

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1993

written application of 10% or 100, whichever is less, of the persons whose names were checked on the voting list at any town referendum or ballot question under section 2105 or 2528, or any city referendum. The time limits, rules and all other matters applying to candidates under sections ~~2530~~ 2530-A and ~~2531~~ 2531-A apply equally to applicants for either the inspection or recount.

Sec. 15. 30-A MRSA §2533, first ¶, as amended by PL 1993, c. 473, §42 and affected by §46, is further amended to read:

Within ~~20~~ 30 days after election day, a person who claims to have been elected to any municipal office may proceed against another who claims title to the office by the following procedure.

Sec. 16. 30-A MRSA §2556, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

§2556. Ballot inspection; recount; challenge for office

Sections ~~2530~~ 2530-A to 2533 apply in a city and govern ballot inspections, recounts of elections for office, referenda and the procedure for challenging a person who claims title to an office.

Sec. 17. 30-A MRSA §5404, sub-§1, ¶A, as amended by PL 1989, c. 104, Pt. C, §§8 and 10, is further amended to read:

A. ~~No revenue~~ Revenue bonds of a town, as distinguished from a city, may not be issued until the general purpose for which the bonds are to be issued and the maximum principal amount of the bonds to be authorized have been approved by ballot by a majority of the votes cast on the question. The total number of votes cast must be equal to at least 20% of the total vote for all candidates for Governor cast in the municipality at the last gubernatorial election. The ballot submitted to the voters of a town to authorize the issuance of revenue bonds ~~shall~~ must state the general purpose for which the proposed bonds are to be issued and the maximum principal amount of the proposed bonds authorized to be issued. The voting at meetings held in towns ~~shall~~ must be held and conducted in accordance with sections 2528 to ~~2531~~ 2531-A, even if the town has not accepted the provisions of section 2528.

See title page for effective date.

CHAPTER 609

S.P. 553 - L.D. 1577

An Act Regarding the Custody of Remains of Deceased Persons

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

Sec. 1. 22 MRSA §2843-A is enacted to read:

§2843-A. Custody of remains of deceased persons

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "At-need funeral arrangements" means funeral arrangements made after death.

B. "Custody and control" means the right to make all decisions, consistent with applicable laws, regarding the handling of a dead body, including, but not limited to, possession, at-need funeral arrangements, final disposition and disinterment.

C. "Estranged" means living in separate residences and having a relationship characterized by hostility or indifference.

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

- (1) The spouse;
- (2) An adult son or daughter;
- (3) A parent;
- (4) An adult brother or sister;
- (5) An adult grandchild;
- (6) An adult niece or nephew who is the child of a brother or sister;
- (7) A maternal grandparent;
- (8) A paternal grandparent;
- (9) An adult aunt or uncle;
- (10) An adult first cousin; or
- (11) Any other adult relative in descending order of blood relationship.

E. "Subject" means the person whose remains are placed in the custody and control of another person pursuant to this section.

2. Custody and control generally. The custody and control of the remains of deceased residents of this State are governed by the following provisions.

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

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.

3. Estranged spouse. Notwithstanding subsection 2, if the surviving spouse and the subject were estranged at the time of death, the spouse may not have custody and control of the subject's remains. In these cases, custody and control belong to the next of kin following the spouse.

4. Court determination. Notwithstanding other provisions of this section, the court of probate for the residence of the deceased may award custody and control to the person determined by the court most fit and appropriate to carry out the responsibilities of custody and control, and may make decisions regarding the subject's remains if those having custody and control can not agree. The following provisions apply to court determinations under this subsection.

A. Before the subject's death, the subject or the subject's legal representative may file a petition regarding custody and control of the subject's remains.

B. A relative of the subject may file a petition.

C. A person who claims and establishes through evidence that that person has or had a closer personal relationship to the subject than the next of kin may file a petition, if that person lived with the subject and was not in the employ of the subject or the subject's family.

D. If the next of kin is 2 or more persons with the same relationship to the subject, and the next

of kin can not, by majority vote, make a decision regarding the subject's remains, 2 or more persons who have custody or control or a funeral director may file a petition asking the court to make a determination in the matter. The court shall consider the following in making its determination:

(1) The reasonableness and practicality of the proposed arrangements;

(2) The degree of the personal relationship between the subject and each of the 2 or more persons with custody and control;

(3) The desires of the person or persons who are ready, able and willing to pay the costs of the arrangements;

(4) The convenience and needs of other family and friends wishing to pay respect;

(5) The expressed written desires of the subject; and

(6) The degree to which the arrangements will allow maximum participation by all wishing to pay respect.

5. Wishes of subject. If the subject has left written and signed instructions regarding funeral arrangements and disposal of the subject's remains, the person having custody and control shall abide by those wishes to the extent that the subject paid for those arrangements in advance or left resources for the purpose of carrying out those wishes.

6. Effect of payment by others. Except to the degree it must be considered by the court under subsection 4, paragraph D, the fact that a person other than the subject has paid or agreed to pay for all or part of arrangements does not give that person a greater right to custody and control than that person would otherwise have.

7. Authority of personal representative. The personal representative of the estate of the subject does not, by virtue of being the personal representative, have a greater right to custody and control than the person would otherwise have.

8. Immunity. A party who, in good faith, acts upon the instructions of the party having custody and control is not liable for having carried out those instructions.

9. Application. This section does not apply to the disposition of the remains of a deceased person under chapter 709. This section does not diminish or otherwise alter the authority of a medical examiner or other official authorized under chapter 711. This

section does not alter the rights and obligations of the decedent's next of kin under Title 18-A.

See title page for effective date.

CHAPTER 610

S.P. 562 - L.D. 1597

An Act to Provide for Consistent Data Collection

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

Sec. 1. 24-A MRSA §2384-B, sub-§10, as enacted by PL 1991, c. 885, Pt. B, §12 and affected by §13, is amended to read:

10. Claims covered. This section applies to all claims occurring on or after January 1, 1989; and prior to January 1, 1993 and to all death, permanent total and major permanent partial claims occurring between January 1, 1987 and December 31, 1988; and to a reasonable sample, as approved by the superintendent, of all other indemnity claims occurring between January 1, 1987 and December 31, 1988. The superintendent may suspend the reporting requirements of specific items for periods when information that is to be obtained from the Workers' Compensation Commission or Workers' Compensation Board is temporarily unavailable from those entities.

Sec. 2. 24-A MRSA §2384-C is enacted to read:

§2384-C. Data collection

1. Collection and reporting system. The superintendent shall adopt rules implementing a data collection system for the purpose of evaluating the costs and operation of the workers' compensation benefit delivery process. The rules must establish reasonable sampling procedures to identify and track a sufficient number of claims to provide reliable information in a cost-effective manner. The superintendent shall, by rule, establish a cost-effective procedure to designate organizations to collect and compile data for insurers and self-insurers, except that an insurer able to demonstrate its ability to collect, compile and report data on its own claims is permitted to act as its own statistical organization for the purposes of this section. In this section, "statistical organization" includes an insurer acting as its own statistical organization.

2. Data collected. The data collection and reporting system must contain, at a minimum, the following:

A. Basic information on each surveyed claim, including:

(1) The name and identification information of the employee, employer and insurer or self-insurer; and

(2) The file identification number or numbers, insurance policy number and classification claim history;

B. Claim history information on each claim surveyed, including:

(1) The date of injury or exposures to disease, type of injury or exposure disclosure and affected body part;

(2) The preinjury wage history, date of initial payment and whether claim is controverted; and

(3) Identification of claim status, whether open, closed or reopened;

C. Information concerning Workers' Compensation Board proceedings, including:

(1) For each mediation and arbitration, the date, hearing officer, mediator or arbitrator for the proceeding and the resolution; and

(2) For each hearing, the date, hearing officer and the decision of the hearing officer. If a disputed claim results in multiple hearing dates, the decision must be reported for the last hearing date; and

D. Payment information on each claim, identified as open or closed, including:

(1) Aggregate payments to date to physicians, hospitals or other medical providers;

(2) Payments made to date for weekly compensation, impairment benefits, death benefits and funeral expenses, employee legal expenses, employer legal expenses, lump sums and vocational rehabilitation services;

(3) With respect to all claims, separately stated incurred liability for medical care, indemnity and vocational rehabilitation; and

(4) Identification as to whether there are benefit offsets for social security, unemployment insurance, employer-provided pensions or any other sources.