

Legislative Analysis



CLAIMANTS IN WRONGFUL DEATH ACTION

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5206 as introduced

Sponsor: Rep. Jim Lilly

Committee: Judiciary

Complete to 1-13-20

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 5206 would entitle the child of a person who predeceased his or her spouse to damages in a wrongful death action regarding the stepparent under certain conditions.

When a person dies as a result of another party's negligence or wrongdoing, the deceased's relatives or entities named in the will may sue that party for damages in a wrongful death action. In addition to the deceased person's (decedent's) spouse and children, other relatives entitled to damages under the wrongful death statute include grandchildren, great grandchildren, parents, grandparents, brothers and sisters, and some stepchildren. According to Michigan appellate court decisions,¹ a stepchild may be entitled to wrongful death damages regarding the stepparent if his or her parent was married to the stepparent at the time of the stepparent's death. A stepchild whose parent dies before the stepparent is not entitled to such damages, as the court considers a stepchild to no longer be a child "of the decedent's spouse" because the parent's death terminated the marriage.

House Bill 5206 would amend the portion of the Revised Judicature Act known as the wrongful death statute to specify that "children of the decedent's spouse" includes the children of a spouse who survives the decedent, and also includes the children whose parent died before the decedent but who was still married at that time. The bill also specifies that the term would not include an individual from whom the decedent was divorced at the time of the decedent's death. In addition, the bill would make numerous revisions of an editorial, rather than a substantive, nature.

MCL 600.2922

FISCAL IMPACT:

The bill would have no fiscal implications for the state or local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.

¹ *Hamilton v Elser (In re Combs)*, 257 Mich App 622 (2013); *Carter v Persinger (In re Estate of Cliffman)*, 499 Mich 874 (2016); and *In re Estate of Cliffman*, Docket No. SC: 151998 (April 17, 2017).