

TESTATE – INFORMAL

INFORMAL PROBATE OF WILL AND APPOINTMENT OF PERSONAL REPRESENTATIVE

(WITH WILL AND NO NOTICE)

GENERAL INFORMATION - §15-12-101, C.R.S. et. seq.

- Application for Informal Probate of Will and Informal Appointment of Personal Representative is a request to administer the estate of a decedent with a will.
- Testate informal probate proceedings (with a will and no notice or hearing), is the process by which a person is appointed by the court or the registrar and granted authority to administer an estate for a decedent.
- The application can be filed by an interested person. In this context, interested persons include heirs, devisees, creditors, and any others having a property right in or claim against the estate of a decedent that may be affected by the proceeding. It also includes persons having priority to be appointed as personal representative. See §15-10-201(27), C.R.S.
- The application should be filed in the county where the decedent was a resident at the time of death or, if decedent did not reside in Colorado, in the county where assets are located.
- At least 120 hours must have passed from date of death before appointment of a personal representative may be made. (30 days if decedent was a nonresident of Colorado, unless the personal representative appointed at the decedent's domicile is the applicant, or unless the will directs that the estate be subject to Colorado laws).
- No bond is required of an informally appointed personal representative (except a special administrator), unless demanded by a person having an interest or claim of more than \$5,000.00, or required by the terms of the will. See §15-12-603, C.R.S. and §15-12-605, C.R.S.
- Whenever it appears that there is an unknown heir or that the address of any heir or devisee is unknown, the personal representative shall promptly notify the Attorney General. See C.R.P.P. 17. For such persons, the application should reflect this information.

- If a Petition for Formal Probate of Will and Formal Appointment of Personal Representative is filed, the informal appointment may be set aside or it may be confirmed.
- Registrar may decline appointment for any reason. See §15-12-309, C.R.S.
- If a will is flawed the informal probate may be declined. A will is flawed if it has been altered, invalidly executed or appears to have been subject to revocatory acts such as obliteration, burning, etc.
 - See §15-11-507, C.R.S. for revocation by writing or act.
 - See §15-11-502, C.R.S. for execution of a will.
- Filing fee is required.

ESTABLISH CASE VIA ECLIPSE OR jPOD.(Either enter the codes or verify that the attorney selected the correct codes.)

- Check probate misc. index to determine if a lodged or deposited will exists.

Case filed by a self-represented litigant (non-attorney):

- Check name index to determine if a decedent estate case exists.
- If a decedent estate case exists **within your court** accept the Application, file it in the existing case, inform the party of the case number and that the Application will be filed in the existing case.
- No filing fee is required.
- Do **NOT** issue Letters.
- Consult with the judicial officer assigned to the case on how to proceed. (That can be done once the Application is uploaded into jPOD.)
- Also, check if a guardianship and/or conservatorship case exists **within your court**
- If one exists, relate the decedent estate case to the guardianship/conservatorship case.
- Do a statewide search (SWI) to determine if a decedent case exists **in another court location**. **NOTE:** This does not need to be done at the front counter. It can be done when the case is opened/uploaded into Eclipse/jPOD.
- If a decedent estate case exists **in another court location** accept the Application.
- Filing fee is required.
- Do **NOT** issue Letters.

- Consult the judicial officer assigned to the case on how to proceed.
- Also, check if a guardianship and/or conservatorship case exists **in another court location**.
- **NOTE:** If a case exists in another court location, be sure to note the other court's location, case number and if the case is a decedent estate, guardianship and/or conservatorship. This can be done with comments in the APRI code, MINO, etc.

Case filed by electronically – by an attorney:

- Check name index to determine if a decedent estate case exists.
- If a decedent estate case exists **within your court** reject the pleading with a note to the attorney informing them they may file their Application in the existing case. Provide them with the case number. **NOTE:** Follow your local policy regarding adding the attorney to the existing case so that they can file into that case.
- Also, check if a guardianship and/or conservatorship case exists **within your court**.
- If one exists, relate the decedent estate case to the guardianship/conservatorship case.
- Do a statewide search (SWI) to determine if a decedent case exists **in another court location**.
- If a decedent estate case exists **in another court location** accept the Application.
- Filing fee is required.
- Do **NOT** issue Letters.
- Consult the judicial officer assigned to the case on how to proceed.
- Also, check if a guardianship and/or conservatorship case exists **in another court location**.
- **NOTE:** If a case exists in another court location, be sure to note the other court's location, case number and if the case is a decedent estate, guardianship and/or conservatorship. This can be done with comments in the APRI code, MINO, etc.

OPEN NEW CASE

- Assign a PR case number.
- Enter case type as **TI** – Testate Informal.
- Enter **APRI** - Application for Informal Probate of Will and Informal Appointment of Personal Representative as the originating event, unless the party filed a Motion to File In Forma Pauperis. Then **MIFP** becomes the originating event and **APRI** is entered as an event.

- **NOTE:** The original will or an authenticated (certified) copy of the will probated in another state is to be filed with the application unless it is already on file with the court (lodged or deposited). If original/certified will is not available, proceeding must be formal. See §15-12-303, C.R.S.
- Enter party information with name, address, phone and e-mail address. (Decedent address information not required).
 - **APL** – Applicant. If co-applicants, enter **APL**.
 - **DEC** - Decedent (include all a/k/a's).
 - **PAD** – Public Administrator and Deputy Public Administrator. (Enter PAD even if it is the Public Administrator/Deputy Public Administrator filing the Application and/or is the Nominee.)
 - **HER** – Heirs/Devisees.
 - **NOM** - Nominee. (If the nominee is not the applicant or co-applicant).
 - **OTH** – Other Interested Persons/Parties.
- Enter additional documents filed as follows:
- **RENO**- Renunciation and/or Nomination of Personal Representative - JDF 912. Any person named as personal representative in the will, who declines to serve must sign and file a renunciation or the application must state that the person is deceased.
 - Persons with priority, in this order, are: (1) Person with priority determined by a probated will including a person nominated by a power conferred in a will, (2) surviving spouse of the decedent who is a devisee of the decedent, (3) surviving party to a civil union entered into accordance with article 15 of title 14, C.R.S., who is a devisee of the decedent, (4) person nominated pursuant to a designated beneficiary agreement, (5) other devisees, (6) surviving spouse who is not a devisee, (7) surviving party to a civil union entered into accordance with article 15 of title 14, C.R.S., (8) other heirs and, (7) after 45 days, any creditor. See §15-12-203(1), C.R.S.
 - A renunciation must be filed by each person between the ages of 18 and 21 who would be entitled to be appointed, except for his/her age. See §15-12-203(3), C.R.S.
- **ACPT** - Acceptance of Appointment - JDF 911. One is required from each nominated personal representative. Relate the event to the party.
- **IPOA** - Irrevocable Power of Attorney - JDF 721 is filed by each nominated personal representative who is a nonresident of Colorado pursuant to C.R.P.P. 26. Relate event to the party.
- **WILL** - Last Will and Testament. (Codicils are entered separately.) **A copy of a lost will cannot be admitted without an evidentiary hearing.**
- **CDCL** – Codicil.

ADMITTING WILL, APPOINT PERSONAL REPRESENTATIVE AND ISSUE LETTERS

- The will is admitted to probate and the personal representative is appointed by the registrar when the registrar is satisfied that the requirements of §15-12-303, C.R.S. are met.
- Order for Informal Probate of Will and Informal Appointment of Personal Representative - JDF 913 is signed.
- Enter event **IPWA** - Informal Probate of Will & Appointment of Personal Representative.
- Letters Testamentary - JDF 915 is issued as evidence of appointment and is proof of the personal representative's authority to act.
 - Certified copies are required for most transactions that are conducted by the personal representative on behalf of the estate.
 - Most institutions require the certification date be no more than 60 to 90 days old.
- Enter event **LTRI** - Letters issued.
- Update party information, as appropriate.
 - Enter **PRR** – Party Role for the individual(s) appointed as the personal representative/co-personal representative.
 - Do not change the party types. They are to remain as originally entered.
- Enter event **CLAD** - Closed, upon the appointment of the personal representative.
- Enter scheduled event.
 - **REVV**. Set for 3-year review. See §15-12-1009, C.R.S.
 - If the registrar manages the review, enter judicial officer as 900000, time and room will be set by local policy.
 - If the division staff manages the review, enter time and room per local policy.

POST APPOINTMENT

- The personal representative must give information of his/her appointment to interested persons within 30 days of his/her appointment. The original Information of Appointment - JDF 940, with certificate of service completed, must be filed with the court. See §15-12-705, C.R.S.
- Enter event **INFA** – Information of Appointment and relate it to the appropriate party.

- A Notice to Creditors by Publication- JDF 943 must be published unless one year or more has elapsed since the death of the decedent. See §15-12-801, C.R.S. Enter event **NOTC** - Notice.
- Final date of claims should be entered on the CCS screen. The final date for claims is either four months from the date of the first publication or one year from the date of the decedent's death, whichever comes first.
- Proof of Publication should be filed after the Notice to Creditors has run in a local paper. (Proof of Publication is an affidavit by the editor and a copy of the notice that was published).
- Enter event **PRFP** - Proof of Publication.
- Within three months after appointment, the personal representative must prepare a Decedent's Estate Inventory - JDF 941. See §15-12-706, C.R.S. If filed with the court, enter the following code.
- Enter event **INVN** - Inventory.
- The personal representative may file an accounting - JDF 942. An accounting must be filed if there is a formal closing.
- Enter event **ACTG** - Accounting.

CLOSING ESTATE

An estate may be closed.

- Six months after appointment of personal representative, if the last date to file claims has passed.
- One year after date of death if no Notice to Creditors was given.
- By the court, if no activity has occurred within the previous three years.
- See Closing Decedent's Estate Informally and §15-12-1003 C.R.S.
- See Closing Decedent's Estate Formally and §15-12-1001 C.R.S.
- See Closing Decedent's Estate - Estates not Closed After Three Years or More and §15-12-1009, C.R.S.