

**TOWN OF WEST GREENWICH
PROBATE COURT
RULES OF PRACTICE AND PROCEDURE**

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

1. COURT SESSIONS – Sessions will normally convene at 6:30 p.m. on the second Wednesday of each month, unless that day is a legal holiday. Court sessions are held in the Town Hall, Council Chambers, 280 Victory Highway, West Greenwich, Rhode Island. The Court reserves the right to meet on a different day as necessary. The petitioner and/or attorney are expected to attend the probate session, other than petitions for Voluntary Informal.
2. COURT CALENDAR- All parties who wish to address the Probate Court are requested to sign the sign-in sheet on the day of the court session.
3. CONTESTED MATTERS – Special sessions of the Probate Court will be scheduled as reasonable necessary to hear contested matters which cannot be completed during regular court session by the Probate Judge. There will be 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 made payable to the “Town of West Greenwich.” Petitions requiring advertising must be filed with the Probate Clerk no later than the second Friday of the month preceding the Court session. Publication will be advertised in The Kent County Times prior to the Court session. Matters on waiver or matters that do not require advertising must be filed with the Probate Clerk no later than one week preceding the Court session.
5. ELECTRONIC RECORDINGS - At the request of any party thereto, or at the request of the probate judge, electronic recordings of any court proceeding will be made by the Court by electronic tape recording. Parties, may, however, have court proceedings transcribed by authorized court stenographers at their own expense. (33-22-19.1).
6. COURT DECISIONS – Every decision 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)
7. NOTICE TO CREDITORS – No First and Final Accountings and no Affidavits 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)

8. CERTIFICATION OF CHARGES – No Accounting will be accepted by the Probate Court Clerk unless accompanied by a certification from the attorney for the estate substantially in the form set forth in Section 33-14-2.2 or copies of all cancelled checks or other documents evidencing charges, losses, or payment set forth in said account. There will be no exceptions. The Probate Judge may request additional evidence. (33-14-2)

9. PETITION FOR SALE OF REAL ESTATE - Petition for Sale of Real Estate must include two statements of market value from real estate agents (not involved in the transaction) who have knowledge of the area where the property is located, and a copy of the Purchase & Sales Agreement (*if applicable*). Notice to any joint owners of real estate must be sent.

10. 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 14 days prior to the hearing in the case of limited guardians and guardians or five days in case of temporary guardians, unless a shorter period is approved by the court upon motion by the petitioning party.

11. DECISION MAKING ASSESSMENT TOOLS – No petition for the appointment of a limited guardian, temporary guardian or guardian will be considered by the Probate Court Unless a Decision Making Assessment Tool, initial assessment signed by a licensed physician, has been presented to the Court at least three days before the hearing.

12. GUARDIANS AD LITEM – Guardians ad litem shall be appointed from a list of qualified attorneys kept in the office of the Probate Clerk. Attorneys filing a Guardianship petition can select a Guardian ad litem from the court list or the Probate Court will make the selection. 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 \$800.00 unless additional fees are authorized by the Probate Judge for cause shown. Guardian ad litem must supply an itemized bill. In order to be added to the Guardian ad litem list, requesting attorneys must submit a sample Guardian ad litem report and a copy of the face sheet of their malpractice insurance in effect at the time.

13. 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)

14. INVENTORIES – Every Administrator and Executor shall within 90 days after his or her appointment return to the Probate Court, under oath, a true inventory of all of the personal property of the deceased in accordance with RIGL 33-9-1. Every guardian shall do so within 30 days of his or her appointment. (RIGL 33-15-19) Requirements for inventories will be strictly enforced. Parties unable to submit inventory with the required times must petition the court for an extension of time.

15. AFFIDAVITS OF COMPLETE ADMINISTRATION – No Affidavit of Complete Administration will be accepted without original releases of legatees (including fiduciary if a legatee) copies of paid funeral bill and inheritance tax discharge, claim released, certification that notice has been given to all known or easily located creditors, and payment of current fees. Affidavits of Complete Administration and Small Estate Affidavits will not appear on the court docket, but will be handled administratively within the Probate Clerk's Office.

16. ATTORNEY'S/ FIDUCIARIES FEES- Affidavit of time spent, work done and hourly rate for attorneys and fiduciaries are required as part of accountings. Forms shall be kept on file in Probate Clerk's office. Attorneys functioning as fiduciaries are not entitled to bill their professional rate on work done as a fiduciary, for matters which are merely administrative or clerical.

17. FORMS- Use of State forms is mandatory.

18. CHANGE OF NAME – A criminal record check through the State Police or the West Greenwich Police Department will be condition of all persons petitioning for a name change. If there is a criminal record the Probate Judge will exercise his or her discretion regarding approval of the name change on a case by case basis.

Juvenile name change petitions must be signed by both parents and both must appear before the Court or have the non-appearing party's signature notarized. If a parent listed on the birth certificate does not sign the petition, the matter must be filed with the Family Court.

19. PROBATE JUDGE – Pursuant to ARTICLE VI, section 608 of the Charter of the Town of West Greenwich, in the absence, disability, or disqualification of the judge of probate so that he is unable to fulfill his duties, or there is a vacancy in such office, the Council may make a provision for a deputy or alternate to serve as judge in the absence or inability of the Probate Judge; and when so serving, the acting judge of probate shall have and exercise all the power and duties of the judge of probate.