If your loved one left behind a will, administering his or her estate will involve carrying out the terms of the will through the probate process. Whether you have been named as personal representative, are a named beneficiary in the will or believe that you are entitled to a share of your loved one's estate, it is important to understand the probate process – and it is also important to understand the role of some of the key provisions of your loved one's will.

Key Will Provisions in Texas

1. Appointment of the Personal Representative

In Texas, the person who is responsible for administering a will is known as a "personal representative." Most wills include a provision that identifies the person who should serve as the deceased's personal representative. If this provision is absent, or if the named personal representative declines, then the probate court will need to appoint a personal representative.

2. Election for Independent Administration

Independent administration is a simplified form of probate that limits the court's role in the estate administration process. Since this tends to be both quicker and less expensive, many people will elect for independent administration as part of their estate plan. If the will is silent regarding the method of probate, then independent administration is an option only if all of the beneficiaries consent to the process.

3. Bequests of Estate Property

"Bequest" is the term used to refer to gifts of real and personal property made in a person's will. Bequests can be specific (e.g., "I leave my record collection to my son, Jon Smith"), general (e.g., "I leave all of my property to my daughter, Jane Smith") or residual (e.g., "I leave my record collection to my son, Jon Smith, and the residue of my estate to my daughter, Jane Smith"). Note, however, that a person's estate plan may also include trusts and other estate planning tools that transfer estate assets outside of the will.

4. Payment of Debts and Funeral Expenses

Wills commonly include provisions regarding payment of the deceased's outstanding debts, as well as funeral and burial expenses. It is important to note that creditors have certain rights under the law, and your loved one's creditors may be entitled to payment before distribution of any assets to named beneficiaries.

5. Survivorship Provisions

Since circumstances can change between the time that a person creates his or her will and the administration of his or her estate, wills commonly include "survivorship" provisions that account for the possibility of certain individuals predeceasing the testator (the person who creates the will). If a will names a beneficiary or personal representative who is no longer living, it is important to review the will's survivorship provisions to determine who is next in line.

This list is by no means intended to be exhaustive. For example, wills commonly address guardianship of minor children, revocation of prior wills and a number of other key issues as well. It also bears repeating that your loved one may have also left other estate planning documents—and these documents could actually govern the majority of his or her estate. In fact, with many modern estate plans, the will simply serves a "pour-over" function, covering any assets that happen to fall outside of the decedent's other documents.

Schedule a Free Consultation with a McKinney Probate Lawyer

For more information about how to interpret your loved one's will or what to expect during the probate process, contact The Nordhaus Firm in McKinney, TX for a free consultation. To speak with one of our experienced probate lawyers in confidence, call (214) 726-1450 or inquire online today.