

## HOUSE BILL No. 2264

By Committee on Federal and State Affairs

2-4

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9 AN ACT concerning civil procedure; relating to wrongful death; amend-  
10 ing K.S.A. 60-1903 and repealing the existing section.

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12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 60-1903 is hereby amended to read as follows: 60-  
14 1903. (a) In any wrongful death action, the court or jury may award such  
15 damages as are found to be fair and just under all the facts and circum-  
16 stances, but the damages, other than pecuniary loss sustained by an heir  
17 at law, cannot exceed in the aggregate the sum of \$250,000 and costs.

18 (b) If a wrongful death action is to a jury, the court shall not instruct  
19 the jury on the monetary limitation imposed by subsection (a) upon re-  
20 covery of damages for nonpecuniary loss. If the jury verdict results in an  
21 award of damages for nonpecuniary loss which, after deduction of any  
22 amounts pursuant to K.S.A. 60-258a and amendments thereto, exceeds  
23 the limitation of subsection (a), the court shall enter judgment for dam-  
24 ages of \$250,000 for nonpecuniary loss.

25 (c) In any wrongful death action, the verdict shall be itemized by the  
26 trier of fact to reflect the amounts, if any, awarded for:

27 (1) Nonpecuniary damages;

28 (2) expenses for the care of the deceased caused by the injury; and

29 (3) pecuniary damages other than those itemized under subsection  
30 (c)(2).

31 (d) Where applicable, the amounts required to be itemized pursuant  
32 to subsections (c)(1) and (c)(3) shall be further itemized by the trier of  
33 fact to reflect those amounts awarded for injuries and losses sustained to  
34 date and those awarded for injuries and losses reasonably expected to be  
35 sustained in the future.

36 (e) In any wrongful death action, the trial court shall instruct the jury  
37 only on those items of damage upon which there is some evidence to base  
38 an award.

39 (f) *In any wrongful death action, the court or jury may award such*  
40 *damages as are found to be fair and just under all the facts and*  
41 *circumstances.*

42 (g) *The provisions of subsections (a), (b), (c) and (d) shall apply only*  
43 *to a wrongful death action based upon a cause of action accruing on or*

1 *before June 30, 2009. The provisions of subsection (f) shall apply only to*  
2 *a wrongful death action based upon a cause of action accruing on or after*  
3 *July 1, 2009.*

4 Sec. 2. K.S.A. 60-1903 is hereby repealed.

5 Sec. 3. This act shall take effect and be in force from and after its  
6 publication in the statute book.