

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.3207 Petition; venue; hearing; date; notice; service; funeral establishment as petitioner; factors to be considered in court decision; embalming of decedent's body.

Sec. 3207.

(1) One or more of the following may petition the court to resolve a disagreement described in section 3206(5) or rebut the presumption under section 3206(1):

- (a) An individual with the rights and powers under section 3206(1).
- (b) A funeral establishment that has custody of the decedent's body.
- (c) An individual other than a person with priority under section 3206(3) to (5) or acting under section 3206(6), (7), (8), or (9).

(2) Venue for a petition filed under subsection (1) is in the county in which the decedent was domiciled at the time of death.

(3) On receipt of a petition under this section, the court shall set a date for a hearing on the petition. The hearing date must be as soon as possible, but not later than 7 business days after the date the petition is filed. Notice of the petition and the hearing must be served not less than 2 days before the date of the hearing on every individual who has highest priority as determined under section 3206(3) and (4), unless the court orders that service on every such individual is not required. Unless an individual cannot be located after a reasonable good-faith effort has been made to contact the individual, service must be made on the individual personally or in a manner reasonably designed to give the individual notice. Notice of the hearing must include notice of the individual's right to appear at the hearing. An individual served with notice of the hearing may waive his or her rights. If written waivers from all persons entitled to notice are filed, the court may immediately hear the petition. The court may waive or modify the notice and hearing requirements of this subsection if the decedent's body must be disposed of promptly to accommodate the religious beliefs of the decedent or his or her next of kin.

(4) If a funeral establishment is the petitioner under this section, the funeral establishment's actual costs and reasonable attorney fees in bringing the proceeding must be included in the reasonable funeral and burial expenses under section 3805(1)(b) or the court may assess such costs and fees against 1 or more parties or intervenors.

(5) In deciding a petition brought under this section, the court shall consider all of the following, in addition to other relevant factors:

- (a) The reasonableness and practicality of the funeral arrangements or the handling or disposition of the body proposed by the person bringing the action in comparison with the funeral arrangements or the handling or disposition of the body proposed by 1 or more individuals with the rights and powers under section 3206(1).
- (b) The nature of the personal relationship to the deceased of the person bringing the action compared to other individuals with the rights and powers under section 3206(1).
- (c) Whether the person bringing the action is ready, willing, and able to pay the costs of the funeral arrangements or the handling or disposition of the body.
- (d) Whether the decedent executed a funeral representative designation under section 3206(2) or a designation described in section 3206(3)(a).

(e) If the decedent was married at the time of his or her death, whether the decedent's spouse was physically and emotionally separated from the decedent at the time of his or her death and had been separated for a period of time that clearly demonstrates an absence of due affection, trust, and regard between the spouse and the decedent.

(6) Before the court makes a decision under subsection (5), and if refrigeration is not reasonably available, the funeral establishment that has custody of the decedent's body may embalm the decedent's body.

History: Add. 2006, Act 299, Imd. Eff. July 20, 2006 ;-- Am. 2010, Act 325, Imd. Eff. Dec. 21, 2010 ;-- Am. 2016, Act 57, Eff. June 27, 2016

Compiler's Notes: Enacting section 1 of Act 325 of 2010 provides: "Enacting section 1. (1) Except as provided in subsection (2), this amendatory act takes effect April 1, 2010." (2) Section 3207 of the estates and protected individuals code, 1998 PA 386, MCL 700.3207, as amended by this amendatory act, takes effect on the date this amendatory act is enacted into law."

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