

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 1392, L.D. 1815)

SECOND REGULAR SESSION

ONE HUNDRED AND ELEVENTH LEGISLATURE

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Legislative Document

No. 2314

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H.P. 1752

House of Representatives, March 20, 1984

Reported by the Majority from the Committee on Aging, Retirement and Veterans and printed under Joint Rule 2.

Original bill presented by Representative Kelleher of Bangor.

Cosponsored by Representative Joyce of Portland and Senator Conley of Cumberland.

EDWIN H. PERT, Clerk

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-FOUR

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AN ACT to Repeal the Law Requiring Adult  
Children to Care for Parents According to  
Ability.

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

Sec. 1. 19 MRSA §219, as amended by PL 1969, c. 433, §34, is repealed.

Sec. 2. 19 MRSA §442 is amended to read:

§442. Man's duty of support

Every man shall support his wife and his child, and his parent when in need.

Sec. 3. 19 MRSA §443 is amended to read:

§443. Woman's duty of support

1 Every woman shall support her child; and her hus-  
2 band ~~and her parent~~ when in need.

3 Sec. 4. 22 MRSA §4313, sub-§2, as enacted by PL  
4 1983, c. 577, §1, is amended to read:

5 2. Burial. In the event of the death of an eli-  
6 gible person, the funeral director shall notify the  
7 overseer prior to making any burial preparations.  
8 Notwithstanding section 4305, subsection 3, paragraph  
9 C, a decision on any application for assistance with  
10 burial expenses need not be rendered until the over-  
11 seer has verified that no relative or other resource  
12 is available to pay for the burial costs, but in no  
13 case shall the decision be rendered more than 10 days  
14 after receiving an application. The father, mother,  
15 grandfather, grandmother, children or grandchildren,  
16 by consanguinity, living within or owning real or  
17 tangible property within the State, shall be respon-  
18 sible for the burial costs of the eligible person in  
19 proportion to their respective abilities.

20 Sec. 5. 22 MRSA §4319, as enacted by PL 1983, c.  
21 577, §1, is amended to read:

22 §4319. Liability of relatives for support; procedure

23 The father, mother, grandfather, or grandmother,  
24 ~~children or grandchildren~~, by consanguinity, living  
25 within or owning real or tangible property within the  
26 State, shall support persons chargeable in propor-  
27 tion to their respective ability. A municipality,  
28 the State or any kindred of an eligible person having  
29 incurred expense for the relief of that eligible per-  
30 son may complain to the Superior Court in the county  
31 where the kindred reside or to any other court of  
32 competent jurisdiction. The court may cause the kin-  
33 dred to be summoned, and upon hearing or default may  
34 assess and apportion a reasonable sum upon those who  
35 are found to be of sufficient ability, for the sup-  
36 port of the eligible person to the time of the as-  
37 sessment, and shall issue a writ of execution. The  
38 assessment shall not be made to pay any expense for  
39 relief afforded more than 6 months before the com-  
40 plaint was filed. The complaint may be filed with  
41 the clerk of the court who shall issue a summons  
42 thereon, returnable and to be served as writs of sum-

1 mons are. On suggestion of either party that there  
2 are other kindred of ability not named, the complaint  
3 may be amended by inserting their names, and they may  
4 be summoned in like manner and be proceeded against  
5 as if originally named. The court may assess and ap-  
6 portion upon the kindred a sum sufficient for the fu-  
7 ture support of the eligible person to be paid quar-  
8 terly, until further order; and may direct with whom  
9 of the kindred consenting thereto and for what time  
10 he may dwell, having regard to his comfort and their  
11 convenience. On application of the municipality, the  
12 State or person to whom payment was ordered, the  
13 clerk may issue or renew a writ of execution return-  
14 able to the next term of the court to collect what  
15 may be due for any preceding quarter. The court may,  
16 from time to time, make any further order on com-  
17 plaint of a party interested and, after notice given,  
18 alter the assessment or apportionment. On failure to  
19 sustain a complaint, the respondents recover costs.

20 Sec. 6. 34-B MRSA §1409, sub-§3, as enacted by  
21 PL 1983, c. 459, §7, is amended to read:

22 3. Liable persons. Each resident, his spouse,  
23 ~~his adult child~~ and his parent are jointly and sever-  
24 ally liable for the care and treatment of the resi-  
25 dent, whether the resident was committed or otherwise  
26 legally admitted, from the date of the resident's ad-  
27 mission to a state institution, except that:

28 A. A parent is not liable for a child resident's  
29 care and treatment, unless the child resident was  
30 wholly or partially dependent for support upon  
31 the parent at the time of admission; and

32 B- ~~A child is not liable for a parent resident's~~  
33 ~~care and treatment, if-~~

34 (1) ~~The parent resident willfully failed to~~  
35 ~~support the child prior to the child's 18th~~  
36 ~~birthday; and~~

37 (2) ~~The child provides the department with~~  
38 ~~clear and convincing evidence substantiating~~  
39 ~~such a claim; and~~

1 C. The department may not charge any parent for  
2 the care and treatment of a child resident beyond  
3 the child's 18th birthday, or beyond 6 months  
4 from the date of the child's admission, whichever  
5 occurs later.

6 STATEMENT OF FACT

7 The purpose of this new draft is to remove other  
8 statutory provisions requiring children to provide  
9 care for their parents consistent with the original  
10 bill. The new draft also clarifies that, in the  
11 event of the death of a person eligible for general  
12 assistance, the dead person's relatives, including  
13 his children, shall be responsible for burial costs.

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