



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1888

Introduced 2/10/2011, by Sen. Kirk W. Dillard

SYNOPSIS AS INTRODUCED:

See Index

Re-enacts and repeals various statutory provisions to eliminate changes that were made by Public Act 89-7, which was held to be void in its entirety by the Illinois Supreme Court in *Best v. Taylor Machine Works*. Repeals a provision of the Code of Civil Procedure concerning standards for economic and non-economic damages that was added by Public Act 94-677 and was specifically declared unconstitutional by the Illinois Supreme Court in *Lebron v. Gottlieb Memorial Hospital* and the Sorry Works! Pilot Program Act, which was declared unconstitutional because of the inseverability clause contained in Public Act 94-677. Effective immediately.

LRB097 05170 AMC 45217 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil actions.

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

4 Section 1. Purpose.

5 (a) In *Best v. Taylor Machine Works*, 179 Ill. 2d 367
6 (1997), the Illinois Supreme Court held that Public Act 89-7
7 was void in its entirety.

8 The Illinois Supreme Court, in *Lebron v. Gottlieb Memorial*
9 *Hospital*, found that the limitations on noneconomic damages in
10 medical malpractice actions that were created in Public Act
11 94-677, contained in Section 2-1706.5 of the Code of Civil
12 Procedure, violate the separation of powers clause of the
13 Illinois Constitution. Because Public Act 94-677 contained an
14 inseverability provision, the Court held the Act to be void in
15 its entirety. The Court emphasized, however, that "because the
16 other provisions contained in Public Act 94-677 are deemed
17 invalid solely on inseverability grounds, the legislature
18 remains free to reenact any provisions it deems appropriate".

19 (b) The purpose of this Act is to (i) re-enact and repeal
20 statutory provisions so the text of those provisions conforms
21 to the decision of the Illinois Supreme Court in *Best v. Taylor*
22 *Machine Works* and (ii) repeal Section 2-1706.5 of the Code of
23 Civil Procedure, which was specifically declared
24 unconstitutional by the court in *Lebron v. Gottlieb Memorial*

1 *Hospital*, and the Sorry Works! Pilot Program Act, which was
2 declared unconstitutional because of the inseverability clause
3 contained in Public Act 94-677.

4 (c) This Act is not intended to supersede any Public Act of
5 the 97th General Assembly that amends the text of a statutory
6 provision that appears in this Act.

7 (d) If a Public Act enacted after Public Act 89-7 amended
8 the text of a Section of the statutes without including the
9 changes made by Public Act 89-7, the text of that Section is
10 shown in this Act as existing text (without striking and
11 underscoring) to conform to the decision of the Illinois
12 Supreme Court, with the exception of changes of a revisory
13 nature.

14 (e) If no Public Act enacted after Public Act 89-7 has
15 amended the text of a Section that was included in Public Act
16 89-7, the text of that Section is re-enacted in this Act with
17 striking and underscoring to conform to the decision of the
18 Illinois Supreme Court.

19 (f) Provisions that were purportedly added to the statutes
20 by Public Act 89-7 are repealed in this Act to conform to the
21 decision of the Illinois Supreme Court.

22 (g) Provisions that were purportedly repealed by Public Act
23 89-7 are re-enacted (without striking and underscoring) to
24 conform to the decision of the Illinois Supreme Court.

25 (h) If Public Act 89-7 purportedly amended the text of a
26 Section of the statutes and that Section of the statutes was

1 later repealed by another Public Act, the text of that Section
2 is not shown in this Act.

3 Section 5. The Road Worker Safety Act is re-enacted as
4 follows:

5 (430 ILCS 105/Act title)

6 An Act to protect workers and the general public from
7 injury or death during construction or repair of bridges and
8 highways within the State of Illinois.

9 (430 ILCS 105/0.01) (from Ch. 121, par. 314.01)

10 Sec. 0.01. Short title. This Act may be cited as the Road
11 Worker Safety Act.

12 (Source: P.A. 86-1324; P.A. 89-7.)

13 (430 ILCS 105/1) (from Ch. 121, par. 314.1)

14 Sec. 1. All construction work upon bridges or highways
15 within the State of Illinois shall be so performed and
16 conducted that two-way traffic will be maintained when such is
17 safe and practical, and when not safe and practical, or when
18 any portion of the highway is obstructed, one-way traffic shall
19 be maintained, unless the authorized agency in charge of said
20 construction directs the road be closed to all traffic.

21 (Source: Laws 1959, p. 2044; P.A. 89-7.)

1 (430 ILCS 105/2) (from Ch. 121, par. 314.2)

2 Sec. 2. At all times during which men are working where
3 one-way traffic is utilized, the contractor or his authorized
4 agent in charge of such construction will be required to
5 furnish no fewer than two flagmen, one at each end of the
6 portion of highway or bridge on which only one-way traffic is
7 permitted, and at least 100 feet away from the nearest point of
8 the highway or bridge on which only one-way traffic is safe and
9 permitted. The flagmen shall be equipped with safe, suitable,
10 and proper signal devices as prescribed in the Manual on
11 Uniform Traffic Control Devices for Streets and Highways
12 published by the Department of Transportation, and shall so use
13 such devices as to inform approaching motorists to stop or
14 proceed. In addition, safe, suitable, and proper signals and
15 signs as prescribed in the Manual shall be so placed as to warn
16 approaching persons of the existence of any portion of highway
17 or bridge upon which only one-way traffic is safe and
18 permitted. At bridge construction or bridge repair sites, where
19 one-way traffic is utilized, traffic control signals
20 conforming to the Manual may be installed and operated in lieu
21 of, or in addition to, flagmen. Whenever the Department of
22 Transportation or local authorities determine that a bridge or
23 highway construction site requires the closing of a road to
24 through traffic, the contract documents relating to such
25 construction may specify alternate procedures for flagging and
26 controlling traffic, when such procedures have been approved by

1 the Department. When alternate procedures are not included,
2 traffic control and flagging will be as prescribed in the first
3 paragraph of this Section.

4 (Source: P.A. 82-408; 89-7.)

5 (430 ILCS 105/3) (from Ch. 121, par. 314.3)

6 Sec. 3. Drivers of any motor vehicle approaching any
7 section of highway or bridge which is limited to only one-way
8 traffic shall obey warning signs and shall stop their vehicles
9 if signaled to do so by a flagman or a traffic control signal.

10 (Source: Laws 1967, p. 468; P.A. 89-7.)

11 (430 ILCS 105/4) (from Ch. 121, par. 314.4)

12 Sec. 4. Any portion of highway or bridge which is closed to
13 all traffic shall be marked at each place where vehicles have
14 accessible approach to such portion of highway or bridge, and
15 at a sufficient distance from the closed portion of such
16 highway or bridge shall be marked with an adequate number of
17 safe, suitable, and proper warning signs, signals or barricades
18 as set forth in the Manual of Uniform Traffic Control Devices
19 for Streets and Highways published by the Department of
20 Transportation so as to give warning to approaching motorists
21 that such portion of bridge or highway is closed and unsafe for
22 travel.

23 (Source: P.A. 77-176; 89-7.)

1 (430 ILCS 105/5) (from Ch. 121, par. 314.5)

2 Sec. 5. Any contractor, subcontractor, or his authorized
3 agent in charge of construction work on highways or bridges
4 within the State of Illinois, or any driver of any motor
5 vehicle, who knowingly or wilfully violates any provision of
6 this Act, is guilty of a petty offense.

7 (Source: P.A. 77-2242; 89-7.)

8 (430 ILCS 105/6) (from Ch. 121, par. 314.6)

9 Sec. 6. Any contractor, subcontractor, or his or her
10 authorized agent or driver of any motor vehicle who knowingly
11 or wilfully violates any provision of this Act, shall be
12 responsible for any injury to person or property occasioned by
13 such violation, and a right of action shall accrue to any
14 person injured for any damages sustained thereby; and in case
15 of loss of life by reason of such violation, a right of action
16 shall accrue to the surviving spouse of the person so killed,
17 his or her heirs, or to any person or persons who were, before
18 such loss of life, dependent for support on the person so
19 killed, for a like recovery of damages sustained by reason of
20 such loss of life.

21 (Source: P.A. 80-1154; 89-7.)

22 (430 ILCS 105/7) (from Ch. 121, par. 314.7)

23 Sec. 7. In case of any failure to comply with any of the
24 provisions of this Act, the Director of Labor may, through the

1 State's Attorney, or any other attorney in case of his failure
2 to act promptly, take the necessary legal steps to enforce
3 compliance therewith.

4 (Source: Laws 1959, p. 2044; P.A. 89-7.)

5 (430 ILCS 105/8) (from Ch. 121, par. 314.8)

6 Sec. 8. The provisions of this Act shall not apply to
7 employees or officials of the State of Illinois or any other
8 public agency engaged in the construction or maintenance of
9 highways and bridges.

10 (Source: Laws 1959, p. 2044; P.A. 89-7.)

11 (710 ILCS 45/Act rep.)

12 Section 10. The Sorry Works! Pilot Program Act is repealed.

13 Section 15. Section 5-5-7 of the Unified Code of
14 Corrections is re-enacted as follows:

15 (730 ILCS 5/5-5-7) (from Ch. 38, par. 1005-5-7)

16 Sec. 5-5-7. Neither the State, any local government,
17 probation department, public or community service program or
18 site, nor any official, volunteer, or employee thereof acting
19 in the course of their official duties shall be liable for any
20 injury or loss a person might receive while performing public
21 or community service as ordered either (1) by the court or (2)
22 by any duly authorized station or probation adjustment, teen

1 court, community mediation, or other administrative diversion
2 program authorized by the Juvenile Court Act of 1987 for a
3 violation of a penal statute of this State or a local
4 government ordinance (whether penal, civil, or quasi-criminal)
5 or for a traffic offense, nor shall they be liable for any
6 tortious acts of any person performing public or community
7 service, except for wilful, wanton misconduct or gross
8 negligence on the part of such governmental unit, probation
9 department, or public or community service program or site, or
10 the official, volunteer, or employee.

11 (Source: P.A. 91-820, eff. 6-13-00.)

12 Section 20. Sections 2-402, 2-604.1, 2-621, 2-1003,
13 2-1107.1, 2-1109, 2-1116, 2-1117, 2-1118, 2-1205.1, 2-1702,
14 8-802, 8-2001, 8-2003, 8-2501, 13-213, 13-214.3, and 13-217 of
15 the Code of Civil Procedure are re-enacted as follows:

16 (735 ILCS 5/2-402) (from Ch. 110, par. 2-402)

17 Sec. 2-402. Respondents in discovery. The plaintiff in any
18 civil action may designate as respondents in discovery in his
19 or her pleading those individuals or other entities, other than
20 the named defendants, believed by the plaintiff to have
21 information essential to the determination of who should
22 properly be named as additional defendants in the action.

23 Persons or entities so named as respondents in discovery
24 shall be required to respond to discovery by the plaintiff in

1 the same manner as are defendants and may, on motion of the
2 plaintiff, be added as defendants if the evidence discloses the
3 existence of probable cause for such action.

4 A person or entity named a respondent in discovery may upon
5 his or her own motion be made a defendant in the action, in
6 which case the provisions of this Section are no longer
7 applicable to that person.

8 A copy of the complaint shall be served on each person or
9 entity named as a respondent in discovery.

10 Each respondent in discovery shall be paid expenses and
11 fees as provided for witnesses.

12 A person or entity named as a respondent in discovery in
13 any civil action may be made a defendant in the same action at
14 any time within 6 months after being named as a respondent in
15 discovery, even though the time during which an action may
16 otherwise be initiated against him or her may have expired
17 during such 6 month period. An extension from the original
18 6-month period for good cause may be granted only once for up
19 to 90 days for (i) withdrawal of plaintiff's counsel or (ii)
20 good cause. Notwithstanding the limitations in this Section,
21 the court may grant additional reasonable extensions from this
22 6-month period for a failure or refusal on the part of the
23 respondent to comply with timely filed discovery.

24 The plaintiff shall serve upon the respondent or
25 respondents a copy of the complaint together with a summons in
26 a form substantially as follows:

1 "STATE OF ILLINOIS

2 COUNTY OF

3 IN THE CIRCUIT COURT OF COUNTY, ILLINOIS

4 COUNTY DEPARTMENT, LAW DIVISION

5 (or, In the Circuit Court of the Judicial Circuit)

6

7 Plaintiff(s),

8 v. No.

9

10,

11 Defendant(s),

12 and PLEASE SERVE:

13

14,

15 Respondent(s) in Discovery.

16 SUMMONS FOR DISCOVERY

17 TO RESPONDENT IN DISCOVERY:

18 YOU ARE HEREBY NOTIFIED that on, 20..... ,

19 a complaint, a copy of which is attached, was filed in the

1 above Court naming you as a Respondent in Discovery. Pursuant
 2 to the Illinois Code of Civil Procedure Section 2-402 and
 3 Supreme Court Rules 201 et. seq., and/or Court Order entered on
 4, the above named
 5 Plaintiff(s) are authorized to proceed with the discovery of
 6 the named Respondent(s) in Discovery.

7 YOU ARE SUMMONED AND COMMANDED to appear for deposition,
 8 before a notary public (answer the attached written
 9 interrogatories), (respond to the attached request to
 10 produce), (or other appropriate discovery tool).

11 We are scheduled to take the oral discovery deposition of the
 12 above named Respondent,, on
 13, 20..., at the hour of
 14 a.m./p.m., at the office
 15, Illinois, in
 16 accordance with the rules and provisions of this Court. Witness
 17 and mileage fees in the amount of are
 18 attached (or)

19 (serve the following interrogatories, request to produce, or
 20 other appropriate discovery tool upon Respondent,
 21 to be answered under oath by
 22 Respondent,, and delivered to the
 23 office of, Illinois, within

1 28 days from date of service).

2 TO THE OFFICER/SPECIAL PROCESS SERVER:

3 This summons must be returned by the officer or other
4 person to whom it was given for service, with endorsement or
5 affidavit of service and fees and an endorsement or affidavit
6 of payment to the Respondent of witness and mileage fees, if
7 any, immediately after service. If service cannot be made, this
8 summons shall be returned so endorsed.

9 WITNESS,

10

11 Clerk of Court

12 Date of Service:, 20...

13 (To be inserted by officer on copy left
14 with Respondent or other person)

15 Attorney No.

16 Name:

17 Attorney for:

18 Address:

19 City/State/Zip:

20 Telephone:".

21 This amendatory Act of the 94th General Assembly applies to

1 causes of action pending on or after its effective date.

2 (Source: P.A. 94-582, eff. 1-1-06.)

3 (735 ILCS 5/2-604.1) (from Ch. 110, par. 2-604.1)

4 Sec. 2-604.1. Pleading of punitive damages. In all actions
5 on account of bodily injury or physical damage to property,
6 based on negligence, or product liability based on ~~any theory~~
7 ~~or doctrine~~ strict tort liability, where punitive damages are
8 permitted no complaint shall be filed containing a prayer for
9 relief seeking punitive damages. However, a plaintiff may,
10 pursuant to a pretrial motion and after a hearing before the
11 court, amend the complaint to include a prayer for relief
12 seeking punitive damages. The court shall allow the motion to
13 amend the complaint if the plaintiff establishes at such
14 hearing a reasonable likelihood of proving facts at trial
15 sufficient to support an award of punitive damages. Any motion
16 to amend the complaint to include a prayer for relief seeking
17 punitive damages shall be made not later than 30 days after the
18 close of discovery. A prayer for relief added pursuant to this
19 Section shall not be barred by lapse of time under any statute
20 prescribing or limiting the time within which an action may be
21 brought or right asserted if the time prescribed or limited had
22 not expired when the original pleading was filed.

23 (Source: P.A. 84-1431; 89-7.)

24 (735 ILCS 5/2-621) (from Ch. 110, par. 2-621)

1 Sec. 2-621. Product liability actions. (a) In any product
2 liability action based ~~on any theory or doctrine~~ in whole or in
3 part on the doctrine of strict liability in tort commenced or
4 maintained against a defendant or defendants other than the
5 manufacturer, that party shall upon answering or otherwise
6 pleading file an affidavit certifying the correct identity of
7 the manufacturer of the product allegedly causing injury, death
8 or damage. The commencement of a product liability action based
9 ~~on any theory or doctrine~~ in whole or in part on the doctrine
10 of strict liability in tort against such defendant or
11 defendants shall toll the applicable statute of limitation and
12 statute of repose relative to the defendant or defendants for
13 purposes of asserting a strict liability in tort cause of
14 action.

15 (b) Once the plaintiff has filed a complaint against the
16 manufacturer or manufacturers, and the manufacturer or
17 manufacturers have or are required to have answered or
18 otherwise pleaded, the court shall order the dismissal of a
19 ~~product liability action based on any theory or doctrine~~ strict
20 liability in tort claim against the certifying defendant or
21 defendants, provided the certifying defendant or defendants
22 are not within the categories set forth in subsection (c) of
23 this Section. Due diligence shall be exercised by the
24 certifying defendant or defendants in providing the plaintiff
25 with the correct identity of the manufacturer or manufacturers,
26 and due diligence shall be exercised by the plaintiff in filing

1 an action and obtaining jurisdiction over the manufacturer or
2 manufacturers.

3 The plaintiff may at any time subsequent to the dismissal
4 move to vacate the order of dismissal and reinstate the
5 certifying defendant or defendants, provided plaintiff can
6 show one or more of the following:

7 (1) That the applicable period of statute of limitation or
8 statute of repose bars the assertion of a strict liability in
9 tort cause of action against the manufacturer or manufacturers
10 of the product allegedly causing the injury, death or damage;
11 or

12 (2) That the identity of the manufacturer given to the
13 plaintiff by the certifying defendant or defendants was
14 incorrect. Once the correct identity of the manufacturer has
15 been given by the certifying defendant or defendants the court
16 shall again dismiss the certifying defendant or defendants; or

17 (3) That the manufacturer no longer exists, cannot be
18 subject to the jurisdiction of the courts of this State, or,
19 despite due diligence, the manufacturer is not amenable to
20 service of process; or

21 (4) That the manufacturer is unable to satisfy any judgment
22 as determined by the court; or

23 (5) That the court determines that the manufacturer would
24 be unable to satisfy a reasonable settlement or other agreement
25 with plaintiff.

26 (c) A court shall not enter a dismissal order relative to

1 any certifying defendant or defendants other than the
2 manufacturer even though full compliance with subsection (a) of
3 this Section has been made where the plaintiff can show one or
4 more of the following:

5 (1) That the defendant has exercised some significant
6 control over the design or manufacture of the product, or has
7 provided instructions or warnings to the manufacturer relative
8 to the alleged defect in the product which caused the injury,
9 death or damage; or

10 (2) That the defendant had actual knowledge of the defect
11 in the product which caused the injury, death or damage; or

12 (3) That the defendant created the defect in the product
13 which caused the injury, death or damage.

14 (d) Nothing contained in this Section shall be construed to
15 grant a cause of action ~~on~~ in strict liability in tort or any
16 other legal theory ~~or doctrine~~, or to affect the right of any
17 person to seek and obtain indemnity or contribution.

18 (e) This Section applies to all causes of action accruing
19 on or after September 24, 1979.

20 (Source: P.A. 84-1043; 89-7.)

21 (735 ILCS 5/2-1003) (from Ch. 110, par. 2-1003)

22 Sec. 2-1003. Discovery and depositions.

23 (a) ~~Any party who by pleading alleges any claim for bodily~~
24 ~~injury or disease, including mental health injury or disease,~~
25 ~~shall be deemed to waive any privilege between the injured~~

1 ~~person and each health care provider who has furnished care at~~
2 ~~any time to the injured person. "Health care provider" means~~
3 ~~any person or entity who delivers or has delivered health care~~
4 ~~services, including diagnostic services, and includes, but is~~
5 ~~not limited to, physicians, psychologists, chiropractors,~~
6 ~~nurses, mental health workers, therapists, and other healing~~
7 ~~art practitioners. Any party alleging any such claim for bodily~~
8 ~~or mental health injury or disease shall, upon written request~~
9 ~~of any other party who has appeared in the action, sign and~~
10 ~~deliver within 28 days to the requesting party a separate~~
11 ~~Consent authorizing each person or entity who has provided~~
12 ~~health care at any time to the allegedly injured person to:~~

13 ~~(1) furnish the requesting party or the party's~~
14 ~~attorney a complete copy of the chart or record of health~~
15 ~~care in the possession of the provider, including reports~~
16 ~~sent to any third party, including any records generated by~~
17 ~~other health care providers and in the possession of the~~
18 ~~health care provider, and including radiographic films of~~
19 ~~any type;~~

20 ~~(2) permit the requesting party or the party's attorney~~
21 ~~to inspect the original chart or record of health care~~
22 ~~during regular business hours and at the regular business~~
23 ~~location of the health care provider, upon written request~~
24 ~~made not less than 7 days prior to the inspection;~~

25 ~~(3) accept and consider charts and other records of~~
26 ~~health care by others, radiographic films, and documents,~~

1 ~~including reports, deposition transcripts, and letters,~~
2 ~~furnished to the health care provider by the requesting~~
3 ~~party or the party's attorney, before giving testimony in~~
4 ~~any deposition or trial or other hearing;~~

5 ~~(4) confer with the requesting party's attorney before~~
6 ~~giving testimony in any deposition or trial or other~~
7 ~~hearing and engage in discussion with the attorney on the~~
8 ~~subjects of the health care provider's observations~~
9 ~~related to the allegedly injured party's health, including~~
10 ~~the following: the patient history, whether charted or~~
11 ~~otherwise recorded or not; the health care provider's~~
12 ~~opinions related to the patient's state of health,~~
13 ~~prognosis, etiology, or cause of the patient's state of~~
14 ~~health at any time, and the nature and quality of care by~~
15 ~~other health care providers, including whether any~~
16 ~~standard of care was or was not breached; and the testimony~~
17 ~~the health care provider would give in response to any~~
18 ~~point of interrogation, and the education, experience, and~~
19 ~~qualifications of the health care provider.~~

20 ~~The form of the Consent furnished pursuant to this~~
21 ~~subsection (a) shall recite that it is signed and delivered~~
22 ~~under the authority of this subsection. Any variation in the~~
23 ~~form of the Consent required by any health care provider, not~~
24 ~~subject to the jurisdiction of the circuit court before which~~
25 ~~the action is pending, to whom a request is directed under~~
26 ~~subdivision (1) or (2) of this subsection (a) shall be accepted~~

1 ~~by the allegedly injured party and the revised form requested~~
2 ~~by the health care provider shall be signed and delivered to~~
3 ~~the requesting party within 28 days after it is tendered for~~
4 ~~signature.~~

5 ~~All documents and information obtained pursuant to a~~
6 ~~Consent shall be considered confidential. Disclosure may be~~
7 ~~made only to the parties to the action, their attorneys, their~~
8 ~~insurers' representatives, and witnesses and consultants whose~~
9 ~~testimony concerns medical treatment prognosis, or~~
10 ~~rehabilitation, including expert witnesses.~~

11 ~~A request for a Consent under this subsection (a) does not~~
12 ~~preclude such subsequent requests as may reasonably be made~~
13 ~~seeking to expand the scope of an earlier Consent which was~~
14 ~~limited to less than all the authority permitted by~~
15 ~~subdivisions (1) through (4) of this subsection (a) or seeking~~
16 ~~additional Consents for other health care providers.~~

17 ~~The provisions of this subsection (a) do not restrict the~~
18 ~~right of any party to discovery pursuant to rule.~~

19 ~~Should a plaintiff refuse to timely comply with a request~~
20 ~~for signature and delivery of a consent permitted by this~~
21 ~~subsection (a) the court, on motion, shall issue an order~~
22 ~~authorizing disclosure to the party or parties requesting said~~
23 ~~consent of all records and information mentioned herein or~~
24 ~~order the cause dismissed pursuant to Section 2-619(a)(9).~~

25 ~~(a-1)~~ Discovery, admissions of fact and of genuineness of
26 documents and answers to interrogatories shall be in accordance

1 with rules.

2 (b) The taking of depositions, whether for use in evidence
3 or for purposes of discovery in proceedings in this State or
4 elsewhere, and fees and charges in connection therewith, shall
5 be in accordance with rules.

6 (c) A party shall not be required to furnish the names or
7 addresses of his or her witnesses, except that upon motion of
8 any party disclosure of the identity of expert witnesses shall
9 be made to all parties and the court in sufficient time in
10 advance of trial so as to insure a fair and equitable
11 preparation of the case by all parties.

12 (d) Whenever the defendant in any litigation in this State
13 has the right to demand a physical or mental examination of the
14 plaintiff pursuant to statute or Supreme Court Rule, relative
15 to the occurrence and extent of injuries or damages for which
16 claim is made, or in connection with the plaintiff's capacity
17 to exercise any right plaintiff has, or would have but for a
18 finding based upon such examination, the plaintiff has the
19 right to have his or her attorney, or such other person as the
20 plaintiff may wish, present at such physical or mental
21 examination.

22 (e) No person or organization shall be required to furnish
23 claims, loss or risk management information held or provided by
24 an insurer, which information is described in Section 143.10a
25 of the "Illinois Insurance Code".

26 ~~(f) This amendatory Act of 1995 applies to causes of action~~

1 ~~filed on and after its effective date.~~

2 (Source: P.A. 84-1431; 89-7.)

3 (735 ILCS 5/2-1107.1) (from Ch. 110, par. 2-1107.1)

4 Sec. 2-1107.1. Jury instruction in tort actions. In all
5 actions on account of bodily injury or death or physical damage
6 to property based on negligence, or product liability based on
7 ~~any theory or doctrine~~ strict tort liability, the court shall
8 instruct the jury in writing, ~~to the extent that it is true,~~
9 ~~that any award of compensatory damages or punitive damages will~~
10 ~~not be taxable under federal or State income tax law. The court~~
11 ~~shall not inform or instruct the jury~~ that the defendant shall
12 be found not liable if the jury finds that the contributory
13 fault of the plaintiff is more than 50% of the proximate cause
14 of the injury or damage for which recovery is sought, ~~but it~~
15 ~~shall be the duty of the court to deny recovery if the jury~~
16 ~~finds that the plaintiff's contributory fault is more than 50%~~
17 ~~of the proximate cause of the injury or damage. The court shall~~
18 ~~not inform or instruct the jury concerning any limitations in~~
19 ~~the amount of non-economic damages or punitive damages that are~~
20 ~~recoverable, but it shall be the duty of the trial court upon~~
21 ~~entering judgment to reduce any award in excess of such~~
22 ~~limitation to no more than the proper limitation.~~

23 ~~This amendatory Act of 1995 applies to causes of action~~
24 ~~filed on or after its effective date.~~

25 (Source: P.A. 84-1431; 89-7.)

1 (735 ILCS 5/2-1109) (from Ch. 110, par. 2-1109)

2 Sec. 2-1109. Itemized verdicts. In every case where damages
3 for ~~bodily injury or death~~ to the person are assessed by the
4 jury the verdict shall be itemized so as to reflect the
5 monetary distribution, ~~if any,~~ among economic loss and
6 non-economic loss ~~as defined in Section 2-1115.2,~~ if any, and,
7 in ~~healing art~~ medical malpractice cases, further itemized so
8 as to reflect the distribution of economic loss by category,
9 such itemization of economic loss by category to include: (a)
10 amounts intended to compensate for reasonable expenses which
11 have been incurred, or which will be incurred, for necessary
12 medical, surgical, x-ray, dental, or other health or
13 rehabilitative services, drugs, and therapy; (b) amounts
14 intended to compensate for lost wages or loss of earning
15 capacity; and (c) all other economic losses claimed by the
16 plaintiff or granted by the jury. Each category of economic
17 loss shall be further itemized into amounts intended to
18 compensate for losses which have been incurred prior to the
19 verdict and amounts intended to compensate for ~~future~~
20 which will be incurred in the future.

21 ~~This amendatory Act of 1995 applies to causes of action~~
22 ~~filed on or after its effective date.~~

23 (Source: P.A. 84-7; 89-7.)

24 (735 ILCS 5/2-1116) (from Ch. 110, par. 2-1116)

1 Sec. 2-1116. Limitation on recovery in tort actions; ~~fault.~~

2 ~~(a) The purpose of this Section is to allocate the~~
3 ~~responsibility of bearing or paying damages in actions brought~~
4 ~~on account of death, bodily injury, or physical damage to~~
5 ~~property according to the proportionate fault of the persons~~
6 ~~who proximately caused the damage.~~

7 ~~(b) As used in this Section:~~

8 ~~"Fault" means any act or omission that (i) is negligent,~~
9 ~~willful and wanton, or reckless, is a breach of an express or~~
10 ~~implied warranty, gives rise to strict liability in tort, or~~
11 ~~gives rise to liability under the provisions of any State~~
12 ~~statute, rule, or local ordinance and (ii) is a proximate cause~~
13 ~~of death, bodily injury to person, or physical damage to~~
14 ~~property for which recovery is sought.~~

15 ~~"Contributory fault" means any fault on the part of the~~
16 ~~plaintiff (including but not limited to negligence, assumption~~
17 ~~of the risk, or willful and wanton misconduct) which is a~~
18 ~~proximate cause of the death, bodily injury to person, or~~
19 ~~physical damage to property for which recovery is sought.~~

20 ~~"Tortfeasor" means any person, excluding the injured~~
21 ~~person, whose fault is a proximate cause of the death, bodily~~
22 ~~injury to person, or physical damage to property for which~~
23 ~~recovery is sought, regardless of whether that person is the~~
24 ~~plaintiff's employer, regardless of whether that person is~~
25 ~~joined as a party to the action, and regardless of whether that~~
26 ~~person may have settled with the plaintiff.~~

1 ~~(e)~~ In all actions on account of ~~death,~~ bodily injury or
2 death or physical damage to property ~~in which recovery is~~
3 ~~predicated upon fault,~~ based on negligence, or product
4 liability based on strict tort liability, ~~the contributory~~
5 ~~fault chargeable to the plaintiff shall be compared with the~~
6 ~~fault of all tortfeasors whose fault was a proximate cause of~~
7 ~~the death, injury, loss, or damage for which recovery is~~
8 ~~sought.~~ the plaintiff shall be barred from recovering damages
9 if the trier of fact finds that the contributory fault on the
10 part of the plaintiff is more than 50% of the proximate cause
11 of the injury or damage for which recovery is sought. The
12 plaintiff shall not be barred from recovering damages if the
13 trier of fact finds that the contributory fault on the part of
14 the plaintiff is not more than 50% of the proximate cause of
15 the injury or damage for which recovery is sought, but any
16 ~~economic or non-economic~~ damages allowed shall be diminished in
17 the proportion to the amount of fault attributable to the
18 plaintiff.

19 ~~(d) Nothing in this Section shall be construed to create a~~
20 ~~cause of action.~~

21 ~~(e) This amendatory Act of 1995 applies to causes of action~~
22 ~~accruing on or after its effective date.~~

23 (Source: P.A. 84-1431; 89-7.)

24 (735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)

25 Sec. 2-1117. Joint liability. Except as provided in Section

1 2-1118, in actions on account of bodily injury or death or
2 physical damage to property, based on negligence, or product
3 liability based on strict tort liability, all defendants found
4 liable are jointly and severally liable for plaintiff's past
5 and future medical and medically related expenses. Any
6 defendant whose fault, as determined by the trier of fact, is
7 less than 25% of the total fault attributable to the plaintiff,
8 the defendants sued by the plaintiff, and any third party
9 defendant except the plaintiff's employer, shall be severally
10 liable for all other damages. Any defendant whose fault, as
11 determined by the trier of fact, is 25% or greater of the total
12 fault attributable to the plaintiff, the defendants sued by the
13 plaintiff, and any third party defendants except the
14 plaintiff's employer, shall be jointly and severally liable for
15 all other damages.

16 (Source: P.A. 93-10, eff. 6-4-03; 93-12, eff. 6-4-03.)

17 (735 ILCS 5/2-1118)

18 Sec. 2-1118. Exceptions. Notwithstanding the provisions
19 of Section 2-1117, in any action in which the trier of fact
20 determines that the injury or damage for which recovery is
21 sought was caused by an act involving the discharge into the
22 environment of any pollutant, including any waste, hazardous
23 substance, irritant or contaminant, including, but not limited
24 to smoke, vapor, soot, fumes, acids, alkalis, asbestos, toxic
25 or corrosive chemicals, radioactive waste or mine tailings, and

1 including any such material intended to be recycled,
2 reconditioned or reclaimed, any defendants found liable shall
3 be jointly and severally liable for such damage. However,
4 Section 2-1117 shall apply to a defendant who is a response
5 action contractor. As used in this Section, "response action
6 contractor" means an individual, partnership, corporation,
7 association, joint venture or other commercial entity or an
8 employee, agent, sub-contractor, or consultant thereof which
9 enters into a contract, for the performance of remedial or
10 response action, or for the identification, handling, storage,
11 treatment or disposal of a pollutant, which is entered into
12 between any person or entity and a response action contractor
13 when such response action contractor is not liable for the
14 creation or maintenance of the condition to be ameliorated
15 under the contract.

16 Notwithstanding the provisions of Section 2-1117, in any
17 medical malpractice action, as defined in Section 2-1704, based
18 upon negligence, any defendants found liable shall be jointly
19 and severally liable.

20 (Source: P.A. 84-1431; 89-7.)

21 (735 ILCS 5/2-1205.1) (from Ch. 110, par. 2-1205.1)

22 Sec. 2-1205.1. Reduction in amount of recovery. In all
23 cases on account of bodily injury or death or physical damage
24 to property, based on negligence, or product liability based on
25 ~~any theory or doctrine~~ strict tort liability, to which Section

1 2-1205 does not apply, the amount in excess of \$25,000 of the
2 benefits provided for medical charges, hospital charges, or
3 nursing or caretaking charges, which have been paid, or which
4 have become payable by the date of judgment to the injured
5 person by any other insurance company or fund in relation to a
6 particular injury, shall be deducted from any judgment.
7 Provided, however, that:

8 (1) Application is made within 30 days to reduce the
9 judgment;

10 (2) Such reduction shall not apply to the extent that there
11 is a right of recoupment through subrogation, trust agreement,
12 contract, lien, operation of law or otherwise;

13 (3) The reduction shall not reduce the judgment by more
14 than 50% of the total amount of the judgment entered on the
15 verdict; and

16 (4) The damages awarded shall be increased by the amount of
17 any insurance premiums or the direct costs paid by the
18 plaintiff for such benefits in the 2 years prior to plaintiff's
19 injury or death or to be paid by the plaintiff in the future
20 for such benefits.

21 (Source: P.A. 84-1431; 89-7.)

22 (735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)

23 Sec. 2-1702. Economic/Non-Economic Loss. As used in this
24 Part, ~~"economic loss" and "non-economic loss" are defined as in~~
25 ~~Section 2-1115.2. :~~

1 (a) "Economic loss" means all pecuniary harm for which
2 damages are recoverable.

3 (b) "Non-economic loss" means loss of consortium and all
4 nonpecuniary harm for which damages are recoverable,
5 including, without limitation, damages for pain and suffering,
6 inconvenience, disfigurement, and physical impairment.

7 (Source: P.A. 84-7; 89-7.)

8 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

9 Sec. 8-802. Physician and patient. No physician or surgeon
10 shall be permitted to disclose any information he or she may
11 have acquired in attending any patient in a professional
12 character, necessary to enable him or her professionally to
13 serve the patient, except only (1) in trials for homicide when
14 the disclosure relates directly to the fact or immediate
15 circumstances of the homicide, (2) in actions, civil or
16 criminal, against the physician for malpractice, (3) with the
17 expressed consent of the patient, or in case of his or her
18 death or disability, of his or her personal representative or
19 other person authorized to sue for personal injury or of the
20 beneficiary of an insurance policy on his or her life, health,
21 or physical condition, (4) in all actions brought by or against
22 the patient, his or her personal representative, a beneficiary
23 under a policy of insurance, or the executor or administrator
24 of his or her estate wherein the patient's physical or mental
25 condition is an issue, (5) upon an issue as to the validity of

1 a document as a will of the patient, (6) in any criminal action
2 where the charge is either first degree murder by abortion,
3 attempted abortion or abortion, (7) in actions, civil or
4 criminal, arising from the filing of a report in compliance
5 with the Abused and Neglected Child Reporting Act, (8) to any
6 department, agency, institution or facility which has custody
7 of the patient pursuant to State statute or any court order of
8 commitment, (9) in prosecutions where written results of blood
9 alcohol tests are admissible pursuant to Section 11-501.4 of
10 the Illinois Vehicle Code, (10) in prosecutions where written
11 results of blood alcohol tests are admissible under Section
12 5-11a of the Boat Registration and Safety Act, (11) in criminal
13 actions arising from the filing of a report of suspected
14 terrorist offense in compliance with Section 29D-10(p)(7) of
15 the Criminal Code of 1961, or (12) upon the issuance of a
16 subpoena pursuant to Section 38 of the Medical Practice Act of
17 1987; the issuance of a subpoena pursuant to Section 25.1 of
18 the Illinois Dental Practice Act; or the issuance of a subpoena
19 pursuant to Section 22 of the Nursing Home Administrators
20 Licensing and Disciplinary Act.

21 In the event of a conflict between the application of this
22 Section and the Mental Health and Developmental Disabilities
23 Confidentiality Act to a specific situation, the provisions of
24 the Mental Health and Developmental Disabilities
25 Confidentiality Act shall control.

26 (Source: P.A. 95-478, eff. 8-27-07.)

1 (735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)
2 Sec. 8-2001. Examination of health care records.

3 (a) In this Section:

4 "Health care facility" or "facility" means a public or
5 private hospital, ambulatory surgical treatment center,
6 nursing home, independent practice association, or physician
7 hospital organization, or any other entity where health care
8 services are provided to any person. The term does not include
9 a health care practitioner.

10 "Health care practitioner" means any health care
11 practitioner, including a physician, dentist, podiatrist,
12 advanced practice nurse, physician assistant, clinical
13 psychologist, or clinical social worker. The term includes a
14 medical office, health care clinic, health department, group
15 practice, and any other organizational structure for a licensed
16 professional to provide health care services. The term does not
17 include a health care facility.

18 (b) Every private and public health care facility shall,
19 upon the request of any patient who has been treated in such
20 health care facility, or any person, entity, or organization
21 presenting a valid authorization for the release of records
22 signed by the patient or the patient's legally authorized
23 representative, permit the patient, his or her health care
24 practitioner, authorized attorney, or any person, entity, or
25 organization presenting a valid authorization for the release

1 of records signed by the patient or the patient's legally
2 authorized representative to examine the health care facility
3 patient care records, including but not limited to the history,
4 bedside notes, charts, pictures and plates, kept in connection
5 with the treatment of such patient, and permit copies of such
6 records to be made by him or her or his or her health care
7 practitioner or authorized attorney.

8 (c) Every health care practitioner shall, upon the request
9 of any patient who has been treated by the health care
10 practitioner, or any person, entity, or organization
11 presenting a valid authorization for the release of records
12 signed by the patient or the patient's legally authorized
13 representative, permit the patient and the patient's health
14 care practitioner or authorized attorney, or any person,
15 entity, or organization presenting a valid authorization for
16 the release of records signed by the patient or the patient's
17 legally authorized representative, to examine and copy the
18 patient's records, including but not limited to those relating
19 to the diagnosis, treatment, prognosis, history, charts,
20 pictures and plates, kept in connection with the treatment of
21 such patient.

22 (d) A request for copies of the records shall be in writing
23 and shall be delivered to the administrator or manager of such
24 health care facility or to the health care practitioner. The
25 person (including patients, health care practitioners and
26 attorneys) requesting copies of records shall reimburse the

1 facility or the health care practitioner at the time of such
2 copying for all reasonable expenses, including the costs of
3 independent copy service companies, incurred in connection
4 with such copying not to exceed a \$20 handling charge for
5 processing the request and the actual postage or shipping
6 charge, if any, plus: (1) for paper copies 75 cents per page
7 for the first through 25th pages, 50 cents per page for the
8 26th through 50th pages, and 25 cents per page for all pages in
9 excess of 50 (except that the charge shall not exceed \$1.25 per
10 page for any copies made from microfiche or microfilm; records
11 retrieved from scanning, digital imaging, electronic
12 information or other digital format do not qualify as
13 microfiche or microfilm retrieval for purposes of calculating
14 charges); and (2) for electronic records, retrieved from a
15 scanning, digital imaging, electronic information or other
16 digital format in a electronic document, a charge of 50% of the
17 per page charge for paper copies under subdivision (d) (1). This
18 per page charge includes the cost of each CD Rom, DVD, or other
19 storage media. Records already maintained in an electronic or
20 digital format shall be provided in an electronic format when
21 so requested. If the records system does not allow for the
22 creation or transmission of an electronic or digital record,
23 then the facility or practitioner shall inform the requester in
24 writing of the reason the records can not be provided
25 electronically. The written explanation may be included with
26 the production of paper copies, if the requester chooses to

1 order paper copies. These rates shall be automatically adjusted
2 as set forth in Section 8-2006. The facility or health care
3 practitioner may, however, charge for the reasonable cost of
4 all duplication of record material or information that cannot
5 routinely be copied or duplicated on a standard commercial
6 photocopy machine such as x-ray films or pictures.

7 (e) The requirements of this Section shall be satisfied
8 within 30 days of the receipt of a written request by a patient
9 or by his or her legally authorized representative, health care
10 practitioner, authorized attorney, or any person, entity, or
11 organization presenting a valid authorization for the release
12 of records signed by the patient or the patient's legally
13 authorized representative. If the facility or health care
14 practitioner needs more time to comply with the request, then
15 within 30 days after receiving the request, the facility or
16 health care practitioner must provide the requesting party with
17 a written statement of the reasons for the delay and the date
18 by which the requested information will be provided. In any
19 event, the facility or health care practitioner must provide
20 the requested information no later than 60 days after receiving
21 the request.

22 (f) A health care facility or health care practitioner must
23 provide the public with at least 30 days prior notice of the
24 closure of the facility or the health care practitioner's
25 practice. The notice must include an explanation of how copies
26 of the facility's records may be accessed by patients. The

1 notice may be given by publication in a newspaper of general
2 circulation in the area in which the health care facility or
3 health care practitioner is located.

4 (g) Failure to comply with the time limit requirement of
5 this Section shall subject the denying party to expenses and
6 reasonable attorneys' fees incurred in connection with any
7 court ordered enforcement of the provisions of this Section.

8 (Source: P.A. 94-155, eff. 1-1-06; 95-478, eff. 1-1-08 (changed
9 from 8-27-07 by P.A. 95-480); 95-480, eff. 1-1-08.)

10 (735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

11 Sec. 8-2501. Expert Witness Standards. In any case in which
12 the standard of care applicable to a medical professional is at
13 issue, the court shall apply the following standards to
14 determine if a witness qualifies as an expert witness and can
15 testify on the issue of the appropriate standard of care.

16 (a) Whether the witness is board certified or board
17 eligible, or has completed a residency, in the same or
18 substantially similar medical specialties as the defendant and
19 is otherwise qualified by significant experience with the
20 standard of care, methods, procedures, and treatments relevant
21 to the allegations against the defendant;

22 (b) Whether the witness has devoted a majority of his or
23 her work time to the practice of medicine, teaching or
24 University based research in relation to the medical care and
25 type of treatment at issue which gave rise to the medical

1 problem of which the plaintiff complains;

2 (c) whether the witness is licensed in the same profession
3 with the same class of license as the defendant if the
4 defendant is an individual; and

5 (d) whether, in the case against a nonspecialist, the
6 witness can demonstrate a sufficient familiarity with the
7 standard of care practiced in this State.

8 An expert shall provide evidence of active practice,
9 teaching, or engaging in university-based research. If
10 retired, an expert must provide evidence of attendance and
11 completion of continuing education courses for 3 years previous
12 to giving testimony. An expert who has not actively practiced,
13 taught, or been engaged in university-based research, or any
14 combination thereof, during the preceding 5 years may not be
15 qualified as an expert witness.

16 The changes to this Section made by this amendatory Act of
17 the 94th General Assembly apply to causes of action accruing on
18 or after its effective date.

19 (Source: P.A. 94-677, eff. 8-25-05.)

20 (735 ILCS 5/13-213) (from Ch. 110, par. 13-213)
21 Sec. 13-213. Product liability; ~~statute of repose.~~

22 (a) As used in this Section, the term:

23 (1) "alteration, modification or change" or "altered,
24 modified, or changed" means an alteration, modification or
25 change that was made in the original makeup

1 characteristics, function or design of a product or in the
2 original recommendations, instructions and warnings given
3 with respect to a product including the failure properly to
4 maintain and care for a product.

5 (2) "product" means any tangible object or goods
6 distributed in commerce, including any service provided in
7 connection with the product. Where the term "product unit"
8 is used, it refers to a single item or unit of a product.

9 (3) "product liability action" means any action based
10 on ~~any theory or~~ the doctrine of strict liability in tort
11 brought against the seller of a product on account of
12 personal injury, (including illness, disease, disability
13 and death) or property, economic or other damage allegedly
14 caused by or resulting from the manufacture, construction,
15 preparation, assembly, installation, testing, makeup,
16 characteristics, functions, design, formula, plan,
17 recommendation, specification, prescription, advertising,
18 sale, marketing, packaging, labeling, repair, maintenance
19 or disposal of, or warning or instruction regarding any
20 product. This definition excludes actions brought by State
21 or federal regulatory agencies pursuant to statute.

22 (4) "seller" means one who, in the course of a business
23 conducted for the purpose, sells, distributes, leases,
24 assembles, installs, produces, manufactures, fabricates,
25 prepares, constructs, packages, labels, markets, repairs,
26 maintains, or otherwise is involved in placing a product in

1 the stream of commerce.

2 (b) Subject to the provisions of subsections (c) and (d) no
3 product liability action based on ~~any theory or~~ the doctrine of
4 strict liability in tort shall be commenced except within the
5 applicable limitations period and, in any event, within 12
6 years from the date of first sale, lease or delivery of
7 possession by a seller or 10 years from the date of first sale,
8 lease or delivery of possession to its initial user, consumer,
9 or other non-seller, whichever period expires earlier, of any
10 product unit that is claimed to have injured or damaged the
11 plaintiff, unless the defendant expressly has warranted or
12 promised the product for a longer period and the action is
13 brought within that period.

14 (c) No product liability action based on ~~any theory or~~ the
15 doctrine of strict liability in tort to recover for injury or
16 damage claimed to have resulted from an alteration,
17 modification or change of the product unit subsequent to the
18 date of first sale, lease or delivery of possession of the
19 product unit to its initial user, consumer or other non-seller
20 shall be limited or barred by subsection (b) hereof if:

21 (1) the action is brought against a seller making,
22 authorizing, or furnishing materials for the
23 accomplishment of such alteration, modification or change
24 (or against a seller furnishing specifications or
25 instructions for the accomplishment of such alteration,
26 modification or change when the injury is claimed to have

1 resulted from failure to provide adequate specifications
2 or instructions), and

3 (2) the action commenced within the applicable
4 limitation period and, in any event, within 10 years from
5 the date such alteration, modification or change was made,
6 unless defendant expressly has warranted or promised the
7 product for a longer period and the action is brought
8 within that period, and

9 (3) when the injury or damage is claimed to have
10 resulted from an alteration, modification or change of a
11 product unit, there is proof that such alteration,
12 modification or change had the effect of introducing into
13 the use of the product unit, by reason of defective
14 materials or workmanship, a hazard not existing prior to
15 such alteration, modification or change.

16 (d) Notwithstanding the provisions of subsection (b) and
17 paragraph (2) of subsection (c) if the injury complained of
18 occurs within any of the periods provided by subsection (b) and
19 paragraph (2) of subsection (c), the plaintiff may bring an
20 action within 2 years after the date on which the claimant
21 knew, or through the use of reasonable diligence should have
22 known, of the existence of the personal injury, death or
23 property damage, but in no event shall such action be brought
24 more than 8 years after the date on which such personal injury,
25 death or property damage occurred. In any such case, if the
26 person entitled to bring the action was, at the time the

1 personal injury, death or property damage occurred, under the
2 age of 18 years, or under a legal disability, then the period
3 of limitations does not begin to run until the person attains
4 the age of 18 years, or the disability is removed.

5 (e) Replacement of a component part of a product unit with
6 a substitute part having the same formula or design as the
7 original part shall not be deemed a sale, lease or delivery of
8 possession or an alteration, modification or change for the
9 purpose of permitting commencement of a product liability
10 action based on ~~any theory or~~ the doctrine of strict liability
11 in tort to recover for injury or damage claimed to have
12 resulted from the formula or design of such product unit or of
13 the substitute part when such action would otherwise be barred
14 according to the provisions of subsection (b) of this Section.

15 (f) Nothing in this Section shall be construed to create a
16 cause of action or to affect the right of any person to seek
17 and obtain indemnity or contribution.

18 (g) The provisions of this Section 13-213 of this Act apply
19 to any cause of action accruing on or after January 1, 1979,
20 involving any product which was in or entered the stream of
21 commerce prior to, on, or after January 1, 1979.

22 ~~(h) This amendatory Act of 1995 applies to causes of action~~
23 ~~accruing on or after its effective date.~~

24 (Source: P.A. 85-907; 86-1329; 89-7.)

25 (735 ILCS 5/13-214.3) (from Ch. 110, par. 13-214.3)

1 Sec. 13-214.3. Attorneys.

2 (a) In this Section: "attorney" includes (i) an individual
3 attorney, together with his or her employees who are attorneys,
4 (ii) a professional partnership of attorneys, together with its
5 employees, partners, and members who are attorneys, and (iii) a
6 professional service corporation of attorneys, together with
7 its employees, officers, and shareholders who are attorneys;
8 and "non-attorney employee" means a person who is not an
9 attorney but is employed by an attorney.

10 (b) An action for damages based on tort, contract, or
11 otherwise (i) against an attorney arising out of an act or
12 omission in the performance of professional services or (ii)
13 against a non-attorney employee arising out of an act or
14 omission in the course of his or her employment by an attorney
15 to assist the attorney in performing professional services must
16 be commenced within 2 years from the time the person bringing
17 the action knew or reasonably should have known of the injury
18 for which damages are sought.

19 (c) Except as provided in subsection (d), an action
20 described in subsection (b) may not be commenced in any event
21 more than 6 years after the date on which the act or omission
22 occurred.

23 (d) ~~(Blank.)~~ When the injury caused by the act or omission
24 does not occur until the death of the person for whom the
25 professional services were rendered, the action may be
26 commenced within 2 years after the date of the person's death

1 unless letters of office are issued or the person's will is
2 admitted to probate within that 2 year period, in which case
3 the action must be commenced within the time for filing claims
4 against the estate or a petition contesting the validity of the
5 will of the deceased person, whichever is later, as provided in
6 the Probate Act of 1975.

7 (e) If the person entitled to bring the action is under the
8 age of majority or under other legal disability at the time the
9 cause of action accrues, the period of limitations shall not
10 begin to run until majority is attained or the disability is
11 removed.

12 ~~(f) The provisions of Public Act 86-1371 creating this~~
13 ~~Section apply~~ This Section applies to all causes of action
14 accruing on or after its effective date.

15 ~~(g) This amendatory Act of 1995 applies to all actions~~
16 ~~filed on or after its effective date. If, as a result of this~~
17 ~~amendatory Act of 1995, the action is either barred or there~~
18 ~~remains less than 2 years to bring the action, then the~~
19 ~~individual may bring the action within 2 years of the effective~~
20 ~~date of this amendatory Act of 1995.~~

21 (Source: P.A. 86-1371; 89-7.)

22 (735 ILCS 5/13-217) (from Ch. 110, par. 13-217)

23 Sec. 13-217. Reversal or dismissal. In the actions
24 specified in Article XIII of this Act or any other act or
25 contract where the time for commencing an action is limited, if

1 judgment is entered for the plaintiff but reversed on appeal,
2 or if there is a verdict in favor of the plaintiff and, upon a
3 motion in arrest of judgment, the judgment is entered against
4 the plaintiff, or the action is voluntarily dismissed by the
5 plaintiff, or the action is dismissed for want of prosecution,
6 or the action is dismissed by a United States District Court
7 for lack of jurisdiction, or the action is dismissed by a
8 United States District Court for improper venue, then, whether
9 or not the time limitation for bringing such action expires
10 during the pendency of such action, the plaintiff, his or her
11 heirs, executors or administrators may commence a new action
12 within one year or within the remaining period of limitation,
13 whichever is greater, after such judgment is reversed or
14 entered against the plaintiff, or after the action is
15 voluntarily dismissed by the plaintiff, or the action is
16 dismissed for want of prosecution, or the action is dismissed
17 by a United States District Court for lack of jurisdiction, or
18 the action is dismissed by a United States District Court for
19 improper venue. ~~No action which is voluntarily dismissed by the~~
20 ~~plaintiff or dismissed for want of prosecution by the court may~~
21 ~~be filed where the time for commencing the action has expired.~~

22 ~~This amendatory Act of 1995 applies to causes of action~~
23 ~~accruing on or after its effective date.~~

24 (Source: P.A. 87-1252.)

25 (735 ILCS 5/2-623 rep.)

- 1 (735 ILCS 5/2-624 rep.)
2 (735 ILCS 5/2-1115.05 rep.)
3 (735 ILCS 5/2-1115.1 rep.)
4 (735 ILCS 5/2-1115.2 rep.)
5 (735 ILCS 5/2-1706.5 rep.)
6 (735 ILCS 5/Art. II Pt. 21 rep.)

7 Section 25. The Code of Civil Procedure is amended by
8 repealing Sections 2-623, 2-624, 2-1115.05, 2-1115.1,
9 2-1115.2, and 2-1706.5 and Part 21 of Article II.

10 Section 30. Sections 4 and 5 of the Joint Tortfeasor
11 Contribution Act are re-enacted as follows:

12 (740 ILCS 100/4) (from Ch. 70, par. 304)

13 Sec. 4. Rights of Plaintiff Unaffected. ~~Except as provided~~
14 ~~in Section 3.5 of this Act,~~ A plaintiff's right to recover the
15 full amount of his judgment from any one or more defendants
16 subject to liability in tort for the same injury to person or
17 property, or for wrongful death, is not affected by the
18 provisions of this Act.

19 (Source: P.A. 81-601; 89-7.)

20 (740 ILCS 100/5) (from Ch. 70, par. 305)

21 Sec. 5. Enforcement. ~~Other than in actions for healing art~~
22 ~~malpractice,~~ A cause of action for contribution among joint
23 tortfeasors ~~is not required to be asserted during the pendency~~

1 ~~of litigation brought by a claimant and~~ may be asserted by a
2 separate action before or after payment ~~of a settlement or~~
3 ~~judgment in favor of the claimant, or may be asserted~~ by
4 counterclaim or by third-party complaint in a pending action.

5 ~~This amendatory Act of 1995 applies to causes of action~~
6 ~~filed on or after its effective date.~~

7 (Source: P.A. 81-601; 89-7.)

8 (740 ILCS 100/3.5 rep.)

9 Section 35. Section 3.5 of the Joint Tortfeasor
10 Contribution Act is repealed.

11 Section 40. Sections 9 and 10 of the Mental Health and
12 Developmental Disabilities Confidentiality Act are re-enacted
13 as follows:

14 (740 ILCS 110/9) (from Ch. 91 1/2, par. 809)

15 Sec. 9. In the course of providing services and after the
16 conclusion of the provision of services, a therapist may
17 disclose a record or communications without consent to:

18 (1) the therapist's supervisor, a consulting
19 therapist, members of a staff team participating in the
20 provision of services, a record custodian, or a person
21 acting under the supervision and control of the therapist;

22 (2) persons conducting a peer review of the services
23 being provided;

1 (3) the Institute for Juvenile Research and the
2 Institute for the Study of Developmental Disabilities;

3 (4) an attorney or advocate consulted by a therapist or
4 agency which provides services concerning the therapist's
5 or agency's legal rights or duties in relation to the
6 recipient and the services being provided; and

7 (5) the Inspector General of the Department of Children
8 and Family Services when such records or communications are
9 relevant to a pending investigation authorized by Section
10 35.5 of the Children and Family Services Act where:

11 (A) the recipient was either (i) a parent, foster
12 parent, or caretaker who is an alleged perpetrator of
13 abuse or neglect or the subject of a dependency
14 investigation or (ii) a non-ward victim of alleged
15 abuse or neglect, and

16 (B) available information demonstrates that the
17 mental health of the recipient was or should have been
18 an issue to the safety of the child.

19 In the course of providing services, a therapist may
20 disclose a record or communications without consent to any
21 department, agency, institution or facility which has custody
22 of the recipient pursuant to State statute or any court order
23 of commitment.

24 Information may be disclosed under this Section only to the
25 extent that knowledge of the record or communications is
26 essential to the purpose for which disclosure is made and only

1 after the recipient is informed that such disclosure may be
2 made. A person to whom disclosure is made under this Section
3 shall not redisclose any information except as provided in this
4 Act.

5 (Source: P.A. 86-955; 90-512, eff. 8-22-97.)

6 (740 ILCS 110/10) (from Ch. 91 1/2, par. 810)

7 Sec. 10. (a) Except as provided herein, in any civil,
8 criminal, administrative, or legislative proceeding, or in any
9 proceeding preliminary thereto, a recipient, and a therapist on
10 behalf and in the interest of a recipient, has the privilege to
11 refuse to disclose and to prevent the disclosure of the
12 recipient's record or communications.

13 (1) Records and communications may be disclosed in a
14 civil, criminal or administrative proceeding in which the
15 recipient introduces his mental condition or any aspect of
16 his services received for such condition as an element of
17 his claim or defense, if and only to the extent the court
18 in which the proceedings have been brought, or, in the case
19 of an administrative proceeding, the court to which an
20 appeal or other action for review of an administrative
21 determination may be taken, finds, after in camera
22 examination of testimony or other evidence, that it is
23 relevant, probative, not unduly prejudicial or
24 inflammatory, and otherwise clearly admissible; that other
25 satisfactory evidence is demonstrably unsatisfactory as

1 evidence of the facts sought to be established by such
2 evidence; and that disclosure is more important to the
3 interests of substantial justice than protection from
4 injury to the therapist-recipient relationship or to the
5 recipient or other whom disclosure is likely to harm.
6 Except in a criminal proceeding in which the recipient, who
7 is accused in that proceeding, raises the defense of
8 insanity, no record or communication between a therapist
9 and a recipient shall be deemed relevant for purposes of
10 this subsection, except the fact of treatment, the cost of
11 services and the ultimate diagnosis unless the party
12 seeking disclosure of the communication clearly
13 establishes in the trial court a compelling need for its
14 production. However, for purposes of this Act, in any
15 action brought or defended under the Illinois Marriage and
16 Dissolution of Marriage Act, or in any action in which pain
17 and suffering is an element of the claim, mental condition
18 shall not be deemed to be introduced merely by making such
19 claim and shall be deemed to be introduced only if the
20 recipient or a witness on his behalf first testifies
21 concerning the record or communication.

22 (2) Records or communications may be disclosed in a
23 civil proceeding after the recipient's death when the
24 recipient's physical or mental condition has been
25 introduced as an element of a claim or defense by any party
26 claiming or defending through or as a beneficiary of the

1 recipient, provided the court finds, after in camera
2 examination of the evidence, that it is relevant,
3 probative, and otherwise clearly admissible; that other
4 satisfactory evidence is not available regarding the facts
5 sought to be established by such evidence; and that
6 disclosure is more important to the interests of
7 substantial justice than protection from any injury which
8 disclosure is likely to cause.

9 (3) In the event of a claim made or an action filed by
10 a recipient, or, following the recipient's death, by any
11 party claiming as a beneficiary of the recipient for injury
12 caused in the course of providing services to such
13 recipient, the therapist and other persons whose actions
14 are alleged to have been the cause of injury may disclose
15 pertinent records and communications to an attorney or
16 attorneys engaged to render advice about and to provide
17 representation in connection with such matter and to
18 persons working under the supervision of such attorney or
19 attorneys, and may testify as to such records or
20 communication in any administrative, judicial or discovery
21 proceeding for the purpose of preparing and presenting a
22 defense against such claim or action.

23 (4) Records and communications made to or by a
24 therapist in the course of examination ordered by a court
25 for good cause shown may, if otherwise relevant and
26 admissible, be disclosed in a civil, criminal, or

1 administrative proceeding in which the recipient is a party
2 or in appropriate pretrial proceedings, provided such
3 court has found that the recipient has been as adequately
4 and as effectively as possible informed before submitting
5 to such examination that such records and communications
6 would not be considered confidential or privileged. Such
7 records and communications shall be admissible only as to
8 issues involving the recipient's physical or mental
9 condition and only to the extent that these are germane to
10 such proceedings.

11 (5) Records and communications may be disclosed in a
12 proceeding under the Probate Act of 1975, to determine a
13 recipient's competency or need for guardianship, provided
14 that the disclosure is made only with respect to that
15 issue.

16 (6) Records and communications may be disclosed when
17 such are made during treatment which the recipient is
18 ordered to undergo to render him fit to stand trial on a
19 criminal charge, provided that the disclosure is made only
20 with respect to the issue of fitness to stand trial.

21 (7) Records and communications of the recipient may be
22 disclosed in any civil or administrative proceeding
23 involving the validity of or benefits under a life,
24 accident, health or disability insurance policy or
25 certificate, or Health Care Service Plan Contract,
26 insuring the recipient, but only if and to the extent that

1 the recipient's mental condition, or treatment or services
2 in connection therewith, is a material element of any claim
3 or defense of any party, provided that information sought
4 or disclosed shall not be redisclosed except in connection
5 with the proceeding in which disclosure is made.

6 (8) Records or communications may be disclosed when
7 such are relevant to a matter in issue in any action
8 brought under this Act and proceedings preliminary
9 thereto, provided that any information so disclosed shall
10 not be utilized for any other purpose nor be redisclosed
11 except in connection with such action or preliminary
12 proceedings.

13 (9) Records and communications of the recipient may be
14 disclosed in investigations of and trials for homicide when
15 the disclosure relates directly to the fact or immediate
16 circumstances of the homicide.

17 (10) Records and communications of a deceased
18 recipient may be disclosed to a coroner conducting a
19 preliminary investigation into the recipient's death under
20 Section 3-3013 of the Counties Code. However, records and
21 communications of the deceased recipient disclosed in an
22 investigation shall be limited solely to the deceased
23 recipient's records and communications relating to the
24 factual circumstances of the incident being investigated
25 in a mental health facility.

26 (11) Records and communications of a recipient shall be

1 disclosed in a proceeding where a petition or motion is
2 filed under the Juvenile Court Act of 1987 and the
3 recipient is named as a parent, guardian, or legal
4 custodian of a minor who is the subject of a petition for
5 wardship as described in Section 2-3 of that Act or a minor
6 who is the subject of a petition for wardship as described
7 in Section 2-4 of that Act alleging the minor is abused,
8 neglected, or dependent or the recipient is named as a
9 parent of a child who is the subject of a petition,
10 supplemental petition, or motion to appoint a guardian with
11 the power to consent to adoption under Section 2-29 of the
12 Juvenile Court Act of 1987.

13 (12) Records and communications of a recipient may be
14 disclosed when disclosure is necessary to collect sums or
15 receive third party payment representing charges for
16 mental health or developmental disabilities services
17 provided by a therapist or agency to a recipient; however,
18 disclosure shall be limited to information needed to pursue
19 collection, and the information so disclosed may not be
20 used for any other purposes nor may it be redisclosed
21 except in connection with collection activities. Whenever
22 records are disclosed pursuant to this subdivision (12),
23 the recipient of the records shall be advised in writing
24 that any person who discloses mental health records and
25 communications in violation of this Act may be subject to
26 civil liability pursuant to Section 15 of this Act or to

1 criminal penalties pursuant to Section 16 of this Act or
2 both.

3 (b) Before a disclosure is made under subsection (a), any
4 party to the proceeding or any other interested person may
5 request an in camera review of the record or communications to
6 be disclosed. The court or agency conducting the proceeding may
7 hold an in camera review on its own motion. When, contrary to
8 the express wish of the recipient, the therapist asserts a
9 privilege on behalf and in the interest of a recipient, the
10 court may require that the therapist, in an in camera hearing,
11 establish that disclosure is not in the best interest of the
12 recipient. The court or agency may prevent disclosure or limit
13 disclosure to the extent that other admissible evidence is
14 sufficient to establish the facts in issue. The court or agency
15 may enter such orders as may be necessary in order to protect
16 the confidentiality, privacy, and safety of the recipient or of
17 other persons. Any order to disclose or to not disclose shall
18 be considered a final order for purposes of appeal and shall be
19 subject to interlocutory appeal.

20 (c) A recipient's records and communications may be
21 disclosed to a duly authorized committee, commission or
22 subcommittee of the General Assembly which possesses subpoena
23 and hearing powers, upon a written request approved by a
24 majority vote of the committee, commission or subcommittee
25 members. The committee, commission or subcommittee may request
26 records only for the purposes of investigating or studying

1 possible violations of recipient rights. The request shall
2 state the purpose for which disclosure is sought.

3 The facility shall notify the recipient, or his guardian,
4 and therapist in writing of any disclosure request under this
5 subsection within 5 business days after such request. Such
6 notification shall also inform the recipient, or guardian, and
7 therapist of their right to object to the disclosure within 10
8 business days after receipt of the notification and shall
9 include the name, address and telephone number of the
10 committee, commission or subcommittee member or staff person
11 with whom an objection shall be filed. If no objection has been
12 filed within 15 business days after the request for disclosure,
13 the facility shall disclose the records and communications to
14 the committee, commission or subcommittee. If an objection has
15 been filed within 15 business days after the request for
16 disclosure, the facility shall disclose the records and
17 communications only after the committee, commission or
18 subcommittee has permitted the recipient, guardian or
19 therapist to present his objection in person before it and has
20 renewed its request for disclosure by a majority vote of its
21 members.

22 Disclosure under this subsection shall not occur until all
23 personally identifiable data of the recipient and provider are
24 removed from the records and communications. Disclosure under
25 this subsection shall not occur in any public proceeding.

26 (d) No party to any proceeding described under paragraphs

1 (1), (2), (3), (4), (7), or (8) of subsection (a) of this
2 Section, nor his or her attorney, shall serve a subpoena
3 seeking to obtain access to records or communications under
4 this Act unless the subpoena is accompanied by a written order
5 issued by a judge, authorizing the disclosure of the records or
6 the issuance of the subpoena. No such written order shall be
7 issued without written notice of the motion to the recipient
8 and the treatment provider. Prior to issuance of the order,
9 each party or other person entitled to notice shall be
10 permitted an opportunity to be heard pursuant to subsection (b)
11 of this Section. No person shall comply with a subpoena for
12 records or communications under this Act, unless the subpoena
13 is accompanied by a written order authorizing the issuance of
14 the subpoena or the disclosure of the records. Each subpoena
15 duces tecum issued by a court or administrative agency or
16 served on any person pursuant to this subsection (d) shall
17 include the following language: "No person shall comply with a
18 subpoena for mental health records or communications pursuant
19 to Section 10 of the Mental Health and Developmental
20 Disabilities Confidentiality Act, 740 ILCS 110/10, unless the
21 subpoena is accompanied by a written order that authorizes the
22 issuance of the subpoena and the disclosure of records or
23 communications."

24 (e) When a person has been transported by a peace officer
25 to a mental health facility, then upon the request of a peace
26 officer, if the person is allowed to leave the mental health

1 facility within 48 hours of arrival, excluding Saturdays,
2 Sundays, and holidays, the facility director shall notify the
3 local law enforcement authority prior to the release of the
4 person. The local law enforcement authority may re-disclose the
5 information as necessary to alert the appropriate enforcement
6 or prosecuting authority.

7 (f) A recipient's records and communications shall be
8 disclosed to the Inspector General of the Department of Human
9 Services within 10 business days of a request by the Inspector
10 General (i) in the course of an investigation authorized by the
11 Department of Human Services Act and applicable rule or (ii)
12 during the course of an assessment authorized by the Abuse of
13 Adults with Disabilities Intervention Act and applicable rule.
14 The request shall be in writing and signed by the Inspector
15 General or his or her designee. The request shall state the
16 purpose for which disclosure is sought. Any person who
17 knowingly and willfully refuses to comply with such a request
18 is guilty of a Class A misdemeanor. A recipient's records and
19 communications shall also be disclosed pursuant to subsection
20 (g-5) of Section 1-17 of the Department of Human Services Act
21 in testimony at health care worker registry hearings or
22 preliminary proceedings when such are relevant to the matter in
23 issue, provided that any information so disclosed shall not be
24 utilized for any other purpose nor be redisclosed except in
25 connection with such action or preliminary proceedings.

26 (Source: P.A. 96-406, eff. 8-13-09; 96-1399, eff. 7-29-10;

1 96-1453, eff. 8-20-10.)

2 Section 45. Sections 2 and 3 of the Premises Liability Act
3 are re-enacted as follows:

4 (740 ILCS 130/2) (from Ch. 80, par. 302)

5 Sec. 2. The distinction under the common law between
6 invitees and licensees as to the duty owed by an owner or
7 occupier of any premises to such entrants is abolished.

8 The duty owed to such entrants is that of reasonable care
9 under the circumstances regarding the state of the premises or
10 acts done or omitted on them. ~~The duty of reasonable care under~~
11 ~~the circumstances which an owner or occupier of land owes to~~
12 ~~such entrants does not include any of the following: a duty to~~
13 ~~warn of or otherwise take reasonable steps to protect such~~
14 ~~entrants from conditions on the premises that are known to the~~
15 ~~entrant, are open and obvious, or can reasonably be expected to~~
16 ~~be discovered by the entrant; a duty to warn of latent defects~~
17 ~~or dangers or defects or dangers unknown to the owner or~~
18 ~~occupier of the premises; a duty to warn such entrants of any~~
19 ~~dangers resulting from misuse by the entrants of the premises~~
20 ~~or anything affixed to or located on the premises; or a duty to~~
21 ~~protect such entrants from their own misuse of the premises or~~
22 ~~anything affixed to or located on the premises.~~

23 ~~This amendatory Act of 1995 applies to causes of action~~
24 ~~accruing on or after its effective date.~~

1 (Source: P.A. 83-1398; 89-7.)

2 (740 ILCS 130/3) (from Ch. 80, par. 303)

3 Sec. 3. Nothing herein affects the law as regards any
4 category of trespasser, including the trespassing child
5 entrant. ~~An owner or occupier of land owes no duty of care to~~
6 ~~an adult trespasser other than to refrain from willful and~~
7 ~~wanton conduct that would endanger the safety of a known~~
8 ~~trespasser on the property from a condition of the property or~~
9 ~~an activity conducted by the owner or occupier on the property.~~

10 ~~This amendatory Act of 1995 applies only to causes of~~
11 ~~action accruing on or after its effective date.~~

12 (Source: P.A. 83-1398; 89-7.)

13 Section 50. Sections 1 and 2 of the Wrongful Death Act are
14 re-enacted as follows:

15 (740 ILCS 180/1) (from Ch. 70, par. 1)

16 Sec. 1. Whenever the death of a person shall be caused by
17 wrongful act, neglect or default, and the act, neglect or
18 default is such as would, if death had not ensued, have
19 entitled the party injured to maintain an action and recover
20 damages in respect thereof, then and in every such case the
21 person who or company or corporation which would have been
22 liable if death had not ensued, shall be liable to an action
23 for damages, notwithstanding the death of the person injured,

1 and although the death shall have been caused under such
2 circumstances as amount in law to felony. ~~No action may be~~
3 ~~brought under this Act if the decedent had brought a cause of~~
4 ~~action with respect to the same underlying incident or~~
5 ~~occurrence which was settled or on which judgment was rendered.~~

6 ~~This amendatory Act of 1995 applies to causes of action~~
7 ~~accruing on or after its effective date.~~

8 (Source: Laws 1853, p. 97; P.A. 89-7.)

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

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

20 The amount recovered in any such action shall be
21 distributed by the court in which the cause is heard or, in the
22 case of an agreed settlement, by the circuit court, to each of
23 the surviving spouse and next of kin of such deceased person in
24 the proportion, as determined by the court, that the percentage
25 of dependency of each such person upon the deceased person

1 bears to the sum of the percentages of dependency of all such
2 persons upon the deceased person.

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

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

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

13 (c) to the personal representatives, as such, for the costs
14 and expenses of administering the estate and prosecuting or
15 compromising the action, including a reasonable attorney's
16 fee. In any such case the measure of damages to be recovered
17 shall be the total of the reasonable value of such
18 hospitalization or hospital service, medical and surgical
19 services, funeral expenses, and such costs and expenses of
20 administration, including attorney fees, not exceeding the
21 foregoing limitations for each class of such expenses and not
22 exceeding \$900 plus a reasonable attorney's fee.

23 Every such action shall be commenced within 2 years after
24 the death of such person but an action against a defendant
25 arising from a crime committed by the defendant in whose name
26 an escrow account was established under the "Criminal Victims'

1 Escrow Account Act" shall be commenced within 2 years after the
2 establishment of such account. For the purposes of this Section
3 2, next of kin includes an adopting parent and an adopted
4 child, and they shall be treated as a natural parent and a
5 natural child, respectively. However, if a person entitled to
6 recover benefits under this Act, is, at the time the cause of
7 action accrued, within the age of 18 years, he or she may cause
8 such action to be brought within 2 years after attainment of
9 the age of 18.

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

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

21 (1) Where the trier of fact finds that the contributory
22 fault of a beneficiary on whose behalf the action is
23 brought is not more than 50% of the proximate cause of the
24 wrongful death of the decedent, then the damages allowed to
25 that beneficiary shall be diminished in proportion to the
26 contributory fault attributed to that beneficiary. The

1 amount of the reduction shall not be payable by any
2 defendant.

3 (2) Where the trier of fact finds that the contributory
4 fault of a beneficiary on whose behalf the action is
5 brought is more than 50% of the proximate cause of the
6 wrongful death of the decedent, then the beneficiary shall
7 be barred from recovering damages and the amount of damages
8 which would have been payable to that beneficiary, but for
9 the beneficiary's contributory fault, shall not inure to
10 the benefit of the remaining beneficiaries and shall not be
11 payable by any defendant.

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

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

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

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

24 (745 ILCS 10/Art. VIA heading rep.)

25 (745 ILCS 10/6A-101 rep.)

1 (745 ILCS 10/6A-105 rep.)

2 Section 55. Article VIA of the Local Governmental and
3 Governmental Employees Tort Immunity Act is repealed.

4 Section 60. Section 10b of the Consumer Fraud and Deceptive
5 Business Practices Act is re-enacted as follows:

6 (815 ILCS 505/10b) (from Ch. 121 1/2, par. 270b)

7 Sec. 10b. Nothing in this Act shall apply to any of the
8 following:

9 (1) Actions or transactions specifically authorized by
10 laws administered by any regulatory body or officer acting
11 under statutory authority of this State or the United States.

12 (2) The provisions of "An act to protect trademark owners,
13 distributors, and the public against injurious and uneconomic
14 practices in the distribution of articles of standard quality
15 under a trademark, brand or name," approved July 8, 1935, as
16 amended.

17 (3) Acts done by the publisher, owner, agent, or employee
18 of a newspaper, periodical or radio or television station in
19 the publication or dissemination of an advertisement, when the
20 owner, agent or employee did not have knowledge of the false,
21 misleading or deceptive character of the advertisement, did not
22 prepare the advertisement, or did not have a direct financial
23 interest in the sale or distribution of the advertised product
24 or service.

1 (4) The communication of any false, misleading or deceptive
2 information, provided by the seller of real estate located in
3 Illinois, by a real estate salesman or broker licensed under
4 "The Real Estate Brokers License Act", unless the salesman or
5 broker knows of the false, misleading or deceptive character of
6 such information. This provision shall be effective as to any
7 communication, whenever occurring.

8 (5) (Blank). ~~This item (5)~~

9 (6) The communication of any false, misleading, or
10 deceptive information by an insurance producer, registered
11 firm, or limited insurance representative, as those terms are
12 defined in the Illinois Insurance Code, or by an insurance
13 agency or brokerage house concerning the sale, placement,
14 procurement, renewal, binding, cancellation of, or terms of any
15 type of insurance or any policy of insurance unless the
16 insurance producer has actual knowledge of the false,
17 misleading, or deceptive character of the information. This
18 provision shall be effective as to any communications, whenever
19 occurring. This item (6) applies to all causes of action that
20 accrue on or after the effective date of this amendatory Act of
21 1995.

22 (Source: P.A. 84-894; 89-152, eff. 1-1-96; revised 1-22-98.)

23 Section 65. Section 5 of the Workers' Compensation Act is
24 re-enacted as follows:

1 (820 ILCS 305/5) (from Ch. 48, par. 138.5)

2 Sec. 5. (a) No common law or statutory right to recover
3 damages from the employer, his insurer, his broker, any service
4 organization retained by the employer, his insurer or his
5 broker to provide safety service, advice or recommendations for
6 the employer or the agents or employees of any of them for
7 injury or death sustained by any employee while engaged in the
8 line of his duty as such employee, other than the compensation
9 herein provided, is available to any employee who is covered by
10 the provisions of this Act, to any one wholly or partially
11 dependent upon him, the legal representatives of his estate, or
12 any one otherwise entitled to recover damages for such injury.

13 However, in any action now pending or hereafter begun to
14 enforce a common law or statutory right to recover damages for
15 negligently causing the injury or death of any employee it is
16 not necessary to allege in the complaint that either the
17 employee or the employer or both were not governed by the
18 provisions of this Act or of any similar Act in force in this
19 or any other State.

20 Any illegally employed minor or his legal representatives
21 shall, except as hereinafter provided, have the right within 6
22 months after the time of injury or death, or within 6 months
23 after the appointment of a legal representative, whichever
24 shall be later, to file with the Commission a rejection of his
25 right to the benefits under this Act, in which case such
26 illegally employed minor or his legal representatives shall

1 have the right to pursue his or their common law or statutory
2 remedies to recover damages for such injury or death.

3 No payment of compensation under this Act shall be made to
4 an illegally employed minor, or his legal representatives,
5 unless such payment and the waiver of his right to reject the
6 benefits of this Act has first been approved by the Commission
7 or any member thereof, and if such payment and the waiver of
8 his right of rejection has been so approved such payment is a
9 bar to a subsequent rejection of the provisions of this Act.

10 (b) Where the injury or death for which compensation is
11 payable under this Act was caused under circumstances creating
12 a legal liability for damages on the part of some person other
13 than his employer to pay damages, then legal proceedings may be
14 taken against such other person to recover damages
15 notwithstanding such employer's payment of or liability to pay
16 compensation under this Act. In such case, however, if the
17 action against such other person is brought by the injured
18 employee or his personal representative and judgment is
19 obtained and paid, or settlement is made with such other
20 person, either with or without suit, then from the amount
21 received by such employee or personal representative there
22 shall be paid to the employer the amount of compensation paid
23 or to be paid by him to such employee or personal
24 representative including amounts paid or to be paid pursuant to
25 paragraph (a) of Section 8 of this Act. ~~If the employee or~~
26 ~~personal representative brings an action against another~~

1 ~~person and the other person then brings an action for~~
2 ~~contribution against the employer, the amount, if any, that~~
3 ~~shall be paid to the employer by the employee or personal~~
4 ~~representative pursuant to this Section shall be reduced by an~~
5 ~~amount equal to the amount found by the trier of fact to be the~~
6 ~~employer's pro rata share of the common liability in the~~
7 ~~action.~~

8 Out of any reimbursement received by the employer pursuant
9 to this Section the employer shall pay his pro rata share of
10 all costs and reasonably necessary expenses in connection with
11 such third-party claim, action or suit and where the services
12 of an attorney at law of the employee or dependents have
13 resulted in or substantially contributed to the procurement by
14 suit, settlement or otherwise of the proceeds out of which the
15 employer is reimbursed, then, in the absence of other
16 agreement, the employer shall pay such attorney 25% of the
17 gross amount of such reimbursement.

18 If the injured employee or his personal representative
19 agrees to receive compensation from the employer or accept from
20 the employer any payment on account of such compensation, or to
21 institute proceedings to recover the same, the employer may
22 have or claim a lien upon any award, judgment or fund out of
23 which such employee might be compensated from such third party.

24 In such actions brought by the employee or his personal
25 representative, he shall forthwith notify his employer by
26 personal service or registered mail, of such fact and of the

1 name of the court in which the suit is brought, filing proof
2 thereof in the action. The employer may, at any time thereafter
3 join in the action upon his motion so that all orders of court
4 after hearing and judgment shall be made for his protection. No
5 release or settlement of claim for damages by reason of such
6 injury or death, and no satisfaction of judgment in such
7 proceedings shall be valid without the written consent of both
8 employer and employee or his personal representative, except in
9 the case of the employers, such consent is not required where
10 the employer has been fully indemnified or protected by Court
11 order.

12 In the event the employee or his personal representative
13 fails to institute a proceeding against such third person at
14 any time prior to 3 months before such action would be barred,
15 the employer may in his own name or in the name of the
16 employee, or his personal representative, commence a
17 proceeding against such other person for the recovery of
18 damages on account of such injury or death to the employee, and
19 out of any amount recovered the employer shall pay over to the
20 injured employee or his personal representatives all sums
21 collected from such other person by judgment or otherwise in
22 excess of the amount of such compensation paid or to be paid
23 under this Act, including amounts paid or to be paid pursuant
24 to paragraph (a) of Section 8 of this Act, and costs,
25 attorney's fees and reasonable expenses as may be incurred by
26 such employer in making such collection or in enforcing such

1 liability.

2 ~~This amendatory Act of 1995 applies to causes of action~~
3 ~~accruing on or after its effective date.~~

4 (Source: P.A. 79-79; 89-7.)

5 Section 70. Section 5 of the Workers' Occupational
6 Diseases Act is re-enacted as follows:

7 (820 ILCS 310/5) (from Ch. 48, par. 172.40)

8 Sec. 5. (a) There is no common law or statutory right to
9 recover compensation or damages from the employer, his insurer,
10 his broker, any service organization retained by the employer,
11 his insurer or his broker to provide safety service, advice or
12 recommendations for the employer or the agents or employees of
13 any of them for or on account of any injury to health, disease,
14 or death therefrom, other than for the compensation herein
15 provided or for damages as provided in Section 3 of this Act.
16 This Section shall not affect any right to compensation under
17 the "Workers' Compensation Act".

18 No compensation is payable under this Act for any condition
19 of physical or mental ill-being, disability, disablement, or
20 death for which compensation is recoverable on account of
21 accidental injury under the "Workers' Compensation Act".

22 (b) Where the disablement or death for which compensation
23 is payable under this Act was caused under circumstances
24 creating a legal liability for damages on the part of some

1 person other than his employer to pay damages, then legal
2 proceedings may be taken against such other person to recover
3 damages notwithstanding such employer's payment of or
4 liability to pay compensation under this Act. In such case,
5 however, if the action against such other person is brought by
6 the disabled employee or his personal representative and
7 judgment is obtained and paid or settlement is made with such
8 other person, either with or without suit, then from the amount
9 received by such employee or personal representative there
10 shall be paid to the employer the amount of compensation paid
11 or to be paid by him to such employee or personal
12 representative, including amounts paid or to be paid pursuant
13 to paragraph (a) of Section 8 of ~~the Workers' Compensation Act~~
14 ~~as required under Section 7 of this Act. If the employee or~~
15 ~~personal representative brings an action against another~~
16 ~~person and the other person then brings an action for~~
17 ~~contribution against the employer, the amount, if any, that~~
18 ~~shall be paid to the employer by the employee or personal~~
19 ~~representative pursuant to this Section shall be reduced by an~~
20 ~~amount equal to the amount found by the trier of fact to be the~~
21 ~~employer's pro rata share of the common liability in the~~
22 ~~action.~~

23 Out of any reimbursement received by the employer, pursuant
24 to this Section the employer shall pay his pro rata share of
25 all costs and reasonably necessary expenses in connection with
26 such third party claim, action or suit, and where the services

1 of an attorney at law of the employee or dependents have
2 resulted in or substantially contributed to the procurement by
3 suit, settlement or otherwise of the proceeds out of which the
4 employer is reimbursed, then, in the absence of other
5 agreement, the employer shall pay such attorney 25% of the
6 gross amount of such reimbursement.

7 If the disabled employee or his personal representative
8 agrees to receive compensation from the employer or accept from
9 the employer any payment on account of such compensation, or to
10 institute proceedings to recover the same, the employer may
11 have or claim a lien upon any award, judgment or fund out of
12 which such employee might be compensated from such third party.

13 In such actions brought by the employee or his personal
14 representative, he shall forthwith notify his employer by
15 personal service or registered mail, of such fact and of the
16 name of the court in which the suit is brought, filing proof
17 thereof in the action. The employer may, at any time thereafter
18 join in the action upon his motion so that all orders of court
19 after hearing and judgment shall be made for his protection. No
20 release or settlement of claim for damages by reason of such
21 disability or death, and no satisfaction of judgment in such
22 proceedings, are valid without the written consent of both
23 employer and employee or his personal representative, except in
24 the case of the employers, such consent is not required where
25 the employer has been fully indemnified or protected by court
26 order.

1 In the event the employee or his personal representative
2 fails to institute a proceeding against such third person at
3 any time prior to 3 months before such action would be barred
4 at law the employer may in his own name, or in the name of the
5 employee or his personal representative, commence a proceeding
6 against such other person for the recovery of damages on
7 account of such disability or death to the employee, and out of
8 any amount recovered the employer shall pay over to the injured
9 employee or his personal representative all sums collected from
10 such other person by judgment or otherwise in excess of the
11 amount of such compensation paid or to be paid under this Act,
12 including amounts paid or to be paid pursuant to paragraph (a)
13 of Section 8 of ~~the Workers' Compensation Act as required by~~
14 ~~Section 7 of~~ this Act, and costs, attorney's fees and
15 reasonable expenses as may be incurred by such employer in
16 making such collection or in enforcing such liability.

17 ~~This amendatory Act of 1995 applies to causes of action~~
18 ~~accruing on or after its effective date.~~

19 (Source: P.A. 81-992; 89-7.)

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

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