

1 HB297
2 127265-5
3 By Representative Williams (J)
4 RFD: State Government
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ENROLLED, An Act,

To amend Sections 26-10-22, 26-10-24, 26-10-25, 26-10-26, and 26-10-29 of the Code of Alabama 1975, relating to the adoption subsidy act; to provide definitions; to provide for subsidy payments; to provide for termination of subsidy payments; and to provide for annual reporting and hearing procedures.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 26-10-22, 26-10-24, 26-10-25, 26-10-26, and 26-10-29 of the Code of Alabama 1975, are amended to read as follows:

"§26-10-22.

"As used in this article, the following words shall have the following meanings unless the context indicates otherwise:

"(1) ADOPTION SUBSIDY. A money payment, services, deferred payment, or any combination thereof that is provided to a child with special needs or circumstances after submission of an application to the department.

"(2) AGENCY. The department or a child welfare agency which is authorized in its license issued by the department to place children for adoption.

1 "(3) APPLICATION. The submission to the department
 2 of a complete application as defined by the department with
 3 documentation of the child's special needs.

4 ~~"As used in this article, except as otherwise~~
 5 ~~required by the context, "child" means a child or a minor as~~
 6 ~~defined by Alabama statute, (4) CHILD. An individual under 19~~
 7 ~~years of age, or an individual 19 or 20 years of age and~~
 8 ~~eligible for Title IV-E Federal Funding, who is (a)a. in the~~
 9 ~~permanent care or custody, or both, of the department, a~~
 10 ~~public or voluntary licensed child-placing agency, (b)b.~~
 11 ~~legally free for adoption and (c)c. in special need or~~
 12 ~~circumstances because he or she is not likely to be adopted by~~
 13 ~~reason of one or more, or a combination of, the following~~
 14 ~~conditions, such as:~~

15 ~~"(1)1. Physical or mental disability,.~~

16 ~~"(2)2. Emotional disturbance,.~~

17 ~~"(3)3. Recognized high risk of physical or mental~~
 18 ~~disease,.~~

19 ~~"(4)4. Age, as determined by the department.~~

20 ~~"(5)5. Sibling relationship,.~~

21 ~~"(6)6. Racial or ethnic factors,.~~

22 ~~"(7) Potential danger to the child in severance of~~
 23 ~~his or her emotional ties with the prospective adoptive~~
 24 ~~parents, or~~

25 ~~"(8) Any combination of these conditions.~~

1 "(5) DEPARTMENT. The Department of Human Resources.

2 "(6) DEVELOPMENTAL DISABILITY. A developmental
3 disability as diagnosed by a licensed medical doctor or
4 qualified mental health professional.

5 "(7) EMOTIONAL DISTURBANCE. An emotional condition
6 which impedes the child's ordinary developmental progress as
7 diagnosed by a licensed medical doctor or qualified mental
8 health professional.

9 "(8) EMOTIONAL TIES. Includes all of the following:

10 "a. Identification of the child as a member of the
11 foster family.

12 "b. Identification by the foster family of the child
13 as belonging to that family.

14 "c. The likelihood that the child will not establish
15 significant emotional placement ties to another family if he
16 or she is denied permanent placement with the foster family.

17 "(9) HIGH RISK OF PHYSICAL OR MENTAL DISEASE. A
18 potentially debilitating condition as diagnosed by a licensed
19 medical doctor or qualified mental health professional.

20 "(10) MENTAL DISABILITY. A condition which is
21 characterized by impaired intellectual development and impedes
22 the ability to function independently as diagnosed by a
23 licensed medical doctor or qualified mental health
24 professional.

1 "(11) PHYSICAL DISABILITY. One of the following
2 conditions:

3 "a. A chronically debilitating, progressive, or
4 fatal disease which requires assistance for the child in
5 activities of daily living.

6 "b. The requirement of assistance of another person
7 or mechanical device for movement from place to place.

8 "(12) RACIAL OR ETHNIC FACTORS. Black, Hispanic,
9 Native American, Asian, or other heritage which may prevent a
10 child from being adopted.

11 "\$26-10-24.

12 ~~"When foster parents are the prospective adoptive~~
13 ~~parents, certification of the child's eligibility for a~~
14 ~~subsidy shall be conditioned upon his or her adoption by the~~
15 ~~prospective adoptive parents under applicable Alabama adoption~~
16 ~~policies, procedures, and statutes.~~

17 ~~"In all other cases, after (1) Except in cases~~
18 ~~involving foster parents, where the department has made~~
19 ~~reasonable efforts have been made and no to locate an~~
20 ~~appropriate adoptive family to adopt the child without the use~~
21 ~~of subsidy and no family has been found for a the child, the~~
22 ~~State Department of Human Resources shall certify the child as~~
23 ~~eligible for a subsidy in the event of adoption, provided the~~
24 ~~other requirements of this chapter are met.~~

1 ~~"If the child is in the permanent custody of a~~
2 ~~voluntary licensed child-placing agency, that agency shall~~
3 ~~present to the State Department of Human Resources (a)~~

4 ~~"(2) In cases involving foster parents where there~~
5 ~~is evidence to support the existence of potential danger to~~
6 ~~the child in severing his or her emotional ties with his or~~
7 ~~her foster parents who are the prospective adoptive parents,~~
8 ~~or (b) evidence of inability to place the child for adoption~~
9 ~~due to any of the other conditions specified in Section~~
10 ~~26-10-22. In the latter case, the agency shall present no~~
11 ~~evidence need be presented that reasonable efforts have been~~
12 ~~made to place the child without subsidy, such as recruitment~~
13 ~~of potential parents, use of adoption resource exchanges, and~~
14 ~~referral to appropriate specialized adoption agencies.~~

15 ~~"(3) Application for adoption subsidy shall be in~~
16 ~~the form and contain the information required by the~~
17 ~~department.~~

18 ~~"The decision concerning certification of the child~~
19 ~~for subsidy shall be made by the State Department of Human~~
20 ~~Resources. Evidence submitted by the voluntary licensed~~
21 ~~child-placing agency shall serve as a basis for the decision~~
22 ~~and the State Department of Human Resources may request and~~
23 ~~receive from the voluntary licensed child-placing agency~~
24 ~~additional information which the State Department of Human~~
25 ~~Resources considers necessary to the decision.~~

1 ~~"If the~~ (4) The State Department of Human Resources
2 ~~approves the subsidy plan, it will draft~~ will negotiate with
3 the adoptive parent or parents and sign jointly with the
4 adoptive parents the subsidy agreement. The State Department
5 of Human Resources will be the administrator of the subsidy
6 agreement according to its regulations and the terms of this
7 article.

8 "The voluntary licensed child-placing agency shall
9 continue supervisory responsibility for the child and the
10 family until after the final adoption decree has been issued.

11 "§26-10-25.

12 "When parents are found and approved for adoption of
13 a child certified as eligible for subsidy, and before the
14 final decree of adoption is issued, there must be a written
15 agreement between the State Department of Human Resources and
16 the adopting family as to the terms and conditions of the
17 subsidy. ~~Adoption~~ Upon determination of eligibility, adoption
18 subsidies in individual cases may commence at any time after
19 the adoption placement or at the appropriate time after the
20 adoption decree, and will vary with the needs of the child and
21 as negotiated with the adoptive parent or parents, and
22 according to, as well as the availability of, other resources
23 to meet the child's needs. The subsidy may be for special
24 services only, or for money payments, payment deferred, and
25 either for a limited period, or for a long term, or for any

1 combination of the foregoing. The amount of the time-limited
2 or long-term subsidy may in no case exceed that which would be
3 allowable ~~from time to time~~ for such child if the child has
4 remained in foster care, or, in the case of special service,
5 the reasonable fee for the service rendered. If the adopted
6 parent or parents move to another state of residence with the
7 child, the adoption subsidy payment shall continue if the
8 child's needs remain the same and the child was a resident of
9 Alabama when eligibility for subsidy was certified. Payments
10 shall be made to the legal parent with physical custody of the
11 child except for school or other parent authorized placements
12 unless otherwise ordered by a court or by signed agreement by
13 the parent or parents and the department. No payment may be
14 made to a parent or parents if the child is not a citizen or
15 permanent legal resident of the United States unless the child
16 was adopted outside the United States and brought into this
17 country for the purpose of adoption and the adoption failed
18 and the child was placed into foster care.

19 "§26-10-26.

20 ~~"When subsidies are for more than one year, the~~
21 ~~adoptive parents shall present an annual sworn certification~~
22 ~~that the adopted child remains under their care and that the~~
23 ~~condition(s) that caused the child to be certified continue(s)~~
24 ~~to exist. The subsidy agreement shall be continued in~~
25 ~~accordance with its terms but only as long as the adopted~~

1 ~~child is the legal dependent of the adoptive parents and the~~
2 ~~child's condition continues, except that, in the absence of~~
3 ~~other appropriate resources provided by law and in accordance~~
4 ~~with Alabama regulations, it may be continued after the~~
5 ~~adopted child reaches majority, provided he or she is in~~
6 ~~school or in training in a program, the purpose of which is to~~
7 ~~aid him toward self-support. If the child certified for~~
8 ~~subsidy was in permanent custody of a voluntary licensed~~
9 ~~child-placing agency, that agency shall, upon request, furnish~~
10 ~~the State Department of Human Resources additional information~~
11 ~~which may be needed to assure that the condition(s) that~~
12 ~~caused the child to be certified continue(s) to exist. The~~
13 ~~subsidy agreement may be modified only with approval of the~~
14 ~~State Department of Human Resources. The adoptive parents may~~
15 ~~request termination of the subsidy agreement at any time.~~

16 "(1) The department may require the adoptive parent
17 or parents to submit a verified report, annually or at a time
18 or times specified in the agreement or by rule, stating where
19 the department is investigating an allegation of improperly
20 received benefits. The parent shall state in the report that
21 the child remains under their care and any change in the
22 conditions or circumstances of the adopting parent or the
23 needs of the child. The subsidy agreement shall continue
24 according to its terms, except as provided by this article.
25 The department may confirm the accuracy and veracity of the

1 report from any reliable sources of information concerning the
2 adoptive family and child, including any governmental or
3 private agency that serves the area in which the child
4 resides. If the report or information received by the
5 department indicates a substantial change in the conditions
6 that existed when the adoption subsidy agreement was signed,
7 the department may, after notice and with the agreement of the
8 adoptive parent or parents, modify the adoption subsidy
9 agreement, service, subsidy payment, or any combination
10 thereof.

11 The parent may request a review based upon a
12 substantial change in condition since the last adoption
13 subsidy agreement was signed.

14 "(2)a. The term of any adoption subsidy agreement
15 under this chapter, including any extension of the original
16 term, and any subsidy payment ends when any of the following
17 events occurs:

18 "1. The child becomes 18 years of age.

19 "2. The adoptive parent or parents are no longer
20 legally responsible for support of the child.

21 "3. The child is no longer receiving support from
22 the adoptive parent or adoptive parents.

23 "4. The child becomes emancipated.

24 "5. The child dies.

25 "6. The child's adoption is terminated.

1 "7. The adoptive parent or parents request
2 termination of the subsidy agreement.

3 "8. The child is no longer the legal dependant of
4 the adoptive parent or parents.

5 "9. The child is no longer considered to have the
6 condition or conditions that caused the child to be certified
7 for payment.

8 "10. The reduction or termination of funding.

9 "b. The department shall continue the adoption
10 subsidy payments in amounts determined by agreement among the
11 department, the child, and the adoptive parents, for children
12 adopted after age 16 during the time after the child becomes
13 18 years of age and up to the time the child reaches 21 years
14 of age if any of the following occurs:

15 "1. The child is enrolled or completing an education
16 in a program leading to an equivalent credential in any of the
17 following:

18 "(i) A secondary school.

19 "(ii) A public or private institution of higher
20 education.

21 "(iii) A course of career or technical education.

22 "(iv) The child is participating in a program or
23 activity designed to promote or remove barriers to employment.

24 "(v) The child is employed for at least 80 hours per
25 month.

1 "2. The child has a physical disability or a mental
2 disability and is in need of continued support.

3 "3. The child is incapable of attending school, a
4 training program, or employment due to a medical condition.

5 "\$26-10-29.

6 "(1) Any subsidy decision by the State Department of
7 Human Resources which the placement agency or the adoptive
8 parents deem adverse to the child is reviewable by the State
9 Department of Human Resources.

10 "(2) In any case where an application under this
11 chapter is denied or an adoption subsidy is reduced or
12 terminated, the applicant or parent recipient shall have the
13 right to appeal in writing to the department for a hearing
14 within 30 days of receipt of notice in accordance with the
15 Alabama Administrative Procedure Act."

16 Section 2. This act shall become effective
17 immediately following its passage and approval by the
18 Governor, or its otherwise becoming law.

