
SENATE BILL 6508

State of Washington

61st Legislature

2010 Regular Session

By Senators Fairley, Prentice, Pridemore, Kline, Rockefeller, Ranker, Tom, McDermott, Gordon, and Keiser

Read first time 01/15/10. Referred to Committee on Judiciary.

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 the parents((, sisters, or brothers, who may be dependent upon the
15 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.

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

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

10 (3) For the purposes of this section:

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

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

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

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

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

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

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

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

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

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

1 decedent's parents(~~(, sisters, or brothers who may be dependent upon~~
2 ~~such person for support, and resident in the United States at the time~~
3 ~~of decedent's death)) if the parents are financially dependent upon the
4 decedent for support or if the parents have had significant involvement
5 in the decedent's life.~~

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

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

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

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

37 (3) If one parent brings an action under this section and the other

1 parent is not named as a plaintiff, notice of the institution of the
2 suit, together with a copy of the complaint, shall be served upon the
3 other parent: PROVIDED, That notice shall be required only if
4 parentage has been duly established.

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

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

17 (5) In any action under subsection (1) of this section against the
18 state or a political subdivision thereof, the trier of fact may
19 consider the adequacy of any preventive actions that may have been
20 undertaken by the governmental entity, under all of the circumstances
21 of the case, to help determine whether the entity exercised reasonable
22 care.

23 (6) For the purposes of this section:

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

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

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

34 NEW SECTION. Sec. 6. (1) On December 1, 2010, and every December
35 1st thereafter, the risk management division within the office of
36 financial management shall report to the house appropriations

1 committee, the house state government and tribal affairs committee, the
2 senate ways and means committee, and the senate government operations
3 and elections committee, or successor committees, on the incidents
4 covered by this act that involve state agencies.

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

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

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