

MAINE STATE LEGISLATURE

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EIGHTY-FOURTH LEGISLATURE

House Document

No. 35

H. P. 78 House of Representatives, Jan. 22, 1929.

Referred to Committee on Legal Affairs and 500 copies ordered printed. Sent up for concurrence.

CLYDE R. CHAPMAN, Clerk.

Presented by Mr. Burkett of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-NINE

AN ACT Concerning the Guardianship of Incompetent Veterans and of Minor Children of Disabled or Deceased Veterans, and the Commitment of Veterans and to make Uniform the Law with Reference Thereto.

Be it enacted by the People of the State of Maine, as follows:

Section 1. As used in this act:

The term "person" includes a partnership, corporation or
2 an association.

The term "Bureau" means the United States Veterans'
2 Bureau or its successor.

The terms "estate" and "income" shall include only
2 moneys received by the guardian from the Bureau and all
3 earnings, interest and profits derived therefrom.

The term "benefits" shall mean all moneys payable by the
2 United States through the Bureau.

The term "Director" means the Director of the United
2 States Veterans' Bureau or his successor.

The term "ward" means a beneficiary of the Bureau.

The term "guardian" as used herein shall mean any person
2 acting as a fiduciary for a ward.

Sect. 2. Whenever, pursuant to any law of the United
2 States or regulation of the Bureau, the Director requires,
3 prior to payment of benefits, that a guardian be appointed
4 for a ward, such appointment shall be made in the manner
5 hereinafter provided.

Sect. 3. Except as hereinafter provided it shall be un-
2 lawful for any person to accept appointment as guardian
3 of any ward if such proposed guardian shall at that time
4 be acting as guardian for five wards. In any case, upon
5 presentation of a petition by an attorney of the Bureau un-
6 der this Section alleging that a guardian is acting in a fidu-
7 ciary capacity for more than five wards and requesting his
8 discharge for that reason, the court, upon proof substantiat-
9 ing the petition, shall require a final accounting forthwith
10 from such guardian and shall discharge such guardian in
11 said case.

The limitations of this Section shall not apply where the
2 guardian is a Bank or Trust Company acting for the wards'
3 estates only. An individual may be guardian of more than

4 five wards if they are all members of the same family.

Sect. 4. A petition for the appointment of a guardian
2 may be filed in any court of competent jurisdiction by or
3 on behalf of any person who under existing law is entitled
4 to priority of appointment. If there be no person so en-
5 titled or if the person so entitled shall neglect or refuse to
6 file such a petition within thirty days after mailing of no-
7 tice by the Bureau to the last known address of such per-
8 son indicating the necessity for the same a petition for such
9 appointment may be filed in any court of competent juris-
10 diction by or on behalf of any responsible person residing
11 in this state.

The petition for appointment shall set forth the name, age,
2 place of residence of the ward, the names and places of
3 residence of the nearest relatives, if known, and the fact
4 that such ward is entitled to receive moneys payable by or
5 through the Bureau and shall set forth the amount of
6 moneys then due and the amount of probable future pay-
7 ments.

The petition shall also set forth the name and address of
2 the person or institution, if any, having actual custody of
3 the ward.

In the case of a mentally incompetent word the petition
2 shall show that such ward has been rated incompetent on
3 examination by the Bureau in accordance with the laws
4 and regulations governing the Bureau.

Sect. 5. Where a petition is filed for the appointment

2 of a guardian of a minor ward a certificate of the Director,
3 or his representative, setting forth the age of such minor
4 as shown by the records of the Bureau and the fact that
5 the appointment of a guardian is a condition precedent to
6 the payment of any moneys due the minor by the Bureau,
7 shall be prima facie evidence of the necessity for such ap-
8 pointment.

Sect. 6. Where a petition is filed for the appointment of
2 a guardian of a mentally incompetent ward a certificate
3 of the Director, or his representative, setting forth the fact
4 that such person has been rated incompetent by the Bureau
5 on examination in accordance with the laws and regula-
6 tions governing such Bureau; and that the appointment of
7 a guardian is a condition precedent to the payment of any
8 moneys due such person by the Bureau, shall be prima
9 facie evidence of the necessity for such appointment.

Sect. 7. Upon the filing of a petition for the appointment
2 of a guardian, under the provisions of this act, the court
3 shall cause such notice to be given as provided by law.

Sect. 8. Before making an appointment under the pro-
2 visions of this act the court shall be satisfied that the
3 guardian whose appointment is sought is a fit and proper
4 person to be appointed. Upon the appointment being made
5 the guardian shall execute and file a bond to be approved
6 by the court in an amount not less than the sum then due
7 and estimated to become payable during the ensuing year.
8 The said bond shall be in the form and be conditioned as

10 laws of this state. The court shall have power from time
11 to time to require the guardian to file an additional bond.
12 Where a bond is tendered by a guardian with personal
13 sureties, such sureties shall file with the court a certifi-
14 cate under oath which shall describe the property owned,
15 both real and personal, and that they are each worth the
16 sum named in the bond as the penalty thereof over and
17 above all their debts and liabilities and exclusive of prop-
18 erty exempt from execution.

Sect. 9. Every guardian, who shall receive on account
2 of his ward any moneys from the Bureau, shall file with
3 the court annually, on the anniversary date of the appoint-
4 ment, in addition to such other accounts as may be re-
5 quired by the court, a full, true, and accurate account un-
6 der oath of all moneys so received by him, of all disburse-
7 ments thereof, and showing the balance thereof in his
8 hands at the date of such account and how invested. A
9 certified copy of each of such accounts filed with the court
10 shall be sent by the guardian to the office of the Bureau
11 having jurisdiction over the area in which such court is
12 located. The court shall fix a time and place for the hear-
13 ing on such account not less than fifteen days nor more
14 than thirty days from the date of filing same and notice
15 thereof shall be given by the court to the aforesaid Bureau
16 office not less then fifteen days prior to the date fixed for
17 the hearing. Notice of such hearing shall in like manner

9 required of guardians appointed under the guardianship
18 be given to the guardian.

Sect. 10. If any guardian shall fail to file any account
2 of the moneys received by him from the Bureau on account
3 of his ward within thirty days after such account is re-
4 quired by either the court or the Bureau, or shall fail to
5 furnish the Bureau a copy of his accounts as required by
6 this act, such failure shall be grounds for removal.

Sect. 11. Compensation payable to guardians shall not
2 exceed five per cent of the income of the ward during any
3 year. In the event of extraordinary services rendered by
4 such guardian the court may, upon petition and after hear-
5 ing thereon, authorize additional compensation therefor pay-
6 able from the estate of the ward. Notice of such petition
7 and hearing shall be given the proper office of the Bureau
8 in the manner provided in Section 9. No compensation
9 shall be allowed on the corpus of an estate received from
10 a preceding guardian. The guardian may be allowed from
11 the estate of his ward reasonable premiums paid by him
12 to any corporate surety upon his bond.

Sect. 12. Every guardian shall invest the funds of the
2 estate in such manner or in such securities, in which the
3 guardian has no interest, as allowed by law or approved
4 by the court.

Sect. 13. A guardian shall not apply any portion of the
2 estate of his ward for the support and maintenance of any
3 person other than his ward, except upon order of the court

4 after a hearing, notice of which has been given the proper
5 office of the Bureau in the manner provided in Section 9.

Sect. 14. Whenever a copy of any public record is re-
2 quired by the Bureau to be used in determining the eligi-
3 bility of any person to participate in benefits made avail-
4 able by such Bureau, the official charged with the custody
5 of such public record shall without charge provide the ap-
6 plicant for such benefits or any person acting on his behalf
7 or the representative of such Bureau with a certified copy
8 of such record.

Sect. 15. Whenever it appears that a veteran of any war,
2 military occupation or expedition is eligible for treatment
3 in a United States Veterans' Bureau Hospital and com-
4 mitment to such hospital is necessary for the proper care
5 and treatment of such veteran, the courts of this state are
6 hereby authorized to communicate with the official in
7 charge of such hospital with reference to available facili-
8 ties and eligibility, and upon receipt of a certificate from
9 the official in charge of such hospital the court may then
10 direct such veteran's commitment to such United States
11 Veterans' Bureau Hospital. Thereafter such veteran upon
12 admission shall be subject to the rules and regulations of
13 such hospital and the officials of such hospital shall be
14 vested with the same powers now exercised by superin-
15 tendents of state hospitals for mental diseases within this
16 state with reference to the retention of custody of the vet-
17 eran so committed. Notice of such pending proceedings

18 shall be furnished the person to be committed and his right
19 to appear and defend shall not be denied.

Sect. 16. When a minor ward for whom a guardian
2 has been appointed under the provisions of this act or
3 other laws of this state shall have attained his or her ma-
4 jority, and if incompetent shall be declared competent by
5 the Bureau and the court, and when any incompetent ward,
6 not a minor, shall be declared competent by said Bureau
7 and the court, the guardian shall upon making a satis-
8 factory accounting be discharged upon a petition filed for
9 that purpose.

Sect. 17. This act shall be construed liberally to secure
2 the beneficial intents and purposes thereof and shall apply
3 only to beneficiaries of the Bureau.

Sect. 18. This act may be cited as the "Uniform Vet-
2 erans' Guardianship Act."

Sect. 19. This act shall be so interpreted and construed
2 as to effectuate its general purpose to make uniform the
3 law of those states which enact it.

Sect. 20. The invalidity of any portion of this Act shall
2 not affect the validity of any other portion thereof which
3 can be given effect without such invalid part.

Sect. 21. All laws or parts of laws relating to bene-
2 ficiaries of the Bureau inconsistent with this Act are hereby
3 repealed.