HOW TO OPEN AN ESTATE / PROBATE AN ESTATE
(for Ritchie County Resident)

Probate is the process of appointing someone to have the legal ability to take care of and handle assets in the decedent's name only. Please call to make an appointment for any and all in office probate activities.

DEATH CERTIFICATE

To begin the probate process, a death certificate must be of record in the County Clerk's Office or provided at the time of an appointment. Please check the death certificate carefully and have any errors corrected by the State Vital Office that issued the certificate.

There are 3 options for probate in Ritchie County, all of which will require you to complete the Beneficiary/Heirs Form and the List of Assets form (both located in office and online) prior to starting an estate.

1) **WILL**

WV Code 41-5-1 says the **original will** must be presented to the County Clerk within 30 days of the death. Upon presentation of the Will and death certificate, you will need to complete or provide the Beneficiary/Heirs Form. The Beneficiary/Heirs form requires the names and addresses for each beneficiary named in the Will and all heirs-at-law, their relationship, and ages (if 17 or younger also the legal guardians information). Additional information will be required for a deceased beneficiary.

2) **SMALL ESTATE**

If the decedent was a resident of the State of West Virginia AND the value of the personal probate assets is less than $50,000 **(WV Code 44-1A-2(1) and 44-1A-2(5))**, you can complete the **Affidavit for Small Estate** and submit it to the Clerk's Office no less than 30 days (with a Will) or 60 days (without a Will) after death. Additional information may be required. (This process did change effective 07/11/2025 to disallow the use of an Affidavit for Small Estate if there is any real estate, oil, gas or mineral interest in only the decedent's name.)

3) **IF THERE IS NO WILL**

If the decedent had no Will, he/she is said to have died "intestate". Administration is granted to the someone who applies, preferring first the spouse, child, interested parties, others entitled to distributions of the estate and if no heir applies for administration, any person may be appointed, provided they can be bonded. (**WV Code 44-1-4)**

NO APPEARANCE ESTATES – Effective July 1, 2021, Senate Bill 483 made provisions for an estate to be opened and a personal representative to be appointed without a physical appearance. This method of probate can be applied to any of the above options. For this option, please contact the office to start this process.

BOND AND OATH (Fiduciary Bond)

At the time an Administrator is appointed to an intestate estate (no will), the person being appointed shall give bond and take an oath or affirmation that the deceased has left no Will and that they will faithfully perform the duties of the office to the best of his/her judgment. Bonds are REQUIRED of ALL Personal Representatives, **unless** the decedent's Will provides that the personal representative shall serve without a bond **(WV Code 44-1-6)**.

(WV Code 44-1-7) Every bond of an administrator shall be at equal to the full value of the personal assets ***in the DECEDENT'S NAME ONLY*** (and shall include but not limited to motor vehicles, boats, household goods, jewelry, tools, guns, cash, bank accounts, certificates of deposit, stocks, bonds, disability payments, average annual royalty payments, back salary due, tax refunds, insurance payable to the estate, farming equipment, livestock, rental income, etc.); and where there is a Will which authorizes the executor or administrator to sell real estate, or receive the rents, royalties and profits therefore, the bond shall be at least equal to the full value of both the personal estate and real estate. If on filing of an appraisement of the estate bond does not cover the appraised values, the Administrator shall give additional bond, and failure to do so, will be sufficient cause for the removal of the Administrator.

BONDSMAN (SURETY)

Ritchie County requires corporate surety for estate bonds. Any licensed insurance agency who does estate bonds can provide you with a bond. Locally, two who do provide estate bonds are:

- L & L Auvil Insurance Agency, LLC, (304) 869-3332; or,
- Pleasants County & Pennsboro Insurance Agency, Inc., Frank Ennis, Agent, (304) 684-7688.

The bond must be completed either before or at the same time as qualification of the personal representative. Surety protects estate assets in the event an Executor or Administrator is found to have breached their fiduciary duty.

APPOINTMENT OF FIDUCIARIES - EXECUTOR/ADMINISTRATOR

At the time an Executor / Administrator is appointed, they must provide the names, addresses, ages (if age 17 or younger) and relationships to the decedent, of each beneficiary under the Will, or if no will each legal heir of the decedent (or **their** heirs if they predecease the decedent). This information is entered on an "Affidavit of Fiduciaries" which is signed under oath by the Executor / Administrator that it is true and correct to the best of their knowledge and belief, and that they will faithfully perform their duties as Executor / Administrator to the best of their skill and judgment. This information is collected using the Beneficiary / Heirs Form.

PAYMENT: Fees are due at the time the estate is opened and/or documents filed. While each estate is different and the different methods of doing an estate vary, a full estate usually costs between $75.00 and $100.00. We accept cash, check (effective 08/01/2025 any type check), debit/credit cards, and online payments at www.ritchiecountyclerk.com . **Please note:** online payments do have a delay until the payment clears our account.

~Will - $12*
~Fiduciary - $17
~Fiduciary Bond - $12
~Letters of Administration - $2.50 each
~Publication Fee - $20 (**WV Code 44-1-14g**)
Appraisement - $12*
Affidavit of Ownership and Heirship - $12*
Annual Accounting - $12* + copy fee
Final Settlement - $12* + copy fee
Small Estate – $12* + copy fee for the number of representatives/beneficiaries/heirs

~ These costs are assessed when the estate is opened, as they pertain to the estate.

* If the document is 5 pages or less, the recording fee is as shown. If the document is more than 5 pages, the recording fee will change depending on the number of pages.

Please include contact information including a phone number, for yourself when submitting anything to our office. The helps if there are questions or something is missing at the time of filing.

The County Clerk's Office is located at 115 E Main Street, Room 201, Harrisville, WV 26362 and is open from 8:00 a.m. to 4:00 p.m., Monday through Friday. The mailing address is the same as our physical address, but please make it attention Jessica Hodges. Forms can be found online at www.ritchiecountyclerk.com. Please call Jessica Hodges at (304) 643-2164, Ext. 103 or email jhodges@clerk.state.wv.us with questions or for an appointment.