

Act No. 244
Public Acts of 2018
Approved by the Governor
June 27, 2018
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EFFECTIVE DATE: September 26, 2018

**STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018**

Introduced by Senator MacGregor

ENROLLED SENATE BILL No. 988

AN ACT to amend 1939 PA 280, entitled “An act to protect the welfare of the people of this state; to provide general assistance, hospitalization, infirmary and medical care to poor or unfortunate persons; to provide for compliance by this state with the social security act; to provide protection, welfare and services to aged persons, dependent children, the blind, and the permanently and totally disabled; to administer programs and services for the prevention and treatment of delinquency, dependency and neglect of children; to create a state department of social services; to prescribe the powers and duties of the department; to provide for the interstate and intercounty transfer of dependents; to create county and district departments of social services; to create within certain county departments, bureaus of social aid and certain divisions and offices thereunder; to prescribe the powers and duties of the departments, bureaus and officers; to provide for appeals in certain cases; to prescribe the powers and duties of the state department with respect to county and district departments; to prescribe certain duties of certain other state departments, officers, and agencies; to make an appropriation; to prescribe penalties for the violation of the provisions of this act; and to repeal certain parts of this act on specific dates,” by amending section 117a (MCL 400.117a), as amended by 2018 PA 22.

The People of the State of Michigan enact:

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

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

(b) “County juvenile agency services” means all juvenile justice services for a juvenile who is within the court’s jurisdiction under section 2(a) or (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, or within the jurisdiction of the court of general jurisdiction under section 606 of the revised judicature act of 1961, 1961 PA 236, MCL 600.606, if that court commits the juvenile to a county or court juvenile facility under section 27a of chapter IV of the code of criminal procedure, 1927 PA 175, MCL 764.27a. If a juvenile who comes within the court’s jurisdiction under section 2(a) or (d) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, is at that time subject to a court order in connection with a proceeding for which the court acquired jurisdiction under section 2(b) or (c) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, juvenile justice services provided to the juvenile before the court enters an order in the subsequent proceeding are not county juvenile agency services, except for juvenile justice services related to detention.

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

(d) “Donor” means the entity, person, or persons providing the donated funds.

(e) “Gross expenditure” means the total adjusted expenditures included in a county’s monthly expenditure report and submitted to the department.

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

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

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

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

(j) "Technology and software" means risk and needs assessment software or software directly related to treatment or services provided within a reimbursable in-home care program. Technology and software does not include the purchase of new equipment or hardware, or maintenance of equipment or hardware for the reimbursable in-home care program. Technology and software also does not include new equipment cost, maintenance of equipment, technology, or software used exclusively for general support for the court.

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

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

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

(a) Payment for expenditures for children placed with the department for care, supervision, or placement, including children who are within the court's jurisdiction under section 2(a) and (b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, shall be paid by the department and reimbursed by the county for all undisputed charges. Implementation of this subdivision takes effect on October 1 of the fiscal year following the appropriation to support new payment processes and the implementation of technological changes to the statewide automated child welfare information system.

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

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

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

(I) Management staff of a facility.

(II) Direct service staff of a facility.

(III) Mental health staff of a facility.

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

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

(VI) Kitchen staff of a facility.

(VII) Security staff of a facility.

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

(B) Fringe benefits, including payroll taxes, medical, vision and dental insurance, group life insurance, disability insurance, accident insurance, health savings accounts, retirement 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 administer 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.
- (M) Office supplies that are dedicated solely to the county- or court-operated detention center, shelter care, or group care facility.
- (N) Cellular telephones, landline telephones, and 2-way radios used for communication that are dedicated solely to the county- or court-operated detention center, shelter care, or group care facility.
- (O) Copy machine charges that are dedicated to the county- or court-operated detention center, shelter care, or group care facility.
- (P) Mattress, box spring, or bed frame used in a county- or court-operated detention center, shelter care, or group care facility.
- (Q) Medical, dental, psychological, and psychiatric services, including medication, for children who are not covered by another source which services are not to determine competency.
- (R) Periodicals and books of a county- or court-operated detention center, shelter care, or group care facility.
- (S) Recreational supplies, programs, and television in a county- or court-operated detention center, shelter care, or group care facility.
- (T) Training for child care fund-funded staff and in-service education directly related to the out-of-home program, excluding tuition grants or scholarships for college credit.
- (U) Mileage reimbursement rate costs for transporting children of a county- or court-operated detention center, shelter care, or group care facility. Mileage reimbursement rates used must adhere to the county or tribe published rates. Mileage reimbursement rates cover all costs of operating a vehicle, including maintenance, repairs, taxes, gas, insurance, and registration fees.
- (V) Drug testing for children.
- (W) Birth certificates for children.
- (X) Incentives for youth.
- (Y) Interpreter fees for nonjudicial processes.
- (Z) Printing, binding, and postage for materials relating to the education or correspondence relating to children in the county- or court-operated detention center, shelter care, or group care facility.
- (AA) Membership dues or fees for professional credential maintenance of staff who provide or support a service to children under the child care fund, or professional staff for whom professional licensure is required in their respective job description.
- (BB) Contracted personnel, programming, or services, or any combination of these.
- (CC) Nonscheduled payments.
- (DD) New services that the department may agree with counties and tribes to include that are not identified in this section that support eligible children and families.
 - (ii) Administrative or indirect expenditures for out-of-home care. An administrative or indirect cost payment equal to 10% of a county's total monthly gross expenditures will automatically be distributed to the county on a monthly basis. A county is not required to submit documentation to the department for any of the expenditures that are covered under the 10% payment.
 - (iii) Direct expenditures for in-home care, including the following:
 - (A) Salaries of circuit court employees who support the child care fund in-home care program.

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

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

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

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

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

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

(IV) Drug test kits.

(V) Tethers and other forms of electronic monitoring.

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

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

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

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

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

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

(VI) Business cards.

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

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

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

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

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

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

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

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

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

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

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

(II) Private agency services contracts.

(III) Educational services contracts.

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

(V) Other contracts identifiable to the program.

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

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

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

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

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

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

(VI) Noncontracted service provider related to program activities.

(VII) Noncontracted group session related to program activities.

(VIII) Noncontracted psychological evaluations, excluding competency examinations.

(IX) Family assessment or evaluations.

(X) Noncontracted counselor fees.

(XI) Noncontracted drug testing - labs.

(XII) Camps or field trips.

(XIII) Birth certificates for children.

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

(M) Technology and software.

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

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

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

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

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

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

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

(i) Notwithstanding the provisions in subdivision (c) and subject to appropriations, the department shall implement a prospective payment system as part of a state-administered performance-based child welfare system in a county with a population of not less than 575,000 or more than 650,000, for foster care case management in accordance with section 503 of article X of 2014 PA 252. The county is only required to contribute to foster care services payments in an amount

that does not exceed the average of the annual net contribution made by the county for cases received under section 2(b) of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.2, in the 5 previous fiscal years before October 1, 2015. The prospective payment system as part of the state-administered performance-based child welfare system shall be implemented as described in this subdivision but shall not include in-home care service funding. This subdivision does not apply after May 1, 2019.

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

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

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

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

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

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

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

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

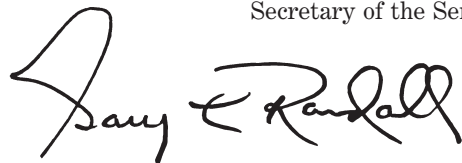
(12) The department shall maintain a reporting system providing that reimbursement under subsection (4)(c) shall be made only on submission of billings based on care given to a specific, individual child.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor