

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 3, 2008 to June 13, 2009**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 12, 2009**

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

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**Augusta, Maine**  
**2009**

**CHAPTER 291**  
**H.P. 992 - L.D. 1416**

**An Act To Update Terms and  
Make Changes in Child Care  
and Transportation Benefits  
under the Temporary  
Assistance for Needy  
Families Program**

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

**Sec. 1. 5 MRSA §1585, sub-§1**, as amended by PL 1999, c. 731, Pt. BB, §1, is further amended to read:

**1. Transfer procedures.** Any balance of any appropriation or subdivision of an appropriation made by the Legislature for any state department or agency, which at any time may not be required for the purpose named in such appropriations or subdivision, may be transferred at any time prior to the closing of the books to any other appropriation or subdivision of an appropriation made by the Legislature for the use of the same department or agency for the same fiscal year subject to review by the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs. Financial orders describing such transfers must be submitted by the Bureau of the Budget to the Office of Fiscal and Program Review 30 days before the transfer is to be implemented. In case of extraordinary emergency transfers, the 30-day prior submission requirement may be waived by vote of the committee. Positions, or funding for those positions, that are currently funded with federal or other funds may not be transferred by financial order to the General Fund. Financial orders proposing to transfer 4th or 3rd quarter allotments to the 3rd, 2nd or 1st quarters that result from trends that will cause financial commitments to exceed current appropriations or allocations are subject to the provisions of this section. The Department of Health and Human Services is authorized to transfer funds within the TANF program account to the ASPIRE-TANF program account as often as necessary in order to support and assist participants in obtaining or retaining employment during the fiscal year. In making a transfer of TANF program funds to the ASPIRE-TANF program account, the department does not need to submit a financial order to the committee in advance of the transfer. For purposes of this subsection, "TANF" and "ASPIRE-TANF program" have the same meaning as in Title 22, section 3762, subsection 1, paragraph E and Title 22, section 3781-A, subsection 1, respectively.

**Sec. 2. 22 MRSA §3104**, as amended by PL 2001, c. 598, §1, is further amended to read:

**§3104. Statewide food supplement program**

**1. Program required.** The department shall:

A. Administer a statewide program in accordance with the related requirements and regulations of the United States ~~Departments of Agriculture and Health, Education and Welfare~~ Department of Agriculture, the United States Department of Health and Human Services and the United States Department of Education; and

B. Cooperate with and participate in the administration of food distribution programs in conformity with regulations promulgated by the United States Department of Agriculture.

~~**3. Authorization of emergency food stamp benefits prior to full verification.** Whenever an applicant for food stamps states to the department that he is in need of immediate food assistance, the department shall, pending verification, issue and mail a card authorizing the applicant to purchase food stamps at the time of the department's initial interview with the applicant or within one working day of the interview, provided that all of the following conditions are met:~~

~~A. As a result of the initial interview with the applicant, the department shall have determined that the household of the applicant will probably be eligible for food stamps after full verification is completed;~~

~~B. Where possible, the applicant shall submit to the department, at the time of the initial interview, the adequate documentation to verify that he is in need of immediate food assistance;~~

~~C. When adequate documentation is not available at the time of the initial interview, the department shall contact at least one other person for the purpose of obtaining information to confirm the applicant's statements about his need for immediate food assistance; and~~

~~D. In no case:~~

~~(1) Shall the authorization to purchase food stamps under this section exceed 30 days from the date that the applicant receives the authorizing card; and~~

~~(2) Shall there be further food stamp issuance to the applicant's household until full verification has been obtained which confirms the eligibility of the household.~~

**3-A. Authorization of emergency food supplement benefits prior to full verification.** Whenever an applicant for benefits under the food supplement program states to the department that the applicant is in need of immediate food assistance, the department shall, pending verification, issue and mail an electronic benefits transfer card authorizing the applicant to purchase food at the time of the department's initial

interview with the applicant or within one working day of the interview, as long as all of the following conditions are met.

A. As a result of the initial interview with the applicant, the department must have determined that the household of the applicant will probably be eligible for food supplement program benefits after full verification is completed.

B. When possible, the applicant shall submit to the department, at the time of the initial interview, adequate documentation to verify that the applicant is in need of immediate food assistance.

C. When adequate documentation is not available at the time of the initial interview, the department shall contact at least one other person for the purpose of obtaining information to confirm the applicant's statements about the applicant's need for immediate food assistance.

The authorization to receive food supplement program benefits under this section may not exceed 30 days from the date that the applicant receives the authorizing card. Additional food supplement program benefits may not be issued to the applicant's household until full verification has been obtained that confirms the eligibility of the household.

~~4. **Mail issuance of coupons.** The department shall institute a system of mail issuance of food stamp allotments through a direct coupon mailing system as authorized by and in conformity with regulations promulgated by the United States Department of Agriculture.~~

~~In those areas of the State where the department can document evidence of significant diminution of client demand or of loss of significant numbers of coupons, the department may, after notice and hearing, establish an alternative system of food stamp issuance.~~

4-A. **Electronic benefits transfer system.** The department shall operate a system of issuance of food allotments through an electronic benefits transfer system as authorized by and in conformity with regulations promulgated by the United States Department of Agriculture.

**5. Outreach.** It is the intent of the Legislature that the department fully carry out all outreach activities established by federal regulation to encourage the participation of all eligible households.

In carrying out its outreach activities, the department shall insure that all applicants and recipients are informed of their right to have the requirement for a face-to-face interview waived as provided by federal regulations.

**6. Bilingual requirements.** The department shall ~~print and distribute brochures or pamphlets concerning the food stamp program in other languages as it deems~~

~~necessary. The department shall prepare public service announcements in French for distribution to appropriate newspapers and radio and television stations.~~

**7. Verification of information.** The department shall establish and implement uniform verification procedures that will be applied to all applicants and recipients.

**8. Certification periods.** Households ~~shall~~ must be certified for a ~~6-month~~ 12-month period unless there is a likelihood of change in income or household status. ~~Households consisting of elderly or disabled persons with stable incomes shall be certified for 12 months.~~

**9. Information on notice to recipients.** All notices of denial, reduction of benefits, termination of benefits, fraud claims, nonfraud claims or other actions ~~shall~~ must contain information on the appeal procedure, and the availability of free legal representation in the geographic area and ~~shall~~ must include, at a minimum, the address and telephone number for these services.

**10. Supplemental monthly issuance.** Whenever a household receiving ~~food stamps~~ benefits through the food supplement program informs the department of a change in circumstances that will result in an increase in its food ~~stamp allotment~~ supplement benefit, the department shall issue a supplemental ~~food stamp~~ allotment to that household for the month in which the change is reported. The supplemental allotment must represent the difference between the amount for which the household was originally certified in that month and the amount for which it is actually eligible as a result of its reported change in circumstances.

The department shall ~~mail~~ issue that supplemental allotment within 5 working days of the date that the change in circumstances was reported.

**11. Food supplement program overpayment recovery.** Any money recovered by the department as a result of the overpayment of food ~~stamps~~ supplement benefits must be deposited to the General Fund, including any money up to a maximum of \$81,475 recovered prior to ~~the effective date of this subsection~~ March 14, 1991.

**12. Penalty.** The unauthorized issuance, redemption, use, transfer, acquisition, alteration or possession of coupons or other program access device, including an electronic benefits transfer card, may subject an individual, partnership, corporation or other legal entity to prosecution by the State in accordance with Sections 15 (b) and 15 (c) of the federal Food Stamp Act of 1977 and the federal Food and Nutrition Act of 2008. Penalties are in accordance with those outlined in federal law or regulations.

**13. Categorical eligibility.** The department shall adopt rules that maximize access to the food ~~stamp~~

supplement program for households in which there is a child who would be a dependent child under the Temporary Assistance for Needy Families program but that do not receive a monthly cash assistance grant from the Temporary Assistance for Needy Families program. Under rules adopted pursuant to this subsection, certain of these families must be authorized to receive referral services provided through the Temporary Assistance to Needy Families block grant and be categorically eligible for the food stamps supplement program in accordance with federal law. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter H-A 2-A.

**14. Prohibition against denial of assistance based on drug conviction.** A person who is otherwise eligible to receive food assistance under the federal Food Stamp Act of 1977, 7 United States Code, Sections 2011 to 2036 and under the federal Food and Nutrition Act of 2008 may not be denied assistance because the person has been convicted of a drug-related felony as described in the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, Section 115, 110 Stat. 2105.

**Sec. 3. 22 MRSA §3104-A**, as amended by PL 1999, c. 401, Pt. S, §2, is further amended to read:

**§3104-A. Food supplement program for legal aliens**

**1. Food assistance.** The department shall provide food assistance to households that would be eligible for assistance under the federal Food Stamp Act of 1977, 7 United States Code, Section 2011, et seq., and under the federal Food and Nutrition Act of 2008 but for provisions of Sections 401, 402 and 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

**2. Amount of assistance.** The total amount of food assistance provided under this section must equal the amount that the household would be eligible to receive under the federal Food Stamp Act of 1977, 7 United States Code, Sections 2014 and 2017, and under the federal Food and Nutrition Act of 2008 if the household were eligible for ~~that program~~ either of those programs.

**3. Administration.** The department shall provide assistance under this section to eligible households on a monthly basis through ~~a system of direct mail of coupons or electronic benefit issuance. The department is authorized to negotiate with the United States Department of Agriculture to arrange for the purchase of federal food stamps or produce its own food coupons to be used by eligible households for transactions with vendors under this program~~ an electronic benefit transfer system.

**Sec. 4. 22 MRSA §3762, sub-§1, ¶B-1** is enacted to read:

B-1. "DRA" means the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4.

**Sec. 5. 22 MRSA §3762, sub-§3**, as amended by PL 2007, c. 539, Pt. XX, §1, is further amended to read:

**3. Administration.** The department may administer and operate a program of aid to needy dependent children, called "Temporary Assistance for Needy Families" or "TANF," who are deprived of support or care due to the death, continued absence, physical or mental incapacity of a parent or the unemployment or underemployment of the principal wage earner in accordance with the United States Social Security Act, as amended by PRWORA and DRA, and this Title.

A. The department shall adopt rules as necessary to implement and administer the program. The rules must include eligibility criteria, budgeting process, benefit calculation and confidentiality. The confidentiality rules must ensure that confidentiality is maintained for TANF recipients at least to the same extent that confidentiality was maintained for families in the Aid to Families with Dependent Children program unless otherwise required by federal law or regulation.

B. The department may use funds, insofar as resources permit, provided under and in accordance with the United States Social Security Act or state funds appropriated for this purpose or a combination of state and federal funds to provide assistance to families under this chapter. In addition to assistance for families described in this subsection, funds must be expended for the following purposes:

(1) To continue the pass-through of the first \$50 per month of current child support collections and the exclusion of the \$50 pass-through from the budget tests and benefit calculations;

(2) To provide financial and medical assistance to certain noncitizens legally admitted to the United States. Recipients of assistance under this subparagraph are limited to the categories of noncitizens who would be eligible for the TANF or Medicaid programs but for their status as aliens under PRWORA. Eligibility for the TANF and Medicaid programs for these categories of noncitizens must be determined using the criteria applicable to other recipients of assistance from these programs;

(3) To provide benefits to certain 2-parent families whose deprivation is based on physical or mental incapacity;

(4) To provide an assistance program for needy children, 19 to 21 years of age, who are

in full-time attendance in secondary school. The program is operated for those individuals who qualify for TANF under the United States Social Security Act, except that they fail to meet the age requirement, and is also operated for the parent or caretaker relative of those individuals. Except for the age requirement, all provisions of TANF, including the standard of need and the amount of assistance, apply to the program established pursuant to this subparagraph;

(5) To provide assistance for a pregnant woman who is otherwise eligible for assistance under this chapter, except that she has no dependents under 19 years of age. An individual is eligible for the monthly benefit for one eligible person if the medically substantiated expected date of the birth of her child is not more than 90 days following the date the benefit is received;

(6) To provide a special housing allowance for TANF families whose shelter expenses for rent, mortgage or similar payments, homeowners insurance and property taxes equal or exceed 75% of their monthly income. The special housing allowance is limited to \$100 per month for each family. For purposes of this subparagraph, "monthly income" means the total of the TANF monthly benefit and all income countable under the TANF program, plus child support received by the family, excluding the \$50 pass-through payment;

(7) In determining benefit levels for TANF recipients who have earnings from employment, the department shall disregard from monthly earnings the following:

- (a) One hundred and eight dollars;
- (b) Fifty percent of the remaining earnings that are less than the federal poverty level; and
- (c) All actual child care costs necessary for work, except that the department may limit the child care disregard to \$175 per month per child or \$200 per month per child under 2 years of age or with special needs;

(8) In cases when the TANF recipient has no child care cost, the monthly TANF benefit is the maximum payment level or the difference between the countable earnings and the standard of need established by rule adopted by the department, whichever is lower;

(9) In cases when the TANF recipient has child care costs, the department shall deter-

mine a total benefit package, including TANF cash assistance, determined in accordance with subparagraph (7) and additional child care assistance, as provided by rule, necessary to cover the TANF recipient's actual child care costs up to the maximum amount specified in section 3782-A, subsection 5. The benefit amount must be paid as provided in this subparagraph.

(a) Before the first month in which child care assistance is available to an ASPIRE-TANF recipient under this paragraph and periodically thereafter, the department shall notify the recipient of the total benefit package and the following options of the recipient: to receive the total benefit package directly; or to have the department pay the recipient's child care assistance directly to the designated child care provider for the recipient and pay the balance of the total benefit package to the recipient.

(b) If an ASPIRE-TANF recipient notifies the department that the recipient chooses to receive the child care assistance directly, the department shall pay the total benefit package to the recipient.

(c) If an ASPIRE-TANF recipient does not respond or notifies the department of the choice to have the child care assistance paid directly to the child care provider from the total benefit package, the department shall pay the child care assistance directly to the designated child care provider for the recipient. The department shall pay the balance of the total benefit package to the recipient;

(10) Child care assistance under this paragraph must be paid by the department in a prompt manner that permits an ASPIRE-TANF recipient to access child care necessary for work; and

(11) The department shall adopt rules pursuant to Title 5, chapter 375 to implement this subsection. Rules adopted pursuant to this subparagraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 6. 22 MRSA §3762, sub-§8**, as amended by PL 2007, c. 539, Pt. XX, §2, is further amended to read:

**8. Transitional support services.** The department shall administer a program of transitional support services in accordance with PRWORA, DRA and this subsection.

A. The department shall administer a program of transitional Medicaid to families receiving benefits under Section 1931 of the federal Social Security Act in accordance with this paragraph.

(1) The department shall provide transitional Medicaid to families whose average gross monthly earnings, less costs to the family for child care necessary for employment, do not exceed 185% of the federal poverty guidelines in accordance with PRWORA and this subsection. In order to receive transitional Medicaid as the result of increased earnings or number of hours worked, a family must have received Medicaid assistance for at least 3 of the last 6 months, except as provided in subparagraph (2).

(2) The department shall provide transitional Medicaid for families whose eligibility for Medicaid assistance terminated due to employment obtained through work search activities pursuant to this chapter, in which case the family must have received Medicaid assistance for at least one of the last 3 months.

(3) To continue to receive transitional Medicaid assistance following the first 6 months of coverage, a family entering the transitional Medicaid program with income above 133% of the federal poverty guidelines must pay premiums in accordance with rules adopted by the department.

(5) The department shall provide transitional Medicaid for 4 months to families whose eligibility for Medicaid assistance terminated due to an increase in the amount of child support received by the family.

(6) The department shall require reporting of income or circumstances for the purpose of determining eligibility and premium payments, copayments or other methods of cost sharing for benefits under this paragraph in accordance with rules adopted by the department.

(7) The scope of services provided under this paragraph must be the same as the scope of services provided when a family received Medicaid assistance.

B. The department shall provide limited transitional transportation benefits to meet employment-related costs to ASPIRE-TANF program participants who lose eligibility for TANF assistance due to employment. Benefits ~~must~~ may be provided for ~~90 days~~ up to 12 months following loss of TANF eligibility. The department may adopt rules that impose a weekly limit on available transitional transportation benefits and that

require a contribution from each participant toward the cost of transportation.

C. The department shall make available transitional child care services to families who lose eligibility for TANF as a result of increased earnings or an increase in the number of hours worked ~~and whose gross income is equal to or less than 85% of the State's median income for a family of comparable size.~~ The department shall make available transitional child care services to families who lose eligibility for TANF as a result of increased earnings or an increase in the number of hours worked and whose gross income is equal to or less than 250% of the federal poverty guidelines. The department may also make transitional child care services available to families in which one or both adults are working and who, although they remain financially eligible for TANF benefits, request that their benefits be terminated. The family shall pay a premium of 2% to 10% of gross income, based on the family's gross income compared to the federal poverty level in accordance with rules adopted by the department. ~~The department shall establish maximum rates for child care that are at least equal to the 75th percentile of local market rates for various categories of child care and higher rates for children with special needs.~~ Parents must have a choice of child care within the rate established by the department.

D. The department shall provide limited transitional food benefits to meet needs of ASPIRE-TANF program participants who lose eligibility for TANF assistance due to employment on or after July 1, 2008. Benefits must be provided for 3 years following loss of TANF eligibility and may not exceed \$100 per month per family for the first year, \$75 per month per family for the 2nd year and \$50 per month per family for the 3rd year.

E. Beginning October 1, 2011, the department shall establish maximum rates for child care that are at least equal to the 75th percentile of local market rates for various categories of child care and higher rates for children with special needs.

**Sec. 7. 22 MRSA §3769-C, sub-§2**, as enacted by PL 1999, c. 461, §1, is repealed.

**Sec. 8. 22 MRSA §3788, sub-§4-A**, as amended by PL 1997, c. 530, Pt. A, §26, is further amended to read:

**4-A. Family contract amendment.** To the extent that sufficient funds, training sites and employment opportunities are reasonably available, the department and a participant in the program shall enter into an amended family contract that must include both the department's and the participant's activities and the support services necessary for the individual to participate in accordance with the assessment ~~and, the~~

federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105 and the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4.

**Sec. 9. 22 MRSA §3788, sub-§6**, as amended by PL 1997, c. 530, Pt. A, §26, is further amended to read:

**6. Education, training and employment services.** The ASPIRE-TANF program must make available a broad range of education, training and employment services in accordance with section 3781-A, subsection 3 and the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 110 Stat. 2105 and the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4. These services and activities must include all of those services and activities offered by the Additional Support for People in Retraining and Employment Program on October 1, 1989, except in 2-year and 4-year postsecondary education and except as provided in chapter 1054-B. This section does not prohibit the department from purchasing equivalent services from providers other than those from whom those services were purchased on October 1, 1989. When a particular approved education or training service is available at comparable quality and cost, including the cost of support services, and the implementation of the family contract would not be unreasonably delayed, the program participant may choose to enroll for that service with the provider of that person's preference. If this decision is not mutually agreed to by the participant and the case manager, the decision must be reviewed by the case manager's supervisor. These services do not include reimbursement for the cost of tuition or mandatory fees for postsecondary education unless:

A. The participant is unable to secure other educational funding needed to complete the participant's family contract due to:

- (1) Poor credit as determined by the educational funding source; or
- (2) The consideration by the educational funding source of resources from past years that are not actually available to the participant;

B. In the determination of the department, failure to pay the tuition or fee would result in higher ASPIRE-TANF program costs to achieve the participant's approved goal; or

C. The participant meets an exception specified in rules adopted by the department.

When a substantially similar postsecondary education or training program of comparable quality is available at both a public and private institution, within a reasonable commuting distance for the participant, the

department may choose to approve the program offered at the public institution if the participant's program can be completed at less cost at the institution.

**Sec. 10. 22 MRSA §3788, sub-§10**, as amended by PL 2005, c. 480, §1, is further amended to read:

**10. Program design.** The department shall operate the ASPIRE-TANF program ~~under which individual participation is required for a minimum of 20 hours per week in time limited components that include job search, work evaluation, education, training and treatment and workforce MaineServe in accordance with the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171, 120 Stat. 4.~~

A. Individuals who are ready for jobs may participate in job search at any time. Up-front job search must focus on new recipients who are ready for jobs who are eligible for TANF based on underemployment of the primary wage earner and new single-parent recipients who are ready for jobs and whose children are 5 years of age or older.

B. Work evaluation consists of all activities related to orientation, assessment and initial family contract formulation. Work evaluation is limited to a maximum of 90 days, unless extended by the commissioner or the designee of the commissioner. If an ASPIRE-TANF participant is determined by the department to be job ready, the participant may access the workforce-MaineServe component directly from work evaluation.

C. Except for participants who are accepted into the Parents as Scholars Program established under section 3790, education, training and treatment is limited to a maximum of 24 months, starting with the first day of participation in any allowable and approved job skills or occupational skills training activity. The 24-month period may be extended by the commissioner or the designee of the commissioner for good cause shown.

The department may approve a job skills or occupational training activity longer than 24 months provided the participant agrees to perform a minimum of 20 hours a week of work site experience by no later than the end of the 24-month period. Qualifying work site experience may include, but is not limited to, paid employment, workforce-MaineServe, ASPIRE-Plus, work study, training-related practicums or any other such work site approved by the department. The 24-month period does not include periods of nonactivity in which good cause has been determined.

For individuals who are satisfactorily participating in an education or training program prior to the work evaluation, the department must determine



the acceptability of the activity for purposes of meeting the participation requirements of this chapter using the same criteria as is used for any individual in the ASPIRE-TANF program.

D. Workforce-MaineServe consists of paid employment, subsidized employment, apprenticeships or other mandatory work activities, which may continue until the participant is ineligible for TANF benefits.

**Sec. 11. Change of food stamp program to food supplement program.** The Department of Health and Human Services shall submit to the Second Regular Session of the 124th Legislature, no later than December 15, 2009, legislation to amend the Maine Revised Statutes to reflect the change in the name of the statewide food stamp program under Title 22, section 3104 to the food supplement program and the name change of the benefits under that program in accordance with this Act.

See title page for effective date.

**CHAPTER 292**

**S.P. 507 - L.D. 1404**

**An Act To Enact the Maine Uniform Power of Attorney Act**

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

**Sec. 1. 18-A MRSA Art. 5, Pt. 5,** as amended, is repealed.

**Sec. 2. 18-A MRSA Art. 5, Pt. 9** is enacted to read:

**PART 9**

**MAINE UNIFORM POWER OF ATTORNEY ACT**

**SUBPART 1**

**GENERAL PROVISIONS AND DEFINITIONS**

**§5-901. Short title**

This Part may be known and cited as "the Maine Uniform Power of Attorney Act."

**§5-902. Definitions**

As used in this Part, unless the context otherwise indicates, the following terms have the following meanings.

(a). "Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact or otherwise. The term includes an original agent, coagent, succes-

sor agent and a person to which an agent's authority is delegated.

(b). "Durable," with respect to a power of attorney, means not terminated by the principal's incapacity.

(c). "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(d). "Good faith" means honesty in fact.

(e). "Incapacity" means inability of an individual to effectively manage property or business affairs because the individual:

(1). Is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause to the extent that the individual lacks sufficient understanding, capacity or ability to receive and evaluate information or make or communicate decisions regarding the individual's property or business affairs; or

(2). Is:

(i) Missing;

(ii) Detained, including incarcerated in a penal system; or

(iii) Outside the United States and unable to return.

(f). "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality or any other legal or commercial entity.

(g). "Power of attorney" means a writing or other record that grants authority to an agent to act in the place of the principal, whether or not the term "power of attorney" is used.

(h). "Presently exercisable general power of appointment," with respect to property or a property interest subject to a power of appointment, means power exercisable at the time in question to vest absolute ownership in the principal individually, the principal's estate, the principal's creditors or the creditors of the principal's estate. The term includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified period only after the occurrence of the specified event, the satisfaction of the ascertainable standard or the passage of the specified period. The term does not include a power exercisable in a fiduciary capacity or only by will.

(i). "Principal" means an individual who grants authority to an agent in a power of attorney.