



132nd MAINE LEGISLATURE

FIRST SPECIAL SESSION-2025

Legislative Document

No. 1440

H.P. 949

House of Representatives, April 3, 2025

An Act to Amend the Maine Uniform Probate Code

Reported by Representative KUHN of Falmouth for the Probate and Trust Law Advisory Commission pursuant to the Maine Revised Statutes, Title 18-C, section 1-803, subsection 2.

Reference to the Committee on Judiciary suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

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

2 **Sec. 1. 4 MRSA §202**, as amended by PL 1981, c. 456, Pt. A, §5, is further amended
3 to read:

4 **§202. Oaths and acknowledgments**

5 All oaths required to be taken by personal representatives, trustees, guardians,
6 conservators, or of any other persons in relation to any proceeding in the probate court, or
7 to perpetuate the evidence of the publication of any order of notice, may be administered
8 by the judge or register of probate or any notary public. A certificate thereof, when taken
9 out of court, ~~shall~~ must be returned into the registry of probate and there filed. When any
10 person of whom such oath is required, ~~including~~ excluding any parent ~~acknowledging~~
11 ~~consent to an adoption~~ executing a surrender and release or a consent under Title 18-C,
12 section 9-202, resides temporarily or permanently ~~without~~ outside the State, the oath or
13 acknowledgment may be taken before and be certified by a notary public ~~without~~ outside
14 the State, a commissioner for the State of Maine or a United States Consul.

15 **Sec. 2. 18-C MRSA §2-201, sub-§3**, as enacted by PL 2017, c. 402, Pt. A, §2 and
16 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

17 **3. Marriage.** ~~"Marriage," as it relates to a transfer by the decedent during marriage,~~
18 "Marriage" or "married" means any marriage of the decedent to the decedent's surviving
19 spouse and includes a registered domestic partnership and a legal union that was validly
20 formed in any state or jurisdiction and that provides substantially the same rights, benefits
21 and responsibilities as a marriage.

22 **Sec. 3. 18-C MRSA §3-108, sub-§1, ¶D**, as amended by PL 2023, c. 4, §7, is
23 further amended to read:

24 D. Regardless of whether the decedent dies before, on or after the effective date of this
25 Code, an informal testacy or appointment proceeding or a formal testacy or
26 appointment proceeding may be commenced more than 3 years after the decedent's
27 death if no proceeding concerning the succession or estate administration has occurred
28 within the 3-year period after the decedent's death, ~~but the personal representative has~~
29 ~~no right to possess estate assets as provided in section 3-709 beyond that necessary to~~
30 ~~confirm title in the successors to the estate, and claims other than expenses of~~
31 ~~administration may not be presented against the estate; The following conditions apply~~
32 ~~to a proceeding commenced under this paragraph:~~

33 (1) The personal representative has no right to possess estate assets as provided in
34 section 3-709 beyond that necessary to confirm title in the successors to the estate;

35 (2) Claims other than expenses of administration may not be presented against the
36 estate; and

37 (3) Notwithstanding any provision of law to the contrary, the personal
38 representative may not satisfy the homestead allowance described in section 2-402,
39 exempt property described in section 2-403 or the family allowance described in
40 section 2-404;

41 **Sec. 4. 18-C MRSA §3-203, sub-§1, ¶E**, as enacted by PL 2017, c. 402, Pt. A, §2
42 and affected by PL 2019, c. 417, Pt. B, §14, is repealed.

1 **Sec. 5. 18-C MRSA §5-319**, as enacted by PL 2017, c. 402, Pt. A, §2 and affected
2 by PL 2019, c. 417, Pt. B, §14, is amended by enacting at the beginning a new paragraph
3 to read:

4 The authority and responsibility of a guardian terminates upon the death of the adult
5 subject to guardianship. The following provisions govern the process for terminating or
6 modifying a guardianship in circumstances other than death of the adult subject to
7 guardianship.

8 **Sec. 6. 18-C MRSA §9-202, sub-§8**, as enacted by PL 2017, c. 402, Pt. A, §2 and
9 affected by PL 2019, c. 417, Pt. B, §14, is amended to read:

10 **8. Surrender and release or consent by court of comparable jurisdiction from**
11 **another state.** The court shall accept a surrender and release or a consent by a court of
12 comparable jurisdiction in another state if the court receives an affidavit from a member of
13 that state's bar or a certificate from that court of comparable jurisdiction stating that:

14 A. The party executing the surrender and release or the consent followed the procedure
15 required to make a surrender and release or a consent valid in the state in which it was
16 executed; and

17 B. The court of comparable jurisdiction advised the person executing the surrender
18 and release or the consent of the consequences of the surrender and release or the
19 consent under the laws of the state in which the surrender and release or the consent
20 was executed.

21 The court shall accept a waiver of notice by a putative parent that meets the requirements
22 of section 9-201, subsection 3.

23 **Sec. 7. 18-C MRSA §9-202, sub-§9** is enacted to read:

24 **9. Surrender and release or consent from another state without court of**
25 **comparable jurisdiction.** If a parent of a child resides in another state and the laws of that
26 state do not provide for a court of comparable jurisdiction to advise the parent of the
27 consequences of the surrender and release or the consent, the surrender and release or the
28 consent must be approved pursuant to subsections 1 and 2 in person or, after a motion, the
29 court may approve a remote appearance by videoconference.

30 **SUMMARY**

31 This bill modifies the Maine Uniform Probate Code and related provisions to clarify
32 certain provisions related to marriage and domestic partnerships, personal representatives,
33 termination or modification of guardianship for an adult and the process for parental
34 surrender and release of parental rights and consent for adoption when the parent resides
35 in another state.