

Commission To Create a Plan to Incorporate the Probate Courts into the Judicial Branch

October 19, 2021

- **REGISTERS**

- Elected by the people of our Counties
- Judge is supervisor of Court and Registrar
- Those who also have authority over Registrar
 - County Commissioners
 - Municipal Budget Committees
 - Supreme Court through Rules
 - Maine State Legislature through Statutes
- **RESPONSIBILITIES**
 - Quasi-Judicial role in Informal Estates
 - Court clerk role
 - Administrative role on budgets
 - Supervisory role of personnel
 - Fiduciary role in accounting for fees and outgoing expenses
 - Law Clerk role in research and updates of rules and forms, appeals
 - Preservation of historical records

- **CASES GENERALLY**

- Non probate – Register
- Informal probate - Register
- Formal probate – Judge
- Other duties of non-Judicial nature

- **NON-PROBATE CASES**

- What do you do when someone dies?
 - Call Probate! Or come in.
- Issued in a case with not enough assets to Probate
 - A Letter of no Probate - standard proof nationwide of no estate in county of death.
- Other assistance
 - Affidavit of Collection of Personal Property
 - Directed to Vital Statistics, Town office, or Motor vehicle
 - Directed to legal service agencies
 - Directed to police

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- Directed to probate forms for other estate proceedings
- Directed to County Public Administrator
- Directed to Informal Probate
- Directed to Maineprobate.net for forms

- **INFORMAL PROBATE PROCEEDINGS**

- Application to have a will allowed
- Intestate and appointment of Personal Representative (PR) – No will
- Testate with appointment of Personal Representative - Will
- Summary administration
- Domiciliary Personal Representative
- Informal Special Administrator

- **INFORMAL APPLICATIONS/DECLINATION OF INFORMAL ESTATE**

- The Register can decline to probate an estate informally
- A formal petition would need to be filed
 - Reasons are most often persons with priority refuse or unwilling to be PR
 - Only a copy of the will can be found
 - Problem with holographic will
 - Will is deficient in some other way

- **INFORMAL APPOINTMENT**

- Register accepts the filing and the application must be correct and no bond required
 - By mail there may be a lot of sending back n forth until application is correct
 - Filed over the Counter it's given back for corrections
 - E-filed it is rejected with explanation for corrections and resubmission
- Most common reasons why applications are sent back for corrections
 - No renunciation from person with priority
 - Missing names or addresses of heirs or devisees
 - Location of real estate
- Appointment is made and a Letter of Authority issued
 - The application is correct
 - Testate only after the original will comes in and is valid.
 - All necessary renunciations have been filed.
 - Findings are made and Letters issued.
 - The time it takes to process depends on the staff availability.
- **After appointment**
 - Notice is given to all interested parties.
 - Including DHHS Third Party Liability for decedents over 55
 - Publications for Creditors notice is prepared and published.

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- Special Publication for unknown heirs as well.
 - Real Estate Abstracts are prepared and recorded at the Registry of Deeds.
 - Demands for notice filed and copies sent per requests.
 - Claims against the estate are filed and copy sent to PR if required.
 - Correspondence for copies requests and claimants and devisees.
 - Issue certificates of appointment
 - Sworn statements closing
 - **Current Certificates of Appointment and Exemplified copies of Wills and Records**
 - Current Certificates of appointment are issued on request
 - They are used for banks, stocks and bonds, insurance companies, Real Estate transactions, IRS and many other import businesses.
 - Exemplified copies of Wills and Probates as well as any other types of cases.
 - Important for Domiciliary proceedings and Court cases involving Real Estate disputes.
 - Some will exemplifications are used even know in cases that date back centuries.
 - **Most Common Problems with wills.**
 - Can't find original
 - Cross outs no initials
 - One witness
 - No rest and residue clause
 - No PR appointment
 - No alternate PR
 - Written in someone else's hand signed by testator
- **DOMICILLARY FOREIGN PERSONAL REPRESENTATIVE**
 - Proceeding recognizing the authority of a PR appointed in another state is used for Real Estate in Maine.
 - **FORMAL PROCEEDING Categories-Court-Judge**
 - Estates in controversy
 - Guardianship/Conservatorships, adult/minor
 - Adoptions/terminations
 - Civil Complaints
 - Name Changes adult/minor
 - **OTHER DUTIES NON-JUDICIAL**
 - Checking guardianship files for police Departments in requests for concealed weapon applications
 - Passport applications not all counties
 - Confirming identity of applications for Personal Representatives in other states

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