed description of each bill.

**House Bill 5353 (H-1)**

**Family Independence Program**

The Family Independence Agency would have to establish and administer the Family Independence Program to provide assistance to families who were trying to achieve independence. ("Family" would mean one or more of the following: a household consisting of a child and either a parent

or stepparent of the child, or a caretaker of the child; a pregnant woman; or a parent of a child in foster care. "Child" would mean an individual who was not emancipated, who lived with a parent or caretaker, and who either was under the age of 18 or was aged 18 or 19, a full-time high school student, and reasonably expected to graduate from high school before the age of 20. "Family independence assistance" would mean financial assistance provided to a family under the Family Independence Program.)

The Agency would have to administer the Program to accomplish all of the following:

- Provide financial support to eligible families while they pursued self-improvement activities and tried to become financially independent.
- Ensure that recipients who were minor parents lived in adult-supervised households in order to reduce long-term dependence on financial assistance.
- Assist families in determining and overcoming the barriers preventing them from achieving financial independence.
- Ensure that families pursued other sources of support available to them.

("Minor parent" would mean an individual under the age of 18 who was not emancipated under the emancipation of minors Act , and who was either the biological parent of a child living in the same household or a pregnant woman. "Adult-supervised household" would mean either the place of residence of a parent, stepparent, or legal guardian of a minor parent; or another living arrangement that was approved by the Family Independence Agency as a family setting that provided care and control of a minor parent and his or her child and supportive services including, but not limit to, counseling, guidance, or supervision. "Recipient" would mean an individual receiving family independence assistance.)

In order to ensure efficient, fair, and cost-effective administration of the Family Independence Program and to provide family independence assistance to families willing to work toward eventual self-sufficiency, the Agency would have to establish income and asset levels for eligibility; types of income and assets to be considered in making eligibility determinations; payment standards; composition of the program group and the family independence assistance group; program budgeting and accounting methods; and client reporting requirements. Further, the Agency

would have to establish program goals consistent with these requirements and report the goals to the Governor and the Legislature within six months of the bill's effective date. The Agency also would have to report biennially to the Governor and the Legislature on the progress made toward the goals.

("Payment standard" would mean the standard upon which family independence program benefits was based if the family independence assistance group had no net income. "Program group" would mean a family and all those individuals living with a family whose income and assets were considered for purposes of determining financial eligibility for family independent assistance. "Family independence assistance group" would mean all those members of a program group who received family independence assistance.)

#### Eligibility for Assistance Program

An individual would be eligible for family independence assistance if he or she met all of the following requirements:

- Was a member of a family or a family independence assistance group.
- Was a member of a program group whose income and assets were less than the income and asset limits set by the Family Independence Agency.
- Was a United States citizen or a permanent resident alien.
- Was a resident of Michigan.
- Met any other eligibility criteria required for the receipt of Federal or State funds or determined by the Family Independence Agency to be necessary for the accomplishment of the goals of the family independence program.

A minor parent and his or her child could not receive family independence assistance unless they lived in an adult-supervised household. The family independence assistance would have to be paid on behalf of the minor parent and child to an adult in the household. Child care in conjunction with participation in education, employment readiness, training, or employment programs, approved by the Family Independence Agency, would have to be provided for the minor parent's child. The minor parent and child would have to live with the minor parent's parent, stepparent, or legal guardian unless the Family Independence Agency determined that there was good cause for not requiring the minor parent and child to live with

a parent, stepparent, or legal guardian. The Agency would have to determine the circumstances that constituted good cause, based on a parent's, stepparent's, or guardian's unavailability or unwillingness or on a risk to the physical or emotional health or safety of the minor parent or child. If the Agency determined that there was good cause for not requiring a minor parent to live with a parent, stepparent, or legal guardian, the minor parent and child would have to live in another adult-supervised household. A local office director could waive this requirement, however, for a minor parent who was at least 17 years of age, attending secondary school full-time, and participating in a service plan of the Family Independence Agency or a teen parenting program, if moving would require the minor parent to change schools.

If a minor parent applied for family independence assistance, the Family Independence Agency would have to do all of the following:

- Inform the minor parent of the eligibility requirements and the circumstances under which there would be good cause for permitting the minor parent to live in an adult-supervised household other than the home of his or her parent or legal guardian.
- Complete a home visit and other appropriate investigation before requiring a minor parent to live with his or her parent, stepparent, or legal guardian.
- If applicable, assist the minor parent to find an adult-supervised household in which to live.

Within one week after the Family Independence Agency made an initial determination that an adult or a child aged 16 or older, who was not attending elementary or secondary school full time, might be eligible for family independence assistance, that individual would have to attend a joint orientation session conducted by the Agency and the Michigan Jobs Commission. After completing the orientation, the individual would have to develop the family's social contract with the Family Independence Agency. If all eligibility criteria were met, the Agency would have to provide family independence assistance to the family for up to 60 days.

Within 60 days after the orientation session, the Agency would have to review the individual's compliance with the social contract. If the individual failed to cooperate with Work First, the family would be ineligible for further family

independence assistance. ("Work first" would mean the program of employment and training administered by the Michigan Jobs Commission for applicants and recipients of family independence assistance.) If the individual failed to cooperate with any other social contract requirement, the Agency would have to impose penalties as provided in the bill. If the individual were complying with the social contract, the Agency and the recipient would have to revise the social contract, if necessary, and the family independence assistance group would continue to receive family independence assistance as long as the recipients met the family independence assistance program requirements.

The Act specifies that for purposes of aid to dependent children and medical assistance under the Act, a resident of this State is a person who is living in the State voluntarily with the intention of making his or her home in this State and not for a temporary purpose or who, at the time of application, is living in this State, is not receiving assistance from another state, and entered the State with a job commitment or seeking employment in the State. The bill specifies that for purposes of the Family Independence Program and medical assistance under the Act, a resident of the State would be a person who was living in this State voluntarily with the intention of making his or her home in this State and not for a temporary purpose and who was not receiving assistance from another state. For purposes of medical assistance, a resident of this state also would include a person and his or her dependents who, at the time of application, were living in this State, were not receiving assistance from another state, and had entered the State with a job commitment or seeking employment in this State.

The bill also would delete the provision that a child is a resident of this State if he or she is living in the State other than on a temporary basis.

#### Social Contract

Each family receiving family independence assistance would have to execute a social contract outlining the responsibilities of members of the family independence assistance group. The social contract would have to be developed jointly by the Family Independence Agency and the adult family members, and would have to identify compliance goals that were to be met by members of the group. The social contract would have to reflect the individual needs and ability of the particular

family, and would have to include at least all of the following:

- The obligation of each adult and each child aged 16 or older who was not attending elementary or secondary school full-time to participate in Work First unless exempt under the bill.
- The obligation of each minor parent who had not completed secondary school to attend school.
- The obligation of each adult to engage in at least 20 hours per week of employment, Work First activities, education or training, community service activities, or self-improvement activities.
- The obligation to cooperate in the establishment of paternity and the procurement of child support, if applicable.
- The obligation of a recipient who failed to comply with compliance goals due to substance abuse to participate in substance abuse treatment and submit to any periodic drug testing required by the treatment program.
- Any other obligation the Family Independence Agency determined was necessary to enable the family to achieve independence.

("Substance abuse" would mean that term as defined in the Public Health Code, i.e., the taking of alcohol or other drugs at dosages that place an individual's social, economic, psychological, and physical welfare in potential hazard or to the extent that an individual loses the power of self-control as a result of the use of alcohol or drugs, or while habitually under the influence of alcohol or drugs, endangers public health, morals, safety, or welfare, or a combination thereof. "Substance abuse treatment" would mean outpatient or inpatient services or participation in Alcoholics Anonymous or a similar program.)

Beginning six weeks after the birth of her child until the child was three months old, a mother could be exempted by the Agency from Work First to receive instruction in parenting, nutrition, and child development as fulfillment of her social contract obligation to engage in employment or other activities at least 20 hours a week.

The Agency would have to monitor each family's compliance with the social contract. If the family failed to comply with the compliance goals set

forth in the social contract, the Agency would have to impose penalties.

The Agency would have to enter into an agreement with the Michigan Jobs Commission in order to facilitate the administration of Work First. The Agency would have to make information on the program available to the Legislature.

Except as otherwise exempted by the bill, every member of a family independence assistance group would have to be referred to and participate in Work First. If a recipient cooperated with Work First, but the Work First agency determined that a job was not available, the recipient could enroll in a community college program that was specifically job-related and of no more than two years' duration. The particular activities in which the recipient would have to participate, the number of hours of work required, and other details of Work First would have to be developed by the Michigan Jobs Commission and the Family Independence Agency and be specified in the recipient's social contract.

#### Exemptions from Work First

The following individuals would be exempt from participation in Work First:

- A child under the age of 16.
- A child aged 16 or older, or a minor parent, who was attending elementary or secondary school full-time.
- An individual who was working a minimum number of hours determined by the Family Independence Agency to be necessary to meet Federal requirements.
- The mother of a child under the age of three months.
- An individual aged 65 or older.
- A recipient of supplemental security income, social security disability, or medical assistance due to disability or blindness, or his or her spouse if the spouse were the full-time care giver recipient.
- An individual suffering from a physical or mental impairment that met Federal supplemental security income disability standards, except that no minimum duration would be required.
- The spouse of an individual suffering from a physical or mental impairment that met Federal social security standards who was the full-time care giver of that individual.

- A parent or caretaker of a child who was suffering from a physical or mental impairment that met the Federal supplemental security income disability standards, except that no minimum duration would be required.

("Caretaker" would mean an individual who was acting as parent for a child in the absence, or because of the disability, of the child's parent or stepparent and who was the child's legal guardian, grandparent, sibling, stepsibling, aunt, uncle, nephew, niece, or first cousin, a parent of the putative father, or an unrelated individual aged 21 or older whose appointment as legal guardian of the child was pending.)

The Family Independence Agency also could grant a maximum 90-day temporary exemption from participation in Work First to an individual who was suffering from a documented short-term mental or physical illness, limitation, or disability that severely restricted his or her ability to participate in employment or training activities. An individual who had a documented mental or physical illness, limitation, or disability that did not severely restrict his or her ability to participate in employment or training activities would be required to participate in Work First at a medically permissible level.

An individual would not be disabled if substance abuse were a contributing factor material to the determination of disability.

#### Penalties

The Family Independence Agency would have to develop a system of penalties to be imposed if a recipient committed fraud or failed to comply with the compliance goals set forth in the family independence assistance group's social contract. The penalties could be cumulative and could include reduction of the grant, removal of an individual from the family independence assistance group, and termination of assistance to the family.

A penalty could not be imposed if the recipient demonstrated that there was good cause for the noncompliance. The Family Independence Agency would have to determine those circumstances that constituted good cause based on factors that were beyond the control of a recipient.

Recipients who were willing to participate in activities leading to self-sufficiency, but who

required child care or transportation in order to participate, would not be penalized if the Agency determined that child care or transportation was not reasonably available or provided to them.

#### County Agencies

The Act specifies that the director, employees, and assistants of a county department must be appointed by the State Department of Social Services from among persons certified as qualified by the State Civil Service Commission. The county social services board must review the qualifications of and interview each applicant for the position of county social services director, who then must be appointed from among persons certified as eligible and recommended by the Department and the county social services board. The bill specifies that these appointment provisions would not apply under conditions of reduction in State work force. In such circumstances, administrative employment preference rules for bumping promulgated by the Michigan Civil Service Commission would apply.

#### Contracts

Subject to the State Constitution of 1963, the Family Independence Agency could contract with a private individual or agency to administer a program created under the Act or to perform a duty of the Agency. The Agency would be prohibited from awarding contracts to specific organizations that had not been competitively bid. All personal services contracts would have to be competitively bid.

#### Pilot Projects

In order to achieve a more efficient and effective use of funds for public assistance, to reduce dependency, or to improve the living conditions and increase the incomes of individuals receiving public assistance, the Agency could establish and conduct pilot projects in one or more county or district offices. The Agency also could apply different policies in the pilot programs than it applied in the rest of the county or district offices and could conduct the pilot projects as long as necessary to produce a reasonable test of the policy being evaluated. Pilot projects would have to be consistent with principles and goals set forth in the Act.

#### Rules, Policies, and Regulations

Currently, the Act requires the Michigan Social

Welfare Commission to adopt all rules and regulations governing the policies of the Department of Social Services. The Director, subject to such rules and regulations, is responsible for the executive duties that are assigned to him or her by the Commission or by law.

The bill would delete these provisions and specify instead that the Family Independence Agency could promulgate all rules necessary or desirable for the administration of programs under the Act. Rules would have to be promulgated under the Administrative Procedures Act (APA). Beginning two years after the bill's effective date, if the Michigan Supreme Court ruled that the provisions of the APA concerning the procedures for promulgating rules and the approval, disapproval and adoption of rules were unconstitutional and a statute requiring legislative review of the administrative rules were not enacted within 90 days of the ruling, these provisions concerning rule promulgation would not apply.

The bill also would allow the Agency to develop regulations to implement the goals and principles of assistance programs created under the Act, including all standards and policies necessary or desirable to administer the programs. The regulations would be effective and binding on all those affected by the assistance programs. Generally, regulations setting standards and policies necessary or desirable to administer the programs would be exempt from the rule promulgation requirements of the APA until the expiration of 12 months after the bill's effective date. When the 12-month period expired, the regulations would not be effective and binding unless processed as emergency rules or promulgated under the APA.

Further, the Agency could develop policies to establish income and asset limits, types of income and assets to be considered for eligibility, and payment standards for assistance programs administered under the Social Welfare Act. The Agency also could develop policies to implement requirements mandated by Federal statute or regulations as a condition of receipt of Federal funds; the policies would be effective and binding on all those affected by the programs. The policies would be exempt from the rule promulgation requirements of the APA.

All rules, regulations, and policies established by the Agency would have to be in writing, be provided to the Legislature, and be made available

for inspection by any member of the public at all offices of the Agency during regular business hours.

Until the expiration of 12 months after the bill's effective date, a bipartisan task force of legislators appointed in the same manner as members are appointed to standing committees of the Legislature would have to meet regularly with the Agency to review proposed policies and regulations for the Family Independence Program. Meetings of the bipartisan task force would be subject to the Open Meetings Act.

#### Appropriations

The bill specifies that the Social Welfare Act would have to be read in conjunction with the annual appropriation act appropriating funds for the Family Independence Agency for each fiscal year. The annual appropriation act would have to be considered as a time-limited addendum to the Act. Further, a program created in or authorized under the Act would be subject to the annual appropriation of funds. The inclusion of a program in the Act would not create an entitlement to that program, and the Family Independence Agency would not be required to operate a program unless the Legislature appropriated funds for it.

#### Administrative Unit

The bill would allow the Director of the Family Independence Agency to organize two or more counties into a single administrative unit for purposes of administrative efficiency with the approval of all the affected county boards. The director of the single administrative unit would have to be appointed by the Family Independence Agency from among persons certified as eligible and recommended by the Family Independence Agency and by one or more of the affected county boards.

#### House Bill 5354 (H-1)

The bill would amend the Administrative Procedures Act to exempt from the definition of "rule":

- A policy developed by the Family Independence Agency setting income and asset limits, types of income and assets to be considered for eligibility, and payment standards for administration of assistance programs under the Social Welfare Act.

- A policy developed by the Family Independence Agency to implement requirements that were mandated by Federal statute or regulations as a condition of receiving Federal funds.
- A regulation issued by the Family Independence Agency setting standards and policies for the administration of programs under the Social Welfare Act. This exemption would expire 12 months after the bill's effective date, after which the regulation would not be binding and effective unless it were processed as an emergency rule or were promulgated according to the APA. This limited exemption would not apply to the policies specifically exempted by the bill.

MCL 400.1 et al. (H.B. 5353)

MCL 24.207 (H.B. 5354)

Legislative Analyst: L. Burghardt

### **FISCAL IMPACT**

The contents of these bills, in and of themselves, do not lend themselves to a fiscal impact assessment. Due to the broad nature of the language, theoretically, the Department could institute either a much more costly or less costly program. Pragmatically, public testimony indicates that the Family Independence Program would be a codified and continuation of the welfare policies that have been in effect for the last few years; i.e., relating Work First and the Social Contract to the receipt of assistance. As such, the Senate Fiscal Agency would estimate a continuation of the savings resulting from the decline in assistance caseload, which is already included in the Department of Social Services FY 1995-96 budget, for the near future.

Fiscal Analyst: J. Walker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.