



Berkeley County Office of Fiduciary & Probate
Berkeley County Courthouse - Administration Building
400 W. Stephen Street, Suite 107
Martinsburg, West Virginia 25401
Phone: (304) 267-3001
Fax: (304) 267-7830
www.berkeleywv.org

PROBATE CHECKLIST REQUIREMENTS NO WILL
West Virginia Code Chapter 44

Apply in person with valid Photo ID no later than 4:00 PM
Immediate appointment of an Administrator/ix is not possible in every situation.

State issued (WV Code 44-1-30) Death Certificate showing decedent's Berkeley County residence address, marital status and social security number.

A surviving spouse is first entitled to apply for appointment as Administrator /ix.

If no spouse survives and there are multiple heirs and **thirty (30) days have not passed since death the signed, notarized consent from all other heirs is required (blank waiver form to copy is attached). IF there are minor heirs the surviving parent/legal guardian is authorized to act on their behalf. **(After thirty (30) days, consent is not required).

Complete Page 4 - **Name, Address and Relation to decedent of each heir at law.

**To determine the legal heir(s) first see Page 2 West Virginia Intestate Succession Law chart.

Complete Page 3 - Estimate of the Probate Estate (to the best of your knowledge).

IF APPLICANT IS NOT SOLE HEIR:

Surety Bond required (person/ins.co. who agrees to be responsible for another's conduct).

If applicant is a West Virginia Resident there are two (2) options for posting bond:

1. Bring **another person willing to sign your bond that resides in and has title to Real Estate located in WV for sufficient time as to allow the real property to appear in their name upon County Tax Records.
**First, your bond person must go to the County Clerk's Office (Berkeley County Clerk's Office is in the Historic Courthouse at 100 W. King St in Martinsburg) and request a "Justification of Surety" Form (cost \$2.50), then, they must accompany you to this office.
2. Apply to purchase a corporate surety bond from a WV licensed insurance agent.

Non-Resident applicants are required to apply for corporate surety (additional cost). Appointment and Filing Fee (See Page 5) - range \$41.00- \$191.00 +

DISTRIBUTION OF ASSETS THROUGH THE WEST VIRGINIA INTESTATE SUCCESSION LAW (Effective 7-9-93)

If you have no will and are survived by:

SPOUSE	DESCENDANTS OF DECEDENT AND SURVIVING SPOUSE	DESCENDANTS OF DECEDENT AND PRE-DECEASED SPOUSE	DESCENDANTS OF DECEDENT AND PRIOR RELATIONSHIP	DESCENDANTS OF SURVIVING SPOUSE AND PRIOR RELATIONSHIP	PARENTS	DESCENDANTS OF PARENTS	GRANDPARENTS OF DESCENDANTS	Your Assets will be distributed as follows:
X								100% Surviving Spouse
X	X							100% Surviving Spouse
X					X			100% Surviving Spouse
X				X	X			100% Surviving Spouse
X	X			X				60% Surviving Spouse 40% Descendants of Decedent, by Representation** 0% to Descendants of Surviving Spouse
X			X					50% to Surviving Spouse 50% to Descendants of Decedent, by Representation**
X	X		X					50% to Surviving Spouse 50% to all Descendants of Decedent, by Representation**
X	X				X			100% Surviving Spouse
X	X		X	X	X			50% Surviving Spouse 50% to all Descendants of Decedent, by Representation** 0% to Parents
		X						100% to Descendants of decedent, by Representation**
		X	X					100% to all Descendants of Decedent, by Representation**
					X			100% to Parents ***
						X		100% to Descendants of Parents, by Representation**
							X	50% to Surviving Maternal Grandparents, or Descendants of Maternal Grandparents by Representation** if neither Maternal Grandparent survives. 50% to Surviving Paternal Grandparents, or Descendants of Paternal Grandparents by Representation** if neither Paternal Grandparent survives. 100% to Surviving Set of Grandparents by Representation** if either set of Grandparents, and all Descendants thereof, are deceased.

Notes:

- Dower is abolished.
- Transfers by an individual who dies intestate will be treated as an advancement only if declared in a contemporaneous writing.
- Relatives of half-blood inherit the same shares as if they were whole-blood.
- An individual who fails to survive the decedent by 120 hours is deemed to have predeceased the decedent.

** First Generation Descendants of Decedent would share equally in Estate. If Decedent is predeceased by one or more First Generation Descendants, their share(s) are combined and then divided equally among the Second Generation Descendants.
If the Maternal Grandparents and the Paternal Grandparents are all deceased and leave no surviving Descendants, the entire Estate passes to the State of West Virginia.

*** Equally if both survive, or 100% to the Surviving Parent.

** Probate Assets		Estimated Value (If None, Enter 0)
Tangible personal property owned SOLELY BY and titled SOLELY in the name of the decedent (furnishings, jewelry firearms, tools, antiques, etc. & vehicles/mobile homes including those titled in the name of the deceased "and" another in which case decedent owns a "fractional" interest (1/2, 1/3 etc.)		\$
Bank accounts, CD's, bonds, stocks, treasury notes, securities, accounts receivable, etc. titled SOLELY in the name of decedent (NO survivor /beneficiary listed) including any titled in their name "and" another person(s) in which case decedent owns a "fractional" interest (1/2, 1/3, etc.)		\$
** Real estate titled SOLELY in the decedent's name (NO survivorship/life int/TOD) and any in which decedent owns a "fractional" interest (1/2, 1/3, etc.		\$
All other assets not mentioned including insurance and monies expected to be paid to the estate.		\$
ESTIMATE of the TOTAL PROBATE ESTATE	=	\$
** SUBTRACT real estate estimate (if any)	-	\$
Estimate of PROBATE PERSONAL ESTATE - TOTAL:	=	\$

** IF bond required and there are NO probate assets a MINIMUM \$100.00 bond is entered. ALL bonds are subject to adjustment based on content of submitted inventory and appraisalment.

IF NO probate assets and NO real estate enter the reason Letters of Administration have been requested (example: obtain medical records; civil action pending, etc.).

REASON: _____

Submitted by: _____ Date: _____ Fiduciary Staff Initial: _____
 Signature

Name:	Address:	Relationship to Decedent:	If a MINOR Check Box:	If a MINOR Enter The Date of Birth:

Name of Estate: _____

APPOINTMENT & RECORDING FEES

Payable to the "Berkeley County Clerk"

Your **FIRST TWO** administrative costs are combined and due at the time of your appointment. Payment accepted in the form of check, money order or cash only.

A. APPOINTMENT Fee (*WV Code 44-3A-42*)

<i>GROSS</i> estate (<i>includes JOINT/ non-probate assets</i>)	REQUIRED FEE
Estate up to \$10,000	\$25.00
Estates over \$10,000 but not exceeding \$50,000	\$100.00
All estates over \$50,000	\$175.00
Testamentary Trustee/Guardian/Misc.	\$25.00

B. *RECORDING Fee (*WV Code 59-1-10 & SA-8-15*)

Will/Codicils	\$12.00**
Executor/ Administrator Application/ Affidavit & Oath	\$17.00**
Testamentary Trustee/Guardian/Misc.	\$12.00**

** If documents **EXCEED** five (5) pages the recording fee is increased.

Cost of corporate surety bond is additional.

All costs of administration are **reimbursable** as **probate** funds may be available.

NOMINATION & WAIVER OF APPOINTMENT OF FIDUCIARY

To the County Council of Berkeley County, West Virginia, the Fiduciary Supervisor thereof:

I, _____ a _____
Printed Name of Affiant *Relation to Decedent*
of _____ deceased, who died on the _____
Printed Name of Decedent
day of _____, _____ hereby waive my right to qualify as _____
of his/her Estate and nominate and ask you to appoint _____
Print Name
as _____.

Given under my hand this _____ day of _____, _____

Signature of Affiant

State of _____,

County of _____, to wit:

I, _____ a Notary Public in and for the State and County aforesaid

do certify that _____ whose name is signed to the writing above has this
Printed Name of Affiant

day acknowledged the same before me in my said County and State.

Given under my hand this _____ day of _____, _____.

Affix Notarial Seal

Notary Public

My Commission expires: _____