4B-021. General instructions for probates when there is a will.

A. **Determine if there is a will.** First, determine whether the deceased person had a will or not. Different probate forms are used if there is a will (and the person died "testate") and if there is not a will (and the person died "intestate"). This set of instructions should be used if you have found a will signed by the deceased person.

B. Overview of steps. There are essentially six steps to an informal probate:

(1) start the process and have the will probated and the court appoint you as personal representative;

(2) send out notice that the will has been probated, that you have been appointed as personal representative and that a probate action is in process;

(3) notify creditors that you are in the process of probating the estate. To do this you must sent a notice to creditors of whom you are aware. In addition, if you want to shorten the time period that unknown creditors have to make claims, you may publish a notice in the newspaper. You must notify the creditors that you know of and may publish a notice in the newspaper;

(4) gather and list the assets of the estate;

(5) determine the debts of the estate and pay the valid ones. Distribute the remaining assets of the estate to the persons designated in the will; and

(6) close the estate and probate action.

C. Completion and filing of forms.

(1) Print or type information. Please print or type the information on all forms. You will want to keep copies of all documents that you file in the court file and that the judge orders

in the case. If typewritten, type or print using pica (10 pitch) type style or a twelve (12) point typeface. All forms and other papers filed with the court shall be: clearly legible; printed on one side of the page, on good quality white paper eight and one-half by eleven (8 1/2 x 11) inches in size.

(2) Copies you will need. Remember to take with you an original and as many copies as you want to have when you file papers or take an order to the judge to sign. The court clerk will stamp each copy as "Endorsed" (which shows it is a copy of the original), but only at the time of filing. If you do not get an endorsed copy at the time of filing, you will likely have to pay a fee for a copy later.

(3) Required filing fee. There is a filing fee that you must pay to start the case. In very limited situations the judge may waive the filing fee. If you want to ask the judge to waive the filing fee, ask the court clerk for the appropriate forms.

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