

# SUPREME COURT OF GEORGIA

Atlanta July 9, 2004

The Honorable Supreme Court met pursuant to adjournment.

The following order was passed:

**Re: Petition for Presumption of Death of Missing Individual Believed to be Dead**

## 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. 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.

- \_\_\_\_ 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.

6.

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.

7.

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

-----  
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 \_\_\_\_\_ ) ESTATE NUMBER \_\_\_\_\_  
 )  
 )  
MISSING INDIVIDUAL BELIEVED DEAD ) RE: PETITION FOR PRESUMPTION OF  
 ) DEATH OF MISSING INDIVIDUAL  
 ) BELIEVED TO BE DEAD

**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 a 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 \_\_\_\_\_ ) ESTATE NUMBER \_\_\_\_\_  
 )  
 )  
 ) RE: PETITION FOR PRESUMPTION OF  
MISSING INDIVIDUAL BELIEVED DEAD ) DEATH OF MISSING INDIVIDUAL  
 ) BELIEVED TO BE DEAD  
 )

**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 \_\_\_\_\_  
 )  
 )  
\_\_\_\_\_, ) RE: PETITION FOR PRESUMPTION OF  
MISSING INDIVIDUAL BELIEVED DEAD ) 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 this Court that a diligent and reasonable effort has been made to locate the missing individual and that a legal presumption of the death of said missing individual has been established

\_\_\_\_\_ by a preponderance of the evidence because the 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 continuous period of four years,

OR  
\_\_\_\_\_ by a preponderance of the evidence because the 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 continuous 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