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HOUSE BILL 216

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Anna M Crook

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 [such] action [as]
mentioned in Section [1821-(36-102)] 41-2-1 NMSA 1978 shall be
brought by and in the name [or-names] of the personal
representative [or-representatives] of [such] the deceased
person, and the jury in every such action may give such
damages, compensatory and exemplary, as they [shall] deem fair
and just, taking into consideration the pecuniary injury [or
injuries] resulting from [such] the death to the surviving

underscored material = new
[bracketed material] = delete

underscored material = new
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1 party [~~or parties~~] entitled to the judgment, or any interest
2 [~~therein~~] in the judgment, recovered in such action and also
3 having regard to the mitigating or aggravating circumstances
4 attending [~~such~~] the wrongful act, neglect or default. The
5 proceeds of any judgment obtained in any such action shall not
6 be liable for any debt of the deceased; provided [~~he or she~~
7 ~~shall have~~] the deceased has left a husband, wife, child,
8 father, mother, brother, sister or child or children of the
9 deceased child, but shall be distributed as follows:

10 [~~First.~~] A. if there [~~be~~] is a surviving husband
11 or wife and no child, then to [~~such~~] the husband or wife;

12 B. if there [~~be~~] is a surviving husband or wife
13 and a child [~~or children or grandchildren, then equally to~~
14 ~~each~~] or grandchild, then one-half to the surviving spouse and
15 the remaining one-half to the children and grandchildren,
16 the [~~grandchild or~~] grandchildren taking by right of
17 representation;

18 C. if there [~~be~~] is no husband or wife, but a
19 child [~~or children~~] or grandchild [~~or grandchildren~~], then to
20 such child [~~or children~~] and grandchild [~~or grandchildren~~] by
21 right of representation;

22 D. if [~~such~~] the deceased [~~be~~] is a minor,
23 childless and unmarried, then to the father and mother who
24 shall have an equal interest in the judgment, or if either of
25 them [~~be~~] is dead, then to the survivor;

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[bracketed material] = delete

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

F. if there [~~be none of the~~] is no kindred [~~hereinbefore~~] as named in Subsections A through E of this section, then the proceeds of [~~such~~] the judgment shall be disposed of in the manner authorized by law for the disposition of the personal property of deceased persons. "