

# Legislative Analysis



## GUARDIANSHIPS AND ALTERNATIVES

Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

**House Bill 4676 as introduced**  
**Sponsor: Rep. Sharon MacDonell**

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

**House Bill 4677 as introduced**  
**Sponsor: Rep. Douglas C. Wozniak**

**Committee: Families and Veterans**  
**Complete to 7-28-25**

## SUMMARY:

**House Bill 4676** would amend Chapter 6 (Guardianship for the Developmentally Disabled) of the Mental Health Code to require courts to consider alternatives to appointing a guardian for an individual with a developmental disability who the court has determined is likely to need protection based on factors set forth in Chapter 6.<sup>1</sup>

Under the bill, if the court finds that an individual who has a developmental disability is likely to need protection based on those factors, the court would have to apply the least restrictive alternative principle as described in Chapter 6. The court could not restrict the individual's personal liberty or their freedom to manage their financial resources to a greater extent than is necessary to protect the individual's person and their estate.

The limitations imposed on a guardian's authority as set forth in the court's findings would have to be stated in the letters of guardianship and in the notice of first publication of letters of guardianship granted.

Before appointing a guardian for an individual with a developmental disability, the court would have to consider whether the individual's needs may be met without appointing a guardian by a less restrictive alternative, including the following:

- The use of an attorney-in-fact if there is evidence that the individual appointed an attorney-in-fact in a durable power of attorney executed before the petition was filed.
- The management of the beneficial interests of the individual in a trust by a trustee.
- The use of a representative payee if there is evidence that a representative payee was appointed to manage the individual's public benefits.
- ***Supported decision making*** or the provision of protective or supportive services or arrangements by individuals or public or private services or agencies.
- The use of appropriate services or assistive technology.
- The appointment of a temporary emergency guardian or guardian of the estate.

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<sup>1</sup> At a hearing convened under Chapter 6 for the appointment of a guardian, the court must inquire into the nature and extent of the general intellectual functioning of the individual asserted to need a guardian; determine the extent of the impairment in their adaptive behavior; determine their capacity for self-care by making and communicating responsible decisions concerning their person; determine their capacity to manage their estate and financial affairs; and determine the appropriateness of their proposed living arrangement and whether it is the least restrictive setting suited to their condition, including, if applicable, specific determinations regarding the facility they are residing in.

- The appointment of a limited guardian or conservator under Article V (Protection of an Individual under Disability and His or Her Property) of the Estates and Protected Individuals Code.

***Supported decision making*** would mean a process through which an individual with a developmental disability works with friends, family members, and professionals who help them understand the situation and choices they face so they may make their own decisions.

MCL 330.1602

**House Bill 4677** would amend Part 3 (Guardians of Incapacitated Individuals) of Article V of the Estates and Protected Individuals Code (EPIC).

Currently, if a person intends to file a petition for a finding of incapacity and appointment of a guardian, the court must, before the petition is filed, provide them with written information about alternatives to appointment of a full guardian, with an explanation of each alternative.

The bill would add that this written information must include an explanation of the alternative of ***supported decision-making***.

***Supported decision-making*** would mean a process through which incapacitated individuals work with friends, family members, and professionals who help them understand the situation and choices they face so they may make their own decisions.

MCL 700.5303

#### **FISCAL IMPACT:**

House Bill 4676 should not have a direct fiscal impact on the state and local community mental health services programs (CMHSPs).

The bills would not have a direct fiscal impact on the courts.

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