

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-THREE

H.P. 581 - L.D. 934

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

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

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 the dollar amount stated in section 2-807 for loss of comfort, society and companionship, 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 amount stated in section 2-807, subsection 2 for loss of comfort, society and companionship 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 multiple of \$100, but for the purpose of section 2-405, the periodic installment amount is the lump-sum amount divided by 12. ~~¶~~ 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, if the Consumer Price Index for 2018 is changed by the United States Department of Labor, Bureau of Labor Statistics, the reference base index must be revised using the rebasing factor reported by the Bureau of Labor Statistics or other comparable data if a rebasing factor is not reported. With respect to calculations made under this section relating to the dollar amount stated in section 2-807 for loss of comfort, society and companionship, if the Consumer Price Index for calendar year 2023 is changed by the United States Department of Labor, Bureau of Labor Statistics, the reference base index must be revised using the rebasing factor reported by the Bureau of Labor Statistics or other comparable data if a rebasing factor is not reported.

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

2. Wrongful death action; damages; limitations. Every wrongful death action must be brought by and in the name of the personal representative or special administrator of the deceased person, and is distributable, after payment for funeral expenses and the costs of recovery including attorney's fees, directly to the decedent's heirs without becoming part of the probate estate, except as may be specifically provided in this subsection. The amount recovered in every wrongful death action, except as specifically provided in this subsection, is for the exclusive benefit of the deceased's heirs to be distributed to the individuals and in the proportions as provided under the intestacy laws of this State in sections 2-101 to 2-113. The jury may give damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death. Damages are payable to the estate of the deceased person only if the jury specifically makes an award payable to the estate for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses or, in the case of a settlement, the settlement documents specifically provide for such an allocation to the estate for the same. In addition, the jury may give damages not exceeding ~~\$750,000~~ \$1,000,000 adjusted for inflation as provided in section 1-108 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~~ \$500,000. An action under this section must be commenced within ~~2~~ 3 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 or special administrator 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.