

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

PART 5

WILLS, WILL CONTRACTS, AND CUSTODY AND DEPOSIT OF WILLS

**700.2501 Will; maker; sufficient mental capacity.**

Sec. 2501. (1) An individual 18 years of age or older who has sufficient mental capacity may make a will.

(2) An individual has sufficient mental capacity to make a will if all of the following requirements are met:

(a) The individual has the ability to understand that he or she is providing for the disposition of his or her property after death.

(b) The individual has the ability to know the nature and extent of his or her property.

(c) The individual knows the natural objects of his or her bounty.

(d) The individual has the ability to understand in a reasonable manner the general nature and effect of his or her act in signing the will.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

**Popular name:** EPIC

**700.2502 Execution; witnessed wills; holographic wills.**

Sec. 2502. (1) Except as provided in subsection (2) and in sections 2503, 2506, and 2513, a will is valid only if it is all of the following:

(a) In writing.

(b) Signed by the testator or in the testator's name by some other individual in the testator's conscious presence and by the testator's direction.

(c) Signed by at least 2 individuals, each of whom signed within a reasonable time after he or she witnessed either the signing of the will as described in subdivision (b) or the testator's acknowledgment of that signature or acknowledgment of the will.

(2) A will that does not comply with subsection (1) is valid as a holographic will, whether or not witnessed, if it is dated, and if the testator's signature and the document's material portions are in the testator's handwriting.

(3) Intent that the document constitutes a testator's will can be established by extrinsic evidence, including, for a holographic will, portions of the document that are not in the testator's handwriting.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

**700.2503 Writings intended as wills.**

Sec. 2503. Although a document or writing added upon a document was not executed in compliance with section 2502, the document or writing is treated as if it had been executed in compliance with that section if the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute any of the following:

(a) The decedent's will.

(b) A partial or complete revocation of the decedent's will.

(c) An addition to or an alteration of the decedent's will.

(d) A partial or complete revival of the decedent's formerly revoked will or of a formerly revoked portion of the decedent's will.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

**700.2504 Self-proved will.**

Sec. 2504. (1) A will may be simultaneously executed, attested, and made self-proved by acknowledgment of the will by the testator and 2 witnesses' sworn statements, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, under official seal, in substantially the following form:

I, \_\_\_\_\_, the testator, sign my name to this document on \_\_\_\_\_, \_\_\_\_\_. I have taken an oath, administered by the officer whose signature and seal appear on this document, swearing that the statements in this document are true. I declare to that officer that this document is my will; that I sign it willingly or willingly direct another to



\_\_\_\_\_  
(Signature) Witness

Sworn to and signed in my presence by \_\_\_\_\_, the  
testator, and sworn to and signed in my presence by  
\_\_\_\_\_ and \_\_\_\_\_, witnesses, on  
\_\_\_\_\_,  
month/day                      year

\_\_\_\_\_  
(SEAL) Signed

\_\_\_\_\_  
(official capacity of officer)

(3) A codicil to a will may be simultaneously executed and attested, and both the codicil and the original will made self-proved, by acknowledgment of the codicil by the testator and by witnesses' sworn statements, each made before an officer authorized to administer oaths under the laws of the state in which execution occurs and evidenced by the officer's certificate, under official seal, in substantially the following form:

I, \_\_\_\_\_, the testator, sign my name to this document on \_\_\_\_\_, \_\_\_\_\_. I have taken an oath, administered by the officer whose signature and seal appear on this document, swearing that the statements in this document are true. I declare to that officer that this document is a codicil to my will; that I sign it willingly or willingly direct another to sign for me; that I execute it as my voluntary act for the purposes expressed in this codicil; and that I am 18 years of age or older, and under no constraint or undue influence; and that I have sufficient mental capacity to make this codicil.

\_\_\_\_\_  
(Signature) Testator

We, \_\_\_\_\_ and \_\_\_\_\_, the witnesses, sign our names to this document and have taken an oath, administered by the officer whose signature and seal appear on this document, to swear that all of the following statements are true: the individual signing this document as the testator executes the document as a codicil to his or her will, signs it willingly or willingly directs another to sign for him or her, and executes it as his or her voluntary act for the purposes expressed in this codicil; each of us, in the testator's presence, signs this codicil as witness to the testator's signing; and, to the best of our knowledge, the testator is 18 years of age or older, is under no constraint or undue influence, and has sufficient mental capacity to make this codicil.

\_\_\_\_\_  
(Signature) Witness

\_\_\_\_\_  
(Signature) Witness

The State of \_\_\_\_\_  
County of \_\_\_\_\_  
Sworn to and signed in my presence by \_\_\_\_\_, the  
testator, and sworn to and signed in my presence by  
\_\_\_\_\_ and \_\_\_\_\_, witnesses, on  
\_\_\_\_\_,  
month/day                      year

\_\_\_\_\_  
(SEAL) Signed

\_\_\_\_\_  
(official capacity of officer)

(4) If necessary to prove the will's due execution, a signature affixed to a self-proving sworn statement attached to a will is considered a signature affixed to the will.

(5) Instead of the testator and witnesses each making a sworn statement before an officer authorized to

administer oaths as prescribed in subsections (1) to (3), a will or codicil may be made self-proved by a written statement that is not a sworn statement. This statement shall state, or incorporate by reference to an attestation clause, the facts regarding the testator and the formalities observed at the signing of the will or codicil as prescribed in subsections (1) to (3). The testator and witnesses shall sign the statement, which must include its execution date and must begin with substantially the following language: "I certify (or declare) under penalty for perjury under the law of the state of Michigan that..."

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

**Popular name:** EPIC

#### **700.2505 Witnesses.**

Sec. 2505. (1) An individual generally competent to be a witness may act as a witness to a will.

(2) The signing of a will by an interested witness does not invalidate the will or any provision of it.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2506 Choice of law as to execution.**

Sec. 2506. A written will is valid if executed in compliance with section 2502 or 2503, with the law at the time of execution of the place where the will is executed, or with the law of the place where, at the time of execution or at the time of death, the testator is domiciled, has a place of abode, or is a national.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2507 Revocation by writing or by act.**

Sec. 2507. (1) A will or a part of a will is revoked by either of the following acts:

(a) Execution of a subsequent will that revokes the previous will or a part of the will expressly or by inconsistency.

(b) Performance of a revocatory act on the will, if the testator performed the act with the intent and for the purpose of revoking the will or a part of the will or if another individual performed the act in the testator's conscious presence and by the testator's direction. For purposes of this subdivision, "revocatory act on the will" includes burning, tearing, canceling, obliterating, or destroying the will or a part of the will. A burning, tearing, or canceling is a revocatory act on the will, whether or not the burn, tear, or cancellation touches any of the words on the will.

(2) If a subsequent will does not expressly revoke a previous will, the execution of the subsequent will wholly revokes the previous will by inconsistency if the testator intended the subsequent will to replace rather than supplement the previous will.

(3) The testator is presumed to have intended a subsequent will to replace rather than supplement a previous will if the subsequent will makes a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the previous will is revoked, and only the subsequent will is operative on the testator's death.

(4) The testator is presumed to have intended a subsequent will to supplement rather than replace a previous will if the subsequent will does not make a complete disposition of the testator's estate. If this presumption arises and is not rebutted by clear and convincing evidence, the subsequent will revokes the previous will only to the extent the subsequent will is inconsistent with the previous will, and each will is fully operative on the testator's death to the extent they are not inconsistent.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2508 Revocation by change of circumstances.**

Sec. 2508. Except as provided in sections 2802 to 2809, a change of circumstances does not revoke a will or a part of a will.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2509 Revival of revoked will.**

Sec. 2509. (1) If a subsequent will that wholly revoked a previous will is later revoked by a revocatory act under section 2507(1)(b), the previous will remains revoked unless it is revived. The previous will is revived if it is evident from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator intended the previous will to take effect as executed.

(2) If a subsequent will that partly revoked a previous will is later revoked by a revocatory act under section 2507(1)(b), a revoked part of the previous will is revived unless it is evident from the circumstances of the revocation of the subsequent will or from the testator's contemporary or subsequent declarations that the testator did not intend the revoked part to take effect as executed.

(3) If a subsequent will that revoked a previous will in whole or in part is later revoked by another, later will, the previous will remains revoked in whole or in part, unless it or its revoked part is revived. The previous will or its revoked part is revived to the extent it appears from the terms of the later will that the testator intended the previous will to take effect.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2510 Incorporation by reference.**

Sec. 2510. A writing in existence when a will is executed may be incorporated by reference if the language of the will manifests this intent and describes the writing sufficiently to permit its identification.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2511 Testamentary additions to trusts.**

Sec. 2511. (1) A will may validly devise property to the trustee of a trust established or to be established in any of the following manners:

(a) During the testator's lifetime by the testator, by the testator and some other person, or by some other person, including a funded or unfunded life insurance trust, although the settlor has reserved any or all rights of ownership of the insurance contracts.

(b) At the testator's death by the testator's devise to the trustee, if the trust is identified in the testator's will and its terms are set forth in a written instrument, other than a will, executed before, concurrently with, or after the execution of the testator's will or in another individual's will if that other individual has predeceased the testator, regardless of the existence, size, or character of the trust corpus.

(2) A devise described in subsection (1) is not invalid because the trust is amendable or revocable, or because the trust was amended after the execution of the will or the testator's death. Unless the testator's will provides otherwise, property devised to a trust described in subsection (1) is not held under a trust created by the will of the testator, but it becomes a part of the trust to which it is devised, and shall be administered and disposed of in accordance with the provisions of the governing instrument setting forth the terms of the trust, including an amendment to the trust made before or after the testator's death.

(3) Unless the testator's will provides otherwise, a revocation or termination of the trust before the testator's death causes the devise to lapse.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

**Popular name:** EPIC

#### **700.2512 Events of independent significance.**

Sec. 2512. A will may dispose of property by reference to acts and events that have significance apart from their effect upon the dispositions made by the will, whether they occur before or after the execution of the will or before or after the testator's death. The execution or revocation of another individual's will is such an event.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2513 Separate writing identifying devise of certain types of tangible personal property.**

Sec. 2513. Whether or not the provisions relating to a holographic will apply, a will may refer to a written statement or list to dispose of items of tangible personal property not otherwise specifically disposed of by the will, other than money. To be admissible under this section as evidence of the intended disposition, the writing must be either in the testator's handwriting or signed by the testator at the end, and must describe the items and the devisees with reasonable certainty. The writing may be referred to as one to be in existence at the time of the testator's death; it may be prepared before or after the execution of the will; it may be altered by the testator after its preparation; and it may be a writing that has no significance apart from its effect on the dispositions made by the will.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2514 Contracts concerning succession.**

Sec. 2514. (1) If executed after July 1, 1979, a contract to make a will or devise, not to revoke a will or devise, or to die intestate may be established only by 1 or more of the following:

- (a) Provisions of a will stating material provisions of the contract.
- (b) An express reference in a will to a contract and extrinsic evidence proving the terms of the contract.
- (c) A writing signed by the decedent evidencing the contract.

(2) The execution of a joint will or mutual wills does not create a presumption of a contract not to revoke the will or wills.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2515 Deposit of will with court in testator's lifetime.**

Sec. 2515. (1) A will in writing that is enclosed in a sealed wrapper, on which is endorsed the testator's name, place of residence, and social security number or state of Michigan driver's license number, if any, and the day on which and the name of the person by whom it is delivered, may be deposited by the individual making the will, or by a person for him or her, with the court in the county where the testator resides. The court shall receive and safely keep the will and give a certificate of the deposit of the will. For this service, the court shall charge and collect a fee as provided by supreme court rule or the revised judiciary act of 1961.

(2) During the lifetime of the testator, the will shall be delivered only to the testator, or to some person authorized by the testator in writing that is duly proved by the oath of a subscribing witness. After the death of the testator and at the first session of the court after the court receives notice of the testator's death, the will shall be publicly opened and retained by the court.

(3) After the death of the testator, if jurisdiction of the will for probate belongs to a court in another county, upon request of the personal representative named in the will or another person interested in its provisions, the will shall be forwarded by registered mail to the other court or delivered to the personal representative, or to some other person interested in the provisions of the will, to be presented for probate in the other court.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2516 Delivery of will or codicil by custodian.**

Sec. 2516. A custodian of a will or codicil or person having possession or care of a will or codicil shall forward it to the court having jurisdiction with reasonable promptness after the death of the testator either by delivering it personally or by sending it properly addressed by registered mail. A person who neglects to perform this duty without reasonable cause is liable for damages that are sustained by the neglect. A person who willfully refuses or fails to deliver a will or codicil after being ordered by the court in a proceeding brought for the purpose of compelling delivery is guilty of contempt of court and subject to the penalty for contempt.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

#### **700.2517 Opening of safe deposit box.**

Sec. 2517. (1) In the estate of a decedent who died before October 1, 1993, the following apply to the opening of a safe deposit box:

(a) A safe deposit box of which the decedent was an individual or joint lessee may be opened following the decedent's death only upon compliance with the Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256.

(b) A safe deposit box of the decedent who was an individual or joint lessee and for whom a fiduciary was appointed may be opened by that fiduciary in a like manner as provided by the Michigan estate tax act, 1899 PA 188, MCL 205.201 to 205.256, as it relates to deceased individuals.

(2) In the estate of a decedent who dies after September 30, 1993, the following apply to the opening of a safe deposit box:

(a) Whenever it appears to the court by petition of an interested person that a safe and collateral deposit company, trust company, corporation, bank, or other institution has leased to a decedent, either as an individual or joint lessee, a safe deposit box in the county in which the probate court has jurisdiction and that the safe deposit box may contain a will of the decedent or a deed to a burial plot in which the decedent is to be interred, the court may issue an order directing the institution to permit the person named in the order to examine the safe deposit box in the presence of an officer or other authorized employee of the institution. If a paper purporting to be a will of the decedent or a deed to a burial plot is found in the box, the person named in the order shall deliver the will or deed to the probate register or his or her deputy. The probate register or his

or her deputy shall furnish a receipt to the person named in the order. An item contained in the safe deposit box other than the will or deed shall not be removed from the safe deposit box. At the time of the opening of the safe deposit box, all individuals in attendance shall execute a written statement certifying whether a will or deed to a burial plot is found and that no other items are removed, which statement shall be delivered within 7 days after execution to the probate register or his or her deputy. Before the court enters the order, there shall be paid to the probate register a fee of \$10.00, which shall be credited to the general fund of the county. If the decedent's estate is administered in a probate court in the state, the party making payment of the fee may file a claim in the estate for that amount, which shall be charged as a cost of administration.

(b) The safe deposit box of an individual who is an individual or joint lessee and for whom a fiduciary was appointed may be opened by that fiduciary and its contents removed. If the safe deposit box is jointly leased, then the fiduciary may examine the safe deposit box only in the presence of an officer or other authorized employee of the safe deposit and collateral company, trust company, corporation, bank, or other institution. At the time of the opening of the safe deposit box, all individuals in attendance shall execute a written statement certifying as to what is removed from the box by the fiduciary. The fiduciary shall serve a copy of that statement on the other joint lessees within 7 days after removing the items.

(c) Notwithstanding another provision of this section, a surviving joint lessee of a joint safe deposit box has full access to the safe deposit box.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 177, Imd. Eff. June 20, 2000.

**Popular name:** EPIC

### **700.2518 Penalty clause for contest.**

Sec. 2518. A provision in a will purporting to penalize an interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings.

**History:** 1998, Act 386, Eff. Apr. 1, 2000.

**Popular name:** EPIC

### **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)

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)  
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)

\_\_\_\_\_  
(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. 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