

KANAWHA COUNTY PROBATE CHECK LIST

407 Virginia St. East, Charleston, WV 25301

P.O. Box 3627, Charleston, WV 25336

Ph: 304-357-0125 Fax: 304-357-0426 Website: www.kanawha.us

Hours: M-F 8 to 5p.m.

PROBATE WITH ORIGINAL WILL

Please, complete this form and return it, along with the required documents, and photo identification to the front desk. Thank you for your cooperation.

NAME OF ESTATE: _____
(Decedent)

- DEATH CERTIFICATE: Certified of Pending copy are acceptable.**
Check to see that the following is correct for the decedent
- **Social Security Number is correct.**
 - **Item 7B** for the decedent's place of residence at the time of death.
 - Indicate **KANAWHA COUNTY**.
- FIDUCIARY:**
- Bring your **Driver's License** or some other form of identification.

On the lines below, the Fiduciary will fill out their name and phone numbers. If there are two Executors or Executrixes listed in the will to be appointed then add Fiduciary 2.
Please, print all of the information requested for easy legibility.

FIDUCIARY 1

NAME: _____
Home #: _____
Cell #: _____
Work #: _____
Relationship to Decedent: _____

FIDUCIARY 2

NAME: _____
Home #: _____
Cell #: _____
Work #: _____
Relationship to Decedent: _____

****PLEASE INDICATE IF MAILING ADDRESS IS DIFFERENT THAN WHAT ID SHOWS****

This checklist, along with the required documents, will begin the 1st Step of Probate.

The 1st Step of Probate: The **Appointment** for a personal representative to serve as the Fiduciary over the Estate. The Fiduciary is called an Executor/Executrix if named as such in the Last Will and Testament of the decedent. The appointment of the Fiduciary will normally be made within 30 days from the date of death. **This first step takes about an hour to an hour and a half, at least, to complete (this includes your wait time). Please, plan accordingly.** This is the only step that must be done, in person, in our office. Everything else can be sent back by mail. **We do not close during lunch, however, we do start rotating lunches, please, plan accordingly.**

There are fees for each step of the probate process that must be paid to our office, either by cash, check or money order, payable to the Kanawha County Fiduciary Fund.

DO NOT fill in the amount as it will be determined by the Deputy **at the time you are appointed.**

Step 1: Our fees range from \$75-\$300.

(Based on everything that the decedent's name was on at the time of death.)

This will be separate from a bonding fee, if that is required for the estate.

(Based on everything that was in the decedent's name alone at the time of death.)

WITH ORIGINAL WILL:

- **Names, relationships, and complete mailing addresses for all Beneficiaries** listed in the will, including churches, charities, trustees of all trusts, etc.
- **Names and complete mailing addresses for Heirs at Law**, which includes either bloodline heirs or heirs who would have inherited if there was no will.
- **West Virginia state law dictates that before an appointing over an estate can occur, that bloodline heirs to the decedent must be shown by providing complete mailing addresses (even if it is a last known mailing address) because any of the heirs have a right to contest the will if they choose to do so.**

- **The bloodline goes as follows:** List on last page.
 - **SPOUSE:** only if there are no children born prior to the current marriage. If there are children born prior to the current marriage, then list them first, then the spouse.
 - **CHILDREN:** includes any children born prior to the current marriage. If there is a pre-deceased child, you must show, by a complete mailing address, that child's children, because the bloodline must be continued to show living heirs. If there are any children who had been legally adopted by the decedent or adopted by the decedent's children will also be considered as bloodline. If there are minor children involved, someone may have to appointed as Guardian for them, depending on their inheritance.
 - **IF NO SPOUSE OR CHILDREN:** List Mother and Father.
 - **IF BOTH PARENTS ARE PRE-DECEASED:** List the decedent's siblings, including half-siblings or adopted siblings. Again, if any siblings are pre-deceased, then you must show each one's child/children.
 - **IF NO SIBLINGS:** List the mother's siblings, leading to living heirs. List the father's siblings, leading to living heirs.

THE BLOODLINE MUST ALWAYS LEAD TO LIVING HEIRS.

The Probate office must, by state law, have an original will for the decedent. **Our office cannot probate with a copy. Furthermore, the original will cannot, by state law, be returned back to the appointed Executor.** The original document will be recorded in the Kanawha County Record Room. **Upon appointment, the Executor will receive a sealed "true copy" of the document for their records.**

- ❑ **CONSENT:** If there is no Fiduciary listed in the will, you will need consent form the majority of heirs within the first thirty days of the date of death, either by a personal appearance or in writing acknowledged before a Notary Public. (Make sure it has original signature, notary clause, and seal.) On the thirty-first day after the date of death, anyone can be appointed without consent.

- ❑ **HOLOGRAPHIC (handwritten) WILL:**

- **Two witnesses to verify the signature of the decedent.** They will swear/affirm under oath that they are familiar with the handwriting and signature of the decedent, and must provide photo ID.
- **The witnesses cannot be anyone who is related to the decedent by heir/beneficiary.** (Witnesses must be completely outside of the process; a friend, neighbor, or someone from a church or bank who can verify the signature of the decedent.)

- ❑ **BOND INFORMATION:**

- A surety bond is a third party guarantee that the fiduciary will fulfill their obligations.
- No surety is required on the bond of the executor/administrator if they are the **SOLE** beneficiary of the decedent. (July 7, 2017)
- Covering assets in the decedent's name **alone**, excluding **real estate**.
- **If the will does not state for you to serve without bond:** Must have a bond.
There are two types of bonds:

1. **Corporate Surety Bond: Assets over \$10,000.00**

- An insurance company provides bond. A list of bonding agents are provided in our office. Or the fiduciary can contact a bonding company in the yellow pages, under bonds – surety and fidelity.
- Minimum bond covers \$10,000. Bond fee starts at rate of \$100.
- Required if the assets in the decedent's name only are over \$10,000, excluding any real estate.
- The bondsman must come with you/meet you in our office.
- If the fiduciary is an out of state resident, he/she is required to get a Corporate Surety bond.
- Bonds at \$50,000 or more will require an attorney (must have address).

2. **Justification of Surety Bond: Assets under \$10,000.00**

- A real estate/property bond. The property used, must assess for at least \$10,000.
- This certificate has a fee around \$2.50.
- Required if assets in the decedent's name only are under \$10,000, excluding any real estate.
- The fiduciary cannot use their own property unless he/she jointly owns it; and the other party can come in person with the fiduciary at the time of appointment.
- Must be someone who owns real estate in West Virginia. This bond can be obtained in the County Clerk's office in whichever county the property is located (Kanawha, Putnam, Wayne, etc.). Then bring the document back, along with the other party, to our office. Both the fiduciary and bond person must bring photo ID.
- If the fiduciary cannot find a bonds person, he/she must have a minimum Corporate Surety bond instead.
- The property, once bonded, will not be able to be sold, re-financed or used as collateral. This bond will place a \$10,000 tax lien against the real estate till the estate has closed.

PLEASE LIST COMPLETE MAILING ADDRESSES ON NEXT PAGE.

Name:	Address:	Relationship to Decedent:	If a MINOR, check:	If a MINOR, list birthday:
			<input type="checkbox"/>	

Name of Estate: _____