

TO MICHIGAN HOUSE JUDICIARY COMMITTEE
CHAIR GRAHAM FILLER
NOVEMBER 5, 2019 HEARING

SB 110 INADEQUATELY PROTECTS COMMUNICATION/VISITATION RIGHTS

SB 110 is inadequate to protect the precious rights of persons with guardians to speak freely, to visit, to communicate and associate with family, friends and potentially anybody, including political, legal, social and religious contacts. A better approach, and that required by Constitutional law, is to stipulate that a guardian may not restrict visitation or communication rights unless necessary to protect the person from harm or some other very good reason. The statute should be revised to require and ensure that probate courts and guardians understand and abide by the Constitutional requirement of **Least Restrictive Alternative**, note Shelton vs Tucker, 364 Us 479, and its progeny.

This issue serves to highlight what is wrong with the guardianship system in Michigan, where 9,000 guardianship petitions are granted for every 200 denied by the probate courts. Instead of protecting the person, the process can harm, abuse and violate the most vulnerable. In addition to the loss of civil rights the guardianship process can be very costly, time consuming and stressful, and endless costs and fees are usually taken from the estate of the person opposing the guardianship. The statute should state clearly that guardianships and conservatorships should not be approved by a court until it is certain that all other less-restrictive-to-liberty alternatives, including, **Supported Decision-Making**, cannot succeed in protecting the person from significant harm. And the statute should also ensure that the guardian, once appointed, also adheres to the least restrictive to liberty principle

Michigan should not just follow the other states and mandate **L.R.A.** Probate judges, attorneys and guardians must be better trained on LRA and be taught that guardianships and the deprivation of civil rights should be a last resort. The U.S. Senate Select Committee on Aging agrees and also recommends passage of The Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act, in Nov. 2018 report. In Michigan the number of full guardianships should be greatly reduced. Sham due process, vagueness in criteria, and arbitrary, biased, & inaccurate capacity determinations should be recognized. Because those who are subjected to guardianship are especially vulnerable to misconduct and abuse, these persons especially need the protections of the 1st Amendment & freedom of speech.

Thank you. Sincerely,



Sean Bennett
Disability Rights Advocate
1011 Crown, Kal. Mich 49006
734-239-3541