

to be stated in statutory form, the definition should be formulated by the Legislature.

The staff is aware that the proposed draft perpetuates what appears to be a defect in the existing statute. Sec. 4(b) of Art. 67 applies only to the case of the death of a spouse or minor child. The death of a parent, especially a widow, widower, or divorced parent, who could not be called a spouse, is not in terms covered by the subsection, although one of the elements of damage is stated to be "parental care"; and the statute also refers to counsel, training, guidance, etc., which are more applicable to the death of a parent than to anything else.

However the Commission is cognizant of the fact that this law was adopted in its present form by Ch. 352, Acts of 1969, and after a previous effort to broaden the language was made unsuccessfully in 1968. The present language is of recent vintage and apparently the result of legislative compromise. Thus, despite any logical defects it may contain, the Commission believes that change is a matter for the legislature.

Although under this subtitle it may appear that a plaintiff has 3 years from the accrual of his cause of action within which to bring suit, it should be noted that if the defendant - tort feisor dies during this period the plaintiff is required to present notice of his claim to the defendant's personal representative within six months from the date of the first published notice to creditors. Art. 93, §8-103(a). Sec. 8-103 does not apply if the action has been commenced prior to the defendant's death, and the decedent had been duly served with process before his death. See §8-103(c).

GENERAL REVISOR'S NOTE:

The Commission to Revise the Annotated Code in compiling Title 3 of the Courts and Judicial