

CF 7r1845

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**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

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## A BILL ENTITLED

1 AN ACT concerning

**2 Estates and Trusts - Personal Representatives - Survival Actions**

3 FOR the purpose of providing that, in a survival action, a personal representative may  
 4 recover administrative costs and attorney's fees for the administration of the  
 5 decedent's estate and the loss of the decedent's future income during the decedent's  
 6 life expectancy; providing that a personal representative may not recover certain  
 7 economic damages to the extent that those same damages are recovered under a  
 8 wrongful death action by a beneficiary of the decedent; providing for the application  
 9 of this Act; and generally relating to certain damages in a certain legal action  
 10 instituted by a personal representative.

11 BY repealing and reenacting, with amendments,  
 12 Article - Estates and Trusts  
 13 Section 7-401(x)(2)  
 14 Annotated Code of Maryland  
 15 (1991 Replacement Volume and 1996 Supplement)

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

**18 Article - Estates and Trusts**

19 7-401.

20 (x) He may prosecute, defend, or submit to arbitration actions, claims, or  
 21 proceedings in any appropriate jurisdiction for the protection or benefit of the estate,  
 22 including the commencement of a personal action which the decedent might have  
 23 commenced or prosecuted, except that:

24 (2) In ADDITION TO OTHER DAMAGES RECOVERABLE IN THE ACTION,  
 25 IN an action instituted by the personal representative against a tort-feasor for a wrong  
 26 which resulted in the death of the decedent, the personal representative may recover,  
 27 EXCEPT TO THE EXTENT THAT THE SAME ECONOMIC DAMAGES ARE RECOVERED  
 28 UNDER § 3-904 OF THE COURTS AND JUDICIAL PROCEEDINGS ARTICLE:

29 (I) [the] THE funeral expenses of the decedent up to the amount  
 30 allowed under § 8-106(b) of this article [in addition to other damages recoverable in the  
 31 action];

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1 (II) ADMINISTRATIVE COSTS AND REASONABLE ATTORNEY'S FEES  
2 FOR THE ADMINISTRATION OF THE DECEDENT'S ESTATE; AND

3 (III) LOSS OF THE DECEDENT'S FUTURE EARNINGS, WAGES, AND  
4 OTHER INCOME DURING THE DECEDENT'S LIFE EXPECTANCY.

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

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