

Act No. 72
Public Acts of 2023
Approved by the Governor
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**STATE OF MICHIGAN
102ND LEGISLATURE
REGULAR SESSION OF 2023**

Introduced by Senators Klinefelt, Geiss, McMorrow, Polehanki, Cherry, Santana, Irwin, Shink, Hertel, Chang, Johnson, Huizenga, Bayer and McCann

ENROLLED SENATE BILL No. 212

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 2519, 5103, 5204, 5206, and 5215 (MCL 700.2519, 700.5103, 700.5204, 700.5206, and 700.5215), section 2519 as amended by 2010 PA 325, section 5103 as amended by 2016 PA 483, section 5204 as amended by 2005 PA 204, and section 5215 as amended by 2020 PA 365.

The People of the State of Michigan enact:

Sec. 2519. (1) A will executed in the form prescribed by subsection (2) and otherwise in compliance with the terms of the Michigan statutory will form is a valid will. A person printing and distributing the Michigan statutory will shall print and distribute the form verbatim as it appears in subsection (2). The notice provisions must be printed in 10-point boldfaced type.

(2) The form of the Michigan statutory will is as follows:

MICHIGAN STATUTORY WILL NOTICE

1. An individual age 18 or older who has sufficient mental capacity may make a will.
2. There are several kinds of wills. If you choose to complete this form, you will have a Michigan statutory will. If this will does not meet your wishes in any way, you should talk with a lawyer before choosing a Michigan statutory will.
3. Warning! It is strongly recommended that you do not add or cross out any words on this form except for filling in the blanks because all or part of this will may not be valid if you do so.
4. This will has no effect on jointly held assets, on retirement plan benefits, or on life insurance on your life if you have named a beneficiary who survives you.
5. This will is not designed to reduce estate taxes.
6. This will treats adopted children and children born outside of wedlock who would inherit if their parent died without a will the same way as children born or conceived during marriage.
7. You should keep this will in your safe deposit box or other safe place. By paying a small fee, you may file this will in your county’s probate court for safekeeping. You should tell your family where the will is kept.

8. You may make and sign a new will at any time. If you marry or divorce after you sign this will, you should make and sign a new will.

INSTRUCTIONS:

1. To have a Michigan statutory will, you must complete the blanks on the will form. You may do this yourself, or direct someone to do it for you. You must either sign the will or direct someone else to sign it in your name and in your presence.

2. Read the entire Michigan statutory will carefully before you begin filling in the blanks. If there is anything you do not understand, you should ask a lawyer to explain it to you.

MICHIGAN STATUTORY WILL OF _____

(Print or type your full name)

ARTICLE 1. DECLARATIONS

This is my will and I revoke any prior wills and codicils. I live in _____ County, Michigan.

My spouse is _____.

(Insert spouse's name or write "none")

My children now living are:

(Insert names or write "none")

ARTICLE 2. DISPOSITION OF MY ASSETS

2.1 CASH GIFTS TO PERSONS OR CHARITIES.

(Optional)

I can leave no more than 2 cash gifts. I make the following cash gifts to the persons or charities in the amount stated here. Any transfer tax due upon my death shall be paid from the balance of my estate and not from these gifts. Full name and address of person or charity to receive cash gift (name only 1 person or charity here):

(Insert name of person or charity)

(Insert address)

AMOUNT OF GIFT (In figures): \$ _____

AMOUNT OF GIFT (In words): _____ Dollars

(Your signature)

Full name and address of person or charity to receive cash gift

(Name only 1 person or charity):

(Insert name of person or charity)

(Insert address)

AMOUNT OF GIFT (In figures): \$ _____

AMOUNT OF GIFT (In words): _____ Dollars

(Your signature)

2.2 PERSONAL AND HOUSEHOLD ITEMS.

I may leave a separate list or statement, either in my handwriting or signed by me at the end, regarding gifts of specific books, jewelry, clothing, automobiles, furniture, and other personal and household items.

I give my spouse all my books, jewelry, clothing, automobiles, furniture, and other personal and household items not included on such a separate list or statement. If I am not married at the time I sign this will or if my spouse dies before me, my personal representative shall distribute those items, as equally as possible, among my children who survive me. If no children survive me, these items shall be distributed as set forth in paragraph 2.3.

2.3 ALL OTHER ASSETS.

I give everything else I own to my spouse. If I am not married at the time I sign this will or if my spouse dies before me, I give these assets to my children and the descendants of any deceased child. If no spouse, children, or descendants of children survive me, I choose 1 of the following distribution clauses by signing my name on the line after that clause. If I sign on both lines, if I fail to sign on either line, or if I am not now married, these assets will go under distribution clause (b).

Distribution clause, if no spouse, children, or descendants of children survive me.

(Select only 1)

(a) One-half to be distributed to my heirs as if I did not have a will, and one-half to be distributed to my spouse's heirs as if my spouse had died just after me without a will.

(Your signature)

(b) All to be distributed to my heirs as if I did not have a will.

(Your signature)

ARTICLE 3. NOMINATIONS OF PERSONAL REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

Personal representatives, guardians, and conservators have a great deal of responsibility. The role of a personal representative is to collect your assets, pay debts and taxes from those assets, and distribute the remaining assets as directed in the will. A guardian is a person who will look after the physical well-being of a child. A conservator is a person who will manage a child's assets and make payments from those assets for the child's benefit. Select them carefully. Also, before you select them, ask them whether they are willing and able to serve.

3.1 PERSONAL REPRESENTATIVE.

(Name at least 1)

I nominate _____

(Insert name of person or eligible financial institution)

of _____ to serve as personal representative.

(Insert address)

If my first choice does not serve, I nominate _____

(Insert name of person or eligible financial institution)

of _____ to serve as personal representative.

(Insert address)

3.2 GUARDIAN AND CONSERVATOR.

Your spouse may die before you. Therefore, if you have a child under age 18, name an individual as guardian of the child, and an individual or eligible financial institution as conservator of the child's assets. The guardian and the conservator may, but need not be, the same person.

If a guardian or conservator is needed for a child of mine, I nominate

(Insert name of individual)

of _____ as guardian and

(Insert address)

(Insert name of individual or eligible financial institution)

of _____ to serve as conservator.

(Insert address)

If my first choice cannot serve, I nominate

(Insert name of individual)

of _____ as guardian and

(Insert address)

(Insert name of individual or eligible financial institution)

of _____ to serve as conservator.

(Insert address)

3.3 BOND.

A bond is a form of insurance in case your personal representative or a conservator performs improperly and jeopardizes your assets. A bond is not required. You may choose whether you wish to require your personal representative and any conservator to serve with or without bond. Bond premiums would be paid out of your assets. (Select only 1)

(a) My personal representative and any conservator I have named shall serve with bond.

(Your signature)

(b) My personal representative and any conservator I have named shall serve without bond.

(Your signature)

3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

Definitions and additional clauses found at the end of this form are part of this will.

I sign my name to this Michigan statutory will on _____, 20____.

(Your signature)

NOTICE REGARDING WITNESSES

You must use 2 adults as witnesses. It is preferable to have 3 adult witnesses. All the witnesses must observe you sign the will, have you tell them you signed the will, or have you tell them the will was signed at your direction in your presence.

STATEMENT OF WITNESSES

We sign below as witnesses, declaring that the individual who is making this will appears to have sufficient mental capacity to make this will and appears to be making this will freely, without duress, fraud, or undue influence, and that the individual making this will acknowledges that he or she has read the will, or has had it read to him or her, and understands the contents of this will.

(Print Name)

(Signature of witness)

(Address)

(City) (State) (Zip)

(Print name)

(Signature of witness)

(Address)

(City) (State) (Zip)

(Print name)

(Signature of witness)

(Address)

(City) (State) (Zip)

DEFINITIONS

The following definitions and rules of construction apply to this Michigan statutory will:

(a) "Assets" means all types of property you can own, such as real estate, stocks and bonds, bank accounts, business interests, furniture, and automobiles.

(b) "Descendants" means your children, grandchildren, and their descendants.

(c) "Descendants" or "children" includes individuals born or conceived during marriage, individuals legally adopted, and individuals born out of wedlock who would inherit if their parent died without a will.

(d) "Jointly held assets" means those assets to which ownership is transferred automatically upon the death of 1 of the owners to the remaining owner or owners.

(e) "Spouse" means your husband or wife at the time you sign this will.

(f) Whenever a distribution under a Michigan statutory will is to be made to an individual's descendants, the assets are to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave living descendants. Each living descendant of the nearest degree will receive 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the descendant. In this manner, all descendants who are in the same generation will take an equal share.

(g) "Heirs" means those persons who would have received your assets if you had died without a will, domiciled in Michigan, under the laws that are then in effect.

(h) "Person" includes individuals and institutions.

(i) Plural and singular words include each other, where appropriate.

(j) If a Michigan statutory will states that a person shall perform an act, the person is required to perform that act. If a Michigan statutory will states that a person may do an act, the person's decision to do or not to do the act must be made in good-faith exercise of the person's powers.

ADDITIONAL CLAUSES

Powers of personal representative

1. A personal representative has all powers of administration given by Michigan law to personal representatives and, to the extent money is not needed to meet debts and expenses currently payable and are not immediately distributable, the power to invest and reinvest the estate from time to time in accordance with the Michigan prudent investor rule. In dividing and distributing the estate, the personal representative may distribute partially or totally in kind, may determine the value of distributions in kind without reference to income tax bases, and may make non-pro rata distributions.

2. The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to the minor's conservator or, in amounts not exceeding \$5,000.00 per year, either to the minor, if married before the effective date of the 2023 amendatory act that amended this sentence; to a parent or another adult with whom the minor resides and who has the care, custody, or control of the minor; or to the guardian. The personal representative is free of liability and is discharged from further accountability for distributing assets in compliance with this paragraph.

POWERS OF GUARDIAN AND CONSERVATOR

A guardian named in this will has the same authority with respect to the child as a parent having legal custody would have. A conservator named in this will has all of the powers conferred by law.

Sec. 5103. (1) By a properly executed power of attorney, a parent or guardian of a minor or a guardian of a legally incapacitated individual may delegate to another person, for a period not exceeding 180 days, any of the parent's or guardian's powers regarding care, custody, or property of the minor child or ward, except the power to consent to adoption of a minor ward or to release of a minor ward for adoption.

(2) A parent shall not knowingly and intentionally delegate his or her powers under this section regarding care and custody of the parent's minor child for longer than 180 days for the purpose of permanently transferring custody of the child in violation of section 136c(3) of the Michigan penal code, 1931 PA 328, MCL 750.136c.

(3) If a parent or guardian is serving in the armed forces of the United States and is deployed to a foreign nation, and if the power of attorney so provides, a delegation under this section is effective until the thirty-first day after the end of the deployment.

(4) If a guardian for a minor or legally incapacitated individual delegates any power under this section, the guardian shall notify the court within 7 days after execution of the power of attorney and provide the court the name, address, and telephone number of the attorney-in-fact.

Sec. 5204. (1) A person interested in the welfare of a minor, or a minor if 14 years of age or older, may petition for the appointment of a guardian for the minor. The court may order the department of health and human services or a court employee or agent to conduct an investigation of the proposed guardianship and file a written report of the investigation.

(2) The court may appoint a guardian for a minor if any of the following circumstances exist:

(a) The parental rights of both parents or the surviving parent are terminated or suspended by prior court order, by judgment of divorce or separate maintenance, by death, by judicial determination of mental incompetency, by disappearance, or by confinement in a place of detention.

(b) The parent or parents permit the minor to reside with another person and do not provide the other person with legal authority for the minor's care and maintenance, and the minor is not residing with his or her parent or parents when the petition is filed.

(c) All of the following:

(i) The minor's biological parents have never been married to one another.

(ii) The minor's parent who has custody of the minor dies or is missing and the other parent has not been granted legal custody under court order.

(iii) The person whom the petition asks to be appointed guardian is related to the minor within the fifth degree by marriage, blood, or adoption.

(3) A minor's limited guardian may petition to be appointed a guardian for that minor, except that the petition must not be based on suspension of parental rights by the order that appointed that person the limited guardian for that minor.

(4) A guardian appointed under section 5202 whose appointment is not prevented or nullified under section 5203 has priority over a guardian who may be appointed by the court. The court may proceed with an appointment on a finding that a guardian appointed in a manner described in section 5202 has failed to accept the appointment within 28 days after the notice of the guardianship proceeding.

(5) For the minor ward's welfare, the court may at any time order the minor ward's parents to pay reasonable support and order reasonable parenting time and contact of the minor ward with his or her parents.

Sec. 5206. (1) The court shall review a proposed limited guardianship placement plan filed with the court under section 5205 and shall do 1 of the following:

(a) Approve the proposed plan.

(b) Disapprove the proposed plan.

(c) On its own motion, modify a proposed plan and approve it as modified, if the parties agree to the modification. The modified plan must be filed with the court.

(2) A limited guardianship placement plan that has been approved by the court may be modified on agreement of the parties and approval of the court. A modified limited guardianship placement plan must be filed with the court.

(3) The voluntary suspension of parental rights under section 5205 does not prevent the parent or parents from filing a petition to terminate the limited guardianship at any time as provided in section 5208. Appointment of a limited guardian under this section is a continuing appointment.

(4) A limited guardian appointed under this section has all of the powers and duties enumerated in section 5215 except that a minor's limited guardian shall not consent to adoption of the minor ward or to the release of the minor ward for adoption.

Sec. 5215. A minor's guardian has the powers and responsibilities of a parent who is not deprived of custody of the parent's minor and unemancipated child, except that a guardian is not legally obligated to provide for the ward from the guardian's own money and is not liable to third persons because of the parental relationship for the ward's acts. A guardian has all of the following powers and duties:

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

(b) The guardian may receive money payable for the ward's support to the ward's parent, guardian, or custodian under the terms of a statutory benefit or insurance system, or a private contract, devise, trust, conservatorship, or custodianship. The guardian may receive the ward's money or property paid or delivered under section 5102. Money or property received under section 5102 must be applied to the ward's current needs for support, care, and education. The guardian shall exercise due care to conserve any excess for the ward's future needs unless a conservator is appointed for the ward's estate, in which case the excess must be paid over at least

annually to the conservator. The guardian shall not use that money or property for compensation for the guardian's services except as approved by court order or as determined by an appointed conservator other than the guardian. A guardian may institute a proceeding to compel a person's performance of a duty to support the ward or to pay money for the ward's welfare.

(c) The guardian shall facilitate the ward's education and social or other activities, and shall authorize medical or other professional care, treatment, or advice. A guardian is not liable because of this consent for injury to the ward resulting from the negligence or acts of third persons unless it would be illegal for a parent to have consented.

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

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

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

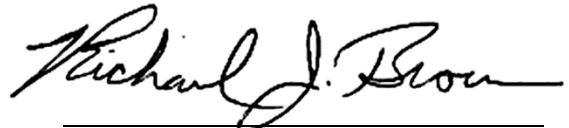
(g) A guardian may execute a do-not-resuscitate order on behalf of the ward as provided in section 3a of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1053a.

Enacting section 1. This amendatory act does not take effect unless Senate Bill No. 209 of the 102nd Legislature is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved _____

Governor