

**No. 1-25-1028**

---

**IN THE APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT**

---

JANE DOE J.P.,

Plaintiff-Appellant,

v.

TK BEHAVIORAL, LLC d/b/a  
TIMBERLINE KNOLLS  
RESIDENTIAL TREATMENT  
CENTER, and ACADIA  
HEALTHCARE COMPANY,  
INC.,

Defendants-Appellees.

Trial Court Case No.: 2024 L  
011300

Circuit Court of Cook  
County,  
Law Division

Trial Judge: Hon. Michael F.  
Otto

Date of Notice of Appeal: May  
30, 2025

Date of Judgement: May 13,  
2025

Ill. S. Ct. R. 304(a)

---

**BRIEF AND ARGUMENT FOR PLAINTIFF-APPELLANT**

---

**Attorneys for Plaintiff-Appellant**

Christopher J. Warmbold (6314229)

[cjw@meyers-flowers.com](mailto:cjw@meyers-flowers.com)

Lauren E. Edmunds (6335828)

[lee@meyers-flowers.com](mailto:lee@meyers-flowers.com)

MEYERS & FLOWERS, LLC

3 N. 2<sup>nd</sup> St. Suite 300

St. Charles, Illinois 60174

(630) 232-6333

---

**ORAL ARGUMENT REQUESTED**

**TABLE OF CONTENTS**

POINTS AND AUTHORITIES..... ii

NATURE OF THE ACTION..... 1

ISSUES PRESENTED FOR REVIEW ..... 1

STANDARD OF REVIEW ..... 2

STATEMENT OF JURISDICTION ..... 2

STATUTES INVOLVED ..... 3

STATEMENT OF FACTS..... 4

    A. Allegations concerning Plaintiff’s Sexual Assault. .... 4

    B. The circuit court dismisses Counts VII and VIII of the complaint with  
        prejudice..... 7

ARGUMENT..... 7

    I. Section 11 of the Gender Violence Act creates direct employer  
        liability..... 10

    II. Plaintiff properly plead that the interaction which gave rise to the  
        gender-related violence arose out of and in the course of  
        Hampton’s employment with the Defendants, as required by  
        Section 11(a) of the GVA..... 22

CONCLUSION..... 25

CERTIFICATE OF COMPLIANCE..... 26

PROOF OF SERVICE.....27

APPENDIX .....A-1

**POINTS AND AUTHORITIES**

**Cases**

*B.E. v. A.W.*, 2024 U.S. Dist. LEXIS 154510 ..... 11  
*Banks v. United States*, 2024 U.S. Dist. LEXIS 175592..... 11  
*Bayer v. Panduit Corp. Area Erectors*, 2016 IL 119553 ..... 14  
*Berry v. Bd. of Trs. Of the Univ. of Ill.*, 2024 U.S. Dist. LEXIS 33282..... 11  
*Corral v. Pooh Bah Enters, Inc.*, 2025 U.S. Dist. LEXIS 154399 ..... 11  
*Dawkins v. Fitness Int’l, LLC*, 2022 IL 127561 ..... 19  
*Donald v. City of Chicago*, 724 F. Supp. 3d 704 (NDIL Mar. 20, 2024)..... 11  
*Doe v. Coe*, 2019 IL 123521 ..... 8, 13  
*EEOC v. Sis-Bro Inc.*, 2025 U.S. Dist. LEXIS 10305 ..... 11  
*Gomien v. Wear-Ever Aluminum, Inc.*, 50 Ill.2d 19 (1971) ..... 13  
*Hill v. Target Corp.*, 2025 U.S. Dist. LEXIS 56187..... 11  
*Krohe v. City of Bloomington*, 329 Ill. App. 1133 (4th Dist. 2002) ..... 21  
*Lulay v. Lulay*, 193 Ill. 2d 455 (2000) ..... 16  
*Malorney v. B & L Motor Freight, Inc.*, 146 Ill.App.3d 265  
(1st Dist. 1986) ..... 13  
*McAllister v. The Illinois Workers’ Compensation Comm’n*,  
2020 IL 124848 ..... 22, 23  
*MQ Constr. Co. v. Intercargo Ins. Co.*, 318 Ill.App.3d 673 (1st Dist. 2000) . 22  
*Neade v. Portes*, 193 Ill. 2d 433 (2000) ..... 2  
*Noto v. Shlifka*, 2024 IL App (2d) 240093..... 11  
*O’Neal v. Waste Mgmt. of Ill., Inc.*, 2025 U.S. Dist. LEXIS 106939 ..... 11  
*People v. Billingsley*, 67 Ill. App. 2d 292 (1966)..... 21  
*People v. Casler*, 2020 IL 125117 ..... 12  
*People v. Hanna*, 207 Ill. 2d 486 (2003) ..... 12, 20  
*People v. Hunter*, 2017 IL 121306..... 19  
*People v. McDonald*, 2016 IL 118882 ..... 2  
*Scheffler Greenhouses, Inc. V. Industrial Comm’n*, 66 Ill. 2d 361 (1977) ... 23  
*Simmons v. Homatas*, 236 Ill. 2d 459, 466 (2010)..... 2  
*Sisbro, Inc. V. Industrial Comm'n*, 207 Ill. 2d 193 (2003)..... 23  
*Solaia Tech., LLC v. Specialty Publ.Co.*, 221 Ill.2d 558 (2006) ..... 2

**Statutes**

5 ILCS 70/1.01 ..... 20  
735 ILCS 5/2-615..... 1, 2, 7, 10  
740 ILCS 82/11(a)-(b)..... passim  
740 ILCS 82/5..... 15, 16

740 ILCS 82/ <i>et seq.</i> .....	1, 3, 6
740 ILCS 82/15 .....	9
740 ILCS 82/20 .....	9
820 ILCS 305/ <i>et seq.</i> .....	22

**Rules**

Ill. Sup. Ct. R. 341 .....	26
Illinois Supreme Court Rule 304(a) .....	2

## **NATURE OF THE ACTION**

Plaintiff-Appellant Jane Doe J.P. (“JP”) brought her eight-count Complaint against Defendants alleging negligence and violations of the Illinois Gender Violence Act (740 ILCS 82/*et seq.*), wherein JP alleged she was sexually assaulted by Defendants’ employee while receiving care at Defendants’ residential mental health treatment facility. Defendants include TK Behavioral, LLC, doing business as Timberline Knolls Residential Treatment Center, and its parent, Acadia Healthcare Company, Inc.

At issue in this appeal is the circuit court’s May 13, 2025 Order, which dismissed Counts VII and VIII of Plaintiff’s complaint alleging violations of the Gender Violence Act, with prejudice, pursuant to 735 ILCS 5/2-615. The basis for the Court’s dismissal was that Plaintiff failed to adequately plead a viable cause of action.

## **ISSUES PRESENTED FOR REVIEW**

Whether the trial court erred by construing Section 11 of the Gender Violence Act (740 ILCS 82/11) to prohibit claims against an employer unless their employee’s act of gender violence was perpetrated within the scope of their employment and in furtherance of the employer’s interests. (740 ILCS 82/11).

## **STANDARD OF REVIEW**

The Court's standard of review for a motion to dismiss under Section 2-615 of the Code of Civil Procedure is *de novo*. *Solaia Tech., LLC v. Specialty Publ.Co.*, 221 Ill.2d 558, 579 (2006); *Neade v. Portes*, 193 Ill. 2d 433, 439 (2000).

Issues of statutory construction present questions of law that are subject to *de novo* review. *Simmons v. Homatas*, 236 Ill. 2d 459, 466 (2010). Under the *de novo* standard, the reviewing court performs the same analysis that the trial court would perform. *Id.* (citing *People v. McDonald*, 2016 IL 118882, ¶ 32).

## **STATEMENT OF JURISDICTION**

Jurisdiction of this appeal is provided by Illinois Supreme Court Rule 304(a). Following a hearing on February 13, 2025, the circuit court entered its March 27, 2025 order granting the Defendants' motion to dismiss Count VII and Count VIII of Jane Doe's complaint pursuant to 735 ILCS 5/2-615 with prejudice. Jane Doe moved for reconsideration, which the circuit court denied on May 13, 2025 and modified its prior order making an express finding pursuant to Ill. S. Ct. R. 304(a) that there is no just reason for delaying the appeal of the court's March 27, 2025 order dismissing Count VII and Count VIII of JP's complaint.

JP timely filed her notice of appeal on May 29, 2025.

## **STATUTES INVOLVED**

### **740 ILCS 82/11. Employer liability for an employee or agent.**

(a) An employer is only liable for gender-related violence committed in the workplace by an employee or agent of the employer when the interaction giving rise to the gender-related violence arises out of and in the course of employment with the employer. Liability only extends to gender-related violence that occurs: (i) while the employee was directly performing the employee's job duties and the gender-related violence was the proximate cause of the injury; or (ii) while the agent of the employer was directly involved in the gender-related violence and the performance of the contracted work was the proximate cause of the injury. Proximate cause exists when the actions of the employee or the agent of the employer were a substantial factor in causing the injury.

An employer is liable if the employer has acted in a manner inconsistent with how a reasonable person would act under similar circumstances.

(b) Notwithstanding subsection (a), an employer is only liable for gender-related violence if the employer:

(1) failed to supervise, train, or monitor the employee who engaged in the gender-related violence. An employer providing training pursuant to Section 2-109 of the Illinois Human Rights Act shall have an affirmative defense that adequate training was provided to the employee; or

(2) failed to investigate complaints or reports directly provided to a supervisor, manager, owner, or another person designated by the employer of similar conduct by an employee or agent of the employer and the employer failed to take remedial measures in response to the complaints or reports.

(c) Nothing in this Act precludes a person who has been the victim of gender-related violence from pursuing any other right or cause of action created by statute or common law.

## **STATEMENT OF FACTS**

### **A. Allegations concerning Plaintiff's Sexual Assault.**

In February of 2024, Jane Doe J.P. was eighteen years old and suffered from a past mental health history of bipolar disorder, borderline personality disorder, anxiety disorder, and chronic post-traumatic stress disorder. (C18). In February of 2024, JP voluntarily checked herself into an inpatient mental health treatment facility known as Timberline Knolls Residential Treatment Center (the "Treatment Center"). (C18). The Treatment Center is located in Lamont, Illinois and is owned, operated, and managed by Defendants, TK Behavioral, LLC, doing business as Timberline Knolls Residential Treatment Center, and its parent, Acadia Healthcare Company, Inc. (collectively referred to as "Timberline-Acadia" as well as the "Defendants"). (C15-C16).

Shortly after arriving at the Treatment Center, JP began staying in the facility's "Willow Lodge," which is where JP first encountered Erick Hampton ("Hampton"), a Behavioral Health Associate ("BHA") employed by Timberline-Acadia. (C18). As a BHA, Hampton's responsibilities included monitoring patients and escorting them within the Treatment Center, as patients are not permitted to move about the facility unaccompanied and must be escorted by a BHA. (C18). Soon after her admission into the facility, JP observed Hampton persistently following her around and staring at her. (C18). Over time, this behavior escalated, with Hampton muttering sexually explicit remarks about JP as she

passed him in the hallways, even when she was accompanied by other BHAs. (C18-C19).

In March of 2024, Hampton escorted JP to an area of the Treatment Center called the “Chestnut Lodge,” where there were no surveillance cameras, and he forcibly fondled JP’s breasts. (C19). JP pleaded with Hampton to stop and physically fought him off until she was able to escape. (C19). Following this sexual assault, JP met with the director of Willow Lodge, Eliana Silva, and reported Hampton’s misconduct. (C19). Rather than investigating the matter or taking any action which would prevent Hampton from having further contact with JP (or other residents of the Treatment Center), Silva simply advised JP that she needed to keep her distance. (C19).

On May 10, 2024, Hampton isolated JP again and escorted her to a secluded area in the Treatment Center known as the Acorn Lodge where he sexually assaulted JP for the second time. (C19).

Following the second sexual assault, JP was hospitalized for suicidal ideation. (C19). After her discharge from the hospital, JP was released into Hampton’s custody, who then drove JP to his home in Gary, Indiana, where she was held hostage for approximately one week. (C19). During her captivity, Hampton repeatedly sexually assaulted JP until she was able to obtain a cell phone and contact authorities for assistance. (C19). After escaping Hampton’s home, JP returned to the Treatment Center where she remained until August 10, 2024. (C20).

On October 9, 2024, JP brought her eight-count complaint against Defendants alleging negligence and violations of the Illinois Gender Violence Act (740 ILCS 82/*et seq.*) (“GVA”). (C15-C45). All of JP’s claims establish direct claims of negligence arising from Defendants’ acts and omissions, including Defendants’ negligent retention and supervision of Hampton. Counts VII and VIII of the complaint seek redress under the GVA and establish that Defendants enabled Hampton’s repeated sexual assaults by their negligent retention of Hampton and their failure to supervise Hampton’s interactions with JP in the course of the performance of his job duties. The Defendants’ direct liability under the GVA is premised upon detailed allegations which establish numerous failures of their duty to exercise care for a vulnerable patient such as JP, including their failure: (i) to implement and enforce policies and procedures designed to prevent sexual assault; (ii) to warn JP of the risk posed by Hampton of sexual assault; (iii) to properly train their employees on the prevention of sexual assault; (iv) to provide adequate supervision, monitoring, and control over Hampton; (v) to investigate JP’s report of a sexual assault by Hampton; (vi) to prohibit Hampton from isolating and physically harming JP; (vii) to properly investigate earlier complaints of sexual assault reported before JP’s sexual assault occurred; (viii) to take remedial measures in response to complaints of sexual assault prior to JP’s attack; (ix) to protect JP after they knew or reasonable should have known that Hampton was a threat to JP; (x) to

notify JP's parents that JP had been assaulted by Hampton; and, (x) to notify the police that Hampton had assaulted JP and, when JP was hospitalized, posed a continuing threat to JP's safety. (C40-43).

**B. The circuit court dismisses Counts VII and VIII of the complaint with prejudice.**

On March 27, 2025, the circuit court granted, in part, Defendants' motion to dismiss, finding that Plaintiff's allegations did not establish a cause of action under the GVA. (C206-220). Accordingly, the circuit court dismissed Counts VII and VIII of the complaint pursuant to 735 ILCS 5/2-615. (C220).

**ARGUMENT**

This appeal presents an issue of first impression under the recently amended Illinois Gender Violence Act ("GVA"), 740 ILCS 82/1 *et seq.*, specifically whether Section 11 expands the rights of victims of gender-based violence to hold employers accountable when they fail to take reasonable measures to prevent foreseeable harm by perpetrators under their supervision and control. The circuit court held that it does not, ruling that a GVA claim against an employer may proceed only where the perpetrator's act of gender violence occurred within the scope of employment. That ruling is erroneous because, by definition, acts of gender violence cannot constitute legitimate employment duties, the court's interpretation produces an absurd result contrary to established

principles of statutory construction, and it undermines the legislature's clear intent to expand protections for victims of gender violence.

Prior to the 2023 amendment of the GVA, victims of workplace gender violence were limited to pursuing common-law claims against employers under theories such as negligent hiring, supervision, or retention. Prior to the amendment, there was no distinction between gender violence claims and other torts directed against an employer based upon the employer's negligent hiring, retention, or supervision of its employees. Such common law claims were subject to a two-year statute of limitations and necessarily required significant damages due to the American Rule that requires each party to pay their own attorneys' fees and costs.

Illinois courts have held, prior to the enactment of the GVA, that employers can face direct liability for gender violence perpetrated by their employees. For example, in the pre-GVA case of *Doe v. Coe*, 2019 IL 123521, which involved an employee's egregious gender violence against a minor (repeated sexual assaults), a direct action against the employer was allowed to proceed based on the employer's failure to exercise reasonable care in the retention and supervision of the perpetrator whose job-related interactions with the victim provided the opportunity to commit his crimes. While the plaintiff in *Doe* was able to seek actual damages under the common law, she was deprived of the additional rights granted under the GVA, including an extended statute of

limitations, and the statutory right to seek punitive damages, and recover attorneys' fees and costs. 740 ILCS 82/15, 20.

The circuit court's ruling in this case, if upheld, would effectively nullify the legislature's intent in amending the GVA. The amendment to Section 11 was not intended, as the trial court held, to create direct liability claims against employers for gender violence done in the furtherance of the employer. Prior to the amendment, such direct claims against employers could be brought under the common law if the employer's own conduct established negligent hiring, negligent retention, or negligent supervision. As the goal of the Act is to eliminate all gender violence in the workplace, its statutory remedies, including the provision of attorney's fees and punitive damages, ensures any legitimate claim of gender violence to be prosecuted against an employer who turns a blind eye (or worse) to abuse in the workplace that the employer controls.

The statute requires factual allegations that the gender-related violence arose out of the employment relationship and that the employer itself acted unreasonably in supervising, training, monitoring, or responding to complaints. 740 ILCS 82/11(a)-(b). Properly construed, the statute mirrors the analytical framework of negligent supervision or retention, but provides a distinct statutory cause of action with an expanded statute of limitations and additional remedies such as the

award of attorney's fees, which by design, ensure institutional accountability.

JP's complaint alleged those very failures that resulted in her victimization. The allegations explained how Defendants unreasonably disregarded her report of sexual assault and harassment, failed to supervise or train her abuser, Hampton, and how they permitted him to isolate JP while performing assigned job duties of escorting her as a patient, only for her to be sexually assaulted in the process. These allegations squarely satisfy both subsections (a) and (b) of Section 11. By reading Section 11 as limited to acts committed "in furtherance of the employer" under a *respondeat superior* theory of liability (C 218), the circuit court effectively abrogated the statute, leading to the type of absurd and unjust result Illinois courts are instructed to avoid.

Because JP adequately pled direct employer liability under Section 11, the dismissal of her GVA claims for failing to state a claim (735 ILCS 5/2-615) was in error. For the reasons explained below, this Court should reverse and remand for further proceedings so that the legislature's remedial purpose of ensuring institutional accountability and protecting vulnerable individuals like JP from preventable gender-based violence may be fulfilled.

**I. Section 11 of the Gender Violence Act creates direct employer liability.**

The circuit court fundamentally erred by construing Section 11 of the Gender Violence Act (“GVA”) as limiting claims to vicarious liability for employee misconduct. Properly read, the intent of Section 11 was to create direct liability against employers for their own unreasonable acts or omissions, and JP’s complaint alleged sufficient facts in counts VII and VIII to state a viable cause of action under that provision.

In its order granting the dismissal of JP’s GVA claims, the circuit court noted the amendment recognizing employer liability under Section 11 is “relatively recent, and as such there has not been much scrutiny as to the interpretation and application of the Act in relation to employer liability for employee conduct.” (C309). Indeed, this issue is a matter of first impression in the State of Illinois, as there are few published opinions regarding the GVA after the January 1, 2024 amendment, none of which required an interpretation of Section 11 of the Act. *See Corral v. Pooh Bah Enters, Inc.*, 2025 U.S. Dist. LEXIS 154399; *O’Neal v. Waste Mgmt. of Ill., Inc.*, 2025 U.S. Dist. LEXIS 106939; *Hill v. Target Corp.*, 2025 U.S. Dist. LEXIS 56187; *EEOC v. Sis-Bro Inc.*, 2025 U.S. Dist. LEXIS 10305; *Noto v. Shlifka*, 2024 IL App (2d) 240093; *Banks v. United States*, 2024 U.S. Dist. LEXIS 175592; *B.E. v. A.W.*, 2024 U.S. Dist. LEXIS 154510; *Donald v. City of Chicago*, 724 F. Supp. 3d 704 (NDIL Mar. 20, 2024); *Berry v. Bd. of Trs. Of the Univ. of Ill.*, 2024 U.S. Dist. LEXIS 33282.

The primary objective of statutory construction is to ascertain and give effect to the true intent of the legislature. *People v. Casler*, 2020 IL 125117, ¶ 24. The most reliable indicator of legislative intent is the language of the statute, which is to be given its plain and ordinary meaning. *Id.* A court must view the statute as a whole, construing words and phrases in light of other relevant statutory provisions and not in isolation. *Id.* The court may consider the reason for the law, the problems sought to be remedied, the purposes to be achieved, and the consequences of construing the statute one way or another. *Id.* Statutes must also be construed to avoid absurd or unjust results. *People v. Hanna*, 207 Ill. 2d 486, 498 (2003). When a plain or literal reading of a statute leads to absurd results or results that the legislature could not have intended, courts are not bound to that construction, and the literal reading should yield. *Id.*

To establish her Gender Violence Act counts against Timberline-Acadia under Section 11(a), JP was first required to sufficiently plead: (1) the interaction giving rise to the gender-related violence arose out of and in the course of employment with the employer, in that the employee was either (i) directly performing the employee's job duties and the gender-related violence was the proximate cause of the injury; or (ii) the agent of the employer was directly involved in the gender-related violence and the performance of the contracted work was the proximate cause of the injury; and, (2) that the employer acted in a manner inconsistent with

how a reasonable person would act under similar circumstances. 740 ILCS 82/11(a). This subsection merely establishes the context in which an employer-employee relationship must exist along with setting forth the reasonable-person standard as the threshold for employer liability.

The framework closely parallels Illinois common-law principles governing negligent hiring, retention, or supervision. In those contexts, liability is not based on imputing the employee's tort onto the employer merely because an employee committed a tortious act within the scope of employment but rather premises liability on the employer's own negligence in failing to prevent a foreseeable harm. *See e.g., Doe v. Coe*, 2019 IL 123521 (2019) (reversing the dismissal of negligent hiring, supervision, and retention claims against an employer whose failure to exercise reasonable care in hiring, supervising, or retaining a youth pastor resulted in the sexual assault of a minor); *Malorney v. B & L Motor Freight, Inc.*, 146 Ill.App.3d 265, (1st Dist. 1986) (A cause of action exists against an employer for negligently hiring a person the employer knew, or should have known, was unfit for the job.); *Gomien v. Wear-Ever Aluminum, Inc.*, 50 Ill.2d 19 (1971) (An employer is subject to liability for physical harm to third persons caused by his or her failure to exercise reasonable care to employ a competent and careful employee.). Section 11(a) and (b) of the GVA codify this same underlying principle, transforming the common-law duty of care into a statutory cause of action. Specifically, these provisions create direct employer liability where

an employer, through unreasonable conduct, fails to take appropriate preventive or corrective action in response to gender-related violence. 740 ILCS 82/11(a)–(b).

Critically, Section 11(b) begins with the limiting phrase: “Notwithstanding subsection (a)” which signals that the statute requires additional, more specific facts plead beyond the general duty described in subsection (a), which pertain to the employer’s actions or inactions. 740 ILCS 82/11(b). Specifically, the Act requires factual allegations that the employer must have (1) failed to supervise, train or monitor the employee who engaged in the gender-related violence; or, (2) failed to investigate complaints or reports directly provided to the supervisor, manager, owner, or another person designated by the employer of similar conduct be an employee or agent of the employer and the employer failed to take remedial measures in response to the complaints or reports. *Id.* When read as a whole, as the canons of statutory interpretation require, subsection (a) establishes the threshold employment nexus and the objective reasonable-person standard, while subsection (b) sets forth the type of wrongful conduct that gives rise to a statutory cause of action against the employer. *Bayer v. Panduit Corp. Area Erectors*, 2016 IL 119553 (stating that the canons of statutory interpretation require a statute to be read as a whole.).

When properly construed, the scope of the “interaction” giving rise to the gender related violence stated in the first sentence of Section 11(a)

is limited and clarified by the second sentence of the statute, which says “while the employee was directly performing the employee’s job duties.” The circuit court’s interpretation misunderstood the second sentence of the act, “while the employee was directly performing the employee’s job duties,” as a modification of the definition of “gender-related violence” by only applying it to actions that constitute the direct performance of the employee’s job duties, despite the fact that gender-related violence is already defined under Section 5 of the Act. 740 ILCS 82/5. By conflating the scope of the employment “interaction” with the substantive definition of gender-related violence, the circuit court effectively nullified Section 5’s definition and rendered Section 11 without operative meaning. That interpretation cannot be reconciled with the statute’s structure or language. Section 5 of the GVA separately and comprehensively defines “gender-related violence” as follows:

“Gender-related violence,” which is a form of sex discrimination, means:

(1) One or more acts of violence or physical aggression satisfying the elements of battery under Illinois law that are committed, at least in part, on the basis of a person’s sex, whether or not those acts have resulted in criminal charges, prosecution, or conviction;

(2) A physical intrusion or invasion of a sexual nature under coercive conditions satisfying the elements of battery under Illinois law, whether or not such acts resulted in criminal charges, prosecution, or conviction;

(2.5) Domestic violence, as defined in the Victims' Economic Security and Safety Act; and

(3) A threat of an act described in items (1), (2), or (2.5) causing a realistic apprehension that the originator of the threat will commit the act.

740 ILCS 82/5.

This statutory definition is clear and unambiguous, and nothing in Section 11 suggests that the legislature intended to modify or limit the meaning of “gender-related violence” as being further defined in Section 5. The circuit court’s reading would require accepting the absurd result that the legislature intended to redefine “gender-related violence” as only encompassing acts of sexual assault in furtherance of the employer’s interests, effectively immunizing employers from liability for precisely the type of workplace-related misconduct the GVA was enacted to deter.

A proper interpretation, consistent with statute’s text and intended purpose, recognizes that Section 11(a)’s second sentence does not redefine gender-related violence but rather limits the scope of employer liability to situations occurring in the workplace or within the employer’s sphere of control, where the employer’s duty to supervise, train, or act reasonably toward employees and third parties logically applies. The circuit court’s contrary construction both modifies Section 5’s definition and renders Section 11 meaningless, violating the fundamental rule that all parts of a statute must be read in a manner that gives effect to the entire statutory scheme. *Lulay v. Lulay*, 193 Ill. 2d 455 (2000) (“The statute should be evaluated as a whole, with each provision construed in connection with every other section.”).

The allegations contained in JP's complaint alleged far more than stating Hampton assaulted her during the course of his employment. JP detailed allegations that Timberline-Acadia:

- a. Failed to implement and enforce mandatory policies and procedures designed to prevent the sexual assault of Timberline's patients;
- b. Failed to warn its female patients of the risk posed by Hampton and of sexual assault by its employees and at its facility;
- c. Failed to properly train its employees, including Hampton, in the prevention of sexual assault;
- d. Failed to provide adequate supervision, monitoring, and control over its employee, Hampton, to prohibit him from isolating and physically harming vulnerable female patients, including Doe;
- e. Failed to immediately act upon information it learned from Doe after the first sexual assault occurred, failing to prevent the additional attacks;
- f. Failed to properly investigate earlier complaints of sexual assaults reported before Doe's attack, which could have prevented Doe's attack;
- g. Failed to take remedial measures in response to complaints of sexual assault occurring at its facility prior to Doe's attack;
- h. Employed Hampton in a position which allowed him unsupervised access and authority over its female patients, including Doe;

i. Allowed Hampton to be repeatedly left alone with Doe when it knew or reasonable should have known that Hampton was a threat to Doe and Timberline-Acadia's other patients; and

j. Allowed Hampton to be left alone with Doe, even after receiving a report that Hampton had sexually assaulted Doe.

(C40-C41; C43-C44).

These allegations satisfy both prongs of Section 11 based on the fact Hampton's interactions with JP arose in the course of his duty to escort JP, that the Defendants acted in a manner that was antithetical to how a reasonable person would act, and that the Defendants failed to supervise, train, and monitor Hampton while he was performing his job-related duty of escorting JP to the Chesnut and Acorn lodges. *Id.* The allegations additionally state that Defendants failed to investigate or take remedial measures in response to JP's claims which were made to Hampton's supervisor. *Id.*

The critical fact pled by JP is that it was only through Hampton's BHA job duty of escorting JP to the Chestnut and Acorn lodges that he was able isolate her and then perpetrate an act of sexual assault. (C39; C42). This fact, as alleged in JP's Complaint, satisfies the elements outlined in Section 11(a)(i). 740 ILCS 82/11(a)(i). JP also alleged that Timberline-Acadia, by and through its agents, failed to properly supervise Hampton while he was completing his job duty of escorting JP

to the Chestnut and Acorn lodges, which satisfies the elements of 11(b)(1). (C39-44); 740 ILCS 82/11(b)(1).

JP further alleged that she reported the first sexual assault to the director of the Willow Lodge, Eliana Silva. (C19). After reporting the incident to Silva, no remedial measures were taken, and as a consequence, JP was sexually assaulted on several other occasions. (C19). JP also alleged that in 2019, a therapist at the Treatment Center, sexually assaulted multiple patients, and following that incident, Timberline-Acadia failed to take sufficient remedial measures. (C20-21). These allegations, though not necessary for JP to allege as she already satisfied Section 11(b)(2), only serve to demonstrate her pleading surpassed the Illinois pleading standards and sufficiently stated a claim under the GVA.

Construing Section 11 in the narrow manner the circuit court did by concluding employers are only liable when an assault is committed “in furtherance of the employer” renders Section 11 meaningless. (C218) Because sexual assault can never be characterized as part of an employee’s assigned duties or as advancing an employer’s legitimate business interests, the circuit court’s reading effectively nullified Section 11 in its entirety, producing the type of absurd and unjust results Illinois courts are required to avoid. *See Dawkins v. Fitness Int’l, LLC*, 2022 IL 127561, ¶ 40; *People v. Hunter*, 2017 IL 121306, ¶ 28 (courts should avoid construing a statute in a manner that

'would lead to real-world results that the legislature could not have intended'); *People v. Hanna*, 207 Ill. 2d 486, 498 (2003).

Statutes must be liberally construed to accomplish their intended purpose. *See, e.g.*, 5 ILCS 70/1.01, “The Statute on Statutes” (“All general provisions, terms, phrases and expressions shall be liberally construed in order that the true intent and meaning of the General Assembly may be fully carried out.”). The General Assembly enacted Section 11 to close a gap in accountability for employers who ignore warning signs of gender violence in the workplace and to create safer environments for employees, patients, and other vulnerable individuals like JP.

Section 11’s remedial purpose can only be given full effect by construing Section 11 as imposing direct liability on employers for their own unreasonable acts or omissions. Liability stems from the employer’s independent failures for inadequate training or supervision, lack of monitoring, disregard of complaints, or inaction after being placed on notice of a threat of gender related violence. Interpreted in this way, Section 11 accomplishes what the legislature intended by ensuring employers establish safeguards, respond promptly to complaints, and take reasonable preventative measures to reduce the risk of gender-related violence, while simultaneously providing survivors with a viable remedy against institutions that, through their own inaction, allow foreseeable acts of predation to occur. In other words, it provides victims

of sexual assault, like JP, an avenue for recovery against institutions, that had the clear ability to prevent her from being victimized but failed in every conceivable way in doing so.

If any doubt exists about the General Assembly's purpose in amending the GVA to include Section 11, legislative debates are a proper source for determining legislative intent. *Krohe v. City of Bloomington*, 329 Ill. App. 1133, 1137 (4th Dist. 2002) (citing *People v. Billingsley*, 67 Ill. App. 2d 292, 297 (1966)). The legislative debates on the GVA amendment confirm that Section 11 was not meant to insulate employers when acts of gender violence fall outside of formal "job duties." (C154). As Representative Guzzardi, the bill's sponsor, explained, "[o]ne of the key features of the Act is it has a longer statute of limitations than other forms of relief for these survivors because we know there's often delayed outcry on behalf of survivors of these kinds of offenses" and employers "ought to be held liable if the employee is at the place of work and doing their job, but [the Act is] not requiring that [the gender violence] be tied to their job duties, per se." (C91; C154). He further emphasized in committee that the amendment added "clarifying language" to make the General Assembly's intent explicit. (C153-54).

By adding the language "while directly performing the employee's job duties," the General Assembly clarified that liability arises when performance of the job duty is the proximate cause of gender-related violence, not when the violence itself is a job duty. 740 ILCS 82/11(a)(i).

In her Complaint, JP pled that Defendant's failure to properly supervise Hampton and respond to her prior complaints were the proximate cause of her assault. (C41; C44).

Because JP alleged both the required employment context under Section 11(a) and the Defendants' unreasonable conduct under Section 11(b), dismissal of her claims against Timberline-Acadia was in error. This Court should reverse and remand for further proceedings.

**II. Plaintiff properly pled that the interaction which gave rise to the gender-related violence arose out of and in the course of Hampton's employment with the Defendants, as required by Section 11(a) of the GVA.**

Section 11(a) of the GVA requires that the interaction giving rise to the gender-related violence "arises out of and in the course of employment." 740 ILCS 82/11(a). The Illinois legislature utilized this same phrase in the Illinois Workers' Compensation Act when defining compensable workplace injuries. 820 ILCS 305/*et seq.* Therefore, it is appropriate for this Court to draw an analogy as to how this element has been treated in defining employer liability. *MQ Constr. Co. v. Intercargo Ins. Co.*, 318 Ill. App. 3d 673, 681 (1st Dist. 2000) ("Reference to another statute by analogy is also a common method of interpretation. . .").

In the context of Workers' Compensation law, the Illinois Supreme Court has interpreted "in the course of employment" to refer to the time, place, and circumstances of the employee's injury. *McAllister v. The Illinois Workers' Compensation Comm'n*, 2020 IL 124848, ¶ 34 (citing

*Scheffler Greenhouses, Inc. V. Industrial Comm'n*, 66 Ill. 2d 361, 366-67 (1977)). “Arising out of” refers to the causal connection between the claimant's workplace injury and some risk connected with or incidental to the employment. *Id.* at ¶ 36 (citing *Sisbro, Inc. V. Industrial Comm'n*, 207 Ill. 2d 193,203 (2003)). At issue in this appeal is whether the interaction giving rise to the gender-related violence “arose out of” Hampton’s employment, as there is no dispute that Hampton was employed by the Defendants and was working at the time of the incidents as alleged in Plaintiff’s complaint.

The Illinois Supreme Court recently interpreted the “arising out of” component in *McAllister v. The Illinois Workers’ Compensation Comm’n*, 2020 IL 124848, a case involving a sous-chef working in a restaurant that sustained a right knee injury after kneeling down in a walk-in cooler while helping a co-worker look for a pan of misplaced carrots. *Id.* at ¶¶ 4-6. The Illinois Supreme Court in *McAllister* found that for an injury to “arise out of” employment, the claimant must have been performing an act his employer might have reasonably expected him to perform incident to fulfilling his assigned job duties at the time of the injury. *McAllister*, 2020 IL 124848 at ¶ 51. Because the act of searching for a pan of misplaced carrots on behalf of a coworker was an act his employer might reasonably expect McAllister to perform incidental to his assigned job duty of arranging the walk-in cooler, his knee injury arose out of his employment. *Id.* at ¶52.

This interpretation is particularly instructive here. Just as searching for a misplaced pan of carrots in *McAllister* was an incidental act to the employee's assigned duty of arranging the walk-in cooler his employer reasonably expected him to perform, so too may an interaction incidental to Hampton's duties satisfy Section 11(a) of the GVA, which requires the interaction giving rise to the gender-related violence to have occurred while the employee was performing their job duties. 740 ILCS 82/11. Here, JP specifically alleged that the interaction giving rise to the gender violence occurred while Hampton, in his capacity as a BHA, escorted her through isolated and unsupervised areas of Timberline's facility, namely the Chestnut Lodge and Acorn Lodge. (C18). Escorting patients was an assigned job duty of a BHA, or, at minimum, an act incidental to the assigned job duty of BHAs like Hampton, and, therefore, Timberline-Arcadia reasonably expected Hampton to perform such tasks. (C18; C39; C42).

Although Hampton's subsequent acts of sexual assault were committed solely for his own benefit, the predicate interaction of escorting JP through secluded areas of the Treatment Center was itself within the scope of his job duties or, at minimum, incidental to them, and the Defendants reasonably expected Hampton to perform such tasks. In fact, it was Timberline-Arcadia's policy that patients like JP must be escorted around the Treatment Center by the BHAs, making this action by Hampton clearly foreseeable to Defendants. (C18). Under

*McAllister*, this satisfies the “arising out of and in the course of employment” requirement.

The facts alleged in the Complaint not only meet but exceed Illinois’ fact-pleading requirement to state a claim for relief under Section 11 of the GVA, as Hampton was performing a job duty at the time the gender-related violence occurred, which meets the “arose out of” element of Section 11(a) of the Act. Therefore, the circuit court’s March 27, 2025 order dismissing Counts VII and VIII of Plaintiff’s complaint was in error and should be reversed.

### **CONCLUSION**

Section 11 of the Illinois Gender Violence Act creates direct liability for an employer’s own negligence; it does not impute vicarious liability to an employer for an employee’s negligence. This is evident by the plain language of the Act, and because any other interpretation of Section 11 renders the Act null, which is a result that Illinois courts are required to avoid. Moreover, interpreting the Act as creating direct liability gives sufficient consideration to the statute’s purpose. As the perpetrator of the gender-related violence, Hampton, was performing a job duty that he was reasonably expected to perform at the time of the sexual assault, JP’s Complaint sufficiently pled the elements of Section 11, and therefore the circuit court’s decision should be reversed.

## **CERTIFICATE OF COMPLIANCE**

The undersigned hereby certifies that this Brief complies with the requirements of Ill. Sup. Ct. R. 341 (a) and (b). The length of this brief is, excluding the pages contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), contains 25 pages.

*/s/ Christopher J. Warmbold*  
Christopher J. Warmbold

Christopher J. Warmbold  
Lauren E. Edmunds  
Meyers & Flowers, LLC  
3 North Second Street, Suite 300  
St. Charles, Illinois 60174  
(630) 232-6333  
[Cjw@meyers-flowers.com](mailto:Cjw@meyers-flowers.com)  
[Lee@meyers-flowers.com](mailto:Lee@meyers-flowers.com)

**PROOF OF SERVICE**

Under the penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that I served the foregoing Brief and Argument for Plaintiff – Appellant upon the following individuals listed below on October 7, 2025, by electronic mail to:

Kathleen M. Klein  
CLAUSEN MILLER, P.C.  
10 S LaSalle Street – Suite 1600  
Chicago, IL 60603  
P: 312-855-1010  
[kklein@clausen.com](mailto:kklein@clausen.com)  
[mdyson@clausen.com](mailto:mdyson@clausen.com)  
[ebruce@clausen.com](mailto:ebruce@clausen.com)  
[jvanaalst@clausen.com](mailto:jvanaalst@clausen.com)

/s/ Christopher Warmbold  
Christopher Warmbold