



REPUBLICAN CAUCUS STAFF
HOUSE OF REPRESENTATIVES
STATE CAPITOL
DES MOINES, IOWA 50319
515.281.3440
IOWAHOUSEREPUBLICANS.COM

House Republican Staff Analysis

Bill: HF 758
Committee: Judiciary
Date: 3/23/09
Staff: Tony Phillips (1-3026)

Summary

A bill that expands the types of recovery plaintiffs can seek in wrongful death cases and will result in much higher damage amounts being awarded.

Summary of Action

- Passed out of subcommittee 3/5/09
 - Passed out of committee 3/12/09
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Section by Section Analysis

Section 1 – Strikes current and somewhat outdated language and provides that a spouse or child may recover for the expense and actual loss of support, services, companionship, and society resulting from injury to or death of a person.

- Loss of companionship and society are new forms of recovery that are very subjective.
- This section is not limited to wrongful death cases, it is applicable to negligent injury cases as well.

Section 2 – Damages for Wrongful Death

1. Would allow plaintiffs to seek recovery for the decedent's "loss of enjoyment of life" in wrongful death cases.
 - Only five other states in the nation have a law like this.
 - The type of testimony presented in these kinds of cases hinges on very subjective information used to calculate the value of the persons life and will often involve expert testimony from economists who specialize in these cases.
 - A leading economist and proponent of these kinds of damages estimates the average award should be \$4,000,000, much higher than the current awards granted in a wrongful death claim.
2. Clarifies that "loss of enjoyment of life" is a separate dollar figure from the loss of economic productive value of the decedent.