

LD4768308

HOUSE BILL NO. 1558

Offered January 11, 1995

A BILL to amend and reenact § 8.01-55 of the Code of Virginia, relating to compromise of claim for wrongful death.

Patrons—Johnson, Almand, Bennett, Brickley, Cohen, Copeland, Cranwell, Davies, Jackson, Jones, J.C.,
Melvin, Moore, Murphy, Phillips, Reynolds, Stump and Woodrum

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 8.01-55 of the Code of Virginia is amended and reenacted as follows:**

§ 8.01-55. Compromise of claim for death by wrongful act.

The personal representative of the deceased may compromise any claim to damages arising under or by virtue of § 8.01-50, including claims under the provision of a liability insurance policy, before or after *an* action is brought, with the approval of the court ~~wherein any such in which the~~ action has been ~~was~~ brought, or if ~~none has~~ *an action has not* been brought, with the consent of any circuit court. Such approval may be applied for on petition to such court, by the personal representative, or by any potential defendant, or by any interested insurance carrier. If ~~such~~ a potential defendant or any insurance carrier petitions the court for approval, the personal representative shall be made a party to the proceeding. The petition shall state the compromise, ~~the its~~ terms thereof and the reason therefor, ~~and the~~. The court shall require the convening of the parties in interest in person or by their authorized representative, but it shall not be necessary to convene grandchildren whose living parents are made parties to the proceeding. *The parties in interest shall be deemed to be convened if each such party (i) endorses the order by which the court approves the compromise or (ii) is given notice of the hearing and proposed compromise as provided in § 8.01-296 if a resident of the Commonwealth or as provided in § 8.01-320 if a nonresident, or is otherwise given reasonable notice of the hearing and proposed compromise as may be required by the court.*

If the court approves the compromise, and the parties in interest do not agree upon the distribution to be made of what has been or may be received by the personal representative under such compromise, or if any of them are incapable of making a valid agreement, the court shall direct such distribution as a jury might direct under § 8.01-52 as to damages awarded by them. In other respects, what is received by the personal representative under the compromise shall be treated as if recovered by him in an action under § 8.01-52.

INTRODUCED

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