

**Maine Revised Statutes**  
**Title 18-A: PROBATE CODE**

**Article :**

**§2-804. ACTIONS FOR WRONGFUL DEATH**

(a). Whenever the death of a person shall be caused by a wrongful act, neglect or default, and the act, neglect or default is such as would, if death had not ensued, have entitled the party injured to maintain an action and recover damages in respect thereof, then the person or the corporation that would have been liable if death had not ensued shall be liable for damages as provided in this section, notwithstanding the death of the person injured and although the death shall have been caused under such circumstances as shall amount to a felony.

[ 1979, c. 540, §1 (NEW) . ]

(b). Every wrongful death action must be brought by and in the name of the personal representative of the deceased person. The amount recovered in every wrongful death action, except as otherwise provided, is for the exclusive benefit of the surviving spouse if no minor children, of the children if no surviving spouse, 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 damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death and in addition shall give such damages that will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses. In addition, the jury may give damages not exceeding \$500,000 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 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.

[ 2015, c. 451, §1 (AMD) . ]

(c). Whenever death ensues following a period of conscious suffering, as a result of personal injuries due to the wrongful act, neglect or default of any person, the person who caused the personal injuries resulting in such conscious suffering and death shall, in addition to the action at common law and damages recoverable therein, be liable in damages in a separate count in the same action for such death, brought, commenced and determined and subject to the same limitation as to the amount recoverable for such death and exclusively for the beneficiaries in the manner set forth in subsection (b), separately found, but in such cases there shall be only one recovery for the same injury.

[ 1979, c. 540, §1 (NEW) . ]

(d). Any action under this section brought against a governmental entity under Title 14, sections 8101 to 8118, shall be limited as provided in those sections.

[ 1979, c. 540, §1 (NEW) .]

SECTION HISTORY

1979, c. 540, §1 (NEW). 1981, c. 213, (AMD). 1989, c. 340, (AMD).  
1991, c. 187, (AMD). 1995, c. 577, §1 (AMD). 1999, c. 772, §1 (AMD).  
2007, c. 280, §1 (AMD). 2009, c. 180, §1 (AMD). 2015, c. 451, §1 (AMD).

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