
SECOND 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 wrongful death or survival actions by changing
2 the class of persons entitled to recoveries and by limiting the
3 liability of state and local agencies or political subdivisions in
4 those recoveries; amending RCW 4.20.020, 4.20.046, 4.20.060, 4.24.010,
5 and 4.22.030; creating new sections; and providing an expiration date.

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

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

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

15 (a) The parents((, sisters, or brothers, who may be dependent upon
16 the deceased person for support, and who are resident within the United
17 States at the time of his death)) of a deceased adult child if the
18 parents are financially dependent upon the adult child for support or

1 if the parents have had significant involvement in the adult child's
2 life; or

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

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

9 (2) For the purposes of this section:

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

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

18 (3) In any action under subsection (1)(a) of this section against
19 the state or a political subdivision thereof that is based on a
20 parent's significant involvement in an adult child's life, the
21 liability of the state or political subdivision shall be several and
22 not joint.

23 **Sec. 2.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read
24 as follows:

25 (1) All causes of action by a person or persons against another
26 person or persons shall survive to the personal representatives of the
27 former and against the personal representatives of the latter, whether
28 such actions arise on contract or otherwise, and whether or not such
29 actions would have survived at the common law or prior to the date of
30 enactment of this section(~~(: PROVIDED, HOWEVER, That)~~).

31 (2) In addition to recovering economic losses, the personal
32 representative (~~shall only be~~) is entitled to recover on behalf of
33 those beneficiaries identified under RCW 4.20.020 any noneconomic
34 damages for pain and suffering, anxiety, emotional distress, or
35 humiliation personal to and suffered by ((a)) the deceased ((on behalf
36 of those beneficiaries enumerated in RCW 4.20.020, and)) in such
37 amounts as determined by a jury to be just under all the circumstances

1 of the case. Damages under this section are recoverable regardless of
2 whether or not the death was occasioned by the injury that is the basis
3 for the action.

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

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

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

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

33 (2) An action under this section shall be brought by the personal
34 representative of the deceased~~((r))~~ in favor of ~~((such))~~ the surviving
35 spouse or state registered domestic partner, ~~((or in favor of the~~
36 ~~surviving spouse or state registered domestic partner))~~ and ~~((such))~~
37 children~~((, or if))~~. If there is no surviving spouse ~~((or))~~, state

1 registered domestic partner, (~~in favor of such child~~) or children,
2 (~~or if no surviving spouse, state registered domestic partner, or such~~
3 ~~child or children, then~~) the action shall be brought in favor of the
4 decedent's:

5 (a) Parents (~~, sisters, or brothers who may be dependent upon such~~
6 person for support, and resident in the United States at the time of
7 decedent's death) if the parents are financially dependent upon the
8 decedent for support or if the parents have had significant involvement
9 in the decedent's life; or

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

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

20 (4) For the purposes of this section:

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

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

29 (5) In any action under subsection (2)(a) of this section against
30 the state or a political subdivision thereof that is based on a
31 parent's significant involvement in an adult child's life, the
32 liability of the state or political subdivision shall be several and
33 not joint.

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

36 (1) A (~~mother or father, or both,~~) parent who has regularly
37 contributed to the support of his or her minor child, (~~and the mother~~

1 ~~or father, or both, of a child on whom either, or both, are))~~ or a
2 parent who is financially dependent on a minor child for support or who
3 has had significant involvement in such child's life, may maintain or
4 join (~~as a party~~) an action as plaintiff for the injury or death of
5 the child.

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

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

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

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

29 (5) For the purposes of this section:

30 (a) "Financially dependent for support" means substantial
31 dependence based on the receipt of services that have an economic or
32 monetary value, or substantial dependence based on actual monetary
33 payments or contributions; and

34 (b) "Significant involvement" means demonstrated support of an
35 emotional, psychological, or financial nature within the relationship,
36 at or reasonably near the time of death, or at or reasonably near the
37 time of the incident causing death.

1 (6) In any action under subsection (1) of this section against the
2 state or a political subdivision thereof that is based on a parent's
3 significant involvement in a child's life, the liability of the state
4 or political subdivision shall be several and not joint.

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

7 NEW SECTION. **Sec. 6.** (1) On December 1, 2010, and every December
8 1st thereafter, the risk management division within the office of
9 financial management shall report to the house appropriations
10 committee, the house state government and tribal affairs committee, the
11 senate ways and means committee, and the senate government operations
12 and elections committee, or successor committees, on the incidents
13 covered by this act that involve state agencies.

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

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

20 NEW SECTION. **Sec. 7.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 **Sec. 8.** RCW 4.22.030 and 1986 c 305 s 402 are each amended to read
25 as follows:

26 Except as otherwise provided in RCW 4.22.070, 4.20.020, 4.20.060,
27 and 4.24.010, if more than one person is liable to a claimant on an
28 indivisible claim for the same injury, death or harm, the liability of
29 such persons shall be joint and several.

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