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BILL ANALYSIS

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Senate Bill 170 (as introduced 2-6-07)
Sponsor: Senator Irma Clark-Coleman
Committee: Families and Human Services

Date Completed: 11-6-07

CONTENT

The bill would create the "Relative Guardianship Assistance Act" to do the following:

- **Require the Department of Human Services (DHS) to make monthly relative guardianship assistance payments to a related legal guardian of an eligible child, equal to 66% of the amount that the Department would pay on behalf of the child for licensed foster care or relative placement.**
- **Require the guardian, as a condition of receiving this assistance, to assign support payments for the child to the DHS county office, as required under Federal law.**
- **Require the DHS to terminate relative guardianship assistance payments under particular circumstances.**
- **Provide for an appeal of the DHS's decision to terminate or alter the terms of guardianship assistance, or deny an application for assistance.**
- **Require the local DHS county office to compile certain information regarding the guardian's family and report that information to the DHS, as required under Federal law.**

Eligible Guardian

A guardian who met all of the following criteria would be eligible to receive relative guardianship assistance on behalf of an eligible child:

- The guardian was the child's relative.
- The child resided with the guardian in the guardian's home.

- The guardian was primarily responsible for providing one or more of the following for the child: appropriate care, support, maintenance, education, or welfare.

"Guardian" would mean a person appointed by the court to act as a legal guardian for a child. "Relative" would mean an individual who had a relationship to the child within the fifth degree of consanguinity. A relative also could include a grandparent, great-grandparent, step-parent, or step-sibling, or the spouse, former spouse, or surviving spouse of any of those relatives.

Eligible Child

A child (a person less than 18 years of age) who met all of the following criteria would be considered an eligible child:

- The court had appointed a guardian for the child under Section 5204 of the Estates and Protected Individuals Code (EPIC), and that guardian was the child's relative.
- The total income attributable to the child under Federal Temporary Assistance to Needy Families (TANF) rules and guidelines was less than 250% of the Federal poverty guidelines published by the U.S. Department of Health and Human Services.
- The child had resided with the guardian in the guardian's home continuously for at least three months.

(Under Section 5204 of EPIC, a person interested in the welfare of a minor, or a minor who is at least 14, may petition the court for appointment of a guardian for the

minor. The court may appoint a guardian for an unmarried minor if any of the following apply:

- The parental rights of both parents or the surviving parent have been suspended by a prior court order or other circumstances.
- The parent or parents permit the minor to reside with another person and do not provide that person with legal authority for the minor's care and maintenance, and the minor is not residing with the parent or parents when the petition is filed.
- The minor's biological parents have never been married to each other, the custodial parent dies or is missing and the other parent has not been granted legal custody, and the proposed guardian is related to the minor within the fifth degree by marriage, blood, or adoption.)

Assistance

Subject to the provisions of the bill, the DHS county office would have to make monthly payments of relative guardianship assistance to an eligible guardian on behalf of an eligible child. The rate paid would have to equal 66% of the rate paid by the DHS on behalf of a child placed in a licensed foster home or a relative placement at the time the relative guardianship assistance payment was being made.

The guardian would have to apply for relative guardianship assistance to the local county office in the county in which the child resided.

("County office" would mean a DHS county office that currently has or previously had supervisory authority concerning a child who is or has been an abused or neglected child and who is or may be eligible for relative guardianship assistance. "Local county office" would mean a county office located in the county in which the guardian resides.)

The DHS would have to review the eligibility of the guardian and child for continuation of relative guardianship assistance payments at least once a year. The guardian would have to provide the eligibility information requested by the DHS for purposes of that annual review.

The DHS could pay all or a portion of monthly relative assistance payments from funds available to the State through TANF or another approved funding source.

The county office would not be responsible for administration of the guardianship, accounting to the child or court for any activities of the guardian, or disposing of the proceeds of monthly relative guardianship assistance payments made to the guardian on behalf of the eligible child.

Duties of Guardian

A guardian receiving relative guardianship assistance payments on behalf of an eligible child would have to comply with all duties and responsibilities of a guardian of a minor under the Estates and Protected Individuals Code, including filing with the court having jurisdiction over the guardianship any required pleading, report, document, or account with respect to the guardianship estate.

The guardian would have to give notice of all hearings in the guardianship proceedings to the individuals required to receive notice under Section 5213 of EPIC, and would have to give notice to the DHS during any time that a guardianship assistance agreement was in effect.

(That section of EPIC requires a petitioner to give notice of the time and place of a hearing of a petition for the appointment of a minor's guardian to the minor (if he or she is at least 14), the person who had the principal care and custody of the minor during the previous 63 days, and each living parent of the minor, or if neither of them is living, the adult nearest of kin to the minor.)

In addition, the guardian would have to apply for and maintain on behalf of the child any public or private medical insurance or assistance for which the child was eligible, including eligibility under applicable laws providing financial assistance for medical or health care expenses.

Assignment of Other Support

As a condition of receiving monthly relative guardianship assistance payments, a guardian would have to assign to the county office any right that the guardian had, on his or her own behalf, or on behalf of the

eligible child or any other family member residing in the guardian's household, to receive child support payments from a noncustodial parent for the benefit of the child, as required under 42 USC 608(a)(3) and any rules or regulation implementing those provisions.

(Under that section of the U.S. Code, a state that receives Federal TANF funding must require, as a condition of providing TANF assistance to a family, that a member of the family assign to the state any rights he or she may have to support on behalf of the family member or any other person for whom he or she has applied for or is receiving assistance, not exceeding the total amount of assistance provided to the family.)

The guardianship assistance agreement could include a provision by which the guardian would assign child support rights to the county office. ("Guardianship assistance agreement" would mean a written agreement signed by a guardian and a county office caseworker, in a form prescribed by the DHS, that provided for a monthly relative guardianship assistance payment to the guardian on behalf of the child.)

All amounts received by the DHS through the State Disbursement Unit as payment of a current or accrued child support obligation or arrearage on behalf of a child for whom monthly relative guardianship assistance payments were made would have to be redistributed in accordance with 42 USC 657 and any applicable Federal regulations, subject to the requirements of a court order in effect relating to payment of support on behalf of the child.

(That section of the U.S. Code pertains to the distribution of support payments under TANF collected on behalf of a family by a state. The section provides that if a family is receiving assistance from the state, the state must pay to the Federal government the Federal share of the amount collected, and retain or redistribute to the family the state portion of the amount. The section includes provisions for the distribution of current amounts required to be paid to the family under the TANF program, and for the distribution of arrearages owed to the family.)

Termination of Assistance

The DHS could not make relative guardianship assistance payments after one of the following occurred:

- The child reached 18 years of age.
- The court entered an order awarding legal custody of the child to an individual other than the guardian.
- The child was incarcerated in an adult correctional facility under a sentence and commitment order of a court of competent jurisdiction.
- The child was placed in a juvenile residential facility for at least 90 days.
- The child was removed from the guardian's home by court order.
- The child died.
- The child was adopted by the guardian or another individual under the Michigan Adoption Code or the adoption laws of another state or country.
- The legal guardianship was terminated by order of the court having jurisdiction in the guardianship proceeding.
- The child no longer resided in the guardian's home.
- The guardian failed to submit to the county office information it required or requested for the annual review required under the bill.
- The guardian was not providing the financial assistance necessary for the support and maintenance of the child as determined by the court according to an annual guardianship review.
- The guardian no longer satisfied one or more of the criteria to an eligible guardian.
- The guardian failed to maintain on behalf of the child any public or private medical insurance or assistance for which the child was eligible.
- A successor guardian had been appointed for the child in a guardianship proceeding.
- The DHS determined that funds no longer were available to support continuation of monthly relative guardianship assistance payments.

The DHS would have to send notice of termination of relative guardianship assistance payments by mail to the guardian at his or her current or last known address, and to the court with jurisdiction over the guardianship case. The notice would have

to include a statement of the Department's reason for termination.

Reporting Requirements

The county office that approved a guardianship assistance agreement would be responsible for collecting, assembling, and reporting to the DHS, in the form prescribed by the Department, all data and information needed for preparation of any report that the State was required to submit to the U.S. Department of Health and Human Services under 42 USC 611 and certain regulations implementing that statute, regarding monthly relative guardianship assistance payments made from funds provided to the DHS through TANF, or for any other reporting that could be required by other funding sources.

(Under 42 USC 611, a state receiving a block grant for a TANF program must report to the Secretary of the U.S. Department of Health and Human Services on a quarterly basis, certain disaggregated information on the families receiving funding under the program.)

The guardian would have to cooperate with the county office and provide all information that he or she possessed as requested by the county office to facilitate compliance with the requirements of the bill.

Appeal

An applicant for relative guardianship assistance under the bill or a guardian or child who had received relative guardianship assistance under a guardianship assistance agreement could appeal a decision of the DHS or county office denying the application, establishing or modifying the amount of monthly relative guardianship assistance payment, or terminating relative guardianship assistance according to the Administrative Procedures Act.

Legislative Analyst: Curtis Walker

FISCAL IMPACT

The FY 2007-08 budget includes \$4.6 million GF/GP for the estimated first 12 months of costs associated with the subsidized guardianship program.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.