
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 856 Session of
2019

INTRODUCED BY BOBACK, HOWARD, LONGIETTI, RADER, KORTZ, HELM,
DeLUCA, PETRARCA AND D. MILLER, MARCH 18, 2019

REFERRED TO COMMITTEE ON CHILDREN AND YOUTH, MARCH 18, 2019

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in children and youth,
4 further providing for definitions; and, in family finding and
5 kinship care, further providing for definitions, for Kinship
6 Care Program, for Subsidized Permanent Legal Custodianship
7 Program and for permanent legal custodianship subsidy and
8 reimbursement.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Section 772 of the act of June 13, 1967 (P.L.31,
12 No.21), known as the Human Services Code, amended June 30, 2012
13 (P.L.668, No.80), amendment declared unconstitutional, 188 A.3d
14 1135 (Pa. 2018), is reenacted and amended to read:

15 Section 772. Definitions.--As used in this subdivision:

16 "Adoption opportunity" is a subsidy which may include
17 maintenance cost; medical, surgical, and psychological expenses;
18 and other costs incident to the adoption.

19 "Child" means an individual who:

20 (1) is under the age of eighteen years; or

21 (2) is under the age of twenty-one years and who attained

1 thirteen years of age before the adoption assistance agreement
2 became effective and who is:

3 (i) completing secondary education or an equivalent
4 credential;

5 (ii) enrolled in an institution which provides postsecondary
6 or vocational education;

7 (iii) participating in a program actively designed to
8 promote or remove barriers to employment;

9 (iv) employed for at least eighty hours per month; or

10 (v) incapable of doing any of the activities described in
11 subclause (i), (ii), (iii) or (iv) due to a medical or
12 behavioral health condition, which is supported by regularly
13 updated information in the permanency plan of the child.

14 "Eligible child" means a child in the legal custody of local
15 authorities where parental rights have been terminated pursuant
16 to the procedure set forth in [Article III of the act of July
17 24, 1970 (P.L.620, No.208), known as the "Adoption Act,"] 23
18 Pa.C.S. Ch. 25 (relating to proceedings prior to petition to
19 adopt) and such child has been in foster placement for a period
20 of not less than six months and where the child has been shown
21 to be a difficult adoption placement because of a physical
22 and/or mental handicap, emotional disturbance, or by virtue of
23 age, sibling relationship, or ethnicity. A child in the legal
24 custody of an agency approved by the department shall be an
25 eligible child if the child is certified as eligible by the
26 local authorities.

27 "Local authorities" means county institution districts or
28 their successors.

29 Section 2. Section 1302 of the act, amended June 30, 2012
30 (P.L.668, No.80), amendment declared unconstitutional, 188 A.3d

1 1135 (Pa. 2018), the definitions of "accept for service" and
2 "family finding," added July 9, 2013 (P.L.369, No.55), and the
3 definitions of "eligible permanent legal custodian," "sibling"
4 and "successor permanent legal custodian," amended or added
5 December 28, 2015 (P.L.500, No.92), is reenacted to read:
6 Section 1302. Definitions.

7 The following words and phrases when used in this article
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Accept for service." Decide on the basis of the needs and
11 problems of an individual to admit or receive the individual as
12 a client of the county agency or as required by a court order
13 entered under 42 Pa.C.S. Ch. 63 (relating to juvenile matters).

14 "Child." An individual who:

15 (1) is under 18 years of age; or

16 (2) is under 21 years of age and who attained 13 years
17 of age before the subsidized permanent legal custodianship
18 agreement became effective and who is:

19 (i) completing secondary education or an equivalent
20 credential;

21 (ii) enrolled in an institution which provides
22 postsecondary or vocational education;

23 (iii) participating in a program actively designed
24 to promote or remove barriers to employment;

25 (iv) employed for at least 80 hours per month; or

26 (v) incapable of doing any of the activities
27 described in subparagraph (i), (ii), (iii) or (iv) due to
28 a medical or behavioral health condition, which is
29 supported by regularly updated information in the
30 permanency plan of the child.

1 "County agency." The county children and youth social
2 service agency exercising the power and duties provided for in
3 section 405 of the act of June 24, 1937 (P.L.2017, No.396),
4 known as the County Institution District Law, or its successor,
5 and supervised by the department under Article IX.

6 "Eligible child." A child who:

7 (1) has a court-ordered disposition of placement with a
8 permanent legal custodian pursuant to 42 Pa.C.S. § 6351(a)
9 (2.1) (relating to disposition of dependent child);

10 (2) has lived with an eligible permanent legal custodian
11 for at least six months, which need not be consecutive; and

12 (3) is a citizen or an alien lawfully residing in this
13 Commonwealth.

14 "Eligible permanent legal custodian." A relative or kin:

15 (1) whose home is approved pursuant to applicable
16 regulations for placement of foster children;

17 (2) with whom an eligible child has resided for at least
18 six months, which need not be consecutive; and

19 (3) who meets the requirements to be approved as a
20 foster parent under 23 Pa.C.S. § 6344 (relating to employees
21 having contact with children; adoptive and foster parents).

22 "Family finding." Ongoing diligent efforts between a county
23 agency, or its contracted providers, and relatives and kin to:

24 (1) Search for and identify adult relatives and kin and
25 engage them in children and youth social service planning and
26 delivery.

27 (2) Gain commitment from relatives and kin to support a
28 child or parent receiving children and youth social services.

29 "Foster parent." An individual approved by a public or
30 private foster family care agency to provide foster family care

1 services to a child who is temporarily separated from the
2 child's legal family and placed in the legal custody of an
3 agency.

4 "Kin." An individual 21 years of age or older who is one of
5 the following:

6 (1) A godparent of the child as recognized by an
7 organized church.

8 (2) A member of the child's tribe, nation or tribal
9 organization.

10 (3) An individual with a significant, positive
11 relationship with the child or family.

12 "Permanent legal custodian." A person to whom legal custody
13 of the child has been given by order of a court pursuant to 42
14 Pa.C.S. § 6351(a)(2.1) (relating to disposition of dependent
15 child).

16 "Relative." An individual who is:

17 (1) Related within the fifth degree of consanguinity or
18 affinity to the parent or stepparent of a child.

19 (2) At least 21 years of age.

20 "Sibling." An individual who has at least one parent in
21 common with another individual, whether by blood, marriage or
22 adoption, regardless of whether or not there is a termination of
23 parental rights or parental death. The term includes biological,
24 adoptive, step and half siblings.

25 "Subsidized permanent legal custodianship." A court-ordered
26 disposition of a dependent child pursuant to 42 Pa.C.S. §
27 6351(a)(2.1) (relating to disposition of dependent child) for
28 which the child's permanent legal custodian receives a monetary
29 payment from the county agency pursuant to a subsidized
30 permanent legal custodianship agreement.

1 "Subsidized permanent legal custodianship agreement." A
2 written agreement signed by the director of the county agency,
3 or a designee, and a permanent legal custodian, that sets forth
4 the terms and subsidy payments for a subsidized permanent legal
5 custodianship.

6 "Successor permanent legal custodian." A relative or kin:

7 (1) with whom an eligible child resides for any period
8 of time;

9 (2) who has been named as a successor in a permanent
10 legal custodianship agreement executed by an eligible child's
11 previous eligible permanent legal custodian; and

12 (3) who meets the requirements for employment in child-
13 care services and approval as a foster or adoptive parent
14 under 23 Pa.C.S. § 6344 (relating to employees having contact
15 with children; adoptive and foster parents).

16 Section 3. Sections 1303(b) and 1303.1 of the act, amended
17 or added June 30, 2012 (P.L.668, No.80), amendment or addition
18 declared unconstitutional, 188 A.3d 1135 (Pa. 2018), are
19 reenacted to read:

20 Section 1303. Kinship Care Program.

21 * * *

22 (b) Placement of children.--If a child has been removed from
23 the child's home under a voluntary placement agreement or is in
24 the legal custody of the county agency, the county agency shall
25 give first consideration to placement with relatives or kin. The
26 county agency shall document that an attempt was made to place
27 the child with a relative or kin. If the child is not placed
28 with a relative or kin, the agency shall document the reason why
29 such placement was not possible.

30 * * *

1 Section 1303.1. Subsidized Permanent Legal Custodianship
2 Program.

3 (a) Establishment of program.--The Subsidized Permanent
4 Legal Custodianship Program is established in the department.

5 (b) Implementation.--The department shall establish and
6 develop criteria and promulgate necessary regulations for county
7 agencies to implement the Subsidized Permanent Legal
8 Custodianship Program in accordance with the provisions of this
9 article. The criteria and regulations shall include, but not be
10 limited to, identification of eligible children and eligible
11 permanent legal custodians, procedures for implementing the
12 program and reporting requirements by county agencies.

13 Section 4. Section 1303.2 of the act, added June 30, 2012
14 (P.L.668, No.80), addition declared unconstitutional, 188 A.3d
15 1135 (Pa. 2018), and amended December 28, 2015 (P.L.500, No.92),
16 is reenacted to read:

17 Section 1303.2. Permanent legal custodianship subsidy and
18 reimbursement.

19 (a) Amount.--The amount of permanent legal custodianship
20 subsidy for maintenance costs to a permanent legal custodian or
21 a successor permanent legal custodian shall not exceed the
22 monthly payment rate for foster family care in the county in
23 which the child resides.

24 (b) County reimbursement.--The department shall reimburse
25 the county agency for at least 80% of the cost of a permanent
26 legal custodianship subsidy payment provided by a county agency
27 in accordance with the provisions of this article, provided that
28 the county agency complies with the requirements established by
29 the department.

30 Section 5. The following shall apply:

1 (1) The reenactment of sections 772, 1303(b) and 1303.1
2 of the act shall apply retroactively to July 1, 2012.

3 (2) The following shall apply to the reenactment of
4 section 1302 of the act:

5 (i) Except as provided under subparagraphs (ii) and
6 (iii), the reenactment of section 1302 of the act shall
7 apply retroactively to July 1, 2012.

8 (ii) The addition of the definitions of "accept for
9 service" and "family finding" by Act 55 of 2013 shall
10 apply retroactively to September 9, 2013.

11 (iii) The following shall apply retroactively to
12 December 28, 2015:

13 (A) As much as added to the definition of
14 "eligible permanent legal custodian" by Act 92 of
15 2015 as reads, "to be approved as a foster parent
16 under" and "employees having contact with children;
17 adoptive and foster parents" in section 1302 of the
18 act.

19 (B) As much as repealed in the definition of
20 "eligible permanent legal custodian" by Act 92 of
21 2015 as reads, "for employment in child-care services
22 pursuant to" and "information relating to prospective
23 child-care personnel" in section 1302 of the act.

24 (C) The addition of the definitions of "sibling"
25 and "successor permanent legal custodian" by Act 92
26 of 2015 to section 1302 of the act.

27 (3) The following shall apply to the reenactment of
28 section 1303.2 of the act:

29 (i) Except as provided under subparagraph (ii), the
30 reenactment of section 1303.2 of the act shall apply

1 retroactively to July 1, 2012.

2 (ii) As much as added to section 1303.2(a) by Act 92
3 of 2015 as reads, "or a successor permanent legal
4 custodian" shall apply retroactively to December 28,
5 2015.

6 Section 6. This act shall take effect immediately.