

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

12. Expiration of program. A program established by the superintendent pursuant to this section expires 2 years from the date the program becomes operational unless terminated earlier by the superintendent or unless, after a public hearing, the superintendent determines, based on clear and convincing evidence, that continued operation of the program is necessary to address the unavailability of basic property and casualty insurance for underserved areas or risk types. For purposes of this subsection, the program becomes operational on the effective date of the first policy issued through the program. If the superintendent finds that continued operation of the program is necessary, then any person insured under the program must reapply for coverage as new business under the program at the next renewal date occurring after the date of the superintendent's order to continue the program. Any policy written through the program that is in force when the program is terminated continues in force until its stated expiration date in accordance with the terms and conditions of the policy and the provisions in the plan of operation.

13. Powers of superintendent. In addition to any powers conferred upon the superintendent by this or any other law, the superintendent has authority to supervise the program and may:

A. Examine and investigate the operation of the program and member insurers through free access to all the books, records, files, papers and documents relating to their operation and may summon, qualify and examine as witnesses all persons having knowledge of such operations, including the governing committee and its officers, employees and agents;

B. Require reports from the program, the governing committee and member insurers concerning risks insured through the program as the superintendent considers necessary;

C. Approve or disapprove modified policy forms, modified endorsements, modified rates and modified rating and rule manuals for use by member insurers; and

D. Suspend or terminate the program in accordance with subsection 12 and any process established by rule.

14. Penalties for violations. The superintendent may take any action permitted under section 12-A against a member insurer or any other person required to be licensed under this Title who violates this section or any other applicable law or rule.

15. Annual report. On or before March 31st of each year, the governing committee shall submit a report detailing the program's operations for the previous calendar year to the superintendent and the

joint standing committee of the Legislature having jurisdiction over insurance and financial services matters. The annual report is a public record within the meaning of Title 1, chapter 13, subchapter 1.

16. Applicability of provisions. Insurance provided through the program is subject to all other laws relating to that type of insurance, except policies issued through the program are not subject to section 3007 or to chapter 41, subchapter 5. In the event there is a conflict between any express provision in this section and any other applicable law, then the provisions of this section control. Notwithstanding sections 2162 and 2303, a member insurer may utilize underwriting guidelines, modified policy forms, modified rates and rating rules that differ from its voluntary business with respect to insurance issued through the program, as long as the program underwriting guidelines, modified policy forms, modified rates and rating rules comply with this section, the plan of operation and the rules adopted by the superintendent.

See title page for effective date.

CHAPTER 672

H.P. 1152 - L.D. 1579

An Act To Promote the Financial Security of Maine's Families and Children

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

Sec. 1. 15 MRSA §321, sub-§1, as amended by PL 1995, c. 469, §1, is further amended to read:

1. Definition. For purposes of this section, "family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of any household member when the offender is an adult household member. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" has the same meaning as in Title 18-A, section 1-201, subsection (10-A).

Sec. 2. 18-A MRSA §1-201, sub-§(10-A) is enacted to read:

(10-A) "Domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

Sec. 3. 18-A MRSA §1-201, sub-§(17), as enacted by PL 1979, c. 540, §1, is amended to read:

(17) "Heirs" means those persons, including the surviving spouse or surviving registered domestic partner, who are entitled under the statutes of intestate succession to the property of a decedent.

Sec. 4. 18-A MRSA §1-201, sub-§(20), as amended by PL 1979, c. 690, §3, is further amended to read:

(20) "Interested person" includes heirs, devisees, children, spouses, domestic partners, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person ~~which that~~ may be affected by the proceeding. It also includes persons having priority for appointment as personal representative, and other fiduciaries representing interested persons. In any proceeding or hearing under Article V, § 5 affecting a trust estate or estate, when the ward or protected person has received benefits from the Veterans Administration within 3 years, the ~~Administrator~~ administrator of Veterans Affairs of the United States ~~shall be~~ is an "interested person." The meaning as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding.

Sec. 5. 18-A MRSA §1-201, sub-§(36-A) is enacted to read:

(36-A) "Registered domestic partners" means domestic partners who are registered in accordance with Title 22, section 2710.

Sec. 6. 18-A MRSA §2-102, as enacted by PL 1979, c. 540, §1, is amended to read:

§2-102. Share of spouse or registered domestic partner

The intestate share of the surviving spouse or surviving registered domestic partner is:

(1) If there is no surviving issue or parent of the decedent, the entire intestate estate;

(2) If there is no surviving issue but the decedent is survived by a parent or parents, the first \$50,000, plus 1/2 of the balance of the intestate estate;

(3) If there are surviving issue all of whom are issue of the surviving spouse or surviving registered domestic partner also, the first \$50,000, plus 1/2 of the balance of the intestate estate; or

(4) If there are surviving issue one or more of whom are not issue of the surviving spouse or

surviving registered domestic partner, 1/2 of the intestate estate.

Sec. 7. 18-A MRSA §2-103, as amended by PL 1981, c. 94, is further amended to read:

§2-103. Share of heirs other than surviving spouse or surviving registered domestic partner

The part of the intestate estate not passing to the surviving spouse or surviving registered domestic partner under section 2-102, or the entire estate if there is no surviving spouse or surviving registered domestic partner, passes as follows:

(1) To the issue of the decedent; to be distributed per capita at each generation as defined in section 2-106;

(2) If there is no surviving issue, to the decedent's parent or parents equally;

(3) If there is no surviving issue or parent, to the issue of the parents or either of them to be distributed per capita at each generation as defined in section 2-106;

(4) If there is no surviving issue, parent or issue of a parent, but the decedent is survived by one or more grandparents or issue of grandparents, half of the estate passes to the paternal grandparents if both survive, or to the surviving paternal grandparent, or to the issue of the paternal grandparents if both are deceased to be distributed per capita at each generation as defined in section 2-106; and the other half passes to the maternal relatives in the same manner; but if there ~~be is~~ no surviving grandparent or issue of grandparents on either the paternal or maternal side, the entire estate passes to the relatives on the other side in the same manner as the half; or

(5) If there is no surviving issue, parent or issue of a parent, grandparent or issue of a grandparent, but the decedent is survived by one or more ~~great grandparents~~ great-grandparents or issue of ~~great grandparents~~ great-grandparents, half of the estate passes to the paternal ~~great-grandparents~~ great-grandparents who survive, or to the issue of the paternal ~~great-grandparents~~ great-grandparents if all are deceased, to be distributed per capita at each generation as defined in section 2-106; and the other half passes to the maternal relatives in the same manner; but if there is no surviving ~~great-grandparent~~ great-grandparent or issue of a ~~great-grandparent~~ great-grandparent on either the paternal or maternal side, the entire estate passes to the relatives on the other side in the same manner as the half.

Sec. 8. 18-A MRSA §3-203, sub-§(a), ~~¶(4-A)~~ is enacted to read:

(4-A) The surviving domestic partner of the decedent;

Sec. 9. 18-A MRSA §5-309, sub-§(a), ¶(1), as enacted by PL 1979, c. 540, §1, is amended to read:

(1) The ward or the person alleged to be incapacitated and ~~his~~ the ward's or person's spouse, parents ~~and~~ adult children and any domestic partner known to the court;

Sec. 10. 18-A MRSA §5-309, sub-§(c), as repealed and replaced by PL 1985, c. 656, §2, is amended to read:

(c) Notice to the spouse, adult children, domestic partner and parents required by subsection (a) ~~shall~~ must be served by certified mail, with restricted delivery and return receipt requested, at least 14 days before the date of the hearing.

If the certified mail to the spouse or domestic partner is not delivered and ~~the spouse that person~~ that person can be found within the State, notice ~~shall~~ must be served personally on ~~the spouse that person~~.

If the certified mail to the spouse or domestic partner is not delivered, ~~the spouse cannot that person can not~~ be found within the State and the certified mail is not delivered to any adult children, notice ~~shall~~ must be served personally on an adult child who can be found within the State.

If the certified mail to the spouse or domestic partner and adult children is not delivered, the spouse or domestic partner and all adult children ~~cannot~~ can not be found within the State and the certified mail is not delivered to any parent, notice ~~shall~~ must be served personally on a parent who can be found within the State.

If no spouse, domestic partner, adult child or parent is served by certified mail or personally, notice to the closest adult relative required by subsection (a) ~~shall~~ must be served by certified mail, with restricted delivery and return receipt requested. If the certified mail to the adult relative is not delivered and the adult relative can be found within the State, notice ~~shall~~ must be served personally on the adult relative. If no adult relative is served by certified mail or personally, notice to an adult friend required by subsection (a) ~~shall~~ must be served by certified mail, with restricted delivery and return receipt requested. If the certified mail to the adult friend is not delivered and the adult friend can be found within the State, notice ~~shall~~ must be served personally on the adult friend.

Notice required by subsection (a) to any person serving as a guardian, or conservator or who has a person's care and custody ~~shall~~ must be served by

certified mail, with restricted delivery and return receipt requested.

Except as otherwise provided in this section, notice ~~shall~~ must be given as prescribed by court rule under section 1-401.

Sec. 11. 18-A MRSA §5-311, sub-§(b), ¶(2-A) is enacted to read:

(2-A) The domestic partner of the incapacitated person;

Sec. 12. 18-A MRSA §5-311, sub-§(c), ¶(1-A) is enacted to read:

(1-A) The domestic partner of the incapacitated person;

Sec. 13. 18-A MRSA §5-404, sub-§(a), as enacted by PL 1979, c. 540, §1, is amended to read:

(a) The person to be protected, any person who is interested in ~~his~~ the estate, affairs or welfare of the person to be protected including ~~his~~ the parent, guardian, ~~or~~ custodian, or domestic partner of the person to be protected or any person who would be adversely affected by lack of effective management of ~~his~~ the property and affairs of the person to be protected may petition for the appointment of a conservator or for other appropriate protective order.

Sec. 14. 18-A MRSA §5-405, sub-§(a-1), as enacted by PL 1985, c. 656, §4, is amended to read:

(a-1) The spouse or domestic partner and all adult children of the person to be protected or the protected person or, if none, the person's parents or closest adult relative or, if none, a friend must be given notice of the proceeding. Notice under this subsection ~~shall~~ must be served by certified mail, restricted delivery and return receipt requested, at least 14 days before the date of the hearing.

If the certified mail to the spouse or domestic partner is not delivered and ~~the spouse that person~~ that person can be found within the State, notice ~~shall~~ must be served personally on ~~the spouse that person~~.

If the certified mail to the spouse or domestic partner is not delivered, ~~the spouse cannot that person can not~~ be found within the State and the certified mail is not delivered to any adult children, notice ~~shall~~ must be served personally on an adult child who can be found within the State.

If notice is served on the person's parents or closest adult relative and the certified mail is not delivered, notice ~~shall~~ must be served personally on a parent or the adult relative if a parent or adult relative can be found within the State.

If notice is served on the person's friend and the certified mail is not delivered, notice ~~shall~~ must be served personally on the friend if the friend can be found within the State.

Except as otherwise provided in this subsection and subsection (a), notice ~~shall~~ must be given as prescribed by court rule under section 1-401.

Sec. 15. 18-A MRSA §5-410, sub-§(a), ¶(3-A) is enacted to read:

(3-A) The domestic partner of the protected person;

Sec. 16. 19-A MRSA §4002, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

4. Family or household members. "Family or household members" means spouses or domestic partners or former spouses or former domestic partners, individuals presently or formerly living together as spouses, natural parents of the same child, adult household members related by consanguinity or affinity or minor children of a household member when the defendant is an adult household member and, for the purposes of this chapter only, includes individuals presently or formerly living together and individuals who are or were sexual partners. Holding oneself out to be a spouse is not necessary to constitute "living as spouses." For purposes of this subsection, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

Sec. 17. 22 MRSA §2710 is enacted to read:

§2710. Domestic partner registry

1. Registry. The Office of Health Data and Program Management within the department, referred to in this section as "the registry," shall establish a domestic partner registry.

2. Registered domestic partners; eligibility. Domestic partners may become registered domestic partners if:

A. At the time when a declaration under subsection 3 is filed, each domestic partner is a mentally competent adult and not impaired or related in a fashion that would prohibit marriage under Title 19-A, section 701, subsection 2, 3 or 4;

B. The domestic partners have been legally domiciled together in this State for at least 12 months preceding the filing;

C. Neither domestic partner is married or in a registered domestic partnership with another person; and

D. Each domestic partner is the sole domestic partner of the other and expects to remain so.

As used in this section, "domestic partners" means 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

3. Registration. To become registered domestic partners, domestic partners must jointly file with the registry a declaration under oath of domestic partnership together with the required filing fee. The registry shall file the declaration in the domestic partner registry established pursuant to subsection 1 and return 2 copies of the declaration to the domestic partners at the address provided as their common residence. The registry must charge a fee for registration that is adequate to pay the projected costs for managing the registry.

4. Termination. A registered domestic partnership is terminated by the marriage of either registered domestic partner or by the filing with the registry of:

A. A notice under oath signed by both registered domestic partners before a notary that the registered domestic partners consent to the termination; or

B. A notice under oath from either registered domestic partner that the other registered domestic partner was served in hand with a notice of intent to terminate the partnership. If service in hand is not feasible, then substitute service may be accomplished in the same fashion as provided by the Maine Rules of Civil Procedure for commencement of a civil action. Termination under this paragraph is not effective until 60 days after service is complete.

5. Indemnity. If a 3rd party in reliance on the existence of a registered domestic partnership suffers loss because of a failure to receive adequate notice of termination under subsection 4, each registered domestic partner responsible for the failure to give notice is liable to pay the loss.

6. Forms. The registry shall develop standard forms for the declaration and termination of registered domestic partnerships.

A. The declaration must adequately identify each individual signing the form by name, including former names, residence and date and place of birth.

B. The declaration must contain an assertion under oath that each individual meets the requirements of subsection 2 at the time the declaration is filed.

C. The declaration must contain a warning that registration may affect property and inheritance rights, that registration is not a substitute for a will, a deed or a partnership agreement and that any rights conferred by registration may be completely superseded by a will, a deed or other instruments that may be executed by either party. The declaration must also contain instructions on how the partnership may be terminated.

Sec. 18. 22 MRSA §2843, sub-§2, as repealed and replaced by PL 1985, c. 602, is amended to read:

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

Sec. 19. 22 MRSA §2843-A, sub-§1, ¶D, as enacted by PL 1993, c. 609, §1, is amended to read:

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

(1) The spouse;

(1-A) A domestic partner. For purposes of this section, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare;

(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.

Sec. 20. 22 MRSA §2843-A, sub-§3, as enacted by PL 1993, c. 609, §1, is amended to read:

3. Estranged spouse or domestic partner. Notwithstanding subsection 2, if the surviving spouse or surviving domestic partner and the subject were estranged at the time of death, the spouse or domestic partner 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 or domestic partner.

Sec. 21. 22 MRSA §2846, as amended by PL 1985, c. 17, is further amended to read:

§2846. Authorized person

For the purposes of this chapter, the "authorized person" responsible for obtaining or filing a permit or certificate ~~shall mean~~ means a member of the immediate family of the deceased, the domestic partner of the deceased, a person authorized in writing by a member of the immediate family of the deceased if no member of the immediate family of the deceased wishes to assume the responsibility; or by the domestic partner of the deceased if the domestic partner does not wish to assume the responsibility or, in the absence of immediate family or a known domestic partner, a person authorized in writing by the deceased. For purposes of this section, "domestic partner" means one of 2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare.

Sec. 22. Mandate payment schedule. The Judicial Department shall develop a mandate payment schedule and distribute funds allocated in this Act to registers of probate within the State.

Sec. 23. Acceptance of gifts and donations. The State Court Administrator is authorized to

accept gifts and donations from any source for the purpose of offsetting the costs of funding the local mandate created by this Act.

Sec. 24. Appropriations and allocations.

The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

State Mandate - Probate Form Replacement

Initiative: Allocates funds on a one-time basis to be distributed to registers of probate for the purpose of complying with the state mandate regarding the replacement of probate forms.

Other Special Revenue Funds	2003-04	2004-05
All Other	\$0	\$8,550
Other Special Revenue Funds Total	\$0	\$8,550

See title page for effective date.

CHAPTER 673

H.P. 1420 - L.D. 1919

An Act To Make Supplemental Appropriations and Allocations for the Expenditures of State Government and To Change Certain Provisions of the Law Necessary to the Proper Operations of State Government for the Fiscal Years Ending June 30, 2004 and June 30, 2005

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

PART A

Sec. A-1. Supplemental appropriations and allocations. There are appropriated from various funds for the fiscal years ending June 30, 2004 and June 30, 2005, to the departments listed, the following sums.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accounts and Control - Bureau of 0056

Initiative: Provides funding to reorganize a vacant Data Entry Operator position, currently 64 hours biweekly, to a full-time Internal Control Specialist, Public Service Coordinator I position in the Accounts and Control operations account. This reorganization will be self-funded through a permanent reduction to All Other in both the Accounts and Control operations account and the Accounts and Control systems account.

General Fund	2003-04	2004-05
Personal Services	\$0	\$39,311
All Other	0	(16,905)
General Fund Total	0	22,406

Accounts and Control - Bureau of - Systems Project 0058

Initiative: Provides funding to reorganize a vacant Data Entry Operator position, currently 64 hours biweekly, to a full-time Internal Control Specialist, Public Service Coordinator I position in the Accounts and Control operations account. This reorganization will be self-funded through a permanent reduction to All Other in both the Accounts and Control operations account and the Accounts and Control systems account.

General Fund	2003-04	2004-05
All Other	0	(22,406)
General Fund Total	0	(22,406)

Central Services - Purchases 0004

Initiative: Provides for the elimination of one vacant Central Services Supervisor position from the Bureau of General Services - Central Services Internal Services Fund for the purpose of providing a headcount in the Workers' Compensation Management Fund for the continuation of one Employment Benefits Technician position established by Financial Order 00317F4, in accordance with Public Law 2003, chapter 20, Part D, section 14. This position will help staff an in-house claims management system resulting in a reduction in contracted services.

Postal, Printing and Supply Fund	2003-04	2004-05
Positions - Legislative Count	(0.000)	(-1.000)
Personal Services	0	(52,063)
Postal, Printing and Supply Fund Total	0	(52,063)

Central Motor Pool 0703

Initiative: Provides for the allocation of funds to reorganize one Central Fleet Manager position to a Public Service Manager II position and one Statistician II position to a Statistician III position, the result of a reorganization of duties within the Bureau of General Services.

Central Motor Pool	2003-04	2004-05
Personal Services	0	19,362
Central Motor Pool Total	0	19,362

Accident-Sickness-Health Insurance 0455

Initiative: Provides for the deallocation of funds from the Trade Adjustment Assistance Health Insurance Federal Fund program to allow for the reallocation of these funds to the new program of trade adjustment insurance, as established in Public Law 2003, chapter 348, for the purpose of maintaining separate accounting and reporting for these funds. It corrects the FTE hours to Legislative Count and it also provides for the allocation of funds to the Trade Adjustment Insurance Other Special Revenue Funds account for the pass through of trade adjustment dollars.

Federal Expenditures Fund	2003-04	2004-05
Positions - FTE Count	(0.000)	(-2.000)
Personal Services	0	(76,378)