

CHAPTER 54

Original Senate File No. 5

WRONGFUL DEATH ACT

AN ACT to create W.S. 1-38-101 and 1-38-102 relating to actions for wrongful death; providing for actions for wrongful death; designating who will bring the action and the measure and element of damages; providing for a limitation of the action; providing for retroactive application; stating and clarifying the purpose and intent of the legislature; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 1-38-101 and 1-38-102 are created to read:

1-38-101. Actions for wrongful death which survive; proceedings against executor or administrator of person liable.

Whenever the death of a person is caused by wrongful act, neglect or default such as would have entitled the party injured to maintain an action to recover damages if death had not ensued, the person who would have been liable if death had not ensued is liable in an action for damages, even though the death was caused under circumstances as amount in law to murder in the first or second degree, or manslaughter. If the person liable dies, the action may be brought against the executor or administrator of his estate. If he left no estate within the state of Wyoming, the court may appoint an administrator upon application.

1-38-102. Action to be brought by personal representative; recovery exempt from debts; measure and element of damages; limitation of action.

(a) Every such action shall be brought by and in the name of the personal representative of the deceased person.

(b) If the deceased left a husband, wife, child, father or mother, no debt of the deceased may be satisfied out of the proceeds of any judgment obtained in any action brought under the provisions of this section.

(c) The court or jury, as the case may be, in every such action may award such damages, pecuniary and exemplary, as shall be deemed fair and just. Every person for whose benefit such action is brought may prove his respective damages, and the court or jury may award such person that amount of damages to which it considers such person entitled, including damages for loss of probable future companionship, society and comfort.

(d) Every such action shall be commenced within two (2) years after the death of the deceased person.

Section 2. The Wyoming Legislature finds the title to the 1981 Senate File 88 which attempted to repeal the wrongful death statutes was inaccurate and misleading in that it said the wrongful death statutes duplicated statutes which were no longer in existence, which statement was not true; the action repealing those statutes was in reliance upon the accuracy of the statement that there were duplicate statutes found in other places in the statutes, and therefore, the Wyoming Legislature by this act hereby declares the attempted repeal of W.S. 2-14-201 and 2-14-202 by Chapter 151, Session Laws of Wyoming 1981, void.

Section 3. W.S. 1-38-101 and 1-38-102 are effective retroactively to the time when Chapter 151, Session Laws of Wyoming 1981 became effective.

Section 4. At the time Chapter 151 was enacted in 1981, it was the belief of the Wyoming Legislature that W.S. 1-38-101 and 1-38-102 were in full force and effect, and that W.S. 2-14-201 and 2-14-202 were duplicative and therefore superfluous statutes and those facts were recited in the title to Original Senate File 88, which became Chapter 151, Session Laws of Wyoming 1981.

Section 5. The legislature declares that its sole purpose in enacting Chapter 151, Session Laws of Wyoming 1981, was to delete statutes relating to wrongful death that were erroneously believed to be duplicative.

Section 6. The legislature further declares that its purpose in that repeal was not to eliminate or affect in any way causes of action for wrongful death.

Section 7. Should a determination be reached that the inadvertent attempted repeal was legally effective, this retroactive application is intended to cure that inadvertent and unintentional repeal of W.S. 2-14-201 and 2-14-202 and to retroactively reinstate such sections, renumbered as W.S. 1-38-101 and 1-38-102.

Section 8. This act is effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

Approved March 9, 1982.