

Legislative Analysis



REVOKE BENEFITS OF THOSE WHO ABUSE, NEGLECT, OR EXPLOIT DECEDENT

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House Bill 5195

Sponsor: Rep. Gary McDowell

Committee: Senior, Health, Security, and Retirement

Complete to 2-12-10

A SUMMARY OF HOUSE BILL 5195 AS INTRODUCED 7-14-09

The bill would amend Section 2803 of the Estates and Protected Individuals Code (EPIC) to specify that an individual ***who is convicted of committing abuse, neglect, or exploitation*** with respect to the decedent would forfeit all benefits with respect to the estate of a decedent (a person who has died). In general, a conviction for these offenses under the bill would be treated the way a conviction for feloniously and intentionally killing the decedent is currently treated under the act. A definition of the term ***abuse, neglect, or exploitation*** and a definition of the term ***felon*** would be added to the relevant subsections that require the revocation of the convicted person's powers of appointment under a governing instrument; the revocation of the nomination of a convicted person as a personal representative, executor, trustee, or agent; and the severing of interest in property held by the convicted person with the decedent as joint tenants with the right of survivorship, among other things.

Section 2803 currently only applies to an individual who feloniously and intentionally kills the decedent. The bill would extend the section to also apply to the conviction for the abuse, neglect, or exploitation of the decedent.

The bill would add new language saying Section 2803 would not apply if the decedent executed a governing instrument after the date of the conviction for abuse, neglect, or exploitation expressing a specific intent to allow the felon to inherit or otherwise receive the estate or property of the decedent.

Section 2802 would be amended to include in the code's definitions the term ***abuse, neglect, or exploitation***. These terms, together with ***domestic abuse and child abuse***, would be imported from the Penal Code and the Social Welfare Act. The bill would also define ***felon*** to mean the individual who committed the abuse, neglect, or exploitation.

The bill would also make complementary amendments to Section 2804 which deals with the liability of a payor and other third parties who make payments or transfer property to a beneficiary who has forfeited benefits under Section 2803.

MCL 700.2802, et al.

FISCAL IMPACT:

House Bill 5195 would have an indeterminate, but likely negligible, fiscal impact on state and local government. Any fiscal impact would be the result of increased probate litigation regarding a decedent's estate. However, much of the cost would be offset by the parties to the litigation covering the court costs. The portion of the estate forfeited by a person falling under the provisions of the bill would be inherited by other descendants of the decedent.

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