

Chapter 4.20 RCW
SURVIVAL OF ACTIONS

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RCW 4.20.005 Wrongful death—Application of terms. Words in RCW 4.20.010, 4.20.020, and 4.20.030 denoting the singular shall be understood as belonging to a plurality of persons or things. The masculine shall apply also to the feminine, and the word person shall also apply to bodies politic and corporate. [1917 c 123 § 3; RRS § 183-2. Formerly RCW 4.20.010, part.]

RCW 4.20.010 Wrongful death—Right of action. (1) When the death of a person is caused by the wrongful act, neglect, or default of another person, his or her personal representative may maintain an action against the person causing the death for the economic and noneconomic damages sustained by the beneficiaries listed in RCW 4.20.020 as a result of the decedent's death, in such amounts as determined by a trier of fact to be just under all the circumstances of the case.

(2) This section applies regardless of whether or not the death was caused under such circumstances as amount, in law, to a felony. [2019 c 159 § 1; 2011 c 336 § 89; 1917 c 123 § 1; RRS § 183. FORMER PARTS OF SECTION: 1917 c 123 § 3 now codified as RCW 4.20.005. Prior: 1909 c 129 § 1; Code 1881 § 8; 1875 p 4 § 4; 1854 p 220 § 496.]

Retroactive application—2019 c 159: "This act is remedial and retroactive and applies to all claims that are not time barred, as well as any claims pending in any court on July 28, 2019." [2019 c 159 § 6.]

RCW 4.20.020 Wrongful death—Beneficiaries of action. Every action under RCW 4.20.010 shall be for the benefit of the spouse, state registered domestic partner, child or children, including stepchildren, of the person whose death shall have been so caused. If there is no spouse, state registered domestic partner, or such child

or children, such action may be maintained for the benefit of the parents or siblings of the deceased.

In every such action the trier of fact may give such damages as, under all circumstances of the case, may to them seem just. [2019 c 159 § 2; 2011 c 336 § 90; 2007 c 156 § 29; 1985 c 139 § 1; 1973 1st ex.s. c 154 § 2; 1917 c 123 § 2; RRS § 183-1.]

Retroactive application—2019 c 159: See note following RCW 4.20.010.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

RCW 4.20.030 Workers' compensation act not affected. RCW 4.20.005, 4.20.010, and 4.20.020 shall not repeal or supersede chapter 74 of the Laws of 1911 [Title 51 RCW] and acts amendatory thereof, or any part thereof. [1917 c 123 § 5; RRS § 183-3.]

RCW 4.20.046 Survival of actions. (1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this section.

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

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

(4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person. [2019 c 159 § 3; 2008 c 6 § 409; 1993 c 44 § 1; 1961 c 137 § 1.]

Retroactive application—2019 c 159: See note following RCW 4.20.010.

Part headings not law—Severability—2008 c 6: See RCW 26.60.900 and 26.60.901.

RCW 4.20.050 Action not abated by death or disability if it survives—Substitution. No action shall abate by the death, marriage, or other disability of the party, or by the transfer of any interest therein, if the cause of action survives or continues; but the court may at any time within one year thereafter, on motion, allow the action to be continued by or against his or her representatives or successors in interest. [2011 c 336 § 91; Code 1881 § 17; 1877 p 6 § 17; 1869 p 6 § 17; 1854 p 132 § 11; RRS § 193.]

Rules of court: Cf. RAP 3.2, 18.22.

RCW 4.20.060 Action for personal injury survives. (1) No action for a personal injury to any person occasioning death shall abate, nor shall such right of action terminate, by reason of such death, if such person has a surviving spouse, state registered domestic partner, or child living, including stepchildren, or if leaving no surviving spouse, state registered domestic partner, or children, the person has surviving parents or siblings.

(2) An action under this section shall be brought by the personal representative of the deceased, in favor of the surviving spouse or state registered domestic partner, or in favor of the surviving spouse or state registered domestic partner and children, or if no surviving spouse or state registered domestic partner, in favor of the child or children, or if no surviving spouse, state registered domestic partner, or a child or children, then in favor of the decedent's parents or siblings.

(3) In addition to recovering the decedent's economic losses under this section, the persons listed in subsection (1) of this section are entitled to recover damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a trier of fact to be just under all the circumstances of the case. [2019 c 159 § 4; 2007 c 156 § 30; 1985 c 139 § 2; 1973 1st ex.s. c 154 § 3; 1927 c 156 § 1; 1909 c 144 § 1; Code 1881 § 18; 1854 p 220 § 495; RRS § 194.]

Retroactive application—2019 c 159: See note following RCW 4.20.010.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.