

Instructions for Summary Administration of Estate Where Surviving Spouse is the Sole Beneficiary

IMPORTANT

This procedure can only be used when someone (the decedent) died, **either** with a will and there was no personal representative named in the will and the entire estate was left to the surviving spouse, **or** there was no will and under the law the surviving spouse is entitled to the entire estate. If a personal representative was named in the will, the estate must go through probate for the court to appoint the designated person.

Summary of Steps

- Step 1: Talk to an Attorney, if Possible
- Step 2: Obtain and Complete the Required Forms
- Step 3: Make Copies and File With the Clerk
- Step 4: Schedule a hearing (if required)
- Step 5: Attend the Hearing
- Step 6: Record a certified copy of the Decree

Step 1: Talk to an Attorney, if Possible

These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. We always recommend you talk to a lawyer about your problem before filing your legal paperwork. Even if you do not hire a lawyer to represent you throughout the proceeding, a lawyer can look over your paperwork, give you advice on how to present your evidence, and tell you whether this type of action is right for you. The Idaho State Bar Lawyer Referral Service (208-334-4500) can give you the name of an attorney in your area that will provide a one-half hour consultation for \$35. There are limited free legal services available to low income people. Contact the Court Assistance Office for information about resources for low-income people. When you represent yourself in a court case, you are held to the same standard of legal knowledge as an attorney. This applies to the preparation of paperwork and your conduct at all hearings and/or at trial.

YOU WILL BE SIGNING A SWORN STATEMENT THAT YOU HAVE READ THE PETITION, KNOW THE CONTENTS AND BELIEVE THE CONTENTS TO BE TRUE. TO AVOID MAKING ANY MISSTATEMENTS, BE SURE TO READ THE ENTIRE FORM.

Step 2: Prepare and complete required forms:

You, as the surviving spouse, will need to obtain and complete the following forms:

Petition for Summary Administration of Estate Where Surviving Spouse is Sole Beneficiary

Notice of Petition and Hearing (if required)

Decree Vesting Estate in Surviving Spouse

Schedule of Property

Complete the forms listed above. All pleadings must have the name of the petitioner (who is the surviving spouse), address and phone number on the top left corner, the court district number and county name in the court caption, Fourth District for Ada County, and the decedent's name under "In the Matter of the Estate of:" Pleadings filed after the case number is assigned must have the case number in the space for the case number. All forms must be typed or printed neatly with black ink. Forms and instructions are also available online at: www.adaweb.net/cao.

A. Petition for Summary Administration of Estate Where Surviving Spouse is Sole Beneficiary

In the first sentence, enter your name in as petitioner.

Paragraph 2: Enter the name of the decedent and the date of death.

Paragraph 4: Enter the city and state where the decedent and petitioner were married and the date of the marriage.

Paragraph 5: Check letter a: if the decedent did not have a will.
Check letter b: if the decedent left a will, then check number 1 if the will is attached and type the date the will was signed. Check number 2 if there was a will, but it is now lost or destroyed, but you have a description of its contents.

Sign and date the petition in front of a notary public.

B. Notice of Petition and Hearing

In Ada County, the Judge will review your case and determine if there is going to be a hearing. If the Judge approves your case, the clerk will contact you to schedule the hearing. You may not be required to attend a hearing. Check with your local court for current procedure.

Paragraph 1: Enter the date the petition was filed and the name of the petitioner.

Paragraph 3: Enter the date and time of the hearing. Enter the street address, city and state of the courthouse. (200 W. Front Street, Boise, ID 83702 for the Ada County Courthouse) Sign and date the notice.

Proof of Mailing: Enter the county where you are signing this document. Enter the date that the notice was mailed and the city where it was placed in the mail. List the names and addresses of anyone to whom (any interested person) notice was mailed. Sign the document in front of a notary public.

C. Decree Vesting Estate in Surviving Spouse

In the spaces in the paragraph "Upon consideration", enter the petitioner's name and the date the petition was filed.

Paragraph 3: Enter the name of the decedent and the date of death.

Paragraph 5: Enter the city and state of marriage of the petitioner and the decedent and the date of marriage.

Paragraph 6: Enter the name of the surviving spouse.

Paragraph 7: Check a. if the decedent did not have a will.
Check b. if the decedent left a valid will.

In the prayer section, that starts "Therefore"

Paragraph 1: Enter the name of the petitioner.

Paragraph 2: Enter the name of the petitioner.

D. Schedule of Property

Complete the schedule of property, listing a complete inventory of the property owned by the decedent, stating the nature (community or separate) of the property. Attach the schedule of property to the petition for filing.

Step 3: Make copies and file with the clerk

Make copies of all documents for your records and additional copies for anyone that you are required to notify of the proceeding (any interested person). File the original petition with the clerk of the court along with the filing fee of \$30.

Step 4: Schedule a hearing (if required)

After the petition is filed, the judge will review it. You may not be required to attend a hearing. Check with your local court for current procedure. Only after the judge approves the case for hearing will the clerk contact you to set a date. Once you receive a hearing date, send notice of the hearing to anyone that is required to be notified (any interested person), and file the Notice of Petition and Hearing.

Step 5: Attend the hearing (if required)

On the day of the hearing, make sure you go to the correct courtroom. Dress appropriately and address the judge as "Your Honor." When your case is called, go to the table for the Plaintiff or Petitioner. The judge may ask you questions. If testimony is required, the clerk will swear you in and you will sit at the witness stand and give your testimony. If the decree is not already in the file, hand it to the judge to be signed. The judge will tell you if the decree will be granted and sign the decree.

If for some reason you cannot make your court date or if you will be late, call the judge's clerk to vacate the hearing and schedule a new court date. Notice must be given to all interested people of the rescheduled hearing.

For additional information on what to expect in court, please refer to the Guidelines for Courtroom Behavior, CAO Instruction # 12.

Step 6: Record certified copy of the decree

If the judge approves of and signs the Decree, the surviving spouse is now the owner of the decedent's entire estate and is also responsible for all debts of the decedent.

After the hearing, obtain a certified copy of the Decree Vesting Estate in Surviving Spouse and take it to the Recorder's office to be recorded.