

FINAL BILL REPORT

SHB 2046

PARTIAL VETO

C 327 L 01

Synopsis as Enacted

Brief Description: Validating trusts created for the benefit of nonhuman animals.

Sponsors: By House Committee on Judiciary (originally sponsored by Representatives Haigh, Lantz, Sump, Reardon, Dunn and Barlean).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

Part of estate planning may include creating a trust. A trust is an agreement under which money or other assets are held by one person for the benefit of another. The trustor is the person creating the trust. The trustee is the person or organization responsible for managing and administering the trust assets. The beneficiary is the person receiving the benefits of the trust. Generally, any person or entity may be a beneficiary, including individuals, corporations, or associations.

A trustee is required to act according to the express terms of the trust instrument and must administer the trust property for the designated beneficiaries. The trustee may not use the property for the trustee's benefit. Unless the trust instrument states otherwise, a trustee generally has the power to acquire, invest, exchange, sell, convey, control, and manage trust property.

There is no specified time during which a trust must remain in effect. However, Washington law will not allow a private trust to continue longer than 21 years after the death of a person living at the time the trust was established.

Trusts for animals are not recognized as valid trusts in this state. However, the Uniform Probate Code includes provisions that validate trusts for animals, and some states have enacted statutes recognizing trusts for animals.

Summary:

A new chapter under the probate and trust title is created to legally recognize trusts for the care of one or more animals. "Animal" is defined as a nonhuman animal with vertebrae. Unless otherwise provided, the trust terminates when no animal that is designated as a beneficiary remains living.

No portion of the principal or income of the trust may be converted to the use of the trustee or to any use other than for the trust's purpose or for the benefit of the designated animal, except as expressly provided for in the trust instrument, by court order, or except as may be necessary to pay reasonable compensation and reimbursement to the trustee.

Upon termination of the trust, the trustee must distribute the remaining trust property in the following order: (a) as directed in the trust instrument; (b) if the trust was created by a will, under the residuary clause in the will; and (c) if the trust property cannot be distributed under (a) or (b), then, to the trustor's heirs.

The trust may be enforced by a person designated in the trust, by the person having custody of the animal, or by a person appointed by a court upon application to the court for appointment. A person with an interest in the welfare of the animal may petition the court to appoint or remove a person designated to enforce the trust. The court may do that which is necessary to carry out the intent of the trust.

No filing, report, registration, or accounting shall be required unless ordered by the court or the trust instrument.

Unless expressly provided otherwise, the trustee has all the powers and duties conferred on a trustee administering a trust for a human beneficiary.

Votes on Final Passage:

House 82 11
Senate 36 12 (Senate amended)
House 80 3 (House concurred)

Effective: July 22, 2001

Partial Veto Summary: The Governor vetoed sections that were intended to address issues raised by the rule against perpetuities, as that rule existed when the bill was introduced. The rule against perpetuities was amended by SB 5054, and the issues raised in the vetoed sections were no longer relevant.