

Act No. 57
Public Acts of 2016
Approved by the Governor
March 29, 2016
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March 29, 2016
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2016**

Introduced by Senators Schuitmaker, Brandenburg, Jones, Hildenbrand and Bieda

ENROLLED SENATE BILL No. 551

AN ACT to amend 1998 PA 386, entitled “An act to codify, revise, consolidate, and classify aspects of the law relating to wills and intestacy, relating to the administration and distribution of estates of certain individuals, relating to trusts, and relating to the affairs of certain individuals under legal incapacity; to provide for the powers and procedures of the court that has jurisdiction over these matters; to provide for the validity and effect of certain transfers, contracts, and deposits that relate to death; to provide procedures to facilitate enforcement of certain trusts; and to repeal acts and parts of acts,” by amending sections 1104, 2801, 2803, 2807, 3206, 3207, 3209, 3614, and 3701 (MCL 700.1104, 700.2801, 700.2803, 700.2807, 700.3206, 700.3207, 700.3209, 700.3614, and 700.3701), section 1104 as amended by 2009 PA 46, section 2803 as amended by 2012 PA 173, section 2807 as amended by 2000 PA 54, sections 3206 and 3209 as amended by 2012 PA 63, section 3207 as amended by 2010 PA 325, and sections 3614 and 3701 as amended by 2006 PA 299, and by adding sections 3206a and 3206b; and to repeal acts and parts of acts.

The People of the State of Michigan enact:

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.

Sec. 2801. (1) An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent marriage, he or she is married to the decedent at the time of death. A decree of separation that does not terminate the status of husband and wife is not a divorce for purposes of this section.

(2) For purposes of parts 1 to 4 of this article and of section 3203, a surviving spouse does not include any of the following:

(a) An individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless they subsequently participate in a marriage ceremony purporting to marry each to the other or live together as husband and wife.

(b) An individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual.

(c) An individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights.

(d) An individual who, at the time of the decedent’s death, is living in a bigamous relationship with another individual.

(e) An individual who did any of the following for 1 year or more before the death of the deceased person:

(i) Was willfully absent from the decedent spouse.

(ii) Deserted the decedent spouse.

(iii) Willfully neglected or refused to provide support for the decedent spouse if required to do so by law.

(3) For purposes of section 3206, a surviving spouse does not include either of the following:

(a) An individual described in subsection (2).

(b) An individual who is a party to a divorce or annulment proceeding with the decedent at the time of the decedent’s death.

Sec. 2803. (1) An individual who feloniously and intentionally kills or who is convicted of committing abuse, neglect, or exploitation with respect to the decedent forfeits all benefits under this article with respect to the decedent’s estate, including an intestate share, an elective share, an omitted spouse’s or child’s share, a homestead allowance, a family allowance, and exempt property. If the decedent died intestate, the decedent’s intestate estate passes as if the killer or felon disclaimed his or her intestate share.

(2) The felonious and intentional killing or the conviction of the felon for the abuse, neglect, or exploitation of the decedent does all of the following:

(a) Revokes all of the following that are revocable:

(i) Disposition or appointment of property made by the decedent to the killer or felon in a governing instrument.

(ii) Provision in a governing instrument conferring a general or nongeneral power of appointment on the killer or felon.

(iii) Nomination of the killer or felon in a governing instrument, nominating or appointing the killer or felon to serve in a fiduciary or representative capacity, including a personal representative, executor, funeral representative, trustee, or agent.

(b) Severs the interests of the decedent and killer or felon in property held by them at the time of the killing, abuse, neglect, or exploitation as joint tenants with the right of survivorship, transforming the interests of the decedent and killer or felon into tenancies in common.

(c) Bars the killer or felon from exercising a power under section 3206(1).

(3) A severance under subsection (2)(b) does not affect a third party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the killer or felon unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property that are relied on, in the ordinary course of transactions involving that type of property, as evidence of ownership.

(4) A provision of a governing instrument is given effect as if the killer or felon disclaimed all provisions revoked by this section or, for a revoked nomination in a fiduciary or representative capacity, as if the killer or felon predeceased the decedent.

(5) A killer's or felon's wrongful acquisition of property or interest not covered by this section must be treated in accordance with the principle that a killer or felon cannot profit from his or her wrong.

(6) After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing or the abuse, neglect, or exploitation of the decedent conclusively establishes the convicted individual as the decedent's killer or as a felon, as applicable, for purposes of this section. With respect to a claim of felonious and intentional killing, in the absence of a conviction, the court, on the petition of an interested person, shall determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent. If the court determines that, under that standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent, the determination conclusively establishes the individual as the decedent's killer for purposes of this section.

(7) This section does not apply if the forfeiture, revocation, or severance would occur because of abuse, neglect, or exploitation and the decedent executed a governing instrument after the date of the conviction expressing a specific intent to allow the felon to inherit or otherwise receive the estate or property of the decedent.

Sec. 2807. (1) Except as provided by the express terms of a governing instrument, court order, or contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce, or annulment, the divorce or annulment of a marriage does all of the following:

(a) Revokes all of the following that are revocable:

(i) A disposition or appointment of property made by a divorced individual to his or her former spouse in a governing instrument and a disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse.

(ii) A provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse.

(iii) A nomination in a governing instrument, nominating a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in a fiduciary or representative capacity, including, but not limited to, a personal representative, executor, funeral representative, trustee, conservator, agent, or guardian.

(b) Severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship, transforming the interests of the former spouses into tenancies in common.

(c) Bars the former spouse from exercising a power under section 3206(1).

(2) A severance under subsection (1)(b) does not affect a third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed, or recorded in records appropriate to the kind and location of the property that are relied on, in the ordinary course of transactions involving that type of property, as evidence of ownership.

(3) Each provision of a governing instrument is given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, for a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

(4) Each provision revoked solely by this section is revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

(5) No change of circumstances other than as described in this section and in sections 2803 to 2805, 2808, and 2809 causes a revocation.

Sec. 3206. (1) Subject to 1953 PA 181, MCL 52.201 to 52.216, part 28 and article 10 of the public health code, 1978 PA 368, MCL 333.2801 to 333.2899 and 333.10101 to 333.11101, and subsection (12), a funeral representative designated under subsection (2), a person with priority under subsections (3) to (5) or a person acting under subsection (6), (7), (8), or (9) is presumed 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 retrieve from the funeral establishment and possess cremated remains of the decedent immediately after cremation. The handling, disposition, or disinterment of a body must be under the supervision of a person licensed to practice mortuary science in this state.

(2) Except as otherwise provided in this subsection and subject to the priority in subsection (3), an individual 18 years of age or older who is of sound mind at the time a funeral representative designation is made may designate in writing another individual who is 18 years of age or older and who is of sound mind to have the rights and powers under subsection (1). All of the following apply to a funeral representative designation under this subsection:

(a) For purposes of this section and sections 3206a and 3206b, an individual who is named in a funeral representative designation to have the rights and powers described in subsection (1) is known as a funeral representative and an individual who makes a funeral representative designation is known as a declarant.

(b) A funeral representative designation under this subsection must be in writing, dated, and signed voluntarily by the declarant or signed by a notary public on the declarant's behalf under section 33 of the Michigan notary public act, 2003 PA 238, MCL 55.293. A funeral representative designation may be included in the declarant's will, patient advocate designation, or other writing. If a funeral representative designation is contained in an individual's will, the will is not required to be admitted to probate for the funeral representative designation to be valid. A funeral representative designation must be 1 or both of the following:

(i) Signed in the presence of and signed by 2 witnesses. A witness under this section may not be the funeral representative or an individual described in subdivision (c)(ii) to (iv). A witness shall not sign the funeral representative designation unless the declarant appears to be of sound mind and under no duress, fraud, or undue influence.

(ii) Acknowledged by the declarant before a notary public, who endorses on the funeral representative designation a certificate of the acknowledgment and the true date of taking the acknowledgment.

(c) The following individuals may not act as a funeral representative for the declarant unless the individual is the surviving spouse or is a relative of the declarant:

(i) An officer, partner, member, shareholder, owner, representative, or employee of a funeral establishment that will provide services to the declarant.

(ii) A health professional, or an employee of or volunteer at a health facility or veterans facility, who provided medical treatment or nursing care to the declarant during the final illness or immediately before the declarant's death, or a partner, member, shareholder, owner, or representative of the health facility where medical treatment or nursing care was provided.

(iii) An officer, partner, member, shareholder, owner, representative, or employee of a cemetery at which the declarant's body will be interred, entombed, or inurned.

(iv) An officer, partner, member, shareholder, owner, representative, or employee of a crematory that will provide the declarant's cremation services.

(3) The following have the rights and powers under subsection (1) in the following order of priority:

(a) If the decedent was a service member at the time of the decedent's death, a person designated to direct the disposition of the service member's remains according to a statute of the United States or regulation, policy, directive, or instruction of the Department of Defense.

(b) A funeral representative designated under subsection (2).

(c) The surviving spouse.

(d) Subject to subdivision (e), the individual or individuals 18 years of age or older in the following order of priority:

(i) The decedent's children.

(ii) The decedent's grandchildren.

(iii) The decedent's parents.

(iv) The decedent's grandparents.

(v) The decedent's siblings.

(vi) A descendant of the decedent's parents who first notifies the funeral establishment in possession of the decedent's body of the descendant's decision to exercise his or her rights under subsection (1).

(vii) A descendant of the decedent's grandparents who first notifies the funeral establishment in possession of the decedent's body of the descendant's decision to exercise his or her rights under subsection (1).

(e) If an individual described in subdivision (d) had the right to dispose of the decedent's body under subsection (1), but affirmatively declined to exercise his or her right or failed to exercise his or her right within 48 hours after receiving notification of the decedent's death, the individual does not have the right to make a decision about the disinterment of the decedent's body or possession of the decedent's cremated remains.

(4) If the individual or individuals with the highest priority as determined under subsection (3) cannot be located after a good-faith effort to contact and inform them of the decedent's death, affirmatively decline to exercise their rights or powers under subsection (1), or fail to exercise their rights or powers under subsection (1) within 48 hours after receiving notification of the decedent's death, the rights and powers under subsection (1) may be exercised by the individual or individuals in the same order of priority under subsection (3). If the individual or each of the individuals in an order of priority as determined under this subsection similarly affirmatively declines or fails to exercise his or her rights or powers within 48 hours after receiving notification that he or she may act under this subsection or cannot be located, the rights or powers under subsection (1) pass to the next order of priority under subsection (3). For purposes of this subsection only, "exercise their rights or powers under subsection (1)" means notifying the funeral establishment in possession of the decedent's body of an individual's decision to exercise his or her rights or powers under subsection (1).

(5) If 2 or more individuals share the rights and powers described in subsection (1) as determined under subsection (3) or (4), the rights and powers shall be exercised as decided by a majority of the individuals who can be located after reasonable efforts. If a majority cannot agree, any of the individuals may file a petition under section 3207.

(6) If no individual described in subsections (3) and (4) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (10), and if subsection (7) does not apply, then the personal representative or nominated personal representative may exercise the rights and powers under subsection (1), either before or after his or her appointment.

(7) If no individual described in subsections (3) and (4) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (10), and if the decedent was under a guardianship at the time of death, the guardian may exercise the rights and powers under subsection (1) and may make a claim for the reimbursement of burial expenses as provided in section 5216 or 5315, as applicable.

(8) If no individual described in subsections (3) and (4) exists, exercises the rights or powers under subsection (1), or can be located after a sufficient attempt as described in subsection (10), if the decedent died intestate, and if subsection (7) does not apply, a special fiduciary appointed under section 1309 or a special personal representative appointed under section 3614(c) may exercise the rights and powers under subsection (1).

(9) If there is no person under subsections (3) to (8) to exercise the rights and powers under subsection (1), 1 of the following, as applicable, shall exercise the rights and powers under subsection (1):

(a) Unless subdivision (b) applies, the medical examiner for the county where the decedent was domiciled at the time of his or her death.

(b) If the decedent was incarcerated in a state correctional facility at the time of his or her death, the director of the department of corrections or the designee of the director.

(10) An attempt to locate a person described in subsection (3) or (4) is sufficient if a reasonable attempt is made in good faith by a family member, personal representative, or nominated personal representative of the decedent to contact the person at his or her last known address, telephone number, or electronic mail address.

(11) This section does not void or otherwise affect an anatomical gift made under part 101 of the public health code, 1978 PA 368, MCL 333.10101 to 333.10123.

(12) An individual who has been criminally charged with the intentional killing of the decedent shall not exercise a right under subsection (1) while the charges are pending.

(13) Except as otherwise provided in this subsection, a person who has the rights and powers under subsection (1) and who exercises the right over the disposition of the decedent's body must ensure payment for the costs of the disposition through a trust, insurance, a commitment by another person, a prepaid contract under the prepaid funeral and cemetery sales act, 1986 PA 255, MCL 328.211 to 328.235, or other effective and binding means. To the extent payment is not ensured under this subsection, the person described in this subsection is liable for the costs of the disposition. This subsection does not apply to a person who exercises the rights and powers under subsection (1) as provided in subsection (8) or (9).

(14) As used in this section:

(a) "Armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(b) "Health facility" means that term as defined in section 5653 of the public health code, 1978 PA 368, MCL 333.5653.

(c) "Health professional" means that term as defined in section 5883 of the public health code, 1978 PA 368, MCL 333.5883.

(d) "Medical treatment" means that term as defined in section 5653 of the public health code, 1978 PA 368, MCL 333.5653.

(e) "Michigan National Guard" means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(f) “Nominated personal representative” means a person nominated to act as personal representative in a will that the nominated person reasonably believes to be the valid will of the decedent.

(g) “Service member” means a member of the armed forces, a reserve branch of the armed forces, or the Michigan National Guard.

Sec. 3206a. (1) A declarant may designate in the funeral representative designation a successor individual as a funeral representative who may exercise the rights and powers described in section 3206(1) if the first individual named as funeral representative does not accept, is incapacitated, resigns, or is removed.

(2) An individual designated a funeral representative accepts the designation as funeral representative by signing an acceptance of funeral representative, or by acting as the funeral representative.

(3) The authority under a funeral representative designation is exercisable by a funeral representative only after the death of the declarant.

(4) Except as provided in the funeral representative designation, a funeral representative shall not delegate his or her powers to another individual.

(5) On request of the funeral establishment, the funeral representative shall provide a copy of the funeral representative designation to the funeral establishment.

Sec. 3206b. A funeral representative designation is revoked by 1 or more of the following:

(a) Unless a successor funeral representative has been designated, any of the following:

(i) The funeral representative’s resignation.

(ii) The funeral representative cannot be located after reasonable efforts by the decedent’s family or funeral establishment.

(iii) The funeral representative refuses to act within 48 hours after receiving notice of the decedent’s death.

(b) The declarant’s revocation of the funeral representative designation. The declarant’s revocation of the funeral representative designation must be in writing and signed in the manner as provided in section 3206(2).

(c) A subsequent funeral representative designation that revokes the prior funeral representative designation either expressly or by inconsistency.

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.

Sec. 3209. (1) A funeral establishment is not required to file a petition under section 3207 and is not civilly liable for not filing a petition under section 3207.

(2) A funeral establishment, cemetery, or crematory may rely on the designation of a funeral representative under section 3206(2), the designation of a person as described in section 3206(3)(a), the order of priority determined under section 3206(3) and (4), or a court order under section 3207 that determines who may exercise the rights and powers under section 3206(1). A funeral establishment, cemetery, or crematory is not a guarantor that a person exercising the rights and powers under section 3206(1) has the legal authority to exercise those rights and powers. A cemetery or crematory may rely on a funeral establishment's representation as to who may exercise the rights and powers under section 3206(1). A funeral establishment, cemetery, or crematory does not have the responsibility to contact or independently investigate the existence of relatives of the deceased, but may rely on information provided by family members of the deceased or by a person other than a family member that the funeral establishment, cemetery, or crematory reasonably believes knows the existence or location of the relatives of the deceased or the funeral representative. As used in this subsection, "information" includes, but is not limited to, an affirmation that reasonable efforts to contact the individual or individuals with the rights and powers under section 3601(1) and to inform the individual or individuals of the death have been made without success.

(3) A funeral establishment, holder of a license to practice mortuary science issued by this state, cemetery, or crematory, or an officer or employee of a funeral establishment, holder of a license to practice mortuary science issued by this state, cemetery, or crematory may rely on sections 3206 and 3207 and this section and the instructions of a person described in section 3206(2) to (9) or a person that the court determines under section 3207 has rights and powers under section 3206(1) regarding funeral arrangements and the handling, disposition, or disinterment of a body and is not civilly liable to any person for the reliance if the reliance was in good faith.

Sec. 3614. A special personal representative may be appointed in any of the following circumstances:

(a) Informally by the register on the application of an interested person if necessary to protect the estate of a decedent before the appointment of a general personal representative or if a prior appointment is terminated as provided in section 3609.

(b) By the court on its own motion or in a formal proceeding by court order on the petition of an interested person if in either case, after notice and hearing, the court finds that the appointment is necessary to preserve the estate or to secure its proper administration, including its administration in circumstances in which a general personal representative cannot or should not act. If it appears to the court that an emergency exists, the court may order the appointment without notice.

(c) By the court on its own motion or on petition by an interested person to supervise the disposition of the body of a decedent if section 3206(8) applies. The duties of a special personal representative appointed under this subdivision must be specified in the order of appointment and may include making arrangements with a funeral home, securing a burial plot if needed, obtaining veteran's or pauper's funding if appropriate, and determining the disposition of the body by burial or cremation. The court may waive the bond requirement under section 3603(1)(a). The court may appoint the county public administrator if the county public administrator is willing to serve. If the court determines that it will not be necessary to open an estate, the court may appoint a special fiduciary under section 1309 instead of a special personal representative to perform duties under this section.

Sec. 3701. A personal representative's duties and powers commence on appointment. A personal representative's powers relate back in time to give acts by the person appointed that are beneficial to the estate occurring before appointment the same effect as those occurring after appointment. Subject to sections 3206 to 3207, before or after appointment, a person named as personal representative in a will may carry out the decedent's written instructions relating to the decedent's body, funeral, and burial arrangements. A personal representative may ratify and accept an act on behalf of the estate done by another if the act would have been proper for a personal representative.

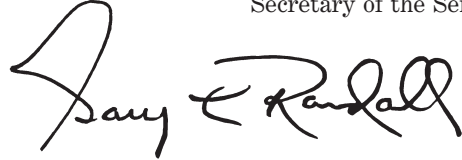
Enacting section 1. Section 3208 of the estates and protected individuals code, 1998 PA 386, MCL 700.3208, is repealed.

Enacting section 2. This amendatory act takes effect 90 days after the date it is enacted into law.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor