

AMENDMENTS TO HOUSE BILL NO. 856

Sponsor: REPRESENTATIVE BOBACK

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1 Amend Bill, page 1, lines 1 through 8, by striking out all of
2 said lines and inserting

3 Amending Title 67 (Public Welfare) of the Pennsylvania
4 Consolidated Statutes, in preliminary provisions, further
5 providing for definitions; in medical assistance hearings and
6 appeals, further providing for definitions; in public welfare
7 generally, providing for adoption opportunities and for
8 family finding and kinship care; establishing the Kinship
9 Care Program and the Subsidized Permanent Legal Custodianship
10 Program; making related repeals; and making editorial
11 changes.

12 Amend Bill, page 1, lines 11 through 21; pages 2 through 8,
13 lines 1 through 30; page 9, lines 1 through 6; by striking out
14 all of said lines on said pages and inserting

15 Section 1. Section 101 of Title 67 of the Pennsylvania
16 Consolidated Statutes is amended to read:
17 § 101. Definitions.

18 The following words and phrases when used in this [chapter]
19 title shall have the meanings given to them in this section
20 unless the context clearly indicates otherwise:

21 "Department." The Department of [Public Welfare] Human
22 Services of the Commonwealth.

23 "Secretary." The Secretary of [the Department of Public
24 Welfare] Human Services of [this] the Commonwealth.

25 Section 2. Part II heading of Title 67 is amended to read:

PART II

[PUBLIC WELFARE] HUMAN SERVICES GENERALLY

28 Section 3. The definitions of "bureau" and "program" in
29 section 1101 of Title 67 are amended to read:
30 § 1101. Definitions.

31 The following words and phrases when used in this chapter
32 shall have the meanings given to them in this section unless the
33 context clearly indicates otherwise:

34 "Bureau." The Bureau of Hearings and Appeals of the
35 Department of [Public Welfare] Human Services.

1 * * *
2 "Program." The medical assistance program established by
3 subarticle (f) of Article IV of the act of June 13, 1967
4 (P.L.31, No.21), known as the [Public Welfare] Human Services
5 Code.

6 * * *
7 Section 4. Part II of Title 67 is amended by adding chapters
8 to read:

9 CHAPTER 21
10 ADOPTION OPPORTUNITIES

11 Sec.

12 2101. Declaration of purpose.

13 2102. Definitions.

14 2103. Regulations.

15 2104. Adoption opportunity payments and reimbursement.

16 § 2101. Declaration of purpose.

17 This chapter shall be interpreted and construed to effect the
18 purpose of encouraging and promoting the placement of children
19 who have disabilities or are hard to place by virtue of age,
20 sibling relationship or ethnicity in adoptive homes.

21 § 2102. Definitions.

22 The following words and phrases when used in this chapter
23 shall have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Adoption opportunity." A subsidy which may include:

26 (1) maintenance costs;

27 (2) medical, surgical and psychological expenses; and

28 (3) other costs incident to the adoption.

29 "Child." An individual who:

30 (1) is under the age of 18 years; or

31 (2) is under the age of 21 years and attained 13 years
32 of age before the adoption assistance agreement became
33 effective and is:

34 (i) completing secondary education or an equivalent
35 credential;

36 (ii) enrolled in an institution that provides
37 postsecondary or vocational education;

38 (iii) participating in a program actively designed
39 to promote or remove barriers to employment;

40 (iv) employed for at least 80 hours per month; or

41 (v) incapable of doing any of the activities
42 described in subparagraph (i), (ii), (iii) or (iv) due to
43 a medical or behavioral health condition that is
44 supported by regularly updated information in the
45 permanency plan of the child.

46 "County agency." The county children and youth social
47 service agency exercising the power and duties provided for in
48 section 405 of the act of June 24, 1937 (P.L.2017, No.396),
49 known as the County Institution District Law, or its successor,
50 and supervised by the department under Article IX of the act of
51 June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

1 "Eligible child." A child in the legal custody of the county
2 agency where parental rights have been terminated pursuant to
3 the procedure set forth in 23 Pa.C.S. Pt. III (relating to
4 adoption) and who has been in foster placement for a period of
5 not less than six months and shown to be difficult to adopt
6 because of a disability or by virtue of age, sibling
7 relationship or ethnicity. A child in the legal custody of an
8 agency approved by the department shall be an eligible child if
9 the child is certified as eligible by the county agency.

10 § 2103. Regulations.

11 (a) Duty of department.--The department may establish and
12 develop criteria and promulgate necessary regulations for county
13 agencies to implement an adoption opportunity in accordance with
14 the provisions of this chapter.

15 (b) Content.--The regulations shall include, but are not
16 limited to, the following:

17 (1) Criteria for identifying eligible children and
18 adoptive homes.

19 (2) Procedures for implementing the adoption opportunity
20 payment.

21 (3) Reporting requirements by county agencies.

22 § 2104. Adoption opportunity payments and reimbursement.

23 (a) Amount.--The amount of adoption opportunity payment for
24 maintenance costs to an adoptive family shall not exceed the
25 monthly payment rate for foster family care in the county in
26 which the child resides.

27 (b) County reimbursement.--The department shall reimburse
28 county agencies for at least 80% of the cost of an adoption
29 opportunity provided by the county agency under this chapter if
30 the county agency complies with the reporting requirements
31 established by the department under section 2103 (relating to
32 regulations).

33 (c) Limitation.--No public money shall be expended under
34 this chapter on behalf of an eligible child until all available
35 benefits under existing or future, private, public, local, State
36 or Federal programs have been exhausted. Notwithstanding any
37 other provision of law, adoptive families subsidized under the
38 provisions of this chapter shall not be liable under the
39 provisions of the act of October 20, 1966 (3rd Sp.Sess., P.L.96,
40 No.6), known as the Mental Health and Intellectual Disability
41 Act of 1966, or 23 Pa.C.S. Ch. 46 (relating to support of the
42 indigent) in the event that the adopted child needs services or
43 assistance under the provisions of Article IV of the act of June
44 13, 1967 (P.L.31, No.21), known as the Human Services Code, or
45 under the provisions of the Mental Health and Intellectual
46 Disability Act of 1966.

47 CHAPTER 31

48 FAMILY FINDING AND KINSHIP CARE

49 Sec.

50 3101. Legislative intent.

51 3102. Definitions.

1 3103. Family finding required.
2 3104. Discontinuance of family finding.
3 3105. Kinship Care Program.
4 3106. Subsidized Permanent Legal Custodianship Program.
5 3107. Permanent legal custodianship subsidy and reimbursement.
6 § 3101. Legislative intent.

7 This chapter is intended to ensure that family finding occurs
8 on an ongoing basis for all children entering the child welfare
9 system. This chapter is also intended to promote the use of
10 kinship care when it is necessary to remove a child from the
11 child's home in an effort to:

12 (1) Identify and build positive connections between the
13 child and the child's relatives and kin.

14 (2) Support the engagement of relatives and kin in
15 children and youth social service planning and delivery.

16 (3) Create a network of extended family support to
17 assist in remedying the concerns that led the child to be
18 involved with the county agency.

19 § 3102. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

23 "Accept for service." Decide on the basis of the needs and
24 problems of an individual to admit or receive the individual as
25 a client of the county agency or as required by a court order
26 entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

27 "Child." An individual who:

28 (1) is under 18 years of age; or

29 (2) is under 21 years of age and attained 13 years of
30 age before the subsidized permanent legal custodianship
31 agreement became effective and is:

32 (i) completing secondary education or an equivalent
33 credential;

34 (ii) enrolled in an institution that provides
35 postsecondary or vocational education;

36 (iii) participating in a program actively designed
37 to promote or remove barriers to employment;

38 (iv) employed for at least 80 hours per month; or

39 (v) incapable of doing any of the activities
40 described in subparagraph (i), (ii), (iii) or (iv) due to
41 a medical or behavioral health condition, which is
42 supported by regularly updated information in the
43 permanency plan of the child.

44 "County agency." The county children and youth social
45 service agency exercising the power and duties provided for in
46 section 405 of the act of June 24, 1937 (P.L.2017, No.396),
47 known as the County Institution District Law, or its successor,
48 and supervised by the department under Article IX of the act of
49 June 13, 1967 (P.L.31, No.21), known as the Human Services Code.

50 "Eligible child." A child who meets all of the following:

51 (1) Has a court-ordered disposition of placement with a

1 permanent legal custodian pursuant to 42 Pa.C.S. § 6351(a)
2 (2.1) (relating to disposition of dependent child).
3 (2) Has lived with an eligible permanent legal custodian
4 for at least six months, which need not be consecutive.
5 (3) Is a citizen or an alien lawfully residing in this
6 Commonwealth.
7 "Eligible permanent legal custodian." A relative or kin who
8 meets all of the following:
9 (1) Whose home is approved pursuant to applicable
10 regulations for placement of foster children.
11 (2) With whom an eligible child has resided for at least
12 six months, which need not be consecutive.
13 (3) Who meets the requirements to be approved as a
14 foster parent under 23 Pa.C.S. § 6344 (relating to employees
15 having contact with children; adoptive and foster parents).
16 "Family finding." Ongoing diligent efforts between a county
17 agency, or its contracted providers, and relatives and kin to:
18 (1) Search for and identify adult relatives and kin and
19 engage them in children and youth social service planning and
20 delivery.
21 (2) Gain commitment from relatives and kin to support a
22 child or parent receiving children and youth social services.
23 "Foster parent." An individual approved by a public or
24 private foster family care agency to provide foster family care
25 services to a child who is temporarily separated from the
26 child's legal family and placed in the legal custody of an
27 agency.
28 "Kin." An individual 21 years of age or older who is one of
29 the following:
30 (1) A godparent of the child as recognized by an
31 organized church.
32 (2) A member of the child's tribe, nation or tribal
33 organization.
34 (3) An individual with a significant, positive
35 relationship with the child or family.
36 "Permanent legal custodian." A person to whom legal custody
37 of the child has been given by order of a court pursuant to 42
38 Pa.C.S. § 6351(a) (2.1).
39 "Relative." An individual who is:
40 (1) Related within the fifth degree of consanguinity or
41 affinity to the parent or stepparent of a child.
42 (2) At least 21 years of age.
43 "Sibling." An individual who has at least one parent in
44 common with another individual, whether by blood, marriage or
45 adoption, regardless of whether or not there is a termination of
46 parental rights or parental death. The term includes biological,
47 adoptive, stepsiblings and half siblings.
48 "Subsidized permanent legal custodianship." A court-ordered
49 disposition of a dependent child pursuant to 42 Pa.C.S. §
50 6351(a) (2.1) for which the child's permanent legal custodian
51 receives a monetary payment from the county agency pursuant to a

1 subsidized permanent legal custodianship agreement.

2 "Subsidized permanent legal custodianship agreement." A
3 written agreement signed by the director of the county agency,
4 or a designee, and a permanent legal custodian that sets forth
5 the terms and subsidy payments for a subsidized permanent legal
6 custodianship.

7 "Successor permanent legal custodian." A relative or kin who
8 meets all of the following:

9 (1) With whom an eligible child resides for any period
10 of time.

11 (2) Who has been named as a successor in a permanent
12 legal custodianship agreement executed by an eligible child's
13 previous eligible permanent legal custodian.

14 (3) Who meets the requirements for employment in child-
15 care services and approval as a foster or adoptive parent
16 under 23 Pa.C.S. § 6344.

17 § 3103. Family finding required.

18 Family finding shall be conducted for a child when the child
19 is accepted for service and at least annually thereafter until
20 the child's involvement with the county agency is terminated or
21 the family finding is discontinued in accordance with section
22 3104 (relating to discontinuance of family finding).

23 § 3104. Discontinuance of family finding.

24 (a) General rule.--A county agency may discontinue family
25 finding for a child under the following circumstances:

26 (1) The child has been adjudicated dependent pursuant to
27 42 Pa.C.S. Ch. 63 (relating to juvenile matters) and a court
28 has made a specific determination that continued family
29 finding no longer serves the best interests of the child or
30 is a threat to the child's safety.

31 (2) The child is not under the jurisdiction of a court
32 and the county agency has determined that continued family
33 finding is a threat to the child's safety. A determination
34 that continued family finding is a threat to the child's
35 safety must be based on credible information about a specific
36 safety threat, and the county agency shall document the
37 reasons for the county agency's determination.

38 (3) The child is in a preadoptive placement, and court
39 proceedings to adopt the child have been commenced pursuant
40 to 23 Pa.C.S. Pt. III (relating to adoption).

41 (b) Resuming family finding.--Notwithstanding the provisions
42 of subsection (a), a county agency shall resume family finding
43 for a child if:

44 (1) the child is under the jurisdiction of a court and
45 the court determines that resuming family finding is best
46 suited to the safety, protection and physical, mental and
47 moral welfare of the child and does not pose a threat to the
48 child's safety; or

49 (2) the child is not under the jurisdiction of a court
50 and the county agency determines that resuming family finding
51 serves the best interest of the child and does not pose a

1 threat to the child's safety.

2 § 3105. Kinship Care Program.

3 (a) Establishment of program.--The Kinship Care Program is
4 established in the department.

5 (b) Relative notification.--Except in situations of family
6 or domestic violence, the county agency shall exercise due
7 diligence to identify and notify all grandparents and other
8 adult relatives to the fifth degree of consanguinity or affinity
9 to the parent or stepparent of a dependent child and each parent
10 who has legal custody of a sibling of a dependent child within
11 30 days of the child's removal from the child's home if
12 temporary legal and physical custody has been transferred to the
13 county agency. The notice must explain all of the following:

14 (1) Any options under Federal and State law available to
15 the relative to participate in the care and placement of the
16 child, including any options that would be lost by failing to
17 respond to the notice.

18 (2) The requirements to become a foster parent,
19 permanent legal custodian or adoptive parent.

20 (3) The additional supports that are available for
21 children removed from the child's home.

22 (c) Placement of children.--If a child has been removed from
23 the child's home under a voluntary placement agreement or is in
24 the legal custody of the county agency, the county agency shall
25 give first consideration to placement with relatives or kin. The
26 county agency shall document that an attempt was made to place
27 the child with a relative or kin. If the child is not placed
28 with a relative or kin, the agency shall document the reason why
29 the placement was not possible.

30 (d) Regulations.--The department is authorized to promulgate
31 regulations necessary to carry out the provisions of this
32 chapter. The regulations shall include, but not be limited to,
33 the following:

34 (1) Relatives and kin shall receive the same foster care
35 rate as other foster parents if they comply with the
36 regulations governing foster parents.

37 (2) Foster care payments received by a relative or kin
38 who is a foster parent shall be excluded from consideration
39 when calculating eligibility for public assistance.

40 § 3106. Subsidized Permanent Legal Custodianship Program.

41 (a) Establishment of program.--The Subsidized Permanent
42 Legal Custodianship Program is established in the department.

43 (b) Implementation.--The department shall establish and
44 develop criteria and is authorized to promulgate necessary
45 regulations for county agencies to implement the Subsidized
46 Permanent Legal Custodianship Program in accordance with the
47 provisions of this chapter. The criteria and regulations shall
48 include, but not be limited to, identification of eligible
49 children and eligible permanent legal custodians, procedures for
50 implementing the program and reporting requirements by county
51 agencies.

1 § 3107. Permanent legal custodianship subsidy and
2 reimbursement.

3 (a) Amount.--The amount of permanent legal custodianship
4 subsidy for maintenance costs to a permanent legal custodian or
5 a successor permanent legal custodian shall not exceed the
6 monthly payment rate for foster family care in the county in
7 which the child resides.

8 (b) County reimbursement.--The department shall reimburse
9 the county agency for at least 80% of the cost of a permanent
10 legal custodianship subsidy payment provided by a county agency
11 in accordance with the provisions of this chapter, provided that
12 the county agency complies with the requirements established by
13 the department.

14 Section 5. Repeals are as follows:

15 (1) The General Assembly declares that the repeal under
16 paragraph (2) is necessary to effectuate the addition of 67
17 Pa.C.S. Ch. 21.

18 (2) Subarticle (e) of Article VII of the act of June 13,
19 1967 (P.L.31, No.21), known as the Human Services Code, is
20 repealed.

21 (3) The General Assembly declares that the repeal under
22 paragraph (4) is necessary to effectuate the addition of 67
23 Pa.C.S. Ch. 31.

24 (4) Article XIII of the Human Services Code is repealed.

25 Section 6. The addition of 67 Pa.C.S. Chs. 21 and 31 is a
26 continuation of subarticle (e) of Article VII and Article XIII
27 of the act of June 13, 1967 (P.L.31, No.21), known as the Human
28 Services Code. The following apply:

29 (1) Except as otherwise provided in 67 Pa.C.S. Chs. 21
30 and 31, all activities initiated under subarticle (e) of
31 Article VII and Article XIII of the Human Services Code shall
32 continue and remain in full force and effect and may be
33 completed under 67 Pa.C.S. Ch. 21 or 31. Orders, regulations
34 and decisions that were made under subarticle (e) of Article
35 VII or Article XIII of the Human Services Code and which are
36 in effect on the effective date of this section shall remain
37 in full force and effect until revoked, vacated or modified
38 under 67 Pa.C.S. Ch. 21 or 31. Contracts, obligations and
39 agreements entered into under subarticle (e) of Article VII
40 or Article XIII of the Human Services Code are not affected
41 or impaired by the repeal of these provisions.

42 (2) Any difference in language between 67 Pa.C.S. Chs.
43 21 and 31 and subarticle (e) of Article VII and Article XIII
44 of the Human Services Code, respectively, is intended only to
45 conform to the style of the Pennsylvania Consolidated
46 Statutes and is not intended to change or affect the
47 legislative intent, judicial construction or administration
48 and implementation of subarticle (e) of Article VII and
49 Article XIII of the Human Services Code.

50 (3) Any reference in a statute or a regulation to
51 subarticle (e) of Article VII of the Human Services Code

1 shall be deemed a reference to 67 Pa.C.S. Ch. 21.
2 (4) Any reference in a statute or a regulation to
3 Article XIII of the Human Services Code shall be deemed a
4 reference to 67 Pa.C.S. Ch. 31.
5 Section 7. The addition of 67 Pa.C.S. Chs. 21 and 31 shall
6 be retroactive to July 18, 2018.
7 Section 8. This act shall take effect immediately.