

# SENATE BILL REPORT

## SB 5318

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As Reported by Senate Committee On:  
Human Services, February 2, 2023

**Title:** An act relating to limiting estate recovery.

**Brief Description:** Limiting estate recovery.

**Sponsors:** Senators Nobles, Kuderer, Nguyen and Wilson, C..

**Brief History:**

**Committee Activity:** Human Services: 1/26/23, 2/02/23 [DPS-WM, w/oRec].

**Brief Summary of First Substitute Bill**

- Exempts the Health Care Authority and the Department of Social and Health Services from filing liens against property or seeking adjustment and recovery prior to the death of certain individuals.
- Removes requirement for funds and accounting to be sent to the Department of Social and Health Services when a resident who received long-term care services paid for by the state dies.

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### SENATE COMMITTEE ON HUMAN SERVICES

**Majority Report:** That Substitute Senate Bill No. 5318 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wilson, C., Chair; Kauffman, Vice Chair; Frame and Nguyen.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; Warnick and Wilson, J..

**Staff:** Delika Steele (786-7486)

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

**Background:** The Department of Social and Health Services (DSHS) and the Health Care Authority (HCA) are required to be repaid for costs of some medical services and long term services and supports an individual receives. DSHS and HCA are authorized to file liens for recovery of assistance costs against an individual's life estate or joint tenancy interest in real property immediately prior to the individual's death. Liens may be filed when:

- the individual is an inpatient at a nursing or immediate care facility for persons with intellectual disabilities or another medical institution; and
- the individual cannot be reasonably expected to be discharged from a medical institution after there was notice and opportunity for a hearing.

DSHS dissolves liens for individuals who are discharged from medical facilities and return home.

The DSHS Office of Financial Recovery receives funds held by long-term care facilities on behalf of residents who received long-term care paid for by the state. The funds are sent within 30 days of the resident's death and DSHS is required to release funds for burial expenses.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (First Substitute):** DSHS and HCA are not authorized to file liens against property or seek adjustment and recovery prior to a decedent's death. The Office of Financial Recovery will not be sent funds held by long-term care facilities on behalf of residents who had their long-term care paid for by the state, and will not release funds for burial expenses.

**Appropriation:** None.

**Fiscal Note:** Requested on January 18, 2023.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on First Substitute:** PRO: Members of our communities work hard for their families and try to make things better for generations to come. However, lack of access to capital has led to an extreme wealth gap and has left many members of our communities, particularly low-income individuals and people of color, in a cycle of intergenerational poverty. Washington State is working towards dismantling poverty and this bill can help in achieving that goal. When a person passes away, the state collects expenses from their estate, regardless of their income and assets. The burden of the cost of estate recovery falls mainly on those left behind. A home is often the most valuable asset many families may ever own and it is a sneaky thing for homes to be taken in these situations. Surviving families should not be punished because their loved

ones received end of life care. Wealth should stay in the communities in which it was accumulated and it is important to close the wealth gap and help move families out of poverty.

**Persons Testifying:** PRO: Senator T'wina Nobles, Prime Sponsor; Angela Macey-Cushman, WSBA Elder Law Committee.

**Persons Signed In To Testify But Not Testifying:** No one.