

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 856 Session of 2019

INTRODUCED BY BOBACK, HOWARD, LONGIETTI, RADER, KORTZ, HELM, DeLUCA, PETRARCA, D. MILLER, TOOHL AND COMMITTA, MARCH 18, 2019

AS REPORTED FROM COMMITTEE ON CHILDREN AND YOUTH, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 9, 2019

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," in children and youth,~~
4 ~~further providing for definitions; and, in family finding and~~
5 ~~kinship care, further providing for definitions, for Kinship~~
6 ~~Care Program, for Subsidized Permanent Legal Custodianship~~
7 ~~Program and for permanent legal custodianship subsidy and~~
8 ~~reimbursement.~~

9 AMENDING TITLE 67 (PUBLIC WELFARE) OF THE PENNSYLVANIA <--
10 CONSOLIDATED STATUTES, IN PRELIMINARY PROVISIONS, FURTHER
11 PROVIDING FOR DEFINITIONS; IN MEDICAL ASSISTANCE HEARINGS AND
12 APPEALS, FURTHER PROVIDING FOR DEFINITIONS; IN PUBLIC WELFARE
13 GENERALLY, PROVIDING FOR ADOPTION OPPORTUNITIES AND FOR
14 FAMILY FINDING AND KINSHIP CARE; ESTABLISHING THE KINSHIP
15 CARE PROGRAM AND THE SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP
16 PROGRAM; MAKING RELATED REPEALS; AND MAKING EDITORIAL
17 CHANGES.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 ~~Section 1. Section 772 of the act of June 13, 1967 (P.L.31,~~ <--
21 ~~No.21), known as the Human Services Code, amended June 30, 2012~~
22 ~~(P.L.668, No.80), amendment declared unconstitutional, 188 A.3d~~
23 ~~1135 (Pa. 2018), is reenacted and amended to read:~~

24 ~~Section 772. Definitions. As used in this subdivision:~~

1 ~~"Adoption opportunity" is a subsidy which may include~~
2 ~~maintenance cost; medical, surgical, and psychological expenses;~~
3 ~~and other costs incident to the adoption.~~

4 ~~"Child" means an individual who:~~

5 ~~(1) is under the age of eighteen years; or~~

6 ~~(2) is under the age of twenty one years and who attained~~
7 ~~thirteen years of age before the adoption assistance agreement~~
8 ~~became effective and who is:~~

9 ~~(i) completing secondary education or an equivalent~~
10 ~~credential;~~

11 ~~(ii) enrolled in an institution which provides postsecondary~~
12 ~~or vocational education;~~

13 ~~(iii) participating in a program actively designed to~~
14 ~~promote or remove barriers to employment;~~

15 ~~(iv) employed for at least eighty hours per month; or~~

16 ~~(v) incapable of doing any of the activities described in~~
17 ~~subclause (i), (ii), (iii) or (iv) due to a medical or~~
18 ~~behavioral health condition, which is supported by regularly~~
19 ~~updated information in the permanency plan of the child.~~

20 ~~"Eligible child" means a child in the legal custody of local~~
21 ~~authorities where parental rights have been terminated pursuant~~
22 ~~to the procedure set forth in [Article III of the act of July~~
23 ~~24, 1970 (P.L.620, No.208), known as the "Adoption Act,"] 23~~
24 ~~Pa.C.S. Ch. 25 (relating to proceedings prior to petition to~~
25 ~~adopt) and such child has been in foster placement for a period~~
26 ~~of not less than six months and where the child has been shown~~
27 ~~to be a difficult adoption placement because of a physical~~
28 ~~and/or mental handicap, emotional disturbance, or by virtue of~~
29 ~~age, sibling relationship, or ethnicity. A child in the legal~~
30 ~~custody of an agency approved by the department shall be an~~

1 ~~eligible child if the child is certified as eligible by the~~
2 ~~local authorities.~~

3 ~~"Local authorities" means county institution districts or~~
4 ~~their successors.~~

5 ~~Section 2. Section 1302 of the act, amended June 30, 2012~~
6 ~~(P.L.668, No.80), amendment declared unconstitutional, 188 A.3d~~
7 ~~1135 (Pa. 2018), the definitions of "accept for service" and~~
8 ~~"family finding," added July 9, 2013 (P.L.369, No.55), and the~~
9 ~~definitions of "eligible permanent legal custodian," "sibling"~~
10 ~~and "successor permanent legal custodian," amended or added~~
11 ~~December 28, 2015 (P.L.500, No.92), is reenacted to read:~~
12 ~~Section 1302. Definitions.~~

13 ~~The following words and phrases when used in this article~~
14 ~~shall have the meanings given to them in this section unless the~~
15 ~~context clearly indicates otherwise:~~

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

20 ~~"Child." An individual who:~~

21 ~~(1) is under 18 years of age; or~~

22 ~~(2) is under 21 years of age and who attained 13 years~~
23 ~~of age before the subsidized permanent legal custodianship~~
24 ~~agreement became effective and who is:~~

25 ~~(i) completing secondary education or an equivalent~~
26 ~~credential;~~

27 ~~(ii) enrolled in an institution which provides~~
28 ~~postsecondary or vocational education;~~

29 ~~(iii) participating in a program actively designed~~
30 ~~to promote or remove barriers to employment;~~

1 ~~(iv) employed for at least 80 hours per month; or~~
2 ~~(v) incapable of doing any of the activities~~
3 ~~described in subparagraph (i), (ii), (iii) or (iv) due to~~
4 ~~a medical or behavioral health condition, which is~~
5 ~~supported by regularly updated information in the~~
6 ~~permanency plan of the child.~~

7 ~~"County agency." The county children and youth social~~
8 ~~service agency exercising the power and duties provided for in~~
9 ~~section 405 of the act of June 24, 1937 (P.L.2017, No.396),~~
10 ~~known as the County Institution District Law, or its successor,~~
11 ~~and supervised by the department under Article IX.~~

12 ~~"Eligible child." A child who:~~

13 ~~(1) has a court ordered disposition of placement with a~~
14 ~~permanent legal custodian pursuant to 42 Pa.C.S. § 6351(a)~~
15 ~~(2.1) (relating to disposition of dependent child);~~

16 ~~(2) has lived with an eligible permanent legal custodian~~
17 ~~for at least six months, which need not be consecutive; and~~

18 ~~(3) is a citizen or an alien lawfully residing in this~~
19 ~~Commonwealth.~~

20 ~~"Eligible permanent legal custodian." A relative or kin:~~

21 ~~(1) whose home is approved pursuant to applicable~~
22 ~~regulations for placement of foster children;~~

23 ~~(2) with whom an eligible child has resided for at least~~
24 ~~six months, which need not be consecutive; and~~

25 ~~(3) who meets the requirements to be approved as a~~
26 ~~foster parent under 23 Pa.C.S. § 6344 (relating to employees~~
27 ~~having contact with children; adoptive and foster parents).~~

28 ~~"Family finding." Ongoing diligent efforts between a county~~
29 ~~agency, or its contracted providers, and relatives and kin to:~~

30 ~~(1) Search for and identify adult relatives and kin and~~

1 ~~engage them in children and youth social service planning and~~
2 ~~delivery.~~

3 ~~(2) Gain commitment from relatives and kin to support a~~
4 ~~child or parent receiving children and youth social services.~~

5 ~~"Foster parent." An individual approved by a public or~~
6 ~~private foster family care agency to provide foster family care~~
7 ~~services to a child who is temporarily separated from the~~
8 ~~child's legal family and placed in the legal custody of an~~
9 ~~agency.~~

10 ~~"Kin." An individual 21 years of age or older who is one of~~
11 ~~the following:~~

12 ~~(1) A godparent of the child as recognized by an~~
13 ~~organized church.~~

14 ~~(2) A member of the child's tribe, nation or tribal~~
15 ~~organization.~~

16 ~~(3) An individual with a significant, positive~~
17 ~~relationship with the child or family.~~

18 ~~"Permanent legal custodian." A person to whom legal custody~~
19 ~~of the child has been given by order of a court pursuant to 42-~~
20 ~~Pa.C.S. § 6351(a)(2.1) (relating to disposition of dependent-~~
21 ~~child).~~

22 ~~"Relative." An individual who is:~~

23 ~~(1) Related within the fifth degree of consanguinity or~~
24 ~~affinity to the parent or stepparent of a child.~~

25 ~~(2) At least 21 years of age.~~

26 ~~"Sibling." An individual who has at least one parent in~~
27 ~~common with another individual, whether by blood, marriage or~~
28 ~~adoption, regardless of whether or not there is a termination of~~
29 ~~parental rights or parental death. The term includes biological,~~
30 ~~adoptive, step and half siblings.~~

1 ~~"Subsidized permanent legal custodianship." A court ordered~~
2 ~~disposition of a dependent child pursuant to 42 Pa.C.S. §~~
3 ~~6351(a)(2.1) (relating to disposition of dependent child) for~~
4 ~~which the child's permanent legal custodian receives a monetary~~
5 ~~payment from the county agency pursuant to a subsidized~~
6 ~~permanent legal custodianship agreement.~~

7 ~~"Subsidized permanent legal custodianship agreement." A~~
8 ~~written agreement signed by the director of the county agency,~~
9 ~~or a designee, and a permanent legal custodian, that sets forth~~
10 ~~the terms and subsidy payments for a subsidized permanent legal~~
11 ~~custodianship.~~

12 ~~"Successor permanent legal custodian." A relative or kin:~~

13 ~~(1) with whom an eligible child resides for any period~~
14 ~~of time;~~

15 ~~(2) who has been named as a successor in a permanent~~
16 ~~legal custodianship agreement executed by an eligible child's~~
17 ~~previous eligible permanent legal custodian; and~~

18 ~~(3) who meets the requirements for employment in child~~
19 ~~care services and approval as a foster or adoptive parent~~
20 ~~under 23 Pa.C.S. § 6344 (relating to employees having contact~~
21 ~~with children; adoptive and foster parents).~~

22 ~~Section 3. Sections 1303(b) and 1303.1 of the act, amended~~
23 ~~or added June 30, 2012 (P.L.668, No.80), amendment or addition~~
24 ~~declared unconstitutional, 188 A.3d 1135 (Pa. 2018), are~~
25 ~~reenacted to read:~~

26 ~~Section 1303. Kinship Care Program.~~

27 ~~* * *~~

28 ~~(b) Placement of children. If a child has been removed from~~
29 ~~the child's home under a voluntary placement agreement or is in~~
30 ~~the legal custody of the county agency, the county agency shall~~

1 ~~give first consideration to placement with relatives or kin. The~~
2 ~~county agency shall document that an attempt was made to place~~
3 ~~the child with a relative or kin. If the child is not placed~~
4 ~~with a relative or kin, the agency shall document the reason why~~
5 ~~such placement was not possible.~~

6 ~~* * *~~

7 ~~Section 1303.1. Subsidized Permanent Legal Custodianship~~
8 ~~Program.~~

9 ~~(a) Establishment of program. The Subsidized Permanent~~
10 ~~Legal Custodianship Program is established in the department.~~

11 ~~(b) Implementation. The department shall establish and~~
12 ~~develop criteria and promulgate necessary regulations for county~~
13 ~~agencies to implement the Subsidized Permanent Legal~~
14 ~~Custodianship Program in accordance with the provisions of this~~
15 ~~article. The criteria and regulations shall include, but not be~~
16 ~~limited to, identification of eligible children and eligible~~
17 ~~permanent legal custodians, procedures for implementing the~~
18 ~~program and reporting requirements by county agencies.~~

19 ~~Section 4. Section 1303.2 of the act, added June 30, 2012-~~
20 ~~(P.L.668, No.80), addition declared unconstitutional, 188 A.3d-~~
21 ~~1135 (Pa. 2018), and amended December 28, 2015 (P.L.500, No.92),~~
22 ~~is reenacted to read:~~

23 ~~Section 1303.2. Permanent legal custodianship subsidy and~~
24 ~~reimbursement.~~

25 ~~(a) Amount. The amount of permanent legal custodianship~~
26 ~~subsidy for maintenance costs to a permanent legal custodian or~~
27 ~~a successor permanent legal custodian shall not exceed the~~
28 ~~monthly payment rate for foster family care in the county in~~
29 ~~which the child resides.~~

30 ~~(b) County reimbursement. The department shall reimburse~~

1 ~~the county agency for at least 80% of the cost of a permanent~~
2 ~~legal custodianship subsidy payment provided by a county agency~~
3 ~~in accordance with the provisions of this article, provided that~~
4 ~~the county agency complies with the requirements established by~~
5 ~~the department.~~

6 ~~Section 5. The following shall apply:~~

7 ~~(1) The reenactment of sections 772, 1303(b) and 1303.1~~
8 ~~of the act shall apply retroactively to July 1, 2012.~~

9 ~~(2) The following shall apply to the reenactment of~~
10 ~~section 1302 of the act:~~

11 ~~(i) Except as provided under subparagraphs (ii) and~~
12 ~~(iii), the reenactment of section 1302 of the act shall~~
13 ~~apply retroactively to July 1, 2012.~~

14 ~~(ii) The addition of the definitions of "accept for~~
15 ~~service" and "family finding" by Act 55 of 2013 shall~~
16 ~~apply retroactively to September 9, 2013.~~

17 ~~(iii) The following shall apply retroactively to~~
18 ~~December 28, 2015:~~

19 ~~(A) As much as added to the definition of~~
20 ~~"eligible permanent legal custodian" by Act 92 of~~
21 ~~2015 as reads, "to be approved as a foster parent~~
22 ~~under" and "employees having contact with children;~~
23 ~~adoptive and foster parents" in section 1302 of the~~
24 ~~act.~~

25 ~~(B) As much as repealed in the definition of~~
26 ~~"eligible permanent legal custodian" by Act 92 of~~
27 ~~2015 as reads, "for employment in child care services~~
28 ~~pursuant to" and "information relating to prospective~~
29 ~~child care personnel" in section 1302 of the act.~~

30 ~~(C) The addition of the definitions of "sibling"~~

1 and "~~successor permanent legal custodian~~" by Act 92-
2 of 2015 to section 1302 of the act.

3 ~~(3) The following shall apply to the reenactment of~~
4 ~~section 1303.2 of the act:~~

5 ~~(i) Except as provided under subparagraph (ii), the~~
6 ~~reenactment of section 1303.2 of the act shall apply~~
7 ~~retroactively to July 1, 2012.~~

8 ~~(ii) As much as added to section 1303.2(a) by Act 92-~~
9 ~~of 2015 as reads, "or a successor permanent legal~~
10 ~~custodian" shall apply retroactively to December 28,~~
11 ~~2015.~~

12 Section 6. ~~This act shall take effect immediately.~~

13 SECTION 1. SECTION 101 OF TITLE 67 OF THE PENNSYLVANIA

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14 CONSOLIDATED STATUTES IS AMENDED TO READ:

15 § 101. DEFINITIONS.

16 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS [CHAPTER]
17 TITLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION
18 UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

19 "DEPARTMENT." THE DEPARTMENT OF [PUBLIC WELFARE] HUMAN
20 SERVICES OF THE COMMONWEALTH.

21 "SECRETARY." THE SECRETARY OF [THE DEPARTMENT OF PUBLIC
22 WELFARE] HUMAN SERVICES OF [THIS] THE COMMONWEALTH.

23 SECTION 2. PART II HEADING OF TITLE 67 IS AMENDED TO READ:

24 PART II
25 [PUBLIC WELFARE] HUMAN SERVICES GENERALLY

26 SECTION 3. THE DEFINITIONS OF "BUREAU" AND "PROGRAM" IN
27 SECTION 1101 OF TITLE 67 ARE AMENDED TO READ:

28 § 1101. DEFINITIONS.

29 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
30 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE

1 CONTEXT CLEARLY INDICATES OTHERWISE:

2 "BUREAU." THE BUREAU OF HEARINGS AND APPEALS OF THE
3 DEPARTMENT OF [PUBLIC WELFARE] HUMAN SERVICES.

4 * * *

5 "PROGRAM." THE MEDICAL ASSISTANCE PROGRAM ESTABLISHED BY
6 SUBARTICLE (F) OF ARTICLE IV OF THE ACT OF JUNE 13, 1967
7 (P.L.31, NO.21), KNOWN AS THE [PUBLIC WELFARE] HUMAN SERVICES
8 CODE.

9 * * *

10 SECTION 4. PART II OF TITLE 67 IS AMENDED BY ADDING CHAPTERS
11 TO READ:

12 CHAPTER 21

13 ADOPTION OPPORTUNITIES

14 SEC.

15 2101. DECLARATION OF PURPOSE.

16 2102. DEFINITIONS.

17 2103. REGULATIONS.

18 2104. ADOPTION OPPORTUNITY PAYMENTS AND REIMBURSEMENT.

19 § 2101. DECLARATION OF PURPOSE.

20 THIS CHAPTER SHALL BE INTERPRETED AND CONSTRUED TO EFFECT THE
21 PURPOSE OF ENCOURAGING AND PROMOTING THE PLACEMENT OF CHILDREN
22 WHO HAVE DISABILITIES OR ARE HARD TO PLACE BY VIRTUE OF AGE,
23 SIBLING RELATIONSHIP OR ETHNICITY IN ADOPTIVE HOMES.

24 § 2102. DEFINITIONS.

25 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
26 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
27 CONTEXT CLEARLY INDICATES OTHERWISE:

28 "ADOPTION OPPORTUNITY." A SUBSIDY WHICH MAY INCLUDE:

29 (1) MAINTENANCE COSTS;

30 (2) MEDICAL, SURGICAL AND PSYCHOLOGICAL EXPENSES; AND

1 (3) OTHER COSTS INCIDENT TO THE ADOPTION.
2 "CHILD." AN INDIVIDUAL WHO:
3 (1) IS UNDER THE AGE OF 18 YEARS; OR
4 (2) IS UNDER THE AGE OF 21 YEARS AND ATTAINED 13 YEARS
5 OF AGE BEFORE THE ADOPTION ASSISTANCE AGREEMENT BECAME
6 EFFECTIVE AND IS:
7 (I) COMPLETING SECONDARY EDUCATION OR AN EQUIVALENT
8 CREDENTIAL;
9 (II) ENROLLED IN AN INSTITUTION THAT PROVIDES
10 POSTSECONDARY OR VOCATIONAL EDUCATION;
11 (III) PARTICIPATING IN A PROGRAM ACTIVELY DESIGNED
12 TO PROMOTE OR REMOVE BARRIERS TO EMPLOYMENT;
13 (IV) EMPLOYED FOR AT LEAST 80 HOURS PER MONTH; OR
14 (V) INCAPABLE OF DOING ANY OF THE ACTIVITIES
15 DESCRIBED IN SUBPARAGRAPH (I), (II), (III) OR (IV) DUE TO
16 A MEDICAL OR BEHAVIORAL HEALTH CONDITION THAT IS
17 SUPPORTED BY REGULARLY UPDATED INFORMATION IN THE
18 PERMANENCY PLAN OF THE CHILD.

19 "COUNTY AGENCY." THE COUNTY CHILDREN AND YOUTH SOCIAL
20 SERVICE AGENCY EXERCISING THE POWER AND DUTIES PROVIDED FOR IN
21 SECTION 405 OF THE ACT OF JUNE 24, 1937 (P.L.2017, NO.396),
22 KNOWN AS THE COUNTY INSTITUTION DISTRICT LAW, OR ITS SUCCESSOR,
23 AND SUPERVISED BY THE DEPARTMENT UNDER ARTICLE IX OF THE ACT OF
24 JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE HUMAN SERVICES CODE.

25 "ELIGIBLE CHILD." A CHILD IN THE LEGAL CUSTODY OF THE COUNTY
26 AGENCY WHERE PARENTAL RIGHTS HAVE BEEN TERMINATED PURSUANT TO
27 THE PROCEDURE SET FORTH IN 23 PA.C.S. PT. III (RELATING TO
28 ADOPTION) AND WHO HAS BEEN IN FOSTER PLACEMENT FOR A PERIOD OF
29 NOT LESS THAN SIX MONTHS AND SHOWN TO BE DIFFICULT TO ADOPT
30 BECAUSE OF A DISABILITY OR BY VIRTUE OF AGE, SIBLING

1 RELATIONSHIP OR ETHNICITY. A CHILD IN THE LEGAL CUSTODY OF AN
2 AGENCY APPROVED BY THE DEPARTMENT SHALL BE AN ELIGIBLE CHILD IF
3 THE CHILD IS CERTIFIED AS ELIGIBLE BY THE COUNTY AGENCY.

4 § 2103. REGULATIONS.

5 (A) DUTY OF DEPARTMENT.--THE DEPARTMENT MAY ESTABLISH AND
6 DEVELOP CRITERIA AND PROMULGATE NECESSARY REGULATIONS FOR COUNTY
7 AGENCIES TO IMPLEMENT AN ADOPTION OPPORTUNITY IN ACCORDANCE WITH
8 THE PROVISIONS OF THIS CHAPTER.

9 (B) CONTENT.--THE REGULATIONS SHALL INCLUDE, BUT ARE NOT
10 LIMITED TO, THE FOLLOWING:

11 (1) CRITERIA FOR IDENTIFYING ELIGIBLE CHILDREN AND
12 ADOPTIVE HOMES.

13 (2) PROCEDURES FOR IMPLEMENTING THE ADOPTION OPPORTUNITY
14 PAYMENT.

15 (3) REPORTING REQUIREMENTS BY COUNTY AGENCIES.

16 § 2104. ADOPTION OPPORTUNITY PAYMENTS AND REIMBURSEMENT.

17 (A) AMOUNT.--THE AMOUNT OF ADOPTION OPPORTUNITY PAYMENT FOR
18 MAINTENANCE COSTS TO AN ADOPTIVE FAMILY SHALL NOT EXCEED THE
19 MONTHLY PAYMENT RATE FOR FOSTER FAMILY CARE IN THE COUNTY IN
20 WHICH THE CHILD RESIDES.

21 (B) COUNTY REIMBURSEMENT.--THE DEPARTMENT SHALL REIMBURSE
22 COUNTY AGENCIES FOR AT LEAST 80% OF THE COST OF AN ADOPTION
23 OPPORTUNITY PROVIDED BY THE COUNTY AGENCY UNDER THIS CHAPTER IF
24 THE COUNTY AGENCY COMPLIES WITH THE REPORTING REQUIREMENTS
25 ESTABLISHED BY THE DEPARTMENT UNDER SECTION 2103 (RELATING TO
26 REGULATIONS).

27 (C) LIMITATION.--NO PUBLIC MONEY SHALL BE EXPENDED UNDER
28 THIS CHAPTER ON BEHALF OF AN ELIGIBLE CHILD UNTIL ALL AVAILABLE
29 BENEFITS UNDER EXISTING OR FUTURE, PRIVATE, PUBLIC, LOCAL, STATE
30 OR FEDERAL PROGRAMS HAVE BEEN EXHAUSTED. NOTWITHSTANDING ANY

1 OTHER PROVISION OF LAW, ADOPTIVE FAMILIES SUBSIDIZED UNDER THE
2 PROVISIONS OF THIS CHAPTER SHALL NOT BE LIABLE UNDER THE
3 PROVISIONS OF THE ACT OF OCTOBER 20, 1966 (3RD SP.SESS., P.L.96,
4 NO.6), KNOWN AS THE MENTAL HEALTH AND INTELLECTUAL DISABILITY
5 ACT OF 1966, OR 23 PA.C.S. CH. 46 (RELATING TO SUPPORT OF THE
6 INDIGENT) IN THE EVENT THAT THE ADOPTED CHILD NEEDS SERVICES OR
7 ASSISTANCE UNDER THE PROVISIONS OF ARTICLE IV OF THE ACT OF JUNE
8 13, 1967 (P.L.31, NO.21), KNOWN AS THE HUMAN SERVICES CODE, OR
9 UNDER THE PROVISIONS OF THE MENTAL HEALTH AND INTELLECTUAL
10 DISABILITY ACT OF 1966.

11 CHAPTER 31

12 FAMILY FINDING AND KINSHIP CARE

13 SEC.

14 3101. LEGISLATIVE INTENT.

15 3102. DEFINITIONS.

16 3103. FAMILY FINDING REQUIRED.

17 3104. DISCONTINUANCE OF FAMILY FINDING.

18 3105. KINSHIP CARE PROGRAM.

19 3106. SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP PROGRAM.

20 3107. PERMANENT LEGAL CUSTODIANSHIP SUBSIDY AND REIMBURSEMENT.

21 § 3101. LEGISLATIVE INTENT.

22 THIS CHAPTER IS INTENDED TO ENSURE THAT FAMILY FINDING OCCURS
23 ON AN ONGOING BASIS FOR ALL CHILDREN ENTERING THE CHILD WELFARE
24 SYSTEM. THIS CHAPTER IS ALSO INTENDED TO PROMOTE THE USE OF
25 KINSHIP CARE WHEN IT IS NECESSARY TO REMOVE A CHILD FROM THE
26 CHILD'S HOME IN AN EFFORT TO:

27 (1) IDENTIFY AND BUILD POSITIVE CONNECTIONS BETWEEN THE
28 CHILD AND THE CHILD'S RELATIVES AND KIN.

29 (2) SUPPORT THE ENGAGEMENT OF RELATIVES AND KIN IN
30 CHILDREN AND YOUTH SOCIAL SERVICE PLANNING AND DELIVERY.

1 (3) CREATE A NETWORK OF EXTENDED FAMILY SUPPORT TO
2 ASSIST IN REMEDYING THE CONCERNS THAT LED THE CHILD TO BE
3 INVOLVED WITH THE COUNTY AGENCY.

4 § 3102. DEFINITIONS.

5 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS CHAPTER
6 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
7 CONTEXT CLEARLY INDICATES OTHERWISE:

8 "ACCEPT FOR SERVICE." DECIDE ON THE BASIS OF THE NEEDS AND
9 PROBLEMS OF AN INDIVIDUAL TO ADMIT OR RECEIVE THE INDIVIDUAL AS
10 A CLIENT OF THE COUNTY AGENCY OR AS REQUIRED BY A COURT ORDER
11 ENTERED UNDER 42 PA.C.S. CH. 63 (RELATING TO JUVENILE MATTERS).

12 "CHILD." AN INDIVIDUAL WHO:

13 (1) IS UNDER 18 YEARS OF AGE; OR

14 (2) IS UNDER 21 YEARS OF AGE AND ATTAINED 13 YEARS OF
15 AGE BEFORE THE SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP
16 AGREEMENT BECAME EFFECTIVE AND IS:

17 (I) COMPLETING SECONDARY EDUCATION OR AN EQUIVALENT
18 CREDENTIAL;

19 (II) ENROLLED IN AN INSTITUTION THAT PROVIDES
20 POSTSECONDARY OR VOCATIONAL EDUCATION;

21 (III) PARTICIPATING IN A PROGRAM ACTIVELY DESIGNED
22 TO PROMOTE OR REMOVE BARRIERS TO EMPLOYMENT;

23 (IV) EMPLOYED FOR AT LEAST 80 HOURS PER MONTH; OR

24 (V) INCAPABLE OF DOING ANY OF THE ACTIVITIES
25 DESCRIBED IN SUBPARAGRAPH (I), (II), (III) OR (IV) DUE TO
26 A MEDICAL OR BEHAVIORAL HEALTH CONDITION, WHICH IS
27 SUPPORTED BY REGULARLY UPDATED INFORMATION IN THE
28 PERMANENCY PLAN OF THE CHILD.

29 "COUNTY AGENCY." THE COUNTY CHILDREN AND YOUTH SOCIAL
30 SERVICE AGENCY EXERCISING THE POWER AND DUTIES PROVIDED FOR IN

1 SECTION 405 OF THE ACT OF JUNE 24, 1937 (P.L.2017, NO.396),
2 KNOWN AS THE COUNTY INSTITUTION DISTRICT LAW, OR ITS SUCCESSOR,
3 AND SUPERVISED BY THE DEPARTMENT UNDER ARTICLE IX OF THE ACT OF
4 JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE HUMAN SERVICES CODE.

5 "ELIGIBLE CHILD." A CHILD WHO MEETS ALL OF THE FOLLOWING:

6 (1) HAS A COURT-ORDERED DISPOSITION OF PLACEMENT WITH A
7 PERMANENT LEGAL CUSTODIAN PURSUANT TO 42 PA.C.S. § 6351(A)
8 (2.1) (RELATING TO DISPOSITION OF DEPENDENT CHILD).

9 (2) HAS LIVED WITH AN ELIGIBLE PERMANENT LEGAL CUSTODIAN
10 FOR AT LEAST SIX MONTHS, WHICH NEED NOT BE CONSECUTIVE.

11 (3) IS A CITIZEN OR AN ALIEN LAWFULLY RESIDING IN THIS
12 COMMONWEALTH.

13 "ELIGIBLE PERMANENT LEGAL CUSTODIAN." A RELATIVE OR KIN WHO
14 MEETS ALL OF THE FOLLOWING:

15 (1) WHOSE HOME IS APPROVED PURSUANT TO APPLICABLE
16 REGULATIONS FOR PLACEMENT OF FOSTER CHILDREN.

17 (2) WITH WHOM AN ELIGIBLE CHILD HAS RESIDED FOR AT LEAST
18 SIX MONTHS, WHICH NEED NOT BE CONSECUTIVE.

19 (3) WHO MEETS THE REQUIREMENTS TO BE APPROVED AS A
20 FOSTER PARENT UNDER 23 PA.C.S. § 6344 (RELATING TO EMPLOYEES
21 HAVING CONTACT WITH CHILDREN; ADOPTIVE AND FOSTER PARENTS).

22 "FAMILY FINDING." ONGOING DILIGENT EFFORTS BETWEEN A COUNTY
23 AGENCY, OR ITS CONTRACTED PROVIDERS, AND RELATIVES AND KIN TO:

24 (1) SEARCH FOR AND IDENTIFY ADULT RELATIVES AND KIN AND
25 ENGAGE THEM IN CHILDREN AND YOUTH SOCIAL SERVICE PLANNING AND
26 DELIVERY.

27 (2) GAIN COMMITMENT FROM RELATIVES AND KIN TO SUPPORT A
28 CHILD OR PARENT RECEIVING CHILDREN AND YOUTH SOCIAL SERVICES.

29 "FOSTER PARENT." AN INDIVIDUAL APPROVED BY A PUBLIC OR
30 PRIVATE FOSTER FAMILY CARE AGENCY TO PROVIDE FOSTER FAMILY CARE

1 SERVICES TO A CHILD WHO IS TEMPORARILY SEPARATED FROM THE
2 CHILD'S LEGAL FAMILY AND PLACED IN THE LEGAL CUSTODY OF AN
3 AGENCY.

4 "KIN." AN INDIVIDUAL 21 YEARS OF AGE OR OLDER WHO IS ONE OF
5 THE FOLLOWING:

6 (1) A GODPARENT OF THE CHILD AS RECOGNIZED BY AN
7 ORGANIZED CHURCH.

8 (2) A MEMBER OF THE CHILD'S TRIBE, NATION OR TRIBAL
9 ORGANIZATION.

10 (3) AN INDIVIDUAL WITH A SIGNIFICANT, POSITIVE
11 RELATIONSHIP WITH THE CHILD OR FAMILY.

12 "PERMANENT LEGAL CUSTODIAN." A PERSON TO WHOM LEGAL CUSTODY
13 OF THE CHILD HAS BEEN GIVEN BY ORDER OF A COURT PURSUANT TO 42
14 PA.C.S. § 6351(A)(2.1).

15 "RELATIVE." AN INDIVIDUAL WHO IS:

16 (1) RELATED WITHIN THE FIFTH DEGREE OF CONSANGUINITY OR
17 AFFINITY TO THE PARENT OR STEPPARENT OF A CHILD.

18 (2) AT LEAST 21 YEARS OF AGE.

19 "SIBLING." AN INDIVIDUAL WHO HAS AT LEAST ONE PARENT IN
20 COMMON WITH ANOTHER INDIVIDUAL, WHETHER BY BLOOD, MARRIAGE OR
21 ADOPTION, REGARDLESS OF WHETHER OR NOT THERE IS A TERMINATION OF
22 PARENTAL RIGHTS OR PARENTAL DEATH. THE TERM INCLUDES BIOLOGICAL,
23 ADOPTIVE, STEPSIBLINGS AND HALF SIBLINGS.

24 "SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP." A COURT-ORDERED
25 DISPOSITION OF A DEPENDENT CHILD PURSUANT TO 42 PA.C.S. §
26 6351(A)(2.1) FOR WHICH THE CHILD'S PERMANENT LEGAL CUSTODIAN
27 RECEIVES A MONETARY PAYMENT FROM THE COUNTY AGENCY PURSUANT TO A
28 SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP AGREEMENT.

29 "SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP AGREEMENT." A
30 WRITTEN AGREEMENT SIGNED BY THE DIRECTOR OF THE COUNTY AGENCY,

1 OR A DESIGNEE, AND A PERMANENT LEGAL CUSTODIAN THAT SETS FORTH
2 THE TERMS AND SUBSIDY PAYMENTS FOR A SUBSIDIZED PERMANENT LEGAL
3 CUSTODIANSHIP.

4 "SUCCESSOR PERMANENT LEGAL CUSTODIAN." A RELATIVE OR KIN WHO
5 MEETS ALL OF THE FOLLOWING:

6 (1) WITH WHOM AN ELIGIBLE CHILD RESIDES FOR ANY PERIOD
7 OF TIME.

8 (2) WHO HAS BEEN NAMED AS A SUCCESSOR IN A PERMANENT
9 LEGAL CUSTODIANSHIP AGREEMENT EXECUTED BY AN ELIGIBLE CHILD'S
10 PREVIOUS ELIGIBLE PERMANENT LEGAL CUSTODIAN.

11 (3) WHO MEETS THE REQUIREMENTS FOR EMPLOYMENT IN CHILD-
12 CARE SERVICES AND APPROVAL AS A FOSTER OR ADOPTIVE PARENT
13 UNDER 23 PA.C.S. § 6344.

14 § 3103. FAMILY FINDING REQUIRED.

15 FAMILY FINDING SHALL BE CONDUCTED FOR A CHILD WHEN THE CHILD
16 IS ACCEPTED FOR SERVICE AND AT LEAST ANNUALLY THEREAFTER UNTIL
17 THE CHILD'S INVOLVEMENT WITH THE COUNTY AGENCY IS TERMINATED OR
18 THE FAMILY FINDING IS DISCONTINUED IN ACCORDANCE WITH SECTION
19 3104 (RELATING TO DISCONTINUANCE OF FAMILY FINDING).

20 § 3104. DISCONTINUANCE OF FAMILY FINDING.

21 (A) GENERAL RULE.--A COUNTY AGENCY MAY DISCONTINUE FAMILY
22 FINDING FOR A CHILD UNDER THE FOLLOWING CIRCUMSTANCES:

23 (1) THE CHILD HAS BEEN ADJUDICATED DEPENDENT PURSUANT TO
24 42 PA.C.S. CH. 63 (RELATING TO JUVENILE MATTERS) AND A COURT
25 HAS MADE A SPECIFIC DETERMINATION THAT CONTINUED FAMILY
26 FINDING NO LONGER SERVES THE BEST INTERESTS OF THE CHILD OR
27 IS A THREAT TO THE CHILD'S SAFETY.

28 (2) THE CHILD IS NOT UNDER THE JURISDICTION OF A COURT
29 AND THE COUNTY AGENCY HAS DETERMINED THAT CONTINUED FAMILY
30 FINDING IS A THREAT TO THE CHILD'S SAFETY. A DETERMINATION

1 THAT CONTINUED FAMILY FINDING IS A THREAT TO THE CHILD'S
2 SAFETY MUST BE BASED ON CREDIBLE INFORMATION ABOUT A SPECIFIC
3 SAFETY THREAT, AND THE COUNTY AGENCY SHALL DOCUMENT THE
4 REASONS FOR THE COUNTY AGENCY'S DETERMINATION.

5 (3) THE CHILD IS IN A PREADOPTIVE PLACEMENT, AND COURT
6 PROCEEDINGS TO ADOPT THE CHILD HAVE BEEN COMMENCED PURSUANT
7 TO 23 PA.C.S. PT. III (RELATING TO ADOPTION).

8 (B) RESUMING FAMILY FINDING.--NOTWITHSTANDING THE PROVISIONS
9 OF SUBSECTION (A), A COUNTY AGENCY SHALL RESUME FAMILY FINDING
10 FOR A CHILD IF:

11 (1) THE CHILD IS UNDER THE JURISDICTION OF A COURT AND
12 THE COURT DETERMINES THAT RESUMING FAMILY FINDING IS BEST
13 SUITED TO THE SAFETY, PROTECTION AND PHYSICAL, MENTAL AND
14 MORAL WELFARE OF THE CHILD AND DOES NOT POSE A THREAT TO THE
15 CHILD'S SAFETY; OR

16 (2) THE CHILD IS NOT UNDER THE JURISDICTION OF A COURT
17 AND THE COUNTY AGENCY DETERMINES THAT RESUMING FAMILY FINDING
18 SERVES THE BEST INTEREST OF THE CHILD AND DOES NOT POSE A
19 THREAT TO THE CHILD'S SAFETY.

20 § 3105. KINSHIP CARE PROGRAM.

21 (A) ESTABLISHMENT OF PROGRAM.--THE KINSHIP CARE PROGRAM IS
22 ESTABLISHED IN THE DEPARTMENT.

23 (B) RELATIVE NOTIFICATION.--EXCEPT IN SITUATIONS OF FAMILY
24 OR DOMESTIC VIOLENCE, THE COUNTY AGENCY SHALL EXERCISE DUE
25 DILIGENCE TO IDENTIFY AND NOTIFY ALL GRANDPARENTS AND OTHER
26 ADULT RELATIVES TO THE FIFTH DEGREE OF CONSANGUINITY OR AFFINITY
27 TO THE PARENT OR STEPPARENT OF A DEPENDENT CHILD AND EACH PARENT
28 WHO HAS LEGAL CUSTODY OF A SIBLING OF A DEPENDENT CHILD WITHIN
29 30 DAYS OF THE CHILD'S REMOVAL FROM THE CHILD'S HOME IF
30 TEMPORARY LEGAL AND PHYSICAL CUSTODY HAS BEEN TRANSFERRED TO THE

1 COUNTY AGENCY. THE NOTICE MUST EXPLAIN ALL OF THE FOLLOWING:

2 (1) ANY OPTIONS UNDER FEDERAL AND STATE LAW AVAILABLE TO
3 THE RELATIVE TO PARTICIPATE IN THE CARE AND PLACEMENT OF THE
4 CHILD, INCLUDING ANY OPTIONS THAT WOULD BE LOST BY FAILING TO
5 RESPOND TO THE NOTICE.

6 (2) THE REQUIREMENTS TO BECOME A FOSTER PARENT,
7 PERMANENT LEGAL CUSTODIAN OR ADOPTIVE PARENT.

8 (3) THE ADDITIONAL SUPPORTS THAT ARE AVAILABLE FOR
9 CHILDREN REMOVED FROM THE CHILD'S HOME.

10 (C) PLACEMENT OF CHILDREN.--IF A CHILD HAS BEEN REMOVED FROM
11 THE CHILD'S HOME UNDER A VOLUNTARY PLACEMENT AGREEMENT OR IS IN
12 THE LEGAL CUSTODY OF THE COUNTY AGENCY, THE COUNTY AGENCY SHALL
13 GIVE FIRST CONSIDERATION TO PLACEMENT WITH RELATIVES OR KIN. THE
14 COUNTY AGENCY SHALL DOCUMENT THAT AN ATTEMPT WAS MADE TO PLACE
15 THE CHILD WITH A RELATIVE OR KIN. IF THE CHILD IS NOT PLACED
16 WITH A RELATIVE OR KIN, THE AGENCY SHALL DOCUMENT THE REASON WHY
17 THE PLACEMENT WAS NOT POSSIBLE.

18 (D) REGULATIONS.--THE DEPARTMENT IS AUTHORIZED TO PROMULGATE
19 REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS
20 CHAPTER. THE REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO,
21 THE FOLLOWING:

22 (1) RELATIVES AND KIN SHALL RECEIVE THE SAME FOSTER CARE
23 RATE AS OTHER FOSTER PARENTS IF THEY COMPLY WITH THE
24 REGULATIONS GOVERNING FOSTER PARENTS.

25 (2) FOSTER CARE PAYMENTS RECEIVED BY A RELATIVE OR KIN
26 WHO IS A FOSTER PARENT SHALL BE EXCLUDED FROM CONSIDERATION
27 WHEN CALCULATING ELIGIBILITY FOR PUBLIC ASSISTANCE.

28 § 3106. SUBSIDIZED PERMANENT LEGAL CUSTODIANSHIP PROGRAM.

29 (A) ESTABLISHMENT OF PROGRAM.--THE SUBSIDIZED PERMANENT
30 LEGAL CUSTODIANSHIP PROGRAM IS ESTABLISHED IN THE DEPARTMENT.

1 (B) IMPLEMENTATION.--THE DEPARTMENT SHALL ESTABLISH AND
2 DEVELOP CRITERIA AND IS AUTHORIZED TO PROMULGATE NECESSARY
3 REGULATIONS FOR COUNTY AGENCIES TO IMPLEMENT THE SUBSIDIZED
4 PERMANENT LEGAL CUSTODIANSHIP PROGRAM IN ACCORDANCE WITH THE
5 PROVISIONS OF THIS CHAPTER. THE CRITERIA AND REGULATIONS SHALL
6 INCLUDE, BUT NOT BE LIMITED TO, IDENTIFICATION OF ELIGIBLE
7 CHILDREN AND ELIGIBLE PERMANENT LEGAL CUSTODIANS, PROCEDURES FOR
8 IMPLEMENTING THE PROGRAM AND REPORTING REQUIREMENTS BY COUNTY
9 AGENCIES.

10 § 3107. PERMANENT LEGAL CUSTODIANSHIP SUBSIDY AND
11 REIMBURSEMENT.

12 (A) AMOUNT.--THE AMOUNT OF PERMANENT LEGAL CUSTODIANSHIP
13 SUBSIDY FOR MAINTENANCE COSTS TO A PERMANENT LEGAL CUSTODIAN OR
14 A SUCCESSOR PERMANENT LEGAL CUSTODIAN SHALL NOT EXCEED THE
15 MONTHLY PAYMENT RATE FOR FOSTER FAMILY CARE IN THE COUNTY IN
16 WHICH THE CHILD RESIDES.

17 (B) COUNTY REIMBURSEMENT.--THE DEPARTMENT SHALL REIMBURSE
18 THE COUNTY AGENCY FOR AT LEAST 80% OF THE COST OF A PERMANENT
19 LEGAL CUSTODIANSHIP SUBSIDY PAYMENT PROVIDED BY A COUNTY AGENCY
20 IN ACCORDANCE WITH THE PROVISIONS OF THIS CHAPTER, PROVIDED THAT
21 THE COUNTY AGENCY COMPLIES WITH THE REQUIREMENTS ESTABLISHED BY
22 THE DEPARTMENT.

23 SECTION 5. REPEALS ARE AS FOLLOWS:

24 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
25 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF 67
26 PA.C.S. CH. 21.

27 (2) SUBARTICLE (E) OF ARTICLE VII OF THE ACT OF JUNE 13,
28 1967 (P.L.31, NO.21), KNOWN AS THE HUMAN SERVICES CODE, IS
29 REPEALED.

30 (3) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER

1 PARAGRAPH (4) IS NECESSARY TO EFFECTUATE THE ADDITION OF 67
2 PA.C.S. CH. 31.

3 (4) ARTICLE XIII OF THE HUMAN SERVICES CODE IS REPEALED.
4 SECTION 6. THE ADDITION OF 67 PA.C.S. CHS. 21 AND 31 IS A
5 CONTINUATION OF SUBARTICLE (E) OF ARTICLE VII AND ARTICLE XIII
6 OF THE ACT OF JUNE 13, 1967 (P.L.31, NO.21), KNOWN AS THE HUMAN
7 SERVICES CODE. THE FOLLOWING APPLY:

8 (1) EXCEPT AS OTHERWISE PROVIDED IN 67 PA.C.S. CHS. 21
9 AND 31, ALL ACTIVITIES INITIATED UNDER SUBARTICLE (E) OF
10 ARTICLE VII AND ARTICLE XIII OF THE HUMAN SERVICES CODE SHALL
11 CONTINUE AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE
12 COMPLETED UNDER 67 PA.C.S. CH. 21 OR 31. ORDERS, REGULATIONS
13 AND DECISIONS THAT WERE MADE UNDER SUBARTICLE (E) OF ARTICLE
14 VII OR ARTICLE XIII OF THE HUMAN SERVICES CODE AND WHICH ARE
15 IN EFFECT ON THE EFFECTIVE DATE OF THIS SECTION SHALL REMAIN
16 IN FULL FORCE AND EFFECT UNTIL REVOKED, VACATED OR MODIFIED
17 UNDER 67 PA.C.S. CH. 21 OR 31. CONTRACTS, OBLIGATIONS AND
18 AGREEMENTS ENTERED INTO UNDER SUBARTICLE (E) OF ARTICLE VII
19 OR ARTICLE XIII OF THE HUMAN SERVICES CODE ARE NOT AFFECTED
20 OR IMPAIRED BY THE REPEAL OF THESE PROVISIONS.

21 (2) ANY DIFFERENCE IN LANGUAGE BETWEEN 67 PA.C.S. CHS.
22 21 AND 31 AND SUBARTICLE (E) OF ARTICLE VII AND ARTICLE XIII
23 OF THE HUMAN SERVICES CODE, RESPECTIVELY, IS INTENDED ONLY TO
24 CONFORM TO THE STYLE OF THE PENNSYLVANIA CONSOLIDATED
25 STATUTES AND IS NOT INTENDED TO CHANGE OR AFFECT THE
26 LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR ADMINISTRATION
27 AND IMPLEMENTATION OF SUBARTICLE (E) OF ARTICLE VII AND
28 ARTICLE XIII OF THE HUMAN SERVICES CODE.

29 (3) ANY REFERENCE IN A STATUTE OR A REGULATION TO
30 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.