

1 AN ACT to conform the text of certain statutory
2 provisions to a court decision concerning their
3 constitutionality.

4 Be it enacted by the People of the State of Illinois,
5 represented in the General Assembly:

6 Section 1. Special revisory Act; findings; purpose. The
7 General Assembly finds and declares that:

8 (1) Public Act 89-7 changed, added, and repealed various
9 statutory provisions. In *Best v. Taylor Machine Works*, 179
10 Ill. 2d 367 (1997), the Illinois Supreme Court held that
11 Public Act 89-7 was void in its entirety.

12 (2) The statutes should conform to the decision of the
13 Illinois Supreme Court in *Best v. Taylor Machine Works*. It is
14 the purpose of this special revisory Act to: (i) re-enact and
15 repeal statutory provisions so the text of those provisions
16 conforms to the decision of the Illinois Supreme Court in
17 *Best v. Taylor Machine Works* and (ii) remove any question as
18 to the manner in which those provisions should appear in the
19 statutes in light of that decision.

20 (3) This special revisory Act is not intended to
21 supersede any Public Act of the 93rd General Assembly that
22 amends the text of a statutory provision that appears in this
23 special revisory Act.

24 (4) If a Public Act enacted after Public Act 89-7 amended
25 the text of a Section of the statutes without including the
26 changes made by Public Act 89-7, the text of that Section is
27 shown in this special revisory Act as existing text (i.e.,
28 without striking and underscoring) to conform to the decision
29 of the Illinois Supreme Court, with the exception of changes
30 of a revisory nature.

31 (5) If no Public Act enacted after Public Act 89-7 has
32 amended the text of a Section that was purportedly amended in

1 Public Act 89-7, the text of that Section is re-enacted in
2 this special revisory Act with striking and underscoring to
3 conform to the decision of the Illinois Supreme Court.

4 (6) Provisions that were purportedly added to the
5 statutes by Public Act 89-7 are repealed in this special
6 revisory Act to conform to the decision of the Illinois
7 Supreme Court.

8 (7) Provisions that were purportedly repealed by Public
9 Act 89-7 are shown in this special revisory Act as existing
10 text (i.e., without striking and underscoring) to conform to
11 the decision of the Illinois Supreme Court.

12 Section 5. The Road Worker Safety Act is re-enacted as
13 follows:

14 (430 ILCS 105/Act title)

15 An Act to protect workers and the general public from
16 injury or death during construction or repair of bridges and
17 highways within the State of Illinois.

18 (430 ILCS 105/0.01) (from Ch. 121, par. 314.01)

19 Sec. 0.01. Short title. This Act may be cited as the
20 Road Worker Safety Act.

21 (Source: P.A. 86-1324; 89-7.)

22 (430 ILCS 105/1) (from Ch. 121, par. 314.1)

23 Sec. 1. All construction work upon bridges or highways
24 within the State of Illinois shall be so performed and
25 conducted that two-way traffic will be maintained when such
26 is safe and practical, and when not safe and practical, or
27 when any portion of the highway is obstructed, one-way
28 traffic shall be maintained, unless the authorized agency in
29 charge of said construction directs the road be closed to all
30 traffic.

1 (Source: Laws 1959, p. 2044; P.A. 89-7.)

2 (430 ILCS 105/2) (from Ch. 121, par. 314.2)

3 Sec. 2. At all times during which men are working where
4 one-way traffic is utilized, the contractor or his authorized
5 agent in charge of such construction will be required to
6 furnish no fewer than two flagmen, one at each end of the
7 portion of highway or bridge on which only one-way traffic is
8 permitted, and at least 100 feet away from the nearest point
9 of the highway or bridge on which only one-way traffic is
10 safe and permitted. The flagmen shall be equipped with safe,
11 suitable, and proper signal devices as prescribed in the
12 Manual on Uniform Traffic Control Devices for Streets and
13 Highways published by the Department of Transportation, and
14 shall so use such devices as to inform approaching motorists
15 to stop or proceed. In addition, safe, suitable, and proper
16 signals and signs as prescribed in the Manual shall be so
17 placed as to warn approaching persons of the existence of any
18 portion of highway or bridge upon which only one-way traffic
19 is safe and permitted. At bridge construction or bridge
20 repair sites, where one-way traffic is utilized, traffic
21 control signals conforming to the Manual may be installed and
22 operated in lieu of, or in addition to, flagmen. Whenever
23 the Department of Transportation or local authorities
24 determine that a bridge or highway construction site requires
25 the closing of a road to through traffic, the contract
26 documents relating to such construction may specify alternate
27 procedures for flagging and controlling traffic, when such
28 procedures have been approved by the Department. When
29 alternate procedures are not included, traffic control and
30 flagging will be as prescribed in the first paragraph of this
31 Section.

32 (Source: P.A. 82-408; 89-7.)

1 (430 ILCS 105/3) (from Ch. 121, par. 314.3)

2 Sec. 3. Drivers of any motor vehicle approaching any
3 section of highway or bridge which is limited to only one-way
4 traffic shall obey warning signs and shall stop their
5 vehicles if signaled to do so by a flagman or a traffic
6 control signal.

7 (Source: Laws 1967, p. 468; P.A. 89-7.)

8 (430 ILCS 105/4) (from Ch. 121, par. 314.4)

9 Sec. 4. Any portion of highway or bridge which is closed
10 to all traffic shall be marked at each place where vehicles
11 have accessible approach to such portion of highway or
12 bridge, and at a sufficient distance from the closed portion
13 of such highway or bridge shall be marked with an adequate
14 number of safe, suitable, and proper warning signs, signals
15 or barricades as set forth in the Manual of Uniform Traffic
16 Control Devices for Streets and Highways published by the
17 Department of Transportation so as to give warning to
18 approaching motorists that such portion of bridge or highway
19 is closed and unsafe for travel.

20 (Source: P.A. 77-176; 89-7.)

21 (430 ILCS 105/5) (from Ch. 121, par. 314.5)

22 Sec. 5. Any contractor, subcontractor, or his authorized
23 agent in charge of construction work on highways or bridges
24 within the State of Illinois, or any driver of any motor
25 vehicle, who knowingly or wilfully violates any provision of
26 this Act, is guilty of a petty offense.

27 (Source: P.A. 77-2242; 89-7.)

28 (430 ILCS 105/6) (from Ch. 121, par. 314.6)

29 Sec. 6. Any contractor, subcontractor, or his or her
30 authorized agent or driver of any motor vehicle who knowingly
31 or wilfully violates any provision of this Act, shall be

1 responsible for any injury to person or property occasioned
2 by such violation, and a right of action shall accrue to any
3 person injured for any damages sustained thereby; and in case
4 of loss of life by reason of such violation, a right of
5 action shall accrue to the surviving spouse of the person so
6 killed, his or her heirs, or to any person or persons who
7 were, before such loss of life, dependent for support on the
8 person so killed, for a like recovery of damages sustained by
9 reason of such loss of life.

10 (Source: P.A. 80-1154; 89-7.)

11 (430 ILCS 105/7) (from Ch. 121, par. 314.7)

12 Sec. 7. In case of any failure to comply with any of the
13 provisions of this Act, the Director of Labor may, through
14 the State's Attorney, or any other attorney in case of his
15 failure to act promptly, take the necessary legal steps to
16 enforce compliance therewith.

17 (Source: Laws 1959, p. 2044; P.A. 89-7.)

18 (430 ILCS 105/8) (from Ch. 121, par. 314.8)

19 Sec. 8. The provisions of this Act shall not apply to
20 employees or officials of the State of Illinois or any other
21 public agency engaged in the construction or maintenance of
22 highways and bridges.

23 (Source: Laws 1959, p. 2044; P.A. 89-7.)

24 Section 10. Section 5-5-7 of the Unified Code of
25 Corrections is re-enacted as follows:

26 (730 ILCS 5/5-5-7) (from Ch. 38, par. 1005-5-7)

27 Sec. 5-5-7. Neither the State, any local government,
28 probation department, public or community service program or
29 site, nor any official, volunteer, or employee thereof acting
30 in the course of their official duties shall be liable for

1 any injury or loss a person might receive while performing
2 public or community service as ordered either (1) by the
3 court or (2) by any duly authorized station or probation
4 adjustment, teen court, community mediation, or other
5 administrative diversion program authorized by the Juvenile
6 Court Act of 1987 for a violation of a penal statute of this
7 State or a local government ordinance (whether penal, civil,
8 or quasi-criminal) or for a traffic offense, nor shall they
9 be liable for any tortious acts of any person performing
10 public or community service, except for wilful, wanton
11 misconduct or gross negligence on the part of such
12 governmental unit, probation department, or public or
13 community service program or site, or the official,
14 volunteer, or employee.

15 (Source: P.A. 91-820, eff. 6-13-00.)

16 Section 15. Sections 2-402, 2-604.1, 2-621, 2-622,
17 2-1003, 2-1107.1, 2-1109, 2-1116, 2-1117, 2-1118, 2-1205.1,
18 2-1702, 8-802, 8-2001, 8-2003, 8-2004, 8-2501, 13-213,
19 13-214.3, and 13-217 of the Code of Civil Procedure are
20 re-enacted as follows:

21 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

22 Sec. 2-402. Respondents in discovery. The plaintiff in
23 any civil action may designate as respondents in discovery in
24 his or her pleading those individuals or other entities,
25 other than the named defendants, believed by the plaintiff to
26 have information essential to the determination of who should
27 properly be named as additional defendants in the action.
28 ~~Fictitious-defendants-may-not-be-named-in-a-complaint-in~~
29 ~~order-to-designate-respondents-in-discovery.~~

30 Persons or entities so named as respondents in discovery
31 shall be required to respond to discovery by the plaintiff in
32 the same manner as are defendants and may, on motion of the

1 plaintiff, be added as defendants if the evidence discloses
2 the existence of probable cause for such action.

3 A person or entity named a respondent in discovery may
4 upon his or her own motion be made a defendant in the action,
5 in which case the provisions of this Section are no longer
6 applicable to that person.

7 A copy of the complaint shall be served on each person or
8 entity named as a respondent in discovery.

9 Each respondent in discovery shall be paid expenses and
10 fees as provided for witnesses.

11 A person or entity named as a respondent in discovery in
12 any civil action may be made a defendant in the same action
13 at any time within 6 months after being named as a respondent
14 in discovery, even though the time during which an action may
15 otherwise be initiated against him or her may have expired
16 during such 6 month period. ~~No extensions of this 6-month~~
17 ~~period shall be permitted unless the plaintiff can show a~~
18 ~~failure or refusal on the part of the respondent to comply~~
19 ~~with timely filed discovery.~~

20 ~~This amendatory Act of 1995 applies to causes of action~~
21 ~~filed on or after its effective date.~~

22 (Source: P.A. 86-483; 89-7.)

23 (735 ILCS 5/2-604.1) (from Ch. 110, par. 2-604.1)

24 Sec. 2-604.1. Pleading of punitive damages. In all
25 actions on account of bodily injury or physical damage to
26 property, based on negligence, or product liability based on
27 ~~any theory or doctrine~~ strict tort liability, where punitive
28 damages are permitted no complaint shall be filed containing
29 a prayer for relief seeking punitive damages. However, a
30 plaintiff may, pursuant to a pretrial motion and after a
31 hearing before the court, amend the complaint to include a
32 prayer for relief seeking punitive damages. The court shall
33 allow the motion to amend the complaint if the plaintiff

1 establishes at such hearing a reasonable likelihood of
 2 proving facts at trial sufficient to support an award of
 3 punitive damages. Any motion to amend the complaint to
 4 include a prayer for relief seeking punitive damages shall be
 5 made not later than 30 days after the close of discovery. A
 6 prayer for relief added pursuant to this Section shall not be
 7 barred by lapse of time under any statute prescribing or
 8 limiting the time within which an action may be brought or
 9 right asserted if the time prescribed or limited had not
 10 expired when the original pleading was filed.

11 (Source: P.A. 84-1431; 89-7.)

12 (735 ILCS 5/2-621) (from Ch. 110, par. 2-621)

13 Sec. 2-621. Product liability actions. (a) In any
 14 product liability action based ~~on-any-theory-or--doctrine~~ in
 15 whole or in part on the doctrine of strict liability in tort
 16 commenced or maintained against a defendant or defendants
 17 other than the manufacturer, that party shall upon answering
 18 or otherwise pleading file an affidavit certifying the
 19 correct identity of the manufacturer of the product allegedly
 20 causing injury, death or damage. The commencement of a
 21 product liability action based ~~on-any-theory-or--doctrine~~ in
 22 whole or in part on the doctrine of strict liability in tort
 23 against such defendant or defendants shall toll the
 24 applicable statute of limitation and statute of repose
 25 relative to the defendant or defendants for purposes of
 26 asserting a strict liability in tort cause of action.

27 (b) Once the plaintiff has filed a complaint against the
 28 manufacturer or manufacturers, and the manufacturer or
 29 manufacturers have or are required to have answered or
 30 otherwise pleaded, the court shall order the dismissal of a
 31 ~~product-liability-action-based--on--any--theory--or--doctrine~~
 32 strict liability in tort claim against the certifying
 33 defendant or defendants, provided the certifying defendant or

1 defendants are not within the categories set forth in
2 subsection (c) of this Section. Due diligence shall be
3 exercised by the certifying defendant or defendants in
4 providing the plaintiff with the correct identity of the
5 manufacturer or manufacturers, and due diligence shall be
6 exercised by the plaintiff in filing an action and obtaining
7 jurisdiction over the manufacturer or manufacturers.

8 The plaintiff may at any time subsequent to the dismissal
9 move to vacate the order of dismissal and reinstate the
10 certifying defendant or defendants, provided plaintiff can
11 show one or more of the following:

12 (1) That the applicable period of statute of limitation
13 or statute of repose bars the assertion of a strict liability
14 in tort cause of action against the manufacturer or
15 manufacturers of the product allegedly causing the injury,
16 death or damage; or

17 (2) That the identity of the manufacturer given to the
18 plaintiff by the certifying defendant or defendants was
19 incorrect. Once the correct identity of the manufacturer has
20 been given by the certifying defendant or defendants the
21 court shall again dismiss the certifying defendant or
22 defendants; or

23 (3) That the manufacturer no longer exists, cannot be
24 subject to the jurisdiction of the courts of this State, or,
25 despite due diligence, the manufacturer is not amenable to
26 service of process; or

27 (4) That the manufacturer is unable to satisfy any
28 judgment as determined by the court; or

29 (5) That the court determines that the manufacturer
30 would be unable to satisfy a reasonable settlement or other
31 agreement with plaintiff.

32 (c) A court shall not enter a dismissal order relative
33 to any certifying defendant or defendants other than the
34 manufacturer even though full compliance with subsection (a)

1 of this Section has been made where the plaintiff can show
2 one or more of the following:

3 (1) That the defendant has exercised some significant
4 control over the design or manufacture of the product, or has
5 provided instructions or warnings to the manufacturer
6 relative to the alleged defect in the product which caused
7 the injury, death or damage; or

8 (2) That the defendant had actual knowledge of the
9 defect in the product which caused the injury, death or
10 damage; or

11 (3) That the defendant created the defect in the product
12 which caused the injury, death or damage.

13 (d) Nothing contained in this Section shall be construed
14 to grant a cause of action on in strict liability in tort or
15 any other legal theory or doctrine, or to affect the right of
16 any person to seek and obtain indemnity or contribution.

17 (e) This Section applies to all causes of action
18 accruing on or after September 24, 1979.

19 (Source: P.A. 84-1043; 89-7.)

20 (735 ILCS 5/2-622) (from Ch. 110, par. 2-622)
21 Sec. 2-622. Healing art malpractice.

22 (a) In any action, whether in tort, contract or
23 otherwise, in which the plaintiff seeks damages for injuries
24 or death by reason of medical, hospital, or other healing art
25 malpractice, the plaintiff's attorney or the plaintiff, if
26 the plaintiff is proceeding pro se, shall file an affidavit,
27 attached to the original and all copies of the complaint,
28 declaring one of the following:

29 1. That the affiant has consulted and reviewed the
30 facts of the case with a health professional who the
31 affiant reasonably believes: (i) is knowledgeable in the
32 relevant issues involved in the particular action; (ii)
33 practices or has practiced within the last 6 years or

1 teaches or has taught within the last 6 years in the same
2 area of health care or medicine that is at issue in the
3 particular action; and (iii) is qualified by experience
4 or demonstrated competence in the subject of the case;
5 that the reviewing health professional has determined in
6 a written report, after a review of the medical record
7 and other relevant material involved in the particular
8 action that there is a reasonable and meritorious cause
9 for the filing of such action; and that the affiant has
10 concluded on the basis of the reviewing health
11 professional's review and consultation that there is a
12 reasonable and meritorious cause for filing of such
13 action. If the affidavit is filed as to a defendant who
14 is a physician licensed to treat human ailments without
15 the use of drugs or medicines and without operative
16 surgery, a dentist, a podiatrist, a psychologist, or a
17 naprapath, the written report must be from a health
18 professional licensed in the same profession, with the
19 same class of license, as the defendant. For affidavits
20 filed as to all other defendants, the written report must
21 be from a physician licensed to practice medicine in all
22 its branches. In either event, the affidavit must
23 identify the profession of the reviewing health
24 professional. A copy of the written report, clearly
25 identifying the plaintiff and the reasons for the
26 reviewing health professional's determination that a
27 reasonable and meritorious cause for the filing of the
28 action exists, must be attached to the affidavit, but
29 information which would identify the reviewing health
30 professional may be deleted from the copy so attached.

31 2. That the affiant was unable to obtain a
32 consultation required by paragraph 1 because a statute of
33 limitations would impair the action and the consultation
34 required could not be obtained before the expiration of

1 the statute of limitations. If an affidavit is executed
2 pursuant to this paragraph, the certificate and written
3 report required by paragraph 1 shall be filed within 90
4 days after the filing of the complaint. The defendant
5 shall be excused from answering or otherwise pleading
6 until 30 days after being served with a certificate
7 required by paragraph 1.

8 3. That a request has been made by the plaintiff or
9 his attorney for examination and copying of records
10 pursuant to Part 20 of Article VIII of this Code and the
11 party required to comply under those Sections has failed
12 to produce such records within 60 days of the receipt of
13 the request. If an affidavit is executed pursuant to
14 this paragraph, the certificate and written report
15 required by paragraph 1 shall be filed within 90 days
16 following receipt of the requested records. All
17 defendants except those whose failure to comply with Part
18 20 of Article VIII of this Code is the basis for an
19 affidavit under this paragraph shall be excused from
20 answering or otherwise pleading until 30 days after being
21 served with the certificate required by paragraph 1.

22 (b) Where a certificate and written report are required
23 pursuant to this Section a separate certificate and written
24 report shall be filed as to each defendant who has been named
25 in the complaint and shall be filed as to each defendant
26 named at a later time.

27 (c) Where the plaintiff intends to rely on the doctrine
28 of "res ipsa loquitur", as defined by Section 2-1113 of this
29 Code, the certificate and written report must state that, in
30 the opinion of the reviewing health professional, negligence
31 has occurred in the course of medical treatment. The affiant
32 shall certify upon filing of the complaint that he is relying
33 on the doctrine of "res ipsa loquitur".

34 (d) When the attorney intends to rely on the doctrine of

1 failure to inform of the consequences of the procedure, the
2 attorney shall certify upon the filing of the complaint that
3 the reviewing health professional has, after reviewing the
4 medical record and other relevant materials involved in the
5 particular action, concluded that a reasonable health
6 professional would have informed the patient of the
7 consequences of the procedure.

8 (e) Allegations and denials in the affidavit, made
9 without reasonable cause and found to be untrue, shall
10 subject the party pleading them or his attorney, or both, to
11 the payment of reasonable expenses, actually incurred by the
12 other party by reason of the untrue pleading, together with
13 reasonable attorneys' fees to be summarily taxed by the court
14 upon motion made within 30 days of the judgment or dismissal.
15 In no event shall the award for attorneys' fees and expenses
16 exceed those actually paid by the moving party, including the
17 insurer, if any. In proceedings under this paragraph (e), the
18 moving party shall have the right to depose and examine any
19 and all reviewing health professionals who prepared reports
20 used in conjunction with an affidavit required by this
21 Section.

22 (f) A reviewing health professional who in good faith
23 prepares a report used in conjunction with an affidavit
24 required by this Section shall have civil immunity from
25 liability which otherwise might result from the preparation
26 of such report.

27 (g) The failure to file a certificate required by this
28 Section shall be grounds for dismissal under Section 2-619.

29 (h) This Section does not apply to or affect any actions
30 pending at the time of its effective date, but applies to
31 cases filed on or after its effective date.

32 (i) This amendatory Act of 1997 does not apply to or
33 affect any actions pending at the time of its effective date,
34 but applies to cases filed on or after its effective date.

1 (Source: P.A. 86-646; 90-579, eff. 5-1-98.)

2 (735 ILCS 5/2-1003) (from Ch. 110, par. 2-1003)

3 Sec. 2-1003. Discovery and depositions.

4 (a) Any party who by pleading alleges any claim for
5 bodily injury or disease, including mental health injury or
6 disease, shall be deemed to waive any privilege between the
7 injured person and each health care provider who has
8 furnished care at any time to the injured person. "Health
9 care provider" means any person or entity who delivers or has
10 delivered health care services, including diagnostic
11 services, and includes, but is not limited to, physicians,
12 psychologists, chiropractors, nurses, mental health workers,
13 therapists, and other healing art practitioners. Any party
14 alleging any such claim for bodily or mental health injury or
15 disease shall, upon written request of any other party who
16 has appeared in the action, sign and deliver within 28 days
17 to the requesting party a separate Consent authorizing each
18 person or entity who has provided health care at any time to
19 the allegedly injured person to:

20 (1) furnish the requesting party or the party's
21 attorney a complete copy of the chart or record of health
22 care in the possession of the provider, including reports
23 sent to any third party, including any records generated
24 by other health care providers and in the possession of
25 the health care provider, and including radiographic
26 films of any type;

27 (2) permit the requesting party or the party's
28 attorney to inspect the original chart or record of
29 health care during regular business hours and at the
30 regular business location of the health care provider,
31 upon written request made not less than 7 days prior to
32 the inspection;

33 (3) accept and consider charts and other records of

1 health-care-by-others, radiographic films, and documents,
2 including reports, deposition transcripts, and letters,
3 furnished to the health-care provider by the requesting
4 party or the party's attorney, before giving testimony in
5 any deposition or trial or other hearing;

6 (4) confer with the requesting party's attorney
7 before giving testimony in any deposition or trial or
8 other hearing and engage in discussion with the attorney
9 on the subjects of the health-care provider's
10 observations related to the allegedly injured party's
11 health, including the following: the patient history,
12 whether charted or otherwise recorded or not; the health
13 care provider's opinions related to the patient's state
14 of health, prognosis, etiology, or cause of the patient's
15 state of health at any time, and the nature and quality
16 of care by other health-care providers, including whether
17 any standard of care was or was not breached; and the
18 testimony the health-care provider would give in response
19 to any point of interrogation, and the education,
20 experience, and qualifications of the health-care
21 provider.

22 The form of the Consent furnished pursuant to this
23 subsection (a) shall recite that it is signed and delivered
24 under the authority of this subsection. Any variation in the
25 form of the Consent required by any health-care provider, not
26 subject to the jurisdiction of the circuit court before which
27 the action is pending, to whom a request is directed under
28 subdivision (1) or (2) of this subsection (a) shall be
29 accepted by the allegedly injured party and the revised form
30 requested by the health-care provider shall be signed and
31 delivered to the requesting party within 28 days after it is
32 tendered for signature.

33 All documents and information obtained pursuant to a
34 Consent shall be considered confidential. Disclosure may be

1 made--only--to--the--parties--to--the--action,--their--attorneys,
2 their---insurers'---representatives,---and---witnesses---and
3 consultants---whose---testimony---concerns---medical---treatment
4 prognosis,--or--rehabilitation,--including--expert--witnesses.

5 A request for a Consent under this subsection (a) does
6 not preclude such subsequent requests as may reasonably be
7 made seeking to expand the scope of an earlier Consent which
8 was limited to less than all the authority permitted by
9 subdivisions (1) through (4) of this subsection (a) or
10 seeking additional Consents for other health care providers.

11 The provisions of this subsection (a) do not restrict the
12 right of any party to discovery pursuant to rule.

13 Should a plaintiff refuse to timely comply with a request
14 for signature and delivery of a consent permitted by this
15 subsection (a) the court, on motion, shall issue an order
16 authorizing disclosure to the party or parties requesting
17 said consent of all records and information mentioned herein
18 or order the cause dismissed pursuant to Section 2-619(a)(9).

19 (a-1) Discovery, admissions of fact and of genuineness
20 of documents and answers to interrogatories shall be in
21 accordance with rules.

22 (b) The taking of depositions, whether for use in
23 evidence or for purposes of discovery in proceedings in this
24 State or elsewhere, and fees and charges in connection
25 therewith, shall be in accordance with rules.

26 (c) A party shall not be required to furnish the names
27 or addresses of his or her witnesses, except that upon motion
28 of any party disclosure of the identity of expert witnesses
29 shall be made to all parties and the court in sufficient time
30 in advance of trial so as to insure a fair and equitable
31 preparation of the case by all parties.

32 (d) Whenever the defendant in any litigation in this
33 State has the right to demand a physical or mental
34 examination of the plaintiff pursuant to statute or Supreme

1 Court Rule, relative to the occurrence and extent of injuries
 2 or damages for which claim is made, or in connection with the
 3 plaintiff's capacity to exercise any right plaintiff has, or
 4 would have but for a finding based upon such examination, the
 5 plaintiff has the right to have his or her attorney, or such
 6 other person as the plaintiff may wish, present at such
 7 physical or mental examination.

8 (e) No person or organization shall be required to
 9 furnish claims, loss or risk management information held or
 10 provided by an insurer, which information is described in
 11 Section 143.10a of the "Illinois Insurance Code".

12 ~~{f}--This--amendatory--Act--of--1995--applies--to--causes--of~~
 13 ~~action--filed--on--and--after--its--effective--date.~~

14 (Source: P.A. 84-1431; 89-7.)

15 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

16 Sec. 2-1107.1. Jury instruction in tort actions. In all
 17 actions on account of bodily injury or death or physical
 18 damage to property based on negligence, or product liability
 19 based on ~~any--theory--or--doctrine~~ strict tort liability, the
 20 court shall instruct the jury in writing, ~~to the extent that~~
 21 ~~it is true, that any award of compensatory damages or~~
 22 ~~punitive damages will not be taxable under federal or State~~
 23 ~~income tax law. The court shall not inform or instruct the~~
 24 jury that the defendant shall be found not liable if the jury
 25 finds that the contributory fault of the plaintiff is more
 26 than 50% of the proximate cause of the injury or damage for
 27 which recovery is sought, ~~but it shall be the duty of the~~
 28 ~~court to deny recovery if the jury finds that the plaintiff's~~
 29 ~~contributory fault is more than 50% of the proximate cause of~~
 30 ~~the injury or damage. The court shall not inform or instruct~~
 31 ~~the jury concerning any limitations in the amount of~~
 32 ~~non-economic damages or punitive damages that are~~
 33 ~~recoverable, but it shall be the duty of the trial court upon~~

1 entering judgment to reduce any award in excess of such
2 limitation to no more than the proper limitation.

3 This amendatory Act of 1995 applies to causes of action
4 filed on or after its effective date.

5 (Source: P.A. 84-1431; 89-7.)

6 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

7 Sec. 2-1109. Itemized verdicts. In every case where
8 damages for bodily injury or death to the person are assessed
9 by the jury the verdict shall be itemized so as to reflect
10 the monetary distribution, if any, among economic loss and
11 non-economic loss as defined in Section 2-1115.2, if any,
12 and, in healing-art medical malpractice cases, further
13 itemized so as to reflect the distribution of economic loss
14 by category, such itemization of economic loss by category to
15 include: (a) amounts intended to compensate for reasonable
16 expenses which have been incurred, or which will be incurred,
17 for necessary medical, surgical, x-ray, dental, or other
18 health or rehabilitative services, drugs, and therapy; (b)
19 amounts intended to compensate for lost wages or loss of
20 earning capacity; and (c) all other economic losses claimed
21 by the plaintiff or granted by the jury. Each category of
22 economic loss shall be further itemized into amounts intended
23 to compensate for losses which have been incurred prior to
24 the verdict and amounts intended to compensate for future
25 losses which will be incurred in the future.

26 This amendatory Act of 1995 applies to causes of action
27 filed on or after its effective date.

28 (Source: P.A. 84-7; 89-7.)

29 (735 ILCS 5/2-1116) (from Ch. 110, par. 2-1116)

30 Sec. 2-1116. Limitation on recovery in tort actions;
31 fault.

32 (a) The purpose of this Section is to allocate the

1 responsibility--of--bearing--or--paying--damages--in--actions
2 brought-on-account--of--death,--bodily--injury,--or--physical
3 damage--to--property--according-to-the-proportionate-fault-of
4 the-persons-who-proximately-caused-the-damage.

5 (b)--As-used-in-this-Section:

6 "Fault"--means-any-act-or-omission-that-(i)-is--negligent,
7 willful-and-wanton,--or-reckless,--is-a-breach-of-an-express-or
8 implied--warranty,--gives-rise-to-strict-liability-in-tort,--or
9 gives-rise-to-liability-under-the--provisions--of--any--State
10 statute,--rule,--or--local--ordinance-and-(ii)-is-a-proximate
11 cause-of-death,--bodily-injury-to-person,--or--physical--damage
12 to-property-for-which-recovery-is-sought.

13 "Contributory--fault"--means-any-fault-on-the-part-of-the
14 plaintiff--(including--but---not---limited---to---negligence,
15 assumption--of--the--risk,--or-willful-and-wanton-misconduct)
16 which-is-a-proximate-cause-of-the--death,--bodily--injury--to
17 person,--or-physical-damage-to-property-for-which-recovery-is
18 sought.

19 "Tortfeasor"--means--any--person,--excluding--the--injured
20 person,--whose-fault-is-a-proximate-cause-of-the-death,--bodily
21 injury--to--person,--or-physical-damage-to-property-for-which
22 recovery-is-sought,--regardless-of-whether-that-person-is--the
23 plaintiff's--employer,--regardless--of-whether-that-person-is
24 joined-as-a-party-to-the-action,--and--regardless--of--whether
25 that-person-may-have-settled-with-the-plaintiff.

26 (e) In all actions on account of death, bodily injury or
27 death or physical damage to property in-which-recovery-is
28 predicated--upon--fault, based on negligence, or product
29 liability based on strict tort liability, the--contributory
30 fault--chargeable-to-the-plaintiff-shall-be-compared-with-the
31 fault-of-all-tortfeasors-whose-fault-was-a-proximate-cause-of
32 the-death,--injury,--loss,--or--damage--for--which--recovery--is
33 sought. the plaintiff shall be barred from recovering
34 damages if the trier of fact finds that the contributory

1 fault on the part of the plaintiff is more than 50% of the
 2 proximate cause of the injury or damage for which recovery is
 3 sought. The plaintiff shall not be barred from recovering
 4 damages if the trier of fact finds that the contributory
 5 fault on the part of the plaintiff is not more than 50% of
 6 the proximate cause of the injury or damage for which
 7 recovery is sought, but any economic or non-economic damages
 8 allowed shall be diminished in the proportion to the amount
 9 of fault attributable to the plaintiff.

10 (d) -- Nothing in this Section shall be construed to create
 11 a cause of action.

12 (e) -- This amendatory Act of 1995 applies to causes of
 13 action accruing on or after its effective date.

14 (Source: P.A. 84-1431; 89-7.)

15 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

16 Sec. 2-1117. Several Joint liability.

17 (a) -- In any action brought on account of death, bodily
 18 injury to person, or physical damage to property in which
 19 recovery is predicated upon fault as defined in Section
 20 2-1116, a defendant is severally liable only and is liable
 21 only for that proportion of recoverable economic and
 22 non-economic damages, if any, that the amount of that
 23 defendant's fault, if any, bears to the aggregate amount of
 24 fault of all other tortfeasors, as defined in Section 2-1116,
 25 whose fault was a proximate cause of the death, bodily
 26 injury, economic loss, or physical damage to property for
 27 which recovery is sought.

28 (b) -- Notwithstanding the provisions of subsection (a), in
 29 any healing art malpractice action based on negligence or
 30 wrongful death, any defendants found liable shall be jointly
 31 and severally liable if the limitations on non-economic
 32 damages in Section 2-1115.1 of this Act are for any reason
 33 deemed or found to be invalid.

1 This-amendatory-Act-of-1995-applies-to-causes--of--action
2 filed-on-or-after-its-effective-date.

3 Except as provided in Section 2-1118, in actions on
4 account of bodily injury or death or physical damage to
5 property, based on negligence, or product liability based on
6 strict tort liability, all defendants found liable are
7 jointly and severally liable for plaintiff's past and future
8 medical and medically related expenses. Any defendant whose
9 fault, as determined by the trier of fact, is less than 25%
10 of the total fault attributable to the plaintiff, the
11 defendants sued by the plaintiff, and any third party
12 defendant who could have been sued by the plaintiff, shall be
13 severally liable for all other damages. Any defendant whose
14 fault, as determined by the trier of fact, is 25% or greater
15 of the total fault attributable to the plaintiff, the
16 defendants sued by the plaintiff, and any third party
17 defendants who could have been sued by the plaintiff, shall
18 be jointly and severally liable for all other damages.

19 (Source: P.A. 84-1431; 89-7.)

20 (735 ILCS 5/2-1118)

21 Sec. 2-1118. Exceptions. Notwithstanding the provisions
22 of Section 2-1117, in any action in which the trier of fact
23 determines that the injury or damage for which recovery is
24 sought was caused by an act involving the discharge into the
25 environment of any pollutant, including any waste, hazardous
26 substance, irritant or contaminant, including, but not
27 limited to smoke, vapor, soot, fumes, acids, alkalis,
28 asbestos, toxic or corrosive chemicals, radioactive waste or
29 mine tailings, and including any such material intended to be
30 recycled, reconditioned or reclaimed, any defendants found
31 liable shall be jointly and severally liable for such damage.
32 However, Section 2-1117 shall apply to a defendant who is a
33 response action contractor. As used in this Section,

1 "response action contractor" means an individual,
2 partnership, corporation, association, joint venture or other
3 commercial entity or an employee, agent, sub-contractor, or
4 consultant thereof which enters into a contract, for the
5 performance of remedial or response action, or for the
6 identification, handling, storage, treatment or disposal of a
7 pollutant, which is entered into between any person or entity
8 and a response action contractor when such response action
9 contractor is not liable for the creation or maintenance of
10 the condition to be ameliorated under the contract.

11 Notwithstanding the provisions of Section 2-1117, in any
12 medical malpractice action, as defined in Section 2-1704,
13 based upon negligence, any defendants found liable shall be
14 jointly and severally liable.

15 (Source: P.A. 84-1431; 89-7.)

16 (735 ILCS 5/2-1205.1) (from Ch. 110, par. 2-1205.1)

17 Sec. 2-1205.1. Reduction in amount of recovery. In all
18 cases on account of bodily injury or death or physical damage
19 to property, based on negligence, or product liability based
20 on ~~any--theory--or--doctrine~~ strict tort liability, to which
21 Section 2-1205 does not apply, the amount in excess of
22 \$25,000 of the benefits provided for medical charges,
23 hospital charges, or nursing or caretaking charges, which
24 have been paid, or which have become payable by the date of
25 judgment to the injured person by any other insurance company
26 or fund in relation to a particular injury, shall be deducted
27 from any judgment. Provided, however, that:

28 (1) Application is made within 30 days to reduce the
29 judgment;

30 (2) Such reduction shall not apply to the extent that
31 there is a right of recoupment through subrogation, trust
32 agreement, contract, lien, operation of law or otherwise;

33 (3) The reduction shall not reduce the judgment by more

1 than 50% of the total amount of the judgment entered on the
2 verdict; and

3 (4) The damages awarded shall be increased by the amount
4 of any insurance premiums or the direct costs paid by the
5 plaintiff for such benefits in the 2 years prior to
6 plaintiff's injury or death or to be paid by the plaintiff in
7 the future for such benefits.

8 (Source: P.A. 84-1431; 89-7.)

9 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

10 Sec. 2-1702. Economic/Non-Economic Loss. As used in
11 this Part, ~~---"economic--loss"---and---"non-economic--loss"---are~~
12 ~~defined-as-in-Section-2-1115-2. :~~

13 (a) "Economic loss" means all pecuniary harm for which
14 damages are recoverable.

15 (b) "Non-economic loss" means loss of consortium and all
16 nonpecuniary harm for which damages are recoverable,
17 including, without limitation, damages for pain and
18 suffering, inconvenience, disfigurement, and physical
19 impairment.

20 (Source: P.A. 84-7; 89-7.)

21 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

22 Sec. 8-802. Physician and patient. No physician or
23 surgeon shall be permitted to disclose any information he or
24 she may have acquired in attending any patient in a
25 professional character, necessary to enable him or her
26 professionally to serve the patient, except only (1) in
27 trials for homicide when the disclosure relates directly to
28 the fact or immediate circumstances of the homicide, (2) in
29 actions, civil or criminal, against the physician for
30 malpractice, (3) with the expressed consent of the patient,
31 or in case of his or her death or disability, of his or her
32 personal representative or other person authorized to sue for

1 personal injury or of the beneficiary of an insurance policy
2 on his or her life, health, or physical condition, (4) in all
3 actions brought by or against the patient, his or her
4 personal representative, a beneficiary under a policy of
5 insurance, or the executor or administrator of his or her
6 estate wherein the patient's physical or mental condition is
7 an issue, (5) upon an issue as to the validity of a document
8 as a will of the patient, (6) in any criminal action where
9 the charge is either first degree murder by abortion,
10 attempted abortion or abortion, (7) in actions, civil or
11 criminal, arising from the filing of a report in compliance
12 with the Abused and Neglected Child Reporting Act, (8) to any
13 department, agency, institution or facility which has custody
14 of the patient pursuant to State statute or any court order
15 of commitment, (9) in prosecutions where written results of
16 blood alcohol tests are admissible pursuant to Section
17 11-501.4 of the Illinois Vehicle Code, (10) in prosecutions
18 where written results of blood alcohol tests are admissible
19 under Section 5-11a of the Boat Registration and Safety Act,
20 or (11) in criminal actions arising from the filing of a
21 report of suspected terrorist offense in compliance with
22 Section 29D-10(p)(7) of the Criminal Code of 1961.

23 In the event of a conflict between the application of
24 this Section and the Mental Health and Developmental
25 Disabilities Confidentiality Act to a specific situation, the
26 provisions of the Mental Health and Developmental
27 Disabilities Confidentiality Act shall control.

28 (Source: P.A. 87-803; 92-854, eff. 12-5-02.)

29 (735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)

30 Sec. 8-2001. Examination of records. Every private and
31 public hospital shall, upon the request of any patient who
32 has been treated in such hospital and after his or her
33 discharge therefrom, permit the patient, his or her physician

1 or authorized attorney to examine the hospital records,
2 including but not limited to the history, bedside notes,
3 charts, pictures and plates, kept in connection with the
4 treatment of such patient, and permit copies of such records
5 to be made by him or her or his or her physician or
6 authorized attorney. A request for copies of the records
7 shall be in writing and shall be delivered to the
8 administrator of such hospital. The hospital shall be
9 reimbursed by the person requesting copies of records at the
10 time of such copying for all reasonable expenses, including
11 the costs of independent copy service companies, incurred by
12 the hospital in connection with such copying not to exceed a
13 \$20 handling charge for processing the request for copies,
14 and 75 cents per page for the first through 25th pages, 50
15 cents per page for the 26th through 50th pages, and 25 cents
16 per page for all pages in excess of 50 (except that the
17 charge shall not exceed \$1.25 per page for any copies made
18 from microfiche or microfilm), and actual shipping costs.
19 These rates shall be automatically adjusted as set forth in
20 Section 8-2006. The hospital may, however, charge for the
21 reasonable cost of all duplication of record material or
22 information that cannot routinely be copied or duplicated on
23 a standard commercial photocopy machine such as x-ray films
24 or pictures.

25 The requirements of this Section shall be satisfied
26 within 60 days of the receipt of a request by a patient, for
27 his or her physician, authorized attorney, or own person.

28 Failure to comply with the time limit requirement of this
29 Section shall subject the denying party to expenses and
30 reasonable attorneys' fees incurred in connection with any
31 court ordered enforcement of the provisions of this Section.

32 (Source: P.A. 84-7; 92-228, eff. 9-1-01.)

33 (735 ILCS 5/8-2003) (from Ch. 110, par. 8-2003)

1 Sec. 8-2003. Records of physicians and other health care
2 practitioners. In this Section, "practitioner" means any
3 health care practitioner other than a physician, clinical
4 psychologist, or clinical social worker.

5 Every physician and practitioner shall, upon the request
6 of any patient who has been treated by such physician or
7 practitioner, permit such patient's physician, practitioner,
8 or authorized attorney to examine and copy the patient's
9 records, including but not limited to those relating to the
10 diagnosis, treatment, prognosis, history, charts, pictures
11 and plates, kept in connection with the treatment of such
12 patient. Such request for examining and copying of the
13 records shall be in writing and shall be delivered to such
14 physician or practitioner. Such written request shall be
15 complied with by the physician or practitioner within a
16 reasonable time after receipt by him or her at his or her
17 office or any other place designated by him or her. The
18 physician or practitioner shall be reimbursed by the person
19 requesting such records at the time of such copying, for all
20 reasonable expenses, including the costs of independent copy
21 service companies, incurred by the physician or practitioner
22 in connection with such copying not to exceed a \$20 handling
23 charge for processing the request for copies, and 75 cents
24 per page for the first through 25th pages, 50 cents per page
25 for the 26th through 50th pages, and 25 cents per page for
26 all pages in excess of 50 (except that the charge shall not
27 exceed \$1.25 per page for any copies made from microfiche or
28 microfilm), and actual shipping costs. These rates shall be
29 automatically adjusted as set forth in Section 8-2006. The
30 physician or other practitioner may, however, charge for the
31 reasonable cost of all duplication of record material or
32 information that cannot routinely be copied or duplicated on
33 a standard commercial photocopy machine such as x-ray films
34 or pictures.

1 The requirements of this Section shall be satisfied
2 within 60 days of the receipt of a request by a patient or
3 his or her physician, practitioner, or authorized attorney.

4 Failure to comply with the time limit requirement of this
5 Section shall subject the denying party to expenses and
6 reasonable attorneys' fees incurred in connection with any
7 court ordered enforcement of the provisions of this Section.

8 (Source: P.A. 84-7; 92-228, eff. 9-1-01.)

9 (735 ILCS 5/8-2004) (from Ch. 110, par. 8-2004)

10 Sec. 8-2004. Records of clinical psychologists and
11 clinical social workers. Except where the clinical
12 psychologist or clinical social worker consents, records of a
13 clinical psychologist or clinical social worker regulated in
14 this State, relating to psychological services or social work
15 services, shall not be examined or copied by a patient,
16 unless otherwise ordered by the court for good cause shown.
17 For the purpose of obtaining records, the patient or his or
18 her authorized agent may apply to the circuit court of the
19 county in which the patient resides or the county in which
20 the clinical psychologist or clinical social worker resides.
21 The clinical psychologist or clinical social worker shall be
22 reimbursed by the person requesting the records at the time
23 of the copying, for all reasonable expenses, including the
24 costs of independent copy service companies, incurred by the
25 clinical psychologist or clinical social worker in connection
26 with the copying, not to exceed a \$20 handling charge for
27 processing the request for copies, and 75 cents per page for
28 the first through 25th pages, 50 cents per page for the 26th
29 through 50th pages, and 25 cents per page for all pages in
30 excess of 50 (except that the charge shall not exceed \$1.25
31 per page for any copies made from microfiche or microfilm),
32 and actual shipping costs. These rates shall be
33 automatically adjusted as set forth in Section 8-2006. The

1 clinical psychologist or clinical social worker may, however,
2 charge for the reasonable cost of all duplication of record
3 material or information that cannot routinely be copied or
4 duplicated or a standard commercial photocopy machine such as
5 pictures.

6 (Source: P.A. 87-530; 92-228, eff. 9-1-01.)

7 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

8 Sec. 8-2501. Expert Witness Standards. In any case in
9 which the standard of care ~~applicable to~~ given by a medical
10 ~~professional~~ profession is at issue, the court shall apply
11 the following standards to determine if a witness qualifies
12 as an expert witness and can testify on the issue of the
13 appropriate standard of care.

14 (a) ~~Whether the witness is board certified or board~~
15 ~~eligible in the same medical specialties as the defendant and~~
16 ~~is familiar with the same~~ Relationship of the medical
17 specialties of the witness to the medical problem or problems
18 ~~or~~ and the type of treatment administered in the case;

19 (b) Whether the witness has devoted 75% a substantial
20 portion of his or her time to the practice of medicine,
21 teaching or University based research in relation to the
22 medical care and type of treatment at issue which gave rise
23 to the medical problem of which the plaintiff complains;

24 (c) whether the witness is licensed ~~by any state or the~~
25 ~~District of Columbia~~ in the same profession as the defendant;
26 and

27 (d) whether, in the case against a nonspecialist, the
28 witness can demonstrate a sufficient familiarity with the
29 standard of care practiced in this State.

30 ~~An expert shall provide proof of active practice,~~
31 ~~teaching, or engaging in university-based research. If~~
32 ~~retired, an expert must provide proof of attendance and~~
33 ~~completion of continuing education courses for 3 years~~

1 previous-to-giving-testimony.--No-expert-who-has-not-actively
2 practiced,---taught,--or--been--engaged--in--university-based
3 research-for-10-years-may-be-qualified-as-an-expert-witness.

4 This-amendatory-Act-of-1995-applies-to-causes--of--action
5 filed-on-or-after-its-effective-date.

6 (Source: P.A. 84-7; 89-7.)

7 (735 ILCS 5/13-213) (from Ch. 110, par. 13-213)

8 Sec. 13-213. Product liability;-statute-of-repose.

9 (a) As used in this Section, the term:

10 (1) "alteration, modification or change" or
11 "altered, modified, or changed" means an alteration,
12 modification or change that was made in the original
13 makeup characteristics, function or design of a product
14 or in the original recommendations, instructions and
15 warnings given with respect to a product including the
16 failure properly to maintain and care for a product.

17 (2) "product" means any tangible object or goods
18 distributed in commerce, including any service provided
19 in connection with the product. Where the term "product
20 unit" is used, it refers to a single item or unit of a
21 product.

22 (3) "product liability action" means any action
23 based on ~~any-theory-or~~ the doctrine of strict liability
24 in tort brought against the seller of a product on
25 account of personal injury, (including illness, disease,
26 disability and death) or property, economic or other
27 damage allegedly caused by or resulting from the
28 manufacture, construction, preparation, assembly,
29 installation, testing, makeup, characteristics,
30 functions, design, formula, plan, recommendation,
31 specification, prescription, advertising, sale,
32 marketing, packaging, labeling, repair, maintenance or
33 disposal of, or warning or instruction regarding any

1 product. This definition excludes actions brought by
2 State or federal regulatory agencies pursuant to statute.

3 (4) "seller" means one who, in the course of a
4 business conducted for the purpose, sells, distributes,
5 leases, assembles, installs, produces, manufactures,
6 fabricates, prepares, constructs, packages, labels,
7 markets, repairs, maintains, or otherwise is involved in
8 placing a product in the stream of commerce.

9 (b) Subject to the provisions of subsections (c) and (d)
10 no product liability action based on ~~any--theory--or~~ the
11 doctrine of strict liability in tort shall be commenced
12 except within the applicable limitations period and, in any
13 event, within 12 years from the date of first sale, lease or
14 delivery of possession by a seller or 10 years from the date
15 of first sale, lease or delivery of possession to its initial
16 user, consumer, or other non-seller, whichever period expires
17 earlier, of any product unit that is claimed to have injured
18 or damaged the plaintiff, unless the defendant expressly has
19 warranted or promised the product for a longer period and the
20 action is brought within that period.

21 (c) No product liability action based on ~~any--theory--or~~
22 the doctrine of strict liability in tort to recover for
23 injury or damage claimed to have resulted from an alteration,
24 modification or change of the product unit subsequent to the
25 date of first sale, lease or delivery of possession of the
26 product unit to its initial user, consumer or other
27 non-seller shall be limited or barred by subsection (b)
28 hereof if:

29 (1) the action is brought against a seller making,
30 authorizing, or furnishing materials for the
31 accomplishment of such alteration, modification or change
32 (or against a seller furnishing specifications or
33 instructions for the accomplishment of such alteration,
34 modification or change when the injury is claimed to have

1 resulted from failure to provide adequate specifications
2 or instructions), and

3 (2) the action commenced within the applicable
4 limitation period and, in any event, within 10 years from
5 the date such alteration, modification or change was
6 made, unless defendant expressly has warranted or
7 promised the product for a longer period and the action
8 is brought within that period, and

9 (3) when the injury or damage is claimed to have
10 resulted from an alteration, modification or change of a
11 product unit, there is proof that such alteration,
12 modification or change had the effect of introducing into
13 the use of the product unit, by reason of defective
14 materials or workmanship, a hazard not existing prior to
15 such alteration, modification or change.

16 (d) Notwithstanding the provisions of subsection (b) and
17 paragraph (2) of subsection (c) if the injury complained of
18 occurs within any of the periods provided by subsection (b)
19 and paragraph (2) of subsection (c), the plaintiff may bring
20 an action within 2 years after the date on which the claimant
21 knew, or through the use of reasonable diligence should have
22 known, of the existence of the personal injury, death or
23 property damage, but in no event shall such action be brought
24 more than 8 years after the date on which such personal
25 injury, death or property damage occurred. In any such case,
26 if the person entitled to bring the action was, at the time
27 the personal injury, death or property damage occurred, under
28 the age of 18 years, or under a legal disability, then the
29 period of limitations does not begin to run until the person
30 attains the age of 18 years, or the disability is removed.

31 (e) Replacement of a component part of a product unit
32 with a substitute part having the same formula or design as
33 the original part shall not be deemed a sale, lease or
34 delivery of possession or an alteration, modification or

1 change for the purpose of permitting commencement of a
 2 product liability action based on ~~any-theory-or~~ the doctrine
 3 of strict liability in tort to recover for injury or damage
 4 claimed to have resulted from the formula or design of such
 5 product unit or of the substitute part when such action would
 6 otherwise be barred according to the provisions of subsection
 7 (b) of this Section.

8 (f) Nothing in this Section shall be construed to create
 9 a cause of action or to affect the right of any person to
 10 seek and obtain indemnity or contribution.

11 (g) The provisions of this Section 13-213 of this Act
 12 apply to any cause of action accruing on or after January 1,
 13 1979, involving any product which was in or entered the
 14 stream of commerce prior to, on, or after January 1, 1979.

15 ~~{h}--This--amendatory--Act--of--1995--applies--to--causes--of~~
 16 ~~action--accruing--on--or--after--its--effective--date.~~

17 (Source: P.A. 85-907; 86-1329; 89-7.)

18 (735 ILCS 5/13-214.3) (from Ch. 110, par. 13-214.3)
 19 Sec. 13-214.3. Attorneys.

20 (a) In this Section: "attorney" includes (i) an
 21 individual attorney, together with his or her employees who
 22 are attorneys, (ii) a professional partnership of attorneys,
 23 together with its employees, partners, and members who are
 24 attorneys, and (iii) a professional service corporation of
 25 attorneys, together with its employees, officers, and
 26 shareholders who are attorneys; and "non-attorney employee"
 27 means a person who is not an attorney but is employed by an
 28 attorney.

29 (b) An action for damages based on tort, contract, or
 30 otherwise (i) against an attorney arising out of an act or
 31 omission in the performance of professional services or (ii)
 32 against a non-attorney employee arising out of an act or
 33 omission in the course of his or her employment by an

1 attorney to assist the attorney in performing professional
2 services must be commenced within 2 years from the time the
3 person bringing the action knew or reasonably should have
4 known of the injury for which damages are sought.

5 (c) Except as provided in subsection (d), an action
6 described in subsection (b) may not be commenced in any event
7 more than 6 years after the date on which the act or omission
8 occurred.

9 (d) ~~{Blank-}~~ When the injury caused by the act or
10 omission does not occur until the death of the person for
11 whom the professional services were rendered, the action may
12 be commenced within 2 years after the date of the person's
13 death unless letters of office are issued or the person's
14 will is admitted to probate within that 2 year period, in
15 which case the action must be commenced within the time for
16 filing claims against the estate or a petition contesting the
17 validity of the will of the deceased person, whichever is
18 later, as provided in the Probate Act of 1975.

19 (e) If the person entitled to bring the action is under
20 the age of majority or under other legal disability at the
21 time the cause of action accrues, the period of limitations
22 shall not begin to run until majority is attained or the
23 disability is removed.

24 (f) ~~The--provisions--of--Public--Act--86--1371--creating--this~~
25 ~~Section--apply~~ This Section applies to all causes of action
26 accruing on or after its effective date.

27 ~~{g}--This--amendatory--Act--of--1995--applies--to--all--actions~~
28 ~~filed--on--or--after--its--effective--date--If,~~ ~~--as--a--result--of~~
29 ~~this--amendatory--Act--of--1995,~~ ~~the--action--is--either--barred--or~~
30 ~~there--remains--less--than--2--years--to--bring--the--action,~~ ~~then--the~~
31 ~~individual--may--bring--the--action--within--2--years--of--the~~
32 ~~effective--date--of--this--amendatory--Act--of--1995.~~

33 (Source: P.A. 86-1371; 89-7.)

(735 ILCS 5/13-217) (from Ch. 110, par. 13-217)

Sec. 13-217. Reversal or dismissal. In the actions specified in Article XIII of this Act or any other act or contract where the time for commencing an action is limited, if judgment is entered for the plaintiff but reversed on appeal, or if there is a verdict in favor of the plaintiff and, upon a motion in arrest of judgment, the judgment is entered against the plaintiff, or the action is voluntarily dismissed by the plaintiff, or the action is dismissed for want of prosecution, or the action is dismissed by a United States District Court for lack of jurisdiction, or the action is dismissed by a United States District Court for improper venue, then, whether or not the time limitation for bringing such action expires during the pendency of such action, the plaintiff, his or her heirs, executors or administrators may commence a new action within one year or within the remaining period of limitation, whichever is greater, after such judgment is reversed or entered against the plaintiff, or after the action is voluntarily dismissed by the plaintiff, or the action is dismissed for want of prosecution, or the action is dismissed by a United States District Court for lack of jurisdiction, or the action is dismissed by a United States District Court for improper venue. ~~No action which is voluntarily dismissed by the plaintiff or dismissed for want of prosecution by the court may be filed where the time for commencing the action has expired.~~

~~This amendatory Act of 1995 applies to causes of action accruing on or after its effective date.~~

(Source: P.A. 87-1252.)

(735 ILCS 5/2-623 rep.)

(735 ILCS 5/2-624 rep.)

(735 ILCS 5/2-1115.05 rep.)

(735 ILCS 5/2-1115.1 rep.)

1 (735 ILCS 5/2-1115.2 rep.)

2 (735 ILCS 5/Art. II, Part 21 heading rep.)

3 (735 ILCS 5/2-2101 rep.)

4 (735 ILCS 5/2-2102 rep.)

5 (735 ILCS 5/2-2103 rep.)

6 (735 ILCS 5/2-2104 rep.)

7 (735 ILCS 5/2-2105 rep.)

8 (735 ILCS 5/2-2106 rep.)

9 (735 ILCS 5/2-2106.5 rep.)

10 (735 ILCS 5/2-2107 rep.)

11 (735 ILCS 5/2-2108 rep.)

12 (735 ILCS 5/2-2109 rep.)

13 Section 20. Sections 2-623, 2-624, 2-1115.05, 2-1115.1,
14 and 2-1115.2 and Part 21 of Article II of this Code of Civil
15 Procedure are repealed.

16 Section 25. Sections 4 and 5 of the Joint Tortfeasor
17 Contribution Act are re-enacted as follows:

18 (740 ILCS 100/4) (from Ch. 70, par. 304)

19 Sec. 4. Rights of Plaintiff Unaffected. ~~Except--as~~
20 ~~provided-in-Section-3-5-of-this-Act,~~ A plaintiff's right to
21 recover the full amount of his judgment from any one or more
22 defendants subject to liability in tort for the same injury
23 to person or property, or for wrongful death, is not affected
24 by the provisions of this Act.

25 (Source: P.A. 81-601; 89-7.)

26 (740 ILCS 100/5) (from Ch. 70, par. 305)

27 Sec. 5. Enforcement. ~~Other-than-in-actions-for-healing~~
28 ~~art-malpraetice,~~ A cause of action for contribution among
29 joint tortfeasors ~~is-not-required-to-be-asserted-during-the~~
30 ~~pendency-of-litigation-brought--by--a--claimant--and~~ may be
31 asserted by a separate action before or after payment of-a

1 ~~settlement-or-judgment-in-favor-of-the-claimant, or--may--be~~
2 ~~asserted by counterclaim or by third-party complaint in a~~
3 ~~pending action.~~

4 ~~This-amendatory-Act-of-1995-applies-to-causes--of--action~~
5 ~~filed-on-or-after-its-effective-date.~~

6 (Source: P.A. 81-601; 89-7.)

7 (740 ILCS 100/3.5 rep.)

8 Section 27. Section 3.5 of the Joint Tortfeasor
9 Contribution Act is repealed.

10 Section 30. Sections 9 and 10 of the Mental Health and
11 Developmental Disabilities Confidentiality Act are re-enacted
12 as follows:

13 (740 ILCS 110/9) (from Ch. 91 1/2, par. 809)

14 Sec. 9. In the course of providing services and after
15 the conclusion of the provision of services, a therapist may
16 disclose a record or communications without consent to:

17 (1) the therapist's supervisor, a consulting
18 therapist, members of a staff team participating in the
19 provision of services, a record custodian, or a person
20 acting under the supervision and control of the
21 therapist;

22 (2) persons conducting a peer review of the
23 services being provided;

24 (3) the Institute for Juvenile Research and the
25 Institute for the Study of Developmental Disabilities;

26 (4) an attorney or advocate consulted by a
27 therapist or agency which provides services concerning
28 the therapist's or agency's legal rights or duties in
29 relation to the recipient and the services being
30 provided; and

31 (5) the Inspector General of the Department of

1 Children and Family Services when such records or
2 communications are relevant to a pending investigation
3 authorized by Section 35.5 of the Children and Family
4 Services Act where:

5 (A) the recipient was either (i) a parent,
6 foster parent, or caretaker who is an alleged
7 perpetrator of abuse or neglect or the subject of a
8 dependency investigation or (ii) a non-ward victim
9 of alleged abuse or neglect, and

10 (B) available information demonstrates that
11 the mental health of the recipient was or should
12 have been an issue to the safety of the child.

13 In the course of providing services, a therapist may
14 disclose a record or communications without consent to any
15 department, agency, institution or facility which has custody
16 of the recipient pursuant to State statute or any court order
17 of commitment.

18 Information may be disclosed under this Section only to
19 the extent that knowledge of the record or communications is
20 essential to the purpose for which disclosure is made and
21 only after the recipient is informed that such disclosure may
22 be made. A person to whom disclosure is made under this
23 Section shall not redisclose any information except as
24 provided in this Act.

25 (Source: P.A. 86-955; 90-512, eff. 8-22-97.)

26 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

27 Sec. 10. (a) Except as provided herein, in any civil,
28 criminal, administrative, or legislative proceeding, or in
29 any proceeding preliminary thereto, a recipient, and a
30 therapist on behalf and in the interest of a recipient, has
31 the privilege to refuse to disclose and to prevent the
32 disclosure of the recipient's record or communications.

33 (1) Records and communications may be disclosed in

1 a civil, criminal or administrative proceeding in which
2 the recipient introduces his mental condition or any
3 aspect of his services received for such condition as an
4 element of his claim or defense, if and only to the
5 extent the court in which the proceedings have been
6 brought, or, in the case of an administrative proceeding,
7 the court to which an appeal or other action for review
8 of an administrative determination may be taken, finds,
9 after in camera examination of testimony or other
10 evidence, that it is relevant, probative, not unduly
11 prejudicial or inflammatory, and otherwise clearly
12 admissible; that other satisfactory evidence is
13 demonstrably unsatisfactory as evidence of the facts
14 sought to be established by such evidence; and that
15 disclosure is more important to the interests of
16 substantial justice than protection from injury to the
17 therapist-recipient relationship or to the recipient or
18 other whom disclosure is likely to harm. Except in a
19 criminal proceeding in which the recipient, who is
20 accused in that proceeding, raises the defense of
21 insanity, no record or communication between a therapist
22 and a recipient shall be deemed relevant for purposes of
23 this subsection, except the fact of treatment, the cost
24 of services and the ultimate diagnosis unless the party
25 seeking disclosure of the communication clearly
26 establishes in the trial court a compelling need for its
27 production. However, for purposes of this Act, in any
28 action brought or defended under the Illinois Marriage
29 and Dissolution of Marriage Act, or in any action in
30 which pain and suffering is an element of the claim,
31 mental condition shall not be deemed to be introduced
32 merely by making such claim and shall be deemed to be
33 introduced only if the recipient or a witness on his
34 behalf first testifies concerning the record or

1 communication.

2 (2) Records or communications may be disclosed in a
3 civil proceeding after the recipient's death when the
4 recipient's physical or mental condition has been
5 introduced as an element of a claim or defense by any
6 party claiming or defending through or as a beneficiary
7 of the recipient, provided the court finds, after in
8 camera examination of the evidence, that it is relevant,
9 probative, and otherwise clearly admissible; that other
10 satisfactory evidence is not available regarding the
11 facts sought to be established by such evidence; and that
12 disclosure is more important to the interests of
13 substantial justice than protection from any injury which
14 disclosure is likely to cause.

15 (3) In the event of a claim made or an action filed
16 by a recipient, or, following the recipient's death, by
17 any party claiming as a beneficiary of the recipient for
18 injury caused in the course of providing services to such
19 recipient, the therapist and other persons whose actions
20 are alleged to have been the cause of injury may disclose
21 pertinent records and communications to an attorney or
22 attorneys engaged to render advice about and to provide
23 representation in connection with such matter and to
24 persons working under the supervision of such attorney or
25 attorneys, and may testify as to such records or
26 communication in any administrative, judicial or
27 discovery proceeding for the purpose of preparing and
28 presenting a defense against such claim or action.

29 (4) Records and communications made to or by a
30 therapist in the course of examination ordered by a court
31 for good cause shown may, if otherwise relevant and
32 admissible, be disclosed in a civil, criminal, or
33 administrative proceeding in which the recipient is a
34 party or in appropriate pretrial proceedings, provided

1 such court has found that the recipient has been as
2 adequately and as effectively as possible informed before
3 submitting to such examination that such records and
4 communications would not be considered confidential or
5 privileged. Such records and communications shall be
6 admissible only as to issues involving the recipient's
7 physical or mental condition and only to the extent that
8 these are germane to such proceedings.

9 (5) Records and communications may be disclosed in
10 a proceeding under the Probate Act of 1975, to determine
11 a recipient's competency or need for guardianship,
12 provided that the disclosure is made only with respect to
13 that issue.

14 (6) Records and communications may be disclosed
15 when such are made during treatment which the recipient
16 is ordered to undergo to render him fit to stand trial on
17 a criminal charge, provided that the disclosure is made
18 only with respect to the issue of fitness to stand trial.

19 (7) Records and communications of the recipient may
20 be disclosed in any civil or administrative proceeding
21 involving the validity of or benefits under a life,
22 accident, health or disability insurance policy or
23 certificate, or Health Care Service Plan Contract,
24 insuring the recipient, but only if and to the extent
25 that the recipient's mental condition, or treatment or
26 services in connection therewith, is a material element
27 of any claim or defense of any party, provided that
28 information sought or disclosed shall not be redisclosed
29 except in connection with the proceeding in which
30 disclosure is made.

31 (8) Records or communications may be disclosed when
32 such are relevant to a matter in issue in any action
33 brought under this Act and proceedings preliminary
34 thereto, provided that any information so disclosed shall

1 not be utilized for any other purpose nor be redisclosed
2 except in connection with such action or preliminary
3 proceedings.

4 (9) Records and communications of the recipient may
5 be disclosed in investigations of and trials for homicide
6 when the disclosure relates directly to the fact or
7 immediate circumstances of the homicide.

8 (10) Records and communications of a deceased
9 recipient may be disclosed to a coroner conducting a
10 preliminary investigation into the recipient's death
11 under Section 3-3013 of the Counties Code. However,
12 records and communications of the deceased recipient
13 disclosed in an investigation shall be limited solely to
14 the deceased recipient's records and communications
15 relating to the factual circumstances of the incident
16 being investigated in a mental health facility.

17 (11) Records and communications of a recipient
18 shall be disclosed in a proceeding where a petition or
19 motion is filed under the Juvenile Court Act of 1987 and
20 the recipient is named as a parent, guardian, or legal
21 custodian of a minor who is the subject of a petition for
22 wardship as described in Section 2-3 of that Act or a
23 minor who is the subject of a petition for wardship as
24 described in Section 2-4 of that Act alleging the minor
25 is abused, neglected, or dependent or the recipient is
26 named as a parent of a child who is the subject of a
27 petition, supplemental petition, or motion to appoint a
28 guardian with the power to consent to adoption under
29 Section 2-29 of the Juvenile Court Act of 1987.

30 (12) Records and communications of a recipient may
31 be disclosed when disclosure is necessary to collect sums
32 or receive third party payment representing charges for
33 mental health or developmental disabilities services
34 provided by a therapist or agency to a recipient;

1 however, disclosure shall be limited to information
2 needed to pursue collection, and the information so
3 disclosed may not be used for any other purposes nor may
4 it be redisclosed except in connection with collection
5 activities. Whenever records are disclosed pursuant to
6 this subdivision (12), the recipient of the records shall
7 be advised in writing that any person who discloses
8 mental health records and communications in violation of
9 this Act may be subject to civil liability pursuant to
10 Section 15 of this Act or to criminal penalties pursuant
11 to Section 16 of this Act or both.

12 (b) Before a disclosure is made under subsection (a),
13 any party to the proceeding or any other interested person
14 may request an in camera review of the record or
15 communications to be disclosed. The court or agency
16 conducting the proceeding may hold an in camera review on its
17 own motion. When, contrary to the express wish of the
18 recipient, the therapist asserts a privilege on behalf and in
19 the interest of a recipient, the court may require that the
20 therapist, in an in camera hearing, establish that disclosure
21 is not in the best interest of the recipient. The court or
22 agency may prevent disclosure or limit disclosure to the
23 extent that other admissible evidence is sufficient to
24 establish the facts in issue. The court or agency may enter
25 such orders as may be necessary in order to protect the
26 confidentiality, privacy, and safety of the recipient or of
27 other persons. Any order to disclose or to not disclose
28 shall be considered a final order for purposes of appeal and
29 shall be subject to interlocutory appeal.

30 (c) A recipient's records and communications may be
31 disclosed to a duly authorized committee, commission or
32 subcommittee of the General Assembly which possesses subpoena
33 and hearing powers, upon a written request approved by a
34 majority vote of the committee, commission or subcommittee

1 members. The committee, commission or subcommittee may
2 request records only for the purposes of investigating or
3 studying possible violations of recipient rights. The
4 request shall state the purpose for which disclosure is
5 sought.

6 The facility shall notify the recipient, or his guardian,
7 and therapist in writing of any disclosure request under this
8 subsection within 5 business days after such request. Such
9 notification shall also inform the recipient, or guardian,
10 and therapist of their right to object to the disclosure
11 within 10 business days after receipt of the notification and
12 shall include the name, address and telephone number of the
13 committee, commission or subcommittee member or staff person
14 with whom an objection shall be filed. If no objection has
15 been filed within 15 business days after the request for
16 disclosure, the facility shall disclose the records and
17 communications to the committee, commission or subcommittee.
18 If an objection has been filed within 15 business days after
19 the request for disclosure, the facility shall disclose the
20 records and communications only after the committee,
21 commission or subcommittee has permitted the recipient,
22 guardian or therapist to present his objection in person
23 before it and has renewed its request for disclosure by a
24 majority vote of its members.

25 Disclosure under this subsection shall not occur until
26 all personally identifiable data of the recipient and
27 provider are removed from the records and communications.
28 Disclosure under this subsection shall not occur in any
29 public proceeding.

30 (d) No party to any proceeding described under
31 paragraphs (1), (2), (3), (4), (7), or (8) of subsection (a)
32 of this Section, nor his or her attorney, shall serve a
33 subpoena seeking to obtain access to records or
34 communications under this Act unless the subpoena is

1 accompanied by a written order issued by a judge, authorizing
2 the disclosure of the records or the issuance of the
3 subpoena. No person shall comply with a subpoena for records
4 or communications under this Act, unless the subpoena is
5 accompanied by a written order authorizing the issuance of
6 the subpoena or the disclosure of the records.

7 (e) When a person has been transported by a peace
8 officer to a mental health facility, then upon the request of
9 a peace officer, if the person is allowed to leave the mental
10 health facility within 48 hours of arrival, excluding
11 Saturdays, Sundays, and holidays, the facility director shall
12 notify the local law enforcement authority prior to the
13 release of the person. The local law enforcement authority
14 may re-disclose the information as necessary to alert the
15 appropriate enforcement or prosecuting authority.

16 (f) A recipient's records and communications shall be
17 disclosed to the Inspector General of the Department of Human
18 Services within 10 business days of a request by the
19 Inspector General in the course of an investigation
20 authorized by the Abused and Neglected Long Term Care
21 Facility Residents Reporting Act and applicable rule. The
22 request shall be in writing and signed by the Inspector
23 General or his or her designee. The request shall state the
24 purpose for which disclosure is sought. Any person who
25 knowingly and willfully refuses to comply with such a request
26 is guilty of a Class A misdemeanor.

27 (Source: P.A. 91-726, eff. 6-2-00; 92-358, eff. 8-15-01;
28 92-708, eff. 7-19-02.)

29 Section 35. Sections 2 and 3 of the Premises Liability
30 Act are re-enacted as follows:

31 (740 ILCS 130/2) (from Ch. 80, par. 302)

32 Sec. 2. The distinction under the common law between

1 invitees and licensees as to the duty owed by an owner or
2 occupier of any premises to such entrants is abolished.

3 The duty owed to such entrants is that of reasonable care
4 under the circumstances regarding the state of the premises
5 or acts done or omitted on them. The-duty-of-reasonable--care
6 under--the--circumstances--which-an-owner-or-occupier-of-land
7 owes-to-such-entrants-does-not-include-any-of-the--following:
8 a--duty--to--warn--of--or--otherwise-take-reasonable-steps-to
9 protect-such-entrants-from-conditions-on--the--premises--that
10 are--known--to--the--entrant,--are--open--and-obvious,--or-can
11 reasonably-be-expected-to-be-discovered--by--the--entrant;--a
12 duty--to--warn--of--latent--defects--or-dangers-or-defects-or
13 dangers-unknown-to-the-owner-or-occupier-of-the--premises;--a
14 duty--to--warn--such--entrants--of-any-dangers-resulting-from
15 misuse-by-the-entrants-of-the-premises-or-anything-affixed-to
16 or-located-on--the--premises;--or--a--duty--to--protect--such
17 entrants--from--their--own-misuse-of-the-premises-or-anything
18 affixed-to-or-located-on-the-premises.

19 This-amendatory-Act-of-1995-applies-to-causes--of--action
20 accruing-on-or-after-its-effective-date.

21 (Source: P.A. 83-1398; 89-7.)

22 (740 ILCS 130/3) (from Ch. 80, par. 303)

23 Sec. 3. Nothing herein affects the law as regards any
24 category of trespasser, including the trespassing child
25 entrant. An-owner-or-occupier-of-land-owes-no-duty-of-care-to
26 an-adult-trespasser-other-than-to-refrain--from--willful--and
27 wanton--conduct--that--would--endanger--the-safety-of-a-known
28 trespasser-on-the-property-from-a-condition-of--the--property
29 or--an--activity--conducted--by--the-owner-or-occupier-on-the
30 property.

31 This-amendatory-Act-of-1995-applies--only--to--causes--of
32 action-accruing-on-or-after-its-effective-date.

33 (Source: P.A. 83-1398; 89-7.)

1 Section 40. Sections 1 and 2 of the Wrongful Death Act
2 are re-enacted as follows:

3 (740 ILCS 180/1) (from Ch. 70, par. 1)

4 Sec. 1. Whenever the death of a person shall be caused by
5 wrongful act, neglect or default, and the act, neglect or
6 default is such as would, if death had not ensued, have
7 entitled the party injured to maintain an action and recover
8 damages in respect thereof, then and in every such case the
9 person who or company or corporation which would have been
10 liable if death had not ensued, shall be liable to an action
11 for damages, notwithstanding the death of the person injured,
12 and although the death shall have been caused under such
13 circumstances as amount in law to felony. ~~No action may be
14 brought under this Act if the decedent had brought a cause of
15 action with respect to the same underlying incident or
16 occurrence which was settled or on which judgment was
17 rendered.~~

18 ~~This amendatory Act of 1995 applies to causes of action
19 accruing on or after its effective date.~~

20 (Source: Laws 1853, p. 97; P.A. 89-7.)

21 (740 ILCS 180/2) (from Ch. 70, par. 2)

22 Sec. 2. Every such action shall be brought by and in the
23 names of the personal representatives of such deceased
24 person, and, except as otherwise hereinafter provided, the
25 amount recovered in every such action shall be for the
26 exclusive benefit of the surviving spouse and next of kin of
27 such deceased person and in every such action the jury may
28 give such damages as they shall deem a fair and just
29 compensation with reference to the pecuniary injuries
30 resulting from such death, to the surviving spouse and next
31 of kin of such deceased person.

32 In every such action, the jury shall determine the amount

1 of damages to be recovered without regard to and with no
2 special instruction as to the dollar limits on recovery
3 imposed by this Section. In no event shall the judgment
4 entered upon such verdict exceed \$20,000 where such death
5 occurred prior to July 14, 1955, and not exceeding \$25,000
6 where such death occurred on or after July 14, 1955 and prior
7 to July 8, 1957, and not exceeding \$30,000 where such death
8 occurs on or after July 8, 1957 and prior to the effective
9 date of this amendatory Act of 1967, and without limitation
10 where such death occurs on or after the effective date of
11 this amendatory Act of 1967.

12 The amount recovered in any such action shall be
13 distributed by the court in which the cause is heard or, in
14 the case of an agreed settlement, by the circuit court, to
15 each of the surviving spouse and next of kin of such deceased
16 person in the proportion, as determined by the court, that
17 the percentage of dependency of each such person upon the
18 deceased person bears to the sum of the percentages of
19 dependency of all such persons upon the deceased person.

20 Where the deceased person left no surviving spouse or
21 next of kin entitled to recovery, the damages shall, subject
22 to the following limitations inure, to the exclusive benefit
23 of the following persons, or any one or more of them:

24 (a) to the person or persons furnishing hospitalization
25 or hospital services in connection with the last illness or
26 injury of the deceased person, not exceeding \$450;

27 (b) to the person or persons furnishing medical or
28 surgical services in connection with such last illness or
29 injury, not exceeding \$450;

30 (c) to the personal representatives, as such, for the
31 costs and expenses of administering the estate and
32 prosecuting or compromising the action, including a
33 reasonable attorney's fee. In any such case the measure of
34 damages to be recovered shall be the total of the reasonable

1 value of such hospitalization or hospital service, medical
2 and surgical services, funeral expenses, and such costs and
3 expenses of administration, including attorney fees, not
4 exceeding the foregoing limitations for each class of such
5 expenses and not exceeding \$900 plus a reasonable attorney's
6 fee.

7 Every such action shall be commenced within 2 years after
8 the death of such person but an action against a defendant
9 arising from a crime committed by the defendant in whose name
10 an escrow account was established under the "Criminal
11 Victims' Escrow Account Act" shall be commenced within 2
12 years after the establishment of such account. For the
13 purposes of this Section 2, next of kin includes an adopting
14 parent and an adopted child, and they shall be treated as a
15 natural parent and a natural child, respectively. However, if
16 a person entitled to recover benefits under this Act, is, at
17 the time the cause of action accrued, within the age of 18
18 years, he or she may cause such action to be brought within 2
19 years after attainment of the age of 18.

20 In any such action to recover damages, it shall not be a
21 defense that the death was caused in whole or in part by the
22 contributory negligence of one or more of the beneficiaries
23 on behalf of whom the action is brought, but the amount of
24 damages given shall be reduced in the following manner.

25 The trier of fact shall first determine the decedent's
26 contributory fault in accordance with Sections 2-1116 and
27 2-1107.1 of the Code of Civil Procedure. Recovery of damages
28 shall be barred or diminished accordingly. The trier of fact
29 shall then determine the contributory fault, if any, of each
30 beneficiary on behalf of whom the action was brought:

31 (1) Where the trier of fact finds that the
32 contributory fault of a beneficiary on whose behalf the
33 action is brought is not more than 50% of the proximate
34 cause of the wrongful death of the decedent, then the

1 damages allowed to that beneficiary shall be diminished
2 in proportion to the contributory fault attributed to
3 that beneficiary. The amount of the reduction shall not
4 be payable by any defendant.

5 (2) Where the trier of fact finds that the
6 contributory fault of a beneficiary on whose behalf the
7 action is brought is more than 50% of the proximate cause
8 of the wrongful death of the decedent, then the
9 beneficiary shall be barred from recovering damages and
10 the amount of damages which would have been payable to
11 that beneficiary, but for the beneficiary's contributory
12 fault, shall not inure to the benefit of the remaining
13 beneficiaries and shall not be payable by any defendant.

14 The trial judge shall conduct a hearing to determine the
15 degree of dependency of each beneficiary upon the decedent.
16 The trial judge shall calculate the amount of damages to be
17 awarded each beneficiary, taking into account any reduction
18 arising from either the decedent's or the beneficiary's
19 contributory fault.

20 This amendatory Act of the 91st General Assembly applies
21 to all actions pending on or filed after the effective date
22 of this amendatory Act.

23 (Source: P.A. 91-380, eff. 7-30-99.)

24 (745 ILCS 10/Art. VIA heading rep.)

25 (745 ILCS 10/6A-101 rep.)

26 (745 ILCS 10/6A-105 rep.)

27 Section 45. Article VIA of the Local Governmental and
28 Governmental Employees Tort Immunity Act is repealed.

29 Section 50. Section 10b of the Consumer Fraud and
30 Deceptive Business Practices Act is re-enacted as follows:

31 (815 ILCS 505/10b) (from Ch. 121 1/2, par. 270b)

1 Sec. 10b. Nothing in this Act shall apply to any of the
2 following:

3 (1) Actions or transactions specifically authorized by
4 laws administered by any regulatory body or officer acting
5 under statutory authority of this State or the United States.

6 (2) The provisions of "An act to protect trademark
7 owners, distributors, and the public against injurious and
8 uneconomic practices in the distribution of articles of
9 standard quality under a trademark, brand or name," approved
10 July 8, 1935, as amended.

11 (3) Acts done by the publisher, owner, agent, or
12 employee of a newspaper, periodical or radio or television
13 station in the publication or dissemination of an
14 advertisement, when the owner, agent or employee did not have
15 knowledge of the false, misleading or deceptive character of
16 the advertisement, did not prepare the advertisement, or did
17 not have a direct financial interest in the sale or
18 distribution of the advertised product or service.

19 (4) The communication of any false, misleading or
20 deceptive information, provided by the seller of real estate
21 located in Illinois, by a real estate salesman or broker
22 licensed under "The Real Estate Brokers License Act", unless
23 the salesman or broker knows of the false, misleading or
24 deceptive character of such information. This provision
25 shall be effective as to any communication, whenever
26 occurring.

27 (5) (Blank). ~~This item-(5)~~

28 (6) The communication of any false, misleading, or
29 deceptive information by an insurance producer, registered
30 firm, or limited insurance representative, as those terms are
31 defined in the Illinois Insurance Code, or by an insurance
32 agency or brokerage house concerning the sale, placement,
33 procurement, renewal, binding, cancellation of, or terms of
34 any type of insurance or any policy of insurance unless the

1 insurance producer has actual knowledge of the false,
2 misleading, or deceptive character of the information. This
3 provision shall be effective as to any communications,
4 whenever occurring. This item (6) applies to all causes of
5 action that accrue on or after the effective date of this
6 amendatory Act of 1995.

7 (Source: P.A. 84-894; 89-152, eff. 1-1-96; revised 1-22-98.)

8 Section 55. Section 5 of the Workers' Compensation Act
9 is re-enacted as follows:

10 (820 ILCS 305/5) (from Ch. 48, par. 138.5)

11 Sec. 5. (a) No common law or statutory right to recover
12 damages from the employer, his insurer, his broker, any
13 service organization retained by the employer, his insurer or
14 his broker to provide safety service, advice or
15 recommendations for the employer or the agents or employees
16 of any of them for injury or death sustained by any employee
17 while engaged in the line of his duty as such employee, other
18 than the compensation herein provided, is available to any
19 employee who is covered by the provisions of this Act, to any
20 one wholly or partially dependent upon him, the legal
21 representatives of his estate, or any one otherwise entitled
22 to recover damages for such injury.

23 However, in any action now pending or hereafter begun to
24 enforce a common law or statutory right to recover damages
25 for negligently causing the injury or death of any employee
26 it is not necessary to allege in the complaint that either
27 the employee or the employer or both were not governed by the
28 provisions of this Act or of any similar Act in force in this
29 or any other State.

30 Any illegally employed minor or his legal representatives
31 shall, except as hereinafter provided, have the right within
32 6 months after the time of injury or death, or within 6

1 months after the appointment of a legal representative,
2 whichever shall be later, to file with the Commission a
3 rejection of his right to the benefits under this Act, in
4 which case such illegally employed minor or his legal
5 representatives shall have the right to pursue his or their
6 common law or statutory remedies to recover damages for such
7 injury or death.

8 No payment of compensation under this Act shall be made
9 to an illegally employed minor, or his legal representatives,
10 unless such payment and the waiver of his right to reject the
11 benefits of this Act has first been approved by the
12 Commission or any member thereof, and if such payment and the
13 waiver of his right of rejection has been so approved such
14 payment is a bar to a subsequent rejection of the provisions
15 of this Act.

16 (b) Where the injury or death for which compensation is
17 payable under this Act was caused under circumstances
18 creating a legal liability for damages on the part of some
19 person other than his employer to pay damages, then legal
20 proceedings may be taken against such other person to recover
21 damages notwithstanding such employer's payment of or
22 liability to pay compensation under this Act. In such case,
23 however, if the action against such other person is brought
24 by the injured employee or his personal representative and
25 judgment is obtained and paid, or settlement is made with
26 such other person, either with or without suit, then from the
27 amount received by such employee or personal representative
28 there shall be paid to the employer the amount of
29 compensation paid or to be paid by him to such employee or
30 personal representative including amounts paid or to be paid
31 pursuant to paragraph (a) of Section 8 of this Act. ~~If the~~
32 ~~employee or personal representative brings an action against~~
33 ~~another person and the other person then brings an action for~~
34 ~~contribution against the employer, the amount, if any, that~~

1 shall-be-paid-to-the-employer-by--the--employee--or--personal
2 representative--pursuant--to--this--Section--shall--be--reduced--by
3 an-amount-equal-to-the-amount-found-by-the-trier-of--fact--to
4 be--the--employer's-pro-rata-share-of-the-common-liability-in
5 the-action.

6 Out of any reimbursement received by the employer
7 pursuant to this Section the employer shall pay his pro rata
8 share of all costs and reasonably necessary expenses in
9 connection with such third-party claim, action or suit and
10 where the services of an attorney at law of the employee or
11 dependents have resulted in or substantially contributed to
12 the procurement by suit, settlement or otherwise of the
13 proceeds out of which the employer is reimbursed, then, in
14 the absence of other agreement, the employer shall pay such
15 attorney 25% of the gross amount of such reimbursement.

16 If the injured employee or his personal representative
17 agrees to receive compensation from the employer or accept
18 from the employer any payment on account of such
19 compensation, or to institute proceedings to recover the
20 same, the employer may have or claim a lien upon any award,
21 judgment or fund out of which such employee might be
22 compensated from such third party.

23 In such actions brought by the employee or his personal
24 representative, he shall forthwith notify his employer by
25 personal service or registered mail, of such fact and of the
26 name of the court in which the suit is brought, filing proof
27 thereof in the action. The employer may, at any time
28 thereafter join in the action upon his motion so that all
29 orders of court after hearing and judgment shall be made for
30 his protection. No release or settlement of claim for
31 damages by reason of such injury or death, and no
32 satisfaction of judgment in such proceedings shall be valid
33 without the written consent of both employer and employee or
34 his personal representative, except in the case of the

1 employers, such consent is not required where the employer
2 has been fully indemnified or protected by Court order.

3 In the event the employee or his personal representative
4 fails to institute a proceeding against such third person at
5 any time prior to 3 months before such action would be
6 barred, the employer may in his own name or in the name of
7 the employee, or his personal representative, commence a
8 proceeding against such other person for the recovery of
9 damages on account of such injury or death to the employee,
10 and out of any amount recovered the employer shall pay over
11 to the injured employee or his personal representatives all
12 sums collected from such other person by judgment or
13 otherwise in excess of the amount of such compensation paid
14 or to be paid under this Act, including amounts paid or to be
15 paid pursuant to paragraph (a) of Section 8 of this Act, and
16 costs, attorney's fees and reasonable expenses as may be
17 incurred by such employer in making such collection or in
18 enforcing such liability.

19 ~~This--amendatory--Act--of--1995--applies--to--causes--of--action~~
20 ~~accruing--on--or--after--its--effective--date.~~

21 (Source: P.A. 79-79; 89-7.)

22 Section 60. Section 5 of the Workers' Occupational
23 Diseases Act is re-enacted as follows:

24 (820 ILCS 310/5) (from Ch. 48, par. 172.40)

25 Sec. 5. (a) There is no common law or statutory right to
26 recover compensation or damages from the employer, his
27 insurer, his broker, any service organization retained by the
28 employer, his insurer or his broker to provide safety
29 service, advice or recommendations for the employer or the
30 agents or employees of any of them for or on account of any
31 injury to health, disease, or death therefrom, other than for
32 the compensation herein provided or for damages as provided

1 in Section 3 of this Act. This Section shall not affect any
2 right to compensation under the "Workers' Compensation Act".

3 No compensation is payable under this Act for any
4 condition of physical or mental ill-being, disability,
5 disablement, or death for which compensation is recoverable
6 on account of accidental injury under the "Workers'
7 Compensation Act".

8 (b) Where the disablement or death for which
9 compensation is payable under this Act was caused under
10 circumstances creating a legal liability for damages on the
11 part of some person other than his employer to pay damages,
12 then legal proceedings may be taken against such other person
13 to recover damages notwithstanding such employer's payment of
14 or liability to pay compensation under this Act. In such
15 case, however, if the action against such other person is
16 brought by the disabled employee or his personal
17 representative and judgment is obtained and paid or
18 settlement is made with such other person, either with or
19 without suit, then from the amount received by such employee
20 or personal representative there shall be paid to the
21 employer the amount of compensation paid or to be paid by him
22 to such employee or personal representative, including
23 amounts paid or to be paid pursuant to paragraph (a) of
24 ~~Section 8 of the Workers' Compensation Act as required under~~
25 ~~Section 7 of~~ this Act. ~~If the employee or personal~~
26 ~~representative brings an action against another person and~~
27 ~~the other person then brings an action for contribution~~
28 ~~against the employer, the amount, if any, that shall be paid~~
29 ~~to the employer by the employee or personal representative~~
30 ~~pursuant to this Section shall be reduced by an amount equal~~
31 ~~to the amount found by the trier of fact to be the employer's~~
32 ~~pro-rata share of the common liability in the action.~~

33 Out of any reimbursement received by the employer,
34 pursuant to this Section the employer shall pay his pro rata

1 share of all costs and reasonably necessary expenses in
2 connection with such third party claim, action or suit, and
3 where the services of an attorney at law of the employee or
4 dependents have resulted in or substantially contributed to
5 the procurement by suit, settlement or otherwise of the
6 proceeds out of which the employer is reimbursed, then, in
7 the absence of other agreement, the employer shall pay such
8 attorney 25% of the gross amount of such reimbursement.

9 If the disabled employee or his personal representative
10 agrees to receive compensation from the employer or accept
11 from the employer any payment on account of such
12 compensation, or to institute proceedings to recover the
13 same, the employer may have or claim a lien upon any award,
14 judgment or fund out of which such employee might be
15 compensated from such third party.

16 In such actions brought by the employee or his personal
17 representative, he shall forthwith notify his employer by
18 personal service or registered mail, of such fact and of the
19 name of the court in which the suit is brought, filing proof
20 thereof in the action. The employer may, at any time
21 thereafter join in the action upon his motion so that all
22 orders of court after hearing and judgment shall be made for
23 his protection. No release or settlement of claim for damages
24 by reason of such disability or death, and no satisfaction of
25 judgment in such proceedings, are valid without the written
26 consent of both employer and employee or his personal
27 representative, except in the case of the employers, such
28 consent is not required where the employer has been fully
29 indemnified or protected by court order.

30 In the event the employee or his personal representative
31 fails to institute a proceeding against such third person at
32 any time prior to 3 months before such action would be barred
33 at law the employer may in his own name, or in the name of
34 the employee or his personal representative, commence a

1 proceeding against such other person for the recovery of
2 damages on account of such disability or death to the
3 employee, and out of any amount recovered the employer shall
4 pay over to the injured employee or his personal
5 representative all sums collected from such other person by
6 judgment or otherwise in excess of the amount of such
7 compensation paid or to be paid under this Act, including
8 amounts paid or to be paid pursuant to paragraph (a) of
9 Section 8 of the ~~Workers' Compensation Act as required by~~
10 ~~Section 7 of~~ this Act, and costs, attorney's fees and
11 reasonable expenses as may be incurred by such employer in
12 making such collection or in enforcing such liability.

13 ~~This amendatory Act of 1995 applies to causes of action~~
14 ~~accruing on or after its effective date.~~

15 (Source: P.A. 81-992; 89-7.)

16 Section 99. This Act takes effect upon becoming law.

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