

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 742

H.P. 546

House of Representatives, March 7, 1995

An Act Regarding Wrongful Death Actions.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative LaFOUNTAIN of Biddeford.
Cosponsored by Representatives: JOHNSON of South Portland, LEMKE of Westbrook,
McALEVEY of Waterboro, NADEAU of Saco, ROSEBUSH of East Millinocket, Senator:
RAND of Cumberland.

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

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

(b) Every such action must be brought by and in the name of the personal representative of the deceased person, and the amount recovered in every such action, except as otherwise provided, is for the exclusive benefit of the surviving spouse, if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them, if there are both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106, if there is neither surviving spouse nor minor children. The jury may give such damages as it deems a fair and just compensation with reference to the pecuniary injuries resulting from such death to the persons for whose benefit the action is brought, and in addition ~~thereto~~ 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 ~~not exceeding \$75,000 in~~ an amount it determines fair and just 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 not exceeding \$75,000, provided that the action is commenced within 2 6 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.

STATEMENT OF FACT

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

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.

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This bill does not change the provision enacted by Public Law 1991, chapter 187 that limits punitive damages to \$75,000.