

1 AN ACT concerning civil law.

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

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

6 (740 ILCS 180/1) (from Ch. 70, par. 1)

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

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

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

8 (Source: Laws 1853, p. 97.)

9 (740 ILCS 180/2) (from Ch. 70, par. 2)

10 Sec. 2. (a) Every such action shall be brought by and in  
11 the names of the personal representatives of such deceased  
12 person, and, except as otherwise hereinafter provided, the  
13 amount recovered in every such action shall be for the  
14 exclusive benefit of the surviving spouse and next of kin of  
15 such deceased person. In every such action the jury may give  
16 such damages as they shall deem a fair and just compensation  
17 with reference to the pecuniary injuries resulting from such  
18 death, including damages for grief, sorrow, and mental  
19 suffering, and punitive damages when applicable, to the  
20 surviving spouse and next of kin of such deceased person.  
21 Nothing in this Section affects the applicability of Section  
22 2-1115 of the Code of Civil Procedure or Section 2-102 or 2-213  
23 of the Local Governmental and Governmental Employees Tort  
24 Immunity Act. Punitive damages are not available in an action  
25 for healing art malpractice or legal malpractice or in an

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

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

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

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

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

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

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

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

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

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

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

26 (3) second degree murder under Section 9-2 of the

1 Criminal Code of 2012;

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

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

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

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

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

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

1 of 18.

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

7 (h) The trier of fact shall first determine the decedent's  
8 contributory fault in accordance with Sections 2-1116 and  
9 2-1107.1 of the Code of Civil Procedure. Recovery of damages  
10 shall be barred or diminished accordingly. The trier of fact  
11 shall then determine the contributory fault, if any, of each  
12 beneficiary on behalf of whom the action was brought:

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

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

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

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

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

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

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

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

19                 (755 ILCS 5/27-6) (from Ch. 110 1/2, par. 27-6)

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

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

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

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