



**House
Legislative
Analysis
Section**

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IRA ACCTS: BENEFICIARIES

**House Bill 5584 (Substitute H-2)
First Analysis (5-11-88)**

RECEIVED

**Sponsor: Rep. Perry Bullard
Committee: Judiciary**

JUL 08 1988

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THE APPARENT PROBLEM:

By far the most common form of an individual retirement account (IRA) is a custodial account where the financial institution that holds it has no investment discretion (as opposed to a trust account, where the institution may invest the account as it sees fit). Custodial IRAs commonly name beneficiaries who are to receive the assets of the account should the person who set up the account die. However, the U.S. District Court for the Eastern District of Michigan ruled last fall that the assets of a custodial IRA were part of a decedent's probate estate. Such assets were not to go to a named beneficiary the way they would with a life insurance policy, but rather their distribution would be governed by the state's laws on inheritance. Amendments have been proposed to the Revised Probate Code that would ensure that the assets of a custodial IRA passed to any named beneficiaries, rather than to the estate.

The Michigan Credit Union League supports the bill.
(5-10-88)

The Michigan Probate Judges Association supports the bill.
(5-10-88)

H.B. 5584 (5-11-88)

THE CONTENT OF THE BILL:

The bill would add a new section to the Revised Probate Code to provide that the assets of a custodial IRA would, upon the death of the person entitled to designate beneficiaries, pass on to the beneficiary or beneficiaries specified in the custodial IRA agreement. Such assets would not be considered part of a designator's estate except to the extent that the estate was a beneficiary. The designation of a beneficiary would not be considered testamentary and would not have to be witnessed. The bill would apply to custodial IRAs established and beneficiary designations made prior to, on, or after the date the bill took effect.

MCL 700.257

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill has no fiscal implications. (5-11-88)

ARGUMENTS:

For:

A recent federal court decision has sweeping implications for custodial IRAs that name beneficiaries. The court said that custodial IRA assets were part of the estate, thus making designations of beneficiaries subject to probate procedures and vulnerable to challenges. The bill would restore to IRA beneficiary provisions the force that that they were widely believed to have had prior to the federal court ruling.

POSITIONS:

The Michigan Bankers Association supports the bill.
(5-10-88)