



CLAIM MY LEGACY™

Will My Family Have to Go Through Probate?™

A Plain-English Guide to Understanding
When Probate May Be Required - and When It May Not

**Probate is a process. The important question is which of your
assets may need it.**

UNDERSTAND IT → GET IT DONE → MAKE IT WORK.

START WITH THE REAL QUESTION

Probate Is Not Simply Yes or No

Families often ask, “Will my family have to go through probate?”

The most accurate answer is: **it depends on what you own and how each asset is arranged.**

**A person does not necessarily either “have probate” or
“avoid probate.”**

Different assets can follow different paths.

For example, one asset may pass directly to a surviving joint owner. Another may pass to a named beneficiary. Property held in a properly funded trust may be administered under the trust. An individually owned asset with no effective nonprobate transfer arrangement may require probate.

That is why the better question is:

**Which of my assets would require probate
under the arrangements I have today?**

Once you know that, the rest of the conversation becomes much easier.

And that is the approach throughout this guide: look at the assets first, then determine what process may apply.

WHAT PROBATE IS

A Court-Supervised Process After Death

Probate is a legal process used to administer certain property after someone dies.

Although the details vary by state, the process can involve confirming a will, appointing someone to administer the estate, identifying property, addressing valid debts and claims, and transferring remaining probate property to the people entitled to receive it.

Probate is not automatically a disaster. Courts provide a formal process for transferring property and resolving estate matters.

The goal is not to be afraid of probate.

The goal is to understand when your family may need it.

Why do families sometimes prefer to avoid it?

- Court involvement
- Additional paperwork and administration
- Possible legal and professional expenses
- Potential delays before property can be distributed
- Less privacy because some probate records may be public

How significant those issues are depends on the estate, the state and the family's circumstances.

A straightforward probate may be manageable. A complicated estate can require substantially more time and attention.

THE OWNERSHIP TEST

What Usually Determines the Path?

The answer often begins with **ownership and beneficiary arrangements**, not simply with whether you signed a will.

Depending on applicable law and the asset involved, property may be able to pass outside probate through arrangements such as:

- Joint ownership that includes an effective right of survivorship
- A valid beneficiary designation
- A payable-on-death or transfer-on-death arrangement
- Property held in a properly funded revocable living trust
- Certain state-specific transfer procedures

A will does not control every asset you own.

That can surprise families. A retirement account with a valid beneficiary designation, for example, generally follows that designation rather than the distribution instructions in a will. The same concept can apply to life insurance and other beneficiary-designated assets.

A will is still important. It can provide instructions for property that becomes part of the probate estate, nominate the person who should administer the estate, and name guardians for minor children.

A will can tell the probate court what you want.

It does not automatically eliminate probate.

When there is no valid will, state intestacy law generally determines who receives probate property.

WHERE A TRUST FITS

Can a Living Trust Help Avoid Probate?

A revocable living trust can provide a different path for property that is properly held in or otherwise controlled by the trust.

After death, the successor trustee can generally administer trust property according to the trust's instructions without using probate to transfer those trust-owned assets.

But signing a trust is not enough.

The trust has to be properly funded.

If a home, account or other asset was intended to be controlled by the trust but was never properly connected to it, that asset may not receive the probate-avoidance benefit the family expected.

That is why Claim My Legacy puts so much emphasis on the question:

**Does what I own actually work
with the estate plan I created?**

A trust can be an important tool, but only when the documents and the assets work together.

This is also why an estate plan should be reviewed after major purchases, refinancing, new accounts and other changes in ownership.

COST AND TIME

What Can Probate Cost?

There is no single national probate price. Costs depend on state law, the size and complexity of the estate, whether professional help is needed, and whether disputes or unusual problems arise.

As a general planning estimate, total probate costs are sometimes placed in the range of **3% to 8% of an estate's value**. Actual costs can be lower or higher.

**The 3% to 8% range is an estimate -
not a guaranteed fee or a statutory percentage.**

Possible expenses can include:

- Court and filing fees
- Attorney or other professional fees
- Compensation or expenses for the person administering the estate
- Appraisals and accounting
- Bond or other administrative expenses when required

Time also varies. A straightforward estate may move relatively smoothly, while creditor issues, real-estate problems, family disputes or other complications can extend the process.

The purpose of planning is not to predict an exact cost or timeline. It is to understand the process your family is likely to face.

A QUICK SELF-CHECK

The Probate Path Check™

- Do I know which assets I own individually?
- Do I know which assets have joint owners with survivorship rights?
- Have I reviewed the beneficiaries on my retirement accounts and life insurance?
- Do any bank or investment accounts have payable-on-death or transfer-on-death arrangements?
- If I have a trust, do I know which assets are actually connected to it?
- Is my home titled the way my estate plan intends?
- Have I purchased or refinanced property since my estate plan was created?
- Do my beneficiary designations still reflect what I want?
- Would the person handling my affairs know where to find this information?
- Do I know which of my assets would likely require probate today?

**If you cannot answer one of these questions,
that does not mean your plan is wrong.**

It means there is something worth understanding.

Probate planning is really asset planning: what do I own, how is it owned, who receives it, and what legal process would be needed to get it there?

The purpose is to know.

YOUR NEXT STEP

Complimentary Family Legacy Review™

If you are not sure whether your family would have to go through probate, you do not have to guess.

Claim My Legacy™ offers a complimentary **60-minute Family Legacy Review™** to help you understand how your current estate plan and assets may work together.

Together, we can help you identify:

- What you own.
- How important assets are currently arranged.
- Which questions may need answers.
- What, if anything, deserves another look.

Then you can decide what you want to do next.

No pressure. No obligation.

UNDERSTAND IT → GET IT DONE → MAKE IT WORK.

Claim My Legacy™

Helping families make sure the plans they create can actually work for the people they love.

IMPORTANT INFORMATION

Claim My Legacy™ provides estate planning education and support services. Claim My Legacy and its Legacy Specialists are not law firms and do not provide legal advice. Estate planning documents and legal services, where applicable, are provided through appropriately licensed legal professionals and service providers.

Probate, property ownership, beneficiary transfers, trust administration and available procedures vary by state and individual circumstances. This guide provides general educational information and is not a substitute for individualized legal, tax or financial advice.

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