

**SUBSTITUTE FOR
SENATE BILL NO. 138**

A bill to amend 2008 PA 260, entitled
"Guardianship assistance act,"
by amending sections 2, 3, and 4 (MCL 722.872, 722.873, and
722.874), section 2 as amended by 2022 PA 210, section 3 as amended
by 2015 PA 227, and section 4 as amended by 2019 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 2. As used in this act:
- 2 **(a) "Certification" means a determination of eligibility by**
3 **the department that a foster child is eligible for guardianship**
4 **assistance or a medical subsidy, or both.**
- 5 **(b) ~~(a)~~"Child" means ~~a person~~an individual less than 18**
6 **years of age.**
- 7 **(c) "Child placing agency" means that term as defined in**

1 **section 1 of 1973 PA 116, MCL 722.111.**

2 (d) ~~(b)~~—"Department" means the department of health and human
3 services.

4 (e) ~~(c)~~—"Eligible child" means a child who meets the
5 eligibility criteria under section 3 for receiving guardianship
6 assistance.

7 (f) ~~(d)~~—"Guardian" means a person appointed by the court to
8 act as a legal guardian for a child under section 19a or 19c of
9 chapter XIIIA of the probate code, MCL 712A.19a and 712A.19c,
10 **another state's law or code, or applicable tribal law or code.**

11 (g) ~~(e)~~—"Guardianship assistance agreement" means a negotiated
12 binding agreement regarding financial support as described in
13 section 5 for children who meet the qualifications for guardianship
14 assistance as specified in this act or in the department's
15 administrative rules.

16 (h) ~~(f)~~—"Legal custodian" means an individual who is at least
17 18 years of age in whose care a child remains or is placed after a
18 court makes a finding under section 13a of chapter XIIIA of the
19 probate code, MCL 712A.13a, **another state's law or code, or tribal**
20 **law or code.**

21 (i) ~~(g)~~—"Probate code" means the probate code of 1939, 1939 PA
22 288, MCL 710.21 to 712B.41.

23 (j) **"Prospective guardian" means an individual seeking**
24 **guardianship of a child if an order appointing that guardianship**
25 **has not been finalized by the court.**

26 (k) ~~(h)~~—"Relative" means that term as defined in section 13a
27 of chapter XIIIA of the probate code, MCL 712A.13a.

28 (l) ~~(i)~~—"Successor guardian" means a person appointed by the
29 court to act as a legal guardian when the preceding guardian is no

1 longer able to act, as a result of his or her death or
 2 incapacitation, under section 19a or 19c of chapter XIIIA of the
 3 probate code, MCL 712A.19a and 712A.19c, **another state's law or**
 4 **code, or tribal law or code.** Successor guardian does not include a
 5 ~~person~~**an individual** appointed as a guardian if that ~~person's~~
 6 **individual's** parental rights to the child have been terminated or
 7 suspended.

8 (m) ~~(j)~~—"Title IV-E" refers to the federal assistance provided
 9 through the United States Department of Health and Human Services
 10 to reimburse states for foster care, adoption assistance payments,
 11 and guardianship assistance payments.

12 Sec. 3. (1) A child is eligible to receive guardianship
 13 assistance if the department determines that all of the following
 14 ~~apply~~**have been met:**

15 (a) The child has been removed from his or her home as a
 16 result of a judicial determination **by a state court or tribal court**
 17 **within this state** that allowing the child to remain in the home
 18 would be contrary to the child's welfare.

19 (b) The child has resided in the home of the prospective
 20 guardian for, at a minimum, 6 consecutive months.

21 (c) Reunification and placing the child for adoption are not
 22 appropriate permanency options.

23 (d) The child demonstrates a strong attachment to the
 24 prospective guardian and the guardian has a strong commitment to
 25 caring permanently for the child until the child reaches 18 years
 26 of age.

27 (e) If the child has reached 14 years of age, he or she has
 28 been consulted regarding the guardianship arrangement.

29 (f) **Certification has been made before the child's eighteenth**

1 birthday.

2 (g) The guardianship assistance agreement has been signed by
3 the prospective guardian and the department before the guardianship
4 is finalized by the court and before the child's eighteenth
5 birthday.

6 (2) A determination by the department on the eligibility of
7 guardianship assistance does not affect a judicial finding that a
8 guardianship should be ordered for the child.

9 Sec. 4. (1) Subject to subsection (2), a guardian who meets
10 all of the following criteria may receive guardianship assistance
11 on behalf of an eligible child:

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

14 (b) The guardian is a licensed foster parent and approved for
15 guardianship assistance by the department. The approval process
16 ~~shall~~**must** include criminal record checks and child abuse and child
17 neglect central registry checks on the guardian, all successor
18 guardians, and all adults living in the guardian's or successor
19 guardian's home as well as submission of the guardian's or
20 successor guardian's fingerprints to the department of state police
21 and the Federal Bureau of Investigation for a criminal history
22 check.

23 (c) The eligible child has resided with the prospective
24 guardian in the prospective guardian's residence for a minimum of 6
25 months before the application for guardianship assistance is
26 received by the department.

27 (2) Only a relative who is a licensed foster parent caring for
28 a child who is eligible to receive title IV-E-funded foster care
29 payments for 6 consecutive months **after licensure of the family** is

1 eligible for federal funding under title IV-E for guardianship
2 assistance. A child who is not eligible for title IV-E funding who
3 is placed with a licensed foster parent, related or unrelated, and
4 who meets the requirements of section 3(a) to (e) may be eligible
5 for state-funded guardianship assistance.

6 (3) If a child is eligible for title IV-E-funded guardianship
7 assistance under section 3 but has a sibling who is not eligible
8 under section 3, both of the following apply:

9 (a) The child and any of the child's siblings may be placed in
10 the same relative guardianship arrangement in accordance with
11 chapter XIIIA of the probate code, MCL 712A.1 to 712A.32, **another**
12 **state's law or code, or tribal law or code**, if the department and
13 the relative agree on the appropriateness of the arrangement for
14 the sibling.

15 (b) Title IV-E-funded relative guardianship assistance
16 payments may be paid on behalf of each sibling placed in accordance
17 with this subsection.

18 (4) A successor guardian may receive guardianship assistance
19 payments if the eligibility criteria set forth in section 3 are
20 met.

21 Enacting section 1. This amendatory act does not take effect
22 unless Senate Bill No. 137 of the 102nd Legislature is enacted into
23 law.