

AN ACT
RELATING TO CIVIL ACTIONS; CHANGING THE DISTRIBUTION OF
PROCEEDS FROM WRONGFUL DEATH JUDGMENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 41-2-3 NMSA 1978 (being Laws 1882, Chapter 61, Section 3, as amended) is amended to read:

"41-2-3. PERSONAL REPRESENTATIVE TO BRING ACTION-- DAMAGES-- DISTRIBUTION OF PROCEEDS. --Every action mentioned in Section 41-2-1 NMSA 1978 shall be brought by and in the name of the personal representative of the deceased person, and the jury in every such action may give such damages, compensatory and exemplary, as they deem fair and just, taking into consideration the pecuniary injury resulting from the death to the surviving party entitled to the judgment, or any interest in the judgment, recovered in such action and also having regard to the mitigating or aggravating circumstances attending the wrongful act, neglect or default. The proceeds of any judgment obtained in any such action shall not be liable for any debt of the deceased; provided the decedent has left a spouse, child, father, mother, brother, sister or child or children of the deceased child, as defined in the New Mexico Probate Code, but shall be distributed as follows:

A. if there is a surviving spouse and no child,

then to the spouse;

B. if there is a surviving spouse and a child or grandchild, then one-half to the surviving spouse and the remaining one-half to the children and grandchildren, the grandchildren taking by right of representation;

C. if there is no husband or wife, but a child or grandchild, then to such child and grandchild by right of representation;

D. if the deceased is a minor, childless and unmarried, then to the father and mother who shall have an equal interest in the judgment, or if either of them is dead, then to the survivor;

E. if there is no father, mother, husband, wife, child or grandchild, then to a surviving brother or sister if there are any; and

F. if there is no kindred as named in Subsections A through E of this section, then the proceeds of the judgment shall be disposed of in the manner authorized by law for the disposition of the personal property of deceased persons. "
