

# SENATE BILL No. 227

February 17, 2009, Introduced by Senators CLARK-COLEMAN, JANSEN, PAPPAGEORGE, BIRKHOLZ, SWITALSKI, GLEASON, HUNTER, ANDERSON, WHITMER, JACOBS, BASHAM, BARCIA, CHERRY, OLSHOVE, SCOTT, THOMAS, PRUSI, BRATER, CLARKE and ALLEN and referred to the Committee on Families and Human Services.

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:

### TITLE

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

Sec. 1. This act shall be known and may be cited as the  
~~"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 FOR CHILDREN WHO MEET**  
12 **THE QUALIFICATIONS FOR GUARDIANSHIP ASSISTANCE AS SPECIFIED IN THIS**  
13 **ACT OR IN THE DEPARTMENT'S ADMINISTRATIVE RULES.**

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

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

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

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

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

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

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

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

26 ~~—— (b) A reasonable but unsuccessful effort was made to place the~~  
27 ~~child with an appropriate guardian without providing subsidy~~

1 ~~assistance under this act or a prospective placement is the only~~  
2 ~~placement in the best interest of the child. A CHILD IS ELIGIBLE TO~~  
3 ~~RECEIVE GUARDIANSHIP ASSISTANCE IF ALL OF THE FOLLOWING APPLY:~~

4 (A) THE CHILD HAS BEEN REMOVED FROM HIS OR HER HOME ACCORDING  
5 TO A VOLUNTARY PLACEMENT AGREEMENT OR AS A RESULT OF A JUDICIAL  
6 DETERMINATION THAT ALLOWING THE CHILD TO REMAIN IN THE HOME WOULD  
7 BE CONTRARY TO THE CHILD'S WELFARE.

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

10 (C) IT HAS BEEN DETERMINED THAT RETURNING THE CHILD TO THE  
11 HOME OR PLACING THE CHILD FOR ADOPTION IS NOT AN APPROPRIATE  
12 PERMANENCY OPTION.

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

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

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

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

23 (b) The guardian is assessed and approved for ~~subsidized~~  
24 guardianship assistance by the department. **THE ASSESSMENT SHALL**  
25 **INCLUDE CRIMINAL RECORD CHECKS AND CHILD ABUSE AND NEGLECT CENTRAL**  
26 **REGISTRY CHECKS ON THE GUARDIAN AND ALL ADULTS LIVING IN THE**  
27 **GUARDIAN'S HOME AS WELL AS FINGERPRINT-BASED CRIMINAL RECORD CHECKS**

1 ON THE GUARDIAN.

2 (c) The eligible child ~~resides~~**HAS RESIDED** with the guardian  
3 in the guardian's residence **FOR A MINIMUM OF 6 MONTHS BEFORE THE**  
4 **APPLICATION FOR GUARDIANSHIP ASSISTANCE IS RECEIVED BY THE**  
5 **DEPARTMENT.**

6 (2) ONLY A RELATIVE WHO IS A LICENSED FOSTER PARENT CARING FOR  
7 A CHILD WHO IS ELIGIBLE TO RECEIVE TITLE IV-E-FUNDED FOSTER CARE  
8 PAYMENTS FOR 6 CONSECUTIVE MONTHS IS ELIGIBLE FOR FEDERAL FUNDING  
9 UNDER TITLE IV-E FOR GUARDIANSHIP ASSISTANCE. A CHILD NOT ELIGIBLE  
10 FOR TITLE IV-E FUNDING WHO IS PLACED WITH A RELATIVE OR A CHILD WHO  
11 MEETS THE REQUIREMENTS OF SECTION 3(A) TO (D) PLACED WITH AN  
12 UNRELATED PROSPECTIVE GUARDIAN IS ELIGIBLE FOR STATE-FUNDED  
13 GUARDIANSHIP ASSISTANCE.

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

17 (A) THE CHILD AND ANY OF THE CHILD'S SIBLINGS MAY BE PLACED IN  
18 THE SAME RELATIVE GUARDIANSHIP ARRANGEMENT, IF THE DEPARTMENT AND  
19 THE RELATIVE AGREE ON THE APPROPRIATENESS OF THE ARRANGEMENT FOR  
20 THE SIBLING.

21 (B) TITLE IV-E-FUNDED RELATIVE GUARDIANSHIP ASSISTANCE  
22 PAYMENTS MAY BE PAID ON BEHALF OF EACH SIBLING PLACED IN ACCORDANCE  
23 WITH THIS SUBSECTION.

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

27 (2) The guardian shall apply for ~~subsidized~~ guardianship

1 assistance under this act to the department.

2 ~~—— (3) The department shall review the eligibility of the~~  
3 ~~guardian and child for continuation of subsidized guardianship~~  
4 ~~assistance annually. The guardian shall provide the eligibility~~  
5 ~~information requested by the department or the court for purposes~~  
6 ~~of the annual review.~~

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

9 (3) FOR A CHILD WHO MEETS THE ELIGIBILITY CRITERIA OF SECTION  
10 3 (A) TO (D), THE DEPARTMENT SHALL NEGOTIATE AND ENTER INTO A  
11 WRITTEN, BINDING GUARDIANSHIP ASSISTANCE AGREEMENT WITH THE CHILD'S  
12 PROSPECTIVE GUARDIAN AND SHALL PROVIDE THE PROSPECTIVE GUARDIAN A  
13 COPY OF THE GUARDIANSHIP ASSISTANCE AGREEMENT.

14 (4) THE GUARDIANSHIP ASSISTANCE AGREEMENT SHALL SPECIFY ALL OF  
15 THE FOLLOWING:

16 (A) THE AMOUNT OF THE GUARDIANSHIP ASSISTANCE TO BE PROVIDED  
17 UNDER THE AGREEMENT FOR EACH ELIGIBLE CHILD, AND THE MANNER IN  
18 WHICH THE PAYMENT MAY BE ADJUSTED PERIODICALLY IN CONSULTATION WITH  
19 THE GUARDIAN, BASED ON THE GUARDIAN'S CIRCUMSTANCES AND THE CHILD'S  
20 NEEDS.

21 (B) THE ADDITIONAL SERVICES AND ASSISTANCE THE CHILD AND THE  
22 GUARDIAN WILL BE ELIGIBLE FOR UNDER THE GUARDIANSHIP ASSISTANCE  
23 AGREEMENT.

24 (C) THE PROCEDURE BY WHICH THE RELATIVE GUARDIAN MAY APPLY FOR  
25 ADDITIONAL SERVICES, IF NEEDED.

26 (D) THAT THE DEPARTMENT WILL PAY THE TOTAL COST OF  
27 NONRECURRING EXPENSES ASSOCIATED WITH OBTAINING LEGAL GUARDIANSHIP

1 OF AN ELIGIBLE CHILD, TO THE EXTENT THE TOTAL COST DOES NOT EXCEED  
2 \$2,000.00.

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

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

9 (7) THE DEPARTMENT SHALL REVIEW THE ELIGIBILITY OF THE  
10 GUARDIAN AND THE CHILD FOR CONTINUATION OF GUARDIANSHIP ASSISTANCE  
11 ANNUALLY. THE GUARDIAN SHALL PROVIDE THE ELIGIBILITY INFORMATION  
12 REQUESTED BY THE DEPARTMENT OR THE COURT FOR PURPOSES OF THE ANNUAL  
13 REVIEW.

14 (8) THE DEPARTMENT SHALL MAKE AN ELIGIBILITY DETERMINATION  
15 WITHIN 30 DAYS AFTER RECEIPT OF A REQUEST FOR GUARDIANSHIP  
16 ASSISTANCE.

17 SEC. 5A. FOR A CHILD WHOSE PERMANENCY PLAN INCLUDES PLACEMENT  
18 WITH A GUARDIAN AND WILL INCLUDE THE RECEIPT OF GUARDIANSHIP  
19 ASSISTANCE PAYMENTS, THE DEPARTMENT SHALL INCLUDE IN THE CASE PLAN  
20 ALL OF THE FOLLOWING:

21 (A) THE STEPS THAT THE CHILD PLACING AGENCY OR THE DEPARTMENT  
22 HAS TAKEN TO DETERMINE THAT IT IS NOT APPROPRIATE FOR THE CHILD TO  
23 BE RETURNED TO THE HOME OR PLACED FOR ADOPTION.

24 (B) THE REASON FOR ANY SEPARATION OF SIBLINGS DURING  
25 PLACEMENT.

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

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

3 (E) THE EFFORTS THE CHILD PLACING AGENCY OR THE DEPARTMENT HAS  
4 MADE TO DISCUSS ADOPTION BY THE PROSPECTIVE GUARDIAN AS A PERMANENT  
5 ALTERNATIVE TO LEGAL GUARDIANSHIP AND, IN THE CASE OF A RELATIVE  
6 FOSTER PARENT WHO HAS CHOSEN NOT TO PURSUE ADOPTION, DOCUMENTATION  
7 OF THE REASONS.

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

12 SEC. 5B. THE LEGAL GUARDIANSHIP SHALL BE A JUDICIALLY CREATED  
13 RELATIONSHIP BETWEEN THE CHILD AND HIS OR HER GUARDIAN THAT IS  
14 INTENDED TO BE PERMANENT AND SELF-SUSTAINING AS EVIDENCED BY THE  
15 TRANSFER TO THE GUARDIAN OF THE FOLLOWING PARENTAL RIGHTS WITH  
16 RESPECT TO THE CHILD:

17 (A) PROTECTION.

18 (B) EDUCATION.

19 (C) CARE AND CONTROL OF THE PERSON.

20 (D) CUSTODY OF THE PERSON.

21 (E) DECISION MAKING.

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

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

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



1 ~~competent jurisdiction.~~

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

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

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

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

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

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

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

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

19 ~~—— (i) The guardian fails to submit to the department information~~  
20 ~~required or requested by the department for the annual review~~  
21 ~~required under section 5.~~

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

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

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

27 ~~—— (m) The department determines that funds are no longer~~

1 ~~available to support continuation of subsidized guardianship~~  
2 ~~assistance.~~

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

4 (2) The department shall send notice of termination of  
5 ~~subsidized guardianship assistance~~ under this section by mail to  
6 the guardian at the guardian's current or last known address and to  
7 the court with jurisdiction over the guardianship case. Notice  
8 mailed under this subsection shall include a statement of the  
9 department's reason for termination.

10 Sec. 9. An applicant for ~~subsidized guardianship assistance~~  
11 under this act or a guardian or child who has received ~~subsidized~~  
12 guardianship assistance under a ~~subsidized guardianship assistance~~  
13 agreement may appeal a decision of the department denying the  
14 application, establishing or modifying the ~~subsidized guardianship~~  
15 assistance, or terminating ~~subsidized guardianship assistance~~  
16 according to the administrative procedures act of 1969, 1969 PA  
17 306, MCL 24.201 to 24.328.

18 Enacting section 1. Sections 7 and 10 of the subsidized  
19 guardianship assistance act, 2008 PA 260, MCL 722.877 and 722.880,  
20 are repealed.