

HOUSE BILL No. 2183

By Committee on Judiciary

1-25

1 AN ACT concerning civil actions; relating to wrongful death actions;
2 removing the cap on the amount of damages that may be awarded;
3 amending K.S.A. 60-1903 and 60-1904 and repealing the existing
4 sections.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 60-1903 is hereby amended to read as follows: 60-
8 1903. (a) In any wrongful death action, the court or jury may award such
9 damages as are found to be fair and just under all the facts and
10 circumstances, ~~but the damages, other than pecuniary loss sustained by an~~
11 ~~heir at law, cannot exceed in the aggregate the sum of \$250,000 and costs.~~

12 ~~(b) If a wrongful death action is to a jury, the court shall not instruct~~
13 ~~the jury on the monetary limitation imposed by subsection (a) upon~~
14 ~~recovery of damages for nonpecuniary loss. If the jury verdict results in an~~
15 ~~award of damages for nonpecuniary loss which, after deduction of any~~
16 ~~amounts pursuant to K.S.A. 60-258a and amendments thereto, exceeds the~~
17 ~~limitation of subsection (a), the court shall enter judgment for damages of~~
18 ~~\$250,000 for nonpecuniary loss.~~

19 (e) In any wrongful death action, the verdict shall be itemized by the
20 trier of fact to reflect the amounts, if any, awarded for:

- 21 (1) Nonpecuniary damages;
22 (2) expenses for the care of the deceased caused by the injury; and
23 (3) pecuniary damages other than those itemized under subsection ~~(e)~~
24 ~~(2) (b)(2).~~

25 (d) Where applicable, the amounts required to be itemized pursuant to
26 subsections ~~(e)(1) (b)(1)~~ and ~~(e)(3) (b)(3)~~ shall be further itemized by the
27 trier of fact to reflect those amounts awarded for injuries and losses
28 sustained to date and those awarded for injuries and losses reasonably
29 expected to be sustained in the future.

30 (e) In any wrongful death action, the trial court shall instruct the jury
31 only on those items of damage upon which there is some evidence to base
32 an award.

33 Sec. 2. K.S.A. 60-1904 is hereby amended to read as follows: 60-
34 1904. (a) Damages may be recovered for, but are not limited to:

- 35 (1) Mental anguish, suffering or bereavement;
36 (2) loss of society, companionship, comfort or protection;

- 1 (3) loss of marital care, attention, advice or counsel;
- 2 (4) loss of filial care or attention;
- 3 (5) loss of parental care, training, guidance or education; and
- 4 (6) reasonable funeral expenses for the deceased.

5 (b) If no probate administration for the estate of the deceased has
6 been commenced, expenses for the care of the deceased which resulted
7 from the wrongful act may also be recovered by any one of the heirs who
8 paid or became liable for them. ~~Those expenses and any amount recovered~~
9 ~~for funeral expenses shall not be included in the limitation of K.S.A. 60-~~
10 ~~1903 and amendments thereto.~~

11 Sec. 3. K.S.A. 60-1903 and 60-1904 are hereby repealed.

12 Sec. 4. This act shall take effect and be in force from and after its
13 publication in the statute book.