

Part 3

Scope, Jurisdiction, and Courts

75-1-301 Territorial application.

Except as otherwise provided in this code, this code applies to:

- (1) The affairs and estates of decedents, missing persons, and persons to be protected, domiciled in this state;
- (2) The property of nonresidents located in this state or property coming into the control of a fiduciary who is subject to the laws of this state;
- (3) Incapacitated persons and minors in this state;
- (4) Survivorship and related accounts in this state; and
- (5) Trusts subject to administration in this state.

Amended by Chapter 30, 1992 General Session

75-1-302 Subject matter jurisdiction.

- (1) To the full extent permitted by the Constitution of Utah, the court has jurisdiction over all subject matter relating to:
 - (a) estates of decedents, including construction of wills and determination of heirs and successors of decedents, and estates of protected persons;
 - (b) protection of minors and incapacitated persons; and
 - (c) trusts.
- (2) The court has full power to make orders, judgments, and decrees and take all other action necessary and proper to administer justice in the matters which come before it.

Enacted by Chapter 150, 1975 General Session

75-1-303 Venue -- Multiple proceedings -- Transfer -- Orders and hearings.

- (1) Where a proceeding under this code could be maintained in more than one place in this state, the court in which the proceeding is first commenced has the exclusive right to proceed.
- (2) If proceedings concerning the same estate, protected person, ward, or trust are commenced in more than one court of this state, the court in which the proceeding was first commenced shall continue to hear the matter, and the other courts shall hold the matter in abeyance until the question of venue is decided; and if the ruling court determines that venue is properly in another court, it shall transfer the proceeding to the other court.
- (3) If a court finds that in the interest of justice a proceeding or a file should be located in another court of this state, the court making the finding may transfer the proceeding or file to the other court.
- (4) The judge of the court in which any proceeding under this code is pending may make any order relating to the proceeding in chambers at any place in his district, and the order shall have the same force and effect as if made by the court sitting in the proper county. The hearing of any matter requiring notice shall be had at the time and place appointed or at the time to which the same may be postponed, except that where there is no contest or where all the parties consent, the hearing may be had at any place within the judicial district in which the matter is pending.

Enacted by Chapter 150, 1975 General Session

75-1-304 Practice in court.

Unless specifically provided to the contrary in this code or unless inconsistent with its provisions, the rules of civil procedure, including the rules concerning vacation of orders and appellate review, govern formal proceedings under this code.

Enacted by Chapter 150, 1975 General Session

75-1-305 Records and certified copies.

The clerk of the court shall keep a record for each decedent, ward, protected person, or trust involved in any document which may be filed with the court under this code, including petitions and applications, demands for notices or bonds, and of any orders or responses relating thereto by the registrar or court, and establish and maintain a system for indexing, filing, or recording which is sufficient to enable users of the records to obtain adequate information. Upon payment of the fees required by law the clerk must issue certified copies of any probated wills, letters issued to personal representatives, or any other record or paper filed or recorded. Certificates relating to probated wills must indicate whether the decedent was domiciled in this state and whether the probate was formal or informal. Certificates relating to letters must show the date of appointment.

Enacted by Chapter 150, 1975 General Session

75-1-306 Jury trial.

- (1) If duly demanded, a party is entitled to trial by jury in a formal testacy proceeding and any proceeding in which any controverted question of fact arises as to which any party has a statutory or constitutional right to trial by jury.
- (2) If there is no right to trial by jury under Subsection (1) of this section or the right is waived, the court in its discretion may call a jury to decide any issue of fact, in which case the verdict is advisory only.

Enacted by Chapter 150, 1975 General Session

75-1-307 Registrar.

The registrar shall be a judge of the court.

Enacted by Chapter 150, 1975 General Session

75-1-308 Appeals.

Appellate review, including the right to appellate review, interlocutory appeal, provisions as to time, manner, notice, appeal bond, stays, scope of review, record on appeal, briefs, arguments and power of the appellate court, is governed by the rules applicable to the appeals to the Supreme Court in equity cases from the court of general jurisdiction, except that in proceedings where jury trial has been had as a matter of right, the rules applicable to the scope of review in jury cases apply.

Enacted by Chapter 150, 1975 General Session

75-1-309 Oath or affirmation on filed documents.

Except as otherwise specifically provided in this code or by rule, every document filed with the court under this code, including applications, petitions, and demands for notice, shall be deemed to

include an oath, affirmation, or statement to the effect that its representations are true as far as the person executing or filing it knows or is informed; and penalties for perjury may follow deliberate falsification therein.

Enacted by Chapter 150, 1975 General Session

75-1-310 Costs -- In discretion of court.

When not otherwise prescribed in this code, the court, or the Supreme Court on appeal from the court, may, in its discretion, order costs to be paid by any party to the proceedings or out of the assets of the estate as justice may require.

Enacted by Chapter 150, 1975 General Session

75-1-311 Consent to jurisdiction.

By submitting an application for informal probate or appointment or a petition for formal probate, adjudication of intestacy, or appointment the applicant or petitioner subjects himself to the jurisdiction of the court in all matters arising under this code. Notice of any proceeding sought to be maintained against the applicant or petitioner pursuant to his submission to jurisdiction shall be delivered to him or mailed to him by ordinary first-class mail at his address as it is known to the moving party or as listed in the application or petition or as thereafter reported to the court.

Amended by Chapter 194, 1977 General Session

75-1-312 Alternative resolution of disputes.

- (1) A will, trust, or power of attorney may include a provision, enforceable by a court, that requires the resolution of disputes between or among beneficiaries and fiduciaries of the will, trust, or power of attorney, or any combination of those persons or entities, outside of a court of record.
- (2) The resolution of disputes outside the court may include any procedure, writing, or agreement, not contrary to or prohibited by law, found or referred to in a will, trust, or power of attorney, the purpose of which is to resolve disputes between or among the beneficiaries and fiduciaries of a will, trust, or power of attorney, or any combination of those persons or entities, outside of a court of record.
- (3) Unless terms in a dispute resolution procedure, writing, or agreement require binding arbitration, nothing in the writing or agreement shall prevent beneficiaries or fiduciaries, upon satisfaction of the required terms of the dispute resolution procedure, writing, or agreement, from seeking resolution of unresolved disputes in a court of record.

Enacted by Chapter 369, 2013 General Session