

Senator Scott D. McCoy proposes the following substitute bill:

WRONGFUL DEATH AMENDMENTS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: _____

LONG TITLE

General Description:

This bill expands the definition of "heirs" to include a wrongful death designee.

Highlighted Provisions:

This bill:

▸ defines wrongful death designee as a person who:

- is designated as the only wrongful death heir in the decedent's will, trust, or other notarized written directive; and

- has been adjudicated by a court of competent jurisdiction, by clear and convincing evidence, to have had a mutual supportive and dependent relationship with the decedent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-105, as renumbered and amended by Laws of Utah 2008, Chapter 3



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

27 Section 1. Section **78B-3-105** is amended to read:

28 **78B-3-105. Definition of heir.**

29 (1) As used in Sections 78B-3-106 and 78B-3-107[,"heirs"]:

30 (a) "Heirs" means[:(+)] the following surviving persons:

31 [(:)] (i) A the decedent's spouse; or

32 (B) if no spouse, the decedent's wrongful death designee as defined in Subsection (2);

33 [(:)] (ii) the decedent's children as provided in Section 75-2-114;

34 (iii) the decedent's stepchildren who:

35 (A) are in their minority at the time of decedent's death; and

36 (B) are primarily financially dependent on the decedent; and

37 [(:)] (iv) the decedent's natural parents, or if the decedent was adopted, then [his] the
38 decedent's adoptive parents[;].

39 [(:)] the decedent's stepchildren who:

40 [(:)] are in their minority at the time of decedent's death; and

41 [(:)] are primarily financially dependent on the decedent.]

42 [(:)] (b) "Heirs" [means] includes any blood relative as provided [by the law of

43 intestate succession if] in Title 75, Chapter 2, Intestate Succession and Wills, only when the

44 decedent is not survived by [a] at least one person under [Subsections] Subsection (1)(a)[,(b);
45 or (c)].

46 (2) "Wrongful death designee" means a person who:

47 (a) is designated as the sole wrongful death heir in the decedent's will, trust, or other
48 notarized written directive; and

49 (b) has been adjudicated by a court of competent jurisdiction, by clear and convincing
50 evidence, to have had a mutual supportive and dependent relationship with the decedent.

51 (3) In determining whether a person has been in a mutually supportive and dependent
52 relationship with the decedent, a court of competent jurisdiction must find by clear and
53 convincing evidence that, at the time of the decedent's death:

54 (a) the person was cohabiting with the decedent as defined in Subsection 30-6-1(2)(b)
55 for a period of at least five years;

56 (b) the decedent designated the person as the beneficiary of the decedent's:

57 (i) life insurance policy;
58 (ii) retirement benefit; or
59 (iii) will or trust;
60 (c) the person and decedent comingled assets and shared liabilities; and
61 (d) if the person or decedent own a residence, they own the residence jointly.
62 (4) A finding by a court of competent jurisdiction that a person is a wrongful death
63 designee is for the purposes of this section only. Neither a grant of standing under this section,
64 nor anything else in this section, nor any finding by the court under this section may be
65 construed as recognizing or treating a mutually supportive and dependent relationship as a
66 marriage, civil union, domestic partnership, or any other legal or relationship status that intends
67 to approximate the design, qualities, significance, or effect of marriage as defined in Article I,
68 Section 29 of the Utah Constitution.