

STATE OF MAINE

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

—
H.P. 101 - L.D. 145

An Act To Amend the Maine Uniform Probate Code

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Maine Uniform Probate Code took effect September 1, 2019, but the new confidentiality of records provisions applicable to adult guardianships, conservatorships and other protective arrangements were delayed until January 1, 2021 to allow the development and adoption of rules governing those records by the Supreme Judicial Court; and

Whereas, the rules governing confidentiality of Probate Court records have not yet been adopted; and

Whereas, the effective date of the statutory provisions should be delayed until the rules are adopted and any appropriate statutory amendments can be made; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 18-C MRSA §3-108, sub-§1, ¶D, as amended by PL 2019, c. 417, Pt. A, §4, is further amended to read:

D. An Regardless of whether the decedent dies before, on or after the effective date of this Code, an informal appointment 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;

Sec. 2. 18-C MRSA §5-308, sub-§4, as enacted by PL 2019, c. 417, Pt. A, §30, is amended to read:

4. Effective date. This section takes effect January 1, ~~2021~~ 2023.

Sec. 3. 18-C MRSA §5-409, sub-§4, as enacted by PL 2019, c. 417, Pt. A, §62, is amended to read:

4. Effective date. This section takes effect January 1, ~~2021~~ 2023.

Sec. 4. 18-C MRSA §5-423, sub-§2, ¶E, as amended by PL 2019, c. 417, Pt. A, §80, is further amended to read:

E. ~~An annual credit report of the individual subject to conservatorship and, to~~ To the extent feasible, a copy of the most recent reasonably available financial statements evidencing the status of bank accounts, investment accounts and mortgages or other debts of the individual subject to conservatorship, with all but the last 4 digits of the account numbers and the individual's social security number redacted, and, if ordered by the court, a credit report of the individual subject to guardianship;

Sec. 5. 18-C MRSA §5-431, 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. Safeguard rights of individual. Unless the court otherwise orders for good cause, before terminating or modifying a conservatorship, the court shall follow the same procedures to safeguard the rights of the individual subject to conservatorship that apply to a petition for conservatorship.

Sec. 6. 18-C MRSA §5-511, sub-§4, as enacted by PL 2019, c. 417, Pt. A, §95, is amended to read:

4. Effective date. This section takes effect January 1, ~~2021~~ 2023.

Sec. 6. 18-C MRSA §8-301, sub-§2, ¶A-1, as amended by PL 2019, c. 598, §8, is further amended to read:

A-1. The intestate succession provisions of Article 2, Part 1, Subpart 1, the elective share provisions of Article 2, Part 2 ~~and~~ the exempt property and allowances provisions of Article 2, Part 4 and the wrongful death provisions of section 2-807 apply to the estates of decedents who die on or after the effective date;

Sec. 7. Retroactivity. Those sections of this Act that amend the Maine Revised Statutes, Title 18-C, section 5-308, subsection 4, section 5-409, subsection 4 and section 5-511, subsection 4 apply retroactively to January 1, 2021.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.