

Legislative Analysis



VIDEORECORDING WITNESS STATEMENTS OF VULNERABLE ADULTS

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

House Bill 4621 (Substitute H-5)
Sponsor: Rep. Dian Slavens
Committee: Senior Health, Security, and Retirement

Complete to 11-9-09

A SUMMARY OF HOUSE BILL 4621 AS REPORTED FROM HOUSE COMMITTEE 11-4-09

House Bill 4621 would amend Section 2163a of the Revised Judicature Act, which currently deals with the procedures for using videorecorded statements of witnesses in court cases related to child abuse and criminal sexual conduct against children.

At present, the term "witness" in this section applies to a person under 16 years of age and a person older than that with a developmental disability. The substitute bill would include vulnerable adults in the definition of "witness," and add the term "vulnerable adult" to the definitions in the section.

Under the bill, vulnerable adults would be treated as witnesses only for prosecutions and proceedings of an assaultive crime as that term is defined in the Section 9a of Chapter X of Code of Criminal Procedure and for certain specified crimes involving vulnerable adults under the Michigan Penal Code. (The Penal Code crimes include home invasion, abuse of vulnerable adults, violations of the Adult Foster Care Facility Licensing Act or the Public Health Code that are the proximate cause of the death of an vulnerable adult by an unlicensed facility that should have been licensed, violations by caregivers with authority over a vulnerable adult, embezzlement, and violation by a person in a relationship of trust with a vulnerable adult.)

Currently, questioning of a witness must take into consideration the witness's developmental level. The bill would also require that the witness's *mental acuity* be considered.

The act specifies how to determine if special arrangements are necessary to protect the welfare of a witness. The bill would require that the *physical condition* of the witness also be taken into account.

Currently, videorecording of witnesses must, among other things, be in accordance with the forensic interview protocol as required by the Child Protection Law. The bill would add, "or as otherwise provided by law."

The term "vulnerable adult" is taken from the definition of "adult" in Section 11b of the Social Welfare Act (MCL 400.11) and the definition of "adult" in Section 3(1)(b) of the Adult Foster Care Facility Licensing Act (MCL 400.703).

Section 11b of the Social Welfare Act refers to a vulnerable person 18 years of age or older who is suspected of being or believed to be abused, neglected, or exploited. This is from the definition of "adult in need of protective services" or "adult." (MCL 400.11b)

Section 3(1)(b) of the Adult Foster Care Facility Licensing Act refers to individuals under 18 who are placed in an adult foster care family home or an adult foster care small group home under special provisions of the Child Care Licensing Act (found at MCL 722.115)

MCL 600.2163a

FISCAL IMPACT:

House Bill 4621 will have little or no fiscal impact on the judiciary.

POSITIONS:

Office of Services to the Aging supports the bill. (11-4-09)

AARP supports the bill. (11-4-09)

Wayne County Prosecutor's Office Elder Abuse Unit supports the bill. (11-4-09)

ACLU of Michigan is neutral on the bill. (11-4-09)

Legislative Analyst: E. Best
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.