

Some people mistakenly believe that if they die without a will, then no one has to deal with probate. Technically, the word probate concerns proving the validity of a will, so there is reason for feeling that a will is necessary for probate, but that is not the case. The probate process is different without a will but not any easier. In fact, without the guidance of a will, probate can be more problematic.

The Nordhaus Firm is ready to help with probate regardless of whether the deceased person left a will. We know how to make the process as efficient and straightforward as possible to avoid delays and waste.

## Who's in Charge?

When there's a will, the document usually names the person chosen to serve as executor to wind up the estate. Without a will, Texas law determines the most likely person to manage the estate. Generally, the first person on the priority list is a surviving spouse or child. If there is none, or they are unable or unwilling to serve, the court can appoint someone else. Until the court authorizes an executor, very little can happen with the estate and the deceased person's assets as essentially frozen.

Once the court grants authority to an executor, that person will have certain duties, including taking inventory of the assets in the estate and notifying potential heirs and creditors. Before heirs receive any proceeds from the estate, generally bills will need to be paid, but it is possible for a surviving spouse and children to apply for a special allowance to cover expenses for up to a year, and this allowance can come out of the estate before all bills are paid.

If the estate may not have enough money to satisfy all the creditors, it is important to pay the bills in the order of priority set by law. Failure to do so or to distribute money

to heirs prematurely can leave the executor open to personal liability. This is one reason people usually choose to work with an attorney during the probate process.

## Who Inherits?

Without a will, the Texas laws of intestate succession determine who inherits property remaining in the estate after bills are paid. Some property will not be part of the estate because it passes separately. If the deceased person co-owned a car or house or other property with someone else and the ownership had a right of survivorship, then the co-owner who survives takes over full ownership and the property never goes into the estate. Also, if the deceased person had retirement accounts or bank accounts with a beneficiary clause, funds in those accounts pass directly to beneficiaries without becoming part of the estate. Life insurance proceeds and trust assets also usually do not go into the estate unless the estate was made a beneficiary.

Property that does not pass to others in some direct way will go into the estate to be distributed according to the law. If there is a surviving spouse, they will inherit the deceased person's property unless the deceased person had children from another relationship, in which case, those children will get a half share of the community property.

## Get the Help You Need for Your Probate Issues

Texas does offer some simplified versions of probate, but the laws determining who qualifies to use those can be complicated. At The Nordhaus Firm, we can help you ascertain the right probate process and ensure that all rules are followed to settle the

estate properly without delays or costly errors.

If you have questions or are ready to start the estate administration process, contact us today for a confidential consultation.