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PROBATE CT. JURISDICTION: ESTATES

House Bill 4462
Sponsor: Rep. Thomas G. Power

House Bills 4463 and 4464
Sponsor: Rep. Sharon Gire

Committee: Judiciary

Complete to 3-28-89

A SUMMARY OF HOUSE BILLS 4462-4464 AS INTRODUCED 3-16-89

House Bills 4462 through 4464 constitute a package of bills to revise and clarify the probate court's jurisdiction over matters involving estates and trusts.

House Bill 4462 would amend the Revised Probate Code to provide that the court's jurisdictional powers include equitable, as well as legal, powers. The court has exclusive jurisdiction over matters relating to the settlement of estates of deceased persons. The bill would specify that this includes: the internal affairs of an estate; estate administration, settlement, and distribution; declaration of rights involving estates, devisees, heirs, and fiduciaries; the construction of a will; and the determination of heirs. The latter two matters are among the issues over which present law grants the court concurrent, rather than exclusive, jurisdiction.

The bill would give the court exclusive jurisdiction over other matters which now are under concurrent jurisdiction, including the ability to settle inter vivos trusts as provided by Public Act 185 of 1966, and the ability to review and settle the accounts of a fiduciary, within the probate code's meaning of that term. The bill would specify that the exclusive jurisdiction over trusts includes proceedings concerning their validity and settlement, in addition to their internal affairs. However, the bill would provide for concurrent jurisdiction in hearing and deciding any claim by or against a fiduciary or trustee for the return of property, and any contract action by or against an estate, trust, or ward. The bill would delete language that says that when an issue involving an estate of a decedent, ward, or trust is "ancillary to the settlement" of that estate, the probate court has concurrent jurisdiction.

Where the probate court and another court share jurisdiction, a judge in the other court may order an action transferred to the probate court. Under the bill, this order would be upon motion of a party.

MCL 700.21 and 700.22

House Bills 4463 and 4464 would make complementary amendments to the Revised Judicature Act (MCL 600.846) and Public Act 185 of 1966 (the act regarding inter vivos trusts, MCL 555.82 and 555.84), respectively.

House Bills 4462 thru 4464 (3-28-89)