

3SHB 1873 - H AMD 1197

By Representative Lantz

ADOPTED 02/16/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 4.20.020 and 2007 c 156 s 29 are each amended to read
4 as follows:

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

22 In every such action the jury may ((give such)) award economic and
23 noneconomic damages as((τ)) under all circumstances of the case((τ))
24 may to them seem just.

25 (2) For the purposes of this section:

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

1 (b) "Significant involvement" means demonstrated support of an
2 emotional, psychological, or financial nature within the relationship,
3 at or reasonably near the time of death, or at or reasonably near the
4 time of the incident causing death.

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

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

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

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

29 ~~((+2))~~ (4) Where death or an injury to person or property,
30 resulting from a wrongful act, neglect or default, occurs
31 simultaneously with or after the death of a person who would have been
32 liable therefor if his death had not occurred simultaneously with such
33 death or injury or had not intervened between the wrongful act, neglect
34 or default and the resulting death or injury, an action to recover
35 damages for such death or injury may be maintained against the personal
36 representative of such person.

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

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

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

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

1 (4) For the purposes of this section:

2 (a) "Financially dependent for support" means substantial
3 dependence based on the receipt of services that have an economic or
4 monetary value, or substantial dependence based on actual monetary
5 payments or contributions; and

6 (b) "Significant involvement" means demonstrated support of an
7 emotional, psychological, or financial nature within the relationship,
8 at or reasonably near the time of death, or at or reasonably near the
9 time of the incident causing death.

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

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

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

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

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

36 (4) In ((such)) an action under this section, in addition to
37 damages for medical, hospital, medication expenses, and loss of

1 services and support, damages may be recovered for the loss of love and
2 companionship of the child and for injury to or destruction of the
3 parent-child relationship in such amount as, under all the
4 circumstances of the case, may be just.

5 (5) For the purposes of this section:

6 (a) "Financially dependent for support" means substantial
7 dependence based on the receipt of services that have an economic or
8 monetary value, or substantial dependence based on actual monetary
9 payments or contributions; and

10 (b) "Significant involvement" means demonstrated support of an
11 emotional, psychological, or financial nature within the relationship,
12 at or reasonably near the time of death, or at or reasonably near the
13 time of the incident causing death.

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

16 NEW SECTION. Sec. 6. (1) On December 1, 2009, and every December
17 1st thereafter, the risk management division within the office of
18 financial management shall report to the house appropriations
19 committee, the house state government and tribal affairs committee, the
20 senate ways and means committee, and the senate government operations
21 and elections committee, or successor committees, on the incidents
22 covered by this act that involve state agencies.

23 (2) On December 1, 2009, and every December 1st thereafter, each
24 local government risk pool or local government risk management
25 division, or the equivalent in local governments, shall report to the
26 legislative body of the local government on the incidents covered by
27 this act that involve the local government.

28 (3) This section expires December 2, 2014."

29 Correct the title.

EFFECT: Defines "significant involvement" to mean demonstrated support of an emotional, psychological, or financial nature within the

relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death.

Amends the definition of "financial dependence" by using the term "financially dependent for support" and requiring that the dependence be "substantial."

Provides that the act applies to all causes of action that are filed on or after the effective date of the act (instead of to deaths that occur on or after the effective date of the act).

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