

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 942

6
7 S.P. 347

In Senate, March 7, 1985

8 Referred to the Committee on Labor and ordered printed. Sent down for
9 concurrence.

10 JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Twitchell of Oxford.

Cosponsored by Representative Jackson of Harrison.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Amend the Workers' Compensation Act
18 to Permit a Member in Good Faith of an
19 Employee's Household to Collect Death
20 Benefits under Certain Conditions.
21

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

24 Sec. 1. 39 MRSA §2, sub-§4, as amended by PL
25 1975, c. 222, is further amended to read:

26 4. Dependents. "Dependents" ~~shall mean~~ means
27 members in good faith of an employee's family or
28 household of the employee or next of kin who are
29 wholly or partly dependent upon the earnings of the
30 employee for support at the time of the injury. The
31 following persons shall be conclusively presumed to
32 be wholly dependent for support upon a deceased em-
33 ployee:

34 A. A wife upon a husband with whom she lives, or
35 from whom she is living apart for a justifiable

1 cause or because he has deserted her, or upon
2 whom she is actually dependent in any way at the
3 time of the injury. A wife living apart from her
4 husband shall produce court order or other compe-
5 tent evidence as to separation and actual depen-
6 dency-;

7 B. A husband upon a wife with whom he lives, or
8 upon whom he is actually dependent in any way at
9 the time of the injury-; and

10 C. A child or children, including adopted and
11 stepchildren, under the age of 18 years, or under
12 the age of 23 years if a student, or over the age
13 of 18 years but physically or mentally incapaci-
14 tated from earning, upon the parent with whom he
15 is or they are living, or upon whom he is or they
16 are actually dependent in any way at the time of
17 the injury to ~~said~~ the parent, there being no
18 surviving dependent parent, "child" shall include
19 any posthumous child whose mother is not living
20 and dependent. In case there is more than one
21 child dependent, the compensation shall be di-
22 vided equally among them.

23 The term "student" means a person regularly pur-
24 suing a full-time course of study or training at
25 an institution which is:

26 (1) A school, college or university oper-
27 ated or directly supported by the United
28 States, or by any state or local government
29 or political subdivision thereof;

30 (2) A school, college or university which
31 has been accredited by a state or by a state
32 recognized or nationally recognized accred-
33 iting agency or body;

34 (3) A school, college or university not so
35 accredited but whose credits are accepted,
36 on transfer, by not less than 3 institutions
37 which are so accredited, for credit on the
38 same basis as if transferred from an accred-
39 ited institution; or

1 (4) An additional type of educational or
2 training institution as defined by the com-
3 mission, but not after he reaches the age of
4 23 or has completed 4 years of education be-
5 yond the high school level, except that,
6 where his 23rd birthday occurs during a se-
7 mester or other enrollment period, he shall
8 continue to be considered a student until
9 the end of such that semester or other en-
10 rollment period. A child shall not be deemed
11 to have ceased to be a student during any
12 interim between school years if the interim
13 does not exceed 5 months and if he shows to
14 the satisfaction of the commission that he
15 has a bona fide intention of continuing to
16 pursue a full-time course of education or
17 training during the semester or other en-
18 rollment period immediately following the
19 interim or during periods of reasonable du-
20 ration during which, in the judgment of the
21 commission, he is prevented by factors be-
22 yond his control from pursuing his educa-
23 tion. A child shall not be deemed to be a
24 student under this Act during a period of
25 service in the Armed Forces of the United
26 States.

27 In all other cases questions of total or partial de-
28 pendency shall be determined in accordance with the
29 fact, as the fact may have been at the time of the
30 injury. If there is more than one person wholly de-
31 pendent, the compensation shall be divided equally
32 among them, and persons partly dependent, if any,
33 shall receive no part thereof during the period in
34 which compensation is paid to persons wholly depen-
35 dent. If there is no one wholly dependent and more
36 than one person partly dependent, the compensation
37 shall be divided among them according to the relative
38 extent of their dependency. If a dependent is an
39 alien residing outside of the United States or of the
40 Dominion of Canada, the compensation paid to any such
41 dependent shall be 1/2 that provided in case of the
42 death of an employee.

43 Sec. 2. 39 MRSA §2, sub-§5, ¶E is enacted to
44 read:

