

Formal Probate (Without A Will)



Use these forms and instructions only if the following factors apply to your situation:

- You are related to the person who died or you have a legal interest in the person's property
- The person did not have a will
- The person has been dead for less than three years
- No prior probate or administration proceeding was started in Minnesota, except an informal administration
- You want to file court papers to have someone appointed to administer the estate of the person who died

If you are not sure that these forms and instructions apply to your situation, see a lawyer for help.

FORMAL PROBATE (WITHOUT A WILL)

What to do before you come to court to file anything:

1. Determine if the person who died has been dead for less than three years.
2. Determine if a probate or administration proceeding was previously started in Minnesota.
3. Decide if you are an appropriate person to sign and submit the Petition. To do this, read the Petition and other forms in this packet, it will help you know what the law requires.
4. Complete the Petition. It is very important that the Petition be completed thoroughly and accurately. You must accurately list all of the heirs and devisees of the person who died.
5. Complete the following documents. (NOTE: Leave the dates and time of the hearing and signatures blank. These will be filled in by the Court Administrator when you file the papers with the Probate Court.):
 - Order and Notice of Hearing
 - Acceptance of Appointment and Oath by Individual (a court deputy can notarize your signature when you come to court)
 - Order of Formal Adjudication of Intestacy, Determination of Heirs, and Formal Appointment of Personal Representative
 - Letters of General Administration
6. Make a copy of the completed forms for your own records.

What to do next:

1. Mail or bring the completed forms and a check for the filing fee (credit cards are accepted) to:
Ramsey County Probate Court
650 Courthouse
15 West Kellogg Boulevard
St. Paul, MN 55102
2. After the clerk's office completes and signs the Notice and Order for Hearing on Petition for Formal Adjudication of Intestacy, Determination of Heirs, and Appointment of Personal Representative and Notice to Creditors, a copy will be mailed to you. **You must make copies of this notice and mail a copy to each of the heirs and devisees you listed on your Petition. The notice must be mailed at least 14 days prior to the scheduled hearing.**
3. Complete the Affidavit of Mailing in this packet and file it with the Probate Court. (Remember to have your signature notarized.)
4. Publication of the Notice of Hearing on the Petition for Formal Adjudication of Intestacy, Determination of Heirs and Appointment of Personal Representative and Notice to Creditors must be made once a week for two consecutive weeks in a legal newspaper in the county. The clerk's office will send the notice directly to the St. Paul Legal Ledger for publication. You will receive an invoice for the publication cost from the St. Paul Legal Ledger, and it is your responsibility to pay the publication fee directly to the St. Paul Legal Ledger.
5. **You are responsible for paying the newspaper for publication costs.**

6. You must appear at the scheduled hearing and you must be prepared to testify to the facts stated in your petition. If your petition is approved by the judge at the hearing, the Order of Formal Adjudication of Intestacy, Determination of Heirs and Formal Appointment of Personal Representative will be signed.

7. The Judge will sign the Letters of General Administration after the Acceptance of Appointment and Oath by Individual, Affidavit of Mailing, Affidavit of Publication, and Bond (if required by the judge) are filed with the Court Administrator.

8. You will probably need one or more certified copies of the Letters of General Administration to prove that you have the authority to administer the estate of the person who died. You will need to ask the Court Administrator for a certified copy. There is a charge for each certified copy.

9. Court personnel are prohibited by law from giving legal advice. Therefore, it is the responsibility of the personal representative to prepare and mail the inventory and final account and otherwise comply with the law for administration of the estate and distribution of assets. Any questions regarding how to properly administer the estate need to be directed to an attorney.

Examples of Negative Allegations For Decedents Dying AFTER DECEMBER 31, 1995

- Example 1** "Where only the spouse survives the application should state 'that the decedent left no surviving issue, natural or adopted, legitimate or illegitimate.'"
- Example 2** "Where only children survive, the application should state 'that the decedent left surviving no spouse; no children, natural or adopted, legitimate or illegitimate, other than herein named; and no issue of any deceased children.'"
- Example 3** "Where the spouse and children survive, the application should state 'that the decedent left surviving no children, natural or adopted, legitimate or illegitimate, other than herein named and no issue of any deceased children.'"
- Example 4** "Where only brothers or sisters of decedent survive, the application should state 'that the decedent left surviving no spouse; issue; parents; brothers or sisters; other than herein named; and no issue of deceased brothers or sisters.'"
- Example 5** "Where only grandparents survive, the application should state 'that the decedent left surviving no spouse; issue; parents; brothers or sisters or issue thereof; and no paternal grandparent other than herein named; and no maternal grandparent other than herein named.'"
- Example 6** "Where the nearest surviving descendants of the paternal grandparents are first cousins; and the nearest surviving descendants of the maternal grandparents are first cousins once removed, the applications should state:
'that the decedent left surviving no spouse; issue; parents; brothers or sisters or issue thereof; grandparents; aunts or uncles; and no paternal first cousins other than herein named; and no maternal first cousins once removed other than herein named.'"

In all cases, the petition should state either:

- (a) That all heirs-at-law survived the decedent for 120 hours or more; or
- (b) That all the heirs-at-law survived the decedent for 120 hours or more except the following: (name or names).

In all cases where a spouse and children survive, the petition should state either:

- (a) That all of the issue of either the decedent or the decedent's surviving spouse are common to both of them; or
- (b) That one or more of the issue of either the decedent or the decedent's surviving spouse are not common to both of them.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

Estate of

**PETITION FOR FORMAL ADJUDICATION
OF INTESTACY, DETERMINATION OF
HEIRS AND APPOINTMENT OF
PERSONAL REPRESENTATIVE**

_____,

Decedent

I, _____, state:

1. My address is:

2. I am an interested person as defined by Minnesota law because I am:

3. Decedent was born on _____, at _____.
4. Decedent died on _____, at _____.
5. Decedent at the time of death resided in _____ County, at (address):

6. The names and addresses of Decedent's spouse, children, heirs, devisees and other persons interested in this proceeding so far as known or ascertainable with reasonable diligence by the Petitioner are:

Name and Mailing Address	Relationship and Interest (list all)	Birthdate of Minors
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(attach separate schedule, if necessary)

7. Negative Allegation Statement (see Minn. Gen. R. Prac. 408(a)):

8. All persons identified as heirs have survived the Decedent by at least 120 hours.

9. Decedent left no surviving spouse.
 Decedent left no surviving issue.
 All issue of Decedent are issue of Decedent's surviving spouse except for:

There are issue of the surviving spouse who are not issue of the Decedent.

10. Venue for this proceeding is in this County of the State of Minnesota because:

The Decedent was domiciled in this County at the time of death and was the owner of property located in the State of Minnesota.

or

Though not domiciled in the State of Minnesota, the Decedent was the owner of property located in this County at the time of death.

11. I estimate the Decedent's assets and indebtedness are as follows:

Probate Assets

Homestead \$ _____
 Other real estate \$ _____
 Cash \$ _____
 Securities \$ _____
 Other \$ _____

Non-Probate Assets

Joint Tenancy \$ _____
 Insurance \$ _____
 Other \$ _____

Approximate Indebtedness \$ _____

12. There is no personal representative of the Decedent appointed in Minnesota or elsewhere whose appointment has not been terminated, except (state any exceptions):

13. 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 who have filed a demand for notice.

14. Having conducted a reasonably diligent search, I am unaware of any unrevoked testamentary instrument relating to property having a situs in Minnesota and I believe that the Decedent died leaving no Will.

15. _____ is entitled to priority and appointment as personal representative because:

and is willing to serve and is not disqualified. There are no other persons having a prior or equal right to the appointment under Minnesota law except:

who have either renounced their right for appointment or have joined in nominating:

16. Not more than 3 years (except as permitted by Minn. Stat. 524.3-108), have elapsed since Decedent's death.

WHEREFORE, I request the Court fix a time and place for a hearing on this Petition and enter an order formally:

1. Finding the Decedent is dead.
2. Finding venue is proper.
3. Finding the proceeding was commenced within the time limitation prescribed by Minnesota law.
4. Determining Decedent's domicile at death.
5. Finding Decedent left no will and therefore died intestate.
6. Determining Decedent's heirs.
7. Appointing _____ as personal representative, with _____ bond, in an unsupervised a supervised administration.
8. Authorizing issuance of letters of general administration upon qualification and acceptance.
9. Grant such other relief as may be proper.

Under penalties for perjury, I declare or affirm that I have read this document and I know or believe its representations are true and complete.

Petitioner

Date

Attorney for Petitioner:

Name:

Firm:

Street:

City, State, ZIP:

Attorney License No.:

Telephone:

Fax:

STATE OF MINNESOTA
COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

Estate of

_____ ,

Decedent

**RENUNCIATION OF PRIORITY FOR
APPOINTMENT AND RIGHT TO
NOMINATE
PERSONAL REPRESENTATIVE**

I, _____, state:

1. My address is:

2. I have priority for appointment as the personal representative of this Estate and/or a right to nominate the personal representative of this Estate because I am:

3. I renounce any right for appointment as a personal representative of this Estate.

4. I renounce any right to nominate a personal representative of this Estate.

Under penalties for perjury, I declare or affirm that I have read this document and to the best of my knowledge or information, its representations are true and complete.

Signature

Date

Attorney for _____
Name:
Firm:
Street:
City, State, ZIP:
Attorney License No.:
Telephone: FAX:

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

Estate of

**ORDER OF FORMAL ADJUDICATION OF
INTESTACY, DETERMINATION OF HEIRS,
AND APPOINTMENT OF
PERSONAL REPRESENTATIVE**

_____ ,

Decedent

The Petition for Formal Adjudication of Intestacy, Determination of Heirs, and Appointment of Personal Representative, signed by _____, came before the Court on _____. The Court, having heard and considered the Petition, determines the following:

1. The Court has jurisdiction and venue in this County is proper.
2. The Petition is complete.
3. The Petitioner has declared or affirmed that the representations contained in the Petition are true to the best of Petitioner's knowledge or belief.
4. The Petitioner is an interested person as defined by Minnesota law.
5. Any notice required by Minnesota law has been given.
6. Decedent died on _____.
7. The Petition states that after conducting a reasonably diligent search, Petitioner is unaware of any testamentary instrument relating to property having a situs in this state under Minnesota law.
8. Decedent left no will, and therefore died intestate.
9. Decedent's heirs under Minnesota law are:
 as identified in the Petition commencing this proceeding;
or
 as follows:
10. All persons identified as heirs have survived the Decedent by at least 120 hours.
11. (Check appropriate boxes)
 Decedent left no surviving spouse.
 Decedent left no surviving issue.
 All issue of Decedent are issue of Decedent's surviving spouse except for:

 There are issue of the surviving spouse who are not issue of the Decedent.

12. It appears from the Petition that the time limit for original testacy and appointment proceedings have not expired.

13. The Petition indicates that there is no personal representative appointed in this or another county of Minnesota whose appointment has not been terminated, except (state any exceptions):

14. The person appointed below has priority and is entitled to be appointed personal representative and is not disqualified to serve as personal representative.

15. No objections to the Petition have been asserted.

IT IS ORDERED:

1. The Petition is granted.

2. Decedent left no Will and therefore died intestate.

3. The heirs of the Decedent are as identified above.

3. _____ is formally appointed as the personal representative of the Decedent's Estate, with _____ bond, in an unsupervised a supervised administration.

4. Upon filing any required bond and statement of acceptance and oath, letters of general administration will be issued.

Judge of District Court

Date

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

**NOTICE AND ORDER FOR HEARING ON
PETITION FOR FORMAL ADJUDICATION OF
INTESTACY, DETERMINATION OF
HEIRSHIP, AND APPOINTMENT OF
PERSONAL REPRESENTATIVE
AND NOTICE TO CREDITORS**

Estate of

_____,

Decedent

It is Ordered and Notice is given that on _____ at _____ (a.m.)(p.m.), a hearing will be held in this Court at Room 650, Ramsey County Courthouse, 15 West Kellogg Boulevard, St. Paul, Minnesota, for the adjudication of intestacy and determination of heirship of the Decedent, and for the appointment of: _____ whose address is:

as personal representative of the Estate of the Decedent in a/an SUPERVISED UNSUPERVISED administration. Any objections to the petition must be filed with the Court prior to or raised at the hearing. If proper and if no objections are filed or raised, the personal representative will be appointed with full power to administer the Estate including the power to collect all assets, to pay all legal debts, claims, taxes and expenses, to sell real and personal property, and to do all necessary acts for the Estate.

Notice is also given that (subject to Minn. Stat. 524.3-801) all creditors having claims against the Estate are required to present the claims to the personal representative or to the Court Administrator within four months after the date of this Notice or the claims will be barred.

District Court Judge, Probate Division

Court Administrator

By: _____
Deputy Court Administrator Date

Attorney for Applicant
Name:
Firm:
Street:
City, State, ZIP:
Attorney License No.:
Telephone: FAX:

NOTE: If notice to creditors has been previously given, delete the notice to creditors.
NOTE TO PUBLISHER: Do not publish the text of Notes.

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

Estate of

ACCEPTANCE OF APPOINTMENT
AS PERSONAL REPRESENTATIVE
AND OATH BY INDIVIDUAL

_____,
Decedent

STATE OF MINNESOTA

COUNTY OF RAMSEY

I, _____,
residing at:

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.

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

Affiant Date
Signed and sworn to (or affirmed) before me on
(date) _____ by
(name of affiant) _____,

SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Attorney for _____
Name:
Firm:
Street:
City, State, ZIP:
Attorney License No.:
Telephone: FAX:

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

Estate of

_____ ,

Decedent

**LETTERS
TESTAMENTARY**
 OF GENERAL ADMINISTRATION

1. The Decedent died on _____.

2. _____ has been appointed
Personal Representative of Decedent's Estate in

- an unsupervised
- a supervised administration

and is now qualified to act as Personal Representative of the Estate and has authority to administer the Estate according to law.

(COURT SEAL)

Judge Date

STATE OF MINNESOTA

COUNTY OF RAMSEY

DISTRICT COURT
PROBATE DIVISION
SECOND JUDICIAL DISTRICT

Court File No. _____

Estate of

_____ ,

**UNSUPERVISED
PERSONAL REPRESENTATIVE'S
STATEMENT TO CLOSE ESTATE**

Decedent

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

I, _____,
the Personal Representative of the Estate, state that I (or a prior Personal Representative whom I have succeeded)
have:

1. Published notice to creditors. The date of the notice was more than four months prior to the date of this statement.
2. Fully administered this Estate by making payment, settlement or other disposition of all claims which were presented, expenses of administration, estate and other taxes, except as specified in this statement.
3. Inventoried the assets of the Estate and distributed them to the persons entitled to them. Listed below are all unpaid claims, expenses or taxes which remain undischarged (If none, so state; otherwise state in detail other arrangements which have been made to accommodate all outstanding liabilities.):

4. Sent a copy of this statement to all distributees of this Estate and to all creditors or other claimants whose claims are neither paid nor barred and have furnished a full account in writing of this administration to the distributees whose interests are affected by the administration of this Estate.

This statement is filed for the purpose of closing this Estate and terminating my appointment as Personal Representative of the Estate.

Personal Representative

Date

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

Signed and sworn to (or affirmed) before me on

(date) _____ by

(name) _____,
Personal Representative.

SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Attorney for Personal Representative

Name:

Firm:

Street:

City, State, ZIP:

Attorney License No.:

Telephone: FAX:

NOTE: Appointment of the personal representative terminates one year following the filing of this statement with the court. Letters of appointment remain in full force and effect during that year.