

# MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION  
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE  
4

5 Legislative Document

No. 481

6  
7 H.P. 398

House of Representatives, February 1, 1983

8 Received by the Clerk of the House on February 1, 1983. Referred to the  
9 Committee on Judiciary, and ordered printed pursuant to Joint Rule 14.

10 EDWIN H. PERT, Clerk

11 Presented by Representative Soule of Westport.  
Cosponsor: Senator Carpenter of Aroostook.

12 STATE OF MAINE  
13

14 IN THE YEAR OF OUR LORD  
15 NINETEEN HUNDRED AND EIGHTY-THREE  
16

17 AN ACT to Amend Maine's Wrongful Death  
18 Law.  
19

20 Be it enacted by the People of the State of Maine as  
21 follows:

22 18-A MRSA §2-804, sub-§(b), as amended by PL  
23 1981, c. 213, is further amended to read:

24 (b) Every such action shall be brought by and in  
25 the name of the personal representative of the  
26 deceased person, and the amount recovered in every  
27 such action, except as otherwise provided, shall be  
28 for the exclusive benefit of the surviving spouse, if  
29 no minor children, and of the children if no sur-  
30 viving spouse, and one-half for the exclusive benefit  
31 of the surviving spouse and one-half for the exclu-  
32 sive benefit of the minor children to be divided  
33 equally among them, if there are both surviving  
34 spouse and minor children, and to the deceased's

1 heirs to be distributed as provided in section 2-106,  
2 if there is neither surviving spouse nor minor chil-  
3 dren. The jury may give such damages as it shall  
4 deem a fair and just compensation with reference to  
5 the pecuniary injuries resulting from such death to  
6 the persons for whose benefit the action is brought  
7 or just to compensate for the decedent's capacity to  
8 earn money as he would have if he had not been  
9 killed, and in addition thereto shall give such dam-  
10 ages as will compensate the estate of the deceased  
11 person for reasonable expenses of medical, surgical  
12 and hospital care and treatment and for reasonable  
13 funeral expenses, and in addition thereto may give  
14 damages not exceeding \$50,000 for the loss of com-  
15 fort, society and companionship of the deceased to  
16 the persons for whose benefit the action is brought,  
17 provided that the action shall be commenced within 2  
18 years after the decedent's death. If a claim under  
19 this section is settled without an action having been  
20 commenced, the amount paid in settlement shall be  
21 distributed as provided in this subsection. No set-  
22 tlement on behalf of minor children shall be valid  
23 unless approved by the court, as provided in Title  
24 14, section 1605.

25

#### STATEMENT OF FACT

26 The change in the wrongful death law is designed  
27 to change a portion of the allowable measure of dam-  
28 ages from actual pecuniary loss to the beneficiaries  
29 to compensation for the decedent's capacity to earn  
30 money as he would have if he had not been killed.

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