

HOUSE BILL REPORT

SB 6242

As Reported by House Committee On:

Judiciary

Title: An act relating to nonprobate asset beneficiary designation.

Brief Description: Modifying the definition of nonprobate asset.

Sponsors: Senators Johnson and Kline.

Brief History:

Committee Activity:

Judiciary: 2/21/02, 2/22/02 [DP].

Brief Summary of Bill

- Amends the definition of "nonprobate asset" relating to dissolution of marriage to reference potential contrary and controlling federal law.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Hurst, Vice Chair; Carrell, Ranking Minority Member; Boldt, Dickerson, Esser, Jarrett, Lovick and Lysen.

Staff: Siovan Sheridan-Ayala (786-7119); Edie Adams (786-7180).

Background:

Probate is the proving of a will to the satisfaction of a court. An asset is an item that is owned and has value. Therefore, a "nonprobate asset" means those items and interests that pass on to another through a written instrument other than the deceased person's will after the person's death.

Washington law provides that upon divorce, a spouse is automatically revoked as a beneficiary of various nonprobate assets of the other spouse. The nonprobate assets affected by the dissolution of marriage include employee benefit plans, annuities or similar contracts, individual retirement accounts, life insurance, pension plans, certain trusts, or payable-on-death bank accounts. On the other hand, federal law provides that

payments on an employee benefit plan must be administered in accordance with plan documents, even if those documents have not been updated since a divorce. In a recent U.S. Supreme Court case, *Egelhoff v. Egelhoff*, the court held that the Washington statute cannot be applied to pension plans governed by the Employment Retirement Income Security Act (ERISA) because that federal law preempts the state law.

Summary of Bill:

Payable-on-death life insurance policies, employee benefit plans, annuities or similar contracts, or individual retirement accounts affected by the dissolution of a marriage are subject to Washington statutes, unless they are otherwise controlled by federal laws.

Appropriation: None.

Fiscal Note: Not Requested.

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

Testimony For: Non-lawyer citizens, non-specialist lawyers, and general legal practitioners will all benefit from this bill. The bill was crafted to, as briefly as possible, alert the statute reader of a possible preemption issue. The bill was also written in a way that would accommodate any future changes in the law.

Testimony Against: None.

Testified: Alfred Falk, Washington State Bar Association Estate and Gift Tax Committee.