Article 3.

Willful and Unlawful Killing of Decedent.

§ 31A-3. Definitions.

As used in this Article, unless the context otherwise requires, the term -

(1) "Decedent" means the person whose life is taken by the slayer as defined in subdivision (3) of this section.

(2) "Property" means any real or personal property and any right or interest therein.

(3) "Slayer" means any of the following:

a. A person who, by a court of competent jurisdiction, is convicted as a principal or accessory before the fact of the willful and unlawful killing of another person.

b. A person who has entered a plea of guilty in open court as a principal or accessory before the fact of the willful and unlawful killing of another person.

c. A person who, upon indictment or information as a principal or accessory before the fact of the willful and unlawful killing of another person, has tendered a plea of nolo contendere which was accepted by the court and judgment entered thereon.

d. A person who is found by a preponderance of the evidence in a civil action brought within two years after the death of the decedent to have willfully and unlawfully killed the decedent or procured the killing of the decedent. If a criminal proceeding is brought against the person to establish the person's guilt as a principal or accessory before the fact of the willful and unlawful killing of the decedent within two years after the death of the decedent, the civil action may be brought within 90 days after a final determination is made by a court of competent jurisdiction in that criminal proceeding or within the original two years after the death of the decedent, whichever is later. The burden of proof in the civil action is on the party seeking to establish that the killing was willful and unlawful for the purposes of this Article.

e. A juvenile who is adjudicated delinquent by reason of committing an act that, if committed by an adult, would make the adult a principal or accessory before the fact of the willful and unlawful killing of another person.

The term "slayer" does not include a person who is found not guilty by reason of insanity of being a principal or accessory before the fact of the willful and unlawful killing of another person. (1961, c. 210, s. 1; 2006-107, s. 1.)

§ 31A-4. Slayer barred from testate or intestate succession and other rights.

The slayer shall be deemed to have died immediately prior to the death of the decedent and the following rules shall apply:

(1) The slayer shall not acquire any property or receive any benefit from the estate of the decedent by testate or intestate succession or by common law or statutory right as surviving spouse of the decedent.

(2) Where the decedent dies intestate as to property which would have passed to the slayer by intestate succession and the slayer has living issue who would have

been entitled to an interest in the property if the slayer had predeceased the decedent, the property shall be distributed to such issue, per stirpes. If the slayer does not have such issue, then the property shall be distributed as though the slayer had predeceased the decedent.

(3) Where the decedent dies testate as to property which would have passed to the slayer pursuant to the will, the devolution of such property shall be governed by G.S. 31-42(a) notwithstanding the fact the slayer has not actually died before the decedent. (1961, c. 210, s. 1; 1999-296, s. 1.)

§ 31A-5: Recodified as G.S. 41-64(b) by Session Laws 2020-50, s. 1(b), effective June 30, 2020.

§ 31A-6. Survivorship property.

(a) Where the slayer and the decedent hold property with right of survivorship as joint tenants, joint owners, joint obligees, or otherwise, the following apply:

(1) The decedent's share passes immediately upon the decedent's death to the decedent's estate.

(2) The slayer's share shall be held by the slayer for life and at the slayer's death shall pass to the decedent's estate.

(b) Where three or more persons, including the slayer and the decedent, hold property with right of survivorship as joint tenants, joint owners, joint obligees, or otherwise, the following apply:

(1) The decedent's share is converted effective upon the decedent's death to that of a tenant in common and passes to the decedent's estate.

(2) The remaining persons, including the slayer, continue to hold their shares with right of survivorship.

(3) If the slayer becomes the final survivor, upon the slayer's death, the slayer's share, which includes the other shares that passed to the slayer as the final survivor, shall pass to the decedent's estate.

(c) During the slayer's lifetime, the slayer has the right to the income from the slayer's share, subject to the rights of the slayer's creditors.

(d) Nothing in this section prohibits a partitioning of the property pursuant to Chapter 46A of the General Statutes or severing the joint tenancy in any manner provided by law. Any share taken by the slayer by reason of partition or severance is subject to subdivision (3) of subsection (b) of this section. (1961, c. 210, s. 1; 2014-107, s. 1.1; 2020-23, s. 12.)

§ 31A-7. Reversions and vested remainders.

(a) Where the slayer holds a reversion or vested remainder in property subject to a life estate in the decedent and the slayer would have obtained the right of present possession upon the death of the decedent, such property shall pass to the estate of the decedent during the period of the life expectancy of the decedent.

(b) Where the slayer holds a reversion or vested remainder in property subject to a life estate in a third person which is measured by the life of the decedent, such property shall remain in the possession of the third person during the period of the life expectancy of the decedent. (1961, c. 210, s. 1.)

§ 31A-8. Contingent remainders and executory interests.

As to any contingent remainder or executory or other future interest held by the slayer subject to become vested in him or increased in any way for him upon the condition of the death of the decedent:

(1) If the interest would not have become vested or increased if he had predeceased the decedent, he shall be deemed to have so predeceased the decedent; but

(2) In any case, the interest shall not be vested or increased during the period of the life expectancy of the decedent. (1961, c. 210, s. 1.)

§ 31A-9. Divesting of interests in property.

Where the slayer holds any interest in property, whether vested or not, subject to be divested, diminished in any way or extinguished if the decedent survives him or lives to a certain age, such interest shall be held by the slayer during his lifetime or until the decedent would have reached such age but shall then pass as if the decedent had died immediately after the death of the slayer or the reaching of such age. (1961, c. 210, s. 1.)

§ 31A-10. Powers of appointment and revocation.

(a) As to any exercise in the will of the decedent of a power of appointment in favor of the slayer, the slayer shall be deemed to have predeceased the decedent and the slayer shall not acquire any property or receive any benefit by virtue of such appointment and the appointed property shall pass in accordance with the applicable lapse statute, if any.

(b) Property held either presently or in remainder by the slayer subject to be divested by the exercise by the decedent of a power of revocation or a general power of appointment shall pass to the estate of the decedent; and property so held by the slayer subject to be divested by the exercise by the decedent of a power of appointment to a particular person or persons or to a class of persons shall pass to such person or persons or in equal shares to the members of such class of persons, exclusive of the slayer. (1961, c. 210, s. 1.)

§ 31A-11. Insurance benefits.

(a) Insurance and annuity proceeds payable to the slayer:

(1) As the beneficiary or assignee of any policy or certificate of insurance on the life of the decedent, or

(2) In any other manner payable to the slayer by virtue of his surviving the decedent, shall be paid to the person or persons who would have been entitled thereto as if the slayer had predeceased the decedent. If no alternate beneficiary is named, insurance and annuity proceeds shall be paid into the estate of the decedent.

(b) If the decedent is beneficiary or assignee of any policy or certificate of insurance on the life of the slayer, the proceeds shall be paid to the estate of the decedent upon the death of the slayer, unless the policy names some person other than the slayer or his estate as alternative beneficiary.

(c) Any insurance or annuity company making payment according to the terms of its policy or contract shall not be subjected to additional liability by the terms of this chapter if such payment or performance is made without notice of circumstances tending to bring it within the provisions of this Chapter. (1961, c. 210, s. 1; 1989, c. 485, s. 3.)

§ 31A-12. Persons acquiring from slayer protected.

The provisions of this Chapter shall not affect the right of any person who, before the interests of the slayer have been adjudicated, acquires from the slayer for adequate consideration property or an interest therein which the slayer would have received except for the terms of this Chapter, provided the same is acquired without notice of circumstances tending to bring it within the provisions of this Chapter; but all consideration received by the slayer shall be held by him in trust for the persons entitled to the property under the provisions of this Chapter, and the slayer shall also be liable both for any portion of such consideration which he may have dissipated, and for any difference between the actual value of the property and the amount of such consideration. (1961, c. 210, s. 1.)

§ 31A-12.1. Remedies to be exclusive.

This Article wholly supplants the common law rule preventing a person whose culpable negligence causes the death of a decedent from succeeding to any property passing by reason of the death of the decedent. (2006-107, s. 2.)