

SENATE BILL REPORT

SB 6597

As Reported By Senate Committee On:
Judiciary, February 2, 2006

Title: An act relating to trusts and estates.

Brief Description: Modifying trusts and estates, generally.

Sponsors: Senators Johnson, Kline, Weinstein and Esser.

Brief History:

Committee Activity: Judiciary: 1/19/06, 2/2/06 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6597 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Cindy Fazio (786-7405)

Background: Title 11 of the Revised Code of Washington (RCW) contains most of the provisions dealing with probates and trusts. Other titles of the RCW that are often used in conjunction with title 11 are title 6, dealing with the enforcement of judgments, and title 19, dealing with miscellaneous business regulations.

The Washington State Bar Association, through a committee specific to this area of law, proposes changes to these titles in specific areas where either problems with the interpretation of the law have surfaced or in areas where specific outcomes not anticipated or desired from the original language have resulted.

Summary of Substitute Bill: Trusts can be initially created as unitrusts. The payout percentage of unitrusts is changed to a range consistent with the federal internal revenue rate.

Changes to the marital deduction allowance provision of the trust gift distribution portion of title 11 are made to preserve the marital deduction in cases of mistakes by will drafters. The changes take into account an interpretation of the provision by the federal Internal Revenue Service. The changes also anticipate changes by the federal law that go into effect in 2009. Technical changes are made to this provision for consistency with the federal law.

Changes are made to the provisions dealing with spendthrift trusts. Specific changes regard the ability of the trust creator to affect the gift tax provisions of that trust without turning the trust into another trust form that is not otherwise allowed in Washington law.

A change is made to the laws regarding small estates to clarify the circumstances under which heirs can receive a deceased person's property without the need for a full probate of the estate.

The dollar amount definition of a small estate is changed from \$60,000 to \$100,000.

Substitute Bill Compared to Original Bill: The provisions relating to the trusts and estates dispute resolution act are removed. The dollar amount definition of a small estate is changed from \$60,000 to \$100,000. Technical changes are made.

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 represents a number of changes in the various provisions. There is one technical change we will have to make at some point. The topic areas changed are: the principal and income act - this change is made to reflect changes by the Internal Revenue Service; marital deductions - changes are made to clarify the law; personal representatives - changes are made to avoid tax problems; mediation - venue and notice provisions are changed; spendthrift trusts - the law is clarified to avoid certain problems; small estates - the changes specify that in small estates brokerage firms, banks, and credit unions must accept affidavits from the heirs of a deceased person as authority to release the deceased person's property.

Testimony Against: None.

Who Testified: PRO: Al Falk, Washington State Bar Association.