

HOUSE BILL NO. 5419

January 28, 2020, Introduced by Reps. Rendon, Warren, LaGrand, Kennedy, Brenda Carter, Kuppa, Koleszar, Miller, Howell, LaFave and Berman and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending section 5215 (MCL 700.5215), as amended by 2000 PA 469.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5215. A minor's guardian has the powers and
2 responsibilities of a parent who is not deprived of custody of the
3 parent's minor and unemancipated child, except that a guardian is
4 not legally obligated to provide for the ward from the guardian's
5 own money and is not liable to third persons ~~by reason~~ **because** of
6 the parental relationship for the ward's acts. A guardian has all

1 of the following powers and duties:

2 (a) The guardian shall take reasonable care of a ward's
3 personal effects and commence a protective proceeding if necessary
4 to protect the ward's other property. If a guardian commences a
5 protective proceeding because the guardian believes that it is in
6 the ward's best interest to sell or otherwise dispose of the ward's
7 real property or interest in real property, the court may appoint
8 the guardian as special conservator and authorize the special
9 conservator to proceed under section 5423(3). A guardian shall not
10 otherwise sell the ward's real property or interest in real
11 property.

12 (b) The guardian may receive money payable for the ward's
13 support to the ward's parent, guardian, or custodian under the
14 terms of a statutory benefit or insurance system, or a private
15 contract, devise, trust, conservatorship, or custodianship. The
16 guardian may receive the ward's money or property paid or delivered
17 under section 5102. Money or property received under ~~that~~ section
18 ~~shall~~ **5102 must** be applied to the ward's current needs for support,
19 care, and education. The guardian shall exercise due care to
20 conserve any excess for the ward's future needs unless a
21 conservator is appointed for the ward's estate, in which case the
22 excess ~~shall~~ **must** be paid over at least annually to the
23 conservator. The guardian shall not use that money or property for
24 compensation for the guardian's services except as approved by
25 court order or as determined by a ~~duly~~ **an** appointed conservator
26 other than the guardian. A guardian may institute a proceeding to
27 compel a person's performance of a duty to support the ward or to
28 pay money for the ward's welfare.

29 (c) The guardian shall facilitate the ward's education and

1 social or other activities, and shall authorize medical or other
2 professional care, treatment, or advice. A guardian is not liable
3 ~~by reason~~ **because** of this consent for injury to the ward resulting
4 from the negligence or acts of third persons unless it would be
5 illegal for a parent to have consented.

6 (d) A guardian may consent to a minor ward's marriage.

7 (e) Subject to the conditions and restrictions of chapter X of
8 the probate code of 1939, 1939 PA 288, MCL 710.21 to 710.70, a
9 guardian may consent to marriage or adoption of a minor ward or to
10 the release of a minor ward for adoption.

11 (f) A guardian must report the condition of the ward and of
12 the ward's estate that is subject to the guardian's possession or
13 control as ordered by the court on petition of a person interested
14 in the minor's welfare or as required by court rule. The report
15 must detail the condition of the ward, medical or mental health
16 treatment or care to which the ward was subjected, and what reason,
17 if any, exists for the continuation of the guardianship.

18 (g) Within 14 days after a change in the ward's place of
19 residence, the guardian shall give to the court notice of the
20 ward's new address.

21 **(h) A guardian may execute a do-not-resuscitate order on**
22 **behalf of the ward as provided in section 3a of the Michigan do-**
23 **not-resuscitate procedure act, 1996 PA 193, MCL 333.1053a.**

24 Enacting section 1. This amendatory act does not take effect
25 unless Senate Bill No. ____ or House Bill No. 5417 (request no.
26 01185'19) of the 100th Legislature is enacted into law.