

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 401
SENATE BILL 243

AN ACT TO AMEND THE LAW REGARDING THE POWER OF A PERSONAL REPRESENTATIVE TO SETTLE CLAIMS FOR WRONGFUL DEATH, AS RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 28A-13-3(a)(23) reads as rewritten:

"(23) To maintain actions for the wrongful death of the decedent according to the provisions of Article 18 of this Chapter and to compromise or settle any such claims, whether in litigation or ~~not, provided that any such settlement shall be subject to the approval of a judge of superior court unless not.~~ Unless all persons who would be entitled to receive any damages recovered under G.S. 28A-18-2(b)(4) are competent adults and have consented in writing, any such settlement shall be subject to the approval of a judge of the court or tribunal exercising jurisdiction over the action or a judge of the district or superior court in cases where no action has previously been filed. If the claim is brought under Article 31 of Chapter 143 of the General Statutes, the settlement is subject to the approval of the Industrial Commission in accordance with that Article. It shall be the duty of the personal representative in distributing the proceeds of such settlement in any instance to take into consideration and to make a fair allocation to those claimants for funeral, burial, hospital and medical expenses which would have been payable from damages which might have been recovered had a wrongful death action gone to judgment in favor of the plaintiff."

Sec. 2. This act becomes effective October 1, 1995.

In the General Assembly read three times and ratified this the 10th day of July, 1995.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives