

SENATE BILL REPORT

SB 5403

As of February 14, 1997

Title: An act relating to distribution of estates.

Brief Description: Concerning the distribution of estates.

Sponsors: Senators Morton, Roach, Haugen and Winsley.

Brief History:

Committee Activity: Law & Justice: 2/20/97.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Mal Murphy (786-7412)

Background: A surviving spouse is entitled to a portion of the net estate of a decedent, in the case of intestacy, or to take under the will if there is one, without regard to a legal separation or the pendency of any dissolution or invalidation proceedings. The pendency of such proceedings has no effect on the surviving spouse's right to serve as personal representative of a decedent's estate, or trustee of any irrevocable testamentary trust.

Summary of Bill: If at the time of death a petition for dissolution, separation, or declaration of invalidity is pending, the surviving spouse takes whatever he or she would have been entitled to under a separation agreement had the decedent not died, if there is one. If no separation agreement has been entered into, the surviving spouse takes under the laws of intestacy, if there is no will, or under the will, if one has been executed.

A court may reduce or eliminate the share of a surviving spouse where a petition for dissolution, separation or invalidity was pending at the time of death, and no separation agreement had been entered into, or the will does not expressly provide otherwise. A petition to reduce or eliminate must be filed within six months of death. In ruling on the petition, the court must consider, among others factors, the economic circumstances of the surviving spouse, and the actual intentions of the decedent as demonstrated by clear and convincing evidence.

Unless the will or any trust instrument was executed after a petition for dissolution, separation or invalidity was filed, or notice of such a petition was received, or the will or trust instrument clearly indicates otherwise, a surviving spouse is ineligible to serve as personal representative, or trustee of a testamentary trust.

Appropriation: None.

Fiscal Note: Not requested.

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

