

INFORMAL CHANGE OF TESTACY STATUS

If an informal estate is opened as an intestate, and subsequently an **original** Will is found what is the process to probate the Will?

1. File an Amended Application for Informal Probate of Will and Confirmation of Appointment of Previously Appointed Informal Personal Representative.
 - a. In the findings section of the application prepare a separate paragraph that talks about the previous intestate appointment of the personal representative, court file number, date, etc.
 - b. Wherefore clause needs to include request for Amended Letters Testamentary.
 - c. Contact the probate department to determine fees.
2. **DELIVER ORIGINAL WILL TO THE COURT**
3. There will be a telephone conference on the Amended Application. Registrar will contact the attorney upon receipt of the original Will.
4. Following approval of the Amended Application the attorney will prepare a Notice of Informal Probate of Will and Confirming Appointment of Previously Appointed Personal Representative (delete reference to a creditors' claims period as it ran with the intestate notice previously published – only one claims period per decedent.)
 - a. E-file the notice into the court file.
 - b. Attorney will publish the notice.
 - c. Attorney will e-file the Affidavit of Publication.
 - d. Attorney will e-file an Affidavit of Mailing the Notice of Informal Probate.
5. Registrar will prepare 2 two orders:
 - a. Statement of Informal Probate of Will and Order Reserving Informal Appointment of Executor.
 - b. 30 day hold following issuance of this order before the 2nd order and amended letters can issue. (MN Stat §524.3-612)
 - c. Following the 30 hold the Registrar will issue:
Order Confirming Appointment of Executor
6. Upon receipt of the e-mailed proof from the publisher and the affidavit of mailing from the attorney the Registrar will issue the **Amended Letters Testamentary**.

Note: If the Will calls for the appointment of a **different** personal representative then the attorney must proceed with a formal probate.

524.3-612 TERMINATION OF APPOINTMENT; CHANGE OF TESTACY STATUS.

Except as otherwise ordered in formal proceedings, the probate of a will subsequent to the appointment of a personal representative in intestacy or under a will which is superseded by formal probate of another will, or the vacation of an informal probate of a will subsequent to the appointment of the personal representative thereunder, does not terminate the appointment of the personal representative although the personal representative's powers may be reduced as provided in section [524.3-401](#). Termination occurs upon appointment in informal or formal appointment proceedings of a person entitled to appointment under the later assumption concerning testacy. If no request for new appointment is made within 30 days after expiration of time for appeal from the order in formal testacy proceedings, or from the informal probate, changing the assumption concerning testacy, the previously appointed personal representative upon request may be appointed personal representative under the subsequently probated will, or as in intestacy as the case may be.