
By: **Delegate Fulton**

Introduced and read first time: February 23, 1999

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Wrongful Death - Intestate Succession - Parent Not Entitled to Damages or**
3 **Distribution**

4 FOR the purpose of prohibiting a parent of a child who has been the victim of sexual
5 abuse by that parent from receiving damages awarded in an action for wrongful
6 death; prohibiting a parent of a child who has been the victim of sexual abuse by
7 that parent from receiving a distribution from the intestate estate of the child;
8 providing for the application of this Act; making this Act an emergency measure;
9 and generally relating to the prevention of a parent who has sexually abused the
10 child of the parent from receiving any benefit from an action for wrongful death
11 or an intestate succession distribution.

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 3-904
15 Annotated Code of Maryland
16 (1998 Replacement Volume)

17 BY adding to
18 Article - Estates and Trusts
19 Section 3-111
20 Annotated Code of Maryland
21 (1991 Replacement Volume and 1998 Supplement)

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

24 **Article - Courts and Judicial Proceedings**

25 3-904.

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

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

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

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

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

13 (1) A spouse;

14 (2) A minor child;

15 (3) A parent of a minor child; or

16 (4) An unmarried child who is not a minor child if:

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

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

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

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

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

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

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

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

