

# HOUSE BILL NO. 4848

May 18, 2021, Introduced by Rep. Filler and referred to the Committee on Judiciary.

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 sections 5314a, 5314b, and  
5314c.

**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 an individual 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~~  
6 ~~legal effects of a guardian's appointment.~~

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

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

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

14           ~~(A) A do-not-resuscitate order.~~

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

16           ~~(iii) The right to object to a particular person being appointed~~  
17 ~~guardian.~~

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

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

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

22           ~~(d) Informing the individual that if a guardian is appointed,~~  
23 ~~the guardian may have the power to execute a do-not-resuscitate~~  
24 ~~order on behalf of the individual and, if meaningful communication~~  
25 ~~is possible, discern if the individual objects to having a do-not-~~  
26 ~~resuscitate order executed on his or her behalf.~~

27           ~~(e) Informing the individual that if a guardian is appointed,~~  
28 ~~the guardian may have the power to execute a physician orders for~~  
29 ~~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 his or her behalf.~~

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

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

~~(h) 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 his or her 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 resuscitate order, physician orders for scope of treatment form, or durable power of attorney with or without limitations on purpose, authority, or duration.~~

1       ~~(ii) Whether a disagreement or dispute related to the~~  
2       ~~guardianship petition might be resolved through court ordered~~  
3       ~~mediation.~~

4       ~~(iii) Whether the individual wishes to be present at the~~  
5       ~~hearing.~~

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

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

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

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

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

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

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

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

1 ~~counsel. If the individual alleged to be incapacitated is indigent,~~  
2 ~~this state shall bear the expense of legal counsel.~~

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

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

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

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

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

17 (e) Identify whether the individual wishes to be present at  
18 the hearing. If the allegedly incapacitated individual does not  
19 wish to be present at the hearing, the guardian ad litem shall  
20 identify the reasons why the individual does not wish to be  
21 present.

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

29 (g) Identify whether the individual plans to retain legal

1 counsel or wants appointed legal counsel. If the allegedly  
2 incapacitated individual does not plan to retain legal counsel or  
3 request appointed legal counsel, the guardian ad litem must make a  
4 recommendation as to whether legal counsel should be appointed.

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

7 (2) The duties of a guardian ad litem appointed for an  
8 individual alleged to be incapacitated or a legally incapacitated  
9 individual include all of the following, as applicable:

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

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

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

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

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

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

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

26 (v) The right to be represented by legal counsel of the  
27 individual's choice. If the individual is unable to secure legal  
28 counsel of his or her choice, the right to have legal counsel  
29 appointed by the court.

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

2           (d) Explain to the individual that if a guardian is appointed,  
3 the guardian may have the power to take certain actions on behalf  
4 of the individual. A guardian ad litem must inform the individual  
5 that a guardian may have any of the following powers and, if  
6 meaningful communication is possible, discern if the individual  
7 objects to a guardian having any of the following powers:

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

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

10          (iii) Consenting to any medical treatment.

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

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

14          (vi) Handling any financial and property matters, including the  
15 sale or disposal of personal property and the maintenance of real  
16 property. The guardian ad litem shall also inquire as to whether  
17 there are any items of special or sentimental value that the  
18 individual would not want sold or otherwise disposed of, such as  
19 family photos, collections, personal correspondence, or pets, as  
20 well as the location of those items.

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

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

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

27          (3) A guardian ad litem appointed for an individual alleged to  
28 be incapacitated or a legally incapacitated individual shall file a  
29 written report with the court and in the form, as required by the

1 state court administrative office.

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

6 (a) That the individual contests the petition.

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

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

11 (5) If an individual who is subject to an initial petition  
12 under this part or petition to modify under this part does not  
13 contest the petition, the guardian ad litem's report required under  
14 subsection (3) must include only 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 but  
27 has a barrier to fully participating, the guardian ad litem must  
28 include in the written report whether the barrier can be resolved  
29 by moving the location of the hearing or using assistive



1 technology, or both, or other support.

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

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

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

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

13 (B) A patient advocate designation.

14 (C) A physician orders for scope of treatment form.

15 (D) A benefits payee, trustee, or other fiduciary.

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

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

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

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

27 (n) An estimate of the amount of cash and property readily  
28 convertible into cash that is in the individual's estate.

29 (6) If a guardian ad litem is appointed for any purpose other

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

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

15 (8) The court shall not consider evidence included in a report  
16 or the testimony of a guardian ad litem that is not otherwise  
17 admissible under the Michigan Rules of Evidence. If the guardian ad  
18 litem does not personally appear for the hearing, the report must  
19 not be admitted into evidence.

20 (9) The court shall not order compensation of the guardian ad  
21 litem unless the guardian ad litem states in the guardian ad  
22 litem's written report that the guardian ad litem complied with  
23 subsections (2) to (7), as applicable.

24 (10) The court shall not appoint a person that was previously  
25 appointed as guardian ad litem as legal counsel for the individual  
26 if the guardian ad litem's report under subsection (3) or  
27 recommendation to the court conflicts with the wishes of the  
28 individual.

29 (11) If an individual who is subject to a petition under this

1 part has not already secured legal counsel, the court shall appoint  
2 legal counsel if any of the following apply:

3 (a) The individual requests legal counsel.

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

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

11 (12) If an individual who is subject to a petition under this  
12 part has legal counsel appointed or retained, the appointment of a  
13 guardian ad litem terminates. The report of the guardian ad litem  
14 must not be admitted into evidence after the appearance or  
15 appointment of legal counsel for the individual who is subject to  
16 the petition.

17 (13) After appointment or retention of legal counsel for the  
18 individual who is subject to the petition under this part, the  
19 court may, for good cause shown, appoint a special limited guardian  
20 ad litem to provide information on a narrowly defined issue that  
21 will likely otherwise be inadequately addressed. A special guardian  
22 ad litem is exempt from subsections (2) to (6). The court may order  
23 that a special limited guardian ad litem appointed under this  
24 subsection provide a written report. The report under this  
25 subsection must contain the information the court considers  
26 necessary to adequately address the issue leading to the  
27 appointment of the special limited guardian ad litem. A special  
28 limited guardian ad litem shall not communicate directly with the  
29 individual who is subject to the petition and must instead

1 communicate through legal counsel to the individual who is subject  
2 to the petition, unless legal counsel otherwise gives consent.

3 (14) An individual alleged to be incapacitated has the right  
4 to retain legal counsel of his or her choice at any stage,  
5 regardless of findings regarding his or her capacity. Retained  
6 legal counsel shall file a substitution of legal counsel or a  
7 motion to substitute if legal counsel has already been appointed.

8 Sec. 5314. If meaningful communication is possible, a legally  
9 incapacitated individual's guardian shall consult with the legally  
10 incapacitated individual before making a major decision affecting  
11 the legally incapacitated individual. To the extent a guardian of a  
12 legally incapacitated individual is granted powers by the court  
13 under section 5306, the guardian is responsible for the ward's  
14 care, custody, and control, but is not liable to third persons  
15 because of that responsibility for the ward's acts. In particular  
16 and without qualifying the previous sentences, a guardian has all  
17 of the following powers and duties, to the extent granted by court  
18 order:

19 (a) ~~The~~ **Subject to section 5314c, the** custody of the person of  
20 the ward and the power to establish the ward's place of residence  
21 in or outside this state. The guardian shall visit the ward within  
22 3 months after the guardian's appointment and not less than once  
23 within 3 months after each previous visit. ~~The guardian shall~~  
24 ~~notify the court within 14 days of a change in the ward's place of~~  
25 ~~residence or a change in the guardian's place of residence.~~ **If the**  
26 **guardian is a professional guardian, the professional guardian**  
27 **shall visit the ward as required under this part.**

28 (b) If entitled to custody of the ward, the duty to make  
29 provision for the ward's care, comfort, and maintenance and, when

1 appropriate, arrange for the ward's training and education. The  
2 guardian shall secure services to restore the ward to the best  
3 possible state of mental and physical well-being so that the ward  
4 can return to self-management at the earliest possible time.  
5 Without regard to custodial rights of the ward's person, the  
6 guardian shall take reasonable care of the ward's clothing,  
7 furniture, vehicles, and other personal effects and commence a  
8 protective proceeding if the ward's other property needs  
9 protection. If a guardian commences a protective proceeding because  
10 the guardian believes that it is in the ward's best interest to  
11 sell or otherwise dispose of the ward's real property or interest  
12 in real property, the court may appoint the guardian as special  
13 conservator and authorize the special conservator to proceed under  
14 section 5423(3). A guardian shall not otherwise sell the ward's  
15 real property or interest in real property.

16 (c) The power to give the consent or approval that is  
17 necessary to enable the ward to receive medical, mental health, or  
18 other professional care, counsel, treatment, or service. However, a  
19 guardian does not have and shall not exercise the power to give the  
20 consent to or approval for inpatient hospitalization unless the  
21 court expressly grants the power in its order. If the ward objects  
22 or actively refuses mental health treatment, the guardian or any  
23 other interested person must follow the procedures provided in  
24 chapter 4 of the mental health code, 1974 PA 258, MCL 330.1400 to  
25 330.1490, to petition the court for an order to provide involuntary  
26 mental health treatment. The power of a guardian to execute a do-  
27 not-resuscitate order under subdivision (d), execute a nonopioid  
28 directive form under subdivision (f), or execute a physician orders  
29 for scope of treatment form under subdivision (g) does not affect

1 or limit the power of a guardian to consent to a physician's order  
2 to withhold resuscitative measures in a hospital. As used in this  
3 subdivision, "involuntary mental health treatment" means that term  
4 as defined in section 400 of the mental health code, 1974 PA 258,  
5 MCL 330.1400.

6 (d) The power to execute, reaffirm, and revoke a do-not-  
7 resuscitate order on behalf of a ward. However, a guardian shall  
8 not execute a do-not-resuscitate order unless the guardian does all  
9 of the following:

10 (i) Not more than 14 days before executing the do-not-  
11 resuscitate order, visits the ward and, if meaningful communication  
12 is possible, consults with the ward about executing the do-not-  
13 resuscitate order.

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

17 (e) If a guardian executes a do-not-resuscitate order under  
18 subdivision (d), not less than annually after the do-not-  
19 resuscitate order is first executed, the duty to do all of the  
20 following:

21 (i) Visit the ward and, if meaningful communication is  
22 possible, consult with the ward about reaffirming the do-not-  
23 resuscitate order.

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

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

29 (g) The power to execute, reaffirm, and revoke a physician

orders for scope of treatment form on behalf of a ward. However, a guardian shall not execute a physician orders for scope of treatment form unless the guardian does all of the following:

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

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

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

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

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

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

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

(ii) ~~Receive~~ **The power to receive** money and tangible property deliverable to the ward and apply the money and property for the ward's support, care, and education. The guardian shall not use money from the ward's estate for room and board that the guardian

1 or the guardian's spouse, parent, or child have furnished the ward  
2 unless a charge for the service is approved by court order made on  
3 notice to at least 1 of the ward's next of kin, if notice is  
4 possible. The guardian shall exercise care to conserve any excess  
5 for the ward's needs.

6 **(iii) The duties under sections 5314a and 5314b.**

7 (j) The duty to report the condition of the ward and the  
8 ward's estate that is subject to the guardian's possession or  
9 control, as required by the court, but not less often than  
10 annually. The guardian shall also serve the report required under  
11 this subdivision on the ward and interested persons as specified in  
12 the Michigan court rules. A report under this subdivision must  
13 contain all of the following:

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

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

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

19 (iv) Whether the guardian recommends a more suitable living  
20 arrangement for the ward.

21 (v) Medical treatment, including mental health treatment,  
22 received by the ward.

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

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

29 (viii) Whether the guardian has executed, reaffirmed, or revoked



1 a physician orders for scope of treatment form on behalf of the  
2 ward during the past year.

3 (ix) Services received by the ward.

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

6 (xi) A recommendation as to the need for continued  
7 guardianship.

8 (k) If a conservator is appointed, the duty to pay to the  
9 conservator, for management as provided in this act, the amount of  
10 the ward's estate received by the guardian in excess of the amount  
11 the guardian expends for the ward's current support, care, and  
12 education. The guardian shall account to the conservator for the  
13 amount expended.

14 **Sec. 5314a. (1) If a conservator has not been appointed for**  
15 **the ward, within 56 days after appointment or within another time**  
16 **period specified by court rule, a guardian with any power over the**  
17 **property of the ward under section 5314 shall prepare and file with**  
18 **the appointing court a complete inventory of the estate subject to**  
19 **the guardianship together with an oath or affirmation that the**  
20 **inventory is believed to be complete and accurate so far as**  
21 **information permits. The guardian shall file, along with the**  
22 **inventory, account statements that reflect the value of depository**  
23 **and investment accounts dated within 30 days after the inventory's**  
24 **date. The guardian shall provide a copy of the inventory to the**  
25 **ward if the ward can be located and to interested persons as**  
26 **specified in the Michigan court rules.**

27 (2) The guardian must keep suitable records of the  
28 administration and provide those records on the request of an  
29 interested person.

1           (3) The guardian shall identify on the inventory under  
2 subsection (1) any items of special personal or sentimental value,  
3 including, but not limited to, family heirlooms, photo albums, or  
4 collections. To the extent meaningful communication permits, the  
5 guardian must make an inquiry with the ward as to what items the  
6 ward identifies as having special personal or sentimental value.  
7 The items must include items identified by a guardian ad litem  
8 under section 5305. If the guardian is unable to locate an item  
9 identified as having special personal or sentimental value at the  
10 time of filing the inventory, the guardian must state that on the  
11 inventory.

12           (4) The guardian shall list on the inventory under subsection  
13 (1) any merchandise, funeral services, cemetery services, or  
14 prepaid contracts for which the legally incapacitated individual or  
15 guardian is the contract buyer or contract beneficiary under the  
16 prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to  
17 328.235. If the guardianship estate includes an asset described in  
18 this subsection, the guardian must file, with the inventory, all of  
19 the following:

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

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

26           (c) The most recent escrow statement issued concerning the  
27 prepaid contract.

28           (d) Proof of any assignments of life policies or annuity  
29 contracts made to purchase merchandise, funeral services, or

1 cemetery services under the prepaid funeral and cemetery sales act,  
2 1986 PA 255, MCL 328.211 to 328.235.

3 (5) The inventory under subsection (1) must list property with  
4 reasonable detail and the type and amount of any encumbrance.

5 (6) The inventory under subsection (1) must be served on all  
6 interested persons. Any interested person may file an objection  
7 with the court to the inventory and serve it on all interested  
8 persons. The court shall set the matter for hearing.

9 Sec. 5314b. (1) If a conservator has not been appointed for  
10 the ward, the guardian shall account to the court for  
11 administration of the ward's estate not less than annually unless  
12 the court directs otherwise, on resignation or removal, and at  
13 other times as the court directs. The guardian must file, along  
14 with the account, account statements that reflect the value of  
15 depository and investment accounts dated within 30 days after the  
16 inventory's date and receipts, invoices, or other documentation for  
17 expenses in excess of \$1,000.00. The account must be in the form as  
18 provided by the state court administrative office, or substantially  
19 similar. The account must detail assets including those identified  
20 in section 5314a, debts, gross income, and expenses.

21 (2) Within 56 days after termination of the ward's  
22 guardianship, a guardian with any authority over property of the  
23 formerly legally incapacitated individual shall account to the  
24 court or to the formerly legally incapacitated individual or that  
25 formerly legally incapacitated individual's successors. Subject to  
26 appeal or vacation within the time permitted, an order after notice  
27 and hearing allowing an intermediate account of a guardian  
28 adjudicates as to liabilities concerning the matters considered in  
29 connection with the accounts, and an order, after notice and

1 hearing, allowing a final account adjudicates as to all previously  
2 unsettled liabilities of the guardian to the formerly legally  
3 incapacitated individual or the formerly legally incapacitated  
4 individual's successors relating to the guardianship. In connection  
5 with any account, the court may require a guardian to submit to a  
6 physical check of the estate in any manner the court specifies.

7 (3) In the account required under subsection (1) or (2), the  
8 guardian shall provide information on the status of any items  
9 identified in section 5314a. If the guardian has disposed of or  
10 sold any of the items described in section 5314a, the guardian must  
11 describe on the account how the guardian fulfilled the guardian's  
12 duties under section 5314a.

13 (4) If the individual's estate includes any merchandise,  
14 funeral services, cemetery services, or prepaid contracts for which  
15 the individual or guardian is the contract buyer or contract  
16 beneficiary under the prepaid funeral and cemetery sales act, 1986  
17 PA 255, MCL 328.211 to 328.235, the guardian must file all of the  
18 following, with the account under subsection (1) or (2):

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

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

25 (c) The most recent escrow statement issued concerning the  
26 prepaid contract.

27 (d) Proof of any assignments of life policies or annuity  
28 contracts made to purchase merchandise, funeral services, or  
29 cemetery services under the prepaid funeral and cemetery sales act,

1 1986 PA 255, MCL 328.211 to 328.235.

2 (5) The guardian shall file a copy of an account under  
3 subsection (1) or (2), as applicable, and account statements with  
4 the court and serve on all interested persons. Within 28 days after  
5 serving the account and account statements under this subsection,  
6 an interested person may file an objection to the account with the  
7 court and serve the objection on all interested persons. If an  
8 interested person objects, the court shall set the matter for  
9 hearing. If the ward objects to an account filed under this  
10 section, the court must appoint a guardian ad litem to visit the  
11 ward in the same manner as specified in section 5305. The court  
12 shall appoint legal counsel to represent the ward if any of the  
13 following apply:

14 (a) The ward requests legal counsel.

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

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

19 (6) On receipt of an annual account under subsection (1), the  
20 court shall set the matter for hearing unless both of the following  
21 apply:

22 (a) No objection to the annual account has been filed within  
23 28 days after the annual account is served on interested persons.

24 (b) The probate judge, probate register, or deputy probate  
25 register makes written findings that all of the following apply:

26 (i) The account includes sufficient documentation that the  
27 estate's assets are to the extent possible correctly titled to the  
28 guardian in its fiduciary capacity if necessary.

29 (ii) The guardian has filed a copy of account statements that

1 reflect the value of depository and investment accounts dated  
2 within 30 days after the end of the accounting period.

3 (iii) The guardian has filed documentation for expenses over  
4 \$1,000.00.

5 (iv) Fees and costs are reasonable and should be allowed.

6 (v) On the face of the filing it appears to meet the  
7 requirements of subsections (1), (3), and (4).

8 (vi) The guardian properly filed and served the account and  
9 required documentation on all interested persons.

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

1 the legally incapacitated individual.

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

6 (3) If a guardian proposes to move the legally incapacitated  
7 individual from his or her permanent residence, the guardian shall  
8 attempt to consult with the legally incapacitated individual and  
9 honor the legally incapacitated individual's preference to the  
10 greatest extent possible.

11 (4) If a person petitioning for guardianship under section  
12 5303 or a guardian that has been appointed under section 5306  
13 believes that it is necessary for the well-being of the alleged  
14 incapacitated individual or legally incapacitated individual, as  
15 applicable, to move the individual permanently from his or her  
16 permanent residence, the petitioner may seek court approval to do  
17 so by filing a separate petition for authority to move the  
18 individual. The separate petition must include all of the following  
19 information:

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

21 (b) The proposed new residence.

22 (c) The reason for the proposed move.

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

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

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

28 (g) Whether the individual objects to or supports the proposed  
29 move.

1           (5) If a petition for removal from the permanent residence has  
2 been filed under subsection (4), the guardian ad litem appointed  
3 for the alleged incapacitated individual or legally incapacitated  
4 individual, as applicable, shall, in addition to the other duties  
5 set forth in section 5305, do all of 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.

9           (b) Explain that if the court grants the petition to move the  
10 individual, the guardian will have the authority to change the  
11 individual's permanent residence to the location specified in the  
12 petition.

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

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

17           (6) If the alleged incapacitated individual or legally  
18 incapacitated individual does not already have legal counsel, the  
19 court shall appoint legal counsel if the individual files an  
20 objection to the petition for authority to move the individual from  
21 his or her permanent residence under subsection (4) or if the  
22 guardian ad litem's report under subsection (5) states that the  
23 individual objects to being removed from his or her permanent  
24 residence.

25           (7) If the court grants the petition for a finding of  
26 incapacity and appointment of a guardian under section 5303, the  
27 court may also grant the separate petition for authority to move  
28 the legally incapacitated individual under subsection (4) if, after  
29 due consideration and opportunity for testimony on the matter, it



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 (8) If the court does not grant the separate petition to move  
8 the legally incapacitated individual under section (4) at the  
9 hearing where the court appoints the guardian under section 5306,  
10 the guardian shall not permanently remove the legally incapacitated  
11 individual, except as otherwise provided in this section, unless  
12 the guardian files a subsequent separate petition under section (4)  
13 and the court grants that petition.

14 (9) If the guardian determines that failure to move the  
15 legally incapacitated individual from his or her permanent  
16 residence more promptly is likely to be detrimental to the legally  
17 incapacitated individual's physical health, safety, or welfare, the  
18 guardian may file an emergency ex parte motion before any move and  
19 explain the urgency of the circumstances that necessitate a more  
20 immediate order. The guardians shall provide affidavits or ex parte  
21 testimony in support of the motion. The court shall grant the  
22 motion if the court determines by clear and convincing evidence  
23 that delaying the change in the permanent residence is likely to  
24 result in substantial harm to the legally incapacitated  
25 individual's physical health, safety, or welfare. If the ex parte  
26 motion is granted, the court shall hold a hearing within 7 days  
27 after the order to determine whether the move must be made  
28 permanent unless or until further order of the court. The court  
29 shall appoint a guardian ad litem under subsection (5). The

1 guardian ad litem must file and serve his or her report by a date  
2 and time ordered by the court that is before the hearing.

3 (10) If the legally incapacitated individual must leave the  
4 permanent residence because the residence becomes permanently  
5 unavailable as the result of a facility closure, removal of the  
6 property from the rental market, irreparable damage to the  
7 permanent residence, or other circumstances, the guardian shall  
8 provide at least 14 days' prior written notice to the legally  
9 incapacitated individual if possible under the circumstances or, if  
10 less time is available before the legally incapacitated individual  
11 must move, notice at the earliest opportunity. The guardian shall  
12 also attempt to consult with the legally incapacitated individual  
13 and honor the legally incapacitated individual's preferences to the  
14 greatest extent possible regarding where the legally incapacitated  
15 individual would like to move. The guardian shall provide written  
16 notice to the court within 14 days after the move explaining why  
17 the permanent residence is no longer available, whether the  
18 guardian attempted to consult with the legally incapacitated  
19 individual about where the legally incapacitated individual wanted  
20 to move, whether the guardian honored the legally incapacitated  
21 individual's preferences regarding where he or she wanted to move,  
22 the address of the new residence, the type of residence, and how  
23 the new residence will meet the legally incapacitated individual's  
24 needs. If the legally incapacitated individual's residence becomes  
25 permanently unavailable, the guardian is not required to file a  
26 petition under subsection (4) and the court is not required to  
27 appoint a guardian ad litem or legal counsel or hold a hearing.

28 (11) The guardian shall not move the legally incapacitated  
29 individual out of state without order of the court. If the guardian

1 petitions to move the legally incapacitated individual out of  
2 state, a guardian ad litem must be appointed and the court shall  
3 schedule a hearing regardless of whether the individual files  
4 objections or expresses dissatisfaction with the proposed move. If  
5 the legally incapacitated individual files objections or expresses  
6 dissatisfaction with the proposed move, the court shall appoint  
7 legal counsel if the legally incapacitated individual is not  
8 already represented by legal counsel.

9 (12) In exercising the guardian's power to establish the  
10 legally incapacitated individual's place of residence, the guardian  
11 shall do both of the following:

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

23 (b) Give priority to a residential setting in a location that  
24 will allow the legally incapacitated individual to interact with  
25 persons and participate in activities important to the legally  
26 incapacitated individual and meet the legally incapacitated  
27 individual's needs in the least restrictive manner reasonably  
28 feasible.

29 (13) If removal from the permanent residence necessitates the

1 sale, transfer, or disposal of real or sentimental personal  
 2 property and if meaningful communication is possible, the guardian  
 3 shall consult with the legally incapacitated individual before  
 4 taking any action to dispose of the property. A guardian shall make  
 5 all reasonable efforts to identify and honor the legally  
 6 incapacitated individual's wishes to preserve sentimental personal  
 7 property in the overall context of the legally incapacitated  
 8 individual's estate, including items identified in the inventory  
 9 under section 5314a and annual accounts under section 5314b, and  
 10 shall take reasonable steps to safeguard that personal property.  
 11 The court may remove a guardian that fails to comply with this  
 12 subsection.

13 (14) As used in this section, "permanent residence" means any  
 14 of the following:

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

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

20 Sec. 5406. (1) ~~Upon~~ On receipt of a petition for a  
 21 conservator's appointment or another protective order because of  
 22 minority, the court shall set a date for hearing. If, at any time  
 23 in the proceeding, the court determines that the minor's interests  
 24 are or may be inadequately represented, the court may appoint an  
 25 attorney to represent the minor, giving consideration to the  
 26 minor's choice if 14 years of age or older. An attorney appointed  
 27 by the court to represent a minor has the powers and duties of a  
 28 guardian ad litem.

29 (2) ~~Upon~~ On receipt of a petition for a conservator's

1 appointment or another protective order for a reason other than  
2 minority, the court shall set a date for **initial** hearing. Unless  
3 the individual to be protected has chosen **legal** counsel, or is  
4 mentally competent but aged or physically infirm, the court shall  
5 appoint a guardian ad litem. ~~to represent the person in the~~  
6 ~~proceeding.~~ If the alleged disability is mental illness, mental  
7 deficiency, physical illness or disability, chronic use of drugs,  
8 or chronic intoxication, the court may direct that the individual  
9 alleged to need protection be examined by a physician or mental  
10 health professional appointed by the court, preferably a physician  
11 or mental health professional who is not connected with an  
12 institution in which the individual is a patient or is detained.  
13 The individual alleged to need protection has the right to secure  
14 an independent evaluation at his or her own expense. The court may  
15 send a visitor to interview the individual to be protected. The  
16 visitor may be a guardian ad litem or a court officer or employee.

17 (3) The court may utilize, as an additional visitor, the  
18 service of a public or charitable agency to evaluate the condition  
19 of the individual to be protected and make appropriate  
20 recommendations to the court.

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

25 (a) Consider whether there is an appropriate alternative to a  
26 conservatorship.

27 (b) If a conservatorship is appropriate, consider the  
28 desirability of limiting the scope and duration of the  
29 conservator's authority.

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

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

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

7 (b) Seek information from the individual and, if communication  
8 is possible, communicate in a manner the individual is best able to  
9 understand. If communication is not possible or there is a barrier  
10 to communication, the guardian ad litem must note that in the  
11 report.

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

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

17 (e) Identify whether the individual wishes to be present at  
18 the hearing. If the individual alleged to need protection does not  
19 wish to be present at the hearing, the guardian ad litem shall  
20 identify the reasons why the individual does not wish to be  
21 present.

22 (f) Identify any barrier to attending hearings at the place  
23 where court is held or otherwise fully participating in the  
24 hearing, including the need for assistive technology,  
25 transportation, or other support. If the individual alleged to need  
26 protection wishes to attend, the guardian ad litem must identify  
27 whether the individual has identified a plan for how the individual  
28 will attend.

29 (g) Identify whether the individual plans to retain legal

1 counsel or wants appointed legal counsel. If the individual alleged  
2 to need protection does not plan to retain legal counsel or request  
3 appointed legal counsel, the guardian ad litem must make a  
4 recommendation as to whether legal counsel should be appointed.

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

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

10 (a) Explain to the individual the nature, purpose, and legal  
11 effects of a conservator's appointment or issuance of a protective  
12 order.

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

15 (c) Explain to the individual the hearing procedure and the  
16 individual's rights in the hearing procedure, including, but not  
17 limited to, the following:

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

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

20 (iii) The right to be present at the hearing. If the individual  
21 is unable to attend the hearing at the location court proceedings  
22 typically are held, the guardian ad litem shall inform the  
23 individual of his or her right to have the hearing at another  
24 location.

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

28 (v) The right to be represented by legal counsel of the  
29 individual's choice. If the individual is unable to secure legal

1 counsel of his or her choice, the guardian ad litem shall explain  
2 to the individual that he or she has the right to have legal  
3 counsel appointed by the court.

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

5 (d) Explain to the individual that if a conservator is  
6 appointed, the conservator may have the power to take certain  
7 actions on behalf of the individual. A guardian ad litem must  
8 inform the individual that a conservator may have any of the powers  
9 described in section 5407 and, if meaningful communication is  
10 possible, discern if the individual objects to a conservator having  
11 any of those powers.

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

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

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

18 (7) A guardian ad litem appointed for an individual alleged to  
19 need protection or a protected individual shall file a written  
20 report with the court in the form required by the state court  
21 administrative office.

22 (8) If an individual who is subject to an initial petition  
23 under this part or petition to modify under this part contests the  
24 petition, the guardian ad litem's written report required under  
25 subsection (7) must include only the following:

26 (a) That the individual contests the petition.

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

29 (c) Whether the individual has any barriers to attending court



1 at the place where it is usually held.

2 (9) If an individual who is subject to an initial petition  
3 under this part or petition to modify under this part does not  
4 contest the petition, the guardian ad litem's written report  
5 required under subsection (7) must include only the following:

6 (a) The date and time the guardian ad litem met with the  
7 individual.

8 (b) The length of time the guardian ad litem met with the  
9 individual.

10 (c) The location where the guardian ad litem met with the  
11 individual.

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

14 (e) Who, if anyone, was present for the interview besides the  
15 individual.

16 (f) Whether the individual wishes to be present at the  
17 hearing. If the individual wishes to be present at the hearing but  
18 has a barrier to fully participating, the guardian ad litem must  
19 include in the written report whether the barrier can be resolved  
20 by moving the location of the hearing or using assistive  
21 technology, or both, or other support.

22 (g) Whether the individual has identified a plan for how the  
23 individual will attend.

24 (h) Whether the individual plans to retain legal counsel or  
25 has requested appointed legal counsel. If the individual has not  
26 indicated he or she wishes to be represented by legal counsel, the  
27 guardian ad litem shall include in the written report a  
28 recommendation as to whether legal counsel should be appointed to  
29 represent the individual.

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

2 (A) A power of attorney with or without limitations on  
3 purpose, authority, or time period.

4 (B) A patient advocate designation.

5 (C) A physician orders for scope of treatment form.

6 (D) A benefits payee, trustee, or other fiduciary.

7 (j) Whether a disagreement or dispute related to the  
8 conservatorship petition might be resolved through court-ordered  
9 mediation.

10 (k) Whether the appointment of a visitor with appropriate  
11 knowledge, training, and education such as a social worker, mental  
12 health professional, or medical professional could provide the  
13 court with the information on whether alternatives to  
14 conservatorship or a limited conservatorship under section 5419(1)  
15 is appropriate.

16 (l) If a conservator were appointed, who the individual would  
17 want to serve in order of preference.

18 (m) If a conservator were appointed, who the individual would  
19 not want to serve.

20 (n) An estimate of the amount of cash and property readily  
21 convertible into cash that is in the individual's estate.

22 (10) If a guardian ad litem is appointed for any purpose other  
23 than an initial petition under this part, petition to terminate  
24 under this part, or petition to modify under this part, the  
25 guardian ad litem must provide a written report to the court that  
26 includes, at a minimum, the information described in subsection  
27 (5), (6), (8), or (9), as applicable, and any other information  
28 required by law. A special limited guardian ad litem appointed  
29 under subsection (16) is not required to provide a written report

1 unless ordered to do so by the court.

2 (11) The court shall not consider evidence included in a  
3 report under subsection (7) or the testimony of a guardian ad litem  
4 that is not otherwise admissible under the Michigan Rules of  
5 Evidence. If the guardian ad litem does not personally appear for  
6 examination, the report must not be admitted into evidence.

7 (12) A guardian ad litem shall file any report required under  
8 this section with the court and serve the report on all interested  
9 persons at least 7 days before the hearing. The court shall not  
10 order compensation of the guardian ad litem unless the guardian ad  
11 litem states in the guardian ad litem's written report that the  
12 guardian ad litem complied with this subsection.

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

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

20 (a) The individual who is subject to the petition requests  
21 legal counsel.

22 (b) The individual who is subject to the petition objects to  
23 any part of the petition for conservatorship or potential authority  
24 of a conservator.

25 (c) The guardian ad litem determines it is in the best  
26 interest of the individual subject to the petition to have legal  
27 counsel and, if legal counsel has not been secured, the court shall  
28 appoint legal counsel. If the individual who is subject to the  
29 petition is indigent, this state shall bear the expense of

1 appointed legal counsel.

2 (15) If an individual who is subject to a petition under this  
3 part has legal counsel appointed or retained, the appointment of a  
4 guardian ad litem terminates. The report of the guardian ad litem  
5 under subsection (7) must not be admitted into evidence after the  
6 appearance or appointment of legal counsel for the individual who  
7 is subject to the petition.

8 (16) After appointment or retention of legal counsel for the  
9 individual who is subject to the petition under this part, the  
10 court may, for good cause shown, appoint a special limited guardian  
11 ad litem to provide information on a narrowly defined issue that  
12 will likely otherwise be inadequately addressed. A special guardian  
13 ad litem is exempt from subsections (5) to (10). The court may  
14 order that a special limited guardian ad litem provide a written  
15 report. The report under this subsection must contain the  
16 information the court considers necessary to adequately address the  
17 issue leading to the appointment of the special limited guardian ad  
18 litem. A special limited guardian ad litem shall not communicate  
19 directly with the individual who is subject to the petition and  
20 must instead communicate through legal counsel to the individual  
21 who is subject to the petition, unless legal counsel otherwise  
22 gives consent.

23 (17) ~~(5)~~—The individual to be protected is entitled to be  
24 present at the hearing in person. If the individual wishes to be  
25 present at the hearing, all practical steps must be taken to ensure  
26 the individual's presence including, if necessary, moving the site  
27 of the hearing. The individual is entitled to be represented by  
28 legal counsel, to present evidence, to cross-examine witnesses,  
29 including a court-appointed physician or other qualified person and

1 a visitor, and to trial by jury. The issue may be determined at a  
2 closed hearing or without a jury if the individual to be protected  
3 or **legal** counsel for the individual so requests.

4 (18) ~~(6)~~ Any person may request ~~for~~ permission to participate  
5 in the proceeding, and the court may grant the request, with or  
6 without hearing, ~~upon~~ **on** determining that the best interest of the  
7 individual to be protected will be served by granting the request.  
8 The court may attach appropriate conditions to the permission.

9 (19) ~~(7)~~ After hearing, ~~upon~~ **on** finding that a basis for a  
10 conservator's appointment or another protective order is  
11 established by clear and convincing evidence, the court shall make  
12 the appointment or other appropriate protective order.

13 Sec. 5417. (1) Within 56 days after appointment or within  
14 another time period specified by court rule, a conservator shall  
15 prepare and file with the appointing court a complete inventory of  
16 the estate subject to the conservatorship together with an oath or  
17 affirmation that the inventory is believed to be complete and  
18 accurate so far as information permits. **The conservator shall file,**  
19 **along with the inventory, account statements that reflect the value**  
20 **of depository and investment accounts dated within 30 days after**  
21 **the inventory's date.** The conservator shall provide a copy of the  
22 inventory to the protected individual if the individual can be  
23 located and is 14 years of age or older and to interested persons  
24 as specified in the Michigan court rules.

25 (2) The conservator must keep suitable records of the  
26 administration and exhibit those records on the request of an  
27 interested person.

28 (3) **The conservator must identify on the inventory under**  
29 **subsection (1) any items of special personal or sentimental value,**

1 including, but not limited to, family heirlooms, photo albums, or  
2 collections. To the extent meaningful conversation permits, the  
3 conservator must make an inquiry with the protected individual as  
4 to what items the protected individual identifies as having special  
5 personal or sentimental value. If the conservator is unable to  
6 locate an item identified as having special personal or sentimental  
7 value at the time of filing the inventory under subsection (1), the  
8 conservator must state that on the inventory. A conservator shall  
9 make all reasonable efforts to identify and honor the protected  
10 individual's wishes to preserve items of special personal or  
11 sentimental value in the overall context of the protected  
12 individual's estate, including items identified in the inventory  
13 and annual accounts, and shall take reasonable steps to safeguard  
14 the property. The court may remove a conservator that fails to  
15 comply with this subsection.

16 (4) The inventory under subsection (1) must list 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. If the  
21 conservatorship estate includes assets described in this  
22 subsection, the conservator must file all of the following with the  
23 inventory under subsection (1):

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

26 (b) Proof that payments made under a prepaid contract are held  
27 in escrow or under a trust agreement in compliance with the prepaid  
28 funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to  
29 328.235.

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

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

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

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

25           (2) Within 56 days after the termination of the protected  
26 individual's minority or disability, a conservator shall account to  
27 the court or to the formerly protected individual or that  
28 individual's successors. Subject to appeal or vacation within the  
29 time permitted, an order, after notice and hearing, allowing an

1 intermediate account of a conservator adjudicates as to liabilities  
2 concerning the matters considered in connection with the accounts,  
3 and an order, after notice and hearing, allowing a final account  
4 adjudicates as to all previously unsettled liabilities of the  
5 conservator to the protected individual or the protected  
6 individual's successors relating to the conservatorship. In  
7 connection with any account, the court may require a conservator to  
8 submit to a physical check of the estate to be made in any manner  
9 the court specifies.

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

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

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

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

26 (c) The most recent escrow statement issued concerning the  
27 prepaid contract.

28 (d) Proof of any assignments of life policies or annuity  
29 contracts made to purchase merchandise, funeral services, or



1 cemetery services under the prepaid funeral and cemetery sales act,  
2 1986 PA 255, MCL 328.211 to 328.235.

3 (5) ~~(2)~~—The conservator shall provide a copy of an account to  
4 the protected individual if the individual can be located and is 14  
5 years of age or older and to interested persons as specified in the  
6 Michigan court rules.

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

12 (a) The protected individual requests legal counsel.

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

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

17 Enacting section 1. This amendatory act does not take effect  
18 unless all of the following bills of the 101st Legislature are  
19 enacted into law:

20 (a) Senate Bill No.\_\_\_\_ or House Bill No. 4847 (request no.  
21 02580'21).

22 (b) Senate Bill No.\_\_\_\_ or House Bill No. 4849 (request no.  
23 02582'21).

24 (c) Senate Bill No.\_\_\_\_ or House Bill No. 4850 (request no.  
25 02583'21).