



Rep. Terri Bryant

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LRB099 17215 HEP 46876 a

1 AMENDMENT TO HOUSE BILL 6083

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 6083 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as Molly's Law.

5 Section 5. The Wrongful Death Act is amended by changing  
6 Section 2 as follows:

7 (740 ILCS 180/2) (from Ch. 70, par. 2)

8 Sec. 2. Every such action shall be brought by and in the  
9 names of the personal representatives of such deceased person,  
10 and, except as otherwise hereinafter provided, the amount  
11 recovered in every such action shall be for the exclusive  
12 benefit of the surviving spouse and next of kin of such  
13 deceased person. In every such action the jury may give such  
14 damages as they shall deem a fair and just compensation with  
15 reference to the pecuniary injuries resulting from such death,

1 including damages for grief, sorrow, and mental suffering, to  
2 the surviving spouse and next of kin of such deceased person.

3 The amount recovered in any such action shall be  
4 distributed by the court in which the cause is heard or, in the  
5 case of an agreed settlement, by the circuit court, to each of  
6 the surviving spouse and next of kin of such deceased person in  
7 the proportion, as determined by the court, that the percentage  
8 of dependency of each such person upon the deceased person  
9 bears to the sum of the percentages of dependency of all such  
10 persons upon the deceased person.

11 Where the deceased person left no surviving spouse or next  
12 of kin entitled to recovery, the damages shall, subject to the  
13 following limitations inure, to the exclusive benefit of the  
14 following persons, or any one or more of them:

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

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

21 (c) to the personal representatives, as such, for the costs  
22 and expenses of administering the estate and prosecuting or  
23 compromising the action, including a reasonable attorney's  
24 fee. In any such case the measure of damages to be recovered  
25 shall be the total of the reasonable value of such  
26 hospitalization or hospital service, medical and surgical

1 services, funeral expenses, and such costs and expenses of  
2 administration, including attorney fees, not exceeding the  
3 foregoing limitations for each class of such expenses and not  
4 exceeding \$900 plus a reasonable attorney's fee.

5 Except as otherwise provided in this Section, every ~~Every~~  
6 such action shall be commenced within 2 years after the death  
7 of such person but an action against a defendant arising from a  
8 crime committed by the defendant in whose name an escrow  
9 account was established under the "Criminal Victims' Escrow  
10 Account Act" shall be commenced within 2 years after the  
11 establishment of such account. An action may be brought within  
12 5 years after the date of the death if the death is the result  
13 of violent intentional conduct or within one year after the  
14 final disposition of the criminal case if the defendant is  
15 charged with:

16 (i) first degree murder under Section 9-1 of the  
17 Criminal Code of 2012;

18 (ii) intentional homicide of an unborn child under  
19 Section 9-1.2 of the Criminal Code of 2012;

20 (iii) second degree murder under Section 9-2 of the  
21 Criminal Code of 2012;

22 (iv) voluntary manslaughter of an unborn child under  
23 Section 9-2.1 of the Criminal Code of 2012;

24 (v) involuntary manslaughter or reckless homicide  
25 under Section 9-3 of the Criminal Code of 2012;

26 (vi) involuntary manslaughter or reckless homicide of

1       an unborn child under Section 9-3.2 of the Criminal Code of  
2       2012; or

3       (vii) drug-induced homicide under Section 9-3.3 of the  
4       Criminal Code of 2012.

5       For the purposes of this Section 2, next of kin includes an  
6       adopting parent and an adopted child, and they shall be treated  
7       as a natural parent and a natural child, respectively. However,  
8       if a person entitled to recover benefits under this Act, is, at  
9       the time the cause of action accrued, within the age of 18  
10      years, he or she may cause such action to be brought within 2  
11      years after attainment of the age of 18.

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

17      The trier of fact shall first determine the decedent's  
18      contributory fault in accordance with Sections 2-1116 and  
19      2-1107.1 of the Code of Civil Procedure. Recovery of damages  
20      shall be barred or diminished accordingly. The trier of fact  
21      shall then determine the contributory fault, if any, of each  
22      beneficiary on behalf of whom the action was brought:

23           (1) Where the trier of fact finds that the contributory  
24           fault of a beneficiary on whose behalf the action is  
25           brought is not more than 50% of the proximate cause of the  
26           wrongful death of the decedent, then the damages allowed to

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

5           (2) Where the trier of fact finds that the contributory  
6           fault of a beneficiary on whose behalf the action is  
7           brought is more than 50% of the proximate cause of the  
8           wrongful death of the decedent, then the beneficiary shall  
9           be barred from recovering damages and the amount of damages  
10          which would have been payable to that beneficiary, but for  
11          the beneficiary's contributory fault, shall not inure to  
12          the benefit of the remaining beneficiaries and shall not be  
13          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. The  
16          trial judge shall calculate the amount of damages to be awarded  
17          each beneficiary, taking into account any reduction arising  
18          from either the decedent's or the beneficiary's contributory  
19          fault.

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

23          This amendatory Act of the 95th General Assembly applies to  
24          causes of actions accruing on or after its effective date.

25          (Source: P.A. 95-3, eff. 5-31-07.)".