

HOUSE BILL NO. 4171

March 02, 2023, Introduced by Reps. VanderWall, Zorn, Green, Wozniak, Paiz, Prestin, Kunse, Rheingans, Thompson and Bezotte and referred to the Committee on Judiciary.

A bill to amend 1974 PA 258, entitled
"Mental health code,"
by amending section 628 (MCL 330.1628), as amended by 1995 PA 290.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 628. (1) ~~The~~**Subject to subsection (2), the** court may
2 appoint as guardian of an individual with a developmental
3 disability ~~any~~**a** suitable individual or agency, public or private,
4 including a private association capable of conducting an active
5 guardianship program for an individual with a developmental
6 disability. The court shall not appoint the department of ~~mental~~

1 ~~health~~**health and human services** as guardian or any other agency,
2 public or private, that is directly providing services to the
3 individual, unless no other suitable individual or agency can be
4 identified. In such instances, guardianship by the provider shall
5 ~~only~~**must** continue **only** until ~~such time as~~ a more suitable
6 individual or agency can be appointed.

7 **(2) In appointing a professional guardian under this section,**
8 **the court shall appoint a professional guardian in the following**
9 **order of priority:**

10 **(a) A person, other than an individual, that is a professional**
11 **guardian or an individual guardian who is certified under section**
12 **5106a of the estates and protected individuals code, 1998 PA 386,**
13 **MCL 700.5106a.**

14 **(b) A professional guardian who is not certified under section**
15 **5106a of the estates and protected individuals code, 1998 PA 386,**
16 **MCL 700.5106a.**

17 **(3) ~~(2)~~Before the appointment, the court shall make a**
18 **reasonable effort to question the individual concerning his or her**
19 **preference regarding the person to be appointed guardian. ~~, and any~~**
20 **~~preference indicated shall be given due consideration.~~The court**
21 **shall consider the preference of the individual before appointing a**
22 **guardian.**

23 Enacting section 1. This amendatory act does not take effect
24 unless Senate Bill No. ____ or House Bill No. 4172 (request no.
25 01484'23) of the 102nd Legislature is enacted into law.