

SENATE BILL No. 1393

September 27, 2000, Introduced by Senators STEIL, BULLARD, SHUGARS, SIKKEMA, BENNETT, DUNASKISS, NORTH, GOUGEON, SCHWARZ, HART, DINGELL, DE BEAUSSAERT, GOSCHKA, SCHUETTE and MC MANUS and referred to the Committee on Families, Mental Health and Human Services.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending section 5306 (MCL 700.5306).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5306. (1) The court may appoint a guardian if ~~it is~~
2 ~~satisfied~~ THE COURT FINDS by clear and convincing evidence that
3 the individual for whom a guardian is sought is an incapacitated
4 individual ~~,~~ and that the appointment is necessary as a means
5 of providing continuing care and supervision of the incapacitated
6 individual. Alternately, the court may dismiss the proceeding or
7 enter another appropriate order.

8 (2) ~~A guardian shall be granted~~ THE COURT SHALL GRANT A
9 GUARDIAN only those powers and only for that period of time as is
10 necessary to provide for the demonstrated need of the
11 incapacitated individual. ~~,~~ and the guardianship shall be

1 ~~designed~~ THE COURT SHALL DESIGN THE GUARDIANSHIP to encourage
2 the development of maximum self-reliance and independence in the
3 individual. A court order establishing a guardianship shall
4 specify any limitations on the guardian's powers and any time
5 limits on the guardianship.

6 (3) A COURT SHALL NOT GRANT A GUARDIAN THE SAME POWERS THAT
7 ARE HELD BY A PATIENT ADVOCATE DESIGNATED UNDER SECTION 5506. IF
8 A VALID PATIENT ADVOCATE DESIGNATION IS MADE AFTER A GUARDIAN'S
9 APPOINTMENT AND A POWER OR DUTY OF THE PATIENT ADVOCATE CONFLICTS
10 WITH THAT OF THE GUARDIAN, THE PATIENT ADVOCATE DESIGNATION CON-
11 TROLS AS TO THAT POWER OR DUTY. THIS SUBSECTION DOES NOT APPLY
12 IF THE COURT DETERMINES THAT THE PATIENT ADVOCATE'S ACTIONS ARE
13 NOT CONSISTENT WITH THE PATIENT'S BEST INTERESTS OR IS OTHERWISE
14 NOT COMPLYING WITH THE PATIENT ADVOCATE DESIGNATION OR SECTIONS
15 5506 TO 5512.

16 (4) ~~(3)~~ If ~~it is found~~ THE COURT FINDS by clear and con-
17 vincing evidence that ~~the~~ AN individual is incapacitated and
18 lacks the capacity to do some, but not all, of the tasks neces-
19 sary to care for himself or herself, the court may appoint a
20 limited guardian to provide guardianship services to the individ-
21 ual, but the court shall not appoint a full guardian.

22 (5) ~~(4)~~ If ~~it is found~~ THE COURT FINDS by clear and con-
23 vincing evidence that ~~the~~ AN individual is incapacitated and is
24 totally without capacity to care for himself or herself, the
25 court shall specify that finding of fact in an order and may
26 appoint a full guardian FOR THE INDIVIDUAL.