

**TOWN OF CHARLESTOWN
PROBATE COURT**

RULES OF PRACTICE AND PROCEDURE

Pursuant to RIGL 33-22-29, the Probate Court of the Town of Charlestown hereby establishes the following local administrative rules:

1. **COURT SESSIONS:** Probate Court will normally convene at 9:30 a.m. on the third Monday of each month. Court sessions are held in the Town Council Chambers at the Town Hall, 4540 South County Trail, Charlestown. The Court reserves the right to meet on a different day as necessary. Court Sessions will be posted on the Town's Web Calendar.
2. **COURT DOCKET:** The Docket is prepared by the Probate Clerk. Typically, Probates of Will/Petition for Administration and Name Changes are heard first. Contested matters will be heard at the end of the session. Administrative actions are dealt with after the Probate Session has been concluded.
3. **CONTESTED MATTERS:** Special sessions of the Probate Court will be scheduled as reasonably necessary to hear contested matters that cannot be completed during regular Court sessions. There are no additional fees or charges for special sessions (§33-22-30).
4. **FILING FEES/DEADLINE:** No matter will be heard unless and until all fees currently due have been paid. Checks should be payable to the Town of Charlestown. Advertising is done in the Westerly Sun, usually on Mondays during the 3 weeks preceding the Probate session. All matters on waiver should be filed at least 48 hours prior to the hearing date.
5. **GENERAL NOTICE:** In matters where the statutes are not specific or silent, 10 days written notice by regular mail to the last known address shall be given to all interested parties or their counsel. Notice may be waived by the parties by submission of waiver. Interested parties (or their counsel) are heirs at law for administrations; beneficiaries for testate proceedings (after the allowance of Will); statutorily required entities in guardianships; creditors of decedent who have filed claims. Appropriate certification shall be provided to the Court indicating compliance with the notice requirements.
6. **ELECTRONIC RECORDINGS:** Parties may have electronic court proceedings by authorized court stenographers at their own expense.
7. **COURT DECISIONS/ORDERS:** Every decision/order of the Probate Court shall be reduced to a written order or decree presented at the time of the hearing or by the prevailing party within a reasonable time thereafter (§33-22-31). All

orders in contested matters shall be reviewed by opposing counsel pursuant to RIGL before entry. If no objection is filed within the statutory period, the order shall be entered. Objections to orders shall be set for hearing by means of miscellaneous petition.

8. **CLAIMS TO CREDITORS:** Claims shall be filed in accordance with RIGL 33-11. The Court will not, on its own initiative, deem a claim filed out of time or reject claims without a hearing.
9. **NOTICE TO CREDITORS:** No First and Final Account and no Affidavit of Complete Administration will be accepted by the Probate Court without an affidavit by the fiduciary certifying that notice has been given to all known and easily ascertainable creditors (§33-11-5.1).
10. **ALLOWANCE TO FAMILIES:** Petitions for allowances of support to families shall be advertised with written notice or waiver to interested parties. The Inventory for the estate must be filed before any hearing.
11. **FEES FOR ATTORNEYS AND ACCOUNTANTS:** A Court hearing is required for all petitions for attorney and accountant fees in any estate for which an Account is submitted. Petitions for fees shall be accompanied by, but not limited to, documents indicating hours spent, the nature of the work provided, results obtained, and any other documents, including retainer agreements and any other document that may assist the Court in making its decision regarding fees. Assents by all interested parties, if obtained, shall also be submitted.
12. **FEES FOR FIDUCIARIES:** In ruling on a petition for approval of fiduciary fees, the Court shall consider, but not require approval by the beneficiaries/heirs at law or persons entitled to notice. Regarding guardianships, the same procedures relative to notice, detail, etc., as established for attorney and accountant fees shall apply to fiduciaries.
13. **BONDS:** In any Probate case requiring a bond with corporate surety, no riders or amendments shall be accepted by the Court unless the rider or amendment is issued to correct an error in the date or other administrative matter in the original bond or to add an additional fiduciary to the existing bond. Increases in bond amounts shall be evidenced by a new bond in the increased amount and not by the rider. A consolidation of bonds may be allowed at the discretion of the court. The same bonding company shall be used in all proceedings of a particular estate unless the prior bond(s) is canceled or a new fiduciary is appointed.
14. **CERTIFICATION OF ACCOUNTING:** No Account will be accepted by the Probate Court Clerk unless accompanied by a certification from the attorney of record for the estate substantially in the form set forth in §33-14-2.2. There will be no exceptions. The Probate Judge may request additional evidence (§33-14-2).

15. **GUARDIANSHIPS:** No petition for limited guardian, guardian, or temporary guardian will be heard by the Probate Court unless notice has been given to the prospective ward at least fourteen days prior to the hearing in the case of limited guardians and guardians or five days in the case of temporary guardians unless a shorter period is approved by the Court upon motion by the petitioning party.
16. **DECISION MAKING ASSESSMENT TOOLS (DMAT):** No petition for the appointment of a limited guardian, temporary guardian, or guardian will be heard by the Probate Court unless a Decision Making Assessment Tool (DMAT), an initial assessment signed by a licensed physician, has been presented to the Court.
17. **GUARDIANS AD LITEM:** Guardians ad litem shall be appointed from a list of qualified individuals kept in the office of the Probate Clerk and approved by the Probate Judge. The Probate Court will appoint from the court list. All Guardian ad litem reports must be submitted on the standard form provided in RIGL §33-15-47. Fees for Guardians ad litem shall be limited to a maximum of \$750.00 unless the Probate Judge for cause shown authorizes additional fees. Guardians ad litem must furnish an itemized bill.
18. **RULES OF EVIDENCE:** In all contested matters, the Rhode Island Rules of Evidence shall be applied, however, this section shall not prohibit parties from stipulating or waiving the requirements of the Rules of Evidence as to any particular matter (§33-22-19.2).
19. **INVENTORIES:** Every Administrator or Executor shall, within 90 days after his/her appointment return to the Probate Court, signed under oath, a true inventory of all the personal property of the deceased, in accordance with RIGL §33-9-1. Every Guardian shall do so within 30 days of his/her appointment (§33-15-19). Parties unable to submit inventories within the required times should petition the Court for an extension. The filing of the Inventory shall be carried over each month until the Inventory is filed and fees are paid (if applicable).
20. **CERTIFICATES OF APPOINTMENT:** If there is no activity in a Probate matter for 1 year from the qualification of a fiduciary, requests for certificates of appointment or exemplified copies of records shall be made to the Court by a miscellaneous petition. After hearing thereon, the Court may authorize said requests.
21. **PETITION FOR SALE OR MORTGAGE OF REAL ESTATE:** Before a petition for sale is granted, a copy of the purchase and sales agreement shall be provided to the court. For either a sale or mortgage, an appraisal from an independent source shall be provided to the court (appraisal shall not be from the listing or buyer's Realtor in the case of sale).
22. **AFFIDAVITS OF COMPLETE ADMINISTRATION:** No Affidavit of Complete Administration will be accepted without original releases of legatees

including fiduciary, copies of paid funeral bills and inheritance tax discharge, claim releases, certification that notice has been given to all known or easily located creditors, and current payment of fees. Affidavits of Complete Administration will be handled administratively, and no hearing will be required.

23. **REOPENING OF CLOSED ESTATES:** Petitions for the reopening of closed estates shall follow the procedures for an original Probate of Will or Administration. The beneficiaries, as well as the heirs at law, shall be provided notice of the hearing. If all the parties entitled to notice do not waive their right to notice, the petition shall be advertised. A Miscellaneous Petition shall be used to initiate the matter.

24. **REPLACEMENT, REMOVAL OR RESIGNATION OF FIDUCIARIES:** A petition for resignation of a fiduciary who has qualified for which no inventory has been previously filed must be accompanied by an inventory and a final account. In the event there were never any assets in the estate, the fiduciary shall also include an affidavit attesting to this fact.

A petition for the replacement of a fiduciary because of the death of the fiduciary shall also include a copy of the fiduciary's death certificate. The successor fiduciary shall, as best as possible, file a Final Account for the previous fiduciary. If no expenditures were made by the previous fiduciary and an inventory indicates no personal estate, an Affidavit attesting to these facts shall be submitted with the Account.

A fiduciary replaced for cause is required, after citation and hearing, to file an Account of his tenure in said fiduciary capacity. Failure to do so may result in contempt proceedings initiated, with appropriate sanctions imposed.

A successor fiduciary, after removal for cause, may be required to, as best as possible, file a Final Account for the replaced fiduciary without relieving the replaced fiduciary of any liability or duty to the estate or to the court.

25. **ATTORNEY/FIDUCIARIES FEES:** Affidavit of time spent, work done, and hourly rate for attorneys and fiduciaries are required as part of the accounting. Attorneys functioning as fiduciaries are not entitled to bill their professional rate on work done as fiduciaries for matters that are merely administrative or clerical.

26. **FORMS:** Use of Statewide forms is mandatory.

27. **CHANGE OF NAME:** A criminal record check through the Rhode Island Attorney General's Office will be conducted for all persons petitioning for a name change. If there is a criminal record, the Probate Judge will exercise his/her discretion as to the name change on a case-by-case basis.

28. **SEALING OF RECORDS:** The Court may, upon request, seal the medical and related records of any parties to Probate proceedings.

29. **WILL FILING:** In cases where there are no assets upon which the Will of a decedent may act, the designated fiduciary or person in possession of the Will shall file the Will with the appropriate affidavit and filing fee with the Court in order that the Rhode Island General Laws be complied with.

The Probate Court reserves the right to supplement, add, or amend these Rules.

Suggestions for modifications or additions to these rules by attorneys or parties to the proceedings of the court are encouraged.

By Order of the Probate Judge:



Robert E. Craven, Probate Judge

Entered:

Amy Rose Weinreich, CMC

Date: NOV 18, 2024

Amy Rose Weinreich, CMC
Probate Clerk

Adopted at the November 18, 2024 Probate Session.