

SMALL ESTATES – ASSIGNMENT OF PROPERTY

OVERVIEW

Michigan Law allows a Small Estate to be probated using an expedited process. The court will accept for filing any Wills and Codicils, but does not admit them to probate. In a Small Estate Proceeding, a personal representative is not appointed. The court issues an order assigning assets.

1. The decedent must have been a Berrien County resident or if not a Michigan resident, they must have property in Berrien County. There must not be an estate open in another state.
2. The total gross value of the estate (subtracting any funeral and burial expense whether paid or unpaid) cannot be more than the following (based on the date of death):

Date of Death	Amount
1/1/2014	\$22,000
1/1/2012	\$21,000
1/1/2009	\$20,000
1/1/2008	\$19,000
1/1/2006	\$18,000
1/1/2002	\$17,000
1/2/2001	\$16,000
10/1/1994	\$15,000
12/13/1984	\$5,000
7/1/1979	\$2,500
10/1/1972	\$1,500
8/28/1964	\$1,000
9/3/1949	\$500
9/10/1942	\$200

- a. Funeral and burial expenses are expenses directly connected with the funeral or memorial service and with the burial or cremation.
- b. If someone paid some or all of the funeral or burial expenses for the decedent, there must be a receipt from the funeral home indicating who paid and the amount paid.

3. A description and value must be given of all property within the decedent's estate. List all information about the asset that is available.
 - a. For bank accounts, show the name of the bank, the account number(s), and the balance.
 - b. For stocks and bonds, show the name of the corporation, number of shares, price per share, and total value.
 - c. For autos, trucks, boats, etc., include Year, Make, Model, VIN, and where value came from.
 - d. For real estate, list the complete legal description, along with the street address and where value of real estate came from (SEVx2). You must provide proof of value of home (such as copy of the tax bill).
 - e. The law explicitly requires the valuation to be on the gross value of the estate, and so any liens, encumbrances, mortgages, etc., should not be subtracted from the value.
4. You must list the heirs of the decedent. If the decedent left a surviving spouse, that spouse is an heir. If the decedent left any children, they are all heirs. If a child predeceased the decedent, then any children of that child are heirs. If the decedent left no spouse or children, then the parents are heirs. If the decedent's parents predeceased the decedent, then the brothers and sisters and issue (descendants) of predeceased brothers and sisters by right of representation are heirs.
5. The Assignment of Property is an expedited procedure. The statute is very strict on how a decedent's estate may be assigned.
 - a. The estate must be applied to pay any unpaid funeral or burial expenses to the funeral home, first.
 - b. Once unpaid funeral or burial expenses are paid, any individual or entities (including DHS) paying towards the funeral or burial expenses should be reimbursed. If the estate is less than the total amount paid by others, then the estate is to be pro-rated according to the percentage each individual or entity paid.
 - c. If the funeral home and anyone paying funeral or burial expenses have been reimbursed and there are still assets remaining, the remainder is to be assigned to the surviving spouse. If there is no surviving spouse, then the remainder is to be assigned to the decedent's heirs. If the heirs happen to be children or other descendants of the decedent, then the assets will be assigned such that each child (whether alive or predeceased) represents an equal share.
6. The Assignment of Property process may not be appropriate in cases where the bulk of the estate is made up of an automobile, household belongings, or real property and there are multiple individuals entitled to the property. If this is the case, you may wish to speak to an attorney.

WHAT MUST BE FILED

- Petition and Order for Assignment ([PC556](#))
 - Proof of value of real estate (if applicable)
- A copy of the Death Certificate
- A copy of the funeral/burial bill
 - Proof the funeral/burial bill paid in full and by whom
- File fee - \$25.00 (make checks payable to Berrien County Probate Court)
- Certified copy fee - \$12.00 (optional)
- Inventory fee – based on the gross value of the estate. You may call the court at 269-983-7111 extension 8365 to obtain the amount of the fee once you have determined the value of the estate
- File/Mail to: Berrien County Probate Court
811 Port St.
St. Joseph, MI 49085

**If you are in possession of the original Last Will and Testament and any Codicils, you must also drop this off to the Berrien County Probate Court ([MCL 700.2516](#))