

# MAINE STATE LEGISLATURE

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# 132nd MAINE LEGISLATURE

## FIRST SPECIAL SESSION-2025

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Legislative Document

No. 1440

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H.P. 949

House of Representatives, April 3, 2025

### An Act to Amend the Maine Uniform Probate Code

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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 "Robert 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.

**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.

## SUMMARY

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