

32.05 Measure of Damages--Injury to a Child--Medical Expenses--Past and Future

The reasonable expense of necessary medical care, treatment and services received by the child [and the present cash value of the reasonable expenses of necessary medical care, treatment and services reasonably certain to be received in the future until the child reaches age 18.]

Notes on Use

This element is to be inserted between the two paragraphs of IPI 32.01 when the evidence justifies its use. To include the bracketed material which relates to future medical expenses, there must be evidence that such expenses are reasonably certain to be incurred. If the parent remains liable for future medical expenses after the child reaches age 18, such as where the child is incompetent or disabled, the phrase "until the child reaches age 18" may be deleted.

On the issue of the use of "value" or "expense" for medical care, treatment and services, see 30.06 Notes on Use.

Comment

Parents may recover for medical expenses for which they are obligated resulting from injury to their minor children. 750 ILCS 65/15 (1994); *Graul v. Adrian*, 32 Ill.2d 345, 205 N.E.2d 444 (1965). The usual practice in Illinois is to sue for all damages in the minor's action. This is accomplished by alleging an assignment, or waiver or relinquishment by the parents of their right to recover these damages. *Curtis v. Lowe*, 338 Ill.App. 463, 87 N.E.2d 865 (2d Dist.1949). Any defenses to the parents' action remain defenses to this assigned action. *Kennedy v. Kiss*, 89 Ill.App.3d 890, 412 N.E.2d 624, 45 Ill.Dec. 273 (1st Dist.1980).

Parents are not generally liable for medical expenses incurred by adult children. *Ragan v. Protko*, 66 Ill.App.3d 257, 383 N.E.2d 745, 22 Ill.Dec. 937 (5th Dist.1978); *Sapp v. Johnston*, 15 Ill.App.3d 119, 303 N.E.2d 429 (3d Dist.1973). However, support obligations for a mentally or physically disabled child have been imposed upon the husband and wife after the child attains majority. *Strom v. Strom*, 13 Ill.App.2d 354, 142 N.E.2d 172 (1st Dist.1957); *Freestate v. Freestate*, 244 Ill.App. 166 (1st Dist.1927). See also 750 ILCS 5/513 (1994); 755 ILCS 5/11A-1 et seq. (1994).

While the parents of a minor child are always responsible for the child's medical expenses, the child is not responsible unless the medical care has been rendered on the child's own credit and not on the credit of a parent. *Kennedy v. Kiss*, 89 Ill.App.3d 890, 412 N.E.2d 624, 45 Ill.Dec. 273 (1st Dist.1980).

On the issue of present cash value, see the IPI 34.00 series.