

Michigan Court Rules that Biological Relationship Not Necessary to Inherit as a Child

The Michigan Court of Appeals recently ruled that it is not necessary to establish a biological relationship in order to be treated as a child for intestate succession purposes. The laws of intestate succession provide a distribution plan for the assets of people who do not have a Last Will & Testament. Generally, those laws divide a person's assets among their surviving spouse, if any, and their children. The intestate succession laws also provide a priority for appointing a Personal Representative (the person in charge of the estate). The rule established *In re Estate of Richard James Daniels* allows a person to be treated as a child for inheritance purposes without establishing a biological relationship with the parent.

The facts of the case required the Michigan Court of Appeals to interpret MCL 700.2114 which provides that a parent and child relationship can be established in a number of situations, including where a child is born out of wedlock, or born or conceived during a marriage but is not the issue of that marriage. In such cases, a father-child relationship can exist if the man and child have established a mutually acknowledged relationship of parent and child that begins before the child turns eighteen and continues until the death of either the man or the child.

In this case, a child was born out of wedlock to a couple that was later married. There was conflicting testimony about whether the child was in fact the biological child of the husband. The Court of Appeals ruled that, under the statute described above, it did not matter whether or not there was a biological relationship because there was undisputed testimony that the man and child both acknowledged a father-son relationship throughout the man's life. They referred to each other as father and son, and held themselves out to others as father and son. As a result, the child was treated as a son under the laws of intestate succession.

One way to avoid such disputes is to have valid estate planning documents in place. Estate planning documents allow you to control how people are treated, who would be in charge of your estate, and who inherits your assets.

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