

# MAINE STATE LEGISLATURE

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# 128th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2017

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Legislative Document

No. 476

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H.P. 339

House of Representatives, February 9, 2017

### An Act To Clarify the Authority for Cremation

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

A handwritten signature in black ink, reading "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative STANLEY of Medway.  
Cosponsored by Senator DAVIS of Piscataquis and  
Representatives: BLACK of Wilton, COREY of Windham, HOGAN of Old Orchard Beach,  
SKOLFIELD of Weld, TUELL of East Machias.

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

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

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

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

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

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

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

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

The remains or a dead body is considered abandoned if no one takes custody and control of the remains or dead body for a period of 15 days. A funeral director or practitioner of funeral service who has physical possession of abandoned remains or an abandoned dead body may bury or cremate the remains or dead body. The funeral director or practitioner of funeral service may embalm or refrigerate abandoned remains or an abandoned dead body without authorization. A certificate of abandonment that indicates the means of disposition must be filed in the municipality where the death occurred.

## SUMMARY

This bill clarifies that a funeral director or practitioner of funeral service with custody of abandoned remains or an abandoned dead body has the option to bury or cremate those remains or that dead body.