CHAPTER 30.1-14
INFORMAL PROBATE AND APPOINTMENT PROCEEDINGS

30.1-14-01. (3-301) Informal probate or appointment proceedings - Application - Contents.

1. Applications for informal probate or informal appointment shall be directed to the court, and verified by the applicant to be accurate and complete to the best of the applicant's knowledge and belief as to the following information:
   a. Every application for informal probate of a will or for informal appointment of a personal representative, other than a special or successor representative, shall contain the following:
      (1) A statement of the interest of the applicant.
      (2) The name and date of death of the decedent, the decedent's age, and the county and state of domicile at the time of death, and the names and addresses of the spouse, children, heirs, and devisees, and the ages of any who are minors so far as known or ascertainable with reasonable diligence by the applicant.
      (3) If the decedent was not domiciled in the state at the time of death, a statement showing venue.
      (4) A statement identifying and indicating the address of any personal representative of the decedent appointed in this state or elsewhere whose appointment has not been terminated.
      (5) A statement indicating whether the applicant has received a demand for notice, or is aware of any demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere.
      (6) A statement that the time limit for informal probate or appointment under this chapter has not expired because three years or less have elapsed since the decedent's death, or, if more than three years from the death have elapsed, circumstances described in section 30.1-12-08 have occurred authorizing tardy probate or appointment.
   b. An application for informal probate of a will shall state the following, in addition to the statements required by subdivision a:
      (1) That the original of the decedent's last will is in the possession of the court, or accompanies the application, or that an authenticated copy of a will probated in another jurisdiction accompanies the application.
      (2) That the applicant, to the best of the applicant's knowledge, believes the will to have been validly executed.
      (3) That after the exercise of reasonable diligence, the applicant is unaware of any instrument revoking the will, and that the applicant believes that the instrument which is the subject of the application is the decedent's last will.
   c. An application for informal appointment of a personal representative to administer an estate under a will shall describe the will by date of execution and state the time and place of probate or the pending application or petition for probate. The application for appointment shall adopt the statements in the application or petition for probate and state the name, address, and priority for appointment of the person whose appointment is sought.
   d. An application for informal appointment of an administrator in intestacy shall state, in addition to the statements required by subdivision a:
      (1) That after the exercise of reasonable diligence, the applicant is unaware of any unrevoked testamentary instrument relating to property having a situs in this state under section 30.1-02-01, or, a statement why any such instrument of which the applicant may be aware is not being probated.
      (2) The priority of the person whose appointment is sought and the names of any other persons having a prior or equal right to the appointment under section 30.1-13-03.

e. An application for appointment of a personal representative to succeed a personal representative appointed under a different testacy status shall refer to the order in the most recent testacy proceeding, state the name and address of the person whose appointment is sought and of the person whose appointment will be terminated if the application is granted, and describe the priority of the applicant.
f. An application for appointment of a personal representative to succeed a personal representative who has tendered a resignation as provided in subsection 3 of section 30.1-17-10, or whose appointment has been terminated by death or removal, shall adopt the statements in the application or petition which led to the appointment of the person being succeeded except as specifically changed or corrected, state the name and address of the person who seeks appointment as successor, and describe the priority of the applicant.

2. By verifying an application for informal probate or informal appointment, the applicant submits personally to the jurisdiction of the court in any proceeding for relief from fraud relating to the application, or for perjury, that may be instituted against the applicant.

30.1-14-01.1. Duty of court to provide forms to an applicant - Assistance of attorney not required.

The court shall provide the necessary forms to an applicant who requests aid in using the informal probate or appointment procedure. The forms and explanatory materials must be prepared by the state court administrator and provided at cost. The assistance of an attorney is not required for informal probate or appointment procedure.

30.1-14-02. (3-302) Informal probate - Duty of court - Effect of informal probate.

Upon receipt of an application requesting informal probate of a will, the court, upon making the findings required by section 30.1-14-03, shall issue a written statement of informal probate if at least one hundred twenty hours have elapsed since the decedent's death. Informal probate is conclusive as to all persons until superseded by an order in a formal testacy proceeding. No defect in the application or procedure relating thereto which leads to informal probate of a will renders the probate void.

30.1-14-03. (3-303) Informal probate - Proof and findings required.

1. In an informal proceeding for original probate of a will, the court shall determine whether:
   a. The application is complete.
   b. The applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief.
   c. The applicant appears from the application to be an interested person as defined in section 30.1-01-06.
   d. On the basis of the statements in the application, venue is proper.
   e. An original, duly executed, and apparently unrevoked will is in the court's possession.
   f. Any notice required by section 30.1-13-04 has been given and that the application is not within section 30.1-14-04.
   g. It appears from the application that the time limit for original probate has not expired.
2. The application must be denied if it indicates that a personal representative has been appointed in another county of this state or, except as provided in subsection 4, if it appears that this or another will of the decedent has been the subject of a previous probate order.
3. A will that appears to have the required signatures and which contains an attestation clause showing that requirements of execution under section 30.1-08-02 or 30.1-08-06 have been met must be probated without further proof. In other cases, the court may assume execution if the will appears to have been properly executed, or the court may

accept a sworn statement or affidavit of any person having knowledge of the circumstances of execution, whether or not the person was a witness to the will.

4. Informal probate of a will that has been previously probated elsewhere may be granted at any time upon written application by any interested person, together with deposit of an authenticated copy of the will and of the statement probating it from the office or court where it was first probated.
5. A will from a place which does not provide for probate of a will after death and which is not eligible for probate under subsection 1 may be probated in this state upon receipt by the court of a duly authenticated copy of the will and a duly authenticated certificate of its legal custodian that the copy filed is a true copy and that the will has become operative under the law of the other place.

30.1-14-04. (3-304) Informal probate - Unavailable in certain cases.

Applications for informal probate which relate to one or more of a known series of testamentary instruments, other than a will and one or more codicils to the will, the latest of which does not expressly revoke the earlier, must be declined.

30.1-14-05. (3-305) Informal probate - Court not satisfied.

If the court is not satisfied that a will is entitled to be probated in informal proceedings because of failure to meet the requirements of sections 30.1-14-03 and 30.1-14-04, or for any other reason specified by law, it may decline the application. A declination of informal probate is not an adjudication and does not preclude formal probate proceedings.

30.1-14-06. (3-306) Informal probate - Notice requirements.

The moving party must give notice, as described in section 30.1-03-01, of the moving party's application for informal probate to any person demanding it pursuant to section 30.1-13-04, and to any personal representative of the decedent whose appointment has not been terminated. No other notice of informal probate is required.

30.1-14-07. (3-307) Informal appointment proceedings - Delay in order - Duty of court - Effect of appointment.

1. Upon receipt of an application for informal appointment of a personal representative other than a special administrator as provided in section 30.1-17-14, if at least one hundred twenty hours have elapsed since the decedent's death, the court, after making the findings required by section 30.1-14-08, shall appoint the applicant subject to qualification and acceptance. If the decedent was a nonresident, the court shall delay the order of appointment until thirty days have elapsed since death unless the personal representative appointed at the decedent's domicile is the applicant or unless the decedent's will directs that the estate be subject to the laws of this state. The court must make its order of appointment and issue letters testamentary or letters of administration within ten working days after all requirements for informal proceedings have been met.
2. The status of personal representative and the powers and duties pertaining to the office are fully established by informal appointment. An appointment, and the office of personal representative created thereby, is subject to termination as provided in sections 30.1-17-08 through 30.1-17-12, but is not subject to retroactive vacation.

30.1-14-08. (3-308) Informal appointment proceedings - Proof and findings required.

1. In informal appointment proceedings, the court shall determine whether:
   a. The application for informal appointment of a personal representative is complete.
   b. The applicant has made oath or affirmation that the statements contained in the application are true to the best of the applicant's knowledge and belief.
   c. The applicant appears from the application to be an interested person as defined in section 30.1-01-06.
   d. On the basis of the statements in the application, venue is proper.

e. Any will to which the requested appointment relates has been formally or informally probated, but this requirement does not apply to the appointment of a special administrator.
f. Any notice required by section 30.1-13-04 has been given.
g. From the statements in the application, the person whose appointment is sought has priority entitling the person to the appointment.

2. Unless section 30.1-17-12 controls, the application must be denied if it indicates that a personal representative who has not filed a written statement of resignation as provided in subsection 3 of section 30.1-17-10 has been appointed in this or another county of this state, that, unless the applicant is the domiciliary personal representative or the representative's nominee, the decedent was not domiciled in this state and that a personal representative whose appointment has not been terminated has been appointed by a court in the state of domicile or that other requirements of this section have not been met.

30.1-14-09. (3-309) Informal appointment proceedings - Court not satisfied.

If the court is not satisfied that a requested informal appointment of a personal representative should be made because of failure to meet the requirements of sections 30.1-14-07 and 30.1-14-08, or for any other reason, it may decline the application. A declination of informal appointment is not an adjudication and does not preclude appointment in formal proceedings.

30.1-14-10. (3-310) Informal appointment proceedings - Notice requirements.

The moving party must give notice as described by section 30.1-03-01 of the moving party's intention to seek an appointment informally:

1. To any person demanding it pursuant to section 30.1-13-04.
2. To any person having a prior or equal right to appointment not waived in writing and filed with the court.

No other notice of an informal appointment proceeding is required.

30.1-14-11. (3-311) Informal appointment unavailable in certain cases.

If an application for informal appointment indicates the existence of a possible unrevoked testamentary instrument which may relate to property subject to the laws of this state, and which is not filed for probate in this court, the court shall decline the application.