



2026 WRITTEN TESTIMONY

WORKERS' COMPENSATION - EXEMPTION FROM EXCLUSIVITY OF REMEDY - ACTION FOR WRONGFUL DEATH BY NONDEPENDENT CHILD

SB 993 / HB 366 - FAVORABLE

SB 993 /HB 366 would correct an inequity in the law that exists when a worker is killed on the job due to the negligence of the employer. Although Maryland workers' compensation law provides an exclusive civil remedy for injuries in the workplace for some of the worker's family members, other family members are excluded from recovery under the Maryland Workers' Compensation Act.

Under current law, "non-dependent" adult children of someone who dies as a result of workplace negligence, i.e., those adult children who do not rely on their parent for financial support, have no right under the Workers Compensation Act to bring a claim for grief damages, even though these individuals unquestionably experience a loss when their parent dies.

This facet of Workers Compensation law is completely at odds with Maryland's Wrongful Death Act, which categorically permits all parents, spouses, and children of the deceased to bring a claim for grief pain and suffering damages.

There is no reason why the non-dependent adult children of victims of negligence should be treated differently based on whether their death was caused by workplace negligence or negligence outside of the workplace. This inequity was highlighted in *Ledford v. Jenway Contracting*. In July 2025, the Supreme Court of Maryland contemplated this very question but held that the Workers Compensation Act does not provide a right of recovery for non-dependent adult children. In her dissenting opinion, the Honorable Justice Shirley M. Watts invited the General Assembly to act. She wrote: "hopefully, the majority opinion will come to the attention of the general assembly and it will elect to address for itself whether LE 9-509 was intended to apply to non-dependent adult children who are not mentioned in the language of the statute."

SB 993 /HB 366 clarifies that the exclusivity of the workers' compensation laws of Maryland (see Md. Code Ann., Labor and Employment, § 9-509) is meant to be superseded by Md. Code Ann., Labor and Employment § 9-684 and allow an adult child to hold negligent actors accountable for workplace deaths when those family members have no other way to be compensated for the loss of their parent. This bill clarifies this intent and makes clear that this only applies to the situation, as in *Jenway*, where a workplace death has occurred and there are no dependents to make the claim on behalf of the deceased.

Accordingly, SB 993 /HB 366 restores fairness and legislative intent by ensuring that, in the narrow circumstance of a workplace death with no eligible dependents, surviving non-dependent children are not left without any legal remedy.

Maryland Association for Justice urges a FAVORABLE Report on SB 993 / HB 366.

About Maryland Association for Justice

The Maryland Association for Justice (MAJ) represents over 1,250 trial attorneys throughout the state of Maryland. MAJ advocates for the preservation of the civil justice system, the protection of the rights of consumers and the education and professional development of its members.

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