

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

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**House Bill 5584 (Substitute H-2 as reported with amendment)****Sponsor: Representative Perry Bullard****House Committee: Judiciary****Senate Committee: Judiciary**

AUG 01 1988

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**Date Completed: 6-14-88*****RATIONALE***

The most common form of an individual retirement account (IRA) is a custodial account, in which the financial institution that holds it has no investment discretion (as opposed to a trust account, in which case the institution may invest the account at its discretion). Custodial IRAs commonly name beneficiaries to receive the account's assets in the event of the death of the person who set up the account. The U.S. District Court for the Eastern District of Michigan ruled last fall, however, that the assets of a custodial IRA were part of a decedent's probate estate. Under the ruling, IRA assets cannot go to a named beneficiary as assets do under a life insurance policy, but rather the distribution of IRA assets is governed by the State's inheritance laws. Some people feel that the Revised Probate Code should specify that the assets of a custodial IRA would have to pass to named beneficiaries, rather than to the estate.

procedures and vulnerable to challenges. The bill would restore to IRA beneficiary provisions the force that they were believed to have had prior to the Federal court ruling.

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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.

H.B. 5584 (6-14-88)

***CONTENT***

The bill would amend the Revised Probate Code to specify that, upon the death of the person entitled to designate beneficiaries, the assets of a custodial IRA would pass on to the beneficiary or beneficiaries specified in the 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, and would be considered "declarative of the law" as it existed before the bill's enactment.

Proposed MCL 700.257

***SENATE COMMITTEE ACTION***

The Senate Judiciary Committee adopted an amendment to the bill that specifies that it would be considered "declarative of the law" as it existed before the bill's enactment.

***FISCAL IMPACT***

The bill would have no fiscal impact on State or local government.

***ARGUMENTS******Supporting Argument***

A recent Federal court decision has a great impact on custodial IRAs that name beneficiaries. The court ruled that custodial IRA assets are part of the decedent's estate, thus making designation of beneficiaries subject to probate