



Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4968 (Substitute H-2 as reported without amendment)

Sponsor: Representative Tonya Schuitmaker

House Committee: Judiciary

Senate Committee: Judiciary

CONTENT

The bill would amend the Estates and Protected Individuals Code (EPIC) to do all of the following:

- Revise the definition of "estate" to include rights to collect from others amounts necessary to pay claims, allowances, and taxes.
- Provide that a disclaimer of a power of appointment would take effect as of the time the instrument creating the power became effective, if the donee had not exercised the power, or immediately after the last exercise of the power, if the donee had exercised the power.
- Revise provisions granting a personal representative, conservator, and trustee the power to employ an attorney, by specifying that an attorney could be hired even if he or she were associated with the personal representative, conservator, or trustee, and the personal representative, conservator, or trustee could act without independent investigation upon the attorney's recommendation.
- Specify when the appointment of a guardian for a minor, an unmarried legally incapacitated individual, or a married legally incapacitated individual would take effect if the testator making the nomination were not deceased.
- Provide that, if a personal representative were not appointed for a settlor's estate within four months after the publication of notice to creditors, a revocable trust would not be liable for payment of homestead, family, or exempt property allowances.

The bill also specifies that a spouse's intestate share under Section 2301 would reduce the amount available to him or her as an elective share under Section 2202. (Section 2301 allows a surviving spouse of a testator (a person with a valid will) who married the testator after he or she executed his or her will to receive a share of the estate the surviving spouse would have received if the decedent had died intestate (without a valid will). Section 2202 provides for the "elective share" of a surviving spouse. Under this section, a surviving spouse of a decedent who dies testate may elect to abide by the terms of the will; take one-half of the sum or share that would have passed to him or her had the testator died intestate, reduced by half of the value of all property derived by the spouse from the decedent by any means other than testate or intestate succession; or, if a widow, take her dower right under law.)

MCL 700.1104 et al.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

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

Date Completed: 10-19-05

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