

The Probate Process: A Brief Overview

Keep in mind that this will be slightly different in every county. Contact your county surrogates office if you would like detailed information for your county.

1. Filing the Will

- **Where:** Surrogate's Court in the county where the decedent resided.
- **When:** Usually after 10 days from the date of death.
- **What's Needed:** Original Will, certified death certificate, probate application, and identification.

2. Appointment of Executor or Administrator

- **With a Will:** Executor named in the Will is officially appointed.
- **Without a Will (Intestate):** Court appoints an Administrator (usually a close family member).

3. Issuance of Letters Testamentary or Letters of Administration

- These documents give the Executor/Administrator legal authority to act on behalf of the estate.

4. Notice to Heirs and Beneficiaries

- All heirs (with or without a Will) and beneficiaries must be notified.
- Proof of notice is often required to be filed with the Surrogate's Court.

5. Inventory and Appraisal of Assets

- Executor identifies, collects, and values all assets owned by the decedent.

6. Paying Debts and Taxes

- Valid debts and final expenses are paid.
- File and pay any required Income, Inheritance and Federal/State Estate Tax (if applicable. Inheritance/Estate taxes will not apply to most small estates).

7. Distribution of Assets

- After debts and taxes are paid, remaining assets are distributed according to the Will or intestacy laws.
- Beneficiaries may be asked to sign a Release and Refunding Bond.

8. Closing the Estate

- Final accounting may be required by the court (formal or informal).
- Final 1040 tax returns filed with the IRS.
- Once approved, the estate can be officially closed.