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SENATE BILL 5103

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State of Washington                      62nd Legislature                      2011 Regular Session

By Senators Carrell, Pflug, Schoesler, and Roach

Read first time 01/13/11. Referred to Committee on Judiciary.

1            AN ACT Relating to including persons acquitted by reason of  
2 insanity within the slayer statute; and amending RCW 11.84.010,  
3 11.84.130, and 41.04.273.

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

5            **Sec. 1.** RCW 11.84.010 and 2009 c 525 s 1 are each amended to read  
6 as follows:

7            As used in this chapter:

8            (1) "Abuser" means any person who participates, either as a  
9 principal or an accessory before the fact, in the willful and unlawful  
10 financial exploitation of a vulnerable adult.

11            (2) "Decedent" means:

12            (a) Any person whose life is taken by a slayer; or

13            (b) Any deceased person who, at any time during life in which he or  
14 she was a vulnerable adult, was the victim of financial exploitation by  
15 an abuser.

16            (3) "Financial exploitation" has the same meaning as provided in  
17 RCW 74.34.020, as enacted or hereafter amended.

18            (4) "Property" includes any real and personal property and any  
19 right or interest therein.

1 (5) "Slayer" means any person who participates, either as a  
2 principal or an accessory before the fact, in the willful and unlawful  
3 killing of any other person including a person charged with the willful  
4 and unlawful killing of any other person who is acquitted by reason of  
5 insanity.

6 (6) "Vulnerable adult" has the same meaning as provided in RCW  
7 74.34.020.

8 **Sec. 2.** RCW 11.84.130 and 2009 c 525 s 13 are each amended to read  
9 as follows:

10 Any record of conviction or acquittal by reason of insanity for  
11 having participated in the willful and unlawful killing of the decedent  
12 or for conduct constituting financial exploitation against the  
13 decedent, including but not limited to theft, forgery, fraud, identity  
14 theft, robbery, burglary, or extortion, shall be admissible in evidence  
15 against a claimant of property in any civil proceeding arising under  
16 this chapter.

17 **Sec. 3.** RCW 41.04.273 and 2009 c 525 s 19 are each amended to read  
18 as follows:

19 (1) For purposes of this section, the following definitions shall  
20 apply:

21 (a) "Abuser" has the same meaning as provided in RCW 11.84.010.

22 (b) "Decedent" means any person who is entitled to benefits from  
23 the Washington state department of retirement systems by written  
24 designation or by operation of law:

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

26 (ii) Who is deceased and who, at any time during life in which he  
27 or she was a vulnerable adult, was the victim of financial exploitation  
28 by an abuser, except as provided in RCW 11.84.170.

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

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

35 (3) A slayer or abuser is deemed to have predeceased the decedent  
36 as to property which, by designation or by operation of law, would have

1 passed from the decedent to the slayer or abuser because of the  
2 decedent's entitlement to benefits under one of the retirement systems  
3 listed in RCW 41.50.030.

4 (4)(a) The department of retirement systems has no affirmative duty  
5 to determine whether a beneficiary is, or is alleged to be, a slayer or  
6 abuser. However, upon receipt of written notice that a beneficiary is  
7 a defendant in a civil lawsuit or probate proceeding that alleges the  
8 beneficiary is a slayer or abuser, or is charged with a crime that, if  
9 committed, means the beneficiary is a slayer or abuser, the department  
10 of retirement systems shall determine whether the beneficiary is a  
11 defendant in such a civil proceeding or has been formally charged in  
12 court with the crime, or both. If so, the department shall withhold  
13 payment of any benefits until:

14 (i) The case or charges, or both if both are pending, are  
15 dismissed;

16 (ii) The beneficiary is found not guilty, other than by reason of  
17 insanity, in the criminal case or prevails in the civil proceeding, or  
18 both if both are pending; (~~or~~)

19 (iii) The beneficiary is convicted or is found to be a slayer or  
20 abuser in the civil proceeding; or

21 (iv) The beneficiary is acquitted by reason of insanity and the  
22 department has given the decedent's personal representative thirty  
23 days' notice of the intent to distribute such proceeds.

24 (b) If the case or charges, or both if both are pending, are  
25 dismissed or if a beneficiary is found not guilty, other than by reason  
26 of insanity, or prevails in the civil proceeding, or both if both are  
27 pending, the department shall pay the beneficiary the benefits the  
28 beneficiary is entitled to receive. If the beneficiary is convicted or  
29 found to be a slayer or abuser in a civil proceeding, the department  
30 shall distribute the benefits according to subsection (2) of this  
31 section.

32 (5) Any record of conviction or acquittal by reason of insanity for  
33 having participated in the willful and unlawful killing of the decedent  
34 or for conduct constituting financial exploitation against the  
35 decedent, including but not limited to theft, forgery, fraud, identity  
36 theft, robbery, burglary, or extortion, shall be admissible in evidence  
37 against a claimant of property in any civil action arising under this  
38 section.

1           (6) In the absence of a criminal conviction, a superior court may  
2 determine:

3           (a) By a preponderance of the evidence whether a person  
4 participated in the willful and unlawful killing of the decedent;

5           (b) By clear, cogent, and convincing evidence whether a person  
6 participated in conduct constituting financial exploitation against the  
7 decedent, as provided in chapter 11.84 RCW.

8           (7) This section shall not subject the department of retirement  
9 systems to liability for payment made to a slayer or abuser or alleged  
10 slayer or abuser, prior to the department's receipt of written notice  
11 that the slayer or abuser has been convicted or acquitted by reason of  
12 insanity of, or the alleged slayer or abuser has been formally  
13 criminally or civilly charged in court with, the death or financial  
14 exploitation of the decedent. If the conviction or civil judgment of  
15 a slayer or abuser is reversed on appeal, the department of retirement  
16 systems shall not be liable for payment made prior to the receipt of  
17 written notice of the reversal to a beneficiary other than the person  
18 whose conviction or civil judgment is reversed.

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