

Chapter 11.54 RCW
FAMILY SUPPORT AND POSTDEATH CREDITOR'S CLAIM EXEMPTIONS

Sections

11.54.001	Purpose—Applicability.
11.54.005	Definitions.
11.54.008	Property of decedent exempt from legal process remains exempt—Additional designated property.
11.54.010	Award to surviving spouse, domestic partner, or children—Petition.
11.54.015	Conditions to award.
11.54.020	Amount of basic award.
11.54.040	Increase in amount of award for support during pendency of proceedings—Factors for consideration.
11.54.050	Decrease in amount of award—Factors for consideration.
11.54.055	Factors to be considered by court.
11.54.060	Certain claims exempted.
11.54.071	Abatement.
11.54.090	Venue for petition—Petition and hearing requirements—Notice of hearing.
11.54.100	Exhaustion of estate—Closure of estate—Discharge of personal representative.

RCW 11.54.001 Purpose—Applicability. (1) The purposes of this chapter are:

(a) To clarify the exemptions from attachment, execution, and forced sale that apply after a decedent's death;

(b) To establish a procedure for allocating the exempt property among claimants; and

(c) To establish a procedure by which the decedent's surviving spouse, surviving registered domestic partner, or surviving dependent children may request basic financial support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets.

(2) This chapter applies to probate and nonprobate assets. [2024 c 20 s 1.]

Effective date—2024 c 20: "This act takes effect August 1, 2024." [2024 c 20 s 14.]

Savings—2024 c 20: "(1) No act done in any proceeding commenced before August 1, 2024, and no accrued right shall be impaired by any provision of this act.

(2) When a right is acquired, extinguished, or barred upon the expiration of a prescribed period of time which has commenced to run by the provisions of any statute in force before August 1, 2024, those provisions shall remain in force and be deemed a part of this act with respect to that right.

(3) The procedures in effect before August 1, 2024, shall apply to any proceeding to the extent that in the opinion of the court the application of the procedures under this act would not be feasible or would work injustice." [2024 c 20 s 15.]

RCW 11.54.005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Child" and "children," when used with reference to a decedent, means all persons who have a parent-child relationship, as defined in RCW 26.26A.100, as a child with the decedent, regardless of a person's age.

(2) "Claimant" means a person entitled to petition for an award under this chapter. If multiple parties are entitled to petition for an award, all of them are a "claimant."

(3) "Dependent," when used with reference to a decedent's child, means a person who received more than half of that person's support from the decedent during the 12 months preceding the decedent's death. For the purposes of this subsection, the term "support" does not include any public or governmental support.

(4) "Value," when used with reference to any property that may be exempt from the claims of creditors under this chapter or under the laws of another state and that is being purchased on contract or is subject to any encumbrance, means the value of the property net of the balance due on the contract and the amount of the encumbrance. Any property exempted from creditor's claims under RCW 11.54.008 or awarded under RCW 11.54.010 will continue to be subject to any such contract or encumbrance. [2024 c 20 s 2.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

RCW 11.54.008 Property of decedent exempt from legal process remains exempt—Additional designated property. (1) Any homestead or other property exempt from attachment, execution, and forced sale under Title 6 RCW immediately before a decedent's death remains exempt from attachment, execution, and forced sale for the debts of the decedent and the debts of the community composed of the decedent and the decedent's spouse or registered domestic partner that arose before the decedent's death, up to the amount specified in RCW 11.54.020(1), except as otherwise provided in Title 6 RCW or in this chapter.

(2) If the decedent resided or was domiciled in the state of Washington when the decedent died, and either:

(a) No homestead or other property was exempt from attachment, execution, and forced sale under Title 6 RCW immediately before the decedent's death; or

(b) The total value of the property exempted from the claims of creditors under subsection (1) of this section or under the laws of another state (together with the value of any separate property of the decedent's surviving spouse or surviving registered domestic partner that is exempt from attachment, execution, and forced sale for the debts of the decedent's surviving spouse or surviving registered domestic partner) is less than the amount specified in RCW 11.54.020(1) (b);

then the court shall designate other property of the estate, either community or separate, that, when added to the value of: (i) The property exempted under subsection (1) of this section; (ii) the property exempted from attachment, execution, and forced sale under the laws of another state; and (iii) the separate property of the decedent's surviving spouse or surviving registered domestic partner

that is exempt from attachment, execution, and forced sale for the debts of the decedent's surviving spouse or surviving registered domestic partner, has an aggregate value that does not exceed the amount specified in RCW 11.54.020(1)(b). This additional designated property, together with any additional award that a court may grant for family support under RCW 11.54.040, shall also be exempt from attachment, execution, and forced sale for the debts of the decedent and the debts of the community composed of the decedent and the decedent's spouse or registered domestic partner that arose before the decedent's death, except as otherwise provided in this chapter. [2024 c 20 s 3.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

RCW 11.54.010 Award to surviving spouse, domestic partner, or children—Petition. (1) Any one or more of a decedent's surviving spouse, surviving registered domestic partner, and dependent children may commence a judicial proceeding under chapter 11.96A RCW for an award from the decedent's separate property and from the community property of the decedent and the decedent's spouse or registered domestic partner that are exempt from attachment, execution, and forced sale under RCW 11.54.008. The petition must:

(a) Set forth facts to establish that the claimant is entitled to an award under this chapter;

(b) State the nature and value of those assets held by all potential claimants that are exempt from the claims of creditors and that are known to the claimant or could be known to the claimant with reasonable diligence; and

(c) Describe all other assets then held by the claimants, including any interest the claimants may have in any of the decedent's probate or nonprobate property.

(2) If a claimant proves by a preponderance of the evidence that an award of property exempt from the claims of creditors to the claimant would fulfill one or more of the purposes of this chapter, the court may grant the claimant an award that the court determines to be equitable.

(3) If the decedent is survived by one or more dependent children, the court may divide the award between the surviving spouse or surviving registered domestic partner and all or any of the decedent's surviving dependent children as the court deems appropriate.

(4) The awards under this chapter may be made either from the community property of the decedent and the decedent's spouse or registered domestic partner or from the separate property of the decedent.

(5) Any and all homestead or other property exempt from attachment, execution, and forced sale under Title 6 RCW immediately before the decedent's death shall be included in the basic award.

(6) The basic award may be made whether or not any proceedings have been commenced under this title relating to the decedent's probate or nonprobate assets. [2024 c 20 s 4; 2008 c 6 s 916; 1997 c 252 s 48.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.015 Conditions to award. (1) The court may not make an award to a claimant under this chapter until the expenses of administration, funeral expenses, expenses of last sickness, and wages due for labor performed within 60 days immediately preceding the decedent's death have been paid or provided for.

(2) The court may not make an award to or for the benefit of any person who is a slayer or abuser as those terms are defined in RCW 11.84.010 of the decedent.

(3) The court may not make any award under this chapter unless the petition for the award is filed before the earliest of:

(a) Eighteen months from the date of the decedent's death if within 12 months of the decedent's death either:

(i) A personal representative has been appointed; or

(ii) A notice agent has filed a declaration and oath as required in RCW 11.42.010(3)(a)(ii); or

(b) The termination of all proceedings under this title relating to the decedent's probate or nonprobate assets; or

(c) Six years from the date of the death of the decedent. [2024 c 20 s 5; 2008 c 6 s 918; 1997 c 252 s 50. Formerly RCW 11.54.030.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.020 Amount of basic award. (1) The amount of the basic award shall be the greater of the following:

(a) The value, as of the date of the decedent's death, of the decedent's property, or if the decedent is married or has a registered domestic partner, the value of the community property of the decedent and the decedent's spouse or registered domestic partner, that was exempt from attachment, execution, or forced sale under Title 6 RCW immediately before the decedent's death; or

(b) The amount specified in RCW 6.13.030(1)(a) or, if greater, the amount specified in subsection (3) of this section, on the date of the decedent's death.

(2) If an award is divided among a surviving spouse or surviving registered domestic partner and the decedent's dependent children, the aggregate amount awarded to all the claimants under this section shall be the amount specified in subsection (1) of this section.

(3) For 2024 and each calendar year thereafter, the amount of the basic award shall not be less than an amount that is calculated as follows: \$125,000 multiplied by the inflation factor and then rounded to the nearest \$1,000. The adjustment of the basic amount under this subsection shall be effective annually as of the first calendar day of the calendar year. The inflation factor is a fraction, the numerator of which is the consumer price index figure published for the most recent October preceding the effective date of the adjustment and the denominator of which is the consumer price index figure published for October 2021. No adjustment to the basic award shall be made under this subsection for a calendar year if the adjustment would result in the same or a lesser basic award than the basic award for the immediately preceding calendar year. For purposes of this subsection, "consumer price index" means the consumer price index for all urban consumers, all items in the Seattle area, not seasonally adjusted, as calculated by the bureau of labor statistics of the United States department of labor. For purposes of this subsection (3), "Seattle area" means the geographic area sample that includes Seattle and surrounding areas. In the event the bureau of labor statistics discontinues the use and publication of applicable averages, then the consumer price index to be used for the computation of the inflation factor shall be the consumer price average that was last published before the event that caused the inflation factor to be applied. [2024 c 20 s 6; 2008 c 6 s 917; 1997 c 252 s 49.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.040 Increase in amount of award for support during pendency of proceedings—Factors for consideration. (1) If a claimant demonstrates to the satisfaction of the court that a claimant's present and reasonably anticipated future needs with respect to basic maintenance and support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets will not be provided from other resources and that an increased award would not be inconsistent with the decedent's intentions or principles of equity and fairness, the amount of the award may be increased above the amount of the basic award in an amount that the court determines to be needed for a claimant's present and reasonably anticipated future needs with respect to basic maintenance and support during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets.

(2) In determining the needs of the claimant, the court shall consider, without limitation, the resources available to the claimant and the claimant's dependent children, and the resources reasonably expected to be available to the claimant and the claimant's dependent children during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets, including

income related to present or future employment and benefits flowing from the decedent's probate and nonprobate estate.

(3) In determining the intentions of the decedent, the court shall consider, without limitation:

(a) Provisions made for the claimant by the decedent under the terms of the decedent's will or otherwise;

(b) Provisions made for third parties or other entities under the decedent's will or otherwise that would be affected by an increased award;

(c) If the claimant is the surviving spouse or surviving registered domestic partner, the duration and status of the marriage or the state registered domestic partnership of the decedent to the claimant at the time of the decedent's death;

(d) The effect of any award on the availability of any other resources or benefits to the claimant;

(e) The size and nature of the decedent's probate and nonprobate estate; and

(f) Oral or written statements made by the decedent that are otherwise admissible as evidence.

The fact that the decedent has named beneficiaries other than the claimant as recipients of the decedent's estate is not of itself adequate to evidence such an intent as would prevent the award of an amount in excess of the basic award that is provided in RCW 11.54.020(1).

(4) (a) The court may only grant an increased award if a petition for a basic award has been granted under RCW 11.54.010. The request for an increased award may be made in conjunction with the petition for an award under RCW 11.54.010.

(b) Subject to (a) of this subsection (4), a request for an increased award may be made at any time during the pendency of any proceedings under this title relating to the decedent's probate or nonprobate assets. A request to modify an increased award may also be made at any time during the pendency of the probate proceedings by a person having an interest in the decedent's estate that will be directly affected by the requested modification. [2024 c 20 s 7; 2008 c 6 s 919; 1997 c 252 s 51.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.050 Decrease in amount of award—Factors for consideration. The court may decrease the amount of the award below the amount provided in RCW 11.54.020(1) in the exercise of its discretion if:

(1) The recipient is entitled to receive probate or nonprobate property, including insurance, by reason of the death of the decedent. In such a case the award may not be decreased by more than the value of the other property that is received by reason of the death of the decedent. The court shall consider the factors presented in RCW

11.54.040(2) in determining the propriety of the award and the proper amount of the award, if any; or

(2) (a) The decedent is survived by one or more dependent children who are not the children of the surviving spouse or surviving registered domestic partner and the award would decrease amounts otherwise distributable to those children; or (b) the award would have the effect of reducing amounts otherwise distributable to any of the decedent's dependent children. In either of the cases specified in this subsection (2), the court must consider the factors presented in RCW 11.54.040 (2) and (3) and 11.54.055 and whether the needs of the dependent children with respect to basic maintenance and support are and will be adequately provided for, both during and after any proceedings under this title relating to the decedent's probate or nonprobate assets, considering support from any source, including support from the decedent's surviving spouse or surviving registered domestic partner. [2024 c 20 s 8; 2008 c 6 s 920; 1997 c 252 s 52.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.055 Factors to be considered by court. In exercising the discretion granted to the court under this chapter, the court shall consider without limitation:

(1) The exemptions from attachment, execution, or forced sale under Title 6 RCW and other applicable laws;

(2) Whether or not any separate property of the decedent's surviving spouse or surviving domestic partner is exempted from attachment, execution, or forced sale under Title 6 RCW or other applicable laws before and after the decedent's death;

(3) Whether or not exemptions from attachment, execution, or forced sale have been granted to the decedent or the decedent's surviving spouse or surviving domestic partner in another jurisdiction;

(4) How principles of equity and fairness would allocate the statutory exemptions from attachment, execution, and forced sale under Title 6 RCW and other applicable laws among the decedent's surviving spouse or surviving domestic partner and the decedent's surviving dependent children;

(5) How the laws of intestacy, if the decedent died intestate and without nonprobate assets, or the decedent's dispositive intent, if the decedent died testate or with nonprobate assets, would direct the decedent's property;

(6) The extent to which the claimant has other property that will satisfy the claimant's reasonable needs; and

(7) If the claimant is a child of the decedent, the child's ability or inability to meet the child's basic needs. [2024 c 20 s 9.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

RCW 11.54.060 Certain claims exempted. Notwithstanding any other provision of this chapter:

(1) None of the decedent's separate property and none of the property of the community composed of the decedent and the decedent's spouse or registered domestic partner is exempt from the duty to pay the costs of administration, funeral expenses, expenses of the last sickness, and wages due for labor performed within 60 days immediately preceding the decedent's death, as those terms are used in RCW 11.76.110.

(2) No provision of this chapter shall abrogate or diminish the rights associated with a valid lien. [2024 c 20 s 10; 1997 c 252 s 53.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.071 Abatement. The decedent's separate property and the property of the community composed of the decedent and the decedent's spouse or registered domestic partner abates for awards of family allowance under this chapter in accordance with chapter 11.10 RCW; provided however, that gifts containing a homestead or other nonfungible property that is exempt from attachment, execution, and forced sale shall abate to the extent that the property is awarded to a claimant under this chapter, regardless of whether the gift would be classified as intestate, residuary, general, demonstrative, or specific, except as otherwise provided in RCW 11.10.010(2). [2024 c 20 s 11.]

Effective date—Savings—2024 c 20: See notes following RCW 11.54.001.

RCW 11.54.090 Venue for petition—Petition and hearing requirements—Notice of hearing. The petition for an award, for an increased or modified award, or for the exemption of assets from the claims of creditors as authorized by this chapter must be made to the court of the county in which the probate is being administered. If probate proceedings have not been commenced in the state of Washington, the petition must be made to the court of a county in which the decedent was domiciled at the time of death. If the decedent was not domiciled in the state of Washington at the time of death, the petition may be made to the court of any county in which the decedent's estate could be administered under RCW 11.96A.050. The petition and the hearing must conform to RCW 11.96A.080 through 11.96A.200. Notice of the hearing on the petition must be given in accordance with RCW 11.96A.110. [1999 c 42 s 613; 1997 c 252 s 56.]

Effective date—1999 c 42: See RCW 11.96A.902.

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.

RCW 11.54.100 Exhaustion of estate—Closure of estate—Discharge of personal representative. If an award provided by this chapter will exhaust the estate, and probate proceedings have been commenced in the state of Washington, the court in the order of award or allowance shall order the estate closed, discharge the personal representative, and exonerate the personal representative's bond, if any. [1997 c 252 s 57.]

Application—1997 c 252 ss 1-73: See note following RCW 11.02.005.