

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. 1810

03/12/2015 Authored by Atkins, Cornish and Lesch

The bill was read for the first time and referred to the Committee on Civil Law and Data Practices

1.1 A bill for an act
1.2 relating to civil actions; providing for the survival or continuation of an action
1.3 after the death or disability of a party; amending Minnesota Statutes 2014,
1.4 section 573.01; proposing coding for new law in Minnesota Statutes, chapter
1.5 540; repealing Minnesota Statutes 2014, sections 540.12; 573.02, subdivision 2.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[540.121] SURVIVAL OF ACTIONS.**

1.8 Subdivision 1. **Cause of action survives.** An injury or noninjury cause of action,
1.9 including all causes of action arising from the same occurrence, does not abate by the
1.10 death or other disability of a party or by the transfer of any interest in the cause of action if
1.11 the cause of action survives or continues and it was:

1.12 (1) pending at the time of death or other disability of a party; or

1.13 (2) commenced after death in the times prescribed in section 573.02, subdivision 1.

1.14 Subd. 2. **Legal representative of decedent.** The personal representative or
1.15 successor in interest of the decedent may pursue or defend the cause of action to settlement
1.16 or final judgment and satisfaction.

1.17 Subd. 3. **Relation to other law.** (a) This section does not create a right of the next of
1.18 kin to sue for their own pain and suffering as the result of the wrongful death of another.

1.19 (b) This section does not preclude the personal representative or successor in interest
1.20 of the decedent from pursuing an award for all damages sustained by the decedent before
1.21 the decedent's death, including general damages. The recovery of damages under this
1.22 section is for the benefit of the heirs and next of kin only, however the damages are
1.23 characterized. The damages otherwise recoverable by the heirs and the next of kin in a
1.24 wrongful death action under section 573.02 are not affected by this section.

2.1 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
2.2 actions commenced on or after that date.

2.3 Sec. 2. Minnesota Statutes 2014, section 573.01, is amended to read:

2.4 **573.01 SURVIVAL OF CAUSES.**

2.5 A cause of action arising out of an injury to the person ~~dies~~ does not die with the
2.6 person of the party in whose favor it exists, ~~except as provided in section 573.02.~~ All other
2.7 causes of action by one against another, whether arising on contract or not, survive to the
2.8 personal representatives of the former and against those of the latter.

2.9 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
2.10 actions commenced on or after that date.

2.11 Sec. 3. **REPEALER.**

2.12 Minnesota Statutes 2014, sections 540.12; and 573.02, subdivision 2, are repealed.

2.13 **EFFECTIVE DATE.** This section is effective August 1, 2015, and applies to
2.14 actions commenced on or after that date.

APPENDIX
Repealed Minnesota Statutes: 15-2050

540.12 ACTION NOT TO ABATE BY DEATH; TORTS.

No action shall abate by reason of the death or disability of a party, or the transfer of the party's interest, if the cause of action continues or survives. After a verdict, decision, or report of a referee, fixing the amount of damages for a wrong, such action shall not abate by the death of any party thereto.

573.02 ACTION FOR DEATH BY WRONGFUL ACT; SURVIVAL OF ACTIONS.

Subd. 2. **Injury action.** When injury is caused to a person by the wrongful act or omission of any person or corporation and the person thereafter dies from a cause unrelated to those injuries, the trustee appointed in subdivision 3 may maintain an action for special damages arising out of such injury if the decedent might have maintained an action therefor had the decedent lived.