

SENATE BILL REPORT

SB 5055

As of January 13, 2005

Title: An act relating to trust and estate management.

Brief Description: Managing trusts and estates.

Sponsors: Senators Johnson, Kline and Rockefeller.

Brief History:

Committee Activity: Judiciary: 1/11/05.

SENATE COMMITTEE ON JUDICIARY

Staff: Lilah Amos (786-7429)

Background: Currently only "lawful" lineal descendants are included in the definition of issue for inheritance purposes. The anti-lapse statute currently allows the interests of grandchildren or remote descendants in a trust, or will, to lapse if that child's parent dies before the grantor.

A personal representative must both file an oath with the probate court and record the oath. In both probate and nonprobate estates, if the personal representative or notice agent chooses to publish notice to creditors, the publication must occur both in the county of decedent's residence and in the county of probate or notice. Creditors are barred from making a claim against an estate unless the claim is filed within twenty-four months; however, another section provides a six year window for filing a claim.

Parents can appoint guardians for their minor children in a will. No specific provision allows a parent to appoint, in a power of attorney, a guardian for minor children or an attorney in fact to make health care decisions for minor children.

When a vacancy exists in the office of trustee and no successor trustee has been named, formal notice must be given to all beneficiaries even if they all agree to a nonjudicial change of trustee. Authorized agents who may be allowed entry into safe deposit boxes are not defined

Summary of Bill: Inheritance law is changed to remove the requirement that a descendant be "lawful" in order to be a lineal descendant. The status of an adopted person as a lineal descendant is clarified. The anti-lapse statute is modified to protect the interests of grandchildren and other remote descendants in trust assets or estates.

The requirement that a personal representative's oath be recorded is eliminated. Provisions regarding notice to creditors and the method of filing creditor's claims in both probate and nonprobate proceedings are modified to require notice to be published in only one county. The six-year limitation on filing claims against an estate is eliminated, resulting in a uniform twenty-four month time limit within which claims can be made against estates.

In addition to surviving parents, sole parents are authorized to nominate guardians for their minor children. Parents are authorized to nominate a guardian for a minor child in a durable power of attorney. In a parent's power of attorney, the parent is also authorized to nominate an attorney in fact to make health care decisions for minor children.

Notice provisions regarding a change of trustee are modified. Security accounts which are transferrable upon death are specified. Agents authorized to enter security deposit boxes are defined to include personal representatives, persons holding powers of attorney, and trustees.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Testimony For: This bill was drafted and reviewed by the attorneys who practice in the trust and estate area and are members of the Washington State Bar Association Real Property, Probate, and Trust committee. The bill is a potpourri of changes which update statutes and will simplify and modernize practice in these areas.

Testimony Against: None

Who Testified: PRO: Al Falk, Washington State Bar Association Real Property, Probate, and Trust Section.