

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4910**

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 5305, 5314, 5406, 5417, and 5418 (MCL
700.5305, 700.5314, 700.5406, 700.5417, and 700.5418), sections
5305 and 5314 as amended by 2024 PA 1, section 5406 as amended by
2000 PA 464, and sections 5417 and 5418 as amended by 2000 PA 312,
and by adding section 5314a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 5305. (1) The duties of a guardian ad litem appointed ~~for~~
2 **when** an individual **is** alleged to be incapacitated include all of
3 the following:
4 ~~(a) Personally visiting the individual.~~
5 ~~(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~~



1 guardian.

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

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

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

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

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

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

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

29 ~~(iii) Whether the individual wishes to be present at the~~



1 hearing.

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

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

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

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

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

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

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

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



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

4 (a) Interviewing the individual in person at the individual's
5 location and out of the presence of any interested person.

6 (b) Advising the individual that the guardian ad litem does
7 not represent the individual as an attorney and that no attorney-
8 client relationship has been created, and that statements the
9 individual makes to the guardian ad litem are not privileged and
10 may be communicated to the court or other persons.

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

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

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

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

20 (A) A do-not-resuscitate order.

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

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

24 (iv) The right to be present at the hearing. If the individual
25 is unable to attend the hearing at the location where court
26 proceedings typically are held, the guardian ad litem shall inform
27 the individual of the individual's right for the hearing at another
28 location or through the use of video conferencing technology.

29 (v) The right to request a reasonable accommodation to allow



1 the individual to participate as fully as possible at the hearing,
2 including with assistive technology or other support.

3 (vi) The right to be represented by legal counsel of the
4 individual's choice.

5 (vii) The right to have legal counsel appointed for the
6 individual if the individual is unable to secure legal counsel or
7 if the individual is unable to afford legal counsel.

8 (e) Identifying whether the individual wishes to be present at
9 the hearing. If the allegedly incapacitated individual does not
10 wish to be present at the hearing, the guardian ad litem shall
11 identify the reasons why the individual does not wish to be
12 present.

13 (f) Identifying any barriers to the individual's attending a
14 hearing at the place where court is held or otherwise fully
15 participating in the hearing, including the need for assistive
16 technology, transportation, or other support. If the allegedly
17 incapacitated individual wishes to attend, the guardian ad litem
18 must identify whether the individual has identified a plan for how
19 the individual will attend.

20 (g) Identifying whether the individual plans to retain legal
21 counsel or wishes to have legal counsel appointed.

22 (h) Explaining to the individual that if a guardian is
23 appointed, the guardian may have the power to take certain actions
24 on behalf of the individual. A guardian ad litem must inform the
25 individual that a guardian may have any of the following powers
26 and, if meaningful communication is possible, discern if the
27 individual objects to a guardian having any of the following
28 powers:

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



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

(iii) Consenting to any medical treatment.

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

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

(vi) Handling any financial and property matters, including the sale or disposal of personal property and the maintenance of real property.

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

(j) 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-



1 resuscitate order, physician orders for scope of treatment form, or
2 durable power of attorney with or without limitations on purpose,
3 authority, or duration.

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

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

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

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

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

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

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

19 (ix) If a guardian were appointed, whom the individual would
20 want to serve, in order of preference.

21 (x) if a guardian were appointed, whom the individual would
22 not want to serve.

23 (2) Subject to subsection (3), a guardian ad litem appointed
24 for an individual alleged to be incapacitated or a legally
25 incapacitated individual shall file a written report with the court
26 and in the form required by the state court administrative office.

27 (3) The guardian ad litem's report required under subsection
28 (2) must include, at least, all of the following:

29 (a) The date and time the guardian ad litem met with the



1 individual.

2 (b) The length of time the guardian ad litem met with the
3 individual.

4 (c) The location where the guardian ad litem met with the
5 individual.

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

8 (e) Who, if anyone, was present for the interview besides the
9 individual.

10 (f) Whether the individual wishes to be present at the
11 hearing. If the individual wishes to be present at the hearing, the
12 guardian ad litem must include in the report both of the following:

13 (i) Whether the individual has identified a plan for how the
14 individual will attend.

15 (ii) Whether the individual has any barriers to attending court
16 at the place where it is usually held.

17 (iii) If the individual has a barrier to attending, whether the
18 barrier can be resolved by moving the location of the hearing or
19 using assistive technology, or both, or other support.

20 (g) Whether the individual has retained or plans to retain
21 legal counsel or wishes for legal counsel to be appointed. If the
22 individual has not indicated whether the individual wishes to be
23 represented by legal counsel, the guardian ad litem shall include
24 in the report a recommendation whether legal counsel should be
25 appointed to represent the individual.

26 (h) Whether the individual has any of the following:

27 (i) A power of attorney with or without limitations on purpose,
28 authority, or time period.

29 (ii) A patient advocate designation.



1 (iii) A physician orders for scope of treatment form.

2 (iv) A benefits payee, trustee, or other fiduciary.

3 (i) Whether the individual wishes to contest the petition.

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

6 (k) Whether the appointment of a visitor with appropriate
7 knowledge, training, and education such as a social worker, mental
8 health professional, or medical professional could provide the
9 court with the information on whether alternatives to guardianship
10 or a limited guardianship is appropriate.

11 (l) If a guardian were appointed, whom the individual would
12 want to serve in order of preference.

13 (m) If a guardian were appointed, whom the individual would
14 not want to serve.

15 (n) Any other information the guardian ad litem determines
16 would be helpful to the court in ruling on the petition.

17 (4) A guardian ad litem shall file the report required under
18 subsection (2) with the court and serve it on all interested
19 persons at least 3 days before the date of the hearing. The court
20 may order the report to be filed and served less than 3 days before
21 the hearing only if the petition is made on an emergency basis
22 under section 5312.

23 (5) The court shall not order compensation of the guardian ad
24 litem unless the guardian ad litem states on the record or in the
25 guardian ad litem's report that the guardian ad litem has complied
26 with subsections (1) to (4).

27 (6) If an individual who is subject to a petition under this
28 part has not already secured legal counsel, the court shall appoint
29 legal counsel if any of the following apply:



1 (i) The individual requests legal counsel.

2 (ii) The individual wishes to contest the petition, to have
3 limits placed on the guardian's powers, or to object to a
4 particular person being appointed guardian or designated as a
5 standby guardian

6 (iii) The guardian ad litem determines it is in the individual's
7 best interest to have legal counsel.

8 (7) If the allegedly incapacitated individual is indigent, the
9 state shall bear the expense of appointed legal counsel under
10 subsection (6).

11 (8) If the allegedly incapacitated individual has retained
12 legal counsel or if legal counsel has been appointed under
13 subsection (6), the appointment of a guardian ad litem terminates.

14 (9) An allegedly incapacitated individual has the right to
15 retain legal counsel of the individual's choice at any stage,
16 regardless of a finding regarding the individual's capacity.
17 Retained legal counsel shall file a substitution of legal counsel
18 or a motion to substitute if legal counsel has already been
19 appointed. Retained legal counsel is entitled to reasonable
20 attorney fees.

21 Sec. 5314. (1) If meaningful communication is possible, a
22 legally incapacitated individual's guardian shall consult with the
23 legally incapacitated individual before making a major decision
24 affecting the legally incapacitated individual. To the extent a
25 guardian of a legally incapacitated individual is granted powers by
26 the court under section 5306, the guardian is responsible for the
27 ward's care, custody, and control, but is not liable to third
28 persons because of that responsibility for the ward's acts. In
29 particular and without qualifying the previous sentences, a



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

3 (a) ~~The Subject to section 5314a, the~~ custody of the person of
4 the ward and the power to establish the ward's place of residence
5 in or outside this state. ~~The guardian shall visit the ward within~~
6 ~~3 months after the guardian's appointment and not less than once~~
7 ~~within 3 months after each previous visit. The Subject to section~~
8 ~~5314a, the~~ guardian shall notify the court ~~within not later than 14~~
9 ~~days of after a change in the ward's place of residence or a change~~
10 ~~in the guardian's place of residence. All of the following apply to~~
11 ~~the duty of the guardian to visit the ward:~~

12 (i) The guardian shall visit the ward in person not later than
13 1 month after the guardian's appointment and not less than once
14 within 3 months after each in-person visit. The guardian shall also
15 visit the ward using both audio and video technology or, if that
16 technology is not available, only audio means, each month in which
17 an in-person visit does not occur. If the ward is unable to
18 communicate using audio and visual or audio-only means, the
19 guardian shall communicate with the ward's caregivers or any other
20 party who is familiar with the ward's circumstances and can apprise
21 the guardian of the ward's needs and progress. If the guardian
22 determines that audio and visual visits or audio-only visits are
23 not possible or that the ward is unable to communicate through
24 audiovisual means, the records the guardian must maintain must also
25 identify the circumstances that required the guardian to rely on an
26 audio-only visit or that required the guardian to consult with
27 caregivers or others instead of communicating directly with the
28 ward. The guardian shall maintain records relating to the date,
29 time, and duration of and significant information for each required



1 visit. The guardian shall make the records available for the
2 court's review and for review of interested persons.

3 (ii) If the guardian is a limited guardian, the visitation
4 duties described in subparagraph (i) apply. However, the limited
5 guardian may seek approval from the court to conduct audiovisual or
6 audio-only visits less often than monthly in the months in which
7 the limited guardian is not visiting in person. The court may grant
8 the request if the court finds on the record that monthly
9 audiovisual or audio-only visits in the months in which an in-
10 person visit is not occurring are not necessary for the
11 individual's well-being and best interests and identifies on the
12 record the individual's circumstances that led to that finding.

13 (iii) If the guardian is not a professional guardian, the
14 guardian may delegate the required in-person visits under
15 subparagraph (i) to another person. The guardian shall communicate
16 with the person who conducted the in-person visit and maintain
17 records regarding the information shared by the person who
18 conducted the visit.

19 (iv) If the guardian is an individual professional guardian,
20 the professional guardian shall not delegate the required in-person
21 visits under subparagraph (i) to another person.

22 (b) If entitled to custody of the ward, the duty to make
23 provision for the ward's care, comfort, and maintenance and, when
24 appropriate, arrange for the ward's training and education. The
25 guardian shall secure services to restore the ward to the best
26 possible state of mental and physical well-being so that the ward
27 can return to self-management at the earliest possible time. **The**
28 **guardian shall make a reasonable effort to identify a reasonable**
29 **number of items of personal or sentimental value, including, but**



1 not limited to, family heirlooms, photo albums, and collections.
2 Not later than 56 days after appointment, the guardian shall serve
3 on all interested persons a list of the identified items. The list
4 must be signed by the guardian and include an attestation that
5 states, "I represent this list is true and correct to the best of
6 my knowledge, information, and belief at the time of signing. I
7 understand that I must handle this property, like all of the ward's
8 property for which I am responsible, consistently with my fiduciary
9 duties. This may include sale, disposal, or other actions to meet
10 my fiduciary duties. I am not responsible for storing any items at
11 my own expense.". Without regard to custodial rights of the ward's
12 person, the guardian shall take reasonable care of the ward's
13 clothing, furniture, vehicles, and other personal effects and
14 commence a protective proceeding if the ward's other property needs
15 protection. If a guardian commences a protective proceeding because
16 the guardian believes that it is in the ward's best interest to
17 sell or otherwise dispose of the ward's real property or interest
18 in real property, the court may appoint the guardian as special
19 conservator and authorize the special conservator to proceed under
20 section 5423(3). A guardian shall not otherwise sell the ward's
21 real property or interest in real property. **An interested person**
22 **may petition the court for a hearing regarding the sale or**
23 **disposition of the ward's property.**

24 (c) The power to give the consent or approval that is
25 necessary to enable the ward to receive medical, mental health, or
26 other professional care, counsel, treatment, or service. However, a
27 guardian does not have and shall not exercise the power to give the
28 consent to or approval for inpatient hospitalization unless the
29 court expressly grants the power in its order. If the ward objects



1 or actively refuses mental health treatment, the guardian or any
2 other interested person must follow the procedures provided in
3 chapter 4 of the mental health code, 1974 PA 258, MCL 330.1400 to
4 330.1490, to petition the court for an order to provide involuntary
5 mental health treatment. The power of a guardian to execute a do-
6 not-resuscitate order under subdivision (d), execute a nonopioid
7 directive form under subdivision (f), or execute a physician orders
8 for scope of treatment form under subdivision (g) does not affect
9 or limit the power of a guardian to consent to a physician's order
10 to withhold resuscitative measures in a hospital. As used in this
11 subdivision, "involuntary mental health treatment" means that term
12 as defined in section 400 of the mental health code, 1974 PA 258,
13 MCL 330.1400.

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

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

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

25 (e) If a guardian executes a do-not-resuscitate order under
26 subdivision (d), not less than annually after the do-not-
27 resuscitate order is first executed, the duty to do all of the
28 following:

29 (i) Visit the ward and, if meaningful communication is



1 possible, consult with the ward about reaffirming the do-not-
2 resuscitate order.

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

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

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

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

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

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

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

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

29 (i) If a conservator for the ward's estate is not appointed,



1 ~~the power to do any of the following~~ **powers and duty:**

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

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

14 (iii) **The duty to allow interested persons to review proofs of**
15 **income and disbursements at a time reasonably convenient to the**
16 **guardian and interested persons.**

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

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

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

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

29 (iv) Whether the guardian recommends a more suitable living



1 arrangement for the ward.

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

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

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

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

13 (ix) Services received by the ward.

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

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

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

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

28 **(2) If a conservator has not been appointed for the ward, and**
29 **if the ward's qualified estate is greater than 400% of the federal**



1 poverty level, the guardian must file a petition for
2 conservatorship under part 4 of this article. This subsection does
3 not prevent the appointment of a conservator for the ward if the
4 ward's qualified estate is less than 400% of the federal poverty
5 level. As used in this subsection:

6 (a) "Federal poverty level" means the poverty guidelines
7 published annually in the federal register by the United States
8 Department of Health and Human Services under its authority to
9 revise the poverty line under 42 USC 9902.

10 (b) "Liquid assets" means assets that can easily be converted
11 into cash in a short amount of time. Liquid assets include, but are
12 not limited to, cash, checking and savings accounts, money market
13 instruments, certificates of deposit, mutual funds held in a
14 taxable account, marketable securities, bonds, and the monetary
15 value of life or other insurance. A retirement account is
16 considered a liquid asset once the individual's circumstances allow
17 him or her to withdraw cash without facing any Internal Revenue
18 Service early withdrawal penalties.

19 (c) "Ward's qualified estate" means, except as otherwise
20 provided in subdivision (d), the ward's liquid assets or income, or
21 both, reported by the guardian ad litem under section 5305 or later
22 discovered by the guardian.

23 (d) Ward's qualified estate does not include liquid assets or
24 income that is subject to some oversight such as by a
25 representative payee, under a durable power of attorney, joint
26 ownership, or a trust, or under some other protection.

27 Sec. 5314a. (1) The guardian shall maintain a legally
28 incapacitated individual in the legally incapacitated individual's
29 permanent residence if possible and consistent with the well-being



1 and preferences of the legally incapacitated individual. If a
2 legally incapacitated individual is removed from his or her
3 permanent residence temporarily for any reason, the guardian must
4 make all reasonable efforts to return the legally incapacitated
5 individual to his or her permanent residence at the earliest
6 opportunity consistent with the legally incapacitated individual's
7 wishes. Temporary removal of the legally incapacitated individual
8 from his or her permanent residence for the purpose of receiving
9 health care or supervision, for engaging in family or social
10 activities, or for other reasons including the well-being or
11 convenience of the legally incapacitated individual does not
12 relieve the guardian of the obligations set forth in this section
13 regarding permanent removal from the permanent residence. A
14 guardian shall not primarily consider the guardian's own
15 convenience or benefit when making a decision to remove the legally
16 incapacitated individual from the legally incapacitated
17 individual's permanent residence or selecting a new residence for
18 the legally incapacitated individual.

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

23 (3) If a guardian proposes to move the legally incapacitated
24 individual from his or her permanent residence, the guardian must
25 attempt to consult with the legally incapacitated individual and
26 honor the legally incapacitated individual's preference to the
27 greatest extent possible.

28 (4) In exercising the guardian's power to establish the
29 legally incapacitated individual's place of residence, the guardian



1 shall do both of the following:

2 (a) Select a residential setting the guardian believes the
3 legally incapacitated individual would select if the legally
4 incapacitated individual were able. If the guardian does not know
5 and cannot reasonably determine what setting the legally
6 incapacitated individual would likely select, or the guardian
7 reasonably believes the decision the legally incapacitated
8 individual would make would unreasonably harm or endanger the
9 welfare or personal or financial interests of the legally
10 incapacitated individual, the guardian must choose a residential
11 setting that is consistent with the legally incapacitated
12 individual's best interest.

13 (b) Give priority to a residential setting in a location that
14 will allow the legally incapacitated individual to interact with
15 persons and participate in activities important to the legally
16 incapacitated individual and meet the legally incapacitated
17 individual's needs in the least restrictive manner reasonably
18 feasible.

19 (5) If a guardian removes a legally incapacitated individual
20 from the legally incapacitated individual's permanent residence to
21 another location in this state, the guardian must notify the court
22 and interested persons in writing not later than 14 days after the
23 removal. The notification required under this subsection must
24 include the address of the new permanent residence.

25 (6) A guardian shall not move the legally incapacitated
26 individual out of state without order of the court. If the guardian
27 petitions to move the legally incapacitated individual out of
28 state, a guardian ad litem must be appointed and the court shall
29 schedule a hearing regardless of whether the individual files



1 objections or expresses dissatisfaction with the proposed move. If
2 the legally incapacitated individual files objections or expresses
3 dissatisfaction with the proposed move, the court must appoint
4 legal counsel if the legally incapacitated individual is not
5 already represented by legal counsel.

6 (7) Subject to subsections (9) and (10), and except as
7 otherwise provided in subsection (14), a professional guardian
8 shall not permanently remove a legally incapacitated individual
9 from the legally incapacitated individual's permanent residence
10 unless, subject to subsection (8), the professional guardian files
11 a petition under this subsection and the court grants the petition
12 under subsection (13). A petition under this subsection must be
13 separate from the petition for a finding of incapacity and
14 appointment of guardian under section 5303. A petition under this
15 subsection must include all of the following information:

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

17 (b) The proposed new residence.

18 (c) The reason for the proposed move.

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

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

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

24 (g) Whether the individual objects to or supports the proposed
25 move.

26 (8) If the person petitioning for guardianship under section
27 5303 proposes or anticipates that a professional guardian will be
28 appointed under section 5306, the petitioner or any interested
29 person that believes that it is necessary for the well-being of the



1 alleged incapacitated individual to move the individual permanently
2 from his or her permanent residence may file a petition under
3 subsection (7) seeking authority for a professional guardian, if
4 appointed under section 5306, to permanently remove the alleged
5 incapacitated individual from his or her permanent residence.

6 (9) If a professional guardian determines that to protect the
7 health, safety, or welfare of the legally incapacitated individual,
8 it is necessary to move the legally incapacitated individual from
9 his or her permanent residence to a another residence the
10 professional guardian intends to be permanent before obtaining
11 court approval under subsection (13), the professional guardian may
12 move the legally incapacitated individual. Not later than 14 days
13 after moving the legally incapacitated individual as allowed under
14 this subsection, the professional guardian must file a petition
15 under subsection (7). The petition must include the circumstances
16 that the professional guardian determined made it necessary to move
17 the legally incapacitated individual before filing a petition under
18 subsection (7). If applicable, the petition must include any
19 circumstances to which the legally incapacitated individual or an
20 interested person objects.

21 (10) If, after a temporary stay in a health care facility or
22 at a residence the professional guardian initially intended to be
23 temporary, the professional guardian determines that it is
24 necessary to change to the permanent residence of the legally
25 incapacitated individual, the professional guardian must, not later
26 than 14 days after making the determination, file a petition under
27 subsection (7). The petition must include the circumstances
28 underlying the professional guardian's determination.

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



1 has been filed under subsection (7), the court shall promptly
2 appoint a guardian ad litem and hold the hearing not later than 28
3 days after the petition is filed. The guardian ad litem must, in
4 addition to the other duties set forth in section 5305, do all of
5 the following:

6 (a) Advise the individual that a petition has been filed to
7 move the individual from his or her permanent residence to the new
8 residence identified in the petition or another location the court
9 determines is appropriate.

10 (b) Explain that if the court grants the petition to move the
11 individual, the guardian will have the authority to change the
12 individual's permanent residence to the location specified in the
13 petition or to another location the court determines is
14 appropriate.

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

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

19 (12) If the alleged incapacitated individual or legally
20 incapacitated individual does not already have legal counsel, the
21 court must appoint legal counsel if the individual files an
22 objection to the petition for authority to move the individual from
23 his or her permanent residence under subsection (7) or if the
24 guardian ad litem's report under subsection (11) states that the
25 individual objects to being removed from his or her permanent
26 residence.

27 (13) The court shall not grant a petition for removal from the
28 permanent residence under subsection (7) unless the court, after
29 due consideration and opportunity for testimony on the matter,



1 determines by clear and convincing evidence that moving the legally
2 incapacitated individual from the permanent residence to the
3 residence identified in the petition is 1 or more of the following:

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

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

7 (14) If the legally incapacitated individual must leave the
8 permanent residence because the residence becomes permanently
9 unavailable, the professional guardian must provide at least 14
10 days' prior written notice to the legally incapacitated individual
11 and interested persons if possible under the circumstances or, if
12 less time is available before the legally incapacitated individual
13 must move, notice at the earliest opportunity. The professional
14 guardian shall provide written notice to the court and all
15 interested persons not later than 14 days after the move under this
16 subsection explaining why the permanent residence is no longer
17 available, whether the professional guardian attempted to consult
18 with the legally incapacitated individual about where the legally
19 incapacitated individual wanted to move, whether the professional
20 guardian honored the legally incapacitated individual's preferences
21 regarding where the legally incapacitated individual wanted to
22 move, the address of the new residence, the type of residence, and
23 how the new residence will meet the legally incapacitated
24 individual's needs. If the legally incapacitated individual's
25 residence becomes permanently unavailable, the professional
26 guardian is not required to file a petition under subsection (7)
27 and the court is not required to appoint a guardian ad litem or
28 legal counsel or hold a hearing. For purposes of this subsection, a
29 residence becomes permanently unavailable as a result of a facility



1 closure, removal of the property from the rental market,
2 involuntary discharge, notice to quit, or eviction that cannot be
3 appropriately resolved by the professional guardian, irreparable
4 damage to the permanent residence, or other circumstances that are
5 not initiated by the professional guardian but necessitate the
6 permanent removal of the legally incapacitated individual from his
7 or her permanent residence.

8 (15) If removal from the permanent residence necessitates the
9 sale, transfer, or disposal of real property or sentimental
10 personal property and if meaningful communication is possible, the
11 guardian must consult with the legally incapacitated individual
12 before taking any action to dispose of the property. A guardian
13 shall make all reasonable efforts to identify and honor the legally
14 incapacitated individual's wishes to preserve sentimental personal
15 property in the overall context of the legally incapacitated
16 individual's estate, including items identified in the inventory
17 under section 5314, and shall take reasonable steps to safeguard
18 that personal property. A guardian is not responsible for storage
19 for the legally incapacitated individual's personal property at the
20 guardian's personal expense. The court may remove a guardian that
21 fails to comply with this subsection.

22 (16) As used in this section, "permanent residence" means any
23 of the following:

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

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

29 Sec. 5406. (1) ~~Upon~~ On receipt of a petition for a



1 conservator's appointment or another protective order because of
2 minority, the court shall set a date for hearing. If, at any time
3 in the proceeding, the court determines that the minor's interests
4 are or may be inadequately represented, the court may appoint an
5 attorney to represent the minor, giving consideration to the
6 minor's choice if 14 years of age or older. An attorney appointed
7 by the court to represent a minor has the powers and duties of a
8 guardian ad litem.

9 (2) ~~Upon~~**On** receipt of a petition for a conservator's
10 appointment or another protective order for a reason other than
11 minority, the court shall set a date for **initial** hearing. Unless
12 the individual to be protected has ~~chosen~~**retained legal** counsel,
13 or is mentally competent but aged or physically infirm, the court
14 shall appoint a guardian ad litem. ~~to represent the person in the~~
15 ~~proceeding.~~ If the alleged disability is mental illness, mental
16 deficiency, physical illness or disability, chronic use of drugs,
17 or chronic intoxication, the court may direct that the individual
18 alleged to need protection be examined by a physician or mental
19 health professional appointed by the court, preferably a physician
20 or mental health professional who is not connected with an
21 institution in which the individual is a patient or is detained.
22 The individual alleged to need protection has the right to secure
23 an independent evaluation at his or her own expense. The court may
24 send a visitor to interview the individual to be protected. The
25 visitor may be a guardian ad litem or a court officer or employee.

26 (3) The court may utilize, as an additional visitor, the
27 service of a public or charitable agency to evaluate the condition
28 of the individual to be protected and make appropriate
29 recommendations to the court.



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

5 (a) Consider whether there is an appropriate alternative to a
6 conservatorship.

7 (b) If a conservatorship is appropriate, consider the
8 desirability of limiting the scope and duration of the
9 conservator's authority.

10 (c) Report to the court based on the considerations required
11 in subdivisions (a) and (b).

12 (5) The duties of a guardian ad litem appointed when an
13 individual is alleged to be an individual in need of protection
14 include, but are not limited to, all of the following:

15 (a) Interviewing the individual in person at the individual's
16 location and out of the presence of any interested person.

17 (b) Advising the individual that the guardian ad litem does
18 not represent the individual as an attorney and that no attorney-
19 client relationship has been created, and that statements the
20 individual makes to the guardian ad litem are not privileged and
21 may be communicated to the court or other persons.

22 (c) Explaining to the individual the nature, purpose, and
23 legal effects of a conservator's appointment.

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

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

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

29 (iii) The right to be present at the hearing. If the individual



1 is unable to attend the hearing at the location where court
2 proceedings typically are held, the guardian ad litem shall inform
3 the individual of the individual's right for the hearing to be held
4 at another location or through the use of video conferencing
5 technology.

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

9 (v) The right to be represented by legal counsel of the
10 individual's choice.

11 (vi) The right to have legal counsel appointed for the
12 individual if the individual is unable to secure legal counsel or
13 if the individual is unable to afford legal counsel.

14 (e) Identifying whether the individual wishes to be present at
15 the hearing. If the individual alleged to be in need of protection
16 does not wish to be present at the hearing, the guardian ad litem
17 shall identify the reasons why the individual does not wish to be
18 present.

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

26 (g) Identifying whether the individual plans to retain legal
27 counsel or wishes to have legal counsel appointed.

28 (h) Explaining to the individual that if a conservator is
29 appointed, the conservator may have the power to take certain



1 actions on behalf of the individual. A guardian ad litem must
2 inform the individual that a conservator may have the power to and,
3 if meaningful communication is possible, discern whether the
4 individual objects to a conservator having the power to handle any
5 financial and property matters, including the sale or disposal of
6 personal property and the maintenance of real property.

7 (i) Making determinations, and informing the court of those
8 determinations, on all of the following:

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

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

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

24 (ii) Whether a disagreement or dispute related to the
25 conservatorship petition might be resolved through court-ordered
26 mediation.

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

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



1 (v) Whether the individual wishes limits placed on the
2 conservator's powers.

3 (vi) Whether the individual objects to a particular person
4 being appointed conservator.

5 (vii) If a conservator were appointed, whom the individual
6 would want to serve, in order of preference.

7 (viii) If a conservator were appointed, whom the individual
8 would not want to serve.

9 (6) Subject to subsection (7), a guardian ad litem appointed
10 for an individual alleged to need protection or protected
11 individual shall file a written report with the court and in the
12 form required by the state court administrative office.

13 (7) The guardian ad litem's report required under subsection
14 (6) must include, at least, all of the following:

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

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

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

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

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

25 (f) Whether the individual wishes to be present at the
26 hearing. If the individual wishes to be present at the hearing, the
27 guardian ad litem must include in the report both of the following:

28 (i) Whether the individual has identified a plan for how the
29 individual will attend.



1 (ii) Whether the individual has any barriers to attending court
2 at the place where it is usually held.

3 (iii) If the individual has a barrier to attending, whether the
4 barrier can be resolved by moving the location of the hearing or
5 using assistive technology, or both, or other support.

6 (g) Whether the individual has retained or plans to retain
7 legal counsel or wishes for legal counsel to be appointed. If the
8 individual has not indicated whether the individual wishes to be
9 represented by legal counsel, the guardian ad litem shall include
10 in the report a recommendation whether legal counsel should be
11 appointed to represent the individual.

12 (h) Whether the individual has any of the following:

13 (i) A power of attorney with or without limitations on purpose,
14 authority, or time period.

15 (ii) A patient advocate designation.

16 (iii) A benefits payee, trustee, or other fiduciary.

17 (i) Whether the individual wishes to contest the petition.

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

20 (k) Whether the appointment of a visitor with appropriate
21 knowledge, training, and education such as a social worker, mental
22 health professional, or medical professional could provide the
23 court with the information on whether alternatives to
24 conservatorship or a limited conservatorship under section 5419 is
25 appropriate.

26 (l) If a conservator were appointed, whom the individual would
27 want to serve in order of preference.

28 (m) If a conservator were appointed, whom the individual would
29 not want to serve.



1 (n) Any other information the guardian ad litem determines
2 would be helpful to the court in ruling on the petition.

3 (8) A guardian ad litem shall file the report required under
4 subsection (6) with the court and serve it on all interested
5 persons at least 3 days before the date of the hearing. The court
6 may order the report to be filed and served less than 3 days before
7 the hearing only if the petition is made on an emergency basis
8 under section 5312.

9 (9) The court shall not order compensation of the guardian ad
10 litem unless the guardian ad litem states on the record or in the
11 guardian ad litem's report that the guardian ad litem has complied
12 with subsections (5) to (8).

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

16 (a) The individual requests legal counsel.

17 (b) The individual wishes to contest the petition, to have
18 limits placed on the conservator's powers, or to object to a
19 particular person being appointed conservator.

20 (c) The guardian ad litem determines it is in the individual's
21 best interest to have legal counsel.

22 (11) If the individual alleged to be in need of protection is
23 indigent, the state shall bear the expense of appointed legal
24 counsel under subsection (10).

25 (12) If the individual alleged to be in need of protection has
26 retained legal counsel or if legal counsel has been appointed under
27 subsection (10), the appointment of a guardian ad litem terminates.

28 (13) An individual alleged to be in need of protection has the
29 right to retain legal counsel of the individual's choice at any



1 stage, regardless of a finding regarding the individual's capacity.
 2 Retained legal counsel shall file a substitution of legal counsel
 3 or a motion to substitute if legal counsel has already been
 4 appointed. Retained legal counsel is entitled to reasonable
 5 attorney fees.

6 (14) ~~(5)~~—The individual to be protected is entitled to be
 7 present at the hearing in person. If the individual wishes to be
 8 present at the hearing, all practical steps must be taken to ensure
 9 the individual's presence including, if necessary, moving the site
 10 of the hearing. The individual is entitled to be represented by
 11 legal counsel, to present evidence, to cross-examine witnesses,
 12 including a court-appointed physician or other qualified person and
 13 a visitor, and to trial by jury. The issue may be determined at a
 14 closed hearing or without a jury if the individual to be protected
 15 or legal counsel for the individual so requests.

16 (15) ~~(6)~~—Any person may request ~~for~~ permission to participate
 17 in the proceeding, and the court may grant the request, with or
 18 without hearing, ~~upon~~ **on** determining that the best interest of the
 19 individual to be protected will be served by granting the request.
 20 The court may attach appropriate conditions to the permission.

21 (16) ~~(7)~~—After hearing, ~~upon~~ **on** finding that a basis for a
 22 conservator's appointment or another protective order is
 23 established by clear and convincing evidence, the court shall make
 24 the appointment or other appropriate protective order.

25 Sec. 5417. (1) ~~Within~~ **Not later than** 56 days after appointment
 26 or within another time period specified by court rule, a
 27 conservator shall prepare and file with the appointing court a
 28 complete inventory of the estate subject to the conservatorship
 29 together with an oath or affirmation that the inventory is believed



1 to be complete and accurate so far as information permits. The
2 conservator shall serve the inventory on interested persons and, on
3 reasonable request by the court or an interested person, shall make
4 account statements that reflect the value of depository and
5 investment accounts and that are dated not later than 30 days after
6 the inventory's date available for review by the court or
7 interested person at a time mutually convenient to the conservator
8 and interested person. The conservator shall provide a copy of the
9 inventory to the protected individual if the individual can be
10 located and is 14 years of age or older and to interested persons
11 as specified in the Michigan court rules.

12 (2) The conservator must keep suitable records of the
13 administration and exhibit those records on the request of an
14 interested person.

15 (3) The conservator must make reasonable efforts to identify
16 on the inventory under subsection (1) a reasonable number of items
17 of special personal or sentimental value, including, but not
18 limited to, family heirlooms, photo albums, or collections. To the
19 extent meaningful conversation permits, the conservator must make
20 an inquiry with the protected individual as to what items the
21 protected individual identifies as having special personal or
22 sentimental value. If the conservator is unable to locate an item
23 identified as having special personal or sentimental value at the
24 time of filing the inventory under subsection (1), the conservator
25 must state that on the inventory. The inventory must be signed by
26 the conservator and include an attestation that states, "I
27 represent this list is true and correct to the best of my
28 knowledge, information, and belief at the time of signing. I
29 understand that I must handle this property, like all of the



1 protected individual's property, consistent with my fiduciary
2 duties. This may include sale, disposal, or other actions to meet
3 my fiduciary duties. I am not responsible for storing any items at
4 my expense." A conservator shall make all reasonable efforts to
5 identify and honor the protected individual's wishes to preserve
6 items of special personal or sentimental value in the overall
7 context of the protected individual's estate, including items
8 identified in the inventory and annual accounts, and shall take
9 reasonable steps to safeguard the property. The court may remove a
10 conservator that fails to comply with this subsection. This
11 subsection does not apply if the guardian has already satisfied
12 this requirement in accordance with section 5314(1)(b). This
13 subsection does not apply to a financial institution appointed as a
14 professional conservator. An interested person may petition the
15 court for a hearing regarding the sale or disposition of the ward's
16 property.

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

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

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



1 328.235.

2 (c) The most recent escrow statement issued concerning the
3 prepaid contract.

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

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

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

27 (2) Not later than 56 days after the termination of the
28 protected individual's minority or disability, a conservator shall
29 account to the court or to the formerly protected individual or



1 that individual's successors. Subject to appeal or vacation within
2 the time permitted, an order, after notice and hearing, allowing an
3 intermediate account of a conservator adjudicates as to liabilities
4 concerning the matters considered in connection with the accounts,
5 and an order, after notice and hearing, allowing a final account
6 adjudicates as to all previously unsettled liabilities of the
7 conservator to the protected individual or the protected
8 individual's successors relating to the conservatorship. **The**
9 **conservator shall serve the account under this subsection on**
10 **interested persons and shall make an account statement reflecting**
11 **the value of depository and investment accounts covering the period**
12 **of the accounting and receipts, invoices, or other documentation**
13 **for expenses in excess of \$1,000.00 available for review by the**
14 **court or an interested person on reasonable request at a time**
15 **mutually convenient to the conservator and the interested person.**
16 In connection with any account, the court may require a conservator
17 to submit to a physical check of the estate to be made in any
18 manner the court specifies.

19 (3) If the conservator has disposed of or sold any of the
20 items, the conservator must describe on the account under
21 subsection (1) how the conservator fulfilled the conservator's
22 duties under section 5417(3).

23 (4) If the protected individual's estate includes any
24 merchandise, funeral services, cemetery services, or prepaid
25 contracts for which the protected individual or conservator is the
26 contract buyer or contract beneficiary under the prepaid funeral
27 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, the
28 conservator must file all of the following with the account:

29 (a) A copy of any prepaid contract under the prepaid funeral



1 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235.

2 (b) Proof that payments made under a prepaid contract are held
3 in escrow or under a trust agreement in compliance with the prepaid
4 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
5 328.235.

6 (c) The most recent escrow statement issued concerning the
7 prepaid contract.

8 (d) Proof of any assignments of life policies or annuity
9 contracts made to purchase merchandise, funeral services, or
10 cemetery services under the prepaid funeral and cemetery sales act,
11 1986 PA 255, MCL 328.211 to 328.235.

12 (5) ~~(2)~~—The conservator shall provide a copy of an account to
13 the protected individual if the individual can be located and is 14
14 years of age or older and to interested persons as specified in the
15 Michigan court rules.

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

21 (a) The protected individual requests legal counsel.

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

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

26 Enacting section 1. This amendatory act takes effect 365 days
27 after the date it is enacted into law.

28 Enacting section 2. This amendatory act does not take effect
29 unless all of the following bills of the 102nd Legislature are



1 enacted into law:

2 (a) House Bill No. 4909.

3 (b) House Bill No. 4911.

4 (c) House Bill No. 4912.

