

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for petition for presumption of death of missing individual believed to be dead pursuant to O.C.G.A. § 53-9-1 et seq.
2. This form may be used in conjunction with a petition for letters of administration, a petition to probate will in common or solemn form, a petition for a year's support or a petition for an order that no administration is necessary. Any of these other petitions may be granted at any time after the presumption of death is established, provided that all legal requirements for the granting of the other petition have been met.
3. Paragraph 5 requires that a definitive statement be made to show to the court that the persons named in paragraph 4 constitute all of the heirs of the decedent and that there are no heirs of the same or closer degree according to O.C.G.A §53-2-1. Provide the date of death for any deceased heirs. NOTE: If you are uncertain how to determine the heirs of a decedent, please refer to the "Heirs Determination Sheet" available from the probate court or at www.gaprobate.org. Examples of such statement would be: (a) "decedent was or was not married at the time of his death and had no children born, adopted, living or deceased, other than listed herein"; (b) "decedent had no other siblings half or whole other than those listed herein"; (c) "the decedent's brother who died previously, had no other children born, adopted, living or deceased, other than listed herein."
4. The attached form consists of 7 pages.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court.

**PETITION FOR PRESUMPTION OF DEATH
OF MISSING INDIVIDUAL BELIEVED TO BE DEAD**

GEORGIA, _____ COUNTY

TO THE HONORABLE JUDGE OF THE PROBATE COURT:

The petition of _____, whose mailing address is _____
_____, respectfully shows to the Court:

1.

_____ hereinafter referred to as the "missing individual"),
who was domiciled at _____
in _____, Georgia, is missing.
(County)

2.

(Check one:)

- ___ The missing individual has been missing from his/her last known place of domicile for a continuous period of four years or longer.
- ___ The missing individual has been missing from his/her last known place of domicile for a continuous period of twelve months or longer.
- ___ The missing individual was exposed to a specific peril or tragedy resulting in probable death under circumstances which may be proved by clear and convincing evidence. The specific peril or tragedy and the circumstances proving the death of the missing individual are fully explained in paragraph 7.

3.

The missing individual was last heard from on _____,
(Date)
at which time he/she was at _____.
(Location or Address)

4.

Listed below are the names of all the missing individual's heirs with the age or majority status, address, and relationship to the missing individual set opposite the name of each:

Name	Age (or over 18)	Address	Relationship

5.

Make a definitive statement which will show to the court that those persons named in Paragraph 4 constitute all of the heirs of the decedent and that there are no heirs of similar or higher degree according to O.C.G.A. §53-2-1. Provide the names of any deceased heirs and include the date of death for each. (See instructions for further clarification.)

6.

____ Petitioner (has simultaneously filed) (will file) a petition concerning this estate for (check one):

- ____ administration of the estate.
- ____ probate of will in (common) (solemn) form.
- ____ a year's support.
- ____ an order that no administration is necessary.

OR ____ Petitioner does not presently intend to file any other proceedings.

7.

To the knowledge of the petitioner, no other proceedings with respect to this estate are pending, or have been completed, in any other probate court in this state.

8.

The petitioner shows the following facts in support of the belief that the missing individual is deceased [**If death is to be proved as a result of a specific peril or tragedy, please fully describe the specific peril or tragedy and the circumstances proving the decedent's exposure thereto and death as a result thereof**]:

Wherefore petitioner prays:

- (a) that necessary notice be issued and served according to law; and
- (b) that an order establishing a presumption of death be entered.

Signature of Attorney
(or petitioner if pro se)

Printed Name: _____

Address: _____

Telephone: _____

State Bar #: _____

Signature of Attorney
(or petitioner if pro se)

Printed Name: _____

Address: _____

Telephone: _____

State Bar #: _____

VERIFICATION

Georgia, _____ County

Personally appeared before me the undersigned petitioner(s) who on oath state(s) that the facts set forth in the foregoing petition are true.

Petitioner
Printed Name: _____

Petitioner
Printed Name: _____

Address: _____

Address: _____

Telephone: _____

Telephone: _____

Sworn to and subscribed before me, this _____ day of _____, 20_____.

Clerk of Probate Court or Notary Public

**ACKNOWLEDGMENT OF SERVICE
AND ASSENT TO PETITION**

GEORGIA, _____ COUNTY

IN RE: PETITION OF _____ FOR THE
PRESUMPTION OF DEATH OF _____,
MISSING INDIVIDUAL BELIEVED TO BE DEAD

We, the undersigned, being over 18 years of age, laboring under no legal disability and being those who would be heirs if the missing individual were known to be dead, hereby acknowledge service of a copy of the petition for presumption of death of missing individual believed to be dead and notice, waive copies of same, waive further service and notice, and hereby assent to the petition without further delay,

SIGNATURE(S) OF WOULD BE HEIRS

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature

NOTARY/CLERK OF PROBATE COURT

Print Name

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature

NOTARY/CLERK OF PROBATE COURT

Print Name

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature

NOTARY/CLERK OF PROBATE COURT

Print Name

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature

NOTARY/CLERK OF PROBATE COURT

Print Name

Sworn to and subscribed before
me this _____ day of _____, 20____.

Signature

NOTARY/CLERK OF PROBATE COURT

Print Name

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN THE MATTER OF _____, MISSING INDIVIDUAL BELIEVED DEAD)))))))	ESTATE NUMBER _____ RE: PETITION FOR PRESUMPTION OF DEATH OF MISSING INDIVIDUAL BELIEVED TO BE DEAD
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**ORDER FOR SERVICE OF NOTICE
(AND SEARCH FOR MISSING INDIVIDUAL)**

[Note: If desired, the following Order for Service of Notice and Notice of Hearing may be combined with any other such Order and Notice required for the issuance of letters or an order for year's support or that no administration is necessary.]

On _____, 20____, _____ filed this petition to establish the presumption of death of the above-named missing individual believed to be dead (and a petition on the estate of such individual).

IT IS ORDERED that notice be published once a week for four weeks, in the official newspaper in this county in which sheriff's advertisements are published, giving notice that on a day stated, which must be at least 90 days after the first publication, evidence will be heard by this Court concerning the alleged absence of the missing individual and the circumstances and duration thereof.

IT IS FURTHER ORDERED that the notice be (initial any and all of the following which apply):

_____ served personally, together with a copy of the petition, upon the following individuals who would be heirs if the missing individual were known to be dead, who reside within this state, who have not acknowledged service:

_____ served by registered or certified mail, return receipt requested, together with a copy of the petition, upon nonresident individuals who would be heirs if the missing individual were known to be dead, whose current residence addresses are known and who have not acknowledged service:

_____ served by publication upon the following individuals who would be heirs if the missing individual were known to be dead, whose current residence addresses are unknown and who have not acknowledged service:

_____ (Optional) IT IS FURTHER ORDERED that the petitioner search for the missing individual in the following manner:

This _____ day of _____, 20_____.

JUDGE OF THE PROBATE COURT

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN THE MATTER OF _____, MISSING INDIVIDUAL BELIEVED DEAD))))))	ESTATE NUMBER _____ RE: PETITION FOR PRESUMPTION OF MISSING INDIVIDUAL BELIEVED TO BE DEAD
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NOTICE OF HEARING

A petition for presumption of death of _____, a missing individual believed dead, has been filed by _____ (in conjunction with a petition for _____). Notice is hereby given that at _____ o'clock ____m., on the _____ day of _____, 20____, evidence will be heard by the probate court concerning the alleged absence of said missing individual and the circumstances and duration thereof. The missing individual, if alive, or any other individual having evidence that the missing individual is alive, is required to produce and present to the court evidence that the missing individual is still in life.

This _____ day of _____, 20_____.

Judge of the Probate Court

By: _____
Clerk of the Probate Court

Publication dates: _____

CERTIFICATE OF MAILING

This is to certify that I have this date forwarded by registered or certified mail, return receipt requested, in a stamped, addressed envelope, a copy of the foregoing petition and the notice, to each of the following heirs-apparent who reside out of state at known current residence addresses:

DATE

CLERK, PROBATE COURT

PROBATE COURT OF _____ COUNTY

STATE OF GEORGIA

IN THE MATTER OF _____)

ESTATE NUMBER _____)

_____,)
MISSING INDIVIDUAL BELIEVED DEAD)

RE: PETITION FOR PRESUMPTION
OF DEATH OF MISSING
INDIVIDUAL BELIEVED
TO BE DEAD)

ORDER ESTABLISHING PRESUMPTION OF DEATH AND DATE THEREOF

The petition of _____, for
presumption of death of _____, a missing
individual believed to be dead, having come before the Court for hearing on _____,
20____, and it appearing that notice of such hearing was duly published and served as required by law,
and after hearing evidence in said case, it is the finding of the Court that a diligent and reasonable effort
has been made to locate the missing individual and that a legal presumption of death of said missing
individual has been established

___ by a preponderance of the evidence because the presumption of death has been proved by
showing the at the individual has been missing from his or her last known place of domicile for a
continuous period of four years,

OR

___ by a preponderance of the evidence because presumption of death has been proved by
showing that the individual has been missing from his or her last known place of domicile for a continues
period of twelve months or more,

OR

___ by clear and convincing evidence, because the presumption of death has been proved by
showing that the individual was exposed to a specific peril or tragedy resulting in probable death,

and this Court concludes that such missing individual may be declared dead.

WHEREUPON, IT IS ORDERED that _____ be
and is hereby declared dead and the date of death is hereby established as _____.

SO ORDERED on _____ .

Judge of the Probate Court