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BILL



ANALYSIS

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House Bill 5441 (as reported without amendment)
Sponsor: Representative Holly Hughes
House Committee: Families, Children, and Seniors
Senate Committee: Families, Seniors and Human Services

CONTENT

The bill would amend the Estates and Protected Individuals Code (EPIC) to require a guardian ad litem, appointed to represent a person who was the subject of a petition alleging incapacity and requesting appointment of a guardian, to ask about the person's cash and property readily convertible into cash; make a determination of whether actions should be taken, in addition to appointment of a guardian; and include an estimate of the person's cash and property readily convertible into cash in the guardian ad litem's report to the court of his or her determinations.

Under EPIC, when a petition for a finding of incapacity and appointment of a guardian is filed, the court must schedule a hearing on the issue. Unless the allegedly incapacitated individual has legal counsel of his or her own choice, the court must appoint a guardian ad litem to represent the person in the proceeding.

The Code specifies the duties of a guardian ad litem appointed for an individual alleged to be incapacitated. The bill would include in those duties asking the individual and the petitioner about the amount of cash and property readily convertible into cash that was in the individual's estate.

A guardian ad litem must make certain determinations, and inform the court of those determinations. One of the determinations is whether there are appropriate alternatives to the appointment of a full guardian. The bill also would require the guardian ad litem to determine whether actions should be taken in addition to the appointment of a guardian.

The alternatives a guardian ad litem must make a determination about include the appointment of a conservator or another protective order. The bill specifies that, in the report informing the court of this determination, the guardian ad litem would have to include an estimate of the amount of cash and property readily convertible into cash that was in the individual's estate.

The bill would take effect on October 1, 2012.

MCL 700.5305

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 6-7-12

Fiscal Analyst: Dan O'Connor