
ENGROSSED SUBSTITUTE SENATE BILL 6508

State of Washington

61st Legislature

2010 Regular Session

By Senate Government Operations & Elections (originally sponsored by Senators Fairley, Prentice, Pridemore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon, and Keiser)

READ FIRST TIME 02/04/10.

1 AN ACT Relating to changing the class of persons entitled to
2 recoveries under a wrongful death action or survival action; amending
3 RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010; creating new sections;
4 and providing an expiration date.

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

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

8 (1) Every ~~((such))~~ action under RCW 4.20.010 shall be for the
9 benefit of the ~~((wife,--husband))~~ spouse, state registered domestic
10 partner, ~~((child))~~ or children, including stepchildren, of the person
11 whose death shall have been so caused. If there ~~((be))~~ is no ~~((wife,~~
12 ~~husband))~~ spouse, state registered domestic partner, or ~~((such))~~ child
13 ~~((or children, such)),~~ the action may be maintained for the benefit of:

14 (a) The parents ~~((, sisters, or brothers, who may be dependent upon~~
15 ~~the deceased person for support, and who are resident within the United~~
16 ~~States at the time of his death))~~ of a deceased adult child if the
17 parents are financially dependent upon the adult child for support or
18 if the parents have had significant involvement in the adult child's
19 life; or

1 (b) Sisters or brothers who are financially dependent upon the
2 deceased person for support if there is no spouse, state registered
3 domestic partner, child, or parent.

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

7 (2) For the purposes of this section:

8 (a) "Financially dependent for support" means substantial
9 dependence based on the receipt of services that have an economic or
10 monetary value, or substantial dependence based on actual monetary
11 payments or contributions; and

12 (b) "Significant involvement" means demonstrated support of an
13 emotional, psychological, or financial nature within the relationship,
14 at or reasonably near the time of death, or at or reasonably near the
15 time of the incident causing death.

16 **Sec. 2.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read
17 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 the
20 former and against the personal representatives of the latter, whether
21 such actions arise on contract or otherwise, and whether or not such
22 actions would have survived at the common law or prior to the date of
23 enactment of this section(~~(: PROVIDED, HOWEVER, That)~~).

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

34 (3) The liability of property of spouses or domestic partners held
35 by them as community property and subject to execution in satisfaction
36 of a claim enforceable against such property so held shall not be
37 affected by the death of either or both spouses or either or both

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

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

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

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

26 (2) An action under this section shall be brought by the personal
27 representative of the deceased~~((,))~~ in favor of ~~((such))~~ the surviving
28 spouse or state registered domestic partner, ~~((or in favor of the~~
29 ~~surviving spouse or state registered domestic partner))~~ and ~~((such))~~
30 children~~((, or if))~~. If there is no surviving spouse ~~((or))~~, state
31 registered domestic partner, ~~((in favor of such child))~~ or children,
32 ~~((or if no surviving spouse, state registered domestic partner, or such~~
33 ~~child or children, then))~~ the action shall be brought in favor of the
34 decedent's:

35 (a) Parents~~((, sisters, or brothers who may be dependent upon such~~
36 ~~person for support, and resident in the United States at the time of~~

1 ~~decedent's death)) if the parents are financially dependent upon the~~
2 ~~decedent for support or if the parents have had significant involvement~~
3 ~~in the decedent's life; or~~

4 (b) Sisters or brothers who are financially dependent upon the
5 deceased person for support if there is no spouse, state registered
6 domestic partner, child, or parent.

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

14 (4) For the purposes of this section:

15 (a) "Financially dependent for support" means substantial
16 dependence based on the receipt of services that have an economic or
17 monetary value, or substantial dependence based on actual monetary
18 payments or contributions; and

19 (b) "Significant involvement" means demonstrated support of an
20 emotional, psychological, or financial nature within the relationship,
21 at or reasonably near the time of death, or at or reasonably near the
22 time of the incident causing death.

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

25 (1) A (~~mother or father, or both,~~) parent who has regularly
26 contributed to the support of his or her minor child, (~~and the mother~~
27 ~~or father, or both, of a child on whom either, or both, are~~) or a
28 parent who is financially dependent on a minor child for support or who
29 has had significant involvement in such child's life, may maintain or
30 join (~~as a party~~) an action as plaintiff for the injury or death of
31 the child.

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

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

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

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

18 (5) For the purposes of this section:

19 (a) "Financially dependent for support" means substantial
20 dependence based on the receipt of services that have an economic or
21 monetary value, or substantial dependence based on actual monetary
22 payments or contributions; and

23 (b) "Significant involvement" means demonstrated support of an
24 emotional, psychological, or financial nature within the relationship,
25 at or reasonably near the time of death, or at or reasonably near the
26 time of the incident causing death.

27 NEW SECTION. Sec. 5. This act applies to all causes of action
28 filed on or after the effective date of this act.

29 NEW SECTION. Sec. 6. (1) On December 1, 2010, and every December
30 1st thereafter, the risk management division within the office of
31 financial management shall report to the house appropriations
32 committee, the house state government and tribal affairs committee, the
33 senate ways and means committee, and the senate government operations
34 and elections committee, or successor committees, on the incidents
35 covered by this act that involve state agencies.

1 (2) On December 1, 2010, and every December 1st thereafter, each
2 local government risk pool or local government risk management
3 division, or the equivalent in local governments, shall report to the
4 legislative body of the local government on the incidents covered by
5 this act that involve the local government.

6 (3) This section expires December 2, 2015.

7 NEW_SECTION. **Sec. 7.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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