

Seven Steps to Handling Your Loved One's Estate

*How to close out accounts, notify key authorities, access death benefits
and begin the probate or trust administration process after the loss of a loved one.*



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Getting Started

Handling the estate of a loved one in California is a huge responsibility. Your loved one must have thought very highly of you to leave you with this important duty of overseeing his or her end-of-life affairs.

Yet along with the humbleness you may be experiencing right now, you might also feel stressed out, confused and overwhelmed as you try to figure out the best way to administer your loved one's estate.

This uncertainty leaves a lot of questions unanswered, including: "Am I doing this right?" or "What if I accidentally choose something that goes against my loved one's wishes?" or "Will the other family members hold me responsible if they don't like the outcome of the will or final wishes?"

Start With The Basics

The seven steps we outline in this guide are among the most important things you will need to know when handling a loved one's end-of-life affairs.

However, there may be additional steps your family will need to address to properly administer your loved one's estate. This will depend on your loved one's unique circumstances and the type of estate plan he or she had in place at the time of death.



Estate distribution involves quite a bit of paperwork, as well as the need to meet very specific, government-mandated deadlines. If mistakes are made during this process, or steps are missed, it can result in delays and financial difficulties for all involved.

It may be that hiring an attorney who specializes in probate and estate administration is the best way to ensure your loved one's affairs are handled in a timely and efficient manner. The Attorneys of the Weissler Law Group are happy to provide your family with more information on this and answer all of your questions during a free consultation, which you can schedule now by calling (619) 281-1888.

Seven Steps to Take After the Loss of a Loved One

As you work to make final arraignments after your loved one's passing, you can also begin the process of securing your loved one's property, notifying social security, closing out financial accounts and starting the probate or estate administration process.

While there is much to do during this difficult time, here are the top 7 steps to take immediately after the loss of a loved one.

I. Take an Inventory of Property and Important Documents

After a loved one passes, it is often difficult to remember all of the property that he or she owned, as well as all of the paperwork you will need to handle their estate. Believe us, this task is not an easy one, especially when you factor in the emotion of your loss.

That is why we have created a checklist of the paperwork you will need to handle the estate, as well as a list of property your loved one may have owned. It is important to keep this information secure at all times, and it is not a bad idea to use a lockbox to store these documents when they are not in use.

Your loved one's documents:

- Certified copies of the decedent's birth certificate, death certificate, and marriage certificate
- Divorce decree(s) from all previous marriages
- Will or trust papers
- Insurance policies
- List of assets (house, car, jewelry, etc.)
- Bank account numbers
- Social security card or number (for both you and the deceased)
- Credit card numbers and statements
- Deeds to any real estate
- Tax return from the previous year

List of property:

- Real estate, including those that are business-related or for vacation
- Stocks and bonds
- Bank accounts
- Retirement accounts
- Contents of safe deposit box, including jewelry

II. Notify Social Security

If your loved one was receiving money from Social Security, they will need to be notified upon his or her death. The Social Security Administration can be reached by calling 800.772.1213, or by visiting www.socialsecurity.gov. You should also assume that any payments that are being made via direct deposit will either be stopped by the government or frozen by the bank.

III. Keep Property Safe from Theft or Vandalism

It's a good idea to remove any valuables from your loved one's home and take extra steps to secure the house from theft or vandalism. You should also keep a list of the items removed during this process, just in case you have to locate them or give an account later. Stop all mail coming to the house, and remember that unless you are the surviving spouse or child living at the residence, the post office may require you to provide extra documentation.

IV. Address Outstanding Debt

Many people falsely assume that their loved one's debts will automatically be forgiven upon their passing. Unfortunately this is not true and steps will need to be taken to address any outstanding debt still owed to creditors.

Finally, you'll want to gather all of your loved one's bills and bank statements and speak with an attorney if you feel uncomfortable dealing with the creditors. For Californians there are a number of approaches which can be taken in dealing with debts left behind. For families who feel minimizing the amount of assets which must go to third parties is preferred, formal processes can be invoked. These formal processes can require that creditors correctly file specific paperwork within a pre-set period of time or lose their right to get paid.

V. Open Claims for Insurance Benefits

As the person handling your loved one's affairs, you must gather information regarding any policies or accounts that the decedent may have had, including life insurance, health insurance, and private retirement accounts. Be prepared with the policy number and a copy of the death certificate when you call the insurance company to make a claim. The insurance company will then forward the proceeds of the policy to whoever was named beneficiary.

VI. Research Additional Benefits from Employer

Contact the human resource department at your loved one's place of employment to find out if they offer death benefits to the spouse or family of the decedent. Occasionally these benefits are made to both current and former employees, so contact all places that your loved one may have worked in the past. Also, be sure to ask about any 401(k) accounts, pensions, or stock benefits.

VII. Speak to a Lawyer Experienced in Estate Planning & Probate

Administering a loved one's estate can be costly, time consuming and at times, confusing. Working with an attorney will not only alleviate much of this stress, but will ensure that your loved one's affairs are handled without mistakes, and that all court and government-mandated deadlines are met. Give yourself and your family the peace of mind knowing that your loved one's wishes are being carried out in the best way possible. At the Weissler Law Group, we take pride in helping clients get through this process smoothly, with the least possible delay, and least possible family conflict. We can be reached at (619) 281-1888.

Understanding Probate: What Is It and How Do I File?

At the same time you work to complete the seven steps detailed above, you may also need to start the probate process with the local courts.

Probate is a legal process to finalize and administer a loved one's estate after death. During the probate process you and your attorney will work within the Superior Court's process in the county where your loved one died to:

- Determining the validity of the Will(s)
- Identify and inventory the deceased's property
- Appraise the property
- Pay your loved one's debts and taxes and distribute the remaining property according to the Will or according to state law in the absence of a Will

In **California**, if someone has over \$150,000 in total assets or real property, they will probably have to have their assets Probated.



How Long Does Probate Take?

Here in California, the probate process can take anywhere from nine months to a few years to complete. The length of the probate proceedings depends on the amount of court calendar backlog in your county, the value and complexity of the estate, the existence of a will, location of real property and potential disputes with creditors or other heirs.

What Does It Cost?

The cost of probate varies depending on the size of the estate. Common probate expenses of include executor's fees, attorney's fees, accounting fees, court fees, appraisal costs and surety bonds. These expenses typically account for 5-10% of the total estate value.

Do All Assets Go Through Probate?

Fortunately, not all assets are subject to the expenses and delays of the probate court following the death of a loved one. Here is a brief overview of some assets that may avoid oversight from the probate courts:

- Property held in joint tenancy
- Other jointly owned assets
- Assets with named beneficiaries such as insurance policies, IRAs and annuities
- Assets placed in a living trust
- Informal trust accounts, also referred to as Totten Trusts or payable on death (POD) accounts
- Banking and investment products, such as savings, checking accounts, CDs, and brokerage accounts with a Transfer on Death (TOD) beneficiary
- Your spouse's share of the community property you own together
- Small gifts of your personal property

Keep in mind that while these assets generally are not subject to probate, there may be instances when they *will* need to go before the court. This typically happens when a beneficiary is not properly named or is no longer alive at the time of the deceased's passing.

Do I Need An Attorney to File Probate?

Because Probate is such a time consuming, costly and complicated process, you should seek the help of a **Probate attorney local to the area in which your loved one passed**. A skilled attorney will help to ensure that all legal obligations are met and help to speed up the overall process. Working with an attorney will also help you to minimize costs commonly associated with oversights, tax problems and long drawn-out claims. It is important to know that in California probate attorney fees are usually paid at the conclusion of the probate.

Probate For Property In Multiple States

If your loved one owned property outside of California at the time of his or her passing, you will likely need to file probate in that state as well. As you can imagine, this complicates things significantly and you will likely need to hire an out-of-state attorney to handle this separate probate matter. We can assist you in finding an out-of-state attorney who will best meet your needs during this sensitive time.

My Loved One Had a Trust... Can I Avoid Probate?

If your loved one died with a Trust in place, it may be possible to completely avoid the Probate process.

So long as the Trust has stayed updated and your loved one's assets are properly owned by the Trust, the Trust can be administered privately with the help of your **attorney**. It is a popular myth that trust administration happens automatically. There is important work that must be done to administer a trust. The difference between Probate and Trust administration is that most trusts can be administered without court involvement and delay. If the Trust was not properly funded (meaning assets were not titled in the name of the Trust) you may still need to go through Probate. Your attorney will help to determine your next steps.

The Role of a Trust Administrator

Most people appreciate that assets held in trust are much easier to administer and distribute after death, but they also need to know that they are required by law to do many things before the distribution of assets can occur.

These requirements and obligations often vary from state to state, but in California some of the requirements include:

- Notifying beneficiaries;
- Valuation and Liquidation of Assets
- Paying Debts and Taxes of the Trust
- Filing Tax Return
- Distribution of Remainder of the Assets to Beneficiaries

The trustee also has to follow the accounting and reporting requirements of the state and courts, and they are responsible for defending the trust against all claims of creditors or excluded heirs.

It's important to take these duties very seriously, as you could be held personally liable for mistakes or oversights.

Getting Help and Final Steps

Whether your loved one had a small estate or a large estate protected by a trust, as you can see the process to administer that estate can be costly, time consuming and many times, confusing.

Working with an attorney will not only alleviate much of this stress, but will ensure that your loved one's affairs are handled without mistakes, and that all court and government-mandated deadlines are met.

At a time when you may not already be thinking clearly and feeling overwhelmed with grief, having a professional on your side to deal with creditors, financial statements, taxes and squabbling family members should not be underestimated.

More importantly, if you are a surviving spouse or child depending on your loved one's death benefits or inheritance to cover daily living expenses, working with an attorney can help you expedite the process and receive what you are entitled to faster and with less stress.

No matter what your situation is today, give yourself and your family the peace of mind knowing that your loved one's wishes are being carried out in the best way possible.

The attorneys at the Weissler Law Group are here to help during your family's time of need. We offer free consultations, and will tell you upfront the best avenue to take – even if that road doesn't involve an attorney. Call the Weissler Law Group at (619) 281-1888 and ask to schedule a consultation at no-charge with the mention of this guide.



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