

MAINE STATE LEGISLATURE

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124th MAINE LEGISLATURE

SECOND REGULAR SESSION-2010

Legislative Document

No. 1781

H.P. 1271

House of Representatives, February 17, 2010

**An Act To Allow Electronic Filing of Vital Records and Closing of
Records To Guard against Fraud and Make Other Changes to the
Vital Records Laws**

Reference to the Committee on Health and Human Services suggested and ordered printed.

Millicent M. MacFarland
MILLICENT M. MacFARLAND
Clerk

Presented by Representative PERRY of Calais. (GOVERNOR'S BILL)

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

2 **Sec. 1. 22 MRSA §256-A, first ¶**, as amended by PL 2007, c. 631, §1, is further
3 amended to read:

4 Beginning in 2006, the Department of Labor, in conjunction with the Office of ~~Health~~
5 ~~Data and Program Management's Division of Data, Research and Vital Statistics~~, shall
6 compile and annually update a health care occupations report to be completed and
7 presented to the health workforce forum established in section 257 by September 15th.
8 Beginning in 2009, the health care occupations report must be completed and presented to
9 the health workforce forum established in section 257 by September 15th and presented
10 every 4th year thereafter. The report must be posted on a publicly accessible site on the
11 Internet maintained by the Department of Labor and provide the following information:

12 **Sec. 2. 22 MRSA §256-B, sub-§3**, as amended by PL 2007, c. 240, Pt. RR, §3, is
13 further amended to read:

14 **3. Submission of surveys.** All surveys conducted pursuant to subsection 1 must be
15 submitted to the Office of ~~Health Data and Program Management's Division of Data,~~
16 Research and Vital Statistics for analysis, and survey data from which personally
17 identifiable information has been eliminated must be publicly available.

18 **Sec. 3. 22 MRSA §2701, first ¶**, as amended by PL 2001, c. 574, §16 and PL
19 2003, c. 689, Pt. B, §6, is further amended to read:

20 The Department of Health and Human Services shall establish the Office of ~~Health~~
21 ~~Data and Program Management~~ Data, Research and Vital Statistics, which shall maintain
22 a statewide system for the registration of vital statistics.

23 **Sec. 4. 22 MRSA §2701, sub-§5**, as amended by PL 2001, c. 574, §19, is further
24 amended to read:

25 **5. Deputy State Registrar.** The state registrar may designate an employee of the
26 Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics to
27 represent the Office of ~~Health Data and Program Management~~ Data, Research and Vital
28 Statistics. The representative is known as the Deputy State Registrar of Vital Statistics
29 and has the authority of the state registrar in the state registrar's absence.

30 **Sec. 5. 22 MRSA §2701, sub-§7**, as amended by PL 2001, c. 574, §20, is further
31 amended to read:

32 **7. Definitions.** As used in this section, unless the context otherwise indicates, the
33 following terms have the following meanings.

34 A. "File" means the presentation and acceptance of a vital record or report for
35 registration by the Office of ~~Health Data and Program Management~~ Data, Research
36 and Vital Statistics or a municipal clerk as specified in departmental rule.

1 B. "Date of filing" means the date a vital record is accepted for registration by the
2 Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics
3 or a municipal clerk.

4 **Sec. 6. 22 MRSA §2702**, as amended by PL 1995, c. 260, §§4 and 5, is further
5 amended to read:

6 **§2702. Duties of municipal clerks**

7 The clerk of each municipality in this State shall keep a chronological record of all
8 live births, marriages, deaths and fetal deaths reported to ~~him~~ the municipal clerk under
9 this Title. Such record shall must be kept as prescribed by the state registrar.

10 **1. Enforce law and rules.** Each municipal clerk in this State shall enforce, so far as
11 comes within ~~his~~ the municipal clerk's jurisdiction, this Title and the ~~regulations~~ rules of
12 the department relating to the registration of vital statistics.

13 **2. Transmittal of certificates to state registrar.** Except as authorized by the state
14 registrar, a record received in a municipal office must be transmitted by the clerk of the
15 municipality to the state registrar within a reasonable period of time as specified by
16 department rule and in the format specified by the state registrar.

17 **3. Transmittal of certificates to other municipalities.** Except as authorized by the
18 state registrar, when the parents of any child born are residents of any other municipality
19 in this State, ~~or when any deceased person was a resident of any other municipality in this~~
20 ~~State,~~ the clerk of the municipality where that live birth ~~or death~~ occurred shall, ~~at the~~
21 ~~same time,~~ transmit the record to the state registrar and transmit a certified copy of the
22 certificate of the live birth ~~or death~~ to the clerk of the municipality where the parents
23 reside, ~~or where the deceased was a resident.~~

24 **Sec. 7. 22 MRSA §2702-A**, as enacted by PL 1987, c. 268, §2, is amended to
25 read:

26 **§2702-A. Duties to furnish information**

27 Any person having knowledge of the facts shall furnish such information as ~~he~~ the
28 individual may possess regarding any birth, death, spontaneous fetal death, abortion,
29 marriage, divorce or annulment, upon demand of the state registrar.

30 **Sec. 8. 22 MRSA §2703** is amended to read:

31 **§2703. Birth in unincorporated place**

32 When a birth, ~~marriage or death~~ occurs in an unincorporated place, it shall must be
33 reported to the ~~town~~ municipal clerk in the ~~town which~~ municipality that is nearest to the
34 place at which the birth, ~~marriage or death~~ took place; and shall must be recorded by the
35 ~~town~~ municipal clerk to whom the report is made. All such reports and records shall must
36 be made and recorded and returned to the state registrar.

1 **Sec. 9. 22 MRSA §2704**, as amended by PL 2001, c. 574, §21, is further amended
2 to read:

3 **§2704. Registration of births and deaths at United States Department of Veterans**
4 **Affairs at Togus**

5 Certificates of live births, deaths and fetal deaths occurring at the ~~Veterans~~
6 ~~Administration Center~~ United States Department of Veterans Affairs at Togus must be
7 filed directly with the state registrar. The state registrar shall forward copies of all such
8 certificates of live birth, death and fetal death to the clerk of the municipality where the
9 parents of the child reside ~~or where the deceased was a resident~~.

10 **Sec. 10. 22 MRSA §2705, sub-§1**, as amended by PL 1989, c. 818, §3, is further
11 amended to read:

12 **1. Amended certificate or record.** A certificate or record that has been altered or
13 amended after its filing must be marked "amended," and the date on which the certificate
14 or record was amended and a summary description of the evidence submitted in support
15 of the correction must be endorsed on the certificate or record or permanently attached to
16 it. Any certified copies of certificates or records amended under this section must be
17 marked "amended." ~~Notwithstanding this subsection, administrative~~ Administrative
18 correction of clerical errors within ~~one year~~ 90 days after the date of filing does not cause
19 the certificate or record to be considered altered or amended.

20 **Sec. 11. 22 MRSA §2705, sub-§2** is amended to read:

21 **2. Incomplete certificates.** Incomplete certificates and records may be completed
22 from a supplementary form within ~~one year~~ 90 days after the date of filing without being
23 considered altered or amended.

24 **Sec. 12. 22 MRSA §2706**, as amended by PL 2001, c. 574, §22, is further
25 amended to read:

26 **§2706. Disclosure of vital records**

27 Custodians of certificates and records of birth, marriage and death may permit
28 inspection of records, or issue certified copies of certificates or records, or any parts
29 thereof, when satisfied that the applicant therefor has a direct and legitimate interest in
30 the matter recorded, the decision of the state registrar or the clerk of a municipality being
31 subject to review by the Superior Court, under the limitations of this section.

32 ~~**1. Child not born of marriage.** An official in this State may not permit inspection,~~
33 ~~or issue a certified copy of any certificate or record of birth disclosing that a child was not~~
34 ~~born of marriage. Such a record may be disclosed or a certified copy issued upon request~~
35 ~~of the child, the child's parent or the child's legal guardian or counsel or of petitioners for~~
36 ~~adoption or in response to court process. Such a record may be disclosed as necessary for~~
37 ~~the department to carry out its responsibilities as the State's child support enforcement~~
38 ~~agency.~~

1 **2. Statistical research.** The state registrar may permit the use of data contained in
2 vital records for purposes of statistical research. Such data ~~shall~~ may not be used in a
3 manner ~~which that~~ will identify any individual.

4 **3. National statistics.** The national agency responsible for compiling national vital
5 statistics may be furnished such copies or data as it may require for national statistics.
6 The State ~~shall~~ must be reimbursed for cost of furnishing such copies or data, and such
7 data ~~shall~~ may not be used in a manner ~~which that~~ will identify any individual, except as
8 authorized by the state registrar.

9 **4. Unlawful disclosure of data.** It ~~shall be~~ is unlawful for any employee of the State
10 or of any municipality in the State to disclose data contained in such records, except as
11 authorized in this section and except that a clerk of a municipality may cause to be
12 printed in the annual town report the births reported within the year covered by the report,
13 by number of births and location by city or town where birth occurred, deaths reported
14 within the year covered by the ~~said~~ report, by date of death, name, age and location by
15 city or town where death occurred, and marriages reported within the year covered by the
16 report by names of parties and date of marriage. All other details of birth, marriage,
17 divorce or death shall may not be available to the general public, except as specified in
18 department rules.

19 **5. Records disclosed.** Vital records of a person must be made available at any
20 reasonable time upon that person's request or ~~to~~ the request of that person's spouse,
21 registered domestic partner, descendants, parents or guardians or that person's duly
22 designated attorney or agent or attorney for an agent designated by that person or by a
23 court having jurisdiction over that person whether the request be made in person, by mail,
24 by telephone or otherwise, provided if the state registrar is satisfied as to the identity of
25 the requester, and, if an attorney or agent, provided if the state registrar is satisfied as to
26 the attorney or agent's authority to act as ~~such~~ that person's agent or attorney. If ~~such~~ the
27 agent or attorney has been appointed by a court of competent jurisdiction, or the attorney
28 or agent's appearance for ~~such~~ the person is entered therein, the state registrar shall upon
29 request so ascertain by telephone call to the register, clerk or recorder of ~~said~~ the court,
30 and this must be deemed sufficient justification to compel compliance with the request
31 for ~~said~~ the record. The state registrar shall, as soon as possible, designate persons in the
32 Office of ~~Health Data and Program Management~~ Data, Research and Vital Statistics who
33 may act in the state registrar's absence, or, in case of the state registrar's disqualification,
34 to carry out the intent of this subsection. A record of birth, death, fetal death, marriage,
35 divorce or domestic partner registration may be disclosed as necessary for the department
36 to carry out its responsibilities.

37 **6. Address Confidentiality Program.** Access to vital records may be further
38 restricted within the parties listed in subsection 5 according to procedures of the Address
39 Confidentiality Program under Title 5, section 90-B.

40 **7. Public records.** After 100 years from the date of birth for birth certificates, after
41 100 years from the date of death for fetal death certificates and death certificates, after
42 100 years from the date of marriage for marriage certificates and after 100 years from the
43 registration of domestic partnerships, any person may obtain informational copies of
44 these vital records in accordance with the department's rules.

1 **Sec. 13. 22 MRSA §2708, sub-§1-B** is enacted to read:

2 **1-B. Hindering state registrar investigation.** A person who knowingly refuses to
3 permit the state registrar to inspect vital records or hinders an investigation conducted by
4 the state registrar pursuant to section 2709 commits a Class E crime.

5 **Sec. 14. 22 MRSA §2709**, as amended by PL 1973, c. 567, §20, is further
6 amended to read:

7 **§2709. Duty of state registrar when law violated**

8 When the ~~State Registrar of Vital Statistics~~ state registrar believes that, in any place
9 in this State, the certificates or records of live births, marriages, deaths or fetal deaths are
10 not made or kept as is provided by law, or that any person neglects or fails to perform any
11 duty required in the law relating to the registration of vital statistics, the ~~said~~ state
12 registrar may visit such places and make such investigations as ~~he may deem~~ the state
13 registrar considers necessary, and all records, blanks and papers of ~~town~~ municipal clerks
14 relating to live births, marriages, deaths or fetal deaths shall must be open to ~~his~~ the state
15 registrar's examination. ~~Any person who refuses to permit or hinders the examination or~~
16 ~~investigation shall be punished by a fine of not less than \$25 nor more than \$50.~~

17 ~~When the state registrar knows, or has good reason to believe, that any penalty or~~
18 ~~forfeiture under the law relating to vital statistics has been incurred, he shall forthwith~~
19 ~~give notice thereof, in writing, to the district attorney of the county in which said penalty~~
20 ~~or forfeiture has occurred, which notice shall state as near as may be the time of such~~
21 ~~neglect, the name of the person or persons incurring the penalty or forfeiture, and such~~
22 ~~other facts relating to the default of duty as said registrar may have been able to learn, and~~
23 ~~upon receipt of such notice the district attorney shall prosecute the defaulting person or~~
24 ~~persons.~~

25 **Sec. 15. 22 MRSA §2710, sub-§1**, as enacted by PL 2003, c. 672, §17, is
26 amended to read:

27 **1. Registry.** ~~The Office of Health Data and Program Management~~ Data, Research
28 and Vital Statistics within the department, referred to in this section as "the registry,"
29 shall establish a domestic partner registry.

30 **Sec. 16. 22 MRSA §2761, first ¶**, as amended by PL 1995, c. 260, §6, is further
31 amended to read:

32 A certificate of each live birth that occurs in this State must be filed with the clerk of
33 the municipality in which the live birth occurred or with the state registrar within a
34 reasonable period of time as specified by ~~the~~ department rules and must be registered if
35 the certificate has been completed and filed in accordance with this section.

36 **Sec. 17. 22 MRSA §2761, sub-§1**, as amended by PL 1995, c. 260, §6, is further
37 amended to read:

1 **1. Certificate from hospital.** When the live birth occurs in a hospital or an
2 institution, or en route to the hospital or institution, the person in charge of the institution
3 or the person's authorized designee shall obtain the personal data, prepare the certificate,
4 certify by signature or by electronic process that the child was born alive at the place and
5 time and on the date stated and file the certificate as directed in this section. The
6 physician or other person in attendance shall provide the medical information required by
7 the certificate in a timely fashion, ~~in accordance with~~ as specified by department rule.

8 **Sec. 18. 22 MRSA §2761, sub-§4,** as amended by PL 2001, c. 574, §23, is
9 further amended to read:

10 **4. Child not born of marriage.** Except as otherwise provided in this subsection, if
11 the mother was not married at the time of either conception or birth, or between
12 conception and birth, neither the name of the putative father nor any other information
13 about the putative father may be entered on the certificate without his written consent and
14 that of the mother. The signature of the putative father on the written consent must be
15 acknowledged before an official authorized to take oaths. The signature of the mother on
16 her written consent must also be acknowledged before an official authorized to take
17 oaths. If a determination of paternity has been made by a court of competent jurisdiction,
18 then the name of the father as determined by the court must be entered on the birth
19 certificate without the father's or the mother's consent. If the putative father executes an
20 acknowledgement of paternity with the department and the putative father is either named
21 in writing by the mother as the father or is presumed to be the father based on the results
22 of blood or tissue-typing tests, the name of the father must be entered on the birth
23 certificate without the father's or the mother's consent. All voluntary acknowledgments
24 and adjudications of paternity in this State must be filed with the Office of ~~Health Data~~
25 ~~and Program Management~~ Data, Research and Vital Statistics for comparison with
26 information in the state registry of support orders as established in Title 19-A, section
27 2104.

28 **Sec. 19. 22 MRSA §2761-A,** as enacted by PL 1993, c. 738, Pt. C, §4, is amended
29 to read:

30 **§2761-A. Baptismal records in lieu of birth certificates**

31 Any ~~Indian~~ Native American whose birth is not recorded pursuant to this Title
32 relating to the registration of live births may, in lieu of a birth certificate, present an
33 official copy of the baptismal record from the files of the mission where the ~~Indian~~ Native
34 American was baptized. The baptismal record has the same evidentiary character as an
35 unamended and undelayed birth certificate under section 2707.

36 **Sec. 20. 22 MRSA §2765, sub-§2-A, ¶B,** as enacted by PL 1989, c. 818, §9, is
37 amended to read:

38 B. When a new certificate is established after legitimation pursuant to subsection 1,
39 paragraph B, the actual place and date of birth, the name of the child and the names
40 and personal data of both parents at the time of birth must be shown.
41 Notwithstanding section 2705, the new certificate may not be marked "amended."

1 The new certificate must be filed with all other birth certificates and is not subject to
2 the provisions of ~~section 2706, subsection 1, or section 2761, subsection 4.~~

3 **Sec. 21. 22 MRSA §2766, 2nd ¶**, as amended by PL 2001, c. 574, §25, is further
4 amended to read:

5 Upon verification of the information in this section, the state registrar shall prepare a
6 form identifying the birth parents of the adoptee. This form must be attached to the new
7 certificate of birth established pursuant to section 2765. A copy of the form must be
8 attached to an abstract of birth issued by the Office of ~~Health Data and Program~~
9 Management Data, Research and Vital Statistics and must be provided to the adoptee.

10 **Sec. 22. 22 MRSA §2768, sub-§5**, as enacted by PL 2007, c. 409, §4 and
11 affected by §6, is amended to read:

12 **5. Forms; rules.** The state registrar shall develop by rule the data elements required
13 in the contact preference form, medical history form and application form as required by
14 this section and may adopt other rules for the administration of this section. Rules
15 adopted pursuant to this subsection are routine technical rules as defined in Title 5,
16 chapter 375, subchapter 2-A.

17 **Sec. 23. 22 MRSA §2769, sub-§5**, as enacted by PL 2007, c. 409, §5 and
18 affected by §6, is amended to read:

19 **5. Forms; rules.** The state registrar shall develop by rule the data elements required
20 for forms as required by this section and may adopt other rules for the administration of
21 this section. Rules adopted pursuant to this subsection are routine technical rules as
22 defined in Title 5, chapter 375, subchapter 2-A.

23 **Sec. 24. 22 MRSA §2841, sub-§1**, as amended by PL 1977, c. 232, §1, is further
24 amended to read:

25 **1. Certificate filed by funeral director.** The funeral director or other authorized
26 person in charge of the disposition of the dead fetus or its removal from the State ~~shall be~~
27 is responsible for filing the certificate. In the absence of such a person, the physician or
28 other person in attendance at or after the delivery ~~shall be~~ is responsible for filing the
29 certificate. ~~He~~ The funeral director or authorized person or physician or other person in
30 attendance at or after delivery shall obtain the personal data from the best qualified
31 person or source available and shall present the certificate to the person responsible for
32 completing the medical certification of the cause of death.

33 **Sec. 25. 22 MRSA §2842**, as amended by PL 2007, c. 56, §§1 and 2, is further
34 amended to read:

35 **§2842. Registration of deaths**

36 Except as authorized by the department, a certificate of each death ~~which that~~ occurs
37 in this State ~~shall~~ must be filed with the State Registrar of Vital Statistics or clerk of the
38 municipality where death occurred within a reasonable period of time, as specified by

1 department ~~regulation~~ rule, after the day on which death occurred and prior to the
2 removal of the body from the State.

3 **1. Certificate filed by funeral director.** The funeral director or other authorized
4 person in charge of the disposition of the dead human body or its removal from the State
5 ~~shall be is~~ responsible for filing the certificate. ~~He~~ The funeral director or authorized
6 person shall obtain the personal data from the best qualified person or source available
7 ~~and he shall present the certificate to the physician or medical examiner responsible for~~
8 ~~completing the medical certification of the cause of death.~~

9 **2. Medical certificate by physician, nurse practitioner or physician assistant.**
10 The medical certification of the cause of death must be completed ~~in typewritten or~~
11 ~~legibly hand-printed style~~ and signed in a timely ~~fashion~~ manner, as specified by
12 department rule, by a physician, nurse practitioner or physician assistant authorized to
13 practice in the State who has knowledge of the patient's recent medical condition, in
14 accordance with department ~~regulations~~ rules and other laws detailing who can certify
15 and in what time frame, except when the death falls under the jurisdiction of the medical
16 examiner as provided in section 3025. If the patient was a resident of a nursing home
17 licensed under section 1817 at the time of death and if the health care provider in charge
18 of the patient's care or another health care provider designated by the health care provider
19 in charge had not examined the patient within 48 hours prior to death, or within 2 weeks
20 prior to death in the case of a terminally ill patient, the health care provider in charge or
21 another health care provider designated by the health care provider in charge shall
22 examine the body prior to completing the certification of death process. Any health care
23 provider who fails to complete the medical certification of the cause of death fully, ~~in~~
24 ~~typewritten or legibly hand-printed style and~~ in a timely manner, or who fails to examine
25 the body of a nursing home resident prior to certifying cause of death as required by this
26 section must be reported to the Board of Licensure in Medicine, the Board of Osteopathic
27 Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar
28 of Vital Statistics of the Department of Health and Human Services.

29 For the purposes of this subsection, the following terms have the following meanings.

30 A. "Life-sustaining procedure" means any medical procedure or intervention that,
31 when administered to a qualified patient, will serve only to prolong the dying process
32 and does not include nutrition and hydration.

33 B. "Terminally ill patient" means a patient who has been diagnosed as having an
34 incurable or irreversible condition that, without the administration of life-sustaining
35 procedures, will, in the opinion of the attending health care provider, result in death
36 within a short time.

37 C. "Health care provider" means a physician authorized to practice in this State,
38 nurse practitioner or physician assistant.

39 D. "Nurse practitioner" means an advanced practice registered nurse who is a
40 certified nurse practitioner authorized to practice without the supervision of a
41 physician pursuant to Title 32, chapter 31.

42 E. "Physician assistant" means a person who has graduated from a physician
43 assistant or surgeon assistant program accredited by the American Medical

1 Association Committee on Allied Health Education and Accreditation or the
2 Commission on Accreditation of Allied Health Education Programs or its successor
3 and who has passed the certifying examination administered by the National
4 Commission on Certification of Physician Assistants or its successor.

5 **2-A. Medical certification.** Notwithstanding subsection 2, with respect to a person
6 who dies within the State naturally and for whom the physician, nurse practitioner or
7 physician assistant was the attending health care provider, the medical certification of the
8 cause of death may be completed and signed by a physician, nurse practitioner or
9 physician assistant authorized to practice at the ~~Veterans Administration Hospital~~ United
10 States Department of Veterans Affairs at Togus or at another federal medical facility
11 within the State or by a physician, an advanced practice registered nurse or physician
12 assistant licensed to practice in New Hampshire, Vermont or Massachusetts who, at the
13 request of the Chief Medical Examiner, is willing to do so.

14 **3. Medical certificate by medical examiner.** When a death occurs under
15 circumstances that make it a medical examiner case as defined in section 3025, or when
16 inquiry as to the cause of death is required by law, the medical examiner shall complete
17 ~~in typewritten or legibly hand-printed style~~ the medical certification of the cause of death
18 as specified by department rule and sign the death certificate. A certification need not be
19 completed before the remains are ready for release.

20 The medical examiner is responsible for the identity of the deceased and the time, date,
21 place, cause, manner and circumstances of death on the death certificate. Entries may be
22 left "pending" if further study is needed; or, at the specific direction of the Attorney
23 General relative to cases under investigation by the Attorney General's office, entries
24 must be left "withheld" until such time as the Attorney General, in the Attorney General's
25 sole discretion, determines that any criminal investigation and prosecution will not be
26 harmed by public disclosure of such information. Notwithstanding section 2706,
27 subsection 4, unless directed otherwise by the Attorney General as specified in this
28 subsection, this information for which the medical examiner is responsible may be made
29 available to the general public by the Office of Chief Medical Examiner.

30 **4. Correction of errors on death statistic records filed under chapter 711.**
31 Certificates of death in medical examiner cases, as defined in section 3025, may be
32 completed or amended at any time by means of ~~forms provided~~ described in rule by the
33 department to the Office of Chief Medical Examiner. Either the Chief Medical Examiner
34 or the medical examiner assigned to the case may sign the forms. A person authorized by
35 the Chief Medical Examiner may amend a certificate of death with respect to the time,
36 date, place and circumstances of death. The medical examiner assigned shall submit the
37 form to the Office of the Chief Medical Examiner for filing with the State Registrar of
38 Vital Statistics. These forms may be filed at any time after death and need not include a
39 summary description of the evidence in support of the completion or amendment.

40 **Sec. 26. 22 MRSA §2842-B**, as repealed and replaced by PL 2001, c. 601, §1, is
41 amended to read:

1 **§2842-B. Native American human remains**

2 **1. Transfer of remains.** Except as provided in subsections 2 and 3, a person or
3 entity who possesses any human remains identified as Indian Native American human
4 remains shall transfer the remains to the intertribal repatriation organization that is
5 appointed by the Passamaquoddy Tribe, Penobscot Nation, Houlton Band of Maliseet
6 Indians and Aroostook Band of Micmacs for reburial. The intertribal repatriation
7 organization shall make reasonable inquiry to locate the next of kin of the deceased. If
8 next of kin are located, the intertribal repatriation organization shall transfer the remains
9 to the next of kin.

10 **2. Medical Examiner cases.** In cases within the jurisdiction of the Medical
11 Examiner Act, the Chief Medical Examiner has authority over Indian Native American
12 human remains until the remains are no longer required for legal purposes. At that time,
13 the Chief Medical Examiner shall make reasonable inquiry to locate the next of kin of the
14 deceased. If next of kin are located, the Chief Medical Examiner shall release the
15 remains to the next of kin of the deceased. If no next of kin are located, the remains must
16 be released to the intertribal repatriation organization for reburial.

17 **3. Native American Graves Protection and Repatriation Act.** Subsection 1 does
18 not apply to any human remains or any person or entity subject to the Native American
19 Graves Protection and Repatriation Act, 25 United States Code, Chapter 32.

20 **4. Memorandum of understanding.** The Chief Medical Examiner, the Maine
21 Historic Preservation Commission and the Maine State Museum shall enter into a
22 memorandum of understanding concerning the disposition of human remains in the
23 possession of the Chief Medical Examiner that are subject to the Native American Graves
24 Protection and Repatriation Act.

25 **Sec. 27. 22 MRSA §2843,** as amended by PL 2007, c. 56, §§3 and 4, is further
26 amended to read:

27 **§2843. Permits for final disposition of dead human bodies**

28 Except as authorized by the department, a dead human body may not be buried,
29 cremated or otherwise disposed of or removed from the State until a funeral director or
30 other authorized person in charge of the disposition of the dead human body or its
31 removal from the State has obtained a permit from the State Registrar of Vital Statistics
32 or the clerk of the municipality where death occurred or where the establishment of a
33 funeral director having custody of the dead human body is located as specified by
34 department rule. The permit is sufficient authority for final disposition in any place where
35 dead human bodies are disposed of in this State, as long as the requirements of Title 32,
36 section 1405 are met in appropriate cases. The permit may not be issued to anyone other
37 than a funeral director until the state registrar or the clerk of the municipality receives a
38 medical certificate that has been signed by a physician or a medical examiner that
39 indicates that the physician or medical examiner has personally examined the body after
40 death. A permit must also be issued if a nurse practitioner or physician assistant has
41 signed the medical certificate indicating that the nurse practitioner or physician assistant
42 has knowledge of the deceased's recent medical condition or was in charge of the

1 deceased's care and that the nurse practitioner or physician assistant has personally
2 examined the body after death. The authorized person may transport a dead human body
3 only upon receipt of this permit.

4 A The State Registrar of Vital Statistics or a municipal clerk may issue a permit for
5 final disposition by cremation, burial at sea, use by medical science or removal from the
6 State only upon receipt of a certificate of release by a duly appointed medical examiner as
7 specified in Title 32, section 1405.

8 A The State Registrar of Vital Statistics or a municipal clerk may issue a disposition
9 of human remains permit to a funeral director who presents a report of death and states
10 that the funeral director has been unable to obtain a medical certification of the cause of
11 death. The funeral director shall name the attending physician, attending nurse
12 practitioner, attending physician assistant or medical examiner who will certify to the
13 cause of death and present assurances that the attending physician, attending nurse
14 practitioner, attending physician assistant or medical examiner has agreed to do so. The
15 funeral director shall exercise due diligence to secure the medical certification and file the
16 death certificate as soon as possible.

17 **1. Permit for transportation.** Each dead human body transported into this State for
18 final disposition ~~shall~~ must be accompanied by a permit issued by the duly constituted
19 authority at the place of death. Such permit ~~shall be~~ is sufficient authority for final
20 disposition in any place where dead human bodies are disposed of in this State.

21 **2. Permit for disinterment or removal.** ~~No~~ A dead human body may not be
22 disinterred or removed from any vault or tomb until the person in charge of the
23 disinterment or removal has obtained a permit from the clerk of the municipality where
24 the dead human body is buried or entombed. The permit must be issued upon receipt of a
25 notarized application signed by the next of kin of the deceased who verifies that the
26 signer is the closest surviving known relative and, where any other family member of
27 equal or greater legal or blood relationship or a domestic partner of the decedent also
28 survives, that all such persons are aware of, and do not object to, the disinterment or
29 removal. Nothing contained in this subsection precludes a court of competent jurisdiction
30 from ordering or enjoining disinterment or removal pursuant to section 3029 or in other
31 appropriate circumstances. For purposes of this subsection, "domestic partner" means
32 one of 2 unmarried adults who are domiciled together under long-term arrangements that
33 evidence a commitment to remain responsible indefinitely for each other's welfare.

34 **3. Permit for burial.** The person in charge of each burying ground or crematory in
35 this State shall endorse each such permit with which ~~he~~ that person is presented, and
36 return it to the clerk of the municipality in which such burying ground or crematory is
37 located within 7 days after the date of disposition. If there is no person in charge of the
38 burying ground, an official of the municipality in which the burying ground is located
39 shall endorse each such permit, and present it to the clerk of the municipality. The
40 funeral director or authorized person shall present a copy of each permit, after
41 endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality
42 where death occurred and to the clerk who issued the permit.

1 4. **Records.** Each municipality shall maintain a record of any endorsed permit
2 received pursuant to subsection 3. These records shall must be open to public inspection.

3 **Sec. 28. 22 MRSA §2843-A, sub-§1, ¶B-1** is enacted to read:

4 B-1. "Dead body" or "dead human body" means a body or fetus for which it
5 reasonably can be determined that death occurred.

6 **Sec. 29. 22 MRSA §2843-A, sub-§2**, as enacted by PL 1993, c. 609, §1, is
7 amended to read:

8 **2. Custody and control generally.** The custody and control of the remains of
9 deceased residents of this State, dead bodies or dead human bodies are governed by the
10 following provisions.

11 A. If the subject has designated a person to have custody and control in a written
12 and signed document, custody and control belong to that person.

13 B. If the subject has not left a written and signed document designating a person to
14 have custody and control, or if the person designated by the subject refuses custody
15 and control, custody and control belong to the next of kin.

16 C. If the next of kin is 2 or more persons with the same relationship to the subject,
17 the majority of the next of kin have custody and control. If the next of kin can not, by
18 majority vote, make a decision regarding the subject's remains, the court shall make
19 the decision upon petition under subsection 4, paragraph D.

20 **Sec. 30. 22 MRSA §2844**, as amended by PL 2001, c. 574, §29, is further
21 amended to read:

22 **§2844. Subregistrars**

23 The ~~town or city~~ State Registrar of Vital Statistics or municipal clerk may appoint
24 one or more suitable and proper persons in ~~the~~ a municipality as subregistrars, who are
25 authorized to issue permits for transportation and final disposition of dead human bodies
26 in the same manner as is required of the ~~town or city~~ state registrar or municipal clerk, as
27 specified by department rule. ~~Permits may be issued by a subregistrar only when the~~
28 ~~town or city clerk or deputy clerk is not available.~~ The completed death certificate or
29 report of death, upon which the permit is issued, together with a copy of the disposition of
30 human remains permit must be forwarded to the ~~town~~ municipal clerk at the earliest
31 opening of the municipal office after the date of issue, and all permits by whomsoever
32 issued must be returned to the ~~town~~ municipal clerk as required by section 2843. The
33 appointment of subregistrars must be made with reference to locality, so as to best suit the
34 convenience of the inhabitants of the ~~town~~ municipality, and such annual appointment
35 must be in writing and recorded in the office of the ~~town or city~~ state registrar or
36 municipal clerk. The subregistrars in any ~~town~~ municipality hold office at the pleasure of
37 the ~~town~~ state registrar or municipal clerk.

1 **SUMMARY**

2 This bill changes the name of the Department of Health and Human Services, Office
3 of Health Data and Program Management to the Office of Data, Research and Vital
4 Statistics.

5 This bill enables the Office of Data, Research and Vital Statistics to establish a
6 system for the electronic filing of death certificates.

7 This bill acknowledges the change in name of the Veterans Administration Center at
8 Togus to the United States Department of Veterans Affairs at Togus.

9 This bill shortens the time period in which a vital record may be corrected or
10 completed from one year to 90 days.

11 This bill closes vital records from public procurement to guard against fraud.

12 This bill enables the State Registrar of Vital Statistics to appoint subregistrars.

13 This bill allows a disposition of human remains permit to be issued for a fetus
14 regardless of gestational age.

15 This bill enables the State Registrar of Vital Statistics to change the design of forms
16 for adult adoptee access to records without using the rule-making process.

17 This bill authorizes the Chief Medical Examiner within the Department of the
18 Attorney General to designate individuals to execute supplemental certificates of death as
19 regards time, date, place and circumstances of death, while reserving to the medical
20 examiner responsibility for determining the cause and manner of death in medical
21 examiner cases.

22 This bill updates the penalty section in the laws governing vital statistics to be
23 compliant with current statutes.