



What to Do **WHEN A LOVED ONE DIES**

A Guide to Probate in Maryland



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When a Loved One Dies

There is never a good time to talk about death. But, after a loved one dies, there are many emotional, financial, and legal needs that must be considered. Some of these matters will be taken care of immediately while other matters may take months to complete. At Frame & Frame, we have been helping families with these difficult situations for over 65 years. This guide provides an overview of the resources and materials we have found most helpful to assist you with the estate and probate processes in Maryland.

EMOTIONAL SUPPORT

First and foremost, you and your family may need emotional support as you go through the grieving process. It's important to understand that, although there are many different theories about grieving, everyone approaches the grieving process differently. It's important to talk with your friends and family about how you are genuinely feeling. Death can be overwhelming, so many seek out professional help when struggling with the loss of a loved one. There are a wide variety of resources available to assist you with emotional support. You can start with your own doctor, the hospital, a therapist, or even a support group to find the help you need. If you need additional guidance, please don't hesitate to ask us.



What to Do Immediately

After a loved one dies, there are some matters that must be handled immediately and other matters that can wait until later. Here is a list of the items that are most pressing and important legal guidelines that must be followed, in accordance with Maryland law.

- 1. Obtain a Legal Pronouncement of Death.** If your loved one was in a hospital, nursing facility, was under hospice care, or under doctor's supervision, most likely the staff will take care of this task for you. However, if your relative died unexpectedly at home, work, or other location, the first step is to call 911 so that they can be transported to the hospital. The declaration of death and the accompanying death certificate is an important legal document that will be required for a variety of items, as you move forward. Ask for 10 copies of the Death Certificate – you will need them for future use.
- 2. Inform Close Family & Friends First.** Making phone calls to immediate friends or family can be very difficult. Try to remain calm as you begin this process or enlist a friend or family member to assist with this process. Remember, they will be hearing this news for the first time. Do not make any formal announcement until close family and friends have been notified. Suggestions for ways to make a more formal announcement are discussed below.
- 3. Obtain a Copy of the Will.** If you have a copy of the will, this will outline your loved one's wishes regarding funeral, burial, or cremation arrangements. The will may also indicate if these arrangements have already been paid for. The will also designates who the Executor of the Estate (also known as the Personal Representative) is – as this person will be primarily responsible for many of the decisions ahead. If you do not have a copy of the will, begin the search. If you know your loved one's attorney, they will likely have a copy of the will. If not, check with other family members, personal files, or even a safety deposit box. If you are unable to locate a will, there is an order of priority set forth by law and the probate court will determine who will be named as the executor. It's important to have an attorney representing you and your interests during this process.
- 4. A Power of Attorney is No Longer Valid.** A power of attorney is no longer valid after a loved one dies. This is a very important item to be aware of. According to the Maryland Attorney General, once a person dies, any power of attorney, either financial or medical, becomes invalid, and the will or trust becomes the legal document that controls decision making regarding the burial, funeral, last wishes,

A Power of Attorney Is No Longer Valid After Death

A Power of Attorney is designed to help a loved one take care of certain medical and financial decisions while a person is living and either unavailable, incompetent or otherwise incapacitated.

After a person dies, the power of attorney is no longer valid; it can no longer be used to manage a person's affairs. After a person passes, the Will takes effect and determines who will manage the estate and how assets should be distributed. All assets (cars, houses, bank accounts, etc.) are subject to the probate process unless there is a Trust already established. Your attorney can help you navigate these issues.

and finances. As such, it is vital that everyone have an updated will and that it is kept in a place that is easy to locate. A power of attorney cannot be used to access or close bank accounts, etc. so seek legal advice if there is no will.

5. **Determine Funeral Arrangements.** If there is a will, the location of any prepaid burial plan and preferences for types of service may already be determined. If not, you will contact a funeral director to make these arrangements. It's a good idea to do some research to help you make informed decisions. A family member or close friend can also assist with some of these tasks. If your loved one served in the military or belonged to a fraternal or religious group, additional benefits and services may be available. The funeral home can also offer suggestions for an obituary but a close family member or friend may be able to write something more personal than a standard obituary. You will likely need to determine:
 - Date/Time/Place of Funeral Service
 - Type of Service & Burial Desired
 - Selection of Casket, Tombstone or Urn
 - Cost of Services
 - Instructions for Donations or Flowers
 - Who will serve as Pallbearers, if needed?
 - Who will give Eulogies
6. **Make a Formal Announcement.** To expedite this process, many families choose to post a notice on social media so that details regarding the funeral arrangements can be disseminated quickly and effectively. You may also wish to go through the deceased person's phone contacts or email contacts for additional notifications that may be appropriate. The formal announcement is often made after the funeral arrangements have been finalized.
7. **Secure Property & Pets.** Be sure to lock the deceased person's home, vehicle, and valuables. Make sure that pets are rehomed with family or friends until long-term arrangements can be made. No property should be taken by any family member until a lawyer has been consulted as part of the estate administration and probate process.
8. **Forward Mail.** Be sure to forward all mail to the Executor of the Estate. Mail can provide a wealth of information for the probate process that follows. Mail will also help you determine which creditors, assets, or other accounts need to be closed or paid.

What to Do In the First 2 Weeks

After the immediate arrangements have been taken care of, there are many tasks ahead that will need to be accomplished. The attorneys at Frame & Frame will be by your side to serve as your legal guide for many of these matters. The Executor of the Estate will typically be the primary point-person for the family on many of these issues. The probate attorneys at Frame & Frame can serve as valued, trusted advisors and more importantly, take the weight off your shoulders for many of these time-consuming tasks.

- 1. IF YOU HAVE A WILL** - If a legal will is in place, your first step is to contact the probate attorneys at Frame & Frame. You'll want to determine when the will was executed and if it is the most current will to date. The will also needs to be filed with the courts, in order for the probate process to begin. This process is explained in further detail in the next section.



- 2. IF YOU DON'T HAVE A WILL** - Unfortunately, a loved one's death can bring out the worst in any family dynamics, so having sound legal counsel will assist you in avoiding any future legal issues. Keep in mind that Maryland has specific laws, if there is no will in place. Our attorneys can help you explore the legal options that are available to you and your family.

- 3. WHAT IS THE VALUE OF THE ESTATE?** In Maryland, if the estate is worth more than \$50,000, you'll want to immediately engage a Probate attorney at Frame & Frame to determine the value of the estate based on:
- Real Estate
 - Vehicles
 - Bank Accounts
 - Life Insurance Policies (if there are no beneficiaries named)
 - Stock and Brokerage Accounts
 - Investments (i.e. Retirement Accounts, Pensions, 401k's)
 - Any and all other assets or properties owned by the deceased person
- 4. BEGIN GATHERING INFORMATION** Regardless of whether or not you have a will, gathering the following information will be helpful as you move forward.

Personal information about the deceased:

- Full name (including maiden or previous names)
- Social security number
- Date of birth
- Date of death
- Age
- Gender
- Race
- Marital Status
- Spouse's first and last name
- Highest level of education completed
- Occupation
- Place of birth
- Fathers first and last name
- Mothers first and maiden name
- Resume or work history
- Veteran status
- Motor Vehicle License
- Life Insurance Policies



Additional information you should begin to gather to review with your attorney:

- Make a list of all family members, ages, and addresses;
- Make a list of any 'interested parties' who are named in the will or who may be an heir;
- Make a list of all known assets;
- Make a list of all known income;
- Make a list of all known bills, debts, or creditors;
- Make a list of all email, social, and online accounts.

Your probate attorney specializes in assisting with this time-consuming process and can serve as a tremendous resource. In addition, your probate attorney will often have additional resources to help locate important information and documentation that may be required.

The Probate Process

When an individual dies in Maryland, unless they have a trust, their assets first have to pass through probate before they can be transferred to beneficiaries. Probate is the legal process of validating a person's will and making distribution pursuant to the terms of the will. During probate, the Personal Representative of the estate (or their Probate attorney) is tasked with locating assets, paying debts and taxes, and, lastly, distributing assets to beneficiaries. Probate, which is implemented to combat fraud, can be a time intensive and expensive process. It can take anywhere from six months up to several years, depending on the assets involved. Probate can be avoided, however, by placing assets in a trust ahead of time. By doing so, you ensure that your family and children have access to these assets without waiting for them to pass through probate.



After a loved one dies, there are a wide array of emotional, financial, and family decisions to be made. In some cases, with proper pre-planning, the probate process may be avoided or at least simplified. Without proper planning, probate may be required to transfer a deceased person's assets to the beneficiaries. There are estates of all sizes that can benefit from probate services. A regular estate is valued at \$50,000 or more (\$100,000 or more if there is a surviving spouse) How complicated the estate administration process is, depends on:

- Did the deceased person leave a Will?
- Who is the Executor named in the Will?
- What is the nature of the deceased person's assets?
- Are there creditor claims?
- Do any tax elections need to be made?
- Were any trusts created in the Will?

Dying without a will, or being part of a blended family, can lead to unique challenges or surprises, when it comes to the probate process. You can avoid these surprises and provide a calm environment that allows your family to move forward in a timely manner with the closure they deserve. A



probate attorney can be immensely helpful in diffusing these family challenges and proceeding in a logical and legal manner.

DO I NEED PROBATE IF I HAVE A COPY OF THE WILL?

The outcome of probate, that is, the inheritance and to whom it goes, depends upon the legal documents put into place by the deceased person before death. If there was a will, the probate court first decides its validity and names an executor. The settlement of creditor claims and helping families navigate the probate process provides comfort to survivors experiencing the grieving process. The deceased's assets may pass to the heirs by beneficiary designations on life insurance policies and retirement plans. If the designations are

to people who have already passed on, those assets may have to go through the probate process and distributions must be approved by the court.

The probate attorneys at Frame & Frame Attorneys at Law can assist with the probate process by:

- Assist Executors and Trustees
- Order and Distribute Death Certificates to Creditors
- Open the Estate & Obtain Letters of Administration
- Deal with Creditors, Employees and Others
- Arrange for an Appraisal and Sale of Property
- Arrange for Donation/Sale of Household Items
- Obtain and File Probate Pleadings and Documentation
- Defend Will Contests
- Assist with Estate Tax Returns

WHAT ARE CONSIDERED NON-PROBATE ASSETS?

Maryland has specific guidelines to determine which assets must go through probate and which assets can be distributed outside of probate. Property outside of probate include assets like a family home that is owned as Joint Tenants because the surviving joint tenant becomes the owner of the property. Another example is Tenancy by the Entirety where assets are owned by a married couple. Beneficiary Designations on assets is yet another example. These might include retirement accounts, life insurance policies, annuities, or certificates of deposit. These assets pass by operation of law to the beneficiary named by the owner prior to death. Finally, Payable (or Transfer) on Death Accounts (POD or TOD accounts) also do not pass through probate. Funds in bank accounts and brokerage accounts can also have beneficiary designations but an attorney should review any and all accounts to ensure the law is complied with and to avoid penalties.

ADDITIONAL LEGAL ITEMS THAT ARE TYPICALLY ADDRESSED DURING THE PROBATE PROCESS:



The probate process can be overwhelming and time-consuming. However, the attorneys at Frame & Frame have been assisting clients with this process for over 65 years and provide sound legal guidance to take the weight off your shoulders. Below is a list of items that Frame & Frame can assist with, as part of the probate and estate closing process.

- Preparation and filing of the Petition for Regular Estate and all pleadings required by the Register of Wills to open the Estate;
- Obtain Estate Bond;
- Obtain Letters of Administration;
- Obtain EIN and assist with opening of estate bank account;
- Provide client with list of referrals if needed (e.g. real property appraiser, personal property appraiser, real estate agent, auctioneer, financial planner/advisor, accountant/tax advisor)
- Obtain copies of documentation for each asset (with client's assistance)
- Arrange for and obtain appraisal of all real properties and all personal property (if necessary);
- Prepare Inventory (due within 90 days of estate opening);
- Assist client with clean out of real properties and sale, distribution or donation of personal property;
- Prepare and submit documentation to liquidate or transfer stocks or stock accounts;
- Review all documents provided by client re: all income and expenses of the estate;
- Review estate account statements;
- Negotiate any outstanding claims;
- Prepare and file Administration Accounts
- Arrange for preparation of U.S. Fiduciary Form 1040 tax return.
- Finalize and close Estate

If there are family dynamics that further complicate your situation, our attorneys can provide legal guidance and assist with the various items required to ensure that the estate is closed in accordance with Maryland law.

Contact the probate attorneys at Frame & Frame to help take the weight off your shoulders and make the probate process easier to navigate for all those involved. This is just one of the ways we help you Chart a Course for Life's Legal Journeys.

Frequently Asked Questions

Frame & Frame offers a YouTube channel library with short quick videos to answer the most commonly asked questions about the probate process in Maryland.

Answers to Your Questions
Subscribe to Our YouTube Channel Today!



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About the Author



TARA FRAME, Esq.

TaraFrame@FrameAndFrame.com
410-255-0373

For as long as I remember, I wanted to be an attorney. My father and founder of the firm, Vernon Frame, was a practicing attorney for over 50+ years serving the community before he retired in 2002 at the age of 80. I grew up watching him help the residents of Anne Arundel County when they needed legal advice or representation.

I attended high school in Severna Park and subsequently moved to Baltimore where I attended the Johns Hopkins University and earned my bachelor's degree. While at Hopkins, I played for the Blue Jay's Women's lacrosse team. After graduation, I went on to attend the University of Baltimore School of Law and graduated with honors.

After working for a mid-size firm in Baltimore, where my job was to represent defendants and insurance companies, I soon realized that this was a far different type of legal work than what my father had done, and what I wanted to do for my community. So, in 1996, I came back home to Anne Arundel County,

and worked alongside my father, helping the residents of Anne Arundel County.

In recent years, I was able to expand the firm and now have a legal team dedicated to family law and personal injury, allowing me more time to focus on my passion – **estate planning, elder law, estate administration, and probate matters**. This area of law allows me to serve the needs of people in my community, in a very personal way. The relationships we develop often last a lifetime, because we are trusted for your needs today and entrusted to serve you and your family for generations to come. Most importantly, I am able to truly serve as your legal guide to take the weight off your shoulders in times of crisis.

It is so fulfilling to be able to represent not only my father's past clients, but those clients' children and grandchildren as well, who return to us whenever they need legal advice or legal representation. I am proud to carry on the family tradition of serving our community for over 65 years.



Charting A Course *for Life's Legal Journeys*

The attorneys at Frame & Frame have been serving the legal needs of our community for over 65 years. We can offer you a path to take the weight off your shoulders and can even serve as a guide for your family, during times of crisis.

Contact the experienced attorneys at Frame & Frame today.



Charting a course for life's legal journeys.™

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We offer a variety of ways to meet with you,
allowing you to take care of *your* business at *your* convenience.



Phone:
410-255-0373



Email:
[ContactUs@
FrameandFrame.com](mailto:ContactUs@FrameandFrame.com)



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