

HOUSE BILL ANALYSIS

HB 2369

Title: An act relating to slayers.

Brief Description: Prohibiting slayers from receiving benefits because of the victim's death.

Sponsors: Representatives Carlson, Sheahan, Radcliff, Constantine, Kastama, Mulliken, Gardner, Linville, Benson, Kessler, Anderson, Mitchell, Schoesler, D. Sommers, Van Luven, Dunn, Lambert, Boldt and McDonald.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background:

Slayer Statutes

The policy that a person not receive financial gain from killing another person is codified in Washington's slayer statutes. Those statutes provide that no person shall acquire any property or receive any benefit if the person participated, either as a principal or an accessory before the fact, in the willful and unlawful killing of the decedent. The slayer statutes are not to be considered penal in nature and are to be construed broadly.

If there is property that would normally have passed from the decedent to the slayer, either by intestate succession, by statutory right as a surviving spouse, or under any community property agreement, the slayer shall be deemed to have predeceased the decedent.

Property that would have passed to the slayer by the decedent's will shall be distributed as if the slayer predeceased the decedent. One-half of any property held jointly between the slayer and decedent shall pass to the decedent's estate, and the other half shall pass to the decedent's estate upon the death of the slayer, unless the slayer obtains a separation or severance of the property. If the slayer has a right of reversion or vested remainder in property and would have obtained the right of present possession upon the death of the decedent, the property shall pass to the estate of the decedent for the period of the life expectancy of the decedent.

Property held by the slayer that is subject to be divested or diminished in any way, or extinguished if the decedent survives the slayer, or lives to a certain age, shall be held by the slayer during his or her lifetime, or until the decedent would have reached the specified age, and then shall pass as if the decedent had died immediately after.

If the slayer is a beneficiary of the decedent's insurance proceeds, the proceeds shall be paid to the estate of the decedent or the secondary beneficiary, if there is one. An insurance company or financial institution making payments to a slayer without written notice that the person is a slayer will not be held liable under the slayer statutes. The slayer statutes do not affect a purchaser's rights if the person makes the purchase without notice and before the interests of the slayer have been adjudicated.

A conviction of the killing is admissible as evidence, but not conclusive, in a civil action under the slayer statutes. According to case law, the party seeking the benefit of the slayer statute has the burden of proving, by a preponderance of the evidence, that the slayer participated in the willful and unlawful killing of the decedent.

Community Property

Washington is a community property state. Generally, property acquired after marriage by either husband or wife, or both, is community property. A spouse may dispose of, by will or other testamentary instrument, his or her half interest in the community property. When parties own property as joint tenants, each has an undivided interest in the whole property. When one party dies, the entire tenancy goes to the survivor.

If a person dies without a will, his or her property will be distributed according to the statutes governing intestate succession. Those statutes provide that the surviving spouse receive, among other things, all of the decedent's share of the net community estate. Net estate— refers to the real and personal property of a decedent excluding homestead rights, exempt property, family allowance, and enforceable claims against, and debts of, the deceased or the estate.

The state court of appeals determined that the slayer statutes do not apply to the slayer's vested one-half interest in the community property, because the slayer already had an interest before the slaying and would not be profiting from the death. Armstrong v. Bray, 64 Wn. App. 736 (1992).

Department of Retirement Systems

The Department of Retirement Systems administers the various state retirement programs, such as the Washington Public Employees' Retirement System, the Washington State Teachers' Retirement System, and the Washington State Law Enforcement Officers' Retirement System. Under the state retirement programs, a

participant may designate a beneficiary to receive any remaining benefits when the participant dies.

Summary of Bill: A slayer is prohibited from acquiring an immediate possessory interest in the slayer's or the decedent's share of community property or jointly owned property, whether vested or not. The slayer shall be deemed to predecease the decedent as to any community property and jointly owned property. Jointly owned property held by the slayer and decedent shall pass upon the death of the decedent to the decedent's estate.

If the slayer holds a reversion or vested remainder and would have obtained a right of present possession upon the death of the decedent, the property will pass to the decedent's estate. Any interest in property held by the slayer that was subject to be divested, diminished, or extinguished if the decedent survived or lived to a certain age shall be divested as if the decedent survived or lived to the specific age, and shall pass as if the decedent died immediately after.

The provision stating that the slayer statutes are not to be considered penal in nature is removed.

Provisions regarding slayers are added to the statutes governing the Department of Retirement Systems. If the slayer is the beneficiary of the participant's state retirement plan, the benefits will be distributed as if the slayer had predeceased the decedent. The Department of Retirement Systems has no affirmative duty to determine whether a beneficiary is, or is alleged to be, a slayer. Upon receipt of a written notice that the beneficiary is a defendant in a civil action alleging the beneficiary is a slayer, or is charged with a crime that alleges the beneficiary is a slayer, the department must withhold payment of any benefits until the case or charges are adjudicated.

The slayer's conviction for having participated in the willful and unlawful killing of the decedent is admissible in evidence in a civil action under the slayer statutes of the Department of Retirement Systems. The department is not subject to liability for payment made to a slayer prior to the department's receipt of written notice that the slayer has been convicted of, or criminally or civilly charged with, slaying the decedent.

The act is to be applied proactively to acts resulting in unlawful killings on and after the effective date of the act.

The act also contains a severability clause providing that any portion that is in conflict and preempted by federal law is inoperative only to the extent of the conflict and will not affect the operation of the remainder.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Office of Program Research