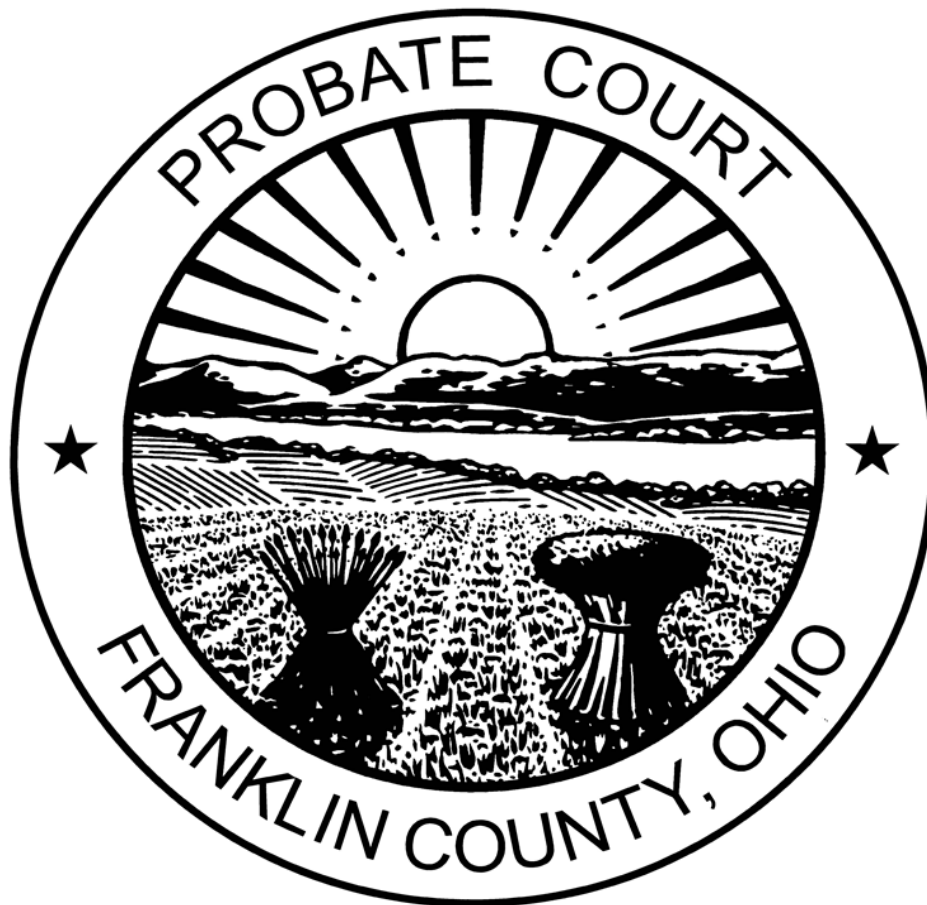


**PROPOSED CHANGES TO THE
FRANKLIN COUNTY PROBATE COURT
- JUNE 2018**

ROBERT G. MONTGOMERY, JUDGE



LOCAL RULES OF COURT

Proposed Change for June 2018

JUDGE ROBERT G. MONTGOMERY

Common Pleas Court of Franklin County, Ohio

PROBATE DIVISION

LOCAL RULES OF COURT

-Redlined Version-

Proposed Changes – June 2018

probate.franklincountyohio.gov

INTRODUCTION: The following rules are supplemental to the *Rules of Superintendence for the Courts of Ohio* and must be read in conjunction therewith.

Key to Redlined Version:

1. Existing language appears in regular type. Example: Text text.
2. Existing language to be deleted appears in strikethrough. Example: ~~Text text~~.
3. New language to be added appears in all caps, with capital letters underlined:
Example: TEXT TEXT.
4. New rules and new language may appear highlighted where all caps would not be clear. Example: **New Rule: SUP.R. 45 COURT RECORDS – PUBLIC ACCESS**

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County Probate Court Local Rules of Court for XXXXX 2018**

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SUP.R. 8 COURT APPOINTMENTS

LOC.R. 8.1 Court Appointments

Persons appointed by the court to serve as appraisers, fiduciaries, attorneys, magistrates in involuntary psychiatric commitment proceedings, investigators, guardians ad litem, and trustees for suit, shall be selected from lists maintained by the court.

Appointments will be made from such lists taking into consideration the qualifications, skills, expertise, and caseload of the appointee in addition to the type, complexity, and requirements of the case.

Court appointees will be paid a reasonable fee with consideration given to the factors contained in [Prof.Cond.R. 1.5](#), the [Ohio Revised Code](#), and the Local Rules of Court relating to fees.

The court will review court appointment lists periodically to ensure the equitable distribution of appointments. *SEE SUP.R. 8.*

SUP.R. 62 CLAIMS AGAINST ESTATE

LOC.R. 62.2 Notice of Insolvency Hearing

UPON MOTION, AND FOR GOOD CAUSE SHOWN, THE COURT MAY ORDER A FIDUCIARY TO SEND NOTICE OF A HEARING FOR INSOLVENCY VIA REGULAR MAIL.

SUP.R. 66 GUARDIANSHIPS

~~LOC.R. 66.8 Notice for Guardianship of Adults~~

~~———— In addition to those entitled to notice of the hearing on the application for the appointment of a guardian of an adult under [R.C. 2111.04](#), the applicant shall disclose to the court the names and addresses of all adult children of the proposed ward. The court~~

~~shall serve the adult persons named on the form with notice of the time and date of the hearing, unless the notice is waived. The guardian shall serve all known heirs, regardless of residence, if residence is known, notice of the appointment by ordinary mail no later than two weeks after the appointment. A certificate of service for the notice of appointment shall be filed with the probate court no later than three months after the appointment.~~

SUP.R. 75 LOCAL RULES

LOC.R. 71.5 Notice and Consent for Attorney Fees in Guardianships

In guardianship administration, the court shall consider applications for attorney fees for the establishment of the guardianship upon the filing of the inventory. ~~and~~ THE COURT shall consider additional fees annually upon the filing of each account. Notice of the application shall be given to the guardian of the estate, and TO THE NEXT OF KIN BY ORDINARY MAIL ~~upon order by the court, other interested persons~~. The guardian of the estate may waive notice of the hearing and consent to the payment of fees. All applications for attorney fees in guardianships shall be accompanied by a detailed fee statement including the itemization and date of service performed, time expended, identification of the individual performing the services, and the hourly rate; and shall include a statement of all attorney and guardian fees approved by the court in that guardianship in the last five (5) years.

After the TERMINATION OF THE GUARDIANSHIP ~~death of the ward~~, the court will consider attorney fees and guardian fees as liens on the ward's assets. If the fees are approved by the court, the fees may be paid out of the guardianship assets and included in the final guardianship account.

The court may require notice of the hearing on the fees be given to other interested persons, including A WARD, A FORMER WARD, OR the estate fiduciary of a deceased ward.

LOC.R. 75.17 Adoptions

(G) Criminal background checks pursuant to [R.C. 2151.86](#) and petitioner’s accounts shall be filed in all cases EXCEPT ADULT ADOPTIONS. Background checks remain valid for one year and must be current on the date of finalization.

(V) ALL INDIVIDUALS LISTED AS A PARENT ON THE BIRTH CERTIFICATE AND ANY ~~Any~~ person listed AS A PARENT on the petition for adoption as a parent shall receive notice of the adoption proceedings.

LOC.R. 75.19 Confidential Name Change

TO REQUEST THAT A NAME CHANGE APPLICATION PROCEED WITHOUT THE PUBLICATION REQUIREMENT IN ACCORDANCE WITH R.C. 2717.01(A)(4), THE APPLICANT MUST FIRST FILE A MOTION TO MAKE NAME CHANGE CONFIDENTIAL. THE COURT WILL THEN SCHEDULE A HEARING ON THE MOTION AT A LATER DATE. AT THE HEARING, APPLICANT MUST PRESENT SUFFICIENT EVIDENCE TO PROVE THAT PUBLICATION OF THE NOTICE, AND KEEPING THE FILINGS AND PROCEEDINGS PUBLIC WILL JEOPARDIZE THE APPLICANT’S PERSONAL SAFETY. APPLICANT SHALL PRESENT OFFICIAL OR CERTIFIED COPIES OF POLICE REPORTS, COURT ORDERS, STALKING ORDERS, OR OTHER RELEVANT DOCUMENTS RELATED TO THE APPLICATION AT THE HEARING.

WHEN AN APPLICANT SEEKS A CONFIDENTIAL NAME CHANGE ON BEHALF OF A MINOR, NOTICE OF THE APPLICATION MUST BE GIVEN TO THE MINOR’S PARENTS PURSUANT TO R.C. 2717.01(B).

APPLICATIONS WHICH ARE GRANTED SHALL BE RESTRICTED FROM PUBLIC ACCESS PURSUANT TO SUP.R. 45(E).

LOC.R. 75.20 Finders’ Agreements for Beneficiaries of Unclaimed Funds

IN INSTANCES WHERE A PERSON, HEREINAFTER REFERRED TO AS A BENEFICIARY, IS ENTITLED TO RECOVERY OF UNCLAIMED FUNDS FROM A MATTER BEFORE THE FRANKLIN COUNTY PROBATE COURT, AND WHERE THE BENEFICIARY HAS ENTERED INTO AN AGREEMENT WITH ANY PERSON THAT REQUIRES THE BENEFICIARY TO PAY A PERCENTAGE OF A DOLLAR AMOUNT RECOVERED, SUCH AN AGREEMENT IS CALLED A FINDER’S AGREEMENT.

THE COURT TAKES NOTICE OF THE TERMS IN R.C. 169.13, AS WELL AS THE LEGISLATIVE INTENT OF R.C. 169.13.

THE COURT WILL NOT HONOR ANY FINDER’S AGREEMENT ENTERED INTO WITHIN TWO YEARS OF THE PUBLICATION OF THE BENEFICIARY OF THE UNCLAIMED FUNDS, ALSO KNOWN AS THE AUDITOR WARRANT DATE, ON THE FRANKLIN COUNTY AUDITOR’S WEBSITE.

THE COURT RECOGNIZES A FINDER’S AGREEMENT ONLY IF ALL OF THE FOLLOWING CONDITIONS ARE MET:

(A) THE FINDER’S AGREEMENT IS ENTERED INTO ANYTIME AFTER TWO YEARS FROM THE PUBLICATION OF THE BENEFICIARY OF THE

UNCLAIMED FUNDS, ALSO KNOWN AS THE AUDITOR WARRANT DATE, ON THE FRANKLIN COUNTY AUDITOR’S WEBSITE.

(B) THE AGGREGATE FEE, COMPENSATION, COMMISSION, OR OTHER REMUNERATION AGREED UPON IS SUBJECT TO THE JURISDICTION OF THE COURT AND SUCH AGGREGATE FEE IS LIMITED TO TEN PERCENT (10%) OF THE AMOUNT RECOVERED, UNLESS THE FINDER, OR THE COURT, REQUESTS A HEARING PURSUANT TO THE TERMS OF R.C. 2109.361(B) & (C). THE COURT MAY CONDUCT A HEARING TO SET AND APPROVE THE FINDER’S FEE IN ANY AMOUNT AS THE COURT DETERMINES IS JUST AND EQUITABLE.

(C) NO FINDER’S AGREEMENT SHALL INCLUDE A POWER OF ATTORNEY FOR THE PAYMENT OF THE UNCLAIMED FUNDS TO ANY PERSON OTHER THAN THE OWNER OF THE UNCLAIMED FUNDS.

(D) THE FINDER’S AGREEMENT SHALL BE IN WRITING WITH THE NOTARIZED SIGNATURE OF BOTH THE OWNER OF THE FUNDS AND THE FINDER. THE FINDER’S AGREEMENT SHALL DISCLOSE ALL OF THE FOLLOWING:

1. THE NAME, ADDRESS, EMAIL ADDRESS, AND TELEPHONE NUMBER OF THE OWNER;
2. THE DOLLAR AMOUNT OF THE UNCLAIMED FUNDS;
3. THE AMOUNT THE OWNER WILL RECEIVE MINUS THE FINDER’S FEE WHEN THERE IS NO HEARING REQUESTED;
4. THE NAME AND ADDRESS OF THE PERSON OR ENTITY IN POSSESSION OF THE UNCLAIMED FUNDS;

5. INDICATION THAT THE FRANKLIN COUNTY AUDITOR WILL PAY THE UNCLAIMED FUNDS DIRECTLY TO THE OWNER;
6. THE PERSON AGREEING TO LOCATE, DELIVER, RECOVER, OR ASSIST IN THE RECOVERY OF THE UNCLAIMED FUNDS IS NOT AN EMPLOYEE OF THE COURT, OR THE FRANKLIN COUNTY AUDITOR'S OFFICE.