

CHAPTER 53

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COURTS

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HOUSE BILL 00-1028

BY REPRESENTATIVE Swenson;  
also SENATOR Owen.

AN ACT

CONCERNING PARENTAL SHARES IN JUDGMENT FOR THE WRONGFUL DEATH OF AN UNMARRIED PERSON.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 13-21-201 (1) (c), Colorado Revised Statutes, is amended, and the said 13-21-201 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

**13-21-201. Damages for death.** (1) When any person dies from any injury resulting from or occasioned by the negligence, unskillfulness, or criminal intent of any officer, agent, servant, or employee while running, conducting, or managing any locomotive, car, or train of cars, or of any driver of any coach or other conveyance operated for the purpose of carrying either freight or passengers for hire while in charge of the same as a driver, and when any passenger dies from an injury resulting from or occasioned by any defect or insufficiency in any railroad or any part thereof, or in any locomotive or car, or other conveyance operated for the purpose of carrying either freight or passengers for hire, the corporation or individuals in whose employ any such officer, agent, servant, employee, master, pilot, engineer, or driver is at the time such injury is committed, or who owns any such railroad, locomotive, car, or other conveyance operated for the purpose of carrying either freight or passengers for hire at the time any such injury is received, and resulting from or occasioned by the defect or insufficiency above described shall forfeit and pay for every person and passenger so injured the sum of not exceeding ten thousand dollars and not less than three thousand dollars, which may be sued for and recovered:

(c) (I) If the deceased is an unmarried minor without descendants or an unmarried adult without descendants, by the father or mother who may join in the suit. EXCEPT AS PROVIDED IN SUBPARAGRAPHS (II) AND (III) OF THIS PARAGRAPH (c), THE FATHER AND MOTHER ~~and each~~ shall have an equal interest in the judgment, or if either of

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

them is dead, then by the surviving parent SHALL HAVE AN EXCLUSIVE INTEREST IN THE JUDGMENT.

(II) FOR CASES IN WHICH THE FATHER AND MOTHER ARE DIVORCED, SEPARATED, OR LIVING APART, A MOTION MAY BE FILED BY EITHER THE FATHER OR THE MOTHER PRIOR TO TRIAL REQUESTING THE COURT TO APPORTION FAIRLY ANY JUDGMENT AWARDED IN THE CASE. WHERE SUCH A MOTION IS FILED, THE COURT SHALL CONDUCT A POST-JUDGMENT HEARING AT WHICH THE FATHER AND THE MOTHER SHALL HAVE THE OPPORTUNITY TO BE HEARD AND TO PRODUCE EVIDENCE REGARDING EACH PARENT'S RELATIONSHIP WITH THE DECEASED CHILD.

(III) ON CONCLUSION OF THE POST-JUDGMENT HEARING CONDUCTED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH (c), THE COURT SHALL FAIRLY DETERMINE THE PERCENTAGE OF THE JUDGMENT TO BE AWARDED TO EACH PARENT. IN MAKING SUCH A DETERMINATION, THE COURT SHALL CONSIDER EACH PARENT'S RELATIONSHIP WITH THE DECEASED, INCLUDING CUSTODY, CONTROL, SUPPORT, PARENTAL RESPONSIBILITY, AND ANY OTHER FACTORS THE COURT DEEMS PERTINENT. THE COURT'S DETERMINATION OF THE PERCENTAGE OF THE JUDGMENT AWARDED TO EACH PARENT SHALL NOT BE DISTURBED ABSENT AN ABUSE OF DISCRETION.

(d) FOR PURPOSES OF THIS SECTION, "FATHER OR MOTHER" MEANS A NATURAL PARENT OF THE DECEASED OR A PARENT OF THE DECEASED BY ADOPTION. "FATHER OR MOTHER" DOES NOT INCLUDE A PERSON WHOSE PARENTAL RIGHTS CONCERNING THE DECEASED WERE TERMINATED PURSUANT TO THE PROVISIONS OF TITLE 19, C.R.S.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 2000, and shall apply to all civil actions filed on or after said date.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: March 17, 2000