

SUBSTITUTE FOR
SENATE BILL NO. 227

A bill to amend 2008 PA 260, entitled
"Subsidized guardianship assistance act,"
by amending the title and sections 1, 2, 3, 4, 5, 6, and 9 (MCL
722.871, 722.872, 722.873, 722.874, 722.875, 722.876, and 722.879)
and by adding sections 5a and 5b; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide for ~~subsidy~~**ASSISTANCE** payments to certain
3 guardians of minors; and to provide for duties and responsibilities
4 of certain state departments and agencies.

5 Sec. 1. This act shall be known and may be cited as the
6 "~~subsidized~~"guardianship assistance act".

1 Sec. 2. As used in this act:

2 (a) "Child" means a person less than 18 years of age.

3 (b) "Department" means the department of human services.

4 (c) "Eligible child" means a child who meets the eligibility
5 criteria set forth in section 3 for receiving ~~subsidized~~
6 guardianship assistance.

7 (d) "Guardian" means a person appointed by the court to act as
8 a legal guardian for a child ~~pursuant to~~ **UNDER** section 19a or 19c
9 of chapter XIIIA of the probate code, MCL 712A.19a and 712A.19c.

10 **(E) "GUARDIANSHIP ASSISTANCE AGREEMENT" MEANS A NEGOTIATED**
11 **BINDING AGREEMENT REGARDING FINANCIAL SUPPORT AS DESCRIBED IN**
12 **SECTION 5 FOR CHILDREN WHO MEET THE QUALIFICATIONS FOR GUARDIANSHIP**
13 **ASSISTANCE AS SPECIFIED IN THIS ACT OR IN THE DEPARTMENT'S**
14 **ADMINISTRATIVE RULES.**

15 **(F)** ~~(e)~~—"Legal custodian" means an individual who is at least
16 18 years of age in whose care a child remains or is placed after a
17 court makes a finding under section 13a of chapter XIIIA of the
18 probate code, MCL 712A.13a.

19 **(G)** ~~(f)~~—"Probate code" means the probate code of 1939, 1939 PA
20 288, MCL 710.21 to 712A.32.

21 **(H)** ~~(g)~~—"Relative" means an individual who is at least 18
22 years of age and related to the child by blood, marriage, or
23 adoption, as grandparent, great-grandparent, great-great-
24 grandparent, aunt or uncle, great-aunt or great-uncle, great-great-
25 aunt or great-great-uncle, sibling, stepsibling, nephew or niece,
26 first cousin or first cousin once removed, or the spouse of any of
27 the above, even after the marriage has ended by death or divorce.

1 The parent of a man who the court has found probable cause to
2 believe is the putative father if there is no man with legally
3 established rights to the child may be considered a relative under
4 this act but this is not to be considered as a finding of paternity
5 and does not confer legal standing on the putative father.

6 ~~—— (h) "Subsidized guardianship assistance agreement" means an~~
7 ~~agreement regarding financial support for children who meet the~~
8 ~~qualifications for subsidized guardianship assistance as specified~~
9 ~~in this act or in the department's administrative rules.~~

10 (i) "Title IV-E" refers to the federal assistance provided
11 through the United States department of health and human services
12 to reimburse states for foster care, and adoption assistance
13 payments, **AND GUARDIANSHIP ASSISTANCE PAYMENTS.**

14 Sec. 3. ~~A child is eligible to receive subsidized guardianship~~
15 ~~assistance if he or she is a ward of the court under section 2(b)~~
16 ~~of chapter XIIIA of the probate code, MCL 712A.2, or is under the~~
17 ~~Michigan children's institute jurisdiction, control, or~~
18 ~~supervision, and both of the following apply:~~

19 ~~—— (a) A specific factor or condition, or a combination of~~
20 ~~factors and conditions, exists with respect to the child so that it~~
21 ~~is reasonable to conclude that the child cannot be placed with a~~
22 ~~guardian without providing subsidy payments under this act. The~~
23 ~~factors or conditions to be considered may include ethnic or family~~
24 ~~background, age, membership in a minority or sibling group, medical~~
25 ~~condition, physical, mental, or emotional disability, or length of~~
26 ~~time the child has been waiting for a permanent home.~~

27 ~~—— (b) A reasonable but unsuccessful effort was made to place the~~

~~child with an appropriate guardian without providing subsidy~~
~~assistance under this act or a prospective placement is the only~~
~~placement in the best interest of the child.~~ **A CHILD IS ELIGIBLE TO**
RECEIVE GUARDIANSHIP ASSISTANCE IF THE DEPARTMENT DETERMINES THAT
ALL OF THE FOLLOWING APPLY:

(A) THE CHILD HAS BEEN REMOVED FROM HIS OR HER HOME AS A
RESULT OF A JUDICIAL DETERMINATION THAT ALLOWING THE CHILD TO
REMAIN IN THE HOME WOULD BE CONTRARY TO THE CHILD'S WELFARE.

(B) THE CHILD HAS RESIDED IN THE HOME OF THE PROSPECTIVE
GUARDIAN FOR, AT A MINIMUM, 6 CONSECUTIVE MONTHS.

(C) REUNIFICATION OR PLACING THE CHILD FOR ADOPTION IS NOT AN
APPROPRIATE PERMANENCY OPTION.

(D) THE CHILD DEMONSTRATES A STRONG ATTACHMENT TO THE
PROSPECTIVE GUARDIAN AND THE GUARDIAN HAS A STRONG COMMITMENT TO
CARING PERMANENTLY FOR THE CHILD.

(E) IF THE CHILD HAS REACHED 14 YEARS OF AGE, HE OR SHE HAS
BEEN CONSULTED REGARDING THE GUARDIANSHIP ARRANGEMENT.

Sec. 4. (1) A-SUBJECT TO SUBSECTION (2), A guardian who meets
all of the following criteria may receive ~~subsidized~~ guardianship
assistance on behalf of an eligible child:

(a) The guardian is the eligible child's relative or legal
custodian.

(b) The guardian is ~~assessed~~ A LICENSED FOSTER PARENT and
approved for ~~subsidized~~ guardianship assistance by the department.
THE APPROVAL PROCESS SHALL INCLUDE CRIMINAL RECORD CHECKS AND CHILD
ABUSE AND NEGLECT CENTRAL REGISTRY CHECKS ON THE GUARDIAN AND ALL
ADULTS LIVING IN THE GUARDIAN'S HOME AS WELL AS FINGERPRINT-BASED

1 CRIMINAL RECORD CHECKS ON THE GUARDIAN. IF THE GUARDIAN'S
2 FINGERPRINTS ARE STORED IN THE AUTOMATED FINGERPRINT IDENTIFICATION
3 SYSTEM UNDER SECTION 5K OF 1973 PA 116, MCL 722.115K, THE
4 DEPARTMENT SHALL USE THOSE FINGERPRINTS FOR THE CRIMINAL RECORD
5 CHECK REQUIRED IN THIS SUBDIVISION.

6 (c) The eligible child ~~resides~~HAS RESIDED with the
7 PROSPECTIVE guardian in the PROSPECTIVE guardian's residence FOR A
8 MINIMUM OF 6 MONTHS BEFORE THE APPLICATION FOR GUARDIANSHIP
9 ASSISTANCE IS RECEIVED BY THE DEPARTMENT.

10 (2) ONLY A RELATIVE WHO IS A LICENSED FOSTER PARENT CARING FOR
11 A CHILD WHO IS ELIGIBLE TO RECEIVE TITLE IV-E-FUNDED FOSTER CARE
12 PAYMENTS FOR 6 CONSECUTIVE MONTHS IS ELIGIBLE FOR FEDERAL FUNDING
13 UNDER TITLE IV-E FOR GUARDIANSHIP ASSISTANCE. A CHILD WHO IS NOT
14 ELIGIBLE FOR TITLE IV-E FUNDING WHO IS PLACED WITH A LICENSED
15 FOSTER PARENT, RELATED OR UNRELATED, AND WHO MEETS THE REQUIREMENTS
16 OF SECTION 3(A) TO (E) MAY BE ELIGIBLE FOR STATE-FUNDED
17 GUARDIANSHIP ASSISTANCE.

18 (3) IF A CHILD IS ELIGIBLE FOR TITLE IV-E-FUNDED GUARDIANSHIP
19 ASSISTANCE UNDER SECTION 3 BUT HAS A SIBLING WHO IS NOT ELIGIBLE
20 UNDER SECTION 3, BOTH OF THE FOLLOWING APPLY:

21 (A) THE CHILD AND ANY OF THE CHILD'S SIBLINGS MAY BE PLACED IN
22 THE SAME RELATIVE GUARDIANSHIP ARRANGEMENT IN ACCORDANCE WITH
23 CHAPTER XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.1
24 TO 712A.32, IF THE DEPARTMENT AND THE RELATIVE AGREE ON THE
25 APPROPRIATENESS OF THE ARRANGEMENT FOR THE SIBLING.

26 (B) TITLE IV-E-FUNDED RELATIVE GUARDIANSHIP ASSISTANCE
27 PAYMENTS MAY BE PAID ON BEHALF OF EACH SIBLING PLACED IN ACCORDANCE

1 WITH THIS SUBSECTION.

2 Sec. 5. (1) Subject to the provisions of this act, the
3 department may pay ~~subsidized~~ guardianship assistance to an
4 eligible guardian on behalf of an eligible child.

5 (2) The guardian shall apply for ~~subsidized~~ guardianship
6 assistance under this act to the department.

7 ~~— (3) The department shall review the eligibility of the~~
8 ~~guardian and child for continuation of subsidized guardianship~~
9 ~~assistance annually. The guardian shall provide the eligibility~~
10 ~~information requested by the department or the court for purposes~~
11 ~~of the annual review.~~

12 ~~— (4) The department shall make a determination within 30 days~~
13 ~~after receipt of a request for subsidized guardianship assistance.~~

14 (3) FOR A CHILD WHO IS ELIGIBLE UNDER SECTION 3 AND A GUARDIAN
15 WHO IS ELIGIBLE UNDER SECTION 4, THE DEPARTMENT MAY NEGOTIATE AND
16 ENTER INTO A WRITTEN, BINDING GUARDIANSHIP ASSISTANCE AGREEMENT
17 WITH THE CHILD'S PROSPECTIVE GUARDIAN AND SHALL PROVIDE THE
18 PROSPECTIVE GUARDIAN A SIGNED COPY OF THE GUARDIANSHIP ASSISTANCE
19 AGREEMENT.

20 (4) THE GUARDIANSHIP ASSISTANCE AGREEMENT SHALL SPECIFY ALL OF
21 THE FOLLOWING:

22 (A) THE AMOUNT OF THE GUARDIANSHIP ASSISTANCE TO BE PROVIDED
23 UNDER THE AGREEMENT FOR EACH ELIGIBLE CHILD, AND THE MANNER IN
24 WHICH THE PAYMENT MAY BE ADJUSTED PERIODICALLY IN CONSULTATION WITH
25 THE GUARDIAN, BASED ON THE GUARDIAN'S CIRCUMSTANCES AND THE CHILD'S
26 NEEDS.

27 (B) THE ADDITIONAL SERVICES AND ASSISTANCE THE CHILD AND THE

1 GUARDIAN WILL BE ELIGIBLE FOR UNDER THE GUARDIANSHIP ASSISTANCE
2 AGREEMENT.

3 (C) THE PROCEDURE BY WHICH THE GUARDIAN MAY APPLY FOR
4 ADDITIONAL SERVICES, IF NEEDED.

5 (D) THAT THE DEPARTMENT WILL PAY THE TOTAL COST OF
6 NONRECURRING EXPENSES ASSOCIATED WITH OBTAINING LEGAL GUARDIANSHIP
7 OF AN ELIGIBLE CHILD, TO THE EXTENT THE TOTAL COST DOES NOT EXCEED
8 \$2,000.00.

9 (5) THE GUARDIANSHIP ASSISTANCE AGREEMENT SHALL REMAIN IN
10 EFFECT WITHOUT REGARD TO THE STATE RESIDENCY OF THE GUARDIAN.

11 (6) A GUARDIANSHIP ASSISTANCE PAYMENT ON A CHILD'S BEHALF
12 SHALL NOT EXCEED THE FOSTER CARE MAINTENANCE PAYMENT THAT WOULD
13 HAVE BEEN PAID ON THAT CHILD'S BEHALF IF HE OR SHE HAD REMAINED IN
14 A FOSTER FAMILY HOME.

15 (7) THE DEPARTMENT SHALL REVIEW THE ELIGIBILITY OF THE
16 GUARDIAN AND THE CHILD FOR CONTINUATION OF GUARDIANSHIP ASSISTANCE
17 ANNUALLY. THE GUARDIAN SHALL PROVIDE THE ELIGIBILITY INFORMATION
18 REQUESTED BY THE DEPARTMENT FOR PURPOSES OF THE ANNUAL REVIEW.

19 (8) THE DEPARTMENT SHALL MAKE AN ELIGIBILITY DETERMINATION
20 WITHIN 30 DAYS AFTER RECEIPT OF A REQUEST FOR GUARDIANSHIP
21 ASSISTANCE.

22 SEC. 5A. FOR A CHILD WHOSE PERMANENCY PLAN INCLUDES PLACEMENT
23 WITH A GUARDIAN AND WILL INCLUDE THE RECEIPT OF GUARDIANSHIP
24 ASSISTANCE PAYMENTS, THE DEPARTMENT SHALL INCLUDE IN THE CASE
25 SERVICE PLAN FOR THE CHILD ALL OF THE FOLLOWING:

26 (A) THE STEPS THAT THE CHILD PLACING AGENCY OR THE DEPARTMENT
27 HAS TAKEN TO DETERMINE THAT REUNIFICATION OR PLACING THE CHILD FOR

1 ADOPTION IS NOT AN APPROPRIATE PERMANENCY OPTION.

2 (B) THE REASON FOR ANY SEPARATION OF SIBLINGS DURING
3 PLACEMENT.

4 (C) THE REASON A PERMANENT PLACEMENT THROUGH GUARDIANSHIP IS
5 IN THE CHILD'S BEST INTEREST.

6 (D) THE WAY IN WHICH THE CHILD MEETS THE ELIGIBILITY CRITERIA
7 FOR A GUARDIANSHIP ASSISTANCE PAYMENT.

8 (E) THE EFFORTS THE CHILD PLACING AGENCY OR THE DEPARTMENT HAS
9 MADE TO DISCUSS ADOPTION BY THE PROSPECTIVE GUARDIAN AS A PERMANENT
10 ALTERNATIVE TO LEGAL GUARDIANSHIP AND, IN THE CASE OF A RELATIVE
11 FOSTER PARENT WHO HAS CHOSEN NOT TO PURSUE ADOPTION, DOCUMENTATION
12 OF THE REASONS.

13 (F) IN CASES WHERE THE PARENTAL RIGHTS HAVE NOT BEEN
14 TERMINATED, THE EFFORTS THE DEPARTMENT HAS MADE TO DISCUSS WITH THE
15 CHILD'S BIRTH PARENT OR PARENTS THE GUARDIANSHIP ASSISTANCE
16 ARRANGEMENT, OR THE REASONS WHY THE EFFORTS WERE NOT MADE.

17 SEC. 5B. THE LEGAL GUARDIANSHIP SHALL BE A JUDICIALLY CREATED
18 RELATIONSHIP AS PROVIDED FOR UNDER SECTIONS 19A AND 19C OF CHAPTER
19 XIIIA OF THE PROBATE CODE OF 1939, 1939 PA 288, MCL 712A.19A AND
20 712A.19C, BETWEEN THE CHILD AND HIS OR HER GUARDIAN THAT IS
21 INTENDED TO BE PERMANENT AND SELF-SUSTAINING AS EVIDENCED BY THE
22 TRANSFER TO THE GUARDIAN OF THE FOLLOWING PARENTAL RIGHTS WITH
23 RESPECT TO THE CHILD:

24 (A) PROTECTION.

25 (B) EDUCATION.

26 (C) CARE AND CONTROL OF THE PERSON.

27 (D) CUSTODY OF THE PERSON.

(E) DECISION MAKING.

Sec. 6. (1) The department shall not provide ~~subsidized~~ guardianship assistance after 1 of the following occurs:

(a) The child reaches 18 years of age. ~~or 19 years of age if he or she is still attending high school.~~

~~—— (b) The child is incarcerated in an adult correctional facility under a sentence and commitment order of a court of competent jurisdiction.~~

~~—— (c) The child is placed in a child caring institution as that term is defined in section 1 of 1973 PA 116, MCL 722.111, for a period of at least 90 days.~~

~~—— (d) The child is removed from the guardian's residence by court order.~~

(B) THE DEPARTMENT DETERMINES THAT THE GUARDIAN IS NO LONGER LEGALLY RESPONSIBLE FOR SUPPORT OF THE CHILD.

(C) THE DEPARTMENT DETERMINES THAT THE CHILD IS NO LONGER RECEIVING ANY SUPPORT FROM THE RELATIVE GUARDIAN.

(D) ~~(e)~~ The death of the child.

(E) ~~(f)~~ The child is adopted by the guardian or another individual under the Michigan adoption code, chapter X of the probate code, MCL 710.21 to 710.70, or the adoption laws of any other state or country.

(F) ~~(g)~~ The guardianship is terminated by order of the court having jurisdiction in the guardianship proceeding.

~~—— (h) The child no longer resides in the guardian's residence.~~

~~—— (i) The guardian fails to submit to the department information required or requested by the department for the annual review~~

1 ~~required under section 5.~~

2 ~~—— (j) The guardian no longer satisfies 1 or more of the criteria~~
3 ~~specified in section 4.~~

4 ~~—— (k) The guardian has failed to comply with section 7.~~

5 ~~—— (l) Upon the death of the guardian, if no new guardian is~~
6 ~~appointed by the court within 30 days after that death.~~

7 ~~—— (m) The department determines that funds are no longer~~
8 ~~available to support continuation of subsidized guardianship~~
9 ~~assistance.~~

10 **(G) THE DEATH OF THE GUARDIAN.**

11 (2) The department shall send notice of termination of
12 ~~subsidized~~ guardianship assistance under this section by mail to
13 the guardian at the guardian's current or last known address and to
14 the court with jurisdiction over the guardianship case. Notice
15 mailed under this subsection shall include a statement of the
16 department's reason for termination.

17 Sec. 9. An applicant for ~~subsidized~~ guardianship assistance
18 under this act or a guardian or child who has received ~~subsidized~~
19 guardianship assistance under a ~~subsidized~~ guardianship assistance
20 agreement may appeal a decision of the department denying the
21 application, establishing or modifying the ~~subsidized~~ guardianship
22 assistance, or terminating ~~subsidized~~ guardianship assistance
23 according to the administrative procedures act of 1969, 1969 PA
24 306, MCL 24.201 to 24.328.

25 Enacting section 1. Section 10 of the subsidized guardianship
26 assistance act, 2008 PA 260, MCL 722.880, is repealed.