

# SENATE BILL NO. 586

September 25, 2025, Introduced by Senators JOHNSON, IRWIN, POLEHANKI, CHANG, KLINEFELT, MCMORROW, GEISS, SANTANA and SHINK and referred to Committee on Housing and Human Services.

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
by amending sections 5306 and 5314 (MCL 700.5306 and 700.5314),  
section 5306 as amended by 2019 PA 170 and section 5314 as amended  
by 2024 PA 1.

## **THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5306. (1) The court may appoint a guardian if the court  
2 finds by clear and convincing evidence both that the individual for  
3 whom a guardian is sought is an incapacitated individual and that  
4 the appointment is necessary as a means of providing continuing

1 care and supervision of the incapacitated individual, with each  
2 finding supported separately on the record. Alternately, the court  
3 may dismiss the proceeding or enter another appropriate order.

4 (2) The court shall grant a guardian only those powers and  
5 only for that period of time as is necessary to provide for the  
6 demonstrated need of the incapacitated individual. **The court shall**  
7 **not grant the guardian the authority to change the incapacitated**  
8 **individual's residence unless the court finds on the record that a**  
9 **change in residence is in the incapacitated individual's best**

10 **interest.** The court shall design the guardianship to encourage the  
11 development of maximum self-reliance and independence in the  
12 individual. If the court is aware that an individual has executed a  
13 patient advocate designation under section 5506, the court shall  
14 not grant a guardian any of the same powers that are held by the  
15 patient advocate. A court order establishing a guardianship shall  
16 specify any limitations on the guardian's powers and any time  
17 limits on the guardianship.

18 (3) If the court finds by clear and convincing evidence that  
19 an individual is incapacitated and lacks the capacity to do some,  
20 but not all, of the tasks necessary to care for himself or herself,  
21 the court may appoint a limited guardian to provide guardianship  
22 services to the individual, but the court shall not appoint a full  
23 guardian.

24 (4) If the court finds by clear and convincing evidence that  
25 the individual is incapacitated and is totally without capacity to  
26 care for himself or herself, the court shall specify that finding  
27 of fact in an order and may appoint a full guardian.

28 (5) If an individual executed a patient advocate designation  
29 under section 5506 before the time the court determines that ~~he or~~

1 ~~she~~**the individual** became a legally incapacitated individual, a  
2 guardian does not have and shall not exercise the power or duty of  
3 making medical or mental health treatment decisions that the  
4 patient advocate is designated to make. If, however, a petition for  
5 guardianship or for modification under section 5310 alleges and the  
6 court finds that the patient advocate designation was not executed  
7 in compliance with section 5506, that the patient advocate is not  
8 complying with the terms of the designation or with the applicable  
9 provisions of sections 5506 to 5515, or that the patient advocate  
10 is not acting consistent with the ward's best interests, the court  
11 may modify the guardianship's terms to grant those powers to the  
12 guardian.

13 (6) If the court finds by clear and convincing evidence that  
14 the individual is incapacitated, that the person that has the care  
15 and custody of the incapacitated individual denied another person  
16 access to the incapacitated individual, and that the incapacitated  
17 individual desires contact with the other person or that contact  
18 with the other person is in the incapacitated individual's best  
19 interest, the court may appoint a limited guardian to supervise  
20 access with the other person.

21 Sec. 5314. If meaningful communication is possible, a legally  
22 incapacitated individual's guardian shall consult with the legally  
23 incapacitated individual before making a major decision affecting  
24 the legally incapacitated individual. To the extent a guardian of a  
25 legally incapacitated individual is granted powers by the court  
26 under section 5306, the guardian is responsible for the ward's  
27 care, custody, and control, but is not liable to third persons  
28 because of that responsibility for the ward's acts. In particular  
29 and without qualifying the previous sentences, a guardian has all

1 of the following powers and duties, to the extent granted by court  
2 order:

3 (a) The custody of the person of the ward and the power to  
4 establish the ward's place of residence in or outside this state.  
5 The guardian shall visit the ward ~~within~~**not later than** 3 months  
6 after the guardian's appointment and not less than once within 3  
7 months after each previous visit. The guardian shall notify the  
8 court ~~within~~**not later than** 14 days ~~of~~**after** a change in the ~~ward's~~  
9 ~~place of residence or a change in the~~ guardian's place of  
10 residence.

11 (b) If entitled to custody of the ward, the duty to make  
12 provision for the ward's care, comfort, and maintenance and, when  
13 appropriate, arrange for the ward's training and education. The  
14 guardian shall secure services to restore the ward to the best  
15 possible state of mental and physical well-being so that the ward  
16 can return to self-management at the earliest possible time.  
17 Without regard to custodial rights of the ward's person, the  
18 guardian shall take reasonable care of the ward's clothing,  
19 furniture, vehicles, and other personal effects and commence a  
20 protective proceeding if the ward's other property needs  
21 protection. If a guardian commences a protective proceeding because  
22 the guardian believes that it is in the ward's best interest to  
23 sell or otherwise dispose of the ward's real property or interest  
24 in real property, the court may appoint the guardian as special  
25 conservator and authorize the special conservator to proceed under  
26 section 5423(3). A guardian shall not otherwise sell the ward's  
27 real property or interest in real property.

28 (c) The power to give the consent or approval that is  
29 necessary to enable the ward to receive medical, mental health, or

1 other professional care, counsel, treatment, or service. However, a  
2 guardian does not have and shall not exercise the power to give the  
3 consent to or approval for inpatient hospitalization unless the  
4 court expressly grants the power in its order. If the ward objects  
5 or actively refuses mental health treatment, the guardian or any  
6 other interested person must follow the procedures provided in  
7 chapter 4 of the mental health code, 1974 PA 258, MCL 330.1400 to  
8 330.1490, to petition the court for an order to provide involuntary  
9 mental health treatment. The power of a guardian to execute a do-  
10 not-resuscitate order under subdivision (d), execute a nonopioid  
11 directive form under subdivision (f), or execute a physician orders  
12 for scope of treatment form under subdivision (g) does not affect  
13 or limit the power of a guardian to consent to a physician's order  
14 to withhold resuscitative measures in a hospital. As used in this  
15 subdivision, "involuntary mental health treatment" means that term  
16 as defined in section 400 of the mental health code, 1974 PA 258,  
17 MCL 330.1400.

18 (d) The power to execute, reaffirm, and revoke a do-not-  
19 resuscitate order on behalf of a ward. However, a guardian shall  
20 not execute a do-not-resuscitate order unless the guardian does all  
21 of the following:

22 (i) Not more than 14 days before executing the do-not-  
23 resuscitate order, visits the ward and, if meaningful communication  
24 is possible, consults with the ward about executing the do-not-  
25 resuscitate order.

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

29 (e) If a guardian executes a do-not-resuscitate order under

subdivision (d), not less than annually after the do-not-resuscitate order is first executed, the duty to do all of the following:

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

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

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

(g) The power to execute, reaffirm, and revoke a physician orders for scope of treatment form on behalf of a ward. However, a guardian shall not execute a physician orders for scope of treatment form unless the guardian does all of the following:

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

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

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

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

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

4           (i) If a conservator for the ward's estate is not appointed,  
5 the power to do any of the following:

6           (i) Institute a proceeding to compel a person under a duty to  
7 support the ward or to pay money for the ward's welfare to perform  
8 that duty.

9           (ii) Receive money and tangible property deliverable to the  
10 ward and apply the money and property for the ward's support, care,  
11 and education. The guardian shall not use money from the ward's  
12 estate for room and board that the guardian or the guardian's  
13 spouse, parent, or child have furnished the ward unless a charge  
14 for the service is approved by court order made on notice to at  
15 least 1 of the ward's next of kin, if notice is possible. The  
16 guardian shall exercise care to conserve any excess for the ward's  
17 needs.

18           (j) The duty to report the condition of the ward and the  
19 ward's estate that is subject to the guardian's possession or  
20 control, as required by the court, but not less often than  
21 annually. The guardian shall also serve the report required under  
22 this subdivision on the ward and interested persons as specified in  
23 the Michigan court rules. A report under this subdivision must  
24 contain all of the following:

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

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

28           (iii) The ward's present living arrangement and changes in the  
29 ward's living arrangement that occurred during the past year.

1           (iv) Whether the guardian recommends a more suitable living  
2 arrangement for the ward.

3           (v) Medical treatment, including mental health treatment,  
4 received by the ward.

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

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

11           (viii) Whether the guardian has executed, reaffirmed, or revoked  
12 a physician orders for scope of treatment form on behalf of the  
13 ward during the past year.

14           (ix) Services received by the ward.

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

17           (xi) A recommendation as to the need for continued  
18 guardianship.

19           (xii) If a standby guardian has been designated, a statement  
20 signed by the standby guardian that the standby guardian continues  
21 to be willing to serve in the event of the unavailability, death,  
22 incapacity, or resignation of the guardian.

23           (k) If a conservator is appointed, the duty to pay to the  
24 conservator, for management as provided in this act, the amount of  
25 the ward's estate received by the guardian in excess of the amount  
26 the guardian expends for the ward's current support, care, and  
27 education. The guardian shall account to the conservator for the  
28 amount expended.