

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1579

H.P. 1152

House of Representatives, April 16, 2003

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

(AFTER DEADLINE)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 205.

Reference to the Committee on Judiciary suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative DUDLEY of Portland.
Cosponsored by President DAGGETT of Kennebec and
Representatives: BULL of Freeport, COWGER of Hallowell, NORBERT of Portland,
PINGREE of North Haven, RICHARDSON of Brunswick, Senators: BRENNAN of
Cumberland, MAYO of Sagadahoc, TURNER of Cumberland.

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

4 **Sec. 1. 18-A MRSA §1-201, sub-§§(10-A) and (10-B)** are enacted to read:

6 (10-A) "Domestic partner" means an individual who has signed and filed in the office of the Secretary of State a notarized affidavit attesting to a domestic partnership. For the purposes of sections 2-102, 3-203, 5-311 and 5-410, a domestic partner is deemed to be the equivalent of a surviving spouse or a spouse notwithstanding any other legal or familial relationship the domestic partner may have with the decedent, the incapacitated person or the protected person.

14 (10-B) "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:

20 (i) Each individual is a mentally competent adult;

22 (ii) The 2 individuals have been legally domiciled with each other for at least 12 months;

24 (iii) Neither individual is legally married to, legally separated from or registered in a domestic partnership with, another individual;

28 (iv) Each individual is the sole domestic partner of the other and expects to remain so; and

32 (v) The 2 individuals are jointly responsible for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

36 **Sec. 2. 18-A MRSA §1-201, sub-§(17)**, as enacted by PL 1979, c. 38 540, §1, is amended to read:

40 (17) "Heirs" means those persons, including the surviving spouse or surviving domestic partner, who are entitled under the 42 statutes of intestate succession to the property of a decedent.

44 **Sec. 3. 18-A MRSA §1-201, sub-§(20)**, as amended by PL 1979, c. 46 690, §3, is further amended to read:

48 (20) "Interested person" includes heirs, devisees, children, spouses, domestic partners, creditors, beneficiaries and any others having a property right in or claim against a 50 trust estate or the estate of a decedent, ward or protected

2 person which that may be affected by the proceeding. It also
3 includes persons having priority for appointment as personal
4 representative, and other fiduciaries representing interested
5 persons. In any proceeding or hearing under Article V 5,
6 affecting a trust estate or estate, when the ward or protected
7 person has received benefits from the Veterans Administration
8 within 3 years, the ~~Administratør~~ administrator of Veterans
9 Affairs of the United States shall be an "interested person." The
10 meaning as it relates to particular persons may vary from time to
11 time and must be determined according to the particular purposes
12 of, and matter involved in, any proceeding.

13 **Sec. 4. 18-A MRSA §2-102**, as enacted by PL 1979, c. 540, §1,
14 is amended to read:

15 **§2-102. Share of the spouse or domestic partner**

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

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

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

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

26 (4) If there are surviving issue one or more of whom are
27 not issue of the surviving spouse or surviving domestic partner,
28 1/2 of the intestate estate.

29 **Sec. 5. 18-A MRSA §2-103**, as amended by PL 1981, c. 94, is
30 further amended to read:

31 **§2-103. Share of heirs other than surviving spouse or surviving**
32 **domestic partner**

33 The part of the intestate estate not passing to the
34 surviving spouse or surviving domestic partner under section
35 2-102, or the entire estate if there is no surviving spouse or
36 surviving domestic partner, passes as follows:

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

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

4 (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
6 each generation as defined in section 2-106;

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

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

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

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

38 **Sec. 7. 18-A MRSA §3-203, sub-§(a), ¶(4),** as enacted by PL 1979,
c. 540, §1, is amended to read:

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

44 **Sec. 8. 18-A MRSA §5-311, sub-§(b), ¶(2),** as enacted by PL 1979,
c. 540, §1, is amended to read:

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

2 **Sec. 9. 18-A MRSA §5-311, sub-§(c), ¶(1),** as enacted by PL 1995,
c. 51, §1, is amended to read:

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

8 **Sec. 10. 18-A MRSA §5-410, sub-§(a), ¶(3),** as enacted by PL
1979, c. 540, §1, is amended to read:

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

12 **Sec. 11. 22 MRSA §2843-A, sub-§1, ¶B-1** is enacted to read:

14 B-1. "Domestic partner" has the same meaning as in Title
16 18-A, section 1-201, sub-§(10-A).

18 **Sec. 12. 22 MRSA §2843-A, sub-§1, ¶D,** as enacted by PL 1993,
c. 609, §1, is amended to read:

20 D. "Next of kin" means a person having the following
22 relationship to the subject, in the following order of
priority:

24 (1) The spouse or domestic partner;

26 (2) An adult son or daughter;

28 (3) A parent;

30 (4) An adult brother or sister;

32 (5) An adult grandchild;

34 (6) An adult niece or nephew who is the child of a
brother or sister;

36 (7) A maternal grandparent;

38 (8) A paternal grandparent;

40 (9) An adult aunt or uncle;

42 (10) An adult first cousin; or

44 (11) Any other adult relative in descending order of
46 blood relationship.

48 **Sec. 13. 22 MRSA §2843-A, sub-§3,** as enacted by PL 1993, c.
609, §1, is amended to read:

