

Statement of Scope

Department of Children and Families

Rule Number: Chapter DCF 55

Relating to: Tribal subsidized guardianships

Rule Type: Permanent

1. Finding/nature of emergency (for emergency rules only)

NA

2. Detailed description of the objective of the proposed rules

The primary purpose of the proposed rules is to bring the subsidized guardianship rule into conformance with s. 48.623, Stats., as affected by 2023 Wisconsin Act 19, which allows tribes located in Wisconsin to determine eligibility for and make payments under the subsidized guardianship program. Each tribe will have the option to enter an agreement with the department to make payments for subsidized guardianships ordered by the tribal court or to continue to enter an agreement with a county to make the payments. Counties and tribes receive state reimbursement for subsidized guardianship payments.

The rules will also make clarifications and technical corrections, including changing the defined term “like-kin” to “fictive kin” to avoid confusion with the term “like-kin” used in other child welfare contexts with a different meaning.

3. Detailed explanation of statutory authority for the rules

The department administers s. 48.623, Stats., relating to subsidized guardianships.

Section 227.11 (2) (a), Stats., expressly confers rule-making authority on each agency to promulgate rules interpreting the provisions of any statute enforced or administered by the agency.

4. Estimate of amount of time that state employees will spend developing the rules and of other resources necessary to develop the rules

300 hours

5. List with description of all entities that may be affected by the proposed rules

Tribal child welfare agencies, children under the jurisdiction of a tribal court, subsidized guardians and proposed subsidized guardians of children under the jurisdiction of a tribal court, and county human and social service departments

6. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rules:

There is no federal law on tribal administration of the subsidized guardianship program. General provisions on the subsidized guardianship program are in 42 USC 671 (a) (28) and 42 USC 673 (d).

Tribes that determine eligibility for the subsidized guardianship program will have the option of conducting the background check under s. 48.685, Stats., or meeting the background check requirements for foster parent licensing under 42 USC 671 (a) (20).

7. Anticipated economic impact of implementing the rules (note if the rule is likely to have a significant economic impact on small businesses):

The proposed rules will not affect small businesses.

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