

PETITION FOR YEAR'S SUPPORT

INSTRUCTIONS

I. Specific Instructions

1. This form is to be used for filing a petition for year's support pursuant to O.C.G.A. □53-3-1 et seq.
2. The amount set apart shall be an amount sufficient to maintain the standard of living that the surviving spouse and each minor child had prior to the death of the decedent, for a period of twelve months, taking into consideration the following: (a) the support available to the individual for whom the property or money is to be set apart, from sources other than year's support, including, but not limited to, any separate estate and earning capacity of that individual; and (b) such other relevant criteria as the Court deems equitable and proper, including the solvency of the estate.
3. This petition must be filed within 24 months after decedent's death.
4. The petitioner(s) or his/her/their attorney must prepare and file with the Court, no later than the date of the final order, a Georgia Department of Revenue Form PT-61 for each parcel of real property located in the State of Georgia shown on □Exhibit A.□
5. Signatures of heirs and beneficiaries who acknowledge service must be sworn to before a notary public or the clerk of any probate court of this State. An attorney at law may acknowledge service on behalf of an heir or beneficiary; however, the attorney must certify that he or she currently represents that heir or beneficiary with regard to the pending matter and, in order to comply with O.C.G.A. □53-11-6, the attorney's signature must be sworn as provided above. It is not necessary that all acknowledgments appear on the same page. With regard to a power of attorney, the attorney-in-fact may acknowledge service on behalf of the grantor of the power, provided that the power of attorney grants such authority, the signature of the attorney-in-fact is attested, a copy of the power of attorney is attached, and the attorney-in-fact certifies that the copy is a true copy and is still in effect.
6. If the decedent died without a will or left a will that has not yet been probated, paragraph 3 of this petition requires sufficient factual information for the Court to conclude that those listed on □Exhibit B□ include each and every heir of the decedent and that there are not additional heirs of the same or closer degree according to O.C.G.A. □53-2-1. These facts must allow the Court to rule out the possibility that there may be other heirs of the same or closer degree who have not been listed. Provide information as to whether any deceased heirs died before or after the decedent and the name and address of the deceased heir's personal representative, if applicable. The personal representative of a post deceased heir is authorized to consent on behalf of that heir. O.C.G.A. □53-7-1. A person's heirs are determined at the time of that person's death. A close relative must be alive at

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the time the decedent dies to be an heir. If an heir who outlived the decedent subsequently dies, that post deceased heir must be represented by the personal representative of his or her estate or by a guardian ad litem. *[Note: If you are uncertain how to determine the heirs of a Decedent, refer to the □Heirs Determination Worksheet□ available from the Probate Court or at www.gaprobate.gov.]* 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□; and (c) □Decedent□s brother who died previously had no other children born, adopted, living or deceased, other than listed herein.□

7. □Exhibit B□also requires that the tax commissioner be listed for each county in which there is real property owned by the decedent.
8. O.C.G.A. □53-11-2 provides that a party to a probate proceeding who is not sui juris must be represented by a guardian provided that the Court may appoint a guardian ad litem or determine that the natural guardian, guardian, conservator, or testamentary guardian has no conflict and may serve. When a party to a proceeding in the probate court is a post deceased heir whose estate has no personal representative, such deceased heir□s estate may be represented in the proceeding by a guardian ad litem. Should a guardian ad litem be necessary because a party is not sui juris, use Georgia Probate Court Standard Form Supplement 1.
9. Use Georgia Probate Court Standard Form Supplement 2 if the Court determines it is appropriate to appoint a special process server.
10. Use Georgia Probate Court Standard Form Supplement 3 when an additional certificate of service is necessary.
11. Exhibits should be labeled as □Exhibit A,□□Exhibit B,□etc. in consecutive order. The corresponding letter of each said exhibit should be inserted into the appropriate place in the form.
12. According to Uniform Probate Court Rule 5.6 (A), unless the Court specifically assumes the responsibility, it is the responsibility of the moving party to prepare the proper citation and deliver it properly so it can be served according to law. All pages after the notice regarding Uniform Probate Court Rule 5.6 (A) are to be completed by the moving party, unless otherwise directed by the Court.

II. General Instructions

General instructions applicable to all Georgia probate court standard forms are available in each probate court or at www.gaprobate.gov, labeled GPCSF 1.

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each, the beneficiaries named in the will in □Exhibit B.□ For any minor, include the date of birth and the name and address of the parent or guardian.]

- _____ (d) There is a will, which will not be offered for probate but is hereby filed with this Court not for probate or is already on file with this Court. *[Note: List the personal representative named in the will, all of the heirs at law of the decedent, with age or majority status, address and relationship to the decedent set opposite the name of each, the beneficiaries named in the will in □Exhibit B.□ For any minor, include the date of birth and the name and address of the parent or guardian.]*

- _____ (e) There is a will, which has been probated. *[Note: List the appointed personal representative. The names of the beneficiaries are not required to be listed in □Exhibit B□ unless the appointed personal representative and the petitioner are the same person. For any minor, include the date of birth and the name and address of the parent or guardian.]* A copy of the final order and letters of appointment are attached as □Exhibit _____,□in the event the letters were not issued by the Probate Court named in the style above.

- _____ (f) There is an appointed administrator. *[Note: List the appointed personal representative in □Exhibit B.□ The names of the heirs are not required to be listed in □Exhibit B□ unless the personal representative and the petitioner are the same person. For any minor, include the date of birth and the name and address of the parent or guardian.]* A copy of the final order and letters of appointment are attached as □Exhibit _____,□in the event the letters were not issued by the Probate Court named in the style above.

3.

Required for all estates in which the heirs must be listed in Exhibit □B□ *[Note: Provide sufficient factual information to enable the Court to conclude that all of the heirs of the decedent are included and that there are no heirs of the same or closer 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.) Also, state here all pertinent facts that may govern the method of giving notice to any party and that may determine whether or not a guardian ad litem should be appointed for any party. If any heirs listed in □Exhibit B□ are cousins, grandchildren, nephews or nieces of the decedent, indicate the deceased ancestor through whom they are related to the decedent.]*

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4.

Petitioner shows that the minor child(ren) of the decedent and/or the surviving spouse (is)(are) entitled, before the payment of debts of the decedent, to an allowance called □Year□ Support,□ which petitioner hereby claims for the individual(s) named in paragraph 6 of this petition.

5.

The decedent□s estate consists of real and/or personal property of the probable value of _____ dollars.

6.

A schedule of the property or a statement of the amount of money, or both, which the petitioner proposes to have set apart to the following individuals:

[Note: List the full name(s) of the individual(s) whom the petitioner proposes the year□s support be set apart to, usually the spouse and minor child(ren)] is attached hereto as □Exhibit A,□and made a part hereof.

7.

In addition to all taxes and tax liens on real property accrued for years prior to the year of the decedent□s death, petitioner elects to have property taxes on any real property set apart as year□s support divested as follows:

[Only select one]

- _____ (a) Real property taxes accrued in the year of decedent□s death;
- _____ (b) Real property taxes accrued in the year in which this petition is filed; or
- _____ (c) Real property taxes accrued in the year following the filing of this petition if this petition is filed in the year of the decedent□s death.

8.

Additional data: *[Note: Where full particulars are lacking, state here the reasons for any such omission.]*

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WHEREFORE, petitioner prays:

1. That this petition be accepted and filed.
2. That notice issue and be published and served as required by law.
3. That any interested person who is a minor or an incapacitated adult have a guardian ad litem appointed for him or her.
4. That this Court grant such other and further relief as it deems proper under the circumstances.

This ____ day of _____, 20 ____.

Signature of the Petitioner

Printed Name of the Petitioner

Mailing Address

Telephone Number

Signature of Attorney: _____

Printed Name of Attorney: _____

Address: _____

Telephone Number: _____ State Bar # _____

VERIFICATION

GEORGIA, _____ COUNTY

Personally appeared before me the undersigned petitioner(s) who, after being duly sworn, state(s) that the facts set forth in the foregoing petition for year's support (and the attached exhibit(s)) are true and correct.

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

Signature of Petitioner

NOTARY/CLERK OF PROBATE COURT
My Commission Expires: _____

Printed Name of Petitioner

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Probate Court Return Mailing Address:

(Note: Above space to be used for filing in Superior Court Clerk's Office of Deeds and Records)

**IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA**

IN RE:)
)
_____,) **ESTATE NO.** _____
DECEASED)

**CERTIFICATE OF ORDER OF YEAR'S SUPPORT
(Pursuant to O.C.G.A. ☐ 53-3-11)**

DATE ORDER GRANTED: _____

GRANTOR: *[Name of decedent]* _____

GRANTEE: *[Full name of each person awarded year's support. The surviving spouse and/or all minor child(ren) of the decedent]*

ADDRESS OF GRANTEE:

Legal description of real property and interest therein:

Original certificate delivered or mailed to clerk of Superior Court of
_____ County on _____, 20____.

Certificate prepared by:

SIGNATURE OF ATTORNEY
OR PETITIONER

State Bar # _____

I do hereby certify that the above information is based on the Order of the Probate Court issued on the date set out above.

By: _____
Clerk of the Probate Court

Probate Court Return Mailing Address

NOTICE

THE FOLLOWING PAGES ARE TO BE COMPLETED BY THE PETITIONER (MOVING PARTY) UNLESS OTHERWISE DIRECTED BY THE COURT.

SEE UNIFORM PROBATE COURT RULE 5.6 (A).

UNOFFICIAL VERSION PENDING SUPREME COURT APPROVAL

**IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA**

IN RE:

DECEASED

)
)
)
)

ESTATE NO. _____

**PETITION FOR YEAR'S SUPPORT
ORDER FOR NOTICE**

The petition for Year's Support having been filed in this office, let notice issue and be published once a week for four weeks as required by law.

Further, it appearing that the estate (is)(is not) represented by a person other than the petitioner, let the clerk of this Court serve a copy of the notice in this matter upon (such representative other than the petitioner)(all interested persons listed in Exhibit B to the petition, except those who have acknowledged service) not fewer than 30 days prior to the date and time for objection to be filed shown in this notice.

It is further ordered that the clerk of this Court must serve a copy of the petition within five days of its filing upon the tax commissioner or tax collector of any county in this State in which real property is proposed to be set apart is located.

SO ORDERED this _____ day of _____, 20____.

Judge of the Probate Court

UNOFFICIAL VERSION PENDING SUPREME COURT APPROVAL

IN THE PROBATE COURT OF _____ COUNTY
STATE OF GEORGIA

IN RE: _____)
DECEASED _____,) ESTATE NO. _____)

FINAL ORDER FOR YEAR'S SUPPORT

The petition for a Year's Support for decedent's (surviving spouse)(and)(minor child(ren)), setting forth the property sought to be set apart as a Year's Support, was filed; notice was issued, published, and served as required by law; and no objection was filed to the petition.

WHEREFORE IT IS ORDERED that the petition is granted and the property shown on the schedule of property attached hereto as Exhibit A and made a part hereof is hereby awarded to _____, decedent's surviving spouse, and
[Name of surviving spouse]
_____, decedent's minor child(ren), and
[Name(s) of minor child(ren)]
further that property taxes on any real property awarded hereby shall be divested as elected in the petition and to the extent permitted or authorized by O.C.G.A. 53-3-4.

SO ORDERED this _____ day of _____, 20____

Judge of the Probate Court