

TEXAS PROBATE

What you need to know...



Definition

The legal process of appointing a representative to administer the property of a deceased person (the "Estate") by over seeing the payment of debts and distributing the property to the intestate heirs or named beneficiaries in a valid Will.

4

years from the date of death to file for probate

FACTS

9

months from date of death to complete Estate Tax Return

THE PROBATE PROCESS APPLIES WHEN



Testate

SOMEONE
DIES
LEAVING A
WILL

Intestate

SOMEONE
DIES
WITHOUT
A WILL



Probate takes approximately **4** months to **1** year.

ARE THERE ANY
ASSETS THAT ARE
NOT SUBJECT TO
PROBATE?

1

INSURANCE
POLICIES

2

IRAS

3

PENSIONS

4

401(K)
PLANS

THE TEXAS PROBATE PROCESS REQUIRES

1. All property accounted for in an inventory and dispersed properly.
2. Decedent's debts paid.
3. Property distributed according to Texas law regarding intestacy.
4. Remaining assets distributed according to provisions of the Will.



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PROBATE TIMELINE

With Original Will

- INITIAL CONSULTATION WITH ATTORNEY & FILE APPLICATION TO PROBATE

- ASSEMBLE & PREPARE FILE FOR PROBATE

1 WEEK

- PETITION FOR PROBATE COURT HEARING

2-3 MONTHS

THE FOLLOWING ARE ISSUED

Clerk issues citation to all interested persons that an Application to Probate Decedent's Will was filed by posting

Hearing date assigned no sooner that 20 days after clerk issues citation

Personal Representative issues Wavier of Notice to each beneficiary for their notarized signature and files the waivers with the Court

HEARING

1. Judge reviews the Will and Application to probate
2. Applicant provides testimony in Court confirming the facts in the Application to Probate and signs a written form of their testimony known as the Proof of Death
3. If the Judge is satisfied with the valid Will, testimony of the Applicant and any required witnesses, they will sign the Order Admitting Will into Probate, Appointing Independent Executor, and Issuance of Letters Testamentary

☒ INDEPENDENT EXECUTOR SIGNS THE OATH

☒ CLERK ISSUES LETTERS TESTAMENTARY

☒ ATTORNEY SUBMITS NOTICE TO CREDITORS

☐ INDEPENDENT EXECUTOR MAY ISSUE PERMISSIVE NOTICE TO SPECIFIC CREDITORS

☐ INDEPENDENT EXECUTOR SIGNS AFFIDAVIT OF COMPLIANCE AND FILES WITH THE COURT

☐ INDEPENDENT EXECUTOR SIGNS AND FILES THE INVENTORY

☐ INDEPENDENT EXECUTOR APPROVES OR DENIES CREDITOR CLAIMS

☐ INDEPENDENT EXECUTOR DISTRIBUTES ESTATE ASSETS PURSUANT TO TERMS OF WILL

☐ FILE FINAL INCOME TAX RETURN BY APRIL 15TH

☐ INDEPENDENT EXECUTOR PAYS DEBTS

☐ FILE ESTATE TAX RETURN (IF GROSS ESTATE IS LESS THAN THE ESTATE TAX EXEMPTION) WITHIN 9 MONTHS OF DECEDENT'S DATE OF DEATH.

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