

HOUSE BILL No. 4462

March 16, 1989, Introduced by Reps. Power, Gire, Bandstra, Nye, Fitzgerald, Perry Bullard, Oxender and Jondahl and referred to the Committee on Judiciary.

A bill to amend sections 21 and 22 of Act No. 642 of the Public Acts of 1978, entitled as amended

"Revised probate code,"

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:

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

5 Sec. 21. The court has exclusive LEGAL AND EQUITABLE juris-
6 diction of all of the following:

7 (a) Matters relating to the settlement of the estate of a
8 deceased person, whether testate or intestate, who was at the
9 time of death domiciled in the county or was at the time of death

1 domiciled ~~without the~~ OUT OF state leaving an estate within the
2 county to be administered, INCLUDING, BUT NOT LIMITED TO, THE
3 FOLLOWING PROCEEDINGS:

4 (i) THE INTERNAL AFFAIRS OF THE ESTATE.

5 (ii) ESTATE ADMINISTRATION, SETTLEMENT, AND DISTRIBUTION.

6 (iii) DECLARATION OF RIGHTS INVOLVING ESTATES, DEVISEES,
7 HEIRS, AND FIDUCIARIES.

8 (iv) THE CONSTRUCTION OF A WILL.

9 (v) THE DETERMINATION OF HEIRS.

10 ~~(b) Trusts and trustees in the execution of wills and~~
11 ~~administration of estates of deceased persons.~~

12 (B) ~~(c)~~ Proceedings concerning the VALIDITY, internal
13 affairs, AND SETTLEMENT of trusts, ~~including proceedings~~
14 ~~concerning~~ the administration and distribution of trusts, and
15 the declaration of rights ~~or the determination of other matters~~
16 involving TRUSTS, trustees, and beneficiaries of trusts, includ-
17 ing, BUT NOT LIMITED TO, THE FOLLOWING proceedings: ~~to:~~

18 (i) Appoint or remove a trustee.

19 (ii) Review the fees of a trustee.

20 (iii) ~~Review~~ REQUIRE, HEAR, and settle interim or final
21 accounts.

22 (iv) Ascertain beneficiaries.

23 (v) Determine any question arising in the administration or
24 distribution of any trust, including questions of construction of
25 wills and trusts; instruct trustees, and determine relative
26 thereto the existence or nonexistence of an immunity, power,
27 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) (d) Appointment of a guardian, limited guardian, or conservator in cases prescribed by law, resolution of any contested matter in respect to the estate or ward, and settlement of the estate.~~ 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) ~~Except where exclusive jurisdiction is given in the state constitution of 1963 or by statute to some other court, or where the probate court is denied jurisdiction by the constitution or statutes of this state, in~~ IN addition to the jurisdiction conferred by section 21 and other laws, the probate court has concurrent LEGAL AND EQUITABLE jurisdiction of ~~any of the following when ancillary to the settlement of~~ MATTERS INVOLVING an estate of a decedent, ward, or trust:

(a) To determine ~~the validity of and resolve claims involving title to real and personal~~ 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.

1 (d) To ascertain survivorship of ~~parties~~ PERSONS.

2 (e) To bar a mentally incompetent or minor wife from her
3 dower right ~~—~~ under sections 1 to 29 of chapter 66 of the
4 Revised Statutes of 1846, as amended, being sections 558.1 to
5 558.29 of the Michigan Compiled Laws, in the real estate of her
6 living husband as provided in section 2931 of THE REVISED JUDICA-
7 TURE ACT OF 1961, Act No. 236 of the Public Acts of 1961, being
8 section 600.2931 of the Michigan Compiled Laws.

9 (f) To determine cy-pres, ~~when an estate or a trust of a~~
10 ~~decendent is involved, over~~ gifts, grants, bequests, and devises
11 in trust or otherwise ~~to religious, educational, charitable, or~~
12 ~~benevolent uses~~ as provided in Act No. 280 of the Public Acts
13 of 1915, as amended, being sections 554.351 to 554.353 of the
14 Michigan Compiled Laws.

15 ~~(g) To construe a will or determine heirs.~~

16 (G) ~~(h)~~ To hear and decide an action or proceeding against
17 distributees of an estate fiduciary to enforce liability arising
18 because the estate was liable upon some claim or demand before
19 distribution of the estate.

20 (H) ~~(i)~~ To require, HEAR, AND SETTLE an accounting of AN
21 ATTORNEY IN FACT OR a fiduciary, OTHER THAN A FIDUCIARY AS
22 DEFINED IN SECTION 5.

23 (I) ~~(j)~~ To ~~determine an action or proceeding of~~ IMPOSE a
24 constructive trust.

25 (J) TO HEAR AND DECIDE ANY CLAIM BY OR AGAINST A FIDUCIARY
26 OR TRUSTEE FOR THE RETURN OF PROPERTY.

1 (k) ~~To order, when requested by an interested person, any~~
2 ~~instruction or direction to a fiduciary under this act regarding~~
3 ~~this act or any applicable Michigan law affecting an estate~~
4 ~~within the jurisdiction of the court.~~ TO HEAR AND DECIDE ANY
5 CONTRACT PROCEEDING OR ACTION BY OR AGAINST AN ESTATE, TRUST, OR
6 WARD.

7 ~~(2) To determine an action or proceeding involving settle-~~
8 ~~ment of an inter vivos trust as provided in Act No. 185 of the~~
9 ~~Public Acts of 1966, being sections 555.81 to 555.84 of the~~
10 ~~Michigan Compiled Laws.~~

11 (2) ~~(3)~~ In an action or proceeding pending in any other
12 court of this state of which the probate court and the other
13 court have concurrent jurisdiction, the judge of the other court,
14 UPON MOTION OF A PARTY AND AFTER A FINDING AND ORDER ON THE
15 JURISDICTIONAL ISSUE, may by order remove the action or proceed-
16 ing to the probate court. ~~The other~~ IF THE ACTION OR PROCEED-
17 ING IS REMOVED TO THE PROBATE COURT, THE JUDGE OF THE OTHER COURT
18 shall forward to the probate court the original of all papers in
19 the action or proceeding and thereafter proceedings shall not be
20 heard before the other court, except by appeal or review provided
21 by supreme court rule or law, and the action or proceeding shall
22 be prosecuted in the probate court as a probate court
23 proceeding.

24 (3) ~~(4)~~ The underlying purpose and policy of this section
25 is to simplify the probate of estates and the disposition of
26 actions or proceedings involving estates of decedents, estates of

1 wards, and trust estates by having the probate and other related
2 actions or proceedings in the probate court.

3 Section 2. This amendatory act shall not take effect unless
4 all of the following bills of the 85th Legislature are enacted
5 into law:

6 (a) Senate Bill No. _____ or House Bill No. _____ (request
7 no. 01628'89 a).

8 (b) Senate Bill No. _____ or House Bill No. 4464 (request
9 no. 01628'89 b).