

**PROBATE COURT TRAINING  
DETROIT BAR ASSOCIATION  
PRO BONO\ACCESS TO JUSTICE COMMITTEE**

**By**

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**Chief Deputy Probate Register,**

**Wayne County Probate Court**

## I. Introduction

A. Presentation will address the following topics:

- Contact\resource\referral information
- Overview of filing\hearing process at Wayne County Probate Court
- How to hire attorney to probate estate
- Cost effective methods for probate with limited assets
- Accessing funds from decedent's bank account
- Pursuing claim of stolen inheritance
- Developmentally disabled adult child – sole guardianship request\form
- Adult guardianship termination\objection to termination process
- Addressing other miscellaneous probate questions

B. Feel free to ask questions at any point during the talk.

## II. Contact\Resource Information

Michael J. McClory  
Chief Deputy Probate Register  
(313) 224-5685  
[mmclory@wcpc.us](mailto:mmclory@wcpc.us)

Elizabeth E. Daligga  
General Counsel  
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Sarah McGaughey  
Law Clerk  
(313) 224-5578  
[smcgaughey@wcpc.us](mailto:smcgaughey@wcpc.us)

Feel free to call\email any of the above persons if you have questions regarding a pro bono situation. **Note: Please do not give this contact information to the individuals you are assisting.**

## A. Resource Information

1. Check\Refer Persons to the Wayne County Probate Court website – [www.wcpc.us](http://www.wcpc.us) – under Information
2. The Information section has extensive data on the following topics:
  - a. How to open various types of cases (estates, small estates, adult\minor guardianships, adult\minor conservatorships, etc.).
  - b. How to complete forms.
  - c. How to close a case.
  - d. Frequently asked questions on numerous probate related issues (will search, transferring car, reopening estate, etc.).

## B. Referral Information

1. Have the individual send an email to: [info@wcpc.us](mailto:info@wcpc.us).

The Court is prohibited from providing legal advice but we can provide general guidance and point them in the right direction.

2. Give them the Wayne County Probate Bar Association Lawyer Referral Service number – 1 800 357-7090.
  - a. These probate attorneys have signed up for this service, partially in an effort to secure business.
  - b. They will provide a free initial consultation, which is often sufficient so that the person can handle the remainder of the process themselves.

### III. Overview of Filing\Hearing Process at Wayne County Probate Court

- A. The Wayne County Probate Court is still closed to the public.
- B. There is no projected reopening date at this time.
- C. All hearings are still being conducted via ZOOM.
- D. There are three filing options:
  - 1. Via email: [probateservice@wcpc.us](mailto:probateservice@wcpc.us).
  - 2. FAX: (313) 967-4030
  - 3. US mail:

Wayne County Probate Court  
1305 Coleman A. Young Municipal Center  
2 Woodward Ave  
Detroit, MI 48226

#### E. Payment

1. Note: Fees can be waived due to indigency. The Court's home page, [www.wcpc.us](http://www.wcpc.us), has information on this process.
2. Payment can be made by check or money order payable to "Wayne County Probate Court".
3. Electronic Payment: Using the ePayment system; details can be found on the Court's home page.

#### F. Processing of Petitions

1. After review by our Intake Staff the petitioner will be notified by email or letter if their filing has been accepted. If it is rejected, the defects will be identified so amended paperwork can be submitted.
2. Payment will be requested (via email or by letter if mailed in without a check) once the documents are accepted.
3. When received, a Notice of Hearing and directions for giving notice will be provided, including ZOOM instructions.
4. Note #1: Hearings are usually set for 3-5 weeks after a petition is processed.
5. Note #2: Petitions are processed within approximately four (4) days after it is accepted.

#### IV. How to Hire an Attorney to Probate an Estate

- A. Have them contact the Wayne County Probate Bar Association Lawyer Referral Service.
- B. These are experienced attorneys that specialize in probate cases.
- C. They will give them an initial estimate regarding cost.
- D. Another option is to contact the State Bar of Michigan Lawyer Referral Service at 1 800 968-0738.

#### V. Cost Effective Method for Probate with Limited Assets – Small Estate Procedure

- A. Petition\Order for Assignment – PC 556m & 556o.
- B. An expedited procedure is available for estates worth \$24,000 or less, indexed for inflation, after deducting funeral and burial expenses. **MCL 700.3982.**

**Note:** For a complete listing of the small estate values for each year, go to the Court’s website, [www.wcpc.us](http://www.wcpc.us), under “Information – How to Start a Wayne County Probate Case – Small Estates”.

- C. Costs: \$25 filing fee (vs. \$175 for regular estate), \$12 certified copy fee, \$5-139 inventory fee (depending on value of estate).

D. Summary of Process. In estates of this size, the Court can order that after the funeral bill has been paid (and proof of this is submitted, along with proof of death), the person who paid these expenses can be reimbursed and the remainder distributed to the spouse or, if no surviving spouse, to the decedent's heirs. The entire procedure can be accomplished in a single visit to the Court if all the documentation is submitted.

E. Debts of Decedent: Unless the heir is a surviving spouse entitled to allowances under the probate code or a minor child of the decedent, for 63 days after the order is issued, the heir receiving the assignment is responsible for any unsatisfied debt of the decedent up to the value of the property received. Claims for these unsatisfied debts are handled by the circuit or district court. MCL 700.3982(3).

F. What if the person dies with a will? It is filed with the Court but not used.

## **VI. Accessing Funds from Decedent's Bank Account**

- A. If an account is joint with a decedent the surviving joint owner can access the funds.
- B. If the bank account is in the decedent's name alone a probate proceeding must be opened. There are two options:
  1. Small estate proceeding (discussed previously in outline).
  2. Full estate administration.
  3. A person cannot access these monies without using one of these two methods. For example, they cannot petition to obtain monies to pay for the decedent's funeral (they could be reimbursed after an estate is opened).

## **VII. Pursuing a Claim of Stolen Inheritance**

- A. This is beyond the scope of the Pro Bono Program.
- B. Refer them to the Wayne County Probate Bar Association Lawyer Referral Service for a free initial consultation – 1 800 357-7090.
- C. They may also want to contact the Wayne County Probate Court Guardianship & Estates Ombudsman. Go to Information – Guardianship & Estates Ombudsman – Complaint Form (can be Faxed or mailed).
- D. Depending on the circumstances, they could also contact the Wayne County Prosecutor at 313 224-5777.

## VIII. **Developmentally Disabled Adult Proceedings\Request for Sole Guardianship**

- A. Guardianships for Individuals with a Developmental Disability (DD Guardianships) are administered under the Mental Health Code.
- B. The process for filing the petition, including obtaining the appropriate evaluations, is complex and challenging.
- C. Refer the individual wishing to establish the DD guardianship to the Detroit-Wayne Integrated Health Network (DWIHN).
  - 1. They will handle the entire process at no cost, including filing the petition.
  - 2. Have them call DWIHN at 313 833-2500.
- D. If the person wishes to modify or terminate the guardianship, including a request that they be appointed sole guardian, have them file PC 677, Petition to Terminate\Modify Guardianship for Developmentally Disabled Individual, and it will be set for hearing.

## **IX. Adult Guardianship Termination\Objection to Termination Process**

- A. Any person can file a petition to terminate an adult guardianship (PC 675, Petition to Terminate\Modify Guardianship)
- B. The petition will be set for hearing.
- C. If the individual is an interested person in the case they have the right to participate in the hearing.

## **X. Miscellaneous Probate Questions**