

HOUSE BILL NO. 4654

May 24, 2023, Introduced by Reps. Fink, Breen and Meerman and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 1104, 1107, 1108, 2502, 2503, 2504, 2506, 2507, 2513, 2519, 2953, 2955, 3206, 5501, and 5506 (MCL 700.1104, 700.1107, 700.1108, 700.2502, 700.2503, 700.2504, 700.2506, 700.2507, 700.2513, 700.2519, 700.2953, 700.2955, 700.3206, 700.5501, and 700.5506), section 1104 as amended by 2016 PA 57, sections 1107 and 2504 as amended by 2009 PA 46, sections 2502, 5501, and 5506 as amended by 2020 PA 246, section 2513 as amended by 2000 PA 54, section 2519 as amended by 2010 PA 325, and section

3206 as amended by 2022 PA 157, and by adding section 2502a; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1104. As used in this act:

2 **(a) "Electronic" means relating to technology having**
3 **electrical, digital, magnetic, wireless, optical, electromagnetic,**
4 **or similar capabilities.**

5 **(b) "Electronic presence" means the relationship of 2 or more**
6 **individuals in different locations communicating in real time by**
7 **electronic means to the same extent as if the individuals were**
8 **physically present in the same location.**

9 **(c) "Electronic will" means a will executed electronically in**
10 **compliance with this act.**

11 **(d) ~~(a)~~"Environmental law" means a federal, state, or local**
12 **law, rule, regulation, or ordinance that relates to the protection**
13 **of the environment or human health.**

14 **(e) ~~(b)~~"Estate" includes the property of the decedent, trust,**
15 **or other person whose affairs are subject to this act as the**
16 **property is originally constituted and as it exists throughout**
17 **administration. Estate also includes the rights described in**
18 **sections 3805, 3922, and 7606 to collect from others amounts**
19 **necessary to pay claims, allowances, and taxes.**

20 **(f) ~~(c)~~"Exempt property" means property of a decedent's**
21 **estate that is described in section 2404.**

22 **(g) ~~(d)~~"Family allowance" means the allowance prescribed in**
23 **section 2403.**

24 **(h) ~~(e)~~"Fiduciary" includes, but is not limited to, a**
25 **personal representative, funeral representative, guardian,**
26 **conservator, trustee, plenary guardian, partial guardian, and**

1 successor fiduciary.

2 (i) ~~(f)~~—"Financial institution" means an organization
3 authorized to do business under state or federal laws relating to a
4 financial institution and includes, but is not limited to, a bank,
5 trust company, savings bank, building and loan association, savings
6 and loan company or association, credit union, insurance company,
7 and entity that offers mutual fund, securities brokerage, money
8 market, or retail investment accounts.

9 (j) ~~(g)~~—"Foreign personal representative" means a personal
10 representative appointed by another jurisdiction.

11 (k) ~~(h)~~—"Formal proceedings" means proceedings conducted
12 before a judge with notice to interested persons.

13 (l) ~~(i)~~—"Funeral establishment" means that term as defined in
14 section 1801 of the occupational code, 1980 PA 299, MCL 339.1801,
15 and the owners, employees, and agents of the funeral establishment.

16 (m) ~~(j)~~—"Funeral representative" means an individual
17 designated to have the right and power to make decisions about
18 funeral arrangements and the handling, disposition, or disinterment
19 of a decedent's body, including, but not limited to, decisions
20 about cremation, and the right to possess cremated remains of the
21 decedent as provided in section 3206.

22 (n) ~~(k)~~—"Funeral representative designation" means a written
23 document executed and with the effect as described in sections 3206
24 to 3206b.

25 (o) ~~(l)~~—"General personal representative" means a personal
26 representative other than a special personal representative.

27 (p) ~~(m)~~—"Governing instrument" means a deed; will; trust;
28 funeral representative designation; insurance or annuity policy;
29 account with POD designation; security registered in beneficiary

1 form (TOD); pension, profit-sharing, retirement, or similar benefit
2 plan; instrument creating or exercising a power of appointment or a
3 power of attorney; or dispositive, appointive, or nominative
4 instrument of any similar type.

5 (q) ~~(n)~~—"Guardian" means a person who has qualified as a
6 guardian of a minor or a legally incapacitated individual under a
7 parental or spousal nomination or a court appointment and includes
8 a limited guardian as described in sections 5205, 5206, and 5306.
9 Guardian does not include a guardian ad litem.

10 (r) ~~(o)~~—"Hazardous substance" means a substance defined as
11 hazardous or toxic or otherwise regulated by an environmental law.

12 (s) ~~(p)~~—"Heir" means, except as controlled by section 2720, a
13 person, including the surviving spouse or the state, that is
14 entitled under the statutes of intestate succession to a decedent's
15 property.

16 (t) ~~(q)~~—"Homestead allowance" means the allowance prescribed
17 in section 2402.

18 Sec. 1107. As used in this act:

19 (a) **"Record" means information that is inscribed on a tangible**
20 **medium or that is stored in an electronic or other medium and is**
21 **retrievable in perceivable form.**

22 (b) ~~(a)~~—"Register" or "probate register" means the official of
23 the court designated to perform the functions of register as
24 provided in section 1304.

25 (c) ~~(b)~~—"Revised judicature act of 1961" means the revised
26 judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

27 (d) ~~(e)~~—"Security" includes, but is not limited to, a note,
28 stock, treasury stock, bond, debenture, evidence of indebtedness,
29 certificate of interest or participation in an oil, gas, or mining

1 title or lease or in payments out of production under such a title
2 or lease, collateral trust certificate, transferable share, voting
3 trust certificate, or interest in a regulated investment company or
4 other entity generally referred to as a mutual fund or, in general,
5 an interest or instrument commonly known as a security, or a
6 certificate of interest or participation for, a temporary or
7 interim certificate, receipt, or certificate of deposit for, or any
8 warrant or right to subscribe to or purchase any of the items
9 listed in this subdivision.

10 (e) ~~(d)~~—"Settlement" means, in reference to a decedent's
11 estate, the full process of administration, distribution, and
12 closing.

13 (f) "Sign" means, with present intent to authenticate or adopt
14 a record, any of the following:

15 (i) To execute or adopt a tangible symbol.

16 (ii) To affix or logically associate with the record an
17 electronic symbol or process.

18 (g) ~~(e)~~—"Special personal representative" means a personal
19 representative as described by sections 3614 to 3618.

20 (h) ~~(f)~~—"State" means a state of the United States, the
21 District of Columbia, the Commonwealth of Puerto Rico, **the United**
22 **States Virgin Islands**, or a territory or insular possession subject
23 to the jurisdiction of the United States. **State includes a**
24 **federally recognized Indian tribe.**

25 (i) ~~(g)~~—"Successor" means a person, other than a creditor, ~~who~~
26 **that** is entitled to property of a decedent under the decedent's
27 will or this act.

28 (j) ~~(h)~~—"Successor personal representative" means a personal
29 representative, other than a special personal representative, ~~who~~

1 **that** is appointed to succeed a previously appointed personal
2 representative.

3 **(k)** ~~(i)~~—"Supervised administration" means the proceedings
4 described in part 5 of article III.

5 **(l)** ~~(j)~~—"Survive" means that an individual neither predeceases
6 an event, including the death of another individual, nor is
7 considered to predecease an event under section 2104 or 2702.

8 **(m)** ~~(k)~~—"Terms of a trust" or "terms of the trust" means the
9 manifestation of the settlor's intent regarding a trust's
10 provisions as expressed in the trust instrument or as may be
11 established by other evidence that would be admissible in a
12 judicial proceeding.

13 **(n)** ~~(l)~~—"Testacy proceeding" means a proceeding to establish a
14 will or determine intestacy.

15 **(o)** ~~(m)~~—"Testator" includes an individual of either gender.

16 **(p)** ~~(n)~~—"Trust" includes, but is not limited to, an express
17 trust, private or charitable, with additions to the trust, wherever
18 and however created. Trust includes, but is not limited to, a trust
19 created or determined by judgment or decree under which the trust
20 is to be administered in the manner of an express trust. Trust does
21 not include a constructive trust or a resulting trust,
22 conservatorship, personal representative, custodial arrangement
23 under the Michigan uniform transfers to minors act, 1998 PA 433,
24 MCL 554.521 to 554.552, business trust providing for a certificate
25 to be issued to a beneficiary, common trust fund, voting trust,
26 security arrangement, liquidation trust, or trust for the primary
27 purpose of paying debts, dividends, interest, salaries, wages,
28 profits, pensions, or employee benefits of any kind, or another
29 arrangement under which a person is a nominee or escrowee for

1 another.

2 (q) ~~(e)~~ "Trustee" includes an original, additional, or
3 successor trustee, whether or not appointed or confirmed by the
4 court.

5 Sec. 1108. As used in this act:

6 (a) "Ward" means an individual for whom a guardian is
7 appointed.

8 (b) "Will" includes, but is not limited to, **an electronic**
9 **will**, a codicil, and a testamentary instrument that appoints a
10 personal representative, revokes or revises another will, nominates
11 a guardian, or expressly excludes or limits the right of an
12 individual or class to succeed to the decedent's property that is
13 passing by intestate succession.

14 Sec. 2502. (1) ~~Subject to section 1202, and except~~ **Except** as
15 provided in subsection (2) and in sections 2503, 2506, and 2513, a
16 will is valid only if it is all of the following:

17 (a) ~~In writing.~~ **A record that is readable as text at the time**
18 **of signing.**

19 (b) Signed by the testator or in the testator's name by some
20 other individual in the testator's conscious **physical or electronic**
21 presence and by the testator's direction.

22 (c) Signed by at least 2 individuals, each of whom **is in the**
23 **physical or electronic presence of the testator at the time of**
24 **signing and** signed within a reasonable time after ~~he or she~~
25 ~~witnessed~~ **witnessing** either the signing of the will as described in
26 subdivision (b) or the testator's acknowledgment of that signature
27 or acknowledgment of the will.

28 (2) A will that does not comply with subsection (1) is valid
29 as a holographic will, whether or not witnessed, if it is dated,

1 and if the testator's signature and the ~~document's~~**record's**
2 material portions are in the testator's handwriting, **which may be**
3 **in electronic form but not electronically generated.**

4 (3) Intent that the ~~document~~**record** constitutes a testator's
5 will can be established by extrinsic evidence, including, for a
6 holographic will, portions of the ~~document~~**record** that are not in
7 the testator's handwriting.

8 **Sec. 2502a. (1) An electronic will is a will for all purposes**
9 **of the law of this state. The law of this state applicable to wills**
10 **and principles of equity apply to an electronic will, except as**
11 **modified by this act.**

12 (2) An individual may create a certified paper copy of an
13 electronic will by affirming under penalty of perjury that a paper
14 copy of the electronic will is a complete, true, and accurate copy
15 of the electronic will. If the electronic will is made self-
16 proving, the certified paper copy of the will must include the
17 self-proving affidavits.

18 Sec. 2503. (1) Although a document or writing added ~~upon~~**on** a
19 document was not executed in compliance with section 2502, the
20 document or writing is treated as if it had been executed in
21 compliance with that section if the proponent of the document or
22 writing establishes by clear and convincing evidence that the
23 decedent intended the document or writing to constitute any of the
24 following:

- 25 (a) The decedent's will.
26 (b) A partial or complete revocation of the decedent's will.
27 (c) An addition to or an alteration of the decedent's will.
28 (d) A partial or complete revival of the decedent's formerly
29 revoked will or of a formerly revoked portion of the decedent's

1 will.

2 (2) This section applies to a will executed electronically.

3 Sec. 2504. (1) A will may be simultaneously executed,
4 attested, and made self-proved by acknowledgment of the will by the
5 testator and 2 witnesses' sworn statements, each made ~~before~~**in the**
6 **physical or electronic presence of** an officer authorized to
7 administer oaths under the laws of the state in which ~~execution~~
8 ~~occurs~~**the officer is physically located, where the testator is**
9 **physically located, or in this state** and evidenced by the officer's
10 certificate, under official seal, in substantially the following
11 form:

12 I, _____, the testator, sign my name to
13 this document on _____, _____. I have taken an oath,
14 administered by the officer whose signature and seal appear on this
15 document, swearing that the statements in this document are true. I
16 declare to that officer that this document is my will; that I sign
17 it willingly or willingly direct another to sign for me; that I
18 execute it as my voluntary act for the purposes expressed in this
19 will; that I am 18 years of age or older and under no constraint or
20 undue influence; and that I have sufficient mental capacity to make
21 this will.

22 _____
23 (Signature) Testator

1 We, _____ and _____, the
 2 witnesses, sign our names to this document and have taken an oath,
 3 administered by the officer whose signature and seal appear on this
 4 document, to swear that all of the following statements are true:
 5 the individual signing this document as the testator executes the
 6 document as ~~his or her~~ **the testator's** will, signs it willingly or
 7 willingly directs another to sign for ~~him or her~~, **the testator**, and
 8 executes it as ~~his or her~~ **the testator's** voluntary act for the
 9 purposes expressed in this will; each of us, in the testator's
 10 **physical or electronic** presence, signs this will as witness to the
 11 testator's signing; and, to the best of our knowledge, the testator
 12 is 18 years of age or older, is under no constraint or undue
 13 influence, and has sufficient mental capacity to make this will.

14 _____
 15 (Signature) Witness

16 _____
 17 (Signature) Witness

18 The State of _____
 19 County of _____

20 Sworn to and signed in my **physical or electronic** presence by
 21 _____, the testator, and sworn to and signed in my

22 **physical or electronic** presence by _____ and
 23 _____, witnesses, on

24 _____, _____.
 25 month/day year

26 _____
 27 (SEAL) Signed

28 _____
 29 (official capacity of officer)

1 (2) An attested will may be made self-proved at any time after
 2 its execution by the acknowledgment of the will by the testator and
 3 the sworn statements of the witnesses to the will, each made ~~before~~
 4 **in the physical or electronic presence of** an officer authorized to
 5 administer oaths under the laws of the state in which the
 6 acknowledgment ~~occurs~~**is taken, where the testator is physically**
 7 **located, or in this state** and evidenced by the officer's
 8 certificate, under the official seal, attached or annexed to the
 9 will in substantially the following form:

10 The State of _____
 11 County of _____

12 We, _____, _____, and
 13 _____, the testator and the witnesses, respectively,
 14 whose names are signed to the attached will, sign this document and
 15 have taken an oath, administered by the officer whose signature and
 16 seal appear on this document, to swear that all of the following
 17 statements are true: the individual signing this document as the
 18 will's testator executed the will as ~~his or her~~**the testator's**
 19 will, signed it willingly or willingly directed another to sign for
 20 ~~him or her,~~**the testator**, and executed it as ~~his or her~~**the**
 21 **testator's** voluntary act for the purposes expressed in the will;
 22 each witness, in the testator's **physical or electronic** presence,
 23 signed the will as witness to the testator's signing; and, to the
 24 best of the witnesses' knowledge, the testator, at the time of the
 25 will's execution, was 18 years of age or older, was under no
 26 constraint or undue influence, and had sufficient mental capacity
 27 to make this will.

28 _____
 29 (Signature) Testator

1 _____
2 (Signature) Witness

3 _____
4 (Signature) Witness

5 Sworn to and signed in my **physical or electronic** presence by
6 _____, the testator, and sworn to and signed in my **physical**
7 **or electronic** presence by _____ and _____,
8 witnesses, on
9 _____, _____.
10 month/day year

11 _____
12 (SEAL) Signed
13 _____
14 (official capacity of officer)

15 (3) A codicil to a will may be simultaneously executed and
16 attested, and both the codicil and the original will made self-
17 proved, by acknowledgment of the codicil by the testator and by
18 witnesses' sworn statements, each made ~~before~~**in the physical or**
19 **electronic presence of** an officer authorized to administer oaths
20 under the laws of the state in which ~~execution occurs~~**the officer**
21 **is physically located, where the testator is physically located, or**
22 **in this state** and evidenced by the officer's certificate, under
23 official seal, in substantially the following form:

1 I, _____, the testator, sign my name to this
 2 document on _____, _____. I have taken an oath, administered
 3 by the officer whose signature and seal appear on this document,
 4 swearing that the statements in this document are true. I declare
 5 to that officer that this document is a codicil to my will; that I
 6 sign it willingly or willingly direct another to sign for me; that
 7 I execute it as my voluntary act for the purposes expressed in this
 8 codicil; ~~and~~ that I am 18 years of age or older, and under no
 9 constraint or undue influence; and that I have sufficient mental
 10 capacity to make this codicil.

11 _____

12 (Signature) Testator

13 We, _____ and _____, the witnesses, sign
 14 our names to this document and have taken an oath, administered by
 15 the officer whose signature and seal appear on this document, to
 16 swear that all of the following statements are true: the individual
 17 signing this document as the testator executes the document as a
 18 codicil to ~~his or her~~ **the testator's** will, signs it willingly or
 19 willingly directs another to sign for ~~him or her,~~ **the testator,** and
 20 executes it as ~~his or her~~ **the testator's** voluntary act for the
 21 purposes expressed in this codicil; each of us, in the testator's
 22 **physical or electronic** presence, signs this codicil as witness to
 23 the testator's signing; and, to the best of our knowledge, the
 24 testator is 18 years of age or older, is under no constraint or
 25 undue influence, and has sufficient mental capacity to make this
 26 codicil.

27 _____

28 (Signature) Witness

29 _____

1 (Signature) Witness

2 The State of _____

3 County of _____

4 Sworn to and signed in my **physical or electronic** presence by
5 _____, the testator, and sworn to and signed in my **physical**
6 **or electronic** presence by _____ and _____,
7 witnesses, on

8 _____, _____.

9 month/day year

10 _____

11 (SEAL) Signed

12 _____

13 (official capacity of officer)

14 (4) If necessary to prove the will's due execution, a
15 signature affixed to a self-proving sworn statement attached to a
16 will is considered a signature affixed to the will.

17 (5) Instead of the testator and witnesses each making a sworn
18 statement ~~before~~ **in the physical or electronic presence of** an
19 officer authorized to administer oaths as prescribed in subsections
20 (1) to (3), a will or codicil may be made self-proved by a ~~written~~
21 statement that is not a sworn statement **and that is a record**
22 **readable as text at the time of signing.** This ~~statement shall~~
23 **record must** state, or incorporate by reference to an attestation
24 clause, the facts regarding the testator and the formalities
25 observed at the signing of the will or codicil as prescribed in
26 subsections (1) to (3). The testator and witnesses shall sign
27 **physically or electronically** the ~~statement,~~ **record**, which must
28 include its execution date and must begin with substantially the
29 following language: "I certify (or declare) under penalty for

1 perjury under the law **of the jurisdiction where the testator was**
 2 **physically located or** of the state of Michigan that...".

3 Sec. 2506. (1) A ~~written~~ will is valid if executed in
 4 compliance with section 2502 or 2503, with the law at the time of
 5 execution of the place where the will is executed, or with the law
 6 of the place where, at the time of execution or at the time of
 7 death, the testator is domiciled, has a place of abode, or is a
 8 national.

9 (2) A will executed electronically but not in compliance with
 10 subsection (1) is an electronic will under this act if it is
 11 executed in compliance with 1 of the following:

12 (a) The jurisdiction where the testator is physically located
 13 when the will is signed.

14 (b) The jurisdiction where the testator is domiciled or
 15 resides when the will is signed or when the testator dies.

16 Sec. 2507. (1) A will or a part of a will is revoked by either
 17 of the following acts:

18 (a) Execution of a subsequent will that revokes the previous
 19 will or a part of the will expressly or by inconsistency.

20 (b) Performance of a revocatory act on the will, if the
 21 testator performed the act with the intent and for the purpose of
 22 revoking the will or a part of the will or if another individual
 23 performed the act in the testator's conscious **physical or**
 24 **electronic** presence and by the testator's direction; **the evidence**
 25 **to show the testator's intent and purpose must be clear and**
 26 **convincing.** For purposes of this subdivision, "revocatory act on
 27 the will" includes burning, tearing, canceling, obliterating,
 28 **deleting,** or destroying the will or a part of the will. A burning,
 29 tearing, or canceling is a revocatory act on the will, whether or

1 not the burn, tear, or cancellation touches any of the words on the
2 will.

3 (2) If a subsequent will does not expressly revoke a previous
4 will, the execution of the subsequent will wholly revokes the
5 previous will by inconsistency if the testator intended the
6 subsequent will to replace rather than supplement the previous
7 will.

8 (3) The testator is presumed to have intended a subsequent
9 will to replace rather than supplement a previous will if the
10 subsequent will makes a complete disposition of the testator's
11 estate. If this presumption arises and is not rebutted by clear and
12 convincing evidence, the previous will is revoked, and only the
13 subsequent will is operative on the testator's death.

14 (4) The testator is presumed to have intended a subsequent
15 will to supplement rather than replace a previous will if the
16 subsequent will does not make a complete disposition of the
17 testator's estate. If this presumption arises and is not rebutted
18 by clear and convincing evidence, the subsequent will revokes the
19 previous will only to the extent the subsequent will is
20 inconsistent with the previous will, and each will is fully
21 operative on the testator's death to the extent they are not
22 inconsistent.

23 Sec. 2513. Whether or not the provisions relating to a
24 holographic will apply, a will may refer to a written statement or
25 list, **which may be in electronic form**, to dispose of items of
26 tangible personal property not otherwise specifically disposed of
27 by the will, other than money. To be admissible under this section
28 as evidence of the intended disposition, the writing, **list, or**
29 **electronic record** must be either in the testator's handwriting or

1 signed by the testator at the end, and must describe the items and
 2 the devisees with reasonable certainty. The writing, **list, or**
 3 **electronic record** may be referred to as one to be in existence at
 4 the time of the testator's death; it may be prepared before or
 5 after the execution of the will; it may be altered by the testator
 6 after its preparation; and it may be a writing, **list, or electronic**
 7 **record** that has no significance apart from its effect on the
 8 dispositions made by the will.

9 Sec. 2519. (1) A will executed in the form prescribed by
 10 subsection (2) and otherwise in compliance with the terms of the
 11 Michigan statutory will form is a valid will. A person printing and
 12 distributing the Michigan statutory will shall print and distribute
 13 the form verbatim as it appears in subsection (2). The notice
 14 provisions ~~shall~~**must** be printed in 10-point boldfaced type.

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

16 MICHIGAN STATUTORY WILL NOTICE

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

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

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

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

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

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

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

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

11 INSTRUCTIONS:

12 1. To have a Michigan statutory will, you must complete the
13 blanks on the will form. You may do this yourself, or direct
14 someone to do it for you. You must either sign the will or direct
15 someone else to sign it in your name and in your **physical or**
16 **electronic** presence.

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

20 MICHIGAN STATUTORY WILL OF _____
21 (Print or type your full name)

22 ARTICLE 1. DECLARATIONS

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

25 My spouse is _____ .
26 (Insert spouse's name or write "none")

27 My children now living are:
28 _____
29 _____

1 _____
2 (Insert names or write "none")

3 ARTICLE 2. DISPOSITION OF MY ASSETS

4 2.1 CASH GIFTS TO PERSONS OR CHARITIES.

5 (Optional)

6 I can leave ~~no~~**not** more than ~~two (2)~~**2** cash gifts. I make the
7 following cash gifts to the persons or charities in the amount
8 stated here. Any transfer tax due ~~upon~~**on** my death ~~shall~~**must** be
9 paid from the balance of my estate and not from these gifts. Full
10 name and address of person or charity to receive cash gift (name
11 only 1 person or charity here):

12 _____
13 (Insert name of person or charity)

14 _____
15 (Insert address)

16 AMOUNT OF GIFT (In figures): \$ _____

17 AMOUNT OF GIFT (In words): _____ Dollars

18 _____
19 (Your signature)

20 Full name and address of person or charity to receive cash gift
21 (Name only 1 person or charity):

22 _____
23 (Insert name of person or charity)

24 _____
25 (Insert address)

26 AMOUNT OF GIFT (In figures): \$ _____

27 AMOUNT OF GIFT (In words): _____ Dollars

28 _____
29 (Your signature)

1 2.2 PERSONAL AND HOUSEHOLD ITEMS.

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

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

13 2.3 ALL OTHER ASSETS.

14 I give everything else I own to my spouse. If I am not married
15 at the time I sign this will or if my spouse dies before me, I give
16 these assets to my children and the descendants of any deceased
17 child. If no spouse, children, or descendants of children survive
18 me, I choose 1 of the following distribution clauses by signing my
19 name on the line after that clause. If I sign on both lines, if I
20 fail to sign on either line, or if I am not now married, these
21 assets will go under distribution clause (b).

22 Distribution clause, if no spouse, children, or descendants of
23 children survive me.

24 (Select only 1)

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

28 _____

29 (Your signature)

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

3 _____

4 (Your signature)

5 ARTICLE 3. NOMINATIONS OF PERSONAL
6 REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

7 Personal representatives, guardians, and conservators have a
8 great deal of responsibility. The role of a personal representative
9 is to collect your assets, pay debts and taxes from those assets,
10 and distribute the remaining assets as directed in the will. A
11 guardian is a person who will look after the physical well-being of
12 a child. A conservator is a person who will manage a child's assets
13 and make payments from those assets for the child's benefit. Select
14 them carefully. Also, before you select them, ask them whether they
15 are willing and able to serve.

16 3.1 PERSONAL REPRESENTATIVE.

17 (Name at least 1)

18 I nominate _____

19 (Insert name of person or eligible financial institution)

20 of _____ to serve as personal representative.

21 (Insert address)

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

23 _____

24 (Insert name of person or eligible financial institution)

25 of _____ to serve as personal representative.

26 (Insert address)

27 3.2 GUARDIAN AND CONSERVATOR.

28 Your spouse may die before you. Therefore, if you have a child
29 under age 18, name an individual as guardian of the child, and an

1 individual or eligible financial institution as conservator of the
2 child's assets. The guardian and the conservator may, but need not
3 be, the same person.

4 If a guardian or conservator is needed for a child of mine, I
5 nominate _____

6 (Insert name of individual)

7 of _____ as guardian and

8 (Insert address)

9 _____

10 (Insert name of individual or eligible financial institution)

11 of _____ to serve as conservator.

12 (Insert address)

13 If my first choice cannot serve, I nominate

14 _____

15 (Insert name of individual)

16 of _____ as guardian and

17 (Insert address)

18 _____

19 (Insert name of individual or eligible financial institution)

20 of _____ to serve as conservator.

21 (Insert address)

22 3.3 BOND.

23 A bond is a form of insurance ~~in case~~ **if** your personal
24 representative or a conservator performs improperly and jeopardizes
25 your assets. A bond is not required. You may choose whether you
26 wish to require your personal representative and any conservator to
27 serve with or without bond. Bond premiums would be paid out of your
28 assets. (Select only 1)

29 (a) My personal representative and any conservator I have

1 named shall serve with bond.

2 _____

3 (Your signature)

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

6 _____

7 (Your signature)

8 3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

9 Definitions and additional clauses found at the end of this
10 form are part of this will.

11 I sign my name to this Michigan statutory will on

12 _____ , 20____.

13 _____

14 (Your signature)

15 NOTICE REGARDING WITNESSES

16 You must use 2 adults as witnesses. It is preferable to have 3
17 adult witnesses. All the witnesses must observe you sign the will,
18 have you tell them you signed the will, or have you tell them the
19 will was signed at your direction in your **physical or electronic**
20 presence.

21 STATEMENT OF WITNESSES

22 We sign below as witnesses, declaring that the individual who
23 is making this will appears to have sufficient mental capacity to
24 make this will and appears to be making this will freely, without
25 duress, fraud, or undue influence, and that the individual making
26 this will acknowledges that ~~he or she~~ **the individual** has read the
27 will, or has had it read to ~~him or her,~~ **the individual**, and
28 understands the contents of this will.

29 _____

1 (Print Name)

2 _____

3 (Signature of witness)

4 _____

5 (Address)

6 _____

7 (City) (State) (Zip)

8 _____

9 (Print name)

10 _____

11 (Signature of witness)

12 _____

13 (Address)

14 _____

15 (City) (State) (Zip)

16 _____

17 (Print name)

18 _____

19 (Signature of witness)

20 _____

21 (Address)

22 _____

23 (City) (State) (Zip)

24 DEFINITIONS

25 The following definitions and rules of construction apply to
26 this Michigan statutory will:

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

1 (b) "Descendants" means your children, grandchildren, and
2 their descendants.

3 (c) "Descendants" or "children" includes individuals born or
4 conceived during marriage, individuals legally adopted, and
5 individuals born out of wedlock who would inherit if their parent
6 died without a will.

7 (d) "Jointly held assets" means those assets to which
8 ownership is transferred automatically ~~upon~~**on** the death of 1 of
9 the owners to the remaining owner or owners.

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

12 (f) Whenever a distribution under a Michigan statutory will is
13 to be made to an individual's descendants, the assets are to be
14 divided into as many equal shares as there are then living
15 descendants of the nearest degree of living descendants and
16 deceased descendants of that same degree who leave living
17 descendants. Each living descendant of the nearest degree ~~shall~~
18 **must** receive 1 share. The remaining shares, if any, are combined
19 and then divided in the same manner among the surviving descendants
20 of the deceased descendants as if the surviving descendants who
21 were allocated a share and their surviving descendants had
22 predeceased the descendant. In this manner, all descendants who are
23 in the same generation will take an equal share.

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

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

28 (i) Plural and singular words include each other, where
29 appropriate.

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

6 ADDITIONAL CLAUSES

7 Powers of personal representative

8 1. A personal representative has all powers of administration
 9 given by Michigan law to personal representatives and, to the
 10 extent ~~funds are~~**money is** not needed to meet debts and expenses
 11 currently payable and are not immediately distributable, the power
 12 to invest and reinvest the estate from time to time in accordance
 13 with the Michigan prudent investor rule. In dividing and
 14 distributing the estate, the personal representative may distribute
 15 partially or totally in kind, may determine the value of
 16 distributions in kind without reference to income tax bases, and
 17 may make non-pro rata distributions.

18 2. The personal representative may distribute estate assets
 19 otherwise distributable to a minor beneficiary to the minor's
 20 conservator or, in amounts not exceeding \$5,000.00 per year, either
 21 to the minor, if married; to a parent or another adult with whom
 22 the minor resides and who has the care, custody, or control of the
 23 minor; or to the guardian. The personal representative is free of
 24 liability and is discharged from further accountability for
 25 distributing assets in compliance with the provisions of this
 26 paragraph.

27 POWERS OF GUARDIAN AND CONSERVATOR

28 A guardian named in this will has the same authority with
 29 respect to the child as a parent having legal custody would have. A

1 conservator named in this will has all of the powers conferred by
2 law.

3 Sec. 2953. To comply with this part as a valid international
4 will, a will ~~shall~~**must** meet all of the following requirements
5 regarding form and procedure:

6 (a) The will ~~shall~~**must** be ~~made in writing,~~**created as a**
7 **record that is readable as text at the time of signing**, but does
8 not need to be ~~written~~**created** by the testator personally. The will
9 may be written in any language and may be written by hand or by any
10 other means.

11 (b) The testator ~~shall~~**must** declare in the **physical or**
12 **electronic** presence of 2 witnesses and an authorized individual
13 that the document is the testator's will and that he or she knows
14 its contents. The testator **does not** need ~~not to~~ inform the
15 witnesses or the authorized person of the will's contents.

16 (c) In the witnesses' and the authorized individual's **physical**
17 **or electronic** presence, the testator ~~shall~~**must** sign the will or,
18 if the testator has previously signed the will, ~~shall~~**must**
19 acknowledge ~~his or her~~**the testator's** signature.

20 (d) If the testator is unable to sign the international will,
21 the absence of the testator's signature does not affect the will's
22 validity if the testator indicates the reason for the inability and
23 the authorized individual makes note of the reason on the will. In
24 such a case, it is permissible, but not required, for another
25 individual **physically or electronically** present, including a
26 witness or the authorized individual, to sign the testator's name
27 at the testator's direction, which act the authorized individual
28 ~~shall~~**must** also note on the will.

29 (e) The witnesses and the authorized individual ~~shall~~**must**

1 there and then attest the will by signing in the **physical or**
2 **electronic** presence of the testator.

3 Sec. 2955. The authorized individual shall attach to the will
4 a certificate signed by the authorized individual establishing that
5 the will complies with the requirements of this part for valid
6 execution of an international will. The authorized individual shall
7 keep a copy of the certificate and deliver another to the testator.
8 The certificate must be in substantially the following form, except
9 the provisions of the form that are optional provisions need only
10 be included if the circumstances of the will render them
11 applicable:

12 CERTIFICATE

13 (Convention of October 26, 1973)

14 1. I, _____,
15 (Name, address and capacity)

16 a person authorized to act in connection with international wills

17 2. Certify that on _____ at _____
18 (Date) (Place)

19 3. (Testator) _____
20 (Name, address, date and place of birth)

21 in my **physical or electronic** presence and that of the witnesses

22 4. (a) _____
23 (Name, address, date and place of birth)

24 (b) _____
25 (Name, address, date and place of birth)

26 has declared that the attached document is his (or her) will and
27 that he (or she) knows the contents thereof.

28 5. I furthermore certify that:

1 6. (a) In my **physical or electronic** presence and in that of
 2 the witnesses (1) the testator has signed the will or has
 3 acknowledged his (or her) signature previously affixed. * following
 4 a declaration of the testator stating that he (or she) (2) was
 5 unable to sign his (or her) will for the following reason
 6 _____, I have mentioned this declaration on the will
 7 * and the signature has been affixed by

8 _____
 9 (Name and address)

10 7. (b) The witnesses and I have signed the will;

11 8. *(c) Each page of the will has been signed by
 12 _____ and numbered;

13 9. (d) I have satisfied myself as to the identity of the
 14 testator and of the witnesses as designated above;

15 10. (e) The witnesses have met the conditions requisite to act
 16 as such according to the law under which I am acting;

17 11. *(f) The testator has requested me to include the
 18 following statement concerning the safekeeping of his (or her)
 19 will:

20 12. PLACE OF EXECUTION

21 13. DATE

22 14. SIGNATURE and, if necessary, SEAL

23 * to be completed if appropriate.

24 Sec. 3206. (1) Subject to 1953 PA 181, MCL 52.201 to 52.216,
 25 part 28 and article 10 of the public health code, 1978 PA 368, MCL
 26 333.2801 to 333.2899 and 333.10101 to 333.11101, and subsection
 27 (12), a funeral representative designated under subsection (2), a
 28 person with priority under subsections (3) to (5) or a person
 29 acting under subsection (6), (7), (8), or (9) is presumed to have

1 the right and power to make decisions about funeral arrangements
2 and the handling, disposition, or disinterment of a decedent's
3 body, including, but not limited to, decisions about cremation, and
4 the right to retrieve from the funeral establishment and possess
5 cremated remains of the decedent immediately after cremation. The
6 handling, disposition, or disinterment of a body must be under the
7 supervision of a person licensed to practice mortuary science in
8 this state.

9 (2) ~~Subject to section 1202, and except~~ **Except** as otherwise
10 provided in this subsection and subject to the priority in
11 subsection (3), an individual 18 years of age or older who is of
12 sound mind at the time a funeral representative designation is made
13 may designate in ~~writing~~ **a record that is readable as text at the**
14 **time of signing** another individual who is 18 years of age or older
15 and who is of sound mind to have the rights and powers under
16 subsection (1). All of the following apply to a funeral
17 representative designation under this subsection:

18 (a) For purposes of this section and sections 3206a and 3206b,
19 an individual who is named in a funeral representative designation
20 to have the rights and powers described in subsection (1) is known
21 as a funeral representative and an individual who makes a funeral
22 representative designation is known as a declarant.

23 (b) A funeral representative designation under this subsection
24 must be in ~~writing~~, **a record that is readable as text at the time**
25 **of signing**, dated, and signed voluntarily by the declarant
26 **physically or electronically** or signed by a notary public on the
27 declarant's behalf under section 33 of the Michigan law on notarial
28 acts, 2003 PA 238, MCL 55.293. A funeral representative designation
29 may be included in the declarant's will, patient advocate

1 designation, or other writing. If a funeral representative
 2 designation is contained in an individual's will, the will is not
 3 required to be admitted to probate for the funeral representative
 4 designation to be valid. A funeral representative designation must
 5 be 1 or both of the following:

6 (i) Signed in the **physical or electronic** presence of and signed
 7 by 2 witnesses. A witness under this section may not be the funeral
 8 representative or an individual described in subdivision (c) (ii) to
 9 (iv). A witness shall not sign the funeral representative
 10 designation unless the declarant appears to be of sound mind and
 11 under no duress, fraud, or undue influence.

12 (ii) Acknowledged by the declarant ~~before~~ **in the physical or**
 13 **electronic presence of** a notary public, who endorses on the funeral
 14 representative designation a certificate of the acknowledgment and
 15 the true date of taking the acknowledgment.

16 (c) The following individuals may not act as a funeral
 17 representative for the declarant unless the individual is the
 18 surviving spouse or is a relative of the declarant:

19 (i) An officer, partner, member, shareholder, owner,
 20 representative, or employee of a funeral establishment that will
 21 provide services to the declarant.

22 (ii) A health professional, or an employee of or volunteer at a
 23 health facility or veterans facility, who provided medical
 24 treatment or nursing care to the declarant during the final illness
 25 or immediately before the declarant's death, or a partner, member,
 26 shareholder, owner, or representative of the health facility where
 27 medical treatment or nursing care was provided.

28 (iii) An officer, partner, member, shareholder, owner,
 29 representative, or employee of a cemetery at which the declarant's

1 body will be interred, entombed, or inurned.

2 (iv) An officer, partner, member, shareholder, owner,
3 representative, or employee of a crematory that will provide the
4 declarant's cremation services.

5 (3) The following have the rights and powers under subsection
6 (1) in the following order of priority:

7 (a) If the decedent was a service member at the time of the
8 decedent's death, a person designated to direct the disposition of
9 the service member's remains according to a statute of the United
10 States or regulation, policy, directive, or instruction of the
11 Department of Defense.

12 (b) A funeral representative designated under subsection (2).

13 (c) The surviving spouse.

14 (d) The individual or individuals 18 years of age or older in
15 the following order of priority:

16 (i) The decedent's children.

17 (ii) The decedent's grandchildren.

18 (iii) The decedent's parents.

19 (iv) The decedent's grandparents.

20 (v) The decedent's siblings.

21 (vi) A descendant of the decedent's parents who first notifies
22 the funeral establishment in possession of the decedent's body of
23 the descendant's decision to exercise his or her rights under
24 subsection (1).

25 (vii) A descendant of the decedent's grandparents who first
26 notifies the funeral establishment in possession of the decedent's
27 body of the descendant's decision to exercise his or her rights
28 under subsection (1).

29 (4) If the individual or individuals with the highest priority

1 as determined under subsection (3) cannot be located after a
2 reasonable effort to contact and inform them of the decedent's
3 death within 72 hours after the pronouncement of the decedent's
4 death under the determination of death act, 1992 PA 90, MCL
5 333.1031 to 333.1034, affirmatively decline to exercise their
6 rights or powers under subsection (1), or fail to exercise their
7 rights or powers under subsection (1) within 72 hours after the
8 pronouncement of the decedent's death under the determination of
9 death act, 1992 PA 90, MCL 333.1031 to 333.1034, the rights and
10 powers under subsection (1) may be exercised by the individual or
11 individuals in the same order of priority under subsection (3). If
12 the individual or each of the individuals in an order of priority
13 as determined under this subsection similarly affirmatively
14 declines or fails to exercise his or her rights or powers within 72
15 hours after the pronouncement of the decedent's death under the
16 determination of death act, 1992 PA 90, MCL 333.1031 to 333.1034,
17 or cannot be located within 72 hours after the pronouncement of the
18 decedent's death under the determination of death act, 1992 PA 90,
19 MCL 333.1031 to 333.1034, the rights or powers under subsection (1)
20 pass to an individual or individuals in the next order of priority
21 under subsection (3) who notify the funeral establishment in
22 possession of the decedent's body of their decision to exercise
23 their rights or powers under subsection (1). For purposes of this
24 subsection only, "exercise their rights or powers under subsection
25 (1)" means providing the person that holds a license under article
26 18 of the occupational code, 1980 PA 299, MCL 339.1801 to 339.1812,
27 in possession of the decedent's body with authorization to bury or
28 cremate the decedent's body.

29 (5) If 2 or more individuals share the rights and powers

1 described in subsection (1) as determined under subsection (3) or
2 (4), the rights and powers must be exercised as decided by a
3 majority of the individuals who can be located after reasonable
4 efforts. If a majority cannot agree, any of the individuals may
5 file a petition under section 3207.

6 (6) If no individual described in subsections (3) and (4)
7 exists, exercises the rights or powers under subsection (1), or can
8 be located after a sufficient attempt as described in subsection
9 (10), and if subsection (7) does not apply, then the personal
10 representative or nominated personal representative may exercise
11 the rights and powers under subsection (1), either before or after
12 his or her appointment.

13 (7) If no individual described in subsections (3) and (4)
14 exists, exercises the rights or powers under subsection (1), or can
15 be located after a sufficient attempt as described in subsection
16 (10), and if the decedent was under a guardianship at the time of
17 death, the guardian may exercise the rights and powers under
18 subsection (1) and may make a claim for the reimbursement of burial
19 expenses as provided in section 5216 or 5315, as applicable.

20 (8) If no individual described in subsections (3) and (4)
21 exists, exercises the rights or powers under subsection (1), or can
22 be located after a sufficient attempt as described in subsection
23 (10), if the decedent died intestate, and if subsection (7) does
24 not apply, a special fiduciary appointed under section 1309 or a
25 special personal representative appointed under section 3614(c) may
26 exercise the rights and powers under subsection (1).

27 (9) If there is no person under subsections (3) to (8) to
28 exercise the rights and powers under subsection (1), or if there is
29 a person under subsections (3) to (8) to exercise the rights and

1 powers under subsection (1) and the person fails to exercise the
2 rights and powers under subsection (1) within 14 days after the
3 decedent's death, 1 of the following, as applicable, shall exercise
4 the rights and powers under subsection (1):

5 (a) Unless subdivision (b) applies, the medical examiner for
6 the county where the decedent was domiciled at the time of his or
7 her death.

8 (b) If the decedent was incarcerated in a state correctional
9 facility at the time of his or her death, the director of the
10 department of corrections or the designee of the director.

11 (10) An attempt to locate a person described in subsection (3)
12 or (4) is sufficient if a reasonable attempt is made in good faith
13 by any of the following to contact the person at his or her last
14 known address, telephone number, or email address:

15 (a) A family member, personal representative, or nominated
16 personal representative of the decedent.

17 (b) A health facility or veteran's facility that provided
18 medical treatment to the decedent during the final illness or
19 immediately before the decedent's death.

20 (11) This section does not void or otherwise affect an
21 anatomical gift made under part 101 of the public health code, 1978
22 PA 368, MCL 333.10101 to 333.10123.

23 (12) An individual who has been criminally charged with the
24 intentional killing of the decedent shall not exercise a right
25 under subsection (1) while the charges are pending.

26 (13) Except as otherwise provided in this subsection, a person
27 who has the rights and powers under subsection (1) and who
28 exercises the right over the disposition of the decedent's body
29 must ensure payment for the costs of the disposition through a

1 trust, insurance, a commitment by another person, a prepaid
2 contract under the prepaid funeral and cemetery sales act, 1986 PA
3 255, MCL 328.211 to 328.235, or other effective and binding means.
4 To the extent payment is not ensured under this subsection, the
5 person described in this subsection is liable for the costs of the
6 disposition. This subsection does not apply to a person who
7 exercises the rights and powers under subsection (1) as provided in
8 subsection (8) or (9).

9 (14) As used in this section:

10 (a) "Armed forces" means the Army, Air Force, Navy, Marine
11 Corps, Coast Guard, or other military force designated by Congress
12 as part of the Armed Forces of the United States.

13 (b) "Health facility" means that term as defined in section
14 5653 of the public health code, 1978 PA 368, MCL 333.5653.

15 (c) "Health professional" means that term as defined in
16 section 5883 of the public health code, 1978 PA 368, MCL 333.5883.

17 (d) "Medical treatment" means that term as defined in section
18 5653 of the public health code, 1978 PA 368, MCL 333.5653.

19 (e) "Michigan National Guard" means that term as defined in
20 section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

21 (f) "Nominated personal representative" means a person
22 nominated to act as personal representative in a will that the
23 nominated person reasonably believes to be the valid will of the
24 decedent.

25 (g) "Service member" means a member of the armed forces, a
26 reserve branch of the armed forces, or the Michigan National Guard.

27 Sec. 5501. (1) A durable power of attorney is a power of
28 attorney by which a principal designates another as the principal's
29 attorney-in-fact in a writing that contains the words "This power

1 of attorney is not affected by the principal's subsequent
 2 disability or incapacity, or by the lapse of time", or "This power
 3 of attorney is effective ~~upon~~**on** the disability or incapacity of
 4 the principal", or similar words showing the principal's intent
 5 that the authority conferred is exercisable notwithstanding the
 6 principal's subsequent disability or incapacity and, unless the
 7 power states a termination time, notwithstanding the lapse of time
 8 since the execution of the instrument.

9 (2) ~~Subject to section 1202, a~~ **A** durable power of attorney
 10 under this section must be dated and signed voluntarily by the
 11 principal or signed by a notary public on the principal's behalf
 12 under section 33 of the Michigan law on notarial acts, 2003 PA 238,
 13 MCL 55.293. The durable power of attorney must be 1 or both of the
 14 following:

15 (a) Signed in the **physical or electronic** presence of 2
 16 witnesses, neither of whom is the attorney-in-fact, and both of
 17 whom also sign the durable power of attorney.

18 (b) Acknowledged by the principal ~~before~~**in the physical or**
 19 **electronic presence of** a notary public, who endorses on the durable
 20 power of attorney a certificate of that acknowledgment and the true
 21 date of taking the acknowledgment.

22 (3) An attorney-in-fact designated and acting under a durable
 23 power of attorney has the authority, rights, responsibilities, and
 24 limitations as provided by law with respect to a durable power of
 25 attorney, including, but not limited to, all of the following:

26 (a) Except as provided in the durable power of attorney, the
 27 attorney-in-fact shall act in accordance with the standards of care
 28 applicable to fiduciaries exercising powers under a durable power
 29 of attorney.

1 (b) The attorney-in-fact shall take reasonable steps to follow
2 the instructions of the principal.

3 (c) ~~Upon~~**On** request of the principal, the attorney-in-fact
4 shall keep the principal informed of the attorney-in-fact's
5 actions. The attorney-in-fact shall provide an accounting to the
6 principal ~~upon~~**on** request of the principal, to a conservator or
7 guardian appointed on behalf of the principal ~~upon~~**on** request of
8 the guardian or conservator, or ~~pursuant to~~**under** judicial order.

9 (d) The attorney-in-fact shall not make a gift of all or any
10 part of the principal's assets, unless provided for in the durable
11 power of attorney or by judicial order.

12 (e) Unless provided in the durable power of attorney or by
13 judicial order, the attorney-in-fact, while acting as attorney-in-
14 fact, shall not create an account or other asset in joint tenancy
15 between the principal and the attorney-in-fact.

16 (f) The attorney-in-fact shall maintain records of the
17 attorney-in-fact's actions on behalf of the principal, including
18 transactions, receipts, disbursements, and investments.

19 (g) The attorney-in-fact may be liable for any damage or loss
20 to the principal, and may be subject to any other available remedy,
21 for breach of fiduciary duty owed to the principal. In the durable
22 power of attorney, the principal may exonerate the attorney-in-fact
23 of any liability to the principal for breach of fiduciary duty
24 except for actions committed by the attorney-in-fact in bad faith
25 or with reckless indifference. An exoneration clause is not
26 enforceable if inserted as the result of an abuse by the attorney-
27 in-fact of a fiduciary or confidential relationship to the
28 principal.

29 (h) The attorney-in-fact may receive reasonable compensation

1 for the attorney-in-fact's services if provided for in the durable
2 power of attorney.

3 (4) Before exercising authority under a durable power of
4 attorney, an attorney-in-fact shall execute an acknowledgment of
5 the attorney-in-fact's responsibilities that contains all of the
6 substantive statements in substantially the following form:

7 I, _____, have been appointed as attorney-in-
8 fact for _____, the principal, under a durable
9 power of attorney dated _____. By signing this document, I
10 acknowledge that if and when I act as attorney-in-fact, all of the
11 following apply:

12 (a) Except as provided in the durable power of attorney, I
13 must act in accordance with the standards of care applicable to
14 fiduciaries acting under durable powers of attorney.

15 (b) I must take reasonable steps to follow the instructions of
16 the principal.

17 (c) ~~Upon-On~~ request of the principal, I must keep the
18 principal informed of my actions. I must provide an accounting to
19 the principal ~~upon-on~~ request of the principal, to a guardian or
20 conservator appointed on behalf of the principal ~~upon-on~~ the
21 request of that guardian or conservator, or ~~pursuant to-under~~
22 judicial order.

23 (d) I cannot make a gift from the principal's property, unless
24 provided for in the durable power of attorney or by judicial order.

25 (e) Unless provided in the durable power of attorney or by
26 judicial order, I, while acting as attorney-in-fact, cannot create
27 an account or other asset in joint tenancy between the principal
28 and me.

29 (f) I must maintain records of my transactions as attorney-in-

1 fact, including receipts, disbursements, and investments.

2 (g) I may be liable for any damage or loss to the principal,
 3 and may be subject to any other available remedy, for breach of
 4 fiduciary duty owed to the principal. In the durable power of
 5 attorney, the principal may exonerate me of any liability to the
 6 principal for breach of fiduciary duty except for actions committed
 7 by me in bad faith or with reckless indifference. An exoneration
 8 clause is not enforceable if inserted as the result of my abuse of
 9 a fiduciary or confidential relationship to the principal.

10 (h) I may be subject to civil or criminal penalties if I
 11 violate my duties to the principal.

12 Signature: _____ Date:

13 _____

14 (5) A third party is not liable to the principal or any other
 15 person because the third party has complied in good faith with
 16 instructions from an attorney-in-fact named in a durable power of
 17 attorney whether or not the attorney-in-fact has executed an
 18 acknowledgment that complies with subsection (4). A third party is
 19 not liable to the principal or any other person if the third party
 20 requires an attorney-in-fact named in a durable power of attorney
 21 to execute an acknowledgment that complies with subsection (4)
 22 before recognizing the durable power of attorney.

23 (6) An attorney-in-fact's failure to comply with subsection
 24 (4) does not affect the attorney-in-fact's authority to act for the
 25 principal as provided for in the durable power of attorney and does
 26 not affect the attorney-in-fact's responsibilities or potential
 27 liability to the principal.

28 (7) Subsections (2) to (6) do not apply to any of the
 29 following:

1 (a) A durable power of attorney executed before October 1,
2 2012.

3 (b) A delegation under section 5103 or a similar power of
4 attorney created by a parent or guardian regarding the care,
5 custody, or property of a minor child or ward.

6 (c) A patient advocate designation or a similar power of
7 attorney relating to the principal's health care.

8 (d) A durable power of attorney that is coupled with an
9 interest in the subject matter of the power.

10 (e) A durable power of attorney that is contained in or is
11 part of a loan agreement, security agreement, pledge agreement,
12 escrow agreement, or other similar transaction.

13 (f) A durable power of attorney in connection with a
14 transaction with a joint venture, limited liability company,
15 partnership, limited partnership, limited liability partnership,
16 corporation, condominium, condominium association, condominium
17 trust, or similar entity, including, without limitation, a voting
18 agreement, voting trust, joint venture agreement, royalty
19 agreement, license agreement, proxy, shareholder's agreement,
20 operating agreement, partnership agreement, management agreement,
21 subscription agreement, certification of incorporation, bylaws, or
22 other agreement that primarily relates to such an entity.

23 (g) A power of attorney given primarily for a business or a
24 commercial purpose.

25 (h) A power of attorney created on a form prescribed by a
26 government or a governmental subdivision, agency, or
27 instrumentality for a governmental purpose.

28 Sec. 5506. (1) An individual 18 years of age or older who is
29 of sound mind at the time a patient advocate designation is made

1 may designate in ~~writing~~ **a record that is readable as text at the**
2 **time of signing** another individual who is 18 years of age or older
3 to exercise powers concerning care, custody, and medical or mental
4 health treatment decisions for the individual making the patient
5 advocate designation. An individual making a patient advocate
6 designation under this subsection may include in the patient
7 advocate designation the authority for the designated individual to
8 make an anatomical gift of all or part of the individual's body in
9 accordance with this act and part 101 of the public health code,
10 1978 PA 368, MCL 333.10101 to 333.10123. The authority regarding an
11 anatomical gift under this subsection may include the authority to
12 resolve a conflict between the terms of the advance health care
13 directive and the administration of means necessary to ensure the
14 medical suitability of the anatomical gift.

15 (2) For purposes of this section and sections 5507 to 5515, an
16 individual who is named in a patient advocate designation to
17 exercise powers concerning care, custody, and medical or mental
18 health treatment decisions is known as a patient advocate and an
19 individual who makes a patient advocate designation is known as a
20 patient.

21 (3) ~~Subject to section 1202, a~~ **A** patient advocate designation
22 under this section must be ~~in writing,~~ **a record that is readable as**
23 **text at the time of signing**, signed, witnessed as provided in
24 subsection (4), dated, executed voluntarily, and, before its
25 implementation, made part of the patient's medical record with, as
26 applicable, the patient's attending physician, the mental health
27 professional providing treatment to the patient, the facility where
28 the patient is located, or the community mental health services
29 program or hospital that is providing mental health services to the

1 patient. The patient advocate designation must include a statement
 2 that the authority conferred under this section is exercisable only
 3 when the patient is unable to participate in medical or mental
 4 health treatment decisions, as applicable, and, in the case of the
 5 authority to make an anatomical gift as described in subsection
 6 (1), a statement that the authority remains exercisable after the
 7 patient's death.

8 (4) ~~Subject to section 1202, a~~ **A** patient advocate designation
 9 under this section must be executed in the **physical or electronic**
 10 presence of and signed by 2 witnesses. A witness under this section
 11 ~~shall~~ **must** not be the patient's spouse, parent, child, grandchild,
 12 sibling, presumptive heir, known devisee at the time of the
 13 witnessing, physician, or patient advocate or an employee of a life
 14 or health insurance provider for the patient, of a health facility
 15 that is treating the patient, or of a home for the aged as defined
 16 in section 20106 of the public health code, 1978 PA 368, MCL
 17 333.20106, where the patient resides, or of a community mental
 18 health services program or hospital that is providing mental health
 19 services to the patient. A witness shall not sign the patient
 20 advocate designation unless the patient appears to be of sound mind
 21 and under no duress, fraud, or undue influence.

22 (5) As used in this section, "community mental health services
 23 program or hospital" means a community mental health services
 24 program as that term is defined in section 100a of the mental
 25 health code, 1974 PA 258, MCL 330.1100a, or a hospital as that term
 26 is defined in section 100b of the mental health code, 1974 PA 258,
 27 MCL 330.1100b.

28 Enacting section 1. Section 1202 of the estates and protected
 29 individuals code, 1998 PA 386, MCL 700.1202, is repealed.