

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1261

Amending Probate Rule 1,
adopting Probate Rule 9.1, and
amending Administrative Rule 9
concerning temporary custodians
of the property of deceased
persons.

IT IS ORDERED:

1. Probate Rule 1 is amended to read as follows:

(a) **Title.** These rules will be known and cited as the Probate Rules.

(b) **Scope.** These rules govern practice and procedure in the trial courts in all phases of proceedings brought under Title 13 of the Alaska Statutes, proceedings related to the release of personal property under AS 12.65.105 and AS 22.15.110(a)(3), and mental commitments under AS 47.30.

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2. The Probate Rules are amended to include new Rule 9.1. which provides:

Probate Rule 9.1. Temporary Property Custodians.

(a) Affidavit for Release of Property to Temporary Property Custodian.

(1) An affidavit for release of tangible personal property to a temporary property custodian under AS 12.65.105 must include:

(A) the affiant's name, mailing address, physical address, telephone number, employer, date of birth, and driver's license number, state identification number, or passport number;

(B) the decedent's name and date of death;

(C) decedent's domicile at the time of death;

(D) the relationship between the affiant and the decedent;

(E) the name and address of any relatives of the decedent who are known to the affiant;

(F) an acknowledgment that AS 12.65.105 authorizes the affiant to take custody of tangible personal property only;

(G) an acknowledgment that the affiant is taking custody of the property solely for the purpose of preserving the property pending appointment of a personal representative or other transfer under AS 13.16;

(H) an acknowledgment that the affiant is answerable and accountable for the property to any personal representative of the decedent's estate or to another person having superior right;

(I) an acknowledgment of the affiant's duty under subparagraph (a)(2) to mail or deliver a copy of the affidavit and an inventory to the superior court;

(J) an acknowledgment of affiant's duty under subparagraph (a)(3) to notify the Department of Revenue if the property is not claimed; and

(K) notice to persons having possession of a decedent's property that they are not required to release the property to the affiant.

(2) Upon receipt of property, the affiant must mail or deliver a copy of the affidavit and an inventory to (A) the superior court in the judicial district where the decedent was domiciled at the time of death that is nearest to the place of domicile; or (B) if the decedent was not domiciled in this state, to the superior court in the judicial district where the property was located at the time of death that is nearest to the location of the property. The inventory must be signed by the affiant and the person from whom the property was received and must indicate where the property will be taken or held. The clerk shall provide a copy of the affidavit and inventory to any personal representative of the decedent's estate.

(3) If the property is not claimed by the personal representative of the decedent's

estate or another person having superior right within three years after the decedent's death, and the affiant has no lawful claim to the property under AS 13.16.005, the affiant must notify the Department of Revenue that the affiant possesses property of a decedent that appears to have passed to the state under AS 13.11.025 [AS 13.12.105 as of January 1, 1997] and to be subject to AS 34.45.280 - 34.45.780.

(b) Appointment of Temporary Property Custodian.

(1) An order appointing a temporary property custodian under AS 22.15.110(a)(3) must:

(A) include the basis for the court's finding that the applicant is an appropriate person to assume temporary custody of the decedent's property;

(B) describe the property to be released to the custodian and where the property will be taken; and

(C) specify what action the custodian must take if the property is not claimed by the personal representative of the decedent's estate or another person having superior right, and the custodian has no lawful claim to the property under AS 13.16.005.

(2) The court making the appointment shall send a copy of the appointment order to

(A) the superior court in the judicial district where the decedent was domiciled at the time of death that is nearest to the place of domicile; or (B) if the decedent was not domiciled in this state, to the superior court in the judicial district where the property was located at the time of death that is nearest to the location of the property. The clerk of that court shall provide a copy of the order to any personal representative of the decedent's estate.

3. Administrative Rule 9(b) is amended to read as follows:

(b) **Filing Fees -- Superior Court.**

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(2) For probate matters:

(i) Initial filing fee	100.00
(ii) For depositing a will with the court for safekeeping	25.00
(iii) For registration of a trust document	25.00
(iv) Upon filing a petition for court approval of a minor's settlement, when it involves opening a new file	50.00

(v) For filing a petition for
appointment of a temporary
property custodian under AS
22.15.110(a)(3) no fee

(vi) For lodging a temporary
property custodian affidavit
and inventory no fee

* * * *

DATED: September 26, 1996

EFFECTIVE DATE: September 26, 1996

/s/
Chief Justice Compton

/s/
Justice Rabinowitz

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe