

Article 3.

Trustee for Estate of Debtor Imprisoned for Crime.

§ 23-18. Persons who may apply for trustee for imprisoned debtor.

When any debtor is imprisoned in the penitentiary for any term, or in a county jail for any term more than 12 months, application by petition may be made by any creditor, the debtor, or by his or her spouse, or any of his or her relatives, for the appointment of a trustee to take charge of the estate of such debtor. (1868-9, c. 162, s. 40; Code, s. 2974; Rev., s. 1943; C.S., s. 1626; 1977, c. 549.)

§ 23-19. Superior court appoints; copy of sentence to be produced.

The application must be made to the superior court of the county where the debtor was convicted, and upon producing a copy of the sentence of such debtor, duly certified by the clerk of the court, together with an affidavit of the applicant that such debtor is actually imprisoned under such sentence, and is indebted in any sum, the clerk or the judge may immediately appoint a trustee of the estate of such debtor. (1868-9, c. 162, ss. 41, 42; Code, s. 2975; Rev., s. 1944; C.S., s. 1627.)

§ 23-20. Duties of trustee; accounting; oath.

The trustee of the imprisoned debtor shall pay his debts pro rata. After paying such debts, the trustee shall apply the surplus, from time to time, to the support of the wife and children of the debtor, under the direction of the superior court. When the imprisoned debtor is lawfully discharged from his imprisonment, the trustee shall deliver to him all the estate, real and personal, of such debtor, after retaining a sufficient sum to satisfy the expenses incurred in the execution of the trust and lawful commissions therefor. The trustee shall make his returns and have his accounts audited and settled by the clerk of the superior court of the county where the proceeding was had, in like manner as provided for personal representatives. Before proceeding to the discharge of his duty, the trustee shall take and subscribe an oath, well and truly to execute his trust according to his best skill and understanding. The oath must be filed with the clerk of the superior court. (1868-9, c. 162, ss. 43, 45, 46; Code, ss. 2976, 2978, 2979; Rev., ss. 1945, 1946, 1947; C.S., s. 1628.)

§ 23-21. Court may appoint several trustees.

The court has power, when deemed necessary, to appoint more than one person trustee under this chapter; but in reference to the rights, authorities and duties conferred herein, all such trustees shall be deemed one person in law. (1868-9, c. 162, s. 47; Code, s. 2980; Rev., s. 1948; C.S., s. 1629.)

§ 23-22. Court may remove trustee and appoint successor.

In case of the death, removal, resignation or other disability of a trustee, the court making the appointment may from time to time supply the vacancy; and all proceedings may be continued by the successor in office in like manner as in the first instance. (1868-9, c. 162, s. 48; Code, s. 2981; Rev., s. 1949; C.S., s. 1630.)