

CHAPTER 137.

[S. B. 63.]

CIVIL ACTIONS—SURVIVAL.

AN ACT relating to survival of actions; adding a new section to chapter 4.20 RCW; repealing section 659, page 165, Laws of 1869, section 722, page 146, Laws of 1877, section 718, Code 1881 and RCW 4.20.040; repealing section 1, chapter 73, Laws of 1953 and RCW 4.20.045; repealing section 149, chapter 156, Laws of 1917 and RCW 11.48.100; and repealing section 150, chapter 156, Laws of 1917 and RCW 11.48.110.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. There is added to chapter 4.20 RCW New section.
a new section to read as follows:

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether such actions arise on contract or otherwise, and whether or not such actions would have survived at the common law or prior to the date of enactment of this act: *Provided, however,* That no personal representative shall be entitled to recover damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by a deceased. The liability of property of a husband and wife held by them as community property to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses; and a cause of action shall remain an asset as though both claiming spouses continued to live despite the death of either or both claiming spouses. Survival of civil actions.

(2) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his death had not occurred simultaneously

with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

Repeal.

SEC. 2. Section 659, page 165, Laws of 1869, section 722, page 146, Laws of 1877, section 718, Code 1881 and RCW 4.20.040; section 1, chapter 73, Laws of 1953 and RCW 4.20.045; section 149, chapter 156, Laws of 1917 and RCW 11.48.100; section 150, chapter 156, Laws of 1917 and RCW 11.48.110 are each repealed: *Provided*, That all causes of action arising or surviving under any of these statutes prior to the effective date of their repeal shall survive and be enforceable as though these statutes were in full force and effect.

Savings.

Passed the Senate March 5, 1961.

Passed the House March 2, 1961.

Approved by the Governor March 16, 1961.

CHAPTER 138.

[S. B. 11.]

PRISON TERMS AND PAROLES.

AN ACT relating to criminal procedure; and amending section 5, chapter 133, Laws of 1955 and RCW 9.95.040.

Be it enacted by the Legislature of the State of Washington:

Finding of fact or special verdict if armed with deadly weapon.

SECTION 1. In every criminal case wherein conviction would require the board of prison terms and paroles to determine the duration of confinement and wherein there has been an allegation and evidence establishing that the accused was armed with a deadly weapon at the time of the commission of the crime, the court shall make a finding of fact of whether or not the accused was armed with a deadly weapon, as defined by RCW 9.95.040, at