

**SUBSTITUTE FOR
SENATE BILL NO. 212**

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 2519, 5103, 5204, 5206, and 5215 (MCL 700.2519, 700.5103, 700.5204, 700.5206, and 700.5215), section 2519 as amended by 2010 PA 325, section 5103 as amended by 2016 PA 483, section 5204 as amended by 2005 PA 204, and section 5215 as amended by 2020 PA 365.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2519. (1) A will executed in the form prescribed by
2 subsection (2) and otherwise in compliance with the terms of the
3 Michigan statutory will form is a valid will. A person printing and
4 distributing the Michigan statutory will shall print and distribute
5 the form verbatim as it appears in subsection (2). The notice

1 provisions ~~shall~~**must** be printed in 10-point boldfaced type.

2 (2) The form of the Michigan statutory will is as follows:

3 MICHIGAN STATUTORY WILL NOTICE

4 1. An individual age 18 or older who has sufficient mental
5 capacity may make a will.

6 2. There are several kinds of wills. If you choose to complete
7 this form, you will have a Michigan statutory will. If this will
8 does not meet your wishes in any way, you should talk with a lawyer
9 before choosing a Michigan statutory will.

10 3. Warning! It is strongly recommended that you do not add or
11 cross out any words on this form except for filling in the blanks
12 because all or part of this will may not be valid if you do so.

13 4. This will has no effect on jointly held assets, on
14 retirement plan benefits, or on life insurance on your life if you
15 have named a beneficiary who survives you.

16 5. This will is not designed to reduce estate taxes.

17 6. This will treats adopted children and children born outside
18 of wedlock who would inherit if their parent died without a will
19 the same way as children born or conceived during marriage.

20 7. You should keep this will in your safe deposit box or other
21 safe place. By paying a small fee, you may file this will in your
22 county's probate court for safekeeping. You should tell your family
23 where the will is kept.

24 8. You may make and sign a new will at any time. If you marry
25 or divorce after you sign this will, you should make and sign a new
26 will.

27 INSTRUCTIONS:

28 1. To have a Michigan statutory will, you must complete the
29 blanks on the will form. You may do this yourself, or direct

1 someone to do it for you. You must either sign the will or direct
2 someone else to sign it in your name and in your presence.

3 2. Read the entire Michigan statutory will carefully before
4 you begin filling in the blanks. If there is anything you do not
5 understand, you should ask a lawyer to explain it to you.

6 MICHIGAN STATUTORY WILL OF _____
7 (Print or type your full name)

8 ARTICLE 1. DECLARATIONS

9 This is my will and I revoke any prior wills and codicils. I live
10 in _____ County, Michigan.

11 My spouse is _____.
12 (Insert spouse's name or write "none")

13 My children now living are:
14 _____
15 _____
16 _____

17 (Insert names or write "none")

18 ARTICLE 2. DISPOSITION OF MY ASSETS

19 2.1 CASH GIFTS TO PERSONS OR CHARITIES.

20 (Optional)

21 I can leave no more than ~~two (2)~~ **2** cash gifts. I make the
22 following cash gifts to the persons or charities in the amount
23 stated here. Any transfer tax due upon my death shall be paid from
24 the balance of my estate and not from these gifts. Full name and
25 address of person or charity to receive cash gift (name only 1
26 person or charity here):

27 _____
28 (Insert name of person or charity)

29 _____

1 (Insert address)
2 AMOUNT OF GIFT (In figures): \$ _____
3 AMOUNT OF GIFT (In words): _____ Dollars
4 _____

5 (Your signature)
6 Full name and address of person or charity to receive cash gift
7 (Name only 1 person or charity):
8 _____

9 (Insert name of person or charity)
10 _____

11 (Insert address)
12 AMOUNT OF GIFT (In figures): \$ _____
13 AMOUNT OF GIFT (In words): _____ Dollars
14 _____

15 (Your signature)

16 2.2 PERSONAL AND HOUSEHOLD ITEMS.

17 I may leave a separate list or statement, either in my
18 handwriting or signed by me at the end, regarding gifts of specific
19 books, jewelry, clothing, automobiles, furniture, and other
20 personal and household items.

21 I give my spouse all my books, jewelry, clothing, automobiles,
22 furniture, and other personal and household items not included on
23 such a separate list or statement. If I am not married at the time
24 I sign this will or if my spouse dies before me, my personal
25 representative shall distribute those items, as equally as
26 possible, among my children who survive me. If no children survive
27 me, these items shall be distributed as set forth in paragraph 2.3.

28 2.3 ALL OTHER ASSETS.

29 I give everything else I own to my spouse. If I am not married

1 at the time I sign this will or if my spouse dies before me, I give
2 these assets to my children and the descendants of any deceased
3 child. If no spouse, children, or descendants of children survive
4 me, I choose 1 of the following distribution clauses by signing my
5 name on the line after that clause. If I sign on both lines, if I
6 fail to sign on either line, or if I am not now married, these
7 assets will go under distribution clause (b).

8 Distribution clause, if no spouse, children, or descendants of
9 children survive me.

10 (Select only 1)

11 (a) One-half to be distributed to my heirs as if I did not
12 have a will, and one-half to be distributed to my spouse's heirs as
13 if my spouse had died just after me without a will.

14 _____
15 (Your signature)

16 (b) All to be distributed to my heirs as if I did not have a
17 will.

18 _____
19 (Your signature)

20 ARTICLE 3. NOMINATIONS OF PERSONAL
21 REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

22 Personal representatives, guardians, and conservators have a
23 great deal of responsibility. The role of a personal representative
24 is to collect your assets, pay debts and taxes from those assets,
25 and distribute the remaining assets as directed in the will. A
26 guardian is a person who will look after the physical well-being of
27 a child. A conservator is a person who will manage a child's assets
28 and make payments from those assets for the child's benefit. Select
29 them carefully. Also, before you select them, ask them whether they

1 are willing and able to serve.

2 3.1 PERSONAL REPRESENTATIVE.

3 (Name at least 1)

4 I nominate _____

5 (Insert name of person or eligible financial institution)

6 of _____ to serve as personal representative.

7 (Insert address)

8 If my first choice does not serve, I nominate _____

9 _____
10 (Insert name of person or eligible financial institution)

11 of _____ to serve as personal representative.

12 (Insert address)

13 3.2 GUARDIAN AND CONSERVATOR.

14 Your spouse may die before you. Therefore, if you have a child
15 under age 18, name an individual as guardian of the child, and an
16 individual or eligible financial institution as conservator of the
17 child's assets. The guardian and the conservator may, but need not
18 be, the same person.

19 If a guardian or conservator is needed for a child of mine, I
20 nominate _____

21 (Insert name of individual)

22 of _____ as guardian and

23 (Insert address)

24 _____
25 (Insert name of individual or eligible financial institution)

26 of _____ to serve as conservator.

27 (Insert address)

28 If my first choice cannot serve, I nominate

29 _____

1 (Insert name of individual)
2 of _____ as guardian and
3 (Insert address)

4 _____
5 (Insert name of individual or eligible financial institution)
6 of _____ to serve as conservator.
7 (Insert address)

8 3.3 BOND.

9 A bond is a form of insurance in case your personal
10 representative or a conservator performs improperly and jeopardizes
11 your assets. A bond is not required. You may choose whether you
12 wish to require your personal representative and any conservator to
13 serve with or without bond. Bond premiums would be paid out of your
14 assets. (Select only 1)

15 (a) My personal representative and any conservator I have
16 named shall serve with bond.

17 _____
18 (Your signature)

19 (b) My personal representative and any conservator I have
20 named shall serve without bond.

21 _____
22 (Your signature)

23 3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

24 Definitions and additional clauses found at the end of this
25 form are part of this will.

26 I sign my name to this Michigan statutory will on
27 _____ , 20____.

28 _____
29 (Your signature)

1 NOTICE REGARDING WITNESSES

2 You must use 2 adults as witnesses. It is preferable to have 3
3 adult witnesses. All the witnesses must observe you sign the will,
4 have you tell them you signed the will, or have you tell them the
5 will was signed at your direction in your presence.

6 STATEMENT OF WITNESSES

7 We sign below as witnesses, declaring that the individual who
8 is making this will appears to have sufficient mental capacity to
9 make this will and appears to be making this will freely, without
10 duress, fraud, or undue influence, and that the individual making
11 this will acknowledges that he or she has read the will, or has had
12 it read to him or her, and understands the contents of this will.

13 _____

14 (Print Name)

15 _____

16 (Signature of witness)

17 _____

18 (Address)

19 _____

20 (City) (State) (Zip)

21 _____

22 (Print name)

23 _____

24 (Signature of witness)

25 _____

26 (Address)

27 _____

28 (City) (State) (Zip)

29 _____

1 (Print name)
2 _____

3 (Signature of witness)
4 _____

5 (Address)
6 _____
7 (City) (State) (Zip)

8 DEFINITIONS

9 The following definitions and rules of construction apply to
10 this Michigan statutory will:

11 (a) "Assets" means all types of property you can own, such as
12 real estate, stocks and bonds, bank accounts, business interests,
13 furniture, and automobiles.

14 (b) "Descendants" means your children, grandchildren, and
15 their descendants.

16 (c) "Descendants" or "children" includes individuals born or
17 conceived during marriage, individuals legally adopted, and
18 individuals born out of wedlock who would inherit if their parent
19 died without a will.

20 (d) "Jointly held assets" means those assets to which
21 ownership is transferred automatically upon the death of 1 of the
22 owners to the remaining owner or owners.

23 (e) "Spouse" means your husband or wife at the time you sign
24 this will.

25 (f) Whenever a distribution under a Michigan statutory will is
26 to be made to an individual's descendants, the assets are to be
27 divided into as many equal shares as there are then living
28 descendants of the nearest degree of living descendants and
29 deceased descendants of that same degree who leave living

1 descendants. Each living descendant of the nearest degree ~~shall~~
 2 **will** receive 1 share. The remaining shares, if any, are combined
 3 and then divided in the same manner among the surviving descendants
 4 of the deceased descendants as if the surviving descendants who
 5 were allocated a share and their surviving descendants had
 6 predeceased the descendant. In this manner, all descendants who are
 7 in the same generation will take an equal share.

8 (g) "Heirs" means those persons who would have received your
 9 assets if you had died without a will, domiciled in Michigan, under
 10 the laws that are then in effect.

11 (h) "Person" includes individuals and institutions.

12 (i) Plural and singular words include each other, where
 13 appropriate.

14 (j) If a Michigan statutory will states that a person shall
 15 perform an act, the person is required to perform that act. If a
 16 Michigan statutory will states that a person may do an act, the
 17 person's decision to do or not to do the act ~~shall~~**must** be made in
 18 ~~good faith~~**good-faith** exercise of the person's powers.

19 ADDITIONAL CLAUSES

20 Powers of personal representative

21 1. A personal representative has all powers of administration
 22 given by Michigan law to personal representatives and, to the
 23 extent ~~funds are~~**money is** not needed to meet debts and expenses
 24 currently payable and are not immediately distributable, the power
 25 to invest and reinvest the estate from time to time in accordance
 26 with the Michigan prudent investor rule. In dividing and
 27 distributing the estate, the personal representative may distribute
 28 partially or totally in kind, may determine the value of
 29 distributions in kind without reference to income tax bases, and

1 may make non-pro rata distributions.

2 2. The personal representative may distribute estate assets
 3 otherwise distributable to a minor beneficiary to the minor's
 4 conservator or, in amounts not exceeding \$5,000.00 per year, either
 5 to the minor, if married **before the effective date of the 2023**
 6 **amendatory act that amended this sentence**; to a parent or another
 7 adult with whom the minor resides and who has the care, custody, or
 8 control of the minor; or to the guardian. The personal
 9 representative is free of liability and is discharged from further
 10 accountability for distributing assets in compliance with ~~the~~
 11 ~~provisions of~~ this paragraph.

12 POWERS OF GUARDIAN AND CONSERVATOR

13 A guardian named in this will has the same authority with
 14 respect to the child as a parent having legal custody would have. A
 15 conservator named in this will has all of the powers conferred by
 16 law.

17 Sec. 5103. (1) By a properly executed power of attorney, a
 18 parent or guardian of a minor or a guardian of a legally
 19 incapacitated individual may delegate to another person, for a
 20 period not exceeding 180 days, any of the parent's or guardian's
 21 powers regarding care, custody, or property of the minor child or
 22 ward, except the power to consent to ~~marriage or~~ adoption of a
 23 minor ward or to release of a minor ward for adoption.

24 (2) A parent shall not knowingly and intentionally delegate
 25 his or her powers under this section regarding care and custody of
 26 the parent's minor child for longer than 180 days for the purpose
 27 of permanently transferring custody of the child in violation of
 28 section 136c(3) of the Michigan penal code, 1931 PA 328, MCL
 29 750.136c.

1 (3) If a parent or guardian is serving in the armed forces of
2 the United States and is deployed to a foreign nation, and if the
3 power of attorney so provides, a delegation under this section is
4 effective until the thirty-first day after the end of the
5 deployment.

6 (4) If a guardian for a minor or legally incapacitated
7 individual delegates any power under this section, the guardian
8 shall notify the court within 7 days after execution of the power
9 of attorney and provide the court the name, address, and telephone
10 number of the attorney-in-fact.

11 Sec. 5204. (1) A person interested in the welfare of a minor,
12 or a minor if 14 years of age or older, may petition for the
13 appointment of a guardian for the minor. The court may order the
14 ~~family independence agency~~ **department of health and human services**
15 or a court employee or agent to conduct an investigation of the
16 proposed guardianship and file a written report of the
17 investigation.

18 (2) The court may appoint a guardian for ~~an unmarried~~ a minor
19 if any of the following circumstances exist:

20 (a) The parental rights of both parents or the surviving
21 parent are terminated or suspended by prior court order, by
22 judgment of divorce or separate maintenance, by death, by judicial
23 determination of mental incompetency, by disappearance, or by
24 confinement in a place of detention.

25 (b) The parent or parents permit the minor to reside with
26 another person and do not provide the other person with legal
27 authority for the minor's care and maintenance, and the minor is
28 not residing with his or her parent or parents when the petition is
29 filed.

1 (c) All of the following:

2 (i) The minor's biological parents have never been married to
3 one another.

4 (ii) The minor's parent who has custody of the minor dies or is
5 missing and the other parent has not been granted legal custody
6 under court order.

7 (iii) The person whom the petition asks to be appointed guardian
8 is related to the minor within the fifth degree by marriage, blood,
9 or adoption.

10 (3) A minor's limited guardian may petition to be appointed a
11 guardian for that minor, except that the petition ~~shall~~**must** not be
12 based ~~upon~~**on** suspension of parental rights by the order that
13 appointed that person the limited guardian for that minor.

14 (4) A guardian appointed under section 5202 whose appointment
15 is not prevented or nullified under section 5203 has priority over
16 a guardian who may be appointed by the court. The court may proceed
17 with an appointment ~~upon~~**on** a finding that a guardian appointed in
18 a manner described in section 5202 has failed to accept the
19 appointment within 28 days after the notice of the guardianship
20 proceeding.

21 (5) For the minor ward's welfare, the court may at any time
22 order the minor ward's parents to pay reasonable support and order
23 reasonable parenting time and contact of the minor ward with his or
24 her parents.

25 Sec. 5206. (1) The court shall review a proposed limited
26 guardianship placement plan filed with the court under section 5205
27 and shall do 1 of the following:

28 (a) Approve the proposed plan.

29 (b) Disapprove the proposed plan.

1 (c) On its own motion, modify a proposed plan and approve it
2 as modified, if the parties agree to the modification. The modified
3 plan ~~shall~~**must** be filed with the court.

4 (2) A limited guardianship placement plan that has been
5 approved by the court may be modified ~~upon~~**on** agreement of the
6 parties and approval of the court. A modified limited guardianship
7 placement plan ~~shall~~**must** be filed with the court.

8 (3) The voluntary suspension of parental rights under section
9 5205 does not prevent the parent or parents from filing a petition
10 to terminate the limited guardianship at any time as provided in
11 section 5208. Appointment of a limited guardian under this section
12 is a continuing appointment.

13 (4) A limited guardian appointed under this section has all of
14 the powers and duties enumerated in section 5215 except that a
15 minor's limited guardian shall not consent to ~~marriage or~~ adoption
16 of the minor ward or to the release of the minor ward for adoption.

17 Sec. 5215. A minor's guardian has the powers and
18 responsibilities of a parent who is not deprived of custody of the
19 parent's minor and unemancipated child, except that a guardian is
20 not legally obligated to provide for the ward from the guardian's
21 own money and is not liable to third persons because of the
22 parental relationship for the ward's acts. A guardian has all of
23 the following powers and duties:

24 (a) The guardian shall take reasonable care of a ward's
25 personal effects and commence a protective proceeding if necessary
26 to protect the ward's other property. If a guardian commences a
27 protective proceeding because the guardian believes that it is in
28 the ward's best interest to sell or otherwise dispose of the ward's
29 real property or interest in real property, the court may appoint

1 the guardian as special conservator and authorize the special
2 conservator to proceed under section 5423(3). A guardian shall not
3 otherwise sell the ward's real property or interest in real
4 property.

5 (b) The guardian may receive money payable for the ward's
6 support to the ward's parent, guardian, or custodian under the
7 terms of a statutory benefit or insurance system, or a private
8 contract, devise, trust, conservatorship, or custodianship. The
9 guardian may receive the ward's money or property paid or delivered
10 under section 5102. Money or property received under section 5102
11 must be applied to the ward's current needs for support, care, and
12 education. The guardian shall exercise due care to conserve any
13 excess for the ward's future needs unless a conservator is
14 appointed for the ward's estate, in which case the excess must be
15 paid over at least annually to the conservator. The guardian shall
16 not use that money or property for compensation for the guardian's
17 services except as approved by court order or as determined by an
18 appointed conservator other than the guardian. A guardian may
19 institute a proceeding to compel a person's performance of a duty
20 to support the ward or to pay money for the ward's welfare.

21 (c) The guardian shall facilitate the ward's education and
22 social or other activities, and shall authorize medical or other
23 professional care, treatment, or advice. A guardian is not liable
24 because of this consent for injury to the ward resulting from the
25 negligence or acts of third persons unless it would be illegal for
26 a parent to have consented.

27 ~~(d) A guardian may consent to a minor ward's marriage.~~

28 (d) ~~(e)~~ Subject to the conditions and restrictions of chapter
29 X of the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, a

1 guardian may consent to ~~marriage or~~ adoption of a minor ward or to
2 the release of a minor ward for adoption.

3 **(e)** ~~(f)~~ A guardian must report the condition of the ward and
4 of the ward's estate that is subject to the guardian's possession
5 or control as ordered by the court on petition of a person
6 interested in the minor's welfare or as required by court rule. The
7 report must detail the condition of the ward, medical or mental
8 health treatment or care to which the ward was subjected, and what
9 reason, if any, exists for the continuation of the guardianship.

10 **(f)** ~~(g)~~ Within 14 days after a change in the ward's place of
11 residence, the guardian shall give to the court notice of the
12 ward's new address.

13 **(g)** ~~(h)~~ A guardian may execute a do-not-resuscitate order on
14 behalf of the ward as provided in section 3a of the Michigan do-
15 not-resuscitate procedure act, 1996 PA 193, MCL 333.1053a.

16 Enacting section 1. This amendatory act does not take effect
17 unless House Bill No. 4293 of the 102nd Legislature is enacted into
18 law.