

How does this proposed committee amendment change the bill?
(page and line references are to the bill)

Article 1 GENERAL PROVISIONS, DEFINITIONS AND JURISDICTION

Part 3 SCOPE, JURISDICTION AND COURTS

(p. 13, line 29) §1-308. Appeals
Capitalizes “law court”

Article 2 INTESTACY, WILLS AND DONATIVE TRANSFERS

PART 1 INTESTATE SUCCESSION

SUBPART 1 GENERAL PROVISIONS

(page 29, line 30) §2-106 Per capital at each generation

Subsection 3. Per capita at each generation; descendants of decedent’s parents

¶A

Inserts “to” to use consistent terminology in describing the nearness of generations for inheritance purposes

(page 31, line 2) §2-113. Parent barred from inheriting

Sub-§1

Insert “through intestate succession” to clarify that the section prohibits a parent inheriting from the child in specific circumstances, but does not prohibit inheritance through a will or other instrument.

SUBPART 2 PARENT-CHILD RELATIONSHIP

(page 31, line 14 through page 37, line 25) replaced to make the language consistent with the how the Maine Parentage Act (Title 19-A, chapter 61) provides for the establishment and determination of parentage.

PART 2 ELECTIVE SHARE OF SURVIVING SPOUSE

(page 43, line 17 and insert ¶C after line 20)

§2-208, sub-§1, ¶B

Inserts “except as provided in paragraph C” to except out a category of trusts in using the particular procedure to determine the value of property. New ¶C describes the value of the surviving spouse’s beneficial interest in a trust from which distributions of both income and principal to the surviving spouse are subject to the trustee’s discretion.

PART 4 EXEMPT PROPERTY AND ALLOWANCES

(page 49, line 30)

§2-403

Insert “of tangible personal property, including but not limited to” to appropriately reference the exemption amounts for the various categories of personal property. The specific amounts of the exemptions are listed in Title 14, section 4422.

PART 7 RULES OF CONSTRUCTION APPLICABLE TO WILLS AND OTHER GOVERNING INSTRUMENTS

(page 71, lines 1 to 38, page 72, lines 1 to 18)

§2-705. Class gifts construed to accord with intestate succession; exceptions

Replaces the section to be consistent with the establishment of parent-child relationships under the Maine Parentage Act. *(this has not been reviewed by PATLAC)*

ARTICLE 3 PROBATE OF WILLS AND ADMINISTRATION

Part 6 PERSONAL REPRESENTATIVE: APPOINTMENT, CONTROL AND TERMINATION OF AUTHORITY

(page 127, line 31 and insert new sub-§2 after line 38)

§3-607

Insert “1. Order.” to allow adding new sub-§2 which requires the court to set and hold a hearing on a petition filed to restrain the personal representative of an estate from carrying out specific actions. Notice must be given to the personal representative, the personal representative’s attorney and any other parties named defendant in the petition.

Part 7 DUTIES AND POWERS OF PERSONAL REPRESENTATIVES

(page 136, line 7)

§3-711

Insert at end of last sentence “except as limited by this section”. Insert sentence after sentence to reinstate current Maine law that prohibits the personal representative from selling or transferring any interest in real property of the estate without giving notice a least 10 days prior to the sale or transfer, unless the will authorizes the personal representative to sell or transfer real estate without the notice.

Part 12 COLLECTION OF PERSONAL PROPERTY BY AFFIDAVIT AND SUMMARY ADMINISTRATION PROCEDURES FOR SMALL ESTATES

(page 164, line 12)

§3-1201, sub-§1, ¶A

Change the maximum value of property for which an affidavit of a small estate may be filed from “\$50,000” in the bill to \$40,000. Current law is \$20,000.

Article 4: FOREIGN PERSONAL REPRESENTATIVES; ANCILLARY ADMINISTRATION

No changes but question on §4-204 (page 197, lines 27-32) – amend bill to retain current law about requiring certificate from another jurisdiction that is no more than 60 days old?

Article 5 *(See separate summary for Article 5)*

Parts 1, 2, 3 and 4 of the bill are deleted and replaced with a PATLAC- and FLAC-revised version of the Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (UGCOPAA).

Part 1 GENERAL PROVISIONS

Part 2 GUARDIANSHIP OF MINOR

Part 2 does not adopt the changes proposed in UGCOPAA for minors, but replaces the language in the bill, which PATLAC proposed based on the 2010 Uniform Probate Code, with additional recommendations by FLAC.

Part 3 GUARDIANSHIP OF ADULT

Part 4 CONSERVATORSHIP

Part 5 OTHER PROTECTIVE ARRANGEMENTS

This is new to the Probate Code, new to LD 123

Part 6 UNIFORM ADULT GUARDIANSHIP AND PROTECTIVE PROCEEDINGS JURISDICTION ACT

This is Part 5 in the bill.

The only changes from the bill are to renumber (and fix cross-references) and to address the changes in the UGCOPAA that delete the use of the concept and the term “incapacitated person”. The amendment uses the term “individual subject to guardianship” to be consistent with new Part 3. It also replaces the term “ward” with “individual subject to guardianship”.

Part 7 PUBLIC GUARDIAN AND CONSERVATOR

This is Part 6 in the bill.

The only changes from the bill are to renumber (and fix cross-references) and address the changes in the UGCOPAA that delete the use of the concept and term “incapacitated person”. The amendment uses the term “individual subject to guardianship” to be consistent with new Part 3. It also replaces the term “ward” with “individual subject to guardianship”.

NEW QUESTION: In bill §5-610 – surety bond, but see March 2017 [Law Court opinion](#)
Need to decide how to respond to Law Court opinion

Part 8 UNIFORM HEALTH CARE DECISIONS ACT

This is Part 7 in the bill.

The only changes from the bill are to renumber and fix cross references.

Part 9 UNIFORM POWER OF ATTORNEY ACT

This is Part 8 in the bill.

The only changes from the bill are to renumber and fix cross-references.

ARTICLE 6 NONPROBATE TRANSFERS ON DEATH

No changes from bill EXCEPT

1. Add Uniform Real Estate Transfer on Death Act as new Part 4? LD 969
2. Do we need to add language consistent with LD 968 as amended, to require statement about right of survivorship when a multi-party account is opened?

ARTICLE 7 TRUST ADMINISTRATION

No changes

ARTICLE 8 MISCELLANEOUS PROVISIONS

(page 348, line 29)

§8-301, sub-§2, ¶F

Change “natural and adopting parents” to “former and adopting parents” to be consistent with changes to Article 9 (and the Maine Parentage Act).

ARTICLE 9 ADOPTION

The changes to Article 9 are based on recommendations from the Probate and Trust Law Advisory Committee’s recommendations, as modified by the Family Law Advisory Commission’s recommendations. The Family Law Advisory Commission submitted reports to the Judiciary Committee in January 2017 and January 2018.

Several revisions to the Adoption Act are essential to ensure that it is consistent with the Maine Parentage Act (MPA), which became effective on July 1, 2016. The current Adoption Act reflects a far more limited view of parentage than is now embodied in Maine family law. The proposed revisions include cross-references to the MPA’s definition of “parent” and routes to establishing parentage set forth at Title 19-A, chapter 61, as well as the use of gender-neutral language.

LD 123 was carried over from the First Session of the 128th Legislature in part to provide the Probate and Trust Law Advisory Commission (PATLAC) and FLAC an opportunity to review the Uniform Law Commission’s (ULC) newly-approved Uniform Guardianship, Conservatorship and Other Protective Arrangements Act (UGCOPAA) and to determine if Maine should adopt some or all of the language included in that new uniform act.

The provisions of the UGCOPAA pertaining to minor guardianship depart in significant respects from existing Maine law and practice. In addition, the UGCOPAA does not reflect many of the important reforms recommended to the Judiciary Committee in FLAC’s January 15, 2017, Report and Recommendations, which were based on the findings from its comprehensive review of Maine minor guardianship laws and practice, including valuable contributions from dozens of Maine stakeholders. Because the 2017 recommendations continue to reflect how the Maine Uniform Probate Code’s (MUPC) minor guardianship laws can best serve Maine children, families, and courts, this amendment includes the FLAC 2017 recommendations with additional revisions.

This amendment makes the inheritance provisions in Article 2, Part 1, Subpart 2, addressing parent-child relationships, consistent with the Maine Parentage Act, Title 19-A, chapter 61 and the provisions governing inheritance under the child protection laws concerning termination of parental rights and permanency guardian adoption. In addition, the adoption laws are amended to include a consistent provision confirming the broad effects of the adoption on the adoptee's legal relationship with the adoptee's former parent. An adoptee inherits from the adoptee's former parents only "if so provided in the adoption decree."

(need to amend §9-105 to correct reference from "section 2-119, subsection 6" to "section 2-117")

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