

SEVEN STEPS TO HANDLING YOUR LOVED ONE'S ESTATE

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HOW TO CLOSE OUT ACCOUNTS, NOTIFY
KEY AUTHORITIES, ACCESS DEATH
BENEFITS AND BEGIN THE PROBATE
OR TRUST ADMINISTRATION PROCESS
AFTER THE LOSS OF A LOVED ONE.

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Getting Started

Handling the estate of a loved one is a huge responsibility . If you have been named Executor of the Estate, your loved one must have thought very highly of you to leave you with this important duty of overseeing his or her end-of-life affairs. If your loved one died without a will, you may petition the court for authority to fill this role as Administrator of the Estate.

Along with the grief you are probably experiencing right now, you might also feel stressed out, confused and overwhelmed as you try to figure out the best way to administer your loved one's estate.

This uncertainty leaves a lot of questions unanswered, including: "Am I doing this right?" or "What if I accidentally choose something that goes against my loved one's wishes?" or "Will the other family members hold me responsible if they don't like the outcome of the will or final wishes?"

This report is to help you minimize the overwhelm and ease the burden of handling the estate so you can get back to what is most important - remembering your loved one and celebrating their life.

Start with the Basics

The seven steps we outline in this guide are among the most important things you will need to know when handling a loved one's end-of-life affairs.

However, there may be additional steps your family will need to address to properly administer your loved one's estate. This will depend on your loved one's unique circumstances and the type of estate plan he or she had in place at the time of death. This Guide is meant to be a resource, but is certainly no substitute for proper legal advice. The specifics of your situation should be thoroughly discussed and addressed by a qualified estate administration attorney.

Estate distribution involves quite a bit of paperwork, as well as the need to meet very specific, government-mandated deadlines. If mistakes are made during this process, or steps are missed, it can result in delays and financial difficulties for all involved.

If probate is necessary, Mississippi court rules require that you retain the services of an attorney. While any attorney can probate an estate, hiring an attorney who specializes in probate and estate administration is the best way to ensure your loved one's affairs are



handled in a timely and efficient manner. We are happy to provide your family with more information on this and answer all of your questions during a free consultation, which you can schedule now by calling 601-925-9797.

My Loved One Had a Trust...Can I Avoid Probate?

If your loved one died with a Trust in place, it may be possible to avoid the Probate process all together.

So long as the Trust has stayed updated and your loved one's assets are properly owned by the Trust, the Trust can be administered privately without court intervention. If the Trust was not properly funded (meaning assets were not titled in the name of the Trust) you may still need to go through Probate. Your attorney can help you determine your next steps.

THE ROLE OF A TRUST ADMINISTRATOR

Most people appreciate that assets held in trust are much easier to administer and distribute after death, but they also need to know that they are required by law to do many things before the distribution of assets can occur.

These requirements and obligations often vary from state to state, but in Mississippi some of the requirements include:

- Notifying beneficiaries
- Valuation and Liquidation of Assets
- Paying Debts and Taxes of the Trust
- Filing Tax Return
- Distribution of Remainder of the Assets to Beneficiaries

The trustee also has to follow the accounting and reporting requirements of the state and courts, and they are responsible for defending the trust against all claims of creditors or excluded heirs. It's important to take these duties very seriously, as you could be held personally liable for mistakes or oversights.

While not required in trust estates, a qualified attorney can assist you with these duties to ensure they are carried out properly and that your assets are distributed in a timely manner.

What Does It Cost?

The cost of probate varies depending on the size of the estate, but common expenses include executor's fees, attorney's fees, accounting fees, court fees, appraisal costs and surety bonds. These expenses can account for 3-10% of the total estate value. In our office, we charge a flat fee for the standard probate services, supplemented with an hourly charge for any additionally required work.

Do All Assets Go Through Probate?

Fortunately, not all assets are subject to the expenses and delays of the probate court following the death of a loved one. Here is a brief overview of some assets that may avoid oversight from the probate courts:

- Property held in joint tenancy
- Other jointly owned assets
- Assets with named beneficiaries such as insurance policies, IRAs and annuities
- Assets placed in a living trust
- Banking and investment products, such as savings, checking accounts, CDs, and brokerage accounts with a Transfer on Death (TOD) beneficiary
- Jointly owned property with rights of survivorship
- Small gifts of your personal property

Keep in mind that while these assets generally are not subject to probate, there may be instances when they will need to go before the court. This typically happens when a beneficiary is not properly named or is no longer alive at the time of the deceased's passing.

Do I Need An Attorney to File Probate?

Because Probate is such a time consuming, costly and complicated process, court procedural rules require that the estate be represented by an attorney. A skilled attorney will help to ensure that all legal obligations are met and help to speed up the overall process. Working with an attorney will also help you to minimize costs commonly associated with oversights, tax problems and long drawn-out claims.

Probate For Property In Multiple States

If your loved one owned property outside of Mississippi at the time of his or her passing, you will likely need to file probate in that state as well. As you can imagine, this complicates things significantly and you will likely need to hire an out-of-state attorney to handle this separate probate matter. We can assist you in finding an out-of-state attorney who will best meet your needs during this sensitive



7 Steps to Take After the Loss of a Loved One

As you work to make final arrangements after your loved one's passing, you can also begin the process of securing your loved one's property, notifying social security, closing out financial accounts and starting the probate or estate administration process.

While there is much to do during this difficult time, here are the top 7 steps to take immediately after the loss of a loved one.

1. Take an Inventory of Property and Important Documents

After a loved one passes, it is often difficult to remember all of the property that he or she owned, as well as all of the paperwork necessary to handle their estate. Believe us, this task is not an easy one, especially when you factor in the emotion of your loss.

That is why we have created a checklist of the paperwork you will need to handle the estate, as well as a list of property your loved one may have owned. It is important to keep this information secure at all times, and it is not a bad idea to use a lock-box to store these documents when they are not in use.

Your loved one's documents:

- Certified copies of the descendant's birth certificate, death certificate, and marriage certificate
- Divorce decree(s) from all previous marriages
- Will or trust papers
- Insurance policies
- List of assets (house, car, jewelry, etc.)
- Bank account numbers
- Social security card or number (for both you and the deceased)
- Credit card numbers and statements
- Deeds to any real estate
- Tax return from the previous year

List of property:

- Real estate, including those that are business-related or for vacation
- Stocks and bonds
- Bank accounts
- Retirement accounts
- Contents of safe deposit box, including jewelry, made with a witness present

2. Notify Social Security

If your loved one was receiving money from Social Security, they will need to be notified upon his or her death. The Social Security Administration can be reached by calling 800.772.1213, or by visiting www.socialsecurity.gov. You should also assume that any payments that are being made via direct deposit will either be stopped by the government or frozen by the bank.

It's a good idea to remove any valuables from your loved one's home and take extra steps to secure the house from theft of vandalism. You should also keep a list of the items removed during this process, just in case you have to locate them or give an account later. Stop all mail

coming to the house, and remember that unless you are the surviving spouse or child living at the residence,

3. Keep Property Safe from Theft or Vandalism

If your loved one was receiving money from Social Security, they will need to be notified upon his or her death. The Social Security Administration can be reached by calling 800.772.1213, or by visiting www.socialsecurity.gov. You should also assume that any payments that are being made via direct deposit will either be stopped by the government or frozen by the bank.

4. Address Outstanding Debt

Many people falsely assume that their loved one's debts will automatically be forgiven upon their passing. This, unfortunately, is not true and steps will need to be taken to address any outstanding debt still owed to creditors.

Freezing the decedent's bank account may allow more time to pay certain debts from the estate, and it is also a great way to avoid any fraudulent charges associated with identity theft. Notifying all credit cards and cancelling them in writing can help you limit liability for future or unauthorized charges as well.

Finally, you'll want to gather all of your loved one's bills and bank statements. Your attorney will notify and deal with the creditors through the estate.

5. Open Claims for Insurance Benefits

As the person handling your loved one's affairs, you must gather information regarding any policies or accounts that the decedent may have had, including life insurance, health insurance, and private retirement accounts. Be prepared with the policy number and a copy of the death certificate when you call the insurance company to make a claim. The insurance company will then forward the proceeds of the policy to whoever was named beneficiary. Frequently these benefits pass outside of the Estate.

6. Research Additional Benefits from Employer

Contact the human resource department at your loved one's place of employment to find out if they offer death benefits to the spouse or family of the decedent. Occasionally these benefits are made to both current and former employees, so contact all places that your loved one may have worked in the past. Also, be sure to ask about any 401(k) accounts, pensions, or stock benefits.

7. Contact an Estate Planning Attorney

Administering a loved one's estate can be costly, time consuming and at times, confusing. Working with an attorney will not only alleviate much of this stress, but will ensure that your loved one's affairs are handled without mistakes, and that all court and government-mandat-

ed deadlines are met. In Mississippi, the services of an attorney are required to represent all Estates.

Understanding Probate: What Is It and How Do I File?

At the same time you work to complete the seven steps detailed above, you may also need to start the probate process with the Chancery Court. Probate is a legal process to finalize and administer a loved one's estate after death. The process is handled by the personal representative of the Estate under the guidance of your attorney and oversight of the Chancery Court Judge. The Probate process will serve to:

- Determine the validity of the Will(s)
- Identify and inventory the deceased's property
- Appraise the property
- Determine the validity, and authorize payment of your loved one's debts and taxes
- Distribute the remaining property according to the Will or state law in the absence of a Will

In Mississippi, if someone has more than \$50,000 in total assets or real property, their estate will probably require Probate.

How Long Does Probate Take?

Here in Mississippi, the probate process can take anywhere from 4 months to a few years to complete. The typical length of most estates is 6 to 9 months, but the length of the probate proceedings depends on the value and complexity of the estate, the existence of a will, location of real property and potential disputes with creditors or other heirs.



Getting Help and Final Steps

Whether your loved one had a small estate or a large estate protected by a trust, as you can see the process to administer that estate can be costly, time consuming and many times, confusing.

Working with an attorney will not only alleviate much of this stress, but will ensure that your loved one's affairs are handled without mistakes, and that all court and government-mandated deadlines are met.

At a time when you may not already be thinking clearly and feeling overwhelmed with grief, having a professional on your side to deal with creditors, financial statements, taxes and squabbling family members should not be underestimated.

More importantly, if you are a surviving spouse or child depending on your loved one's death benefits or inheritance to cover daily living expenses, working with an attorney can help you expedite the process and receive what you are entitled to faster and with less stress.

No matter what your situation is today, give yourself and your family the peace of mind knowing that your loved one's wishes are being carried out in the best way possible.

The attorneys at Morton Law Firm, PLLC, are here to help during your family's time of need. We offer free consultations, and will tell you upfront the best avenue to take - even if that road doesn't involve an attorney. Call us at 601-925-9797 and ask to schedule a consultation with one of our experienced lawyers at no-charge with the mention of this guide.



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