

**RCW 11.12.120 Lapsed gift—Procedure and proof.** (1) If a will makes a gift to a person on the condition that the person survive the testator and the person does not survive the testator, then, unless otherwise provided, the gift lapses and falls into the residue of the estate to be distributed under the residuary clause of the will, if any, but otherwise according to the laws of descent and distribution.

(2) If the will gives the residue to two or more persons, the share of a person who does not survive the testator passes, unless otherwise provided, and subject to RCW 11.12.110, to the other person or persons receiving the residue, in proportion to the interest of each in the remaining part of the residue.

(3) The personal representative of the testator, a person who would be affected by the lapse or distribution of a gift under this section, or a guardian ad litem or other representative appointed to represent the interests of a person so affected may petition the court for a determination under this section, and the petition must be heard under the procedures of chapter 11.96A RCW.

(4) For purposes of this section, the appointment of an appointee under a will is a gift and may form part of the residue. [2021 c 140 § 3605; 1999 c 42 § 604; 1994 c 221 § 15; 1974 ex.s. c 117 § 51; 1965 c 145 § 11.12.120. Prior: 1937 c 151 § 1; RRS § 1404-1.]

**Effective date—2021 c 140 §§ 3101-3614:** See RCW 11.95A.903.

**Effective date—1999 c 42:** See RCW 11.96A.902.

**Effective dates—1994 c 221:** See note following RCW 11.100.035.

**Application, construction—Severability—Effective date—1974 ex.s. c 117:** See RCW 11.02.080 and notes following.