



Senate

General Assembly

File No. 208

February Session, 2016

Substitute Senate Bill No. 213

Senate, March 24, 2016

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR SURVIVOR WHO IS FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER BY REASON OF MENTAL DISEASE OR DEFECT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-447 of the 2016 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2016*):

4 (a) (1) A person finally adjudged guilty, either as the principal or
5 accessory, or finally found not guilty by reason of mental disease or
6 defect pursuant to section 53a-13, of any crime under section 53a-54a,
7 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-122,
8 53a-123 or 53a-321, or in any other jurisdiction, of any crime, the
9 essential elements of which are substantially similar to such crimes, or
10 a person [determined to be] finally adjudged guilty, or found not
11 guilty by reason of mental disease or defect, under any of said sections
12 pursuant to this subdivision, shall not inherit or receive any part of the

13 estate of (A) the deceased victim, whether under the provisions of any
14 act relating to intestate succession, or as devisee or legatee, or
15 otherwise under the will of the deceased victim, or receive any
16 property as beneficiary or survivor of the deceased victim, or (B) any
17 other person when such homicide or death terminated an intermediate
18 estate, or hastened the time of enjoyment. For the purposes of this
19 subdivision, an interested person may bring an action in the Superior
20 Court for a determination, by a preponderance of the evidence, that an
21 heir, devisee, legatee or beneficiary of the deceased victim who has
22 predeceased the interested person would have been adjudged guilty or
23 found not guilty by reason of mental disease or defect, either as the
24 principal or accessory, under section 53a-54a, 53a-54b, 53a-54c, 53a-
25 54d, 53a-55, 53a-55a, 53a-56, 53a-56a, 53a-122, 53a-123 or 53a-321, had
26 the heir, devisee, legatee or beneficiary survived.

27 (2) With respect to inheritance under the will of the deceased victim,
28 or rights to property as heir, devisee, legatee or beneficiary of the
29 deceased victim, the person whose participation in the estate of
30 another or whose right to property as such heir, devisee, legatee or
31 beneficiary is so prevented under the provisions of this section shall be
32 considered to have predeceased the deceased victim.

33 (3) With respect to real property owned in joint tenancy with rights
34 of survivorship with the deceased victim, such final adjudication as
35 guilty or finding of not guilty by reason of mental disease or defect
36 shall be a severance of the joint tenancy [,] and shall convert the joint
37 tenancy into a tenancy in common as to the deceased victim and the
38 person so adjudged [and the deceased victim] or found, but not as to
39 any remaining joint tenant or tenants. [, such severance being] Such
40 severance shall be effective as of the time such adjudication [of guilty]
41 or finding becomes final. When such jointly owned property is real
42 property, a certified copy of the final adjudication as guilty or finding
43 of not guilty by reason of mental disease or defect shall be recorded by
44 the fiduciary of the deceased victim's estate, or may be recorded by
45 any other interested party in the land records of the town where such
46 real property is situated.

47 (4) With respect to personal property owned in joint tenancy with
48 rights of survivorship with the deceased victim, such final adjudication
49 as guilty or finding of not guilty by reason of mental disease or defect
50 shall convert the personal property to property owned solely by the
51 deceased victim except to the extent that the adjudged guilty person or
52 person found not guilty by reason of mental disease or defect can
53 prove by a preponderance of the evidence [the adjudged guilty] such
54 person's financial contributions to such property.

55 (b) In all other cases where a defendant has been convicted under
56 section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-
57 56a, 53a-122, 53a-123 or 53a-321, the right of such adjudged guilty
58 person or person found not guilty by reason of mental disease or
59 defect to inherit or take any part of the estate of the deceased victim or
60 to inherit or take any estate as to which the death of such deceased
61 victim terminated an intermediate estate, or hastened the time of
62 enjoyment, or to take any property as beneficiary or survivor of the
63 deceased victim shall be determined by the common law, including
64 equity.

65 (c) (1) A named beneficiary of a life insurance policy or annuity who
66 intentionally causes the death of the person upon whose life the policy
67 is issued or the annuitant, or who is finally adjudged guilty under
68 section 53a-122, 53a-123 or 53a-321, is not entitled to any benefit under
69 the policy or annuity, and the policy or annuity becomes payable as
70 though such beneficiary had predeceased the deceased victim.

71 (2) (A) A conviction or a finding of not guilty by reason of mental
72 disease or defect under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-
73 55, 53a-55a, 53a-56, 53a-56a, 53a-122, 53a-123 or 53a-321, or a
74 determination pursuant to subparagraph (B) of this subdivision that a
75 named beneficiary would have been found guilty under any of said
76 sections had the named beneficiary survived, or would have been
77 found not guilty by reason of mental disease or defect had the named
78 beneficiary survived, shall be conclusive for the purposes of this
79 subsection.

80 (B) For the purposes of this subsection, an interested person may
81 bring an action in the Superior Court for a determination, by a
82 preponderance of the evidence, that a named beneficiary who has
83 predeceased the interested person would have been found guilty
84 under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-
85 56, 53a-56a, 53a-122, 53a-123 or 53a-321, or would have been found not
86 guilty by reason of mental disease or defect under any of said sections,
87 had the named beneficiary survived.

88 (C) In the absence of such a conviction, finding or determination,
89 the Superior Court may determine by the common law, including
90 equity, whether the named beneficiary is entitled to any benefit under
91 the policy or annuity.

92 (D) In any proceeding brought under this subsection, the burden of
93 proof shall be [upon] on the person challenging the eligibility of the
94 named beneficiary for benefits under a life insurance policy or annuity.

95 (3) Any insurance company [making] that makes payment
96 according to the terms of its policy or annuity is not liable for any
97 additional payment by reason of this section unless [it] the insurance
98 company has received at its home office or principal address written
99 notice of a claim under this section prior to such payment.

100 (d) Notwithstanding the provisions of subsections (a) to (c),
101 inclusive, of this section, the Superior Court may allow a defendant
102 adjudged guilty under section 53a-122, 53a-123 or 53a-321, or found
103 not guilty by reason of mental disease or defect under any of said
104 sections, to petition a court in equity to override the prohibitions on
105 inheritance or other benefit to the adjudged guilty person under such
106 sections if the court shall determine that overriding such prohibitions
107 would fulfill the intent of the deceased victim or that application of
108 such prohibitions would be grossly inequitable under all of the
109 circumstances, which could include, without limitation, restitution or
110 other substantial benefit provided to the deceased victim during the
111 deceased victim's lifetime or express forgiveness by the deceased
112 victim. The burden of proof [and persuasion] shall be [upon] on the

113 petitioner.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	45a-447

Statement of Legislative Commissioners:

In Section 1(a)(1), "determined to be guilty, or determined to be not guilty" was changed to "[determined to be] finally adjudged guilty, or found not guilty", for internal consistency.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note***State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill makes changes to inheritance rights and does not result in a fiscal impact.

The Out Years***State Impact:*** None***Municipal Impact:*** None

OLR Bill Analysis**sSB 213*****AN ACT CONCERNING THE INHERITANCE RIGHTS OF A BENEFICIARY OR SURVIVOR WHO IS FOUND NOT GUILTY OF MURDER OR MANSLAUGHTER BY REASON OF MENTAL DISEASE OR DEFECT.*****SUMMARY:**

Existing law prohibits defendants found guilty of certain crimes from (1) inheriting or receiving part of the victim's estate or (2) receiving life insurance or annuity benefits from the victim. This bill extends these prohibitions to defendants found not guilty by reason of mental disease or defect. It also adds two crimes to those covered by the prohibitions: 2nd degree manslaughter and 2nd degree manslaughter with a firearm (see BACKGROUND).

Under existing law, the other covered crimes are murder, murder with special circumstances, felony murder, arson murder, 1st degree manslaughter with or without a firearm, 1st or 2nd degree larceny, and 1st degree abuse of an elderly, blind, or disabled person or person with intellectual disabilities.

Existing law allows someone convicted of 1st or 2nd degree larceny or 1st degree abuse to petition the court to override the prohibitions. The bill extends this authorization to defendants found not guilty by reason of mental disease or defect. By law and under the bill, the court may grant the request if doing so would (1) fulfill the deceased victim's intent or (2) avoid a grossly inequitable outcome under the circumstances.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2016

PROHIBITIONS ON RECOVERING FROM VICTIM

The provisions described below apply to the currently covered crimes as well as those added by the bill (2nd degree manslaughter and 2nd degree manslaughter with a firearm).

Inheritance or Other Recovery from Estate

As under existing law for those found guilty of a covered crime, the bill's prohibition on inheriting or receiving part of the victim's estate applies to defendants found not guilty by reason of mental disease or defect in Connecticut or another jurisdiction of a crime with substantially similar elements to those listed.

As under existing law for those found guilty, if the defendant has died, the prohibition also applies, upon an action brought by an interested third party, if the court determines the defendant would have been found not guilty by reason of mental disease or defect had he or she survived criminal prosecution.

Under existing law and the bill, these provisions apply whether the person was charged as the principal or accessory to the crime.

The bill also applies to the newly covered crimes and defendants the rules under existing law for property held in joint tenancy with right of survivorship. For example, for real property, the finding of guilty or not guilty by mental disease or defect severs a joint tenancy and converts the tenancy into a tenancy in common as between the deceased victim and the defendant, thus preventing full ownership of the property from passing to the defendant.

Life Insurance or Annuity Benefits

The law's prohibition on recovering from a life insurance policy or annuity applies to someone who (1) intentionally caused the death of the person who is the subject of the policy or annuity or (2) was found guilty of 1st or 2nd degree larceny or 1st degree abuse. People convicted of any covered crime are conclusively included within this prohibition, as are people who a court determines, upon an action brought by an interested third party, would have been found guilty had they

survived criminal prosecution.

Under the bill, a defendant is also conclusively included within this prohibition if (1) found not guilty of a covered crime by reason of mental disease or defect or (2) the defendant has died and a court determines he or she would have been found not guilty by reason of mental disease or defect had he or she survived.

BACKGROUND

Second-Degree Manslaughter With or Without a Firearm

By law, a person commits 2nd degree manslaughter when he or she (1) recklessly causes someone else's death or (2) intentionally causes or helps someone to commit suicide, other than by force, duress, or deception (CGS § 53a-56).

By law, a person commits 2nd degree manslaughter with a firearm when he or she (1) commits 2nd degree manslaughter and (2) in the commission of the offense uses, is armed with and threatens to use, or displays or represents by words or conduct that he or she possesses a firearm (CGS § 53a-56a).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 42 Nay 0 (03/11/2016)