

SHB 1873 - H AMD TO H AMD (1873-S AMH LANT H2920.4) **404**
By Representative Walsh

WITHDRAWN 3/14/2007

1 Beginning on page 1, at the beginning of line 3 of the
2 amendment, strike all material through "just." on page 4, line 14
3 and insert the following:

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

6 Every ~~((such))~~ action under RCW 4.20.010 shall be for the
7 benefit of the ~~((wife, husband, child or))~~ spouse and children,
8 including stepchildren, of the person whose death shall have been
9 so caused. If there ~~((be))~~ is no ~~((wife or husband))~~ spouse or
10 ~~((such))~~ child ~~((or children))~~, ~~((such))~~ the action may be
11 maintained for the benefit of the parents, if the parents are
12 dependent upon the deceased person for support or if the deceased
13 person has a developmental disability as defined in RCW 71A.10.020,
14 or for the benefit of the sisters or brothers~~((7))~~ who ~~((may be))~~
15 are dependent upon the deceased person for support,~~((and who))~~ if
16 such parents, sisters, or brothers are resident within the United
17 States at the time of ~~((his))~~ the deceased person's death.

18 In every ~~((such))~~ action under this section the jury may give
19 such damages as, under all circumstances of the case, may to them
20 seem just.

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

23 (1) No action for a personal injury to any person occasioning
24 death shall abate, nor shall such right of action ~~((determine))~~
25 terminate, by reason of ~~((such))~~ the death, if ~~((such))~~ the person
26 has a surviving ~~((spouse or child living, including stepchildren,~~
27 ~~or leaving no surviving spouse or such children, if there is~~
28 ~~dependent upon the deceased for support and resident within the~~
29 ~~United States at the time of decedent's death, parents, sisters or~~

1 ~~brothers; but such action may be prosecuted, or commenced and~~
2 ~~prosecuted, by the executor or administrator)) beneficiary in whose~~
3 ~~favor the action may be brought under subsection (2) of this~~
4 ~~section.~~

5 (2) An action under this section may be brought by the personal
6 representative of the deceased((,)) in favor of ((such)) the
7 surviving spouse((, or in favor of the surviving spouse)) and
8 ((such)) children((, or if)). If there is no surviving spouse((,
9 in favor of such)) or child ((or children, or if no surviving
10 spouse or such child or children, then)) the action may be brought
11 in favor of the decedent's parents, if the parents are dependent
12 upon the decedent for support or if the decedent has a
13 developmental disability as defined in RCW 71A.10.020, or in favor
14 of the sisters or brothers who ((may be)) are dependent upon ((such
15 person)) the decedent for support, ((and)) if such parents,
16 brothers, or sisters are resident in the United States at the time
17 of decedent's death.

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

20 A mother or father, or both, who has regularly contributed to
21 the support of his or her minor child, and the mother or father, or
22 both, of a child on whom either, or both, are dependent for
23 support, and the mother or father, or both, of a child with a
24 developmental disability as defined in RCW 71A.10.020, may maintain
25 or join as a party an action ((as plaintiff)) for the injury or
26 death of the child.

27 This section creates only one cause of action, but if the
28 parents of the child are not married, are separated, or not married
29 to each other damages may be awarded to each plaintiff separately,
30 as the trier of fact finds just and equitable.

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

36 Such notice shall be in compliance with the statutory
37 requirements for a summons. Such notice shall state that the other
38 parent must join as a party to the suit within twenty days or the

1 right to recover damages under this section shall be barred.
2 Failure of the other parent to timely appear shall bar such
3 parent's action to recover any part of an award made to the party
4 instituting the suit.

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

EFFECT: Strikes the contents of the striking amendment and instead amends the wrongful death and survival statutes to provide that a parent of a child with a developmental disability may recover damages under these civil actions without having to show that the parent is financially dependent on the child for support. (Financial dependence is currently required under the law for a parent seeking to recover damages for the death or injury of an adult child.)

Provisions of the underlying striking amendment that are removed by this amendment include the following:

- The provisions that allow parents of adult children to recover damages for the adult child's death or injury if the parent had "significant involvement in the child's life."
- All provisions in the underlying striking amendment relating to damages that are recoverable under these actions, including the ability to recover damages for "loss of enjoyment of life" or "shortened life expectancy" in survival actions and the specific statement that both economic and non-economic damages may be recovered in wrongful death actions.