

MEMO

Chancery Court
J. Scott Griswold, Clerk and Master
City-County Building
400 Main Street
Knoxville, Tennessee 37902



From: J. Scott Griswold, Clerk and Master
Re: Procedure to Open Probate Estate
Date: July 7, 2023
No. External_04

This memorandum outlines the general steps necessary to open a probate estate in the Probate Division of the Knox County Chancery Court.

Legal Advice

Pursuant to Tennessee law and Local Rule of Practice 23, deputy clerks in the Chancery and Probate Divisions are “forbidden from interpreting any rules of procedure or giving any legal advice. Notice is hereby given to all persons that Court personnel assume no responsibility for any misinformation regarding substantive law, procedural rules, local rules or local customs.”

The Probate Division does not require you to be represented by an attorney when administering a probate estate. However, we encourage you to consult with an attorney because even the simplest estates can encounter complex legal issues. Only attorneys licensed in Tennessee can provide you with legal advice. Court clerks are not attorneys and, consequently, Tennessee law prohibits them from giving legal advice. This includes advising you what type of probate estate is best for your situation or answering questions about assets or debts. Nor can court clerks assist you with completing documents. If you have questions about Tennessee’s probate laws or how they may apply to your situation, we recommend that you consult with an attorney. Tennessee’s probate laws may be found in Titles 30, 31, and 32 of the Tennessee Code Annotated, which are available for free on the website. Hyperlink provided: [Tennessee Code Unannotated – Free Public Access | Main Page \(lexis.com\)](#). You can also scan the QR code provided at the end of this memo to access the website.

Information and Fees Required to Open Probate Estates

Persons who represent themselves are held to the same legal standards as attorneys. Ignorance of the law is no excuse and failure to follow Tennessee law or court rules, may subject a person to sanctions.

Tennessee law requires you to provide certain information to the Probate Division to open a probate estate. These requirements can be found in Tennessee Code Annotated § 30-1-117 (“Tenn. Code Ann. §”). The Probate Division provides forms to assist you in opening a probate estate. These forms are designed to gather the required information. We strongly encourage you to use our forms, which are available for free on our website. Hyperlink provided: [Chancery - Forms - Knox County Court Systems - Knox County Tennessee Government](#). You can also scan the QR code provided at the end of this memo to access the website. If you have any difficulty accessing our website, you may contact the Probate Division and request the forms via email. If you do not have access to the internet, you may obtain free copies from the Probate Division by contacting the office at (865) 215-2389.

The forms are not intended to be used to engage in the unauthorized practice of law. The Probate Division assumes no responsibility and accepts no liability or actions taken by the users of these documents, including reliance on their contents. All files are under continual revision. If you are not using these forms immediately, or if you plan to use them repeatedly, we strongly recommend that you contact the Probate Division regularly to determine whether the forms you are using have been updated.

You must complete all forms thoroughly and accurately. If a question is not applicable, then please indicate with “N/A”. If you are missing information, such as addresses or names, then your petition is not ready to file.

If the decedent died with a Will¹, you should file the following forms and documents found in a packet titled “Petition for Letters Testamentary With Will”. The packet you prepare should include the following:

- Original or Copy of the Death Certificate
- Petition for Letters Testamentary With Will
- Original Last Will and Testament and all original codicils (if any)
- Affidavit of Subscribing Witnesses (typically this is attached to the Will/Codicil) or, if the Will is a Holographic Will², then affidavits from two witnesses proving decedent’s handwriting and signatures
- Statement of Personal Representative
- Oath of Personal Representative
- Rule 10 Certification
- Cost Bond
- Executor’s bond in the face amount of the value of the probate assets (unless waived)

A checklist is provided at the end of this memo for your use.

¹ A filing that includes a Will is called a “testate” estate.

² Holographic Will is a handwritten will. No witness to a Holographic Will is necessary, but the signature and all its material provisions must be in the handwriting of the decedent and the decedent’s handwriting must be proved by two (2) witnesses.

If the decedent died without a Will³, then you should file the following forms and documents found in a packet titled “Petition for Letters of Administration Without Will”. The packet you prepare should include the following:

- Original or Copy of the Death Certificate
- Petition for Letters of Administration Without Will
- Statement of Personal Representative
- Oath of Personal Representative
- Rule 10 Certification
- Cost Bond
- Administrator’s bond in the face amount of the value of the probate assets (unless waived)

A checklist is provided at the end of this memo for your use.

Filing Fees

In addition to completing the correct forms, you must also pay a nonrefundable filing fee to open a probate estate. The full fee schedule is available on the Knox County Chancery Court, Probate Division website. Hyperlink provided: [Chancery - Fee Schedules - Knox County Court Systems - Knox County Tennessee Government](#). You can also scan the QR code provided at the end of this memo to access the website. The filing fee for opening a probate estate is \$345.00. This payment can be made by cash, check, or credit/debit card. If paying by check, make payable to Knox County Chancery Court Probate Division. The filing fee includes five (5) Letters Testamentary or Letters of Administration. Additional letters are \$5.00 each. Bring payment for this fee to your New Estate Review Hearing.

Publication Fees

If your petition is filed before the first anniversary of the decedent’s death, then there is an additional cost of \$40.00 for a Creditor’s Notice to be published with the Knoxville Focus. We will prepare the Creditor’s Notice and cause it to be published on your behalf; however, this payment must be made separately from the filing fee and can be made by cash, check, or money order. If paying by check or money order, make payable to Knoxville Focus. Bring payment for this fee to your New Estate Review Hearing.

Personal Representative Bond, Inventory, and Periodic Accountings

Tennessee law requires personal representatives of probate estates to post a personal representative bond and file an inventory and periodic accountings with the Probate Division. Under some circumstances, however, Tennessee law waives these requirements. *See* Tenn. Code Ann. §§ 30-1-201, 30-2-301, & 30-2601.

³ A filing that does not include a Will is called an “intestate” estate and distribution is controlled by Tennessee’s laws of intestate succession.

A personal representative bond is different than a cost bond. A personal representative bond is waived if (1) the decedent excused the personal representative bond requirement in the Will; (2) the personal representative and the sole beneficiary/heir-at-law are the same person; (3) all beneficiaries/heirs-at-law consent, in writing, to the personal representative serving without bond; or (4) the personal representative is a bank.

If a personal representative bond is not waived, then you must purchase one in the amount equal to the fair market value of the assets to be administered and file the original bond with the Probate Division before the Probate Division will issue Letters Testamentary or Letters of Administration. Alternatively, two (2) or more individuals who are residents of Tennessee and have sufficient assets to cover the bond amount may stand as sureties. The Probate Division cannot endorse surety companies.

Inventory is waived if (1) the decedent excused the inventory requirement in the Will; or (2) all residuary beneficiaries/heirs-at-law excuse the inventory requirement in writing.

Periodic accountings are waived if (1) the decedent excused the periodic accounting requirement in the Will; or (2) all residuary beneficiaries/heirs-at-law excuse the periodic accounting requirement in writing.

Form waivers of bond, inventory, and accounting are available on the Probate Division's website or you may obtain forms from the Probate Division in person. Hyperlink provided: [Chancery - Forms - Knox County Court Systems - Knox County Tennessee Government](#). You can also scan the QR code provided at the end of this memo to access the website.

Personal Representatives

Tennessee law specifies who can serve as the personal representative of a probate estate. Who serves can vary greatly depending on the circumstances. However, Tennessee law prohibits persons convicted of a felony from serving as personal representative. In addition, if the personal representative does not reside in Tennessee, then he or she must first complete and file an "Agent Appointment by Nonresident Fiduciary" form (SS4512) with the Tennessee Secretary of State. You **MUST** follow the instructions on the Tennessee Secretary of State website for the filing of the form. Once the Tennessee Secretary of State returns the acknowledged form to you, you will then file the acknowledged form with the Probate Division. This form may be found on the Tennessee Secretary of State's website. Hyperlink provided: [What must a Nonresident Fiduciary file with the Tennessee Secretary of State? | Tennessee Secretary of State \(tn.gov\)](#). You can also scan the QR code provided at the end of this memo to access the form.

New Estate Review Hearings

The Clerk and Master conducts New Estate Review Hearings to open estates. Persons who are not represented by an attorney can schedule a New Estate Review Hearing once they have completed all the forms noted above. Please take note that a notarized signature is required on several forms in the packet. If you are unable to locate a notary public before your scheduled New Estate Review

Hearing, you may sign when you arrive for your New Estate Review Hearing, at which time a court clerk can verify your signature. To schedule a New Estate Review Hearing, please call the Probate Division at (865) 215-2389.

You MUST arrive thirty (30) minutes before your New Estate Review Hearing. Our court clerks need time to issue your docket number, file stamp your pleadings, and process your payment. Please consider the time you need to find parking and travel to the City County Building and to the Probate Division. Only the persons seeking appointment as personal representative are required to attend the New Estate Review Hearing. If you bring others with you, they may have to wait outside of the courtroom or Probate Division, as seating is limited. The use of cell phones is prohibited in the courtroom.

The New Estate Review Hearings are informal and generally last 15-20 minutes. Either the Clerk and Master (or, if necessary, a court clerk) will review your forms with you to ensure statutory compliance. We will also provide you with basic instructions on the administration. We will not, however, provide you with any legal advice.

If your forms are correct, the Probate Division will prepare a court order opening the estate, admitting the Will (if a testate estate), and appoint a personal representative. The Probate Division will mail a copy of the order and your Letters Testamentary or Letters of Administration to the address provided in your petition. **If your address changes, you must notify the Probate Division immediately.** If your forms are incomplete or inaccurate, then the Clerk and Master or Probate Clerk will tell you what information is needed. If the forms are incomplete or inaccurate, then your New Estate Review Hearing may be rescheduled. If information is missing, or you must complete additional steps to open the estate, then your petition will be placed on hold until you correct any issues.

**HELPFUL INFORMATION REGARDING PARKING, DIRECTIONS, AND ADA
ACCOMADATIONS FOR KNOX COUNTY PROBATE DIVISION**

If you require ADA accommodations, please visit the Knox County website to request assistance. Hyperlink provided: [The Americans With Disabilities Act \(ADA\) - Knox County Tennessee](#) You can also scan the QR code provided at the end of this memo to access the site. If you are unable to access the website, please contact Judicial ADA Coordinator at (865) 215-4437 or Elizabeth.golem@knoxcounty.org

Knox County Chancery Court, Probate Division is in the City County Building located at 400 Main Street, 3rd Floor, Suite 352, Knoxville, TN 37902. Available public parking is typically found in parking garages, parking lots, or curbside. Most parking is charged at a hourly or daily rate.

A convenient parking garage to the City County Building is the Dwight Kessel Garage, directions are as follows:

From West (Nashville)

- Take I-40 W into downtown Knoxville.
- Take exit 388. Merge onto Henley Street.
- At the 4th stoplight, take a left onto Main Street.
- At the 3rd stoplight, take a right onto Gay Street.
- At the 1st stoplight, take a left onto Hill Street.
- Take the first left onto State Street. The entrance to the garage is on the right.

From East (Asheville)

- Take I-40 E into Knoxville.
- Take exit 389 staying in the two left lanes so you can follow James White Parkway.
- Take exit 388A onto James White Parkway.
- Take the second exit onto Summit Hill Drive.
- At the 1st stoplight, take a left onto Gay Street.
- At the 2nd stoplight, take a left onto Hill Street.
- Take the first left onto State Street. The entrance to the garage is on the right.

From North (Lexington)

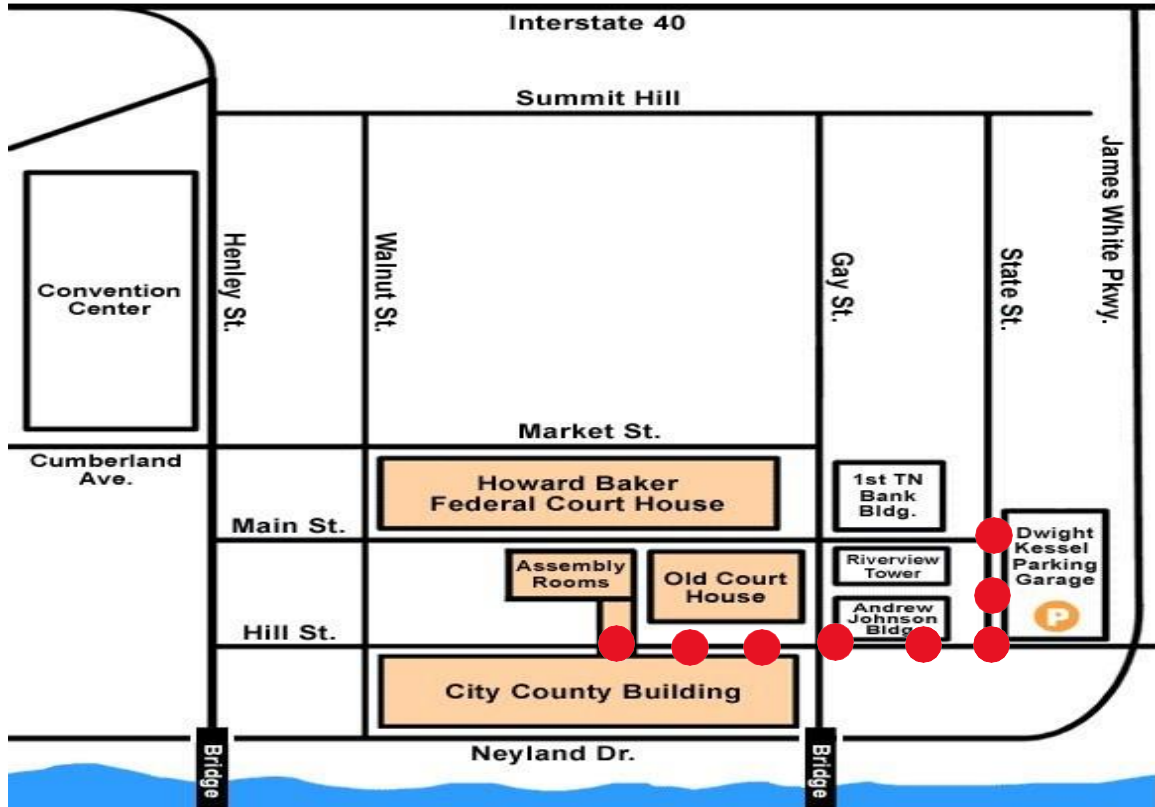
- Take I-75 S into Knoxville. Continue onto I-275 S.
- Keep right at the fork following signs for US-441 S / Henley Street.
- Merge onto US-441 S / Henley Street.
- At the 4th stoplight, take a left onto Main Street.
- At the 3rd stoplight, take a right onto Gay Street.
- At the 1st stoplight, take a left onto Hill Street.
- Take the first left onto State Street. The entrance to the garage is on the right.

From South (Chattanooga)

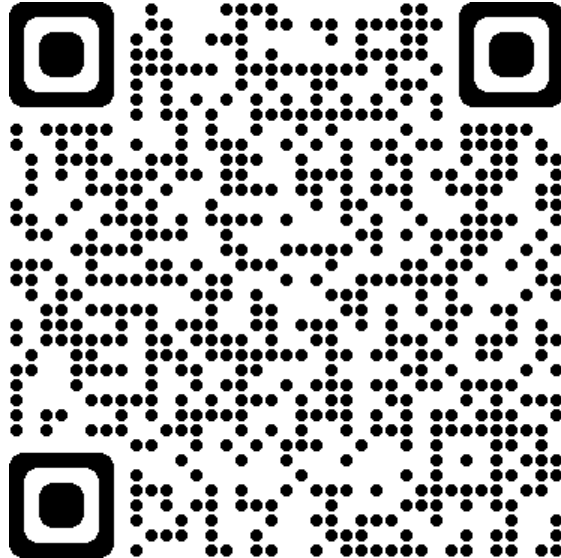
- Take I-75 N.
- Merge with I-40 E.
- Take exit 388. Merge onto Henley Street.
- At the 4th stoplight, take a left onto Main Street.
- At the 3rd stoplight, take a right onto Gay Street.
- At the 1st stoplight, take a left onto Hill Street.
- Take the first left onto State Street. The entrance to the garage is on the right.

Walking from the Dwight Kessel Garage to the City-County Building and to the Probate Division

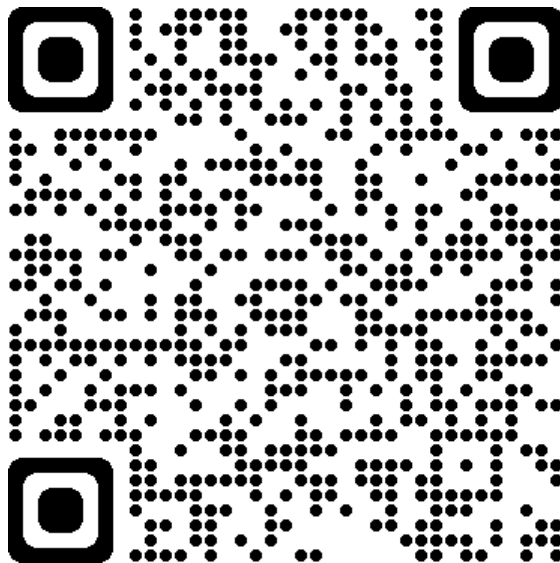
- Walk out of the garage and turn left towards Hill Street. You will see an old red brick building and the river straight ahead.
- Take a right onto Hill Street.
- Cross Gay Street and continue for half a block. The entrance will be on your left at the end of cross walk.
- After you go through security (this might take some added time), take a left. The central elevators will be on your left.
- Go to the third floor by clicking the "3" button on the elevator.
- When exiting the elevator, walk towards the river view. Probate Division has double doors that are to the right, Suite 352



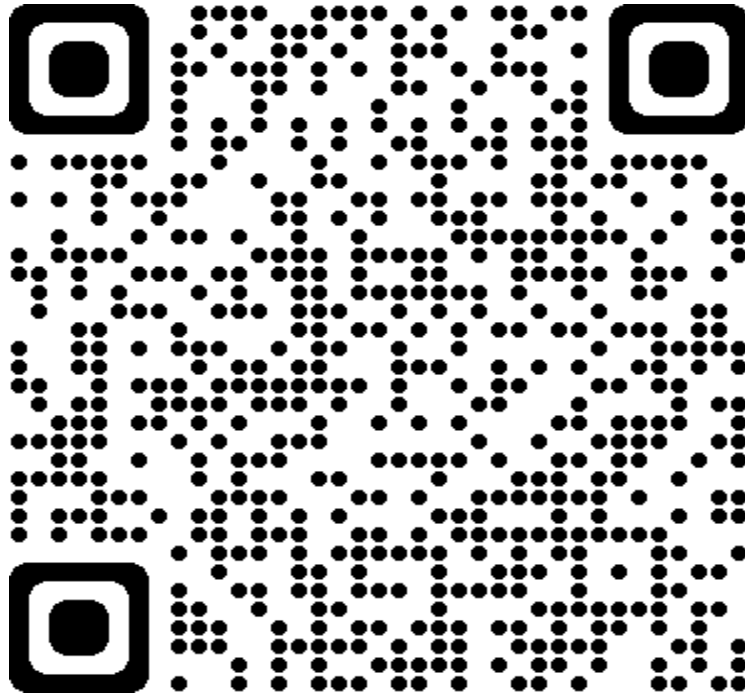
QR Code to access the “Agent Appointment by Nonresident Fiduciary” form (SS4512) with the Tennessee Secretary of State.



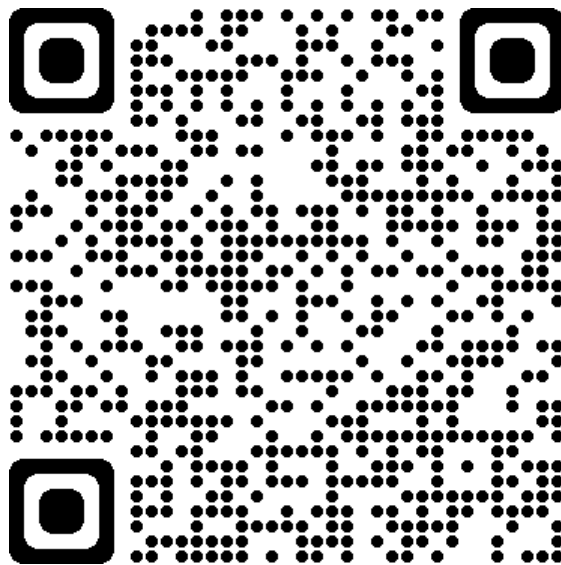
QR Code to access the Knox County website for ADA Accommodations



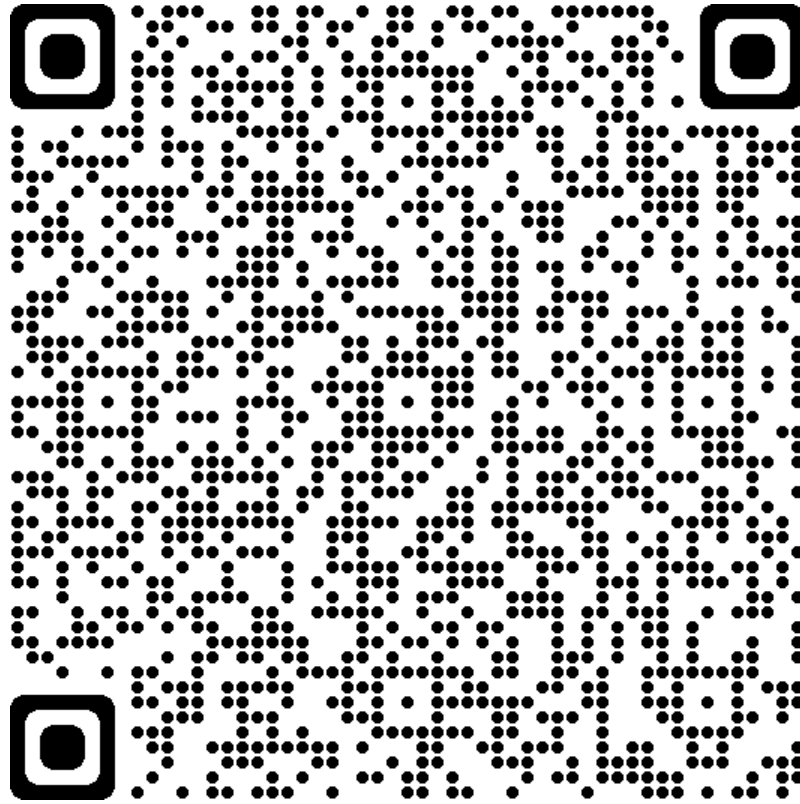
QR Code to access the Knox County Chancery Court Probate Division forms



QR Code to access the Knox County Chancery Court and Probate Division Fee Schedule



QR Code to free public access of the TN Courts website and T.C.A. information



CHECKLIST
WITH A WILL

- Original or Copy of the Death Certificate
- Petition for Letters Testamentary with a Will
- Original Last Will and Testament and all original codicils (if any)
- Affidavit of Subscribing Witnesses (typically this is attached to the Will/Codicil) or, if the Will is Holographic Will, then affidavits from two witnesses proving decedent's handwriting and signatures
- Statement of Personal Representative
- Oath of Personal Representative
- Rule 10 Certification
- Cost Bond
- Personal representative bond in the face amount of the value of the probate assets (unless waived)
- \$345.00 filing fee
- \$40.00 Knoxville Focus publication fee (if applicable)
- Schedule a New Estate Review Hearing Date: _____ and Time: _____ *you must arrive 30-minutes early

CHECKLIST
WITHOUT A WILL

- Original or Copy of the Death Certificate
- Petition for Letters of Administration Without a Will
- Statement of Personal Representative
- Oath of Personal Representative
- Rule 10 Certification
- Cost Bond
- Personal Representative's bond in the face amount of the value of the probate assets (unless waived)
- \$345.00 filing fee
- \$40.00 Knoxville Focus publication fee (if applicable)
- Schedule a New Estate Review Hearing Date: _____ and Time: _____ *you must arrive 30-minutes early

Each of the following persons would have been a beneficiary of the decedent but each of them failed to survive the decedent:

Each of the following persons named above is a minor or under a disability (incompetent):

Wherefore, the undersigned petitioner (s), after being duly sworn according to law, each under oath pray and state as follows:

- 1) That I (we) be appointed administrator(s) of this estate and proper estate letters issue: 2) That the contents of this petition, all of which is familiar to me, are true to the best of my knowledge, information and belief; and 3) That I hereby acknowledge myself as surety for all costs of this cause.

Dated: _____

PETITIONER

CO-PETITIONER

CO-PETITIONER

CO-PETITIONER

Sworn to and subscribed before me this _____ day of _____, 20____.

DEPUTY CLERK

FOR OFFICE USE ONLY:

| | |
|-------------------------|---|
| Class _____ | Bond Waived by Form _____ |
| Publication _____ | Inventory/Settlement Waived by Form _____ |
| Number of Letters _____ | Make of Bond _____ |
| Copy Charges _____ | Bond Amount \$ _____ |
| SS# _____ | |
| Sureties: _____ | |
| _____ | |

**CHANCERY COURT KNOX COUNTY, TENNESSEE
PROBATE DIVISION**

DOCKET #: _____

IN RE:
ESTATE OF: _____, Deceased

Statement of Proposed Personal Representative

I, _____, am the Petitioner seeking to be appointed Personal Representative of the above Estate and I make the following statements under my oath or penalty of perjury to provide the information required by T.C.A. § 30-1-117(a)(10)(2019) as follows:

- 1) My full name and age: _____
- 2) My mailing address: _____
- 3) My relationship to the above decedent: _____
- 4) My statement of any felony or misdemeanor convictions: _____
- 5) My statement of any sentence of imprisonment in a penitentiary: _____
- 6) A statement identifying if the decedent was the owner of or had a controlling interest in any ongoing business or economic enterprise that is or may be part of the estate to be administered, and, if so, the names and addresses of all such ongoing business or economic enterprises. T.C.A. § 30-1-117(a)(11)(2022).

Check one: _____ SIGNED UNDER PENALTY OF PERJURY

_____ SIGNED UNDER MY OATH

This the _____ day of _____, 20_____.

Personal Representative

State of: _____

County of : _____

Personally appeared before me, the undersigned Notary Public for the above referenced county and state, the above Personal Representative, who has proved to me on the basis of satisfactory evidence of who he or she is and who acknowledged that he or she executed the within instrument for the purposes therein contained.

Witness my hand and official seal, on this the _____ day of _____, 20_____.

Notary Public or Deputy Clerk

My Commission Expires:

**CHANCERY COURT KNOX COUNTY, TENNESSEE
PROBATE DIVISION**

DOCKET #: _____

IN RE:
ESTATE OF: _____, Deceased

OATH OF PERSONAL REPRESENTATIVE

Pursuant to the provisions of Tennessee Code Annotated 30-1-111 and 30-1-117,

I, _____, Personal Representative of the above Estate, being duly sworn, make oath that I will fully perform all of the requirements and duties imposed upon me by law and will faithfully perform my duties as Personal Representative of the above Estate, until such time as I am released from all further duties and responsibilities. I further state that I am not disqualified from serving because of having been sentenced to imprisonment in a penitentiary as set forth in § 40-20-115 or otherwise as provided in my Petition for Estate Letters.

Witness my signature the _____ day of _____, 20____.

Check one: _____ SIGNED UNDER PENALTY OF PERJURY

_____ SIGNED UNDER MY OATH.

This the _____ day of _____, 20____.

Personal Representative

State of _____

County of _____

Personally appeared before me, the undersigned Notary Public for the above referenced county and state, the above Personal Representative, who has proved to me on the basis of satisfactory evidence of who he or she is and who acknowledged that he or she executed the within instrument for the purposes therein contained.

Witness my hand and official seal, on this the _____ day of _____, 20____.

Notary Public or Deputy Clerk

My Commission Expires:

IN THE CHANCERY COURT FOR KNOX COUNTY, TENNESSEE

COST BOND

Docket No. _____

In re Estate of _____, Deceased

I (We) _____, as Principal(s), and

_____ as Surety, are held and firmly bound unto the Clerk and Master of Knox County Chancery Court for the payment of all court costs awarded against Principal(s). To that end, we bind ourselves, our heirs, executors, and administrators.

The Principal(s) is/are commencing legal proceedings in the Chancery Division or Probate Division of Knox County Chancery Court. If the Principal(s) shall pay all costs adjudged against them, then this obligation is void. If the Principal(s) fail to pay such costs, then the Surety shall undertake to pay all costs adjudged against the Principals(s). Tenn. Code Ann. § 20-12-120 *et seq.*

PRINCIPAL(S):

| | |
|--------------------------|--------------------------|
| (PRINT OR TYPE NAME) | (PRINT OR TYPE NAME) |
| (STREET ADDRESS) | (STREET ADDRESS) |
| (CITY, STATE, ZIP CODE) | (CITY, STATE, ZIP CODE) |
| (EMPLOYER) | (EMPLOYER) |
| (EMPLOYER ADDRESS) | (EMPLOYER ADDRESS) |
| (SIGNATURE OF PRINCIPAL) | (SIGNATURE OF PRINCIPAL) |

SURETY:

| | |
|-----------------------|-------------------------|
| (PRINT OR TYPE NAME) | (STREET ADDRESS) |
| (SIGNATURE OF SURETY) | (CITY, STATE, ZIP CODE) |