

HOUSE BILL 1156

D3

3lr0646
CF SB 819

By: **Delegates Kramer, Clagett, Cluster, Frank, Hough, K. Kelly, McComas, McConkey, McDermott, W. Miller, Minnick, Myers, Parrott, Rudolph, and Schulz**

Introduced and read first time: February 8, 2013

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Contributory Negligence Act**

3 FOR the purpose of establishing that the common law doctrine of contributory
4 negligence, as it existed under its judicially determined meaning on a certain
5 date, shall remain an affirmative defense that may be raised by a party under
6 certain circumstances; defining a certain term; providing for the scope of this
7 Act; making this Act contingent on certain action taken by the Court of Appeals
8 of Maryland; and generally relating to certain actions for damages and
9 contributory negligence.

10 BY adding to

11 Article – Courts and Judicial Proceedings

12 Section 11–2A–01 to be under the new subtitle “Subtitle 2A. Maryland
13 Contributory Negligence Act”

14 Annotated Code of Maryland

15 (2006 Replacement Volume and 2012 Supplement)

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

18 **Article – Courts and Judicial Proceedings**

19 **SUBTITLE 2A. MARYLAND CONTRIBUTORY NEGLIGENCE ACT.**

20 **11–2A–01.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(A) IN THIS SECTION, “CONTRIBUTORY NEGLIGENCE” MEANS THE**
2 **COMMON LAW DOCTRINE OF CONTRIBUTORY NEGLIGENCE, WHICH RETAINS ITS**
3 **JUDICIALLY DETERMINED MEANING AS IT EXISTED ON JANUARY 1, 2011.**

4 **(B) CONTRIBUTORY NEGLIGENCE SHALL REMAIN AN AFFIRMATIVE**
5 **DEFENSE THAT MAY BE RAISED BY A PARTY AGAINST WHOM A CLAIM IS MADE**
6 **FOR DAMAGES FOR WRONGFUL DEATH, PERSONAL INJURY, OR PROPERTY**
7 **DAMAGE.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not expand,
9 limit, or otherwise modify the affirmative defense of contributory negligence as it
10 existed and was applicable on January 1, 2011.

11 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 contingent on the abrogation by the Court of Appeals of Maryland, by rule or judicial
13 opinion, of the doctrine of contributory negligence or the adoption by the Court of
14 Appeals of Maryland, by rule or judicial opinion, of the doctrine of comparative
15 negligence. The Clerk of the Court of Appeals of Maryland shall notify the Department
16 of Legislative Services within 5 days after the abrogation, by rule or judicial opinion, of
17 the doctrine of contributory negligence or adoption, by rule or judicial opinion, of the
18 doctrine of comparative negligence. If notice of the abrogation of the doctrine of
19 contributory negligence, by rule or judicial opinion, or adoption of the doctrine of
20 comparative negligence, by rule or judicial opinion, is not received by the Department
21 of Legislative Services on or before December 31, 2020, this Act shall be null and void
22 without the necessity of further action by the General Assembly.

23 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Section 3 of
24 this Act, this Act shall take effect June 1, 2013.