

---

HOUSE BILL 2369

---

State of Washington

55th Legislature

1998 Regular Session

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

Prefiled 1/9/98. Read first time 01/12/98. Referred to Committee on Law & Justice.

1 AN ACT Relating to slayers; amending RCW 11.84.020, 11.84.030,  
2 11.84.040, 11.84.050, 11.84.060, 11.84.070, 11.84.900, 11.02.070, and  
3 26.16.120; adding a new section to chapter 11.84 RCW; adding a new  
4 section to chapter 41.04 RCW; creating new sections; and declaring an  
5 emergency.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 11.84.020 and 1965 c 145 s 11.84.020 are each amended  
8 to read as follows:

9 No slayer shall in any way acquire any property or receive any  
10 benefit as the result of the death of the decedent, but such property  
11 shall pass as provided in the sections following. "Acquire any  
12 property or receive any benefit" includes but is not limited to  
13 acquiring an immediate possessory interest in the slayer's or  
14 decedent's share of community or jointly owned property of the  
15 decedent's and slayer's, whether vested or not.

16 **Sec. 2.** RCW 11.84.030 and 1965 c 145 s 11.84.030 are each amended  
17 to read as follows:

1       The slayer shall be deemed to have predeceased the decedent as to  
2 the slayer's and decedent's shares of community property, jointly owned  
3 property, and property which would have passed from the decedent or his  
4 or her estate to the slayer under the statutes of descent and  
5 distribution or have been acquired by statutory right as surviving  
6 spouse or under any agreement made with the decedent under the  
7 provisions of RCW 26.16.120 (~~as it now exists or is hereafter~~  
8 ~~amended~~). The slayer shall be divested of the slayer's property  
9 interest, whether vested or not, in the slayer's and decedent's  
10 community or jointly held property.

11       **Sec. 3.** RCW 11.84.040 and 1965 c 145 s 11.84.040 are each amended  
12 to read as follows:

13       Community property, jointly owned property, and property which  
14 would have passed to or for the benefit of the slayer by devise or  
15 legacy from the decedent shall be distributed as if he or she had  
16 predeceased the decedent.

17       **Sec. 4.** RCW 11.84.050 and 1965 c 145 s 11.84.050 are each amended  
18 to read as follows:

19       (1) (~~One-half of~~) Any property held by the slayer and the  
20 decedent as joint tenants, joint owners or joint obligees shall pass  
21 upon the death of the decedent to his or her estate(~~(, and the other~~  
22 ~~half shall pass to his estate upon the death of the slayer, unless the~~  
23 ~~slayer obtains a separation or severance of the property or a decree~~  
24 ~~granting partition))).~~

25       (2) As to property held jointly by three or more persons, including  
26 the slayer and the decedent, any enrichment which would have accrued to  
27 the slayer as a result of the death of the decedent shall pass to the  
28 estate of the decedent. If the slayer becomes the final survivor,  
29 (~~one-half of~~) the property shall immediately pass to the estate of  
30 the decedent (~~and the other half shall pass to his estate upon the~~  
31 ~~death of the slayer, unless the slayer obtains a separation or~~  
32 ~~severance of the property or a decree granting partition)).~~

33       (3) The provisions of this section shall not affect any enforceable  
34 agreement between the parties or any trust arising because a greater  
35 proportion of the property has been contributed by one party than by  
36 the other.

1       **Sec. 5.** RCW 11.84.060 and 1965 c 145 s 11.84.060 are each amended  
2 to read as follows:

3       Property in which the slayer holds a reversion or vested remainder  
4 and would have obtained the right of present possession upon the death  
5 of the decedent shall pass to the estate of the decedent (~~((during the  
6 period of the life expectancy of decedent; if he held the particular  
7 estate or if the particular estate is held by a third person it shall  
8 remain in his hands for such period))~~).

9       **Sec. 6.** RCW 11.84.070 and 1965 c 145 s 11.84.070 are each amended  
10 to read as follows:

11       Any interest in property whether vested or not, held by the slayer,  
12 subject to be divested, diminished in any way or extinguished, if the  
13 decedent survives him or her or lives to a certain age, shall be (~~(held  
14 by the slayer during his lifetime or until the decedent would have  
15 reached such age, but))~~ divested as if the decedent survived the slayer  
16 or lived to the certain age and then shall (~~((then))~~) pass as if the  
17 decedent had died immediately thereafter.

18       **Sec. 7.** RCW 11.84.900 and 1965 c 145 s 11.84.900 are each amended  
19 to read as follows:

20       This chapter shall (~~((not be considered penal in nature, but shall))~~)  
21 be construed broadly (~~((in order))~~) to effect the policy of this state  
22 that no person shall be allowed to profit by his or her own wrong,  
23 wherever committed.

24       NEW SECTION. **Sec. 8.** A new section is added to chapter 11.84 RCW  
25 to read as follows:

26       Proceeds payable to a slayer as the beneficiary of any benefits  
27 flowing from one of the retirement systems listed in RCW 41.50.030, by  
28 virtue of the decedent's membership in the department of retirement  
29 systems or by virtue of the death of decedent, shall be paid instead as  
30 designated in section 11 of this act.

31       **Sec. 9.** RCW 11.02.070 and 1967 c 168 s 1 are each amended to read  
32 as follows:

33       Except as provided in chapter 11.84 RCW, upon the death of a  
34 decedent, a one-half share of the community property shall be confirmed  
35 to the surviving spouse, and the other one-half share shall be subject

1 to testamentary disposition by the decedent, or shall descend as  
2 provided in chapter 11.04 RCW. The whole of the community property  
3 shall be subject to probate administration for all purposes of this  
4 title, including the payment of obligations and debts of the community,  
5 the award in lieu of homestead, the allowance for family support, and  
6 any other matter for which the community property would be responsible  
7 or liable if the decedent were living.

8 **Sec. 10.** RCW 26.16.120 and Code 1881 s 2416 are each amended to  
9 read as follows:

10 Nothing contained in any of the provisions of this chapter or in  
11 any law of this state, shall prevent the husband and wife from jointly  
12 entering into any agreement concerning the status or disposition of the  
13 whole or any portion of the community property, then owned by them or  
14 afterwards to be acquired, to take effect upon the death of either.  
15 But such agreement may be made at any time by the husband and wife by  
16 the execution of an instrument in writing under their hands and seals,  
17 and to be witnessed, acknowledged and certified in the same manner as  
18 deeds to real estate are required to be, under the laws of the state,  
19 and the same may at any time thereafter be altered or amended in the  
20 same manner(~~(:— PROVIDED, HOWEVER, That)~~). Such agreement shall not  
21 derogate from the right of creditors((~~7~~))i nor be construed to curtail  
22 the powers of the superior court to set aside or cancel such agreement  
23 for fraud or under some other recognized head of equity jurisdiction,  
24 at the suit of either party; nor prevent the application of laws  
25 governing the community property and inheritance rights of slayers  
26 under chapter 11.84 RCW.

27 NEW SECTION. **Sec. 11.** A new section is added to chapter 41.04 RCW  
28 to read as follows:

29 (1) For purposes of this section, the following definitions shall  
30 apply:

31 (a) "Slayer" means a slayer as defined in RCW 11.84.010.

32 (b) "Decedent" means any person whose life is taken by a slayer,  
33 and who is a member of, or entitled to benefits from, the Washington  
34 state department of retirement systems by written designation or by  
35 operation of law.

36 (2) Property that would have passed to or for the benefit of a  
37 beneficiary under one of the retirement systems listed in RCW

1 41.50.030, including the beneficiary's community property share of the  
2 property, shall not pass to that beneficiary if the beneficiary is a  
3 slayer and shall be distributed as if the slayer had predeceased the  
4 decedent.

5 (3) A slayer is deemed to have predeceased the decedent as to  
6 property which, by designation or by operation of law, would have  
7 passed from the decedent to the slayer because of the decedent's  
8 membership in, or entitlement to benefits under, one of the retirement  
9 systems listed in RCW 41.50.030.

10 (4)(a) The department of retirement systems has no affirmative duty  
11 to determine whether a beneficiary is, or is alleged to be, a slayer.  
12 However, upon receipt of written notice that a beneficiary is a  
13 defendant in a civil lawsuit that alleges the beneficiary is a slayer  
14 or is charged with a crime that, if committed, means the beneficiary is  
15 a slayer, the department of retirement systems shall determine whether  
16 the beneficiary is a defendant in such a civil suit or has been  
17 formally charged in court with the crime. If so, the department shall  
18 withhold payment of any benefits until:

19 (i) The case or charges are dismissed;

20 (ii) The beneficiary is found not guilty in the criminal case or  
21 prevails in the civil suit; or

22 (iii) The beneficiary is convicted or is found to be a slayer in  
23 the civil suit.

24 (b) If the case or charges are dismissed or if a beneficiary is  
25 found not guilty or prevails in the civil suit, the department shall  
26 pay the beneficiary the benefits the beneficiary is entitled to  
27 receive. If the beneficiary is convicted or found to be a slayer in a  
28 civil suit, the department shall distribute the benefits according to  
29 subsection (2) of this section.

30 (5) The slayer's conviction for having participated in the willful  
31 and unlawful killing of the decedent shall be admissible in evidence  
32 against a claimant of property in any civil action arising under this  
33 section.

34 (6) This section shall not subject the department of retirement  
35 systems to liability for payment made to a slayer or alleged slayer  
36 prior to the department's receipt of written notice that the slayer has  
37 been convicted of, or the alleged slayer has been formally criminally  
38 or civilly charged in court with, the death of the decedent. If the  
39 conviction or civil judgment of a slayer is reversed on appeal, the

1 department of retirement systems shall not be liable for payment made  
2 prior to the receipt of written notice of the reversal to a beneficiary  
3 other than the person whose conviction or civil judgment is reversed.

4 NEW SECTION. **Sec. 12.** This act applies to acts that result in  
5 unlawful killings of decedents by slayers on and after the effective  
6 date of this act.

7 NEW SECTION. **Sec. 13.** If any part of this act is found to be in  
8 conflict with federal requirements, the conflicting part of this act is  
9 hereby declared to be inoperative solely to the extent of the conflict,  
10 and such finding or determination does not affect the operation of the  
11 remainder of this act. Rules adopted under this act must meet federal  
12 requirements.

13 NEW SECTION. **Sec. 14.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of the  
15 state government and its existing public institutions, and takes effect  
16 immediately.

--- END ---