

Michigan's Uniform Laws

Quick-Take: Slowly, but surely, states are adopting more and more uniform laws to bring consistency and predictability to the estate planning process.

Background: The Uniform Law Commission (ULC) is comprised of commissioners from each state. Its goal is to create a wide-range of uniform model acts that states might choose to adopt, in the pursuit of more consistent laws across the nation.

EPIC and MTC: The most well-known examples of ULC uniform laws that Michigan has adopted applicable to estate planning are the Estates and Protected Individuals Code (EPIC), i.e., Michigan's version of the Uniform Probate Code (effective in 2000) and the Michigan Trust Code (UTC), Michigan's version of the Uniform Trust Code (effective in 2010.)

Other Uniform Laws: There are several other ULC uniform laws that Michigan has also adopted over the years, some wholesale enactments of the proposed statutory scheme, while other uniform laws that were adopted contain a few tweaks. These uniform laws Michigan has adopted may be less familiar to those in the estate planning community than EPIC and the UTC.

The Uniform Fiduciary Access to Digital Assets Act (effective 2016) [MCL 700.1001 et seq]

The Uniform Durable Power of Attorney Act (effective 2024) [MCL 556.201 et seq]

The Uniform Community Property Disposition at Death Act [MCL 557.261 -MCL 557.271]

The Uniform Directed Trust Act (effective in 2019) [MCL 700.7703a]

The Uniform Powers of Appointment Act (effective in 2024) [MCL 566.111 et seq]

The Uniform Adult Guardianship & Protective Proceedings Act (effective in 2014) later updated to the Uniform Guardianship & Protective Arrangements Act (effective in 2024) [MCL 700.5312 et seq]

The Uniform Statutory Rule Against Perpetuities Act (effective in 1988) [MCL 554.71 et seq]

The Uniform Principal and Income Act (effective in 2004) [MCL 555.501 et seq]

Rejected Uniform Laws: Some proposed uniform statutes applicable to estate planning Michigan has elected to not adopt, at least at this time, include:

- The Uniform Electronic Wills Act [more on this below.]

- The Uniform Electronic Transaction Act

- The Uniform Electronic Estate Planning Documents Act

- The Uniform Fiduciary Income and Principal Act

- The Uniform Electronic Estate Planning Documents Act

- The Uniform Trust Decanting Act. [Note: Michigan has its own versions of a decanting statute at MCL 700.7820a, which is part of the MTC for administrative changes to a trust, and MCL 556.115a, which is part of the Powers of Appointment Act for changes to beneficial interests that are implemented by a trust decanting.]

Electronic Wills Act: There is a bill currently pending in Lansing (perhaps more than one bill) to enact the ULC's proposed Electronic Wills Act. I've been told that the State Bar of Michigan's Probate and Estate Planning Council [the Probate and Estate Planning Section of the Bar] is currently studying this proposed legislation but is struggling with some of its provisions, particularly with some concerns about the need to preserve the formalities surrounding Will executions to deter bad actors. I'm not sure where this proposed legislation is currently [since no one in Lansing, just like Washington, seems to want to work very hard these days] but I will try to follow its progress through the legislative process.

Conclusion: These uniform laws, and many that were not mentioned, reflect a strong desire to bring consistency and predictability to the law, especially regarding the rules that apply to estate planning. Seeming each month one state or another will adopt one of these uniform laws, in whole or in part, so as time passes, we can hope that there will be more uniformity in the law as individuals move from state to state taking their estate planning documents with them.

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