

Petition to Probate Will in Common Form

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used when filing a petition to probate will in common from pursuant to O.C.G.A. §53-5-16 et seq.
2. This form should not be used in connection with a petition to probate a copy of a will in lieu of a lost original without checking with the court in which the petition will be filed.
3. This form should not be used to file a combination petition to probate will and for letters of administration with the will annexed (see Petition to Probate Will in Solemn Form and For Letters of Administration with Will Annexed).

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

IN THE PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) PETITION TO PROBATE WILL IN
DECEASED) COMMON FORM

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____ whose mailing address is/are _____, shows:

1.

On _____, 20_____, _____
First Middle Last Name

whose place of domicile was _____
Street City County State

departed this life owning property in Georgia.

2.

While alive, the decedent duly made and published a Last Will and Testament dated _____ which is offered for probate in Common Form. Your petitioner(s) is/are named as the Executor(s).

3.

Listed below are all of decedent's heirs, with the age or majority status, address, and relationship to the decedent set opposite the name of each:

Name	Age (Or over 18)	Address	Relationship

(initial if applicable)

_____ At the time of the decedent's death, and at this time, the decedent left/leaves (a) minor child(ren), and the Will names a Testamentary Guardian and/or Testamentary Conservator.

_____ a. (initial if applicable). The Will names a Testamentary Guardian of (a) minor child(ren) of the decedent. At the time of the decedent' death, he/she had (a) minor child(ren) and there are no living parents; the following individual(s) is/are named as Testamentary Guardian in the decedent's Will:

Name	Address
_____	_____
_____	_____
_____	_____

_____ b. (initial if applicable). The Will names a Testamentary Conservator of (a) minor child(ren) of the decedent. At the time of the decedent's death, he/she had (a) minor child(ren) and there is/are no court-appointed Conservator(s); the following individual(s) is/are named as Testamentary Conservator(s) in the decedent's Will:

Name	Address
_____	_____
_____	_____
_____	_____

_____ c. (initial as applicable). The Will names a Testamentary Conservator of (a) minor child(ren) of the decedent. At the time of the decedent's death, he/she had (a) minor child(ren) and there is/are a court-appointed Conservator(s), who is/are identified as follows:

Name	Address
_____	_____
_____	_____
_____	_____

5.

Additional Data: Where full particulars are lacking, state here the reasons for any such omission. If any persons listed above as heirs are cousins, grandchildren, nephews or nieces of the decedent, please list the deceased ancestor through whom they are related to the decedent. If any executor nominated in the will has a priority equal to or higher than the propounder but will not qualify, indicate the name and reasons.

6.

To the knowledge of the petitioner(s), no other proceedings with respect to this estate are pending, or have been completed, in any other probate court in this state.

WHEREFORE, petitioner(s) pray(s)

1. leave to prove said Will in Common Form,
2. that it be admitted to record on proper proof,
3. that Letters of Testamentary Guardianship and/or Letters of Testamentary Conservatorship issue, if applicable,
4. that Letters Testamentary issue, and
5. that this Court order such other relief as may be proper under the circumstances.

Signature of first petitioner

Signature of second petitioner if any

Printed Name

Printed Name

Address

Address

Phone Number

Phone Number

Signature of Attorney: _____

Typed/printed name of Attorney: _____

Address: _____

Telephone: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

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

First Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

Second Petitioner, if any

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

**TESTAMENTARY GUARDIAN AND/OR TESTAMENTARY CONSERVATOR
CONSENT TO SERVE**

GEORGIA, _____ COUNTY

IN RE: PETITION OF _____ TO PROBATE

THE WILL OF _____,
DECEASED, IN SOLEMN FORM

I/We, the undersigned, being 18 years of age or older, laboring under no legal disability and being named as Testamentary Guardian(s) and/or Testamentary Conservator(s), hereby consent to serve. I understand that once appointed, I will have the same rights, powers, and duties as set forth in O.C.G.A. §29-2-4 and 29-3-5.

SIGNATURE

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

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

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

NOTARY/CLERK OF PROBATE COURT
My Commission Expires _____

Printed Name

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
_____,) PETITION TO PROBATE WILL IN
DECEASED) COMMON FORM

ORDER

It has been shown to the Court in the matter of the Last Will and Testament of _____, deceased, propounded by _____, named as Executor(s), that the said decedent died domiciled in said County; and that the said Will has been (self-proved) (proved by a witness) to be the Last Will and Testament of said decedent as alleged by the propounder.

IT IS, THEREFORE, ORDERED by this Court that said Will be established as the Last Will and Testament of _____, that the same be admitted to record as proved in Common Form, that the Executor(s) has/have leave to qualify as such by taking the required oath, and upon so doing, that Letters Testamentary be issued.

IT IS FURTHER ORDERED that the Executor(s), after payment of all debts, shall disburse property according to the terms of the Will and shall maintain all records of income and disbursements until they are discharged.

IT IS FURTHER ORDERED that the deputy clerk/clerk shall serve the Executor(s) with a copy of this Order by first class mail and shall file a certificate of service showing such service.

(initial if applicable)

_____ IT IS FURTHER ORDERED that Letters of Testamentary Guardianship and/or Conservatorship shall issue to the individuals so designated in said Will.

SO ORDERED this _____ day of _____, 20 _____.

Probate Judge

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN RE: ESTATE OF _____) ESTATE NO. _____
)
)
DECEASED _____,) PETITION TO PROBATE WILL IN
) COMMON FORM

OATH

I do solemnly swear (or affirm) that this writing contains the true Last Will and Testament of _____, deceased, so far as I know or believe, and that I will well and truly execute the same in accordance with the laws of Georgia. So help me God.

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

_____)
Executor

_____)
CLERK OF PROBATE COURT Printed Name

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

_____)
Executor

_____)
CLERK OF PROBATE COURT Printed Name

STATE OF GEORGIA

COUNTY OF _____

ESTATE NO. _____

LETTERS TESTAMENTARY
Common Form
(Relieved of Filing Returns)

By _____, Judge of the Probate Court of said County.

KNOW ALL WHOM IT MAY CONCERN:

That on the ____ day of _____, 20____, at a regular term of the Probate Court, the Last Will and Testament dated _____, _____, of _____ deceased, at the time of his or her death a resident of said County, was legally proven in common form and was admitted to record by order, and it was further ordered that _____ named as Executor(s) in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executor(s).

NOW, THEREFORE, the said _____, having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased, according to the Will and the law.

Given under my hand and official seal, the ____ day of _____, 20____.

Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

(Seal)

PROBATE CLERK/DEPUTY CLERK

STATE OF GEORGIA

COUNTY OF _____

ESTATE NO. _____

LETTERS TESTAMENTARY
Common Form
(Not Relieved of Filing Return)

By _____, Judge of the Probate Court of said County.

KNOW ALL WHOM IT MAY CONCERN:

That on the _____ day of _____, 20_____, at a regular term of the Probate Court, the Last Will and Testament dated _____, _____, of _____, deceased, at the time of his or her death a resident of said County, was legally proven in common form and was admitted to record by order, and it was further ordered that _____, named as Executor(s) in said Will, be allowed to qualify, and that upon so doing, Letters Testamentary be issued to such Executor(s).

NOW, THEREFORE, the said _____ having taken the oath of office and complied with all the necessary prerequisites of the law, is/are legally authorized to discharge all the duties and exercise all the powers of Executor(s) under the Will of said deceased, according to the Will and the law; and is/are hereby required to render a true and correct inventory of all the goods, chattels, rights and credits of said deceased, and make a return of them to this Court; and further, to file a proper annual or final return with this Court each year until the Executorship is fully discharged.

Given under my hand and official seal, the _____ day of _____, 20_____.

Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

PROBATE CLERK/DEPUTY CLERK

(Seal)

STATE OF GEORGIA

COUNTY OF _____

ESTATE NO. _____

LETTERS OF TESTAMENTARY GUARDIANSHIP OF MINOR

From the Judge of the Probate Court of said County.

TO: _____, Testamentary Guardian(s)

RE: _____, Minor

Pursuant to the Last Will and Testament of _____, deceased, you have been appointed Testamentary Guardian of the minor. You have assented to this appointment by taking your oath. In general, your duties as Testamentary Guardian are to protect and maintain the person of the minor and your power over the minor shall be the same as that of a parent over a child, the guardian(s) standing in place of the parent(s). A guardian shall at all times act as a fiduciary in the minor's best interest and exercise reasonable care, diligence, and prudence.

Special Instructions:

1. It is your duty to see that the minor is adequately fed, clothed, sheltered, educated, and cared for, and that the minor receives all necessary medical attention.
2. You must keep the Court informed of any change in your name or address.
3. You should inform the Court of any change of location of your minor.
4. You shall, within 60 days of appointment and within 60 days after each anniversary date of appointment, file with this Court and provide to the conservator of the minor, if any, a personal status report concerning the minor.
5. You shall promptly notify the court of any conflict of interest which may arise between you as guardian and the minor pursuant to O.C.G.A. §29-2-23.
6. The guardianship automatically terminates when the minor dies, reaches age 18, is adopted, or is emancipated.
7. You shall act in coordination and cooperation with the minor's conservator, if appointed, or if not, with others who have custody of the minor's property.
8. Please consult your attorney if you have any questions. Your authority to act pursuant to these Letters is subject to applicable statute and to any special orders entered in this case.

Give under my hand and official seal, this _____ day of _____, 20_____.

Probate Judge

NOTE: The following must be signed if the judge does not sign the original of this document:

Issued by:

PROBATE CLERK/DEPUTY CLERK (Seal)

STATE OF GEORGIA

COUNTY OF _____

ESTATE NO. _____

LETTERS OF TESTAMENTARY CONSERVATORSHIP OF MINOR

From the Judge of the Probate Court of said County.

TO: _____, Testamentary Conservator(s)

RE: _____, Minor

Pursuant to the Last Will and Testament of the below-named decedent, you have been appointed Testamentary Conservator of the minor's property. You have assented to this appointment by taking your oath. In general, your duties as Testamentary Conservator are to protect and maintain the property of the minor and utilize the minor's property solely for the benefit of the minor. Please consult your attorney if you have any questions.

These Letters of Testamentary Conservatorship empower the above testamentary conservator to hold, for the minor, only property which passed through the estate of

_____, Deceased.

Given under my hand and official seal, this _____ day of _____, 20____.

Probate Judge

Note: The following must be signed if the judge does not sign the original of this document:

Issued by:

PROBATE CLERK/DEPUTY CLERK

(Seal)