

**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), section 5305 as amended by 2017 PA 155, section 5314 as amended by 2018 PA 594, 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~~ **Subject to subsection (2),** the duties of a
2 guardian ad litem appointed ~~for~~ **when** an individual **is** alleged to be
3 incapacitated include all of the following:

4 ~~(a) Personally visiting the individual.~~

5 ~~(b) Explaining to the individual the nature, purpose, and~~



1 ~~legal effects of a guardian's appointment.~~

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

5 ~~(i) The right to contest the petition.~~

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

9 ~~(A) A do not resuscitate order.~~

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

11 ~~(iii) The right to object to a particular person being appointed~~
 12 ~~guardian.~~

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

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

15 ~~(vi) The right to have legal counsel appointed for the~~
 16 ~~individual if he or she is unable to afford legal counsel.~~

17 ~~(d) Informing the individual that if a guardian is appointed,~~
 18 ~~the guardian may have the power to execute a do-not-resuscitate~~
 19 ~~order on behalf of the individual and, if meaningful communication~~
 20 ~~is possible, discern if the individual objects to having a do-not-~~
 21 ~~resuscitate order executed on his or her behalf.~~

22 ~~(e) Informing the individual that if a guardian is appointed,~~
 23 ~~the guardian may have the power to execute a physician orders for~~
 24 ~~scope of treatment form on behalf of the individual and, if~~
 25 ~~meaningful communication is possible, discern if the individual~~
 26 ~~objects to having a physician orders for scope of treatment form~~
 27 ~~executed on his or her behalf.~~

28 ~~(f) Informing the individual of the name of each person known~~
 29 ~~to be seeking appointment as guardian.~~



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

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

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

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

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

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

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

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



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

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

4 ~~(vi) Whether the individual objects to having a do-not-~~
 5 ~~resuscitate order executed on his or her behalf.~~

6 ~~(vii) Whether the individual objects to having a physician~~
 7 ~~orders for scope of treatment form executed on his or her behalf.~~

8 ~~(viii) Whether the individual objects to a particular person~~
 9 ~~being appointed guardian.~~

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

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

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

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



1 (a) Impartially gather information as provided by law.

2 (b) Seek information from the individual and, if communication
3 is possible, communicate in a manner the individual is best able to
4 understand. If communication is not possible or there is a barrier
5 to communication, the guardian ad litem must note that in the
6 report under subsection (3).

7 (c) Interview the individual in person at the individual's
8 location and out of the presence of any interested person.

9 (d) Advise the individual that the guardian ad litem does not
10 represent the individual as an attorney and that no attorney-client
11 relationship has been created.

12 (e) Identify whether the individual wishes to be present at
13 the hearing. If the allegedly incapacitated individual does not
14 wish to be present at the hearing, the guardian ad litem shall
15 identify the reasons why the individual does not wish to be
16 present.

17 (f) Identify any barrier to attending hearings at the place
18 where court is held or otherwise fully participating in the
19 hearing, including the need for assistive technology,
20 transportation, or other support. If the allegedly incapacitated
21 individual wishes to attend, the guardian ad litem must identify
22 whether the individual has identified a plan for how the individual
23 will attend.

24 (g) Identify whether the individual plans to retain legal
25 counsel or wants appointed legal counsel. If the allegedly
26 incapacitated individual does not plan to retain legal counsel or
27 request appointed legal counsel, the guardian ad litem must make a
28 recommendation as to whether legal counsel should be appointed.

29 (h) Identify whether a disagreement or dispute related to the



1 petition might be resolved through court-ordered mediation.

2 (2) The duties of a guardian ad litem appointed when an
3 individual is alleged to be incapacitated or a legally
4 incapacitated individual include all of the following, as
5 applicable:

6 (a) Explain to the individual the nature, purpose, and legal
7 effects of a guardian's appointment.

8 (b) Explain who has filed the petition and who, if anyone, has
9 been nominated as guardian.

10 (c) Explain to the individual the hearing procedure and the
11 individual's rights in the hearing procedure, as identified in
12 section 5306a, including, but not limited to, the following:

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

14 (ii) The right to request limits on the guardian's powers.

15 (iii) The right to be present at the hearing. If the individual
16 is unable to attend the hearing at the location court proceedings
17 typically are held, the guardian ad litem shall inform the
18 individual of his or her right for the hearing at another location.

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

22 (v) The right to be represented by legal counsel of the
23 individual's choice. If the individual is unable to secure legal
24 counsel of his or her choice, the right to have legal counsel
25 appointed by the court.

26 (vi) The right to request an independent medical evaluation.

27 (d) Explain to the individual that if a guardian is appointed,
28 the guardian may have the power to take certain actions on behalf
29 of the individual. A guardian ad litem must inform the individual



1 that a guardian may have any of the following powers and, if
2 meaningful communication is possible, discern if the individual
3 objects to a guardian having any of the following powers:

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

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

6 (iii) Consenting to any medical treatment.

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

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

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

13 (e) Identify whether the individual objects to the particular
14 person proposed as guardian, if any.

15 (f) If a guardian were to be appointed, identify a list of
16 whom the individual would want to serve, in order of preference.

17 (g) If a guardian were to be appointed, identify whom the
18 individual would not want to serve.

19 (3) Subject to subsections (4) and (5), a guardian ad litem
20 appointed for an individual alleged to be incapacitated or a
21 legally incapacitated individual shall file a written report with
22 the court and in the form required by the state court
23 administrative office.

24 (4) If an individual who is subject to an initial petition
25 under this part, petition to terminate under this part, or petition
26 to modify under this part contests the petition, the guardian ad
27 litem's written report required under subsection (3) must include
28 only the following:

29 (a) That the individual contests the petition.



1 (b) Whether the individual has retained legal counsel or
2 wishes for legal counsel to be appointed.

3 (c) Whether the individual has any barriers to attending court
4 at the place where it is usually held.

5 (d) If a guardian were appointed, who the individual would
6 want to serve in order of preference.

7 (e) If a guardian were appointed, who the individual would not
8 want to serve.

9 (f) Any other information the guardian ad litem determines
10 would be helpful to the court in ruling on the petition.

11 (5) If an individual who is subject to an initial petition
12 under this part, petition to terminate under this part, or petition
13 to modify under this part does not contest the petition, the
14 guardian ad litem's report required under subsection (3) must
15 include only the following:

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

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

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

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

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

26 (f) Whether the individual wishes to be present at the
27 hearing. If the individual wishes to be present at the hearing but
28 has a barrier to fully participating, the guardian ad litem must
29 include in the written report whether the barrier can be resolved



1 by moving the location of the hearing or using assistive
2 technology, or both, or other support.

3 (g) Whether the individual has identified a plan for how the
4 individual will attend.

5 (h) Whether the individual plans to retain legal counsel or
6 has requested appointed legal counsel. If the individual has not
7 indicated he or she wishes to be represented by legal counsel, the
8 guardian ad litem shall include in the written report a
9 recommendation as to whether legal counsel should be appointed to
10 represent the individual.

11 (i) Whether the individual has any of the following:

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

14 (ii) A patient advocate designation.

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

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

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

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

24 (l) If a guardian were appointed, who the individual would want
25 to serve in order of preference.

26 (m) If a guardian were appointed, who the individual would not
27 want to serve.

28 (n) An estimate of the liquid assets as that term is defined
29 in section 5314, income, real property, and a description of



1 personal property to the extent known after reasonable inquiry.

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

4 (6) If a guardian ad litem is appointed for any purpose other
5 than an initial petition under this part, petition to terminate
6 under this part, or petition to modify under this part, the
7 guardian ad litem must provide a written report to the court that
8 includes, at a minimum, the information described in subsection (4)
9 or (5), as applicable, and any other information required by law. A
10 special limited guardian ad litem appointed under subsection (13)
11 is not required to provide a written report unless ordered to do so
12 by the court under subsection (13).

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

19 (8) The court may receive into evidence without testimony the
20 written report of the guardian ad litem required under subsection
21 (3) if the report is filed with the court and served on all
22 interested persons not less than 5 days before the hearing. The
23 guardian ad litem is required to report findings until the date of
24 the termination of the guardian ad litem. The court may issue on
25 its own initiative, or any interested person may secure, a subpoena
26 to compel the preparer of the report to testify. On request of any
27 interested person, the court shall issue a subpoena to compel the
28 preparer of the report to testify.

29 (9) The court shall not order compensation of the guardian ad



1 litem unless the guardian ad litem states in the guardian ad
2 litem's written report that the guardian ad litem complied with
3 subsections (2) to (7), as applicable.

4 (10) The court shall not appoint a person that was previously
5 appointed as guardian ad litem as legal counsel for the individual
6 if the guardian ad litem's report under subsection (3) or
7 recommendation to the court conflicts with the wishes of the
8 individual.

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

12 (a) The individual requests legal counsel.

13 (b) The individual objects to any part of the petition for
14 guardianship or potential authority of a guardian.

15 (c) The guardian ad litem determines it is in the individual's
16 best interest to have legal counsel if legal counsel has not been
17 secured. If the individual who is subject to the petition is
18 indigent, this state shall bear the expense of appointed legal
19 counsel under this subsection.

20 (12) If an individual who is subject to a petition under this
21 part has legal counsel appointed or retained, the appointment of a
22 guardian ad litem terminates. The report of the guardian ad litem
23 must not be admitted into evidence after the appearance or
24 appointment of legal counsel for the individual who is subject to
25 the petition.

26 (13) After appointment or retention of legal counsel for the
27 individual who is subject to the petition under this part, the
28 court may, for good cause shown, appoint a special limited guardian
29 ad litem to provide information on a narrowly defined issue that



1 will likely otherwise be inadequately addressed. A special guardian
 2 ad litem is exempt from subsections (2) to (6). The court may order
 3 that a special limited guardian ad litem appointed under this
 4 subsection provide a written report. The report under this
 5 subsection must contain the information the court considers
 6 necessary to adequately address the issue leading to the
 7 appointment of the special limited guardian ad litem. A special
 8 limited guardian ad litem shall not communicate directly with the
 9 individual who is subject to the petition and must instead
 10 communicate through legal counsel to the individual who is subject
 11 to the petition, unless legal counsel otherwise gives consent.

12 (14) An individual alleged to be incapacitated has the right
 13 to retain legal counsel of his or her choice at any stage,
 14 regardless of findings regarding his or her capacity. Retained
 15 legal counsel shall file a substitution of legal counsel or a
 16 motion to substitute if legal counsel has already been appointed.
 17 Retained legal counsel is entitled to reasonable attorney fees.

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

29 (a) ~~The Subject to section 5314a, the~~ custody of the person of



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

9 (i) The guardian shall visit the ward in person not later than
 10 1 month after the guardian's appointment and not less than once
 11 within 3 months after each in-person visit. The guardian shall also
 12 visit the ward using both audio and video technology, or if that
 13 technology is not available, only audio means, each month in which
 14 an in-person visit does not occur. If the ward is unable to
 15 communicate using audio and visual or audio-only means, the
 16 guardian shall communicate with the ward's caregivers or any other
 17 party who is familiar with the ward's circumstances and can apprise
 18 the guardian of the ward's needs and progress. If the guardian
 19 determines that audio and visual visits or audio-only visits are
 20 not possible or that the ward is unable to communicate through
 21 audiovisual means, the records the guardian must maintain must also
 22 identify the circumstances that required the guardian to rely on an
 23 audio-only visit or that required the guardian to consult with
 24 caregivers or others instead of communicating directly with the
 25 ward. The guardian shall maintain records relating to the date,
 26 time, duration, and significant information for each required
 27 visit. The guardian shall make the records available for the
 28 court's review and for review of interested persons.

29 (ii) If the guardian is a limited guardian, the visitation



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

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

16 (iv) If the guardian is a professional guardian and the
17 professional guardian employs 2 or more employees who hold a
18 license issued under part 5A of this article, the designated
19 decision maker under section 5313(4) shall not delegate the
20 required in-person visits under subparagraph (i) to another person.
21 The designated decision maker may delegate the required audio-
22 visual or audio-only visits under subparagraph (i) to another
23 licensed employee only if the designated decision maker is
24 unavailable to conduct the audio-visual or audio-only visits. If
25 the designated decision maker delegates a visit requirement to
26 another licensed employee as allowed under this subparagraph, the
27 licensed employee who conducts the visit must prepare and submit a
28 written report consistent with the requirements under subparagraph
29 (i) to the designated decision maker.



1 (v) If the guardian is an individual professional guardian,
2 the professional guardian shall not delegate the required in-person
3 visits under subparagraph (i) to another person.

4 (b) If entitled to custody of the ward, the duty to make
5 provision for the ward's care, comfort, and maintenance and, when
6 appropriate, arrange for the ward's training and education. The
7 guardian shall secure services to restore the ward to the best
8 possible state of mental and physical well-being so that the ward
9 can return to self-management at the earliest possible time. **The**
10 **guardian shall make a reasonable effort to identify a reasonable**
11 **number of items of personal or sentimental value, including, but**
12 **not limited to, family heirlooms, photo albums, and collections.**
13 **Not later than 56 days after appointment, the guardian shall serve**
14 **on all interested persons a list of the identified items. The list**
15 **must be signed by the guardian and include an attestation that**
16 **states, "I represent this list is true and correct to the best of**
17 **my knowledge, information, and belief at the time of signing. I**
18 **understand that I must handle this property, like all of the ward's**
19 **property for which I am responsible, consistent with my fiduciary**
20 **duties. This may include sale, disposal, or other actions to meet**
21 **my fiduciary duties. I am not responsible for storing any items at**
22 **my own expense."** Without regard to custodial rights of the ward's
23 person, the guardian shall take reasonable care of the ward's
24 clothing, furniture, vehicles, and other personal effects and
25 commence a protective proceeding if the ward's other property needs
26 protection. If a guardian commences a protective proceeding because
27 the guardian believes that it is in the ward's best interest to
28 sell or otherwise dispose of the ward's real property or interest
29 in real property, the court may appoint the guardian as special



1 conservator and authorize the special conservator to proceed under
2 section 5423(3). A guardian shall not otherwise sell the ward's
3 real property or interest in real property.

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

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

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



1 resuscitate order.

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

5 (e) If a guardian executes a do-not-resuscitate order under
6 subdivision (d), not less than annually after the do-not-
7 resuscitate order is first executed, the duty to do all of the
8 following:

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

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

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

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

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

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

28 (h) If a guardian executes a physician orders for scope of
29 treatment form under subdivision ~~(f)~~, **(g)**, not less than annually



1 after the physician orders for scope of treatment is first
2 executed, the duty to do all of the following:

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

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

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

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

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

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

26 (j) The duty to report the condition of the ward and the
27 ward's estate that is subject to the guardian's possession or
28 control, as required by the court, but not less often than
29 annually. The guardian shall also serve the report required under



1 this subdivision on the ward and interested persons as specified in
2 the Michigan court rules. A report under this subdivision must
3 contain all of the following:

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

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

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

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

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

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

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

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

22 (ix) Services received by the ward.

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

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

27 (k) If a conservator is appointed, the duty to pay to the
28 conservator, for management as provided in this act, the amount of
29 the ward's estate received by the guardian in excess of the amount



1 the guardian expends for the ward's current support, care, and
 2 education. The guardian shall account to the conservator for the
 3 amount expended.

4 (2) If a conservator has not been appointed for the ward, and
 5 if the ward's qualified estate is greater than 400% of the federal
 6 poverty level, the guardian must file a petition for
 7 conservatorship under part 4. This subsection does not prevent the
 8 appointment of a conservator for the ward if the ward's qualified
 9 estate is less than 400% of the federal poverty level. As used in
 10 this subsection:

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

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

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

28 (d) Ward's qualified estate does not include liquid assets or
 29 income that is subject to some oversight such as a representative



1 payee, durable power of attorney, joint ownership, trust, or other
2 protection.

3 Sec. 5314a. (1) The guardian shall maintain a legally
4 incapacitated individual in the legally incapacitated individual's
5 permanent residence if possible and consistent with the well-being
6 and preferences of the legally incapacitated individual. If a
7 legally incapacitated individual is removed from his or her
8 permanent residence temporarily for any reason, the guardian must
9 make all reasonable efforts to return the legally incapacitated
10 individual to his or her permanent residence at the earliest
11 opportunity consistent with the legally incapacitated individual's
12 wishes. Temporary removal of the legally incapacitated individual
13 from his or her permanent residence for the purpose of receiving
14 health care or supervision, for engaging in family or social
15 activities, or for other reasons including the well-being or
16 convenience of the legally incapacitated individual does not
17 relieve the guardian of the obligations set forth in this section
18 regarding permanent removal from the permanent residence. A
19 guardian shall not primarily consider the guardian's own
20 convenience or benefit when making a decision to remove the legally
21 incapacitated individual from the legally incapacitated
22 individual's permanent residence or selecting a new residence for
23 the legally incapacitated individual.

24 (2) A guardian shall explore reasonably available and
25 affordable supports and services that could enable the legally
26 incapacitated individual to remain in his or her permanent
27 residence.

28 (3) If a guardian proposes to move the legally incapacitated
29 individual from his or her permanent residence, the guardian must



1 attempt to consult with the legally incapacitated individual and
2 honor the legally incapacitated individual's preference to the
3 greatest extent possible.

4 (4) In exercising the guardian's power to establish the
5 legally incapacitated individual's place of residence, the guardian
6 shall do both of the following:

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

18 (b) Give priority to a residential setting in a location that
19 will allow the legally incapacitated individual to interact with
20 persons and participate in activities important to the legally
21 incapacitated individual and meet the legally incapacitated
22 individual's needs in the least restrictive manner reasonably
23 feasible.

24 (5) If a guardian that is not a professional guardian removes
25 a legally incapacitated individual from the legally incapacitated
26 individual's permanent residence to another location in this state,
27 the guardian must notify the court in writing not later than 14
28 days after the removal. The notification required under this
29 subsection must include the address of the new permanent residence.



1 (6) A guardian shall not move the legally incapacitated
2 individual out of state without order of the court. If the guardian
3 petitions to move the legally incapacitated individual out of
4 state, a guardian ad litem must be appointed and the court shall
5 schedule a hearing regardless of whether the individual files
6 objections or expresses dissatisfaction with the proposed move. If
7 the legally incapacitated individual files objections or expresses
8 dissatisfaction with the proposed move, the court must appoint
9 legal counsel if the legally incapacitated individual is not
10 already represented by legal counsel.

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

- 21 (a) The individual's current permanent residence.
22 (b) The proposed new residence.
23 (c) The reason for the proposed move.
24 (d) Whether the move is to a more or less restrictive setting.
25 (e) The efforts made or resources explored to enable the
26 individual to remain in his or her current permanent residence.
27 (f) Whether the guardian has engaged in meaningful
28 communication with the individual about the proposed move.
29 (g) Whether the individual objects to or supports the proposed



1 move.

2 (8) If the person petitioning for guardianship under section
 3 5303 proposes or anticipates that a professional guardian will be
 4 appointed under section 5306, the petitioner or any interested
 5 person that believes that it is necessary for the well-being of the
 6 alleged incapacitated individual to move the individual permanently
 7 from his or her permanent residence may file a petition under
 8 subsection (7) seeking authority for a professional guardian, if
 9 appointed under section 5306, to permanently remove the alleged
 10 incapacitated individual from his or her permanent residence.

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

24 (10) If, after a temporary stay in a health care facility or
 25 at a residence the professional guardian initially intended to be
 26 temporary, the professional guardian determines that it is
 27 necessary to change to the permanent residence of the legally
 28 incapacitated individual, the professional guardian must, not later
 29 than 14 days after making the determination, file a petition under



1 subsection (7). The petition must include the circumstances
2 underlying the professional guardian's determination.

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

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

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

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

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

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



1 (13) The court shall not grant a petition for removal from the
2 permanent residence under subsection (7) unless the court, after
3 due consideration and opportunity for testimony on the matter,
4 determines by clear and convincing evidence that moving the legally
5 incapacitated individual from the permanent residence to the
6 residence identified in the petition is 1 or more of the following:

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

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

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



1 appoint a guardian ad litem or legal counsel or hold a hearing. For
2 purposes of this subsection, a residence becomes permanently
3 unavailable as a result of a facility closure, removal of the
4 property from the rental market, involuntary discharge, notice to
5 quit, or eviction that cannot be appropriately resolved by the
6 professional guardian, irreparable damage to the permanent
7 residence, or other circumstances that are not initiated by the
8 professional guardian but necessitate the permanent removal of the
9 legally incapacitated individual from his or her permanent
10 residence.

11 (15) If removal from the permanent residence necessitates the
12 sale, transfer, or disposal of real property or sentimental
13 personal property and if meaningful communication is possible, the
14 guardian must consult with the legally incapacitated individual
15 before taking any action to dispose of the property. A guardian
16 shall make all reasonable efforts to identify and honor the legally
17 incapacitated individual's wishes to preserve sentimental personal
18 property in the overall context of the legally incapacitated
19 individual's estate, including items identified in the inventory
20 under section 5314, and shall take reasonable steps to safeguard
21 that personal property. The court may remove a guardian that fails
22 to comply with this subsection.

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

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

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



1 Sec. 5406. (1) ~~Upon~~**On** receipt of a petition for a
2 conservator's appointment or another protective order because of
3 minority, the court shall set a date for hearing. If, at any time
4 in the proceeding, the court determines that the minor's interests
5 are or may be inadequately represented, the court may appoint an
6 attorney to represent the minor, giving consideration to the
7 minor's choice if 14 years of age or older. An attorney appointed
8 by the court to represent a minor has the powers and duties of a
9 guardian ad litem.

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

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



1 recommendations to the court.

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

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

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

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

13 (5) Subject to subsection (6), the duties of a guardian ad
14 litem appointed under subsection (2) for an individual alleged to
15 need protection include all of the following:

16 (a) Impartially gather information as provided by law.

17 (b) Seek information from the individual and, if communication
18 is possible, communicate in a manner the individual is best able to
19 understand. If communication is not possible or there is a barrier
20 to communication, the guardian ad litem must note that in the
21 report.

22 (c) Interview the individual in person at the individual's
23 location and out of the presence of any interested person.

24 (d) Advise the individual that the guardian ad litem does not
25 represent the individual as an attorney and that no attorney-client
26 relationship has been created.

27 (e) Identify whether the individual wishes to be present at
28 the hearing. If the individual alleged to need protection does not
29 wish to be present at the hearing, the guardian ad litem shall



1 identify the reasons why the individual does not wish to be
2 present.

3 (f) Identify any barrier to attending hearings at the place
4 where court is held or otherwise fully participating in the
5 hearing, including the need for assistive technology,
6 transportation, or other support. If the individual alleged to need
7 protection wishes to attend, the guardian ad litem must identify
8 whether the individual has identified a plan for how the individual
9 will attend.

10 (g) Identify whether the individual plans to retain legal
11 counsel or wants appointed legal counsel. If the individual alleged
12 to need protection does not plan to retain legal counsel or request
13 appointed legal counsel, the guardian ad litem must make a
14 recommendation as to whether legal counsel should be appointed.

15 (h) Identify whether a disagreement or dispute related to the
16 petition might be resolved through court-ordered mediation.

17 (6) The duties of a guardian ad litem appointed for an
18 individual alleged to need protection or a protected individual
19 include all of the following, as applicable:

20 (a) Explain to the individual the nature, purpose, and legal
21 effects of a conservator's appointment or issuance of a protective
22 order.

23 (b) Explain who has filed the petition and who, if anyone, has
24 been nominated as conservator, if applicable.

25 (c) Explain to the individual the hearing procedure and the
26 individual's rights in the hearing procedure, including, but not
27 limited to, the following:

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

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



1 (iii) The right to be present at the hearing. If the individual
2 is unable to attend the hearing at the location court proceedings
3 typically are held, the guardian ad litem shall inform the
4 individual of his or her right to have the hearing at another
5 location.

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. If the individual is unable to secure legal
11 counsel of his or her choice, the guardian ad litem shall explain
12 to the individual that he or she has the right to have legal
13 counsel appointed by the court.

14 (vi) The right to request an independent medical evaluation.

15 (d) Explain to the individual that if a conservator is
16 appointed, the conservator may have the power to take certain
17 actions on behalf of the individual. A guardian ad litem must
18 inform the individual that a conservator may have any of the powers
19 described in section 5407 and, if meaningful communication is
20 possible, discern if the individual objects to a conservator having
21 any of those powers.

22 (e) Identify whether the individual objects to the particular
23 person proposed as conservator, if any.

24 (f) If a conservator were to be appointed, identify a list of
25 who the individual would want to serve, in order of preference.

26 (g) If a conservator were to be appointed, identify who the
27 individual would not want to serve.

28 (7) A guardian ad litem appointed for an individual alleged to
29 need protection or a protected individual shall file a written



1 report with the court in the form required by the state court
2 administrative office.

3 (8) If an individual who is subject to an initial petition
4 under this part, petition to terminate under this part, or petition
5 to modify under this part contests the petition, the guardian ad
6 litem's written report required under subsection (7) must include
7 only the following:

8 (a) That the individual contests the petition.

9 (b) Whether the individual has retained legal counsel or
10 wishes for legal counsel to be appointed.

11 (c) Whether the individual has any barriers to attending court
12 at the place where it is usually held.

13 (9) If an individual who is subject to an initial petition
14 under this part, petition to terminate under this part, or petition
15 to modify under this part does not contest the petition, the
16 guardian ad litem's written report required under subsection (7)
17 must include only the following:

18 (a) The date and time the guardian ad litem met with the
19 individual.

20 (b) The length of time the guardian ad litem met with the
21 individual.

22 (c) The location where the guardian ad litem met with the
23 individual.

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

26 (e) Who, if anyone, was present for the interview besides the
27 individual.

28 (f) Whether the individual wishes to be present at the
29 hearing. If the individual wishes to be present at the hearing but



1 has a barrier to fully participating, the guardian ad litem must
2 include in the written report whether the barrier can be resolved
3 by moving the location of the hearing or using assistive
4 technology, or both, or other support.

5 (g) Whether the individual has identified a plan for how the
6 individual will attend.

7 (h) Whether the individual plans to retain legal counsel or
8 has requested appointed legal counsel. If the individual has not
9 indicated he or she wishes to be represented by legal counsel, the
10 guardian ad litem shall include in the written report a
11 recommendation as to whether legal counsel should be appointed to
12 represent the individual.

13 (i) Whether the individual has any of the following:

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

16 (ii) A patient advocate designation.

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

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

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

22 (k) Whether the appointment of a visitor with appropriate
23 knowledge, training, and education such as a social worker, mental
24 health professional, or medical professional could provide the
25 court with the information on whether alternatives to
26 conservatorship or a limited conservatorship under section 5419(1)
27 is appropriate.

28 (l) For an initial petition under this part, if a conservator
29 were appointed, who the individual would want to serve in order of



1 preference.

2 (m) For an initial petition under this part, if a conservator
3 were appointed, who the individual would not want to serve.

4 (n) An estimate of the liquid assets as that term is defined
5 in section 5314, income, real property, and a description of
6 personal property to the extent known after reasonable inquiry.

7 (10) If a guardian ad litem is appointed for any purpose other
8 than an initial petition under this part, petition to terminate
9 under this part, or petition to modify under this part, the
10 guardian ad litem must provide a written report to the court that
11 includes, at a minimum, the information described in subsection
12 (5), (6), (8), or (9), as applicable, and any other information
13 required by law. A special limited guardian ad litem appointed
14 under subsection (16) is not required to provide a written report
15 unless ordered to do so by the court.

16 (11) The court may receive into evidence without testimony the
17 written report of the guardian ad litem required under subsection
18 (7) if the report is filed with the court and served on all
19 interested persons not less than 5 days before the hearing. The
20 guardian ad litem is required to report findings until the date of
21 the termination of the guardian ad litem. The court may issue on
22 its own initiative, or any interested person may secure, a subpoena
23 to compel the preparer of the report to testify. On request of any
24 interested person, the court must issue a subpoena to compel the
25 preparer of the report to testify.

26 (12) A guardian ad litem shall file any report required under
27 this section with the court and serve the report on all interested
28 persons at least 5 days before the hearing. The court shall not
29 order compensation of the guardian ad litem unless the guardian ad



1 litem states in the guardian ad litem's written report that the
2 guardian ad litem complied with this subsection.

3 (13) The court shall not appoint a guardian ad litem as legal
4 counsel for the individual if the guardian ad litem's report under
5 subsection (7) or recommendation to the court conflicts with the
6 wishes of the individual.

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

10 (a) The individual who is subject to the petition requests
11 legal counsel.

12 (b) The individual who is subject to the petition objects to
13 any part of the petition for conservatorship or potential authority
14 of a conservator.

15 (c) The guardian ad litem determines it is in the best
16 interest of the individual subject to the petition to have legal
17 counsel and, if legal counsel has not been secured, the court shall
18 appoint legal counsel. If the individual who is subject to the
19 petition is indigent, this state shall bear the expense of
20 appointed legal counsel.

21 (15) If an individual who is subject to a petition under this
22 part has legal counsel appointed or retained, the appointment of a
23 guardian ad litem terminates. The report of the guardian ad litem
24 under subsection (7) must not be admitted into evidence after the
25 appearance or appointment of legal counsel for the individual who
26 is subject to the petition.

27 (16) After appointment or retention of legal counsel for the
28 individual who is subject to the petition under this part, the
29 court may, for good cause shown, appoint a special limited guardian



1 ad litem to provide information on a narrowly defined issue that
 2 will likely otherwise be inadequately addressed. A special guardian
 3 ad litem is exempt from subsections (5) to (10). The court may
 4 order that a special limited guardian ad litem provide a written
 5 report. The report under this subsection must contain the
 6 information the court considers necessary to adequately address the
 7 issue leading to the appointment of the special limited guardian ad
 8 litem. A special limited guardian ad litem shall not communicate
 9 directly with the individual who is subject to the petition and
 10 must instead communicate through legal counsel to the individual
 11 who is subject to the petition, unless legal counsel otherwise
 12 gives consent.

13 (17) ~~(5)~~—The individual to be protected is entitled to be
 14 present at the hearing in person. If the individual wishes to be
 15 present at the hearing, all practical steps must be taken to ensure
 16 the individual's presence including, if necessary, moving the site
 17 of the hearing. The individual is entitled to be represented by
 18 **legal** counsel, to present evidence, to cross-examine witnesses,
 19 including a court-appointed physician or other qualified person and
 20 a visitor, and to trial by jury. The issue may be determined at a
 21 closed hearing or without a jury if the individual to be protected
 22 or **legal** counsel for the individual so requests.

23 (18) ~~(6)~~—Any person may request ~~for~~ permission to participate
 24 in the proceeding, and the court may grant the request, with or
 25 without hearing, ~~upon~~**on** determining that the best interest of the
 26 individual to be protected will be served by granting the request.
 27 The court may attach appropriate conditions to the permission.

28 (19) ~~(7)~~—After hearing, ~~upon~~**on** finding that a basis for a
 29 conservator's appointment or another protective order is



1 established by clear and convincing evidence, the court shall make
2 the appointment or other appropriate protective order.

3 Sec. 5417. (1) ~~Within~~ **Not later than** 56 days after appointment
4 or within another time period specified by court rule, a
5 conservator shall prepare and file with the appointing court a
6 complete inventory of the estate subject to the conservatorship
7 together with an oath or affirmation that the inventory is believed
8 to be complete and accurate so far as information permits. **The**
9 **conservator shall serve on interested persons, along with the**
10 **inventory, account statements with account numbers redacted that**
11 **reflect the value of depository and investment accounts dated not**
12 **later than 30 days after the inventory's date.** The conservator
13 shall provide a copy of the inventory to the protected individual
14 if the individual can be located and is 14 years of age or older
15 and to interested persons as specified in the Michigan court rules.

16 (2) The conservator must keep suitable records of the
17 administration and exhibit those records on the request of an
18 interested person.

19 (3) **The conservator must make reasonable efforts to identify**
20 **on the inventory under subsection (1) a reasonable number of items**
21 **of special personal or sentimental value, including, but not**
22 **limited to, family heirlooms, photo albums, or collections. To the**
23 **extent meaningful conversation permits, the conservator must make**
24 **an inquiry with the protected individual as to what items the**
25 **protected individual identifies as having special personal or**
26 **sentimental value. If the conservator is unable to locate an item**
27 **identified as having special personal or sentimental value at the**
28 **time of filing the inventory under subsection (1), the conservator**
29 **must state that on the inventory. The inventory must be signed by**



1 the conservator and include an attestation that states, "I
2 represent this list is true and correct to the best of my
3 knowledge, information, and belief at the time of signing. I
4 understand that I must handle this property, like all of the
5 protected individual's property, consistent with my fiduciary
6 duties. This may include sale, disposal, or other actions to meet
7 my fiduciary duties. I am not responsible for storing any items at
8 my expense.". A conservator shall make all reasonable efforts to
9 identify and honor the protected individual's wishes to preserve
10 items of special personal or sentimental value in the overall
11 context of the protected individual's estate, including items
12 identified in the inventory and annual accounts, and shall take
13 reasonable steps to safeguard the property. The court may remove a
14 conservator that fails to comply with this subsection. This
15 subsection does not apply to a financial institution appointed as a
16 professional conservator.

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, or substantially similar. The account must detail assets**
25 **including those identified in the inventory under section 5417,**
26 **debts, gross income, and 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. In
9 connection with any account, the court may require a conservator to
10 submit to a physical check of the estate to be made in any manner
11 the court specifies.

12 (3) If the conservator has disposed of or sold any of the
13 items, the conservator must describe on the account under
14 subsection (1) how the conservator fulfilled the conservator's
15 duties under section 5417(3).

16 (4) If the protected individual's estate includes any
17 merchandise, funeral services, cemetery services, or prepaid
18 contracts for which the protected individual or conservator is the
19 contract buyer or contract beneficiary under the prepaid funeral
20 and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, the
21 conservator must file all of the following with the account:

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

24 (b) Proof that payments made under a prepaid contract are held
25 in escrow or under a trust agreement in compliance with the prepaid
26 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to
27 328.235.

28 (c) The most recent escrow statement issued concerning the
29 prepaid contract.



1 (d) Proof of any assignments of life policies or annuity
2 contracts made to purchase merchandise, funeral services, or
3 cemetery services under the prepaid funeral and cemetery sales act,
4 1986 PA 255, MCL 328.211 to 328.235.

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

9 (6) If the protected individual objects to an account, the
10 court must appoint a guardian ad litem to visit the protected
11 individual in the same manner as specified in section 5406. The
12 court must appoint legal counsel to represent the protected
13 individual if any of the following are met:

14 (a) The protected individual requests legal counsel.

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

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

19 Enacting section 1. This amendatory act takes effect January
20 1, 2025.

21 Enacting section 2. This amendatory act does not take effect
22 unless all of the following bills of the 102nd Legislature are
23 enacted into law:

24 (a) House Bill No. 4909.

25 (b) House Bill No. 4911.

26 (c) House Bill No. 4912.

27 (d) House Bill No. 5047.

