

Checklist for Opening a Decedent Estate by Informal Application

<p>When someone dies owning assets in their sole name, a decedent estate must be opened to transfer those assets to the right people. An Informal Application is one way to start a decedent estate. This will help you determine if it will work for your situation. There may be additional forms required and further instructions upon the court's review of your specific paperwork. See our website brochure <i>Planning to Administer a Decedent Estate</i> for duties following appointment. This is just the beginning.</p>		<p>Forms: PC ### Citations: MCL for statutes MCR for court rules</p>
<input type="checkbox"/>	<p>The decedent is the person who died. To open an estate in Oakland County, the county of the decedent's residence on the Death Certificate must be Oakland County. <i>Exception: see next box.</i> If the Death Certificate lists another Michigan county as the county of residence then a decedent estate cannot be opened in Oakland County.</p> <p>If you believe the Death Certificate is wrong, you can petition for a court hearing to determine residency. Or, you can request the Michigan Department of Community Health to change the death certificate.</p>	No form. Must hand-draft petition for the court to determine residency.
<input type="checkbox"/>	<p>If the decedent was not a resident of Oakland County, then an estate can only be filed here if the decedent lived out-of-state and owned property in Oakland County. The death certificate shows an out-of-state residence in this case only.</p>	See MCL 700.3201
<input type="checkbox"/>	<p>You may file only if you are an interested person. That is called having "standing." Generally, interested persons include: Heirs (closest relatives who would inherit), Devisees (people who are given something in the will), and Creditors (people/entities to whom the decedent owed money), or any other person who has a property right in or claim against the decedent estate. Certain time frames may apply.</p>	See MCR 5.125(C)(1) & (2), MCL 700.3301, and MCL 700.1105(c) for who may qualify as interested persons.
<input type="checkbox"/>	<p>If you are an interested person, you can fill out and sign an <u>Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate)</u>. In it, you must "nominate" (ask for) the appointment of either you or someone else to be Personal Representative (PR). The PR is the person who handles the estate. Note: the form asks you to indicate if the estate is "testate" or "intestate." Testate means with a will and intestate means without one.</p>	PC 558
<input type="checkbox"/>	<p>Complete <u>Testimony to Identify Heirs</u>. Make sure to either have this form notarized, or to sign it in front of the Probate Court staff. This form must be filled out by someone who has personal knowledge of the decedent and the decedent's relatives (heirs). By following the questions on the form, you will be able to identify the heirs.</p>	PC 565 MCL 700.2102 - 2105
<input type="checkbox"/>	<p>If the decedent left a will that gives anything to devisees who are not also heirs, fill out <u>Supplemental Testimony to Identify Non-Heir Devisees Testate Estate</u>. You must file the original will with the Application (if it is not already on file with the court). To ask to admit a copy of a lost will, the Formal Petition procedure must be followed.</p>	PC 566
<input type="checkbox"/>	<p>Skip this section and move on to the next step if you are the person with the highest priority, which means you are first in line to serve as Personal Representative.</p> <p>If you do not have the highest priority, you may still be appointed PR if you either:</p> <ol style="list-style-type: none"> 1. Obtain signed <u>Renunciation of Right to Appointment, Nomination of Personal Representative and Waiver of Notice</u> forms from each person with equal or higher priority, OR 2. For those persons with equal or greater priority who have not signed the renunciation forms, you may serve the <u>Notice of Intent to Request Informal Appointment of Personal Representative</u> on them as well as a copy of the Application. In this scenario, you must wait 14 days from service to file your paperwork with the court along with a <u>Proof of Service</u>. (Publication is required prior to filing for those with unknown addresses.) 	See MCL 700.3203(1) and the back of this sheet for common examples of priority. PC 567 or PC 557 + PC 564
<input type="checkbox"/>	<p>Summary of Requirements</p> <p>When it is time to file with the court, you will need the <u>Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate)</u>, <u>Testimony to Identify Heirs</u>, and the Death Certificate in every case.</p> <p><input type="checkbox"/> <i>ONLY if applicable</i> (see above), you will need the original will, <u>Supplemental Testimony to Identify Non-Heir Devisees</u>, any and all <u>Renunciations</u>, the <u>Notice of Intent to Request Informal Appointment of Personal Representative</u>, and the <u>Proof of Service</u> (and/or <u>Affidavit of Publication</u> if publication required due to unknown address).</p> <p><input type="checkbox"/> Bring the PR's signed <u>Acceptance of Appointment</u> (always) and <u>Bond of Fiduciary</u> (if the will requires "nominal bond") signed by the PR on the line "principal signature."</p> <p><input type="checkbox"/> There is a \$175 filing fee. The proof of a Personal Representative's appointment and authority is called <u>Letters of Authority</u>, which the court prepares at the time of filing if all documentation is in order.</p> <p><input type="checkbox"/> The fee for each certified copy of the <u>Letters of Authority</u> is \$12, which is also paid upon filing.</p>	PC 558 + PC 565 PC 566, PC 567, PC 557 and PC 564 as applicable PC 571, PC 570 PC 572

If this Informal Application procedure is not allowed or feasible for some reason, you need to pursue a Formal Petition. The Oakland County Probate Court is prohibited from giving legal advice. This is general information. You should consult an attorney if you have specific legal questions regarding how to administer the estate given your specific circumstances. MCL 700.1211 March 2016

COMMON EXAMPLES OF PRIORITY (Applies to individuals of at least 18 years of age)

NOTE: If there is a will, the person who is nominated to act as personal representative (PR) in the will, the devisees and surviving spouse have priority over the following.

1) If you are the surviving **spouse** of the decedent –

You are the person with the highest priority no matter what other relatives the decedent had.

2) If you are the decedent's **child** and the decedent had no surviving spouse, no other surviving children, and no grandchildren from children who died prior to the decedent (i.e.; one of your siblings died before your parent but had no children) –

You are the person with the highest priority.

3) If you are the decedent's **child**, you have one whole blood sister (you have the same parents) and a half-brother who is also a child of the decedent. There is no surviving spouse or parents –

You, your sister and your brother are tied for highest priority and have an equal right to be PR.

4) If you are the decedent's **child**, you have one living sister and your brother, who died *prior* to the decedent, had 3 adult sons -

You, your sister and your 3 nephews (the decedent's grandchildren) are tied for highest priority and have an equal right to be PR.

This is a situation in which the 3 **grandchildren** of the decedent share priority with the 2 living children.

5) If you are the decedent's surviving **parent**. The decedent has no surviving spouse, no children or grandchildren, but does have 2 siblings -

You are the person with the highest priority. If there are two parents, you both have equal priority. The decedent's siblings are not heirs so they have no priority.

6) If you are the decedent's **sibling**. The decedent had no surviving spouse, parents, children or grandchildren, but did have another sibling who died prior leaving behind a surviving adult child (the niece) –

You and the surviving niece have equal priority.

7) If you are the decedent's **nephew or niece**. The decedent has no surviving spouse, parents, children, grandchildren or siblings.

You would share priority with all other nephews and nieces (children of the decedent's siblings).

8) If you are the decedent's **stepchild** (not adopted by the decedent) –

Generally, stepchildren have no standing and no priority.

These are common simplified examples of priority. The specific facts of your case may alter the results. If you have highest priority, know that you may file an Application in which you request that someone else act as the PR, but Renunciations may be required. Finally, remember that once the PR is appointed, there are continuing responsibilities to the estate, the interested persons and the court, including presentment of the inventory, payment of the inventory fee and the filing of proper documentation to close the estate.