

HOUSE BILL No. 6093

September 17, 1998, Introduced by Rep. Baird and referred to the Committee on Judiciary.

A bill to amend 1978 PA 642, entitled
"Revised probate code,"
by amending section 444 (MCL 700.444), as amended by 1988 PA
398.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 444. (1) The court may appoint a guardian if ~~it is~~
2 ~~satisfied~~ THE COURT FINDS by clear and convincing evidence BOTH
3 that the person for whom a guardian is sought is a legally inca-
4 pacitated person —, and that the appointment is necessary as a
5 means of providing continuing care and supervision of the person
6 of the legally incapacitated person, WITH EACH FINDING SUPPORTED
7 SEPARATELY ON THE RECORD. Alternately, the court may dismiss the
8 proceeding —, or may enter ~~any other~~ ANOTHER appropriate
9 order, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO, AN ORDER
10 AUTHORIZING A PARTICULAR MEDICAL TREATMENT OR PROCEDURE OR AN

1 ORDER DETERMINING THAT AN ADVANCE DIRECTIVE IS VALID, IS BINDING,
2 OR HAS TAKEN EFFECT.

3 (2) ~~A guardian shall be granted~~ THE COURT SHALL GRANT A
4 GUARDIAN only those powers and only for that period of time as is
5 necessary to provide for the demonstrated need of the legally
6 incapacitated person. ~~, and the guardianship shall be designed~~
7 THE COURT SHALL DESIGN THE GUARDIANSHIP to encourage the develop-
8 ment of maximum self-reliance and independence in the person. A
9 COURT SHALL NOT GRANT A GUARDIAN THE SAME POWERS THAT ARE HELD BY
10 A PATIENT ADVOCATE UNDER A DESIGNATION UNDER SECTION 496, UNLESS
11 IT IS DEMONSTRATED THAT THE PATIENT ADVOCATE IS NOT COMPLYING
12 WITH THE DESIGNATION OR SECTION 496, OR THAT THE PATIENT
13 ADVOCATE'S POWERS ARE NOT BEING RECOGNIZED. A court order estab-
14 lishing a guardianship shall specify any limitations on the
15 guardian's powers and any time limits on the guardianship.

16 (3) If ~~it is found~~ THE COURT FINDS by clear and convincing
17 evidence that ~~the~~ A person is legally incapacitated and lacks
18 the capacity to do some, but not all, of the tasks necessary to
19 care for himself or herself, the court may appoint a limited
20 guardian to provide guardianship services to the person, but the
21 court shall not appoint a full guardian.

22 (4) If ~~it is found~~ THE COURT FINDS by clear and convincing
23 evidence that ~~the~~ A person is legally incapacitated and is
24 totally without capacity to care for himself or herself, the
25 court shall specify that finding of fact in any order and may
26 appoint a full guardian.