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## **An Act To Prohibit a Parent without Parental Rights from Inheriting from an Adult Child Who Dies without a Will**

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

**Sec. 1. 18-A MRSA §2-103, sub-§(2)**, as enacted by PL 1979, c. 540, §1, is amended to read:

(2). If there is no surviving issue, to the decedent's parent or parents equally, except that a parent whose parental rights have been terminated is barred from inheriting from the child;

**Sec. 2. 18-A MRSA §2-109**, as amended by PL 1995, c. 694, Pt. C, §6 and affected by Pt. E, §2, is further amended to read:

### **§ 2-109. Meaning of child and related terms; intestate succession**

~~If, for~~For purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:according to this section.

(1). An adopted person is the child of an adopting parent and not of the natural parents except that an adopted child inherits from the natural parents and their respective kin if the adoption decree so provides; and except that adoption of a child by the spouse of a natural parent has no effect on the relationship between the child and either natural parent. If a natural parent wishes an adopted child to inherit from the natural parents and their respective kin, the adoption decree must provide for that status;.

(2). In cases not covered by ~~paragraph~~subsection (1), a person born out of wedlock is a child of the mother; that person is also a child of the father if:

(i). The natural parents participated in a marriage ceremony before or after the birth of the child, even though the attempted marriage is void; ~~or~~

(ii). The father adopts the child into his family; or

(iii). The father acknowledges in writing before a notary public that he is the father of the child, or the paternity is established by an adjudication before the death of the father or is established thereafter by clear and convincing proof, but the paternity established under this ~~subparagraph~~paragraph is ineffective to qualify the father or his kindred to inherit from or through the child unless the father has openly treated the child as his and has not refused to support the child.

(3). A divorce or judicial separation does not bar the issue of the marriage from inheriting.

(4). A parent whose parental rights have been terminated is barred from inheriting from the child.

**Sec. 3. 18-A MRSA §2-804, sub-§(b)**, as amended by PL 2007, c. 280, §1, is further amended to read:

**(b).** Every such action must be brought by and in the name of the personal representative of the deceased person, and the amount recovered in every such action, except as otherwise provided, is for the exclusive benefit of the surviving spouse if no minor children, and of the children if no surviving spouse, and one-half for the exclusive benefit of the surviving spouse and one-half for the exclusive benefit of the minor children to be divided equally among them if there are both surviving spouse and minor children, and to the deceased's heirs to be distributed as provided in section 2-106 if there is neither surviving spouse nor minor children. A parent whose parental rights to the deceased have been terminated is not an heir and may not benefit from an action under this section. The jury may give such damages as it determines a fair and just compensation with reference to the pecuniary injuries resulting from the death to the persons for whose benefit the action is brought and in addition shall give such damages as will compensate the estate of the deceased person for reasonable expenses of medical, surgical and hospital care and treatment and for reasonable funeral expenses, and in addition may give damages not exceeding \$500,000 for the loss of comfort, society and companionship of the deceased, including any damages for emotional distress arising from the same facts as those constituting the underlying claim, to the persons for whose benefit the action is brought, and in addition may give punitive damages not exceeding \$75,000, provided that the action is commenced within 2 years after the decedent's death. If a claim under this section is settled without an action having been commenced, the amount paid in settlement must be distributed as provided in this subsection. No settlement on behalf of minor children is valid unless approved by the court, as provided in Title 14, section 1605.

## SUMMARY

This bill prohibits a parent whose parental rights have been terminated with regard to a child from inheriting from that child if the child dies intestate.