

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1848

By: Representative Scott

For An Act To Be Entitled

AN ACT TO AMEND THE ELIGIBILITY REQUIREMENTS UNDER THE ARKANSAS SUBSIDIZED GUARDIANSHIP ACT TO ALLOW FOR A GUARDIANSHIP SUBSIDY IN ORDER TO KEEP A CHILD FROM BEING REMOVED FROM THE CUSTODY OF HIS OR HER PARENT AND PLACED INTO FOSTER CARE; AND FOR OTHER PURPOSES.

Subtitle

TO ALLOW FOR A GUARDIANSHIP SUBSIDY IN ORDER TO KEEP A CHILD FROM BEING REMOVED FROM THE CUSTODY OF HIS OR HER PARENT AND PLACED INTO FOSTER CARE.

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

SECTION 1. Arkansas Code § 9-8-204(a), concerning a child's eligibility for a guardianship subsidy, is amended to read as follows:

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

(1) For a child who is in the custody of the department:

~~(1)(A)~~ The child has been removed from the custody of his or her parent or parents as a result of a judicial determination to the effect that continuation in the custody of the parent or parents would be contrary to the welfare of the child;

~~(2)(B)~~ The department is responsible for the placement and care of the child;

~~(3)(C)~~ Being returned home or being adopted is not an appropriate permanency option for the child;



~~(4)(D)~~ Permanent placement with a guardian is in the best interest of the child;

~~(5)(E)~~ The child demonstrates a strong attachment to the prospective guardian, and the guardian has a strong commitment to caring permanently for the child;

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

~~(7)(A)(G)(i)~~ The necessary degree of relationship exists between the prospective guardian and the child.

~~(B)(ii)~~ For the purposes of determining eligibility for a guardianship subsidy, the necessary degree of relationship is satisfied by a relative or fictive kin as defined in § 9-28-108;

~~(8)(H)~~ The child is eligible for Title IV-E foster care maintenance payments, or the department determines that adequate funding is available for the guardianship subsidy for a child who is not Title IV-E eligible;

~~(9)(I)~~ The home of the prospective guardian complies with any applicable rules promulgated by the:

~~(A)(i)~~ Child Welfare Agency Review Board for foster home licensure; and

~~(B)(ii)~~ Department for foster home approval;

and

~~(10)(J)~~ While in the custody of the department, the child resided in the home of the prospective relative guardian for at least six (6) consecutive months after the prospective guardian's home was opened as a foster home; and

(2) For a child who is not in the custody of the department:

(A) The child is in the custody of at least one (1) parent;

(B) The department has an open protective services case with the parent or parents of the child;

(C) At least one (1) safety factor is present which puts the child at risk of removal from the custody of the parent or parents under the Arkansas Juvenile Code of 1989, § 9-27-301 et seq., or the Child Maltreatment Act, § 12-18-101 et seq.;

(D) A relative or fictive kin is available and willing to

assume guardianship of the child;

(E) The child demonstrates a strong attachment to the prospective guardian, and the guardian has a strong commitment to caring permanently for the child;

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

(G)(i) The necessary degree of relationship exists between the prospective guardian and the child.

(ii) For the purposes of determining eligibility for a guardianship subsidy, the necessary degree of relationship is satisfied by a relative or fictive kin as defined in § 9-28-108;

(H) The department determines that adequate funding is available for the guardianship subsidy;

(I) The home of the prospective guardian complies with any applicable rules promulgated by the department;

(J) Guardianship over the child by the prospective guardian would eliminate all safety factors identified by the department; and

(K) The child's parents consent to the prospective guardian assuming guardianship over the child.

SECTION 2. DO NOT CODIFY. Rules.

The Department of Human Services shall to promulgate rules to implement this act.

SECTION 3. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the Department of Human Services shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2024; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2024, as soon as practicable after approval under § 10-3-309.

(b) The department shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2024, so that the Legislative Council may consider the rules for approval before January 1, 2024.