

**SUBSTITUTE FOR  
HOUSE BILL NO. 4676**

A bill to amend 1974 PA 258, entitled  
"Mental health code,"  
by amending section 602 (MCL 330.1602), as amended by 1995 PA 290.

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

1       Sec. 602. (1) Guardianship for ~~individuals~~**an individual** with  
2   **a** developmental disability ~~shall~~**must** be utilized only as is  
3   necessary to promote and protect the well-being of the individual,  
4   including protection from neglect, exploitation, and abuse; ~~shall~~  
5   **must** take into account the individual's abilities; ~~shall~~**must** be  
6   designed to encourage the development of maximum self-reliance and  
7   independence in the individual; and ~~shall~~**must** be ordered only to  
8   the extent necessitated by the individual's actual mental and  
9   adaptive limitations.



1       (2) If the court finds that an individual has a developmental  
2 disability and that the individual is likely to need protection  
3 based on the factors set forth in section 618(1), the court shall  
4 apply the least restrictive alternative principle as described in  
5 this chapter. The court shall not restrict the individual's  
6 personal liberty or the individual's freedom to manage the  
7 individual's financial resources to a greater extent than is  
8 necessary to protect the individual's person and the individual's  
9 estate. The limitations imposed on the guardian's authority as set  
10 forth in the court's findings must be stated in the letters of  
11 guardianship and in the notice of first publication of letters of  
12 guardianship granted.

13       (3) Before appointing a guardian for an individual with a  
14 developmental disability, the court shall consider whether the  
15 individual's needs may be met without appointing a guardian by a  
16 less restrictive alternative, including, but not limited to, the  
17 following:

18       (a) The use of an attorney-in-fact if there is evidence that  
19 the individual appointed an attorney-in-fact in a durable power of  
20 attorney executed by the individual before the petition was filed.

21       (b) The management of the beneficial interests of the  
22 individual in a trust by a trustee.

23       (c) The use of a representative payee if there is evidence  
24 that a representative payee was appointed to manage the  
25 individual's public benefits.

26       (d) Supported decision making or the provision of protective  
27 or supportive services or arrangements by individuals or public or  
28 private services or agencies. As used in this subdivision,  
29 "supported decision making" means a process through which an



1 individual with a developmental disability works with friends,  
2 family members, and professionals who help the individual  
3 understand the situation and choices the individual faces so the  
4 individual may make the individual's own decisions.

5 (e) The use of appropriate services or assistive technology.

6 (f) The appointment of a temporary guardian under section 607  
7 or guardian of the estate under this chapter.

8 (g) The appointment of a partial guardian under this chapter.

9 (4) ~~(2)~~ If the court determines that ~~some form of~~ guardianship  
10 is necessary, partial guardianship is the preferred form of  
11 guardianship for an individual with a developmental disability.