

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 2256

4
5 By: Representative E. Brown
6
7

For An Act To Be Entitled

8
9 AN ACT TO ESTABLISH THE "ARKANSAS SUBSIDIZED
10 GUARDIANSHIP ACT" OF 2007; AND FOR OTHER
11 PURPOSES.
12

Subtitle

13
14 TO ESTABLISH THE "ARKANSAS SUBSIDIZED
15 GUARDIANSHIP ACT" OF 2007.
16
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code Title 9, Chapter 8, is amended to add an
21 additional subchapter to read as follows:

22 9-8-201. Title – Purpose

23 (a) This subchapter shall be known and may be cited as the "Arkansas
24 Subsidized Guardianship Act".

25 (b) The purpose of this subchapter is to create the framework for
26 subsidized guardianships in the event that funding becomes available for such
27 a program.

28
29 9-8-202. Administration, Funding and Limitations

30 (a) Contingent upon adequate funding, appropriation, and position
31 authorization, both programmatic and administrative, the Department of Health
32 and Human Services shall establish and administer a program of subsidized
33 guardianship.

34 (b) Guardianship subsidies and services for children under this
35 program shall be provided out of funds appropriated to the department or made
36 available to it from other sources and shall be subject to any restrictions



1 as outlined in the funds appropriated or made available to the department.

2
3 9-8-203. Promulgation of Regulations.

4 (a) The Department of Health and Human Services shall promulgate rules
5 and regulations to implement this program.

6 (b) The department shall promulgate rules and regulations that include
7 eligibility requirements in accordance with any requirements from the funding
8 stream.

9
10 9-8-204. Eligibility.

11 (a) A child is eligible for a guardianship subsidy if the Department
12 of Health and Human Services determines the following:

13 (1) The child has been removed from the custody of his or her
14 parent(s) as a result of a judicial determination to the effect that
15 continuation in the custody of the parent(s) would be contrary to the welfare
16 of the child;

17 (2) The department is responsible for the placement and care of
18 the child;

19 (3) Being returned home or adopted are not appropriate
20 permanency options for the child;

21 (4) Permanent placement with a guardian is in the child's best
22 interest;

23 (5) The child demonstrates a strong attachment to the
24 prospective guardian and the guardian has a strong commitment to caring
25 permanently for the child;

26 (6) With respect to a child who has attained fourteen (14) years
27 of age, the child has been consulted regarding the guardianship;

28 (7) If permitted or required by the funding stream, the guardian
29 is qualified pursuant to a means-based test;

30 (8) If permitted or required by the funding stream, the
31 necessary degree of relationship exists between the prospective guardian and
32 the child; and

33 (9) The child has special needs.

34 (b)(1) The department shall redetermine eligibility of the
35 guardianship on an annual basis and shall include confirmation that the
36 guardian is still providing care for the child.

1 (2) If permitted or required by the funding stream, the annual
 2 redetermination of eligibility shall include whether or not the guardian is
 3 qualified pursuant to a means-based test.

4
 5 9-8-205. Guardianship subsidy agreement.

6 (a) A written guardianship subsidy agreement must be entered before
 7 the guardianship is established.

8 (b) The guardianship subsidy agreement shall become effective upon
 9 entry of the order of guardianship.

10 (c)(1) In the case of a child whose eligibility is based on a high
 11 risk for development of a serious physical, mental, developmental, or
 12 emotional condition, the guardianship subsidy agreement shall provide no
 13 guardianship subsidy until the child actually develops the condition.

14 (2) No guardianship subsidy shall be made until adequate
 15 documentation is submitted by the guardian showing that the child has now
 16 developed the condition upon which eligibility was based.

17 (3) Upon acceptance by the Department of Health and Human
 18 Services that the child has developed the condition upon which eligibility
 19 was based, the guardianship subsidy shall be retroactive to the date the
 20 guardian submitted adequate documentation that the child developed the
 21 condition.

22 (d) No guardianship subsidy may be made for any child who has attained
 23 eighteen (18) years of age unless permitted by the funding stream.

24
 25 9-8-206. Subsidy amount

26 (a)(1) The amount of the guardianship subsidy shall be determined
 27 through agreement between the guardian and the Department of Health and Human
 28 Services but cannot exceed the current foster care board rate.

29 (2) The amount of the guardianship subsidy shall be based on
 30 consideration of the circumstances and needs of the guardian and the child as
 31 well as the availability of other resources to meet the child's needs.

32
 33 9-8-207. Records confidential.

34 (a) All records regarding subsidized guardianships shall be
 35 confidential and shall not be released or otherwise made available except to
 36 the following persons or entities and to the extent permitted by federal law:

- 1 (1) The guardian;
- 2 (2) The attorney for the guardian;
- 3 (3) The child;
- 4 (4) The attorney ad litem for the child;
- 5 (5) For purposes of review or audit by the appropriate federal
 6 or state agency;
- 7 (6) To a grand jury or court upon a finding that information in
 8 the record is necessary for the determination of an issue before the court or
 9 grand jury;
- 10 (7)(i) To individual federal and state representatives and
 11 senators in their official capacity and their staff members with no
 12 rediscovery of information.
- 13 (ii) No disclosure of any information that
 14 identifies by name or address any recipient of a subsidy or service shall be
 15 made to any committee or legislative body;
- 16 (8) The administration of any federal program or federally
 17 assisted program that provides assistance, in cash or in kind, or services
 18 directly to individuals on the basis of need.
- 19 (b)(1) Any person or agency to whom disclosure is made shall not
 20 disclose to any other person any information obtained pursuant to this
 21 section.
- 22 (2) Nothing in this subsection shall prevent subsequent
 23 disclosure by the guardian or the child.
- 24 (3) Any person disclosing information in violation of this
 25 subsection shall be guilty of a Class C misdemeanor.

26
27
28
29
30
31
32
33
34
35
36