

MAINE STATE LEGISLATURE

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128th MAINE LEGISLATURE

FIRST REGULAR SESSION-2017

Legislative Document

No. 223

S.P. 69

In Senate, January 24, 2017

**An Act To Determine When the Remains of Deceased Persons May
Be Considered Abandoned**

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

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator DAVIS of Piscataquis.
Cosponsored by Senators: BELLOWS of Kennebec, CYRWAY of Kennebec,
DESCHAMBAULT of York, WOODSOME of York.

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

2 **Sec. 1. 22 MRSA §2843-A, sub-§2**, as amended by PL 2011, c. 387, §1, is
3 further amended to read:

4 **2. Custody and control generally.** The custody and control of the remains of
5 deceased residents of this State, dead bodies or dead human bodies are governed by the
6 following provisions in the following order of priority:

7 A. If the subject has designated another person to have custody and control in a
8 written and signed document, custody and control belong to that designated person;

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

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

16 If a person who has the right of custody and control under this subsection does not
17 exercise the rights and responsibilities of custody and control within 4 days after the
18 death of the subject, custody and control belong to a person from the next lower level of
19 priority as established in paragraphs A to C.

20 A person who has been charged with murder, as described in Title 17-A, section 201, or
21 manslaughter, as described in Title 17-A, section 203, subsection 1, paragraph B, forfeits
22 the right of custody and control provided under this subsection; and a funeral director or
23 practitioner of funeral service who is aware of the charges may not release the remains or
24 a dead body to that person who has been charged with murder or manslaughter. If the
25 charges against the person are dismissed or the person is acquitted of the charges before
26 the final disposition takes place, the person regains the right of custody and control in the
27 same position of priority established in this subsection.

28 The remains or a dead body is considered abandoned if no one takes custody and control
29 of the remains or dead body for a period of 15 days or if the person who has custody and
30 control does not make a decision regarding disposition within 30 days. A funeral director
31 or practitioner of funeral service who has physical possession of abandoned remains or an
32 abandoned dead body may bury the remains or dead body. The funeral director or
33 practitioner of funeral service may embalm or refrigerate abandoned remains or an
34 abandoned dead body without authorization. A certificate of abandonment that indicates
35 the means of disposition must be filed in the municipality where the death occurred.

36 **SUMMARY**

37 Current law provides that the remains of a deceased resident of this State or a dead
38 body is considered abandoned if no one takes custody and control of the remains or dead
39 body for a period of 15 days. This bill provides that the remains or dead body also is

1 considered abandoned if the person who has custody and control does not make a
2 decision regarding disposition within 30 days.