

HOUSE BILL NO. 4144

February 06, 2019, Introduced by Reps. Brann, LaGrand, Filler, Rendon, Wozniak, Calley, Guerra, Elder, Hauck and Love and referred to the Committee on Judiciary.

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

1 justice services for a juvenile who is within the court's
2 jurisdiction under section 2(a) or (d) of chapter XIIIA of the
3 probate code of 1939, 1939 PA 288, MCL 712A.2, or within the
4 jurisdiction of the court of general jurisdiction under section 606
5 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if
6 that court commits the juvenile to a county or court juvenile
7 facility under section 27a of chapter IV of the code of criminal
8 procedure, 1927 PA 175, MCL 764.27a. If a juvenile who comes within
9 the court's jurisdiction under section 2(a) or (d) of chapter XIIIA
10 of the probate code of 1939, 1939 PA 288, MCL 712A.2, is at that
11 time subject to a court order in connection with a proceeding for
12 which the court acquired jurisdiction under section 2(b) or (c) of
13 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
14 juvenile justice services provided to the juvenile before the court
15 enters an order in the subsequent proceeding are not county
16 juvenile agency services, except for juvenile justice services
17 related to detention.

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

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

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

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

1 (g) "Juvenile detention facility" means a county-operated or
2 court-operated juvenile facility that houses and provides group
3 care, shelter care, or detention administered and staffed by county
4 or court employees.

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

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

27 (j) "Technology and software" means risk and needs assessment
28 software or software directly related to treatment or services
29 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
28 subdivision takes effect on October 1 of the fiscal year following
29 the appropriation to support new payment processes and the

1 implementation of technological changes to the statewide automated
2 child welfare information system.

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

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

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

15 (I) Management staff of a facility.

16 (II) Direct service staff of a facility.

17 (III) Mental health staff of a facility.

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

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

21 (VI) Kitchen staff of a facility.

22 (VII) Security staff of a facility.

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

26 (B) Fringe benefits, including payroll taxes, medical, vision
27 and dental insurance, group life insurance, disability insurance,
28 accident insurance, health savings accounts, retirement
29 contributions, worker's compensation, and accrued severance

benefits of county- or court-operated detention center, shelter care, or group care facility specific employees and circuit court administration who administrate and support the child care fund county- or court-operated detention center, shelter care, or group care facility.

(C) Clothing for children.

(D) Food for children.

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

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

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

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

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

(J) Kitchen supplies of a county- or court-operated detention center, shelter care, or group care facility.

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

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

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

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

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

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

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

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

19 (S) Recreational supplies, programs, and television in a
20 county- or court-operated detention center, shelter care, or group
21 care facility.

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

25 (U) Mileage reimbursement rate costs for transporting children
26 of a county- or court-operated detention center, shelter care, or
27 group care facility. Mileage reimbursement rates used must adhere
28 to the county or tribe published rates. Mileage reimbursement rates
29 cover all costs of operating a vehicle, including maintenance,

1 repairs, taxes, gas, insurance, and registration fees.

2 (V) Drug testing for children.

3 (W) Birth certificates for children.

4 (X) Incentives for youth.

5 (Y) Interpreter fees for nonjudicial processes.

6 (Z) Printing, binding, and postage for materials relating to
7 the education or correspondence relating to children in the county-
8 or court-operated detention center, shelter care, or group care
9 facility.

10 (AA) Membership dues or fees for professional credential
11 maintenance of staff who provide or support a service to children
12 under the child care fund, or professional staff for whom
13 professional licensure is required in their respective job
14 description.

15 (BB) Contracted personnel, programming, or services, or any
16 combination of these.

17 (CC) Nonscheduled payments.

18 (DD) New services that the department may agree with counties
19 and tribes to include that are not identified in this section that
20 support eligible children and families.

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

27 (iii) Direct expenditures for in-home care, including the
28 following:

29 (A) Salaries of circuit court employees who support the child

1 care fund in-home care program.

2 (B) Fringe benefits, including payroll taxes, medical and
3 dental insurance, group life insurance, disability insurance,
4 accident insurance, health savings accounts, retirement
5 contributions, and accrued severance benefits of circuit court
6 employees who support the child care fund in-home care program. For
7 a county that receives the juvenile court officer grant and the
8 appointed juvenile court officer works within an approved program,
9 the proportional fringe benefits for the juvenile court officer may
10 be reimbursable.

11 (C) Mileage reimbursement rate costs associated with the child
12 care fund in-home care program. Mileage reimbursement rates used
13 must adhere to the county or tribe published rates. Mileage
14 reimbursement rates cover all costs of operating a vehicle,
15 including maintenance, repairs, taxes, gas, insurance, and
16 registration fees.

17 (D) Program supplies and materials, including, but not limited
18 to, all of the following:

19 (I) Program-specific supplies, including risk or needs
20 assessments, recognition plaques, and educational or program
21 licenses.

22 (II) Office supplies related to program activities and pro-
23 social activities.

24 (III) Food related to program activities and pro-social
25 activities.

26 (IV) Drug test kits.

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

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

29 (I) Cellular telephones and other safety tracking technology

1 for child care fund-funded staff.

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

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

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

12 (V) Membership dues or fees - professional credential
13 maintenance of staff who provide or support a service to children
14 under the child care fund or professional staff for whom
15 professional licensure is required in their respective job
16 descriptions.

17 (VI) Business cards.

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

20 (G) Conference travel costs for other non-child-care-fund-
21 related training, including evidence-based and promising practices
22 training.

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

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

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

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

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

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

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

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

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

7 (II) Private agency services contracts.

8 (III) Educational services contracts.

9 (IV) Court appointed special advocate (CASA) and wraparound
10 contracts.

11 (V) Other contracts identifiable to the program.

12 (K) Nonscheduled payments or case services payments. A
13 nonscheduled payment is a payment to an individual or organization
14 for items specified and defined in the child care fund handbook
15 that are not included in the state-established per diem rate. A
16 nonscheduled payment may include the following list:

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

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

21 (III) Rewards or incentive pay for youth related to program
22 activities.

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

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

26 (VI) Noncontracted service provider related to program
27 activities.

28 (VII) Noncontracted group session related to program
29 activities.

1 (VIII) Noncontracted psychological evaluations, excluding
2 competency examinations.

3 (IX) Family assessment or evaluations.

4 (X) Noncontracted counselor fees.

5 (XI) Noncontracted drug testing - labs.

6 (XII) Camps or field trips.

7 (XIII) Birth certificates for children.

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

11 (M) Technology and software.

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

18 (c) ~~The~~ **Except as provided in subdivision (k),** the county
19 amount distributed shall equal 50% of the annual expenditures from
20 the child care fund of the county established under section 117c,
21 except that expenditures under section 117c(3) and expenditures
22 that exceed the amount of a budget approved under section 117c
23 shall not be included. A distribution under this subdivision shall
24 not be made to a county that does not comply with the requirements
25 of this act. Subject to a county's approval, the department may
26 reduce the amount distributed to a county by the amount owed to the
27 state for care received in a state operated facility or for care
28 received under 1935 PA 220, MCL 400.201 to 400.214, or under the
29 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to

1 803.309.

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

6 (e) Notwithstanding the provisions in subdivision (a), subject
7 to appropriations, the department shall pay 100% of the costs of
8 the \$9.20 increase to the administrative rate for providers of
9 foster care services provided in the annual appropriation for the
10 department budget. For the purposes of this subdivision only,
11 "foster care" means 24-hour substitute care for children placed
12 away from their parents or guardians, as a result of a court order
13 under section 2(b) of chapter XIIIA of the probate code of 1939,
14 1939 PA 288, MCL 712A.2, in placements supervised by the department
15 or a private child placing agency under contract with the
16 department for foster care services. Foster care services include
17 supervision of placements in foster family homes, foster family
18 group homes, and preadoptive placements.

19 (f) Notwithstanding the provisions of subdivision (c), the
20 department shall pay 100% of the administrative rate that is in
21 effect on ~~the effective date of the 2018 amendatory act that~~
22 ~~amended this subdivision~~ **September 26, 2018** for providers of
23 treatment foster care services and foster care services provided in
24 the annual appropriation for the department budget. For the
25 purposes of this subdivision only, "foster care" means 24-hour
26 substitute care for children placed away from their parents or
27 guardians, as a result of a court order under section 2(b) of
28 chapter XIIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2,
29 in placements supervised by the department or a private child

1 placing agency under contract with the department for foster care
2 services. Foster care services include supervision of placements in
3 foster family homes, foster family group homes, treatment foster
4 care, preadoptive placements, and supervision of children reunified
5 with the parent with whom the child lived at the time of removal.

6 (g) Notwithstanding the provisions in subdivision (c), the
7 department shall pay 100% of the costs of any rate increase that is
8 in effect on ~~the effective date of the 2018 amendatory act that~~
9 ~~amended this subdivision~~ **September 26, 2018** to the providers of
10 residential foster care services under contract with the
11 department, as provided in the annual appropriation for the
12 department budget.

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

24 (i) Notwithstanding the provisions in subdivision (c) and
25 subject to appropriations, the department shall implement a
26 prospective payment system as part of a state-administered
27 performance-based child welfare system in a county with a
28 population of not less than 575,000 or more than 650,000, for
29 foster care case management in accordance with section 503 of

1 article X of 2014 PA 252. The county is only required to contribute
2 to foster care services payments in an amount that does not exceed
3 the average of the annual net contribution made by the county for
4 cases received under section 2(b) of chapter XIIIA of the probate
5 code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal
6 years before October 1, 2015. The prospective payment system as
7 part of the state-administered performance-based child welfare
8 system shall be implemented as described in this subdivision but
9 shall not include in-home care service funding. This subdivision
10 does not apply after May 1, 2019.

11 (j) Subdivisions (h) and (i) only impact child abuse and child
12 neglect services and not juvenile justice program funding. This
13 subdivision does not apply after May 1, 2019.

14 (k) **Beginning 180 days after the effective date of the**
15 **amendatory act that added this subdivision, a county must choose**
16 **either of the following ways to be reimbursed for payment of**
17 **juvenile justice services:**

18 (i) **The state shall pay 100% of the cost to provide juvenile**
19 **justice services to juveniles who are 17 years old and over and**
20 **under 18 years old who are under the court's jurisdiction under**
21 **section 2(a) and (d) of chapter XIIIA of the probate code of 1939,**
22 **1939 PA 288, MCL 712A.2. There shall be no change in funding**
23 **provided for juveniles who are under 17 years old. The county is**
24 **responsible for placement and programming for juveniles 17 years of**
25 **age and older but under 18 years of age who are under the court's**
26 **jurisdiction under section 2(a) and (d) of the probate code of**
27 **1939, 1939 PA 288, MCL 712A.2.**

28 (ii) **The state shall pay 68% of the cost to provide juvenile**
29 **justice services to all juveniles who are eligible for services**

1 under the child care fund, including juveniles who are 17 years
2 old.

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

12 (6) All service providers shall submit a request for payment
13 within 1 calendar year of the date of service. A request for
14 payment submitted after 1 calendar year from the date of service
15 requires the provider to submit an exception request to the county
16 or the department for approval or denial.

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

21 (8) The county is not subject to an offset, chargeback, or
22 reimbursement liability for prior expenditures resulting from an
23 error in foster care fund source determinations.

24 (9) The department is liable for the costs of all juvenile
25 justice services in a county that is a county juvenile agency other
26 than county juvenile agency services.

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

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

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

12 Enacting section 1. This amendatory act takes effect January
13 1, 2021.