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REFERENCES TO THE ESTATES AND PROTECTED INDIVIDUALS CODE

**House Bill 5485 as enrolled
Public Act 55 of 2000
Sponsor: Rep. Andrew Richner**

**House Bill 5486 as enrolled
Public Act 56 of 2000
Sponsor: Rep. Marc Shulman**

**House Bill 5487 as enrolled
Public Act 57 of 2000
Sponsor: Rep. Jack Minore**

**House Bill 5488 as enrolled
Public Act 58 of 2000
Sponsor: Rep. Gerald Law**

**House Bill 5489 as enrolled
Public Act 59 of 2000
Sponsor: Rep. Triette Reeves**

**House Bill 5490 as enrolled
Public Act 60 of 2000
Sponsor: Rep. Joanne Vorhees**

**House Bill 5491 as enrolled
Public Act 61 of 2000
Sponsor: Rep. Doug Hart**

**House Bill 5492 as enrolled
Public Act 62 of 2000
Sponsor: Rep. Alan Sanborn**

**House Bill 5493 as enrolled
Public Act 63 of 2000
Sponsor: Rep. Alan Sanborn**

**House Bill 5494 as enrolled
Public Act 64 of 2000
Sponsor: Rep. Gloria Schermesser**

**House Bill 5495 as enrolled
Public Act 65 of 2000
Sponsor: Rep. Michael Switalski**

**House Bill 5496 as enrolled
Public Act 66 of 2000
Sponsor: Rep. James Koetje**

**House Bill 5497 as enrolled
Public Act 67 of 2000
Sponsor: Rep. Andrew Richner**

**House Bill 5498 as enrolled
Public Act 68 of 2000
Sponsor: Rep. Marc Shulman**

**Second Analysis (4-7-00)
Committee: Family and Civil Law**

House Bills 5485 - 5498 (4-7-00)

THE APPARENT PROBLEM:

Michigan's Revised Probate Code (RPC) governs matters pertaining to the settlement of the estates of deceased persons. Enacted in 1978, the code replaced a 1939 law that was considered extremely vague and unnecessarily complex. Although the RPC was viewed as a major overhaul at the time, many people have since believed that a complete reorganization of the law was called for. Approximately 10 years ago, the Council of

the Probate and Estate Planning Section of the State Bar began a review of the entire RPC. The result of this review was the Estates and Protected Individuals Code (EPIC), which was enacted during the 1997-98 session. It will repeal the RPC and take effect on April 1, 2000. This new code takes into account changes in the rules, case law and society that have occurred since the RPC was adopted in 1978, and addresses

internal inconsistencies that exist in the RPC. In addition, the EPIC will make Michigan's probate law more consistent with that of other states.

Although the EPIC has been enacted and will take effect on April 1, 2000, a number of other acts still refer to and cite the RPC. Bills have been introduced to update these references to comport with the appropriate provisions of the EPIC.

THE CONTENT OF THE BILLS:

The bills are largely technical in nature and would help effect the implementation of the Estates and Protected Individuals Code, which was enacted to replace the Revised Probate Code and which takes effect on April 1, 2000. The bills would amend a variety of laws to replace existing references to the Revised Probate Code with the appropriate references to the Estates and Protected Individuals Code and to remove certain provisions that would conflict with the Estates and Protected Individuals Code.

House Bill 5485 would amend the Probate Code (MCL 710.23e, 712A.2, 712A.18, 712A.19b). House Bill 5486 would amend the Revised Judicature Act (MCL 600.816, 600.841, 600.880, 600.880b, 600.880c, 600.1021, 600.1517, 600.2922). House Bill 5487 would amend the Mental Health Code (MCL 330.1498h and 330.1498j). House Bill 5488 would amend the Public Health Code (MCL 333.1106 and 333.5653). House Bill 5489 would amend the Michigan Do-not-resuscitate Procedure Act (MCL 333.1052). House Bill 5490 would amend the Child Custody Act (MCL 722.26b). House Bill 5491 would amend the Social Welfare Act (MCL 400.11b and 400.115j). House Bill 5492 would amend the Banking Code of 1999 (MCL 487.14402). House Bill 5493 would amend the Savings Bank Act (MCL 487.3422). House Bill 5494 would amend the Michigan Vehicle Code (MCL 257.236). House Bill 5495 would amend the Natural Resources and Environmental Protection Act (324.20101b and 324.80312). House Bill 5496 would amend the Michigan Penal Code (MCL 750.145n). House Bill 5497 would amend the Revised Judicature Act (MCL 600.834). House Bill 5498 would amend the Powers of Appointment Act (MCL 556.114). The bills would provide accurate references to the new code and make other technical amendments.

In addition, House Bill 5495 would clarify that, where otherwise appropriate, petitions by a person other than a surviving spouse for title of water craft valued at \$100,000 or less stemming from the death of the owner would be taken in the order specified in Estates and Protected Individual's Code.

House Bill 5497 would also allow a probate register or deputy probate register to exercise any authority granted under the Estates and Protected Individuals Code. House Bill 5498 will also delete language stating that a power of appointment cannot be generally created where the deed, will, trust agreement or other writing or document which creates or reserves the power of appointment explicitly directs that the instrument must contain a specific reference to that power in order to be valid. Finally, the enrolled version of House Bill 5485 does not include a section of the Probate Code (MCL 712A.19b) that was contained in an earlier version of the bill. This section was recently amended by Public Act 46 of 2000 (enrolled House Bill 5145) with the EPIC citations added without deleting the RPC citations. [Since the double citation will have no legal consequence and it is difficult to amend an enrolled bill before it becomes law, the decision was made to simply remove that section from House Bill 5485.] House Bill 5496 would specify, with regard to the language of the Revised Judicature Act establishing where circuit and probate courts may hold sessions, that a probate or circuit judge could hold a hearing regarding an individual who was alleged to need protection at a site the court considers appropriate as provided by the Estates and Protected Individuals Code. This would be in addition to language that would already allow hearings regarding allegedly incapacitated individuals or allegedly mentally ill persons at other sites.

All of the bills would take effect on April 1, 2000.

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills would have no fiscal impact. (4-7-00)

ARGUMENTS:

For:

The bills are technical in nature and would assure the effectiveness of the Estates and Protected Individuals

Code. The acts amended by the bills contain references to the Revised Probate Code, which will be repealed on April 1, 2000 and, thus need to be changed in order to work in conjunction with the new code.

Analyst: W. Flory

■ 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.