

JACKSON COUNTY WV REGULAR PROBATE STEP 1 CHECKLIST

JACKSON COUNTY FIDUCIARY SUPERVISOR OFFICE

Mailing address: PO Box 800, Ripley WV 25271

Physical address: 100 N Court St, Ripley WV 25271 (ground floor of Jackson County Courthouse)

Fax #: 304-372-2079

Website: jacksoncountyclerk.wv.com

Emails: jennifer.morrison@jacksoncountywv.com

angie.casto@jacksoncountywv.com

To schedule Appointment, please call: 304-373-2254 (appointment times generally scheduled 9:30am/11am/1:30pm/3pm)

Office hours: M-F 8:30am – 4:30pm (office closed for lunch from noon – 1pm)

REGULAR PROBATE TESTATE (WITH VALID ORIGINAL WILL)

You must complete this 3-page form (and any additional forms-as applicable) and return the form(s) to our office by mail, fax, email or in-person. All required information & documents must be submitted before an In-Person Appointment can be scheduled or *Remote Appointment forms can be sent to Fiduciary (*special note: if Co-Executors wish to serve together, in-person Appointment only is required). If any information is missing, no Appointment can begin and Step 1 cannot proceed.

NAME OF DECEASED PERSON: _____
(Please include: name as listed on death certificate, as signed on the Will, &/or as listed on deeds/tax tickets)

Information list:

___ FIDUCIARY INFORMATION: (see page 2 to complete this requirement)

___ BENEFICIARY & HEIRS-AT-LAW INFORMATION (see page 2 to complete this requirement)

___ ASSET INFORMATION (refer to website form Assets of a Decedent to complete this requirement or call for form)

___ BOND INFORMATION, IF APPLICABLE (see page 3 to complete this requirement)

Document list:

___ **DEATH CERTIFICATE:** Pending copy is acceptable for review purposes only

___ BUT IF DEATH CERTIFICATE IS FROM ANOTHER STATE, you must furnish a **CERTIFIED COPY** of an out-of-state Death Certificate at the Probate Appointment for Recording (which will NOT be returned per WV Code)

Please check the following information on the death certificate:

___ Decedent's Social Security Number is correct

___ Decedent's County of residence must show **JACKSON COUNTY** to complete probate here.

___ **ORIGINAL WILL:** must meet WV Code to be valid for probate. **Copies cannot be recorded per WV Code.**
ORIGINAL WILL cannot be returned after recording but must be kept in the office per WV Code.

___ WILL HAS 2 WITNESSES BUT NO NOTARY use website for forms: Affidavit Witness to Will

___ WILL IS HOLOGRAPHIC (All HANDwritten & signed by decedent) use website for forms: Proof of Holographic Will

___ CONSENT: if no Fiduciary listed in the Will OR all fiduciaries listed are deceased, you will need consent from the majority of beneficiaries/heirs. (Bond will likely be required for appointment). Please see website for form Beneficiary Waiver of Appointment as Personal Representative

___ **WAIVERS OF FIDUCIARY, if applicable.** If Executor/trix #1 or Co-Executor/trix is unwilling or unable to serve, a notarized Waiver must be presented for probate before Executor/trix #2 can be appointed. Please see website for form Waiver for Executor-trix

Please note that the following fees are required upon completion of Step 1 at the In-Person Appointment OR upon submission of Remote Appointment documentation.

Probate fees range from \$45 – 250+: payable to Jackson County Fiduciary Supervisor

Recording fees range from \$12 – 40+: payable to Jackson County Clerk (County fees can be paid by cash, check, money order, credit or debit—however credit or debit payment will include an additional convenience fee)

County fees are separate from the Bond fee, which is payable directly to the insurance company under their terms/policies.

JACKSON COUNTY WV REGULAR PROBATE STEP 1 CHECKLIST

COMPLETE THIS FIDUCIARY & BENEFICIARY/HEIRS-AT-LAW INFORMATION SHEET

FIDUCIARY INFORMATION

FIDUCIARY #1(Executor/trix or Co-Executor/trix)

Legal name: _____
 Home #: _____ Cell #: _____
 Email: _____
 Relationship to Decedent: _____

FIDUCIARY #2 (if Co-Executor/trix will be appointed)

Legal name: _____
 Home #: _____ Cell #: _____
 Email: _____
 Relationship to Decedent: _____

BENEFICIARY INFORMATION

<u>NAME AS LISTED IN WILL & LEGAL NAME</u>	<u>MAILING ADDRESS: PO OR STREET/CITY/STATE/ZIP</u>	<u>RELATIONSHIP TO DECEDENT</u>	<u>CHECK IF MINOR:</u>	<u>BIRTHDATE IF MINOR:</u>

(IF ADDITIONAL BENEFICIARIES, PLEASE USE A SEPARATE PAPER TO COMPLETE-FOLLOWING CHART ABOVE)

BLOODLINE/HEIRS-AT-LAW INFORMATION

WV State law dictates that before an appointment over an estate can occur, that bloodline heirs to the decedent must be shown by providing complete mailing addresses (even if it is to a last known mailing address) because any of the heirs have a right to contest the will if they choose to do so. Please see website for form [Family Tree](#) for additional examples to complete this information. The bloodline must always lead to living heirs & follows this format:

- **SURVIVING SPOUSE**: sole heir-at-law IF decedent had **NO** children born prior to the current marriage. If the decedent had children born prior to the current marriage, the children should be listed first then the spouse.
- **CHILDREN**: includes children born prior to current marriage, children born in the current marriage, and children legally adopted by the decedent. If a child predeceased the decedent & had children, you must list the grandchildren’s names and addresses to follow the bloodline to living heirs (children legally adopted & half-blood are legal heirs). If any child is a minor, please show the birthdate. Depending on the inheritance, a minor child may have to have a court-appointed Guardian for them.
- **IF NO SURVIVING SPOUSE OR CHILDREN/GRANDCHILDREN**: List mother & father if living.
- **IF BOTH PARENTS ARE PREDECEASED**: List the parents’ children (AKA decedent’s siblings—including half-siblings or siblings legally adopted by the decedent’s parents). Again, if any siblings are predeceased & had children, then you must list the niece/nephew’s name and address to follow the bloodline to living heirs.
- **IF NO SIBLINGS**: List mother’s siblings—leading to living heirs. Also list father’s siblings—leading to living heirs.

<u>Legal name</u>	<u>mailing address</u>	<u>Relation -alive or dead?</u>	<u>Minor/DOB</u>	<u>Legal name</u>	<u>Mailing address</u>	<u>Relation-alive or dead?</u>	<u>Minor/DOB</u>

(IF ADDITIONAL HEIRS-AT-LAW, PLEASE USE A SEPARATE PAPER TO COMPLETE – FOLLOWNG THIS CHART)

JACKSON COUNTY WV REGULAR PROBATE STEP 1 CHECKLIST

COMPLETE THIS BOND INFORMATION SHEET

- **IF THE WILL DOES NOT STATE THAT YOU CAN SERVE WITHOUT BOND:** You must have a bond.
- A **SURETY BOND** is a third-party guarantee that the fiduciary will fulfill their legal obligations for the estate.
- You will need to identify assets using the website form **ASSETS OF A DECEDENT** prior to completing this information sheet.
- **NO SURETY IS REQUIRED WHEN:**
 - a. The Will specifically states that the Executor/trix can serve with no surety or bond required.
 - b. The Executor/trix is also the **SOLE** beneficiary under the will.
 - c. The Fiduciary (**not** named in the Will as Executor/trix) is the **SOLE** beneficiary/heir of the estate.
 - d. The **only** probate assets are **real estate &/or mineral rights**.
- **THERE ARE 2 TYPES OF BONDS:**
 - a. **CORPORATE SURETY BOND (probate assets—excluding real estate--value over \$5,000 &/OR fiduciary is out-of-state resident)**
 1. Our office provides names of insurance companies who can assist with bond for the fiduciary.
 2. Minimum bond fee is \$100. (reimbursible by the estate after Appointment)
 3. Fiduciary completes bond application with the insurance company by phone, email or in-person.
 4. For Remote Appointment: the bond must be approved by and fee paid to insurance company before Remote Appointment forms can be sent to Fiduciary to complete and return to our office.
 5. For In-Person Appointment: the bondsperson must meet you at the scheduled In-Person Appointment (you may be required to sign the bond application at the appointment AND bond fee WILL be collected then).
 6. Bond assets valued over \$50,000 may require additional steps (including requirement of an attorney) for bond approval.
 - b. **JUSTIFICATION OF SURETY (PERSONAL) BOND (probate assets—excluding real estate—valued over \$200 but less than \$5,000)**
 1. This is a real estate/property bond. The value of the property used must assess for at least the amount of the bond. The property must be located in WV.
 2. This type of bond CANNOT be used for REMOTE APPOINTMENT OR APPOINTMENT OF OUT-OF-STATE FIDUCIARY.
 3. The Fiduciary cannot use their own property except he/she jointly owns it AND the joint owner can meet for the In-Person Appointment.
 4. If property is owned in Jackson County, the Justification of Surety can be completed at the In-Person Appointment. The information must be given to our office prior to the appointment. The joint owner/bond person must bring photo ID.
 5. If property is owned in any other WV County besides Jackson, the other party/joint owner must obtain the Justification of Surety in the County Clerk's office where property is located (ie, Kanawha, Wood, Roane etc). The joint owner/bond person must bring the Justification of Surety to the In-Person Appointment.
 6. If the Fiduciary cannot find a person for Personal Bond, he/she MUST have the Corporate Surety Bond.
 7. The property listed on the Justification of Surety will not be able to be sold, re-financed or used as collateral while estate is open (considered a Lien on the property). When the estate has closed, the bond will be released and an Order will be recorded. A copy of the recorded release/discharge of surety Order will be sent to the bond person.

Determination of bond:

1. Does the Will state that **no bond or surety is required** of the nominated Executor/trix?
YES ___ (if yes, NO BOND is required. STOP HERE)
NO ___ (if no, move to question 2)
2. Is the nominated Executor/trix ALSO the **SOLE** beneficiary under the Will?
YES ___ (if yes, NO BOND is required. STOP HERE)
NO ___ (if no, move to question 3)
3. Is the Fiduciary (not nominated in the Will) the **SOLE** beneficiary &/or heir?
YES ___ (if yes, NO BOND is required. STOP HERE)
NO ___ (if no, move to question 4)
4. Are there **PROBATE** assets such as personal property/monetary assets and total value is more than \$200?
YES ___ (if yes, BOND IS REQUIRED FOR THIS ESTATE.
(list total value here: _____ Choose Corporate Surety ___ or Justification of Surety ___)
NO ___ (if no, NO BOND is required for this estate.)