

E3SHB 1873 - S COMM AMD
By Committee on Ways & Means

NOT ADOPTED 03/06/2008

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 In any action under (a) or (b) of this subsection against the state
26 or a political subdivision thereof, the liability of the state or
27 political subdivision shall be several and not joint.

28 (2) For the purposes of this section:

29 (a) "Financially dependent for support" means substantial

1 dependence based on the receipt of services that have an economic or
2 monetary value, or substantial dependence based on actual monetary
3 payments or contributions; and

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

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

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

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

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

32 ~~((+2))~~ (4) Where death or an injury to person or property,
33 resulting from a wrongful act, neglect or default, occurs
34 simultaneously with or after the death of a person who would have been
35 liable therefor if his death had not occurred simultaneously with such
36 death or injury or had not intervened between the wrongful act, neglect

1 or default and the resulting death or injury, an action to recover
2 damages for such death or injury may be maintained against the personal
3 representative of such person.

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

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

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

35 (3) In addition to recovering economic losses, the persons
36 identified in subsection (2) of this section are entitled to recover
37 any noneconomic damages personal to and suffered by the decedent

1 including, but not limited to, damages for the decedent's pain and
2 suffering, anxiety, emotional distress, or humiliation, in such amounts
3 as determined by a jury to be just under all the circumstances of the
4 case.

5 (4) 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 (5) In any action under subsection (2)(a) or (b) of this section
15 against the state or a political subdivision thereof, the liability of
16 the state or political subdivision shall be several and not joint.

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

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

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

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

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

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

13 (5) 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. 5.** RCW 4.22.030 and 1986 c 305 s 402 are each amended to read
23 as follows:

24 Except as otherwise provided in RCW 4.22.070, 4.20.020, and
25 4.20.060, if more than one person is liable to a claimant on an
26 indivisible claim for the same injury, death or harm, the liability of
27 such persons shall be joint and several.

28 NEW SECTION. **Sec. 6.** This act applies to all causes of action
29 filed on or after the effective date of this act.

30 NEW SECTION. **Sec. 7.** (1) On December 1, 2009, and every December
31 1st thereafter, the risk management division within the office of
32 financial management shall report to the house appropriations
33 committee, the house state government and tribal affairs committee, the
34 senate ways and means committee, and the senate government operations

1 and elections committee, or successor committees, on the incidents
2 covered by this act that involve state agencies.

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

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

E3SHB 1873 - S COMM AMD

By Committee on Ways & Means

NOT ADOPTED 03/06/2008

9 On page 1, line 1 of the title, after "death;" strike the remainder
10 of the title and insert "amending RCW 4.20.020, 4.20.046, 4.20.060,
11 4.24.010, and 4.22.030; creating new sections; and providing an
12 expiration date."

--- END ---