

§1-201. Definitions

As used in this Code, unless the context otherwise indicates, the following terms have the following meanings. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

1. Agent. "Agent" includes an attorney-in-fact under a durable or nondurable power of attorney, an individual authorized to make decisions concerning another's health care and an individual authorized to make decisions for another under the Uniform Health Care Decisions Act. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

2. Application. "Application" means a written request to the register for an order of informal probate or appointment under Article 3, Part 3. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

3. Beneficiary. "Beneficiary," as it relates to a trust beneficiary, includes a person who has any present or future interest, vested or contingent, and also includes the owner of an interest by assignment or other transfer; as it relates to a charitable trust, includes any person entitled to enforce the trust; as it relates to a beneficiary of a beneficiary designation, refers to a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form, TOD, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer at death; and, as it relates to a beneficiary designated in a governing instrument, includes a grantee of a deed, a devisee, a trust beneficiary, a beneficiary of a beneficiary designation, a donee, appointee or taker in default of a power of appointment and a person in whose favor a power of attorney or a power held in any individual, fiduciary or representative capacity is exercised. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

4. Beneficiary designation. "Beneficiary designation" means a governing instrument naming a beneficiary of an insurance or annuity policy, of an account with POD designation, of a security registered in beneficiary form, TOD, or of a pension, profit-sharing, retirement or similar benefit plan or other nonprobate transfer at death. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

5. Child. "Child" includes any individual entitled to take as a child under this Code by intestate succession from the parent whose relationship is involved and excludes any person who has no other relationship to the parent than as a stepchild, a foster child, a grandchild or any more remote descendant. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

6. Claims. "Claims," in respect to estates of decedents and protected persons, includes liabilities of the decedent or protected person whether arising in contract, in tort or otherwise, and liabilities of the estate that arise at or after the death of the decedent or after the appointment of a conservator, including funeral expenses and expenses of administration. "Claims" does not include estate or inheritance taxes, or demands or disputes regarding title of a decedent or protected person to specific assets alleged to be included in the estate. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

7. Conservator. "Conservator" means a person who is appointed by a court to manage the estate of a protected person. "Conservator" includes a limited conservator. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

8. Court. "Court" means any one of the several courts of probate of this State established as provided in Title 4, sections 201 and 202. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

9. Descendant. "Descendant," as it relates to an individual, means all of the individual's descendants of all generations. The relationship of parent and child at each generation is determined by the definition of "parent" and "child" contained in this Code.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

10. Devise. "Devise" when used as a noun means a testamentary disposition of real or personal property and when used as a verb means to dispose of real or personal property by will.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

11. Devisee. "Devisee" means any person designated in a will to receive a devise. For the purposes of Article 3, in the case of a devise to an existing trust or trustee, or to a trustee or trust described by will, "devisee" includes the trust or trustee but not the beneficiaries.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

12. Disability. "Disability" means cause for a protective order as described by section 5-401.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

13. Distributee. "Distributee" means any person who has received property of a decedent from the personal representative other than as creditor or purchaser. A testamentary trustee is a distributee only to the extent of the distributed assets or increment of distributed assets remaining in the trustee's possession. A beneficiary of a testamentary trust to whom the trustee has distributed property received from a personal representative is a distributee of the personal representative. For purposes of this provision, "testamentary trustee" includes a trustee to whom assets are transferred by will, to the extent of the devised assets.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

14. Domestic partner. "Domestic partner" has the same meaning as in Title 1, section 72, subsection 2-C.

[PL 2021, c. 567, §12 (AMD).]

15. Estate. "Estate" includes the property of the decedent, trust or other person whose affairs are subject to this Code as originally constituted and as it exists from time to time during administration.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

16. Exempt property. "Exempt property" means that property of a decedent's estate that is described in section 2-403.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

17. Fiduciary. "Fiduciary" includes a personal representative, guardian, conservator and trustee.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

18. Foreign personal representative. "Foreign personal representative" means a personal representative appointed by another jurisdiction.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

19. Formal proceedings. "Formal proceedings" means proceedings within the exclusive jurisdiction of the court conducted before a judge with notice to interested persons.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

20. General personal representative. "General personal representative" means a personal representative other than a special administrator.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

21. Governing instrument. "Governing instrument" means a deed, will, trust or insurance or annuity policy; account with POD designation; security registered in beneficiary form, TOD; transfer on death deed, TOD; pension, profit-sharing, retirement or similar benefit plan; instrument creating or exercising a power of appointment or a power of attorney; or dispositive, appointive or nominative instrument of any similar type.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

22. Guardian. "Guardian" means a person who has qualified as a guardian of a minor or incapacitated person pursuant to appointment by a parent or spouse or by the court. "Guardian" includes a limited, an emergency and a temporary substitute guardian but not a guardian ad litem. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

23. Heirs. "Heirs," except as provided in section 2-711, means those persons, including the surviving spouse, who are entitled under the statutes of intestate succession to the property of a decedent. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

24. Incapacitated person. "Incapacitated person" means an individual who, for reasons other than being a minor, is unable to receive and evaluate information or make or communicate informed decisions to such an extent that the individual lacks the ability to meet essential requirements for physical health, safety or self-care, even with reasonably available appropriate technological assistance. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

25. Informal proceedings. "Informal proceedings" means proceedings conducted without notice to interested persons by an officer of the Court acting as a register for probate of a will or appointment of a personal representative. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

26. Interested person. "Interested person" includes heirs, devisees, children, spouses, domestic partners, creditors, beneficiaries and any others having a property right in or claim against a trust estate or the estate of a decedent, ward or protected person. "Interested person" also includes persons having priority for appointment as personal representative and other fiduciaries representing interested persons. In any proceeding or hearing under Article 5 affecting a trust estate or estate, when the ward or protected person has received benefits from the United States Department of Veterans Affairs within 3 years, "interested person" includes the Secretary of Veterans Affairs. The definition of "interested person" as it relates to particular persons may vary from time to time and must be determined according to the particular purposes of, and matter involved in, any proceeding. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

27. Issue. "Issue," as it relates to a person, means a descendant of that person. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

28. Joint tenants with the right of survivorship. "Joint tenants with the right of survivorship" includes co-owners of property held under circumstances that entitle one or more to the whole of the property on the death of the other or others, but excludes forms of co-ownership registration in which the underlying ownership of each party is in proportion to that party's contribution. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

29. Judge. "Judge" means the judge of a court. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

30. Lease. "Lease" includes an oil, gas or other mineral lease. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

31. Letters. "Letters" includes letters of authority, letters testamentary, letters of guardianship, letters of administration and letters of conservatorship. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

32. Minor. "Minor" means an unemancipated individual who has not attained 18 years of age. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

33. Mortgage. "Mortgage" means any conveyance, agreement or arrangement in which property is encumbered or used as security. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

34. Nonresident decedent. "Nonresident decedent" means a decedent who was domiciled in another jurisdiction at the time of death.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

35. Oath. "Oath" means an oath or affirmation.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

36. Organization. "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, joint venture, association or any other legal or commercial entity.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

37. Parent. "Parent" includes any person entitled to take, or who would be entitled to take if a child died without a will, as a parent under this Code by intestate succession from the child whose relationship is in question and excludes any person who has no other relationship to the child than as a stepparent, foster parent or grandparent.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

38. Payor. "Payor" means a trustee, insurer, business entity, employer, government, governmental agency or subdivision or any other person authorized or obligated by law or a governing instrument to make payments.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

39. Person. "Person" means an individual or an organization.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

40. Personal representative. "Personal representative" includes an executor, administrator, successor personal representative, special administrator and a person who performs substantially the same function under the appropriate governing law.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

41. Petition. "Petition" means a written request to the court for an order after notice.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

42. POD designation. "POD designation" has the same meaning as in section 6-201, subsection 8.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

43. Proceeding. "Proceeding" includes any civil action in any court of competent jurisdiction.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

44. Property. "Property" means anything that may be the subject of ownership and includes both real and personal property or any interest therein, including a digital asset as defined in section 10-102, subsection 9.

[PL 2019, c. 417, Pt. A, §2 (AMD).]

45. Protected person. "Protected person" means a minor or other individual for whom a conservator has been appointed or other protective order has been made.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

46. Protective proceeding. "Protective proceeding" means a proceeding under Article 5, Part 6.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

47. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

48. Register. "Register" means the official of the court elected or appointed as provided in section 1-501 or any other person performing the functions of register as provided in Part 5.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

49. Registered domestic partners. "Registered domestic partners" means domestic partners who are registered in accordance with Title 22, section 2710.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

50. Security. "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, any temporary or interim certificate, receipt or certificate of deposit for, or any warrant or right to subscribe to or purchase, any such security.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

51. Settlement. "Settlement," in reference to a decedent's estate, includes the full process of administration, distribution and closing.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

52. Sign. "Sign" means with present intent to authenticate or adopt a record other than a will:

A. To execute or adopt a tangible symbol; or [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

B. To attach to or logically associate with the record an electronic symbol, sound or process. [PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

53. Special administrator. "Special administrator" means a personal representative as described by sections 3-614 to 3-618.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

54. Spouse. "Spouse" means an individual who is lawfully married and includes registered domestic partners and individuals who are in a legal union that was validly formed in any state or jurisdiction and that provides substantially the same rights, benefits and responsibilities as a marriage.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

55. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

56. Successor personal representative. "Successor personal representative" means a personal representative, other than a special administrator, who is appointed to succeed a previously appointed personal representative.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

57. Successors. "Successors" means those persons, other than creditors, who are entitled to property of a decedent under the decedent's will or this Code.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

58. Supervised administration. "Supervised administration" refers to the proceedings described in Article 3, Part 5.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

59. Survive. "Survive," as it relates to an individual, means to neither predecease an event, including the death of another individual, nor be deemed to have predeceased an event under section 2-104 or 2-702. "Survive" includes its derivatives, such as "survives," "survived," "survivor" and "surviving."

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

60. Testacy proceeding. "Testacy proceeding" means a proceeding to establish a will or determine intestacy.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

61. Testator. "Testator" means an individual of either sex who has executed a will.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

62. TOD designation. "TOD designation" means the designation of a security registered in beneficiary form to provide that the security be transferred on the death of the owner.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

63. Trust. "Trust" includes any express trust, private or charitable, with additions thereto, wherever and however created. "Trust" also includes a trust created or determined by judgment or decree under which the trust is to be administered in the manner of an express trust. "Trust" excludes other constructive trusts and excludes resulting trusts, conservatorships, personal representatives, trust accounts as defined in Article 6, custodial arrangements pursuant to the Maine Uniform Transfers to Minors Act, business trusts provided for certificates to be issued to beneficiaries, common trust funds, voting trusts, security arrangements, liquidation trusts and trusts for the primary purpose of paying debts, dividends, interest, salaries, wages, profits, pensions or employee benefits of any kind, and excludes any arrangement under which a person is nominee or escrowee for another person.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

64. Trustee. "Trustee" includes an original, additional or successor trustee, whether or not appointed or confirmed by a court.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

65. Ward. "Ward" means an individual for whom a guardian has been appointed.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

66. Will. "Will" includes a codicil and any testamentary instrument that only appoints an executor, revokes or revises another will, nominates a guardian or expressly excludes or limits the right of an individual or class to succeed to property of the decedent passing by intestate succession.

[PL 2017, c. 402, Pt. A, §2 (NEW); PL 2019, c. 417, Pt. B, §14 (AFF).]

SECTION HISTORY

PL 2017, c. 402, Pt. A, §2 (NEW). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. A, §2 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 567, §12 (AMD).

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