

INSTRUCTIONS FOR VOLUNTARY ADMINISTRATION WITH OR WITHOUT A WILL

These general instructions are for informational purposes only and do not constitute legal advice. Please consult an attorney if you have specific questions. Court staff cannot provide legal advice or assist you with legal decisions.

GENERAL INFORMATION

A voluntary administration is a simplified procedure and is available whether or not the decedent left a will. To be eligible for voluntary administration, the following criteria must be met:

- 1) The decedent must have been a resident of Massachusetts at the time of death;
- 2) The decedent left a probate estate consisting **entirely of personal property** valued at \$25,000 or less (excluding the value of a car) regardless of date of death;
- 3) Thirty (30) days or more have passed from the date of the decedent's death;
- 4) The petitioner must be an interested person as defined by Massachusetts law (G. L. c. 190B, § 1-201(24)) but does not need to be a resident of Massachusetts. In the case of a person who at the person's death, was receiving services from the Department of Mental Health (DMH), the Department of Developmental Services (DDS) or the Division of Medical Assistance (DMA), the petitioner may be any person designated to act as a voluntary personal representative ("VPR") of the estate of the person by DMH, DDS or DMA; and
- 5) No other proceeding seeking to probate the decedent's will or appoint a personal representative has been filed.

Alert: For purposes of filing a voluntary administration, a creditor is **NOT** an interested person. If an interested person is a minor, the minor's parents may **NOT** file on behalf of the minor without prior court authority.

Note: A determination of heirs and an adjudication of testacy are made only in a formal probate proceeding.

FILING FEES

The total fee required to file for voluntary administration is **\$115.00**. The fee is broken down as follows: \$100 for the filing of the Voluntary Administration Statement and a \$15.00 surcharge fee to assign a docket number. The \$115.00 filing fee includes one (1) attested copy of the Voluntary Administration Statement issued by the Register of Probate.

OTHER FEES

The following court fees are optional and will only be assessed upon request:

- Copy, attested = \$2.50 per page; Copy, unattested = \$1.00 per page

COMMON TERMS

Docket Number: The number the court assigns to your case.

Petitioner: Interested persons identified by Massachusetts law who can file a petition.

Decedent: The person who died.

Heirs at Law: At the time of the decedent's death, persons who are entitled to receive the decedent's property under the intestacy succession laws if there is no will. For more information, see the Intestate Succession Charts at the end of these instructions.

Devisees: Persons, entities, charitable organizations, or trusts designated in a will to receive the decedent's personal or real property. In the case of a devise to an existing trust or trustees, or to a trustee or trust established by the will, the trust or trustee is the devisee and the beneficiaries are not devisees.

Probate Estate: All of the real and personal property the decedent owned in his or her name alone on the date of death that is subject to probate.

Interested Persons: Persons identified by Massachusetts law who can file a petition and who also must be notified of a court proceeding. The term may include a surviving spouse, children, heirs at law, devisees, creditors, fiduciaries representing interested persons and persons having priority for appointment as personal representative, depending on the circumstances.

Intestate: An estate in which the decedent did not leave a will.

Testate: An estate in which the decedent did leave a will.

Voluntary Personal Representative: A person at least 18 years of age who has an interest in the decedent's estate and who undertakes to administer the decedent's estate without the formality of a court appointment.

FORMS

Forms required to file for voluntary administration may be obtained:

- 1) from the registry in each county Probate and Family Court; or
- 2) from the MUPC Hub located on the Probate and Family Court's website at <http://www.mass.gov/courts/forms/pfc/pfc-mupc-forms-generic.html>

You may complete a form online and print or you may print the form and type or print legibly in black or blue ink. **All required forms must be submitted as a complete packet.** A complete packet consists of the following court approved forms and documents depending on whether the decedent died with a will (testate) or without a will (intestate):

VOLUNTARY ADMINISTRATION CHECKLIST

DECEDENT DIED WITH A WILL (TESTATE) OR WITHOUT A WILL (INTESTATE)	
FORM	Required, May Need or May Have
<input type="checkbox"/> Voluntary Administration Statement (MPC 170)	REQUIRED
<input type="checkbox"/> Certified Copy of Death Certificate	REQUIRED
<input type="checkbox"/> Original Will, if any	REQUIRED
<input type="checkbox"/> Affidavit - as to cause of death (MPC 475) or domicile (MPC 485)	MAY NEED

STEPS TO FILING YOUR CASE

STEP 1: Complete All Forms

You must complete all applicable sections of each form. If you are unsure how to complete a form, see the **MUPC Estate Administration Procedural Guide** located at <http://www.mass.gov/courts/docs/courts-and-judges/courts/probate-and-family-court/mupc-procedural-guide.pdf>

Voluntary Administration Statement (MPC 170)

- Complete all applicable sections of this form.
- **ALERT:** The petitioner must certify on the petition that the petitioner gave written notice prior to petitioning for voluntary administration by sending a copy of the petition and a copy of the death certificate by **certified mail** to the Division of Medical Assistance, Estate Recovery Unit. As of the time of this publication, the address is P. O. Box 15205, Worcester, MA 01615-0205. The Division of Medical Assistance is NOT the court.

Affidavit as to Cause of Death (MPC 475)

- This form must be filed **if** the decedent's cause of death is listed on the death certificate as "homicide" or "pending". Other causes of death do not require the Affidavit.

Affidavit of Domicile (MPC 485)

- This form must be filed **if** the address of the decedent is incorrectly listed on the death certificate.

STEP 2: Obtain Other Documents for Filing

Certified Copy of the Death Certificate

- A certified copy of the decedent's death certificate must be filed.
- Death certificates of Massachusetts residents can be obtained from the Town Hall where the person was residing at the time of death or from the Registry of Vital Records and Statistics. For information, see <http://www.mass.gov/eohhs/gov/departments/dph/programs/admin/dmoa/vitals/obtaining-certified-copies-of-vital-records.html>.

Original Will

- The original will must be filed if the decedent died with a will.

STEP 3: File Papers with the Court

- Provide the court with all required forms and documents completed above and pay the \$115 filing fee.
- You must file the Voluntary Administration Statement in the county Probate and Family Court where the decedent resided at the time of death. For a listing of Massachusetts counties and the cities and towns within, see <https://www.sec.state.ma.us/cis/cisctlist/ctliscoun.htm>.

****Important Information – Please Read****

Review all completed forms for accuracy prior to filing with the court. If you do not understand any form, do not sign it! Please consult an attorney for legal advice. Court staff cannot provide legal advice or assist you with legal decisions.

WHAT TO EXPECT NEXT

- Once filed, an attested copy of the Voluntary Administration Statement will be provided to the petitioner by mail or in-person.

WHERE CAN I FIND MORE INFORMATION?

A detailed description of each probate process can be found in the ***MUPC Estate Administration Procedural Guide: A Guide to Estate Administration Practices & Procedures in the Probate and Family Court***, located at: <http://www.mass.gov/courts/docs/courts-and-judges/courts/probate-and-family-court/mupc-procedural-guide.pdf>

Massachusetts Uniform Probate Code (G. L. c. 190B)
Intestate Succession
(for dates of death on or after March 31, 2012)

	If the Decedent is survived by:	The intestate estate passes to:
1.	Spouse and Children (or the descendants of any pre-deceased child) and... all surviving children are also children of the surviving spouse and the surviving spouse has no surviving children who are not children of the decedent.	<ul style="list-style-type: none"> Spouse Only.
2.	Spouse and Children (or the descendants of any pre-deceased child) and... not all surviving children of the Decedent are also children of the surviving spouse; OR the surviving spouse also has surviving children who are not children of the Decedent.	<ul style="list-style-type: none"> Spouse AND decedent's surviving children (and surviving descendants of any pre-deceased child).
3.	Spouse and NO Children	<ul style="list-style-type: none"> Spouse ONLY, if no surviving parents; <u>OR</u> Spouse AND decedent's surviving parent(s).
4.	Children (or descendants of any pre-deceased child) and NO Spouse	<ul style="list-style-type: none"> Surviving Children ONLY (and surviving descendants of any pre-deceased child).
5.	Parents, and NO Spouse and NO Children	<ul style="list-style-type: none"> Surviving Parent(s) ONLY.
6.	Siblings (or descendants of any pre-deceased sibling), and NO Spouse, NO Children, and NO Parents	<ul style="list-style-type: none"> Surviving Siblings ONLY (and surviving descendants of any pre-deceased sibling).
7.	Kin and NO Spouse, NO Children, NO Parents, NO Siblings	<ul style="list-style-type: none"> Surviving closest relative according to degrees of kindred (see § 2-103(4)).
8.	No Taker	<ul style="list-style-type: none"> Commonwealth or Soldiers Home (see § 2-105).

Intestate Succession Pursuant to G. L. c. 190
(for dates of death prior to March 31, 2012)

	If the Decedent is survived by:	The intestate estate passes to:
1.	Spouse and Children (or the descendants ¹ of any pre-deceased child)	<ul style="list-style-type: none"> • Spouse AND decedent's surviving children (and surviving descendants of any pre-deceased child).
2.	Spouse and NO Children	<ul style="list-style-type: none"> • Spouse ONLY, if no surviving kindred²; <u>OR</u> • Spouse AND decedent's surviving kindred.
3.	Children (or descendants of any pre-deceased child) and NO Spouse	<ul style="list-style-type: none"> • Surviving Children ONLY (and surviving descendants of any pre-deceased child).
4.	Parents, and NO Spouse and NO Children	<ul style="list-style-type: none"> • Surviving Parent(s) ONLY.
5.	Siblings (or descendants of any pre-deceased sibling), and NO Spouse, NO Children, and NO Parents	<ul style="list-style-type: none"> • Surviving Siblings ONLY (and surviving descendants of any pre-deceased sibling).
6.	Kin and NO Spouse, NO Children, NO Parents, NO Siblings	<ul style="list-style-type: none"> • Surviving closest relative according to degrees of kindred (see Massachusetts Degree of Kinship Chart (MPC 960)).
7.	No Taker	<ul style="list-style-type: none"> • Commonwealth • Soldiers Home

¹ Chapter 190 uses the term "issue" and not "descendants" to refer to the Decedent's children, grandchildren, etc.

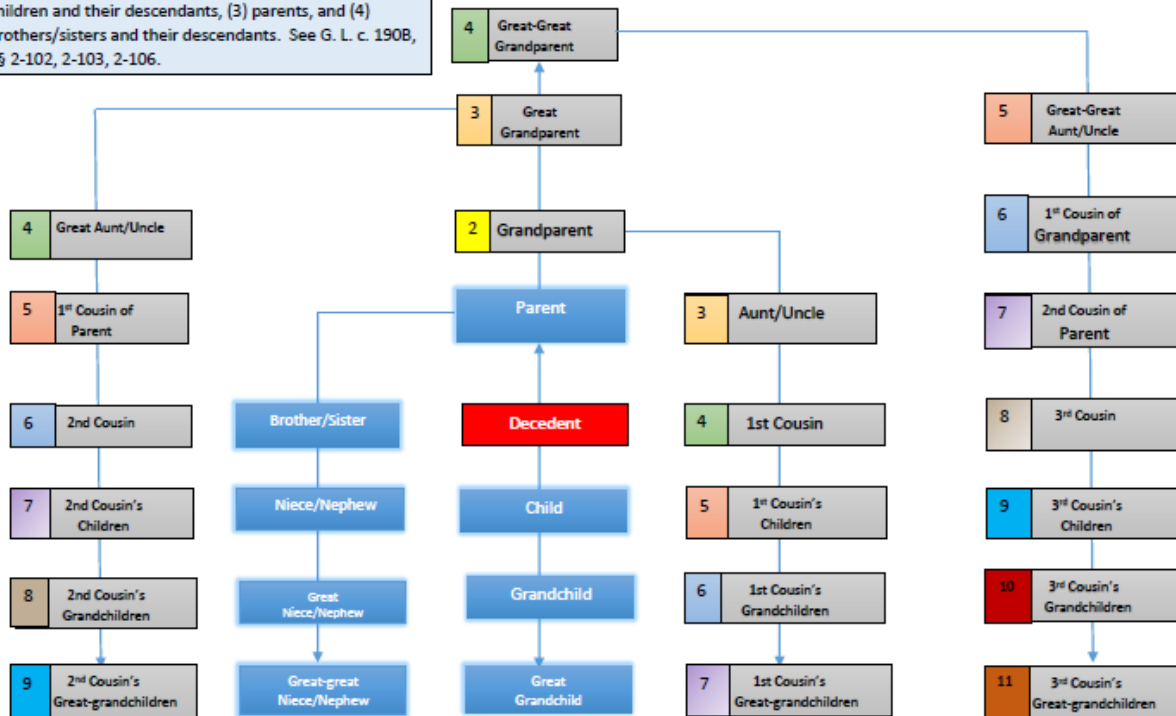
² Kindred includes surviving parent(s), siblings, descendants of any predeceased sibling, etc., and the closest relative as listed on the Massachusetts Degrees of Kinship Chart (MPC 960).

3/30/16

Degrees of kinship are used to identify heirs at law in the "next of kin" category **ONLY** if there are no members in the first four groups of heirs: (1) surviving spouse, (2) children and their descendants, (3) parents, and (4) brothers/sisters and their descendants. See G. L. c. 190B, §§ 2-102, 2-103, 2-106.

MASSACHUSETTS DEGREES OF KINSHIP CHART (MPC 960)

Each title is that person's relation to the Decedent.



- The numbers above represent the order of nearness in blood to the deceased and are referred to as "degrees of kindred". The lower the degree or number, the closer a relation is to the Decedent.
- When there are multiple relations with the same degree, those who claim through the nearest ancestor are preferred. See G. L. c. 190B, § 2-103 (4). For example, if the nearest living relatives are a great-aunt, a great-uncle and two 1st cousins, all are 4th degree relations, but the two 1st cousins inherit because they claim through the grandparents - a closer ancestor than the great-grandparents.
- The nearest living relatives of the lowest degree inherit the estate equally regardless of whether they claim on the mother's side or the father's side of the family. Children of deceased relatives in a class are excluded. See G. L. c. 190B, § 2-103 (4).
- If there are no known heirs at law, see G. L. c. 190B, § 2-105. The Attorney General must be provided notice in such cases.