

Act No. 481
Public Acts of 2004
Approved by the Governor
December 21, 2004
Filed with the Secretary of State
December 28, 2004
EFFECTIVE DATE: October 1, 2005

**STATE OF MICHIGAN
92ND LEGISLATURE
REGULAR SESSION OF 2004**

Introduced by Senator Van Woerkom

ENROLLED SENATE BILL No. 1450

AN ACT to amend 1998 PA 386, entitled "An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts," by amending section 3705 (MCL 700.3705).

The People of the State of Michigan enact:

Sec. 3705. (1) Not later than 28 days after a personal representative's appointment or other time specified by court rule, the personal representative, except a special personal representative, shall give notice of the appointment to the decedent's heirs and devisees, except those who have executed a written waiver of notice, including, if there has been no formal testacy proceeding and if the personal representative is appointed on the assumption that the decedent died intestate, the devisees in a will mentioned in the application for appointment of a personal representative and to the trustee of a trust described in section 7501(1) as to which the decedent was settlor. The personal representative shall give the notice by personal service or by ordinary first-class mail to each person required to receive notice under this subsection whose address is reasonably available to the personal representative. However, the personal representative is not required to notify a person who was adjudicated in a prior formal testacy proceeding to have no interest in the estate. The notice required under this subsection must be in a form approved by the supreme court and must include all of the following information:

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

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

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

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

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

(ii) A copy of the inventory.

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

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

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

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

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

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

(2) The personal representative's failure to give the information required by subsection (1) is a breach of the personal representative's duty to the persons concerned, but does not affect the validity of the personal representative's appointment, powers, or other duties. A personal representative may inform other persons of the appointment by delivery or ordinary first-class mail.

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

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

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

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

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

(5) Within 28 days after the personal representative's appointment or another time specified by court rule, the personal representative, except a special personal representative, shall notify the decedent's surviving spouse, if any, of the spouse's right to election under part 2 of article II and of the time within which the election must be exercised.

(6) Except as otherwise provided in this subsection, at the same time the notice required by subsection (1) is given, the personal representative shall give notice to the friend of the court for the county in which the estate is being administered, which notice identifies the decedent's surviving spouse and the individuals who are, for a testate estate, the devisees or, for an intestate estate, the heirs. The personal representative is not required to notify the friend of the court of a devise to a trustee of an existing trust or to a trustee under the will. A personal representative incurs no obligation or liability to the friend of the court or to another person for an error or omission made in good faith compliance with this subsection.

Enacting section 1. This amendatory act takes effect October 1, 2005.

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

This act is ordered to take immediate effect.

Carol Morey Viventi

Secretary of the Senate

Sam E. Randall

Clerk of the House of Representatives

Approved _____

Governor