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By: Delegate Fulton
Introduced and read first time: February 23, 1999
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

Wrongful Death - Intestate Succession - Parent Not Entitled to Damages or 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
- 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;
- and generally relating to the prevention of a parent who has sexually abused the
- child of the parent from receiving any benefit from an action for wrongful death
- 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.

	(b) If there are no persons who qualify under subsection (a), 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.							
4 5	(c) (1) In an action under this subtitle, damages may be awarded to the beneficiaries proportioned to the injury resulting from the wrongful death.							
6 7	(2) divided among the		to § 11-108(d)(2) of this article, the amount recovered shall be s in shares directed by the verdict.					
10 11	(d) The damages awarded under subsection (c) 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:							
13	(1)	A spous	e;					
14	(2)	A minor	child;					
15	(3)	A paren	t of a minor child; or					
16	(4)	An unm	arried child who is not a minor child if:					
17		(i)	The child is 21 years old or younger; or					
18 19		(ii) nth period im	A parent contributed 50 percent or more of the child's support amediately before the date of death of the child.					
22 23 24	(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) 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.							
26	Only one action under this subtitle lies in respect to the death of a person.							
	(g) (1) Except as provided in paragraph (2) 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.							
33 34	action shall be fil	(ii) ed:	If an occupational disease was a cause of a person's death, an					
35			1. Within 10 years of the time of death; or					

HOUSE BILL 1100

1 2	discovered, whichever	r is the sh	2. norter.	Within 3 years of the date when the cause of death was				
	(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							
9	(2)	Prior to the death of the child:						
10		(i)	Has ack	knowledged himself, in writing, to be the father;				
11 12	child; or	(ii)	Has ope	enly and notoriously recognized the person to be his				
13 14	himself, orally or in v	(iii) writing, to		bsequently married the mother and has acknowledged father.				
	5 (I) THIS SECTION DOES NOT APPLY TO A PARENT WHO HAS BEEN CONVICTED 6 OF SEXUAL ABUSE OF A CHILD OF THAT PARENT UNDER ARTICLE 27, § 35C OF THE 7 CODE.							
18				Article - Estates and Trusts				
19	3-111.							
	SECTION 3-104 OF THIS SUBTITLE DOES NOT APPLY TO A PARENT WHO HAS BEEN CONVICTED OF SEXUAL ABUSE OF A CHILD OF THAT PARENT UNDER ARTICLE 27, § 35C OF THE CODE.							
25	SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed retroactively and shall be applied to and interpreted to affect a claim for damages in an action for wrongful death or for rights in an intestate estate, of a child whose death occurred on or after August 1, 1998.							
29 30	SECTION 3. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health and safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.							