

Senator Michael G. Waddoups proposes the following substitute bill:

**SURVIVAL ACTION UPON INJURY OR
DEATH**

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael G. Waddoups

House Sponsor: Kay L. McIff

LONG TITLE

General Description:

This bill allows the heirs of a person injured by a wrongful act to receive from the wrongdoer, as part of a settlement or judgment, specific types of damages.

Highlighted Provisions:

This bill:

- ▶ allows heirs of a person injured by a wrongdoer to receive certain special damages, including income loss; and
- ▶ general damages, including pain and suffering, loss of enjoyment of life, and other damages suffered by the decedent.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

78B-3-107, 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-3-107** is amended to read:

28 **78B-3-107. Survival of action for injury to person or death upon death of**
29 **wrongdoer or injured person -- Exception and restriction to out-of-pocket expenses.**

30 (1) (a) A cause of action arising out of personal injury to a person, or death caused by
31 the wrongful act or negligence of another, does not abate upon the death of the wrongdoer or
32 the injured person. The injured person, or the personal representatives or heirs of the person
33 who died, has a cause of action against the wrongdoer or the personal representatives of the
34 wrongdoer for special and general damages, subject to Subsection (1)(b).

35 (b) If, prior to judgment or settlement, the injured person dies as a result of a cause
36 other than the injury received as a result of the wrongful act or negligence of the wrongdoer,
37 the personal representatives or heirs of the person have a cause of action against the wrongdoer
38 or personal representatives of the wrongdoer only for special damages occurring prior to death
39 which resulted from the injury caused by the wrongdoer, including income loss, and for general
40 damages.

41 (c) "[~~Special~~] General damages" [~~does not~~] include pain and suffering, loss of
42 enjoyment of life, and other not readily quantifiable damages [~~frequently referred to as general~~
43 ~~damages~~] suffered by the person until the person's death.

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

47 (3) This section may not be construed to be retroactive.

S.B. 182 1st Sub. (Green) - Survival Action upon Injury or Death

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
