

1 **SURVIVAL OF ACTION**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Ralph Becker**

5 AN ACT RELATING TO THE JUDICIAL CODE; AMENDING THE STATUTE TO PERMIT
6 THE PERSONAL REPRESENTATIVE OR HEIRS TO RECEIVE SPECIAL DAMAGES
7 ACTUALLY INCURRED; AND MAKING CONFORMING AMENDMENTS.

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

9 AMENDS:

10 **78-11-12**, as last amended by Chapter 113, Laws of Utah 1991

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

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

13 **78-11-12. Survival of action for injury to person or death upon death of wrongdoer**
14 **or injured person -- Exception and restriction to special damages.**

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

20 (b) If prior to judgment or settlement the injured person dies as a result of a cause other
21 than the injury received as a result of the wrongful act or negligence of the wrongdoer, the personal
22 representatives or heirs of that person are entitled to receive no more than the [out-of-pocket
23 expenses] special damages actually incurred by or on behalf of that injured person as [the] a result
24 of [his] the complained of injury.

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

Legislative Review Note
as of 2-1-00 10:03 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel