

MAINE PROBATE AND TRUST LAW ADVISORY COMMISSION
Proposed Amendments to Title 18-C - Maine Uniform Probate Code
Joint Standing Committee on Judiciary

Introduction

The Probate and Trust Law Advisory Commission (“PATLAC”) hereby submits the following proposed supplement amendment to Title 18-C – the Maine Uniform Probate Code.

PATLAC previously submitted proposed amendments to Title 18-C by its submission dated December 2, 2020.

Recommended Amendment

Amend § 5-511(4) to delay the effective date of the Confidentiality of Records provisions governing a proceeding for or the existence of one or more protective arrangements instead of a guardianship or conservatorship.

In its submission to the Joint Standing Committee on Judiciary dated December 2, 2020, PATLAC requested the amendment of § 5-308(4) and § 5-409(4) to delay the effective date of the Confidentiality of Records provisions governing guardianships of adults and governing conservatorships. PATLAC intended to include the amendment of § 5-511(4) as part of its December 2, 2020 submission. § 5-511, governing other protective arrangements, is the counterpart provision to § 5-308 (governing guardianships of adults) and § 5-409 (governing conservatorships).

When Title 18-C was enacted, with a September 1, 2019 effective date, the provisions of § 5-308, § 5-409, and § 5-511 all had a delayed effective date of January 1, 2021. The purpose of the delayed effective date in all three provisions was to give the Maine Supreme Judicial Court time to address confidentiality of court records in the state courts and perhaps in the Probate Courts, and then give PATLAC an opportunity to propose amendments to § 5-308, § 5-409, and § 5-511 to ensure consistency with confidentiality of records provisions adopted by the Maine Supreme Judicial Court.

With an effective date of August 21, 2020 the Maine Supreme Judicial Court adopted the *Maine Rules of Electronic Court Systems*, which Rules contain extensive provisions governing the confidentiality of records filed with the Supreme Judicial Court, the Superior Court, and the District Court. The Maine Supreme Judicial Court has not yet had an opportunity to consider rules governing confidentiality of records filed with the Probate Courts. PATLAC therefor recommends that the effective date of § 5-308, § 5-409, and § 5-511 be further delayed to January 1, 2023 to provide additional time for the Maine Supreme Court, in conjunction with PATLAC and the Maine Probate Rules Advisory Committee, to complete its review and approval of rules governing confidentiality of records in the Probate Courts.

§ 5-308(4), § 5-409(4), and § 5-511(4) of Title 18-C, as currently enacted, all state:

4. Effective date. This section takes effect January 1, 2021.

PATLAC recommends that § 5-308(4), § 5-409(4), and § 5-511(4) be revised to read as follows:

4. Effective date. This section takes effect January 1, 2023.

Conclusion

The Probate and Trust Law Advisory Commission therefore recommends the amendment of Title 18-C as noted above.

Dated: February 6, 2021

Respectfully submitted,

Probate and Trust Law Advisory Commission

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