

HOUSE BILL No. 4821

July 12, 2017, Introduced by Reps. Runestad and Lucido and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 3203, 3204, and 3414 (MCL 700.3203, 700.3204,
and 700.3414), sections 3204 and 3414 as amended by 2000 PA 54.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3203. (1) For either formal or informal proceedings,
2 subject to subsection (2), persons who are not disqualified have
3 priority for appointment as personal representative in the
4 following order:

5 (a) The person with priority as determined by a probated will
6 including a person nominated by a power conferred in a will.

7 (b) The decedent's surviving spouse if the spouse is a devisee
8 of the decedent.

9 (c) Other devisees of the decedent.

1 (d) The decedent's surviving spouse.

2 (e) Other heirs of the decedent.

3 (f) After 42 days after the decedent's death, the nominee of a
4 creditor if the court finds the nominee suitable.

5 (g) ~~The~~ **AFTER 93 DAYS AFTER THE DECEDENT'S DEATH, THE** state or
6 county public administrator if any of the following apply:

7 (i) No interested person applied or petitioned for appointment
8 of a personal representative within ~~42~~**93** days after the decedent's
9 death.

10 (ii) The decedent died apparently leaving no known heirs.

11 (iii) There is no spouse, heir, or beneficiary under a will
12 who is a United States resident and is entitled to a distributive
13 share in the decedent's estate.

14 (2) An objection to the appointment of a personal
15 representative may be made only in a formal proceeding. If an
16 objection is made, the priorities prescribed by subsection (1)
17 apply except in either of the following circumstances:

18 (a) If the estate appears to be more than adequate to meet
19 exemptions and costs of administration but inadequate to discharge
20 anticipated unsecured claims, on petition of creditors, the court
21 may appoint any qualified person.

22 (b) If a devisee or heir who appears to have a substantial
23 interest in the estate objects to the appointment of a person whose
24 priority is not determined by will, the court may appoint a person
25 who is acceptable to the devisees and heirs whose interests in the
26 estate appear to be worth in total more than 1/2 of the probable
27 distributable value or, if no person is acceptable to these

1 devisees and heirs, any suitable person.

2 (3) A person entitled to letters under subsection (1)(b) to
3 (e) may nominate a qualified person to act as personal
4 representative. A person may renounce his or her right to nominate
5 or to an appointment by filing an appropriate writing with the
6 court. If 2 or more persons share a priority, those of them who do
7 not renounce shall concur in nominating another to act for them or
8 in applying for appointment.

9 Sec. 3204. (1) A conservator of a protected individual's
10 estate or, if there is no conservator, a guardian of a minor or
11 legally incapacitated individual may exercise the same right to
12 nominate, to object to another's appointment, or to participate in
13 determining the preference of a majority in interest of the
14 devisees and heirs that the protected individual or ward would have
15 if qualified for appointment.

16 (2) Except as provided in sections 3308(1)(f) and 3310, a
17 person who does not have priority **PRESCRIBED IN SECTION 3203(1)(A)**
18 **TO (F)**, including priority resulting from renunciation or
19 nomination determined under this section or section 3203, shall be
20 appointed only in a formal proceeding. **THE STATE OR COUNTY PUBLIC**
21 **ADMINISTRATOR MUST BE APPOINTED ONLY IN A FORMAL PROCEEDING.** Before
22 appointing a ~~THE STATE OR COUNTY PUBLIC ADMINISTRATOR OR ANY OTHER~~
23 person without priority, the court shall determine that persons
24 having priority have been notified of the proceedings and have
25 failed to request appointment or to nominate another person for
26 appointment, and that administration is necessary.

27 (3) A person is not qualified to serve as a personal

1 representative if the person is either under the age of 18 or is a
2 person whom the court finds unsuitable in formal proceedings.

3 (4) A personal representative appointed by a court of the
4 decedent's domicile has priority over all other persons except if
5 the decedent's will nominates different persons to be personal
6 representatives in this state and in the state of domicile. The
7 domiciliary personal representative may nominate another person,
8 who then has the same priority as the domiciliary personal
9 representative.

10 (5) This section and section 3203 govern priority for
11 appointment of a successor personal representative, but do not
12 apply to the selection of a special personal representative.

13 Sec. 3414. (1) An interested person or a person that has a
14 right or cause of action that cannot be enforced without
15 appointment may file a petition for a formal proceeding regarding
16 the priority or qualification of a prospective or appointed
17 personal representative.

18 (2) If an issue concerning the decedent's testacy is or may be
19 involved, a formal proceeding for adjudication regarding the
20 priority or qualification of an individual who is seeking
21 appointment as personal representative or who was previously
22 appointed personal representative in informal proceedings is
23 governed by this section and section 3402. In other cases, the
24 petition must ~~contain~~**INCLUDE** or adopt the statements required by
25 section 3301(1)(a) and ~~shall~~**MUST** describe the question relating to
26 the personal representative's priority or qualification that is to
27 be resolved.

1 (3) If a formal proceeding precedes the appointment of a
2 personal representative, the formal proceeding stays an informal
3 appointment proceeding that is pending or that is commenced after
4 the formal proceeding's commencement. If the formal proceeding is
5 commenced after the appointment of a personal representative and
6 after the personal representative receives notice of the
7 commencement, the personal representative shall not exercise a
8 power of administration except as necessary to preserve the estate
9 or unless the court orders otherwise.

10 (4) After notice to interested persons, including all persons
11 interested in the administration of the estate as successors under
12 the applicable assumption concerning testacy, a previously
13 appointed personal representative, a person having or claiming
14 priority for appointment as personal representative, and any other
15 person described in section 3403(1) or (2), the court shall
16 determine who is entitled to appointment under section 3203, make a
17 proper appointment, and, if appropriate, terminate a prior
18 appointment found to be improper as provided in cases of removal
19 under section 3611.

20 **(5) IF THE STATE OR COUNTY PUBLIC ADMINISTRATOR IS SEEKING**
21 **APPOINTMENT AS PERSONAL REPRESENTATIVE, ALL OF THE FOLLOWING APPLY:**

22 **(A) IN ADDITION TO ANY OTHER NOTICE REQUIRED UNDER THIS ACT,**
23 **THE PETITIONER SHALL GIVE NOTICE OF HEARING TO THE DECEDENT'S HEIRS**
24 **IN THE MANNER PRESCRIBED BY SECTION 1401. A NOTICE REQUIRED UNDER**
25 **THIS SUBDIVISION MUST BE IN A FORM APPROVED BY THE SUPREME COURT**
26 **AND MUST INCLUDE ALL OF THE FOLLOWING INFORMATION:**

27 **(i) A STATEMENT DESCRIBING WHY THE HEIR IS RECEIVING THE**

1 NOTICE.

2 (ii) THAT THE HEIR MAY PETITION THE COURT TO OBJECT TO THE
3 PETITIONER'S APPOINTMENT.

4 (iii) THAT THE HEIR MAY PETITION THE COURT FOR A COURT HEARING
5 ON ANY MATTER AT ANY TIME DURING THE ESTATE'S ADMINISTRATION.

6 (B) THE PETITION MUST INCLUDE A STATEMENT THAT DETAILS THE
7 PETITIONER'S REASONABLE SEARCH FOR THE DECEDENT'S HEIRS. A SEARCH
8 REQUIRED UNDER THIS SUBDIVISION MUST INCLUDE THE USE OF AN
9 ELECTRONIC SEARCHING SERVICE.

10 Enacting section 1. This amendatory act takes effect 90 days
11 after the date it is enacted into law.

12 Enacting section 2. This amendatory act does not take effect
13 unless Senate Bill No. ____ or House Bill No. 4822 (request no.
14 03553'17) of the 99th Legislature is enacted into law.