

HOUSE RESEARCH

Bill Summary

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Overview

Current law provides that, in a civil case, a cause of action arising out of an injury to the person making the claim ends upon the death of that person, and that these claims may not be continued by the personal representative of the deceased person's estate.

This bill provides that all causes of action survive the death of a party to the action; upon a party's death, the personal representative or successor in interest of the deceased party may sue or be sued on behalf of the deceased party, as if that party were still alive. The bill also provides that an action does not abate by the death or other disability of a party or by the transfer of any interest, if the cause of action survives or continues.

Special procedures related to causes of action involving wrongful death are not affected by the changes in the bill.

The changes proposed in the bill are effective August 1, 2013, and apply to causes of action commenced on or after that date.

Section

- 1 Action continues where cause of action survives.** Provides that a cause of action does not abate by the death or other disability of a party, or by the transfer of any interest therein, if the cause of action survives or continues. A new standard for determining when the cause of action survives the death of a party is provided in section 2 of the bill.

Section

- 2** **Causes of action surviving death of party.** Provides that all causes of action, regardless of whether the claim is for injury or noninjury, survive the death of a party to the action, and that an action may be brought for or against a personal representative or successors in interest of a deceased party. This is a modification of the existing standard in law, which provides that actions arising out of an injury to a person may not continue if the injured person dies.

This section provides that special provisions related to wrongful death are unaffected by the changes in this bill.

- 3** **Repealer.** Repeals the section of statute which provides the current standard for survivability of actions.