

SHB 1873 - H AMD 407

By Representative Lantz

ADOPTED 3/14/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 4.20.020 and 1985 c 139 s 1 are each amended to
4 read as follows:

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

13 In every such action the jury may ((give such)) award economic
14 and noneconomic damages as(()) under all circumstances of the
15 case(()) may to them seem just.

16 **Sec. 2.** RCW 4.20.046 and 1993 c 44 s 1 are each amended to
17 read as follows:

18 (1) All causes of action by a person or persons against another
19 person or persons shall survive to the personal representatives of
20 the former and against the personal representatives of the latter,
21 whether such actions arise on contract or otherwise, and whether or
22 not such actions would have survived at the common law or prior to
23 the date of enactment of this section((~~: PROVIDED, HOWEVER,~~
24 ~~That~~)).

25 (2) In addition to recovering economic losses, the personal
26 representative ((shall only be)) is entitled to recover on behalf
27 of those beneficiaries identified under RCW 4.20.020 any
28 noneconomic damages for pain and suffering, anxiety, emotional
29 distress, loss of enjoyment of life, shortened life expectancy, or

1 humiliation, personal to ~~((and suffered by a))~~ the deceased ~~((on~~
2 ~~behalf of those beneficiaries enumerated in RCW 4.20.020, and~~
3 ~~such))~~ in such amounts as determined by a jury to be just under all
4 the circumstances of the case. D amages under this section are
5 recoverable regardless of whether or not the death was occasioned
6 by the injury that is the basis for the action.

7 (3) The liability of property of a husband and wife held by
8 them as community property and subject to execution in satisfaction
9 of a claim enforceable against such property so held shall not be
10 affected by the death of either or both spouses; and a cause of
11 action shall remain an asset as though both claiming spouses
12 continued to live despite the death of either or both claiming
13 spouses.

14 ~~((+2))~~ (4) Where death or an injury to person or property,
15 resulting from a wrongful act, neglect or default, occurs
16 simultaneously with or after the death of a person who would have
17 been liable therefor if his death had not occurred simultaneously
18 with such death or injury or had not intervened between the
19 wrongful act, neglect or default and the resulting death or injury,
20 an action to recover damages for such death or injury may be
21 maintained against the personal representative of such person.

22 **Sec. 3.** RCW 4.20.060 and 1985 c 139 s 2 are each amended to
23 read as follows:

24 (1) No action for a personal injury to any person occasioning death
25 shall abate, nor shall such right of action ~~((~~ determine)
26 terminate, by reason of ~~((such))~~ the death~~((7))~~ if ~~((such))~~ the
27 person has a surviving ~~((spouse or child living, including~~
28 ~~stepchildren, or leaving no surviving spouse or such children, if~~
29 ~~there is dependent upon the deceased for support and resident~~
30 ~~within the United States at the time of decedent's death, parents,~~
31 ~~sisters or brothers; but such action may be prosecuted, or~~
32 ~~commenced and prosecuted, by the executor or administrator~~)
33 beneficiary in whose favor the action may be brought under
34 subsection (2) of this section.

35 (2) An action under this section may be brought by the personal
36 representative of the deceased~~((7))~~ in favor of ~~((such))~~ the
37 surviving spouse~~((, or in favor of the surviving spouse~~)
38 ~~((such))~~ children~~((, or if))~~. If there is no surviving spouse~~((7~~

1 ~~in favor of such child)) or children, ((or if no surviving spouse~~
2 ~~or such child or children, then)) the action may be brought in~~
3 ~~favor of the decedent's parents, sisters or brothers who ((may be))~~
4 ~~are dependent upon ((such person)) the decedent for support((, and~~
5 ~~resident in the United States at the time of decedent's death)).~~

6 (3) In addition to recovering economic losses, the persons
7 identified in subsection (2) of this section are entitled to
8 recover any noneconomic damages personal to the decedent including,
9 but not limited to, damages for the decedent's pain and suffering,
10 anxiety, emotional distress, loss of enjoyment of life, shortened
11 life expectancy, or humiliation, in such amounts as determined by
12 a jury to be just under all the circumstances of the case.

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

15 (1) A ((mother or father, or both,)) parent who has regularly
16 contributed to the support of his or her ((minor)) child who is
17 under the age of twenty-six, ((and the mother or father, or both,
18 of a child on whom either, or both, are)) or a parent who is
19 dependent on a child for support may maintain or join ((as a
20 party)) an action as plaintiff for the injury or death of the
21 child.

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

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

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

37 Failure of the other parent to timely appear shall bar such

1 parent's action to recover any part of an award made to the party
2 instituting the suit.

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

9 Correct the title.

EFFECT: Adds amendments to the general wrongful death statute and the general and special survival statutes as follows:

- Removes the residency requirement for the secondary beneficiaries (parents and siblings) under these statutes. (Retains the current law's dependency requirement.)
- Specifies that both economic and non-economic damages are recoverable under the general wrongful death statute. (Same as in the original HB 1873).
- Adds "loss of enjoyment of life" and "shortened life expectancy" as recoverable damages in actions under the general and special survival statutes. (As in the original bill, except the original bill also included damages for "loss of life itself.")
- Under the child death statute, specifies that each parent is entitled to a separate recovery regardless of marital status. (Same as original bill.)
- Updates and restructures language in these statutes for clarity.