

TABLE OF CONTENTS

Volume V: Probate, Guardianship, and Mental Health

Probate	Page
PR 1 Formal Probate Procedure	
1. Jurisdiction	PR 1-1
2. Substitution/Recusal of Judge	PR 1-2
3. Appointment of Guardian ad Litem; Atty for Military Personnel	PR 1-3
4. Notice	PR 1-6
5. Determination of Heirs	PR 1-10
6. Creditors	PR 1-12
7. Appointment of Personal Representative	PR 1-22
8. Inventory/Accounts	PR 1-25
9. Closing Estate.....	PR 1-26
10. Dormant and Overdue Estates.....	PR 1-32
11. Demand for Formal Proceeding.....	PR 1-33
12. Appointment of Special Administrator	PR 1-34
PR 2 Wills	
1. Formalities of Wills	PR 2-1
2. Proof of Will	PR 2-5
3. Revocation of Will by Act or Law	PR 2-6
4. Will Contest	PR 2-9
5. Will Construction	PR 2-17
6. Exoneration, Abatement, Ademption, and Lapse of Bequests.....	PR 2-26
7. Standard of Review	PR 2-30
8. Right to Disclaim.....	PR 2-30
PR 3 Powers and Duties of Personal Representative (Formal Probate)	
1. Personal Representative Succeeds to Interest of Decedent.....	PR 3-1
2. Specific Powers and Duties.....	PR 3-2
3. Inventory.....	PR 3-3
4. Accounts.....	PR 3-6
5. Liability of Personal Representative.....	PR 3-7
6. Resignation or Removal	PR 3-8

PR 4	Family Rights	
	1. Marital Property and Classification.....	PR 4-1
	2. Deferred/Augmented Marital Property and Property Transferred in Fraud of Surviving Spouse	PR 4-4
	3. Other Rights, Allowances, and Exemptions	PR 4-5
PR 5	Intestate Succession	
	1. Basic Rules.....	PR 5-1
	2. Related Rules.....	PR 5-4
	3. Status of Child Born to Unmarried Parents.....	PR 5-5
	4. Assignment of Home to Surviving Spouse or Surviving Domestic Partner.....	PR 5-6
	5. When Gift Treated as Advance on Intestate Estate.....	PR 5-7
	6. Right to Disclaim Intestate Share.....	PR 5-8
PR 6	Informal Probate Procedure	
	1. Demand for Formal Administration	PR 6-1
	2. Notice to Creditors	PR 6-1
	3. Appointment of Personal Representative	PR 6-2
	4. Closing Estate.....	PR 6-4
	5. Limitation on Proceedings Against Personal Representative.....	PR 6-5
	6. Liability of Distributees to Claimants	PR 6-6
	7. Limitation on Proceedings Against Distributees	PR 6-6
	8. Termination of Joint Tenancy or Life Estate	PR 6-6
	9. Confirmation of Interest in Property (Marital Property)	PR 6-7
PR 7	Powers and Duties of Personal Representative (Informal Probate)	
	1. When Personal Representative May Proceed.....	PR 7-1
	2. Personal Representative to File Inventory	PR 7-2
	3. Personal Representative May Pay Claims.....	PR 7-2
PR 8	Probate Alternatives/Summary Proceedings	
	1. Summary Settlement	PR 8-1
	2. Summary Assignment.....	PR 8-4
	3. Summary Confirmation of Interest in Survivorship Marital Property and Nontestamentary Marital Property Agreement (Washington Will)	PR 8-9
	4. Certificate of Descent of Property	PR 8-12
	5. Special Administration	PR 8-13

6.	Formal Termination of Life Estate or Joint Tenancy	PR 8-17
7.	Termination of Joint Tenancy or Life Tenant’s Interest by Administrative Transfer	PR 8-18
8.	Transfer by Affidavit.....	PR 8-19
9.	Ancillary Probate Procedure.....	PR 8-21
10.	See § 877.16 for Alternatives to Ancillary Administration	PR 8-23

PR 9 Trusts

1.	Trust Procedure/Jurisdiction.....	PR 9-1
2.	Creation, Modification, and Termination of Trusts	PR 9-4
3.	Creditors of Beneficiaries.....	PR 9-12
4.	Creditors of Settlers	PR 9-13
5.	Trustees	PR 9-14
6.	Custodial Trusts	PR 9-15

PR 10 Powers and Duties of Trustees

1.	Trustee Takes Legal Title to Trust Property.....	PR 10-1
2.	Appointment and Supervision of Trustee	PR 10-1
3.	Duties of Trustee	PR 10-2
4.	Powers of Trustee	PR 10-4
5.	Resignation and Removal of Trustee	PR 10-7

Guardianship

GA 1 Guardianship

1.	Timelines for Guardianship and Protective Placement and Protective Services Cases	GA 1-2
2.	Definitions	GA 1-4
3.	Jurisdiction and Venue	GA 1-7
4.	Guardianship Petitions.....	GA 1-9
5.	Foreign Guardianships	GA 1-15
6.	Temporary Guardianship	GA 1-16
7.	Guardianship of Estate—Filing Fee	GA 1-19
8.	Exceptions to Appointment of Guardian	GA 1-19
9.	Appointment of Guardian	GA 1-21
10.	General Duties and Powers of Guardian	GA 1-23
11.	Review Conduct and Removal of Guardian	GA 1-35
12.	US Uniform Veterans Guardianship Act.....	GA 1-37
13.	Alternatives to Guardianship.....	GA 1-41

GA 2	Guardianship of Individuals Found Incompetent	
1.	Petition Requirements	GA 2-1
2.	Notice	GA 2-1
3.	Appointment and Duties of GAL.....	GA 2-3
4.	Right to Counsel	GA 2-8
5.	Getting and Paying for Counsel	GA 2-8
6.	Right to Jury Trial	GA 2-10
7.	Hearing	GA 2-10
8.	Selection of Guardian.....	GA 2-19
9.	Guardianships	GA 2-20
10.	Review of Guardianship.....	GA 2-25
GA 3	Protective Placement and Services	
1.	Protective Service System.....	GA 3-1
2.	Protective Services	GA 3-3
3.	Emergency Placement.....	GA 3-4
4.	Protective Placement Action.....	GA 3-7
5.	Protective Placement Hearing Procedure.....	GA 3-14
6.	Elements to Be Proved at Protective Placement Hearing	GA 3-15
7.	Disposition	GA 3-17
8.	Transfers Between Placement Facilities	GA 3-18
9.	Annual Review of Placements (<i>Watts</i> Hearings).....	GA 3-20
10.	Modification or Termination of Protective Placement and Services Orders	GA 3-23
11.	Psychotropic Medications.....	GA 3-24
12.	For Discussion of Rights and Records of Protectively Placed Persons, See MH 5	GA 3-29
GA 4	Guardianship of Estate of Minor	
1.	Procedure	GA 4-1
2.	Hearing	GA 4-3
3.	Duties of Guardian of Estate	GA 4-5
4.	Termination of Guardianship	GA 4-5
5.	For Guardianship of the Person of a Minor, See Juvenile Benchbook.....	GA 4-5
GA 5	Guardianship of Spendthrift	
1.	Definitions.....	GA 5-1
2.	Procedure	GA 5-1
3.	Duties of Spendthrift Guardian.....	GA 5-5

4.	Review of and Removal of Guardian	GA 5-5
5.	Termination of Guardianship	GA 5-5

GA 6 Conservatorship

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

GA 7 Power of Attorney for Health Care

1.	Definitions	GA 7-1
2.	Appointment of Power of Attorney for Health Care.....	GA 7-2
3.	Power of Attorney for Health Care Instrument	GA 7-3
4.	Powers of Health-Care Agent	GA 7-5
5.	Revocation of Power of Attorney for Health Care	GA 7-8
6.	Safeguards and Penalties	GA 7-9

Mental Health

MH 1 Involuntary Mental Commitments

1.	Flow Chart	MH 1-2
2.	Elements for Involuntary Commitment.....	MH 1-3
3.	Commencement of Action	MH 1-9
4.	Probable Cause Hearing Procedure	MH 1-14
5.	Probable Cause Hearing Dispositions.....	MH 1-18
6.	Precommitment Medication.....	MH 1-21
7.	Examinations and Discovery	MH 1-23
8.	Final Hearing Procedure	MH 1-28
9.	Final Hearing Dispositions.....	MH 1-34
10.	Transfers While Subject Is Under Commitment.....	MH 1-39
11.	Reexaminations and Extensions	MH 1-39

MH 2 AODA Commitments

1.	Emergency Commitment	MH 2-1
2.	Involuntary Commitment	MH 2-6
3.	Preliminary Hearing	MH 2-10
4.	Final Hearing	MH 2-12
5.	Right to Refuse Medication and Treatment	MH 2-16
6.	Special Provisions for AODA Commitment for Minors.....	MH 2-19

MH 3	Criminal Commitments and Transfers	
1.	Criminal Commitment	MH 3-1
2.	Civil Commitment of Inmates of Prison, Jail, or House of Corrections	MH 3-1
3.	Transfers of Criminally Committed Defendants	MH 3-4
4.	Transfers of Inmates from Prison, Jail, or House of Corrections	MH 3-5
5.	Transfers of Persons from Secured Juvenile Facilities.....	MH 3-6
6.	Reexamination of Transferees	MH 3-10
MH 4	Voluntary Mental Admissions/Settlements	
1.	Purely Voluntary Admissions	MH 4-1
2.	Conversion from Involuntary Commitment Proceedings	MH 4-2
3.	Nonprotesting Admissions	MH 4-5
4.	Special Provisions for Minors	MH 4-6
MH 5	Patients' Rights and Records	
1.	Applicability.....	MH 5-1
2.	Rights	MH 5-2
3.	Denial of Certain Rights	MH 5-13
4.	Grievance Procedure	MH 5-14
5.	Patients' Records	MH 5-15