

1993 BILL 252

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First Session, 23rd Legislature, 42 Elizabeth II

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THE LEGISLATIVE ASSEMBLY OF ALBERTA

# BILL 252

FATAL ACCIDENTS AMENDMENT ACT, 1993

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MR. DICKSON

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First Reading .....

Second Reading .....

Committee of the Whole .....

Third Reading .....

Royal Assent .....

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*Bill 252*  
*Mr. Dickson*

## **BILL 252**

1993

### **FATAL ACCIDENTS AMENDMENT ACT, 1993**

*(Assented to , 1993)*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

*1 The Fatal Accidents Act is amended by this Act.*

*2 Section 1 is amended by adding the following after subsection (a):*

(a.1) "cohabitant" means a person of either sex who lived with the deceased for the 3 year period immediately preceding the death of the deceased and was during that period in a relationship to the deceased which was or was the equivalent of a spousal relationship.

*3 Section 7 is repealed and the following is substituted:*

**7** Where an action has been brought under this Act, the damages that may be awarded include:

(a) actual expenses reasonably incurred for the benefit of the deceased person between the time of injury and death,

(b) a reasonable allowance for travel expenses incurred in visiting the deceased between the time of the injury and the death,

(c) the reasonably necessary expenses of the funeral and

## **Explanatory Notes**

*1 This Bill will amend Chapter F-5 of the Revised Statutes of Alberta 1980.*

*2 This amendment will expand the definition of cohabitant, expand the list of allowable expenses, increase the provisions on pecuniary damages in the event of death and allow for an automatic review mechanism to examine the damage award on a regular basis.*

disposing of the body, including things supplied and services rendered in connection therewith, and

(d) fees paid for grief counselling provided to any claimant,

if those expenses were incurred by any of the persons by whom or for whose benefit the action is brought.

*4 Sections 14(2), 14(3) and 14(4) are repealed and the following is substituted:*

(2) If an action is brought under this Act, the court shall, without reference to any other damages that may be awarded and without evidence of damage, give non-pecuniary damages for grief and loss of the guidance, care and companionship of the deceased person of

(a) \$40,000 to the spouse or cohabitant of the deceased person,

(b) \$40,000 to the parent or parents of:

(i) the deceased minor child, or

(ii) the deceased unmarried child who died when 18 years of age or older and who had not reached his or her 26th birthday,

to be divided equally if the action is brought for the benefit of both parents, and

(c) \$25,000 to each child of the deceased person who, at the time of the death of the deceased person, is:

(i) a minor, or

(ii) unmarried and 18 years of age or older and who has not reached his or her 26th birthday,

but if there are 3 or more such children, \$50,000 to be divided equally among the children.

(3) Notwithstanding subsection (2), the court shall not award non-pecuniary damages for grief and loss of guidance, care and



companionship of the deceased person to the spouse if the spouse was living separate and apart from the deceased person at the time of death.

(4) Where at the time of death the deceased person was living separate and apart from the spouse and was residing with a cohabitant, the court shall award damages under subsection (2)(a) to the cohabitant and not to the spouse.

(5) A cause of action conferred on a person by subsection (2) does not, on the death of that person, survive for the benefit of his estate.

(6) Subsection (2) applies only where the deceased person as the case may be, died on or after (effective date of amendment).

*5 The following is added after section 8:*

**9** The Lieutenant Governor in Council shall review the levels of damages prescribed by subsection 8(2) at least once within each 3 year period following the proclamation of the subsection and may, by regulation, prescribe the damages to be awarded.

*6 This Act comes into force on Proclamation.*