

HOUSE BILL No. 4752

May 10, 2005, Introduced by Reps. Sheltroun, Lemmons, III, Nitz, Taub, Hansen, Lemmons, Jr., Vander Veen, Gosselin, Acciavatti, Kooiman, Kehrl, Moolenaar and Hummel and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 5310 (MCL 700.5310), as amended by 2000 PA 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5310. (1) On petition of the guardian and subject to the
2 filing and approval of a report prepared as required by section
3 5314, the court shall accept the guardian's resignation and make
4 any other order that is appropriate.

5 (2) The ward or a person interested in the ward's welfare may
6 petition for an order removing the guardian, appointing a successor
7 guardian, modifying the guardianship's terms, or terminating the
8 guardianship. A request for this order may be made by informal
9 letter to the court or judge. A person who knowingly interferes

1 with the transmission of ~~this kind of~~ **SUCH A** request to the court
2 or judge is subject to a finding of contempt of court.

3 (3) Except as otherwise provided in the order finding
4 incapacity, upon receiving a petition or request under this
5 section, the court shall set a date for a hearing to be held within
6 28 days after the receipt of the petition or request. An order
7 finding incapacity may specify a minimum period, not exceeding 182
8 days, during which a petition or request for a finding that a ward
9 is no longer an incapacitated individual, or for an order removing
10 the guardian, modifying the guardianship's terms, or terminating
11 the guardianship, shall not be filed without special leave of the
12 court. **A RESTRICTION ON FILING A PETITION OR REQUEST SHALL NOT
13 RESTRICT THE FILING OF A REQUEST DESCRIBED IN SUBSECTION (5).**

14 (4) Before removing a guardian, appointing a successor
15 guardian, modifying the guardianship's terms, or terminating a
16 guardianship, and following the same procedures to safeguard the
17 ward's rights as apply to a petition for a guardian's appointment,
18 the court may send a visitor to the present guardian's residence
19 and to the place where the ward resides or is detained to observe
20 conditions and report in writing to the court.

21 **(5) IF THE GUARDIAN IS THE WARD'S SPOUSE AND IF THE GUARDIAN
22 HAS BEEN GRANTED THE POWER TO CONSENT TO OR APPROVE MEDICAL
23 TREATMENT FOR THE WARD, A REQUEST UNDER SUBSECTION (2) MAY BE MADE
24 BECAUSE THE GUARDIAN HAS A MARITAL CONFLICT OF INTEREST. IF THE
25 COURT DETERMINES THAT THE GUARDIAN HAS A MARITAL CONFLICT OF
26 INTEREST, THE COURT SHALL MODIFY THE GUARDIANSHIP'S TERMS TO
27 PROHIBIT THE GUARDIAN FROM MAKING A MEDICAL TREATMENT DECISION TO**

1 WITHHOLD OR WITHDRAW TREATMENT, NOURISHMENT, OR HYDRATION FROM THE
2 WARD THAT WOULD RESULT IN THE WARD'S DEATH.

3 (6) AS USED IN THIS SECTION, "MARITAL CONFLICT OF INTEREST"
4 MEANS THAT EITHER OF THE FOLLOWING CIRCUMSTANCES EXISTS:

5 (A) THE GUARDIAN HAS COMMENCED AN ACTION FOR A DIVORCE FROM
6 THE WARD.

7 (B) THE GUARDIAN IS ENGAGED IN A CURRENT, COMMONLY KNOWN OR
8 OPENLY ACKNOWLEDGED, ADULTEROUS RELATIONSHIP.