

HOUSE BILL NO. 5486

A bill to amend 1961 PA 236, entitled  
"Revised judicature act of 1961,"  
by amending sections 816, 841, 880, 880b, 880c, 1021, 1517, and  
2922 (MCL 600.816, 600.841, 600.880, 600.880b, 600.880c,  
600.1021, 600.1517, and 600.2922), section 816 as amended by 1995  
PA 14, sections 841 and 1517 as amended and section 1021 as added  
by 1996 PA 388, section 880 as amended and sections 880b and 880c  
as added by 1993 PA 189, and section 2922 as amended by 1985 PA  
93.

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

1       Sec. 816. (1) A probate judge shall hold sessions of the  
2 probate court at the county seat of each county, unless an alter-  
3 native primary location is designated ~~pursuant to~~ AS PROVIDED  
4 IN subsection (3), and may hold sessions of the probate court in  
5 ~~any~~ A city of the county where sessions of the circuit court

**HB 5486, As Passed Senate, March 23, 2000**

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as amended by the Senate March 22, 2000

1 are authorized by law to be held. A probate judge may maintain  
2 an office at ~~any~~ A place where sessions of the probate court  
3 are held.

4 (2) A probate judge may hold sessions of the court at the  
5 regional diagnostic and treatment center assigned to his or her  
6 court if sessions are approved by the state court administrator.  
7 The center shall provide an area for court sessions to which the  
8 public has access.

9 (3) Subject to the approval of the county board of commis-  
10 sioners and the state court administrator, the chief probate  
11 judge of a county may designate 1 or more places in the county  
12 where regular sessions of probate court may be held. A designa-  
13 tion made under this subsection shall be delivered to the county  
14 clerk.

15 (4) Nothing in this section prohibits a judge from holding a  
16 hearing regarding an allegedly [~~legally incapacitated person~~  
INCAPACITATED INDIVIDUAL] or an  
17 allegedly mentally ill person at ~~any~~ A site considered appro-  
18 priate by the court as provided by section ~~443 of the revised~~  
19 ~~probate code, Act No. 642 of the Public Acts of 1978, being sec-~~  
20 ~~tion 700.443 of the Michigan Compiled Laws~~ 5304 OF THE ESTATES  
21 AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5304, or  
22 section 456 of the mental health code, ~~Act No. 258 of the Public~~  
23 ~~Acts of 1974, being section 330.1456 of the Michigan Compiled~~  
24 ~~Laws~~ 1974 PA 258, MCL 330.1456. NOTHING IN THIS SECTION PROHIBITS  
A JUDGE FROM HOLDING A HEARING REGARDING AN INDIVIDUAL ALLEGED TO  
NEED PROTECTION AT A SITE THE COURT CONSIDERS APPROPRIATE AS  
PROVIDED BY SECTION 5406 OF THE ESTATES AND PROTECTED INDIVIDUALS  
CODE, 1998 PA 386, MCL 700.5406.

25 Sec. 841. The probate court has jurisdiction and power as  
26 follows:

1 (a) As conferred upon it under the ~~revised probate code,~~  
2 ~~Act No. 642 of the Public Acts of 1978, being sections 700.1 to~~  
3 ~~700.993 of the Michigan Compiled Laws~~ ESTATES AND PROTECTED  
4 INDIVIDUALS CODE, 1998 PA 386, MCL 700.1101 TO 700.8102.

5 (b) As conferred upon it under ~~Act No. 258 of the Public~~  
6 ~~Acts of 1974, being sections 330.1001 to 330.2106 of the Michigan~~  
7 ~~Compiled Laws~~ THE MENTAL HEALTH CODE, 1974 PA 258, MCL 330.001  
8 TO 330.2106.

9 (c) As conferred upon it under this act.

10 (d) As conferred upon it ~~pursuant to any other~~ UNDER  
11 ANOTHER law or compact.

12 Sec. 880. (1) Except as otherwise provided in this section  
13 and section 880a, at the time of commencing a civil action or  
14 proceeding in the probate court, the party commencing the civil  
15 action or proceeding shall pay a \$100.00 filing fee to the pro-  
16 bate court register. ~~The amount of the filing fee is as~~  
17 ~~follows:~~

18 ~~(a) Beginning October 1, 1993 and until October 1, 1994,~~  
19 ~~\$60.00.~~

20 ~~(b) Beginning October 1, 1994 and until October 1, 1995,~~  
21 ~~\$70.00.~~

22 ~~(c) Beginning October 1, 1995 and until October 1, 1996,~~  
23 ~~\$80.00.~~

24 ~~(d) Beginning October 1, 1996 and until October 1, 1997,~~  
25 ~~\$90.00.~~

26 ~~(e) Beginning October 1, 1997, \$100.00.~~

1       (2) At the time of commencing a proceeding ~~pursuant to~~  
2 ~~section 102 of Act No. 288 of the Public Acts of 1939, being~~  
3 ~~section 700.102 of the Michigan Compiled Laws~~ UNDER SECTION 3982  
4 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL  
5 700.3982, the party commencing the proceeding shall pay a \$25.00  
6 filing fee to the probate court register.

7       (3) Except as otherwise provided by law, a fee shall not be  
8 charged for commencing a proceeding in probate court ~~pursuant to~~  
9 ~~any provision of the mental health code, Act No. 258 of the~~  
10 ~~Public Acts of 1974, being sections 330.1001 to 330.2106 of the~~  
11 ~~Michigan Compiled Laws, or any provision of chapter XIIIA of Act~~  
12 ~~No. 288 of the Public Acts of 1939, being sections 712A.1 to~~  
13 ~~712A.28 of the Michigan Compiled Laws~~ UNDER A PROVISION OF THE  
14 MENTAL HEALTH CODE, 1974 PA 258, MCL 330.001 TO 330.2106.

15       ~~(4) A fee shall not be charged for filing an acknowledgment~~  
16 ~~of paternity in probate court.~~

17       (4) ~~(5)~~ A party is not required to pay a fee under this  
18 section if the party is the attorney general, department of trea-  
19 sury, ~~department of social services~~ FAMILY INDEPENDENCE AGENCY,  
20 state public administrator, or administrator of veterans affairs  
21 of the United States veterans administration, or an agency of  
22 county government.

23       (5) ~~(6)~~ The probate register, on or before the fifth day  
24 of the month following the month in which ~~the~~ fees are col-  
25 lected under this section, shall transmit to the county treasurer  
26 all fees collected under this section during the preceding  
27 month. Within 15 days after receiving the fees, the county

1 treasurer shall transmit \$21.00 of each fee collected under  
2 subsection (1) to the executive secretary of the Michigan judges  
3 retirement system created by the judges retirement act of 1992,  
4 ~~Act No. 234 of the Public Acts of 1992, being sections 38.2101~~  
5 ~~to 38.2608 of the Michigan Compiled Laws~~ 1992 PA 234, MCL  
6 38.2101 TO 38.2670, and the balance of each fee collected under  
7 subsection (1) and all fees collected under subsection (2) to the  
8 state treasurer for deposit in the state court fund created by  
9 section 151a.

10       Sec. 880b. (1) Except as otherwise provided by law, after  
11 the commencement of a civil action or proceeding in the probate  
12 court, a party filing a motion, petition, account, objection, or  
13 claim shall pay a \$15.00 motion fee to the probate register.

14       (2) A fee shall not be charged under this section in a  
15 guardianship or limited guardianship proceeding if the moving  
16 party is the subject of the proceeding.

17       (3) A fee shall not be charged under this section in a con-  
18 servatorship proceeding if the moving party is the subject of the  
19 proceeding ~~—, or, in the case of a~~ IF THE conservatorship IS  
20 for a minor, for a motion to release restricted funds.

21       (4) A party is not required to pay a fee under this section  
22 if the party is the attorney general, department of treasury,  
23 ~~department of social services~~ FAMILY INDEPENDENCE AGENCY, state  
24 public administrator, or administrator of veterans affairs of the  
25 United States veterans administration, or an agency of county  
26 government.

1       (5) The probate register, on or before the fifth day of the  
2 month following the month in which ~~any~~ fees are collected under  
3 this section, shall transmit to the county treasurer all fees  
4 collected under this section during the preceding month. Within  
5 15 days after receiving the fees, the county treasurer shall  
6 transmit 50% of each fee collected to the state treasurer for  
7 deposit in the state court fund created by section 151a ~~—~~ and  
8 shall deposit the remaining 50% of each fee in the county general  
9 fund for use exclusively for expenses of the probate court, to be  
10 first applied toward expenses in adult guardianship proceedings  
11 of the independent evaluations, legal counsel, and periodic  
12 review mandated by article ~~4 of the revised probate code, Act~~  
13 ~~No. 642 of the Public Acts of 1978, being sections 700.401 to~~  
14 ~~700.499 of the Michigan Compiled Laws~~ 5 OF THE ESTATES AND PRO-  
15 TECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5101 TO 700.5513.

16       Sec. 880c. (1) Upon appeal from the probate court to the  
17 circuit court or court of appeals, the party bringing the appeal  
18 shall pay a \$25.00 fee to the probate court register.

19       (2) Upon registering a trust or depositing a will for safe-  
20 keeping, the person registering the trust or depositing the will  
21 shall pay a \$25.00 fee to the probate court register.

22       (3) The probate court register, on or before the fifth day  
23 of the month following the month in which ~~any~~ fees are col-  
24 lected under this section, shall transmit all fees collected  
25 under this section during the previous month to the county  
26 treasurer. The county treasurer shall deposit all the fees in  
27 the county general fund for use exclusively for expenses of the

1 probate court, to be first applied toward expenses in adult  
2 guardianship proceedings of the independent evaluations, legal  
3 counsel, and periodic review mandated by article ~~4 of the~~  
4 ~~revised probate code, Act No. 642 of the Public Acts of 1978,~~  
5 ~~being sections 700.401 to 700.499 of the Michigan Compiled Laws~~  
6 5 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL  
7 700.5101 TO 700.5513.

8       Sec. 1021. (1) Except as otherwise provided by law, the  
9 family division of circuit court has sole and exclusive jurisdic-  
10 tion over the following cases commenced on or after January 1,  
11 1998:

12       (a) Cases of divorce and ancillary matters as set forth in  
13 the following statutes:

14       (i) ~~Chapter 84 of the Revised Statutes of 1846, being sec-~~  
15 ~~tions 552.1 to 552.45 of the Michigan Compiled Laws~~ 1846 RS 84,  
16 MCL 552.1 TO 552.45.

17       (ii) ~~Act No. 259 of the Public Acts of 1909, being sections~~  
18 ~~552.101 to 552.104 of the Michigan Compiled Laws~~ 1909 PA 259,  
19 MCL 552.101 TO 552.104.

20       (iii) ~~Act No. 52 of the Public Acts of 1911, being sections~~  
21 ~~552.121 to 552.123 of the Michigan Compiled Laws~~ 1911 PA 52, MCL  
22 552.121 TO 552.123.

23       (iv) ~~Act No. 379 of the Public Acts of 1913, being sections~~  
24 ~~552.151 to 552.155 of the Michigan Compiled Laws~~ 1913 PA 379,  
25 MCL 552.151 TO 552.156.

1       (v) The friend of the court act, ~~Act No. 294 of the Public~~  
2 ~~Acts of 1982, being sections 552.501 to 552.535 of the Michigan~~  
3 ~~Compiled Laws 1982 PA 294, MCL 552.501 TO 552.535.~~

4       (vi) ~~Act No. 299 of the Public Acts of 1905, being section~~  
5 ~~552.391 of the Michigan Compiled Laws 1905 PA 299, MCL 552.391.~~

6       (vii) ~~Act No. 42 of the Public Acts of 1949, being sections~~  
7 ~~552.401 to 552.402 of the Michigan Compiled Laws 1949 PA 42, MCL~~  
8 ~~552.401 TO 552.402.~~

9       (viii) ~~Act No. 138 of the Public Acts of 1966, being sec-~~  
10 ~~tions 552.451 to 552.459 of the Michigan Compiled Laws THE~~  
11 ~~FAMILY SUPPORT ACT, 1966 PA 138, MCL 552.451 TO 552.459.~~

12       (ix) The support and parenting time enforcement act, ~~Act~~  
13 ~~No. 295 of the Public Acts of 1982, being sections 552.601 to~~  
14 ~~552.650 of the Michigan Compiled Laws 1982 PA 295, MCL 552.601~~  
15 ~~TO 552.650.~~

16       (x) The interstate income withholding act, ~~Act No. 216 of~~  
17 ~~the Public Acts of 1985, being sections 552.671 to 552.685 of the~~  
18 ~~Michigan Compiled Laws 1985 PA 216, MCL 552.671 TO 552.685.~~

19       (b) Cases of adoption as provided in chapter X of ~~Act~~  
20 ~~No. 288 of the Public Acts of 1939, being sections 710.1 to~~  
21 ~~710.70 of the Michigan Compiled Laws THE PROBATE CODE OF 1939,~~  
22 ~~1939 PA 288, MCL 710.21 TO 710.70.~~

23       (c) Cases involving certain children incapable of adoption  
24 under ~~Act No. 271 of the Public Acts of 1925, being sections~~  
25 ~~722.531 to 722.534 of the Michigan Compiled Laws 1925 PA 271,~~  
26 ~~MCL 722.531 TO 722.534.~~



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1 (d) Cases involving a change of name as provided in chapter  
2 XI of ~~Act No. 288 of the Public Acts of 1939, being sections~~  
3 ~~711.1 to 711.2 of the Michigan Compiled Laws~~ THE PROBATE CODE OF  
4 1939, 1939 PA 288, MCL 711.1 TO 711.2.

5 (e) Cases involving juveniles as provided in chapter XIIIA of  
6 ~~Act No. 288 of the Public Acts of 1939, being sections 712A.1 to~~  
7 ~~712A.31 of the Michigan Compiled Laws~~ THE PROBATE CODE OF 1939,  
8 1939 PA 288, MCL 712A.1 TO 712A.32.

9 (f) Cases involving the status of minors and the emancipa-  
10 tion of minors under ~~Act No. 293 of the Public Acts of 1968,~~  
11 ~~being sections 722.1 to 722.6 of the Michigan Compiled Laws~~ 1968  
12 PA 293, MCL 722.1 TO 722.6.

13 (g) Cases of child custody under the child custody act of  
14 1970, ~~Act No. 91 of the Public Acts of 1970, being sections~~  
15 ~~722.21 to 722.29 of the Michigan Compiled Laws~~ 1970 PA 91, MCL  
16 722.21 TO 722.30, and child custody jurisdiction as provided in  
17 sections 651 to 673.

18 (h) Cases involving paternity and child support under the  
19 paternity act, ~~Act No. 205 of the Public Acts of 1956, being~~  
20 ~~sections 722.711 to 722.730 of the Michigan Compiled Laws~~ 1956  
21 PA 205, MCL 722.711 TO 722.730.

22 (i) [Cases involving parental consent for abortions per-  
23 formed on unemancipated minors under] ~~Act No. 211 of the Public~~  
24 ~~Acts of 1990, being sections 722.901 to 722.909 of the Michigan~~  
25 ~~Compiled Laws~~ THE PARENTAL RIGHTS RESTORATION ACT, 1990 PA 211,  
26 MCL 722.901 TO 722.908.

1 (j) Cases involving child support under the revised uniform  
2 reciprocal enforcement of support act, ~~Act No. 8 of the Public~~  
3 ~~Acts of 1952, being sections 780.151 to 780.183 of the Michigan~~  
4 ~~Compiled Laws~~ 1952 PA 8, MCL 780.151 TO 780.183.

5 (k) Cases involving personal protection orders under sec-  
6 tions 2950 and 2950a.

7 (2) The family division of circuit court has ancillary  
8 jurisdiction over the following cases commenced on or after  
9 January 1, 1998:

10 (a) Cases involving guardians and conservators as provided  
11 in ~~sections 401 to 499 of the revised probate code, Act No. 642~~  
12 ~~of the Public Acts of 1978, being sections 700.401 to 700.499 of~~  
13 ~~the Michigan Compiled Laws~~ ARTICLE 5 OF THE ESTATES AND PRO-  
14 TECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5101 TO 700.5513.

15 (b) Cases involving treatment of, or guardianship of, men-  
16 tally ill or developmentally disabled persons under the mental  
17 health code, ~~Act No. 258 of the Public Acts of 1974, being sec-~~  
18 ~~tions 330.1001 to 330.2106 of the Michigan Compiled Laws~~ 1974 PA  
19 258, MCL 330.1001 TO 330.2106.

20 Sec. 1517. (1) Subject to the approvals required under  
21 subsections (2) and (3), the chief judge of ~~any~~ A circuit may  
22 designate 1 or more places in the county or counties in that cir-  
23 cuit, in addition to the county seat and places otherwise desig-  
24 nated by law, where regular terms of circuit court may be held.  
25 The designation shall be in writing and shall be delivered to the  
26 state court administrator and to the county clerk of each county  
27 in the circuit.

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1 (2) A designation made under subsection (1) shall not take  
2 effect unless the designation is approved by the state court  
3 administrator and by the county board of commissioners of each  
4 county in the circuit. The approval by a county board of commis-  
5 sioners and the state court administrator may be for a specific  
6 period of time ~~—~~ and may require that the designation be  
7 subject to reapproval by that county board of commissioners and  
8 the state court administrator ~~—~~ at intervals determined by that  
9 county board of commissioners and the state court administrator.

10 (3) The family division of circuit court may hold sessions  
11 of court at ~~any~~ AN alternative primary location designated  
12 under section 816.

13 (4) If the family division has ancillary jurisdiction in the  
14 case, a judge of the family division may hold sessions of the  
15 court at the regional diagnostic and treatment center assigned to  
16 his or her court if sessions are approved by the state court  
17 administrator. The center shall provide an area for court ses-  
18 sions to which the public has access.

19 (5) Nothing in this section prohibits a judge from holding a  
20 hearing regarding an allegedly [~~legally incapacitated person~~  
INCAPACITATED INDIVIDUAL] or an  
21 allegedly mentally ill person at ~~any~~ A site considered appro-  
22 priate by the court as provided by section ~~443 of the revised~~  
23 ~~probate code, Act No. 642 of the Public Acts of 1978, being sec-~~  
24 ~~tion 700.443 of the Michigan Compiled Laws 5304 OF THE ESTATES~~  
25 ~~AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.5304, or~~  
26 ~~section 456 of the mental health code, Act No. 258 of the Public~~

1 ~~Acts of 1974, being section 330.1456 of the Michigan Compiled~~

2 ~~Laws 1974 PA 258, MCL 330.1456. NOTHING IN THIS SECTION PROHIBITS~~  
3 ~~A JUDGE FROM HOLDING A HEARING REGARDING AN INDIVIDUAL ALLEGED TO~~  
4 ~~NEED PROTECTION AT A SITE THE COURT CONSIDERS APPROPRIATE AS~~  
5 ~~PROVIDED BY SECTION 5406 OF THE ESTATES AND PROTECTED INDIVIDUALS~~  
6 ~~CODE, 1998 PA 386, MCL 700.5406.~~

7 Sec. 2922. (1) Whenever the death of a person or injuries  
8 resulting in death shall be caused by wrongful act, neglect, or  
9 fault of another, and the act, neglect, or fault is such as  
10 would, if death had not ensued, have entitled the party injured  
11 to maintain an action and recover damages, the person who or the  
12 corporation ~~which~~ THAT would have been liable, if death had not  
13 ensued, shall be liable to an action for damages, notwithstanding  
14 the death of the person injured, and although the death was  
15 caused under circumstances that constitute a felony.

16 (2) Every action under this section shall be brought by, and  
17 in the name of, the personal representative of the estate of the  
18 deceased person. Within 30 days ~~of~~ AFTER the commencement of  
19 an action, the personal representative shall serve a copy of the  
20 complaint and notice as prescribed in subsection (4) upon the  
21 person or persons who may be entitled to damages under subsection  
22 (3) in the manner and method provided in the rules applicable to  
23 probate court proceedings.

24 (3) Subject to ~~section 251 of the revised probate code, Act~~  
25 ~~No. 642 of the Public Acts of 1978, being section 700.251 of the~~  
26 ~~Michigan Compiled Laws~~ SECTIONS 2802 TO 2805 OF THE ESTATES AND  
PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.2802 TO  
700.2805, the person or persons who may be entitled to damages  
under this section shall be limited to any of the following who  
suffer damages and survive the deceased:

1       (a) The deceased's spouse, children, descendants, parents,  
2 grandparents, brothers and sisters, and, if none of these persons  
3 survive the deceased, then those persons to whom the estate of  
4 the deceased would pass under the laws of intestate succession  
5 determined as of the date of death of the deceased.

6       (b) The children of the deceased's spouse.

7       (c) Those persons who are devisees under the will of the  
8 deceased, except those whose relationship with the decedent vio-  
9 lated Michigan law, including beneficiaries of a trust under the  
10 will, those persons who are designated in the will as persons who  
11 may be entitled to damages under this section, and the beneficia-  
12 ries of a living trust of the deceased if there is a devise to  
13 that trust in the will of the deceased.

14       (4) The notice required in subsection (2) shall contain the  
15 following:

16       (a) The name and address of the personal representative and  
17 the personal representative's attorney.

18       (b) A statement that the attorney for the personal represen-  
19 tative shall be advised within 60 days after the mailing of the  
20 notice of any material fact ~~which~~ THAT may constitute evidence  
21 of any claim for damages and that failure to do so may adversely  
22 affect his or her recovery of damages and could bar his or her  
23 right to any claim at a hearing to distribute proceeds.

24       (c) A statement that he or she will be notified of a hearing  
25 to determine the distribution of the proceeds after the adjudica-  
26 tion or settlement of the claim for damages.

1 (d) A statement that to recover damages under this section  
2 the person who may be entitled to damages must present a claim  
3 for damages to the personal representative on or before the date  
4 set for hearing on the motion for distribution of the proceeds  
5 under subsection (6) and that failure to present a claim for dam-  
6 ages within the time provided shall bar the person from making a  
7 claim to any of the proceeds.

8 (5) If, for the purpose of settling a claim for damages for  
9 wrongful death where an action for those damages is pending, a  
10 motion is filed in the court where the action is pending by the  
11 personal representative asking leave of the court to settle the  
12 claim, the court shall, with or without notice, conduct a hearing  
13 and approve or reject the proposed settlement.

14 (6) In every action under this section, the court or jury  
15 may award damages as the court or jury shall consider fair and  
16 equitable, under all the circumstances including reasonable medi-  
17 cal, hospital, funeral, and burial expenses for which the estate  
18 is liable; reasonable compensation for the pain and suffering,  
19 while conscious, undergone by the deceased person during the  
20 period intervening between the time of the injury and death; and  
21 damages for the loss of financial support and the loss of the  
22 society and companionship of the deceased. The proceeds of a  
23 settlement or judgment in an action for damages for wrongful  
24 death shall be distributed as follows:

25 (a) The personal representative shall file with the court a  
26 motion for authority to distribute the proceeds. Upon the filing  
27 of the motion, the court shall order a hearing.

1 (b) Unless waived, notice of the hearing shall be served  
2 upon all persons who may be entitled to damages under subsection  
3 (3) in the time, manner, and method provided in the rules appli-  
4 cable to probate court proceedings.

5 (c) If any interested person is a minor, a disappeared  
6 ~~[person as defined in section 4 of the revised probate code, Act~~  
7 ~~No. 642 of the Public Acts of 1978, being section 700.4 of the~~  
8 ~~Michigan Compiled Laws~~

9

10 ~~or a legally incapacitated person~~ [, OR AN INCAPACITATED  
INDIVIDUAL] for whom a fiduciary

11 is not appointed, a fiduciary or guardian ad litem shall be first  
12 appointed, and the notice provided in subdivision (b) shall be  
13 given to the fiduciary or guardian ad litem of the minor, disap-  
14 peared person, or legally incapacitated ~~[person~~ INDIVIDUAL].

15 (d) After a hearing by the court, the court shall order pay-  
16 ment from the proceeds of the reasonable medical, hospital,  
17 funeral, and burial expenses of the decedent for which the estate  
18 is liable. The proceeds shall not be applied to the payment of  
19 any other charges against the estate of the decedent. The court  
20 shall then enter an order distributing the proceeds to those per-  
21 sons designated in subsection (3) who suffered damages and to the  
22 estate of the deceased for compensation for conscious pain and  
23 suffering, if any, in the amount as the court or jury considers  
24 fair and equitable considering the relative damages sustained by  
25 each of the persons and the estate of the deceased. If there is  
26 a special verdict by a jury in the wrongful death action, damages  
27 shall be distributed as provided in the special verdict.

1 (e) If none of the persons entitled to the proceeds is a  
2 minor, a disappeared person, or a legally incapacitated [person  
INDIVIDUAL]  
3 and all of the persons entitled to the proceeds execute a veri-  
4 fied stipulation or agreement in writing in which the portion of  
5 the proceeds to be distributed to each of the persons is speci-  
6 fied, the order of the court shall be entered in accordance with  
7 the stipulation or agreement.

8 (7) A person who may be entitled to damages under this sec-  
9 tion must present a claim for damages to the personal representa-  
10 tive on or before the date set for hearing on the motion for dis-  
11 tribution of the proceeds under subsection (6). The failure to  
12 present a claim for damages within the time provided shall bar  
13 the person from making a claim to any of the proceeds.

14 (8) A person who may be entitled to damages under this sec-  
15 tion shall advise the attorney for the personal representative  
16 within 60 days after service of the complaint and notice as pro-  
17 vided for under subsection (2) of any material fact of which the  
18 person has knowledge and ~~which~~ THAT may constitute evidence of  
19 any claim for damages. The person's right to claim at a hearing  
20 any proceeds may be barred by the court if the person fails to  
21 advise the personal representative as prescribed in this  
22 subsection.

23 (9) If a claim under this section is to be settled and a  
24 civil action for wrongful death is not pending under this sec-  
25 tion, the procedures prescribed in ~~sections 221 and 222 of the~~  
26 ~~revised probate code, Act No. 642 of the Public Acts of 1978,~~  
27 ~~being sections 700.221 and 700.222 of the Michigan Compiled Laws~~



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1 SECTION 3924 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998

2 PA 386, MCL [700.3924], shall be applicable to the distribution of  
3 the proceeds.

4 Enacting section 1. This amendatory act takes effect April  
5 1, 2000.