

HOUSE BILL NO. 227

INTRODUCED BY W. MCNUTT

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A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THAT ECONOMIC CONSUMPTION BE DEDUCTED FROM AN AWARD OF DAMAGES FOR FUTURE LOST EARNINGS IN A SURVIVOR ACTION; AMENDING SECTION 27-1-501, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-1-501, MCA, is amended to read:

"27-1-501. Survival of cause of action or defense -- death or disability or transfer of interest. (1)

An action, cause of action, or defense does not abate because of the death or disability of a person who is a party to the action, cause of action, or defense or because of the transfer of any interest ~~therein~~ in the action, but whenever the cause of action or defense arose in favor of ~~such party~~ the person prior to ~~his~~ the person's death or disability or transfer of interest ~~therein~~ in the action, it the action survives and may be maintained by ~~his~~ the person's representatives or successors in interest. If the action has not been begun or a defense has not been interposed, the action may be begun or a defense may be interposed in the name of ~~his~~ the person's representatives or successors in interest. If the action has been begun or a defense has been interposed, the action or proceeding may be continued as provided in Rule 25, M.R.Civ.P.

(2) Actions brought under ~~this section and~~ 27-1-513 and this section must be combined in one legal action, and any element of damages may be recovered only once.

(3) If, in an action to which this section applies, damages are awarded for a deceased person's future lost earnings, the deceased person's economic consumption must be deducted from the award. Economic consumption is the amount of the projected earnings that the deceased person would have spent on basic necessities and personal expenditures throughout the person's lifetime."

NEW SECTION. **Section 2. Applicability.** [This act] applies to civil actions begun on or after October 1, 2009.

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