

CIVIL PRACTICE AND REMEDIES CODE

TITLE 4. LIABILITY IN TORT

CHAPTER 86. LIABILITY FOR CERTAIN INJURIES TO CONVICTED PERSONS

Sec. 86.001. DEFINITION. In this chapter, "claimant" means a party, including a plaintiff, counterclaimant, cross-claimant, or third-party claimant, seeking recovery of damages.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995. Renumbered from Civil Practice and Remedies Code Sec. 87.001 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(8), eff. Sept. 1, 1997.

Sec. 86.002. RECOVERY OF DAMAGES FOR INJURY TO CONVICTED PERSON PROHIBITED. (a) A claimant who has been convicted of a felony or misdemeanor may not recover damages for an injury sustained during the commission of the felony or misdemeanor if the injury would not have been sustained but for the commission of the felony or misdemeanor.

(b) Subsection (a) does not bar the claimant from recovering damages if the claimant shows that:

(1) the damages arose from an act entirely separate from any act intended to result in the:

(A) prevention of the commission of a felony or misdemeanor by the claimant; or

(B) apprehension of the claimant during or immediately after the commission of the felony or misdemeanor; and

(2) the damages did not arise from a premises defect or other circumstance that the claimant was exposed to as a result of the commission of the felony or misdemeanor.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995. Renumbered from Civil Practice and Remedies Code Sec. 87.002 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(8), eff. Sept. 1, 1997.

Sec. 86.003. DERIVATIVE CLAIMS. Section 86.002 applies to a claim for damages made by a claimant other than a convicted person if:

(1) the claimant's right to recovery results from an injury to a convicted person, including a claim for the wrongful

death of the convicted person or a claim for loss of consortium with or loss of the companionship of the convicted person; and

(2) the convicted person's right to recovery would be barred under Section 86.002.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995. Renumbered from Civil Practice and Remedies Code Sec. 87.003 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(8), eff. Sept. 1, 1997.

Sec. 86.004. CLAIMANT LIABLE FOR COURT COSTS AND FEES AND ATTORNEY'S FEES. A claimant who is barred from recovery under this chapter is liable to the person against whom the claim is brought for court costs and fees and reasonable attorney's fees incurred in defending against the claim.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995. Renumbered from Civil Practice and Remedies Code Sec. 87.004 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(8), eff. Sept. 1, 1997.

Sec. 86.005. CERTAIN TRAFFIC LAW VIOLATIONS EXCLUDED. This chapter does not apply to a claim arising from an offense defined by Subtitle C, Title 7, Transportation Code.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995. Renumbered from Civil Practice and Remedies Code Sec. 87.005 and amended by Acts 1997, 75th Leg., ch. 165, Sec. 30.180, 31.01(8), eff. Sept. 1, 1997.

Sec. 86.006. CONVICTED PERSON. For purposes of this chapter, a person is considered convicted in a case if:

- (1) sentence is imposed; or
- (2) the person receives a fine, probation, or deferred adjudication.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995. Renumbered from Civil Practice and Remedies Code Sec. 87.006 by Acts 1997, 75th Leg., ch. 165, Sec. 31.01(8), eff. Sept. 1, 1997.

Sec. 86.007. APPLICABILITY. This chapter does not apply to:

- (1) a claim for an injury sustained during the

commission of an offense under Section 30.05, Penal Code, other than a trespass in a habitation or shelter, brought by a person who has not been convicted of another crime that occurred in conjunction with the trespass; or

(2) a claim in which the conduct of the owner of the premises is grossly negligent or intentional, other than conduct justified under Subchapter C, Chapter 9, Penal Code.

Added by Acts 1995, 74th Leg., ch. 604, Sec. 1, eff. Aug. 28, 1995.

Renumbered from Civil Practice and Remedies Code Sec. 87.007 by

Acts 1997, 75th Leg., ch. 165, Sec. 31.01(8), eff. Sept. 1, 1997.