

**SUBSTITUTE FOR
SENATE BILL NO. 1189**

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 1202 and 5108a (MCL 700.1202 and 700.5108a),
as added by 2020 PA 246.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1202. (1) Notwithstanding anything in this act to the
2 contrary, the act of signing or witnessing the execution of a
3 document or instrument under this act, including, but not limited
4 to, a will under article II, a disclaimer under section 2903, a
5 funeral representative designation, a parental appointment of a
6 guardian of a minor under section 5202, an appointment of a
7 guardian of a legally incapacitated individual under section 5301,
8 a durable power of attorney under section 5501, or a patient

1 advocate designation is satisfied by use of a 2-way real-time
2 audiovisual technology if all of the following requirements are
3 met:

4 (a) The 2-way real-time audiovisual technology must allow
5 direct, contemporaneous interaction by sight and sound between the
6 signatory and the witnesses.

7 (b) The interaction between the signatory and the witnesses
8 must be recorded and preserved by the signatory or the signatory's
9 designee for a period of at least 3 years.

10 (c) The signatory must affirmatively represent either that the
11 signatory is physically situated in this state, or that the
12 signatory is physically located outside the geographic boundaries
13 of this state and that either of the following ~~apply~~**applies**:

14 (i) The document or instrument is intended for filing with or
15 relates to a matter before a court, governmental entity, public
16 official, or other entity subject to the jurisdiction of this
17 state.

18 (ii) The document or instrument involves property located in
19 the territorial jurisdiction of this state or a transaction
20 substantially connected to this state.

21 (d) The signatory must affirmatively state during his or her
22 interaction with the witnesses on the 2-way real-time audiovisual
23 technology what document they are executing.

24 (e) Each title page and signature page of the document or
25 instrument being witnessed must be shown to the witnesses on the 2-
26 way real-time audiovisual technology in a manner clearly legible to
27 the witnesses, and every page of the document or instrument must be
28 numbered to reflect both the page number of the document or
29 instrument and the total number of pages of the document or

1 instrument.

2 (f) Each act of signing the document or instrument must be
3 captured sufficiently up close on the 2-way real-time audiovisual
4 technology for the witnesses to observe.

5 (g) The signatory or the signatory's designee must transmit by
6 facsimile, mail, or electronic means a legible copy of the entire
7 signed document or instrument directly to the witnesses within 72
8 hours after it is executed.

9 (h) Within 72 hours after receipt, the witnesses must sign the
10 transmitted copy of the document or instrument as a witness and
11 return the signed copy of the document or instrument to the
12 signatory or the signatory's designee by facsimile, mail, or
13 electronic means.

14 (i) The document or instrument is either of the following:

15 (i) In writing.

16 (ii) A record that is readable as text at the time of signing.

17 (2) The rights or interests of a person that relies in good
18 faith and without actual notice that a document or instrument
19 described in subsection (1) was executed on or after April 30, 2020
20 and before ~~January~~ **July** 1, 2021, but was not executed in accordance
21 with subsection (1) are not impaired, challenged, or terminated on
22 that basis alone.

23 (3) Compliance with this section is presumed. A person
24 challenging a document or instrument described in and executed in
25 accordance with subsection (1) may overcome the presumption by
26 establishing, by clear and convincing evidence, that the signatory
27 or a witness intentionally failed to comply with the requirements
28 under subsection (1).

29 (4) This section applies to a document or instrument described

1 in subsection (1) executed on or after April 30, 2020 and before
2 ~~January~~**July** 1, 2021.

3 (5) As used in this section:

4 (a) "Electronic" means relating to technology having
5 electrical, digital, magnetic, wireless, optical, electromagnetic,
6 or similar capabilities.

7 (b) "Record" means information that is inscribed on a tangible
8 medium or that is stored in an electronic or other medium and is
9 retrievable in perceivable form.

10 (c) "Sign" or "signing" means with present intent to
11 authenticate or adopt a record to do either of the following:

12 (i) Execute or adopt a tangible symbol.

13 (ii) Affix to or logically associate with the record an
14 electronic symbol or process.

15 Sec. 5108a. (1) Beginning April 30, 2020, a guardian, guardian
16 ad litem, or visitor may satisfy any requirement concerning a visit
17 with an individual, including, but not limited to, a visit in the
18 physical presence of a person under this act by instead conferring
19 with the individual via 2-way real-time audiovisual technology that
20 allows direct, contemporaneous interaction by sight and sound
21 between the individual being visited and the guardian, guardian ad
22 litem, or visitor.

23 (2) This section does not apply after ~~December 31, 2020~~**June**
24 **30, 2021**.

25 Enacting section 1. This amendatory act does not take effect
26 unless all of the following bills of the 100th Legislature are
27 enacted into law:

28 (a) Senate Bill No. 1186.

29 (b) Senate Bill No. 1187.

1 (c) Senate Bill No. 1188.