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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1976

ENROLLED

SENATE BILL NO. 128

(By Mr. Harold E. Mr. Rogers)

PASSED March 13 1976

In Effect ninety days from Passage

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/31/76

ENROLLED
Senate Bill No. 128
(By MR. WARD and MR. ROGERS)

[Passed March 13, 1976; in effect ninety days from passage.]

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.

1 Every such action shall be brought by and in the name
2 of the personal representative of such deceased person
3 who has been duly appointed in this state, or in any other
4 state, territory, or district of the United States, or in any
5 foreign country, and the amount recovered in every such
6 action shall be recovered by said personal representative
7 and be distributed in accordance herewith. If the per-
8 sonal representative was duly appointed in another
9 state, territory, or district of the United States, or in any
10 foreign country, such personal representative shall, at the
11 time of filing of the complaint, post bond with a corporate
12 surety thereon authorized to do business in this state,
13 in the sum of one hundred dollars, conditioned that such

14 personal representative shall pay all costs adjudged
15 against him and that he shall comply with the provisions
16 of this section. The circuit court may increase or decrease
17 the amount of said bond, for good cause.

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

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

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

44 Every such action shall be commenced within two years
45 after the death of such deceased person. The provisions
46 of this section shall not apply to actions brought for the
47 death of any person occurring prior to July one, one
48 thousand nine hundred seventy-six.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Clarence C. Christensen
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

J. C. Dillon, Jr.
Clerk of the Senate

C. A. Blankenship
Clerk of the House of Delegates

W. B. Robertson
President of the Senate

Lewis T. McManus
Speaker House of Delegates

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

Arch A. Phares, Jr.
Governor



PRESENTED TO THE
GOVERNOR

Date 3/24/76

Time 3:45 p.m.