

HOUSE BILL 2904

State of Washington 58th Legislature 2004 Regular Session

By Representatives Lovick, Moeller, Kirby, McMahan and Newhouse; by request of Department of Social and Health Services

Read first time 01/22/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to estate adjudication for the department of social
2 and health services; and amending RCW 11.28.330 and 11.28.340.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 11.28.330 and 1974 ex.s. c 117 s 31 are each amended
5 to read as follows:

6 If no personal representative is appointed to administer the estate
7 of a decedent, the person obtaining the adjudication of testacy, or
8 intestacy and heirship, within thirty days shall(~~(, cause written~~
9 ~~notice of said)~~) mail a true copy of the adjudication (~~(to be mailed)~~)
10 to each heir, legatee, and devisee of the decedent, which (~~(notice)~~)
11 copy shall contain the name of the decedent's estate and the probate
12 cause number, and shall:

- 13 (1) State the name and address of the applicant;
- 14 (2) State that on the day of , (~~(19. . . .)~~) . . .
15 . . ., the applicant applied for or obtained an order from the superior
16 court of county, state of Washington, adjudicating that the
17 decedent died intestate, or testate, whichever shall be the case;
- 18 (3) In the event the decedent died testate, enclose a copy of his
19 will therewith, and state that the adjudication of testacy will become

1 final and conclusive for all legal intents and purposes unless any
2 heir, legatee, or devisee of the decedent shall contest said will
3 within four months after the date the said will was adjudicated to be
4 the last will and testament of the decedent;

5 (4) In the event that the decedent died intestate, set forth the
6 names and addresses of the heirs of the decedent, their relationship to
7 the decedent, the distributive shares of the estate of the decedent
8 which they are entitled to receive, and that said adjudication of
9 intestacy and heirship shall become final and conclusive for all legal
10 intents and purposes, unless, within four months of the date of said
11 adjudication of intestacy, a petition shall be filed seeking the
12 admission of a will of the decedent for probate, or contesting the
13 adjudication of heirship.

14 A true copy of the adjudication, including the decedent's social
15 security number and the name and address of the applicant, shall be
16 mailed to the state of Washington department of social and health
17 services office of financial recovery.

18 Notices provided for in this section may be served personally or
19 sent by regular mail, and proof of such service or mailing shall be
20 made by an affidavit filed in the cause.

21 **Sec. 2.** RCW 11.28.340 and 1988 c 29 s 1 are each amended to read
22 as follows:

23 Unless, within four months after the entry of the order
24 adjudicating testacy or intestacy and heirship, and the mailing or
25 service of the notice required in RCW 11.28.330 any heir, legatee or
26 devisee of the decedent shall offer a later will for probate or contest
27 an adjudication of testacy in the manner provided in this title for
28 will contests, or offer a will of the decedent for probate following an
29 adjudication of intestacy and heirship, or contesting the determination
30 of heirship, an order adjudicating testacy or intestacy and heirship
31 without appointing a personal representative to administer a decedent's
32 estate shall, as to those persons by whom notice was waived or to whom
33 said notice was mailed or on whom served, be deemed the equivalent of
34 the entry of a final decree of distribution in accordance with the
35 provisions of chapter 11.76 RCW for the purpose of:

36 (1) Establishing the decedent's will as his last will and testament
37 and persons entitled to receive his estate thereunder; or

1 (2) Establishing the fact that the decedent died intestate, and
2 those persons entitled to receive his estate as his heirs at law.

3 The right of an heir, legatee, or devisee to receive the assets of
4 a decedent shall, to the extent otherwise provided by this title, be
5 subject to the prior rights of the decedent's creditors and of any
6 persons entitled to a homestead award or award in lieu of homestead or
7 family allowance, and nothing contained in this section shall be deemed
8 to alter or diminish such prior rights, or to prohibit any person for
9 good cause shown, from obtaining the appointment of a personal
10 representative to administer the estate of the decedent after the entry
11 of an order adjudicating testacy or intestacy and heirship. However,
12 if the petition for letters testamentary or of administration shall be
13 filed more than four months after the date of the adjudication of
14 testacy or of intestacy and heirship, the issuance of such letters
15 shall not affect the finality of said adjudications.

16 Four months after providing all notices as required in RCW
17 11.28.330, any person paying, delivering, transferring, or issuing
18 property to the person entitled thereto under an adjudication of
19 testacy or intestacy and heirship that is deemed the equivalent of a
20 final decree of distribution as set forth in this section is discharged
21 and released to the same extent as if such person has dealt with a
22 personal representative of the decedent.

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