




A division of Law Stein Anderson, LLP



Your Guide to Probate

Guidance
You Can
Trust.

 949.501.4800
 949.502.4650
 ProbateExperts.com
 2601 Main Street
Suite 1200
Irvine, CA 92614

What Is Probate?

Probate is a legal process that occurs after someone dies. It's a court proceeding that is time-consuming, complicated, and costly. However, it's required to appoint legal title to assets at death. During a typical probate, the court oversees the distribution of a deceased person's assets.

The process usually starts with submitting a will and a court form to the county probate court. Sometimes, the will has to be proven to be valid.

The court validates a will by ensuring it meets the state's legal requirements and reflects the deceased person's true intentions. The court examines whether the will was properly signed by the person who made it (the testator) and witnessed by at least two individuals who were present at the time. For handwritten (holographic) wills, the court may verify the testator's handwriting. Additionally, the court confirms that the testator understood their property, their beneficiaries, and the implications of the document.

Once the court determines the final will, the court appoints an executor. The executor then pays the decedent's debts and taxes from the estate. After this, the executor gathers the decedent's remaining assets to distribute to the beneficiaries. In some cases, probate is filed to resolve disputes among the beneficiaries. If disputes arise, such as claims of undue influence or improper execution, the court reviews the evidence for resolution. Once all criteria are satisfied, the will is admitted to probate, allowing the executor to carry out its terms.

Length and Cost of Probate

Typical probate in Southern California usually takes a couple of years to complete. The process involves appraising assets, paying debts and taxes, and waiting for court approvals, which can be delayed by backlogs. Even in simple cases, probate requires significant time to complete each legal step.

The state of California determines probate attorney fee commissions based on the estate's total value. For estates valued over \$150,000 but less than \$25,000,000, the statutory fees for attorneys and executors in California's probate cases are a sum of the following:

- 4% on the initial \$100,000
- 3% on the subsequent \$100,000
- 2% on the next \$800,000
- 1% of subsequent \$9,000,000
- .5% of subsequent \$15,000,000

A reasonable amount is determined by the court for amounts above \$25,000,000. Additionally, the attorney and personal representative may request permission from the court to receive an amount above the standard fee if extraordinary services are performed.

**Estimate your probate costs in seconds
with our easy-to-use Probate Calculator.**

lsalawyers.com/probcalc



Why Avoid Probate

Probate makes an already difficult situation more stressful. For one, probate is not a private matter. Since probate records are public records, many families feel unsettled that anyone who wishes to view the details of the estate and even any disputes that arise can quickly get that information. For example, anyone can go to the courthouse, pay a small fee, and receive a copy of the will. Moreover, because probate encompasses many steps that can take time, as outlined in the first section, it can cause significant delays to beneficiaries receiving their inheritances.

The drawbacks of probate further extend to the overwhelming financial and emotional costs. The court costs, legal dues, and administrative expenses all add up quickly and lessen the estate's value. Moreover, navigating the process can strain loved ones emotionally as they deal with paperwork, court appearances, and potential family conflicts. Probate can amplify grief by adding layers of complexity, making it understandable why so many families seek ways to bypass it through thoughtful estate planning.

- Probate Lacks Privacy
- Probate Is Time-Consuming
- Probate Causes Emotional and Financial Strain

Common Strategies to Avoid Probate

A Living Trust

Many people use living trusts to transfer assets to beneficiaries without going through probate. First, an estate planning attorney drafts a living trust document that designates a trustee. The trustee is responsible for managing the trust's assets and is usually the person creating the trust until their passing. When the trustee passes, the appointed successor trustee will promptly transfer the property to the designated beneficiary without requiring probate.

Designating Beneficiaries

Designating beneficiaries on accounts, such as through Transfer on Death (TOD) or Payable on Death (POD) designations, is a simple way to bypass probate. Doing so enables assets to transfer directly to named beneficiaries upon the account holder's passing.

Joint Ownership

Joint ownership with rights of survivorship means that property passes to the surviving co-owner upon one owner's passing, bypassing probate. For example, this arrangement is typical among married couples who jointly own a house. If one spouse passes, the surviving owner inherits the property directly.

Gifting Assets

Gifting assets while you're alive is another way to avoid probate. Gifting funds directly to loved ones enables assets to leave the estate so they won't be subject to the probate process. Importantly, California does not impose a state gift tax, but federal gift tax rules still apply. You can gift up to the annual exclusion amount—\$18,000 per recipient in 2024—without triggering federal taxes.



The Importance of a Comprehensive Estate Plan

A solid estate plan is one of the most powerful tools to bypass probate. By combining living trusts, wills, and beneficiary designations, an estate plan ensures your assets transfer smoothly to those you care about most—without the delays, costs, and stress of probate. Each piece works together to protect your wishes and simplify the process for your family.

Expert estate planning attorneys are your ally in this journey. They will tailor your plan to best suit your specific estate and family dynamics. Moreover, they help you avoid common mistakes that could trigger probate, such as failing to update beneficiary designations or failing to transfer assets into the trust. With a proper estate plan, you're doing more than bypassing probate—you're giving your family clarity and support when they need it most.

The Role of Trusts in Estate Planning

Trusts play a critical role in the estate planning process. Assets placed in a trust are owned by the trust itself, not the individual, bypassing the probate process upon the grantor's passing. Trusts work by allowing a designated trustee to manage the assets according to the trustor's wishes. Trusts are either revocable or irrevocable:

- **Revocable Trusts:** Ideal for flexibility, allowing changes or dissolution while avoiding probate. Offers control over assets like homes and investments.
- **Irrevocable Trusts:** Provides greater security, protects assets from creditors, reduces estate taxes, and sets funds aside for specific purposes, though the trustor gives up control.

Secure Your Family's Legacy.

Planning your estate is one of the most meaningful ways to protect your loved ones and avoid the stress of probate. The attorneys at Law Stein Anderson can provide personalized guidance to help you create a plan that reflects your goals and simplifies the process for your family. Taking action now means peace of mind for the future. Contact the Probate Experts today to get started on securing your estate.

Visit Us: www.ProbateExperts.com

Contact Us for a Complimentary Consultation

Call: 949.501.4800

Email: Info@ProbateExperts.com

Probate Experts is a division of:

Law Stein Anderson, LLP
2601 Main Street, Suite 1200
Irvine, CA 92614



949.501.4800

The information in this brochure is for general information purposes only. It should not be taken as legal advice. This information is not intended to create or constitute an attorney-client relationship.