

FINAL BILL REPORT

SSB 6181

C 292 L 98

Synopsis as Enacted

Brief Description: Regulating probate, trusts, and estates.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Johnson and Roach).

Senate Committee on Law & Justice

House Committee on Law & Justice

Background: Under current Washington law, it is impossible for a person through a new will to modify nonprobate asset arrangements and to effect an equal division of all assets among his or her heirs, without modifying presumably closing these accounts. Nonprobate assets include such things as joint bank accounts with a payable on death clause. Although the intent in setting up the account may have been to provide for a source of funds for all heirs, the heir on the account may take all the money regardless of the intent of the will.

Slayer statutes exist to prevent one who kills another from gaining financially from the act. Washington's slayer statute specifically forbids a slayer from acquiring or receiving any property or benefit from the death of the victim. However, this law does not allow taking property away from the slayer which was acquired prior to the killing.

When a slayer and victim are related by marriage or business venture, they often own property jointly. This property is distributed on death to the living partner and the deceased's estate, as it would have been if the death had been accidental.

The Court of Appeals has held that a slayer does not lose his or her right to community property because of the murderous act. In some situations this has meant that the slayer receives his or her share of the state retirement benefits of the victim as well as other property.

Summary: Persons are allowed to designate by will the beneficiaries at death of certain assets that are not otherwise subject to probate proceedings. By writing his or her will, a person can supersede pre-existing beneficiary designations on joint bank accounts with rights of survivorship, transfer on death securities and certain other limited assets in order to enable the terms of his or her will to govern the disposition of all those assets.

A minor technical correction is made to legislation passed by the Legislature in 1997. The primary correction replaces provisions that were prematurely repealed as of July 27, 1997, though their replacement provisions did not take effect until January 1, 1998.

Minor changes to the Uniform Transfers to Minors Act are made to allow an individual to appoint a custodian to hold an asset for the child when a future event actually occurs.

References made in Washington's probate code and estate tax statutes are updated to the current provisions of the Internal Revenue Code to reflect current law.

The slayer's rights to retirement benefits of the victim under the state retirement system are taken away and given to the victim's estate. The Department of Retirement Systems, after notice that a slayer situation exists, determines to whom payment should be made. Any provisions which violated federal law are severable from the remaining provisions.

Votes on Final Passage:

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|--------|----|---|----------------------------|
| Senate | 48 | 1 | |
| House | 98 | 0 | (House amended) |
| Senate | | | (Senate refused to concur) |

Conference Committee

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|--------|----|---|
| House | 98 | 0 |
| Senate | 46 | 0 |

Effective: April 2, 1998 (Sections 117, 201-205, 301, 401, 501-507, & 604)
June 11, 1998
July 1, 1999 (Sections 101-116 & 118)