Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 585 (as introduced 9-25-25)
Senate Bill 586 (Substitute S-2)
Sponsor: Senator Jeff Irwin (S.B. 585)
Senator Ruth Johnson (S.B. 586)
Committee: Housing and Human Services

Date Completed: 12-15-25

CONTENT

Senate Bill 585 would amend Part 4 (Protection of Property of an Individual Under Disability or of a Minor) of the Estates and Protected Individuals Code (EPIC) to require a court, when considering whether to allow a conservator to sell or mortgage a protected individual's property, to include in its consideration of the property's value an appraisal conducted within the previous six months.

Senate Bill 586 (S-2) would amend Part 3 (Guardians of Incapacitated Individuals) of EPIC to do the following:

- **Prohibit a court from granting a guardian the authority to change an incapacitated individual's residence unless the court found upon the guardian's petition that certain conditions were met, including whether the move was to the least restrictive environment suitable to that individual's unique needs, abilities, and resources, among other things.**
- **Require a court to appoint a guardian ad litem upon the submission of a petition described above and hold a hearing within 28 days of the filing.**
- **Allow a guardian to move a ward before filing a petition if prior court authorization were based on a hearing or in an emergency situation.**
- **Require a court to appoint legal counsel for an individual that objected to a change in residence if that individual did not already have legal counsel.**
- **Require a guardian to notify a court within 14 days of a temporary change in residence if the move were made before a petition was filed.**

Senate Bill 585

Generally, EPIC governs matters related to protected individuals, such as individuals who by reason of age or physical impairment cannot manage their own affairs. The court may appoint a conservator to manage the assets of a protected individual; however, EPIC prohibits a conservator from selling, mortgaging, or pledging, or causing a lien against, a protected individual's property without approval of the court. A court may approve such an action if, after a hearing, the court considers evidence of the value of the property and otherwise determines that the action is in the protected individual's best interest.

The bill would require a court to include in its consideration of the value of property an appraisal conducted within the preceding six months by a licensed real estate appraiser.

Senate Bill 586 (S-2)

The Estates and Protected Individuals Code also allows a court to appoint a guardian to care

for an incapacitated individual if the court finds that the appointment is necessary as a means of providing the individual continuous care. The bill would prohibit a court from granting a guardian the authority to change the incapacitated individual's permanent residence unless the conditions described below were met.

"Permanent residence" would mean the individual's true, fixed, and permanent home to which, whenever absent, the individual intends to return.

Generally, a legally incapacitated individual would have the right, if possible, to remain in the individual's surroundings. If it were not possible, the individual would have the right in the least restrictive environment suitable to that individual's unique needs, abilities, and resources.

Before moving a legally incapacitated individual from a permanent residence, a guardian would have to file a petition that included all the following:

-- The individual's permanent residence.
-- The proposed new residence.
-- The reason for the proposed move.
-- Whether the move was to the least restrictive environment suitable to the individual's unique needs, abilities, and resources, including consideration of any potential for harm and the individual's rights under EPIC.[1]
-- How the move would affect the individual's ability to continue to participate in the individual's community activities and personal relationships.
-- The efforts made or resources explored to enable the individual to remain in the individual's own current residence, including home and community-based services, physical and occupational therapy, and available home modifications.
-- How the guardian had communicated with the individual about the proposed move and whether the individual objected to or supported the proposal.

The State Court Administrative Office would have to create the form described above.

If a petition for moving the legally incapacitated individual were filed, the court would have to appoint a guardian ad litem and hold a hearing within 28 days after the petition was filed. In such an instance, the guardian ad litem would have to do all the following in addition to the guardian ad litem's standard duties under EPIC:

-- Advise the individual that a petition had been filed to move the individual from the individual's permanent residence.
-- Explain that if the court granted the petition to move the individual, the guardian would have the authority to change the individual's permanent residence to the location specified in the petition or another location the court determined appropriate.
-- Determine if possible the wishes of the individual to remain in the individual's permanent residence and whether the individual objected.
-- Include the information described above in the guardian ad litem's written report.

If the individual did not already have a retained legal counsel, the court would have to appoint legal counsel if the individual objected to the move, upon recommendation by the guardian ad litem, or if the court determined that the appointment of legal counsel was appropriate.

[1] The Code prescribes rights for individuals for whom a guardian is sought or appointed including the right to participate in the selection process by having the opportunity to object, have legal representation, and attend hearings. Guardianship must be limited, encourage independence, and include open communication on decisions, among other things.

The court could not grant a petition for removal from an individual's permanent residence unless after a hearing the court found clear and convincing evidence that all the following applied:

-- The move would appropriately protect the individual's physical health, safety, or welfare.
-- The move was to the least restrictive environment suitable to the individual's unique needs, abilities, and resources, including any consideration of potential for harm to the individual's rights under EPIC.
-- If the individual did not consent to the move, there was no reasonable or appropriate way to provide similar benefits for the individual in the individual's permanent residence through the use of home and community based services, physical and occupational therapy, and available home modifications, or other means.
-- The move would allow the legally incapacitated individual the greatest opportunity to continue to be involved in the individual's community activities and personal relationships.
-- The move was not being arranged solely or primarily for the guardian's convenience.

If the court found clear and convincing evidence that a location other than the permanent or proposed residence met the criteria described above, the court could order that the guardian move the individual to a location meeting those requirements.

The bill would allow a guardian to move a legally incapacitated individual before a petition was filed if either of the following applied:

-- The court previously granted the guardian authority to move the individual based on a hearing on the record consistent with the requirements for a petition for removal, including findings of fact on the record when the court appointed the guardian on an initial or subsequent petition.
-- An emergency condition existed, including an emergency that presented a risk of serious harm to the safety of the individual.

If a guardian moved an individual before a petition were filed, the guardian would have to take all reasonable steps to preserve the individual's permanent address. The guardian would also have to notify the court within 14 days of a temporary move.

If the guardian determined that following a temporary absence from the permanent residence, for reasons including an emergency, travel, short term rehabilitation, or hospitalization the ward would not be returning to the individual's permanent residence, the guardian would have to file a petition for moving permanent residences.

The court would have to order a review of the placement at a date set by the court if the ward's circumstances and resources were expected to change such that the current permanent residence could no longer be the least restrictive environment suitable to the individual's needs, abilities, and resources.

Additionally, a guardian would have to file a petition for a permanent move if any of the following applied:

-- The ward's circumstances and resources changed.
-- The changes supported moving the individual to the new permanent residence.
-- The move was to the least restrictive environment suitable to the ward's needs, abilities, and resources, including considerations of a potential for harm and the individual's rights under EPIC.
-- The move was not being arranged solely or primarily for the guardian's convenience.
-- If the removal from the residence required the sale, transfer, or disposal of real or personal property, the guardian had made reasonable efforts to communicate with the ward's loved

-- ones to identify and honor the ward's wishes to preserve sentimental personal property in the overall context of the ward's values, wishes, and resources.

The bill specifies that a court could remove a guardian for failure to comply with the provision described above.

The bill also would remove language requiring a guardian to notify the court within 14 days of a change in the *incapacitated individual's* residence.

MCL 700.5423 (S.B. 585)
700.5306 & 700.5314 (S.B. 586)

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

To the extent that the bill would require additional hearings and judicial review, it would increase costs for local courts to a nominal degree. Indirectly, the substitute could reduce costs for courts and State law enforcement agencies to the degree that the bill reduced fraudulent financial elder abuses. The degree to which this would reduce indirect costs for the State is indeterminate. According to a 2023 report by the American Association of Retired Persons (AARP) Public Policy Institute, nationwide estimates of financial losses to seniors as a result of elder financial exploitation range from $2.9 billion to $273.5 billion annually. [2]

Fiscal Analyst: Michael Siracuse

[2] Gunther, Jilenne, *The Scope of Elder Financial Exploitation: What it Costs Victims*, AARP Public Policy. Pg.2 June 2023.

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.