

MAINE STATE LEGISLATURE

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MAINE PROBATE AND TRUST LAW ADVISORY COMMISSION
Report to Maine Legislature
Joint Standing Committee on Judiciary
Re: Resolve 2013, chapter 5

**“Resolve, Directing the Probate and Trust Law Advisory Commission
To Review Maine's Probate Code and the Uniform Probate Code”**

The Probate and Trust Law Advisory Commission (“PATLAC”) hereby reports to the Maine Legislature, Joint Standing Committee on Judiciary, on Resolve 2013, chapter 5, entitled, “Resolve, Directing the Probate and Trust Law Advisory Commission To Review Maine's Probate Code and the Uniform Probate Code.”

The Maine Probate Code was originally enacted by the Legislature in 1979, with a January 1, 1981 effective date. As adopted in Maine, the Maine Probate Code was based on the Uniform Probate Code as disseminated to the various states by the Uniform Law Commissions.

Since its original adoption more than 30 years ago the Uniform Probate Code has been substantially revised by the Uniform Law Commissioners, including a major update adopted in 1990, technical and substantive amendments adopted in 2008, and technical amendments adopted in 2010 and refined in 2011.

Pursuant to Resolve 2013, chapter 5 PATLAC has undertaken the task of comparing the Maine Probate Code to the new Uniform Probate Code, section by section, for the purpose of recommending appropriate recommendations to revise and update the Maine Probate Code.

Resolve 2013, chapter 5 directed PATLAC to submit a report to the Joint Standing Committee on Judiciary by December 1, 2013 with any necessary implementing legislation. Although PATLAC has worked consistently and diligently to fulfill the charge of Resolve 2013, chapter 5, PATLAC requests that the Resolve be amended to change the reporting date from December 1, 2013 to December 15, 2014. The change in the reporting time will enable PATLAC to better ensure that its report is complete and that PATLAC’s recommendations for revision and update of the Maine Probate Code has been distributed to the following groups, with ample opportunity to receive and consider their comments before submitting PATLAC’s report to the Joint Standing Committee on Judiciary:

- the Maine Probate Judges Assembly
- the Maine Community Bankers Association
- the Maine State Bar Association’s Trust & Estate Section
- the Maine State Bar Association’s Elder Law Section
- the Family Law Advisory Commission

Therefore, the Maine Probate and Trust Law Advisory Commission requests that Resolve 2013, chapter 5 be amended to change from December 1, 2013 to December 15, 2014 the date by which

PATLAC shall submit a report to the Joint Standing Committee on Judiciary with any necessary implementing legislation for revising and updating the Maine Probate Code.

Dated: November 14, 2013

Respectfully submitted,

Probate and Trust Law Advisory Commission

David J. Backer, Esq., Chair

Barbara Carlin, Esq.

Jill A. Checkoway, Esq.

Katherine Greason, Esq., AAG

Jeffrey W. Jones, Esq.

Justin LeBlanc, Esq., Vice-Chair

Judge Susan W. Longley, Waldo County Probate Court

Judge Joseph Mazziotti, Cumberland County Probate Court

Justice Robert Murray

Jane Skelton, Esq., Secretary-Treasurer

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND AND THIRTEEN

H.P. 230 - L.D. 321

**Resolve, Directing the Probate and Trust Law Advisory Commission To
Review Maine's Probate Code and the Uniform Probate Code**

Preamble. Whereas, the current Probate Code was enacted in 1980 based on the Uniform Probate Code in effect at that time; and

Whereas, since its original adoption in 1980 the Uniform Probate Code has been substantially revised by the Uniform Law Commission, including an update adopted in 1990, technical and substantive amendments adopted in 2008 and technical amendments adopted in 2010 and refined in 2011; and

Whereas, it is in the best interest of Maine citizens and residents to have up-to-date statutes consistent with those of other states and that address issues that arise in today's social and technological environment; and

Whereas, the Probate and Trust Law Advisory Commission is authorized to examine and evaluate the operation of the Probate Code and recommend changes; now, therefore, be it

Sec. 1. Review. Resolved: That the Probate and Trust Law Advisory Commission established under the Maine Revised Statutes, Title 5, section 12004-I, subsection 73-B is directed to conduct a review of the current Probate Code and the latest Uniform Probate Code and develop legislative recommendations based on the review. The Probate and Trust Law Advisory Commission shall invite the participation of interested parties in the review and in the development of recommendations; and be it further

Sec. 2. Report. Resolved: That the Probate and Trust Law Advisory Commission shall submit a report regarding the review in section 1 to the Joint Standing Committee on Judiciary no later than December 1, 2013, together with any necessary implementing legislation, for presentation to the Second Regular Session of the 126th Legislature. The Probate and Trust Law Advisory Commission is authorized to submit a bill related to its report to the Second Regular Session of the 126th Legislature.