

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Wrongful Death Laws

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

Sec. 1. 18-A MRSA §2-804, sub-§(b), as amended by PL 1999, c. 772, §1, is further amended to read:

(b). Every such action must be brought by and in the name of the personal representative of the deceased person, and the amount recovered in every such action, except as otherwise provided, is for the exclusive benefit of the surviving spouse if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them if there are both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106 if there is neither surviving spouse nor minor children. The jury may give such damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death to the persons for whose benefit the action is brought and in addition shall give such damages as will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, and in addition may give damages not exceeding ~~\$400,000~~\$600,000 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, and in addition may give punitive damages not exceeding \$75,000, provided that the action is commenced within 2 years after the decedent's death. 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. No settlement on behalf of minor children is valid unless approved by the court, as provided in Title 14, section 1605. The damage limits contained in this subsection must be adjusted by a factor equal to the percentage change in the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index, United States City Average from January 1, 2008 to the date of calculation. If noneconomic damages, punitive damages or both are sought, the court shall inform the jury of the damage limits described in this section.

SUMMARY

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