

# INSTRUCTIONS FOR EX PARTE PETITION FOR ORDER TO OPEN SAFE DEPOSIT BOX

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In Nevada, if you believe that the decedent's will is locked inside a safe-deposit box, you will need a court order signed by the judge that orders the bank or financial institution to open the safe-deposit box just for the purpose of taking out the will. (NRS 136.060.) To get that court order to take to the bank or financial institution, you will need to truthfully assert that you believe the will is in the safe-deposit box and petition the court to order the bank to open the safe-deposit box so you can remove the will.

**NOTE!** This petition is strictly limited to the opening of the safe-deposit box for the purpose of removing the will. Nothing else will be permitted to be removed from the safe-deposit box if this petition is granted—only the will.

In order to obtain court authority to open the safe-deposit box and remove the will, follow the following eight steps:

## **Step 1: Collect information.**

The information you will first need to collect is the name of the bank or financial institution where the safe-deposit box is held and its address. It is best if you can also obtain the location of the key and box number.

Then, gather a list of all the persons who have equal or higher priority than you to authorize the opening of the safe-deposit box. You will need their names, ages, relationships to decedent, and addresses. The order of priority of persons is as follows:

1. The decedent's spouse;
  2. The decedent's adult son or daughter;
  3. The decedent's parents;
  4. The decedent's adult brother or sister;
  5. The decedent's grandchildren;
  6. Any family entitled to share in the distribution of the estate.
- (NRS 139.040.)

Find out where you are in the list above, then gather the names, ages, and addresses of all the people who are equal or higher than you on that list.

## **Step 2: Fill out the packet.**

Fill out the attached packet and complete all the forms carefully, providing all the requested information in all blanks. You, the person completing the packet, are the petitioner. Do not forget to sign the petition and verification.

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*This document has been prepared as a courtesy and to assist you with completing your court filing. It is not to be construed as providing legal advice or representation on how to prepare your case.*

This packet also includes the consent form in Step 3. (Remember, you do not fill out the consent form. Read through Step 3 for more information.)

### **Step 3: Gather consent forms.**

Refer back to your list of family members that you compiled in Step 1 and that you included in your petition. Each person on that list who consents to the opening of the safe-deposit box should complete a consent form. Remember, you do not fill out this form; the family members who consent do. If you are the person with the highest priority or if you do not have the consent of family members with equal or higher priority, then you will not complete this step. If you do have the consents of family members, have each person fill out a consent form. You might need to ask for, copy, or print out more than one consent form if you have more than one family member filling out a consent.

### **Step 4: Fill out affidavit.**

Refer back to your list of family members that you compiled in Step 1 and that you included in your petition. Go through that list and note which family members on that list did not fill out a consent in Step 3. An explanation for each of those family members needs to be provided in an affidavit. An explanation for each of those family members needs to be provided in an affidavit. You can pick up a blank affidavit from the Civil Law Self-Help Center or get one from [www.civillawselfhelpcenter.org](http://www.civillawselfhelpcenter.org).

You will explain in the affidavit why you did not get the consent from each of those family members (*e.g.*, no one knows how to contact that person, the person is estranged from the family, or the person consents but is deployed and can't fill out a consent, etc.) Note that if you are the person of highest priority, you might not need to complete this step. Once you have completed the affidavit, get it notarized by a notary public.

### **Step 5: Attach documents to your petition.**

Gather the following documents and attach them to the back of your petition behind the appropriate Exhibit sheet.

1. A copy of your picture ID.
2. A copy of the death certificate.
3. Consent forms filled out by the people of equal or higher priority than you who consent to the opening of the safe-deposit box, if there are such people.
4. An affidavit filled out by you explaining why the people of equal or higher priority than you have not filled out a consent form, if there are such people.

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### **Step 6: File packet.**

After completing Steps 1 through 5, submit everything to the Eighth Judicial District Court. The clerk's office where you can submit the packet is on the 3rd floor of the Regional Justice Center at 200 Lewis Avenue, Las Vegas, NV 89155. There is no fee to file.

### **Step 7: Check status of case.**

After filing your petition, you should continuously check the court docket to see if anyone has filed an objection. You can go to the Eighth Judicial Court website (<https://www.clarkcountycourts.us/Anonymous/default.aspx>) and search under "Family Records" by the decedent's name to see if anyone has filed an objection. If an objection gets filed, the court might set the matter for hearing. Note that hearing date and attend the hearing. However, if there are no objections, generally the court will not set the matter for hearing.

You should also continuously check the probate court's matter listing or "Pickup List" to see if the court has granted your petition. Go to the probate webpage (<http://www.clarkcountycourts.us/departments/probate/>) and click on the link for "The District Court Probate Pickup List." Search for the decedent's name under the column "Name of the Estate" then follow it to the "Status" column. If your petition has been granted, you will see the list will reflect "OK," and that means the judge has signed off on the order.

### **Step 8: Get order.**

Once the judge has signed off on the order, you can wait for the order to be mailed to you. If there are no objections filed to your petition, you can expect to receive the order in the mail about 3 to 4 weeks after filing your petition. You will receive a plain order as well as a certified order in the mail. You can also pick up a certified copy of the order at the clerk's office on the 3rd floor where you filed. Once you have the order, you can bring it to the bank or financial institution for the opening of the safe-deposit box. Some institutions might request to see the certified copy of the order.

**NOTE!** If the petition is granted, the bank might charge you a drill fee, or a fee for opening up the safe-deposit box without a key. A bank representative will probably watch while the safe-deposit box is opened and make sure that only the will is removed. Again, this order only allows the opening of the safe-deposit box to remove the will. Anything else you see in the safe-deposit box will have to go through probate administration.