

FLOWCHART A—GETTING STARTED

(from finding the death certificate to starting a probate case)

SKIP PROBATE ALTOGETHER IF ALL OF THESE ARE TRUE (AS 13.16.680):

- 30 or more days since date of death, and
- Nobody already started a court case to appoint a personal representative (PR), and
- The person who died owned no real estate or any real estate automatically passed to someone else, and
- The value of all vehicles, minus all debts and liens on the vehicles, is \$100,000 or less, and
- The value of all other personal property, minus all debts and liens on the personal property, is \$50,000 or less, and
- You are legally entitled to payment or delivery of the property.

PERSONAL REPRESENTATIVE (PR)

The PR must be a person at least 19 years old or an organization. Priority is based on this order:

1. Nominated in the will to be a PR.
2. Spouse of the person who died if the will makes a gift to the spouse.
3. Any person receiving a gift under the will.
4. Spouse of the person who died even if no gift is made to the spouse in the will or if there is no will.
5. Any heir of the person who died.
6. Any creditor of the person who died, if 45 days have passed since the death.

If you do not have priority to be PR you cannot be appointed unless everybody who does have priority agrees and files a [P-306](#) form.

More than one PR? To request more than one personal representative, use form [P-333](#) to supplement the original application to open an estate. It must be agreed to in writing by both the original applicant and the co-applicant.

INFORMAL PROBATE process may be used if ALL of these are true:

- 3 years or less since date of death, and
- You have priority as PR (pers. rep.), or others with higher priority agree to you being PR, and
- No one objects to you as PR, and
- No probate case has been filed yet, and
- **There may or may not be a will.** If there is a will, you have to have the original, and
- If there is more than one will, the last will says that it revokes the older ones.

FORMAL PROBATE process MUST be used if ANY of these are true:

- You do not have priority as PR (pers. rep.), or
- You want to appoint a PR who does not have priority, or
- A case was already filed and someone objected to you as PR, or
- **There may or may not be a will.** If there is a will, you do not have the original; or it is not self-proved; or there is more than one will and the last will does not cancel the older ones.

In other words, follow the formal probate process if there is a problem with the PR or the will.

Go [here](#) for more information.

