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DUTIES OF A GUARDIAN AD LITEM

House Bill 6092

Sponsor: Rep. Mark Schauer

Committee: Judiciary

Complete to 9-17-98

A SUMMARY OF HOUSE BILL 6092 AS INTRODUCED 9-17-98

The bill would amend the Revised Probate Code by adding to the duties of a guardian ad litem (GAL). The current duties of a guardian ad litem include, among other things, making determinations and informing the court of those determinations as to whether the allegedly legally incapacitated person wishes to be present at the hearing, to contest the petition, or to have limits placed on the guardian's powers. In addition to these determinations of the person's wishes, the bill would require a guardian ad litem to determine whether there are appropriate alternatives to guardianship or whether guardianship is not needed to provide for the individual's continuing care and supervision. [The bill specifies that such alternatives could include, but would not be limited to, the designation of a patient advocate, another type of medical decision-making document (such as a medical power of attorney or advance directive regarding medical care), or a court order determining that a patient advocate designation or other medical decision-making document was valid, binding, or in effect.]

In addition, when the guardian ad litem determines that the individual who is alleged to be legally incapacitated does not wish to contest the petition, the bill would require the GAL to inform the court of what specific limitations, if any, should be placed upon the guardian's powers. Furthermore, although current law requires that a guardian ad litem's appointment terminates upon the appointment of legal counsel for the allegedly incapacitated person, the bill would allow for the court to order the GAL's appointment to continue.

MCL 700.443a

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