AN ACT to conform the text of certain statutory
provisions to a court decision concerning their
constitutionality.

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

Section 1. Special revisory Act; findings; purpose. The
General Assembly finds and declares that:

(1) Public Act 89-7 changed, added, and repealed various
statutory provisions. In Best v. Taylor Machine Works, 179
Ill. 2d 367 (1997), the Illinois Supreme Court held that
Public Act 89-7 was void in its entirety.

(2) The statutes should conform to the decision of the
Illinois Supreme Court in Best v. Taylor Machine Works. It is
the purpose of this special revisory Act to: (i) re-enact and
repeal statutory provisions so the text of those provisions
conforms to the decision of the Illinois Supreme Court in
Best v. Taylor Machine Works and (ii) remove any question as
to the manner in which those provisions should appear in the
statutes in light of that decision.

(3) This special revisory Act is not intended to
supersede any Public Act of the 93rd General Assembly that
amends the text of a statutory provision that appears in this
special revisory Act.

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

(5) If no Public Act enacted after Public Act 89-7 has
amended the text of a Section that was purportedly amended in
Public Act 89-7, the text of that Section is re-enacted in this special revisory Act with striking and underscoring to conform to the decision of the Illinois Supreme Court.

(6) Provisions that were purportedly added to the statutes by Public Act 89-7 are repealed in this special revisory Act to conform to the decision of the Illinois Supreme Court.

(7) Provisions that were purportedly repealed by Public Act 89-7 are shown in this special revisory Act as existing text (i.e., without striking and underscoring) to conform to the decision of the Illinois Supreme Court.

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

(430 ILCS 105/Act title)
An Act to protect workers and the general public from injury or death during construction or repair of bridges and highways within the State of Illinois.

(430 ILCS 105/0.01) (from Ch. 121, par. 314.01)
Sec. 0.01. Short title. This Act may be cited as the Road Worker Safety Act.
(Source: P.A. 86-1324; 89-7.)

(430 ILCS 105/1) (from Ch. 121, par. 314.1)
Sec. 1. All construction work upon bridges or highways within the State of Illinois shall be so performed and conducted that two-way traffic will be maintained when such is safe and practical, and when not safe and practical, or when any portion of the highway is obstructed, one-way traffic shall be maintained, unless the authorized agency in charge of said construction directs the road be closed to all traffic.
Sec. 2. At all times during which men are working where one-way traffic is utilized, the contractor or his authorized agent in charge of such construction will be required to furnish no fewer than two flagmen, one at each end of the portion of highway or bridge on which only one-way traffic is permitted, and at least 100 feet away from the nearest point of the highway or bridge on which only one-way traffic is safe and permitted. The flagmen shall be equipped with safe, suitable, and proper signal devices as prescribed in the Manual on Uniform Traffic Control Devices for Streets and Highways published by the Department of Transportation, and shall so use such devices as to inform approaching motorists to stop or proceed. In addition, safe, suitable, and proper signals and signs as prescribed in the Manual shall be so placed as to warn approaching persons of the existence of any portion of highway or bridge upon which only one-way traffic is safe and permitted. At bridge construction or bridge repair sites, where one-way traffic is utilized, traffic control signals conforming to the Manual may be installed and operated in lieu of, or in addition to, flagmen. Whenever the Department of Transportation or local authorities determine that a bridge or highway construction site requires the closing of a road to through traffic, the contract documents relating to such construction may specify alternate procedures for flagging and controlling traffic, when such procedures have been approved by the Department. When alternate procedures are not included, traffic control and flagging will be as prescribed in the first paragraph of this Section.

(Source: P.A. 82-408; 89-7.)
Sec. 3. Drivers of any motor vehicle approaching any section of highway or bridge which is limited to only one-way traffic shall obey warning signs and shall stop their vehicles if signaled to do so by a flagman or a traffic control signal.
(Source: Laws 1967, p. 468; P.A. 89-7.)

Sec. 4. Any portion of highway or bridge which is closed to all traffic shall be marked at each place where vehicles have accessible approach to such portion of highway or bridge, and at a sufficient distance from the closed portion of such highway or bridge shall be marked with an adequate number of safe, suitable, and proper warning signs, signals or barricades as set forth in the Manual of Uniform Traffic Control Devices for Streets and Highways published by the Department of Transportation so as to give warning to approaching motorists that such portion of bridge or highway is closed and unsafe for travel.
(Source: P.A. 77-176; 89-7.)

Sec. 5. Any contractor, subcontractor, or his authorized agent in charge of construction work on highways or bridges within the State of Illinois, or any driver of any motor vehicle, who knowingly or wilfully violates any provision of this Act, is guilty of a petty offense.
(Source: P.A. 77-2242; 89-7.)

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

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

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

Sec. 7. In case of any failure to comply with any of the provisions of this Act, the Director of Labor may, through the State's Attorney, or any other attorney in case of his failure to act promptly, take the necessary legal steps to enforce compliance therewith.

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

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

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

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

Section 10. Section 5-5-7 of the Unified Code of Corrections is re-enacted as follows:

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

Sec. 5-5-7. Neither the State, any local government, probation department, public or community service program or site, nor any official, volunteer, or employee thereof acting in the course of their official duties shall be liable for
any injury or loss a person might receive while performing
public or community service as ordered either (1) by the
court or (2) by any duly authorized station or probation
adjustment, teen court, community mediation, or other
administrative diversion program authorized by the Juvenile
Court Act of 1987 for a violation of a penal statute of this
State or a local government ordinance (whether penal, civil,
or quasi-criminal) or for a traffic offense, nor shall they
be liable for any tortious acts of any person performing
public or community service, except for wilful, wanton
misconduct or gross negligence on the part of such
governmental unit, probation department, or public or
community service program or site, or the official,
volunteer, or employee.
(Source: P.A. 91-820, eff. 6-13-00.)

Section 15. Sections 2-402, 2-604.1, 2-621, 2-622,
2-1003, 2-1107.1, 2-1109, 2-1116, 2-1117, 2-1118, 2-1205.1,
2-1702, 8-802, 8-2001, 8-2003, 8-2004, 8-2501, 13-213,
13-214.3, and 13-217 of the Code of Civil Procedure are
re-enacted as follows:

(735 ILCS 5/2-402) (from Ch. 110, par. 2-402)
Sec. 2-402. Respondents in discovery. The plaintiff in
any civil action may designate as respondents in discovery in
his or her pleading those individuals or other entities,
other than the named defendants, believed by the plaintiff to
have information essential to the determination of who should
properly be named as additional defendants in the action.
Fictitious-defendants-may-not-be-named--in--a--complaint--in
order-to-designate-respondents-in-discovery;
Persons or entities so named as respondents in discovery
shall be required to respond to discovery by the plaintiff in
the same manner as are defendants and may, on motion of the
plaintiff, be added as defendants if the evidence discloses
the existence of probable cause for such action.

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

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

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

A person or entity named as a respondent in discovery in
any civil action may be made a defendant in the same action
at any time within 6 months after being named as a respondent
in discovery, even though the time during which an action may
otherwise be initiated against him or her may have expired
during such 6 month period. No extensions of --this-- 6--month
period--shall--be--permitted--unless-the-plaintiff-can-show-a
failure-or-refusal-on-the-part-of-the--respondent--to--comply
with--timely--filed--discovery:

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

(Source: P.A. 86-483; 89-7.)

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

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

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

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

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

(b) Once the plaintiff has filed a complaint against the manufacturer or manufacturers, and the manufacturer or manufacturers have or are required to have answered or otherwise pleaded, the court shall order the dismissal of a product-liability-action-based-on-any-theory-or-doctrine strict liability in tort claim against the certifying defendant or defendants, provided the certifying defendant or
defendants are not within the categories set forth in subsection (c) of this Section. Due diligence shall be exercised by the certifying defendant or defendants in providing the plaintiff with the correct identity of the manufacturer or manufacturers, and due diligence shall be exercised by the plaintiff in filing an action and obtaining jurisdiction over the manufacturer or manufacturers.

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

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

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

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

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

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

(c) A court shall not enter a dismissal order relative to any certifying defendant or defendants other than the manufacturer even though full compliance with subsection (a)
of this Section has been made where the plaintiff can show one or more of the following:

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

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

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

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

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

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

(735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

Sec. 2-622. Healing art malpractice.

(a) In any action, whether in tort, contract or otherwise, in which the plaintiff seeks damages for injuries or death by reason of medical, hospital, or other healing art malpractice, the plaintiff's attorney or the plaintiff, if the plaintiff is proceeding pro se, shall file an affidavit, attached to the original and all copies of the complaint, declaring one of the following:

1. That the affiant has consulted and reviewed the facts of the case with a health professional who the affiant reasonably believes: (i) is knowledgeable in the relevant issues involved in the particular action; (ii) practices or has practiced within the last 6 years or
teaches or has taught within the last 6 years in the same
area of health care or medicine that is at issue in the
particular action; and (iii) is qualified by experience
or demonstrated competence in the subject of the case;
that the reviewing health professional has determined in
a written report, after a review of the medical record
and other relevant material involved in the particular
action that there is a reasonable and meritorious cause
for the filing of such action; and that the affiant has
concluded on the basis of the reviewing health
professional's review and consultation that there is a
reasonable and meritorious cause for filing of such
action. If the affidavit is filed as to a defendant who
is a physician licensed to treat human ailments without
the use of drugs or medicines and without operative
surgery, a dentist, a podiatrist, a psychologist, or a
naprapath, the written report must be from a health
professional licensed in the same profession, with the
same class of license, as the defendant. For affidavits
filed as to all other defendants, the written report must
be from a physician licensed to practice medicine in all
its branches. In either event, the affidavit must
identify the profession of the reviewing health
professional. A copy of the written report, clearly
identifying the plaintiff and the reasons for the
reviewing health professional's determination that a
reasonable and meritorious cause for the filing of the
action exists, must be attached to the affidavit, but
information which would identify the reviewing health
professional may be deleted from the copy so attached.

2. That the affiant was unable to obtain a
consultation required by paragraph 1 because a statute of
limitations would impair the action and the consultation
required could not be obtained before the expiration of
the statute of limitations. If an affidavit is executed pursuant to this paragraph, the certificate and written report required by paragraph 1 shall be filed within 90 days after the filing of the complaint. The defendant shall be excused from answering or otherwise pleading until 30 days after being served with a certificate required by paragraph 1.

3. That a request has been made by the plaintiff or his attorney for examination and copying of records pursuant to Part 20 of Article VIII of this Code and the party required to comply under those Sections has failed to produce such records within 60 days of the receipt of the request. If an affidavit is executed pursuant to this paragraph, the certificate and written report required by paragraph 1 shall be filed within 90 days following receipt of the requested records. All defendants except those whose failure to comply with Part 20 of Article VIII of this Code is the basis for an affidavit under this paragraph shall be excused from answering or otherwise pleading until 30 days after being served with the certificate required by paragraph 1.

(b) Where a certificate and written report are required pursuant to this Section a separate certificate and written report shall be filed as to each defendant who has been named in the complaint and shall be filed as to each defendant named at a later time.

(c) Where the plaintiff intends to rely on the doctrine of "res ipsa loquitur", as defined by Section 2-1113 of this Code, the certificate and written report must state that, in the opinion of the reviewing health professional, negligence has occurred in the course of medical treatment. The affiant shall certify upon filing of the complaint that he is relying on the doctrine of "res ipsa loquitur".

(d) When the attorney intends to rely on the doctrine of
failure to inform of the consequences of the procedure, the attorney shall certify upon the filing of the complaint that the reviewing health professional has, after reviewing the medical record and other relevant materials involved in the particular action, concluded that a reasonable health professional would have informed the patient of the consequences of the procedure.

(e) Allegations and denials in the affidavit, made without reasonable cause and found to be untrue, shall subject the party pleading them or his attorney, or both, to the payment of reasonable expenses, actually incurred by the other party by reason of the untrue pleading, together with reasonable attorneys' fees to be summarily taxed by the court upon motion made within 30 days of the judgment or dismissal. In no event shall the award for attorneys' fees and expenses exceed those actually paid by the moving party, including the insurer, if any. In proceedings under this paragraph (e), the moving party shall have the right to depose and examine any and all reviewing health professionals who prepared reports used in conjunction with an affidavit required by this Section.

(f) A reviewing health professional who in good faith prepares a report used in conjunction with an affidavit required by this Section shall have civil immunity from liability which otherwise might result from the preparation of such report.

(g) The failure to file a certificate required by this Section shall be grounds for dismissal under Section 2-619.

(h) This Section does not apply to or affect any actions pending at the time of its effective date, but applies to cases filed on or after its effective date.

(i) This amendatory Act of 1997 does not apply to or affect any actions pending at the time of its effective date, but applies to cases filed on or after its effective date.
Sec. 2-1003. Discovery and depositions.

(a) Any party who by pleading alleges any claim for bodily injury or disease, including mental health injury or disease, shall be deemed to waive any privilege between the injured person and each health care provider who has furnished care at any time to the injured person. "Health care provider" means any person or entity who delivers or has delivered health care services, including diagnostic services, and includes, but is not limited to, physicians, psychologists, chiropractors, nurses, mental health workers, therapists, and other healing art practitioners.

(1) Furnish the requesting party or the party's attorney a complete copy of the chart or record of health care in the possession of the provider, including reports sent to any third party, including any records generated by other health care providers and in the possession of the health care provider, and including radiographic films of any type;

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

(3) Accept and consider charts and other records of
health-care-by-others;—radiographic-films;—and-documents;
including-reports;—deposition-transcripts;—and—letters;
furnished—to—the-health-care-provider-by-the-requesting
party—or—the-party's-attorney,—before-giving-testimony-in
any-deposition-or-trial—or-other-hearing;

(4)—confer-with—the-requesting-party's-attorney
before—giving—testimony—in—any-deposition-or-trial—or
other-hearing—and—engage-in-discussion-with—the—attorney
on—the—subjects—of—the—health-care-provider's
observations—related—to—the—allegedly—injured—party's
health,—including—the—following—the—patient-history;
whether-charted—or—otherwise-recorded—or—not;—the—health
care-provider's—opinions—related—to—the—patient's-state
of—health,—prognosis,—etiology,—or—cause—of—the—patient's
state—of—health—at—any-time,—and—the—nature—and—quality
of—care—by—other—health-care-providers;—including—whether
any—standard—of—care—was—or—was—not—breached;—and—the
testimony—the-health-care-provider—would—give—in—response
to—any—point—of—interrogation,—and—the—education;
experience,—and—qualifications—of—the—health-care
provider;

The—form—of—the—Consent—furnished—pursuant—to—this
subsection—(a)—shall—recite—that—it—is—signed—and—delivered
under—the—authority—of—this—subsection.—Any—variation—in—the
form—of—Consent—required—by—any—health-care-provider,—not
subject—to—the—jurisdiction—of—the—circuit-court—before—which
the—action—is—pending,—to—whom—a—request—is—directed—under
subdivision—(1)—or—(2)—of—this—subsection—(a)—shall—be
accepted—by—the—allegedly—injured—party—and—the—revised—form
requested—by—the—health—care-provider—shall—be—signed—and
delivered—to—the—requesting—party—within—28—days—after—it—is
tendered—for—signature.

All—documents—and—information—obtained—pursuant—to—a
Consent—shall—be—considered—confidential.—Disclosure—may—be
made--only--to--the--parties--to--the'action,'their--attorneys;
their--insurers;--representatives;---and---witnesses----and
consultants---whose---testimony---concerns---medical--treatment
prognosis,--or--rehabilitation,--including--expert--witnesses.

A-request-for--a--Consent-under--this--subsubsection--{(a)}--does
not--preclude--such--subsequent-requests-as--may--reasonably-be
made-seeking-to-expand-the--scope-of-an--earlier--Consent--which
was--limited--to--less--than--all--the--authority-permitted-by
subdivisions--{(i)}--through--{(4)}--of--this--subsubsection--{(a)}--or
seeking-additional-Consents-for--other--health-care-providers.

The-provisions-of--this--subsection--{(a)}--do-not-restrict-the
right-of-any--party-to--discovery-pursuant-to--rule.

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

{(a--i)} Discovery, admissions of fact and of genuineness
of--documents--and--answers--to--interrogatories--shall--be--in
accordance--with--rules.

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

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

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

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

(f) This amendatory Act of 1995 applies to causes of 
action filed on and after its effective date.

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

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

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

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

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

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

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

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

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

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

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

(a) -- The purpose of this Section is to allocate the
brought-on-account-of-death,-bodily-injury,-or-physical
damage-to-property-according-to-the-proportionate-fault-of
the-persons-who-proximately-caused-the-damage.

(b)--As-used-in-this-Section:

"Fault"-means-any-act-or-omission-that-(i)---is-negligent;
willful-and-wanton,-or-reckless,-is-a-breath-of-an-express-or
implied-warranty,-gives-rise-to-strict-liability-in-tort,-or
gives-rise-to-liability-under-the-provisions-of-any-State
statute,-rule,--or--local-ordinance-and-(ii)---is-a-proximate
cause-of-death,-bodily-injury-to-person,-or-physical-damage

To-property-for-which-recovery-is-sought:

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

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

(c) In all actions on account of death, bodily injury or
death or physical damage to property in which-recovery-is
predicated-upon-fault, based on negligence, or product
liability based on strict tort liability, the-contributory
fault-chargeable-to-the-plaintiff-shall-be-compared-with-the
fault-of-all-tortfeasors-whose-fault-was-a-proximate-cause-of
the-death,-injury,-loss,-or-damage-for-which-recovery--is
sought--the-plaintiff-shall-be-barred-from-recovering
damages if the trier of fact finds that the contributory
fault on the part of the plaintiff is more than 50% of the
proximate cause of the injury or damage for which recovery is
sought. The plaintiff shall not be barred from recovering
damages if the trier of fact finds that the contributory
fault on the part of the plaintiff is not more than 50% of
the proximate cause of the injury or damage for which
recovery is sought, but any economic-or-non-economic damages
allowed shall be diminished in the proportion to the amount
of fault attributable to the plaintiff.

{d}—Nothing-in-this-Section-shall-be-construed-to-create
a-cause-of-action:

{e}—This—amendatory—Act—of—1995—applies-to-causes-of
action-accruing-on-or-after-its-effective-date.

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

(735 ILCS 5/2-1117) (from Ch. 110, par. 2-1117)
Sec. 2-1117. Several Joint liability.

{a}—In-any-action-brought-on-account-of-death,-bodily
injury-to-person,—or—physical-damage-to-property-in-which
recovery-is-predicated—upon—fault—as—defined—in—Section
2-1116,—if—a—defendant—is-severally-liable-only-and-is-liable
only—for—that—proportion—of—recoverable—economic—and
non-economic-damages,—if—any,—that—the—amount—of—that
defendant’s—fault,—if—any,—bears-to-the-aggregate-amount-of
fault-of-all-other-tortfeasors,—as-defined-in-Section-2-1116;
whose-fault-was—a—proximate—cause—of—the-death,—bodily
injury,—economic—loss,—or—physical-damage-to-property-for
which-recovery-is-sought.

{b}—Notwithstanding-the-provisions-of-subsection-{a},—in
any-healing-art-nailpractice-action—based—on—negligence—or
wrongful—death,—any-defendants-found-liable-shall-be-jointly
and-severally—liable—if—the—limitations—on—non-economic
damages—in—Section—2-1115.1—of—this—Act—are—for-any-reason
deemed—or—found—to—be—invali...
This amendatory Act of 1995 applies to causes of action filed on or after its effective date.

Except as provided in Section 2-1118, in actions on account of bodily injury or death or physical damage to property, based on negligence, or product liability based on strict tort liability, all defendants found liable are jointly and severally liable for plaintiff's past and future medical and medically related expenses. Any defendant whose fault, as determined by the trier of fact, is less than 25% of the total fault attributable to the plaintiff, the defendants sued by the plaintiff, and any third party defendant who could have been sued by the plaintiff, shall be severally liable for all other damages. Any defendant whose fault, as determined by the trier of fact, is 25% or greater of the total fault attributable to the plaintiff, the defendants sued by the plaintiff, and any third party defendants who could have been sued by the plaintiff, shall be jointly and severally liable for all other damages.

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

(735 ILCS 5/2-1118)

Sec. 2-1118. Exceptions. Notwithstanding the provisions of Section 2-1117, in any action in which the trier of fact determines that the injury or damage for which recovery is sought was caused by an act involving the discharge into the environment of any pollutant, including any waste, hazardous substance, irritant or contaminant, including, but not limited to smoke, vapor, soot, fumes, acids, alkalis, asbestos, toxic or corrosive chemicals, radioactive waste or mine tailings, and including any such material intended to be recycled, reconditioned or reclaimed, any defendants found liable shall be jointly and severally liable for such damage. However, Section 2-1117 shall apply to a defendant who is a response action contractor. As used in this Section,
"response action contractor" means an individual, partnership, corporation, association, joint venture or other commercial entity or an employee, agent, sub-contractor, or consultant thereof which enters into a contract, for the performance of remedial or response action, or for the identification, handling, storage, treatment or disposal of a pollutant, which is entered into between any person or entity and a response action contractor when such response action contractor is not liable for the creation or maintenance of the condition to be ameliorated under the contract.

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

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

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

Sec. 2-1205.1. Reduction in amount of recovery. In all cases on account of bodily injury or death or physical damage to property, based on negligence, or product liability based on any--theory--or--doctrine strict tort liability, to which Section 2-1205 does not apply, the amount in excess of $25,000 of the benefits provided for medical charges, hospital charges, or nursing or caretaking charges, which have been paid, or which have become payable by the date of judgment to the injured person by any other insurance company or fund in relation to a particular injury, shall be deducted from any judgment. Provided, however, that:

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

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

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

(4) The damages awarded shall be increased by the amount
of any insurance premiums or the direct costs paid by the
plaintiff for such benefits in the 2 years prior to
plaintiff's injury or death or to be paid by the plaintiff in
the future for such benefits.
(Source: P.A. 84-1431; 89-7.)

(735 ILCS 5/2-1702) (from Ch. 110, par. 2-1702)
Sec. 2-1702. Economic/Non-Economic Loss. As used in
this Part, "economic loss" and "non-economic loss" are
defined as in Section 2-1115.27:
(a) "Economic loss" means all pecuniary harm for which
damages are recoverable.
(b) "Non-economic loss" means loss of consortium and all
nonpecuniary harm for which damages are recoverable,
including, without limitation, damages for pain and
suffering, inconvenience, disfigurement, and physical
impairment.
(Source: P.A. 84-7; 89-7.)

(735 ILCS 5/8-802) (from Ch. 110, par. 8-802)
Sec. 8-802. Physician and patient. No physician or
surgeon shall be permitted to disclose any information he or
she may have acquired in attending any patient in a
professional character, necessary to enable him or her
professionally to serve the patient, except only (1) in
trials for homicide when the disclosure relates directly to
the fact or immediate circumstances of the homicide, (2) in
actions, civil or criminal, against the physician for
malpractice, (3) with the expressed consent of the patient,
or in case of his or her death or disability, of his or her
personal representative or other person authorized to sue for
personal injury or of the beneficiary of an insurance policy
on his or her life, health, or physical condition, (4) in all
actions brought by or against the patient, his or her
personal representative, a beneficiary under a policy of
insurance, or the executor or administrator of his or her
estate wherein the patient's physical or mental condition is
an issue, (5) upon an issue as to the validity of a document
as a will of the patient, (6) in any criminal action where
the charge is either first degree murder by abortion,
attempted abortion or abortion, (7) in actions, civil or
criminal, arising from the filing of a report in compliance
with the Abused and Neglected Child Reporting Act, (8) to any
department, agency, institution or facility which has custody
of the patient pursuant to State statute or any court order
of commitment, (9) in prosecutions where written results of
blood alcohol tests are admissible pursuant to Section
11-501.4 of the Illinois Vehicle Code, (10) in prosecutions
where written results of blood alcohol tests are admissible
under Section 5-11a of the Boat Registration and Safety Act,
or (11) in criminal actions arising from the filing of a
report of suspected terrorist offense in compliance with
Section 29D-10(p)(7) of the Criminal Code of 1961.

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

(Source: P.A. 87-803; 92-854, eff. 12-5-02.)

(735 ILCS 5/8-2001) (from Ch. 110, par. 8-2001)
Sec. 8-2001. Examination of records. Every private and
public hospital shall, upon the request of any patient who
has been treated in such hospital and after his or her
discharge therefrom, permit the patient, his or her physician
or authorized attorney to examine the hospital records, including but not limited to the history, bedside notes, charts, pictures and plates, kept in connection with the treatment of such patient, and permit copies of such records to be made by him or her or his or her physician or authorized attorney. A request for copies of the records shall be in writing and shall be delivered to the administrator of such hospital. The hospital shall be reimbursed by the person requesting copies of records at the time of such copying for all reasonable expenses, including the costs of independent copy service companies, incurred by the hospital in connection with such copying not to exceed a $20 handling charge for processing the request for copies, and 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed $1.25 per page for any copies made from microfiche or microfilm), and actual shipping costs. These rates shall be automatically adjusted as set forth in Section 8-2006. The hospital may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such as x-ray films or pictures.

The requirements of this Section shall be satisfied within 60 days of the receipt of a request by a patient, for his or her physician, authorized attorney, or own person.

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

(Source: P.A. 84-7; 92-228, eff. 9-1-01.)

(735 ILCS 5/8-2003) (from Ch. 110, par. 8-2003)
Sec. 8-2003. Records of physicians and other health care practitioners. In this Section, "practitioner" means any health care practitioner other than a physician, clinical psychologist, or clinical social worker.

Every physician and practitioner shall, upon the request of any patient who has been treated by such physician or practitioner, permit such patient's physician, practitioner, or authorized attorney to examine and copy the patient's records, including but not limited to those relating to the diagnosis, treatment, prognosis, history, charts, pictures and plates, kept in connection with the treatment of such patient. Such request for examining and copying of the records shall be in writing and shall be delivered to such physician or practitioner. Such written request shall be complied with by the physician or practitioner within a reasonable time after receipt by him or her at his or her office or any other place designated by him or her. The physician or practitioner shall be reimbursed by the person requesting such records at the time of such copying, for all reasonable expenses, including the costs of independent copy service companies, incurred by the physician or practitioner in connection with such copying not to exceed a $20 handling charge for processing the request for copies, and 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed $1.25 per page for any copies made from microfiche or microfilm), and actual shipping costs. These rates shall be automatically adjusted as set forth in Section 8-2006. The physician or other practitioner may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated on a standard commercial photocopy machine such as x-ray films or pictures.
The requirements of this Section shall be satisfied within 60 days of the receipt of a request by a patient or his or her physician, practitioner, or authorized attorney. Failure to comply with the time limit requirement of this Section shall subject the denying party to expenses and reasonable attorneys' fees incurred in connection with any court ordered enforcement of the provisions of this Section. (Source: P.A. 84-7; 92-228, eff. 9-1-01.)

(735 ILCS 5/8-2004) (from Ch. 110, par. 8-2004)

Sec. 8-2004. Records of clinical psychologists and clinical social workers. Except where the clinical psychologist or clinical social worker consents, records of a clinical psychologist or clinical social worker regulated in this State, relating to psychological services or social work services, shall not be examined or copied by a patient, unless otherwise ordered by the court for good cause shown. For the purpose of obtaining records, the patient or his or her authorized agent may apply to the circuit court of the county in which the patient resides or the county in which the clinical psychologist or clinical social worker resides. The clinical psychologist or clinical social worker shall be reimbursed by the person requesting the records at the time of the copying, for all reasonable expenses, including the costs of independent copy service companies, incurred by the clinical psychologist or clinical social worker in connection with the copying, not to exceed a $20 handling charge for processing the request for copies, and 75 cents per page for the first through 25th pages, 50 cents per page for the 26th through 50th pages, and 25 cents per page for all pages in excess of 50 (except that the charge shall not exceed $1.25 per page for any copies made from microfiche or microfilm), and actual shipping costs. These rates shall be automatically adjusted as set forth in Section 8-2006. The
clinical psychologist or clinical social worker may, however, charge for the reasonable cost of all duplication of record material or information that cannot routinely be copied or duplicated or a standard commercial photocopy machine such as pictures.

(Source: P.A. 87-530; 92-228, eff. 9-1-01.)

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

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

(a) Whether the witness is board certified or board eligible in the same medical specialties as the defendant and is familiar with the same Relationship of the medical specialties of the witness to the medical problem or problems or and the type of treatment administered in the case;

(b) Whether the witness has devoted 75% a substantial portion of his or her time to the practice of medicine, teaching or University based research in relation to the medical care and type of treatment at issue which gave rise to the medical problem of which the plaintiff complains;

(c) whether the witness is licensed by any state or the District of Columbia in the same profession as the defendant; and

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

An expert shall provide proof of active practice, teaching, or engaging in university based research. If retired, an expert must provide proof of attendance and completion of continuing education courses for 3 years.

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

(1) "alteration, modification or change" or "altered, modified, or changed" means an alteration, modification or change that was made in the original makeup characteristics, function or design of a product or in the original recommendations, instructions and warnings given with respect to a product including the failure properly to maintain and care for a product.

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

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

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

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

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

(1) the action is brought against a seller making, authorizing, or furnishing materials for the accomplishment of such alteration, modification or change (or against a seller furnishing specifications or instructions for the accomplishment of such alteration, modification or change when the injury is claimed to have
resulted from failure to provide adequate specifications or instructions), and

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

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

(d) Notwithstanding the provisions of subsection (b) and paragraph (2) of subsection (c) if the injury complained of occurs within any of the periods provided by subsection (b) and paragraph (2) of subsection (c), the plaintiff may bring an action within 2 years after the date on which the claimant knew, or through the use of reasonable diligence should have known, of the existence of the personal injury, death or property damage, but in no event shall such action be brought more than 8 years after the date on which such personal injury, death or property damage occurred. In any such case, if the person entitled to bring the action was, at the time the personal injury, death or property damage occurred, under the age of 18 years, or under a legal disability, then the period of limitations does not begin to run until the person attains the age of 18 years, or the disability is removed.

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

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

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

{h}--This--amendatory--Act--of--1995--applies-to-causes-of action-accurring-on-or-after-its-effective-date.

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

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

Sec. 13-214.3. Attorneys.

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

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

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

(d) {Blank:} When the injury caused by the act or
omission does not occur until the death of the person for
whom the professional services were rendered, the action may
be commenced within 2 years after the date of the person's
death unless letters of office are issued or the person's
will is admitted to probate within that 2 year period, in
which case the action must be commenced within the time for
filing claims against the estate or a petition contesting the
validity of the will of the deceased person, whichever is
later, as provided in the Probate Act of 1975.

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

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

{g}--This--amendatory--Act-of-1995--applies-to-all-actions
filed-on-or-after-its-effective-date.--If,--as--a--result--of
this--amendatory--Act-of-1995,--the-action-is-either-barred-or
there-remains-less-than-2-years-to-bring-the-action,--then-the
individual-may--bring--the-action--within--2-years--of--the

(Source: P.A. 86-1371; 89-7.)
Sec. 13-217. Reversal or dismissal. In the actions specified in Article XIII of this Act or any other act or contract where the time for commencing an action is limited, if judgment is entered for the plaintiff but reversed on appeal, or if there is a verdict in favor of the plaintiff and, upon a motion in arrest of judgment, the judgment is entered against the plaintiff, or the action is voluntarily dismissed by the plaintiff, or the action is dismissed for want of prosecution, or the action is dismissed by a United States District Court for lack of jurisdiction, or the action is dismissed by a United States District Court for improper venue, then, whether or not the time limitation for bringing such action expires during the pendency of such action, the plaintiff, his or her heirs, executors or administrators may commence a new action within one year or within the remaining period of limitation, whichever is greater, after such judgment is reversed or entered against the plaintiff, or after the action is voluntarily dismissed by the plaintiff, or the action is dismissed for want of prosecution, or the action is dismissed by a United States District Court for lack of jurisdiction, or the action is dismissed by a United States District Court for improper venue. No-action-which-is voluntarily-dismissed-by-the-plaintiff-or-dismissed-for--want of--prosecution--by-the-court-may-be-filed-where-the-time-for commencing-the-action-has-expired.

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

(Source: P.A. 87-1252.)
Section 20. Sections 2-623, 2-624, 2-1115.05, 2-1115.1, and 2-1115.2 and Part 21 of Article II of this Code of Civil Procedure are repealed.

Section 25. Sections 4 and 5 of the Joint Tortfeasor Contribution Act are re-enacted as follows:

(740 ILCS 100/4) (from Ch. 70, par. 304)
Sec. 4. Rights of Plaintiff Unaffected. Except as provided in Section 3.5 of this Act, a plaintiff's right to recover the full amount of his judgment from any one or more defendants subject to liability in tort for the same injury to person or property, or for wrongful death, is not affected by the provisions of this Act.
(Source: P.A. 81-601; 89-7.)

(740 ILCS 100/5) (from Ch. 70, par. 305)
Sec. 5. Enforcement. Other than in actions for healing art malpractice, a cause of action for contribution among joint tortfeasors is not required to be asserted during the pendency of litigation brought by a claimant and may be asserted by a separate action before or after payment of a
settlement-or-judgment-in-favor-of-the-claimant, or--may--be
asserted by counterclaim or by third-party complaint in a
pending action.

This-amendatory-Act-of-1995-applies-to-causes--of-action
filed-on-or-after-its-effective-date.
(Source: P.A. 81-601; 89-7.)

(740 ILCS 100/3.5 rep.)

Section 27. Section 3.5 of the Joint Tortfeasor
Contribution Act is repealed.

Section 30. Sections 9 and 10 of the Mental Health and
Developmental Disabilities Confidentiality Act are re-enacted
as follows:

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

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

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

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

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

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

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

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

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

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

Information may be disclosed under this Section only to the extent that knowledge of the record or communications is essential to the purpose for which disclosure is made and only after the recipient is informed that such disclosure may be made. A person to whom disclosure is made under this Section shall not redisclose any information except as provided in this Act.

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

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

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

(1) Records and communications may be disclosed in
a civil, criminal or administrative proceeding in which
the recipient introduces his mental condition or any
aspect of his services received for such condition as an
element of his claim or defense, if and only to the
extent the court in which the proceedings have been
brought, or, in the case of an administrative proceeding,
the court to which an appeal or other action for review
of an administrative determination may be taken, finds,
after in camera examination of testimony or other
evidence, that it is relevant, probative, not unduly
prejudicial or inflammatory, and otherwise clearly
admissible; that other satisfactory evidence is
demonstrably unsatisfactory as evidence of the facts
sought to be established by such evidence; and that
disclosure is more important to the interests of
substantial justice than protection from injury to the
therapist-recipient relationship or to the recipient or
other whom disclosure is likely to harm. Except in a
criminal proceeding in which the recipient, who is
accused in that proceeding, raises the defense of
insanity, no record or communication between a therapist
and a recipient shall be deemed relevant for purposes of
this subsection, except the fact of treatment, the cost
of services and the ultimate diagnosis unless the party
seeking disclosure of the communication clearly
establishes in the trial court a compelling need for its
production. However, for purposes of this Act, in any
action brought or defended under the Illinois Marriage
and Dissolution of Marriage Act, or in any action in
which pain and suffering is an element of the claim,
mental condition shall not be deemed to be introduced
merely by making such claim and shall be deemed to be
introduced only if the recipient or a witness on his
behalf first testifies concerning the record or
communication.

(2) Records or communications may be disclosed in a civil proceeding after the recipient's death when the recipient's physical or mental condition has been introduced as an element of a claim or defense by any party claiming or defending through or as a beneficiary of the recipient, provided the court finds, after in camera examination of the evidence, that it is relevant, probative, and otherwise clearly admissible; that other satisfactory evidence is not available regarding the facts sought to be established by such evidence; and that disclosure is more important to the interests of substantial justice than protection from any injury which disclosure is likely to cause.

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

(4) Records and communications made to or by a therapist in the course of examination ordered by a court for good cause shown may, if otherwise relevant and admissible, be disclosed in a civil, criminal, or administrative proceeding in which the recipient is a party or in appropriate pretrial proceedings, provided
such court has found that the recipient has been as adequately and as effectively as possible informed before submitting to such examination that such records and communications would not be considered confidential or privileged. Such records and communications shall be admissible only as to issues involving the recipient's physical or mental condition and only to the extent that these are germane to such proceedings.

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

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

(7) Records and communications of the recipient may be disclosed in any civil or administrative proceeding involving the validity of or benefits under a life, accident, health or disability insurance policy or certificate, or Health Care Service Plan Contract, insuring the recipient, but only if and to the extent that the recipient's mental condition, or treatment or services in connection therewith, is a material element of any claim or defense of any party, provided that information sought or disclosed shall not be redisclosed except in connection with the proceeding in which disclosure is made.

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

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

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

(11) Records and communications of a recipient shall be disclosed in a proceeding where a petition or motion is filed under the Juvenile Court Act of 1987 and the recipient is named as a parent, guardian, or legal custodian of a minor who is the subject of a petition for wardship as described in Section 2-3 of that Act or a minor who is the subject of a petition for wardship as described in Section 2-4 of that Act alleging the minor is abused, neglected, or dependent or the recipient is named as a parent of a child who is the subject of a petition, supplemental petition, or motion to appoint a guardian with the power to consent to adoption under Section 2-29 of the Juvenile Court Act of 1987.

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

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

(c) A recipient's records and communications may be
disclosed to a duly authorized committee, commission or
subcommittee of the General Assembly which possesses subpoena
and hearing powers, upon a written request approved by a
majority vote of the committee, commission or subcommittee
members. The committee, commission or subcommittee may request records only for the purposes of investigating or studying possible violations of recipient rights. The request shall state the purpose for which disclosure is sought.

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

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

(d) No party to any proceeding described under paragraphs (1), (2), (3), (4), (7), or (8) of subsection (a) of this Section, nor his or her attorney, shall serve a subpoena seeking to obtain access to records or communications under this Act unless the subpoena is
accompanying by a written order issued by a judge, authorizing
the disclosure of the records or the issuance of the
subpoena. No person shall comply with a subpoena for records
or communications under this Act, unless the subpoena is
accompanied by a written order authorizing the issuance of
the subpoena or the disclosure of the records.

(e) When a person has been transported by a peace
officer to a mental health facility, then upon the request of
a peace officer, if the person is allowed to leave the mental
health facility within 48 hours of arrival, excluding
Saturdays, Sundays, and holidays, the facility director shall
notify the local law enforcement authority prior to the
release of the person. The local law enforcement authority
may re-disclose the information as necessary to alert the
appropriate enforcement or prosecuting authority.

(f) A recipient's records and communications shall be
disclosed to the Inspector General of the Department of Human
Services within 10 business days of a request by the
Inspector General in the course of an investigation
authorized by the Abused and Neglected Long Term Care
Facility Residents Reporting Act and applicable rule. The
request shall be in writing and signed by the Inspector
General or his or her designee. The request shall state the
purpose for which disclosure is sought. Any person who
knowingly and willfully refuses to comply with such a request
is guilty of a Class A misdemeanor.

(Source: P.A. 91-726, eff. 6-2-00; 92-358, eff. 8-15-01;
92-708, eff. 7-19-02.)

Section 35. Sections 2 and 3 of the Premises Liability
Act are re-enacted as follows:

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

Sec. 2. The distinction under the common law between
invitees and licensees as to the duty owed by an owner or occupier of any premises to such entrants is abolished. The duty owed to such entrants is that of reasonable care under the circumstances regarding the state of the premises or acts done or omitted on them. The duty of reasonable care under the circumstances which an owner or occupier of land owes to such entrants does not include any of the following: a duty to warn of or otherwise take reasonable steps to protect such entrants from conditions on the premises that are known to the entrant, are open and obvious, or can reasonably be expected to be discovered by the entrant; a duty to warn of latent defects or dangers or defects or dangers unknown to the owner or occupier of the premises; a duty to warn such entrants of any dangers resulting from misuse by the entrants of the premises or anything affixed to or located on the premises; or a duty to protect such entrants from their own misuse of the premises or anything affixed to or located on the premises.

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

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

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

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

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

(Source: P.A. 83-1398; 89-7.)
Section 40. Sections 1 and 2 of the Wrongful Death Act are re-enacted as follows:

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

Sec. 1. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then and in every such case the person who or company or corporation which would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony. No action may be brought under this Act if the decedent had brought a cause of action with respect to the same underlying incident or occurrence which was settled or on which judgment was rendered.

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

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

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

Sec. 2. Every such action shall be brought by and in the names of the personal representatives of such deceased person, and, except as otherwise hereinafter provided, the amount recovered in every such action shall be for the exclusive benefit of the surviving spouse and next of kin of such deceased person and in every such action the jury may give such damages as they shall deem a fair and just compensation with reference to the pecuniary injuries resulting from such death, to the surviving spouse and next of kin of such deceased person.

In every such action, the jury shall determine the amount
of damages to be recovered without regard to and with no
special instruction as to the dollar limits on recovery
imposed by this Section. In no event shall the judgment
entered upon such verdict exceed $20,000 where such death
occurred prior to July 14, 1955, and not exceeding $25,000
where such death occurred on or after July 14, 1955 and prior
to July 8, 1957, and not exceeding $30,000 where such death
occurs on or after July 8, 1957 and prior to the effective
date of this amendatory Act of 1967, and without limitation
where such death occurs on or after the effective date of
this amendatory Act of 1967.

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

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

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

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

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

Every such action shall be commenced within 2 years after the death of such person but an action against a defendant arising from a crime committed by the defendant in whose name an escrow account was established under the "Criminal Victims' Escrow Account Act" shall be commenced within 2 years after the establishment of such account. For the purposes of this Section 2, next of kin includes an adopting parent and an adopted child, and they shall be treated as a natural parent and a natural child, respectively. However, if a person entitled to recover benefits under this Act, is, at the time the cause of action accrued, within the age of 18 years, he or she may cause such action to be brought within 2 years after attainment of the age of 18.

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

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

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

(2) Where the trier of fact finds that the
contributory fault of a beneficiary on whose behalf the
action is brought is more than 50% of the proximate cause
of the wrongful death of the decedent, then the
beneficiary shall be barred from recovering damages and
the amount of damages which would have been payable to
that beneficiary, but for the beneficiary's contributory
fault, shall not inure to the benefit of the remaining
beneficiaries and shall not be payable by any defendant.
The trial judge shall conduct a hearing to determine the
degree of dependency of each beneficiary upon the decedent.
The trial judge shall calculate the amount of damages to be
awarded each beneficiary, taking into account any reduction
arising from either the decedent's or the beneficiary's
contributory fault.

This amendatory Act of the 91st General Assembly applies
to all actions pending on or filed after the effective date
of this amendatory Act.
(Source: P.A. 91-380, eff. 7-30-99.)

(745 ILCS 10/Art. VIA heading rep.)
(745 ILCS 10/6A-101 rep.)
(745 ILCS 10/6A-105 rep.)

Section 45. Article VIA of the Local Governmental and
Governmental Employees Tort Immunity Act is repealed.

Section 50. Section 10b of the Consumer Fraud and
Deceptive Business Practices Act is re-enacted as follows:

(815 ILCS 505/10b) (from Ch. 121 1/2, par. 270b)
Sec. 10b. Nothing in this Act shall apply to any of the following:

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

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

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

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

(5) (Blank). This item—(5)

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

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

Section 55. Section 5 of the Workers' Compensation Act is re-enacted as follows:

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

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

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

Any illegally employed minor or his legal representatives shall, except as hereinafter provided, have the right within 6 months after the time of injury or death, or within 6
months after the appointment of a legal representative, whichever shall be later, to file with the Commission a rejection of his right to the benefits under this Act, in which case such illegally employed minor or his legal representatives shall have the right to pursue his or their common law or statutory remedies to recover damages for such injury or death.

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

(b) Where the injury or death for which compensation is payable under this Act was caused under circumstances creating a legal liability for damages on the part of some person other than his employer to pay damages, then legal proceedings may be taken against such other person to recover damages notwithstanding such employer's payment of or liability to pay compensation under this Act. In such case, however, if the action against such other person is brought by the injured employee or his personal representative and judgment is obtained and paid, or settlement is made with such other person, either with or without suit, then from the amount received by such employee or personal representative there shall be paid to the employer the amount of compensation paid or to be paid by him to such employee or personal representative including amounts paid or to be paid pursuant to paragraph (a) of Section 8 of this Act. If the employee or personal representative brings an action—against another person and the other person then brings an action for contribution—against—the employer, the amount, if any, that
shall be paid to the employer by the employee or personal representative pursuant to this Section shall be reduced by an amount equal to the amount found by the trier of fact to be the employer's pro rata share of the common liability in the action.

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

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

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

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

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

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

Section 60. Section 5 of the Workers' Occupational Diseases Act is re-enacted as follows:

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

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

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

(b) Where the disablement or death for which
compensation is payable under this Act was caused under
circumstances creating a legal liability for damages on the
part of some person other than his employer to pay damages,
then legal proceedings may be taken against such other person
to recover damages notwithstanding such employer's payment of
or liability to pay compensation under this Act. In such
case, however, if the action against such other person is
brought by the disabled employee or his personal
representative and judgment is obtained and paid or
settlement is made with such other person, either with or
without suit, then from the amount received by such employee
or personal representative there shall be paid to the
employer the amount of compensation paid or to be paid by him
to such employee or personal representative, including
amounts paid or to be paid pursuant to paragraph (a) of
Section 8 of the Workers' Compensation Act as required under
Section 10 of this Act. If the employee or personal
representative brings an action against another person and
the other person then brings an action for contribution
against the employer, the amount, if any, that shall be paid
to the employer by the employee or personal representative
pursuant to this Section shall be reduced by an amount equal
to the amount found by the trier of fact to be the employer's
pro-rata share of the common liability in the action.

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

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

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

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

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

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

Section 99. This Act takes effect upon becoming law.
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Statutes amended in order of appearance

430 ILCS 105/Act title

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

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

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

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

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

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

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

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

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

735 ILCS 5/5-5-7 from Ch. 38, par. 1005-5-7

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

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

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

735 ILCS 5/2-622 from Ch. 110, par. 2-622

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

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

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

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

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

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

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

735 ILCS 5/2-623 rep.