

MAINE STATE LEGISLATURE

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M
R. O. G.

L.D. 1579

DATE: 3.30.04

(Filing No. S-472)

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STATE OF MAINE
SENATE
121ST LEGISLATURE
SECOND SPECIAL SESSION

SENATE AMENDMENT "A" 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" are persons who are members of a domestic partnership registered under Title 22, section 2710.'

Further amend the amendment by inserting after section 1 the following:

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

(10-A) "Domestic partner" means an individual who is a member of a domestic partnership registered under Title 22, section 2710.'

Further amend the amendment in section 2 in subsection (17) by striking out all of the last underlined sentence (page 1, lines 48 to 51 in L.D.)

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."

SENATE AMENDMENT

SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1152,
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Further amend the amendment in section 4 in section
"§2-102." by striking out all of the last underlined indented
paragraph (page 2, lines 47 to 50 in amendment)

Further amend the amendment in section 5 in that part
designated "§2-103." by striking out all of the last underlined
indented paragraph (page 4, lines 1 to 4 in amendment)

Further amend the amendment by striking out all of sections
6 and 7 and inserting in their place the following:

'Sec. 6. 18-A MRSA §3-203, sub-§(a), ¶(2) and (4), as enacted by
PL 1979, c. 540, §1, are amended to read:

(2) The surviving spouse or surviving domestic partner of
the decedent who is a devisee of the decedent;

(4) The surviving spouse or surviving domestic partner of
the decedent;

Sec. 7. 18-A MRSA §5-309, sub-§(a), ¶(1), as enacted by PL 1979,
c. 540, §1, is amended to read:

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

Further amend the amendment in section 8 in subsection (c)
by striking out all of the 2nd blocked paragraph from the end
(page 5, lines 31 to 35 in L.D.)

Further amend the amendment by striking out all of sections
9, 10 and 11 and inserting in their place the following:

'Sec. 9. 18-A MRSA §5-311, sub-§(b), ¶(2), as enacted by PL
1979, c. 540, §1, is amended to read:

(2) The spouse or domestic partner of the incapacitated
person;

Sec. 10. 18-A MRSA §5-311, sub-§(c), ¶(1), as enacted by PL 1995,
c. 51, §1, is amended to read:

(1) The spouse or domestic partner of the incapacitated
person;

Sec. 11. 18-A MRSA §5-404, sub-§(a), as enacted by PL 1979, c.
540, §1, is amended to read:

(a) The person to be protected, any person who is
interested in his the estate, affairs or welfare of the person to

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SENATE AMENDMENT "A" to COMMITTEE AMENDMENT "A" to H.P. 1152, L.D. 1579

2 be protected, including his the parent, guardian, or custodian,
3 or domestic partner of the person to be protected, or any person
4 who would be adversely affected by lack of effective management
5 of his the property and affairs of the person to be protected may
6 petition for the appointment of a conservator or for other
appropriate protective order.'

8 Further amend the amendment in section 12 in subsection
9 (a-1) by striking out all of the 2nd blocked paragraph from the
10 end (page 7, lines 8 to 12 in amendment)

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

14 'Sec. 13. 18-A MRSA §5-410, sub-§(a), ¶(3), as enacted by PL
16 1979, c. 540, §1, is amended to read:

18 (3) The spouse or domestic partner of the protected person;

20 Sec. 14. 19-A MRSA §4002, sub-§4, as enacted by PL 1995, c.
22 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

24 4. Family or household members. "Family or household
25 members" means spouses or domestic partners or former spouses or
26 former domestic partners, individuals presently or formerly
27 living together as spouses, natural parents of the same child,
28 adult household members related by consanguinity or affinity or
29 minor children of a household member when the defendant is an
30 adult household member and, for the purposes of this chapter
31 only, includes individuals presently or formerly living together
32 and individuals who are or were sexual partners. Holding oneself
33 out to be a spouse is not necessary to constitute "living as
34 spouses." For purposes of this subsection, "domestic partners"
are persons who are members of a domestic partnership registered
under Title 22, section 2710.

36 Sec. 15. 22 MRSA §2710 is enacted to read:

38 **§2710. Domestic partner registry**

40 1. Registry. The Office of Health Data and Program
42 Management, referred to in this section as "the office," shall
43 establish a domestic partner registry.

44 2. Registration. To register a domestic partnership, the
46 domestic partners must file a declaration of domestic
47 partnership. The office shall register the declaration of
48 domestic partnership in the domestic partner registry and shall

Refs.

1 return a copy of the declaration form to the domestic partners at
2 the address provided as their common residence. The office may
3 charge a fee for registering a domestic partnership of not more
4 than the actual cost of processing the registration.

6 3. Termination. This subsection applies to the termination
7 of domestic partnerships.

8
9 A. A domestic partnership terminates when:

10 (1) One of the domestic partners dies; or

11 (2) A notice of termination of domestic partnership
12 has been filed with the office.

13
14
15 B. Notwithstanding paragraph A, subparagraph (1), the
16 rights conferred on a domestic partner by sections 2843,
17 2843-A and 2846, and Title 18-A, Articles 1 to 3 are not
18 terminated by the death of the other domestic partner.

19
20 C. Within 90 days of no longer meeting the criteria for
21 domestic partnership under subsection 5, at least one of the
22 former domestic partners shall file, by certified mail, a
23 notice of termination with the office. Upon receipt, the
24 office shall provide the domestic partner who filed the
25 notice of termination with 2 copies of the notice, marked
26 "filed." Unless the partners jointly file the notice of
27 termination, the partner who filed the notice shall within 5
28 days send by certified mail a copy of the filed notice to
29 the other domestic partner's last known address. The office
30 may not charge a fee for filing a notice of termination.

31
32 This paragraph does not apply if the termination is due to
33 the death of one of the domestic partners.

34
35 D. The termination is effective upon the filing of the
36 notice of termination with the office by one or both
37 partners or on the date of the death of one of the domestic
38 partners.

39
40 E. A former domestic partner who has given a copy of the
41 declaration of domestic partnership to any 3rd party to
42 qualify for any benefit or right and whose receipt of that
43 benefit or enjoyment of that right has not otherwise
44 terminated shall, upon termination of the domestic
45 partnership, give or send to the 3rd party written
46 notification that the domestic partnership has been
47 terminated. A 3rd party that suffers a loss as a result of
48 failure by the domestic partner to provide this notice is

entitled to seek recovery from the domestic partner who was obligated to send the notice for any actual loss that resulted from the failure.

F. Failure to provide notice to 3rd parties as required in paragraph E may not delay or prevent the termination of the domestic partnership.

4. Forms, distribution. The office shall develop standard forms for the declaration of domestic partnership and the notice of termination of domestic partnership.

A. The declaration of domestic partnership form must require each individual who wants to become a domestic partner to:

(1) State that the individual meets the requirements of subsection 5 at the time the form is signed;

(2) Provide a mailing address;

(3) Sign the form under penalty of perjury; and

(4) Have a notary public acknowledge the individual's signature.

B. The office shall make the forms available to municipal clerks and registers of probate and shall distribute the forms upon request. The form must be available on the office's publicly accessible site on the Internet.

5. Domestic partnership; definition. "Domestic partnership" means the legal relationship that is formed between 2 individuals under this subsection. Two individuals may form a domestic partnership if they meet the following criteria:

A. Each individual is a mentally competent adult;

B. The 2 individuals have been legally domiciled with each other for at least 12 months;

C. Neither individual is legally married to, legally separated from or registered in a domestic partnership with another individual;

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

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2 E. The 2 individuals are jointly responsible for each
3 other's common welfare as evidenced by joint living
4 arrangements, joint financial arrangements or joint
5 ownership of real or personal property.'

6 Further amend the amendment in section 15 in subsection 2 by
7 striking out all of the last underlined sentence (page 8, lines
8 13 to 17 in amendment) and inserting in its place the following:
9 'For purposes of this subsection, "domestic partner" means a
10 person who is a member of a domestic partnership registered under
11 Title 22, section 2710.'

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

15 '(1) The spouse or domestic partner. For purposes of
16 this section, "domestic partner" means a person who is
17 a member of a domestic partnership registered under
18 section 2710;'

19 Further amend the amendment in section 17 in subsection 3 by
20 striking out all of the last underlined sentence (page 9, lines
21 13 to 16 in amendment)

22 Further amend the amendment in section 18 in that part
23 designated "~~§2846~~." in the first paragraph by striking out all of
24 the last underlined sentence (page 9, lines 32 to 36 in
25 amendment) and inserting in its place the following: 'For
26 purposes of this section, "domestic partner" means a person who
27 is a member of a domestic partnership registered under section
28 2710.'

29 Further amend the bill by relettering or renumbering any
30 nonconsecutive Part letter or section number to read
31 consecutively.

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37 **SUMMARY**

38 This amendment establishes a domestic partnership registry
39 in the Office of Health Data and Program Management in the
40 Department of Human Services, Bureau of Health. Domestic
41 partners who meet the criteria may register as a domestic
42 partnership by filing a notarized form with the registry. A fee
43 that covers the cost of processing may be charged.

44 This amendment provides for a process of registering the
45 termination of a domestic partnership.
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48

SENATE AMENDMENT

H. 1579

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2 This amendment makes all references to "domestic partner"
consistent with the Maine Revised Statutes, Title 22, section
4 2710.

FISCAL NOTE REQUIRED
(See attached)

8
10 SPONSORED BY: *Keggy A Pendleton*
12 (Senator PENDLETON)

14 COUNTY: Cumberland

16

**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(09)

Fiscal Note for Senate Amendment " " to Committee Amendment " "

Sponsor: Sen. Pendleton

Fiscal Note Required: Yes

A

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.