

Department of Legislative Services
Maryland General Assembly
2012 Session

FISCAL AND POLICY NOTE

Senate Bill 517 (Senator Shank)
Judicial Proceedings

Estates and Trusts - Slayer's Rule (Ann Sue Metz Law)

This bill disqualifies a person who feloniously and intentionally kills another person from benefitting from the estate, insurance proceeds, or property of the decedent. A person also may not benefit from the estate, insurance proceeds, or property of the decedent as a direct result of the disqualification of the killer, despite being innocent of any wrongdoing. In both cases, the disqualified persons are treated as having predeceased the decedent. The bill also requires restitution in the event of an erroneous distribution; protects a fiduciary or other person from personal liability for unknowingly making an erroneous distribution in good faith; and allows for a court, notwithstanding the absence of a criminal or civil judgment against the killer, to, upon request, order that a benefit be held in trust for a beneficiary or heir that is not disqualified. The bill applies only prospectively.

Fiscal Summary

State Effect: None. The bill does not directly affect State finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: The bill specifies that a person who feloniously and intentionally kills a decedent is disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the estate, insurance proceeds, or property of the decedent. In addition, a person may not inherit, take, enjoy, receive, or otherwise benefit from the estate, insurance proceeds, or property of the decedent as a direct result of the disqualification of

the killer, even though the person is innocent of any wrongdoing. These persons are treated as if they predeceased the decedent.

If a distribution is made erroneously to a person who is disqualified under the bill, the disqualified person must make full restitution to the heir, legatee, or beneficiary who should have received the distribution. A fiduciary or other person who distributes property in good faith and without actual knowledge of the killing is not personally liable for the distribution.

Notwithstanding the absence of a criminal or civil judgment establishing accountability for the felonious and intentional killing of a decedent, at the request of an interested party, a court may order that a benefit from the estate, insurance proceeds, or property of the decedent be held in trust for a beneficiary or heir that is not disqualified.

Current Law/Background: There is a common law “slayer’s rule” in Maryland. In *Ford v. Ford*, 307 Md. 105 (1986), the Court of Appeals in describing the rule, stated, in part, that “[a] person who kills another may not share in the distribution of the decedent’s estate as an heir by way of statutes of descent and distribution, or as a devisee or legatee under the decedent’s will, nor may he collect the proceeds as a beneficiary under a policy of insurance on the decedent’s life when the homicide is felonious and intentional.” The court stated that the principle applies “not only to the killer but to those claiming through or under him.” In addition, a criminal conviction is not necessary to establish that the alleged killer was the criminal agent and the homicide was felonious and intentional for the purposes of determining who is entitled to the assets of the decedent. That could be established in a civil proceeding.

The common law slayer’s rule is referred to in the Courts and Judicial Proceedings Article with respect to the admissibility and conclusiveness of evidence of a criminal conviction in a civil proceeding in which the common law slayer’s rule is raised as an issue. After all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of a decedent (1) is admissible in a subsequent civil proceeding in which the common law slayer’s rule is raised as an issue; and (2) conclusively establishes that the convicted individual feloniously and intentionally killed the decedent.

Maryland appears to be in a small minority of states that do not have a “slayer’s rule” in statute. A Court of Appeals opinion in another case addressing the slayer’s rule in Maryland, *Cook v. Grierson*, 380 Md. 502 (2004), cited 42 states as having adopted such statutes.

Additional Information

Prior Introductions: None.

Cross File: HB 735 (Delegate Schulz, *et al.*) - Judiciary.

Information Source(s): Judiciary (Administrative Office of the Courts), Maryland Insurance Administration, Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2012

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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510