

SENATE BILL REPORT

SB 6121

As Passed Senate, February 11, 2004

Title: An act relating to filing a will under seal before the testator's death.

Brief Description: Filing a will under seal before the testator's death.

Sponsors: Senators Johnson, Kline, McCaslin, Esser and Winsley.

Brief History:

Committee Activity: Judiciary: 1/14/04 [DP].

Passed Senate: 2/11/04, 49-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators McCaslin, Chair; Esser, Vice Chair; Brandland, Haugen, Johnson, Kline, Roach and Thibaudeau.

Staff: Jinnah Rose-McFadden (786-7421)

Background: Wills are often left in the custody of drafting attorneys. If an attorney has not made provisions for the proper disposition of a client's will, prior to the attorney's death or move out of state, the State Bar Association takes control of these documents. The State Bar then has the burden of locating each testator.

Summary of Bill: Court clerks are authorized to accept original wills under seal. Any person who is in the custody of an original will, who does not have knowledge of the testator's death, may file that will under seal with any court having jurisdiction. While the testator may withdraw the will at any time, any other person may only withdraw the will with a court order showing of good cause.

The clerk's office may unseal the will only upon the request and presentation of a certified copy of the testator's death certificate.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: This bill was requested by the Bar Association. The bar finds itself warehousing many wills left in the custody of deceased or retired attorneys. However, locating testators is a difficult task. This bill provides a procedure by which the bar can safely dispose of wills left in its possession, by filing these wills under seal with the court. Filing a will under seal safeguards the will from the general public, while allowing a testator to easily locate and access their will.

Testimony Against: None.

Testified: PRO: Al Falk, Washington State Bar Association; Debbie Wilke, Washington State Association of County Clerks.