

Surrogate Court General Information

GEOGRAPHIC JURISDICTION:

Surrogate's Court of any county has jurisdiction over the estate of a decedent who was a domiciliary of the state at the time of his death, disappearance or internment (confinement). The proper venue for proceedings relating to such estate is the county of the decedent's domicile at the time of his death, etc.

Surrogate's Court also has jurisdiction over the estate of a non-domiciliary who leaves property in the state, or a cause of action for wrongful death against a domiciliary of the state. The venue remains the same as for a domiciliary.

TYPES OF PROCEEDINGS HANDLED BY SURROGATE'S COURT:

1. Probates (decedents who die leaving a Last Will and Testament).

2. Administrations (decedents who die without a Will - distribution of their estate is then handled by NYS Statue Article 4 of the Estates, Powers and Trusts Law).

3. Adoptions. Surrogate's has concurrent jurisdiction with Family Court over adoptions (Sec. 641 FCA). In addition, if the issue of paternity arises during the adoption proceeding. The surrogate can determine any issue of paternity and make findings and issue an order. Does not have any power to grant any relief relating to support. That must be referred to the Family Court.

4. Conservatorships/Article 81 - only have jurisdiction if the recipient is the beneficiary of an estate. Otherwise, jurisdiction lies with the Supreme and County Courts. (Sec. 81.04 MHL).

5. Guardianships. Normally an application for the appointment of a guardian happens when a minor is entitled to monies having an amount in excess of \$10,000. Otherwise, a custodial account can be set up at a bank without court intervention.

Guardianships of Mentally Retarded and Developmentally Disabled Persons. (17A SCPA)

Purpose: To appoint someone legally responsible for the person once he or she attains the age of majority. Usually standby guardians are appointed for the reason that if the original guardians die or become incompetent prior to the death of the person for whom they have been appointed, then and

in that instance someone can immediately take over and before 30 days expire make application to the Surrogate's Court for their appointment as guardian.

MONETARY JURISDICTION: UNLIMITED

TYPE OF JUDGE: They are called "Surrogate".

The granting of power is given by Article VI, Section 12 of the NYS Constitution.

METHOD OF ELECTION: Elected

TERM OF OFFICE: 10 years except 14 years inside NYC