

HOUSE BILL 366

K1, D3

6lr1825

By: **Delegate Pruski**

Introduced and read first time: January 19, 2026

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Workers' Compensation – Exemption From Exclusivity of Remedy – Action for**
3 **Wrongful Death by Nondependent Child**

4 FOR the purpose of prohibiting the Maryland Workers' Compensation Act from being
5 construed to prohibit a child of a covered employee who is determined not to be a
6 dependent of the covered employee from filing an action for damages related to the
7 wrongful death of the covered employee; and generally relating to exemptions from
8 the exclusivity of remedy under workers' compensation law.

9 BY repealing and reenacting, without amendments,
10 Article – Courts and Judicial Proceedings
11 Section 3–901 and 3–904(a)(1) and (c) through (g)
12 Annotated Code of Maryland
13 (2020 Replacement Volume and 2025 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Labor and Employment
16 Section 9–509
17 Annotated Code of Maryland
18 (2025 Replacement Volume)

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

21 **Article – Courts and Judicial Proceedings**

22 3–901.

23 (a) In this subtitle the following terms have the meanings indicated.

24 (b) “Child” means a legitimate or an illegitimate child.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(c) “Parent” includes the mother and father of a deceased illegitimate child.

(d) “Person” includes an individual, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind, or any partnership, firm, association, public or private corporation, or any other entity.

(e) “Wrongful act” means an act, neglect, or default including a felonious act which would have entitled the party injured to maintain an action and recover damages if death had not ensued.

3–904.

(a) (1) Except as provided in paragraphs (2) and (3) of this subsection, an action under this subtitle shall be for the benefit of the wife, husband, parent, and child of the deceased person.

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

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

(d) The damages awarded under subsection (c) of this section 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:

(1) A spouse;

(2) A minor child;

(3) A parent of a minor child; or

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

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

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

(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) of this section 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.

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

(g) (1) Except as provided in paragraph (2) or (3) 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.

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

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

2. Within 3 years of the date when the cause of death was discovered, whichever is the shorter.

(3) (i) This paragraph applies only to a wrongful death cause of action arising from conduct that would constitute a criminal homicide under State or federal law.

(ii) If knowledge of a cause of action or the identity of a person whose wrongful act contributed to a homicide is kept from a party by the conduct of an adverse party or an accessory or accomplice of an adverse party:

1. The cause of action shall be deemed to accrue at the time the party discovered or should have discovered by the exercise of ordinary diligence the homicide and the identity of the person who contributed to the homicide;

2. A presumption shall exist that the party should have discovered by the exercise of ordinary diligence the identity of the person who contributed to the homicide after:

A. A charging document is filed against the person alleged to have participated in the homicide; and

B. The charging document is unsealed and available to the public; and

3. An action under this subtitle shall be filed within 3 years after the date that the cause of action accrues.

Article – Labor and Employment

9–509.

(a) Except as otherwise provided in this title, the liability of an employer under this title is exclusive.

(b) (1) Except as otherwise provided in this title, the compensation provided under this title to a covered employee or the dependents of a covered employee is in place of any right of action against any person.

(2) **THIS TITLE MAY NOT BE CONSTRUED TO PROHIBIT A CHILD OF A COVERED EMPLOYEE WHO IS DETERMINED NOT TO BE A DEPENDENT OF THE COVERED EMPLOYEE FROM BRINGING AN ACTION FOR DAMAGES UNDER TITLE 3, SUBTITLE 9 OF THE COURTS ARTICLE.**

(c) (1) If an employer fails to secure compensation in accordance with this title, a covered employee who has sustained an accidental personal injury, compensable hernia, or occupational disease or, in case of death, the personal representative of the covered employee may:

(i) bring a claim for compensation under this title; or

(ii) bring an action for damages.

(2) In an action of a covered employee or personal representative under this subsection, an employer may not plead as a defense that:

(i) the covered employee assumed the risk of employment;

(ii) the covered employee was contributorily negligent; or

(iii) the negligence of a fellow servant caused the accidental personal injury, compensable hernia, or occupational disease.

(d) If a covered employee is injured or killed as the result of the deliberate intent of the employer to injure or kill the covered employee, the covered employee or, in the case of death, a surviving spouse, child, or dependent of the covered employee may:

(1) bring a claim for compensation under this title; or

(2) bring an action for damages against the employer.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to have any effect on or application to any action before the effective date of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2026.