

MAINE STATE LEGISLATURE

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Date: 5/30/07

L.D. 354
(Filing No. H-374)

JUDICIARY

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
123RD LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H.P. 284, L.D. 354, Bill, "An Act Regarding the Reporting Requirements of Guardians and Conservators"

Amend the bill by striking out the title and substituting the following:

'An Act Regarding the Reporting Requirements of Conservators'

Amend the bill by striking out everything after the enacting clause and before the summary and inserting the following:

'Sec. 1. 18-A MRSA §5-419, sub-§(a), as amended by PL 2001, c. 280, §2, is further amended to read:

(a). Every conservator shall account to the court for the administration of the trust as specified by the court at the time of the initial order or at the time of a subsequent order or as provided by court rule and upon resignation or removal. ~~On termination of the protected person's minority or disability, a conservator may account to the court or may account to the former protected person or that person's personal representative. Prior to the termination of the protected person's minority, the conservator shall account to the court and the protected person.~~ Notwithstanding any other duty to render an accounting, a private conservator appointed after January 1, 2008 shall file an annual account with the court for approval. The court, for good cause shown by a conservator who is the spouse or domestic partner of the protected person, may waive or modify the duty to file an annual account. The annual account must be approved by the court before the conservator's obligation to file the annual account ends.

Prior to the termination of the protected person's minority, the conservator shall account to the court and the protected person. On termination of the protected person's minority or disability, a conservator shall file a final accounting with the court and that accounting must be approved by the court before the conservator's obligation to account ends. The conservator shall provide a copy of the final accounting to the former protected person or that person's personal representative at the time it is filed with the court.

COMMITTEE AMENDMENT

12/18

1 **Sec. 2. 18-A MRSA §5-430**, as enacted by PL 1979, c. 540, §1, is amended to
2 read:

3 **§5-430. Termination of proceeding**

4 The protected person, ~~his~~ the protected person's personal representative, the
5 conservator or any other interested person may petition the court to terminate the
6 conservatorship. A protected person seeking termination is entitled to the same rights and
7 procedures as in an original proceeding for a protective order. The court, upon
8 determining after notice and hearing that the minority or disability of the protected person
9 has ceased, ~~may~~ shall terminate the conservatorship upon approval of a final account.
10 Upon termination, title to assets of the estate passes to the former protected person or to
11 ~~his~~ the former protected person's successors subject to provision in the order for expenses
12 of administration or to conveyances from the conservator to the former protected ~~persons~~
13 person or ~~his~~ the former protected person's successors, to evidence the transfer.

14 **Sec. 3. Guardian annual report working group.** The Commissioner of Health
15 and Human Services shall convene a working group consisting of staff from the
16 Department of Health and Human Services, Adult Protective Services and interested
17 parties, including, but not limited to, representatives of registers of probate, Legal
18 Services for the Elderly, Disability Rights Center, attorneys in private practice, members
19 of the public and such other persons as may be necessary to review the need for a practice
20 requiring private guardians to make a detailed annual report to the Probate Court of the
21 financial circumstances of the ward. The working group shall report its findings and
22 recommendations to the Joint Standing Committee on Judiciary by January 11, 2008.'

23 **SUMMARY**

24 This amendment replaces the bill.

25 This amendment requires a private conservator to file an annual account with the
26 Probate Court for approval. The Probate Court may waive or modify the duty to file an
27 annual account for good cause shown by the conservator who is the protected person's
28 spouse or domestic partner. The duty does not end until the court approves the account.
29 This change concerning annual accounting applies to conservators appointed after
30 January 1, 2008.

31 This amendment requires the conservator to account to the court and the protected
32 person before the termination of the protected person's minority. Current law gives the
33 Probate Court authority to require a final accounting when the protected person's minority
34 or disability ends; this amendment requires a final accounting. The duty to file the
35 accounting is not complete until the court approves the final accounting. The conservator
36 must provide a copy of the final accounting to the former protected person or that
37 person's personal representative.

38 This amendment provides that when the Probate Court determines that the minority
39 or disability of the protected person has ceased, the court shall terminate the
40 conservatorship upon approval of a final account.

41 The bill provided reporting requirements for guardians. This amendment deletes
42 those requirements, but requires the Commissioner of Health and Human Services to

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COMMITTEE AMENDMENT "A" to H.P. 284, L.D. 354

1 convene a working group to review the reporting requirements for guardians and report to
2 the Joint Standing Committee on Judiciary by January 11, 2008.

3 **FISCAL NOTE REQUIRED**
4 **(See attached)**



123rd MAINE LEGISLATURE

LD 354

LR 879(02)

An Act Regarding the Reporting Requirements of Guardians and Conservators

Fiscal Note for Bill as Amended by Committee Amendment "A"
Committee: Judiciary
Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - General Fund

Fiscal Detail and Notes

Any additional cost to the Department of Health and Human Services in implementing this bill can be absorbed by the department utilizing existing budget resources.