

ESTABLISHING DEATH OF ACCIDENT/DISASTER/DISAPPERED PERSON

COURT STAFF IS PROHIBITED BY LAW FROM GIVING LEGAL ADVICE, IF YOU HAVE ANY LEGAL QUESTIONS DURING THIS PROCESS PLEASE CONTACT AN ATTORNEY.

Forms must be filled out completely and uploaded to MiFile (mifile.court.michigan.gov/login). Keep copies for your own record.

Step One: Initial Filing -Filing fee of \$175 is due at the time of filing online.

Documents Included:

- Petition to Establish Death of Accident or Disaster Victim (PC 549) or Free-form Petition – Fill out completely and upload to MiFile

Step Two: Once you have received confirmation from MiFile that the Court has accepted your petition please complete the following forms.

Documents Included:

- Notice of Hearing (PC 562) - please call the court to schedule a hearing date and time.
- Proof of Service (PC 564) - this form tells the Judge that you sent copies of the Petition to Establish Death of Accident or Disaster Victim and Notice of Hearing to all interested parties. Please make all necessary copies of your petition and notice of hearing (including one for yourself and one for each interested party). Interested persons are outlined in Michigan Compiled Law 700.1208 (see below).

Complete the proof of service by filling in the names and last known addresses of each person served under the appropriate heading; by regular mail or electronic service through MiFile and include the date the service was made. **The Court requires that all interested persons be served the required documents no less than 14 days prior to the scheduled hearing if serving by regular mail and no less than 7 days before the scheduled hearing if serving by hand (in person).** Do not forget to sign and date the bottom of the form.

*****STOP AND PLEASE READ*****

You must make every effort to obtain last known addresses for the people you are required to serve, if you do not know an address you must do the following:

- Complete an internet search, if possible
- Send to last known address
- Contact any known family members of the person in order to obtain a last known address

OTTAWA COUNTY PROBATE COURT
12120 FILLMORE STREET
WEST OLIVE, MI 49460

Hours: Mon-Fri 8:00 AM-5:00 PM
Phone: 616-786-4110
Website: www.miottawa.org

Once you have completed these steps please fill in Number 4 on Proof of Service.

Step Three: MCR 5.106 requires publication once per month for 4 months before hearing.

Step four: Submit any other reports that establish missing person or possible death (police reports, coroner's reports, etc.)

Additional Information Regarding Death of Accident/Disaster/Disappeared Person

1. Michigan Compiled Law (700.1208 Procedure to Establish Death of Accident or Disaster Victim)
 - a. The procedure to establish the death of an individual who is an accident or disaster victim and whose remains have disappeared or are unidentifiable is as follows:
 - i. If an accident or disaster occurs that apparently causes the death of the individual described in this section, any of the following individuals may petition the court for a determination of the cause and date of the presumed decedent's death:
 1. The medical examiner, sheriff, or prosecutor of a county described in subdivision (b).
 2. The spouse or a next of kin, heir at law, devisee, personal representative named in a will, or creditor or debtor of the presumed decedent.
 - ii. Venue for a proceeding under this section is in 1 of the following:
 1. The court in a county in which the accident or disaster or any part of the accident or disaster occurs.
 2. If the accident or disaster occurs upon or within the Great Lakes or their connecting waters, the court in a county adjacent to the scene of the accident or disaster.
 3. If the accident or disaster did not occur in Michigan or adjoining waters, the court in the county of the presumed decedent's domicile.
 - iii. A petition to determine the cause and date of death as provided in this section shall not be filed less than 63 days or more than 7 years after the occurrence of the accident or disaster.
 - iv. A petition under this section shall set forth the facts and circumstances concerning the accident or disaster, the reasons for the belief that the presumed decedent died in the accident or disaster, that the presumed decedent has disappeared or is unidentifiable, and the names and addresses of all individuals known or believed to be heirs at law of the presumed decedent.
 - v. Upon the filing of a petition under this section, the court shall fix the time and place for a hearing. The petitioner shall give or cause to be given notice of the hearing as provided by Supreme Court rule.
 - b. An individual whose death is not otherwise established under this section or section 1207, who is absent for a continuous period of 5 years during which he or

OTTAWA COUNTY PROBATE COURT
12120 FILLMORE STREET
WEST OLIVE, MI 49460

Hours: Mon-Fri 8:00 AM-5:00 PM
Phone: 616-786-4110
Website: www.miottawa.org

she has not been heard from, and whose absence is not satisfactorily explained after diligent search or inquiry is presumed to be dead. The individual's death is presumed to have occurred at the end of the period unless there is sufficient evidence to determine that death occurred earlier.

- c. In the absence of evidence disputing the time of death stated on a document described in section 1207(b), (c), or (g), a document described in section 1207(b), (c), or (g) that states a time of death 120 hours or more after the time of death of another individual, however the time of death of the other individual is determined, establishes by clear and convincing evidence that the individual survived the other individual by 120 hours.

History: 1998, Act 386, Eff. Apr. 1, 2000

Popular Name: EPIC

OTTAWA COUNTY PROBATE COURT
12120 FILLMORE STREET
WEST OLIVE, MI 49460

Hours: Mon-Fri 8:00 AM-5:00 PM
Phone: 616-786-4110
Website: www.miottawa.org