

2003 SESSION

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SENATE BILL NO. 36

Offered January 9, 2002

Prefiled December 20, 2001

A *BILL to amend the Code of Virginia by adding a section numbered 63.1-206.2, relating to subsidized guardianship for children.*

Patron—Miller, Y.B.

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 63.1-206.2 as follows:

§ 63.1-206.2. Subsidy for relative caregivers.

A. The Department shall establish a subsidized guardianship program for the benefit of children in the custody of a local board of social services or other child welfare agency who are living with relative caregivers and who have been in foster care or living with relatives other than natural parents for not less than eighteen months. A "relative caregiver" means a person who is caring for a child related to such person for whom the option of reunification has been eliminated and termination of parental rights is not appropriate. A relative caregiver may request appointment as guardian and obtain legal custody over such child and receive a guardianship subsidy from the Department. If adoption of the child by the relative caregiver is an option, the Department shall counsel the relative caregiver about the advantages and disadvantages of adoption and subsidized guardianship so that the decision by the relative caregiver to request a subsidized guardianship may be a fully informed one.

B. The subsidized guardianship program shall provide the following subsidies for the benefit of any child in the care of a relative caregiver who has been appointed the guardian of the child pursuant to court order:

1. A special-need subsidy, which shall be a one-time lump sum payment for expenses resulting from the assumption of care of the child when no other resource is available to pay for such expense; and

2. A medical subsidy comparable to the medical subsidy to children receiving subsidy payments for adoption pursuant to § 63.1-238.3; and

3. A monthly subsidy on behalf of the child payable to the relative caregiver that shall be equal to the prevailing foster care rate.

The Department may establish an asset test for eligibility under the program.

C. Prior to the guardianship hearing and as a prerequisite for payment of a guardianship subsidy for the benefit of a minor child, a home study report on the relative caregiver shall be filed with the court having jurisdiction over the child's case within fifteen days of the request for a subsidy, provided that no such report shall be required to be filed if a report has previously been provided to the court.

D. The guardianship subsidy shall continue until the child reaches the age of eighteen or the age of twenty-one if such child is in full-time attendance at a secondary school, technical school or college or is in a state-accredited job training program. The relative caregiver receiving a guardianship subsidy shall submit annually to the Department a sworn statement that the child is still living with and receiving support from the guardian. The parent of any child receiving assistance through the subsidized guardianship program shall remain liable for the support of the child.

E. A guardianship subsidy shall not be included in the calculation of household income in determining eligibility for benefits of the relative caregiver of the subsidized child or other persons living within the household of the relative caregiver.

2. The State Board of Social Services shall promulgate regulations to implement the provisions of this act within 280 days of the enactment of this provision.

3. The Department of Social Services shall seek all federal waivers as are necessary and appropriate to implement this act.

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