



Rep. Jay Hoffman

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10300HB0219ham001

LRB103 03743 LNS 61967 a

1 AMENDMENT TO HOUSE BILL 219

2 AMENDMENT NO. _____. Amend House Bill 219 by replacing
3 everything after the enacting clause with the following:

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,

1 including punitive damages when applicable, notwithstanding
2 the death of the person injured, and although the death shall
3 have been caused under such circumstances as amount in law to
4 felony. Nothing in this Section affects the applicability of
5 Section 2-1115 of the Code of Civil Procedure or Section 2-102
6 of the Local Governmental and Governmental Employees Tort
7 Immunity Act. Punitive damages are not available in an action
8 against the State or an employee of the State in his or her
9 official capacity. The changes made to this Section by this
10 amendatory Act of the 103rd General Assembly apply to actions
11 filed on and after the effective date of this amendatory Act of
12 the 103rd General Assembly.

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

14 (740 ILCS 180/2) (from Ch. 70, par. 2)

15 Sec. 2. (a) Every such action shall be brought by and in
16 the names of the personal representatives of such deceased
17 person, and, except as otherwise hereinafter provided, the
18 amount recovered in every such action shall be for the
19 exclusive benefit of the surviving spouse and next of kin of
20 such deceased person. In every such action the jury may give
21 such damages as they shall deem a fair and just compensation
22 with reference to the pecuniary injuries resulting from such
23 death, including damages for grief, sorrow, and mental
24 suffering, and punitive damages when applicable, to the
25 surviving spouse and next of kin of such deceased person. The

1 changes made to this Section by this amendatory Act of the
2 103rd General Assembly apply to actions filed on and after the
3 effective date of this amendatory Act of the 103rd General
4 Assembly.

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

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

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

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

24 (3) to the personal representatives, as such, for the
25 costs and expenses of administering the estate and
26 prosecuting or compromising the action, including a

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

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

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

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

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

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

26 (4) voluntary manslaughter of an unborn child under

1 Section 9-2.1 of the Criminal Code of 2012;

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

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

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

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

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

26 (g) In any such action to recover damages, it shall not be

1 a defense that the death was caused in whole or in part by the
2 contributory negligence of one or more of the beneficiaries on
3 behalf of whom the action is brought, but the amount of damages
4 given shall be reduced in the following manner.

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

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

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

1 beneficiaries and shall not be payable by any defendant.

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

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

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

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

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

17 (755 ILCS 5/27-6) (from Ch. 110 1/2, par. 27-6)

18 Sec. 27-6. Actions which survive.→ In addition to the
19 actions which survive by the common law, the following also
20 survive: actions of replevin, actions to recover damages,
21 including punitive damages when applicable, for an injury to
22 the person (except slander and libel), actions to recover
23 damages for an injury to real or personal property or for the
24 detention or conversion of personal property, actions against

1 officers for misfeasance, malfeasance, or nonfeasance of
2 themselves or their deputies, actions for fraud or deceit, and
3 actions provided in Section 6-21 of the Liquor Control Act of
4 1934 "An Act relating to alcoholic liquors". Nothing in this
5 Section affects the applicability of Section 2-1115 of the
6 Code of Civil Procedure or Section 2-102 of the Local
7 Governmental and Governmental Employees Tort Immunity Act.
8 Punitive damages are not available in an action against the
9 State or an employee of the State in his or her official
10 capacity.

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

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