



Rep. Terri Bryant

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LRB099 17215 HEP 46607 a

1 AMENDMENT TO HOUSE BILL 6083

2 AMENDMENT NO. _____. Amend House Bill 6083 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as Molly's Law.

5 Section 5. The Freedom of Information Act is amended by
6 changing Section 11 as follows:

7 (5 ILCS 140/11) (from Ch. 116, par. 211)

8 Sec. 11. (a) Any person denied access to inspect or copy
9 any public record by a public body may file suit for injunctive
10 or declaratory relief.

11 (b) Where the denial is from a public body of the State,
12 suit may be filed in the circuit court for the county where the
13 public body has its principal office or where the person denied
14 access resides.

15 (c) Where the denial is from a municipality or other public

1 body, except as provided in subsection (b) of this Section,
2 suit may be filed in the circuit court for the county where the
3 public body is located.

4 (d) The circuit court shall have the jurisdiction to enjoin
5 the public body from withholding public records and to order
6 the production of any public records improperly withheld from
7 the person seeking access. If the public body can show that
8 exceptional circumstances exist, and that the body is
9 exercising due diligence in responding to the request, the
10 court may retain jurisdiction and allow the agency additional
11 time to complete its review of the records.

12 (e) On motion of the plaintiff, prior to or after in camera
13 inspection, the court shall order the public body to provide an
14 index of the records to which access has been denied. The index
15 shall include the following:

16 (i) A description of the nature or contents of each
17 document withheld, or each deletion from a released
18 document, provided, however, that the public body shall not
19 be required to disclose the information which it asserts is
20 exempt; and

21 (ii) A statement of the exemption or exemptions claimed
22 for each such deletion or withheld document.

23 (f) In any action considered by the court, the court shall
24 consider the matter de novo, and shall conduct such in camera
25 examination of the requested records as it finds appropriate to
26 determine if such records or any part thereof may be withheld

1 under any provision of this Act. The burden shall be on the
2 public body to establish that its refusal to permit public
3 inspection or copying is in accordance with the provisions of
4 this Act. Any public body that asserts that a record is exempt
5 from disclosure has the burden of proving that it is exempt by
6 clear and convincing evidence.

7 (g) In the event of noncompliance with an order of the
8 court to disclose, the court may enforce its order against any
9 public official or employee so ordered or primarily responsible
10 for such noncompliance through the court's contempt powers.

11 (h) Except as to causes the court considers to be of
12 greater importance, proceedings arising under this Section
13 shall take precedence on the docket over all other causes and
14 be assigned for hearing and trial at the earliest practicable
15 date and expedited in every way.

16 (i) If a person seeking the right to inspect or receive a
17 copy of a public record prevails in a proceeding under this
18 Section, the court shall award such person reasonable
19 attorney's ~~attorneys'~~ fees and costs. In determining what
20 amount of attorney's fees is reasonable, the court shall
21 consider the degree to which the relief obtained relates to the
22 relief sought. The changes contained in this subsection apply
23 to an action filed on or after January 1, 2010 (the effective
24 date of Public Act 96-542) ~~this amendatory Act of the 96th~~
25 ~~General Assembly~~.

26 (j) If the court determines that a public body willfully

1 and intentionally failed to comply with this Act, or otherwise
2 acted in bad faith, the court shall also impose upon the public
3 body a civil penalty of not less than \$2,500 nor more than
4 \$10,000 ~~\$5,000~~ for each occurrence. In assessing the civil
5 penalty, the court shall consider in aggravation or mitigation
6 the budget of the public body and whether the public body has
7 previously been assessed penalties for violations of this Act.
8 If the public body fails to comply with the court's order after
9 30 days, the court shall impose an additional \$1,000 penalty
10 for each day the violation continues. The changes contained in
11 this subsection that are made by Public Act 96-542 apply to an
12 action filed on or after January 1, 2010 (the effective date of
13 Public Act 96-542) ~~this amendatory Act of the 96th General~~
14 ~~Assembly.~~

15 (Source: P.A. 96-542, eff. 1-1-10; 97-813, eff. 7-13-12;
16 revised 10-14-15.)

17 Section 10. The Wrongful Death Act is amended by changing
18 Section 2 as follows:

19 (740 ILCS 180/2) (from Ch. 70, par. 2)

20 Sec. 2. Every such action shall be brought by and in the
21 names of the personal representatives of such deceased person,
22 and, except as otherwise hereinafter provided, the amount
23 recovered in every such action shall be for the exclusive
24 benefit of the surviving spouse and next of kin of such

1 deceased person. In every such action the jury may give such
2 damages as they shall deem a fair and just compensation with
3 reference to the pecuniary injuries resulting from such death,
4 including damages for grief, sorrow, and mental suffering, to
5 the surviving spouse and next of kin of such deceased person.

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

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

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

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

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

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

8 Except as otherwise provided in this Section, every ~~Every~~
9 such action shall be commenced within 2 years after the death
10 of such person but an action against a defendant arising from a
11 crime committed by the defendant in whose name an escrow
12 account was established under the "Criminal Victims' Escrow
13 Account Act" shall be commenced within 2 years after the
14 establishment of such account. An action may be brought within
15 5 years after the date of the death if the death is the result
16 of violent intentional conduct or within one year after the
17 final disposition of the criminal case if the defendant is
18 charged with:

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

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

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

25 (iv) voluntary manslaughter of an unborn child under
26 Section 9-2.1 of the Criminal Code of 2012;

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

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

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

8 For the purposes of this Section 2, next of kin includes an
9 adopting parent and an adopted child, and they shall be treated
10 as a natural parent and a natural child, respectively. However,
11 if a person entitled to recover benefits under this Act, is, at
12 the time the cause of action accrued, within the age of 18
13 years, he or she may cause such action to be brought within 2
14 years after attainment of the age of 18.

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

20 The trier of fact shall first determine the decedent's
21 contributory fault in accordance with Sections 2-1116 and
22 2-1107.1 of the Code of Civil Procedure. Recovery of damages
23 shall be barred or diminished accordingly. The trier of fact
24 shall then determine the contributory fault, if any, of each
25 beneficiary on behalf of whom the action was brought:

26 (1) Where the trier of fact finds that the contributory

1 fault of a beneficiary on whose behalf the action is
2 brought is not more than 50% of the proximate cause of the
3 wrongful death of the decedent, then the damages allowed to
4 that beneficiary shall be diminished in proportion to the
5 contributory fault attributed to that beneficiary. The
6 amount of the reduction shall not be payable by any
7 defendant.

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

17 The trial judge shall conduct a hearing to determine the
18 degree of dependency of each beneficiary upon the decedent. The
19 trial judge shall calculate the amount of damages to be awarded
20 each beneficiary, taking into account any reduction arising
21 from either the decedent's or the beneficiary's contributory
22 fault.

23 This amendatory Act of the 91st General Assembly applies to
24 all actions pending on or filed after the effective date of
25 this amendatory Act.

26 This amendatory Act of the 95th General Assembly applies to

- 1 causes of actions accruing on or after its effective date.
- 2 (Source: P.A. 95-3, eff. 5-31-07.)".