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**SUBSTITUTE SENATE BILL 6153**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** Senate Committee on Law & Justice (originally sponsored by Senators Fairley, Thibaudeau, Kohl and Winsley)

Read first time 02/06/98.

1 AN ACT Relating to actions for injury or death of a child; amending  
2 RCW 4.24.010; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** It is the intent of this act to address the  
5 constitutional issue of equal protection addressed by the Washington  
6 state supreme court in *Guard v. Jackson*, 132 Wn.2d 660 (1997). The  
7 legislature intends to provide a civil cause of action for wrongful  
8 injury or death of a minor child to a mother or father, or both, if the  
9 mother or father has had significant involvement in the child's life,  
10 including but not limited to, emotional, psychological, or financial  
11 support.

12 **Sec. 2.** RCW 4.24.010 and 1973 1st ex.s. c 154 s 4 are each amended  
13 to read as follows:

14 ((The)) A mother or father, or both ~~((may maintain an action as~~  
15 ~~plaintiff for the injury or death of a))~~, who has regularly contributed  
16 to the support of his or her minor child, ((or)) and the mother or  
17 father, or both, of a child on whom either, or both, are dependent for  
18 support ~~((: PROVIDED, That in the case of an illegitimate child the~~

1 ~~father cannot~~) may maintain or join as a party an action ((unless  
2 ~~paternity has been duly established and the father has regularly~~  
3 ~~contributed to the child's support~~) as plaintiff for the injury or  
4 death of the child.

5 This section creates only one cause of action, but if the parents  
6 of the child are not married, are separated, or not married to each  
7 other damages may be awarded to each plaintiff separately, as the  
8 ((~~court~~)) trier of fact finds just and equitable.

9 If one parent brings an action under this section and the other  
10 parent is not named as a plaintiff, notice of the institution of the  
11 suit, together with a copy of the complaint, shall be served upon the  
12 other parent: PROVIDED, That ((~~when the mother of an illegitimate~~  
13 ~~child initiates an action,~~)) notice shall be required only if  
14 ((~~paternity~~)) parentage has been duly established ((~~and the father has~~  
15 ~~regularly contributed to the child's support~~)).

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

22 In such an action, in addition to damages for medical, hospital,  
23 medication expenses, and loss of services and support, damages may be  
24 recovered for the loss of love and companionship of the child and for  
25 injury to or destruction of the parent-child relationship in such  
26 amount as, under all the circumstances of the case, may be just.

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