

**2ESSB 6508** - H AMD TO WAYS COMM AMD (H-5513.1/10) **1459**

By Representative Ross

NOT ADOPTED 3/04/2010

1 On page 2, after line 2 of the striking amendment, insert the  
2 following:

3 "(3) In an action under RCW 4.20.010 against an employer that is  
4 based on a parent's significant involvement in an adult child's life,  
5 the liability of the employer is several and not joint if the claim  
6 against the employer arises from the criminal acts or omissions of an  
7 employee who is under the supervision of the department of corrections  
8 or a local probation department."

9  
10 On page 2, after line 36 of the striking amendment, insert the  
11 following:

12 "(5) In an action under this section against an employer that is  
13 based on a parent's significant involvement in a child's life, the  
14 liability of the employer is several and not joint if the claim  
15 against the employer arises from the criminal acts or omissions of an  
16 employee who is under the supervision of the department of corrections  
17 or a local probation department."

18  
19 On page 4, line 8 of the striking amendment, after "death" insert  
20 "."

21 (5) In an action under this section against an employer that is  
22 based on a parent's significant involvement in a child's life, the  
23 liability of the employer is several and not joint if the claim  
24 against the employer arises from the criminal acts or omissions of an  
25 employee who is under the supervision of the department of corrections  
26 or a local probation department"

27

1 On page 5, after line 12 of the striking amendment, insert the  
2 following:

3 "(6) In an action under this section against an employer that is  
4 based on a parent's significant involvement in a child's life, the  
5 liability of the employer is several and not joint if the claim  
6 against the employer arises from the criminal acts or omissions of an  
7 employee who is under the supervision of the department of corrections  
8 or a local probation department.

9  
10 **Sec. 5.** RCW 4.22.070 and 1993 c 496 s 1 are each amended to read  
11 as follows:

12 (1) In all actions involving fault of more than one entity, the  
13 trier of fact shall determine the percentage of the total fault which  
14 is attributable to every entity which caused the claimant's damages  
15 except entities immune from liability to the claimant under Title 51  
16 RCW. The sum of the percentages of the total fault attributed to at-  
17 fault entities shall equal one hundred percent. The entities whose  
18 fault shall be determined include the claimant or person suffering  
19 personal injury or incurring property damage, defendants, third-party  
20 defendants, entities released by the claimant, entities with any other  
21 individual defense against the claimant, and entities immune from  
22 liability to the claimant, but shall not include those entities immune  
23 from liability to the claimant under Title 51 RCW. Judgment shall be  
24 entered against each defendant except those who have been released by  
25 the claimant or are immune from liability to the claimant or have  
26 prevailed on any other individual defense against the claimant in an  
27 amount which represents that party's proportionate share of the  
28 claimant's total damages. The liability of each defendant shall be  
29 several only and shall not be joint except in the following  
30 circumstances:

31 (a) A party shall be responsible for the fault of another person  
32 or for payment of the proportionate share of another party where both  
33 were acting in concert or when a person was acting as an agent or  
34 servant of the party.

1 (b) If the trier of fact determines that the claimant or party  
2 suffering bodily injury or incurring property damages was not at  
3 fault, the defendants against whom judgment is entered shall be  
4 jointly and severally liable for the sum of their proportionate shares  
5 of the ~~((claimants))~~ claimant's total damages, except as otherwise  
6 provided in RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010.

7 (2) If a defendant is jointly and severally liable under one of  
8 the exceptions listed in subsections (1)(a) or (1)(b) of this section,  
9 such defendant's rights to contribution against another jointly and  
10 severally liable defendant, and the effect of settlement by either  
11 such defendant, shall be determined under RCW 4.22.040, 4.22.050, and  
12 4.22.060.

13 (3)(a) Nothing in this section affects any cause of action  
14 relating to hazardous wastes or substances or solid waste disposal  
15 sites.

16 (b) Nothing in this section shall affect a cause of action arising  
17 from the tortious interference with contracts or business relations.

18 (c) Nothing in this section shall affect any cause of action  
19 arising from the manufacture or marketing of a fungible product in a  
20 generic form which contains no clearly identifiable shape, color, or  
21 marking."

22  
23 Renumber the remaining sections consecutively and correct internal  
24 references accordingly.

25  
**EFFECT:** Provides that joint and several liability does not apply  
to an employer in actions under the wrongful death and survival  
statutes that are based on a parent's significant involvement in a  
child's life if the claim against the employer arises from the  
criminal acts or omissions of an employee who is under the  
supervision of the Department of Corrections or a local probation  
department.

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