

**WRONGFUL DEATH AMENDMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Scott D. McCoy**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill expands the definition of "heirs" to include a wrongful death designee.

**Highlighted Provisions:**

This bill:

▶ defines wrongful death designee as a person who:

• is designated as the only wrongful death heir in the decedent's will, trust, or other notarized written directive; and

• has been adjudicated by a court of competent jurisdiction, by clear and convincing evidence, to have had a mutual supportive and dependent relationship with the decedent.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**78-11-6.5**, as last amended by Laws of Utah 1998, Chapter 39

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **78-11-6.5** is amended to read:



28 **78-11-6.5. Definition of heir.**29 (1) As used in Sections 78-11-7, 78-11-8, and 78-11-12~~["heirs"]~~;30 (a) "Heirs" means~~[-(1)]~~ the following surviving persons:31 ~~[(a)]~~ (i) (A) the decedent's spouse; or32 (B) if no spouse, the decedent's wrongful death designee as defined in Subsection (2);33 ~~[(b)]~~ (ii) the decedent's children as provided in Section 75-2-114;34 (iii) the decedent's stepchildren who:35 (A) are in their minority at the time of decedent's death; and36 (B) are primarily financially dependent on the decedent; and37 ~~[(c)]~~ (iv) the decedent's natural parents, or if the decedent was adopted, then ~~[his]~~ the38 decedent's adoptive parents~~[-];~~39 ~~[(d)]~~ ~~the decedent's stepchildren who:~~40 ~~[(i)]~~ ~~are in their minority at the time of decedent's death; and]~~41 ~~[(ii)]~~ ~~are primarily financially dependent on the decedent.]~~42 ~~[(2)]~~ (b) "Heirs" ~~[means]~~ includes any blood relative as provided ~~[by the law of~~43 intestate succession if] in Title 75, Chapter 2, Intestate Succession and Wills, only when the44 decedent is not survived by [a] at least one person under [Subsections] Subsection (1)(a)~~[-(b);~~45 ~~or-(c)].~~

46 (2) "Wrongful death designee" means a person who:

47 (a) is designated as the sole wrongful death heir in the decedent's will, trust, or other48 notarized written directive; and49 (b) has been adjudicated by a court of competent jurisdiction, by clear and convincing50 evidence, to have had a mutual supportive and dependent relationship with the decedent.51 (3) In determining whether a person has been in a mutually supportive and dependent52 relationship with the decedent, a court of competent jurisdiction must find by clear and53 convincing evidence that, at the time of the decedent's death:54 (a) the person was cohabiting with the decedent as defined in Subsection 30-6-1(2)(b)55 for a period of at least five years;56 (b) the decedent designated the person as the beneficiary of the decedent's:57 (i) life insurance policy;58 (ii) retirement benefit; or

59           (iii) will or trust;  
60           (c) the person and decedent comingled assets and shared liabilities; and  
61           (d) if the person or decedent own a residence, they own the residence jointly.  
62           (4) A finding by a court of competent jurisdiction that a person is a wrongful death  
63 designee is for the purposes of this section only. Neither a grant of standing under this section,  
64 nor anything else in this section, nor any finding by the court under this section may be  
65 construed as recognizing or treating a mutually supportive and dependent relationship as a  
66 marriage, civil union, domestic partnership, or any other legal or relationship status that intends  
67 to approximate the design, qualities, significance, or effect of marriage as defined in Article I,  
68 Section 29 of the Utah Constitution.

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**Legislative Review Note**  
as of 1-22-08 10:04 AM

**Office of Legislative Research and General Counsel**