

INFORMATION ON LEGAL NOTICE FOR PROBATE OF ESTATES WHEN A PERSON HAS DIED AND WHAT TO DO AFTER YOU HAVE NOTIFIED ALL INTERESTED PERSONS

1. **WHAT IS LEGAL NOTICE:** After you have completed **AND** filed the probate papers with the Court, you must tell **all** interested persons about the papers.

A. WHAT COURT DOCUMENTS DO I NEED TO GIVE NOTICE ABOUT IMMEDIATELY AFTER I HAVE FILED THE APPLICATION? To give Notice, you have to give copies of court documents to those entitled to notice. The documents you need to give those entitled to notice at this time are:

- APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE (When a person died with a Will or without a Will)
- NOTICE OF APPLICATION (in Informal Proceeding).

It is a recommended that you give people entitled to notice copies of **all** documents you filed with the Court so that you know you gave people copies of the correct documents. You then must list in the PROOF OF NOTICE (see section C, below) the people you gave the documents to, their address and the date the documents were mailed or delivered.

B. WHAT ARE THE WAYS TO GIVE LEGAL NOTICE?

- **“Personal Service”** means giving formal notice that is required in some cases for some persons. It requires that a registered process server or the sheriff serve the documents on interested persons or that a person accept service of the papers. When personal service is required, it means the law is written to make sure that a person who needs notice of a case gets the notice.
- **Mail or hand delivery** is less formal but important way of giving notice to other persons in some cases. When you are required to give notice by mail, 1st class postage-prepaid mail is usually acceptable. Certified or registered mail with return receipt is an extra step you can take to prove that the person you want to have notice received the notice.

Note: Service by **Mail or hand delivery** is only allowed in **SOME** cases, so make sure you read the instruction to see if you can use this method of service.

- **Publication of Notice** is when you do not know the address of the person to whom you need to give notice. For publication, you need to try to find the person who is supposed to get notice, and prove to the Court you did everything you could to try to find the person or the person’s address. Then, you must publish the notice in at least **3 times** in the county where the case was filed.

Note: Remember that Notice of Creditors (If applicable) must be published **4 consecutive weeks**.

C. HOW DO I SHOW THAT I GAVE LEGAL NOTICE?

- **PROOF OF NOTICE** is the document you sign and file with the Court to prove you gave notice to **all** interested persons, and how you did it. You must fill out this form after you have served the documents on all interested persons (See **Step 3**). There are other documents that go with the PROOF OF NOTICE to show that service was made. These documents may include the following:

- 1) AFFIDAVIT OF PUBLICATION.
- 2) AFFIDAVIT OF SERVICE signed by the process server or sheriff **OR**
- 3) ACCEPTANCE OF SERVICE.

2. **TIME FRAMES TO GIVE LEGAL NOTICE:** Generally, you must give **all** interested persons notice of the court papers **immediately** after you file the documents with the court. If you do not know where the person lives and have tried to find them, you can give Notice by Publication.

Note: The newspaper will not provide the AFFIDAVIT OF PUBLICATION to you until all **3 notices** (to interested persons) or **4 notices** (to Creditors) have been published.

3. **WHO IS ENTITLED TO LEGAL NOTICE:** You must give notice to all interested persons. This includes, but it not limited to:

- * Any person that has filed a Demand for Notice with the Court.
- * Any Personal Representative of the decedent whose appointment has not ended.
- * Any Spouse,
- * Any adult child(ren)
- * Any parents, brothers, and/or sisters of the decedent, **AND**
- * Any person named as in heir in the Will of the decedent.

4. **COMPLETE THE PROOF OF NOTICE:** After Notice is done, you must complete the PROOF OF NOTICE form. Be sure to list the names of the persons to whom you gave the copies, address, and the date you mailed or delivered the documents. If the person has an attorney, make sure you mail the copies to the attorney, too. Then make **3 copies** of the PROOF OF NOTICE.

5. **FILE THE PROOF OF NOTICE AND OTHER COURT PAPERS:** File the PROOF OF NOTICE and other court papers with the Clerk of the Court, Probate Registrar. These documents should be filed with the Court **immediately** after you have notified all interested persons. See Procedures: ***How to Apply to be Personal Representative*** to find out what documents you should complete and file with the Probate Registrar. After you file the PROOF OF NOTICE and other court papers, mail or deliver a **copy** to all interested persons **immediately**.

- Take the original and 2 copies of the PROOF OF NOTICE and other court papers to the Deputy Clerk who will file the original and stamp "copy" on each of the 2 copies and return them to you.
- Keep a copy of each document for your records.

6. **NEXT STEPS:** Now you are ready to get the rest of the paperwork in order. See Packet number 2 concerning "***The Appointment, Notice of Appointment, Inventory and Appraisement.***"

7. **OTHER HELP:** If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "Attorneys."