Who Can File a Wrongful Death Claim in Texas After a Fatal Accident?

San Antonio Wrongful Death Lawyers Explain How the System Works in Texas

A family in San Antonio dealing with a sudden death from a car crash, a workplace accident, or another type of fatal injury often faces two battles at once. Grieving a loss is hard enough under any circumstances. Figuring out who has the legal right to bring a wrongful death claim in Texas adds another layer of confusion. And it's not always clear who has that right.

Our San Antonio wrongful death lawyers at The Herrera Law Firm have spent decades helping grieving families understand their legal rights. We help people who lost someone in a car accident, a truck crash, or another type of fatal personal injury accident. Below, families throughout Texas can learn who qualifies to file a wrongful death claim, what compensation is recoverable, and how this type of claim differs from a standard injury case.

What Is a Wrongful Death?

Texas Civil Practice and Remedies Code Section 71.002 defines a wrongful death as one caused by another person's wrongful act, neglect, carelessness, unskillfulness, or default. In practice, that covers everything from a distracted driver running a red light to a trucking company that failed to properly maintain a truck. The law is straightforward. If someone else's carelessness causes a fatal injury, the surviving family may have grounds for a wrongful death claim.

A wrongful death claim is a civil case, not a criminal one, and the two rarely move on the same track. Prosecutors decide whether to pursue criminal charges, and that decision has nothing to do with a family's right to file a wrongful death lawsuit. Many wrongful death cases move forward even when no criminal charges are ever filed against anyone.

The purpose of a wrongful death claim is compensation, not punishment. A criminal case punishes the person responsible for a death. A wrongful death claim instead focuses on what the surviving family lost, financially and emotionally, because that person is gone. That distinction shapes how these cases get built and argued in Texas courts.

Who Can File a Wrongful Death Claim in Texas?

Texas law is specific about who has legal standing to bring a wrongful death claim. Under Texas Civil Practice and Remedies Code Section 71.004, the right to file a wrongful death claim belongs exclusively to a defined group of surviving family members. No one outside that group can pursue the claim on their own behalf.

- **Surviving Spouse** - The husband or wife of the deceased at the time of death qualifies, regardless of how long the marriage lasted.
- **Surviving Children** - Biological and legally adopted children of the deceased may bring or join the claim on equal footing, including adult children.

- **Surviving Parents** - Both biological and adoptive parents can pursue the claim, even if the deceased was an adult living independently.

These three groups can file individually or join together in a single lawsuit. Texas law lets any one of them pursue the case for the benefit of everyone entitled to compensation. A family does not need unanimous agreement before moving forward, though coordinating early usually produces a claim that reflects each person's losses more accurately.

What Happens If No Eligible Family Member Files a Claim?

Grief does not follow a legal calendar, and Texas law accounts for that reality. If the surviving spouse, children, or parents have not filed suit within three calendar months of the death, the executor or administrator of the estate steps in. That representative brings the action on the family's behalf.

This rule protects the family's rights during a period when filing a lawsuit is understandably the last thing on anyone's mind. The executor or administrator generally must bring and prosecute the action unless all of the eligible surviving family members request that the representative not do so.

Families sometimes assume that the three-month period is the deadline for filing a wrongful death lawsuit. It is not. The three-month period does not replace Texas's general two-year filing deadline for wrongful death lawsuits.

Can Stepchildren, Siblings or Grandparents File a Wrongful Death Claim?

Texas courts interpret the list of eligible beneficiaries narrowly. Stepchildren cannot recover for the wrongful death of a stepparent unless a formal legal adoption took place. The same rule applies in reverse to a stepparent seeking recovery for a stepchild's death.

Siblings, grandparents, foster parents, and other relatives fall outside the statute entirely, no matter how close the relationship was in daily life. A grandmother who helped raise a grandchild has no independent right to file. Neither does a sibling who lived with the deceased for years, under current Texas law.

This distinction catches many families off guard, especially in blended households where a stepparent or informal guardian played a central role. An experienced wrongful death lawyer can review the family structure early. That step identifies exactly who holds the legal right to pursue compensation before evidence starts slipping away.

What Compensation Can Eligible Family Members Recover?

Once eligibility is established, families often ask what compensation they are eligible to receive for their losses. From a legal standpoint, this compensation is referred to as damages. Texas law allows eligible individuals to recover a wider range of damages, which is usually divided into two general categories:

- Economic damages, which are tied to a specific dollar figure.
- Non-economic damages, which are associated with the emotional toll of the death.

In particular, eligible individuals can often receive financial compensation for:

- **Lost Financial Support** - The income and benefits the deceased would have contributed to the family over their expected working life.
- **Loss of Companionship** - The comfort, guidance, and society a spouse, parent, or child provided before the death occurred.
- **Mental Anguish** - The emotional pain and suffering surviving family members experience as a direct result of the loss.
- **Funeral and Burial Expenses** - Reasonable funeral and burial expenses paid by eligible family members.
- **Loss of Inheritance** - The value the estate would likely have accumulated had the deceased lived out a normal working life.

A jury often decides how much total compensation the family receives. That amount then gets divided among the eligible beneficiaries based on each person's individual loss. A surviving spouse and a surviving child, for example, often recover different amounts for the same case.

How Does a Wrongful Death Claim Differ From a Standard Injury Claim?

A standard personal injury claim belongs to the person who was hurt. That person recovers compensation for their own medical bills, lost wages, and pain and suffering. A wrongful death claim works differently because the injured person did not survive to bring the case.

Instead, the claim belongs to the surviving spouse, children, and parents named in the statute. The damages (the money a court orders to compensate a loss) cover their losses rather than the deceased person's own suffering before death. Negligence (the failure to use reasonable care, resulting in harm to someone else) still has to be proven the same way it would in any other personal injury accident case.

The distinction is not just technical. A standard injury claim ends when the injured person settles or wins at trial. A wrongful death claim keeps serving a family's ongoing needs, from replacing lost income to accounting for the guidance a parent or spouse can no longer provide.

What Is a Survival Action and How Is It Different From a Wrongful Death Claim?

Texas law also allows a separate claim called a survival action under Civil Practice and Remedies Code Section 71.021. This claim belongs to the deceased person's estate rather than to the surviving family members directly. It covers a different category of losses entirely.

A survival action seeks compensation for what the deceased personally experienced between the injury and the moment of death. That includes pain and suffering, medical expenses, and lost income during that window. These are damages arising from the losses the deceased personally experienced before death.

Families frequently pursue a wrongful death claim and a survival action at the same time. The two claims compensate different types of losses. Filing both may allow a family to pursue the full scope of compensation Texas law makes available after a fatal accident.

How Long Do Families Have to File a Wrongful Death Claim in Texas?

Texas Civil Practice and Remedies Code [Section 16.003] sets a two-year deadline for filing a wrongful death claim. That clock starts running on the date of death rather than the date of the original accident.

This distinction matters most when someone survives an injury for weeks or months before ultimately passing away. A car accident happens in one month, and the death follows several months later. The two-year window still starts on the date of death, not the date of the crash that caused the injury.

Missing this deadline can result in losing the right to pursue compensation, although limited exceptions may affect the deadline in some cases. Contacting a lawyer soon after a loved one's death helps preserve evidence and witness testimony before either one fades.

Can Damages Be Divided Among Multiple Eligible Family Members?

When more than one eligible beneficiary exists, Texas Civil Practice and Remedies Code [Section 71.010] governs how the jury apportions the damages awarded. The jury weighs each beneficiary's relationship to the deceased. It also weighs the extent of that person's individual loss.

A surviving spouse who depended on the deceased's income may receive a different share than an adult child who lived independently. Both still qualify to recover under the statute. This often depends on many factors, including financial dependence, the closeness of the relationship, and the age of the beneficiaries involved.

Coordinating early among eligible family members tends to produce a more complete picture for the jury to evaluate. Separate, uncoordinated filings can create confusion. They sometimes reduce the overall value the family recovers from the same case.

How Can a San Antonio Wrongful Death Lawyer Help My Family?

Wrongful death cases in San Antonio and across Texas often involve multiple insurance companies and disputed liability. Grieving families are often in no position to manage complex legal deadlines on their own. Bexar County courts see these cases arise from highway crashes, workplace accidents, and other fatal accidents.

Our San Antonio wrongful death lawyers at The Herrera Law Firm identify every eligible beneficiary and calculate the full range of recoverable compensation. We handle communication with insurance adjusters so families can focus on each other during a difficult time. We build every case around the specific relationships and financial losses involved, not a generic formula.

Winning isn't luck. It's knowing how to fight for the people left behind after a preventable death. Contact us today for a free and confidential consultation. Let our legal team at The Herrera Law Firm explain exactly what Texas law entitles your family to pursue.