

? Approved for Filing: ECM ?

? 12-21-00 9:27 AM ?

1 **RECOVERY OF SPECIAL DAMAGES FOR**
2 **INJURIES**

3 2001 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: A. Lamont Tyler**

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

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 out-of-pocket expenses.**

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 incurred by or on behalf of that injured person before his or her death
24 as [~~the~~] a result of [~~his~~] the complained of injury.

25 (c) (i) As used in this section, "special damages" means medical expenses, expenses
26 incident to the injured person's needs such as crutches, wheelchairs, necessary household,
27 workplace, and automobile modifications, travel, lodging and meal expenses, income loss, and

28 other readily quantifiable losses, expenses, or damages.

29 (ii) "Special damages" does not include pain and suffering, loss of enjoyment of life, and
30 other not readily quantifiable damages frequently referred to as general damages.

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

Legislative Review Note

as of 11-9-00 2:28 PM

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

Office of Legislative Research and General Counsel

Committee Note

The Judiciary Interim Committee recommended this bill.