

**TOWN OF FOSTER
PROBATE COURT
RULES AND PRACTICE AND PROCEDURE**

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

1. **COURT SESSIONS** – Sessions will normally convene at 2:00 pm on the second Wednesday of each month, unless that day is a legal holiday. Court sessions are held in the Town Hall, 181 Howard Hill Road, Foster, Rhode Island. The Court reserves the right to meet on a different day/place as necessary.
2. **CONTESTED MATTERS** – Special sessions of the Probate Court will be scheduled as reasonably necessary to hear contested matters, which cannot be completed during regular court sessions by the Probate Judge. There will be no additional fees or charges for special sessions (RIGL 33-22-30).
3. **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 Foster”. Matters, which must be advertised, should be filed and the requisite fees paid not later than Wednesday of the week before that publication is to occur. Publication will be in the Tuesday edition of the Providence Journal two times prior to the hearing. All matters on waiver shall be filed at least five (5) days prior to the hearing date.
4. **ELECTRONIC RECORDINGS** –
 - (A) Electronic recordings of any court proceedings will be made by the Court at the request the Probate Judge or any party thereto by electronic tape recording (RIGL 33-22-19.1). Parties may, however, have court proceedings transcribed by the Town Clerk’s office at the requesting party’s expense.
 - (B) The fee for an electronic copy of the proceedings is \$45 per tape.
 - (C) Electronic tape recordings of hearings will be kept in accordance with the procedure designated by the Town Clerk.
5. **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. (RIGL 33-22-31)

6. **CLOSING OF ESTATE** - No First and Final Accountings and no Affidavit 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. (RIGL 33-11-5.1)
7. **CERTIFICATION OF CHARGES** – No Accountings 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 payments set forth in said account. There will be no exceptions. The Probate Judge may request additional evidence (RIGL 33-14-2)
8. **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 5 days in case of temporary guardians, unless a shorter period is approved by the Court upon motion by the petitioning party.
9. **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 3 days before the hearing date.
10. **GUARDIANS AD LITEM** – Guardians Ad Litem shall be appointed by the Probate Court from a list of qualified attorneys kept in the office of the Probate Clerk. 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 \$350 unless additional fees are authorized by the Probate Judge for cause shown. Guardians Ad Litem must supply an itemized bill. In order to be added to the Guardian Ad Litem list, requesting attorneys must submit a sample GAL report and a copy of the face sheet of their malpractice insurance in effect at that time.
11. **COMMISSIONERS** – Commissioners appointed by the Court to hear disallowed claims pursuant to RIGL 33-11-16 shall be selected by agreement of the attorneys for the claimant and the estate with the approval of the Probate Judge. In the event that attorneys cannot agree on a Commissioner, selection will be made by the Probate Judge.
12. **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 (RIGL 33-22-19.2)

13. **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 inventories within the required times must petition the Court for an extension of time.
14. **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 releases, 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 appear on the court docket.
15. **ATTORNEYS’/FIDUCIARIES’ FEES** – Affidavit of time spent, work done and hourly rate for attorneys and fiduciaries are required as part of accounting. Forms on file in Probate Clerk’s office. Attorneys functioning as fiduciaries are not entitled to bill their professional rate on work done as fiduciary for matters which are merely administrative or clerical.
16. **FORMS** – Use of statewide forms is mandatory.
17. **CHANGE OF NAME** – A criminal record check through the Foster Police Department will be conducted of all persons petitioning for a name change. If there is a criminal record, the Probate Judge will exercise his discretion as to the name change on a case-by-case basis.
18. **PROBATE JUDGE** – 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 duties of the Judge of Probate shall be performed by the Town Solicitor; and, when so serve, the acting Judge of Probate shall have and exercise all the powers and duties of the Judge of Probate.

By Order:

William L. Bernstein
Foster Probate Judge

Entered:

Anne M. Irons
Foster Probate Clerk