
Civil Rights & Judiciary Committee

SSB 5318

Brief Description: Limiting estate recovery.

Sponsors: Senate Committee on Human Services (originally sponsored by Senators Nobles, Kuderer, Nguyen and Wilson, C.).

Brief Summary of Substitute Bill

- Removes the authority of the Washington Health Care Authority and Department of Social and Health Services to file liens against the property of certain individuals prior to death and seek adjustment and recovery from the individual's estate or sale of property subject to the lien.
- Removes the requirement that the personal funds and final accounting of certain long-term care facility residents be sent to the Department of Social and Health Services.

Hearing Date: 3/22/23

Staff: John Burzynski (786-7133).

Background:

Washington law requires the Health Care Authority (HCA) and Department of Social and Health Services (DSHS) to file liens, seek adjustment, or otherwise effect recovery for medical assistance correctly paid on behalf of an individual in accordance with federal law. To this end, the HCA and DSHS are authorized to file a lien against the property of an individual prior to their death, and to seek adjustment and recovery from the individual's estate or sale of the property subject to the lien, but only if two conditions are present:

- First, the person must be an inpatient in a nursing facility, intermediate care facility for

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persons with intellectual disabilities, or other medical institution.

- Second, the agency seeking the lien must have determined after notice and opportunity for a hearing that the person cannot be expected to be discharged from the medical institution and return home.

If the person ultimately is discharged from the medical facility and returns home, the agency that sought the lien must dissolve it.

Additionally, state law governs the custody of resident personal funds by long-term care facilities, and requires that, upon the resident's death, the facility must convey within 30 days the resident's personal funds and a final accounting to the individual or probate jurisdiction administering the resident's estate. However, in the case of a resident who received long-term care services paid for by the state, the funds and accounting must be sent to the DSHS Office of Financial Recovery. The DSHS is required to have established procedures for the release of such personal funds for use in burial expenses.

Summary of Bill:

The authority of the HCA and DSHS to file a lien against the property of certain individuals prior to their death, and to seek adjustment and recovery from the individual's estate or sale of the property subject to that lien, is removed from the underlying statutes.

The requirement that, upon the death of a resident of a long-term care facility who received long-term care services paid for the state, the facility must send the resident's personal funds and final accounting to the DSHS Office of Financial Recovery, subject to release for burial expenses, is removed from the underlying statute.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.