

DO YOU NEED TO AVOID PROBATE?

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Estate Planning/Probate/Elder Law
Veteran's Pension Benefits

The facts...

What is probate?

It is the legal process of presenting your Will to the Court, after your death to authenticate it, and appoint your Personal Representative (Executor). Your Personal Representative must be appointed by the Court in order to collect and distribute your assets as stated in your Will. However, because it is a legal process, there are many steps that must be followed before your Personal Representative can be appointed.

- The attorneys and/or your Personal Representative must file a petition for probate with the Court and include as interested persons not only the names of persons who benefit under your Will (beneficiary), but also the identity of your heirs – spouse, children, parents, siblings, nieces and nephews, depending on your circumstances. Your heirs have up to six months to contest your Will.
- For the Court to appoint your Personal Representative, he/she will have to advance the Court filing fees and/or initial administrative costs, along with the petition, a death certificate and the funeral bill and provide a list of interested persons and creditors.
- After your Personal Representative is appointed, estate administration begins. It is a period of time the law permits the Personal Representative to accumulate the assets and report to the Court how he/she intends to distribute them. This period is a minimum of seven months after the Personal Representative is appointed. However, in most cases, it takes a year or more.
- If you die without a will, the process is similar, but the State decides who gets your assets, not you. Also, if you die without a will, your Personal Representative will be required to post a bond. Many times your Personal Representative cannot qualify for the bond, someone else may have to serve which may be an attorney.
- Whether you die with or without a will, the State's rules control the process of the disposition of your assets.
- Unfortunately, probate is unpredictable. That's why many people chose to avoid it, but if all of your heirs agree and your assets are centralized, it can go smoothly.

Don't go it alone, contact the law office of Cheryl Chapman Henderson, LLC today at 301/220-4463 or CCH@HendersonLaw4God.com.