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WHAT SHOULD WE DO WITH NORMAN BATES? PROPOSING REFORM TO THE UNIFORM PROBATE CODE TO ALLOW INHERITANCE IN CASES OF LEGAL INSANITY

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I. Introduction

The legal system in the United States of America contains a number of broadly accepted moral propositions, among these, the idea that it is unjust to allow one to profit from a wrongful act¹ and the idea that it is unjust to punish a person to whom we cannot impose blame.² These specific propositions are brought to bear in the form of laws related to unjust enrichment, specifically section 2-803 of the Uniform Probate Code (“UPC”)³ and the insanity defense.⁴

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¹ See Carla Spivack, *Killers Shouldn't Inherit From Their Victims—Or Should They?*, 48 GA. L. REV. 145, 161 (2013) (“The moral basis for Slayer Rules lies in the maxim that a wrongdoer may not benefit from his wrong.”).

² See Jonas Robitscher & Andrew Ky Haynes, *In Defense of the Insanity Defense*, 31 EMORY L.J. 9, 9 (1982) (stating the Anglo-Saxon law maxim that “[o]ur collective conscious does not allow punishment where it cannot impose blame”) (citation omitted).

³ See generally UNIF. PROBATE CODE § 2-803 (amended 2010) (Entitled “Effect of Homicide on Intestate Succession, Wills, Trusts, Joint Assets, Life Insurance, and Beneficiary Designations,” section 2-803 states that “[a]n individual who feloniously and intentionally kills the decedent forfeits all benefits under this [article] with respect to the decedent’s estate.”).

⁴ While this defense goes by a number of different names and may be more properly and compassionately referred to as a defense of not guilty by reason of mental disease or defect, see, e.g., WIS. STAT. § 971.06 (2017) (referring to the insanity defense as a plea of “[n]ot guilty by reason of mental disease or defect”), colloquial phrases like “insanity defense,” “insanity plea,” and “insane” have been used throughout this Note. This is for the sake of brevity, to encompass the wide range of differing phrases and terms used in

However, on occasion, these moral propositions come into conflict. The UPC is silent on what should occur when a legally insane person stands to inherit from someone they killed. This Note seeks to rectify this conflict by proposing that the UPC “slayer statute,”⁵ section 2-803, be amended to specifically allow inheritance in cases where a person kills while legally insane. Case law on this specific situation is sparse and statutory help is nearly nonexistent. This puts judges in the uncomfortable position of having to interpret and apply the law where none exists, essentially forcing them to “make a determination that the legislature should have made.”⁶ While concerns about killers inheriting from their victims are legitimate, the insanity exception is designed to be narrow, just as the insanity defense offers a narrow exception to criminal liability. This Note’s proposed amended statute would not open the door to inheritance to the conniving son or scheming wife, who has been the subject of many an Agatha Christie novel⁷ or episode of *CSI: Crime Scene Investigation*.⁸

This Note will explore the interaction and conflict between legal insanity and slayer statutes through a number of sections: beginning with a discussion of the policy considerations behind slayer statutes and the insanity defense, followed by a discussion of how different courts have analyzed this issue, and concluding with the proposed language of the amended statute, as well as a discussion of its import. This proposition seeks to further the policy considerations underlying both the slayer statute and the insanity defense, as well as to provide a statute that is more conducive to uniform interpretation.

II. Policy Considerations Underlying Slayer Statutes and the Insanity Defense

A. Slayer Statutes

The vast majority of the fifty states—all except Maryland and New Hampshire—and Washington D.C. have some statute, generally known as a “slayer statute” or “slayer rule,” barring or limiting a killer’s ability to inherit property from his or her victim.⁹ Many of these statutes were adopted from the

different jurisdictions and to delineate between the medical concept of mental illness and the legal concept of legal insanity.

⁵ See *Slayer Statute*, BLACK’S LAW DICTIONARY (10th ed. 2014) (defining *slayer statute* as a “statute that prohibits a person’s killer from taking any part of the decedent’s estate through will or intestacy”).

⁶ Laurel Sevier, *Kooky Collects: How the Conflict Between Law and Psychiatry Grants Inheritance Rights to California’s Mentally Ill Slayers*, 47 SANTA CLARA L. REV. 379, 379-80 (2007) (discussing California’s slayer statute). Like the UPC, California’s slayer statute does not specifically mention insanity. See CAL. PROBATE CODE § 250 (2017).

⁷ Agatha Christie was a best-selling novelist and deemed “the Queen of Crime.” J.C. BERNTHAL, *QUEERING AGATHA CHRISTIE: REVISITING THE GOLDEN AGE OF DETECTIVE FICTION 1* (2016). Her name has become synonymous with her crime fiction works. *Id.*

⁸ *CSI* is a crime show drama about investigators who solve criminal cases using forensic evidence. *CSI: Crime Scene Investigation*, CBS, <http://www.cbs.com/shows/csi/about/> (last visited Oct. 20, 2017).

⁹ See ALA. CODE § 43-8-253 (2017); ALASKA STAT. § 13.12.803 (2017); ARIZ. REV. STAT. ANN. § 14-2803 (2017); ARK. CODE ANN. § 28-11-204 (2017); CAL. PROB. CODE §§ 250-258 (2017); COLO. REV. STAT. § 15-11-803 (2017); CONN. GEN. STAT. § 45a-447 (2017); DEL. CODE ANN. TIT. 12, § 2322

UPC slayer statute.¹⁰ While this Note is specifically concerned with changes to the UPC slayer statute, the principles underlying these changes can be applied in most jurisdictions. The relevant section of the UPC states that “[a]n individual who feloniously and intentionally kills the decedent forfeits all benefits under this [article] with respect to the decedent’s estate”¹¹ Some states have more specific statutes than the UPC, but the general idea tends to be quite similar.¹² The purposes of these statutes are to protect the testator’s intent,¹³ to prevent one from profiting from his or her wrongful act,¹⁴ to further the orderly transition of property,¹⁵ and to “prevent crime through deterrent mechanisms, such as increasing the costs and decreasing the benefits of committing crime.”¹⁶

The argument that a slayer statute protects the testator’s intent is a fairly simple one: when a person kills another person, regardless of the circumstances,

(2017); D.C. CODE § 19-320 (2017); FLA. STAT. § 732.802 (2017); GA. CODE ANN. § 53-1-5 (2017); HAW. REV. STAT. § 560:2-803 (2017); IDAHO CODE § 15-2-803 (2017); 755 ILL. COMP. STAT. 5/2-6 (2017); IND. CODE § 29-1-2-12.1 (2017); IOWA CODE § 633.535 (2017); KAN. STAT. ANN. § 59-513 (2017); KY. REV. STAT. ANN. § 381.280 (West 2017); LA. CIV. CODE ANN. art. 946 (2017); ME. REV. STAT. tit. 18-A, § 2-803 (2017); MASS. GEN. LAWS ch. 265, § 46 (2017); MICH. COMP. LAWS § 700.2803 (2017); MINN. STAT. § 524.2-803 (2017); MISS. CODE ANN. § 91-1-25 (2017); MO. REV. STAT. § 461.054 (2017); MONT. CODE ANN. § 72-2-813 (2017); NEB. REV. STAT. § 30-2354 (2017); NEV. REV. STAT. § 41B.200 (2017); N.J. STAT. ANN. §§ 3B:7-5 to 7-7 (2017); N.M. STAT. ANN. § 45-2-803 (2017); N.Y. EST. POWERS & TRUSTS LAW § 4-1.6 (McKinney 2017); N.C. GEN. STAT. §§ 31A-3 to A-12 (2017); N.D. CENT. CODE § 30.1-10-03 (2017); OHIO REV. CODE ANN. § 2105.19 (2017); OKLA. STAT. tit. 84, § 231 (2017); OR. REV. STAT. §§ 112.455-112.555 (2017); 20 PA. CONS. STAT. §§ 8801-8815 (2017); R.I. GEN. LAWS §§ 33-1.1-1, 33-1.1-16 (2017); S.C. CODE ANN. § 62-2-803 (2017); S.D. CODIFIED LAWS § 29A-2-803 (2017); TENN. CODE ANN. § 31-1-106 (2017); TEX. EST. CODE ANN. § 201.058(b) (West 2017); UTAH CODE ANN. § 75-2-803 (West 2017); VT. STAT. ANN. tit. 14, § 322 (2017); VA. CODE ANN. § 64.2-2501 (2017); WASH. REV. CODE §§ 11.84.010-11.84.020 (2017); W. VA. CODE § 42-4-2 (2017); WIS. STAT. §§ 852.01(2m), 854.14 (2017); WYO. STAT. ANN. § 2-14-101 (2017). See also Spivack, *supra* note 1, at 147 n. 1. Maryland, Missouri, and New York utilize common law Slayer Rules. See *Price v. Hitaffer*, 165 A. 470, 473-74 (Md. 1933); *Perry v. Strawbridge* 108 S.W. 641, 648 (Mo. 1908); *Riggs v. Palmer* 22 N.E. 188, 190-91 (N.Y. 1889). New Hampshire does not have a specific slayer statute or rule per se; however, the case of *Kelly v. State*, 196 A.2d 68 (N.H. 1963), allows the state to impose a constructive trust in an instance where the amount that the slayer would inherit rises to the level of unjust enrichment.

¹⁰ UNIF. PROBATE CODE § 2-803. Eleven states have statutes based on the revised UPC, eight states have statutes based on the original UPC, and twenty-six states (and Washington D.C.) have nonuniform slayer statutes. RESTATEMENT (THIRD) OF PROP.: WILLS AND DONATIVE TRANSFERS § 8.4 cmt (AM. LAW INST. 2003).

¹¹ UNIF. PROBATE CODE § 2-803.

¹² For example, Connecticut’s previous slayer statute referred to “[a] person finally adjudged guilty, either as the principal or accessory, of any crime under section 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-122, 53a-123, or 53a-321 or in any other jurisdiction, of any crime, the essential elements of which are substantially similar to such crimes,” CONN. GEN. STAT. § 45a-447 (repealed 2016), as opposed to the UPC, which merely applies to one who “feloniously and intentionally” kills. UNIF. PROBATE CODE § 2-803(b).

¹³ Spivack, *supra* note 1, at 159-61.

¹⁴ *Id.* at 161-63.

¹⁵ *Id.* at 163-65.

¹⁶ Christopher M. Eisold, *Statute in the Abyss: The Implications of Insanity on Wisconsin’s Slayer Statute*, 91 MARQ. L. REV. 875, 875 (2008).

we can assume with some certainty that the victim no longer wishes for his or her killer to inherit his or her property.¹⁷ However, the situations at issue in this Note are cases where the killer is legally insane,¹⁸ and the potential change in the testator's intent is less clear. It is conceivable, in the case of a mentally ill child who kills his or her parent while in a delusional or psychotic state, that the parent may still want the child to inherit from them.¹⁹ When faced with the possibility that the testator's intent has changed, it would be safer to abide by the will, an official document of the testator's intent,²⁰ rather than making a determination based on the belief that their intent may have changed.

The unjust enrichment justification—that slayer statutes seek to prevent a person from profiting from his or her wrongful act—is not persuasive in this instance. Unjust enrichment is not just a moral proposition, it also seeks to deter.²¹ By removing the possibility of profiting from an unjust act, we also remove a potential motive for that unjust act. A person who is legally insane, by definition, is incapable of taking the deterrent purpose of a slayer statute into account, essentially negating the purpose altogether.²² It could also be argued that, in the case of insanity, the same moral wrong is not implicated. The killer is a sick individual in need of treatment, not a greedy individual who cannot wait to get his or her hands on the inheritance.²³

Another policy underlying slayer statutes is that a killing interrupts the orderly transfer of property.²⁴ This argument holds that slayer statutes protect the “rational property transfer law system,”²⁵ in addition to having a deterrent function and an intent protection function. Carla Spivack quotes Mary Louise Fellows' argument that a slayer has “potentially interrupted the normal dispositions of property by interfering with ownership rights, donative freedom, and transfers conditioned on survivorship.”²⁶ However, as Spivack notes, “Fellows agrees with the majority of states that have restricted the application of Slayer Rules to killings that are felonious and intentional”²⁷ If the main concern is the orderly transfer of property then an unintentional killing would be just as disruptive as an intentional killing. The fact that the majority of states

¹⁷ See Spivack, *supra* note 1, at 160.

¹⁸ See *infra* Section II-C.

¹⁹ Spivack, *supra* note 1, at 160.

²⁰ *Will*, BLACK'S LAW DICTIONARY (defining *will* as “[t]he legal expression of an individual's wishes about the disposition of his or her property after death; esp., a document by which a person directs his or her estate to be distributed upon death”).

²¹ Seiver, *supra* note 6, at 387.

²² See *infra* notes 39–43.

²³ *But see* Seiver, *supra* note 6, at 387 (Seiver argues that in instances where the killing is not motivated by greed, the same moral interest is implicated.).

²⁴ See Spivack, *supra* note 1, at 163–65.

²⁵ *Id.* at 164 (citation omitted).

²⁶ *Id.* (quoting Mary Louise Fellows, *The Slayer Rule: Not Solely a Matter of Equity*, 71 IOWA L. REV. 489, 494 (1986)).

²⁷ *Id.* at 164.

differentiate between unintentional and intentional killings indicates that moral and ethical concerns play a larger role in this jurisprudence.²⁸ In fact, as Spivack notes, in the situations that are her primary concern—killings by abused or mentally ill children or spouses—the orderly transfer of property has already been disrupted.²⁹ Allowing inheritance in these instances “does not create a windfall; rather, it declines to further disrupt the already violated norm.”³⁰

Finally, we come to the deterrent purpose of the slayer statute.³¹ It is a long-standing proposition in our laws that one should not profit from his or her wrongful act.³² This purpose is served by the slayer statute. Slayer statutes deter those who wish to use murder as a way of acquiring their inheritance by removing the incentive, specifically, by taking away that inheritance. The hope is that disinheriting those who kill will dissuade the evil family member willing to do anything to get his or her hands on grandma’s money from killing. Removing the potential reward aims to reduce the occurrence of the undesirable action. However, this deterrent purpose is less useful in the specific instances implicated by this Note. Those who are legally insane may have limitations in acting rationally, and therefore, may not be able to appreciate the deterrent purpose. A person who was going to kill his or her relative, only to stop when he or she realizes the potential loss of inheritance, would have a hard time meeting the definition of legal insanity. All legal insanity tests that are currently in use contain an element of an inability to control oneself or an inability to appreciate the wrongfulness of their criminal act.³³ A person who is able to stop himself or herself from killing upon the consideration of a potential financial penalty would seem to be able to appreciate the consequences and wrongfulness of his or her action, to control that action, and to conform his or her conduct to the law.³⁴ A person capable of such thoughts and considerations is unlikely to fit the legal definition of insanity, even if he or she suffers from some mental illness or infirmity.

B. The Insanity Defense

The verdict of not guilty by reason of mental disease or defect, more commonly called the insanity defense, has a long and controversial history in our legal system.³⁵ The idea that the insane should not be punished in the same

²⁸ *Id.*

²⁹ See Spivack, *supra* note 1, at 164-65.

³⁰ *Id.* at 165.

³¹ While the unjust enrichment purpose and deterrent purpose may seem similar, there is an important distinction between them. The prevention of unjust enrichment is reactionary; it is meant to punish a person after they have committed their wrong act. The deterrent purpose, on the other hand, is proactive; it seeks to prevent the action before it occurs, through the threat of a reactionary and punitive sanction. While these purposes have to work in concert to be effective, they are distinctly separate.

³² See Spivack, *supra* note 1, at 161.

³³ See *infra* notes 39-43.

³⁴ *Id.*

³⁵ Though the controversy surrounding the insanity defense is worth noting, it is not within the scope of

manner as the same dates back to the Dooms of Alfred from the ninth century,³⁶ and cries for its abolition are surely just as dated.³⁷

It is important to note that legal insanity is different from the layman's idea of insanity. There are generally four tests for legal insanity currently in use: the M'Naughten Rules, the Irresistible Impulse Test, the Substantial Capacity Test (also known as the Model Penal Code Test), and the Appreciation Test.³⁸

The M'Naughten Rules states: "a person is not criminally responsible for an act when a mental disability prevented the person from knowing either (1) the nature and quality of the act or (2) whether the act was right or wrong."³⁹ The Irresistible Impulse Test applies when a person's illness prevents them "from controlling potentially criminal conduct."⁴⁰ It is often combined with the M'Naughten Rules.⁴¹ The Substantial Capacity Test applies when a person's disease causes him or her to lack "substantial capacity either to appreciate the criminality of [his or her] conduct or to conform [his or her] conduct to the law."⁴² Finally, the Appreciation Test requires "proof by clear and convincing evidence that at the time of the crime, the defendant suffered from a severe mental disease or defect preventing him or her from appreciating the wrongfulness of the conduct."⁴³ All of these tests require that those who invoke them be somehow unable to control their conduct, or unable to appreciate the wrongfulness of that conduct.

It should also be noted that the insanity defense is invoked much less frequently than many people think. Jonas Robitscher and Andrew Ky Haynes, in a 1982 article for the Emory Law Journal, cite a 1979 study that found that college students estimated 37% of people indicted for felonies in Wyoming plead insanity and 44% of those pleas were successful; in reality only 0.5% pled insanity, and only one of those pleas was successful.⁴⁴ While the use of the insanity defense has become more common over time, the fact that its usage and success is much less common than the public perceives it to be is significant to

this Note. See generally Robitscher, *supra* note 2, for a discussion of arguments both for and against retaining the insanity defense.

³⁶ The Dooms of Alfred provide that "if a man be born dumb or deaf, so that he cannot acknowledge or confess his offenses, his father must pay his forfeitures." *Id.* at 10. (citation omitted)

³⁷ See *id.* at 9-10.

³⁸ In *Durham v. U.S.*, the Supreme Court created a test for legal insanity known as the Durham Rule; a defendant "is not criminally responsible if his unlawful act was the product of mental disease or mental defect." 214 F.2d 862, 874-75 (D.C. Cir. 1954). This test is no longer used in any jurisdiction. *Durham Rule*, BLACK'S LAW DICTIONARY. See *infra* notes 39-43.

³⁹ *M'Naughten Rules*, BLACK'S LAW DICTIONARY.

⁴⁰ *Irresistible Impulse Test*, BLACK'S LAW DICTIONARY.

⁴¹ *Id.*

⁴² *Substantial-Capacity Test*, BLACK'S LAW DICTIONARY.

⁴³ *Appreciation Test*, BLACK'S LAW DICTIONARY.; see also 18 U.S.C. § 17 (2016).

⁴⁴ *Robitscher*, *supra* note 2, at 49. While the rate of insanity pleas has increased in some jurisdictions, it remains a much lower rate than the study participants estimated. *Id.*

show the narrow scope of the proposed amendment.⁴⁵

Not every state recognizes the insanity defense. Four states—Idaho, Kansas, Montana, and Utah—do not recognize a verdict of not guilty by reason of insanity.⁴⁶ In these states, the legislatures have made it explicitly clear that it is not their intent to allow the insane to avoid criminal punishment as a result of their insanity; the legislatures depart from the longstanding axiom that the insane do not deserve the same punishment as the sane.⁴⁷ As such, it is unlikely that these states would be amicable to the interpretation of the UPC present in the case law discussed in Section III, or the proposed statutory amendments discussed in Section IV.

C. Intersection Between Insanity Defense and Slayer Statutes

“Where murder and inheritance overlap, we often find family.”⁴⁸ This maxim is a sensible one; generally, inheritance takes place between relatives, meaning that murder implicating inheritance will generally take place between relatives as well. However, it is easy to lose sight of the reality of this situation. A combination of murder, inheritance, and family easily lends itself to fanciful scenarios—thoughts of devious villains who twirl their moustache while plotting to kill dear old grandmother in order to secure her estate, all the while being chased by a handsome investigator with a mysterious past. However, those cases are more at home in the pages of a novel, or the twists of a noir thriller, than in our world. Sadly, the reality tends to be quite grim:

[t]he sociopathic child who kills a grandparent to hasten an inheritance is an anomaly. In reality, murders within a family are usually a product of that family’s harmful, often violent, dynamics, from which, because of the failures of state and society, a family member sometimes can find no escape except murder. Most women who kill their husbands or partners do so to protect themselves or their children from violence. Most children who kill a parent act to stop severe and prolonged abuse by that parent; most other parricides are acutely mentally

⁴⁵ See *infra* Section IV.

⁴⁶ See IDAHO CODE § 18-207(1) (2017) (s “Mental condition shall not be a defense to any charge of criminal conduct.”); KAN. STAT. ANN. § 22-3220 (2010) (repealed 2011); MONT. CODE ANN. § 46-14-102 (2017) (allowing the introduction of “[e]vidence that the defendant suffered from a mental disease or disorder or developmental disability . . . to prove that the defendant did or did not have a state of mind that is an element of the offense.”); UTAH CODE ANN. § 76-2-305(1)(a) (2017) (“It is a defense to a prosecution under any statute or ordinance that the defendant, as a result of mental illness, lacked the mental state required as an element of the offense charged.”). See also Natalie Jacewicz, *With No Insanity Defense, Seriously Ill People End Up In Prison*, NPR (August 5, 2016), <https://www.npr.org/sections/health-shots/2016/08/05/487909967/with-no-insanity-defense-seriously-ill-people-end-up-in-prison>.

⁴⁷ See *Robitscher*, *supra* note 2, at 10 (explaining that the “idea that the insane should not be punished for otherwise criminal acts has been firmly entrenched in the law for at least one thousand years.”).

⁴⁸ *Spivack*, *supra* note 1, at 147.

ill. Most mothers who kill their children suffer from postpartum psychosis, a severe mental illness with symptoms including visual and auditory hallucinations and delusions. In many of these cases, social, political, economic, and cultural factors have combined to block the suffering relative's escape, sometimes leaving murder as the only way out.⁴⁹

In order to fully appreciate these facts, it is necessary to consider the people who are impacted by this change. Individuals who kill the testator while insane are a group of people who are more often in need of help and protection than they are in need of punishment. Often times the dynamics that lead to the mental instability that makes an insanity defense appropriate are the result of some kind of breakdown in the family structure.⁵⁰ In many cases these people, the mentally ill, the neglected, and the abused, have already been failed by the system.⁵¹

Additionally, it is not the modus operandi of our system of laws to punish the sick for being sick. In *Robinson v. California*, the Supreme Court held a law criminalizing narcotics addiction unconstitutional.⁵² In a concurring opinion, Justice Douglas stated, "however insanity is defined, it is in end effect treated as a disease. While afflicted people may be confined either for treatment or for the protection of society, they are not branded as criminals."⁵³ Justice Douglas further stated, "[w]e would forget the teachings of the *Eighth Amendment* if we allowed sickness to be made a crime and permitted sick people to be punished for being sick. This age of enlightenment cannot tolerate such barbarous action."⁵⁴ While this Note deals with the probate process, which does not specifically implicate Eighth Amendment concerns, it implicates a similar moral concern. One of the purposes of slayer statutes is "to prevent crime through deterrent mechanisms, such as increasing the costs and decreasing the benefits of committing crime."⁵⁵ If we find it wrong to subject a person who is

⁴⁹ *Spivack*, *supra* note 1, at 148.

⁵⁰ *See id.*

⁵¹ *See generally Eisold*, *supra* note 16, at 876-78 (Eisold recounts the facts of a Wisconsin case where a man (Van Lare) who suffered from delusions killed his wife the morning he was to begin treatment, which his family had sought for some time. Prior attempts to get treatment were frustrated by a combination of Van Lare's unwillingness to subject himself to treatment, and psychiatrists' belief that Van Lare did not pose a serious threat to himself or others.).

⁵² *See generally Robinson v. California*, 370 U.S. 660, 667 (1962) ("We hold that a state law which imprisons a person thus afflicted as a criminal, even though he has never touched any narcotic drug within the State or been guilty of any irregular behavior there, inflicts a cruel and unusual punishment in violation of the *Fourteenth Amendment*."). *But see Powell v. Texas*, 392 U.S. 514, 532 (1968) (explaining that the case "does not fall within [*Robinson's* holding], since appellant was convicted, not for being a chronic alcoholic, but for being in public while drunk on a particular occasion. The State of Texas thus has not sought to punish a mere status, as California did in *Robinson*").

⁵³ *Robinson*, 370 U.S. at 668-69 (Douglas, J., concurring).

⁵⁴ *Id.* at 678 (Douglas, J., concurring).

⁵⁵ *Eisold*, *supra* note 16, at 875.

sick to criminal punishment, if doing so is in fact “barbarous,”⁵⁶ it would seem strange to subject such a person to a punishment that is, in part, designed to deter criminal activity.⁵⁷

D. Other Policy Considerations

Concerns for those with an interest in the probate process other than the slayer and the decedent are not trivial. It is understandable that some may have an issue with a statutory construction that allows those who kill while insane to inherit because it ignores those who are otherwise aggrieved. A slaying spouse may inherit while the children or immediate family of the deceased do not collect. This is dealt with through other parts of the legal system. The Restatement (Second) of Torts, section 283B, states: “[u]nless the actor is a child, his insanity or other mental deficiency does not relieve the actor from liability for conduct which does not conform to the standard of a reasonable man under like circumstances.”⁵⁸ As such, “insanity or other mental deficiency”⁵⁹ is not a defense in a tort suit for wrongful death, intentional infliction of emotional distress, or any similar tort claim that may be brought by the aggrieved. Because of this, those impacted by the death would still have an avenue to collect for the harm that they have suffered.

III. Analysis of Relevant Statutes and Cases

A. New Jersey Slayer Statute and *In re Vadlamudi's Estate*

The seminal case is *In re Vadlamudi's Estate*. “On February 14, 1981 Amita Vadlamudi killed her husband Desapathi with an axe.”⁶⁰ She was tried by bench trial in September of 1981, and was “found not guilty by reason of insanity.”⁶¹ “The evidence . . . included the reports of three psychiatrists and a practicing licensed psychologist.”⁶² “All of the doctors and the psychologist were of the opinion that at the time she killed her husband Amita was suffering from a ‘brief reactive psychosis’⁶³ and did not know that her act of killing was

⁵⁶ *Robinson*, 370 U.S. at 678 (Douglas, J., concurring).

⁵⁷ It can be argued that our society indirectly criminalizes addiction by making actions that go hand in hand with addiction criminal, such as the possession of controlled substances, or the possession of paraphernalia involved in the use of those substances; however, there is a clear distinction in our laws between addiction and insanity. In cases of legal insanity, a person is incapable of appreciating the nature or consequences of their action, or of conforming their conduct to the law. An addict suffers from an illness, and their desire to use the substance to which they are addicted must be unimaginable and overwhelming, but it does not seem to meet the definition of legal insanity under the tests discussed *supra* notes 39-43. As the understanding and science of addiction evolves this may change, but that issue is not within the purview of this Note.

⁵⁸ RESTATEMENT (SECOND) OF TORTS: MENTAL DEFICIENCY § 283B (AM. LAW INST. 1965).

⁵⁹ *Id.*

⁶⁰ *In re Vadlamudi's Estate*, 443 A.2d 1113, 1114 (N.J. Super. Ct. Law Div. 1982).

⁶¹ *Id.*

⁶² *Id.*

⁶³ According to the Diagnostic and Statistical Manual of Mental Disorders (“DSM-V”), Brief Reactive

wrong.”⁶⁴ The court was forced to consider how to apply the New Jersey slayer statute,⁶⁵ which was adopted from the UPC. In coming to a decision, the judge’s research “failed to disclose any reported cases in New Jersey or in the other 12 states that have enacted statutes adapted from section 2-803 of the Uniform Probate Code which pass directly” on the question at issue in *Vadlamudi*.⁶⁶ This led to reliance on the statute itself. The court stated: “[i]t is an established principle of statutory construction that, absent an explicit statement of a contrary legislative intent, statutes are to be construed with reference to the principles of the common law”⁶⁷ In looking to the common law, the court examined New Jersey law prior to the passage of N.J. Stat. Ann. 3A:2A-83.⁶⁸ This was articulated by *Campbell v. Ray*,

it is not against the public policy of this State to permit one who has killed while insane subsequently to take a share of the estate of the deceased or the proceeds of a policy of life insurance on the life of the deceased of which the insane killer is beneficiary.⁶⁹

Looking at the common law principles, the court in *Vadlamudi* stated: that “[if] a homicide was accidental or committed by the beneficiary in self-defense or while legally insane, the killing was not ‘intentional’ for purposes of

Psychosis is a form of Brief Psychotic Disorder; Brief Psychotic Disorders are characterized by the “[p]resence of one (or more) of the following symptoms. At least one of these must be (1), (2), or (3): 1. Delusions. 2. Hallucinations. 3. Disorganized speech (e.g. frequent derailment or incoherence). 4. Grossly disorganized or catatonic behavior.” AM. PSYCHIATRIC ASS’N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS, 95 (5th ed. 2013). The episode during which the symptoms occur must be “at least 1 day but less than one month, with eventual full return to premorbid level of functioning.” *Id.* The DSM-V also requires that “[t]he disturbance is not better explained by major depressive or bipolar disorder with psychotic features or another psychotic disorder such as schizophrenia or catatonia, and is not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication) or another medical condition.” *Id.* A Brief Psychotic Disorder is characterized as Brief Reactive Psychosis “[i]f symptoms occur in response to events that, singularly or together, would be markedly stressful to almost anyone in similar circumstances in the individual’s culture.” *Id.* The diagnostic criteria go on to state that the “essential feature” of this disorder is the “sudden onset” of the symptoms, defined as a “change from a nonpsychotic state to a clearly psychotic state within 2 weeks” *Id.*

⁶⁴ *Vadlamudi*, 443 A.2d at 1114.

⁶⁵ New Jersey currently uses N.J. Stat. Ann. § 3B:7-1.1 (2017) as its slayer statute, which relies on the phrase “intentional killing.” N.J. STAT. ANN. § 3B:7-1.1. The version applied by the court in *Vadlamudi* relied on the phrase “intentionally kills.” N.J. STAT. ANN. § 3A:2A-83 (repealed 1982). As stated by the court in *Vadlamudi*, “absent an explicit statement of a contrary legislative intent, statutes are to be construed with reference to the principles of the common law” *Vadlamudi*, 443 A.2d at 1116. N.J. Stat. Ann. § 3B:7-1.1 does not contain any such explicit statement of contrary legislative intent. As a result, there is no evidence that the analysis of the phrase “intentionally kills” would be substantially different under N.J. Stat. Ann. § 3B:7-1.1 than it would be under N.J. Stat. Ann. § 3A:2A-83.

⁶⁶ *Vadlamudi*, 443 A.2d at 1115.

⁶⁷ *Id.* at 1116.

⁶⁸ *Id.*

⁶⁹ *Campbell v. Ray*, 245 A.2d 761, 765 (N.J. Ch. 1968). *Campbell* was unanimously affirmed by the Supreme Court of New Jersey in 1970. *Campbell v. Ray*, 264 A.2d 441 (N.J. 1970) (per curiam).

disqualifying a beneficiary from succession to property of the decedent”⁷⁰ In the opinion of the court, this combination of factors meant that a person who kills “while legally insane cannot be, as a matter of law, one ‘who intentionally kills’ within the meaning of [N.J. Stat. Ann. 3A:2A-83].”⁷¹

After ruling on the issue of whether a person who kills while insane is necessarily barred from inheritance under the slayer statute,⁷² the court in *Vadlamudi* then needed to determine if the criminal court’s finding of insanity is dispositive. The court found that “[t]here are no reported cases prior to enactment of the statute wherein an acquittal of a homicide in a criminal trial by reason of insanity obviated the necessity of trial or hearing on the insanity issue in a civil action.”⁷³ Additionally,

[r]esearch by the court reveals no case law in any jurisdiction which has permitted a killer to acquire property from the victim on the sole ground that he had been acquitted by reason of insanity in a criminal proceeding, absent an express statutory provision affording conclusive effect to an acquittal⁷⁴

The court further stated that this was because “different considerations as well as a different burden of proof enter into the finding of guilty in the criminal prosecution.”⁷⁵ Therefore, while the slayer statute did not preclude inheritance in a case where a person killed while insane, the decision of whether the killer was insane in the probate context is left to the civil court.

B. Illinois Slayer Statute and *Dougherty v. Cole*

In 2010, the Appellate Court of Illinois was presented with an issue similar to that in *Vadlamudi* in the case *Dougherty v. Cole*.⁷⁶ On June 7, 2008, Jack Cole suffered from a severe manic episode, during which he beat and stabbed his mother to death in her home.⁷⁷ Jack Cole was charged with first degree murder.⁷⁸ A psychiatric evaluation revealed that, at the time of the killing, “Jack suffered a severe manic episode with psychotic features and, as a result of those symptoms, was incapable of appreciating the criminality of killing his mother.”⁷⁹ Jack Cole was found not guilty by reason of insanity.⁸⁰ Jack’s sister

⁷⁰ *Vadlamudi*, 443 A.2d at 1116-17.

⁷¹ *Id.* at 1117 (citation omitted). There is no evidence that similar analysis of the current New Jersey Slayer Statute, N.J. Stat. Ann. 3B:7-1.1, would lead to a different result. *See supra* note 65.

⁷² *Vadlamudi*, 443 A.2d at 1116-17.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ *Dougherty v. Cole*, 934 N.E.2d 16 (Ill. App. Ct. 2010).

⁷⁷ *Id.* at 18.

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ *Id.*

Alycia, in her capacity as the administratrix of the estate, brought suit seeking, in part, to bar Jack from inheriting by way of Illinois' slayer statute.⁸¹ Illinois applies a different standard than New Jersey. The Illinois slayer statute disinherits "[a] person who intentionally and *unjustifiably* causes the death of another"⁸² Jack Cole, cited *Vadlamudi* in making his argument.⁸³ In applying the Illinois statute, the court looked to the legislative intent by reviewing the legislative history.⁸⁴ The court referenced Illinois' 1969 slayer statute, which read: "[a] person who is convicted of the murder of another shall not inherit from the murdered person."⁸⁵ The modern statute, however, does not contain any specific reference to criminality.⁸⁶ The court in *Dougherty* felt that the legislative history of the Illinois statute indicated a desire to bar those who kill while insane.⁸⁷ Jack Cole himself testified that he intended to kill his mother, but only did so at the direction of a voice inside his head telling him that his mother was the enemy.⁸⁸ The court eventually held that "[w]here, as here, an individual was insane for criminal purposes but nevertheless cognizant he was killing a person, the Slayer Statute will prevent him from benefitting from his actions."⁸⁹

The Illinois statute focuses on the word "unjustifiably" rather than "feloniously."⁹⁰ A clear shift in the intent is found between these words. *Black's Law Dictionary* defines the word "felonious" as "[o]f, relating to, or involving a felony. . . . Constituting or having the character of a felony."⁹¹ This necessarily requires that a "felonious" act have some relation to or character of a criminal offense. Conversely, one can imagine any number of "unjustifiable" acts that do not in any way relate to or have the character of a crime. Additionally, in this case, there was clear legislative history with regards to the law in question, meaning that there was no need to rely on common law ideas. This statute, however, differs from the relevant UPC section in an important way, as it intentionally does not contain any reference to criminal activity.⁹² This indicates that the process of determining a slayer in Illinois is meant to be entirely separate from the criminal court's decision regarding criminal liability. However, a statute that utilizes the UPC framework, which contains the word "feloniously,"⁹³ or the Connecticut framework, which specifically enumerates a

⁸¹ *Dougherty*, 934 N.E.2d at 17.

⁸² 755 ILL. COMP. STAT. 5/2-6 (2017) (emphasis added).

⁸³ *Dougherty*, 934 N.E.2d at 19.

⁸⁴ *Id.*

⁸⁵ *Id.* at 21 (citation omitted).

⁸⁶ See 755 ILL. COMP. STAT. 5/2-6 .

⁸⁷ *Dougherty*, 934 N.E.2d at 21-22.

⁸⁸ *Id.* at 21.

⁸⁹ *Id.* at 22.

⁹⁰ See 755 ILL. COMP. STAT. 5/2-6.

⁹¹ *Feloniously*, BLACK'S LAW DICTIONARY.

⁹² See *id.*

⁹³ See UNIF. PROBATE CODE § 2-803. The word "feloniously" implies a criminal law element.

number of criminal statutes,⁹⁴ does bear on the criminal law sphere.

The difference between New Jersey and Illinois lies in the structure of their slayer statutes, and in the presence of specific statutory and legislative history related to the statutes.⁹⁵ Illinois specifically divorces its slayer statute from the criminal justice system,⁹⁶ while New Jersey and the UPC make a finding of guilt by a criminal court dispositive.⁹⁷

C. Mississippi Slayer Statute and *Estate of Armstrong v. Armstrong*

In 2015, the Supreme Court of Mississippi was called to decide if the state's slayer statute barred inheritance in cases of legal insanity or incompetence. In that case, John Armstrong, who had been diagnosed with and treated for paranoid schizophrenia⁹⁸ since 1989, killed his mother by hitting her in the head with a brick.⁹⁹ After an examination ordered by the Mississippi Circuit Court, John Armstrong was found incompetent to stand trial.¹⁰⁰ In the initial movement to have the killer barred from inheriting, the chancellor stated that "it would be a perversion of justice" to allow the killer to inherit.¹⁰¹ However, the Mississippi Supreme Court overturned the lower court ruling, determining that Mississippi should side with most states, which require willful conduct in order to apply the slayer statute, defining "willful" as "intentionally, knowingly, deliberately, and purposely."¹⁰² The court determined that, "[b]ecause an insane person lacks the requisite ability willfully to kill another person, the Slayer Statute is not applicable in cases where the killer is determined to be insane at the time of the killing."¹⁰³

⁹⁴ Conn. Gen. Stat. § 45a-447(a)(1) (2017), specifically enumerates: Conn. Gen. Stat. §§ 53a-54a Murder, 53a-54b Murder with Special Circumstances, 53a-54c Felony Murder, 53a-54d Arson Murder, 53a-55 Manslaughter in the First Degree, 53a-55a Manslaughter in the First Degree with a Firearm, 53a-56 Manslaughter in the Second Degree, 53a-56a Manslaughter in the Second Degree with a Firearm, 53a-122 Larceny in the First Degree, 53a-123 Larceny in the Second Degree, and 53a-321 Abuse in the First Degree.

⁹⁵ *Dougherty*, 934 N.E.2d at 19.

⁹⁶ See 755 ILL. COMP. STAT. ANN. 5/2-6.

⁹⁷ See UNIF. PROBATE CODE § 2-803(g) (amended 2010); N.J. STAT. ANN. § 3B:7-1.1.

⁹⁸ See AM. PSYCHIATRIC ASS'N, *supra* note 63, at 99. The DSM-V lists the symptoms of schizophrenia as including delusions, hallucinations, disorganized speech, grossly disorganized or catatonic behavior, and negative symptoms like diminished emotional expression or motivation. *Id.* At least two of these symptoms must be present for a diagnosis. *Id.*

⁹⁹ *Estate of Armstrong v. Armstrong*, 170 So.3d 510, 511 (Miss. 2015).

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 512.

¹⁰² *Id.* at 516.

¹⁰³ *Armstrong*, 170 So.3d at 516.

IV. Proposed Statute and Analysis

A. Proposed Amended Uniform Probate Code Slayer Statute

There are four possible ways in which the UPC could be amended: (1) amending section 2-803(a) Definitions; (2) amending section 2-803(b) Forfeiture of Statutory Benefits; (3) amending section 2-803(g) Felonious and Intentional Killing; How Determined; or (4) adding a new subsection. Any of these approaches would create a statutory scheme that substantially reflects the policy rationale underlying slayer statutes, and our society's views on mental illness. It should be noted that UPC section 2-803(g) specifically states that "[a]fter all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent's killer for purposes of this section."¹⁰⁴ This section prevents the re-litigation of the issue of legal insanity when an insanity defense fails at trial.

The first proposed amendment is found in section 2-803(a) Definitions. This section lays out the definitions of certain terms within the subsection.¹⁰⁵ UPC section 2-803(a) could be amended by adding a subsection entitled "section 2-803(a)(4) Feloniously and Intentionally." This proposed subsection would read, "for the purposes of this section an individual who is found, by a preponderance of the evidence, to have killed while insane is *not* one who kills feloniously and intentionally." This is straightforward and to the point as far as accomplishing the goals discussed throughout this Note. Additionally, it is easy to interpret, and leaves little leeway. It should be mentioned that UPC section 2-803(g) reflects that, in the absence of a criminal conviction, the court should determine if a person killed another feloniously and intentionally by a preponderance of the evidence standard.¹⁰⁶ As a result, that standard is utilized within these proposed amendments. It is expected that each jurisdiction would modify the language of this subsection, or any of the following subsections, to reflect the standard of proof generally applicable in probate court or disinheritance proceedings in that jurisdiction.

The next section which could potentially be revised is section 2-803(b), Forfeiture of Statutory Benefits. Currently this subsection reads:

[a]n individual who feloniously and intentionally kills the decedent forfeits all benefits under this [article] with respect to the decedent's estate, including an intestate share, an elective share, an omitted spouse's or child's share, a homestead allowance, exempt property, and a family allowance. If the decedent died intestate, the decedent's intestate estate passes as

¹⁰⁴ UNIF. PROBATE CODE § 2-803(g).

¹⁰⁵ See UNIF. PROBATE CODE § 2-803(a).

¹⁰⁶ UNIF. PROBATE CODE § 2-803(g).

if the killer disclaimed his [or her] intestate share.¹⁰⁷

Section 2-803(b) would be amended to read, with italics indicating the new language: “[an] individual who feloniously and intentionally kills the decedent forfeits all benefits under this [article,] *excepting instances where such individual shows, by a preponderance of the evidence, that they were legally insane at the time the decedent was killed.*”¹⁰⁸ This would directly exempt those who kill while insane from the slayer statute.

The third section that could be revised, Section 2-803(g), Felonious and Intentional Killing; How Determined, would be amended to read, with italics indicating the new language:

[a]fter all right to appeal has been exhausted, a judgment of conviction establishing criminal accountability for the felonious and intentional killing of the decedent conclusively establishes the convicted individual as the decedent’s killer for purposes of this section. In the absence of a conviction, the court, upon the petition of an interested person, must determine whether, under the preponderance of evidence standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent. *In the absence of a conviction, an individual found, by a preponderance of the evidence, to have been legally insane at the time the decedent was killed, is not one who feloniously and intentionally kills for the purposes of this section.* If the court determines that, under that standard, the individual would be found criminally accountable for the felonious and intentional killing of the decedent, the determination conclusively establishes that individual as the decedent’s killer for purposes of this section.¹⁰⁹

It is expected that each jurisdiction substitute whatever burden of proof they find appropriate, or whichever is generally applied to affirmative defenses in probate court proceedings. This amendment to section 2-803(g) applies to how the court determines if a person “feloniously and intentionally” kills, rather than to the section as a whole. This would limit the change solely to the determination of whether a person feloniously and intentionally kills under section 2-803, rather than exempting a person who kills while legally insane from section 2-803 altogether, which could potentially impact other provisions or sections that interact with section 2-803.

The final option is to add another clause to UPC section 2-803. A new

¹⁰⁷ UNIF. PROBATE CODE § 2-803(b).

¹⁰⁸ UNIF. PROBATE CODE § 2-803(b). New language is identified using italics.

¹⁰⁹ UNIF. PROBATE CODE § 2-803(g). New language is identified using italics.

section, “section 2-803(j) Impact of a Finding of Legal Insanity on Transfer,” would be added to the UPC. This would take the language from the amended section of 2-803(g) and create its own section.

Section 2-803(j) Impact of a Finding of Legal Insanity on Transfer would read: “an individual found, based on a preponderance of the evidence, to have been legally insane at the time the decedent was killed, is not one who feloniously and intentionally kills for the purposes of this section.” Again, the preponderance of the evidence standard could be replaced with the standard of evidence controlling the jurisdiction in question.

B. Impact of the Proposed Amendments

Though the United States consists of numerous jurisdictions, each with its own legal and regulatory histories and schemes, model and uniform codes like the UPC have the potential to create uniformity amongst the states. However, any move towards uniformity must be paired with a healthy skepticism, and awareness of possibly unforeseen consequences. The proposed changes to the UPC¹¹⁰ would clarify analysis of the impact of legal insanity on disinheritance through slayer statutes. Additionally, given that there is only one case in a UPC jurisdiction dealing with this issue,¹¹¹ the amended section would ensure that all jurisdictions that utilize the UPC would be in line with, or at least made aware of, the existing case law.

Understandably, there may be jurisdictions that are hesitant to change. This amendment would give those jurisdictions an opportunity to respond as they deem necessary.¹¹² Currently, a jurisdiction that uses UPC section 2-803, based on the only case law available, would seem to have enacted a statute that allows for inheritance in cases where a potential beneficiary kills his or her benefactor while legally insane. The only judicial interpretation of how legal insanity impacts the UPC slayer statute, *Vadlamudi*, comes from a probate case from Middlesex County, New Jersey decided in 1982, something that could easily, and understandably, be overlooked by legislators.¹¹³ Amending the UPC in this way would allow a jurisdiction that does not wish to grant inheritance in these cases clear notice of the implication of the statute, as well as the ability to make their slayer statute reflect the true intent of the legislature.

¹¹⁰ See *infra* section IV-A.

¹¹¹ See generally *Vadlamudi*, 443 A.2d. at 1115 (“[The Court’s] research has failed to disclose any reported cases in. . . states that enacted statutes adapted from [section] 2-803 of the Uniform Probate Code which pass directly on these issues.”).

¹¹² For example, Connecticut recently modified Conn. Gen. Stat. §45a-447 (2017) to prevent inheritance by those who kill while legally insane. The previous version of Conn. Gen. Stat. §45a-447, repealed in 2016, was entitled “Person Adjudged or Determined to be Guilty of Certain Crimes Ineligible to Inherit from or Receive Property or Insurance or Annuity Proceeds as Beneficiary of Victim.” CONN. GEN. STAT. §45a-447 (2015). The most recent version of Conn. Gen. Stat §45a-447 is entitled “Person Adjudged Guilty of Certain Crimes or Found Not Guilty by Reason of Mental Disease or Defect.” CONN. GEN. STAT §45a-447 (2017) (emphasis added).

¹¹³ See generally *Vadlamudi*, 443 A.2d.

The proposed statutory changes would all operate in a similar way; like in *Vadlamudi*, one who kills while legally insane would not be disinherited. Utilizing the standard of proof that is generally required for an affirmative defense in a probate or disinheritance proceeding in the jurisdiction in question serves to achieve the desired outcome, while minimizing the impact of the amendment on the general function of the probate court.

C. Comments on the Finality of Criminal Trial Court Decisions

Vadlamudi raised the issue of the finality of the trial court's decision, specifically, whether the trial court's finding of insanity is dispositive on the issue with regards to the slayer statute.¹¹⁴ The court in *Vadlamudi* stated that the laws of New Jersey "generally [hold] that an acquittal of criminal or *quasi*-criminal charges does not have preclusionary consequences in respect to a subsequent civil action based on the same conduct."¹¹⁵ Additionally, the court notes that the slayer statute specifically states a conviction is dispositive, but does not state that an acquittal is similarly dispositive.¹¹⁶ Instead, the court notes that the statute states: "[i]n the absence of a conviction of intentional killing the court may determine . . . whether the killing was intentional for purposes of this section."¹¹⁷ This reflects the fact that there is a different burden of proof in civil and criminal proceedings. Though the court in *Vadlamudi* does refer to New Jersey law and precedent, it firmly roots its construction in the language of the statute,¹¹⁸ indicating that this interpretation is more in line with the intent of the UPC, and therefore would seem to control in jurisdictions utilizing the UPC.

The amended UPC provision would respect the finality of a conviction in a trial court just as it currently does. This amendment is not designed to allow a defendant to essentially re-litigate the issue of their legal sanity or insanity. This amendment is designed to provide a very narrow exception to disinheritance that is only available in a select few cases.

V. Conclusion

Currently the UPC is not entirely clear on the impact of legal insanity on inheritance. This is an issue because "[w]here murder and inheritance overlap, we often find family."¹¹⁹ Sadly, in these instances we often find cases of abuse and mental illness as well.¹²⁰ Those who are mentally ill are unable, by the definition of legal insanity, to have the intent to hasten the receipt of their inheritance.¹²¹ In fact, intent to do so would show that a person is not legally

¹¹⁴ See *id.* at 1117.

¹¹⁵ *Id.* (citations omitted).

¹¹⁶ See *id.*

¹¹⁷ *Id.* (citation omitted).

¹¹⁸ See *Vadlamudi*, 443 A.2d at 1114-17.

¹¹⁹ Spivack, *supra* note 1, at 147.

¹²⁰ See *id.* at 148.

¹²¹ *Supra* notes 39-43.

insane. The slayer statute promotes protection of the testator's intent¹²² and aids in preventing one from profiting from their own wrongdoing,¹²³ furthering the orderly transition of property.¹²⁴ Slayer statutes also aim "to prevent crime through deterrent mechanisms, such as increasing the costs and decreasing the benefits of committing crime."¹²⁵ If our goal is preventing a conniving relative from inheriting, disinheriting those who kill while insane does not serve that purpose. In fact, none of the policy goals that slayer statutes seek to advance are truly served through disinheritance of those who kill while legally insane.¹²⁶ By amending the UPC slayer statute to specifically allow inheritance in cases of legal insanity, we can bring the clear meaning of the statute in line with the case law,¹²⁷ in line with general ideas underlying our legal system, and in line with the goal of creating outcomes that are more equitable for all parties involved.

¹²² Spivack, *supra* note 1, at 159-61.

¹²³ *Id.* at 161-63.

¹²⁴ *Id.* at 163-65.

¹²⁵ Eisold, *supra* note 16, at 875.

¹²⁶ *Supra* section II-A and II-C.

¹²⁷ See generally *Vadlamudi*, 443 A.2d (the singular case from a UPC jurisdiction clearly passing on the issues under consideration in this Note).