

MAINE STATE LEGISLATURE

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L.D. 1579

DATE: 4/7/04

(Filing No. H-871)

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
121ST LEGISLATURE
SECOND SPECIAL SESSION

HOUSE AMENDMENT "B" to COMMITTEE AMENDMENT "A" to H.P. 1152, L.D. 1579, Bill, "An Act To Promote the Financial Security of Maine's Families and Children"

Amend the amendment in section 1 in subsection 1 by striking out all of the last underlined sentence (page 1, lines 37 to 40 in amendment) and inserting in its place the following:

'For purposes of this subsection, "domestic partners" has the same meaning as in Title 18-A, section 1-201, subsection (10-A).'

Further amend the amendment by striking out all of section 2 and inserting in its place the following:

'Sec. 2. 18-A MRSA §1-201, sub-§(10-A) is enacted to read:

(10-A) "Domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

Sec. 3. 18-A MRSA §1-201, sub-§(17), as enacted by PL 1979, c. 540, §1, is amended to read:

(17) "Heirs" means those persons, including the surviving spouse or surviving registered domestic partner, who are entitled under the statutes of intestate succession to the property of a decedent.'

HOUSE AMENDMENT

R. of S.

Further amend the amendment in section 3 in subsection (20) in the 8th, 9th, 10th and 11th lines (page 2, lines 12 to 15 in amendment) by striking out the following: "For purposes of this subsection, "domestic partners" are persons that bear the same relationship to each other as do persons meeting the requirements set forth in Title 24, section 2319-A, subsection 1."

Further amend the amendment by striking out all of sections 4 to 14 and inserting in their place the following:

Sec. 4. 18-A MRSA §1-201, sub-§(36-A) is enacted to read:
(36-A) "Registered domestic partners" means domestic partners who are registered in accordance with Title 22, section 2710.

Sec. 5. 18-A MRSA §2-102, as enacted by PL 1979, c. 540, §1, is amended to read:

§2-102. Share of spouse or registered domestic partner

The intestate share of the surviving spouse or surviving registered domestic partner is:

(1) If there is no surviving issue or parent of the decedent, the entire intestate estate;

(2) If there is no surviving issue but the decedent is survived by a parent or parents, the first \$50,000, plus 1/2 of the balance of the intestate estate;

(3) If there are surviving issue all of whom are issue of the surviving spouse or surviving registered domestic partner also, the first \$50,000, plus 1/2 of the balance of the intestate estate; or

(4) If there are surviving issue one or more of whom are not issue of the surviving spouse or surviving registered domestic partner, 1/2 of the intestate estate.

Sec. 6. 18-A MRSA §2-103, as amended by PL 1981, c. 94, is further amended to read:

§2-103. Share of heirs other than surviving spouse or surviving registered domestic partner

The part of the intestate estate not passing to the surviving spouse or surviving registered domestic partner under section 2-102, or the entire estate if there is no surviving spouse or surviving registered domestic partner, passes as follows:

2 (1) To the issue of the decedent; to be distributed per
capita at each generation as defined in section 2-106;

4 (2) If there is no surviving issue, to the decedent's
6 parent or parents equally;

8 (3) If there is no surviving issue or parent, to the issue
of the parents or either of them to be distributed per capita at
10 each generation as defined in section 2-106;

12 (4) If there is no surviving issue, parent or issue of a
parent, but the decedent is survived by one or more grandparents
14 or issue of grandparents, half of the estate passes to the
paternal grandparents if both survive, or to the surviving
16 paternal grandparent, or to the issue of the paternal
grandparents if both are deceased to be distributed per capita at
18 each generation as defined in section 2-106; and the other half
passes to the maternal relatives in the same manner; but if there
20 be is no surviving grandparent or issue of grandparents on either
the paternal or maternal side, the entire estate passes to the
22 relatives on the other side in the same manner as the half, or

24 (5) If there is no surviving issue, parent or issue of a
parent, grandparent or issue of a grandparent, but the decedent
26 is survived by one or more ~~great-grandparents~~ great-grandparents
or issue of ~~great-grandparents~~ great-grandparents, half of the
28 estate passes to the paternal ~~great---~~ great-grandparents
great-grandparents who survive, or to the issue of the paternal
30 ~~great-grandparents~~ great-grandparents if all are deceased, to be
distributed per capita at each generation as defined in section
32 2-106; and the other half passes to the maternal relatives in the
same manner; but if there is no surviving ~~great--grandparent~~
34 great-grandparent or issue of a ~~great---~~ great-grandparent
great-grandparent on either the paternal or maternal side, the
36 entire estate passes to the relatives on the other side in the
same manner as the half.

38 **Sec. 7. 18-A MRSA §3-203, sub-§(a), ¶(4-A) is enacted to read:**

40 (4-A) The surviving domestic partner of the decedent;

42 **Sec. 8. 18-A MRSA §5-309, sub-§(a), ¶(1), as enacted by PL 1979,**
44 **c. 540, §1, is amended to read:**

46 (1) The ward or the person alleged to be incapacitated and
48 his the ward's or person's spouse, parents and, adult
children and any domestic partner known to the court;

A. of S.

2 **Sec. 9. 18-A MRSA §5-309, sub-§(c)**, as repealed and replaced by
PL 1985, c. 656, §2, is amended to read:

4 (c) Notice to the spouse, adult children, domestic partner
and parents required by subsection (a) shall must be served by
6 certified mail, with restricted delivery and return receipt
requested, at least 14 days before the date of the hearing.

8
10 If the certified mail to the spouse or domestic partner is not
delivered and ~~the spouse~~ that person can be found within the
12 State, notice shall must be served personally on ~~the spouse~~ that
person.

14 If the certified mail to the spouse or domestic partner is not
delivered, ~~the spouse cannot~~ that person can not be found within
16 the State and the certified mail is not delivered to any adult
children, notice shall must be served personally on an adult
18 child who can be found within the State.

20 If the certified mail to the spouse or domestic partner and adult
children is not delivered, the spouse or domestic partner and all
22 adult children ~~cannot~~ can not be found within the State and the
certified mail is not delivered to any parent, notice shall must
24 be served personally on a parent who can be found within the
State.

26 If no spouse, domestic partner, adult child or parent is served
28 by certified mail or personally, notice to the closest adult
relative required by subsection (a) shall must be served by
30 certified mail, with restricted delivery and return receipt
requested. If the certified mail to the adult relative is not
32 delivered and the adult relative can be found within the State,
notice shall must be served personally on the adult relative. If
34 no adult relative is served by certified mail or personally,
notice to an adult friend required by subsection (a) shall must
36 be served by certified mail, with restricted delivery and return
receipt requested. If the certified mail to the adult friend is
38 not delivered and the adult friend can be found within the State,
notice shall must be served personally on the adult friend.

40 Notice required by subsection (a) to any person serving as a
42 guardian, or conservator or who has a person's care and custody
shall must be served by certified mail, with restricted delivery
44 and return receipt requested.

46 Except as otherwise provided in this section, notice shall must
be given as prescribed by court rule under section 1-401.

48 **Sec. 10. 18-A MRSA §5-311, sub-§(b), ¶(2-A)** is enacted to read:

P. of S.

2 (2-A) The domestic partner of the incapacitated person;

4 **Sec. 11. 18-A MRSA §5-311, sub-§(c), ¶(1-A)** is enacted to read:

6 (1-A) The domestic partner of the incapacitated person;

8 **Sec. 12. 18-A MRSA §5-404, sub-§(a)**, as enacted by PL 1979, c.
540, §1, is amended to read:

10 (a) The person to be protected, any person who is
12 interested in his the estate, affairs or welfare of the person to
14 be protected including his the parent, guardian, ~~or~~ custodian, or
16 domestic partner of the person to be protected or any person who
18 would be adversely affected by lack of effective management of
his the property and affairs of the person to be protected may
petition for the appointment of a conservator or for other
appropriate protective order.

20 **Sec. 13. 18-A MRSA §5-405, sub-§(a-1)**, as enacted by PL 1985,
c. 656, §4, is amended to read:

22 (a-1) The spouse or domestic partner and all adult children
24 of the person to be protected or the protected person or, if
26 none, the person's parents or closest adult relative or, if none,
28 a friend must be given notice of the proceeding. Notice under
this subsection shall must be served by certified mail,
restricted delivery and return receipt requested, at least 14
days before the date of the hearing.

30 If the certified mail to the spouse or domestic partner is not
32 delivered and ~~the spouse~~ that person can be found within the
34 State, notice shall must be served personally on ~~the spouse~~ that
person.

36 If the certified mail to the spouse or domestic partner is not
38 delivered, ~~the spouse cannot~~ that person can not be found within
the State and the certified mail is not delivered to any adult
40 children, notice shall must be served personally on an adult
child who can be found within the State.

42 If notice is served on the person's parents or closest adult
44 relative and the certified mail is not delivered, notice shall
must be served personally on a parent or the adult relative if a
parent or adult relative can be found within the State.

46 If notice is served on the person's friend and the certified mail
48 is not delivered, notice shall must be served personally on the
friend if the friend can be found within the State.

R. of S.

2 Except as otherwise provided in this subsection and subsection
4 (a), notice shall must be given as prescribed by court rule under section 1-401.

6 **Sec. 14. 18-A MRSA §5-410, sub-§(a), ¶(3-A) is enacted to read:**

8 (3-A) The domestic partner of the protected person:

10 **Sec. 15. 19-A MRSA §4002, sub-§4, as enacted by PL 1995, c.**
12 **694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:**

14 **4. Family or household members.** "Family or household
16 members" means spouses or domestic partners or former spouses or
18 former domestic partners, individuals presently or formerly
20 living together as spouses, natural parents of the same child,
22 adult household members related by consanguinity or affinity or
24 minor children of a household member when the defendant is an
26 adult household member and, for the purposes of this chapter
only, includes individuals presently or formerly living together
and individuals who are or were sexual partners. Holding oneself
out to be a spouse is not necessary to constitute "living as
spouses." For purposes of this subsection, "domestic partners"
means 2 unmarried adults who are domiciled together under
long-term arrangements that evidence a commitment to remain
responsible indefinitely for each other's welfare.

28 **Sec. 16. 22 MRSA §2710 is enacted to read:**

30 **§2710. Domestic partner registry**

32 **1. Registry.** The Office of Health Data and Program
34 Management within the department, referred to in this section as
"the registry," shall establish a domestic partner registry.

36 **2. Registered domestic partners; eligibility.** Domestic
38 partners may become registered domestic partners if:

40 A. At the time when a declaration under subsection 3 is
42 filed, each domestic partner is a mentally competent adult
and not impaired or related in a fashion that would prohibit
marriage under Title 19-A, section 701, subsection 2, 3 or 4;

44 B. The domestic partners have been legally domiciled
46 together in this State for at least 12 months preceding the
filing;

48 C. Neither domestic partner is married or in a registered
50 domestic partnership with another person; and

2 D. Each domestic partner is the sole domestic partner of
the other and expects to remain so.

4 As used in this section, "domestic partners" means 2 unmarried
adults who are domiciled together under long-term arrangements
that evidence a commitment to remain responsible indefinitely for
each other's welfare.

8
10 3. Registration. To become registered domestic partners,
domestic partners must jointly file with the registry a
declaration under oath of domestic partnership together with the
required filing fee. The registry shall file the declaration in
the domestic partner registry established pursuant to subsection
1 and return 2 copies of the declaration to the domestic partners
at the address provided as their common residence. The registry
must charge a fee for registration that is adequate to pay the
projected costs for managing the registry.

18
20 4. Termination. A registered domestic partnership is
terminated by the marriage of either registered domestic partner
or by the filing with the registry of:

22
24 A. A notice under oath signed by both registered domestic
partners before a notary that the registered domestic
partners consent to the termination; or

26
28 B. A notice under oath from either registered domestic
partner that the other registered domestic partner was
served in hand with a notice of intent to terminate the
partnership. If service in hand is not feasible, then
substitute service may be accomplished in the same fashion
as provided by the Maine Rules of Civil Procedure for
commencement of a civil action. Termination under this
paragraph is not effective until 60 days after service is
complete.

36
38 5. Indemnity. If a 3rd party in reliance on the existence
of a registered domestic partnership suffers loss because of a
failure to receive adequate notice of termination under
subsection 4, each registered domestic partner responsible for
the failure to give notice is liable to pay the loss.

42
44 6. Forms. The registry shall develop standard forms for
the declaration and termination of registered domestic
partnerships.

R. of S.

2 A. The declaration must adequately identify each individual
3 signing the form by name, including former names, residence
4 and date and place of birth.

6 B. The declaration must contain an assertion under oath
7 that each individual meets the requirements of subsection 2
8 at the time the declaration is filed.

10 C. The declaration must contain a warning that registration
11 may affect property and inheritance rights, that
12 registration is not a substitute for a will, a deed or a
13 partnership agreement and that any rights conferred by
14 registration may be completely superseded by a will, a deed
15 or other instruments that may be executed by either party.
16 The declaration must also contain instructions on how the
17 partnership may be terminated.'

18 Further amend the amendment in section 15 in subsection 2 by
19 striking out all of the last underlined sentence (page 8, lines
20 13 to 17 in amendment) and inserting in its place the following:
21 'For purposes of this subsection, "domestic partner" means one of
22 2 unmarried adults who are domiciled together under long-term
23 arrangements that evidence a commitment to remain responsible
24 indefinitely for each other's welfare.'

26 Further amend the amendment in section 16 in paragraph D by
27 striking out all of subparagraph (1) (page 8, lines 26 to 30 in
28 amendment) and inserting in its place the following:

30 '(1) The spouse;
31
32 (1-A) A domestic partner. For purposes of this
33 section, "domestic partner" means one of 2 unmarried
34 adults who are domiciled together under long-term
35 arrangements that evidence a commitment to remain
36 responsible indefinitely for each other's welfare;'

38 Further amend the amendment in section 17 in subsection 3 by
39 striking out all of the last underlined sentence (page 9, lines
40 13 to 16 in amendment).

42 Further amend the amendment in section 18 in that part
43 designated "~~§2846.~~" in the first paragraph by striking out all of
44 the last underlined sentence (page 9, lines 32 to 36 in
45 amendment) and inserting in its place the following: 'For
46 purposes of this section, "domestic partner" means one of 2
47 unmarried adults who are domiciled together under long-term
48 arrangements that evidence a commitment to remain responsible
49 indefinitely for each other's welfare.'

50

PLS

Further amend the amendment by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment incorporates the substance of Senate Amendment "B" to Committee Amendment "A," filing number House Paper 1152, except that this amendment does the following.

1. It defines "domestic partners" as 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

2. It allows domestic partners to register with the Department of Human Services, Office of Health Data and Program Management, becoming "registered domestic partners."

3. It includes as a requirement that a registered domestic partnership can not be terminated unless both partners consent to the termination or a partner wishing to terminate the partnership provides a written notice, in hand, to the other partner.

4. It requires that the declaration of domestic partnership form must contain a warning in bold type explaining that the declaration may have a significant effect on property or inheritance rights and that registration is not a substitute for a will or a formal partnership agreement.

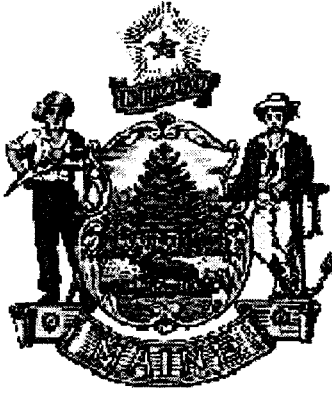
5. It clarifies that a domestic partner is a person entitled to have priority for appointment as a personal representative, guardian or conservator for an estate or as custodian of the remains of a deceased individual.

6. It clarifies that a registered domestic partner is entitled to priority in case of intestacy of the other registered domestic partner.

FISCAL NOTE REQUIRED (See attached)

SPONSORED BY: William S. Norbert (Representative NORBERT)

TOWN: Portland



121st Maine Legislature
Office of Fiscal and Program Review

LD 1579

An Act To Promote the Financial Security of Maine's Families and Children

LR 2058(15)

Fiscal Note for House Amendment " " to Committee Amendment " "

Sponsor: Rep. Mills

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds
Minor revenue increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the Department of Human Services can be absorbed utilizing existing resources and the fees authorized in the legislation.