

# Chicago Tribune

## Striking a Balance on Tort Reform

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Americans cherish their right to sue when they think they've been harmed, and for all the complaints about litigiousness, the liability system serves to deter wrongdoing while compensating those who are injured by the actions of others. At its root, it is an excellent way to safeguard these social concerns without a large and expensive central bureaucracy.

But the system is a long way from being perfect. Ask the Chicago Transit Authority, which was sued by the family of a drunk who had ignored barriers, ventured onto the L tracks and proceeded to make the fatal mistake of urinating on the third rail. The CTA was ordered to pay \$1.5 million. Or ask G.D. Searle. It took its Copper-7 IUD off the market in the face of repeated lawsuits-not because it was unsafe, which experts said it wasn't, but because the cost of defending it in court was too great.

Cases like this abound, and they have stirred demands at both the state and the federal level for what is known as "tort reform"-changes to discourage groundless suits, limit awards to reasonable sums and keep safe products on the market. Republicans in Washington and Springfield are both resolved to pass measures that have been foiled in the past.

In Illinois, the most obvious target is the 1907 Structural Work Act, which lets some injured workers collect twice for their misfortune-even if it was their fault. Another is to limit the liability of prop-

erty owners when trespassers suffer some mishap-like the guy on the CTA tracks.

Another good idea being considered by both Congress and the General Assembly is to limit punitive damages in product liability cases and tighten the standards for awarding them. Someone harmed by a defective product is entitled to collect whatever money is needed to compensate for actual damages-lost earnings, medical bills, rehabilitation expenses and the like. But juries may also elect to make a company pay additional money as punishment.

Often the penalty is deserved, but if criminal punishment is limited by law, there is no reason this sort of civil punishment should be restricted only by the generosity of juries. The Republican "Contract with America" proposed to limit punitive damages to triple the actual damages-which should be enough to deter corporate misconduct. But another provision of the contract is not so sound. It says that the losing side should be required to pay the other side's attorney fees. The point is to curb frivolous suits, but it might curb legitimate ones as well-since many plaintiffs would not want to risk all their assets. A better remedy, also proposed by the GOP, is to give judges greater power to punish lawyers who waste the courts' time.

The tort system needs some modest reforms to rein in its obvious excesses. In correcting what is wrong, lawmakers should be careful not to throw out what is right.