

1 SURVIVAL ACTION UPON INJURY OR
2 DEATH

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Michael G. Waddoups

6 House Sponsor: _____

8 LONG TITLE

9 General Description:

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

12 Highlighted Provisions:

13 This bill:

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

18 Monies Appropriated in this Bill:

19 None

20 Other Special Clauses:

21 None

22 Utah Code Sections Affected:

23 AMENDS:

24 78-11-12, as last amended by Laws of Utah 2001, Chapter 135

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

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



28 **78-11-12. 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) Causes of action arising out of personal injury to the person or death caused by
31 the wrongful act or negligence of another do not abate upon the death of the wrongdoer or the
32 injured person. The injured person or the personal representatives or heirs of the person who
33 died have 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 other
36 than the injury received as a result of the wrongful act or negligence of the wrongdoer, the
37 personal representatives or heirs of that person have a cause of action against the wrongdoer or
38 personal representatives of the wrongdoer only for special damages occurring prior to death
39 that result from the injury caused by the wrongdoer, including income loss [~~-"Special~~
40 ~~damages" does not include~~], and for general damages including pain and suffering, loss of
41 enjoyment of life, and other not readily quantifiable damages [~~frequently referred to as general~~
42 ~~damages~~] suffered by the person until the person's death.

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

Legislative Review Note
as of 1-29-08 6:21 PM

Office of Legislative Research and General Counsel

S.B. 182 - 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.
