

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas

83rd General Assembly

Regular Session, 2001

A Bill

HOUSE BILL 1045

By: Representative Judy

For An Act To Be Entitled

AN ACT TO CREATE A CAUSE OF ACTION FOR LOSS OF
CONSORTIUM, LOSS OF COMPANIONSHIP, AND IMPAIRMENT OF
THE PARENT-CHILD RELATIONSHIP; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE A CAUSE OF ACTION FOR LOSS OF
CONSORTIUM, LOSS OF COMPANIONSHIP, AND
IMPAIRMENT OF THE PARENT-CHILD
RELATIONSHIP.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. The General Assembly finds that current case law does not grant children a cause of action for impairment of the child-parent relationship when the parent has been injured, while allowing spouses a cause of action for loss of consortium when the other spouse has been injured. The Supreme Court of Arkansas refused to create this cause of action, opining that because so many factors concerning public policy were involved, that the creation of a cause of action for impairment of the child-parent relationship is a matter for the legislature to address. The General Assembly finds that it is unjust for a spouse to have a cause of action for loss of consortium when the spouse is injured while denying a child the same right, therefore it is the intent of the General Assembly to create a cause of action for impairment of the child-parent relationship and loss of companionship and to statutorily recognize the court's creation of the cause of action for loss of consortium when a parent, child, or spouse has been injured.

SECTION 2. (a) A parent shall have a cause of action for non-economic damages for loss of companionship of the child who has been injured, against any person who is responsible for causing the injury.

(b) A spouse shall have a cause of action for non-economic damages for loss of consortium of the spouse who has been injured, against any person who is responsible for causing the injury.

(c) A child who is dependent upon his or her parent for support shall have a cause of action for non-economic damages for destruction of the parent-child relationship of the parent who has been injured, against any person who is responsible for causing the injury.

(d) For purposes of this act, economic losses shall not have to be proven for a jury, or a court in cases tried without a jury, to award non-economic damages to the claimant.