

INSTRUCTIONS

Starting a Case: Formal Probate with a Will

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions, but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have a question about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at (651) 435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit <http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>

Forms you May Need to Start your Formal Probate Case

- *Petition for Formal Probate of Will and for Formal Appointment of Personal Representative* (PRO1201);
- *Acceptance of Appointment as Personal Representative and Oath by Individual* (PRO902);
- *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond* (PRO901).

You may get the forms online at www.mncourts.gov/forms. In the list of form categories, click on "Probate."

Court Forms Categories:		
• Adoption	• Criminal Expungement	• Motor Vehicles
• Appeals	• Divorce / Dissolution	• Name Change
• Bankruptcy	• Domestic Abuse	• Other
• Child Custody / Parenting Time	• Family	• Parental Notification
• Child Protection	• Fee Waiver / In Forma Pauperis	• Paternity
• Child Support	• Firearms	• Probate
• Civil	• Forfeiture and Impoundment	• Protective Orders
• Commitment	• Guardianship / Conservatorship	• Service of Process
• Conciliation / Small Claims Court	• Harassment	• Spousal Support
• Confidential Information	• Housing / Landlord-Tenant	• Subpoena
• Contempt of Court	• Judgment Enforcement	
• Criminal	• Juvenile Delinquency	

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact your court administrator or call the Minnesota State Law Library at 651-297-7651.

General Information About Formal Probate

Visit the [Probate, Wills, and Estates Help Topic \(http://mncourts.gov/Help-Topics/Probate-Wills-and-Estates.aspx\)](http://mncourts.gov/Help-Topics/Probate-Wills-and-Estates.aspx) for more detailed information about probate, the difference between informal and formal probate, and read some Frequently Asked Questions (FAQs) about the process.

If you are not sure what type of probate you need to file, or if you need to file at all, you should talk with an attorney. The information in these Instructions is not meant to be legal advice, but is a general guide to explain the legal process and steps for filing a Petition for Formal Probate.

If you do not understand any of these procedures, talk to an attorney. **Court staff cannot give legal advice.**

Do I need to go through probate?

Generally, filing a probate case with the court is **not necessary** if the person who died:

- Did not own any real estate in their name alone, and
- Owned personal property in their name alone with a total value less than \$75,000.

If you do not need to go through probate, you may be able to collect personal property (such as money in a bank account) or transfer title to motor vehicles owned by the person who died using an *Affidavit for Collection of Personal Property*. Visit <http://www.mncourts.gov/GetForms.aspx?c=31&p=88> for more information about this process.

Definitions you may find helpful as you complete the forms:

- **Beneficiary** – A person or organization named in a legal document to receive money or other property when someone dies. Examples of legal documents include Will, trust, insurance policy, payable-on-death account, annuity, and retirement/pension account.
- **Codicil** – A legal document that is used to make changes to an existing Will. Generally, codicils add to or supplement a Will rather than replace a Will.
- **Creditor** – Any person or business that has a financial claim against (is owed money by) the estate.
- **Decedent** – The person who has died.
- **Demandant** – A person who demands that they receive notice in a probate proceeding by filing a document called a "Demand for Notice" with the court.

- **Descendant or Issue** – A blood or legally adopted relative directly descended from a person, including children, grandchildren, great-grandchildren, etc.
- **Devisee** – Any person designated (named) in a Will to receive real estate or personal property.
- **Heir** – A person who is entitled to the property of a person who died intestate.
- **Interested Person** – A term that includes:
 - heirs of the decedent;
 - devisees of the decedent;
 - children of the decedent;
 - spouse of the decedent;
 - creditors of the decedent;
 - demandants of the decedent;
 - beneficiaries;
 - anyone with priority for appointment as a personal representative;
 - anyone else having a property right in or claim against the decedent’s estate that may be affected by a probate proceeding, or the fiduciary representing someone who does, such as a guardian, conservator, or trustee; and
 - other individuals as determined by the court.
- **Intestate** – When a person has not made a valid Will before dying, they are said to have “died intestate.”
- **Personal Representative** – Formerly known in MN as the “executor,” a person who is appointed by the court in a probate case to administer the estate of a person who has died.
- **Separate writing gifting personal property** – A document that lists what the testator wants to have happen to specific items of tangible personal property (other than cash, coin collections, or property used in a trade/business) that are not specifically addressed in the Will.
- **Supervised Administration** – The court must approve the administration, final account, and distribution of all assets.
- **Testate** – When a person has made a valid Will before dying, they are said to have “died testate.”
- **Unsupervised Administration** – After the appointment of the Personal Representative, the court will not supervise future administration unless one of the parties asks for supervised administration.
- **Will** – A legal document describing how a person wants their property distributed after they have died.

Information needed to complete the Petition:

- The birth date and location of the person who died, as well as the death date and location.
- The permanent residence address of the person who died at the time of their death.
- The names and addresses of any spouse, children, heirs, and devisees of the person who died, as well as the names and addresses of any other interested parties.
- An estimate of the value of any assets and debts of the person who died.
- The original version or a photocopy of the Will (if available), codicil(s), and any separate writing(s) left by the person who died.
- The county and judicial district number where case will be filed.

Step 1

Fill out *Petition for Formal Probate of Will and for Formal Appointment of Personal Representative (PRO1202)*

The Caption

The top part of the first page is where you will find the case caption. It looks like this:

<p>State of Minnesota</p> <p>County of: _____ A</p>	<p style="text-align: right;">District Court</p> <p>Judicial District: _____</p> <p>Court File Number: _____ B</p> <p>Case Type: Probate</p>
<p>In Re the Estate of:</p> <p>_____ C</p> <p>Decedent (Deceased person)</p>	<p>PETITION FOR FORMAL PROBATE OF WILL AND FOR FORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE</p>

- List the county where you will be filing your Formal Probate case. Probate cases are typically filed in the county where the Decedent was living when they died, or if they were not a MN resident, in the MN county where they owned property. If you are not sure where you should file, please talk to an attorney. Court staff cannot tell you where to file your case.
- List the Judicial District. Each county belongs in one of ten judicial districts. If you do not know the Judicial District, you can find a map with all of the Judicial Districts at <http://www.mncourts.gov/Find-Courts.aspx>. Leave the line blank for Court File Number.
- Write in the full legal name of the person who died (first, middle, and last). Include all names the person may have been known by, especially if those names are listed on the Will, death certificate, or assets.

Information about the Petitioner

Information about the Petitioner:

1 1. My name is _____ . My legal interest to the Decedent is: (Check all that apply)

Nominated Personal Representative

Spouse

Child

Other family member: _____

Devisee (beneficiary of the Will)

Heir

Creditor

Other: _____

1. Write your name as the person petitioning for Formal Probate. Check all boxes that apply to describe your relationship to the person who died.
-

Information about the Decedent

Paragraphs 2-7 ask for information about the person who died.

2 2. Decedent was born on _____ in the city of _____ , and state of _____ .

3 3. Decedent died on _____ in the city of _____ , and state of _____ .

2. Fill in the date and location (city and state) of the birth of the person who died.
3. Fill in the date and location (city and state) of the death of the person who died.
4. Under Minnesota law, there are limits on when you can file a petition for probate. See Minn. Stat. § 524.3-108 (<https://www.revisor.mn.gov/statutes/cite/524.3-108>). You do not have to do anything for #4.

5 Domicile (address of legal residence) of Decedent at the time of death:

Street Address: _____

City, State, and Zip Code: _____

County: _____

6 Did Decedent live in MN at the time of death? Yes No

If No, did Decedent own property in MN at the time of death? Yes No

If yes, what county? _____

- Fill in the street address, city, state, zip code, and county of the legal residence at the time of the person's death. If you are not sure what would be considered the legal residence, you should speak with an attorney.
- The first question in #6 is whether the person who died lived in Minnesota at the time of death. If the answer is **Yes**, then you can skip to #7.

If the answer is **No** (the Decedent did not live in Minnesota when they died), then you need to give the court more information about why you are filing for probate in this state. The next question is whether they owned property in Minnesota when they died. If **Yes**, list what county the property is in.

If your answer to the first two questions in #6 is **No**, then you should talk to an attorney to see if Minnesota is the right state to file in.

7 Decedent's assets and indebtedness, to the best of my knowledge, at the time of death are as follows:

<u>Probate Assets</u>		<u>Non-Probate Assets</u> (for example: joint accounts, beneficiaries, trusts, etc.)	
Homestead	\$ _____	Joint Tenancy	\$ _____
Other Real Estate	\$ _____	Insurance	\$ _____
Cash	\$ _____	Other	\$ _____
Securities	\$ _____		
Other	\$ _____		
		Approximate Indebtedness (see Instructions) \$	_____

Note: Red boxes in the original image highlight 'Amount of assets' pointing to the Probate Assets column and 'Amount of debt' pointing to the Approximate Indebtedness field.

- Estimate the value of any assets the person who died had at the time of their death and write the amounts next to each type.

Then, estimate the total amount of debt the person who died had at the time of their death.

If you do not know the answers to these questions because you do not have access to the records of the person who died yet, list the assets and debts to the best of your knowledge.

If there is no real property, then the value of the personal property in the estate should be over \$75,000 for Formal Probate. **If the value of these assets is less than \$75,000 and there is no real property, you will not need to go through probate.** Visit the Probate, Wills & Estates Help Topic for more information (<http://mncourts.gov/Help-Topics/Probate-Wills-and-Estates.aspx>).

Information about the Will and the Personal Representative

Paragraphs 8-19 ask for detailed information.

8. The Decedent left:
(check all that apply) **8** *Identify where each checked document can be found* **9**

Document:	Located:
<input type="checkbox"/> A Will dated _____	<input type="checkbox"/> Filed with this Application <input type="checkbox"/> In possession of the Court <input type="checkbox"/> Probated elsewhere*
<input type="checkbox"/> Codicil(s) (amendments) dated _____	<input type="checkbox"/> Filed with this Application <input type="checkbox"/> In possession of the Court <input type="checkbox"/> Probated elsewhere*
<input type="checkbox"/> Separate writing(s) gifting personal property under Minn. Stat. § 524.2 -513 dated _____	<input type="checkbox"/> Filed with this Application <input type="checkbox"/> In possession of the Court <input type="checkbox"/> Probated elsewhere*
<input type="checkbox"/> A separate writing referred to in the Will, but not found or attached to the Will	

**If probated somewhere else, then I have included an authenticated copy of the Will and statement or order probating the Will with this Application.*

8. Fill in the dates for any documents the person who died had, checking all of the boxes that may apply.

- A Will is a document describing what a person wants to happen to their property after they have died.
- A codicil is a document that is used to make changes to an existing Will. Rather than replacing a Will with a whole new document, a codicil is an additional document used to explain or change an existing Will.
- A separate writing gifting personal property is a document that lists what the testator wants to have happen to specific items of tangible personal property (other than cash, coin collections, or property used in a trade/business) that are not specifically addressed in the Will.

Submit any and all of the originals of these documents that you may have. If you only have copies and not the original documents, you can submit the copies along with a *Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will (PRO1206)*.

9. Check the boxes that describe where the Will, codicil (if any), and separate writing (if any) can be found, checking all that may apply.

10. You do not need to give any information in #9, but the statement should be true.

11. You do not need to give any information in #10, but the statement should be true.

12

11. The Will nominates _____ Name of person _____ as Personal Representative.

The nominated Personal Representative is willing to serve and is not disqualified.

OR

The nominated Personal Representative is unable or has declined to serve.

_____ Name of person who has priority _____ has priority to serve as Personal Representative because _____ Reason _____ (interest to Decedent) and is willing to serve and is not disqualified.

12. Fill in the name of the person who was nominated by the Will to serve as personal representative of the estate.

Then, check one of the boxes describing whether the nominated personal representative is willing and able to serve in this role.

NOTE: There is a lot of important information you should know about personal representatives. Before you fill out #11, please read the rest of this section.

If the person who was nominated is not willing or can't serve, fill in the name of a person who has priority, is willing to serve as the personal representative, and is not disqualified.

- o Minnesota law contains a list stating who can serve as the personal representative of an estate, in order of priority (see Minn. Stat. § 524.3-203, <https://www.revisor.mn.gov/statutes/cite/524.3-203>). Persons who are not disqualified to serve as a personal representative have priority in the following order:
 1. The person named in a Will as the one that should serve as the personal representative.
 2. The surviving spouse, if they are entitled to receive property according to the Will.
 3. Other people who are entitled to receive property under the Will.
 4. The surviving spouse, if they are not entitled to receive property according to the Will or there is not a Will.
 5. Other heirs, if there is not a Will.
 6. Any creditor, as long as 45 days has passed since the time of death.
 7. A conservator that has not been discharged, as long as 90 days have passed since the time of death and no probate case has already been opened with the court.

If you are not sure who should be listed as a personal representative or whether they are disqualified, you should talk with an attorney.

- People named in numbers 2-5 in the list above may have the right to nominate someone else to serve in their place, or they may waive their right to nominate someone to serve in their place. To waive this right, use the *Renunciation of Priority for Appointment, Nomination of Personal Representative, and Bond* (PRO901) form discussed in more detail later in these instructions.

13	The Will states:	<input type="checkbox"/> No Bond	<input type="checkbox"/> Minimum Bond
		<input type="checkbox"/> \$_____ bond	<input type="checkbox"/> Unspecified
14	The Will states:	<input type="checkbox"/> informal/unsupervised administration	
		<input type="checkbox"/> supervised administration	
		<input type="checkbox"/> administration not specified.	

13. Check a box to say whether the Will states that there should be no bond, the minimum bond, or a specific amount of bond (if this is the case, write in the amount). If the Will did not say anything about a bond, check “unspecified.”
14. Check a box to say whether the Will states that the estate should go through unsupervised administration, supervised administration, or administration was not specified (the Will did not specifically say what kind of probate process should be used).

15	15. Check one:
	<input type="checkbox"/> I have not received a demand for notice and am not aware of any demand for notice of any probate or appointment proceeding concerning the Decedent that may have been filed in Minnesota or elsewhere. OR <input type="checkbox"/> Proper notice has been given to those persons or entities who have filed a demand for notice.

15. Check a box to say whether you have received any demands for notice, and if you have, whether you have given proper notice to anyone who has filed a demand for notice.
- A demand for notice is a document typically filed by a creditor (any person or business that is owed money or property by the estate) asking that they be given notice when a probate case is opened, when documents are filed into the case, and when orders are issued.
 - Check with the court to see whether any demands for notice have been filed. If any demands for notice have been filed, you must serve a *Notice of Intent to File Document After Demand for Notice* (PRO907) at least 14 days *before* filing the Petition with the

court, and the demandants who submitted the forms must be listed as interested parties later in the Petition.

Information about Decedent’s family and/or interested persons:

<p>16 Check all that apply:</p> <p><input type="checkbox"/> Decedent left no surviving spouse.</p> <p><input type="checkbox"/> Decedent left no surviving issue (generally, children by blood or adoption; for other examples, see Instructions or get legal advice).</p> <p><input type="checkbox"/> All issue of Decedent are issue of Decedent’s surviving spouse.</p> <p><input type="checkbox"/> There are issue of Decedent that are not issue of the surviving spouse.</p> <p><input type="checkbox"/> There are issue of the surviving spouse who are not issue of the Decedent.</p>

16. Check all of the boxes that apply to describe the family situation of the person who died. There may be unfamiliar words or phrases (like “surviving issue”). Be sure to read the definitions below so that you can answer #16 accurately.

- Decedent left no surviving spouse: Check this box if the person who died was never married, was married but their spouse died first, or was divorced and was not remarried at the time they died.
- Decedent left no surviving issue: Check this box if the person who died did not have any living issue at the time they died. “Issue” means direct lineal descendants, such as children, grandchildren, great-grandchildren, etc., whether by blood or by adoption.
- All issue of Decedent are issue of Decedent’s surviving spouse: Check this box if the person who died never had children (by blood or adoption) with someone other than the spouse they were married to at the time they died, so that all children, grandchildren, great-grandchildren, etc. of the person who died are also related to the surviving spouse.
- There are issue of Decedent that are not issue of the surviving spouse: Check this box if the person who died had children (by blood or adoption) with someone other than the spouse they were married to at the time they died, so that some of the children, grandchildren, great-grandchildren, etc. of the person who died are not related to the surviving spouse.
- There are issue of the surviving spouse who are not issue of the Decedent: Check this box if the surviving spouse of the person who died ever had children (by blood or adoption) with someone other than the person who died, so that some of the children,

grandchildren, great-grandchildren, etc. of the surviving spouse are not related to the person who died.

17 17. The names and addresses of Decedent’s spouse, children, heirs, devisees, and other persons interested in this proceeding so far as known or found with reasonable diligence by the Applicant are:

Name and Mailing Address (one name per box)	Familial Relationship	Legal Interest (check all that apply)	Birth Date of Minor / Date of Death of deceased Heir or Devisee
	<input type="checkbox"/> Spouse <input type="checkbox"/> Child (minor or adult) <input type="checkbox"/> Other family member: (relation)	<input type="checkbox"/> Devisee (beneficiary of the Will) <input type="checkbox"/> Heir (next of kin who would inherit without a Will) <input type="checkbox"/> Nominated Personal Representative <input type="checkbox"/> Creditor <input type="checkbox"/> Other:	
	<input type="checkbox"/> Child (minor or adult) <input type="checkbox"/> Other family member: (relation)	<input type="checkbox"/> Devisee (beneficiary of the Will) <input type="checkbox"/> Heir (next of kin who would inherit without a Will) <input type="checkbox"/> Nominated Personal Representative <input type="checkbox"/> Creditor <input type="checkbox"/> Other:	

17. For this question, you will need to gather information about **all of the interested parties** for the probate case. For **each** interested party, you will need the party’s:

- Full name
- Mailing address
- Relationship to the person who died
- Legal interest in the probate case
- Birth date (if the party is a minor) or date of death (if the party is deceased)

List the spouse of the decedent first, if there is one. Repeat this for each interested party until all are listed.

For the familial relationship and legal interest section, see pages 2 and 3 of these Instructions for definitions of devisee, heir, personal representative, and creditor. The “Other” section can be used to add relationships and interests that do not fit in the other boxes, including (but not limited to):

- Attorney General – If the person who died included any charities as devisees, the attorney general is considered an interested person that must be listed.

- Demandant – If any creditors have submitted a Demand for Notice, they are considered interested persons that must be listed.
- Fiduciary – If a person is a guardian, conservator, attorney-in-fact, trustee, or personal representative for one of the other interested persons, that fiduciary must be listed.
- Foreign Consulate – If the person who died or any of the heirs or devisees was born in a foreign country, the Consulate of that country is considered an interested person that must be listed.
- Parent of a minor interested person – If one of the interested persons is a minor, the parent of that person must be listed.

If you are not sure whether to list a person or entity as an interested person, or you are not sure whether you have included all of the interested persons, it is a good idea to get some legal advice.

18 Have all interested persons listed as heirs lived longer than at least 120 hours after Decedent’s date of death? Yes No

If No, list:

The name of the heir: _____

The heir’s date of death: _____

18. Check a box to say whether all of the people you listed as heirs in Question #17 lived at least 120 hours longer than the date the Decedent died. If any of the heirs died within the 120 hours after Decedent’s death, list that person’s name and their date of death.

Negative Allegation Statement

19 Statement specifically eliminating all heirs or devisees other than listed [see Minn. Gen. R. Prac. 408(a)]:

Start at (1) and check all boxes that apply moving down the list. Stop when directed.

The Decedent left:

(1) I have listed all Devisees.

(2) If Decedent has a living spouse, I have listed the spouse.

(3) If Decedent has children, I have listed them all (this includes adopted children but not step-children).

(4) If Decedent has deceased children, I have listed all of the deceased child’s children.

19. The answers you give to this question will create what is called a “**negative allegation statement**,” which specifically tells the court that there are no other heirs or devisees other than the ones listed in your Petition. Only check the boxes that apply to your situation.

- (1) – Check this box to say that you have listed all of the devisees of the person who died.
- (2) – Check this box to say that you have listed the spouse of the person who died, if they had a living spouse.
- (3) – Check this box to say that you have listed all of the children of the person who died, including all adopted children, but not step-children.
- (4) Check this box to say that if the person who died had any children that died before them, you have listed all of that deceased child’s children (grandchildren of the person who died that had the deceased child as a parent).

If you checked boxes (2), (3), and/or (4), you do not need to continue with the rest of this question. If you did not check either of those boxes, continue to box (5).

STOP: If boxes (2), (3), or (4) are checked you do not have to continue. If not checked, move to box 5. Be sure all names of those included above are listed as interested persons in 17.

- (5) If Decedent has no descendants, I have listed Decedent’s parents.
 - a. If Decedent has no living parents, I have listed all Decedent’s siblings.
 - b. If Decedent has deceased siblings, I have listed all the deceased siblings’ descendants (nieces, nephews, grandnieces, grandnephews, etc.)

- (5) – Check this box to say that you have listed the parents of the person who died if the person who died had no descendants (blood relatives directly descended from them, including children, grandchildren, great-grandchildren, etc.)
 - (5)(a) – If the person who died had no living parents, check this box to say that you have listed all of the siblings of the person who died instead.
 - (5)(b) – This box is used if you checked (5)(a) to say that you listed all of the siblings of the person who died because they had no living parents, but one or more of these siblings has died. Check this box to say that you have listed all of the descendants of any deceased siblings (these would be nieces, nephews, grandnieces, grandnephews, etc. of the Decedent).

If you checked box (5), you do not need to continue with the rest of this question. If you did not check box (5), continue to box (6).

- (6) – Check this box to say that you have listed the grandparents (on both their mother’s side (maternal) and their father’s side (paternal)) of the person who died, if the person who died did not have any siblings.

- (7) – Maternal Grandparents
 - (7)(a) – If neither of the Decedent’s maternal grandparents are living, check this box to say that you have listed the siblings of the Decedent’s mother (these would be aunts and uncles of the person who died).
 - (7)(b) – If any of the aunts or uncles listed in box (7)(a) have died, check this box to say that you have listed all of their children (these would be 1st cousins of the Decedent).
 - (7)(c) – If none of the 1st cousins listed in (7)(b) are living, check this box to say that you have listed any living children of these 1st cousins.
- (8) – Paternal Grandparents
 - (8)(a) – If neither of the Decedent’s paternal grandparents are living, check this box to say that you have listed the siblings of the Decedent’s mother (these would be aunts and uncles of the person who died).
 - (8)(b) – If any of the aunts or uncles listed in box (8)(a) have died, check this box to say that you have listed all of their children (these would be 1st cousins of the Decedent).
 - (8)(c) – If none of the 1st cousins listed in (8)(b) are living, check this box to say that you have listed any living children of these 1st cousins.

If you checked any of the boxes for (6)-(9), you should make sure that all of the people you named are also listed as interested persons in question 18. You should also attach a family tree to your Petition.

Requests for the Court

The paragraph numbers in this section begin with #1. You do not need to fill out anything for #1-#7.

8	Determining that _____ is entitled to appointment as Personal Representative and should be appointed.
9	Appointing _____ as Personal Representative, with _____ bond, in <input type="checkbox"/> an unsupervised administration <input type="checkbox"/> a supervised administration.

8. Fill in the name of the person you are asking to have appointed as the personal representative.
9. Fill in the name of the person you are asking to have appointed as the personal representative, along with the bond amount (if any). Check a box to say whether you would like a judge to supervise the administration of the estate or not.

- Unsupervised administration does not require court approval of every action taken by the personal representative, who has the authority to distribute estate assets without a court order.
- In a supervised administration, the court directly supervises the personal representative's actions and a court order is needed to distribute probate assets.
- You can request a certain amount of bond or to have either a supervised or unsupervised administration, but ultimately this decision will be up to the judge.

If you are not sure whether to request a bond or how to choose between supervised and unsupervised administration of the estate, you should talk with an attorney.

Step 2

Sign the *Petition for Formal Probate of Will and for Formal Appointment of Personal Representative (PRO1202)*

Sign the *Petition for Formal Probate of Will and for Formal Appointment of Personal Representative* form. State your address, phone number, and e-mail address in the blanks under the signature line. When you sign the *Petition*, you are signing under *penalty of perjury*. This means you are saying that everything in the form is true and correct; if you know something in the form is not true when you sign it, you could be found guilty of the crime of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>).

If you do not have an attorney, check the box for "Self-Represented." If you are an attorney representing the petitioner, check the attorney box and include your attorney license number, firm name and address, etc.

Step 3 (Optional)

Fill out the *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond (PRO901)*

This form is only needed if the person who has priority to serve as the personal representative is not willing or is not able to do that job. If this fits your situation, the *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond* **form will be filled out and**

signed by the person who is giving up their priority to be the personal representative. They can nominate someone else to serve in that role, but they do not have to.

You can find this form online at <http://mncourts.gov/GetForms.aspx?c=31&f=597>.

The instructions in Step 3 are directed to the person who is giving up their priority to be the personal representative.

The Caption

Fill out the caption the same way as in the *Petition* in Step 1 above.

State of Minnesota		District Court	
County		Judicial District:	
		Court File Number:	
		Case Type:	Probate
In Re the Estate of		Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond	
Decedent (Deceased Person)			

Description of Priority

I, Name of person who has priority, state: A

My address is Address, City/State/Zip.

Under Minn. Stat. § 524.3-203, I have the following:

- Priority for appointment as the personal representative of this Estate;
- A right to nominate the personal representative of this Estate; and/or
- A right to request bond;

because I am: Explain why you have priority under Minnesota law to serve as the personal representative, and the right to nominate another personal representative.

A. Fill in your name and address, then explain why you have priority under Minn. Stat. § 524.3-203 (<https://www.revisor.mn.gov/statutes/cite/524.3-203>) to serve as the personal representative and the right to nominate another personal representative. See Step 1 above for more information about who has priority under the law.

Nomination

B

NOMINATION

I nominate the following “Nominee” as personal representative of the Estate of Decedent (person who has died):

Name: _____

Address: _____

OR

I am not nominating a personal representative of the Estate of Decedent.

Choose one

- B. If you would like to nominate someone else to serve as the personal representative, check the first box and fill out the person’s full name and address. If you do not want to nominate a personal representative, check the second box.

Renunciation

C

RENUNCIATION (GIVING UP PRIORITY)

I do not want to serve as the personal representative even if I have priority to serve in this role.

OR

I do not want to serve as the personal representative even if I have priority, as long as the person I have nominated to serve as the personal representative accepts this role. If the person I have nominated does not act or stops acting as the personal representative, then I reserve my priority, if any.

Choose one

- C. Check the first box if you would like to renounce (give up) your priority to serve as the personal representative. By checking this box, you would only be giving up your priority as long as the person you nominated qualifies to serve as the personal representative and continues to act in that role.

Check the second box if you would like to reserve your priority to serve as the personal representative.

Bond

D

BOND

A bond protects the beneficiaries of the estate against the Personal Representative’s wrongful acts. I am aware that any bond filed in this estate is to cover damages in the event of mismanagement or misappropriation of funds by the Personal Representative. I request:

A bond be required in the amount of \$ _____; **OR**

No bond be required of the nominated or appointed Personal Representative of this Estate.

NOTE: the cost of the bond will be paid out of the assets of the Estate and could ultimately reduce your distribution.

Choose one

- D. A bond protects the beneficiaries of the estate against any wrongdoing by the personal representative (for example, poor management or stealing of funds). If you would like to request a bond, check the first box and fill out the amount of the bond you would like. Check the second box if you do not want a bond to be required.

The Signature Block

- E. The *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond* form needs to be signed by the person who fills it out.

They will be signing under penalty of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>). They should:

- Date and sign the form;
- Include the county and state they are in when they sign the form; and
- Print their name, address, phone number, and email address.

Step 4
Fill out the *Acceptance of Appointment as Personal Representative and Oath by Individual* (PRO902)

The Caption

Fill out the caption the same way as in the *Petition* in Step 1 above.

State of Minnesota County _____	District Court Judicial District: _____ Court File Number: _____ Case Type: _____ Probate
In Re the Estate of _____ Decedent (Deceased Person)	Acceptance of Appointment as Personal Representative and Oath by Individual

The Acceptance

I, Your name **A**, _____, residing at

B Your address (including city, state, and zip code) _____, as a

condition to receiving letters as Personal Representative in this Estate,

- (1) accept the duties of the office,
- (2) agree to be bound by the provisions of the statutes relating to the office,
- (3) submit to the jurisdiction of the court in any proceeding relating to this Estate, and
- (4) swear that I will faithfully perform all duties of the office that I now assume to the best of my ability.

- A. Fill in your name.
- B. Fill in your full address.

The Signature Block

You need to sign the *Acceptance of Appointment as Personal Representative and Oath by Individual* form (PRO902) under penalty of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>). You should:

- Date and sign the form;
- Include the county and state you are in when you sign the form; and
- Print your name, address, phone number, and email address.

Step 5 (Optional)

Fill out the *Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will* (PRO1206)

This form is only needed if the original, signed Will of the person who passed away is not available.

The Caption

Fill out the caption the same way as in the *Petition* in Step 1 above.

<p>State of Minnesota</p> <p>County: _____</p>	<p style="text-align: right;">District Court</p> <p>Judicial District: _____</p> <p>Court File Number: _____</p> <p>Case Type: Formal Probate</p>
<p>In Re the Estate of:</p> <p>_____</p> <p>Decedent (Deceased Person)</p>	
<p>Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will</p>	

The Statement

I, Petitioner's full name, the Petitioner, state:

1. The original, signed Will of the Decedent, dated Date Decedent signed the original Will, is not available because it has been:

Choose one:

lost.
 destroyed.
 other: _____

Fill in your name as the Petitioner.

1. This paragraph requires 2 things:

- The date the original Will was signed, and
- Why the original Will is not available.

- Check one of the boxes describing why the original Will is not available. If the original Will is not available for a reason other than being lost or destroyed, check the “other” box and explain what happened to the Will.

2. Check the box that applies.

Choose one:	<input type="checkbox"/> A true and correct copy of the Will is attached.
	OR
	<input type="checkbox"/> The following terms were in the Will: _____

2. Check the first box if you are able to attach a **copy of the Will** to the *Statement*.

OR

Check the second box if you do not have a copy of the Will, but are able to describe what the Will said instead.

The Signature Block

You need to sign the *Statement of Contents of Lost, Destroyed, or otherwise Unavailable Will* form (PRO1206) under penalty of perjury (see Minn. Stat. § 609.48, <https://www.revisor.mn.gov/statutes/?id=609.48>). You should:

- Date and sign the form;
- Include the county and state you are in when you sign the form; and
- Print your name, address, phone number, and email address.

Step 6

Make a Copy of Completed Forms

For your own records, make a copy of the following forms:

- *Petition for Formal Probate of Will and for Formal Appointment of Personal Representative* (PRO1202);
- *Acceptance of Appointment and Oath by Individual* (PRO902);

- *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond* (PRO901) (if you completed this form); and
- *Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will* (PRO1206) (if you completed this form).

Step 7

File the Completed Forms with the Court

File the following with the court:

- *Petition for Formal Probate of Will and for Formal Appointment of Personal Representative* (PRO1202);
- *Acceptance of Appointment and Oath by Individual* (PRO902);
- *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond* (PRO901) (if you completed this form);
- The original Will, if available—if not, then the *Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will* (PRO1206); and
- The death certificate of the decedent and of any heirs or devisees that died before the decedent.

There is a [filing fee](#) due when you file. You can make checks payable to “District Court Administrator.”

Step 8

Mail and Publish Notice of the Formal Probate for Interested Parties and Creditors

If court administration finds that all of your documents are in order, they will schedule a hearing and issue you a copy of a *Notice and Order for Hearing on Petition for Formal Probate of Will and Appointment of Personal Representative and Notice to Creditors*.

Make copies of the *Notice* form and serve one (mail or hand-deliver) to each of the heirs, devisees, and all other interested parties you listed in the *Petition*. The *Notice* must be mailed **no later than 14 days** before the scheduled court hearing. Complete a separate *Affidavit of Service for Formal Probate (with a Will)* (PRO1203) for each party you mailed or hand-delivered the *Notice* to and file the affidavits with the court.

Publish the *Notice and Order for Hearing on Petition for Formal Probate of Will and Appointment of Personal Representative and Notice to Creditors* once a week for 2 consecutive weeks in a [legal newspaper](#) in the county where the case was filed. The second week of publication must be **at least 10 days** before the hearing. You will be responsible for paying the costs of publication. File the *Affidavit of Publication* given to you by the newspaper with the court.

Step 9

Fill out the *Notice to Commissioner of Human Services Regarding Possible Claims (PRO905)* and Mail a Copy to the Commissioner

Complete the *Notice to Commissioner of Human Services Regarding Possible Claims* and make a copy of the document to keep for your own records. Send the following documents to the Commissioner:

- *Notice to Commissioner of Human Services Regarding Possible Claims*; and
- Copy of the *Notice and Order for Hearing on Petition for Formal Probate of Will and Appointment of Personal Representative and Notice to Creditors*

The address for mailing this notice is: Commissioner of Human Services, Attn: Special Recovery Unit/Estate Notice, P.O. Box 64995, St. Paul, MN 55164-0995.

You do not need to have someone else mail this notice to the Commissioner—you can be the one to mail it. After you have mailed the notice:

1. Complete an *Affidavit of Service of Notice to the Commissioner of Human Services Regarding Possible Claims (PRO903)*, and
2. File the *Affidavit of Service* with the court.

You need to file the ***Affidavit of Service to the Commissioner of Human Services Regarding Possible Claims*** with the court, but NOT the *Notice* form.

Do not file the *Notice* with the court (it is for the Commissioner of Human Services only).

NOTE: **If real estate is involved**, for certain real estate transactions, you may have to take additional steps with the county recorder's office in the county where the real estate is located. Court staff cannot answer questions about real estate transactions. If you have any questions, talk to an attorney.

Step 10 (If Applicable)

Fill out the *Notice to Spouse and/or Children (PRO906)* and Mail Copies to Any Surviving Spouse and/or Children

You will only need to complete this step if the person who died had a surviving spouse and/or any surviving children.

Complete the *Notice to Spouse and/or Children*. Make one copy to keep for your own records, and one copy for any surviving spouse and/or each of the surviving children of the person who died, if any.

You do not need to have someone else mail these notices—you can be the one to mail them. After you have mailed these notices, if any:

1. Complete an *Affidavit of Service by Mail* for each person you sent the notice to, and then
2. File each *Affidavit of Service by Mail* with the court.

You need to file the ***Affidavits of Service*** with the court, but NOT the *Notice* forms.

Do not file the *Notices* with the court (they are for the surviving spouse and/or children only).

Step 11
Attend the Court Hearing

It is generally the best practice to file your *Affidavits of Mailing* and the *Affidavit of Publication* before the scheduled hearing.

You must appear at the scheduled hearing and:

- be ready to talk about the information included in your petition; and
- bring a copy of each of the forms you filed as part of Step 7 (above).

Step 11
After the Hearing

If the judge ordered a bond, the *Letters* will not be issued until the required bond is filed. If a bond is required, you will need to contact a bond company to have one issued. The court cannot recommend a specific bond company.

You will receive an *Order for Formal Probate of Will and Appointment of Personal Representative and Letters Testamentary* after you have filed documents discussed at the hearing, if any.

Step 12

Get Certified Copies of the Letters Testamentary

After the *Letters Testamentary* (the document that gives the personal representative the authority to handle the administration of the estate) have been issued by the judge, you can get certified copies from court administration. There will be a charge for each certified copy (see <http://mncourts.gov/Help-Topics/Court-Fees/District-Court-Fees.aspx?cat=probate&cookieCheck=true>).

Certified copies of the *Letters Testamentary* may be needed for certain tasks, including but not limited to:

- presentation to banks and other financial institutions to close the accounts of the person who died or to open an estate bank account, if necessary;
- transferring title to estate real estate;
- presentation to the Department of Motor Vehicles to transfer title to a vehicle.

Step 13

Administer and Close the Estate

After you have been appointed as the personal representative by the *Letters Testamentary*, you will need to administer the estate of the person who died. Administering the estate includes, but is not limited to:

- Collection, inventory, and appraisal of assets.
- Paying the taxes and debts of the person who died.
- Distributing remaining assets to the proper parties as specified by law.
- Preparing an *Inventory* (PRO912) and *Final Account* (PRO913) and closing the estate.

The estate cannot be closed until it has been at least 4 months from the date the *Notice to Creditors* was published. If you have questions about how to administer and close the estate, it is a good idea to talk to an attorney.