

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

Eighty-fourth Legislature

OF THE

STATE OF MAINE

1929

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the Eighty-fourth Legislature

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[supplied from page 1 of volume]

within two miles of the shore of Monhegan Island between the twenty-fifth day of June of each year and the first day of December following.'

Approved March 11, 1929.

Chapter 31.

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:

Sec. 1. Terms defined. As used in this act: The term "person" includes a partnership, corporation or an association. The term "bureau" means the United States Veterans' Bureau or its successor. The terms "estate" and "income" shall include only moneys received by the guardian from the bureau and all earnings, interest and profits derived therefrom. The term "benefits" shall mean all moneys payable by the United States through the bureau. The term "director" means the director of the United 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 acting as a fiduciary for a ward.

Sec. 2. Guardian, how appointed. Whenever, pursuant to any law of the United States or regulation of the bureau, the director requires, prior to payment of benefits, that a guardian be appointed for a ward, such appointment shall be made in the manner hereinafter provided.

Sec. 3. Number of wards limited; exceptions. Except as hereinafter provided it shall be unlawful for any person to accept appointment as guardian of any ward if such proposed guardian shall at that time be acting as guardian for five or more wards. In any case, upon presentation of a petition by an attorney of the bureau under this section alleging that a guardian is acting in a fiduciary capacity for more than five wards and requesting his discharge for that reason, the court, upon proof substantiating the petition, shall require a final accounting forthwith from such guardian and shall discharge such guardian in said case, and appoint another guardian without further notice. The limitations of this section shall not apply where the guardian is a bank or trust company acting for the estate only and not for the person of the wards. An individual may be guardian of more than five wards if they are all members of the same family.

Sec. 4. Filing of petition for guardian. A petition for the appointment of a guardian may be filed in any court of competent jurisdiction by or on behalf of any person who under existing law is entitled to priority of appointment. If there be no person so entitled or if the person so

CHAP. 31

entitled shall neglect or refuse to file such a petition within thirty days after mailing of notice by the bureau to the last known address of such person indicating the necessity for the same a petition for such appointment may be filed in any court of competent jurisdiction by or on behalf of any responsible person residing in this state. The petition for appointment shall set forth the name, age, place of legal residence of the ward, the names and places of residence of the nearest relatives, if known, and the fact that such ward is entitled to receive moneys payable by or through the bureau and shall set forth the amount of moneys then due and the amount of probable future payments. The petition shall also set forth the name and address of the person or institution, if any, having actual or legal custody of the ward. In the case of a mentally incompetent ward the petition shall show that such ward has been rated incompetent on examination by the bureau in accordance with the laws and regulations governing the bureau.

Sec. 5. Evidence of necessity for guardian. Where a petition is filed for the appointment of a guardian of a minor ward a certificate of the director, or his representative, setting forth the age of such minor as shown by the records of the bureau and the fact that the appointment of a guardian is a condition precedent to the payment of any moneys due the minor by the bureau, shall be prima facie evidence of the necessity for such appointment.

Sec. 6. Filing petition for guardian of incompetent ward. Where a petition is filed for the appointment of a guardian of a mentally incompetent ward a certificate of the director, or his representative, setting forth the fact that such person has been rated incompetent by the bureau on examination in accordance with the laws and regulations governing such bureau; and that the appointment of a guardian is a condition precedent to the payment of any moneys due such person by the bureau, shall be prima facie evidence of the necessity for such appointment.

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

Sec. 8. Guardian's bond. Before making an appointment under the provisions of this act the court shall be satisfied that the guardian whose appointment is sought is a fit and proper person to be appointed. Upon the appointment being made the guardian shall execute and file a bond to be approved by the court in an amount not less than the sum then due and estimated to become payable during the ensuing year. The said bond shall be in the form and be conditioned as required of guardians appointed under the guardianship laws of this state. The court shall have power

from time to time to require the guardian to file an additional bond. Where a bond is tendered by a guardian with personal sureties, such sureties shall file with the court a certificate under oath which shall describe the property owned, both real and personal, and that they are each worth the sum named in the bond as the penalty thereof over and above all their debts and liabilities and exclusive of property exempt from execution.

Sec. 9. Annual account must be filed; hearing. Every guardian who shall receive on account of his ward any moneys from the bureau, shall file with the court annually on the anniversary date of the appointment, in addition to such other accounts as may be required by the court, a full, true, and accurate account in duplicate under oath of all moneys so received by him, of all disbursements thereof, and showing the balance thereof in his hands at the date of such account and how invested. The court shall fix a time and place for the hearing on such account not less than fifteen days nor more than sixty days from the date of filing same and notice thereof shall be given by the register to the aforesaid bureau office not less than fourteen days prior to the date fixed for the hearing. Said notice of the return day shall be given in writing by mail post paid to said bureau office, together with a copy of said account as filed. Notice of such hearing shall in like manner be given to the guardian by mailing, post paid, a similar notice in writing of said return day, if such guardian is within the state, or to his agent, but if the whereabouts of said guardian are unknown then public notice shall be given thereof.

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

Sec. 11. Guardian's compensation. Compensation payable to guardians shall not exceed five per cent of the income of the ward during any year. In the event of extraordinary services rendered by such guardian the court may, upon petition and after hearing thereon, authorize additional compensation therefor payable from the estate of the ward. Notice of such petition and hearing shall be given the proper office of the bureau in the manner provided in section nine. No compensation shall be allowed on the corpus of an estate received from a preceding guardian. The guardian may be allowed from the estate of his ward reasonable premiums paid by him to any corporate surety upon his bond.

CHAP. 31

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

Sec. 13. Ward's estate for no other person. A guardian shall not apply any portion of the estate of his ward for the support and maintenance of any person other than his ward, except upon order of the court after a hearing, notice of which has been given the proper office of the bureau in the manner provided in section nine.

Sec. 14. When copy of record is required. Whenever a copy of any public record is required by the bureau to be used in determining the eligibility of any person to participate in benefits made available by such bureau, the official charged with the custody of such public record shall without charge provide the applicant for such benefits or any person acting on his behalf or the representative of such bureau with a certified copy of such record.

Sec. 15. When veteran is eligible for hospital treatment. Whenever it appears that a veteran of any war, military occupation or expedition is eligible for treatment in a United States Veterans' Bureau Hospital and commitment to such hospital is necessary for the proper care and treatment of such veteran, the courts of this state are hereby authorized to communicate with the official in charge of such hospital with reference to available facilities and eligibility, and upon receipt of a certificate from the official in charge of such hospital the court may then direct such veteran's commitment to such United States Veterans' Bureau Hospital. Thereafter such veteran upon admission shall be subject to the rules and regulations of such hospital and the officials of such hospital shall be vested with the same powers now exercised by superintendents of state hospitals for mental diseases within this state with reference to the retention of custody of the veteran so committed. Notice of such pending proceedings shall be furnished the person to be committed and his right to appear and defend shall not be denied.

Sec. 16. When minor ward attains majority. When a minor ward for whom a guardian has been appointed under the provisions of this act or other laws of this state shall have attained his or her majority, and if incompetent shall be declared competent by the bureau and the court, and when any incompetent ward, not a minor, shall be declared competent by said bureau and the court, the guardian shall upon making a satisfactory accounting be discharged upon a petition filed for that purpose.

Sec. 17. Act applies to beneficiaries. This act shall be construed liberally to secure the beneficial intents and purposes thereof and shall apply only to beneficiaries of the bureau.

Sec. 18. Act, how cited. This act may be cited as the "Uniform Veterans' Guardianship Act."

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

Sec. 20. Invalidity not to affect validity. The invalidity of any portion of this act shall not affect the validity of any other portion thereof which can be given effect without such invalid part.

Sec. 21. Inconsistent acts repealed. All laws or parts of laws relating to beneficiaries of the bureau inconsistent with this act are hereby repealed. Guardians appointed under this act shall be subject to the general guardianship law of the state except insofar as the same is modified by this act.

Approved March 11, 1929.

Chapter 32.

An Act Providing for Inspection, Registration and Safety of Vessels Engaged in Inland Navigation Under the Jurisdiction of the Public Utilities Commission.

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

Sec. 1. P. L., 1923, c. 149, sec. 12; relating to inspection of vessels navigated on inland waters of the state under the jurisdiction of public utilities commission, amended. Section twelve of chapter one hundred forty-nine of the public laws of nineteen hundred twenty-three is hereby amended by inserting after the word "thereof," in the eleventh line the words 'and in other cases in its discretion the commission may make such investigation,' so that said section as amended shall read as follows:

Sec. 12. Commission may make investigation in other cases at its discretion. Every vessel described in section four shall comply with all the terms and provisions of this act, and with all orders, regulations and requirements of the commission; and if any such vessel is navigated without complying therewith, or without the certificate of the commission, the owners and master, severally, shall forfeit to the state five hundred dollars for each offense, half thereof to the informer, unless otherwise provided, for which sum the vessel so engaged is liable, and may be proceeded against by attachment in a qui tam action, commenced within sixty days after the commission of the offense, or said penalty may be recovered by indictment. In case of damage by collision, fire or explosion, the commission shall forthwith investigate the cause thereof, and in other cases in its discretion the commission may make such investigation, and if found to have been occasioned by a violation of any of the aforesaid provisions, or of the