
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 effective 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(~~(7)~~) under all circumstances of the case(~~(7)~~)
6 may to them seem just.

7 (2) In any action under subsection (1) of this section against the
8 state or a political subdivision thereof, the trier of fact may
9 consider the adequacy of any preventive actions that may have been
10 undertaken by the governmental entity, under all of the circumstances
11 of the case, to help determine whether the entity exercised reasonable
12 care.

13 (3) For the purposes of this section:

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

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

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

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

30 (2) In addition to recovering economic losses, the personal
31 representative (~~(shall only be)~~) is entitled to recover on behalf of
32 those beneficiaries identified under RCW 4.20.020 any noneconomic
33 damages for pain and suffering, anxiety, emotional distress, or
34 humiliation personal to and suffered by (~~(a)~~) the deceased (~~(on behalf~~
35 ~~of those beneficiaries enumerated in RCW 4.20.020, and)~~) in such
36 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 **Sec. 4.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read
30 as follows:

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

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

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

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

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

24 (5) In any action under subsection (1) of this section against the
25 state or a political subdivision thereof, the trier of fact may
26 consider the adequacy of any preventive actions that may have been
27 undertaken by the governmental entity, under all of the circumstances
28 of the case, to help determine whether the entity exercised reasonable
29 care.

30 (6) For the purposes of this section:

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

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

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

3 NEW SECTION. **Sec. 6.** (1) On December 1, 2010, and every December
4 1st thereafter, the risk management division within the office of
5 financial management shall report to the house appropriations
6 committee, the house state government and tribal affairs committee, the
7 senate ways and means committee, and the senate government operations
8 and elections committee, or successor committees, on the incidents
9 covered by this act that involve state agencies.

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

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

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