

FOURTH JUDICIAL DISTRICT COURT HENNEPIN COUNTY – PROBATE DIVISION

C-400, Government Center
300 South Sixth Street
Minneapolis, MN 55487



JUDGE OF DISTRICT COURT ELIZABETH V. CUTTER

PROBATE REGISTRARS:

JULIE PETERSON 612-348-8783
ALONNA WARNS 612-348-8784

GUIDE TO INFORMAL PROBATE IN HENNEPIN COUNTY For Self-Represented Litigants

The following information on informal/unsupervised 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 following instructions, either mail or deliver the **original signed forms** and a **COPY** of any will, codicil or separate writing to the Probate Court Registrar at the address noted above.

After review by the Registrar, you will be contacted to set a date and time for your in-person hearing. At that time, you will need to bring the **original of any will, codicil or separate writing** and the **\$324.00 filing fee** to the 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/unsupervised 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 Court/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 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.

* * * * *

Once you have determined that your situation is suitable for informal probate you must then complete the necessary forms. All forms must be completed by typing or printed legibly in BLACK INK. The forms required by the Probate Court Registrar are available on the informal probate website. Paper forms may be purchased from the following company using the form numbers indicated.

Miller-Davis Office Products – supplier of legal forms in the Metro area

Forms can be purchased online at www.millerdavis.com or by phone at (612) 312-1570. Forms are shipped for free. **This company is being provided to you as a courtesy. The Judicial Branch does not endorse any one company over another.**

Forms are also available for sale by appointment only at the main office. To schedule an appointment, call (612) 312-1570.

To be appointed as PR of an estate, a person must apply to the Probate Registrar. You must mail or drop off your completed original signed paper forms (see list of forms) along with a telephone number to the Probate Registrar. Once the Registrar has had time to review the documents you mailed or dropped off, the Registrar will call the applicant to set up a date and time for the in-person hearing. Hearings are available downtown ONLY.

There is only one “in-person” hearing with the Registrar and that is for the hearing on the application for appointment.

Checklist of forms to send to the Registrar:

- ✓ application (testate or intestate) (available on website along with tip sheet)
- ✓ proof of death (certified copy of death certificate, if not available, can bring obituary or funeral receipt)
- ✓ nominations/renunciations (available on website)
- ✓ must give a copy of any will, codicil, separate writing (if testate) to the registrar
- ✓ notice of informal probate (testate or intestate) (available on website)
- ✓ acceptance and oath (available on website)

Prior to delivering your forms to the Court you must go to the public access website www.mncourts.gov/publicaccess to check for any wills or 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 informal probate website. 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 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.

Following is a list of the forms to commence an informal probate estate and to obtain “Letters” of appointment as PR. Additional forms may be desirable for some estates, as requested by the Registrar, or used optionally at the discretion of the attorney or PR.

Titles of the forms are in bold print, and the probate **form number** (useful to know if you purchase the forms) is set out in the column to the right of each form. The forms identified with an **asterisk (*)** must be delivered to the Registrar.

Required(*):	Miller Davis Form Number
* Application Application for Informal Probate of Will and for Informal Appointment of Personal Representative, <u>or</u> Application for Informal Appointment of Personal Representative (no will)	P-100 P-103
* Notice of Informal Probate Notice of Informal Probate of Will and Appointment of Personal Representative and Notice to Creditors, <u>or</u> Notice of Informal Appointment of Personal Representative and Notice to Creditors	P-120 P-123
* Acceptance of Appointment and Oath by Individual	P-001

Supporting documents¹:	
Renunciation of Right to Appointment or to Nominate	P-006
Nomination of Personal Representative by Person Entitled to Priority	P-005
¹ These forms may be required to establish priority of the PR depending on your situation.	

AFTER DELIVERY OF DOCUMENTS TO THE COURT:

- ✓ **Within 3-5 days you can expect a telephone call from the Registrar to set the date and time for the hearing and to discuss any omissions or issues raised by the review.**

WHAT TO EXPECT AT THE HEARING WITH THE REGISTRAR:

- ✓ Plan on spending 30 minutes at the appointment
- ✓ 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 self-represented applicant
- ✓ Registrar will check for any demands for notice from creditors
- ✓ Upon approval of the application a court file number will be assigned
- ✓ Be prepared to present photo identification

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.

Attorney/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.

Most commonly used legal newspapers in Hennepin County:

Finance & Commerce: Campbell Mithun Tower, 222 South 9th Street #2300, Mpls, MN 55402; Phone: 612-333-4244; Fax: call ahead; Email: publicnotice@finance-commerce.com

Sun Newspapers: 10917 Valley View Road, Eden Prairie, MN 55344; Phone: 952-392-6829; Fax: 952-392-6871; Email: sunlegals@ecm-inc.com

Note, there is a 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.

Attorney/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 ([available on website](#)) **P-015**

The affidavit is a one page form. Attach to the affidavit the following items in order for the document to be acceptable for filing:

- 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. **P-016**

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 **98M**

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 **99M**

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 e-mail, to the Registrar normally within 3 days of receipt of the notice.

At the end of the second publication the publisher will send to the court and the attorney or applicant an **affidavit of publication**. The affidavit is the proof that the publisher has completed their part in the informal notice process.

"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

Letters are proof of the PR's appointment. Once Letters have issued they will appear on your case. Check the court website at www.mncourts.gov/publicaccess. Certified Letters may be purchased for \$16.00 each in person or by mail (no telephone orders or credit cards) at: District Court Records Center, B-100, 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 www.mncourts.gov/publicaccess),
- ✓ 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 ([available on website](#))

Three Helpful Attachments:

- Glossary of probate terms
- Sample negative allegations for completing the application form
- Waiver of legal advice

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 dispose 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)

STATE OF MINNESOTA

DISTRICT COURT

COUNTY: HENNEPIN

Fourth Judicial District Court File Number: 27-PA-PR- Case Type: Probate Mental Health
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In Re: Estate of

WAIVER OF LEGAL ADVICE

Deceased

I, _____, being appointed personal representative in the above-named estate, do hereby:

1. acknowledge having reviewed the pamphlet entitled "Guide to Informal Probate",
2. acknowledge that I am requesting an informal probate of the estate;
3. acknowledge that by accepting appointment as personal representative I am responsible for the complete administration of the estate, for the filing of all required documents in a timely manner, for the payment of all valid claims against the estate, for the proper distribution of all assets, including real estate title, if any, and for completing all requirements to close the estate; and
4. acknowledge also that I am aware that neither the Probate Registrar nor Court personnel can act as my legal counsel, and that if I need legal assistance, clarification, or advice to complete the informal administration of this estate or to convert it to a supervised administration that I should consult an attorney.

Dated: _____

Signature of personal representative