

Act No. 1  
Public Acts of 2024  
Approved by the Governor  
February 21, 2024  
Filed with the Secretary of State  
February 21, 2024  
EFFECTIVE DATE: February 21, 2024

**STATE OF MICHIGAN  
102ND LEGISLATURE  
REGULAR SESSION OF 2024**

Introduced by Reps. Filler, Breen and Paiz

# ENROLLED HOUSE BILL No. 4416

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 1103, 1106, 1210, 2519, 2806, 3605, 3916, 3917, 3918, 3959, 3981, 3982, 3983, 5102, 5301, 5303, 5304, 5305, 5306a, 5310, 5311, 5313, 5314, 5507, 7103, 7105, 7110, 7302, 7402, 7506, 7604, and 7820a (MCL 700.1103, 700.1106, 700.1210, 700.2519, 700.2806, 700.3605, 700.3916, 700.3917, 700.3918, 700.3959, 700.3981, 700.3982, 700.3983, 700.5102, 700.5301, 700.5303, 700.5304, 700.5305, 700.5306a, 700.5310, 700.5311, 700.5313, 700.5314, 700.5507, 700.7103, 700.7105, 700.7110, 700.7302, 700.7402, 700.7506, 700.7604, and 700.7820a), section 1103 as amended by 2013 PA 157, section 1106 as amended by 2018 PA 555, sections 1210, 7302, 7402, and 7506 as amended and sections 7110 and 7604 as added by 2009 PA 46, section 2519 as amended by 2023 PA 72, section 3917 as amended by 2004 PA 314, section 5301 as amended by 2005 PA 204, sections 5303 and 5305 as amended by 2017 PA 155, section 5306a as added by 2012 PA 173, section 5310 as amended by 2000 PA 54, section 5313 as amended by 2012 PA 545, section 5314 as amended by 2018 PA 594, section 5507 as amended by 2008 PA 41, sections 7103 and 7105 as amended by 2018 PA 664, and section 7820a as added by 2012 PA 483, and by adding sections 1215, 1216, 5301c, 7408, 7409, and 7409a; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

Sec. 1103. As used in this act:

(a) “1997 cost-of-living adjustment factor” means a fraction, the numerator of which is the United States Consumer Price Index for the prior calendar year and the denominator of which is the United States Consumer Price Index for 1997. As used in this subdivision, “United States Consumer Price Index” means the annual average of the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor agency, and as certified by the state treasurer.

(b) “2023 cost-of-living adjustment factor” means a fraction, the numerator of which is the United States Consumer Price Index for the prior calendar year and the denominator of which is the United States Consumer Price Index for 2023. As used in this subdivision, “United States Consumer Price Index” means the annual average of the United States Consumer Price Index for all urban consumers as defined and reported by the United States Department of Labor, Bureau of Labor Statistics, or its successor agency, and as certified by the state treasurer.

(c) “Agent” includes, but is not limited to, an attorney-in-fact under a durable or nondurable power of attorney and an individual authorized to make decisions as a patient advocate concerning another’s health care.

(d) “Application” means a written request to the probate register for an order of informal probate or informal appointment under part 3 of article III.

(e) “Attorney” means, if appointed to represent a child under the provisions referenced in section 5213, an attorney serving as the child’s legal advocate in the manner defined and described in section 13a of chapter XIII of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(f) “Beneficiary” includes, but is not limited to, the following:

(i) In relation to a trust, a person that is a trust beneficiary as defined in section 7103.

(ii) In relation to a charitable trust, a person that is entitled to enforce the trust.

(iii) In relation to a beneficiary of a beneficiary designation, a person that is a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), of a pension, profit-sharing, retirement, or similar benefit plan, or of another nonprobate transfer at death.

(iv) In relation to a beneficiary designated in a governing instrument, a person that is a grantee of a deed, devisee, trust beneficiary, beneficiary of a beneficiary designation, donee, appointee, taker in default of a power of appointment, or person in whose favor a power of attorney or power held in an individual, fiduciary, or representative capacity is exercised.

(g) “Beneficiary designation” means the naming in a governing instrument of a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), of a pension, profit-sharing, retirement, or similar benefit plan, or of another nonprobate transfer at death.

(h) “Child” includes, but is not limited to, an individual entitled to take as a child under this act by intestate succession from the parent whose relationship is involved. Child does not include an individual who is only a stepchild, a foster child, or a grandchild or more remote descendant.

(i) “Claim” includes, but is not limited to, in respect to a decedent’s or protected individual’s estate, a liability of the decedent or protected individual, whether arising in contract, tort, or otherwise, and a liability of the estate that arises at or after the decedent’s death or after a conservator’s appointment, including funeral and burial expenses and costs and expenses of administration. Claim does not include an estate or inheritance tax, or a demand or dispute regarding a decedent’s or protected individual’s title to specific property alleged to be included in the estate.

(j) “Conservator” means a person appointed by a court to manage a protected individual’s estate.

(k) “Court” means the probate court or, when applicable, the family division of circuit court.

(l) “Descendant” means, in relation to an individual, all of his or her descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this act.

(m) “Devise” means, when used as a noun, a testamentary disposition of real or personal property and, when used as a verb, to dispose of real or personal property by will.

(n) “Devisee” means a person designated in a will to receive a devise. For the purposes of article II, for a devise to a trustee of an existing trust or to a trustee under a will, the trustee is a devisee and a beneficiary is not.

(o) “Disability” means cause for a protective order as described in section 5401.

(p) “Distributee” means a person that receives a decedent’s property from the decedent’s personal representative or trust property from the trustee other than as a creditor or purchaser. A trustee of a trust created by will is a distributee only to the extent that distributed property or an increment of the distributed property remains in the trustee’s hands. A beneficiary of a trust created by will to whom the trustee distributes property received from a personal representative is a distributee of the personal representative. For the purposes of this subdivision, “trustee of a trust created by will” includes a trustee to whom property is transferred by will to the extent of the devised property.

(q) “Do-not-resuscitate order” means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

Sec. 1106. As used in this act:

(a) “Mental health professional” means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(i) A physician who is licensed to practice medicine or osteopathic medicine and surgery in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A psychologist licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iii) A registered professional nurse licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iv) A licensed master's social worker licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(v) A physician's assistant licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(vi) A licensed professional counselor licensed under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(b) "Michigan prudent investor rule" means the fiduciary investment and management rule prescribed by part 5 of this article.

(c) "Minor" means an individual who is less than 18 years of age.

(d) "Minor ward" means a minor for whom a guardian is appointed solely because of minority.

(e) "Money" means legal tender or a note, draft, certificate of deposit, stock, bond, check, or credit card.

(f) "Mortgage" means a conveyance, agreement, or arrangement in which property is encumbered or used as security.

(g) "Nonopioid directive form" means that term as defined in section 9145 of the public health code, 1978 PA 368, MCL 333.9145.

(h) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of the decedent's death.

(i) "Organization" means a corporation, business trust, estate, trust, partnership, limited liability company, association, or joint venture; governmental subdivision, agency, or instrumentality; public corporation; or another legal or commercial entity.

(j) "Parent" includes, but is not limited to, an individual entitled to take, or who would be entitled to take, as a parent under this act by intestate succession from a child who dies without a will and whose relationship is in question. Parent does not include an individual who is only a stepparent, foster parent, or grandparent.

(k) "Partial guardian" means that term as defined in section 600 of the mental health code, 1974 PA 258, MCL 330.1600.

(l) "Patient advocate" means an individual designated to exercise powers concerning another individual's care, custody, and medical or mental health treatment or authorized to make an anatomical gift on behalf of another individual, or both, as provided in section 5506.

(m) "Patient advocate designation" means the written document executed and with the effect as described in sections 5506 to 5515.

(n) "Payor" means a trustee, insurer, business entity, employer, government, governmental subdivision or agency, or other person authorized or obligated by law or a governing instrument to make payments.

(o) "Person" means an individual or an organization.

(p) "Personal representative" includes, but is not limited to, an executor, administrator, successor personal representative, and special personal representative, and any other person, other than a trustee of a trust subject to article VII, who performs substantially the same function under the law governing that person's status.

(q) "Petition" means a written request to the court for an order after notice.

(r) "Physician orders for scope of treatment form" means that term as defined in section 5674 of the public health code, 1978 PA 368, MCL 333.5674.

(s) "Plenary guardian" means that term as defined in section 600 of the mental health code, 1974 PA 258, MCL 330.1600.

(t) "Power of appointment" means that term as defined in section 2 of the powers of appointment act of 1967, 1967 PA 224, MCL 556.112.

(u) "Proceeding" includes an application and a petition, and may be an action at law or a suit in equity. A proceeding may be denominated a civil action under court rules.

(v) "Professional conservator" means a person that provides conservatorship services for a fee. Professional conservator does not include a person who is an individual who is related to all but 2 of the protected individuals for whom he or she is appointed as conservator.

(w) "Professional guardian" means a person that provides guardianship services for a fee. Professional guardian does not include a person who is an individual who is related to all but 2 of the wards for whom he or she is appointed as guardian.

(x) "Property" means anything that may be the subject of ownership, and includes both real and personal property or an interest in real or personal property.

(y) “Protected individual” means a minor or other individual for whom a conservator has been appointed or other protective order has been made as provided in part 4 of article V.

(z) “Protective proceeding” means a proceeding under part 4 of article V.

Sec. 1210. (1) The specific dollar amounts stated in sections 2102, 2402, 2404, and 2405, and the specific dollar amounts stated in sections 3982 and 3983 before those sections were amended by the amendatory act that added section 1215, apply to decedents who die before January 1, 2001. For decedents who die after December 31, 2000, these specific dollar amounts must be multiplied by the 1997 cost-of-living adjustment factor for the calendar year in which the decedent dies.

(2) Before January 1, 2024, the specific amounts stated in sections 2519, 3605, 3916, 3918, 3981, and 5102, and the specific amounts stated in sections 3982 and 3983 as amended by the amendatory act that added section 1215, apply to those sections. Beginning January 1, 2024, those specific dollar amounts must be multiplied by the 2023 cost-of-living adjustment factor for the calendar year in which the decedent dies.

(3) Before February 1, 2001, and annually after 2001, the department of treasury shall publish the cost-of-living adjustment factor to be applied to the specific dollar amounts referred to in subsections (1) and (2) for decedents who die during that calendar year and in section 7414 for trusts the value of the property of which is insufficient to justify the cost of administration. A product resulting from application of the cost-of-living adjustment factor to a specific dollar amount must be rounded to the nearest \$1,000.00 amount.

Sec. 1215. (1) Subject to subsection (2), a person has knowledge of a fact if 1 or more of the following apply:

(a) The person has actual knowledge of it.

(b) The person has received a notice or notification of it.

(c) From all the facts and circumstances known to the person at the time in question, the person has reason to know it.

(2) An organization that conducts activities through employees has notice or knowledge of a fact only from the time the information was received by an employee having responsibility to act or from the time the information would have been brought to the employee’s attention if the organization had exercised reasonable diligence. An organization exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the employee having responsibility to act and there is reasonable compliance with the routines. Reasonable diligence does not require an employee of the organization to communicate information unless the communication is part of the individual’s regular duties or the individual knows a matter that would be materially affected by the information.

Sec. 1216. (1) Any part of a governing instrument that directly or indirectly makes a substantial gift to an attorney who drafted the governing instrument or a person related to the attorney who drafted the governing instrument is void unless the attorney who drafted the governing instrument or the person related to the attorney who drafted the governing instrument is related to the individual making the substantial gift.

(2) This section does not apply to a provision in a governing instrument appointing the attorney who drafted the governing instrument, or a person related to the attorney who drafted the governing instrument, as a fiduciary.

(3) A provision in a governing instrument purporting to waive or otherwise avoid the application of this section is unenforceable.

(4) If a purchaser or lender for value acquires property distributed in kind or a security interest in property from a person that has received a substantial gift pursuant to a part of a governing instrument that is void under subsection (1), the purchaser or lender takes title free of any claims arising under, and incurs no personal liability by reason of, this section. This section does not directly or indirectly impose liability on a person that honors or relies on a part of a governing instrument that is void under subsection (1) and that contains or effectuates a substantial gift, unless the person has knowledge that the part of the governing instrument is void.

(5) If a part of a governing instrument is void under subsection (1), the part that is void is severable and does not affect any other part of the governing instrument that can be given effect, including a term that makes an alternate or substitute gift. If the part of the governing instrument that is void under subsection (1) cannot be severed, the entire governing instrument is void. For a power of appointment, this section does not affect the power to appoint in favor of persons other than the attorney who drafted the governing instrument or a person related to the attorney who drafted the governing instrument.

(6) If the court determines that an attorney who drafted the governing instrument disguised or attempted to disguise a substantial gift, to the attorney who drafted the governing instrument or a person related to the attorney who drafted the governing instrument, as a conveyance for consideration for less than fair market value, the court may find the conveyance void under subsection (1).

(7) The rights and remedies granted in this section are in addition to any other rights or remedies a person may have at law. A part of a governing instrument that is not void under subsection (1) may be challenged under other legal grounds.

(8) This section applies only to a governing instrument executed after the effective date of the amendatory act that added this section.

(9) For purposes of this section, a person is related to an individual if, at the time the attorney who drafted the governing instrument prepared or supervised the preparation or execution of the governing instrument, the person is any of the following:

- (a) A spouse of the individual.
- (b) A lineal ascendant or descendant of the individual or the individual's spouse.
- (c) A sibling of the individual.
- (d) A spouse of the individual described in subdivision (b) or (c).

(10) For purposes of this section, an organization is related to an attorney if the attorney owns a 50% or greater interest in the organization or otherwise controls the organization.

(11) As used in this section:

(a) "Attorney who drafted the governing instrument" means an individual to whom both of the following apply:

(i) The individual is or was licensed to practice law in this state or any other state, before or at the time the governing instrument was prepared or executed, or both.

(ii) The individual directly or indirectly prepared or supervised the preparation, execution, or both, of the governing instrument. For purposes of this subparagraph, among other ways, the individual is considered to have prepared, or supervised the execution of, the governing instrument if the preparation, or supervision of the execution, of the governing instrument was performed by an employee, subordinate, partner, co-owner, or other person or lawyer employed by the same firm or company as the individual as of the time of preparation or execution, or both.

(b) "Gift" includes an inter vivos gift, a testamentary transfer of property, and the power to make the testamentary transfer regardless of any of the following:

- (i) Whether the gift or testamentary transfer is outright or in trust.
- (ii) When the gift or testamentary transfer is to take effect.
- (iii) Whether the power is held in a fiduciary or nonfiduciary capacity.

(c) "Substantial gift" means a gift, the value of which exceeds \$5,000.00 as a result of a single governing instrument or 2 or more related governing instruments.

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

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

#### MICHIGAN STATUTORY WILL NOTICE

1. An individual age 18 or older who has sufficient mental capacity may make a will.
2. There are several kinds of wills. If you choose to complete this form, you will have a Michigan statutory will. If this will does not meet your wishes in any way, you should talk with a lawyer before choosing a Michigan statutory will.
3. Warning! It is strongly recommended that you do not add or cross out any words on this form except for filling in the blanks because all or part of this will may not be valid if you do so.
4. This will has no effect on jointly held assets, on retirement plan benefits, or on life insurance on your life if you have named a beneficiary who survives you.
5. This will is not designed to reduce estate taxes.
6. This will treats adopted children and children born outside of wedlock who would inherit if their parent died without a will the same way as children born or conceived during marriage.

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

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

**INSTRUCTIONS:**

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

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

MICHIGAN STATUTORY WILL OF \_\_\_\_\_  
(Print or type your full name)

**ARTICLE 1. DECLARATIONS**

This is my will and I revoke any prior wills and codicils.

I live in \_\_\_\_\_ County, Michigan.

My spouse is \_\_\_\_\_.  
(Insert spouse's name or write "none")

My children now living are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Insert names or write "none")

**ARTICLE 2. DISPOSITION OF MY ASSETS**

**2.1 CASH GIFTS TO PERSONS OR CHARITIES.**

(Optional)

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

\_\_\_\_\_  
(Insert name of person or charity)

\_\_\_\_\_  
(Insert address)

AMOUNT OF GIFT (In figures): \$ \_\_\_\_\_

AMOUNT OF GIFT (In words): \_\_\_\_\_ Dollars

\_\_\_\_\_  
(Your signature)

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

\_\_\_\_\_  
(Insert name of person or charity)

\_\_\_\_\_  
(Insert address)

AMOUNT OF GIFT (In figures): \$ \_\_\_\_\_

AMOUNT OF GIFT (In words): \_\_\_\_\_ Dollars

\_\_\_\_\_  
(Your signature)

**2.2 PERSONAL AND HOUSEHOLD ITEMS.**

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

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

### 2.3 ALL OTHER ASSETS.

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

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

(Select only 1)

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

\_\_\_\_\_  
(Your signature)

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

\_\_\_\_\_  
(Your signature)

### ARTICLE 3. NOMINATIONS OF PERSONAL REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

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

#### 3.1 PERSONAL REPRESENTATIVE.

(Name at least 1)

I nominate \_\_\_\_\_

(Insert name of person or eligible financial institution)

of \_\_\_\_\_ to serve as personal representative.

(Insert address)

If my first choice does not serve, I nominate \_\_\_\_\_

(Insert name of person or eligible financial institution)

of \_\_\_\_\_ to serve as personal representative.

(Insert address)

#### 3.2 GUARDIAN AND CONSERVATOR.

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

If a guardian or conservator is needed for a child of mine, I nominate \_\_\_\_\_

(Insert name of individual)

of \_\_\_\_\_ as guardian and

(Insert address)

\_\_\_\_\_  
(Insert name of individual or eligible financial institution)

of \_\_\_\_\_ to serve as conservator.

(Insert address)

If my first choice cannot serve, I nominate \_\_\_\_\_  
(Insert name of individual)  
of \_\_\_\_\_ as guardian and  
(Insert address)

\_\_\_\_\_  
(Insert name of individual or eligible financial institution)  
of \_\_\_\_\_ to serve as conservator.  
(Insert address)

### 3.3 BOND.

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

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

\_\_\_\_\_  
(Your signature)

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

\_\_\_\_\_  
(Your signature)

### 3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

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

I sign my name to this Michigan statutory will on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Your signature)

### NOTICE REGARDING WITNESSES

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

### STATEMENT OF WITNESSES

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

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Signature of witness)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State) (Zip)

\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Signature of witness)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State) (Zip)



\_\_\_\_\_  
(Print name)

\_\_\_\_\_  
(Signature of witness)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City) (State) (Zip)

#### DEFINITIONS

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

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

(b) “Descendants” means your children, grandchildren, and their descendants.

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

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

(e) “Spouse” means your spouse at the time you sign this will.

(f) Whenever a distribution under a Michigan statutory will is to be made to an individual’s descendants, the assets are to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave living descendants. Each living descendant of the nearest degree will receive 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the descendant. In this manner, all descendants who are in the same generation will take an equal share.

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

(h) “Person” includes individuals and institutions.

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

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

#### ADDITIONAL CLAUSES

##### Powers of personal representative

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

2. The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to the minor’s conservator or, in amounts not exceeding \$25,000.00 per year, either to the minor, if married before July 12, 2023; to a parent or another adult with whom the minor resides and who has the care, custody, or control of the minor; or to the guardian. The personal representative is free of liability and is discharged from further accountability for distributing assets in compliance with this paragraph.

#### POWERS OF GUARDIAN AND CONSERVATOR

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

(3) The dollar amount described in this section must be adjusted as provided in section 1210.

Sec. 2806. As used in this section and sections 2807 to 2809:

(a) “Disposition or appointment of property” includes, but is not limited to, a transfer of an item of property or another benefit to a beneficiary designated in a governing instrument.

(b) "Divorce or annulment" means a divorce or annulment, or a dissolution or declaration of invalidity of a marriage, that would exclude the spouse as a surviving spouse within the meaning of section 2801. A decree of separation that does not terminate the decedent's marriage is not a divorce for purposes of this section and sections 2807 to 2809.

(c) "Divorced individual" includes, but is not limited to, an individual whose marriage has been annulled.

(d) "Governing instrument" means a governing instrument executed by a divorced individual before the divorce from, or annulment of the individual's marriage to, the individual's former spouse.

(e) "Relative of the divorced individual's former spouse" means an individual who is related to the divorced individual's former spouse by blood, adoption, or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption, or affinity.

(f) "Revocable" means, with respect to a disposition, appointment, provision, or nomination, one under which the divorced individual, at the time of the divorce or annulment, was alone empowered, by law or under the governing instrument, to cancel the designation in favor of the individual's former spouse or former spouse's relative, whether or not the divorced individual was then empowered to designate himself or herself in place of the individual's former spouse or in place of the individual's former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.

Sec. 3605. (1) A person apparently having an interest in the estate worth in excess of \$30,000.00 or a creditor having a claim against the estate in excess of \$30,000.00 may make a written demand that a personal representative give bond. The demand must be filed with the register, and if appointment and qualification have occurred, a copy must be mailed to the personal representative. Upon filing of the demand, bond is required, but the requirement ceases if the person demanding bond ceases to be interested in the estate or if bond is excused as provided in section 3603 or 3604. After receipt of notice and until the filing of the bond or cessation of the requirement of bond, the personal representative shall not exercise any powers of the fiduciary office except as necessary to preserve the estate. Failure of the personal representative to meet a requirement of bond by giving suitable bond within 28 days after receipt of notice is cause for removal and appointment of a successor personal representative.

(2) The dollar amount described in this section must be adjusted as provided in section 1210.

Sec. 3916. (1) In exchange for suitable receipts and following a court order if the administration is supervised, a fiduciary making final distribution shall deposit with the county treasurer the money or personal property the fiduciary has that belongs to any of the following:

(a) An heir, devisee, trust beneficiary, or claimant whose whereabouts the fiduciary cannot ascertain after diligent inquiry.

(b) An heir, devisee, trust beneficiary, or claimant who declines to accept the money awarded to the person.

(c) A person if the right of the person is the subject of appeal from an order of the court.

(2) As an alternative to deposit with the county treasurer under subsection (1), if the amount involved for a person described under subsection (1)(a) or (b) is \$1,000.00 or less, the fiduciary may distribute the amount as part of the residue of the decedent's estate or to those entitled to the trust fund balance. If the fiduciary has property other than money that belongs to a person described in subsection (1)(a) or (b), the fiduciary may sell the property for the purpose of reducing it to money to be deposited with the county treasurer.

(3) The fiduciary shall retain or file the county treasurer's receipt for property deposited under this section in the same fashion as though the fiduciary paid or delivered the money or property to, and received a receipt from, the heir, devisee, trust beneficiary, or claimant.

(4) The dollar amount described in this section must be adjusted as provided in section 1210.

Sec. 3917. (1) The county treasurer shall receive and safely keep money deposited under authority of this act in a separate fund and keep a separate account for each distributee or claim. The county treasurer shall deposit the money in a county depository at the current rate of interest, shall pay out from the fund upon the order of the court, and shall turn over any surplus left in the treasurer's hands at the termination of the treasurer's term of office to the treasurer's successor. The county treasurer shall, at the end of each year, render to the court, and to the county board of commissioners, a true account of that money.

(2) For the care of the money received under authority of this act, the county treasurer may take 1% from the different amounts paid out under court order unless the amount paid out to a single individual exceeds \$1,500.00, in which case the county treasurer shall take \$15.00 plus 1/2 of 1% of the excess of the amount over \$1,500.00.

(3) A person entitled to the money may petition the court having jurisdiction for an order directing the county treasurer to pay over money that is deposited with the county treasurer. On receiving the petition, the court shall make an order as to notice of the hearing as the court considers proper. On satisfactory proof being made to the court of the claimant's right to the money, the court shall order the county treasurer to pay the money and interest earned on the money, less the fee of the county treasurer, to the claimant.

(4) If a person whose whereabouts are unknown or who declined to accept the money does not make a claim to money deposited by a fiduciary before the expiration of 3 years after the deposit date, the money and interest earned on the money that would be distributed under this section to the person, if alive, less expenses, must be distributed by court order to each person who would be entitled to the money if the person had died before the date that he or she became entitled to the money, and the person is forever barred from all claim or right to the money.

Sec. 3918. (1) A personal representative may discharge the personal representative's obligation to distribute to an individual under legal disability by distributing in a manner expressly provided in the will.

(2) Unless contrary to an express provision in the will, the personal representative may discharge the personal representative's obligation to distribute to an individual under legal disability as authorized by section 5102 or another statute. If the personal representative knows that a conservator has been appointed for an individual or that a proceeding for appointment of a conservator for the individual is pending, the personal representative is authorized to distribute only to the conservator. If the personal representative knows that a guardian of the estate of an individual with a developmental disability has been appointed under the mental health code, 1974 PA 258, MCL 330.1001 to 330.2106, or that a proceeding for appointment of a guardian of the estate for the individual with the developmental disability is pending, the personal representative is authorized to distribute only to the guardian of the estate.

(3) If the heir or devisee is under legal disability other than minority, the personal representative is authorized to distribute to any of the following:

(a) A trustee appointed by the court under section 3915(4).

(b) An attorney in fact who has authority under a power of attorney to receive property for that individual.

(c) The spouse, parent, or other close relative with whom the individual under legal disability resides if both of the following are true:

(i) A conservator has not been appointed for the individual.

(ii) The distribution is in amounts not exceeding \$25,000.00 a year or property not exceeding \$25,000.00 in value, unless the court authorizes a higher amount or value.

(4) A person receiving money or property for an individual under legal disability shall use the money or property only for that individual's support and for reimbursement of out-of-pocket expenses for goods and services necessary for that individual's support. Excess money and property must be preserved for the individual's future support. The personal representative is not responsible for the proper use of money or property by the recipient if distribution is made under the authority of this section.

(5) The dollar amounts described in this section must be adjusted as provided in section 1210.

Sec. 3959. (1) The court may reopen an estate if either of the following applies:

(a) Estate property is discovered after an estate is settled and either the personal representative is discharged or 1 year has expired after a closing statement is filed.

(b) There is other good cause to reopen a previously administered estate, including an estate administratively closed, on petition of an interested person and notice as the court directs.

(2) The court may appoint the same or a successor personal representative to administer the subsequently discovered estate. If a new appointment is made, unless the court orders otherwise, the provisions of this act apply as appropriate. A claim previously barred must not be asserted in the subsequent administration.

Sec. 3981. (1) A hospital, convalescent or nursing home, morgue, or law enforcement agency holding \$1,500.00 or less and wearing apparel of a decedent may deliver the money and wearing apparel to an individual furnishing identification and a sworn statement that the individual is the decedent's spouse, child, or parent and that there is no application or petition pending for administration of the decedent's estate. The hospital, home, morgue, or law enforcement agency making the delivery is released to the same extent as if delivery were made to a legally qualified personal representative of the decedent's estate and is not required to see to the property's disposition. The individual to whom delivery is made is answerable for the property to a person with a prior right and accountable to a personal representative of the decedent's estate appointed after the delivery.

(2) The dollar amount described in this section must be adjusted as provided in section 1210.

Sec. 3982. (1) On a showing of evidence, satisfactory to the court, of payment of the expenses for the decedent's funeral and burial and if the balance of a decedent's gross estate consists of property of the value of \$50,000.00 or less, the court may order that the property be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

(2) On a showing of evidence, satisfactory to the court, that the decedent's funeral or burial expenses are unpaid or were paid by a person other than the estate, and if the balance of the gross estate after payment of the expenses would consist of property of the value of \$50,000.00 or less, the court shall order that the property be first used to pay the unpaid funeral and burial expenses, or to reimburse the person that paid those expenses, and may order that the balance be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

(3) Other than a surviving spouse who qualifies for allowances under this act or the decedent's minor children, an heir who receives property through an order under this section is responsible, for 63 days after the date of the order, for any unsatisfied debt of the decedent up to the value of the property received through the order. The court shall state in the order the condition on the distribution of property provided by this subsection.

(4) If a decedent's estate meets the criteria for using the procedure under either this section or section 3983 and if a person is authorized by this act to use either procedure, a person, other than the court, shall not require the authorized person to use 1 procedure rather than the other.

(5) Beginning January 1, 2024, when calculating the value of the decedent's gross estate under subsection (1), if real property included in the estate is encumbered by or used as security for an indebtedness, the amount of the indebtedness, not to exceed \$250,000.00, must be deducted from the value of the real property.

(6) A dollar amount prescribed by this section must be adjusted as provided in section 1210.

Sec. 3983. (1) After 28 days after a decedent's death, a person indebted to the decedent or having possession of tangible personal property or an instrument evidencing a debt, obligation, stock, or chose in action belonging to the decedent shall pay the indebtedness or deliver the tangible personal property or the instrument to a person claiming to be the decedent's successor on being presented with the decedent's death certificate and a sworn statement made by or on behalf of the successor stating all of the following:

(a) The estate does not include real property and the value of the entire estate, wherever located, net of liens and encumbrances, does not exceed \$50,000.00, adjusted as provided in section 1210.

(b) Twenty-eight days have elapsed since the decedent's death.

(c) An application or petition for the appointment of a personal representative is not pending or has not been granted in any jurisdiction.

(d) The claiming successor is entitled to payment or delivery of the property.

(e) The name and address of each other person that is entitled to a share of the property and the portion to which each is entitled.

(2) A transfer agent of a security shall change the registered ownership on the books of a corporation from the decedent to the successor or successors upon the presentation of a sworn statement as provided in subsection (1).

(3) The state court administrative office shall develop and make available a standardized form for use as a sworn statement that can be used for the procedure authorized under subsection (1). The form must include a notice that a false statement may subject the person swearing to the statement to prosecution for perjury.

Sec. 5102. (1) A person under a duty to pay or deliver money or personal property to a minor may perform this duty by paying or delivering the money or property, in an aggregate value that does not exceed \$50,000.00 each year, to any of the following:

(a) The minor if the minor is married.

(b) An individual having the care and custody of the minor with whom the minor resides.

(c) A guardian of the minor.

(d) A financial institution incident to a deposit in a state or federally insured savings account in the sole name of the minor with notice of the deposit to the minor.

(2) This section does not apply if the person making payment or delivery knows that a conservator has been appointed or a proceeding for appointment of a conservator of the minor's estate is pending.

(3) Other than the minor or a financial institution, an individual receiving money or property for a minor is obligated to apply the money to the minor's support and education, but shall not pay himself or herself except by way of reimbursement for out-of-pocket expenses for goods and services necessary for the minor's support. An excess amount must be preserved for the minor's future support and education. A balance not used for those

purposes and property received for the minor must be turned over to the minor when majority is attained. A person who pays or delivers money or property in accordance with this section is not responsible for the proper application of the money or property.

(4) The dollar amount described in this section must be adjusted as provided in section 1210.

Sec. 5301. (1) If serving as guardian, the parent of an unmarried legally incapacitated individual may appoint by will, or other writing signed by the parent and attested by at least 2 witnesses, a guardian for the legally incapacitated individual. If both parents are dead or the surviving parent is adjudged legally incapacitated, and no standby guardian has been appointed under section 5301c, a parental appointment by will or other writing becomes effective when, after having given 7 days' prior written notice of intention to do so to the legally incapacitated individual and to the person having the care of the legally incapacitated individual or to the nearest adult relative, the guardian files acceptance of appointment in the court in which the will containing the nomination is probated or, if the nomination is contained in a nontestamentary nominating instrument or the testator who made the nomination is not deceased, when the guardian's acceptance is filed in the court at the place where the legally incapacitated individual resides or is present. The notice must state that the appointment may be terminated by filing a written objection in the court as provided by subsection (4). If both parents are dead, an effective appointment by the parent who died later has priority.

(2) If serving as guardian, the spouse of a married legally incapacitated individual may appoint by will, or other writing signed by the spouse and attested by at least 2 witnesses, a guardian of the legally incapacitated individual. If no standby guardian has been appointed under section 5301c, the appointment by will or other writing becomes effective when, after having given 7 days' prior written notice of intention to do so to the legally incapacitated individual and to the person having care of the legally incapacitated individual or to the nearest adult relative, the guardian files acceptance of appointment in the court in which the will containing the nomination is probated or, if the nomination is contained in a nontestamentary nominating instrument or the testator who made the nomination is not deceased, when the guardian's acceptance is filed in the court at the place where the legally incapacitated individual resides or is present. The notice must state that the appointment may be terminated by filing a written objection in the court as provided by subsection (4).

(3) An appointment effected by filing the guardian's acceptance under a will probated in the state of the decedent's domicile is effective in this state.

(4) On the filing of the legally incapacitated individual's written objection to a guardian's appointment under this section in either the court in which the will was probated or, for a nontestamentary nominating instrument or a testamentary nominating instrument made by a testator who is not deceased, the court at the place where the legally incapacitated individual resides or is present, the appointment is terminated. An objection does not prevent appointment by the court in a proper proceeding of the parental or spousal nominee or another suitable person on an adjudication of incapacity in a proceeding under sections 5302 to 5317.

Sec. 5301c. (1) At a hearing convened under this part, the court may designate 1 or more standby guardians. The court may designate as standby guardian a competent person that is suitable and willing to serve in the order of priority under section 5313.

(2) The nominated standby guardian must receive a copy of the petition nominating the person to serve, the court order establishing or modifying guardianship, and the order designating the standby guardian.

(3) A standby guardian shall file an acceptance of the person's designation under subsection (2) within 28 days after receiving notice of the order designating the standby guardian.

(4) If the standby guardian is unable or unwilling to serve, the standby guardian shall promptly notify the court and interested persons in writing.

(5) A standby guardian does not have authority to act unless the guardian is unavailable for any reason, including any of the following:

- (a) The guardian dies.
- (b) The guardian is permanently or temporarily unavailable.
- (c) The court removes or suspends the guardian.

(6) During an emergency affecting the legally incapacitated individual's welfare when the guardian is unavailable, the standby guardian may temporarily assume the powers and duties of the guardian. A person may rely on the standby guardian's representation that the standby guardian has the authority to act if the person is given the order issued under subsection (2) and acceptance filed under subsection (3). A person that acts in reliance on the representations and documentation described in this subsection without knowledge that the representations are incorrect is not liable to any person for so acting and may assume without further inquiry the existence of the standby guardian's authority.

(7) A standby guardian's appointment as guardian is effective, without further proceedings or reiteration of acceptance, immediately on the guardian's unavailability as described in subsection (5). The standby guardian has the same powers and duties as the prior guardian.

(8) On assuming office, the standby guardian shall promptly notify the court, any known agent appointed under a power of attorney executed under section 5103, and interested persons. On receiving notice under this subsection, the court may enter an order appointing a standby guardian as guardian without the need for additional proceedings. The guardian appointed under this subsection shall serve the court's order on the interested persons.

Sec. 5303. (1) An individual in the individual's own behalf, or any person interested in the individual's welfare, may petition for a finding of incapacity and appointment of a guardian or designation of a standby guardian. The petition must contain specific facts about the individual's condition and specific examples of the individual's recent conduct that demonstrate the need for a guardian's appointment.

(2) Before a petition is filed under this section, the court shall provide the person intending to file the petition with written information that sets forth alternatives to appointment of a full guardian, including, but not limited to, a limited guardian, conservator, patient advocate designation, do-not-resuscitate order, physician orders for scope of treatment form, or durable power of attorney with or without limitations on purpose, authority, or time period, and an explanation of each alternative.

(3) On the filing of a petition under subsection (1), the court shall set a date for hearing on the issue of incapacity. Unless the allegedly incapacitated individual has legal counsel of the individual's own choice, the court shall appoint a guardian ad litem to represent the individual in the proceeding.

Sec. 5304. (1) If necessary, the court may order that an individual alleged to be incapacitated be examined by a physician or mental health professional appointed by the court who shall submit a report in writing to the court at least 5 days before the hearing set under section 5303. A report prepared as provided in this subsection must not be made a part of the proceeding's public record, but must be available to the court or an appellate court in which the proceeding is subject to review, to the alleged incapacitated individual, to the petitioner, to their respective legal counsels, and to other persons as the court directs. The report may be used as provided in the Michigan rules of evidence.

(2) The alleged incapacitated individual has the right to secure an independent evaluation, at the individual's own expense or, if indigent, at the expense of the state. Compensation for an independent evaluation at public expense must be in an amount that, based on time and expense, the court approves as reasonable.

(3) A report prepared under this section must contain all of the following:

(a) A detailed description of the individual's physical or psychological infirmities.

(b) An explanation of how and to what extent each infirmity interferes with the individual's ability to receive or evaluate information in making decisions.

(c) A listing of all medications the individual is receiving, the dosage of each medication, and a description of the effects each medication has on the individual's behavior.

(d) A prognosis for improvement in the individual's condition and a recommendation for the most appropriate rehabilitation plan.

(e) The signatures of all individuals who performed the evaluations on which the report is based.

(4) The individual alleged to be incapacitated is entitled to be present at the hearing to appoint a guardian or designate a standby guardian in person, and to see or hear all evidence bearing on the individual's condition. If the individual wishes to be present at the hearing, all practical steps must be taken to ensure the individual's presence, including, if necessary, moving the hearing site.

(5) The individual is entitled to be represented by legal counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician or mental health professional and the visitor, and to trial by jury.

(6) The issue of incapacity may be determined at a closed hearing without a jury if requested by the individual alleged to be incapacitated or that individual's legal counsel.

Sec. 5305. (1) The duties of a guardian ad litem appointed for an individual alleged to be incapacitated include all of the following:

(a) Personally visiting the individual.

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

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

(i) The right to contest the petition.

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

(A) A do-not-resuscitate order.

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

(iii) The right to object to a particular person being appointed guardian or designated as standby guardian.

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

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

(vi) The right to have legal counsel appointed for the individual if the individual is unable to afford legal counsel.

(d) Informing the individual that if a guardian is appointed, the guardian may have the power to execute a do-not-resuscitate order on behalf of the individual and, if meaningful communication is possible, discern if the individual objects to having a do-not-resuscitate order executed on the individual's behalf.

(e) Informing the individual that if a guardian is appointed, the guardian may have the power to execute a physician orders for scope of treatment form on behalf of the individual and, if meaningful communication is possible, discern if the individual objects to having a physician orders for scope of treatment form executed on the individual's behalf.

(f) Informing the individual of the name of each person known to be seeking appointment as guardian or designation as standby guardian.

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

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

(i) Whether there are 1 or more appropriate alternatives to the appointment of a full guardian or whether 1 or more actions should be taken in addition to the appointment of a guardian. Before informing the court of the guardian ad litem's determination under this subparagraph, the guardian ad litem shall consider the appropriateness of at least each of the following as alternatives or additional actions:

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

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

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

(ii) Whether a disagreement or dispute related to the guardianship petition might be resolved through court ordered mediation.

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

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

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

(vi) Whether the individual objects to having a do-not-resuscitate order executed on the individual's behalf.

(vii) Whether the individual objects to having a physician orders for scope of treatment form executed on the individual's behalf.

(viii) Whether the individual objects to a particular person being appointed guardian or designated a standby guardian.

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

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

(4) If the individual alleged to be incapacitated requests legal counsel or the guardian ad litem determines it is in the individual's best interest to have legal counsel, and if legal counsel has not been secured, the court shall appoint legal counsel. If the individual alleged to be incapacitated is indigent, this state shall bear the expense of legal counsel.

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

Sec. 5306a. (1) An individual for whom a guardian is sought or has been appointed under section 5306 has all of the following rights:

(a) To object to the appointment of a successor guardian by will or other writing, as provided in section 5301.

(b) To have the guardianship proceeding commenced and conducted in the place where the individual resides or is present or, if the individual is admitted to an institution by a court, in the county in which the court is located, as provided in section 5302.

(c) To petition on the individual's own behalf for the appointment of a guardian or designation of a standby guardian, as provided in section 5303.

(d) To have legal counsel of the individual's own choice represent him or her on the petition to appoint a guardian or designate a standby guardian, as provided in sections 5303, 5304, and 5305.

(e) If the individual is not represented by legal counsel, to the appointment of a guardian ad litem to represent the individual on the petition to appoint a guardian or designate a standby guardian, as provided in section 5303.

(f) To an independent evaluation of the individual's capacity by a physician or mental health professional, at public expense if the individual is indigent, as provided in section 5304.

(g) To be present at the hearing on the petition to appoint a guardian or designate a standby guardian and to have all practical steps taken to ensure this, including, if necessary, moving the hearing site, as provided by section 5304.

(h) To see or hear all the evidence presented in the hearing on the petition to appoint a guardian or designate a standby guardian, as provided in section 5304.

(i) To present evidence and cross-examine witnesses in the hearing on the petition to appoint a guardian or designate a standby guardian, as provided in section 5304.

(j) To a trial by jury on the petition to appoint a guardian or designate a standby guardian, as provided in section 5304.

(k) To a closed hearing on the petition to appoint a guardian, as provided in section 5304.

(l) If a guardian ad litem is appointed, to be personally visited by the guardian ad litem, as provided in section 5305.

(m) If a guardian ad litem is appointed, to an explanation by the guardian ad litem of the nature, purpose, and legal effects of a guardian's appointment, as provided in section 5305.

(n) If a guardian ad litem is appointed, to an explanation by the guardian ad litem of the individual's rights in the hearing procedure, as provided in section 5305.

(o) If a guardian ad litem is appointed, to be informed by the guardian ad litem of the right to contest the petition, to request limits on the guardian's powers, to object to a particular person being appointed guardian or designated as standby guardian, to be present at the hearing, to be represented by legal counsel, and to have legal counsel appointed if the individual is unable to afford legal counsel, as provided in section 5305.

(p) To be informed of the name of each person known to be seeking appointment as guardian or designation as standby guardian, including, if a guardian ad litem is appointed, to be informed of the names by the guardian ad litem as provided in section 5305.

(q) To require that proof of incapacity and the need for a guardian be proven by clear and convincing evidence, as provided in section 5306.

(r) To the limitation of the powers and period of time of a guardianship to only the amount and time that is necessary, as provided in section 5306.

(s) To a guardianship designed to encourage the development of maximum self-reliance and independence as provided in section 5306.

(t) To prevent the grant of powers to a guardian if those powers are already held by a valid patient advocate, as provided in section 5306.

(u) To periodic review of the guardianship by the court, including the right to a hearing and the appointment of an attorney if issues arise upon the review of the guardianship, as provided in section 5309.



(v) To, at any time, seek modification or termination of the guardianship by informal letter to the judge, as provided in section 5310.

(w) To a hearing within 28 days of requesting a review, modification, or termination of the guardianship, as provided in section 5310.

(x) To the same rights on a petition for modification or termination of the guardianship including the appointment of a visitor as apply to a petition for appointment of a guardian, as provided in section 5310.

(y) To personal notice of a petition for appointment or removal of a guardian or the designation or change in designation of a standby guardian, as provided in section 5311.

(z) To written notice of the nature, purpose, and legal effects of the appointment of a guardian, as provided in section 5311.

(aa) To choose the person who will serve as guardian and the person designated as standby guardian, if the chosen person is suitable and willing to serve, as provided in sections 5313 and 5301c, as applicable.

(bb) To consult with the guardian about major decisions affecting the individual, if meaningful conversation is possible, as provided in section 5314.

(cc) To quarterly visits by the guardian, as provided in section 5314.

(dd) To have the guardian notify the court within 14 days of a change in the individual's residence, as provided in section 5314.

(ee) To have the guardian secure services to restore the individual to the best possible state of mental and physical well-being so that the individual can return to self-management at the earliest possible time, as provided in section 5314.

(ff) To have the guardian take reasonable care of the individual's clothing, furniture, vehicles, and other personal effects, as provided in section 5314.

(2) A guardian ad litem shall inform the ward in writing of the ward's rights enumerated in this section. The state court administrative office and the health and aging services administration created under Executive Reorganization Order No. 2021-2, MCL 400.562, shall promulgate a form to be used to give the written notice under this section, which must include space for the court to include information on how to contact the court or other relevant personnel with respect to the rights enumerated in this section.

Sec. 5310. (1) On petition of the guardian and subject to the filing and approval of a report prepared as required by section 5314, the court shall accept the guardian's resignation and make any other order that is appropriate.

(2) The ward, a person appointed guardian in a will or other writing by a parent or spouse under section 5301, or any other person interested in the ward's welfare may petition for an order removing the guardian, changing the designated standby guardian, appointing a successor guardian, modifying the guardianship's terms, or terminating the guardianship. A request for this order may be made by informal letter to the court or judge. If a request under this subsection is made by the person appointed by will or other writing under section 5301, the person shall also present proof of the person's appointment by will or other writing. A person who knowingly interferes with the transmission of this kind of request to the court or judge is subject to a finding of contempt of court.

(3) Except as otherwise provided in the order finding incapacity, on receiving a petition or request under this section, the court shall set a date for a hearing to be held within 28 days after the receipt of the petition or request. An order finding incapacity may specify a minimum period, not exceeding 182 days, during which a petition or request for a finding that a ward is no longer an incapacitated individual, or for an order removing the guardian, modifying the guardianship's terms, or terminating the guardianship, must not be filed without special leave of the court.

(4) Before removing a guardian, appointing a successor guardian, changing the designated standby guardian, modifying the guardianship's terms, or terminating a guardianship, and following the same procedures to safeguard the ward's rights as apply to a petition for a guardian's appointment, the court may send a visitor to the present guardian's residence and to the place where the ward resides or is detained to observe conditions and report in writing to the court.

Sec. 5311. (1) In a proceeding for the appointment or removal of an incapacitated individual's guardian, other than the appointment of a temporary guardian or temporary suspension of a guardian, or to designate a standby guardian or change the designated standby guardian, notice of hearing must be given to each of the following:

(a) The ward or the individual alleged to be incapacitated and that individual's spouse, parents, and adult children.

(b) A person who is serving as the guardian or conservator or who has the individual's care and custody.

- (c) If known, a person named as attorney in fact under a durable power of attorney.
  - (d) The standby guardian or the person nominated to be designated as standby guardian.
  - (e) If no other person is notified under subdivision (a), (b), (c), or (d), at least 1 of the individual's closest adult relatives, if any can be found.
- (2) Notice must be served personally on the alleged incapacitated individual. Notice to all other persons must be given as prescribed by court rule. Waiver of notice by the individual alleged to be incapacitated is not effective unless the individual attends the hearing or a waiver of notice is confirmed in an interview with the visitor.
- (3) In a proceeding for a guardian's appointment or designation of a standby guardian under sections 5303 and 5304, a copy of the petition must be attached to the hearing notice, and the notice to the alleged incapacitated individual must contain all of the following information:
- (a) The nature, purpose, and legal effects of the appointment of a guardian or designation of a standby guardian.
  - (b) The alleged incapacitated individual's rights in the proceeding, including the right to appointed legal counsel.

Sec. 5313. (1) The court may appoint a competent person as guardian of a legally incapacitated individual. The court shall not appoint as a guardian an agency, public or private, that financially benefits from directly providing housing, medical, mental health, or social services to the legally incapacitated individual. If the court determines that the ward's property needs protection, the court shall order the guardian to furnish a bond or shall include restrictions in the letters of guardianship as necessary to protect the property.

(2) In appointing a guardian under this section, the court shall appoint a person, if suitable and willing to serve, in the following order of priority:

- (a) A person previously appointed, qualified, and serving in good standing as guardian for the legally incapacitated individual in this state or another state.
- (b) A person the individual subject to the petition chooses to serve as guardian.
- (c) A person nominated as guardian in a durable power of attorney or other writing by the individual subject to the petition.
- (d) A person named by the individual as a patient advocate or attorney in fact in a durable power of attorney.
- (e) A person appointed by a parent or spouse of a legally incapacitated individual by will or other writing under section 5301.

(3) If there is no person chosen, nominated, or named under subsection (2), or if none of the persons listed in subsection (2) are suitable or willing to serve, the court may appoint as a guardian an individual who is related to the individual who is the subject of the petition in the following order of preference:

- (a) The legally incapacitated individual's spouse. This subdivision is considered to include a person nominated by will or other writing signed by a deceased spouse.
- (b) An adult child of the legally incapacitated individual.
- (c) A parent of the legally incapacitated individual. This subdivision is considered to include a person nominated by will or other writing signed by a deceased parent.
- (d) A relative of the legally incapacitated individual with whom the individual has resided for more than 6 months before the filing of the petition.
- (e) A person nominated by a person who is caring for the legally incapacitated individual or paying benefits to the legally incapacitated individual.

(4) If none of the persons as designated or listed in subsection (2) or (3) are suitable or willing to serve, the court may appoint any competent person who is suitable and willing to serve, including a professional guardian as provided in section 5106.

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

- (a) The custody of the person of the ward and the power to establish the ward's place of residence in or outside this state. The guardian shall visit the ward within 3 months after the guardian's appointment and not less than once within 3 months after each previous visit. The guardian shall notify the court within 14 days of a change in the ward's place of residence or a change in the guardian's place of residence.

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

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

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

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

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

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

(ix) Services received by the ward.

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

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

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

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

Sec. 5507. (1) A patient advocate designation may include a statement of the patient's desires on care, custody, and medical treatment or mental health treatment, or both. A patient advocate designation may also include a statement of the patient's desires on the making of an anatomical gift of all or part of the patient's body under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The statement regarding an anatomical gift under this subsection may include a statement of the patient's desires regarding the resolution of a conflict between the terms of the advance health care directive and the administration of means necessary to ensure the medical suitability of the anatomical gift. The patient may authorize the patient advocate to exercise 1 or more powers concerning the patient's care, custody, medical treatment, mental health treatment, the making of an anatomical gift, or the resolution of a conflict between the terms of the advance health care directive and the administration of means necessary to ensure the medical suitability of the anatomical gift that the patient could have exercised on the patient's own behalf.

(2) A patient advocate designation may also include the patient's instructions about how the patient advocate is to make decisions.

(3) A patient may designate in the patient advocate designation a successor individual as a patient advocate who may exercise the powers described in subsection (1) for the patient if the first individual named as patient advocate does not accept, is incapacitated, resigns, or is removed.

(4) Before a patient advocate designation is implemented, a copy of the patient advocate designation must be given to the proposed patient advocate and must be given to a successor patient advocate before the successor acts as patient advocate. Before acting as a patient advocate, the proposed patient advocate must sign an acceptance of the patient advocate designation.

(5) The acceptance of a designation as a patient advocate must include substantially all of the following statements:

1. This patient advocate designation is not effective unless the patient is unable to participate in decisions regarding the patient's medical or mental health, as applicable. If this patient advocate designation includes the authority to make an anatomical gift as described in section 5506, the authority remains exercisable after the patient's death.

2. A patient advocate shall not exercise powers concerning the patient's care, custody, and medical or mental health treatment that the patient, if the patient were able to participate in the decision, could not have exercised on the patient's own behalf.

3. This patient advocate designation cannot be used to make a medical treatment decision to withhold or withdraw treatment from a patient who is pregnant that would result in the pregnant patient's death.

4. A patient advocate may make a decision to withhold or withdraw treatment that would allow a patient to die only if the patient has expressed in a clear and convincing manner that the patient advocate is authorized to make such a decision, and that the patient acknowledges that such a decision could or would allow the patient's death.

5. A patient advocate shall not receive compensation for the performance of the patient advocate's authority, rights, and responsibilities, but a patient advocate may be reimbursed for actual and necessary expenses incurred in the performance of the patient advocate's authority, rights, and responsibilities.

6. A patient advocate shall act in accordance with the standards of care applicable to fiduciaries when acting for the patient and shall act consistent with the patient's best interests. The known desires of the patient expressed or evidenced while the patient is able to participate in medical or mental health treatment decisions are presumed to be in the patient's best interests.

7. A patient may revoke the patient's patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.

8. A patient may waive the patient's right to revoke the patient advocate designation as to the power to make mental health treatment decisions, and if the waiver is made, the patient's ability to revoke as to certain treatment will be delayed for 30 days after the patient communicates the patient's intent to revoke.

9. A patient advocate may revoke the patient advocate's acceptance of the patient advocate designation at any time and in any manner sufficient to communicate an intent to revoke.

10. A patient admitted to a health facility or agency has the rights enumerated in section 20201 of the public health code, 1978 PA 368, MCL 333.20201.

Sec. 7103. As used in this article:

(a) "Action", with respect to a trustee, includes an act or a failure to act.

(b) "Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of section 2041(b)(1)(A) or 2514(c)(1) of the internal revenue code of 1986, 26 USC 2041 and 2514.

(c) "Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in section 7405(1) if the charitable purpose is a material purpose of the trust.

(d) "Discretionary trust provision" means a provision in a trust, regardless of whether the terms of the trust provide a standard for the exercise of the trustee's discretion and regardless of whether the trust contains a spendthrift provision, that provides that the trustee has discretion, or words of similar import, to determine 1 or more of the following:

(i) Whether to distribute to or for the benefit of an individual or a class of beneficiaries the income or principal or both of the trust.

(ii) The amount, if any, of the income or principal or both of the trust to distribute to or for the benefit of an individual or a class of beneficiaries.

(iii) Who, if any, among a class of beneficiaries will receive income or principal or both of the trust.

(iv) Whether the distribution of trust property is from income or principal or both of the trust.

(v) When to pay income or principal, except that a power to determine when to distribute income or principal within or with respect to a calendar or taxable year of the trust is not a discretionary trust provision if the distribution must be made.

(e) "Interests of the trust beneficiaries" means the beneficial interests provided in the terms of the trust.

(f) "Power of withdrawal" means a presently exercisable general power of appointment other than a power that is either of the following:

(i) Exercisable by a trustee and limited by an ascertainable standard.

(ii) Exercisable by another person only on consent of the trustee or a person holding an adverse interest.

(g) "Qualified trust beneficiary" means either of the following:

(i) A trust beneficiary whom the settlor intends to benefit as a material purpose of the trust and to whom 1 or more of the following apply on the date the trust beneficiary's qualification is determined:

(A) The trust beneficiary is a distributee or permissible distributee of trust income or principal.

(B) The trust beneficiary would be a distributee or permissible distributee of trust income or principal if the interests of the distributees under the trust described in sub-subparagraph (A) terminated on that date without causing the trust to terminate.

(C) The trust beneficiary would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(ii) If on the date a trust beneficiary's qualification is determined there is no trust beneficiary described in subparagraph (i), a trust beneficiary to whom 1 or more of the following apply on the date the trust beneficiary's qualification is determined:

(A) The trust beneficiary is a distributee or permissible distributee of trust income or principal.

(B) The trust beneficiary would be a distributee or permissible distributee of trust income or principal if the interests of the distributees under the trust described in sub-subparagraph (A) terminated on that date without causing the trust to terminate.

(C) The trust beneficiary would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

(h) "Revocable", as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest. A trust's characterization as revocable is not affected by the settlor's lack of capacity to exercise the power of revocation, regardless of whether an agent of the settlor under a durable power of attorney, a conservator of the settlor, or a plenary guardian of the settlor is serving.

(i) "Settlor" means a person, including a testator or a trustee, who creates a trust. If more than 1 person creates a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution. The lapse, release, or waiver of a power of appointment does not cause the holder of a power of appointment to be treated as a settlor of the trust.

(j) "Spendthrift provision" means a term of a trust that restrains either the voluntary or involuntary transfer of a trust beneficiary's interest.

(k) "Support provision" means a provision in a trust that provides the trustee shall distribute income or principal or both for the health, education, support, or maintenance of a trust beneficiary, or language of similar import. A provision in a trust that provides a trustee has discretion whether to distribute income or principal or both for these purposes or to select from among a class of beneficiaries to receive distributions under the trust provision is not a support provision, but rather is a discretionary trust provision.

(l) "Trust beneficiary" means a person to whom 1 or both of the following apply:

(i) The person has a present or future beneficial interest in a trust, vested or contingent.

(ii) The person holds a power of appointment over trust property in a capacity other than that of trustee or trust director.

(m) "Trust director" means that term as defined in section 7703a.

(n) "Trust instrument" means a governing instrument that contains the terms of the trust, including any amendment to a term of the trust.

Sec. 7105. (1) Except as otherwise provided in the terms of the trust, this article governs the duties and powers of a trustee, relations among trustees, and the rights and interests of a trust beneficiary.

(2) The terms of a trust prevail over any provision of this article except the following:

(a) The requirements under sections 7401 and 7402(1)(e) for creating a trust.

(b) Except as otherwise provided in sections 7703a and 7703b, the duty of a trustee to administer a trust in accordance with section 7801.

(c) The requirement under section 7404 that the trust have a purpose that is lawful, not contrary to public policy, and possible to achieve.

(d) The duration limits specified in all of the following:

(i) Section 7408 for the care of animals.

(ii) Section 7409 for other noncharitable purpose trusts.

(iii) Section 7409a for nondisclosure periods.

(e) The power of the court to modify or terminate a trust under sections 7410, 7412(1) to (3), 7414(2), 7415, and 7416.

(f) The effect of a spendthrift provision, a support provision, and a discretionary trust provision on the rights of certain creditors and assignees to reach a trust as provided in part 5.

(g) The power of the court under section 7702 to require, dispense with, or modify or terminate a bond.

(h) The power of the court under section 7708(2) to adjust a trustee's compensation specified in the terms of the trust that is unreasonably low or high.

- (i) The obligations imposed on a trust director in section 7703a(4) and (5).
- (j) Except as provided in section 7409a, the duty under section 7814(2)(a) to (c) to provide beneficiaries with the terms of the trust and information about the trust's property, and to notify qualified trust beneficiaries of an irrevocable trust of the existence of the trust and the identity of the trustee.
- (k) The power of the court to order the trustee to provide statements of account and other information under section 7814(4).
- (l) The effect of an exculpatory term under section 7703a(5)(b) or 7908.
- (m) The effect of a release of a trustee or trust director from liability for breach of trust under section 7703a(8).
- (n) The rights under sections 7910 to 7913 of a person other than a trustee or beneficiary.
- (o) Periods of limitation under this article for commencing a judicial proceeding.
- (p) The power of the court to take action and exercise jurisdiction.
- (q) The subject-matter jurisdiction of the court and venue for commencing a proceeding as provided in sections 7203 and 7204.
- (r) The requirement under section 7113 that a provision in a trust that purports to penalize an interested person for contesting the trust or instituting another proceeding relating to the trust must not be given effect if probable cause exists for instituting a proceeding contesting the trust or another proceeding relating to the trust.
- (s) The requirement under section 7703b(2)(d) regarding the eligibility of a trust's sole beneficiary to be a separate trustee as that term is defined in section 7703b.

Sec. 7110. (1) A charitable organization expressly named in the terms of a trust to receive distributions under the terms of a charitable trust has the rights of a qualified trust beneficiary under this article if 1 or more of the following are applicable to the charitable organization on the date the charitable organization's qualification is being determined:

- (a) The charitable organization is a distributee or permissible distributee of trust income or principal.
  - (b) The charitable organization would be a distributee or permissible distributee of trust income or principal on the termination of the interests of other distributees or permissible distributees then receiving or eligible to receive distributions.
  - (c) The charitable organization would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.
- (2) A person appointed to enforce a trust created for the care of an animal under section 7408 or another noncharitable trust under section 7409 has the rights of a qualified trust beneficiary under this article.
- (3) During the nondisclosure period of a trust described in section 7409a, a person granted a nondisclosure correlative right or protection power over the trust has the rights of a qualified trust beneficiary under this article.
- (4) The attorney general of this state has the following rights with respect to a charitable trust having its principal place of administration in this state:
- (a) The rights provided in the supervision of trustees for charitable purposes act, 1961 PA 101, MCL 14.251 to 14.266.
  - (b) The right to notice of any judicial proceeding and any nonjudicial settlement agreement under section 7111.

Sec. 7302. (1) To the extent there is no conflict of interest between the holder of a power of appointment and the person represented with respect to a particular question or dispute, the holder of a power of appointment, including a power of appointment in the form of a power of amendment or revocation, may represent and bind a person to the extent the person's interest, as a permissible appointee, taker in default, or otherwise, is subject to the power. For the purpose, however, of granting consent or approval to modification or termination of a trust or to deviation from its terms, including consent or approval to a settlement agreement described in section 7111, only the holder of a presently exercisable or testamentary general power of appointment may represent and bind such a person.

- (2) For purposes of subsection (1), both of the following apply:
  - (a) There is no conflict of interest between the holder of a nonfiduciary power of appointment and a person whose interest is subject to the power to the extent the subject interest is liable to be extinguished by an exercise of the power.
  - (b) If a power of appointment is subject to a condition precedent other than the death of the holder in the case of a testamentary power, no interest is subject to the power until the condition precedent is satisfied.
- (3) As used in this section, "nonfiduciary" means, with respect to a power of appointment, that the power is not held in a fiduciary capacity.

Sec. 7402. (1) A trust is created only if all of the following apply:

- (a) The settlor has capacity to create a trust.
- (b) The settlor indicates an intention to create the trust.
- (c) The trust has a definite beneficiary or is either of the following:
  - (i) A charitable trust.

(ii) A trust for a noncharitable purpose under section 7409 or a trust for the care of an animal under section 7408.

- (d) The trustee has duties to perform.
- (e) The same person is not the sole trustee and sole beneficiary.

(2) A trust beneficiary is definite if the trust beneficiary can be ascertained now or in the future, subject to any applicable rule against perpetuities.

(3) A power in a trustee to select a trust beneficiary from an indefinite class is valid only in a charitable trust.

Sec. 7408. (1) A trust may be created to provide for the care of a designated domestic pet or animal alive during the settlor's lifetime. A trust created under this subsection terminates on the death of the animal or, if the trust was created to provide for the care of more than 1 domestic or pet animal alive during the settlor's lifetime, on the death of the last surviving animal.

(2) A trust authorized under this section may be enforced by a person appointed in the terms of the trust or, if there is not a person appointed in the terms of the trust, by a person appointed by the court. A person that has an interest in the welfare of an animal for which the trust is created may request the court to appoint a person to enforce the trust or to remove a person appointed in the terms of the trust.

(3) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, or otherwise to the settlor's successors in interest.

Sec. 7409. Except as otherwise provided in section 7408 or any other statute, the following rules apply:

(a) A trust may be created for a noncharitable purpose without a definite or definitely ascertainable beneficiary or for a noncharitable but otherwise valid purpose to be selected by the trustee. A trust created under this section may be performed by the trustee according to the terms of the trust for not more than 25 years whether or not the terms of the trust contemplate a longer duration.

(b) A trust authorized by this section may be enforced by a person appointed in the terms of the trust or, if there is not a person appointed in the terms of the trust, by a person appointed by the court.

(c) Property of a trust authorized by this section may be applied only to its intended use, except to the extent the court determines that the value of the trust property exceeds the amount required for the intended use. Except as otherwise provided in the terms of the trust, property not required for the intended use must be distributed to the settlor, if then living, or otherwise to the settlor's successors in interest.

Sec. 7409a. (1) If the terms of a trust other than a charitable trust are embodied in a trust instrument that clearly express the settlor's intent that 1 or more items of prime disclosure information should be withheld, generally or in specified circumstances, from 1 or more of the trust beneficiaries, both of the following apply:

(a) During the nondisclosure period all of the following apply:

(i) To the extent necessary to effectuate the settlor's expressed intent, the trustee does not have the duty under section 7814(2)(a) to (c) to provide beneficiaries with the terms of the trust and information about the trust's property and to notify qualified trust beneficiaries of the existence of the trust and the identity of the trustee.

(ii) The trustee may administer the trust in accordance with the settlor's expressed intent regarding nondisclosure of primary disclosure information to the extent made practicable by the terms of the trust given the circumstances of the beneficiaries and any reporting obligations imposed on the trustee by law other than this act.

(iii) If the trust instrument grants a nondisclosure correlative right, the trustee has a duty to administer the trust in accordance with the settlor's expressed intent regarding nondisclosure of primary disclosure information, but only to the extent made practicable by the terms of the trust given the circumstances of the beneficiaries and any reporting obligations imposed on the trustee by law other than this act.



(iv) Any purported appointment or distribution of assets of the instant trust to another undisclosed trust is ineffective to the extent it could cause the appointed or distributed assets to be administered continuously under the authority of this section for a period ending after the date on which the instant trust's maximum nondisclosure period ends.

(b) The trustee or any holder of either a nondisclosure correlative right or a protection power is not liable to any trust beneficiary because of the trustee's failure to follow the terms of the trust prescribing nondisclosure of prime disclosure information. The trustee's duty, if any, to follow the terms of the trust prescribing nondisclosure of prime disclosure information during the trust's nondisclosure period is owed solely to the holders, if any, of nondisclosure correlative rights, and the sole remedy of a nondisclosure correlative right holder for the trustee's breach of that duty is removal.

(2) If the trust instrument grants either a nondisclosure correlative right or a protection power, all of the following apply:

(a) On the reasonable request of a nondisclosure correlative right holder or protection power holder at any time during the trust's nondisclosure period, the trustee shall promptly furnish to the right or power holder a copy of the terms of the trust that describe or affect the holder's right or power.

(b) Within 63 days after accepting trusteeship of an undisclosed trust, the trustee shall notify all nondisclosure correlative right holders and protection power holders of the acceptance, of the court in which the trust is registered, if it is registered, and of the trustee's name, address, and telephone number.

(c) Within 63 days after the date the trustee acquires knowledge of the creation of an undisclosed trust of which the trustee is trustee or the date the trustee acquires knowledge that a formerly revocable trust of which the trustee is trustee has, by becoming irrevocable, whether by the death of the settlor or otherwise, become an undisclosed trust, the trustee shall notify all nondisclosure correlative right holders and protection power holders of the trust's existence, of the identity of the settlor or settlors, of the court in which the trust is registered, if it is registered, and of the right to request a copy of the terms of the trust that describe or affect the power holders' rights or powers.

(3) On the date on which the nondisclosure period ends, the trust ceases to be an undisclosed trust and to the extent terms of the trust are inconsistent with the duty under section 7814(2)(a) to (c) to provide beneficiaries with the terms of the trust and information about the trust's property and to notify qualified trust beneficiaries of the existence of the trust and the identity of the trustee, those terms cease to be effective.

(4) To the extent the trustee has not already provided the notice of the trust required under section 7814(2) by the end of the trust's nondisclosure period, the trustee is deemed for that purpose to have accepted the trust and to have acquired knowledge of the trust's creation on the date on which the nondisclosure period ends, and the identities of the qualified trust beneficiaries are determined for that purpose as of the time immediately preceding the end of the nondisclosure period.

(5) As used in this section:

(a) "Maximum nondisclosure period" means a period of 25 years from the later of the first date on which property becomes subject to the terms of the trust or the date on which the trust ceases to be revocable by the settlor.

(b) "Nondisclosure correlative right" means a right granted by the terms of a trust that allows the right holder to remove a trustee of the trust for the trustee's failure during the trust's nondisclosure period to follow, to the extent practicable, the terms of the trust prescribing nondisclosure of prime disclosure information.

(c) "Nondisclosure period" means the shorter of the trust's maximum nondisclosure period or the period from the beginning of the maximum nondisclosure period to the trust's termination.

(d) "Prime disclosure information" concerning a trust means the fact of the trust's existence, the identity of the trustee, the terms of the trust, or the nature or extent of the trust property.

(e) "Protection power" means a power granted by the terms of a trust that allows the power holder, acting in a fiduciary capacity, to direct the trustee of the trust for the benefit of the trust beneficiaries during the trust's nondisclosure period. A protection power may authorize the power holder to represent the trust beneficiaries in the sense described in section 7301(1) to (2) without regard to the application of sections 7302 to 7304.

(f) "Undisclosed trust" means a trust administered under this section during the nondisclosure period.

Sec. 7506. (1) Whether or not the terms of a trust contain a spendthrift provision, the following rules apply:

(a) During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor's creditors.

(b) After the death of a settlor, and subject to the settlor's right to direct the source from which liabilities will be paid, the property of a trust that at the settlor's death was revocable by the settlor, either alone or in conjunction with another person, is subject to expenses, claims, and allowances as provided in section 7605.

(c) With respect to an irrevocable trust, a creditor or assignee of the settlor may reach no more than the lesser of the following:

(i) The claim of the creditor or assignee.

(ii) The maximum amount that can be distributed to or for the settlor's benefit exclusive of sums to pay the settlor's taxes during the settlor's lifetime.

(2) If a trust has more than 1 settlor, the amount a creditor or assignee of a particular settlor may reach under subsection (1)(c) must not exceed the settlor's interest in the portion of the trust attributable to that settlor's contribution.

(3) A trust beneficiary is not considered a settlor merely because of a lapse, waiver, or release of a power of withdrawal over the trust property.

(4) An individual who creates a trust is not considered a settlor with regard to the individual's retained beneficial interest in the trust that follows the termination of the individual's spouse's prior beneficial interest in the trust if all of the following apply:

(a) During the lifetime of the individual's spouse, the only distributees or permissible distributees of the trust income or principal are either of the following:

(i) The individual's spouse.

(ii) The individual's spouse and either of the following:

(A) The individual's issue.

(B) The issue of the individual's spouse.

(b) The individual retains a beneficial interest in the trust income, trust principal, or both, which beneficial interest follows the termination of the individual's spouse's prior beneficial interest in the trust.

(5) An individual is not considered a settlor of a trust for the benefit of the individual:

(a) If the settlor is the individual's spouse, regardless of whether or when the individual was the settlor of a trust for the benefit of that spouse.

(b) To the extent that the property of trust was subject to a general power of appointment in another individual.

Sec. 7604. (1) Except as provided in subsection (2), a person may commence a judicial proceeding to contest the validity of a trust that was revocable at the settlor's death within the earlier of the following:

(a) Two years after the settlor's death.

(b) Six months after the trustee sent the person a notice informing the person of all of the following:

(i) The trust's existence.

(ii) The date of the trust instrument.

(iii) The date of any amendments known to the trustee.

(iv) A copy of relevant portions of the terms of the trust that describe or affect the person's interest in the trust, if any.

(v) The settlor's name.

(vi) The trustee's name and address.

(vii) The time allowed for commencing a proceeding.

(2) If a trust that was revocable at the settlor's death becomes an undisclosed trust as that term is defined in section 7409a, a person from whom information described in section 7814(2)(a) to (c) is withheld under section 7409a(1)(a)(i) during the 2-year period following the settlor's death may commence a judicial proceeding to contest the validity of the trust within the earlier of the following:

(a) Two years after the trustee provided the person the information described in section 7814(2)(a) to (c) that was withheld under section 7409a(1)(a)(i) from the person during the 2-year period following the settlor's death.

(b) Six months after the trustee sent the person a notice described in subsection (1)(b).

(3) Upon the death of the settlor of a trust that was revocable at the settlor's death, the trustee may proceed to distribute the trust property in accordance with the terms of the trust. The trustee is not subject to liability for doing so unless either of the following applies:

(a) The trustee knows of a pending judicial proceeding contesting the validity of the trust.

(b) A potential contestant has notified the trustee in writing of a possible judicial proceeding to contest the trust and a judicial proceeding is commenced within 63 days after the contestant sent the notification.

(4) A beneficiary of a trust that is determined to have been invalid is liable to return any distribution received.

Sec. 7820a. (1) If an irrevocable trust includes a discretionary trust provision, the trustee of the trust may, unless the terms of the first trust expressly provide otherwise, distribute by written instrument all or part of the property subject to that provision to the trustee of a second trust, if both of the following conditions are satisfied:

(a) The terms of the second trust do not materially change the beneficial interests of the beneficiaries of the first trust.

(b) If the governing instrument of the first trust expressly indicates an intention that the first trust qualify for a tax benefit or the terms of the first trust are clearly designed to qualify the first trust for a tax benefit, and if the first trust would qualify for the intended tax benefit, the governing instrument of the second trust is not inconsistent with the tax planning that informed the first trust.

(2) A distribution of property to the trustee of a second trust under subsection (1) must not result in any of the following:

(a) An increase in or a change in the method of determining the compensation of a trustee, unless the increase or change has been consented to in writing by all beneficiaries entitled to receive reports regarding the first trust.

(b) A charge of a fee or commission on the transfer of assets from the first trust to the second trust, unless the fee or commission has been consented to in writing by all beneficiaries entitled to receive reports regarding the first trust.

(c) A reduction in the standard of care applicable to the trustee's actions or an expansion of exoneration of the trustee.

(d) A diminution in the authority of a person that has a power exercisable in a fiduciary capacity to direct or remove the trustee.

(3) For purposes of this section, all of the following apply:

(a) In determining whether a trust is irrevocable, a settlor's lack of capacity to exercise a power of revocation negates the power unless an agent of the settlor under a durable power of attorney, a conservator of the settlor, or a plenary guardian of the settlor is serving and the agent, conservator, or guardian is authorized to exercise the power of revocation.

(b) If an increase in the maximum period during which the vesting of a future interest may be postponed is due solely to a change of applicable law governing remoteness of vesting, the increase does not constitute a material change in the interest of a beneficiary.

(c) An increase in compensation arising solely because a change of applicable law governing remoteness of vesting makes the duration of the second trust longer than the duration of the first trust does not constitute an increase in or a change in the method of determining the compensation of the trustee.

(4) The distribution power described in subsection (1) must not be exercised over any portion of the first trust as to which the exercising trustee is the settlor, unless the exercising trustee was acting in a fiduciary capacity when the trustee created the first trust.

(5) The trustee of the second trust may be the trustee of the first trust, the second trust may be a trust under the governing instrument of the first trust or another governing instrument, the governing instrument may be created by the trustee of the first trust, and the governing instrument may be the instrument that exercises the power described in subsection (1).

(6) The second trust instrument may provide 1 or both of the following:

(a) That assets of the first trust discovered after exercise of the power described in subsection (1) will be property of the first trust if that trust is to continue in existence after exercise of the power, or that assets of the first trust discovered after exercise of the power will be property of the second trust if the first trust terminates on exercise of the power.

(b) For indemnification of the trustee of the first trust, except as limited by section 7908.

(7) A trustee of the first trust may exercise the power described in subsection (1) without the consent of that trust's settlor, any beneficiary, or a court. However, the trustee shall give written notice of an intended exercise of the power to the settlors of the first trust, if living, and qualified trust beneficiaries not later than 63 days before exercise of the power. The notice required by this section must include a copy of the proposed instrument of exercise. If the living settlors and qualified trust beneficiaries waive the 63-day notice period in writing, a distribution under subsection (1) may be made before expiration of the notice period.

(8) The period during which the vesting of a future interest may be suspended or postponed by the exercise of the power described in subsection (1) is determined under the powers of appointment act of 1967, 1967 PA 224, MCL 556.111 to 556.133, treating the power under subsection (1) as a power of appointment for purposes of this subsection.

(9) This section does not abridge the right of a trustee that has a power to distribute trust property in further trust under the terms of a trust instrument, any other statute, or the common law. This section does not abridge any right of a trustee that has a power to amend or terminate a trust.


(10) As used in this section:

(a) "First trust" means an irrevocable trust that has a discretionary trust provision that is exercised as described in subsection (1).

(b) "Tax benefit" means a federal or state tax deduction, exemption, exclusion, or other particular tax attribute. Tax benefit does not include grantor trust status. A trust has grantor trust status to the extent that the assets of the trust are treated, for federal income tax purposes, as owned by the grantor or another person under sections 671 to 679 of the internal revenue code of 1986, 26 USC 671 to 679.

Enacting section 1. Sections 2722 and 7104 of the estates and protected individuals code, 1998 PA 386, MCL 700.2722 and 700.7104, are repealed.

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved \_\_\_\_\_

\_\_\_\_\_  
Governor