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House Bill 5117 (Substitute H-1 as passed by the House)
Sponsor: Representative Rodney Wakeman
House Committee: Judiciary
Senate Committee: Judiciary and Public Safety

Date Completed: 6-6-22

CONTENT

The bill would amend the Estates and Protected Individuals Code to do the following:

- Modify certain time periods under which certain individuals may exercise their rights or powers pertaining to making decisions about certain funeral arrangements and the handling, disposition, or disinterment of a decedent's body.**
- Specify that an attempt to locate a person who could exercise his or her rights or powers pertaining to making decisions about certain funeral arrangements and the handling, disposition, or disinterment of a decedent's body would be sufficient if a reasonable attempt were made in good faith by certain health facilities or veteran's facilities.**

Succession of Rights & Powers

Section 3206(1) of the Code generally prescribes the list of individuals who have the right and power to make decisions about funeral arrangements and the handling, disposition, or disinterment of a decedent's body. Section 3206(3) prescribes the order of priority of individuals who have the rights and powers under Section 3206(1).

Under Section 3206(4), if an individual or individuals with the highest priority cannot be located after a good faith effort to contact and inform them of the decedent's death, affirmatively decline to exercise the rights or powers under Section 3206(1), or fail to exercise them within 48 hours after receiving notification of the decedent's death, those rights and powers may be exercised by the individual or individuals in the same order of priority under Section 3206(3). If the individual or each of the individuals in an order of priority 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 or cannot be located, the rights or powers under Section 3206(1) pass to the next order of priority.

Instead, under the bill, if an individual or individuals with the highest priority could not be located after a good faith effort to contact and inform them of the decedent's death within 72 hours after the pronouncement of the decedent's death under the Determination of Death Act, affirmatively declined to exercise the rights or powers, or failed to exercise their rights or powers within 72 hours after the pronouncement of the decedent's death, those rights and powers could be exercised by the individual or individual's in the same order of priority under Section 3206(3). If the individual or each of the individuals in an order of priority under

Section 3206(4) affirmatively declined or could not be located, the rights or powers under Section 3206(1) would pass to the next order of priority under Section 3206(3).

"Exercise their rights or powers under [Section 3206(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 Section 3206(1). Instead, under the bill, "exercise their rights or powers under [Section 3206(1)]" would mean providing the person that holds a license under Article 18 (Mortuary Science) of the Occupational Code in possession of the decedent's body with authorization to bury or cremate the decedent's body.

Failure to Exercise Rights & Powers

The Code specifies that if there is no person to exercise rights under Section 3206(1), one of the following, as applicable, must do so:

- Unless the following provisions applied, the medical examiner for the county where the decedent was domiciled at the time of his or her death.
- 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.

Under the bill, the above provision also would apply if there were not person to exercise the rights and powers under Section 3206(1) and the person failed to exercise them within seven days after the decedent's death.

Reasonable Attempt to Locate a Person

The Code specifies that an attempt to locate a person under Sections 3206(3) or 3206(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 email address.

Under the bill, an attempt to locate a person under Sections 3206(3) or 3206(4) also would be sufficient if a reasonable attempt were made in good faith by a health facility or veteran's facility that provided medical treatment to the decedent during the final illness or immediately before the decedent's death to contact the person at his or her last known address, telephone number, or email address.

(Health facility means that term as defined in Section 5653 of the Public Health Code: a health facility licensed under Article 17 (Facilities and Agencies) of the Code.)

MCL 700.3206

Legislative Analyst: Stephen P. Jackson

FISCAL IMPACT

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

Fiscal Analyst: Michael Siracuse

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.