

# INSTRUCTIONS

## Informal Appointment of Successor Personal Representative

Forms you may need to ask for the appointment of a successor personal representative in an Informal Probate case:

- Application for Informal Informal Appointment of Successor Personal Representative (PRO1502);
- Acceptance of Appointment as Successor Personal Representative and Oath by Individual (PRO1504);
- Nomination of Successor Personal Representative and/or Renunciation of Priority for Appointment, and Bond (PRO1505).

### 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](http://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>

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 Informal 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.

These forms can be used to ask for a successor personal representative to be appointed in an informal probate case in situations where the previously appointed personal representative has died, been removed, or has resigned or been discharged from serving in that role. If you want to ask for the current personal representative to be replaced because you disagree with how they are handling the estate, talk to 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 asking to be appointed as the successor personal representative in an informal probate case.

If you do not understand any of these procedures, 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.
- **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.
- **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 Application:**

- The county and judicial district number where case was filed, as well as the court file number.
- The death date and location of the person who died.
- The name of the current personal representative, as well as the date that the personal representative was appointed in the case.
- 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.

**Step 1**

***Fill out Application for Informal Appointment of Successor Personal Representative (PRO1502)***

**Section 1A: The Caption**

The top part of the first page is where you will find the case caption.

1. List the county and the Judicial District where the Informal Probate case has been filed.
2. Write in the full legal name of the person who died (first, middle, and last).

**Section 1B: Information about the Applicant**

3. Write your name as the person applying for a successor personal representative in Informal Probate. Check all boxes that apply to describe your relationship to the person who died.

### **Section 1C: Information about the Decedent**

4. Fill in the date and location of the death of the person who died.
5. Fill in the date of the court order that appointed the current personal representative, as well as that person's name. Fill in the court file number of the case where the appointment was made.
6. Check a box describing the current status of the personal representative in the case. If the personal representative has died, include that person's date of death. If none of the options apply, check the "other" box and write in a description.
7. Check a box to explain why a successor personal representative is needed in this case. If none of the options apply, check the "other" box and write in a description.
8. Fill in the name of a person who has priority, is willing to serve as the successor personal representative, and is not disqualified.
  - 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). 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 the successor 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 may waive their right to nominate someone to serve in their place. To do this, use the *Nomination of Successor Personal Representative and/or Renunciation of Priority, and Bond* (PRO1505) form discussed in more detail later in these instructions.
9. Check a box to say whether anyone other than the person listed in the previous question has either an equal or higher priority to serve as the successor personal representative.
- If yes, write in the name of anyone else who has a right to serve in that role. Check a box to say whether that person has either renounced (given up) their right for appointment or joined in nominating someone else. If someone else has been nominated, write in that person's name. Be sure to include the nomination or renunciation form (PRO901) with your paperwork.
10. Fill in the street address of the proposed successor personal representative.
11. When you apply for the appointment of a successor personal representative, you will generally accept that most of the statements in the order that appointed the current personal representative (the order listed in #3 on the application) are true. However, if you disagree with anything in the previous order, list the corrections you would like to ask for here.

**Section 1D: Information about Decedent's family and/or interested persons:**

12. For this question, you will need to gather information about all of the interested parties for the probate case. For each interested person, you will need:
- Full name
  - Mailing address
  - Relationship to the person who died
  - Legal interest in the probate case
  - Birth date (if the interested person is a minor) or date of death (if the interested person is deceased)

List the spouse of the decedent first, if there is one. Repeat this for each interested person 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.

### **Section 1E: Requests for the Registrar**

20. Fill in the name of the person you are asking to have appointed as the successor personal representative, along with the bond amount (if any). If you are not sure whether to request a bond, you can talk about this issue with the Probate Registrar.

21. Fill in the name of the person you are asking to have appointed as the successor personal representative.

#### **Step 2**

#### ***Sign the Application for Informal Appointment of Successor Personal Representative (PRO1502)***

Sign the *Application for Informal Appointment of Successor Personal Representative* form. State your address, phone number, and e-mail address in the blanks under the signature line. When you sign the *Application*, 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>).

#### **Step 3 (Optional)**

#### ***Fill out the Nomination of Successor Personal Representative and/or Renunciation of Priority for Appointment, and Bond (PRO1505)***

This form is only needed if the person who has priority to serve as the successor personal representative is not willing or is not able to do that job. If this fits your situation, the *Nomination of Successor 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 successor personal representative. They can nominate someone else to serve in that role, but they do not have to.

### **Section 3A: The Caption**

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

### **Section 3B: Description of Priority**

2. Fill in your name and address, then explain why you have priority under Minn. Stat. § 524.3-203 to serve as the successor personal representative and the right to nominate another successor personal representative. See Question #8 of Section 1C above for more information about who has priority under the law.

### **Section 3C: Nomination**

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

### **Section 3D: Renunciation**

4. Check the first box if you would like to renounce (give up) your priority to serve as the successor 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 successor 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 successor personal representative.

### **Section 3E: Bond**

5. A bond protects the beneficiaries of the estate against any wrongdoing by the successor 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.

### **Section 3F: The Signature Block**

6. The *Nomination of Successor Personal Representative and/or Renunciation of Priority for Appointment, and Bond* form will be signed by the person who filled it out. They should date and sign the form, then print their name, address, phone number, and email address.

## Step 4

### **Fill out the *Acceptance of Appointment as Successor Personal Representative and Oath by Individual (PRO1504)***

#### **Section 4A: The Caption**

1. Fill out the caption like you did in *Step 1A*, above.

#### **Section 4B: The Acceptance**

2. Fill in your name and address.

#### **Section 4C: The Signature Block**

3. Date and sign the form, then print your name, address, phone number, and email address.

## Step 5

### **Make a Copy of Completed Forms and Schedule an Appointment with the Probate Registrar**

Make a copy of the *Application for Informal Probate of Will and for Informal Appointment of Personal Representative (PRO1502)*, *Acceptant of Appointment and Oath by Individual (PRO1504)*, and *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond (PRO1505)* (if you completed this form) for your own records.

Contact your local court administration to make an appointment to meet with the Probate Registrar. Contact information for court administration is available at <http://www.mncourts.gov/Find-Courts.aspx>.

## Step 6

### **Meet with the Probate Registrar**



You must attend your scheduled meeting with the Probate Registrar and bring along the following documents:

- *Application for Informal Appointment of Successor Personal Representative* (PRO1502);
- *Nomination of Personal Representative and/or Renunciation of Priority for Appointment, and Bond* (PRO1505) (if applicable); and
- *Acceptance of Appointment as Successor Personal Representative and Oath by Individual* (PRO1504).

The original signed forms will be filed with the court and a [filing fee](#) may be due at the time of your meeting. Contact court administration to find out how much the fee will be.

If the Probate Registrar finds that all of your documents are in order and approves them, the Registrar will issue you copies of the *Notice of Application for Informal Appointment of Successor Personal Representative* and the *Order of Informal Appointment of Successor Personal Representative*. The Registrar will let you know if there is anything else you need to do before they can issue Letters to you.

## Step 7

### **Mail Notice of the Informal Appointment of Successor Personal Representative for Interested Parties**

Make copies of the completed *Notice of Application for Informal Appointment of Successor Personal Representative* and mail one to each of the heirs, devisees, and all other interested parties you listed in the *Application*. Complete a separate *Affidavit of Service by Mail* (SOP104) for each interested person you mailed the *Notice* to and file the affidavits with the court.

## Step 8

### **Get Certified Copies of the Successor Letters**

You will need to file your *Affidavits of Service* before the Probate Registrar can issue *Successor Letters* (the document that gives the successor personal representative the authority to settle the estate). For cases where the person who died had a Will, these will be called *Successor Letters Testamentary*. For cases where the person who died did not have a Will, these will be called *Successor Letters of General Administration*. After the *Letters* have been issued, you can get certified copies from court administration. There will be a [charge](#) for each certified copy.

Certified copies of the *Letters* 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 9

### Administer and Close the Estate

After you have been appointed as the successor personal representative by the *Successor Letters Testamentary* or *Successor Letters of General Administration*, 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 a Final Account (PRO913) and closing the estate.

See the packet of forms and instructions on the MN Judicial Branch website for closing an informal probate case (with or without a Will) at <https://mncourts.gov/GetForms.aspx?c=31&p=131>. If you have questions about how to administer and close the estate, it is a good idea to talk to an attorney.