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

700.2519 Statutory will.

Sec. 2519. (1) A will executed in the form prescribed by subsection (2) and otherwise in compliance with the terms of the Michigan statutory will form is a valid will. A person printing and distributing the Michigan statutory will shall print and distribute the form verbatim as it appears in subsection (2). The notice provisions shall be printed in 10-point boldfaced type.

(2) The form of the Michigan statutory will is as follows:

MICHIGAN STATUTORY WILL NOTICE

1. An individual age 18 or older who has sufficient mental capacity may make a will.

2. There are several kinds of wills. If you choose to complete this form, you will have a Michigan statutory will. If this will does not meet your wishes in any way, you should talk with a lawyer before choosing a Michigan statutory will.

3. Warning! It is strongly recommended that you do not add or cross out any words on this form except for filling in the blanks because all or part of this will may not be valid if you do so.

4. This will has no effect on jointly held assets, on retirement plan benefits, or on life insurance on your life if you have named a beneficiary who survives you.

5. This will is not designed to reduce estate taxes.

6. This will treats adopted children and children born outside of wedlock who would inherit if their parent died without a will the same way as children born or conceived during marriage.

7. You should keep this will in your safe deposit box or other safe place. By paying a small fee, you may file this will in your county's probate court for safekeeping. You should tell your family where the will is kept.

8. You may make and sign a new will at any time. If you marry or divorce after you sign this will, you should make and sign a new will.

INSTRUCTIONS:

1. To have a Michigan statutory will, you must complete the blanks on the will form. You may do this yourself, or direct someone to do it for you. You must either sign the will or direct someone else to sign it in your name and in your presence.

2. Read the entire Michigan statutory will carefully before you begin filling in the blanks. If there is anything you do not understand, you should ask a lawyer to explain it to you.

MICHIGAN STATUTORY WILL OF _____
(Print or type your full name)

ARTICLE 1. DECLARATIONS

This is my will and I revoke any prior wills and codicils.
I live in _____ County, Michigan.
My spouse is _____.
(Insert spouse's name or write "none")
My children now living are:
_____ _____
_____ _____
_____ _____
(Insert names or write "none")

ARTICLE 2. DISPOSITION OF MY ASSETS

2.1 CASH GIFTS TO PERSONS OR CHARITIES.
(Optional)

I can leave no more than two (2) cash gifts. I make the following cash gifts to the persons or charities in the amount stated here. Any transfer tax due upon my death shall be paid from the balance of my estate and not from these gifts. Full name and address of person or charity to receive cash gift (name only 1 person or charity here):

_____
(Insert name of person or charity)
_____
(Insert address)
AMOUNT OF GIFT (In figures): $ _____
AMOUNT OF GIFT (In words): _____ Dollars
_____
(Your signature)

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Full name and address of person or charity to receive cash gift
(Name only 1 person or charity):

_____
(Insert name of person or charity)

_____
(Insert address)
AMOUNT OF GIFT (In figures): $ _____
AMOUNT OF GIFT (In words): _____ Dollars

_____
(Your signature)

2.2 PERSONAL AND HOUSEHOLD ITEMS.

I may leave a separate list or statement, either in my handwriting or signed by me at the end, regarding gifts of specific books, jewelry, clothing, automobiles, furniture, and other personal and household items.

I give my spouse all my books, jewelry, clothing, automobiles, furniture, and other personal and household items not included on such a separate list or statement. If I am not married at the time I sign this will or if my spouse dies before me, my personal representative shall distribute those items, as equally as possible, among my children who survive me. If no children survive me, these items shall be distributed as set forth in paragraph 2.3.

2.3 ALL OTHER ASSETS.

I give everything else I own to my spouse. If I am not married at the time I sign this will or if my spouse dies before me, I give these assets to my children and the descendants of any deceased child. If no spouse, children, or descendants of children survive me, I choose 1 of the following distribution clauses by signing my name on the line after that clause. If I sign on both lines, if I fail to sign on either line, or if I am not now married, these assets will go under distribution clause (b).

Distribution clause, if no spouse, children, or descendants of children survive me.

(Select only 1)

(a) One-half to be distributed to my heirs as if I did not have a will, and one-half to be distributed to my spouse's heirs as if my spouse had died just after me without a will.

_____
(Your signature)

(b) All to be distributed to my heirs as if I did not have a will.

_____
(Your signature)

ARTICLE 3. NOMINATIONS OF PERSONAL REPRESENTATIVE, GUARDIAN, AND CONSERVATOR

Personal representatives, guardians, and conservators have a great deal of responsibility. The role of a personal representative is to collect your assets, pay debts and taxes from those assets, and distribute the remaining assets as directed in the will. A guardian is a person who will look after the physical well-being of a child. A conservator is a person who will manage a child's assets and make payments from those assets for the child's benefit. Select them carefully. Also, before you select them, ask them whether they are willing and able to serve.

3.1 PERSONAL REPRESENTATIVE.
(Name at least 1)

I nominate _____
(Insert name of person or eligible financial institution)
of _____to serve as personal representative.
(Insert address)
If my first choice does not serve, I nominate _____
_____
(Insert name of person or eligible financial institution)
of_____ to serve as personal representative.
(Insert address)

3.2 GUARDIAN AND CONSERVATOR.

Your spouse may die before you. Therefore, if you have a child under age 18, name an individual as guardian of the child, and an individual or eligible financial institution as conservator of the child's assets. The guardian and the conservator may, but need not be, the same person.

If a guardian or conservator is needed for a child of mine, I nominate _____
(Insert name of individual)

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

of _____ as guardian and
(Insert address)
_____
(Insert name of individual or eligible financial institution)
of _____ to serve as conservator.
(Insert address)
If my first choice cannot serve, I nominate
_____
(Insert name of individual)
of _____ as guardian and
(Insert address)
_____
(Insert name of individual or eligible financial institution)
of _____ to serve as conservator.
(Insert address)

3.3 BOND.

A bond is a form of insurance in case your personal representative or a conservator performs improperly and jeopardizes your assets. A bond is not required. You may choose whether you wish to require your personal representative and any conservator to serve with or without bond. Bond premiums would be paid out of your assets. (Select only 1)

(a) My personal representative and any conservator I have named shall serve with bond.

_____
(Your signature)

(b) My personal representative and any conservator I have named shall serve without bond.

_____
(Your signature)

3.4 DEFINITIONS AND ADDITIONAL CLAUSES.

Definitions and additional clauses found at the end of this form are part of this will.

I sign my name to this Michigan statutory will on _____ , 20_____.

_____
(Your signature)

NOTICE REGARDING WITNESSES

You must use 2 adults as witnesses. It is preferable to have 3 adult witnesses. All the witnesses must observe you sign the will, have you tell them you signed the will, or have you tell them the will was signed at your direction in your presence.

STATEMENT OF WITNESSES

We sign below as witnesses, declaring that the individual who is making this will appears to have sufficient mental capacity to make this will and appears to be making this will freely, without duress, fraud, or undue influence, and that the individual making this will acknowledges that he or she has read the will, or has had it read to him or her, and understands the contents of this will.

_____
(Print Name)
_____
(Signature of witness)
_____
(Address)
_____ _____ _____
(City) (State) (Zip)
_____
(Print name)
_____
(Signature of witness)
_____
(Address)
_____ _____ _____
(City) (State) (Zip)
_____
(Print name)
_____
(Signature of witness)

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

_____
(Address)
_____ _____ _____
(City) (State) (Zip)

DEFINITIONS

The following definitions and rules of construction apply to this Michigan statutory will:

(a) "Assets" means all types of property you can own, such as real estate, stocks and bonds, bank accounts, business interests, furniture, and automobiles.

(b) "Descendants" means your children, grandchildren, and their descendants.

(c) "Descendants" or "children" includes individuals born or conceived during marriage, individuals legally adopted, and individuals born out of wedlock who would inherit if their parent died without a will.

(d) "Jointly held assets" means those assets to which ownership is transferred automatically upon the death of 1 of the owners to the remaining owner or owners.

(e) "Spouse" means your husband or wife at the time you sign this will.

(f) Whenever a distribution under a Michigan statutory will is to be made to an individual's descendants, the assets are to be divided into as many equal shares as there are then living descendants of the nearest degree of living descendants and deceased descendants of that same degree who leave living descendants. Each living descendant of the nearest degree shall receive 1 share. The remaining shares, if any, are combined and then divided in the same manner among the surviving descendants of the deceased descendants as if the surviving descendants who were allocated a share and their surviving descendants had predeceased the descendant. In this manner, all descendants who are in the same generation will take an equal share.

(g) "Heirs" means those persons who would have received your assets if you had died without a will, domiciled in Michigan, under the laws that are then in effect.

(h) "Person" includes individuals and institutions.

(i) Plural and singular words include each other, where appropriate.

(j) If a Michigan statutory will states that a person shall perform an act, the person is required to perform that act. If a Michigan statutory will states that a person may do an act, the person's decision to do or not to do the act shall be made in good faith exercise of the person's powers.

ADDITIONAL CLAUSES

Powers of personal representative

1. A personal representative has all powers of administration given by Michigan law to personal representatives and, to the extent funds are not needed to meet debts and expenses currently payable and are not immediately distributable, the power to invest and reinvest the estate from time to time in accordance with the Michigan prudent investor rule. In dividing and distributing the estate, the personal representative may distribute partially or totally in kind, may determine the value of distributions in kind without reference to income tax bases, and may make non-pro rata distributions.

2. The personal representative may distribute estate assets otherwise distributable to a minor beneficiary to the minor's conservator or, in amounts not exceeding $5,000.00 per year, either to the minor, if married; to a parent or another adult with whom the minor resides and who has the care, custody, or control of the minor; or to the guardian. The personal representative is free of liability and is discharged from further accountability for distributing assets in compliance with the provisions of this paragraph.

POWERS OF GUARDIAN AND CONSERVATOR

A guardian named in this will has the same authority with respect to the child as a parent having legal custody would have. A conservator named in this will has all of the powers conferred by law.

History: 1998, Act 386, Eff. Apr. 1, 2000;—2000, Act 54, Eff. Apr. 1, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005;—Am. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2010, Act 325, Eff. Apr. 1, 2010.

Compiler's note: As to actions taken with respect to a clerical error detected in Enrolled Senate Bill No. 1045 filed with the Secretary of State on March 30, 2000, see the following correspondence:

"September 14, 2000
"Secretary of State Candice Miller
"Department of State
"Treasury Building
"430 W. Allegan
"Lansing, MI 48918-9900
"Dear Secretary Miller:

"The purpose of this letter is to document the action I am taking in order to correct a clerical error recently detected in Enrolled Senate Bill 1045. I signed this bill on March 29, 2000. It was filed with the Secretary of State on March 30, 2000, and assigned Public Act Number 54 of 2000. This legislation made various, largely technical amendments to the Estates and Protected Individuals Code that, having been given immediate effect, took effect on April 1, 2000.

"The Secretary of the Senate and the Clerk of the House re-presented a corrected version of Enrolled Senate Bill 1045 to me on September 11, 2000, along with the accompanying letter. Apparently, a clerical error was made during the enrollment process.

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov

Specifically, Section 2519, which updated the year '19 __' to '20__' on the Michigan statutory will form was inadvertently omitted from the bill. During the 6 months this error remained undetected, an unknown and unknowable number of persons may have relied on its provisions, all but one of which are unaffected by this correction which, in effect, makes a century date change.

"The Secretary of the Senate and the Clerk of the House have recommended that I now re-sign a corrected version to be assigned the same date and public act number of the originally signed bill. Michigan case law supports this recommended procedure due to the fact that the omission was a 'clerical mistake' that dealt with a non-substantive provision of the bill.

"As the court held in Board of Control v Auditor General, 149 Mich 386, 388 (1907), '(an) omission in the enrolled bill of words not essential to its substance or effect will not render the act invalid.' Similar decisions can be found in more recent court opinions. Beacon Club v Kalamazoo Sheriff, 332 Mich 412 (1952).

"Therefore, I have affixed the revised enrolled bill with the same date as the date of my original signature. In addition, it is my expectation that the corrected enrolled bill will receive Public Act Number 54 of 2000.

"Sincerely,

"John Engler

"Governor

"cc: Michigan State Senate

"Michigan House of Representatives"

"September 10, 2000

"The Honorable John Engler

"Capitol Building

"Lansing, Michigan 48913

"Subject: PA 54 of 2000

"Dear Governor Engler:

"A clerical error has been detected in Enrolled Senate Bill 1045, which was filed with the Secretary of State on March 30, 2000, and assigned Public Act No. 54 of 2000. The bill presented to you on March 29, 2000, did not accurately reflect what was agreed to by both houses of the Legislature. Specifically, Section 2519, which updated the year from '19 __' to '20__' on the Michigan statutory will form was inadvertently omitted from the bill.

"Therefore, we are presenting a correct Enrolled Senate Bill for your signature and filing with the Secretary of State. Upon filing, the defective Enrolled Senate Bill 1045 will be replaced with the correct Enrolled Senate Bill 1045 and assigned the same public act number. The inaccurate enrolled bill was signed by you on March 29, 2000, and filed with the Secretary of State on March 30, 2000. The effective date of Public Act No. 54 of 2000 will remain April 1, 2000.

"This procedure ensures that the bill as passed by both houses of the Legislature is accurately filed and effective, while this document will provide notification to the public. We apologize for any inconvenience this may have caused you and the citizens of the state of Michigan. If you have any questions, please feel free to contact us.

"Sincerely,

"Carol Morey Viventi

"Secretary of the Senate

"Gary L. Randall

"Clerk of the House of Representatives

"cc: Candice S. Miller, Secretary of State"

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."

Popular name: Statutory Will

Popular name: EPIC

© Legislative Council, State of Michigan Courtesy of www.legislature.mi.gov