

SENATE BILL No. 1232

November 28, 2018, Introduced by Senator MACGREGOR and referred to the Committee on Appropriations.

A bill to amend 1939 PA 280, entitled
"The social welfare act,"
by amending section 117a (MCL 400.117a), as amended by 2018 PA 244.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 117a. (1) As used in this section and sections 117b to
2 117h:

3 (a) "County juvenile agency" means that term as defined in
4 section 2 of the county juvenile agency act, 1998 PA 518, MCL
5 45.622.

6 (b) "County juvenile agency services" means all juvenile
7 justice services for a juvenile who is within the court's
8 jurisdiction under section 2(a) or (d) of chapter XIIIA of the
9 probate code of 1939, 1939 PA 288, MCL 712A.2, or within the
10 jurisdiction of the court of general jurisdiction under section 606

1 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if
2 that court commits the juvenile to a county or court juvenile
3 facility under section 27a of chapter IV of the code of criminal
4 procedure, 1927 PA 175, MCL 764.27a. If a juvenile who comes within
5 the court's jurisdiction under section 2(a) or (d) of chapter XIIIA
6 of the probate code of 1939, 1939 PA 288, MCL 712A.2, is at that
7 time subject to a court order in connection with a proceeding for
8 which the court acquired jurisdiction under section 2(b) or (c) of
9 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
10 juvenile justice services provided to the juvenile before the court
11 enters an order in the subsequent proceeding are not county
12 juvenile agency services, except for juvenile justice services
13 related to detention.

14 (c) "Donated funds" means any gifts of money made available to
15 the county child care fund for services for child welfare or
16 delinquency matters, including juvenile justice services.

17 (d) "Donor" means the entity, person, or persons providing the
18 donated funds.

19 (e) "Gross expenditure" means the total adjusted expenditures
20 included in a county's monthly expenditure report and submitted to
21 the department.

22 (f) "In-home care" means expenditure of child care fund money
23 for services and items listed in this section to be an alternative
24 to out-of-home care or to provide an early return home for a child
25 placed out of his or her home.

26 (g) "Juvenile detention facility" means a county-operated or
27 court-operated juvenile facility that houses and provides group

1 care, shelter care, or detention administered and staffed by county
2 or court employees.

3 (h) "Juvenile justice service" means a service, exclusive of
4 judicial functions, provided by a county for juveniles who are
5 within or likely to come within the court's jurisdiction under
6 section 2 of chapter XIIA of the probate code of 1939, 1939 PA 288,
7 MCL 712A.2, or within the jurisdiction of the court of general
8 criminal jurisdiction under section 606 of the revised judicature
9 act of 1961, 1961 PA 236, MCL 600.606, if that court commits the
10 juvenile to a county or court juvenile facility under section 27a
11 of chapter IV of the code of criminal procedure, 1927 PA 175, MCL
12 764.27a. A service includes intake, detention, detention
13 alternatives, probation, foster care, diagnostic evaluation and
14 treatment, shelter care, or any other service approved by the
15 office or county juvenile agency, as applicable, including
16 preventive, diversionary, or protective care services. A juvenile
17 justice service approved by the office or county juvenile agency
18 must meet all applicable state and local government licensing
19 standards.

20 (i) "Out-of-home care" means placement outside of the
21 residence of the child's parent, legal guardian, or, except as
22 provided in this subdivision, relative where the child is found,
23 from which the child was removed by the authority of the court, or
24 in which the child will be placed on a permanent basis.

25 (j) "Technology and software" means risk and needs assessment
26 software or software directly related to treatment or services
27 provided within a reimbursable in-home care program. Technology and

1 software does not include the purchase of new equipment or
2 hardware, or maintenance of equipment or hardware for the
3 reimbursable in-home care program. Technology and software also
4 does not include new equipment cost, maintenance of equipment,
5 technology, or software used exclusively for general support for
6 the court.

7 (2) A juvenile justice funding system for counties that are
8 not county juvenile agencies, including a child care fund, is
9 established and shall be administered under the department's
10 superintending control.

11 (3) The department shall promulgate rules under the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328, to monitor juvenile justice services money and to prescribe
14 child care fund accounting, reporting, and authorization controls
15 and procedures and child care fund expenditure classifications. For
16 counties required to have a child care fund, the department shall
17 fund services that conform to the child care rules promulgated
18 under this act.

19 (4) The department shall distribute money appropriated by the
20 legislature to counties for the cost of juvenile justice services
21 as follows:

22 (a) Payment for expenditures for children placed with the
23 department for care, supervision, or placement, including children
24 who are within the court's jurisdiction under section 2(a) and (b)
25 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
26 712A.2, shall be paid by the department and reimbursed by the
27 county for all undisputed charges. Implementation of this

1 subdivision takes effect on October 1 of the fiscal year following
2 the appropriation to support new payment processes and the
3 implementation of technological changes to the statewide automated
4 child welfare information system.

5 (b) Payment for expenditures for children not placed with the
6 department for care, supervision, or placement, including children
7 who are within the court's jurisdiction under section 2(a) and (b)
8 of chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL
9 712A.2, shall be paid by a county and be reimbursed by the
10 department for all undisputed charges. Expenditures described in
11 this subdivision include the following:

12 (i) Direct expenditures for out-of-home care, including all of
13 the following:

14 (A) Salaries of county- or court-operated detention center,
15 shelter care, or group care facility specific employees, including,
16 but not limited to, all of the following:

17 (I) Management staff of a facility.

18 (II) Direct service staff of a facility.

19 (III) Mental health staff of a facility.

20 (IV) Support staff including clerical staff of a facility.

21 (V) Janitorial, maintenance, or ground staff of a facility, or
22 any combination of these.

23 (VI) Kitchen staff of a facility.

24 (VII) Security staff of a facility.

25 (VIII) Circuit court employees who support the child care fund
26 county- or court-operated detention center, shelter care, or group
27 care facility.

1 (B) Fringe benefits, including payroll taxes, medical, vision
2 and dental insurance, group life insurance, disability insurance,
3 accident insurance, health savings accounts, retirement
4 contributions, worker's compensation, and accrued severance
5 benefits of county- or court-operated detention center, shelter
6 care, or group care facility specific employees and circuit court
7 administration who administrate and support the child care fund
8 county- or court-operated detention center, shelter care, or group
9 care facility.

10 (C) Clothing for children.

11 (D) Food for children.

12 (E) Meals furnished to staff who are on duty at a county- or
13 court-operated detention center, shelter care, or group care
14 facility and assigned responsibilities for the supervision and care
15 of the youth during facility mealtime.

16 (F) Hygiene supplies for children, including shampoo, soap, or
17 toothpaste.

18 (G) Education costs for children who are temporary residents
19 in a county- or court-operated detention center, shelter care, or
20 group care facility and for whom attendance in a public school
21 system or local education agency is not an option.

22 (H) Utilities of a county- or court-operated detention center,
23 shelter care, or group care facility, including water, gas,
24 electric, trash, and sewer.

25 (I) Janitorial supplies of a county- or court-operated
26 detention center, shelter care, or group care facility.

27 (J) Kitchen supplies of a county- or court-operated detention

1 center, shelter care, or group care facility.

2 (K) Laundry supplies or service of a county- or court-operated
3 detention center, shelter care, or group care facility.

4 (L) Linen supplies or service of a county- or court-operated
5 detention center, shelter care, or group care facility, including
6 towels and bedding.

7 (M) Office supplies that are dedicated solely to the county-
8 or court-operated detention center, shelter care, or group care
9 facility.

10 (N) Cellular telephones, landline telephones, and 2-way radios
11 used for communication that are dedicated solely to the county- or
12 court-operated detention center, shelter care, or group care
13 facility.

14 (O) Copy machine charges that are dedicated to the county- or
15 court-operated detention center, shelter care, or group care
16 facility.

17 (P) Mattress, box spring, or bed frame used in a county- or
18 court-operated detention center, shelter care, or group care
19 facility.

20 (Q) Medical, dental, psychological, and psychiatric services,
21 including medication, for children who are not covered by another
22 source which services are not to determine competency.

23 (R) Periodicals and books of a county- or court-operated
24 detention center, shelter care, or group care facility.

25 (S) Recreational supplies, programs, and television in a
26 county- or court-operated detention center, shelter care, or group
27 care facility.

1 (T) Training for child care fund-funded staff and in-service
2 education directly related to the out-of-home program, excluding
3 tuition grants or scholarships for college credit.

4 (U) Mileage reimbursement rate costs for transporting children
5 of a county- or court-operated detention center, shelter care, or
6 group care facility. Mileage reimbursement rates used must adhere
7 to the county or tribe published rates. Mileage reimbursement rates
8 cover all costs of operating a vehicle, including maintenance,
9 repairs, taxes, gas, insurance, and registration fees.

10 (V) Drug testing for children.

11 (W) Birth certificates for children.

12 (X) Incentives for youth.

13 (Y) Interpreter fees for nonjudicial processes.

14 (Z) Printing, binding, and postage for materials relating to
15 the education or correspondence relating to children in the county-
16 or court-operated detention center, shelter care, or group care
17 facility.

18 (AA) Membership dues or fees for professional credential
19 maintenance of staff who provide or support a service to children
20 under the child care fund, or professional staff for whom
21 professional licensure is required in their respective job
22 description.

23 (BB) Contracted personnel, programming, or services, or any
24 combination of these.

25 (CC) Nonscheduled payments.

26 (DD) New services that the department may agree with counties
27 and tribes to include that are not identified in this section that

1 support eligible children and families.

2 (ii) Administrative or indirect expenditures for out-of-home
3 care. An administrative or indirect cost payment equal to 10% of a
4 county's total monthly gross expenditures will automatically be
5 distributed to the county on a monthly basis. A county is not
6 required to submit documentation to the department for any of the
7 expenditures that are covered under the 10% payment.

8 (iii) Direct expenditures for in-home care, including the
9 following:

10 (A) Salaries of circuit court employees who support the child
11 care fund in-home care program.

12 (B) Fringe benefits, including payroll taxes, medical and
13 dental insurance, group life insurance, disability insurance,
14 accident insurance, health savings accounts, retirement
15 contributions, and accrued severance benefits of circuit court
16 employees who support the child care fund in-home care program. For
17 a county that receives the juvenile court officer grant and the
18 appointed juvenile court officer works within an approved program,
19 the proportional fringe benefits for the juvenile court officer may
20 be reimbursable.

21 (C) Mileage reimbursement rate costs associated with the child
22 care fund in-home care program. Mileage reimbursement rates used
23 must adhere to the county or tribe published rates. Mileage
24 reimbursement rates cover all costs of operating a vehicle,
25 including maintenance, repairs, taxes, gas, insurance, and
26 registration fees.

27 (D) Program supplies and materials, including, but not limited

1 to, all of the following:

2 (I) Program-specific supplies, including risk or needs
3 assessments, recognition plaques, and educational or program
4 licenses.

5 (II) Office supplies related to program activities and pro-
6 social activities.

7 (III) Food related to program activities and pro-social
8 activities.

9 (IV) Drug test kits.

10 (V) Tethers and other forms of electronic monitoring.

11 (E) Other costs, including all of the following:

12 (I) Cellular telephones and other safety tracking technology
13 for child care fund-funded staff.

14 (II) Training for child care fund-funded staff and in-service
15 education related to the in-home care component, excluding tuition
16 grants or scholarships for college credit.

17 (III) Education costs for children who are prohibited from
18 school attendance in a public school system or the local education
19 agency or have severe educational issues and have been court
20 ordered into a child care fund-funded educational program.

21 (IV) Printing, binding, or postage for materials relating to
22 the education or correspondence on behalf of children in the in-
23 home care program.

24 (V) Membership dues or fees - professional credential
25 maintenance of staff who provide or support a service to children
26 under the child care fund or professional staff for whom
27 professional licensure is required in their respective job

1 descriptions.

2 (VI) Business cards.

3 (F) Other program-specific activities costs, including
4 entrance fees for programs.

5 (G) Conference travel costs for other non-child-care-fund-
6 related training, including evidence-based and promising practices
7 training.

8 (H) Contracted personnel, programming, or services, or any
9 combination of these.

10 (I) Unit cost contracts, including all of the following:

11 (I) Contracted - drug testing - lab (per "drug test" basis).

12 (II) Contracted - counselor fees - (per "hour" basis).

13 (III) Contracted - group session dollar per session (per
14 "session" basis). Group roster documentation required.

15 (IV) Contracted - psychological evaluations, excluding
16 competency examinations - (per "evaluation" basis).

17 (V) Contracted - service providers (per "service" basis).

18 (J) Closed-end contracts. Closed-end contracts include, but
19 are not limited to, all of the following:

20 (I) University contracts, including "program evaluation".

21 (II) Private agency services contracts.

22 (III) Educational services contracts.

23 (IV) Court appointed special advocate (CASA) and wraparound
24 contracts.

25 (V) Other contracts identifiable to the program.

26 (K) Nonscheduled payments or case services payments. A
27 nonscheduled payment is a payment to an individual or organization

1 for items specified and defined in the child care fund handbook
2 that are not included in the state-established per diem rate. A
3 nonscheduled payment may include the following list:

4 (I) Emergency costs, including immediate food, clothing,
5 medical, or dental needs that are not covered by another source.

6 (II) Gymnasium or other pro-social activity requiring a
7 membership per child related to program activities.

8 (III) Rewards or incentive pay for youth related to program
9 activities.

10 (IV) Bus tokens or gas cards related to program activities.

11 (V) Mentor costs - meals, mileage, movies, or social costs
12 related to program activities.

13 (VI) Noncontracted service provider related to program
14 activities.

15 (VII) Noncontracted group session related to program
16 activities.

17 (VIII) Noncontracted psychological evaluations, excluding
18 competency examinations.

19 (IX) Family assessment or evaluations.

20 (X) Noncontracted counselor fees.

21 (XI) Noncontracted drug testing - labs.

22 (XII) Camps or field trips.

23 (XIII) Birth certificates for children.

24 (L) New services that the department may agree with counties
25 and tribes to include that are not identified in this section that
26 support eligible children and families.

27 (M) Technology and software.

1 (iv) Administrative or indirect expenditures for in-home care.
2 An administrative or indirect cost payment equal to 10% of a
3 county's total monthly gross expenditures will automatically be
4 distributed to the county on a monthly basis. A county is not
5 required to submit documentation to the department for any of the
6 expenditures that are covered under the 10% payment.

7 (c) The county amount distributed shall equal 50% of the
8 annual expenditures from the child care fund of the county
9 established under section 117c, except that expenditures under
10 section 117c(3) and expenditures that exceed the amount of a budget
11 approved under section 117c shall not be included. A distribution
12 under this subdivision shall not be made to a county that does not
13 comply with the requirements of this act. Subject to a county's
14 approval, the department may reduce the amount distributed to a
15 county by the amount owed to the state for care received in a state
16 operated facility or for care received under 1935 PA 220, MCL
17 400.201 to 400.214, or under the youth rehabilitation services act,
18 1974 PA 150, MCL 803.301 to 803.309.

19 (d) For a county that is a county juvenile agency, a county's
20 block grant amount as determined under section 117g in equal
21 distributions on October 1, January 1, April 1, and July 1 of each
22 state fiscal year.

23 (e) Notwithstanding the provisions in subdivision (a), subject
24 to appropriations, the department shall pay 100% of the costs of
25 the \$9.20 increase to the administrative rate for providers of
26 foster care services provided in the annual appropriation for the
27 department budget. For the purposes of this subdivision only,

1 "foster care" means 24-hour substitute care for children placed
2 away from their parents or guardians, as a result of a court order
3 under section 2(b) of chapter XIIIA of the probate code of 1939,
4 1939 PA 288, MCL 712A.2, in placements supervised by the department
5 or a private child placing agency under contract with the
6 department for foster care services. Foster care services include
7 supervision of placements in foster family homes, foster family
8 group homes, and preadoptive placements.

9 (f) Notwithstanding the provisions of subdivision (c), the
10 department shall pay 100% of the administrative rate that is in
11 effect on ~~the effective date of the 2018 amendatory act that~~
12 ~~amended this subdivision~~ **SEPTEMBER 26, 2018** for providers of
13 treatment foster care services and foster care services provided in
14 the annual appropriation for the department budget. For the
15 purposes of this subdivision only, "foster care" means 24-hour
16 substitute care for children placed away from their parents or
17 guardians, as a result of a court order under section 2(b) of
18 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
19 in placements supervised by the department or a private child
20 placing agency under contract with the department for foster care
21 services. Foster care services include supervision of placements in
22 foster family homes, foster family group homes, treatment foster
23 care, preadoptive placements, and supervision of children reunified
24 with the parent with whom the child lived at the time of removal.

25 (g) Notwithstanding the provisions in subdivision (c), the
26 department shall pay 100% of the costs of any rate increase that is
27 in effect on ~~the effective date of the 2018 amendatory act that~~

1 ~~amended this subdivision~~ **SEPTEMBER 26, 2018** to the providers of
2 residential foster care services under contract with the
3 department, as provided in the annual appropriation for the
4 department budget.

5 ~~—— (h) Notwithstanding the provisions in subdivision (c) and~~
6 ~~subject to appropriations, in a county with a population of not~~
7 ~~less than 575,000 or more than 650,000, for the purpose of this~~
8 ~~subdivision only for cases transferred by the department to a child~~
9 ~~placing agency, the department shall pay 100% of the administrative~~
10 ~~rate to providers responsible for foster care case management~~
11 ~~services to families of children who are court-ordered into foster~~
12 ~~care due to child abuse or child neglect and placed in the care and~~
13 ~~supervision of the department, regardless of placement setting~~
14 ~~until the prospective payment system described in subdivision (i)~~
15 ~~is implemented. This subdivision does not apply after May 1, 2019.~~

16 **(H)** ~~(i)~~ Notwithstanding the provisions in subdivision (c) and
17 subject to appropriations, the department shall implement a
18 prospective payment system as part of a state-administered
19 performance-based child welfare system in a county with a
20 population of not less than 575,000 or more than ~~650,000,~~ **750,000,**
21 for foster care case management in accordance with section 503 of
22 article X of 2014 PA 252. The county is only required to contribute
23 to foster care services payments in an amount that does not exceed
24 the average of the annual net contribution made by the county for
25 cases received under section 2(b) of chapter XIIA of the probate
26 code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal
27 years before October 1, 2015. The prospective payment system as

1 part of the state-administered performance-based child welfare
2 system shall be implemented as described in this subdivision but
3 shall not include in-home care service funding. ~~This subdivision~~
4 ~~does not apply after May 1, 2019.~~

5 ~~(I) (j) Subdivisions~~ **SUBDIVISION** (h) ~~and (i) only impact~~
6 **IMPACTS** child abuse and child neglect services and not juvenile
7 justice program funding. ~~This subdivision does not apply after May~~
8 ~~1, 2019.~~

9 (5) The purposes for which funding under this section shall be
10 distributed as provided under subsection (4) may be allowed unless
11 otherwise accessible and available by other public assistance
12 programs necessary to achieve the goals and outcomes for in-home
13 care or out-of-home care. Reimbursement shall not be made for costs
14 associated with an otherwise eligible child or family, or both, if
15 the reason for the unavailability of public assistance is due to
16 intentional program violations and disqualification of any public
17 assistance.

18 (6) All service providers shall submit a request for payment
19 within 1 calendar year of the date of service. A request for
20 payment submitted after 1 calendar year from the date of service
21 requires the provider to submit an exception request to the county
22 or the department for approval or denial.

23 (7) The county or the department is not subject to an offset,
24 chargeback, or reimbursement liability when a child care fund cost
25 is approved by the county or the department for payment after 1
26 year from the date of service.

27 (8) The county is not subject to an offset, chargeback, or

1 reimbursement liability for prior expenditures resulting from an
2 error in foster care fund source determinations.

3 (9) The department is liable for the costs of all juvenile
4 justice services in a county that is a county juvenile agency other
5 than county juvenile agency services.

6 (10) The department shall establish guidelines for the
7 development of county juvenile justice service plans in counties
8 that are not county juvenile agencies.

9 (11) A county that is not a county juvenile agency and
10 receives state funds for in-home or out-of-home care of children
11 shall submit reports to the department at least quarterly or as the
12 department otherwise requires. The reports shall be submitted on
13 forms provided by the executive director and shall include the
14 number of children receiving foster care services and the number of
15 days of care provided.

16 (12) The department shall maintain a reporting system
17 providing that reimbursement under subsection (4)(c) shall be made
18 only on submission of billings based on care given to a specific,
19 individual child.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.