

SENATE BILL No. 786

January 25, 2018, Introduced by Senators WARREN, JONES, BIEDA and BRANDENBURG and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending section 5215 (MCL 700.5215), as amended by 2000 PA 469.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5215. A minor's guardian has the powers and
2 responsibilities of a parent who is not deprived of custody of the
3 parent's minor and unemancipated child, except that a guardian is
4 not legally obligated to provide for the ward from the guardian's
5 own money and is not liable to third persons ~~by reason~~ **BECAUSE** of
6 the parental relationship for the ward's acts. A guardian has all
7 of the following powers and duties:

8 (a) The guardian shall take reasonable care of a ward's
9 personal effects and commence a protective proceeding if necessary
10 to protect the ward's other property. If a guardian commences a

1 protective proceeding because the guardian believes that it is in
2 the ward's best interest to sell or otherwise dispose of the ward's
3 real property or interest in real property, the court may appoint
4 the guardian as special conservator and authorize the special
5 conservator to proceed under section 5423(3). A guardian shall not
6 otherwise sell the ward's real property or interest in real
7 property.

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

25 (c) The guardian shall facilitate the ward's education and
26 social or other activities, and shall authorize medical or other
27 professional care, treatment, or advice. A guardian is not liable

1 ~~by reason~~ **BECAUSE** of this consent for injury to the ward resulting
2 from the negligence or acts of third persons unless it would be
3 illegal for a parent to have consented.

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

5 (e) Subject to the conditions and restrictions of chapter X of
6 the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, a
7 guardian may consent to marriage or adoption of a minor ward or to
8 the release of a minor ward for adoption.

9 (f) A guardian must report the condition of the ward and of
10 the ward's estate that is subject to the guardian's possession or
11 control as ordered by the court on petition of a person interested
12 in the minor's welfare or as required by court rule. The report
13 must detail the condition of the ward, medical or mental health
14 treatment or care to which the ward was subjected, and what reason,
15 if any, exists for the continuation of the guardianship.

16 (g) Within 14 days after a change in the ward's place of
17 residence, the guardian shall give to the court notice of the
18 ward's new address.

19 **(H) A GUARDIAN MAY EXECUTE A DO-NOT-RESUSCITATE ORDER ON**
20 **BEHALF OF THE WARD.**

21 Enacting section 1. This amendatory act does not take effect
22 unless Senate Bill No. 784

23 of the 99th Legislature is enacted into law.