

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FOURTH LEGISLATURE

House Document

No. 364

H. P. 1172 House of Representatives, Feb. 14, 1929.

Reported by Mr. Burkett from Committee on Legal Affairs
and laid on table for printing under joint rules.

CLYDE R. CHAPMAN, Clerk.

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 moneys
2 received by the guardian from the bureau and all earnings,

3 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 unlaw-
2 ful for any person to accept appointment as guardian of any
3 ward if such proposed guardian shall at that time be acting
4 as guardian for five or more wards. In any case, upon
5 presentation of a petition by an attorney of the bureau under
6 this section alleging that a guardian is acting in a fiduciary
7 capacity for more than five wards and requesting his dis-
8 charge for that reason, the court, upon proof substantia-
9 ting the petition, shall require a final accounting forth-
10 with from such guardian and shall discharge such guardian
11 in said case, and appoint another guardian without further
12 notice.

The limitations of this section shall not apply where the
2 guardian is a bank or trust company acting for the estate

3 only and not for the person of the wards. An individual
4 may be guardian of more than five wards if they are all
5 members of the same family.

6 Sect. 4. A petition for the appointment of a guardian may
7 be filed in any court of competent jurisdiction by or on be-
8 half of any person who under existing law is entitled to
9 priority of appointment. If there be no person so en-
10 titled or if the person so entitled shall neglect or re-
11 fuse to file such a petition within thirty days after mailing
12 of notice by the bureau to the last known address of such
13 person indicating the necessity for the same a petition for
14 such appointment may be filed in any court of competent
15 jurisdiction by or on behalf of any responsible person resid-
16 ing in this state.

17 The petition for appointment shall set forth the name, age,
18 place of legal residence of the ward, the names and places
19 of residence of the nearest relatives, if known, and the
20 fact that such ward is entitled to receive moneys payable
21 by or through the bureau and shall set forth the amount
22 of moneys then due and the amount of probable future
23 payments.

24 The petition shall also set forth the name and address
25 of the person or institution, if any, having actual or legal
26 custody of the ward.

27 In the case of a mentally incompetent ward the petition
28 shall show that such ward has been rated incompetent on
29 examination by the bureau in accordance with the laws and

4 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 provi-
2 sions of this act the court shall be satisfied that the guardian
3 whose appointment is sought is a fit and proper person to be
4 appointed. Upon the appointment being made the guardian
5 shall execute and file a bond to be approved by the court in
6 an amount not less than the sum then due and estimated to

7 become payable during the ensuing year. The said bond
8 shall be in the form and be conditioned as required of guard-
9 ians appointed under the guardianship laws of this state.
10 The court shall have power from time to time to require
11 the guardian to file an additional bond. Where a bond is
12 tendered by a guardian with personal sureties, such sureties
13 shall file with the court a certificate under oath which shall
14 describe the property owned, both real and personal, and
15 that they are each worth the sum named in the bond as the
16 penalty thereof over and above all their debts and liabilities
17 and exclusive of property exempt from execution.

Sect. 9. Every guardian who shall receive on account of
2 his ward any moneys from the bureau, shall file with the
3 court annually on the anniversary date of the appointment,
4 in addition to such other accounts as may be required by the
5 court, a full, true, and accurate account in duplicate under
6 oath of all moneys so received by him, of all disbursements
7 thereof, and showing the balance thereof in his hands at the
8 date of such account and how invested. The court shall
9 fix a time and place for the hearing on such account not
10 less than fifteen days nor more than sixty days from the
11 date of filing same and notice thereof shall be given by the
12 register to the aforesaid bureau office not less than fourteen
13 days prior to the date fixed for the hearing. Said notice of
14 the return day shall be given in writing by mail post paid to
15 said bureau office, together with a copy of said account as
16 filed. Notice of such hearing shall in like manner be given

17 to the guardian by mailing, post paid, a similar notice in
18 writing of said return day, if such guardian is within the
19 state, or to his agent, but if the whereabouts of said guardian
20 are unknown then public notice shall be given thereof.

Sect. 10. If any guardian shall fail to file any account of
2 the moneys received by him from the bureau on account of
3 his ward within thirty days after such account is required by
4 either the court or the bureau, or shall fail to furnish copies
5 of his accounts as required by this act, such failure shall be
6 cause for removal by the court; provided, however, that the
7 court shall have in addition hereto the same authority to
8 impose penalties, cite to an accounting, and to remove guard-
9 ians for cause as provided in the general guardianship laws
10 of this state.

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 nine. 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 nine.

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 veterans' 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 Veter-
2 ans' 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 beneficiaries
2 of the bureau inconsistent with this act are hereby repealed.

Guardians appointed under this act shall be subject to the
2 general guardianship law of the state except in so far as the
3 same is modified by this act.