

## APPOINTMENT OF GUARDIANS/CONSERVATORS

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**Senate Bill 270 as reported from committee w/o amendment**

**Sponsor: Sen. Rick Jones**

**House Committee: Judiciary**

**Senate Committee: Judiciary**

**Complete to 12-13-16**

Analysis available at  
<http://www.legislature.mi.gov>

*(Enacted as Public Act 498 of 2016)*

### REVISED SUMMARY:

The bill would give jurisdiction to the probate court over the appointment of guardians or conservators, or the issuance of a protective order in relation to an individual's estate and affairs, and establish criteria for determining if the individual for whom a guardian or conservator (or protective order) is being sought has a significant connection to the state.

(The bill would enable a person in Michigan to petition a probate court in the state to be appointed as a guardian or conservator for an individual who has connections to Michigan but who may be in another jurisdiction; for example, in another state.)

Senate Bill 270 adds two new sections to Article 5 of the Estates and Protected Individuals Code, entitled "Protection of an Individual under Disability and His or Her Property."

Section 5301b would be added to Part 3 (Guardians of Incapacitated Individuals) to pertain to the appointment of a guardian. Section 5402a would be added to Part 4 (Protection of Property of an Individual under Disability or of a Minor) to pertain to the appointment of a conservator or issuance of a protective order in relation to an individual's estate and affairs. The bill takes effect 90 days after enactment.

The new sections would give jurisdiction to the probate court over the appointment of a guardian or conservator (or issuance of a protective order) if the person for whom a guardian or conservator (or protective order) is sought resides in Michigan or is present in Michigan and has a significant connection to the state.

The court would have to consider the following factors in determining if the individual has a significant connection to the state:

- The wishes of the individual.
- The location of the individual's family and other interested persons.
- The length and time the individual was present in Michigan and the duration of any absence.
- The location of the individual's property.
- The extent to which the individual has ties to Michigan (e.g., voting registration, state tax return filing, vehicle registration, driver license, social relationship, and receipt of services).
- Any other factor the court considers relevant.

MCL 700.5301b and 700.5402a, proposed

**FISCAL IMPACT:**

The bill would have no fiscal impact on the state or on local units of government.

**POSITIONS:**

A representative of the State Court Administrative Office (SCAO) testified in support of the bill. (3-22-16)

Michigan Probate Judges Association indicated support for the bill. (12-8-15 & 3-22-16)

The Michigan Bankers Association indicated support for the bill. (11-29-16)

The Probate & Estate Planning Section of the Michigan State Bar supports the bill in concept, expressing concerns in written testimony "that additional analysis and revision of SB 0270 is required before the concepts included therein can safely be passed into law."

A representative of AARP testified in opposition to the bill. (12-8-15 & 3-22-16)

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