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ENGROSSED SUBSTITUTE HOUSE BILL 1873

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State of Washington

60th Legislature

2007 Regular Session

By House Committee on Judiciary (originally sponsored by Representatives Ormsby, Haler, Pedersen, Wood, VanDeWege, Campbell, Flannigan, Kessler, Williams and Lantz)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to actions for wrongful injury or death; and  
2 amending RCW 4.20.020, 4.20.046, 4.20.060, and 4.24.010.

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

4 **Sec. 1.** RCW 4.20.020 and 1985 c 139 s 1 are each amended to read  
5 as follows:

6 Every (~~such~~) action under RCW 4.20.010 shall be for the benefit  
7 of the (~~wife, husband, child~~) spouse or children, including  
8 stepchildren, of the person whose death shall have been so caused. If  
9 there (~~be~~) is no (~~wife or husband~~) spouse or (~~such~~) child (~~or~~  
10 ~~children, such~~), the action may be maintained for the benefit of the  
11 deceased person's: (1) Parents(~~7~~) who are dependent upon the  
12 deceased person for support; (2) parents who have regularly contributed  
13 to the support of the deceased person if the deceased person had a  
14 developmental disability as defined in RCW 71A.10.020; or (3) sisters  
15 or brothers(~~7~~) who (~~may be~~) are dependent upon the deceased person  
16 for support(~~, and who are resident within the United States at the~~  
17 time of his death).

18 In every such action the jury may (~~give such~~) award economic and

1 noneconomic damages as((τ)) under all circumstances of the case((τ))  
2 may to them seem just.

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

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

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

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

28 ~~((+2))~~ (4) Where death or an injury to person or property,  
29 resulting from a wrongful act, neglect or default, occurs  
30 simultaneously with or after the death of a person who would have been  
31 liable therefor if his death had not occurred simultaneously with such  
32 death or injury or had not intervened between the wrongful act, neglect  
33 or default and the resulting death or injury, an action to recover  
34 damages for such death or injury may be maintained against the personal  
35 representative of such person.

1       **Sec. 3.** RCW 4.20.060 and 1985 c 139 s 2 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((,)) if ((such)) the person has a  
6 surviving ((spouse or child living, including stepchildren, or leaving  
7 no surviving spouse or such children, if there is dependent upon the  
8 deceased for support and resident within the United States at the time  
9 of decedent's death, parents, sisters or brothers; but such action may  
10 be prosecuted, or commenced and prosecuted, by the executor or  
11 administrator)) beneficiary in whose favor the action may be brought  
12 under subsection (2) of this section.

13       (2) An action under this section may be brought by the personal  
14 representative of the deceased((,)) in favor of ((such)) the surviving  
15 spouse((, or in favor of the surviving spouse)) and ((such))  
16 children((, or if)). If there is no surviving spouse((, in favor of  
17 such child)) or children, ((or if no surviving spouse or such child or  
18 children, then)) the action may be brought in favor of the decedent's:  
19 (1) Parents((,)) who are dependent upon the decedent for support; (2)  
20 parents who have regularly contributed to the support of the decedent  
21 if the decedent had a developmental disability as defined in RCW  
22 71A.10.020; or (3) sisters or brothers who ((may be)) are dependent  
23 upon ((such person)) the decedent for support((, and resident in the  
24 United States at the time of decedent's death)).

25       (3) In addition to recovering economic losses, the persons  
26 identified in subsection (2) of this section are entitled to recover  
27 any noneconomic damages personal to the decedent including, but not  
28 limited to, damages for the decedent's pain and suffering, anxiety,  
29 emotional distress, loss of enjoyment of life, shortened life  
30 expectancy, or humiliation, in such amounts as determined by a jury to  
31 be just under all the circumstances of the case.

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

34       (1) A ((mother or father, or both,)) parent who has regularly  
35 contributed to the support of his or her ((minor)) child who is under  
36 the age of twenty-six or his or her child with a developmental  
37 disability as defined in RCW 71A.10.020, ((and the mother or father, or

1 ~~both, of a child on whom either, or both, are))~~ or a parent who is  
2 dependent upon a child for support may maintain or join (~~(as a party)~~)  
3 an action as plaintiff for the injury or death of the child.

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

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

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

21 (4) In (~~such~~) an action under this section, in addition to  
22 damages for medical, hospital, medication expenses, and loss of  
23 services and support, damages may be recovered for the loss of love and  
24 companionship of the child and for injury to or destruction of the  
25 parent-child relationship in such amount as, under all the  
26 circumstances of the case, may be just.

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