

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 687

H.P. 480

House of Representatives, January 26, 1999

### An Act Regarding Wrongful Death Actions.

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Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative SCHNEIDER of Durham.  
Cosponsored by Senator DOUGLASS of Androscoggin and  
Representatives: LaVERDIERE of Wilton, MARVIN of Cape Elizabeth, THOMPSON of  
Naples.

**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 1995, c. 577, §1, is further amended to read:

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(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 determines a fair and just compensation with reference to the pecuniary injuries resulting from the death to the persons for whose benefit the action is brought and in addition 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 may give damages ~~not exceeding \$150,000 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 may give punitive damages not 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.

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**SUMMARY**

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This bill removes the existing cap of \$150,000 on the amount of damages that may be awarded to the family of the deceased to compensate for the loss of comfort, society and companionship of the deceased.

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