

AN ACT concerning civil law.

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

Section 5. The Wrongful Death Act is amended by changing Sections 1 and 2 as follows:

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

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)

Sec. 1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages, including punitive damages when applicable, in respect thereof, then and in every such case the person who or company or corporation which would have been liable if death had not ensued, shall be liable to an action for damages, including punitive damages when applicable, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony. Nothing in this Section affects the applicability of Section 2-1115 of the Code of Civil Procedure or Section 2-102 or 2-213 of the Local Governmental and Governmental Employees Tort Immunity Act. Punitive damages are not available in an

action for healing art malpractice or legal malpractice or in an action against the State or unit of local government or an employee of the State or an employee of a unit of local government in his or her official capacity. The changes made to this Section by this amendatory Act of the 103rd General Assembly apply to actions filed on and after the effective date of this amendatory Act of the 103rd General Assembly.

(Source: Laws 1853, p. 97.)

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

Sec. 2. (a) Every such action shall be brought by and in the names of the personal representatives of such deceased person, and, except as otherwise hereinafter provided, the amount recovered in every such action shall be for the exclusive benefit of the surviving spouse and next of kin of such deceased person. In every such action the jury may give such damages as they shall deem a fair and just compensation with reference to the pecuniary injuries resulting from such death, including damages for grief, sorrow, and mental suffering, and punitive damages when applicable, to the surviving spouse and next of kin of such deceased person. Nothing in this Section affects the applicability of Section 2-1115 of the Code of Civil Procedure or Section 2-102 or 2-213 of the Local Governmental and Governmental Employees Tort Immunity Act. Punitive damages are not available in an action for healing art malpractice or legal malpractice or in an

action against the State or unit of local government or an employee of the State or an employee of a unit of local government in his or her official capacity. The changes made to this Section by this amendatory Act of the 103rd General Assembly apply to actions filed on and after the effective date of this amendatory Act of the 103rd General Assembly.

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

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

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

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

(3) to the personal representatives, as such, for the

costs and expenses of administering the estate and prosecuting or compromising the action, including a reasonable attorney's fee. In any such case the measure of damages to be recovered shall be the total of the reasonable value of such hospitalization or hospital service, medical and surgical services, funeral expenses, and such costs and expenses of administration, including attorney fees, not exceeding the foregoing limitations for each class of such expenses and not exceeding \$900 plus a reasonable attorney's fee.

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

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

- (1) first degree murder under Section 9-1 of the Criminal Code of 2012;
- (2) intentional homicide of an unborn child under Section 9-1.2 of the Criminal Code of 2012;
- (3) second degree murder under Section 9-2 of the

Criminal Code of 2012;

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

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

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

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

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

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

of 18.

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

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

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

(2) Where the trier of fact finds that the contributory fault of a beneficiary on whose behalf the action is brought is more than 50% of the proximate cause of the wrongful death of the decedent, then the beneficiary shall be barred from recovering damages and the amount of damages which would have been payable to

that beneficiary, but for the beneficiary's contributory fault, shall not inure to the benefit of the remaining beneficiaries and shall not be payable by any defendant.

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

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

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

(Source: P.A. 99-587, eff. 1-1-17.)

Section 10. The Probate Act of 1975 is amended by changing Section 27-6 as follows:

(755 ILCS 5/27-6) (from Ch. 110 1/2, par. 27-6)

Sec. 27-6. Actions which survive.† In addition to the actions which survive by the common law, the following also survive: actions of replevin, actions to recover damages, including punitive damages when applicable, for an injury to the person (except slander and libel), actions to recover

damages for an injury to real or personal property or for the detention or conversion of personal property, actions against officers for misfeasance, malfeasance, or nonfeasance of themselves or their deputies, actions for fraud or deceit, and actions provided in Section 6-21 of the Liquor Control Act of 1934 ~~"An Act relating to alcoholic liquors"~~. Nothing in this Section affects the applicability of Section 2-1115 of the Code of Civil Procedure or Section 2-102 or 2-213 of the Local Governmental and Governmental Employees Tort Immunity Act. Punitive damages are not available in an action for healing art malpractice or legal malpractice or in an action against the State or unit of local government or an employee of the State or an employee of a unit of local government in his or her official capacity.

(Source: P.A. 82-783.)

Section 99. Effective date. This Act takes effect upon becoming law.