

SB

320

REC'D
2-11-88
EIK

5-1339B
Chenoweth
2/11/88

Original sponsor: Duncan

1 IN THE SENATE

- Final -

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 320 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to damages for death of a minor and
7 the distribution of a minor's estate."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 09.55.580(a) is amended to read:

10 (a) Except as provided under (f) of this section, when [WHEN]
11 the death of a person is caused by the wrongful act or omission of
12 another, the personal representatives of the former may maintain an
13 action therefor against the latter, if the former might have main-
14 tained an action, had the person lived, against the latter for an
15 injury done by the same act or omission. The action shall be com-
16 menced within two years after the death, and the damages therein shall
17 be the damages the court or jury may consider fair and just. The
18 amount recovered, if any, shall be exclusively for the benefit of the
19 decedent's spouse and children when the decedent is survived by a
20 spouse or children, or other dependents. When the decedent is surviv-
21 ed by no spouse or children or other dependents, the amount recovered
22 shall be administered as other personal property of the decedent but
23 shall be limited to pecuniary loss. When the plaintiff prevails, the
24 trial court shall determine the allowable costs and expenses of the
25 action and may, in its discretion, require notice and hearing thereon.
26 The amount recovered shall be distributed only after payment of all
27 costs and expenses of suit and debts and expenses of administration.

28 * Sec. 2. AS 09.55.580 is amended by adding a new subsection to read:

29 (f) A person whose act constitutes the murder, manslaughter, or

1 criminally negligent homicide of a minor may not recover damages for
2 the death of the minor either directly or as a personal representative
3 of the minor's estate.

4 * Sec. 3. AS 13.11 is amended by adding a new section to article 8 to
5 read:

6 Sec. 13.11.310. EFFECT OF CRIMINAL CONDUCT ON DISTRIBUTION OF
7 THE ESTATE OF A MINOR. A person whose act constitutes the murder,
8 manslaughter, or criminally negligent homicide of a minor decedent is
9 not entitled to benefit under the will or under this chapter, and the
10 estate of the decedent passes as if that person had predeceased the
11 decedent.

Rec'd
2/2/88

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB320
Publish Date: 2/1/88

REQUEST: _____

Revision Date:
Title: An act relating to damages for
death of a minor...

Agency Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Duncan
Requestor: Senate Judiciary

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)				
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING:		(Thousands of Dollars)				
	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:	
Full-time	0.0
Part-time	0.0
Temporary	0.0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
 Jan Strandberg, General Counsel
 Division: Alaska Court System
 Phone: 264-8228
 Date: 2-1-88

Approved by: *Stephanie Cole, for*
 Arthur H. Snowden, II, Administrative Director
 Date: 2-1-88
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

5-1339B ✓

Ford

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Alaska State Legislature

SENATOR JIM DUNCAN

P. O. Box V JUNEAU, ALASKA 99811

(907) 465-4766

COMMITTEES:
FINANCE
RESOURCES
BUDGET AND AUDIT

Both new addition to file

MEMORANDUM

JAN 12 1988

January 12, 1988

TO: Senator Jalmar Kerttula, Chair
Senate Judiciary Committee

FROM: Senator Jim Duncan

SUBJECT: Senate Bill 320, relating to damages for death of a minor; and distribution of a minor's estate.

Senate Bill 320, relating to damages for the death of a minor and distribution of a minor's estate is meant to change the laws of inheritance for deceased minors. This statutory change is intended to preclude a parent or other heir of a child who caused that child's death through negligence or wrongful acts from recovering damages through the estate of the child.

A recent case in Juneau has highlighted the need to tighten the laws of inheritance of the estates of minors. It seems clear that a negligent parent should not benefit from the death of their child.

I would appreciate your scheduling of Senate Bill 320 for a Judiciary Committee hearing at your earliest convenience. I will provide a sectional as soon as I receive it.

Attachment

LAW OFFICES
BERNARD P. KELLY & ASSOCIATES

BERNARD P. KELLY
PAUL COSSMAN
STEVEN PRADELL

A PROFESSIONAL CORPORATION
310 K STREET, SUITE 506
ANCHORAGE, ALASKA 99501-2040
(907) 276-3188

Bill?

JAN 28 1988

January 26, 1988

Alaska State Senate
Judiciary Committee
431 North Franklin Street
Juneau, Alaska 99811

JAN 28 1988

Re: Senate Bill 320

Dear Members of the Senate Judiciary Committee:

I vehemently oppose the passage of Senate Bill 320. This bill would change the current law so that any parent who is even the least bit negligent could not recover for the wrongful death of their child. The ramifications of this are severe. Consider the following example. A parent is driving their automobile with one of their minor children as a passenger. They are involved in an automobile accident in which the minor is killed. At a subsequent trial, the parent is found five percent negligent and the defendant driver is found 95 percent negligent. The parent would not be allowed to recover for the wrongful death of their child, since the parent's negligent or wrongful act or omission would be a cause of the death of their child.

Senate Bill 320 would create an open hole in the law which would return us to the old days of contributory negligence where even one percent of negligence on the part of a plaintiff will defeat their entire recovery. The example of an automobile collision is not an unusual one. Please do not allow Senate Bill 320 to hit the Senate floor. It is an inequitable and regressive piece of legislation.

Sincerely yours,

BERNARD P. KELLY & ASSOCIATES


PAUL COSSMAN

PC:kjn
1053n

5-1339B ✓
Ford
1/29/88

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