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Date: (Filing No. H-)

JUDICIARY

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 581, L.D. 934, “An Act to Amend the Laws Governing Damages Awarded for Wrongful Death”

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 18-C MRSA §1-108, sub-§1, ¶B, as enacted by PL 2017, c. 402, Pt. A, §2 and affected by Pt. F, §1 and PL 2019, c. 417, Pt. B, §14, is amended to read:

- B. "Reference base index" means ~~the Consumer Price Index for calendar year 2017;~~
 - (1) With respect to calculations made under this section relating to dollar amounts stated in sections 2-102, 2-402, 2-403, 2-405 and 3-1201, the Consumer Price Index for calendar year 2017; and
 - (2) With respect to calculations made under this section relating to dollar amounts stated in section 2-807, the Consumer Price Index for calendar year 2023.

Sec. 2. 18-C MRSA §1-108, sub-§2, as amended by PL 2019, c. 417, Pt. A, §1, is further amended to read:

2. Automatic adjustment of amounts for inflation. The dollar amounts stated in sections 2-102, 2-402, 2-403, 2-405 and 3-1201 apply to the estate of a decedent who died in or after 2017, but for the estate of a decedent who died after 2018, these dollar amounts must be increased or decreased if the Consumer Price Index for the calendar year immediately preceding the year of death exceeds or is less than the reference base index. For a wrongful death action brought with respect to a person who died after 2023, the dollar amounts stated in section 2-807, subsection 2 must be adjusted if the Consumer Price Index for the calendar year immediately preceding the year of death exceeds or is less than the reference base index. The amount of any increase or decrease is computed by multiplying each dollar amount by the percentage by which the Consumer Price Index for the calendar year immediately preceding the year of death exceeds or is less than the reference base index. If any increase or decrease produced by the computation is not a multiple of \$100, the increase or decrease is rounded down, if an increase, or up, if a decrease, to the next

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1 multiple of \$100, but for the purpose of section 2-405, the periodic installment amount is
2 the lump-sum amount divided by 12. If With respect to calculations made under this
3 section relating to dollar amounts stated in sections 2-102, 2-402, 2-403, 2-405 and 3-1201,
4 if the Consumer Price Index for 2018 is changed by the United States Department of Labor,
5 Bureau of Labor Statistics, the reference base index must be revised using the rebasing
6 factor reported by the Bureau of Labor Statistics or other comparable data if a rebasing
7 factor is not reported. With respect to calculations made under this section relating to the
8 dollar amounts stated in section 2-807, if the Consumer Price Index for 2023 is changed by
9 the United States Department of Labor, Bureau of Labor Statistics, the reference base index
10 must be revised using the rebasing factor reported by the Bureau of Labor Statistics or other
11 comparable data if a rebasing factor is not reported.

12 **Sec. 3. 18-C MRSA §2-807, sub-§2**, as amended by PL 2019, c. 198, §1 and c.
13 417, Pt. A, §3, is further amended to read:

14 **2. Wrongful death action; damages; limitations.** Every wrongful death action must
15 be brought by and in the name of the personal representative or special administrator of the
16 deceased person, and is distributable, after payment for funeral expenses and the costs of
17 recovery including attorney's fees, directly to the decedent's heirs without becoming part
18 of the probate estate, except as may be specifically provided in this subsection. The amount
19 recovered in every wrongful death action, except as specifically provided in this subsection,
20 is for the exclusive benefit of the deceased's heirs to be distributed to the individuals and
21 in the proportions as provided under the intestacy laws of this State in sections 2-101 to
22 2-113. The jury may give damages as it determines a fair and just compensation with
23 reference to the pecuniary injuries resulting from the death. Damages are payable to the
24 estate of the deceased person only if the jury specifically makes an award payable to the
25 estate for reasonable expenses of medical, surgical and hospital care and treatment and for
26 reasonable funeral expenses or, in the case of a settlement, the settlement documents
27 specifically provide for such an allocation to the estate for the same. In addition, the jury
28 may give damages not exceeding \$750,000 adjusted for inflation as provided in section
29 1-108 for the loss of comfort, society and companionship of the deceased, including any
30 damages for emotional distress arising from the same facts as those constituting the
31 underlying claim, to the persons for whose benefit the action is brought. The jury may also
32 give punitive damages not exceeding \$250,000 adjusted for inflation as provided in section
33 1-108. An action under this section must be commenced within ~~2~~ 3 years after the
34 decedent's death, except that if the decedent's death is caused by a homicide, the action may
35 be commenced within 6 years of the date the personal representative or special
36 administrator of the decedent discovers that there is a just cause of action against the person
37 who caused the homicide. If a claim under this section is settled without an action having
38 been commenced, the amount paid in settlement must be distributed as provided in this
39 subsection. A settlement on behalf of minor children is not valid unless approved by the
40 court, as provided in Title 14, section 1605.'

41 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
42 number to read consecutively.

43 SUMMARY

44 This amendment, which is a minority report of the committee, replaces the bill. The
45 amendment adjusts the amounts of noneconomic and punitive damages available in an

1 action for wrongful death based on inflation calculated in relation to the Consumer Price
2 Index. This amendment also, like the bill, increases from 2 years to 3 years the time after
3 the decedent's death within which a wrongful death action may be commenced.

4 **FISCAL NOTE REQUIRED**

5 **(See attached)**