

HOUSE BILL REPORT

SB 5297

As Reported by House Committee On:
Judiciary

Title: An act relating to the procedure for filing a declaration of completion of probate.

Brief Description: Concerning the procedure for filing a declaration of completion of probate.

Sponsors: Senators Kline and Delvin; by request of Washington State Bar Association.

Brief History:

Committee Activity:

Judiciary: 3/16/09, 3/18/09 [DPA].

**Brief Summary of Bill
(As Amended by House)**

- Modifies the probate procedures relating to a petition to approve the reasonableness of the fees paid by or to the personal representative who has nonintervention powers.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass as amended. Signed by 11 members: Representatives Pedersen, Chair; Goodman, Vice Chair; Rodne, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Flannigan, Kelley, Kirby, Ormsby, Roberts, Ross and Warnick.

Staff: Courtney Barnes (786-7194)

Background:

Washington law provides procedures for the settlement of a deceased person's estate. One of these procedures permits a personal representative of a decedent to petition the court for nonintervention powers. Absent objections or contrary provisions in the decedent's will, the court must grant the personal representative's petition and provide the personal representative with nonintervention powers.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

A personal representative in a nonintervention probate can close an estate without seeking a decree from the court. The personal representative must file a declaration of completion of probate and provide notice to the heirs, legatees, or devisees (collectively, beneficiaries) within five days of filing the declaration. Beneficiaries may demand a report from the personal representative at any time before the estate is closed and ask the court to hold the personal representative accountable for fees paid by or to the personal representative. If no beneficiary objects within 30 days of the filing of the declaration of completion, the personal representative is automatically discharged and the declaration of completion has the same effect as a final decree of distribution. The beneficiaries lose their ability to challenge the actions of the personal representative and all issues relating to the probate become final and cannot be relitigated.

Within 30 days of the filing of the declaration of completion, a beneficiary may petition the court to approve the reasonableness of the fees paid to the personal representative or the accounting of the estate. The beneficiary filing the petition must serve the personal representative or the personal representative's lawyer within 30 days of filing the petition. The personal representative must request the court to set a hearing date and provide notice to the beneficiary petitioning the court of the hearing date.

Summary of Amended Bill:

A beneficiary petitioning the court to approve the reasonableness of the fees paid to the personal representative or the accounting of the estate must serve a copy of the petition upon the beneficiaries to whom the personal representative sent a copy of the declaration of completion. The burden of requesting the court to set a hearing date is shifted to the petitioner.

The petitioner must provide notice of hearing time and place by mail or personal service not less than 10 days before the hearing on the petition. This notice must be provided to the personal representative or personal representative's lawyer, and to the beneficiaries to whom the personal representative provided a copy of the declaration of completion.

If the petitioner files and serves the petition but fails to provide notice of the hearing time and place to the required parties, the acts of the personal representative will be approved by the court and the personal representative will be automatically discharged as provided in statute.

Amended Bill Compared to Original Bill:

The amended bill adds the requirement that the beneficiary petitioning the court, to approve the reasonableness of the fees or asking for an accounting of the estate, notify other beneficiaries of the court petition in cases where notice has been sent that the probate is complete except for the determination of taxes. The amended bill restructures the changes made by the original bill for clarity.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill is a technical bill brought by request of the Washington State Bar Association. The bill amends the statutory procedure for closing a probate proceeding when court intervention is not required. The bill requires a beneficiary, petitioning the court to approve the reasonableness of the fees or asking for an accounting of the estate, to notify all of the other beneficiaries of the court petition. The bill also requires the person who files the petition to request a hearing date and notify the personal representative and beneficiaries of the hearing.

(Opposed) None.

Persons Testifying: Senator Kline, prime sponsor; and Beth McCaw, Washington State Bar Association.

Persons Signed In To Testify But Not Testifying: None.