



Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL



ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 176 (as introduced 2-12-13)
Sponsor: Senator Dave Hildenbrand
Committee: Families, Seniors and Human Services

Date Completed: 5-7-13

CONTENT

The bill would amend the Mental Health Code to allow a court to hold a hearing regarding a guardianship determination for a developmentally disabled individual who was at least 17 years and six months of age, and make a guardianship appointment that would take effect on the person's 18th birthday.

Filing a Petition

The Code provides that an interested person or entity or a developmentally disabled individual may file a petition for the appointment of a guardian for the individual. The court then must schedule a hearing to take place within 30 days of the date the petition was filed.

The bill provides that a petition could be filed for a developmentally disabled individual who was not less than 17 years and six months old. In that case, the court could set a hearing date to take place before the individual's 18th birthday.

Guardianship Hearing

At a hearing, the court must assess whether the individual is disabled and to what extent. The court must first inquire about the intellectual functioning of the individual, determine the extent of impairment in his or her adaptive behavior, determine the individual's capacity to care for himself or herself, determine the capacity of the individual to manage his or her estate and financial affairs, and determine the appropriateness of proposed or current living arrangements and whether it is the least restrictive setting suited to the individual's condition.

The court then must determine, through findings of fact, whether the individual has the capacity to care for himself or herself. If the individual does not, the court must make findings of fact, based on clear and convincing evidence, regarding the disability of the individual. If the evidence shows that the individual lacks the capacity to do some of the tasks necessary to care for himself or herself or the individual's estate, the court may appoint a partial guardian to provide guardianship services to the individual. If the evidence shows the individual is totally without capacity to care for himself or herself or the individual's estate, the court may appoint a plenary guardian of the individual, the individual's estate, or both.

Under the bill, for hearings that involved an individual not less than 17 years and six months old, the court could appoint a guardian if it made the required findings about lack of

capacity. The guardianship would be effective on the individual's 18th birthday.

MCL 330.1609 et al.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Dan O'Connor

S1314\S176sa

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.