

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5539

By Delegates C. Pritt, McGeehan, Longanacre,
Akers, Steele, Fluharty, Kimble, Shamblin, Kirby, and
Kump

[Introduced February 09, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §55-7-8a of the Code of West Virginia, 1931, as amended, all
 2 relating to actions which survive; limitations; law governing such actions and providing that
 3 causes of action under Chapter 46A of the Code of Wes Virginia shall survive the death of
 4 the party.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7. ACTIONS FOR INJURIES.

§55-7-8a. Actions which survive; limitations; law governing such actions.

1 (a) In addition to the causes of action which survive at common law, causes of action for
 2 injuries to property, real or personal, or injuries to the person and not resulting in death, or for
 3 deceit or fraud, or any violations of Chapter 46A of this Code, also shall survive; and such actions
 4 may be brought notwithstanding the death of the person entitled to recover or the death of the
 5 person liable.

6 (b) If any such action is begun during the lifetime of the injured party, and within the period
 7 of time permissible under the applicable statute of limitations as provided by §55-2-1 *et seq.* and
 8 §55-2A-1 *et seq.* of this code, (either against the wrongdoer or his or her personal representative),
 9 and such injured party dies pending the action it may be revived in favor of the personal
 10 representative of such injured party and prosecuted to judgment and execution against the
 11 wrongdoer or his or her personal representative.

12 (c) If the injured party dies before having begun any such action and it is not at the time of
 13 his or her death barred by the applicable statute of limitations under the provisions of §55-2-1 *et*
 14 *seq.* and §55-2A-1 *et seq.* of this code such action may be begun by the personal representative of
 15 the injured party against the wrongdoer or his or her personal representative and prosecuted to
 16 judgment and execution against the wrongdoer or his or her personal representative. Any such
 17 action shall be instituted within the same period of time that would have been applicable had the
 18 injured party not died.

19 (d) If any such action mentioned in the preceding subsections (a), (b) and/or (c) shall have

20 been begun against the wrongdoer and he or she dies during the pendency thereof, it may be
21 revived against the personal representative of the wrongdoer and prosecuted to judgment and
22 execution.

23 (e) The applicable provisions of §56-8-1 *et seq.* of this code shall govern the actions
24 hereinabove mentioned, with reference to their abatement, revival, discontinuance, reinstatement
25 and substitution of parties.

26 (f) Nothing contained in this section shall be construed to extend the time within which an
27 action for any other tort shall be brought, nor to give the right to assign a claim for a tort not
28 otherwise assignable.

NOTE: The purpose of this bill is to provide that causes of action under Chapter 46A of the Code of West Virginia shall survive the death of the party.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.