

RECOVERY OF SPECIAL DAMAGES FOR INJURIES

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: A. Lamont Tyler

This act modifies the Judicial Code to define special damages and clarify the circumstances under which they may be recovered in certain actions.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

78-11-12, as last amended by Chapter 113, Laws of Utah 1991

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **78-11-12** is amended to read:

78-11-12. Survival of action for injury to person or death upon death of wrongdoer or injured person -- Exception and restriction to out-of-pocket expenses.

(1) (a) Causes of action arising out of personal injury to the person or death caused by the wrongful act or negligence of another do not abate upon the death of the wrongdoer or the injured person. The injured person or the personal representatives or heirs of the person who died have a cause of action against the wrongdoer or the personal representatives of the wrongdoer for special and general damages, subject to Subsection (1)(b).

(b) If prior to judgment or settlement the injured person dies as a result of a cause other than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal representatives or heirs of that person [~~are entitled to receive no more than the out-of-pocket expenses incurred by or on behalf of that injured person as the result of his injury~~] have a cause of action against the wrongdoer or personal representatives of the wrongdoer only for special damages occurring prior to death that result from the injury caused by the wrongdoer, including income loss. "Special damages" does not include pain and suffering, loss of enjoyment of life, and other not readily quantifiable damages frequently referred to as general damages.

(2) Under Subsection (1) neither the injured person nor the personal representatives or heirs of the person who died may recover judgment except upon competent satisfactory evidence other than the testimony of that injured person.

