

# TABLE OF CONTENTS

## Volume V Probate, Guardianship, and Mental Health

<b>Probate</b>		<b>Page</b>
<b>PR 1</b>	<b>Formal Probate Procedure</b>	
1.	Jurisdiction .....	PR 1-3
2.	Substitution/Recusal of Judge .....	PR 1-4
3.	Appointment of Guardian ad Litem; Atty for Military Personnel .....	PR 1-4
4.	Notice .....	PR 1-7
5.	Determination of Heirs .....	PR 1-12
6.	Creditors .....	PR 1-13
7.	Appointment of Personal Representative .....	PR 1-24
8.	Inventory/Accounts .....	PR 1-27
9.	Closing Estate.....	PR 1-28
10.	Dormant and Overdue Estates.....	PR 1-34
11.	Demand for Formal Proceeding.....	PR 1-35
12.	Appointment of Special Administrator .....	PR 1-36
<b>PR 2</b>	<b>Wills</b>	
1.	Formalities of Wills .....	PR 2-3
2.	Proof of Will .....	PR 2-7
3.	Revocation of Will by Act or Law .....	PR 2-8
4.	Will Contest .....	PR 2-11
5.	Will Construction .....	PR 2-18
6.	Exoneration, Abatement, Ademption, and Lapse of Bequests.....	PR 2-27
7.	Standard of Review .....	PR 2-31
8.	Right to Disclaim.....	PR 2-31
<b>PR 3</b>	<b>Powers and Duties of Personal Representative (Formal Probate)</b>	
1.	Personal Representative Succeeds to Interest of Decedent.....	PR 3-3
2.	Specific Powers and Duties.....	PR 3-4
3.	Inventory.....	PR 3-5

4.	Accounts .....	PR 3-8
5.	Liability of Personal Representative.....	PR 3-9
6.	Resignation or Removal .....	PR 3-10

**PR 4 Family Rights**

1.	Marital Property and Classification.....	PR 4-3
2.	Deferred/Augmented Marital Property and Property Transferred in Fraud of Surviving Spouse .....	PR 4-7
3.	Other Rights, Allowances, and Exemptions .....	PR 4-7

**PR 5 Intestate Succession**

1.	Basic Rules.....	PR 5-3
2.	Related Rules.....	PR 5-7
3.	Status of Child Born to Unmarried Parents.....	PR 5-7
4.	Assignment of Home to Surviving Spouse or Surviving Domestic Partner.....	PR 5-9
5.	When Gift Treated as Advance on Intestate Estate.....	PR 5-11
6.	Right to Disclaim Intestate Share.....	PR 5-12

**PR 6 Informal Probate Procedure**

1.	Demand for Formal Administration .....	PR 6-3
2.	Notice to Creditors .....	PR 6-3
3.	Appointment of Personal Representative .....	PR 6-3
4.	Closing Estate.....	PR 6-6
5.	Limitation on Proceedings Against Personal Representative.....	PR 6-7
6.	Liability of Distributees to Claimants .....	PR 6-8
7.	Limitation on Proceedings Against Distributees .....	PR 6-8
8.	Termination of Joint Tenancy or Life Estate .....	PR 6-9
9.	Confirmation of Interest in Property (Marital Property) .....	PR 6-9

**PR 7 Powers and Duties of Personal Representative (Informal Probate)**

1.	When Personal Representative May Proceed.....	PR 7-3
2.	Personal Representative to File Inventory .....	PR 7-4
3.	Personal Representative May Pay Claims.....	PR 7-5

**PR 8 Probate Alternatives/Summary Proceedings**

1.	Summary Settlement .....	PR 8-3
2.	Summary Assignment.....	PR 8-6

3.	Summary Confirmation of Interest in Survivorship Marital Property and Nontestamentary Marital Property Agreement (Washington Will) .....	PR 8-10
4.	Certificate of Descent of Property .....	PR 8-13
5.	Special Administration .....	PR 8-15
6.	Formal Termination of Life Estate or Joint Tenancy .....	PR 8-19
7.	Termination of Joint Tenancy or Life Tenant’s Interest by Administrative Transfer .....	PR 8-20
8.	Transfer by Affidavit.....	PR 8-21
9.	Ancillary Probate Procedure.....	PR 8-23
10.	See § 877.16 for Alternatives to Ancillary Administration .....	PR 8-24

**PR 9 Trusts**

1.	Trust Procedure/Jurisdiction.....	PR 9-3
2.	Creation, Modification, and Termination of Trusts .....	PR 9-6
3.	Creditors of Beneficiaries.....	PR 9-13
4.	Creditors of Settlers .....	PR 9-15
5.	Trustees .....	PR 9-15
6.	Custodial Trusts .....	PR 9-17

**PR 10 Powers and Duties of Trustees**

1.	Trustee Takes Legal Title to Trust Property.....	PR 10-3
2.	Appointment and Supervision of Trustee.....	PR 10-3
3.	Duties of Trustee .....	PR 10-4
4.	Powers of Trustee .....	PR 10-6
5.	Resignation and Removal of Trustee .....	PR 10-9

**Guardianship**

**GA 1 Guardianship**

1.	Timelines for Guardianship and Protective Placement and Protective Services Cases .....	GA 1-3
2.	Definitions .....	GA 1-5
3.	Jurisdiction and Venue .....	GA 1-8
4.	Guardianship Petitions .....	GA 1-10
5.	Foreign Guardianships .....	GA 1-16
6.	Temporary Guardianship .....	GA 1-17
7.	Guardianship of Estate—Filing Fee .....	GA 1-20
8.	Exceptions to Appointment of Guardian .....	GA 1-20

9.	Appointment of Guardian .....	GA 1-22
10.	General Duties and Powers of Guardian .....	GA 1-24
11.	Review Conduct and Removal of Guardian .....	GA 1-36
12.	US Uniform Veterans Guardianship Act.....	GA 1-38
13.	Alternatives to Guardianship .....	GA 1-41

**GA 2 Guardianship of Individuals Found Incompetent**

1.	Petition Requirements .....	GA 2-3
2.	Notice .....	GA 2-3
3.	Appointment and Duties of GAL.....	GA 2-5
4.	Right to Counsel .....	GA 2-10
5.	Getting and Paying for Counsel .....	GA 2-10
6.	Right to Jury Trial .....	GA 2-12
7.	Hearing .....	GA 2-12
8.	Selection of Guardian.....	GA 2-21
9.	Guardianships .....	GA 2-22
10.	Review of Guardianship.....	GA 2-27

**GA 3 Protective Placement and Services**

1.	Protective Service System.....	GA 3-3
2.	Protective Services .....	GA 3-4
3.	Emergency Placement.....	GA 3-6
4.	Protective Placement Action.....	GA 3-8
5.	Protective Placement Hearing Procedure.....	GA 3-15
6.	Elements to Be Proved at Protective Placement Hearing .....	GA 3-17
7.	Disposition .....	GA 3-18
8.	Transfers Between Placement Facilities .....	GA 3-19
9.	Annual Review of Placements ( <i>Watts</i> Hearings).....	GA 3-21
10.	Modification or Termination of Protective Placement and Services Orders .....	GA 3-24
11.	Psychotropic Medications.....	GA 3-25
12.	For Discussion of Rights and Records of Protectively Placed Persons, See <b>MH 5</b> .....	GA 3-30

**GA 4 Guardianship of Estate of Minor**

1.	Procedure .....	GA 4-3
2.	Hearing .....	GA 4-5
3.	Duties of Guardian of Estate .....	GA 4-8

4.	Termination of Guardianship .....	GA 4-8
5.	For Guardianship of the Person of a Minor, See Juvenile Benchbook.....	GA 4-8

**GA 5 Guardianship of Spendthrift**

1.	Definitions .....	GA 5-3
2.	Procedure .....	GA 5-3
3.	Duties of Spendthrift Guardian .....	GA 5-7
4.	Review of and Removal of Guardian .....	GA 5-7
5.	Termination of Guardianship .....	GA 5-7

**GA 6 Conservatorship**

1.	Appointment Proceedings .....	GA 6-3
2.	Duties and Powers of Conservator .....	GA 6-4
3.	Termination of Conservatorship .....	GA 6-4
4.	Conservator Fees.....	GA 6-6

**GA 7 Power of Attorney for Health Care**

1.	Definitions .....	GA 7-3
2.	Appointment of Power of Attorney for Health Care.....	GA 7-4
3.	Power of Attorney for Health Care Instrument .....	GA 7-5
4.	Powers of Health-Care Agent .....	GA 7-7
5.	Revocation of Power of Attorney for Health Care .....	GA 7-10
6.	Safeguards and Penalties .....	GA 7-11

**Mental Health**

**MH 1 Involuntary Mental Commitments**

1.	Flow Chart .....	MH 1-3
2.	Elements for Involuntary Commitment.....	MH 1-4
3.	Commencement of Action .....	MH 1-10
4.	Probable Cause Hearing Procedure .....	MH 1-15
5.	Probable Cause Hearing Dispositions.....	MH 1-19
6.	Precommitment Medication.....	MH 1-22
7.	Examinations and Discovery .....	MH 1-24
8.	Final Hearing Procedure .....	MH 1-28
9.	Final Hearing Dispositions.....	MH 1-33
10.	Transfers While Subject Is Under Commitment.....	MH 1-38
11.	Reexaminations and Extensions .....	MH 1-39

<b>MH 2</b>	<b>AODA Commitments</b>	
1.	Emergency Commitment .....	MH 2-3
2.	Involuntary Commitment .....	MH 2-8
3.	Preliminary Hearing .....	MH 2-11
4.	Final Hearing .....	MH 2-14
5.	Right to Refuse Medication and Treatment .....	MH 2-18
6.	Special Provisions for AODA Commitment for Minors.....	MH 2-21
<b>MH 3</b>	<b>Criminal Commitments and Transfers</b>	
1.	Criminal Commitment .....	MH 3-3
2.	Civil Commitment of Inmates of Prison, Jail, or House of Corrections .....	MH 3-3
3.	Transfers of Criminally Committed Defendants.....	MH 3-6
4.	Transfers of Inmates from Prison, Jail, or House of Corrections .....	MH 3-7
5.	Transfers of Persons from Secured Juvenile Facilities.....	MH 3-7
6.	Reexamination of Transferees .....	MH 3-11
<b>MH 4</b>	<b>Voluntary Mental Admissions/Settlements</b>	
1.	Purely Voluntary Admissions .....	MH 4-3
2.	Conversion from Involuntary Commitment Proceedings .....	MH 4-4
3.	Nonprotesting Admissions .....	MH 4-7
4.	Special Provisions for Minors .....	MH 4-8
<b>MH 5</b>	<b>Patients' Rights and Records</b>	
1.	Applicability.....	MH 5-3
2.	Rights .....	MH 5-4
3.	Denial of Certain Rights .....	MH 5-15
4.	Grievance Procedure .....	MH 5-15
5.	Patients' Records .....	MH 5-17