

MAINE STATE LEGISLATURE

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123rd MAINE LEGISLATURE

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No. 866

H.P. 655

House of Representatives, February 23, 2007

An Act To Amend the Wrongful Death Laws

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative FAIRCLOTH of Bangor.

Cosponsored by Representative: GROSE of Woolwich, Senator: BARTLETT of Cumberland.

1 **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 1999, c. 772, §1, is
3 further amended to read:

4 (b). Every such action must be brought by and in the name of the personal
5 representative of the deceased person, and the amount recovered in every such action,
6 except as otherwise provided, is for the exclusive benefit of the surviving spouse if no
7 minor children, and of the children if no surviving spouse, and one-half for the exclusive
8 benefit of the surviving spouse and one-half for the exclusive benefit of the minor
9 children to be divided equally among them if there are both surviving spouse and minor
10 children, and to the deceased's heirs to be distributed as provided in section 2-106 if there
11 is neither surviving spouse nor minor children. The jury may give such damages as it
12 determines a fair and just compensation with reference to the pecuniary injuries resulting
13 from the death to the persons for whose benefit the action is brought and in addition shall
14 give such damages as will compensate the estate of the deceased person for reasonable
15 expenses of medical, surgical and hospital care and treatment and for reasonable funeral
16 expenses, and in addition may give damages not exceeding ~~\$400,000~~ \$600,000 for the
17 loss of comfort, society and companionship of the deceased, including any damages for
18 emotional distress arising from the same facts as those constituting the underlying claim,
19 to the persons for whose benefit the action is brought, and in addition may give punitive
20 damages not exceeding \$75,000, provided that the action is commenced within 2 years
21 after the decedent's death. If a claim under this section is settled without an action having
22 been commenced, the amount paid in settlement must be distributed as provided in this
23 subsection. No settlement on behalf of minor children is valid unless approved by the
24 court, as provided in Title 14, section 1605. The damage limits contained in this
25 subsection must be adjusted by a factor equal to the percentage change in the United
26 States Department of Labor, Bureau of Labor Statistics Consumer Price Index, United
27 States City Average from January 1, 2008 to the date of calculation. If noneconomic
28 damages, punitive damages or both are sought, the court shall inform the jury of the
29 damage limits described in this section.

30 **SUMMARY**

31 This bill increases the cap on wrongful death noneconomic damages from \$400,000
32 to \$600,000 and requires adjustments in the future, tied to the Consumer Price Index.
33 This bill also requires the court to inform the jury about the statutory caps on both
34 noneconomic and punitive damages if either or both are sought in a wrongful death
35 action.