

SENATE BILL REPORT

SB 5371

As of February 9, 1995

Title: An act relating to distribution of estates.

Brief Description: Concerning the distribution of estates.

Sponsors: Senators Morton and West.

Brief History:

Committee Activity: Law & Justice: 2/16/95.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Cynthia Runger (786-7717)

Background: Certain inheritance rules apply to the distribution of property when the decedent dies "intestate," that is, without a will. Under current law, the surviving spouse receives all of the decedent's share of the net community property if the decedent has no children, and one-half of the net separate estate if the decedent is survived by children. The surviving spouse receives three-quarters of the net separate estate if the decedent does not have any children but is survived by either or both of his or her parents or by his or her brothers and sisters. If the parties divorce, the rule does not apply because the person is no longer the "spouse" of the decedent. However, the rules apply even if the parties filed for divorce or legal separation and the action is still pending at the time of decedent's death.

In the case of property left in a will, a divorce subsequent to the making of a will revokes the will as to the divorced spouse, unless the will expressly provides otherwise. The law does not provide that a pending petition for divorce or legal separation revokes the provisions of the will.

Summary of Bill: The surviving spouse does not receive any of the decedent's share of the net community property or decedent's separate property if either spouse previously petitioned the court for a legal separation, dissolution of marriage, or declaration of invalidity and the petition is pending at the time of the decedent's death. This applies whether the decedent dies intestate or leaves a will.

Appropriation: None.

Fiscal Note: Requested on February 6, 1995.

Effective Date: Ninety days after adjournment of session in which bill is passed.