

# SENATE BILL NO. 221

March 14, 2019, Introduced by Senator LUCIDO and referred to the Committee on Judiciary and Public Safety.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 5207, 5208, and 5209 (MCL 700.5207, 700.5208, and 700.5209).

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 5207. (1) The court may review a guardianship for a minor  
2 as it considers necessary and shall review a guardianship annually  
3 if the minor is under 6 years of age. In conducting the review  
4 **under this subsection,** the court shall consider all of the

1 following factors:

2 (a) The parent's and guardian's compliance with either of the  
3 following, as applicable:

4 (i) A limited guardianship placement plan.

5 (ii) A court-structured plan under subsection (3) (b) (ii) (B) or  
6 section ~~5209(2)(b)(ii)~~. **5209(b)(ii)** .

7 (b) Whether the guardian has adequately provided for the  
8 minor's welfare.

9 (c) The necessity of continuing the guardianship.

10 (d) The guardian's willingness and ability to continue to  
11 provide for the minor's welfare.

12 (e) The effect ~~upon~~**on** the minor's welfare if the guardianship  
13 is continued.

14 (f) Any other factor that the court considers relevant to the  
15 minor's welfare.

16 (2) The court may order the ~~family independence agency~~  
17 **department of health and human services** or a court employee or  
18 agent to conduct an investigation and file a written report of the  
19 investigation regarding the factors listed in subsection (1).

20 (3) ~~Upon~~**On** completion of a guardianship review, the court may  
21 do either of the following:

22 (a) Continue the guardianship.

23 (b) Schedule and conduct a hearing on the guardianship's  
24 status and do any of the following:

25 (i) If the guardianship is a limited guardianship, do either of  
26 the following:

27 (A) Continue the limited guardianship.

28 (B) Order the parties to modify the limited guardianship  
29 placement plan as a condition to continuing the limited

1 guardianship.

2 (ii) If the guardianship was established under section 5204, do  
3 either of the following:

4 (A) Continue the guardianship.

5 (B) Order the parties to follow a court-structured plan  
6 designed to resolve the conditions identified at the review  
7 hearing.

8 (iii) Take an action described in section ~~5209(2)~~-**5209**.

9 Sec. 5208. (1) A minor's parent or parents may petition the  
10 court to terminate a guardianship for the minor as follows:

11 (a) If the guardianship is a limited guardianship, the parents  
12 or the sole parent with a right to custody of the minor **may**  
13 **petition the court.**

14 (b) If the guardianship was established under section 5204,  
15 the minor's parent or parents **may petition the court.**

16 (2) If a petition is filed to terminate a guardianship under  
17 this section, the court may do 1 or more of the following:

18 (a) Order the ~~family independence agency~~ **department of health**  
19 **and human services** or a court employee or agent to conduct an  
20 investigation and file a written report of the investigation  
21 regarding the best interests of the minor or give testimony  
22 concerning the investigation.

23 (b) Utilize the community resources in behavioral sciences and  
24 other professions in the investigation and study of the best  
25 interests of the minor and consider their recommendations for the  
26 disposition of the petition.

27 (c) Appoint a guardian ad litem or attorney to represent the  
28 minor.

29 (d) Take any other action considered necessary in a particular

1 case.

2 (3) After notice and hearing on a petition under this section  
 3 to terminate a limited guardianship, the court shall terminate the  
 4 limited guardianship if it determines that the minor's parent or  
 5 parents have substantially complied with the limited guardianship  
 6 placement plan. The court may enter orders to facilitate the  
 7 minor's reintegration into the home of the parent or parents for a  
 8 period of up to 6 months before the termination.

9 (4) ~~(3)~~ This section and section 5209 apply to all  
 10 guardianships established before, on, or after ~~the effective date~~  
 11 ~~of this section.~~ **April 1, 2000.**

12 Sec. 5209. ~~(1) After notice and hearing on a petition under~~  
 13 ~~section 5208 to terminate a limited guardianship, the court shall~~  
 14 ~~terminate the limited guardianship if it determines that the~~  
 15 ~~minor's parent or parents have substantially complied with the~~  
 16 ~~limited guardianship placement plan. The court may enter orders to~~  
 17 ~~facilitate the minor's reintegration into the home of the parent or~~  
 18 ~~parents for a period of up to 6 months before the termination.~~

19 ~~(2)~~ For a petition to terminate a guardianship in which  
 20 ~~subsection (1) does not apply,~~ **that is not a petition by a minor's**  
 21 **parent or parents to terminate guardianship under section 5208,**  
 22 after notice and hearing, the court may do any of the following:

23 (a) Terminate the guardianship if the court determines that it  
 24 is in the best interests of the minor, and do any of the following:

25 (i) Enter orders to facilitate the minor's reintegration into  
 26 the parent's home for a period of up to 6 months before the  
 27 termination.

28 (ii) Order the ~~family independence agency~~ **department of health**  
 29 **and human services** to supervise the transition period when the

1 minor is being reintegrated into his or her parent's home.

2 (iii) Order the ~~family independence agency~~ **department of health**  
3 **and human services** to provide services to facilitate the minor's  
4 reintegration into his or her parent's home.

5 (b) Continue the guardianship for not more than 1 year after  
6 the hearing date if the court determines that it is in the best  
7 interests of the minor, and do any of the following:

8 (i) If the guardianship is a limited guardianship, order the  
9 parent or parents to comply with 1 of the following:

10 (A) The limited guardianship placement plan.

11 (B) A court-modified limited guardianship placement plan.

12 (C) If the limited guardianship was established before  
13 December 20, 1990, a court-structured plan that enables the minor  
14 to return to the home of his or her parent or parents.

15 (ii) If the guardianship is ordered under section 5204, order  
16 the parent or parents to follow a court-structured plan that  
17 enables the minor to return to the home of his or her parent or  
18 parents.

19 (iii) If a guardianship is continued under subparagraph (i) or  
20 (ii), schedule and conduct a hearing to review the guardianship  
21 before the expiration of the period of time that the guardianship  
22 is continued and either terminate the guardianship or limited  
23 guardianship or proceed under subdivision (c) or (d).

24 (c) If the minor resides with the guardian or limited guardian  
25 for not less than 1 year and if the court finds that the minor's  
26 parent or parents have failed to provide the minor with parental  
27 care, love, guidance, and attention appropriate to the child's age  
28 and individual needs resulting in a substantial disruption of the  
29 parent-child relationship, continue the guardianship if it is

1 established by clear and convincing evidence that the continuation  
2 would serve the best interests of the minor.

3 (d) Appoint an attorney to represent the minor or refer the  
4 matter to the ~~family independence agency~~. **department of health and**  
5 **human services**. The attorney or the ~~family independence agency~~  
6 **department of health and human services** may file a complaint on  
7 behalf of the minor requesting the family division of the circuit  
8 court to take jurisdiction of the minor under section 2(b) of  
9 chapter XIIA of **the probate code of 1939**, 1939 PA 288, MCL 712A.2.