

MAINE STATE LEGISLATURE

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119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1603

S.P. 541

In Senate, March 2, 1999

An Act to Amend the Wrongful Death Laws.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.
Cosponsored by Senators: NUTTING of Androscoggin, PENDLETON of Cumberland,
Representative: SULLIVAN of Biddeford.

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~~ 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~~ as long as 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 eliminates the current cap of \$150,000 that may be awarded in wrongful death actions for loss of comfort, society and companionship and the current cap of \$75,000 that may be awarded in punitive damages.

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