

To file an Affidavit for Small Estate
WV Code §44-1A-1
Jefferson County, WV

The Small Estate Act, which became effective July 1, 2021, was passed as an alternative to the traditional probate process. It simplifies the process of distributing a person's property after they die. It is meant to be less expensive and faster, requiring less paperwork. However not all estates will qualify.

If the personal property assets (bank accounts, refund checks, checks payable to the estate, vehicles, stocks, bonds etc.) of the decedent are less than \$50,000 and they held no real estate then it may qualify as a small estate.

The Probate Office will need an original death certificate and if the decedent had a will, an original must be provided. To begin the process a Small Estate Affidavit must be completed by a qualified person within the correct timeframe.

- **If there is a will** – the applicant is named executor – **30 days** after the persons death
- **If there is a will** – the applicant is not named executor – **60 days** after the person's death
- **If there is NO will** - **60 days** after the persons death

The Small Estate Act defines the Authorized Successor as "any person, other than a creditor, who is nominated as a personal representative or executor under the provisions of the will of the decedent or who is entitled under the provisions of the decedents will or the laws of intestate descent and distribution of this state to a part or all of a small asset of the decedent." (WV Code §44-1A-(b)(6))

By law, only the following individuals can qualify as an Authorized Successor of a Small Estate:

- A named executor in the will
- A named beneficiary in the will
- An heir at law who receives probate property in cases where there is no will

Individuals seeking to open a Small Estate must be able to swear to all assets value and the amounts must be provided at the time of the filing. If you are unable to declare the value of the assets then a full probate must be completed.

Once the Authorized Successor files the Small Estate affidavit, they have six months from the date they qualify to handle all estate business including the transfer, allocation and liquidation of all assets. If the Authorized Successor needs additional time for a legitimate cause then the time limit can be extended one time only to a full 12 months. If the time extends longer than twelve months then a full probate will be required.

If the estate fits the criteria and you wish to open a Small Estate, you can **contact the Probate Office for an in-person appointment.** Please fill out the correct affidavit (depending if there is a will or not) and bring a copy of the death certificate and the original will if available.

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The Affidavit must be completed so be sure you have all the required information prior to making the appointment.