

SENATE BILL NO. 137

March 02, 2023, Introduced by Senators DAMOOSE, IRWIN, CAVANAGH, MCMORROW, CHANG, SANTANA, BAYER, WOJNO, POLEHANKI, KLINEFELT, GEISS, SHINK and CHERRY and referred to the Committee on Civil Rights, Judiciary, and Public Safety.

A bill to amend 2008 PA 260, entitled "Guardianship assistance act," by amending sections 5, 5a, 5b, and 6 (MCL 722.875, 722.875a, 722.875b, and 722.876), section 5 as amended by 2009 PA 15 and sections 5a, 5b, and 6 as amended by 2015 PA 227.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 (2) The guardian ~~shall~~**must** apply for guardianship assistance
2 under this act to the department.

3 (3) For a child who is eligible under section 3 and a guardian
4 who is eligible under section 4, the department ~~may~~**must** negotiate
5 and enter into a written, binding guardianship assistance agreement
6 with the child's prospective guardian and ~~shall~~**must** provide the
7 prospective guardian a signed copy of the guardianship assistance
8 agreement.

9 (4) The guardianship assistance agreement ~~shall~~**must** specify
10 all of the following:

11 ~~(a) The amount of the guardianship assistance to be provided~~
12 ~~under the agreement for each eligible child, and the manner in~~
13 ~~which the payment may be adjusted periodically in consultation with~~
14 ~~the guardian, based on the guardian's circumstances and the child's~~
15 ~~needs.~~

16 **(a)** ~~(b)~~The additional services and assistance the child and
17 the guardian ~~will be~~**are** eligible for under the guardianship
18 assistance agreement.

19 **(b)** ~~(c)~~The procedure by which the guardian may apply for
20 additional services, if needed.

21 **(c)** ~~(d)~~That the department will pay the total cost of
22 nonrecurring expenses associated with obtaining legal guardianship
23 of an eligible child, to the extent the total cost does not exceed
24 \$2,000.00.

25 (5) The guardianship assistance agreement ~~shall~~**must** remain in
26 effect without regard to the state residency of the guardian.

27 **(6) The department must determine eligibility for the**
28 **guardianship assistance without regard to the income of the**
29 **prospective guardian.** A guardianship assistance payment on a

1 child's behalf ~~shall~~**may** not exceed the foster care maintenance
 2 payment that would have been paid on that child's behalf if ~~he~~**or**
 3 ~~she~~**that child** had remained in a foster family home. **The payment**
 4 **includes the determination of care rate that was paid or would have**
 5 **been paid for the child in a foster care placement, except that the**
 6 **amount must be increased to reflect the increase made in the**
 7 **standard age-appropriate foster care rate paid by the department.**

8 (7) The department ~~shall~~**must** review the eligibility of the
 9 guardian and the child for continuation of guardianship assistance
 10 annually. The guardian ~~shall~~**must** provide the eligibility
 11 information requested by the department for purposes of the annual
 12 review.

13 (8) The department ~~shall~~**must** make an eligibility
 14 determination within 30 days after receipt of a ~~request~~**complete**
 15 **application** for guardianship assistance.

16 Sec. 5a. For a child whose permanency plan includes placement
 17 with a guardian and will include ~~the receipt of~~**receiving**
 18 guardianship assistance payments, the department, ~~shall~~**child**
 19 **placing agency, or tribal child welfare agency must** include in the
 20 case service plan for the child all of the following:

21 (a) The steps that the **department**, child placing agency, or
 22 ~~the department~~**tribal child welfare agency** has taken to determine
 23 that reunification and placing the child for adoption ~~are not~~**have**
 24 **been determined not to be in the child's best interest and ruled**
 25 **out as** appropriate permanency options.

26 (b) The reason for any separation of siblings during
 27 placement.

28 (c) The reason a permanent placement through guardianship
 29 **until the child reaches 18 years of age** is in the child's best

1 interest.

2 (d) ~~The way in which the child meets the eligibility criteria~~
 3 ~~for a guardianship assistance payment.~~ **reason why reunification and**
 4 **adoption have or have not been ruled out.**

5 (e) The efforts the **department**, child placing agency, or ~~the~~
 6 ~~department~~ **tribal child welfare agency** has made to discuss adoption
 7 by the prospective guardian as a permanent alternative to legal
 8 guardianship and documentation of the ~~reasons~~ **reason** the
 9 prospective guardian has chosen not to pursue adoption.

10 (f) In cases where the parental rights have not been
 11 terminated, the efforts the department, **the child placing agency,**
 12 **or the tribal child welfare agency** has made to discuss with the
 13 child's birth parent or parents the guardianship assistance
 14 arrangement, or the reasons why the efforts were not made.

15 Sec. 5b. The legal guardianship ~~shall~~ **must** be a judicially
 16 created relationship as provided for under sections 19a and 19c of
 17 chapter XIIIA of the probate code, MCL 712A.19a and 712A.19c,
 18 **another state's law or code, or tribal law or code when the child**
 19 **is a ward of this state,** between the child and ~~his or her~~ **the**
 20 **child's** guardian that is intended to be permanent and self-
 21 sustaining as evidenced by the transfer to the guardian of the
 22 following parental rights with respect to the child:

23 (a) Protection.

24 (b) Education.

25 (c) Care and control of the ~~person~~ **individual.**

26 (d) Custody of the ~~person~~ **individual.**

27 (e) Decision making.

28 Sec. 6. (1) Except as provided in subsection (2), the
 29 department ~~shall~~ **may** not provide guardianship assistance after 1 of

1 the following occurs:

2 (a) The child reaches 18 years of age.

3 (b) The department determines that the guardian is no longer
4 legally responsible for support of the child.

5 (c) The department determines that the child is no longer
6 receiving any support from the relative guardian.

7 (d) The death of the child.

8 (e) The child is adopted by the guardian or another individual
9 under the Michigan adoption code, chapter X of the probate code,
10 MCL 710.21 to 710.70, or the adoption laws of any other state or
11 ~~country.~~ **tribal government.**

12 (f) The guardianship is terminated by order of the court
13 having jurisdiction in the guardianship proceeding.

14 (g) The death of the guardian unless a successor guardian has
15 been appointed by the court.

16 (2) The department may provide extended guardianship
17 assistance until the youth reaches ~~the age of 21~~ **years of age** if
18 the youth meets the requirements set forth in the young adult
19 voluntary foster care act, 2011 PA 225, MCL 400.641 to 400.671.

20 (3) The department ~~shall~~ **must** send notice of termination of
21 guardianship assistance under this section by mail to the guardian
22 at the guardian's current or last known address and to the court
23 with jurisdiction over the guardianship case. Notice mailed under
24 this subsection ~~shall~~ **must** include a statement of the department's
25 reason for termination.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. 138 of the 102nd Legislature is enacted into
28 law.