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LAW/RWH

SENATE, No. 2763

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 4, 2009

Sponsored by:

Senator GERALD CARDINALE

District 39 (Bergen)

Senator PAUL A. SARLO

District 36 (Bergen, Essex and Passaic)

Assemblyman DAVID C. RUSSO

District 40 (Bergen, Essex and Passaic)

Co-Sponsored by:

Senator Beck

SYNOPSIS

Eliminates statute of limitations in cases brought under the “Survivor’s Act” where the death resulted from murder or manslaughter under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/12/2010)

1 AN ACT concerning certain civil actions and amending
2 N.J.S.2A:15-3.

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:15-3 is amended to read as follows:

8 2A:15-3. Executors and administrators may have an action for
9 any trespass done to the person or property, real or personal, of
10 their testator or intestate against the trespasser, and recover their
11 damages as their testator or intestate would have had if he was
12 living.

13 In those actions based upon the wrongful act, neglect, or default
14 of another, where death resulted from injuries for which the
15 deceased would have had a cause of action if he had lived, the
16 executor or administrator may recover all reasonable funeral and
17 burial expenses in addition to damages accrued during the lifetime
18 of the deceased.

19 Every action brought under this chapter shall be commenced
20 within two years after the death of the decedent, and not thereafter,
21 provided, however, that if the death resulted from murder,
22 aggravated manslaughter or manslaughter for which the defendant
23 has been convicted, found not guilty by reason of insanity or
24 adjudicated delinquent, the action may be brought at any time.

25 (cf: P.L.1969, c. 266, s. 1)

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27 2. This act shall take effect immediately and shall apply to any
28 action pending or filed on or after the effective date including
29 actions filed where the murder, aggravated manslaughter or
30 manslaughter occurred prior to the effective date of this act.

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STATEMENT

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35 This bill would amend the "Survivor's Act," set out in
36 N.J.S.A.2A:15-3, concerning certain wrongful death lawsuits.

37 The "Wrongful Death Act," set out in N.J.S.A.2A:31-1 et seq.,
38 provides that civil suits against persons who cause the wrongful
39 death of another must be brought within two years of the death.
40 P.L.2000, c.157 amended the statute to make an exception for
41 deaths caused by murder, aggravated manslaughter or manslaughter.
42 In these cases, the statute of limitations has been eliminated and the
43 civil action may be brought at any time.

44 The intent of the 2000 enactment, according to the sponsors' bill
45 statements, was to ensure justice for victims' families by preserving

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.

1 their right to sue the person responsible for the victim's death if, at
2 some time in the future, that person acquires substantial assets. The
3 enactment was retroactive, so that it applies not only to civil actions
4 filed on or after the effective date, but also to actions filed where
5 the murder, aggravated manslaughter or manslaughter occurred
6 prior to the effective date. However, P.L.2000, c.157 applied to
7 only one of the two types of civil actions that may be brought
8 against persons responsible for a wrongful death.

9 In addition to the "Wrongful Death Act," set out in
10 N.J.S.A.2A:31-1 et seq., actions may also be brought against these
11 persons pursuant to the "Survivor's Act," set out in N.J.S.A.2A:15-
12 3. The "Survivor's Act" authorizes the executor or administrator of
13 the decedent's estate to file a wrongful death action, and to obtain
14 damages for the decedent's pain and suffering, if the death was
15 caused by a person's wrongful act, neglect, or default. Under the
16 "Survivor's Act" any award of damages is distributed to the
17 decedent's heirs. Lawsuits for wrongful death are generally filed
18 under both the "Wrongful Death Act" and the "Survivor's Act" at
19 the same time.

20 It is the view of the sponsor that P.L.2000, c.157 was intended to
21 encompass all types of civil actions that may be brought against a
22 person responsible for murder, manslaughter or aggravated
23 manslaughter, and that the enactment's failure to address the
24 "Survivor's Act" was inadvertent. Thus, this bill would correct the
25 oversight by amending the "Survivor's Act" to eliminate the two-
26 year statute of limitations for cases where the death resulted from
27 murder, manslaughter or aggravated manslaughter.

28 Like P.L.2000, c.157, this bill also provides that where a
29 wrongful death resulted from murder, aggravated manslaughter or
30 manslaughter for which the defendant has been convicted, found not
31 guilty by reason of insanity or adjudicated delinquent, a civil action
32 may be brought at any time. Also like the 2000 enactment, the bill
33 would be retroactive in order to encompass actions filed where the
34 murder, aggravated manslaughter or manslaughter occurred prior to
35 the effective date. In addition, the bill would apply to actions
36 pending as of the effective date.

SENATE JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2763

STATE OF NEW JERSEY

DATED: MAY 18, 2009

The Senate Judiciary Committee reports favorably Senate Bill No. 2763.

This bill would amend the “Survivor’s Act,” set out in N.J.S.A.2A:15-3, concerning certain wrongful death lawsuits.

The “Wrongful Death Act,” set out in N.J.S.A.2A:31-1 et seq., provides that civil suits against persons who cause the wrongful death of another must be brought within two years of the death. P.L.2000, c.157 amended the statute to make an exception for deaths caused by murder, aggravated manslaughter or manslaughter. In these cases, the statute of limitations has been eliminated and the civil action may be brought at any time.

The intent of the 2000 enactment, according to the sponsors’ bill statements, was to ensure justice for victims’ families by preserving their right to sue the person responsible for the victim’s death if, at some time in the future, that person acquires substantial assets. The enactment was retroactive, so that it applies not only to civil actions filed on or after the effective date, but also to actions filed where the murder, aggravated manslaughter or manslaughter occurred prior to the effective date. However, P.L.2000, c.157 applied to only one of the two types of civil actions that may be brought against persons responsible for a wrongful death. This bill addresses the other type of civil action.

In addition to the “Wrongful Death Act,” set out in N.J.S.A.2A:31-1 et seq., actions may also be brought against these persons pursuant to the “Survivor’s Act,” set out in N.J.S.A.2A:15-3. The “Survivor’s Act” authorizes the executor or administrator of the decedent’s estate to file a survivorship action, and to obtain damages for the decedent’s pain and suffering, if the death was caused by a person’s wrongful act, neglect, or default. Under the “Survivor’s Act” any award of damages is distributed to the decedent’s heirs. Lawsuits for wrongful death are generally filed under both the “Wrongful Death Act” and the “Survivor’s Act” at the same time.

This bill would amend the “Survivor’s Act” to eliminate the two-year statute of limitations for cases where the death resulted from murder, manslaughter or aggravated manslaughter and, thus, conform this action to the provisions of P.L.2000, c.157.

Like P.L.2000, c.157, this bill also provides that where a wrongful death resulted from murder, aggravated manslaughter or manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent, a civil action may be brought at any time. Also like the 2000 enactment, the bill would be retroactive in order to encompass actions filed where the murder, aggravated manslaughter or manslaughter occurred prior to the effective date. In addition, the bill would apply to actions pending as of the effective date.

ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

SENATE, No. 2763

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Judiciary Committee reports favorably Senate Bill No. 2763.

The bill would amend the “Survivor’s Act,” N.J.S.A.2A:15-3, to make the statute of limitations consistent with that under the “Wrongful Death Act,” N.J.S.A.2A:31-1 et seq. When a person’s death is caused by the wrongful act of another, lawsuits may be brought under either the “Wrongful Death Act” or the “Survivor’s Act” or both. To make the statute of limitations in these acts consistent, the bill would eliminate the two-year statute of limitations for civil actions brought under the “Survivor’s Act” where the death resulted from murder, manslaughter or aggravated manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent.

Generally, lawsuits for wrongful death are filed under both the “Wrongful Death Act” and the “Survivor’s Act” at the same time. Originally, civil actions for wrongful death brought under either act had to be brought within two years of the death. P.L.2000, c.157 amended the “Wrongful Death Act” to create an exception for cases where the death resulted from murder, aggravated manslaughter or manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent. The enactment eliminated the statute of limitations in these cases, so that they may be brought at any time.

Although P.L.2000, c.157 was intended to encompass all types of civil actions that may be brought against a person responsible for murder, manslaughter or aggravated manslaughter, the enactment eliminated the statute of limitations in cases brought under the “Wrongful Death Act,” but inadvertently failed to similarly amend the “Survivor’s Act.” Therefore, this bill addresses that oversight by eliminating the statute of limitations for certain actions brought under the “Survivor’s Act.”

The “Survivor’s Act” authorizes the executor or administrator of the decedent’s estate to file a survivorship action, and to obtain damages for the decedent’s pain and suffering, if the death was caused by a person’s wrongful act, neglect, or default. Under the “Survivor’s Act” any award of damages belongs to the estate and is distributed to the decedent’s heirs.

The intent of P.L.2000, c.157, according to the sponsors' bill statements, was to ensure justice for victims' families by preserving their right to sue the person responsible for the victim's death if, at some time in the future, that person acquires substantial assets. The enactment was retroactive, so that it applies not only to civil actions filed on or after the effective date, but also to actions filed where the murder, aggravated manslaughter or manslaughter occurred prior to the effective date.

Like P.L.2000, c.157, this bill also provides that where a wrongful death resulted from murder, aggravated manslaughter or manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent, a civil action may be brought at any time. Also like the 2000 enactment, the bill would be retroactive in order to encompass actions filed where the murder, aggravated manslaughter or manslaughter occurred prior to the effective date. In addition, the bill would apply to actions pending as of the effective date.

This bill is identical to Assembly Bill No. 4158.

ASSEMBLY, No. 4158

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 22, 2009

Sponsored by:

Assemblyman DAVID C. RUSSO

District 40 (Bergen, Essex and Passaic)

SYNOPSIS

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14 of another, where death resulted from injuries for which the
15 deceased would have had a cause of action if he had lived, the
16 executor or administrator may recover all reasonable funeral and
17 burial expenses in addition to damages accrued during the lifetime
18 of the deceased.

19 Every action brought under this chapter shall be commenced
20 within two years after the death of the decedent, and not thereafter,
21 provided, however, that if the death resulted from murder,
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25 "Survivor's Act" was inadvertent. Thus, this bill would correct the
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ASSEMBLY JUDICIARY COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4158

STATE OF NEW JERSEY

DATED: JANUARY 4, 2010

The Assembly Judiciary Committee reports favorably Assembly Bill No. 4158.

The bill would amend the “Survivor’s Act,” N.J.S.A.2A:15-3, to make the statute of limitations consistent with that under the “Wrongful Death Act,” N.J.S.A.2A:31-1 et seq. When a person’s death is caused by the wrongful act of another, lawsuits may be brought under either the “Wrongful Death Act” or the “Survivor’s Act” or both. To make the statute of limitations in these acts consistent, the bill would eliminate the two-year statute of limitations for civil actions brought under the “Survivor’s Act” where the death resulted from murder, manslaughter or aggravated manslaughter for which the defendant has been convicted, found not guilty by reason of insanity or adjudicated delinquent.

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Although P.L.2000, c.157 was intended to encompass all types of civil actions that may be brought against a person responsible for murder, manslaughter or aggravated manslaughter, the enactment eliminated the statute of limitations in cases brought under the “Wrongful Death Act,” but inadvertently failed to similarly amend the “Survivor’s Act.” Therefore, this bill addresses that oversight by eliminating the statute of limitations for certain actions brought under the “Survivor’s Act.”

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