

HOUSE BILL REPORT

SSB 6153

As Passed House:

March 4, 1998

Title: An act relating to actions for injury or death of a child.

Brief Description: Revising procedures for bringing actions for the injury or death of a child.

Sponsors: Senate Committee on Law & Justice (originally sponsored by Senators Fairley, Thibaudeau, Kohl and Winsley).

Brief History:

Committee Activity:

Law & Justice: 2/20/98, 2/26/98 [DP].

Floor Activity:

Passed House: 3/4/98, 97-0.

HOUSE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass. Signed by 13 members: Representatives Sheahan, Chairman; McDonald, Vice Chairman; Sterk, Vice Chairman; Costa, Ranking Minority Member; Constantine, Assistant Ranking Minority Member; Carrell; Cody; Kenney; Lambert; Lantz; Mulliken; Robertson and Sherstad.

Staff: Trudes Hutcheson (786-7384).

Background: There are various civil causes of actions for damages established by statute. Under existing law, a mother or father, or both, may bring an action for damages for the injury or death of a minor child. Damages may include medical expenses, loss of love and companionship, and injury to or destruction of the parent-child relationship. If one parent brings an action and the other parent is not named as a plaintiff, notice of the action must be served on the other parent, and the other parent has 20 days to join the suit.

In the case of a child born to parents who have never been married, the father may not be a plaintiff to the action unless he has regularly contributed to the child's support. One appellate court has interpreted "support" to mean contributing to the child's material well-being. The statute places no such requirement on the mother of such a child.

The state supreme court recently held that the restriction on a father's right to bring an action for the injury or death of a child born to parents who have never been married violates the Equal Rights Amendment (ERA) to the state constitution, Article 31, Section 1. Guard v. Jackson. Under the ERA, differential treatment of the sexes can only be based upon actual differences between the sexes. The court found that there were no actual differences between the sexes that would justify placing the support requirement on men and not on women.

Summary of Bill: The Legislature intends to provide either parent with a civil cause of action for injury or death of a minor child if the parent has had a significant involvement in the child's life, including but not limited to, emotional, psychological, or financial support.

The wrongful death statute is amended to provide that a mother or father, or both, who has regularly contributed to the support of his or her minor child, may bring an action for the injury or death of the child.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This is an equal rights bill. It will require both men and women to be treated alike in the context of bringing these types of actions.

Testimony Against: None.

Testified: Senator Thibaudeau.