

NORTH CAROLINA GENERAL ASSEMBLY  
1961 SESSION

CHAPTER 210  
SENATE BILL 38

1 AN ACT TO AMEND THE GENERAL STATUTES OF NORTH CAROLINA BY ADDING  
2 THERETO CHAPTER 31A, ENTITLED "ACTS BARRING PROPERTY RIGHTS".

3  
4 The General Assembly of North Carolina do enact:

5  
6 **Section 1.** The General Statutes of North Carolina are hereby amended by adding a  
7 new Chapter immediately following Chapter 31 to be numbered Chapter 31A, and to read as  
8 follows:

9 Chapter 31A  
10 Acts Barring Property Rights  
11 ARTICLE 1  
12 Acts Barring Rights of Spouse

13 **§ 31A-1. Acts barring rights of spouse.** (a) The following persons shall lose the rights  
14 specified in subsection (b) of this Section:

- 15 (1) A spouse from whom or by whom an absolute divorce or marriage  
16 annulment has been obtained or from whom a divorce from bed and board  
17 has been obtained; or  
18 (2) A spouse who voluntarily separates from the other spouse and lives in  
19 adultery and such has not been condoned; or  
20 (3) A spouse who wilfully and without just cause abandons and refuses to live  
21 with the other spouse and is not living with the other spouse at the time of  
22 such spouse's death; or  
23 (4) A spouse who obtains a divorce the validity of which is not recognized  
24 under the laws of this State; or  
25 (5) A spouse who knowingly contracts a bigamous marriage.

26 (b) The rights lost as specified in subsection (a) of this Section shall be as follows:

- 27 (1) All rights to intestate succession in the estate of the other spouse;  
28 (2) All right to claim or succeed to a homestead in the real property of the other  
29 spouse;  
30 (3) All right to dissent from the will of the other spouse and take either the  
31 intestate share provided or the life interest in lieu thereof;  
32 (4) All right to any year's allowance in the personal property of the other spouse;  
33 (5) All right to administer the estate of the other spouse; and  
34 (6) Any rights or interests in the property of the other spouse which by a  
35 settlement before or after marriage were settled upon the offending spouse  
36 solely in consideration of the marriage.

37 (c) Any Act specified in subsection (a) in this Section may be pleaded in bar of any  
38 action or proceeding for the recovery of such rights, interests or estate as set forth in subsection  
39 (b) of this Section.

40 (d) The spouse not at fault may sell and convey his or her real and personal property as  
41 if such person were unmarried, and thereby bar the other spouse of all right, title and interest  
42 therein in the following instances:

- 1 (1) During the continuance of a separation arising from a divorce from bed and  
2 board as specified in subsection (a)(1) of this Section, or
- 3 (2) During the continuance of a separation arising from adultery as specified in  
4 subsection (a)(2) of this Section, or during the continuance of a separation  
5 arising from an abandonment as specified in subsection (a)(3) of this  
6 Section, or
- 7 (3) When a divorce is granted as specified in subsection (a)(4) if this Section, or  
8 a bigamous marriage contracted as specified in subsection (a)(5) of this  
9 Section.

## 10 ARTICLE 2

### 11 Parents

12 **§ 31A-2. Acts barring rights of parents.** Any parent who has wilfully abandoned the care and  
13 maintenance of his or her child shall lose all right to intestate succession in any part of the  
14 child's estate and all right to administer the estate of the child, except —

- 15 (1) Where the abandoning parent resumed its care and maintenance at least one  
16 year prior to the death of the child and continued the same until its death; or
- 17 (2) Where a parent has been deprived of the custody of his or her child under an  
18 order of a court of competent jurisdiction and the parent has substantially  
19 complied with all orders of the court requiring contribution to the support of  
20 the child.

## 21 ARTICLE 3

### 22 Wilful and Unlawful Killing of Decedent

23 **§ 31A-3. Definitions.** As used in this Article, unless the context otherwise requires, the  
24 term —

- 25 (1) "Slayer" means
  - 26 a. Any person who by a court of competent jurisdiction shall have been  
27 convicted as a principal or accessory before the fact of the wilful and  
28 unlawful killing of another person; or
  - 29 b. Any person who shall have entered a plea of guilty in open court as a  
30 principal or accessory before the fact of the wilful and unlawful  
31 killing of another person; or
  - 32 c. Any person who, upon indictment or information as a principal or  
33 accessory before the fact of the wilful and unlawful killing of another  
34 person, shall have tendered a plea of nolo contendere which was  
35 accepted by the court and judgment entered thereon; or
  - 36 d. Any person who shall have been found in a civil action or proceeding  
37 brought within one year after the death of the decedent to have  
38 wilfully and unlawfully killed the decedent or procured his killing,  
39 and who shall have died or committed suicide before having been  
40 tried for the offense and before the settlement of the estate.
- 41 (2) "Decedent" means the person whose life is taken by the slayer as defined in  
42 subdivision (1).
- 43 (3) "Property" means any real or personal property and any right or interest  
44 therein.

45 **§ 31A-4. Slayer barred from testate or intestate succession and other rights.** The slayer  
46 shall be deemed to have died immediately prior to the death of the decedent and the following  
47 rules shall apply:

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

1 (2) Where the decedent dies intestate as to property which would have passed to  
2 the slayer by intestate succession, such property shall pass to others next in  
3 succession in accordance with the applicable provision of the Intestate  
4 Succession Act.

5 (3) Where the decedent dies testate as to property which would have passed to  
6 the slayer pursuant to the will, such property shall pass as if the decedent had  
7 died intestate with respect thereto, unless otherwise disposed of by the will.

8 **§ 31A-5. Entirety property.** Where the slayer and decedent hold the property as tenants by  
9 the entirety:

10 (1) If the wife is the slayer, one-half of the property shall pass upon the death of  
11 the husband to his estate, and the other one-half shall be held by the wife  
12 during her life, subject to pass upon her death to the estate of the husband;  
13 and

14 (2) If the husband is the slayer, he shall hold all of the property during his life  
15 subject to pass upon his death to the estate of the wife.

16 **§ 31A-6. Survivorship property.** (a) Where the slayer and the decedent hold property with  
17 right of ownership as joint tenants, joint owners, joint obligees or otherwise, the decedent's  
18 share thereof shall pass immediately upon the death of the decedent to his estate, and the  
19 slayer's share shall be held by the slayer during his lifetime and at his death shall pass to the  
20 estate of the decedent. During his lifetime, the slayer shall have the right to the income from his  
21 share of the property subject to the rights of creditors of the slayer.

22 (b) Where three or more persons, including the slayer and the decedent, hold property  
23 with right of survivorship as joint tenants, joint owners, joint obligees or otherwise, the portion  
24 of the decedent's share which would have accrued to the slayer as a result of the death of the  
25 decedent shall pass to the estate of the decedent. If the slayer becomes the final survivor, one-  
26 half of the property then held by the slayer shall pass immediately to the estate of the decedent,  
27 and upon the death of the slayer the remaining interest of the slayer shall pass to the estate of  
28 the decedent. During his lifetime the slayer shall have the right to the income from his share of  
29 the property subject to the rights of creditors of the slayer.

30 **§ 31A-7. Reversions and vested remainders.** (a) Where the slayer holds a reversion or vested  
31 remainder in property subject to a life estate in the decedent and the slayer would have obtained  
32 the right of present possession upon the death of the decedent, such property shall pass to the  
33 estate of the decedent during the period of the life expectancy of the decedent.

34 (b) Where the slayer holds a reversion or vested remainder in property subject to a life  
35 estate in a third person which is measured by the life of the decedent, such property shall  
36 remain in the possession of the third person during the period of the life expectancy of the  
37 decedent.

38 **§ 31A-8. Contingent remainders and executory interests.** As to any contingent remainder or  
39 executory or other future interest held by the slayer subject to become vested in him or  
40 increased in any way for him upon the condition of the death of the decedent:

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

44 (2) In any case, the interest shall not be vested or increased during the period of  
45 the life expectancy of the decedent.

46 **§ 31A-9. Divesting of interests in property.** Where the slayer holds any interest in property,  
47 whether vested or not, subject to be divested, diminished in any way or extinguished if the  
48 decedent survives him or lives to a certain age, such interest shall be held by the slayer during  
49 his lifetime or until the decedent would have reached such age but shall then pass as if the  
50 decedent had died immediately after the death of the slayer or the reaching of such age.

1 **§ 31A-10. Powers of appointment and revocation.** (a) As to any exercise in the will of the  
2 decedent of a power of appointment in favor of the slayer, the slayer shall be deemed to have  
3 predeceased the decedent and the slayer shall not acquire any property or receive any benefit by  
4 virtue of such appointment and the appointed property shall pass in accordance with the  
5 applicable lapse statute, if any.

6 (b) Property held either presently or in remainder by the slayer subject to be divested by  
7 the exercise by the decedent of a power of revocation or a general power of appointment shall  
8 pass, to the estate of the decedent; and property so held by the slayer subject to be divested by  
9 the exercise by the decedent of a power of appointment to a particular person or persons or to a  
10 class of persons shall pass to such person or persons or in equal shares to the members of such  
11 class of persons, exclusive of the slayer.

12 **§ 31A-11. Insurance benefits.** (a) Insurance and annuity proceeds payable to the slayer:

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

15 (2) In any other manner payable to the slayer by virtue of his surviving the  
16 decedent, shall be paid to the person or persons who would have been  
17 entitled thereto as if the slayer had predeceased the decedent.

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

22 (c) Any insurance or annuity company making payment according to the terms of its  
23 policy or contract shall not be subjected to additional liability by the terms of this Chapter if  
24 such payment or performance is made without notice of circumstances tending to bring it  
25 within the provisions of this Chapter.

26 **§ 31A-12. Persons acquiring from slayer protected.** The provisions of this Chapter shall not  
27 affect the rights of any person who, before the interests of the slayer have been adjudicated,  
28 acquires from the slayer for adequate consideration property or an interest therein which the  
29 slayer would have received except for the terms of this Chapter provided the same is acquired  
30 without notice of circumstances tending to bring it within the provisions of this Chapter; but all  
31 consideration received by the slayer shall be held by him in trust for the persons entitled to the  
32 property under the provisions of this Chapter, and the slayer shall also be liable both for any  
33 portion of such consideration which he may have dissipated and for any difference between the  
34 actual value of the property and the amount of such consideration.

#### 35 ARTICLE 4

#### 36 General Provisions

37 **§ 31A-13. Record determining slayer admissible in evidence.** The record of the judicial  
38 proceeding in which the slayer was determined to be such, pursuant to Section 31A-3 of this  
39 Chapter, shall be admissible in evidence for or against a claimant of property in any civil action  
40 arising under this Chapter.

41 **§ 31A-14. Uniform Simultaneous Death Act not applicable.** The Uniform Simultaneous  
42 Death Act, G.S. 28-161.1 through G.S. 28-161.7, shall not apply to cases governed by this  
43 Chapter.

44 **§ 31A-15. Chapter to be broadly construed.** This Chapter shall not be considered penal in  
45 nature, but shall be construed broadly in order to effect the policy of this State that no person  
46 shall be allowed to profit by his own wrong. As to all Acts specifically provided for in this  
47 Chapter, the rules, remedies, and procedures herein specified shall be exclusive, and as to all  
48 Acts not specifically provided for in this Chapter all rules, remedies, and procedures, if any,  
49 which now exist or hereafter may exist either by virtue of statute, or by virtue of the inherent  
50 powers of any court of competent jurisdiction, or otherwise, shall be applicable.

1 **§ 31A-16. Chapter to be severable.** If any provisions of this Chapter or the application  
2 thereof to any person or circumstances is held invalid, such invalidity shall not affect other  
3 provisions or applications of this Chapter which can be given effect without the invalid  
4 provision or application, and to this end the provisions of this Chapter are declared to be  
5 severable.

6 **Sec. 2.** G.S. 28-10, 28-11, 28-12, 52-19, 52-20, 52-21, and all other laws and  
7 clauses of laws in conflict with this Act are hereby repealed.

8 **Sec. 3.** This Act shall become effective October 1, 1961.

9 In the General Assembly read three times and ratified, this the 13th day of April,  
10 1961.