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**Testimony of Alison Hirschel  
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Before the Michigan House of Representatives Judiciary Committee**

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Good morning, Chair Breen and members of the Committee. I am Alison Hirschel and I am the Director and Managing Attorney of the Michigan Elder Justice Initiative (MEJI), a legal services organization that represents and advocates for vulnerable older adults and people with disabilities. I am grateful to have been appointed by Attorney General Nessel to the Elder Abuse Task Force and have been privileged to be at the heart of many of the Task Force's deliberations over the past 4 1/2 years. I was also appointed to serve as a delegate at the 2021 National Guardianship Summit, a decennial event that seeks to set the agenda for guardianship reform across the country, and spoken at many national events, including those organized by the Department of Justice, on the issue of guardianship reform. In addition, I am a former Commissioner of the ABA Commission on Law and Aging and a long-time adjunct faculty member at the University of Michigan Law School. I am proud and excited to testify in support of HB 4909-4912 and HB 5047 today.

For my entire 38 year legal services career, I have been deeply concerned about the plight of my clients and others like them who find themselves caught in a guardianship system that may not serve them well. The Elder Abuse Task Force legislation seeks to address the most pressing concerns we have uncovered in the guardianship and conservatorship systems. Some of these issues are already addressed in existing law but are too often ignored in practice, thus requiring additional tweaks to ensure the intent of the law is realized. It is important to note that our proposals today are not the first time our state has attempted to address these issues. Twenty-five years ago, the Michigan Supreme

Court Task Force on Guardianships and Conservatorships, which was comprised of judges and court staff, legislators, members of the probate bar, advocates, state officials, and professors published 11 unanimous recommendations. Those recommendations sought to reduce the number of guardians appointed, protect individuals under guardianship from abuse, and promote as much independence as possible for those subject to guardianship. And many of those recommendations reflect the *identical* goals of the legislation before you today. These legislative proposals aren't extreme; the only question is why it took 25 years to bring them to this Committee.

Although each state guardianship system is different, states across the country have faced the same challenges balancing individual rights and the practical realities of busy courts and limited resources. The American Bar Association, the American Civil Liberties Union, the National Council on Disability, the U.S. Senate Aging Committee, the U.S. Government Accountability Office, the Department of Justice and a host of other organizations have all called for additional protections for respondents in the guardianship system and/or have highlighted best practices to improve guardianship systems. The proposals now before you are entirely in line with some of the best thinking on guardianship reform.

In 2017, experts working with the Uniform Law Commission drafted the Uniform Guardianship, Conservatorship, and Other Protective Arrangements Act (UGCOPAA). This model legislation promotes incorporating an individual's preferences and values into the guardianship order and requires courts to order the least restrictive means necessary to protect individuals. It is no wonder that our proposals are very much in line with this model law because many of us carried around and consulted this model for months as we were drafting the proposals before you today.

If we turn to the 2021 recommendations of the National Guardianship Summit, they also address the same goals of maximizing individual autonomy and ensuring accountability. Some of the

recommendations mirror the Task Force's work, especially related to the creation of an Office of State Guardian. But some of the recommendations from this group of experts go far beyond our relatively modest proposals. They include what would be dramatic changes in Michigan including mandating counsel in all guardianship proceedings and eliminating plenary guardianships in favor of individually tailored orders that preserve certain essential personal rights.

If we look at developments in other states, we see all manner of innovation and improvements that address the same problems we are trying to solve. In many of those states, there was resistance to change by a range of stakeholders from advocates who thought the proposals did not go far enough to lawyers, judges, court personnel, guardians, and other stakeholders who were invested in various ways in maintaining the status quo. At a recent national adult protective services conference, representatives from many states shared their guardianship reform journeys. And what I heard again and again is that despite the fears and resistance, the sky didn't fall when the reforms were implemented. Stakeholders got used to the new measures, systems improved, the individuals at risk of or under guardianship had better outcomes. And that will be true here as well. What we are proposing isn't radical. It's a very thoughtful attempt –like so many others across the country--to make our state a little more just for some of our most vulnerable citizens while balancing the realities of our limited resources. It's time. We enthusiastically seek your support for these long overdue reforms.