



Sen. Christine Radogno

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LRB099 17215 HEP 48211 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. (a) Every such action shall be brought by and in  
9 the names of the personal representatives of such deceased  
10 person, and, except as otherwise hereinafter provided, the  
11 amount recovered in every such action shall be for the  
12 exclusive benefit of the surviving spouse and next of kin of  
13 such deceased person. In every such action the jury may give  
14 such damages as they shall deem a fair and just compensation  
15 with reference to the pecuniary injuries resulting from such

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

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

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

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

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

23 (3) ~~(c)~~ to the personal representatives, as such, for  
24 the costs and expenses of administering the estate and  
25 prosecuting or compromising the action, including a  
26 reasonable attorney's fee. In any such case the measure of

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

8 (d) Except as otherwise provided in subsection (e) of this  
9 Section, every ~~Every~~ such action shall be commenced within 2  
10 years after the death of such person but an action against a  
11 defendant arising from a crime committed by the defendant in  
12 whose name an escrow account was established under the  
13 "Criminal Victims' Escrow Account Act" shall be commenced  
14 within 2 years after the establishment of such account.

15 (e) An action may be brought within 5 years after the date  
16 of the death if the death is the result of violent intentional  
17 conduct or within one year after the final disposition of the  
18 criminal case if the defendant is charged with:

19 (1) first degree murder under Section 9-1 of the  
20 Criminal Code of 2012;

21 (2) intentional homicide of an unborn child under  
22 Section 9-1.2 of the Criminal Code of 2012;

23 (3) second degree murder under Section 9-2 of the  
24 Criminal Code of 2012;

25 (4) voluntary manslaughter of an unborn child under  
26 Section 9-2.1 of the Criminal Code of 2012;

1           (5) involuntary manslaughter or reckless homicide  
2           under Section 9-3 of the Criminal Code of 2012;

3           (6) involuntary manslaughter or reckless homicide of  
4           an unborn child under Section 9-3.2 of the Criminal Code of  
5           2012; or

6           (7) drug-induced homicide under Section 9-3.3 of the  
7           Criminal Code of 2012.

8           This subsection extends the statute of limitations only  
9           against the individual who allegedly committed a violent  
10           intentional act or was the defendant charged with a crime  
11           listed in this subsection. It does not extend the statute of  
12           limitations against any other person or entity. The changes to  
13           this Section made by this amendatory Act of the 99th General  
14           Assembly apply to causes of action arising on or after the  
15           effective date of this amendatory Act of the 99th General  
16           Assembly.

17           (f) For the purposes of this Section 2, next of kin  
18 includes an adopting parent and an adopted child, and they  
19 shall be treated as a natural parent and a natural child,  
20 respectively. However, if a person entitled to recover benefits  
21 under this Act, is, at the time the cause of action accrued,  
22 within the age of 18 years, he or she may cause such action to  
23 be brought within 2 years after attainment of the age of 18.

24           (g) In any such action to recover damages, it shall not be  
25 a defense that the death was caused in whole or in part by the  
26 contributory negligence of one or more of the beneficiaries on

1 behalf of whom the action is brought, but the amount of damages  
2 given shall be reduced in the following manner.

3 (h) The trier of fact shall first determine the decedent's  
4 contributory fault in accordance with Sections 2-1116 and  
5 2-1107.1 of the Code of Civil Procedure. Recovery of damages  
6 shall be barred or diminished accordingly. The trier of fact  
7 shall then determine the contributory fault, if any, of each  
8 beneficiary on behalf of whom the action was brought:

9 (1) Where the trier of fact finds that the contributory  
10 fault of a beneficiary on whose behalf the action is  
11 brought is not more than 50% of the proximate cause of the  
12 wrongful death of the decedent, then the damages allowed to  
13 that beneficiary shall be diminished in proportion to the  
14 contributory fault attributed to that beneficiary. The  
15 amount of the reduction shall not be payable by any  
16 defendant.

17 (2) Where the trier of fact finds that the contributory  
18 fault of a beneficiary on whose behalf the action is  
19 brought is more than 50% of the proximate cause of the  
20 wrongful death of the decedent, then the beneficiary shall  
21 be barred from recovering damages and the amount of damages  
22 which would have been payable to that beneficiary, but for  
23 the beneficiary's contributory fault, shall not inure to  
24 the benefit of the remaining beneficiaries and shall not be  
25 payable by any defendant.

26 (i) The trial judge shall conduct a hearing to determine

1 the degree of dependency of each beneficiary upon the decedent.  
2 The trial judge shall calculate the amount of damages to be  
3 awarded each beneficiary, taking into account any reduction  
4 arising from either the decedent's or the beneficiary's  
5 contributory fault.

6 (j) This amendatory Act of the 91st General Assembly  
7 applies to all actions pending on or filed after the effective  
8 date of this amendatory Act.

9 (k) This amendatory Act of the 95th General Assembly  
10 applies to causes of actions accruing on or after its effective  
11 date.

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