

From: [Liberty Upton](#)
To: ["WSBA Probate & Trust Listserv"](#)
Subject: RPPT - Important Update Regarding Legislation
Date: Thursday, January 30, 2025 4:51:05 PM
Attachments: [image001.png](#)
[RPPT 2025 Legislative Tracker \(1.23.2025\).pdf](#)

GR 12.2 and Keller Case Change How Sections of the WSBA Engage in Legislative Process

In the U.S. Supreme Court case, *Keller v. State Bar of California* (1990), the Court ruled that a bar association may not use mandatory member fees to support political or ideological activities that are not reasonably related to the regulation of the legal profession or improving the quality of legal services. In the last few years, there have been more frequent legal challenges to mandatory bar organizations, including *Crowe v. Oregon State Bar* (2024).

In the past, sections of the WSBA were able to comment on and take a position on legislative changes. In light of recent legal challenges, under GR 12.2(c), sections of the WSBA are not allowed to comment on legislative changes unless the proposed legislation “relate(s) to or affect(s) the practice of law or the administration of justice.”

Members of the WSBA in their individual capacities are still allowed to propose new legislation and take a position on legislation. They are allowed to bring other members of the WSBA together to comment, support and/or oppose legislation. But the WSBA’s position as an organization (*e.g.*, Board of Governors, WSBA Sections, WSBA Committees) cannot take a position on legislation unless it relates to or affects the “practice of law or the administration of justice.” Essentially limiting the WSBA as an organization from advocating for legislation unless the issue is directly related to the functioning of the legal system.

Pursuant to GR 12.2(b)(17), the WSBA is authorized to “maintain a legislative presence to inform members of new and proposed laws and to inform public officials about the organization’s positions and concerns.” Therefore, each section of the bar still receives notice of new bills that impact such section and is asked to respond to the legislative affairs staff of the WSBA with one of four options: (1) bill is not relevant or of interest to section, (2) track bill but do not take a position, (3) provide technical drafting comments (typographical errors, mis-citations, ambiguities, possible conflicts with other RCWs, suggested amendatory language), and (4) taking a position on a bill after affirming the section followed the WSBA legislative process (determined the bill meets GR 12.2; and the executive committee of a WSBA Section voted and reached 75% or more consensus).

This is a change we think has gone unnoticed by many individual members of the WSBA. We want to bring this to your attention to make sure you understand that while the leadership in the RPPT Section of the WSBA is still working hard to keep our members informed by putting on CLEs, providing the RPPT Newsletter, and sending out occasional updates on legislation that may impact our section. In light of GR12.2 and *Keller*, the RPPT Section cannot actually take a position on most legislation. The RPPT Section will continue to review legislation, forward important legislation on to the section members, and provide resources for members to participate in the legislative process.

Current Bills that may be of interest to the Probate and Trust side of the RPPT:

- SB 5037: Enacting the uniform custodial trust act. [https://app.leg.wa.gov/billssummary?](https://app.leg.wa.gov/billssummary?bill=5037)

[billnumber=5037&year=2025](https://app.leg.wa.gov/billssummary?billnumber=5037&year=2025)

- HB 1215 and SB 5096: Removing references to pregnancy from the model directive form under the natural death act. <https://app.leg.wa.gov/billssummary?billnumber=5096&year=2025> and <https://app.leg.wa.gov/billssummary?billnumber=1215&year=2025>
- HB 1375 and SB 5405: Adjusting the estate tax exclusion amount for inflation. <https://app.leg.wa.gov/billssummary?BillNumber=1375&Year=2025> and <https://app.leg.wa.gov/billssummary?BillNumber=5405&Year=2025&Initiative=false>
- HB 1728: Adding a nonfamilial heir to the estate tax deduction. <https://app.leg.wa.gov/billssummary/?BillNumber=1728&Year=2025&Initiative=false>

To sign up for the 2025 legislative tracker (see attached), please email sevierm@ballardspahr.com from your preferred email address.

You can find more information on how to participate in the lawmaking process here: <https://leg.wa.gov/learn-and-participate/>

To take a position on legislation, we recommend utilizing the RPPT listserv to find other individuals that would like to propose new legislation or comment on proposed legislation.

Liberty Upton
WSBA RPPT, Probate and Trust Council Member

Liberty Upton
Attorney



Tel (206) 382-4414 (ex. 232) / Fax (206) 382-4412 / lupton@khbbblaw.com
705 Second Avenue / Suite 800 / Seattle, WA 98104 / www.khbbblaw.com