

HOUSE BILL NO. 4912

July 18, 2023, Introduced by Reps. Borton, Breen, Tsernoglou, Morse, Hope, McFall, Conlin, Young, Scott, Price, Paiz, Hood, Rogers, Filler, Rheingans, Kunse, Schmaltz, Fitzgerald, MacDonell, Wozniak, Andrews, Dievendorf, Steckloff, Coffia, Koleszar, Haadsma, Johnsen, Farhat, Mentzer, McKinney, Byrnes, Hoskins, Brabec, Liberati, O'Neal, Neeley, Edwards, Miller, Wegela, Outman, Tyrone Carter, Snyder, Brixie, Coleman, Wilson, Grant, Glanville, Churches, Aiyash, Whitsett, Morgan, Hill, Puri and Meerman and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 5414 and 5415 (MCL 700.5414 and 700.5415) and
by adding section 5312a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5312a. (1) The court may appoint a temporary guardian
2 under section 5301a or this section.

3 (2) If a guardian has not been appointed or an appointed
4 guardian is not effectively performing the guardian's duties and
5 the court further finds that the alleged incapacitated individual
6 or ward's welfare requires immediate action, the court may appoint

1 a temporary guardian under this section for a specified period not
2 to exceed 6 months. The court shall not appoint a temporary
3 guardian under this subsection unless either of the following
4 conditions is met:

5 (a) Oral or written notice of the hearing was provided to all
6 interested persons.

7 (b) If the petitioner has not provided notice of the hearing
8 to all interested persons, the petitioner submits a written
9 explanation to the court to detail the efforts, if any, that the
10 petitioner has made to provide notice and the reason why provided
11 notice should not be required.

12 (3) A temporary guardian is entitled to the care and custody
13 of the ward, and the authority of a permanent guardian previously
14 appointed by the court is suspended while a temporary guardian has
15 authority. A temporary guardian may be removed at any time. A
16 temporary guardian shall make reports as the court requires. In
17 other respects, the provisions of this act concerning guardians
18 apply to temporary guardians.

19 Sec. 5414. (1) The court may remove a conservator for good
20 cause, ~~upon~~ on notice and hearing, or accept a conservator's
21 resignation. ~~Upon~~ On the conservator's death, resignation, or
22 removal, the court may appoint another conservator. A conservator
23 ~~so~~ appointed **under this subsection** succeeds to the title and powers
24 of the predecessor.

25 (2) The protected individual or a person interested in the
26 protected individual's welfare may petition for an order removing
27 the conservator, appointing a successor conservator, modifying the
28 terms of the conservatorship, or terminating the conservatorship. A
29 request for this order under this subsection may be made by

1 informal letter to the court. A person who knowingly interferes
2 with transmission of a request described in this subsection to the
3 court is subject to a finding of contempt of court. A petition for
4 an order appointing a successor conservator under this subsection
5 is subject to the priority of appointment under section 5409.

6 Sec. 5415. (1) A person interested in the welfare of an
7 individual for whom a conservator is appointed may file a petition
8 in the appointing court for an order to do any of the following:

9 (a) Require bond or security or additional bond or security,
10 or reduce bond.

11 (b) Require an accounting for the administration of the trust.

12 (c) Direct distribution.

13 (d) Remove the conservator and appoint a temporary or
14 successor conservator.

15 (e) Grant other appropriate relief.

16 (2) A conservator may petition the appointing court for
17 instructions concerning fiduciary responsibility. ~~Upon~~**On** notice
18 and hearing, the court may give appropriate instructions or make an
19 appropriate order.

20 **(3) A petition for an order appointing a successor conservator**
21 **under subsection (1) is subject to the priority of appointment**
22 **under section 5409.**

23 Enacting section 1. This amendatory act takes effect 180 days
24 after the date it is enacted into law.

25 Enacting section 2. This amendatory act does not take effect
26 unless all of the following bills of the 102nd Legislature are
27 enacted into law:

28 (a) Senate Bill No. _____ or House Bill No. 4909 (request no.
29 01149'23).

1 (b) Senate Bill No. _____ or House Bill No. 4910 (request no.
2 01150'23).

3 (c) Senate Bill No. _____ or House Bill No. 4911 (request no.
4 01151'23).