

No. 796, S.]

[Published January 30, 1962.

## CHAPTER 649

AN ACT to amend 331.04 (2), as amended by chapter 285, laws of 1961, of the statutes, relating to disposition of amounts recovered in wrongful death actions when deceased was liable for the support of children under 18 years of age.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

331.04 (2) of the statutes, as amended by chapter 285, laws of 1961, is amended to read:

331.04 (2) If the deceased leaves surviving a spouse, and minor children *under 18 years of age* with whose support he was legally charged, \* \* \* *the court before whom the action is pending, or if no action is pending, any court of record, in recognition of the duty and responsibility of a parent to support his minor children, shall determine the amount, if any, to be set aside for the protection of such children after considering the age of such children, the amount involved, the capacity and integrity of the surviving spouse, and any other facts or information it may have or receive, and such amount may be impressed by creation of an appropriate lien in favor of such children or otherwise protected as circumstances may warrant, but such amount shall not be in excess of 50 per cent of the net amount received after deduction of costs of collection.* If there are no such surviving minor children, *the amount recovered shall belong and be paid to the spouse of the deceased; if no spouse survives, to the deceased's lineal heirs as determined by s. 237.01; if no lineal heirs survive, to the deceased's brothers and sisters. If any such relative dies before judgment in the action, the relative next in order shall be entitled to recover for the wrongful death. A surviving nonresident alien wife and minor children shall be entitled to the benefits of this section. In cases subject to s. 102.29 this subsection shall apply only to the surviving spouse's interest in the amount recovered. If the amount allocated to any child under this subsection is less than \$1,500, s. 269.80 may be applied.* Every settlement in wrongful death cases in which the deceased leaves minor children \* \* \* *under 18 years of age shall be void unless approved by a court of record authorized to act hereunder.*

Approved January 26, 1962.