
SECOND SUBSTITUTE HOUSE BILL 1873

State of Washington

60th Legislature

2008 Regular Session

By House Judiciary (originally sponsored by Representatives Ormsby, Haler, Pedersen, Wood, VanDeWege, Campbell, Flannigan, Kessler, Williams, and Lantz)

READ FIRST TIME 02/06/08.

1 AN ACT Relating to actions for wrongful injury or death; amending
2 RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010; creating new sections;
3 and providing an expiration date.

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

5 **Sec. 1.** RCW 4.20.020 and 2007 c 156 s 29 are each amended to read
6 as follows:

7 Every ((such)) action under RCW 4.20.010 shall be for the benefit
8 of the ((wife, husband)) spouse, state registered domestic partner,
9 ((child)) or children, including stepchildren, of the person whose
10 death shall have been so caused. If there ((be)) is no ((wife,
11 husband)) spouse, state registered domestic partner, or ((such)) child
12 ((or children, such)), the action may be maintained for the benefit of:
13 (1) The parents((,)) of a deceased adult child if the parents are
14 financially dependent upon the adult child for support or if the
15 parents have had significant involvement in the adult child's life; or
16 (2) an individual who is the sole beneficiary of the decedent's life
17 insurance and has had significant involvement in the decedent's life.
18 If there is no spouse, state registered domestic partner, child,
19 parent, or such life insurance beneficiary, the action may be

1 maintained for the benefit of sisters((~~τ~~)) or brothers((~~τ~~)) who ((~~may~~
2 ~~be~~)) are financially dependent upon the deceased person for support((~~τ~~
3 ~~and who are resident within the United States at the time of his~~
4 ~~death~~)).

5 In every such action the jury may ((~~give such~~)) award economic and
6 noneconomic damages as((~~τ~~)) under all circumstances of the case((~~τ~~))
7 may to them seem just.

8 For the purposes of this section, "financial dependence" includes
9 dependence based on the receipt of services that have an economic or
10 monetary value, or dependence based on actual monetary payments or
11 contributions.

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

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

20 (2) In addition to recovering economic losses, the personal
21 representative ((~~shall only be~~)) is entitled to recover on behalf of
22 those beneficiaries identified under RCW 4.20.020 any noneconomic
23 damages for pain and suffering, anxiety, emotional distress, or
24 humiliation, personal to and suffered by ((~~a~~)) the deceased ((~~on behalf~~
25 ~~of those beneficiaries enumerated in RCW 4.20.020, and such~~)) in such
26 amounts as determined by a jury to be just under all the circumstances
27 of the case. Damages under this section are recoverable regardless of
28 whether or not the death was occasioned by the injury that is the basis
29 for the action.

30 (3) The liability of property of a husband and wife held by them as
31 community property and subject to execution in satisfaction of a claim
32 enforceable against such property so held shall not be affected by the
33 death of either or both spouses; and a cause of action shall remain an
34 asset as though both claiming spouses continued to live despite the
35 death of either or both claiming spouses.

36 ((~~+2~~)) (4) Where death or an injury to person or property,
37 resulting from a wrongful act, neglect or default, occurs

1 simultaneously with or after the death of a person who would have been
2 liable therefor if his death had not occurred simultaneously with such
3 death or injury or had not intervened between the wrongful act, neglect
4 or default and the resulting death or injury, an action to recover
5 damages for such death or injury may be maintained against the personal
6 representative of such person.

7 **Sec. 3.** RCW 4.20.060 and 2007 c 156 s 30 are each amended to read
8 as follows:

9 (1) No action for a personal injury to any person occasioning death
10 shall abate, nor shall such right of action ((determine)) terminate, by
11 reason of ((such)) the death((~~τ~~)) if ((such)) the person has a
12 surviving ((spouse, state registered domestic partner, or child living,
13 including stepchildren, or leaving no surviving spouse, state
14 registered domestic partner, or such children, if there is dependent
15 upon the deceased for support and resident within the United States at
16 the time of decedent's death, parents, sisters, or brothers; but such
17 action may be prosecuted, or commenced and prosecuted, by the executor
18 or administrator)) beneficiary in whose favor the action may be brought
19 under subsection (2) of this section.

20 (2) An action under this section shall be brought by the personal
21 representative of the deceased((~~τ~~)) in favor of ((such)) the surviving
22 spouse or state registered domestic partner, ((or in favor of the
23 surviving spouse or state registered domestic partner)) and ((such))
24 children((~~τ~~, or if)). If there is no surviving spouse ((~~or~~),
25 state registered domestic partner, ((in favor of such child)) or children,
26 ((or if no surviving spouse, state registered domestic partner, or such
27 child or children, then)) the action shall be brought in favor of the
28 decedent's: (a) Parents((~~τ~~)) if the parents are financially dependent
29 upon the decedent for support or if the parents have had significant
30 involvement in the decedent's life; or (b) sole beneficiary under a
31 life insurance policy, if the beneficiary is an individual who had a
32 significant involvement in the decedent's life. If there is no
33 surviving spouse, state registered domestic partner, child, parent, or
34 such life insurance beneficiary, the action shall be brought in favor
35 of the decedent's sisters((~~τ~~)) or brothers who ((may be)) are
36 financially dependent upon ((such person)) the decedent for support((~~τ~~
37 and resident in the United States at the time of decedent's death)).

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

8 (4) For the purposes of this section, "financial dependence"
9 includes dependence based on the receipt of services that have an
10 economic or monetary value, or dependence based on actual monetary
11 payments or contributions.

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

14 (1) A ((mother or father, or both,)) parent who has regularly
15 contributed to the support of his or her minor child, ((and the mother
16 or father, or both, of a child on whom either, or both, are)) or a
17 parent who is financially dependent on a child for support or who has
18 had significant involvement in a child's life, may maintain or join
19 ((as a party)) an action as plaintiff for the injury or death of the
20 child.

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

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

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

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

7 (5) For the purposes of this section, "financial dependence"
8 includes dependence based on the receipt of services that have an
9 economic or monetary value, or dependence based on actual monetary
10 payments or contributions.

11 NEW SECTION. Sec. 5. This act applies to all deaths occurring
12 before, on, or after the effective date of this act only if the cause
13 of action occurred within the limitation period set forth in RCW
14 4.16.080; no claims outside that period shall be revived or created as
15 a result of this act.

16 NEW SECTION. Sec. 6. (1) On December 1, 2009, and every December
17 1st thereafter, the risk management division within the office of
18 financial management shall report to the house appropriations
19 committee, the house state government and tribal affairs committee, the
20 senate ways and means committee, and the senate government operations
21 and elections committee, or successor committees, on the incidents
22 covered by this act that involve state agencies.

23 (2) On December 1, 2009, and every December 1st thereafter, each
24 local government risk pool or local government risk management
25 division, or the equivalent in local governments, shall report to the
26 legislative body of the local government on the incidents covered by
27 this act that involve the local government.

28 (3) This section expires December 2, 2014.

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