

# MAINE STATE LEGISLATURE

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REVISED STATUTES  
OF THE  
STATE OF MAINE  
1954

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1963 CUMULATIVE SUPPLEMENT

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ANNOTATED

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IN FIVE VOLUMES

VOLUME 4

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**Discard Previous Supplement**

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THE MICHIE COMPANY  
CHARLOTTESVILLE, VIRGINIA  
1963

The 1963 amendment deleted the former first three sentences of the section and substituted the present first five sentences therefor.

**Sec. 40. Legal effect of adoption of child; descent of property.**

**But this section places child, etc.**

This section by its terms makes the adopted child in relation to his adopting parents the same as a child of blood. *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

**And statute in force at time of death, etc.**

The law is settled in this state that the right to inherit property from or by an adopted person is determined by the law of descent in effect at the time of the death of the intestate. In *re Williams*, 154 Me. 88, 144 A. (2d) 116.

**But status of adoption and right of inheritance are distinguishable.**

The status of the adopted child is fixed by the law of the adoption but the adopted child's rights of inheritance shall be determined by the law of the state of inheritance. *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

**Law governing right of inheritance.—**

The question whether an adopted child (irrespective of where he is adopted) can inherit and the extent of such right of inheritance will be determined, not by the law of the state where the adoption took place, but by the law of the state where the property is located, or by the law of the domicile of the decedent, as the case may be. *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

**Sec. 43. Decree of adoption annulled.** — Any judge of probate may, on petition of 2 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 this chapter.

After any decree of adoption has been annulled, the register of probate shall forthwith transmit a certified copy of the annulment to the state registrar of vital statistics. (R. S. c. 145, § 41. 1959, c. 291, § 12.)

**Effect of amendment.—**The 1959 amendment deleted the words "the provisions of", formerly appearing after the word "under"

**Legally adopted children are heirs at law of a deceased adopting parent within the meaning of a clause of a will providing for "if any of my said children should die, leaving at the time of such death no lineal descendants, then such part of the trust fund as would have vested in such lineal descendants, had any such existed, shall vest free of any trust in his or her heirs at law."** *New England Trust Co. v. Sanger*, 151 Me. 295, 118 A. (2d) 760.

**Interpretation of words "child or children," etc.**

In accord with 2nd paragraph in original. See *Fiduciary Trust Co. v. Brown*, 152 Me. 360, 131 A. (2d) 191.

**Interpretation of the word "issue" in a trust indenture** may be due in a large measure to whether the settlor was himself the adopting parent, or whether the word related to adopted children of a beneficiary, since by adoption, adopters can make for themselves an heir, but they cannot thus make one for their kindred. *Fiduciary Trust Co. v. Brown*, 152 Me. 360, 131 A. (2d) 191.

Whether adopted children are "issue" of their adoptive mothers, depends upon the intention of the testator as expressed in the language used in the trust indenture. *Fiduciary Trust Co. v. Brown*, 152 Me. 360, 131 A. (2d) 191.

and before the word "this" in the first paragraph. It also added the second paragraph.

## Chapter 158-A.

### Uniform Gifts to Minors Act.

**Sec. 1. Definitions.—**In this chapter, unless the context otherwise requires: An "adult" is a person who has attained the age of 21 years.

A "bank" is a trust company, national banking association, savings bank or industrial bank.

A "broker" is a person lawfully engaged in the business of effecting transactions in securities for the account of others. The term includes a bank which effects such transactions. The term also includes a person lawfully engaged in buying

and selling securities for his own account, through a broker or otherwise, as a part of a regular business.

“Court” means the probate court.

“The custodial property” includes:

**I.** All securities and money under the supervision of the same custodian for the same minor as a consequence of a gift or gifts made to the minor in a manner prescribed in this chapter;

**II.** The income from the custodial property; and

**III.** The proceeds, immediate and remote, from the sale, exchange, conversion, investment, reinvestment or other disposition of such securities, money and income.

A “custodian” is a person so designated in a manner prescribed in this chapter.

A “guardian” of a minor includes the general guardian, guardian, tutor or curator of his property, estate or person.

An “issuer” is a person who places or authorizes the placing of his name on a security, other than as a transfer agent, to evidence that it represents a share, participation or other interest in his property or in an enterprise or to evidence his duty or undertaking to perform an obligation evidenced by the security, or who becomes responsible for or in place of any such person.

A “legal representative” of a person is his executor or the administrator, general guardian, guardian, committee, conservator, tutor or curator of his property or estate.

A “member” of a “minor’s family” means any of the minor’s parents, grandparents, brothers, sisters, uncles and aunts, whether of the whole blood or the half blood, or by or through legal adoption.

A “minor” is a person who has not attained the age of 21 years.

A “security” includes any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease, collateral trust certificate, transferable share, voting trust certificate or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any of the foregoing. The term does not include a security of which the donor is the issuer. A security is in “registered form” when it specifies a person entitled to it or to the rights it evidences and its transfer may be registered upon books maintained for that purpose by or on behalf of the issuer.

A “transfer agent” is a person who acts as authenticating trustee, transfer agent, registrar or other agent for an issuer in the registration of transfers of its securities or in the issue of new securities or in the cancellation of surrendered securities.

A “trust company” is a bank authorized to exercise trust powers. (1959, c. 154.)

## **Sec. 2. Manner of making gift.—**

**I.** An adult person may, during his lifetime, make a gift of a security or money to a person who is a minor on the date of the gift:

**A.** If the subject of the gift is a security in registered form, by registering it in the name of the donor, another adult person or a trust company, followed, in substance, by the words: “as custodian for .....  
(name of minor)

under the “Maine Uniform Gifts to Minors Act”;

**B.** If the subject of the gift is a security not in registered form, by delivering it to an adult person, other than the donor, or a trust company, accompanied by a statement of gift in the following form, in substance, signed by the donor and the person designated as custodian:

“GIFT UNDER THE MAINE UNIFORM GIFTS TO MINORS ACT

I, ..... , hereby deliver to .....  
(name of donor) (name of custodian)

as custodian for ..... under the Maine Uniform Gifts  
(name of minor)

to Minors Act, the following security or securities: (insert an appropriate  
description of the security or securities delivered sufficient to identify it or  
them)

.....  
(signature of donor)

..... hereby acknowledges receipt of the above  
(name of custodian)

described security or securities as custodian for the above minor under the  
Maine Uniform Gifts to Minors Act.

Dated: ..... ”  
(signature of custodian)

**C.** If the subject of the gift is money, by paying or delivering it to a broker  
or a bank for credit to an account in the name of the donor, another adult  
person or a trust company, followed, in substance, by the words “as custodian  
for ..... under the Maine Uniform Gifts to Minors Act.”  
(name of minor)

**II.** Any gift made in a manner prescribed in subsection I may be made to only  
one minor and only one person may be the custodian.

**III.** A donor who makes a gift to a minor in a manner prescribed in subsection  
I shall promptly do all things within his power to put the subject of the gift  
in the possession and control of the custodian, but neither the donor’s failure to  
comply with this subsection, nor his designation of an ineligible person as cus-  
todian, nor renunciation by the person designated as custodian affects the con-  
summation of the gift. (1959, c. 154.)

**Sec. 3. Effect of gift.**—A gift made in a manner prescribed in this chapter  
is irrevocable and conveys to the minor indefeasibly vested legal title to the se-  
curity or money given, but no guardian of the minor has any right, power, duty  
or authority with respect to the custodian property except as provided in this chap-  
ter.

By making a gift in a manner prescribed in this chapter, the donor incorporates  
in his gift all the provisions of this chapter and grants to the custodian, and to any  
issuer, transfer agent, bank, broker or third person dealing with a person desig-  
nated as custodian, the respective powers, rights and immunities provided in this  
chapter. (1959, c. 154.)

**Sec. 4. Duties and powers of custodian.** — The custodian shall collect,  
hold, manage, invest and reinvest the custodial property.

The custodian shall pay over to the minor for expenditure by him, or expend  
for the minor’s benefit, so much of or all the custodial property as the custodian  
deems advisable for the support, maintenance, education and benefit of the minor  
in the manner, at the time or times, and to the extent that the custodian in his  
discretion deems suitable and proper, with or without court order, with or without  
regard to the duty of himself or any other person to support the minor or his  
ability to do so, and with or without regard to any other income or property of  
the minor which may be applicable or available for any such purpose.

The court, on the petition of a parent or guardian of the minor or of the minor,  
if he has attained the age of 14 years, may order the custodian to pay over to  
the minor for expenditure by him or to expend so much of or all the custodial  
property as is necessary for the minor’s support, maintenance or education.

To the extent that the custodial property is not so expended, the custodian shall

deliver or pay it over to the minor on his attaining the age of 21 years or, if the minor dies before attaining the age of 21 years, he shall thereupon deliver or pay it over to the estate of the minor.

The custodian, notwithstanding statutes restricting investments by fiduciaries, shall invest and reinvest the custodial property as would a prudent man of discretion and intelligence who is seeking a reasonable income and the preservation of his capital, except that he may, in his discretion and without liability to the minor or his estate, retain a security given to the minor in a manner prescribed in this chapter.

The custodian may sell, exchange, convert or otherwise dispose of custodial property in the manner, at the time or times, for the price or prices and upon the terms he deems advisable. He may vote in person or by general or limited proxy a security which is custodial property. He may consent, directly or through a committee or other agent, to the reorganization, consolidation, merger, dissolution or liquidation of an issuer of a security which is custodial property, and to the sale, lease, pledge or mortgage of any property by or to such an issuer, and to any other action by such an issuer. He may execute and deliver any and all instruments in writing which he deems advisable to carry out any of his powers as custodian.

The custodian shall register each security which is custodial property and in registered form in the name of the custodian, followed, in substance, by the words: "as custodian for ..... under the Maine Uniform Gifts to Minors  
(name of minor)

Act." The custodian shall hold all money which is custodial property in an account with a broker or in a bank in the name of the custodian, followed, in substance, by the words: "as custodian for ..... under the Maine Uni-  
(name of minor)

form Gifts to Minors Act." The custodian shall keep all other custodial property separate and distinct from his own property in a manner to identify it clearly as custodial property.

The custodian shall keep records of all transactions with respect to the custodial property and make them available for inspection at reasonable intervals by a parent or legal representative of the minor or by the minor, if he has attained the age of 14 years.

A custodian has, with respect to the custodial property, in addition to the rights and powers provided in this chapter, all the rights and powers which a guardian has with respect to property not held as custodial property. (1959, c. 154.)

**Sec. 5. Custodian's expenses, compensation, bond and liabilities.**—A custodian is entitled to reimbursement from the custodial property for his reasonable expenses incurred in the performance of his duties.

A custodian may act without compensation for his services.

Unless he is a donor, a custodian may receive from the custodial property reasonable compensation for his services determined by the statute of this state applicable to guardians.

Except as otherwise provided in this chapter, a custodian shall not be required to give a bond for the performance of his duties.

A custodian not compensated for his services is not liable for losses to the custodial property unless they result from his bad faith, intentional wrongdoing or gross negligence or from his failure to maintain the standard of prudence in investing the custodial property provided in this chapter. (1959, c. 154.)

**Sec. 6. Exemption of third persons from liability.**—No issuer, transfer agent, bank, broker or other person acting on the instructions of or otherwise dealing with any person purporting to act as a donor or in the capacity of a custodian is responsible for determining whether the person designated by the purported donor or purporting to act as a custodian has been duly designated or whether any purchase, sale or transfer to or by or any other act of any person purporting

to act in the capacity of custodian is in accordance with or authorized by this chapter, or is obliged to inquire into the validity or propriety under this chapter of any instrument or instructions executed or given by a person purporting to act as a donor or in the capacity of a custodian, or is bound to see to the application by any person purporting to act in the capacity of a custodian of any money or other property paid or delivered to him. (1959, c. 154.)

**Sec. 7. Resignation, death or removal of custodian; bond; appointment of successor custodian.**—Only an adult member of the minor's family, a guardian of the minor or a trust company is eligible to become successor custodian. A successor custodian has all the rights, powers, duties and immunities of a custodian designated in a manner prescribed by this chapter.

A custodian, other than the donor, may resign and designate his successor by:

**I.** Executing an instrument of resignation designating the successor custodian; and

**II.** Causing each security which is custodial property and is [in] registered form to be registered in the name of the successor custodian followed, in substance, by the words: "as custodian for ..... under the Maine Uniform Gifts to Minors Act"; and

**III.** Delivering to the successor custodian the instrument of resignation, each security registered in the name of the successor custodian and all other custodial property, together with any additional instruments required for the transfer thereof.

A custodian, whether or not a donor, may petition the court for permission to resign and for the designation of a successor custodian.

If the person designated as custodian is not eligible, renounces or dies before the minor attains the age of 21 years, the guardian of the minor shall be successor custodian. If the minor has no guardian, a donor, his legal representative, the legal representatives of the custodian, an adult member of the minor's family, or the minor, if he has attained the age of 14 years, may petition the court for the designation of a successor custodian.

A donor, the legal representative of a donor, an adult member of the minor's family, a guardian of the minor or the minor, if he has attained the age of 14 years, may petition the court that, for cause shown in the petition, the custodian be removed and a successor custodian be designated or, in the alternative, that the custodian be required to give bond for the performance of his duties.

Upon the filing of a petition as provided in this section, the court shall grant an order, directed to the persons and returnable on such notice as the court may require, to show cause why the relief prayed for in the petition should not be granted and, in due course, grant such relief as the court finds to be in the best interest of the minor. (1959, c. 154.)

**Sec. 8. Accounting by custodian.**—The minor, if he has attained the age of 14 years, or the legal representative of the minor, an adult member of the minor's family, or a donor or his legal representative may petition the court for an accounting by the custodian or his legal representative.

The court, in a proceeding under this chapter, or otherwise, may require or permit the custodian or his legal representative to account and, if the custodian is removed, shall so require and order delivery to all custodial property to the successor custodian and the execution of all instruments required for the transfer thereof. (1959, c. 154.)

**Sec. 9. Construction.**—This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

This chapter shall not be construed as providing an exclusive method for making gifts to minors. (1959, c. 154.)

**Sec. 10. Short title.** — This chapter may be cited as the "Maine Uniform Gifts to Minors Act." (1959, c. 154.)

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## Chapter 159.

### Uniform Veterans' Guardianship Act.

**Sec. 2. Administrator as party in interest.**—The administrator shall be a party in interest in any proceeding for the appointment or removal of a guardian or for the removal of the disability of minority or mental incapacity of a ward, and in any action or other proceeding affecting in any manner the administration by the guardian of the estate of any present or former ward whose estate includes assets derived in whole or in part from benefits heretofore or hereafter paid by the Veterans Administration. Not less than 15 days prior to hearing in such matter notice in writing of the time and place thereof shall be given by mail, unless waived in writing, to the office of the Veterans Administration having jurisdiction over the area in which any such action or any such proceeding is pending. (R. S. c. 146. 1949, c. 230. 1961, c. 317, § 518.)

**Effect of amendment.**—The 1961 amendment substituted "action" for "suit" in two places in this section.

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## Chapter 160.

### Testamentary Trustees and Voluntary Trusts.

Sections 27-33. The Rule against Perpetuities.

Sections 34-35. Income Earned during Period of Administration.

#### Testamentary Trustees.

**Sec. 9. Reference or compromise.** — The judge after a hearing, public or personal notice of which shall have been given in accordance with order of court, may authorize any trustee to refer or compromise any claim or action of whatsoever nature by or against the trust estate. Any such award or compromise, if found by the judge just and reasonable in its effect upon all persons who may then or at any time thereafter be or become interested in said trust estate, shall be valid and binding on such persons; provided, however, that where it shall appear that the interests of any persons under disability not represented by guardian or any future contingent interest may be affected, the court may appoint some suitable person or persons to represent such persons under disability or future interests. (R. S. c. 147, § 9. 1945, c. 73. 1961, c. 317, § 519.)

**Effect of amendment.**—The 1961 amendment deleted "either at law or in equity" following "claim or action" in the first sentence of this section.

**Sec. 10. Courts may direct trust estates sold and moneys invested.**—Any judge of probate having jurisdiction of the trust and the superior court on application of the trustee or of any person interested in the trust estate, after such notice as the judge or court shall order, may authorize or require him to sell any real or personal estate held by him in trust and to invest the proceeds thereof, with any other trust moneys in his hands, in real estate, in policies of life or endowment insurance or annuity contracts issued by life insurance companies authorized to transact business in the state, on the life of any beneficiary of the trust or on the life of any person in whose life such beneficiary has an insurable interest, or in any other manner most for the interest of all concerned therein; and may give such further directions as the case requires for managing, investing