

Act No. 525
Public Acts of 2008
Approved by the Governor
January 12, 2009
Filed with the Secretary of State
January 13, 2009
EFFECTIVE DATE: January 13, 2009

**STATE OF MICHIGAN
94TH LEGISLATURE
REGULAR SESSION OF 2008**

Introduced by Reps. DeRoche, Spade, Schuitmaker, LeBlanc, Hammel, Hammon, Gonzales, Shaffer, Palsrok, Polidori, Brown, Lahti, Gillard, Hildenbrand, Proos, Hoogendyk, Hansen, Horn, LaJoy, David Law, Brandenburg, Moore, Rocca, Caswell, Casperson, Green, Leland, Marleau, Stakoe, Cushingberry, Dean, Espinoza, Elsenheimer, Stahl, Pastor, Meltzer, Garfield, Booher, Knollenberg, Agema, Calley, Moss, Pavlov, Nitz, Emmons, Pearce, Ball, Opsommer, Moolenaar, Steil, Rick Jones, Mayes, Sheltroun, Wenke, Gaffney, Jackson, Virgil Smith, Bauer and Cheeks

ENROLLED HOUSE BILL No. 6089

AN ACT to establish the foster care trust fund in the department of human services; to establish the state foster care board; to prescribe the powers and duties of the state foster care board; to provide for the distribution of the money from the fund; to prescribe the powers and duties of certain agencies and officials; and to provide for appropriations.

The People of the State of Michigan enact:

Sec. 1. This act shall be known and may be cited as the “foster care trust fund act”.

Sec. 2. As used in this act:

(a) “Board” means the state foster care trust fund board created in section 4.

(b) “Children’s ombudsman office” means the children’s ombudsman office created in section 3 of the children’s ombudsman act, 1994 PA 204, MCL 722.923.

(c) “Department” means the department of human services.

(d) “Foster care programs” means public or private programs that provide 24-hour substitute care for a child who is placed out of his or her parental or legal guardian’s home and under the supervision of the department as a temporary or permanent ward of the court or public ward placed in a supervising agency’s care under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, and includes children who cannot remain at home because their families are unable to provide minimal care and supervision.

(e) “Trust fund” or “fund” means the foster care trust fund created in section 3.

(f) “Juvenile justice program” means a public or private program where a child is placed out of his or her parental or legal guardian’s home and under the supervision of the department as a temporary ward of the court under chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.1 to 712A.32, or a temporary public ward under the youth rehabilitation services act, 1974 PA 150, MCL 803.301 to 803.309.

(g) “Local councils” means a public or private community collaborative that sets the agenda for local collaborative activities for children in, or aging out of, foster care programs and juvenile justice programs, that works within the community to focus resources on common needs and outcomes of children in foster care, and that acts as the common community voice with state agencies on issues of strengthening responses to these youths’ needs.

(h) “Public ward” means either of the following:

(i) That term as defined under section 2 of the youth rehabilitation services act, 1974 PA 150, MCL 803.302.

(ii) A youth whose parents' parental rights have been terminated and who is legally free for adoption.

Sec. 3. (1) The foster care trust fund is created in the state treasury as a charitable and educational endowment fund. Money in the fund shall be expended only as provided in this section. The board shall be the administrator of the trust fund for auditing purposes and all powers, purposes, and duties of the fund shall be exercised by the board.

(2) The state treasurer shall credit to the trust fund all amounts appropriated for this purpose under section 435 of the income tax act of 1967, 1967 PA 281, MCL 206.435, any amounts received under section 9 of this act, and interest and earnings accrued from the saving and investment of that money.

(3) The state treasurer shall direct the investment of the trust fund.

(4) Not more than 1/2 of the balance of the money contributed to the trust fund each year, plus the interest and earnings, excluding unrealized gains and losses, credited to the trust fund during the previous fiscal year shall be available for disbursement upon the authorization of the board as provided in section 10.

(5) Money in the trust fund shall be available for disbursement upon appropriation.

(6) No money shall be expended from the fund until the date that the deposits credited into the trust from all sources as provided under this section equal or exceed \$800,000.00.

(7) No appropriations shall be made from the fund until the date that the deposits credited into the fund from all sources equal or exceed \$800,000.00.

(8) All expenses authorized under this act or necessary to implement this act shall only be funded by the trust fund created in this section.

(9) Money in the trust fund at the close of the year shall remain in the trust fund and shall not lapse to the general fund.

Sec. 4. (1) The state foster care trust fund board is created within the department. The board shall exercise its powers and duties independently of the department except that budget, procurement, and related management functions shall be performed by the director of the department.

(2) The board shall appoint the executive director of the board. The executive director shall be a member of the state classified civil service. The executive director shall hire all staff required to exercise the powers and carry out the duties of the board. The board shall approve the number of staff members hired and their job descriptions.

Sec. 5. (1) The board shall consist of 13 voting members as follows:

(a) The director of the department, the director of community health, the children's ombudsman, or designees authorized to speak on their behalf.

(b) Ten public members appointed by the governor with the advice and consent of the senate. As a group, the public members shall do all of the following:

(i) Demonstrate knowledge in the area of foster care.

(ii) Be representative of the demographic composition of this state.

(iii) To the extent practicable, be representative of all of the following categories: birth and foster parents, former foster care children, the business community, the religious community, the legal community, higher education providers, professional providers of foster care services, and volunteers in foster care services.

(2) The term of each public member shall be 3 years, except that of the public members first appointed, 3 shall serve for 3 years, 3 for 2 years, and 4 for 1 year. A public member shall not serve more than 2 consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The governor shall designate a chairperson of the board from among the public members. The chairperson shall serve in that position at the pleasure of the governor. The board may elect other officers and committees as it considers appropriate.

(4) Members of the board shall serve without compensation. Members of the board may receive reimbursement for necessary travel and expenses consistent with relevant statutes and the rules and procedures of the civil service commission and department of management and budget.

Sec. 6. (1) The business that the board performs shall be conducted at a public meeting of the state board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(2) A writing prepared, owned, used, in the possession of, or retained by the state board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 7. (1) The board shall seek input from the general public and all of the following individuals or groups that have an interest in or provide services to the foster care industry:

- (a) The Michigan federation for children and families or its successor organization.
- (b) The Michigan network for youth and families or its successor organization.
- (c) Statewide foster parent associations or their successor organizations.
- (d) The presidents council of the state universities of Michigan or its successor organization.
- (e) The Michigan community college association or its successor organization.
- (f) Michigan's children or its successor organization.
- (g) Michigan league for human services or its successor organization.
- (h) The superintendent of public instruction.
- (i) The director of the department of energy, labor, and economic growth.
- (j) The director of the department of corrections.
- (k) A representative of Michigan court appointed special advocates.
- (l) The association of accredited child and family agencies or its successor organization.
- (m) A representative of the children's trust fund.
- (n) The state supreme court.
- (o) The state foster care review board.
- (p) The Michigan association of counties or its successor organization.

(2) The board shall serve as a collaborative body that works with existing public and private foster care programs and provides financial assistance and resources to do all of the following:

- (a) Work to identify and address the many issues facing foster care children in this state.
- (b) Work with the foster care community to solve the problems facing current foster care children and those children who have been in the foster care system or who will soon age out of the foster care system.
- (c) Focus on developing an extensive support network for foster care youth who age out of the system. The support network should include, but is not limited to, personal counseling, financial planning, health care options, and college or career training programs.
- (d) Provide for the coordination and exchange of information on the establishment and maintenance of foster care programs.
- (e) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding foster care; encourage professional persons and groups to recognize and deal with foster care; make information about foster care available to the public and organizations and agencies that deal with problems of foster care; and encourage the development of community foster care assistance programs.
- (f) Educate the public on the various opportunities to serve within the foster care community, including, but not limited to, foster parenting, volunteering, mentoring, and foster child adoption.

(3) The board shall do all of the following:

- (a) Meet not less than twice annually at the call of the chairperson.
 - (b) One year after the fund balance reaches \$800,000.00, and subject to section 3(6) and (7), and biennially thereafter, develop a state plan for the distribution of funds from the fund. In developing the plan, the board shall review already existing foster care programs. The plan shall assure that an equal opportunity exists for establishment of foster care programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives and to the secretary of the senate. The board shall notify the governor and the members of the legislature that the plan is available.
 - (c) One year after the fund balance reaches \$800,000.00, and subject to section 3(6) and (7), develop and publicize criteria for the receipt of trust fund money by eligible local councils and eligible foster care programs.
 - (d) Review, approve, and monitor the expenditure of trust fund money by foster care programs.
 - (e) One year after the fund balance reaches \$800,000.00, subject to section 3(6) and (7), establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.
- (4) The board may enter into contracts with public or private agencies to fulfill the requirements of this act.

Sec. 8. The board may recommend to the governor and the legislature changes in state programs, statutes, policies, budgets, and standards that will reduce the problems facing foster care children, improve coordination among public and private agencies that provide foster care services, and improve the condition of children and parents or guardians who are in need of support or assistance dealing with foster care issues.

Sec. 9. (1) The board may do any of the following:

(a) Accept federal money granted by congress or executive order for the purposes of this act as well as gifts, grants, bequests, and donations from individuals, private organizations, or foundations. The acceptance and use of federal money does not commit state money and does not place an obligation upon the legislature to continue the purposes for which the federal money is made available.

(b) Plan, manage, or conduct a campaign to solicit gifts, bequests, grants, or donations of money or property, or pledges of gifts, bequests, grants, or donations.

(2) Money received in the manner described in subsection (1) shall be transmitted to the state treasurer for deposit in the trust fund.

Sec. 10. The board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, as provided in section 3, for the following purposes:

(a) To fund a private nonprofit or public organization in the development or operation of a foster care program if the organization demonstrates an ability to match, through money or in-kind services, 50% of the amount of any fund money received and the organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance. The amount and types of in-kind services are subject to the approval of the board. Before expending any money from the fund, the board shall establish qualifying criteria for expending those funds or awarding any grants and may specify any conditions for each expenditure or grant.

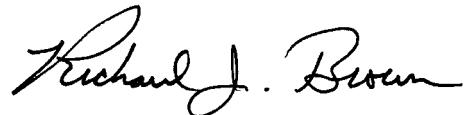
(b) To fund the board created in section 4 for the actual and necessary operating expenses that the board incurs in performing its duties. Authorizations for disbursement of fund money under this subsection shall be kept at a minimum in furtherance of the primary purpose of the fund, which is to disburse money to encourage the direct provision of services to foster care.

Sec. 11. (1) The board shall annually prepare an accounting of revenues and expenditures from the trust fund. This accounting shall be prepared using generally accepted accounting principles and in a manner that will provide detailed and itemized information regarding the revenues and expenditures of the trust fund. This accounting shall be provided to the senate and house of representatives appropriations committees.

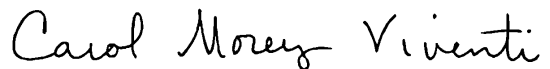
(2) To the extent practical, the board shall annually prepare an accounting of revenues and expenditures from the trust fund for persons who have donated to the fund. This accounting does not need to be as detailed as the accounting required under subsection (1), but shall include general information about the amount of revenue raised, the types of expenditures made, and what the expenditures were made for.

Enacting section 1. This act does not take effect unless House Bill No. 6090 of the 94th Legislature is enacted into law.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved _____

Governor