

# MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
129TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 615, L.D. 841, Bill, "An Act To Amend the Laws Governing Damages Awarded for Wrongful Death"

Amend the bill in section 1 by striking out all of subsection 2 (page 1, lines 4 to 30 in L.D.) and inserting the following:

2. Wrongful death action; damages; limitation. Every wrongful death action must be brought by and in the name of the personal representative or special administrator of the deceased person, and is distributable, after payment for funeral expenses and the costs of recovery including attorney's fees, directly to the decedent's heirs without becoming part of the probate estate, except as may be specifically provided in this subsection. The amount recovered in every wrongful death action, except as specifically provided in this subsection, is for the exclusive benefit of the deceased's heirs to be distributed to the individuals and in the proportions as provided in sections 2-102 and 2-103. The jury may give damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death. Damages are payable to the estate of the deceased person only if the jury specifically makes an award payable to the estate for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses or, in the case of a settlement, the settlement documents specifically provide for such an allocation to the estate for the same. In addition, the jury may give damages not exceeding \$500,000 \$750,000 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. The jury may also give punitive damages not exceeding \$250,000. An action under this section must be commenced within 2 years after the decedent's death, except that if the decedent's death is caused by a homicide, the action may be commenced within 6 years of the date the personal representative or special administrator of the decedent discovers that there is a just cause of action against the person who caused the homicide. 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. A settlement on behalf of minor children is not valid unless approved by the court, as provided in Title 14, section 1605.'

COMMITTEE AMENDMENT

1

**SUMMARY**

2           This amendment deletes from the bill new language on compensatory damages based  
3 on the probable duration of the deceased person's life if the injury hadn't occurred. It also  
4 reduces the cap on noneconomic damages from \$1,000,000 to \$750,000 and retains the  
5 cap on punitive damages.