HOUSE BILL REPORT
SHB 2369

As Passed House:
February 10, 1998

Title: An act relating to slayers.

Brief Description: Prohibiting slayers from receiving benefits because of the victim's death.

Sponsors: By House Committee on Law & Justice (H) (originally sponsored by Representatives Carlson, Sheahan, Radcliff, Constantine, Kastama, Mulliken, Gardner, Linville, Benson, Kessler, Anderson, Mitchell, Schoesler, D. Sommers, Van Luven, Dunn, Lambert, Boldt and McDonald).

Brief History:
Committee Activity:
Law & Justice: 1/21/98, 2/4/98 [DPS].
Floor Activity:
Passed House: 2/10/98, 96-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Trudes Hutcheson (786-7384).

Background: The policy that a person not receive financial gain from killing another person is codified in Washington's slayer statutes. Those statutes provide that no person shall acquire any property or receive any benefit if the person participated, either as a principal or an accessory before the fact, in the willful and unlawful killing of the decedent. The slayer statutes are not to be considered penal in nature and are to be construed broadly.

If there is property that would normally have passed from the decedent to the slayer, either by intestate succession, by statutory right as a surviving spouse, or under any community property agreement, the slayer shall be deemed to have predeceased the decedent.

Property that would have passed to the slayer by the decedent's will shall be distributed as if the slayer predeceased the decedent. One-half of any property held jointly between the slayer and decedent shall pass to the decedent's estate, and the other half shall pass to the decedent's estate upon the death of the slayer, unless the slayer obtains a separation or severance of the property. If the slayer has a right of reversion or vested remainder in property and would have obtained the right of present possession upon the death of the decedent, the property shall pass to the estate of the decedent for the period of the life expectancy of the decedent.

Property held by the slayer that is subject to be divested or diminished in any way, or extinguished if the decedent survives the slayer, or lives to a certain age, shall be held by the slayer during his or her lifetime, or until the decedent would have reached the specified age, and then shall pass as if the decedent had died immediately after.

If the slayer is a beneficiary of the decedent's insurance proceeds, the proceeds shall be paid to the estate of the decedent or the secondary beneficiary, if there is one. An insurance company or financial institution making payments to a slayer without written notice that the person is a slayer will not be held liable under the slayer statutes. The slayer statutes do not affect a purchaser's rights if the person makes the purchase without notice and before the interests of the slayer have been adjudicated.

A conviction of the killing is admissible as evidence, but not conclusive, in a civil action under the slayer statutes. According to case law, the party seeking the benefit of the slayer statute has the burden of proving, by a preponderance of the evidence, that the slayer participated in the willful and unlawful killing of the decedent.

The state court of appeals determined that the slayer statutes do not apply to the slayer's vested one-half interest in the community property, because the slayer already had an interest before the slaying and would not be profiting from the death. Armstrong v. Bray.

Generally, property acquired after marriage by either husband or wife, or both, is community property. A spouse may dispose of, by will or other testamentary instrument, his or her half interest in the community property.

The federal Employee Retirement Income Security Act (ERISA) governs pension, retirement, and employee benefit plans in the private sector. ERISA prohibits the assignment or transfer of a pension, retirement, or employee benefit plan, except for transfers between spouses pursuant to a qualified domestic relations order, which is a court order entered under a state's domestic relations laws. Federal courts have held that ERISA preempts any state community property law to the extent state law conflicts.

The Department of Retirement Systems administers the various state retirement programs, such as the Washington Public Employees' Retirement System, the Washington State Teachers' Retirement System, and the Washington State Law Enforcement Officers' Retirement System.

Summary of Bill: Various changes are made to the slayer statutes and similar slayer provisions are applied to the Department of Retirement Systems.

A slayer may not acquire an interest in nonprobate assets, which includes IRAs. A slayer is not entitled to receive benefits from life insurance and retirement plans where the beneficiary is a trustee.

Property held jointly by the slayer and decedent will pass to the decedent's estate, and the authorization of the slayer obtaining a severance is removed. Property held jointly by the slayer, decedent, and another will be distributed as though the slayer immediately predeceased the decedent. Property in which the slayer has a reversion or vested remainder will pass to the decedent's estate.

A slayer may not receive proceeds as the beneficiary of the decedent's state retirement plan. The Department of Retirement Systems will administer benefits as if the slayer predeceased the decedent. The department has no affirmative duty to determine whether a beneficiary is a slayer. The department must withhold payments upon receipt of a written notice that a beneficiary is a defendant in a civil suit alleging him or her to be a slayer, or that the slayer has been charged with a crime that, if proven, would mean the person is a slayer. The department must withhold payment until the case is dismissed or resolved. The department is not liable for payment made to a slayer prior to receiving any written notice.

The bill is to be applied prospectively to acts resulting in unlawful killings on and after the effective date. There is a severability clause.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Testimony For: A person who kills another should not have any rights to any insurance or retirement benefits. It is painful for the family members of the murdered person to see the slayer collect half of the deceased person's pension just because it is community property.

Testimony Against: None.

Testified: Representative Carlson, prime sponsor; and Nanci Niebuhr (pro).