

MAINE STATE LEGISLATURE

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REVISED STATUTES
OF THE
STATE OF MAINE
1954

1959 CUMULATIVE SUPPLEMENT

ANNOTATED

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When the state registrar shall receive a certificate of adoption, or an annulment or revocation of adoption or amendment thereof from a court for a person born outside this state he shall forward such certificate, annulment, revocation or amendment to the appropriate registration authority in the state of birth. (R. S. c. 145, § 37. 1953, c. 341. 1959, c. 291, § 11.)

Effect of amendment.—The 1959 amendment rewrote the second paragraph and added the third, fourth and fifth para-

graphs.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 40. Legal effect of adoption of child; descent of property.

But this section places child, etc.

This section by its terms makes the adopted child in relation to his adopting parents the same as a child of blood. *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

And statute in force at time of death, etc.

The law is settled in this state that the right to inherit property from or by an adopted person is determined by the law of descent in effect at the time of the death of the intestate. *In re Williams*, 154 Me. 88, 144 A. (2d) 116.

But status of adoption and right of inheritance are distinguishable.

The status of the adopted child is fixed by the law of the adoption but the adopted child's rights of inheritance shall be determined by the law of the state of inheritance. *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

Law governing right of inheritance.—The question whether an adopted child (irrespective of where he is adopted) can inherit and the extent of such right of inheritance will be determined, not by the law of the state where the adoption took place, but by the law of the state where the property is located, or by the law of the domicile of the decedent, as the case may be. *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

Sec. 43. Decree of adoption annulled. — Any judge of probate may, on petition of 2 or more persons, after notice and hearing and for good cause shown, reverse and annul any decree of the probate court in his county, whereby any child has been adopted under this chapter.

After any decree of adoption has been annulled, the register of probate shall forthwith transmit a certified copy of the annulment to the state registrar of vital statistics. (R. S. c. 145, § 41. 1959, c. 291, § 12.)

Effect of amendment.—The 1959 amendment deleted the words "the provisions of", formerly appearing after the word "under"

and before the word "this" in the first paragraph. It also added the second paragraph.

Chapter 158-A.

Uniform Gifts to Minors Act.

Sec. 1. Definitions.—In this chapter, unless the context otherwise requires: An "adult" is a person who has attained the age of 21 years.

A "bank" is a trust company, national banking association, savings bank or industrial bank.

A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

"Court" means the probate court.

"The custodial property" includes:

I. All securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;

II. The income from the custodial property; and

III. The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

A "custodian" is a person so designated in a manner prescribed in this chapter.

A "guardian" of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person.

An "issuer" is a person who places or authorizes the placing of his name on a security, other than as a transfer agent, to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

A "legal representative" of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

A "member" of a "minor's family" means any of the minor's parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

A "minor" is a person who has not attained the age of 21 years.

A "security" includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in "registered form" when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

A "transfer agent" is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

A "trust company" is a bank authorized to exercise trust powers. (1959, c. 154.)

Sec. 2. Manner of making gift.—

I. An adult person may, during his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

A. If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: "as custodian for

(name of minor)

under the "Maine Uniform Gifts to Minors Act";

B. If the subject of the gift is a security not in registered form, by delivering it to an adult person, other than the donor, or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

“GIFT UNDER THE MAINE UNIFORM GIFTS TO MINORS ACT
I, hereby deliver to
(name of donor) (name of custodian)
as custodian for under the Maine Uniform Gifts
(name of minor)
to Minors Act, the following security or securities: (insert an appropriate
description of the security or securities delivered sufficient to identify it or
them)
.....
(signature of donor)
..... hereby acknowledges receipt of the above
(name of custodian)
described security or securities as custodian for the above minor under the
Maine Uniform Gifts to Minors Act.
Dated:”
(signature of custodian)

C. If the subject of the gift is money, by paying or delivering it to a broker or a bank for credit to an account in the name of the donor, another adult person or a trust company, followed, in substance, by the words “as custodian for under the Maine Uniform Gifts to Minors Act.”
(name of minor)

II. Any gift made in a manner prescribed in subsection I may be made to only one minor and only one person may be the custodian.

III. A donor who makes a gift to a minor in a manner prescribed in subsection I shall promptly do all things within his power to put the subject of the gift in the possession and control of the custodian, but neither the donor’s failure to comply with this subsection, nor his designation of an ineligible person as custodian, nor renunciation by the person designated as custodian affects the consummation of the gift. (1959, c. 154.)

Sec. 3. Effect of gift.—A gift made in a manner prescribed in this chapter is irrevocable and conveys to the minor indefeasibly vested legal title to the security or money given, but no guardian of the minor has any right, power, duty or authority with respect to the custodian property except as provided in this chapter.

By making a gift in a manner prescribed in this chapter, the donor incorporates in his gift all the provisions of this chapter and grants to the custodian, and to any issuer, transfer agent, bank, broker or third person dealing with a person designated as custodian, the respective powers, rights and immunities provided in this chapter. (1959, c. 154.)

Sec. 4. Duties and powers of custodian. — The custodian shall collect, hold, manage, invest and reinvest the custodial property.

The custodian shall pay over to the minor for expenditure by him, or expend for the minor’s benefit, so much of or all the custodial property as the custodian deems advisable for the support, maintenance, education and benefit of the minor in the manner, at the time or times, and to the extent that the custodian in his discretion deems suitable and proper, with or without court order, with or without regard to the duty of himself or any other person to support the minor or his ability to do so, and with or without regard to any other income or property of the minor which may be applicable or available for any such purpose.

The court, on the petition of a parent or guardian of the minor or of the minor, if he has attained the age of 14 years, may order the custodian to pay over to the minor for expenditure by him or to expend so much of or all the custodial property as is necessary for the minor's support, maintenance or education.

To the extent that the custodial property is not so expended, the custodian shall deliver or pay it over to the minor on his attaining the age of 21 years or, if the minor dies before attaining the age of 21 years, he shall thereupon deliver or pay it over to the estate of the minor.

The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this chapter.

The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for under the Maine Uniform Gifts to Minors (name of minor)

Act." The custodian shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the words: "as custodian for under the Maine Uni- (name of minor)

form Gifts to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of 14 years.

A custodian has, with respect to the custodial property, in addition to the rights and powers provided in this chapter, all the rights and powers which a guardian has with respect to property not held as custodial property. (1959, c. 154.)

Sec. 5. Custodian's expenses, compensation, bond and liabilities.—A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

A custodian may act without compensation for his services.

Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by the statute of this state applicable to guardians.

Except as otherwise provided in this chapter, a custodian shall not be required to give a bond for the performance of his duties.

A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this chapter. (1959, c. 154.)

Sec. 6. Exemption of third persons from liability.—No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting to act in the capacity of custodian is in accordance with or authorized by this chapter, or is obliged to inquire into the validity or propriety under this chapter of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. (1959, c. 154.)

Sec. 7. Resignation, death or removal of custodian; bond; appointment of successor custodian.—Only an adult member of the minor’s family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this chapter.

A custodian, other than the donor, may resign and designate his successor by:

I. Executing an instrument of resignation designating the successor custodian; and

II. Causing each security which is custodial property and is [in] registered form to be registered in the name of the successor custodian followed, in substance, by the words: “as custodian for under the Maine Uniform Gifts to Minors Act”; and

III. Delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of 21 years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representatives of the custodian, an adult member of the minor’s family, or the minor, if he has attained the age of 14 years, may petition the court for the designation of a successor custodian.

A donor, the legal representative of a donor, an adult member of the minor’s family, a guardian of the minor or the minor, if he has attained the age of 14 years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interest of the minor. (1959, c. 154.)

Sec. 8. Accounting by custodian.—The minor, if he has attained the age of 14 years, or the legal representative of the minor, an adult member of the minor’s family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

The court, in a proceeding under this chapter, or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian

is removed, shall so require and order delivery to all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof. (1959, c. 154.)

Sec. 9. Construction.—This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

This chapter shall not be construed as providing an exclusive method for making gifts to minors. (1959, c. 154.)

Sec. 10. Short title. — This chapter may be cited as the “Maine Uniform Gifts to Minors Act.” (1959, c. 154.)

Chapter 160.

Testamentary Trustees and Voluntary Trusts.

Sections 27-33. The Rule against Perpetuities.

Sections 34-35. Income Earned during Period of Administration.

The Rule against Perpetuities.

Sec. 27. When rule applied.—In applying the rule against perpetuities to an interest in real or personal property limited to take effect at or after the termination of one or more life estates in, or lives of, persons in being when the period of said rule commences to run, the validity of the interest shall be determined on the basis of facts existing at the termination of such one or more life estates or lives. In this section an interest which must terminate not later than the death of one or more persons is a “life estate” even though it may terminate at an earlier time. (1955, c. 244.)

Sec. 28. Age may be reduced to 21.—If an interest in real or personal property would violate the rule against perpetuities as modified by section 27 because such interest is contingent upon any person attaining or failing to attain an age in excess of 21, the age contingency shall be reduced to 21 as to all persons subject to the same age contingency. (1955, c. 244.)

Sec. 29. Contingent fees. — A fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken shall become a fee simple absolute if the specified contingency does not occur within 30 years from the date when such fee simple determinable or such fee simple subject to a right of entry becomes possessory. If such contingency occurs within said 30 years the succeeding interest, which may be an interest in a person other than the person creating the interest or his heirs, shall become possessory or the right of entry exercisable notwithstanding the rule against perpetuities. But if a fee simple determinable in land or a fee simple in land subject to a right of entry for condition broken is so limited that the specified contingency must occur, if at all, within the period of the rule against perpetuities, said interests shall take effect as limited. This section shall not apply where both such fee simple determinable and such succeeding interest, or both such fee simple and such right of entry are for public, charitable or religious purposes; nor shall it apply to a deed, gift or grant to the state or any political subdivision thereof. (1955, c. 244.)

Sec. 30. Application of §§ 27-33.—Sections 27 to 33, inclusive, shall apply to both legal and equitable interests. (1955, c. 244.)

Sec. 31. Limitation of §§ 27-33.—Except as provided in the first sentence of section 29, sections 27 to 33, inclusive, shall not be construed to invalidate