SENATE BILL REPORT
SB 6242

As Passed Senate, February 6, 2002

Title: An act relating to nonprobate asset beneficiary designation.

Brief Description: Modifying the definition of nonprobate asset.

Sponsors: Senators Johnson and Kline.

Brief History:
  Committee Activity: Judiciary: 1/22/02, 1/28/02 [DP].
  Passed Senate: 2/6/02, 47-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.
    Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Hargrove, Johnson, Long, Poulsen and Thibaudeau.

Staff: Lidia Mori (786-7755)

Background: Current Washington law provides, upon divorce, for the automatic revocation of the designation of a spouse as a beneficiary of various nonprobate assets like life insurance, pension plans, and payable on death bank accounts. A recent U.S. Supreme Court decision, *Egelhoff v. Egelhoff,* found that the Washington statute cannot be applied to pension plans governed by the Employment Retirement Income Security Act (ERISA) because that federal law preempts the state law. It is the hope of proponents of this legislation that the express reference to controlling federal law contained in this bill will cause practitioners to not rely upon the Washington statute where it has been preempted by federal law.

Summary of Bill: "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument other than the decedent's will. The written instruments include a payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account unless provided otherwise by controlling federal law.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The Washington State Bar Association endorses this bill.

Testimony Against: None.

Testified: Watson B. Blair, WA. State Bar Assn (pro).