

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1993

Legislative Document

No. 1577

S.P. 553

In Senate, December 20, 1993

An Act Regarding the Custody of Remains of Deceased Persons.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Received by the Secretary of the Senate on December 20, 1993. Referred to the Committee
on Human Resources and 1200 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator CONLEY of Cumberland.

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

4 Sec. 1. 13 MRSA §1032-A is enacted to read:

6 **§1032-A. Custody of remains of deceased persons**

8 1. Custody and control. The custody and control of the
10 remains of deceased residents of this State belong to the
12 surviving spouse of the deceased; except that, if the surviving
14 spouse and the deceased had been living separate and apart at the
16 time of death, or if there is no spouse surviving, then the
18 custody and control belong to the next of kin. The court of
20 probate for the county of the domicile of the deceased may at the
22 time, upon the petition of any kin, award the custody and control
24 to that relative who seems to the court most fit to determine how
26 the remains must be disposed of and, if appropriate, the place of
28 burial. If a deceased resident of the State leaves no spouse or
next of kin surviving, or if the spouse or next of kin can not be
contacted after due diligence to assume custody and control of
the remains of the decedent, or if the spouse or next of kin
refuses to assume the custody and control, the court of probate
for the county of the domicile of the deceased, upon the petition
of an elected official of the governing body of the domiciliary
municipality, a licensed funeral director or the director of
health of that municipality, may grant custody and control to
some suitable person. This subsection is not intended to alter
the rights and obligations of the decedent's next of kin or
testate or intestate successors.

30 2. Application. This section does not apply to the
32 disposition of the remains of a deceased person under Title 22,
chapter 709.

34 STATEMENT OF FACT

36 This bill seeks to ensure that the body of a dead person is
38 entrusted to the spouse of the deceased. If at the time of
40 death, however, the deceased and the surviving spouse are living
separate and apart, then the deceased's body would be entrusted
to the next of kin or some other appropriate party. This bill

2 does not alter rights and obligations of parties under the laws
of testate and intestate succession.

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10 This document has not yet been reviewed to determine the
need for cross-reference, stylistic and other technical
amendments to conform existing law to current drafting standards.