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**SENATE BILL 5747**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senators Padden and Miloscia

AN ACT Relating to prohibiting actions for wrongful life and wrongful birth, and expanding the beneficiaries in an action for wrongful death; amending RCW 4.20.020; and adding a new section to chapter 4.24 RCW.

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

NEW SECTION. **Sec.**  A new section is added to chapter 4.24 RCW to read as follows:

(1) No person may maintain a civil cause of action or receive an award of damages for wrongful life based on the claim that, but for an act or omission of another person, the person would not or should not have been born.

(2) No person may maintain a civil cause of action or receive an award of damages for wrongful birth based on the claim that, but for an act or omission of another person, a child would not or should not have been born.

(3) This section applies to any claim regardless of whether the person or child is born healthy or with a birth defect or other adverse medical condition.

(4) Nothing in this section applies to any civil cause of action for damages based on:

(a) The failure of a contraceptive method or sterilization procedure; or

(b) A claim that, but for the negligent conduct of another, tests or treatment would have been provided properly which would have made possible the prevention, cure, or amelioration of any disease, defect, deficiency, or handicap. Abortion shall not be considered a means of preventing, curing, or ameliorating any disease, defect, deficiency, or handicap.

(5) The failure or refusal of any person to perform or have an abortion is not a defense in any action, nor shall that failure or refusal be considered in awarding damages or in imposing any other sanction or penalty.

**Sec.**  RCW 4.20.020 and 2011 c 336 s 90 are each amended to read as follows:

Every such action shall be for the benefit of the wife, husband, state registered domestic partner, child or children, including stepchildren, of the person whose death shall have been so caused. If there be no wife, husband, state registered domestic partner, or such child or children, such action may be maintained for the benefit of the parents, sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his or her death. If no other beneficiary would otherwise be qualified to maintain such an action, a parent or parents of the deceased person may maintain such an action to recover for the loss of the society and companionship of the deceased person and for destruction of the parent-child relationship. If no such parents are qualified to maintain such an action, the personal representative of the decedent may recover such damages as are authorized by RCW 4.20.046.

In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just.

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