

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.5304 Evaluation and report; hearing.

Sec. 5304. (1) If necessary, the court may order that an individual alleged to be incapacitated be examined by a physician or mental health professional appointed by the court who shall submit a report in writing to the court at least 5 days before the hearing set under section 5303. A report prepared as provided in this subsection must not be made a part of the proceeding's public record, but must be available to the court or an appellate court in which the proceeding is subject to review, to the alleged incapacitated individual, to the petitioner, to their respective legal counsels, and to other persons as the court directs. The report may be used as provided in the Michigan rules of evidence.

(2) The alleged incapacitated individual has the right to secure an independent evaluation, at the individual's own expense or, if indigent, at the expense of the state. Compensation for an independent evaluation at public expense must be in an amount that, based on time and expense, the court approves as reasonable.

(3) A report prepared under this section must contain all of the following:

(a) A detailed description of the individual's physical or psychological infirmities.

(b) An explanation of how and to what extent each infirmity interferes with the individual's ability to receive or evaluate information in making decisions.

(c) A listing of all medications the individual is receiving, the dosage of each medication, and a description of the effects each medication has on the individual's behavior.

(d) A prognosis for improvement in the individual's condition and a recommendation for the most appropriate rehabilitation plan.

(e) The signatures of all individuals who performed the evaluations on which the report is based.

(4) The individual alleged to be incapacitated is entitled to be present at the hearing to appoint a guardian or designate a standby guardian in person, and to see or hear all evidence bearing on the individual's condition. If the individual wishes to be present at the hearing, all practical steps must be taken to ensure the individual's presence, including, if necessary, moving the hearing site.

(5) The individual is entitled to be represented by legal counsel, to present evidence, to cross-examine witnesses, including the court-appointed physician or mental health professional and the visitor, and to trial by jury.

(6) The issue of incapacity may be determined at a closed hearing without a jury if requested by the individual alleged to be incapacitated or that individual's legal counsel.

History: 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2024, Act 1, Imd. Eff. Feb. 21, 2024.

Popular name: EPIC