

**SURVIVAL ACTION UPON INJURY OR DEATH**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kay L. McIff**

Senate Sponsor: \_\_\_\_\_

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**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

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

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.**

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.

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**Legislative Review Note**  
as of 1-26-09 3:06 PM

**Office of Legislative Research and General Counsel**

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**H.B. 294 - Survival Action upon Injury or Death**

**Fiscal Note**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for businesses, or local governments. The bill allows instances in which heirs of individuals injured by wrongdoers may benefit.

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