

HOUSE BILL REPORT

HB 2904

As Reported by House Committee On:
Judiciary

Title: An act relating to estate adjudication for the department of social and health services.

Brief Description: Modifying estate adjudication provisions.

Sponsors: Representatives Lovick, Moeller, Kirby, McMahan and Newhouse; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Judiciary: 2/6/04 [DPS].

Brief Summary of Substitute Bill

- Requires that notice of estate adjudications be sent to the Washington Department of Social and Health Services.
- Requires that the heir of an estate wait four months after providing notice of adjudication before being released from liability for assets transferred from the estate.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Lantz, Chair; Moeller, Vice Chair; Carrell, Ranking Minority Member; McMahan, Assistant Ranking Minority Member; Campbell, Flannigan, Kirby, Lovick and Newhouse.

Staff: Sarah Shirey (786-5793); Bill Perry (786-7123).

Background:

"Probate" is the administration of a dead person's estate under the supervision of a court. The probate code covers estates whether or not the decedent has left a will. Washington's Probate Code provides procedures for transferring a decedent's property and for protecting various potentially competing interests in that property. These interests may be held by family members, joint owners, creditors, and taxing authorities.

Washington's probate code requires that personal representatives be appointed to administer an estate after a person's death. The personal representative is required to publish a general

notice to creditors who may have a claim against the estate. If the representative does not publish a general notice, then the representative is required to mail notice of his or her appointment and the pending probate proceedings to the Washington Department of Social and Health Services' Office of Financial Recovery (DSHS).

In some instances, however, no personal representative is appointed to administer an estate, and probate is never initiated. In this case, a person may petition the court for an adjudication of testacy or intestacy and heirship in order to transfer a decedent's property. The person who obtains the adjudication must only provide notice to the potential heirs, legatees or devisees of the estate. As a result, estate property may be transferred to the heirs before the DSHS and other creditors are able to collect the decedent's debts.

The DSHS pays more than one hundred million dollars each year to defray the long-term care expenses of the elderly. Federal and state statutes require the DSHS to recover these payments from the estates of deceased elderly recipients of such services.

Summary of Substitute Bill:

When no personal representative has been appointed, the person obtaining the adjudication of testacy, intestacy or heirship has 30 days to provide notice of the adjudication to the Washington Department of Social and Health Services' Office of Financial Recovery along with the decedent's name and social security number.

Any person paying, delivering, transferring, or issuing property to the heir of an estate is not released from liability for assets transferred from the estate for four months after providing notice of adjudication.

Substitute Bill Compared to Original Bill:

The substitute bill makes technical changes requested by the Bar Association to ensure the language is consistent with the probate code.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Washington's Department of Social and Health Services needs this provision to ensure that they can collect debts owed to them from the estates of the elderly people they serve. Federal law requires DSHS to recover a portion of the long-term care expenses from the estates of those they serve. This law will help them to recover more of these expenses. The bill is estimated to bring an additional \$500,000 in revenue to DSHS. This money has already been accounted for in the Governor's supplemental budget.

Testimony Against: None.

Persons Testifying: Representative Lovick, prime sponsor; and Denise Gaither, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.