

MAINE STATE LEGISLATURE

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JUDICIARY

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STATE OF MAINE HOUSE OF REPRESENTATIVES 132ND LEGISLATURE FIRST SPECIAL SESSION

COMMITTEE AMENDMENT "A" to H.P. 949, L.D. 1440, "An Act to Amend the Maine Uniform Probate Code"

Amend the bill by inserting after section 7 the following:

'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.'

Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

SUMMARY

This amendment acknowledges the following Maine Comments to the Maine Uniform Probate Code, as amended by the bill, that were submitted by the Probate and Trust Law Advisory Commission.

Maine Comment for Title 18-C, section 2-201, sub-§3

The definition of "marriage" is consistent with the Maine Uniform Probate Code's definition of "spouse" and, as such, the definition clarifies that a surviving registered domestic partner and a surviving member of 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, have elective share rights under Part 2 of Article 2 of the Maine Uniform Probate Code.

Maine Comment for Title 18-C, section 3-108, sub-§1, ¶D

Section 3-108(D) prohibits the presentation of claims other than expenses of administration. The homestead allowance (§2-402), exempt property (§2-403), and the family allowance (§2-404) are all referred to under Part 4 of Article 2 as "rights" and as

1 payments to which a surviving spouse or minor dependent children are "entitled." As such,
2 the homestead allowance, exempt property, and the family allowance are not properly
3 classified as claims. However, because a personal representative appointed under
4 §3-108(D) "has no right to possess estate assets . . . beyond that necessary to confirm title
5 in the successors to the estate," the section now makes clear that the homestead allowance,
6 exempt property, and the family allowance are not intended to be, and should not be, paid
7 by a personal representative appointed under §3-108(D).

8 **Maine Comment for Title 18-C, section 3-203, sub-§1, ¶E**

9 A non-registered domestic partner is removed from the list of persons with priority for
10 appointment as personal representative.

11 **Maine Comment for Title 18-C, section 9-202, sub-§9**

12 Section 9-202(8) requires a parent who is outside the State of Maine to provide a
13 surrender and release or a consent by appearing before a court of comparable jurisdiction
14 in the state where the parent resides (temporarily or permanently). However, some states
15 do not require that a surrender and release or a consent be signed after appearing before a
16 court. Rather, some states merely require that the surrender and release or consent be signed
17 before a notary. As a result, a parent, who resides in a state that does not have a court
18 procedure for advising the parent of the consequences of the surrender and release or
19 consent, faced an impediment that previous Maine law did not accommodate.

20 Section 9-202(9) provides a procedure for a parent who resides outside the State of
21 Maine to provide a surrender and release or a consent that complies with Maine law when
22 the law of the state where the parent resides does not have a procedure that enables the
23 parent to comply with the requirements of §9-202(8). The parent may, after motion and
24 approval by the Maine court with jurisdiction over the proceeding, appear before the Maine
25 court by videoconference for approval of the parent's surrender and release or consent.

26 See also, Title 4 MRSA §202.