

ILLINOIS LAW MANUAL
CHAPTER XIV
DAMAGES

E. FAMILY EXPENSE STATUTE

1. Family Expense Statute Provides that the Husband and Wife Are Liable for Expenses of the Family

The Illinois Family Expense Statute provides that the husband and wife are liable for the expenses of the family, whether they are incurred by minors or by other family members under a legal disability. 750 ILCS 65/15. Since it is the parents' obligation to pay for the medical, hospital, and funeral expenses incurred by the family members, the right to a cause of action for reimbursement of these expenses is held by the parents and not the child. Skaggs v. Junis, 27 Ill. App. 2d 251 (1960); Graul v. Adrian, 32 Ill. 2d 345 (1965); In Re Estate of Hammond, 141 Ill. App. 3d 963 (1986); Reimers v. Honda Motor Corp., 150 Ill. App. 3d 840 (1986). Consequently, in the child's suit for personal injury, he or she cannot pursue reimbursement for the medical expenses incurred by the parent in an effort to be cured of those injuries. However, a parent may assign the right to recover these expenses to the child. Graul v. Adrian, 32 Ill. 2d 345 (1965). In such a case, the child's claim for reimbursement of the medical expenses is subject to the same defenses that could have been raised against the parents. Reimers, 150 Ill. App. 3d 840 (1986).

2. The Family Expense Statute and the Statute of Limitations

Where an accident results in injuries to a minor, the statute of limitations for the filing of a claim for the minor's personal injuries is "tolled" until two years after that minor reaches majority, at age 18. 735 ILCS 5/13-211.

However, in 1987, 735 ILCS 5/13-203 was amended to allow the same period of limitations for the filing of an action under the statute for medical expenses as applies to the underlying personal injury action. Beck v. Yatvin, 235 Ill. App. 3d 1085 (1992), appeal denied 149 Ill. 2d 647 (1993); Dewey v. Zack, 272 Ill. App. 3d 742 (1995). As a result, a parent has until two years after the minor plaintiff reaches age 18 (or two years after the point at which the plaintiff's legal disability is removed) to file suit for reimbursement of medical expenses.

3. The Family Expense Statute is Based on Liability for Medical Expenses

Liability for the medical or funeral expenses of another is the basis of a claim under the Family Expense Statute. Generally, where a child has reached the age of majority (age 18), his parents are no longer legally liable for his medical bills. Tully v. Cuddy, 139 Ill. App. 3d 697 (1985); Proctor Hospital v. Taylor, 279 Ill. App. 3d 624 (1996). As a result, a parent does not have a cause of action under the Family Expense Statute for medical expenses incurred by an adult child (over 18), even where that child is unemancipated (i.e., under parental control). Obviously, since the statute only applies to a parent, a sibling who pays medical or funeral expenses for the death of another sibling is not entitled to recover under the Family Expense Statute.

4. Right to Recover

While the right to recover medical expenses is held by the parents, it is still dependent on the personal injury cause of action of the child or person under a disability. For the parent to recover from the defendant for medical expenses, the defendant's liability to the child or person under the legal disability must first be established. Jones v. Schmidt, 349 Ill. App. 336 (1953); Doe v. Montessori School of Lake Forest, 287 Ill. App. 3d 289 (1997).