

1 HB228
2 124189-1
3 By Representatives Johnson (R) and DeMarco
4 RFD: Judiciary
5 First Read: 10-MAR-11

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8 SYNOPSIS: Under the Alabama Wrongful Death Act, based
9 on a ruling of the Alabama Supreme Court, the
10 personal representative of the deceased may file an
11 action where the personal representative of the
12 deceased resides.

13 This bill would provide that a wrongful
14 death action may only be filed in a county where
15 the deceased could have filed a civil action, if
16 living.

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT

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22 To amend Section 6-5-410 of the Code of Alabama
23 1975, the Alabama Wrongful Death Act, to further provide for
24 venue of an action by the personal representative of the
25 deceased.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 6-5-410 of the Code of Alabama
2 1975, is amended to read as follows:

3 "§6-5-410.

4 "(a) A personal representative may commence an
5 action and recover such damages as the jury may assess in a
6 court of competent jurisdiction within the State of Alabama
7 where provided for in subsection (e), and not elsewhere, for
8 the wrongful act, omission, or negligence of any person,
9 persons, or corporation, his or her or their servants or
10 agents, whereby the death of ~~his~~ the testator or intestate was
11 caused, provided the testator or intestate could have
12 commenced an action for ~~such~~ the wrongful act, omission, or
13 negligence if it had not caused death.

14 "(b) ~~Such~~ The action shall not abate by the death of
15 the defendant, but may be revived against his or her personal
16 representative and may be maintained though there has not been
17 prosecution, conviction, or acquittal of the defendant for the
18 wrongful act, omission, or negligence.

19 "(c) The damages recovered are not subject to the
20 payment of the debts or liabilities of the testator or
21 intestate, but must be distributed according to the statute of
22 distributions.

23 "(d) ~~Such~~ The action must be commenced within two
24 years from and after the death of the testator or intestate.

25 "(e) For any cause of action brought pursuant to
26 this section, the action may only be filed in a county where
27 the deceased could have commenced an action for the alleged

1 wrongful act, omission, or negligence pursuant to Section
2 6-3-7 if the alleged wrongful act, omission, or negligence had
3 not caused death."

4 Section 2. This act shall only apply to actions
5 filed after the effective date of this act.

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.