

TEMPORARY DEPENDENT ADMINISTRATION (TDA)

14. If **temporary dependent administration (TDA)** is not the proper probate procedure, mark Items 14 through 18 of this Checkplan as not applicable and go to Item 19. If TDA is the proper probate procedure, do the following:

Note: This System contemplates that for temporary dependent administration, all documents will be hand carried to the courthouse for prompt action, that the applicant will accompany you, that the judge will be available, that the surety will be available to sign the bond, that all steps can be concluded in one day, and that local rules of court do not require different or additional actions.

- a. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and Special Instruction 57—Temporary Dependent Administration (TDA) to determine if applicant qualifies to serve as temporary administrator.
- b. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Temporary Administration (Form 83 if there is no will or Form 84 if D left a will).
- c. Prepare Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as administrator who do not wish to serve, arrange for proper signature before a notary, and place in file folder entitled “Court Proceedings.”
- d. Prepare Application for Temporary Administration (Form 83 or Form 84), arrange for proper signature by applicant before a notary, and place in file folder entitled “Court Proceedings.”
Note: Some courts may require the use of separate written testimony at the hearing. Proof of Death and Other Facts (Form 7 or Form 75) can be adapted for local practice. If required, place completed form in file folder entitled “Court Proceedings.”
- e. Prepare Order Appointing Temporary Administrator (Form 85) and place in file folder entitled “Court Proceedings.”
- f. Prepare Oath of Temporary Administrator (Form 87) and place in file folder entitled “Court Proceedings.”
- g. Determine amount of filing fee, arrange for payment, and charge to client’s account.

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h. File Application for Temporary Administration (Form 83 or Form 84) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. Enter date of this filing as Item 82a of SDL and as Item 6.23 of MIL.					
i. Obtain the court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies. <i>Note:</i> Citation is prepared by the clerk of court and is posted <i>after</i> the appointment of the temporary administrator.					
j. Arrange for date and time of hearing on the Application for Temporary Administration (Form 83 or Form 84) and enter as Item 82b of SDL and Items 6.24 and 6.24A of MIL. Complete Item 82c of SDL.					
k. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and as Item 82d of SDL, revise Item 82c of SDL, and notify proposed temporary administrator and other witnesses of new date.					
l. One business day before the hearing, call to remind proposed temporary administrator and all witnesses of the time, date, and place of hearing.					
15. For the hearing itself, do the following—					
a. Assemble the following documents and take to hearing:					
(1) Original copy of proof of death and other facts (if required by local practice) for person who will testify as to death, etc.					
(2) Original copy of Order Appointing Temporary Administrator (Form 85)					
(3) Original copy of Oath of Temporary Administrator (Form 87)					
(4) Certified copy of D's death certificate if available					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing, enter actual date of hearing as Item 6.25 of MIL and Item 82e of SDL, have judge sign Order Appointing Temporary Administrator (Form 85), and enter date signed as Item 82f of SDL and Item 6.26 of MIL. Complete Items 82g, 82l, and 82m of SDL.					
d. Have temporary administrator sign oath and file it with clerk of court. Complete Item 82i of SDL and Item 6.38 of MIL.					
e. Conform file copies of all documents for dates and signatures.					

- f. Determine if bond is required and, if so, do the following (see Special Instruction 46—Bond):

Note: The bond *must* be filed within three business days of the date of the order.

- (1) Complete Items 6.27 through 6.34 of MIL.
- (2) Ask insurance agent to prepare the bond for signature by temporary administrator. Determine if a power of attorney is required and, if so, that it has been attached to the bond.
- (3) Arrange to have the bond signed by temporary administrator.
- (4) When the bond has been signed by temporary administrator, have it signed by surety.
- (5) When the bond has been signed by temporary administrator and surety, file with clerk of court and obtain approval by judge.
- (6) Enter date of filing the bond as Item 6.36 of MIL and Item 82g of SDL. Enter date of court approval of bond as Item 6.37 of MIL and Item 82h of SDL. Complete Items 82j and 82k of SDL.
- (7) If you paid the premium for the bond, charge to client's account.

- g. Obtain letters of temporary administration. If clerk of court does not prepare them, prepare Letters of Temporary Administration (Form 88) and deliver to clerk of court for approval and signature. In either event, determine that the powers listed in the Letters of Temporary Administration (Form 88 or the letters issued by clerk of court) are identical to the powers specified in the Order Appointing Temporary Administrator (Form 85). Complete Items 82n and 82p of SDL and Item 6.40 of MIL.

Note: The clerk of court is required to issue letters of temporary administration within three days after the date the temporary administrator qualifies and to provide notice of appointment by posting.

- h. On date that clerk of court issues letters of temporary administration, prepare Letter 98 for all known heirs.

Note: This letter must be prepared for the signature of and actually be signed by temporary administrator.

- (1) Arrange for signature by temporary administrator. See Special Instruction 84—Execution of Documents regarding proper execution of documents by client.

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(2) Send signed letters to each known heir by certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice). Attach mailing receipt or proof of deposit to file copy of Letter 98. Complete Item 82o of SDL.					
(3) When received, attach return receipt or proof of delivery receipt to file copy of Letter 98.					
(4) Prepare Affidavit of Notice of Appointment of Temporary Administrator (Form 98) for signature by temporary administrator and file with the clerk no later than the seventh day after the date letters of temporary administration are issued.					
(5) File signed Affidavit of Notice of Appointment of Temporary Administrator (Form 98), with return receipts or proof of delivery receipts from Letter 98 attached, with clerk of court.					
i. Order two letters of temporary administration from clerk of court and, if you paid for them, charge to client's account. When received, place in file folder entitled "Letters Testamentary or of Administration."					
j. Assist temporary administrator in taking appropriate action(s).					
16. If during the administration it is necessary for temporary administrator to obtain additional powers , do the following:					
a. Prepare Application for Enlargement of Powers of Temporary Administrator (Form 89).					
b. Prepare Order Granting Additional Powers to Temporary Administrator (Form 90).					
c. Arrange for temporary administrator to sign Application for Enlargement of Powers of Temporary Administrator (Form 89).					
d. File Application for Enlargement of Powers of Temporary Administrator (Form 89) with, and deliver Order Granting Additional Powers to Temporary Administrator (Form 90) to, clerk of court.					
e. Arrange for time and date of hearing on Application for Enlargement of Powers of Temporary Administrator (Form 89).					
f. Attend hearing, present proof necessary for court's approval of Application for Enlargement of Powers of Temporary Administrator (Form 89), and have Order Granting Additional Powers to Temporary Administrator (Form 90) signed by judge.					
g. Determine if bond will be required or increased.					

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(1) If bond is required for first time, go to Item 15f of this Checkplan and take appropriate action.					
(2) If increased bond is required, go to Item 15f of this Checkplan and follow applicable steps, but make appropriate modifications.					
h. If hearing will not be required, determine date judge signed Order Granting Additional Powers to Temporary Administrator (Form 90).					
i. Obtain <i>new</i> letters of temporary administration. If clerk of court does not prepare them, prepare Letters of Temporary Administration (Form 88) and deliver to clerk of court for approval and signature. In either event, determine that the powers listed in the Letters of Temporary Administration (Form 88 or the letters issued by clerk of court) are identical to the powers specified in the Order Appointing Temporary Administrator (Form 85) plus those in the Order Granting Additional Powers to Temporary Administrator (Form 90).					
j. Order two letters of temporary administration from clerk of court and, if you paid for them, charge to client's account. When received, place in file folder entitled "Letters Testamentary or of Administration."					
k. If you paid the premium for the additional bond, charge to client's account.					
l. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, see Item 21i in this Checkplan for a procedure to recover estate papers.					
m. Assist temporary administrator in taking appropriate action(s).					
17. If during the temporary administration the court decides to make the administration permanent , do the following:					
a. Prepare Order Making Temporary Administration Permanent (Form 91).					
b. File Order Making Temporary Administration Permanent (Form 91) with clerk of court.					
c. Determine if court hearing will be required and, if so, do the following:					
<i>Note:</i> It is not necessary to have citation issued.					
(1) Arrange for time and date of hearing.					
(2) Attend hearing and present proof necessary for judge to sign Order Making Temporary Administration Permanent (Form 91).					

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d. If hearing will not be required, determine date judge signed Order Making Temporary Administration Permanent (Form 91). Complete Item 82t of SDL.					
e. Prepare <i>new</i> Oath of Administrator (Form 86).					
f. Arrange to have <i>new</i> Oath of Administrator (Form 86) signed by administrator.					
g. File <i>new</i> Oath of Administrator (Form 86) with clerk of court.					
h. Determine if <i>new</i> bond is required and, if so, do the following (see Special Instruction 46—Bond): <i>Note:</i> Bond must be filed within 20 days of the appointment.					
(1) Complete Items 6.27 through 6.34 of MIL.					
(2) Ask insurance agent to prepare the bond for signature by administrator. Determine if a power of attorney is required and, if so, that it has been attached to the original bond.					
(3) Arrange to have the bond signed by administrator.					
(4) When the bond has been signed by administrator, have it signed by surety.					
(5) When the bond has been signed by administrator and surety, file with clerk of court and obtain approval by judge.					
(6) Determine the dates on which the <i>new</i> Oath of Administration (Form 86) and <i>new</i> bond were filed and the date on which the bond was approved by the judge; enter these dates as Items 6.38, 6.36, and 6.37, respectively, of MIL; and complete Item 6.39 of MIL and Items 36 through 43, 46, 48, and 50 through 52 of SDL.					
(7) If you paid the premium for the bond, charge to client's account.					
i. Order two letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
18. If administration is not made permanent, do the following to close the temporary administration :					
a. Prepare Final Account of Temporary Administrator (Form 92).					

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b. Determine identity of persons to whom remainder of property on hand is to be distributed and prepare Receipt and Release (Form 30) for each such person.					
c. Prepare Order Approving Final Account of Temporary Administrator (Form 93).					
d. Arrange for temporary administrator to sign and swear to Final Account of Temporary Administrator (Form 92).					
e. File Final Account of Temporary Administrator (Form 92), together with Order Approving Final Account of Temporary Administrator (Form 93), with clerk of court. Complete Item 83a of SDL.					
f. Arrange to have citation issued by clerk of court. Enter return date as Item 83b of SDL.					
g. Determine if court hearing is required and, if so, do the following:					
(1) Arrange for time and date of hearing on Final Account of Temporary Administrator (Form 92). Complete Item 83c of SDL.					
(2) Attend hearing, present proof necessary for approval, and have judge sign Order Approving Final Account of Temporary Administrator (Form 93). Complete Item 83d of SDL.					
h. After judge has signed Order Approving Final Account of Temporary Administrator (Form 93), distribute remainder of property on hand to persons listed in Order Approving Final Account of Temporary Administrator (Form 93) and obtain proper Receipt and Release (Form 30) from each such person.					
i. Prepare Application to Close Temporary Administration (Form 94) and Order Closing Temporary Administration (Form 95).					
j. Arrange for signature by temporary administrator of Application to Close Temporary Administration (Form 94).					
k. File Application to Close Temporary Administration (Form 94) and Order Closing Temporary Administration (Form 95) with clerk of court. Complete Item 84a of SDL.					
l. Determine if court hearing is required and, if so, do the following:					
(1) Arrange for time and date of hearing. Complete Item 84b of SDL.					
(2) Determine date for filing closing report. Complete Item 84c of SDL.					
(3) File closing report. Complete Item 84d of SDL.					

- (4) Attend hearing, present proof necessary for approval, and have judge sign Order Closing Temporary Administration (Form 95). Complete Item 84e of SDL.
- m. If hearing was not required, determine date judge signed Order Closing Temporary Administration (Form 95). Complete Item 84e of SDL.
- n. Conform file copies of all documents for dates and signatures.
- o. Prepare and send Letter 79 to the surety, together with a copy of Order Closing Temporary Administration (Form 95).
- p. Collect balance due for attorney's fees and expenses.
- q. Review file, locate all original documents that you need not retain, and prepare and send Letter 63 to return all items to person who furnished them. When signed letter has been returned, substitute for file copy.
- r. If representation was limited to temporary administration, close office file. Otherwise, continue to take actions indicated by this Checkplan.

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