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HOUSE OF REPRESENTATIVES

140th GENERAL ASSEMBLY

HOUSE BILL NO.

AN ACT TO AMEND TITLE 10 OF THE DELAWARE CODE RELATING TO WRONGFUL DEATH ACTIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section. 1. Amend § 3721, Title 10 of the Delaware Code, by adding a new numbered paragraph
2 thereto as follows:

3 “(5) ‘Sibling’ means brothers and sisters of the whole and half blood or by order of adoption.”

4 Section 2. Amend § 3724(a), Title 10 of the Delaware Code, by striking that subsection in its
5 entirety and by substituting in lieu thereof the following:

6 “(a) An action under this subchapter shall be for the benefit of the spouse, parent, child, and
7 siblings of the deceased person.”

8 Section 3. Amend § 3724(d)(5), Title 10 of the Delaware Code, by inserting the word and
9 punctuation “siblings,” between the words “children” and “parents” as the same appear in the second
10 sentence thereof, and by deleting the phrase “(if there is no surviving spouse or children)” appearing
11 therein.

12 Section 4. This Act shall apply to all wrongful deaths which occur after enactment.

SYNOPSIS

"Anne Marie's Law" would allow brothers and sisters of wrongful death victims to sue the responsible party for their mental anguish.

Under Delaware's current wrongful death statute, only the surviving spouse, children and parents (if there is no surviving spouse or children) may bring a civil action for their mental anguish due to the death of their loved one.

This bill would correct an unintended consequence of the 1982 law, which leaves the family of an unmarried, childless victim whose parents are deceased no remedy for their suffering damages.

Murder victim Anne Marie Fahey had no spouse, parents, or children when she died, only brothers and a sister. Thus, they are barred from suing the responsible party for their mental anguish.

The result of the current law is to say to a single, childless, parentless, victim, “no one grieves for you,” and that could not have been the Legislature’s intent. In effect, it allows the responsible person to walk away without fully compensating the victims’ family.

The bill would put spouse, children, parents, and siblings on equal footing to bring a claim, and allow the jury to apportion any money damages among the beneficiaries.

It would apply to wrongful deaths which occur after its enactment.

The original bill developing Delaware’s Wrongful Death statute in 1982 included brothers and sisters in the list of eligible beneficiaries. However, the language was deleted by an amendment.