

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 690

H.P. 510

House of Representatives, February 7, 2019

**An Act To Amend the Maine Uniform Probate Code Regarding
Claims for Personal Injury**

(EMERGENCY)

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative BAILEY of Saco.
Cosponsored by Senator: CARPENTER of Aroostook.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** the Maine Uniform Probate Code in the Maine Revised Statutes, Title
4 18-C was enacted by the 128th Legislature with an effective date of July 1, 2019; and

5 **Whereas,** the provision in this Act is in the Probate Code in Title 18-A, which is
6 effective until July 1, 2019, and was omitted from Title 18-C; and

7 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
8 the meaning of the Constitution of Maine and require the following legislation as
9 immediately necessary for the preservation of the public peace, health and safety; now,
10 therefore,

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

12 **Sec. 1. 18-C MRSA §3-108, sub-§1, ¶¶D and E,** as enacted by PL 2017, c.
13 402, Pt. A, §2 and affected by Pt. F, §1, are amended to read:

14 D. An informal appointment or a formal testacy or appointment proceeding may be
15 commenced more than 3 years after the decedent's death if no proceeding concerning
16 the succession or estate administration has occurred within the 3-year period after the
17 decedent's death, but the personal representative has no right to possess estate assets
18 as provided in section 3-709 beyond that necessary to confirm title in the successors
19 to the estate, and claims other than expenses of administration may not be presented
20 against the estate; ~~and~~

21 E. A formal testacy proceeding may be commenced at any time after 3 years from
22 the decedent's death for the purpose of establishing an instrument to direct or control
23 the ownership of property passing or distributable after the decedent's death from a
24 person other than the decedent when the property is to be appointed by the terms of
25 the decedent's will or is to pass or be distributed as a part of the decedent's estate or
26 its transfer is otherwise to be controlled by the terms of the decedent's will; and

27 **Sec. 2. 18-C MRSA §3-108, sub-§1, ¶F** is enacted to read:

28 F. Appropriate probate, appointment or testacy proceedings may be commenced in
29 relation to a claim for personal injury made against the decedent by a person without
30 actual notice of the death of the decedent at any time within 6 years after the cause of
31 action accrues. If the proceedings are commenced more than 3 years after the
32 decedent's death, any recovery is limited to applicable insurance.

33 **Emergency clause.** In view of the emergency cited in the preamble, this
34 legislation takes effect July 1, 2019.

35 **SUMMARY**

36 This bill amends the Maine Uniform Probate Code to provide that appropriate
37 probate, appointment or testacy proceedings may be commenced in relation to a claim for

1 personal injury made against a decedent by a person without actual notice of the death
2 within 6 years after the cause of action accrues.