

2SSB 6015 - S AMD 444

By Senator O'Ban

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1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 4.20.010 and 2011 c 336 s 89 are each amended to
4 read as follows:

5 (1) When the death of a person is caused by the wrongful act,
6 neglect, or default of another person, his or her personal
7 representative may maintain an action ((for damages)) against the
8 person causing the death(;- and although) for the economic and
9 noneconomic damages sustained by the beneficiaries listed in RCW
10 4.20.020 as a result of the decedent's death, in such amounts as
11 determined by a jury to be just under all the circumstances of the
12 case.

13 (2) This section applies regardless of whether or not the death
14 ((shall have been)) was caused under such circumstances as amount, in
15 law, to a felony.

16 Sec. 2. RCW 4.20.020 and 2011 c 336 s 90 are each amended to
17 read as follows:

18 (1) Every ((such)) action under RCW 4.20.010 shall be for the
19 benefit of the ((wife, husband)) spouse, state registered domestic
20 partner, child or children, including stepchildren, of the person
21 whose death shall have been so caused.

22 (2) If there ((be)) is no ((wife, husband)) spouse, state
23 registered domestic partner, or such child or children, such action
24 may be maintained for the benefit of the parents((, sisters,)) or
25 ((brothers, who may be dependent upon the deceased person for
26 support, and who are resident within the United States at the time of
27 his or her death)) siblings of the deceased. However, a defendant's
28 liability is several only and not joint under RCW 4.22.070(1) (a) or
29 (b) if the parent or sibling is not dependent upon the deceased
30 person for support.

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

3 **Sec. 3.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read
4 as 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
7 the former and against the personal representatives of the latter,
8 whether such actions arise on contract or otherwise, and whether or
9 not such actions would have survived at the common law or prior to
10 the date of enactment of this section(~~(- PROVIDED, HOWEVER, That)~~).

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

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

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
31 been liable therefor if his or her death had not occurred
32 simultaneously with such death or injury or had not intervened
33 between the wrongful act, neglect or default and the resulting death
34 or injury, an action to recover damages for such death or injury may
35 be maintained against the personal representative of such person.

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

1 (1) No action for a personal injury to any person occasioning
2 death shall abate, nor shall such right of action (~~determine~~)
3 terminate, by reason of such death, if such person has a surviving
4 spouse, state registered domestic partner, or child living, including
5 stepchildren, or if leaving no surviving spouse, state registered
6 domestic partner, or (~~such~~) children, (~~if there is dependent upon~~
7 ~~the deceased for support and resident within the United States at the~~
8 ~~time of decedent's death,~~) the person has surviving parents(~~(~~
9 ~~sisters,~~) or (~~brothers; but such action may be prosecuted, or~~
10 ~~commenced and prosecuted, by the executor or administrator~~)
11 siblings.

12 (2) An action under this section shall be brought by the personal
13 representative of the deceased, in favor of (~~such~~) the surviving
14 spouse or state registered domestic partner, or in favor of the
15 surviving spouse or state registered domestic partner and (~~such~~)
16 children, or if no surviving spouse or state registered domestic
17 partner, in favor of (~~such~~) the child or children, or if no
18 surviving spouse, state registered domestic partner, or (~~such~~) a
19 child or children, then in favor of the decedent's parents(~~(~~
20 ~~sisters,~~) or (~~brothers who may be dependent upon such person for~~
21 ~~support, and resident in the United States at the time of decedent's~~
22 ~~death)~~) siblings.

23 (3) In addition to recovering the decedent's economic losses
24 under this section, the persons listed in subsection (1) of this
25 section are entitled to recover any noneconomic damages for pain and
26 suffering, anxiety, emotional distress, or humiliation personal to
27 and suffered by the decedent in such amounts as determined by a jury
28 to be just under all the circumstances of the case.

29 (4) A defendant's liability is several only and not joint under
30 RCW 4.22.070(1) (a) or (b) if the decedent's parent or sibling is not
31 dependent upon the decedent for support.

32 **Sec. 5.** 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 or legal guardian
35 who has regularly contributed to the support of his or her minor
36 child, and (~~the mother or father, or both, of a child on whom~~
37 ~~either, or both, are dependent for support~~) a parent or legal
38 guardian who has had significant involvement in the life of an adult
39 child, may maintain or join as a party an action as plaintiff for the

1 injury or death of the child. For purposes of this section,
2 "significant involvement" means demonstrated support of an emotional,
3 psychological, or financial nature within the parent-child
4 relationship, at or reasonably near the time of death, or at or
5 reasonably near the time of the incident causing death, including
6 either giving or receiving emotional, psychological, or financial
7 support to or from the child.

8 (2) In addition to recovering damages for the child's health care
9 expenses, loss of the child's services, loss of the child's financial
10 support, and other economic losses, damages may be also recovered
11 under this section for the loss of love and companionship of the
12 child, loss of the child's emotional support, and for injury to or
13 destruction of the parent-child relationship, in such amounts as
14 determined by a jury to be just under all the circumstances of the
15 case.

16 (3) A defendant's liability is several only and not joint under
17 RCW 4.22.070(1) (a) or (b) if the decedent's parent or sibling is not
18 dependent upon the decedent for support.

19 (4) An action may be maintained by a parent or legal guardian
20 under this section, regardless of whether or not the child has
21 attained the age of majority, only if the child has no spouse, state
22 registered domestic partner, or children.

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

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

34 Such notice shall be in compliance with the statutory
35 requirements for a summons. Such notice shall state that the other
36 parent must join as a party to the suit within twenty days or the
37 right to recover damages under this section shall be barred. Failure
38 of the other parent to timely appear shall bar such parent's action
39 to recover any part of an award made to the party instituting the
40 suit.

1 (~~In such an action, in addition to damages for medical,
2 hospital, medication expenses, and loss of services and support,
3 damages may be recovered for the loss of love and companionship of
4 the child and for injury to or destruction of the parent-child
5 relationship in such amount as, under all the circumstances of the
6 case, may be just.))~~)

7 NEW SECTION. **Sec. 6.** A new section is added to chapter 4.20 RCW
8 to read as follows:

9 There is no double recovery created or allowed for the same
10 damages to a person in actions brought under the provisions of this
11 chapter or RCW 4.24.010.

12 NEW SECTION. **Sec. 7.** This act applies prospectively only and
13 not retroactively. It applies only to actions that are commenced on
14 or after the effective date of this section."

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15 On page 1, line 1 of the title, after "death;" strike the
16 remainder of the title and insert "amending RCW 4.20.010, 4.20.020,
17 4.20.046, 4.20.060, and 4.24.010; adding a new section to chapter
18 4.20 RCW; and creating a new section."

EFFECT: Provides that a defendant's liability is several only
(not joint) in a wrongful death or special survival action if the
parent or sibling is not dependent on the decedent for support;
limits the noneconomic damages in a special survival action to pain
and suffering, anxiety, emotional distress, or humiliation suffered
by the decedent; and prohibits double recovery for the same damages
to a person under wrongful death and survival actions.

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