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BILL ANALYSIS



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Senate Bill 529 (as passed by the Senate)
Sponsor: Senator Judy K. Emmons
Committee: Families, Seniors and Human Services

Date Completed: 11-5-15

CONTENT

The bill would amend the Guardianship Assistance Act to do the following:

- **Authorize the Department of Health and Human Services (DHHS) to pay guardianship assistance to a successor guardian on behalf of an eligible child, if the successor guardian were appointed due to the death or incapacitation of the preceding guardian and other conditions were met.**
- **Extend to a successor guardian certain requirements that apply to a guardian.**
- **Modify one of the eligibility criteria for a child to receive guardianship assistance.**

The bill would take effect 90 days after its enactment.

Guardianship Assistance Eligibility

Under the Act, a child is eligible to receive guardianship assistance if the DHHS determines that all of the following apply:

- 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.
- The child has lived in the home of the prospective guardian for at least six consecutive months.
- Reunification and placing the child for adoption are not appropriate permanency options.
- The child demonstrates a strong attachment to the prospective guardian and the guardian has a strong commitment to caring for the child.
- If the child has reached 14 years of age, he or she has been consulted regarding the guardianship arrangement.

Under the bill, the guardian would have to have a strong commitment to caring for the child until the child reached 18 years of age.

(The Act defines "eligible child" as a child who meets the eligibility criteria set forth in the Act for receiving guardianship assistance. "Guardian" means a person appointed by the court to act as a legal guardian for a child under the juvenile code.)

Under the Act, a guardian who meets all of the following conditions may receive guardianship assistance on behalf of an eligible child:

- The guardian is the eligible child's relative or legal custodian.
- The guardian is a licensed foster parent and approved for guardianship assistance by the DHHS.

- The eligible child has lived with the prospective guardian in his or her residence for at least six months before the DHHS receives the application for guardianship assistance.

The bill provides that a successor guardian could receive guardianship assistance payments if the eligibility criteria for a child to receive guardianship assistance were met.

The bill would define "successor guardian" as a person appointed by the court under the juvenile code to act as a legal guardian when the preceding guardian is no longer able to act as a result of his or her death or incapacitation. The term would not include a person appointed as a guardian if that person's parental rights to the child have been terminated or suspended.

Payment of Assistance to Successor Guardian

The bill would allow the DHHS to pay guardianship assistance to an eligible successor guardian on behalf of an eligible child. The successor guardian would have to apply to the Department for guardianship assistance.

A successor guardian could be eligible to receive guardianship assistance on behalf of an eligible child if the DHHS determined that all of the following applied:

- A guardianship assistance agreement for the child was in effect before the appointment of the successor guardian.
- The successor guardian was appointed by the court as a result of the death or incapacitation of the preceding guardian.
- The preceding guardian had an active guardianship assistance agreement for the child before his or her death or incapacitation.
- The successor guardian met all of the conditions set forth in the Act.

The preceding guardianship assistance agreement could be transferred to a successor guardian who was appointed by the court. Transfer of the agreement would occur when the successor guardian entered into a written, binding guardianship assistance agreement with the DHHS.

The Act specifies that the DHHS may not provide guardianship assistance under certain conditions, including after the death of a guardian. Under the bill, that would apply unless a successor guardian had been appointed by the court.

Other Requirements

The Act requires a guardian to apply for and maintain medical insurance or assistance for which the child is eligible. A guardian must cooperate with the DHHS and provide all information that he or she possesses as requested by the Department to facilitate its compliance with reporting requirements. An applicant for guardianship assistance, or a guardian or child who has received guardianship assistance, may appeal a DHHS decision denying the application, establishing or modifying guardianship assistance, or terminating the assistance.

Under the bill, those provisions also would apply to a successor guardian.

MCL 722.872 et al.

Legislative Analyst: Patrick Affholter
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FISCAL IMPACT

The bill could have a positive fiscal impact on State and local government. To the extent that the appointment of successor guardians resulted in the continuance of existing guardianship

assistance agreements under which the successor guardians were eligible to receive assistance on behalf of eligible children, there would be no fiscal impact. If the appointment of a successor guardian reduced the need for other services that a child would require due to the loss of the preceding guardianship, there could be savings to both State and local governments through the Child Care Fund. Local governments must pay 50% of the costs of foster care placements into the Child Care Fund; in those cases, the children are not eligible for Title IV-E funding (Federal assistance provided to reimburse states for foster care, adoption assistance payments, and guardianship assistance payments).

Fiscal Analyst: John Maxwell

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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.