

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 489

(Senators Shank and Getty)

Judicial Proceedings

Judiciary

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

This bill disqualifies a person who feloniously and intentionally kills, conspires to kill, or procures the killing of a decedent from benefitting from the death of the decedent. The bill applies only prospectively, to the estate or property of a person who dies on or after the bill's effective date of October 1, 2013.

Fiscal Summary

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

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: A person who feloniously and intentionally kills, conspires to kill, or procures the killing of a decedent is disqualified from inheriting, taking, enjoying, receiving, or otherwise benefitting from the death, probate estate, or nonprobate property of the decedent. The person is also disqualified from receiving a general or special power of appointment conferred by the will or trust of the decedent and serving as a personal representative, guardian, or trustee of a trust created by the decedent. A disqualified person is treated as if the person disclaimed the property or interest in the property at the time of the decedent's death and existing provisions preventing a legacy from lapsing or failing because the legatee predeceases the testator do not apply.

A final conviction of felonious and intentional killing, conspiring to kill, or procuring the killing of a decedent is admissible in a civil proceeding in which a person is alleged to be a disqualified person and is conclusive for the purposes of the bill. In the absence of such a conviction, the trier of fact in a civil proceeding may determine, by a preponderance of evidence, whether a person feloniously and intentionally killed, conspired to kill, or procured the killing of the decedent for purposes of the bill. The bill does not affect a right to a jury trial which otherwise exists.

The bill establishes a limit on the period in which a person may file a civil action alleging that another person is a disqualified person, specifying that such a civil action may not be filed after the later of (1) three years from the decedent's death or (2) one year from the date a criminal charge is filed if the alleged disqualified person is criminally charged within three years of the decedent's death. A civil proceeding may be stayed pending a final judgment in a criminal case. A person may also seek a determination in the proper court that the person is not a disqualified person.

The bill also specifies that a disqualified person may not benefit from a survivorship interest in property held with the decedent or a life insurance policy on the decedent or other contractual arrangement with the decedent. A third party, including an insurance company, bank, or other obligor, is not liable for making a payment according to the terms of a policy or obligation unless, before the payment is made, the third party receives written notice of an alleged disqualified person at the home office or principal address of the third party.

A third party who purchases property for value and without notice or who receives a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is not liable for or obligated to return the payment, item of property, or benefit. However, a person who, not for value, receives a payment, an item of property, or any other benefit to which the person is not entitled under the bill is personally liable and obligated to return the payment or item of property.

The bill limits who may provide notice to a third party, to those who would be entitled to obtain property if another person is found to be disqualified, and also limits the time period within which notice may be provided to a third party, to the same time period applicable to filing a civil action alleging a disqualification.

A third party who files an interpleader (an action or claim to determine entitlement to property between adverse claimants) regarding an amount owed is not liable to an alleged disqualified person for wrongful dishonor or any other claim relating to the amount owed.

If a distribution is erroneously made to a disqualified person, the disqualified person must make full restitution to the heir, legatee, beneficiary, or joint tenant who should have received the distribution.

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: SB 517 of 2012, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Its cross file, HB 735, received a hearing in the House Judiciary Committee, but no further action was taken.

Cross File: HB 1211 (Delegate Schulz, *et al.*) - Judiciary.

Information Source(s): (Administrative Office of the Courts), Register of Wills, Department of Legislative Services

Fiscal Note History: First Reader - February 26, 2013
mlm/kdm Revised - Enrolled Bill - May 13, 2013

Analysis by: Scott D. Kennedy

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