**4B-101. Opening and closing a probate court case (Flow chart).**

OPENING AND CLOSING A PROBATE COURT CASE

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|  | TESTATE (WILL) | |  | INTESTATE (NO WILL) | |
| Step 1 | Locate Will (Original required) | |  |  | |
|  | 1. 2. 3.   4.    5. | Identify Devisees Identify Heirs  Identify County and choose whether to file in Probate Court or District Court If Decedent died more than three years ago or the original will cannot be located, the case must be filed in District Court Check for demand for notice in District Court |  | 1. 2.   3. | Identify Heirs Identify County and choose whether to file in Probate Court or District Court Check for demand for notice in District Court |
|  | *See* Rules 1B-102, 1B-301, 1B-302, 1B-305 NMRA | |  | *See* Rules 1B-102, 1B-301, 1B-302, 1B-303 NMRA | |
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| Step 2 | File an Application to Probate Will and Appoint Personal Representative (PR)  *See* Rules 1B-102, 1B-302, 1B-305, 1B-306(A)(1) NMRA and Form 4B-302 NMRA | |  | File an Application to Appoint Personal Representative (PR)   *See* Rules 1B-102, 1B-302, 1B-303, 1B-304(A)(1) NMRA and Form 4B-301 NMRA | |
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| Step 3 | Obtain Order to Informally Probate Will and Appoint PR; file an Acceptance of Appointment; have Clerk issue Letters Testamentary   *See* Rule 1B-306(A)(2)-(4) NMRA and Forms 4B-304, 4B-305, 4B-307 NMRA | |  | Obtain Order to Informally Appoint PR; file an Acceptance of Appointment; have Clerk issue Letters of Administration    *See* Rule 1B-304(A)(2)-(4) NMRA and Forms 4B-303, 4B-305, 4B-306 NMRA | |
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| Step 4 | Within 30 days of Appointment, Send Notice of Appointment, Order, and copy of Will to Devisees, Heirs, and any person who has filed a demand for notice   *See* Rules 1B-102, 1B-306(B) NMRA and Forms 4B-401, 4B-402 NMRA | |  | Within 30 days of Appointment, Send Notice of Appointment and Order to Heirs and any person who has filed a demand for notice   *See* Rules 1B-102, 1B-304(B) NMRA and Forms 4B-401, 4B-402 NMRA | |
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| Step 5 | Decide whether to Notify Creditors If Creditors will be notified, (a) send notice, (b) publish notice, OR (c) both  *See* Rules 1B-102, 1B-305, 1B-306(C) NMRA and Form 4B-501 NMRA | |  | Decide whether to Notify Creditors If Creditors will be notified, (a) send notice, (b) publish notice, OR (c) both  *See* Rules 1B-102, 1B-303, 1B-304(C) NMRA and Form 4B-501 NMRA | |
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| Step 6 | Collect/Inventory Assets of the Decedent, Value Assets (within 3 months of appointment), and Determine Debts of the Decedent  Inventory does not have to be filed with the court  *See* Rules 1B-305, 1B-306(D) NMRA and Form 4B-601 NMRA | |  | Collect/Inventory Assets of the Decedent and Value Assets (within 3 months of appointment), and Determine Debts of the Decedent  Inventory does not have to be filed with the court  *See* Rules 1B-303, 1B-304(D) NMRA and Form 4B-601 NMRA | |
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| Step 7 | Pay the Family Allowance ($30,000) and Personal Property Allowance ($15,000) if required  *See* Rules 1B-102, 1B-305, 1B-306(E) NMRA | |  | Pay the Family Allowance ($30,000) and Personal Property Allowance ($15,000) if required  *See* Rules 1B-102, 1B-303, 1B-304(E) NMRA | |
|  |  | |  |  | |
| Step 8 | Pay costs and expenses of administration  *See* Rules 1B-102, 1B-305, 1B-306(F)(1) NMRA | |  | Pay costs and expenses of administration  *See* Rules 1B-102, 1B-303, 1B-304(F)(1) NMRA | |
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| Step 9 | Pay Creditors or Dispute Claims  *See* Rules 1B-102, 1B-305, 1B-306(F)(2)-(4) NMRA | |  | Pay Creditors or Dispute Claims  *See* Rules 1B-102, 1B-303, 1B-304(F)(2)-(4) NMRA | |
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|  | If you did not deal with Creditors, you should wait a year from date of death to distribute assets, or you may owe unpaid Creditors  *See* Rule 1B-306(F)(2) NMRA | |  | If you did not deal with Creditors, you should wait a year from date of death to distribute assets, or you may owe unpaid Creditors  *See* Rule 1B-304(F)(2) NMRA | |
|  | Or | |  | Or | |
|  | If you published notice to Creditors, sent notice to known Creditors, and paid all Creditors with allowed claims, and if the time for Creditors to make their claims has elapsed, you may distribute assets  *See* Rules 1B-305, 1B-306(C)(1) NMRA | |  | If you published notice to Creditors, sent notice to known Creditors, and paid all Creditors with allowed claims, and if the time for Creditors to make their claims has elapsed, you may distribute assets  *See* Rules 1B-303, 1B-304(C)(1) NMRA | |
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| Step 10 | Prepare an Accounting of Administration, which does not have to be filed with the court, send the Accounting to Devisees and those who filed a demand for notice, and distribute remaining assets to Devisees  *See* Rules 1B-102, 1B-306(H)(1) NMRA and Form 4B-602 NMRA | |  | Prepare an Accounting of Administration, which does not have to be filed with the court, send the Accounting to Heirs and those who filed a demand for notice, and distribute remaining assets to Heirs    *See* Rules 1B-102, 1B-304(H)(1) NMRA and Form 4B-602 NMRA | |
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| Step 11 | Close probate and estate when you meet the requirements in the Verified Statement   *See* Rule 1B-306(H)(2), (3) NMRA and Forms 4B-701, 4B-702 NMRA | |  | Close probate and estate when you meet the requirements in the Verified Statement  *See* Rule 1B-304(H)(2), (3) NMRA and Forms 4B-701, 4B-702 NMRA | |

[Adopted by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]