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BILL



ANALYSIS

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Senate Bill 558 (Substitute S-1 as reported)  
Senate Bill 559 (as reported without amendment)  
Senate Bill 560 (Substitute S-1 as reported)  
Sponsor: Senator Rick Jones  
Committee: Judiciary

### **CONTENT**

Senate Bill 558 (S-1) would amend Chapter 66 of the Revised Statutes of 1846, which deals with estates in dower, to abolish a wife's right to dower. The bill also would repeal two sections of the Revised Judicature Act that pertain to dower rights.

(According to *Black's Law Dictionary*, "dower", at common law, is a wife's right, upon her husband's death, to a life estate in one-third of the land that he owned. With few exceptions, the wife could not be deprived of dower by any transfer made by her husband during his lifetime.)

Sections 1 through 29 of Chapter 66 deal with estates in dower. Section 1 states, "The widow of every deceased person, shall be entitled to dower, or the use during her natural life, of 1/3 part of all the lands whereof her husband was seized of an estate of inheritance, at any time during the marriage, unless she is lawfully barred thereof."

The bill specifies that, notwithstanding Sections 1 to 29, a wife's dower right would be abolished and unenforceable either through statute or at common law. This provision would not apply to either of the following:

- A widow's dower elected by a woman whose husband died before the bill's effective date.
- A widow's right to elect dower under the Estates and Protected Individuals Code, if her husband died before the bill's effective date.

The bill also would repeal Sections 2931 and 2933 of the Revised Judicature Act. (Section 2931 provides that the husband of an insane or otherwise incompetent wife or any other person who has an interest in the real estate in which she has a right of dower may maintain an action to bar her of her right of dower in the premises. Under Section 2933, a widow entitled to dower, or a woman entitled to dower together with her husband, may maintain a claim to recover her dower in land, tenements, and hereditaments after the expiration of six months from the time her right to dower accrued.)

Senate Bill 559 would amend Public Act 259 of 1909, which requires judgments of divorce and separate maintenance to satisfy a wife's claims in the property of the husband, to delete a requirement that those judgments include a provision in lieu of dower.

Senate Bill 560 (S-1) would amend the Estates and Protected Individuals Code (EPIC) to delete the option of a widow to elect to take her dower rights.

Under EPIC, the surviving widow of a decedent who lived in Michigan and dies intestate (without a valid will) may file with the court an election to take either her intestate share as determined under the Code, or her dower right under Chapter 66 of the Revised Statutes of 1846. Under the bill, the second option would apply only if the decedent died before the effective date of Senate Bill 558 (S-1).

In addition, a decedent's surviving spouse who lived in Michigan and died testate (with a valid will) may file with the court an election to do one or more of the following:

- Abide by the terms of the will.
- Take one-half of the sum or share that would have passed to the spouse had the testator died intestate, reduced by one-half of the value of all property derived by the spouse from the decedent by any means other than testate or intestate succession upon the decedent's death.
- If a widow, take her dower right under Chapter 66 of the Revised Statutes of 1846.

Under Senate Bill 560 (S-1), the last option would apply only if the decedent died before the effective date of Senate Bill 558 (S-1).

The bill also would delete the probate court's jurisdiction to bar an incapacitated or minor wife of her dower right. In addition, the bill would delete references to dower in provisions allowing a surviving spouse to waive her dower rights and in a provision authorizing an estate's personal representative to pay certain costs and expenses before paying creditors' claims against the estate.

All of the bills would take effect 90 days after enactment. Senate Bill 558 (S-1) is tie-barred to Senate Bills 559 and 560. Senate Bill 560 (S-1) is tie-barred to Senate Bill 558.

Proposed MCL 558.30 (S.B. 558)  
MCL 552.101 (S.B. 559)  
700.1303 (S.B. 560)

Legislative Analyst: Patrick Affholter

### **FISCAL IMPACT**

The bills would have no fiscal impact on State or local government.

Date Completed: 10-23-15

Fiscal Analyst: Ryan Bergan

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.