
SENATE BILL 5734

State of Washington 59th Legislature 2005 Regular Session

By Senators Fairley, Kline, McCaslin, Thibaudeau, Weinstein, Deccio, Rasmussen and Kohl-Welles

Read first time 02/03/2005. Referred to Committee on Judiciary.

1 AN ACT Relating to civil actions following wrongful injury or
2 death; and amending RCW 4.20.010, 4.20.020, 4.20.046, 4.20.060, and
3 4.24.010.

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

5 **Sec. 1.** RCW 4.20.010 and 1917 c 123 s 1 are each amended to read
6 as follows:

7 (1) When the death of a person is caused by the wrongful act,
8 neglect or default of another his or her personal representative may
9 maintain an action ((for damages)) against the person causing the
10 death(;-and-although) for the economic and noneconomic damages
11 sustained by the beneficiaries listed in RCW 4.20.020 as a result of
12 the decedent's death, in such amounts as determined by the trier of
13 fact to be just under all the circumstances of the case.

14 (2) This section applies regardless of whether or not the death
15 ((shall have been)) was caused under such circumstances as amount, in
16 law, to a felony.

17 **Sec. 2.** RCW 4.20.020 and 1985 c 139 s 1 are each amended to read
18 as follows:

1 Every (~~such~~) action under RCW 4.20.010 shall be for the benefit
2 of the wife, husband, child or children, including stepchildren, of the
3 person whose death shall have been so caused. If there be no wife or
4 husband or such child or children, such action may be maintained for
5 the benefit of the parents, sisters or brothers(~~(, who may be dependent~~
6 ~~upon the deceased person for support, and who are resident within the~~
7 ~~United States at the time of his death)~~) of the deceased.

8 In every such action the jury may give such damages as, under all
9 circumstances of the case, may to them seem just.

10 **Sec. 3.** RCW 4.20.046 and 1993 c 44 s 1 are each amended to read as
11 follows:

12 (1) (~~All~~) Upon a person's death, any cause(~~s~~) of action (~~by a~~
13 ~~person or persons~~) that the decedent may have had against another
14 person or (~~persons shall~~) another person's estate survives to the
15 decedent's personal representative(~~s of the former and against the~~
16 ~~personal representatives of the latter, whether such actions arise~~).
17 This section applies regardless of whether or not the action arises on
18 contract or otherwise, and regardless of whether or not such actions
19 would have survived at the common law or prior to the date of enactment
20 of this section(~~÷ PROVIDED, HOWEVER, That~~).

21 (2) In addition to recovering the decedent's economic losses under
22 this section, the personal representative (~~shall only be~~) is entitled
23 to recover on behalf of those beneficiaries listed under RCW 4.20.020
24 any noneconomic damages (~~for pain and suffering, anxiety, emotional~~
25 ~~distress, or humiliation~~) personal to and suffered by a (~~deceased on~~
26 ~~behalf of those beneficiaries enumerated in RCW 4.20.020, and such~~)
27 decedent, including but not limited to, damages for the decedent's pain
28 and suffering, anxiety, emotional distress, loss of life and enjoyment
29 of life, shortened life expectancy, or humiliation, in such amounts as
30 determined by the trier of fact to be just under all the circumstances
31 of the case.

32 (3) Damages under subsections (1) and (2) of this section are
33 recoverable regardless of whether or not the death was occasioned by
34 the injury that is the basis for the action.

35 (4) The liability of property of a husband and wife held by them as
36 community property to execution in satisfaction of a claim enforceable
37 against such property so held shall not be affected by the death of

1 either or both spouses; and a cause of action shall remain an asset as
2 though both claiming spouses continued to live despite the death of
3 either or both claiming spouses.

4 ~~((+2))~~ (5) Where death or an injury to person or property,
5 resulting from a wrongful act, neglect or default, occurs
6 simultaneously with or after the death of a person who would have been
7 liable therefor if his death had not occurred simultaneously with such
8 death or injury or had not intervened between the wrongful act, neglect
9 or default and the resulting death or injury, an action to recover
10 damages for such death or injury may be maintained against the personal
11 representative of such person.

12 **Sec. 4.** RCW 4.20.060 and 1985 c 139 s 2 are each amended to read
13 as follows:

14 (1) No action for a personal injury to any person occasioning death
15 shall abate, nor shall such right of action ~~((determine))~~ terminate, by
16 reason of such death, if such person has a surviving spouse or child
17 living, including stepchildren, or if leaving no surviving spouse or
18 such children, ~~((if there is dependent upon the deceased for support
19 and resident within the United States at the time of decedent's
20 death,))~~ such person has surviving parents, sisters, or brothers~~((; but
21 such))~~.

22 (2) An action ~~((may be prosecuted, or commenced and prosecuted, by
23 the executor or administrator))~~ under this section shall be brought by
24 the personal representative of the deceased, in favor of such surviving
25 spouse, or in favor of the surviving spouse and such children, or if no
26 surviving spouse, in favor of such child or children, or if no
27 surviving spouse or such child or children, then in favor of the
28 decedent's parents, sisters or brothers ~~((who may be dependent upon
29 such person for support, and resident in the United States at the time
30 of decedent's death))~~.

31 (3) In addition to recovering the decedent's economic losses under
32 this section, the persons listed in subsection (1) of this section are
33 entitled to recover any noneconomic damages personal to and suffered by
34 the decedent including, but not limited to, damages for the decedent's
35 pain and suffering, anxiety, emotional distress, loss of life and
36 enjoyment of life, shortened life expectancy, or humiliation, in such

1 amounts as determined by the trier of fact to be just under all the
2 circumstances of the case.

3 **Sec. 5.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read
4 as follows:

5 (1) A mother or father of a child, or both, ((who has regularly
6 contributed to the support of his or her minor child, and the mother or
7 father, or both, of a child on whom either, or both, are dependent for
8 support)) may maintain or join as a party an action as plaintiff for
9 the injury or death of the child if the mother or father has had
10 significant involvement in the child's life, including but not limited
11 to, either giving or receiving emotional, psychological, or financial
12 support to or from the child.

13 (2) In addition to recovering damages for the child's health care
14 expenses, loss of the child's services, loss of the child's financial
15 support, and other economic losses, damages may be also recovered under
16 this section for the loss of love and companionship of the child, loss
17 of the child's emotional support, and for injury to or destruction of
18 the parent-child relationship, in such amounts as determined by the
19 trier of fact to be just under all the circumstances of the case.

20 (3) An action may be maintained under this section regardless of
21 whether or not the child has attained the age of majority.

22 (4) Each parent is entitled to a separate recovery for his or her
23 own loss regardless of marital status, even though this section creates
24 only one cause of action((, but if the parents of the child are not
25 married, are separated, or not married to each other damages may be
26 awarded to each plaintiff separately, as the trier of fact finds just
27 and equitable)).

28 (5) If one parent brings an action under this section and the other
29 parent is not named as a plaintiff, notice of the institution of the
30 suit, together with a copy of the complaint, shall be served upon the
31 other parent: PROVIDED, That notice shall be required only if
32 parentage has been duly established.

33 Such notice shall be in compliance with the statutory requirements
34 for a summons. Such notice shall state that the other parent must join
35 as a party to the suit within twenty days or the right to recover
36 damages under this section shall be barred. Failure of the other

1 parent to timely appear shall bar such parent's action to recover any
2 part of an award made to the party instituting the suit.

3 ~~((In such an action, in addition to damages for medical, hospital,
4 medication expenses, and loss of services and support, damages may be
5 recovered for the loss of love and companionship of the child and for
6 injury to or destruction of the parent-child relationship in such
7 amount as, under all the circumstances of the case, may be just.))~~

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