

# HOUSE BILL No. 6396

September 26, 2018, Introduced by Reps. Howrylak, Kesto and Lucido and referred to the Committee on Law and Justice.

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 XIIA  
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 XIIA 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~~ **EXCEPT AS PROVIDED IN SUBDIVISION (K), THE** county  
8 amount distributed shall equal 50% of the annual expenditures from  
9 the child care fund of the county established under section 117c,  
10 except that expenditures under section 117c(3) and expenditures  
11 that exceed the amount of a budget approved under section 117c  
12 shall not be included. A distribution under this subdivision shall  
13 not be made to a county that does not comply with the requirements  
14 of this act. Subject to a county's approval, the department may  
15 reduce the amount distributed to a county by the amount owed to the  
16 state for care received in a state operated facility or for care  
17 received under 1935 PA 220, MCL 400.201 to 400.214, or under the  
18 youth rehabilitation services act, 1974 PA 150, MCL 803.301 to  
19 803.309.

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

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

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

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

26 (g) Notwithstanding the provisions in subdivision (c), the  
27 department shall pay 100% of the costs of any rate increase that is

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

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

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

1 years before October 1, 2015. The prospective payment system as  
2 part of the state-administered performance-based child welfare  
3 system shall be implemented as described in this subdivision but  
4 shall not include in-home care service funding. This subdivision  
5 does not apply after May 1, 2019.

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

9 **(K) BEGINNING 180 DAYS AFTER THE AMENDATORY ACT THAT ADDED**  
10 **THIS SUBDIVISION, A COUNTY MUST CHOOSE EITHER OF THE FOLLOWING WAYS**  
11 **TO BE REIMBURSED FOR PAYMENT OF JUVENILE JUSTICE SERVICES:**

12 **(i) THE STATE SHALL PAY 100% OF THE COST TO PROVIDE JUVENILE**  
13 **JUSTICE SERVICES TO JUVENILES WHO ARE 17 YEARS OLD AND OVER AND**  
14 **UNDER 18 YEARS OLD WHO ARE UNDER THE COURT'S JURISDICTION UNDER**  
15 **SECTION 2(A) AND (D) OF CHAPTER XIIA OF THE PROBATE CODE OF 1939,**  
16 **1939 PA 288, MCL 712A.2. THERE SHALL BE NO CHANGE IN FUNDING**  
17 **PROVIDED FOR JUVENILES WHO ARE UNDER 17 YEARS OLD. THE COUNTY IS**  
18 **RESPONSIBLE FOR PLACEMENT AND PROGRAMMING FOR JUVENILES 17 YEARS OF**  
19 **AGE AND OLDER BUT UNDER 18 YEARS OF AGE WHO ARE UNDER THE COURT'S**  
20 **JURISDICTION UNDER SECTION 2(A) AND (D) OF THE PROBATE CODE OF**  
21 **1939, 1939 PA 288, MCL 712A.2.**

22 **(ii) THE STATE SHALL PAY 68% OF THE COST TO PROVIDE JUVENILE**  
23 **JUSTICE SERVICES TO ALL JUVENILES WHO ARE ELIGIBLE FOR SERVICES**  
24 **UNDER THE CHILD CARE FUND, INCLUDING JUVENILES WHO ARE 17 YEARS**  
25 **OLD.**

26 (5) The purposes for which funding under this section shall be  
27 distributed as provided under subsection (4) may be allowed unless



1 otherwise accessible and available by other public assistance  
2 programs necessary to achieve the goals and outcomes for in-home  
3 care or out-of-home care. Reimbursement shall not be made for costs  
4 associated with an otherwise eligible child or family, or both, if  
5 the reason for the unavailability of public assistance is due to  
6 intentional program violations and disqualification of any public  
7 assistance.

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

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

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

20 (9) The department is liable for the costs of all juvenile  
21 justice services in a county that is a county juvenile agency other  
22 than county juvenile agency services.

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

26 (11) A county that is not a county juvenile agency and  
27 receives state funds for in-home or out-of-home care of children

1 shall submit reports to the department at least quarterly or as the  
2 department otherwise requires. The reports shall be submitted on  
3 forms provided by the executive director and shall include the  
4 number of children receiving foster care services and the number of  
5 days of care provided.

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

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