

COMMON PLEAS COURT
BUTLER COUNTY, OHIO
PROBATE DIVISION

LOCAL RULES

BUTLER COUNTY COURTHOUSE

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As originally adopted and made effective beginning 12/15/2004
and including Amendments adopted through 9/30/2014

Conduct and operations in the Probate Division of the Butler County, Ohio Court of Common Pleas (Butler County Probate Court) are governed by the applicable Rules of Superintendence for the Courts of Ohio supplemented by local rules of practice adopted by the Butler County Probate Court, which follow. The Rules of Superintendence may be found on the Ohio Supreme Court's website at: <http://sc.ohio.gov/LegalResources/Rules/default.asp>, and are incorporated in their entirety into these Local Rules by reference.

The Butler County Probate Court's Local Rules of Practice are numbered to correspond with the numbering of the Rules of Superintendence for the Court of Ohio. The effective date of all Butler County Probate Court Rules contained herein was December 15, 2004, except for rules that have been amended since that date. For rules that have been amended since December 15, 2004, the effective date of the amendment is set forth immediately following the new or amended paragraph.

B.C.L.R. 74.1 TRUSTEE'S COMPENSATION

(A) Trustee's compensation shall be allowed in accordance with the following schedule:

(1) Corporate Trustee: Recognizing the competitive atmosphere in which corporate fiduciaries operate and which acts as a restraint on what they charge for their services:

(a) A trustee may charge fees in accordance with its schedule for these services which it may publish from time to time.

(b) Published fee schedules are to be filed in the court upon the effective date of this rule and whenever a change is made or whenever requested by the court.

(c) On each accounting where fees have been taken, an affidavit will be required, asserting that the fees charged represent those published in its schedule during the period of the accounting.

(2) Individual Trustees:

Fees shall be determined by application and entry.

B.C.L.R. 75.1 LOCAL RULES - SPECIAL PROVISIONS

(A) Civil commitment of the mentally ill.

(1) "Mental illness" means a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life. *[Effective date: 9/17/2014]*

(2) Each Affidavit (Mental Illness) (BCPC Form 801) filed with the Butler County Probate Court shall be signed by a person who has information to believe or has actual knowledge that the person alleged in the Affidavit is a mentally ill person subject to court order. *[Effective date: 9/17/2014]*

(3) "Mentally ill person subject to court order" means a mentally ill person who, because of the person's illness:

(a) Represents a substantial risk of physical harm to self as manifested by evidence of threats of, or attempts at, suicide or serious self-inflicted bodily harm; and/or

(b) Represents a substantial risk of physical harm to others as manifested by evidence of recent homicidal or other violent behavior or evidence of recent threats that place another in reasonable fear of violent behavior and serious physical harm or other evidence of present dangerousness; and/or

(c) Represents a substantial and immediate risk of serious physical impairment or injury to self as manifested by evidence that the person is unable to provide for and is not providing for the person's basic physical needs because of the person's mental illness and that appropriate provision for those needs cannot be made immediately available in the community; and/or

(d) Would benefit from treatment for mental illness and is need of such treatment as manifested by evidence of behavior that creates a grave and imminent risk to substantial rights of others or the person; and/or

(e) Would benefit from treatment as manifested by evidence of ALL of the

following:

(i) The person is unlikely to survive safely in the community without supervision, based on a clinical determination.

(ii) The person has history of lack of compliance with treatment for mental illness and at least one of the following applies:

(a) At least twice within the thirty six months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance has been a significant factor in necessitating hospitalization in a hospital or receipt of services in a forensic or other mental health unit of a correctional facility, provided that the thirty-six month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the thirty-six month period.

(b) Within the forty-eight months prior to the filing of an affidavit seeking court-ordered treatment of the person under section 5122.111 of the Revised Code, the lack of compliance resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others, provided that the forty-eight month period shall be extended by the length of any hospitalization or incarceration of the person that occurred within the forty-eight month period.

(iii) The person, as a result of mental illness, is unlikely to voluntarily participate in necessary treatment.

(iv) In view of the person's treatment history and current behavior, the person is in need of treatment to prevent a relapse or deterioration that would be likely to result in substantial risk of serious harm to the person or others.

[Effective date: 9/17/2014]

(4) An Affidavit (Mental Illness) filed in the Butler County Probate Court shall be filed in accordance with the requirements of chapter 5122 of the Revised Code using B.C.P.C. Form 801 (Effective 9/17/14), or a form substantially similar thereto, and said Affidavit shall be signed before a Probate Judge, Magistrate, Deputy Clerk, a Notary Public, or other person authorized by law to administer oaths.

[Effective date: 9/17/2014]

(5) When an Affidavit (Mental Illness) (BCPC Form 801) has been accepted and an Order of Detention (Mental Illness) (BCPC Form 800) issued, the Court shall promptly appoint an attorney to represent the patient/respondent. While the patient/respondent is being held pursuant to the Order of Detention (Mental Illness) (BCPC Form 800), a "voluntary" commitment shall not be accepted, unless the record or entry has been signed and approved by the patient/respondent's court-appointed counsel.

[Effective date: 9/17/2014]

(B) Adoptions.

(1) In all adoption proceedings involving minors the petitioner shall execute and file with the Court an Authorization for Release of Information (BCPC Form 324) and shall file, or cause to be filed, the results of a criminal records check performed pursuant to R.C. §2151.86.

(2) In all adoption proceedings involving minors, the petitioner shall file a preliminary estimate Petitioner's Account (Standard Probate Form 18.9) at the time of the filing of the Petition for Adoption of Minor (Standard Probate Form 18.0) and a final Petitioner's Account