

Superior Court of California,
County of Riverside
Self-Help Center

DECEDENT'S ESTATE
(WHAT TO DO WHEN SOMEONE DIES)



PROBATE FREQUENTLY ASKED QUESTIONS



Do I need to begin a Probate Case?

Q: My family member has passed away. Do I have to file anything with the court?

A: That depends on the value of the decedent's estate and possible heirs. If your family member has no real property and personal property valued under \$166,250, there is a simplified process you can use to transfer property. Local Riverside County form, [*Affidavit for Collection of Personal Property, Form RI-PR012*](#), can be used to complete the transfer of property. All persons entitled to receive assets must have their signatures notarized on the form. The form is not filed with the court, but allows family members to transfer property easily, without having to appear in court. For more information see: [**\(Prob. Code §13100\)**](#).

Q: Is there a specific time period that I have to wait to transfer my family member's property if I use the Affidavit for Collection of Personal Property?

A: Yes. You must wait 40 days after the decedent's date of death to transfer property.

Q: Our family member's estate is only worth \$120,00 and this includes a house. What can we file?

A: You can file a [*Petition to Determine Succession to Real Property and Personal Property, Form DE-310*](#), and an [*Order Determining Succession to Real Property, Form DE-315*](#). To use this procedure, the decedent's estate including real property and optionally, personal property, cannot be valued at more than \$166,250. If the decedent resided in this state, the Petition has to be filed in the county where the Decedent resided at the time of death. If the decedent did not reside in the state at the time of death, the Petition should be filed where the property is located ([**Probate Code §7051-7052**](#)). You must wait 40 days from the decedent's date of death to file the Petition. A hearing will be scheduled for this matter to determine if the real/personal property shall pass to the Petitioner.

To read the Probate Code regarding this petition, [**click here**](#).

Q: My husband recently passed away. He had a will and all the property was given to me in the will. We own a home, but I am not listed on the title. What can I file so the property can be transferred to me?

A: You can file a [*Spousal or Domestic Partner Property Petition, Form DE-221*](#), and [*Spousal or Domestic Partner Property Order, Form DE-226*](#). This petition alleges that all or part of the entire estate does not need to be administered as it is passing directly to the surviving spouse. There is no limit to the value of the decedent's assets for this Petition. If the court finds that the identified assets of the decedent are property passing to the surviving spouse, the court shall issue an order describing the property, determining that the property is passing to the surviving spouse, and determining that no administration (Petition to Probate) is necessary.

To review the Probate Code regarding this Petition, [click here](#).

Note Depending on your circumstances, filing a Petition for Probate instead of a Spousal Property Petition may be a better choice. Seek the advice of a qualified attorney to decide what choice is best for your individual situation.

Q: Is there a simplified process to transfer property if the Decedent's real property (house or land) is worth less than \$55,425?

A: Yes. You can file an [*Affidavit re Real Property of Small Value, Form DE-305*](#). The affidavit cannot be filed until six months have passed since the decedent's date of death. The affidavit must be filed in the county where the Decedent resided or if the decedent did not reside in the State of California at the time of their death, then the affidavit can be filed where the real property is located. The signature of the party filing the affidavit must be notarized and an Inventory and Appraisal must be completed and attached. A copy of the decedent's will, if one exists, must also be attached. No hearing will be conducted. If properly filed, the Court Clerk will issue a certified copy of the affidavit. You can then file the certified copy shall be filed with the County Recorder's office.

To read the Probate Code regarding this affidavit, [click here](#).

Q: My father recently passed away. He was not married and did not have a domestic partner. He owned three homes and has a lot of personal property worth approximately \$500,000. There are many family members who say they are entitled to the property. What can I file to help us resolve this issue?

A: Because of the value of assets, you must file a [*Petition for Probate, Form DE-111*](#). There are many additional forms you may need to begin the probate process. You can obtain a packet, which includes all the necessary forms at your local Riverside County Courthouse Clerk's Office. This Petition can ask the Court for an order appointing a personal representative. If your father left a will, the Petition would also request probate of the Decedent's will.

For more information regarding Decedent's Estates, you can conduct your own research by reviewing several probate practice guides at the Riverside County Law Library at: <http://www.lawlibrary.co.riverside.ca.us/>

To research California's Probate Code, [click here](#).

To fill out Probate forms, [click here](#).

To view Riverside Court's Local Rules regarding Probate, [click here](#).

Probate/Decedent's Estate matters can be complex and confusing. Our self-help centers provide legal info/assistance:

For Probate Self-Help Assistance Information – [click here](#)

You can contact the Riverside County Bar Association's Lawyer Referral Service for a low-cost consultation at (951) 682-7520.