

SENATE BILL No. 1324

June 21, 2006, Introduced by Senators CLARK-COLEMAN, CLARKE, JACOBS, BASHAM, PRUSI, THOMAS, BRATER, BARCIA, WHITMER, LELAND, EMERSON, SWITALSKI, SCHAUER, SCOTT, OLSHOVE and CHERRY and referred to the Committee on Families and Human Services.

A bill to provide for assistance payments to certain guardians of minors; to establish the rights and responsibilities of certain guardians; and to provide for duties and responsibilities of certain state departments and agencies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "relative guardianship assistance act".

3 Sec. 2. As used in this act:

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

5 (b) "Child protection law" means the child protection law,
6 1975 PA 238, MCL 722.621 to 722.638.

7 (c) "County office" means a county department office that
8 currently has, or previously had, supervisory authority concerning

1 a child who is or has been an abused or neglected child and who is
2 or may be eligible for relative guardianship assistance under this
3 act.

4 (d) "Department" means the department of human services.

5 (e) "Eligible child" means a child who meets the
6 eligibility criteria set forth in section 3 for receiving
7 relative guardianship assistance.

8 (f) "Guardian" means a person appointed by the court to
9 act as a legal guardian for a child.

10 (g) "Guardianship assistance agreement" means a written
11 agreement signed by a guardian and a county office
12 caseworker, in a form prescribed by the department, that
13 provides for a monthly relative guardianship assistance
14 payment to the guardian on behalf of the child under the
15 provisions of this act.

16 (h) "Local county office" means a county office located in
17 the county in which the guardian resides.

18 (i) "Relative" means an individual who has a relationship to
19 a child within the fifth degree of consanguinity. For the
20 purposes of this act, a relative may also include a grandparent,
21 great-grandparent, step-parent, step-sibling, or the spouse,
22 former spouse, or surviving spouse of any relative listed above.

23 (j) "Temporary assistance to needy families" or "TANF" means
24 financial assistance to eligible recipients that the department
25 provides or is authorized to provide according to the provisions
26 of the plan submitted to and accepted by the United States
27 department of health and human services, from funds available to

1 the department through part A of title IV of the social security
2 act, 42 USC 601 to 619, or any other approved funding source.

3 Sec. 3. A child who meets all of the following criteria is
4 considered an eligible child under this act:

5 (a) The court has appointed a guardian for the child under
6 section 5204 of the estates and protected individuals code, 1998
7 PA 386, MCL 700.5204, and that guardian is the child's relative.

8 (b) The total income attributable to the child under TANF
9 rules and guidelines is less than 250% of the federal poverty
10 guidelines published by the United States department of health and
11 human services.

12 (c) The child has resided with the guardian in the
13 guardian's home for a continuous period of time of not less than
14 3 months.

15 Sec. 4. A guardian who meets all of the following criteria is
16 eligible to receive relative guardianship assistance on behalf of
17 an eligible child:

18 (a) The guardian is the eligible child's relative.

19 (b) The eligible child resides with the guardian in the
20 guardian's home.

21 (c) The guardian is primarily responsible for providing 1 or
22 more of the following for the eligible child: appropriate care,
23 support, maintenance, education, or welfare.

24 Sec. 5. (1) Subject to the provisions of this act, the county
25 office shall make monthly payments of relative guardianship
26 assistance to a guardian eligible for relative guardianship
27 assistance under section 4, on behalf of an eligible child.

1 (2) The rate paid on behalf of an eligible child for relative
2 guardianship assistance payments shall be equal to 66% of the rate
3 paid by the department on behalf of a child placed in a licensed
4 foster home or a relative placement at the time the relative
5 guardianship assistance payment is being made.

6 (3) The guardian shall apply for relative guardianship
7 assistance under this act to the local county office in the
8 county in which the child resides.

9 (4) The department shall review the eligibility of the
10 guardian and child for continuation of relative guardianship
11 assistance payments at least 1 time every year. The guardian shall
12 provide the eligibility information requested by the department
13 for purposes of the annual review.

14 (5) The department may pay all or a portion of monthly
15 relative guardianship assistance payments under this act from
16 funds available to the state through TANF or other approved
17 funding source.

18 Sec. 6. (1) The department shall not make relative
19 guardianship assistance payments after 1 of the following occurs:

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

21 (b) The court enters an order awarding legal custody of the
22 child to an individual other than the guardian.

23 (c) The child is incarcerated in an adult correctional
24 facility under a sentence and commitment order of a court of
25 competent jurisdiction.

26 (d) The child is placed in a juvenile residential facility
27 for a period not less than 90 days.

1 (e) The child is removed from the guardian's home by court
2 order.

3 (f) The death of the child.

4 (g) The child is adopted by the guardian or another
5 individual under the Michigan adoption code, chapter X of the
6 probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, or the
7 adoption laws of any other state or country.

8 (h) Termination of the legal guardianship by order of the
9 court having jurisdiction in the guardianship proceeding.

10 (i) The child no longer resides in the guardian's home.

11 (j) The guardian fails to submit to the county office
12 information required or requested by the county office for the
13 annual review required under section 5.

14 (k) The guardian is not providing the financial assistance
15 necessary for the support and maintenance of the child as
16 determined by the court according to an annual guardianship
17 review.

18 (l) The guardian no longer satisfies 1 or more of the criteria
19 specified in section 4.

20 (m) The guardian has failed to comply with section 7.

21 (n) A successor guardian has been appointed for the child in
22 a guardianship proceeding.

23 (o) The department determines that funds are no longer
24 available to support continuation of monthly relative
25 guardianship assistance payments.

26 (2) The department shall send notice of termination of
27 relative guardianship assistance payments under this section by

1 mail to the guardian at the guardian's current or last known
2 address and to the court with jurisdiction over the guardianship
3 case. Notice mailed under this subsection shall include a
4 statement of the department's reason for termination.

5 Sec. 7. The guardian shall apply for and maintain on behalf
6 of the child any public or private medical insurance or assistance
7 for which the child is eligible, including eligibility under
8 applicable laws providing financial assistance for medical or
9 health care expenses.

10 Sec. 8. (1) As a condition of receiving monthly relative
11 guardianship assistance payments under this act, the guardian
12 shall assign to the county office any right the guardian has, on
13 behalf of the guardian, eligible child, or any other family member
14 residing in the guardian's household, to receive child support
15 payments from a noncustodial parent for the benefit of the child
16 in accordance with the provisions of 42 USC 608(a)(3) and any
17 rules or regulations implementing those provisions.

18 (2) The guardianship assistance agreement may include a
19 provision by which the guardian assigns child support rights to
20 the county office as provided in this section.

21 (3) All amounts received by the department through the state
22 disbursement unit established in section 6 of the office of child
23 support act, 1971 PA 174, MCL 400.236, as payment of a current or
24 accrued child support obligation or arrearage, on behalf of the
25 child for whom monthly relative guardianship assistance payments
26 are made under this act, shall be distributed in accordance with
27 42 USC 657 and any applicable federal regulations, subject to the

1 requirements of a court order in effect relating to payment of
2 support on behalf of the child.

3 Sec. 9. (1) The county office that approves the
4 guardianship assistance agreement is responsible for collecting,
5 assembling, and reporting to the department, in the form
6 prescribed by the department, all data and information needed for
7 preparation of any report that the state is required to submit to
8 the United States department of health and human services under
9 42 USC 611 and 45 CFR part 265, regarding monthly relative
10 guardianship assistance payments made from funds provided to the
11 department through TANF, or for any other reporting that may be
12 required by other funding sources.

13 (2) The guardian shall cooperate with the county office and
14 provide all information that the guardian possesses as requested
15 by the county office to facilitate compliance with this section.

16 Sec. 10. (1) A guardian receiving relative guardianship
17 assistance under this act on behalf of an eligible child shall
18 comply with all duties and responsibilities of a guardian under
19 sections 5201 to 5219 of the estates and protected individuals
20 code, 1998 PA 386, MCL 700.5201 to 700.5219, including filing
21 with the court having jurisdiction over the guardianship of any
22 required pleading, report, document, or account with respect to
23 the guardianship estate.

24 (2) The guardian shall give notice of all hearings in the
25 guardianship proceedings to the individuals required to receive
26 notice under section 5213 of the estates and protected
27 individuals code, 1998 PA 386, MCL 700.5213, and shall give

1 notice to the department during any time that a guardianship
2 assistance agreement is in effect.

3 (3) The county office is not responsible for administration
4 of the guardianship, accounting to the child or court for any
5 activities of the guardian, or disposition of the proceeds of
6 monthly relative guardianship assistance payments made to the
7 guardian on behalf of the eligible child.

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