

SENATE BILL NO. 503

June 03, 2021, Introduced by Senators JOHNSON, IRWIN, CHANG, RUNESTAD and WOJNO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 5305, 5314, 5406, 5417, and 5418 (MCL 700.5305, 700.5314, 700.5406, 700.5417, and 700.5418), section 5305 as amended by 2017 PA 155, section 5314 as amended by 2018 PA 594, section 5406 as amended by 2000 PA 464, and sections 5417 and 5418 as amended by 2000 PA 312, and by adding sections 5314a, 5314b, and 5314c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5305. (1) ~~The~~ **Subject to subsection (2), the** duties of a

1 guardian ad litem appointed for an individual alleged to be
2 incapacitated include all of the following:

3 ~~(a) Personally visiting the individual.~~

4 ~~(b) Explaining to the individual the nature, purpose, and
5 legal effects of a guardian's appointment.~~

6 ~~(c) Explaining to the individual the hearing procedure and the
7 individual's rights in the hearing procedure, including, but not
8 limited to, all of the following:~~

9 ~~(i) The right to contest the petition.~~

10 ~~(ii) The right to request limits on the guardian's powers,
11 including a limitation on the guardian's power to execute on behalf
12 of the ward either of the following:~~

13 ~~(A) A do-not-resuscitate order.~~

14 ~~(B) A physician orders for scope of treatment form.~~

15 ~~(iii) The right to object to a particular person being appointed
16 guardian.~~

17 ~~(iv) The right to be present at the hearing.~~

18 ~~(v) The right to be represented by legal counsel.~~

19 ~~(vi) The right to have legal counsel appointed for the
20 individual if he or she is unable to afford legal counsel.~~

21 ~~(d) Informing the individual that if a guardian is appointed,
22 the guardian may have the power to execute a do-not-resuscitate
23 order on behalf of the individual and, if meaningful communication
24 is possible, discern if the individual objects to having a do-not-
25 resuscitate order executed on his or her behalf.~~

26 ~~(e) Informing the individual that if a guardian is appointed,
27 the guardian may have the power to execute a physician orders for
28 scope of treatment form on behalf of the individual and, if
29 meaningful communication is possible, discern if the individual~~

1 ~~objects to having a physician orders for scope of treatment form~~
2 ~~executed on his or her behalf.~~

3 ~~(f) Informing the individual of the name of each person known~~
4 ~~to be seeking appointment as guardian.~~

5 ~~(g) Asking the individual and the petitioner about the amount~~
6 ~~of cash and property readily convertible into cash that is in the~~
7 ~~individual's estate.~~

8 ~~(h) Making determinations, and informing the court of those~~
9 ~~determinations, on all of the following:~~

10 ~~(i) Whether there are 1 or more appropriate alternatives to the~~
11 ~~appointment of a full guardian or whether 1 or more actions should~~
12 ~~be taken in addition to the appointment of a guardian. Before~~
13 ~~informing the court of his or her determination under this~~
14 ~~subparagraph, the guardian ad litem shall consider the~~
15 ~~appropriateness of at least each of the following as alternatives~~
16 ~~or additional actions:~~

17 ~~(A) Appointment of a limited guardian, including the specific~~
18 ~~powers and limitation on those powers the guardian ad litem~~
19 ~~believes appropriate.~~

20 ~~(B) Appointment of a conservator or another protective order~~
21 ~~under part 4 of this article. In the report informing the court of~~
22 ~~the determinations under this subdivision, the guardian ad litem~~
23 ~~shall include an estimate of the amount of cash and property~~
24 ~~readily convertible into cash that is in the individual's estate.~~

25 ~~(C) Execution of a patient advocate designation, do not~~
26 ~~resuscitate order, physician orders for scope of treatment form, or~~
27 ~~durable power of attorney with or without limitations on purpose,~~
28 ~~authority, or duration.~~

29 ~~(ii) Whether a disagreement or dispute related to the~~

1 ~~guardianship petition might be resolved through court ordered~~
2 ~~mediation.~~

3 ~~(iii) Whether the individual wishes to be present at the~~
4 ~~hearing.~~

5 ~~(iv) Whether the individual wishes to contest the petition.~~

6 ~~(v) Whether the individual wishes limits placed on the~~
7 ~~guardian's powers.~~

8 ~~(vi) Whether the individual objects to having a do-not-~~
9 ~~resuscitate order executed on his or her behalf.~~

10 ~~(vii) Whether the individual objects to having a physician~~
11 ~~orders for scope of treatment form executed on his or her behalf.~~

12 ~~(viii) Whether the individual objects to a particular person~~
13 ~~being appointed guardian.~~

14 ~~(2) The court shall not order compensation of the guardian ad~~
15 ~~litem unless the guardian ad litem states on the record or in the~~
16 ~~guardian ad litem's written report that he or she has complied with~~
17 ~~subsection (1).~~

18 ~~(3) If the individual alleged to be incapacitated wishes to~~
19 ~~contest the petition, to have limits placed on the guardian's~~
20 ~~powers, or to object to a particular person being appointed~~
21 ~~guardian and if legal counsel has not been secured, the court shall~~
22 ~~appoint legal counsel to represent the individual alleged to be~~
23 ~~incapacitated. If the individual alleged to be incapacitated is~~
24 ~~indigent, this state shall bear the expense of legal counsel.~~

25 ~~(4) If the individual alleged to be incapacitated requests~~
26 ~~legal counsel or the guardian ad litem determines it is in the~~
27 ~~individual's best interest to have legal counsel, and if legal~~
28 ~~counsel has not been secured, the court shall appoint legal~~
29 ~~counsel. If the individual alleged to be incapacitated is indigent,~~

1 ~~this state shall bear the expense of legal counsel.~~

2 ~~(5) If the individual alleged to be incapacitated has legal~~
3 ~~counsel appointed under subsection (3) or (4), the appointment of a~~
4 ~~guardian ad litem terminates.~~

5 (a) Impartially gather information as provided by law.

6 (b) Seek information from the individual and, if communication
7 is possible, communicate in a manner the individual is best able to
8 understand. If communication is not possible or there is a barrier
9 to communication, the guardian ad litem must note that in the
10 report under subsection (3).

11 (c) Interview the individual in person at the individual's
12 location and out of the presence of any interested person.

13 (d) Advise the individual that the guardian ad litem does not
14 represent the individual as an attorney and that no attorney-client
15 relationship has been created.

16 (e) Identify whether the individual wishes to be present at
17 the hearing. If the allegedly incapacitated individual does not
18 wish to be present at the hearing, the guardian ad litem shall
19 identify the reasons why the individual does not wish to be
20 present.

21 (f) Identify any barrier to attending hearings at the place
22 where court is held or otherwise fully participating in the
23 hearing, including the need for assistive technology,
24 transportation, or other support. If the allegedly incapacitated
25 individual wishes to attend, the guardian ad litem must identify
26 whether the individual has identified a plan for how the individual
27 will attend.

28 (g) Identify whether the individual plans to retain legal
29 counsel or wants appointed legal counsel. If the allegedly

1 incapacitated individual does not plan to retain legal counsel or
2 request appointed legal counsel, the guardian ad litem must make a
3 recommendation as to whether legal counsel should be appointed.

4 (h) Identify whether a disagreement or dispute related to the
5 petition might be resolved through court-ordered mediation.

6 (2) The duties of a guardian ad litem appointed for an
7 individual alleged to be incapacitated or a legally incapacitated
8 individual include all of the following, as applicable:

9 (a) Explain to the individual the nature, purpose, and legal
10 effects of a guardian's appointment.

11 (b) Explain who has filed the petition and who, if anyone, has
12 been nominated as guardian.

13 (c) Explain to the individual the hearing procedure and the
14 individual's rights in the hearing procedure, as identified in
15 section 5306a, including, but not limited to, the following:

16 (i) The right to contest the petition, in whole or in part.

17 (ii) The right to request limits on the guardian's powers.

18 (iii) The right to be present at the hearing. If the individual
19 is unable to attend the hearing at the location court proceedings
20 typically are held, the guardian ad litem shall inform the
21 individual of his or her right for the hearing at another location.

22 (iv) The right to request a reasonable accommodation to allow
23 the individual to participate as fully as possible at the hearing,
24 including with assistive technology or other support.

25 (v) The right to be represented by legal counsel of the
26 individual's choice. If the individual is unable to secure legal
27 counsel of his or her choice, the right to have legal counsel
28 appointed by the court.

29 (vi) The right to request an independent medical evaluation.

1 (d) Explain to the individual that if a guardian is appointed,
2 the guardian may have the power to take certain actions on behalf
3 of the individual. A guardian ad litem must inform the individual
4 that a guardian may have any of the following powers and, if
5 meaningful communication is possible, discern if the individual
6 objects to a guardian having any of the following powers:

7 (i) Executing a do-not-resuscitate order.

8 (ii) Executing a physician orders for scope of treatment form.

9 (iii) Consenting to any medical treatment.

10 (iv) Consenting to placement decisions, including moving the
11 individual to a nursing facility or adult foster care home.

12 (v) Choosing whether the individual can marry or divorce.

13 (vi) Handling any financial and property matters, including the
14 sale or disposal of personal property and the maintenance of real
15 property. The guardian ad litem shall also inquire as to whether
16 there are any items of special or sentimental value that the
17 individual would not want sold or otherwise disposed of, such as
18 family photos, collections, personal correspondence, or pets, as
19 well as the location of those items.

20 (e) Identify whether the individual objects to the particular
21 person proposed as guardian, if any.

22 (f) If a guardian were to be appointed, identify a list of
23 whom the individual would want to serve, in order of preference.

24 (g) If a guardian were to be appointed, identify whom the
25 individual would not want to serve.

26 (3) A guardian ad litem appointed for an individual alleged to
27 be incapacitated or a legally incapacitated individual shall file a
28 written report with the court and in the form, as required by the
29 state court administrative office.

1 (4) If an individual who is subject to an initial petition
2 under this part or petition to modify under this part contests the
3 petition, the guardian ad litem's written report required under
4 subsection (3) must include only the following:

5 (a) That the individual contests the petition.

6 (b) Whether the individual has retained legal counsel or
7 wishes for legal counsel to be appointed.

8 (c) Whether the individual has any barriers to attending court
9 at the place where it is usually held.

10 (5) If an individual who is subject to an initial petition
11 under this part or petition to modify under this part does not
12 contest the petition, the guardian ad litem's report required under
13 subsection (3) must include only the following:

14 (a) The date and time the guardian ad litem met with the
15 individual.

16 (b) The length of time the guardian ad litem met with the
17 individual.

18 (c) The location where the guardian ad litem met with the
19 individual.

20 (d) Whether the guardian ad litem was able to meaningfully
21 communicate with the individual and any barriers to communication.

22 (e) Who, if anyone, was present for the interview besides the
23 individual.

24 (f) Whether the individual wishes to be present at the
25 hearing. If the individual wishes to be present at the hearing but
26 has a barrier to fully participating, the guardian ad litem must
27 include in the written report whether the barrier can be resolved
28 by moving the location of the hearing or using assistive
29 technology, or both, or other support.

1 (g) Whether the individual has identified a plan for how the
2 individual will attend.

3 (h) Whether the individual plans to retain legal counsel or
4 has requested appointed legal counsel. If the individual has not
5 indicated he or she wishes to be represented by legal counsel, the
6 guardian ad litem shall include in the written report a
7 recommendation as to whether legal counsel should be appointed to
8 represent the individual.

9 (i) Whether the individual has any of the following:

10 (A) A power of attorney with or without limitations on
11 purpose, authority, or time period.

12 (B) A patient advocate designation.

13 (C) A physician orders for scope of treatment form.

14 (D) A benefits payee, trustee, or other fiduciary.

15 (j) Whether a disagreement or dispute related to the petition
16 might be resolved through court-ordered mediation.

17 (k) Whether the appointment of a visitor with appropriate
18 knowledge, training, and education such as a social worker, mental
19 health professional, or medical professional could provide the
20 court with the information on whether alternatives to guardianship
21 or a limited guardianship is appropriate.

22 (l) If a guardian were appointed, who the individual would want
23 to serve in order of preference.

24 (m) If a guardian were appointed, who the individual would not
25 want to serve.

26 (n) An estimate of the amount of cash and property readily
27 convertible into cash that is in the individual's estate.

28 (6) If a guardian ad litem is appointed for any purpose other
29 than an initial petition under this part, petition to terminate

1 under this part, or petition to modify under this part, the
2 guardian ad litem must provide a written report to the court that
3 includes, at a minimum, the information described in subsection (4)
4 or (5), as applicable, and any other information required by law. A
5 special limited guardian ad litem appointed under subsection (13)
6 is not required to provide a written report unless ordered to do so
7 by the court under subsection (13).

8 (7) A guardian ad litem shall file the report required under
9 subsection (3) with the court and serve it on all interested
10 persons at least 7 days before the date of the hearing. The court
11 may order the report to be filed and served less than 7 days before
12 the hearing only if the petition is made on an emergency basis
13 under section 5312.

14 (8) The court shall not consider evidence included in a report
15 or the testimony of a guardian ad litem that is not otherwise
16 admissible under the Michigan Rules of Evidence. If the guardian ad
17 litem does not personally appear for the hearing, the report must
18 not be admitted into evidence.

19 (9) The court shall not order compensation of the guardian ad
20 litem unless the guardian ad litem states in the guardian ad
21 litem's written report that the guardian ad litem complied with
22 subsections (2) to (7), as applicable.

23 (10) The court shall not appoint a person that was previously
24 appointed as guardian ad litem as legal counsel for the individual
25 if the guardian ad litem's report under subsection (3) or
26 recommendation to the court conflicts with the wishes of the
27 individual.

28 (11) If an individual who is subject to a petition under this
29 part has not already secured legal counsel, the court shall appoint

1 legal counsel if any of the following apply:

2 (a) The individual requests legal counsel.

3 (b) The individual objects to any part of the petition for
4 guardianship or potential authority of a guardian.

5 (c) The guardian ad litem determines it is in the individual's
6 best interest to have legal counsel if legal counsel has not been
7 secured. If the individual who is subject to the petition is
8 indigent, this state shall bear the expense of appointed legal
9 counsel under this subsection.

10 (12) If an individual who is subject to a petition under this
11 part has legal counsel appointed or retained, the appointment of a
12 guardian ad litem terminates. The report of the guardian ad litem
13 must not be admitted into evidence after the appearance or
14 appointment of legal counsel for the individual who is subject to
15 the petition.

16 (13) After appointment or retention of legal counsel for the
17 individual who is subject to the petition under this part, the
18 court may, for good cause shown, appoint a special limited guardian
19 ad litem to provide information on a narrowly defined issue that
20 will likely otherwise be inadequately addressed. A special guardian
21 ad litem is exempt from subsections (2) to (6). The court may order
22 that a special limited guardian ad litem appointed under this
23 subsection provide a written report. The report under this
24 subsection must contain the information the court considers
25 necessary to adequately address the issue leading to the
26 appointment of the special limited guardian ad litem. A special
27 limited guardian ad litem shall not communicate directly with the
28 individual who is subject to the petition and must instead
29 communicate through legal counsel to the individual who is subject

1 to the petition, unless legal counsel otherwise gives consent.

2 (14) An individual alleged to be incapacitated has the right
3 to retain legal counsel of his or her choice at any stage,
4 regardless of findings regarding his or her capacity. Retained
5 legal counsel shall file a substitution of legal counsel or a
6 motion to substitute if legal counsel has already been appointed.

7 Sec. 5314. If meaningful communication is possible, a legally
8 incapacitated individual's guardian shall consult with the legally
9 incapacitated individual before making a major decision affecting
10 the legally incapacitated individual. To the extent a guardian of a
11 legally incapacitated individual is granted powers by the court
12 under section 5306, the guardian is responsible for the ward's
13 care, custody, and control, but is not liable to third persons
14 because of that responsibility for the ward's acts. In particular
15 and without qualifying the previous sentences, a guardian has all
16 of the following powers and duties, to the extent granted by court
17 order:

18 (a) ~~The~~ **Subject to section 5314c, the** custody of the person of
19 the ward and the power to establish the ward's place of residence
20 in or outside this state. The guardian shall visit the ward within
21 3 months after the guardian's appointment and not less than once
22 within 3 months after each previous visit. ~~The guardian shall~~
23 ~~notify the court within 14 days of a change in the ward's place of~~
24 ~~residence or a change in the guardian's place of residence.~~ **If the**
25 **guardian is a professional guardian, the professional guardian**
26 **shall visit the ward as required under this part.**

27 (b) If entitled to custody of the ward, the duty to make
28 provision for the ward's care, comfort, and maintenance and, when
29 appropriate, arrange for the ward's training and education. The

1 guardian shall secure services to restore the ward to the best
2 possible state of mental and physical well-being so that the ward
3 can return to self-management at the earliest possible time.
4 Without regard to custodial rights of the ward's person, the
5 guardian shall take reasonable care of the ward's clothing,
6 furniture, vehicles, and other personal effects and commence a
7 protective proceeding if the ward's other property needs
8 protection. If a guardian commences a protective proceeding because
9 the guardian believes that it is in the ward's best interest to
10 sell or otherwise dispose of the ward's real property or interest
11 in real property, the court may appoint the guardian as special
12 conservator and authorize the special conservator to proceed under
13 section 5423(3). A guardian shall not otherwise sell the ward's
14 real property or interest in real property.

15 (c) The power to give the consent or approval that is
16 necessary to enable the ward to receive medical, mental health, or
17 other professional care, counsel, treatment, or service. However, a
18 guardian does not have and shall not exercise the power to give the
19 consent to or approval for inpatient hospitalization unless the
20 court expressly grants the power in its order. If the ward objects
21 or actively refuses mental health treatment, the guardian or any
22 other interested person must follow the procedures provided in
23 chapter 4 of the mental health code, 1974 PA 258, MCL 330.1400 to
24 330.1490, to petition the court for an order to provide involuntary
25 mental health treatment. The power of a guardian to execute a do-
26 not-resuscitate order under subdivision (d), execute a nonopioid
27 directive form under subdivision (f), or execute a physician orders
28 for scope of treatment form under subdivision (g) does not affect
29 or limit the power of a guardian to consent to a physician's order

1 to withhold resuscitative measures in a hospital. As used in this
2 subdivision, "involuntary mental health treatment" means that term
3 as defined in section 400 of the mental health code, 1974 PA 258,
4 MCL 330.1400.

5 (d) The power to execute, reaffirm, and revoke a do-not-
6 resuscitate order on behalf of a ward. However, a guardian shall
7 not execute a do-not-resuscitate order unless the guardian does all
8 of the following:

9 (i) Not more than 14 days before executing the do-not-
10 resuscitate order, visits the ward and, if meaningful communication
11 is possible, consults with the ward about executing the do-not-
12 resuscitate order.

13 (ii) Consults directly with the ward's attending physician as
14 to the specific medical indications that warrant the do-not-
15 resuscitate order.

16 (e) If a guardian executes a do-not-resuscitate order under
17 subdivision (d), not less than annually after the do-not-
18 resuscitate order is first executed, the duty to do all of the
19 following:

20 (i) Visit the ward and, if meaningful communication is
21 possible, consult with the ward about reaffirming the do-not-
22 resuscitate order.

23 (ii) Consult directly with the ward's attending physician as to
24 specific medical indications that may warrant reaffirming the do-
25 not-resuscitate order.

26 (f) The power to execute, reaffirm, and revoke a nonopioid
27 directive form on behalf of a ward.

28 (g) The power to execute, reaffirm, and revoke a physician
29 orders for scope of treatment form on behalf of a ward. However, a

1 guardian shall not execute a physician orders for scope of
2 treatment form unless the guardian does all of the following:

3 (i) Not more than 14 days before executing the physician orders
4 for scope of treatment form, visits the ward and, if meaningful
5 communication is possible, consults with the ward about executing
6 the physician orders for scope of treatment form.

7 (ii) Consults directly with the ward's attending physician as
8 to the specific medical indications that warrant the physician
9 orders for scope of treatment form.

10 (h) If a guardian executes a physician orders for scope of
11 treatment form under subdivision ~~(f)~~, **(g)**, not less than annually
12 after the physician orders for scope of treatment is first
13 executed, the duty to do all of the following:

14 (i) Visit the ward and, if meaningful communication is
15 possible, consult with the ward about reaffirming the physician
16 orders for scope of treatment form.

17 (ii) Consult directly with the ward's attending physician as to
18 specific medical indications that may warrant reaffirming the
19 physician orders for scope of treatment form.

20 (i) If a conservator for the ward's estate is not appointed,
21 ~~the power to do any~~ **all** of the following:

22 (i) ~~Institute~~ **The power to institute** a proceeding to compel a
23 person under a duty to support the ward or to pay money for the
24 ward's welfare to perform that duty.

25 (ii) ~~Receive~~ **The power to receive** money and tangible property
26 deliverable to the ward and apply the money and property for the
27 ward's support, care, and education. The guardian shall not use
28 money from the ward's estate for room and board that the guardian
29 or the guardian's spouse, parent, or child have furnished the ward

1 unless a charge for the service is approved by court order made on
2 notice to at least 1 of the ward's next of kin, if notice is
3 possible. The guardian shall exercise care to conserve any excess
4 for the ward's needs.

5 **(iii) The duties under sections 5314a and 5314b.**

6 (j) The duty to report the condition of the ward and the
7 ward's estate that is subject to the guardian's possession or
8 control, as required by the court, but not less often than
9 annually. The guardian shall also serve the report required under
10 this subdivision on the ward and interested persons as specified in
11 the Michigan court rules. A report under this subdivision must
12 contain all of the following:

13 (i) The ward's current mental, physical, and social condition.

14 (ii) Improvement or deterioration in the ward's mental,
15 physical, and social condition that occurred during the past year.

16 (iii) The ward's present living arrangement and changes in his
17 or her living arrangement that occurred during the past year.

18 (iv) Whether the guardian recommends a more suitable living
19 arrangement for the ward.

20 (v) Medical treatment, including mental health treatment,
21 received by the ward.

22 (vi) Whether the guardian has executed, reaffirmed, or revoked
23 a do-not-resuscitate order on behalf of the ward during the past
24 year.

25 (vii) Whether the guardian has executed, reaffirmed, or revoked
26 a nonopioid directive form on behalf of the ward during the past
27 year.

28 (viii) Whether the guardian has executed, reaffirmed, or revoked
29 a physician orders for scope of treatment form on behalf of the

1 ward during the past year.

2 (ix) Services received by the ward.

3 (x) A list of the guardian's visits with, and activities on
4 behalf of, the ward.

5 (xi) A recommendation as to the need for continued
6 guardianship.

7 (k) If a conservator is appointed, the duty to pay to the
8 conservator, for management as provided in this act, the amount of
9 the ward's estate received by the guardian in excess of the amount
10 the guardian expends for the ward's current support, care, and
11 education. The guardian shall account to the conservator for the
12 amount expended.

13 **Sec. 5314a. (1) If a conservator has not been appointed for**
14 **the ward, within 56 days after appointment or within another time**
15 **period specified by court rule, a guardian with any power over the**
16 **property of the ward under section 5314 shall prepare and file with**
17 **the appointing court a complete inventory of the estate subject to**
18 **the guardianship together with an oath or affirmation that the**
19 **inventory is believed to be complete and accurate so far as**
20 **information permits. The guardian shall file, along with the**
21 **inventory, account statements that reflect the value of depository**
22 **and investment accounts dated within 30 days after the inventory's**
23 **date. The guardian shall provide a copy of the inventory to the**
24 **ward if the ward can be located and to interested persons as**
25 **specified in the Michigan court rules.**

26 (2) The guardian must keep suitable records of the
27 administration and provide those records on the request of an
28 interested person.

29 (3) The guardian shall identify on the inventory under

1 subsection (1) any items of special personal or sentimental value,
2 including, but not limited to, family heirlooms, photo albums, or
3 collections. To the extent meaningful communication permits, the
4 guardian must make an inquiry with the ward as to what items the
5 ward identifies as having special personal or sentimental value.
6 The items must include items identified by a guardian ad litem
7 under section 5305. If the guardian is unable to locate an item
8 identified as having special personal or sentimental value at the
9 time of filing the inventory, the guardian must state that on the
10 inventory.

11 (4) The guardian shall list on the inventory under subsection
12 (1) any merchandise, funeral services, cemetery services, or
13 prepaid contracts for which the legally incapacitated individual or
14 guardian is the contract buyer or contract beneficiary under the
15 prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
16 328.235. If the guardianship estate includes an asset described in
17 this subsection, the guardian must file, with the inventory, all of
18 the following:

19 (a) A copy of any prepaid contract under the prepaid funeral
20 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

21 (b) Proof that payments made under a prepaid contract are held
22 in escrow or under a trust agreement in compliance with the prepaid
23 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
24 328.235.

25 (c) The most recent escrow statement issued concerning the
26 prepaid contract.

27 (d) Proof of any assignments of life policies or annuity
28 contracts made to purchase merchandise, funeral services, or
29 cemetery services under the prepaid funeral and cemetery sales act,

1 1986 PA 255, MCL 328.211 to 328.235.

2 (5) The inventory under subsection (1) must list property with
3 reasonable detail and the type and amount of any encumbrance.

4 (6) The inventory under subsection (1) must be served on all
5 interested persons. Any interested person may file an objection
6 with the court to the inventory and serve it on all interested
7 persons. The court shall set the matter for hearing.

8 Sec. 5314b. (1) If a conservator has not been appointed for
9 the ward, the guardian shall account to the court for
10 administration of the ward's estate not less than annually unless
11 the court directs otherwise, on resignation or removal, and at
12 other times as the court directs. The guardian must file, along
13 with the account, account statements that reflect the value of
14 depository and investment accounts dated within 30 days after the
15 inventory's date and receipts, invoices, or other documentation for
16 expenses in excess of \$1,000.00. The account must be in the form as
17 provided by the state court administrative office, or substantially
18 similar. The account must detail assets including those identified
19 in section 5314a, debts, gross income, and expenses.

20 (2) Within 56 days after termination of the ward's
21 guardianship, a guardian with any authority over property of the
22 formerly legally incapacitated individual shall account to the
23 court or to the formerly legally incapacitated individual or that
24 formerly legally incapacitated individual's successors. Subject to
25 appeal or vacation within the time permitted, an order after notice
26 and hearing allowing an intermediate account of a guardian
27 adjudicates as to liabilities concerning the matters considered in
28 connection with the accounts, and an order, after notice and
29 hearing, allowing a final account adjudicates as to all previously

1 unsettled liabilities of the guardian to the formerly legally
2 incapacitated individual or the formerly legally incapacitated
3 individual's successors relating to the guardianship. In connection
4 with any account, the court may require a guardian to submit to a
5 physical check of the estate in any manner the court specifies.

6 (3) In the account required under subsection (1) or (2), the
7 guardian shall provide information on the status of any items
8 identified in section 5314a. If the guardian has disposed of or
9 sold any of the items described in section 5314a, the guardian must
10 describe on the account how the guardian fulfilled the guardian's
11 duties under section 5314a.

12 (4) If the individual's estate includes any merchandise,
13 funeral services, cemetery services, or prepaid contracts for which
14 the individual or guardian is the contract buyer or contract
15 beneficiary under the prepaid funeral and cemetery sales act, 1986
16 PA 255, MCL 328.211 to 328.235, the guardian must file all of the
17 following, with the account under subsection (1) or (2):

18 (a) A copy of any prepaid contract under the prepaid funeral
19 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

20 (b) Proof that payments made under a prepaid contract are held
21 in escrow or under a trust agreement in compliance with the prepaid
22 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
23 328.235.

24 (c) The most recent escrow statement issued concerning the
25 prepaid contract.

26 (d) Proof of any assignments of life policies or annuity
27 contracts made to purchase merchandise, funeral services, or
28 cemetery services under the prepaid funeral and cemetery sales act,
29 1986 PA 255, MCL 328.211 to 328.235.

1 (5) The guardian shall file a copy of an account under
2 subsection (1) or (2), as applicable, and account statements with
3 the court and serve on all interested persons. Within 28 days after
4 serving the account and account statements under this subsection,
5 an interested person may file an objection to the account with the
6 court and serve the objection on all interested persons. If an
7 interested person objects, the court shall set the matter for
8 hearing. If the ward objects to an account filed under this
9 section, the court must appoint a guardian ad litem to visit the
10 ward in the same manner as specified in section 5305. The court
11 shall appoint legal counsel to represent the ward if any of the
12 following apply:

13 (a) The ward requests legal counsel.

14 (b) The guardian ad litem believes that appointment of legal
15 counsel is in the best interest of the ward.

16 (c) The court otherwise believes it is necessary to protect
17 the interest of the ward.

18 (6) On receipt of an annual account under subsection (1), the
19 court shall set the matter for hearing unless both of the following
20 apply:

21 (a) No objection to the annual account has been filed within
22 28 days after the annual account is served on interested persons.

23 (b) The probate judge, probate register, or deputy probate
24 register makes written findings that all of the following apply:

25 (i) The account includes sufficient documentation that the
26 estate's assets are to the extent possible correctly titled to the
27 guardian in its fiduciary capacity if necessary.

28 (ii) The guardian has filed a copy of account statements that
29 reflect the value of depository and investment accounts dated

1 within 30 days after the end of the accounting period.

2 (iii) The guardian has filed documentation for expenses over
3 \$1,000.00.

4 (iv) Fees and costs are reasonable and should be allowed.

5 (v) On the face of the filing it appears to meet the
6 requirements of subsections (1), (3), and (4).

7 (vi) The guardian properly filed and served the account and
8 required documentation on all interested persons.

9 Sec. 5314c. (1) The guardian shall maintain a legally
10 incapacitated individual in the legally incapacitated individual's
11 permanent residence if possible and consistent with the well-being
12 and preferences of the legally incapacitated individual. If a
13 legally incapacitated individual is removed from his or her
14 permanent residence temporarily for any reason, the guardian shall
15 make all reasonable efforts to return the legally incapacitated
16 individual to his or her permanent residence at the earliest
17 opportunity consistent with the legally incapacitated individual's
18 wishes. Temporary removal of the legally incapacitated individual
19 from his or her permanent residence for the purpose of receiving
20 health care or supervision, for engaging in family or social
21 activities, or for other reasons including the well-being or
22 convenience of the legally incapacitated individual does not
23 relieve the guardian of the obligations set forth in this section
24 regarding permanent removal from the permanent residence. A
25 guardian shall not primarily consider the guardian's own
26 convenience or benefit when making a decision to remove the legally
27 incapacitated individual from the legally incapacitated
28 individual's permanent residence or selecting a new residence for
29 the legally incapacitated individual.

1 (2) A guardian shall explore reasonably available and
2 affordable supports and services that could enable the legally
3 incapacitated individual to remain in his or her permanent
4 residence.

5 (3) If a guardian proposes to move the legally incapacitated
6 individual from his or her permanent residence, the guardian shall
7 attempt to consult with the legally incapacitated individual and
8 honor the legally incapacitated individual's preference to the
9 greatest extent possible.

10 (4) If a person petitioning for guardianship under section
11 5303 or a guardian that has been appointed under section 5306
12 believes that it is necessary for the well-being of the alleged
13 incapacitated individual or legally incapacitated individual, as
14 applicable, to move the individual permanently from his or her
15 permanent residence, the petitioner may seek court approval to do
16 so by filing a separate petition for authority to move the
17 individual. The separate petition must include all of the following
18 information:

19 (a) The individual's current permanent residence.

20 (b) The proposed new residence.

21 (c) The reason for the proposed move.

22 (d) Whether the move is to a more or less restrictive setting.

23 (e) The efforts made or resources explored to enable the
24 individual to remain in his or her current permanent residence.

25 (f) Whether the guardian has engaged in meaningful
26 communication with the individual about the proposed move.

27 (g) Whether the individual objects to or supports the proposed
28 move.

29 (5) If a petition for removal from the permanent residence has

1 been filed under subsection (4), the guardian ad litem appointed
2 for the alleged incapacitated individual or legally incapacitated
3 individual, as applicable, shall, in addition to the other duties
4 set forth in section 5305, do all of the following:

5 (a) Advise the individual that a petition has been filed to
6 move the individual from his or her permanent residence to the new
7 residence identified in the petition.

8 (b) Explain that if the court grants the petition to move the
9 individual, the guardian will have the authority to change the
10 individual's permanent residence to the location specified in the
11 petition.

12 (c) Ascertain, if possible, the wishes of the individual to
13 remain in his or her permanent residence.

14 (d) Include a summary of the discussion in the guardian ad
15 litem's written report.

16 (6) If the alleged incapacitated individual or legally
17 incapacitated individual does not already have legal counsel, the
18 court shall appoint legal counsel if the individual files an
19 objection to the petition for authority to move the individual from
20 his or her permanent residence under subsection (4) or if the
21 guardian ad litem's report under subsection (5) states that the
22 individual objects to being removed from his or her permanent
23 residence.

24 (7) If the court grants the petition for a finding of
25 incapacity and appointment of a guardian under section 5303, the
26 court may also grant the separate petition for authority to move
27 the legally incapacitated individual under subsection (4) if, after
28 due consideration and opportunity for testimony on the matter, it
29 determines by clear and convincing evidence that moving the legally

1 incapacitated individual from the permanent residence to the
2 residence identified in the petition is 1 or more of the following:

3 (a) Necessary to protect the individual's physical health,
4 safety, or welfare.

5 (b) Consistent with the individual's wishes.

6 (8) If the court does not grant the separate petition to move
7 the legally incapacitated individual under section (4) at the
8 hearing where the court appoints the guardian under section 5306,
9 the guardian shall not permanently remove the legally incapacitated
10 individual, except as otherwise provided in this section, unless
11 the guardian files a subsequent separate petition under section (4)
12 and the court grants that petition.

13 (9) If the guardian determines that failure to move the
14 legally incapacitated individual from his or her permanent
15 residence more promptly is likely to be detrimental to the legally
16 incapacitated individual's physical health, safety, or welfare, the
17 guardian may file an emergency ex parte motion before any move and
18 explain the urgency of the circumstances that necessitate a more
19 immediate order. The guardians shall provide affidavits or ex parte
20 testimony in support of the motion. The court shall grant the
21 motion if the court determines by clear and convincing evidence
22 that delaying the change in the permanent residence is likely to
23 result in substantial harm to the legally incapacitated
24 individual's physical health, safety, or welfare. If the ex parte
25 motion is granted, the court shall hold a hearing within 7 days
26 after the order to determine whether the move must be made
27 permanent unless or until further order of the court. The court
28 shall appoint a guardian ad litem under subsection (5). The
29 guardian ad litem must file and serve his or her report by a date

1 and time ordered by the court that is before the hearing.

2 (10) If the legally incapacitated individual must leave the
3 permanent residence because the residence becomes permanently
4 unavailable as the result of a facility closure, removal of the
5 property from the rental market, irreparable damage to the
6 permanent residence, or other circumstances, the guardian shall
7 provide at least 14 days' prior written notice to the legally
8 incapacitated individual if possible under the circumstances or, if
9 less time is available before the legally incapacitated individual
10 must move, notice at the earliest opportunity. The guardian shall
11 also attempt to consult with the legally incapacitated individual
12 and honor the legally incapacitated individual's preferences to the
13 greatest extent possible regarding where the legally incapacitated
14 individual would like to move. The guardian shall provide written
15 notice to the court within 14 days after the move explaining why
16 the permanent residence is no longer available, whether the
17 guardian attempted to consult with the legally incapacitated
18 individual about where the legally incapacitated individual wanted
19 to move, whether the guardian honored the legally incapacitated
20 individual's preferences regarding where he or she wanted to move,
21 the address of the new residence, the type of residence, and how
22 the new residence will meet the legally incapacitated individual's
23 needs. If the legally incapacitated individual's residence becomes
24 permanently unavailable, the guardian is not required to file a
25 petition under subsection (4) and the court is not required to
26 appoint a guardian ad litem or legal counsel or hold a hearing.

27 (11) The guardian shall not move the legally incapacitated
28 individual out of state without order of the court. If the guardian
29 petitions to move the legally incapacitated individual out of

1 state, a guardian ad litem must be appointed and the court shall
2 schedule a hearing regardless of whether the individual files
3 objections or expresses dissatisfaction with the proposed move. If
4 the legally incapacitated individual files objections or expresses
5 dissatisfaction with the proposed move, the court shall appoint
6 legal counsel if the legally incapacitated individual is not
7 already represented by legal counsel.

8 (12) In exercising the guardian's power to establish the
9 legally incapacitated individual's place of residence, the guardian
10 shall do both of the following:

11 (a) Select a residential setting the guardian believes the
12 legally incapacitated individual would select if the legally
13 incapacitated individual were able. If the guardian does not know
14 and cannot reasonably determine what setting the legally
15 incapacitated individual would likely select, or the guardian
16 reasonably believes the decision the legally incapacitated
17 individual would make would unreasonably harm or endanger the
18 welfare or personal or financial interests of the legally
19 incapacitated individual, the guardian shall choose a residential
20 setting that is consistent with the legally incapacitated
21 individual's best interest.

22 (b) Give priority to a residential setting in a location that
23 will allow the legally incapacitated individual to interact with
24 persons and participate in activities important to the legally
25 incapacitated individual and meet the legally incapacitated
26 individual's needs in the least restrictive manner reasonably
27 feasible.

28 (13) If removal from the permanent residence necessitates the
29 sale, transfer, or disposal of real or sentimental personal

1 property and if meaningful communication is possible, the guardian
2 shall consult with the legally incapacitated individual before
3 taking any action to dispose of the property. A guardian shall make
4 all reasonable efforts to identify and honor the legally
5 incapacitated individual's wishes to preserve sentimental personal
6 property in the overall context of the legally incapacitated
7 individual's estate, including items identified in the inventory
8 under section 5314a and annual accounts under section 5314b, and
9 shall take reasonable steps to safeguard that personal property.
10 The court may remove a guardian that fails to comply with this
11 subsection.

12 (14) As used in this section, "permanent residence" means any
13 of the following:

14 (a) The location the allegedly incapacitated individual or
15 legally incapacitated individual uses as a permanent address, in
16 which most of the individual's possessions are maintained.

17 (b) The location the allegedly incapacitated individual or
18 legally incapacitated individual considers to be his or her home.

19 Sec. 5406. (1) ~~Upon~~**On** receipt of a petition for a
20 conservator's appointment or another protective order because of
21 minority, the court shall set a date for hearing. If, at any time
22 in the proceeding, the court determines that the minor's interests
23 are or may be inadequately represented, the court may appoint an
24 attorney to represent the minor, giving consideration to the
25 minor's choice if 14 years of age or older. An attorney appointed
26 by the court to represent a minor has the powers and duties of a
27 guardian ad litem.

28 (2) ~~Upon~~**On** receipt of a petition for a conservator's
29 appointment or another protective order for a reason other than

1 minority, the court shall set a date for **initial** hearing. Unless
2 the individual to be protected has chosen **legal** counsel, or is
3 mentally competent but aged or physically infirm, the court shall
4 appoint a guardian ad litem. ~~to represent the person in the~~
5 ~~proceeding.~~ If the alleged disability is mental illness, mental
6 deficiency, physical illness or disability, chronic use of drugs,
7 or chronic intoxication, the court may direct that the individual
8 alleged to need protection be examined by a physician or mental
9 health professional appointed by the court, preferably a physician
10 or mental health professional who is not connected with an
11 institution in which the individual is a patient or is detained.
12 The individual alleged to need protection has the right to secure
13 an independent evaluation at his or her own expense. The court may
14 send a visitor to interview the individual to be protected. The
15 visitor may be a guardian ad litem or a court officer or employee.

16 (3) The court may utilize, as an additional visitor, the
17 service of a public or charitable agency to evaluate the condition
18 of the individual to be protected and make appropriate
19 recommendations to the court.

20 (4) A guardian ad litem, physician, mental health
21 professional, or visitor appointed under this section who meets
22 with, examines, or evaluates an individual who is the subject of a
23 petition in a protective proceeding shall do all of the following:

24 (a) Consider whether there is an appropriate alternative to a
25 conservatorship.

26 (b) If a conservatorship is appropriate, consider the
27 desirability of limiting the scope and duration of the
28 conservator's authority.

29 (c) Report to the court based on the considerations required

1 in subdivisions (a) and (b).

2 (5) Subject to subsection (6), the duties of a guardian ad
3 litem appointed under subsection (2) for an individual alleged to
4 need protection include all of the following:

5 (a) Impartially gather information as provided by law.

6 (b) Seek information from the individual and, if communication
7 is possible, communicate in a manner the individual is best able to
8 understand. If communication is not possible or there is a barrier
9 to communication, the guardian ad litem must note that in the
10 report.

11 (c) Interview the individual in person at the individual's
12 location and out of the presence of any interested person.

13 (d) Advise the individual that the guardian ad litem does not
14 represent the individual as an attorney and that no attorney-client
15 relationship has been created.

16 (e) Identify whether the individual wishes to be present at
17 the hearing. If the individual alleged to need protection does not
18 wish to be present at the hearing, the guardian ad litem shall
19 identify the reasons why the individual does not wish to be
20 present.

21 (f) Identify any barrier to attending hearings at the place
22 where court is held or otherwise fully participating in the
23 hearing, including the need for assistive technology,
24 transportation, or other support. If the individual alleged to need
25 protection wishes to attend, the guardian ad litem must identify
26 whether the individual has identified a plan for how the individual
27 will attend.

28 (g) Identify whether the individual plans to retain legal
29 counsel or wants appointed legal counsel. If the individual alleged

1 to need protection does not plan to retain legal counsel or request
2 appointed legal counsel, the guardian ad litem must make a
3 recommendation as to whether legal counsel should be appointed.

4 (h) Identify whether a disagreement or dispute related to the
5 petition might be resolved through court-ordered mediation.

6 (6) The duties of a guardian ad litem appointed for an
7 individual alleged to need protection or a protected individual
8 include all of the following, as applicable:

9 (a) Explain to the individual the nature, purpose, and legal
10 effects of a conservator's appointment or issuance of a protective
11 order.

12 (b) Explain who has filed the petition and who, if anyone, has
13 been nominated as conservator, if applicable.

14 (c) Explain to the individual the hearing procedure and the
15 individual's rights in the hearing procedure, including, but not
16 limited to, the following:

17 (i) The right to contest the petition, in whole or in part.

18 (ii) The right to request limits on the conservator's powers.

19 (iii) The right to be present at the hearing. If the individual
20 is unable to attend the hearing at the location court proceedings
21 typically are held, the guardian ad litem shall inform the
22 individual of his or her right to have the hearing at another
23 location.

24 (iv) The right to request a reasonable accommodation to allow
25 the individual to participate as fully as possible at the hearing,
26 including with assistive technology or other support.

27 (v) The right to be represented by legal counsel of the
28 individual's choice. If the individual is unable to secure legal
29 counsel of his or her choice, the guardian ad litem shall explain

1 to the individual that he or she has the right to have legal
2 counsel appointed by the court.

3 (vi) The right to request an independent medical evaluation.

4 (d) Explain to the individual that if a conservator is
5 appointed, the conservator may have the power to take certain
6 actions on behalf of the individual. A guardian ad litem must
7 inform the individual that a conservator may have any of the powers
8 described in section 5407 and, if meaningful communication is
9 possible, discern if the individual objects to a conservator having
10 any of those powers.

11 (e) Identify whether the individual objects to the particular
12 person proposed as conservator, if any.

13 (f) If a conservator were to be appointed, identify a list of
14 who the individual would want to serve, in order of preference.

15 (g) If a conservator were to be appointed, identify who the
16 individual would not want to serve.

17 (7) A guardian ad litem appointed for an individual alleged to
18 need protection or a protected individual shall file a written
19 report with the court in the form required by the state court
20 administrative office.

21 (8) If an individual who is subject to an initial petition
22 under this part or petition to modify under this part contests the
23 petition, the guardian ad litem's written report required under
24 subsection (7) must include only the following:

25 (a) That the individual contests the petition.

26 (b) Whether the individual has retained legal counsel or
27 wishes for legal counsel to be appointed.

28 (c) Whether the individual has any barriers to attending court
29 at the place where it is usually held.

1 (9) If an individual who is subject to an initial petition
2 under this part or petition to modify under this part does not
3 contest the petition, the guardian ad litem's written report
4 required under subsection (7) must include only the following:

5 (a) The date and time the guardian ad litem met with the
6 individual.

7 (b) The length of time the guardian ad litem met with the
8 individual.

9 (c) The location where the guardian ad litem met with the
10 individual.

11 (d) Whether the guardian ad litem was able to meaningfully
12 communicate with the individual and any barriers to communication.

13 (e) Who, if anyone, was present for the interview besides the
14 individual.

15 (f) Whether the individual wishes to be present at the
16 hearing. If the individual wishes to be present at the hearing but
17 has a barrier to fully participating, the guardian ad litem must
18 include in the written report whether the barrier can be resolved
19 by moving the location of the hearing or using assistive
20 technology, or both, or other support.

21 (g) Whether the individual has identified a plan for how the
22 individual will attend.

23 (h) Whether the individual plans to retain legal counsel or
24 has requested appointed legal counsel. If the individual has not
25 indicated he or she wishes to be represented by legal counsel, the
26 guardian ad litem shall include in the written report a
27 recommendation as to whether legal counsel should be appointed to
28 represent the individual.

29 (i) Whether the individual has any of the following:

1 (A) A power of attorney with or without limitations on
2 purpose, authority, or time period.

3 (B) A patient advocate designation.

4 (C) A physician orders for scope of treatment form.

5 (D) A benefits payee, trustee, or other fiduciary.

6 (j) Whether a disagreement or dispute related to the
7 conservatorship petition might be resolved through court-ordered
8 mediation.

9 (k) Whether the appointment of a visitor with appropriate
10 knowledge, training, and education such as a social worker, mental
11 health professional, or medical professional could provide the
12 court with the information on whether alternatives to
13 conservatorship or a limited conservatorship under section 5419(1)
14 is appropriate.

15 (l) If a conservator were appointed, who the individual would
16 want to serve in order of preference.

17 (m) If a conservator were appointed, who the individual would
18 not want to serve.

19 (n) An estimate of the amount of cash and property readily
20 convertible into cash that is in the individual's estate.

21 (10) If a guardian ad litem is appointed for any purpose other
22 than an initial petition under this part, petition to terminate
23 under this part, or petition to modify under this part, the
24 guardian ad litem must provide a written report to the court that
25 includes, at a minimum, the information described in subsection
26 (5), (6), (8), or (9), as applicable, and any other information
27 required by law. A special limited guardian ad litem appointed
28 under subsection (16) is not required to provide a written report
29 unless ordered to do so by the court.

1 (11) The court shall not consider evidence included in a
2 report under subsection (7) or the testimony of a guardian ad litem
3 that is not otherwise admissible under the Michigan Rules of
4 Evidence. If the guardian ad litem does not personally appear for
5 examination, the report must not be admitted into evidence.

6 (12) A guardian ad litem shall file any report required under
7 this section with the court and serve the report on all interested
8 persons at least 7 days before the hearing. The court shall not
9 order compensation of the guardian ad litem unless the guardian ad
10 litem states in the guardian ad litem's written report that the
11 guardian ad litem complied with this subsection.

12 (13) The court shall not appoint a guardian ad litem as legal
13 counsel for the individual if the guardian ad litem's report under
14 subsection (7) or recommendation to the court conflicts with the
15 wishes of the individual.

16 (14) If an individual who is subject to a petition under this
17 part has not already secured legal counsel, the court shall appoint
18 legal counsel if any of the following apply:

19 (a) The individual who is subject to the petition requests
20 legal counsel.

21 (b) The individual who is subject to the petition objects to
22 any part of the petition for conservatorship or potential authority
23 of a conservator.

24 (c) The guardian ad litem determines it is in the best
25 interest of the individual subject to the petition to have legal
26 counsel and, if legal counsel has not been secured, the court shall
27 appoint legal counsel. If the individual who is subject to the
28 petition is indigent, this state shall bear the expense of
29 appointed legal counsel.

1 (15) If an individual who is subject to a petition under this
2 part has legal counsel appointed or retained, the appointment of a
3 guardian ad litem terminates. The report of the guardian ad litem
4 under subsection (7) must not be admitted into evidence after the
5 appearance or appointment of legal counsel for the individual who
6 is subject to the petition.

7 (16) After appointment or retention of legal counsel for the
8 individual who is subject to the petition under this part, the
9 court may, for good cause shown, appoint a special limited guardian
10 ad litem to provide information on a narrowly defined issue that
11 will likely otherwise be inadequately addressed. A special guardian
12 ad litem is exempt from subsections (5) to (10). The court may
13 order that a special limited guardian ad litem provide a written
14 report. The report under this subsection must contain the
15 information the court considers necessary to adequately address the
16 issue leading to the appointment of the special limited guardian ad
17 litem. A special limited guardian ad litem shall not communicate
18 directly with the individual who is subject to the petition and
19 must instead communicate through legal counsel to the individual
20 who is subject to the petition, unless legal counsel otherwise
21 gives consent.

22 (17) ~~(5)~~The individual to be protected is entitled to be
23 present at the hearing in person. If the individual wishes to be
24 present at the hearing, all practical steps must be taken to ensure
25 the individual's presence including, if necessary, moving the site
26 of the hearing. The individual is entitled to be represented by
27 **legal** counsel, to present evidence, to cross-examine witnesses,
28 including a court-appointed physician or other qualified person and
29 a visitor, and to trial by jury. The issue may be determined at a

1 closed hearing or without a jury if the individual to be protected
2 or **legal** counsel for the individual so requests.

3 **(18)** ~~(6)~~ Any person may request ~~for~~ permission to participate
4 in the proceeding, and the court may grant the request, with or
5 without hearing, ~~upon~~**on** determining that the best interest of the
6 individual to be protected will be served by granting the request.
7 The court may attach appropriate conditions to the permission.

8 **(19)** ~~(7)~~ After hearing, ~~upon~~**on** finding that a basis for a
9 conservator's appointment or another protective order is
10 established by clear and convincing evidence, the court shall make
11 the appointment or other appropriate protective order.

12 Sec. 5417. (1) Within 56 days after appointment or within
13 another time period specified by court rule, a conservator shall
14 prepare and file with the appointing court a complete inventory of
15 the estate subject to the conservatorship together with an oath or
16 affirmation that the inventory is believed to be complete and
17 accurate so far as information permits. **The conservator shall file,**
18 **along with the inventory, account statements that reflect the value**
19 **of depository and investment accounts dated within 30 days after**
20 **the inventory's date.** The conservator shall provide a copy of the
21 inventory to the protected individual if the individual can be
22 located and is 14 years of age or older and to interested persons
23 as specified in the Michigan court rules.

24 (2) The conservator must keep suitable records of the
25 administration and exhibit those records on the request of an
26 interested person.

27 **(3) The conservator must identify on the inventory under**
28 **subsection (1) any items of special personal or sentimental value,**
29 **including, but not limited to, family heirlooms, photo albums, or**

1 collections. To the extent meaningful conversation permits, the
2 conservator must make an inquiry with the protected individual as
3 to what items the protected individual identifies as having special
4 personal or sentimental value. If the conservator is unable to
5 locate an item identified as having special personal or sentimental
6 value at the time of filing the inventory under subsection (1), the
7 conservator must state that on the inventory. A conservator shall
8 make all reasonable efforts to identify and honor the protected
9 individual's wishes to preserve items of special personal or
10 sentimental value in the overall context of the protected
11 individual's estate, including items identified in the inventory
12 and annual accounts, and shall take reasonable steps to safeguard
13 the property. The court may remove a conservator that fails to
14 comply with this subsection.

15 (4) The inventory under subsection (1) must list any
16 merchandise, funeral services, cemetery services, or prepaid
17 contracts for which the protected individual or conservator is the
18 contract buyer or contract beneficiary under the prepaid funeral
19 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235. If the
20 conservatorship estate includes assets described in this
21 subsection, the conservator must file all of the following with the
22 inventory under subsection (1):

23 (a) A copy of any prepaid contract under the prepaid funeral
24 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

25 (b) Proof that payments made under a prepaid contract are held
26 in escrow or under a trust agreement in compliance with the prepaid
27 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
28 328.235.

29 (c) The most recent escrow statement issued concerning the

1 prepaid contract.

2 (d) Proof of any assignments of life policies or annuity
3 contracts made to purchase merchandise, funeral services, or
4 cemetery services under the prepaid funeral and cemetery sales act,
5 1986 PA 255, MCL 328.211 to 328.235, under subsection (1) must list
6 property with reasonable detail and the type and amount of any
7 encumbrance.

8 (5) The inventory under subsection (1) must be served on all
9 interested persons. Any interested person may file an objection to
10 the inventory with the court and serve the objection on all other
11 interested persons. The court shall set the matter for hearing.

12 Sec. 5418. (1) A conservator shall account to the court for
13 administration of the trust not less than annually unless the court
14 directs otherwise, upon resignation or removal, and at other times
15 as the court directs. ~~On~~The conservator must file, along with the
16 account under this subsection, account statements that reflect the
17 value of depository and investment accounts dated within 30 days
18 after the inventory's date and receipts, invoices, or other
19 documentation for expenses in excess of \$1,000.00. The account must
20 be in the form as provided by the state court administrative
21 office, or substantially similar. The account must detail assets
22 including those identified in the inventory under section 5417,
23 debts, gross income, and expenses.

24 (2) Within 56 days after the termination of the protected
25 individual's minority or disability, a conservator shall account to
26 the court or to the formerly protected individual or that
27 individual's successors. Subject to appeal or vacation within the
28 time permitted, an order, after notice and hearing, allowing an
29 intermediate account of a conservator adjudicates as to liabilities

1 concerning the matters considered in connection with the accounts,
2 and an order, after notice and hearing, allowing a final account
3 adjudicates as to all previously unsettled liabilities of the
4 conservator to the protected individual or the protected
5 individual's successors relating to the conservatorship. In
6 connection with any account, the court may require a conservator to
7 submit to a physical check of the estate to be made in any manner
8 the court specifies.

9 (3) If the conservator has disposed of or sold any of the
10 items, the conservator must describe on the account under
11 subsection (1) how the conservator fulfilled the conservator's
12 duties under section 5417(3).

13 (4) If the protected individual's estate includes any
14 merchandise, funeral services, cemetery services, or prepaid
15 contracts for which the protected individual or conservator is the
16 contract buyer or contract beneficiary under the prepaid funeral
17 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, the
18 conservator must file all of the following with the account:

19 (a) A copy of any prepaid contract under the prepaid funeral
20 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

21 (b) Proof that payments made under a prepaid contract are held
22 in escrow or under a trust agreement in compliance with the prepaid
23 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
24 328.235.

25 (c) The most recent escrow statement issued concerning the
26 prepaid contract.

27 (d) Proof of any assignments of life policies or annuity
28 contracts made to purchase merchandise, funeral services, or
29 cemetery services under the prepaid funeral and cemetery sales act,

1 1986 PA 255, MCL 328.211 to 328.235.

2 (5) ~~(2)~~—The conservator shall provide a copy of an account to
3 the protected individual if the individual can be located and is 14
4 years of age or older and to interested persons as specified in the
5 Michigan court rules.

6 (6) If the protected individual objects to an account, the
7 court must appoint a guardian ad litem to visit the protected
8 individual in the same manner as specified in section 5406. The
9 court must appoint legal counsel to represent the protected
10 individual if any of the following are met:

11 (a) The protected individual requests legal counsel.

12 (b) The guardian ad litem believes that appointment of legal
13 counsel is in the best interest of the protected individual.

14 (c) The court otherwise believes it is necessary to protect
15 the interest of the protected individual.

16 Enacting section 1. This amendatory act does not take effect
17 unless all of the following bills of the 101st Legislature are
18 enacted into law:

19 (a) Senate Bill No. 504.

20

21 (b) Senate Bill No. 505.

22

23 (c) Senate Bill No. 506.

24