

# Legislative Analysis

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## REVISE EPIC CODE

Mitchell Bean, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

### House Bill 5499

**Sponsor: Rep. Robert Jones**

**Committee: Senior Health, Security and Retirement**

**Complete to 12-3-07**

## A SUMMARY OF HOUSE BILL 5499 AS INTRODUCED 12-1-07

The bill would amend the Estates and Protected Individuals Code (EPIC) by adding Section 5306A to specify that an individual for whom a guardian is appointed (a protected individual) under Section 5306 would retain all of the following rights:

- \*To have a continuing review of the need for the guardianship as provided in the act.
- \*To be restored to capacity at the earliest possible time.
- \*To be treated humanely, with dignity and respect, and to be protected against abuse, neglect, and exploitation.
- \*To have a qualified guardian.
- \*To be free from physical or chemical restraints, except as required to treat medical symptoms, and as authorized in writing by a physician.
- \*To remain as independent as possible, including having the individual's preference as to place and standard of living honored.
- \*To attend only those religious services of the individual's choice.
- \*To have access to newspapers, magazines, books, and other media.
- \*To maintain possession of family photographs and moving images, in any medium, legal papers, address books, and family heirlooms.
- \*To receive prudent financial management and to be informed how the individual's property is being managed.
- \*To be free from discrimination because of the person's incapacity.
- \*To have access to the courts and to lodge complaints with governmental agencies, health care facilities, and the courts, without reprisal.
- \*To have access to and to meet privately with legal counsel.
- \*To meet privately with the individual's spouse.
- \*To receive notice of all proceedings
- \* To privacy.

Also, if the protected person is residing in a long-term care facility, the individual would have a right to be visited by representatives of the state's Long-Term Care Ombudsman as provide for in the Older Michiganians Act, and of any agency designated to implement protection and advocacy programs under Section 931 of the Mental Health Code.

Unless specifically restricted by court order, a protected person would retain all of the following rights to the extent allowed by law:

- \*To associate with individuals of his or her choice, including meeting privately with family or friends.
- \*To send and receive mail, including electronic mail, unopened.
- \*To make and receive telephone calls, in private.
- \*To attend social gatherings, cultural events, or meetings of community groups.
- \*To seek and retain gainful employment and participate in volunteer activities.
- \*To personally apply for government benefits.
- \*To have a driver license.

Within seven days after being appointed guardian of a protected person, a guardian would be required to inform the ward orally and in writing of his or her rights as outlined in this section. However, the enumeration of rights would not preclude other rights being retained by the ward.

Under the bill, a violation of any right listed in this section by a guardian is cause for removal as guardian in a proceeding outlined in the act. If the court finds that a guardian has violated a right enumerated in the bill, the court would consider whether the guardian had violated rights of any other individual for whom he or she serves as guardian. If the court determines that the guardian has violated the rights of another ward, it would take appropriation action, which could include removal as guardian for other individuals and prohibiting the guardian from being appointed as guardian in the future.

MCL 700.5306a

#### **FISCAL IMPACT:**

The bill would not have significant fiscal impact on the judiciary; any fiscal impact would be related to increased administrative workload that might arise under the bill's provisions.

Legislative Analyst: E. Best  
Fiscal Analyst: Viola Bay Wild

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.