

4B-101. Opening and closing a probate court case (Flow chart).

OPENING AND CLOSING A PROBATE COURT CASE

TESTATE (WILL)

INTESTATE (NO WILL)

Step 1

Locate Will (Original required)

1. Identify Devises
2. Identify Heirs
3. Identify County and choose whether to file in Probate Court or
4. District Court
If Decedent died more than three years ago or the original will cannot be located, the case must be filed in District Court
Check for demand for notice in District Court
5. District Court

See Rules 1B-102, 1B-301, 1B-302, 1B-305 NMRA

1. Identify Heirs
2. Identify County and choose whether to file in Probate Court or District Court
3. District Court
Check for demand for notice in District Court

See Rules 1B-102, 1B-301, 1B-302, 1B-303 NMRA



Step 2

File an Application to Probate Will and Appoint Personal Representative (PR)

See Rules 1B-102, 1B-302, 1B-305, 1B-306(A)(1) NMRA and Form 4B-302 NMRA

File an Application to Appoint Personal Representative (PR)

See Rules 1B-102, 1B-302, 1B-303, 1B-304(A)(1) NMRA and Form 4B-301 NMRA



Step 3

Obtain Order to Informally Probate Will and Appoint PR; file an Acceptance of Appointment; have Clerk issue Letters Testamentary

Obtain Order to Informally Appoint PR; file an Acceptance of Appointment; have Clerk issue Letters of Administration

See Rule 1B-306(A)(2)-(4) NMRA and Forms 4B-304, 4B-305, 4B-307 NMRA



See Rule 1B-304(A)(2)-(4) NMRA and Forms 4B-303, 4B-305, 4B-306 NMRA



Step 4

Within 30 days of Appointment, Send Notice of Appointment, Order, and copy of Will to Devisees, Heirs, and any person who has filed a demand for notice

See Rules 1B-102, 1B-306(B) NMRA and Forms 4B-401, 4B-402 NMRA



Within 30 days of Appointment, Send Notice of Appointment and Order to Heirs and any person who has filed a demand for notice

See Rules 1B-102, 1B-304(B) NMRA and Forms 4B-401, 4B-402 NMRA



Step 5

Decide whether to Notify Creditors
If Creditors will be notified,
(a) send notice,
(b) publish notice, OR
(c) both

See Rules 1B-102, 1B-305, 1B-306(C) NMRA and Form 4B-501 NMRA



Decide whether to Notify Creditors
If Creditors will be notified,
(a) send notice,
(b) publish notice, OR
(c) both

See Rules 1B-102, 1B-303, 1B-304(C) NMRA and Form 4B-501 NMRA



Step 6

Collect/Inventory Assets of the Decedent, Value Assets (within 3 months of appointment), and Determine Debts of the Decedent

Inventory does not have to be filed with the court

See Rules 1B-305, 1B-306(D) NMRA and Form 4B-601 NMRA

Collect/Inventory Assets of the Decedent and Value Assets (within 3 months of appointment), and Determine Debts of the Decedent

Inventory does not have to be filed with the court

See Rules 1B-303, 1B-304(D) NMRA and Form 4B-601 NMRA



Step 7

Pay the Family Allowance (\$30,000) and Personal Property Allowance (\$15,000) if required

See Rules 1B-102, 1B-305, 1B-306(E) NMRA



Step 8

Pay costs and expenses of administration

See Rules 1B-102, 1B-305, 1B-306(F)(1) NMRA



Step 9

Pay Creditors or Dispute Claims

See Rules 1B-102, 1B-305, 1B-306(F)(2)-(4) NMRA



If you did not deal with Creditors, you should wait a year from date of death to distribute assets, or you may owe unpaid Creditors

See Rule 1B-306(F)(2) NMRA

Or

If you published notice to Creditors, sent notice to known Creditors, and paid all Creditors with allowed claims, and if the time for Creditors to make their claims has elapsed, you may distribute assets



Pay the Family Allowance (\$30,000) and Personal Property Allowance (\$15,000) if required

See Rules 1B-102, 1B-303, 1B-304(E) NMRA



Pay costs and expenses of administration

See Rules 1B-102, 1B-303, 1B-304(F)(1) NMRA



Pay Creditors or Dispute Claims

See Rules 1B-102, 1B-303, 1B-304(F)(2)-(4) NMRA

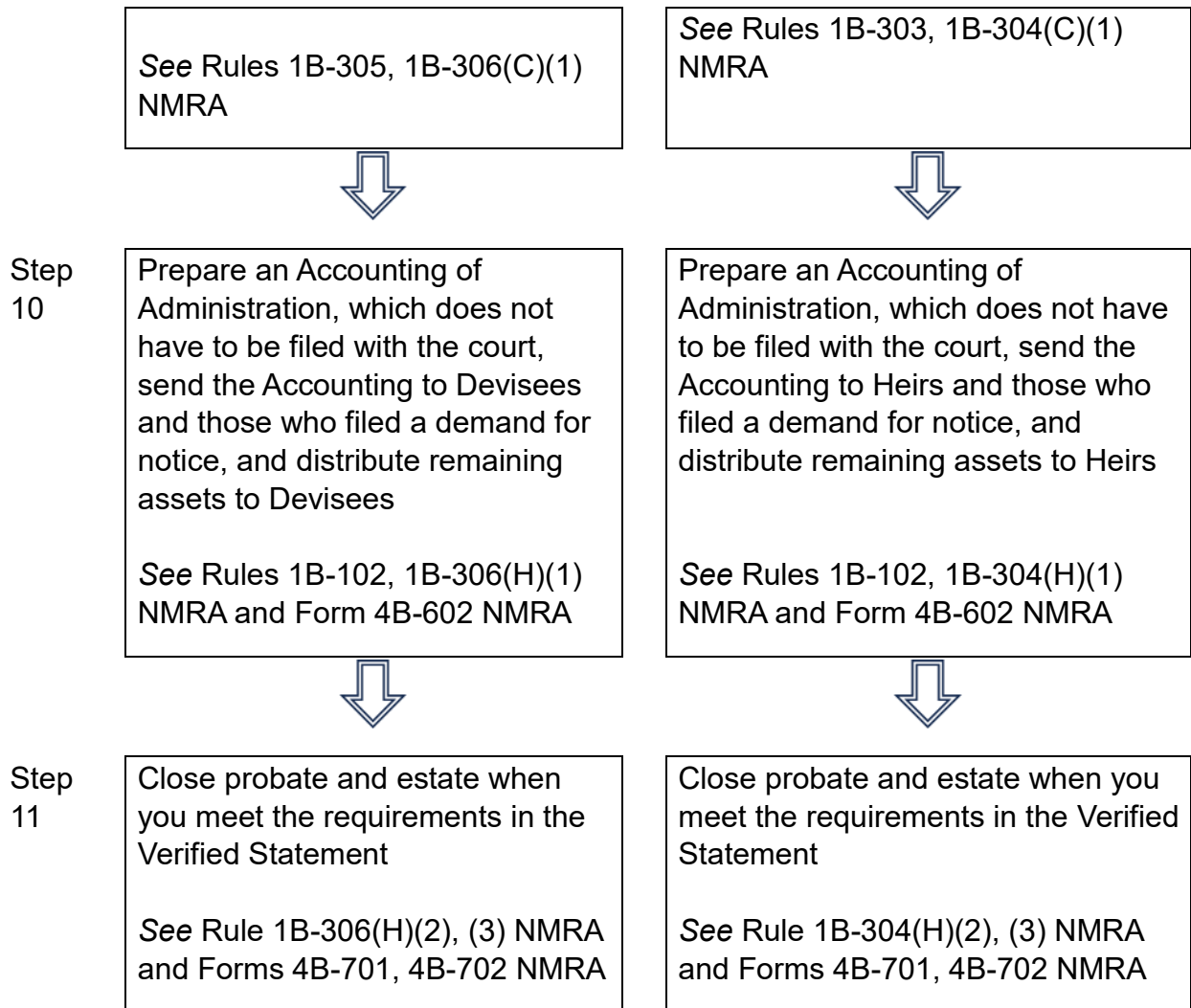


If you did not deal with Creditors, you should wait a year from date of death to distribute assets, or you may owe unpaid Creditors

See Rule 1B-304(F)(2) NMRA

Or

If you published notice to Creditors, sent notice to known Creditors, and paid all Creditors with allowed claims, and if the time for Creditors to make their claims has elapsed, you may distribute assets



[Adopted by Supreme Court Order No. 18-8300-014, effective for all cases pending or filed on or after December 31, 2018.]