

MAINE STATE LEGISLATURE

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L.D. 551

(Filing No. S- 274)

STATE OF MAINE
SENATE
114TH LEGISLATURE
FIRST REGULAR SESSION

SENATE AMENDMENT " A " to COMMITTEE AMENDMENT "A" to H.P. 408, L.D. 551, Bill, "An Act to Allow Recovery for Wrongful Death of Unborn Children"

Amend the amendment by striking out all of the 4th paragraph after the title and inserting in its place the following:

'Sec. 1. 18-A MRSA §1-302, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:

(a) To the full extent provided in sections 3-105, 5-102, 5-402, 7-201 and 7-204, the court has jurisdiction over all subject matter relating to (1) estates of decedents, including construction of wills and determination of heirs and successors of decedents and estates of protected persons; (2) protection of minors and incapacitated persons; and (3) trusts; and (4) estates of unborn viable fetuses in wrongful death actions pursuant to section 2-804, including determination of heirs.

Sec. 2. 18-A MRSA §2-804, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:'

Further amend the amendment in subsection (a) by inserting at the end the following:

'(5) There is no cause of action under this section for the wrongful death of an unborn viable fetus, if neither the father nor mother of the fetus is alive at the time that proceedings under this Title are commenced.'

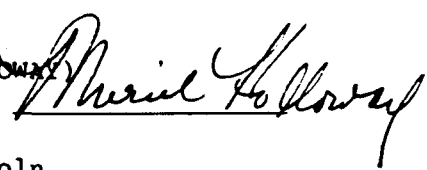
SENATE AMENDMENT " A" to COMMITTEE AMENDMENT "A" to H.P. 408,
L.D. 551

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STATEMENT OF FACT

This amendment clarifies that the Probate Court has jurisdiction over estates of unborn viable fetuses for the purpose of wrongful death actions for the death of the fetus. This amendment limits wrongful death actions for the death of an unborn viable fetus to situations in which the mother or father is alive when the wrongful death action is initiated. This will ensure that the mother and father will be the beneficiaries of any damages awarded in the action.

(Senator HOLLOWAY)
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