

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

PART 1  
SHORT TITLE AND DEFINITIONS

**700.1101 Short title.**

Sec. 1101. This act shall be known and may be cited as the "estates and protected individuals code".

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

**Popular name:** EPIC

**700.1102 Applicability of definitions.**

Sec. 1102. The definitions contained in this part apply throughout this act unless the context requires otherwise or unless a term defined elsewhere in this act is applicable to a specific article, part, or section.

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

**Popular name:** EPIC

**700.1103 Definitions; A to D.**

Sec. 1103. As used in this act:

(a) "Agent" includes, but is not limited to, an attorney-in-fact under a durable or nondurable power of attorney and an individual authorized to make decisions as a patient advocate concerning another's health care.

(b) "Application" means a written request to the probate register for an order of informal probate or informal appointment under part 3 of article III.

(c) "Attorney" means, if appointed to represent a child under the provisions referenced in section 5213, an attorney serving as the child's legal advocate in the manner defined and described in section 13a of chapter XIII A of the probate code of 1939, 1939 PA 288, MCL 712A.13a.

(d) "Beneficiary" includes, but is not limited to, the following:

(i) In relation to a trust, a person that is a trust beneficiary as defined in section 7103.

(ii) In relation to a charitable trust, a person that is entitled to enforce the trust.

(iii) In relation to a beneficiary of a beneficiary designation, a person that is a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), of a pension, profit-sharing, retirement, or similar benefit plan, or of another nonprobate transfer at death.

(iv) In relation to a beneficiary designated in a governing instrument, a person that is a grantee of a deed, devisee, trust beneficiary, beneficiary of a beneficiary designation, donee, appointee, taker in default of a power of appointment, or person in whose favor a power of attorney or power held in an individual, fiduciary, or representative capacity is exercised.

(e) "Beneficiary designation" means the naming in a governing instrument of a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form (TOD), of a pension, profit-sharing, retirement, or similar benefit plan, or of another nonprobate transfer at death.

(f) "Child" includes, but is not limited to, an individual entitled to take as a child under this act by intestate succession from the parent whose relationship is involved. Child does not include an individual who is only a stepchild, a foster child, or a grandchild or more remote descendant.

(g) "Claim" includes, but is not limited to, in respect to a decedent's or protected individual's estate, a liability of the decedent or protected individual, whether arising in contract, tort, or otherwise, and a liability of the estate that arises at or after the decedent's death or after a conservator's appointment, including funeral and burial expenses and costs and expenses of administration. Claim does not include an estate or inheritance tax, or a demand or dispute regarding a decedent's or protected individual's title to specific property alleged to be included in the estate.

(h) "Conservator" means a person appointed by a court to manage a protected individual's estate.

(i) "Cost-of-living adjustment factor" means a fraction, the numerator of which is the United States consumer price index for the prior calendar year and the denominator of which is the United States consumer price index for 1997. As used in this subdivision, "United States consumer price index" means the annual average of the United States consumer price index for all urban consumers as defined and reported by the United States department of labor, bureau of labor statistics, or its successor agency, and as certified by the state treasurer.

(j) "Court" means the probate court or, when applicable, the family division of circuit court.

(k) "Descendant" means, in relation to an individual, all of his or her descendants of all generations, with

the relationship of parent and child at each generation being determined by the definitions of child and parent contained in this act.

(l) "Devise" means, when used as a noun, a testamentary disposition of real or personal property and, when used as a verb, to dispose of real or personal property by will.

(m) "Devisee" means a person designated in a will to receive a devise. For the purposes of article II, for a devise to a trustee of an existing trust or to a trustee under a will, the trustee is a devisee and a beneficiary is not.

(n) "Disability" means cause for a protective order as described in section 5401.

(o) "Distributee" means a person that receives a decedent's property from the decedent's personal representative or trust property from the trustee other than as a creditor or purchaser. A trustee of a trust created by will is a distributee only to the extent that distributed property or an increment of the distributed property remains in the trustee's hands. A beneficiary of a trust created by will to whom the trustee distributes property received from a personal representative is a distributee of the personal representative. For the purposes of this subdivision, "trustee of a trust created by will" includes a trustee to whom property is transferred by will to the extent of the devised property.

(p) "Do-not-resuscitate order" means that term as defined in section 2 of the Michigan do-not-resuscitate procedure act, 1996 PA 193, MCL 333.1052.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2000, Act 177, Imd. Eff. June 20, 2000;—Am. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2013, Act 157, Eff. Feb. 3, 2014.

**Popular name:** EPIC

## **700.1104 Definitions; E to H.**

Sec. 1104. As used in this act:

(a) "Environmental law" means a federal, state, or local law, rule, regulation, or ordinance that relates to the protection of the environment or human health.

(b) "Estate" includes the property of the decedent, trust, or other person whose affairs are subject to this act as the property is originally constituted and as it exists throughout administration. Estate also includes the rights described in sections 3805, 3922, and 7606 to collect from others amounts necessary to pay claims, allowances, and taxes.

(c) "Exempt property" means property of a decedent's estate that is described in section 2404.

(d) "Family allowance" means the allowance prescribed in section 2403.

(e) "Fiduciary" includes, but is not limited to, a personal representative, funeral representative, guardian, conservator, trustee, plenary guardian, partial guardian, and successor fiduciary.

(f) "Financial institution" means an organization authorized to do business under state or federal laws relating to a financial institution and includes, but is not limited to, a bank, trust company, savings bank, building and loan association, savings and loan company or association, credit union, insurance company, and entity that offers mutual fund, securities brokerage, money market, or retail investment accounts.

(g) "Foreign personal representative" means a personal representative appointed by another jurisdiction.

(h) "Formal proceedings" means proceedings conducted before a judge with notice to interested persons.

(i) "Funeral establishment" means that term as defined in section 1801 of the occupational code, 1980 PA 299, MCL 339.1801, and the owners, employees, and agents of the funeral establishment.

(j) "Funeral representative" means an individual designated to have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent's body, including, but not limited to, decisions about cremation, and the right to possess cremated remains of the decedent as provided in section 3206.

(k) "Funeral representative designation" means a written document executed and with the effect as described in sections 3206 to 3206b.

(l) "General personal representative" means a personal representative other than a special personal representative.

(m) "Governing instrument" means a deed; will; trust; funeral representative designation; insurance or annuity policy; account with POD designation; security registered in beneficiary form (TOD); pension, profit-sharing, retirement, or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive, or nominative instrument of any similar type.

(n) "Guardian" means a person who has qualified as a guardian of a minor or a legally incapacitated individual under a parental or spousal nomination or a court appointment and includes a limited guardian as described in sections 5205, 5206, and 5306. Guardian does not include a guardian ad litem.

(o) "Hazardous substance" means a substance defined as hazardous or toxic or otherwise regulated by an environmental law.

(p) "Heir" means, except as controlled by section 2720, a person, including the surviving spouse or the state, that is entitled under the statutes of intestate succession to a decedent's property.

(q) "Homestead allowance" means the allowance prescribed in section 2402.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2005, Act 204, Imd. Eff. Nov. 10, 2005;—Am. 2006, Act 299, Imd. Eff. July 20, 2006;—Am. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2016, Act 57, Eff. June 27, 2016.

**Popular name:** EPIC

### **700.1105 Definitions; I to L.**

Sec. 1105. As used in this act:

(a) "Incapacitated individual" means an individual who is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, not including minority, to the extent of lacking sufficient understanding or capacity to make or communicate informed decisions.

(b) "Informal proceedings" means proceedings for probate of a will or appointment of a personal representative conducted by the probate register without notice to interested persons.

(c) "Interested person" or "person interested in an estate" includes, but is not limited to, the incumbent fiduciary; an heir, devisee, child, spouse, creditor, and beneficiary and any other person that has a property right in or claim against a trust estate or the estate of a decedent, ward, or protected individual; a person that has priority for appointment as personal representative; and a fiduciary representing an interested person. Identification of interested persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, a proceeding, and by the supreme court rules.

(d) "Issue" means an individual's descendant.

(e) "Joint tenants with the right of survivorship" includes, but is not limited to, co-owners or ownership of property held under circumstances that entitle 1 or more to the whole of the property on the death of the other or others, but does not include forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party's contribution.

(f) "Jurisdiction," with respect to a geographic area, includes a county, state, or country.

(g) "Lawyer-guardian ad litem" means an attorney appointed under section 5213 or 5219 who has the powers and duties referenced by and provided in section 5213.

(h) "Lease" includes, but is not limited to, an oil, gas, or other mineral lease.

(i) "Legally incapacitated individual" means an individual, other than a minor, for whom a guardian is appointed under this act or an individual, other than a minor, who has been adjudged by a court to be an incapacitated individual.

(j) "Letters" includes, but is not limited to, letters testamentary, letters of guardianship, letters of administration, and letters of conservatorship.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2004, Act 314, Eff. Sept. 1, 2004;—Am. 2009, Act 46, Eff. Apr. 1, 2010.

**Popular name:** EPIC

### **700.1106 Definitions; M to P.**

Sec. 1106. As used in this act:

(a) "Mental health professional" means an individual who is trained and experienced in the area of mental illness or developmental disabilities and who is 1 of the following:

(i) A physician who is licensed to practice medicine or osteopathic medicine and surgery in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(ii) A psychologist licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iii) A registered professional nurse licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(iv) A licensed master's social worker licensed under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(v) A physician's assistant licensed to practice in this state under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838.

(vi) A licensed professional counselor licensed under part 181 of the public health code, 1978 PA 368, MCL 333.18101 to 333.18117.

(b) "Michigan prudent investor rule" means the fiduciary investment and management rule prescribed by part 5 of this article.

(c) "Minor" means an individual who is less than 18 years of age.

- (d) "Minor ward" means a minor for whom a guardian is appointed solely because of minority.
- (e) "Money" means legal tender or a note, draft, certificate of deposit, stock, bond, check, or credit card.
- (f) "Mortgage" means a conveyance, agreement, or arrangement in which property is encumbered or used as security.
- (g) "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of his or her death.
- (h) "Organization" means a corporation, business trust, estate, trust, partnership, limited liability company, association, or joint venture; governmental subdivision, agency, or instrumentality; public corporation; or another legal or commercial entity.
- (i) "Parent" includes, but is not limited to, an individual entitled to take, or who would be entitled to take, as a parent under this act by intestate succession from a child who dies without a will and whose relationship is in question. Parent does not include an individual who is only a stepparent, foster parent, or grandparent.
- (j) "Partial guardian" means that term as defined in section 600 of the mental health code, 1974 PA 258, MCL 330.1600.
- (k) "Patient advocate" means an individual designated to exercise powers concerning another individual's care, custody, and medical or mental health treatment or authorized to make an anatomical gift on behalf of another individual, or both, as provided in section 5506.
- (l) "Patient advocate designation" means the written document executed and with the effect as described in sections 5506 to 5515.
- (m) "Payor" means a trustee, insurer, business entity, employer, government, governmental subdivision or agency, or other person authorized or obligated by law or a governing instrument to make payments.
- (n) "Person" means an individual or an organization.
- (o) "Personal representative" includes, but is not limited to, an executor, administrator, successor personal representative, and special personal representative, and any other person, other than a trustee of a trust subject to article VII, who performs substantially the same function under the law governing that person's status.
- (p) "Petition" means a written request to the court for an order after notice.
- (q) "Physician orders for scope of treatment form" means that term as defined in section 5674 of the public health code, 1978 PA 368, MCL 333.5674.
- (r) "Plenary guardian" means that term as defined in section 600 of the mental health code, 1974 PA 258, MCL 330.1600.
- (s) "Proceeding" includes an application and a petition, and may be an action at law or a suit in equity. A proceeding may be denominated a civil action under court rules.
- (t) "Professional conservator" means a person that provides conservatorship services for a fee. Professional conservator does not include a person who is an individual who is related to all but 2 of the protected individuals for whom he or she is appointed as conservator.
- (u) "Professional guardian" means a person that provides guardianship services for a fee. Professional guardian does not include a person who is an individual who is related to all but 2 of the wards for whom he or she is appointed as guardian.
- (v) "Property" means anything that may be the subject of ownership, and includes both real and personal property or an interest in real or personal property.
- (w) "Protected individual" means a minor or other individual for whom a conservator has been appointed or other protective order has been made as provided in part 4 of article V.
- (x) "Protective proceeding" means a proceeding under the provisions of part 4 of article V.

**History:** 1998, Act 386, Eff. Apr. 1, 2000;—Am. 2000, Act 54, Eff. Apr. 1, 2000;—Am. 2000, Act 463, Eff. June 1, 2001;—Am. 2003, Act 63, Imd. Eff. July 22, 2003;—Am. 2004, Act 532, Imd. Eff. Jan. 3, 2005;—Am. 2009, Act 46, Eff. Apr. 1, 2010;—Am. 2017, Act 155, Eff. Feb. 6, 2018.

**Popular name:** EPIC

## **700.1107 Definitions; R to T.**

Sec. 1107. As used in this act:

- (a) "Register" or "probate register" means the official of the court designated to perform the functions of register as provided in section 1304.
- (b) "Revised judicature act of 1961" means the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.
- (c) "Security" includes, but is not limited to, a note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate, or interest in a regulated investment company or other entity generally referred to as a mutual fund or, in

general, an interest or instrument commonly known as a security, or a certificate of interest or participation for, a temporary or interim certificate, receipt, or certificate of deposit for, or any warrant or right to subscribe to or purchase any of the items listed in this subdivision.

(d) "Settlement" means, in reference to a decedent's estate, the full process of administration, distribution, and closing.

(e) "Special personal representative" means a personal representative as described by sections 3614 to 3618.

(f) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(g) "Successor" means a person, other than a creditor, who is entitled to property of a decedent under the decedent's will or this act.

(h) "Successor personal representative" means a personal representative, other than a special personal representative, who is appointed to succeed a previously appointed personal representative.

(i) "Supervised administration" means the proceedings described in part 5 of article III.

(j) "Survive" means that an individual neither predeceases an event, including the death of another individual, nor is considered to predecease an event under section 2104 or 2702.

(k) "Terms of a trust" or "terms of the trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by other evidence that would be admissible in a judicial proceeding.

(l) "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

(m) "Testator" includes an individual of either gender.

(n) "Trust" includes, but is not limited to, an express trust, private or charitable, with additions to the trust, wherever and however created. Trust includes, but is not limited to, a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. Trust does not include a constructive trust or a resulting trust, conservatorship, personal representative, custodial arrangement under the Michigan uniform transfers to minors act, 1998 PA 433, MCL 554.521 to 554.552, business trust providing for a certificate to be issued to a beneficiary, common trust fund, voting trust, security arrangement, liquidation trust, or trust for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions, or employee benefits of any kind, or another arrangement under which a person is a nominee or escrowee for another.

(o) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by the court.

**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

## **700.1108 Definitions; U to Z.**

Sec. 1108. As used in this act:

(a) "Ward" means an individual for whom a guardian is appointed.

(b) "Will" includes, but is not limited to, a codicil and a testamentary instrument that appoints a personal representative, revokes or revises another will, nominates a guardian, or expressly excludes or limits the right of an individual or class to succeed to the decedent's property that is passing by intestate succession.

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

**Popular name:** EPIC