

# SENATE BILL REPORT

## SB 5055

---

---

As of January 13, 2012

**Title:** An act relating to the notice of appointment of a personal representative in probate proceedings.

**Brief Description:** Regulating the notice of appointment of a personal representative in probate proceedings.

**Sponsors:** Senators Kline, Pflug, Kohl-Welles, Nelson, McAuliffe, Keiser, Chase, Fraser, Haugen, Prentice, Brown, Holmquist Newbry, Rockefeller and Shin.

**Brief History:**

**Committee Activity:** Judiciary: 1/14/11, 1/13/12.

---

### SENATE COMMITTEE ON JUDICIARY

**Staff:** Katherine Taylor (786-7434)

**Background:** Currently, the personal representative of the estate of a decedent must provide written notice of his or her appointment and the status of the probate proceedings, to each heir, legatee and devisee, as well as to any nonprobate asset beneficiary or transferee whose name and address is known to the personal representative. The personal representative must then file an affidavit in the action containing proof of the notice.

Additionally, if the personal representative does not otherwise give notice to creditors under chapter 11.40 RCW within 30 days after appointment, the personal representative must provide written notice of his or her appointment and the status of the probate proceedings to be mailed to the Department of Social and Health Services' (DSHS) Office of Financial Recovery. Proof of the mailing must be made by affidavit and filed with the court.

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

**Summary of Bill (Proposed Substitute):** Within 20 days of the entry of an order admitting a will to probate, the personal representative must submit a copy of the affidavit containing proof of the mailing of notice of his or her appointment and pendency of the probate proceedings along with the corresponding date of birth for each heir, legatee, or devisee of the estate to DSHS Division of Child Support.

---

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

DSHS may adopt rules necessary to implement this new requirement of a personal representative.

Any information or records concerning individuals who owe a support obligation or for whom support enforcement services are being provided or obtained under this proposed law must be private and confidential. The information or records must be subject to public disclosure only if required by rules adopted by the secretary of DSHS.

**Appropriation:** None.

**Fiscal Note:** Requested on January 12, 2012.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony:**

Testimony From 2011 Regular Session on Original Bill.

PRO: We have some suggestions to help refine how this process would work. While this bill is not our request legislation, we are here to work with the King County Prosecutor's Office that this is an efficient and straightforward process to obtain the information. This bill is important to the children and families of this state who are owed child support. It is very difficult and time consuming to get information piecemeal regarding beneficiaries of estates where that beneficiary owes back child support. This bill sets up a very simple method for the state to receive this information. This bill is not about intercepting money intended to go to a minor beneficiary. The intent of the bill is to get information about beneficiaries and match the information to a list of those owing child support.

Testimony From 2012 Regular Session on Proposed Substitute.

PRO: DSHS supports the intent of the bill and language. There are many heirs that owe child support and this would help. DSHS will work with the probate bar to make this easier. Currently, DSHS only finds heirs that owe child support by happenstance. The attorney or personal representative's responsibility involving this would be minimal. Currently, there are no penalties for not sending this kind of information to DSHS.

OTHER: Wants to support the state's desire to help families. However, probate proceedings already take a lot of time. The personal representative's responsibilities should be clearly defined and not too time consuming. This is the first time that a personal representative is being asked to do research. It is unclear how much research the personal representative has to do, if it is difficult to find an heir's date of birth.

**Persons Testifying:**

Persons Testifying From 2011 Regular Session on Original Bill.

PRO: David Stillman, DSHS Division of Child Support; Kathleen O'Brien, King County Prosecutor's Office.

Persons Testifying From 2012 Regular Session on Proposed Substitute.

PRO: David Stillman, DSHS Economic Services; Wally McClure, DSHS Division of Child Support.

OTHER: Elizabeth McCaw, WSBA Real Property, Probate, and Trust Section.