

# 2A:31-4

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2007      **CHAPTER:** 261

**NJSA:** 2A:31-4      (Amends wrongful death act to clarify that surviving children continue to share in any recovery awarded under that act)

**BILL NO:** S68      (Substituted for A2632)

**SPONSOR(S):** Adler and Reed

**DATE INTRODUCED:** January 10, 2006

**COMMITTEE:**      **ASSEMBLY:** Judiciary

**SENATE:** Judiciary

**AMENDED DURING PASSAGE:** No

**DATE OF PASSAGE:**      **ASSEMBLY:** January 7, 2008

**SENATE:** December 17, 2007

**DATE OF APPROVAL:** January 13, 2008

### FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (Original version of bill enacted)

#### S68

**[SPONSOR'S STATEMENT:](#)** (Begins on page 3 of original bill)      [Yes](#)

**COMMITTEE STATEMENT:**      **[ASSEMBLY:](#)**      [Yes](#)

**[SENATE:](#)**      [Yes](#)

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

#### A2632

**[SPONSOR'S STATEMENT:](#)** (Begins on page 3 of original bill)      [Yes](#)

**COMMITTEE STATEMENT:**      **[ASSEMBLY:](#)**      [Yes](#)

**SENATE:** No

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** No

**FOLLOWING WERE PRINTED:**

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

IS 5/29/08

P.L. 2007, CHAPTER 261, *approved January 13, 2008*

Senate, No. 68

(Corrected Copy)

1 AN ACT concerning wrongful death actions and amending  
2 N.J.S.2A:31-4 and N.J.S.2A:31-5.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. N.J.S.2A:31-4 is amended to read as follows:

8 2A:31-4. Persons entitled to amount recovered

9 The amount recovered in proceedings under this chapter shall be  
10 for the exclusive benefit of the persons entitled to take any intestate  
11 personal property of the decedent, and in the proportions in which  
12 they are entitled to take the same except if there is a surviving  
13 spouse of the decedent and one or more surviving descendants of  
14 the decedent they shall be entitled to equal proportions for purposes  
15 of recovery under this chapter notwithstanding the provisions of  
16 Title 3B of the New Jersey Statutes. If any of the persons so  
17 entitled in accordance with this section were dependent on the  
18 decedent at his death, they shall take the same as though they were  
19 sole persons so entitled, in such proportions, as shall be determined  
20 by the court without a jury, and as will result in a fair and equitable  
21 apportionment of the amount recovered, among them, taking into  
22 account in such determination, but not limited necessarily thereby,  
23 the age of the dependents, their physical and mental condition, the  
24 necessity or desirability of providing them with educational  
25 facilities, their financial condition and the availability to them of  
26 other means of support, present and future, and any other relevant  
27 factors which will contribute to a fair and equitable apportionment  
28 of the amount recovered.

29 (cf:P.L.1960, c.194, s.1)

30

31 2. N.J.S.2A:31-5 is amended to read as follows:

32 2A:31-5. Assessment of damages by jury

33 In every action brought under the provisions of this chapter the  
34 jury may give such damages as they shall deem fair and just with  
35 reference to the pecuniary injuries resulting from such death,  
36 together with the hospital, medical and funeral expenses incurred  
37 for the deceased, to the persons entitled to any intestate personal  
38 property of the decedent in accordance with the provisions of  
39 N.J.S.2A:31-4.

40 (cf:P.L.1967, c.307, s.1)

41

42 3. This act shall take effect immediately and shall be retroactive  
43 to February 27, 2005.

**EXPLANATION** – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

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STATEMENT

This bill amends certain provisions of the wrongful death act to clarify that changes made by P.L.2004, c.132 to the intestacy provisions of the probate code were not intended to impede recovery by children in wrongful death actions.

N.J.S. 2A:31-4 currently provides that the amount recovered in wrongful death proceedings shall be for the exclusive benefit of the persons entitled to take any intestate personal property of the decedent, and in the proportions in which they are entitled to take the same. P.L.2004, c.132 changes the statutes governing intestacy to make the entire estate pass to the surviving spouse of the decedent if there is a surviving spouse. The unintended consequence of that change is that in wrongful death cases where there is a spouse and children the children are not "persons entitled to take any intestate personal property of the decedent." This bill provides that if there is a surviving spouse of the decedent and one or more surviving descendants of the decedent they shall be entitled to equal proportions for purposes of recovery under wrongful death actions notwithstanding the provisions of Title 3B of the New Jersey Statutes (the probate code).

The bill leaves intact the applicability of intestate share proportions for other situations such as if there is no surviving spouse in which case the estate passes to the decedent's descendants by representation. (See subsection a. of N.J.S.A.3B:5-4)

The bill takes effect immediately but is made retroactive to the date the provisions of P.L.2004, c.132 took effect.

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Amends wrongful death act to clarify that surviving children continue to share in any recovery awarded under that act.

[Corrected Copy]

**SENATE, No. 68**

**STATE OF NEW JERSEY**  
**212th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2006 SESSION

**Sponsored by:**

**Senator JOHN H. ADLER**

**District 6 (Camden)**

**Assemblyman REED GUSCIORA**

**District 15 (Mercer)**

**Co-Sponsored by:**

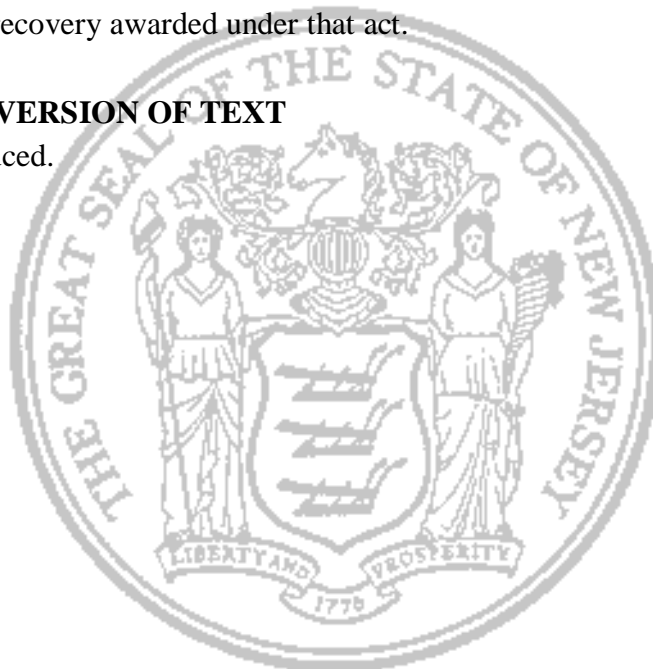
**Assemblyman Fisher**

**SYNOPSIS**

Amends wrongful death act to clarify that surviving children continue to share in any recovery awarded under that act.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/8/2008)**

S68 ADLER

2

1 AN ACT concerning wrongful death actions and amending  
2 N.J.S.2A:31-4 and N.J.S.2A:31-5.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. N.J.S.2A:31-4 is amended to read as follows:

8 2A:31-4. Persons entitled to amount recovered

9 The amount recovered in proceedings under this chapter shall be  
10 for the exclusive benefit of the persons entitled to take any intestate  
11 personal property of the decedent, and in the proportions in which  
12 they are entitled to take the same except if there is a surviving  
13 spouse of the decedent and one or more surviving descendants of  
14 the decedent they shall be entitled to equal proportions for purposes  
15 of recovery under this chapter notwithstanding the provisions of  
16 Title 3B of the New Jersey Statutes. If any of the persons so  
17 entitled in accordance with this section were dependent on the  
18 decedent at his death, they shall take the same as though they were  
19 sole persons so entitled, in such proportions, as shall be determined  
20 by the court without a jury, and as will result in a fair and equitable  
21 apportionment of the amount recovered, among them, taking into  
22 account in such determination, but not limited necessarily thereby,  
23 the age of the dependents, their physical and mental condition, the  
24 necessity or desirability of providing them with educational  
25 facilities, their financial condition and the availability to them of  
26 other means of support, present and future, and any other relevant  
27 factors which will contribute to a fair and equitable apportionment  
28 of the amount recovered.

29 (cf:P.L.1960, c.194, s.1)

30

31 2. N.J.S.2A:31-5 is amended to read as follows:

32 2A:31-5. Assessment of damages by jury

33 In every action brought under the provisions of this chapter the  
34 jury may give such damages as they shall deem fair and just with  
35 reference to the pecuniary injuries resulting from such death,  
36 together with the hospital, medical and funeral expenses incurred  
37 for the deceased, to the persons entitled to any intestate personal  
38 property of the decedent in accordance with the provisions of  
39 N.J.S.2A:31-4.

40 (cf:P.L.1967, c.307, s.1)

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42 3. This act shall take effect immediately and shall be retroactive  
43 to February 27, 2005.

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.**

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STATEMENT

This bill amends certain provisions of the wrongful death act to clarify that changes made by P.L.2004, c.132 to the intestacy provisions of the probate code were not intended to impede recovery by children in wrongful death actions.

N.J.S. 2A:31-4 currently provides that the amount recovered in wrongful death proceedings shall be for the exclusive benefit of the persons entitled to take any intestate personal property of the decedent, and in the proportions in which they are entitled to take the same. P.L.2004, c.132 changes the statutes governing intestacy to make the entire estate pass to the surviving spouse of the decedent if there is a surviving spouse. The unintended consequence of that change is that in wrongful death cases where there is a spouse and children the children are not "persons entitled to take any intestate personal property of the decedent." This bill provides that if there is a surviving spouse of the decedent and one or more surviving descendants of the decedent they shall be entitled to equal proportions for purposes of recovery under wrongful death actions notwithstanding the provisions of Title 3B of the New Jersey Statutes (the probate code).

The bill leaves intact the applicability of intestate share proportions for other situations such as if there is no surviving spouse in which case the estate passes to the decedent's descendants by representation. (See subsection a. of N.J.S.A.3B:5-4)

The bill takes effect immediately but is made retroactive to the date the provisions of P.L.2004, c.132 took effect.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**SENATE, No. 68**

**STATE OF NEW JERSEY**

DATED: JANUARY 3, 2008

The Assembly Judiciary Committee reports favorably Senate Bill No.68.

This bill amends certain provisions of the wrongful death act to clarify that changes made by P.L.2004, c.132 to the intestacy provisions of the probate code were not intended to impede recovery by children in wrongful death actions.

N.J.S.2A:31-4 currently provides that the amount recovered in wrongful death proceedings shall be for the exclusive benefit of the persons entitled to take any intestate personal property of the decedent, and in the proportions in which they are entitled to take the same. P.L.2004, c.132 changes the statutes governing intestacy to make the entire estate pass to the surviving spouse of the decedent if there is a surviving spouse. The unintended consequence of that change is that in wrongful death cases where there is a spouse and children the children are not "persons entitled to take any intestate personal property of the decedent." This bill provides that if there is a surviving spouse of the decedent and one or more surviving descendants of the decedent they shall be entitled to equal proportions for purposes of recovery under wrongful death actions notwithstanding the provisions of Title 3B of the New Jersey Statutes (the probate code).

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The bill takes effect immediately but is made retroactive to the date the provisions of P.L.2004, c.132 took effect.

This bill is identical to Assembly Bill No. 2632.



# SENATE JUDICIARY COMMITTEE

## STATEMENT TO

### SENATE, No. 68

# STATE OF NEW JERSEY

DATED: DECEMBER 10, 2007

The Senate Judiciary Committee reports favorably Senate Bill No. 68.

This bill amends certain provisions of the wrongful death act to clarify that changes made by P.L.2004, c.132 to the intestacy provisions of the probate code were not intended to impede recovery by children in wrongful death actions.

N.J.S.A.2A:31-4 currently provides that the amount recovered in wrongful death proceedings shall be for the exclusive benefit of the persons entitled to take any intestate personal property of the decedent, and in the proportions in which they are entitled to take the same. P.L.2004, c.132 changes the statutes governing intestacy to make the entire estate pass to the surviving spouse of the decedent if there is a surviving spouse. The unintended consequence of that change is that in wrongful death cases where there is a spouse and children the children are not "persons entitled to take any intestate personal property of the decedent." This bill provides that if there is a surviving spouse of the decedent and one or more surviving descendants of the decedent they shall be entitled to equal proportions for purposes of recovery under wrongful death actions notwithstanding the provisions of Title 3B of the New Jersey Statutes (The Probate Code).

The bill leaves intact the applicability of intestate share proportions for other situations such as if there is no surviving spouse, in which case the estate passes to the decedent's descendants by representation. (Subsection a. of N.J.S.A.3B:5-4)

The bill takes effect immediately but is made retroactive to the date the provisions of P.L.2004, c.132 took effect.

# ASSEMBLY, No. 2632

## STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED FEBRUARY 23, 2006

**Sponsored by:**

**Assemblyman REED GUSCIORA**  
**District 15 (Mercer)**

**Co-Sponsored by:**

**Assemblyman Fisher**

**SYNOPSIS**

Amends wrongful death act to clarify that surviving children continue to share in any recovery awarded under that act.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 1/8/2008)**

A2632 GUSCIORA

2

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39 2A:31-4.

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The bill leaves intact the applicability of intestate share proportions for other situations such as if there is no surviving spouse in which case the estate passes to the decedent's descendants by representation. (See subsection a. of N.J.S.A. 3B:5-4)

The bill takes effect immediately but is made retroactive to the date the provisions of P.L.2004, c.132 took effect.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 2632**

**STATE OF NEW JERSEY**

DATED: JANUARY 3, 2008

The Assembly Judiciary Committee reports favorably Assembly Bill No.2632.

This bill amends certain provisions of the wrongful death act to clarify that changes made by P.L.2004, c.132 to the intestacy provisions of the probate code were not intended to impede recovery by children in wrongful death actions.

N.J.S.2A:31-4 currently provides that the amount recovered in wrongful death proceedings shall be for the exclusive benefit of the persons entitled to take any intestate personal property of the decedent, and in the proportions in which they are entitled to take the same. P.L.2004, c.132 changes the statutes governing intestacy to make the entire estate pass to the surviving spouse of the decedent if there is a surviving spouse. The unintended consequence of that change is that in wrongful death cases where there is a spouse and children the children are not "persons entitled to take any intestate personal property of the decedent." This bill provides that if there is a surviving spouse of the decedent and one or more surviving descendants of the decedent they shall be entitled to equal proportions for purposes of recovery under wrongful death actions notwithstanding the provisions of Title 3B of the New Jersey Statutes (the probate code).

The bill leaves intact the applicability of intestate share proportions for other situations such as if there is no surviving spouse in which case the estate passes to the decedent's descendants by representation. (See subsection a. of N.J.S.A.3B:5-4)

The bill takes effect immediately but is made retroactive to the date the provisions of P.L.2004, c.132 took effect.

This bill is identical to Senate Bill No. 68 which passed the Senate on December 17, 2007.