
SENATE BILL 6696

State of Washington 60th Legislature 2008 Regular Session

By Senators Fairley, Prentice, Kohl-Welles, Tom, Weinstein, Kline, McDermott, and Murray

Read first time 01/22/08. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to actions for wrongful injury or death; amending
2 RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010; creating new sections;
3 and providing an expiration date.

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

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

7 Every ~~((such))~~ action under RCW 4.20.010 shall be for the benefit
8 of the ~~((wife, husband))~~ spouse, state registered domestic partner,
9 ~~((child))~~ or children, including stepchildren, of the person whose
10 death shall have been so caused. If there ~~((be))~~ is ~~((wife,~~
11 ~~husband))~~ spouse, state registered domestic partner, or ~~((such))~~ child
12 or ~~((children, such)),~~ the action may be maintained for the benefit of:
13 (1) The parents~~((7))~~ of a deceased adult child if the parents are
14 financially dependent upon the adult child for support or if the
15 parents have had significant involvement in the adult child's life; or
16 (2) an individual who is the sole beneficiary of the decedent's life
17 insurance or a state registered domestic partner who has had
18 significant involvement in the decedent's life. If there is no spouse,
19 child, parent, or such life insurance beneficiary, the action may be

1 maintained for the benefit of sisters((τ)) or brothers((τ)) who ((~~may~~
2 ~~be~~)) are financially dependent upon the deceased person for support((τ)
3 ~~and who are resident within the United States at the time of his~~
4 ~~death~~)).

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

8 **Sec. 2.** RCW 4.20.046 and 1993 c 44 s 1 are each amended to read as
9 follows:

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

16 (2) In addition to recovering economic losses, the personal
17 representative ((~~shall only be~~)) is entitled to recover on behalf of
18 those beneficiaries identified under RCW 4.20.020 any noneconomic
19 damages for pain and suffering, anxiety, emotional distress, grief,
20 loss of enjoyment of life, shortened or lost life expectancy, or
21 humiliation, personal to ((and suffered by a)) the deceased ((on behalf
22 of those beneficiaries enumerated in RCW 4.20.020, and such)) in such
23 amounts as determined by a jury to be just under all the circumstances
24 of the case. Damages under this section are recoverable regardless of
25 whether or not the death was occasioned by the injury that is the basis
26 for the action.

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

33 ((+2)) (4) Where death or an injury to person or property,
34 resulting from a wrongful act, neglect or default, occurs
35 simultaneously with or after the death of a person who would have been
36 liable therefor if his death had not occurred simultaneously with such
37 death or injury or had not intervened between the wrongful act, neglect

1 or default and the resulting death or injury, an action to recover
2 damages for such death or injury may be maintained against the personal
3 representative of such person.

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

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

17 (2) An action under this section shall be brought by the personal
18 representative of the deceased((~~τ~~)) in favor of ((such)) the surviving
19 spouse or state registered domestic partner, ((or in favor of the
20 surviving spouse or state registered domestic partner)) and ((such))
21 children((~~τ~~, or if)). If there is no surviving spouse ((~~or~~), state
22 registered domestic partner, ((in favor of such child)) or children,
23 ((or if no surviving spouse, state registered domestic partner, or such
24 child or children, then)) the action shall be brought in favor of the
25 decedent's: (a) Parents((~~τ~~)) if the parents are financially dependent
26 upon the decedent for support or if the parents have had significant
27 involvement in the decedent's life; or (b) sole beneficiary under a
28 life insurance policy or a state registered domestic partner, if the
29 beneficiary or domestic partner is an individual who had a significant
30 involvement in the decedent's life. If there is no surviving spouse,
31 state registered domestic partner, child, parent, or such life
32 insurance beneficiary, the action shall be brought in favor of the
33 decedent's sisters((~~τ~~)) or brothers who ((may be)) are dependent upon
34 ((such person)) the decedent for support((~~τ~~, and resident in the United
35 States at the time of decedent's death)).

36 (3) In addition to recovering economic losses, the persons
37 identified in subsection (2) of this section are entitled to recover

1 any noneconomic damages personal to the decedent including, but not
2 limited to, damages for the decedent's pain and suffering, anxiety,
3 emotional distress, loss of enjoyment of life, grief, shortened or lost
4 life expectancy, or humiliation, in such amounts as determined by a
5 jury to be just under all the circumstances of the case.

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

8 (1) A ((mother or father, or both,)) parent who has regularly
9 contributed to the support of his or her minor child, ((and the mother
10 or father, or both, of a child on whom either, or both, are)) or a
11 parent who is financially dependent on a child for support or who has
12 had significant involvement in a child's life, may maintain or join
13 ((as a party)) an action as plaintiff for the injury or death of the
14 child.

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

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

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

32 (4) In ((such)) an action under this section, in addition to
33 damages for medical, hospital, medication expenses, and loss of
34 services and support, damages may be recovered for the loss of love and
35 companionship of the child and for injury to or destruction of the
36 parent-child relationship in such amount as, under all the
37 circumstances of the case, may be just.

1 NEW SECTION. **Sec. 5.** This act applies to all deaths occurring
2 before, on, or after the effective date of this act only if the cause
3 of action occurred within the limitation period set forth in RCW
4 4.16.080; no claims outside that period shall be revived or created as
5 a result of this act.

6 NEW SECTION. **Sec. 6.** (1) On December 1, 2009, and every December
7 1st thereafter, the risk management division within the office of
8 financial management shall report to the house appropriations
9 committee, the house state government and tribal affairs committee, the
10 senate ways and means committee, and the senate government operations
11 and elections committee, or successor committees, on the state
12 incidents covered by this act.

13 (2) This section expires December 2, 2014.

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