

EXCERPTS FROM STATE OF MAJOR CIVIL STATUTES*

§1.1 Wrongful death

(a) **Right of action.** When the death of a person is caused by the wrongful act, neglect or default of another, his personal representative may maintain an action for damages against the person causing the death, and although the death shall have been caused under such circumstances as amount, in law, to a felony.

(b) **Beneficiaries of action.** Every such action shall be for the benefit of the wife, husband, child or children, including stepchildren, or the parents, sisters or brothers, who may be dependent upon the deceased person for support.

(c) **Survival of actions**

(1) All causes of action by a person or persons against another person or persons shall survive the personal representative of the decedent.

(2) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefore if his death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

(d) **Imputation of contributory fault.** The contributory fault of the decedent shall be imputed to the claimant in the action.

(e) **Recovery.** In every such action the jury may give such damages as, under all circumstances of the case, may to them seem just. The personal representative shall be entitled to recover damages for pain and suffering personal to and suffered by a deceased.

§1.2 Action for personal injury

An action for personal injury to any person occasioning death shall survive if such person has a surviving spouse, child living, including stepchildren, or parents, sisters or brothers dependent upon the deceased for support at the time of decedent's death. Such action may be commenced and prosecuted, by the executor or administrator of the deceased, in favor of any of the named survivors. All damages as may, under the circumstances, be just may be awarded, including pain and suffering that the decedent suffered.

§2.1 Sales to persons apparently under the influence of liquor

(a) No person shall sell any liquor to any person apparently under the influence of liquor.

(b) Violations of law. Every person who violates any provision of this title or the accompanying liquor board regulations shall be guilty of a violation of this title, whether otherwise declared or not, and is subject to a fine of \$1,000. Violation of this statute is not a criminal offense.

§3.1 Nature of liability, right of contribution – indemnity

If more than one person is liable to a claimant on an indivisible claim for the same injury, death or harm, the liability of such persons shall be joint and severable.

A right of contribution exists between or among two or more persons who are jointly and severally liable upon the same indivisible claim for the same injury, death or harm, whether or not judgment has been recovered against all or any of them. It may be enforced either in the original action or by a separate action brought for that purpose. The basis for contribution among liable persons is the comparative fault of each such person.

* Though statutes in this section have application for civil liability, some also define misdemeanor criminal liability.

§4.1 Definitions – health care provider

A “health care provider” means

(1) A person licensed by this state to provide health care or related services, including, but not limited to, a physician, osteopathic physician, dentist, nurse, optometrist, podiatrist, chiropractor, physical therapist, psychologist, pharmacist, optician, physician’s assistant, midwife, osteopathic physician’s assistant, nurse practitioner, or physician’s trained mobile intensive care paramedic.

(2) An employee or agent of a person described in part (1) above, acting in the course and scope of his employment.

(3) An entity, whether or not incorporated, facility, or institution employing one or more persons described in part (1) above, including, but not limited to, a hospital, clinic, health maintenance organization, or nursing home; or an officer, director, employee, or agent acting in the course and scope of his employment.

§4.2 Elements of proof standard of care

The following shall be necessary elements of proof that injury resulted from the failure of the health care provider to follow the accepted standard of care:

(1) The health care provider failed to exercise that degree of care, skill and learning expected of a reasonably prudent health care provider at the time in the profession or class to which he belongs, in the state of Major, acting in the same or similar circumstances.

(2) Such failure was a proximate cause of the injury complained of.

(3) No award shall be made in any action or arbitration for damages for injury occurring as the result of health care unless the plaintiff establish one or more of the following propositions:

(a) That injury resulted from the failure of a health care provider to follow the accepted standard of care;

(b) That a health care provider promised the patient or his representative that the injury suffered would not occur;

(c) That injury resulted from health care to which the patient or his representative did not consent. The plaintiff shall have the burden of proving each fact essential to an award by a preponderance of the evidence.

§5.4 Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

§6.1 Definitions – firearms terms

(1) “Short firearm” means any firearm less than twelve inches in length.

(2) “Crime of violence” means: Any of the following felonies, as now existing. Any felony defined under any law as a class A felony or an attempt to commit a class A felony; criminal solicitation of or criminal conspiracy to commit a class A felony, voluntary manslaughter, involuntary manslaughter, indecent liberties if committed by forcible compulsion, rape in the second degree, kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, burglary in the second degree, and robbery in the second degree.

(3) “Firearm” means a weapon or device from which a projectile may be fired by an explosive such as gunpowder.

§6.2 Carrying firearm

Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed weapon.

§6.3 Aiming or discharging firearms

Every person who shall aim any gun, pistol, revolver or other firearm, whether loaded or not, at or towards any human being, or who shall willfully discharge any firearm, air gun or other weapon, or throw any deadly missile in a public place, or in any place where any person might be endangered thereby, although no injury result, shall be guilty of a misdemeanor punishable by \$5,000 and/or up to one year in the Major state penitentiary.

§6.4 Unlawful possession of a short firearm or pistol

(1) A person is guilty of the crime of unlawful possession of a short firearm or pistol, if, having previously been convicted in this state or elsewhere of a crime of violence or of a felony in which a firearm was used or displayed, the person owns or has in his possession any short firearm or pistol.

A person has been "convicted" at such time as a plea of guilty has been accepted or a verdict of guilty has been filed, notwithstanding the pendency of any future proceedings. A person shall not be precluded from possession if the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(2) Unlawful possession of a short firearm or pistol shall be punished up to five years in the state penitentiary and/or a fine of \$5,000.

§7.1 Duties of the prosecuting attorney

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when the prosecutor has information that any such offense has been committed.

(13) Send to the state of Major liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year, showing in each case the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding.

(14) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law.

§8.1 Definitions – products liability

(1) "Product seller" means any person or entity that is engaged in the business of selling products, whether the sale is for resale, or for use or consumption. The term includes a manufacturer, wholesaler, distributor, or retailer of the relevant product.

(2) "Manufacturer" includes a product seller who designs, produces, makes, fabricates, constructs, or remanufactures the relevant product or component part of the product before its sale to a user or consumer. The term also includes a product seller or entity not otherwise a manufacturer that holds itself out as a manufacturer.

A product seller acting primarily as a wholesaler, distributor, or retailer of a product may be a "manufacturer" only to the extent that it designs, produces, makes, fabricates, constructs, or remanufactures the product for its sale. A product seller who performs minor assembly of a product in accordance with the instructions of the manufacturer or did not participate in the design of a product and that constructed the product in accordance with the design specifications of the claimant or another product seller shall not be deemed a manufacturer.

(3) “Product” means any object possessing intrinsic value, capable of delivery either as an assembled whole or as a component part or parts, and produced for introduction into trade or commerce.

(4) “Product liability claim” includes any claim or action brought for harm caused by the manufacture, production, making, construction, fabrication, testing, warnings, instructions, marketing, packaging, storage or labeling of the relevant product. It includes, but is not limited to, any claim or action previously based on: strict liability in tort; negligence; breach of express or implied warranty; breach of, or failure to, discharge a duty to warn or instruct, whether negligent or innocent; misrepresentation, concealment, or nondisclosure whether negligent or innocent; or other claim or action previously based on any other substantive legal theory except fraud, intentionally caused harm.

(5) “Claimant” includes any person or entity that suffers harm.

(6) “Harm” includes any damages recognized by the courts of this state.

§8.2 Liability of manufacturers

(1) A product manufacturer is subject to liability to a claimant if the claimant’s harm was proximately caused by the negligence of the manufacturer in that the product was not reasonably safe as designed or not reasonably safe because adequate warnings or instructions were not provided.

(a) A product is not reasonably safe as designed, if, at the time of manufacture, the likelihood that the product would cause the claimant’s harm or similar harms, and the seriousness of those harms, outweighed the burden on the manufacturer to design a product that would have prevented those harms and the adverse effect that an alternative design that was practical and feasible would have on the usefulness of the product.

(b) A product is not reasonably safe because adequate warnings or instructions

were not provided with the product, if, at the time of manufacture, the likelihood that the product would cause the claimant’s harm or similar harms, and the seriousness of those harms, rendered the warnings or instructions of the manufacturer inadequate and the manufacturer could have provided the warnings or instructions which the claimant alleges would have been adequate.

(c) A product is not reasonably safe because adequate warnings or instructions were not provided after the product was manufactured where a reasonably prudent manufacturer should have learned about a danger connected with the product after it was manufactured. In such a case, the manufacturer is under a duty to exercise reasonable care to issue warnings or instructions concerning the danger.

§9.3 Liability of product sellers other than manufacturers

(1) A product seller other than a manufacturer is liable to the claimant only if the claimant’s harm was proximately caused by:

(a) The negligence of such product seller; or

(b) Breach of an express warranty made by such product seller; or

(c) The intentional misrepresentation of facts about the product by such product seller or the intentional concealment of information about the product by such product seller.

§9.4 Length of time subject to liability

A product seller shall not be subject to liability to a claimant for harm under this chapter if the product seller proves by a preponderance of the evidence that the harm was caused after the product’s “useful safe life” had expired unless other representations were made.

If the harm was caused more than twelve years after the time of delivery, a presumption

arises that the harm was caused after the useful safe life. This presumption may be rebutted by a preponderance of the evidence. No claim under this chapter may be brought more than three years from the time the claimant discovered or in the exercise of due diligence should have discovered the harm and its cause.

§10.1 Arbitration authorized

Two or more parties may agree in writing to submit to arbitrate any controversy.

§10.2 Motion to compel arbitration

(a) A party to a written agreement for arbitration claiming the neglect or refusal of another to proceed with an arbitration may make application to the court for an order directing the parties to proceed with the arbitration in accordance with their agreement.

(b) Either party shall have the right to demand the immediate trial by jury of any such issue concerning the validity or existence of the arbitration agreement or the failure to comply therewith.

§10.3 Appointment of arbitrators by court

Upon the application of any party to the arbitration agreement, and upon notice to the other parties, the court shall appoint an arbitrator, or arbitrators, in any of the following cases:

(1) When the arbitration agreement does not prescribe a method.

(2) When the arbitration agreement does prescribe a method for the appointment of arbitrators, and the arbitrators, or any of them, have not been appointed and the time within which they shall have been appointed has expired.

(3) When any arbitrator fails or is otherwise unable to act, and his successor has not been appointed.

(4) Where the arbitration agreement is silent as to the number of arbitrators, no more than three arbitrators shall be appointed by the court.

§10.4 Notice of intention to arbitrate – content

When the controversy arises from a written agreement containing a provision to settle by arbitration a controversy thereafter arising between the parties . . . the party demanding arbitration shall serve upon the other party, personally or by registered mail, a written notice of his intention to arbitrate.

§10.5 Hearing by arbitrators

The arbitrators shall appoint a time and place for the hearing and notify the parties and may adjourn the hearing from time to time as may be necessary, and either party, for good cause, may postpone the hearing to a time not extending beyond the date fixed for making the award.

All the arbitrators shall meet and act together during the hearing but a majority of them may determine any question and render a final award.

§10.6 Failure of party to appear

If any party neglects to appear before the arbitrators after reasonable notice of the time and place of hearing, the arbitrators may nevertheless proceed to hear and determine the controversy upon the evidence which is produced before them.

§10.7 Time of making award

If the time within which the award shall be made is not fixed in the arbitration agreement, the award shall be made within thirty days from the closing of the proceeding, unless the parties,

in writing, extend the time in which that award may be made.

§10.8 Representation by attorney

Any party shall have the right to be represented by an attorney at law in any arbitration proceeding or any hearing before the arbitrators.

§10.9 Witnesses

The arbitrators, or a majority of them, may require any person to attend as a witness, and to bring any book, record, document or other evidence. The fees for such attendance shall be the same as the fees of witnesses in the superior court. Each arbitrator shall have the power to administer oaths.

Subpoenas shall issue and be signed by the arbitrators, or any one of them, and shall be directed to the person and shall be served in the same manner as subpoenas to testify before a court of record in this state. If any person summoned to testify shall refuse or neglect to obey such subpoenas, the court may compel the attendance of such person before the arbitrators, or punish said person for contempt in the same manner provided for in the courts.

§10.10 Depositions

With the arbitrator's approval, depositions may be taken in the same manner and upon the same grounds as provided in suits pending in the courts.

§10.11 Form of award

The award shall be in writing and signed by the arbitrators or by a majority of them. The arbitrators shall promptly upon its rendition deliver a copy of the award to each of the parties or their attorneys.

§10.12 Vacation of award – rehearing

In any of the following cases the court shall after notice and hearing make an order vacating the award upon the application of any party to the arbitration:

(1) Where the award was procured by corruption, fraud or other undue means.

(2) Where there was evident partiality or corruption in the arbitrators or any of them.

(3) Where the arbitrators were guilty of misconduct in refusing to postpone the hearing, upon sufficient cause shown, or in refusing to hear evidence, pertinent and material to the controversy; or of any other misbehavior, by which the rights of any party have been prejudiced.

(4) Where the arbitrators exceeded their powers, or so imperfectly performed them that a final and definite award upon the subject matter submitted was not made.

(5) If there was not a valid submission or arbitration agreement and the proceeding was instituted without either serving a notice of intention to arbitrate or serving motion to compel arbitration.

An award shall not be vacated upon any of the grounds set forth under subdivisions (1) to (4), inclusive, unless the court is satisfied that substantial rights of the parties were prejudiced thereby.

Where an award is vacated, the court may, in its discretion, direct a rehearing either before the same arbitrators or before new arbitrators to be chosen in the manner provided in the agreement for the selection of the original arbitrators.

§10.13 Modification or correction of award by court

In any of the following cases, the court shall, after notice and hearing, make an order modifying or correcting the award, upon the application of any party to the arbitration:

(1) Where there was an evident miscalculation of figures, or an evident mistake

in the description of any person, thing or property referred to in the award.

(2) Where the arbitrators have awarded upon a matter not submitted to them.

(3) Where the award is imperfect in a matter of form, not affecting the merits of the controversy.

§10.14 Judgment – costs

Upon the granting of an order confirming, modifying, correcting or vacating an award, judgment or decree shall be entered in conformity therewith. Costs of the application and of the proceedings subsequent thereto, not exceeding twenty-five dollars and disbursements, may be awarded by the court in its discretion.

MANDATORY ARBITRATION OF CIVIL ACTIONS

§11.0 Authorization

The superior court of the county, by majority vote of the judges or the county legislative authority, may authorize mandatory arbitration of civil actions under this chapter.

§11.1 Actions subject to mandatory arbitration

All civil actions, except for appeals from municipal or justice courts, which have authorized arbitration, where the sole relief sought is a money judgment, and where no party asserts a claim in excess of ten thousand dollars, or if approved by the superior court of a county by two-thirds or greater vote of the judges therefore, up to twenty-five thousand dollars, exclusive of interest and costs, are subject to mandatory arbitration.

§11.2 Decision and award – appeals

Following a hearing as prescribed by court rule, the arbitrator shall file his decision and award with the clerk of the superior court, together with proof of service thereof on the parties. Within twenty days after such filing, an aggrieved party may file a written notice of appeal and request for a trial de novo in the superior court on all issues of law and fact. Such trial de novo shall be held, including a right to jury, if demanded.

If no appeal has been filed at the expiration of twenty days following filing of the arbitrator's decision and award, a judgment shall be entered and may be presented to the court by any party, on notice, which judgment when entered shall have the same force and effect as judgments in civil actions.

§11.3 Costs and attorneys' fees

The Supreme Court may by rule provide for costs and reasonable attorney's fees that may be assessed against a party appealing from the award who fails to improve his position on the trial de novo.

§12.0 Payment of wages due to employee ceasing work to occur at end of pay period

When any employee shall cease to work for an employer, whether by discharge or by voluntary withdrawal, the wages due him on account of his employment shall be paid to him at the end of the established pay period.

It shall be unlawful for any employer to withhold or divert any portion of an employee's wages unless the deduction is:

- (1) Required by state or federal law; or
- (2) Specifically agreed upon orally or in writing by the employee and employer; or
- (3) For medical, surgical or hospital care or service.

§12.1 Penalty for noncompliance

Any person, firm, or corporation which violates any of these provisions shall be guilty of a misdemeanor.