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SENATE BILL 5107

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State of Washington

54th Legislature

1995 Regular Session

By Senator Smith

Read first time 01/11/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to survival of actions; and amending RCW 4.24.010,  
2 43.20B.415, and 43.20B.445.

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

4 **Sec. 1.** RCW 4.24.010 and 1973 1st ex.s. c 154 s 4 are each amended  
5 to read as follows:

6 The mother or father or both may maintain an action as plaintiff  
7 for the injury or death of a ((minor)) child(~~(, or a child on whom~~  
8 ~~either, or both, are dependent for support))): PROVIDED, That in the  
9 case of an illegitimate child the father cannot maintain or join as a  
10 party an action unless paternity has been duly established and the  
11 father has regularly contributed to the child's support.~~

12 This section creates only one cause of action, but if the parents  
13 of the child are not married, are separated, or not married to each  
14 other damages may be awarded to each plaintiff separately, as the court  
15 finds just and equitable.

16 If one parent brings an action under this section and the other  
17 parent is not named as a plaintiff, notice of the institution of the  
18 suit, together with a copy of the complaint, shall be served upon the  
19 other parent: PROVIDED, That when the mother of an illegitimate child

1 initiates an action, notice shall be required only if paternity has  
2 been duly established and the father has regularly contributed to the  
3 child's support.

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

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

16 **Sec. 2.** RCW 43.20B.415 and 1971 ex.s. c 118 s 2 are each amended  
17 to read as follows:

18 (1) The estates of all mentally or physically deficient persons who  
19 have been admitted to the state residential (~~schools listed in RCW~~  
20 ~~72.33.030~~) habilitation centers either by application of their parents  
21 or guardian or by commitment of court, or who may hereafter be admitted  
22 or committed to such institutions, shall be liable for their per capita  
23 costs of care, support and treatment(~~(:—PROVIDED, That the estate~~  
24 ~~funds may not be reduced as a result of such liability below an amount~~  
25 ~~as set forth in RCW 72.33.180))~~).

26 (2) Estate funds attributable to recovery on any claim against the  
27 state of Washington, the state residential habilitation centers, or  
28 their employees or agents, whether by way of judgment, settlement, or  
29 otherwise, may not be reduced as a result of the liability imposed by  
30 RCW 43.20B.410 through 43.20B.455.

31 **Sec. 3.** RCW 43.20B.445 and 1988 c 176 s 907 are each amended to  
32 read as follows:

33 The provisions of RCW 43.20B.410 through 43.20B.455 shall not be  
34 construed to prohibit or prevent the department of social and health  
35 services from obtaining reimbursement from any person liable under RCW  
36 43.20B.410 through 43.20B.455 for payment of the full amount of the  
37 accrued per capita cost from any property acquired by gift, devise or

1 bequest subsequent to and regardless of the initial findings of  
2 responsibility under RCW 43.20B.430: PROVIDED, That the estate of any  
3 resident of a residential habilitation center shall not be liable for  
4 such reimbursement subsequent to termination of services for that  
5 resident at the residential habilitation center: PROVIDED FURTHER,  
6 That, subject to RCW 43.20B.415(2), upon the death of any person while  
7 a resident in a residential habilitation center, the person's estate  
8 shall become liable to the same extent as the resident's liability on  
9 the date of death.

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