A Maryland Judiciary Production
My Laws, My Courts, My Maryland
Series: Preparing to Open an Estate
Title: Part 1 Before You Open the Estate

Chapter Headings

The Will
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Welcome. When someone passes away, their assets, including money and property, are referred to as their estate. The assets in the estate need to be managed and distributed. This is the job of the personal representative. They are appointed after an estate is opened. If you expect to be appointed the personal representative, this video is for you. In this video, we will discuss:

- Locating the Will
- Dealing with the bank accounts of the person who passed
- Paying for the funeral
- Getting the death certificate, **and**
- Communicating with heirs

Before we begin, I want to take a minute to acknowledge that this is a hard time. You've experienced a loss, and handling an estate can feel overwhelming. It can be difficult to navigate the legal procedures when you're grieving. I am here to help. This video series will guide you through the basic steps you will need to take in preparing to open an estate. If you need help dealing with your loss, please reach out to someone you trust. We all need support.

Let's talk about some of the words you will hear during this process. Estate administration is the process of managing and distributing someone's property after they die. You may also hear this process referred to as probate. We will use the term decedent to refer to the person in your life who has passed away. Property may refer to both personal property, such as a car or furniture, and real estate or real property. The property the decedent owned when they died is referred to as their assets. This may also include bank accounts and investments.

A personal representative, sometimes called an executor, is someone who was appointed to handle the legal affairs of the decedent's estate. You will also hear the terms Register of Wills and Orphans' Court. The Register of Wills is the clerk of the Orphans' Court. When you file estate documents, you will submit them to the Register. They can assist you with forms and information. Visit the Register's website at registers.maryland.gov. The Orphans' Court, or in some counties the circuit court, can decide on legal issues related to estate administration. After the personal representative is appointed, they will receive documents from the Register of Wills called Letters of Administration. These documents give the personal representative the authority to handle the estate. We will continue to explain other terms throughout the video series.

First, a warning. Do not distribute assets until the estate is opened and administered. Additionally, do not use the decedent's assets to make payments on their behalf until you open the estate and are appointed personal representative. If you loan your funds to the estate, the Orphans' Court will need to review and approve reimbursement. This happens after the estate is opened. For more information on the steps to take after you are appointed the personal representative, watch our video series, *Estate Administration for Personal Representatives*.

Let's move on and discuss the Will.

The Will

First, locate the *original* Will, even if you have a copy of it. The decedent may have told you where the original is kept. If you are not sure where to find it, there are a few places to look. The decedent may have placed it:

- In a safe deposit box at a bank
- A safe place within their home
- With their lawyer, or
- On file with the Register of Wills.

If the Will is in a safe deposit box, a limited court order may be required to get it. Talk to a lawyer for more information.

You will need the original when you file to open the estate. In situations where the original is lost, the Orphans' Court may allow you to use a copy. However, this requires all heirs to consent to the use of a copy. If all heirs and legatees do not consent, then you will have to file a petition with the court to request to use the copy. If you cannot find the original Will, talk to a lawyer.

Next, let's discuss the decedent's bank accounts.

The Decedent's Bank Accounts

If you held a Power of Attorney for the decedent and were using it during their lifetime to manage their funds, your ability to use the Power of Attorney stops immediately upon the decedent's death. This means you can no longer access or use the decedent's accounts. The decedent may have bank accounts in their name only. Those accounts are not available until a personal representative is appointed. You are appointed personal representative only after you file a petition to open the estate with the Register of Wills. Keep in mind that even if you were named as the personal representative in the Will, you can take no action until appointed by the Register of Wills, or by the court and are provided with Letters of

Administration. For information on what to do with the decedent's bank accounts after you are appointed personal representative, watch our video series on *Estate Administration for Personal Representatives*.

You may have a joint bank account with the decedent, meaning your name is on the account. Depending on the type of account, you may be able to continue to take money from it. Talk to a lawyer to find out more. Keep in mind, the decedent may have also named beneficiaries for their bank account. This is normally called a payable-on-death account. If that is the case, that bank account will go directly to the beneficiary.

Let's go over what to do if you receive payments for the decedent.

Payments for the Decedent

The decedent may have been regularly receiving certain payments. This may have been social security payments or rental income. You cannot continue to receive these payments in the decedent's name. Stop social security payments immediately. Don't cash any payments received after the decedent's death. Payments, including for rent, will need to be made to the estate, after the estate is opened. The decedent may also receive other kinds of payments, such as dividends or interest from investment accounts, or refunds. These payments will also need to be deposited into the estate account.

Let's move on and talk about funeral or memorial arrangements.

Funeral or Memorial Arrangements

After your loved one passes, you will likely be thinking about arranging a funeral. You may be wondering how to pay for it. A personal representative or someone else can be reimbursed from the estate for funeral expenses. This may include the funeral, burial, cremation, memorial service, disposition of the decedent's remains, and gatherings before or after a funeral, like a meal following the funeral. The funeral home may also agree to wait for payment until after the estate is opened. Check with the funeral director for how they handle payments. Remember, payment from the estate happens after you've been appointed as personal representative. You may need to file a request for an order for funeral expenses with the court. Check the Register of Wills website for more information.

Now we will discuss how to get the death certificate.

Death Certificate

The funeral director will prepare paperwork for the death certificate. Tell the funeral director how many copies of the death certificate you want. You will need one copy to open the estate. And, you'll need at least one original death certificate for every bank account, investment account, or any other account of the decedent. Some banks may want to keep an original, while others may want to see the original but will then return it to you. Make sure to get enough original, certified copies.

The death certificate is filed with the Maryland Department of Health's Division of Vital Records. If you need additional copies later, you can get them from Vital Records.

During this process make sure you communicate with the heirs and legatees.

Communicate with the Heirs and Legatees

Who are heirs? Heirs are people who are entitled to inherit the decedent's property when there is no Will. Maryland law defines who the heirs are. A legatee is someone entitled to inherit the decedent's property under the Will.

If the Will named you as personal representative, or there is no Will and you plan to request to be appointed personal representative, it may be helpful to let the heirs and legatees know. You may also want to explain that you will be taking steps to open the estate. Remaining transparent throughout the process can help minimize tension. Explain the steps you will complete in the process and the timeline.

Always remember that if you need help, you can contact an estate lawyer.

I hope this information is helpful. Thanks for watching.