

# MAINE STATE LEGISLATURE

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
114TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1353, L.D. 1870, Bill, "An Act to Clarify the Succession of Estates under the Maine Probate Code"

Amend the bill by striking out everything after the enacting clause and before the statement of fact and inserting in its place the following:

'18-A MRSA §2-611, as enacted by PL 1979, c. 540, §1, is amended by adding at the end a new paragraph to read:

A devise to the issue of a person must be distributed per capita at each generation.

**MAINE COMMENT**

Maine changes from Uniform Probate Code. The last sentence was included to emphasize that the Code provides a uniform method of distribution of property to issue in an intestate estate and devises to issue in a testate estate. In both instances, the property is distributed to per capita at each generation as described in section 2-106. This sentence only pertains to a devise to "issue" without further specification. If the decedent's will specifies that the property should be distributed to the issue per stirpes, per capita or in some other way, the provisions of the will supercede the operation of the statute.'

**STATEMENT OF FACT**

This amendment replaces the text of the original bill. Instead of amending the anti-lapse section of the Probate Code, this amendment adds a new paragraph to a section used to construe generic terms in wills and trusts. The language ensures that when there is a devise to the issue of any person, without stipulating whether the devise should be distributed on a per capita, per stirpes or other basis, the devise must be distributed to the issue of that person according to the per capita by generation procedure adopted in the Maine Probate Code. See the Maine Revised Statutes, Title 18-A, section 2-106.