



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 841

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H.P. 615

House of Representatives, February 14, 2019

### **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.

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

ROBERT B. HUNT  
Clerk

Presented by Representative MOONEN of Portland.  
Cosponsored by Senator LAWRENCE of York and  
Representative: BAILEY of Saco.

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 enacted by PL 2017, c. 402, Pt. A, §2  
3 and affected by Pt. F, §1, is amended to read:

4 **2. Wrongful death action; damages; limitation.** Every wrongful death action must  
5 be brought by and in the name of the personal representative or special administrator of  
6 the deceased person, and is distributable, after payment for funeral expenses and the costs  
7 of recovery including attorney's fees, directly to the decedent's heirs without becoming  
8 part of the probate estate, except as may be specifically provided in this subsection. The  
9 amount recovered in every wrongful death action, except as specifically provided in this  
10 subsection, is for the exclusive benefit of the deceased's heirs to be distributed to the  
11 individuals and in the proportions as provided in sections 2-102 and 2-103. The jury may  
12 give damages as it determines a fair and just compensation for the probable duration of  
13 life of the deceased person but for the injury, and with reference to the pecuniary injuries  
14 resulting from the death. Damages are payable to the estate of the deceased person only  
15 if the jury specifically makes an award payable to the estate for reasonable expenses of  
16 medical, surgical and hospital care and treatment and for reasonable funeral expenses or,  
17 in the case of a settlement, the settlement documents specifically provide for such an  
18 allocation to the estate for the same. In addition, the jury may give damages not  
19 exceeding ~~\$500,000~~ \$1,000,000 for the loss of comfort, society and companionship of the  
20 deceased, including any damages for emotional distress arising from the same facts as  
21 those constituting the underlying claim, to the persons for whose benefit the action is  
22 brought. The jury may also give punitive damages ~~not exceeding \$250,000~~. An action  
23 under this section must be commenced within 2 years after the decedent's death, except  
24 that if the decedent's death is caused by a homicide, the action may be commenced within  
25 6 years of the date the personal representative or special administrator of the decedent  
26 discovers that there is a just cause of action against the person who caused the homicide.  
27 If a claim under this section is settled without an action having been commenced, the  
28 amount paid in settlement must be distributed as provided in this subsection. A  
29 settlement on behalf of minor children is not valid unless approved by the court, as  
30 provided in Title 14, section 1605.

31 **SUMMARY**

32 This bill provides that a jury in a case of wrongful death may give damages as it  
33 determines a fair and just compensation for the probable duration of life of the deceased  
34 person but for the injury. It increases the limit on damages for the loss of comfort,  
35 society and companionship and emotional distress from \$500,000 to \$1,000,000 and  
36 removes the limit on punitive damages in a case of wrongful death.