

SENATE BILL No. 1056

June 7, 2018, Introduced by Senator EMMONS and referred to the Committee on Families, Seniors and Human Services.

A bill to amend 1998 PA 386, entitled
"Estates and protected individuals code,"
by amending sections 2103, 2104, 2114, 2502, 2504, 2707, 3406,
3715, 3908, 3957, 7817, and 7821 (MCL 700.2103, 700.2104,
700.2114, 700.2502, 700.2504, 700.2707, 700.3406, 700.3715,
700.3908, 700.3957, 700.7817, and 700.7821), section 2114 as
amended by 2012 PA 160, section 2504 as amended by 2009 PA 46,
section 3715 as amended by 2018 PA 14, and sections 7817 and 7821
as amended by 2010 PA 325, and by adding sections 1215, 1216,
1217, 2810, and 2811 and part 1A of article II; and to repeal
acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1215. (1) SUBJECT TO SUBSECTION (2), A PERSON HAS

1 KNOWLEDGE OF A FACT IF 1 OR MORE OF THE FOLLOWING APPLY:

2 (A) THE PERSON HAS ACTUAL KNOWLEDGE OF IT.

3 (B) THE PERSON HAS RECEIVED A NOTICE OR NOTIFICATION OF IT.

4 (C) FROM ALL THE FACTS AND CIRCUMSTANCES KNOWN TO THE PERSON
5 AT THE TIME IN QUESTION, THE PERSON HAS REASON TO KNOW IT.

6 (2) AN ORGANIZATION THAT CONDUCTS ACTIVITIES THROUGH
7 EMPLOYEES HAS NOTICE OR KNOWLEDGE OF A FACT ONLY FROM THE TIME
8 THE INFORMATION WAS RECEIVED BY AN EMPLOYEE HAVING RESPONSIBILITY
9 TO ACT OR FROM THE TIME THE INFORMATION WOULD HAVE BEEN BROUGHT
10 TO THE EMPLOYEE'S ATTENTION IF THE ORGANIZATION HAD EXERCISED
11 REASONABLE DILIGENCE. AN ORGANIZATION EXERCISES REASONABLE
12 DILIGENCE IF IT MAINTAINS REASONABLE ROUTINES FOR COMMUNICATING
13 SIGNIFICANT INFORMATION TO THE EMPLOYEE HAVING RESPONSIBILITY TO
14 ACT AND THERE IS REASONABLE COMPLIANCE WITH THE ROUTINES.
15 REASONABLE DILIGENCE DOES NOT REQUIRE AN EMPLOYEE OF THE
16 ORGANIZATION TO COMMUNICATE INFORMATION UNLESS THE COMMUNICATION
17 IS PART OF THE INDIVIDUAL'S REGULAR DUTIES OR THE INDIVIDUAL
18 KNOWS A MATTER THAT WOULD BE MATERIALLY AFFECTED BY THE
19 INFORMATION.

20 SEC. 1216. (1) IN ADDITION TO OTHER REQUIREMENTS, SECTIONS
21 2120, 2121, AND 2707 PROVIDE THAT A POSTHUMOUSLY CONCEIVED CHILD
22 OF A DECEDENT WILL BE TREATED AS LIVING AT A CERTAIN TIME IF THE
23 REQUIREMENTS OF THIS SECTION ARE MET. SUBJECT TO SUBSECTION (2),
24 THE REQUIREMENTS OF THIS SECTION ARE MET ONLY IF A NOTICE TO
25 CREDITORS IS PUBLISHED AS REQUIRED UNDER SECTION 3801 OR 7608 AND
26 ALL OF THE FOLLOWING APPLY:

27 (A) THE PERSON WHOSE CONTACT INFORMATION IS INCLUDED IN THE

1 NOTICE TO CREDITORS UNDER SECTION 3801 OR 7608 IS PROVIDED NOTICE
2 THAT GENETIC MATERIAL OF THE DECEDENT IS AVAILABLE FOR POSSIBLE
3 USE IN POSTHUMOUS CONCEPTION.

4 (B) THE NOTICE REGARDING GENETIC MATERIAL DESCRIBED IN
5 SUBDIVISION (A) IS PROVIDED TO THE PERSON WHOSE CONTACT
6 INFORMATION IS INCLUDED IN THE NOTICE TO CREDITORS UNDER SECTION
7 3801 OR 7608 NOT LATER THAN 9 MONTHS AFTER THE NOTICE TO
8 CREDITORS IS PUBLISHED.

9 (C) THE FORM OF THE NOTICE REGARDING GENETIC MATERIAL
10 DESCRIBED IN SUBDIVISION (A) MEETS EITHER OF THE FOLLOWING
11 REQUIREMENTS:

12 (i) THE NOTICE IS SIGNED BY THE INFORMANT AND INCLUDES THE
13 INFORMANT'S NAME AND ADDRESS.

14 (ii) THE NOTICE IS PROVIDED IN A VALID WILL, REGARDLESS OF
15 WHETHER THE WILL IS ADMITTED TO PROBATE.

16 (2) THE REQUIREMENTS OF THIS SECTION ARE DEEMED TO BE MET IF
17 NO NOTICE TO CREDITORS IS PUBLISHED AS REQUIRED UNDER SECTION
18 3801 OR 7608 WITHIN 9 MONTHS AFTER THE DECEDENT'S DEATH.

19 SEC. 1217. (1) IF A PERSONAL REPRESENTATIVE OR TRUSTEE WHOSE
20 CONTACT INFORMATION IS INCLUDED IN A NOTICE TO CREDITORS
21 PUBLISHED UNDER SECTION 3801 OR 7608 RECEIVES OR OTHERWISE COMES
22 INTO POSSESSION OF NOTICE THAT GENETIC MATERIAL OF THE DECEDENT
23 IS AVAILABLE FOR USE IN POSTHUMOUS CONCEPTION, AND THE NOTICE
24 RECEIVED BY THE PERSONAL REPRESENTATIVE OR TRUSTEE MEETS THE
25 REQUIREMENTS DESCRIBED IN SECTION 1216(1)(A) TO (C), THE PERSONAL
26 REPRESENTATIVE OR TRUSTEE SHALL PROMPTLY PROVIDE A COPY OR
27 PARTIAL COPY OF THE NOTICE OR STATEMENT DESCRIBING THE NOTICE TO

1 EACH OTHER FIDUCIARY KNOWN TO THE PERSONAL REPRESENTATIVE OR
 2 TRUSTEE WHO MAY HAVE THE POWER TO CONTROL THE DISTRIBUTION OF THE
 3 DECEDENT'S PROPERTY OR PROPERTY DISTRIBUTABLE BECAUSE OF THE
 4 DECEDENT'S DEATH. A PARTIAL COPY OF A NOTICE PROVIDED UNDER THIS
 5 SUBSECTION MUST REPRODUCE AS MUCH OF THE COPIED NOTICE AS IS
 6 NECESSARY TO SHOW THAT THE INFORMANT ASSERTS THAT GENETIC
 7 MATERIAL OF THE DECEDENT IS AVAILABLE FOR POSSIBLE USE IN
 8 POSTHUMOUS CONCEPTION AND THAT THE COPIED NOTICE MEETS THE OTHER
 9 REQUIREMENTS DESCRIBED IN SECTION 1216(1)(A) TO (C). A STATEMENT
 10 PROVIDED UNDER THIS SUBSECTION INSTEAD OF A COPY OR PARTIAL COPY
 11 OF A NOTICE MUST BE A SIGNED WRITING INDICATING THAT A NOTICE
 12 THAT MEETS THE REQUIREMENTS DESCRIBED IN SECTION 1216(1)(A) TO
 13 (C) HAS BEEN GIVEN.

14 (2) KNOWLEDGE THAT GENETIC MATERIAL OF THE DECEDENT IS
 15 AVAILABLE FOR POSSIBLE USE IN POSTHUMOUS CONCEPTION IS NOT
 16 KNOWLEDGE OF AN INTENTION TO USE GENETIC MATERIAL TO CREATE A
 17 CHILD AFTER THE DECEDENT'S DEATH.

18 Sec. 2103. (1) ~~Any~~ SUBJECT TO SUBSECTION (2), ANY part of
 19 the intestate estate that does not pass to the decedent's
 20 surviving spouse under section 2102, or the entire intestate
 21 estate if there is no surviving spouse, passes in the following
 22 order to the following individuals who survive the decedent:

23 (a) The decedent's descendants by representation.

24 (b) If there is no surviving descendant, the decedent's
 25 parents equally if both survive or to the surviving parent.

26 (c) If there is no surviving descendant or parent, the
 27 descendants of the decedent's parents or of either of them by

1 representation.

2 (d) If there is no surviving descendant, parent, or
3 descendant of a parent, but the decedent is survived by 1 or more
4 grandparents or descendants of grandparents, 1/2 of the estate
5 passes to the decedent's paternal grandparents equally if both
6 survive, or to the surviving paternal grandparent, or to the
7 descendants of the decedent's paternal grandparents or either of
8 them if both are deceased, the descendants taking by
9 representation; and the other 1/2 passes to the decedent's
10 maternal relatives in the same manner. If there is no surviving
11 grandparent or descendant of a grandparent on either the paternal
12 or the maternal side, the entire estate passes to the decedent's
13 relatives on the other side in the same manner as the 1/2.

14 (2) IF THERE IS NO TAKER UNDER SUBSECTION (1), THE
15 DECEDENT'S INTESTATE ESTATE PASSES AS FOLLOWS:

16 (A) IF THE DECEDENT HAS 1 DECEASED SPOUSE WHO HAS 1 OR MORE
17 DESCENDANTS WHO SURVIVE THE DECEDENT, THE ESTATE OR PART OF THE
18 ESTATE PASSES TO THAT DECEASED SPOUSE'S DESCENDANTS BY
19 REPRESENTATION.

20 (B) IF THE DECEDENT HAS MORE THAN 1 DECEASED SPOUSE WHO HAS
21 1 OR MORE DESCENDANTS WHO SURVIVE THE DECEDENT, AN EQUAL SHARE OF
22 THE ESTATE OR PART OF THE ESTATE PASSES TO EACH SET OF
23 DESCENDANTS BY REPRESENTATION.

24 Sec. 2104. (1) FOR PURPOSES OF HOMESTEAD ALLOWANCE, EXEMPT
25 PROPERTY, AND INTESTATE SUCCESSION, BOTH OF THE FOLLOWING APPLY:

26 (A) An individual who fails to survive the decedent by 120
27 hours is considered to have predeceased the decedent. ~~for~~

~~purposes of homestead allowance, exempt property, and intestate succession, and the decedent's heirs are determined accordingly.~~
 If it is not established by clear and convincing evidence that an individual who ~~would otherwise be an heir~~ **WAS BORN BEFORE A DECEDENT'S DEATH** survived the decedent by 120 hours, it is considered that the individual failed to survive for the required period.

(B) AN INDIVIDUAL IN GESTATION AT A DECEDENT'S DEATH IS DEEMED TO BE LIVING AT THE DECEDENT'S DEATH IF THE INDIVIDUAL LIVES 120 HOURS OR MORE AFTER BIRTH. IF IT IS NOT ESTABLISHED BY CLEAR AND CONVINCING EVIDENCE THAT AN INDIVIDUAL IN GESTATION AT THE DECEDENT'S DEATH LIVED 120 HOURS OR MORE AFTER BIRTH, IT IS DEEMED THAT THE INDIVIDUAL FAILED TO SURVIVE FOR THE REQUIRED PERIOD.

(2) This section does not apply if its application would result in a taking of the intestate estate by ~~the~~ **THIS** state under section 2105.

Sec. 2114. ~~(1) Except as provided in subsections (2), (3), and (4), for purposes of intestate succession by, through, or from an individual, an individual is the child of his or her natural parents, regardless of their marital status. The parent and child relationship may be established in any of the following manners:~~

~~—— (a) If a child is born or conceived during a marriage, both spouses are presumed to be the natural parents of the child for purposes of intestate succession. A child conceived by a married woman with the consent of her husband following utilization of~~

~~assisted reproductive technology is considered as their child for purposes of intestate succession. Consent of the husband is presumed unless the contrary is shown by clear and convincing evidence. If a man and a woman participated in a marriage ceremony in apparent compliance with the law before the birth of a child, even though the attempted marriage may be void, the child is presumed to be their child for purposes of intestate succession.~~

~~—— (b) If a child is born out of wedlock or if a child is born or conceived during a marriage but is not the issue of that marriage, a man is considered to be the child's natural father for purposes of intestate succession if any of the following occur:~~

~~—— (i) The man joins with the child's mother and acknowledges that child as his child by completing an acknowledgment of parentage as prescribed in the acknowledgment of parentage act, 1996 PA 305, MCL 722.1001 to 722.1013.~~

~~—— (ii) The man joins the mother in a written request for a correction of certificate of birth pertaining to the child that results in issuance of a substituted certificate recording the child's birth.~~

~~—— (iii) The man and child have established a mutually acknowledged relationship of parent and child that begins before the child becomes age 18 and continues until terminated by the death of either.~~

~~—— (iv) The man is determined to be the child's father and an order of filiation establishing that paternity is entered as~~

~~provided in the paternity act, 1956 PA 205, MCL 722.711 to 722.730.~~

~~(v) Regardless of the child's age or whether or not the alleged father has died, the court with jurisdiction over probate proceedings relating to the decedent's estate determines that the man is the child's father, using the standards and procedures established under the paternity act, 1956 PA 205, MCL 722.711 to 722.730.~~

~~(vi) The man is determined to be the father in an action under the revocation of paternity act.~~

~~(c) A child who is not conceived or born during a marriage is an individual born in wedlock if the child's parents marry after the conception or birth of the child.~~

~~(2) An adopted individual is the child of his or her adoptive parent or parents and not of his or her natural parents, but adoption of a child by the spouse of either natural parent has no effect on either the relationship between the child and that natural parent or the right of the child or a descendant of the child to inherit from or through the other natural parent. An individual is considered to be adopted for purposes of this subsection when a court of competent jurisdiction enters an interlocutory decree of adoption that is not vacated or reversed.~~

~~(1) (3)~~ The permanent termination of parental rights of a minor child by an order of a court of competent jurisdiction; by a release for purposes of adoption given by the parent, but not a guardian, to the family independence agency **DEPARTMENT OF HEALTH AND HUMAN SERVICES** or a licensed child placement agency, or

before a probate or juvenile court; or by any other process recognized by the law governing the parent-child status at the time of termination, excepting termination by emancipation or death, ends kinship between the parent whose rights are so terminated and the child for purposes of intestate succession by that parent from or through that child.

(2) ~~(4)~~ Inheritance from or through a child by either ~~natural~~ **GENETIC** parent or his or her kindred is precluded unless that ~~natural~~ **GENETIC** parent has openly treated the child as his or hers, and has not refused to support the child. **AS USED IN THIS SUBSECTION, "GENETIC PARENT" MEANS THAT TERM AS DEFINED IN SECTION 2115.**

~~———— (5) Only the individual presumed to be the natural parent of a child under subsection (1)(a) may disprove a presumption that is relevant to that parent and child relationship, and this exclusive right to disprove the presumption terminates on the death of the presumed parent.~~

PART 1A

PARENT-CHILD RELATIONSHIP

SEC. 2115. AS USED IN THIS PART:

(A) "ADOPTEE" MEANS AN INDIVIDUAL WHO IS ADOPTED.

(B) "ASSISTED REPRODUCTION" MEANS A METHOD OF CAUSING PREGNANCY OTHER THAN SEXUAL INTERCOURSE.

(C) "DIVORCE" INCLUDES AN ANNULMENT, DISSOLUTION, AND DECLARATION OF INVALIDITY OF A MARRIAGE.

(D) "FUNCTIONED AS A PARENT OF THE CHILD" MEANS BEHAVING TOWARD A CHILD IN A MANNER CONSISTENT WITH BEING THE CHILD'S

1 PARENT AND PERFORMING FUNCTIONS THAT ARE CUSTOMARILY PERFORMED BY
2 A PARENT, INCLUDING FULFILLING PARENTAL RESPONSIBILITIES TOWARD
3 THE CHILD, RECOGNIZING OR HOLDING OUT THE CHILD AS THE
4 INDIVIDUAL'S CHILD, MATERIALLY PARTICIPATING IN THE CHILD'S
5 UPBRINGING, AND RESIDING WITH THE CHILD IN THE SAME HOUSEHOLD AS
6 A REGULAR MEMBER OF THAT HOUSEHOLD.

7 (E) "GENETIC FATHER" MEANS THE MAN WHOSE SPERM FERTILIZED
8 THE EGG OF A CHILD'S GENETIC MOTHER. IF THE FATHER-CHILD
9 RELATIONSHIP IS ESTABLISHED UNDER THE PRESUMPTION OF PATERNITY
10 UNDER SECTION 2117, GENETIC FATHER MEANS ONLY THE MAN FOR WHOM
11 THAT RELATIONSHIP IS ESTABLISHED.

12 (F) "GENETIC MOTHER" MEANS THE WOMAN WHOSE EGG WAS
13 FERTILIZED BY THE SPERM OF A CHILD'S GENETIC FATHER.

14 (G) "GENETIC PARENT" MEANS A CHILD'S GENETIC FATHER OR
15 GENETIC MOTHER.

16 (H) "INCAPACITY" MEANS THE INABILITY OF AN INDIVIDUAL TO
17 FUNCTION AS A PARENT OF A CHILD BECAUSE OF THE INDIVIDUAL'S
18 PHYSICAL OR MENTAL CONDITION.

19 (I) "RELATIVE" MEANS A GRANDPARENT OR A DESCENDANT OF A
20 GRANDPARENT.

21 SEC. 2116. EXCEPT AS OTHERWISE PROVIDED IN SECTION 2119(2)
22 TO (5), IF A PARENT-CHILD RELATIONSHIP EXISTS OR IS ESTABLISHED
23 UNDER THIS PART, THE PARENT IS A PARENT OF THE CHILD AND THE
24 CHILD IS A CHILD OF THE PARENT FOR THE PURPOSE OF INTESTATE
25 SUCCESSION.

26 SEC. 2117. (1) FOR PURPOSES OF INTESTATE SUCCESSION BY,
27 THROUGH, OR FROM AN INDIVIDUAL, AN INDIVIDUAL IS THE CHILD OF HIS

1 OR HER GENETIC PARENTS, REGARDLESS OF THEIR MARITAL STATUS. THE
2 PARENT AND CHILD RELATIONSHIP MAY BE ESTABLISHED IN ANY OF THE
3 FOLLOWING MANNERS:

4 (A) IF A CHILD IS BORN OR CONCEIVED DURING A MARRIAGE, BOTH
5 SPOUSES ARE PRESUMED TO BE THE GENETIC PARENTS OF THE CHILD FOR
6 PURPOSES OF INTESTATE SUCCESSION. IF 2 INDIVIDUALS PARTICIPATED
7 IN A MARRIAGE CEREMONY IN APPARENT COMPLIANCE WITH THE LAW BEFORE
8 THE BIRTH OF A CHILD, EVEN THOUGH THE ATTEMPTED MARRIAGE MAY BE
9 VOID, THE CHILD IS PRESUMED TO BE THEIR GENETIC CHILD FOR
10 PURPOSES OF INTESTATE SUCCESSION.

11 (B) IF A CHILD IS BORN OUT OF WEDLOCK OR IF A CHILD IS BORN
12 OR CONCEIVED DURING A MARRIAGE BUT IS NOT THE ISSUE OF THAT
13 MARRIAGE, A MAN IS DEEMED TO BE THE CHILD'S GENETIC FATHER FOR
14 PURPOSES OF INTESTATE SUCCESSION IF ANY OF THE FOLLOWING OCCUR:

15 (i) THE MAN JOINS WITH THE CHILD'S MOTHER AND ACKNOWLEDGES
16 THAT CHILD AS HIS CHILD BY COMPLETING AN ACKNOWLEDGMENT OF
17 PARENTAGE AS PRESCRIBED IN THE ACKNOWLEDGMENT OF PARENTAGE ACT,
18 1996 PA 305, MCL 722.1001 TO 722.1013.

19 (ii) THE MAN JOINS THE MOTHER IN A WRITTEN REQUEST FOR A
20 CORRECTION OF CERTIFICATE OF BIRTH PERTAINING TO THE CHILD THAT
21 RESULTS IN ISSUANCE OF A SUBSTITUTED CERTIFICATE RECORDING THE
22 CHILD'S BIRTH.

23 (iii) THE MAN AND CHILD HAVE ESTABLISHED A MUTUALLY
24 ACKNOWLEDGED RELATIONSHIP OF PARENT AND CHILD THAT BEGINS BEFORE
25 THE CHILD REACHES 18 YEARS OF AGE AND CONTINUES UNTIL TERMINATED
26 BY THE DEATH OF EITHER.

27 (iv) THE MAN IS DETERMINED TO BE THE CHILD'S FATHER AND AN

1 ORDER OF FILIATION ESTABLISHING THAT PATERNITY IS ENTERED AS
2 PROVIDED IN THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
3 722.730.

4 (v) REGARDLESS OF THE CHILD'S AGE OR WHETHER THE ALLEGED
5 FATHER HAS DIED, THE COURT WITH JURISDICTION OVER PROBATE
6 PROCEEDINGS RELATING TO THE DECEDENT'S ESTATE DETERMINES THAT THE
7 MAN IS THE CHILD'S FATHER, USING THE STANDARDS AND PROCEDURES
8 ESTABLISHED UNDER THE PATERNITY ACT, 1956 PA 205, MCL 722.711 TO
9 722.730.

10 (vi) THE MAN IS DETERMINED TO BE THE FATHER IN AN ACTION
11 UNDER THE REVOCATION OF PATERNITY ACT, 2012 PA 159, MCL 722.1431
12 TO 722.1445.

13 (C) A CHILD WHO IS NOT CONCEIVED OR BORN DURING A MARRIAGE
14 IS AN INDIVIDUAL BORN IN WEDLOCK IF THE CHILD'S PARENTS MARRY
15 AFTER THE CONCEPTION OR BIRTH OF THE CHILD.

16 (2) ONLY THE INDIVIDUAL PRESUMED TO BE THE GENETIC PARENT OF
17 A CHILD UNDER SUBSECTION (1) (A) MAY REBUT A PRESUMPTION THAT IS
18 RELEVANT TO THAT PARENT AND CHILD RELATIONSHIP, AND THIS
19 EXCLUSIVE RIGHT TO REBUT THE PRESUMPTION TERMINATES ON THE DEATH
20 OF THE PRESUMED PARENT.

21 SEC. 2118. (1) A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN AN
22 ADOPTEE AND THE ADOPTEE'S ADOPTIVE PARENT OR PARENTS. FOR
23 PURPOSES OF THIS SUBSECTION, BOTH OF THE FOLLOWING APPLY:

24 (A) AN INDIVIDUAL WHO IS IN THE PROCESS OF BEING ADOPTED BY
25 A MARRIED COUPLE WHEN 1 OF THE SPOUSES DIES IS TREATED AS ADOPTED
26 BY THE DECEASED SPOUSE IF THE ADOPTION IS SUBSEQUENTLY GRANTED TO
27 THE DECEDENT'S SURVIVING SPOUSE.

1 (B) A CHILD OF A GENETIC PARENT WHO IS IN THE PROCESS OF
2 BEING ADOPTED BY A GENETIC PARENT'S SPOUSE WHEN THE SPOUSE DIES
3 IS TREATED AS ADOPTED BY THE DECEASED SPOUSE IF THE GENETIC
4 PARENT SURVIVES THE DECEASED SPOUSE BY 120 HOURS.

5 (2) IF, AFTER A PARENT-CHILD RELATIONSHIP IS ESTABLISHED
6 BETWEEN A CHILD OF ASSISTED REPRODUCTION AND A PARENT UNDER
7 SECTION 2120 OR BETWEEN A GESTATIONAL CHILD AND A PARENT UNDER
8 SECTION 2121, THE CHILD IS IN THE PROCESS OF BEING ADOPTED BY THE
9 PARENT'S SPOUSE WHEN THAT SPOUSE DIES, THE CHILD IS TREATED AS
10 ADOPTED BY THE DECEASED SPOUSE FOR THE PURPOSE OF SUBSECTION

11 (1) (B) .

12 SEC. 2119. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS
13 (2) TO (5), A PARENT-CHILD RELATIONSHIP DOES NOT EXIST BETWEEN AN
14 ADOPTEE AND THE ADOPTEE'S GENETIC PARENTS.

15 (2) A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN AN INDIVIDUAL
16 WHO IS ADOPTED BY THE SPOUSE OF EITHER GENETIC PARENT AND ANY OF
17 THE FOLLOWING:

18 (A) THE GENETIC PARENT WHOSE SPOUSE ADOPTED THE INDIVIDUAL.

19 (B) THE OTHER GENETIC PARENT, BUT ONLY FOR THE PURPOSE OF
20 THE RIGHT OF THE ADOPTEE OR A DESCENDANT OF THE ADOPTEE TO
21 INHERIT FROM OR THROUGH THE OTHER GENETIC PARENT.

22 (3) A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN BOTH GENETIC
23 PARENTS AND AN INDIVIDUAL WHO IS ADOPTED BY A RELATIVE OF A
24 GENETIC PARENT, OR BY THE SPOUSE OR SURVIVING SPOUSE OF A
25 RELATIVE OF A GENETIC PARENT, BUT ONLY FOR THE PURPOSE OF THE
26 RIGHT OF THE ADOPTEE OR A DESCENDANT OF THE ADOPTEE TO INHERIT
27 FROM OR THROUGH EITHER GENETIC PARENT.

1 (4) A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN BOTH GENETIC
2 PARENTS AND AN INDIVIDUAL WHO IS ADOPTED AFTER THE DEATH OF BOTH
3 GENETIC PARENTS, BUT ONLY FOR THE PURPOSE OF THE RIGHT OF THE
4 ADOPTEE OR A DESCENDANT OF THE ADOPTEE TO INHERIT THROUGH EITHER
5 GENETIC PARENT.

6 (5) IF, AFTER A PARENT-CHILD RELATIONSHIP IS ESTABLISHED
7 BETWEEN A CHILD OF ASSISTED REPRODUCTION AND A PARENT OR PARENTS
8 UNDER SECTION 2120 OR BETWEEN A GESTATIONAL CHILD AND A PARENT OR
9 PARENTS UNDER SECTION 2121, THE CHILD IS ADOPTED BY ANOTHER OR
10 OTHERS, THE CHILD'S PARENT OR PARENTS UNDER SECTION 2120 OR 2121
11 ARE TREATED AS THE CHILD'S GENETIC PARENT OR PARENTS FOR PURPOSES
12 OF THIS SECTION.

13 SEC. 2120. (1) A PARENT-CHILD RELATIONSHIP DOES NOT EXIST
14 BETWEEN A CHILD OF ASSISTED REPRODUCTION AND A THIRD-PARTY DONOR.

15 (2) A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN A CHILD OF
16 ASSISTED REPRODUCTION AND THE CHILD'S BIRTH MOTHER.

17 (3) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (7) AND (8),
18 A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN A CHILD OF ASSISTED
19 REPRODUCTION AND THE HUSBAND OF THE CHILD'S BIRTH MOTHER IF THE
20 HUSBAND PROVIDED THE SPERM THAT THE BIRTH MOTHER USED DURING HIS
21 LIFETIME FOR ASSISTED REPRODUCTION.

22 (4) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTIONS (5), (6),
23 AND (7), AND UNLESS A PARENT-CHILD RELATIONSHIP IS ESTABLISHED
24 UNDER SUBSECTION (2), A PARENT-CHILD RELATIONSHIP EXISTS BETWEEN
25 A CHILD OF ASSISTED REPRODUCTION AND AN INDIVIDUAL OTHER THAN THE
26 BIRTH MOTHER WHO CONSENTED TO ASSISTED REPRODUCTION BY THE BIRTH
27 MOTHER WITH INTENT TO BE TREATED AS THE OTHER PARENT OF THE

1 CHILD. CONSENT TO ASSISTED REPRODUCTION BY THE BIRTH MOTHER WITH
2 INTENT TO BE TREATED AS THE OTHER PARENT OF THE CHILD IS
3 ESTABLISHED IF EITHER OF THE FOLLOWING APPLIES:

4 (A) THE INDIVIDUAL, BEFORE OR AFTER THE CHILD'S BIRTH,
5 SIGNED A RECORD THAT, CONSIDERING ALL THE FACTS AND
6 CIRCUMSTANCES, EVIDENCES THE INDIVIDUAL'S CONSENT.

7 (B) IN THE ABSENCE OF A SIGNED RECORD UNDER SUBDIVISION (A),
8 ANY OF THE FOLLOWING APPLY:

9 (i) THE INDIVIDUAL FUNCTIONED AS A PARENT OF THE CHILD NO
10 LATER THAN 2 YEARS AFTER THE CHILD'S BIRTH.

11 (ii) THE INDIVIDUAL INTENDED TO FUNCTION AS A PARENT OF THE
12 CHILD NO LATER THAN 2 YEARS AFTER THE CHILD'S BIRTH BUT WAS
13 PREVENTED FROM CARRYING OUT THAT INTENT BY DEATH, INCAPACITY, OR
14 OTHER CIRCUMSTANCES.

15 (iii) THE INDIVIDUAL INTENDED TO BE TREATED AS A PARENT OF A
16 POSTHUMOUSLY CONCEIVED CHILD, IF THAT INTENT IS ESTABLISHED BY
17 CLEAR AND CONVINCING EVIDENCE.

18 (5) FOR THE PURPOSE OF SUBSECTION (4) (A), NEITHER AN
19 INDIVIDUAL WHO SIGNED A RECORD MORE THAN 2 YEARS AFTER THE BIRTH
20 OF THE CHILD NOR A RELATIVE OF THAT INDIVIDUAL WHO IS NOT ALSO A
21 RELATIVE OF THE BIRTH MOTHER INHERITS FROM OR THROUGH THE CHILD
22 UNLESS THE INDIVIDUAL FUNCTIONED AS A PARENT OF THE CHILD BEFORE
23 THE CHILD REACHED 18 YEARS OF AGE.

24 (6) FOR THE PURPOSES OF SUBSECTION (4) (B), ALL OF THE
25 FOLLOWING APPLY:

26 (A) IF THE BIRTH MOTHER IS MARRIED AND NO DIVORCE PROCEEDING
27 IS PENDING, IN THE ABSENCE OF CLEAR AND CONVINCING EVIDENCE TO

1 THE CONTRARY, HER SPOUSE SATISFIES SUBSECTION (4) (B) (i) OR (ii) .

2 (B) IF THE BIRTH MOTHER IS A SURVIVING SPOUSE AND AT HER
3 DECEASED SPOUSE'S DEATH NO DIVORCE PROCEEDING WAS PENDING, AND
4 IF, BEFORE DEATH OR INCAPACITY, THE DECEASED SPOUSE DEPOSITED THE
5 SPERM OR EGGS THAT WERE USED TO CONCEIVE THE CHILD, IN THE
6 ABSENCE OF CLEAR AND CONVINCING EVIDENCE TO THE CONTRARY, HER
7 DECEASED SPOUSE SATISFIES SUBSECTION (4) (B) (ii) OR (iii) .

8 (7) IF A MARRIED COUPLE IS DIVORCED BEFORE PLACEMENT OF
9 EGGS, SPERM, OR EMBRYOS, A CHILD RESULTING FROM THE ASSISTED
10 REPRODUCTION IS NOT A CHILD OF THE BIRTH MOTHER'S FORMER SPOUSE
11 UNLESS THE FORMER SPOUSE CONSENTED IN A RECORD THAT IF ASSISTED
12 REPRODUCTION WERE TO OCCUR AFTER DIVORCE, THE CHILD WOULD BE
13 TREATED AS THE FORMER SPOUSE'S CHILD.

14 (8) IF, IN A RECORD, AN INDIVIDUAL WITHDRAWS CONSENT TO
15 ASSISTED REPRODUCTION BEFORE PLACEMENT OF EGGS, SPERM, OR
16 EMBRYOS, A CHILD RESULTING FROM THE ASSISTED REPRODUCTION IS NOT
17 A CHILD OF THAT INDIVIDUAL UNLESS THE INDIVIDUAL SUBSEQUENTLY
18 SATISFIES SUBSECTION (4) .

19 (9) IF, UNDER THIS SECTION, AN INDIVIDUAL IS A PARENT OF A
20 CHILD OF ASSISTED REPRODUCTION WHO IS CONCEIVED AFTER THE
21 INDIVIDUAL'S DEATH, AND IF THE REQUIREMENTS OF SECTION 1216 ARE
22 MET, THE CHILD IS TREATED AS IN GESTATION AT THE INDIVIDUAL'S
23 DEATH FOR PURPOSES OF SECTION 2104(1) (B) IF EITHER OF THE
24 FOLLOWING APPLIES:

25 (A) THE CHILD IS IN UTERO NOT LATER THAN 36 MONTHS AFTER THE
26 INDIVIDUAL'S DEATH.

27 (B) THE CHILD IS BORN NOT LATER THAN 45 MONTHS AFTER THE

1 INDIVIDUAL'S DEATH.

2 (10) AS USED IN THIS SECTION:

3 (A) "BIRTH MOTHER" MEANS A WOMAN, OTHER THAN A GESTATIONAL
4 CARRIER UNDER SECTION 2121, WHO GIVES BIRTH TO A CHILD OF
5 ASSISTED REPRODUCTION. BIRTH MOTHER IS NOT LIMITED TO A WOMAN WHO
6 IS THE CHILD'S GENETIC MOTHER.

7 (B) "CHILD OF ASSISTED REPRODUCTION" MEANS A CHILD CONCEIVED
8 BY MEANS OF ASSISTED REPRODUCTION BY A WOMAN OTHER THAN A
9 GESTATIONAL CARRIER UNDER SECTION 2121.

10 (C) "THIRD-PARTY DONOR" MEANS AN INDIVIDUAL WHO PRODUCES
11 EGGS OR SPERM USED FOR ASSISTED REPRODUCTION, WHETHER OR NOT FOR
12 CONSIDERATION. THIRD-PARTY DONOR DOES NOT INCLUDE ANY OF THE
13 FOLLOWING:

14 (i) A HUSBAND WHO PROVIDES SPERM, OR A WIFE WHO PROVIDES
15 EGGS, THAT ARE USED FOR ASSISTED REPRODUCTION BY THE WIFE.

16 (ii) THE BIRTH MOTHER OF A CHILD OF ASSISTED REPRODUCTION.

17 (iii) AN INDIVIDUAL WHO HAS BEEN DETERMINED UNDER SUBSECTION
18 (4) TO HAVE A PARENT-CHILD RELATIONSHIP WITH A CHILD OF ASSISTED
19 REPRODUCTION.

20 SEC. 2121. (1) A PARENT-CHILD RELATIONSHIP IS CONCLUSIVELY
21 ESTABLISHED BY A COURT ORDER DESIGNATING THE PARENT OR PARENTS OF
22 A GESTATIONAL CHILD.

23 (2) A PARENT-CHILD RELATIONSHIP BETWEEN A GESTATIONAL CHILD
24 AND THE CHILD'S GESTATIONAL CARRIER DOES NOT EXIST UNLESS EITHER
25 OF THE FOLLOWING APPLIES:

26 (A) THE GESTATIONAL CARRIER IS DESIGNATED AS A PARENT OF THE
27 CHILD IN A COURT ORDER UNDER SUBSECTION (1).

1 (B) THE GESTATIONAL CARRIER IS THE CHILD'S GENETIC MOTHER
2 AND A PARENT-CHILD RELATIONSHIP DOES NOT EXIST UNDER THIS SECTION
3 WITH AN INDIVIDUAL OTHER THAN THE GESTATIONAL CARRIER.

4 (3) IN THE ABSENCE OF A COURT ORDER UNDER SUBSECTION (1), A
5 PARENT-CHILD RELATIONSHIP EXISTS BETWEEN A GESTATIONAL CHILD AND
6 AN INTENDED PARENT TO WHOM EITHER OF THE FOLLOWING APPLIES:

7 (A) THE INTENDED PARENT FUNCTIONED AS A PARENT OF THE CHILD
8 NO LATER THAN 2 YEARS AFTER THE CHILD'S BIRTH.

9 (B) THE INTENDED PARENT DIED WHILE THE GESTATIONAL CARRIER
10 WAS PREGNANT AND IF ANY OF THE FOLLOWING APPLY:

11 (i) THERE WERE 2 INTENDED PARENTS AND THE OTHER INTENDED
12 PARENT FUNCTIONED AS A PARENT OF THE CHILD NO LATER THAN 2 YEARS
13 AFTER THE CHILD'S BIRTH.

14 (ii) THERE WERE 2 INTENDED PARENTS, THE OTHER INTENDED PARENT
15 ALSO DIED WHILE THE GESTATIONAL CARRIER WAS PREGNANT, AND A
16 RELATIVE OF EITHER DECEASED INTENDED PARENT OR THE SPOUSE OR
17 SURVIVING SPOUSE OF A RELATIVE OF EITHER DECEASED INTENDED PARENT
18 FUNCTIONED AS A PARENT OF THE CHILD NO LATER THAN 2 YEARS AFTER
19 THE CHILD'S BIRTH.

20 (iii) THERE WAS NO OTHER INTENDED PARENT AND A RELATIVE OF OR
21 THE SPOUSE OR SURVIVING SPOUSE OF A RELATIVE OF THE DECEASED
22 INTENDED PARENT FUNCTIONED AS A PARENT OF THE CHILD NO LATER THAN
23 2 YEARS AFTER THE CHILD'S BIRTH.

24 (4) IN THE ABSENCE OF A COURT ORDER UNDER SUBSECTION (1), A
25 PARENT-CHILD RELATIONSHIP EXISTS BETWEEN A GESTATIONAL CHILD AND
26 AN INDIVIDUAL WHOSE SPERM OR EGGS WERE USED AFTER THE
27 INDIVIDUAL'S DEATH OR INCAPACITY TO CONCEIVE A CHILD UNDER A

1 GESTATIONAL AGREEMENT ENTERED INTO AFTER THE INDIVIDUAL'S DEATH
2 OR INCAPACITY IF THE INDIVIDUAL INTENDED TO BE TREATED AS THE
3 PARENT OF THE CHILD. THE INDIVIDUAL'S INTENT MAY BE SHOWN BY
4 EITHER OF THE FOLLOWING:

5 (A) A RECORD SIGNED BY THE INDIVIDUAL THAT, CONSIDERING ALL
6 THE FACTS AND CIRCUMSTANCES, EVIDENCES THE INDIVIDUAL'S INTENT.

7 (B) OTHER FACTS AND CIRCUMSTANCES ESTABLISHING THE
8 INDIVIDUAL'S INTENT BY CLEAR AND CONVINCING EVIDENCE.

9 (5) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (6), AND
10 UNLESS THERE IS CLEAR AND CONVINCING EVIDENCE OF A CONTRARY
11 INTENT, AN INDIVIDUAL IS DEEMED TO HAVE INTENDED TO BE TREATED AS
12 THE PARENT OF A GESTATIONAL CHILD FOR PURPOSES OF SUBSECTION
13 (4) (B) IF ALL OF THE FOLLOWING APPLY:

14 (A) THE INDIVIDUAL, BEFORE DEATH OR INCAPACITY, DEPOSITED
15 THE SPERM OR EGGS THAT WERE USED TO CONCEIVE THE CHILD.

16 (B) WHEN THE INDIVIDUAL DEPOSITED THE SPERM OR EGGS, THE
17 INDIVIDUAL WAS MARRIED AND NO DIVORCE PROCEEDING WAS PENDING.

18 (C) THE INDIVIDUAL'S SPOUSE OR SURVIVING SPOUSE FUNCTIONED
19 AS A PARENT OF THE CHILD NO LATER THAN 2 YEARS AFTER THE CHILD'S
20 BIRTH.

21 (6) THE PRESUMPTION UNDER SUBSECTION (5) DOES NOT APPLY IF
22 THERE IS EITHER OF THE FOLLOWING:

23 (A) A COURT ORDER UNDER SUBSECTION (1).

24 (B) A SIGNED RECORD THAT SATISFIES SUBSECTION (4) (A).

25 (7) IF, UNDER THIS SECTION, AN INDIVIDUAL IS A PARENT OF A
26 GESTATIONAL CHILD WHO IS CONCEIVED AFTER THE INDIVIDUAL'S DEATH,
27 AND IF THE REQUIREMENTS OF SECTION 1216 ARE MET, THE CHILD IS

1 TREATED AS IN GESTATION AT THE INDIVIDUAL'S DEATH FOR PURPOSES OF
2 SECTION 2104(1)(B) IF EITHER OF THE FOLLOWING APPLIES:

3 (A) THE CHILD IS IN UTERO NOT LATER THAN 36 MONTHS AFTER THE
4 INDIVIDUAL'S DEATH.

5 (B) THE CHILD IS BORN NOT LATER THAN 45 MONTHS AFTER THE
6 INDIVIDUAL'S DEATH.

7 (8) THIS SECTION DOES NOT AFFECT LAW OF THIS STATE OTHER
8 THAN THIS ACT REGARDING THE ENFORCEABILITY OR VALIDITY OF A
9 GESTATIONAL AGREEMENT.

10 (9) AS USED IN THIS SECTION:

11 (A) "GESTATIONAL AGREEMENT" MEANS AN ENFORCEABLE OR
12 UNENFORCEABLE AGREEMENT FOR ASSISTED REPRODUCTION IN WHICH A
13 WOMAN AGREES TO CARRY A CHILD TO BIRTH FOR AN INTENDED PARENT,
14 INTENDED PARENTS, OR AN INDIVIDUAL DESCRIBED IN SUBSECTION (4).

15 (B) "GESTATIONAL CARRIER" MEANS A WOMAN WHO IS NOT AN
16 INTENDED PARENT WHO GIVES BIRTH TO A CHILD UNDER A GESTATIONAL
17 AGREEMENT. GESTATIONAL CARRIER IS NOT LIMITED TO A WOMAN WHO IS
18 THE CHILD'S GENETIC MOTHER.

19 (C) "GESTATIONAL CHILD" MEANS A CHILD BORN TO A GESTATIONAL
20 CARRIER UNDER A GESTATIONAL AGREEMENT.

21 (D) "INTENDED PARENT" MEANS AN INDIVIDUAL WHO ENTERED INTO A
22 GESTATIONAL AGREEMENT THAT PROVIDES THAT THE INDIVIDUAL WILL BE
23 THE PARENT OF A CHILD BORN TO A GESTATIONAL CARRIER BY MEANS OF
24 ASSISTED REPRODUCTION. INTENDED PARENT IS NOT LIMITED TO AN
25 INDIVIDUAL WHO HAS A GENETIC RELATIONSHIP WITH THE CHILD.

26 SEC. 2122. THIS PART DOES NOT AFFECT THE DOCTRINE OF
27 EQUITABLE ADOPTION.

1 Sec. 2502. (1) Except as provided in subsection (2) and in
2 sections 2503, 2506, and 2513, a will is valid only if it is all
3 of the following:

4 (a) In writing.

5 (b) Signed by the testator or in the testator's name by some
6 other individual in the testator's conscious presence and by the
7 testator's direction.

8 (c) ~~Signed~~ **EITHER OF THE FOLLOWING:**

9 (i) **SIGNED** by at least 2 individuals, each of whom signed
10 within a reasonable time after he or she witnessed either the
11 signing of the will as described in subdivision (b) or the
12 testator's acknowledgment of that signature or acknowledgment of
13 the will.

14 (ii) **ACKNOWLEDGED BY THE TESTATOR BEFORE A NOTARY PUBLIC OR**
15 **OTHER INDIVIDUAL AUTHORIZED BY LAW TO TAKE ACKNOWLEDGMENTS.**

16 (2) A will that does not comply with subsection (1) is valid
17 as a holographic will, whether or not witnessed, if it is dated,
18 and if the testator's signature and the document's material
19 portions are in the testator's handwriting.

20 (3) Intent that the document constitutes a testator's will
21 can be established by extrinsic evidence, including, for a
22 holographic will, portions of the document that are not in the
23 testator's handwriting.

24 Sec. 2504. (1) A will **THAT IS EXECUTED WITH ATTESTING**
25 **WITNESSES** may be simultaneously executed, attested, and made
26 self-proved by acknowledgment of the will by the testator and 2
27 witnesses' sworn statements, each made before an officer

1 authorized to administer oaths under the laws of the state in
 2 which execution occurs and evidenced by the officer's
 3 certificate, under official seal, in substantially the following
 4 form:

5 I, _____, the testator, sign my name to
 6 this document on _____, _____. I have taken an oath,
 7 administered by the officer whose signature and seal appear on
 8 this document, swearing that the statements in this document
 9 are true. I declare to that officer that this document is my
 10 will; that I sign it willingly or willingly direct another to
 11 sign for me; that I execute it as my voluntary act for the
 12 purposes expressed in this will; that I am 18 years of age
 13 or older and under no constraint or undue influence; and that
 14 I have sufficient mental capacity to make this will.

15 _____

16 (Signature) Testator

17 We, _____ and _____,
 18 the witnesses, sign our names to this document and have taken
 19 an oath, administered by the officer whose signature and seal
 20 appear on this document, to swear that all of the following
 21 statements are true: the individual signing this document as
 22 the testator executes the document as his or her will, signs it
 23 willingly or willingly directs another to sign for him or her,
 24 and executes it as his or her voluntary act for the purposes
 25 expressed in this will; each of us, in the testator's presence,
 26 signs this will as witness to the testator's signing; and, to
 27 the best of our knowledge, the testator is 18 years of age or
 28 older, is under no constraint or undue influence, and has

1 sufficient mental capacity to make this will.

2 _____

3 (Signature) Witness

4 _____

5 (Signature) Witness

6 The State of _____

7 County of _____

8 Sworn to and signed in my presence by _____, the
9 testator, and sworn to and signed in my presence by

10 _____ and _____, witnesses, on

11 _____, _____.

12 month/day year

13 _____

14 (SEAL) Signed

15 _____

16 (official capacity of officer)

17 (2) An attested will may be made self-proved at any time
18 after its execution by the acknowledgment of the will by the
19 testator and the sworn statements of the witnesses to the will,
20 each made before an officer authorized to administer oaths under
21 the laws of the state in which the acknowledgment occurs and
22 evidenced by the officer's certificate, under the official seal,
23 attached or annexed to the will in substantially the following
24 form:

25 The State of _____

26 County of _____

27 We, _____, _____, and

1 _____, the testator and the witnesses,
 2 respectively, whose names are signed to the attached will,
 3 sign this document and have taken an oath, administered by the
 4 officer whose signature and seal appear on this document, to
 5 swear that all of the following statements are true: the
 6 individual signing this document as the will's testator
 7 executed the will as his or her will, signed it willingly or
 8 willingly directed another to sign for him or her, and executed
 9 it as his or her voluntary act for the purposes expressed in
 10 the will; each witness, in the testator's presence, signed the
 11 will as witness to the testator's signing; and, to the best of
 12 the witnesses' knowledge, the testator, at the time of the
 13 will's execution, was 18 years of age or older, was under no
 14 constraint or undue influence, and had sufficient mental
 15 capacity to make this will.

16 _____

17 (Signature) Testator

18 _____

19 (Signature) Witness

20 _____

21 (Signature) Witness

22 Sworn to and signed in my presence by _____, the
 23 testator, and sworn to and signed in my presence by
 24 _____ and _____, witnesses, on
 25 _____, _____.
 26 month/day year

27 _____

28 (SEAL) Signed

29 _____

1 (official capacity of officer)

2 (3) A codicil to a will may be simultaneously executed and
3 attested, and both the codicil and the original will made self-
4 proved, by acknowledgment of the codicil by the testator and by
5 witnesses' sworn statements, each made before an officer
6 authorized to administer oaths under the laws of the state in
7 which execution occurs and evidenced by the officer's
8 certificate, under official seal, in substantially the following
9 form:

10 I, _____, the testator, sign my name to this
11 document on _____, _____. I have taken an oath,
12 administered by the officer whose signature and seal appear on
13 this document, swearing that the statements in this document
14 are true. I declare to that officer that this document is a
15 codicil to my will; that I sign it willingly or willingly
16 direct another to sign for me; that I execute it as my
17 voluntary act for the purposes expressed in this codicil; and
18 that I am 18 years of age or older, and under no constraint or
19 undue influence; and that I have sufficient mental capacity to
20 make this codicil.

21 _____

22 (Signature) Testator

23 We, _____ and _____, the witnesses,
24 sign our names to this document and have taken an oath,
25 administered by the officer whose signature and seal appear on
26 this document, to swear that all of the following statements
27 are true: the individual signing this document as the testator

executes the document as a codicil to his or her will, signs it willingly or willingly directs another to sign for him or her, and executes it as his or her voluntary act for the purposes expressed in this codicil; each of us, in the testator's presence, signs this codicil as witness to the testator's signing; and, to the best of our knowledge, the testator is 18 years of age or older, is under no constraint or undue influence, and has sufficient mental capacity to make this codicil.

(Signature) Witness

(Signature) Witness

The State of _____

County of _____

Sworn to and signed in my presence by _____, the testator, and sworn to and signed in my presence by _____ and _____, witnesses, on _____, _____.

month/day year

(SEAL) Signed

(official capacity of officer)

(4) If necessary to prove the will's due execution, a signature affixed to a self-proving sworn statement attached to a will is considered a signature affixed to the will.

(5) Instead of the testator and witnesses each making a

1 sworn statement before an officer authorized to administer oaths
2 as prescribed in subsections (1) to (3), a will or codicil may be
3 made self-proved by a written statement that is not a sworn
4 statement. This statement ~~shall~~**MUST** state, or incorporate by
5 reference to an attestation clause, the facts regarding the
6 testator and the formalities observed at the signing of the will
7 or codicil as prescribed in subsections (1) to (3). The testator
8 and witnesses shall sign the statement, which must include its
9 execution date and must begin with substantially the following
10 language: "I certify (or declare) under penalty for perjury under
11 the law of the state of Michigan that...".

12 Sec. 2707. ~~(1) An adopted individual or an individual born~~
13 ~~out of wedlock, and his or her respective descendants if~~
14 ~~appropriate to the class, are included in class gifts and other~~
15 ~~terms of relationship in accordance with the rules for intestate~~
16 ~~succession. Terms of relationship that do not differentiate~~
17 ~~relationships by blood from those by affinity, such as "uncles",~~
18 ~~"aunts", "nieces", or "nephews", are construed to exclude~~
19 ~~relatives by affinity. Terms of relationship that do not~~
20 ~~differentiate relationships by the half blood from those by the~~
21 ~~whole blood, such as "brothers", "sisters", "nieces", or~~
22 ~~"nephews", are construed to include both types of relationships.~~
23 ~~(2) In addition to the requirements of subsection (1), in~~
24 ~~construing a dispositive provision of a transferor who is not a~~
25 ~~natural parent, an individual born to the natural parent is not~~
26 ~~considered the child of that parent unless the individual lived~~
27 ~~while a minor as a regular member of the household of that~~

~~1 natural parent or of that natural parent's parent, brother,
2 sister, spouse, or surviving spouse.~~

~~3 (3) In addition to the requirements of subsection (1), in
4 construing a dispositive provision of a transferor who is not an
5 adopting parent, an adopted individual is not considered the
6 child of the adopting parent unless the adopted individual lived
7 while a minor, either before or after the adoption, as a regular
8 member of the household of the adopting parent.~~

9 (1) A CLASS GIFT THAT USES A TERM OF RELATIONSHIP TO
10 IDENTIFY THE CLASS MEMBERS INCLUDES A CHILD OF ASSISTED
11 REPRODUCTION, A GESTATIONAL CHILD, AND, EXCEPT AS OTHERWISE
12 PROVIDED IN SUBSECTIONS (4) AND (5), AN ADOPTEE AND A CHILD BORN
13 TO PARENTS WHO ARE NOT MARRIED TO EACH OTHER, AND THEIR
14 RESPECTIVE DESCENDANTS IF APPROPRIATE TO THE CLASS, IN ACCORDANCE
15 WITH THE RULES FOR INTESTATE SUCCESSION REGARDING PARENT-CHILD
16 RELATIONSHIPS. FOR THE PURPOSE OF DETERMINING WHETHER A CONTRARY
17 INTENTION EXISTS UNDER SECTION 2701, A PROVISION IN A GOVERNING
18 INSTRUMENT THAT RELATES TO THE INCLUSION OR EXCLUSION IN A CLASS
19 GIFT OF A CHILD BORN TO PARENTS WHO ARE NOT MARRIED TO EACH OTHER
20 BUT DOES NOT SPECIFICALLY REFER TO A CHILD OF ASSISTED
21 REPRODUCTION OR A GESTATIONAL CHILD DOES NOT APPLY TO A CHILD OF
22 ASSISTED REPRODUCTION OR A GESTATIONAL CHILD.

23 (2) TERMS OF RELATIONSHIP IN A GOVERNING INSTRUMENT THAT DO
24 NOT DIFFERENTIATE RELATIONSHIPS BY BLOOD FROM THOSE BY MARRIAGE,
25 SUCH AS UNCLES, AUNTS, NIECES, OR NEPHEWS, ARE CONSTRUED TO
26 EXCLUDE RELATIVES BY MARRIAGE, UNLESS EITHER OF THE FOLLOWING
27 APPLY:

1 (A) WHEN THE GOVERNING INSTRUMENT WAS EXECUTED, THE CLASS
2 WAS AND FORESEEABLY WOULD BE EMPTY.

3 (B) THE LANGUAGE OR CIRCUMSTANCES OTHERWISE ESTABLISH THAT
4 RELATIVES BY MARRIAGE WERE INTENDED TO BE INCLUDED.

5 (3) TERMS OF RELATIONSHIP IN A GOVERNING INSTRUMENT THAT DO
6 NOT DIFFERENTIATE RELATIONSHIPS BY THE HALF BLOOD FROM THOSE BY
7 THE WHOLE BLOOD, SUCH AS BROTHERS, SISTERS, NIECES, OR NEPHEWS,
8 ARE CONSTRUED TO INCLUDE BOTH TYPES OF RELATIONSHIPS.

9 (4) IN CONSTRUING A DISPOSITIVE PROVISION OF A TRANSFEROR
10 WHO IS NOT THE GENETIC PARENT, A CHILD OF A GENETIC PARENT IS NOT
11 DEEMED THE CHILD OF THAT GENETIC PARENT UNLESS THE GENETIC
12 PARENT, A RELATIVE OF THE GENETIC PARENT, OR THE SPOUSE OR
13 SURVIVING SPOUSE OF THE GENETIC PARENT OR OF A RELATIVE OF THE
14 GENETIC PARENT FUNCTIONED AS A PARENT OF THE CHILD BEFORE THE
15 CHILD REACHED 18 YEARS OF AGE.

16 (5) IN CONSTRUING A DISPOSITIVE PROVISION OF A TRANSFEROR
17 WHO IS NOT THE ADOPTIVE PARENT, AN ADOPTEE IS NOT DEEMED THE
18 CHILD OF THE ADOPTIVE PARENT UNLESS ANY OF THE FOLLOWING APPLY:

19 (A) THE ADOPTION TOOK PLACE BEFORE THE ADOPTEE REACHED 18
20 YEARS OF AGE.

21 (B) THE ADOPTIVE PARENT WAS THE ADOPTEE'S STEPPARENT OR
22 FOSTER PARENT.

23 (C) THE ADOPTIVE PARENT FUNCTIONED AS A PARENT OF THE
24 ADOPTEE BEFORE THE ADOPTEE REACHED 18 YEARS OF AGE.

25 (6) THE FOLLOWING RULES APPLY FOR PURPOSES OF THE CLASS-
26 CLOSING RULES:

27 (A) A CHILD IN UTERO AT A PARTICULAR TIME IS TREATED AS

1 LIVING AT THAT TIME IF THE CHILD LIVES 120 HOURS AFTER BIRTH.

2 (B) IF A CHILD OF ASSISTED REPRODUCTION OR A GESTATIONAL
3 CHILD IS CONCEIVED POSTHUMOUSLY AND THE DISTRIBUTION DATE IS THE
4 DECEASED PARENT'S DEATH, IF THE REQUIREMENTS OF SECTION 1216 ARE
5 MET, THE CHILD IS TREATED AS LIVING ON THE DISTRIBUTION DATE IF
6 THE CHILD LIVES 120 HOURS AFTER BIRTH AND WAS IN UTERO NOT LATER
7 THAN 36 MONTHS AFTER THE DECEASED PARENT'S DEATH OR BORN NOT
8 LATER THAN 45 MONTHS AFTER THE DECEASED PARENT'S DEATH.

9 (C) AN INDIVIDUAL WHO IS IN THE PROCESS OF BEING ADOPTED
10 WHEN THE CLASS CLOSES IS TREATED AS ADOPTED WHEN THE CLASS CLOSES
11 IF THE ADOPTION IS SUBSEQUENTLY GRANTED.

12 (7) AS USED IN THIS SECTION:

13 (A) "ADOPTEE" MEANS THAT TERM AS DEFINED IN SECTION 2115.

14 (B) "CHILD OF ASSISTED REPRODUCTION" MEANS THAT TERM AS
15 DEFINED IN SECTION 2120.

16 (C) "DISTRIBUTION DATE" MEANS THE DATE WHEN AN IMMEDIATE OR
17 POSTPONED CLASS GIFT TAKES EFFECT IN POSSESSION OR ENJOYMENT.

18 (D) "FUNCTIONED AS A PARENT OF THE ADOPTEE" MEANS BEHAVING
19 TOWARD AN ADOPTEE IN A MANNER CONSISTENT WITH BEING THE ADOPTEE'S
20 PARENT AND PERFORMING FUNCTIONS THAT ARE CUSTOMARILY PERFORMED BY
21 A PARENT, INCLUDING FULFILLING PARENTAL RESPONSIBILITIES TOWARD
22 THE ADOPTEE, RECOGNIZING OR HOLDING THE ADOPTEE AS THE
23 INDIVIDUAL'S ADOPTEE, MATERIALLY PARTICIPATING IN THE ADOPTEE'S
24 UPBRINGING, AND RESIDING WITH THE ADOPTEE IN THE SAME HOUSEHOLD
25 AS A REGULAR MEMBER OF THAT HOUSEHOLD.

26 (E) "FUNCTIONED AS A PARENT OF THE CHILD" MEANS THAT TERM AS
27 DEFINED IN SECTION 2115.

1 (F) "GENETIC PARENT" MEANS THAT TERM AS DEFINED IN SECTION
2 2115.

3 (G) "GESTATIONAL CHILD" MEANS THAT TERM AS DEFINED IN
4 SECTION 2121.

5 (H) "RELATIVE" MEANS THAT TERM AS DEFINED IN SECTION 2115.

6 SEC. 2810. THE COURT MAY REFORM THE TERMS OF A GOVERNING
7 INSTRUMENT, EVEN IF UNAMBIGUOUS, TO CONFORM THE TERMS TO THE
8 TRANSFEROR'S INTENTION IF IT IS PROVED BY CLEAR AND CONVINCING
9 EVIDENCE THAT BOTH THE TRANSFEROR'S INTENT AND THE TERMS OF THE
10 GOVERNING INSTRUMENT WERE AFFECTED BY A MISTAKE OF FACT OR LAW,
11 WHETHER IN EXPRESSION OR INDUCEMENT.

12 SEC. 2811. TO ACHIEVE THE TRANSFEROR'S TAX OBJECTIVES, THE
13 COURT MAY MODIFY THE TERMS OF A GOVERNING INSTRUMENT IN A MANNER
14 THAT IS NOT CONTRARY TO THE TRANSFEROR'S PROBABLE INTENTION. THE
15 COURT MAY PROVIDE THAT THE MODIFICATION HAS RETROACTIVE EFFECT.

16 Sec. 3406. ~~(1) If evidence concerning execution of an~~
17 ~~attested will that is not self-proved is necessary in a contested~~
18 ~~case, the testimony of at least 1 of the attesting witnesses, if~~
19 ~~within the state and if competent and able to testify, is~~
20 ~~required. Due execution of an attested or unattested will may be~~
21 ~~proved by other evidence.~~

22 ~~—— (2) If a will is self-proved, compliance with signature~~
23 ~~requirements for execution is conclusively presumed and other~~
24 ~~requirements of execution are presumed subject to rebuttal~~
25 ~~without the testimony of any witness upon filing the will and the~~
26 ~~acknowledgment and sworn statements annexed or attached to the~~
27 ~~will, unless there is proof of fraud or forgery affecting the~~

1 ~~acknowledgment or a sworn statement.~~

2 ~~—— (3) If a witness is competent at the time he or she signs~~
3 ~~the will, the witness's subsequent incompetency from whatever~~
4 ~~cause does not prevent admission of the will to probate, if it is~~
5 ~~otherwise satisfactorily proved.~~ IN A CONTESTED CASE IN WHICH THE
6 PROPER EXECUTION OF A WILL IS AT ISSUE, ALL OF THE FOLLOWING
7 APPLY:

8 (A) IF THE WILL IS SELF-PROVED UNDER SECTION 2504, THE WILL
9 SATISFIES THE REQUIREMENTS FOR EXECUTION WITHOUT THE TESTIMONY OF
10 ANY ATTESTING WITNESS, UPON FILING THE WILL AND THE
11 ACKNOWLEDGMENT AND AFFIDAVITS ANNEXED OR ATTACHED TO IT, UNLESS
12 THERE IS EVIDENCE OF FRAUD OR FORGERY AFFECTING THE
13 ACKNOWLEDGMENT OR AFFIDAVIT.

14 (B) IF THE WILL IS NOTARIZED UNDER SECTION 2502(1)(C)(ii),
15 BUT NOT SELF-PROVED, THERE IS A REBUTTABLE PRESUMPTION THAT THE
16 WILL SATISFIES THE REQUIREMENTS FOR EXECUTION UPON FILING THE
17 WILL.

18 (C) IF THE WILL IS WITNESSED UNDER SECTION 2502(1)(C)(i), BUT
19 NOT NOTARIZED OR SELF-PROVED, THE TESTIMONY OF AT LEAST 1 OF THE
20 ATTESTING WITNESSES IS REQUIRED TO ESTABLISH PROPER EXECUTION IF
21 THE WITNESS IS WITHIN THIS STATE, COMPETENT, AND ABLE TO TESTIFY.
22 PROPER EXECUTION MAY BE ESTABLISHED BY OTHER EVIDENCE, INCLUDING
23 AN AFFIDAVIT OF AN ATTESTING WITNESS. AN ATTESTATION CLAUSE THAT
24 IS SIGNED BY THE ATTESTING WITNESSES RAISES A REBUTTABLE
25 PRESUMPTION THAT THE EVENTS RECITED IN THE CLAUSE OCCURRED.

26 Sec. 3715. (1) Except as restricted or otherwise provided by
27 the will or by an order in a formal proceeding, and subject to

1 subsection (2) and to the priorities stated in section 3902, a
2 personal representative, acting reasonably for the benefit of
3 interested persons, may properly do any of the following:

4 (a) Retain property owned by the decedent pending
5 distribution or liquidation, including property in which the
6 personal representative is personally interested or that is
7 otherwise improper for trust investment.

8 (b) Receive property from a fiduciary or another source.

9 (c) Perform, compromise, or refuse performance of a contract
10 of the decedent that continues as an estate obligation, as the
11 personal representative determines under the circumstances. If
12 the contract is for a conveyance of land and requires the giving
13 of warranties, the personal representative shall include in the
14 deed or other instrument of conveyance the required warranties.
15 The warranties are binding on the estate as though the decedent
16 made them but do not bind the personal representative except in a
17 fiduciary capacity. In performing an enforceable contract by the
18 decedent to convey or lease land, the personal representative,
19 among other possible courses of action, may do any of the
20 following:

21 (i) Execute and deliver a deed of conveyance for cash payment
22 of the amount remaining due or for the purchaser's note for the
23 amount remaining due secured by a mortgage on the land.

24 (ii) Deliver a deed in escrow with directions that the
25 proceeds, when paid in accordance with the escrow agreement, be
26 paid to the decedent's successors, as designated in the escrow
27 agreement.

1 (d) If, in the judgment of the personal representative, the
2 decedent would have wanted the pledge satisfied under the
3 circumstances, satisfy a written charitable pledge of the
4 decedent irrespective of whether the pledge constitutes a binding
5 obligation of the decedent or is properly presented as a claim.

6 (e) If funds are not needed to meet a debt or expenses
7 currently payable and are not immediately distributable, deposit
8 or invest liquid assets of the estate, including funds received
9 from the sale of other property, in accordance with the Michigan
10 prudent investor rule.

11 (f) Acquire or dispose of property, including land in this
12 or another state, for cash or on credit, at public or private
13 sale; and manage, develop, improve, exchange, partition, change
14 the character of, or abandon estate property.

15 (g) Make an ordinary or extraordinary repair or alteration
16 in a building or other structure, demolish an improvement, or
17 raze an existing or erect a new party wall or building.

18 (h) Subdivide, develop, or dedicate land to public use, make
19 or obtain the vacation of a plat or adjust a boundary, adjust a
20 difference in valuation on exchange or partition by giving or
21 receiving consideration, or dedicate an easement to public use
22 without consideration.

23 (i) Enter into a lease as lessor or lessee for any purpose,
24 with or without an option to purchase or renew, for a term within
25 or extending beyond the period of administration.

26 (j) Enter into a lease or arrangement for exploration and
27 removal of minerals or another natural resource, or enter into a

1 pooling or unitization agreement.

2 (k) Abandon property when, in the opinion of the personal
3 representative, it is valueless, or is so encumbered or in such a
4 condition as to be of no benefit to the estate.

5 (l) Vote stocks or another security in person or by general
6 or limited proxy.

7 (m) Pay a call, assessment, or other amount chargeable or
8 accruing against or on account of a security, unless barred by a
9 provision relating to claims.

10 (n) Hold a security in the name of a nominee or in other
11 form without disclosure of the estate's interest. However, the
12 personal representative is liable for an act of the nominee in
13 connection with the security so held.

14 (o) Insure the estate property against damage, loss, and
15 liability and insure the personal representative against
16 liability as to third persons.

17 (p) Borrow property with or without security to be repaid
18 from the estate property or otherwise, and advance money for the
19 estate's protection.

20 (q) Effect a fair and reasonable compromise with a debtor or
21 obligor, or extend, renew, or in any manner modify the terms of
22 an obligation owing to the estate. If the personal representative
23 holds a mortgage, pledge, or other lien upon another person's
24 property, the personal representative may, ~~in-lieu~~ **INSTEAD** of
25 foreclosure, accept a conveyance or transfer of encumbered
26 property from the property's owner in satisfaction of the
27 indebtedness secured by lien.

1 (r) Pay a tax, an assessment, the personal representative's
2 compensation, or another expense incident to the estate's
3 administration.

4 (s) Sell or exercise a stock subscription or conversion
5 right.

6 (t) Consent, directly or through a committee or other agent,
7 to the reorganization, consolidation, merger, dissolution, or
8 liquidation of a corporation or other business enterprise.

9 (u) Allocate items of income or expense to either estate
10 income or principal, as permitted or provided by law.

11 (v) Employ, and pay reasonable compensation for reasonably
12 necessary services performed by, a person, including, but not
13 limited to, an auditor, investment advisor, or agent, even if the
14 person is associated with the personal representative, to advise
15 or assist the personal representative in the performance of
16 administrative duties; act on the person's recommendations
17 without independent investigation; and, instead of acting
18 personally, employ 1 or more agents to perform an act of
19 administration, whether or not discretionary.

20 (w) Employ an attorney to perform necessary legal services
21 or to advise or assist the personal representative in the
22 performance of the personal representative's administrative
23 duties, even if the attorney is associated with the personal
24 representative, and act without independent investigation ~~upon~~**ON**
25 the attorney's recommendation. An attorney employed under this
26 subdivision ~~shall~~**MUST** receive reasonable compensation for his or
27 her employment.

1 (x) Prosecute or defend a claim or proceeding in any
2 jurisdiction for the protection of the estate and of the personal
3 representative in the performance of the personal
4 representative's duties.

5 (y) Sell, mortgage, or lease estate property or an interest
6 in estate property for cash, credit, or part cash and part
7 credit, and with or without security for unpaid balances.

8 (z) Continue a business or venture in which the decedent was
9 engaged at the time of death as a sole proprietor or a general
10 partner, including continuation as a general partner by a
11 personal representative that is a corporation, in any of the
12 following manners:

13 (i) In the same business form for a period of not more than 4
14 months after the date of appointment of a general personal
15 representative if continuation is a reasonable means of
16 preserving the value of the business, including goodwill.

17 (ii) In the same business form for an additional period of
18 time if approved by court order in a formal proceeding to which
19 the persons interested in the estate are parties.

20 (iii) Throughout the period of administration if the personal
21 representative incorporates the business or converts the business
22 to a limited liability company and if none of the probable
23 distributees of the business who are competent adults object to
24 its incorporation or conversion and its retention in the estate.

25 (aa) Change the form of a business or venture in which the
26 decedent was engaged at the time of death through incorporation
27 or formation as a limited liability company or other entity

1 offering protection against or limiting exposure to liabilities.

2 (bb) Provide for the personal representative's exoneration
3 from personal liability in a contract entered into on the
4 estate's behalf.

5 (cc) Respond to an environmental concern or hazard affecting
6 estate property as provided in section 3722.

7 (dd) Satisfy and settle claims and distribute the estate as
8 provided in this act.

9 (ee) Make, revise, or revoke an available allocation,
10 consent, or election in connection with a tax matter as
11 appropriate in order to carry out the decedent's estate planning
12 objectives and to reduce the overall burden of taxation, both in
13 the present and in the future. This authority includes, but is
14 not limited to, all of the following:

15 (i) Electing to take expenses as estate tax or income tax
16 deductions.

17 (ii) Electing to allocate the exemption from the tax on
18 generation skipping transfers among transfers subject to estate
19 or gift tax.

20 (iii) Electing to have all or a portion of a transfer for a
21 spouse's benefit qualify for the marital deduction.

22 (iv) Electing the date of death or an alternate valuation
23 date for federal estate tax purposes.

24 (v) Excluding or including property from the gross estate
25 for federal estate tax purposes.

26 (vi) Valuing property for federal estate tax purposes.

27 (vii) Joining with the surviving spouse or the surviving

1 spouse's personal representative in the execution and filing of a
2 joint income tax return and consenting to a gift tax return filed
3 by the surviving spouse or the surviving spouse's personal
4 representative.

5 (ff) Divide portions of the estate, including portions to be
6 allocated into trust, into 2 or more separate portions or trusts
7 with substantially identical terms and conditions, and allocate
8 property between them, in order to simplify administration for
9 generation skipping transfer tax purposes, to segregate property
10 for management purposes, or to meet another estate or trust
11 objective.

12 (GG) IF THE PERSONAL REPRESENTATIVE HAS RECEIVED NOTICE OR
13 HAS KNOWLEDGE OF AN INTENTION TO USE GENETIC MATERIAL TO CREATE A
14 CHILD AFTER THE DECEDENT'S DEATH, TAKE INTO ACCOUNT WHETHER THE
15 POSTHUMOUS BIRTH OF A CHILD OF ASSISTED REPRODUCTION OR
16 GESTATIONAL CHILD MAY HAVE AN EFFECT ON THE DISTRIBUTION OF THE
17 DECEDENT'S ESTATE. AS USED IN THIS SUBDIVISION:

18 (i) "CHILD OF ASSISTED REPRODUCTION" MEANS THAT TERM AS
19 DEFINED IN SECTION 2120.

20 (ii) "GESTATIONAL CHILD" MEANS THAT TERM AS DEFINED IN
21 SECTION 2121.

22 (2) If the personal representative is the state or county
23 public administrator, all of the following apply:

24 (a) The personal representative shall not sell the
25 decedent's real property without approval of the court. The court
26 shall only approve the sale if, after a hearing with notice to
27 interested persons as specified in the Michigan court rules, the

1 court considers evidence of the value of the property and
2 considers any information submitted by the county treasurer under
3 section 3705(7) and otherwise determines that the sale is in the
4 estate's best interest. In determining whether to approve the
5 sale of real property under this subdivision, the court shall
6 consider any information submitted by the county treasurer under
7 section 3705(7).

8 (b) If the personal representative is the county public
9 administrator, and if the decedent's real property is occupied by
10 an heir of the decedent, the county public administrator shall
11 provide the state public administrator with all pleadings filed
12 in the case.

13 (c) Unless waived by the court, the personal representative
14 shall advance any of the personal representative's court filing
15 fees associated with the administration of the estate.

16 (d) If the decedent's estate includes real property subject
17 to tax or mortgage foreclosure, for real estate fees or fees
18 related to identifying real property subject to foreclosure, or
19 both, payable to persons employed by the personal representative,
20 including an attorney, real estate agent, or asset recovery
21 agent, both of the following apply:

22 (i) Except as otherwise provided by the court, if the net
23 proceeds from the sale of the real property payable to the estate
24 exceed \$30,000.00, the total fees described in this ~~subsection~~
25 **SUBDIVISION** must not exceed 10% of the net proceeds from the sale
26 of the real property payable to the estate.

27 (ii) If the net proceeds from the sale of real property

1 payable to the estate are less than \$30,000.00, the court shall
2 determine the reasonableness of the fees described in this
3 ~~subsection.~~**SUBDIVISION.**

4 (3) As used in subsection (2), "net proceeds from the sale
5 of the real property" means the sale price of the real property
6 less the amount paid to satisfy the tax or mortgage, or both.

7 Sec. 3908. (1) After the probable charges against the estate
8 are known, the personal representative may mail or deliver a
9 proposal for distribution to all persons who have a right to
10 object to the proposed distribution. The right of a distributee
11 to object to the proposed distribution on the basis of the kind
12 or value of property the distributee is to receive, if not waived
13 earlier in writing, terminates if the distributee fails to object
14 in a writing received by the personal representative within 28
15 days after mailing or delivery of the proposal.

16 (2) **THE PERSONAL REPRESENTATIVE IS NOT LIABLE FOR MAKING A
17 DISTRIBUTION OF ALL OR PART OF A DECEDENT'S ESTATE THAT AFFECTS
18 THE INTERESTS OF A POSTHUMOUSLY CONCEIVED CHILD OF ASSISTED
19 REPRODUCTION OR GESTATIONAL CHILD IF THE PERSONAL REPRESENTATIVE
20 MADE THE DISTRIBUTION BEFORE RECEIVING NOTICE OR ACQUIRING
21 KNOWLEDGE OF AN INTENTION TO USE GENETIC MATERIAL TO CREATE A
22 CHILD AFTER THE DECEDENT'S DEATH. AS USED IN THIS SUBSECTION:**

23 (A) **"CHILD OF ASSISTED REPRODUCTION" MEANS THAT TERM AS
24 DEFINED IN SECTION 2120.**

25 (B) **"GESTATIONAL CHILD" MEANS THAT TERM AS DEFINED IN
26 SECTION 2121.**

27 Sec. 3957. (1) ~~Unless~~**EXCEPT AS PROVIDED IN SUBSECTIONS (2)**

1 AND (3), UNLESS previously adjudicated in a formal testacy
2 proceeding or in a proceeding settling a personal
3 representative's accounts, or otherwise barred, a claimant's
4 claim to recover from a distributee who is liable to pay the
5 claim and the right of an heir or devisee, or of a successor
6 personal representative acting in their behalf, to recover
7 property improperly distributed or its value from a distributee
8 are forever barred at the later of 3 years after the decedent's
9 death or 1 year after the time of the property's distribution.
10 However, all claims of the decedent's creditors are barred in
11 accordance with the time periods specified in section 3803.

12 (2) EXCEPT AS PROVIDED IN SUBSECTION (3), IN THE CASE OF A
13 POSTHUMOUSLY CONCEIVED CHILD OF ASSISTED REPRODUCTION OR
14 GESTATIONAL CHILD, THE CHILD'S RIGHT, IF ANY, AS AN HEIR OR
15 DEVISEE, OR THAT OF A SUCCESSOR PERSONAL REPRESENTATIVE ACTING IN
16 THE CHILD'S BEHALF, TO RECOVER PROPERTY IMPROPERLY DISTRIBUTED OR
17 ITS VALUE FROM A DISTRIBUTEES IS FOREVER BARRED AT THE LATER OF 4
18 YEARS AFTER THE DECEDENT'S DEATH OR 1 YEAR AFTER THE TIME OF THE
19 PROPERTY'S DISTRIBUTION. AS USED IN THIS SUBSECTION:

20 (A) "CHILD OF ASSISTED REPRODUCTION" MEANS THAT TERM AS
21 DEFINED IN SECTION 2120.

22 (B) "GESTATIONAL CHILD" MEANS THAT TERM AS DEFINED IN
23 SECTION 2121.

24 (3) This section does not bar an action to recover property
25 or value received as a result of fraud.

26 Sec. 7817. Without limiting the authority conferred by
27 section 7816, a trustee has all of the following powers:

1 (a) To take possession, custody, or control of property
2 transferred to the trust and accept or reject additions to the
3 trust.

4 (b) To retain property that the trustee receives, including
5 property in which the trustee is personally interested, in
6 accordance with the Michigan prudent investor rule.

7 (c) To receive property from a fiduciary or another source
8 that is acceptable to the trustee.

9 (d) To perform, compromise, or refuse to perform a contract
10 of the settlor that is an obligation of the trust, as the trustee
11 may determine under the circumstances. In performing an
12 enforceable contract by the settlor to convey or lease land, if
13 the contract for a conveyance requires the giving of a warranty,
14 the deed or other instrument of conveyance to be given by the
15 trustee ~~shall~~**MUST** contain the warranty required. The warranty is
16 binding on the trust as though made by the settlor, but does not
17 bind the trustee except in the trustee's fiduciary capacity. The
18 trustee, among other possible courses of action, may do either of
19 the following:

20 (i) Execute and deliver a deed of conveyance for cash payment
21 of money remaining due or the purchaser's note for the money
22 remaining due secured by a mortgage on the land.

23 (ii) Deliver a deed in escrow with directions that the
24 proceeds, when paid in accordance with the escrow agreement, be
25 paid to the trustee, as designated in the escrow agreement.

26 (e) To satisfy a settlor's written charitable pledge
27 irrespective of whether the pledge constitutes a binding

1 obligation of the settlor or was properly presented as a claim,
2 if in the trustee's judgment the settlor would have wanted the
3 pledge completed under the circumstances.

4 (f) To deposit trust property in a financial institution,
5 including a financial institution operated by or affiliated with
6 the trustee and to invest and reinvest trust property as would a
7 prudent investor acting in accordance with the Michigan prudent
8 investor rule and to deposit securities with a depository or
9 other financial institution.

10 (g) To acquire property, including property in this or
11 another state or country, in any manner for cash or on credit, at
12 public or private sale; and to manage, develop, improve,
13 exchange, partition, or change the character of trust property.

14 (h) To make an ordinary or extraordinary repair or
15 alteration in a building or another structure, to demolish an
16 improvement, or to raze an existing or erect a new party wall or
17 building.

18 (i) To subdivide, develop, or dedicate land to public use;
19 to make or obtain the vacation of a plat or adjust a boundary; to
20 adjust a difference in valuation on exchange or partition by
21 giving or receiving consideration; or to dedicate an easement to
22 public use without consideration.

23 (j) To enter for any purpose into a lease as lessor or
24 lessee, with or without an option to purchase or renew, for a
25 period within or extending beyond the duration of the trust.

26 (k) To enter into a lease or arrangement for exploration and
27 removal of minerals or another natural resource or to enter into

1 a pooling or unitization agreement for a period within or
2 extending beyond the duration of the trust.

3 (l) To abandon or decline to administer property if, in the
4 trustee's opinion, the property is valueless, or is so encumbered
5 or in such a condition that it is of no benefit to the trust.

6 (m) To vote a stock or other security in person, by general
7 or limited proxy, or in another manner provided by law, or enter
8 into or continue a voting trust agreement.

9 (n) To pay a call, assessment, or other amount chargeable or
10 accruing against or on account of a security, and sell or
11 exercise stock subscription or conversion rights.

12 (o) To hold property in the name of a nominee or in another
13 form without disclosure of the interest of the trust. However,
14 the trustee is liable for an act of the nominee in connection
15 with the property so held.

16 (p) To insure the trust property against damage, loss, or
17 liability and to insure the trustee, the trustee's agents, and
18 the trust beneficiaries against liability arising from the
19 administration of the trust.

20 (q) To borrow property, with or without security, for any
21 purpose from the trustee or others and to mortgage or pledge
22 trust property for a period within or extending beyond the
23 duration of the trust.

24 (r) To effect a fair and reasonable compromise with a debtor
25 or obligor, or extend, renew, or in any manner modify the terms
26 of an obligation owing to the trust. If the trustee holds a
27 mortgage, pledge, or another lien on property of another person,

1 the trustee may, instead of foreclosure, accept a conveyance or
2 transfer of encumbered property from the property's owner in
3 satisfaction of the indebtedness secured by a lien.

4 (s) To pay a tax, an assessment, the trustee's compensation,
5 or another expense incident to the administration of the trust.

6 (t) To sell or exercise a subscription or conversion right
7 or to consent, directly or through a committee or another agent,
8 to the reorganization, consolidation, merger, dissolution, or
9 liquidation of a business enterprise.

10 (u) To allocate an item of income or expense to either trust
11 income or principal, as permitted or provided by law.

12 (v) To employ, and pay reasonable compensation for services
13 performed by, a person, including an auditor, investment advisor,
14 accountant, appraiser, broker, custodian, rental agent, realtor,
15 or agent, even if the person is associated with the trustee, for
16 the purpose of advising or assisting the trustee in the
17 performance of an administrative duty; to act without independent
18 investigation upon such a person's recommendation; and, instead
19 of acting personally, to employ 1 or more agents to perform an
20 act of administration, whether or not discretionary.

21 (w) To employ an attorney to perform necessary legal
22 services or to advise or assist the trustee in the performance of
23 the trustee's administrative duties, even if the attorney is
24 associated with the trustee, and to act without independent
25 investigation upon the attorney's recommendation. An attorney
26 employed under this subdivision ~~shall~~ **MUST** receive reasonable
27 compensation for his or her employment.

1 (x) To prosecute, defend, arbitrate, settle, release,
2 compromise, or agree to indemnify an action, claim, or proceeding
3 in any jurisdiction or under an alternative dispute resolution
4 procedure. The trustee may act under this subdivision for the
5 trustee's protection in the performance of the trustee's duties.

6 (y) To sell, exchange, partition, or otherwise dispose of,
7 or grant an option with respect to, trust property for any
8 purpose upon any terms or conditions for a period within or
9 extending beyond the duration of the trust.

10 (z) To continue or participate in a business or enterprise
11 in any manner, in any form, and for any length of time.

12 (aa) To change the form, in any manner, of a business or
13 enterprise in which the settlor was engaged at the time of death.

14 (bb) To provide for exoneration of the trustee from personal
15 liability in a contract entered into on behalf of the trust.

16 (cc) To respond to environmental concerns and hazards
17 affecting trust property as provided in section 7818.

18 (dd) To collect, pay, contest, settle, release, agree to
19 indemnify against, compromise, or abandon a claim of or against
20 the trust, including a claim against the trust by the trustee.

21 (ee) To respond to a tax matter as provided in section 7819.

22 (ff) To make a payment of money, or other property instead
23 of money, to or for a minor or incapacitated trust beneficiary as
24 provided in section 7820.

25 (gg) To make a distribution or division of trust property in
26 cash or in kind, or both; to allot a different kind or
27 disproportionate portion of, or an undivided interest in, trust

1 property among beneficiaries and determine the value of allotted
2 trust property; or to distribute an unclaimed share in the same
3 manner as described in section 3916.

4 (hh) To transfer the property of a trust to another
5 jurisdiction and appoint, compensate, or remove a successor
6 trustee, individual or corporate, for trust property in another
7 jurisdiction, with any trust powers set out in this part that the
8 trustee delegates to the successor trustee.

9 (ii) To execute and deliver an instrument that accomplishes
10 or facilitates the exercise of a power vested in the trustee.

11 (jj) To select a mode of payment under any employee benefit
12 or retirement plan, annuity, or life insurance payable to the
13 trustee, exercise rights thereunder, including exercise of the
14 right to indemnification for expenses and against liabilities,
15 and take appropriate action to collect the proceeds.

16 (kk) To make loans out of trust property, including loans to
17 a trust beneficiary on terms and conditions the trustee considers
18 to be fair and reasonable under the circumstances. The trustee
19 has a lien on future distributions for repayment of loans made
20 under this subdivision.

21 (ll) To pledge trust property to guarantee loans made by
22 others to the trust beneficiary.

23 (mm) To resolve a dispute concerning the interpretation of
24 the trust or its administration by mediation, arbitration, or
25 other procedure for alternative dispute resolution.

26 (nn) On termination of the trust, to exercise the powers
27 appropriate to wind up the administration of the trust and

1 distribute the trust property to the persons entitled to it.

2 (OO) AFTER THE TRUSTEE RECEIVES NOTICE OR HAS KNOWLEDGE OF
3 AN INTENTION TO USE GENETIC MATERIAL TO CREATE A CHILD, TO TAKE
4 INTO ACCOUNT WHETHER THE POSTHUMOUS BIRTH OF A CHILD OF ASSISTED
5 REPRODUCTION OR GESTATIONAL CHILD MAY HAVE AN EFFECT ON THE
6 DISTRIBUTION OF THE TRUST ESTATE. AS USED IN THIS SUBDIVISION:

7 (i) "CHILD OF ASSISTED REPRODUCTION" MEANS THAT TERM AS
8 DEFINED IN SECTION 2120.

9 (ii) "GESTATIONAL CHILD" MEANS THAT TERM AS DEFINED IN
10 SECTION 2121.

11 Sec. 7821. (1) Upon termination or partial termination of a
12 trust, the trustee may send to the trust beneficiaries a proposal
13 for distribution. The right of any trust beneficiary to object to
14 the proposed distribution terminates if the trust beneficiary
15 does not notify the trustee of an objection within 28 days after
16 the proposal was sent, but only if the proposal informed the
17 trust beneficiary of the right to object and of the time allowed
18 for objection.

19 (2) Upon the occurrence of an event terminating or partially
20 terminating a trust, the trustee shall proceed expeditiously to
21 distribute the trust property to the persons entitled to it,
22 subject to the right of the trustee to retain a reasonable
23 reserve for the payment of debts, taxes, and expenses, including
24 attorney fees and other expenses incidental to the allowance of
25 the trustee's accounts.

26 (3) A release by a trust beneficiary of a trustee from
27 liability for breach of trust is invalid to the extent either of

1 the following applies:

2 (a) The release was induced by improper conduct of the
3 trustee.

4 (b) The trust beneficiary, at the time of the release, did
5 not know of the material facts relating to the breach.

6 (4) A TRUSTEE IS NOT LIABLE FOR MAKING A DISTRIBUTION OF ALL
7 OR PART OF THE TRUST ESTATE THAT AFFECTS THE INTERESTS OF A
8 POSTHUMOUSLY CONCEIVED CHILD OF ASSISTED REPRODUCTION OR
9 GESTATIONAL CHILD IF THE TRUSTEE MADE THE DISTRIBUTION BEFORE
10 RECEIVING NOTICE OR ACQUIRING KNOWLEDGE OF AN INTENTION TO USE
11 GENETIC MATERIAL TO CREATE A CHILD. AS USED IN THIS SUBSECTION:

12 (A) "CHILD OF ASSISTED REPRODUCTION" MEANS THAT TERM AS
13 DEFINED IN SECTION 2120.

14 (B) "GESTATIONAL CHILD" MEANS THAT TERM AS DEFINED IN
15 SECTION 2121.

16 Enacting section 1. Sections 2108 and 7104 of the estates
17 and protected individuals code, 1998 PA 386, MCL 700.2108 and
18 700.7104, are repealed.

19 Enacting section 2. The amendments and additions to this act
20 enacted by this amendatory act apply to a decedent who dies on or
21 after the effective date of this amendatory act.

22 Enacting section 3. The amendments and additions to this act
23 enacted by this amendatory act apply to all governing instruments
24 created or executed before, on, or after the effective date of
25 this amendatory act.