

Article - Courts and Judicial Proceedings

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§3-904.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, an action under this subtitle shall be for the benefit of the wife, husband, parent, and child of the deceased person.

(2) A parent may not be a beneficiary in a wrongful death action for the death of a child of the parent if:

(i) 1. The parent is convicted under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article; or

2. The parent committed an act prohibited under §§ 3-303 through 3-308, § 3-323, § 3-601, or § 3-602 of the Criminal Law Article;

(ii) The other parent of the child is the victim of the crime or act described under item (i) of this paragraph; and

(iii) The other parent of the child is a child of the parent.

(3) (i) An action under this subtitle for the wrongful death of a child caused by the parent of the child allowed under the provisions of § 5-806 of this article may not be for the benefit of that parent of the deceased child.

(ii) An action under this subtitle for the wrongful death of a parent caused by a child of the parent allowed under the provisions of § 5-806 of this article may not be for the benefit of that child of the deceased parent.

(b) If there are no persons who qualify under subsection (a) of this section, an action shall be for the benefit of any person related to the deceased person by blood or marriage who was substantially dependent upon the deceased.

(c) (1) In an action under this subtitle, damages may be awarded to the beneficiaries proportioned to the injury resulting from the wrongful death.

(2) Subject to § 11-108(d)(2) of this article, the amount recovered shall be divided among the beneficiaries in shares directed by the verdict.

(d) The damages awarded under subsection (c) of this section are not limited or restricted by the “pecuniary loss” or “pecuniary benefit” rule but may include damages for mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, marital care, parental care, filial care, attention, advice, counsel, training, guidance, or education where applicable for the death of:

(1) A spouse;

- (2) A minor child;
- (3) A parent of a minor child; or
- (4) An unmarried child who is not a minor child if:

- (i) The child is 21 years old or younger; or

- (ii) A parent contributed 50 percent or more of the child's support within the 12-month period immediately before the date of death of the child.

(e) For the death of a child, who is not described under subsection (d) of this section, or a parent of a child, who is not a minor child, the damages awarded under subsection (c) of this section are not limited or restricted by the "pecuniary loss" or "pecuniary benefit" rule but may include damages for mental anguish, emotional pain and suffering, loss of society, companionship, comfort, protection, care, attention, advice, counsel, training, education, or guidance where applicable.

(f) Only one action under this subtitle lies in respect to the death of a person.

(g) (1) Except as provided in paragraph (2) or (3) of this subsection, an action under this subtitle shall be filed within three years after the death of the injured person.

(2) (i) In this paragraph, "occupational disease" means a disease caused by exposure to any toxic substance in the person's workplace and contracted by a person in the course of the person's employment.

(ii) If an occupational disease was a cause of a person's death, an action shall be filed:

- 1. Within 10 years of the time of death; or

- 2. Within 3 years of the date when the cause of death was discovered, whichever is the shorter.

(3) (i) This paragraph applies only to a wrongful death cause of action arising from conduct that would constitute a criminal homicide under State or federal law.

(ii) If knowledge of a cause of action or the identity of a person whose wrongful act contributed to a homicide is kept from a party by the conduct of an adverse party or an accessory or accomplice of an adverse party:

- 1. The cause of action shall be deemed to accrue at the time the party discovered or should have discovered by the exercise of ordinary diligence the homicide and the identity of the person who contributed to the homicide;

- 2. A presumption shall exist that the party should have

discovered by the exercise of ordinary diligence the identity of the person who contributed to the homicide after:

A. A charging document is filed against the person alleged to have participated in the homicide; and

B. The charging document is unsealed and available to the public; and

3. An action under this subtitle shall be filed within 3 years after the date that the cause of action accrues.

(h) For the purposes of this section, a person born to parents who have not participated in a marriage ceremony with each other is considered to be the child of the mother. The person is considered to be the child of the father only if the father:

(1) Has been judicially determined to be the father in a proceeding brought under § 5–1010 of the Family Law Article or § 1–208 of the Estates and Trusts Article; or

(2) Prior to the death of the child:

(i) Has acknowledged himself, in writing, to be the father;

(ii) Has openly and notoriously recognized the person to be his child;

or

(iii) Has subsequently married the mother and has acknowledged himself, orally or in writing, to be the father.

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