

# **Policies and Procedures**

## **Updated Pages September 2010**

This packet includes updates to the Probate Policies and Procedures binder created by this office. If you do not have one of these binders, they can be purchased at our office for \$35.00. The updated pages can also be found on our website [registers.maryland.gov](http://registers.maryland.gov). The following are the changes for the 2010 edition.

- 1) **Table of Contents** Chapter Four has been changed to include both Guardianship of the Property of a Minor and Guardianship of a Minor Person
- 2) **General Information** (Pages 1-4 *replacement pages*). Updated office staff
- 3) **Chapter One** (Pages 9-11 *replacement pages*): This section has been updated to include reference and policies and procedures related to admission of a copy of executed will.
- 4) **Chapter Four** (Blue Tab and Pages 43a and 43b *additional pages*) This section has been updated to include references and policies and procedures related to guardianship of a minor person. Forms related to this addition are being developed may be available for download on our website shortly.
- 5) **Appendix Forms** (Page 183 *additional page*) Consent to Probate of Copy of Executed Last Will and Testament form added.

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## General Information

**Register of Wills Office**  
**50 Maryland Avenue Room 322**  
**Rockville, Maryland 20850**

Hours.....8:30 a.m. – 4:30 p.m. Monday through Friday  
Main phone number.....240-777-9600  
Toll free within Maryland.....1-888-892-2180  
Fax number.....240-777-9602  
Web site.....<http://registers.maryland.gov>

*Appointments are recommended to open estates in order to promote faster service*

Register of Wills  
Joseph M. Griffin

Chief Deputies  
Margie Beatty  
Lynda Hawkins

Financial Analysis Department.....240-777-9640

Assistant Chief Deputy  
Jane Gardner

Auditors

Greyson Burke  
John Clifford  
Stacy Glover  
Amera Jones  
Joann Lee  
D'Mitra Lofton  
Jonathon Phelps  
Cheri Tolson-Clipper

Questions regarding the following should be directed to this department:

Accounts, Petition for Fees/ Commissions, Petition for Funeral Expenses, Inheritance Tax on Probate Assets, Distribution, Final Reports, Audit Request Information Report, Inheritance Tax on Non-Probate, Trust, Joint Accounts, Payable on Death Accounts, IRAs, any interest less than absolute, Inventories, Appraisals

Computer Systems Division.....240-777-9600

Systems Administrator Manager  
Charlie Keyser  
Systems Administrator  
Robert Sullivan

## General Information

## General Information

Court Division.....240-777-9690

Courtroom Clerk  
Maureen Burch  
Mandy Campbell  
Paul Dollahite

Questions regarding the following should be directed to this department:

Hearings, Caveats, Miscellaneous Petitions, Show Cause Orders, Subpoenas

Data Processing Division.....240-777-9670

Assistant Chief Deputy  
Ann Rodgers

Data Entry Clerks  
Jenifer King  
Karen Moulton  
Michael Para  
T.J. Rodgers  
Linda Santucci

Questions regarding the following should be directed to this department and appropriate personnel:

Whether an Estate has Been Opened, Whether a Document has Been Filed and/or Docketed

T.J. Rodgers - Delinquent Filings, Extensions of Time, Mandatory Filing Deadlines, Claims

Finance Division.....240-777-9600

Iwona Piotrowska

New Proceedings Division.....240-777-9620

Assistant Chief Deputy  
Marion Jackson

Deputies  
Cleto Barreto  
Paullettee Cabrera  
Kim Johnson  
Alan Kuzminsky  
Amparo Mantilla  
Kenneth Payso  
MaryAnn Sheehan  
Tewanna Vasquez

Questions regarding the following should be directed to this department and or appropriate personnel:

Wills, Administrative Probate, Judicial Probate, Bonds, Jurisdiction, Letters of Administration, Updated/ Additional Letters for a Small Estate

Amera Jones - Change of Address and Amended List of Interested Persons

## General Information

Records Division.....240-777-9680

Assistant Chief Deputy  
Cynthia Schommer

Deputy/ Clerks  
Joe Kelley  
Dylan Rawls  
Audrey Washington

Questions regarding the following should be directed to this department:

Copy Request, Updated/ Additional Letters of Administration in Regular Estates, Exemplified Copies, Certified Copies, General Information from Estate Files

Office Administration.....240-777-9624

Matthew Tevelow

Questions regarding the following should be directed to this person:

Problems with website, incorrect/outdated forms, speaking engagements/information sessions, community outreach, office publications

**The policies and procedures listed in this book should not be construed as local rules.**

**It is the policy of this office that guardianships of minor persons be filed in the Circuit Court. (77 Opinions of the Attorney General No. 92-009 March 20, 1992)**

**\*All forms can be downloaded from the Register's web page.**

### **Programs, Processes and References:**

*Alternative Dispute Resolution (ADR) - see page 4 for additional information*

*Pro Bono Service – see page 4 for additional information*

#### *MICPEL*

- *Fiduciaries Duties and Liabilities (1996)*
- *Gibber on Estate Administration (2008)*
- *Pre and post Mortem Planning for Non-Probate Assets (2000)*
- *Trusts and Estate Practice (1998)*
- *Will Contests and Related Litigation (1997)*

### **Programs, Processes and References:**

As of April 1, 2000, two legal assistance programs became available to individuals participating in the probate process. These two programs, an **Alternative Dispute Resolution (ADR)** and a **Pro Bono service**, both for Orphans' Court proceedings were developed by, and implemented in, Montgomery County.

The ADR program, commonly referred to as mediation, allows interested persons in an estate to resolve disputes through a mediator, as opposed to resorting to litigation, with its inherent delay and additional expense. This program will benefit more than just the parties who opt for mediation. Use of ADR will free up the hearing docket, resulting in fewer delays for litigants who plan to go to trial. Attorneys interested in being appointed as mediators should submit an application and resume to the Register of Wills. Applicants must be members of the Maryland Bar in good standing and possess at least 10 years experience practicing probate.

**Both parties involved in the dispute will have to consent to the mediation. Please call Susan Kalil with Differentiated Case Management (DCM at 240-777-9108 with questions about forms or the mediation process.**

The *Pro Bono* service is a tool to assist the court without creating any additional cost to the estate. This service is available for situations when the court feels it does not possess sufficient, or proper, information to make a fair and appropriate ruling. In these instances, the Register has a list of attorneys willing to serve as court-appointed investigators on a *pro bono* basis to investigate and report back to the court their findings on the information in question. Once the court has ordered an investigator to research a particular issue and report back by a certain date, the Register of Wills will then issue subpoenas to allow the investigator access to all applicable information and records.

**Anyone interested in having their name placed on a list of possible Special Investigators should contact Joseph Griffin, Register of Wills or the current Chair of the Estates and Trusts Section of the Montgomery County Bar.**

#### *MICPEL*

- *Fiduciaries Duties and Liabilities (1996)*
- *Gibber on Estate Administration (2008)*
- *Pre and post Mortem Planning for Non-Probate Assets (2000)*
- *Trusts and Estate Practice (1998)*
- *Will Contests and Related Litigation (1997)*

**Description**

ET §4-101	Who may make a will
ET §4-102	Writing; signature; attestation
ET §4-103	Holographic will
ET §4-104	Will made outside Maryland
ET §4-105	Revocation of will
ET §4-106	Revival of will
ET §4-107	Incorporation by reference
ET §4-201	Deposit of will in lifetime of testator
ET §4-202	Duty of custodian of will upon death of testator
ET §4-203	Robbery or larceny of will
ET §4-301	Who may be a legatee
ET §5-801 <i>supp.</i>	Petition for admission of copy of executed will
ET §5-802 <i>supp.</i>	Filing of petition for admission of copy of executed will
ET §5-803 <i>supp.</i>	Consent Form to probate copy of executed last will and testament
ET §5-804 <i>supp.</i>	Order accepting copy of will for administrative probate
Rule 6-151	Filing a will
Rule 6-152	Proof of execution of will
Rule 6-153 <i>supp.</i>	Admission of copy of executed will

**References:**

**ET – Annotated Code of Maryland  
Estates and Trusts Article  
Rule - Annotated Code of Maryland  
Maryland Rules – Volume 1**



STATE OF MARYLAND  
REGISTER OF WILLS FOR MONTGOMERY COUNTY, MARYLAND

JOSEPH M GRIFFIN  
REGISTER OF WILLS  
<http://registers.maryland.gov>

ROOM 322  
50 MARYLAND AVENUE  
ROCKVILLE, MARYLAND 20850-2397

TELEPHONE  
(240) 777-9600  
FAX (240) 777-9602

**Register's Policies and Procedures**

Any person may make a will if they are 18 years of age or older, and legally competent to make a will.

**Except for a holographic will or a will made outside Maryland, every will shall be:**

- in writing
- signed by the testator/ testatrix, or by some other person for them, in their presence and by their express direction
- attested and signed by two or more credible witnesses in the presence of the testator/ testatrix

**Holographic Will:**

A will entirely in the handwriting of a testator/testatrix who is serving in the armed services of the United States is a valid holographic will if signed by the testator/ testatrix outside of a state of the United States, the District of Columbia, or a territory of the United States even if there are no attesting witnesses. A holographic will is void one year after the discharge of the testator/ testatrix from the armed services.

**Will made outside Maryland:**

A will executed outside this state is properly executed if it is:

- in writing
- signed by the testator/testatrix; and
- executed in conformity with Maryland law, or the law of the domicile of the testator/testatrix, or the place where the will is executed

**Revocation of a will:**

A will or any part of it may be revoked, as provided below:

- subsequent will
- destruction
- subsequent marriage with issue
- divorce or annulment - specifically related to the interest of the former spouse

### **Deposit of will in lifetime of testator/ testatrix:**

A will may be deposited by the testator/ testatrix, or their agent, for safekeeping with the register of the county where the testator/testatrix resides. The register shall give a receipt for the will upon the payment of the **filing fee of \$5.00**. During the lifetime of the testator/ testatrix a deposited will may be delivered only to the testator/testatrix, or to a person authorized by them in writing to receive the will. A person wishing to take the will of another must have specific written authorization by the testator/ testatrix, unless a power of attorney so delineates, the person with such power does not have the authority, under the statute, merely by being the agent under power of attorney to take the will from the registers office.<sup>1</sup>

Promptly after learning of the decedent's death, the custodian of a document appearing to be the last will of the decedent shall file it with the register even if it is not to be offered for probate.

A will to be offered for probate, unless previously filed, shall be filed in conjunction with the filing of a petition for administrative or judicial probate or administration of a small estate.

If a will does not contain a recital by attesting witnesses of facts constituting due execution, then upon the filing of a verified statement of a person with personal knowledge of the circumstances of execution of the will the register shall assume due execution.

### **Proof of Execution of Will**

**(Form 1102)**

### **Admission of Copy of Executed Will**

**(Form 1429)**

An interested person, without notice to other interested persons, may file a petition for the admission of a copy of an executed will at any time before administrative or judicial probate if:

- (1) The original executed will is alleged to be lost or destroyed;
- (2) a duplicate reproduction of the original executed will, evidencing a copy of the original signatures of the decedent and witnesses, is offered for admission; and
- (3) all the heirs at law and all legatees named in the will have executed a consent as specified in Maryland Rules §6-153 (3) and Estates and Trusts §5-803.

<sup>1</sup> Attorney General letter of advice dated July 9, 1986

***All forms referenced are located in the appendix***

**Please note policies established are subject to change and may not be applicable in every situation.**

## GUARDIANSHIP OF THE PERSON OF A MINOR

Reference	Description
ET §13-101	Definitions
ET §13-102	Purposes and construction
ET §13-103	Verification
ET §13-104	Notice
ET §13-105	Jurisdiction
ET §13-106	Orphans' Court
ET §13-107	Register of Wills
ET §13-701	Testamentary appointment of guardian of a minor
ET §13-702	Court appointment of guardian of a minor
ET §13-703	Bond; accounting; compensation
Rule 10-101	Applicability of title; jurisdiction
Rule 10-103	Definitions
Rule 10-104	Show Cause Orders
Rule 10-105	Waiver of notice
Rule 10-106	Appointment of attorney or investigator
Rule 10-107	Assessment and waiver of fees and costs – Guardianships
Rule 10-108	Orders
Rule 10-109	Transfer of action
Rule 10-110	Combination of guardianship petitions
Rule 10-201	Petition for Appointment of a guardian of person
Rule 10-202	Certificates
Rule 10-203	Service; notice
Rule 10-205	Hearing
Rule 10-207	Resignation of guardian of the person and appointment of substituted or successor guardian
Rule 10-209	Termination of a guardianship of the person

**References: ET- Annotated Code of Maryland  
 Estates and Trusts Article  
 Rule – Annotated Code of Maryland  
 Maryland Rules – Volume 2**



STATE OF MARYLAND  
REGISTER OF WILLS FOR MONTGOMERY COUNTY, MARYLAND

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**Guardianship of the Person of a Minor**  
**Register's Policies and Procedures**

**By Testamentary Appointment:**

Appointed by surviving parent in a will, the guardian need not be approved by any court. *E & T §13-701*

**By Court Appointment:**

If neither parent is serving as guardian of the person and no testamentary appointment has been made, on petition by any person interested in the welfare of the minor, and after notice and hearing, the court may appoint a guardian of the person of an unmarried minor. If the Minor is over the age of 14, the court shall appoint a person designated by the minor unless the decision is not in the best interest of the minor. *E & T §13-702*

*\*Note - A statement of parental consent to the appointment of a guardian may be required by court.*

**Venue:**

If the minor is a resident of Maryland, the petition shall be filed in the county where the minor resides. If the minor is not a resident of Maryland, a petition may be filed in any county in which the person is physically present. *Rule 10-201(b)*

**Jurisdiction:** *E & T 13-105 2009 Supplement and MD Rule 10-109*

- 1) Orphans' Court and Circuit Courts have concurrent jurisdiction over Guardianship of the person of a minor.
- 2) Orphans' Court may preside over Guardianship of the person of a minor if the presiding Judge is a member of the bar.
- 3) Orphans' Court may transfer the matter to the circuit court on finding that the best interests of the child require utilization of the equitable powers of the circuit court.
- 4) Costs of transfer may be waived.

**In order to establish a guardian of the person the following is required:**

**Petition for Guardianship** – in compliance with *Rule 10-201(c)*

**Guardianship Show Cause** – if minor is under the age of 10 the show cause may be waived see *Rule 10-203(a)*.

**Notice to Interested Persons** - *Rule 10-203(b) & (c)*

**Hearing**

If no response to the show cause order is filed the court may rule on the petition.

If response to the show cause order objects to the relief requested the Court shall set the matter for a hearing. - *Rule 10-205*

**Order for Appointing Guardian of the Person** – in compliance with *Rule 10-108*

**Filing Fee - \$20.00**

**Additional Information:**

**Combination of guardianship petitions-** A petition for the appointment of a Guardian of the person of a minor may also include a request for the appointment of a guardian of the person's property. (*Rule 10-110*) Must include additional information requested by Rule 10-301.

**Bond; accounting; compensation:** Guardian of the person of a minor is not required to post bond, file accounts and unless otherwise provided by the will shall not be entitled to any compensation. *E & T §13-703*

**Resignation of guardian and appointment of substitute or successor guardian:**

A petition to resign may be filed by a guardian of the person who has exercised no control over any property of the minor. Petition shall state the reasons for the resignation and may request the appointment of a substitute or successor guardian. *Rule 10-207*

**Termination of guardianship of the person- *Rule 10-209***

**Termination not requiring prior notice-**

- 1) Petition filed in conformity with Rule 10-209(b) – the court shall terminate a guardianship of the person without prior notice upon finding that either
  - a. A minor has attained the age of majority or
  - b. The minor has died
- 2) Petition may be filed by a minor or by the guardian of a minor. It shall contain or be accompanied by either a copy of the minor person's birth certificate or other proof of age or a certified copy of the minor's death certificate.
- 3) Minor may file anytime after age of majority (18). A guardian shall file within 45 days after discovery that grounds for termination exist.

**Termination requiring notice-**

- 1) A guardianship of the person may be terminated upon the filing of a petition if the court, after notice and hearing, finds that any of the following grounds exist;
  - a. The emancipation of a minor who has not attained the age of majority. If the termination is because of a marriage of the minor, the petitioner shall file with the petition a copy of the marriage certificate.
  - b. Any other good cause for termination.
- 2) Within 45 days after the guardian discovers that grounds for termination may exist, the guardian shall file a petition requesting the court to terminate the guardianship. At any time after discovery of the grounds for termination, the minor or any other interested person may file a petition requesting the court terminate the guardianship.
- 3) Petition must be in compliance with Rule 10-209(c)(4-6)

**\*Guardianship Forms for Guardian of the Person of a minor are being developed for your convenience, they are not state mandated but will be in compliance with Maryland Rules. The forms will be located on our website for download when they are available.**

***Please note policies established are subject to change and may not be applicable in every situation.***

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IN THE ORPHANS' COURT FOR  
(OR) \_\_\_\_\_, MARYLAND  
BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF:

ESTATE NO. \_\_\_\_\_

**CONSENT TO PROBATE OF COPY OF EXECUTED  
LAST WILL AND TESTAMENT**

The undersigned \_\_\_\_\_ and

\_\_\_\_\_ ,  
being all the heirs at law of the decedent and all the legatees named in the will executed by the decedent on \_\_\_\_\_ , hereby consent to the probate of a copy of that executed will, it having been determined, after an extensive search of the decedent's personal records, that an original of the will cannot be located. By signing this consent each of the undersigned affirms that it is his or her belief that the will executed by the decedent on \_\_\_\_\_ , is the last valid will executed by the decedent and was not revoked and that the copy of the will, as submitted with the petition for its admission, represents a true and correct copy of the will.

We affirm under the penalties of perjury that the facts set forth in this consent are true and correct to the best of our knowledge, information, and belief.

DATE	SIGNATURE	PRINT NAME AND RELATIONSHIP
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone Number