

SENATE BILL REPORT

SB 5107

As of January 20, 1995

Title: An act relating to survival of actions.

Brief Description: Pertaining to survival of actions.

Sponsors: Senator Smith.

Brief History:

Committee Activity: Law & Justice: 1/26/95.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Dick Armstrong (786-7460)

Background: When a person dies as a result of the negligent acts of another person, there are several statutes that allow the decedent's spouse and children to collect damages from the tortfeasor. However, the estates of single adults who do not have children or dependent parents are generally precluded from collecting any damages.

RCW 4.20.020, the "wrongful death" statute, and RCW 4.20.060 provide causes of action only if the decedent left a spouse, children, or financially dependent parents or siblings. RCW 4.24.010, the parent's consortium statute, provides no cause of action to the decedent's parents unless the decedent was a minor or a parent was financially dependent on the child.

Similarly, RCW 4.20.046, the "survival statute," only allows the decedent's estate to collect damages if it can demonstrate a significant loss of prospective earnings.

The estate of an adult developmentally disabled person is essentially unable to collect damages from a tortfeasor because developmentally disabled persons generally do not have spouses or children.

Summary of Bill: The parent's consortium statute is amended to allow a mother or father whose child is negligently injured or killed to collect noneconomic damages for the loss of the parent-child relationship and the parents' grief. Existing restrictions that the child was a minor or that the parents were financially dependent on the child are deleted.

Parents only can collect damages for those medical expenses that were actually paid for by the parent.

A damage award against the state of Washington cannot be reduced in order to pay for the costs of a resident at a state habilitation center.

Appropriation: None.

Fiscal Note: Requested on January 20, 1995.

Effective Date: Ninety days after adjournment of session in which bill is passed.