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House, senate bills to alter probate process

By MICHAEL MATUSZEWSKI

There will be a change in the state's probate code; that much seems certain. What is uncertain, however, is how far revisions will go in streamlining the probate process.

Of the two probate reform bills pending in the state legislature, the senate version, would completely streamline probate. The house version, on the other hand, would allow some streamlining but would still give the probate court supervisory powers.

SB-12, the senate bill, would, according to probate experts, establish a totally "unsupervised" probate. The bill is based solely on the Uniform Probate Code, backed by the American Bar Association. The code has been accepted in total by two states, Alaska and Idaho, and in part by 10 others.

Many probate judges, including Wayne County Probate Judge Ernest Boehm, Oakland County Probate Judge Eugene Moore and Clare County Judge Alexander Strange II, said the Senate version would not adequately protect heirs from unscrupulous estate administrators.

While the judges said that in 40 percent of the probate cases there are no problems, they maintained individuals need the court to protect their interests.

Boehm, who worked on drafting the house version for 2½ years, roundly criticized the senate bill.

"There can be secret filings (by those wishing to administer the estate). It'll just be a race to the courthouse," he said.

After the necessary papers are filed, the administrator would be left to do as he saw fit.

"It's strictly an individual process," Boehm said.

THE HOUSE version, a three-bill probate-revision package, would allow for "unsupervised" probate only in cases where all heirs agree.

The package was approved unanimously by the house and gained the full support of the Michigan Probate Court Judges Association, of which Boehm and Strange are influential members.

The judges recognized a need to reduce both the amount of time spent in probate and the cost, they said. But they believe there is still the need for court supervision to protect the interests of all parties.

Moore said that under the house bill the court could intervene and review the proceedings at any stage, even if the heirs had previously agreed to an "unsupervised" probate. "There is a need to protect the individual and that's what the house bill would allow," he said.

THE HOUSE revisions would require only four basic processes: filing a petition with the court to open the estate; preparing an inventory of estate assets to be distributed to inter-

ested parties; publishing one notice for creditors and filing a closing statement with the court.

These steps are required of lawyers handling an estate under the state's present probate law. The revisions, in both cases, would make it possible for the average person to go it alone without a lawyer's representation.

There are other matters than the issue of court supervision, though.

BONDING, which protects heirs in cases of illegal law practices (like the lawyer skipping town with the estate), is jeopardized under both versions. Administrators in "unsupervised" probate would not be required to bond.

But probate lawyers wonder: even if bond were required of independent probators, will bonding companies be reluctant to provide bond for inexperienced individuals?

The Oakland County Bar Association is against the revisions. Michael Zipser, a member of a Farmington Hills law firm, said, "The bar association is opposed because the supervision the probate court provides is important. If the wife is the only one who receives the property and no one objects, then maybe it's not a bad situation."

However, proponents of the Senate version argue that the probate judges and lawyers are only acting in their own selfish interests when they oppose a move to "unsupervised" probate.

"YOU'RE NOT going to find a lot of probate judges and lawyers in approval of our bill," said Michael Zagaroli, a legislative aide to Sen. Anthony Derezinski (D-Muskegon), a sponsor of the senate bill.

"Any probate reform, especially SB-12, that makes it easier to probate, works against their interests. It takes away business from the legal community, there's no doubt about it."

"There's no doubt that when you streamline probate, you run the risk of fraud. Tough probate laws are designed to minimize fraud. But there's more than one way to skin a cat."

Water quality

The Southeast Michigan Council of Governments (SEMCOG) will hold an Oakland County Town Hall meeting in Southfield at 8 p.m., Dec. 13, to discuss the management of wastewater treatment and sludge disposal.

According to SEMCOG, the purpose of the meeting, which will be held in room 115 of the Southfield Parks and Recreation Building, 25000 Evergreen, is to provide citizens enough information and lead time to prepare for public hearings which will be held in April.

SEMCOG officials and planners are currently developing the technical aspects of the Water Quality Management Plan for southeast Michigan.

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