
HOUSE BILL 3093

State of Washington 60th Legislature 2008 Regular Session

By Representatives Moeller and Darneille

Read first time 01/22/08. Referred to Committee on Judiciary.

1 AN ACT Relating to the estates of vulnerable adults; amending RCW
2 11.84.010, 11.84.020, 11.84.025, 11.84.030, 11.84.040, 11.84.050,
3 11.84.060, 11.84.070, 11.84.080, 11.84.090, 11.84.100, 11.84.110,
4 11.84.120, 11.84.130, 41.04.273, and 26.16.120; and adding a new
5 section to chapter 11.84 RCW.

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

7 **Sec. 1.** RCW 11.84.010 and 1965 c 145 s 11.84.010 are each amended
8 to read as follows:

9 As used in this chapter:

10 (1) "Slayer" (~~shall mean~~) means any person who participates,
11 either as a principal or an accessory before the fact, in the willful
12 and unlawful killing of any other person.

13 (2) "Abuser" means any person who participates, either as a
14 principal or an accessory before the fact, in conduct against any other
15 person that constitutes:

16 (a) Abandonment as defined in RCW 74.34.020;

17 (b) Abuse as defined in RCW 74.34.020;

18 (c) Financial exploitation as defined in RCW 74.34.020; or

19 (d) Neglect as defined in RCW 74.34.020.

1 (3) "Decedent" (~~(shall mean)~~) means:

2 (a) Any person whose life is (~~so~~) taken by a slayer; or

3 (b) Any deceased person who, at any time during his or her life,
4 was the victim of conduct by an abuser.

5 (~~(3)~~) (4) "Property" (~~(shall)~~) includes any real and personal
6 property and any right or interest therein.

7 **Sec. 2.** RCW 11.84.020 and 1965 c 145 s 11.84.020 are each amended
8 to read as follows:

9 No slayer or abuser shall in any way acquire any property or
10 receive any benefit as the result of the death of the decedent, but
11 such property shall pass as provided in the sections following.

12 **Sec. 3.** RCW 11.84.025 and 1998 c 292 s 502 are each amended to
13 read as follows:

14 Proceeds payable to a slayer or abuser as the beneficiary of any
15 benefits flowing from one of the retirement systems listed in RCW
16 41.50.030, by virtue of the decedent's membership in the department of
17 retirement systems or by virtue of the death of decedent, shall be paid
18 instead as designated in RCW 41.04.273.

19 **Sec. 4.** RCW 11.84.030 and 1965 c 145 s 11.84.030 are each amended
20 to read as follows:

21 The slayer or abuser shall be deemed to have predeceased the
22 decedent as to property which would have passed from the decedent or
23 his or her estate to the slayer or abuser under the statutes of descent
24 and distribution or have been acquired by statutory right as surviving
25 spouse or under any agreement made with the decedent under the
26 provisions of RCW 26.16.120 as it now exists or is hereafter amended.

27 **Sec. 5.** RCW 11.84.040 and 1965 c 145 s 11.84.040 are each amended
28 to read as follows:

29 Property which would have passed to or for the benefit of the
30 slayer or abuser by devise or legacy from the decedent shall be
31 distributed as if he or she had predeceased the decedent.

32 **Sec. 6.** RCW 11.84.050 and 1965 c 145 s 11.84.050 are each amended
33 to read as follows:

1 (1) One-half of any property held by the slayer or abuser and the
2 decedent as joint tenants, joint owners or joint obligees shall pass
3 upon the death of the decedent to his or her estate, and the other half
4 shall pass to his or her estate upon the death of the slayer or abuser,
5 unless the slayer or abuser obtains a separation or severance of the
6 property or a decree granting partition.

7 (2) As to property held jointly by three or more persons, including
8 the slayer or abuser and the decedent, any enrichment which would have
9 accrued to the slayer or abuser as a result of the death of the
10 decedent shall pass to the estate of the decedent. If the slayer or
11 abuser becomes the final survivor, one-half of the property shall
12 immediately pass to the estate of the decedent and the other half shall
13 pass to his or her estate upon the death of the slayer or abuser,
14 unless the slayer or abuser obtains a separation or severance of the
15 property or a decree granting partition.

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

20 (4) The slayer or abuser is not entitled to receive his or her
21 purported share of any jointly owned property or enforce any agreement
22 under (3) of this subsection, if the interest in the property or the
23 agreement sought to be enforced was acquired through an act of abuse
24 prohibited under RCW 11.84.010 or through undue influence, coercion, or
25 breach of fiduciary duty owed to the decedent.

26 **Sec. 7.** RCW 11.84.060 and 1965 c 145 s 11.84.060 are each amended
27 to read as follows:

28 Property in which the slayer or abuser holds a reversion or vested
29 remainder, which was not obtained through an act of abuse prohibited
30 under RCW 11.84.010 or through undue influence, coercion, or breach of
31 fiduciary duty owed to the decedent, and would have obtained the right
32 of present possession upon the death of the decedent shall pass to the
33 estate of the decedent during the period of the life expectancy of
34 decedent; if he or she held the particular estate or if the particular
35 estate is held by a third person it shall remain in his or her hands
36 for such period. Property that the slayer or abuser obtained through

1 an act of abuse prohibited under RCW 11.84.010 or through undue
2 influence, coercion, or breach of fiduciary duty owed to the decedent
3 shall pass immediately to the decedent's estate.

4 **Sec. 8.** RCW 11.84.070 and 1965 c 145 s 11.84.070 are each amended
5 to read as follows:

6 Any interest in property whether vested or not, held by the slayer
7 or abuser, subject to be divested, diminished in any way or
8 extinguished, if the decedent survives him or her or lives to a certain
9 age, shall be held by the slayer or abuser during his or her lifetime
10 or until the decedent would have reached such age, but shall then pass
11 as if the decedent had died immediately thereafter. Any interest in
12 property whether vested or not, held by the slayer or abuser under this
13 section that was obtained through an act of abuse prohibited under RCW
14 11.84.010 or through undue influence, coercion, or breach of fiduciary
15 duty owed to the decedent shall pass immediately to the decedent's
16 estate.

17 **Sec. 9.** RCW 11.84.080 and 1965 c 145 s 11.84.080 are each amended
18 to read as follows:

19 As to any contingent remainder or executory or other future
20 interest held by the slayer or abuser, subject to become vested in him
21 or her or increased in any way for him or her upon the condition of the
22 death of the decedent:

23 (1) If the interest would not have become vested or increased if he
24 or she had predeceased the decedent, he or she shall be deemed to have
25 so predeceased the decedent;

26 (2) In any case the interest shall not be vested or increased
27 during the period of the life expectancy of the decedent;

28 (3) Any contingent remainder or executory or other future interest
29 held by the slayer or abuser under this section that was obtained
30 through an act of abuse prohibited under RCW 11.84.010 or through undue
31 influence, coercion, or breach of fiduciary duty owed to the decedent
32 shall pass as if the slayer or abuser had predeceased the decedent.

33 **Sec. 10.** RCW 11.84.090 and 1965 c 145 s 11.84.090 are each amended
34 to read as follows:

1 (1) Property appointed by the will of the decedent to or for the
2 benefit of the slayer or abuser shall be distributed as if the slayer
3 or abuser had predeceased the decedent.

4 (2) Property held either presently or in remainder by the slayer or
5 abuser, subject to be divested by the exercise by the decedent of a
6 power of revocation or a general power of appointment shall pass to the
7 estate of the decedent, and property so held by the slayer or abuser,
8 subject to be divested by the exercise by the decedent of a power of
9 appointment to a particular person or persons or to a class of persons,
10 shall pass to such person or persons, or in equal shares to the members
11 of such class of persons, exclusive of the slayer or abuser.

12 **Sec. 11.** RCW 11.84.100 and 1965 c 145 s 11.84.100 are each amended
13 to read as follows:

14 (1) Insurance proceeds payable to the slayer or abuser as the
15 beneficiary or assignee of any policy or certificate of insurance on
16 the life of the decedent, or as the survivor of a joint life policy,
17 shall be paid instead to the estate of the decedent, unless the policy
18 or certificate designate some person other than the slayer or abuser or
19 his or her estate as secondary beneficiary to him or her and in which
20 case such proceeds shall be paid to such secondary beneficiary in
21 accordance with the applicable terms of the policy.

22 (2) If the decedent is beneficiary or assignee of any policy or
23 certificate of insurance on the life of the slayer or abuser, the
24 proceeds shall be paid to the estate of the decedent upon the death of
25 the slayer or abuser, unless the policy names some person other than
26 the slayer or abuser or his or her estate as secondary beneficiary, or
27 unless the slayer or abuser by naming a new beneficiary or assigning
28 the policy performs an act which would have deprived the decedent of
29 his or her interest in the policy if he or she had been living.

30 **Sec. 12.** RCW 11.84.110 and 1965 c 145 s 11.84.110 are each amended
31 to read as follows:

32 Any insurance company making payment according to the terms of its
33 policy or any bank or other person performing an obligation for the
34 slayer or abuser as one of several joint obligees shall not be
35 subjected to additional liability by the terms of this chapter if such
36 payment or performance is made without written notice, at its home

1 office or at an individual's home or business address, of the killing
2 by a slayer or the abuse, abandonment, financial exploitation, or
3 neglect by an abuser.

4 **Sec. 13.** RCW 11.84.120 and 1965 c 145 s 11.84.120 are each amended
5 to read as follows:

6 The provisions of this chapter shall not affect the rights of any
7 person who, before the interests of the slayer or abuser have been
8 adjudicated, purchases or has agreed to purchase, from the slayer or
9 abuser for value and without notice property which the slayer or abuser
10 would have acquired except for the terms of this chapter, but all
11 proceeds received by the slayer or abuser from such sale shall be held
12 by him or her in trust for the persons entitled to the property under
13 the provisions of this chapter, and the slayer or abuser shall also be
14 liable both for any portion of such proceeds which he or she may have
15 dissipated and for any difference between the actual value of the
16 property and the amount of such proceeds.

17 **Sec. 14.** RCW 11.84.130 and 1965 c 145 s 11.84.130 are each amended
18 to read as follows:

19 ~~((The))~~ Any record of ~~((his))~~ conviction ~~((of))~~ for having
20 participated in the willful and unlawful killing of the decedent, or
21 finding by a court of competent jurisdiction or by an administrative
22 law judge of conduct against the decedent that constitutes abandonment,
23 abuse, financial exploitation, or neglect as defined in chapter 74.34
24 RCW, shall be admissible in evidence against a claimant of property in
25 any civil action arising under this chapter.

26 NEW SECTION. **Sec. 15.** A new section is added to chapter 11.84 RCW
27 to read as follows:

28 (1) A final judgment of conviction for the willful and unlawful
29 killing, abandonment, abuse, financial exploitation, or neglect of
30 another person is conclusive for purposes of determining whether a
31 person is a slayer or an abuser under RCW 11.84.010.

32 (2) In the absence of a criminal prosecution or conviction, a court
33 of competent jurisdiction or administrative law judge may determine by
34 a preponderance of the evidence whether a person participated in a

1 willful and unlawful killing, or engaged in conduct that constitutes
2 abandonment, abuse, financial exploitation, or abuse for purposes of
3 RCW 11.84.010.

4 **Sec. 16.** RCW 41.04.273 and 1998 c 292 s 501 are each amended to
5 read as follows:

6 (1) For purposes of this section, the following definitions shall
7 apply:

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

9 (b) "Abuser" has the same meaning as provided in RCW 11.84.010.

10 (c) "Decedent" means any person (~~whose life is taken by a slayer,~~
11 and)) who is entitled to benefits from the Washington state department
12 of retirement systems by written designation or by operation of law:

13 (i) Whose life is taken by a slayer; or

14 (ii) Who is deceased and who was, at any time during his or her
15 life, the victim of conduct by an abuser.

16 (2) Property that would have passed to or for the benefit of a
17 beneficiary under one of the retirement systems listed in RCW 41.50.030
18 shall not pass to that beneficiary if the beneficiary was a slayer or
19 abuser of the decedent and the property shall be distributed as if the
20 slayer or abuser had predeceased the decedent.

21 (3) A slayer or abuser is deemed to have predeceased the decedent
22 as to property which, by designation or by operation of law, would have
23 passed from the decedent to the slayer or abuser because of the
24 decedent's entitlement to benefits under one of the retirement systems
25 listed in RCW 41.50.030.

26 (4)(a) The department of retirement systems has no affirmative duty
27 to determine whether a beneficiary is, or is alleged to be, a slayer or
28 abuser. However, upon receipt of written notice that a beneficiary is
29 a defendant in a civil lawsuit or in an administrative law proceeding
30 that alleges the beneficiary is a slayer or abuser, or is charged with
31 a crime that, if committed, means the beneficiary is a slayer or
32 abuser, the department of retirement systems shall determine whether
33 the beneficiary is a defendant in such a civil suit or an
34 administrative law proceeding or has been formally charged in court
35 with the crime, or both. If so, the department shall withhold payment
36 of any benefits until:

1 (i) The case or charges, or both if both are pending, are
2 dismissed;

3 (ii) The beneficiary is found not guilty in the criminal case or
4 prevails in the civil suit or an administrative law proceeding, or both
5 if both are pending; (~~(or)~~)

6 (iii) The beneficiary is convicted or found to be a slayer or
7 abuser; or

8 (iv) The beneficiary is found to be a slayer or abuser in the civil
9 suit or an administrative law proceeding.

10 (b) If the case or charges, or both if both are pending, are
11 dismissed or if a beneficiary is found not guilty or prevails in the
12 civil suit, or both if both are pending, the department shall pay the
13 beneficiary the benefits the beneficiary is entitled to receive. If
14 the beneficiary is criminally convicted or found to be a slayer or
15 abuser in a civil suit or an administrative law proceeding, the
16 department shall distribute the benefits according to subsection (2) of
17 this section.

18 (5) (~~The slayer's~~) Any record of conviction for having
19 participated in the willful and unlawful killing of the decedent, or
20 finding by a court of competent jurisdiction or by an administrative
21 law judge of conduct against the decedent that constitutes abandonment,
22 abuse, financial exploitation, or neglect as defined in chapter 74.34
23 RCW, shall be admissible in evidence against a claimant of property in
24 any civil action arising under this section.

25 (6) This section shall not subject the department of retirement
26 systems to liability for payment made to a slayer or abuser, or alleged
27 slayer or abuser, prior to the department's receipt of written notice
28 that the slayer or abuser has been convicted of, or the alleged slayer
29 or abuser, has been formally criminally or civilly charged in court or
30 by an administrative agency charged with investigating acts of abuse
31 against a vulnerable adult under chapter 74.34 RCW with, the death or
32 abuse of the decedent. If the conviction, administrative finding, or
33 civil judgment of a slayer or abuser is reversed on appeal, the
34 department of retirement systems shall not be liable for payment made
35 prior to the receipt of written notice of the reversal to a beneficiary
36 other than the person whose conviction, administrative finding, or
37 civil judgment is reversed.

1 **Sec. 17.** RCW 26.16.120 and 1998 c 292 s 505 are each amended to
2 read as follows:

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

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