

MAINE STATE LEGISLATURE

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ONE - HUNDRETH LEGISLATURE

Legislative Document

No. 1276

H. P. 928

House of Representatives, February 7, 1961

Referred to Committee on Judiciary. Sent up for concurrence and ordered printed.

HARVEY R. PEASE, Clerk

Presented by Mr. Cox of Dexter.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SIXTY-ONE

AN ACT Relating to Children Born Subsequent to the Execution of a Will.

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

R. S., c. 169, § 8, repealed and replaced. Section 8 of chapter 169 of the Revised Statutes is repealed and the following enacted in place thereof:

‘Sec. 8. Posthumous child to take share of estate, as if no will. A child of the testator, born after the execution of his will or of his last codicil to his will, takes the same share of the testator’s estate as he would if the testator had died intestate, if the judge of probate finds that provision for the possibility that such a child might come into being was omitted unintentionally or by mistake. If provision is made in the testator’s will for such child’s siblings, such child shall receive no more than the largest amount bequeathed or devised to any such sibling.

Such share shall be assigned by the judge of probate and taken from all the devisees in proportion to the value of what they respectively receive under the will, unless by a specific devise or some other provision thereof a different apportionment is necessary to give effect to the intention of the testator respecting that portion of his estate which passes by the will.

Upon special petition alleging the facts and filed in the probate court prior to the return day established for the hearing on the allowance of the will, evidence may be offered at the hearing on the allowance of the will, and the judge of probate shall determine that such omission was intentional or was not occasioned by mistake, unless he is convinced by a fair preponderance of the credible evidence that such omission was unintentional or occasioned by mistake. Appeal

from such determination shall be to the supreme court of probate. If no petition is filed, the allowance of the will shall establish that such omission was intentional and not occasioned by mistake.'