

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)

Act 386 of 1998

Part 3

SCOPE, JURISDICTION, AND COURTS

700.1301 Territorial application.

Sec. 1301.

Except as otherwise provided in this act, this act applies to all of the following:

- (a) The affairs and estate of a decedent, missing individual, or protected individual who is domiciled in this state.
- (b) A nonresident's property that is located in this state or property coming into the control of a fiduciary that is subject to the laws of this state.
- (c) An incapacitated individual or minor in this state.
- (d) Survivorship and related accounts in this state.
- (e) A trust subject to administration in this state.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC

700.1302 Exclusive subject matter jurisdiction.

Sec. 1302.

The court has exclusive legal and equitable jurisdiction of all of the following:

- (a) A matter that relates to the settlement of a deceased individual's estate, whether testate or intestate, who was at the time of death domiciled in the county or was at the time of death domiciled out of state leaving an estate within the county to be administered, including, but not limited to, all of the following proceedings:
 - (i) The internal affairs of the estate.
 - (ii) Estate administration, settlement, and distribution.
 - (iii) Declaration of rights that involve an estate, devisee, heir, or fiduciary.
 - (iv) Construction of a will.
 - (v) Determination of heirs.
 - (vi) Determination of death of an accident or disaster victim under section 1208.
- (b) A proceeding that concerns the validity, internal affairs, or settlement of a trust; the administration, distribution, modification, reformation, or termination of a trust; or the declaration of rights that involve a trust, trustee, or trust beneficiary, including, but not limited to, proceedings to do all of the following:
 - (i) Appoint or remove a trustee.
 - (ii) Review the fees of a trustee.
 - (iii) Require, hear, and settle interim or final accounts.
 - (iv) Ascertain beneficiaries.
 - (v) Determine a question that arises in the administration or distribution of a trust, including a question of construction of a will or trust.
 - (vi) Instruct a trustee and determine relative to a trustee the existence or nonexistence of an immunity, power, privilege, duty, or right.
 - (vii) Release registration of a trust.
 - (viii) Determine an action or proceeding that involves settlement of an irrevocable trust.
- (c) Except as otherwise provided in section 1021 of the revised judicature act of 1961, 1961 PA 236, MCL 600.1021, a proceeding that concerns a guardianship, conservatorship, or protective proceeding.
- (d) A proceeding to require, hear, or settle the accounts of a fiduciary and to order, upon request of an interested person, instructions or directions to a fiduciary that concern an estate within the court's jurisdiction.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC

700.1303 Concurrent jurisdiction; removal; purpose and policy.

Sec. 1303.

(1) In addition to the jurisdiction conferred by section 1302 and other laws, the court has concurrent legal and equitable jurisdiction to do all of the following in regard to an estate of a decedent, protected individual, ward, or trust:

- (a) Determine a property right or interest.
- (b) Authorize partition of property.
- (c) Authorize or compel specific performance of a contract in a joint or mutual will or of a contract to leave property by will.
- (d) Ascertain if individuals have survived as provided in this act.
- (e) Determine cy pres or a gift, grant, bequest, or devise in trust or otherwise as provided in 1915 PA 280, MCL 554.351 to 554.353.
- (f) Hear and decide an action or proceeding against a distributee of a fiduciary of the estate to enforce liability that arises because the estate was liable upon some claim or demand before distribution of the estate.
- (g) Impose a constructive trust.
- (h) Hear and decide a claim by or against a fiduciary or trustee for the return of property.
- (i) Hear and decide a contract proceeding or action by or against an estate, trust, or ward.
- (j) Require, hear, or settle an accounting of an agent under a power of attorney.

(2) If the probate court has concurrent jurisdiction of an action or proceeding that is pending in another court, on the motion of a party to the action or proceeding and after a finding and order on the jurisdictional issue, the other court may order removal of the action or proceeding to the probate court. If the action or proceeding is removed to the probate court, the other court shall forward to the probate court the original of all papers in the action or proceeding. After that transfer, the other court shall not hear the action or proceeding.

(3) The underlying purpose and policy of this section is to simplify the disposition of an action or proceeding involving a decedent's, a protected individual's, a ward's, or a trust estate by consolidating the probate and other related actions or proceedings in the probate court.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2000, Act 54, Eff. Apr. 1, 2000 ;-- Am. 2016, Act 287, Eff. Dec. 26, 2016 ;-- Am. 2016, Act 490, Eff. Apr. 6, 2017

Popular Name: EPIC

700.1304 Register; powers.

Sec. 1304.

If this act specifies that the probate register perform an act or order, the probate judge, or the probate register or a deputy probate register if authorized in accordance with section 834 of the revised judicature act of 1961, being section 600.834 of the Michigan Compiled Laws, or in accordance with supreme court rule, may perform the act or order.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC

700.1305 Appeals.

Sec. 1305.

Appellate review, including the right to appellate review or interlocutory appeal and provisions as to time, manner, notice, appeal bond, stays, scope of review, record on appeal, briefs, arguments, and the power of the appellate court, is governed by the revised judicature act of 1961 and by supreme court rule.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.1306 Oath or affirmation on filed documents.

Sec. 1306.

Except as otherwise specifically provided in this act or by supreme court rule, a document, including an application, petition, or demand for notice, filed with the court under this act is considered to include an oath, affirmation, or statement to the effect that the document's representations are true as far as the individual executing or filing the document knows or is informed, and penalties for perjury may follow deliberate falsification in the document.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.1307 Records and certified copies.

Sec. 1307.

(1) Court records shall be maintained in accordance with section 832 of the revised judicature act of 1961, being section 600.832 of the Michigan Compiled Laws. Upon payment of the fee required by law, the probate register shall issue a certified copy of a probated will, letters issued to a personal representative, or any other record or paper filed or recorded. A certificate that relates to a probated will shall indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. A certificate that relates to letters shall show the date of appointment and the date to which the letters continued in force.

(2) A certified copy of letters of authority may be recorded in the office of the register of deeds for the county in which a written instrument that is executed by a person under authority of the letters is recorded.

History: 1998, Act 386, Eff. Apr. 1, 2000
Popular Name: EPIC

700.1308 Breach of duty; remedies; order for accounting.

Sec. 1308.

(1) A violation by a fiduciary of a duty the fiduciary owes to an heir, devisee, beneficiary, protected individual, or ward for whom the person is a fiduciary is a breach of duty. To remedy a breach of duty that has occurred or may occur, the court may do any of the following:

- (a) Compel the fiduciary to perform the fiduciary's duties.
- (b) Enjoin the fiduciary from committing a breach of duty.
- (c) Compel the fiduciary to redress a breach of duty by paying money, restoring property, or other means.
- (d) Order a fiduciary to account.
- (e) Appoint a special fiduciary to take possession of the estate's, ward's, protected individual's, or trust property and administer the property.
- (f) Suspend the fiduciary.
- (g) Remove the fiduciary as provided in this act.
- (h) For a fiduciary otherwise entitled to compensation, reduce or deny compensation to the fiduciary.
- (i) Subject to other provisions of this act protecting persons dealing with a fiduciary, void an act of the fiduciary,

impose a lien or a constructive trust on property, or trace property wrongfully disposed of and recover the property or its proceeds.

(2) In response to an interested person's petition or on its own motion, the court may at any time order a fiduciary of an estate under its jurisdiction to file an accounting. After due hearing on the accounting, the court shall enter an order that agrees with the law and the facts of the case.

History: 1998, Act 386, Eff. Apr. 1, 2000 ;-- Am. 2009, Act 46, Eff. Apr. 1, 2010

Popular Name: EPIC

700.1309 Appointment of special fiduciary or injunction.

Sec. 1309.

Upon reliable information received from an interested person, county or state official, or other informed source, including the court's files, the court may enter an order in a proceeding to do either or both of the following:

(a) Appoint a special fiduciary to perform specified duties.

(b) Enjoin a person subject to the court's jurisdiction from conduct that presents an immediate risk of waste, unnecessary dissipation of an estate's or trust's property, or jeopardy to an interested person's interest. Under this subdivision, the court shall not enjoin a respondent in a proceeding to appoint a guardian or conservator or enjoin a ward or protected individual. An enjoined person shall be given a prompt hearing, if requested, to show cause why the order should be terminated.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC