

What Georgia's Tort Reform Law Means for Wrongful Death Families

The Loss Is Devastating. The Legal Landscape Just Got Harder.

[Losing a family member to someone else's negligence](#) is one of the most profound losses a person can experience. The grief is immediate. The financial consequences follow closely behind. And the legal process that's supposed to help a family find justice and some measure of financial stability after that loss has never been simple.

Senate Bill 68 made it harder. [Georgia's 2025 tort reform law](#) didn't create a separate set of rules for wrongful death cases, but its provisions apply directly to them, and the combined effect on families pursuing wrongful death claims is significant. Bifurcated trials, restrictions on how the value of a life is argued to a jury, reduced medical damages, and the seatbelt rule all intersect in wrongful death cases in ways that can meaningfully affect what a grieving family recovers.

At the [Law Offices of Gary Martin Hays & Associates, P.C.](#), we've been standing beside Georgia families in some of the most difficult moments of their lives since 1993. We want those families to understand exactly what the new legal landscape looks like and how we fight through it on their behalf.

What Georgia's Wrongful Death Law Covers

Before examining how SB 68 affects wrongful death claims, it helps to understand what those claims cover under Georgia law. Georgia's wrongful death statute allows the [surviving spouse, children, or parents](#) of a person killed by another's negligence to pursue compensation for the full value of the deceased person's life. That includes both the [economic components](#), such as lost future income, benefits, and financial contributions to the family, and the [noneconomic components](#), which represent the value of the person's life beyond what they earned.

Georgia law also allows the deceased person's estate to pursue a separate [survival action](#) covering medical expenses incurred before death, [funeral and burial costs](#), and the pain and suffering experienced between the injury and the time of death.

Both categories of damages are now affected by the changes SB 68 introduced.

Bifurcation and What It Does to a Wrongful Death Case

Of all the SB 68 provisions, bifurcation may carry the heaviest weight in wrongful death cases. The defense in a wrongful death case can now request that the trial be split into two phases, with the jury deciding fault in phase one before ever hearing about who was lost, what that person meant to their family, or what their death has cost the people they left behind.

Consider what that means in practice. A family loses a 42-year-old father and husband in a crash caused by a [distracted truck driver](#). In a traditional trial, the jury would hear the full story, including how the crash happened, who this man was, what his children's lives look like now, and what his family faces financially without him.

Under bifurcation, the phase one jury only hears whether the truck driver was distracted and at fault. The father's name, his children, his wife's testimony, and the reality of what this family lost are all withheld until phase two.

The liability decision is made in a vacuum, stripped of the human weight that gives it meaning. Defense attorneys know that a jury deciding fault without understanding the full consequences of that fault reaches its decision in a different emotional and psychological space than a jury that knows the whole story. That is precisely why the defense requests bifurcation, and it is exactly why it matters so much in wrongful death cases more than almost any other type of claim.

How the Restrictions on Noneconomic Damages Arguments Affect Wrongful Death Families

Georgia's wrongful death statute recognizes that a life has value beyond what a person earned. The nonpecuniary elements of the full value of life, including companionship, guidance, love, and the intangible dimensions of what was lost, have always been among the most important categories of damages a wrongful death family can pursue.

SB 68 placed new restrictions on how attorneys can argue the monetary value of those noneconomic damages to a jury. Under the new law, specific dollar figures for noneconomic damages cannot be presented until after the close of evidence and only during the first opportunity to argue damages. Any argument must be rationally related to the evidence. References to unrelated external values, such as corporate profits, lottery winnings, athlete salaries, or any other figure with no direct connection to the evidence, are now prohibited.

This matters because wrongful death cases often involve noneconomic damages that are genuinely difficult to quantify. An attorney who could previously walk a jury through a framework for thinking about what a father's guidance over the next 20 years was worth, using relatable financial comparisons to help the jury understand the scale of the loss, now faces significant restrictions on how that conversation can happen. The loss itself hasn't changed. The tools available to communicate its value in the courtroom have.

The Phantom Damages Rule and Medical Expenses Before Death

When a wrongful death victim survives for a period of time before dying from their injuries, the estate can pursue a survival action that includes the medical expenses incurred during that

period. Those medical expenses are now subject to the phantom damages rule introduced by SB 68.

Under the new framework, the defense can present evidence of what the victim's health insurance actually paid for that treatment, not just the full billed amount. In serious injury cases involving extended hospitalization, surgical intervention, or intensive care, the gap between what was billed and what the insurer paid can be substantial. The jury now sees both figures and decides the reasonable value of the care. For wrongful death estates pursuing survival action damages, that change can reduce the medical component of the claim significantly.

It's worth noting that this provision applies only to causes of action arising on or after April 21, 2025. Families whose loved ones died before that date are still governed by the old collateral source rule on medical expenses.

Seatbelt Evidence in Fatal Crash Cases

In wrongful death cases arising from vehicle crashes, seatbelt nonuse is now admissible under SB 68 on the same grounds it applies in [personal injury cases](#), including negligence, comparative fault, causation, and apportionment of damages. For [fatal crash cases](#), this creates a particularly painful dynamic.

A family that lost someone they love may now find the defense arguing that the person who died bears partial responsibility for their own death because they weren't wearing a seatbelt. That argument doesn't change who ran the red light or crossed the centerline. It doesn't change who caused the crash. But it can reduce the compensation the family recovers, and it forces grieving family members to confront that argument in a courtroom while they are still dealing with their loss.

Courts retain discretion to exclude seatbelt evidence when its probative value is outweighed by the danger of unfair prejudice, and an experienced Georgia wrongful death attorney can challenge the introduction of this evidence in appropriate cases. But families need to know it is now a tool the defense will consider using.

What These Changes Mean Together for Wrongful Death Families

SB 68 didn't target wrongful death cases specifically. What it did was change the rules across the board in ways that intersect with wrongful death claims at nearly every pressure point. The combined effect looks like this:

- **The jury deciding fault may not know who died or what the family lost** until phase two, which changes the emotional environment around the most critical decision in the case.

- **The value of a life's noneconomic components** is now harder to communicate to a jury because of restrictions on how those damages can be argued and quantified.
- **Medical expenses incurred before death** are subject to the phantom damages rule for cases arising after April 21, 2025, potentially reducing the survival action component of the claim.
- **Seatbelt nonuse by the deceased** can now be introduced to argue comparative fault and reduce the family's total recovery.
- **Discovery stays triggered by a motion to dismiss** can freeze evidence gathering for up to 90 days, making early preservation of crash evidence and medical records more critical than ever.

None of these changes eliminate a Georgia family's right to pursue a wrongful death claim. What they do is raise the stakes of every strategic and evidentiary decision made along the way.

Georgia Families Need the Right Legal Team in Their Corner

A wrongful death case was never something a family should navigate alone. Under the rules that now govern these cases in Georgia, that is truer than ever. Building a wrongful death claim that holds its value through bifurcation, survives the phantom damages challenge, and delivers the full story of a life and a loss to a jury requires preparation, experience, and a legal team that understands the post-SB 68 landscape as well as the insurance companies and defense attorneys on the other side.

The Law Offices of Gary Martin Hays & Associates, P.C. has been standing up for Georgia families in wrongful death cases for more than 30 years. We know how to build cases that win in phase one, maximize the full value of a life in phase two, and fight every attempt by the defense to use the new rules to diminish what your family is owed.

If you lost a loved one due to someone else's negligence in Georgia, [contact us today for a free consultation](#) with an experienced Georgia wrongful death lawyer. We represent families on a contingency basis, meaning there are no upfront costs and [no legal fees](#) unless we recover compensation for you.