
SUBSTITUTE SENATE BILL 5506

State of Washington 52nd Legislature 1991 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senator Gaspard).

Read first time March 6, 1991.

1 AN ACT Relating to survival of actions; and amending RCW 4.24.010,
2 43.20B.415, and 43.20B.445.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 4.24.010 and 1973 1st ex.s. c 154 s 4 are each amended
5 to read as follows:

6 The mother or father or both may maintain an action as plaintiff
7 for the injury or death of a ((minor)) child(~~(, or a child on whom~~
8 ~~either, or both, are dependent for support))~~): PROVIDED, That in the
9 case of an illegitimate child the father cannot maintain or join as a
10 party an action unless paternity has been duly established and the
11 father has regularly contributed to the child's support.

12 This section creates only one cause of action, but if the parents
13 of the child are not married, are separated, or not married to each
14 other damages may be awarded to each plaintiff separately, as the court
15 finds just and equitable.

1 If one parent brings an action under this section and the other
2 parent is not named as a plaintiff, notice of the institution of the
3 suit, together with a copy of the complaint, shall be served upon the
4 other parent: PROVIDED, That when the mother of an illegitimate child
5 initiates an action, notice shall be required only if paternity has
6 been duly established and the father has regularly contributed to the
7 child's support.

8 Such notice shall be in compliance with the statutory requirements
9 for a summons. Such notice shall state that the other parent must join
10 as a party to the suit within twenty days or the right to recover
11 damages under this section shall be barred. Failure of the other
12 parent to timely appear shall bar such parent's action to recover any
13 part of an award made to the party instituting the suit.

14 In such an action, in addition to damages incurred by the plaintiff
15 for medical, hospital, and medication expenses, (~~and loss of services~~
16 ~~and support,~~) damages may be recovered for loss of services and
17 support, the loss of love and companionship of the child and for injury
18 to or destruction of the parent-child relationship in such amount as,
19 under all the circumstances of the case, may be just.

20 **Sec. 2.** RCW 43.20B.415 and 1971 ex.s. c 118 s 2 are each amended
21 to read as follows:

22 The estates of all mentally or physically deficient persons who
23 have been admitted to the state residential (~~schools listed in RCW~~
24 ~~72.33.030~~) habilitation centers either by application of their parents
25 or guardian or by commitment of court, or who may hereafter be admitted
26 or committed to such institutions, shall be liable for their per capita
27 costs of care, support and treatment: PROVIDED, That (~~the estate~~
28 ~~funds may not be reduced as a result of such liability below an amount~~
29 ~~as set forth in RCW 72.33.180~~) estate funds attributable to recovery

1 on any claim against the state of Washington, the state residential
2 habilitation centers, or their employees or agents, whether by way of
3 judgment, settlement, or otherwise, may not be reduced as a result of
4 the liability imposed by RCW 43.20B.410 through 43.20B.455.

5 **Sec. 3.** RCW 43.20B.445 and 1988 c 176 s 907 are each amended to
6 read as follows:

7 The provisions of RCW 43.20B.410 through 43.20B.455 shall not be
8 construed to prohibit or prevent the department of social and health
9 services from obtaining reimbursement from any person liable under RCW
10 43.20B.410 through 43.20B.455 for payment of the full amount of the
11 accrued per capita cost from any property acquired by gift, devise or
12 bequest subsequent to and regardless of the initial findings of
13 responsibility under RCW 43.20B.430: PROVIDED, That the estate of any
14 resident of a residential habilitation center shall not be liable for
15 such reimbursement subsequent to termination of services for that
16 resident at the residential habilitation center: PROVIDED FURTHER,
17 That, subject to the proviso of RCW 43.20B.415, upon the death of any
18 person while a resident in a residential habilitation center, the
19 person's estate shall become liable to the same extent as the
20 resident's liability on the date of death.