



WHAT TO DO WHEN A DEATH OCCURS

Prepared by SENIOR RIGHTS ASSISTANCE
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General Introduction: Senior Rights Assistance (SRA) has prepared this educational brochure to give you basic information about the general steps to take when a death occurs. Not all of the steps outlined in this brochure will apply in your situation. And, with a few exceptions, you do not need to do anything immediately.

Please remember that this brochure provides *general* information. We at SRA are *not* lawyers and do *not* provide legal advice. We *are* committed volunteers who are trained to discuss this basic information with you so that you will be better equipped to find a knowledgeable lawyer. If you have questions that we are not able to answer, we can help by referring you to legal resources in the community.

PART ONE: INITIAL STEPS

- Make funeral arrangements; first determine whether the deceased left any instructions or had already purchased or made funeral arrangements.
- Notify relatives and friends.
- Secure the deceased's home and property.
- Arrange to stop newspapers or other periodicals and to pick up the mail.
- Arrange for the care of any pets.
- Cancel any credit cards issued in the deceased's name.
- Continue to pay utility bills and long-term debts such as car payments, mortgage payments, and home and car insurance, and keep a record of any payments you make.
- Obtain certified copies of the death certificate (the funeral director can order them for you). The number of certified copies depends on how many assets must be transferred, such as real property, stocks, or life insurance policies.

If the death occurred in King County, contact

Vital Statistics

King County Administration Building, Room 214

500 - 4th Ave.

Seattle, WA 98104

(206) 296-4768 or www.metrokc.gov/health/vital_st

As of the date of this publication, the cost for each certified copy of a death certificate is \$20.00. There is an additional \$12.50 handling fee for fax and online orders using a credit card.

If the death occurred elsewhere, contact

The Health Department in your County or, if the death occurred more than 30 days ago, then contact:

Washington State Dept. of Health

Center for Health Statistics

PO Box 9709

Olympia, WA 98507-9709

(360) 236-4313 or www.doh.wa.gov/EHSPHL/CHS/CERT.HTM

As of the date of this publication, the cost for each certified copy of a death certificate is \$20.00 by mail or over-the-counter in the Tumwater office or \$31.50 by phone or fax plus additional charges for express delivery.

Locate the following documents, if any, and information. **Note: If the estate is probated, these documents should be given to the personal representative.**

- will
- community property agreement
- trust documents
- insurance policies
- latest financial statements and credit card information
- bank account locations and account numbers
- safe deposit box, including location and box number (if you have the right to access the safe deposit box, keep a careful record of what was in the box and what you removed from it)

- birth certificate
- marriage certificate
- state registered domestic partnership certificate
- social security card/number
- Veterans service number and record
- list of employer benefits or retirement benefits
- income tax return for the preceding year
- current passport
- driver's license
- vehicle registration and titles
- mortgage documents, property deeds

If you are not named as the personal representative, contact the personal representative named in the will. (*See Part Two*).

Be cautious about any person unknown to you who calls or visits with offers or requests for information. Sadly, scams and cons can occur at this time.

NOTE: *If you are an attorney-in-fact under a power of attorney, your power to act ends upon the death of the principal.*

PART TWO: AN OVERVIEW OF THE PERSONAL REPRESENTATIVE'S MAJOR DUTIES IN SETTLING AN ESTATE

Caution: This is a *very* general overview of the steps involved in settling an estate. These steps are done by the personal representative if an estate is probated. Probate in Washington is governed by statutes. You should consult these legal materials or an attorney knowledgeable about this process to decide whether probate is the best procedure in your situation or whether another procedure is more appropriate. While all wills must be filed with the Superior Court, not all estates require probate. This overview assumes that (1) a will has been located and (2) no one challenges the suitability or qualifications of the personal representative.

Some Definitions

A *personal representative* is a person appointed by the court (and usually nominated in the will) to be the legal representative of the estate and to deal with the deceased's property, including collecting probate assets, valuing probate assets, notifying creditors, settling debts, paying taxes, and settling the estate and distributing probate assets.

Probate is a court-supervised process for collecting a deceased person's probate assets, valuing those assets, notifying creditors and settling creditors' claims, and distributing a deceased person's estate. Probate is one method for settling an estate.

The Process in general

Decide whether to probate the estate or to follow an alternative procedure.

Locate the original Last Will and Testament. If it is in the deceased's safe deposit box and no one else is authorized to have access to the box, then a petition may have to be filed, requesting the Superior Court to enter an order directing the custodian of the box to open it and to deliver the will either to the petitioner's attorney or to the clerk of the Superior Court.

File the original copy of the will with the Superior Court Clerk of the county having jurisdiction over the probate and pay the filing fee. If you find more than one original will, you must by law file all wills with the court.

- Provide all known heirs and beneficiaries with written notice of the probate proceedings.
- Notify any insurance companies (such as life insurance, mortgage insurance, accidental death insurance, or credit insurance) that may pay benefits upon the death of the policyholder. Request an IRS form 712 when applying for benefits. Ask whether the company requires a certified copy of the death certificate and a copy of the insurance policy.
- Notify auto, property, and any other insurance companies and ask them to re-issue the policies, if necessary, to correctly identify the named insured. Terminate any policies that are no longer required and inquire about a return of the unearned premium
- Notify the deceased's employer and/or union and ask about any death benefits, including how to apply for the benefits and whether a death certificate or other documentation is required. Also inquire about continuing medical insurance coverage for surviving family members.
- Contact Social Security at 1-800-772-1213 or www.socialsecurity.gov for information about eligibility and benefits.
- Contact the Veteran's Administration at 1-800-827-1000 or www.vba.gov/ for information about eligibility and benefits.
- Contact the Washington State Department of Labor and Industries if the death was related to a work-related injury or illness at (360) 902-5119.
- Contact the Washington State Department of Labor and Industries Crime Victims' Compensation Program if the decedent died as the result of a crime at 1-800-762-3716.
- Continue to pay property taxes when due.
- Contact creditors. **Caution: Consider consulting an attorney before notifying creditors if the decedent had substantial debts.** In all cases, creditors must receive a special notice, a Probate Notice to Creditors, which must also be published. The requirements for notifying creditors are governed by statute, and these statutory requirements must be carefully followed (such as filing proof with the court that notices were given and publishing the notice in a specific legal newspaper). Following the statutory procedures properly may help ensure that all creditors are paid and that the heirs and beneficiaries receive clear title to property.

- Contact credit card companies to cancel cards issued in the deceased's name. Ask whether there was credit card insurance to pay any outstanding balance.
- Cancel subscriptions, such as newspaper, magazine and cable.
- Transferring vehicle titles without probate: obtain a copy of a form called "Affidavit of Inheritance/Litigation" at the Washington State Department of Licensing website www.dol.wa.gov/forms and complete it in accordance with the instructions on the form.
- Paying Taxes: Decedent's Personal Income Tax, Estate Income Tax, Estate Tax. **Caution: Tax matters involving estates can be complex, and you should consider consulting an attorney about these issues. This outline is only a very general overview and is not an in-depth or exhaustive discussion of the issues.**
- Decide if a final personal income tax return for the decedent must be filed. Federal income taxes are still due by April 15. See IRS publication "Tax Information for Survivors and Executors and Administrators," IRS publication no. 559, available at www.irs.gov.
- Decide if any federal or state estate taxes are due. If federal estate taxes are due, you will need to obtain a tax identification number **for the estate** from the IRS. To obtain the EIN number, telephone 1-800-829-4933 or go to www.irs.gov/businesses. If the estate is required to file a federal tax return, it must be filed and all taxes paid within nine months of the date of death. (Washington imposes an estate tax on some larger estates even if a federal estate tax is not due. The amount changes annually and an attorney who is a specialist in this area should be consulted. The possibility of inheritance taxes may also arise if there are assets in other states or countries, particularly if ancillary probates are required. An ancillary probate is one brought in another state or country based upon the one that is pending in Washington.)
- Choose a lawyer and perhaps a certified public accountant to help even if probate is not necessary.
- If there is a community property agreement, seek advice about whether you should record it and what other documents should be recorded with it.
- Notify the State of Washington Department of Social and Health Services Office of Financial Recovery of the deceased's name and social security number.

Prove that the decedent lawfully executed the will. The personal representative may do this through the affidavits of the subscribing witnesses or by other statutory means.

Present an order for the court to enter. An order can establish the will, admit it to probate, confirm and appoint the personal representative, and make a finding of solvency of the estate for the purpose of conferring non-intervention powers. The same order will establish the amount of bond to be placed by the personal representative or confirm that the will waived the bond. The order may also provide for ongoing family support while the probate is in progress.

Note: The personal representative must file a written oath with the court. Whether a bond is required or not, a personal representative may be personally liable for any deficiencies or losses suffered by an estate. Non-intervention powers allow the personal representative to administer and close the estate without court supervision.

Secure "Letters Testamentary" (or "Letters") from the court clerk. This is a document certifying the personal representative's legal authority to administer and settle the estate.

Note: You will typically obtain more than one copy of Letters at a time, and each set of Letters will bear the date of issue. Letters can be issued any time after probate commences. Some third parties who require Letters for their files (stockbrokers or banks, for example) will want recently issued Letters.

Open a checking account for the estate in your name as the personal representative.

Take possession of and inventory all of the property the deceased owned and protect all property and assets of the estate.

Hire an appraiser as needed to value property.

Prepare a complete, detailed inventory of all probate assets (including any liens or encumbrances against those assets); keep accurate records of stocks, bonds, mortgages, notes. Determine bank balances. Collect insurance proceeds, interest, dividends, and any other money or debts owed to the decedent. While the inventory and appraisal does not have to be filed with the court, an heir, beneficiary, or creditor may request a copy of the inventory and appraisal.

Determine the validity and accuracy of creditors' claims. Determine which claims are allowed and which, if any, must be rejected. Follow all deadlines

established by statute. Satisfy all notice requirements. Pay all claims against the estate from the estate checking account opened in your name as personal representative. Keep a detailed record of what you paid.

Note: The personal representative has the power to settle claims but disputes can arise and lawsuits may be filed against the estate over disputed, rejected claims.

- Petition the court as needed to issue orders concerning any matter. The petition process is very useful to the personal representative because all interested parties will receive notice of the petition and will have a chance to be heard on the matter, and the personal representative can rely upon the court's final order.
- Distribute gifts to heirs, file receipts in court, and settle the estate's various affairs through an orderly process of administration.
- Close the estate in compliance with the applicable statutes and court rules.

For additional assistance or information about legal referrals, please call Senior Rights Assistance at (206) 448-5720 and one of our trained volunteers will help you.

Other Resources (please be aware that inclusion of an organization does not imply endorsement nor does omission indicate disapproval of any service)

- "Dealing With Death" Washington State Attorney General, Consumer Protection Division, www.atg.wa.gov/consumer/death
- "Funerals: A Consumer Guide" the Federal Trade Commission, www.ftc.gov, then select "consumers," "products & services," "funerals"
- "Dealing with the Death of a Loved One" the Estate Planning Council of Seattle, 206.522.2830 or www.epcseattle.org
- For forms and general explanations, www.wa-probate.com