

SHB 1873 - H AMD 331

By Representative Lantz

WITHDRAWN 03/14/2007

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

3 "Sec. 1. RCW 4.20.020 and 1985 c 139 s 1 are each amended to read
4 as follows:

5 Every (~~such~~) action under RCW 4.20.010 shall be for the benefit
6 of the (~~wife, husband, child~~) spouse or children, including
7 stepchildren, of the person whose death shall have been so caused. If
8 there (~~be~~) is no (~~wife or husband~~) spouse or (~~such~~) child (~~or~~
9 ~~children, such~~), the action may be maintained for the benefit of the
10 parents(~~)~~ of a deceased adult child if the parents are financially
11 dependent upon the adult child for support or if the parents have had
12 significant involvement in the adult child's life. If there is no
13 spouse, child, or parent, the action may be maintained for the benefit
14 of sisters or brothers(~~)~~ who (~~may be~~) are financially dependent
15 upon the deceased person for support(~~) and who are resident within the~~
16 ~~United States at the time of his death~~)).

17 In every such action the jury may (~~give such~~) award economic and
18 noneconomic damages as(~~)~~ under all circumstances of the case(~~)~~
19 may to them seem just.

20 "Sec. 2. RCW 4.20.046 and 1993 c 44 s 1 are each amended to read as
21 follows:

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

28 (2) In addition to recovering economic losses, the personal
29 representative (~~shall only be~~) is entitled to recover on behalf of

1 those beneficiaries identified under RCW 4.20.020 any noneconomic
2 damages for pain and suffering, anxiety, emotional distress, loss of
3 enjoyment of life, shortened life expectancy, or humiliation, personal
4 to ((and suffered by a)) the deceased ((on behalf of those
5 beneficiaries enumerated in RCW 4.20.020, and such)) in such amounts as
6 determined by a jury to be just under all the circumstances of the
7 case. Damages under this section are recoverable regardless of whether
8 or not the death was occasioned by the injury that is the basis for the
9 action.

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

16 ((+2)) (4) Where death or an injury to person or property,
17 resulting from a wrongful act, neglect or default, occurs
18 simultaneously with or after the death of a person who would have been
19 liable therefor if his death had not occurred simultaneously with such
20 death or injury or had not intervened between the wrongful act, neglect
21 or default and the resulting death or injury, an action to recover
22 damages for such death or injury may be maintained against the personal
23 representative of such person.

24 **Sec. 3.** RCW 4.20.060 and 1985 c 139 s 2 are each amended to read
25 as follows:

26 (1) No action for a personal injury to any person occasioning death
27 shall abate, nor shall such right of action ((determine)) terminate, by
28 reason of ((such)) the death((τ)) if ((such)) the person has a
29 surviving ((spouse or child living, including stepchildren, or leaving
30 no surviving spouse or such children, if there is dependent upon the
31 deceased for support and resident within the United States at the time
32 of decedent's death, parents, sisters or brothers; but such action may
33 be prosecuted, or commenced and prosecuted, by the executor or
34 administrator)) beneficiary in whose favor the action may be brought
35 under subsection (2) of this section.

36 (2) An action under this section shall be brought by the personal
37 representative of the deceased((τ)) in favor of ((such)) the surviving

1 spouse(~~(, or in favor of the surviving spouse)~~) and ((such))
2 children(~~(, or if)~~). If there is no surviving spouse(~~(, in favor of~~
3 such child)) or children, (~~(or if no surviving spouse or such child or~~
4 children, then)) the action shall be brought in favor of the decedent's
5 parents(~~(,)~~) if the parents are financially dependent upon the decedent
6 for support or if the parents have had significant involvement in the
7 decedent's life. If there is no surviving spouse, child, or parent,
8 the action shall be brought in favor of the decedent's sisters or
9 brothers who (~~(may be)~~) are dependent upon ((such person)) the decedent
10 for support(~~(, and resident in the United States at the time of~~
11 decedent's death))).

12 (3) In addition to recovering economic losses, the persons
13 identified in subsection (2) of this section are entitled to recover
14 any noneconomic damages personal to the decedent including, but not
15 limited to, damages for the decedent's pain and suffering, anxiety,
16 emotional distress, loss of enjoyment of life, shortened life
17 expectancy, or humiliation, in such amounts as determined by a jury to
18 be just under all the circumstances of the case.

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

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

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

34 (3) If one parent brings an action under this section and the other
35 parent is not named as a plaintiff, notice of the institution of the
36 suit, together with a copy of the complaint, shall be served upon the

1 other parent: PROVIDED, That notice shall be required only if
2 parentage has been duly established.

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

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

15 Correct the title.

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