

MAINE STATE LEGISLATURE

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February 13, 1997
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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1057

S.P. 317

In Senate, February 13, 1997

**An Act to Amend the Laws Regarding Wrongful Death and Recoveries
for Wrongful Death.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator MILLS of Somerset.

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

2
3 Sec. 1. 18-A MRSA §2-804, as amended by PL 1995, c. 577, §1,
4 is repealed and the following enacted in its place:

6 §2-804. Actions for wrongful death; injuries followed by death

8 (a) A party who causes a person's death or an injury prior
9 to death is liable to that person's estate for the damages
10 provided in this section if the party causing the death or the
11 injury would have been liable had death not ensued. The action
12 must be brought by and in the name of the personal representative
13 of the decedent no later than 2 years after the death.

14 (b) After payment of bills, fees and expenses relating to
15 the injury, the death and the legal recovery, the personal
16 representative shall distribute the net proceeds of any
17 settlement or judgment as follows. If the decedent dies leaving:

18
19 (1) A surviving spouse and no minor children, the proceeds
20 are exclusively for the surviving spouse;

21
22 (2) A surviving child or children and no surviving spouse,
23 the proceeds are to be divided equally among the children;

24
25 (3) Both a surviving spouse and a minor child or minor
26 children, the proceeds are 1/2 for the spouse and 1/2 to be
27 divided equally among the minor children; or

28
29 (4) Neither a surviving spouse or child, the proceeds are
30 for the decedent's heirs to be distributed as provided in
31 section 2-106.

32
33 (c) A distribution to a minor child must be approved by the
34 court in accordance with Title 14, section 1605.

35
36 (d) In an action brought under this section, the estate may
37 recover damages sustained by the decedent before death in the
38 same fashion as though death had not ensued. If the defendant is
39 liable for causing the death, the estate may also recover fair
40 and reasonable compensation for the following damages relating to
41 the death itself, but without duplicating the damages arising
42 from the surviving injury claim:

43
44 (1) Pecuniary loss sustained by those for whom the action
45 is brought;

46
47 (2) Medical, funeral and burial expenses;
48

