

# HOUSE BILL NO. 5103

October 15, 2019, Introduced by Reps. Wakeman, Howell, Lightner, Wozniak and Marino and referred to the Committee on Judiciary.

A bill to amend 1998 PA 386, entitled "Estates and protected individuals code," by amending sections 3203 and 3204 (MCL 700.3203 and 700.3204), as amended by 2018 PA 13.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

- 1           Sec. 3203. (1) For either formal or informal proceedings,  
2 subject to subsection (2), persons who are not disqualified have  
3 priority for appointment as **a general** personal representative in  
4 the following order:  
5           (a) The person with priority as determined by a probated will

1 including a person nominated by a power conferred in a will.

2 (b) The decedent's surviving spouse if the spouse is a devisee  
3 of the decedent.

4 (c) Other devisees of the decedent.

5 (d) The decedent's surviving spouse.

6 (e) Other heirs of the decedent.

7 (f) After 42 days after the decedent's death, the nominee of a  
8 creditor if the court finds the nominee suitable.

9 (g) After 63 days after the decedent's death, or if the court  
10 determines exigent circumstances exist, the state or county public  
11 administrator if any of the following apply:

12 (i) No interested person applied or petitioned for appointment  
13 of a personal representative within 63 days or the number of days  
14 determined by the court under this subdivision after the decedent's  
15 death.

16 (ii) The decedent died apparently leaving no known heirs.

17 (iii) There is no spouse, heir, or beneficiary under a will who  
18 is a United States resident and is entitled to a distributive share  
19 in the decedent's estate.

20 (2) An objection to the appointment of a personal  
21 representative may be made only in a formal proceeding. If an  
22 objection is made, the priorities prescribed by subsection (1)  
23 apply except in either of the following circumstances:

24 (a) If the estate appears to be more than adequate to meet  
25 exemptions and costs of administration but inadequate to discharge  
26 anticipated unsecured claims, on petition of creditors, the court  
27 may appoint any qualified person.

28 (b) If a devisee or heir who appears to have a substantial  
29 interest in the estate objects to the appointment of a person whose

1 priority is not determined by will, the court may appoint a person  
2 who is acceptable to the devisees and heirs whose interests in the  
3 estate appear to be worth in total more than 1/2 of the probable  
4 distributable value or, if no person is acceptable to these  
5 devisees and heirs, any suitable person.

6 (3) A person entitled to letters under subsection (1) (b) to  
7 (e) may nominate a qualified person to act as personal  
8 representative. A person may renounce his or her right to nominate  
9 or to an appointment by filing an appropriate writing with the  
10 court. If 2 or more persons share a priority, those of them who do  
11 not renounce shall concur in nominating another to act for them or  
12 in applying for appointment.

13 Sec. 3204. (1) A conservator of a protected individual's  
14 estate or, if there is no conservator, a guardian of a minor or  
15 legally incapacitated individual may exercise the same right to  
16 nominate, to object to another's appointment, or to participate in  
17 determining the preference of a majority in interest of the  
18 devisees and heirs that the protected individual or ward would have  
19 if qualified for appointment.

20 (2) Except as provided in sections 3308(1) (f) and 3310, a  
21 person who does not have priority prescribed in section 3203(1) (a)  
22 to (f), including priority resulting from renunciation or  
23 nomination determined under this section or section 3203, shall be  
24 appointed only in a formal proceeding. The state or county public  
25 administrator must be appointed only in a formal proceeding. Before  
26 appointing the state or county public administrator or any other  
27 person without priority, the court shall determine that persons  
28 having priority have been notified of the proceedings and have  
29 failed to request appointment or to nominate another person for

1 appointment, and that administration is necessary.

2 (3) A person is not qualified to serve as a personal  
3 representative if the person is either under the age of 18 or is a  
4 person whom the court finds unsuitable in formal proceedings.

5 (4) A personal representative appointed by a court of the  
6 decedent's domicile has priority over all other persons except if  
7 the decedent's will nominates different persons to be personal  
8 representatives in this state and in the state of domicile. The  
9 domiciliary personal representative may nominate another person,  
10 who then has the same priority as the domiciliary personal  
11 representative.

12 (5) This section and section 3203 govern priority for  
13 appointment of a **general personal representative or** successor  
14 personal representative, but do not apply to the selection of a  
15 special personal representative.