

**Probate Practice Book Advisory Committee  
Subcommittee III**

Meeting Minutes  
Monday, February 8, 2016  
9:30 a.m.

New Haven Regional Children's Probate Court  
873 State Street  
New Haven, CT

Judge Beverly Streit-Kefalas convened the meeting at 9:40 a.m.

Other members in attendance: Judge Robert Killian, Judge Paul Knierim, Attorney Gabriella Kiniry, Attorney Andrew Knott and Attorney Heather Dostaler

Members not present: Judge Gerald Fox, Jr., Attorney Patricia Kaplan and Ms. Suzette Farrar

Also in attendance: Attorney David Biklen, Committee Reporter (by telephone)

The subcommittee agreed to conduct monthly meetings until it becomes unnecessary.

The subcommittee began reviewing the list of issues pertaining to Subcommittee III from the document entitled "Probate Court Rules of Procedure List of Issues for 2017 Edition." Following discussion, the subcommittee reached the following conclusions:

**Section 7.1 (d) relating to a petitioner's duty to send copies:**

- The subcommittee does not recommend a requirement that a petitioner send a copy of all petitions to other parties and attorneys. The notice of hearing should be as descriptive as possible regarding the subject matter of the hearing. The subcommittee recommends that the Probate Assembly Procedures Review Committee standardize language for all hearing notices clarifying that the probate file is open for public inspection and that copies may be obtained from the court file and that there may be a fee for the copies.
- The subcommittee does not recommend a requirement that a petitioner send a copy of a Petition to Sell or Mortgage Real Estate (and attachments) to other parties and attorneys. The subcommittee recommends that the notice be amended to include the address of the property to be sold, the proposed sale price and the name of the proposed buyer.

- The subcommittee recommends that section 30.12 be amended to include a requirement that the fiduciary send a copy of the status update report to all parties and attorneys of record.

**Section 30.4 (b) (relating to petition for administration when court has custody of a will)**

- The subcommittee recommends a technical change to section 30.4 (b) adding a requirement that the petitioner supply names and addresses of beneficiaries and the nominated executor to parallel section 30.4 (a).

**Section 30.26 (relating to withholding distributions pending prosecution for specified crimes)**

- The subcommittee recommends a technical change to section 30.26 adding larceny and abuse to the list of crimes consistent with Public Act 15-236, section 4.

**Section 32.7 (d) (relating to probate fees when a final trust account is excused)**

- The subcommittee recommends that the probate fee for a petition to excuse a final trust account where periodic accounts have been excused should be calculated in accordance with Public Act 15-5 (June Special Session), section 450, for a 1 year account.

**Rule 40 (relating to children's matters)**

- The subcommittee recommends a new section which provides the canvass in a termination of parental rights matter consistent with In re Yasiel R, 317 Conn. 773 (2015), similar in format to section 33.7.
- The subcommittee recommends that section 40.15 be amended to allow the court to order a background check for any proposed household member in a children's matter consistent with section 33.6.

**Section 42 (relating to overlapping jurisdiction in children's matters)**

- The subcommittee tabled the discussion of whether to incorporate in the rules a protocol for matters where the Probate Court and Family Court have overlapping jurisdiction. The subcommittee will reconsider the issue once the protocol is finalized and at that time consider whether to incorporate the protocol in a rule or append the protocol to the rules of procedure.

## **Motions**

- The subcommittee recommends a rule codifying the practice of allowing a fiduciary to file a motion for instruction or a motion to approve an action of the fiduciary. The rule would not allow motions for advice.
- The subcommittee recommends a rule that would allow a party to file a Motion to Compel or Prohibit an action by the fiduciary with explicit language that the court can grant the petition only if the action would be a breach of fiduciary duty or an abuse of discretion.

## **Additional topics**

- The subcommittee will consider whether to include in the rules a specific list of documents that must be sent to parties and attorneys of record in the matter or to recommend that the information be provided to fiduciaries in some other format such as the user guide or a notice.

## **Next Meeting**

The subcommittee will meet on Monday, March 7, 2016 at 9:30 a.m. at the New Haven Regional Children's Probate Court.

The meeting adjourned at 12:00 p.m.

Approved: March 7, 2016