

Section 1 – References and Definitions

1.10 References

The purpose of this manual is to provide practical information and practice tips to the Jackson County probate practitioner. Statutory information is contained in the text only where needed for clarity or in areas where difficulties often arise. When applicable, each subsection concludes with the appropriate statutory citations.

The practitioner is generally referred to the following chapters of the Missouri Revised Statutes:

- Chapter 404 – related to transfers to minors, personal custodians, durable powers of attorney for property management and health care;
- Chapter 456 – related to trusts;
- Chapters 472, 473 and 474 – related to probate administration;
- Chapter 475 – related to guardianships and conservatorships;
- Chapters 631 and 632 – related to involuntary commitment for substance abuse, mental illness and sexually violent predators.

Also see Missouri Practice, volumes 3, 4, 4A, 4B, 4C, 5, 5A, 5B, 5C and 5D; the following MoBar CLE volumes: Estate Planning, Estate Administration, Guardianship and Trust Law, and Trusts, Powers, Custodianships and Nonprobate; and the Probate Division's forms.

While not a requirement, the Court prefers and strongly encourages the use of its forms. These forms are available on the Court's website at www.16thcircuit.org. They are referenced, as appropriate, at the end of each section of this manual.

Unless otherwise indicated, statutory citations refer to the 2016 edition of the revised statutes of Missouri, updated through the 2019 cumulative supplement.

1.20 Definitions

1.20.1 Administrator Ad Litem is a person appointed on a temporary basis and usually with specific (rather than general) authority to act under the following conditions:

- where a permanent personal representative has not yet been appointed (e.g., waste is occurring to estate assets);
- where an appointed personal representative fails to effectively perform his/her duties;
- where a conflict of interest exists as to the permanent personal representative (e.g., the personal representative files a claim against the estate);
- where the personal representative is revoked or dies.

1.20.2 Administrator Pendente Lite is a person appointed by the Court to preserve the assets of the estate while a will contest is pending. See Section 9.70 on will contests.

1.20.3 Chapter 208 Estate is an estate of a person who is eligible to receive public benefits, such as welfare, pursuant to Chapter 208, RSMo.

1.20.4 Consent is a written statement whereby an interested party in an estate agrees to a particular action(s) taken or to be taken by the fiduciary. The consent must be specific and evidence full disclosure of all applicable facts. Compare to “Waiver” *infra*.

1.20.5 Disbursement is any payment out of estate assets, including distributions.

1.20.6 Distribution is the payment or transfer of estate assets to the persons, such as heirs or devisees, ultimately entitled to receive them. Distribution does not include claims, taxes and expenses of administration.

1.20.7 Expenses of Administration are those expenses associated with administering the property of the estate and include, but are not limited to, attorney’s fees, fiduciary’s fees, bond premiums, safe deposit box drilling fees, appraiser fees, tax return preparation fees, mileage, and the following expenses of real property (if the personal representative has taken charge of the real property or in a conservatorship): lawn care, winterization, changing locks or otherwise securing the real property and real property taxes and insurance.

1.20.8 Minor means a person who is under the age of legal competence as defined by statute. For purposes of guardianship and conservatorship proceedings, a Minor is a person less than 18 years of age. For purposes of statutory allowances under Chapter 474 RSMo, a Minor is a person under 21 years of age.

1.20.9 Private Sale means any sale of estate property whether by auction or other means. However, it does not include the sale of real property by public auction pursuant to Section 473.510 RSMo.

1.20.10 Restricted Account means an account at a Missouri financial institution which is restricted so that withdrawals may be made only on order of the Probate Court.

1.20.11 Vouchers mean documentation (i.e., receipts or canceled checks) which evidence payment or discharge of debt.

1.20.12 Waiver is a written statement evidencing a person’s intent to relinquish a known legal right or permit a requirement to be avoided. The waiver must evidence full disclosure of applicable facts and state with clarity the right or requirement waived. See “Consent” *supra*.

[END OF SECTION]