

**SUBSTITUTE SENATE BILL 6531**

**State of Washington                      58th Legislature                      2004 Regular Session**

**By** Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline and Esser; by request of Department of Social and Health Services)

READ FIRST TIME 02/09/04.

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))~~ personally serve or mail a true copy of the  
10 adjudication (~~(to be mailed))~~) to each heir, legatee, and devisee of the  
11 decedent, which (~~(notice))~~) copy shall contain the name of the  
12 decedent's estate and the probate 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 obtained an order from the superior court of  
16 . . . . . county, state of Washington, adjudicating that the decedent  
17 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 (5) Mail a true copy of the adjudication, including the decedent's  
15 social security number and the name and address of the applicant, to  
16 the state of Washington department of social and health services office  
17 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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