

HOUSE BILL 707

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2lr1187
CF SB 453

By: **Delegates Valentino-Smith, Cluster, Cullison, A. Kelly, McComas, McDermott, Parrott, Proctor, Valderrama, and Vallario**

Introduced and read first time: February 8, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Wrongful Death and Survival Causes of Action – Criminal Homicide – Time**
3 **Limits for Bringing Civil Action**

4 FOR the purpose of providing that a wrongful death cause of action or survival cause
5 of action arising from conduct that constitutes a criminal homicide under State
6 or federal law accrues at a certain time under certain circumstances;
7 establishing a presumption that a party should have discovered the identity of a
8 person who contributed to a criminal homicide under certain circumstances;
9 providing for the application of this Act; and generally relating to certain time
10 limits for bringing certain civil actions concerning a criminal homicide.

11 BY repealing and reenacting, with amendments,
12 Article – Courts and Judicial Proceedings
13 Section 3–904(g)(1)
14 Annotated Code of Maryland
15 (2006 Replacement Volume and 2011 Supplement)

16 BY adding to
17 Article – Courts and Judicial Proceedings
18 Section 3–904(g)(3) and 5–203.1
19 Annotated Code of Maryland
20 (2006 Replacement Volume and 2011 Supplement)

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

23 **Article – Courts and Judicial Proceedings**

24 3–904.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (g) (1) Except as provided in paragraph (2) OR (3) of this subsection, an
2 action under this subtitle shall be filed within three years after the death of the
3 injured person.

4 (3) (I) THIS PARAGRAPH APPLIES ONLY TO A WRONGFUL
5 DEATH CAUSE OF ACTION ARISING FROM CONDUCT THAT WOULD CONSTITUTE A
6 CRIMINAL HOMICIDE UNDER STATE OR FEDERAL LAW.

7 (II) IF KNOWLEDGE OF A CAUSE OF ACTION OR THE
8 IDENTITY OF A PERSON WHOSE WRONGFUL ACT CONTRIBUTED TO A HOMICIDE
9 IS KEPT FROM A PARTY BY THE CONDUCT OF AN ADVERSE PARTY OR AN
10 ACCESSORY OR ACCOMPLICE OF AN ADVERSE PARTY:

11 1. THE CAUSE OF ACTION SHALL BE DEEMED TO
12 ACCRUE AT THE TIME THE PARTY DISCOVERED OR SHOULD HAVE DISCOVERED
13 BY THE EXERCISE OF ORDINARY DILIGENCE THE HOMICIDE AND THE IDENTITY
14 OF THE PERSON WHO CONTRIBUTED TO THE HOMICIDE;

15 2. A PRESUMPTION SHALL EXIST THAT THE PARTY
16 SHOULD HAVE DISCOVERED BY THE EXERCISE OF ORDINARY DILIGENCE THE
17 IDENTITY OF THE PERSON WHO CONTRIBUTED TO THE HOMICIDE AFTER:

18 A. A CHARGING DOCUMENT IS FILED AGAINST THE
19 PERSON ALLEGED TO HAVE PARTICIPATED IN THE HOMICIDE; AND

20 B. THE CHARGING DOCUMENT IS UNSEALED AND
21 AVAILABLE TO THE PUBLIC; AND

22 3. AN ACTION UNDER THIS SUBTITLE SHALL BE
23 FILED WITHIN 3 YEARS AFTER THE DATE THAT THE CAUSE OF ACTION ACCRUES.

24 5-203.1.

25 (A) THIS SECTION APPLIES ONLY TO A SURVIVAL CAUSE OF ACTION
26 ARISING FROM CONDUCT THAT CONSTITUTES A CRIMINAL HOMICIDE UNDER
27 STATE OR FEDERAL LAW.

28 (B) IF KNOWLEDGE OF A CAUSE OF ACTION CONCERNING A HOMICIDE
29 OR THE IDENTITY OF A PERSON WHO CONTRIBUTED TO THE HOMICIDE IS KEPT
30 FROM A PARTY BY THE CONDUCT OF AN ADVERSE PARTY OR AN ACCESSORY OR
31 ACCOMPLICE OF AN ADVERSE PARTY:

1 **(1) THE CAUSE OF ACTION SHALL BE DEEMED TO ACCRUE AT THE**
2 **TIME THE PARTY DISCOVERED OR SHOULD HAVE DISCOVERED BY THE**
3 **EXERCISE OF ORDINARY DILIGENCE THE HOMICIDE AND THE IDENTITY OF THE**
4 **PERSON WHO CONTRIBUTED TO THE HOMICIDE; AND**

5 **(2) A PRESUMPTION SHALL EXIST THAT THE PARTY SHOULD**
6 **HAVE DISCOVERED BY THE EXERCISE OF ORDINARY DILIGENCE THE IDENTITY**
7 **OF THE PERSON WHO CONTRIBUTED TO THE HOMICIDE AFTER:**

8 **(I) A CHARGING DOCUMENT IS FILED AGAINST THE**
9 **PERSON ALLEGED TO HAVE PARTICIPATED IN THE HOMICIDE; AND**

10 **(II) THE CHARGING DOCUMENT IS UNSEALED AND**
11 **AVAILABLE TO THE PUBLIC.**

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be
13 construed to apply retroactively and shall be applied to and interpreted to affect any
14 action that is not barred by application of any time condition or limit before October 1,
15 2012, but may not revive any action that was barred by application of any time
16 condition or limit before October 1, 2012.

17 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2012.