

- SUBJECT:** Allowing parents to recover certain damages for employee death
- COMMITTEE:** Business and Industry — favorable, without amendment
- VOTE:** 7 ayes — C. Turner, Hefner, Cain, Crockett, Lambert, Ordaz Perez, Patterson
- 0 nays
- 2 absent — Shine, S. Thompson
- WITNESSES:** For — Laura Tamez, Texas Trial Lawyers Association; Tamara Fitzgerald; Robert Hand; (*Registered, but did not testify:* Rene Lara, Texas AFL-CIO; Stephanie Gharakhanian, Workers Defense Action Fund; Amy Bresnen; Steve Bresnen)
- Against — None
- BACKGROUND:** Labor Code sec. 408.001 makes recovery of workers' compensation benefits the exclusive remedy of an employee covered by workers' compensation insurance or a legal beneficiary against the employer for the death of, or a work-related injury sustained by, the employee. This section does not prohibit the recovery of exemplary damages by the surviving spouse or heirs of a deceased employee whose death was caused by an intentional act or omission of the employer or the employer's gross negligence.
- Concerns have been raised that the parents of an employee who dies under such circumstances cannot recover exemplary damages, even if the employee has no surviving spouse or heirs.
- DIGEST:** HB 3158 would specify that an employee's parent would not be prohibited from recovering exemplary damages for a deceased employee whose death was caused by an intentional act or omission of the employer or the employer's gross negligence. The surviving spouse, parents, and heirs of the deceased could bring the action or one or more of those individuals

could bring the action for the benefit of all.

"Parent" would include an adoptive parent or stepparent, but not a parent whose parental rights were terminated.

The bill would take effect September 1, 2021, and apply only to a claim for worker's compensation based on an injury that occurred on or after that date.