

1 SB212  
2 124189-1  
3 By Senators Scofield, Sanford, McGill, Williams, Ward,  
4 Holtzclaw, Holley, Brewbaker, Beason, Glover, Taylor, Brooks,  
5 Dial, Bussman, Waggoner and Orr  
6 RFD: Judiciary  
7 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

21  
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.