

Independent Administration of Estates in Texas: Does it Make the Probate Process Easier?

What is probate? It is the legal process of proving the validity of a Will. It is also commonly understood to refer to the legal process in which the estate of a decedent is administered.

When an estate goes through probate, Texas provides various versions of probate, from very simple to more complex procedures. This article will discuss the two kinds of formal options: Independent Administration and Dependent Administration of Estates.

Your McKinney Probate Attorney believes that the Independent Administration option is quicker, simpler, and less expensive than the alternative, making the Texas probate process much easier than the probate process in many other states. The reasons why the Independent Administration option is best for most estates are discussed below.

The first step in proceeding with the Independent Administration of an Estate is:

- 1). Correctly stipulating the Independent process in the Last Will and Testament (this is common error seen in Internet Wills or other “Do-It-Yourself” Wills.)

- 2). If there is no Will, or the Will does not grant the independent process, the

Executor or Administrator can ask the court for the authority to act as an

Independent Executor, but this can be requested only if ALL the beneficiaries under the Will agree

The main reason that Independent Administration is quicker and less expensive than the alternative is because, as the title suggests, it is in many ways independent of the Court. Less Court supervision and more independence allows an Executor to move

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more quickly since bureaucracy and Court time will not slow down the discharge of the following duties:

- 1). Collecting the assets of the estate
- 2). Paying the debts of the estate
- 3). Selling estate property
- 4). Distributing the assets to the correct beneficiaries or heirs.

In addition, because the requirement to post a bond is waived for many Independent Executors, and Independent Executors are not required to obtain Court approval prior to performing each of their duties, the estate saves money in legal costs.

As discussed above, Independent Administrators can be appointed by the Court when someone dies without a Will or with a Will that failed to nominate the Independent process. However, there is a time limit in which this preferred method can be utilized, so time is of the essence. The Court can only appoint an Administrator or Executor for up to four years after the date of the decedent's death. After four years expires, the Court can only grant an Independent Administration in very limited circumstances.

As your McKinney Probate Attorney stated at the beginning, Independent Administration of Estates is the preferred probate option. However, there are some cases where it makes sense to seek Dependent Administration of the Estate. For example, if an executor anticipates fighting among the heirs, it would be wise to have Court supervision and approval of every action taken by the Executor. Later disputes

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by the heirs can then be resolved by the Court, and not by a lawsuit filed against the executor.

Your McKinney Probate Attorney hopes this brief overview of the Independent Administration of Estates and the probate process in general is helpful when deciding how to proceed with a decedent's estate. For more information and legal assistance, contact April Nordhaus, your McKinney Probate Attorney at The Nordhaus Firm.