

Instructions For Form 1: Affidavit For Collection Of Personal Property Of The Decedent ([30.1-23-01](#))

Form 1 allows personal property to transfer without court involvement. You **don't** file the Affidavit for Collection of Personal Property of the Decedent with a North Dakota state district court.

You may use the Affidavit if the estate meets the following requirements:

- At least 30 days have passed since the person died;
- The total net value of the probated property (minus any debts or other encumbrances on the property) is less than \$50,000.00;
- There's **no** real property (real estate) that is part of the probated estate (**see** the personal property and real property definitions on Page 18 of this guidebook);
- No probate case is started or completed in a North Dakota state district court, a court of any other state, or a tribal court; and
- The heir claiming the personal property by affidavit is entitled to it by will or intestate succession.

The completed Affidavit is presented to whoever holds the personal property for transfer to the person entitled to receive it. If you need a court order to transfer the property, you **can't** use this form.

Note: You may wish to contact the holder of the personal property to find out if they will accept the Affidavit as a way to transfer the personal property to you. If the Affidavit won't be accepted, see options B.1. and B.2. on Page 5 of this [guidebook](#).

If the deceased person **didn't** leave a will, you need to determine who the heirs of the estate are according to North Dakota's intestate succession laws. Intestate succession laws dictate who takes the deceased person's property if they died without a will. **See** Pages 10-11 of this guidebook for distribution of the estate if there's no will.

The Person Entitled To The Property By Will Or Intestate Succession Fills Out The Form

- ☐ **In the Matter of the Estate of . . . :** Fill in the full legal name of the deceased person.
- ☐ **State of:** Fill in the name of the state where you sign the Affidavit (i.e., North Dakota).
- ☐ **County of:** Fill in the name of the county where you sign the Affidavit.
- ☐ _____, **being duly sworn . . . :** Fill in your full legal name, as the person completing and signing this Affidavit.
- ☐ **Paragraph 1:** Fill in the full legal name of the deceased person and their date of death.
Because: Fill in whether you were named in the will as the heir or successor. If there's no will, fill in your relationship to the deceased person from 10-11 of this guidebook.
- ☐ **Paragraphs 2, 3, 4:** These statements **must** be true or you can't use this form.
- ☐ **Number 5(a):** This statement **must** be true or you can't use this form.
- ☐ **Number 5(b):** List the specific personal property you wish to collect.
Belonging to the deceased and presently held by: Fill in the name of the entity (business, etc.) holding the personal property you wish to collect.
- ☐ **Signature Block:** This form **must** be signed & dated in front of a notary public or clerk of court.

If you need assistance with the form, [consult a lawyer](#) licensed to practice in North Dakota.

In the Matter of the Estate of _____, Deceased.

**Affidavit for Collection of Personal Property of the Decedent
(N.D.C.C. 30.1-23-01)**

State of _____)
) SS.
County of _____)

_____, being duly sworn, states the following:

1. I am the successor of (*deceased person*) _____
who died on (*date of death*) _____, because (*see attached instructions*):
2. The value of the entire estate of the decedent, wherever located, less liens and encumbrances, does not exceed \$50,000.00.
3. Thirty (30) days have elapsed since the death of the decedent.
4. No application or petition for the appointment of a personal representative of the decedent's estate is pending or has been granted in any jurisdiction.
5. (a) As successor of the decedent, I am entitled to the payment of any sums of money due and owing the decedent and to the delivery of all tangible personal property belonging to the decedent and to the delivery of all instruments evidencing a debt, obligation, stock or chose in action belonging to the decedent.

(b) As successor of the decedent, I am entitled to payment or delivery of (*specify debt, personal property, instrument, obligation, stock or chose in action**):

belonging to the decedent and presently held by:

Affiant Signature

Affiant Address

City, State, Zip Code

Phone Number

Email Address

Subscribed and sworn to before me this _____ day of _____.

Notary Public

**chose in action – a legal claim or a right to bring an action to receive or recover a debt, money, or damages by a judicial proceeding, and is intangible personal property – Cichos v. Dakota Eye Institute, P.C., 933 N.W.2d 452 (N.D. 2019).*