

House Bill 4416 (Substitute S-2 as reported)
Sponsor: Representative Graham Filler
House Committee: Judiciary
Senate Committee: Civil Rights, Judiciary, and Public Safety

CONTENT

The bill would amend the Estates and Protected Individuals Code (EPIC) to do the following:

- Prescribe provisions pertaining to notice or knowledge of fact.
- Specify that any part of a governing instrument that made a substantial gift to an attorney who drafted the instrument would be void unless the attorney was related to the individual making the substantial gift and specify that any provision in the governing instrument that attempted to waive or otherwise void application of this provision would be unenforceable.
- Increase threshold amounts for various assets of a decedent and require those amounts to be adjusted for cost-of-living.
- Allow a court to designate one or more standby guardians.
- Specify that a standby guardian would not have authority to act unless the guardian was unavailable for any reason.
- Specify that various provisions pertaining to guardians for an incapacitated person would apply to the designation of a standby guardian.
- Specify that, if more than one individual were designated as a patient advocate to serve at the same time, a person providing care, custody, or medical or mental health treatment could rely on the representations of any designated patient advocate without further inquiry.
- Specify that a person providing care, custody, or medical or mental health treatment to a patient would not be required to determine if a patient advocate complied with any of the patient's instructions.
- Allow a trust to be created to provide for the care of a designated domestic pet or animal alive during the settlor's lifetime.
- Prescribe rules governing a trust created for other noncharitable purposes.
- Prescribe rules governing trusts with a nondisclosure period.
- Modify provisions governing the power of appointment, creditor's claims against settlors, contesting the validity of a revocable trust, and discretionary trust provisions of irrevocable trusts.

The bill also would repeal Section 2722 (which governs honorary trusts and trusts for domestic or pet animals) and 7104 (which pertains to notice or knowledge of fact) of EPIC.

MCL 700.1106 et al.

BRIEF RATIONALE

Generally, probate courts have jurisdiction over matters relating to the settlement of a deceased individual's estate, among other things. Certain components of estates do not need to go through a probate court if they do not exceed a financial threshold. Some have suggested that the thresholds be increased to account for inflation, which could reduce the burden on individuals, lawyers, and courts when settling matters of estates.

PREVIOUS LEGISLATION

(This section does not provide a comprehensive account of previous legislative efforts on this subject matter.)

The bill is a similar reintroduction of House Bill 4898 of the 2021-2022 Legislative Session. House Bill 4898 was reported by the Senate Committee on Judiciary and Public Safety but received no further action.

Legislative Analyst: Eleni Lionas

FISCAL IMPACT

The bill would have no fiscal impact on the State and a minimal fiscal impact on local courts. The bill would not create more hearings for courts but would change certain monetary determinations of courts in certain probate cases.

Date Completed: 2-5-24

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