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HOUSE BILL NO. 1221

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 8.01-53 of the Code of Virginia, relating to the distribution of the award resulting from a wrongful death action.

Patron—Barlow

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-53 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-53. Class and beneficiaries; when determined.

A. Except where the decedent dies testate, the damages awarded pursuant to § 8.01-52 shall be distributed as specified under § 8.01-54 to (i) the surviving spouse, children of the deceased and children of any deceased child of the deceased or (ii) if there be none such, then to the parents, brothers and sisters of the deceased, and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (iii) if the decedent has left both surviving spouse and parent or parents, but no child or grandchild, the award shall be distributed to the surviving spouse and such parent or parents or (iv) if there are survivors under clause (i) or clause (iii), the award shall be distributed to those beneficiaries and to any other relative who is primarily dependent on the decedent for support or services and is also a member of the same household as the decedent or (v) if no survivors exist under clause (i), (ii), (iii), or (iv), the award shall be distributed in the course of descents as provided for in § 64.1-1. Where the decedent dies testate, the award shall be distributed in accordance with the provisions of the decedent's will pursuant to Chapter 3 (§ 64.1-45 et seq.) of Title 64.1. Provided, however, no parent whose parental rights and responsibilities have been terminated by a court of competent jurisdiction or pursuant to a permanent entrustment agreement with a child welfare agency shall be eligible as a beneficiary under this section. For purposes of this section, a relative is any person related to the decedent by blood, marriage, or adoption and also includes a stepchild of the decedent.

B. The class and beneficiaries thereof eligible to receive such distribution shall be fixed (i) at the time the verdict is entered if the jury makes the specification, or (ii) at the time the judgment is rendered if the court specifies the distribution.

C. A beneficiary may renounce his interest in any claim brought pursuant to § 8.01-50 and, in such event, the damages shall be distributed to the beneficiaries in the same class as the renouncing beneficiary or, if there are none, to the beneficiaries in any subsequent class in the order of priority set forth in subsection A.

INTRODUCED

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