

INSTRUCTIONS

Petition for Determination of Descent

Forms you will need to start your determination of descent case:

- *Petition for Determination of Descent* (PRO1402).

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 an attorney
- Visit <http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx>

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 Determination of Descent

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, definitions, and Frequently Asked Questions (FAQs) about the process.

The process for determination of descent is used when:

- The decedent has been dead for more than three years;
- The decedent left real or personal property; and
- The decedent's estate has not already gone through probate in Minnesota or in any other state.

Any interested person can file a *Petition for Determination of Descent* in Minnesota (see below for a definition of interested person). Potential heirs or beneficiaries of the estate are typically the ones who file to start this kind of case.

If you are not sure whether your situation qualifies for determination of descent, talk to an attorney. **Court staff cannot give legal advice.**

Definitions you may find helpful as you complete the forms:

- **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.
- **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;
 - 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 (nominated by the Will)** – 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. Personal representatives are not needed and not appointed in determination of descent cases.
- **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.
- **Testate** – When a person has made a valid Will before dying, they are said to have “died testate.”
- **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 Determination of Descent (PRO1402)*

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>In Re the Estate of:</p> <p>Decedent (Deceased per) _____ C</p>	<p style="text-align: right;">District Court</p> <p>Judicial District: _____ B</p> <p>Court File Number: _____</p> <p>Case Type: <u>Probate</u></p>
<p>PETITION FOR DETERMINATION OF DESCENT</p>	

- A. List the county where you will be filing your determination of descent 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.
- B. 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>.
- C. 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 My name is _____ . My legal interest to the Decedent is: (Check all that apply)

Spouse

Child

Other family member: _____

Devisee (beneficiary of the Will)

Heir

Creditor

Other: _____

1. Write your name as the person petitioning for determination of descent. Check all boxes that apply to describe your relationship to the person who died.

Information about the Decedent

Information about the Decedent:

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

3. Decedent died on _____ _____, which is more than three years ago, in the city of _____ _____, and state of _____ _____.

4. Domicile (address of legal residence) of Decedent at the time of death: |
 Street Address: _____
 City, State, and Zip Code: _____
 County: _____

5. 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? _____

2. Fill in the date and location of the birth of the person who died.
3. Fill in the date and location of the death of the person who died.
4. Fill in the street address, city, state, zip code, and county of the legal residence of the person who died at the time of their death. If you are not sure what would be considered the legal residence, you should speak with an attorney.
5. Check either “yes” or “no” to answer whether the person lived in MN when they died. If they did not live in MN, you should also check “yes” or “no” to answer whether the person owned property in MN when they died. If they did, list the county where the property was located.

Information about the Will and the Personal Representative

Information about the Will and Personal Representative:

6 I have made a reasonable, diligent search for any Will. The Decedent: (check all that apply)

Died intestate (without a Will).

Died testate (with a Will). The Decedent's Will is made up of the following:

A Will dated: _____

Codicil(s) (amendments) dated: _____

Separate writing(s) gifting personal property under Minn. Stat. § 524.2 -513 dated: _____

A separate writing referred to in Will but not found or attached to Will

The original documents checked above are: (check all that apply)

Filed with this Petition.

In possession of the Court.

Have been mailed to the Court separately.

Probated elsewhere and an authenticated copy of the Will and statement or order probating the Will are filed with this Application.

Unavailable, but:

a copy of the Will is attached to the Statement of Contents of Lost, Destroyed or Otherwise Unavailable Will that accompanies this Petition.

Other:

6. First, check a box to say whether the person who died did or did not have a Will.

a. ***If there was a Will***, fill in the dates for any documents the person who died had and check 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 these instead along with a *Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will (PRO1206)*.

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

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Check one:

- 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**
- Proper notice has been given to those persons or entities who have filed a demand for notice.

8. 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:

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

Carefully read through the Instructions for definitions and examples of who needs to be included as an interested party below. Not including all interested persons may delay the probate.

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Check all that apply:

- Decedent left no surviving spouse.
- Decedent left no surviving issue (generally, children by blood or adoption; for other examples, see Instructions or get legal advice).
- All issue of Decedent are issue of Decedent’s surviving spouse.
- There are issue of Decedent that are not issue of the surviving spouse.
- There are issue of the surviving spouse who are not issue of the Decedent.

9. Check all of the boxes that apply to describe the family situation of the person who died.
- 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.

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10. 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	Birth Date of Minor / Date of Death if deceased Heir or Divisee
	<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: _____	

10. 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.

11	Have all interested persons listed as heirs lived longer than at least 120 hours after Decedent’s date of death? <input type="checkbox"/> Yes <input type="checkbox"/> No
	If No, list the name of the heir - _____

11. Check a box to say whether all of the people you listed as heirs in Question #10 lived at least 120 hours longer than the date the Decedent died. If any of the heirs died during that time, list that person’s name.

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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.

STOP: If boxes 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 18.

12. 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 box (3) and/or box (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).

(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.)

STOP: If box 5 is checked you do not have to continue. If not checked, move to box 6. Be sure all names of those included above are listed as interested persons in 18.

- (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).

<p>(6) <input type="checkbox"/> If Decedent's parents have no descendants, I have listed Decedent's grandparents (both maternal and paternal).</p> <p>(7) Maternal Grandparents</p> <p>a. <input type="checkbox"/> If both of Decedent's maternal grandparents are deceased, I have listed Decedent's mother's siblings (Aunts and Uncles).</p> <p>b. <input type="checkbox"/> If Decedent's mother has deceased siblings, I have listed all of her deceased sibling's children (1st cousins).</p> <p>c. <input type="checkbox"/> If Decedent has no living maternal cousins, I have listed the surviving children of cousins.</p> <p>(8) Paternal Grandparents</p> <p>a. <input type="checkbox"/> If both of Decedent's paternal grandparents are deceased, I have listed Decedent's father's siblings (Aunts and Uncles).</p> <p>b. <input type="checkbox"/> If Decedent's father has deceased siblings, I have listed all of his deceased sibling's children (1st cousins).</p> <p>c. <input type="checkbox"/> If Decedent has no living paternal cousins, I have listed the surviving children of cousins.</p> <p>STOP: If any boxes 6-8 are checked, be sure all names of those included above are listed as interested persons in 18. Attach a family tree to this Application.</p>
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- (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)-(8), you should make sure that all of the people you named are also listed as interested persons in question 10. You should also attach a family tree to your Petition.

Decedent’s Property

15. The property on hand for distribution is as listed in this document and should be distributed to the following persons in the following proportions or parts:

Name	Proportion
Wait! You need to fill out Attachments A and B before you can fill out #15.	

15. Before you can fill in the information on the chart on question #15, you need to fill out Attachments A and B. **For now, skip to Attachment A: Real Estate.**

The Decedent’s property that is on hand for distribution will be described and valued in detail in Attachments A and B. When completing these attachments, all values should be reported as of the date of death.

Do not list any *non-probate* property. Non-probate property is any assets of the Decedent that can be transferred to a new owner *without going through the probate process*. For example:

- Real property held as joint tenants with right of survivorship;
- Bank or brokerage accounts that are held jointly or with a payable-on-death beneficiary designation to a surviving person;
- Investment or retirement accounts or insurance policies that have a designated beneficiary other than the person who died, provided that beneficiary survived the person who died;
- Property held in a trust.

If you are not sure whether an asset would be considered a probate or non-probate asset, it is a good idea to talk to an attorney.

Attachment A: Real Estate

You must fill out “Attachment A” *even if* the Decedent did not own any real estate in Minnesota. Do not list real estate that is located outside Minnesota in Attachment A.

Attachment A: Real Estate

Fill out “Attachment A” even if the Decedent did not own any real estate in Minnesota.

There are A pieces of real estate in Minnesota that are part of the Estate. For each piece of real estate in Decedent’s Estate, I am providing the following information:

	Description of Property	County Assessor’s Market Value	Fair Market Value
1	Homestead in a County Legal Description:	\$ b	\$ c

A. State how many pieces of Minnesota real estate were owned by the person who died at the time of their death.

1. Start by listing information about the **homestead** property (if there is one) of the person who died.

- a. In the **Description of Property** column, include the county, **formal legal description**, AND the street address of the homestead property. If the property is *rural*, include the acreage as well.
- b. List the **County Assessor's market value** for the homestead property. You can get this information from the County Assessor's Office in the county where the property is located.
- c. List the **fair market value** for the homestead property. Fair market value is the amount that the property would sell for on the open market, and it may or may not be the same as the County Assessor's market value. Another method for trying to figure out the fair market value would be to get an appraisal done for the property. If you are not sure how to calculate the fair market value, it is a good idea to talk to an attorney.

Be sure to copy the full **formal legal description** exactly as it appears on the Deed, Contract for Deed, or Certificate of Title on file with the office of the County Recorder or Registrar of Titles in the county where the property is located. An online description or a tax statement may not contain the full legal description.

	Description of Property	County Assessor's Market Value	Fair Market Value
2	Other real estate in _____ County Legal Description:	\$	\$

2. Repeat for all other real estate in Minnesota. If the person who died owned more than three pieces of Minnesota real estate when they died, you can attach extra sheets of paper.

Contracts for Deed: After the legal description, note if there is a Contract for Deed. State the names of the person who owned the Vendor/Seller's interest and the person who owned the Vendee/Buyer's interest. Include the date of the contract, the interest rate and unpaid balance at date of death, and accrued interest, if any.

Attachment A: Real Estate	Total: \$
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Add up the fair market value for all of the real estate listed (including those listed on extra sheets of paper if there are more than 3 properties) and write in the total value.

Attachment B: Personal Property

Attachment B: Personal Property			
	A	B	
	Number of Units	Fair Market of Value of Each Unit	Total Fair Market Value
1	a	\$ b	\$ c
			(A x B)

1. **Description of Property.** Separately list and number any personal property owned by the person who died, describing each item.
 - a. **Number of Units.** Include the number of units.
 - b. **Fair Market Value of Each Unit.** Include the value of each unit (for example, how much an individual stock is worth) as of the date of death.
 - c. **Total Fair Market Value.** Calculate the total fair market value for each (number of units owned X the value of each unit).

Attachment B: Stocks, Bonds, and Other Securities	Total: \$
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Use another sheet of paper if you need more room to write.

Add up the fair market value for all of the personal property you listed and write in the total value.

After completing Attachments A and B, return to question #15.

15 The property on hand for distribution is as listed in this document and should be distributed to the following persons in the following proportions or parts:

Name	Proportion

15. After you have listed and described the decedent's personal property on hand for distribution, you will state who will get the property. Write in the name of the person receiving property and the amount each person should get.

16 The Decedent's property:

- Has already been claimed or occupied, according to the Will, by the devisee or the devisee's successors and assigns.
- Has already been claimed or occupied, according to the intestacy laws that were in place at the time of Decedent's death, by the heirs or successors and assigns.
- Was not claimed or occupied by anyone during the time period for testacy proceedings (three years).

17 Check box if the property described involves descent through multiple decedents.

16. Check the box that describes what has happened with the property owned by the person who died.

17. In some cases, it may be necessary to complete the determination of descent process for multiple people in order to transfer property. If this applies to your situation, check with court administration in the county where you are filing to see how they would like you to do this.

Requests for the Court

In this section, you will be letting the court know what you are asking for. The only thing you have to do in this section is answer #5.

Based on the above, I ask the Court to schedule a hearing on this Petition and enter an order formally:

1. Finding that venue is proper.
2. Finding that the Decedent died more than three years ago.
3. Determining Decedent's domicile at death.
4. Determining Decedent's testacy status.
- 5** Determining Decedent's heirs.
or
 Probating the valid and unrevoked Will of Decedent.
6. Issuing a decree of distribution assigning the Estate to the persons entitled to the Estate.
7. Granting such other relief as may be proper.

5. Check a box to say whether you are asking the court to determine the decedent's heirs (if they died without a Will) or to probate the decedent's valid and unrevoked Will.

Step 2

Sign the *Petition for Determination of Descent* (PRO1402)

I declare under penalty of perjury that everything I have stated in this document is true and correct.
Minn. Stat. § 358.116

Dated _____

County and state where signed _____

A

Signature of Petitioner _____

Name: _____
Address: _____
City/State/Zip: _____
Telephone: _____
Email: _____

B

Attorney for Personal Representative:
Name: _____
Firm: _____
Address: _____
Attorney License No.: _____
Email: _____
Telephone: _____

- A. Sign the *Petition for Determination of Descent* 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>).
- B. 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 *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.

Fill out the caption the same way you did for the *Petition*.

The Statement



I, _____, the Petitioner, state:

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

lost.

destroyed.

other: _____

2 Check the box that applies.

A true and correct copy of the Will (not the original) is attached.

OR

The following terms were in the Will: _____

A. Fill in your name as the Petitioner.

1. Fill in the date the original Will was signed, and 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 first box if you are able to attach a copy of the Will to the *Statement*. 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

Sign the form under penalty of perjury and fill in the blanks.

Step 4

Make a Copy of Completed Forms

Make a copy of the *Petition for Determination of Descent* (PRO1402) and *Statement of Contents of Lost, Destroyed, or Otherwise Unavailable Will* (PRO1206) (if you completed this form) for your own records.

Step 5

File the Completed Forms with the Court

File the following with the court:

- *Petition for Determination of Descent* (PRO1402);

- 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.” See <https://mncourts.gov/Help-Topics/Court-Fees.aspx>.

Step 6

Mail and Publish Notice of the Hearing for Interested Parties

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 Descent of Property*.

Make copies of the *Notice* form and mail one 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 Mailing (Petition for Determination of Descent)* (PRO1402) for each party you mailed the *Notice* to and file the affidavits with the court.

Publish the *Notice and Order for Hearing on Petition for Determination of Descent* once a week for two consecutive weeks in a [legal newspaper](#) in the county where the case was filed. The second publication must be **at least ten days** prior to 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 7

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 Determination of Descent*

The address for mailing this notice is: Commissioner of Human Services, Attn: Special Recovery Unit/Estate Notice, P.O. Box 64995, St. Paul, MN 55164-0095.

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:

You need to file the *Affidavit of Service* with the court, but NOT the *Notice* form.

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.

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.

ALSO NOTE: You will need to get a signed *Clearance Certificate for Medical Assistance Claims* from your county agency and file this clearance with the court. For a list of county agency contacts, see the MN Department of Human Services website at <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7842-ENG>. You can find the application form for a clearance certificate (DHS6165A) at <https://edocs.dhs.state.mn.us/lfserver/Public/DHS-6165A-ENG>.

Step 8

Attend the Court Hearing

It is generally the best practice to file your *Affidavits of Mailing*, the *Affidavit of Publication*, and the *Clearance Certificate for Medical Assistance Claims* before the scheduled hearing.

You must appear at the scheduled hearing and:

- be ready to talk about the information included in your petition, including whether there is a Medical Assistance claim; and
- bring a copy of each of the forms you filed as part of Step 7 (above).

Step 9

After the Hearing

You will receive a *Decree of Descent* after you have filed documents discussed at the hearing, including a *Clearance Certificate for Medical Assistance Claims*.

Step 10

Get Certified Copies of the Decree of Descent

After the *Decree of Descent* has 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 *Decree of Descent* 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;
- transferring title to estate real estate;
- presentation to the Department of Motor Vehicles to transfer title to a vehicle.