

ADOPTION: GUARDIANS

House Bill 4252 (Substitute H-1)
House Bill 5783 as introduced
House Bill 5784 as introduced

Sponsor: Rep. Curtis Hertel
Committee: Judiciary

Complete to 5-8-92

A SUMMARY OF HOUSE BILLS 4252 (H-1) AND 5783 AND 5784 AS INTRODUCED

The bills would specify procedures to be followed when a guardian seeks to execute a release or consent to an adoption, and explicitly provide for the termination of parental rights when that occurs. (Current provisions allow a guardian to execute a release or consent if granted permission from the court that appointed the guardian. Under a "release," parental rights are relinquished to the Department of Social Services or a child placing agency; under a "consent," parental rights are relinquished to the court so that a child may be adopted by someone who has filed a petition to adopt the child. A parent is barred from executing a consent unless the petitioner is related to the child by blood, marriage, or adoption.)

House Bill 4252 would amend the adoption code (MCL 710.28 et al.) to provide for the termination of parental rights following release or consent by the guardian of the child's parent or of the child. House Bill 5783 would amend the Revised Probate Code (MCL 700.424a et al.) to establish release and consent procedures for the guardian of the child to be adopted, and for the guardian of the parent of the child to be adopted, when that parent is a legally incapacitated adult. For situations where either the child or the parent had developmental disabilities, House Bill 5784 would establish virtually identical procedures under the Mental Health Code (MCL 300.1643). None of the bills could take effect unless all were enacted. A more detailed explanation follows.

Guardians: releases and consents. Under the legislation, if a guardian wanted to execute a release or consent to a child's adoption by that guardian or another person, he or she would seek authority from the court that appointed him or her. The same would apply to a guardian of a child's parent when the guardian wished to execute a release or consent regarding the child. The court could appoint a guardian ad litem for the child. A hearing would be held within 30 days after the guardian's petition was filed, with notice going to various interested parties, including the guardian ad litem, if any, and the child, if over 14 years of age. If the court was satisfied that the best interests of the child would be served by the release or consent, the court would grant the authority to the guardian.

Limited guardians. House Bill 5783 would explicitly bar a limited guardian from being able to execute a release of a child or a consent to an adoption.

Termination of parental rights. Immediately upon a guardian's release of a child, the court would terminate parental rights. In the case of a consent, the court would terminate parental rights within two weeks after the court received the adoption investigation report, providing the court was satisfied that the child's best interests would be served by the adoption.

Putative fathers. Various provisions of the adoption code apply to terminating the parental rights of the putative father of a child born out of wedlock. These provisions apply when the mother executes or proposes to execute a release or consent, or joins in a petition for adoption filed by her husband. House Bill 4252 would further apply these provisions when a guardian of a mother or child sought permission to execute a release of the child or a consent to the child's adoption by the guardian or another person.

Following notice and hearing, the court may terminate a putative father's rights under various circumstances, one of which is when the father's identity is known but his whereabouts unknown, and he has not provided support for the mother nor shown any interest in the child for at least 90 days preceding the hearing. House Bill 4252 would clarify the timeframes of this provision so that the father's rights could be terminated if he had failed to provide support to the mother for at least 90 days preceding the hearing, and had failed to show interest in the child for at least 90 days preceding the hearing or since the birth of the child, whichever was less.