



## Two Family Law Attorneys Walk into a Probate Court...

07.20.2020

That might sound like the beginning of a witty joke, but it's not!

Many people think of Connecticut Probate Courts as places to resolve will contests, administer estates, and oversee trust administration. But there are also many ways that Connecticut Probate Courts can be utilized to address family law matters effectively and efficiently. This is especially important now, in light of the delays that both litigants and lawyers are currently experiencing due to the COVID-19 pandemic and resulting court closures. Although you'll still have to go to the Superior Court if you're seeking a dissolution of your marriage or enforcement of orders previously entered by the Superior Court, below is a list of the types of cases for which litigants and lawyers have the option to utilize their local Probate Court:

- Custodianship or Guardianship of a minor child: When a relative or interested adult is concerned about a parent or guardian's ability to properly care for a minor child, an application can be filed in the Probate Court seeking temporary custody, temporary guardianship, or immediate temporary custody. The specific needs of the situation will impact which type of application is appropriate. Factors to consider include 1) whether the parent is in agreement/the arrangement is voluntary, 2) whether the parent should have the ability to revoke the orders without court approval, 3) whether the child is in immediate risk of harm, and 4) the short term and long term goals of the guardianship arrangement.
- Termination of Parental Rights
- Adoption, including by a step-parent
- Conservatorship of a person: When there is a concern that a loved one who is over the age of majority is unable to care for him/herself or is incapable of making decisions regarding his/her personal or financial affairs, an application can be filed in the Probate Court seeking the appointment of a conservator. The specific needs of the situation will impact whether it is

appropriate to seek a conservator of the person, a conservator of the estate, or both. Additionally, if the concern relates to an intellectual disability, it may be appropriate to seek the appointment of a guardian.

- Change of legal name

Keeping the Probate Court in mind is valuable for many reasons, including:

- **Choice of Venue:** Often the applicant has the ability to choose the Probate Court district within which the matter is filed. For example, an action involving custody, guardianship or visitation of minor child may be filed in the district where the child resides, is domiciled, or is located at the time of the filing of the petition. An action seeking to terminate parental rights may be filed in the district where the child resides, is domiciled, or is located at the time of the filing of the petition, or where the petitioner resides.
- **Service of Process:** Once an action is properly filed, the Clerk of the Probate Court coordinates proper service of all necessary parties. This may include service on DCF.
- **User-friendly:** Probate Court tends to be user-friendly, partly due to the helpfulness of the clerks, the extensive forms available, and the informal nature of the proceedings.

Cohen and Wolf's Family Law, Trusts and Estates, and Litigation Groups work collaboratively to present our clients with all available options for addressing family related matters, including utilizing our probate courts to address appropriate matters.

## PRACTICE AREAS

Family Law