

Committee on Judiciary

CS/CS/SB 1070 — Estates and Trusts

by Community Affairs Committee; Judiciary Committee; and Senator Berman

The bill amends laws on the transfer of property through wills, probate, and trusts.

The bill creates a comprehensive statutory framework for the creation and operation of a directed trust. Directed trusts are authorized by current law. In a directed trust, someone other than a trustee is allowed to direct some actions of a trustee of the trust.

The bill creates a comprehensive statutory framework for the creation and operation of a community property trust. Community property trusts are not addressed in current law. A community property trust holds property owned by a married couple as if the property was in a community property state, which has certain tax and estate planning advantages.

The bill amends probate law to provide that, absent specific intent in the divorce judgment, an ex-spouse is not a beneficiary of the former spouse's will, regardless of when the will was signed. Currently, an ex-spouse remains as a beneficiary after divorce if the will was signed prior to the wedding and the deceased failed to change the will after divorce.

The bill also requires a probate court to allow a surety bond in lieu of the requirement to use a depository account; provides that the limitations periods for an action against a trust's trustee apply to directors, officers, and employees of the trustee; and applies homestead property law applicable to wills to homestead property held in a decedent's revocable trust.

If approved by the Governor, the provisions of the bill relating to the effect of divorce and depository accounts take effect upon becoming a law, and the remaining provisions take effect July 1, 2021.

Vote: Senate 40-0; House 117-0