

PROBATE RULES

RULE PR 1. Section 83 Trusts for Minor Children

All Applications and Orders for disbursements and termination of trusts established for minor children pursuant to 12 O.S. § 83 shall be submitted to the Probate Judge or designated Judge for approval.

RULE PR 2. Accountings and Reports

A. Annual Reports and Plans

Before filing an annual report in a guardianship or conservatorship, the guardian or conservator shall submit the report to the Court for approval along with any required accounting and plans. The Court will review the annual report and if it appears proper on its face, the Court will enter an order approving the report on a temporary basis without a hearing. The Guardian or Conservator will then file the annual report and the order approving the annual report.

B. Notice of Filing Annual Report

On the date of filing an annual report, the guardian or conservator shall mail a copy of the report and notice of right to object to the persons entitled to notice and provide proof of such mailing by the contemporaneous filing of an affidavit of mailing with a copy of the notice attached.

C. Objections to Report Set for Hearing

If the annual report does not appear proper on its face or if a timely objection is filed, the report shall be set for hearing with notice given by the Court. If the annual report appears proper on its face and no timely objection is filed, the order approving will, according to its terms, become final on the 16th day after the filing of the annual report.

D. Failure to File Annual Report - Cause for Removal

The failure of a guardian or conservator to file a timely annual report may constitute grounds for suspension and revocation of Letters of Guardianship/Conservatorship resulting in the removal of the Guardian/Conservator.

If any Guardian/Conservator fails to file an annual report within fifteen (15) days of the required filing date, the Court shall cite the Guardian/Conservator to appear to show cause why he or she should not be removed and a successor appointed. The Court shall mail notice of this hearing at least ten (10) days before the hearing to the Guardian/Conservator, to the Guardian's/Conservator's attorney,

to the ward, and to those persons entitled to notice of a request for the appointment of a Guardian/Conservator.

E. Final Accountings

Final Accountings in all Probate, Guardianship and Conservatorship matters shall be heard by the Probate Judge after being set for hearing and proper statutory notice being given. If no one appears on a final account, the Court may strike the hearing and require new notice to be given.

RULE PR 3. Mandatory Filing of Pleadings

1. No final accounts or determination of death actions will be set for hearing until the tax releases are filed unless otherwise allowed by the Court. In those cases where all the property, both real and personal, passes to the surviving spouse, no tax release will be required.

2. All pleadings including, but not limited to, inventories, affidavits of mailing with attached notice, affidavits or proofs of publication, tax releases, waivers, and consents must be in the court file, or the attorney must present file-stamped copies, before the Court will hear any evidence at any hearing, whether contested or not.

3. No guardianship/conservatorship annual report will be accepted for filing unless there is contemporaneously filed an affidavit of mailing with a copy of the notice of right to file an objection attached.

RULE PR 4. Inspection - Confidentiality of Records

An Order to Present Record shall be obtained (upon showing of good cause) from a Judge of the Probate Court before the Court Clerk may allow any person to review the file or have copies of any pleading or document in matters pertaining to:

- Adoptions (10 O.S. § 60.17)
- Guardianships & Conservatorships (30 O.S. § 1-122)
- Mental Health Records
- Last Wills and Testaments in Safe Keeping
- Artificial Insemination
- Protective Services for the Elderly (43A O.S. § 10-110)

RULE PR 5. Uncontested and Contested Adoption Matters

All adoption matters are assigned to the Probate Judge.

A. The Judge shall have a Court Reporter present to make a record and transcribe all adoption consents and relinquishments of parental rights pursuant to the Oklahoma Adoption Code as amended November 1997.

The Court will not take any consents unless an attorney for the adoptive parties is present to ask the appropriate questions for the record and to make arrangements to pay the Court Reporter for the preparation of a transcript to be filed in the case as required.

B. All contested matters which may result in a Final Decree of Adoption shall be heard by the Probate Judge after special setting. Contested Adoptions, AWOCs, and Terminations of Parental Rights shall be set for hearing on a date certain upon proper statutory notice being given.

RULE PR 6. Legal Counsel for Minor Children

Independent legal counsel or an attorney of the County Indigent Defender's Office shall be appointed for every child in a contested guardianship, contested or default adoption, or termination of parental rights matter.