

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTIETH LEGISLATURE
FIRST REGULAR SESSION
December 6, 2000 to June 22, 2001

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
2001

CHAPTER 57

S.P. 218 - L.D. 783

An Act to Update the Probate Code

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

Sec. 1. 18-A MRSA §2-401, as enacted by PL 1979, c. 540, §1, is amended to read:

§2-401. Homestead allowance

A surviving spouse of a decedent who was domiciled in this State is entitled to a homestead allowance of ~~\$5,000~~ \$10,000. If there is no surviving spouse, each minor child and each dependent child of the decedent is entitled to a homestead allowance amounting to ~~\$5,000~~ \$10,000 divided by the number of minor and dependent children of the decedent. The homestead allowance is exempt from and has priority over all claims against the estate. Homestead allowance is in addition to any share passing to the surviving spouse or minor or dependent child by the will of the decedent unless otherwise provided, by intestate succession or by way of elective share.

Sec. 2. 18-A MRSA §2-402, as repealed and replaced by PL 1985, c. 506, Pt. A, §19, is amended to read:

§2-402. Exempt property

In addition to the homestead allowance, the surviving spouse of a decedent who was domiciled in this State is entitled from the estate to value not exceeding ~~\$3,500~~ \$7,000 in excess of any security interests ~~therein in the estate~~ in property exempt under Title 14, chapter 507, subchapter II, Article 7, on the date of death of the decedent. If there is no surviving spouse, children of the decedent are entitled jointly to the same value. If encumbered chattels are selected and if the value in excess of security interests, plus that of other exempt property, is less than ~~\$3,500~~ \$7,000, or if there is not ~~\$3,500~~ \$7,000 worth of exempt property in the estate, the spouse or children are entitled to other assets of the estate, if any, to the extent necessary to make up the ~~\$3,500~~ \$7,000 value. Rights to exempt property and assets needed to make up a deficiency of exempt property have priority over all claims against the estate, except that the right to any assets to make up a deficiency of exempt property ~~shall~~ must abate as necessary to permit prior payment of homestead allowance and family allowance. These rights are in addition to any benefit or share passing to the surviving spouse or children by the will of the decedent unless otherwise provided, by intestate succession, or by way of elective share.

Sec. 3. 18-A MRSA §2-404, as enacted by PL 1979, c. 540, §1, is amended to read:

§2-404. Source, determination and documentation

If the estate is otherwise sufficient, property specifically devised is not used to satisfy rights to homestead and exempt property. Subject to this restriction, the surviving spouse, the guardians of the minor children, or children who are adults may select property of the estate as homestead allowance and exempt property. The personal representative may make these selections if the surviving spouse, the children or the guardians of the minor children are unable or fail to do so within a reasonable time or if there are no guardians of the minor children. The personal representative may execute an instrument or deed of distribution to establish the ownership of property taken as homestead allowance or exempt property. ~~He~~ The personal representative may determine the family allowance in a lump sum not exceeding ~~\$6,000~~ \$12,000 or periodic installments not exceeding ~~\$500~~ \$1,000 per month for one year, and may disburse funds of the estate in payment of the family allowance and any part of the homestead allowance payable in cash. The personal representative or any interested person aggrieved by any selection, determination, payment, proposed payment, or failure to act under this section may petition the court for appropriate relief, which relief may provide a family allowance larger or smaller than that which the personal representative determined or could have determined.

See title page for effective date.

CHAPTER 58
H.P. 151 - L.D. 162**An Act to Change the Criteria for Intervenor Status**

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

Sec. 1. 22 MRSA §4005-B, sub-§3, as enacted by PL 1993, c. 697, §1, is repealed and the following enacted in its place:

3. Criteria. The court shall grant standing and intervenor status when the court finds that:

A. The grandparent has an existing relationship or has made sufficient effort to establish a relationship with the child. The criterion described in this paragraph need not be met when the child is 6 months or less in age at the time of the initial child protection petition;