

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

and any facts supporting an allegation that an emergency exists;

(v) Facts concerning the extent and nature of the actual or apparent agent's lack of management of the principal's property or affairs. If applicable, facts describing how the petitioner has already been adversely affected by the lack of management of the principal's property or affairs; and

(vi) Names, addresses and relationships of all persons who are required to receive notice of the petition.

(2) This subsection does not limit any other purpose for the use of a petition for a protective order or any other remedy available to the court.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 2, 2005.

CHAPTER 284

H.P. 1104 - L.D. 1566

An Act Concerning Full Faith and Credit for Legal Documents Executed in Other Jurisdictions

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

Sec. 1. 18-A MRSA §5-508, sub-§(c), as repealed and replaced by PL 1997, c. 683, Pt. C, §6, is amended to read:

(c) A durable financial power of attorney executed in this State must be notarized by a notary public or an attorney-at-law.

Sec. 2. 18-A MRSA §5-508, sub-§(d), as amended by PL 2003, c. 618, Pt. B, §8 and affected by §20, is further amended to read:

(d) A durable financial power of attorney executed in this State must contain the following language:

"Notice to the Principal: As the "Principal," you are using this Durable Power of Attorney to grant power to another person (called the "Agent" or "Attorney-in-fact") to make decisions about your money, property or both and to use your money, property or both on your behalf. If this written Durable Power of Attorney does not limit the powers that you give your Agent, your Agent will have broad and sweeping powers to sell or otherwise dispose of your property and spend

your money without advance notice to you or approval by you. Under this document, your Agent will continue to have these powers after you become incapacitated, and you may also choose to authorize your Agent to use these powers before you become incapacitated. The powers that you give your Agent are explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and in Maine case law. You have the right to revoke or take back this Durable Power of Attorney at any time as long as you are of sound mind. If there is anything about this Durable Power of Attorney that you do not understand, you should ask a lawyer to explain it to you.

Notice to the Agent: As the "Agent" or "Attorney-in-fact," you are given power under this Durable Power of Attorney to make decisions about the money, property or both belonging to the Principal and to spend the Principal's money, property or both on that person's behalf in accordance with the terms of this Durable Power of Attorney. This Durable Power of Attorney is valid only if the Principal is of sound mind when the Principal signs it. As the Agent, you are under a duty (called a "fiduciary duty") to observe the standards observed by a prudent person dealing with the property of another. The duty is explained more fully in the Maine Revised Statutes, Title 18-A, sections 5-501 to 5-508 and Title 18-B, sections 802 to 807 and chapter 9 and in Maine case law. As the Agent, you are not entitled to use the money or property for your own benefit or to make gifts to yourself or others unless the Durable Power of Attorney specifically gives you the authority to do so. As the Agent, your authority under this Durable Power of Attorney will end when the Principal dies and you will not have the authority to administer the estate unless you are authorized to do so in accordance with the Probate Code. If you violate your fiduciary duty under this Durable Power of Attorney, you may be liable for damages and may be subject to criminal prosecution. If there is anything about this Durable Power of Attorney or your duties under it that you do not understand, you should ask a lawyer to explain it to you."

This language does not confer powers not otherwise contained in the durable financial power of attorney.

Sec. 3. 18-A MRSA §5-510 is enacted to read:

§5-510. Recognition of powers of attorney from other jurisdictions

Notwithstanding any contrary requirements of law, a durable or nondurable health care power of attorney or a durable or nondurable financial power of attorney that was duly executed in another jurisdiction within the United States in compliance with the laws

of that jurisdiction is not ineffective in this State due to noncompliance with the laws of this State.

Sec. 4. 18-A MRSA §5-802, sub-§(h), as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(h) An advance health-care directive is valid for purposes of this Part if it complies with this Part, regardless of when or where executed or communicated, or if valid under the laws of the state in which it was executed. An advance health-care directive that is valid where executed or communicated is valid for the purposes of this Part.

See title page for effective date.

CHAPTER 285

S.P. 63 - L.D. 157

An Act Concerning the Disclosure of Juror Information

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

Sec. 1. 14 MRSA §1254-A, as amended by PL 1983, c. 202, §3, is further amended to read:

§1254-A. Qualification questionnaire; juror selection

1. Procedure. The clerk shall, at times ~~deemed~~ considered reasonable and necessary to promote the efficient operation of the court and the juror selection system, mail a juror qualification form to every prospective juror whose name has been drawn in accordance with section 1253-A. The form ~~shall~~ must be accompanied by instructions directing the prospective juror to fill out and return the form by mail to the clerk within the time specified. The clerk shall prepare or cause to be prepared a list of the names to whom questionnaires are mailed. ~~Neither the~~ The list of questionnaire recipients ~~nor~~ and the names drawn are confidential and may not be disclosed to any person, except as provided in this chapter.

2. Content. The juror qualification form ~~shall~~ must conform, in form and content, to the qualification form prescribed by the Supreme Judicial Court and ~~shall~~ must solicit information sufficient to determine the prospective juror's qualification for jury service. The qualification questionnaire may also solicit other information including, but not limited to, education and employment.

3. Ambiguous or erroneous responses. If it appears there is an omission, ambiguity or error in a returned form, the clerk may, at ~~his~~ the clerk's

discretion, contact the prospective juror by telephone to obtain the additional information, clarification or correction.

4. Failure to complete form; penalty. A prospective juror, who fails to return a completed juror qualification form as instructed, may be ordered by the court to appear and show cause why ~~he~~ the prospective juror should not be held in contempt for ~~his~~ the failure to complete and submit the questionnaire. Notwithstanding Title 17-A, section 4-A, a prospective juror, who fails to show good cause for ~~his~~ the failure to complete and submit the questionnaire or who without good cause fails to appear pursuant to a court order, may be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

5. Intentional misrepresentation. Notwithstanding Title 17-A, section 4-A, a person, who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror, may upon conviction for a violation of this section be punished by a fine of not more than \$100 and by imprisonment for not more than 3 days, or by both.

6. Determination of qualification. The clerk shall determine on the basis of information provided on the juror qualification form, supplemented by other competent evidence when ~~deemed~~ considered necessary to such determination, whether the prospective juror is qualified for jury service. This determination ~~shall~~ must be reflected on the juror qualification form or any other record designated by the court.

7. Availability of qualification forms. The names of prospective jurors and the contents of juror qualification forms ~~shall be made available to the public upon specific request to the court, supported by an affidavit setting forth the reasons therefor, unless the court determines in any instance that this information in the interest of justice should be kept confidential or its use limited in whole or in part~~ are confidential and may not be disclosed except as provided in this chapter. The names of prospective jurors and the contents of juror qualification forms may at the discretion of the court be made available to the attorneys and their agents and investigators and the pro se parties at the courthouse for use in the conduct of voir dire examination.

8. During period of service. During the period of service of jurors and prospective jurors, the names of the members of the jury pool are confidential and may not be disclosed except to the attorneys and their agents and investigators and the pro se parties.

9. Protection of confidentiality. A person who has access to or receives information or a record designated confidential under this chapter shall