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## HOUSE BILL NO. 2977

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 8.01-53 and 8.01-54 of the Code of Virginia, relating to the distribution of damages awarded in a wrongful death action.

Patron—Bell

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-53 and 8.01-54 of the Code of Virginia are amended and reenacted as follows:**

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

A. ~~The~~*In the event that the decedent dies intestate*, 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 decedent's estate, and the award shall be distributed~~*dispersed* in the course of descents as provided for in § 64.1-1. *In the event that the decedent dies testate, the award shall be distributed to the decedent's estate and be dispersed 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.

§ 8.01-54. Judgment to distribute recovery when verdict fails to do so.

A. The verdict may and the judgment of the court shall in all cases specify the amount or the proportion to be received by each of the beneficiaries ~~distributed to the decedent's estate~~, if there be any. No verdict shall be set aside for failure to make such specification.

B. If either party shall so request the case shall be submitted to the jury with instructions to specify the distribution of the award, if any. If the jury be unable to agree upon or fail to make such distribution, the court shall specify the distribution and enter judgment accordingly. For the purpose of distribution the court may hear additional evidence.

C. The amount recovered in any such action shall be paid to the personal representative who shall first pay the costs and reasonable attorney's fees and then distribute the amount specifically allocated to the payment of hospital, medical, and funeral expenses. The remainder of the amount recovered shall thereafter be ~~distributed~~*dispersed* by the personal representative, as specified in subsections A and B above, to the ~~beneficiaries~~*decedent's estate* as set forth in § 8.01-53; provided that any ~~distribution~~*dispersement* made to any such beneficiaries ~~estate~~ shall be free from all debts and liabilities of the decedent. If there be no such beneficiaries, the amount so recovered shall be assets in the hands of the personal representative to be disposed of according to law.

INTRODUCED

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