

MAINE STATE LEGISLATURE

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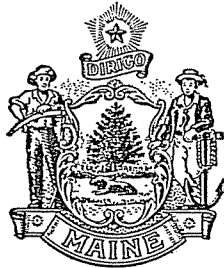
EIGHTH REVISION

THE
REVISED STATUTES

OF THE
STATE OF MAINE

PASSED SEPTEMBER 20, 1944, AND TAKING EFFECT
DECEMBER 30, 1944

VOLUME II



By the Authority of the Legislature

AUGUSTA
KENNEBEC JOURNAL PRINT

Sec. 41. Decree of adoption may be annulled. R. S. c. 80, § 41. Any judge of probate may, on petition of two or more persons, after notice and hearing and for good cause shown, reverse and annul any decree of the probate court in his county, whereby any child has been adopted under the provisions of this chapter.

Change of Name

Sec. 42. Petition to judge of probate. R. S. c. 80, § 42. If a person desires to have his name changed, he may petition the judge of probate in the county where he resides; or, if he is a minor, his legal custodian may petition in his behalf, and the judge, after due notice, may change the name of such person and shall make and preserve a record thereof.

Liability of guardian for injury by minor to schoolhouse and school furnishings, c. 37, § 193.

Minors may hold shares in loan and building associations, c. 55, § 145.

Guardian may settle and give release of damages for land of ward taken by railroad corporation, c. 41, § 32.

Care and custody of the person of minor children, c. 153, §§ 16, 18, 19.

Payments by order of court may be made to minors in certain cases, c. 153, § 21.

Compensation of guardian, c. 140, § 44.

Guardians to pay stenographer's fees, c. 140, § 47.

CHAPTER 146.

UNIFORM VETERANS' GUARDIANSHIP ACT.

Sections 1-7 Appointment of Guardians.

Sections 8-16 Powers and Duties of Guardians.

Sections 17-20 General Provisions.

Appointment of Guardians

Sec. 1. Definitions. R. S. c. 81, § 1. As used in this chapter, the following terms shall have the following meanings:

"Person" includes a partnership, corporation, or an association;

"Bureau" means the United States Veterans' Bureau or its successor;

"Estate" and "income" shall include only moneys received by the guardian from the bureau and all earnings, interest, and profits derived therefrom;

"Benefits" shall mean all moneys payable by the United States through the bureau;

"Director" means the director of the United States Veterans' Bureau or his successor;

"Ward" means a beneficiary of the bureau;

"Guardian" shall mean any person acting as a fiduciary for a ward.

Sec. 2. If veterans' bureau to pay benefits, guardian must be appointed as hereinafter provided. R. S. c. 81, § 2. 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. One guardian not to have more than 5 wards; exceptions. R. S. c. 81, § 3. 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 5 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 5 wards if they are all members of the same family.

Sec. 4. Filing of petition; contents. R. S. c. 81, § 4. 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 entitled shall neglect or refuse to file such a petition within 30 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. Appointment of guardians for minor wards. R. S. c. 81, § 5. 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. Appointment of guardians for mentally incompetent wards. R. S. c. 81, § 6. 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. Legal notice to follow filing of petition. R. S. c. 81, § 7. Upon the filing of a petition for the appointment of a guardian under the provisions of this chapter, the court shall cause such notice to be given as provided by law.

Powers and Duties of Guardians

Sec. 8. Bond of guardian. R. S. c. 81, § 8. Before making an appointment under the provisions of this chapter the court shall be satisfied that the guar-

dian 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 accounting of guardian; hearing thereon. R. S. c. 81, § 9. 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 15 days nor more than 60 days from the date of filing same and notice thereof shall be given by the register to the aforesaid bureau office not less than 14 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.

135 Me. 103.

Sec. 10. Penalty for failure to file account. R. S. c. 81, § 10. If any guardian shall fail to file any account of the moneys received by him from the bureau on account of his ward within 30 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 chapter, 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.

See c. 145, § 23, re removal of guardians; c. 145, § 24, re settlement of guardian's accounts.

Sec. 11. Compensation of guardian. R. S. c. 81, § 11. Compensation payable to guardians shall not exceed 5% 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 9. 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.

Sec. 12. Investments by guardian. R. S. c. 81, § 12. 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.

135 Me. 103.

Sec. 13. Estates to be used only for support of ward, except upon order of court. R. S. c. 81, § 13. 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 9.

Sec. 14. Copies of public records to be furnished veterans' bureau free. R. S. c. 81, § 14. 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. Commitment to a veterans' bureau hospital. R. S. c. 81, § 15. 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 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. Dismissal of guardian upon attaining of majority or competency of ward. R. S. c. 81, § 16. When a minor ward for whom a guardian has been appointed under the provisions of this chapter 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.

General Provisions

Sec. 17. Chapter to be construed liberally; to apply only to beneficiaries of bureau. R. S. c. 81, § 17. This chapter shall be construed liberally to secure the beneficial intents and purposes thereof and shall apply only to beneficiaries of the bureau.

Sec. 18. Name of chapter. R. S. c. 81, § 18. This chapter may be cited as the "Uniform Veterans' Guardianship Act."

Sec. 19. Interpretation to give effect to purpose of uniformity. R. S. c. 81, § 19. This chapter 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. General guardianship laws to apply. R. S. c. 81, § 21. Guardians appointed under the provisions of this chapter shall be subject to the general guardianship law of the state except in so far as the same is modified by this chapter.

CHAPTER 147.

TESTAMENTARY TRUSTEES AND VOLUNTARY TRUSTS.

Sections 1-14 Testamentary Trustees.
Sections 15-17 Voluntary Trusts.
Sections 18-20 Appointment of Trustees to Fill Vacancies.

Testamentary Trustees

Sec. 1. Bonds of trustees. R. S. c. 82, § 1. Every testamentary trustee, except those hereinafter exempted, before entering on his duties shall give bond to the judge of probate for the county where the will is proved, with sufficient sureties, resident in the state, or with a surety company authorized to do business in the state, as surety, in such sum as the judge prescribes, conditioned as follows:

I. That he will faithfully execute such trust according to the will of the testator, so far as is consistent with law;

II. That he will make a true and perfect inventory of the real estate, goods and chattels, and rights and credits of such estate to be returned into the probate office at such time as the judge orders;

III. That he will render an account of the income and profits thereof and of his payments and expenses once in 3 years, and oftener if required by the judge;

IV. That at the expiration of such trust he will settle his accounts with the judge; pay and deliver over all balances, sums of money, or other property that are due; and give possession of the other estate, with which he is entrusted, to the persons entitled thereto.

See c. 55, § 91, re authority of trust companies to engage in business of issuing surety bonds; c. 56, § 193, re foreign insurance companies as sureties on bonds; 17 Me. 140; 37 Me. 275; 61 Me. 98; 62 Me. 450; 111 Me. 255.

Sec. 2. Bonds may not be required. R. S. c. 82, § 2. In the following cases bonds shall not be required of such trustees, unless for special reasons the judge determines it to be necessary; but when no bond is required, they shall settle their account with the judge of probate annually:

I. When the testator has requested or directed that a bond should not be required, or that a bond without sureties be accepted;