

# MAINE STATE LEGISLATURE

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# 116th MAINE LEGISLATURE

FIRST REGULAR SESSION-1993

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Legislative Document

No. 577

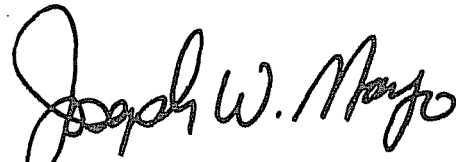
H.P. 451

House of Representatives, February 22, 1993

**An Act to Amend the Wrongful Death Laws.**

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Reference to the Committee on Judiciary suggested and ordered printed.

  
JOSEPH W. MAYO, Clerk

Presented by Representative CLARK of Millinocket. (By Request)

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

2           **Sec. 1. 18-A MRSA §2-804, sub-§(b)**, as amended by PL 1991, c.  
4 187, is further amended to read:

6           (b) Every such action must be brought by and in the name of  
8 the personal representative of the deceased person, and the  
10 amount recovered in every such action, except as otherwise  
12 provided, is for the exclusive benefit of the surviving spouse,  
14 if no minor children, and of the children if no surviving spouse,  
16 and one-half for the exclusive benefit of the surviving spouse  
18 and one-half for the exclusive benefit of the minor children to  
20 be divided equally among them, if there are both surviving spouse  
22 and minor children, and to the deceased's heirs to be distributed  
24 as provided in section 2-106, if there is neither surviving  
26 spouse nor minor children. The jury may give such damages as it  
28 deems a fair and just compensation with reference to the  
30 pecuniary injuries resulting from such the death to the persons  
32 for whose benefit the action is brought, and in addition thereto  
34 shall give such damages as will compensate the estate of the  
deceased person for reasonable expenses of medical, surgical and  
hospital care and treatment and for reasonable funeral expenses,  
and in addition thereto may give damages ~~net-exceeding-\$75,000~~  
for the loss of comfort, society and companionship of the  
deceased, including any damages for emotional distress arising  
from the same facts as those constituting the underlying claim,  
to the persons for whose benefit the action is brought, and in  
addition thereto may give punitive damages ~~net-exceeding-\$75,000~~,  
provided that the action is commenced within 2 years after the  
decedent's death. If a claim under this section is settled  
without an action having been commenced, the amount paid in  
settlement must be distributed as provided in this subsection.  
No settlement on behalf of minor children is valid unless  
approved by the court, as provided in Title 14, section 1605.

36           **Sec. 2. 18-A MRSA §2-804, sub-§(c)**, as enacted by PL 1979, c.  
38 540, §1, is amended to read:

40           (c) Whenever death ensues following a period of conscious  
42 suffering, as a result of personal injuries due to the wrongful  
44 act, neglect or default of any person, the person who caused the  
46 personal injuries resulting in such conscious suffering and death  
48 shall, in addition to the action at common law and damages  
50 recoverable therein, be is liable in damages in a separate count  
in the same action for such death, brought, commenced and  
determined and ~~subject to the same limitation as to the amount~~  
~~recoverable for such death~~ and exclusively for the beneficiaries  
in the manner set forth in subsection (b), separately found, but  
in such cases there shall may be only one recovery for the same  
injury.

**STATEMENT OF FACT**

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This bill removes the cap on damages for wrongful death actions.

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