

# HOUSE BILL No. 5948

May 9, 2018, Introduced by Rep. Lucido and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
by amending sections 5207, 5208, and 5209 (MCL 700.5207, 700.5208,  
and 700.5209).

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1       Sec. 5207. (1) The court may review a guardianship for a minor  
2 as it considers necessary and shall review a guardianship annually  
3 if the minor is under 6 years of age. In conducting the review  
4 **UNDER THIS SUBSECTION**, the court shall consider all of the  
5 following factors:  
6       (a) The parent's and guardian's compliance with either of the  
7 following, as applicable:  
8       (i) A limited guardianship placement plan.

1           (ii) A court-structured plan under subsection (3) (b) (ii) (B) or  
2 section ~~5209(2)(b)(ii)~~ **5209 (B) (ii)** .

3           (b) Whether the guardian has adequately provided for the  
4 minor's welfare.

5           (c) The necessity of continuing the guardianship.

6           (d) The guardian's willingness and ability to continue to  
7 provide for the minor's welfare.

8           (e) The effect ~~upon~~ **ON** the minor's welfare if the guardianship  
9 is continued.

10          (f) Any other factor that the court considers relevant to the  
11 minor's welfare.

12          (2) The court may order the ~~family independence agency~~  
13 **DEPARTMENT OF HEALTH AND HUMAN SERVICES** or a court employee or  
14 agent to conduct an investigation and file a written report of the  
15 investigation regarding the factors listed in subsection (1).

16          (3) ~~Upon~~ **ON** completion of a guardianship review, the court may  
17 do either of the following:

18           (a) Continue the guardianship.

19           (b) Schedule and conduct a hearing on the guardianship's  
20 status and do any of the following:

21           (i) If the guardianship is a limited guardianship, do either  
22 of the following:

23               (A) Continue the limited guardianship.

24               (B) Order the parties to modify the limited guardianship  
25 placement plan as a condition to continuing the limited  
26 guardianship.

27           (ii) If the guardianship was established under section 5204,

1 do either of the following:

2 (A) Continue the guardianship.

3 (B) Order the parties to follow a court-structured plan  
4 designed to resolve the conditions identified at the review  
5 hearing.

6 (iii) Take an action described in section ~~5209(2)~~. **5209.**

7 Sec. 5208. (1) A minor's parent or parents may petition the  
8 court to terminate a guardianship for the minor as follows:

9 (a) If the guardianship is a limited guardianship, the parents  
10 or the sole parent with a right to custody of the minor **MAY**  
11 **PETITION.**

12 (b) If the guardianship was established under section 5204,  
13 the minor's parent or parents **MAY PETITION.**

14 (2) If a petition is filed to terminate a guardianship under  
15 this section, the court may do 1 or more of the following:

16 (a) Order the ~~family independence agency~~ **DEPARTMENT OF HEALTH**  
17 **AND HUMAN SERVICES** or a court employee or agent to conduct an  
18 investigation and file a written report of the investigation  
19 regarding the best interests of the minor or give testimony  
20 concerning the investigation.

21 (b) Utilize the community resources in behavioral sciences and  
22 other professions in the investigation and study of the best  
23 interests of the minor and consider their recommendations for the  
24 disposition of the petition.

25 (c) Appoint a guardian ad litem or attorney to represent the  
26 minor.

27 (d) Take any other action considered necessary in a particular

1 case.

2 (3) AFTER NOTICE AND HEARING ON A PETITION UNDER THIS SECTION  
 3 TO TERMINATE A LIMITED GUARDIANSHIP, THE COURT SHALL TERMINATE THE  
 4 LIMITED GUARDIANSHIP IF IT DETERMINES THAT THE MINOR'S PARENT OR  
 5 PARENTS HAVE SUBSTANTIALLY COMPLIED WITH THE LIMITED GUARDIANSHIP  
 6 PLACEMENT PLAN. THE COURT MAY ENTER ORDERS TO FACILITATE THE  
 7 MINOR'S REINTEGRATION INTO THE HOME OF THE PARENT OR PARENTS FOR A  
 8 PERIOD OF UP TO 6 MONTHS BEFORE THE TERMINATION.

9 (4) ~~(3)~~—This section and section 5209 apply to all  
 10 guardianships established before, on, or after ~~the effective date~~  
 11 ~~of this section.~~ **APRIL 1, 2000.**

12 Sec. 5209. ~~(1) After notice and hearing on a petition under~~  
 13 ~~section 5208 to terminate a limited guardianship, the court shall~~  
 14 ~~terminate the limited guardianship if it determines that the~~  
 15 ~~minor's parent or parents have substantially complied with the~~  
 16 ~~limited guardianship placement plan. The court may enter orders to~~  
 17 ~~facilitate the minor's reintegration into the home of the parent or~~  
 18 ~~parents for a period of up to 6 months before the termination.~~

19 ———(2) For a petition to terminate a guardianship in which  
 20 ~~subsection (1) does not apply,~~ **THAT IS NOT A PETITION BY A MINOR'S**  
 21 **PARENT OR PARENTS TO TERMINATE GUARDIANSHIP UNDER SECTION 5208,**

22 after notice and hearing, the court may do any of the following:

23 (a) Terminate the guardianship if the court determines that it  
 24 is in the best interests of the minor, and do any of the following:

25 (i) Enter orders to facilitate the minor's reintegration into  
 26 the parent's home for a period of up to 6 months before the  
 27 termination.

1           (ii) Order the ~~family independence agency~~ **DEPARTMENT OF HEALTH**  
2 **AND HUMAN SERVICES** to supervise the transition period when the  
3 minor is being reintegrated into his or her parent's home.

4           (iii) Order the ~~family independence agency~~ **DEPARTMENT OF**  
5 **HEALTH AND HUMAN SERVICES** to provide services to facilitate the  
6 minor's reintegration into his or her parent's home.

7           (b) Continue the guardianship for not more than 1 year after  
8 the hearing date if the court determines that it is in the best  
9 interests of the minor, and do any of the following:

10           (i) If the guardianship is a limited guardianship, order the  
11 parent or parents to comply with 1 of the following:

12           (A) The limited guardianship placement plan.

13           (B) A court-modified limited guardianship placement plan.

14           (C) If the limited guardianship was established before  
15 December 20, 1990, a court-structured plan that enables the minor  
16 to return to the home of his or her parent or parents.

17           (ii) If the guardianship is ordered under section 5204, order  
18 the parent or parents to follow a court-structured plan that  
19 enables the minor to return to the home of his or her parent or  
20 parents.

21           (iii) If a guardianship is continued under subparagraph (i) or  
22 (ii), schedule and conduct a hearing to review the guardianship  
23 before the expiration of the period of time that the guardianship  
24 is continued and either terminate the guardianship or limited  
25 guardianship or proceed under subdivision (c) or (d).

26           (c) If the minor resides with the guardian or limited guardian  
27 for not less than 1 year and if the court finds that the minor's

1 parent or parents have failed to provide the minor with parental  
2 care, love, guidance, and attention appropriate to the child's age  
3 and individual needs resulting in a substantial disruption of the  
4 parent-child relationship, continue the guardianship if it is  
5 established by clear and convincing evidence that the continuation  
6 would serve the best interests of the minor.

7 (d) Appoint an attorney to represent the minor or refer the  
8 matter to the ~~family independence agency~~. **DEPARTMENT OF HEALTH AND**  
9 **HUMAN SERVICES**. The attorney or the ~~family independence agency~~  
10 **DEPARTMENT OF HEALTH AND HUMAN SERVICES** may file a complaint on  
11 behalf of the minor requesting the family division of the circuit  
12 court to take jurisdiction of the minor under section 2(b) of  
13 chapter XIIIA of **THE PROBATE CODE OF 1939**, 1939 PA 288, MCL 712A.2.