

ASSEMBLY BILL

No. 2862

Introduced by Assembly Member Migden

February 25, 2002

An act to amend Section 377.60 of the Code of Civil Procedure, relating to wrongful death.

LEGISLATIVE COUNSEL'S DIGEST

AB 2862, as introduced, Migden. Wrongful death: actions.

Existing law provides that a cause of action for the death of a person caused by the wrongful act or neglect of another may be brought by specified parties, including the decedent's surviving spouse, domestic partner, children, and the issue of deceased children.

This bill would make technical and clarifying changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 377.60 of the Code of Civil Procedure
2 is amended to read:
3 377.60. (a) A cause of action for the death of a person caused
4 by the wrongful act or neglect of another may be asserted by any
5 of the following persons or by the decedent's personal
6 representative on their behalf:
7 ~~(a)~~
8 (1) The decedent's surviving spouse;.
9 (2) *The decedent's* domestic partner;.

1 (3) *The decedent’s children; and the issue of deceased children;*
2 ~~or, if.~~

3 (4) *If there ~~is~~ are no surviving children or issue of the decedent*
4 *under paragraph (3), the persons, including the surviving spouse*
5 ~~*or domestic partner,*~~ *who would be entitled to the property of the*
6 *decedent by intestate succession.*

7 ~~(b) Whether or not qualified under subdivision (a), if they were~~
8 ~~*dependent on the decedent, the*~~

9 (5) *The putative spouse, children of the putative spouse,*
10 *stepchildren, or parents, if they were dependent on the decedent.*

11 As used in this subdivision, “putative spouse” means the
12 surviving spouse of a void or voidable marriage who is found by
13 the court to have believed in good faith that the marriage to the
14 decedent was valid.

15 ~~(e)~~

16 (6) A minor, ~~whether or not qualified under subdivision (a) or~~
17 ~~(b),~~ if, at the time of the decedent’s death, the minor resided for the
18 previous 180 days in the decedent’s household and was dependent
19 on the decedent for one-half or more of the minor’s support.

20 ~~(d)~~

21 (b) This section applies to any cause of action arising on or after
22 January 1, 1993.

23 ~~(e)~~

24 (c) The addition of this section by Chapter 178 of the Statutes
25 of 1992 was not intended to adversely affect the standing of any
26 party having standing under prior law, and the standing of parties
27 governed by that version of this section as added by Chapter 178
28 of the Statutes of 1992 shall be the same as specified herein as
29 amended by Chapter 563 of the Statutes of 1996.

30 ~~(f)~~

31 (d) For the purpose of this section, “domestic ~~partners”~~
32 *partner*” has the meaning provided in Section 297 of the Family
33 Code.

