

HOUSE BILL No. 5499

December 1, 2007, Introduced by Reps. Robert Jones, Rocca, Meadows, Simpson, Constan, Clack, Polidori, Alma Smith, Warren, Lemmons, Hopgood, Ball, Griffin and Dean and referred to the Committee on Senior Health, Security, and Retirement.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
(MCL 700.1101 to 700.8102) by adding section 5306a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 5306A. (1) AN INDIVIDUAL FOR WHOM A GUARDIAN IS APPOINTED
2 UNDER SECTION 5306 RETAINS ALL OF THE FOLLOWING RIGHTS:

3 (A) TO A CONTINUING REVIEW OF THE NEED FOR THE GUARDIANSHIP AS
4 PROVIDED IN SECTION 5309.

5 (B) TO BE RESTORED TO CAPACITY AT THE EARLIEST POSSIBLE TIME.

6 (C) TO BE TREATED HUMANELY, WITH DIGNITY AND RESPECT, AND TO
7 BE PROTECTED AGAINST ABUSE, NEGLECT, AND EXPLOITATION.

8 (D) TO HAVE A QUALIFIED GUARDIAN.

9 (E) TO BE FREE FROM PHYSICAL OR CHEMICAL RESTRAINTS, EXCEPT AS
10 REQUIRED TO TREAT MEDICAL SYMPTOMS, AS AUTHORIZED IN WRITING BY A

1 PHYSICIAN.

2 (F) TO REMAIN AS INDEPENDENT AS POSSIBLE, INCLUDING HAVING THE
3 INDIVIDUAL'S PREFERENCE AS TO PLACE AND STANDARD OF LIVING HONORED.

4 (G) TO ATTEND ONLY THOSE RELIGIOUS SERVICES OF THE
5 INDIVIDUAL'S CHOICE.

6 (H) TO HAVE ACCESS TO NEWSPAPERS, MAGAZINES, BOOKS, AND OTHER
7 MEDIA.

8 (I) TO MAINTAIN POSSESSION OF FAMILY PHOTOGRAPHS AND MOVING
9 IMAGES, IN ANY MEDIUM, LEGAL PAPERS, ADDRESS BOOKS, AND FAMILY
10 HEIRLOOMS.

11 (J) TO RECEIVE PRUDENT FINANCIAL MANAGEMENT AND TO BE INFORMED
12 HOW THE INDIVIDUAL'S PROPERTY IS BEING MANAGED.

13 (K) TO BE FREE FROM DISCRIMINATION BECAUSE OF THE PERSON'S
14 INCAPACITY.

15 (L) TO HAVE ACCESS TO THE COURTS AND TO LODGE COMPLAINTS WITH
16 GOVERNMENTAL AGENCIES, HEALTH CARE FACILITIES, AND THE COURTS,
17 WITHOUT REPRISAL.

18 (M) TO HAVE ACCESS TO AND TO MEET PRIVATELY WITH LEGAL
19 COUNSEL.

20 (N) TO MEET PRIVATELY WITH THE INDIVIDUAL'S SPOUSE.

21 (O) IF RESIDING IN A LICENSED LONG-TERM CARE FACILITY, TO BE
22 VISITED BY REPRESENTATIVES OF THE STATE LONG-TERM CARE OMBUDSMAN
23 ESTABLISHED UNDER SECTION 6 OF THE OLDER MICHIGANIANS ACT, 1981 PA
24 180, MCL 400.586, AND OF ANY AGENCY DESIGNATED TO IMPLEMENT
25 PROTECTION AND ADVOCACY PROGRAMS UNDER SECTION 931 OF THE MENTAL
26 HEALTH CODE, 1974 PA 258, MCL 330.1931.

27 (P) TO RECEIVE NOTICE OF ALL PROCEEDINGS.

1 (Q) TO PRIVACY.

2 (2) UNLESS SPECIFICALLY RESTRICTED BY COURT ORDER UPON GOOD
3 CAUSE SHOWN, AN INDIVIDUAL FOR WHOM A GUARDIAN IS APPOINTED UNDER
4 SECTION 5306 RETAINS ALL OF THE FOLLOWING RIGHTS TO THE EXTENT
5 ALLOWED BY LAW:

6 (A) TO ASSOCIATE WITH INDIVIDUALS OF HIS OR HER CHOICE,
7 INCLUDING MEETING PRIVATELY WITH FAMILY OR FRIENDS.

8 (B) TO SEND AND RECEIVE MAIL, INCLUDING ELECTRONIC MAIL,
9 UNOPENED.

10 (C) TO MAKE AND RECEIVE TELEPHONE CALLS, IN PRIVATE.

11 (D) TO ATTEND SOCIAL GATHERINGS, CULTURAL EVENTS, OR MEETINGS
12 OF COMMUNITY GROUPS.

13 (E) TO SEEK AND RETAIN GAINFUL EMPLOYMENT AND PARTICIPATE IN
14 VOLUNTEER ACTIVITIES.

15 (F) TO PERSONALLY APPLY FOR GOVERNMENT BENEFITS.

16 (G) TO HAVE A DRIVER LICENSE.

17 (3) WITHIN 7 DAYS AFTER BEING APPOINTED, A GUARDIAN SHALL
18 INFORM THE WARD ORALLY AND IN WRITING OF HIS OR HER RIGHTS
19 ENUMERATED IN THIS SECTION.

20 (4) THE ENUMERATION OF RIGHTS IN THIS SECTION DOES NOT
21 PRECLUDE OTHER RIGHTS BEING RETAINED BY AN INDIVIDUAL FOR WHOM A
22 GUARDIAN IS APPOINTED.

23 (5) VIOLATION OF A RIGHT ENUMERATED IN THIS SECTION BY A
24 GUARDIAN IS CAUSE FOR REMOVAL OF THE GUARDIAN IN A PROCEEDING UNDER
25 SECTION 5310.

26 (6) IF A COURT FINDS THAT A GUARDIAN HAS VIOLATED A RIGHT
27 ENUMERATED IN THIS SECTION, THE COURT SHALL CONSIDER WHETHER THE

1 GUARDIAN HAS VIOLATED THE RIGHTS OF ANY OTHER INDIVIDUAL FOR WHOM
2 THE GUARDIAN SERVES AS A GUARDIAN. IF THE COURT DETERMINES THAT THE
3 GUARDIAN HAS VIOLATED THE RIGHTS OF ANOTHER WARD, THE COURT SHALL
4 TAKE APPROPRIATE ACTION, WHICH MAY INCLUDE REMOVING THE GUARDIAN AS
5 GUARDIAN FOR OTHER INDIVIDUALS AND PROHIBITING THE GUARDIAN FROM
6 BEING APPOINTED AS GUARDIAN IN THE FUTURE.