

Information & Instructions: Dependent Administration

PREVIEW

1. A dependent administration may be used in either a testate or intestate situation.
2. Testate administration is with a will attached to the application or annexed.
3. Intestate dependent administration is obviously without a will attached to the application since a will does not exist. That case would then be an administration with a dependent executor.
4. Dependent administration exists where an administrator is named by the court and may function only upon court approval for many of the normal ordinary functions in connection with the administration of the Estate.

5. **PLEASE DO NOT COPY** The administrator must obtain court approval in order to carry out the following:

- a. Pay out family allowances if one is to be paid.
- b. Set aside exempt property.
- c. Pay debts and settle claims of creditors.
- d. Administer the business of the Estate.
- e. Distribute the Estate assets to the proper recipients.
- f. **THIS DOCUMENT** Sell or mortgage property, execute leases or other business of the Estate.

6. Dependent administration is typically used only when an administration is necessary for the Estate and where the will does not name an independent executor or when the will does not provide for an independent administration even though the person named in the will as executor is able to qualify as such.

7. A person would then be appointed by the court and would receive letters testamentary. In both cases, the administrator or executor will administer the proceeds of the Estate in the same manner as a regular dependent administration.

8. Texas Probate Code Section 145 provides that an independent administration may be created if the distributees of the Estate agree on the advisability of an independent administration with a court appointed independent administrator or executor.

9. Practitioners frequently prefer to avoid a dependent administration if at all possible. Frequently, a dependent administration is only used where a decedent dies intestate and a streamlined procedure such as an order of no administration or community property administration may not be used.

10. Probate Code References:

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Section 144 of the Texas Probate Code

PREVIEW

Closing Administration Of Estates Of Decedents And Guardianship Of Wards Or Their Estates

(a) Administration of the Estates of decedents and guardianship of the persons and Estates of wards shall be settled and closed:

(1) when all the debts known to exist against the Estate of a deceased person have been paid, or when they have been paid so far as the assets in the hands of an administrator or executor of such Estate will permit, and when there is no further need for administration;

(2) when a minor ward dies, or becomes an adult by becoming eighteen years of age, or by removal of disabilities of minority according to the law of this state, or by marriage, or when the necessity for guardianship no longer exists for other reasons;

(3) when an incompetent ward dies, or is decreed as provided by law to have been restored to sound mind or sober habits, or, being married, when his or her spouse has qualified as survivor in community;

(4) when a ward entitled to funds from a governmental source dies, or when the court finds that the necessity for the guardianship of that person has ended;

(5) when the Estate of a ward becomes exhausted;

(6) when the foreseeable income accruing to a ward or to his Estate is so negligible that maintaining the guardianship in force would be burdensome; or

(7) when:

(A) a guardianship of the Estate does not exist;

(B) a natural parent of the ward requests the settlement and closing of the guardianship; and

(C) the court finds it is in the best interest of the ward to settle and close the guardianship

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(b) In a case arising under Subsection (a)(6) of this section, the court may authorize the income to be paid to a parent, or some other person who has acted as guardian, to assist as far as possible in the maintenance of the ward, and without liability to account to the court for the income.

(c) When the Estate of a minor ward consists only of cash or cash equivalents in an amount of not more than \$25,000, the guardianship of the Estate may be terminated and the assets paid to the county clerk of the county in which the guardianship proceeding is pending, and the clerk shall manage the funds as provided by Section 144(a) of this code.

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