

Act No. 69  
Public Act of 1989  
June 27, 1989  
Filed by the Secretary of State  
June 27, 1989

**STATE OF MICHIGAN  
85TH LEGISLATURE  
REGULAR SESSION OF 1989**

Introduced by Reps. Power, Gire, Bandstra, Nye, Fitzgerald, Perry Bullard, Oxender and Jondahl

# **ENROLLED HOUSE BILL No. 4462**

AN ACT to amend sections 21 and 22 of Act No. 642 of the Public Acts of 1978, entitled as amended "An act to revise and consolidate the laws relative to the probate of decedents' estates, guardianships, conservatorships, protective proceedings, trusts, and powers of attorneys; to prescribe penalties and liabilities; and to repeal certain acts and parts of acts," section 22 as amended by Act No. 326 of the Public Acts of 1980, being sections 700.21 and 700.22 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 21 and 22 of Act No. 642 of the Public Acts of 1978, section 22 as amended by Act No. 326 of the Public Acts of 1980, being sections 700.21 and 700.22 of the Michigan Compiled Laws, are amended to read as follows:

Sec. 21. The court has exclusive legal and equitable jurisdiction of all of the following:

(a) Matters relating to the settlement of the estate of a deceased person, 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, the following proceedings:

(i) The internal affairs of the estate.

(ii) Estate administration, settlement, and distribution.

(iii) Declaration of rights involving estates, devisees, heirs, and fiduciaries.

(iv) The construction of a will.

(v) The determination of heirs.

(b) Proceedings concerning the validity, internal affairs, and settlement of trusts, the administration, distribution, modification, reformation, and termination of trusts, and the declaration of rights involving trusts, trustees, and beneficiaries of trusts, including, but not limited to, the following proceedings to:

- (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 any question arising in the administration or distribution of any trust, including questions of construction of wills and trusts; instruct trustees, and determine relative thereto the existence or nonexistence of an immunity, power, privilege, duty, or right.
- (vi) Release registration of a trust.
- (vii) Determine an action or proceeding involving settlement of an inter vivos trust as provided in Act No. 185 of the Public Acts of 1966, being sections 555.81 to 555.84 of the Michigan Compiled Laws.
- (c) Proceedings concerning guardianships, conservatorships, and protective proceedings.
- (d) Proceedings to review and settle the accounts of a fiduciary as defined in section 5, and to order, upon request of an interested person, instructions or directions to a fiduciary, concerning an estate within the court's jurisdiction.

Sec. 22. (1) In addition to the jurisdiction conferred by section 21 and other laws, the probate court has concurrent legal and equitable jurisdiction of the following matters involving an estate of a decedent, ward, or trust:

- (a) To determine property rights and interests.
- (b) To authorize partition of property.
- (c) To authorize specific performance of a contract in a joint or mutual will or of a contract to leave property by will.
- (d) To ascertain survivorship of persons.
- (e) To bar a mentally incompetent or minor wife from her dower right under sections 1 to 29 of chapter 66 of the Revised Statutes of 1846, as amended, being sections 558.1 to 558.29 of the Michigan Compiled Laws, in the real estate of her living husband as provided in section 2931 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being section 600.2931 of the Michigan Compiled Laws.
- (f) To determine cy-pres, gifts, grants, bequests, and devises in trust or otherwise as provided in Act No. 280 of the Public Acts of 1915, as amended, being sections 554.351 to 554.353 of the Michigan Compiled Laws.
- (g) To hear and decide an action or proceeding against distributees of an estate fiduciary to enforce liability arising because the estate was liable upon some claim or demand before distribution of the estate.
- (h) To require, hear, and settle an accounting of an attorney in fact or a fiduciary, other than a fiduciary as defined in section 5.
- (i) To impose a constructive trust.
- (j) to hear and decide any claim by or against a fiduciary or trustee for the return of property.
- (k) To hear and decide any contract proceeding or action by or against an estate, trust, or ward.

(2) In an action or proceeding pending in any other court of this state of which the probate court and the other court have concurrent jurisdiction, the judge of the other court, upon motion of a party and after a finding and order on the jurisdictional issue, may by order remove the action or proceeding to the probate court. If the action or proceeding is removed to the probate court, the judge of the other court shall forward to the probate court the original of all papers in the action or proceeding and thereafter proceedings shall not be heard before the other court, except by appeal or review provided by supreme court rule or law, and the action or proceeding shall be prosecuted in the probate court as a probate court proceeding.

(3) The underlying purpose and policy of this section is to simplify the probate of estates and the disposition of actions or proceedings involving estates of decedents, estates of wards, and trust estates by having the probate and other related actions or proceedings in the probate court.

Section 2. This amendatory act shall take effect September 1, 1989.

Section 3. This amendatory act shall not take effect unless all of the following bills of the 85th Legislature are enacted into law:

- (a) House Bill No. 4463.
- (b) House Bill No. 4464.

This act is ordered to take immediate effect.

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Clerk of the House of Representatives.

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Secretary of the Senate.

Approved.....

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Governor.