

SENATE BILL 87

Unofficial Copy  
N2

1999 Regular Session  
9lr0635

---

By: **Senator Conway**

Introduced and read first time: January 15, 1999

Assigned to: Judicial Proceedings

---

A BILL ENTITLED

1 AN ACT concerning

2 **Estates and Trusts - Adopted Child's Claim to Biological Parent's Estate**

3 FOR the purpose of authorizing a certain adopted child to make a certain claim for  
4 distribution of the net estate of a certain deceased biological parent under  
5 certain circumstances; limiting the right to make a claim to a certain person;  
6 setting a certain time limitation on the right to make a claim; establishing  
7 procedural requirements; allowing a certain adopted child to make a claim for a  
8 refund of the payment of a deceased biological parent's net estate to a certain  
9 entity under certain circumstances; providing for the application of this Act; and  
10 generally relating to the right of a certain adopted child to make a claim for  
11 distribution of the net estate of a deceased biological parent.

12 BY repealing and reenacting, without amendments,  
13 Article - Estates and Trusts  
14 Section 1-102  
15 Annotated Code of Maryland  
16 (1991 Replacement Volume and 1998 Supplement)

17 BY adding to  
18 Article - Estates and Trusts  
19 Section 3-104.1  
20 Annotated Code of Maryland  
21 (1991 Replacement Volume and 1998 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article - Estates and Trusts  
24 Section 3-105 and 9-108(b)(1)  
25 Annotated Code of Maryland  
26 (1991 Replacement Volume and 1998 Supplement)

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

1

**Article - Estates and Trusts**

2 1-102.

3 (a) When a writing is required to be verified by this article, verification is  
4 sufficient if the writing is signed by the person required to make the verification, and  
5 if it contains the representation contained in subsection (b) of this section.

6 (b) The form of verification is:

7 I do solemnly declare and affirm under the penalties of perjury that the contents  
8 of the foregoing document are true and correct to the best of my knowledge,  
9 information, and belief.

10 (c) Every inventory, account, and other document containing recitations of fact  
11 must be verified.

12 3-104.1.

13 (A) THE PROVISIONS OF THIS SECTION ARE APPLICABLE IF THERE IS NO  
14 PERSON ENTITLED TO TAKE UNDER §§ 3-102 THROUGH 3-104 OF THIS SUBTITLE.

15 (B) A CHILD OF THE DECEDENT WHO HAS BEEN ADOPTED AND BY LAW IS NOT  
16 CONSIDERED THE NATURAL CHILD OF THE DECEDENT MAY MAKE A WRITTEN CLAIM  
17 FOR DISTRIBUTION OF THE NET ESTATE OF THE DECEDENT.

18 (C) THE RIGHT OF A CHILD OF THE DECEDENT TO MAKE A CLAIM UNDER  
19 SUBSECTION (B) OF THIS SECTION IS PERSONAL TO THE CHILD, NOT TRANSFERABLE,  
20 AND CANNOT BE EXERCISED SUBSEQUENT TO THE CHILD'S DEATH.

21 (D) A CLAIM BY A CHILD OF THE DECEDENT TO TAKE THE NET ESTATE UNDER  
22 SUBSECTION (B) OF THIS SECTION SHALL BE MADE NOT LATER THAN 7 MONTHS  
23 AFTER THE DATE OF FIRST APPOINTMENT OF A PERSONAL REPRESENTATIVE.

24 (E) A CLAIM TO TAKE THE NET ESTATE OF A DECEDENT UNDER SUBSECTION  
25 (B) OF THIS SECTION SHALL:

26 (1) BE IN WRITING AND SIGNED BY THE DECEDENT'S SURVIVING CHILD  
27 WHO HAS BEEN ADOPTED;

28 (2) BE FILED IN THE COURT IN WHICH THE PERSONAL  
29 REPRESENTATIVE WAS APPOINTED;

30 (3) INCLUDE PROOF OF BIOLOGICAL PARENTAGE BY A CERTIFIED BIRTH  
31 CERTIFICATE OR BLOOD TEST; AND

32 (4) BE VERIFIED IN ACCORDANCE WITH § 1-102 OF THIS ARTICLE.

1 3-105.

2 (a) (1) The provisions of this subsection are applicable if there is no person  
3 entitled to take under §§ 3-102 through [3-104] 3-104.1 of this subtitle.

4 (2) (i) If an individual was a recipient of long-term care benefits  
5 under the Maryland Medical Assistance Program at the time of the individual's death,  
6 the net estate shall be converted to cash and paid to the Department of Health and  
7 Mental Hygiene, and shall be applied for the administration of the program.

8 (ii) If the provisions of subparagraph (i) of this paragraph are not  
9 applicable, the net estate shall be converted to cash and paid to the board of education  
10 in the county in which the letters were granted, and shall be applied for the use of the  
11 public schools in the county.

12 (b) (1) After payment has been made to the Department of Health and  
13 Mental Hygiene or to the board of education, if a claim for refund is filed by a relative  
14 within the fifth degree living at the death of the decedent, [or] by the personal  
15 representative of the relative, OR BY A CHILD OF THE DECEDENT WHO MAKES A  
16 CLAIM THAT MEETS THE REQUIREMENTS OF § 3-104.1(E) OF THIS SUBTITLE, and the  
17 claim is allowed, the claimant shall be entitled to a refund, without interest, of the  
18 sum paid.

19 (2) A claim for refund under this subsection may not be filed after the  
20 later of:

21 (i) 3 years after the death of the decedent; or

22 (ii) 1 year after the time of distribution of the property.

23 9-108.

24 (b) (1) If, after payment has been made to the board of education, a claim for  
25 refund is filed by the heir or legatee, [or] by the personal representative of the heir or  
26 legatee, OR BY A CHILD OF THE DECEDENT WHO MAKES A CLAIM THAT MEETS THE  
27 REQUIREMENTS OF § 3-104.1(E) OF THIS ARTICLE, the claimant is entitled to a refund,  
28 without interest, of the sum paid, or the proceeds from the sale of property if not in  
29 the form of cash when transferred to the board of education, or the fair market value  
30 at the time of transfer if not converted to cash.

31 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
32 construed only prospectively and may not be applied or interpreted to have any effect  
33 on or application to the administration of any estate filed before the effective date of  
34 this Act.

35 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
36 October 1, 1999.