

**STATE  
FISCAL IMPACT**

**Drafting Number:** LLS 12-0629

**Date:** February 6, 2012

**Prime Sponsor(s):** Sen. Guzman

**Bill Status:** Senate Judiciary

**Fiscal Analyst:** Kirk Mlinek (303-866-4782)

**TITLE:** CONCERNING THE RESPONSIBILITIES OF A FIDUCIARY WITH REGARD TO THE ESTATE OF A PERSON WHO MAY HAVE EXECUTED A DESIGNATED BENEFICIARY AGREEMENT.

<b>Fiscal Impact Summary</b>	<b>FY 2012-2013</b>	<b>FY 2013-2014</b>
<b>State Revenue</b>		
<b>State Expenditures</b>		
<b>FTE Position Change</b>		
<b>Effective Date:</b> Upon signature of the Governor, or upon becoming law without his signature.		
<b>Appropriation Summary for FY 2012-2013:</b> None required.		
<b>Local Government Impact:</b> None.		

**Summary of Legislation**

The bill clarifies a personal representative's liability in probate proceedings in the event that the trustee takes any actions that conflict with a decedent's wishes as contained in a designated beneficiary agreement (DBA). Specifically, the bill protects the personal representative of an estate from being penalized (surcharged) if the estate distribution conflicts with a DBA, as long as they have not received notification of a valid DBA and have searched for, and reviewed, any existing DBAs in every county in which they have actual knowledge that the deceased party lived in the last three years of his or her life. As a result of this review, if the personal representative does not have knowledge of valid, unrevoked DBAs, then the personal representative may not be held personally liable, nor be liable to third parties, for distributions made that do not take into consideration any DBA of which the personal representative is unaware.

**State Expenditures**

Clarifying a personal representative's fiduciary duties relative to DBAs may reduce the number of actions filed with the Judicial Branch; however, few such cases are brought against personal representatives under current law, and savings under the bill are anticipated to be minimal.

**Departments Contacted**

Judicial

Health Care Policy and Financing

County Clerks