

ESTATES AND PROTECTED INDIVIDUALS CODE (EXCERPT)
Act 386 of 1998

700.1208 Procedure to establish death of accident or disaster victim.

Sec. 1208.

(1) The procedure to establish the death of an individual who is an accident or disaster victim and whose remains have disappeared or are unidentifiable is as follows:

(a) If an accident or disaster occurs that apparently causes the death of the individual described in this section, any of the following individuals may petition the court for a determination of the cause and date of the presumed decedent's death:

(i) The medical examiner, sheriff, or prosecutor of a county described in subdivision (b).
(ii) The spouse or a next of kin, heir at law, devisee, personal representative named in a will, or creditor or debtor of the presumed decedent.

(b) Venue for a proceeding under this section is in 1 of the following:

(i) The court in a county in which the accident or disaster or any part of the accident or disaster occurs.
(ii) If the accident or disaster occurs upon or within the Great Lakes or their connecting waters, the court in a county adjacent to the scene of the accident or disaster.

(iii) If the accident or disaster did not occur in Michigan or adjoining waters, the court in the county of the presumed decedent's domicile.

(c) A petition to determine the cause and date of death as provided in this section shall not be filed less than 63 days or more than 7 years after the occurrence of the accident or disaster.

(d) A petition under this section shall set forth the facts and circumstances concerning the accident or disaster, the reasons for the belief that the presumed decedent died in the accident or disaster, that the presumed decedent has disappeared or is unidentifiable, and the names and addresses of all individuals known or believed to be heirs at law of the presumed decedent.

(e) Upon the filing of a petition under this section, the court shall fix the time and place for a hearing. The petitioner shall give or cause to be given notice of the hearing as provided by supreme court rule.

(2) An individual whose death is not otherwise established under this section or section 1207, who is absent for a continuous period of 5 years during which he or she has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. The individual's death is presumed to have occurred at the end of the period unless there is sufficient evidence to determine that death occurred earlier.

(3) In the absence of evidence disputing the time of death stated on a document described in section 1207(b), (c), or (g), a document described in section 1207(b), (c), or (g) that states a time of death 120 hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by 120 hours.

History: 1998, Act 386, Eff. Apr. 1, 2000

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