

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

700.5306a Rights of individual for whom guardian is sought or appointed; form.

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

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

(b) To have the guardianship proceeding commenced and conducted in the place where the individual resides or is present or, if the individual is admitted to an institution by a court, in the county in which the court is located, as provided in section 5302.

(c) To petition on the individual's own behalf for the appointment of a guardian or designation of a standby guardian, as provided in section 5303.

(d) To have legal counsel of the individual's own choice represent him or her on the petition to appoint a guardian or designate a standby guardian, as provided in sections 5303, 5304, and 5305.

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

(f) To an independent evaluation of the individual's capacity by a physician or mental health professional, at public expense if the individual is indigent, as provided in section 5304.

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

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

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

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

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

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

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

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

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

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

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

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

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

(t) To prevent the grant of powers to a guardian if those powers are already held by a valid patient advocate, as provided in section 5306.

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

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

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

(x) To the same rights on a petition for modification or termination of the guardianship including the

appointment of a visitor as apply to a petition for appointment of a guardian, as provided in section 5310.

(y) To personal notice of a petition for appointment or removal of a guardian or the designation or change in designation of a standby guardian, as provided in section 5311.

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

(aa) To choose the person who will serve as guardian and the person designated as standby guardian, if the chosen person is suitable and willing to serve, as provided in sections 5313 and 5301c, as applicable.

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

(cc) To quarterly visits by the guardian, as provided in section 5314.

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

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

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

(2) A guardian ad litem shall inform the ward in writing of the ward's rights enumerated in this section. The state court administrative office and the health and aging services administration created under Executive Reorganization Order No. 2021-2, MCL 400.562, shall promulgate a form to be used to give the written notice under this section, which must include space for the court to include information on how to contact the court or other relevant personnel with respect to the rights enumerated in this section.

History: Add. 2012, Act 173, Eff. Oct. 1, 2012;—Am. 2024, Act 1, Imd. Eff. Feb. 21, 2024.

Popular name: EPIC