

SENATE BILL REPORT

SHB 2046

As Reported By Senate Committee On:
Judiciary, March 27, 2001

Title: An act relating to validating trusts created for the benefit of nonhuman animals.

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).

Brief History:

Committee Activity: Judiciary: 3/19/01, 3/27/01 [DPA].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Hargrove, Johnson, Kastama, Long, McCaslin and Thibaudeau.

Staff: Dick Armstrong (786-7460)

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 that holds legal title to the trust property and is responsible for managing and administering the trust assets. The beneficiary is the person who is to receive the benefits of the trust. 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.

Under common law, trusts for animals are not recognized as valid trusts. However, the Uniform Probate Code includes provisions that validate trusts for animals, and some states have enacted statutes recognizing trusts for animals.

Summary of Amended Bill: A new chapter under the probate and trust title is created to legally recognize trusts for the care of one or more animals. Animal— means 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 transfer the remaining property in the following order: (a) as directed in the instrument; (b) if the trust was created in a nonresiduary clause in the trustor's will and the will does not direct otherwise, under the residuary clause in the will; and (c) if no taker is produced, to the trustor's heirs.

The intended use of the trust may be enforced by a person designated for that purpose 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 is 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.

Amended Bill Compared to Substitute Bill: A technical amendment is made to clarify that the bill only applies to nonhuman— animals.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains several effective dates. Please refer to the bill.

Testimony For: This bill validates trusts for animals. The bill allows owners to provide for the care of their pets and will help many elderly people. The situation does not occur too often, but when it does occur, it is important to people. The bill makes trusts for animals enforceable.

Testimony Against: None.

Testified: Doug Lawrence, WSBA; Gordon Walgren, Humane Societies.