

SENATE BILL REPORT

SB 6670

As Reported By Senate Committee On:
Judiciary, February 7, 2002

Title: An act relating to beneficiaries in wrongful death actions.

Brief Description: Clarifying who may be a beneficiary in a wrongful death action.

Sponsors: Senators Fairley and Kohl-Welles.

Brief History:

Committee Activity: Judiciary: 2/7/02 [DPS].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 6670 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Johnson, Long, McCaslin, Poulsen, Thibaudeau and Zarelli.

Staff: Dick Armstrong (786-7460)

Background: At common law, no cause of action survived the death of an individual nor was there a right of recovery for wrongful death. The Legislature has passed statutes in Washington governing wrongful death actions in certain circumstances. Wrongful death actions in Washington are strictly statutory. Current law creates a right of action by the personal representative when a person's death is caused by a wrongful act, neglect, or default of another. The statute establishes two tiers of beneficiaries on whose behalf a wrongful death may be maintained. The first tier of beneficiaries includes the spouse and the children of the deceased. It is not necessary for these beneficiaries to establish financial dependency on the deceased. The second tier of beneficiaries, including parents and siblings of the deceased, may recover only if there are no first tier beneficiaries and only if the designated beneficiaries were dependent on the deceased for support.

In 1995, the Legislature adopted the abuse of vulnerable adults statute which creates a cause of action to protect disabled adults from abandonment, abuse, financial exploitation or neglect. The 1995 act specifically provides that the right of action can survive the plaintiff for the benefit of the surviving spouse, children, or heirs as provided in the wrongful death statute, Chapter 4.20 RCW.

A recent Court of Appeals case held that, in interpreting the state's abuse of vulnerable adults statute and related federal statutes, an estate has no statutory beneficiaries under the state's wrongful death statute if the decedent has no spouse or children and the decedent's parents and siblings are not dependent on the decedent for support.

Summary of Substitute Bill: The abuse of vulnerable adults statute is amended to eliminate the requirement that parents and siblings of a decedent who is a vulnerable adult may recover damages in a civil action only if such beneficiaries were dependent on the deceased for support.

Substitute Bill Compared to Original Bill: The substitute bill applies only to civil actions involving decedents who are vulnerable adults under Chapter 74.34 RCW.

The original bill applied to all wrongful death actions.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The heirs of many people who have developmental disabilities are left without any remedies if the person with the disabilities is negligently killed because oftentimes they are not married and have no children. The surviving heirs cannot sue under the current statute because the heirs are not financially dependent on the decedent.

Parents of adult children should have a cause of action if their children are killed. There are also cases where a brother or sister are killed who were unmarried, and the heirs of a brother and sister should be able to sue even if there was no financial dependency. The loss of a loved one should be compensated, regardless of whether they were married or not.

Testimony Against: The bill is drafted too broadly and extends the net too far. The Schumacher case, which is the impetus for the bill, dealt with disabled and vulnerable adults and if the Legislature deems it necessary to amend current law, then the bill should be narrowly drafted.

Testified: PRO: Ed Holen, WA State Developmental Council; William Bailey, attorney; Charles Schumacher; Pauline DeHart; CON; George McLean, State Farm.