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Probate 101

Probate is the process of collecting assets, paying debts, and transferring assets according to a person's wishes after death. Unlike other states, in Texas probate is usually a straightforward process with modest expenses for most estates. There are no mandatory executor's fees, long waiting periods or other problems that you hear about in horror stories.

For a basic probate process, the will is filed with the Court. The person designated is appointed Executor, and then has access to all of the decedent's assets. The Executor collects or gains control of the assets. Then any remaining debts and expenses are paid. This process can take up to several months, depending on the situation. Then the Executor distributes

what is left in the manner specified in the Will. Usually, the Executor is independent of the Court, which means he or she has the authority to do what is necessary without getting Court permission. Depending on the nature of the assets and existence of debts, we may be able to utilize a less complicated procedure called muniment of title, where no Executor is named, and the Will is entered to show transfer of title only.

Where a decedent died intestate, or did not leave a Will, the process becomes longer and more time consuming. Then we must file to have an Administrator appointed, and another attorney must be involved to determine if there are any missing or unknown heirs. Because there are two attorneys involved, and be-

cause the Administrator may have to gain Court permission to take most actions, this process is more expensive. Executing a Will that meets several basic requirements will save an estate thousands of dollars.

DID YOU KNOW?

Here are some common misperceptions about probate:

- **Probate takes years to complete.**
Nontaxable estates generally take a year or less to complete.
- **Probate requires excessive time and money.**
Independent administrations, which account for more than 80% of Texas probates, involve only one hearing and the filing of an inventory.

—*Living Trust Scams and the Senior Consumer*, State Bar of Texas

Why Do I Need a Will?

I get it, no one likes to think about doing a Will. I didn't have a Will until I had been working here for over a year, because I didn't really think I needed one. I'm not married, I don't have any children, and I don't have a huge estate.

But here's what I do have: a mother who lives with me, a bunch of siblings a bunch of nieces and nephews, and assets, including a house, investments and life insurance.

Making Mom the sole beneficiary was easy; I wanted to make sure she would be protected if something happened to me

first, and the best way to do that was through estate planning. Even so, planning for contingencies was harder than I anticipated. Would I leave everything to my siblings, or just to my nieces and nephews? Should I leave something to all of them, or only some of them? These were not easy questions, and while I did not share my Will with everyone in my family, I was surprised at the reaction of one family member.



I will say, now that I have a Will, I find I worry less, especially related to my Mother's care. I can rest easier knowing that if she survives me, she will have a place to live and funds to pay for care, and everything will be managed by someone I trust. Without my Will in place, there's no telling how messy things would be.