HB09-1260

Colorado Legislative Council Staff Fiscal Note

REVISED

NO FISCAL IMPACT

(replaces fiscal note dated February 9, 2009)

Drafting Number:	LLS 09-0206	**Date:**	March 4, 2009
Prime Sponsor(s):	Rep. Ferrandino Sen. Veiga	**Bill Status:**	Senate Judiciary
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TITLE: CONCERNING DESIGNATED BENEFICIARY AGREEMENTS.

Summary of Legislation

The reengrossed bill enables two people to enter into a designated beneficiary agreement for the purposes of providing each other with the following rights:

- to acquire property as joint tenants and with the right of survivorship;
- to be designated as beneficiaries for the purposes of a nonprobate transfer in the case of death;
- to be designated as a beneficiary in a life or health insurance policy;
- to be designated as a beneficiary for a retirement plan;
- to have priority for appointment as a personal representative;
- to make nursing home or hospital visits;
- to make medical decisions, including withholding or withdrawing life-sustaining medical procedures and making or revoking organ donations;
- to inherit property;
- to receive workers' compensation benefits;
- to sue for wrongful death; and
- to direct the disposition of last remains.

The designated beneficiaries may choose to implement some or all of these provisions. Other legal documents, such as a will or a named beneficiary on an insurance policy, supersede the provisions in a designated beneficiary agreement.

Individuals may enter into a designated beneficiary agreement under certain circumstances. For example, the individuals must be adults who are not married and not any other person's designated beneficiary. The bill provides a standard form for the agreement that is to be available at each county clerk's office. The county clerks also are responsible for filing the agreement. The agreements may be revoked at any time by filing a revocation with the county clerk's office.

Assessment

This bill is assessed as having no fiscal impact. It will cause some state agencies to alter their practices; however, these alterations should be absorbable within existing resources. Much of this work will be done through annual reviews and, therefore, not require any additional costs. For example, the designated beneficiary agreement allows the beneficiaries to have rights under the

Workers' Compensation Act of Colorado which will require the Division of Insurance in the Department of Regulatory Agencies to review the forms of workers' compensation carriers to ensure that the designated beneficiary is allowed.

Under the bill, a designated beneficiary is eligible for health coverage on the health plan of the other beneficiary if the employer chooses to provide coverage for the designated beneficiary. For state health care benefits, the Department of Personnel and Administration is responsible for determining who may be eligible to be a dependent and, therefore, eligible to receive health benefits under the state plan. If the state decides to offer health benefits to designated beneficiaries, the state may see an increase in health care costs; however, if other employers offer health benefits to designated beneficiaries, state employees who are eligible may choose to be covered under the health plan of the other beneficiary, thus resulting in cost savings.

Health Care Policy and Financing. The creation of the designated beneficiary agreement may have an affect on the Medicaid program; however, the impact cannot be quantified prior to coordinating with the federal government to determine how designated beneficiaries would be treated under Medicaid. For example, at this time, it is not known if a designated beneficiary's income would be used to determine whether or not the other beneficiary is eligible for Medicaid. It is also unclear how the department would classify designated beneficiaries who do not reside in the same household for the purposes of Medicaid eligibility and determining whether the beneficiary would be classified as a dependent or a spouse. The department will need to coordinate with the federal Centers for Medicare and Medicaid Services to resolves these, and any other issues, prior to implementation.

Judicial Branch. The trial courts may see an increase in court cases resulting from the creation of the designated beneficiary agreement; however, the number of cases cannot be quantified at this time. By creating designated beneficiary agreements, this bill alters the current system for assigning benefits and property to beneficiaries and may lead to conflicting documentation. For example, an individual may have a will and a designated beneficiary agreement that conflict. Although the bill states that wills supersede the designated beneficiary agreements, the conflicting documents may cause interested parties to go to court to try to determine the true intention of the individual.

Local Government Impact

The county clerk's office has the following responsibilities concerning the designated beneficiary agreements:

- having copies of the designated beneficiary agreement available;
- filing copies of the agreements;
- issuing two certified copies of the agreement that indicate the date at time of filing;
- issuing replacement copies of the agreement; and
- filing revocations of designated beneficiary agreements.

The bill allows the county clerk's offices to assess a fee of $30 for filing the agreement and a fee of $20 for filing a revocation of a designated beneficiary agreement. These fees enable the county clerks to recoup the costs for performing this work.

Departments Contacted

Law	Judiciary
Local Affairs	Public Health and Environment
Health Care Policy and Financing	Regulatory Agencies
Labor and Employment	Human Services
Treasury	Personnel and Administration