

AN ACT concerning civil law.

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

Section 5. The Wrongful Death Act is amended by changing Section 2 as follows:

(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. In ~~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, including damages for grief, sorrow, and mental suffering, 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 deceased 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.

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

(Source: P.A. 91-380, eff. 7-30-99.)

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