

# SENATE BILL No. 713

December 6, 2017, Introduced by Senators MARLEAU, KNOLLENBERG, KOWALL, JONES, BOOHER, EMMONS, COLBECK, ROCCA, CASPERSON, O'BRIEN, HUNE, GREEN, ROBERTSON, STAMAS, BRANDENBURG, BIEDA, GREGORY, HERTEL, MACGREGOR, NOFS, HANSEN, HORN, HILDENBRAND and SCHMIDT and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 5101, 5305, 5306, 5306a, 5310, and 5507 (MCL 700.5101, 700.5305, 700.5306, 700.5306a, 700.5310, and 700.5507), sections 5101 and 5310 as amended by 2000 PA 54, section 5305 as amended by 2013 PA 157, section 5306 as amended by 2004 PA 532, section 5306a as added by 2012 PA 173, and section 5507 as amended by 2008 PA 41, and by adding part 6 to article V.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 5101. As used in parts 1 to 4 of this article:

2       (a) "Best interests of the minor" means the sum total of the  
3 following factors to be considered, evaluated, and determined by  
4 the court:

1           (i) The love, affection, and other emotional ties existing  
2 between the parties involved and the child.

3           (ii) The capacity and disposition of the parties involved to  
4 give the child love, affection, and guidance and to continue  
5 educating and raising the child in the child's religion or creed,  
6 if any.

7           (iii) The capacity and disposition of the parties involved to  
8 provide the child with food, clothing, medical care or other  
9 remedial care recognized and permitted under the laws of this state  
10 in place of medical care, and other material needs.

11           (iv) The length of time the child has lived in a stable,  
12 satisfactory environment, and the desirability of maintaining  
13 continuity.

14           (v) The permanence, as a family unit, of the existing or  
15 proposed custodial home.

16           (vi) The moral fitness of the parties involved.

17           (vii) The mental and physical health of the parties involved.

18           (viii) The child's home, school, and community record.

19           (ix) The child's reasonable preference, if the court considers  
20 the child to be of sufficient age to express a preference.

21           (x) The party's willingness and ability to facilitate and  
22 encourage a close and continuing parent-child relationship between  
23 the child and his or her parent or parents.

24           (xi) Domestic violence regardless of whether the violence is  
25 directed against or witnessed by the child.

26           (xii) Any other factor considered by the court to be relevant  
27 to a particular dispute regarding termination of a guardianship,

1 removal of a guardian, or parenting time.

2 (b) "Claim" includes, in respect to a protected individual, a  
3 liability of the protected individual, whether arising in contract,  
4 tort, or otherwise, and a liability of the estate that arises at or  
5 after the appointment of a conservator, including expenses of  
6 administration.

7 (c) "Conservator" includes, but is not limited to, a limited  
8 conservator described in section 5419(1).

9 (D) "ISOLATED ADULT" MEANS AN INDIVIDUAL WHO IS 18 YEARS OF  
10 AGE OR OLDER, INCLUDING A WARD, AND WHO HAS BEEN DENIED VISITATION  
11 WITH A QUALIFIED PERSON BY ANOTHER PERSON.

12 (E) "QUALIFIED PERSON" MEANS ANY OF THE FOLLOWING:

13 (i) THE SPOUSE, CHILD, GRANDCHILD, PARENT, OR SIBLING OF AN  
14 ALLEGEDLY ISOLATED ADULT.

15 (ii) AN INDIVIDUAL WHO HAS A SIGNIFICANT AND ONGOING  
16 RELATIONSHIP WITH AN ALLEGEDLY ISOLATED ADULT.

17 (iii) AN INDIVIDUAL WHOM THE ALLEGEDLY ISOLATED ADULT NAMED IN  
18 HIS OR HER PATIENT ADVOCATE DESIGNATION WITH WHOM THE ALLEGEDLY  
19 ISOLATED ADULT WOULD LIKE TO VISIT.

20 (F) ~~(d)~~ "Visitor" means an individual appointed in a  
21 guardianship or protective proceeding who is trained in law,  
22 nursing, or social work, is an officer, employee, or special  
23 appointee of the court, and has no personal interest in the  
24 proceeding.

25 Sec. 5305. (1) The duties of a guardian ad litem appointed for  
26 an individual alleged to be incapacitated include all of the  
27 following:

1 (a) Personally visiting the individual.

2 (b) Explaining to the individual the nature, purpose, and  
3 legal effects of a guardian's appointment.

4 (c) Explaining to the individual the hearing procedure and the  
5 individual's rights in the hearing procedure, including, but not  
6 limited to, all of the following:

7 (i) The right to contest the petition.

8 (ii) The right to request limits on the guardian's powers,  
9 including a limitation on the guardian's power to execute a do-not-  
10 resuscitate order on behalf of the ward.

11 (iii) The right to object to a particular person being  
12 appointed guardian.

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

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

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

17 (d) Informing the individual that if a guardian is appointed,  
18 the guardian may have the power to execute a do-not-resuscitate  
19 order on behalf of the individual and, if meaningful communication  
20 is possible, ~~discern if~~ **DISCERNING WHETHER** the individual objects  
21 to having a do-not-resuscitate order executed on his or her behalf.

22 (e) Informing the individual of the name of each person known  
23 to be seeking appointment as guardian.

24 (f) Asking the individual and the petitioner about the amount  
25 of cash and property readily convertible into cash that is in the  
26 individual's estate.

27 (g) 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~~ **LIMITATIONS** on those powers **THAT** the guardian ad litem believes **TO BE** 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, or durable power of attorney with or without limitations on purpose, authority, or duration.

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

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

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

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

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

3           (vii) Whether the individual objects to a particular person  
4 being appointed guardian.

5           (viii) WITH WHOM THE INDIVIDUAL WISHES TO COMMUNICATE AND  
6 VISIT, AND IF THE INDIVIDUAL NAMED ANOTHER INDIVIDUAL IN A PATIENT  
7 ADVOCATE DESIGNATION WITH WHOM THE INDIVIDUAL WOULD LIKE TO VISIT  
8 AND COMMUNICATE, THE IDENTITY OF THAT INDIVIDUAL.

9           (ix) WHETHER IT IS APPROPRIATE FOR THE INDIVIDUAL TO VISIT OR  
10 COMMUNICATE WITH AN INDIVIDUAL DESCRIBED IN SUBPARAGRAPH (viii).

11           (2) The court shall not order compensation of the guardian ad  
12 litem unless the guardian ad litem states on the record or in the  
13 guardian ad litem's written report that he or she has complied with  
14 subsection (1).

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

22           (4) If the individual alleged to be incapacitated requests  
23 legal counsel or the guardian ad litem determines it is in the  
24 individual's best interest to have legal counsel, and if legal  
25 counsel has not been secured, the court shall appoint legal  
26 counsel. If the individual alleged to be incapacitated is indigent,  
27 the state shall bear the expense of legal counsel.

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

4 Sec. 5306. (1) The court may appoint a guardian if the court  
5 finds by clear and convincing evidence both that the individual for  
6 whom a guardian is sought is an incapacitated individual and that  
7 the appointment is necessary as a means of providing continuing  
8 care and supervision of the incapacitated individual, with each  
9 finding supported separately on the record. Alternately, the court  
10 may dismiss the proceeding or enter another appropriate order.

11 (2) The court shall grant a guardian only those powers and  
12 only for that period of time as is necessary to provide for the  
13 demonstrated need of the incapacitated individual. The court shall  
14 design the guardianship to encourage the development of maximum  
15 self-reliance and independence in the individual **AND TO CONTINUE**  
16 **THE EXISTING RELATIONSHIPS WITH QUALIFIED PERSONS.** If the court is  
17 aware that an individual has executed a patient advocate  
18 designation under section 5506, the court shall not grant a  
19 guardian any of the same powers that are held by the patient  
20 advocate. A court order establishing a guardianship ~~shall~~ **MUST**  
21 specify any limitations on the guardian's powers and any time  
22 limits on the guardianship.

23 (3) If the court finds by clear and convincing evidence that  
24 an individual is incapacitated and lacks the capacity to do some,  
25 but not all, of the tasks necessary to care for himself or herself,  
26 the court may appoint a limited guardian to provide guardianship  
27 services to the individual, but the court shall not appoint a full

1 guardian.

2 (4) If the court finds by clear and convincing evidence that  
3 the individual is incapacitated and is totally without capacity to  
4 care for himself or herself, the court shall specify that finding  
5 of fact in an order and may appoint a full guardian.

6 (5) If an individual executed a patient advocate designation  
7 under section 5506 before the time the court determines that he or  
8 she became a legally incapacitated individual, a guardian does not  
9 have and shall not exercise the power or duty of making medical or  
10 mental health treatment decisions that the patient advocate is  
11 designated to make. If, however, a petition for guardianship or for  
12 modification under section 5310 alleges and the court finds that  
13 the patient advocate designation was not executed in compliance  
14 with section 5506, that the patient advocate is not complying with  
15 the terms of the designation or with the applicable provisions of  
16 sections 5506 to 5515, or that the patient advocate is not acting  
17 consistent with the ward's best interests, the court may modify the  
18 guardianship's terms to grant those powers to the guardian.

19 Sec. 5306a. (1) An individual for whom a guardian is sought or  
20 has been appointed under section 5306 has all of the following  
21 rights:

22 (a) To object to the appointment of a successor guardian by  
23 will or other writing, as provided in section 5301.

24 (b) To have the guardianship proceeding commenced and  
25 conducted in the place where the individual resides or is present  
26 or, if the individual is admitted to an institution by a court, in  
27 the county in which the court is located, as provided in section



1 5302.

2 (c) To petition on his or her own behalf for the appointment  
3 of a guardian, as provided in section 5303.

4 (d) To have legal counsel of his or her own choice represent  
5 him or her on the petition to appoint a guardian, as provided in  
6 sections 5303, 5304, and 5305.

7 (e) If he or she is not represented by legal counsel, to the  
8 appointment of a guardian ad litem to represent the individual on  
9 the petition to appoint a guardian, as provided in section 5303.

10 (f) To an independent evaluation of his or her capacity by a  
11 physician or mental health professional, at public expense if he or  
12 she is indigent, as provided in section 5304.

13 (g) To be present at the hearing on the petition to appoint a  
14 guardian and to have all practical steps taken to ensure this,  
15 including, if necessary, moving the hearing site, as provided by  
16 section 5304.

17 (h) To see or hear all the evidence presented in the hearing  
18 on the petition to appoint a guardian, as provided in section 5304.

19 (i) To present evidence and cross-examine witnesses in the  
20 hearing on the petition to appoint a guardian, as provided in  
21 section 5304.

22 (j) To a trial by jury on the petition to appoint a guardian,  
23 as provided in section 5304.

24 (k) To a closed hearing on the petition to appoint a guardian,  
25 as provided in section 5304.

26 (l) If a guardian ad litem is appointed, to be personally  
27 visited by the guardian ad litem, as provided in section 5305.

1 (m) If a guardian ad litem is appointed, to an explanation by  
2 the guardian ad litem of the nature, purpose, and legal effects of  
3 a guardian's appointment, as provided in section 5305.

4 (n) If a guardian ad litem is appointed, to an explanation by  
5 the guardian ad litem of the individual's rights in the hearing  
6 procedure, as provided in section 5305.

7 (o) If a guardian ad litem is appointed, to be informed by the  
8 guardian ad litem of the right to contest the petition, to request  
9 limits on the guardian's powers, to object to a particular person  
10 being appointed guardian, to be present at the hearing, to be  
11 represented by legal counsel, and to have legal counsel appointed  
12 if the individual is unable to afford legal counsel, as provided in  
13 section 5305.

14 (p) To be informed of the name of each person known to be  
15 seeking appointment as guardian, including, if a guardian ad litem  
16 is appointed, to be informed of the names by the guardian ad litem  
17 as provided in section 5305.

18 (q) To require that proof of incapacity and the need for a  
19 guardian be proven by clear and convincing evidence, as provided in  
20 section 5306.

21 (r) To the limitation of the powers and period of time of a  
22 guardianship to only the amount and time that is necessary, as  
23 provided in section 5306.

24 (s) To a guardianship designed to encourage the development of  
25 maximum self-reliance and independence as provided in section 5306.

26 (t) To prevent the grant of powers to a guardian if those  
27 powers are already held by a valid patient advocate, as provided in

1 section 5306.

2 (u) To periodic review of the guardianship by the court,  
3 including the right to a hearing and the appointment of an attorney  
4 if issues arise upon the review of the guardianship, as provided in  
5 section 5309.

6 (v) To, at any time, seek modification or termination of the  
7 guardianship by informal letter to the judge, as provided in  
8 section 5310.

9 (w) To a hearing within 28 days of requesting a review,  
10 modification, or termination of the guardianship, as provided in  
11 section 5310.

12 (x) To the same rights on a petition for modification or  
13 termination of the guardianship including the appointment of a  
14 visitor as apply to a petition for appointment of a guardian, as  
15 provided in section 5310.

16 (y) To personal notice of a petition for appointment or  
17 removal of a guardian, as provided in section 5311.

18 (z) To written notice of the nature, purpose, and legal  
19 effects of the appointment of a guardian, as provided in section  
20 5311.

21 (aa) To choose the person who will serve as guardian, if the  
22 chosen person is suitable and willing to serve, as provided in  
23 section 5313.

24 (bb) To consult with the guardian about major decisions  
25 affecting the individual, if meaningful conversation is possible,  
26 as provided in section 5314.

27 (cc) To quarterly visits by the guardian, as provided in

1 section 5314.

2 (dd) To have the guardian notify the court within 14 days of a  
3 change in the individual's residence, as provided in section 5314.

4 (ee) To have the guardian secure services to restore the  
5 individual to the best possible state of mental and physical well-  
6 being so that the individual can return to self-management at the  
7 earliest possible time, as provided in section 5314.

8 (ff) To have the guardian take reasonable care of the  
9 individual's clothing, furniture, vehicles, and other personal  
10 effects, as provided in section 5314.

11 (GG) IF THE INDIVIDUAL IS ABLE TO EXPRESS HIS OR HER  
12 PREFERENCE, TO VISIT AND COMMUNICATE WITH INDIVIDUALS OF HIS OR HER  
13 CHOICE. IF THE INDIVIDUAL IS UNABLE TO EXPRESS HIS OR HER  
14 PREFERENCES, AND IF THE INDIVIDUAL NAMED ANOTHER INDIVIDUAL IN A  
15 PATIENT ADVOCATE DESIGNATION WITH WHOM THE INDIVIDUAL WOULD LIKE TO  
16 VISIT AND COMMUNICATE, THE INDIVIDUAL HAS THE RIGHT TO VISIT AND  
17 COMMUNICATE WITH THAT OTHER INDIVIDUAL.

18 (2) A guardian ad litem shall inform the ward in writing of  
19 his or her rights enumerated in this section. The state court  
20 administrative office and the ~~office of services to the aging~~ **AND**  
21 **ADULT SERVICES AGENCY** created in section 5 of the older  
22 Michiganians act, 1981 PA 180, MCL 400.585, shall promulgate a form  
23 to be used to give the written notice under this section, which  
24 ~~shall~~ **MUST** include space for the court to include information on  
25 how to contact the court or other relevant personnel with respect  
26 to the rights enumerated in this section.

27 Sec. 5310. (1) On petition of the guardian and subject to the

1 filing and approval of a report prepared as required by section  
2 5314, the court shall accept the guardian's resignation and make  
3 any other order that is appropriate.

4 (2) The ward or a person interested in the ward's welfare may  
5 petition **THE COURT** for an order removing the guardian, appointing a  
6 successor guardian, modifying the guardianship's terms, or  
7 terminating the guardianship. A request for this order may be made  
8 by informal letter to the court or judge. A person who knowingly  
9 interferes with the transmission of this kind of request to the  
10 court or judge is subject to a finding of contempt of court.

11 (3) Except as otherwise provided in the order finding  
12 incapacity, ~~upon~~**ON** receiving a petition or request under this  
13 section, the court shall set a date for a hearing to be held within  
14 28 days after the receipt of the petition or request. An order  
15 finding incapacity may specify a minimum period, not exceeding 182  
16 days, during which a petition or request for a finding that a ward  
17 is no longer an incapacitated individual, or for an order removing  
18 the guardian, modifying the guardianship's terms, or terminating  
19 the guardianship, ~~shall~~**MUST** not be filed without special leave of  
20 the court.

21 (4) Before removing a guardian, appointing a successor  
22 guardian, modifying the guardianship's terms, or terminating a  
23 guardianship, and following the same procedures to safeguard the  
24 ward's rights as apply to a petition for a guardian's appointment,  
25 the court may send a visitor to the present guardian's residence  
26 and to the place where the ward resides or is detained to observe  
27 conditions and report in writing to the court.

1           (5) A QUALIFIED PERSON MAY PETITION THE COURT FOR A FINDING  
2 THAT THE WARD IS AN ISOLATED ADULT AND FOR AN ORDER OF VISITATION  
3 WITH THE WARD UNDER SECTION 5603. A QUALIFIED PERSON MAY ALSO  
4 PETITION THE COURT FOR AN ORDER THAT REQUIRES THE GUARDIAN TO  
5 NOTIFY THE QUALIFIED PERSON IN WRITING WITHIN 14 DAYS AFTER EITHER  
6 OF THE FOLLOWING EVENTS:

7           (A) A CHANGE OF THE WARD'S RESIDENCE.

8           (B) THE WARD'S ADMISSION TO A HOSPITAL OR SKILLED NURSING  
9 FACILITY. AS USED IN THIS SUBDIVISION, "SKILLED NURSING FACILITY"  
10 MEANS THAT TERM AS DEFINED IN SECTION 20109 OF THE PUBLIC HEALTH  
11 CODE, 1978 PA 368, MCL 333.20109.

12           Sec. 5507. (1) A patient advocate designation may include a  
13 statement of the patient's desires on care, custody, **COMMUNICATION**  
14 **AND VISITATION WITH OTHERS**, and medical treatment or mental health  
15 treatment, or both. A patient advocate designation may also include  
16 a statement of the patient's desires on the making of an anatomical  
17 gift of all or part of the patient's body under part 101 of the  
18 public health code, 1978 PA 368, MCL 333.10101 to 333.10123. The  
19 statement regarding an anatomical gift under this subsection may  
20 include a statement of the patient's desires regarding the  
21 resolution of a conflict between the terms of the advance health  
22 care directive and the administration of means necessary to ensure  
23 the medical suitability of the anatomical gift. The patient may  
24 authorize the patient advocate to exercise 1 or more powers  
25 concerning the patient's care, custody, medical treatment, **OR**  
26 mental health treatment, the making of an anatomical gift, or the  
27 resolution of a conflict between the terms of the advance health

1 care directive and the administration of means necessary to ensure  
2 the medical suitability of the anatomical gift that the patient  
3 could have exercised on his or her own behalf.

4 (2) A patient may designate in the patient advocate  
5 designation a successor individual as a patient advocate who may  
6 exercise the powers described in subsection (1) for the patient if  
7 the first individual named as patient advocate does not accept, is  
8 incapacitated, resigns, or is removed.

9 (3) Before a patient advocate designation is implemented, a  
10 copy of the patient advocate designation must be given to the  
11 proposed patient advocate and must be given to a successor patient  
12 advocate before the successor acts as patient advocate. Before  
13 acting as a patient advocate, the proposed patient advocate must  
14 sign an acceptance of the patient advocate designation.

15 (4) The acceptance of a designation as a patient advocate must  
16 include substantially all of the following statements:

17 1. This patient advocate designation is not effective unless  
18 the patient is unable to participate in decisions regarding the  
19 patient's medical or mental health, as applicable. If this patient  
20 advocate designation includes the authority to make an anatomical  
21 gift as described in section 5506, the authority remains  
22 exercisable after the patient's death.

23 2. A patient advocate shall not exercise powers concerning the  
24 patient's care, custody, and medical or mental health treatment  
25 that the patient, if the patient were able to participate in the  
26 decision, could not have exercised on his or her own behalf.

27 3. This patient advocate designation cannot be used to make a

1 medical treatment decision to withhold or withdraw treatment from a  
2 patient who is pregnant that would result in the pregnant patient's  
3 death.

4 4. A patient advocate may make a decision to withhold or  
5 withdraw treatment that would allow a patient to die only if the  
6 patient has expressed in a clear and convincing manner that the  
7 patient advocate is authorized to make such a decision, and that  
8 the patient acknowledges that such a decision could or would allow  
9 the patient's death.

10 5. A patient advocate shall not receive compensation for the  
11 performance of his or her authority, rights, and responsibilities,  
12 but a patient advocate may be reimbursed for actual and necessary  
13 expenses incurred in the performance of his or her authority,  
14 rights, and responsibilities.

15 6. A patient advocate shall act in accordance with the  
16 standards of care applicable to fiduciaries when acting for the  
17 patient and shall act consistent with the patient's best interests.  
18 The known desires of the patient expressed or evidenced while the  
19 patient is able to participate in medical or mental health  
20 treatment decisions are presumed to be in the patient's best  
21 interests.

22 7. A patient may revoke his or her patient advocate  
23 designation at any time and in any manner sufficient to communicate  
24 an intent to revoke.

25 8. A patient may waive his or her right to revoke the patient  
26 advocate designation as to the power to make mental health  
27 treatment decisions, and if such a waiver is made, his or her



1 ability to revoke as to certain treatment will be delayed for 30  
2 days after the patient communicates his or her intent to revoke.

3 9. A patient advocate may revoke his or her acceptance of the  
4 patient advocate designation at any time and in any manner  
5 sufficient to communicate an intent to revoke.

6 10. A patient admitted to a health facility or agency has the  
7 rights enumerated in section 20201 of the public health code, 1978  
8 PA 368, MCL 333.20201.

9 **PART 6**

10 **ISOLATED ADULTS**

11 **SEC. 5601. THE VENUE FOR A VISITATION PROCEEDING UNDER SECTION**  
12 **5603 IS IN THE COUNTY WHERE THE ALLEGEDLY ISOLATED ADULT RESIDES OR**  
13 **IS PRESENT.**

14 **SEC. 5603. (1) A QUALIFIED PERSON MAY PETITION THE COURT FOR A**  
15 **FINDING THAT AN INDIVIDUAL WHO IS AT LEAST 18 YEARS OF AGE IS BEING**  
16 **ISOLATED FROM A QUALIFIED PERSON BY ANOTHER INDIVIDUAL.**

17 **(2) A PETITION UNDER THIS SECTION MUST INCLUDE ALL OF THE**  
18 **FOLLOWING:**

19 **(A) THE PETITIONER'S INTEREST AS A QUALIFIED PERSON.**

20 **(B) THE RESIDENCE OF THE ALLEGEDLY ISOLATED ADULT OR WHERE HE**  
21 **OR SHE IS PRESENT.**

22 **(C) A STATEMENT OF FACTS AS TO WHY THE PETITIONER'S VISITATION**  
23 **WITH THE ALLEGEDLY ISOLATED ADULT IS BEING INTERFERED WITH OR**  
24 **DENIED.**

25 **(D) THE IDENTITY OF ANY PERSON ALLEGED TO BE INTERFERING WITH**  
26 **OR DENYING VISITATION BETWEEN THE PETITIONER AND THE ALLEGEDLY**  
27 **ISOLATED ADULT UNDER SUBDIVISION (C).**

1 (3) IN A PROCEEDING UNDER THIS SECTION, NOTICE OF HEARING MUST  
2 BE GIVEN TO EACH OF THE FOLLOWING:

3 (A) THE ALLEGEDLY ISOLATED ADULT.

4 (B) THE RESPONDENT.

5 (4) NOTICE MUST BE SERVED PERSONALLY ON THE ALLEGEDLY ISOLATED  
6 ADULT. NOTICE TO ALL OTHER PERSONS MUST BE GIVEN AS PRESCRIBED BY  
7 COURT RULE.

8 (5) A COPY OF THE PETITION UNDER THIS SECTION MUST BE ATTACHED  
9 TO THE NOTICE OF HEARING.

10 (6) ON THE FILING OF A PETITION UNDER SUBSECTION (1), THE  
11 COURT SHALL SET A DATE FOR HEARING ON THE ISSUE OF ISOLATION.

12 (7) IT IS PRESUMED THAT IT IS IN THE BEST INTEREST OF AN  
13 ALLEGEDLY ISOLATED ADULT TO VISIT WITH A QUALIFIED PERSON. THE  
14 RESPONDENT MAY REBUT THE PRESUMPTION UNDER THIS SUBSECTION WITH  
15 CLEAR AND CONVINCING EVIDENCE OF ANY OF THE FOLLOWING:

16 (A) THAT THE PETITIONER COMMITTED MENTAL, PHYSICAL, OR  
17 FINANCIAL ABUSE AGAINST THE ALLEGEDLY ISOLATED ADULT.

18 (B) THAT VISITATION BETWEEN THE PETITIONER AND THE ALLEGEDLY  
19 ISOLATED ADULT WOULD BE HARMFUL TO THE ALLEGEDLY ISOLATED ADULT'S  
20 HEALTH OR MENTAL WELL-BEING.

21 (8) IF AN ALLEGEDLY ISOLATED ADULT WHO IS THE SUBJECT OF A  
22 PETITION UNDER THIS SECTION OBJECTS TO VISITATION WITH THE  
23 PETITIONER, THE PETITIONER MUST DEMONSTRATE BY CLEAR AND CONVINCING  
24 EVIDENCE THAT THE ALLEGEDLY ISOLATED ADULT'S OBJECTION RESULTED  
25 FROM THE RESPONDENT'S UNDUE INFLUENCE OVER THE ALLEGEDLY ISOLATED  
26 ADULT. IF THE PETITIONER DEMONSTRATES CLEAR AND CONVINCING EVIDENCE  
27 UNDER THIS SUBSECTION, THE COURT SHALL GRANT THE PETITIONER

1 REASONABLE VISITATION AND NOTICE OF CHANGE IN RESIDENCY AS PROVIDED  
2 IN SUBSECTION (9).

3 (9) IF THE COURT FINDS THAT THE PETITIONER IS A QUALIFIED  
4 PERSON, THAT THE INDIVIDUAL SUBJECT TO A PETITION UNDER THIS  
5 SECTION IS AN ISOLATED ADULT, AND THAT VISITATION BETWEEN THE  
6 ISOLATED ADULT AND THE PETITIONER IS BEING DENIED, THE COURT MAY  
7 ENTER AN ORDER THAT DOES ANY OF THE FOLLOWING:

8 (A) ESTABLISHES REASONABLE TIMES FOR THE PETITIONER TO VISIT  
9 THE ISOLATED ADULT.

10 (B) REQUIRES THE RESPONDENT TO NOTIFY THE PETITIONER WITHIN 14  
11 DAYS AFTER ANY OF THE FOLLOWING:

12 (i) A CHANGE IN THE ISOLATED ADULT'S RESIDENCE.

13 (ii) THE ISOLATED ADULT'S ADMISSION TO A HOSPITAL OR SKILLED  
14 NURSING FACILITY. AS USED IN THIS SUBPARAGRAPH, "SKILLED NURSING  
15 FACILITY" MEANS THAT TERM AS DEFINED IN SECTION 20109 OF THE PUBLIC  
16 HEALTH CODE, 1978 PA 368, MCL 333.20109.

17 (10) IF THE COURT DETERMINES THAT A PETITIONER FILED A  
18 PETITION UNDER THIS SECTION IN BAD FAITH, THE COURT MAY ASSESS  
19 REASONABLE ATTORNEY FEES INCURRED BY THE RESPONDENT AND ANY  
20 GUARDIAN AD LITEM COST AGAINST THE PETITIONER.

21 (11) IF THE COURT GRANTS THE PETITIONER'S PETITION, THE COURT  
22 MAY ASSESS AGAINST THE RESPONDENT ANY OF THE FOLLOWING:

23 (A) THE COST OF FILING AND SERVING THE PETITION.

24 (B) ANY COST FOR A GUARDIAN AD LITEM.

25 (C) REASONABLE ATTORNEY FEES INCURRED BY THE PETITIONER.

26 (12) AS USED IN THIS SECTION, "RESPONDENT" MEANS AN INDIVIDUAL  
27 ALLEGED TO HAVE INTERFERED WITH OR DENIED VISITATION BETWEEN AN

1 ALLEGEDLY ISOLATED ADULT AND A PETITIONER UNDER THIS SECTION.