

The probate avoidance strategy has been very popular in estate planning in recent years. But for every person who has come to their attorney asking for a revocable living trust or other plan to bypass probate, there are scores of others who aren't sure what all the fuss is about. Why the desperate rush to avoid probate? What's so bad about it?

Trying to avoid probate is not as important as avoiding a washed-out bridge or infectious disease. It's not the end of the world if an estate needs to go through probate. But a probate avoidance strategy can save your loved ones considerable time, money, and headaches. To understand why, we will explore what probate is and how it operates.

## Court Process to Protect Creditors and Heirs

Lawmakers established rules long ago to protect legal heirs and creditors of someone who has passed away. To ensure that bills get paid and the wrong people don't take the money and run, the law requires the court to supervise the process of winding up someone's final affairs after death. The supervised estate administration process is generally known as probate. Because the rules are complicated and mistakes can subject estate fiduciaries to personal liability, most people choose to hire an attorney to manage the process.

During probate, the court reviews the will and makes sure it is valid, then authorizes a representative to administer the estate. That person will need to take a series of steps in order to notify creditors in accordance with legal requirements, inventory assets, liquidate assets if necessary, pay bills, file tax returns, notify heirs and beneficiaries, distribute assets, and prepare a final accounting. The process generally takes at least six months to a year. During that time, the heirs or beneficiaries of the will usually will

not have any access to the property until the estate is finalized.

## Contrast Probate with a Probate-Avoidance Situation

To understand why people set up plans to avoid probate, it is helpful to compare the above scenario with a situation when a deceased person has transferred all of their assets into a revocable living trust to avoid probate. Because all assets belong to the trust, the deceased person does not leave an estate. That means there is no need to file petitions in probate court or open probate and follow probate procedures.

Instead, the alternate trustee named in the trust document pays the bills left by the deceased using the authority granted by the trust. Once bills are settled, the trustee distributes the remaining property to the alternate beneficiaries named in the trust document. There is little waiting or formality. While it may be necessary to file a tax return for the deceased person, there is no need to file a return for the estate because there is no estate. The process is quick and simple.

## Get a Plan to Avoid Probate from the Nordhaus Firm

At the Nordhaus Firm, we assist families with probate and we work hard to ensure the process moves quickly with as few delays as possible. But we also know that when a loved one sets up a probate avoidance strategy, proceedings are much less burdensome.

We would be happy to talk to you about estate administration or strategies to avoid

## Why Do People Want to Avoid Probate?

probate. Just schedule a consultation at your convenience.