

FINAL BILL REPORT

SHB 1103

C 525 L 09
Synopsis as Enacted

Brief Description: Concerning the estates of vulnerable adults.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Moeller, Green, Morrell and Kenney).

House Committee on Judiciary
Senate Committee on Judiciary

Background:

Financial Exploitation of Vulnerable Adults.

The Abuse of Vulnerable Adults Act provides a number of protections for vulnerable adults, including authorizing the Department of Social and Health Services and law enforcement agencies to investigate complaints of abandonment, abuse, financial exploitation, or neglect of vulnerable adults.

A vulnerable adult includes a person who:

- is age 60 years or older who has a functional, mental, or physical inability for self-care;
- has been found to be incapacitated;
- has a developmental disability;
- resides in a licensed facility such as a nursing home, adult family home, or residential habilitation center; or
- is receiving hospice or home health services.

Financial exploitation is the illegal or improper use of property, income, resources, or trust funds of the vulnerable adult by any person for any person's profit or advantage other than for the vulnerable adult's profit or advantage.

Inheritance Rights.

Under certain circumstances, an individual who takes the life of another is not entitled to inherit property or receive any benefit from the person he or she killed. This rule, in statute as part of the state's estate distribution laws, is commonly referred to as the slayer statute. A

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

slayer is a person who participates, either as a principal or an accessory before the fact, in the willful and unlawful killing of any other person. The slayer statute is broadly construed by the courts to enforce the state's policy that no person should be allowed to profit by his or her own wrongdoing.

Summary:

An abuser may not inherit property or any benefit from a deceased person who, at any time during life in which the decedent was a vulnerable adult, was the victim of financial exploitation by the abuser. An abuser is a person who participates, either as a principal or an accessory before the fact, in the willful and unlawful financial exploitation of a vulnerable adult.

Disposition of Property.

In most cases, an abuser is treated the same as a slayer with respect to the distribution of the decedent's estate.

Ratification.

An abuser may inherit property or benefits from the vulnerable adult's estate if the vulnerable adult knew of the financial exploitation and subsequently ratified his or her intent to transfer the property interest or benefit to the abuser. The court must find by clear, cogent, and convincing evidence that the decedent ratified the abuser's conduct.

Abuser Designation.

A criminal conviction for conduct constituting financial exploitation against a decedent, including but not limited to theft, forgery, fraud, identity theft, robbery, burglary, or extortion, is conclusive for the purposes of determining whether a person is an abuser. In the absence of a criminal conviction, a court may find by clear, cogent, and convincing evidence that:

- the decedent was a vulnerable adult at the time the alleged financial exploitation took place; and
- the conduct constituting financial exploitation was willful action or willful inaction causing injury to the property of the vulnerable adult.

Department of Social and Health Services Findings.

Findings of abuse made by the Department of Social and Health Services are not admissible in any claim or proceeding to determine whether a person is an abuser for inheritance purposes.

Common Law Remedies.

The provisions of the act are supplemental to, and do not derogate from, other statutory or common law proceedings, theories, or remedies, including the common law allocation of the burden of proof or production among the parties.

Statute Cross-References.

Statutes are amended that are cross-referenced by the existing slayer statute related to:

- joint community property agreements;
- retirement benefits; and
- the Trust and Estate Dispute Resolution Act.

Slayer Designation.

A criminal conviction for the willful and unlawful killing of a decedent is conclusive for the purposes of determining whether a person is a slayer. In the absence of a criminal conviction, a court may find by a preponderance of the evidence that a person participated in the willful and unlawful killing of the decedent.

Votes on Final Passage:

House	94	0	
Senate	45	0	(Senate amended)
House	94	0	(House concurred)

Effective: July 26, 2009