



Senate Fiscal Agency
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BILL ANALYSIS



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House Bill 4563 (as reported without amendment)
 Sponsor: Representative Roland Jersevic
 House Committee: Judiciary and Civil Rights
 Senate Committee: Judiciary

Date Completed: 6-5-95

RATIONALE

Public Act 452 of 1982 amended the Revised Probate Code to allow the probate court to determine the time, place, and cause of death of someone who is missing and presumed dead due to an accident or disaster that occurred in Michigan or upon the Great Lakes. The court's determination, which must be based on evidence presented at a hearing, is necessary to obtain a death certificate and to probate the deceased person's estate. Petitions for these determinations must be filed at least 60 days, but not more than three years, after the accident or disaster. Since the Code's provisions apply only to accidents or disasters that occur in Michigan or on the Great Lakes, however, Michigan probate courts reportedly have questioned whether they have the authority to make determinations on the date and time of death in cases in which Michigan citizens have died in accidents abroad, but their bodies have not been recovered. Since some foreign governments apparently have declined to issue death certificates, the survivors have encountered problems settling their deceased relatives' estates. Some people believe that the probate court's authority to declare dead a person who dies in an accident or disaster and whose body is not recovered should be extended to those incidents that occur outside of the State.

CONTENT

The bill would amend the Revised Probate Code to specify that, if an accident or disaster occurred outside of Michigan and, as a result, it appeared that a Michigan resident had died but his or her remains had disappeared or were unidentifiable, the probate court of that individual's county of residence would have jurisdiction for purposes of determining the cause and date of death.

The bill also would extend to seven years, from the current three years, the deadline for filing a petition for a determination of the cause and date of death of a person who appears to have died as a result of an accident or disaster, but whose remains cannot be located or identified.

The bill specifies that, "The legislature intends that this amendatory act apply to a disappearance resulting from an accident or disaster that occurred before, on, or after the effective date" of the bill.

MCL 700.492a

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Within the past three years, there have been at least two instances in which Michigan residents have died abroad, but because their bodies were not recovered and the foreign governments involved would not issue death certificates, the surviving relatives have had problems settling their dead relatives' estates.

In November 1994, a Michigan couple on a Caribbean cruise died in a helicopter accident that killed 15 people. The husband's body was recovered, but the wife's was not, and the Mexican government reportedly will not issue a death certificate for a person whose body is lost in a disaster until five years have passed. Another case occurred in British Columbia, Canada, in 1992, when a Michigan resident died in a mountain

climbing accident. His body was unable to be recovered because he had fallen into a deep crevasse and had been buried by subsequent snow avalanches. Apparently, the court in British Columbia may issue a certificate of death in cases in which the body cannot be recovered when death results from a natural disaster or accident, but only if the person was a citizen of Canada or owned property in British Columbia, neither of which applied to the Michigan mountain climber. In both of these tragic cases, the surviving relatives have been unable to settle the deceaseds' estates because they have been unable to obtain death certificates from the foreign governments, and Michigan probate courts have questioned whether they have the authority to make determinations in the case of citizens who die abroad.

Although these types of cases are rare, when they do occur they can cause considerable problems at a particularly difficult time for the surviving family members. By addressing the lack of explicit jurisdiction for Michigan probate courts, the bill would preclude the compounding problems associated with settling an estate in similar cases in the future. Further, the bill would be a remedy for the surviving members currently caught in this quagmire because it specifies legislative intent to apply to disappearances that occurred *before* the bill's effective date.

Legislative Analyst: P. Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: L. Nacionales-Tafoya

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.