

# SENATE BILL REPORT

## HB 2379

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As Reported By Senate Committee On:  
Judiciary, February 21, 2006

**Title:** An act relating to nonprobate assets under will.

**Brief Description:** Disposing of nonprobate assets under will.

**Sponsors:** Representatives Lantz, Serben and Rodne.

**Brief History:** Passed House: 1/25/06, 98-0.

**Committee Activity:** Judiciary: 2/16/06, 2/21/06 [DP].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Carrell, Esser, Hargrove, McCaslin and Rasmussen.

**Staff:** Lidia Mori (786-7755)

**Background:** Nonprobate assets are rights and interests that, upon the person's death, pass to a named beneficiary under a written instrument other than the person's will. Nonprobate assets include things like joint bank accounts with right of survivorship and individual retirement accounts. Generally, the person names the beneficiary in a document creating the nonprobate asset. Even if a beneficiary is named in an instrument related to the nonprobate asset, the owner of the asset can later change the beneficiary in his or her will without having to change the original instrument. In that case, the will controls regardless of the prior designation. If the person later changes the beneficiary again after the date of the will, then the will no longer controls. If the person later revokes that new beneficiary, the prior will does not control. The statute does not specify how the nonprobate asset is treated under those circumstances when the latest beneficiary is revoked and there is no other designation. When disposing of nonprobate assets, the financial institution or other third party may rely on the beneficiary designated in the instrument creating the nonprobate asset unless the financial institution or third party has actual knowledge of the existence of a claim by a beneficiary under a will.

**Summary of Bill:** Where there has been a beneficiary designated in a will that is later revoked by a new designation, which is also later revoked, the nonprobate asset is treated as any other general asset of the owner's estate, absent some other provision controlling the disposition of the asset.

The executor of the estate may rely on information provided to him or her by the financial institution when determining who is entitled to the asset.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Testimony For:** This bill comes at the request of the Washington State Bar Association, Probate and Trust Section. A nonprobate asset is changed into a probate asset. The asset becomes part of the residuary of the estate. The scenario addressed in the bill does happen, probably more frequently than people realize.

**Testimony Against:** None.

**Who Testified:** PRO: Representative Pat Lantz; Al Falk, Washington State Bar Association.