

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

D

SENATE DRS85358-LTz-147* (5/10)

Short Title: Amend the Forfeiture of Property Rights Law. (Public)

Sponsors: Senator Hartsell.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW RELATING TO THE FORFEITURE OF
PROPERTY RIGHTS BY SLAYERS, AS RECOMMENDED BY THE GENERAL
STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 31A-3 reads as rewritten:

"§ 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)~~ (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. ~~Any~~ A person ~~who who~~, by a court of competent ~~jurisdiction jurisdiction, shall have been~~ is convicted as a principal or accessory before the fact of the willful and unlawful killing of another ~~person; or person.~~

b. ~~Any~~ A person who ~~shall have~~ 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; or person.~~

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

d. ~~Any person who shall have been found in a civil action or proceeding brought within one year after the death of the~~

1 ~~decedent to have willfully and unlawfully killed the decedent or~~
2 ~~procured his killing, and who shall have died or committed~~
3 ~~suicide before having been tried for the offense and before the~~
4 ~~settlement of the estate. A person who is found by a~~
5 ~~preponderance of the evidence in a civil action brought within~~
6 ~~two years after the death of the decedent to have willfully and~~
7 ~~unlawfully killed the decedent or procured the killing of the~~
8 ~~decedent. If a criminal proceeding is brought against the person~~
9 ~~to establish the person's guilt as a principal or accessory before~~
10 ~~the fact of the willful and unlawful killing of the decedent~~
11 ~~within two years after the death of the decedent, the civil action~~
12 ~~may be brought within 90 days after a final determination is~~
13 ~~made by a court of competent jurisdiction in that criminal~~
14 ~~proceeding or within the original two years after the death of~~
15 ~~the decedent, whichever is later. The burden of proof in the civil~~
16 ~~action is on the party seeking to establish that the killing was~~
17 ~~willful and unlawful for the purposes of this Article.~~

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

22 The term "slayer" does not include a person who is found
23 not guilty by reason of insanity of being a principal or accessory
24 before the fact of the willful and unlawful killing of another
25 person."

26 **SECTION 2.** Article 3 of Chapter 31A of the General Statutes is amended
27 by adding a new section to read:

28 "**§ 31A-12.1. Remedies to be exclusive.**

29 This Article wholly supplants the common law rule preventing a person whose
30 culpable negligence causes the death of a decedent from succeeding to any property
31 passing by reason of the death of the decedent."

32 **SECTION 3.** This act is effective when it becomes law and applies to
33 property passing from decedents dying on or after that date.