

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.

Act 621 of the Regular Session

As Engrossed: H3/2/07 H3/12/07

A Bill

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

HOUSE BILL 2256

4
5 By: Representative E. Brown
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8 **For An Act To Be Entitled**

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

13 **Subtitle**

14 TO ESTABLISH THE "ARKANSAS SUBSIDIZED
15 GUARDIANSHIP ACT" OF 2007.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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.
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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



1 available to it from other sources and shall be subject to any restrictions
2 as outlined in the funds appropriated or made available to the department.

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4 9-8-203. Promulgation of Regulations.

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

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

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11 9-8-204. Eligibility.

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

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

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

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

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

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

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

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

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

34 (9) The child has special needs.

35 (b)(1) The department shall redetermine eligibility of the
36 guardianship on an annual basis and shall include confirmation that the

1 guardian is still providing care for the child.

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

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6 9-8-205. Guardianship subsidy agreement.

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

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

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

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

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

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

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26 9-8-206. Subsidy amount

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

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

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34 9-8-207. Records confidential.

35 (a) All subsidized guardianship records personally identifying a
36 juvenile shall be confidential and shall not be released or otherwise made

1 available except to the following persons or entities and to the extent
2 permitted by federal law:

3 (1) The guardian;

4 (2) The attorney for the guardian;

5 (3) The child;

6 (4) The attorney ad litem for the child;

7 (5) For purposes of review or audit by the appropriate federal
8 or state agency;

9 (6) To a grand jury or court upon a finding that information in
10 the record is necessary for the determination of an issue before the court or
11 grand jury;

12 (7)(i) To individual federal and state representatives and
13 senators in their official capacity and their staff members with no
14 rediscovery of information.

15 (ii) No disclosure of any information that
16 identifies by name or address any recipient of a subsidy or service shall be
17 made to any committee or legislative body;

18 (8) The administration of any federal program or federally
19 assisted program that provides assistance, in cash or in kind, or services
20 directly to individuals on the basis of need.

21 (b)(1) Any person or agency to whom disclosure is made shall not
22 disclose to any other person any personally identifying information obtained
23 pursuant to this section.

24 (2) Nothing in this subsection shall prevent subsequent
25 disclosure by the guardian or the child.

26 (3) Any person disclosing information in violation of this
27 subsection shall be guilty of a Class C misdemeanor.

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29 /s/ E. Brown

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31 APPROVED: 3/28/2007