

Instructions for Completing a Small Estate Affidavit (K.S.A. 59-1507b)

Preliminary Questions:

1. Are you an heir seeking to transfer the decedent's personal property (usually bank accounts) to all the heirs?
 - a. **Vehicles:** For transferring title to automobiles to all heirs when the estate is less than \$40,000, you should complete a Claim of Heir and/or Beneficiary Affidavit, available at <https://www.ksrevenue.org/pdf/tr83b.pdf>.
 - b. **Real Property (House or Land):** Check for a transfer on death deed with the County Register of Deeds. If that doesn't exist, then the transfer of property may have to go through probate court. The value of the property would be included in the \$40,000 limit for using this small estate affidavit.
2. Are you seeking to avoid taking a will through the formal probate process?
 - a. If you possess the will of a deceased person, but don't intend to proceed through the probate court process, Kansas law requires that you file the original document, along with an affidavit of heirship and that you send copies to all heirs. This process must be done within 6 months of the person's death. You can still use this process, even if you file the will under KSA 59-612a.
3. Are the total of **all** to be transferred assets less than \$40,000?
 - a. Do not include assets held in joint tenancy, retirement plans with a designated beneficiary, payable on death bank accounts, real estate transferred by a transfer on death deed, or transfer on death brokerage accounts.

If the answer is YES to all of these questions, follow the below steps for transferring such assets.

Steps:

1. Complete a small estate affidavit, available in PDF or Word format on the Kansas Judicial Council's website: <http://www.kansasjudicialcouncil.org/legal-forms/probate/ksa-59-1507b-probate-affidavit-estates-less-40k>. If you use the Word format on a computer with that program, you can modify the form and include the appropriate information.
2. When filling out the affidavit, add the following information:
 - a. Name of county in which decedent resided at the time of death
 - b. Section (1): date of decedent's death, decedent's name, whether decedent died testate (with a will) or intestate (without a will) and where the decedent pass away
 - c. Section (4): names, age, relationship, and address of the beneficiaries under a will or the heirs at law (spouse, living children, children of deceased children), if there is no will
 - d. Section (5): description of decedent's property and its value
 - e. Section (6): if more than one person is getting the assets, list how they will be divided –
For example: Two children (list name rather than relationship) will divide the account 50/50, after payment of funeral expenses.
3. After completing, sign the affidavit **before a notary**. It is possible that this can be done at the bank to which you are taking the affidavit. The actual signing has to be observed by the notary. You may want to call in advance to see if they can notarize it. They will require proof of your identity when you ask them to notarize something.
4. Provide the completed document to the bank, credit union or other financial institution where decedent has an account along with a copy of the death certificate so that the assets can be

released. You should expect that a check will be written and mail to you, rather than receiving the money that day.

**AFFIDAVIT TRANSFERRING CERTAIN
PERSONAL PROPERTY IN ESTATES UNDER \$40,000
PURSUANT TO K.S.A. 59-1507b**

STATE OF KANSAS)
) ss:
COUNTY OF _____)

(name of affiant), being duly sworn states:

(1) On _____
(date), _____
(decedent) died *(testate or intestate)* at
location, leaving an estate not exceeding \$40,000 in value, and I have
attached a certified copy of the death certificate to this affidavit.

(2) No petition for the appointment of an executor or administrator of the
decedent's estate is pending or has been granted.

(3) All unpaid debts, claims or demands against the decedent or the
decedent's estate and all estate and inheritance taxes due, if any, on the property
transfers involved have been or will be paid.

(4) That the following are the names, ages, relationships and addresses of
the beneficiaries under the decedent's will or heirs of the decedent:

<u><i>Name</i></u>	<u><i>Age</i></u>	<u><i>Relationship</i></u>	<u><i>Address</i></u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(5) The decedent's estate consists of the following personal property:
(include the proceeds from insurance policies payable to the estate and identify
the policy by number):

<u><i>Property</i></u>	<u><i>Value</i></u>
_____	_____
_____	_____
_____	_____
_____	_____

(6) Affiant has the right to succeed to the personal property of the decedent and affiant is over 18 years of age and is legally competent in all respects to make this affidavit and to receive the above mentioned personal property, apportioned among the affiant or affiants, if more than one, as follows: _____

Affiant requests that the above mentioned personal property be transferred to the affiant.

(Signature)

SUBSCRIBED AND SWORN to (or affirmed) before me on _____ (date) _____.

Notary Public

(SEAL)
My Appointment Expires:
