

# MAINE STATE LEGISLATURE

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# 131st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2023

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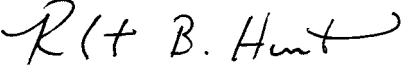
H.P. 581

House of Representatives, March 2, 2023

### **An Act to Amend the Laws Governing Damages Awarded for Wrongful Death**

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Reference to the Committee on Judiciary suggested and ordered printed.

  
ROBERT B. HUNT  
Clerk

Presented by Representative MOONEN of Portland.

Cosponsored by Representatives: HENDERSON of Rumford, LEE of Auburn, SHEEHAN of Biddeford, Senator: CARNEY of Cumberland.

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

2 **Sec. 1. 18-C MRSA §2-807, sub-§2**, as amended by PL 2019, c. 198, §1 and c.  
3 417, Pt. A, §3, is further amended to read:

4 **2. Wrongful death action; damages; limitations.** Every wrongful death action must  
5 be brought by and in the name of the personal representative or special administrator of the  
6 deceased person, and is distributable, after payment for funeral expenses and the costs of  
7 recovery including attorney's fees, directly to the decedent's heirs without becoming part  
8 of the probate estate, except as may be specifically provided in this subsection. The amount  
9 recovered in every wrongful death action, except as specifically provided in this subsection,  
10 is for the exclusive benefit of the deceased's heirs to be distributed to the individuals and  
11 in the proportions as provided under the intestacy laws of this State in sections 2-101 to  
12 2-113. The jury may give damages as it determines a fair and just compensation with  
13 reference to the pecuniary injuries resulting from the death. Damages are payable to the  
14 estate of the deceased person only if the jury specifically makes an award payable to the  
15 estate for reasonable expenses of medical, surgical and hospital care and treatment and for  
16 reasonable funeral expenses or, in the case of a settlement, the settlement documents  
17 specifically provide for such an allocation to the estate for the same. In addition, the jury  
18 may give damages not exceeding ~~\$750,000~~ \$1,500,000 for the loss of comfort, society and  
19 companionship of the deceased, including any damages for emotional distress arising from  
20 the same facts as those constituting the underlying claim, to the persons for whose benefit  
21 the action is brought. The jury may also give punitive damages not exceeding ~~\$250,000~~  
22 \$1,000,000. An action under this section must be commenced within ~~2~~ 3 years after the  
23 decedent's death, except that if the decedent's death is caused by a homicide, the action may  
24 be commenced within 6 years of the date the personal representative or special  
25 administrator of the decedent discovers that there is a just cause of action against the person  
26 who caused the homicide. If a claim under this section is settled without an action having  
27 been commenced, the amount paid in settlement must be distributed as provided in this  
28 subsection. A settlement on behalf of minor children is not valid unless approved by the  
29 court, as provided in Title 14, section 1605.

30 **SUMMARY**

31 This bill increases the limit on damages for the loss of comfort, society and  
32 companionship and emotional distress in a case of wrongful death from \$750,000 to  
33 \$1,500,000. It also increases the limit on punitive damages from \$250,000 to \$1,000,000  
34 and increases from 2 years to 3 years the time after the decedent's death within which a  
35 wrongful death action must be commenced.