

HOUSE BILL REPORT

HB 1410

As Passed House
March 8, 1993

Title: An act relating to descent and distribution.

Brief Description: Concerning the distribution of intestate estates.

Sponsors: Representatives Morton and Appelwick.

Brief History:

Reported by House Committee on:
Judiciary, February 16, 1993, DP;
Passed House, March 8, 1993, 96-0.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 17 members:
Representatives Appelwick, Chair; Ludwig, Vice Chair;
Padden, Ranking Minority Member; Ballasiotes, Assistant
Ranking Minority Member; Campbell; Chappell; Forner;
Johanson; Locke; Long; Mastin; H. Myers; Riley; Schmidt;
Scott; Tate; and Wineberry.

Staff: Patricia Shelledy (786-7149).

Background: Certain inheritance rules apply to the descent and distribution of property when the decedent dies "intestate," that is, without a will. Under current law, the surviving spouse receives all of the decedent's share of the net community property; and one-half of the net separate estate if the decedent is survived by children; or three-quarters of the net separate estate if the decedent does not have any children but is survived by either or both of his or her parents or by his or her brothers and sisters. If the parties divorce, the rule does not apply because the person is no longer the "spouse" of the decedent. However, the rule does apply even if the parties have filed for divorce or legal separation.

In the case of property left in a will, a statute provides that "[a] divorce, subsequent to the making of a will, shall revoke the will as to the divorced spouse." The Judiciary Committee recently passed SHB 1077, which provides that, with certain exceptions, any instrument leaving a nonprobate asset to the spouse is revoked upon the dissolution or

invalidation of the marriage. Neither provision provides that a petition for divorce or legal separation revokes the provisions of the will or the nonprobate transfer.

Summary of Bill: The rules of descent and distribution are changed if a person dies "intestate," that is, without leaving a will. The surviving spouse will not receive any of the decedent's share of the net community property if the decedent has previously petitioned for a legal separation, a dissolution of marriage, or a declaration of invalidity and the petition for separation, dissolution, or invalidity is still pending. The decedent's share of the net community estate and the decedent's separate estate will be distributed as if the decedent did not have a surviving spouse.

The rule appears to apply only if the decedent, rather than the other spouse, filed for divorce or legal separation.

Fiscal Note: Not requested.

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

Testimony For: None.

Testimony Against: None.

Witnesses: None.