

New Notice Requirements

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Enrolled Senate Bill #1450 amended MCLA 700.3705(6) of the Estates and Protected Individual Code. The amendment requires the personal representative to give notice to the Friend of the Court for the county in which the estate is being administered. The notice must identify the decedent's surviving spouse and the individuals who are the devisees (for testate estates) or heirs (for intestate estates). The act further states that the personal representative is not required to notify the Friend of the Court of a devise to a trustee of an existing trust or to a trustee under the will. Finally, it states that: "A Personal Representative incurs no obligation or liability to the Friend of the Court or to another person for an error or omission made in good faith compliance with this subsection." This new law took effect on October 1, 2005.

Presently, it is not anticipated that current forms will include information to the personal representative about this new notice requirement. The State Court Administrative Office is not creating a form to use for said purpose and the Probate Court has no obligation to notify or inform the personal representative of this requirement.

In order to avoid Oakland County Friend of the Court receiving myriad types of forms, letters, etc., our Friend of the Court, in cooperation with the Probate Court, developed a form entitled "Personal Representative Notice to the Friend of the Court." The form can be found on both the Friend of the Court's and the Probate Court's Web sites. The Probate Court Web site is http://www.co.oakland.mi.us/probate/form_application/in-house.html. This form is not a State

Court-approved form nor is it a mandatory form. It was created for the convenience of our personal representatives and their attorneys to meet the new requirements of this notice provision. It was also created in order to provide some consistency and continuity in the types of notifications our Friend of the Court will receive.

The personal representative is to notify the Friend of the Court with this information within 28 days of his or her appointment. The form can be completed and sent to:

Friend of the Court
P.O. Box 436012
Pontiac, MI 48343-6912

The personal representative is not required to file this form with the Oakland County Probate Court but it is recommended that they complete the "certificate of mailing" section on the form and keep this in their records as proof of meeting this new requirement.

Finally, I would like to thank Mr. Peter Dever, Chief Assistant Friend of the Court Legal Services, who took the time to work with our Probate Court and develop this form for us. Interestingly, once other courts and practitioners heard that a form had been created for this new notice provision, we have had numerous requests for copies. I believe it will soon be available on the Web site at many different links.

If you have any questions with regard to this new law or the Oakland County form, please contact me at your convenience. Stay tuned!