

January 30, 2021

RE: Modernizing BC's Colonial-Era Discriminatory Wrongful Death Laws

Dear Minister Eby,

I'm writing to you today with an important update to our Society's legislative demands of your office.

I've attached two new documents and one updated document to this correspondence.

The first document is titled '**BC Wrongful Death Facts & Arguments**'. It lists logical, economic, and moral reasons as to why this modernization must happen. I realize that the government doesn't necessarily always deal in matters of logic, economics, and morality, but I do know there are some people in your office who may appreciate the facts and arguments presented. I believe that you are one of these people.

The second document is titled '**How ICBC No-Fault Fails British Columbians in Cases Wrongful Death and Continues to Allow Wrongdoers to Escape Accountability**'. The name is self-explanatory and provides an illustrative example of how wrongdoers will continue to not be held accountable in cases of wrongful death involving motor vehicle accidents. We use an example of one of our member family stories to illustrate this with scenarios under the ICBC pre-No-Fault model, under the province of Ontario's legislative framework (which despite having No-Fault provisions, still allows for At-Fault wrongful death claims), and finally how the scenario would unfold under the newly implemented ICBC No-Fault model.

The third document is the '**Wrongful Death Accountability Act Briefing Note**'. This is a document that summarizes the drafted *Wrongful Death Accountability Act*. I originally submitted this document to you on March 9th, 2020, although **this is a newly updated version** that considers other existing legislative definitions in BC and new legislative aspects from Yukon's *Fatal Accidents Act*, which was modernized in 2014. This is legislation that is ready to be tabled and passed in the Spring 2021 legislative session.

These amended aspects include:

1. Incorporation of the definition of "spouse" from the *BC Family Law Act*.
2. Incorporation of the definition of "wrongdoer" from the *BC Health Care Costs Recovery Act*.

3. Incorporation of Section 6 of the Yukon *Fatal Accidents Act* to allow for beneficiaries to bring forth an action if the executor or administrator of the estate fails to do so within six months.
4. Incorporation of Section 7 of the Yukon *Fatal Accidents Act* to ensure the wrongdoer doesn't get the benefit of the other coverages that the victim may have had.

Further to the amendments noted above, **Appendix A** outlines the tenets of what a first-class piece of legislation must include. As we've reviewed all the legislation from every other province and the Yukon, we have cherry-picked the best legislative aspects. The other provinces don't necessarily do that great of a job in their legislation, although BC is presently by far the worst of a bad bunch. These required tenets close all the loopholes and ensure that we have fair and just legislation which will not allow wrongdoers to escape accountability.

Appendix B contains the drafted legislation itself to replace the condescendingly named *Family Compensation Act*, which many in the legal profession have often quipped should be more aptly named the *Family Non-Compensation Act*. Our demand is that we scrap the *Family Compensation Act* in its entirety and replace it with the *Wrongful Death Accountability Act* as drafted. This would be in accordance with also amending the *Wills, Estates, and Succession Act* so as not to exclude 'non-pecuniary' damages in wrongful death claims.

I'd like you to understand where these demands are coming from. Our Society is 100% volunteer based. In addition to volunteering our time, we've relied upon the financial contributions of our volunteer board members, and individual donations from the public, which as of recently have expanded at a geometric rate. This is a testament to the public interest and grass roots nature of our movement and this urgent human rights issue. The citizens of this province demand access to justice and they demand accountability. Our Society is a platform that synthesizes and facilitates the channelling of these voices to your office.

While the legal community concurs with our drafted legislation, they have largely stepped aside to ensure that the public drives this issue forward. Aside from a TLABC start-up funding grant that we received in 2015, we have received no financial contributions from any legal organizations since. Frankly, our movement is proving to be more powerful than any legal lobbying arm could hope to be in this province.

The Attorney General who might ever table and pass such a first-class piece of legislation would set a precedent not only in Canada, but internationally, with the respect of human rights, dignity, and legislated protections for the individual. This Attorney General would be creating a legacy in this province that would impact generations in the future, and promote safer standards and protocols to protect human life and prevent wrongful death in the first place.

As you know, the current legislative framework has not seen any meaningful, or significant updates since adoption from the UK's Lord Campbell's Act in 1846. Let's not play a pathetic game of "catchup" by photocopying another province's exact legislation, or by setting out

prescribed meat charts of capped “benefits”, which condescendingly treat British Columbians like livestock. Let’s instead set an example for the rest of Canada and the world for recognition of the distinct value of an individual’s human life as directed by case law, while ensuring the full measure of justice and accountability to wrongdoers brought under an all-encompassing legislative framework. That is the opportunity that you can bring forth in this first quarter of our 21st century.

I respectfully request an immediate meeting with you prior to the Spring 2021 legislative session to discuss this drafted legislation and how we can strategically move this forward as cooperative partners. Please reply with proposed dates and times for this meeting to take place and I will adapt my schedule accordingly.

I look forward to discussing this opportunity with you.

Sincerely,



Michael-James Pennie
President – The BC Wrongful Death Law Reform Society

intheirname.ca
The BC Wrongful Death
Law Reform Society

Attachments:

1. BC Wrongful Death Facts & Arguments *(updated January 30, 2021)*
2. How ICBC No-Fault Fails British Columbians in Cases Wrongful Death and Continues to Allow Wrongdoers to Escape Accountability *(updated January 30, 2021)*
3. Wrongful Death Accountability Act Briefing Note *(updated January 30, 2021)*