Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 459 (as enrolled)   **PUBLIC ACT 184 of 1995**
Sponsor: Senator Mat J. Dunaskiss
Senate Committee: Judiciary
House Committee: Judiciary and Civil Rights

Date Completed: 3-28-96

RATIONALE

Previously, under the Revised Probate Code, if a deceased person's heir or devisee was a "disappeared person", the portion of the estate that otherwise would have been distributed to that heir or devisee could not be distributed until three years after the decedent's death. During that time, certain notice requirements had to be fulfilled. If the heir or devisee did not make a claim within three years, his or her portion of the estate was required to be distributed by order of the court to each person who would have been entitled to the portion if the disappeared person were deceased, and the heir or devisee and his or her heirs or devisees were forever barred from claiming that portion of the estate. This three-year provision, together with the Code's reference to a "disappeared person", reportedly caused financial hardship and long delay in the distribution of the portion of an estate due a person who could not be located. Since the Code defines "disappeared person" with respect to a seven-year period, final distribution of the assets of an estate took much longer than the three-year waiting period. Some people believed that the waiting period for distributing a missing heir's portion of an estate should have been reduced and that the Code should refer to a "disappeared heir or devisee" in its provisions for the distribution of an estate and define that term to distinguish a missing heir from a "disappeared person".

CONTENT

The bill amended the Revised Probate Code to provide for the distribution of the portion of an estate otherwise due to a "disappeared heir or devisee", rather than the portion of an estate **otherwise due to an heir or devisee who was a "disappeared person", and shortened the period of time before distribution may be made.**

Under the bill, if one or more of the apparent heirs or devisees of the estate of a deceased person has disappeared, the distribution of the portion of the estate that otherwise would be distributed to the *disappeared heir or devisee* may not be distributed to those who would be entitled to the portion if the disappeared heir or devisee had died before the decedent until at least *18 months* after the decedent's death. Previously, under the Code, the portion of an estate that otherwise would be distributed to an heir or devisee who was a *disappeared person* could not be distributed until *three years* after the death of the decedent.

An heir or devisee is considered to have disappeared under the bill if the heir or devisee meets all of the following:

-- He or she has been absent from his or her last known place of abode for at least *five* continuous years.
-- His or her whereabouts were unknown by those people most likely to know of his or her whereabouts during at least the last five continuous years.
-- He or she has not communicated with any of the people most likely to receive communication from him or her during at least the last five continuous years.

(Under the Code, a "disappeared person" is one who meets all of the following:

-- The person has been absent from his or her last known place of abode for at least *seven* continuous years.
-- The person's whereabouts were unknown by those people most likely to know of his or her whereabouts during at least the last seven continuous years.
-- The person has not communicated with any of the people most likely to receive communication from him or her during at least the last seven continuous years.)

The bill provides that if, after the publication of notices required by the Code, a person does not make a claim on or before the expiration of 18 months, rather than three years, the disappeared heir's portion of the estate must be distributed by order of the court to each person who would be entitled to the portion if the disappeared heir or devisee predeceased the decedent, and the disappeared heir or devisee and his or her unknown heirs and devisees are forever barred from all claim or right to that portion of the estate.

MCL 700.493

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument
When an heir to an estate cannot be located, it makes sense that reasonable efforts should be made to find and notify the person of his or her inheritance. The law should provide for the distribution of a disappeared heir's portion of an estate, however, within a reasonable amount of time after the decedent's death. The previous time frame for distribution of that portion of an estate was too lengthy. To wait three years after a person's death and to have to show that an heir's whereabouts were unknown for at least seven years is simply unreasonable. The Revised Probate Code provides for the administration of the estate of a disappeared person. For those purposes, it is reasonable to define "disappeared person" with respect to a seven-year absence, but in the case of a missing heir, the long waiting period placed a great burden on the other heirs and on the estate itself. The bill's provision for an 18-month period after the decedent's death and its definition of a "disappeared heir or devisee" with respect to a five-year absence provides for a sufficient amount of time to conduct a search for a missing heir without delaying an estate's

distribution for an unnecessarily long period of time.

Legislative Analyst: P. Affholter

FISCAL IMPACT

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

Fiscal Analyst: L. Nacionales-Tafoya