WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1976

ENROLLED
SENATE BILL NO. 128
(By Mr. (By Mr.)

PASSED March 13, 1976
In Effect immediately from Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/31/76
AN ACT to amend and reenact section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to actions for wrongful death and damages recoverable for wrongful death; distribution of damages; and period of limitation.

Be it enacted by the Legislature of West Virginia:

That section six, article seven, chapter fifty-five of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-6. By whom action for wrongful death to be brought; amount and distribution of damages; period of limitation.

Every such action shall be brought by and in the name of the personal representative of such deceased person who has been duly appointed in this state, or in any other state, territory, or district of the United States, or in any foreign country, and the amount recovered in every such action shall be recovered by said personal representative and be distributed in accordance herewith. If the personal representative was duly appointed in another state, territory, or district of the United States, or in any foreign country, such personal representative shall, at the time of filing of the complaint, post bond with a corporate surety thereon authorized to do business in this state, in the sum of one hundred dollars, conditioned that such
personal representative shall pay all costs adjudged
against him and that he shall comply with the provisions
of this section. The circuit court may increase or decrease
the amount of said bond, for good cause.

In any such action for wrongful death the jury may
award such damages as to it may seem fair and just, and
may direct in what proportion they shall be distributed
to the surviving spouse and children, including adopted
children and stepchildren, and grandchildren of the de-
ceased, or if there be none such, then to the parents,
brothers and sisters of the deceased, if there be none
such, only then to such person or persons who were de-
pendent upon the decedent for support.

The verdict of the jury shall include, but may not be
limited to damages for the following: (a) sorrow, mental
anguish, and solace which may include society, com-
panionship, comfort, guidance, kindly offices and advice
of the decedent; (b) compensation for reasonably ex-
pected loss of (i) income of the decedent, and (ii) ser-
vices, protection, care and assistance provided by the
decedent; (c) expenses for the care, treatment and hos-
pitalization of the decedent incident to the injury
resulting in death; and (d) reasonable funeral expenses.

In its verdict the jury shall set forth separately the
amount of damages, if any, awarded by it for reasonable
funeral, hospital, medical and said other expenses in-
curred as a result of the wrongful act, neglect or default
of the defendant or defendants which resulted in death,
and any such amount recovered for such expenses shall
be so expended by the personal representative.

Every such action shall be commenced within two years
after the death of such deceased person. The provisions
of this section shall not apply to actions brought for the
death of any person occurring prior to July one, one
thousand nine hundred seventy-six.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James E. Slavin
Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

O.H. Shillandler
Clerk of the Senate

J.M. Claree
Clerk of the House of Delegates

President of the Senate

Lawrence T. Manos
Speaker House of Delegates

The within approved this the 29th day of March, 1976.

Rube A. Beery
Governor
PRESENTED TO THE GOVERNOR

Date 3/24/76
Time 3:45 p.m.