

28 Section 1. Section **78B-3-106.5** is amended to read:

29 **78B-3-106.5. Claims brought by presumptive personal representative.**

30 (1) "Presumptive personal representative" means:

31 (a) the spouse of the decedent not alleged to have contributed to the death of the  
32 decedent;

33 (b) if no spouse exists, the spouse of the decedent is incapacitated, or if the spouse of  
34 the decedent is alleged to have contributed to the death of the decedent, then an adult child of  
35 the decedent not alleged to have contributed to the death of the decedent; or

36 (c) if the spouse and all children of the decedent are incapacitated, or are alleged to  
37 have contributed to the death of the decedent, then a parent of the decedent.

38 (2) ~~Ĥ~~→ (a) ~~←Ĥ~~ Forty-five days after the death of a person, including a minor, caused by the  
39 wrongful act or neglect of another, the presumptive personal representative may present to an  
40 insurer and resolve with the insurer a claim for policy limits up to \$25,000 for liability and  
41 uninsured motorist claims, ~~[and]~~ \$10,000 for underinsured motorist claims, ~~[arising out of that~~  
42 ~~death to an insurer]~~ ~~Ĥ~~→ [claims for personal injury protection benefits resulting from the death of an  
43 insured;] ~~←Ĥ~~ and ~~[may]~~ execute ~~[a]~~ any applicable release of liability upon presentation of an  
44 affidavit, properly notarized, stating that:

45 ~~Ĥ~~→ ~~[(a)]~~ (i) ~~←Ĥ~~ the person presenting the affidavit is the presumptive personal representative;

46 ~~Ĥ~~→ ~~[(b)]~~ (ii) ~~←Ĥ~~ 45 days have elapsed since the death of the decedent;

47 ~~Ĥ~~→ ~~[(c)]~~ (iii) ~~←Ĥ~~ no application or petition for the appointment of a personal representative is  
48 pending or has been granted in any jurisdiction; and

49 ~~Ĥ~~→ ~~[(d)]~~ (iv) ~~←Ĥ~~ notice of intent to resolve the claim has been sent to the last-known  
49a addresses of all

50 heirs as defined by Section 78B-3-102 or 78B-3-105.

50a ~~Ĥ~~→ (b) Claims for personal injury protection benefits resulting from the death of an  
50b insured are exempt from the 45-day waiting requirement, but shall include all information  
50c required in Subsections (2)(a)(i), (iii) and (iv). ~~←Ĥ~~

51 ~~[(3)]~~ ~~The presumptive personal representative may also present and resolve a claim for~~  
52 ~~any applicable benefits payable under personal injury protection coverage, resulting from the~~  
53 ~~death of an insured;]~~

54 ~~[(4)]~~ (3) The presumptive personal representative's claim shall be on behalf of all heirs  
55 of the decedent as defined by Section 78B-3-102 or 78B-3-105. The personal representative  
56 shall have the same duties toward other heirs as those duties provided in Sections 75-3-701  
57 through 75-3-720.

58 ~~[(5)]~~ (4) Any insurer and its insured paying a claim arising out of the wrongful death of