

expert witnesses, if available, regarding the impact of the continuance on the victim.

Passed the House April 13, 1989.

Passed the Senate April 4, 1989.

Approved by the Governor May 11, 1989, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State May 11, 1989.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to sections 1 and 3, Substitute House Bill No. 1065 entitled:

"AN ACT Relating to sexual offenses."

Section 1 of this measure authorizes courts to assess fees for sex offender treatment and makes such fees a priority for collection. At this time, the only assessment receiving such priority is for restitution to victims. This is proper and should be maintained. However, other recipients of court-ordered assessments, including the crime victim's compensation fund and local governments, should not be required to await payment until sex offender treatment costs are paid. This priority places an improper burden on other recipients.

In addition, section 1 conflicts with the provisions of House Bill No. 1542, section 4. That measure revises the authority of the Department of Corrections with respect to collection and distribution of financial obligations of offenders.

Section 3 amends the statute of limitations for child sexual offenses. These same provisions are amended by Senate Bill No. 5950, section 3. That measure makes additional, necessary changes to the same statute. In order to avoid confusion, I am vetoing section 3 of this act.

With the exception of sections 1 and 3, Substitute House Bill No. 1065 is approved."

CHAPTER 333

[Substitute House Bill No. 1173]

DECEDENTS' ESTATE—TIME FOR FILING CLAIMS AGAINST ESTATE

AN ACT Relating to revision of nonclaim statutes; amending RCW 11.40.010, 11.40.011, 11.40.030, and 4.16.200; adding new sections to chapter 11.40 RCW; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 11.40.010, chapter 145, Laws of 1965 as last amended by section 33, chapter 117, Laws of 1974 ex. sess. and RCW 11.40.010 are each amended to read as follows:

~~((Every personal representative shall, immediately after his appointment, cause to be published in a legal newspaper published in the county in which the estate is being administered, a notice that he has been appointed and has qualified as such personal representative, and therewith a notice to the creditors of the deceased, requiring all persons having claims against the deceased to serve the same on the personal representative or his attorney of record, and file an executed copy thereof with the clerk of the court, within four months after the date of the first publication of such notice or within~~

~~four months after the date of the filing of the copy of said notice to creditors with the clerk of the court, whichever is the later. Such notice shall be published once in each week for three successive weeks and a copy of said notice shall be filed with the clerk of the court. If a claim be not filed within the time aforesaid, it shall be barred, except under those provisions included in RCW 11.40.011. Proof by affidavit of the publication of such notice shall be filed with the court by the personal representative. In cases where all the property is awarded to the widow, husband, or children as in this title provided, the notice to creditors herein provided for may be omitted:))~~ Every personal representative shall, after appointment and qualification, give a notice to the creditors of the deceased, stating such appointment and qualification as personal representative and requiring all persons having claims against the deceased to serve the same on the personal representative or the estate's attorney of record, within four months after the date of the first publication of such notice described in this section or within four months after the date of the filing of the copy of such notice with the clerk of the court, whichever is the later, or within the time otherwise provided in section 4 of this act. The four-month time period after the later of the date of the first publication of the notice to creditors or the date of the filing of such notice with the clerk of the court is referred to in this chapter as the "four-month time limitation." Such notice shall be given as follows:

(1) The personal representative shall give actual notice, as provided in section 4 of this act, to such creditors who become known to the personal representative within such four-month time limitation;

(2) The personal representative shall cause such notice to be published once in each week for three successive weeks in the county in which the estate is being administered; and

(3) The personal representative shall file a copy of such notice with the clerk of the court.

Except as otherwise provided in RCW 11.40.011 or section 4 of this act, any claim not filed within the four-month time limitation shall be forever barred, if not already barred by any otherwise applicable statute of limitations. Proof by affidavit of the giving and publication of such notice shall be filed with the court by the personal representative.

Sec. 2. Section 3, chapter 106, Laws of 1967 ex. sess. as amended by section 1, chapter 201, Laws of 1983 and RCW 11.40.011 are each amended to read as follows:

The ~~((four-month))~~ time limitations under this chapter for serving and filing of claims shall not accrue to the benefit of any liability or casualty insurer as to claims against the deceased and/or the marital community of which the deceased was a member and such claims, subject to applicable statutes of limitation, may at any time be:

(1) Served on the personal representative, or the attorney for the estate; or

(2) If the personal representative shall have been discharged, then the claimant as a creditor may cause a new personal representative to be appointed and the estate to be reopened in which case service may be had upon the new personal representative or his attorney of record.

Claims may be served and filed as herein provided, notwithstanding the conclusion of any probate proceedings: PROVIDED, That the amount of recovery under such claims shall not exceed the amount of applicable insurance coverages and proceeds: AND PROVIDED FURTHER, That such claims so served and filed shall not constitute a cloud or lien upon the title to the assets of the estate under probate nor delay or prevent the conclusion of probate proceedings or the transfer or distribution of assets of the estate subject to such probate. Nothing in this section serves to extend the applicable statute of limitations regardless of the appointment or failure to have appointed a personal representative for an estate.

NEW SECTION. Sec. 3. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.012, to read as follows:

The personal representative shall exercise reasonable diligence to discover, within the four-month time limitation, reasonably ascertainable creditors of the deceased. The personal representative is deemed to have exercised reasonable diligence to ascertain the creditors upon (1) conducting, within the four-month time limitation, a reasonable review of the deceased's correspondence (including correspondence received after the date of death) and financial records (including checkbooks, bank statements, income tax returns, etc.), which are in the possession of or reasonably available to the personal representative, and (2) having made inquiry of the deceased's heirs, devisees, and legatees regarding claimants. If the personal representative conducts the review and makes an inquiry, the personal representative is presumed to have exercised reasonable diligence to ascertain creditors of the deceased and creditors not ascertained in the review or in an inquiry are presumed not reasonably ascertainable. These presumptions may be rebutted only by clear, cogent, and convincing evidence. The personal representative may evidence the review and inquiry by filing an affidavit to the effect in the probate proceeding. The personal representative may also petition the superior court having jurisdiction for an order declaring that the personal representative has made a review and inquiry and that any creditors not known to the personal representative after the review and inquiry are not reasonably ascertainable. Such petition and hearing shall be under the procedures provided in chapter 11.96 RCW, provided that the notice specified under RCW 11.96.100 shall also be given by publication.

NEW SECTION. Sec. 4. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.013, to read as follows:

The actual notice described in RCW 11.40.010(1), as to creditors becoming known to the personal representative within the four-month time limitation, shall be given the creditors by personal service or regular first

class mail, addressed to the creditor's last known address, postage prepaid. The actual notice shall be given before the later of the expiration of the four-month time limitation or thirty days after any creditor became known to the personal representative within the four-month time limitation. Any known creditor is barred unless the creditor has filed a claim, as otherwise provided in this chapter, within the four-month time limitation or within thirty days following the date of actual notice to that creditor, whichever is later. If notice is given by mail, the date of mailing shall be the date of notice.

NEW SECTION. Sec. 5. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.014, to read as follows:

Whether or not notice under RCW 11.40.010 has been given or should have been given, any person having a claim against the decedent who has not filed a claim within eighteen months from the date of the decedent's death shall be forever barred from making a claim against the decedent, or commencing an action against the decedent, if such claim or action is not already barred by any otherwise applicable statute of limitation. However, this eighteen-month limitation does not apply (1) to claims described in RCW 11.40.011, (2) to any claims where the personal representative has not given the actual notice described in section 1(1) of this act and during the eighteen-month period following the date of death, partial performance has been made on the obligation underlying the claim, or (3) to any claims where no personal representative has been appointed within twelve months after the date of death. Any otherwise applicable statute of limitations shall apply without regard to the tolling provisions of RCW 4.16.190. Any claim filed within eighteen months from the date of the decedent's death and not otherwise barred under this chapter shall be made in the form and manner provided under RCW 11.40.010, as if the notice under such section had been given.

NEW SECTION. Sec. 6. A new section is added to chapter 11.40 RCW, to be codified as RCW 11.40.015, to read as follows:

Notice under RCW 11.40.010 shall be in substantially the following form:

CAPTION OF CASE)	No.
)	
)	NOTICE TO CREDITORS
)	

The personal representative named below has been appointed and has qualified as personal representative of this estate. Persons having claims against the deceased must, prior to the time such claims would be barred by any otherwise applicable statute of limitations, serve their claims on the

personal representative or the attorneys of record at the address stated below and file an executed copy of the claim with the Clerk of this Court within four months after the date of first publication of this notice or within four months after the date of the filing of the copy of this Notice with the Clerk of the Court, whichever is later or, except under those provisions included in RCW 11.40.011 or section 4 of this act, the claim will be forever barred.

DATE OF FILING COPY OF NOTICE TO CREDITORS
with Clerk of Court:_____.

DATE OF FIRST PUBLICATION: _____.

_____, Personal Representative

Address

Attorney for Estate:

Address:

Telephone:

Sec. 7. Section 11.40.030, chapter 145, Laws of 1965 as last amended by section 8, chapter 234, Laws of 1977 ex. sess. and RCW 11.40.030 are each amended to read as follows:

(1) ~~Unless the personal representative shall, within ((six months after the date of first publication of notice to creditors, or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court))~~ two months after the expiration of the four-month time limitation, or within two months after receipt of an otherwise timely claim filed after expiration of the four-month time limitation, whichever is later, have obtained an order extending the time for his allowance or rejection of claims timely and properly served and filed, all claims not exceeding one thousand dollars presented within the time and in the manner provided in RCW 11.40.010 ~~((and)),~~ section 4 of this act, or 11.40.020 as now or hereafter amended, shall be deemed allowed and may not thereafter be rejected, unless the personal representative shall, ~~((within six months after the date of first publication of notice to creditors or within six months after the date of filing of a copy of the notice to creditors with the clerk of the court, whichever is later))~~ within two months after the expiration of the four-month time limitation, or as to an otherwise timely claim filed after expiration of the four-month time limitation, within two months after receipt of such claim, or within any extended time, notify the claimant of its rejection, in whole or in part.

(2) When a claim exceeding one thousand dollars is presented within the time and in the manner provided in RCW 11.40.010 and 11.40.020 as now or hereafter amended, it shall be the duty of the personal representative to indorse thereon his allowance or rejection. A claimant after a claim has been on file for at least thirty days may notify the personal representative that he will petition the court to have the claim allowed. If the personal

representative fails to file an allowance or rejection of such claim twenty days after the receipt of such notice, the claimant may note the matter up for hearing and the court shall hear the matter and determine whether the claim should be allowed or rejected, in whole or in part. If at the hearing the claim is substantially allowed the court may allow petitioner reasonable attorney's fees of not less than one hundred dollars chargeable against the estate.

(3) If the personal representative shall reject the claim, in whole or in part, he shall notify the claimant of said rejection and file in the office of the clerk, an affidavit showing such notification and the date thereof. Said notification shall be by personal service or certified mail addressed to the claimant at his address as stated in the claim; if a person other than the claimant shall have signed said claim for or on behalf of the claimant, and said person's business address as stated in said claim is different from that of the claimant, notification of rejection shall also be made by personal service or certified mail upon said person; the date of the postmark shall be the date of notification. The notification of rejection shall advise the claimant, and the person making claim on his, her, or its behalf, if any, that the claimant must bring suit in the proper court against the personal representative within thirty days after notification of rejection or before expiration of the time for serving and filing claims against the estate, whichever period is longer, and that otherwise the claim will be forever barred.

(4) The personal representative may, either before or after rejection of any claim compromise said claim, whether due or not, absolute or contingent, liquidated or unliquidated, if it appears to the personal representative that such compromise is in the best interests of the estate.

Sec. 8. Section 12, page 364, Laws of 1854 as last amended by section 38, Code of 1881 and RCW 4.16.200 are each amended to read as follows:

Limitations on actions against a person who dies before the expiration of the time otherwise limited for commencement thereof are as set forth in chapter 11.40 RCW. Subject to the limitations on claims against a deceased person under chapter 11.40 RCW, if a person entitled to bring an action dies before the expiration of the time limited for the commencement thereof, and the cause of action survives, an action may be commenced by his representatives after the expiration of the time and within one year from his death. ((If a person against whom an action may be brought dies before the expiration of the time limited for the commencement thereof and the cause of action survives, an action may be commenced against his representatives after the expiration of that time and within one year after the issuing of letters testamentary or of administration.))

NEW SECTION. Sec. 9. This act is necessary for the immediate preservation of the public peace, health, or safety, or the support of the state government and its existing public institutions, and shall take effect immediately. This act shall apply to probate proceedings that are open on or

are commenced after the effective date, except that section 5 of this act shall apply only to decedents dying after the effective date.

Passed the House April 17, 1989.

Passed the Senate April 3, 1989.

Approved by the Governor May 11, 1989.

Filed in Office of Secretary of State May 11, 1989.

CHAPTER 334

[Substitute Senate Bill No. 5107]

VULNERABLE ADULTS—ABUSE OR EXPLOITATION COLLECTION AND RELEASE OF PROTECTION PROCEEDING INFORMATION TO PROSPECTIVE EMPLOYERS

AN ACT Relating to vulnerable adults; amending RCW 43.43.830, 43.43.832, 43.43.834, 43.43.838, 43.43.840, 43.43.700, 43.43.705, 43.43.715, and 43.20A.710; reenacting and amending RCW 43.43.735 and 43.43.740; adding a new section to chapter 72.23 RCW; and creating a new section.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 1, chapter 486, Laws of 1987 and RCW 43.43.830 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means either:

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization. However, for school districts and educational service districts, prospective employee includes only non-certificated personnel; or

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age ((σ)), developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, ((σ)) (iii) developmentally disabled persons, or (iv) vulnerable adults.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including school districts and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW