

**SUBSTITUTE FOR  
HOUSE BILL NO. 5047**

A bill to amend 1998 PA 386, entitled  
"Estates and protected individuals code,"  
(MCL 700.1101 to 700.8206) by amending the title and by adding part  
5A to article V.

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

1 TITLE  
2 An act to codify, revise, consolidate, and classify aspects of  
3 the law relating to wills and intestacy, relating to the  
4 administration and distribution of estates of certain individuals,  
5 relating to trusts, and relating to the affairs of certain  
6 individuals under legal incapacity; to provide for the powers and  
7 procedures of the court that has jurisdiction over these matters;  
8 to provide for the validity and effect of certain transfers,

1 contracts, and deposits that relate to death; to provide procedures  
2 to facilitate enforcement of certain trusts; **to establish the**  
3 **office of state guardian;** and to repeal acts and parts of acts.

4 ARTICLE V

5 PART 5A

6 OFFICE OF STATE GUARDIAN

7 Sec. 5531. As used in this part:

8 (a) "Adult protective services" means the office, division, or  
9 unit of the department that is charged with investigation of abuse,  
10 neglect, or exploitation of vulnerable individuals under the social  
11 welfare act, 1939 PA 280, MCL 400.1 to 400.119b.

12 (b) "Attorney general" means the department of attorney  
13 general.

14 (c) "Board" means the office of state guardian board created  
15 in section 5532.

16 (d) "Department" means the department of health and human  
17 services.

18 (e) "Executive director" means the executive director of the  
19 board appointed by the governor under section 5532.

20 (f) "Indigent" means an individual who is unable, without  
21 substantial financial hardship to the individual or to the  
22 individual's dependents, to pay a competent, qualified professional  
23 guardian on the individual's own. Substantial financial hardship is  
24 rebuttably presumed if the ward receives personal public  
25 assistance, including under the food assistance program, temporary  
26 assistance for needy families, Medicaid, or disability insurance,  
27 resides in public housing, or earns an income less than 140% of the  
28 federal poverty guideline.

29 Sec. 5532. (1) The office of state guardian board is created

1 as an autonomous entity within the department. The board shall  
2 exercise its powers, duties, functions, and responsibilities under  
3 this part independently of the department, except that the  
4 procurement and related management functions of the board must be  
5 performed under the direction and supervision of the department

6 (2) The board consists of the following members, appointed by  
7 the governor:

8 (a) One member from a list of 3 or more individuals  
9 recommended by the attorney general.

10 (b) One member from a list of 3 or more individuals  
11 recommended by the senate majority leader.

12 (c) One member from a list of 3 or more individuals  
13 recommended by the speaker of the house of representatives.

14 (d) One member from a list of 3 or more individuals  
15 recommended by the chief justice of the supreme court.

16 (e) One member from a list of 3 or more individuals  
17 recommended by the agency that implements and administers the  
18 program for the protection and advocacy of the rights of persons  
19 with developmental disabilities under section 931 of the mental  
20 health code, 1974 PA 258, MCL 330.1931.

21 (f) One member who is a probate judge.

22 (g) One member who is a probate court register.

23 (h) One member from a list of 3 or more individuals  
24 recommended by the department's behavioral physical health and  
25 aging administration representing the interests of vulnerable  
26 adults as that term is defined in section 145m of the Michigan  
27 penal code, 1931 PA 328, MCL 750.145m.

28 (i) One member from adult protective services.

29 (j) One member who is a professional guardian.

1 (k) One member who is a professional conservator.

2 (l) One member who is a licensed master's social worker as that  
3 term is defined in section 18501 of the public health code, 1978 PA  
4 368, MCL 333.18501.

5 (m) One member who is recommended by the state long-term care  
6 ombudsman established under section 6 of the older Michiganians  
7 act, 1981 PA 180, MCL 400.586.

8 (n) One member who is recommended by a community mental health  
9 authority as that term is defined in section 100a of the mental  
10 health code, 1974 PA 258, MCL 330.1100a, to represent the interests  
11 of community mental health services programs as that term is  
12 defined in section 100a of the mental health code, 1974 PA 258, MCL  
13 330.1100a.

14 (3) The governor shall appoint the executive director of the  
15 board to a 4-year term. The executive director is a voting member  
16 of the board. The executive director shall do all of the following:

17 (a) Maintain the records of the board.

18 (b) Employ, supervise, and retain staff, with the approval of  
19 the board.

20 (c) Act as an interested party, on appearance, in any  
21 guardianship or conservatorship matter.

22 (d) Issue licenses under section 5534.

23 (e) Supervise investigations and disciplinary proceedings.

24 (f) Coordinate meetings and activities of the board.

25 (g) Other duties as assigned by the board.

26 (4) The governor shall appoint the first members to the board  
27 not later than 180 days after the effective date of the amendatory  
28 act that added this part.

29 (5) Members of the board shall serve for terms of 4 years or

1 until a successor is appointed, whichever is later, except that of  
2 the members first appointed, the members provided for in subsection  
3 (2)(a) to (e) shall serve for 2 years, the members provided for in  
4 subsection (2)(f) to (j) shall serve for 3 years, and the members  
5 provided for in subsection (2)(k) to (n) shall serve for 4 years.

6 (6) If a vacancy occurs on the board, the governor shall make  
7 an appointment for the unexpired term in the same manner as the  
8 original appointment.

9 (7) The governor may remove a member of the board for  
10 incompetence, dereliction of duty, malfeasance, misfeasance, or  
11 nonfeasance in office, or any other good cause.

12 (8) The executive director shall call the first meeting of the  
13 board. At the first meeting, the board shall elect from among its  
14 members a chairperson and other officers as it considers necessary  
15 or appropriate. After the first meeting, the board shall meet at  
16 least quarterly.

17 (9) A majority of the members of the board constitute a quorum  
18 for the transaction of business at a meeting of the board. A  
19 majority of the members present and serving are required for  
20 official action of the board.

21 (10) The business that the board may perform must be conducted  
22 at a public meeting of the board held in compliance with the open  
23 meetings act, 1976 PA 267, MCL 15.261 to 15.275.

24 (11) A writing prepared, owned, used, in the possession of, or  
25 retained by the board in the performance of an official function is  
26 exempt from disclosure under section 13(1)(d) of the freedom of  
27 information act, 1976 PA 442, MCL 15.243.

28 (12) Members of the board shall serve without compensation.  
29 However, members of the board may be reimbursed for their actual

1 and necessary expenses incurred in the performance of their  
2 official duties as members of the board.

3 Sec. 5533. The board shall do all of the following:

4 (a) Set minimum standards for licensure of professional  
5 guardians and professional conservators.

6 (b) Ensure that professional guardians and professional  
7 conservators maintain compliance with minimum standards of  
8 practice.

9 (c) Adopt a written process for receiving or initiating  
10 complaints against guardians and conservators. The board may  
11 initiate complaints.

12 (d) Adopt a process for receipt of requests for technical  
13 assistance from guardians and conservators.

14 (e) Adopt a process to refer appropriate complaints regarding  
15 guardians and conservators to the attorney general or another  
16 investigatory agency, including, but not limited to, adult  
17 protective services or a law enforcement agency, for investigation.

18 (f) Adopt a process to refer wards or interested persons to an  
19 agency that provides legal representation or advocacy for wards.

20 (g) Promulgate rules concerning the discipline of professional  
21 guardians and professional conservators who fail to meet licensure  
22 standards.

23 (h) Promulgate rules concerning the discipline of guardians  
24 and conservators who breach their fiduciary duties or otherwise  
25 engage in misconduct.

26 (i) Adopt a process for the executive director, on behalf of  
27 the board, to contract with professional guardians to provide  
28 guardianship services to eligible indigent wards or prospective  
29 wards and maintain minimum standards for contracting professional

1 guardians.

2 (j) Collect uniform and consistent data regarding service  
3 delivery that must be made available, on a quarterly basis, to the  
4 legislature and the supreme court in a format that is not  
5 identifiable by individual ward or protected individual to protect  
6 confidentiality. The data under this subdivision must include all  
7 of the following:

8 (i) The number of wards under a guardianship.

9 (ii) The number of protected individuals under a  
10 conservatorship.

11 (iii) The number of wards under a partial guardianship.

12 (iv) The number of wards under a full guardianship.

13 (v) The number of guardians and conservators licensed under  
14 this part.

15 (vi) For each professional guardian, the number of wards to  
16 whom the professional guardian was appointed.

17 (vii) For each professional conservator, the number of  
18 protected individuals to whom the professional conservator was  
19 appointed.

20 (k) Consult with and assist other public or private agencies  
21 or organizations to implement the intent of this part.

22 (l) Make recommendations to the legislature and the supreme  
23 court on matters relating to the board's responsibilities under  
24 this part.

25 (m) Conduct contested case hearings under the administrative  
26 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as  
27 required to administer licensing and discipline under this part.

28 (n) Modify any minimum requirement under this part with the  
29 approval of the board.

1           (o) Promulgate any other rules that are necessary and  
2 appropriate to enable the board to fulfill its role and efficiently  
3 administer this part.

4           Sec. 5534. (1) Beginning October 1, 2025, a person shall not  
5 serve as a professional guardian or professional conservator unless  
6 the person is issued a license under this section by the executive  
7 director.

8           (2) The executive director shall not issue a professional  
9 guardian license or professional conservator license unless the  
10 applicant meets all of the following conditions:

11           (a) The applicant holds a certification from the National  
12 Center for Guardianship Certification.

13           (b) The applicant submits a criminal background check to the  
14 department of state police.

15           (c) The applicant has not been found liable in a civil action  
16 that involved fraud, misrepresentation, material omission,  
17 misappropriation, theft, exploitation, abuse, neglect, sexual  
18 assault, or conversion.

19           (3) A professional guardian or professional conservator who is  
20 an individual shall report to the executive director not later than  
21 30 days after any of the following events have occurred:

22           (a) The professional guardian or professional conservator is  
23 convicted of a felony.

24           (b) The department has classified the professional guardian or  
25 professional conservator as a confirmed case on the central  
26 registry as those terms are defined in section 2 of the child  
27 protection law, 1975 PA 238, MCL 722.622.

28           (c) The professional guardian or professional conservator is  
29 convicted of a misdemeanor related to child abuse or neglect,



1 vulnerable adult abuse or neglect, controlled substances, criminal  
2 sexual conduct, domestic violence, stalking, embezzlement, or  
3 crimes of theft or dishonesty.

4 (d) The professional guardian or professional conservator  
5 files for bankruptcy.

6 (e) A personal protection order is entered against the  
7 professional guardian or professional conservator.

8 (f) The probate court enters an order to surcharge the  
9 professional guardian's or the professional conservator's bond, or  
10 any court enters a judgment against the professional guardian or  
11 professional conservator.

12 (g) The probate court finds that the professional guardian or  
13 professional conservator breached the professional guardian's or  
14 the professional conservator's fiduciary duties.

15 Sec. 5534a. The executive director shall not petition for a  
16 guardianship or conservatorship or accept appointment as a guardian  
17 or conservator of any individual.

18 Sec. 5535. (1) The executive director shall contract with  
19 professional guardians to provide guardianship services for an  
20 indigent ward who is any of the following:

21 (a) At significant risk of harm from abuse, neglect,  
22 exploitation, abandonment, self-harm, or self-neglect.

23 (b) In imminent danger of loss of, or significant reduction  
24 in, public services that are necessary for the ward to live  
25 successfully in the most integrated and least restrictive  
26 environment that is appropriate in light of the ward's needs and  
27 values.

28 (c) Homeless or at risk of homelessness.

29 (2) Except as otherwise provided in this subsection, a

1 professional guardian that contracts with the executive director  
2 under this section shall not serve as a professional guardian for  
3 more than 36 wards total, or for a professional guardian that is an  
4 organization, more than 36 wards for each employee who holds a  
5 license issued under section 5534, including those wards for whom  
6 guardianship services are not provided for under a contract in  
7 accordance with this section. The executive director may allow a  
8 professional guardian to serve as guardian for more than 36 wards  
9 if all of the following conditions are met:

10 (a) The professional guardian requests that a guardianship is  
11 necessary in an emergency or unusual circumstance.

12 (b) The professional guardian does not serve as guardian for  
13 more than 3 consecutive months or more than 4 months in 12 months.

14 (3) The executive director shall develop a fee schedule for  
15 the payment of contracting professional guardians under this  
16 section. The fee schedule must provide for all of the following:

17 (a) Case-weighting guidelines for greater compensation for the  
18 first 3 months of a new guardianship.

19 (b) Higher compensation if the case is complex at the time of  
20 appointment.

21 (c) Adjustment during the guardianship if the complexity of  
22 the case changes.

23 Sec. 5536. (1) The executive director shall establish  
24 procedures to do all of the following:

25 (a) Review complaints against professional guardians and  
26 professional conservators to determine whether the professional  
27 guardian or professional conservator has failed to meet licensure  
28 standards.

29 (b) Review complaints against guardians and conservators to

1 determine whether the guardian or conservator breached the  
2 guardian's or conservator's fiduciary duties or otherwise engaged  
3 in misconduct.

4 (c) Obtain the information necessary to investigate a  
5 complaint by filing an appearance as an interested party in the  
6 relevant court proceeding.

7 (d) Respond to complaints, conduct investigations and  
8 hearings, and take administrative action consistent with this part.

9 (e) Make findings on whether a professional guardian or  
10 professional conservator has met licensure standards.

11 (f) Make findings on whether a guardian or conservator has  
12 breached the guardian's or the conservator's fiduciary duties or  
13 otherwise engaged in misconduct.

14 (g) Issue appropriate disciplinary orders when there are  
15 findings of wrongdoing and dismiss complaints without merit.

16 (h) Refer appropriate complaints to the attorney general or  
17 another law enforcement agency.

18 (2) If the executive director determines that a nonpublic  
19 court file exists and that it is relevant to a pending complaint,  
20 the executive director may request that the court release the  
21 nonpublic court file to the executive director. On request of the  
22 executive director, the court shall release the nonpublic court  
23 file to the executive director.

24 (3) The executive director may request a law enforcement  
25 officer to provide all available information about a given  
26 complaint filed against a professional guardian or professional  
27 conservator after a law enforcement officer has completed an  
28 investigation regarding that complaint against the professional  
29 guardian or professional conservator. An investigation is

1 considered completed after a prosecutor issues or declines to issue  
2 charges. A law enforcement officer may redact information if needed  
3 to protect the safety of witnesses or preserve the integrity of an  
4 investigation.

5 (4) If the executive director finds that a professional  
6 guardian or professional conservator fails to meet the conditions  
7 under section 5534, after an opportunity for a hearing under the  
8 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
9 24.328, the executive director shall reduce the findings and  
10 decision to writing and shall issue and cause to be served on the  
11 professional guardian or professional conservator charged with the  
12 failure a copy of the findings and an order requiring the person to  
13 cease and desist from the violation. In addition, the executive  
14 director may order any of the following:

15 (a) Revocation of the license of the professional guardian or  
16 professional conservator.

17 (b) The suspension of the professional guardian or  
18 professional conservator, subject to the following:

19 (i) The suspension must not be less than 30 days, with  
20 conditions relevant to the failure to meet the conditions under  
21 section 5534.

22 (ii) If the suspension exceeds 179 days, the suspension must  
23 remain until further order of the executive director.

24 (c) Reprimand with conditions relevant to the failure to meet  
25 the conditions under section 5534.

26 (d) Probation.

27 (e) Restitution.

28 (5) If the executive director determines or has reasonable  
29 cause to suspect that a ward has been or is being abused,

1 neglected, or exploited as a result of a filed complaint or during  
2 the course of an investigation of a complaint, the executive  
3 director shall immediately report the determination or suspicion to  
4 adult protective services.

5 (6) The executive director shall develop and distribute  
6 educational resources. The educational resources may be written  
7 materials, web materials, videos, in-person trainings, or in  
8 another form. The education resources must include the following:

9 (a) Training materials for nonprofessional guardians and  
10 nonprofessional conservators, including the following:

- 11 (i) Training on duties as a guardian.
- 12 (ii) Training on duties as a conservator.
- 13 (iii) Training on maximizing independence and autonomy.
- 14 (iv) Other training.

15 (b) Resources on alternatives to guardianship, including the  
16 following:

- 17 (i) Supported decision making.
- 18 (ii) Power of attorney.
- 19 (iii) Designations of patient advocate.
- 20 (iv) Representative payees.

21 (c) Resources on supports and services, including, but not  
22 limited to, the following:

- 23 (i) Home and community-based services.
- 24 (ii) Area agencies on aging.
- 25 (iii) Centers for independent living.
- 26 (iv) Community mental health.
- 27 (v) Other supports and services.
- 28 (d) Resources on caregiver support.

1 (e) Resources on common issues in guardianship and  
2 conservatorship, including the following:

- 3 (i) Dementia.  
4 (ii) Mental illness.  
5 (iii) Traumatic brain injury.  
6 (iv) Developmental disabilities.  
7 (v) Substance use disorders.  
8 (vi) Other issues.  
9 (f) Other resources.

10 Sec. 5537. The attorney general may do any of the following:

11 (a) Subpoena documents from any probate court, guardian,  
12 conservator, or other fiduciary.

13 (b) Intervene on behalf of the public and participate as an  
14 interested party, at any stage of the proceeding, in any guardian,  
15 conservator, or protective proceeding.

16 (c) Investigate any complaint referred by the executive  
17 director and make recommendations to the executive director and law  
18 enforcement about the complaint.

19 Sec. 5538. (1) The office of state guardian fund is created  
20 within the state treasury.

21 (2) The state treasurer may receive money or other assets from  
22 any source for deposit into the fund. The state treasurer shall  
23 direct the investment of the fund. The state treasurer shall credit  
24 to the fund interest and earnings from fund investments.

25 (3) Money in the fund at the close of the fiscal year remains  
26 in the fund and does not lapse to the general fund.

27 (4) The department is the administrator of the fund for  
28 auditing purposes.

29 (5) The department shall expend money from the fund, on

1 appropriation, to reimburse the attorney general for expenses  
2 incurred related to investigations under and enforcement of this  
3 part.

4 Enacting section 1. This amendatory act takes effect January  
5 1, 2025.

6 Enacting section 2. This amendatory act does not take effect  
7 unless all of the following bills of the 102nd Legislature are  
8 enacted into law:

- 9 (a) House Bill No. 4909.
- 10 (b) House Bill No. 4910.
- 11 (c) House Bill No. 4911.
- 12 (d) House Bill No. 4912.