

WHAT HAPPENED TO MY LOVED ONE?

Requesting Death Records from Maryland Jails & Prisons

When someone you love passes away inside a Maryland prison or jail, it can feel impossible to find out what happened. While the process for seeking death-related information can differ depending on the facility, this guide hopes to shed some light on where to start.

OCTOBER 2023

This is general information, not legal advice.

For legal advice, you must consult a private attorney.

What may Maryland jails and prisons require before releasing incident reports, medical files, and other records about your loved one's death?

1. Court records showing you are the **personal representative** of your loved one's estate.
2. A written and notarized request for the records.
3. Payment for copies of the records.

- ▷ Even if you are the personal representative, the facility may still deny records for various reasons.
- ▷ If your request is granted but you cannot afford the copy fees, you can ask for an income-based waiver.

How Do You Become the Personal Representative of Your Loved One's Estate?

The Register of Wills may appoint you as personal representative when you create your loved one's estate.

- The **Register of Wills** is a government office elected in each county to manage local estates.
- As **personal representative** you may have certain duties, such as locating other "interested persons" (including your loved one's spouse, children, parents, siblings, and anyone they named in any will); helping to find financial information; and filing an "Information Report" (Form 1124) within 3 months of appointment.

- An **estate** is simply the value of your loved one's property and interests at the time they passed, including assets like cash or a house, and debts like a loan or restitution they owed. You can create a small estate when the value is less than \$50k (or less than \$100k if the only person who may inherit anything is a surviving spouse).
- If you are primarily focused on getting records or filing a lawsuit (instead of property or money concerns), there may be a simpler process allowing you to create a **small estate for litigation purposes only**. Information about this option is not widely published, so be sure to ask about it at the local Register of Wills office.
- If the Register approves the estate and appoints you as personal representative, you will receive a document called **Letters of Administration** – this is the court record showing you are the personal representative of your loved one's estate.

For help, visit or call the local Register of Wills office to find your county office (registers.maryland.gov).

You can schedule an in-person appointment. The required forms and a helpful guide are available online:

1. **Forms:** registers.maryland.gov/main/forms.html
2. **Guide:** registers.maryland.gov/main/publications.html

How do you create a loved one's small estate (and become the personal representative)?

1. Confirm your “priority” and eligibility:

- If you have “priority” to serve as personal representative, that means you are first in line to take on this role. Unless your loved one (a.k.a. the “decedent”) named someone in a will, this is usually their closest living relative (like their spouse or child). If you do not have priority, the person who does can agree to you serving as personal representative instead (see Form 1118).
- Even if you have priority, you will only be appointed as personal representative if you are (a) age 18 or older; (b) not considered “mentally incompetent”; (c) free of any convictions for a “serious crime”; and (d) a U.S. citizen (or lawful permanent resident related to the decedent).

2. File the required paperwork:

- These documents must be filed with the Register of Wills office in the county where your loved one was “domiciled” (this generally means where they lived before incarceration, unless they were serving a long sentence): (a) your loved one’s **death certificate**; (b) the **bill for your loved one’s funeral expenses**; (c) any **will** your loved one had; and (d) the required forms, including (but not limited to):
 - **Petition for Administration** (Form 1103)
 - **Schedule B** (Form 1137)
 - **List of Interested Persons** (Form 1104)

3. Pay any fees:

- There are generally no fees to create a small estate in Maryland. However, there may be some costs if your loved one’s estate exceeds a certain amount, or you are required to locate any creditors.

PRO TIPS

- **Even if you do not create an estate**, if your loved one had any remaining assets you must still file an Application to Fix Tax on Non-Probate Assets (Form 1125) within 90 days of their death.
- **Need help notarizing your written record request?** Many banks offer free notary services.
- **Need help accessing other death-related records?**
 - For the **death certificate**, contact the Division of Vital Records (health.maryland.gov/vsa/Pages/death.aspx), located at 6550 Reisterstown Road, Baltimore, MD 21215.
 - For the **autopsy report**, check out our Police Accountability Self-Advocacy Toolkit (aclumd.org/sites/default/files/field_documents/aclu_of_maryland_-_2023_police_accountability_self-advocacy_toolkit.pdf).
- **Need help with record requests under the Maryland Public Information Act?** Contact the Office of the Public Access Ombudsman (news.maryland.gov/mpiaombuds/request-mediation/).
- The **Baltimore Action Legal Team (BALT)** also has a helpful guide about the MPIA process (baltimoreactionlegal.org/new-blog/2022/4/14/read-our-new-guide-how-to-submit-a-public-information-act-request-in-maryland).

ADDITIONAL INFORMATION IS AVAILABLE ON OUR WEBSITE:
aclu-md.org/estate-process