

SENATE BILL REPORT

SB 6153

As Reported By Senate Committee On:
Law & Justice, February 6, 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: Senators Fairley, Thibaudeau, Kohl and Winsley.

Brief History:

Committee Activity: Law & Justice: 1/20/98, 2/6/98 [DPS].

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 6153 be substituted therefor, and the substitute bill do pass.

Signed by Senators Roach, Chair; Johnson, Vice Chair; Fairley, Goings, Hargrove, Kline, Long, McCaslin, Thibaudeau and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: Existing law authorizes either a mother or a father, or both, to file a wrongful death action for the death of a minor child. However, in the case of a minor child whose parents have never married, the statute requires the father to have contributed regularly to the financial support of the child before the father can maintain an action. The statute places no such contribution requirement on the mother of such a child.

In *Guard v. Beeston*, the Washington Supreme Court declared that the support requirement violates the Equal Rights Amendment of the state Constitution (Article 31, Section 1). The court held that differential treatment of the sexes can only be based upon actual differences between the sexes.

Summary of Substitute Bill: The wrongful death statute is amended to require that an action for the injury or death of a minor child can only be maintained by a mother or father, or both, who has regularly contributed to the support of his or her minor child.

Substitute Bill Compared to Original Bill: An intent section was added for clarity.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The trial lawyers support the bill, but would like to have the bill amended so that it is not limited to only minor children. Also, the period to join both spouses in the lawsuit should be expanded to 60 days from the current 20 days.

Testimony Against: None.

Testified: Larry Shannon, WSTLA (pro).