

SUBSTITUTE FOR
HOUSE BILL NO. 5921

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 5314 (MCL 700.5314), as amended by 2000 PA
54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5314. Whenever meaningful communication is possible, a
2 legally incapacitated individual's guardian should consult with
3 the legally incapacitated individual before making a major deci-
4 sion affecting the legally incapacitated individual. Except as
5 limited under section 5306, a legally incapacitated individual's
6 guardian is responsible for the ward's care, custody, and con-
7 trol, but is not liable to third persons by reason of that
8 responsibility for the ward's acts. In particular and without
9 qualifying the ~~foregoing~~ PREVIOUS SENTENCE, a guardian has all

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1 of the following powers and duties, except as modified by court
2 order:

3 (a) To the extent that it is consistent with the terms of an
4 order by a court of competent jurisdiction relating to THE WARD'S
5 detention or commitment, ~~of the ward,~~ the guardian is entitled
6 to custody of the person of the guardian's ward and may establish
7 the ward's place of residence within or without this state. The
8 guardian must notify the court within 14 days of a change in the
9 ward's place of residence.

10 (b) If entitled to custody of the ward, the guardian must
11 make provision for the ward's care, comfort, and maintenance and,
12 when appropriate, arrange for the ward's training and education.
13 The guardian has the responsibility of securing services to
14 restore the ward to the best possible state of mental and physi-
15 cal well-being so that the ward can return to self-management at
16 the earliest possible time. Without regard to custodial rights
17 of the ward's person, the guardian must take reasonable care of
18 the ward's clothing, furniture, vehicles, and other personal
19 effects and commence a protective proceeding if the ward's other
20 property ~~is in need of~~ NEEDS protection.

21 (c) A guardian may give the consent or approval that may be
22 necessary to enable the ward to receive medical or other profes-
23 sional care, counsel, treatment, or service.

24 (d) If a conservator for the ward's estate is not appointed,
25 a guardian may DO ANY OF THE FOLLOWING:

1 (i) Institute a proceeding to compel a person under a duty
2 to support the ward or to pay sums for the ward's welfare to
3 perform that duty.

4 (ii) Receive money and tangible property deliverable to the
5 ward and apply the money and property for the ward's support,
6 care, and education. The guardian shall not use money from the
7 ward's estate for room and board that the guardian or the
8 guardian's spouse, parent, or child have furnished the ward
9 unless a charge for the service is approved by court order made
10 upon notice to at least 1 of the ward's next of kin, if notice is
11 possible. The guardian shall exercise care to conserve any
12 excess for the ward's needs.

13 (e) The guardian shall report the condition of the ward and
14 the ward's estate that is subject to the guardian's possession or
15 control, as required by the court, but not less often than
16 annually. THE GUARDIAN SHALL ALSO SERVE THE REPORT REQUIRED
17 UNDER THIS SUBDIVISION ON THE WARD AND THE INTERESTED PERSONS
18 THAT WERE LISTED ON THE ORIGINAL OR AN AMENDED PETITION FOR THE
19 GUARDIAN'S APPOINTMENT. A report under this subdivision must con-
20 tain all of the following:

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

23 (ii) Any improvement or deterioration in the ward's mental,
24 physical, and social condition that occurred during the past
25 year.

1 (iii) The ward's present living arrangement and ~~any~~
2 changes in his or her living arrangement that occurred during the
3 past year.

4 (iv) Whether the guardian recommends a more suitable living
5 arrangement for the ward.

6 (v) Medical treatment received by the ward.

7 (vi) Services received by the ward.

8 (vii) A list of the guardian's visits with, and activities
9 on behalf of, the ward.

10 (viii) A recommendation as to the need for continued
11 guardianship.

12 (f) If a conservator is appointed, the guardian shall pay to
13 the conservator, for management as provided in this act, the
14 amount of the ward's estate received by the guardian in excess of
15 the amount the guardian expends for the ward's current support,
16 care, and education. The guardian shall account to the conserva-
17 tor for the amount expended.

[Enacting section 1. This amendatory act takes effect January
1, 2001.]