

# SENATE BILL NO. 1206

October 13, 2022, Introduced by Senators IRWIN and SCHMIDT and referred to the Committee on Judiciary and Public Safety.

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), sections 2 and 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 a guardianship

1 **assistance or a medical subsidy, or both.**

2 (b) ~~(a)~~—"Child" means ~~a person~~**an individual** less than 18  
3 years of age.

4 (c) **"Child placing agency" means that term as defined in**  
5 **section 1 of 1973 PA 116, MCL 722.111.**

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

8 (e) ~~(e)~~—"Eligible child" means a child who meets the  
9 eligibility criteria set forth in section 3 for receiving  
10 guardianship assistance.

11 (f) ~~(d)~~—"Guardian" means a person appointed by the court to  
12 act as a legal guardian for a child under section 19a or 19c of  
13 chapter XIIIA of the probate code, MCL 712A.19a and 712A.19c, **or**  
14 **applicable tribal law or code.**

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

20 (h) ~~(f)~~—"Legal custodian" means an individual who is at least  
21 18 years of age in whose care a child remains or is placed after a  
22 court makes a finding under section 13a of chapter XIIIA of the  
23 probate code, MCL 712A.13a, **another state's law or code, or tribal**  
24 **law or code.**

25 (i) ~~(g)~~—"Probate code" means the probate code of 1939, 1939 PA  
26 288, MCL 710.21 to 712B.41.

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

(k) ~~(h)~~—"Relative" means an individual who is at least 18 years of age and related to the child by blood, marriage, or adoption, as grandparent, great-grandparent, great-great-grandparent, aunt or uncle, great-aunt or great-uncle, great-great-aunt or great-great-uncle, sibling, stepsibling, nephew or niece, first cousin or first cousin once removed, or the spouse of any of the above, even after the marriage has ended by death or divorce. The parent of a man who the court has found probable cause to believe is the putative father if there is no man with legally established rights to the child may be considered a relative under this act but this is not to be considered as a finding of paternity and does not confer legal standing on the putative father.

(l) ~~(i)~~—"Successor guardian" means a person appointed by the court 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 under section 19a or 19c of chapter XIIIA of the probate code, MCL 712A.19a and 712A.19c, **another state's law or code, or tribal law or code**. Successor guardian does not include a ~~person~~**an individual** appointed as a guardian if that ~~person's~~**individual's** parental rights to the child have been terminated or suspended.

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

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

(a) The child has been removed from his or her home as a

1 result of a judicial determination **by a state court or tribal court**  
2 **within this state** that allowing the child to remain in the home  
3 would be contrary to the child's welfare.

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

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

8 (d) The child demonstrates a strong attachment to the  
9 prospective guardian and the guardian has a strong commitment to  
10 caring permanently for the child until the child reaches 18 years  
11 of age.

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

14 (f) **Certification has been made before the child's eighteenth**  
15 **birthday.**

16 (g) **The guardianship assistance agreement has been signed by**  
17 **the prospective guardian and the department before the guardianship**  
18 **is finalized by the court and before the child's eighteenth**  
19 **birthday.**

20 (2) **A determination by the department on the eligibility of**  
21 **guardianship assistance does not affect a judicial finding that a**  
22 **guardianship should be ordered for the child.**

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

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

28 (b) The guardian is a licensed foster parent and approved for  
29 guardianship assistance by the department. The approval process

1 ~~shall~~**must** include criminal record checks and child abuse and child  
2 neglect central registry checks on the guardian, all successor  
3 guardians, and all adults living in the guardian's or successor  
4 guardian's home as well as submission of the guardian's or  
5 successor guardian's fingerprints to the department of state police  
6 and the Federal Bureau of Investigation for a criminal history  
7 check.

8 (c) The eligible child has resided with the prospective  
9 guardian in the prospective guardian's residence for a minimum of 6  
10 months before the application for guardianship assistance is  
11 received by the department.

12 (2) Only a relative who is a licensed foster parent caring for  
13 a child who is eligible to receive title IV-E-funded foster care  
14 payments for 6 consecutive months **after licensure of the family** is  
15 eligible for federal funding under title IV-E for guardianship  
16 assistance. A child who is not eligible for title IV-E funding who  
17 is placed with a licensed foster parent, related or unrelated, and  
18 who meets the requirements of section 3(a) to (e) may be eligible  
19 for state-funded guardianship assistance.

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

23 (a) The child and any of the child's siblings may be placed in  
24 the same relative guardianship arrangement in accordance with  
25 chapter XIIA of the probate code, MCL 712A.1 to 712A.32, **another**  
26 **state's law or code, or tribal law or code**, if the department and  
27 the relative agree on the appropriateness of the arrangement for  
28 the sibling.

29 (b) Title IV-E-funded relative guardianship assistance

1 payments may be paid on behalf of each sibling placed in accordance  
2 with this subsection.

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

6 Enacting section 1. This amendatory act does not take effect  
7 unless Senate Bill No. 1205 of the 101st Legislature is enacted  
8 into law.