



Sen. Frank C. Watson

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09400SB1979sam003

LRB094 11877 WGH 45013 a

1 AMENDMENT TO SENATE BILL 1979

2 AMENDMENT NO. _____. Amend Senate Bill 1979, AS AMENDED,
3 in the introductory clause of Section 5-10, after "2-1109,", by
4 inserting "2-1118,"; and

5 in the introductory clause of Section 5-10, after "2-1704.5,",
6 by inserting "2-1706.5,"; and

7 in Section 5-10, by inserting immediately below Sec. 2-1114 the
8 following:

9 "(735 ILCS 5/2-1118)

10 (This Section was repealed by P.A. 89-7, which has been
11 held unconstitutional)

12 Sec. 2-1118. Exceptions. Notwithstanding the provisions of
13 Section 2-1117, in any action in which the trier of fact
14 determines that the injury or damage for which recovery is
15 sought was caused by an act involving the discharge into the
16 environment of any pollutant, including any waste, hazardous
17 substance, irritant or contaminant, including, but not limited
18 to smoke, vapor, soot, fumes, acids, alkalis, asbestos, toxic
19 or corrosive chemicals, radioactive waste or mine tailings, and
20 including any such material intended to be recycled,
21 reconditioned or reclaimed, any defendants found liable shall
22 be jointly and severally liable for such damage. However,
23 Section 2-1117 shall apply to a defendant who is a response

1 action contractor. As used in this Section, "response action
2 contractor" means an individual, partnership, corporation,
3 association, joint venture or other commercial entity or an
4 employee, agent, sub-contractor, or consultant thereof which
5 enters into a contract, for the performance of remedial or
6 response action, or for the identification, handling, storage,
7 treatment or disposal of a pollutant, which is entered into
8 between any person or entity and a response action contractor
9 when such response action contractor is not liable for the
10 creation or maintenance of the condition to be ameliorated
11 under the contract.

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

16 (Source: P.A. 84-1431.); and

17 in Section 5-10, by inserting immediately below Sec. 2-1704.5
18 the following:

19 "(735 ILCS 5/2-1706.5 new)

20 Sec. 2-1706.5. Standards for economic and non-economic
21 damages. In any medical malpractice action in which economic
22 and non-economic damages may be awarded, the following
23 standards shall apply:

24 (1) Except as provided in paragraph (5), in a case of
25 an award against a hospital and its personnel or hospital
26 affiliates, as defined in Section 10.8 of the Hospital
27 Licensing Act, the total amount of non-economic damages
28 shall not exceed \$500,000 awarded to all plaintiffs in any
29 civil action arising out of the care.

30 (2) Except as provided in paragraph (5), in the case of
31 an award against a physician and the physician's business
32 or corporate entity and personnel or health care

1 professional, the total amount of non-economic damages
2 shall not exceed \$250,000 awarded to all plaintiffs in any
3 civil action arising out of the care.

4 (3) In awarding damages in a medical malpractice case,
5 the finder of fact shall render verdicts with a specific
6 award of damages for economic loss, if any, and a specific
7 award of damages for non-economic loss, if any.

8 (4) In any medical malpractice action where an
9 individual plaintiff earns less than the annual average
10 weekly wage, as determined by the Worker's Compensation
11 Commission, at the time the action is filed, any award may
12 include an amount equal to the wage the individual
13 plaintiff earns or the annual average weekly wage.

14 (5) In a case where the plaintiff's care involved
15 negligence that was the primary cause of any of the
16 following outcomes as determined by the court: (i) the
17 plaintiff is hemiplegic, paraplegic, or quadriplegic
18 resulting in a total permanent functional loss of 1 or more
19 limbs caused by 1 or more of the following: injury to the
20 brain or injury to the spinal cord, (ii) the plaintiff has
21 permanently impaired cognitive capacity rendering him or
22 her incapable of making independent, responsible life
23 decisions and permanently incapable of independently
24 performing the activities of normal, daily living, or (iii)
25 there has been permanent loss of or damage to a
26 reproductive organ resulting in the inability to
27 procreate, the following standards for awarding
28 non-economic damages shall apply:

29 (A) the total amount of non-economic damages shall
30 not exceed \$750,000 awarded to all plaintiffs in any
31 civil action arising out of the care against a hospital
32 and its personnel or hospital affiliates, as defined in
33 Section 10.8 of the Hospital Licensing Act; and

34 (B) the total amount of non-economic damages shall

1 not exceed \$500,000 awarded to all plaintiffs in any
2 civil action arising out of the care against a
3 physician and the physician's business or corporate
4 entity and personnel or health care professional.

5 (6) The court shall reduce an award of damages in
6 excess of the limitations set forth in this Section to the
7 amount of the appropriate limitation set forth in this
8 Section. The jury shall not be advised by the court or by
9 counsel for either party of the limitations set forth in
10 this Section."