

SENATE BILL No. 1450

October 6, 2004, Introduced by Senator VAN WOERKOM and referred to the Committee on Families and Human Services.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending section 3705 (MCL 700.3705).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3705. (1) Not later than 28 days after a personal
2 representative's appointment or other time specified by court
3 rule, the personal representative, except a special personal
4 representative, shall give notice of the appointment to the
5 decedent's heirs and devisees, except those who have executed a
6 written waiver of notice, including, if there has been no formal
7 testacy proceeding and if the personal representative is
8 appointed on the assumption that the decedent died intestate, the
9 devisees in a will mentioned in the application for appointment
10 of a personal representative and to the trustee of a trust
11 described in section 7501(1) as to which the decedent was

1 settlor. The personal representative shall give the notice by
2 personal service or by ordinary first-class mail to each person
3 required to receive notice under this subsection whose address is
4 reasonably available to the personal representative. However,
5 the personal representative is not required to notify a person
6 who was adjudicated in a prior formal testacy proceeding to have
7 no interest in the estate. The notice required under this
8 section must be in a form approved by the supreme court and must
9 include all of the following information:

10 (a) That the court will not supervise the personal
11 representative. This statement shall not be included if the
12 appointment is made in a supervised proceeding under part 5 of
13 this article.

14 (b) That, unless a person files a written objection to the
15 appointment of the person named as personal representative in the
16 notice or files a demand that bond or higher bond be posted, the
17 person named in the notice is the personal representative without
18 bond or with bond in the amount shown in the notice. This
19 statement shall not be included if the personal representative is
20 appointed in a formal appointment proceeding.

21 (c) The name and address of the person appointed as the
22 estate's personal representative.

23 (d) That, during the course of administering the estate, the
24 personal representative must provide all interested persons with
25 all of the following:

26 (i) A copy of the petition for the personal representative's
27 appointment and a copy of the will, if any, with the notice.

1 (ii) A copy of the inventory.

2 (iii) A copy of the settlement petition or of the closing
3 statement.

4 (iv) Unless waived, a copy of the account, including, but not
5 limited to, fiduciary fees and attorney fees charged to the
6 estate.

7 (e) That an interested person may petition the court for a
8 court hearing on any matter at any time during the estate's
9 administration, including, but not limited to, distribution of
10 assets and expenses of administration.

11 (f) That federal and Michigan estate taxes, if any, must be
12 paid within 9 months after the date of the decedent's death or
13 another time period specified by law, to avoid penalties.

14 (g) That, if the estate is not settled within 1 year after
15 the personal representative's appointment, within 28 days after
16 the anniversary of the appointment, the personal representative
17 must file with the court and send to each interested person a
18 notice that the estate remains under administration and must
19 specify the reason for the continuation of settlement
20 proceedings. If such a notice is not received, an interested
21 person may petition the court for a hearing on the necessity for
22 continued administration or for closure of the estate.

23 (h) The identity and location of the court where papers
24 relating to the estate are on file.

25 (2) The personal representative's failure to give the
26 information required by subsection (1) is a breach of the
27 personal representative's duty to the persons concerned, but does

1 not affect the validity of the personal representative's
2 appointment, powers, or other duties. A personal representative
3 may inform other persons of the appointment by delivery or
4 ordinary first-class mail.

5 (3) A personal representative shall also give notice that
6 includes the information described in subsection (1) to the
7 attorney general, public administration division, under any of
8 the following circumstances:

9 (a) It appears from the petition that the decedent died
10 intestate without leaving a known heir.

11 (b) In the administration of an intestate estate, it appears
12 that the decedent did not leave a known heir.

13 (c) In the administration of a testate estate, it appears
14 that devisees of the purported will would not be entitled to
15 share in the estate but for the terms of the will and that the
16 decedent died without leaving a known heir.

17 (4) If notice is required to be given to the attorney general
18 under subsection (3), the attorney general, representing the
19 state, has all the rights of an heir to be heard and to contest
20 the validity of a claim, the appointment of a personal
21 representative, an action of the personal representative, an
22 order, an appointment, or an instrument purporting to be a
23 decedent's contract or will, and has all the rights granted or
24 accruing to an heir, representative, or creditor by a law
25 relating to the settlement of a testate or intestate estate in
26 court, or by way of rehearing or appeal.

27 (5) Within 28 days after the personal representative's

1 appointment or another time specified by court rule, the personal
2 representative, except a special personal representative, shall
3 notify the decedent's surviving spouse, if any, of the spouse's
4 right to election under part 2 of article II and of the time
5 within which the election must be exercised.

6 (6) At the same time the notice provided by subsection (1) is
7 given, the personal representative shall give notice of who the
8 heirs of an intestate estate and who the devisees of a testate
9 estate are to the friend of the court of the county in which the
10 estate is being administered. Notwithstanding section 3808, a
11 personal representative incurs no obligation or liability to the
12 friend of the court or to another person for an error or omission
13 made in good faith compliance with this subsection.

14 Enacting section 1. This amendatory act takes effect June
15 1, 2005.

16 Enacting section 2. This amendatory act does not take
17 effect unless Senate Bill No. 1447
18 of the 92nd Legislature is enacted into
19 law.