

A Bill for an Act Relating to Survival of Actions for Wrongful Death.

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

SECTION 1. The purpose of this Act is to expressly restate, reiterate and declare the intent of the legislature in enacting Section 663-7, Hawaii Revised Statutes, concerning the survival of death actions, was originally and is now to cover and include as an element of damages recoverable by the legal representative of the deceased in behalf of the estate of the deceased, any likely earnings during the life expectancy of the deceased, diminished by the probable cost of his own maintenance and provision for his family, reduced to present worth.

SECTION 2. Section 663-3, Hawaii Revised Statutes, is amended to read:

“Sec. 663-3 Death by wrongful act. When the death of a person is caused by the wrongful act, neglect, or default of any person or corporation, the deceased’s legal representative, or any of the persons hereinafter enumerated, may maintain an action against the person or corporation causing the death or against the person or corporation responsible for the death, on behalf of the persons hereinafter enumerated.

In any action under this section, such damages may be given as under the circumstances shall be deemed fair and just compensation, with reference to the pecuniary injury and loss of love and affection, including (1) loss of society, companionship, comfort, consortium, or protection, (2) loss of marital care, attention, advice, or counsel, (3) loss of filial care or attention, or (4) loss

of parental care, training, guidance, or education, suffered as a result of the death of the person by the surviving spouse, children, father, mother, and by any person wholly or partly dependent upon the deceased person. The jury or court sitting without jury shall allocate the damages to the persons entitled thereto in its verdict or judgment, and any damage recovered under this section, except for reasonable expenses of last illness and burial, shall not constitute a part of the estate of the deceased. If an action is brought pursuant to this section and a separate action brought pursuant to section 663-7, such actions may be consolidated for trial on the motion of any interested party, and a separate verdict, report, or decision may be rendered as to each right of action. Any action brought under this section shall be commenced within two years from the date of death of the injured person.”

SECTION 3. Chapter 663, Hawaii Revised Statutes, is amended by adding a new section to be numbered and to read as follows:

“**Sec. 663-8 Damages, future earnings.** Together with other damages which may be recovered by law, the legal representative of the deceased person may recover where applicable under section 663-7 the future earnings of the decedent in excess of the probable cost of the decedent’s own maintenance and the provision decedent would have made for his or her actual or probable family and dependents during the period of time decedent would have likely lived but for the accident.”

SECTION 4. **Severability.** If any provision of this Act, or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 5. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 6. This Act shall take effect upon its approval.

(Approved June 1, 1973.)

*Edited accordingly.