Kentucky Senate Bill 50: A Major Overhaul to KY Estate and Trust Law

Kathryn Beck and Joe Zurschmiede

On April 13, 2026, Governor Andy Beshear signed Senate Bill 50 (SB 50) into law, making substantial changes to Kentucky estate and trust law. The legislation comprehensively revises Kentucky's probate, estate and trust statutes by amending multiple KRS provisions and incorporating five key Uniform Law Commission acts.

Because SB 50 includes major changes, some of which took effect immediately, practitioners should undertake a careful and prompt review as it may significantly affect estate planning matters, especially for blended families. While this article provides an overview of some of the key changes in SB 50, it is not intended to be an exhaustive list of all the updates.

Changes to Intestate Succession and Spousal Rights

The first significant change under SB 50 is the restructuring of intestate succession with a primary emphasis on the rights of the surviving spouse. Under the newly amended KRS 391.010, the surviving spouse is placed at the top of the intestacy order for real property with a tiered share structure for blended-family situations.

Below demonstrates intestate succession and inheritance of real property with real-world applications:

- **Surviving Spouse with No Descendants.** When a decedent is survived by their spouse with no descendants, the surviving spouse inherits the entirety of the real property. **For example**, if John dies intestate survived by his spouse, Mary, and no children, under the newly amended KRS 391.010, Mary inherits 100% of John's real property.
- **Surviving Spouse and Joint Children Only.** When a decedent is survived by their spouse and by descendants which are also lineal descendants of the surviving spouse, the surviving spouse inherits the entirety of the real property. **For example**, John dies intestate survived by his spouse, Mary, and two children they share together. Because all descendants are also descendants of the surviving spouse, Mary again inherits 100% of the real property.
- **Blended Family (Decedent Has Non-Spousal Child)**. A surviving spouse inherits one half of the real property if the decedent is survived by the spouse and one or more descendants are not lineal descendants surviving spouse. **For example**, John dies intestate survived by his spouse, Mary, and one child from a prior relationship. Because at least one descendant is not Mary's descendant, Mary inherits 50% of the real property, and the remaining 50% passes to his child.
- **Blended Family (Spouse Has Non-Decedent Child)**. The surviving spouse will only inherit one half of the real property in a scenario where the decedent is survived by their spouse and lineal descendants of the marriage but the spouse also has one or more descendants who are not descendants of the decedent. **For example**, John dies intestate survived by his spouse, Mary, and one child they share together. Mary also has a child from a prior relationship (not John's child). In this case, Mary inherits 50% of the real property, and the shared child receives the remaining 50%.

In addition to the change in KRS 391.010, the elective share and dower/curtesy framework under KRS 391.020 is replaced with a broadened concept of "surplus personalty" and "surplus real estate" that takes into account non-probate assets. Under revised KRS 391.020, the surviving spouse retains the right to receive one half of the personal property ("surplus personalty"), but the statute now recognizes personal property to include property passing via beneficiary designation, transfer (or payable) on death designation, and joint tenancy with right of survivorship. Revocable trust assets and assets subject to a general power of appointment held by the decedent at death are also included in the calculation. While life insurance death benefits are excluded from the definition of surplus personalty, life insurance proceeds payable directly to the surviving spouse are credited against the spouse's share.

Another important update in KRS 391.020 is the implementation of a two-year lookback rule; transfers made more than two years before death are excluded from surplus, while transfers made within two years of death are included.

(Continued on next page)

(Continued from previous page)

SB 50 also trims the tail end of the prior intestacy descent order. The old provision allowed inheritance to pass indefinitely through remote collateral lines. Under the revised statute, if no kindred exist, the whole estate vests in the Commonwealth under KRS 393.020.

Implementation of The Uniform Electronic Wills Act and Uniform Electronic Estate Planning Documents Act

Under SB 50, Kentucky adopted the Uniform Law Commission's Uniform Electronic Wills Act, making Kentucky one of a growing number of states to recognize wills executed electronically. Under the new statute, an electronic will is valid if it: (1) is a record readable as text at the time of signing; (2) is signed by the testator, or by another person in the testator's physical presence and at the testator's direction; and (3) is signed by at least two witnesses in the testator's physical or electronic presence, provided the witnesses are Kentucky residents physically located in Kentucky at the time of signing.

SB 50 also adopts the Uniform Electronic Estate Planning Documents Act, which extends the validity of electronic execution to nontestamentary estate planning documents, including powers of attorney, trust instruments and advance directives. A document covered by the Act cannot be denied legal effect or enforceability solely because it is electronic.

These two acts significantly expand the universe of documents that may be electronically executed. Before updating execution protocols, practitioners should carefully review the exact statutory definitions, execution formalities, witness-presence requirements, rules for logical association of signatures, record retention and the interaction between KRS Chapter 394 and Kentucky's remote online notarization framework.

Transfer on Death Vehicle Titling

Following a trend of other states in recent years, Kentucky created a transfer-on-death mechanism for motor vehicles, motorcycles, motor homes, trailers and other like-titled property under KRS 186. The new KRS section will allow vehicle owners to designate a single transfer on death beneficiary on their vehicle's title. The designation is revocable during the owner's lifetime and cannot be changed by will or codicil. Unlike most changes under SB 50, this provision does not take effect until January 1, 2028.

Implementation of Modernized Trust Laws - Kentucky Qualified Dispositions in Trust Act, Uniform Directed Trust Act and Uniform Trust Decanting Act

Kentucky has adopted the Uniform Directed Trust Act (UDTA), the Uniform Trust Decanting Act (UTDA) and the new Qualified Dispositions in Trust Act under SB 50, which collectively modernize Kentucky's trust statutes to make it a more attractive jurisdiction for trust planning.

Most notably, SB 50 introduces Kentucky's first domestic asset protection trust statute under the Kentucky Qualified Dispositions in Trust Act. Prior to its enactment, a settlor of a trust in Kentucky could not be a beneficiary of a self-settled spendthrift trust with creditor protection. Individuals previously seeking this level of protection were required to use a trust situs in states such as Delaware, Nevada, South Dakota or Tennessee.

With the enactment of the UDTA and UTDA, Kentucky repealed its old directed trust and decanting statutes and replaced it with a more comprehensive, detailed and procedurally robust framework. The UDTA's primary feature is its treatment of trust directors as fiduciaries subject to the same rules, liabilities and duties as trustees with respect to the powers they hold. In essence, the UDTA draws a clear line of accountability between the trustee's administrative responsibilities and the director's decision-making authority.

Additionally, the UTDA establishes two tiers of decanting authority based on the trustee's discretionary power over principal distributions. The first tier gives relatively broad modification authority for authorized fiduciaries with expanded discretionary power. Under the second tier, a fiduciary whose discretion is limited to an ascertainable standard (such as health, education, maintenance and support) holds narrower decanting authority.

Practitioners should note that the UDTA and the UTDA apply to both new and existing trusts. Existing trust instruments that contain trust director, trust protector or decanting provisions should be reviewed to assess conformity with the new statutory frameworks and to identify any gaps or conflicts with the new rules.

Conclusion and Practical Implications

In sum, SB 50 represents a comprehensive recalibration of Kentucky's estate and trust framework, with implications for both planning and administration. Its expanded treatment of spousal rights, recognition of electronic estate planning instruments, introduction of transfer-on-death mechanisms for titled property and adoption of modern trust doctrines collectively signal a shift toward greater flexibility, efficiency and national alignment. However, these changes also introduce new layers of complexity that warrant careful analysis and, in many cases, proactive revisions to existing plans. Practitioners should view SB 50 not merely as a statutory update, but as a catalyst for revisiting client strategies to ensure continued effectiveness under Kentucky's evolving legal landscape.

Kathryn Beck is a Member of Stoll Keenon Ogden PLLC. She focuses her legal practice on Business Services and Litigation, as well as Trusts and Estates and Trust and Estate Litigation. Beck serves on the firm's Board of Directors and chairs the Personnel Committee. She received her J.D. from the University of Kentucky College of Law.

Joe Zurschmiede is a 2020 graduate from the University of Louisville Brandeis School of Law and is currently a financial advisor with Cerity Partners where he assists clients in matters related to estate planning, federal/state estate and gift taxation and financial planning.

Beck and Zurschmiede are chair and vice-chair, respectively, of the LBA Probate & Estate Section. ■