

**HOUSE SUBSTITUTE FOR
SENATE BILL NO. 1388**

(As amended December 6, 2000)

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 313.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5314. [Whenever meaningful communication is possible,
2 a] legally incapacitated individual's guardian ~~should~~ SHALL
3 consult with the legally incapacitated individual before making a
4 major decision affecting the legally incapacitated individual.
5 Except as limited under section 5306, a legally incapacitated
6 individual's guardian is responsible for the ward's care, custo-
7 dy, and control, but is not liable to third persons by reason of
8 that responsibility for the ward's acts. In particular and
9 without qualifying the previous ~~sentence~~ SENTENCES, a guardian

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1 has all of the following powers and duties, except as modified by
2 court 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, the guardian is entitled to custody of
6 the person of the guardian's ward and may establish the ward's
7 place of residence within or without this state. A WARD'S GUARD-
8 IAN SHALL VISIT THE WARD WITHIN 3 MONTHS AFTER THE GUARDIAN'S
9 APPOINTMENT AND NOT LESS THAN ONCE WITHIN 3 MONTHS AFTER EACH
10 PREVIOUS VISIT. The guardian must notify the court within 14 days
11 of a change in the ward's place of residence.

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

23 (c) A guardian may give the consent or approval that ~~may~~
24 ~~be~~ IS necessary to enable the ward to receive medical or other
25 professional care, counsel, treatment, or service.

26 (d) If a conservator for the ward's estate is not appointed,
27 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~~ MONEY for the ward's welfare
3 to 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 interested persons as
18 specified in the Michigan court rules. A report under this sub-
19 division must contain all of the following:

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

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

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

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1 (iv) Whether the guardian recommends a more suitable living
2 arrangement for the ward.

3 (v) Medical treatment received by the ward.

4 (vi) Services received by the ward.

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

7 (viii) A recommendation as to the need for continued
8 guardianship.

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

15 Enacting section 1. This amendatory act takes effect
16 June 1, 2001.