

MAINE STATE LEGISLATURE

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127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1605

S.P. 646

In Senate, February 25, 2016

**An Act To Extend the Time for Commencing an Action Relating to
Death Caused by Homicide**

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script, reading "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator VALENTINO of York.

Cosponsored by Representative WARD of Dedham and

Senators: BURNS of Washington, DIAMOND of Cumberland, GERZOFSKY of Cumberland, JOHNSON of Lincoln, KATZ of Kennebec, Representatives: CHENETTE of Saco, GERRISH of Lebanon, HOBBS of Saco.

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 2009, c. 180, §1, is
3 further amended to read:

4 **(b).** Every wrongful death action must be brought by and in the name of the
5 personal representative of the deceased person. The amount recovered in every wrongful
6 death action, except as otherwise provided, is for the exclusive benefit of the surviving
7 spouse if no minor children, of the children if no surviving spouse, one-half for the
8 exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the
9 minor children to be divided equally among them if there are both surviving spouse and
10 minor children and to the deceased's heirs to be distributed as provided in section 2-106 if
11 there is neither surviving spouse nor minor children. The jury may give damages as it
12 determines a fair and just compensation with reference to the pecuniary injuries resulting
13 from the death and in addition shall give such damages that will compensate the estate of
14 the deceased person for reasonable expenses of medical, surgical and hospital care and
15 treatment and for reasonable funeral expenses. In addition, the jury may give damages
16 not exceeding \$500,000 for the loss of comfort, society and companionship of the
17 deceased, including any damages for emotional distress arising from the same facts as
18 those constituting the underlying claim, to the persons for whose benefit the action is
19 brought. The jury may also give punitive damages not exceeding \$250,000. An action
20 under this section must be commenced within 2 years after the decedent's death, except
21 that if the decedent's death is caused by a homicide, the action may be commenced within
22 6 years of the date the personal representative of the decedent discovers that there is a just
23 cause of action against the person who caused the homicide. If a claim under this section
24 is settled without an action having been commenced, the amount paid in settlement must
25 be distributed as provided in this subsection. A settlement on behalf of minor children is
26 not valid unless approved by the court, as provided in Title 14, section 1605.

27 **Sec. 2. Application.** This Act applies to wrongful death actions under the Maine
28 Revised Statutes, Title 18-A, section 2-804, subsection (b) that, as of the effective date of
29 this Act, have not yet been barred by the statute of limitations in force immediately prior
30 to the effective date of this Act.

31 **SUMMARY**

32 This bill expands the time period within which a wrongful death action may be
33 brought in a case of a death caused by a homicide. The bill also provides that the
34 expansion of the time period applies to wrongful death actions that have not been barred
35 by the statute of limitations in force immediately prior to the effective date of this
36 legislation.