

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

—
H.P. 949 - L.D. 1440

An Act to Amend the Maine Uniform Probate Code

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

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

§202. Oaths and acknowledgments

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

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

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

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

D. Regardless of whether the decedent dies before, on or after the effective date of this Code, an informal testacy or appointment proceeding or a formal testacy or appointment proceeding may be commenced more than 3 years after the decedent's death if no proceeding concerning the succession or estate administration has occurred within the 3-year period after the decedent's death, ~~but the personal representative has~~

~~no right to possess estate assets as provided in section 3-709 beyond that necessary to confirm title in the successors to the estate, and claims other than expenses of administration may not be presented against the estate; The following conditions apply to a proceeding commenced under this paragraph:~~

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

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

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

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

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

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

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

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

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

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

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

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

9. Surrender and release or consent from another state without court of comparable jurisdiction. If a parent of a child resides in another state and the laws of that state do not provide for a court of comparable jurisdiction to advise the parent of the consequences of the surrender and release or the consent, the surrender and release or the

consent must be approved pursuant to subsections 1 and 2 in person or, after a motion, the court may approve a remote appearance by videoconference.

Sec. 8. Maine Comments. Comments submitted by the Probate and Trust Law Advisory Commission are acknowledged by the Legislature as Maine Comments, and the Revisor of Statutes shall submit the comments for inclusion in the publication of the Maine Revised Statutes Annotated.