

*PROTECTING A LEGACY*

# PURPOSE-DRIVEN PROBATE

A guide to purposeful decisions that keep your probate journey from becoming a horror story...  
by honoring your families' legacy, avoiding conflicts, and helping you move through grief.



*with Belinda Reese, REALTOR®  
Real Estate Professional*



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**NOBODY CAN  
BRING YOU PEACE  
BUT YOURSELF.**

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Ralph Waldo Emerson



# FORWARD

My maternal grandmother lived to the good ol' age of 101 years. Even though her body grew frail as she neared the end, she remained mentally sharp the entire journey. During the last 5 or so years before my grandmother passed, my mother called from Washington, DC to North Carolina to speak to her mom almost daily and now it seemed strange that the schedule was forever disrupted. Of course, her death was expected, but the interruption of ritual and the sense of loss was still surprisingly disorienting. It wasn't just the loss of a grandmother it was the passing of a generation and all that it represented.

Fortunately for my mom, my cousin Darlene, whom my grandmother raised was the designated Personal Representative for the estate which included a valuable piece of real estate that was in disrepair. As the sole representative of the estate, she struggled to deal with family members that wanted different outcomes for the property. Some wanted to sell while others wanted to hang on to the property. But no one wanted to move back to their childhood hometown to live in the property.

Not even those family members who vigorously insisted the property stay in the family.

It was distressing to hear that some folks thought that she was making decisions too slowly. They didn't seem to appreciate that she had to deal with annoyed heirs and real estate 10 hours away while continuing to work. Other than grandma's wishes for Darlene to be "in charge" of her estate, there was no explicit direction regarding her real estate – there was no will or hidden "instructions upon death" letter to be relied upon. Worst of all, Darlene was so stressed dealing with family that she was not given the space to grieve. Her process of grief was interrupted by the urgency of dealing with everything else. Cousin Darlene wanted to make decisions that honored her grandmother and that considered the wishes of the heirs –which at some points seemed impossible.

As you may have guessed by now, this book is not going to explain the steps to get through the Maryland probate process or the best way to deal with real estate going through the probate process, or even how to deal with unintentionally insensitive family members. **It is simply meant to help you on your journey by avoiding painful distractions and guiding you to getting the best help possible.**

- *Belinda Reese*

## ABOUT BELINDA



Belinda, raised with her brother in the northeast neighborhood of Deanwood in Washington, DC was greatly inspired by her dad, a carpenter and real estate investor who used his skills to buy, rehab, and hold properties as rentals in the DC metropolitan area. This impressed upon her that a plan, focus, and persistence are paramount to success.

Reflecting on her father's legacy in real estate, in 2009 she became a licensed REALTOR® in Maryland.

Over the years, Belinda has gained experience working with real estate buyers and sellers in various life transitions situations. She is experienced in short sales, pre-foreclosures, investor criteria for purchase, creative financing, purchasing techniques, and estate sales with a specific emphasis on helping Executors deal with the real estate and going through the probate process. She recognized that truly helping home sellers with fiduciary responsibility for managing the estate of a deceased loved one required an additional level of training. She further developed expertise in

this area through the completion of the Probate Mastery Certification through which she gained a deeper understanding of the probate process, the timelines, and other requirements associated with the real property going through the probate process. Through her interactions with numerous families also going through this process, she has become a trusted advisor and probate real estate consultant. As such, she assists Personal Representatives or Executors of an estate in identifying and weighing various options concerning the inheritance of the real estate.

Belinda understood that probate situations benefit from a broad range of services and she is determined to deliver more comprehensive support to her clients and has developed a network of professional service providers to effectively meet their needs. She also serves as a resource for attorneys with clients that need to liquidate probate real estate in order to pay off debt and settle the estate. Belinda loves working with families who need help going through probate.

Belinda has two adult sons and lives in Maryland with her husband and two dogs. In her downtime, she enjoys reading, nature documentaries and spending time with family.

# WHAT TO EXPECT

The truth is, nobody can give you all the answers you are looking for. And nobody can make all of the decisions for you. **Your situation is unique to you and your family, and nobody can take that away from you.** Don't let anyone else tell you otherwise.

## WHAT THIS BOOK IS NOT

- Legal jargon that you won't understand or remember
- Answers to every single question you will ever have about estates and probate
- A one-stop solution for you to be your own lawyer, executor, or real estate agent
- Legal advice or opinions on the right thing to do for you and your family

## WHAT YOU **CAN** EXPECT FROM THIS BOOK

- Mental preparedness techniques to keep you grounded in your goals
- Honest information about what you should expect from the legal system
- Guidance on how to get started with the legalities of losing a loved one



- Conversation starters and questions to ask the heirs to help avoid in-fighting
- Grief resources that will keep you moving through the emotional process of letting go, regardless of what is happening with the estate
- Key information that can safeguard and protect your time and money
- A comparison of your real estate options so you know what you are getting into
- Questions to ask attorneys, agents, and potential executors to avoid getting taken advantage of
- A checklist of things to take care of in the first 30 days to avoid common probate horror stories from heirs



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*PART ONE*  
**GRIEF, HEALING  
& FAMILY**

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**DO NOT LET THE  
BEHAVIOR OF  
OTHERS DESTROY  
YOUR INNER PEACE.**

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Dalai Lama

# CH1: HOW TO PREPARE FOR BATTLE - MENTAL READINESS TECHNIQUES

In the case of probate court, the phrase “knowledge is power” couldn’t be more true. Mental preparation can be a shield of armor for you and your family while you are already going through the grieving process - empowering you to avoid real-life horror stories that can cost you your inheritance, or worse, the relationships you have with your family members.

It is important to realize that added stress put on your mind, heart, and body can actually draw out the healing process, causing increased grief and heartache, even pausing the natural process altogether.

## **YOUR MIND: THE #1 TOOL IN YOUR ARSENAL**

Mental preparation is a key technique used not only by athletes and high achieving entrepreneurs but is also an effective tool in everyday life... from starting a new diet or job to making large decisions or even facing the death of a loved one.

A strong mindset is a weapon that can help you avoid the outcome of losing your inheritance or family relationships. But what does “mental preparation” actually mean? It means understanding the environment, preparing yourself for different scenarios, and having a plan to overcome whatever comes at you.

For example: If I were getting ready to go scuba diving, I would know that the ocean is a completely different environment than land. There are many unknowns such as sharks and jellyfish, but there are also things you can prepare for like decompression sickness or hypothermia.

In order to keep me safe while underwater and have the best experience possible, it would be important for me to know the area I am diving in, understand the potential hazards, and have a plan of action if something were to go wrong.

The same is true when you are facing tough times. You need to be aware of what could happen, prepare yourself emotionally and mentally for different outcomes, and have a game plan for how you will handle yourself if a certain situation were to arise.

These mental preparation techniques are designed to help you avoid the horror stories of others



and maintain your sanity and peace of mind in the midst of whatever is happening in your life.

**Tips on how to mentally prepare yourself for battle:**

- Know the Environment and Potential Hazards  
- Learn About Probate Court, Spousal Rights, & More
- Surround yourself with positive, trustworthy people - your environment will have a big impact on your mindset
- Stay organized - keep track of all important documents and communications
- Be proactive, not reactive - Have a plan for what you will do if something unexpected happens
- Take care of yourself emotionally and physically - eat well, exercise, get enough sleep...
- Read books and listen to podcasts that will empower you, like scripture, motivational speakers, or mindset coaches
- Keep a daily journal and tune into grief resources around you

Anxiety and fear are normal, but you don't have to let them control your thoughts or actions. Know that it is okay for things to feel overwhelming at times.

## WAYS TO KEEP MENTAL STRENGTH DURING TOUGH TIMES:

Now that you know preparing your mind might just be the most important thing that you can do for yourself and your family, here are some ways to create mental clarity, protect your thoughts, and keep the walls of your fortress up through the entire process:

### **Setting personal goals**

Since there are a lot of things that need to be done, it can be hard to know which ones are the most important. You have to think about what is the most important thing for you right now, and then do that first.

It may seem silly, but setting a goal - even for something like probate - can allow you to disregard distractions, give you better focus and concentration, increased confidence, and can help relieve anxiety.

A goal can also be considered a vision or mission for the end result. Some examples of clear, overarching goals might be...

- Maintaining healthy relationships with your loved ones throughout the process
- Honoring the legacy left behind

- Making the most use out of the estate and maximizing profit margin
- Prioritizing your own grief and healing process
- Keeping the probate process as short and manageable as possible
- These are just a few examples - your goal could be anything that is important to you.

### **Understand that decisions don't always come easily**

Oftentimes, we are faced with more than one choice and aren't sure which path to take. Sometimes it can be difficult because you have no idea what the consequences will be or how these decisions will affect your future. At this point, it's important not to get too bogged down by all of the details, but to focus on the end goal.

Remember, you can always change your mind down the road if needed. The important thing is that you make a decision and take some form of action - even if it's later revised. Just having a plan gives you a sense of control during chaotic times.

### **Keep your thoughts & feelings in check**

Understandably, the grieving process can be overwhelming and you may find yourself lost in your thoughts at times. Realize that this is a time of high emotion, and it may be difficult to make decisions at all.

It can be helpful to talk to someone about how you're feeling and what you're thinking. This will help keep your thoughts and feelings in check, organized, and manageable.

### **Take some time for yourself every day**

This may seem like an impossible task with everything that is going on, but it is very important. Even if it's just for a few minutes, take some time to relax and de-stress. This can be done through activities like yoga, meditation, or even reading.

### **Put your feelings into words**

This is another way of keeping your thoughts and feelings in check. Sometimes it can be difficult to put into words what you're feeling, but writing things down can be very therapeutic.

Not only does it help you organize your thoughts on paper, but it also helps keep them organized in your mind. Try to write at least once a day - even if it's just a few sentences.

### **Learn to control your breathing.**

In moments of high stress, our breathing can become shallow and rapid. This can not only increase our anxiety but also make it difficult to think clearly.

Try to take a few deep breaths in through your nose and out through your mouth. This will help you calm down and focus.

### **Don't be afraid to ask for help**

Enlisting the help of professionals and advisors can be a huge relief!

It's normal to feel out of control during this time, but there are many people who want nothing more than to see you succeed in whatever you set out for. They will offer their support every step of the way, whether that means emotional or logistical support.

Just remember, you don't have to do this alone!

“

**MAKE YOUR OWN  
RECOVERY THE  
FIRST PRIORITY IN  
YOUR LIFE.**

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Robin Norwood

## CH 2: RESOURCES FOR CONTINUED HEALING

Grief is heavy. Every one of us – no matter where we are in life – will at some point come face to face with the seriousness of grief. Unattended grief can manifest as physical sickness, depression, anger and can affect us in a wide variety of other ways, so it is important to give grief the support and attention it needs.

There are many healthy techniques for dealing with grief – such as talking to friends, joining a support group, prayer and worship, meditation, even exercising, and other self-care activities.

You may find that one or more of these work better for you than others. The most important thing is to find what helps you process your grief in a healthy way and stick with it.

### **HOW TO FIND A LOCAL SUPPORT GROUP:**

Local support groups can help you find other people going through similar situations, and help you feel like you are not alone. These groups usually meet weekly or monthly and can be a great place to talk through your feelings

with others who understand what you are going through.

Churches, funeral homes, and even some local independent living communities offer local grief support groups, as well as some independent organizations, like GriefShare.org.

**Here are the first few places you should look for grief support...**

- Google "local grief support group" in your area
- Call local churches, funeral homes, or retirement communities
- Use Griefshare.org or Grief.com directories

Remember to lean on friends and family when you need help, whether it is finding a group, or asking someone to go with you to the group meetings. Having someone to lean on can make the healing process a little bit easier.

## **MEDITATION RESOURCES**

Meditation is a way to clear your mind and relax. and can be another good way to deal with the heavy feelings of grief. Some people think meditation is a practice of eastern religions, but in fact, it really just means finding peace in your mind by staying quiet and closing your eyes.



A lot of people meditate to music or guided imagery, or even just use the time to pray.

**Here are a few ways you can use meditation to help heal your heart after a loss...**

- **Relaxation Meditation:** Sometimes when we feel overwhelmed, our bodies and minds go into fight or flight mode – causing us stress, anxiety, depression, and other physical and emotional problems. Relaxation meditation can help us to calm down, de-stress, and focus on the present. This type of meditation is usually done by sitting or lying in a comfortable position and focusing on your breath. You may also want to focus on a mantra (a word or short phrase that you repeat to yourself) or a visualization.
- **Mindfulness Meditation:** Mindfulness meditation is a form of mindfulness, which is the practice of being aware and present in the moment. This type of meditation usually involves sitting with your eyes closed and focusing on your breath, but you can also do it while walking or doing other activities. During this time, you focus on what you are doing and notice the sensations, thoughts, and emotions that come up for you.

- **Guided Meditation:** Guided meditation is usually done with a teacher or guide who leads you through a visualization exercise, either verbally or by playing music. For example... A guided relaxation might involve breathing deeply to relax your body and mind while listening to soothing music; a guided visualization might involve imagining yourself in a peaceful place, like sitting on the beach or walking through your favorite forest.
- **Prayer and Worship:** Prayer and worship can be another form of meditation. This type of mediation usually involves connecting with a higher power or spiritual force and may involve prayer, singing, reading scriptures or other religious texts, or just sitting in silence.

### **Meditation Tools & Resources**

If you are interested in trying meditation, there are a lot of great resources out there to help you get started.

- **Headspace:** This is an app that offers guided meditations, mindfulness exercises, and tips for living a healthier life.
- **Calm.com:** This website has a library of free guided meditations, as well as a section on mindfulness for kids.

## CREATIVE THERAPY FOR GRIEF

Many people don't realize it - but creativity is one of the most influential ways to deal with your inner emotions.

Creative activities like journaling, coloring and painting, poetry, and even singing or dancing can be extremely healing during the toughest times.

Since the beginning of recorded history people have turned to song, dance, painting, and many other mediums as a means to heal.

Now, science has given us more definitive reasons why art therapy is so beneficial. Studies from the National Institute of Health show that listening to music, painting and drawing are powerful enough to reduce anxiety as well as process feelings that cannot be put into words.

### **Other benefits of all types of art therapy include:**

- Stress relief
- Providing an emotional outlet
- Offering a sense of accomplishment for a self-esteem boost
- Opening up opportunities for self-discovery

Focusing on creative therapy doesn't mean pretending to be healed, or that you will suddenly be done grieving. Healing is a journey that takes time – and sometimes the best thing you can do is to anchor yourself on one page at a time.

In Frozen 2, Elsa's younger sister Anna has to face the darkest moment in their journey to save Arendelle. Left alone in a dark cave that seems completely hopeless, Anna believes that her sister and their magical snowman, Olaf, are gone forever. In her darkest moment, she sings 'The Next Right Thing'... here is an excerpt:

*This grief has a gravity, it pulls me down  
But a tiny voice whispers in my mind  
You are lost, hope is gone  
But you must go on  
And do the next right thing*

By focusing on what's right in front of you, on your next move, you will be able to move through your grief.

With art, all you can do is focus on one piece at a time – there's no way to see the finished product – just like each day.

## **Don't Think, Color**

Regardless of artistic skill, anybody can enjoy the benefits of art therapy. In some ways, coloring a page in a book can be more relaxing than looking at a blank canvas. By eliminating some of the decisions, you can focus on the calming action of coloring one piece at a time. It can also be helpful to keep a blank page nearby to write down thoughts or feelings as they surface.

### **How to start with creative therapy:**

- Grab an adult coloring book at a local store or online
- Treat yourself to some new art supplies like blank canvases, paint or good quality pencils
- Write your own poetry by using prompts at [Poetrygames.org](http://Poetrygames.org)

**“PAINTING IS JUST ANOTHER WAY OF  
KEEPING A DIARY.” – PABLO PICASSO**

“

**HEALING TAKES  
COURAGE, AND WE  
ALL HAVE COURAGE,  
EVEN IF WE HAVE  
TO DIG A LITTLE TO  
FIND IT.**

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Tori Amos

## CH 3: AVOIDING CONFLICTS AND IN-FIGHTING

Most people don't think about it and don't want to, but families are shattered over estate battles all the time, ripped apart by in-fighting and arguments about how it should be settled.

The truth is that grief can do really funny things to people. It can make us act impulsively, lash out in anger, or withdraw completely from the world. And in some cases, it causes in-fighting among our friends and loved ones.

Keeping peace among beneficiaries may be one of the most important things you can do during this difficult time. It's important to remember that your loved ones may be hurting, too. Be patient with them and understand that their behavior is not necessarily a reflection of how they feel about you.

It is also important to realize that added stress put on your mind, heart, and body can actually draw out the healing process, causing increased grief and heartache, even pausing the natural process altogether.

## Here are some tips for maintaining healthy relationships with your loved ones after a loss...

1. Give your loved ones some space. Respect their need for time and privacy as they work through their own grief.
2. Be understanding if they are moody, irritable, or withdrawn. Grief can cause all sorts of emotions to surface.
3. Do not take their outbursts personally. It is not about you.
4. Offer your support in any way you can. Whether it's listening, helping with funeral arrangements, or just being there for them, let them know that you are available.
5. Avoid putting added stress on yourself. This will only prolong the healing process and cause more pain for everyone involved.
6. Remember that grief is a unique process for everyone. What works for one person may not work for another. Be patient and let them find their own way through it.
7. Be there for your loved ones as long as they need you. Grief can be a long and difficult process.
8. If there is a will or estate, make time to talk to your loved one about divvying up assets or moving forward in probate. For example, ask: "What do you think they would have wanted us to do with it?"



## **How to talk with the heirs to avoid the unimaginable**

If you're lucky, your loved one left behind an estate plan that outlines how they want their assets divided up after they die. But what if they haven't? What if there's no will or trust in place? If that's the case, it'll be up to the heirs to figure out how to divide everything up. This can often lead to conflict and fighting, so it's important to come into any discussions about the estate with an open mind and a willingness to compromise.

By talking with the heirs and getting their thoughts and feelings, you can help avoid conflict and ensure that everyone is on board with what's happening. If there are any disagreements, you can work to resolve them before they become a bigger issue. Having an open and positive conversation with the heirs is essential for a smooth estate transfer.

### **Here are some conversation starters to work with:**

- How do you feel about the estate?
- What are our top priorities?
- What are your thoughts on dividing up the assets?

- Do you have any ideas about what should happen with specific items or property?
- What are your thoughts on taking care of the family home?
- Do you have any questions for me?
- How do we think our parents would have wanted us to split everything up?
- Is there anything specific that has important sentimental value to you?
- What are our parents' most prized possessions?
- What are our parents' biggest debts?
- Do any of us want to take on the responsibility of executor or trustee?
- How much money do each of us think we should get?
- Should we sell any assets in order to pay off debts or divide the money equally?
- How much input would you like to have in the process?

Remember, it's important to come into these talks with an open mind and be willing to compromise so that everyone involved feels like they got a fair shake.

## **CHOOSING THE RIGHT EXECUTOR / PERSONAL REPRESENTATIVE**

An executor is someone who is responsible for overseeing the process of paying debts owed by an estate and transferring the remainder to the beneficiaries or heirs. It can be a difficult job, but it is important to have someone in this position who is organized, diplomatic, and ideally doesn't operate with a huge ego! Even families with excellent relationships will find themselves in moments of contention during this process.

While the family has a large say in who will act as executor, the final decision is on the judge, and even if someone was named as executor in the will, it doesn't mean they will accept that role or be appointed. If you do not have an executor appointed, the court will appoint someone to take on this role on the family's behalf.

If you take on the role of executor, you play a large role in how easy or difficult your job becomes. Staying organized, maintaining excellent communication with the attorney and other professionals as well as additional heirs, and practicing transparency while asking for feedback will help maintain calm waters and

smooth sailing. Often, family members not named as executor can feel slighted, so including them in the process even though they don't shoulder the same level of responsibility, will make them feel valued.

That being said, nothing ensures you will escape an unreasonable heir, and sometimes mediation is the best course of action. Don't wait until everyone "digs in" and the relationship is under extreme strain, as this can make coming to an agreement a lot more difficult than it should be. Sometimes practicing vulnerability and moving negotiations to a third party can be your fastest and easiest option. It can be difficult to appreciate all the skills these professionals utilize to come to a peaceful agreement, but you would be amazed at how the right words and questions at the appropriate times can fast-track you to resolution.

*PART TWO*  
**LEGAL & ESTATE  
INSIGHTS**

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**WHAT LIES BEHIND  
US AND WHAT LIES  
BEFORE US ARE TINY  
MATTERS COMPARED  
TO WHAT LIES  
WITHIN US.**

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Oliver Wendell Holmes

## CH 4: WHAT TO EXPECT FROM THE LEGAL SYSTEM & HOW TO GET STARTED

Probate is the legal process of transferring property from a deceased person to their heirs and/or beneficiaries and paying debts owed by the deceased. The probate court officially oversees the gathering of the decedent's assets, the liquidation of liabilities, payment of appropriate taxes, and distribution of the property or funds.

The court even has a say in how much the assets (especially real estate) are sold for. This process can be complex, so it's important to have an understanding of what to expect, as well as various professionals who can serve as advocates and advisors so the estate isn't preyed upon by bad actors.

You may hear a lot of special terms related to probate, like "intestate" or "primogeniture"... don't worry too much about probate vocabulary, unless you are handling the court without a lawyer, you won't need to have them memorized.

## THE WHO'S WHO OF PROBATE

There are a few key players in the probate process:

**Executor or Administrator** (also be known as Executrix or Personal Representative): This is the person (or group) appointed by the will to handle the probate process. They are responsible for filing for probate, paying debts and taxes, selling and distributing assets.

**Heirs:** These are the people who inherit property from the deceased person. They may be listed in the will or determined by law if there is no will.

**Attorney:** A lawyer can help with understanding and navigating the probate process, as well as determine a timeline for necessary paperwork and filing with the court. Depending on the situation and complexity level, a good attorney can pay for themselves, by negotiating a fee and debt reductions. Make sure you discuss exactly what they will do (or won't do) on your behalf!

**Probate Court:** this includes the judge, probate referee, and filing clerks. Professionals such as your attorney and realtor that have working relationships with these folks can help smooth the process out.



The **judge** will make sure everything is moving in accordance with mandated timelines, approve or disapprove actions, and generally ensure everything is in accordance with the law.

The **referee** will perform an appraisal of the real estate. If this is inaccurate and impedes the sale of the property, a good realtor can help plead the case for a reassessment.

The **clerks** will collect the various filing documents. These folks can create a real bottleneck (often due to understaffing), which can draw the process out by months. Being proactive during this time can literally save your family thousands of dollars in lost inheritance.

## **DO YOU REALLY NEED TO GO THROUGH PROBATE?**

The first thing you should sort out is if probate is even necessary. If your loved one previously established a living trust, great news! You don't need to enter the probate process. You should consult with an attorney about the parameters and distribution of assets.

Even if there isn't a living trust, you may still escape probate, especially if there is a living spouse or it's a designated "small estate"

(the designated monetary amount for a small estate varies by state).

\*Tip - If the estate is considered “small”, you may not need an attorney, as a paralegal can likely file everything needed. They cannot, however, provide advice as an attorney can, and they cannot represent you in court.

**Here are a few examples of when probate is probably necessary, however:**

**1)** Assets are in the name of the deceased with no joint ownership. Probate will transfer the assets into the name of the beneficiaries (likely unnecessary for a motor vehicle).

**2)** Real estate is owned as a “Tenants in Common” (not to be confused with Joint Tenancy). Tenancy in common is an arrangement in which two or more people share ownership rights in a property or parcel of land.

Each independent owner may control an equal or different percentage of the total property, which can be commercial or residential. When a tenant in common dies, their share of the property passes to their estate; they have the right to leave it to any beneficiary they choose.

**3)** If the decedent owned a “payable on death” or similar type of account and the beneficiaries have passed away prior to the deceased, or no beneficiaries were named.

This could be a Health Savings or Medical Savings Account; a life insurance policy; a retirement account, including an IRA or 401(k); or an annuity.

In most cases, the account or policy will need to be probated in order to get it into the names of the decedent’s beneficiaries.

**4)** There is NOT a valid will - likely the assets will be administered by a family member appointed by the court.

**5)** There IS a valid will, but the estate contains any of the above scenarios.

It’s always a good idea to consult with an experienced attorney so you know what your next steps are going to be. If you decide to use an attorney, make sure to ask them questions beyond the basic probate process, such as how they will attempt to save your estate money. Also, make sure they aren’t charging you senior-level rates for paralegal work (more about this in chapter 7).

Regardless of the estate status or if you decide to consult with an attorney, one of the very first things you should do is to **gather as many of the following documents as possible, including:**

- The original will or trust document
- Death certificate
- List of assets and liabilities
- Proof of ownership for each asset

## **THE STEPS OF PROBATE**

Now that you know some of the scenarios when probate is and is not required, let's look at the basic steps that take place during the probate process.

### **1) File a Petition with the Court for the County in which the deceased resided.**

Once all of the documents have been gathered, and you know that probate is required, the next step is to file a petition with the court. This document formally requests that the court appoint an executor (or personal representative) to administer the estate. The petitioner is also responsible for notifying all interested parties of the pending probate case. While the will may already name a personal representative, this does not mean that person is required to act as

such, or will even be appointed, so this process is necessary every time.

Once the petition has been filed, the next step is to serve all of the interested parties with a copy of the petition and related documents. They will then have an opportunity to file objections or comments with the court. Serving all of the interested parties means sending them a copy of the petition and other related documents. They then have a set amount of time to file objections or comments with the court. If no objections are filed, then the court will typically issue an order appointing an executor/ personal representative.

The executor is responsible for administering the estate according to state law. This includes gathering assets, paying creditors, and distributing assets to beneficiaries. The process can take anywhere from several months to several years depending on the size and complexity of the estate. Bear in mind that the appointed executor takes on the role of a sworn fiduciary. This means that all reasonable efforts must be taken to ensure the best outcome, which is why professional specialists can be so important in the process. Rarely does an executor have the necessary skills in all areas of estate administration to fully facilitate this.

The best way to avoid any surprises is to consult with an experienced probate attorney. They can help you navigate the process and ensure that everything is handled in accordance with state law and county regulations.

## 2) **Identification of Assets and Debts**

Once appointed by the court, the executor will begin the process of identifying the assets, as well as which assets will go through probate (small items under a certain value do not need to be probated), then discerning where debts are owed and to whom. An inventory of these assets will be created during this process.

One extremely important note on paying debts - there is an ***order to which debts need to be paid!***

If the executor doesn't understand the order of operations for your particular county/state, you may find that you've paid a debt that was not required to be paid or are personally liable for the payment of a debt that the estate cannot cover due to paying debts out of order. If you haven't retained an attorney, either pay for a consultation on debt payment regulations or make sure the county probate clerk explains this thoroughly.

### 3) **Sale of Assets**

While heirs will almost always sell some of the assets, this step is situational and not necessary in every case. The court does not view everyday goods such as clothing, dishes, and moderate furniture as things that need a certain value ascribed.

Often, family members will go through these items and choose what they would like to keep (if they aren't assigned in the will already). The rest can be donated, trashed, or sold. When there are a lot of items in a home, an estate sale is likely the best action, especially if the estate sale company will also provide clean-out services and broom sweep the property after the sale. Doing a yard sale, for example, may not be the best option as items of value may be sold for much less than they're worth. You want someone to facilitate the sale who knows what to look for and how to value items for a combination of a quick sale and fair value.

If you need to sell the real estate either to pay debts or liquidate the asset for distribution, an experienced real estate professional will be your best bet. They will understand when you are authorized to sell (such as having your Letters Testamentary), where and how to extract

additional value, and how to list it without attracting even more solicitation and lowball offers.

#### 4) **Payment of Debts**

This is where you really need to know your stuff. Certain debts can have a statute of limitation on the window to collect, and as previously mentioned, there is a hierarchy to which debts are to be paid first. More often than not, there is not enough cash available to pay the requisite taxes and debts owed, which is why the sale of real estate is usually the most pertinent piece of the puzzle to take care of.

#### 5) **Closing Probate**

Once you've satisfied the required document filings, gathered necessary signatures, distributed death certificates to relevant parties, sold the property (if necessary/desired), and paid debts, you should be ready for the "final distribution." This will outline what was spent and what is remaining to be distributed amongst the heirs. This is your final check & balance. The executor must keep thorough records. Not your attorney, their paralegal, or your CPA - the executor. ***So if you are the executor, that's your job.***



The executor will need to be able to compare and dispute discrepancies so they don't run into surprises. **What does this look like?**

- Have thorough records of bills/debts owed
- Have a completed inventory of assets
- Files of creditor claims
- Receipts for estate expenses including, but not limited to: clean out, commissions, yard work, repairs, updates, utilities, mortgage payments, attorney expenses, costs for death certificates, filing fees, executor fees...
- Records of what the attorney has done on behalf of the estate
- Bank account records

Keeping detailed notes and records from day one will save time and headaches when it's time to wrap this process up.

“

**BE SURE YOU PUT  
YOUR FEET IN THE  
RIGHT PLACE, THEN  
STAND FIRM.**

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Abraham Lincoln

## CH 5: 30-DAY CHECKLIST TO AVOID COMMON PROBATE HORROR STORIES FROM HEIRS

One probate horror story that is all too common is when a family member dies and leaves behind a mess. This can include unpaid bills, property damage, or even criminal activity. In some cases, the deceased may have not even left a will at all. When this happens, it can be up to the remaining family members to clean up the mess and try to distribute the assets in a way that is fair to everyone involved. This can often be a daunting task, especially if there are disagreements among family members about how things should be handled.

Another common probate story occurs when someone dies without any heirs. In these cases, the estate must go through probate in order to be distributed among the state's coffers. This process can be long and expensive, and often the deceased's assets end up going to someone who was not even close to them.

But one of the most common (and most tragic)

stories is when there is a dispute among family members about how the estate should be distributed. This can lead to months or even years of arguments and legal battles. In some cases, the fighting can get so bad that it destroys relationships between family members that used to be close.

Families face these kinds of situations every day. If you are facing something similar, it is important to seek out help from an experienced attorney who can guide you through the process and help you achieve a resolution that is fair for everyone involved

### **The First 9 Steps...**

The following checklist is intended to outline 9 specific steps typically undertaken before and during most probate proceedings. This checklist is not exhaustive and should not be substituted for proper legal advice from an attorney.

The steps will be enough to keep you busy in the first 30 days. The sooner you get a good team together the better, as they can help to reduce the time in probate, save your family money for services and holding costs, and act as a support system as you proceed.

## 30-Day Estate Settlement Checklist

- Secure any vacant real estate:** Post 'no trespassing' notice, obtain vacant property insurance rider, lock & secure real estate and personal property
- Gather all important documents related to the estate:** Including wills, trusts, insurance policies, bank statements, titles to property, etc
- Make sure probate is necessary:** You can do this by consulting with an attorney in your area.
- Hire an attorney if you plan to do so.**
- File a probate case with the clerk.**
- Notify all interested parties:** This includes creditors, beneficiaries, and anyone else with an interest in the estate.
- Make multiple copies of the death certificate.**
- Open an estate bank account:** You do not want to use the decedent's bank account for administering the estate. You will need to keep detailed records of money in and out for the courts, and this is the best way to isolate funds for use during this time.
- Set up systems of organization:** Folders and files will work for this. You should also create an email folder for probate activities.

“

**SUCCESS IS NOT  
FINAL, FAILURE IS  
NOT FATAL: IT IS  
THE COURAGE TO  
CONTINUE THAT  
COUNTS.**

---

Winston Churchill

## CH 6: KEY INFORMATION THAT CAN SAFEGUARD YOUR TIME AND MONEY AS EXECUTOR

In this brief section, we'll take a look at some key items that can save you (or cost) time and money.

For the most part, the role of an executor is a one-time job. If you are taking on this role, you won't have past experience to draw from, which can leave the door open for inefficiencies and unnecessary expenses.

Here are some of the most common ways you can save time and money for the estate...

### **Be Proactive**

You may find yourself waiting for your attorney or the court to give you the all-clear to proceed at any given stage of the process. That doesn't mean you shouldn't be proactive. There are usually things to do in the meantime, such as clearing out the home while waiting for the "OK" (Letters Testamentary) to sell the property.

**Make sure you understand what is being done on your behalf and what you're being charged.**

When engaging in a process like probate, some of us can trend toward the role of a bystander when it comes to inheritance retention. Some people will take advantage of this and view overcharging as a victimless crime, while others will truly act in your best interest. *It's up to you to make sure your team members are operating with integrity.* One example is when attorneys charge senior rates for paralegal work. Ask for a breakdown of who does what, and make sure they're charging paralegal rates for work done by paralegals.

**Hire a real estate professional who is experienced with probate.**

By hiring a real estate agent or investor who understands the local probate process, you can save yourself the hassle of increased solicitation or attempting to sell the property before you are authorized. They should also understand how to negotiate the assessed value of the home, which can be a barrier to getting it sold in a timely manner for a fair price.



## **Get the homeowner policy updated**

It doesn't matter if your loved one had the same policy for the last 20+ years or not. If the home sits vacant for more than 30 days (which it almost always will), the policy will NOT cover loss 9 times out of 10. You need to get vacant home insurance to protect the largest asset, and these policies just aren't that easy to find. A real estate professional with solid probate experience should know whom to connect you with so you can protect the most valuable asset in the estate.

## **Post "No-Trespassing" signs**

When a home sits vacant, it can be vulnerable to squatters. The last thing you want is to find that a vagrant has moved in and then it takes 6-12 months to get them out! Squatter's Rights can really get messy, so by posting (and photographing) the signs that have been affixed near all entrances can protect you from a long and unnecessary process.

“

**SPREAD LOVE  
EVERYWHERE  
YOU GO.**

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Mother Teresa

## CH 7: QUESTIONS TO ASK TO AVOID GETTING TAKEN ADVANTAGE OF

One of the most important things that you can do to protect yourself from probate horror stories is to hire the right team. This includes attorneys and potential executors, but it may also need to include a real estate professional. If your questions are not all answered satisfactorily, it may be best to look for someone else.

Remember, choosing the wrong professional can lead to significant delays and even increased costs. Take your time in selecting the right person for the job, and you'll be thankful you did.

The following pages offer some basic questions you can ***and should ask*** to avoid getting taken advantage of.

## QUESTIONS FOR ATTORNEYS

- How long have you been practicing law?
- What is your experience with probate cases?
- Do you have any references I can contact?
- Can you give me an estimate of how much this process will cost?
- What are your fees? Are they hourly or a flat rate, retainer or as you file documents?
- Do you utilize paralegals and will I be charged a paralegal rate for work they perform?
- How often do you bill clients? Monthly, quarterly, etc.?
- How often can I expect to receive updates on the case?
- What kind of communication methods do you use (phone, email, text)?
- How available are you to answer my questions and discuss the case with me?
- Will I be able to get you on the phone or will it be your front desk?
- Who will prepare the final tax returns and estate taxes?
- How will you be participating in other areas of the estate, like the distribution of assets?
- If we decide to move forward with hiring you, what is the next step?
- *Make sure to discuss the probate process in general, and that the attorney really listens.*

## QUESTIONS FOR REAL ESTATE PROFESSIONALS

- What is your goal in helping me?
- What if I don't want to put the house on the market?
- Do you have any probate education?
- Have you done any probate cases before?
- Do you have anyone I can talk to whom you've done business with before?
- What is your fee structure?
- Can you tell me a story about how you helped someone in a difficult probate situation?
- What's one of the oddest jobs you've ever done for a probate client?
- What are your hours of operation?
- Are you licensed and insured?
- Do you have any written policies or procedures I can review?
- Will you be acting as my representative in court proceedings, or will I need to hire an attorney?

## **THE DIFFERENCE BETWEEN PROBATE "EXPERIENCE" AND A "CERTIFIED PROBATE EXPERT"**

Probate "horror stories" stretch past probate court and pour into the real estate space when people are working with agents who don't have any real probate experience.

For example, heirs with a small remaining inheritance of 15K can be inflated to 100K by using a certified real estate professional to facilitate the process (true story).

There are multiple certifications available for real estate professionals, including what's called a CPE or CPRES. These official titles should be taken seriously.

## QUESTIONS FOR EXECUTORS

- How much experience do you have?
- What is your fee structure?
- Do you have a standard agreement you would want me to sign and can I have a copy?
- What kind of references can you provide?
- Do you have any conflicts of interest that you can think of?
- How well do you know the state laws governing probate?
- How available will you be to help me through the process?
- Can you tell me a story about how you helped someone in a difficult probate situation?
- What's one of the oddest jobs you've ever done for a probate client?
- Have you had to deal with family infighting and conflicts, and how did you handle them?
- What kind of organizational system do you use?

It's also important to remember that you have the right to change executors at any time, so don't feel like you're stuck with whomever you choose. If you do decide to make a change, be sure to notify all interested parties and follow the appropriate legal procedures.

“

**BELIEVE YOU CAN  
AND YOU'RE  
HALFWAY THERE.**

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Theodore Roosevelt



## CH 8: ESTATE OPTIONS & COMPARISON

When you inherit a property, the first thing you should do is consult an estate lawyer to explore your options. There are several things you can do with an inherited property, including keeping it, selling it, or transferring it to another party.

Each option has its own benefits and drawbacks, so it's important to understand them all before making a decision.

If you decide to **keep the property**, there are a few things you can do with it:

- Live in it
- Use it as a traditional rental
- Use it as a vacation rental

If you choose to live in the home and you are not the sole beneficiary, you will likely have to compensate any heirs for their portion, assuming they agree to that.

Using the property as a traditional rental can generate monthly income (especially if the home is owned outright or has a low mortgage balance). Be sure to educate yourself on how to

plan for repairs and upkeep, as well as protecting yourself as a landlord. You should keep detailed records, know how to vet potential tenants, and have someone on call for fast repairs for WHEN emergencies pop up.

Tenants don't often take care of a property like an owner would, so you will need to set aside a percentage of the rent every month in order to fund small and large repairs alike, from replacing the float on a toilet bowl to putting on a new roof or installing a new HVAC system. In addition to the extra work involved to enjoy this cash flow, you will need to come to an agreement on which heirs will be responsible for the oversight and how they will be compensated.

This can lead to resentment and damaged relationships if some of the heirs are handling more responsibility than others, and should be included in the potential cost of holding the property as a rental.

If you decide to use the property as a vacation/short-term rental, you will encounter the same headaches just mentioned, with the added stress of ongoing policy changes towards the short-term rental market. This just means you may have to change your approach depending on local regulations. However, if your

property is close to a hospital, university or in/near an area that generates a lot of tourist activity, short-term rentals can actually produce even greater cash flow than a traditional, longer-term rental. Once again, do your homework on how to operate as a rental owner and be prepared to add some busy work to your schedule.

The bottom line is that you should Make sure you're aware of the ongoing costs associated with owning it. These costs can include taxes, repairs, maintenance fees, and management costs. If you can't afford to cover these expenses on your own, you may need to consider selling the property. You may also want to consider the implications of co-ownership and what that means for your time and relationships.

If you choose to **sell the property**, be sure to get a good estimate of its value. You'll also need to decide whether you want to sell it as is or do some renovations first. Keep in mind that renovation costs can add up quickly, so you may not get as much money back if you choose this option. You may decide you want to try to flip it yourself or take a cash offer on the property. If you don't have experience with "flipping" a home, you may want to explore partnering with an experienced investor as they will know which

upgrades will yield the greatest return and which ones to skip or only address lightly.

Finally, if you decide to **transfer the property** to another party, be sure to research all of your options carefully. There are a few ways to go about this, so make sure you pick the one that's best for you and the person who will receive the property. You really should use an estate/real estate attorney for this even if you think it's straightforward. Even the "pros" use attorneys for transfers, due to potential title issues and other pitfalls that can come back to haunt you later.

Estate lawyers can help you figure out what's best for you and your inherited property.

**Here are some questions you can ask about the estate to guide you in the right direction:**

- Is there a mortgage?
- How much are property taxes?
- What is the condition of the house and how much repair work is needed?
- Is it located near a vacation destination or college town?
- What is the real estimated value of the property?
- What would be the investment to keep it versus sell?

- How much sentimental value does the property have to your family?
- Does someone in your family live close enough to keep an eye on it if you rent or use it as a vacation home?
- What kind of upkeep is going to be needed to maintain it?
- Are you personally in a position to take on a project?

## GETTING REAL HELP

A lot of people don't realize how much work is really involved in probate, especially when it comes to dealing with real estate. From securing the locks on an empty house to mowing the lawn to sorting through years of things left in the home...

It can be a long, drawn-out emotional process, and you simply do not need to do it alone.

When you really step back and look at everything involved in administering an estate, the probate attorney only handles around 25% of the process. Their job is not to help you sort through the assets, find someone to remove the trash or help keep a watchful eye on a vacant property. In fact, a lot of families say that they didn't even speak with their attorney after the initial

consultation and hiring process, as everything was handled through the front desk.

Not to fear, because that's where a real estate professional can come in, to help you sort through the confusing mess left behind, guide you to the right resources, and be your go-to when you feel overwhelmed.

Basically, the right professional will act as a project manager on your behalf, turning a normally disorganized mess into a streamlined process, all while doing whatever it takes to save your family money, and actually seek to create more inheritance for the heirs wherever possible!

# **BONUS MATERIALS**

“

**WEAKNESSES ARE  
JUST STRENGTHS IN  
THE WRONG  
ENVIRONMENT.**

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Marianne Cantwell



## GETTING STARTED WITH A LIVING TRUST

A Living Trust is a great way to protect your assets and ensure that they are passed down according to your wishes. Here are the basics of how a Living Trust works:

- You create the trust, naming yourself as trustee and someone else as successor trustee.
- The trust property is transferred into the trust.
- You retain control over the trust property during your lifetime.
- After you die, the successor trustee takes over and distributes the trust property according to your instructions.

If you're interested in creating a Living Trust, it's important to work with an attorney who specializes in estate planning.

There are affordable online options available, such as [LegalZoom.com](https://www.legalzoom.com) or [Freewill.com](https://www.freewill.com), but to get personalized advice and help you should consider hiring a local attorney.

## LOCAL GRIEF RESOURCES

Here is a list of places you can access grief resources:

- [Grief.com](https://www.grief.com)
- [GriefShare.org](https://www.griefshare.org)
- [AlloHopeFoundation.org](https://www.allohopefoundation.org)
- [Counseling.org](https://www.counseling.org)
- [Good-Grief.org](https://www.good-grief.org)
- [Dougy.org](https://www.dougy.org)

## LOCAL PROBATE LAWS

*The Probate Code Act* was drafted by a group of lawyers from The Uniform Law Commission (ULC) and defines the general provisions and definitions for the jurisdiction of probate court. This serves as the starting point for all state laws, like, who gets the inherit the estate if there is no will? And, does the surviving spouse have to share the inheritance? You can read The Probate Code Act yourself at [uniformlaws.org](http://uniformlaws.org).

Individual counties and states also have laws and regulations that are unique to their region.

You can get a list of your local and state laws at [findlaw.com](http://findlaw.com) under "Probate & Estate Administration".



# ABOUT THE AUTHORS

**Jennifer Bailey** is a digital entrepreneur who is passionate about helping people through written words. She has been published from the young age of 15 - and believes in developing real-world resources for people who are grieving or going through difficult life transitions. Jennifer and her husband are raising their 4 children at beautiful Lake Anna, VA. You can contact her with ideas, feedback or to bring your own ideas to life by emailing [jennifer@clarfire.com](mailto:jennifer@clarfire.com).

**Grant Cox** spent his early career as an executive chef, traveling the world for culinary experiences. During his travels, he developed a friendship with a highly influential real estate professional who opened his eyes to the opportunity to help people in probate. And just like that, Grant stumbled upon the career he didn't know he was looking for. From the technical aspects of market analysis, negotiation, creative financing, and contract creation, to the social engagement that comes with nurturing client relationships and sphere of influence - Grant knows of no other career that could offer the same diversity that makes real estate so exciting.



# HOW TO GET HELP

Contact us for references, referrals and to get real help for your probate case.

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## ABOUT PURPOSE-DRIVEN PROBATE

The truth is, nobody can give you all the answers you are looking for. And nobody can make all of the decisions for you. **Your situation is unique to you and your family.**

**Purpose-Driven probate** is not filled with all the legal jargon that you won't understand or remember, or answer every question you have about the process, or provide you with advice on the right thing to do for you and your family...

But it will help you with mental and emotional preparedness to keep you grounded in your goals, give you honest information about what you can expect from the parties involved in the process, and point you in the right direction on where you should get started on your probate journey.

We hope that you will find comfort, clarity and sound direction in the days moving forward.

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