

HOUSE BILL No. 5433

November 10, 2005, Introduced by Reps. Accavitti, Bieda, Tobocman, Farrah, Vagnozzi, Zelenko and Wojno and referred to the Committee on Health Policy.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 617 (MCL 330.1617).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 617. (1) A respondent in a guardianship proceeding
2 conducted ~~pursuant to~~ **UNDER** this chapter may demand that a jury
3 decide any issue or issues of fact. A jury shall consist of 6
4 persons to be chosen in the same manner as provided in the probate
5 court rules.

6 (2) A respondent in a guardianship proceeding conducted
7 ~~pursuant to~~ **UNDER** this chapter ~~shall have~~ **HAS** the right to
8 present evidence, and to confront and cross-examine all witnesses.

9 (3) The hearing may be closed to the public on the request of
10 the respondent or the respondent's legal counsel.

1 (4) ~~The respondent shall be present at all proceedings~~
2 ~~conducted pursuant to this chapter. However, the respondent's~~
3 ~~presence may be excused by the court only on a showing, supported~~
4 ~~by an affidavit signed by a physician or psychologist who has~~
5 ~~recently examined the respondent, that the respondent's attendance~~
6 ~~would subject him or her to serious risk of physical or emotional~~
7 ~~harm.~~ **THE RESPONDENT IS ENTITLED TO BE PRESENT AT THE HEARING IN**

8 **PERSON AND TO SEE OR HEAR ALL EVIDENCE BEARING UPON THE**
9 **RESPONDENT'S CONDITION. IF THE RESPONDENT WISHES TO BE PRESENT AT**
10 **THE HEARING, ALL PRACTICAL STEPS SHALL BE TAKEN TO ENSURE HIS OR**
11 **HER PRESENCE, INCLUDING, IF NECESSARY, MOVING THE HEARING SITE.**

12 (5) A guardian shall not be appointed under this section
13 unless the person who prepared the report or at least 1 of the
14 persons who performed an evaluation serving in part as basis for
15 the report testifies in person in court.

16 (6) The respondent has the right, at his or her own expense,
17 or if the respondent is indigent, at the expense of the state, to
18 secure an independent evaluation. Compensation for an independent
19 evaluation at public expense shall be in an amount ~~which~~ **THAT** is
20 reasonable and based upon time and expenses and approved by the
21 court.