

HOUSE BILL ANALYSIS

HB 1290

Title: An act relating to eliminating dead man's statute provisions.

Brief Description: Eliminating dead man's statute provisions.

Sponsors: Representatives Sheahan, Lantz and Costa.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: Various statutes and court rules govern the admissibility of evidence in civil cases. Generally, a person cannot be excluded from testifying in a civil case just because the person has a pecuniary or proprietary interest in the outcome. The jury or court, however, can consider the person's self-interest when determining whether or not the person is credible.

Allowing a person who has an interest in the case to testify raises concerns in certain circumstances. In actions against a decedent's estate, a person could testify falsely about transactions or conversations he or she had with the decedent, and the decedent could not rebut that testimony. There was concern that it would be too easy for a living person to bring false claims against a decedent's estate. To address that concern, many states, including Washington, enacted deadman's statutes.—

Under Washington's deadman's statute, a person interested in the outcome of a case against a decedent cannot testify, on his or her own behalf, about any transaction he or she had with the decedent or any statements made by the decedent.

Washington's deadman's statute also applies to statements and transactions made by incompetent persons and minors under the age of 14. Therefore, in an action against an incompetent person or a person under 14, a person who has an interest in the outcome of the case cannot testify on his or her own behalf about any transactions with or statements made by the incompetent person or minor under 14.

Some people have criticized deadman's statutes for, among other things, barring honest claims. Washington courts have also criticized the deadman's statute. The appellate court remarked that the statute was "complicated by its many exceptions, its obscure language, and its unconvincing policy grounds." See Erickson v. Kerr, 69 Wn. App. 891, 895-96 (1993).

There is no federal deadman's statute. Other states have eliminated their deadman's statutes. Some states have altered their deadman's statutes to allow an interested person to testify about any transaction or conversation the person had with the deceased, but only if that testimony can be corroborated by other evidence. Some states allow an interested person to testify, but also allow into evidence any relevant oral declarations or written statements made by the deceased, whether or not such statements are hearsay.

Summary of Bill: The bill eliminates the deadman's statute. A person interested in the outcome of the case is not prohibited from testifying about transactions and statements solely because they were made with or by a deceased, incompetent person, or minor under the age of 14.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.