

SENATE BILL REPORT

SB 5077

AS PASSED SENATE, MARCH 15, 1993

Brief Description: Specifying when damages for pain and suffering of a deceased person may be recovered by survivors.

SPONSORS: Senator Vognild

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Niemi, and Spanel.

Staff: Alan Caplan (786-7465)

Hearing Dates: February 3, 1993; February 18, 1993

BACKGROUND:

A person's right to assert a legal cause of action generally survives that person's death and, in most cases, may be exercised by the executor of his or her estate.

However, a claim for damages based upon a decedent's pain and suffering survives only if the injury that caused the pain and suffering also caused the decedent's death. Moreover, such claims may be brought only (1) on behalf of the decedent's surviving spouse or living children; or (2) if the decedent dies leaving no spouse or children, on behalf of the decedent's dependent parents or siblings.

It has been suggested that a decedent's survivors should be able to recover damages for the decedent's pain and suffering even if the pain and suffering was caused by an injury unrelated to the decedent's death.

SUMMARY:

The personal representative of an estate, on behalf of certain of the decedent's surviving relatives, is entitled to recover damages for pain and suffering experienced by the decedent regardless of whether the injury that caused the decedent's pain and suffering also caused the decedent's death.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

It is unfair to prevent a person from recovering damages for a deceased relative's pain and suffering solely because the relative's death and his or her pain and suffering resulted from different causes.

TESTIMONY AGAINST:

This bill would increase municipalities' potential liability.

TESTIFIED: Senator Vognild, prime sponsor; John Bucklong, Washington State Trial Lawyers Association; Sean Sheehan, City of Seattle; Sonya Alexander, Association of Washington Cities