

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1217

H.P. 851

House of Representatives, March 21, 1991

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative FARNSWORTH of Hallowell.
Cosponsored by President PRAY of Penobscot.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act Regarding Wrongful Death Actions.



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

2
4 18-A MRSA §2-804, sub-§(b), as amended by PL 1989, c. 340, is further amended to read:

6 (b) Every such action shall must be brought by and in the name of the personal representative of the deceased person, and
8 the amount recovered in every such action, except as otherwise provided, shall must be for the exclusive benefit of the
10 surviving spouse, if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the
12 surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them, if there are
14 both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106, if there is
16 neither surviving spouse nor minor children. The jury may give such damages as it shall ~~deem~~ deems a fair and just compensation
18 with reference to the pecuniary injuries resulting from such death to the persons for whose benefit the action is brought, and
20 in addition ~~thereto~~ shall give such damages as will compensate the estate of the deceased person for reasonable expenses of
22 medical, surgical and hospital care and treatment and for reasonable funeral expenses, and in addition ~~thereto~~ may give
24 damages ~~not-exceeding-\$75,000~~ in an amount it determines fair and just for the loss of comfort, society and companionship of the
26 deceased, including any damages for emotional distress arising from the same facts as those constituting the underlying claim,
28 to the persons for whose benefit the action is brought, provided that the action shall ~~be~~ is commenced within 2 6 years after the
30 decedent's death. If a claim under this section is settled without an action having been commenced, the amount paid in
32 settlement shall must be distributed as provided in this subsection. No settlement on behalf of minor children shall ~~be~~ is
34 valid unless approved by the court, as provided in Title 14, section 1605.

36
38 **STATEMENT OF FACT**

40 This bill amends the current law regarding death actions to allow award of full and fair compensation for the loss suffered
42 as the result of wrongful acts that result in the death of a person. It prevents a defendant from receiving an artificial
44 advantage simply because the person dies rather than lives as the result of a wrongful act.

46
48 In addition, this bill provides a limitation period for an action for wrongful death consistent with the 6-year statute of limitations for other civil actions in the State.