

Ways to Avoid Probate

Writing a will is a reliable way to escape a costly and time-consuming probate process and to preserve the power to endorse your wishes when you're gone.

Introduction to Probate

Probate is the court-supervised process by which your assets and debts are inventoried and paid, and any remaining assets are distributed. Probate is technically defined as the court procedure by which a will is proved to be valid or invalid. The term "probate" generally refers to the legal process wherein the estate of the deceased is administered. Most people want to avoid probate because it is expensive, time-consuming and public.

Valid Will Characteristics

To ensure a will is valid, the court must be satisfied that:

- The decedent was of sound mind when he signed the will
- The signature is authentic
- That the will was properly witnessed
- The will was never modified or cancelled

Some of most important elements required to draft a proper and valid will are listed below:

- Properly sign the document with at least 2 witness signatures.
- Date your will. If you make a codicil, or amendment, be sure to provide the date it was signed.
- Assign your executor.
- Assign your guardian or trustee of trust .
- Inform your beneficiaries and executors about where your will is located.

How-to Avoid Probate

Some of the ways you can avoid probate court include:

- Use Joint Ownership with Rights of Survivorship or tenancy by adding a joint owner to a bank or investment account, or to your deed for real estate. Be sure you are clear that the bank account is owned as joint tenant with rights of survivorship. Leaving your property to your spouse by right of survivorship or tenancy by the entirety will mean that your spouse will be free to do whatever he or she wants.
- Use Beneficiary Designations - you can also avoid probate through the use of beneficiary designations to a trust, IRA or retirement account. In some states you can designate your accounts to beneficiaries, such as a POD, "Payable on Death" account.
- Use a Revocable Living Trust - a living trust is a written agreement, which protects you in three stages of life:
 - When you are alive
 - If you become mentally incapacitated
 - When you die

Final Steps

Once you sign your trust the most important thing to do is to title your estate and property in the name of your newly created trust.