

Act No. 69
Public Acts of 2023
Approved by the Governor
July 11, 2023
Filed with the Secretary of State
July 12, 2023
EFFECTIVE DATE: July 12, 2023

**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Irwin, Cavanagh, Damoose, McMorrow, Chang, Santana, Bayer, Wojno, Polehanki, Klinefelt, Geiss, Shink and Cherry

ENROLLED SENATE BILL No. 138

AN ACT to amend 2008 PA 260, entitled “An act to provide for assistance payments to certain guardians of minors; and to provide for duties and responsibilities of certain state departments and agencies,” 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:

Sec. 2. As used in this act:

- (a) “Certification” means a determination of eligibility by the department that a foster child is eligible for guardianship assistance or a medical subsidy, or both.
- (b) “Child” means an individual less than 18 years of age.
- (c) “Child placing agency” means that term as defined in section 1 of 1973 PA 116, MCL 722.111.
- (d) “Department” means the department of health and human services.
- (e) “Eligible child” means a child who meets the eligibility criteria under section 3 for receiving guardianship assistance.
- (f) “Guardian” means a person appointed by the court to act as a legal guardian for a child under section 19a or 19c of chapter XIA of the probate code, MCL 712A.19a and 712A.19c, another state’s law or code, or applicable tribal law or code.
- (g) “Guardianship assistance agreement” means a negotiated binding agreement regarding financial support as described in section 5 for children who meet the qualifications for guardianship assistance as specified in this act or in the department’s administrative rules.

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

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

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

(k) "Relative" means that term as defined in section 13a of chapter XIIA of the probate code, MCL 712A.13a.

(l) "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 XIIA 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 an individual appointed as a guardian if that individual's parental rights to the child have been terminated or suspended.

(m) "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 have been met:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

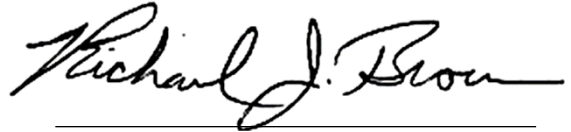
(4) A successor guardian may receive guardianship assistance payments if the eligibility criteria set forth in section 3 are met.

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor

Compiler's note: Senate Bill No. 137, referred to in enacting section 1, was filed with the Secretary of State July 12, 2023, and became 2023 PA 68, Imd. Eff. July 12, 2023.