Probate Court Rules of Procedure

CONTAINING

GENERAL PROVISIONS

RULES FOR ALL CASE TYPES

RULES FOR SPECIFIC CASE TYPES

RULES FOR HEARINGS

REFERENCES TO CONNECTICUT GENERAL STATUTES

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Explanatory Notes

Probate Court Rules of Procedure first became effective on July 1, 2013. This 2020 edition contains the rules as amended since then. Original effective dates and the dates of subsequent amendments are summarized at the end of each rule. Changes are also listed in the Table of Changes at the back of this volume.

Annotations are contained in parentheses following certain sections of these rules. The purpose of the annotations is to alert users to statutes, cases, rules and other sources of law that are related to the subject matter of the section.

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Preface

Each year, Connecticut's Probate Courts handle more than 100,000 matters that directly affect the lives of children, seniors and individuals with mental illness and intellectual disability. The mission of the Probate Court system, given the importance of these matters to our state's most vulnerable citizens, is to provide an approachable forum in which families can resolve their cases in a fair, prompt and economical manner. The purpose of Probate Court Rules of Procedure is to promote that mission.

This publication establishes uniform procedures for probate matters. It provides guidance in all areas of probate jurisdiction and is written in plain language to assist all those who have cases in the Probate Courts, including both self-represented individuals and attorneys.

The hallmark of this 2020 edition is the long-awaited launch of Probate Court eFiling. Rule 22 is an entirely new provision that sets up the parameters for use of the eFiling system, and changes to Rules 1 and 7 also contain important eFiling-related changes. The new system makes it easier to use the Probate Courts in numerous ways. Parties and attorneys can now file documents electronically from any location, view the court file online and pay probate fees, all on a 24-7 basis.

Other changes in the 2020 edition reflect suggestions from court users, updates to conform to changes in statute and case law, and a continuing effort to make the rules clear, readable and consistent. Those who handle children's matters should pay close attention to new Rule 42A, which provides important guidance when cases concerning a child are simultaneously pending in both Superior Court-Family Division and Probate Court.

I want to thank the members of the Probate Court Rules Advisory Committee for their invaluable assistance in developing these rules and helping to keep them up to date. The exceptionally dedicated volunteers who serve on the committee are listed on the following page. They are judges, retired judges, court staff, attorneys and individuals with professional backgrounds in accounting and social services who have given generously of their time and expertise. I am truly indebted to them for their service. Credit for the heavy lifting of drafting and editing the rules belongs to Attorney David Biklen, the committee reporter, and the exceptional PCA legal team, Tom Gaffey, Bonnie Bennet, Heather Dostaler and Evan Brunetti. We are grateful also to Justice Gregory T. D'Auria, who helped shepherd the rules through the Supreme Court approval process.

Finally, since I retired just before this edition was finalized, this Preface will serve as my farewell to those who concern themselves with the rules of procedure. I've departed with the happy confidence that the Probate Courts are in the best of hands with my successor, Judge Beverly Streit-Kefalas, whose virtues include a tireless commitment to rules of procedure that promote fairness, ease of use and access to justice.

Paul J. Knierim
Retired Probate Court Administrator

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2017-2020

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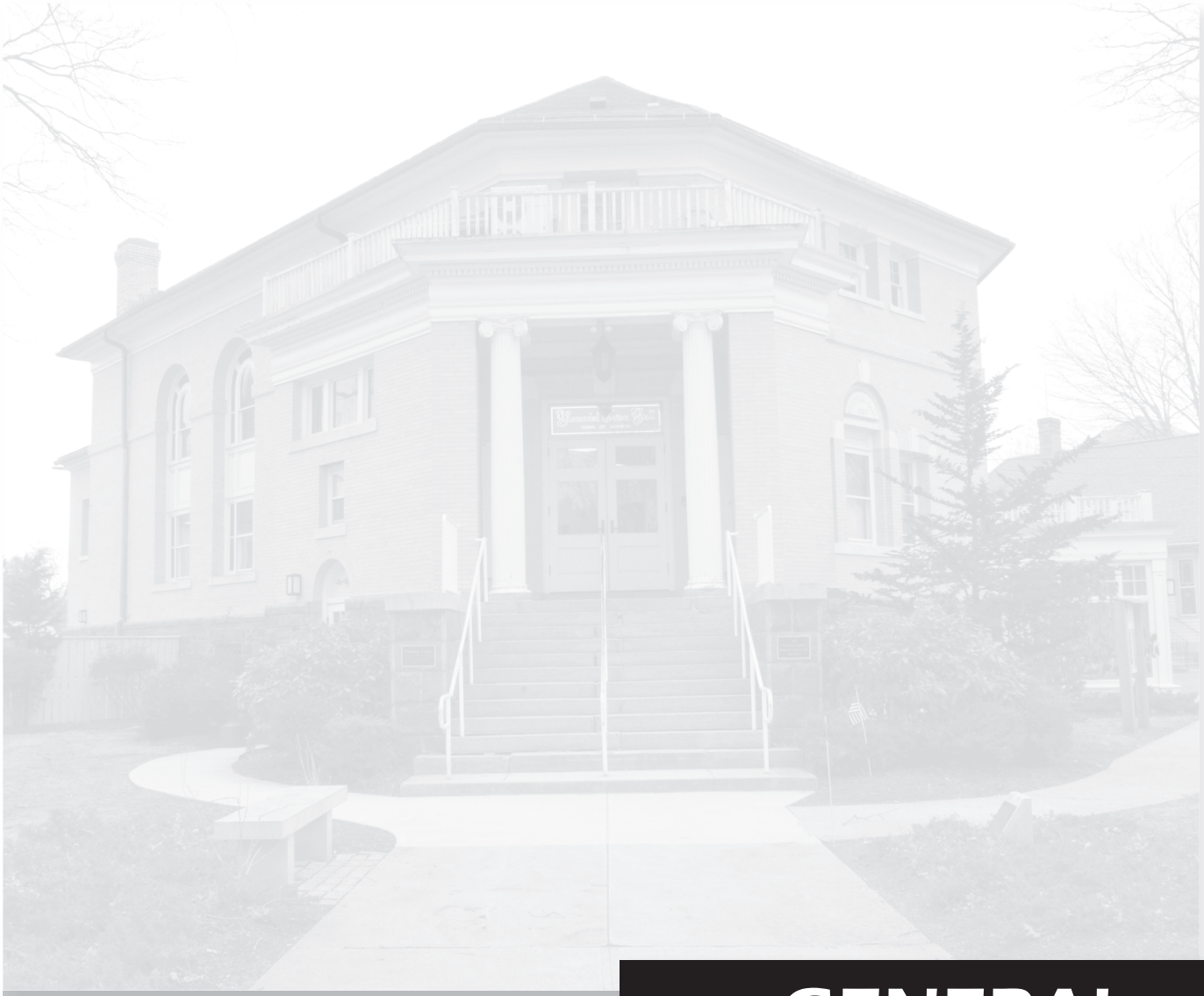

GENERAL PROVISIONS

Rule 1
Definitions

Section
1.1 Definitions

Section 1.1 Definitions

In these rules:

(1) "Account" means a document meeting the requirements of rule 38 by which a fiduciary provides detailed information about the management of an estate.

(2) "Beneficiary of a decedent's estate" means a person or fiduciary that is or may be entitled to a bequest or devise under a will.

(3) "C.G.S." means the Connecticut General Statutes.

(4) "Clerk" means a chief clerk, deputy clerk, clerk or assistant clerk of the court.

(5) "Contingent remainder beneficiary" means a trust beneficiary who would be a presumptive remainder beneficiary on the date the beneficiary's interest is determined if the interest of another presumptive remainder beneficiary terminated because a condition specified in the will or other governing instrument is not met.

(6) "Corporate fiduciary" means a bank, trust company or other corporation or business entity authorized to act as a fiduciary in this state.

(7) "Corporate surety" means a corporation or other business entity authorized to enter into contracts of suretyship for probate bonds in this state.

(8) "Court" means a Probate Court.

(9) "Current beneficiary" means a trust beneficiary who, on the date the beneficiary's interest is determined, is a distributee or permissible distributee of trust income or principal.

(10) "Decree" means a written decision, order, grant, denial, opinion or other ruling of the court.

(11) "DRS" means the Department of Revenue Services.

(12) "eFile" means to file a document with the court using the eFiling system.

(13) "eFiling system" means the system maintained by the probate court administrator by which a registered filer can use the internet to file, send and receive documents, view court records and pay court fees and expenses.

(14) "eService" means use of the eFiling system to transmit a filing, notice, decree or other document to a registered filer.

(15) "Electronic signature" means an electronic symbol or process executed or adopted by a person with the intent to sign the document.

(16) "Estate" means a decedent's estate, trust, conservatorship estate, estate of a minor or other legal structure under which a fiduciary has a duty to manage assets held for the benefit of one or more persons.

(17) "Fiduciary" means a person serving as an administrator, executor, conservator of the estate, conservator of the person, guardian of an adult with intellectual disability, guardian of the estate of a minor, guardian of the person of a minor, temporary custodian of the person of a minor, trustee or person serving in any other role that the court determines is fiduciary in nature.

(18) "Financial report" means a simplified form of accounting meeting the requirements of rule 37 by which a fiduciary provides summary information about the management of an estate.

(19) "Heir" means an individual who would take any share of the estate of a decedent who died intestate.

(20) "Intestate" means having died without a valid will.

(21) "Minor" has the meaning provided in C.G.S. section 45a-604(4).

(22) "Motion" means a written filing seeking court action that is incidental to the matter before the court.

(23) "News media" means an entity, or representative of an entity, that is regularly engaged in the gathering and dissemination of news and is approved by the office of the chief court administrator.

(24) ''News media coverage'' means broadcasting, televising, recording or photographing a hearing or conference by news media.

(25) ''Nontaxable estate'' means the estate of a decedent whose Connecticut taxable estate is less than or equal to the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391.

(26) ''Party'' means a person having a legal or financial interest in a proceeding before the court, a fiduciary under section 4.2 and any other person whom the court determines to be a party. The term has the same meaning as interested party.

(27) ''Person'' means an individual or entity.

(28) ''Person under conservatorship'' means a conserved person as defined under C.G.S. section 45a-644(h) or a person under voluntary representation under C.G.S. section 45a-646.

(29) ''Personal surety'' means a surety that does not meet the requirements to be a corporate surety.

(30) ''Petition'' means a written filing that commences a matter in the court. The term has the same meaning as application.

(31) ''Presumptive remainder beneficiary'' means a trust beneficiary who would be a distributee or permissible distributee of trust income or principal on the date the beneficiary's interest is determined if:

(A) the trust terminated on the date; or

(B) the interests of the current beneficiaries terminated on the date without causing the trust to terminate.

(32) ''Probate bond'' has the meaning provided in C.G.S. section 45a-139.

(33) ''Probate court administrator'' means the individual holding the office of the probate court administrator of this state.

(34) ''Probate Court Rules'' means the Connecticut Probate Court Rules of Procedure.

(35) ''Public notice'' has the meaning provided in C.G.S. section 45a-126.

(36) ''Purported will'' means an instrument purporting to be a decedent's last will and testament and any codicil to it that has not been admitted to probate.

(37) ''Registered filer'' means a person who has registered to use the eFiling system.

(38) ''Send'' means transmit by electronic means, United States mail, private carrier, in-hand delivery or other commonly accepted method of communication.

(39) ''Structured settlement'' means an arrangement under which a claimant accepts deferred payment of some or all of the proceeds of the settlement of a disputed or doubtful claim.

(40) ''Taxable estate'' means the estate of a decedent whose Connecticut taxable estate exceeds the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391.

(41) ''Testate'' means having died leaving a valid will.

(42) ''Trust beneficiary'' means a person that has a present or future beneficial interest in a trust, whether vested or contingent.

(43) ''Trust protector'' means a person identified in a will or other governing instrument who is charged with protecting the interests of a trust beneficiary and is identified as a trust protector, trust advisor, or beneficiary surrogate or as a person in an equivalent role.

(44) ''Will'' means an instrument and any codicil to it admitted to probate as the last will and testament of a decedent.

HISTORY: Rule 1 adopted effective July 1, 2013. Section 1.1 amended effective January 1, 2020.

Rule 2

Applicability of Rules

Section
2.1 Title
2.2 Applicability
Section
2.3 Purpose

Section 2.1 Title

These rules shall be known as the Connecticut Probate Court Rules of Procedure.

Section 2.2 Applicability

(a) These rules govern practice and procedure in the Connecticut Probate Courts and are mandatory in the courts.

(b) The rules do not apply to appeals from probate in the Superior Court, matters transferred from a Probate Court to the Superior Court or any other probate matter in the Superior Court.

(c) If a rule conflicts with statute, the statute governs.

(C.G.S. sections 45a-78 and 51-84.)

Section 2.3 Purpose

The purpose of these rules is to facilitate the efficient conduct of business in the Probate Courts and to advance justice. The court may interpret these rules liberally if strict adherence will cause injustice.

HISTORY: Rule 2 adopted effective July 1, 2013.

Rule 3
Clerks, Files and Records

Section
3.1 Duties of clerk
3.2 Uniform numbering system
3.3 Decrees to be in writing
3.4 Safekeeping of record
3.5 Lost document
3.6 Electronic signature by judge or clerk [Repealed]

Section 3.1 Duties of clerk

A clerk shall:

(1) receive papers and documents filed with the court and transferred from other courts;

(2) make and maintain a record of each proceeding;

(3) have custody of and maintain the records of the court and any former court merged into the probate district;

(4) schedule and give notice of hearings;

(5) bill and collect probate fees; and

(6) perform all other duties as directed by the judge or required by law.

(C.G.S. section 45a-11; Probate Court Rules, rule 8.)

Section 3.2 Uniform numbering system

The court shall use a uniform numbering system prescribed by the probate court administrator to identify each matter before the court.

Section 3.3 Decrees to be in writing

Decrees shall be in writing. The court shall memorialize each oral ruling in writing.

(C.G.S. section 45a-24.)

Section 3.4 Safekeeping of record

A clerk shall not permit court records to be taken from the court without the judge's authorization.

Section 3.5 Lost document

Except for a purported will or will, if a document in the court file is mislaid, lost or destroyed, a party may substitute a copy if the clerk is satisfied that it is an accurate and complete copy of the original. The clerk shall make a notation on the substitute document that it is a copy.

Section 3.6 Electronic signature by judge or clerk

Section 3.6 is repealed effective January 1, 2020.

HISTORY: Rule 3 adopted effective July 1, 2013. Section 3.6 adopted effective July 1, 2017. Section 3.1 amended and section 3.6 repealed effective January 1, 2020.

RULES FOR ALL CASE TYPES

Rule 4
Parties

Section
4.1 Parties
Section
4.2 Fiduciary as party

Section 4.1 Parties

(a) Except as otherwise permitted by the court, only a party may participate in a proceeding before the court.

(b) The listing of a person on an order of notice does not make the person a party.

(C.G.S. section 45a-127; Probate Court Rules, section 1.1(26) and rule 16.)

Section 4.2 Fiduciary as party

(a) An executor or administrator of a decedent's estate is a party:

(1) in the estate proceeding in which the executor or administrator was appointed; and

(2) in any other probate proceeding in which the estate has an interest.

(b) A trustee of a trust is a party:

(1) in the trust proceeding in which the trustee was appointed or, if the trustee was not appointed by the court, in a trust proceeding concerning the trust for which the trustee acts; and

(2) in any other probate proceeding in which the trust has an interest.

(c) A conservator is a party:

(1) in the conservatorship proceeding in which the conservator was appointed; and

(2) in any other probate proceeding in which the person under conservatorship has an interest if the subject of the proceeding is within the scope of the conservator's authority.

(d) A guardian of the estate of a minor is a party:

(1) in the guardianship proceeding in which the guardian was appointed; and

(2) in any other probate proceeding that affects the estate of the minor.

(e) A temporary custodian or guardian of the person of a minor is a party:

(1) in the guardianship proceeding in which the custodian or guardian was appointed; and

(2) in any other probate proceeding in which the minor has an interest if the subject of the proceeding is within the scope of the authority of the custodian or guardian.

(f) A guardian of an adult with intellectual disability is a party:

(1) in the guardianship proceeding in which the guardian was appointed; and

(2) in any other probate proceeding in which the protected person has an interest if the subject of the proceeding is within the scope of the guardian's authority.

(g) A guardian ad litem is a party:

(1) in the proceeding in which the guardian ad litem was appointed; and

(2) in any other probate proceeding in which the individual for whom the guardian ad litem acts has an interest if the subject of the proceeding is within the scope of the guardian ad litem's appointment.

(h) The court shall recognize any other fiduciary as a party:

(1) in a probate proceeding in which the court has jurisdiction to review and supervise the actions of the fiduciary; and

(2) in any other probate proceeding if the court determines that the subject of the proceeding is within the scope of the fiduciary's duties and participation of the fiduciary is necessary to protect the interests of the individual for whom the fiduciary acts.

(Public Law 19-137, sections 17 through 20.)

HISTORY: Rule 4 adopted effective July 1, 2013. Section 4.2 amended effective January 1, 2020.

Rule 5

Self-representation; Representation by Attorney and Appearance

Section
5.1 Representation before court
5.2 Out-of-state attorney appearing pro hac vice
5.3 Legal intern
5.4 When appearance required to be filed
5.5 Form of appearance
5.6 Effect of appearance on ability to challenge jurisdiction
5.7 Withdrawal of appearance
5.8 Change of attorney's contact information

Section 5.1 Representation before court

(a) A party who is an individual may represent himself or herself without an attorney.

(b) Except as provided in section 5.2 or 5.3, only an attorney licensed to practice law in Connecticut may represent a party before the court.

(c) Nothing in this rule shall prevent a fiduciary, except a corporate fiduciary, from representing himself or herself, as fiduciary, without an attorney.

(C.G.S. section 51-88; State Bar Assn. *v.* Connecticut Bank & Trust Co.*, 145 Conn. 222, 140 A.2d 863 (1958);* State Bar Assn. *v.* Connecticut Bank & Trust Co.*, 146 Conn. 556, 153 A.2d 453 (1959); Probate Court Rules, section 4.2.)*

Section 5.2 Out-of-state attorney appearing pro hac vice

(a) An attorney licensed to practice law in Connecticut may move to permit an attorney in good standing in another state, the District of Columbia or Puerto Rico to appear pro hac vice for a party. The moving attorney shall accompany the motion with:

(1) an affidavit of the out-of-state attorney:

(A) certifying whether the out-of-state attorney has any disciplinary matter pending in another jurisdiction, has ever been reprimanded, suspended, placed on inactive status, disbarred or otherwise disciplined, or has ever resigned from the practice of law and, if so, setting forth the circumstances concerning the discipline or resignation;

(B) agreeing to register with the statewide grievance committee in accordance with the Connecticut Practice Book while appearing in the matter and for two years after completion of the matter and immediately notify the grievance committee of the expiration of the two-year period;

(C) certifying that the out-of-state attorney has paid the client security fund fee set forth in section 2-70 of the Connecticut Practice Book for the calendar year in which the motion is made; and

(D) identifying by name and case number, each matter in which the out-of-state attorney has appeared pro hac vice in a Probate Court or any other court of this state and the juris number previously assigned to the attorney; and

(2) a certificate, acknowledged before an officer authorized to take acknowledgements of deeds, appointing the probate judge and the judge's successors in office to be the attorney's agent for service of process.

(b) The court may grant a motion to appear pro hac vice only on special and infrequent occasion. The court may act without notice and hearing. When deciding a motion under subsection (a), the court shall consider the facts or circumstances affecting the personal or financial welfare of the party, not the out-of-state attorney, which may include:

(1) a longstanding attorney-client relationship predating the matter;

(2) specialized skill or knowledge with respect to the party's affairs important to the matter; or

(3) the client's inability to secure the services of a Connecticut attorney.

(c) If the court permits an out-of-state attorney to appear pro hac vice, an attorney licensed to practice law in this state shall:

(1) file an appearance;

(2) attend all proceedings with the attorney appearing pro hac vice unless excused by the court;

(3) sign all documents filed with the court; and

(4) assume full responsibility for the conduct of the matter and the attorney appearing pro hac vice.

(d) If the court permits an out-of-state attorney to appear pro hac vice, the court shall immediately notify the statewide grievance committee.

(e) Any out-of-state attorney permitted to appear pro hac vice in a matter shall pay the client security fund fee for each calendar year in which the attorney appears in the matter.

(f) If the clerk is notified that an out-of-state attorney permitted to appear pro hac vice has failed to pay the client security fund fee under this section, the court shall, after notice and hearing, determine the appropriate sanction, which may include termination of the privilege of appearing in the matter.

Section 5.3 Legal intern

(a) On motion of an attorney for a party, the court may permit a law student to serve as a legal intern on behalf of the party if the party consents. The petitioner shall accompany the petition with a certification by an authorized representative of the intern's law school that the school is accredited and that the intern is in good standing.

(b) If the court permits the legal intern to appear, the attorney for the party shall:

(1) supervise the intern;

(2) attend all proceedings with the intern;

(3) sign all documents filed with the court; and

(4) assume full responsibility for the conduct of the matter and the intern.

Section 5.4 When appearance required to be filed

(a) A party representing himself or herself is not required to file an appearance.

(b) Unless appointed by the court, an attorney representing a party shall file an appearance under section 5.5. If the requirements of section 5.1(b) or 5.2 are met, an attorney in the appearing attorney's law firm may appear for the party for whom the appearance is filed without filing a separate appearance.

(c) A fiduciary without an attorney under section 5.1(c) is not required to file an appearance.

Section 5.5 Form of appearance

(a) An appearance of an attorney shall:

(1) list in the heading the name of the matter, the name of the Probate Court and the date of the appearance;

(2) be signed by the attorney making the appearance;

(3) contain the attorney's name, juris number, law firm, mailing address, email address and telephone number; and

(4) indicate whether the appearance is filed in lieu of, or in addition to, an appearance on file.

(b) An attorney shall send a copy of the appearance to each attorney and self-represented party and certify to the court that the copy has been sent.

(c) If the appearance is in lieu of an appearance on file, the attorney filing the new appearance shall, in addition to the requirements of subsection (b), send a copy of the new appearance to the attorney whose appearance is to be replaced and certify to the court that the copy has been sent.

Section 5.6 Effect of appearance on ability to challenge jurisdiction

The filing of an appearance by an attorney, by itself, does not waive the right of the party represented by the attorney to challenge jurisdiction of the court.

Section 5.7 Withdrawal of appearance

(a) If permitted under rule 1.16 of the Rules of Professional Conduct, an attorney who is not a court-appointed attorney may withdraw the attorney's appearance by:

(1) filing a notice of withdrawal at least three business days before a scheduled hearing; and

(2) sending a copy of the withdrawal to each attorney and self-represented party and certifying to the court that the copy has been sent.

(b) The three-day notice requirement under subsection (a) does not apply if:

(1) an attorney has filed an appearance in lieu of another appearance on file under section 5.5; or

(2) the represented party has filed a written statement indicating that the party does not object to the withdrawal.

(Probate Court Rules, rule 12.6.)

Section 5.8 Change of attorney's contact information

An attorney who has entered an appearance shall notify the court of a change of the attorney's name, law firm, mailing address, email address or telephone number.

HISTORY: Rule 5 adopted effective July 1, 2013. Section 5.2 amended effective July 1, 2015. Section 5.2 amended effective July 1, 2017. Sections 5.2, 5.5 and 5.8 amended effective January 1, 2020.

Rule 6

Probate Fees

Section
6.1 Filing fee
6.2 Waiver of probate fees and expenses
6.3 Withdrawal of petition
6.4 Payment of probate fees and expenses required before final decree
6.5 Copy of decree with court seal [Repealed]
6.6 Petitions to review conduct of agent, compel account or construe power of attorney

Section 6.1 Filing fee

(a) Except in a proceeding concerning a decedent's estate or an accounting, a petitioner shall submit the statutory filing fee at the time of filing a petition, unless:

(1) the court has waived or postponed the fee or the matter is exempt under C.G.S. section 45a-111;

(2) the state of Connecticut is the petitioner; or

(3) the filing fee for a competing petition in the same matter has already been paid.

(b) Except as provided under subsection (a), a petition does not commence a matter until the required fee is paid.

(C.G.S. sections 45a-105 through 45a-112.)

Section 6.2 Waiver of probate fees and expenses

(a) A petitioner may request a waiver of probate fees and expenses, including the cost of service of process, at the time of filing the underlying petition. The request shall be filed on a form published by the probate court administrator and shall include any supporting information required by the court or the form.

(b) The court may waive payment of probate fees and expenses if the court finds that a petitioner will be deprived of the right to bring a petition by reason of indigence or that a petitioner is otherwise unable to pay.

(c) If the court waives payment of probate fees and expenses, the petitioner shall:

(1) notify the court of a substantial change in financial circumstances during the pendency of the matter; and

(2) file an updated request for waiver if required by the court.

(C.G.S. sections 45a-111(c) and 52-259b.)

Section 6.3 Withdrawal of petition

If a petitioner withdraws a petition after notice of hearing has been sent, the petitioner is not entitled to a refund of the filing fee and expenses. The petitioner shall pay any expenses incurred under C.G.S. section 45a-109 before the withdrawal is filed.

Section 6.4 Payment of probate fees and expenses required before final decree

Except as otherwise provided by statute, the court may withhold issuance of a decree on a final account in a decedent's estate or an account in any other matter until all probate fees and expenses have been paid.

Section 6.5 Copy of decree with court seal

Section 6.5 is repealed effective January 1, 2020.

Section 6.6 Petitions to review conduct of agent, compel account or construe power of attorney

(a) If a person simultaneously files petitions to review the conduct of an agent under a power of attorney, compel an account of the agent or construe a power of attorney, the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

(C.G.S. sections 1-350o and 45a-175.)

HISTORY: Rule 6 adopted effective July 1, 2013. Sections 6.1 and 6.3 amended effective July 1, 2017. Section 6.6 adopted and 6.5 repealed effective January 1, 2020.

Rule 7
Filing Requirements

Section
7.1 General filing requirements
7.1a Documents not to be eFiled
7.2 Commencing a proceeding
7.3 Forms
7.4 Signature required
7.5 Account numbers

Section 7.1 General filing requirements

(a) Except as provided in section 7.1a, a registered filer who has been granted eFiling access to a matter under section 22.2 shall eFile all documents relating to the matter. A person without eFiling access to the matter shall file all documents in paper form.

(b) A document filed with the court shall:

(1) be typed or printed and, if submitted on paper, be prepared using ink;

(2) be signed in accordance with section 7.4;

(3) after the matter is commenced, refer to the name that the court assigned the matter; and

(4) satisfy the filing requirements under governing statutes and these rules.

(c) The court may accept for filing a document that is in substantial compliance with the requirements of subsection (b).

(d) The court may require a party to correct a document by substituting a corrected or substituted document or page.

(e) If required by these rules, a person filing a petition or other document shall send a copy of the petition or document to each party and attorney of record and certify to the court that the copy has been sent. If these rules do not require the filing party to send a copy of the petition or document to each party and attorney, the filing party shall send a copy of the filing to any party or attorney who requests it, free of charge.

(Probate Court Rules, sections 5.5, 5.7, 10.1, 14.5, 18.5, 30.7, 30.12, 30.22, 30.23, 32.4, 33.8, 34.3, 36.5, 40.16, 43.4, 60.2, 61.9 and 71.7.)

Section 7.1a Documents not to be eFiled

A person may not eFile:

(1) an original will, codicil or other testamentary document;

(2) an original probate bond or bond rider;

(3) an original record of adoption on a form published by the commissioner of public health;

(4) an original record of paternity on a form published by the commissioner of public health; or

(5) a document that the court requires in paper form.

Section 7.2 Commencing a proceeding

(a) To commence a proceeding, a petitioner shall file a petition, together with any filing fee required under section 6.1. The petition shall include:

(1) a description of the action sought and the basis for the request;

(2) the name and address of each party;

(3) the date of birth of each party who is a minor; and

(4) the name, address and position of trust of the legal representative of any party who has been adjudicated incapable.

(b) The petitioner shall use reasonable efforts to determine the name and address of each party. If the petitioner is unable to determine the name or address of a party, the petition shall include a statement describing the efforts made to identify and locate the party.

(c) A petitioner shall, in accordance with the Servicemembers Civil Relief Act, indicate whether a party is in the active military service

of the United States when commencing a proceeding concerning:

(1) a decedent's estate;

(2) a trust;

(3) a children's matter; or

(4) any other matter in which adjudication of an interest of a servicemember is sought.

(Servicemembers Civil Relief Act, 50 U.S.C. section 3931.)

Section 7.3 Forms

(a) The court shall accept a document if it:

(1) is filed using the latest revision of a form published by the probate court administrator; and

(2) complies with sections 7.1 through 7.2.

(b) The court may require documentation in addition to the information on the form.

(c) Unless otherwise required by statute or these rules, use of a form published by the probate court administrator is not required. A petition not on a form published by the probate court administrator shall comply with the requirements of statute and these rules.

Section 7.4 Signature required

(a) Except as provided in subsection (b), the court shall not act on a request, motion, petition or other document unless the document is signed by the person seeking the action.

(b) An attorney may sign a request, motion, petition or other document on behalf of a client if the document is not required to be signed under oath or penalty of false statement.

(c) The court shall not act on a request, motion, petition or other document submitted to the court by facsimile or email, except that the court may act on the following documents if submitted by facsimile:

(1) a written request for a hearing under section 8.6;

(2) a commitment petition, including a request for a probable cause hearing; or

(3) a request, motion, petition or other document if the court determines that immediate action is necessary.

(d) Except as provided in subsections (b) and (e), each cofiduciary shall sign a request, motion, petition or other document filed in a matter.

(e) A cofiduciary may submit a request, motion, petition or other document that is not signed by another cofiduciary if the filing includes a written statement explaining why the signature could not be obtained.

(f) An electronic signature has the same effect as a handwritten signature.

(C.G.S. sections 1-266 through 1-286.)

Section 7.5 Account numbers

(a) Except as provided in subsections (b) through (d), when reporting information about an account held at a bank or other financial institution, the fiduciary may list the name of the financial institution and the last four digits of the account number in lieu of the full account number.

(b) A petitioner filing an affidavit in lieu of administration shall list the name of the financial institution and full account number for each of the decedent's accounts.

(c) A fiduciary required to establish a restricted account under section 35.7 shall report the name of the financial institution and full account number of the account.

(d) The court may require the fiduciary to provide the full account number for an account if the court determines that disclosure is necessary.

HISTORY: Rule 7 adopted effective July 1, 2013. Sections 7.1 and 7.2 amended and section 7.5 adopted effective July 1, 2017. Sections 7.1, 7.3 and 7.4 amended and section 7.1a adopted effective January 1, 2020.

Rule 8

Notice

Section
8.1 Notice of hearing
8.2 To whom notice is given
8.3 Change of address while matter is pending
8.4 Contents of notice of hearing
8.5 How notice of hearing given
8.6 Streamline notice procedure
8.7 Waiver of notice of hearing
8.8 Address unknown; notice of hearing returned undelivered
8.9 Notice of hearing for member of military service
8.10 Decree

Section 8.1 Notice of hearing

Unless otherwise provided by law or these rules, the court shall:

(1) schedule a hearing or conference, as applicable, on each motion or petition, including the court's own motion; and

(2) give notice of each hearing or conference in the manner provided in sections 8.2 through 8.9.

(C.G.S. section 45a-124; Probate Court Rules, rules 60 and 69.)

Section 8.2 To whom notice is given

(a) The court shall give notice under section 8.1 to each:

(1) party;

(2) attorney of record;

(3) fiduciary for a party under section 4.2; and

(4) other person required by law.

(b) If a proceeding may affect a charitable interest or beneficiary, the court shall give notice to the Attorney General under section 8.1.

(c) Unless otherwise prohibited by law, the court may give notice under section 8.1 to any person who:

(1) requests notice in writing under C.G.S. section 45a-127; or

(2) the court determines has a sufficient interest in the proceedings.

(d) On request of a party or on the court's own motion, the court may remove a person from the list of persons to whom the court will give notice of future proceedings if the court determines that the person is not entitled to notice under subsection (a). The court may act without notice and hearing. If the court removes a person from the list, the court shall notify the person, in writing, of the removal and inform the person that a written request for special notice may be made under C.G.S. section 45a-127.

(C.G.S. section 3-125.)

Section 8.3 Change of address while matter is pending

(a) A party shall inform the court and the fiduciary, if any, of a change in address of the party during the pendency of the matter.

(b) A fiduciary shall use reasonable efforts to keep informed of any change in address of a party to whom the fiduciary owes a fiduciary duty and shall notify the court of the change.

(c) If there is no fiduciary, a petitioner shall use reasonable efforts to keep informed of any change in address of a party during the pendency of the matter and shall notify the court of the change.

Section 8.4 Contents of notice of hearing

A notice of hearing or conference shall include:

(1) a description of the motion or petition to be heard or the subject matter of the conference;

(2) the time and place of the hearing or conference; and

(3) a list of the names and addresses of parties, attorneys and others to whom notice is being sent.

Section 8.5 How notice of hearing given

(a) Unless otherwise required by law, the court shall give notice of hearing or conference to each person entitled to notice under section 8.2 by:

(1) eService to each registered filer and regular mail to each person who is not a registered filer; or

(2) other method that the court determines necessary to notify a person of the hearing.

(b) Notice by mail is complete on mailing. Notice by eService is complete on transmission.

(c) Unless otherwise required by law or directed by the court, the court shall give notice of hearing or conference at least seven days before the hearing or conference.

(d) The court shall certify on the record the date and manner by which notice was given.

(e) If, before commencing a hearing or conference, the court reschedules the hearing or conference to another date and time, the court shall give notice of the rescheduled hearing or conference in accordance with this section. After commencing a hearing or conference at which parties are in attendance, the court may announce the date and time when the hearing or conference will continue without giving additional written notice.

(C.G.S. sections 45a-125 and 45a-126(b).)

Section 8.6 Streamline notice procedure

(a) The streamline notice procedure described in subsections (b) through (f) is an alternative method of notifying the parties of a pending petition. For the types of matters described in subsections (g) and (h), use of the streamline notice procedure under this section satisfies a requirement for notice and hearing under statute or these rules.

(b) When using the streamline notice procedure, the court shall give notice of the right to request a hearing to each person that the court determines is entitled to notice under section 8.2.

(c) A notice of the right to request a hearing shall include a statement that:

(1) the court will, on written request of a party, schedule a hearing on the motion or petition;

(2) the court must receive the written request for a hearing on or before the date specified in the notice; and

(3) the court may approve the motion or petition without a hearing if a written request for a hearing is not received on or before the date specified in the notice.

(d) The court shall give notice of the right to request a hearing at least ten days before the deadline to request a hearing.

(e) If the court receives a timely written request for a hearing, the court shall schedule a hearing and give notice of the hearing.

(f) If the court does not receive a timely written request for a hearing, the court may approve the motion or petition. The court may not deny the motion or petition without scheduling a hearing and giving notice of the hearing.

(g) Except as provided in subsection (i), the court shall use the streamline notice procedure under this section in the following types of matters:

(1) decedents' estates; and

(2) trusts.

(h) Except as provided in subsection (i), the court may use the streamline notice procedure under this section in the following types of matters:

(1) an account of a guardian of the estate of a minor;

(2) an account of a conservator of the estate;

(3) an account of a guardian of an adult with intellectual disability;

(4) a motion to modify visitation orders;

(5) a motion to transfer a probate file between probate courts under C.G.S. section 45a-599 or 45a-677(h);

(6) a motion to transfer a contested children's matter to the Superior Court under C.G.S. section 45a-623 or 45a-715(g); and

(7) a petition to transfer a conservatorship matter to another state or accept a trans-

fer from another state under C.G.S. section 45a-667p or 45a-667q.

(i) The court shall schedule a hearing rather than using the streamline notice procedure for a proceeding specified in subsection (g) or (h) if the court determines that:

(1) the matter is contested or requires testimony or legal argument;

(2) public notice is required to protect the interests of a party;

(3) the circumstances related to the particular petition require the conduct of a hearing with attendance by a party; or

(4) the matter involves the doctrine of cy pres or equitable deviation or the construction of a document that affects a charitable beneficiary or interest.

(C.G.S. sections 45a-124 through 45a-126, 45a-598 and 45a-612; Probate Court Rules, sections 18.1, 18.4 and 18.5.)

Section 8.7 Waiver of notice of hearing

(a) A party may waive the party's right to notice of hearing by filing a written waiver of notice.

(b) A fiduciary identified in section 4.2 may waive notice of hearing on behalf of the individual for whom the fiduciary acts by filing a written waiver of notice.

Section 8.8 Address unknown; notice of hearing returned undelivered

(a) Except as otherwise provided by law, if the name or address of a party is unknown, the court may give public notice of a hearing, appoint a guardian ad litem for the person, dispense with notice or take other appropriate action.

(b) If, before a hearing, notice to a person is returned to the court undelivered, the court may order additional notice, give public notice, appoint a guardian ad litem for the person, dispense with notice or take other appropriate action.

(c) If, after the hearing but before a decree is issued, the court is notified of a new address for a person who might not have received notice of the hearing, the court may delay issuance of the decree for a reasonable period to allow the person to request another hearing or waive notice of hearing. The court shall give notice of the delay, including the period and reason for the delay, to each person that the court determines is entitled to notice under section 8.2.

(d) If, after a decree is issued, the court is notified of a new address for a person who might not have received notice of the hearing, the court shall send a copy of the decree to the person and a statement that the person may wish to consult an attorney.

(e) If a person appears at a hearing for which the person did not receive proper notice, the court may proceed with the hearing unless:

(1) the court determines, on objection raised at the hearing, that the person would be prejudiced by the lack of notice; or

(2) the matter is a conservatorship proceeding and the respondent was not personally served as required under C.G.S. section 45a-649(a)(2).

(C.G.S. sections 45a-128, 45a-187, 45a-609(b) and 45a-716(c); Probate Court Rules, section 40.9.)

Section 8.9 Notice of hearing for member of military service

(a) A party to a proceeding identified under section 7.2(c) who is in the active military service of the United States may file a special appearance indicating the address to which notice can be sent.

(b) If the party does not file a special appearance under subsection (a), the court shall appoint an attorney for the party and send notice of the appointment to each party and attorney of record.

(c) The court shall not issue a final decision in a matter identified in section 7.2(c) unless the requirements of subsection (a) or (b) have been satisfied.

(Servicemembers Civil Relief Act, 50 U.S.C. section 3931.)

Section 8.10 Decree

(a) The court shall send a copy of each decree to each person entitled to notice under section 8.2, free of charge, by transmitting:

(1) a digital image of the decree to each registered filer; and

(2) a paper copy of the decree to each person who is not a registered filer.

(b) On request, the court shall send a paper copy of the decree to a fiduciary bearing the court seal free of charge.

(c) Unless a different time is required by law or directed by the court, the court shall send the decree not later than ten days after the date of the decree.

(d) The court shall certify the date the decree was sent and the persons to whom the decree was sent. The court shall send the certification together with the decree.

(C.G.S. sections 45a-186 and 51-53.)

HISTORY: Rule 8 adopted effective July 1, 2013. Section 8.2 amended effective July 1, 2015. Section 8.10 amended effective July 1, 2017. Sections 8.1, 8.5, 8.6, 8.8 and 8.10 amended effective January 1, 2020.

Rule 9
Counting Time Periods

Section
9.1 Counting time periods
Section
9.2 Extension of time period

Section 9.1 Counting time periods

(a) Unless otherwise required by law, a period of time shall be calculated using calendar days. If a statute or rule establishes a period using business days, the period shall be calculated by excluding Saturdays, Sundays and holidays.

(b) Unless otherwise required by law, a period of time shall be calculated by excluding the day of the act or event with reference to which the period runs. If the period is specified in hours, the hour of the act or event with reference to which the period runs shall be excluded.

(c) Unless otherwise required by law, a period of time shall be calculated by including the last day of the period unless the court is not open on that day. If the court is not open, the period shall extend through the next day the court is open.

(d) Except as provided in subsection (e), a document received by the court through the eFiling system after the posted closing time is deemed filed on the next day that the court is open.

(e) If a registered filer is unable to file a document because the eFiling system is not functional for 30 consecutive minutes during regular court hours on the last day for filing the document, the document is deemed timely filed if received by the court on the next business day that the eFiling system is operational.

Section 9.2 Extension of time period

(a) A party may request extension of a period of time established by court order. The request shall be in writing and made before expiration of the period.

(b) Unless otherwise required by law, the court may act on the request without notice and hearing. The court shall notify each party and attorney of record of its decision.

HISTORY: Rule 9 adopted effective July 1, 2013. Section 9.1 amended effective January 1, 2020.

Rule 10
Continuances

Section
10.1 Continuation of hearing
Section
10.2 Assessment of expenses if hearing continued

Section 10.1 Continuance of hearing

(a) On request of a party or on the court's own motion, the court may continue a scheduled hearing.

(b) The party seeking a continuance shall file a written request as far in advance of the scheduled hearing as possible. The request shall state the reason for the continuance and indicate whether each party has agreed to the continuance.

(c) The party seeking a continuance shall send a copy of the request to each attorney of record and self-represented party and certify to the court that the copy has been sent.

(d) The court may waive the requirements of subsections (b) and (c) if strict adherence will cause injustice.

(e) The court may act on a request for continuance or objection to the request without notice and hearing.

Section 10.2 Assessment of expenses if hearing continued

(a) If the court grants the request of a party for a continuance, the court may assess fees and expenses against the requesting party under C.G.S. section 45a-106a(g) or 45a-107(g).

(b) If the court continues a hearing because a party or attorney for the party failed to attend the hearing, the court may assess fees and expenses against the party under C.G.S. section 45a-106a(g) or 45a-107(g).

HISTORY: Rule 10 adopted effective July 1, 2013. Section 10.2 amended effective July 1, 2017. Section 10.2 amended effective January 1, 2020.

Rule 11

Service of Process on Court as Agent

Section
11.1 Service of process on court as agent

Section 11.1 Service of process on court as agent

(a) If service of process is made on the court as agent for service of process for a nonresident fiduciary, attorney appearing pro hac vice or nonresident personal surety on a probate bond, the court shall record on the served papers the date and hour that service was made.

(b) Not later than two business days after service is made on the court, the court shall send the original served papers, by certified mail, to the fiduciary, attorney or surety and a digital image, by eService, to the attorney for the fiduciary or the Connecticut attorney appearing with the attorney admitted pro hac vice. If the attorney is not a registered filer in the matter, the court shall send the copy by regular mail.

(c) The court shall include a copy of the served papers bearing the notation of the date and hour of service in the permanent official record.

(C.G.S. sections 45a-206(b), 52-60 and 52-61; Probate Court Rules, sections 5.2(a)(2) and 35.3(d).)

HISTORY: Rule 11 adopted effective July 1, 2013. Section 11.1 amended effective January 1, 2020.

Rule 12
Court-appointed Attorney

Section
12.1 When attorney appointed
12.2 Appointment from panel of attorneys maintained by probate court administrator
12.3 Appointment from panel of attorneys maintained by court
12.4 Court-appointed attorney: Rules of Professional Conduct
12.5 Duration of appointment
12.6 Withdrawal from court appointment

Section 12.1 When attorney appointed

(a) The court shall appoint an attorney to represent a party when appointment is required by law.

(b) The court shall appoint an attorney to represent a party when appointment is authorized by law and the court determines that the appointment is necessary to protect the interests of the party.

(c) The court shall send a copy of the appointment to each party and attorney of record.

Section 12.2 Appointment from panel of attorneys maintained by probate court administrator

The court shall appoint an attorney for an unrepresented party from the panel of attorneys maintained by the probate court administrator when appointment is required in the following types of matters:

(1) commitment for treatment of psychiatric disability under C.G.S. section 17a-76 or 17a-498;

(2) involuntary placement of a person with intellectual disability under C.G.S. section 17a-274;

(3) appointment of a special limited conservator under C.G.S. section 17a-543a;

(4) commitment for treatment of drug and alcohol dependency under C.G.S. section 17a-685;

(5) order of quarantine or isolation under C.G.S. sections 19a-131b and 19a-221;

(6) commitment for treatment of tuberculosis under C.G.S. section 19a-265(h);

(7) involuntary appointment of conservator under C.G.S. section 45a-649a;

(8) sterilization under C.G.S. section 45a-694; and

(9) any other statute that requires appointment of an attorney from the panel.

(Probate Court Regulations, section 13.)

Section 12.3 Appointment from panel of attorneys maintained by court

(a) Each court shall maintain a panel of attorneys.

(b) If the appointment of an attorney for an unrepresented party is required by law and the appointment is not governed by section 12.2, the court shall appoint an attorney from the panel maintained under subsection (a).

(c) Notwithstanding subsection (b), the court may appoint an attorney from the panel maintained by the probate court administrator for any matter under this section.

(Probate Court Regulations, section 13.)

Section 12.4 Court-appointed attorney: Rules of Professional Conduct

An attorney appointed to represent a party under rule 12 shall advocate for the client in accordance with the Rules of Professional Conduct.

Section 12.5 Duration of appointment

Unless otherwise required by law, the appointment of an attorney by the court shall continue for the duration of the matter in the Probate Court or until further order of the court.

(C.G.S. section 45a-649a; Connecticut Practice Book section 35a-19(c).)

Section 12.6 Withdrawal from court appointment

On written request of a court-appointed attorney, the court may permit the attorney to withdraw from representation of a party. The court may act on the request without notice and hearing. If the court grants the request, the court shall appoint another attorney and notify each party and attorney of record of the appointment.

(Probate Court Rules, section 5.7.)

HISTORY: Rule 12 adopted effective July 1, 2013. Section 12.2 amended effective January 1, 2020.

Rule 13

Court-appointed Guardian Ad Litem

Section
13.1 Mandatory appointment of guardian ad litem
13.2 Discretionary appointment of guardian ad litem
13.3 Scope of appointment
13.4 Termination of appointment
13.5 Who may serve as guardian ad litem
13.6 Duties of guardian ad litem
13.7 Instruction and advice from court
13.8 Guardian ad litem may appeal from court order

Section 13.1 Mandatory appointment of guardian ad litem

(a) The court shall appoint a guardian ad litem for:

(1) a parent who is a minor or is incompetent in a proceeding under C.G.S. sections 45a-603 through 45a-622 or sections 45a-715 through 45a-719;

(2) a minor child in a proceeding under C.G.S. section 46b-172a;

(3) a parent who is a minor or is incompetent in a proceeding under C.G.S. section 46b-172a;

(4) a relative in a proceeding under C.G.S. section 45a-751b or 45a-753(c) whose identity is sought and whose address is unknown or who appears to be incompetent but has not been adjudicated incompetent by a court; and

(5) a party in a proceeding under any other statute or rule that requires appointment of a guardian ad litem.

(b) The court shall send a copy of the appointment to each party and attorney of record.

(C.G.S. sections 17a-77, 45a-163(a) and 45a-164(d); Probate Court Rules, section 32.3.)

Section 13.2 Discretionary appointment of guardian ad litem

(a) Except as prohibited by C.G.S. section 45a-132, the court may appoint a guardian ad litem for a party:

(1) who is a minor;

(2) who is incompetent or who appears to be incompetent but has not been adjudicated incompetent by a court;

(3) who is undetermined or unborn; or

(4) whose name or address is unknown.

(b) The court may consider the appointment of a guardian ad litem for a party on request of a party or person interested in the welfare of a party or on the court's own motion. The court may act without notice and hearing.

(c) The court may appoint a guardian ad litem under this section only if the court, after considering the legal and financial interests at issue, determines that the appointment is necessary.

(d) In a proceeding involving a conserved person under C.G.S. section 17a-543, 17a-543a or 45a-644 through 45a-663, the procedures under C.G.S. section 45a-132(a) apply.

(e) The court shall send a copy of the appointment to each party and attorney of record.

(C.G.S. sections 45a-603 through 45a-622 and 45a-715 through 45a-719; Probate Court Rules, sections 30.8, 30.9, 32.3 and 40.2.)

Section 13.3 Scope of appointment

(a) The court may limit the scope of appointment of a guardian ad litem to a specific purpose or to answer a specific question.

(b) In a proceeding involving a conserved person under C.G.S. section 17a-543, 17a-543a or 45a-644 through 45a-663, the court shall limit the scope of appointment of a guardian ad litem in accordance with C.G.S. section 45a-132(a).

Section 13.4 Termination of appointment

(a) On request of a party or on the court's own motion, the court may terminate the

appointment of a guardian ad litem at any time if the court determines that a guardian ad litem is no longer needed. The court may act without notice and hearing.

(b) In a proceeding involving a conserved person under C.G.S. section 17a-543, 17a-543a or 45a-644 through 45a-663, the court shall terminate the appointment of a guardian ad litem if required under C.G.S. section 45a-132(a).

Section 13.5 Who may serve as guardian ad litem

(a) The court shall appoint as guardian ad litem an adult whose interests do not conflict with the interests of the person for whom the guardian ad litem will act.

(b) When appointing a guardian ad litem for a person, the court shall:

(1) consider whether the interests of the person require the protection of a guardian ad litem with legal or other professional training;

(2) give preference to a parent, guardian or other family member if the person is a minor, unless the court finds a conflict of interest under subsection (a) or that legal or other professional training is required under subsection (b)(1); and

(3) match the abilities of the guardian ad litem with the needs of the person.

(C.G.S. section 45a-132(d).)

Section 13.6 Duties of guardian ad litem

(a) A guardian ad litem shall:

(1) advocate for the best interests of the person for whom the guardian is acting; and

(2) if the person is a minor, make reasonable efforts to keep each parent or guardian of the minor who is not a party to the matter advised of the actions of the guardian ad litem and the court.

(b) A guardian ad litem may recommend to the court a waiver, election, modification or compromise of the rights or interests of the person for whom the guardian ad litem is acting and may, with approval of the court, effectuate the waiver, election, modification or compromise on behalf of the person.

(c) A guardian ad litem does not have title to, or custody of, property of the person for whom the guardian ad litem is acting.

Section 13.7 Instruction from court

(a) On request of a guardian ad litem or on the court's own motion, the court may give instruction concerning the duties and scope of appointment of the guardian ad litem.

(b) A guardian ad litem and the court shall not engage in ex parte communication. Instruction from the court shall be provided at a hearing or conference or in writing with a copy to each party and attorney of record.

(Probate Court Rules, rule 68.)

Section 13.8 Guardian ad litem may appeal from court order

A guardian ad litem may appeal from a decree affecting the interests of the person for whom the guardian ad litem is acting. Subject to approval of the court, the guardian ad litem may incur necessary expenses in connection with the appeal.

(C.G.S. sections 45a-186 and 45a-187.)

HISTORY: Rule 13 adopted effective July 1, 2013. Sections 13.1 and 13.2 amended effective July 1, 2015. Section 13.7 amended effective January 1, 2020.

Rule 14

Referral to Probate Magistrate and Attorney Probate Referee

Section
14.1 Referral to probate magistrate and attorney probate referee
14.2 Hearing before probate magistrate or attorney probate referee
14.3 Report of probate magistrate or attorney probate referee
14.4 Amendment to report
14.5 Objection to report or amendment
14.6 Hearing on report
14.7 Issuance of decree on report
14.8 Continuance or deferral of court action pending decision on report

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Section 14.1 Referral to probate magistrate and attorney probate referee

(a) Except for a matter involving involuntary conservatorship, involuntary commitment or temporary custody of a minor, the court, with the consent of each party or attorney for the party, may refer a contested petition or motion to a probate magistrate or attorney probate referee. The court shall file a notice of referral and request for assignment of a magistrate or referee with the probate court administrator.

(b) If sufficient funds are available and the administrator determines that assignment of a magistrate or referee is appropriate, the administrator shall assign a magistrate or referee to hear the petition and file a report. The administrator shall assign a magistrate or referee from the panel of magistrates or referees appointed by the Chief Justice of the Supreme Court of Connecticut.

(c) The court shall notify each party and attorney of record of the assignment of a magistrate or referee under this section.

(C.G.S. sections 45a-123 and 45a-123a.)

Section 14.2 Hearing before probate magistrate or attorney probate referee

(a) Unless a continuance is granted, a probate magistrate or attorney probate referee shall commence the hearing on the referred petition not later than 21 days after the assignment under section 14.1(b).

(b) The magistrate or referee shall have all the powers available to a probate judge in the management of a hearing or conference on the petition or motion, including, but not limited to, the authority to supervise discovery, compel the attendance of witnesses and exercise contempt powers.

(c) The magistrate or referee shall cause an audio recording to be made of each hearing under this section. Unless otherwise agreed by the parties under C.G.S. section 51-72, a hearing under this section is not a proceeding on the record for the purposes of an appeal under C.G.S. section 45a-186(a).

(Probate Court Rules, rule 65.)

Section 14.3 Report of probate magistrate or attorney probate referee

(a) Not later than 60 days after the conclusion of the hearing on the petition referred under section 14.1, the probate magistrate or attorney probate referee shall file a report with the referring court.

(b) The report under this section shall contain, in separate and consecutively numbered paragraphs, findings of fact and conclusions of law regarding the petition.

(c) Not later than two business days after the magistrate or referee files the report, the court shall send a copy of the report to each party and attorney of record.

(C.G.S. section 45a-123.)

Section 14.4 Amendment to report

(a) The probate magistrate or attorney probate referee may file an amendment to the report at any time before the court accepts, modifies or rejects the report.

(b) Not later than two business days after the magistrate or referee files an amendment, the court shall send a copy of the amendment to each party and attorney of record.

(C.G.S. section 45a-123.)

Section 14.5 Objection to report or amendment

(a) Not later than 21 days after a report or an amendment to a report is filed under section 14.3 or 14.4, a party may file an objection to the report or amendment. The party shall send a copy of the objection to each party and attorney of record and certify to the court that the copy has been sent.

(b) An objection under this section shall be in writing and shall specify:

(1) each finding or conclusion of law to which the party is objecting; and

(2) the basis for the objection.

(C.G.S. section 45a-123.)

Section 14.6 Hearing on report

(a) If a party files an objection to a report or an amendment to a report under section 14.5, the court shall conduct a hearing on the report or amendment. If no objection is filed during the 21-day period under section 14.5, the court may dispense with notice of hearing and issue a decree accepting the report and any amendment thereto.

(b) When conducting a hearing under subsection (a), the court shall consider only the evidence or testimony presented to the probate magistrate or attorney probate referee.

(c) The court may require a transcription of the audio recording of the hearing or part of the hearing before the magistrate or referee. The party filing the objection under section 14.5 shall pay for the transcription, except that the expense of the transcription shall be paid from the probate court administration fund if the court determines that the objecting party is unable to pay for the transcription.

(C.G.S. sections 45a-111 and 45a-123.)

Section 14.7 Issuance of decree on report

(a) If the court dispenses with notice of hearing under section 14.6 (a), the court shall issue a decree accepting the report not later than 30 days after receipt of the report or, if an amendment was filed, not later than 30 days after receipt of the amendment.

(b) If the court conducts a hearing under section 14.6, the court shall issue a decree accepting, amending or rejecting the report and any amendment thereto not later than 30 days after the conclusion of the hearing.

(c) If the court rejects the report of the probate magistrate or attorney probate referee, the court may hear the petition or refer the matter to the probate court administrator for assignment of another magistrate or referee under section 14.1.

(C.G.S. section 45a-123.)

Section 14.8 Continuance or deferral of court action pending decision on report

If the court determines that a petition referred under this rule must be resolved before the court hears another petition or motion in the same matter, the court may continue a hearing or defer action on the other petition or motion until the court issues the decree on the report of the probate magistrate or attorney probate referee. The court shall give notice of the continuance or deferral to each party and attorney of record.

HISTORY: Rule 14 adopted effective July 1, 2013.

Rule 15

Disqualification of Judge

Section
15.1 Applicability
15.2 When disqualification of judge is required
15.3 Motion for disqualification of judge
15.4 Hearing and decision on motion for disqualification
15.5 Lawsuit or complaint against judge
15.6 Disclosure and waiver of disqualification
15.7 Judge to act for disqualified judge

Section 15.1 Applicability

In this rule, "judge" means probate judge, probate magistrate and attorney probate referee.

(C.G.S. sections 45a-123 and 45a-123a.)

Section 15.2 When disqualification of judge is required

A judge shall disqualify himself or herself if required under C.G.S. section 45a-22, rule 2.11 of the Code of Probate Judicial Conduct or these rules.

(Probate Court Rules, sections 33.3(b) and 40.4(b).)

Section 15.3 Motion for disqualification of judge

(a) A party seeking disqualification of a judge shall file a motion setting forth the grounds for disqualification.

(b) The party shall file the motion for disqualification at least three business days before the hearing on the matter for which disqualification is sought.

(c) The court may waive the requirement of subsection (b) if strict adherence will cause injustice.

(d) The court shall decide the motion for disqualification before hearing the underlying matter.

Section 15.4 Hearing and decision on motion for disqualification

(a) On receipt of a motion for disqualification, the judge shall:

(1) disqualify himself or herself;

(2) conduct a hearing on the issue of disqualification; or

(3) ask the probate court administrator to cite another judge under section 15.7, without recommending or suggesting a judge, to hear and decide the issue of disqualification.

(b) The court shall issue a decree, in writing, on a motion for disqualification. If the court denies the motion, the court shall make findings regarding the grounds set forth in the motion.

(Probate Court Rules, section 3.3.)

Section 15.5 Lawsuit or complaint against judge

(a) A judge is not automatically disqualified from acting on a matter because a party or attorney for the party has a pending lawsuit against the judge or pending complaint about the judge with the Council on Probate Judicial Conduct.

(b) If the judge becomes aware of a lawsuit or complaint about the judge, the judge shall:

(1) disqualify himself or herself; or

(2) advise each party and attorney of record of the lawsuit or complaint and:

(A) conduct a hearing on the issue of disqualification; or

(B) ask the probate court administrator to cite another judge under section 15.7 to hear and decide the issue of disqualification.

(c) Disclosure of a complaint under subsection (b)(2) is not a waiver of confidentiality of proceedings before the council. Any person who has information about a complaint or the council's investigation of the complaint as a result of the disclosure under subsection (b)(2) shall not disclose the information to a third party unless the judge, when making the disclosure, indicates that the judge has waived confidentiality in the proceeding before the council.

(C.G.S. section 45a-63(g).)

Section 15.6 Disclosure and waiver of disqualification

(a) If a judge is not disqualified from acting under C.G.S. section 45a-22, rule 2.11 of the Code of Probate Judicial Conduct or these rules but is aware of information that a party or attorney for a party might consider relevant to the question of disqualification, the judge shall disclose the information, in writing, to each party and attorney of record.

(b) The judge may hear the matter if:

(1) after the disclosure under subsection (a), each party and attorney of record is afforded an opportunity to consider waiver of disqualification outside the presence of the judge; and

(2) no party or attorney files a motion to disqualify the judge under section 15.3.

(c) The written disclosure under this section shall be included in the permanent official record of the matter.

(Probate Court Rules, sections 33.3(b) and 40.4(b).)

Section 15.7 Judge to act for disqualified judge

If a judge disqualifies himself or herself from hearing a matter, the court shall ask the probate court administrator to cite another judge, without recommending or suggesting a judge, to act in the matter under C.G.S. section 45a-120.

HISTORY: Rule 15 adopted effective July 1, 2013. Sections 15.2, 15.5 and 15.6 amended effective July 1, 2017.

Rule 16

Public Access to Hearings and Records

Section
16.1 Public access to hearings and records
16.2 Statutorily confidential matters in general
16.3 Redaction of name or address of party in statutorily confidential matter
16.4 Confidentiality of judge's notes
16.5 Confidentiality of social security numbers
16.6 Motion to close hearing or seal record in nonconfidential matter
16.7 Hearing on motion to close hearing or seal record in nonconfidential matter
16.8 Order to close hearing or seal record in nonconfidential matter
16.9 Public access to motion, hearing and order to close hearing or seal record in nonconfidential matter
16.10 Vacating order to close hearing or seal record
16.11 Power to maintain order during hearings
16.12 Confidentiality of mediation sessions and records

Section 16.1 Public access to hearings and records

(a) Except as otherwise provided by law or directed by the court in accordance with this rule, members of the public may observe hearings, status conferences and hearing management conferences and may view and obtain copies from court records.

(b) No person may access court records through the eFiling system unless the person is a registered filer who has obtained court approval for eFiling access under section 22.2.

(Probate Court Rules, rules 17, 21, 60 and 63.)

Section 16.2 Statutorily confidential matters in general

(a) Except as otherwise ordered by the court, a person who is not a party is not entitled to observe a hearing, status conference or hearing management conference or view or obtain copies from the record in a matter that is confidential under statute. If part, but not all, of the hearing, conference or record is confidential, a person who is not a party is not entitled to observe the confidential part of the hearing or conference or have access to the confidential part of the record.

(b) Except as provided in section 16.3 or rule 17, a party or attorney for a party is entitled to participate in the hearing and to view and obtain copies from the record, including an audio recording or transcript. The court may prohibit a party or attorney from disclosing a confidential record to any other person.

(c) C.G.S. sections 45a-743 through 45a-753 govern access to adoption records.

(d) The court may permit a person who is not a party to attend a hearing on a confidential matter if permitted by law or if all parties consent.

(C.G.S. sections 12-15, 12-398(c), 17a-274(b), 17a-500, 17a-688(a), 19a-265(o), 45a-100(n), 45a-650(c), 45a-670, 45a-692 and 45a-754(a); Probate Court Rules, rule 65 and sections 44.1, 45.1 and 46.1.)

Section 16.3 Redaction of name or address of party in statutorily confidential matter

(a) On motion of a party in a matter that is confidential under statute, the court may redact the name or address of a party, and information that would reveal the name or address of a party, if the court determines that redaction is necessary to protect the safety of a party. The court may use a pseudonym in lieu of the redacted name. The court may act on the motion without notice and hearing.

(b) A party seeking redaction under subsection (a) shall file an affidavit of facts in

support of the request before filing a document containing the name or address.

(c) On motion of a party or on the court's own motion, the court may vacate a redaction order if:

(1) the grounds for redaction no longer exist; or

(2) the order to redact the information was improvidently issued.

The court may act on the motion without notice and hearing.

Section 16.4 Confidentiality of judge's notes

Except as otherwise required by law or directed by the court, notes taken by the judge in connection with a matter are confidential and may not be viewed by any person other than a clerk of the court.

Section 16.5 Confidentiality of social security numbers

See rule 17.

Section 16.6 Motion to close hearing or seal record in nonconfidential matter

(a) A party seeking to close a hearing to the public shall file a motion at least three business days before the hearing on the matter.

(b) A party seeking to seal all or a part of a record shall file a motion before filing a document that is the subject of the motion. The motion to seal may request use of a pseudonym in lieu of the name of a party or redaction of other information.

(c) A motion to close a hearing or seal a record under subsection (a) or (b) shall set forth the grounds for the proposed action.

(d) The court may initiate a proceeding to close a hearing or seal a record on its own motion.

Section 16.7 Hearing on motion to close hearing or seal record in nonconfidential matter

(a) The court shall give notice of the hearing on a motion to close a hearing to the public or seal a record to each party and attorney of record. The court shall post notice of the time, date and place of the hearing at a location in or adjacent to the court that is accessible to the public. The court may, in addition, give notice by another method if necessary to notify the public of the hearing.

(b) Any person whom the court determines to have an interest in the proceeding may present evidence and argument concerning the public and private interests at issue.

(Probate Court Rules, rule 8.)

Section 16.8 Order to close hearing or seal record in nonconfidential matter

(a) After conducting a hearing under section 16.7, the court may order that all or a part of a hearing be closed to the public or all or a part of a record be sealed if the court finds that:

(1) closure or sealing is necessary to preserve an interest that overrides the public interest in open court proceedings and access to the record;

(2) there are no reasonable alternatives to closure or sealing, including sequestration of witnesses or redaction or use of pseudonyms; and

(3) the order is no broader than necessary to protect the overriding interest.

(b) An agreement by the parties to close a hearing or seal a record is not a sufficient basis to order closure or sealing.

(c) If the court issues an order to close a hearing or seal a record, the court shall specify:

(1) the interest being protected that overrides the public interest in open court proceedings and access to the record;

(2) the alternatives to closure or sealing that the court considered and the reasons why the alternatives were unavailable or inadequate;

(3) the basis for the determination that the order is no broader than necessary to protect the interest that overrides the public interest; and

(4) the scope and duration of the order.

Section 16.9 Public access to motion, hearing and order to close hearing or seal record in nonconfidential matter

(a) Except as provided in subsection (b), members of the public may view and obtain copies of a motion to close a hearing to the public or seal a record and the order granting or denying the motion. Members of the public may observe the hearing on the motion.

(b) If a motion to close a hearing or seal a record is granted, the court may, in extraordinary circumstances, seal part of the motion and part of the order granting the motion.

Section 16.10 Vacating order to close hearing or seal record

On motion of a party or on the court's own motion, after notice and hearing, the court may vacate an order to close a hearing to the public or seal a record if:

(1) the grounds for closing the hearing or sealing the record no longer exist;

(2) the order was improvidently issued; or

(3) the interest protected by the order no longer outweighs the public interest in open court proceedings and access to the record.

Section 16.11 Power to maintain order during hearings

If a person is disruptive during a hearing, the court may take reasonable steps to maintain order and ensure a fair and expeditious hearing for the parties, including the imposition of limitations on access to the hearing.

(Probate Court Rules, rule 71.)

Section 16.12 Confidentiality of mediation sessions and records

See section 21.7.

HISTORY: Rule 16 adopted effective July 1, 2013. Section 16.12 adopted effective July 1, 2017. Section 16.1 amended effective January 1, 2020.

Rule 17

Confidentiality of Social Security Numbers

Section
17.1 Omission or redaction of social security number
17.2 When social security number required
17.3 When social security number not required
17.4 Original documents
17.5 Disclosure to state and federal agencies

Section 17.1 Omission or redaction of social security number

Unless otherwise required by law or directed by the court, or as required on a form published by the probate court administrator or DRS, a person shall not file a document with the court that includes a social security number or employer identification number. A person may redact a social security number or employer identification number from a document if necessary to comply with this rule. The responsibility for omitting or redacting a social security number or employer identification number rests solely with the person filing the document. The court need not review any filed document for compliance with this rule.

Section 17.2 When social security number required

(a) If a social security number or employer identification number is required in connection with a proceeding, the number shall be reported on a separate page.

(b) The separate page containing the social security number or employer identification number shall be confidential. The court shall not include the separate page in the permanent official record for the matter and shall not disclose the number to any person, including a party, except that the court may disclose the number if the court determines that a person requires the number for a proper purpose related to the proceeding.

Section 17.3 When social security number not required

(a) If a person files a document that includes a social security number or employer identification number in a proceeding in which the number is not required, the court may:

(1) return the document and direct the person to resubmit the document without the number; or

(2) redact the number.

(b) Nothing in this rule shall require a court to return a document that contains a social security number or employer identification number or to redact the number.

Section 17.4 Original documents

If necessary to avoid modification of an original document containing a social security number or employer identification number, the court may redact the number from a copy of the document and seal the original.

Section 17.5 Disclosure to state and federal agencies

Notwithstanding the provisions of this rule, the court may disclose a social security number or employer identification number to an agency of this state or the federal government or any law enforcement agency.

HISTORY: Rule 17 adopted effective July 1, 2013. Section 17.2 amended effective July 1, 2017.

Rule 18

Transfer of Matter between Probate Courts

Section
18.1 Transfer of guardianship matter
18.2 Transfer of conservatorship matter
18.3 Transfer of initial petition
18.4 Consolidation of children's matters
18.5 Transfer of children's matter to Regional Children's Probate Court

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Section 18.1 Transfer of guardianship matter

(a) On motion of a person authorized by C.G.S. section 45a-599 or 45a-677, the court may transfer a guardianship matter to another Probate Court if the transferring court finds that an adult with intellectual disability or a minor has become a resident of the other probate district and that the transfer is in the best interests of the adult with intellectual disability or the minor. The court may act on the motion without notice and hearing or may use the streamline notice procedure.

(b) If the court has established a trust under C.G.S. section 45a-151 or 45a-655 and the guardianship for the beneficiary of the trust is transferred under section 18.1(a), the court may, on motion of a person authorized by C.G.S. section 45a-599 or 45a-677 to request a transfer of the guardianship, transfer the trust to the probate district to which the guardianship has been transferred. The court may act on the motion without notice and hearing.

(Probate Court Rules, section 8.6.)

Section 18.2 Transfer of conservatorship matter

(a) On motion of a person authorized by C.G.S. section 45a-661, the court shall transfer a conservatorship matter to another Probate Court if the transferring court finds that:

(1) a person under conservatorship has become a resident of the other probate district; and

(2) the requested transfer is the preference of the person under conservatorship.

(b) If a transfer is required under C.G.S. section 45a-661, the court may issue a decision on a pending petition or motion before ordering the transfer.

(c) If the court has established a trust under C.G.S. section 45a-151 or 45a-655 and the conservatorship for the beneficiary of the trust is transferred under section 18.2(a), the court may, on motion of a person authorized by C.G.S. section 45a-661 to request a transfer of the conservatorship, transfer the trust to the probate district to which the conservatorship has been transferred. The court may act on the motion without notice and hearing.

Section 18.3 Transfer of initial petition

If the court finds that it does not have jurisdiction to hear a petition seeking to initiate a matter but that another Probate Court in this state does have jurisdiction to hear the matter, the court shall transfer or dismiss the petition in accordance with C.G.S. section 45a-98d.

Section 18.4 Consolidation of children's matters

(a) On motion of a party or on the court's own motion, a court may transfer a matter concerning guardianship of the person of a minor under C.G.S. sections 45a-603 through 45a-625 or termination of parental rights under C.G.S. sections 45a-715 through 45a-719 to another Probate Court if the transferring court finds that:

(1) a prior matter concerning the same minor is pending or continuing in the other court; and

(2) the transfer is in the best interests of the minor.

(b) The court may act on a motion under subsection (a) without notice and hearing or may use the streamline notice procedure.

(Probate Court Rules, section 8.6; C.G.S. section 45a-599.)

Section 18.5 Transfer of children's matter to Regional Children's Probate Court

(a) On motion of a party or on the court's own motion, a court that does not participate in a Regional Children's Probate Court may transfer a children's matter to a children's court.

(b) Before deciding a motion to transfer, the court shall consult with the administrative judge of the children's court concerning the resources available at the children's court to handle the matter.

(c) A matter transferred under this section may be heard by the transferring judge or a judge who participates in the children's court.

(C.G.S. sections 45a-8a, 45a-623 and 45a-715(g).)

HISTORY: Rule 18 adopted effective July 1, 2013. Sections 18.1 and 18.2 amended effective July 1, 2015. Section 18.3 adopted effective July 1, 2017. Sections 18.1, 18.2 and 18.3 amended and sections 18.4 and 18.5 adopted effective January 1, 2020.

Rule 19

Pending Matter in Another Court

Section
19.1 Duty to notify court of pending matter in another court

Section 19.1 Duty to notify court of pending matter in another court

Upon becoming aware that matters are pending in more than one court concerning the same person or estate, a party shall immediately notify, in writing, each court in which a matter is pending.

(C.G.S. sections 45a-98a, 45a-667 through 45a-667v and 46b-115 through 46b-115t; Probate Court Rules, rules 41 and 42.)

HISTORY: Rule 19 adopted effective July 1, 2013. Section 19.1 amended effective January 1, 2020.

Rule 20

Court Approval of Fiduciary Action

Section
20.1 Petition for approval or instruction
20.2 Petition to compel or prohibit action by fiduciary
20.3 Applicability of other law

Section 20.1 Petition for approval or instruction

A fiduciary may petition the court to approve a proposed action, ratify a previously taken action or provide instruction to address a specific situation.

*(*Gross *v.* Rell*, 304 Conn. 234, 40 A.3d 240 (2012).)*

Section 20.2 Petition to compel or prohibit action by fiduciary

A party may petition the court to compel or prohibit an action by a fiduciary. The court may grant a petition to compel an action only if the failure to take the action would be a breach of fiduciary duty or abuse of discretion. The court may grant a petition to prohibit an action only if the action would be a breach of fiduciary duty or abuse of discretion.

Section 20.3 Applicability of other law

Nothing in this rule shall be construed to abrogate any other provision of law that governs the fiduciary's action.

History: Rule 20 adopted effective July 1, 2017.

Rule 21
Probate Mediation

Section
21.1 Referral to mediation
21.2 Notice; time and location of mediation session
21.3 Conduct of mediation session
21.4 Termination and withdrawal
21.5 Mediator to inform court whether settlement achieved
21.6 Ex parte communications
21.7 Confidentiality
21.8 Private mediation

Section 21.1 Referral to mediation

(a) On motion of a party or on the court's own motion, the court may refer a contested matter to a member of the mediation panel established by the probate court administrator if the parties file an agreement to mediate with the court under which the parties:

(1) agree to participate in mediation;

(2) summarize the issues that will be the subject of mediation; and

(3) agree to the allocation of mediation fees under C.G.S. section 45a-106a(e) or section 45a-107(k).

(b) The parties may designate a mediator from the panel to conduct the mediation. The court shall refer the matter to the designated mediator or, if the parties have not designated a mediator from the panel, to a panel member selected by the court.

(Probate Court Regulations, section 22.)

Section 21.2 Notice; time and location of mediation session

(a) The court shall give notice of a mediation session to each party and attorney of record. The notice shall instruct the parties to be available for a minimum of eight hours from the starting time of the mediation session.

(b) A mediation session may be held at the court or at any other location in the state.

Section 21.3 Conduct of mediation session

(a) The mediator shall facilitate voluntary resolution of the contested matter. While conducting mediation, the mediator may meet with:

(1) all parties and attorneys;

(2) a party or group of parties and, if represented, the attorney for each party; or

(3) one or more attorneys.

(b) The mediator may schedule an additional mediation session upon concluding that further mediation will facilitate settlement. The court shall give notice of an additional mediation session in accordance with section 21.2(a).

Section 21.4 Termination and withdrawal

(a) The mediator may terminate the mediation at any time upon concluding that further efforts to mediate the dispute would be futile.

(b) A party may withdraw from mediation at any time upon giving written notice to the mediator, the court and each party and attorney of record. The mediation terminates when a party gives notice of withdrawal.

Section 21.5 Mediator to inform court whether settlement achieved

At the conclusion of the mediation, the mediator shall inform the court, in writing, whether a settlement was achieved. If the mediation results in resolution of the matter, the mediator shall, unless otherwise agreed by the parties, attach a copy of any settlement agreement. The court shall send a copy of the mediator's communication to each party and attorney of record.

Section 21.6 Ex parte communications

Except as provided in section 21.5, the judge who refers a matter for mediation and the mediator who conducts the mediation shall refrain from ex parte communications in all but administrative issues with respect to the matter that is the subject of the mediation.

Section 21.7 Confidentiality

(a) Mediation sessions are closed to the public, provided that the mediator may permit members of the public to observe sessions if all parties consent.

(b) Except as provided in subsections (c) and (d), records relating to the mediation are confidential and are not open to inspection by the parties, their attorneys or the public.

(c) The following records are open to inspection by the parties, their attorneys and the public:

(1) the motion for referral to mediation under section 21.1;

(2) the agreement to mediate under section 21.1;

(3) an order of notice issued by the court;

(4) the mediator's communication under section 21.5; and

(5) any settlement agreement filed with the court.

(d) If a party submits a document to the mediator, the mediator may disclose the document to other participants in the mediation only if the party consents to disclosure.

Section 21.8 Private mediation

Nothing in this rule shall be construed to preclude parties from engaging a private mediator without a referral under section 21.1. This rule does not apply to private mediation.

History: Rule 21 adopted effective July 1, 2017.

Rule 22
eFiling

Section
22.1 Registration for eFiling system
22.2 eFiling access in a matter
22.3 When eFiling mandatory

Section 22.1 Registration for eFiling system

(a) Except as provided in subsection (c), an attorney who appears or is appointed by the court in a probate matter shall register for the eFiling system. Registration for the system is optional for all other persons.

(b) A registered filer shall comply with the standards established by the probate court administrator for use of the system.

(c) The administrator may excuse an attorney from the requirement to use the system if the attorney is unable due to disability.

Section 22.2 eFiling access in a matter

(a) No person may access an existing matter through the eFiling system unless the person is:

(1) a registered filer who has requested eFiling access to the matter; and

(2) a party or an attorney or guardian ad litem for a party in the matter.

(b) By requesting eFiling access, a person agrees to receive eService of filings, notices, decrees and other documents and to waive any other form of notice specified in statute or rule.

(c) The court shall approve a person's request for eFiling access to an existing matter on verification that the person is a party to the matter.

(d) The court shall approve an attorney's request for eFiling access to an existing matter on:

(1) receipt of the attorney's appearance on behalf of a party in the matter;

(2) appointment of the attorney to represent a party in the matter; or

(3) admission of an out-of-state attorney to appear pro hac vice in the matter.

(e) The court shall approve the request of a court-appointed guardian ad litem for eFiling access to an existing matter.

(f) Court approval is not required to eFile a petition that commences a new matter or an appearance as an attorney in a matter.

(Probate Court Rules, rules 5, 8, 12 and 13.)

Section 22.3 When eFiling mandatory

If the court grants a registered filer eFiling access to a matter, the filer:

(1) shall eFile all documents in the matter, except as provided in section 7.1a;

(2) shall receive all filings, notices, decrees and other documents in the matter by eService; and

(3) may view and download information and documents in the matter through the eFiling system.

(Probate Court Rules, rules 8 and 16.)

History: Rule 22 adopted effective January 1, 2020.

Rules 23 through 29 are reserved for future use.

RULES FOR SPECIFIC CASE TYPES

Rule 30
Decedents' Estates

Section
30.1 When streamline notice procedure may be used in decedent's estate proceeding
30.2 Death certificate or other proof of death
30.3 Court may require petitioner to submit family tree
30.4 Court to inform petitioner of purported will in its custody
30.5 Notice in proceeding to grant administration of intestate estate
30.6 Notice in proceeding to admit will to probate
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30.25 Construction, title and cy pres petition relating to decedent's estate
30.26 Withholding of distribution when heir or beneficiary charged with certain crimes

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Section 30.1 When streamline notice procedure may be used in decedent's estate proceeding

See rule 8.6.

Section 30.2 Death certificate or other proof of death

A petitioner seeking admission of a purported will to probate or the grant of administration for the estate of an intestate decedent shall accompany the petition with a copy of the decedent's death certificate. If the petitioner is unable to obtain a death certificate for the decedent, the petitioner may present other evidence to prove the decedent's death.

(C.G.S. section 45a-329.)

Section 30.3 Court may require petitioner to submit family tree

If necessary to determine the decedent's heirs, the court may require a petitioner seeking admission of a purported will to probate or the grant of administration of the estate

of an intestate decedent to submit a family tree that illustrates the decedent's family relationships or other reasonably available information about the identity of the decedent's family members.

(C.G.S. sections 45a-286 and 45a-303(b).)

Section 30.4 Court to inform petitioner of purported will in its custody

(a) If a petitioner seeks admission of a purported will to probate and the court has another purported will for the same decedent in its custody, the court shall advise the petitioner of the existence of the other purported will. The petitioner shall provide the name and address of the executor and each beneficiary under the other purported will.

(b) If a petitioner seeks the grant of intestate administration of an estate and the court has a purported will for the same decedent in its custody, the court shall notify the petitioner of the existence of the purported will. The petitioner shall provide the name and address of the executor and each beneficiary under the purported will. The court shall schedule a hearing on the admission of the purported will before acting on the petition for intestate administration. If no executor or beneficiary under the purported will appears at the hearing to advocate for admission of the purported will, the court shall appoint a temporary administrator to advocate for admission.

(C.G.S. sections 45a-316 and 45a-317.)

Section 30.5 Notice in proceeding to grant administration of intestate estate

(a) The court shall send notice of hearing on a petition seeking the grant of administration of the estate of an intestate decedent to:

(1) each of the decedent's heirs;

(2) the proposed administrator;

(3) the petitioner;

(4) the executor of each purported will in the custody of the court;

(5) the beneficiaries under any purported will in the custody of the court;

(6) each attorney of record; and

(7) other persons as the court determines.

(b) The court shall send a copy of the decree to each person listed in subsection (a). If the court grants the petition, the court shall also send notice of the grant of administration, which shall include:

(1) a list of the heirs;

(2) the name and address of the administrator;

(3) a statement indicating whether the administrator is required to submit a probate bond and advising the heirs of their right to request a bond; and

(4) a statement indicating that the heirs may address any questions regarding the estate to the administrator.

(C.G.S. section 45a-303; Probate Court Rules, section 7.2 and rule 8.)

Section 30.6 Notice in proceeding to admit will to probate

(a) The court shall send notice of hearing on a petition to admit a purported will to probate to:

(1) each of the decedent's heirs;

(2) each beneficiary, including the trustee of any inter vivos trust, under the purported will being offered for probate;

(3) each current and presumptive remainder beneficiary of a trust established under the purported will being offered for probate;

(4) the Attorney General, if a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest;

(5) the proposed executor or administrator;

(6) the petitioner;

(7) each beneficiary, including the trustee of any inter vivos trust, under any other purported will of the decedent in the custody of the court;

(8) each current and presumptive remainder beneficiary of a trust established under any other purported will of the decedent in the custody of the court;

(9) each attorney of record; and

(10) other persons as the court determines.

(b) The court shall send a copy of the decree to each person listed in subsection (a). If the court admits the will to probate, the court shall also send notice of the admission

of the will to probate, which notice shall include:

(1) a list of the beneficiaries named in the will and the names of the current and presumptive remainder beneficiaries under any trust established under the will;

(2) the name and address of the executor or administrator;

(3) a statement indicating whether the executor or administrator is required to submit a probate bond and advising the beneficiaries of their right to request a bond; and

(4) a statement indicating that the beneficiaries may address any questions regarding the estate to the executor or administrator.

(C.G.S. section 45a-286; Probate Court Rules, section 7.2 and rule 8.)

Section 30.7 Petitioner seeking admission of purported will to send copy to parties

A petitioner seeking admission of a purported will to probate shall send a copy of the petition and the will to each person listed under section 30.6(a) and shall certify to the court that the copies have been sent.

(C.G.S. sections 45a-282 and 45a-283.)

Section 30.8 Appointment of guardian ad litem in proceeding to admit purported will to probate

(a) In a proceeding for the admission of a purported will to probate, the court may appoint a guardian ad litem for an heir or beneficiary of a decedent's estate as provided in section 13.2 if:

(1) in the case of an heir, the court determines that the heir would likely receive a greater share of the estate if the decedent died intestate than under the purported will that is being offered for probate;

(2) in the case of a beneficiary under a purported will in the custody of the court that is not being offered for probate, the court determines that the beneficiary would receive a greater share of the estate under the will that is not being offered for probate than under the will that is being offered for probate; or

(3) in the case of a beneficiary under a purported will being offered for probate, the court determines that a guardian ad litem is necessary to protect the interests of the beneficiary.

(b) Except as otherwise directed by the court, a guardian ad litem appointed under subsection (a) shall make reasonable efforts to verify that each heir or beneficiary whose name or address is unknown cannot be located but is not required to conduct an exhaustive search for the heir or beneficiary. If the guardian ad litem is unable to locate an heir or beneficiary or if the heir or beneficiary is a minor or is incompetent, undetermined or unborn, the guardian ad litem shall verify that the will was duly executed and make inquiry of appropriate persons to determine whether a reasonable basis exists to challenge the validity of the will. The guardian ad litem shall advise the court in writing whether the guardian ad litem objects to the admission of the will. If the guardian ad litem objects to admission of the will, the guardian ad litem shall request a hearing on the petition and shall present evidence in support of the objection.

(c) The appointment of a guardian ad litem under this section shall terminate on the admission of the will to probate and the disposition of any appeal from the admission of the will unless the court determines that a guardian ad litem is necessary under section 30.9.

(C.G.S. sections 45a-132 and 45a-188.)

Section 30.9 Appointment of guardian ad litem in intestate estate or after admission of will

(a) In any proceeding concerning an intestate estate or concerning a testate estate after the admission of the will, the court may appoint a guardian ad litem for an heir or beneficiary as provided in section 13.2 if the court determines that a guardian ad litem is necessary to protect the interests of the heir or beneficiary.

(b) Except as otherwise directed by the court, a guardian ad litem appointed under this section shall take reasonable steps to locate each heir or beneficiary whose location is unknown. If the guardian ad litem is unable to locate the heir or beneficiary or if the heir or beneficiary is a minor or is incompetent, undetermined or unborn, the guardian ad

litem shall review each petition concerning the estate and the overall management of the estate. The guardian ad litem shall advise the court in writing whether the guardian ad litem objects to any petition and may petition the court for review of any action of the executor or administrator to which the guardian ad litem objects. If the guardian ad litem objects to a petition or petitions the court for review of an action by the executor or administrator, the guardian ad litem shall request a hearing and shall present evidence in support of the objection or petition.

(C.G.S. sections 45a-132, 45a-163(a), 45a-164(d) and 45a-188.)

Section 30.10 Notice in testate estates after admission of will

After sending a copy of the decree admitting a will to probate and the notice required under section 30.6(b), the court is not required to give notice of subsequent proceedings to the decedent's heirs or beneficiaries under any purported will not admitted to probate unless requested under C.G.S. section 45a-127.

(C.G.S. section 45a-293; Probate Court Rules, rule 8.)

Section 30.11 Notice when heir or beneficiary is a foreign citizen

If the court is aware that an heir or beneficiary is a citizen of a foreign country and if required by treaty between the United States and the country of which an heir or beneficiary is a citizen, the court shall send the decree admitting a will to probate or granting administration of the estate of an intestate decedent to the embassy or consulate of the country of the heir or beneficiary.

Section 30.12 Executor or administrator to send copy of inventory, status update, financial report or account and affidavit of closing to each party and attorney

(a) Except as provided in subsection (c), the executor or administrator of an estate shall send a copy of the inventory, each supplemental or substitute inventory, each status update, each financial report or account and the affidavit of closing, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent. An executor or administrator who submits an affidavit in lieu of administration as a substitute for an inventory or account under section 30.23 shall send copies of the affidavit in accordance with this subsection.

(b) If a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, the executor shall send a copy of the inventory, each supplemental or substitute inventory, each status update, each financial report or account and the affidavit of closing, at the time of filing, to the Attorney General and shall certify to the court that the copy has been sent.

(c) The executor or administrator is excused from the requirement of sending copies under subsections (a) and (b) to any beneficiary of a specific bequest who has acknowledged, in writing, receipt of the bequest. The executor or administrator shall file a copy of the acknowledgment with the court. After receipt of the acknowledgment, the court shall not send notice of any subsequent proceeding to the beneficiary unless the court grants special notice under C.G.S. section 45a-127.

(C.G.S. sections 45a-175 and 45a-341.)

Section 30.13 Conflicting petitions for appointment of commissioner of administrative services as legal representative and settlement using small estates procedure

If the commissioner of administrative services seeks appointment as legal representative of a decedent's estate under C.G.S. section 4a-16, the court shall dismiss an affidavit in lieu of administration concerning the same estate that was not acted on before the court's receipt of the commissioner's application. The court may act without notice and hearing. The court shall send a copy of the decree dismissing the affidavit to the petitioner and the commissioner.

(C.G.S. section 45a-273.)

Section 30.14 Settlement of claims in favor of decedent's estate

(a) An executor or administrator may file a petition seeking authority to settle a claim in favor of the estate. The executor or administrator shall accompany the petition with a settlement statement that includes:

(1) the gross amount of the proposed settlement;

(2) an itemized list of expenses associated with the settlement, including any proposed attorney's fee;

(3) the total amount of liens for medical expenses;

(4) the total amount of liens for public assistance;

(5) the anticipated net proceeds that the estate will receive; and

(6) the terms of a proposed structured settlement, if any.

(b) The executor or administrator shall present evidence that the proposed settlement is in the best interests of the estate. The court may require the executor or administrator to submit additional information, including, but not limited to:

(1) police reports;

(2) medical reports;

(3) medical expenses; and

(4) health, liability and uninsured motorist insurance coverage.

(c) The court may approve the proposed settlement if the court determines that the settlement is in the best interests of the estate.

(d) The executor or administrator shall file an inventory or supplemental or substitute inventory showing the proceeds of the settlement not later than 30 days after receipt.

(C.G.S. section 45a-151.)

Section 30.15 Sale of real property from decedent's estate

(a) An executor or administrator may file a petition seeking authority to sell real property by private sale. The executor or administrator shall accompany the petition with a copy of the contract of sale and, if not previously filed, an inventory or supplemental or substitute inventory that lists the property and includes a copy of the deed.

(b) The executor or administrator shall present evidence regarding the fair market value of the property. The court may require the executor or administrator to submit a comparative market analysis, appraisal, municipal assessment or other information about the value of the property.

(c) The court may require the executor or administrator seeking authority to sell the property to submit a return of claims.

(d) Notice of hearing on the petition shall not be required to be made by publication unless the court determines that notification of the public is necessary to protect the interests of the estate.

(e) The court may excuse notice of hearing on the petition if all parties waive notice. If a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, the court may excuse notice only if the Attorney General joins the other parties in waiving notice.

(f) The court may approve the sale of the property if the court determines that the sale is in the best interests of the estate.

(g) If a prospective purchaser other than the buyer identified in the petition indicates that the prospective purchaser is willing to pay a price that is higher than the amount specified in the contract of sale, the court may deny the petition and order a public sale or take other action as the court determines to be in the best interests of the estate.

(C.G.S. sections 45a-164 through 168, 45a-317(c), 45a-324 through 45a-327, 45a-341(e), 45a-427 and 45a-428.)

Section 30.16 Distribution from estate to minor or beneficiary who is incapable of managing his or her affairs

(a) Except as provided by will, an executor or administrator shall not make distribution to, or on behalf of, an adult heir or beneficiary who has been adjudicated incapable of managing his or her affairs unless a conservator of the estate has been appointed or a court has determined that adequate alternative arrangements for the management of the financial affairs of the heir or beneficiary have been established. The court may require proof of the authority of a conservator or other representative to receive property on behalf of the heir or beneficiary.

(b) Except as provided by will, an executor or administrator shall not make distribution to, or on behalf of, an heir or beneficiary who is a minor residing in this state if the total amount of distributions from the estate is anticipated to exceed the amount under C.G.S. section 45a-631 unless a guardian of the estate has been appointed for the minor. If the minor resides outside this state, the

executor or administrator shall not make distribution to, or on behalf of, the minor unless a guardian has been appointed for the minor under C.G.S. section 45a-632 or 45a-635 or the court has approved distribution in accordance with the requirements of the jurisdiction of residence concerning the management of estates of minors. The court may require proof of the authority of a guardian of the estate or other legal representative to receive property on behalf of the minor.

(C.G.S. sections 45a-558b, 45a-636 and 45a-650; Probate Court Rules, section 4.2.)

Section 30.17 Mutual distribution agreement

(a) In an intestate estate, a mutual distribution agreement is valid if all the heirs execute the agreement in accordance with the requirements of C.G.S. section 45a-433(b). A mutual distribution agreement under this subsection may provide for distribution of property to a person other than an heir.

(b) In a testate estate, a mutual distribution agreement is valid if all the beneficiaries whose interests are affected by the distribution execute the agreement in accordance with the requirements of C.G.S. section 45a-434. If a beneficiary under the will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, a mutual distribution agreement is valid only if the Attorney General is party to the agreement. A mutual distribution agreement under this subsection may provide for distribution of property to a person other than a beneficiary under the will.

Section 30.18 Distribution that bypasses inoperative trust

An executor or administrator who proposes distribution from an estate directly to the beneficiaries of an inoperative trust rather than to the trustee shall file a motion for authorization to bypass the trust under C.G.S. section 45a-482. The court may hear the motion at the same time as the final financial report or account.

Section 30.19 When executor or administrator to submit financial report or account

(a) An executor or administrator shall submit a final financial report or account when the executor or administrator has completed settlement of a decedent's estate or when the executor or administrator seeks to resign or is removed by the court.

(b) The fiduciary of the estate of an executor or administrator who dies while administering a decedent's estate shall file a final financial report or account on behalf of the deceased executor or administrator.

(c) On motion of a party or on the court's own motion, the court may direct the executor or administrator to file an interim financial report or account if necessary to protect the interests of the estate.

(d) An executor or administrator may submit a final financial report or account simultaneously with a petition for determination of insolvency under C.G.S. section 45a-383.

(C.G.S. sections 45a-175 and 45a-180.)

Section 30.20 Required contents of financial report or account of executor or administrator

See rules 36 through 38.

Section 30.21 When executor or administrator to submit status update

(a) Not later than three months after the first anniversary of the appointment of an executor or administrator and on each anniversary date thereafter, an executor or administrator who has not submitted an interim or final financial report or account shall submit an update on the status of the estate, which status update shall include:

(1) the approximate amount of distributions already made to the heirs or beneficiaries;

(2) the approximate amount of the estate on hand on the date of the status update; and

(3) the reasons why administration has not been completed.

(b) On motion of a party or on the court's own motion, the court may order the executor or administrator to take specific steps to expedite the administration of the estate.

(C.G.S. section 45a-175.)

Section 30.22 When inventory and final financial report or account excused

(a) The temporary administrator of a decedent's estate may petition the court to excuse the requirement of an inventory and final

financial report or account by submitting a statement signed under penalty of false statement that the administrator did not take control of any assets or income of the estate. The administrator shall send a copy of the statement, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) The court may excuse the requirement that the temporary administrator submit an inventory and final financial report or account if the court determines that the administrator did not take control of any assets or income of the estate.

(c) The executor or administrator of a decedent's estate may petition the court to excuse the requirement of an inventory and final financial report or account by submitting a statement signed under penalty of false statement that the estate has no assets and, if not previously filed, a return of claims. The executor or administrator shall send a copy of the statement, at the time of filing, to each party, creditor and attorney of record and shall certify to the court that the copy has been sent.

(d) When giving notice of the hearing on the acceptance of the statement under subsection (c), the court shall send notice to each creditor listed on the return of claims, in addition to notice to each party and attorney of record. The court may excuse the requirement that the executor or administrator submit an inventory and final financial report or account if the court determines that the estate has no assets.

(C.G.S. sections 45a-175, 45a-317 and 45a-341.)

Section 30.23 Affidavit to settle full estate

(a) If a decedent's estate is opened as a full estate but is subsequently determined to be eligible for settlement as a small estate under C.G.S. section 45a-273, the executor or administrator may submit an affidavit on a form published by the probate court administrator as a substitute for the inventory, return of claims and final account. The fiduciary shall send a copy of the affidavit, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) The court may, after notice and hearing, approve the affidavit as a final account if it determines that the affidavit is sufficient to review the fiduciary's management of the estate.

(C.G.S. sections 45a-175, 45a-341 and 45a-361.)

Section 30.24 Administrative closure of decedent's estate

(a) The court may, after notice and hearing, close a decedent's estate administratively before receipt of a final financial report or account and before expiration of the period specified in C.G.S. section 45a-331 if the court finds that:

(1) the clerk has made reasonable efforts to remind the executor or administrator, in writing, of the requirements to complete the administration;

(2) the executor or administrator has neglected or refused to complete administration;

(3) appointment of a successor executor or administrator would serve no useful purpose; and

(4) no party objects to the administrative closure.

(b) The administrative closure of an estate shall not relieve the executor or administrator from any liability or obligation. Except as provided in C.G.S. section 45a-331, the court shall not release any existing probate bond or restricted account.

(c) The court may, at any time and without notice and hearing, reopen an estate that has been administratively closed.

(Probate Court Rules, rule 8.)

Section 30.25 Construction, title and cy pres petition relating to decedent's estate

(a) If the court declines jurisdiction to hear a construction, title or cy pres petition concerning a decedent's estate under C.G.S. section 45a-98a(a), the court shall send written notice of the declination to each party and attorney of record.

(b) If a beneficiary under a will or any current or presumptive remainder beneficiary of a trust established under the will is a charity or charitable interest, the court shall send written notice of the declination to the Attorney General.

(Probate Court Rules, section 8.10.)

Section 30.26 Withholding of distribution when heir or beneficiary charged with certain crimes

On motion of the victim advocate, state's attorney or official having an equivalent role in another jurisdiction or on motion of a party or court-appointed guardian ad litem, the court shall direct the executor or administrator to withhold any distribution to an heir or beneficiary if the court finds that the heir or beneficiary has been charged with a crime listed under C.G.S. section 45a-447. On final disposition of the charge, the court shall determine the eligibility of the heir or beneficiary to receive distributions under C.G.S. section 45a-447.

HISTORY: Rule 30 adopted effective July 1, 2013. Sections 30.4, 30.5, 30.6, 30.11, 30.12, 30.13, 30.15, 30.16, 30.18, 30.22, 30.23 amended and section 30.26 adopted effective July 1, 2015. Sections 30.4, 30.12, 30.14, 30.15 and 30.22 amended effective July 1, 2017. Sections 30.2, 30.5, 30.6, 30.11, 30.12, 30.19 and 30.23 amended effective January 1, 2020.

Rule 31
Estate Tax Matters

Section
31.1 Applicability
31.2 Requirements for estate tax forms for nontaxable estates; extensions
31.3 Valuation of property for nontaxable estates
31.4 Amended tax forms for nontaxable estates
31.5 Procedure when court unable to determine if estate is nontaxable
31.6 Domicile declaration for nontaxable estates
31.7 Tax return included in permanent official record
31.8 Confidentiality of information on filed tax form
31.9 Determination of amount of property passing to surviving spouse for probate fee calculation

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Section 31.1 Applicability

Sections 31.2 through 31.6 apply only to nontaxable estates. Sections 31.7 through 31.9 apply both to taxable and nontaxable estates.

(C.G.S. sections 12-391 and 12-392(b).)

Section 31.2 Requirements for estate tax forms for nontaxable estates; extensions

(a) Except as modified by this rule, a person filing a DRS Form CT-706 NT and related forms for a nontaxable estate shall comply with the instructions for the form published by DRS.

(b) If the court grants an extension of time to file a DRS Form CT-706 NT, the court shall send the extension to each party and attorney of record.

(See Form CT-706 NT instructions, available at http://www.ct.gov/drs.)

Section 31.3 Valuation of property for nontaxable estates

(a) Except as provided in subsection (c), a person filing a DRS Form CT-706 NT for a nontaxable estate shall substantiate the fair market value of real property required to be reported on the form by submitting any one of the following:

(1) a comparative market analysis prepared by a real estate broker or agent;

(2) information from the municipal assessment of the property, adjusted to reflect 100 percent of the fair market value as of the date of the assessment;

(3) a written appraisal; or

(4) written proof of the actual sales price if the property is sold in an arm's-length transaction that is completed not later than six months after the death of the decedent.

(b) Except as provided in subsection (c), the court may require a person filing a DRS Form CT-706 NT to substantiate the fair market value of any personal property required to be reported on the form by supplying a written appraisal or other reasonable proof of value.

(c) If an Internal Revenue Service Form 706 is required for the decedent, the person filing a DRS Form CT-706 NT shall report each asset on the DRS Form CT-706 NT at the value shown on the Internal Revenue Service Form 706.

Section 31.4 Amended tax forms for nontaxable estates

(a) Except as provided in subsection (b), if property reported on a DRS Form CT-706 NT for a nontaxable estate is sold in an arm's-length transaction that is completed not later than six months after the death of the decedent, the person filing the original form may amend the form to change the reported value of the property to the amount of the sales price. The form may be amended to change the reported value of any property that is not sold within the six-month period only if the

person filing the form submits substantiation that the fair market value of the property at the time of the decedent's death is different from the amount originally reported. A change to the reported value for real property shall be substantiated by one of the methods listed in section 31.3(a). A change to the reported value for personal property shall be substantiated by a written appraisal or such other reasonable proof of value as the court directs.

(b) If an Internal Revenue Service Form 706 is required for the decedent, the person filing the DRS Form CT-706 NT shall amend the DRS Form CT-706 NT to reflect any amendments, changes or corrections to the Internal Revenue Service Form 706.

(C.G.S. section 12-398.)

Section 31.5 Procedure when court unable to determine if estate is nontaxable

If the court is unable to determine from review of a DRS Form CT-706 NT and accompanying materials whether the Connecticut taxable estate is less than or equal to the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391, the court shall require the person filing the form to file a DRS Form CT-706/709 with DRS and submit a copy of the form to the court.

(C.G.S. section 12-392(b).)

Section 31.6 Domicile declaration for nontaxable estates

A person filing a DRS Form CT-706 NT claiming that the decedent was not domiciled in Connecticut shall submit a DRS Form C-3 UGE State of Connecticut Domicile Declaration. If the court is unable to determine the decedent's domicile from the information contained in the domicile declaration, the court may schedule a hearing to permit the person filing the domicile declaration to present evidence in support of the domicile declaration. The court shall make a written determination regarding the decedent's domicile. The clerk shall calculate the probate fee for the estate in accordance with the court's determination.

(C.G.S. sections 12-391(h), 12-395 and 45a-107.)

Section 31.7 Tax return included in permanent official record

The court shall include each estate tax return and each attachment to the return in the permanent official record, except that the court may, on written request of the filer, exclude an attachment from the record.

(Probate Court Regulations, section 10).

Section 31.8 Confidentiality of information on filed tax form

(a) Except as provided in subsections (b) through (d), the court shall not disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information to any person.

(b) The court may disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information to the probate court administrator or the commissioner of revenue services.

(c) On request, the court may disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information without notice and hearing, if:

(1) the person who filed the form consents, in writing, to disclosure; or

(2) the person seeking disclosure is:

(A) a fiduciary of the estate;

(B) in the case of an intestate estate, an heir of the estate; or

(C) in the case of a testate estate, a residuary beneficiary of the estate.

(d) On motion of a person not listed in subsection (c) and after notice and hearing, the court may disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information under C.G.S. section 12-398(c) if the court finds that the requesting person has a material interest that will be affected by the information contained in the return.

(C.G.S. section 12-15.)

Section 31.9 Determination of amount of property passing to surviving spouse for probate fee calculation

To calculate the probate fee for an estate under C.G.S. section 45a-107, property shall be treated as passing to the surviving spouse only if the property passes directly to the spouse or the property is held in a trust that qualifies for the Connecticut estate tax marital deduction.

HISTORY: Rule 31 adopted effective July 1, 2013. Sections 31.1, 31.3, 31.4, 31.8 amended and section 31.9 adopted effective July 1, 2015. Sections 31.2, 31.7 and 31.9 amended effective January 1, 2020.

Rule 32

Trusts

Section
32.1 When streamline notice procedure may be used in trust proceeding
32.2 Notice in trust proceeding
32.3 Virtual representation and appointment of guardian ad litem in trust proceeding
32.4 Trustee to send copy of inventory, financial report or account, affidavit of closing, and petition to terminate to each party and attorney
32.5 When trustee to submit financial report or account
32.6 Required contents of financial report or account of trustee
32.7 When final financial report or account of trustee excused
32.8 Reimbursement of probate fees to petitioner in trust proceedings
32.9 Construction, title and cy pres petition relating to trust

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Section 32.1 When streamline notice procedure may be used in trust proceeding

See rule 8.6.

Section 32.2 Notice in trust proceeding

(a) The court shall send notice of a proceeding concerning a trust to:

(1) the settlor, if living;

(2) each current beneficiary;

(3) each presumptive remainder beneficiary;

(4) the Attorney General, if:

(A) a current beneficiary or presumptive remainder beneficiary is a charity or charitable interest; or

(B) the trust is a special needs trust established under C.G.S. section 45a-151(b) or 45a-655(e);

(5) the trustee;

(6) the trust protector, if any; and

(7) other persons as the court determines.

(b) Notice to contingent remainder beneficiaries is not required unless the court determines that the interests of the presumptive remainder beneficiaries conflict with the interests of the contingent remainder beneficiaries.

(Probate Court Rules, section 7.2 and rule 8.)

Section 32.3 Virtual representation and appointment of guardian ad litem in trust proceeding

(a) A petitioner in a trust proceeding shall inform the court if a trust beneficiary entitled to notice under section 32.2 is a minor or is incompetent, undetermined or unborn or if the beneficiary's name or address is unknown. The petitioner shall indicate whether an adult beneficiary who is legally capable of acting can virtually represent the beneficiary under Public Act 19-137, sections 17-20.

(b) On receipt of information under subsection (a) or on the court's own motion, the court shall make a written determination whether a beneficiary or class of beneficiaries will be virtually represented in the proceeding. If the court determines that the interests of the beneficiary or class of beneficiaries are not virtually represented or that the representation might be inadequate, the court shall appoint a guardian ad litem to represent the interests of the beneficiary or class of beneficiaries. The court may act under this subsection without notice and hearing.

(C.G.S. section 45a-132; Probate Court Rules, rules 7 and 13.)

Section 32.4 Trustee to send copy of inventory, financial report or account, affidavit of closing, and petition to terminate to each party and attorney

(a) A trustee of a testamentary trust or other trust subject to continuing jurisdiction of the court shall send a copy of the inventory and each supplemental or substitute inventory, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) A trustee of a testamentary trust, an inter vivos trust subject to the jurisdiction of the court under C.G.S. section 45a-175 or another trust subject to continuing jurisdiction of the court shall send a copy of each financial report or account and the affidavit of closing, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(c) The trustee of a testamentary trust, an inter vivos trust subject to the jurisdiction of the court under C.G.S. section 45a-175 or another trust subject to continuing jurisdiction of the court shall send a copy of a petition to terminate the trust under Public Act 19-137, section 35 or C.G.S. section 45a-520, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(d) If a beneficiary of a trust is a charity or charitable interest, the trustee shall send a copy of each filing under subsection (a), (b) or (c), at the time of filing, to the Attorney General and shall certify to the court that the copy has been sent.

Section 32.5 When trustee to submit financial report or account

(a) A trustee of a testamentary trust or other trust subject to continuing Probate Court jurisdiction shall submit a periodic financial report or account at least once during each three-year period unless the court or the will or other governing instrument directs more frequent accounts. The first accounting period shall commence on the date that the court appoints the trustee.

(b) If the will excuses periodic accounts, the court shall not require the trustee of a testamentary trust to submit periodic financial reports or accounts. On motion of a party or on the court's own motion and after notice and hearing, the court may require a financial report or account for a specified period if necessary to protect the interests of a party. After issuing a decision on the financial report or account under this subsection, the court shall not require additional periodic financial reports or accounts unless the court determines that the reports or accounts are necessary to protect the interests of a party.

(c) Except as provided in section 32.7, the trustee of a testamentary trust shall submit a final financial report or account when the trust terminates or any beneficiary's interest in the trust terminates or when the fiduciary seeks to resign or is removed by the court.

(d) Except as provided in section 32.7, if a trustee dies while administering the trust, the executor or administrator of the estate of the deceased trustee shall file, on behalf of the deceased trustee, a final financial report or account for the trust.

(C.G.S. sections 45a-151(b), 45a-175, 45a-177, 45a-180, 45a-478 and 45a-655(e).)

Section 32.6 Required contents of financial report or account of trustee

See rules 36 through 38.

Section 32.7 When final financial report or account of trustee excused

(a) The trustee of a testamentary trust may petition the court to excuse the requirement of a final financial report or account required under section 32.5(c) or 32.5(d) if:

(1) the will waives periodic accounts; and

(2) each current beneficiary and presumptive remainder beneficiary of the trust has signed a written instrument that waives the final report or account and acknowledges the amount of the distribution to which the beneficiary is entitled.

(b) A petition under subsection (a) shall include:

(1) the signed waiver under subsection (a)(2);

(2) an itemized list of assets on hand, shown at current fair market value;

(3) an itemized proposed distribution to each beneficiary; and

(4) for the period since the most recent financial report or account approved by the court or, if none, since the trustee accepted the trusteeship, a summary of:

(A) the method used to determine the compensation of the trustee;

(B) the information that has been provided to the beneficiaries; and

(C) the trustee's management of the trust.

(c) The court may excuse the final report or account if the court determines that it would impose an unreasonable burden to require the report or account and that each current

beneficiary and presumptive remainder beneficiary has knowingly and voluntarily waived the requirement of a report or account.

(C.G.S. section 45a-177.)

Section 32.8 Reimbursement of probate fees to petitioner in trust proceeding

On motion of a party or on the court's own motion, the court may order the trustee of a trust to reimburse a party for any probate fees incurred in making a petition to the court concerning the trust if the court determines that reimbursement of the fees is equitable. The court may act without notice and hearing. If the court determines that reimbursement of the fees is equitable, but the court previously waived the petitioning party's fees under C.G.S. section 45a-111(c), the trustee shall remit payment to the probate court administration fund. The reimbursed fees shall be paid from trust assets as an administration expense.

(C.G.S. sections 45a-105 through 45a-112 and 52-251.)

Section 32.9 Construction, title and cy pres petition relating to trust

(a) If the court declines jurisdiction to hear a construction, title or cy pres petition concerning a trust under C.G.S. section 45a-98a(a), the court shall send written notice of the declination to each party and attorney of record.

(b) If a current or presumptive remainder beneficiary of the trust is a charity or charitable interest, the court shall send written notice of the declination to the Attorney General.

(Probate Court Rules, section 8.10.)

HISTORY: Rule 32 adopted effective July 1, 2013. Sections 32.3, 32.4 and 32.8 amended effective July 1, 2015. Section 32.7 amended effective July 1, 2017. Sections 32.4 and 32.5 amended effective January 1, 2020.

Rule 33

Conservators

Section
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33.3 Appointment of temporary conservator without notice and hearing
33.4 Extension of temporary conservatorship pending decision on conservatorship petition
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33.6 Criminal background check
33.7 Court to review qualifications of proposed conservator
33.7a Hearing to review duties of conservator
33.8 Conservator of estate to send copy of inventory, financial report or account and affidavit of closing to each party and attorney
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33.10 Establishment and funding of trust with conservatorship assets
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33.16 When conservator of estate to verify restricted account in force
33.17 Periodic or final financial report or account excused when person under conservatorship is Title 19 recipient
33.18 Sterilization
33.19 Reimbursement of probate fees to petitioner in conservatorship of estate proceeding
33.20 Petition to determine title relating to conservatorship
33.21 Notice of termination of voluntary conservatorship
33.22 Petitions to change residence, sell real property or household contents or terminate tenancy

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Section 33.1 When streamline notice procedure may be used in conservatorship proceeding

See rule 8.6.

Section 33.2 Petition for voluntary representation to be heard before petition for involuntary conservatorship

(a) A respondent in an involuntary conservatorship proceeding may file a petition for voluntary representation under C.G.S. section 45a-646 at any time before the court decides the involuntary conservatorship petition.

(b) The court shall hear and decide a petition for voluntary representation made under subsection (a) before acting on a petition for involuntary conservatorship. The court may conduct the hearing on the petition for voluntary representation at the same time as a hearing on an involuntary conservatorship petition without giving notice of another hearing if:

(1) the respondent is present; and

(2) each party entitled to notice under C.G.S. section 45a-646 is present or has filed a written waiver of notice of the hearing on voluntary representation.

Section 33.3 Appointment of temporary conservator without notice and hearing

(a) The court may act on a petition to appoint a temporary conservator under

C.G.S. section 45a-654(d) without notice and hearing.

(b) If the court determines that it is necessary to meet with the petitioner before deciding a petition to appoint a temporary conservator on an ex parte basis, the court shall make an audio recording of the meeting. The recording shall be available to the parties. If the court appoints a temporary conservator and the temporary conservatorship hearing required by C.G.S. section 45a-654(d)(1) is contested, the judge who met with the petitioner shall be disqualified from conducting the temporary conservatorship hearing.

(C.G.S. section 45a-645a; Probate Court Rules, section 15.2 and rules 65 and 69.)

Section 33.4 Extension of temporary conservatorship pending decision on conservatorship petition

On written request of a party, the court may extend the appointment of a temporary conservator until disposition of a pending involuntary conservatorship petition, provided that the extension may not exceed 30 days. The court may act on the request without notice and hearing.

(C.G.S. section 45a-654(a); Probate Court Rules, rule 69.)

Section 33.5 Motion to close conservatorship hearing to public during presentation of medical evidence

See rule 16.

Section 33.6 Criminal background check

At any time during a conservatorship proceeding, the court may obtain a criminal background check of:

(1) the conservator or proposed conservator;

(2) an individual providing care to the person under conservatorship;

(3) an individual living in the household of the person under conservatorship; or

(4) any other person if necessary to protect the interests of the person under conservatorship.

(C.G.S. section 45a-650(h).)

Section 33.7 Court to review qualifications of proposed conservator

If a person under conservatorship has not designated or nominated a conservator, the court shall, before making an appointment, give the parties an opportunity to present evidence and argument regarding the qualifications of a proposed conservator or successor conservator. When deciding whether to appoint the proposed conservator or successor conservator, the court shall consider the factors set forth in C.G.S. section 45a-650(h) based on evidence in the record of the proceeding.

*(*Falvey *v.* Zurolo*, 130 Conn. App. 243, 22 A.3d 683 (2011);* DeNunzio *v.* DeNunzio*, 320 Conn. 178, 128 A.3d 901 (2016).)*

Section 33.7a Hearing to review duties of conservator

Before appointing a conservator, the court shall require the conservator to attend a hearing to review the duties of the conservator, provided that the court may excuse attendance for a conservator with prior experience. The conservator shall execute a form published by the probate court administrator to acknowledge and agree to perform the duties.

(C.G.S. sections 45a-655 and 45a-656; Connecticut Standards of Practice for Conservators; Training for Professional Conservators.)

Section 33.8 Conservator of estate to send copy of inventory, financial report or account and affidavit of closing to each party and attorney

A conservator of the estate shall send a copy of the inventory and each supplemental or substitute inventory and each financial report or account and the affidavit of closing, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(C.G.S. sections 45a-175, 45a-655(a) and 45a-659(c).)

Section 33.9 Joint assets and liabilities and non-probate assets

(a) If a person under conservatorship holds an asset jointly with another person or is jointly liable with another person on a debt, or if the person under conservatorship has a

present interest in an asset that would, on his or her death, pass outside his or her probate estate, the conservator of the estate may petition for instructions concerning administration of the asset or liability.

(b) The court shall give notice of the hearing on a petition under subsection (a) to each party and attorney of record and to each person having an interest in an asset or liability described in subsection (a). When deciding how the conservator should administer the asset or liability, the court shall consider the following factors:

(1) the provisions of any will, trust instrument or other estate planning document executed by the person under conservatorship;

(2) the original source of the asset or liability;

(3) the current and anticipated needs of the person under conservatorship and any individual whom the person is obligated to support;

(4) the availability of other assets to meet the needs of the person under conservatorship and any individual whom the person is obligated to support;

(5) the impact of the manner of administration of the joint asset or liability on the eligibility of the person under conservatorship for public assistance; and

(6) other relevant factors.

(C.G.S. sections 45a-98(a)(3) and 45a-655(a).)

Section 33.10 Establishment and funding of trust with conservatorship assets

(a) A conservator of the estate may file a petition seeking authority to establish and fund a trust under C.G.S. section 45a-655(e). Before filing the petition, the conservator shall make a diligent effort to obtain a copy of each will, trust instrument or other estate planning document executed by the person under conservatorship that may be affected by the establishment and funding of the trust.

(b) The conservator shall accompany the petition with:

(1) the proposed trust instrument;

(2) a written explanation of the benefits of the proposed trust for the person under conservatorship;

(3) a statement indicating whether the conservator has any beneficial interest in the proposed trust;

(4) the name and current address of each heir of the person under conservatorship;

(5) a copy of each will, trust instrument or other estate planning document obtained under subsection (a) together with a statement regarding the location of the original document;

(6) the name and current address of each beneficiary under any will;

(7) the name and current address of each current and presumptive remainder beneficiary of a trust that is required to be disclosed under subsection (b)(5); and

(8) the name and current address of each beneficiary under any other estate planning document that is required to be disclosed under subsection (b)(5).

(c) The court shall give notice of the hearing on the petition to:

(1) each party and attorney of record;

(2) the heirs of the person under conservatorship;

(3) each beneficiary under any will;

(4) each current and presumptive remainder beneficiary under any trust identified under subsection (b)(7);

(5) each beneficiary under any other estate planning document identified under subsection (b)(8);

(6) the commissioner of administrative services;

(7) the commissioner of social services;

(8) the Attorney General; and

(9) other persons as the court determines.

(d) The conservator shall have the burden of proving the findings required under C.G.S. section 45a-655(e).

(e) If the court approves the establishment and funding of a trust, the conservator shall have a continuing duty to report the discovery of any will, trust instrument or other estate planning document of the person under conservatorship that was not previously submitted to the court.

(Probate Court Rules, section 7.2 and rules 8 and 16.)

Section 33.11 Settlement of claims in favor of conservatorship estate

(a) A conservator of the estate may file a petition seeking authority to settle a claim in

favor of the estate. The conservator shall accompany the petition with a settlement statement that includes:

(1) the gross amount of the proposed settlement;

(2) an itemized list of the expenses associated with the settlement, including any proposed attorney's fee;

(3) the total amount of liens for medical expenses;

(4) the total amount of liens for public assistance;

(5) the anticipated net proceeds that the estate will receive; and

(6) the terms of a proposed structured settlement, if any.

(b) The conservator shall present evidence that the proposed settlement is in the best interests of the person under conservatorship. The court may require the conservator to submit additional information, including, but not limited to:

(1) police reports;

(2) medical reports;

(3) medical expenses; and

(4) health, liability and uninsured motorist insurance coverage.

(c) The court may approve the proposed settlement if the court determines that the settlement is in the best interests of the person under conservatorship.

(d) The conservator shall file an inventory or supplemental or substitute inventory showing the proceeds of the settlement not later than 30 days after receipt.

(C.G.S. section 45a-151.)

Section 33.11a Petitions to compromise multiple claims associated with same injury

(a) If a conservator of the estate simultaneously files petitions to compromise more than one claim associated with the same injury, the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 33.12 Sale of real property from conservatorship estate

(a) A conservator of the estate may file a petition seeking authority to sell real property by private sale. The conservator shall accompany the petition with a copy of the contract of sale and, if not previously filed, an inventory or supplemental or substitute inventory that lists the property and includes a copy of the deed.

(b) The conservator shall present evidence regarding the fair market value of the property. The court may require the conservator to submit a comparative market analysis, appraisal, municipal assessment or other information about the value of the property.

(c) Notice of hearing on the petition shall not be required to be made by publication unless the court determines that notification of the public is necessary to protect the interests of the estate.

(d) The court may approve the sale of the property if the court determines that the sale is in the best interests of the person under conservatorship, as required by C.G.S. section 45a-164 and, if the conservator was appointed in an involuntary proceeding, that the sale is necessary or the conserved person consents to the sale, as required by C.G.S. section 45a-656b(a).

(e) If a prospective purchaser other than the buyer identified in the petition indicates a willingness to pay a price that is higher than the amount specified in the contract of sale, the court may deny the petition and order a public sale or take other action as the court determines to be in the best interests of the person under conservatorship.

(f) If the property is specifically devised under the will of the person under conservatorship, the conservator shall segregate the sale proceeds from other estate assets.

(C.G.S. sections 45a-164 through 45a-168, 45a-655(a), 45a-660(a) and 45a-667p(d)(4).)

Section 33.12a Petitions to sell multiple parcels of real property

(a) If a conservator of the estate simultaneously files petitions to sell multiple parcels of real property, the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 33.13 Release of funds from restricted account in conservatorship estate

See section 35.7(f).

Section 33.14 When conservator to submit financial report or account

(a) A conservator of the estate shall submit an annual financial report or account for the first year following the conservator's appointment or, with prior court approval, for the first year following the conservator's first receipt of funds on behalf of the estate.

(b) After submitting the first annual financial report or account under subsection (a), the conservator shall thereafter submit a periodic financial report or account at least once during each three-year period, unless the court directs more frequent accounts.

(c) Except as provided in section 33.17, a conservator shall submit a final financial report or account when the conservatorship is terminated, the person under conservatorship dies or the conservator seeks to resign or is removed by the court.

(d) If a conservator dies while administering an estate, the executor or administrator of the estate of the deceased conservator shall file, on behalf of the deceased conservator, a final financial report or account for the conservatorship estate. If an executor or administrator has not been appointed for the estate of the deceased conservator, a successor conservator may file, on behalf of the deceased conservator, a final financial report or account for the conservatorship estate.

(C.G.S. sections 45a-175, 45a-177, 45a-180, 45a-597, 45a-654(f), 45a-655(c), 45a-660(b) and 45a-667p(f).)

Section 33.15 Required contents of financial report or account of conservator of estate

See rules 36 through 38.

Section 33.16 When conservator of estate to verify restricted account in force

See section 35.7(e).

Section 33.17 Periodic or final financial report or account excused when person under conservatorship is Title 19 recipient

(a) A conservator of the estate may petition the court to terminate the conservatorship of the estate and waive the requirement of a final financial report or account if the Department of Social Services has determined that the person under conservatorship is eligible for Medicaid under Title 19 of the Social Security Act. The conservator's petition shall include:

(1) a copy of the determination letter from the Department of Social Services and approved spend-down plan, if any;

(2) the manner in which the conservator satisfied the obligation to pay conservator fees, attorney's fees and probate fees when executing the spend-down plan;

(3) the name of the funeral home at which a prepaid funeral has been arranged; and

(4) the amount of funds transferred to the person under conservatorship or the person's patient account.

(b) The court may excuse the requirement that the conservator submit a final financial report or account if the court determines that:

(1) no assets remain in the estate other than the amount permitted to be retained by a Title 19 recipient;

(2) the conservatorship of the estate should be terminated; and

(3) submission of a final financial report or account would serve no useful purpose.

(c) If the court determines that the conservatorship of the estate should continue after the person under conservatorship becomes eligible for Title 19, the court may permit the conservator to file, in lieu of a periodic financial report or account, a copy of the documentation required by the Department of Social Services to verify the person's continued eligibility for Title 19 and the letter from the department confirming that the person under conservatorship continues to be eligible.

(C.G.S. section 45a-660; Probate Court Regulations, sections 16.3(d) and 16.6.)

Section 33.18 Sterilization

If a conservator of the person petitions for approval of a sterilization procedure under C.G.S. section 45a-698, each member of the interdisciplinary team appointed under C.G.S. section 45a-695 shall file a report indicating whether the person under conservatorship is able to give informed consent and whether sterilization is in the best interests of the person.

(C.G.S. sections 45a-690 through 45a-700.)

Section 33.19 Reimbursement of probate fees to petitioner in conservatorship of estate proceeding

On motion of a party or on the court's own motion, the court may order a conservator of the estate to reimburse a party for any probate fees incurred in making a petition to the court concerning the conservatorship if the court determines that reimbursement of the fees is equitable. The court may act without notice and hearing. If the court determines that reimbursement of the fees is equitable, but the court previously waived the petitioning party's fees under C.G.S. section 45a-111(c), the conservator shall remit payment to the probate court administration fund. The reimbursed fees shall be paid from the estate as an administration expense.

(C.G.S. sections 45a-105 through 45a-112.)

Section 33.20 Petition to determine title relating to conservatorship

If the court declines jurisdiction to hear a petition concerning title to property relating to a conservatorship of the estate under C.G.S. section 45a-98a(a), the court shall send written notice of the declination to each party and attorney of record.

(Probate Court Rules, section 8.10.)

Section 33.21 Notice of termination of voluntary conservatorship

On receipt of a notice to terminate a voluntary conservatorship under C.G.S. section 45a-647, the court shall notify each party and attorney of record that the notice has been received and the date on which the conservatorship will terminate.

Section 33.22 Petitions to change residence, sell real property or household contents or terminate tenancy

(a) If a conservator simultaneously files petitions to change the residence of a person under conservatorship, place the person in a facility for long-term care, sell the person's real property or household goods or terminate the person's tenancy, the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

HISTORY: Rule 33 adopted effective July 1, 2013. Sections 33.9, 33.14, 33.17 and 33.19 amended and section 33.21 adopted effective July 1, 2015. Sections 33.11, 33.12 and 33.17 amended and sections 33.11a, 33.12a and 33.22 adopted effective July 1, 2017. Sections 33.8 and 33.22 amended and section 33.7a adopted effective January 1, 2020.

Rule 34

Guardians of Estates of Minors

Section
34.1 When streamline notice procedure may be used in estate of minor proceeding
34.2 Hearing to review duties of guardian of estate
34.3 Guardian of estate to send copy of inventory, financial report or account and affidavit of closing to each party and attorney
34.4 Restriction on use of estate of minor for support obligations
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34.13 Petition to determine title relating to estate of minor
34.14 Criminal background check

Section 34.1 When streamline notice procedure may be used in estate of minor proceeding

See rule 8.6.

Section 34.2 Hearing to review duties of guardian of estate

Before authorizing the guardian of the estate of a minor to take control of the assets of the estate, the court shall require the guardian to attend a hearing to review the duties of the guardian. If the guardian has executed a form published by the probate court administrator to acknowledge and agree to perform the duties of a guardian, the court may excuse attendance of the guardian at the hearing.

Section 34.3 Guardian of estate to send copy of inventory, financial report or account and affidavit of closing to each party and attorney

A guardian of the estate of a minor shall send a copy of the inventory and each supplemental or substitute inventory and each financial report or account and the affidavit of closing, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(C.G.S. sections 45a-175 and 45a-634.)

Section 34.4 Restriction on use of estate of minor for support obligations

(a) A guardian of the estate of a minor shall not use the assets of the estate for support expenses of the minor without prior court approval.

(b) On petition of the guardian, the court may authorize use of the assets of the estate for reasonable and necessary support expenses of the minor if the court determines that:

(1) no person is legally liable for support of the minor; or

(2) the minor has a parent who has a support obligation, but the proposed expenditure is in the best interests of the minor.

Section 34.5 Settlement of claims in favor of estate of minor

(a) If a petitioner simultaneously files petitions seeking appointment as guardian of the estate of a minor and authority to settle a disputed or doubtful claim in favor of the

estate, the court may treat the petitions as a single petition subject to one filing fee.

(b) The petitioner shall accompany the petition to settle the claim with a settlement statement that includes:

(1) the gross amount of the proposed settlement;

(2) an itemized list of the expenses associated with the settlement, including any proposed attorney's fee;

(3) the total amount of liens for medical expenses;

(4) the anticipated net proceeds that the estate will receive; and

(5) the terms of a proposed structured settlement, if any.

(c) The petitioner shall present evidence that the proposed settlement is in the best interests of the minor. The court may require the petitioner to submit additional information, including, but not limited to:

(1) police reports;

(2) medical reports;

(3) medical expenses; and

(4) health, liability and uninsured motorist insurance coverage.

(d) The court may approve the proposed settlement if the court determines that the settlement is in the best interests of the minor.

(e) The guardian shall file an inventory or supplemental or substitute inventory showing the proceeds of the settlement not later than 30 days after receipt.

(C.G.S. section 45a-151.)

Section 34.5a Petitions to compromise multiple claims associated with same injury

(a) If a guardian of the estate of a minor simultaneously files petitions to compromise more than one claim associated with the same injury, the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 34.6 Sale of real property from estate of minor

(a) A guardian of the estate of a minor may file a petition seeking authority to sell real property by private sale. The guardian shall accompany the petition with a copy of the contract of sale and, if not previously filed, an inventory or supplemental or substitute inventory that lists the property and includes a copy of the deed.

(b) The guardian shall present evidence regarding the fair market value of the property. The court may require the guardian to submit a comparative market analysis, appraisal, municipal assessment or other information about the value of the property.

(c) Notice of hearing on the petition shall not be required to be made by publication unless the court determines that notification of the public is necessary to protect the interests of the minor.

(d) The court may approve the sale of the property if the court determines that the sale is in the best interests of the minor.

(e) If a prospective purchaser other than the buyer identified in the petition indicates a willingness to pay a price that is higher than the amount specified in the contract of sale, the court may deny the petition and order a public sale or take other action as the court determines to be in the best interests of the minor.

(C.G.S. sections 45a-164 through 45a-168 and 45a-636.)

Section 34.6a Petitions to sell multiple parcels of real property

(a) If a guardian of the estate of a minor simultaneously files petitions to sell multiple parcels of real property, the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 34.7 Release of funds from restricted account in estate of minor

See section 35.7(f).

Section 34.8 When guardian of estate to submit financial report or account

(a) A guardian of the estate of a minor shall submit an annual financial report or account for the first year following the guardian's appointment or, with prior court approval, for the first year following the guardian's first receipt of funds on behalf of the estate.

(b) After submitting the first annual financial report or account under subsection (a),

the guardian shall thereafter submit a periodic financial report or account at least once during each three-year period, unless the court directs more frequent accounts.

(c) The guardian shall submit a final financial report or account when the minor reaches age 18 or when the guardian seeks to resign or is removed by the court.

(d) If the guardian dies while administering the estate, the executor or administrator of the estate of the deceased guardian shall file, on behalf of the deceased guardian, a final financial report or account for the guardianship estate.

(C.G.S. sections 45a-175, 45a-177, 45a-180 and 45a-597.)

Section 34.9 Required contents of financial report or account of guardian of estate

See rules 36 through 38.

Section 34.10 When guardian of estate to verify restricted account in force

See section 35.7(e).

Section 34.11 When estate assets fall below statutory threshold for guardianship

(a) Except as provided in subsection (b), the court shall retain jurisdiction over the estate of a minor for which a guardian of the estate has been appointed even if the value of the estate falls below the maximum amount that a parent or guardian of the person may hold without a guardianship under C.G.S. section 45a-631.

(b) On petition of the guardian, the court may authorize the guardian to transfer funds from the estate to a custodian under the Connecticut Uniform Transfers to Minors Act if the court finds that the requirements of C.G.S. section 45a-558c are met.

Section 34.12 Reimbursement of probate fees to petitioner in estate of minor proceeding

(a) On motion of a party or on the court's own motion, the court may order a guardian of the estate of a minor to reimburse a party for any probate fees incurred in making a petition to the court concerning the guardianship if the court determines that reimbursement of the fees is equitable. The court may act without notice and hearing. If the court determines that reimbursement of the fees is equitable, but the court previously waived the petitioning party's fees under C.G.S. section 45a-111(c), the guardian shall remit payment to the probate court administration fund. The reimbursed fees shall be paid from the estate as an administration expense.

(b) If the court determines that expenditures from the estate must be restricted to maintain the minor's eligibility for public assistance, the court may deny a motion under subsection (a).

(C.G.S. sections 45a-105 through 45a-112.)

Section 34.13 Petition to determine title relating to estate of minor

If the court declines jurisdiction to hear a petition concerning title to property relating to the estate of a minor under C.G.S. section 45a-98a(a), the court shall send written notice of the declination to each party and attorney of record.

(Probate Court Rules, section 8.10.)

Section 34.14 Criminal background check

At any time during a proceeding relating to guardianship of the estate of a minor, the court may obtain a criminal background check of a guardian or proposed guardian.

HISTORY: Rule 34 adopted effective July 1, 2013. Section 34.12 amended effective July 1, 2015. Sections 34.5 and 34.6 amended and sections 34.5a and 34.6a adopted effective July 1, 2017. Section 34.3 amended and section 34.14 adopted effective January 1, 2020.

Rule 35
Probate Bonds

Section
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Section 35.1 When probate bond required

(a) Except as otherwise provided in this rule, the court shall require a fiduciary to submit a probate bond whenever required by statute or by the provisions of a will or other governing instrument.

(b) The court may excuse the requirement of a bond if:

(1) the value of the assets of the estate or the amount of the estate that is not held in a restricted account is less than the amount under C.G.S. section 45a-139(c);

(2) the fiduciary is a corporate fiduciary;

(3) in a decedent's estate:

(A) the will or other governing instrument excuses bond; or

(B) each heir or beneficiary of the estate waives the requirement of a bond;

(4) in a trust, the will or other governing instrument excuses bond;

(5) in a voluntary conservatorship, the petitioner waives the requirement of a bond; or

(6) in an involuntary conservatorship, the respondent or conserved person excused bond in a written designation of conservator under C.G.S. section 45a-645.

(c) Notwithstanding subsection (b), on motion of a party or on the court's own motion, the court may require a fiduciary to submit a bond if the court determines that a bond is necessary to protect parties or creditors or to assure the payment of taxes or administration expenses.

(C.G.S. sections 36a-250, 45a-144(c), 45a-163(a), 45a-164(b), 45a-165, 45a-167(a), 45a-169, 45a-206(c), 45a-242(d), 45a-289, 45a-290, 45a-303(d), 45a-316, 45a-317a, 45a-326(c), 45a-430, 45a-451, 45a-474, 45a-477, 45a-478(c), 45a-483, 45a-559c(f), 45a-629(b), 45a-632, 45a-635, 45a-646, 45a-650(i), 45a-654(a), 45a-659(c) and 45a-660(a) and Public Act 19-137, section 45.)

Section 35.2 Probate bond to be filed before appointment

If the court requires a probate bond from a fiduciary, the court shall not issue a decree appointing the fiduciary or issue a probate certificate evidencing the appointment until the fiduciary has filed the bond. If necessary to obtain the probate bond, the court may issue a decree or fiduciary certificate granting the fiduciary limited interim authority.

(C.G.S. section 45a-139(b).)

Section 35.3 Corporate surety required

(a) A probate bond filed on and after the effective date of this rule shall be secured by a corporate surety.

(b) An individual signing a bond on behalf of a corporate surety shall provide written evidence of the individual's authority to sign on behalf of the surety.

(c) A bond filed before the effective date of this rule that is secured by a personal surety is deemed to meet the requirements of this rule, provided that a court may require that a corporate surety be substituted for a personal surety if the court determines that the personal surety does not provide adequate security for the bond.

(d) A personal surety under subsection (c) who is not a resident of this state shall file a certificate, acknowledged before an officer authorized to take acknowledgments of deeds, appointing the judge of probate and the judge's successors in office to be the surety's agent for service of process.

(C.G.S. sections 45a-139(b) and 52-60.)

Section 35.4 Form of probate bond

A probate bond shall be on a form published by the probate court administrator or on a substantially similar form.

(C.G.S. section 45a-139(b).)

Section 35.5 Probate bond to secure performance of all cofiduciaries

If an estate has more than one fiduciary, the cofiduciaries shall submit a single bond securing the faithful performance of all cofiduciaries.

(C.G.S. section 45a-139.)

Section 35.6 Amount of probate bond

(a) Except as otherwise directed by the terms of a will or other governing instrument or provided by statute or this section, the amount of a probate bond shall be equal to the value of the assets under the control of the fiduciary and anticipated additional receipts of income or assets during the applicable accounting period.

(b) The amount of the bond may be less than provided in subsection (a) as follows:

(1) if the fiduciary does not have the power to sell or mortgage real property, the court may reduce the amount of the bond by the value of the real property;

(2) if the fiduciary deposits assets in a restricted account, the court may reduce the amount of the bond by the value of the assets that are restricted;

(3) if all heirs or all beneficiaries of a decedent's estate request bond in a smaller amount, the court may order bond in an amount equal to the amount requested;

(4) if a fiduciary is an heir or beneficiary of a decedent's estate, the court may reduce the amount of the bond by the fiduciary's share of the estate; or

(5) if the court has approved a structured settlement, the court may order bond in an amount equal to the funds that are anticipated to come under the fiduciary's control during the applicable accounting period.

(C.G.S. sections 45a-139, 45a-151(b) and 45a-289(b).)

Section 35.7 Restricted account

(a) The court may authorize a fiduciary to establish a restricted account to hold the assets of an estate. Except as specified in an order of the court, the fiduciary shall deposit all assets and income in the restricted account immediately on receipt.

(b) A restricted account may be established only by execution of an agreement in the exact form published by the probate court administrator under which the fiduciary and a financial institution approved by the court agree that no disbursements may be made except on written approval of the court.

(c) If the court requires the fiduciary to establish a restricted account, the court shall not issue a decree appointing a fiduciary or issue a certificate evidencing the appointment until the fiduciary has filed the fully executed agreement establishing the restricted account. If necessary to obtain the restricted account, the court may issue a decree or certificate granting the fiduciary limited interim authority.

(d) Not later than ten days after receipt of any income or assets, the fiduciary shall submit proof of deposit into the restricted account.

(e) Whenever the fiduciary is required to submit a financial report or account, the fiduciary shall submit verification that the restricted account remains in force and the most recent statement for the restricted account. The verification shall be on a form published by the probate court administrator or on a substantially similar form.

(f) On request of the fiduciary, the court may authorize disbursement of funds from the restricted account. The court may act on the request without notice and hearing. If the court authorizes funds to be disbursed without a hearing, the disbursement is subject to review in connection with the fiduciary's financial report or account covering the period in which the disbursement is made.

(C.G.S. section 45a-139(c).)

Section 35.8 Fiduciary to report increase in value of estate

A fiduciary from whom a probate bond is required shall file a report listing the receipt

of additional assets or income or the recognition of capital gain from the sale of an asset if the aggregate amount of the additional assets, income and capital gain exceeds ten percent of the amount of the bond or $50,000, whichever is greater. The fiduciary shall file the report not later than 30 days after the receipt or sale occurs. The court may require the fiduciary to increase the amount of the bond in accordance with section 35.6 or deposit the additional assets, income and capital gain in a restricted account under section 35.7.

(C.G.S. section 45a-139(b).)

Section 35.9 Adjustments to amount of probate bond

The court may adjust the amount of the probate bond to reflect a change in the value of the estate in connection with the review of an inventory, substitute or supplemental inventory, account or financial report, on receipt of a report under section 35.8 or at any other time.

(C.G.S. section 45a-139(b).)

Section 35.10 Surety on additional probate bond

If the court orders a fiduciary to increase the amount of a probate bond, the additional amount shall be secured by the same surety as the original bond, except that the court may permit a different surety for the additional amount if both the original surety and different surety agree to joint and several liability for the original and additional amounts.

(C.G.S. section 45a-139(b).)

Section 35.11 Release of probate bond

(a) Except as provided under subsection (b) or under C.G.S. sections 45a-245 and 45a-331(b), the court shall not issue a certificate releasing a probate bond until the court has approved the fiduciary's final financial report or account and, if required, the affidavit of closing.

(b) The court may issue a certificate releasing the bond if the court excuses the requirement of a final financial report or account under section 32.7 or 33.17.

Section 35.12 Action on probate bond

The court shall give notice of a hearing on a petition to recover on a probate bond to each party and attorney of record. The court shall send notice to the surety by certified mail.

(C.G.S. section 45a-144; Probate Court Rules, rule 8.)

HISTORY: Rule 35 adopted effective July 1, 2013. Sections 35.2, 35.7 and 35.11 amended effective July 1, 2015. Section 35.9 amended effective July 1, 2017. Sections 35.1, 35.7 and 35.12 amended effective January 1, 2020.

Rule 36

Fiduciary Accounting: General Provisions

Section
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36.6 When executor or administrator to submit financial report or account
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36.8 When final financial report or account of trustee excused
36.9 When conservator to submit financial report or account
36.10 Periodic or final financial report or account excused when person under conservatorship is Title 19 recipient
36.11 When guardian of estate to submit financial report or account
36.11a When guardian of adult with intellectual disability to submit financial report or account
36.11b When periodic or final financial report or account by guardian of adult with intellectual disability excused
36.12 Affidavit of closing
36.13 Records to be maintained by fiduciary
36.14 Definition of fiduciary acquisition value

Section 36.1 Methods of accounting

Except as provided in section 36.3, a fiduciary required or permitted to account to the court for the management of an estate may satisfy the legal requirements of an account by submitting a financial report meeting the requirements of rule 37. If an account is required instead of a financial report, the fiduciary shall submit an account meeting the requirements of rule 38. Nothing in this rule prevents a fiduciary from submitting an account instead of a financial report.

(C.G.S. sections 19a-301, 45a-98(a)(6), 45a-143, 45a-175 through 45a-180, 45a-242(b), 45a-317(f), 45a-489a(d), 45a-517, 45a-559d, 45a-654(f), 45a-655(c) and 45a-660(b).)

Section 36.2 Financial reports distinguished from accounts

A financial report is a simplified form of accounting by which a fiduciary provides summary information about the management of an estate. A financial report differs from an account in the following ways:

(1) principal and income need not be reported separately;

(2) assets may be reported at current fair market value rather than fiduciary acquisition value; and

(3) a financial report need not balance in the manner required for an account.

(Probate Court Rules, rules 37 and 38.)

Section 36.3 When account is required instead of financial report

(a) A fiduciary shall submit an account rather than a financial report if the fiduciary is required to account separately for principal and income under section 38.1.

(b) On motion of a party or on the court's own motion made before approval of a financial report, the court may require the fiduciary to submit an account instead of a financial report if the court determines that an account is necessary to review the fiduciary's management of the estate.

Section 36.4 Financial reports and accounts to present information in clear manner and be signed under penalty of false statement

(a) A fiduciary submitting either a financial report or an account to the court shall present

all required information in a concise, clear and understandable manner and in sufficient detail so that the court and the parties can review the fiduciary's management of the estate.

(b) A fiduciary shall sign a financial report or account under penalty of false statement.

(c) A fiduciary may submit a financial report or account on a form published by the probate court administrator or in any format that satisfies the requirements of rules 36 through 38.

Section 36.5 Fiduciary to send copy of financial report or account and affidavit of closing to each party and attorney

(a) A fiduciary submitting a financial report, account or affidavit of closing shall send a copy, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(b) If a beneficiary is a charity or charitable interest, the fiduciary shall send a copy of each financial report, account or affidavit of closing, at the time of filing, to the Attorney General and shall certify to the court that the copy has been sent.

(C.G.S. section 45a-175.)

Section 36.6 When executor or administrator to submit financial report or account

See section 30.19.

Section 36.7 When trustee to submit financial report or account

See section 32.5.

Section 36.8 When final financial report or account of trustee excused

See section 32.7.

Section 36.9 When conservator to submit financial report or account

See section 33.14.

Section 36.10 Periodic or final financial report or account excused when person under conservatorship is Title 19 recipient

See section 33.17.

Section 36.11 When guardian of estate to submit financial report or account

See section 34.8.

Section 36.11a When guardian of adult with intellectual disability to submit financial report or account

See section 43.6.

Section 36.11b When periodic or final financial report or account by guardian of adult with intellectual disability excused

See section 43.6.

Section 36.12 Affidavit of closing

(a) If the court directs the fiduciary to file an affidavit of closing, the fiduciary shall file the affidavit in accordance with this section not later than 30 days after completing distribution of all assets on hand.

(b) The affidavit of closing shall itemize each transaction since the end of the accounting period of the fiduciary's final financial report or account and shall include:

(1) the reserve shown on the final financial report or account;

(2) income or assets received; and

(3) amounts disbursed from the reserve and additional income and assets.

(c) The affidavit shall include a statement that assets in the fiduciary's control have been distributed in accordance with the final financial report or account and that the estate is fully settled.

(d) Except for amounts shown as reserve on the financial report or account or additional income or assets received after the end of the accounting period, the affidavit shall not modify any item that would alter a beneficial interest previously adjudicated in the allowance of a financial report or account.

(e) The affidavit shall be signed under penalty of false statement.

(f) The court may accept the affidavit without notice and hearing.

Section 36.13 Records to be maintained by fiduciary

(a) A fiduciary shall maintain complete records of the fiduciary's management of the estate including, but not limited to, the paper copy or electronic equivalent of:

(1) each accounting, report, journal or ledger used in managing the estate, including all data recorded with accounting software;

(2) each statement and passbook for each bank account, including savings, checking, money market, certificates of deposit and other types of accounts;

(3) each canceled check or check image for each bank account, if provided by the bank;

(4) each statement for each investment account;

(5) a receipt for each deposit made into each bank or investment account and supporting information relating to the deposit;

(6) supporting information relating to each disbursement made from each bank or investment account, including original supporting vendor invoices and receipts;

(7) each statement for each credit card account;

(8) each statement for each store card account;

(9) supporting information relating to each charge made on each credit card, store card or debit card, including supporting vendor invoices and charge slips or receipts;

(10) supporting information relating to each distribution made from the estate or trust to any heir, beneficiary, conserved person or minor, as applicable;

(11) with respect to a conservatorship of the estate, supporting information relating to each gift or other transfer for less than full consideration made from the estate to a party other than the conserved person, provided, however, that a conservator may make gifts and transfers only with prior court approval under C.G.S. section 45a-655(e);

(12) detailed payroll information for each employee engaged or paid by the estate for each pay period, including time reporting records, original payroll registers, journals, and reports and copies of all Internal Revenue Service Forms 941, 942, W-3 and W-2 and other payroll tax returns;

(13) details of each contracted service provider engaged or paid by the estate for each calendar year, including original invoices from contractors and copies of all Internal Revenue Service Forms 1096 and 1099 and other tax forms;

(14) a detailed journal describing the fiduciary's services and compensation paid to the fiduciary;

(15) with respect to a decedent's estate or trust, a copy of each state and federal fiduciary income tax return filed by or on behalf of the estate or trust;

(16) with respect to a conservatorship of the estate or guardianship of the estate of a minor, a copy of each state and federal personal income tax return filed by or on behalf of the person under conservatorship or minor, including each form and information received for each tax year used in the completion of each return;

(17) with respect to a conservatorship of the estate, a copy of each state and federal gift tax return filed by or on behalf of the person under conservatorship; and

(18) any other record not specified in this section documenting the fiduciary's actions in the management of the trust or estate.

(b) The fiduciary shall not destroy any estate financial records until the court approves the fiduciary's financial report or account, the conclusion of any appeal on the report or account, or the termination of any other applicable record retention requirement, whichever is later.

Section 36.14 Definition of fiduciary acquisition value

(a) The fiduciary acquisition value of an asset is:

(1) for a decedent's estate, the fair market value of the asset on the date of death;

(2) for a trust, the fair market value of the asset on the date of death of the testator or settlor or on any other basis for value that the court directs after considering the nature of the trust and the manner in which it was funded; and

(3) for a conservatorship, guardianship or any other estate not specified in this section, the fair market value of the asset on the date of appointment of the first fiduciary.

(b) The fiduciary acquisition value of an asset that a fiduciary purchases during the course of administration is the sum of the purchase price of the asset and expenses directly related to the purchase.

(c) The fiduciary acquisition value of an asset shall not be changed based on unrealized gain or loss owing to fluctuations in market value.

(d) The fiduciary acquisition value of an asset shall be adjusted to reflect transactions in which:

(1) additional investments, such as capital improvements to real property, are made in an asset; and

(2) some of the original investment is returned to the fiduciary, such as the sale of a partial interest in an asset or the receipt of principal payments on a promissory note.

HISTORY: Rule 36 adopted effective July 1, 2013. Sections 36.5 and 36.13 amended effective July 1, 2015. Section 36.13 amended effective July 1, 2017. Section 36.13 amended and sections 36.11a and 36.11b adopted effective January 1, 2020.

Rule 37

Fiduciary Accounting: Requirements for Financial Reports

Section
37.1 Decedent's estate: requirements for financial report
37.2 Trusts: requirements for financial report
37.3 Conservatorship, guardianship and other estates: requirements for financial reports
37.4 Reporting distributions in financial report

Section 37.1 Decedent's estate: requirements for financial report

(a) Except as otherwise directed by the court, a financial report for a decedent's estate shall include the following information for the accounting period:

(1) the aggregate value of estate property at the beginning of the accounting period as reported on the inventory or the most recent interim financial report or account;

(2) the total amount of additional assets received;

(3) the total amount of income received in each major category including, but not limited to, interest, dividends and rent;

(4) the net of capital gains and losses realized on the sale of any assets;

(5) funeral expenses;

(6) the total amount of administration expenses in each major category including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes, probate bond premiums, publication expenses and other expenses;

(7) the total amount of claims paid to creditors;

(8) an itemized list of distributions made to each heir or beneficiary before the end of the accounting period; and

(9) if a final financial report, an itemized list of proposed distributions to each heir or beneficiary, the proposed reserve and a statement that all funeral expenses, administration expenses, taxes and claims have been paid and all bequests and devises have been or will be distributed.

(b) A financial report may include supporting schedules to provide additional details or explanatory notes.

(C.G.S. section 45a-176; Probate Court Rules, rule 36.)

Section 37.2 Trusts: requirements for financial report

(a) Except as otherwise directed by the court, a financial report for a trust shall include the following information for the accounting period:

(1) the aggregate value of estate property at the beginning of the accounting period as reported on the inventory or the most recent financial report or account;

(2) the total amount of additional assets received;

(3) the total amount of income received in each major category including, but not limited to, interest, dividends, annuities and rent;

(4) the net of capital gains and losses realized on the sale of any assets;

(5) the total amount of administration expenses in each major category including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes, probate bond premiums, publication expenses and other expenses;

(6) the total amount of distributions to, or for the benefit of, each beneficiary, together with a brief explanation of the basis for any discretionary distributions;

(7) the total amount of assets on hand at fair market value at the end of the accounting period, except that real property and assets that are difficult to value may be reported at fiduciary acquisition value; and

(8) if a final financial report, an itemized list of proposed distributions to each beneficiary and any proposed reserve.

(b) A financial report may include supporting schedules to provide additional details or explanatory notes.

(Probate Court Rules, rule 36.)

Section 37.3 Conservatorship, guardianship and other estates: requirements for financial reports

(a) Except as otherwise directed by the court, a financial report for a conservatorship, guardianship or any other type of estate not specified in this rule shall include the following information with respect to the accounting period:

(1) the aggregate value of estate property at the beginning of the accounting period reported on the inventory or the most recent financial report or account;

(2) the total amount of additional assets received;

(3) the total amount of income received in each major category including, but not limited to, interest, dividends, pension, social security, annuities, wages and rent;

(4) the net of capital gains and losses realized on the sale of any assets;

(5) the total amount of administration expenses in each major category including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes, probate bond premiums, publication expenses and other expenses;

(6) the total amount of distributions to, or for the benefit of, the person for whom the estate is administered in each major category including, but not limited to, medical, housing, utilities, automobile, spending money, groceries, clothing and tuition;

(7) the total amount of assets on hand at fair market value at the end of the accounting period, except that real property and assets that are difficult to value may be reported at fiduciary acquisition value; and

(8) if a final financial report, an itemized proposed distribution and any proposed reserve.

(b) A financial report may include supporting schedules to provide additional details or explanatory notes.

(C.G.S. section 45a-597; Probate Court Rules, rule 36.)

Section 37.4 Reporting distributions in financial report

(a) Except as provided in subsection (b), the fiduciary shall report distributions on a financial report at fair market value as of the date of distribution.

(b) Distributions may be shown at fiduciary acquisition value if each beneficiary in a class of beneficiaries entitled to the distribution will receive a proportionate share of each asset.

(c) Unless otherwise directed by the court, miscellaneous tangible personal property not itemized on the inventory need not be itemized in a financial report.

(d) A schedule itemizing distributions or proposed distributions shall include reference to the provisions of the will or other governing instrument directing or authorizing the distributions.

HISTORY: Rule 37 adopted effective July 1, 2013.

Rule 38

Fiduciary Accounting: Requirements for Accounts

Section
38.1 When principal and income to be reported separately
38.2 Contents of account when principal and income transactions combined
38.3 Contents of account when principal and income activities reported separately
38.4 Reporting distributions in account
38.5 Account required to balance

Section 38.1 When principal and income to be reported separately

(a) Except as provided in subsections (b) through (d), a fiduciary submitting an account may combine principal and income transactions in accordance with section 38.2.

(b) The fiduciary of a decedent's estate shall report principal and income transactions separately in accordance with section 38.3 if:

(1) the will provides for a distribution to a trustee of a trust that has differing income and principal interests;

(2) the will establishes a life interest in intangible personal property; or

(3) the surviving spouse elects against the will under C.G.S. section 45a-436.

(c) The trustee of a trust shall report principal and income transactions separately in accordance with section 38.3 if the will or other governing instrument provides for differing income and principal interests.

(d) On motion of a party or on the court's own motion, the court may require a fiduciary to submit an account reporting principal and income transactions separately in accordance with section 38.3 if the court determines that separate accounting is necessary to accomplish the purposes of the estate.

(Probate Court Rules, rule 36.)

Section 38.2 Contents of account when principal and income transactions combined

(a) An account that combines income and principal transactions shall contain the following summary parts:

(1) assets and income received by the fiduciary; and

(2) payments and distributions by the fiduciary and estate on hand.

(b) The part reporting assets and income received by the fiduciary shall summarize all transactions during the accounting period that result in an increase in the amount of the estate and shall include:

(1) the fiduciary acquisition value of assets at the beginning of the accounting period as reported on the inventory or the most recent financial report or account;

(2) the fiduciary acquisition value of additional assets received;

(3) cash advanced to the estate by the fiduciary or another person;

(4) income received;

(5) capital gains realized on the sale of assets; and

(6) adjustments increasing fiduciary acquisition value under section 36.14.

(c) The part reporting payments and distributions by the fiduciary and estate on hand shall summarize all transactions during the accounting period that reduce the amount of the estate and shall include:

(1) administration expenses;

(2) in a decedent's estate:

(A) funeral expenses; and

(B) claims paid to creditors;

(3) capital losses realized on the sale of assets;

(4) adjustments decreasing fiduciary acquisition value under section 36.14;

(5) the fiduciary acquisition value of distributions to heirs or beneficiaries before the end of the accounting period;

(6) the fiduciary acquisition value of assets on hand at the end of the accounting period; and

(7) if a final account, the fiduciary acquisition value of proposed distributions and any proposed reserve.

(d) The account shall include:

(1) a schedule itemizing additional assets received;

(2) a schedule listing the total amount of administration expenses in each major category including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes, probate bond premiums, publication expenses and other expenses;

(3) a statement indicating whether any person who made a cash advance to the estate expects to be reimbursed;

(4) a schedule listing the total amount of income in each major category including, but not limited to, interest, dividends, pension, social security, annuities, wages and rent;

(5) schedules showing the calculation of capital gain or loss for each asset sold during the accounting period;

(6) a schedule itemizing asset purchases;

(7) a schedule itemizing sales of assets or other capital changes not resulting in capital gains or losses;

(8) a schedule itemizing assets on hand, shown at both fiduciary acquisition value and fair market value at the end of the accounting period, except that real property and difficult to value assets may be reported at fiduciary acquisition value;

(9) a schedule itemizing distributions made to each heir or beneficiary during the accounting period;

(10) if a final account:

(A) a schedule itemizing distributions proposed to be made to each heir or beneficiary after approval of the account; and

(B) a schedule explaining the purpose of any proposed reserve; and

(11) any other schedule necessary to provide details or explanatory notes.

(e) The account shall include a cash account balancing all cash receipts with cash disbursements and cash on hand at the end of the accounting period. Cash receipts shall be reported in each major category including, but not limited to, cash on hand at the beginning of the accounting period, additional cash receipts, income receipts and proceeds from sales of assets. Cash disbursements shall be reported in each major category including, but not limited to, administration expenses, claims, purchases of assets and distributions.

(f) A final account for a decedent's estate shall include a statement that all funeral expenses, administration expenses, taxes and claims have been paid and all bequests and devises have been or will be distributed.

(g) On motion of a party or on the court's own motion, the court may modify the required contents of an account under this section.

(C.G.S. section 45a-597.)

Section 38.3 Contents of account when principal and income activities reported separately

(a) If a fiduciary is required to report principal and income activities separately, the fiduciary shall designate each transaction as a principal or income transaction in accordance with the will or governing instrument and the Connecticut Principal and Income Act and shall report the transactions in accordance with this section.

(b) An account that reports income and principal activities separately shall contain the following summary parts:

(1) principal charges;

(2) principal credits;

(3) income charges; and

(4) income credits.

(c) The part reporting principal charges shall summarize all transactions during the accounting period that increase the principal of the estate and shall include:

(1) the fiduciary acquisition value of assets at the beginning of the accounting period as reported on the inventory or the most recent financial report or account;

(2) the fiduciary acquisition value of any additional principal assets received;

(3) cash advanced to the estate by the fiduciary or another person;

(4) capital gains realized on the sale of principal assets; and

(5) adjustments increasing the fiduciary acquisition value of any principal assets under section 36.14.

(d) The part reporting principal credits shall summarize all transactions during the accounting period that decrease the principal of the estate and shall include:

(1) administration expenses attributable to principal;

(2) in a decedent's estate:

(A) funeral expenses; and

(B) claims paid to creditors;

(3) capital losses realized on the sale of principal assets;

(4) adjustments decreasing the fiduciary acquisition value of any principal assets under section 36.14;

(5) the fiduciary acquisition value of distributions of principal assets to heirs or beneficiaries before the end of the accounting period;

(6) the fiduciary acquisition value of principal assets on hand at the end of the accounting period; and

(7) if a final account, the fiduciary acquisition value of proposed distributions of principal assets and any proposed reserve of principal assets.

(e) The part reporting income charges shall summarize all income receipts during the accounting period and shall include:

(1) the amount of income on hand at the beginning of the accounting period as reported on the inventory or the most recent financial report or account; and

(2) the total amount of income received.

(f) The part reporting income credits shall summarize all transactions during the accounting period that reduce the income of the estate and shall include:

(1) administration expenses attributable to income;

(2) distributions of income to heirs or beneficiaries before the end of the accounting period;

(3) income on hand at the end of the accounting period; and

(4) if a final account, proposed income distributions and any proposed reserve of income assets.

(g) The account shall include the following schedules regarding principal transactions:

(1) a schedule itemizing additional principal assets received;

(2) a schedule itemizing administration expenses attributable to principal in each major category, including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes, probate bond premiums, publication expenses and other expenses;

(3) a statement indicating whether any person who made a cash advance to the estate expects to be reimbursed;

(4) schedules showing the calculation of the capital gain or loss for each principal asset sold during the accounting period;

(5) a schedule itemizing principal asset purchases;

(6) a schedule itemizing sales of principal assets and other capital changes not resulting in capital gains or losses;

(7) a schedule itemizing principal assets on hand, shown at both fiduciary acquisition value and fair market value at the end of the accounting period, except that real property and difficult to value assets may be reported at fiduciary acquisition value;

(8) a schedule itemizing principal distributions made to each heir or beneficiary during the accounting period;

(9) if a final account:

(A) a schedule itemizing principal distributions proposed to be made to each heir or beneficiary after approval of the account; and

(B) a schedule explaining the purpose of any proposed principal reserve; and

(10) any other schedule necessary to provide details or explanatory notes.

(h) The account shall include the following schedules regarding income transactions:

(1) a schedule listing the total amount of income in each major category including, but not limited to, interest, dividends, pension, social security, annuities, wages and rent;

(2) a schedule itemizing administration expenses attributable to income in each major category including, but not limited to, fiduciary fees, attorney's fees, accounting expenses, probate fees, taxes, probate bond premiums, publication expenses and other expenses;

(3) a schedule itemizing income distributions made to each heir or beneficiary during the accounting period; and

(4) if a final account:

(A) a schedule itemizing income distributions proposed to be made to each heir or beneficiary after approval of the account; and

(B) a schedule explaining the purpose of any proposed income reserve; and

(5) any other schedule necessary to provide details or explanatory notes.

(i) The account shall include a cash account balancing all principal cash receipts with principal disbursements and principal on hand at the end of the accounting period. Cash receipts shall be reported in each major category including, but not limited to, principal cash on hand at the beginning of the accounting period, additional principal cash receipts and proceeds from sales of assets. Cash disbursements shall be reported in each major category including, but not limited to, administration expenses attributable to principal, claims, purchases of principal assets and principal distributions.

(j) A final account for a decedent's estate shall include a statement that all funeral expenses, administration expenses, taxes and claims have been paid and all bequests and devises have been or will be distributed.

(k) On motion of a party or on the court's own motion, the court may modify the required contents of an account under this section.

(C.G.S. sections 45a-542 through 45a-542ff and 45a-597.)

Section 38.4 Reporting distributions in account

(a) Except as provided in subsection (b), a schedule itemizing distributions shall indicate both fiduciary acquisition value and fair market value as of the date of distribution.

(b) Distributions may be shown at fiduciary acquisition value if each beneficiary in a class of beneficiaries entitled to the distribution will receive a proportionate share of each asset.

(c) Unless otherwise directed by the court, miscellaneous tangible personal property not itemized on the inventory need not be itemized on an account.

(d) A schedule itemizing distributions or proposed distributions shall include reference to the provisions of the will or other governing instrument directing or authorizing the distributions.

Section 38.5 Account required to balance

(a) An account shall balance in the manner provided in subsections (b) and (c).

(b) In an account in which principal and income transactions are combined, the sum of all assets and income received by the fiduciary reported under section 38.2(b) shall equal the sum of all payments and distributions by the fiduciary and estate on hand reported under section 38.2(c).

(c) In an account in which principal and income transactions are reported separately:

(1) the sum of all principal charges reported under section 38.3(c) shall equal the sum of all principal credits reported under section 38.3(d); and

(2) the sum of all income charges reported under section 38.3(e) shall equal the sum of all income credits reported under section 38.3(f).

HISTORY: Rule 38 adopted effective July 1, 2013.

Rule 39

Fiduciary and Attorney's Fees

Section
39.1 Fiduciary and attorney's fees
39.2 Task statement of fiduciary and attorney

Section 39.1 Fiduciary and attorney's fees

(a) On motion of a fiduciary, the court may approve:

(1) a proposed fee arrangement for the fiduciary or for the fiduciary's attorney before the fiduciary or attorney has rendered services; or

(2) a proposed fee for services already rendered by the fiduciary or attorney.

(b) On motion of an attorney who does not represent a fiduciary but whose fees are payable by an estate, the court may approve a proposed fee arrangement before the attorney renders services or a proposed fee for services already rendered.

(c) The court may require the fiduciary to file a financial report or account before approving a proposed fee arrangement or proposed fee pursuant to this section if it determines that additional information about the estate is necessary to evaluate the reasonableness of the proposal.

(d) Fiduciary and attorney's fees not previously approved by the court are subject to review in connection with the financial report or account covering the period in which the fees are paid. The court shall determine whether the fiduciary and attorney's fees are reasonable, whether or not an interested party raises an objection to the fees.

(C.G.S. sections 17b-95(c) and 45a-594.)

Section 39.2 Task statement of fiduciary and attorney

(a) In reviewing a proposed fee for services already rendered, the court may require a fiduciary or attorney to submit a task statement describing the services performed.

(b) A fiduciary's task statement shall address:

(1) size of the estate;

(2) responsibilities involved;

(3) character of the work required;

(4) special problems and difficulties met in doing the work;

(5) results achieved;

(6) knowledge, skill and judgment required;

(7) manner and promptness in which the matter was handled;

(8) time required; and

(9) other relevant and material circumstances.

(c) An attorney's task statement shall include a copy of the attorney's engagement letter and shall address:

(1) time and labor required;

(2) novelty and difficulty of the questions involved;

(3) skill required to perform the legal service properly;

(4) likelihood, if made known to the client, that the acceptance of the particular employment will preclude other employment by the attorney;

(5) fee customarily charged in the locality for similar legal services;

(6) value of the estate involved, results obtained and time limitations imposed by the client or circumstances;

(7) nature and length of the attorney's professional relationship with the person whose estate is being administered or with the fiduciary;

(8) experience, reputation and ability of the attorney performing the services; and

(9) whether the fee is fixed or contingent.

(C.G.S. sections 17b-95(c) and 45a-594; Hayward *v.* Plant*, 98 Conn. 374, 384, 118 A. 634 (1923); Connecticut Practice Book, Rules of Professional Conduct, rule 1.5.)*

HISTORY: Rule 39 adopted effective July 1, 2013.

Rule 40

Children's Matters: General Provisions

Section
40.1 When streamline notice procedure may be used in children's matter
40.2 Appointment of attorney and guardian ad litem for minor
40.3 Immediate temporary custody of a minor
40.4 Order for immediate temporary custody without notice and hearing
40.5 Appointment of temporary custodian on consent
40.6 Removal and appointment of guardian on consent
40.6a Notice of hearing on competing removal petition
40.7 Reinstatement as guardian
40.8 Temporary guardianship
40.9 Public notice in termination proceeding when name or location of parent unknown
40.10 Pre-adoption hearing
40.11 Appointment of out-of-state child-placing agency as statutory parent to give child in adoption
40.12 Adoption by same sex married couple
40.13 Notice in adult adoption proceeding
40.14 In-court review for possible modification of order
40.15 Criminal background check
40.16 Transfer of contested removal or termination petition to Superior Court
40.17 Appointment of commissioner of children and families as temporary custodian or guardian
40.18 Single petition for special immigrant juvenile findings and related children's matter
40.19 Single petition to terminate parental rights and approve adoption
40.19a Single petition for children of same parents
40.20 Court to advise respondent parent of rights in proceeding to terminate parental rights or appoint permanent guardian
40.21 Duties of family specialist
40.22 Files and reports of family specialist

Section 40.1 When streamline notice procedure may be used in children's matter

See rule 8.6.

Section 40.2 Appointment of attorney and guardian ad litem for minor

(a) The court may appoint an attorney for a minor under C.G.S. section 45a-620.

(b) If the court determines that the minor is unable to express his or her wishes to the attorney, the court may appoint the attorney to serve as both attorney and guardian ad litem.

(c) If the court determines that the minor's wishes, if followed, could lead to substantial physical, financial or other harm to the minor, the court may appoint an individual as attorney for the minor and another individual as guardian ad litem for the minor.

(C.G.S. sections 45a-132, 45a-717(b) and 46b-172a(c); Probate Court Rules, rule 13.)

Section 40.3 Immediate temporary custody of a minor

(a) A petitioner seeking to remove a parent or other guardian under C.G.S. section 45a-613 or 45a-614 or to terminate parental rights under C.G.S. section 45a-715(a) may petition for immediate temporary custody of the minor. A parent may file a petition under this section.

(b) In subsections (c), (d) and (e), the phrase "in the custody of the parent or other guardian," when used in C.G.S. section 45a-607(b), refers to the current physical care of

the minor at the time a petition for immediate temporary custody is filed, not the legal rights of the parent or guardian regarding the custody or guardianship of the minor.

(c) Except as provided in subsection (e) or C.G.S. section 45a-607(b)(2), the court may not grant a petition for immediate temporary custody of the minor on an ex parte basis if the minor is in the custody of a parent or other guardian.

(d) If the minor is not in the custody of a parent or other guardian, the court may grant a petition for immediate temporary custody of the minor on an ex parte basis as provided in C.G.S. sections 45a-607(b)(1) through 45a-607(b)(3).

(e) If the minor is in the custody of a parent or guardian who is the petitioner, the court may grant a petition for immediate temporary custody of the minor on an ex parte basis as provided in C.G.S. sections 45a-607(b)(1) through 45a-607(b)(3).

(C.G.S. section 45a-604; Probate Court Rules, rule 69.)

Section 40.4 Order for immediate temporary custody without notice and hearing

(a) The court may act on a petition for immediate temporary custody under C.G.S. section 45a-607(b) without notice and hearing.

(b) If the court determines that it is necessary to meet with the petitioner before deciding a petition for immediate temporary custody on an ex parte basis, the court shall make an audio recording of the meeting. The recording shall be available to the parties. If the court grants immediate temporary custody and the temporary custody hearing required by C.G.S. section 45a-607(b)(3) is contested, the judge who met with the petitioner shall be disqualified from conducting the temporary custody hearing.

(c) In a proceeding under this section, the court may, in addition to the criminal background check required under section 40.15, obtain a search of the registry of protection orders to determine whether there have been any orders protecting or restraining any of the following individuals:

(1) a proposed temporary custodian;

(2) an individual living in the household of the proposed temporary custodian; or

(3) any other person if necessary to protect the interests of the minor.

(Probate Court Rules, rules 65 and 69.)

Section 40.5 Appointment of temporary custodian on consent

(a) If a parent or guardian of a minor consents to the grant of temporary custody in connection with a petition that names a proposed temporary custodian, the court shall not appoint another individual as custodian unless:

(1) the parent or guardian consents to the appointment of the other individual;

(2) the original petition alleges grounds for temporary custody other than consent of the parent or guardian, and the court makes the findings required under C.G.S. section 45a-607(d);

(3) a person authorized under C.G.S. section 45a-614 files a petition for immediate temporary custody, and the court makes the findings required under C.G.S. section 45a-607(b); or

(4) a person authorized under C.G.S. section 45a-614 files a new or amended petition alleging grounds for temporary custody, and the court, after notice and hearing in accordance with C.G.S. section 45a-607(c), makes the findings required under C.G.S. section 45a-607(d).

(b) If the court grants immediate temporary custody under subsection (a)(3), the court shall give notice and conduct a temporary custody hearing in accordance with C.G.S. section 45a-607(b)(3).

(C.G.S. section 45a-604; Probate Court Rules, rule 70.)

Section 40.6 Removal and appointment of guardian on consent

If a parent or guardian consents to removal as guardian in connection with a petition that names a proposed guardian, the court shall not appoint another individual as guardian unless:

(1) the parent or guardian consents to the appointment of the other individual as guardian;

(2) the original petition alleges grounds for removal other than consent of the parent or guardian, and the court makes the findings required under C.G.S. section 45a-610; or

(3) a person authorized under C.G.S. section 45a-614 files a new or amended petition alleging grounds for removal, and the court, after notice and hearing in accordance with C.G.S. section 45a-609, makes the findings required under C.G.S. section 45a-610.

(C.G.S. sections 45a-604 and 45a-617; Probate Court Rules, rule 70.)

Section 40.6a Notice of hearing on competing removal petition

If the court has previously given notice of hearing on a petition to remove a parent or other guardian, the court shall give notice of hearing on any subsequent competing removal petition by regular mail to each party and attorney of record and each other person listed in C.G.S. section 45a-609(b). Delivery of the notice of the competing removal petition by personal service on the respondent is not required.

(C.G.S. sections 45a-613 and 45a-614; Probate Court Rules, section 6.1(a)(3) and rule 8.)

Section 40.7 Reinstatement as guardian

Except as provided under C.G.S. section 45a-611, a parent or guardian who was removed as guardian of a minor may file a petition seeking reinstatement as guardian. The petitioner shall have the burden of proving that the factors that resulted in removal have been resolved satisfactorily. If the court finds that the parent or former guardian has met the burden of proof, the court shall determine whether reinstatement of the parent or former guardian is in the minor's best interests. The evidentiary standard for the findings in this section and C.G.S. section 45a-611 is preponderance of the evidence.

(C.G.S. sections 45a-604 and 45a-616a.)

Section 40.8 Temporary guardianship

(a) A parent or guardian may petition to appoint a temporary guardian for a minor without another parent or guardian joining as copetitioner. The court shall give notice to each party, including a nonpetitioning parent or guardian, and each attorney of record.

(b) If the appointing parent or guardian terminates a temporary guardianship in accordance with C.G.S. section 45a-622, the court shall notify each party and attorney of record that the guardianship is terminated. The court is not required to give notice if the temporary guardianship expires on the date specified in the order establishing the guardianship.

(C.G.S. section 45a-604.)

Section 40.9 Public notice in termination proceeding when name or location of parent unknown

(a) A petitioner seeking to terminate the parental rights of a parent shall make diligent effort to determine the name and current address of the parent. If the petitioner cannot determine the name or address, the petition shall include a statement signed under penalty of false statement indicating:

(1) that the petitioner cannot determine the name or address of the parent;

(2) the last known address, if any, of the parent;

(3) the search efforts that the petitioner has made; and

(4) other relevant information that might assist in determining the name or address of the parent.

(b) If the name or address of a parent is unknown, the court shall publish notice of the hearing on the petition to terminate parental rights in a newspaper having general circulation where the parent was last known to reside or, if no such address is known, in the probate district in which the petition was filed. The notice shall include the full name of any known parent, the first name and first initial of the last name of the minor and the minor's date and place of birth.

(C.G.S. sections 45a-707, 45a-715(c) and 45a-716(c).)

Section 40.10 Pre-adoption hearing

The court may conduct a pre-adoption hearing to address any issues associated with the proposed adoption. The notice of hearing shall indicate that the adoption will not be finalized at the pre-adoption hearing.

(C.G.S. section 45a-727(c).)

Section 40.11 Appointment of out-of-state child-placing agency as statutory parent to give child in adoption

An out-of-state child-placing agency may petition to be appointed as statutory parent

of a minor whom the agency has placed for adoption in this state under the Interstate Compact on the Placement of Children. The court may appoint the agency as statutory parent if the court finds that:

(1) the minor is free for adoption;

(2) no statutory parent has been appointed for the minor in this state; and

(3) the agency is licensed or approved by the Department of Children and Families.

(C.G.S. sections 17a-175, 45a-707, 45a-718, 45a-725 and 45a-727.)

Section 40.12 Adoption by same sex married couple

(a) Even if both spouses of a same sex married couple are considered parents of a minor under the law of this state, a spouse may petition under C.G.S. section 45a-724(a)(2) for a stepparent adoption of the minor by the other spouse or under C.G.S. section 45a-724(a)(3) for a co-parent adoption of the minor by the other spouse.

(b) In a proceeding under subsection (a), the court may waive notice to the commissioner of children and families and shall waive, unless cause is shown, all requirements for an investigation and report by the Department of Children and Families or by a child-placing agency.

(C.G.S. sections 45a-707 and 45a-733.)

Section 40.13 Notice in adult adoption proceeding

In a proceeding to approve an adult adoption, the court shall give notice to each party and attorney of record. The court may give notice to other persons interested in the welfare of the parties, including relatives and friends of the proposed adoptive parent and adopted person.

(C.G.S. section 45a-734; Probate Court Rules, rule 8.)

Section 40.14 In-court review for possible modification of order

On motion of a party or on the court's own motion, the court may conduct an in-court review to consider possible modification of an order of the court regarding custody, guardianship or visitation. The notice of hearing for the in-court review shall specify the order that is the subject of review.

Section 40.15 Criminal background check

(a) Unless an immediate appointment is necessary to ensure the safety of a minor, the court shall obtain a criminal background check of a proposed temporary custodian, guardian of the person, temporary guardian or coguardian of the person before issuing a decree appointing the fiduciary.

(b) If the requirement of a criminal background check is waived at the time of appointment under subsection (a), the court shall obtain a criminal background check as soon as reasonably possible after issuing the decree making the appointment.

(c) At any time during a proceeding concerning a minor, the court may obtain a criminal background check of:

(1) an individual providing care to the minor;

(2) an individual living in the household in which the minor resides or will reside; or

(3) any other person if necessary to protect the interests of the minor.

(C.G.S. section 45a-617.)

Section 40.16 Transfer of contested removal or termination petition to Superior Court

(a) A party may file a motion in the Probate Court to transfer a contested petition to remove a parent or other guardian or terminate parental rights to the Superior Court for Juvenile Matters. Unless the Probate Court grants an extension of time to file, the party shall file the motion at least three days before the first hearing on the petition for removal or termination.

(b) The party moving for transfer under subsection (a) shall send a copy of the motion to each party and attorney of record and shall certify to the court that the copy has been sent.

(c) If the motion to transfer is filed by a party other than the party who petitioned for removal or termination, the court shall, without notice and hearing, grant the transfer not later than five days after receipt of the motion.

(d) If the motion to transfer is filed by the party who petitioned for removal or termination, the court shall hear and decide the motion before conducting the hearing on removal or termination.

(e) On the court's own motion and without notice and hearing, the court may transfer a petition for removal or termination to the Superior Court.

(C.G.S. sections 45a-623, 45a-715(g) and 46b-150i.)

Section 40.17 Appointment of commissioner of children and families as temporary custodian or guardian

If the court appoints the commissioner of children and families as temporary custodian or guardian of the person of a minor, the court shall make written findings to indicate whether the commissioner made reasonable efforts to maintain the minor in the home and whether continuation in the home is contrary to the best interests of the minor.

(C.G.S. sections 45a-607 and 45a-610.)

Section 40.18 Single petition for special immigrant juvenile findings and related children's matter

(a) If a petitioner simultaneously files a petition for special immigrant juvenile findings with any one of the following petitions, the court may treat the petitions as a single petition subject to one filing fee:

(1) removal of a guardian;

(2) appointment of a guardian or coguardian;

(3) termination of parental rights; or

(4) approval of an adoption.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 40.19 Single petition to terminate parental rights and approve adoption

(a) If a petitioner simultaneously files a petition to terminate parental rights and a petition to approve an adoption of the child under C.G.S. section 45a-724(b), the court may treat the petitions as a single petition subject to one filing fee.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 40.19a Single petition for children of same parents

(a) If a petitioner simultaneously files petitions seeking the same relief for two or more minors having the same parents in any of the following types of matters, the court may treat the petitions as a single petition subject to one filing fee:

(1) temporary custody;

(2) removal of a guardian;

(3) appointment of a guardian or coguardian;

(4) appointment of a temporary guardian;

(5) appointment of a permanent guardian;

(6) reinstatement of a parent or guardian;

(7) termination of parental rights;

(8) appointment of a statutory parent;

(9) approval of an adoption;

(10) emancipation; or

(11) paternity.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 40.20 Court to advise parent of rights in proceeding to terminate parental rights or appoint permanent guardian

(a) In a proceeding to terminate parental rights or appoint a permanent guardian of a minor, the court shall canvass a respondent parent in accordance with subsection (b):

(1) on the first occasion, if any, that the parent attends a hearing; and

(2) at the beginning of the hearing on the merits, if the parent is present.

(b) In conducting a canvass under this section, the court shall advise the parent:

(1) of the nature of the proceeding and the legal effect of a decree terminating parental rights or appointing a permanent guardian;

(2) of the parent's right to:

(A) defend against the allegations in the petition;

(B) confront and cross-examine witnesses;

(C) object to the admission of exhibits;

(D) present evidence opposing the allegations;

(E) be represented by an attorney;

(F) testify on the parent's own behalf;

(3) that, if the parent does not testify, the court may conclude that the testimony would not have been helpful to the parent's case; and

(4) that, if the parent does not testify, present witnesses on the parent's behalf, object to exhibits or cross-examine witnesses, the court will decide the matter based on the other evidence presented at the hearing.

(C.G.S. sections 45a-616a and 45a-715; In re Yasiel R.*, 317 Conn. 773 (2015).)*

Section 40.21 Duties of family specialist

The court may assign a family specialist to perform any of the following duties:

(1) conduct conferences with the parties and their attorneys, representatives of the Department of Children and Families and social service providers;

(2) facilitate development of the family's plan for the care of the minor;

(3) facilitate development of a visitation plan;

(4) coordinate with the Department of Children and Families to facilitate a thorough review of the matter;

(5) assess whether the family's plan for the care of the minor is in the minor's best interests;

(6) assist the family in engaging community services;

(7) testify at hearings; and

(8) conduct follow-up regarding orders of the court.

(C.G.S. section 45a-8d.)

Section 40.22 Files and reports of family specialist

(a) A family specialist shall maintain all notes, correspondence, reports and other materials gathered or created in the scope of the family specialist's duties in a file separate from the court file. Except as provided in subsection (c), the court shall not review materials in the file unless admitted into evidence.

(b) Except as provided in C.G.S. section 45a-754, all materials in the family specialist's file in a proceeding for removal of parent as guardian, termination of parental rights, appointment of statutory parent, adoption, temporary guardianship or emancipation of a minor are confidential and not open to public inspection and shall not be disclosed to any person.

(c) Before any scheduled hearing on a matter, the family specialist shall file with the court a copy of each report prepared by the family specialist.

(C.G.S. section 45a-8d; Probate Court Rules, rule 16.)

HISTORY: Rule 40 adopted effective July 1, 2013. Sections 40.3, 40.7, 40.9, 40.13 and 40.16 amended and section 40.6a adopted effective July 1, 2015. Sections 40.4, 40.5, 40.6, 40.12, 40.14 and 40.15 amended and sections 40.18, 40.19 and 40.20 adopted effective July 1, 2017. Sections 40.3 and 40.8 amended and sections 40.19a, 40.21 and 40.22 adopted effective January 1, 2020.

Rule 41

Children's Matters: Regional Children's Probate Courts [Repealed effective January 1, 2020]

Section
41.1 Transfer of children's matter to Regional Children's Probate Court [Repealed]
41.2 Duties of probate court officer [Repealed]
41.3 Files and reports of probate court officer [Repealed]

Section 41.1 Transfer of children's matter to Regional Children's Probate Court

Section 41.1 is repealed effective January 1, 2020. (Transferred to section 18.5)

Section 41.2 Duties of probate court officer

Section 41.2 is repealed effective January 1, 2020. (Transferred to section 40.21)

Section 41.3 Files and reports of probate court officer

Section 41.3 is repealed effective January 1, 2020. (Transferred to section 40.22)

Rule 42

Children's Matters: Overlapping Jurisdiction in Probate Court and Superior Court for Juvenile Matters

Section
42.1 Prior pending matter in Superior Court for Juvenile Matters
42.2 Prior pending matter in Probate Court
42.3 When Probate Court grants custody or guardianship to commissioner of children and families
42.4 Emergency action by the commissioner of children and families when prior pending matter in Probate Court
42.5 Safety and service agreement

Section 42.1 Prior pending matter in Superior Court for Juvenile Matters

If a matter concerning a minor is pending in the Superior Court for Juvenile Matters before a petition is filed in a Probate Court concerning the same minor, the Probate Court shall dismiss the petition.

Section 42.2 Prior pending matter in Probate Court

(a) If a matter concerning a minor is pending in a Probate Court before the filing of a petition in the Superior Court for Juvenile Matters concerning the same minor, the commissioner of children and families and any party having knowledge of the pending matters shall immediately give written notice to each court that the matters are pending in both courts.

(b) On notification that the Superior Court has a pending matter concerning a minor for whom there was a prior pending matter in a Probate Court, the judges of the two courts shall communicate to determine which court should proceed, which court should dismiss the matter and whether the dismissal should be without prejudice. The courts may allow the parties to participate in the communication.

(c) The courts shall arrange for an audio recording or stenographic record of a communication made under subsection (b). The parties shall be promptly informed of the communication and may, on payment of applicable charges, obtain a copy of the audio recording or transcript of the communication.

(d) The courts may communicate on scheduling, calendars, court records and other administrative issues without making a record and without informing the parties of the communication.

(Probate Court Rules, rules 19 and 65.)

Section 42.3 When Probate Court grants custody or guardianship to commissioner of children and families

If a Probate Court appoints the commissioner of children and families as temporary custodian or guardian of the person of a minor, the commissioner shall immediately file a petition under C.G.S. section 46b-129 in the Superior Court for Juvenile Matters and notify the Probate Court of the filing. The Superior Court shall assume jurisdiction. The Probate Court shall defer further action and dismiss the matter on issuance of a Superior Court order regarding custody of the minor.

(C.G.S. sections 45a-607 and 45a-610.)

Section 42.4 Emergency action by the commissioner of children and families when prior pending matter in Probate Court

(a) If the commissioner of children and families determines that exigent circumstances necessitate a 96-hour hold or a motion for an

order of temporary custody in the Superior Court for Juvenile Matters for a minor for whom a matter is pending in a Probate Court, the commissioner shall immediately notify the Probate Court of the commissioner's action and report to the Probate Court the outcome of the temporary custody hearing in the Superior Court under C.G.S. section 46b-129.

(b) If the Superior Court grants the motion for an order of temporary custody under subsection (a), the Probate Court shall dismiss the matter.

(C.G.S. section 17a-101g; Probate Court Rules, rule 19.)

Section 42.5 Safety and service agreement

(a) If the Probate Court becomes aware that a family member has entered into a safety and service agreement with the commissioner of children and families for a minor for whom the court has a pending matter, the court shall contact a social worker or supervisor in the Department of Children and Families to determine whether the commissioner intends to file a petition regarding the minor in the Superior Court for Juvenile Matters.

(b) If the commissioner indicates that the commissioner does not plan to file a petition regarding the minor in the Superior Court, the Probate Court shall proceed to hear and decide the matter.

(c) If the commissioner indicates that the commissioner plans to file a petition in the Superior Court, the commissioner shall file the petition not later than eight days after informing the Probate Court of the intended action and notify the Probate Court of the filing. The Probate Court may hear and decide a pending petition for temporary custody before receipt of notification that the petition has been filed in the Superior Court. On receipt of notification that the petition has been filed in the Superior Court, the Probate Court shall defer further action and dismiss the matter on issuance of a Superior Court order regarding custody of the minor.

(d) If the commissioner fails to file a petition within eight days of informing the Probate Court of the intention to file, the Probate Court shall proceed to hear and decide the matter.

(Probate Court Rules, rule 19.)

HISTORY: Rule 42 adopted effective July 1, 2013. Section 42.2 amended effective January 1, 2020.

Rule 42A

Children's Matters: Overlapping Jurisdiction in Probate Court and Superior Court-Family Division

Section
42A.1 Duty to notify courts
42A.2 Guardianship or termination of parental rights matter in Probate Court
42A.3 Visitation matter in Probate Court
42A.4 When Probate Court may defer action
42A.5 Communication between Probate Court and Superior Court-Family Division

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Section 42A.1 Duty to notify courts

Upon becoming aware of existing orders or pending matters concerning the same minor in both the Probate Court and the Superior Court-Family Division, a party shall immediately notify, in writing, each court in which a matter is pending.

(Probate Court Rules, rule 19.)

Section 42A.2 Guardianship or termination of parental rights matter in Probate Court

Except as provided in section 42A.4, the Probate Court may hear and decide any of the petitions set forth below concerning a minor notwithstanding an existing order or pending matter in the Superior Court-Family Division concerning the same minor:

(1) removal of a guardian;

(2) appointment of a guardian, coguardian or permanent guardian; or

(3) termination of parental rights.

Section 42A.3 Visitation matter in Probate Court

(a) Except as provided in subsections (b) and (c) and in section 42A.4, the Probate Court may hear and decide a petition under C.G.S. section 45a-612 for visitation of a minor notwithstanding an existing order or pending matter in the Superior Court-Family Division concerning the same minor.

(b) The Probate Court shall dismiss a person's petition for visitation if a pending visitation matter in the Superior Court:

(1) concerns an existing Superior Court order for visitation by the same person;

(2) was commenced under C.G.S. section 46b-59; or

(3) was commenced by a person who lacks standing to seek visitation in the Probate Court.

(c) The Probate Court shall not issue an order concerning visitation that conflicts with a Superior Court order for visitation by the same person.

Section 42A.4 When Probate Court may defer action

The Probate Court may defer action on a petition for removal of a guardian, appointment of a guardian, co-guardian or permanent guardian, or termination of parental rights concerning a minor if the Probate Court determines that:

(1) a pending petition in the Superior Court-Family Division concerning the same minor seeks relief not available in the Probate Court;

(2) pending petitions in the Probate Court and the Superior Court seek conflicting relief concerning the same minor;

(3) the Superior Court has relevant information or evidence at its disposal not readily available to the Probate Court; or

(4) the petition in the Probate Court is frivolous or was filed for the purpose of forum shopping or delaying another proceeding.

Section 42A.5 Communication between Probate Court and Superior Court-Family Division

(a) On notification of existing orders or pending matters concerning a minor in both the Probate Court and the Superior Court-Family Division, the judges of the two courts

may communicate to determine how each court will proceed. Except as provided in subsection (b), the courts shall arrange for an audio recording or stenographic record. Subject to the law governing confidentiality of the matter in the Probate Court, the courts may allow the parties to participate in the communication and, on payment of applicable charges, to obtain a copy of the audio recording or transcript of the communication.

(b) The courts may communicate on scheduling, calendars, court records and other administrative issues without making a record and without informing the parties of the communication.

(C.G.S. section 45a-754.)

HISTORY: Rule 42A adopted effective January 1, 2020.

Rule 43

Guardians of Adults with Intellectual Disability

Section
43.1 Criminal background check
43.2 Sterilization
43.3 When streamline notice procedure may be used in guardianship of adult with intellectual disability proceeding
43.4 Guardian with authority to manage finances to send copy of inventory, financial report or account and affidavit of closing to each party and attorney
43.5 Release of funds from restricted account in guardianship with authority to manage finances
43.6 When guardian to submit financial report or account
43.7 Required contents of financial report or account of guardian with authority to manage finances
43.8 When guardian with authority to manage finances to verify restricted account in force

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Section 43.1 Criminal background check

At any time during a proceeding concerning the guardianship of an adult with intellectual disability, the court may obtain a criminal background check of:

(1) the guardian or proposed guardian;

(2) an individual providing care to the protected person;

(3) an individual living in the household of the protected person; or

(4) any other person if necessary to protect the interests of the protected person.

(C.G.S. section 45a-676(f).)

Section 43.2 Sterilization

If a guardian of an adult with intellectual disability petitions for approval of a sterilization procedure under C.G.S. section 45a-698, each member of the interdisciplinary team appointed under C.G.S. section 45a-695 shall file a report indicating whether the protected person is able to give informed consent and whether sterilization is in the best interests of the person.

(C.G.S. section 45a-699.)

Section 43.3 When streamline notice procedure may be used in guardianship of adult with intellectual disability proceeding

See rule 8.6.

Section 43.4 Guardian with authority to manage finances to send copy of inventory, financial report or account and affidavit of closing to each party and attorney

A guardian with authority to manage the finances of an adult with intellectual disability shall send a copy of the inventory and each supplemental or substitute inventory, each financial report or account and the affidavit of closing, at the time of filing, to each party and attorney of record and shall certify to the court that the copy has been sent.

(C.G.S. sections 45a-175 and 45a-677a(d).)

Section 43.5 Release of funds from restricted account in guardianship with authority to manage finances

See section 35.7(f).

Section 43.6 When guardian to submit financial report or account

(a) A guardian with authority to manage the finances of an adult with intellectual disability shall submit an annual financial report or account for the first year following the date on which the guardian is given the authority.

(b) After submitting the first annual financial report or account under subsection (a), the guardian shall thereafter submit a periodic financial report or account at least once during

each three-year period, unless the court directs more frequent accounts.

(c) A guardian shall submit a final financial report or account when the guardianship or the authority to manage finances is terminated, the protected person dies or the guardian seeks to resign or is removed by the court.

(d) If a guardian dies while managing a protected person's finances, the executor or administrator of the estate of the deceased guardian shall file, on behalf of the deceased guardian, a final financial report or account. If an executor or administrator has not been appointed for the estate of the deceased guardian, a successor guardian may file, on behalf of the deceased guardian, a final financial report or account.

(e) The court may excuse any financial report or account required by this section.

(C.G.S. sections 45a-177, 45a-180 and 45a-677a.)

Section 43.7 Required contents of financial report or account of guardian with authority to manage finances

See rules 36 through 38.

Section 43.8 When guardian with authority to manage finances to verify restricted account in force

See section 35.7(e).

HISTORY: Rule 43 adopted effective July 1, 2013. Sections 43.1 and 43.2 amended effective July 1, 2017. Sections 43.3, 43.4, 43.5, 43.6, 43.7 and 43.8 adopted effective January 1, 2020.

Rule 44

Commitment for Treatment of Psychiatric Disability

Section
44.1 Confidentiality of psychiatric commitment proceeding
44.2 Audio recording of psychiatric commitment proceeding
44.3 Notice and procedures in probable cause hearing
44.4 Notice of hearing on psychiatric commitment
44.5 Warrant for examination of individual 16 years or older at general hospital
44.6 Warrant for examination of child at general hospital
44.7 Warrant for court to examine individual 16 years or older
44.8 Voluntary admission of person under conservatorship

Section 44.1 Confidentiality of psychiatric commitment proceeding

The court shall exclude a person who is not a party or an attorney for a party from attending or participating in any hearing relating to commitment for treatment of psychiatric disability under C.G.S. sections 17a-75 through 17a-83 or sections 17a-495 through 17a-528, except that:

(1) a parent of a respondent who is under the age of 16 may participate in the hearing; and

(2) the court may:

(A) on request of the respondent, permit a person to participate in the hearing;

(B) after considering any objection of the respondent, permit a relative or friend who is interested in the welfare of the respondent to participate in the hearing; and

(C) permit a witness to attend any part of the hearing.

(Probate Court Rules, rules 16 and 63.)

Section 44.2 Audio recording of psychiatric commitment proceeding

The court shall make an audio recording of each hearing relating to commitment for treatment of psychiatric disability under C.G.S. sections 17a-75 through 17a-83 or sections 17a-495 through 17a-528.

(Probate Court Rules, rule 65.)

Section 44.3 Notice and procedures in probable cause hearing

(a) The court shall give notice of a probable cause hearing under C.G.S. section 17a-78(d), 17a-502(d) or 17a-506(e) to the facility in which the respondent is confined. The notice may be given by telephone, electronic communication or other reasonable means.

(b) If the respondent wishes to attend the probable cause hearing, the facility at which the respondent is confined shall arrange for the respondent's presence at the hearing.

(c) The facility shall have the burden of proving that there is probable cause to continue the confinement. The facility shall present medical evidence at the hearing concerning the condition of the respondent at the time of the admission and at the time of the hearing, the effects of medication, if any, and the advisability of continuing treatment.

(C.G.S. section 17a-495; Probate Court Rules, rule 8.)

Section 44.4 Notice of hearing on psychiatric commitment

(a) The court shall give notice of a hearing on the commitment of an individual 16 years of age or older under C.G.S. section 17a-498 to the respondent by personal service. The court shall give notice of the hearing to the facility in which the respondent is confined by certified mail, except that the court may give notice to the facility by regular mail if the facility is the petitioner. The court shall give notice of the hearing to other persons as the court directs under section 44.1 by regular mail or other reasonable means. The court shall give notice of a review hearing under C.G.S. section 17a-498(g) or 17a-510 to the respondent and the facility in which the respondent is confined by certified mail and to other persons as the court directs under section 44.1 by regular mail or other reasonable means.

(b) The court shall give notice of a hearing on the commitment of a child under the age of 16 under C.G.S. section 17a-77 to the

respondent child and to the parents or guardians of the respondent child by personal service. The court shall give notice of the hearing to the facility in which the respondent is confined by certified mail, except that the court may give notice to the facility by regular mail if the facility is the petitioner. The court shall give notice of the hearing to other persons as the court directs under section 44.1 by regular mail or other reasonable means. The court shall give notice of a review hearing under C.G.S. section 17a-80 to the respondent child, the parents or guardians of the respondent child and the facility in which the respondent child is confined by certified mail and to other persons as the court directs under section 44.1 by regular mail or other reasonable means.

(C.G.S. sections 4a-17, 17a-75 and 17a-495; Probate Court Rules, rule 8.)

Section 44.5 Warrant for examination of individual 16 years or older at general hospital

(a) If an individual 16 years of age or older in a commitment proceeding under C.G.S. section 17a-498 refuses to be examined by the court-appointed physicians, a party may petition the court to issue a warrant for a police officer to apprehend and transport the respondent to a general hospital for examination. The court may issue the warrant without notice and hearing.

(b) If, after examination, the respondent is hospitalized under an emergency certificate under C.G.S. section 17a-502(a), the court shall dismiss the commitment petition.

(c) If, after examination, the respondent is released, the examining physicians shall send their reports to the court, and the court shall hear and decide the commitment petition.

(C.G.S. section 17a-495.)

Section 44.6 Warrant for examination of child at general hospital

(a) If a child under the age of 16 in a commitment proceeding under C.G.S. section 17a-77 refuses to be examined by the court-appointed physicians, a party may petition the court to issue a warrant for a police officer to apprehend and transport the respondent child to a general hospital for examination. The court may issue the warrant without notice and hearing.

(b) If, after examination, the respondent child is hospitalized under an emergency or diagnostic certificate under C.G.S. section 17a-78(a), the court shall dismiss the commitment petition.

(c) If, after examination, the respondent child is released, the examining physicians shall send their reports to the court, and the court shall hear and decide the commitment petition.

(C.G.S. section 17a-495(a).)

Section 44.7 Warrant for court to examine individual 16 years or older

(a) On petition of a person alleging that an individual 16 years of age or older has a psychiatric disability and is dangerous to himself or herself or others or gravely disabled, the court may issue a warrant under C.G.S. section 17a-503(b) for a police officer to apprehend and bring the respondent before the court to determine whether the respondent should be brought to a general hospital for examination. The court may issue the warrant without notice and hearing.

(b) The court may conduct the hearing under this section at any location suitable to facilitate participation of the respondent.

(c) If the court orders that the respondent be taken to a general hospital for examination, the examining physicians shall determine whether to confine the respondent under an emergency certificate in accordance with C.G.S. section 17a-502(a).

(C.G.S. section 17a-495(b).)

Section 44.8 Voluntary admission of person under conservatorship

On receipt of the report of a psychiatrist under C.G.S. section 17a-506(c), the court shall determine whether a person under conservatorship gave informed consent to voluntary admission to a hospital for psychiatric disabilities. The court may issue its decision without notice and hearing. The court shall send a copy of the decree to the facility and to each party and attorney of record in the conservatorship proceeding.

HISTORY: Rule 44 adopted effective July 1, 2013. Sections 44.1, 44.2 and 44.4 amended effective July 1, 2015. Section 44.4 amended effective July 1, 2017. Section 44.4 amended effective January 1, 2020.

Rule 45

Proceedings for Medication and Treatment of Psychiatric Disability

Section
45.1 Confidentiality of proceeding for shock therapy or medication to treat psychiatric disability
45.2 Audio recording of proceeding for shock therapy or medication to treat psychiatric disability
45.3 Where to file petition for medication to treat psychiatric disability
45.4 Notice of hearing on petition for medication to treat psychiatric disability
45.5 Petition for shock therapy

Section 45.1 Confidentiality of proceeding for shock therapy or medication to treat psychiatric disability

The court shall exclude a person who is not a party or attorney for a party from attending or participating in a hearing on a petition for medication for treatment of a psychiatric disability under C.G.S. section 17a-543(e), 17a-543(f), 17a-543(g) or 17a-543a or a hearing on a petition for shock therapy under C.G.S. section 17a-543(c), except that the court may:

(1) on request of the patient, permit a person to participate in the hearing;

(2) after considering any objection of the patient, permit a relative or friend who is interested in the welfare of the patient to participate in the hearing; and

(3) permit a witness to attend any part of the hearing.

(C.G.S. sections 17a-500(a) and 17a-540; Probate Court Rules, rules 16 and 63.)

Section 45.2 Audio recording of proceeding for shock therapy or medication to treat psychiatric disability

The court shall make an audio recording of each hearing on a petition for medication for treatment of a psychiatric disability under C.G.S. sections 17a-543(e), 17a-543(f), 17a-543(g) and 17a-543a and each hearing on a petition for shock therapy under C.G.S. section 17a-543(c).

(C.G.S. section 45a-645a; Probate Court Rules, rule 65.)

Section 45.3 Where to file petition for medication to treat psychiatric disability

(a) A petition under C.G.S. section 17a-543(e) alleging that a patient in a facility is incapable of giving informed consent to medication for treatment of a psychiatric disability and seeking appointment of a conservator for the patient shall be filed in a court having jurisdiction of an involuntary conservatorship petition for the patient under C.G.S. section 45a-648(a).

(b) A petition under C.G.S. section 17a-543(e) alleging that a patient in a facility is incapable of giving informed consent to medication for treatment of a psychiatric disability and requesting that a previously appointed conservator be authorized to consent to medication shall be filed in the court:

(1) having jurisdiction over the conservator; or

(2) for the probate district in which the facility is located.

(c) A petition under C.G.S. section 17a-543(f) alleging that a patient in a facility is capable of giving informed consent to medication for treatment of a psychiatric disability but refuses to consent shall be filed in the court for the probate district in which the facility is located.

(d) A patient seeking a hearing under C.G.S. section 17a-543(g) concerning medication for treatment of a psychiatric disability shall file the petition in the court for the probate district in which the facility is located.

(C.G.S. section 17a-540.)

Section 45.4 Notice of hearing on petition for medication to treat psychiatric disability

The court shall give notice of hearing on a petition for medication for treatment of a

psychiatric disability under C.G.S. section 17a-543(e), 17a-543(f) or 17a-543(g) to the patient and the facility in which the patient is being treated by certified mail and to other persons as the court directs under section 45.1 by regular mail or other reasonable means, except that the court may give notice to the facility by regular mail if the facility is the petitioner. If the petition seeks appointment of a conservator, the court shall give notice in accordance with C.G.S. section 45a-649.

(C.G.S. sections 4a-17 and 17a-540; Probate Court Rules, rule 8.)

Section 45.5 Petition for shock therapy

(a) A petition for shock therapy under C.G.S. section 17a-543(c) shall be filed in the court for the probate district in which the patient is hospitalized.

(b) The court shall give notice of hearing on the petition to the patient by personal service. The court shall give notice of the hearing to the petitioner and to other persons as the court directs under section 45.1 by regular mail or other reasonable means.

(C.G.S. section 17a-540; Probate Court Rules, rule 8.)

HISTORY: Rule 45 adopted effective July 1, 2013. Sections 45.1, 45.2, 45.3, 45.4 and 45.5 amended effective July 1, 2015. Section 45.4 amended effective July 1, 2017. Section 45.4 amended effective January 1, 2020.

Rule 46

Commitment for Treatment of Drug and Alcohol Dependency

Section
46.1 Confidentiality of drug and alcohol dependency commitment proceeding

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Section 46.1 Confidentiality of drug and alcohol dependency commitment proceeding

The court shall exclude a person who is not a party or attorney for a party from attending or participating in a hearing on a petition for commitment for treatment of drug or alcohol dependency, except that the court may:

(1) on request of the respondent, permit a person to participate in the hearing;

(2) after considering any objection of the respondent, permit a relative or friend interested in the welfare of the respondent to participate in the hearing; and

(3) permit a witness to attend any part of the hearing.

(C.G.S. sections 17a-680, 17a-685 and 17a-688(a); Probate Court Rules, rules 16 and 63.)

HISTORY: Rule 46 adopted effective July 1, 2013.

Rule 47

Change of Name

Section
47.1 Change of name of adult
47.2 Change of name of minor
47.3 Single petition for change of name for family
47.4 Criminal background and sex offender and deadly weapon offender registry checks; notification to Department of Emergency Services and Public Protection

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Section 47.1 Change of name of adult

(a) An individual 18 years of age or older seeking to change his or her name shall file a petition in the court for the probate district in which the individual resides.

(b) The petition shall be accompanied by:

(1) an affidavit on a form published by the probate court administrator;

(2) a copy of the petitioner's long-form birth certificate, unless the court accepts other evidence of the birth name of the petitioner; and

(3) other information if required by the court.

(c) The court shall send notice of the hearing on the petition to the petitioner and the petitioner's spouse, except that the court may excuse notice to the spouse if notice to the spouse might jeopardize the safety of the petitioner.

(d) Unless otherwise directed by the court, the petitioner shall appear in court and present two forms of identification, including at least one form of photographic identification. The judge or clerk shall administer an oath or affirmation to the petitioner and each other person who will testify.

(C.G.S. sections 45a-99, 46b-63 and 52-11.)

Section 47.2 Change of name of minor

(a) A petition to change the name of a minor may be initiated only by a next friend as petitioner. A parent or guardian of the minor or other person permitted by the court may act as next friend.

(b) The petitioner shall file the petition in the court for the probate district in which the minor resides.

(c) The petition shall be accompanied by:

(1) an affidavit on a form published by the probate court administrator;

(2) a copy of the minor's long-form birth certificate, unless the court accepts other evidence of the birth name of the minor; and

(3) other information if required by the court.

(d) The court shall send notice of the hearing on the petition to the:

(1) petitioner;

(2) parents of the minor, if not the petitioner;

(3) guardian of the minor, if not the petitioner; and

(4) minor, if 12 years of age or older.

(e) The petitioner shall appear in court. The judge or clerk shall administer an oath or affirmation to the petitioner and each other person who will testify.

(C.G.S. sections 45a-99, 46b-63 and 52-11; Don *v.* Don*, 142 Conn. 309, 114 A.2d 203 (1955);* Shockley *v.* Okeke*, 92 Conn. App. 76, 882 A.2d 1244 (2005), appeal dismissed, 280 Conn. 777, 912 A.2d 991 (2007).)*

Section 47.3 Single petition for change of name for family

(a) If petitions for change of name of spouses, parents or minor children of the same family living at the same residence are filed simultaneously, the court may treat the petitions as a single petition subject to one filing fee. The court shall issue a separate decree for each member of the family.

(b) The court may charge a separate filing fee for a petition under subsection (a) if the court determines that it is necessary to hear the petitions separately.

Section 47.4 Criminal background and sex offender and deadly weapon offender registry checks; notification to Department of Emergency Services and Public Protection

(a) If the court has reason to believe that an individual seeking to change his or her name has a pending charge, conviction or other criminal record, the court shall obtain a criminal background check of the individual. The court may obtain a criminal background check of any individual seeking a change of name.

(b) If an individual 18 years of age or older seeks to change his or her name, the court shall search the registries of sexual offenders and of offenders convicted of crimes with a deadly weapon. If the individual is a registered sex offender or registered offender convicted of a crime with a deadly weapon, the court shall proceed in accordance with C.G.S. section 45a-99.

(c) If the court grants a change of name to a registered sex offender, a registered offender convicted of a crime with a deadly weapon, or any other individual whom the court knows to have a criminal record, the court shall send a copy of the decree to the Department of Emergency Services and Public Protection and the police department for the town where the offense occurred.

(C.G.S. sections 54-257 and 54-280a.)

HISTORY: Rule 47 adopted effective July 1, 2013. Section 47.4 amended effective July 1, 2015. Section 47.3 amended effective July 1, 2017. Sections 47.1 and 47.2 amended effective January 1, 2020.

Rules 48 through 59 are reserved for future use.

RULES FOR HEARINGS

Rule 60
Conferences before the Court

Section
60.1 Status conference
60.2 Hearing management conference

Section 60.1 Status conference

(a) On request of a party or on the court's own motion, the court may order a status conference to facilitate the progress of a matter that is not contested.

(b) At the conclusion of a status conference, the court may issue an order to:

(1) establish a deadline for completion of a task;

(2) provide guidance to a fiduciary;

(3) memorialize an agreement of the parties; or

(4) address any other topic that facilitates the progress of the matter.

(c) Except as permitted under section 69.1, the court shall not decide any issue of fact or law.

Section 60.2 Hearing management conference

(a) On request of a party or on the court's own motion, the court may, at any time, order a hearing management conference to address any of the following:

(1) identification of factual and legal issues;

(2) whether the court will authorize discovery under section 61.1;

(3) access to medical records;

(4) deadlines for depositions and other discovery, disclosures and motions;

(5) referral for mediation under rule 21 or other alternative dispute resolution;

(6) referral to a probate magistrate or attorney probate referee under rule 14;

(7) distribution of filings to parties and attorneys of record;

(8) disclosure of fact witnesses;

(9) disclosure of expert witnesses;

(10) issuance of subpoenas to compel testimony;

(11) briefs;

(12) stipulation of facts;

(13) exchange and marking of exhibits;

(14) admissibility of sworn statements or depositions;

(15) appointment of a stenographer to make a record of the hearing under C.G.S. sections 51-72 and 51-73;

(16) anticipated duration of testimony and argument;

(17) hearing schedule; and

(18) any other topic related to management of the hearing.

(b) At the conclusion of a hearing management conference, the court may issue an order concerning any of the topics under subsection (a).

(c) On request of a party or on the court's own motion, the court may modify an order issued under this section.

(C.G.S. sections 45a-98b, 45a-123, 45a-129, 52-143, 52-144 and 52-148a through 52-159; Probate Court Regulations, section 22.)

HISTORY: Rule 60 adopted effective July 1, 2013. Section 60.2 amended effective July 1, 2017. Section 60.2 amended effective January 1, 2020.

Rule 61

Discovery

Section
61.1 When permission of court is required
61.2 When interrogatories, request for production and request for admission permitted
61.3 Taking deposition
61.4 Interrogatories
61.5 Request for production, inspection and examination
61.6 Request for admission
61.7 Answer to discovery request
61.8 Continuing duty to disclose
61.9 Objection to discovery request
61.10 Order for compliance
61.11 Summons to testify
61.12 Order to obtain medical records

Section 61.1 When permission of court is required

(a) Except as provided in subsection (b), a party shall obtain permission from the court before seeking discovery of information from another party by the following methods:

(1) interrogatories under section 61.4;

(2) request for production, inspection and examination under section 61.5; and

(3) request for admission under section 61.6.

(b) Without obtaining permission of the court, a party may take the testimony of any person by deposition and may request the person to produce documents and tangible things at the deposition in accordance with section 61.3.

(C.G.S. sections 52-148a through 52-159; Probate Court Rules, section 60.2.)

Section 61.2 When interrogatories, request for production and request for admission permitted

(a) A party may request permission to conduct discovery using a method under 61.1(a) by submitting a summary describing the information sought. Unless otherwise directed by the court, the requesting party shall not file individual discovery documents. The court may hear a request for discovery at a hearing management conference.

(b) The court may grant a request for discovery under subsection (a), in whole or in part, if it finds that the requested discovery appears reasonably calculated to lead to admissible evidence and would not be unduly burdensome or expensive.

(Probate Court Rules, section 60.2.)

Section 61.3 Taking deposition

(a) A party may take the testimony of any person by deposition in accordance with C.G.S. sections 52-148a through 52-159.

(b) A party may compel another party to testify at a deposition by giving notice of the deposition in accordance with C.G.S. section 52-148b. The notice may include a request for the other party to produce documents and tangible things at the deposition.

(c) An attorney for a party may compel any person to testify at a deposition by issuing a subpoena under C.G.S. section 52-148e. The subpoena may include a request for the person to produce documents and tangible things at the deposition.

(d) On motion of a self-represented party, the court may compel any person to testify at a deposition by issuing a subpoena. The cost of serving the subpoena shall be paid by the party requesting it.

(e) A party or attorney for the party shall send notice of a deposition to each party and attorney of record.

(f) A person whose deposition is sought under subsection (b), (c) or (d) may move to quash or modify the notice or subpoena.

(g) C.G.S. section 52-148e and section 13-30 of the Connecticut Practice Book shall govern the conduct of a deposition under this rule and the procedure for resolution of a dispute related to the deposition.

(h) A party or attorney for the party may use a deposition in a proceeding in the manner provided under section 13-31 of the Connecticut Practice Book.

(Probate Court Rules, sections 60.2 and 71.2.)

Section 61.4 Interrogatories

(a) With permission of the court under section 61.2 and within the scope of the court's order, a party may issue written interrogatories to another party.

(b) Unless otherwise permitted by the court, a party may not issue more than 25 interrogatories, including each discrete subpart. The court may hear a request to issue additional interrogatories at a hearing management conference.

(c) Answers to interrogatories may be used in a proceeding to the extent permitted by the rules of evidence.

(Probate Court Rules, section 60.2.)

Section 61.5 Request for production, inspection and examination

With permission of the court under section 61.2 and within the scope of the court's order, a party may make a written request to another party to:

(1) inspect, copy, photograph or otherwise reproduce documents, including, but not limited to, writings, drawings, graphs, charts, electronic communications and photographs;

(2) inspect and copy or test a tangible thing in the possession, custody or control of the party to whom the request is made; and

(3) permit entry on property for the purpose of inspecting, measuring, surveying, photographing or testing the property.

(Probate Court Rules, section 60.2.)

Section 61.6 Request for admission

(a) With permission of the court under section 61.2 and within the scope of the court's order, a party may issue to another party a written request for the admission of the truth of a matter. The request shall relate to a statement of fact, opinion or the application of law to fact. If the request relates to a document, the requesting party shall provide a copy of the document unless it is otherwise available to the other party.

(b) Except as provided in subsections (c) and (d), an admission under this section conclusively establishes the matter admitted.

(c) On motion of a party who made an admission, the court may permit the admitting party to withdraw or amend the admission if:

(1) the withdrawal or amendment will facilitate the presentation of the merits of the matter; and

(2) the party who requested the admission fails to establish that the withdrawal or amendment will cause prejudice.

(d) An admission of a party under this section does not waive the right of the party to object to the admission on the grounds of competency or relevancy.

(e) An admission of a party under this section may be used only in the pending proceeding.

(Probate Court Rules, section 60.2.)

Section 61.7 Answer to discovery request

(a) Unless otherwise directed by the court, a person responding to a discovery request shall not file the response with the court.

(b) The party to whom a request for discovery under section 61.1(a) is made shall respond in writing and under oath. The party shall respond not later than 30 days after issuance of the request unless:

(1) on motion by the party, the court directs a shorter or longer time; or

(2) the party files an objection in accordance with section 61.9.

(c) If a party files an objection under section 61.9, the party shall respond to the part of the request to which an objection is not made.

Section 61.8 Continuing duty to disclose

Until a matter is concluded, a party to whom a discovery request is made under this rule shall have a continuing duty to disclose:

(1) new or additional information within the scope of the request; and

(2) that information previously disclosed is not true or is no longer true.

Section 61.9 Objection to discovery request

(a) A party who objects to a request for discovery under section 61.1(a) shall file a written objection setting forth the grounds for the objection and the proposed remedy and describing the efforts made to resolve the differences between the parties concerning the discovery request.

(b) The party shall file the objection not later than 30 days after issuance of the discovery request.

(c) The party shall send a copy of the objection to each party and attorney of record and certify to the court that the copy has been sent.

(d) The court may issue an order under subsection (e) if it finds that the requested discovery:

(1) seeks information that is privileged or otherwise protected by law from discovery;

(2) does not appear to be reasonably calculated to lead to admissible evidence;

(3) would be unduly burdensome or expensive; or

(4) will cause annoyance, embarrassment or oppression.

(e) If the court finds one or more of the grounds under subsection (d), the court may order such relief as justice requires, including that the requested discovery be:

(1) limited or denied;

(2) conducted on specified terms and conditions; or

(3) conducted by an alternative method.

(f) If the court overrules the objection to the discovery request, the party shall respond to the request not later than 20 days after the court's ruling is mailed. On request of a party, the court may extend the response period.

Section 61.10 Order for compliance

(a) If a person fails to comply with a request for discovery, the requesting party may file a motion seeking an order for compliance. The motion shall set forth the discovery request that is the subject of the motion and the reason why the response, if any, fails to comply.

(b) If the court finds that the person has failed to comply with the request for discovery and that the discovery is permitted under sections 61.3 through 61.6, the court may:

(1) award the discovering party the expenses of the motion under C.G.S. section 45a-109 and a reasonable attorney's fee;

(2) order that the subject matter of the discovery request is established for the purposes of the proceeding;

(3) prohibit a party who failed to comply from introducing designated matters in evidence; and

(4) make any other order that justice requires.

(c) Unless a timely written objection has been filed under section 61.9, the court may not excuse a failure to comply with a discovery request on the ground that the court would have granted relief under section 61.9(e).

(C.G.S. section 52-148e.)

Section 61.11 Summons to testify

(a) An attorney for a party may issue a subpoena under C.G.S. section 52-143 to summon a person to testify before the court.

(b) On motion of a self-represented party, the court may issue a subpoena under C.G.S. sections 45a-129 and 52-143 to summon a person to testify before the court. The cost of serving the subpoena shall be paid by the party requesting it.

(C.G.S. section 52-144.)

Section 61.12 Order to obtain medical records

See C.G.S. section 45a-98b.

(C.G.S. section 4-104.)

HISTORY: Rule 61 adopted effective July 1, 2013. Sections 61.7 and 61.9 amended effective July 1, 2015. Section 61.4 amended effective January 1, 2020.

Rule 62

Evidence

Section
62.1 Rules of evidence

Section 62.1 Rules of evidence

The rules of evidence apply in all hearings in which facts are in dispute. The court may apply the rules of evidence liberally if strict adherence will cause injustice, provided the application is consistent with law and the due process rights of the parties are protected.

(See Connecticut Code of Evidence.)

HISTORY: Rule 62 adopted effective July 1, 2013.

Rule 63

Witnesses

Section
63.1 Administration of oath
63.2 When sequestration of witness permitted

Section 63.1 Administration of oath

The judge or clerk shall administer an oath or affirmation to each person who will testify at a hearing in which facts are in dispute.

(C.G.S. section 1-25.)

Section 63.2 When sequestration of witness permitted

On motion of a party or on the court's own motion, the court may order a witness, other than a party, to be sequestered so that the witness is not able to hear the testimony of other witnesses.

HISTORY: Rule 63 adopted effective July 1, 2013.

Rule 64

Exhibits

Section
64.1 Exhibits to be marked
64.2 Permanent official record
Section
64.3 Exhibits in matter appealed to Superior Court
64.4 Disposition of exhibits

Section 64.1 Exhibits to be marked

The court shall mark each exhibit not marked in advance of a hearing. The marking shall identify the exhibit and the party offering it. The court shall keep a list of exhibits marked for identification or admitted into evidence.

Section 64.2 Permanent official record

(a) The court shall include the list of exhibits under section 64.1 in the permanent official record.

(b) The court is not required to include an exhibit in the permanent official record unless the court determines that the exhibit is necessary to provide a complete record of the matter.

(Probate Court Regulations, section 10).

Section 64.3 Exhibits in matter appealed to Superior Court

(a) If an appeal will be heard de novo, the Probate Court, on request, shall return each exhibit to the attorney or self-represented party who offered it.

(b) If an appeal will be heard on the record, the Probate Court shall transmit each exhibit to the Superior Court in accordance with C.G.S. section 45a-186a.

(C.G.S. section 45a-186(a).)

Section 64.4 Disposition of exhibits

Except as required under section 64.3 or otherwise directed by the court, the court shall, on request, return each exhibit to the attorney or self-represented party who offered it. If no request is received within four months after the date on which the court sends the decree, the court may destroy an exhibit without notice.

HISTORY: Rule 64 adopted effective July 1, 2013. Sections 64.1, 64.2 and 64.4 amended effective January 1, 2020.

Rule 65

Audio and Stenographic Recording of Hearings

Section
65.1 Making and maintaining audio recordings
65.2 Transcript of recorded hearing
65.3 Official stenographic record on agreement of parties
65.4 Stenographic record without agreement of parties
65.5 Prohibition on recording hearing by other means

Section 65.1 Making and maintaining audio recordings

(a) The court shall make an audio recording of a hearing if:

(1) required by statute or these rules; or

(2) a party or attorney for a party files a written request under C.G.S. section 45a-136.

(b) The court may make an audio recording of a hearing even if not required under subsection (a).

(c) Except in a confidential matter or matter in which the court closes any part of the hearing to the public under rule 16, the court shall provide a copy of an audio recording of a hearing to any person on request and payment of the statutory fee.

(d) The court shall provide a copy of an audio recording in a confidential hearing to a party on request and payment of the statutory fee.

(e) The court shall maintain an audio recording of a hearing made under subsection (a) for one year or a longer period if required by Probate Court Regulation or directed by the court. The court may maintain an audio recording made under subsection (b) for such period as it directs.

(C.G.S. sections 45a-109, 45a-645a, 17a-498(c) and 17a-685(c); Probate Court Rules, sections 33.3(b), 40.4(b), 44.2, 45.2 and 71.4; Probate Court Regulations, section 27.)

Section 65.2 Transcript of recorded hearing

(a) Except as provided in subsections (b) and (c), the court need not cause an audio recording of a hearing to be transcribed.

(b) If a party appeals a decision after a hearing on the record under C.G.S. section 45a-186(a), the court shall cause a transcript to be made of any part of the hearing that has not been transcribed in accordance with C.G.S. section 45a-186a.

(c) If a person who is not a party requests an audio recording of a hearing that was, in part, closed to the public under rule 16, the court shall provide the nonparty with a transcript from which the part of the hearing that was closed to the public has been redacted. The cost of the transcript shall be paid by the person requesting it.

Section 65.3 Official stenographic record on agreement of parties

(a) If each party agrees in writing, the court may arrange for a stenographer to make a stenographic record of a hearing.

(b) A transcript of a hearing made under this section is part of the official record of the proceeding. An appeal taken from a decision in the matter shall be on the record and shall not be a trial de novo.

(c) The parties shall provide a transcript of the hearing to the court without cost.

(C.G.S. sections 45a-186(a), 45a-186a, 51-72 and 51-73.)

Section 65.4 Stenographic record without agreement of parties

(a) Absent an agreement of the parties under section 65.3, a party may engage a stenographer, at the expense of the party, to make a stenographic record of a hearing.

(b) A transcript of a hearing made under this section is not part of the official record of the proceeding. The existence of the transcript shall have no effect on the nature of an appeal taken from a decision in the matter.

(c) The party who engages the stenographer shall provide a transcript of the hearing to:

(1) the court without cost; and

(2) any other party on request and payment of the cost by the requesting party.

(C.G.S. section 45a-186(a).)

Section 65.5 Prohibition on recording hearing by other means

Except as authorized under section 65.3 or 65.4 or rule 72, no person may make an audio or video recording of a hearing or transmit or broadcast a hearing by any means.

HISTORY: Rule 65 adopted effective July 1, 2013.

Rule 66

Participation in Hearing by Electronic Means

Section

66.1 When participation by electronic means permitted

Section 66.1 When participation by electronic means permitted

(a) On request of a party or witness, the court may allow a party or witness to participate in a hearing, conference or deposition by telephonic or other electronic means.

(b) In determining whether to allow participation by electronic means, the court shall consider:

(1) the nature of the rights at issue;

(2) whether surprise or prejudice would result from electronic participation or from the inability to participate by electronic means;

(3) whether a party is unable to secure the presence of the witness in person;

(4) the cost of attending the hearing in person;

(5) whether participation by electronic means will allow full and effective examination and cross-examination;

(6) the importance of the testimony;

(7) whether the subject matter of the testimony is disputed;

(8) the convenience of the parties and witnesses, including representatives of state agencies; and

(9) other relevant factors.

HISTORY: Rule 66 adopted effective July 1, 2013.

Rule 67

Interpreters

Section
67.1 Party or witness with hearing impairment
67.2 Interpreter permitted for language translation
67.3 Interpreter to act under oath

Section 67.1 Party or witness with hearing impairment

When necessary to permit a party or witness with hearing impairment to participate in a hearing or conference, the court shall provide an interpreter in accordance with C.G.S. section 46a-33a.

Section 67.2 Interpreter permitted for language translation

(a) The court may allow a person to serve as interpreter for a party or witness who is unable to speak or understand English.

(b) In determining whether to allow the proposed interpreter to assist the party or witness, the court shall consider:

(1) whether the interpreter is impartial;

(2) the competence of the interpreter to provide accurate and reliable interpretation service;

(3) the proposed compensation, if any, of the interpreter; and

(4) other relevant factors.

Section 67.3 Interpreter to act under oath

(a) The court shall administer to an interpreter the oath "for an interpreter in court" provided in C.G.S. section 1-25.

(b) Notwithstanding subsection (a), administration of an oath is not required if the interpreter is a member of court staff or a commercial interpreting service.

HISTORY: Rule 67 adopted effective July 1, 2013. Section 67.3 adopted effective July 1, 2015.

Rule 68
Ex Parte Communication

Section
68.1 Ex parte communication prohibited

Section 68.1 Ex parte communication prohibited

(a) Except as otherwise permitted by law, no person, party or attorney for a party shall initiate any written or oral communication with a judge outside a noticed hearing regarding a matter that is pending or impending in the court. This section does not apply to a written:

(1) petition, motion or objection to a petition or motion;

(2) brief or memorandum of law; or

(3) filing or report required by law or the court.

(b) A party or attorney for a party shall direct communications regarding scheduling and other administrative matters to the clerk.

(Code of Probate Judicial Conduct, rule 2.9; Probate Court Rules, section 13.7.)

HISTORY: Rule 68 adopted effective July 1, 2013.

Rule 69

Orders without Notice and Hearing

Section
69.1 When order without notice and hearing permitted

Section 69.1 When order without notice and hearing permitted

(a) The court may issue an order without notice and hearing if:

(1) the governing statute specifically authorizes the issuance of orders without notice and hearing;

(2) no governing statute requires notice and hearing, and the applicable rule authorizes issuance of orders without notice and hearing; or

(3) each party has filed a written waiver of notice.

(b) The court may require notice and hearing before issuing an order even if subsection (a) permits the court to issue the order without notice and hearing.

HISTORY: Rule 69 adopted effective July 1, 2013.

Rule 70

Alternative Remedies

Section
70.1 Alternative remedies

Section 70.1 Alternative remedies

When deciding a petition, the court may order an alternative remedy that is similar to, or less intrusive than, the remedy requested in the petition without giving notice of another hearing if the court finds that:

(1) the alternative remedy could have been requested in the underlying petition or in a petition concerning substantially the same issues that involves no additional parties; and

(2) either:

(A) notice of the hearing indicated the possibility of an alternative remedy; or

(B) no party who is absent from the hearing would be prejudiced by the lack of notice of the possibility of an alternative remedy and each party present at the hearing has been provided a meaningful opportunity to present evidence and argument concerning the alternative remedy.

HISTORY: Rule 70 adopted effective July 1, 2013.

Rule 71

Enforcement

Section
71.1 Failure of fiduciary to perform duties
71.2 Capias to compel attendance
71.3 Types of contempt
71.4 Audio recording of contempt hearing
71.5 Summary criminal contempt
71.6 Nonsummary criminal contempt
71.7 Civil contempt

Section 71.1 Failure of fiduciary to perform duties

A fiduciary who fails to perform his or her duties or comply with an order of the court shall be subject to removal, disallowance of fees, surcharge, contempt of court and other sanctions permitted by law. In addition, a fiduciary who is an attorney who fails to perform duties as a fiduciary or comply with an order of the court shall be subject to sanction under C.G.S. section 51-84.

(C.G.S. section 45a-242.)

Section 71.2 Capias to compel attendance

On motion of a party or on the court's own motion, the court may issue a capias to authorize a proper officer to arrest and bring before the court an individual who has failed to comply with a subpoena.

(C.G.S. sections 45a-129, 52-143, 52-144 and 52-148e; Probate Court Rules, section 61.11.)

Section 71.3 Types of contempt

An individual misbehaving or disobeying an order of a judge during a hearing or conference may be found to be in summary criminal contempt under section 71.5 or civil contempt under section 71.7 or may be referred for prosecution for nonsummary criminal contempt under section 71.6.

(C.G.S. sections 51-33 and 51-33a, Middlebrook *v.* State*, 43 Conn. 257 (1876); Probate Court Rules, section 16.11.)*

Section 71.4 Audio recording of contempt hearing

The court shall make an audio recording of a contempt hearing.

(Probate Court Rules, rule 65.)

Section 71.5 Summary criminal contempt

(a) Summary criminal contempt is misbehavior in the presence of the court that is directed against the dignity and authority of the court and obstructs the orderly administration of justice.

(b) The court shall adjudicate summary criminal contempt at the time of the act, provided that the court may recess before conducting the contempt hearing. The court shall inform the defendant of the contempt charges and afford the defendant the opportunity to present evidence and argument as to why the defendant should not be found guilty of contempt.

(c) If the court finds by clear and convincing evidence that the defendant is guilty of summary criminal contempt, the court shall immediately impose a sentence of not more than $100 for each act of contempt.

(C.G.S. section 51-33.)

Section 71.6 Nonsummary criminal contempt

(a) Nonsummary criminal contempt is misbehavior that is directed against the dignity and authority of the court when:

(1) the misbehavior does not obstruct the orderly administration of justice;

(2) the court has become personally embroiled;

(3) the misconduct did not occur in the presence of the court; or

(4) the court does not immediately impose summary criminal contempt.

(b) The court shall refer a matter involving nonsummary criminal contempt to the state's attorney for prosecution in the Superior Court

in the manner provided in Connecticut Practice Book section 1-18.

(C.G.S. section 51-33a.)

Section 71.7 Civil contempt

(a) Civil contempt is a remedy for violation of a court order.

(b) A party seeking an order of civil contempt shall file a motion identifying the order that has been violated, stating the reasons why the court should order sanctions and describing the efforts made to secure compliance with the order. The court may initiate a civil contempt proceeding on its own motion.

(c) The party seeking an order of civil contempt shall send a copy of the motion to each party and attorney of record and certify to the court that the copy has been sent.

(d) If the court finds by clear and convincing evidence that the person who is the subject of the motion violated a clear and unambiguous court order of which the person had actual knowledge, the court may impose sanctions to ensure compliance with the order and compensate another party for loss. The sanctions shall be coercive and nonpunitive and may include fines.

(e) If violation of an order renders the order unenforceable, the court may refer the matter for nonsummary criminal contempt under section 71.6.

HISTORY: Rule 71 adopted effective July 1, 2013.

Rule 72

News Media Coverage

Section
72.1 News media coverage permitted
72.2 News media coverage not permitted
72.3 Conference to establish conditions of news media coverage
72.4 Objection to news media coverage
72.5 Recording and photographic equipment
72.6 Pooling arrangement for news media
72.7 Public comment by attorney

Section 72.1 News media coverage permitted

Except as provided in sections 72.2 through 72.4, the court shall permit news media coverage.

(Probate Court Rules, section 65.5.)

Section 72.2 News media coverage not permitted

(a) Except as provided in subsection (b), news media coverage is not permitted in the following types of matters:

(1) involuntary placement of a person with intellectual disability;

(2) commitment for treatment of psychiatric disability;

(3) administration of shock therapy;

(4) medication for treatment of psychiatric disability;

(5) appointment of a special limited conservator;

(6) commitment for treatment of drug and alcohol dependency;

(7) commitment for treatment of tuberculosis;

(8) appointment of a guardian of an adult with intellectual disability;

(9) sterilization;

(10) removal of parent as guardian;

(11) temporary guardianship;

(12) termination of parental rights;

(13) appointment of a statutory parent;

(14) adoption;

(15) emancipation of a minor;

(16) a hearing or conference or part of a hearing or conference that is closed under rule 16;

(17) a request under C.G.S. section 45a-100 for relief from federal firearms disability;

(18) a mediation session; and

(19) any other hearing or conference that is confidential under statute.

(b) The court may allow news media coverage of a hearing or conference in a type of matter listed in subsection (a) if all parties consent.

(c) News media shall not operate any type of recording or photographic equipment in the court during a recess.

(d) News media coverage of any communication between an attorney and the attorney's client is prohibited.

(e) News media coverage is prohibited in areas immediately adjacent to the courtroom during a hearing or conference or during a recess.

(C.G.S. sections 17a-274(b), 17a-500, 17a-688(a), 19a-265(o), 45a-670, 45a-692 and 45a-754(a), Probate Court Rules, rule 16 and section 21.7.)

Section 72.3 Conference to establish conditions of news media coverage

On request of a party or member of the news media or on the court's own motion, the court may conduct a conference concerning news media coverage of a hearing. At the conclusion of the conference, the court may issue an order establishing the conditions of news media coverage. The court shall not limit or prohibit news media coverage unless the requirements of section 72.4 have been met.

Section 72.4 Objection to news media coverage

(a) A party who seeks to limit or prohibit news media coverage of a hearing shall file

a written objection alleging the reasons for the objection. The court may initiate a proceeding to limit or prohibit news media coverage on its own motion.

(b) The court shall give notice of the hearing to each party and attorney of record and to each person whose rights are at issue, including a member of the news media that has indicated interest in covering the hearing.

(c) Any person whom the court determines has an interest in the proceeding may present evidence and argument as to whether news media coverage should be limited or prohibited.

(d) The court may limit or prohibit news media coverage if it finds that:

(1) there is a compelling reason for the limitation or prohibition, in that news media coverage would undermine the legal rights of a party or compromise significant safety or privacy interests of a person;

(2) there are no reasonable alternatives to limitation or prohibition; and

(3) the limitation or prohibition is no broader than necessary to protect the rights or interests at issue.

(e) When deciding whether to limit or prohibit news media coverage, the court shall give great weight to an objection that seeks to protect the identity of a:

(1) crime victim;
(2) police informant;
(3) undercover agent;
(4) relocated witness; or
(5) minor.

(f) If the court issues an order limiting or prohibiting news media coverage, the court shall specify:

(1) the compelling reason on which the order is based;

(2) the alternatives to limitation or prohibition that the court considered and the reasons why the alternatives were unavailable or inadequate;

(3) the basis for the determination that the order is no broader than necessary to protect the rights or interests at issue; and

(4) the scope and duration of the order.

Section 72.5 Recording and photographic equipment

News media shall not use recording and photographic equipment that produces distracting sound or light. No equipment shall be placed in, or removed from, a courtroom during a hearing or conference. Equipment shall be operated in a manner that is not disruptive to the hearing or conference.

Section 72.6 Pooling arrangement for news media

The court may require a pooling arrangement for news media coverage in the manner provided in Connecticut Practice Book section 1-11B.

Section 72.7 Public comment by attorney

Rule 3.6 of the Rules of Professional Conduct shall govern public comment by an attorney about a pending or impending matter.

HISTORY: Rule 72 adopted effective July 1, 2013. Section 72.2 amended effective July 1, 2015. Section 72.2 amended effective July 1, 2017. Section 72.2 amended effective January 1, 2020.

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