

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)



119th MAINE LEGISLATURE

FIRST REGULAR SESSION-1999

Legislative Document

No. 1156

H.P. 833

House of Representatives, February 9, 1999

**An Act to Repeal the Elective Share Available to Surviving Spouses
under the Probate Code.**

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative MAYO of Bath.
Cosponsored by Senator SMALL of Sagadahoc and
Representatives: McALEVEY of Waterboro, NUTTING of Oakland.

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

2 **Sec. 1. 18-A MRSA Art. II, Pt. 2,** as amended, is repealed.

4 **Sec. 2. 18-A MRSA §2-602,** as enacted by PL 1979, c. 540, §1,
6 is amended to read:

8 **§2-602. Choice of law as to meaning and effect of wills**

10 The meaning and legal effect of a disposition in a will
12 shall ~~shall~~ **must** be determined by the local law of a particular state
14 selected by the testator in his the testator's instrument unless
16 the application of that law is contrary to ~~the provisions~~
18 ~~relating to the elective share described in Part 2,~~ the
provisions relating to exempt property and allowances described
in Part 4 or any other public policy of this State otherwise
applicable to the disposition.

18 **Sec. 3. 18-A MRSA §2-802, sub-§(b),** as enacted by PL 1979, c.
20 540, §1, is amended to read:

22 (b) For purposes of Parts 1, 2, 3 and 4 and of section
24 3-203, a surviving spouse does not include:

26 (1) A person who obtains or consents to a final decree or
28 judgment of divorce from the decedent or an annulment of
30 their marriage, which decree or judgment is not recognized
as valid in this state State, unless they subsequently
participate in a marriage ceremony purporting to marry each
to the other, or subsequently live together as man and wife;

32 (2) A person who, following a decree or judgment of divorce
34 or annulment obtained by the decedent, participates in a
marriage ceremony with a 3rd person; or

36 (3) A person who was a party to a valid proceeding
38 concluded by an order purporting to terminate all marital
property rights.

40 **Sec. 4. 18-A MRSA §6-106,** as enacted by PL 1979, c. 540, §1,
42 is amended to read:

44 **§6-106. Accounts and transfers nontestamentary**

46 Any transfers resulting from the application of section
48 6-104 are effective by reason of the account contracts involved
and this statute and are not to be considered as testamentary or
50 subject to Articles I through IV, ~~except as provided in sections~~
~~2-201 through 2-207,~~ and except as a consequence of, and to the
extent directed by, section 6-107.

2 **Sec. 5. 18-A MRSA §6-310, sub-§(a)**, as enacted by PL 1997, c.
627, §1, is amended to read:

4
6 (a) A transfer on death resulting from a registration in
beneficiary form is effective by reason of the contract regarding
the registration between the owner and the registering entity and
8 this Part and is not testamentary or subject to Articles I
through IV, ~~except as provided in sections 2-201 through 2-207,~~
10 and except as a consequence of, and to the extent directed by,
subsection (b).

12 **Sec. 6. 33 MRSA §480, sub-§1**, as enacted by PL 1983, c. 748,
14 §2, is repealed.

16
18

SUMMARY

20 This bill repeals the provisions in the Probate Code that
provide that if a married person domiciled in this State dies,
the surviving spouse has a right of election to take an elective
22 share of 1/3 of the augmented estate.