

HCS SB 1076 -- NONPROBATE TRANSFERS

SPONSOR: Caskey (Byrd)

COMMITTEE ACTION: Voted "do pass" by the Committee on Judiciary by a vote of 15 to 0.

This substitute changes the laws regarding the nonprobate transfer of assets. Recipients of a recoverable transfer of a decedent's property will be liable to account for a percentage of the property received if necessary to discharge statutory allowances to the decedent's surviving spouse and dependent children and for other unpaid claims remaining after the application of the decedent's estate. In order to enforce the obligation of a recipient of a recoverable transfer, an action for accounting must be commenced within 18 months of the death of the decedent by the decedent's personal representative or a qualified claimant if the personal representative fails to follow certain procedures relating to the personal representative's failure to respond to a demand for accounting. The failure of the personal representative to provide certain information in response to a demand from a qualified claimant may toll the 18-month requirement. Any judgment in a proceeding for an accounting must take into the account the expenses of the administration of the estate.

If an action for accounting is commenced within 18 months, other recipients of recoverable transfers may be brought into the action, even if the joinder occurs later than 18 months following the decedent's death. If an action is commenced after 18 months, then only the personal representative who received a recoverable transfer will be liable to account, and no other recipient may be joined.

FISCAL NOTE: No impact on state funds in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that the bill makes changes to improve the law regarding nonprobate transfers.

Testifying for the bill were Representative Byrd; Missouri Bar; and Associate Circuit Judges' Association.

OPPOSERS: There was no opposition voiced to the committee.

Amy Woods, Legislative Analyst