

HOUSE BILL NO. 4728

July 15, 2025, Introduced by Reps. Schmaltz, Pavlov, Green, Thompson, Conlin, Hope, McKinney, Roth, St. Germaine, Wilson, Aragona, Prestin, Neyer, Bohnak, Alexander, Markkanen, Bierlein, Kuhn, Tisdell, Outman, MacDonell, Rigas and VanderWall and referred to Committee on Families and Veterans.

A bill to amend 1980 PA 299, entitled
"Occupational code,"
by amending section 303a (MCL 339.303a), as amended by 2014 PA 265,
and by adding article 14A.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 303a. The term of office of a member of a board appointed
2 under this article ~~shall commence~~ **commences** on 1 of the following
3 dates, as applicable:

4 Accountancy	July 1
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1	Architects	April 1
2	Barbers	October 1
3	Collection agencies	July 1
4	Cosmetology	January 1
5	Employment agencies	October 1
6	Guardians and conservators	July 1
7	Hearing aid dealers	October 1
8	Land surveyors	April 1
9	Landscape architects	July 1
10	Mortuary science	July 1
11	Professional engineers	April 1
12	Real estate appraisers	July 1
13	Real estate brokers and salespersons	July 1
14	Residential builders	April 1

Article 14A

Sec. 1410. As used in this article:

(a) "Conservator" means that term as defined in section 1103 of the estates and protected individuals code, 1998 PA 386, MCL 700.1103.

(b) "Department" means the department of licensing and regulatory affairs.

(c) "Guardian" means that term as defined in section 1104 of the estates and protected individuals code, 1998 PA 386, MCL 700.1104.

(d) "Professional conservator" means that term as defined in section 1106 of the estates and protected individuals code, 1998 PA 386, MCL 700.1106.

(e) "Professional guardian" means that term as defined in section 1106 of the estates and protected individuals code, 1998 PA

1 386, MCL 700.1106.

2 Sec. 1411. (1) Beginning 2 years after the effective date of
3 the amendatory act that added this section, the department shall
4 license an individual as a professional guardian or professional
5 conservator who meets all of the following requirements:

6 (a) Submits a completed application to the department on a
7 form prescribed by the department.

8 (b) Pays an initial application fee of \$250.00 or renewal
9 application fee of \$100.00, as applicable.

10 (c) Is 21 years of age or older.

11 (d) Submits a criminal background check under section 1413.

12 (e) Has not been convicted of a crime listed in section
13 1413(1).

14 (f) Has not been found liable in a civil action that involved
15 fraud, misrepresentation, misappropriation, theft, exploitation,
16 abuse, or conversion.

17 (g) Has not been removed as a guardian or conservator by the
18 court for an action involving fraud, misrepresentation,
19 misappropriation, theft, exploitation, abuse, or conversion.

20 (h) Has not been relieved of the responsibilities of a
21 guardian or conservator by an employer or client for an action
22 involving fraud, misrepresentation, misappropriation, theft,
23 exploitation, abuse, or conversion.

24 (i) Has graduated from an accredited high school or comparable
25 school or educational institution or passed the general educational
26 development test or other graduate equivalency examination.

27 (j) Passes and submits proof to the department of passage of
28 the Center for Guardianship Certification National Certified
29 Guardian Examination.

1 (k) Submits proof to the department of completion of other
2 educational requirements required by the Center for Guardianship
3 Certification, including a minimum of 20 hours of continuing
4 education units in the 24 months preceding the submission of the
5 application, as offered by a state or national trade association
6 dedicated to the advancement of the guardianship profession.

7 (l) Submits proof to the department of coverage by professional
8 liability insurance, as the named insured or employee of the named
9 insured.

10 (2) The department shall issue a unique license number to an
11 individual licensed under this section.

12 (3) This license is valid for 36 months and subject to renewal
13 according to section 1412.

14 (4) Only an individual licensed under this section may
15 advertise that the individual is a licensed professional guardian
16 or licensed professional conservator.

17 (5) An individual licensed under this section who has been
18 found civilly liable or criminally convicted in an action that
19 involves fraud, misrepresentation, misappropriation, theft,
20 exploitation, abuse, or conversion shall report this finding or
21 conviction to the department and each probate court in which the
22 individual is currently serving as a professional guardian or
23 professional conservator within 30 days after conviction or finding
24 of civil liability.

25 (6) The department shall revoke the license of an individual
26 who does not meet the requirements under subsection (1).

27 (7) An individual denied a license or whose license has been
28 revoked by the department based on a criminal history check
29 conducted under section 1413 may appeal to the department if the

1 individual believes that the criminal history report is inaccurate,
2 and the appeal must be conducted as a contested case under the
3 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
4 24.328.

5 (8) The department shall post on its website a list of
6 licensed professional guardians and licensed professional
7 conservators, and if applicable, their employer. The department
8 shall update the list each month.

9 (9) As used in this section, "department" means the department
10 of licensing and regulatory affairs.

11 Sec. 1412. Beginning 2 years after the effective date of the
12 amendatory act that added this chapter, the department shall renew
13 a license for a guardian or conservator if the guardian or
14 conservator, as applicable, does all of the following:

15 (a) Submits a completed renewal application to the department
16 on a form prescribed by the department.

17 (b) Pays a renewal fee of \$100.00.

18 (c) Submits proof of having completed 30 hours of continuing
19 education units in the previous 36-month period, as offered by a
20 state or national trade association dedicated to the advancement of
21 the guardianship profession.

22 (d) Submits a new background check as described in section
23 1413.

24 (e) Submits proof of valid professional liability insurance.

25 Sec. 1413. (1) Except as otherwise provided in subsection (2),
26 a professional guardian or professional conservator shall not
27 employ or independently contract with an individual who regularly
28 has direct access to or provides direct services to incapacitated
29 or protected individuals served by the professional guardian or

1 professional conservator, if the individual has been convicted of
2 any of the following:

3 (a) A relevant crime described under 42 USC 1320a-7(a).

4 (b) Any of the following felonies or misdemeanors, an attempt
5 or conspiracy to commit any of those felonies or misdemeanors, or
6 any other state or federal crime that is similar to the felonies or
7 misdemeanors described in this subdivision:

8 (i) A felony or misdemeanor that involves the intent to cause
9 death or serious impairment of a body function, that results in
10 death or serious impairment of a body function, that involves the
11 use of force or violence, or that involves the threat of the use of
12 force or violence.

13 (ii) A felony or misdemeanor involving cruelty or torture.

14 (iii) A felony or misdemeanor under chapter XXA of the Michigan
15 penal code, 1931 PA 328, MCL 750.145m to 750.145r.

16 (iv) A felony or misdemeanor involving criminal sexual conduct.

17 (v) A felony or misdemeanor involving abuse or neglect.

18 (vi) Within the last 10 years, a felony or misdemeanor
19 involving the use of a firearm or dangerous weapon.

20 (vii) A felony or misdemeanor involving the diversion or
21 adulteration of a prescription drug or other medications.

22 (viii) A felony or misdemeanor involving fraud,
23 misrepresentation, misappropriation, theft, exploitation, or
24 conversion.

25 (ix) A felony or misdemeanor involving home invasion.

26 (x) A felony or misdemeanor involving embezzlement.

27 (xi) A felony or misdemeanor involving negligent homicide or a
28 violation of section 601d(1) of the Michigan vehicle code, 1949 PA
29 300, MCL 257.601d.

1 (xii) A felony or misdemeanor involving larceny.

2 (xiii) Within the last 10 years, any other misdemeanor involving
3 assault, fraud, theft, or the possession or delivery of a
4 controlled substance, except marihuana-related offenses.

5 (2) Except as otherwise provided in this subsection or
6 subsection (5), a professional guardian or professional conservator
7 shall not employ or independently contract with an individual who
8 regularly has direct access to or provides direct services to
9 incapacitated or protected individuals served by the professional
10 guardian or professional conservator and an individual applicant
11 must not be licensed as a professional guardian or professional
12 conservator until the professional guardian, professional
13 conservator, or the individual applicant for a license has a
14 criminal history check conducted in compliance with this section or
15 has received criminal history record information in compliance with
16 subsections (3) and (10). This subsection and subsection (1) do not
17 apply to an individual who is under an independent contract with a
18 professional guardian or professional conservator if the individual
19 is not under the professional guardian's or professional
20 conservator's control and the services for which the individual is
21 contracted are not directly related to the provision of services to
22 an incapacitated or protected individual or if the services for
23 which the individual is contracted allow for direct access to the
24 incapacitated or protected individuals but are not performed on an
25 ongoing basis.

26 (3) An individual who applies for a license as a professional
27 guardian or professional conservator or employment either as an
28 employee or as an independent contractor for a professional
29 guardian or professional conservator and who has not been the

1 subject of a criminal history check conducted in compliance with
2 this section shall give written consent at the time of application
3 for the department of state police to conduct a criminal history
4 check under this section, along with identification acceptable to
5 the department of state police. If the applicant has been the
6 subject of a criminal history check conducted in compliance with
7 this section, the applicant shall give written consent at the time
8 of application for the professional guardian or professional
9 conservator to obtain the criminal history record information as
10 prescribed in subsection (4) from the department and for the
11 department of state police to conduct a criminal history check
12 under this section if the requirements of subsection (10) are not
13 met and a request to the Federal Bureau of Investigation to make a
14 determination of the existence of any national criminal history
15 pertaining to the applicant is necessary, along with identification
16 acceptable to the department of state police. On receipt of the
17 written consent to obtain the criminal history record information
18 and identification required under this subsection, the professional
19 guardian or professional conservator that has made a good-faith
20 offer of employment or an independent contract to the applicant
21 shall request the criminal history record information from the
22 department and shall make a request regarding the applicant to the
23 department to conduct a check of all relevant registries in the
24 manner required in subsection (4). If the requirements of
25 subsection (10) are not met and a request to the Federal Bureau of
26 Investigation to make a subsequent determination of the existence
27 of any national criminal history pertaining to the applicant is
28 necessary, the professional guardian or professional conservator
29 shall proceed in the manner required in subsection (4).

(4) On receipt of the written consent to conduct a criminal history check and identification required under subsection (3), the professional guardian employer, professional conservator employer, or the applicant for a license as a professional guardian or professional conservator shall make a request to the department of state police to conduct a criminal history check on the applicant, to input the applicant's fingerprints into the automated fingerprint identification system database, and to forward the applicant's fingerprints to the Federal Bureau of Investigation. The department of state police shall request the Federal Bureau of Investigation to make a determination of the existence of any national criminal history pertaining to the applicant. The applicant shall provide the department of state police with a set of fingerprints. The request must be made in a manner prescribed by the department of state police. The professional guardian or professional conservator shall make the written consent and identification available to the department of state police. The professional guardian or professional conservator shall make a request regarding that applicant to the relevant licensing or regulatory department to conduct a check of all relevant registries established according to federal and state law and regulations for any substantiated findings of abuse, neglect, or misappropriation of property. If the department of state police or the Federal Bureau of Investigation charges a fee for conducting the criminal history check, the professional guardian employer, professional conservator employer, or applicant for a license as a professional guardian or professional conservator shall pay the cost of the charge. The department of state police shall conduct a criminal history check on the applicant named in the request. The department

1 of state police shall provide the department with a written report
2 of the criminal history check conducted under this subsection. The
3 report must contain any criminal history record information on the
4 applicant maintained by the department of state police. The
5 department of state police shall provide the results of the Federal
6 Bureau of Investigation determination to the department within 30
7 days after the request is made. If criminal history record
8 information is disclosed on the written report of the criminal
9 history check or the Federal Bureau of Investigation determination
10 that resulted in a conviction, the department shall notify the
11 professional guardian employer, professional conservator employer,
12 or applicant for a license as a professional guardian or
13 professional conservator in writing of the type of crime disclosed
14 on the written report of the criminal history check or the Federal
15 Bureau of Investigation determination without disclosing the
16 details of the crime. Any charges imposed by the department of
17 state police or the Federal Bureau of Investigation for conducting
18 a criminal history check or making a determination under this
19 subsection must be paid in the manner required under this
20 subsection.

21 (5) If a professional guardian or professional conservator
22 determines it necessary to employ an applicant before receiving the
23 results of the applicant's criminal history check or criminal
24 history record information under this section, the professional
25 guardian or professional conservator may conditionally employ the
26 individual if all of the following apply:

27 (a) The professional guardian or professional conservator
28 requests the criminal history check or criminal history record
29 information under this section on conditionally employing the

1 individual.

2 (b) The individual signs a statement in writing that indicates
3 all of the following:

4 (i) That the individual has not been convicted of 1 or more of
5 the crimes that are described in subsection (1) (a) and (b) .

6 (ii) That the individual agrees that, if the information in the
7 criminal history check conducted under this section does not
8 confirm the individual's statement under subparagraph (i) , the
9 individual's employment will be terminated by the professional
10 guardian or professional conservator as required under subsection
11 (1) .

12 (iii) That the individual understands that the conditions
13 described in subparagraphs (i) and (ii) may result in the termination
14 of the individual's employment and that those conditions are good
15 cause for termination.

16 (c) Except as otherwise provided in this subdivision, the
17 professional guardian or professional conservator does not permit
18 the individual to have regular direct access to or provide direct
19 services to incapacitated individuals or protected individuals
20 served by the professional guardian or professional conservator
21 without supervision until the criminal history check or criminal
22 history record information is obtained and the individual is
23 eligible for that employment. If required under this subdivision,
24 the professional guardian or professional conservator shall provide
25 on-site supervision of an individual served by the professional
26 guardian or professional conservator on a conditional basis under
27 this subsection by an individual who has undergone a criminal
28 history check conducted in compliance with this section. A
29 professional guardian or professional conservator may permit an

1 individual in the professional guardian's or professional
2 conservator's employment on a conditional basis under this
3 subsection to have regular direct access to or provide direct
4 services to incapacitated or protected individuals in the
5 professional guardian's or professional conservator's care without
6 supervision if all of the following conditions are met:

7 (i) The professional guardian or professional conservator, at
8 its own expense and before the individual has direct access to or
9 provides direct services to incapacitated individuals or protected
10 individuals of the professional guardian or professional
11 conservator, conducts a search of public records on that individual
12 through the internet criminal history access tool maintained by the
13 department of state police and the results of that search do not
14 uncover any information that would indicate that the individual is
15 not eligible to have regular direct access to or provide direct
16 services to incapacitated individuals or protected individuals
17 under this section.

18 (ii) Before the individual has direct access to or provides
19 direct services to incapacitated or protected individuals of the
20 professional guardian or professional conservator, the individual
21 signs a statement in writing that the individual has resided in
22 this state without interruption for at least the immediately
23 preceding 12-month period.

24 (iii) If applicable, the individual provides to the department
25 of state police a set of fingerprints on or before the expiration
26 of 10 business days following the date the individual was
27 conditionally employed under this subsection.

28 (6) The department shall develop and distribute a model form
29 for the statements required under subsection (5) (b) and (c). The

1 department shall make the model form available to professional
2 guardians and professional conservators on request at no charge.

3 (7) If an individual is employed as a conditional employee
4 under subsection (5), and the information under subsection (3) or
5 report under subsection (4) does not confirm the individual's
6 statement under subsection (5)(b), the professional guardian or
7 professional conservator shall terminate the individual's
8 employment as required by subsection (1).

9 (8) An individual who knowingly provides false information
10 regarding the individual's identity, criminal convictions, or
11 substantiated findings on a statement described in subsection
12 (5)(b) is guilty of a misdemeanor punishable by imprisonment for
13 not more than 93 days or a fine of not more than \$500.00, or both.

14 (9) A professional guardian or professional conservator shall
15 use criminal history record information obtained under subsection
16 (3) or (4) for only the purpose of evaluating an applicant's
17 qualifications for employment or an independent contract, in the
18 position for which the applicant has applied and for the purposes
19 of subsections (5) and (7). A professional guardian employer or
20 professional conservator employer shall not disclose criminal
21 history record information obtained under subsection (3) or (4) to
22 a person who is not directly involved in evaluating the applicant's
23 qualifications for employment or an independent contract. An
24 individual who knowingly uses or disseminates the criminal history
25 record information obtained under subsection (3) or (4) in
26 violation of this subsection is guilty of a misdemeanor punishable
27 by imprisonment for not more than 93 days or a fine of not more
28 than \$1,000.00, or both. Except for a knowing or intentional
29 release of false information, a professional guardian employer or

1 professional conservator employer does not have liability in
2 connection with a criminal history check conducted in compliance
3 with this section or the release of criminal history record
4 information under this subsection.

5 (10) On consent of an applicant as required in subsection (3)
6 and on request from a professional guardian employer or
7 professional conservator employer that has made a good-faith offer
8 of employment or an independent contract to the applicant, the
9 department shall review the criminal history record information, if
10 any, and notify the requesting professional guardian employer or
11 professional conservator employer of the information in the manner
12 prescribed in subsection (4). Until the department of state police
13 can participate with the Federal Bureau of Investigation's
14 automatic notification system similar to the system required of the
15 state police under subsection (13) and federal regulations allow
16 the federal criminal record to be used for subsequent authorized
17 uses, as determined in an order issued by the department, a
18 professional guardian or professional conservator may rely on the
19 criminal history record information provided by the department
20 under this subsection and a request to the Federal Bureau of
21 Investigation to make a subsequent determination of the existence
22 of any national criminal history pertaining to the applicant is not
23 necessary if all of the following requirements are met:

24 (a) The criminal history check was conducted during the
25 immediately preceding 12-month period.

26 (b) The applicant has been continuously employed by the
27 professional guardian or professional conservator since the
28 criminal history check was conducted in compliance with this
29 section or meets the continuous employment requirement of this

1 subdivision other than being on layoff status for less than 1 year
2 from a professional guardian or professional conservator.

3 (c) The applicant can provide evidence acceptable to the
4 department that the applicant has been a resident of this state for
5 the immediately preceding 12-month period.

6 (11) As a condition of continued employment, each employee,
7 independent contractor, or individual shall do each of the
8 following:

9 (a) Agree in writing to report to the professional guardian or
10 professional conservator immediately on being arraigned for 1 or
11 more of the criminal offenses listed in subsection (1)(a) and (b),
12 and on being convicted of 1 or more of the criminal offenses listed
13 in subsection (1)(a) and (b). Reporting of an arraignment under
14 this subdivision is not cause for termination or denial of
15 employment.

16 (b) If a set of fingerprints is not already on file with the
17 department of state police, provide the department of state police
18 with a set of fingerprints.

19 (12) The department of state police and the Federal Bureau of
20 Investigation shall store and retain all fingerprints submitted
21 under this section and provide for an automatic notification if
22 subsequent criminal information submitted into the system matches a
23 set of fingerprints previously submitted under this section. On
24 notification under this subsection, the department of state police
25 shall immediately notify the department and the department shall
26 immediately contact each professional guardian employer or
27 professional conservator employer with which that individual is
28 associated. Information in the database established under this
29 subsection is confidential, is not subject to disclosure under the

1 freedom of information act, 1976 PA 442, MCL 15.231 to 15.246, and
2 must not be disclosed to any person except for purposes of this act
3 or for law enforcement purposes.

4 (13) The department shall maintain an electronic web-based
5 system to assist professional guardian employers and professional
6 conservator employers and applicants for a license as a
7 professional guardian employer or professional conservator employer
8 required to check relevant registries and conduct criminal history
9 checks of its employees and independent contractors, and to provide
10 for an automated notice to those professional guardian employers or
11 professional conservator employers for those individuals inputted
12 in the system who, since the initial criminal history check, have
13 been convicted of a disqualifying offense or have been the subject
14 of a substantiated finding of abuse, neglect, or misappropriation
15 of property. The department may charge a professional guardian
16 employer or professional conservator employer a 1-time set-up fee
17 of up to \$100.00 for access to the electronic web-based system
18 under this section.

19 (14) As used in this section:

20 (a) "Convicted" means either of the following:

21 (i) For a crime that is not a relevant crime, a final
22 conviction, the payment of a fine, a plea of guilty or nolo
23 contendere if accepted by the court, or a finding of guilt for a
24 criminal law violation or a juvenile adjudication or disposition by
25 the juvenile division of probate court or family division of
26 circuit court for a violation that if committed by an adult would
27 be a crime.

28 (ii) For a relevant crime described under 42 USC 1320a-7(a),
29 convicted means that term as defined in 42 USC 1320a-7.

1 (b) "Criminal history check conducted in compliance with this
2 section" means a criminal history check conducted under this
3 section.

4 (c) "Direct access" means access to an incapacitated
5 individual's or protected individual's financial information,
6 medical records, treatment information, or any other identifying
7 information.

8 (d) "Independent contract" means a contract entered into by a
9 professional guardian or professional conservator with an
10 individual who provides the contracted services independently for
11 the professional guardian or professional conservator.

12 (e) "Under the professional guardian's or professional
13 conservator's control" means an individual employed by or under
14 independent contract with a professional guardian or professional
15 conservator for whom the professional guardian or professional
16 conservator does both of the following:

17 (i) Determines whether the individual who has access to
18 incapacitated individuals or protected individuals may consent to
19 the care, treatment, or other similar support service functions to
20 incapacitated individuals or protected individuals served by the
21 professional guardian or professional conservator.

22 (ii) Directs or oversees 1 or more of the following:

23 (A) The policy or procedures the individual must follow in
24 performing the individual's duties.

25 (B) The tasks performed by the individual.

26 (C) The individual's work schedule.

27 (D) The supervision or evaluation of the individual's work or
28 job performance, including imposing discipline or granting
29 performance awards.

1 (E) The compensation the individual receives for performing
2 the individual's duties.

3 (F) The conditions under which the individual performs the
4 individual's duties.