

HOUSE BILL No. 4521

April 3, 2003, Introduced by Rep. Koetje and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 5409 (MCL 700.5409), as amended by 2000 PA
463.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5409. (1) The court may appoint an individual, a
2 corporation authorized to exercise fiduciary powers, or a
3 professional conservator described in section 5106 to serve as
4 conservator of a protected individual's estate. The following
5 are entitled to consideration for appointment in the following
6 order of priority:

7 (a) A conservator, guardian of property, or similar fiduciary
8 appointed or recognized by the appropriate court of another
9 jurisdiction in which the protected individual resides.

10 (b) An individual or corporation nominated by the protected

1 individual if he or she is 14 years of age or older and of
2 sufficient mental capacity to make an intelligent choice,
3 including a nomination made in a durable power of attorney.

4 (c) The protected individual's spouse.

5 (d) An adult child of the protected individual.

6 (e) A parent of the protected individual or a person
7 nominated by the will of a deceased parent.

8 (f) A relative of the protected individual with whom he or
9 she has resided for more than 6 months before the petition is
10 filed.

11 (g) A person nominated by the person who is caring for or
12 paying benefits to the protected individual.

13 (h) If none of the persons listed in subdivisions (a) to (g)
14 are suitable and willing to serve, any person that the court
15 determines is suitable and willing to serve.

16 (2) ~~A person named in subsection (1)(a), (c), (d), (e), or~~
17 ~~(f) may designate in writing a substitute to serve instead, and~~
18 ~~that designation transfers the priority to the substitute.~~ If
19 persons have equal priority, the court shall select the person
20 the court considers best qualified to serve. Acting in the
21 protected individual's best interest, **and upon a finding by clear**
22 **and convincing evidence**, the court may pass over a person having
23 priority and appoint a person having a lower priority or no
24 priority.