

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4  
5 By: Representative Scott

# A Bill

HOUSE BILL 1848

## For An Act To Be Entitled

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

## Subtitle

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

19  
20  
21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23  
24 SECTION 1. Arkansas Code § 9-8-204(a), concerning a child's  
25 eligibility for a guardianship subsidy, is amended to read as follows:

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

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

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

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

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



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

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

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

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

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

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

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

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

21                                   ~~(B)~~(ii) Department for foster home approval;  
22 and

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

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

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

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

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

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

1 assume guardianship of the child;

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

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

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

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

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

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

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

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

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 21 SECTION 2. DO NOT CODIFY. Rules.

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

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 25 SECTION 3. DO NOT CODIFY. Rules.

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

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

30 (2) If approval under § 10-3-309 has not occurred by January 1,  
 31 2024, as soon as practicable after approval under § 10-3-309.

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