

PROBATE PROCESS IN ARKANSAS

*“Not everyone can avoid probate, even if they have an estate plan
In some situations, there may still be property
that must go through probate”*



DEBORAH SEXTON

FAYETTEVILLE ARKANSAS ESTATE PLANNING ATTORNEY

Understanding the probate process in Arkansas is not very difficult, but your estate planning attorney can help you through the process, if necessary.



Not everyone can avoid probate, even if they have an estate plan. In some situations, there may still be property that must go through probate. Probate is simply the process by which your estate is settled upon your death. The process involves distributing your property to your heirs. Understanding the probate process in Arkansas is not very difficult, but your estate planning attorney can help you through the process, if necessary.

WHAT DOCUMENTS ARE NEEDED FOR PROBATE?

As with every court proceeding, there are a number of important documents that are required to initiate and navigate through the probate process in Arkansas. The essential documents include:

- A will, if there is one
- The death certificate
- Deeds to any real property
- Documents relating to other property and bank accounts
- A list of assets, including life insurance policies

Once these documents are located, the probate process can begin. The person who usually has the responsibility for locating and presenting these documents to the court is the executor.

APPOINTMENT OF THE PERSONAL REPRESENTATIVE OF THE ESTATE

Probate attorneys often file the petition with the court to have a personal representative appointed. The next step is to file an Acceptance of Appointment on behalf of the personal representative. Once the court issues the order appointing the chosen person, “letters testamentary,” which are the official documents a representative needs in order to exercise

his or her authority. In many cases, third parties will require the original documents before recognizing the authority of the personal representative, to act on behalf of the estate.

THE ROLE OF THE PERSONAL REPRESENTATIVE

The estate must have a personal representative throughout the probate process. When the personal representative is named in a will, that person is referred to as the “executor.” If there is no will, or the will does not name anyone to serve in that capacity, the court will appoint an “administrator.” Typically, the court appoints a relative for this role. Probate attorneys can also participate in the probate process in a variety of ways. A probate attorney can represent the personal representative, the beneficiaries or the estate itself.



NOTICE TO BENEFICIARIES AND HEIRS OF THE ESTATE



When the probate process begins, beneficiaries or heirs at law must be notified of the proceedings. Even those who may not be named in a will, but would be heirs under Arkansas' laws of intestate succession, must be notified.

NOTICE TO POTENTIAL CREDITORS

Also, notice of the impending probate proceedings must be published in a local newspaper in order to notify creditors. Arkansas requires that notice be published for two consecutive weeks, with proof of publication provided to the court. Arkansas allows creditors 6 months to file a claim for payment of any legitimate outstanding debts owed by the estate. Once that period

has ended, and all claims have been satisfied, the remaining assets can be distributed to the appropriate beneficiaries.

ESTATE TAX RETURNS MUST BE FILED



Each estate must file a tax return within nine months of the decedent's death. The executor is required to sign the estate tax return and will be personally responsible for paying any required taxes. The executor must be very careful that there are sufficient funds remaining to pay estate taxes. The best course of action is to wait until receiving the closing letter from the

IRS, which indicates that the IRS has accepted the return, before distributing the property.

CONCLUDING THE ARKANSAS PROBATE PROCESS

Once the closing letter is received from the IRS, the executor will file a report of distribution with the court, so that an order of approval can be issued and the executor can be dismissed from service. The probate process at the minimum takes approximately six to nine months to complete. If there are unique assets that require special attention, the process may take longer.

The process can also be delayed due to unexpected problems that may arise. However, the process should not take more than 18 months. The process is always easier when there is a will because the personal representative and heirs have already been identified, requiring less time waiting for the court to make those determinations.

If you have questions regarding a the probate process in Arkansas, or any other estate planning needs, please contact the Deborah Sexton Law Office [online](#) or by calling us at (479) 443-0062.

About the Author

Deborah K. Sexton



As the sole attorney in the Fayetteville law firm of Deborah Sexton Law Office, Deb oversees a practice devoted to providing clients with the best in estate planning.

Deborah Sexton, C.P.A., J.D., L.L.M., combines an extensive background in accounting with a wide range of legal experience to provide her clients with a uniquely practical perspective. An attorney since 1983, she now devotes her practice primarily to estate planning and elder law.

EXPERIENCE

After obtaining her undergraduate degree in accounting from Abilene Christian University in Abilene, Texas, she worked in Dallas in public accounting for several years, and then went to the University of Arkansas Law School in Fayetteville. Upon graduating from law school, she went on to obtain an L.L.M. degree in Taxation from New York University.

Deborah Sexton Law Office
www.arkansas-estateplanning.com

2766 Millennium Drive
Fayetteville, AR 72703
Phone: (479) 443-0062
Fax: (479) 443-2001