

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.