

What is Probate in Florida?

When a loved one passes away, their belongings, money, and property need to be given to the right people. This legal process is called probate. In Florida, probate ensures that everything is handled properly and fairly.

Why Does Probate Happen?

Probate is needed to:

- Make sure a person's will (if they had one) is followed
- Pay off any debts or taxes the person owed
- Legally transfer money and property to the right people

Types of Probate in Florida

Not all probate cases are the same. Florida has two main types of probate:

1. Formal Administration

This is the standard probate process for estates with many assets or debts. It requires a personal representative(executor) to manage the estate, pay debts, and distribute what remains. This process usually requires an attorney and can take several months to over a year.

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2. Summary Administration

This is a simpler and faster probate option for smaller estates. It may be available if:

- The person passed away more than two years ago, or
- The total value of their estate is less than \$75,000 (not counting exempt property, such as a homestead).

Summary administration **does not require a personal representative**, and in some cases, families may be able to file the necessary paperwork without an attorney. However, having legal guidance can help avoid mistakes that could delay the process.

When Probate May Not Be Needed

Some assets skip probate and go directly to the right person if they are set up correctly. This includes:

- Property owned jointly with right of survivorship (such as a home owned by a married couple)
- Life insurance, retirement accounts, or bank accounts with named beneficiaries
- Assets placed in a trust

How Does the Probate Process Work?

If probate is required, here's what typically happens:

Step 1: Filing the Case

- A family member or attorney files a case in the Florida probate court.
- If there is a will, the court checks if it is valid. If there isn't a will, Florida law decides who inherits.

Step 2: Appointing a Personal Representative (For Formal Administration)

- The court appoints a personal representative (executor), usually named in the will.
- This person is responsible for handling all financial matters of the estate, such as:
 - o Gathering assets
 - o Paying debts, taxes, or bills
 - o Distributing what remains to the right people

Step 3: Paying Debts and Taxes

- Before anything can be given to family members, the estate must pay:
 - o Outstanding debts (such as credit cards, medical bills)
 - o Final taxes owed to the government

Step 4: Distributing the Assets

- Once debts and taxes are paid, the personal representative distributes money, property, and belongings according to the will (or Florida law if there is no will).

Step 5: Closing the Probate Case

- After everything is settled, the personal representative files paperwork to officially close the case.

How Long Does Probate Take?

The length of time depends on the size of the estate:

- Summary Administration: Can be a few weeks to a few months.
- Formal Administration: Often takes six months to over a year, depending on the complexity of the estate.

Do You Need an Attorney for Probate?

- Formal administration in Florida requires an attorney in most cases.
- Summary administration may not require an attorney, but legal guidance can help avoid delays or problems.

Can You Avoid Probate in Florida?

Yes! With the right estate planning, you can reduce or avoid probate altogether.

Some ways to do this include:

- Creating a living trust to transfer assets directly to loved ones
- Naming beneficiaries on bank accounts, retirement plans, and life insurance
- Owning property jointly with a right of survivorship

Final Thoughts

Probate may sound complicated, but it is simply a legal way to make sure a loved one's belongings go to the right people. While it can take time, planning ahead can make things much easier for your family.

If you need help with probate in Florida, our experienced team is here to guide you through every step. Contact us today.