

SENATE BILL REPORT

SB 5110

As Reported By Senate Committee On:
Law & Justice, February 5, 1997

Title: An act relating to probate.

Brief Description: Updating probate provisions.

Sponsors: Senators Johnson and Roach.

Brief History:

Committee Activity: Law & Justice: 1/27/97, 2/5/97 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5110 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Hargrove, Haugen, Kline, Long, McCaslin, Stevens and Zarelli.

Staff: Mal Murphy (786-7412)

Background: The Washington State Bar Association's Probate Law Task Force has been engaged in a multipart, six-year effort to update and modernize the state probate code. This bill represents the completion of that effort, by addressing four substantive areas of the code, clarifying others, and making several technical updates and/or corrections.

Under the current probate code, the filing and publication of a notice to creditors after a decedent's death is mandatory. Notice need not be given to reasonably ascertainable creditors whose claims become known. Claims against an estate are barred if not filed within 18 months after filing and publication of the notice to creditors.

Filing an inventory of the assets of an estate with the court is mandatory. An appraisal must also be prepared, but need not be filed with the court.

An award in lieu of homestead and provision for the support of minor children if there is no surviving spouse may be made by the court, under conditions and subject to restrictions set out in the code.

The probate code currently contains provisions controlling the circumstances under which, and the requirements regarding, the administration of decedents' estates without the intervention of a court.

Summary of Substitute Bill: The provisions relating to creditors claims against estates are restated in their entirety. The filing and publication of a notice to creditors are voluntary. Notice may be given to reasonably ascertainable creditors whose claims become known. The

current 18- month time bar for filing claims where notice to creditors has been published is extended to 24 months. A creditor receiving actual notice must file its claim within 30 days after service or mailing of the notice or four months from publication, whichever is later.

Filing an inventory of the assets of an estate is voluntary. Creditors, heirs and beneficiaries having an interest in the estate are entitled to obtain an inventory from the personal representative.

The provisions for family support are restated in their entirety. Existing statutory provisions regarding awards in lieu of homestead and family allowance are consolidated in a new chapter. A court may award support to a surviving spouse or minor children from either the probate or nonprobate assets of an estate, regardless of whether or not a probate proceeding has been commenced in this state. Courts have discretion to increase the amount of support awarded to a surviving spouse or minor children. A petition for support must be filed within 18 months of death if a personal representative has been appointed, and in any case before the close of probate.

Provisions relating to nonintervention powers are substantially rewritten. The duty of a personal representative to notify beneficiaries after an estate has become insolvent is clarified, co-personal representatives are allowed to delegate powers and duties among themselves, and certain powers to hold a reserve of the estate's assets and deal with tax authorities in closing the estate are granted.

Various other technical and clarifying revisions to the probate and trust law are enacted.

Substitute Bill Compared to Original Bill: The substitute bill is for clarification only. It does not effect any substantive change.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The bill updates and improves probate code, and simplifies a statute which, over the years, has become encrusted with sometimes confusing amendments. It brings our code into conformity with laws in other states, and adopts many provisions of the Uniform Probate Code.

Testimony Against: None.

Testified: Mark Roberts, Watson Blair, Barbara Sherland, Douglas Lawrence, Washington State Bar Association Probate Law Task Force (pro).