

**FOURTH JUDICIAL DISTRICT COURT
HENNEPIN COUNTY – PROBATE DIVISION**

C-400, Government Center
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Minneapolis, MN 55487

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***GUIDE TO INFORMAL PROBATE IN HENNEPIN COUNTY for
the Self Represented Litigant***

Forms and TIP sheet sharepoint site: (look under Informal Estate & Registrars)
[Minnesota Judicial Branch - Hennepin County District Court \(mncourts.gov\)](http://mncourts.gov)

The following information on informal probate is not intended to be a manual or a comprehensive instruction guide. It is intended to be a short and simple informational statement about basic forms and requirements. More complete information about informal and formal probate may be found in Minnesota Statutes, Chapters 524 and 525, Probate Court Rules, or from an attorney experienced in probate practice.

It is YOUR responsibility to read and familiarize yourself with the information in this guide. AFTER COMPLETING YOUR FORMS as determined by the instructions, mail, hand deliver or efile (see **efiling TIP sheet**) the **original signed forms**. **The originals of any will, codicil or separate writing will need to be delivered to the court.**

A NON-REFUNDABLE filing fee, will need to be made payable to the District Court Administrator, at the address noted above. **or payment in the electronic filing system when efilng.

Make sure you include an **e-mail address (legible)** and telephone number. Your application will be denied if we are unable to contact you thru e-mail.

After review by the Registrar, you will be contacted to set a date and time for a **telephone conference** hearing.

TO HELP YOU UNDERSTAND INFORMAL PROBATE

Many people come to the Informal Probate Guide after being asked for “Letters”. Letters are the authority the court can grant to an individual or a corporate entity to act on behalf of a now deceased person. Informal probate is only one of several procedural options available to obtain Letters and thereby settle the estate of a deceased person. Estates probated informally come before the Probate Registrar in an administrative process. Informal probates are not supervised by Probate Court.

The Probate Registrar does not just hand out Letters. Letters are not free. There is a legal process that needs to be completed prior to the court issuing the Letters. This process involves appropriate application for the informal probate process, document preparation, an appearance at the court, filing fees and publication costs.

Informal probate is designed for estates in which no court orders and no court supervision are needed, and only for estates without uncertainties, legal disputes, or complex administrative requirements. Estates with such problems are not suitable for informal probate, and the Registrar may decline an application for informal probate for failure to meet statutory requirements or if the estate is deemed to be unsuitable for informal probate. This does not preclude appointment in formal proceedings before the court.

The Registrar cannot help you decide on the appropriate probate procedure.

The acceptance by the Registrar of an application for informal probate means only that the application meets statutory requirements, and does not constitute a recommendation of the informal procedure for that estate. The selection of informal probate or of an alternative procedural option is the responsibility of the attorney and/or the applicant.

With or without the advice of an attorney, the representative **IS PERSONALLY RESPONSIBLE** for probating the estate completely, correctly and according to statute, and to bring it to its prompt conclusion. **Minnesota Statute 524.1-307 expressly prohibits the Registrar of Probate Court from giving counsel or advice, or assisting with forms preparation.** Thus, most personal representatives (PR) engage an attorney to handle the informal probate, though in some cases the PR may proceed alone or with only the partial assistance of an attorney.

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Once you have determined that your situation is suitable for informal probate you must then prepare the appropriate forms as indicated in this Guide. All forms must be completed by typing or printed **legibly** in **BLACK INK. Forms can be found on our website.**

[Minnesota Judicial Branch - Hennepin County District Court \(mncourts.gov\)](http://mncourts.gov)

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To be appointed as PR of an estate, a person must apply to the Probate Registrar . You must mail, drop off or efile your completed original signed paper forms (see list of forms) along with a telephone number, email address and the filing fee to the Probate Registrar. Once the Registrar has had time to review the documents, the Registrar will either email with problems or email the applicant to set up a date and time for the phone hearing.

There is only one “telephone conference” hearing with the Registrar and that is for the hearing on the application for appointment. If you are getting assistance or want another individual involved you need to make that request to the Registrar in advance.

Checklist of forms to send to the Registrar: (all must be provided except, nomination/renunciation as appropriate) The Registrars can ask for additional supporting documentation if needed.

- ✓ Application for Informal Appointment of Personal Representative (no will) or Application for Informal Probate of Will and for Informal Appointment of Personal Representative (refer to tip sheet on website as appropriate *see link on first page)
- ✓ Acceptance and Oath
- ✓ Copy of a photo Identification (drivers license or passport are acceptable)
- ✓ Waiver of Legal Advice
- ✓ Death Certificate
- ✓ the **original** of any will, codicil, separate writing (if testate); must be delivered to the probate office.
- ✓ filing fee (non-refundable)
- ✓ (as appropriate) Nomination/Renunciation from anyone with priority to serve as PR
- ✓ (as appropriate) Certificate of Trust or pertinent Trust Pages.

Prior to filing your forms you must go to the public access website [Case Search - Minnesota Court Records Online \(MCRO\) \(state.mn.us\)](#) to check for any demands for notice from creditors that have been filed with the court. If a demand for notice is found, see instructions for procedure on how to handle a demand and forms on the TIP sheet under Get Forms [Minnesota Judicial Branch - Hennepin County District Court \(mncourts.gov\)](#). If there is any question about the decedent or a predeceased spouse of the decedent having received economic assistance, contact should be made with Maytia Lee at Hennepin County Department of Human Services 612-596-9387 or Maytia.lee@hennepin.us to see if a claim will be filed or a bond demanded. Demand for bond requires PR to be pre-approved by a bonding company.

See next pages for a glance at the process following your phone hearing.

Additional forms may be desirable for some estates, as requested by the Registrar, or used optionally at the discretion of the attorney or PR.

- **These documents and instructions will be provided by the Registrar and gone over at length if your application is granted.**

AFTER FILING OF DOCUMENTS TO THE COURT:

A file number will be assigned. The Registrar will review your documents and contact you by e-mail as to the date and time for a telephone conference hearing/additional documents.

WHAT TO EXPECT AT THE HEARING WITH THE REGISTRAR:

- ✓ Plan on spending 45- 60 minutes in the telephone conference
- ✓ Registrar will review the documents you have prepared and any original will, codicil(s), separate writings
- ✓ Registrar will ask questions about information on the application
- ✓ Registrar will take the testimony of a Pro Se applicant
- ✓ Registrar will check for any demands for notice from creditors
- ✓ Registrar will review with the applicant the Notice requirements

Estates with real property:

- ✓ **To protect marketable title and to avoid burdensome corrective measures, the sale or distribution of real estate from a decedent's estate should be handled by an attorney experienced in probate real estate conveyances.**
- ✓ **The PR may not sell, encumber, lease or distribute real estate for 30 days from date of issuance of the letters.**
- ✓ **The PR may not purchase real estate from the estate without a court order.**

FOLLOWING THE HEARING WITH THE REGISTRAR:

The Registrar will prepare:

- ✓ **Statement of Informal Probate of Will and Order of Informal Appointment of Executor, or**
- ✓ **Order of Informal Appointment of Administrator, and**
- ✓ **Letters Testamentary or Letters of General Administration.**

Applicant needs to handle publication of the notice.

The attorney/applicant must arrange for the notice to be published **once a week for two consecutive weeks** in a legal newspaper for Hennepin County. Registrar will e-mail the applicant a handout when scheduling the hearing with the names and addresses of publishers used in Hennepin County.

Note, there is a separate charge by the newspaper for this service.

Applicant must mail (by first class mail) either a copy of the notice or a newspaper clipping of the notice to all interested parties.

Applicant needs to prove to the Registrar that the notice of informal probate has been mailed to the interested parties. This is done by filing an affidavit of mailing:

Affidavit of Mailing Order or Notice

The affidavit is a one page form. Attach to the affidavit the following items in order for the document to be acceptable for filing. **AFFIDAVIT MUST BE NOTARIZED or signed under penalties of perjury and include:**

- a copy of the notice that you mailed
- a list of the names and addresses of the people that the notice was sent to.

ADDITIONAL NOTICE FORMS:

Notice to Spouse and Children: Filed only upon request of the Registrar.

Affidavit of Notice to the Commissioner: This affidavit of notice is **NOT** required by the Probate Court. However, the PR should consider giving this notice if there is probate real estate that will be transferred from the estate to a distributee/heir; OR, if the decedent and/or their spouse received medical assistance or other assistance from any state or county agency.

Affidavit form:

Affidavit of Service of Notice to the Commissioner of Human Services

The affidavit of service of notice is a way of proving that you sent form 99-M to the Commissioner of Human Services.

Notice to the Commissioner form:

Notice to Commissioner of Human Services

Publisher's Duties:

Once the publisher receives the notice prepared by the attorney/applicant they will set the notice for publication according to the directions received. A **proof of placing publication** will be sent, by email, to the Registrar normally within 3 days of receipt of the notice.

“LETTERS”

Issuance of Letters: Everything that has happened to this point is all for the purpose of issuing Letters Testamentary or Letters of General Administration.

In order for the Registrar to issue the Letters, in the usual case, the following items need to be filed following the hearing:

- ✓ Proof of placing publication (comes from the publisher to the court by e-mail)
- ✓ Affidavit (s) of mailing
- ✓ Any required bond
- ✓ Notice of Informal Appointment of Personal Representative and Notice to Creditors/Notice of Informal Probate of Will and Appointment of Personal Representative and Notice to Creditors (must be filed with the court)

Letters are proof of the PR’s appointment. Once Letters have issued they will appear on your case. Check the court website at [Case Search - Minnesota Court Records Online \(MCRO\) \(state.mn.us\)](http://Case Search - Minnesota Court Records Online (MCRO) (state.mn.us)), Certified Letters may be purchased by mail, efile or in person (no telephone orders): District Court Records Center, Skyway Level A-Tower, 300 South Sixth Street, Minneapolis, MN 55487.

Upon issuance of the Letters the Registrar’s/Court’s involvement in the Informal Probate process ceases.

The court will administratively close the file. You will see Case Status Closed.

The PR’s duties are just beginning. The principal duties of the PR of a decedent’s estate are to:

- ✓ collect, inventory, and appraise the assets,
- ✓ provide interested parties with an inventory of estate assets,
- ✓ monitor for creditors’ claims (check court website for formal claims [Case Search - Minnesota Court Records Online \(MCRO\) \(state.mn.us\)](http://Case Search - Minnesota Court Records Online (MCRO) (state.mn.us)),
- ✓ protect and preserve the assets,
- ✓ pay the taxes and debts of the decedent and his/her estate,
- ✓ provide distributees with an accounting,
- ✓ distribute the remaining assets to the proper parties according to law, and
- ✓ may close the estate by the filing of a closing statement (Form #P-682)

Three Helpful Attachments: (below, next page)

- List of reasons an informal probate will be denied
- Glossary of probate terms
- Sample negative allegations for completing the application form

INFORMAL PROBATE DECLINATION

An informal application will **not** be accepted if any of the following conditions apply:

1. Lost, destroyed or otherwise unavailable Will. The original Will is required.
2. Ambiguous provisions in a Will, Codicil or Separate Writing that could cause problems in carrying out the intent of a decedent.
3. Will, Codicil or Separate Writing interpretation issues such as:
 - a. missing dates (clear up with subscribing witness) and/or signatures
 - b. separate writing disposing of money, coin collection or property used in trade or business
 - c. markings on the Will, Codicil or Separate Writing; that require a Will construction, that change amount of distribution.
 - d. issues relating to signatures
 - e. no last names referenced
 - f. no residue clause in Will
 - g. residue to trustee but no trustee named in the Testamentary Will
4. Provision in the Will requiring court supervision.
5. Insolvent estate.
6. Not enough money in the estate to pay specific devisees.
7. Priority can not be by nomination alone - Minnesota Statute § 524.3-203 (e) appointment with nomination and no other priority must be done in a formal probate proceeding.
8. PR with an outstanding warrant or judgment.
9. Unknown or missing heir and/or devisee and unknown address.
10. Minor heir/devisee (may allow if a custodian is listed in the Will)
11. If a decree or order needs to be signed by a referee or judge.
12. Special Needs Trust named as devisee.
13. Attorney to serve as personal representative and is not a family member.
14. Five days (i.e., 120 hours) has not passed from date of death.
15. More than three years has passed from date of death.
16. Renunciation/nomination forms are unattainable by all persons having priority for appointment.
17. Fee Waiver (In Forma Pauperis).
18. Bond is requested in the Will.
19. Distribution in Will does not equal 100%.
20. Anticipated disputes.
21. Objection to the appointment of the personal representative and/or the Will.
22. Applicant is under 18 years of age or is not an interested person.
23. Declination is at the discretion of the registrar and can be denied for any reason pursuant to Minnesota Statute 524.3-305.

GLOSSARY

Codicil:	a legal instrument that modifies a will.
Creditor:	a person or party to whom a debt is owed.
Devise:	disposition of property by will.
Devisee:	person or organization designated by will to receive property.
Distributee:	person, other than a creditor or a purchaser, who receives property of a decedent from the PR.
Estate:	all of the property of the decedent.
Heirs:	persons entitled to the property of the decedent under the laws of intestate succession.
Informal Proceedings:	unsupervised proceedings conducted before the Probate Registrar.
Interested person:	includes heirs, devisees, children, spouse, creditors, and any others Having a property right in or claim to the estate of the decedent.
Intestate:	estate with no will.
Non-Probate assets:	assets owned by the decedent not requiring probate to effect transfer of ownership (most often assets payable on death or held jointly between decedent and another living person).
Personal Representative (PR):	individual in charge of handling the estate of the decedent.
Probate Assets:	assets owned SOLELY by the decedent.
ProSe:	acting without legal counsel.
Registrar:	the official of the court who administers informal probate.
Separate writing:	documents or lists, as referenced in a will, that disposes of only tangible personal property.
Testate:	estate with a will.
Will:	a written instrument, legally executed, by which a person makes disposition of their estate to take effect after death.

**Examples of Negative Allegations –
Use appropriate allegation for your family situation**

Most common examples

Example 1

“Where only the spouse survives the application should state ‘that the decedent left no surviving issue, natural or adopted, legitimate or illegitimate.’”

Example 2

“Where only children survive, the application should state ‘that the decedent left surviving no spouse; no children, natural or adopted, legitimate or illegitimate, other than herein named; and no issue of any deceased children.’”

Example 3

“Where the spouse and children survive, the application should state ‘that the decedent left surviving no children, natural or adopted, legitimate or illegitimate, other than herein named and no issue of any deceased children.’”

Example 4

“Where only brothers or sisters of decedent survive, the application should state ‘that the decedent left surviving no spouse; issue; parents; brothers or sisters; other than herein named; and no issue of deceased brothers or sisters.’”

See Minnesota Trust and Probate Court Rule 408(a)