

SENATE BILL No. 1272

May 17, 2006, Introduced by Senator VAN WOERKOM and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
(MCL 700.1101 to 700.8102) by adding section 5106a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5106A. (1) ON FILING AN APPLICATION REQUESTING THE
2 APPOINTMENT OF A SPECIFIC INDIVIDUAL AS A GUARDIAN OR CONSERVATOR
3 OF A MINOR OR LEGALLY INCAPACITATED INDIVIDUAL, THE APPLICANT SHALL
4 REQUEST THAT THE CRIMINAL RECORDS DIVISION OF THE DEPARTMENT OF
5 STATE POLICE DO BOTH OF THE FOLLOWING IN RELATION TO THE INDIVIDUAL
6 TO BE APPOINTED:

7 (A) PROVIDE A CRIMINAL HISTORY CHECK.

8 (B) OBTAIN A CRIMINAL RECORDS CHECK THROUGH THE FEDERAL BUREAU

1 OF INVESTIGATION.

2 (2) A COURT SHALL NOT APPOINT AN INDIVIDUAL TO BE A GUARDIAN
3 OR CONSERVATOR FOR A MINOR OR LEGALLY PROTECTED INDIVIDUAL UNTIL
4 AFTER THE COURT RECEIVES AND CONSIDERS THE RESULTS OF THE CRIMINAL
5 HISTORY OR CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION (1). IF
6 THE COURT IS CONSIDERING APPOINTING AN INDIVIDUAL WHOSE APPOINTMENT
7 IS NOT REQUESTED IN THE PETITION, THE COURT SHALL INITIATE THE
8 CRIMINAL HISTORY OR CRIMINAL RECORDS CHECK DESCRIBED IN SUBSECTION
9 (1), UNLESS THE COURT IS CONSIDERING THE APPOINTMENT OF AN
10 INDIVIDUAL FOR WHOM THE COURT ALREADY HAS THE RESULTS OF THE
11 CRIMINAL HISTORY OR CRIMINAL RECORDS CHECK.

12 (3) A PETITIONER WHO FILES A PETITION DESCRIBED IN SUBSECTION
13 (1) SHALL REQUEST THE INDIVIDUAL NOMINATED IN THE PETITION, OR, IF
14 APPLICABLE, THE COURT ACTING UNDER SUBSECTION (2) SHALL REQUEST THE
15 APPROPRIATE INDIVIDUAL, TO GIVE WRITTEN CONSENT FOR THE CRIMINAL
16 RECORDS DIVISION OF THE DEPARTMENT OF STATE POLICE TO CONDUCT AND
17 OBTAIN THE CRIMINAL HISTORY OR CRIMINAL RECORDS CHECK REQUIRED BY
18 THIS SECTION AND TO SUBMIT HIS OR HER FINGERPRINTS TO THE
19 DEPARTMENT OF STATE POLICE FOR THAT PURPOSE.

20 (4) THE COURT MAY ORDER THAT THE CRIMINAL HISTORY OR CRIMINAL
21 RECORDS CHECK DESCRIBED IN SUBSECTION (1) BE PERFORMED FOR AN
22 INDIVIDUAL WHO HAS ALREADY BEEN APPOINTED AS A GUARDIAN OR
23 CONSERVATOR FOR THE MINOR OR LEGALLY INCAPACITATED INDIVIDUAL.

24 (5) THE DEPARTMENT OF STATE POLICE MAY CHARGE A FEE FOR
25 CONDUCTING AND OBTAINING THE CRIMINAL HISTORY AND CRIMINAL RECORDS
26 CHECKS REQUIRED BY THIS SECTION. UNLESS THE COURT ORDERS OTHERWISE,
27 THE APPLICANT SHALL PAY THE FEES FOR THE CRIMINAL HISTORY AND

1 CRIMINAL RECORDS CHECKS.

2 (6) AFTER RECEIVING A REQUEST UNDER THIS SECTION AND ANY
3 REQUIRED CONSENT, FINGERPRINTS, AND FEE, THE CRIMINAL RECORDS
4 DIVISION OF THE DEPARTMENT OF STATE POLICE SHALL DO BOTH OF THE
5 FOLLOWING:

6 (A) CONDUCT A CRIMINAL HISTORY CHECK AND PROVIDE A REPORT OF
7 THE RESULTS OF THE CRIMINAL HISTORY CHECK TO THE COURT.

8 (B) INITIATE THE CRIMINAL RECORDS CHECK THROUGH THE FEDERAL
9 BUREAU OF INVESTIGATION AND PROVIDE THE RESULTS TO THE COURT.

10 (7) A REPORT OF A CRIMINAL HISTORY OR CRIMINAL RECORDS CHECK
11 PROVIDED TO THE COURT UNDER THIS SECTION SHALL BE USED BY A COURT
12 ONLY FOR THE PURPOSE OF EVALUATING AN INDIVIDUAL'S QUALIFICATIONS
13 TO SERVE AS A GUARDIAN OR CONSERVATOR. THE COURT OR AN EMPLOYEE OR
14 AGENT OF THE COURT SHALL NOT DISCLOSE THE REPORT OR ITS CONTENTS TO
15 ANY PERSON WHO IS NOT AN INTERESTED PARTY. THE REPORT SHALL NOT BE
16 PLACED IN A COURT FILE THAT IS AVAILABLE TO THE PUBLIC AND IS
17 EXEMPT FROM DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT, 1976
18 PA 442, MCL 15.231 TO 15.246. A PERSON WHO VIOLATES THIS SUBSECTION
19 IS GUILTY OF A MISDEMEANOR PUNISHABLE BY A FINE OF NOT MORE THAN
20 \$10,000.00.