



**House
Legislative
Analysis
Section**

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

DD GUARDIANSHIPS

**House Bill 4255 with committee
amendment
First Analysis (3-9-93)**

**Sponsor: Rep. Clark Harder
Committee: Mental Health**

THE APPARENT PROBLEM:

After a court hearing, the Mental Health Code allows guardians for developmentally disabled (DD) people to be discharged or to have their duties modified under certain circumstances. The provision allowing a court to remove a guardianship and terminate a guardianship order, however, reportedly has been implemented differently in different counties. For example, the Wayne County probate court reportedly has assumed that a developmentally disabled person's full legal and civil rights are returned on the termination of a guardianship, while there has been at least one case in Oakland County in which the probate court did not immediately restore these rights when it dissolved a guardianship order. At the request of an Oakland County advocacy group, legislation has been introduced to clarify this section of the Mental Health Code.

THE CONTENT OF THE BILL:

The bill would add a new section to the Mental Health Code that would explicitly restore to developmentally disabled people, upon termination of a guardianship (whether by court order or through expiration), all of the legal and civil rights that had been designated as legal disabilities or specifically granted to the guardian.

MCL 330.644

FISCAL IMPLICATIONS:

Fiscal information is not available at present.

ARGUMENTS:

For:

The bill would clarify that upon termination of or expiration of a guardianship order all legal and civil rights previously designated as legal disabilities would be fully restored. The Mental Health Code

currently says that a guardian for a developmentally disabled person may be discharged or have his or her duties modified when the developmentally disabled person's capacity to take care of him or herself changed "so as to warrant modification or discharge." When a developmentally disabled person requests that his or her guardian be discharged (or that the guardianship be modified), a court must hold a hearing and, after the hearing, take one of four actions: dismiss the petition, remove the guardianship and dissolve the guardianship order, replace the guardian with another, or modify the original guardianship order. Although the vast majority of court orders removing guardianships simultaneously fully restore the developmentally disabled person's legal rights, there have been incidents reported where this full restoration of rights was not granted. The bill would clarify the code and prevent future such cases from happening.

POSITIONS:

The Association for Retarded Citizens (ARC)/Michigan supports the bill. (3-4-93)

House Bill 4255 (3-9-93)