

House Research Act Summary

CHAPTER: 94

SESSION: 2013 Regular Session

TOPIC: Homicide victims; probate

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Overview

This act amends the state's "slayer" statute. The purpose of the slayer statute is to prevent unjust enrichment in homicide cases by providing that the killer cannot benefit from a decedent's death through inheritance. A conviction or other finding by a court of the felonious and intentional killing of the decedent is needed before the statutory protections take effect.

The act creates two processes by which a personal representative, special administrator, or other interested person may seek to protect the decedent's estate prior to a finding or conviction.

First, the agent may file with the court an inventory of decedent's personal property that may be affected by the slayer statute. This inventory may serve as documentation for later claims or for purposes of the second process. The second process authorizes the court to order certain relief regarding the decedent's property, such as reserving determination of its distribution, holding it in trust, or prohibiting its disposition pending a final determination under the slayer statute. Finally, section 4 provides notice of the above rights to crime victims.

Section

1 Effect of homicide on intestate succession, wills, joint assets, life insurance and beneficiary designations; emergency order.

Para. (h). Provides that a personal representative, special administrator, or an interested person may file with the court a copy of the criminal complaint or indictment and an inventory of the decedent's personal property that may be affected

Section

by a determination under the slayer statute. Requires person filing inventory to attest to its veracity.

Para. (i). Upon motion and for good cause shown, authorizes the court to issue an order regarding property identified in paragraph (h) that includes any of the following relief: (1) reserving a determination of the property; (2) holding property in trust for beneficiaries not disqualified under the slayer statute; (3) prohibiting the sale, disposition, removal, transfer, or destruction of property; (4) permitting certain transactions of property jointly held by decedent and defendant only to the extent necessary for reasonable and ordinary living expenses, and/or (5) any other relief prescribed by the court.

Authorizes an emergency *ex parte* order (*i.e.*, an order issued without notice to other parties) if the court finds that a delay in having a hearing may irreparably harm the rights of decedent's heirs. Requires notice to interested parties within 48 hours and a hearing within five days of issuing the order. In all other cases, notice is to be provided as the court directs. Provides that an order issued under this paragraph is effective pending a final determination under the slayer statute unless the court provides a shorter time period or rescinds the order.

- 2 **Special administrator; appointment.** Provides that a special administrator may be appointed when necessary to protect a decedent's estate under the slayer statute. Allows the appointment to be made without notice. (A special administrator is appointed to preserve the estate *prior* to appointment of the personal representative.)
- 3 **Special administrator; who may be appointed.** Provides an exception to the default appointment of the executor (who could be the defendant) as the special administrator. Authorizes the court to appoint a qualified neutral, professional fiduciary, or other interested person.
- 4 **Victims' rights.** Amends the initial victims' rights notice given by a peace officer to include, in homicide cases, information on the rights and procedures available under sections 1 to 3.

Effective July 1, 2014.
- 5 **Use of existing supply.** Allows a law enforcement agency, city attorney, or county attorney's office to exhaust existing notices before producing new notices required under section 4.