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SENATE BILL 6015

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State of Washington

65th Legislature

2018 Regular Session

By Senators Hasegawa, Rolfes, Frockt, Pedersen, Hunt, Nelson, Darneille, Miloscia, Chase, Saldaña, and Kuderer

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1 AN ACT Relating to actions for wrongful injury or death; amending  
2 RCW 4.20.010, 4.20.020, 4.20.046, 4.20.060, and 4.24.010; and  
3 creating a new section.

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

5 **Sec. 1.** RCW 4.20.010 and 2011 c 336 s 89 are each amended to  
6 read as follows:

7 (1) When the death of a person is caused by the wrongful act,  
8 neglect, or default of another person, his or her personal  
9 representative may maintain an action ((for damages)) against the  
10 person causing the death( (+ and although)) for the economic and  
11 noneconomic damages sustained by the beneficiaries listed in RCW  
12 4.20.020 as a result of the decedent's death, in such amounts as  
13 determined by a jury to be just under all the circumstances of the  
14 case.

15 (2) This section applies regardless of whether or not the death  
16 ((shall have been)) was caused under such circumstances as amount, in  
17 law, to a felony.

18 **Sec. 2.** RCW 4.20.020 and 2011 c 336 s 90 are each amended to  
19 read as follows:

1 Every (~~such~~) action under RCW 4.20.010 shall be for the benefit  
2 of the (~~wife, husband~~) spouse, state registered domestic partner,  
3 child or children, including stepchildren, of the person whose death  
4 shall have been so caused. If there (~~be~~) is no (~~wife, husband~~)  
5 spouse, state registered domestic partner, or such child or children,  
6 such action may be maintained for the benefit of the parents(~~,~~  
7 ~~sisters,~~) or (~~brothers, who may be dependent upon the deceased~~  
8 ~~person for support, and who are resident within the United States at~~  
9 ~~the time of his or her death~~) siblings of the deceased.

10 In every such action the jury may give such damages as, under all  
11 circumstances of the case, may to them seem just.

12 **Sec. 3.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read  
13 as 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  
16 the former and against the personal representatives of the latter,  
17 whether such actions arise on contract or otherwise, and whether or  
18 not such actions would have survived at the common law or prior to  
19 the date of 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  
25 behalf of those beneficiaries enumerated in RCW 4.20.020, and such))  
26 in such amounts as determined by a jury to be just under all the  
27 circumstances of the case. Damages under this section are recoverable  
28 regardless of whether or not the death was occasioned by the injury  
29 that is the basis for the action.

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

38 ((+2)) (4) Where death or an injury to person or property,  
39 resulting from a wrongful act, neglect or default, occurs

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

7 **Sec. 4.** RCW 4.20.060 and 2007 c 156 s 30 are each amended to  
8 read as follows:

9 (1) No action for a personal injury to any person occasioning  
10 death shall abate, nor shall such right of action ((determine))  
11 terminate, by reason of such death, if such person has a surviving  
12 spouse, state registered domestic partner, or child living, including  
13 stepchildren, or if leaving no surviving spouse, state registered  
14 domestic partner, or ((such)) children, ((if there is dependent upon

15 ~~the deceased for support and resident within the United States at the~~  
16 ~~time of decedent's death,)) the person has surviving parents((  
17 ~~sisters,))~~ or ((~~brothers; but such action may be prosecuted, or~~  
18 ~~commenced and prosecuted, by the executor or administrator~~))  
19 siblings.~~

20 (2) An action under this section shall be brought by the personal  
21 representative of the deceased, 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, or if no surviving spouse or state registered domestic  
25 partner, in favor of ((such)) the child or children, or if no  
26 surviving spouse, state registered domestic partner, or ((such)) a  
27 child or children, then in favor of the decedent's parents((  
28 ~~sisters,))~~ or ((~~brothers who may be dependent upon such person for~~  
29 ~~support, and resident in the United States at the time of decedent's~~  
30 ~~death~~)) siblings.

31 (3) In addition to recovering the decedent's economic losses  
32 under this section, the persons listed in subsection (1) of this  
33 section are entitled to recover any noneconomic damages personal to  
34 the decedent including, but not limited to, damages for the  
35 decedent's pain and suffering, anxiety, emotional distress, loss of  
36 life itself, loss of enjoyment of life, shortened life expectancy, or  
37 humiliation, in such amounts as determined by a jury to be just under  
38 all the circumstances of the case.

1       **Sec. 5.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read  
2 as follows:

3       (1) A ((mother or father, or both, who has regularly contributed  
4 to the support of his or her minor child, and the mother or father,  
5 or both, of a child on whom either, or both, are dependent for  
6 support)) parent or legal guardian may maintain or join as a party an  
7 action as plaintiff for the injury or death of the child((-)) if the  
8 parent or legal guardian has had significant involvement in the  
9 child's life including, but not limited to, either giving or  
10 receiving emotional, psychological, or financial support to or from  
11 the child. For purposes of this section, "significant involvement"  
12 means demonstrated support of an emotional, psychological, or  
13 financial nature within the parent-child relationship, at or  
14 reasonably near the time of death, or at or reasonably near the time  
15 of the incident causing death.

16       (2) In addition to recovering damages for the child's health care  
17 expenses, loss of the child's services, loss of the child's financial  
18 support, and other economic losses, damages may be also recovered  
19 under this section for the loss of love and companionship of the  
20 child, loss of the child's emotional support, and for injury to or  
21 destruction of the parent-child relationship, in such amounts as  
22 determined by a jury to be just under all the circumstances of the  
23 case.

24       (3) An action may be maintained under this section regardless of  
25 whether or not the child has attained the age of majority if the  
26 child has no spouse, state registered domestic partner, or children.

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

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

38       Such notice shall be in compliance with the statutory  
39 requirements for a summons. Such notice shall state that the other  
40 parent must join as a party to the suit within twenty days or the

1 right to recover damages under this section shall be barred. Failure  
2 of the other parent to timely appear shall bar such parent's action  
3 to recover any part of an award made to the party instituting the  
4 suit.

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

11 NEW SECTION. **Sec. 6.** This act is remedial and retroactive and  
12 applies to all claims that are not time barred, as well as any claims  
13 pending in any court on the effective date of this section.

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