
ENGROSSED THIRD SUBSTITUTE HOUSE BILL 1873

State of Washington

60th Legislature

2008 Regular Session

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

READ FIRST TIME 02/12/08.

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 (1) Every ((such)) action under RCW 4.20.010 shall be for the
8 benefit of the ((wife, husband)) spouse, state registered domestic
9 partner, ((child)) or children, including stepchildren, of the person
10 whose death shall have been so caused. If there ((be)) is no ((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 (a) The parents((,)) 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 (b) an individual who is the sole beneficiary of the decedent's life
17 insurance and has had significant involvement in the decedent's life.
18 If there is no spouse, state registered domestic partner, child,
19 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 (2) For the purposes of this section:

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

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

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

19 (1) All causes of action by a person or persons against another
20 person or persons shall survive to the personal representatives of the
21 former and against the personal representatives of the latter, whether
22 such actions arise on contract or otherwise, and whether or not such
23 actions would have survived at the common law or prior to the date of
24 enactment of this section(~~∴ PROVIDED, HOWEVER, That~~)).

25 (2) In addition to recovering economic losses, the personal
26 representative ((~~shall only be~~)) is entitled to recover on behalf of
27 those beneficiaries identified under RCW 4.20.020 any noneconomic
28 damages for pain and suffering, anxiety, emotional distress, or
29 humiliation, personal to and suffered by ((a)) the deceased ((~~on behalf~~
30 of those beneficiaries enumerated in RCW 4.20.020, and such)) in such
31 amounts as determined by a jury to be just under all the circumstances
32 of the case. Damages under this section are recoverable regardless of
33 whether or not the death was occasioned by the injury that is the basis
34 for the action.

35 (3) The liability of property of a husband and wife held by them as
36 community property and subject to execution in satisfaction of a claim
37 enforceable against such property so held shall not be affected by the

1 death of either or both spouses; and a cause of action shall remain an
2 asset as though both claiming spouses continued to live despite the
3 death of either or both claiming spouses.

4 ~~((+2))~~ (4) Where death or an injury to person or property,
5 resulting from a wrongful act, neglect or default, occurs
6 simultaneously with or after the death of a person who would have been
7 liable therefor if his death had not occurred simultaneously with such
8 death or injury or had not intervened between the wrongful act, neglect
9 or default and the resulting death or injury, an action to recover
10 damages for such death or injury may be maintained against the personal
11 representative of such person.

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

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

25 (2) An action under this section shall be brought by the personal
26 representative of the deceased~~((r))~~ in favor of ~~((such))~~ the surviving
27 spouse or state registered domestic partner, ~~((or in favor of the~~
28 ~~surviving spouse or state registered domestic partner))~~ and ~~((such))~~
29 children~~((, or if))~~. If there is no surviving spouse ~~((or))~~, state
30 registered domestic partner, ~~((in favor of such child))~~ or children,
31 ~~((or if no surviving spouse, state registered domestic partner, or such~~
32 ~~child or children, then))~~ the action shall be brought in favor of the
33 decedent's: (a) Parents~~((r))~~ if the parents are financially dependent
34 upon the decedent for support or if the parents have had significant
35 involvement in the decedent's life; or (b) sole beneficiary under a
36 life insurance policy, if the beneficiary is an individual who had a
37 significant involvement in the decedent's life. If there is no

1 surviving spouse, state registered domestic partner, child, parent, or
2 such life insurance beneficiary, the action shall be brought in favor
3 of the decedent's sisters((~~7~~)) or brothers who ((~~may be~~)) are
4 financially dependent upon ((~~such person~~)) the decedent for support((~~7~~
5 and resident in the United States at the time of decedent's death))).

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

13 (4) For the purposes of this section:

14 (a) "Financially dependent for support" means substantial
15 dependence based on the receipt of services that have an economic or
16 monetary value, or substantial dependence based on actual monetary
17 payments or contributions; and

18 (b) "Significant involvement" means demonstrated support of an
19 emotional, psychological, or financial nature within the relationship,
20 at or reasonably near the time of death, or at or reasonably near the
21 time of the incident causing death.

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

24 (1) A ((~~mother or father, or both,~~)) parent who has regularly
25 contributed to the support of his or her minor child, ((~~and the mother~~
26 or father, or both, of a child on whom either, or both, are)) or a
27 parent who is financially dependent on a child for support or who has
28 had significant involvement in a child's life, may maintain or join
29 ((~~as a party~~)) an action as plaintiff for the injury or death of the
30 child.

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

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

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

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

18 (5) For the purposes of this section:

19 (a) "Financially dependent for support" means substantial
20 dependence based on the receipt of services that have an economic or
21 monetary value, or substantial dependence based on actual monetary
22 payments or contributions; and

23 (b) "Significant involvement" means demonstrated support of an
24 emotional, psychological, or financial nature within the relationship,
25 at or reasonably near the time of death, or at or reasonably near the
26 time of the incident causing death.

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

29 NEW SECTION. Sec. 6. (1) On December 1, 2009, and every December
30 1st thereafter, the risk management division within the office of
31 financial management shall report to the house appropriations
32 committee, the house state government and tribal affairs committee, the
33 senate ways and means committee, and the senate government operations
34 and elections committee, or successor committees, on the incidents
35 covered by this act that involve state agencies.

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

6 (3) This section expires December 2, 2014.

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