
By: Senator Stone (Task Force to Examine Maryland's Crime Victims' Rights Laws)

Introduced and read first time: January 31, 1997

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Wrongful Death Actions**

3 FOR the purpose of providing that in a claim for noneconomic damages for the wrongful
4 death of an adult, if no other person qualifies under current law, a claim for
5 noneconomic damages shall be for the benefit of the deceased person's parent or
6 parents and the deceased person's adult child or adult children; providing that for
7 the wrongful death of an adult child or the wrongful death of the parent of an adult
8 child the damages awarded to specified beneficiaries may include certain
9 noneconomic damages under certain circumstances; altering the extent to which
10 certain persons shall have been dependent on the deceased person in order to
11 qualify as beneficiaries in a wrongful death action; providing that a person born to
12 parents who have not married shall be considered the child of the father under
13 certain circumstances for purposes of a wrongful death action; providing that when
14 a wrongful death cause of action accrues in favor of a person who is under a
15 disability of minority or mental incompetence the period of limitations for the
16 wrongful death action is tolled under certain circumstances; defining a certain term;
17 clarifying language; making stylistic changes; providing for the application of this
18 Act; and generally relating to wrongful death actions.

19 BY repealing and reenacting, with amendments,
20 Article - Courts and Judicial Proceedings
21 Section 3-901, 3-904, and 5-201
22 Annotated Code of Maryland
23 (1995 Replacement Volume and 1996 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
25 MARYLAND, That the Laws of Maryland read as follows:

26 **Article - Courts and Judicial Proceedings**

27 3-901.

28 (a) In this subtitle, the following terms have the meanings indicated.

29 (B) "ADULT" INCLUDES AN EMANCIPATED MINOR.

30 [(b)] (C) "Child" means a legitimate or an illegitimate child.

2

1 [(c)] (D) "Parent" includes the mother and father of a deceased illegitimate child.

2 [(d)] (E) "Person" includes an individual, receiver, trustee, guardian, executor,
3 administrator, fiduciary, or representative of any kind, or any partnership, firm,
4 association, public or private corporation, or any other entity.

5 [(e)] (F) "Wrongful act" means an act, neglect, or default including a felonious
6 act which would have entitled the party injured to maintain an action and recover
7 damages if death had not ensued.

8 3-904.

9 (a) An action under this subtitle shall be for the benefit of the wife, husband,
10 parent, and child of the deceased person.

11 (b) If there [are no persons] IS NO PERSON who [qualify] QUALIFIES under
12 subsection (a) OF THIS SECTION, an action UNDER THIS SUBTITLE shall be for the
13 benefit of any person related to the deceased person by blood or marriage who was
14 [wholly] SUBSTANTIALLY dependent upon the deceased PERSON.

15 (C) (1) (I) IN A CLAIM FOR NONECONOMIC DAMAGES FOR THE DEATH OF
16 AN ADULT, AN ACTION UNDER THIS SUBTITLE SHALL BE FOR THE BENEFIT OF ALL,
17 IF ANY, OF THE FOLLOWING:

- 18 1. THE DECEASED PERSON'S SPOUSE;
- 19 2. THE DECEASED PERSON'S MINOR CHILD OR MINOR
20 CHILDREN; AND
- 21 3. THE DECEASED PERSON'S PARENT OR PARENTS, IF THE
22 DECEASED PERSON IS UNMARRIED AND:
- 23 A. IS 21 YEARS OLD OR YOUNGER; OR
- 24 B. THE DECEASED PERSON'S PARENT OR PARENTS
25 CONTRIBUTED AT LEAST 50% OF THE DECEASED PERSON'S SUPPORT.

26 (II) IN A CLAIM FOR NONECONOMIC DAMAGES FOR THE DEATH OF
27 A MINOR CHILD, AN ACTION UNDER THIS SUBTITLE SHALL BE FOR THE BENEFIT OF
28 ALL, IF ANY, OF THE FOLLOWING:

- 29 1. THE DECEASED PERSON'S PARENT OR PARENTS; AND
- 30 2. THE DECEASED PERSON'S MINOR CHILD OR MINOR
31 CHILDREN.

32 (2) IN A CLAIM FOR NONECONOMIC DAMAGES FOR THE DEATH OF AN
33 ADULT IF THERE IS NO PERSON WHO QUALIFIES UNDER PARAGRAPH (1) OF THIS
34 SUBSECTION, A CLAIM FOR NONECONOMIC BENEFITS SHALL BE FOR THE BENEFIT
35 OF ALL, IF ANY, OF THE FOLLOWING:

- 36 (I) THE DECEASED PERSON'S PARENT OR PARENTS; AND
- 37 (II) THE DECEASED PERSON'S ADULT CHILD OR ADULT CHILDREN.

3

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

3 (2) The amount recovered shall be divided among the beneficiaries in shares
4 directed by the verdict.

5 [(d)] (E) For the death of a spouse, minor OR ADULT child, or parent of a minor
6 OR PARENT OF AN ADULT child, the damages awarded under subsection [(c)] (D) OF
7 THIS SECTION are not limited or restricted by the "pecuniary loss" or "pecuniary benefit"
8 rule but may include damages for mental anguish, emotional pain and suffering, loss of
9 society, companionship, comfort, protection, marital care, parental care, filial care,
10 attention, advice, counsel, training, guidance, or education where applicable.

11 [(e) For the death of an unmarried child, who is not a minor child, the damages
12 awarded under subsection (c) are not limited or restricted by the "pecuniary loss" or
13 "pecuniary benefit" rule but may include damages for mental anguish, emotional pain and
14 suffering, loss of society, companionship, comfort, protection, care, attention, advice,
15 counsel, training, or guidance where applicable if:

16 (1) The child is 21 years old or younger; or

17 (2) A parent contributed 50 percent or more of the child's support.]

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

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

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

24 (ii) If an occupational disease was a cause of a person's death, an
25 action shall be filed, WITHIN THE LESSER OF:

26 1. [Within] 10 years of the time of death; or

27 2. [Within] 3 years of the date when the cause of death was
28 discovered[, whichever is the shorter].

29 (h) For the purposes of this section, a person born to parents who have not
30 participated in a marriage ceremony with each other is considered to be:

31 (1) [the] THE child of the mother[. The person is considered to be the];
32 AND

33 (2) THE child of the father only if the father:

34 [(1) has] (I) HAS been judicially determined to be the father in a
35 proceeding brought under § 5-1010 of the Family Law Article [,] or § 1-208 OF THE
36 ESTATES AND TRUSTS ARTICLE;

37 [(2) prior to] (II) BEFORE the death of the child[, (a) has]:

4

1 1. HAS acknowledged himself, in writing, to be the father [, or
2 (b) has];

3 2. HAS openly and notoriously recognized the person to be his
4 child [, or (c) has]; OR

5 3. HAS subsequently married the mother and has acknowledged
6 himself, orally or in writing, to be the father; OR

7 (III) IS SHOWN BY SCIENTIFIC EVIDENCE TO BE THE FATHER.

8 5-201.

9 (a) When a cause of action subject to a limitation under Subtitle 1 of this title OR
10 TITLE 3, SUBTITLE 9 OF THIS ARTICLE accrues in favor of a minor or mental
11 incompetent, that person shall file his action within the lesser of three years or the
12 applicable period of limitations after the date the disability is removed.

13 (b) This section does not apply if the statute of limitations has more than three
14 years to run when the disability is removed.

15 (c) Imprisonment, absence from the State, or marriage are not disabilities which
16 extend the statute of limitations.

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
18 only prospectively and may not be applied or interpreted to have any effect on or
19 application to any cause of action arising before the effective date of this Act.

20 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 1997.