



JUDICIAL COUNCIL
OF CALIFORNIA

PROBATE AND MENTAL HEALTH
ADVISORY COMMITTEE

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PROBATE AND MENTAL HEALTH ADVISORY COMMITTEE

CLOSED MEETING AGENDA

Closed to the Public (Cal. Rules of Court, rule 10.75(c)(3))

Date: Friday, July 17, 2015

Time: 9:30 a.m.—4:30 p.m.

Meeting materials will not be posted on the advisory body web page on the California Courts website. Materials are only posted for open meetings. (Cal. Rules of Court, rule 10.75(h).)

I. CLOSED SESSION (CAL. RULES OF COURT, RULE 10.75(C)(3))

The entire meeting will be closed pursuant to California Rules of Court, rule 10.75(c)(3) and 10.75(d). As specified in rule 10.75(c)(3)(E), the Probate and Mental Health Advisory Committee is a “rule committee” and none of the items to be considered in this closed session are budget items, within the meaning of rule 10.75(c)(1). The Chair has not concluded that any of these items may be addressed in open session.

Call to Order and Roll Call

Item 1 Committee Roster

Review committee roster and advise of any desired changes or corrections
(Information).

Item 2 Subcommittee Roster

Review Legislation Subcommittee roster and select ad hoc subcommittees to review drafts of Judicial Council reports for submission to full committee for Spring 2015 proposals going to the council in October **(Information and Action)**.

Item 3 Approval of Minutes

Review, revise as necessary, and approve minutes of the February 6, 2015 Probate and Mental Health Advisory Committee meeting **(Action)**.

Item 4 2014 Annual Agenda

Review Annual Agenda of the committee, approved by RUPRO on December 10, 2014 **(Information)**.

Rules and forms

September 1, 2015

Item 5 Court fee waivers in probate

Review final Judicial Council report, rule text, forms, and public comments and committee's proposed responses, on committee's proposal concerning court fee waivers in decedents' estates, guardianships, conservatorships, and for wards and conservatees participating in civil actions **(Information)**.

January 1, 2016

Item 6 Special Immigrant Juvenile Predicate Findings

Proposal for adoption of Cal. Rules of Court, rule 7.1020; adoption of Judicial Council forms *Request for Special Immigrant Juvenile Findings—Family Law* (FL-317), *Special Immigrant Juvenile Predicate Findings* (FL-357/GC-224/JV-357), *Petition for Special Immigrant Juvenile Predicate Findings* (GC-220), and *Request for Special Immigrant Juvenile Predicate Findings—Juvenile* (JV-317); and revocation of existing SIJS forms GC-224 and JV-224 **(Action)**.

Item 7 Judicial Council forms to implement the California Conservatorship Jurisdiction Act

Proposal for revision of *Petition for Appointment of Conservator* (form GC-310); and adoption of *Conservatorship Registration Cover Sheet and Attestation of Conservatee's Non-Residence in California* (form GC-360), *Notice of Intent to Register Conservatorship* (form GC-361), and *Conservatorship Registrant's Acknowledgment of Receipt of Handbook for Conservators* (form GC-362) **(Action)**.

Item 8 Rules Modernization Project

Proposal of Court Technology Advisory Committee, as part of Rules Modernization Project, for adoption of California Rules of Court, Rule 7.802, concerning electronic business practices, service, and court filing **(Action)**.

Legislation

Item 9 Legislation Report

Oral report by Legislation Subcommittee Chair James Birnberg and Senior Attorney Dan Pone, Office of Governmental Affairs, Judicial Council of California **(Information)**.

Item 10 Assembly Bill 691.

Further Discussion about AB 691, *Privacy Expectation Afterlife and Choices Act (PEAC)*.

January 1, 2017

Item 11 Statements of Decision in probate proceedings

Proposal for Judicial Council sponsorship of legislation to add section 1046.5 to the Probate Code to provide tailored procedures for statements of decision following court trials in probate proceedings

Item 12 Planning for 2016 Annual Agenda

The following new projects are under consideration or have been recommended for inclusion in the Annual Agenda for 2016:

1. New proposal from Spectrum Institute for rules of court and Standards of Judicial Administration concerning qualifications, continuing education requirements, and performance standards for court-appointed counsel in limited conservatorships;
2. Continuation of Rules Modernization Project beyond rule 7.802 to include changes in the rest of the Probate Code;
3. Expanded use of expedited trials/procedures (Survey Comments for SRL sub-group);
4. Judicial Council form for court confirmation of a Trustee's sale of real property (Attorney Danielle E. Miller);
5. Changes to Petition for Probate (form DE-111), from Tom Johnson, Managing Probate Attorney, Superior Court of Riverside County:
 - Add a statement indicating whether the decedent was a citizen of a foreign county, trigger notice to a consulate, per sec. 8113;
 - A way to designate that the proposed will is a lost will, which would notify the affected parties of the presumption under sec. 6124; and,
 - A way to designate that appointment is sought as a successor personal representative, similar to the designation of successor conservator in GC-310;
6. Legislation to remove Probate Code section 9000(a)(3) (Tom Johnson).

“This little-known technicality is counter-intuitive, and serves as a procedural trap for the unwary personal representative. It seems logical that funeral expenses would be expenses of administration. Funeral expenses are almost universally advanced by the personal representative or some other family member, and reimbursement is requested in the petition for final distribution. It

seems unjust that parties could successfully object to reimbursement of funeral expenses merely because the formality of a creditor claim was not observed.”

7. Proposal to amend Probate Code section 10953 to permit awards of fees to Public Administrators and counsel for services they render in response to a court order under Probate Code section 7600 et seq. due to failure of the personal representative to account even if the PA is not appointed as personal representative (Tom Johnson);
8. Revision of the *Capacity Declaration—Conservatorship* (form GC-335);
9. Revision of *Petition to Determine Succession to Real Property* (form DE-310) to require statement of character of property as community, separate, or quasi-community (Christine Donovan, Senior Staff Research Attorney, Family Law and Probate Divisions, Superior Court, of Solano County).

II. ADJOURNMENT

Item 13 Travel Expenses

Item 14 Plan Next Meeting

Adjourn Closed Session