
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1143 Session of
1991

INTRODUCED BY EVANS, STUBAN, NAHILL, HAGARTY, JOSEPHS,
E. Z. TAYLOR, PETRONE, HERMAN, KUKOVICH, HAYDEN, BATTISTO,
KOSINSKI, PETRARCA, CAPPABIANCA, STISH, FREEMAN, TIGUE,
WAMBACH, TRICH, TRELLO, COHEN, ROEBUCK, DALEY, MICHLOVIC,
BISHOP, BELFANTI, BELARDI, MIHALICH, STURLA, VAN HORNE,
RAYMOND, MICOZZIE, ITKIN, RUDY, LUCYK, VEON, COY, COLAIZZO,
ROBINSON, BLAUM, PESCI, LAUGHLIN, HARPER, DeLUCA, GODSHALL,
GIGLIOTTI, KENNEY, STABACK, FOX, LINTON, PISTELLA, MAIALE,
KASUNIC, DeWEESE, McCALL, SURRA, RITTER, KRUSZEWSKI, BUNT,
WILLIAMS, LaGROTTA, HUGHES, MARKOSEK, HALUSKA, STETLER,
RICHARDSON, S. H. SMITH, SCRIMENTI, HARLEY, JAMES AND BILLOW,
APRIL 16, 1991

SENATOR TILGHMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, AUGUST 3, 1991

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," ~~providing for training for~~ <—
4 ~~family day care providers; providing for an annual State plan~~
5 ~~for child care services; further providing for powers and~~
6 ~~duties of the Department of Public Welfare; and making~~
7 ~~repeals.~~ FURTHER PROVIDING FOR REIMBURSEMENTS TO COUNTIES FOR <—
8 CERTAIN SERVICES FOR CHILDREN AND YOUTHS.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. The heading of Article VI of the act of June 13,~~ <—
12 ~~1967 (P.L.31, No.21), known as the Public Welfare Code, is~~
13 ~~amended and the article is amended by adding subarticles to~~
14 ~~read:~~

1 ARTICLE VI

2 ~~[THE AGED] CHILD CARE SERVICES~~

3 ~~(a) General Provisions~~

4 ~~Section 601. Definitions. As used in this article~~

5 ~~"Child care" means care in lieu of parental care given for~~
6 ~~part of the twenty four hour day to children under sixteen years~~
7 ~~of age, away from their own homes, but does not include child~~
8 ~~care furnished in places of worship during religious services.~~

9 ~~"Child care resource and referral agency" means a public or~~
10 ~~private nonprofit entity that performs functions related to~~
11 ~~child care resource and referral services. The term includes an~~
12 ~~association or a corporation.~~

13 ~~Section 602. Limitation. It is the policy of the~~
14 ~~Commonwealth to preserve the primary right of parents or persons~~
15 ~~standing in loco parentis to a child to choose the education,~~
16 ~~training and care for the child. Nothing contained in this~~
17 ~~article shall empower the Commonwealth or any of its officers,~~
18 ~~agencies or political subdivisions to require licensing of or to~~
19 ~~impose regulations or standards for government approval~~
20 ~~regarding the program, administrative or staff qualifications,~~
21 ~~or guidance and discipline at any facility operated by a bona~~
22 ~~fide church or other religious body which provides child care,~~
23 ~~as a condition of eligibility to provide services for which~~
24 ~~Federal, State or local assistance is available, without the~~
25 ~~consent of said facility. Nothing in this article is intended to~~
26 ~~exempt any child care provider from the requirements of 23~~
27 ~~Pa.C.S. § 6344 (relating to information relating to prospective~~
28 ~~child care personnel) or other State mandated health and safety~~
29 ~~requirements.~~

30 ~~(b) Annual Plan and Demonstration Projects~~

~~Section 611. Annual State Plan for Child Care Services. (a) Through an annual State plan on child care services, the department shall establish goals and objectives and review and assess the State's child care and early childhood development service delivery system, including State efforts to assure the provision of accessible, available and affordable quality child care services to the general public. The plan shall be developed in relation to Statewide and local needs for child care services and shall take into consideration available demographic studies pertaining to child care needs. It shall reflect the needs of families in different social, economic and cultural circumstances and the needs of children of different ages and stages of development and of children with special needs.~~

~~(b) No later than the first full week in April of each year, the department shall submit to the Aging and Youth Committee and the Appropriations Committee of the Senate, and the Aging and Youth Committee and the Appropriations Committee of the House of Representatives, a preliminary State plan on child care services. A final State plan shall be submitted by the first week of September of each year.~~

~~(c) In the development and implementation of an annual State plan on child care services, the department shall promote common policies and practices in all child care programs to the fullest extent possible and develop mechanisms for interagency collaboration to create a coordinated State child care and early childhood development delivery system. This shall include consistency in the application process, reimbursement rates, income eligibility criteria and parent fee scales.~~

~~(d) To prepare the preliminary State plan, the department shall hold at least four public hearings in different geographic~~

~~locations in this Commonwealth to seek input and recommendations from parents, child development professionals, child care providers, child advocates, educators, representatives of local government, health and human service organizations, health professionals, labor organizations, businesses, school officials and any other individuals or agencies interested in child care issues.~~

~~(c) The preliminary and final State plan shall include, but not be limited to, the following information:~~

~~(1) The amount of Federal, State and local funds expended for child care services and early childhood development programs and the allocation of these funds. Funding shall include, but not be limited to, funding through the Social Services Block Grant Act (Public Law 97-35, 42 U.S.C. § 1397 et seq.), Title IV of the Social Security Act (Public Law 74-271, 42 U.S.C. § 601 et seq.) and the Child Care and Development Block Grant Act of 1990 at section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508, 104 Stat. 1388).~~

~~(2) A State profile of child care and early childhood development programs in this Commonwealth with information regarding a description of the various types of child care services and early childhood development programs available in this Commonwealth, including, but not limited to, child day care centers, group day care homes, family day care homes, school age programs, sick care programs and Headstart programs.~~

~~(3) The number of child care slots; the type of care by age utilized by children assisted with Federal, State and local funds, including Headstart and school age child care programs; the unduplicated number of children who fill these slots; the funding source for the slots; and the child care capacity of~~

1 ~~regulated providers.~~

2 ~~(4) Income eligibility guidelines for Federally and State~~
3 ~~funded child care services, sliding fee scales, and the extent~~
4 ~~to which the income guidelines and fee scales are adjusted to~~
5 ~~reflect the most recent available State income data.~~

6 ~~(5) The State's practices regarding the monitoring of child~~
7 ~~care programs to ensure the health, safety and welfare of~~
8 ~~children. In describing the monitoring system, the department~~
9 ~~shall identify the extent of announced and unannounced~~
10 ~~inspections of child care providers, the level of compliance~~
11 ~~with State standards and the staff to provider ratio to~~
12 ~~accomplish this task. Recommendations on ways to improve both~~
13 ~~the enforcement and monitoring of standards and compliance with~~
14 ~~standards shall also be included.~~

15 ~~(6) The department's coordination, identification or~~
16 ~~arrangement of training for child care providers in specific~~
17 ~~program areas that are designed to improve the quality of child~~
18 ~~care. The department shall identify any Federal, State, local or~~
19 ~~private funding allocated for training, the objectives of the~~
20 ~~training, the way in which training will be accomplished and an~~
21 ~~evaluation of the previous year's training programs.~~

22 ~~(7) An analysis of any recent demonstration projects~~
23 ~~established by the department using Federal or State funds, or~~
24 ~~both, along with a summary of the cost of the projects and the~~
25 ~~department's findings and recommendations.~~

26 ~~(8) A summary of any recent reports, data or surveys~~
27 ~~concerning the compensation of child care workers, including~~
28 ~~loan forgiveness programs for child care and early childhood~~
29 ~~development professionals, the State's reimbursement rates and~~
30 ~~any changes in rates recommended by the department.~~

~~(9) A summary of available demographic studies related to child care needs, and a summary of the department's efforts to include this information in the State plan.~~

~~(10) Efforts by the private sector and State and local government to encourage employer sponsored child care services and policies aimed at addressing child care needs of working parents.~~

~~(11) Identification of the responsibilities or programs of various State departments with respect to child care services and the extent to which coordination between agencies is addressed. The department will describe its responsibilities, under various program offices, as well as those of the Department of Aging, the Department of Commerce, the Department of Community Affairs, the Department of Education, the Department of Health, and the Department of Labor and Industry.~~

~~(12) Standards developed for child care providers who are not required to be regulated by State law and who receive payment through a Federal or State child care program. These standards shall relate to the health, safety and developmental needs of children.~~

~~(13) Identification of gaps in child care services, unmet needs, administrative barriers that serve as obstacles to obtaining child care and recommendations on how the State can address these issues.~~

~~(14) Identification of family day care agency locations and a description of the department's efforts to utilize the agencies as performers of the administrative functions outlined in the definition of "family day care agency" in section 1001.~~

~~Section 612. Contracting with Providers of Child Care Services. (a) It shall be the goal of the department in its~~

~~administration of Federal and State dollars allocated for subsidized child care services to establish a child care delivery system that is designed to meet the needs of eligible children and families. In furtherance of that goal, it shall be the department's responsibility in the development of a child care service delivery system and in its policies and procedures to support, to the fullest extent possible, a stable, diverse source of child care providers from which parents can choose quality child care that is affordable and accessible.~~

~~(b) The department and any entity with whom the department contracts to administer public funds for child care shall have the right to enter into contracts with child care providers for a specific number of slots and shall not require competitive bidding for the child care contracts if any of the following conditions exist:~~

~~(1) The provider primarily serves low income families.~~

~~(2) The facility is located in the low income community where the children and their families reside.~~

~~(3) Transportation from the community to alternative child care facilities would impose hardships on parents.~~

~~(4) The providers meet special needs of parents and children, including, but not limited to, children with developmental disabilities and foreign speaking populations.~~

~~(5) The loss of service will have an adverse impact on parents in need of child care in that community.~~

~~Section 613. Demonstration Projects and Evaluation. (a) The department shall have the authority to develop demonstration projects to test new concepts and methods in delivering child care services on a trial basis. Such project shall be distributed equitably on a geographic basis throughout this~~

~~Commonwealth.~~

~~(b) The evaluation of a demonstration project shall be required if Federal or State funds are used to finance the project. An evaluation shall set forth the department's goals and objectives for the project, a detailed description of it, pertinent information and data collected, the costs associated with the demonstration and findings and recommendations. The evaluation shall include an explanation regarding the extent to which the department's original goals and objectives were achieved and what modifications were required during the project.~~

~~(c) The evaluation of a demonstration project of twelve months or less in duration, shall be submitted to the Aging and Youth Committee and the Appropriations Committee of the Senate, and the Aging and Youth Committee and the Appropriations Committee of the House of Representatives within eighteen months of the project's inception. In the event that a demonstration project is in operation for more than twelve months, an interim evaluation shall be submitted to the same committees within eighteen months of the project's inception, and a final evaluation shall be submitted within six months of the completion of the project. No demonstration project can be funded as a demonstration for more than three years.~~

~~Section 614. Establishment of Child Care Resource and Referral Demonstration Projects. (a) The department shall establish four demonstration projects to be distributed equitably on a geographic basis throughout this Commonwealth to evaluate the development, maintenance and expansion of quality child care for the general public through child care resource and referral programs. In addition, these demonstration projects~~

~~shall assess the role of a child care resource and referral agency in furthering the department's goal to improve access to child care, quality of child care, monitoring of child care and planning for child care services. The administration of public funding for subsidized child care programs shall not be a required function of a demonstration project.~~

~~(b) The projects established under subsection (a) shall operate for at least two years. They may be continued if funding is available.~~

~~Section 615. Eligibility. A child care resource and referral agency is eligible to provide a demonstration project under section 614 if it can demonstrate, through past performance or current service, ability to effectively perform the functions under section 616 and if it can provide evidence that it has served low income families.~~

~~Section 616. Function. A child care resource and referral agency must provide, at a minimum, the following services:~~

~~(1) Identification of all regulated child care services in a defined geographical and service delivery area.~~

~~(2) Maintenance of a regularly updated resource file of services and vacancies.~~

~~(3) Public education about the availability, cost, standards and types of child care programs in a defined geographical and service delivery area.~~

~~(4) Assistance to parents in evaluating child care needs and appropriateness of types of care.~~

~~(5) Referrals to child care services near the home, work area, or facility where the parent is attending school or receiving job training.~~

~~(6) Providing caregivers with training workshops, assistance~~

~~in filling vacancies, advocacy for attaining professional status, opportunities for sharing information and experiences and access to ongoing educational certification programs.~~

~~(7) Provision of start up information, including information on relevant child care laws and regulations, for potential child care providers to stimulate the supply of child care resources.~~

~~(8) Ability to respond to requests from businesses for information or services designed to meet the child care needs of their employees.~~

~~(9) Documentation and tabulation of data pertaining to parent requests, consumer complaints and employer sponsored child care services that will assist in community and State planning and identification of needs.~~

~~(10) Procedures for handling complaints related to child day care programs and referral of day care programs under investigation by the department.~~

~~(11) Establishment of procedures that ensure the confidentiality of children and parents who utilize the agency's services.~~

~~Section 617. Establishment of Fees. A child care resource and referral agency may establish reasonable fees where necessary, subject to the approval of the department, to defray the cost of child care resource and referral services.~~

~~Section 618. Reports. Within eighteen months of the inception of a demonstration project under section 614, the department shall submit to the Aging and Youth Committee of the Senate and the Appropriations Committee of the Senate and the Aging and Youth Committee of the House of Representatives and the Appropriations Committee of the House of Representatives an interim report that describes the demonstration projects~~

~~selected by the department as provided for in section 613. A final report shall be submitted to the same committees within six months of a project's completion. The report shall include, along with recommendations, the department's findings relating to numbers of parents and children served; extent of assistance given to caregivers, parents and employees; cost of child care resource and referral services; the availability of private, corporate and government funding for the development and maintenance of resource and referral agencies; and the project's impact on quality and availability of child care in a geographically defined area.~~

~~(c) Training~~

~~Section 631. Training for Family Day Care Providers. (a) The department shall arrange for training for prospective and current family day care providers. The training shall cover, at a minimum, the following areas, as they relate to child care:~~

~~(1) First aid and basic safety, resulting in certification in standard first aid and community cardiopulmonary resuscitation.~~

~~(2) Child development, including information on characteristics of infants and preschool and school age children that can assist caregivers in nurturing the physical, social, emotional and intellectual growth of each child.~~

~~(3) Nutrition, including the Child Care Food Program sponsored by the United States Department of Agriculture.~~

~~(4) Health care and hygiene, including washing hands before handling food, care of diapers and toilet areas.~~

~~(5) Small business management skills, including budgets and recordkeeping.~~

~~(6) Discipline and guidance of children.~~

~~(7) Creative programming and development of proper learning environments for children.~~

~~(8) Utilization of community resources.~~

~~(9) Development of communication skills of caregivers with parents and families.~~

~~(b) The department shall encourage but not require family day care providers to participate in the training made available under this section.~~

~~Section 2. The definition of "children's institutions" in section 901 of the act, amended December 5, 1980 (P.L.1112, No.193), is amended to read:~~

~~Section 901. Definitions. As used in this article—~~

~~"Children's institutions" means any incorporated or unincorporated organization, society, corporation or agency, public or private, which may receive or care for children, or place them in foster family homes, either at board, wages or free; or any individual who, for hire, gain or reward, receives for care a child, unless he is related to such child by blood or marriage within the second degree; or any individual, not in the regular employ of the court or of an organization, society, association or agency, duly certified by the department, who in any manner becomes a party to the placing of children in foster homes, unless he is related to such children by blood or marriage within the second degree, or is the duly appointed guardian thereof. [The term shall not include a family day care home in which care is provided in lieu of parental care to six or less children for part of a twenty four hour day.] The term shall include a nonprofit family day care agency that is operated by or under the authority of a bona fide church or other religious organization and that administers any family day~~

~~care home in which care is provided at any one time to four
through six children who are not relatives of the caregiver.~~

~~* * *~~

~~Section 3. The act is amended by adding a section to read:~~

~~Section 923. Limitation. It is the policy of the
Commonwealth to preserve the primary right of parents or persons
standing in loco parentis to a child to choose the education,
training and care for the child. Nothing contained in this
article shall empower the Commonwealth or any of its officers,
agencies or political subdivisions to require licensing or
approval of or to impose regulations or standards for government
approval regarding the program, administrative or staff
qualifications, or guidance and discipline at any facility
operated by a bona fide church or other religious body which
provides child care, without the consent of the facility.
Nothing in this article is intended to exempt any child care
provider from the requirements of 23 Pa.C.S. § 6344 (relating to
information relating to prospective child care personnel) or
other State mandated health and safety requirements.~~

~~Section 4. The definition of "facility" in section 1001 of
the act, amended December 21, 1988 (P.L.1883, No.185), is
amended and the section is amended by adding definitions to
read:~~

~~Section 1001. Definitions. As used in this article—~~

~~* * *~~

~~"Agency affiliated family day care home" means a family day
care home which operates under the auspices of a family day care
agency through a contractual arrangement with a family day care
home and which provides family day care only to children
referred by the family day care agency.~~

1 * * *

2 ~~"Facility" means an adult day care center, agency affiliated~~
3 ~~family day care home, child day care center, family day care~~
4 ~~agency, family day care home, boarding home for children, mental~~
5 ~~health establishment, personal care home, nursing home, hospital~~
6 ~~or maternity home, as defined herein, and shall not include~~
7 ~~those operated by the State or Federal governments or those~~
8 ~~supervised by the department.~~

9 ~~"Family day care agency" means a social service agency which~~
10 ~~administers family day care programs, including the recruitment,~~
11 ~~screening and selection of family day care homes, and which,~~
12 ~~through contractual arrangements with family caregivers,~~
13 ~~performs administrative functions that include, but are not~~
14 ~~limited to, training of caregivers; technical assistance; intake~~
15 ~~and referral of children to family day care homes; monitoring~~
16 ~~and inspection of the agency's family day care homes; evaluation~~
17 ~~of children's development, the family caregiver's daily program~~
18 ~~and the family caregiver; consultation and assistance to parents~~
19 ~~and children; referral of children and parents to health, social~~
20 ~~services and food and nutrition programs when appropriate; and~~
21 ~~furnishing child care equipment to family day care homes. The~~
22 ~~term shall not include a nonprofit agency which is operated by~~
23 ~~or under the authority of a bona fide church or other religious~~
24 ~~organization and which is supervised by the department under~~
25 ~~Article IX.~~

26 ~~"Family day care home" means any home in which child day care~~
27 ~~is provided at any one time to four through six children who are~~
28 ~~not relatives of the caregiver. The term shall not include a~~
29 ~~home operated under the auspices of a nonprofit agency which is~~
30 ~~operated by a bona fide church or other religious organization~~

1 ~~and which is supervised by the department under Article IX.~~

2 * * *

3 ~~Section 5. The act is amended by adding sections to read:~~

4 ~~Section 1010. Additional Requirements for Family Day Care~~
5 ~~Homes. (a) In a family day care home, all of the following~~
6 ~~apply:~~

7 ~~(1) There may be no more than two children under eighteen~~
8 ~~months of age in care. This clause includes foster children and~~
9 ~~relatives of the caregiver.~~

10 ~~(2) Each floor level used by children in a family day care~~
11 ~~home must have at least two exits, one of which may be a window.~~
12 ~~At least one exit from each floor level must provide a direct~~
13 ~~means of unobstructed travel to the outside at street or ground~~
14 ~~level.~~

15 ~~(3) A window of a type which may be readily opened and of~~
16 ~~proper size and design to allow for evacuation must be provided~~
17 ~~as a second exit.~~

18 ~~(4) A room or space, including an attic, which is accessible~~
19 ~~only by a ladder, folding stairway or through a trap door may~~
20 ~~not be used by children.~~

21 ~~(5) A family day care home caregiver shall have an initial~~
22 ~~health assessment structured to identify health conditions which~~
23 ~~would adversely affect the caregiver's ability to provide child~~
24 ~~care. The same health requirements shall apply to other members~~
25 ~~of the caregiver's household who have direct contact with any~~
26 ~~child in care. The caregiver shall be required to report to the~~
27 ~~department any significant changes in health status that would~~
28 ~~adversely affect the caregiver's ability to provide child care.~~

29 ~~(6) A family day care home caregiver must be at least~~
30 ~~twenty one years of age.~~

~~(b) Family day care homes shall comply with regulations promulgated by the department.~~

~~(c) An agency affiliated family day care home is not required to apply for a separate license as a family day care home. Under the supervision of a family day care agency, an agency affiliated family day care home shall comply with this section and regulations promulgated under section 1011.~~

~~Section 1011. Regulations. (a) The department has the power and duty to promulgate regulations to implement this article.~~

~~(b) In the development of regulations, the department shall consider standards and recommendations relating to family day care and family day care home providers that have been developed by the Child Welfare League of America and the National Association for the Education of Young Children.~~

~~Section 6. Section 1016 of the act, amended July 15, 1976 (P.L.993, No.202), is amended to read:~~

~~Section 1016. Right to Enter and Inspect. (a) For the purpose of determining the suitability of the applicants and of the premises or whether or not any premises in fact qualifies as a facility as defined in section 1001 of this act or the continuing conformity of the licensees to this act and to the applicable regulations of the department, any authorized agent of the department shall have the right to enter, visit and inspect any facility licensed or requiring a license under this act and shall have full and free access to the records of the facility and to the individuals therein and full opportunity to interview, inspect or examine such individuals.~~

~~(b) An authorized agent of the department shall also confer with the operators of facilities regarding the minimum standards~~

~~of the department, encourage the adoption of higher standards and recommend methods of improving care and services.~~

~~(c) The department shall have the right to enter and inspect any family day care home, whether or not such facility is operated under the auspices of a family day care agency.~~

~~(d) If an authorized agent of the department is refused access for an investigation under this section, the department may apply to a court of competent jurisdiction for an administrative inspection warrant. For purposes of a warrant under this section, probable cause that this article has been violated consists of a statement by the authorized agent of the department that access for an inspection under this section has been sought and refused. An administrative inspection warrant is enforceable as any other warrant issued by a court.~~

~~Section 7. Section 1031 of the act is amended to read:~~

~~Section 1031. Violation; Penalty. (a) Any person operating a facility within this Commonwealth without a license required by this act, shall upon conviction thereof in a summary proceeding be sentenced to pay a fine of not less than twenty five dollars (\$25) nor more than three hundred dollars (\$300), and costs of prosecution, and in default of the payment thereof to undergo imprisonment for not less than ten days nor more than thirty days. Each day of operating a facility without a license required by this act shall constitute a separate offense.~~

~~(b) In addition to the criminal penalty in subsection (a), the department may assess a civil penalty of five hundred dollars (\$500) against a person found to be operating a facility within this Commonwealth without a license required by this act. Penalty assessment under this subsection shall conform to 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of~~

~~Commonwealth agencies) and Ch. 7 Subch. A (relating to judicial review of Commonwealth agency action).~~

~~(1) A provider charged with violations of this act shall have thirty days to pay the assessed penalty in full. If the provider wishes to contest either the amount of the penalty or the fact of the violation, the party shall forward the proposed amount to the secretary for placement in an escrow account with the State Treasurer.~~

~~(2) If through administrative hearing or judicial review of the fine it is determined that no violation occurred or that the amount is less than the amount required to be forwarded by the provider, the secretary shall remit the appropriate amount to the provider within thirty days, together with any interest accumulated on that amount by the escrow deposit.~~

~~(3) Failure to forward the payment to the secretary within thirty days shall result in a waiver of rights to contest the fact of the violation or the amount of the penalty. The amount assessed after administrative hearing or a waiver of the administrative hearing shall be payable to the Commonwealth and shall be collectible in the manner provided by law for the collection of debts. If a provider liable to pay a penalty neglects or refuses to pay it after demand, failure to pay shall constitute a judgment in favor of the Commonwealth in the amount of the fine, together with the interest and any costs that may accrue.~~

~~(4) Fees or fines collected by the department from child care providers shall be placed in a special restricted receipt account and shall be used to provide technical assistance to providers to meet standards for child day care and to improve the quality of care provided in child day care programs.~~

1 ~~Section 8. Sections 1070, 1071, 1072, 1073, 1074, 1075,~~
2 ~~1076, 1077, 1078, 1079 and 1080 of the act are repealed.~~

3 ~~Section 9. The Department of Public Welfare shall comply~~
4 ~~with the following time schedules:~~

5 ~~(1) Within 90 days of the effective date of this~~
6 ~~section, the department shall submit proposed rulemaking~~
7 ~~under section 1011 of the act to the Legislative Reference~~
8 ~~Bureau for publication in the Pennsylvania Bulletin.~~

9 ~~(2) Within 180 days of the effective date of this~~
10 ~~section, the department shall submit final rulemaking on the~~
11 ~~proposal under paragraph (1) to the Legislative Reference~~
12 ~~Bureau for publication in the Pennsylvania Bulletin. The~~
13 ~~regulations shall take effect within one year of the~~
14 ~~effective date of this section.~~

15 ~~Section 10. This act shall take effect as follows:~~

16 ~~(1) The following provisions shall take effect~~
17 ~~immediately:~~

18 ~~(i) The addition of section 1011 of the act.~~

19 ~~(ii) The amendment of sections 1016 and 1031 of the~~
20 ~~act.~~

21 ~~(iii) Section 9 of this act.~~

22 ~~(iv) This section.~~

23 ~~(2) The repeal of sections 1070 through 1080 of the act~~
24 ~~shall take effect upon the effective date of the regulations~~
25 ~~promulgated under section 9 of this act.~~

26 ~~(3) The amendment or addition of sections 901, 1001 and~~
27 ~~1010 of the act shall take effect in one year.~~

28 ~~(4) The remainder of this act shall take effect in 60~~
29 ~~days.~~

30 SECTION 1. SECTION 704.1(A) AND (F) OF THE ACT OF JUNE 13,

<—

1 1967 (P.L.31, NO.21), KNOWN AS THE PUBLIC WELFARE CODE, ADDED
2 JULY 9, 1976 (P.L.846, NO.148), ARE AMENDED TO READ:

3 SECTION 704.1. PAYMENTS TO COUNTIES FOR SERVICES TO
4 CHILDREN.--(A) THE DEPARTMENT SHALL REIMBURSE COUNTY
5 INSTITUTION DISTRICTS OR THEIR SUCCESSORS FOR EXPENDITURES
6 INCURRED BY THEM IN THE PERFORMANCE OF THEIR OBLIGATION PURSUANT
7 TO THIS ACT AND THE ACT OF DECEMBER 6, 1972 (P.L.1464, NO.333),
8 KNOWN AS THE "JUVENILE ACT," IN THE FOLLOWING PERCENTAGES:

9 (1) EIGHTY PERCENT OF THE COST OF AN ADOPTION SUBSIDY PAID
10 PURSUANT TO SUBDIVISION (E) OF ARTICLE VII OF THIS ACT.

11 (2) NO LESS THAN SEVENTY-FIVE PERCENT AND NO MORE THAN
12 NINETY PERCENT OF THE REASONABLE COST INCLUDING STAFF COSTS OF
13 CHILD WELFARE SERVICES, INFORMAL ADJUSTMENT SERVICES PROVIDED
14 PURSUANT TO SECTION 8 OF THE ACT OF DECEMBER 6, 1972 (P.L.1464,
15 NO.333), KNOWN AS THE "JUVENILE ACT," AND SUCH SERVICES APPROVED
16 BY THE DEPARTMENT, INCLUDING BUT NOT LIMITED TO, FOSTER HOME
17 CARE, GROUP HOME CARE, SHELTER CARE, COMMUNITY RESIDENTIAL CARE,
18 YOUTH SERVICE BUREAUS, DAY TREATMENT CENTERS AND SERVICE TO
19 CHILDREN IN THEIR OWN HOME AND ANY OTHER ALTERNATIVE TREATMENT
20 PROGRAMS APPROVED BY THE DEPARTMENT.

21 (3) SIXTY PERCENT OF THE REASONABLE ADMINISTRATIVE COSTS
22 APPROVED BY THE DEPARTMENT EXCEPT FOR THOSE STAFF COSTS INCLUDED
23 IN CLAUSE (2) OF THIS SECTION AS NECESSARY FOR THE PROVISION OF
24 CHILD WELFARE SERVICES.

25 (4) FIFTY PERCENT OF THE ACTUAL COST OF CARE AND SUPPORT OF
26 A CHILD PLACED BY A COUNTY CHILD WELFARE AGENCY OR A CHILD
27 COMMITTED BY A COURT PURSUANT TO THE ACT OF DECEMBER 6, 1972
28 (P.L.1464, NO.333), KNOWN AS THE "JUVENILE ACT," TO THE LEGAL
29 CUSTODY OF A PUBLIC OR PRIVATE AGENCY APPROVED OR OPERATED BY
30 THE DEPARTMENT OTHER THAN THOSE SERVICES DESCRIBED IN CLAUSE

1 (2). THE AUDITOR GENERAL SHALL ASCERTAIN THE ACTUAL EXPENSE FOR
2 FISCAL YEAR 1974-1975 AND EACH YEAR THEREAFTER BY THE DEPARTMENT
3 OF PUBLIC WELFARE FOR EACH OF THE SEVERAL COUNTIES AND EACH CITY
4 OF THE FIRST CLASS WHOSE CHILDREN RESIDENT WITHIN THE COUNTY OR
5 CITY OF THE FIRST CLASS DIRECTLY RECEIVED THE BENEFIT OF THE
6 COMMONWEALTH'S EXPENDITURE. THE AUDITOR GENERAL SHALL ALSO
7 ASCERTAIN FOR EACH COMMONWEALTH INSTITUTION OR FACILITY
8 RENDERING SERVICES TO DELINQUENT OR DEPRIVED CHILDREN THE ACTUAL
9 AVERAGE DAILY COST OF PROVIDING SAID SERVICES. THE AUDITOR
10 GENERAL SHALL CERTIFY TO EACH COUNTY AND CITY OF THE FIRST CLASS
11 THE ALLOCATED COMMONWEALTH EXPENDITURES INCURRED ON BEHALF OF
12 ITS CHILDREN AND NOTIFY THE SECRETARY OF PUBLIC WELFARE AND EACH
13 COUNTY AND CITY OF THE FIRST CLASS OF SAME.

14 (5) FIFTY PERCENT OF THE REASONABLE COST OF MEDICAL AND
15 OTHER EXAMINATIONS AND TREATMENT OF A CHILD ORDERED BY THE COURT
16 PURSUANT TO THE ACT OF DECEMBER 6, 1972 (P.L.1464, NO.333),
17 KNOWN AS THE "JUVENILE ACT," AND THE EXPENSES OF THE APPOINTMENT
18 OF A GUARDIAN PENDENTE LITE, SUMMONS, WARRANTS, NOTICES,
19 SUBPOENAS, TRAVEL EXPENSES OF WITNESSES, TRANSPORTATION OF THE
20 CHILD, AND OTHER LIKE EXPENSES INCURRED IN PROCEEDINGS UNDER THE
21 ACT OF DECEMBER 6, 1972 (P.L.1464, NO.333), KNOWN AS THE
22 "JUVENILE ACT."

23 (6) EFFECTIVE JULY 1, 1991, THE DEPARTMENT SHALL REIMBURSE
24 COUNTY INSTITUTION DISTRICTS OR THEIR SUCCESSORS ONE HUNDRED
25 PERCENT OF THE REASONABLE COSTS OF PROVIDING ADOPTION SERVICES.

26 (7) EFFECTIVE JULY 1, 1993, THE DEPARTMENT SHALL REIMBURSE
27 COUNTY INSTITUTION DISTRICTS OR THEIR SUCCESSORS EIGHTY PERCENT
28 OF THE REASONABLE COSTS OF PROVIDING FOSTER HOME CARE, COMMUNITY
29 RESIDENTIAL CARE, SUPERVISED INDEPENDENT LIVING AND COMMUNITY
30 BASED ALTERNATIVE TREATMENT PROGRAMS.

1 (8) THE DEPARTMENT SHALL REIMBURSE COUNTY INSTITUTION
2 DISTRICTS OR THEIR SUCCESSORS FOR THE REASONABLE COSTS OF
3 INSTITUTIONAL SERVICES FOR DEPENDENT AND DELINQUENT CHILDREN
4 OTHER THAN DETENTION SERVICES FOR DELINQUENTS IN ACCORDANCE WITH
5 THE FOLLOWING SCHEDULE:

6 (I) EFFECTIVE JULY 1, 1992, FIFTY-FIVE PERCENT.

7 (II) EFFECTIVE JULY 1, 1993, SIXTY PERCENT.

8 * * *

9 [(F) THE DEPARTMENT SHALL PRESCRIBE THE TIME AT, AND THE
10 FORM ON WHICH COUNTY INSTITUTION DISTRICTS OR THEIR SUCCESSORS
11 SHALL SUBMIT TO THE DEPARTMENT ANNUAL ESTIMATES OF WHO WILL BE
12 SERVED AND THE COST OF SUCH SERVICE UNDER EACH CATEGORY OF
13 SERVICE SET FORTH IN SUBSECTION (A).]

14 * * *

15 SECTION 2. SECTION 709 OF THE ACT IS REPEALED.

16 SECTION 3. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

17 SECTION 709.1. NEEDS BASED BUDGETING PROCESS.--(A) PRIOR TO
18 SEPTEMBER 15, 1991, AND AUGUST 15 EACH YEAR THEREAFTER, COUNTIES
19 SHALL SUBMIT TO THE DEPARTMENT A NEEDS BASED BUDGET IN A FORM
20 PRESCRIBED BY THE DEPARTMENT CONTAINING THEIR ANNUAL CLIENT AND
21 BUDGET ESTIMATES AND A DESCRIPTION OF PROPOSED CHANGES IN THEIR
22 ANNUAL PLAN FOR THE FISCAL YEAR BEGINNING THE FOLLOWING JULY 1.

23 (B) REPRESENTATIVES OF THE DEPARTMENT SHALL MEET WITH
24 REPRESENTATIVES OF EACH OF THE COUNTIES TO DISCUSS THE NEEDS
25 BASED BUDGETS AND PROPOSED CHANGES IN ANNUAL PLANS AND SHALL
26 MAKE A THOROUGH REVIEW OF COUNTY SUBMISSIONS. COUNTY SUBMISSIONS
27 SHALL CLEARLY DISTINGUISH FUNDING SUPPORTED BY SECTION 704.1(A)
28 FROM GRANTS AUTHORIZED BY SECTION 704.1(B). ON THE BASIS OF THE
29 DISCUSSIONS AND REVIEW THE DEPARTMENT SHALL MAKE ITS
30 DETERMINATION OF EACH OF THE COUNTIES TOTAL COSTS AND

1 REIMBURSABLE COSTS AND THE AMOUNT ALLOWED EACH OF THE COUNTIES
2 IN ACCORDANCE WITH SECTION 704.1(A).

3 (C) THE TOTAL OF THE AMOUNTS ALLOWED FOR EACH COUNTY
4 PURSUANT TO SECTION 704.1(A) AS DETERMINED BY THE DEPARTMENT
5 SHALL BE THE AGGREGATE CHILD WELFARE NEEDS BASED BUDGET. THE
6 DETERMINATION OF THE AGGREGATE CHILD WELFARE NEEDS BASED BUDGET
7 AND THE CHILD WELFARE NEEDS OF EACH COUNTY ALONG WITH SUPPORTING
8 DOCUMENTATION SHALL BE SUBMITTED TO THE GOVERNOR BY NOVEMBER 15,
9 1991, AND NOVEMBER 1 EACH YEAR THEREAFTER.

10 (D) CONTEMPORANEOUSLY WITH THE SUBMISSION OF THE GENERAL
11 FUND BUDGET, THE GOVERNOR SHALL SUBMIT THE AGGREGATE CHILD
12 WELFARE NEEDS BASED BUDGET AND THE CHILD WELFARE NEEDS OF EACH
13 COUNTY ALONG WITH SUPPORTING DOCUMENTATION TO THE MAJORITY
14 CHAIRMAN AND THE MINORITY CHAIRMAN OF THE APPROPRIATIONS
15 COMMITTEE OF THE SENATE AND THE MAJORITY CHAIRMAN AND THE
16 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE
17 OF REPRESENTATIVES. THE DEPARTMENT MAY MODIFY THE CALCULATION OF
18 THE AGGREGATE CHILD WELFARE NEEDS BASED BUDGET ANY TIME PRIOR TO
19 MAY 1, OF EACH YEAR; PROVIDED THAT SUCH REVISION IS BASED ON
20 RECEIPT OF ACTUAL DATA OR ADOPTED REGULATORY CHANGES WHICH WHEN
21 COMPARED TO PREVIOUSLY CALCULATED PROJECTED DATA OR REGULATION,
22 REQUIRES THE REVISION.

23 SECTION 709.2. REVIEW OF COUNTY SUBMISSIONS.--(A) THE
24 DEPARTMENT SHALL PROMULGATE GUIDELINES FOR REVIEWING AND
25 DETERMINING COUNTY SUBMITTED NEEDS BASED BUDGETS. THE GUIDELINES
26 FOR THE 1992-1993 FISCAL YEAR SHALL BE PUBLISHED AS A BULLETIN.
27 GUIDELINES FOR APPROVING 1993-1994 FISCAL YEAR NEEDS BASED
28 BUDGETS SHALL BE ADOPTED BY REGULATION NO LATER THAN JULY 1,
29 1992, BUT SHALL NOT BE ADOPTED AS EMERGENCY REGULATIONS PURSUANT
30 TO SECTION 6(B) OF THE ACT OF JUNE 25, 1982 (P.L.633, NO.181),

1 KNOWN AS THE "REGULATORY REVIEW ACT."

2 (B) THE DEPARTMENT DETERMINATION SHALL CONSIDER WHETHER THE
3 COUNTY'S BUDGET IS REASONABLE IN RELATION TO PAST COSTS,
4 PROJECTED COST INCREASES, NUMBER OF CHILDREN IN THE COUNTY AND
5 THE NUMBER OF CHILDREN SERVED, SERVICE LEVEL TRENDS AND
6 PROJECTIONS OF OTHER SOURCES OF REVENUE.

7 (C) TO THE EXTENT THAT COUNTY STAFFING PATTERNS ARE LESS
8 THAN THAT REQUIRED TO MEET DEPARTMENT STAFFING REGULATIONS, THE
9 DEPARTMENT DETERMINATIONS SHALL PERMIT A REQUESTING COUNTY TO
10 HIRE SUFFICIENT STAFF TO MEET THE MINIMUM STAFFING REGULATIONS.
11 A DETERMINATION MAY DISALLOW EXPENDITURES FOR ADDITIONAL STAFF
12 IF THE FUNCTIONS FOR WHICH THE STAFF IS TO BE HIRED ALREADY
13 MEETS THE MINIMUM REQUIRED BY DEPARTMENT REGULATIONS.

14 (D) NO DETERMINATION BY THE DEPARTMENT MAY BE BASED ON
15 PAYMENT STANDARDS THAT HAVE NOT BEEN ADOPTED AS OF THE TIME OF
16 THE REVIEW IN ACCORDANCE WITH THE "REGULATORY REVIEW ACT."

17 SECTION 709.3. LIMITS ON REIMBURSEMENTS TO COUNTIES.--(A)
18 REIMBURSEMENT FOR CHILD WELFARE SERVICES MADE PURSUANT TO
19 SECTION 704.1 SHALL NOT EXCEED THE FUNDS APPROPRIATED EACH
20 FISCAL YEAR.

21 (B) THE ALLOCATION FOR EACH COUNTY PURSUANT TO SECTION
22 704.1(A) SHALL BE CALCULATED BY MULTIPLYING THE SUM OF THE
23 SOCIAL SECURITY ACT (PUBLIC LAW 74-271, 42 U.S.C. § 301 ET SEQ.)
24 TITLE IV-B FUNDS AND STATE FUNDS APPROPRIATED TO REIMBURSE
25 COUNTIES PURSUANT TO SECTION 704.1(A) BY A FRACTION, THE
26 NUMERATOR OF WHICH IS THE AMOUNT DETERMINED FOR THAT COUNTY'S
27 CHILD WELFARE NEEDS BASED BUDGET AND THE DENOMINATOR IS THE
28 AGGREGATE CHILD WELFARE NEEDS BASED BUDGET.

29 (C) IF THE SUM OF THE AMOUNTS APPROPRIATED FOR REIMBURSEMENT
30 UNDER SECTION 704.1(A) DURING THE FISCAL YEAR IS NOT AT LEAST

EQUIVALENT TO THE AGGREGATE CHILD WELFARE NEEDS BASED BUDGET FOR
THAT FISCAL YEAR:

(1) EACH COUNTY SHALL BE PROVIDED A PROPORTIONATE SHARE
ALLOCATION OF THAT APPROPRIATION CALCULATED BY MULTIPLYING THE
SUM OF THE AMOUNTS APPROPRIATED FOR REIMBURSEMENT UNDER SECTION
704.1(A) BY A FRACTION, THE NUMERATOR OF WHICH IS THE AMOUNT
DETERMINED FOR THAT COUNTY'S CHILD WELFARE NEEDS BASED BUDGET
AND THE DENOMINATOR IS THE AGGREGATE CHILD WELFARE NEEDS BASED
BUDGET.

(2) NOTWITHSTANDING SUBSECTION (A), A COUNTY SHALL BE
ALLOWED REIMBURSEMENT BEYOND ITS PROPORTIONATE SHARE ALLOCATION
FOR THAT FISCAL YEAR FOR EXPENDITURES MADE IN ACCORDANCE WITH AN
APPROVED PLAN AND NEEDS BASED BUDGET, BUT NOT ABOVE THAT AMOUNT
DETERMINED TO BE ITS NEEDS BASED BUDGET.

(D) FOR THE PURPOSE OF THIS SECTION, AN APPROPRIATION SHALL
BE CONSIDERED EQUIVALENT TO THE AGGREGATE CHILD WELFARE NEEDS IF
IT IS EQUIVALENT TO THE RESULT OBTAINED BY CALCULATING THE
AGGREGATE CHILD WELFARE NEEDS MINUS THE COUNTY SHARE OF YOUTH
DEVELOPMENT CENTER COSTS AND MINUS THE SOCIAL SECURITY ACT TITLE
IV-B FUNDING; PROVIDED HOWEVER, AN APPROPRIATION SHALL BE DEEMED
EQUIVALENT IF IT IS EQUAL TO EIGHTY-TWO PERCENT OF THE RESULT IN
1991-1992, NINETY PERCENT OF THE RESULT IN 1992-1993 AND NINETY-
FIVE PERCENT OF THE RESULT IN 1993-1994.

(E) THE DEPARTMENT SHALL, BY REGULATION, DEFINE ALLOWABLE
COSTS FOR AUTHORIZED CHILD WELFARE SERVICES; PROVIDED THAT NO
REGULATION RELATING TO ALLOWABLE COSTS SHALL BE ADOPTED AS AN
EMERGENCY REGULATION PURSUANT TO SECTION 6(B) OF THE ACT OF JUNE
25, 1982 (P.L.633, NO.181), KNOWN AS THE "REGULATORY REVIEW
ACT."

SECTION 709.4. CHILDREN SERVICES ADVISORY COMMITTEE.--(A)

1 THERE IS HEREBY CREATED A TEMPORARY CHILDREN SERVICES ADVISORY
2 COMMITTEE CONSISTING OF THIRTEEN PERSONS AS FOLLOWS:

3 (1) THE SECRETARY OF PUBLIC WELFARE.

4 (2) THREE PERSONS SELECTED BY THE SECRETARY OF PUBLIC
5 WELFARE TO REPRESENT COUNTY CHILDREN AND YOUTH PROGRAMS, PRIVATE
6 COMMUNITY SERVICES AND PRIVATE INSTITUTIONAL SERVICES.

7 (3) THE MAJORITY CHAIRMAN AND THE MINORITY CHAIRMAN OF THE
8 AGING AND YOUTH COMMITTEE AND THE MAJORITY CHAIRMAN AND THE
9 MINORITY CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE SENATE
10 AND THE MAJORITY CHAIRMAN AND THE MINORITY CHAIRMAN OF THE AGING
11 AND YOUTH COMMITTEE AND THE MAJORITY CHAIRMAN AND THE MINORITY
12 CHAIRMAN OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF
13 REPRESENTATIVES EACH OF WHOM MAY SELECT A TEMPORARY OR PERMANENT
14 DESIGNEE WHO NEED NOT BE A MEMBER OF THE GENERAL ASSEMBLY.

15 (4) THE CHAIRMAN OF THE JUVENILE COURT JUDGES' COMMISSION.

16 (B) THE PURPOSE OF THE COMMITTEE SHALL BE TO STUDY AND
17 REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY BY DECEMBER 31,
18 1992, ON SUBJECTS WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO:

19 (1) UNIFORM CHILDREN AND YOUTH SERVICE DEFINITIONS.

20 (2) A METHODOLOGY OR ALTERNATIVE METHODOLOGIES FOR THE
21 CALCULATION OF STANDARDIZED RATES BASED ON UNIFORM SERVICE
22 DEFINITIONS.

23 (3) THE IMPACT OF VARIABLE REIMBURSEMENT RATES FOR DIFFERENT
24 TYPES OF SERVICES ON THE NATURE OF THE SERVICES PROVIDED TO
25 CHILDREN AND YOUTH AND THE DESIRABILITY OF ANY CHANGE IN THOSE
26 REIMBURSEMENT RATES FROM THOSE ENACTED INTO LAW OR IMPLEMENTED
27 BY THE DEPARTMENT.

28 (C) THE CHILDREN SERVICES ADVISORY COMMITTEE SHALL REMAIN IN
29 EXISTENCE UNTIL IT HAS SUBMITTED ITS REPORT OR DECEMBER 31,
30 1992, WHICHEVER SHALL FIRST OCCUR. THE CHILDREN SERVICES

1 ADVISORY COMMITTEE SHALL BE INITIALLY CONVENED BY THE SECRETARY
2 OF PUBLIC WELFARE ON OR BEFORE OCTOBER 1, 1991.

3 SECTION 4. THIS ACT SHALL APPLY TO SERVICES RENDERED ON OR
4 AFTER JULY 1, 1991.

5 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.