

11-5-19
Tom Howe
OPPOSE

HOUSE BILL NO. 5103

October 15, 2019, Introduced by Reps. Wakeman, Howell, Lightner, Wozniak and Marino and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled

"Estates and protected individuals code,"

by amending sections 3203 and 3204 (MCL 700.3203 and 700.3204), as amended by 2018 PA 13.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

- (a) The person with priority as determined by a probated will including a person nominated by a power conferred in a will.
 - (b) The decedent's surviving spouse/**domestic partner** if the spouse/**domestic partner** is a devisee of the decedent.
 - (c) Other devisees of the decedent.
 - (d) The decedent's surviving spouse/**domestic partner**.
 - (e) Other heirs of the decedent.
 - (f) After 42 days after the decedent's death, the nominee of a creditor if the court finds the nominee suitable.
 - (g) After 63 days after the decedent's death, or if the court determines exigent circumstances exist, the state or county public administrator if any of the following apply:
 - (i) No interested person applied or petitioned for appointment of a personal representative within 63 days or the number of days determined by the court under this subdivision after the decedent's death.
 - (ii) The decedent died apparently leaving no known heirs.
 - (iii) There is no spouse/**domestic partner**, heir, or beneficiary under a will who is a United States resident and is entitled to a distributive share in the decedent's estate.
- (2) An objection to the appointment of a personal representative may be made only in a formal proceeding. If an objection is made, the priorities prescribed by subsection (1) apply except in either of the following circumstances:

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

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

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

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

(2) Except as provided in sections 3308(1)(f) and 3310, a person who does not have priority prescribed in section 3203(1)(a) to (f), including priority resulting from renunciation or nomination determined under this section or section 3203, shall be appointed only in a formal proceeding. The state or county public administrator must be appointed only in a formal proceeding. Before appointing the state or county public administrator or any other person without priority, the court shall determine that persons having priority have been notified of the proceedings and have failed to request appointment or to nominate another person for appointment, and that administration is necessary.

(3) A person is not qualified to serve as a personal representative if the person is either under the age of 18. ~~or is a person whom the court finds unsuitable in formal proceedings.~~

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

(5) Attorney fees cannot exceed \$1500 for each interested party and must be paid by each interested party not including taxes, realtor sales commissions, title insurance, and county register fees.

(6) This section and section 3203 govern priority for appointment of a **general personal representative or successor personal representative**, but do not apply to the selection of a special personal representative.